

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW [204 PA. CODE CH. 71]

Adoption of Rule 303 of the Pennsylvania Bar Admission Rules; No. 336 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 2nd day of June, 2004, the Pennsylvania Bar Admission Rules are amended by the adoption of Rule 303, to read as follows.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate adoption of Pa. B.A.R. 303 is hereby found to be required in the interest of justice and efficient administration. This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter C. RESTRICTED PRACTICE OF LAW IN GENERAL

Rule 303. Limited Admission of Military Attorneys.

A. *General Rule.* Subject to the conditions and limitations set forth in this rule, a limited admission to practice law before the courts of this Commonwealth shall be granted to an attorney who is:

1. a full-time active duty military officer, serving in the office of the Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, or a Naval Legal Service Office, located in the Commonwealth of Pennsylvania, or

2. a member of a reserve or national guard legal unit, even if not on full-time active duty, while associated with and performing services under the aegis of an established Expanded Legal Assistance Program (ELAP) located in the Commonwealth of Pennsylvania.

B. *Application.* An application for limited admission to practice under this rule shall be made on behalf of the applicant by the Staff Judge Advocate of the military installation to which the applicant is assigned by filing a motion with the Prothonotary on a form prescribed by the board and accompanied by:

1. documentation from the highest court of another state showing that the applicant is admitted to practice law and is on active status in such state at the time of filing the application;

2. a certificate of good standing from the highest court or the agency having jurisdiction over admission to the bar and the practice of law in every jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or such state;

3. proof that the applicant has completed at least 15 credit hours of approved continuing legal education in subjects relating to Pennsylvania practice, procedure and professional responsibility.

C. *Action.* If the motion and required documents are in proper order, the Prothonotary shall enter the name of the applicant upon the docket of persons specially admitted to the bar of this Commonwealth subject to the restrictions of this rule and shall issue a limited certificate of admission in evidence thereof.

D. *Scope of Practice.* Military lawyers granted limited admission to practice law pursuant to this rule may represent active duty military personnel in enlisted grades E-1 through E-4, their dependents, and such other active duty military personnel and their dependents, who are under substantial financial hardship, before the courts and district justices of this Commonwealth in civil matters and administrative proceedings to the extent such representation is permitted by the supervisory Staff Judge Advocate or Commanding Officer. Admission to practice under this rule shall be limited to the matters specified in the preceding sentence and military lawyers admitted to practice pursuant to this rule shall not represent themselves to be members of the bar of this Commonwealth. Attorneys who are practicing under this rule shall not demand or receive any compensation from clients in addition to usual military pay to which they are entitled.

E. *Expiration of Admission.* The right to practice under this rule shall be limited to a period of four years unless extended by the Prothonotary for an additional four years upon written request of the Staff Judge Advocate of the military installation to which the applicant is assigned and shall cease when: (1) the applicant is admitted to the bar of this Commonwealth under any other rule; (2) the applicant fails to continue to meet the requirements of Sections B(1) and (2) above; (3) when a full-time active duty military officer licensed under this rule ceases to be stationed in Pennsylvania or (4) when a member of a reserve or national guard unit ceases to provide legal services under an established Expanded Legal Assistance Program located in Pennsylvania. When a military lawyer ends active duty military service in this state, or a member of a reserve or national guard unit ceases to provide legal services under an ELAP program, a written statement to that effect shall be filed with the Prothonotary by the Staff Judge Advocate of the military installation to which the applicant had been assigned.

F. *Status.* An attorney admitted under this rule is subject to the Rules of Professional Conduct and the Rules of Disciplinary Enforcement but shall not be required to pay the annual fee that is required to be paid by active attorneys who are admitted to practice in this Commonwealth.

[Pa.B. Doc. No. 04-1055. Filed for public inspection June 18, 2004, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Promulgation of New Rule 229.1 Governing the Delivery of Settlement Funds; No. 407 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 7th day of June, 2004, new Rule of Civil Procedure 229.1 is promulgated to read as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 229.1. Settlement Funds. Failure to Deliver. Sanctions.

(a) As used in this rule,

“defendant” means a party released from a claim of liability pursuant to an agreement of settlement;

“plaintiff” means a party who, by execution of a release pursuant to an agreement of settlement, has agreed to forego a claim of liability against a defendant. The term includes a defendant who asserts a counterclaim;

“settlement funds” means any form of monetary exchange to a plaintiff pursuant to an agreement of settlement, but not including the annuity or future installment portion of a structured settlement.

(b) The parties may agree in writing to modify or waive any of the provisions of this rule.

(c) If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff, or to the plaintiff if unrepresented, within twenty calendar days from receipt of an executed release.

Official Note: If court approval of the settlement is required, Rule 229.1 is not operative until the settlement is so approved.

Upon receipt of the settlement funds, the plaintiff shall file a discontinuance or deliver a discontinuance to the defendant.

(d) If settlement funds are not delivered to the plaintiff within the time required by subdivision (c), the plaintiff may seek to

(1) invalidate the agreement of settlement as permitted by law, or

(2) impose sanctions on the defendant as provided in subdivision (e) of this rule.

(e) A plaintiff seeking to impose sanctions on the defendant shall file an affidavit with the court attesting to non-payment. The affidavit shall be executed by the plaintiff's attorney and be accompanied by

(1) a copy of any document evidencing the terms of the settlement agreement,

(2) a copy of the executed release,

(3) a copy of a receipt reflecting delivery of the executed release more than twenty days prior to the date of filing of the affidavit,

(4) a certification by the attorney of the applicable interest rate,

(5) the form of order prescribed by subdivision (h), and

(6) a certification by the attorney that the affidavit and accompanying documents have been served on the attorneys for all interested parties.

(f) Upon receipt of the affidavit and supporting documentation required by subdivision (e), the defendant shall have twenty days to file a response.

(g) If the court finds that the defendant violated subdivision (c) of this rule and that there is no material dispute as to the terms of the settlement or the terms of the release, the court shall impose sanctions in the form of interest calculated at the rate equal to the prime rate as listed in the first edition of the *Wall Street Journal* published for each calendar year for which the interest is awarded, plus one percent, not compounded, running from the twenty-first day to the date of delivery of the settlement funds, together with reasonable attorneys' fees incurred in the preparation of the affidavit.

(h) The affidavit shall be accompanied by an order in substantially the following form:

(Caption)

ORDER

AND NOW, _____, upon consideration of the affidavit of _____, attorney for _____, and the

(Plaintiff)

exhibits thereto, and upon a finding that payment was not made within twenty days of receipt of the executed release in the above captioned action, it is ORDERED that, in addition to the settlement funds of \$ _____, _____ pay forthwith interest at the rate of _____% (Defendant)

on the aforementioned settlement funds from the twenty-first day to the date of delivery of the settlement funds, together with \$ _____ in attorneys' fees.

Judge

Official Note: The interest rate is determined in accordance with subdivision (g) of this rule.

The defendant is the party who has failed to deliver settlement funds as required by this rule. The plaintiff is the party who is seeking to impose sanctions on the defendant for that failure.

Explanatory Comment

New Rule 229.1 governs sanctions for failure to deliver settlement funds. The new rule provides a straightforward procedure of an affidavit filed by the plaintiff, a response filed by the defendant and a decision entered by the court.

Three points should be noted. First, while the rule establishes a standard with respect to the delivery of settlement funds, the “parties may agree in writing to modify or waive any of the provisions of this rule.” Thus, where the standard cannot be met because of the particular type of party involved, industry practice or custom, or other consideration, the parties may agree not to be bound by the rule.

Second, subdivision (a) defines the terms "defendant," "plaintiff" and "settlement funds." The plaintiff is the party seeking the imposition of sanctions, whether that party is plaintiff or defendant in the action. Similarly, the defendant is the party against whom sanctions are sought, whether that party is plaintiff or defendant in the action.

Finally, the sanction imposed includes an award of interest on the settlement funds for the period during which the defendant has failed to deliver the funds to the plaintiff as required by the rule. The calculation of the rate of interest is identical to the manner of calculating damages for delay pursuant to Rule 238.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 04-1056. Filed for public inspection June 18, 2004, 9:00 a.m.]

**PART II. ORPHANS' COURT RULES
[231 PA. CODE PART II]**

Proposed Amendment of Pa.O.C.R. 2.3 and Adoption of New Pa.O.C.R. 3.7; Recommendation No. 1 of 2004

The Orphans' Court Procedural Rules Committee proposes to adopt a new rule enabling practitioners to file Orphans' Court documents via electronic means. This Recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court for adoption.

Proposed new material is bold.

All communications in reference to the proposed amendment should be sent, no later than July 19, 2004, to:

Dean R. Phillips, Chief Counsel
Rebecca M. Darr, Deputy Counsel
Orphans' Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

Or via E-Mail to:
orphanrules@pacourts.us

An Explanatory Comment follows the proposed rule and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule, nor will it be officially adopted or promulgated.

By the Orphans' Court Procedural Rules Committee

HONORABLE JOHN M. CASCIO,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

RULE 2: CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3. Definitions.

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this rule:

* * * * *

"Electronic Filing" means the electronic transmission via the internet of legal papers to the Clerk of the Orphans' Court Division.

* * * * *

"Filing party" means an attorney or party who filed a legal paper via electronic means.

"Legal paper" means a petition, pleading, or other document.

* * * * *

RULE 3: PLEADING AND PRACTICE

Rule 3.7. Electronic Filing and Service of Legal Papers.

(a) *Scope of Rule.* This rule authorizes a local Orphans' Court to permit or require electronic filing of legal papers and to establish procedures governing such filing by local rule. This rule does not mandate the implementation of electronic filing by a local Orphans' Court.

(b) *Electronic Filing of Legal Paper.*

(1) A filing party may file a legal paper with the Clerk by means of electronic filing if electronic filing has been implemented in the County of filing.

(2) Legal papers must be filed in portable document format (.pdf) by scanning or other method.

(3) Exhibits to a legal paper must be converted to portable document format (.pdf) by scanning or other method and incorporated as part of the legal paper filed pursuant to procedures established by local rule.

(4) Any party may require the filing party to file the original hard copy of a legal paper or exhibit by filing a notice to file with the Clerk and serving a copy of the notice upon the filing party. The filing party shall file the original hard copy with the Clerk within fourteen (14) days after service of the notice. Upon disposition of the matter before the Court, the original document may be returned to the party who filed it, or retained by the Court, as the Court may determine.

(c) *Signature, Verification and Retention of Legal Paper.*

(1) The electronic filing of a legal paper constitutes a certification by the filing party that the original hard copy was properly signed and, where applicable, verified.

(2) The filing party shall maintain the original hard copy of the legal paper, together with any exhibits filed, for five (5) years after:

- (i) the disposition of the case;
- (ii) entry of an order resolving the issue raised by the legal paper; or
- (iii) in the event of an appeal, disposition by the appellate court of the issue raised by the legal paper.

(d) *Website and Filing Date.*

(1) The Court shall designate a website for the electronic filing of legal papers and a user name and password shall be issued to authorized users.

(2) The Court shall provide electronic filing access at all times. The time and date of the filing shall be that registered by the Court's computer system.

(e) *Delay in filing.* A filing party shall be responsible for any delay, disruption, or interruption of electronic transmission, and for the legibility of the document electronically filed, except for delays caused by the failure

of the Court's website. The filing party may petition the Court to resolve any dispute concerning an alleged failure of the Court's website.

(f) *Fees.*

(1) A filing party shall pay the fee for electronically filing a legal paper by depositing funds with the Clerk in advance, or by authorizing payment by credit or debit card, or as otherwise provided by the Court.

(2) The Court may assess an additional automation fee for each legal paper electronically filed which shall be collected by the Clerk, and then remitted monthly to the Court, to be used for the development, training, implementation and maintenance of the Orphans' Court electronic filing system, and other related uses.

(g) *Local Procedures.* The Court may develop further administrative procedures, as needed, to implement this rule and to provide for security of the electronic filing system, as required by changing technology.

(h) *Service of Legal Papers by Parties.*

(1) Service of original process shall not be permitted by electronic means, unless agreed to by the respondent.

(2) Service of subsequent legal papers may be effected by electronic transmission if the parties agree, or if an electronic mail address appears on an entry of appearance or other legal paper previously filed with the Court in the action. Electronic service is complete when the legal paper is sent to the recipient's electronic mail address, or when the recipient is notified by electronic mail that a legal paper affecting the recipient has been filed and is available for review on the Court's website.

(i) *Notices.* The Clerk and the Court may serve all notices via electronic means.

Explanatory Note: This Rule is designed as a general enabling mechanism by which local judicial districts can, if they so choose, implement electronic filing. Implementation procedures not inconsistent with this Rule will be determined by local rules of court.

Nothing in this Rule is intended to change the procedural requirements of Orphans' Court practice, as embodied in the statutes and rules of court. Rather this Rule is intended to facilitate the delivery of legal papers to the Court and the litigants, as well as to reduce record management burdens in the office of the Clerk. The term "electronic filing," "filing party," and "legal paper" are defined in Rule 2.3.

The Court may, from time to time, modify the approved electronic format of the Court to take into consideration the costs and security of the system, and advancing technology affecting maintenance of electronic data and images.

Existing procedures regarding record retention for paper documents by the Clerk shall apply to electronically filed documents. A local Orphans' Court which permits electronic filing may require filing and maintenance of paper documents or exhibits; it may also accept paper documents, convert such documents to electronic format, and destroy the paper documents. (See, *Record Retention & Disposition Schedule with Guidelines*, adopted by the Supreme Court of Pennsylvania by Order, dated November 28, 2001, as part of the amendment to Pa.R. J. A. No. 507).

Explanatory Comment

The purpose of this Recommendation is to provide an enabling mechanism by which counties can experiment with electronic filing in their own judicial districts.

The general purpose of proposed new Rule 3.7 is to permit local Orphans' Courts to implement mandatory, or optional, electronic filing. It does not mandate the implementation of an electronic filing system. Rather, for the foreseeable future, it is anticipated that the decision whether to accept electronic filings, and whether electronic filings are mandatory, permitted, or prohibited will remain with the local Orphans' Court. Moreover, proposed Rule 3.7 is not intended to contravene or impede any future effort by the Pennsylvania Supreme Court and the Administrative Office of Pennsylvania Courts to implement a statewide electronic filing system which would either mandate the acceptance of electronically filed documents or require electronic filing in all judicial districts.

The proposed amendment to Rule 2.3 defines important terms such as what constitutes an "electronic filing."

Proposed Rule 3.7(b)(2) provides for the filing of legal papers in portable document format (.pdf) by scanning or other method. Proposed Rule 3.7(b)(3) provides that exhibits must also be converted to .pdf format. Proposed Rule 3.7(c) provides for electronic signatures and retention of original hard copies by the filing party. Proposed Rule 3.7(d) permits electronic filing at any time and deems the time and date of the filing to be that which is registered on the Court's computer system. Proposed Rule 3.7(e) holds the filing party responsible for delay, disruption or interruption of the electronic transmission except for delays caused by the failure of the court's website or computer system. Proposed Rule 3.7(f) provides for fees to be collected by the Clerk and used to improve the electronic filing system of the Court. Proposed Rule 3.7(g) allows the local court to enact further rules to implement the system and provide proper security. Proposed Rule 3.7(h) provides for optional service by electronic means. Proposed Rule 3.7(i) permits the Court to send notices by electronic means.

The Orphans' Court Committee solicits comments from the bench and bar on these proposed rule changes. Any suggestions will be considered.

[Pa.B. Doc. No. 04-1057. Filed for public inspection June 18, 2004, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5—9]

Order Promulgating New Rule 801, Renumbering Rules 801—810, and Approving the Revision of the Comments to Rules 120, 122, 521, 576, 604, 720, 901, and 904; No. 310 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 4th day of June, 2004, it is *Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) New Rule of Criminal Procedure 801 is promulgated;

(2) Rules of Criminal Procedure 801, 802, 803, 804, 805, 806, 807, 808, 809, and 810 are renumbered as Rules 802, 803, 804, 805, 806, 807, 808, 809, 810, and 811 respectively; and

(3) the revisions of the Comments to Rules of Criminal Procedure 120, 122, 521, 576, 604, 720, 901, and 904 are approved,

all in the following form.

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

It Is Further Ordered, from the date of this Order until 18 months after the effective date of this Order, that the educational requirements in new Rule 801 shall be phased in as follows:

(1) from the date of this Order until the November 1, 2004 effective date, the appointing or admitting court shall determine that the attorney has attended at least 6 hours of courses relevant to representation in capital cases, using the new Rule 801 educational criteria as a guide for relevance;

(2) by November 1, 2004, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 6 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board;

(3) by November 1, 2005, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 12 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board; and

(4) by May 1, 2006, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

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

PART B. Counsel

Rule 120. Attorneys—Appearances and Withdrawals.

* * * * *

Comment

Representation as used in this rule is intended to cover court appearances or the filing of formal motions. Investigation, interviews, or other similar pretrial matters are not prohibited by this rule.

An attorney may not represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

* * * * *

Official Note: Adopted June 30, 1964, effective January 1, 1965; formerly Rule 303, renumbered Rule 302 and amended 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; amended March 22, 1993, effective January 1, 1994; renumbered Rule 120 and amended March 1, 2000, effective April 1, 2001; Comment

revised February 26, 2002, effective July 1, 2002; **Comment revised June 4, 2004, effective November 1, 2004.**

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Rule 122. Assignment of Counsel.

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Comment

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An attorney may not be appointed to represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

Paragraph (C)(1) retains in the issuing authority or judge the power to assign counsel regardless of indigency or other factors when, in the issuing authority's or judge's opinion, the interests of justice require it.

* * * * *

Official Note: Rule 318 adopted November 29, 1972, effective 10 days hence, replacing prior rule; amended September 18, 1973, effective immediately; renumbered Rule 316 and amended June 29, 1977, and October 21, 1977, effective January 1, 1978; renumbered Rule 122 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2004, effective July 1, 2004; **Comment revised March 26, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004.**

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CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C. Bail

Rule 521. Bail After Finding of Guilt.

(A) BEFORE SENTENCING

* * * * *

(2) Other Cases

* * * * *

(b) Except as provided in paragraph (A)(1), when the aggregate of possible sentences to imprisonment on all outstanding verdicts against the defendant within the same judicial district can exceed 3 years, the defendant shall have the same right to bail as before verdict unless the judge makes a finding:

* * * * *

(ii) that the defendant poses a danger to any other person or to [he] the community or to himself or herself.

* * * * *

Comment

For post-sentence procedures generally, see Rules 704 and 720. For additional procedures in cases in which a sentence of death or life imprisonment has been imposed, see Rules [809] 810 and [810] 811.

* * * * *

Official Note: Former Rule 4009, previously Rule 4011, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4009 and title amended July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 532.

Present Rule 4009 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 521 and amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

Committee Explanatory Reports:

Final Report explaining the March 22, 1993 amendments to former Rule 4010B(3), included in new Rule [4009] 521(B)(3), published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

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PART F(1). Motion Procedures

Rule 576. Filing and Service by Parties.

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Comment

Paragraph (A)(1) requires the filing of all written motions and answers. The provision also applies to notices and other documents only if filing is required by some other rule or provision of law. See, e.g., the notice of withdrawal of charges provisions in Rule 561 (Withdrawal of Charges by Attorney for the Commonwealth), the notice of alibi defense and notice of insanity defense or mental infirmity defense provisions in Rule 573 (Pretrial Discovery and Inspection), the notice that offenses or defendants will be tried together provisions in Rule 582 (Joinder—Trial of Separate Indictments or Informations), the notice of aggravating circumstances provisions in Rule [801] 802 (Notice of Aggravating Circumstances), and the notice of challenge to a guilty plea provisions in Municipal Court cases in Rule 1007 (Challenge to Guilty Plea).

* * * * *

Official Note: Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Rules 576 and 577 combined and amended March 2, 2004, effective July 1, 2004; **Comment revised June 4, 2004, effective November 1, 2004.**

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CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART A. General Provisions

Rule 604. Opening Statements and Closing Arguments.

* * * * *

Comment

This rule establishes a uniform procedure throughout the Commonwealth for the guilt determining phase of the trial. For the procedures after the presentation of evidence at the sentencing phase of a death penalty case, see Rule [805] 806.

Official Note: Rule 1116 adopted January 24, 1968, effective August 1, 1968; Comment revised February 1, 1989, effective July 1, 1989; renumbered Rule 604 and

amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

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CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART B. Post-Sentence Procedures

Rule 720. Post-Sentence Procedures; Appeal.

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Comment

* * * * *

For post-sentence procedures after a sentence of death has been imposed, see Rule [810] 811.

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CONTENTS OF ORDER

Paragraph (B)(4) protects the defendant's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a defendant's withdrawal of a post-sentence motion, contain written notice of the defendant's appeal rights. This requirement [**insures**] **ensures** adequate notice to the defendant, which is important given the potential time lapse between the notice provided at sentencing and the resolution of the post-sentence motion. See Rule 704(C)(3). See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. 1998), concerning the contents of the order memorializing the withdrawal of a post-sentence motion.

* * * * *

Official Note: Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993 and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996. Comment revised September 26, 1996, effective January 1, 1997; amended August 22, 1997, effective January 1, 1998; Comment revised October 15, 1997, effective January 1, 1998; amended July 9, 1999, effective January 1, 2000; renumbered Rule 720 and amended March 1, 2000, effective April 1, 2001; amended August 21, 2003, effective January 1, 2004; amended March 3, 2004, effective July 1, 2004; **Comment revised June 4, 2004, effective November 1, 2004.**

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CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

Rule 801. Qualifications for Defense Counsel in Capital Cases.

In all cases in which the district attorney has filed a Notice of Aggravating Circumstances pursuant to Rule 802, before an attorney may participate in the case either as retained or appointed counsel, the attorney must meet the educational and experiential criteria set forth in this rule.

(1) EXPERIENCE: Counsel shall

(a) be a member in good standing of the Bar of this Commonwealth;

(b) be an active trial practitioner with a minimum of 5 years' criminal litigation experience; and

(c) have served as lead or co-counsel in a minimum of 8 significant cases which were tried to verdict before a jury. If representation is to be only in an appellate court, prior appellate or post-conviction representation in a minimum of 8 significant cases shall satisfy this requirement. A "significant case" for purposes of this rule shall be a murder, including manslaughter and vehicular homicide, or a felony of the first or second degree.

(2) EDUCATION:

(a) During the 3-year period immediately preceding the appointment or entry of appearance, counsel shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Pennsylvania Continuing Legal Education Board.

(b) Training in capital cases shall include, but not be limited to, training in the following areas:

- (i) relevant state, federal, and international law;
- (ii) pleading and motion practice;
- (iii) pretrial investigation, preparation, strategy, and theory regarding guilt and penalty phases;
- (iv) jury selection;
- (v) trial preparation and presentation;
- (vi) presentation and rebuttal of relevant scientific, forensic, biological, and mental health evidence and experts;
- (vii) ethical considerations particular to capital defense representation;
- (viii) preservation of the record and issues for post-conviction review;
- (ix) post-conviction litigation in state and federal courts;
- (x) unique issues relating to those charged with capital offenses when under the age of 18.
- (xi) Counsel's relationship with the client and family;

(c) The Pennsylvania Continuing Legal Education Board shall maintain and make available a list of attorneys who satisfy the educational requirements set forth in this rule.

Comment

The purpose of this rule is to provide minimum uniform statewide standards for the experience and education of appointed and retained counsel in capital cases, to thus ensure such counsel possess the ability, knowledge, and experience to provide representation in the most competent and professional manner possible. These requirements apply to counsel at all stages of a capital case, including pretrial, trial, post-conviction, and appellate.

The educational and experience requirements of the rule may not be waived by the trial or appellate court. A court may allow representation by an out-of-state attorney pro hac vice, if satisfied the attorney has equivalent experience and educational qualifications, and is a member in good standing of the Bar of the attorney's home jurisdiction.

An attorney may serve as "second chair" in a capital case without meeting the educational or experience re-

quirements of this rule. "Second chair" attorneys may not have primary responsibility for the presentation of significant evidence or argument, but may present minor or perfunctory evidence or argument, if deemed appropriate in the discretion of the court. Service as a "second chair" in a homicide case will count as a trial for purposes of evaluating that attorney's experience under paragraph (A)(1)(c) of this rule.

The CLE Board may approve entire courses focusing on capital litigation, or individual portions of other courses dealing with general areas relevant to capital cases (such as trial advocacy). It is expected that counsel will attend training programs encompassing the full range of issues confronting the capital litigator from the investigative and pretrial stages through appellate and post-conviction litigation in the state and federal courts.

Determination of experience will be accomplished by the appointing or admitting court, by colloquy or otherwise.

For the entry of appearance and withdrawal of counsel requirements generally, see Rule 120.

For the appointment of trial counsel, see Rule 122.

For the entry of appearance and appointment of counsel in post-conviction collateral proceedings, see Rule 904.

Official Note: Adopted June 4, 2004, effective November 1, 2004.

Rule [801] 802. Notice of Aggravating Circumstances.

* * * * *

Official Note: Previous Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989. Present Rule 352 adopted February 1, 1989, effective as to cases in which the arraignment is held on or after July 1, 1989; Comment revised October 29, 1990, effective January 1, 1991; amended January 10, 1995, effective February 1, 1995; renumbered Rule 801 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; **renumbered Rule 802 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [802] 803. Guilty Plea Procedure.

* * * * *

Official Note: Original Rule 352 adopted September 22, 1976, effective November 1, 1976; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989; renumbered Rule 802 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 803 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [803] 804. Procedure When Jury Trial is Waived.

* * * * *

Official Note: Original Rule 353 adopted September 22, 1976, effective March 1, 1977, effective date extended to April 1, 1977; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 353 adopted July 1, 1985, effective August 1, 1985, renumbered Rule 354 February 1, 1989, effective July 1, 1989; renumbered Rule 803 and amended March

1, 2000, effective April 1, 2001; **renumbered Rule 804 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [804] 805. No Sealed Verdict.

* * * * *

Official Note: Original Rule 354 adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 354 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 355 February 1, 1989, effective July 1, 1989; renumbered Rule 804 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 805 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [805] 806. Closing Arguments at Sentencing Hearing.

* * * * *

Official Note: Rule 356 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 805 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 806 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [806] 807. Sentencing Verdict Slip.

(A) JURY

(1) In all cases in which the sentencing proceeding is conducted before a jury, the judge shall furnish the jury with a jury sentencing verdict slip in the form provided by Rule [807] 808.

* * * * *

(B) TRIAL JUDGE

(1) In all cases in which the defendant has waived a sentencing proceeding before a jury and the trial judge determines the penalty, the trial judge shall complete a sentencing verdict slip in the form provided by Rule [808] 809.

* * * * *

Official Note: Rule 357 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 806 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 807 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [807] 808. Form for Jury Sentencing Verdict Slip.

* * * * *

Official Note: Rule 358A adopted February 1, 1989, effective July 1, 1989; renumbered Rule 807 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 808 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [808] 809. Form for Trial [Judge] Judge Sentencing Verdict Slip.

* * * * *

Official Note: Rule 358B adopted February 1, 1989, effective July 1, 1989; renumbered Rule 808 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 809 June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [809] 810. Sentence.

* * * * *

Comment

* * * * *

Once sentence has been imposed, the time for filing the post-sentence motion begins to run. See Rules [810] 811 and 720.

Official Note: Previous rule, originally numbered Rule 355, adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 355 adopted July 1, 1985, effective August 1, 1985; amended and renumbered Rule 359 December 31, 1987, effective immediately; Comment revised October 29, 1990, effective January 1, 1991; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rules 810, 704 and 720. Present Rule 359 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 809 and Comment revised March 1, 2000, effective April 1, 2001; **renumbered Rule 810 and Comment revised June 4, 2004, effective November 1, 2004.**

* * * * *

Rule [810] 811. Post-Sentence Motion.

* * * * *

Comment

This rule, Rule [809] 810, Rule 704, and Rule 720 replace previous Rule 359.

* * * * *

Official Note: Rule 360 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 810 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 811 and Comment revised June 4, 2004, effective November 1, 2004.**

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CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 901. Initiation of Post-Conviction Collateral Proceedings.

* * * * *

Comment

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The petition for post-conviction relief under these rules is not intended to be a substitute for or a limitation on the availability of appeal or a post-sentence motion. See Pa.Rs.Crim.P. 720 and [810] 811. Rather, the Chapter 9 Rules are intended to require that, in a single proceeding, the defendant must raise and the judge must dispose of all grounds for relief available after conviction and exhaustion of the appellate process, either by affirmance or by the failure to take a timely appeal.

* * * * *

Official Note: Previous Rule 1501 adopted January 24, 1968, effective August 1, 1968; amended November 25, 1968, effective February 3, 1969; amended February 15, 1974, effective immediately; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded November 9, 1984, effective January 2,

1985. Former Rule 1501 adopted November 9, 1984, effective January 2, 1985; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rule 902. Present Rule 1501 adopted February 1, 1989, effective July 1, 1989; amended March 22, 1993, effective January 1, 1994; amended August 11, 1997, effective immediately; Comment revised July 23, 1999, effective September 1, 1999; renumbered Rule 901 and amended March 1, 2000, effective April 1, 2001; **Comment revised June 4, 2004, effective November 1, 2004.**

* * * * *

Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.

* * * * *

Comment

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Paragraph (G) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

An attorney may not be appointed to represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

Official Note: Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 1507. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended January 21, 2000, effective July 1, 2000; renumbered Rule 904 and amended March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002; **Comment revised March 12, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004.**

* * * * *

[Pa.B. Doc. No. 04-1058. Filed for public inspection June 18, 2004, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CHESTER COUNTY

Amendments to Rules of Civil Procedure

Order

And Now, this 3rd day of June, 2004, the following amendments to the Chester County Rules of Civil Procedure are hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d). All previous local rules of civil procedure are hereby repealed as of the effective date of these rules, except the rules of the Family Court and of the Orphans' Court Division of the Court of Common Pleas of Chester County, which rules shall remain in full force and effect. Comments which accompany the rules were prepared for the convenience of the bench and bar

but are not part of the rules and are not officially adopted.

HONORABLE HOWARD F. RILEY, Jr.,
President Judge

Rules of Civil Procedure

Court of Common Pleas of Chester County

Rule 51.1. Citing the Rules

These rules shall be known as the Chester County Rules of Civil Procedure, and shall be cited as "C.C.R.C.P. _____"

Rule 200. Assignment of Court Business

All civil litigation in this court shall be divided into the following categories:

Category A shall consist of all civil matters which include matters filed for jury trial, non-jury trial, equity matters, and cases appealed from arbitration.

Category B shall consist of miscellaneous matters such as name change petitions, license suspension appeals, mechanics lien matters, zoning appeals and other matters requiring disposition by a judge.

COMMENT: Category B is not an exclusive listing of matters requiring disposition by the court. For example, petitions for appointment of arbitrators or for minor's compromise, etc. would be includable.

Category C shall consist of compulsory arbitrations.

Category D shall include all matters under the jurisdiction of the family court division.

Category E shall include all matters which do not require action by a judge, including but not limited to confessions of judgment, transfers of judgment, liens, waivers of liens, lis pendens, etc.

Matters under category D and those within the jurisdiction of the orphans' court division shall not be assigned to individual judges under this rule but shall be handled in accordance with the rules and practices of the orphans' court division and family court division.

The president judge may modify the type of case to be placed in each category or create additional categories of cases.

A. Individual Assignment of Cases

For matters set forth in categories A, B and C, when the case is commenced it shall be assigned for trial and pre-trial proceedings to a designated judge. The designated judge shall be responsible for the matter from the time of initial filing until final disposition, unless otherwise directed by the President Judge of the Court of Common Pleas of Chester County. The assignment of the case shall be made by the prothonotary in accordance with regulations promulgated by the president judge. The assignment regulations shall create a blind rotation system which balances the case loads among the judges. The sequence of assignment shall be kept secret and all steps shall be taken to prevent any person from being able to ascertain the name of the judge to whom any case may be assigned before the assignment. When an action is commenced (whether by writ, complaint or otherwise) the papers filed with the prothonotary must be accompanied by a cover sheet in the form provided by the prothonotary and designed to assist the prothonotary in the assignment of each case.

B. Related Cases

If, at the time of the filing of any civil action or proceeding, counsel is aware that a related claim is pending, counsel shall so notify the court administrator in writing. Civil cases are deemed related when they involve common issues of fact or grow out of the same transaction. If it is later discovered that two or more matters are related, the judge to whom the latter case has been assigned may refer the case to the court administrator for reassignment to the judge to whom the earlier related case was assigned.

C. Reassignment of Cases

The president judge may reassign cases whenever necessary to eliminate conflicts, to promote a balance of the work load among the judges and to improve prompt and just administration of all cases.

Rule 200.1. Emergency and Injunctive Matters

The president judge, or the court administrator under direction of the president judge, shall assign, on a rotating basis, an emergency judge and an emergency family court judge. Emergency and injunctive matters which fall under categories A, B and C shall first be addressed to the judge to whom the case is assigned. If the assigned judge is absent or unavailable the emergency judge shall be responsible for emergency and injunctive matters which fall under categories A, B and C. The emergency family court judge shall be responsible for emergencies and injunctive matters which fall under category D.

Rule 205.2(a). Filing Legal Papers with the Prothonotary

All pleadings and other legal papers shall be typewritten (not less than 12 point type), double-spaced and securely fastened.

Rule 205.2(b). Cover Sheet

Each complaint, praecipe or other document commencing an action shall have attached to it a cover sheet in the form set forth below, which shall be served with the complaint, praecipe or other document commencing an action upon all other parties.

COMMENT: If an action is commenced without attaching such cover sheet, the prothonotary shall accept the document for filing, but shall promptly thereafter notify the lawyer or party filing the action to file a cover sheet. The Prothonotary, in such notice, shall provide the lawyer or party with a form of cover sheet and a copy of this Local Rule. If the lawyer or party shall fail, within twenty (20) days of the mailing of such notice, to file a cover sheet, the plaintiff may not proceed further in the action until the cover sheet is filed, but this rule shall in no way affect the obligation of the plaintiff to serve the original process.

Chester County Court of Common Pleas
CIVIL COVER SHEET

1. CASE CAPTION: 1a. CASE NO.:
2. PLAINTIFF(s) (Name, Address)

3. PLAINTIFF'S COUNSEL:

(Name, firm, address, telephone and attorney ID #)

4. DEFENDANT(s) (Name, Address)

5. ARE THERE ANY RELATED CASES? (See C.C.R.C.P. 200[B])

Yes No

IF YES, SHOW CASE NOS. AND CAPTIONS:

6. IF THIS IS AN APPEAL FROM A DISTRICT JUSTICE JUDGMENT, WAS APPELLANT PLAINTIFF OR DEFENDANT IN THE ORIGINAL ACTION?

7. CASE CODE:

DESCRIPTION:

8. IS THIS AN ARBITRATION CASE? YES NO (Arbitration Limit is \$50,000.00. See C.C.R.C.P. 1301.1)

ARBITRATION CASES ONLY

An arbitration hearing in this matter is scheduled for:

in the jury lounge, Chester County Courthouse, West Chester, PA. The parties and their counsel are directed to report to the jury lounge for an arbitration hearing in this matter on the date and time set forth above.

NOTICE OF TRIAL LISTING DATE

Pursuant to C.C.R.C.P. 249.3, if this case is not subject to compulsory arbitration it will be presumed ready for trial twelve (12) months from the date of the initiation of the suit and will be placed on the trial list one (1) year from the date the suit was filed unless otherwise ordered by the Court.

To obtain relief from automatic trial listing a party must proceed pursuant to C.C.R.C.P. 249.3(b), request an administrative conference and obtain a court order deferring the placement of the case on the trial list until a later date.

FILE WITH : Prothonotary of Chester County 2 North High Street—Ste. 1 West Chester, PA 19380-3050

THIS COVER SHEET IS REQUIRED BY C.C.R.C.P. 205.2(b) AND MUST BE SERVED UPON ALL OTHER PARTIES TO THE ACTION IMMEDIATELY AFTER FILING.

SUBMIT ENOUGH COPIES FOR SERVICE CASE TYPES CODES AND DESCRIPTIONS

All initial filings in this court, which include actions commenced elsewhere and being transferred to or lodged in this court, require the assignment of a case type code.

COMMENT: As of the date of adoption of these rules, the case type codes were as set forth below. The prothonotary maintains a current list of case type codes.

APPEAL/CERTIORARI FROM DISTRICT JUSTICE

- 132 Contract
- 137 Landlord/Tenant
- 134 Personal Injury
- 133 Property Damage
- 136 Writ of Certiorari
- 135 Other Appeal from District Justice

COMPLAINTS/PRAECIPES FOR WRITS OF SUMMONS—LAW

- 123 Asbestos Related
- 87 Automobile Accident—Bodily Injured Involved
- 87PD Automobile Accident—Property Damage Only
- 82 Breach of Contract
- 128 Breach of Warranty
- 83 Construction of Contract
- 1 Declaratory Judgment (at law only)
- 84 Defamation
- 23 Ejectment
- 129 Ground Rent
- 32 Other Negligence
- 32PD Other Negligence—Property Damage Only
- 25 Mandamus
- 86 Medical Malpractice
- 108 Minors Compromise
- 27 Mortgage Foreclosure
- 28 Partition
- 88 Products Liability
- 29 Quiet Title
- 30 Quo Warranty
- 31 Replevin
- 21 To Conform Previously Confessed Judgment
- 20 Other Complaint or Praecepte for Writ of Summons at law

EMINENT DOMAIN

- 35 Declaration of Taking
- 46 Petition for Appointment of Board/Jury of View
- 114 Other Eminent Domain Proceeding

EQUITY—COMPLAINTS/PRAECIPES FOR WRITS OF SUMMONS IN EQUITY

- 130 Declaratory Judgment (in equity only)
- 24 Injunctive Relief—Preliminary and/or Final
- 61 Other Complaint or Praecepte for Writ of Summons in equity only

FAMILY

- 19 Annulment
- 18 Custody/Partial Custody/Visitation
- 131 Divorce (ancillary relief requested)
- 22 Divorce (no ancillary relief, e.g. equitable distribution, alimony pendente lite, etc., requested—custody count may be included)
- 47 Protection from Abuse

MECHANICS LIEN

- 42 Mechanic's Lien Claim

MISCELLANEOUS

- 5 Appeal from Board of Assessment
- 8 Appeal from Suspension of Operators License
- 52 Change of Name
- 76 Compel Appointment of Arbitrator
- 77 Compel Arbitrator
- 75 Confirm Arbitration Award
- 141 Election Appeal or Other Challenge
- 45 Involuntary Dissolution

- 98 Issuance of Foreign Subpoena
- A Leave to Appeal Nunc Pro Tunc (assign case code of underlying matter)
- 100 Other Miscellaneous Motions, Petitions and Appeals
- 48 Writ of Habeas Corpus

MUNICIPAL/ZONING

- 9 Zoning Appeal
- 74 Any other Municipal appeal—Non-Zoning

ALL OTHER

- 43 Other—any case type not covered by any of the above

Rule 206.1. Petitions

Rule 206.1(a). Purpose and Designation

All applications for which the procedure for the relief sought is not otherwise specifically addressed elsewhere in the rules and which require the assertion of facts not of record are hereby designated as petitions. A petition, generally speaking, is a request for relief ancillary to a given cause of action. Each petition shall be accompanied by a verification or affidavit verifying the facts stated in the petition.

Rule 206.1(b). Title

A petition should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely "petition", it should be designated Defendant Jones' Petition for Extension of Time to Join Smith as Additional Defendant).

Rule 206.2. Motions, Petitions and Preliminary Objections—General Requirements

All motions, petitions and preliminary objections shall be in writing and shall be accompanied by a proposed form of order; a petition shall also be accompanied by an order allowing a rule to show cause in form as set forth below, which order is hereinafter sometimes referred to as a "rule" or a "rule to show cause." Every motion and petition shall refer to the procedural rule, statute, or other authority relied upon to justify the relief requested and shall display counsel's name, address, I.D. number and telephone number. No motion, petition or preliminary objection shall be dismissed for failure to be accompanied by a form of proposed order or for failure to be accompanied by a form of proposed order or for failure to refer to the procedural rule, statute or other authority relied upon or for failure to display counsel's name, address, attorney identification number or telephone number.

COMMENT: For discovery motions and petitions, see certification requirements under rule C.C.R.C.P. 208.2(e).

Rule 206.3. Service and Certification

(a) Immediately after filing with the prothonotary, each party, shall serve upon all other counsel and unrepresented parties complete copies of all rules, proposed orders, petitions motions, preliminary objections, and answers to same.

(b) Each party shall, within five (5) days of the filing of any document, file with the prothonotary a separate document in the form specified by C.C.R.C.P. 206.3(d) certifying that service of a complete copy has been made.

(c) The court at its discretion may strike, dismiss or deny, any petition, motion or preliminary objection for failure of the moving party to comply with the service and certification requirements of this rule.

(d) Certifications of service shall be in substantially the following form:

(CAPTION)
CERTIFICATION OF SERVICE

This is to certify that in this case, assigned to

Judge [insert the name of the judge to whom the case is assigned], complete copies of all papers contained in [insert specifically the title of petition/motion/preliminary objections/praecipe, etc. served] have been served upon the following persons, by the following means and on the date(s) stated:

Name: Means of Service: Date of Service:

Attorney's Name
Address
I. D. Number
Telephone Number

Rule 206.4(c). Procedure For Rule To Show Cause

(a) The petitioner shall attach to any petition a proposed order substantially in the following form:

(CAPTION)
ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing petition, it is hereby ordered that

- 1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- 2) The respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- 3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- 4) Depositions shall be completed within forty-five (45) days of the service upon petitioner of the answer to the petition;
- 5) Notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

J.

(b) In instances where the order seeks a stay order or other substantive relief or seeks to have a hearing date set immediately or otherwise requests special immediate relief, the form of the order shall be modified accordingly and the order shall contain such of the following provisions as are appropriate:

A hearing on the within petition is hereby scheduled to be held on _____, the _____ day of _____, 20____, at _____ . M. in Courtroom No. _____, of the Courthouse of Chester County, West Chester, Pennsylvania.

and/or

[If a stay is being requested]

All proceedings shall stay in the meantime. The petitioner is directed to file a bond in the amount of \$ _____ by the following date: _____. Upon cause show by the respondent, the court may increase the amount of the bond or security.

Rule 206.4(c)(1). Per Curiam

The procedure of Pa.R.C.P. No. 206.6 is adopted. An order containing a rule to show cause, except one which by its terms grants substantive relief or which contains a stay order or seeks to require an answer by respondent(s) in less than twenty (20) days, shall be issued per curiam when presented to the court administrator

COMMENT: Even if respondent does not deny any of the facts set forth in the petition, if respondent objects to the granting of the relief requested either on the basis that the facts set forth in the petition, even if true, do not warrant the granting of the relief sought, or on any other basis, respondent should file an answer specifically so stating.

Rule 206.4(c)(2). Stay or Substantive Relief

Any petitioner seeking a rule which stays proceedings or which by its terms grants substantive relief shall present the petition, proposed order and rule to the judge assigned to the case, except for family court and orphans' court matters which shall be presented to a judge sitting in that division. The court will not enter the stay or grant the relief unless:

(1) *Notice*: it appears from the petition that reasonable notice, under the circumstances, has been given to all parties in interest of the date, time, and place of the application; or

(2) *Stipulation*: it appears from the petition that there is an agreement by all parties in interest; or

(3) *Exigency*: the court in its discretion shall determine that there are extraordinary circumstances justifying a stay or immediate relief.

Rule 206.4(c)(3). Admissions.

All well-pled factual averments in a petition upon which a rule to show cause has been granted, or in preliminary objections endorsed with a notice to plead and properly containing averments to fact, shall be deemed admitted unless an answer specifically denying the same is filed on or before the close of court within twenty days after service of the petition upon the respondent(s), or such shorter time as the court may have allowed, or, in the case of preliminary objections, on the date on which an answer to the preliminary objections is due pursuant to the Pennsylvania Rules of Civil Procedure. The requirements of Pa.R.C.P. No. 1029 shall apply to this provision.

Rule 206.4(c)(4). When No Answer Is Filed

If no answer has been timely filed, the petitioning party, not less than five (5) days after the rule return date, may move to have the rule made absolute, granting the prayer of the petition, and the Court may consider such petition as unopposed and grant such motion as of course. The motion shall be accompanied by a proposed order and a certificate of service but no brief shall be required. The provisions of Rule 206.1(c) shall not apply to motions to make a rule absolute filed pursuant to this section.

COMMENT: A party upon whom a petition is served has an obligation to answer the petition if the relief sought is opposed. See comment to Rule 206.1(c) above. See C.C.R.C.P. 200.1 regarding emergency and injunctive matters. See 206.1(d) of this rule for treatment of preliminary objections which raise questions of jurisdiction or venue and any other preliminary objections which deal with facts not otherwise of record; those types of preliminary objections shall be handled under subsection

206.1(b), as though they were petitions, except that such preliminary objections shall not be accompanied by a rule to show cause.

Rule 206.5. When Answer is Filed

When an answer has been timely filed and the issue raised by the petition, motion or preliminary objection is ripe for consideration, pursuant to the provisions of Pa.R.C.P. No. 206.7, any party may file a praecipe for determination in the form described by C.C.R.C.P. No. 206.6 along with a supporting brief. If a petitioner files a praecipe for determination on petition and answer, all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted. If a respondent orders the matter for argument on petition and answer without having taken depositions or such other discovery as the court may have allowed, then all averments of fact properly pleaded in the petition shall be deemed admitted for the purposes of the rule, unless the petitioner shall have failed to take depositions or such other discovery as the court may have allowed within the time required, in which event the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer, shall be deemed admitted pursuant to Pa.R.C.P. No. 206.7(c). Responsive briefs shall be filed within fifteen (15) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs.

Rule 206.6. Praecipe for Determination

To have any matter submitted to the Court for a decision, a party shall file with the Prothonotary a Praecipe for Determination. Immediately after filing same with the Prothonotary, each party shall serve upon all other counsel and unrepresented parties a copy of the Praecipe for Determination as well as any other documents filed therewith. The Praecipe for Determination shall be in substantially the following form:

(CAPTION)

PRAECIPE FOR DETERMINATION

TO THE PROTHONOTARY:

Kindly submit the following matter to
Judge [insert the name of the assigned judge]
for determination:
insert specifically the title of petition/motion/
preliminary objections, etc. to be submitted.]
(date of filing/service): _____.

Attorney's name
Address
I. D. Number
Telephone Number

COMMENT: This praecipe is to be filed with the prothonotary, not the court administrator.

Rule 208. Motions

Rule 208.2. General

All motions shall be filed in accordance with C.C. R.C.P. 206.2.

Rule 208.2(c). Applicable Authority

All motions should include a brief statement of applicable authority.

Rule 208.2(d). Uncontested Motions—Certification

A motion may be treated as uncontested when the moving party appends to it a certificate that counsel has conferred with all interested parties in respect to the

matter and has been affirmatively advised that there are no objections to the relief sought in the proposed order.

COMMENT: Non-responsiveness on the part of an opponent shall not be equated by the movant to the lack of contest.

Rule 208.2(e). Discovery Motion and Petition Certification

i. All counsel have an affirmative obligation to confer and discuss discovery matters and make a good faith effort to resolve such differences as may exist

ii. Any motion or petition relating to discovery must be accompanied by a certificate of counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery motion or petition in good faith, but has been unable to resolve the issue. The certificate shall set forth the exact time, place and manner (which may be telephonic) of the conference or, in a case in which counsel for the moving party cannot furnish such certificate, counsel shall furnish an alternative certificate stating that opposing counsel has refused to so confer. The alternative certificate shall also set forth the efforts made by counsel for the moving party to obtain compliance by opposing counsel and such other facts and circumstances as exist to justify the absence of the required certificate.

iii. The court at its discretion may strike, dismiss or deny the petition or motion for failure of the moving party to comply with the certification requirements of this rule, or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of the moving party to comply with the certification requirements of this rule or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of moving counsel to arrange such conference.

Rule 208.3(a). Motions—Titles and Attachments

(1) Generally, motions may be used to obtain relief upon undisputed facts of record, with several exceptions, one of which shall be that averments by counsel that pleadings, documents or discovery requests have been exchanged or transferred. In the latter event copies of all such documents shall be attached, unless already in the record, in which event they can be incorporated by reference. Every motion shall be signed by its moving counsel or party.

(2) The motion or reply should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely "motion," it should be designated Defendants' Motion for Sanctions Against Plaintiff or Additional Defendant's Second Motion for Sanctions Against Defendant Smith, etc.).

(3) To promote uniformity of civil practice the following types of discovery matters shall be treated as motions, not as petitions, even though they may contain limited assertions of fact not of record:

motion for sanctions for failure to answer interrogatories;

motion for sanctions to failure to produce documents or things;

motion for sanctions for failure to appear for deposition;

motion to compel mental or physical examination;

motion to compel further answers to interrogatories;

motion to compel further production of documents.

(4) Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.

(5) If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2 (a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

Rule 208.3(b). Responses

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

210. Briefs or Legal Memoranda

All briefs or legal memoranda shall contain the following matter under the following headings:

1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.

2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.

3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.

4) *Conclusion*: Specify the type of relief requested.

Rule 211.1. Oral Argument

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.

2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.

3. A concise statement setting forth why oral argument is necessary.

4. The date upon which the Praecipe for Determination was filed.

Rule 212.1. Pretrial and Settlement Conference

A. Prior to the trial of any case (i.e. jury, non-jury, equity and arbitration appeals), the court may conduct a pretrial and settlement conference. The assigned judge may schedule a pretrial and settlement conference at any other time as he or she deems appropriate.

B. No later than five (5) days in advance of a scheduled conference, each party shall file with the prothonotary and immediately serve upon the assigned judge and all other parties a conference memorandum.

COMMENT: These rules do not in any way alter the requirements of Pa.R.C.P. 212.1 et seq.

C. The conference memorandum shall set forth the following:

(1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.

(2) A statement of the salient facts of the case.

(3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. If relief other than monetary damages is sought, information adequate for an order granting the relief sought shall be furnished.

(4) Special comments regarding legal issues or other appropriate matters.

(5) Parties shall attach to the memorandum copies of reports from all experts expected to be called at trial.

(6) A list showing the names and addresses of all witnesses each party intends to call at trial.

(7) A schedule of all exhibits to be offered at trial.

(8) An estimate of the number of days required for trial.

D. Except in non-jury and equity cases, the conference memorandum of each party shall provide the demand, offer and status of negotiations.

E. All counsel shall have immediate access to their respective clients or those with settlement authority for the purpose of resolving the claim. Unless otherwise instructed, counsel shall not bring their respective clients to the pretrial and settlement conference.

COMMENTS: (1) It is expected that this memorandum will not exceed 3 pages, except in unusual cases. (2) Access via telephone to the client or those with settlement authority shall be sufficient for purposes of this rule.

F. If a settlement conference is requested in a non-jury, or equity matter, the case shall be referred to the court administrator for assignment of the settlement conference only to another judge. Once the settlement conference has been concluded, the case will then be returned to the judge originally assigned to the case. All requirements for

the pretrial and settlement conference as set forth above shall apply to such settlement conference, except that the conference memoranda shall be served upon the judge conducting the conference, not the assigned judge.

Rule 216.1. Prior Commitments of Counsel

No continuance will be granted by reason of the absence of associate counsel or by reason of prior commitments of counsel in any court other than the Supreme, Superior or Commonwealth Courts of Pennsylvania, a federal appellate court, or in other cases in which counsel is actually on trial or is properly attached to any court of record. When it is known that counsel will be so engaged, he or she shall forthwith notify opposing counsel and the court administrator.

Rule 225.1. Jury Trial Summation

(a) Unless the trial judge shall otherwise grant leave, only one attorney may sum up for any party.

(b) In trials which involve only one plaintiff and one defendant, if evidence has been received from each party, plaintiff's attorney shall first sum up and defendant's attorney shall then follow. Plaintiff's attorney may then speak solely in rebuttal. If no evidence has been received from the defendant, the same order of summation shall apply, except that plaintiff's attorney shall not speak in rebuttal.

(c) In trials which involve a third-party action, if evidence has been received from each party, the plaintiff's attorney shall first sum up as in (b). Defendant's attorney shall next sum up both for defendant, as in (b), and for defendant as third-party plaintiff. The attorney for the third party (i.e., additional) defendant shall next sum up as the nature of his third-party defense may require. The attorney for third-party plaintiff may then reply in rebuttal and thereafter the attorney for the original plaintiff may reply in rebuttal of only the arguments made by the original defendant.

(d) In multi-party actions and in actions which involve third-party actions, if one or more of the parties offers no evidence, the order of summation shall be determined by the trial judge.

(e) In actions involving more than one plaintiff, defendant or third-party defendant, the trial judge shall determine the order of speaking.

Rule 226.1. Trial Memorandum. Proposed Findings of Fact and Conclusions of Law

(a) Trial Memorandum and Points for Charge. Each party shall file a trial memorandum and, in all jury trials, requested points for charge no later than the commencement of trial. Each requested point for charge shall cite the authority therefor. Additional memoranda and points for charge may be submitted during trial.

(b) Findings of Fact and Conclusions of Law. In all cases tried by a judge sitting without a jury, each party shall file proposed findings of fact and conclusions of law no later than the commencement of trial. Additional proposed findings and conclusions of law may be submitted during trial.

Rule 227.2. Post-Trial Motions

(a) All post-trial motions must specify the grounds relied upon.

(b) Any request for leave to file additional specific grounds for post trial relief shall be made by motion and proposed order, and the motion shall contain specific reasons in support thereof. The motion shall be filed with

the prothonotary within ten (10) days after verdict and the movant shall file a certification of service of the motion in the form provided by C.C.R.C.P. 206.3.

COMMENT: Nothing in this rule is intended to permit a party to supplement post-trial motions after receipt of the transcript without having timely obtained leave of court.

(c) Copies of post-trial motions must be served upon the trial judge. If notes of testimony are needed the movant must notify the court reporter of the need to transcribe any part or all of the record. Failure to notify the court reporter shall mean that such party does not desire a transcript of the notes of testimony.

COMMENT: It is the responsibility of the party or parties requiring a transcript of the notes of testimony to obtain such transcript in a timely fashion. Counsel and parties are warned that, in light of Pa.R.C.P. No. 227.4(1)(b), the schedule for the filing of briefs cannot be extended.

(d) Thereafter, the court reporter shall prepare a transcript of such notes for each of the parties who have indicated a desire to have them, together with one original for the court. The court's copy shall contain all the notes requested to be transcribed.

COMMENT: See Rules of Judicial Admin. 5000.1 et seq. regarding transcripts and fees.

(e) No continuance of argument properly scheduled will be granted because of a party's failure to observe the requirements of this rule.

(f) No motion for new trial upon the ground of after discovered evidence will be entertained unless it sets forth the reasons for failure to produce the same at the trial and unless based upon affidavits containing the names of the witnesses and the substance of their expected testimony.

(g) Post-trial motions will be brought before the Court by filing a praecipe for determination under C.C.R.C.P. No. 206.6. The praecipe for determination shall be filed at the time of the filing of the post-trial motion. Upon the filing of the praecipe for determination accompanying a post-trial motion, oral argument shall be scheduled forthwith by the Court.

COMMENT: In view of Pa.R.C.P. No. 227.4(1)(b), which permits entry of judgment if an order disposing of all post-trial motions is not entered within one hundred and twenty (120) days after the filing of the first such motion, oral argument will be scheduled for approximately ninety (90) days following the date of the filing of the first such motion.

(h) The following schedule for the filing of briefs shall apply unless otherwise directed by the assigned judge:

(1) No less than three (3) weeks before the day set for oral argument, the moving party (petitioner or movant) shall serve upon all counsel and unrepresented parties a complete copy of the brief; the brief shall be filed with the prothonotary along with a certification that service has been made.

(2) No less than one (1) week before the day set for oral argument, the responding party shall file a brief and certification of service and shall immediately serve a copy on each counsel and unrepresented party.

(3) The Court may, in its discretion, refuse to hear argument upon issues which have not been reasonably discussed in a party's brief, and it may decline to hear

oral argument addressed from any party who has failed to comply with the foregoing provisions of this rule.

(i) Oral argument may be waived by agreement of all parties but, even if oral argument is waived, briefs shall nevertheless be due pursuant to paragraph (h) above, based upon the date originally set for oral argument.

Rule 229.1. Withdrawal of Post-Trial Motions, Exceptions or Appeal

Whenever post-trial motions or exceptions are withdrawn or an appeal is terminated by a party, that party shall immediately advise in writing the judge whose decision, order, or adjudication was being challenged.

Rule 233.1. Notices

(a) The Chester County Law Reporter shall be the legal periodical for the publication of all notices. One copy of each issue shall be deposited by the publisher in the office of the prothonotary and one in the Law Library of Chester County for public reference.

(b) Except as otherwise provided by Acts of Assembly, rule or special order of court, service by publication shall be made by publication once in the Chester County Law Reporter and in one daily or weekly newspaper of general circulation within the county and in such manner that the person so served shall have at least five (5) days after publication to act thereon.

Rule 233.3. Interpreters; Costs

In all proceedings before a judge, district justice or hearing officer where the services of an interpreter are necessary, an official court interpreter shall be used when available. In other instances an interpreter shall be engaged by the parties, subject to the approval thereof by the court or the hearing officer.

COMMENT: At depositions and proceedings other than those listed above, the litigants shall bear the fees and costs of the interpreter.

Rule 241. Bill of Costs. Counsel Fees

(a) *Affidavit.* The affidavit of the party or other person to the correctness of the bill of costs and the attendance and materiality of the witnesses shall be annexed and shall be prima facie evidence to the taxing officer.

(b) *Taxation.* The bill of costs shall be taxed, in the first instance, by the prothonotary upon application of a party. The moving party shall "provide the adverse party with a copy of the bill within ten (10) days after filing. Exceptions shall be filed within ten (10) days of the receipt of such copy. A re-taxation shall then be had before the prothonotary upon ten (10) days notice thereof to both parties. The prothonotary shall give written notice of the re-taxation to both parties, from which either party may appeal to the court within five (5) days thereafter, provided that the appellant shall, within three (3) days after the appeal is entered, file a specification of the items to which he objects and the grounds of his objections; otherwise the appeal will be dismissed. No exceptions or appeal shall operate to stay execution or prevent the collection of the debt of costs, but when collected on execution or paid into court, the items to which exceptions have been taken will be retained until the question is decided.

(c) *Counsel Fees.* When counsel fees are sought under the provision of 42 Pa.C.S. § 2503 as part of the taxable costs of a matter, the party seeking them shall do so by filing an appropriate petition within twenty (20) days of

the conclusion of the case in this court. The proceedings shall be conducted under Pa.R.C.P. No. 209 and C.C.R.C.P. 206.1.

Rule 242. Surety

(a) No attorney, sheriff's deputy, or other person concerned in the execution of process, shall become surety in any case, except as granted in writing by special leave of the court.

(b) In all cases wherein the court is required to approve individual sureties, the application shall be accompanied by the affidavit of the surety, setting out the extent of his real and personal estates respectively, and the probable value of the same over and above all liens and indebtedness.

(c) Any surety company desiring to qualify as a surety shall file with the clerk of the orphans' court division a certificate of the insurance commissioner, as required by law, accompanied by a financial statement as of December 31 of the last preceding year. Any corporation whose home office is outside of the County of Chester shall also file a stipulation agreeing that service of process, in any proceeding arising out of its acting as surety or fiduciary pursuant to approval under this or preceding rule, may be made upon it by serving. Such process upon the clerk of the orphans' court division of Chester County, and that such service shall be the equivalent of actual service upon such corporation. To continue to offer itself as surety, it shall file annually with the clerk of the orphans' court division on or before the first Monday of June of each year a similar certificate and statement, and failure to do so within such time shall bar it from acting until such certificate and statement shall have been filed. A surety company which shall have complied with the requirements of this rule shall be approved by the clerk of the orphans' court division, unless otherwise provided by law, subject to the right of exceptions and hearing thereon by the court.

Rule 249.1. Administration Conference of Civil Cases

A. The court shall conduct one or more administrative conferences in each case in which the judge is requested to do so by any party and may conduct administrative conferences in any matter at any time or times upon the judge's own motion.

B. At the administrative conference the court shall become acquainted with the salient facts and issues of the case, shall determine discovery and pretrial motion schedules and shall set dates for further conferences and trial.

C. No later than five (5) days in advance of the administrative conference, each party shall file with the assigned judge and immediately serve upon all other parties an administrative conference memorandum which shall set forth the following:

(1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.

(2) A statement of the salient facts of the case.

(3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. and a specification of any relief other than monetary damages being sought.

(4) Special comments regarding legal issues or other appropriate matters including specifically setting forth any unique or unusual aspect of the case.

(5) A brief statement of the status of all discovery, including a proposed schedule for the completion of discovery, the status of all outstanding pretrial motions and petitions and any further pretrial motions or petitions contemplated and a statement of any other pretrial matters requiring resolution prior to the case being ready for trial. Each Party shall submit a proposed pretrial order governing all of the matters set forth in this subparagraph.

(6) An estimate of the number of days required for trial.

Rule 249.2. Matters Inactive for Two Years or More [Deleted]

COMMENT: See Pa.R.C.P. No. 230.2

Rule 249.3. Trial Readiness

(a) A category A matter shall be presumptively deemed ready for trial twelve (12) months from the date of the initiation of the suit, which is the earliest date on which the case may be tried for purposes of Pa.R.C.P. No. 212.1(a). A category C matter (compulsory arbitrations) in which there has been an appeal from the award of arbitrators shall be presumptively deemed ready for trial two (2) months from the date of the filing of the appeal. Such matters shall immediately thereafter be placed on the trial list of the judge to whom the case is assigned, unless prior thereto an order has been entered deferring the placement on the trial list until a later date. Such order may be entered by the court on its own motion or pursuant to the procedures set forth in paragraph (b) below.

(b) To obtain relief from the initial automatic trial listing pursuant to paragraph (a), above and, thereafter, from any deferred trial listing, a party must file a request for an administrative conference to be held in accordance with Rule 249.1. The first request for administrative conference must be filed no later than eleven (11) months after the date of initiation of suit, except in category C matters. In category C matters, the first request for an administrative conference must be filed no later than ten (10) days after the filing of the appeal from the award of arbitrators. All subsequent requests for administrative conferences must be filed not less than thirty (30) days prior to the trial listing date. The request for an administrative conference must specify that deferment of trial listing will be requested at the conference. The request for administrative conference shall be filed of record and a copy thereof served upon counsel of record for each other party to the action, each unrepresented party, if any, the Court Administrator, and the assigned judge.

(c) At any time prior to placement of a case on the trial list pursuant to the procedures set forth above, the court, either on its own motion or upon agreement of the parties or upon application of any party, may determine that any matter is ready for trial, in which event the court shall file a trial readiness order and the court administrator shall then notify all parties that the case has been placed on the trial list.

(d) Category C matters shall be governed by C.C.R.C.P. No. 1301.1 et seq., unless and until an appeal from the award of arbitrators has been filed. Following the filing of such appeal, the rules set forth above shall apply.

Rule 1003.1. Waiver of Rules. Extension of Time

A. The time for filing briefs and answers to petitions, motions and preliminary objections may be extended by agreement of the parties and with the approval of the

court, provided written notice of the agreement for extension has been filed with the prothonotary.

B. Written notice under A above shall be substantially in the following form:

[CAPTION]
AGREEMENT TO EXTEND TIME

To the Prothonotary:

This is to certify that the time for filing (title of petition, motion or brief) has been extended to (new date for filing) by agreement of all counsel and unrepresented parties.

Attorney's Name

Address _____

I.D. number _____

Telephone number _____

APPROVED:

J.

Rule 1007.1A. Jury Trial. Number of Jurors. Demand. Waiver

A demand for jury trial shall be deemed a demand for a trial by a jury of six (6) members unless any party expressly demands a trial by twelve (12) members. Timing of the filing of the demand for jury trial and withdrawal of same shall be as set forth in Pa.R.C.P. No. 1007.1.

Rule 1012.1. Entry of Appearance; Withdrawal of Appearance

Every initial pleading, or other initial filing, by a party with the prothonotary shall be accompanied by a praecipe for entry of appearance which shall include the attorney's or unrepresented party's name, complete address, telephone number, and attorney identification number (if applicable). In like manner, when counsel is withdrawing from an action in accord with Pa. R. C. P. No. 1012(b), counsel shall file a praecipe for withdrawal of appearance.

COMMENT: The written entry of appearance will aid in giving proper notice to all counsel of record of orders, hearings and other pending matters.

Rule 1018.1.A. Notice to Defend - Office to be Contacted

(a) The office to be contacted for legal help to be included in the form of Notice to Defend required by Pa.R.C.P. 1018.1(b) is:

Lawyer Referral and Information Service
Chester County Bar Association
15 West Gay Street
West Chester, PA 19380
(610) 429-1500

Rule 1025.1. Endorsements

The initial pleading or appearance on behalf of a party represented by a firm or partnership or association of attorneys shall indicate clearly to the prothonotary the name, address, telephone number, and attorney identification number of the particular attorney who is supervising the conduct of the case.

Rule 1028(c). Preliminary Objections

(1) Except for preliminary objections subject to subparagraph (2) below, a brief and praecipe for determina-

tion in the form described in C.C.R.C.P. 206.6 must be filed by the objecting party within twenty (20) days of the filing of the preliminary objections. Responsive briefs shall be filed within twenty (20) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs. If the party filing the preliminary objections has failed to file a praecipe for determination within twenty (20) days of the filing of the preliminary objections, any other party may file a praecipe for determination to bring the objections before the court, in which event no brief shall be required to be filed with the praecipe. If the objecting party fails to file a brief as aforesaid, the court may dismiss the preliminary objection as abandoned. If the objecting party does file a brief, all other parties may file briefs within twenty (20) days thereafter.

(2) Where the preliminary objections properly assert facts not otherwise of record and the preliminary objections have been endorsed with a notice to plead, no praecipe for determination nor brief shall be required until the matter is ready to be submitted to the court, either upon the basis of the preliminary objections alone, if no answer has been filed, or upon the basis of the preliminary objections and answers thereto, or after a record has been developed pursuant to Pa.R.C.P. 1028(c)(2). If an answer is filed and any party wishes to develop a record on any disputed issues of material fact, depositions shall be completed within forty-five (45) days of the date of service of the answer to the preliminary objection. The time limit for the taking of the depositions may be shortened or extended by agreement of the parties or by the Court.

Rule 1034(a). Motions for Judgment on the Pleadings

Motions for judgment on the pleadings shall be scheduled, argued and decided in accordance with C.C.R.C.P. 208.3(a)(4), 208.3(a)(5), 208.3 (b), 210 and 211.1.

NOTE: The aforesaid rules provide as follows:

208.3(a)(4)

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.
208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall

not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2(a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

208.3(b)

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

210

All briefs or legal memoranda shall contain the following matter under the following headings:

1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.

2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.

3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.

4) *Conclusion*: Specify the type of relief requested.

211.1

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.

2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.

3. A concise statement setting forth why oral argument is necessary.

4. The date upon which the Praecipe for Determination was filed.

Rule 1035.2(a) Motion for Summary Judgment—Procedures for Disposition

Motions for Summary Judgment shall be scheduled, argued and decided as set forth in C.C.R.C.P. 208.3(a)(4), 208.3(a)(5), 208.3(b), 210 and 211.1

NOTE: The aforesaid rules provide as follows:

208.3(a)(4)

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers

to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.
208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

COMMENT: See C.C.R.C.P. 1035.2 (a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

208.3(b)

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.
210

All briefs or legal memoranda shall contain the following matter under the following headings:

- 1) *History of the Case*: A brief, informal statement of the facts material to the matter under consideration.
- 2) *Question Presented*: Refer to the motion, petition, or preliminary objection that is before the court for decision.
- 3) *Legal Argument*: The section must contain citations to the case law, rule or statute relied on.
- 4) *Conclusion*: Specify the type of relief requested.

211.1

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.
2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.

3. A concise statement setting forth why oral argument is necessary.

4. The date upon which the Praecipe for Determination was filed.

Rule 1301.1. Cases for Submission to Arbitration

(a) All civil cases at law which are now or hereafter at issue wherein the amount in controversy in each cause of action, i.e., the amount claimed in each count, stated therein, exclusive of interest and costs, does not exceed fifty thousand (\$50,000.00) dollars, and which do not involve title to real property, shall be submitted to, heard, and decided by a board of arbitrators consisting of three (3) attorneys admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law primarily in Chester County.

(b) The court administrator may in his or her discretion consolidate cases for hearing when all the cases are subject to the provisions of the arbitration rules and when they involve common questions of fact. The court administrator shall by letter notify all counsel and unrepresented parties of any consolidation.

(c) If the judge who has been assigned a Category A matter shall determine that the case is properly one which should be handled as an arbitration under Category C, the assigned judge shall order the case to be placed in Category C, and the case shall thenceforth be treated as though it had been so classified as an arbitration case in the first instance. The court administrator shall schedule such remanded arbitration cases for hearing as soon as practicable unless otherwise ordered by the assigned judge.

Rule 1302.1. Administration

(a) Proceedings under the arbitration rules of this court shall be administered by the office of the court administrator of this court.

(b) The court administrator shall have the power to prescribe forms and to interpret these rules, subject to review by the court at the request of a party.

(c) Every attorney admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law primarily in Chester County shall file with the office of the court administrator appropriate information indicating whether or not he or she is practicing alone, is a member of a firm, or is associated in some way with one or more other lawyers (either in private practice or as an employee of some public office such as the district attorney's office, public defender's office, legal aid, etc.). Any change in his status in this regard shall immediately be reported to the office of the court administrator. Boards of arbitration shall be appointed from the list of members of the bar who have filed such information.

(d) The chair of the board of arbitrators shall be appointed by the court administrator and shall be responsible for the preparation and filing of the board's report and award.

(e) The court administrator shall have the authority to obtain and deliver to the board of arbitrators all papers of record and shall be responsible for the return thereof to the Prothonotary when not in necessary custody of the board. The court administrator shall maintain such records as are necessary for the proper administration of the arbitration system, and shall give the arbitrators such assistance as may be necessary to expedite the arbitration process.

(f) The date, time and place of the arbitration hearing shall be assigned by the Prothonotary at the time a Category C action is commenced. The court administrator shall provide the Prothonotary with the next reasonably available date for an arbitration hearing, and the Prothonotary shall then mark that date upon the cover sheet when a Category C action is commenced. The notice of the date, time and place of arbitration hearing on the cover sheet shall include the following statement:

This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

COMMENT: It is anticipated that a hearing will be scheduled no less than six (6) months following the initiation of suit. The court administrator will be required to adjust the interval, between filing and hearing dated, depending upon the availability of hearing rooms, the volume of cases to be tried, and the number of panels to be assigned.

(g) Any party may for good cause object to the matter being submitted to arbitration by notifying the court administrator in writing with notice to all other parties. The court administrator shall initially make a determination as to the validity of any such objection. Any party dissatisfied with the determination of the court administrator shall have the right to have the matter determined by the assigned judge.

(h) All hearings shall be held in the Courthouse at West Chester, unless the arbitrators and all parties agree otherwise.

(i) It shall be the professional obligation of all members of the bar to serve on boards of arbitration, unless absent or excused for good cause and compelling reason. If an arbitrator fails to appear, or appears late at the scheduled arbitration hearing without compelling reasons, his name shall be stricken from the arbitration list, and he will be so notified by the court administrator. He may be reinstated by application to the court, upon cause shown.

(j) The president judge may strike from the list of eligible arbitrators the name of any attorney who has consistently demonstrated an inability to serve in a proper manner.

Rule 1302.2. Chair of Arbitration Boards

(a) Unless otherwise agreed by the parties, the arbitration board shall be chaired by a member of the bar who has:

(1) been admitted to the practice of law for at least ten (10) years;

(2) been the principal attorney in at least ten (10) litigation cases filed in a Court of record; and

(3) participated in at least five (5) trials or evidentiary hearings within the last five (5) years.

(b) A list of available arbitrators who are qualified to serve as chair of arbitration boards shall be maintained by the Court Administrator.

(c) A member of the bar who seeks to serve as chair of arbitration boards shall submit to the Court Administrator a certificate of eligibility on a form prescribed by the Court Administrator. Upon receipt of a fully completed certificate, the Court Administrator shall add the name of

the person submitting the certificate to the list of those eligible to serve as chair of an arbitration board.

Rule 1303.1. Hearings

(a) The board of arbitrators shall have the powers conferred upon them by law, including, but not limited to the following:

(1) To permit the amendment of any pleading. Except for good cause shown, such an amendment must be filed in writing.

COMMENTS: (1) See Pa.R.C.P. No. 1304 for the power of arbitrators to act when a party fails to appear. (2) See Pa.R.C.P. No. 218 for the power of arbitrators when a party is not ready for trial.

Rule 1303.2. Pre-Arbitration Memorandum

(a) At least seven (7) days before the date of the arbitration hearing, all parties shall file with the Prothonotary, in triplicate, a memorandum in the form provided and shall immediately serve a copy on each party. This memorandum shall set forth the following:

(1) A brief statement of the salient facts of the claim or defense.

(2) A statement of the legal basis of the claim or defense.

(3) A list of all special damages claimed, such as lost earnings, loss of future earning capacity, medical expense (itemized), property damages.

(4) A list of the names and addresses of all witnesses whom that party intends to call at arbitration.

(5) A list of all exhibits to be offered by that party at arbitration. All exhibits shall be numbered prior to the arbitration.

(6) An estimate of time necessary to present your claim or defense.

(7) Special comments regarding legal issues.

(8) A certification that the attorney has, on behalf of his/her client, made a reasonable effort to stipulate or agree to all undisputed issues of fact or law which would expedite the arbitration of this matter.

(b) It is expected that the memorandum will not exceed two pages, except in unusual cases.

(c) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to call a witness at the arbitration hearing who is not listed in a timely-filed pre-arbitration memorandum.

(d) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to offer an exhibit at the arbitration hearing that is not listed in a timely-filed pre-arbitration memorandum.

Rule 1306.2. Award, Where There Is Comparative Negligence or Apportionment Among Joint Tortfeasors

Where it is determined by the board of arbitrators that the Comparative Negligence Act of 1976 (42 Pa.C.S. § 7102) applies to a negligence action, the award of the board of arbitrators shall state:

(1) the percentage of the causal negligence attributable to each of the parties;

(2) the amount of damages, if any, sustained by the plaintiff and any counterclaimant without reduction by the percentage of that party's causal negligence, and

(3) the amount determined by the board to be awarded the plaintiff or counterclaimant after reduction of the damages by the proportion or percentage of that party's causal contributory negligence.

COMMENT: A verdict form which will assist the panel of arbitrators in allocating causal negligence and calculating an award of damages under the Comparative Negligence Act shall be available from the court administrator's office.

Rule 1308.1. Compensation of Arbitrators

The chairman and other arbitrators shall receive compensation paid by the County as determined by the court for each case in which the arbitrator shall have signed a report and award or dissent there from.

Rule 1568.1. Public sale

Except as otherwise provided by act of assembly or special order of court, notice of the time and place of the sale of a property at public auction by a master in partition shall be given by publication once a week for three successive weeks immediately preceding such sale in the *Chester County Law Reporter*, and in one daily newspaper of general circulation within the county.

Family Court Rules

**C.C.R.C.P. NOS. 1901.2.A to 1940.12.A Inclusive
Deliberately Omitted**

Rule 2232.1. Notice of Pendency of Action

Notice required by Pa.R.C.P. No. 2232(a) shall consist of a copy of the complaint and a statement that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice; or his cause of action will be barred and the action will proceed without him.

Proof of service shall be by affidavit accompanied with a copy of the notice and the return receipt filed with the Prothonotary.

Rule 3123.1.A. Exemption. Sheriff's Appraisement.

The sheriff shall give all parties at least forty-eight (48) hours' notice of the time and place when he will make an appraisement of the property which the defendant claims the right to retain as the exemption allowed him by law. The parties and their attorneys shall have the right to be present when the appraisement is made.

Rule 4007.1.A. Place of Depositions

In the absence of an agreement of the parties pursuant to Pa.R.C.P. No. 4002, or an order of the court upon cause shown, depositions in all cases shall be held in Chester County.

Rule 4007.1.B. Problems Arising During Depositions

In the event that a problem arises during the course of a deposition, which would result in the premature termination of the deposition and the subsequent filing of motions to compel answers to the questions involved, the assigned judge shall rule upon the issues on the day they have arisen. If the assigned judge is not available on that day, the court administrator shall refer the matter to the emergency judge for consideration and disposition that day. At the discretion of the judge, the consultation may be by telephone.

COMMENT: See Rule 206.1 A. (1) for certification required with discovery motions and petitions.

Rule 5000. Rent Escrow Payments In Lieu Of Bond In Landlord Tenant Appeals From District Justice Decisions.

(a) Where a tenant in possession of residential real property appeals from a judgment for the possession of the real property entered by a district justice as required by Pa.R.C.P.D.J. No. 1008(B) a supersedeas shall operate if such tenant:

(1) at the time of filing the appeal, files with the prothonotary a verified statement of his intentions of depositing monthly rental payments required by the lease which will become due during the pendency of the court of common pleas proceedings listing the amount of rental payments to become due per month and the dates when said payments are due, a copy of which shall be served upon the appellee by certified mail within five (5) days; and

(2) deposits with the prothonotary the rental payments for the current month (if not already paid) and the subsequent rental payments as they become due according to tie said verified statement.

(b) Upon motion and order and certification of two days notice to tenant or his counsel by the landlord, accompanied by a copy of the escrow account from the prothonotary's office, the court may terminate the supersedeas if a monthly rental payment was not deposited in escrow within five (5) days after the date the rental payment became due.,

(c) No withdrawals shall be permitted from any such escrow account except upon court order.

Rule 5001. Writs of Certiorari From Actions Before District Justices

(a) Within thirty (30) days of filing a praecipe for writ of certiorari under the provisions of Pa.R.C.P.D.J. No. 1009 the appellant shall file a praecipe for determination and a brief in support of issuance of the writ and appellee shall have fifteen (15) days to file a reply brief. The court, in its discretion, may extend the time for filing of briefs.

(b) If appellant fails to file a brief and praecipe for determination within the time set forth in subsection (a), or within the time extended by the court, then appellee may, without filing a brief; file a Praecipe for Determination and the court may consider appellant to have abandoned his position.

COMMENT: See C.C.R.C.P. 206.6 for form of praecipe for determination.

Rule 5002. Zoning and Local Agency Appeals

(a) This rule shall apply to all zoning and land use appeals filed under and pursuant to the Pennsylvania Municipalities Planning Code and to any appeal from any decision or determination of any political subdivision or municipal or other local authority, or any officer or agency of any such political subdivision, or local authority. All such local bodies are referred to herein as the "Local Agency".

(b) Upon the filing of any appeal requiring the Local Agency to certify and return to the Court the record made before it in the matter under appeal, the Prothonotary or Clerk shall forthwith, as of course, send to the Local Agency whose decision or action has been appealed, by registered or certified mail, a copy of the Notice of Appeal, together with a Writ of Certiorari commanding the said Local Agency, within twenty (20) days after receipt thereof, to certify to the Court its entire record in the matter in which the appeal has been taken, or a true and

complete copy thereof, including any transcript of testimony available to the Local Agency at the time it receives the Writ of Certiorari.

(c) Notice of appeal shall be given as follows:

(i) In the case of Zoning and Land Use Appeals, if the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the appeal is filed, shall serve a true copy of the Notice of Appeal by mailing the said Notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the Local Agency and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of Court.

(ii) In all appeals, within seven (7) days of the filing of an appeal, if the Local Agency is not a party appellant or appellee, the appellant shall notify the Local Agency, in writing, of the date of filing such appeal and shall attach to such notice a copy of the Notice of Appeal, as filed.

(d) The record submitted to the Court by the Local Agency in compliance with the Writ of Certiorari shall include (1) the proof of publication; (2) a complete copy of the ordinance, map and/or regulation under which the determination of the Local Agency was made, certified by counsel for the Local Agency or other Local Agency official to be the ordinance, map or regulation in effect when the decision was rendered or action taken which is the subject of the appeal; (3) the transcript of the proceedings before the Local Agency; and (4) all exhibits. The record shall be accompanied by a document entitled "Return of the Record", which shall list the contents of the record. Within five (5) days of the filing of the record with the Prothonotary, the attorney for the Local Agency or an official thereof shall give written notice to the appellant and intervenor, if any, or their attorneys of record of the date of such filing, and shall serve therewith a true copy of the Return of Record.

(e) Whenever an appeal is taken from a Local Agency decision or determination and the record is returned by the Court to the Local Agency for further proceedings, and a subsequent appeal is taken in the same case, the number of the original appeal shall be set forth in the notice of the subsequent appeal filed with the Prothonotary or Clerk, who shall docket and file the subsequent appeal under the number of the original appeal.

(f) Within thirty-one (31) days of the filing of the returned record, the appellant shall file a supporting Brief and a Praecipe for Determination. Appellee and any intervenors shall have thirty (30) days from the receipt of the appellant's Brief to file a reply Brief. The assigned Judge, in his discretion, may extend the time for filing of Briefs.

COMMENTS: See C.C.R.C.P. 206.6 for the form of Praecipe for determination.

(g) if the appellant fails to file his Brief within the time prescribed by these rules, or within the time as extended, the appellee or intervenor may move for dismissal of the matter. Such motion shall be served in accordance with these rules upon the appellant, who may file and Answer thereto, and the motion shall be thereafter determined by the Court as it deems just and proper. If an appellee or intervenor fails to file his brief within the time prescribed by these rules, or within the time as extended, the Court may consider such appellee or intervenor to have abandoned his position, and will proceed to dispose of the appeal on the merits.

Rule 5003. Appeals from Real Estate Assessment

The following rules shall apply to all appeals from a real estate assessment determined by the Board of Assessment Appeals "Board" of Chester County. These rules apply to all appeals taken following their effective date, and may be applied as appropriate to current appeals ninety (90) days after their effective date.

Definitions:

Board—the Chester County Board of Assessment Appeals.

Taxing Authority—municipalities, such as school districts, boroughs, townships and the County of Chester.

Party—appellant, the Board, and any other person or entity entitled to notice to shall enter an appearance.

Property Owner—the taxpayer, whether singular or plural, that owns the property which is the subject of an appeal.

Appraisal—an opinion of a qualified expert as the value of property.

Date of Notification—date which is stamped on the decision of the Board.

Commercial Property—any property whose purpose is to generate income for its owner.

Rule 5003(a). Filing Instructions:

1. An appeal from the decision of the Board shall be filed within thirty (30) days from the date of notification by the Board.

2. Ten (10) days after filing the appeal the appellant shall serve a copy of the appeal on the Board and all affected taxing authorities or property owners by certified mail to the Board, to the property owner at his, her, its, or their registered address as shown on the tax records, and on the taxing districts at their business address.

3. Within twenty (20) days of service of the appeal, the appellant shall file an affidavit of service.

4. For purposes of service or notice, an appellant or party may use the address provided to the Board as part of its proceedings.

5. The Board shall automatically be a party to an appeal unless it specifically declines that status in writing. Any taxing authority or property owner entitled to be notified of an appeal may become a party to the proceeding by filing an entry of appearance within one hundred twenty (120) days of the filing of the appeal. The entry of appearance shall be considered to deny the allegations in the appellant's petition, except for the names of the parties and the location of the taxable property. However, any party may plead additional material by way of answer or new matter, as appropriate, within thirty (30) days of becoming a party.

Rule 5003(b). Contents of Appeal

1. Names and addresses of the taxpayer and the taxing districts;

2. Identification of the property, including street address and tax parcel number.

3. Reason(s) for the appeal. For the purposes of this section, where a challenge is based on fair market value, it shall be sufficient to state that the assessment pursuant to the applicable State Tax Equalization Board, common level or predetermined ratio, is excessive. Where the challenge is based on uniformity, it shall be sufficient to state lack of uniformity as the basis for the appeal.

Where a challenge is based on class certification for the purposes of a class action suit, the appellant shall state with specificity the alleged error of law or abuse of discretion committed by the Board of Assessment Appeals.

4. Photocopy of the decision of the Board, if any.

Rule 5003(c). Discovery Procedures

1. The appellant shall provide the Board and the other parties entitled to notice of the appeal with a copy of his, her, its, or their appraisal within sixty (60) days of filing the appeal. The other parties shall then have ninety (90) days from the receipt of the appellant's appraisal to provide the appellant with a counter-appraisal. Any party may designate an appraisal submitted to the Board as its appraisal for the purposes of appeal. Appraisals must certify that the appraiser's fee is not contingent upon the results of the appeal.

2. Any party who fails to provide an appraisal within the time frame provided by this rule or by leave of court or within such time as may be agreed to by the parties will not be allowed to present evidence of valuation at trial. This rule shall not preclude the Board from presenting County records in support of its valuation. Such records shall be admissible in evidence as official records in accordance with the requirements of the Judicial Code, 42 Pa.C.S.A. § 6103. Further, this rule shall not preclude a homeowner from presenting his own opinion as to his property's value.

3. In cases involving commercial properties, the taxpayer shall provide the following to all other parties within thirty (30) days of the filing of the appeal:

(A) Income and expense statements for three (3) years prior to the appeal year;

(B) A current rent roll, including a list of tenants, rental amounts, lease periods and a sample lease with any special terms or renewal options;

(C) The right to inspect the property at a reasonable time with notice.

4. The names of all witnesses to be called at trial by any party, other than rebuttal witnesses later determined, shall be provided to all other parties within one hundred fifty (150) days of the appeal date.

5. Additional discovery shall be by leave of court only.

6. The matter shall be scheduled for trial before the assigned judge after the lapse of one hundred fifty (150) days from the appeal date. Any party may request an administrative conference at any time up to one hundred twenty (120) days after the appeal date.

7. Masters may be appointed in cases involving a voluminous record or particularly complex issues.

8. Time periods may be extended for cause shown.

Rule 5003(d). Class Action Appeal

In all cases involving an appeal from class action certification, a full record shall be made before the Board of Assessment Appeals.

Rule 5003(e). Discontinuance

The party filing the appeal may discontinue the appeal prior to the time set for the first exchange of appraisals. Thereafter, the appeal may be discontinued only with the agreement of all parties, or by leave of court.

Rule 5003(f). Tax Exemption Cases

1. All appeals to court from a determination of the Board of Tax Assessment Appeals involving a claimed

exemption from real estate tax shall be accompanied by the full and complete transcript of the hearing before the Board, together with all documentary evidence entered as part of that record and the Board's Findings of Fact and Conclusions of Law in support of its decision.

2. In any appeal to the Board or to court involving a claimed exemption from real estate taxation, the property owner claiming tax exemption shall be subject to such relevant discovery by written interrogatories, deposition and production of documentary evidence as reasonably bears on the property owner's claim of tax exemption. Discovery shall be requested and completed within one hundred twenty (120) days from the requesting party's receipt of notice of the initial application to the Board. Except in cases where such discovery requests has not been complied with prior to the Board's hearing, no additional discovery shall be permitted on appeal to court from the Board's decision, except by leave of court.

COMMENT: This rule specifically does not require simultaneous exchange of information; instead the entity filing an appeal should bear the initial expense and burden of producing an appraisal. This rule should then conserve resources by giving the respondent the opportunity to accept the appellant's appraisal as satisfactory before ordering his or its own appraisal.

Rule 5004. Appeals filed with the Clerk Of Courts

When an appeal to the Court of Common Pleas is filed with the clerk of courts, a party must file either a praecipe for determination or, if an evidentiary hearing is required, a praecipe for hearing to move the matter before the court. The appropriate praecipe should be addressed to, and served upon the court administrator.

COMMENT: See C.C.R.C.P. 206.6 regarding praecipe for determination.

Rule 5005. Civil Rules Committee

A civil procedural rules committee shall be appointed within sixty (60) days of the effective date of these rules to study and make recommendations to the court concerning local procedure in civil matters and the promulgation and amendment of local rules of civil procedure. The committee shall be composed of a judge of this court and members in good standing of the Bar of the Supreme Court of Pennsylvania who maintain principal offices for the practice of law in Chester County, all of whom shall be appointed by the president judge. The chairman of the committee shall be a non-judicial member of the committee and shall be designated by the president judge. The committee shall meet as directed by the president judge, or by the chairman of the committee, but in no event less often than semi-annually.

Rule 5006. Effective Date and Repealer

These rules shall become effective thirty days after the date of publication of these rules in the *Pennsylvania Bulletin*, pursuant to Pa.R.C.P. No. 239. All previous local rules of civil procedure are hereby repealed as of the effective date of these rules, except the rules of the Family Court and of the Orphans' Court Division of the Court of Common Pleas of Chester County, which shall remain in full force and effect.

[Pa.B. Doc. No. 04-1059. Filed for public inspection June 18, 2004, 9:00 a.m.]

LEBANON COUNTY

Rules of Civil Procedure for the Court of Common Pleas

Rule 52-51: Title and Citation of Rules

All Civil procedural rules adopted by the Court of Common Pleas of Lebanon County shall be known as the Lebanon County Rules of Civil Procedure and shall be cited as "Leb.Co.R.C.P. _____."

Rule 52-52: Intent of Rules

These Rules are intended to implement and supplement the Pennsylvania Rules of Civil Procedure, and shall govern Civil practice and procedure in the Court of Common Pleas of Lebanon County.

Rule 52-76: Definitions

Unless the context clearly indicates otherwise, the words and phrases used in any Rule promulgated by the Court of Common Pleas of Lebanon County shall be given the same meanings as those words and phrases are given in Pa.R.C.P. 76, except:

- (1) "Court" or "The Court" shall mean the Court of Common Pleas of Lebanon County.
(2) "Rule" shall mean any rule of court promulgated by the Court of Common Pleas of Lebanon County.

Rule 52-107: Publication

The Lebanon County Legal Journal is designated as the legal publication for the Court of Common Pleas of Lebanon County.

Rule 52-205.2(a): Papers and Documents; Filing

- (A) All papers and documents desired to be made part of the Court record shall be filed in the office of the Prothonotary.
(B) Two copies of all Briefs and/or Memoranda of Law shall be provided to the Judges' Chambers simultaneously with their filing in the Prothonotary's Office.
(C) Arbitrators, Auditors or other officials appointed by the Court shall have authority to remove documents from the Prothonotary's Office as may be necessary for the purposes of their appointment.

- (D) All papers, pleadings, and documents filed with the Court shall be on 8 1/2 by 11 inch paper.
(E) All petitions or motions setting forth allegations of fact shall be accompanied by a verification signed by a person having knowledge of the facts contained therein.

Rule 52-205.4: Praecipe for Disposition

- (A) In order to obtain a decision from the Court on any contested legal issue, a party must file a Praecipe for Disposition, substantially in the form set forth in sub-section (b) below.
(B) A Praecipe for Disposition shall be in substantially the following form:
Plaintiff : IN THE COURT OF COMMON PLEAS
LEBANON COUNTY, PENNSYLVANIA
vs. : CIVIL DIVISION
Defendant : NO.

PRAECIPE FOR DISPOSITION

TO THE PROTHONOTARY:

Please transmit the accompanying (List Motion or Petition) to the Court for disposition pursuant to Leb.R.C.P. 205.5. Judge Previously Assigned to this matter:

Oral Argument [is] [is not] requested.

The names and addresses of all opposing counsel/pro se litigants are as follows:

By: Name, I.D. #, Address, Phone Number, Attorney for

(C) Once a Praecipe for Disposition has been filed, the Court will establish a schedule for filing of briefs and/or argument and notify all parties of that schedule.

Rule 52-205.5: Praecipe for Hearing

- (A) In order to obtain a hearing before the Court, a party shall file a Praecipe for Hearing, substantially in the form set forth in sub-section (B) below.
(B) A Praecipe for Hearing shall be in substantially the following form:
Plaintiff : IN THE COURT OF COMMON PLEAS
LEBANON COUNTY, PENNSYLVANIA
vs. : CIVIL DIVISION
Defendant : NO.

PRAECIPE FOR HEARING

TO THE PROTHONOTARY:

Please transmit the (List Motion) to the Court for a hearing pursuant to Leb.R.C.P. 205.5. Length of Anticipated Hearing: Judge Previously Assigned to Matter: Names and addresses of all opposing counsel or pro se parties:

By: Name, I.D. #, Address, Phone Number, Attorney for

(C) Once a Praecipe for Hearing has been filed, the Court will notify all parties of the date and time assigned for that hearing.

Rule 52-205.6: Service on Opposing Parties

(A) It shall be the responsibility of a party filing a document to insure that the document is served upon all other parties or their counsel.

(B) Service under this rule may be effectuated by any method permitted by the Pennsylvania Rules of Civil Procedure, including by facsimile transmission or email transmission, to the address set forth on counsel's latest Entry of Appearance. Service upon a pro se litigant shall be effectuated by mail to the last known address of the party.

(C) A Certificate of Service must be filed by the person effecting service setting forth the following:

- (1) the names of all persons served;
- (2) the method of service;
- (3) the date of service;
- (4) the address, fax number or email location to which service was made; and
- (5) the name and signature of the person who personally effectuated service.

(D) Service shall be accomplished by either of the following methods:

(1) By leaving at the Prothonotary's Office a copy of all filed documents and proposed Orders together with stamped envelopes addressed for each opposing counsel and/or pro se litigant(s). The Prothonotary shall use the envelopes provided to serve all filed documents and accompanying Orders of Court by mail. Thereafter, the Prothonotary shall complete and file a Certificate of Service in compliance with sub-section (D). Such certificate shall constitute prima facie proof that service was accomplished; or

(2) By directly serving copies of all filed documents upon all opposing parties or their counsel in accordance with sub-section (B) of this rule. The party serving such documents shall be required to file a Certificate of Service in compliance with sub-section (C) above. Once the court issues any Order or Rule to Show Cause, the Prothonotary shall serve a copy of that document on all parties or their counsel by any method permitted in sub-section (B). Thereafter, the Prothonotary shall file a Certificate of Service in compliance with sub-section (D). Such certificate shall constitute prima facie proof that service was accomplished.

Rule 52-205.7: Uncontested Matters

(A) A party seeking relief via a motion or petition shall certify the matter as uncontested if all opposing parties have consented to the requested relief. All uncontested requests for relief must be accompanied by one of the following:

- (1) An agreement signed by all parties to the dispute;
- (2) A stipulation signed by all counsel and/or parties; or
- (3) A verification signed by counsel indicating that counsel has personally communicated with all opposing counsel/parties and has received the concurrence of all opposing counsel/parties with respect to the requested relief.

(B) Any motion certified as uncontested shall be accompanied by a proposed Order incorporating the relief agreed upon by all parties.

Rule 52-205.8: Motion for Rule Absolute

When the Court has issued a Rule to Show Cause and no party files a response within the time allotted by the Court, the petition or motion that accompanied the Rule to Show Cause shall be deemed uncontested. The moving party may obtain an Order granting final relief by filing a Motion for Rule Absolute. All Motions for Rule Absolute shall append copies of all Certificates of Service averring that all opposing parties had been served with copies of the original petition and any Rule to Show Cause issued by the Court. A Motion for Rule Absolute must be accompanied by a proposed Order setting forth the relief that was uncontested.

Rule 52-206.4(C): Petitions

(A) All petitions must be filed in accordance with Rule 52-205.2.

(B) All petitions must be served upon all opposing parties in accordance with Rule 52-205.6.

(C) All uncontested petitions shall be processed in accordance with Rule 52-205.7 and Rule 52-205.8.

(D) Unless a petition is certified as uncontested, it must be accompanied by an Order or Rule to Show Cause that is substantially in compliance with Pa.R.C.P. 206.5.

(E) Whenever a responding party files an answer to a petition, it shall be deemed a contested matter. Contested matters will be handled in accordance with Pa.R.C.P. 206.7. For all contested matters where no disputed issues of material fact exist, any party may file a Praecipe to certify the matter to Court for disposition pursuant to 52-205.4. For all contested matters in which there are disputed issues of fact, discovery may be conducted by leave of Court pursuant to Pa.R.C.P. 206.7. Following the completion of any permitted discovery, any party may praecipe the Court for a hearing pursuant to Local Rule 52-205.5 or for disposition pursuant to Rule 52-205.4.

Rule 52-208.2(D): Motions—Concurrence or Non-Concurrence

Except in emergency circumstances, any party seeking relief from the Court by way of motion shall contact all opposing counsel to seek concurrence with respect to that motion. A statement of concurrence or non-concurrence shall be set forth in all motions. It shall not be necessary for a moving party to seek concurrence from a pro se litigant.

Rule 52-208.2(E): Discovery Motions

No party will be permitted to file any motion pertaining to discovery unless that party files a certificate verifying that efforts have been made to resolve the discovery dispute with opposing counsel. Such certificate shall be appended to any discovery motion that is filed.

Rule 52-208.3(A): Motions

(A) Except for motions made orally at trial or hearing, all motions must be filed in accordance with Rule 52-205.2.

(B) All motions shall be served upon all parties in accordance with Rule 52-205.6.

(C) All uncontested motions shall be processed in accordance with Rule 52-205.7 and Rule 52-205.8.

(D) Unless a motion is certified as uncontested, it shall be accompanied by an Order or Rule to Show Cause that is substantially in compliance with Pa.R.C.P. 208.4.

Rule 52-208.3(B): Contested Motions

When an answer is filed by any party to a motion, that motion shall be considered to be contested. The procedure with respect to contested motions shall be as follows:

(a) For any matter where no disputed issues of material fact exist, any party may file a Praeceptum to certify the matter to Court for disposition pursuant to Rule 52-205.4.

(b) For any contested matter where disputed issues of fact are to be resolved by hearing, any party may file a Praeceptum requesting a hearing pursuant to Rule 52-205.5.

(c) For any matter where disputes of fact are to be resolved by affidavit and/or depositions, said affidavits and/or depositions shall be filed with the Prothonotary's Office within 20 days following the filing of the answer. Thereafter, any party may file a Praeceptum for Disposition pursuant to Rule 52-205.5.

Rule 52-210: Form of Briefs

Briefs, as required, shall be in the form prescribed by Pa.R.C.P. No. 210. Content thereof shall be as set forth in Pa.R.A.P. No. 2111.

Rule 52-211: Oral Argument

Oral argument may be requested by any party. A party filing a Praeceptum for Disposition under Rule 52-205.5 may include a request for oral argument within the Praeceptum for Disposition. Any other party may request oral argument by filing a Praeceptum within five (5) days following the filing of the Praeceptum for Disposition. If no request for oral argument is submitted, the Court will decide the issue based upon the record and briefs filed by the parties. If a request for oral argument is granted, the Court will notify the parties of the date and time set forth for argument upon notification to the parties of the briefing schedule. Unless otherwise ordered by the Court, oral argument shall be conducted in accordance with the schedule set forth on the Court's annual calendar.

Rule 52-212: Status Conference

(A) Subsequent to the passage of one (1) year following the filing of a Complaint, any party may request a status conference. Following a status conference, the Court may enter an order imposing deadlines, scheduling a mediation or establishing such other relief as may facilitate the prompt resolution of the case.

(B) A status conference shall be conducted in the manner proscribed by the presiding jurist.

(C) Any party may request a status conference by filing a praecipe substantially in the form of Paragraph (D) below. It shall be the responsibility of the requesting party to contact opposing counsel prior to the status conference in order to delineate issues to be addressed at the status conference.

(D) A Praeceptum for Status Conference shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : LEBANON COUNTY, PENNSYLVANIA
 vs. : CIVIL DIVISION
 :
 Defendant : NO.

PRAECIPE FOR STATUS CONFERENCE
 TO THE PROTHONOTARY:

Please transmit a request for a status conference to the Court, pursuant to Leb.R.C.P. 212.

(1) Judge Previously Assigned to Matter: _____

(2) Plaintiff's Counsel will be participating [in person] [by telephone]. The telephone number at which Plaintiff's counsel can be reached is _____.

Defendant's counsel will be participating [in person] [by telephone]. The telephone number at which Defendant's counsel can be reached is _____.

(3) [Repeat a statement as set forth in (1) or (2) for all other parties.]

By:
 Name
 I.D. #
 Address
 Phone Number
 Attorney for

(E) Following the filing of a Praeceptum for Status Conference, the Court will notify all counsel as to the date and time set for the status conference. Except as may be otherwise ordered by Court, status conferences will take place on dates to be listed on the Court's annual scheduling calendar.

Rule 52-212.1: Certification for Trial

(A) Any party desiring to proceed to trial shall file with the Prothonotary a "Certificate of Readiness for Trial" certifying that all discovery has been completed and that all pre-trial motions have been decided. Any party seeking to certify a matter for trial shall first notify all opposing counsel. If there is any disagreement as to readiness for trial, a status conference shall be requested under Rule 52-212.

(B) The party certifying the matter for trial shall serve a copy of the Certificate of Readiness upon all opposing counsel or pro se litigants. If any counsel wishes to object to the certification of the matter for trial, that party shall file a status report within ten (10) days following receipt of the Certificate of Readiness for Trial. The status report shall include the following information:

- (1) A statement setting forth the status of the proceeding;
- (2) A statement of all reasons why counsel believes the matter is not ready for trial;
- (3) A summary of the determination resulting from any prior status conferences conducted pursuant to Rule 52-212.

(C) Following receipt of the Certificate of Readiness for Trial and any status reports, the Court will enter an appropriate order that may include:

- (1) An order scheduling a status conference;
- (2) An order scheduling a pre-trial conference and setting forth the date on which pre-trial statements are to be filed pursuant to Pa.R.C.P. 212.1.

Rule 52-212.2: Pre-Trial Statements

(A) In addition to the information required by Pa.R.C.P. 212.2, the pre-trial statements of counsel shall also include:

- (1) A statement of all proposed amendments to the pleadings;
- (2) A statement of admissions from the pleadings;
- (3) A statement of any special scheduling requests;
- (4) A list of all deposition objections that will have to be resolved by the Court prior to trial;

- (5) A statement of all witnesses (with addresses) intended to be called at trial;
- (6) An itemization of all exhibits intended for utilization at trial;
- (7) An estimate of the time necessary for trial;
- (8) A statement of the issues to be determined at trial; and
- (9) A statement of any additional special requests.

Rule 52-212.3: Pre-Trial Conference

Except for good cause shown, the attorneys who will try the case shall attend the pre-trial conference. Unexcused failure of trial counsel to appear or to file a pre-trial statement may result in the imposition of costs, counsel fees or other sanctions as determined by the Court.

Rule 52-223.1: Exhibits

(A) Exhibits admitted at trial

(1) At the conclusion of a trial or hearing, all exhibits larger than 8 1/2 x 11 inches, which are part of the record, shall be reduced to that size, and all tangible objects which are part of the record, shall be photographed in color by the party originally proffering the evidence. The 8 1/2 x 11 inch reductions and color photographs shall be substituted in the record for the original exhibits and tangible objects unless the trial judge, upon motion or sua sponte, or an appellate court, shall direct otherwise. At the conclusion of the trial or hearing, the original exhibit shall be returned for safekeeping to the party who presented it and that party shall maintain custody of the exhibit until conclusion of all appellate proceedings in the case, unless the trial judge, upon motion or sua sponte, shall direct otherwise.

(2) Whenever a videotape deposition of a witness is presented at trial or hearing, the videotape cassette shall be marked as an exhibit as required by Pa.R.C.P. 4017.1. At the conclusion of the trial or hearing, the videotape cassette shall be returned for safekeeping to the party who presented it and that party shall maintain custody of the cassette until conclusion of all appellate proceedings in the case, unless the trial judge, upon motion or sua sponte, shall direct otherwise.

(3) Whenever a videotape deposition of a witness is presented at trial or hearing, it shall be accompanied by a transcript of the deposition as required by Pa.R.C.P. 4017.1(a)(2). The accompanying transcript shall be marked as an exhibit and retained in the record of the proceedings. In the event the record of the trial or hearing is transcribed for appellate or other purposes, the exhibit of the transcript accompanying the deposition shall be considered the official transcript of the testimony of the deponent. It shall not be necessary for the trial court reporter to also transcribe the audio portion of the videotape deposition which was presented at trial or hearing, so long as the record clearly reflects which part of the audio portion of the videotape deposition was offered into evidence and admitted.

(B) Disposition of exhibits after trial:

(1) After trial, exhibits admitted into evidence shall be retained by the Court until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained until disposition of the appeal.

(2) Within sixty (60) days of the final disposition of all appeals or the date when no further appeal may be taken under the Pennsylvania Rules of Civil Procedure, the

party who offered the exhibits may reclaim them from the Court. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Court.

(3) Notwithstanding the above, any person who has a possessory or legal interest in any exhibit which has been introduced into evidence may file a claim for such exhibit within thirty (30) days after trial. The presiding judge shall determine the validity of such claim and determine the manner and timing of disposition.

Rule 52-223.3: Contact with Jurors

No attorney or party may initiate any contact with any member of the jury panel either before, during or after a jury trial unless specifically authorized by the Court.

Rule 52-430: Service by Publication

Service by publication, when appropriate, shall be made by publishing the appropriate notice one (1) time in the Lebanon County Legal Journal and one (1) time in a newspaper of general circulation in Lebanon County. The address on the notice required by Pa.R.C.P. 430 shall be the same office designated by the Court in Leb.R.C.P. 1018.

Rule 52-1012: Entry of Appearance

Upon the filing of the initial document on behalf of a party in any proceeding, the attorney filing the same shall simultaneously file his/her written appearance in the manner required by Pa.R.C.P. 1012 with such additional information as may be required by the Prothonotary. Counsel who have the ability to receive information by email and/or facsimile number shall also include that information within their Entry of Appearance. An amended Entry of Appearance shall be filed should the address or other contact information of counsel change.

Rule 52-1018.1: Address in Notice to Defend

The address to be included in the Notice to Defend required by Pa.R.C.P. 1018.1 shall be as follows:

Mid-Penn Legal Services
513 Chestnut Street
Lebanon, PA 17042
Phone: (717) 274-2834

Rule 52-1028(c): Preliminary Objections

(A) Preliminary Objections must be filed in accordance with Rule 52-205.2

(B) All Preliminary Objections must be accompanied by a Brief In Support Thereof unless factual issues are raised, in which case procedures set forth in (D) shall be followed. Failure by a party to file a brief may result in dismissal of the Preliminary Objections.

(C) Within twenty (20) days following service of the Preliminary Objections, the adverse parties or their counsel shall file an amended pleading or a responsive brief with the Prothonotary.

(D) The following rules shall apply to Preliminary Objections raising factual issues:

(1) All Preliminary Objections raising factual issues and any answers thereto must be verified by an individual having knowledge as to the facts set forth therein.

(2) All Preliminary Objections containing factual averments must be accompanied with a Notice to Plead pursuant to Pa.R.C.P. 1361.

(3) Within thirty (30) days following the filing of an answer that raises a factual dispute, the party filing the Preliminary Objection may supplement the record with

necessary affidavits or depositions, or praecipe the Court for a hearing pursuant to Rule 52-205.5. If an extension of this time is needed, it must be sought by Motion to the Court.

(4) Within fourteen (14) days following the establishment of a record by way of affidavit, deposition or hearing, the moving party shall file a brief. The opposing party shall file a brief within fourteen (14) days thereafter.

(5) All documents and briefs set forth within the Rule are to be filed in accordance with Rule 52-205.2 and are to be served in accordance with Rule 52-205.6.

(6) Within seven (7) days following the filing of the last brief, the party filing the Preliminary Objections shall praecipe those objections to the Court for disposition pursuant to Rule 52-205.5.

Rule 52-1301: Compulsory Arbitration

All civil cases seeking money damages as relief, except cases involving title to real estate, where the amount of relief sought (exclusive of interest and costs) is the statutory limit authorized by § 7361 of the Judicial Code (42 Pa.C.S.A. § 101 et seq.) or less, shall be submitted to arbitration for consideration and award by a Board of Arbitrators. No case shall be submitted for arbitration where an inconsistent procedure is prescribed by statute or rule of court. In addition, any other case, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by agreement of all parties.

Rule 52-1302: Arbitrators

(A) A Board of Arbitrators shall be appointed on the praecipe of any party.

(B) A list of available arbitrators shall be maintained by the Court, consisting of members of the Bar actively engaged in the practice of law in Lebanon County.

(C) The Court shall appoint from the aforesaid list three (3) members to each board of arbitrators, at least one of whom shall have been admitted to practice before the Supreme Court of Pennsylvania for more than five years prior to his or her own appointment. The Chairman of the board shall be that attorney appointed with the longest period of practice in Lebanon County.

(D) Compensation for arbitrators shall be set by Administrative Order of the Court as follows:

(1) Each member of the Board of Arbitrators who has signed the report or filed a minority report;

(2) Additional compensation for the Chairman of the Board of Arbitrators;

(3) Additional compensation in the event of the filing of a counterclaim filed and heard by the arbitrators;

(4) In matters requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on motion of the members of the board, may allow additional compensation. Such motion shall be filed and ruled on prior to the filing of the report of arbitrators.

Rule 52-1303: Hearing and Notice

(A) The chairman of the Board of Arbitrators shall fix the time and place for a hearing and shall give at least thirty (30) days written notice to all parties, their counsel and the other arbitrators;

(B) The hearing shall be held within ninety (90) days after appointment of the board, unless extended by a written agreement of all parties or their counsel, or by Order of Court. The board shall file its report and award within twenty (20) days after the conclusion of the hearing.

Rule 52-1034(a): Motion for Judgment on the Pleadings

The procedure for any Motion for Judgment on the Pleadings shall be governed by Rule 52-208.2(D) and Rule 52-208.3(A).

Rule 52-1035.2(a): Motions for Summary Judgment

The procedure for Motions for Summary Judgment shall be governed by Rule 52-208.2(D) and Rule 52-208.3(A).

Rule 52-4007.1: Depositions

Unless otherwise ordered by the Court or agreed to by all parties, all depositions by oral examinations of fact witnesses shall be conducted within Lebanon County.

Rules Numbered 1 through 40 of the Rules of the Court of Common Pleas of Lebanon County Civil Division are specifically repealed as of July 26, 2004. These rules shall be effective as of July 26, 2004.

ROBERT J. EBY,
President Judge

[Pa.B. Doc. No. 04-1060. Filed for public inspection June 18, 2004, 9:00 a.m.]