

THE COURTS

Title 246—MINOR COURT CIVIL RULES

[246 PA. CODE CHS. 400 AND 500]

[Correction]

Proposed Amendments to Rules 403, 515, 516 and 519 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

A document appeared at 31 Pa.B. 4392 (August 11, 2001) headed as an "Order Amending Rules 403, 515, 516 and 519 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices."

The document was not an Order.

The document was a proposal by the Minor Court Rules Committee. For the full text of the document, see 31 Pa.B. 4392.

[Pa.B. Doc. No. 01-1452. Filed for public inspection August 10, 2001, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Lifting of Deferment of Reliance Insurance Com- pany Cases by Reason of Petition for Rehabilita- tion; Administrative Doc. 08 of 2001

Order

And Now, this 17th day of August, 2001, upon consideration of the Petition for Rehabilitation filed by the Insurance Commissioner of the Commonwealth of Pennsylvania that all cases in which Reliance Insurance Company is a named party be placed in deferred status by reason of the May 29, 2001 Order of the Commonwealth Court of Pennsylvania placing Reliance into Rehabilitation in accordance with provisions of Article V of the Insurance Department Act of 1921, Act of May 17, 1921, P. L. 789, as amended, 40 P. S. §§ 221.1—221.63, and the fact that the Rehabilitator has not requested an additional stay with respect to cases involving an insured of Reliance (except in 18 categories of cases not pertinent here) and this Court's Order of June 5, 2001, it is hereby *Ordered and Decreed* that:

1. This Court's Order of June 5, 2001 is *Vacated*;
2. All actions currently pending against Reliance shall remain stayed; however,
3. All actions currently pending against an insured of Reliance shall be removed from deferred status and place in active status.

It is further *Ordered and Decreed* that program Team Leaders and Managers shall arrange to status all matters currently pending against an insured of Reliance to insure that these cases are placed back on a case management track and that these cases proceed.

By the Court

JOHN W. HERRON,
*Administrative Judge,
Trial Division*

This Administrative Docket is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. ★ 51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. The Administrative Docket is also available on the Court's website at <http://courts.phila.gov>.

[Pa.B. Doc. No. 01-1634. Filed for public inspection September 7, 2001, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Civil Rules 210, 212 and 1035.3; Administrative Order No. 20 of 2001

And Now, this 20th day of August, 2001, Adams County Civil Rules 210 and 212 are amended as follows and Rule 1035.3 is repealed and deleted. This order and the following Local Rules 210 and 212 shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The following rules 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 210. Arguments.

Argument Court Days shall no longer be listed in the Court Calendar. Instead, oral argument will be scheduled when appropriate by the judge to whom the issue or case is assigned. Assignments may occur by special order of court, on a rotating basis or because issues must or should be decided by a particular judge. A judge who has issued an order or presided over a trial concerning which relief is requested shall be assigned that argument unless an order provides otherwise.

The following procedure shall apply:

(a) *On motion*: A party requesting that a judge schedule and consider argument should notify opposing parties two working days prior to presenting the motion. The motion shall be presented to a judge currently involved in the case, the President Judge, or a judge designated by the President Judge. The President Judge or his designee may grant the request and assign the case to another judge. If circumstances dictate, the order may establish an appropriate briefing schedule different from that established in this rule. The judge to whom presented or assigned may schedule argument at a time convenient to the court and parties, or may order that the issues be determined on brief.

(b) *On praecipe*: The Prothonotary shall maintain an argument list in that office. Any party may place a case on the list by filing a praecipe. That party shall send notice to other parties or their counsel of record within two working days of such listing. The praecipe shall provide the following information:

1. Names and addresses of other known counsel involved in the case,
2. A general statement of issues to be submitted (e.g., motion for new trial),
3. The name of any judge currently involved in the case. If the request concerns post verdict or post trial relief, the name of the trial judge must be provided.
4. Any information pertinent to assigning the case to a particular judge.

(c) Upon the filing of a praecipe, the Prothonotary shall expeditiously transmit the file and a copy of the praecipe to an appropriate judge. Generally, arguments involving orders or trials shall be transmitted to the judge issuing the order or presiding over the trial. Other referrals shall be transmitted on a rotating basis to judges of this court. If the Prothonotary is uncertain as to an appropriate referral, the case shall be transmitted to the President Judge for assignment.

(d) The judge to whom the case is referred shall schedule argument at a date and time convenient to counsel, and/or unrepresented parties and the court.

(e) In all arguments each party shall, before argument, furnish to the Court and opposite counsel or party a typewritten brief, containing a full and succinct statement of all facts conducive to a ready comprehension of the matter to be argued, and a reference to all authorities relied on. Where an authority is cited, the principle to be supported by it shall be stated. A mere reference to the book will not be sufficient. The party having the affirmative burden in the argument shall furnish such brief twenty-one (21) days before argument and the other party or parties shall furnish such brief seven (7) days before argument. When this rule is violated, the Court may, in its discretion:

(1) refuse to allow oral argument by the offending party: or

(2) consider the issues raised by such party to be waived: or

(3) order oral argument to be continued: or

(4) enter such other order as the interest of justice requires.

(f) The judge hearing argument may limit the time of argument.

(g) Any party may request argument en banc. The judge to whom the case is assigned shall make the decision whether to grant or deny the request.

CHAPTER TWO—PRE-TRIAL PROCEDURE**Rule 212. Pre-Trial Procedure.**

(a) When an action is at issue and all pre-trial motions, petitions, and objections have been disposed of any party may, by praecipe filed with the Prothonotary, request a pre-trial conference. The praecipe shall state whether the case is to be tried before a jury or by bench trial. The Prothonotary shall refer bench trial listings to judges of this court on a rotating basis. The judge to whom referred shall then schedule a pre-trial conference at a time convenient to the court, counsel and/or parties. A pretrial memorandum shall be filed as provided in subparagraph (b) of this rule. When a jury trial has been requested, other procedure described in (b) shall be followed.

(b) The Prothonotary shall maintain a schedule for pre-trial conferences for cases to be tried by a jury. The party requesting the conference shall state the time and date preferred for the conference. Conferences will be scheduled to begin on the hour during Pre-Trial Conference Days listed in the Court Calendar. No conferences will be scheduled prior to 8:00 a.m., at noon, or after 4:00 p.m. except by special order of court. If the requested time is unavailable, the Prothonotary shall schedule at the next available time, or the next available time and date. The Prothonotary shall notify all counsel and pro se parties of the time and date of the conference. The notice shall state that parties are required to submit pre-conference memoranda at least five (5) days prior to the conference. The Prothonotary shall provide the Court Administrator and the judge designated by the President Judge with pre-trial conference schedules, no later than three (3) days prior to the conference(s). A judge designated by the President Judge shall conduct pretrial conferences involving jury trials.

(c) The conference judge may direct that the pretrial conference shall be conducted telephonically upon request by any party. Such requests must be made not later than 48 hours prior to the scheduled conference. The requesting party shall be responsible for making all arrangements for telephonic participation and shall pay all costs relating thereto. No party participating in a telephonic conference shall be relieved from compliance with any other provision of this rule.

(d) The conference judge may sua sponte or on the motion of any party dispense with the need for a pre-trial conference. The order making this determination shall state what matters, if any, must be completed before trial and the time period for completing such matters and further specify the trial term at which the case shall be tried.

(e) Unless excused by the Court in advance, the attorney or party who intends to try the case shall attend the pre-trial conference. In the absence of an excuse, the

Court, may require the attending attorney or party to try the case. If an attorney or party fails to appear for the pre-trial conference, the Court may proceed in his/her absence and enter binding rulings regarding any matter, including admissibility of evidence.

(f) The pre-trial memorandum required by subparagraphs (a) and (b) of this rule shall contain the following minimum information:

- (1) Brief factual summary
- (2) Names and addresses of all witnesses, identifying whether fact, expert or damage.
- (3) List of all exhibits.
- (4) Statement of issues involved.
- (5) Statement of damages claimed
- (6) Statement of proposed amendments to pleadings, if any.
- (7) Statement of suggested stipulations of law or fact.
- (8) Special requests. For example, a request for a view or requests relating to matters of discovery.
- (9) Estimated duration of trial and whether it is jury or bench.
- (10) The amount of settlement demands or offers.

(g) As soon as practicable after a pre-trial conference, the Court shall enter an order setting forth any admission of fact or documents, amendments or pleadings, agreements of attorneys, and other matters resolved or determined by the Court at the pre-trial conference. If a bench trial is ordered, it shall be scheduled for a specific time, if possible. If a jury trial is ordered, it shall be set for a specific trial term. All orders shall set forth those matters which must be completed before trial and the time period for completing such matters.

(h) Actions ordered by the Court to be tried at a specific trial term shall be placed on a trial schedule by the Court Administrator before the beginning of such specific trial term.

(i) The trial schedule shall be made available by the Court Administrator to all parties or their attorneys of record. A copy shall also be made available to each member of the Bar who requests one.

(j) Priority on a trial schedule shall be determined by the date on which the Court Administrator places the case on a term list, or the date on which a case is continued to that particular term. However, priority will not necessarily govern which cases will be tried during any particular trial term.

Comment: The Court Administrator will normally list cases in the order received by the Prothonotary. If case "A" is listed, then case "B" is continued until that term and then later case "C" is listed, trial priority will be A, B, and C.

(j) Counsel may be required to submit a trial brief to the Court prior to the commencement of the trial for the guidance and information of the Court. Unless a similar trial brief is submitted by opposing counsel, and a copy furnished, such counsel shall not be entitled to a copy of said trial brief as a matter of right.

(k) Trials will be called at the Civil and Orphans' Court Business Day for the month preceding trial. Parties may answer the call formally, by appearance, or informally by telephone or mail shortly before call. Failure to answer the call may result in the case being stricken from the trial list.

Rule 1035.3 Summary Judgment (Rescinded)

(This rule is rescinded)

Comment: Experience has shown that treating motions for summary judgment the same as preliminary objections may lead to confusion. Policy favoring expeditious resolution of preliminary objections applies less to motions for summary judgment. Counsel are reminded that these motions will no longer be automatically considered by the Court, and that counsel must praecipe for argument.

[Pa.B. Doc. No. 01-1635. Filed for public inspection September 7, 2001, 9:00 a.m.]