

# THE COURTS

## Title 255—LOCAL COURT RULES

### FAYETTE COUNTY

Local Rules 201, 201.1, 202, 203, 204, 211, 211.3, 212, 214 and 1303; Civil Division; No. 2884 of 2003

#### Order

*And Now*, this 19th day of December, 2003, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that Fayette County Local Rules 201, 201.1, 202, 203, and 204 are adopted, and that Fayette County Local Rules 211, 211.3, 212, 214, and 1303 are amended, as follows.

The Prothonotary is directed to:

- (1) File seven certified copies of said rules with the Administrative Office of Pennsylvania Courts.
- (2) Distribute two certified copies and diskette of said rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- (3) Send one certified copy of said rules to the State Civil Procedural Rules Committee, the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

These Rules shall be continuously available for public inspection and copying in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

The said Local Rules shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

*By the Court*

CONRAD B. CAPUZZI,  
*President Judge*

#### Rule 201. Case Assignment

(a) All civil cases, not including family court matters, filed in the Prothonotary's Office on or after the effective date of this Rule, shall be assigned to a Judge as set forth in F.C.R. 201.1. The Prothonotary shall notify the assigned Judge of the assignment upon the filing of the initial responsive pleading of any defendant. The assigned Judge's name shall be placed on all subsequent pleadings by counsel under the number and term of the case. The assigned Judge shall then handle all matters regarding the assigned case.

(b) Unassigned civil cases, as defined in F.C.R. 201(a), pending on the effective date of this Rule, shall be assigned pursuant to F.C.R. 201.1. The assigned Judge for that matter shall then handle all matters for that case.

(c) If pending cases which arise from the same transaction or occurrence are assigned to different Judges, the Court, on its own motion or the motion of any party, may order the cases consolidated before the Judge assigned to the first case filed.

#### Rule 201.1. Random Assignment

Civil cases set forth in F.C.R. 201(a) shall be assigned randomly by the Prothonotary's computer system to a Judge. Those cases which have not yet been assigned and require an emergency determination as provided in F.C.R.

211(d) will be immediately assigned randomly by the Prothonotary's computer system, after the President Judge approves the case as being in compliance with F.C.R. 211(d).

#### Rule 202. Presentation of Motions

Except in emergencies as set forth in F.C.R. 211(d), all priority motions will be presented to the assigned Judge in Motions Court in accordance with F.C.R. 211(e).

#### Rule 203. Status Conference

As to cases filed on or after the effective date of F.C.R. 201(a), the assigned Judge shall schedule a status conference no sooner than thirty (30) days after the initial responsive pleading to the complaint is filed.

#### Rule 204. Case Management Order

At the F.C.R. 203 status conference, the assigned Judge shall enter a case management order which may include the following:

- (a) a date for discovery to be completed;
- (b) referral to arbitration of all cases when the amount actually in controversy does not exceed the jurisdictional limits of arbitration. The Court shall set forth the estimated length of time for the arbitration hearing in the referral order;
- (c) a date for all dispositive motions, including motions for summary judgment and for judgment on the pleadings, to be filed;
- (d) a pretrial conference date; and
- (e) the earliest trial date on which the case may be tried pursuant to Pa.R.C.P. 212.1(a).

#### Rule 211. Motions Court

(a) Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the Fayette County Legal Journal.

(b) The purpose of Motions Court is to afford all parties an opportunity to present motions which require action by the Court, including Orphans' Court and Criminal Court matters.

(c) As used herein, the term "motion" shall include every type of motion, petition, preliminary objection, or other request for action by the Court.

(d) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof. The moving party shall file the original motion, certificate, and any attachments in the appropriate office before presentation in Motions Court. An original proposed order, a copy of the certificate and motion, assembled in that order, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(e) All civil and family priority motions, in cases already assigned to a Judge, and all criminal and Orphans' Court motions pertaining to matters already ruled on by a Judge, will be presented to that Judge in Motions Court, except in emergencies set forth in F.C.R. 211(d).

(f) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(g) All motions shall be accompanied by a certificate completed and signed by the presenter setting forth the following:

(1) The name of the person presenting the motion and the party represented;

(2) The date, place and the manner of service of all other parties;

(3) The party presenting the motion shall select the date of presentation pursuant to F.C.R. 202 and F.C.R. 211(e);

(4) Whether the motion is to be presented as Routine or Priority (if the motion is Routine, parties or counsel are not required to be present in Motions Court);

(5) The name of the assigned Judge, if any. In criminal and Orphans' Court cases, the name of any Judge who has previously ruled on a matter relevant to the motion being presented, and attach a copy of said ruling;

(6) A specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested;

(7) A statement indicating the length of time for hearing or argument to resolve the motion on its merits.

(8) Failure to accurately provide the foregoing information may result in the matter not being listed for Motions Court.

(h) The certificate shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

:  
:  
:  
:  
:  
: NO. \_\_\_\_\_ OF \_\_\_\_\_

CERTIFICATE

1. The undersigned, \_\_\_\_\_, represents \_\_\_\_\_, the moving party herein.

2. I certify that a copy of the attached motion was served on \_\_\_\_\_ at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by mail/facsimile/hand delivery.

3. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 20 \_\_\_\_ at 9:00 o'clock A.M.

4. The attached motion shall be classified as a ROUTINE/PRIORITY motion as defined by Fayette County Rule 211.1 (a)/Rule 211.2 (a). (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)

5. Judge \_\_\_\_\_ has been assigned; or, in criminal or Orphans' Court matters, Judge \_\_\_\_\_ has previously ruled on a matter relevant to this motion. (SEE ATTACHED RELEVANT RULING.)

6. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_.

7. Estimated time for hearing or argument to resolve the motion on its merits: \_\_\_\_\_.

Respectfully submitted,

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

Rule 211.3. Arguments

(a) Preliminary objections, motions for summary judgment, motions for judgment on the pleadings, and other similar matters normally requiring briefs and/or extended oral arguments shall be presented in Motions Court as a Routine Motion within ten days after the date for filing an amended pleading pursuant to Pa.R.C.P. 1028(a)(1) or a response is due from the non-moving party, accompanied by a proposed order for the Court's use in setting the date and time for argument, dispensing with argument, and/or modifying the normal briefing schedule.

(b) Unless otherwise ordered, the brief of the moving party shall be served on all parties and the assigned Judge within fifteen (15) days from the presentation of the motion pursuant to F.C.R. 211.3(a); and the briefs of all responding parties shall be served on all other parties and the assigned Judge within fifteen (15) days after service of the moving party's brief. A certificate of service shall be filed, the brief itself need not be filed.

(c) Failure to comply with the briefing schedule may result in the denial of oral argument or such other sanctions as are appropriate.

Rule 212. Pretrial Procedure

(a) There will be no pretrial conference in arbitration cases unless the award of arbitrators is appealed. In paternity cases, the pretrial conference shall be conducted by the Domestic Relations Hearing Officer, who shall provide a report of same to the assigned Judge.

(b) The parties shall file pretrial statements as follows:

(1) All plaintiffs, within twenty (20) days after the discovery deadline set by the assigned Judge; and

(2) All defendants, within twenty (20) days of the filing of the plaintiffs' pretrial statements; and

(3) All other parties, within twenty (20) days of the filing of defendants' pretrial statements.

(c) No discovery will be permitted after the pretrial conference except upon express order of the Court.

(d) The written pretrial statement required under these Rules will consist of a brief summary of the essential facts upon which liability is asserted or denied and the legal issues involved. There shall be attached to said statement:

(1) A copy of all reports containing findings or conclusions of any physician who has treated or examined a party or has been consulted in connection with any injuries complained of and who a party expects to call as a witness at the time of trial of the case. If timely production of any such report is not made, the testimony of such physician shall be excluded at the trial except upon consent of the other party or parties or upon express order of the Court.

(2) A copy of all reports containing findings and conclusions of any expert who has been consulted in connection with the matters involved in the case and who a party expects to call as a witness at the trial. If timely production of any such report is not made, the testimony of such expert shall be excluded at the trial, except upon consent of the other party or parties or upon express order of the Court.

(3) A list of the names and addresses of all witnesses the party expects to call, which witnesses shall be classified as liability or damage witnesses.

(4) The pretrial statement of any party seeking to recover damages for personal injuries will also be accom-

panied by a written authorization to inspect and make copies of the records and reports of any physician, hospital or clinic by whom or where said party may have been examined, treated or hospitalized for the injuries or disabilities complained of, and covering prior injuries or disabilities where the same may be relevant.

(5) The pretrial statement of any party seeking to recover damages shall include a list of the damages that the party intends to claim and prove at the trial.

(6) All counsel shall attach a list of exhibits, which shall contain the identifying mark of each exhibit together with a brief description of the exhibit.

(7) All parties shall set forth a realistic estimate of the trial time required for presentation of their own case, as well as total trial time required.

(8) The pretrial statement shall include a brief history of settlement negotiations.

(e) Upon failure of any party to file a pretrial statement within the time required, the Court may impose the sanctions provided in Pa.R.C.P. 4019(c).

(f) At the pretrial conference, each counsel shall make available to opposing counsel for inspection and copying the actual exhibits, which are expected to be offered in evidence at trial. In addition, the written list of exhibits will be marked to indicate those exhibits which are to be admitted into evidence by stipulation, those exhibits to which there is an agreement of authenticity and a waiver of formal proof but to which objections of admissibility are reserved and those exhibits to which objections to admissibility and challenges to authenticity and proof are reserved generally. The nature of the objection in each instance shall be briefly stated.

If any exhibits are known to exist or probably will be required but are not available at the time of the pretrial conference, the substance thereof must be disclosed to opposing parties and numbers or letters shall be reserved for such exhibits upon counsel's list of exhibits. If not discovered or not realized to be necessary until after the pretrial conference, exhibits must nevertheless be marked before trial. Exhibits not submitted and marked in the manner provided herein shall not be admitted at the trial unless the trial Judge is satisfied that their existence or the necessity for introducing them could not have been determined at the earlier stages referred to in this Rule.

(g) Motions to amend, to consolidate, to sever, motions in limine, and other pertinent matters, may be determined by the assigned Judge at the pretrial conference provided at least 20 days notice is given to the Judge and all parties before the pretrial conference.

(h) The Judge presiding at the pretrial conference shall enter a pretrial adjudication. Counsel must file written objections within 10 days and present the objection to Motions Court or be deemed to have accepted the pretrial adjudication.

(i) Willful failure to fully disclose in the pretrial statement or at the pretrial conference the substance of the evidence as to liability, defenses, damages and the identity of all witnesses proposed to be offered at the trial will result in the exclusion of that evidence or the testimony of those witnesses at the trial. The only exceptions will be matters or witnesses whom the Judge determines were not discoverable at the time of the pretrial conference, and matters to be used solely for impeaching purposes.

(j) When a case is scheduled for pretrial conference, it shall not be continued except for just cause and upon

order of the pretrial Judge. If there is a failure to comply with the pretrial rules or with any order issued in the pretrial procedure, the Judge may impose such sanctions as are warranted by the circumstances. Sanctions may include the dismissal of the plaintiff's cause of action, the grant of permission to proceed ex parte, or the barring of any defendant or other party from offering any testimony. If the parties fail to comply, the action may be dismissed.

(k) The pretrial conference shall be attended by the attorney who will try the case or by an attorney who is fully prepared and authorized as to all matters, which may reasonably be expected to arise during the conference. Parties must also be present, except where the real party in interest is an insurance company, common carrier, corporation or other artificial legal entity, in which instance a representative thereof, other than the attorney, must be present with full authority and power to discuss and settle the case. At the pretrial conference, the Court shall encourage the amicable settlement of the controversy and the parties and their attorneys shall be prepared to discuss settlement.

(l) The pretrial adjudication shall control the subsequent course of the action. The adjudication of the pretrial Judge may include a requirement that one or more of the parties submit a trial brief, or a statement of legal authorities, to be submitted at least ten (10) days before the jury selection date. The adjudication may impose such other requirements on the parties as the circumstances may indicate in the discretion of the Judge.

(m) After the pretrial conference and the entry of the pretrial adjudication, no amendment to any pretrial statement or pleading shall be presented to the Prothonotary for filing unless authorized at the pretrial conference or upon further order of Court.

(n) The Court may on motion of any party enlarge any time period set forth in these Rules relating to pretrial procedure.

#### **Rule 214. Trials**

(a) There shall be four (4) Sessions of Civil Jury Trial terms each year, beginning respectively on the third Monday of January, April, July, and October, unless otherwise specifically ordered.

(b) The jury selection day shall be the first day of the Civil Jury Trial term, and such other days as the Court may direct.

(c) Non-jury and equity trials shall be scheduled at the pretrial conference.

(d) As to any civil jury trial, unless the assigned Judge directs otherwise, a trial date and a jury selection date shall be determined at the pretrial conference.

(e) On the first business day of the month preceding that during which the next regular session of Civil Jury trials is to begin, the Prothonotary shall prepare and post publicly in that office a trial list for the session containing all pending cases scheduled for jury selection during that session, along with the trial date.

(f) Unassigned cases pending on the trial list on the effective date of F.C.R. 201 shall be assigned by the Prothonotary pursuant to F.C.R. 201.1.

#### **Rule 1303. Compulsory Arbitration: Scheduling, Hearings and Continuances**

(a) The Court Administrator shall designate the last Tuesday of each calendar month as arbitration day. In the event it conflicts with Criminal or Civil Court Trial

Sessions, the Court Administrator shall designate an alternate date and advise all parties thereof.

(b) For each arbitration day, the Court Administrator shall appoint a board of arbitration. The Court Administrator shall appoint an additional board or boards if the Court Administrator determines that the number of pending cases so requires. The Court Administrator shall notify all arbitrators of their appointment at least thirty (30) days before the scheduled arbitration.

(c) When arbitration is ordered in any case, the Court shall schedule that case to be heard on the next arbitration day which is at least forty-five (45) days thereafter.

(d) The Court Administrator will prepare a list of cases scheduled to be heard on each arbitration day. Cases shall be listed in chronological order according to the date on which arbitration was ordered. The list shall include the name of the attorney for each party. A copy of the list will be posted in the Prothonotary's office. At least thirty (30) days before the arbitration day, the Court Administrator will furnish to each arbitrator appointed to serve on that day, to each attorney involved, and to any party not represented by counsel a copy of the list as well as a roster of each board appointed to sit on that day and notice of the place each board will sit.

(e) The senior arbitrator from the chair list shall chair a board of arbitration.

(f) The arbitration procedure is intended to be economical for the parties and, therefore, the proceedings are abbreviated and somewhat less formal. The consequences to the litigants are nevertheless of great significance. To assure that all present understand the seriousness of the proceedings, the arbitrators will conduct their proceedings with appropriate dignity and decorum at all times.

(g) Each board of arbitration shall hear cases in the order in which they appear on the list for the day. If more than one board is sitting on the same day, when a board completes one case, it will take the next case remaining on the list.

(h) Each board of arbitration will convene at 9.30 o'clock A.M. and will remain in session until 4:00 o'clock

P.M., or such earlier time as all cases on the list have been heard. The lunch recess will ordinarily be from noon until 1:30 o'clock P. M. and, unless the parties consent, no case will be called to start during that period.

(i) If an arbitrator is unable to hear a particular case because of a conflict of interest, the case will be heard by another board of arbitration sitting on the same day. If no other board is sitting on that day, the case will be continued to the next arbitration day.

(j) Each board of arbitration shall file its award in each case with the Prothonotary not later than noon of the next business day after the hearing is concluded.

(k) When it is not possible to conclude a hearing on the day on which it commences, the board of arbitration will fix the time and place to resume the hearing. Each hearing will be completed within ten (10) days after the arbitration day unless the Court allows a longer time.

(l) The Court Administrator will coordinate the hearings on each arbitration day. At the conclusion of its hearings on any day, each board will report to the Court Administrator its disposition of the cases heard by it.

(m) If a party is not prepared to proceed when his case is called to be heard, the board of arbitration shall hear the parties who are present and decide the case on the basis of their evidence. If none of the parties is prepared to proceed when a case is called to be heard, the board of arbitration shall enter an award for the defending parties on each count.

(n) Continuances shall be granted by the Court upon cause shown. There shall be no continuances granted on the date of the hearing except for emergencies.

(o) A \$25.00 fee shall be charged for continuances. No continuance shall be granted without payment of the required fee unless waived by the Court. Proof of payment shall be attached to the motion when presented in accordance with Fayette County Rule 211.

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