

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5]

Order Adopting Amendments to Rules 130 and 555; No. 309 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedure Rules Committee has prepared a Final Report explaining the May 21, 2004 changes to Rules of Criminal Procedure 130 and 555 that make discretionary the decision to transfer proceedings when the charges arise from the same criminal episode and occur in more than one judicial district. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 21st day of May, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules of Criminal Procedure 130 and 555 are amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

Rule 130. *Venue*; Transfer of Proceedings.

(A) *VENUE*

All criminal proceedings in summary and court cases shall be brought before the issuing authority for the magisterial district in which the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

* * * * *

(3) When charges arising from the same criminal episode occur in more than one judicial district, the criminal proceeding on all the charges [**should**] **may** be brought before one issuing authority in a magisterial district within any of the judicial districts in which the charges arising from the same criminal episode occurred.

* * * * *

Comment

[Paragraph (A)(3), which is an exception to the general rule governing venue, was added in 2000 in view of *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), in which the Court held that "all charges stemming from a single criminal episode" must be joined in a single trial "despite the fact that some of the charges arose in a different county." Accordingly, when]

When charges arising from a single criminal episode occur in more than one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue, may be any one of the magisterial districts in which the charges occurred. See *Commonwealth v. Geyer*, 687 A.2d 815 (Pa. 1996) (the compulsory joinder rule and 18 Pa.C.S. § 110 apply when two or more summary offenses arise from a single criminal episode).

* * * * *

Official Note: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered Rule 21 September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended September 19, 2000, effective January 1, 2001; amended May 10, 2002, effective September 1, 2002; **amended May 21, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the May 21, 2004 changes concerning joinder published with the Court's Order at 34 Pa.B. 2911 (June 5, 2004).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART D. PROCEEDINGS IN COURT CASES BEFORE ISSUING AUTHORITIES

Rule 555. Transfer of Proceedings.

(A) In all cases in which charges arising from a single criminal episode occur in more than one judicial district:

(1) If the charges are filed in more than one judicial district, at any time after the case is held for court, the proceedings [**shall**] **may** be transferred to one of the judicial districts.

* * * * *

Comment

[The Supreme Court held in *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), that the trial in one judicial district of some of the charges arising from a single criminal episode may be a bar to the trial in another judicial district of the other charges arising from the same criminal episode. In view of this decision, it is incumbent upon law enforcement officers and prosecutors to be vigilant about instituting proceedings and proceeding to trial in cases in which there are multi-judicial district charges arising from a single criminal episode.]

[The *McPhail* decision has necessitated both a clarification of the procedures for the institution of criminal proceedings, and new procedures for] Rule 555 permits the transfer of pro-

ceedings in cases in which multiple charges arising from a single criminal episode have occurred in more than one judicial district **so all the charges may be tried together in one judicial district. [See Rule 130(B) for the procedures for transferring charges prior to the preliminary hearing.]**

In many cases, multiple charges arising from a single criminal episode will be known to the police officers and attorneys for the Commonwealth involved in the case, and will be joined in the first instance in one criminal complaint, and filed before one issuing authority in one judicial district. See Rule 130(A)(3). However, since there may be cases in which this does not occur, and the charges are filed in more than one judicial district, **[new] Rule [300] 555** establishes the procedures, after such a case is held for court, for the transfer of proceedings to one judicial district. **See Rule 130(B) for the procedures for transferring charges prior to the preliminary hearing.** Rule **[300] 555** also governs the transfer of charges in cases in which all the charges are filed in one judicial district, but the parties or the attorneys for the Commonwealth agree that the charges should have been filed in one of the other judicial districts in which the charges occurred.

* * * * *

Official Note: Former Rule 300 rescinded June 28, 1974, effective immediately; rescinded and number reserved June 29, 1977, and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; new Rule 300 adopted April 20, 2000, effective July 1, 2000; renumbered Rule 555 effective April 1, 2001; **amended May 21, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the May 21, 2004 changes published with the Court's Order at 34 Pa.B. 2911 (June 5, 2004).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 130 and 555

Transfer of Proceedings

On May 21, 2004, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.Rs.Crim.P. 130 (Venue; Transfer of Proceedings) and 555 (Transfer of Proceedings) making discretionary the decision to transfer proceedings when the charges arise from the same criminal episode and occur in more than one judicial district. These changes are the result of the Committee's reconsideration of the mandatory transfer provisions that had been incorporated into Rules 130 and 555² in view of the interplay between the 18 Pa.C.S. § 110 provisions and the Court's 1997 holding in *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), and the concerns raised with the Committee that these rule provisions are no longer viable in view of the following changes to Section 110:³

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

² Rule 555 was adopted, and Rule 130 was amended, by the Court in 2000 in view of *McPhail* to provide, *inter alia*, uniform procedures for the transfer of proceedings in cases in which there are multiple charges in more than one judicial district, or in more than one magisterial district, arising from a single criminal episode.

³ The changes were included in Act 82 of 2002. The deletions to the statute are shown in brackets and bold type, and the additions are underlined and bold.

§ 110. When prosecution barred by former prosecution for different offense.

Although a prosecution is for a violation of a different provision of the statutes than a former prosecution or is based on different facts, it is barred by such former prosecution under the following circumstances:

(1) The former prosecution resulted in acquittal or in a conviction as defined in Section 109 of this Title (Relating to When Prosecution Barred by Former Prosecution for the Same Offense) and the subsequent prosecution is for:

* * * * *

(II) Any offense based on the same conduct or arising from the same criminal episode, if such offense was known to the appropriate prosecuting officer at the time of the commencement of the first trial and **[was] occurred** within the **[jurisdiction of a single court] same judicial district as the former prosecution** unless the court ordered a separate trial of the charge of such offense; or

* * * * *

In considering the Rule 555 mandatory procedures vis a vis the new Section 110 language, the Committee members noted:

- although *McPhail* applies Section 110, *McPhail* also confirmed that the common pleas courts have statewide jurisdiction, and therefore from a constitutional-procedural point of view, the courts still have to decide where a case will be tried when there are overlapping districts involved
- Section 110 is a Crimes Code provision, not a jurisdictional statute, so the changes to Section 110 do not affect the Court's jurisdictional interpretation in *McPhail*
- with the change to Section 110, dismissal for failure to consolidate charges is no longer an issue. However, the criminal justice system would benefit by retaining the means to consolidate when consolidation is desired or when it would be difficult to try the charges separately

In view of the "history" and the members' analysis of the interplay between Section 110, *McPhail*, and Rules 130 and 555, the Committee agreed the mandatory aspects in Rule 130(A)(3) and Rule 555(A)(1) are no longer required, but that the transfer provisions should be retained as discretionary with the attorney(s) for the Commonwealth. This will promote judicial economy, and will benefit the members of the bench and bar, and the defendant. Accordingly, Rule 130(A)(3) has been amended by changing "all the charges **should** be brought" to "all the charges **may** be brought" and Rule 555(A)(1) has been amended by changing "the proceedings **shall** be transferred" to "the proceedings **may** be transferred." Conforming changes have been made to the Comments to both rules.

[Pa.B. Doc. No. 04-971. Filed for public inspection June 4, 2004, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rules of the Court of Common Pleas; No. 2 of 2004 Rules Doc.

Amended Order of Court

And Now, to-wit this 13th day of May, 2004, it appearing to the court that the Order of May 4, 2004, cited the amended local Rule as Rule 300.12.8 in error, it is Ordered that the amended Rule is re-numbered 571.4 and pursuant to action of the Board of Judges, Local Rule 571.4 affecting the Criminal Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOSEPH M. JAMES,
President Judge

Amendment to Local Rule of Criminal Procedure, Rule 571.4

a. Formal arraignment shall be held in every case no more than 40 days after the case has been held for court by an issuing authority, which issuing authority shall be required to issue a subpoena directing the defendant and his counsel to appear in the Calendar Control Office at a time and date certain. Any defendant who appears without counsel at a formal arraignment shall be given a period of no longer than one calendar week within which to obtain counsel, failing which the case shall be referred to the Lawyer Referral Service of the Allegheny County Bar Association, or in the case of those defendants claiming indigence, to the Office of the Public Defender. Counsel need not personally appear at formal arraignment if a properly executed appearance form is submitted by the defendant.

b. Upon the retention of private counsel, any defendant in a criminal case may elect to have counsel appear for that defendant at formal arraignment in Allegheny County. A copy of said form is attached.

c. It shall be the responsibility of the attorney to enter his/her appearance and to notify the defendant of the date and time of his pretrial conference or any further judicial proceedings.

d. The appearance of an attorney at Formal Arraignment for a defendant shall in no way change the Court's right to issue a warrant for the arrest of any defendant who fails to appear for the pretrial conference as scheduled by the Court.

e. This rule does not apply to ARD or PDQ cases.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CRIMINAL DIVISION
COMMONWEALTH OF PENNSYLVANIA

vs.

_____ Case No. _____
Name

Address

City State Zip Code PLEASE CHECK IF NEW ADDRESS

WAIVER OF ARRAIGNMENT, AND NOTIFICATION OF PRETRIAL CONFERENCE DATE

I, _____ defendant in the above case:

1. Understand the nature of the charges against me.
2. Understand the right to be represented by counsel.
3. Understand the right to file motions, including a Request for a Bill of Particulars, a Motion for Pretrial Discovery and Inspections, and an Omnibus Pretrial Motion, and the time limits within which the motions must be filed.

I hereby waive my Formal Arraignment and enter a plea of _____. I, the undersigned Defendant hereby consent to my counsel receiving the Criminal Information in this case and agree to have my counsel inform me of the date, time, and place of the next judicial proceeding.

I, THE UNDERSIGNED DEFENDANT, UNDERSTAND THAT IT IS MY RESPONSIBILITY TO APPEAR AT ANY SUBSEQUENT JUDICIAL PROCEEDING AS REQUIRED AT MY FORMAL ARRAIGNMENT. IF I DO NOT APPEAR, I UNDERSTAND THAT A WARRANT FOR MY ARREST WILL BE ISSUED.

(Defendant)

The Clerk of Courts shall enter the appearance of the following attorney as Attorney of Record for the above named Defendant.

Attorney for Defendant—PLEASE PRINT

Attorney for Defendant—Signature Date Signed

Defendant's Signature Date Signed

[Pa.B. Doc. No. 04-972. Filed for public inspection June 4, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Rules of Court—2002; No. 2002—0189—Misc.

Order

And Now, this 20th day of May, 2004, it is hereby Ordered as follows:

1. L.R.C.P. No. 208.1, No. 208.2 and No. 208.3, attached to this Order, are hereby adopted as new Local Rules of Civil Procedure.

2. L.R.C.P. No. 205.2, No. 206.1, No. 206.4, No. 1028, No. 1034, and No. 1035.2 are hereby amended to read as shown on the attachment to this Order.

3. L.R.C.P. No. 206.3(b) and the comment to L.R.C.P. No. 206.3 are hereby rescinded.

4. L.R.C.P. No. 249, L.R.C.P. No. 1524 and L.R.C.P. No. 1527 are hereby rescinded.

5. The rule changes implemented by paragraphs 1 through 4 of this Order shall become effective on July 24, 2004.

6. Certified copies of this Order, with attachment, shall be distributed by the Court Administrator as required by pertinent state rules of court, together with a diskette containing the hard copy version where required.

By the Court

JOSEPH A. NICKLEACH,
President Judge

Rule 205.2. Pleadings and Other Legal Papers. Format. Cover Sheet.

(a) All pleadings and other legal papers shall be 8 1/2" x 11" in size and be side bound.

(b) Every petition and motion requiring an evidentiary hearing shall have attached thereto a cover sheet as a front page. The cover sheet shall be substantially in the form prescribed by Appendix A of these Local Rules.

Rule 206.1. Petition. Definition. Content. Form

(a) "Petition," as used in this chapter, shall mean:

(1) an application to open a default judgment or a judgment of non pros;

(2) a request for special relief, unless the request seeks an expedited hearing date, a stay, or interim pre-hearing relief;

(3) a petition for civil contempt, except in a support or custody action;

(4) a motion for delay damages; and

(5) a petition for relief from a judgment by confession.

(b) A petition shall specify the relief sought and state the material facts, which constitute the grounds therefor.

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Comment

When a request for special relief is filed and an expedited hearing date, a stay, or interim pre-hearing relief is sought, the request is to be treated as a motion, not a petition. The procedure regarding civil contempt adjudications in support and custody actions is governed by separate state rules of civil procedure.

Rule 206.4. Rule to Show Cause

(a) A petition seeking only the issuance of a rule to show cause shall be filed with the Prothonotary. Thereafter, the Prothonotary shall immediately transmit the petition to the Court Administrator. No advance notice of the filing need be given to any party.

(b) Reserved.

(c) A rule to show cause shall be issued by the Court as of course upon petition, pursuant to Pa.R.C.P. No. 206.6. The rule shall direct that an answer be filed to the petition within twenty (20) days after service of the petition on the respondent. The Court may, in appropriate circumstances, direct that an answer be filed within a shorter period of time, or dispense with the necessity of filing an answer altogether. Every petition shall have attached to it a proposed order substantially in the form prescribed by Appendix B of these Local Rules, providing for an evidentiary hearing. The Court on its own motion or upon request of a party may require a case to be submitted on the basis of depositions and oral argument instead of an evidentiary hearing.

Comment

A request for a stay of execution pending disposition of a petition to open a default judgment falls within the definition of a "motion." See L.R.C.P. No. 208.1.

Rule 208.1. Motion. Definition.

As used in this chapter, "motion" shall have the meaning ascribed to it by Pa.R.C.P. No. 208.1. The term shall include the following:

(1) a request for special relief where an expedited hearing date, a stay, or interim pre-hearing relief is sought; and

(2) a motion for a stay of execution pending disposition of a petition to open a default judgment.

Rule 208.2 Motion. Form. Content. Verification.

a) A motion shall

(1) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party,

(2) be divided into paragraphs numbered consecutively,

(3) set forth material facts constituting grounds for the relief sought, specify the relief sought and include a proposed order,

(4) include a certificate of service

(5) be signed and endorsed

b) A motion in the form of a request for special relief which seeks an expedited hearing date, a stay, or interim pre-hearing relief shall be verified.

Rule 208.3. Motions Procedure. Motions Judge. Motions Court

(a) The designated Motions Judge shall sit every Tuesday and Friday at 8:30 A.M., except on holidays ("Motions Court").

(b) Motions, requests and applications intended for consideration by the Motions Judge shall be presented at Motions Court, and are not to be filed in the Office of the Prothonotary in advance of such presentation. The Prothonotary or a deputy shall be present at every session of Motions Court to receive such papers for filing.

(c) Except in an emergency situation, no motion, request or application shall be presented without compliance with the notice provisions of this rule. In an emergency situation, the nature of the emergency and the reasons why the required notice could not be given must be set forth in the motion, request or application then being filed.

(d) For all motions, requests and applications subject to the notice requirements of this rule, a copy of the same together with a notice of the date and time of the intended presentation shall be served upon the other parties at least two (2) business days in advance of the presentation. Service of the copy and the notice may be accomplished personally, by first class mail or by facsimile transmission. Service by mail shall be deemed to be accomplished on the date the mail was received.

(e) A copy of the notice of intended presentation shall be presented to the Motions Judge at the time of presentation of the motion, request or application. The copy shall have attached to it a certificate stating the date and manner of service.

(f) The notice of intended presentation shall be substantially in the form prescribed by Appendix D of these Local Rules.

(g) The certificate of service shall be substantially in the form prescribed by Appendix E of these Local Rules.

(h) Every motion, request, and application presented to the Motions Judge shall have attached thereto a suggested order granting the relief requested.

(i) After presentation of a motion, request, or application, the Motions Judge may enter any order permitted under Pa.R.C.P. No. 208.4.

Comment

Motions Court is not intended as the forum for the presentation of petitions as defined by L.R.C.P. No. 206.1. A motion to continue is properly presentable in Motions Court pursuant to L.R.C.P. No. 216, as is a petition to compromise, settle or discontinue an action brought by a minor pursuant to L.R.C.P. No. 2039.

Rule 1028. Preliminary Objections. Brief. Scheduling Order

- (a) Reserved.
- (b) Reserved.

(c) At the time of filing, all preliminary objections shall be accompanied by a separate brief in support thereof, addressing issues raised in the objections. The preliminary objections must also be accompanied by a proposed order for the purpose of scheduling a hearing or argument thereon, substantially in the form prescribed by Appendix F of these Local Rules.

Rule 1034. Motion for Judgment on the Pleadings. Brief. Scheduling Order

- (a) Reserved.
- (b) Reserved.

(c) At the time of filing, all motions for judgment on the pleadings shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed by Appendix G of these Local Rules.

Rule 1035.2. Motion for Summary Judgment. Brief. Scheduling Order

- (a) Reserved.
- (b) Reserved.

(c) At the time of filing, all motions for summary judgment shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed by Appendix G of these Local Rules.

[Pa.B. Doc. No. 04-973. Filed for public inspection June 4, 2004, 9:00 a.m.]

SOMERSET COUNTY

Consolidated Rules of Court; No. 31 Misc. 2004

Adopting Order

Now, this 12th day of May, 2004, it is hereby *Ordered* that:

1. The following designated Somerset County Rules of Civil Procedure (Som.R.C.P.), copies of which follow, are

hereby adopted as Rules of this Court, effective on July 1, 2004:

- Som.R.C.P. 205.2(b). Cover Sheet.
- Som.R.C.P. 206.4(c). Form Of Petition. Rule To Show Cause. Adoption Of Alternative Procedure.
- Som.R.C.P. 208.2(d). Certification That Motion Is Uncontested.
- Som.R.C.P. 208.2(e). Certification Of Communication With Opposing Counsel And Unrepresented Parties With Respect To Motions Relating To Discovery.
- Som.R.C.P. 208.3(a). Motions Practice And Procedure.
- Som.R.C.P. 208.3(b). Motions Practice—Filing Of Briefs.
- Som.R.C.P. 1028(c). Preliminary Objections Procedure.
- Som.R.C.P. 1034(a). Motion For Judgment On The Pleadings—Procedure.
- Som.R.C.P. 1035.2(a). Motion For Summary Judgment—Procedure.

2. Somerset Rule of Civil Procedure 210 (Som.R.C.P. 210), Briefs, is amended to read in its entirety, as set forth in revised Som.R.C.P. 210.

3. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the following Rules with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order and the following Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the following Rules with the Pennsylvania Civil Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

By the Court

EUGENE E. FIKE, II,
President Judge

RULES OF COURT

Cover Sheet

Som. R.C.P. 205.2(b). Cover Sheet

All actions and proceedings shall be captioned so as to indicate by the docket designation the nature of the proceeding and the place of filing, with the docket to be designated by full docket number or by an appropriate abbreviation:

No. Civil	20
No. Divorce	20
No. Judgment	20
No. Mechanics	20
No. Miscellaneous	20
No. Aging	20

Petition Procedure.

Som. R.C.P. 206.4(c). Form Of Petition. Rule To Show Cause. Adoption Of Alternative Procedure.

A. The procedure specified in Pa. R.C.P. 206.6 is adopted to govern petition practice in the Sixteenth

Judicial District, and, accordingly, upon the filing of a petition, a Rule shall issue as of course, unless otherwise required by statute, or other Pennsylvania Rule of Civil Procedure.

B. The petition shall be filed in the Prothonotary's Office. After filing and docketing, the Prothonotary's Office shall transmit the petition to the Motions Judge for an order issuing the rule.

C. Upon execution of the order issuing the rule, the petition and order shall be transmitted to the Court Administrator's Office. If requested by the judge who executed the order issuing the rule, the Court Administrator shall schedule argument or hearing. After processing, the Court Administrator shall return the petition and order to the Prothonotary's Office, which shall notify counsel or unrepresented petitioner of the entry of the order.

D. If the order requires scheduling by praecipe, hearing or argument will be scheduled by the filing of a scheduling praecipe in the form, and according to the procedure, specified in subparagraph F. of this Rule.

E. A request for stay of execution pending disposition of a petition to open a default judgment shall be included in the petition to open default judgment, to be considered and processed in accordance with the procedure hereinabove specified in subparagraphs A, B, and C of this Rule; or, if need for emergency relief is necessary, the request shall be presented to the Motions Judge, after notice to opposing counsel and unrepresented parties of the date and time of presentation.

F. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph F. 6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Judge practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

6. Form of Scheduling Praecipe.

) IN THE COURT OF COMMON PLEAS OF
) SOMERSET COUNTY, PENNSYLVANIA
)
)
)
) NO. 200_____

SCHEDULING PRAECIPE

1. This is a/an—

- A. ARGUMENT CASE (Complete Part A below):
- B. CIVIL TRIAL CASE (Complete Part B below):
- C. CIVIL ARBITRATION CASE (Complete Part C below):

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for
 Argument on _____
 Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

—OR—

Hearing on _____
 Nature of Proceeding

2. Type of scheduling requested:

a. *Sec reg* (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

—OR—

b. *Sec reg-date certain* (At a presently fixed date and time on an Argument Schedule to be issued).

—OR—

c. *Prompt* (At a presently fixed date and time on a scheduled already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties:
 _____ Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree:

_____ J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:

_____ J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

- JURY TRIAL NONJURY TRIAL

PART C. (Civil Arbitration Case):

- 1. Schedule the above case for Arbitration Trial Hearing sec reg.
2. Estimated total time for presentation by all parties: Minutes/Hours/Days

II I CERTIFY that:

- 1. This case is ready for disposition by the Court.
2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.
3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.
4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.
5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III REMARKS:

Signature
Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

NOTE—EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.

G. Continuances.

- 1. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.
2. Absent exceptional circumstances, motions for continuance shall be presented no later than ten (10) days before the date of the proceedings for which the continuance is requested. Thereafter, no motions for continuance will be granted except for substantial reasons which were not previously known or reasonably ascertainable.
3. The motion shall state whether or not the proceedings previously have been continued, and, if so, the number of prior continuances, with identification of the party upon whose motion each continuance was granted.
4. Absent extraordinary circumstances, a request for a continuance based on proceedings scheduled in another Court of Common Pleas will be granted only if the other court's scheduling order was issued before the order

scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another Court of Common Pleas, the scheduling order from the other Court of Common Pleas shall be attached to the motion.

- 5. Motions for continuance of court cases shall be presented as follows:
a. When at a scheduled call of the list, to the presiding Judge.
b. When a case is on a current trial or argument schedule, to the assigned Judge.
c. In all other cases, Motions Judge practice.
6. Continuances shall operate to effect rescheduling:
a. To a date certain or specific trial session if the Court states a date certain or specific trial session in the continuance order.
b. In all other cases, only upon filing of a scheduling praecipe as provided in subparagraph F. of this Rule.
7. An order continuing a case "sec reg.," until the next available session, or in terms of similar generality, will not result in rescheduling, or placement on a new trial list.
8. Every motion for continuance shall specify the reasons for the request.
9. The moving party shall certify that prior notice of presentation of the motion has been given to opposing counsel and unrepresented parties.

10. Every motion for unopposed continuance, whether written or oral, shall be joined in by all other parties or counsel of record, or shall certify that all other parties or counsel have been notified of the presentation of the motion and join in or do not oppose the motion.

11. When a civil case is scheduled for pretrial conference, the motion for continuance shall clearly state whether it relates to pretrial conference, or to the trial, or both.

12. An approved form of continuance motion is set forth in subparagraph F. 14. of this Rule.

13. This Rule does not apply to continuances of trials before arbitrators which are governed by Som.R.C.P. 1303F.

14. Form of Continuance Motion.

CIVIL CONTINUANCE REQUEST
) IN THE COURT OF COMMON PLEAS
Plaintiff) OF
) SOMERSET COUNTY, PENNSYLVANIA
vs.)
)
Defendant) NO. CIVIL
Scheduled before Judge _____ on _____ at _____.
For (Type of proceeding):

REASON FOR REQUEST: (Attach extra sheet, if necessary)

NUMBER OF PRIOR CONTINUANCES: _____
by the plaintiff _____ by the defendant

NOTICE OF PRESENTATION OF THE MOTION HAS BEEN GIVEN TO OPPOSING COUNSEL AND UNREPRESENTED PARTIES.

REQUESTING ATTORNEY OR PARTY:

(Print) _____ Counsel for: _____

(Sign) _____

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____

Joins In Does not object Opposes

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____

Joins In Does not object Opposes

ORDER

AND NOW, this _____ day of _____, 200____, the above Civil Continuance request is GRANTED/DENIED and the hearing/argument is continued. (Hearing will be rescheduled upon the filing of a new scheduling praecipe by a party.

Hearing is rescheduled for _____, ____ .m., on _____, 200____.

BY THE COURT:

G. Preparation and Form of Orders and Decrees. Copies for Distribution.

1. Unless otherwise directed by the court, decrees and orders requested by a party shall be drafted by the attorney at whose instance they are to be made, and shall be submitted to the court for approval.

2. All proposed orders presented to the court, whether by an attorney, court staff or department, or other person, shall list thereon the names of all counsel in the case (of record and known, including counsel for applicant), and shall indicate the party represented by each (e.g., for plaintiff, for defendant, for petitioner, for respondent, etc.).

NOTE: Nothing herein is intended to alter the present practice of the court reporters in preparing court orders.

3. Counsel preparing the order shall be responsible for copying, and shall provide sufficient copies to the Prothonotary for distribution to all other counsel and parties. If the order continues a case or fixes a date for hearing or argument, counsel shall ensure that the order and its accompanying documents are transmitted to the Court Administrator for notation of the matter for scheduling purposes. The order and documents shall then be filed in the proper office.

4. All documents prepared in and issued from chambers shall be transmitted to the Court Administrator for copying and distribution sec reg, and for scheduling if necessary, then filed in the proper office.

Motion Procedure

Som. R.C.P. 208.2(d). Certification That Motion Is Uncontested.

If the moving party intends to present the motion as uncontested, the motion shall include a written consent

by opposing counsel and unrepresented parties, or the motion shall include a certification that the moving party has been in contact with opposing counsel and unrepresented parties and that opposing counsel and unrepresented parties do not contest the motion.

Motion Procedure

Som. R.C.P. 208.2(e). Certification Of Communication With Opposing Counsel And Unrepresented Parties With Respect To Motions Relating To Discovery.

Any motion relating to discovery shall include a certification by the moving party that the moving party has conferred or attempted to confer with opposing counsel and unrepresented parties having an interest in the motion in order to resolve the matter without court action.

Motion Procedure

Som. R.C.P. 208.3(a). Motions Practice And Procedure.

A. Motions will be scheduled, argued, and decided:

1. At Motions Court, in accordance with the procedure specified in subparagraph B. of this Rule, if the motion is of the type permitted to be presented at Motions Court, or

2. By the filing of a scheduling praecipe according to the procedure, and in the form specified in subparagraph F. of this Rule, copies of which are available from the Prothonotary or Court Administrator, or

3. In the case of a motion for preliminary injunction or similar motions which require immediate date certain scheduling, by presentation to a judge in accordance with Motions Judge practice specified in subparagraph C. of this Rule, or

4. In the case of motions which are permitted to be presented ex parte, without prior notice of presentation and opportunity to be heard, pursuant to the provisions of subparagraph D. of this Rule, by presentation to a judge in accordance with Motions Judge practice specified in subparagraph C. of this Rule, or

5. In the case of motions or petitions which, because of extraordinary and compelling circumstances, cannot be scheduled otherwise, and which must be heard upon short notice, by presentation to a judge in accordance with Motions Judge practice specified in subparagraph C. of this Rule.

B. Motions Court.

1. Motions Court will be held before the designated Motions Judge at 9:00 a.m. on the first and third Wednesdays of every month, holidays excepted.

2. A motion may be presented at Motions Court when the issue raised, or relief requested, is:

a. To compel, limit or prohibit discovery, or to obtain a protective or confidentiality order with respect to discovery.

b. To permit the amendment of a pleading or joinder of an additional defendant.

c. To make a rule absolute or for similar default order, when, although required, timely answer to a motion or petition has not been filed.

d. To compel counseling in divorce cases.

- e. To permit withdrawal as counsel.
- f. Approval of settlement of a minor's claim or approval of settlement of wrongful death and survival actions.

g. Consolidation.

h. Objections to a scheduling praecipe.

3. At least ten days before presentation, a copy of the motion shall be served upon all other counsel and unrepresented parties, and upon the Court Administrator, together with a notice specifying the time and date of the Motions Court at which the motion will be presented.

4. The Court Administration shall maintain a list of motions with date and time of receipt. Only those motions which have been submitted in a timely manner to the Court Administrator in accordance with these Rules will be heard. Motions will be heard by the Court in the order of their submission to the Court Administrator.

5. The moving party shall file and serve an affidavit of service of the motion and notice prior to, or at the time of presentation. The motion will not be heard unless the notice requirements of this rule have been satisfied and an affidavit of service filed.

6. Counsel and unrepresented parties are to confer prior to the presentation of any motion and are to attempt, in good faith, to reach amicable resolution of the issues involved. Good faith efforts toward amicable resolution shall be considered as a factor when determining whether or not the requested relief is appropriate, the propriety of sanctions, or in determining the exigency of circumstances, if relevant.

7. At the time of presentation, the presiding Judge may enter an Order resolving the issues raised by the motion; schedule argument, hearing or other proceeding; issue a briefing schedule; or enter other appropriate Order.

8. Presentation of motions at Motions Court is optional, and if the party chooses, the motion may be scheduled by scheduling praecipe for hearing or argument.

C. All unscheduled matters, including applications and requests, formal and informal, which may be presented to the Motions Judge under the provisions of subparagraph A. of this Rule, shall be filed and docketed, and then transmitted to Chambers or presented in open court to the Motions Judge on duty at the time, except in the following circumstances:

1. Emergency cases may be presented to any judge.
2. Matters affecting cases formerly assigned to a judge other than the Motions Judge shall be presented to that other judge, but may in emergencies be presented to the Motions Judge when the assigned judge is absent.
3. Matters with which a judge other than the Motions Judge has special familiarity by reason of prior judicial acquaintance, significantly relevant to the matter at hand, may be presented to another judge.
4. Matters in which any judge has been disqualified or declines to act shall be presented to another judge.
5. Administrative and policy matters required by law, will or custom to be acted upon by the President Judge, or appropriate for the attention of the President Judge, shall be presented to the President Judge.

D. Ex parte orders in adversary proceedings.

1. Motions to the court in an adversary proceeding will not be considered ex parte, without prior notice of presentation and an opportunity to be heard, except in the following cases:

a. Motions for relief which is routinely granted as of course, on a presumption of assent, such as motions for appointment of legal counsel and guardians ad litem, and the like.

b. Motions affecting the issuance or service of initial papers upon another who is not yet subject to the jurisdiction of the court, such as applications for substituted service, extensions of time, and the like.

c. Motions for preliminary orders granting or scheduling a hearing thereon, or directing process or notice to bring the opponent before the court to answer.

d. Motions for stay orders in license suspension appeals.

e. Cases in which the adverse party has waived the opportunity to be heard or has consented to the requested action.

f. Cases in which there are special or compelling circumstances which the court finds justify ex parte action.

2. Prior notice of presentation of a motion to the court shall state the date, time and place of intended presentation and shall be accompanied by a copy of the motion and the proposed order.

3. In cases where an ex parte order is made, a copy of the motion and order shall be served promptly on the opponent and on all other parties, who may file a prompt application for reconsideration of the order.

4. In all cases where prior notice of presentation is required under statute or rule of court, the motion shall state that the requisite prior notice was given; the date, time and manner of giving notice; and the substance thereof. If the right to ex parte relief is based on the existence of special or compelling circumstances, the motion shall state such circumstances.

E. Continuances.

1. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.

2. Absent exceptional circumstances, motions for continuance shall be presented no later than ten (10) days before the date of the proceedings for which the continuance is requested. Thereafter, no motions for continuance will be granted except for substantial reasons which were not previously known or reasonably ascertainable.

3. The motion shall state whether or not the proceedings previously have been continued, and, if so, the number of prior continuances, with identification of the party upon whose motion each continuance was granted.

4. Absent extraordinary circumstances, a request for a continuance based on proceedings scheduled in another Court of Common Pleas will be granted only if the other court's scheduling order was issued before the order scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another Court of Common Pleas, the scheduling order from the other Court of Common Pleas shall be attached to the motion.

5. Motions for continuance of court cases shall be presented as follows:

a. When at a scheduled call of the list, to the presiding Judge.

b. When a case is on a current trial or argument schedule, to the assigned Judge.

c. In all other cases, Motions Judge practice.

6. Continuances shall operate to effect rescheduling:

a. To a date certain or specific trial session if the Court states a date certain or specific trial session in the continuance order.

b. In all other cases, only upon filing of a scheduling praecipe as provided in subparagraph F. of this Rule.

7. An order continuing a case "sec reg.," until the next available session, or in terms of similar generality, will not result in rescheduling, or placement on a new trial list.

8. Every motion for continuance shall specify the reasons for the request.

9. The moving party shall certify that prior notice of presentation of the motion has been given to opposing counsel and unrepresented parties.

10. Every motion for unopposed continuance, whether written or oral, shall be joined in by all other parties or counsel of record, or shall certify that all other parties or counsel have been notified of the presentation of the motion and join in or do not oppose the motion.

11. When a civil case is scheduled for pretrial conference, the motion for continuance shall clearly state whether it relates to pretrial conference, or to the trial, or both.

12. An approved form of continuance motion is set forth in subparagraph F. 14. of this Rule.

13. This Rule does not apply to continuances of trials before arbitrators which are governed by Som.R.C.P. 1303F.

14. Form of Continuance Motion.

CIVIL CONTINUANCE REQUEST

Plaintiff) IN THE COURT OF COMMON PLEAS
) OF
) SOMERSET COUNTY, PENNSYLVANIA
vs.)
)
Defendant) NO. CIVIL

Scheduled before Judge _____ on _____ at _____.

For (Type of proceeding):

REASON FOR REQUEST: (Attach extra sheet, if necessary)

NUMBER OF PRIOR CONTINUANCES: _____ by the plaintiff _____ by the defendant

NOTICE OF PRESENTATION OF THE MOTION HAS BEEN GIVEN TO OPPOSING COUNSEL AND UNREPRESENTED PARTIES.

REQUESTING ATTORNEY OR PARTY:

(Print) _____ Counsel for: _____

(Sign) _____

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____

Joins In Does not object Opposes

OPPOSING COUNSEL OR PARTY:

(Print) _____ Counsel for: _____

Joins In Does not object Opposes

ORDER

AND NOW, this _____ day of _____, 200____, the above Civil Continuance request if GRANTED/DENIED and the hearing/argument is continued.

Hearing will be rescheduled upon the filing of a new scheduling praecipe by a party.

Hearing is rescheduled for _____, ____ .m., on _____, 200____.

BY THE COURT:

F. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph F. 6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Judge practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

6. Form of Scheduling Praecipe.

) IN THE COURT OF COMMON PLEAS OF
) SOMERSET COUNTY, PENNSYLVANIA
)
)
)
) NO. 200_____

SCHEDULING PRAECIPE

2. This is a/an—

- A. ARGUMENT CASE (Complete Part A below);
B. CIVIL TRIAL CASE (Complete Part B below);
C. CIVIL ARBITRATION CASE (Complete Part C below).

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for Argument on Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

—OR—

Hearing on Nature of Proceeding

2. Type of scheduling requested:

a. Sec reg (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

—OR—

b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

—OR—

c. Prompt (At a presently fixed date and time on a scheduled already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties: Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree:

J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:

J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

- JURY TRIAL NONJURY TRIAL

PART C. (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.

2. Estimated total time for presentation by all parties: Minutes/Hours/Days

II I CERTIFY that:

1. This case is ready for disposition by the Court.

2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.

3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.

4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.

5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III REMARKS:

Signature

Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

NOTE—EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.

G. Preparation and Form of Orders and Decrees. Copies for Distribution.

1. Unless otherwise directed by the court, decrees and orders requested by a party shall be drafted by the attorney at whose instance they are to be made, and shall be submitted to the court for approval.

2. All proposed orders presented to the court, whether by an attorney, court staff or department, or other person, shall list thereon the names of all counsel in the case (of record and known, including counsel for applicant), and shall indicate the party represented by each (e.g., for plaintiff, for defendant, for petitioner, for respondent, etc.).

NOTE: Nothing herein is intended to alter the present practice of the court reporters in preparing court orders.

3. Counsel preparing the order shall be responsible for copying, and shall provide sufficient copies to the Prothonotary for distribution to all other counsel and parties. If the order continues a case or fixes a date for hearing or argument, counsel shall ensure that the order and its accompanying documents are transmitted to the Court Administrator for notation of the matter for scheduling purposes. The order and documents shall then be filed in the proper office.

4. All documents prepared in and issued from chambers shall be transmitted to the Court Administrator for copying and distribution *sec reg.*, and for scheduling if necessary, then filed in the proper office.

Motion Procedure

Som. R.C.P. 208.3(b). Motions Practice—Filing of Briefs.

A. This Rule applies to all motions.

B. If a motion presents a question of law for decision by the court, each party shall file a brief as follows:

1. When a moving party files a scheduling praecipe, the moving party's brief, if not previously filed, shall be filed at the time the scheduling praecipe is presented, and the moving party shall serve copies of the brief as provided by these Rules. Upon filing and service of a scheduling praecipe and brief by the moving party, each other party who has not already done so shall file a brief within twenty (20) days thereafter or at the time of earlier scheduled argument.

2. When a responding party files a scheduling praecipe, the moving party, shall, within twenty (20) days of receipt of the scheduling order, file and serve a brief as required by these Rules. Upon service, each other party who has not already done so shall file a reply brief within fifteen (15) days thereafter, or at the time of earlier scheduled argument.

3. If a motion is scheduled for argument by the court, without the filing of a scheduling praecipe, the moving party, shall, within twenty (20) days of receipt of the scheduling order, file and serve a brief as required by these Rules. Upon service, each other party who has not already done so, shall file a reply brief within fifteen (15) days thereafter, or at the time of earlier scheduled argument.

C. If a party's brief is not timely filed, the court may, in its discretion:

1. In the case of a moving party's failure to file a brief, delay scheduling until the brief is filed;
2. Disregard the untimely brief;
3. Refuse oral argument by the offending party;
4. Consider the issues raised by the offending party to be waived;
5. Order argument to be continued;
6. Enter such other order as the interests of justice may require.

D. A party filing a brief shall file the original with the Prothonotary, shall promptly serve a copy on each other counsel and unrepresented party, and shall promptly provide a copy to the Court Administrator.

E. Matters not briefed shall not be argued or considered, unless the omission is excused by the court, for cause.

Preliminary Objections

Som. R.C.P. 1028(c). Preliminary Objections Procedure.

A. Preliminary objections shall be scheduled for argument by the filing of a scheduling praecipe in accordance with the procedure, and in the form specified in subparagraph C. of this Rule, copies of which are available in the Offices of the Prothonotary and Court Administrator.

B. Briefs.

1. When the moving party files a scheduling praecipe, the moving party's brief, if not previously filed, shall be filed at the time the scheduling praecipe is presented, and the moving party shall serve copies of the brief as provided by these Rules. Upon filing and service of a scheduling praecipe and brief by the moving party, each other party who has not already done so, shall file a brief within twenty (20) days thereafter or at the time of earlier scheduled argument.

2. When a responding party files a scheduling praecipe, or if the court places a case on an argument list, the moving party, shall, within twenty (20) days of receipt of the scheduling order, file and serve a brief as required by these Rules. Upon service, each other party who has not already done so shall file a reply brief within fifteen (15) days thereafter, or at the time of earlier scheduled argument.

3. If a party's brief is not timely filed, the court may, in its discretion:

- a. In the case of a moving party's failure to file a brief, delay scheduling until the brief is filed;
- b. Disregard the untimely brief;
- c. Refuse oral argument by the offending party;
- d. Consider the issues raised by the offending party to be waived;
- e. Order argument to be continued;
- f. Entry such other order as the interests of justice may require.

4. A party filing a brief shall file the original with the Prothonotary, shall promptly serve a copy on each other counsel and unrepresented party, and shall promptly provide a copy to the Court Administrator.

5. Matters not briefed shall not be argued or considered, unless the omission is excused by the court, for cause.

C. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph C.6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Judge practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling

praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

6. Form of Scheduling Praecipe.

) IN THE COURT OF COMMON PLEAS OF
) SOMERSET COUNTY, PENNSYLVANIA
)
)
)
) NO. 200_____

SCHEDULING PRAECIPE

1. This is a/an—

- A. ARGUMENT CASE (Complete Part A below):
B. CIVIL TRIAL CASE (Complete Part B below):
C. CIVIL ARBITRATION CASE (Complete Part C below).

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for Argument on Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

—OR—

Hearing on Nature of Proceeding

2. Type of scheduling requested:

a. Sec reg (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

—OR—

b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

—OR—

c. Prompt (At a presently fixed date and time on a scheduled already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties: Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree:

J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:

J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

- JURY TRIAL NONJURY TRIAL

PART C. (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.

2. Estimated total time for presentation by all parties: Minutes/Hours/Days

II I CERTIFY that:

1. This case is ready for disposition by the Court.

2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.

3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.

4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.

5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III REMARKS:

Signature

Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

NOTE—EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.

Motion For Judgment On The Pleadings.

Som. R.C.P. 1034(a). Motion For Judgment On The Pleadings-Procedure.

A. Argument on motions for judgment on the pleadings shall be scheduled by the filing of a scheduling praecipe in the accordance with the procedure, and in the form specified in subparagraph C. of this Rule, copies of which are available in the offices of the Prothonotary and Court Administrator.

B. Briefs.

1. When the moving party files a scheduling praecipe, the moving party's brief, if not previously filed, shall be filed at the time the scheduling praecipe is presented, and the moving party shall serve copies of the brief as provided by these Rules. Upon filing and service of a scheduling praecipe and brief by the moving party, each

other party who has not already done so, shall file a brief within twenty (20) days thereafter or at the time of earlier scheduled argument.

2. When a responding party files a scheduling praecipe, or if the court places a case on an argument list, the moving party, shall, within twenty (20) days of receipt of the scheduling order, file and serve a brief as required by these Rules. Upon service, each other party who has not already done so shall file a reply brief within fifteen (15) days thereafter, or at the time of earlier scheduled argument.

3. If a party's brief is not timely filed, the court may, in its discretion:

a. In the case of a moving party's failure to file a brief, delay scheduling until the brief is filed;

b. Disregard the untimely brief;

c. Refuse oral argument by the offending party;

d. Consider the issues raised by the offending party to be waived;

e. Order argument to be continued;

f. Entry such other order as the interests of justice may require.

4. A party filing a brief shall file the original with the Prothonotary, shall promptly serve a copy on each other counsel and unrepresented party, and shall promptly provide a copy to the Court Administrator.

5. Matters not briefed shall not be argued or considered, unless the omission is excused by the court, for cause.

C. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph C.6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Judge practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

6. Form of Scheduling Praecipe.

) IN THE COURT OF COMMON PLEAS OF
) SOMERSET COUNTY, PENNSYLVANIA

)

)

)

) NO. 200_____

SCHEDULING PRAECIPE

1. This is a/an—

- A. ARGUMENT CASE (Complete Part A below):
- B. CIVIL TRIAL CASE (Complete Part B below):
- C. CIVIL ARBITRATION CASE (Complete Part C below):

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for Argument on _____
Nature of Proceeding _____

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

—OR—

Hearing on _____
Nature of Proceeding _____

2. Type of scheduling requested:

a. Sec reg (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

—OR—

b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

—OR—

c. Prompt (At a presently fixed date and time on a scheduled already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties: _____ Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree:
_____ J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:
_____ J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

- JURY TRIAL
- NONJURY TRIAL

PART C. (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.
2. Estimated total time for presentation by all parties:
 _____ Minutes/Hours/Days

II I CERTIFY that:

1. This case is ready for disposition by the Court.
2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.
3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.
4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.
5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III REMARKS: _____

 Signature

 Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

NOTE—EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.

Motion For Summary Judgment

Som. R.C.P. 1035.2(a). Motion For Summary Judgment-Procedure.

A. Argument on motions for summary judgment shall be scheduled by the filing of a scheduling praecipe in accordance with the procedure, and in the form specified in subparagraph C. of this Rule, copies of which are available in the offices of the Prothonotary and Court Administrator.

B. Briefs.

1. When the moving party files a scheduling praecipe, the moving party's brief, if not previously filed, shall be filed at the time the scheduling praecipe is presented, and the moving party shall serve copies of the brief as provided by these Rules. Upon filing and service of a scheduling praecipe and brief by the moving party, each other party who has not already done so, shall file a brief within twenty (20) days thereafter or at the time of earlier scheduled argument.

2. When a responding party files a scheduling praecipe, or if the court places a case on an argument list, the

moving party, shall, within twenty (20) days of receipt of the scheduling order, file and serve a brief as required by these Rules. Upon service, each other party who has not already done so shall file a reply brief within fifteen (15) days thereafter, or at the time of earlier scheduled argument.

3. If a party's brief is not timely filed, the court may, in its discretion:

- a. In the case of a moving party's failure to file a brief, delay scheduling until the brief is filed;
- b. Disregard the untimely brief;
- c. Refuse oral argument by the offending party;
- d. Consider the issues raised by the offending party to be waived;
- e. Order argument to be continued;
- f. Entry such other order as the interests of justice may require.

4. A party filing a brief shall file the original with the Prothonotary, shall promptly serve a copy on each other counsel and unrepresented party, and shall promptly provide a copy to the Court Administrator.

5. Matters not briefed shall not be argued or considered, unless the omission is excused by the court, for cause.

C. Scheduling by Praecipe.

1. Those cases required to be scheduled by praecipe shall be scheduled only upon filing of a scheduling praecipe, substantially in the form set forth below in subparagraph C.6. of this Rule.

2. The praecipe and all issued copies thereof shall be signed by counsel of record or an unrepresented party.

3. The scheduling praecipe shall be filed as provided in the prescribed form of scheduling praecipe, and the praecipe and copies thereof shall be served promptly on other counsel and unrepresented parties in the case.

4. Upon receipt of a scheduling praecipe any party may object thereto as follows:

a. If the objection is to the assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Judge practice on notice to other parties.

b. If the objection relates to any other assertion in the praecipe, such as time of scheduling, time required on the schedule, etc., the objecting party shall promptly file a counter praecipe stating only the matter corrected or changed.

5. If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

6. Form of Scheduling Praecept.

) IN THE COURT OF COMMON PLEAS OF
) SOMERSET COUNTY, PENNSYLVANIA
)
)
)
) NO. 200_____

SCHEDULING PRAECEPT

5. This is a/an—

- A. ARGUMENT CASE (Complete Part A below):
B. CIVIL TRIAL CASE (Complete Part B below):
C. CIVIL ARBITRATION CASE (Complete Part C below).

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for Argument on Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

—OR—

Hearing on Nature of Proceeding

2. Type of scheduling requested:

a. Sec reg (At any date and time convenient to the Court to be fixed on the next available Argument Schedule to be issued).

—OR—

b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

—OR—

c. Prompt (At a presently fixed date and time on a scheduled already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties: Minutes/Hours/Days.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (i) criminal sentence or order of probation or parole, (ii) juvenile adjudication or disposition order, or (iii) any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree:

J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:

J. If not applicable, so state.

PART B. (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

JURY TRIAL NONJURY TRIAL

PART C. (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.

2. Estimated total time for presentation by all parties: Minutes/Hours/Days

I CERTIFY that:

1. This case is ready for disposition by the Court.

2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.

3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.

4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion therefor will be promptly presented to the Court.

5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III REMARKS:

Signature

Type or print name of signer and party represented.

List of All Counsel and Unrepresented Parties (State party represented by each, e.g., for plaintiff Jones, for defendant Smith, etc.):

NOTE—EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides.

Briefs

Som. R.C.P. 210. Briefs.

A. Briefs shall be in the form prescribed by Pennsylvania Rule of Civil Procedure 210, and shall consist of concise and summary statements, separately and distinctly titled, of the following items in the order listed:

(1) Matter before the Court: State the particular pleading (motion, petition, objection, exception, application, etc.) before the court for disposition, and the particular relief requested therein.

(2) Statement of the question(s) involved: State the issue(s) in question form containing factual context sufficient to present the precise matter to be decided by the

Court, each susceptible of a yes or no answer, each followed by the answer desired or advocated.

(3) *Facts*: State the operative facts.

(4) *Argument*: State the reason(s) why the court should answer the questions involved as proposed, including citation of the authorities relied on. An authority shall not be cited for general reference but in all cases shall be

immediately preceded or followed by its relevant holding or particular proposition for which it stands.

(5) *Relief*: State the specific action(s) requested of the court.

[Pa.B. Doc. No. 04-974. Filed for public inspection June 4, 2004, 9:00 a.m.]
