

# THE COURTS

## Title 255—LOCAL COURT RULES

### BEAVER COUNTY

#### Local Rules of Civil Procedure; No. 10130 of 2001

##### Order

*And Now*, this 5th day of August, 2003, the Beaver County Local Rules of Civil Procedure are amended as follows:

1. New Rules L207.1 and L212.3 are promulgated to read as follows, and

2. The Local Rules governing compulsory arbitration, comprised of Local Rules L1301A, L1301B, L1301C, L1301D, L1301.1, L1302A, L1302B, L1302C, L1302D, L1302E, L1302F, L1303, L1306, L1307 and L1308, are amended to read as follows.

3. This order and the following rules shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The Court Administrator of Beaver County shall submit seven (7) certified copies of this order and the following to the Administrative Office of Pennsylvania Courts, two certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee of the Pennsylvania Supreme Court, one (1) certified copy with the Beaver County Law Library and one (1) copy with the Prothonotary of Beaver County to be kept for public inspection and copying

*By the Court*

ROBERT E. KUNSELMAN,  
*President Judge*

##### Rule L1301—Compulsory Arbitration

**Rule L1301A**—These Rules apply to the following civil matters or issues which shall be submitted to compulsory arbitration under Section 7361 of the Judicial Code:

1. All civil actions, as defined in Pa. R.C.P. No. 1001(a) and (b)(1), as amended, for money damages where the amount in controversy on any claim is \$25,000.00 or less, exclusive of interest and costs. The amount in controversy shall be determined from the pleadings, by agreement of the parties or by the court.

2. Where no appearance has been entered or a default judgment has been entered in a civil action and the plaintiff desires to have the damages assessed in an amount not to exceed \$25,000.00.

3. By agreement of reference signed by the parties or their counsel. Such agreement shall define the issues and contain such stipulation as to facts, admissions or waivers of defenses or proofs as are agreed upon.

##### Rule L1301B—Exceptions

These rules shall not apply to the following matters:

1. Action in Ejectment;
2. Action to Quiet Title;
3. Action in Replevin, unless authorized by the court;
4. Action in Mandamus;
5. Action in Quo Warranto;

6. Action of Mortgage Foreclosure;

7. Actions upon Ground Rent;

8. Foreign Attachment;

9. Fraudulent Debtors Attachment; and

10. Where claims for relief were heretofore asserted in an action in equity.

##### Rule L1301C—Compensation of Board

Each member of the Board of Arbitration who has signed an award, whether as a majority or as a dissenter, shall receive as compensation a daily fee in an amount as set by the Court from time to time by special order. Where hearings exceed one day, the arbitrators may petition the court for additional compensation which may be granted for cause shown. Any such request should be made prior to submitting the award to the Court Administrator as required by Local Rule 1306.

##### Rule L1301D—Procedure for Payment

Upon the filing of the arbitrator's award, the Prothonotary shall certify such filing to the County Commissioners and to the County Controller, together with the names of the members of the Board and an Order for payment. The County Commissioners and Controller shall thereupon pay the applicable fee to each member of the Board. Such fees shall not be taxed as costs in the case.

##### Rule L1301.1—Powers of Arbitrators

The Board of Arbitrators shall have the powers conferred upon them by law, including:

(1) The power to permit the amendment of any pleading. The Arbitrators' permission and the amendment must be filed in writing promptly.

##### NOTE

1. See Pa. R.C.P. Nos. 1303(b) and 1304(a) for the power of arbitrators to act when a party fails to appear or is not ready.

##### Rule L1302—Arbitrators

##### Rule L1302A—Eligibility to Serve as Arbitrators

Only persons actively engaged in the practice of law in Beaver County shall be eligible to serve as Arbitrators. For purposes of this rule, "persons actively engaged in the practice of law" is defined as: persons who are authorized by the Pennsylvania Supreme Court to practice law and who regularly maintain their principal office in Beaver County for the practice of law, excluding all attorneys employed full time by Beaver County unless their Department Head consents in writing to their eligibility. Judicial law clerks who are employed by the Court of Common Pleas of Beaver County on the date this amendment becomes effective may continue to be eligible.

##### Rule L1302B—Qualifications of Chairman

Only persons admitted to the practice of law for at least fifteen (15) years and who have extensive civil trial experience are eligible to serve as Chairman of the Boards of Arbitrators.

##### Rule L1302C—List of Arbitrators

The Court Administrator of Beaver County shall, with the approval of the President Judge, on or before October 1 of each year, compile a list of persons eligible to serve as Arbitrators including persons eligible to serve as Chairmen of Boards of Arbitrators. Persons who have

been determined to be eligible shall file a written consent to serve as an Arbitrator or Chairman with the Court Administrator. Arbitrators and Chairmen shall be selected alphabetically as nearly as possible by the Court Administrator in accordance with L1302D from the persons who have filed a consent to serve.

**Rule L1302D—Selection of Board**

Boards of Arbitrators shall be selected by the Court Administrator to serve on each arbitration day designated by the Court. Two Arbitrators and a Chairman shall be selected from the list of eligible persons who have consented to serve and appointed to each Board. At least one of the two other arbitrators shall have significant civil trial experience. The Court Administrator shall give each Arbitrator at least ninety (90) days written notice of the date the Arbitrator is to serve.

**L1302E—Scheduling of Cases**

The Court Administrator shall schedule a sufficient number of cases for hearing on each arbitration day and give at least 45 days written notice of the hearing date to counsel for the parties and to pro se litigants. All requests for a continuance must be submitted to and approved by the Court to a date to be selected by the Court Administrator. Copies of all hearing notices shall be filed with proof of mailing.

When scheduling cases for hearing, the Court Administrator shall avoid the creation of conflicts of interest with Arbitrators. The notice of hearing shall identify the members of the Board of Arbitration. Any objection to an Arbitrator shall be made to the Court within twenty (20) days of mailing the notice and, if sustained, will be ground to continue the hearing.

**L1302F—Vacancies**

Should a vacancy on the Board of Arbitration occur for any reason prior to hearing, or should a member of the Board be unable to serve or fail to attend on the arbitration day, the Court Administrator shall be notified and shall appoint a substitute. The appointment of the substitute Arbitrator shall be communicated to all parties or their counsel prior to the commencement of the hearing. If a party has an objection to the substitute, it shall be made forthwith or be waived.

Should an Arbitrator fail to appear on the scheduled arbitration day, without good cause or without having notified the Court Administrator at least ten (10) days prior thereto, that Arbitrator shall be removed from the list of eligible Arbitrators. In the event a substitute Arbitrator cannot be appointed, sanctions may be imposed against the delinquent Arbitrator.

**Rule L1303—Arbitration Hearings**

Arbitration hearings shall be conducted at the Beaver County Courthouse pursuant to assignment by the Court Administrator. Prior to the commencement of the hearing, the Prothonotary shall administer the oath of office in the form mandated by Pa. R.C.P. 1312, to each arbitrator and deliver the file to the Chairman.

**Rule L1306—Arbitration Award**

The Board shall submit its award to the Court Administrator who shall note the same on its records and forthwith file the award with the Prothonotary. Failure to submit the Award promptly may result in the imposition of sanctions, including forfeiture of the Arbitrator's fees.

**Rule L1307—Amount of Arbitrator's Compensation for Appeal**

The amount of compensation of arbitrators to be paid upon an appeal shall be determined by the Court Admin-

istrator on a pro rata basis as to the number of cases heard by the Board. That amount shall be transmitted with the award to the Prothonotary who shall include that amount in "the notice of award" given to each party or their counsel.

**L.R. 1308 Discovery**

Discovery in cases subject to these rules shall be governed by L.R. 4011.

**L.R. 207.1—Motions to Exclude Expert Testimony Which Relies Upon Novel Scientific Evidence**

All motions to exclude expert testimony authorized by Pa. R.C.P. No. 207.1 shall be filed and served no later than the date and time of the pre-trial conference.

*Note:* This rule is intended to require a party to raise the issue of the admissibility of testimony of an expert witness prior to trial pursuant to Pa. R.C.P. No. 207.1(b). Establishing the last day to do so at the pre-trial conference will provide the opposing party a fair opportunity to prepare to rebut the motion so as to avoid surprise at trial. If a motion is filed after the pre-trial conference, the issue will be deemed waived and the motion dismissed sua sponte.

**L.212.3 Imposition of Sanctions for Obdurate Conduct in Pre-Trial Proceedings**

A. An official court stenographer shall attend each pre-trial conference and take notes of the discussions of the participants. The notes shall not be transcribed except upon order of the presiding judge.

B. The presiding judge shall recommend a settlement amount to counsel for parties if the judge determines that he or she can fairly evaluate the case for settlement purposes. The recommendation and the reasons in support thereof shall be included in the stenographer's notes as well as the parties' settlement positions and the reasons therefore.

C. The court may make a finding that a party has engaged in obdurate conduct in regard to the party's settlement position either sua sponte or on petition of another party. In either event, not later than ten (10) days after a jury verdict or a decision of the court, a rule shall be issued to show cause why counsel fees should not be awarded under 42 Pa.C.S.A. § 2503(7). The Petition Practice set forth in Pa. R.C.P. No. 206.1 et seq. will apply.

D. The court should consider and weigh the following factors determining whether or not to impose sanctions:

1. The facts and circumstances which existed at the time of the pre-trial conference;
2. Whether there was a change in such facts or circumstances to account for a variation between the plaintiff's demand, the defendant's offer and the jury's verdict;
3. The final settlement demand and offer;
4. The settlement value;
5. Whether there was substantial merit to the parties' claim or defense, and;
6. Whether a party's settlement position had a reasonable basis in law or in fact.

[Pa.B. Doc. No. 03-1626. Filed for public inspection August 22, 2003, 9:00 a.m.]