

# THE COURTS

## Title 255—LOCAL COURT RULES

### LACKAWANNA COUNTY

#### Repeal and Adoption of Rules of Civil Procedure; No. 94-CV-102

##### Order

*And Now*, this 8th day of November, 2001, it is hereby *Ordered and Decreed* that, as per the following rescissions, amendments and revisions, Lacka. Co. R.C.P. 211, 212, 212.1, 214, 214.1, 214.2, 214.3, 214.4, 216, 223, 1018, 4007.1, 4012, 4013, 4017.1, and 4018 are hereby amended as follows:

1. The language of the following rules which appears in brackets and boldface is rescinded and deleted from the amended rules;

2. The language of the following rules which appears in regular type and has not been bracketed and in boldface is not rescinded and shall remain part of the revised rules;

3. The language of the following rules which appears in boldface reflects new provisions which have been added to the amended rules;

4. The following repeals, amendments and adoptions shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin* as per Pa. R.Civ.P. 239;

5. Seven certified copies of the new rules shall be filed with the Administrative Office of the Pennsylvania Courts;

6. Two certified copies of the new rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

7. One certified copy of the new rules shall be filed with the Civil Procedural Rules Committee for the Supreme Court of Pennsylvania; and

8. These new rules shall be available for public inspection and copying in the office of the Clerk of Judicial Records, Civil Division.

*By the Court*

CHESTER T. HARHUT,  
*President Judge*

#### Rule 211. [ **Argument and Argument Court** ] **Disposition of Motions and Petitions.**

(a) [ **Any party shall have the right to argue any motion and the court shall have the right to require oral argument with respect to any motion or petition presented to it. With the approval of the court, oral argument may be dispenses with by agreement of the attorneys and the matter submitted to the court either on the papers filed of record or on such briefs as may be filed by the parties.** ] To assign a motion or petition to a judge for disposition or to schedule a motion or petition for argument where a rule returnable does not set a schedule, a party shall file with the Clerk of Judicial Records and the Court Administrator a Praecipe for Assignment. See Appendix, Form 1.

(b) [ **To schedule a motion or petition for argument where a rule returnable does not set a schedule, a party shall file with the Clerk of Judicial Records and the Court Administrator a Praecipe for Argument.** ] Prior to filing a Praecipe for Assignment, the moving or petitioning party shall contact counsel for all other parties of record to determine whether an opposing party or lawyer wishes to present oral argument. The moving or petitioning party shall indicate on the Praecipe for Assignment whether the matter is being submitted on briefs and without the necessity of oral argument or is to be scheduled for argument by the Court Administrator. No Praecipe for Assignment will be accepted by the Clerk of Judicial Records or the Court Administrator unless the moving or petitioning party has indicated in writing whether the matter is to be submitted on briefs or scheduled for oral argument. [ **Except as provided in Lacka. Co. R.C.P. 1028 governing disposition and briefing of preliminary objections, motions for summary judgment, and motions for judgment on the pleadings, the Court Administrator, upon notice of the praecipe, will schedule argument, set a briefing schedule and notify the parties of the same.** ]

(c) The Court Administrator shall assign [ **arguments** ] **motions and petitions** to the judges of the court on a rotating basis and shall establish a briefing schedule for the parties.

(d) The original of a party's brief shall be filed with the Clerk of Judicial Records and copies shall be provided to the assigned judge and all opposing counsel in accordance with the schedule set by the Court Administrator.

(e) If the moving or petitioning party fails to timely file and serve [ **his or her** ] a brief, or fails to appear at [ **the** ] oral argument, **if requested**, the matter may be dismissed by the court as of course. **The judge to whom the matter has been assigned may grant additional time for the filing of briefs or may require supplemental briefing by the parties.**

(f) If any party other than the moving or petitioning party fails to timely file and serve [ **his or her** ] a brief, that party **may be deemed not to oppose the motion or petition** and may not be allowed to present oral argument. [ **and the court may take such other actions with respect to that party's position as it deems appropriate.** ]

(g) No case listed for argument will be continued except for good cause shown to the satisfaction of the court.

#### Rule 212. Pre-Trial Procedure and Conference.

It is the intent of this rule that, in all civil actions, a pre-trial proceeding may be instituted at various states for specific purposes.

(a) Prior to Filing of Certificate of Readiness

After a complaint alone has been filed or after a complaint and answer have been filed, all parties may jointly praecipe a case for a preliminary pre-trial settlement conference if it is the joint consensus of the parties that the case may be settled as a result of such a

conference, and it is the intention of the parties to avoid ordinary pre-trial procedures leading to the filing of a certificate of readiness.

At such a conference, the basis for the joint consensus that a settlement may be effected at this preliminary stage shall be stated in a joint presentment entitled: "PLAINTIFF/DEFENDANT PRELIMINARY PRE-TRIAL SETTLEMENT STATEMENT." See Appendix, Form [ 1 ] 2.

(b) After Filing Certificate of Readiness

[ After a case has been listed for trial by the filing of a certificate of readiness, a pre-trial conference and settlement conference shall be held in all cases. ]

Upon the filing of a Certificate of readiness, the Court Administrator shall assign a case to an individual judge to conduct a status conference, schedule a pre-trial conference and establish a date for trial.

(c) [ In the event that the case is assigned to a judge for trial prior to the conducting of a pre-trial conference, that judge shall conduct the conference. Otherwise, the pre-trial conference shall be conducted at such time and by such judge as is designated by the President Judge on a pre-trial schedule to be maintained by the Court Administrator. ] If the court determines at the time of the status conference that a party has not fully complied with Lacka. Co. R.C.P. 214(b), the court may strike the original certificate of readiness and remove the case from the judge's individual calendar or may take such other action as it deems appropriate under the circumstances. At the status conference, the court will also schedule the pre-trial conference and the trial date.

[ (d) All cases placed on the protracted list shall be scheduled for a pre-trial conference by the Court Administrator. Pre-trial procedures for protracted cases are listed in Lacka. Co. R.C.P. 212.1. ]

[ (e) ] (d) For the pre-trial conference, each party shall [ prepare, ] submit to the court[, ] and serve on all other parties[, ] at least seven (7) days prior to the scheduled time of the conference, a pre-trial statement substantially in the form set forth in Plaintiff/Defendant Pre-Trial Statement or such other form as shall be required by the assigned judge. [ who is to conduct the pre-trial conference. ] See Appendix, Form [ 2 ] 3. The court may in its discretion require the parties to submit a pre-trial order in the format contained in former Lacka. Co. R.C.P. 212.1. See Appendix, Form 4.

[ (f) ] (e) [ At least one attorney for each party shall appear and conduct the pre-trial conference except in the case of parties appearing pro se. At least one attorney for each of the parties who is fully familiar with the case and who has complete authority to settle the case shall appear for each party. If an attorney does not have complete settlement authority, the party or a person with full settlement authority shall accompany the attorney to the pre-trial conference or shall be available by telephone during the pre-trial conference. Counsel are mandated to alert their clients to this requirement and are responsible for having available in

person or by telephone a person with full settlement authority for the party whom counsel represents. ] Except for good cause shown, trial counsel with complete settlement authority must attend the pre-trial conference in person. The designated representatives for the plaintiff and defendant, including duly authorized representatives of the primary and excess liability insurers and statutorily created funds, must be available by telephone during the entire course of the pre-trial conference. The court may in its discretion order the designated representatives for the plaintiff and the defendant and the duly authorized representatives of the primary and excess liability insurers and statutorily created funds to attend the pre-trial conference in person. To ensure that full settlement authority has been secured by the date of the pre-trial conference, the primary and excess liability insurers and statutorily created funds are required to have the matter at issue investigated, evaluated and reviewed by all necessary representatives and committees prior to the date of the pre-trial conference.

[ (g) ] (f) At some time prior to the filing of Plaintiff/Defendant Pre-Trial Statement, all parties shall [ meet ] confer to discuss settlement. [ It shall be the duty of the plaintiff to take the initiative in holding such a settlement meeting. ] It shall be the responsibility of the plaintiff to schedule the conference required by this subparagraph. The parties shall certify in writing in their pre-trial statements that such a settlement conference was held and shall identify the date of the conference, the individuals who participated and the results of the conference.

[ (h) ] (g) If a party or [ his ] counsel fails to attend the pre-trial conference or fails to participate in a settlement conference pursuant to Lacka. Co. R.C.P. 212(f), the court may make such order or impose such sanctions as [ in its discretion seem ] it deems proper under the circumstances."

[ Rule 212.1. Pre-Trial Procedure for Protracted Cases.

(a) At least one pre-trial conference shall be held for each case on the protracted case list. At the first conference so scheduled, each party shall present a brief pre-trial conference statement in the form set forth in Plaintiff/Defendant Pre-Trial Conference Statement. See Appendix, Form 2.

Trial counsel will attend the conference. The purpose of the conference is to consider the simplification of the issues, the necessity or desirability of amendments to the pleadings, the separation of issues, the desirability of an impartial medical examination, the limitation of the number of expert witnesses, the probable length of trial, the desirability of trial briefs, the date for trial, evidentiary questions, the submission of points for charge, and such other matters as may aid in the trial or other disposition of the action.

The prospects of settlement will be explored. Accordingly, counsel who attend the pre-trial conference shall be authorized to enter into a settlement agreement or shall have available by telephone such persons who are empowered to enter into a settlement agreement.

(b) If a protracted case is not settled and is scheduled for trial, a proposed pre-trial order shall

be prepared consisting of one document signed by all counsel, reflecting the efforts of all counsel. It will be the obligation of plaintiff's counsel to initiate the procedures for its preparation and to assemble and to submit the proposed pre-trial order to the judge.

Counsel may find it advantageous to prepare the proposed pre-trial order jointly in one conference, or each attorney may prepare his or her section which will then be circulated to other counsel for review and approval. No explicit directions covering the mechanics of preparation are included in these instructions. However, after each counsel has submitted his respective proposed pre-trial order suggestions to other counsel, all counsel must have a conference to attempt to reconcile any matters on which there is disagreement. Counsel are expected to make a diligent effort to prepare a proposed pre-trial order in which will be noted all of the issues on which the parties are in agreement and all of the issues on which they disagree. The proposed pre-trial order shall be submitted by counsel for the plaintiff at chambers at least five (5) days prior to trial, unless another date is specified by the judge.

The proposed pre-trial order, if accepted by the judge, will become a final pre-trial order and shall govern the conduct of the trial and shall supersede all prior pleadings in this case. Amendments will be allowed only in exceptional circumstances to prevent manifest injustice.

After the proposed pre-trial order has been designated as the final pre-trial order, the case will be considered ready for trial. Neither the pre-trial conference statements nor the pre-trial order shall be made the subject of comment to the jury.

The form of the proposed pretrial order shall be as follows: ]

**Rule 214. Listing Cases for Hearing or Trial.**

(a) The Court Administrator shall [ list ] assign a case for hearing or trial upon the filing of a Certificate of Readiness in the form provided by the Court Administrator with the approval of the court[ , ]. See Appendix, Form [ 3 ] 5. [ But the filing of same by any party shall constitute the certification by such party that: ]

(b) No Certificate of Readiness may be filed until all discovery in the case has been completed and all depositions for use at trial have been scheduled or completed. Nor may a Certificate of Readiness be filed if any case dispositive motion is pending for disposition by the court. The filing of a Certificate of Readiness shall constitute a verification that no case dispositive motions are pending nor does any party or attorney contemplate filing such a case dispositive motion.

(c) No party or lawyer may file more than one Certificate of Readiness on any single day.

[ (1) The pleadings in the action are completed;

(2) The time has expired for all parties to engage in discovery proceedings, or that the party believes that, after making diligent inquiry, all discovery proceedings in the action have been completed or that another party is engaging in dilatory discovery to prevent the trial of the case; and

(3) The party is ready for trial, subject only to the holding of a pre-trial conference. ]

**Rule 214.1. Hearing and Trial Terms.**

(a) The judicial calendar of the court shall establish hearing and trial terms each year for the conducting of arbitration hearings, equity and non-jury trials, jury trials, and protracted case trials.

(b) While the composition of the judicial calendar may vary and should therefore be consulted, generally the court schedules terms as follows:

(1) arbitration hearings—one week each month every month, except July and August;

(2) equity and non-jury trials—one week each month every month, except July and August;

(3) jury trials—[ two ] three weeks each month every month, except July and August;

[ (4) protracted trials—three times during three different months of the year. ]

**Rule 214.2. Hearing and Trial Lists.**

[ (a) The Court Administrator shall maintain a list for arbitration hearings, a list for equity and non-jury trials, and a list for protracted cases and two lists for jury trials which shall be designated A and B, for the various hearing and trial terms of court. Each judge shall maintain an individual trial calendar for all cases which have been assigned to that judge for trial.

(b) With the exception of protracted cases, when a certificate of readiness is filed, the Court Administrator shall assign the case to the appropriate list giving priority on the list based on the filing date of the certificate of readiness, subject to Lacka. Co. R.C.P. 214.4.

(c) Cases on the protracted list will be assigned by the Court Administrator on a rotating basis to all judges of the civil division except the president judge due to administrative responsibilities. No person shall directly or indirectly ascertain or divulge or attempt to ascertain or divulge the name of the judge to whom any case may be assigned before the assignment. Once a protracted case has been assigned to a judge, it shall carry his or her assignment designation. The judge so assigned will thereafter manage the case and schedule it for trial during a protracted case term.

(d) A case may be placed on the protracted list prior to the filing of a certificate of readiness if, in the discretion of the court, pre-trial management of the case is necessary.

(e) The assignment of protracted cases determined to be related will follow the initial assignment.

(f) These rules do not preclude the president judge from making special assignments of both civil and criminal cases if the circumstances warrant. ]

**Rule 214.3. [ Publication and ] Notice of Hearing or Trial.**

(a) [ The jury trial lists designated as A and B shall be published on an alternating term basis. ] Notice of trial in a jury case will be provided by the judge to whom the case has been assigned for trial.

[ (b) With the exception of the arbitration list and protracted case list, at least thirty (30) days prior to the beginning of the trial term, the Court Administrator shall publish in the Lackawanna Jurist the list of cases to be tried during that term. Said publication shall constitute notice to all parties that the trial will be conducted during that term. Following publication, all counsel of record are required to promptly notify all pro se parties that trial will be conducted during that term. ]

[ (c) ] (b) Notice of hearing in arbitration cases will be provided by the Court Administrator by mail to all counsel of record and pro se parties.

[ (d) Notice of trial in a protracted case will be provided by the assigned judge.

(e) While publication pursuant to subparagraph (b) shall constitute the only required notice of trial, the Court Administrator shall endeavor to provide written notice by mail to those counsel of record who are not members of the Lackawanna County Bar Association. ]

[ Rule 214.4. Cases Not Heard.

(a) If a case is not heard or tried during the term for which it is listed because it was not reached by the court, it shall be given priority on the next list over cases which were continued by a party.

(b) If a case on the A or B jury trial list is not tried, it shall remain on that list absent order of court for good cause shown. ]

**Rule 216. Application for Continuance.**

(a) An application for continuance of a hearing or trial must be submitted [ to the Court Administrator ] to the assigned judge at least seven (7) days before the first day of the hearing or trial term for which the case is listed.

[ (b) An application for continuance must be in accord with Pa. R.C.P. 216 and list all counsel, indicating their concurrence or non-concurrence with the application. See Appendix, Form 4.

(c) Any application for a continuance because of the absence of a witness not a party who has not been served with a subpoena shall be accompanied by an affidavit which shall state:

(1) the facts to which the witness would testify if present or if his or her deposition should be taken;

(2) the grounds for believing that the absent witness would so testify;

(3) the efforts made to procure the attendance or deposition of such absent witness; and

(4) the reasons for believing that the witness can be subpoenaed at a later date.

(d) An application for a continuance because of the absence of a witness not a party who has not been served with a subpoena may be refused if:

(1) the moving party knew of the intended absence of the witness in time to subpoena him or her;

(2) the witness lives in the Commonwealth of Pennsylvania and through the exercise of a reasonable diligence could have been subpoenaed within five (5) days of the day set for trial or hearing;

(3) the deposition of the witness could have been obtained with reasonable diligence; or,

(4) the adverse party agrees that the witness if present would testify to the facts set forth in the affidavit.

(e) The Court Administrator will notify counsel of any action taken on the application.

(f) An appeal from a decision of the Court Administrator will be allowed only to the judge then assigned to hear appeals on continuances. ]

[ (g) ] (b) The grounds for continuance shall be those set forth in Pa. R.Civ.P. 216.

(c) The grant or denial of an application for continuance shall be in the discretion of the judge giving due consideration to the timeliness of the application, any prejudice to the opposing party or counsel, the reasons offered for the continuance, and any other factors deemed relevant by the judge.

[ (h) Continuance will not be granted for a cause existing and known at the time of the publication of the list if application is not made within seven (7) days following publication.

(i) No continuance will be granted if not timely made in accordance with subparagraph (a) unless the party seeking a continuance demonstrates to the court's satisfaction that manifest injustice will result if the case is not continued.

(j) If a case is continued three times, the Court Administrator shall strike it from the trial list. ]

**Rule 223. Civil Trials.**

(a) Schedule of Commencement of Trial

[ During a trial session, cases shall be called for trial in the following manner:

(1) Cases in their order on the trial list shall be assigned to trial until a case has been assigned to each of the courtrooms available. Thereafter, cases shall be so assigned as the courtrooms become disengaged.

(2) If a case is not tried when reached on the trial list because counsel is engaged in another trial, such case shall be temporarily passes. Such case shall be assigned to the first available courtroom after counsel is available.

(3) Except in actions to which a minor or an incompetent is a party and in actions for a wrongful death in which a minor or an incompetent has an interest, verdicts and judgments thereon may be entered by agreement at any time the court is in session. ] During a trial session, cases shall be called for trial in the order in which they were scheduled for trial by the assigned judge.

(b) Openings and Closings

The opening addresses and closing arguments of counsel engaged in trial shall be in accordance with the following principles:

(1) Unless the trial judge shall otherwise direct, only one attorney may present an opening address or a closing argument for any party;

(2) Opening remarks shall consist only of a succinct statement, without argument, of the positions and conten-

tions of the party represented by the speaker and a brief recital of the evidence intended to be introduced in support of the same;

(3) Counsel for the party having the affirmative of the issue on the pleadings shall open the case and shall be followed by opposing counsel, and by third parties, in the order in which each appears in the caption of the action;

(4) Counsel for the defendant or any third party defendant may elect to make the opening address prior to the taking of any testimony or immediately prior to the presentation of evidence by the defense, unless the trial judge in a particular case required such opening addresses by the defense counsel to be made at a particular time;

(5) At the conclusion of the evidence, closing arguments shall be presented by counsel in the reverse order in which counsel was entitled to open under subparagraph (3), so that counsel for the party having the affirmative of the issue shall close last;

(6) In actions involving more than one plaintiff, defendant, or third-party defendant, not covered under subparagraph (3), if the attorneys are unable to agree, the trial judge shall determine the order of presentation of the opening addresses and closing arguments.

(c) Conduct of Trial

The party calling a witness shall, upon motion of another party or when required to do so by the court, state briefly the matter proposed to be established by the testimony of that witness and the legal purpose for presenting such evidence. The entire examination of a witness shall be conducted by only one attorney for each party unless otherwise permitted by the trial judge.

**Rule 1028. Disposition of Preliminary Objections and Motions for Judgment.**

Preliminary objections and case dispositive motions shall be governed by Lacka. Co. R.C.P. 211.

[ (a) Mindful of the provisions contained Pa. R.Civ.P. 1028(c) that preliminary objections are to be promptly determined, such matters, as well as motions for summary judgment and motions for judgment on the pleadings, shall be presented and determined as provided by this rule.

(b) Upon filing with the Clerk of Judicial Records any preliminary objections or motion of the type set forth in subsection (a) above, the moving party shall file a memorandum of law in support of the same within ten (10) days and shall serve a copy thereof upon all opposing counsel and any unrepresented party at their respective addresses of record. When filed, the memorandum of law shall be accompanied by a certificate indicating that such service has been made.

(c) All parties who wish to contest the preliminary objections or the motion shall within thirty (30) days from the filing of such preliminary objections or motion file a reply memorandum of law and a certificate that such service has been made.

(d) The party who presents the preliminary objections or any motion to which this rule refers shall, at the time of filing, inform the Court Administrator in writing that such has been filed.

(e) Upon receiving notice that such document has been filed, the Court Administrator shall assign the preliminary objections or the motion to a judge for

disposition, which assignment shall be made on a rotating basis, shall list the matter for argument, and shall give notice to the parties.

(f) The usual course, disposition of preliminary objections and the motions to which this rule refers shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(g) The judge to whom the preliminary objections or motion has been assigned for disposition may in the exercise of judicial discretion grant additional time to file a memorandum of law, require additional memoranda to be filed, or make such other order as shall be appropriate for the disposition of the matter before him.

(h) Timely filing of memoranda of law is essential to the proper functioning of this rule. Therefore, if a moving party fails to file a memorandum of law within the time provided in subsection (b) above, the preliminary objections or motion shall be dismissed. If any opposing party fails to file a memorandum of law within the time provided in subsection (c) above, that party shall be deemed not to contest the matters raised in the preliminary objections or motion and the court shall proceed to disposition on that basis. ]

**Rule 4007.1. Objections During Oral Depositions; Speaking Objections.**

(a) Counsel making an objection during an oral deposition shall state the word, "objection", and briefly state the legal basis for the objection without argument.

(b) If there is to be any discussion, amplification or argument on the objection, the witness shall be excused from the room at the request of any party. Such discussion, amplification or argument shall be made on the record unless all parties agree otherwise.

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

**Rule 4012. Protective Orders.**

(a) If a deposition is being taken within the Lackawanna County courthouse and demand is made for its suspension, a motion for a protective order under Pa. R.C.P. 4012(b) shall be made immediately [ , if a judge is available ] to the Special Trial Master for Discovery, if available, in which event the motion may be oral and heard. If [ no judge ] the Special Trial Master for Discovery is not available [ or if the deposition is not being taken within the courthouse, though it is being taken within the County ], the motion for a protective order may be oral and shall be presented to the [ court or a judge thereof ] Special Trial Master for Discovery within forty-eight (48) hours of the suspension of the taking of the deposition. Otherwise, the objecting party or deponent will be deemed to have waived the objection and the taking of the deposition shall be immediately resumed on notice to all interested parties and the deponent.

(b) In all other cases, the motion must be in writing and presented to the [ court ] **Special Trial Master for Discovery** as provided in Lacka. Co. R.C.P. 4000 herein except that, upon failure to present such motion within fifteen (15) days of the suspension of the taking of the deposition, the objecting party or deponent will be deemed to have waived the objection whereupon the taking of the deposition shall be resumed on reasonable notice to all interested parties and the deponent.

**Rule 4013. Stay of Proceedings by Discovery.**

(a) If a party seeks a stay of discovery pending disposition of a motion for a protective order, the basis for such a request shall be stated with particularity in the motion and shall be called to the [ court's ] attention of the **Special Trial Master for Discovery** at the time of presentation of the motion.

(b) If during the pendency of an action a party desires a general stay of the proceedings for purposes of deposition and discovery, the court upon motion and for cause shown may enter an appropriate order staying the proceedings.

**Rule 4017.1. Objections During Videotape Depositions.**

(a) Counsel making an objection during a videotape deposition shall simply state "objection" upon which the video operator shall stop the videotape. Further argument or discussion shall be made off camera but on the written transcript.

(b) During any discussion or argument, the witness shall be excused from the room at the request of any party.

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution

under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

[ **Rule 4018. Medical and Employment Records.**

(a) As an alternative to the use of subpoenas or request for production of documents, a party may request another party, whose counsel has a medical and/or employment records authorization, to have the medical provider or past or present employer forward directly to the requesting party any such records. Upon receipt of such a request, the party receiving the request shall either:

(1) direct the medical provider and/or past or present employer to forward directly to the requesting party any such records with reasonable costs to be paid by the requesting party upon proper invoice from the person or entity providing the records; or

(2) advise the requesting party of any objection in which event the requesting party shall proceed by use of subpoena and deposition.

(b) Any requesting party who receives records pursuant to this rule shall immediately upon receipt of the same provide a copy of the same to all other parties of record.

(c) No subpoena of this court shall be caused to be issued by a party to any person or entity not a party if the same is returnable by affidavit and all subpoenas of this court which issue shall in all instances include a scheduled deposition, hearing, or other formal court proceedings, provided however, that this rule shall not prevent any person from seeking or obtaining medical records pursuant to the Medical Records Act, 42 Pa.C.S.A. §§ 6151, et seq. ]

THE COURTS

FORM 1

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY

Plaintiff(s) :

:

vs.

:

:

:

Defendant(s) :

NO. \_\_\_ -CV- \_\_\_

PRAECIPE FOR ASSIGNMENT

TO: Lackawanna County Court Administrator

Please be advised that the Plaintiff/Defendant has filed \_\_\_\_\_  
(Identify motion, petition or preliminary objection)  
in the above-captioned case.

- All parties have agreed to submit this matter on briefs without the necessity of oral argument.
- Please schedule this matter for oral argument.

\_\_\_\_\_  
(Attorney for Plaintiff)

\_\_\_\_\_  
(Attorney for Defendant)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

Respectfully submitted:

Date: \_\_\_\_\_

By: \_\_\_\_\_

**FORM 4**  
**Pre-Trial Order**

**(1) Jurisdiction.** A statement as to the nature of the action and the authority under which the jurisdiction of the court is invoked.

**(2) Facts.** A comprehensive written stipulation of all uncontested facts in such form that it can be read to the jury as the first evidence at trial.

(a) These facts should include all matters capable of ascertainment, such as ownership, agency, dimensions, physical characteristics, weather conditions, road surfaces, etc. Approximations and estimates which are satisfactory to counsel will be accepted by the judge.

(b) No facts should be denied unless opposing counsel expects to present contrary evidence on the point at trial, or genuinely challenges the fact on credible grounds.

(c) The facts relating to liability and to damages are to be separately stated.

(d) The parties shall reach agreement on uncontested facts even though relevancy is disputed; if such facts are ruled admissible, they need not be proved.

(e) The parties shall also set forth their respective statements of facts which are in dispute, separating those referring to liability from those referring to damages.

**(3) Damages or Other Relief.** A statement of damages claimed or relief sought.

(a) A party seeking damages shall list each item claimed under a separate descriptive heading (personal injury, wrongful death, loss of profits, survival, loss of wages, deprivation of civil rights, punitive damages, false imprisonment, libel, slander, property damage, pain, suffering, past and future medical expense, balance due under contract, performance due under a contract, interest, etc.) shall provide a detailed description of each item, and state the amount of damages claimed.

(b) A party seeking relief other than damages shall list under separate paragraphs the exact form of relief sought with precise designations of the persons, parties, places, and things expected to be included in any order providing relief.

**(4) Legal Issues.** Under separate paragraphs, each legal issue that must be decided and the principal constitutional, statutory, regulator, and decisional authorities relied upon.

**(5) Witnesses.** Under separate headings, and under separate headings for liability and damages, the names and addresses of all witnesses whom the plaintiff, defendant, and third-parties actually intend to call at trial.

(a) Witnesses shall be listed in the order they will be called. Each witness shall be identified and there shall be a brief statement of the evidence which the witness will give.

(b) A detailed summary of the qualifications of each expert witness shall be submitted. This summary shall be in such form that it can be read to the jury when the expert takes the stand to testify.

(c) Only those witnesses listed will be permitted to testify at trial, except to prevent manifest injustice.

(d) Failure to call at trial any listed witness shall not be a proper subject of jury argument unless justified by the record of the case exclusive of pre-trial conference statements or the pre-trial order.

(e) Whenever practicable, a hypothetical question to be propounded to any expert witness shall be prepared in advance for submission to the court and parties in sufficient time as not to delay the trial. If impracticable at this stage, counsel shall arrange for its submission at a later time during trial.

**(6) Exhibits.** A schedule of all exhibits to be offered in evidence at trial, together with a statement of those agreed to be admissible and the grounds for objection to any not so agreed upon.

(a) The exhibits shall be serially numbered without any designation as to whether they are being offered by plaintiff or defendant. The exhibits shall be physically marked before trial in accordance with the schedule.

(b) Where testimony is expected to be offered as to geographical location, building, structure, waterway, highway, road, walkway, or parcel of real estate, plaintiff shall furnish an exhibit in such form that it can be used in the courtroom as an aid to oral testimony.

(i) Except in those cases where the issues require the use of exact scale, the exhibit may be a simple single-line, hand-drawn sketch.

(ii) In most instances, it will not be necessary that the exhibit be to scale or contain other than reasonably accurate features of the geographical characteristics involved.

(iii) If of adequate size and clarity, this exhibit may be an existing drawing, plan, or blueprint.

(c) Except for unusual circumstances, it is expected that the authenticity or genuineness of all exhibits, including non-documentary items, documents, photographs, and data from business records from sources other than parties to the litigation will routinely be stipulated to and will be received in evidence if relevant. Counsel likewise are expected to agree upon the use of accurate extracts from or summaries of such records. Life expectancy tables, actuary tables, and other similar statistical tabular data routinely and regularly used in litigation in the Commonwealth's courts should also normally be stipulated to.

(d) At trial, counsel shall furnish a copy of each exhibit to the judge.

**(7) Legal Issues and Pleadings.** Special comments regarding the legal issues or any amendments to the pleadings not otherwise set forth.



**(8) Trial Time.** An estimate of the number of trial days required, separately stated for liability and damages.

**(9) Discovery Evidence and Trial Depositions.** Each discovery items and trial deposition to be offered into evidence.

(a) Where the videotape or deposition of a witness is to be offered in evidence, counsel shall review it so that there can be eliminated irrelevancies, side comments, resolved objections, and other matters not necessary for consideration by the trier of fact. Counsel shall designate by page the specific portions of deposition testimony and by number the interrogatories which shall be offered in evidence at the trial. To serve this end all videotape depositions will be accompanied by a typewritten deposition of the same testimony.

(b) Depositions and interrogatories to be used for cross-examination or impeachment need not be listed or purged.

FORM 5

Court of Common Pleas County of Lackawanna	CERTIFICATE OF READINESS CIVIL TRIAL LISTING ACTION	NUMBER <hr/> ACTION
ALL CIVIL CASES SHALL BE ASSIGNED TO A JUDGE FOR TRIAL BY THE COURT ADMINISTRATOR UPON THE FILING OF A CERTIFICATE OF READINESS IN THE FOLLOWING FORM:		
TYPE OF TRIAL REQUESTED <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Arbitration	ESTIMATED TIME _____ DAYS	DATE PREPARED _____
PLAINTIFF(S)		
DEFENDANT(S)		
ADDITIONAL DEFENDANTS(S)		
I CERTIFY THAT ALL DISCOVERY IN THE CASE HAS BEEN COMPLETED; ALL NECESSARY PARTIES AND WITNESSES WILL BE AVAILABLE; SERIOUS SETTLEMENT NEGOTIATIONS HAVE BEEN CONDUCTED; ALL DEPOSITIONS FOR USE AT TRIAL HAVE BEEN COMPLETED OR SCHEDULED; NO CASE DISPOSITIVE MOTIONS ARE PENDING NOR DOES ANY PARTY CONTEMPLATE THE FILING OF SAME; NO CERTIFICATE OF READINESS HAS BEEN FILED WITHIN THE PAST 24 HOURS BY ANY PARTY OR LAWYER OF RECORD IN THIS CASE; THE CASE IS READY IN ALL RESPECTS FOR TRIAL; THAT A COPY OF THIS CERTIFICATE OF READINESS HAS BEEN SERVED ON ALL COUNSEL HAVING AN INTEREST IN THE CASE NO LESS THAN 15 DAYS PRIOR TO THE FILING; NO PARTY OR COUNSEL OBJECTS TO THE FILING OF THIS CERTIFICATE OF READINESS.		
DATE SERVED _____		SIGNATURE OF TRIAL COUNSEL _____
_____ COUNSEL WHO WILL ACTUALLY TRY THE CASE		
FOR THE PLAINTIFF(S) ADDRESS	TEL. NUMBER	
FOR THE DEFENDANT(S) ADDRESS	TEL. NUMBER	
FOR THE ADDITIONAL DEFENDANT(S)	TEL. NUMBER	
CASE ASSIGNED TO JUDGE _____ STATUS CONFERENCE SCHEDULED FOR _____ AT _____ .M. IMPORTANT NOTICE: FILE CERTIFICATE WITH THE CLERK OF JUDICIAL RECORDS, LACKAWANNA COUNTY COURTHOUSE, SCRANTON, PA		
CJR-CV-2		

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