

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to the Confidentiality of Disciplinary Proceedings; Notice of Change in Comment Due Date

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania previously published a notice of proposed rulemaking in the *Pennsylvania Bulletin* on June 26, 2004, Vol. 34, No. 26, concerning amending the Pennsylvania Rules of Disciplinary Enforcement to provide that disciplinary proceedings will not be confidential after the filing and service of a petition for discipline and the filing of an answer or the time to file an answer has expired or after the filing of a petition for reinstatement.

Interested persons were invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before July 30, 2004.

In order to provide interested parties with additional time to submit written comments regarding these proposed amendments, The Disciplinary Board has determined that the period to respond shall be extended to August 31, 2004.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Executive Director and Secretary

[Pa.B. Doc. No. 04-1336. Filed for public inspection July 23, 2004, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 15]

Order Amending Pa.R.A.P. 1501—1571; No. 155 Appellate Procedural Rules; Doc. No. 1

Amended Order

Per Curiam:

And Now, this 8th day of July, 2004, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been published before adoption at 33 Pa.B. 2259 (May 10, 2003).

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the proposed amendments to Pa.R.A.P. 1501—1571 are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 60 days after adoption.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

IN GENERAL

Rule 1501. Scope of Chapter.

(a) *General rule.* Except as otherwise prescribed by Subdivisions (b) and (c) of this rule, this chapter applies to:

* * * * *

(3) [**Objections to a determination by a government unit**] **Original jurisdiction actions** heretofore cognizable in an appellate court by [**an action**] **actions** in the nature of equity, replevin, mandamus or quo warranto or for [**a**] **declaratory judgment**, or upon writs of certiorari or prohibition.

(4) **Matters designated by general rule, e.g., review of orders refusing to certify interlocutory orders for immediate appeal, release prior to sentence, appeals under Section 17(d) of Article II of the Constitution of Pennsylvania and review of special prosecutions or investigations.**

(b) *Appeals governed by other provisions of rules.* This chapter does not apply to any appeal within the scope of:

* * * * *

(3) Chapter 13 (interlocutory appeals by permission), except that the provisions of this chapter and ancillary provisions of these rules applicable to practice and procedure on petition for review, so far as they may be applied, shall be applicable: (a) **where required by the Note to Rule 341 and the Note to Rule 1311;** and (b) after permission to appeal has been granted from a determination which, if final, would be subject to judicial review pursuant to this chapter.

* * * * *

Official Note:

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Subdivision (a)(4) was added in 2004 to recognize the references in various appellate rules and accompanying notes to petition for review practice. For example, the Notes to Rules 341 and 1311 direct counsel to file a petition for review of a trial court or government agency order refusing to certify an interlocutory order for immediate appeal. Similarly, Rule 1762 directs the filing of a petition for review when a party seeks release on bail before judgment of sentence is rendered. See Rule 1762(b). A petition for review is also the proper method by which to seek judicial review pursuant to Rule 3321 (regarding legislative reapportionment commission) and Rule 3331 (regarding special prosecutions or investigations). The 2004 amendments clarify the use of petitions for review in these special situations.

Subdivision (b) of this rule is necessary because otherwise conventional appeals from a court (which is included in the scope of the term "government unit") to an appellate court would fall within the scope of this chapter under the provisions of Paragraph (a)(2) of this rule.

Subdivision (c) expressly recognizes that some statutory procedures are not replaced by petition for review practice. Thus, matters brought pursuant to Section 137 of the Associations Code governing judicial review of documents rejected by the Department of State or pursuant to the Election Code are controlled by the applicable statutory provisions and not by the rules in Chapter 15. See 15 Pa.C.S. § 137; Act of June 3, 1937, P. L. 1333, as amended 25 P. S. §§ 2600—3591.

[Rule 1561 (disposition of petition for review) makes clear that this chapter does not apply to ordinary tort, contract and post hearing conviction matters.

Where] In light of Subdivision (d), where the court in which a petition for review is filed lacks subject matter jurisdiction (e.g., a petition for review of a local government question filed in the Commonwealth Court), Rules 741 (waiver of objections to jurisdiction), 751 (transfer of erroneously filed cases) and 1504 (improvident petitions for review) will be applicable. See also 42 Pa.C.S. § 5103.

The 2004 amendments are made to petition for review practice to address the evolution of judicial responses to governmental actions. As indicated in the Note to Rule 1502, when the Rules of Appellate Procedure were initially adopted, there was a "long history in the Commonwealth . . . of relatively complete exercise of the judicial review function under the traditional labels of equity, mandamus, certiorari and prohibition." While such original jurisdiction forms of action are still available, their proper usage is now the exception rather than the rule because appellate proceedings have become the norm. Thus, the need to rely on Rule 1503 to convert an appellate proceeding to an original jurisdiction action and vice versa arises less often. Moreover, the emphasis on a petition for review as a generic pleading that permits the court to simultaneously consider all aspects of the controversy is diminished. The primary concern became making the practice for appellate proceedings more apparent to the occasional appellate practitioner. Accordingly, the rules have been amended to more clearly separate procedures for appellate proceedings from those applicable to original jurisdiction proceedings.

The responsibility of identifying the correct type of proceeding to be used to challenge a governmental action is initially that of counsel. Where precedent makes the choice clear, counsel can proceed with confidence. Where the choice is more problematic, then counsel should draft the petition for review so as to satisfy the directives for both appellate and original jurisdiction proceedings. Then the court can designate the proper course of action regardless of counsel's earlier assessment.

[Explanatory Comment—1976

It is made clear that where permission to appeal is granted under Chapter 13 from a determination, which, if final, would be subject to the petition for

review procedures of Chapter 15 (e.g. permission to appeal from an interlocutory order of the Public Utility Commission) the further proceedings in the appellate court are governed by Chapter 15.]

Rule 1502. Exclusive Procedure.

The appeal[, the] and the original jurisdiction actions of equity, replevin, mandamus and quo warranto, the action for a declaratory judgment, and the writs of certiorari and prohibition are abolished insofar as they relate to matters within the scope of a petition for review under this chapter. The petition for review, insofar as applicable under this chapter, shall be the exclusive procedure for judicial review of a determination of a government unit.

Official Note: This chapter recognizes that the modern label "appeal" has little significance in connection with judicial review of governmental determinations in light of the long history in this Commonwealth of relatively complete exercise of the judicial review function under the traditional labels of equity, mandamus, certiorari and prohibition. If the simple form of notice of appeal utilized in Chapter 9 (appeals from lower courts) were extended to governmental determinations without any requirement for the filing of [exceptions] motions for post-trial relief, a litigant who incorrectly selected the appeal label, rather than the equity, mandamus, replevin, or prohibition, etc. label, would probably suffer dismissal, [since] because the court would be reluctant to try a proceeding in the nature of equity, mandamus, replevin, or prohibition, etc. in the absence of a proper pleading adequately framing the issues.

The solution introduced by these rules is to substitute a new pleading (the petition for review) for all of the prior types of pleading which seek relief from a governmental determination (including governmental inaction). Where the reviewing court is required or permitted to hear the matter de novo, the judicial review proceeding will go forward in a manner similar to an equity or mandamus action. Where the reviewing court is required to decide the questions presented solely on the record made below, the judicial review proceeding will go forward in a manner similar to appellate review of an order of a lower court. However, experience teaches that governmental determinations are so varied in character, and generate so many novel situations, that [frequently] on occasion it is only at the conclusion of the judicial review process, when a remedy is being fashioned, that one can determine whether the proceeding was in the nature of equity, mandamus, prohibition, or statutory appeal, etc. The petition for review will eliminate the wasteful and confusing practice of filing multiple "shotgun" pleadings in equity, mandamus, prohibition, statutory appeal, etc., and related motions for consolidation, and will permit the parties and the court to proceed directly to the merits unencumbered by procedural abstractions.

Rule 1551 (scope of review) makes clear that the change in manner of pleading does not change the scope or standard of review of governmental determinations or otherwise affect the [substantial] substantive rights of the parties.

* * * * *

Rule 1503. Improvident Appeals or [Plenary] Original Jurisdiction Actions.

If an appeal is taken from an order of a government unit, or if a complaint in the nature of equity, replevin,

mandamus, or quo warranto, or a petition for a declaratory judgment or for a writ in the nature of certiorari or prohibition is filed against a government unit or one or more of the persons for the time being conducting its affairs[, as such,] objecting to a determination by any one or more of them, this alone shall not be a ground for dismissal[, but the]. The papers whereon the improvident matter was commenced shall be regarded and acted upon as a petition for review of such governmental determination and as if filed at the time the improvident matter was commenced. The court may require that the papers be clarified by amendment.

* * * * *

Rule 1504. Improvident Petitions for Review.

If a petition for review is filed against any person, where the proper mode of relief is an **original jurisdiction** action in equity, replevin, mandamus or quo warranto, or a petition for a declaratory judgment or for a writ of certiorari or prohibition, this alone shall not be a ground for dismissal, but the papers whereon the improvident matter was commenced shall be regarded and acted upon as a complaint or other proper process commenced against such person and as if filed at the time the improvident matter was commenced. The court may require that the papers be clarified by amendment.

Official Note: Based on 42 Pa.C.S. § 102 (definitions) (which includes petition for review proceedings within the statutory definition of “appeal”) and 42 Pa.C.S. § 708(b) (appeals). When the moving party files [his] a clarifying amendment, the amendment will operate to specify that one form of action which the party elects to proceed on.

PETITION FOR REVIEW

Rule 1512. Time for Petitioning for Review.

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(b) *Special appellate provisions.* A petition for review of:

(1) A determination of the Department of Community [Affairs] and Economic Development in any matter arising under the Local Government Unit Debt Act, 53 Pa.C.S. §§ 8001—8271, shall be filed within 15 days after entry of the order or the date the determination is deemed to have been made, when no order has been entered.

* * * * *

(4) A determination of a Commonwealth agency under section 1711 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1711, shall be filed within 14 days of receipt of the decision.

(c) [Other governmental determinations] *Original jurisdiction actions.* A petition for review of a determination of a government unit not within the scope of Subdivisions (a) or (b) of this rule may be filed with the prothonotary of the appellate court within the time, if any, limited by law.

Official Note: The note to Rule 903 (time for appeal) addresses the development of the standard 30 day appeal period. Rule 102 defines a “quasijudicial order” as “an order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.”

* * * * *

Subdivision (c) relates to matters [which are original in nature] addressed to the original jurisdiction of an appellate court. For example, equitable matters are governed by existing principles of laches, etc. Other matters, such as petitions for review raising issues formerly cognizable by action in mandamus or quo warranto, etc., are governed by the time limits, if any, applicable under the prior procedure. See generally 42 Pa.C.S. §§ 1702 (regarding the Supreme Court’s rulemaking procedures), 1722(c) (Time limitations), 5501—5574 (Limitations of time).

Rule 1513. Petition for Review.

[(a) *Content.* The petition for review shall contain a statement of the basis for the jurisdiction of the court; the names of the parties seeking review; the name of the government unit (see Rule 503 (description of public officers)) which made the determination sought to be reviewed; reference to the order or other determination sought to be reviewed; a general statement of the objections to the order or other determination; and a short statement of the relief sought. The statement of objections will be deemed to include every subsidiary question fairly comprised therein. It shall not be necessary for the petition to include or have annexed thereto a copy of the text, if any, of the order or other determination sought to be reviewed.

(b) *Caption and parties.* The government unit which made the determination sought to be reviewed, and no other party, shall be named as a respondent, except where the petition seeks review of an order of a government unit which is in fact disinterested in the subject matter of the order, in which case all real parties in interest before such government unit shall be named as respondents and the government unit shall not be named as a respondent. Where a public act or duty is required to be performed by an executive or administrative department, by a departmental administrative board or commission or by an independent administrative board or commission of this Commonwealth, or other board or body, it shall be sufficient to name the department, board, commission or body in the petition for review, without naming or joining as a respondent the head of the department or the members of the board, commission or body. Where necessary in order to join an indispensable party to the matter, the petition for review may name as a respondent a person who is not a government unit.

(c) *Alternative objections.* Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be demanded.

(d) *Notice to plead.* If under the applicable law the questions raised by the petition for review may be determined in whole or in part upon the record made before the court, the petition shall contain or have endorsed upon it a notice to plead.

(e) *Verification.* A petition for review which contains or has endorsed upon it a notice to plead shall be verified either by oath or affirmation or by verified statement. Otherwise a petition for review need not be verified.

(f) *Form.* The petition for review shall be divided into paragraphs numbered consecutively, each containing as nearly as may be a single allegation of fact or other statement.

Official Note: This rule supersedes former Commonwealth Court Rules 20A, 20B and 21. Subdivision (b) is based in part upon Pa.R.Civ.P. 1094.

Examples of government units which are not ordinarily "interested" in the subject matter of a petition for review of their action for the purposes of Subdivision (b) of this rule are the Environmental Hearing Board, the Department of Education (with respect to tenure appeals under Section 1132 of the Public School Code of 1949 (24 P.S. § 11-1132)) and the State Civil Service Commission. With respect to the last sentence of Subdivision (b) see *Bruhin v. Commonwealth*, 14 Pa. Commonwealth Ct. 300, 320 A.2d 907 (1974) and 42 Pa.C.S. § 761(d) (ancillary matters) (last sentence), which provides that to the extent prescribed by general rule the Commonwealth Court shall have ancillary jurisdiction over any claim or other matter which is related to a claim or other matter otherwise within its exclusive original jurisdiction.

The inclusion or omission of a notice to plead in the petition for review is the signal which the petition gives to the opposing parties and the court as to the position which the petitioner will take on the issue of going beyond the record made below. If a notice to plead is included, the fact issue may be resolved by the subsequent pleadings permitted by Rules 1515 (answer to petition) and 1516 (other pleadings allowed), but if not the matter will under Rule 1542 (oral argument and evidentiary hearing) move either to summary judgment or to trial.

The 1997 amendment to subdivision (d) remedies what had been an inconsistency between the former heading and the text of the rule.

Explanatory Note—1979

The note is expanded to reflect the fact that the Department of Education does not defend its decisions in teacher tenure appeals from local school districts.]

(a) *Caption and parties on appeal.* In an appellate jurisdiction petition for review, the aggrieved party or person shall be named as the petitioner and, unless the government unit is disinterested, the government unit and no one else shall be named as the respondent. If the government unit is disinterested, all real parties in interest, and not the government unit, shall be named as respondents.

(b) *Caption and parties in original jurisdiction actions.* The government unit and any other indispensable party shall be named as respondents. Where a public act or duty is required to be performed by a government unit, it is sufficient to name the government unit, and not its individual members, as respondent.

(c) *Form.* Any petition for review shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement. When petitioner seeks review of an order refusing to certify an interlocutory order for immediate appeal, numbered paragraphs need not be used.

(d) *Content of appellate jurisdiction petition for review.* An appellate jurisdiction petition for review shall contain: (1) a statement of the basis for the jurisdiction of the court; (2) the name of the party or person seeking review; (3) the name of the government unit that made the order or other determination sought to be reviewed; (4) reference to the order or other determination sought to be reviewed, including the date the order or other determination was entered; (5) a general statement of the objections to the order or other determination; and (6) a short statement of the relief sought. A copy of the order or other determination to be reviewed shall be attached to the petition for review as an exhibit. The statement of objections will be deemed to include every subsidiary question fairly comprised therein. No notice to plead or verification is necessary.

Where there were other parties to the proceedings conducted by the government unit, and such parties are not named in the caption of the petition for review, the petition for review shall also contain a notice to participate, which shall provide substantially as follows:

If you intend to participate in this proceeding in the (Supreme, Superior or Commonwealth, as appropriate) Court, you must serve and file a notice of intervention under Rule 1531 of the Pennsylvania Rules of Appellate Procedure within 30 days.

(e) *Content of original jurisdiction petition for review.* A petition for review addressed to an appellate court's original jurisdiction shall contain: (1) a statement of the basis for the jurisdiction of the court; (2) the name of the person or party seeking relief; (3) the name of the government unit whose action or inaction is in issue and any other indispensable party; (4) a general statement of the material facts upon which the cause of action is based and (5) a short statement of the relief sought. It shall also contain a notice to plead and be verified either by oath or affirmation or by verified statement.

(f) *Alternative objections.* Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

Official Note: The 2004 amendments to this rule clarify what must be included in a petition for review addressed to an appellate court's appellate jurisdiction and what must be included in a petition for review addressed to an appellate court's original jurisdiction. Where it is not readily apparent whether a "determination" (defined in Rule 102 as "[a]ction or inaction of a government unit) is reviewable in the court's appellate or original jurisdiction, compliance with the requirements of Subdivisions (d) and (e) is appropriate.

Subdivisions (a) and (b) reflect the provisions of Rule 501 (Any Aggrieved Party May Appeal), Rule 503 (Description of Public Officers), Section 702 of the Administrative Agency Law, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. 1094 (regarding parties defendant in mandamus actions).

Government units that are usually disinterested in appellate jurisdiction petitions for review of their determinations include:

- the Board of Claims,
- the Department of Education (with regard to teacher tenure appeals from local school districts pursuant to section 1132 of the Public School Code of 1949, 24 P. S. § 11-1132),
- the Environmental Hearing Board,
- the State Charter School Appeal Board,
- the State Civil Service Commission, and
- the Workers' Compensation Appeal Board.

The provision for joinder of indispensable parties in original jurisdiction actions reflects the last sentence of section 761(c) of the Judicial Code, 42 Pa.C.S. § 761(c), providing for the implementation of ancillary jurisdiction of the Commonwealth Court by general rule.

Subdivisions (d) and (e) reflect the differences in proceeding in a court's original and appellate jurisdiction, while preserving the need for sufficient specificity to permit the conversion of an appellate document to an original jurisdiction pleading and vice versa should such action be necessary to assure proper judicial disposition. See also the notes to Rules 1501 and 1502. The paragraph regarding the notice to participate was formerly found in Rule 1514(c).

Rule 1514. Filing and Service of the Petition for Review.

(a) *Filing with the prothonotary.* The petition for review, with proof of service required by Subdivision (c) of this rule, shall be filed with the prothonotary of the appellate court in person or by first class or certified mail.

If the petition for review is [transmitted to the prothonotary] filed by [means of] first class or certified mail, the petition shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as [shown] stamped by post office personnel on a U. S. Postal Service Form 3817, certificate of mailing, or U. S. Postal Service Form 3800. The certificate of mailing shall show the docket number of the matter in the government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary.

Upon actual receipt of the petition for review, the prothonotary shall immediately:

(1) stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date [when review was sought, which date shall be shown on the docket. The prothonotary of the appellate court shall immediately note the docket number assignment in the appellate court upon] of filing;

(2) assign a docket number to the petition for review; and

(3) give written notice of the docket number assignment in person or by first class mail to the government unit [which] that made the determination sought to be reviewed, to the petitioner, and to the other persons named in the proof of service accompanying the petition.

(b) *Fee.* The petitioner, upon filing the petition for review, shall pay any [fee] fees therefor [prescribed

by Chapter 27 (fees and costs in appellate courts and on appeal)] as set by law or general rule.

(c) *Service.* A copy of the petition for review shall be served by the petitioner in person or by certified mail on the government unit [which] that made the determination sought to be reviewed. In matters involving the Commonwealth, the petitioner shall similarly serve a copy upon the Attorney General of Pennsylvania. [When the government unit is comprised of a plurality of persons, each of whom is to be joined individually, or where there is otherwise a plurality of persons named as respondents] Where there is more than one respondent, the petitioner shall separately serve each [such person] one. All other parties before the government unit [which] that made the determination sought to be reviewed shall be served as prescribed by Rule 121(b) (service of all papers required). [Whenever any such other parties are served, unless they have been named as respondents under Rule 1513(b) (caption and parties), the petition for review shall contain or have endorsed upon it a statement substantially as follows: "If you intend to participate in this proceeding in the (Supreme, Superior or Commonwealth, as appropriate) Court, you must serve and file a notice of or application for intervention under Rule 1531 of the Pennsylvania Rules of Appellate procedure within 30 days."]

(d) *Entry of appearance.* Upon the filing of the petition for review, the prothonotary shall note on the [record] docket as counsel for the petitioner the name of [his] counsel, if any, set forth in or endorsed upon the petition for review, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary shall, upon praecipe of any such counsel for other parties, filed within 30 days after filing of the petition, strike off or correct the record of appearances. Thereafter a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

Official Note: [This rule supersedes former Commonwealth Court Rules 20C, 21, 22 and 24.] See the note to Rule 1112 (appeals by allowance) for an explanation of the procedure when Form 3817 is used.

The petition for review must be served on the government unit that made the determination in question. Rule 102 defines "government unit" as including "any court or other officer or agency of the unified judicial system." Thus, a petition for review of a trial court order must be served on the judge who issued the order.

Service on the Attorney General shall be made at: Strawberry Square, Harrisburg, PA 17120.

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Rule 1515. [Answer to Petition] (Rescinded).

[Where under the applicable law the questions raised by the petition for review may be determined in whole or in part upon the record made before the court, and the right to an evidentiary hearing has been claimed by inclusion or endorsement of a notice to plead as prescribed by Rule 1513(d) (notice to plead), any adverse party may file an answer to the petition controverting any factual allegation of the petition.

Official Note: When the question is one of law, the denial of the contentions made in the petition for review will appear in the briefs of the parties. However, where for example the petition for review raises a question which formerly would have been determined in an action in equity, mandamus, etc., the petition may allege facts which the adverse party will desire to controvert at an evidentiary hearing before the reviewing court, and the factual issues should be properly framed for the court.]

Official Note: Rule 1515 formerly provided for an answer to a petition for review addressed to an appellate court's original jurisdiction. Answers to such petitions are now discussed in Rule 1516.

Rule 1516. Other Pleadings Allowed.

[(a) **General rule.** The pleadings on petition for review are limited to the petition, an answer thereto if permitted by Rule 1515 (answer to petition), a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, a preliminary objection and an answer thereto.

(b) **Effect of absence of answer.** A further pleading may be filed only in a matter in which an answer is permitted to be or has been filed.

(c) **Time for filing.** Every pleading subsequent to the petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: Patterned after Pa.R.Civ.P. 1017 (a) and 1026. The ten additional days in the pleading period is in recognition of the time required for agency coordination where the Commonwealth is a party. Under Rule 1972 (dispositions on motion) a party may move to dispose of the matter on a number of grounds without reaching the merits.]

(a) **Appellate jurisdiction petitions for review.** No answer or other pleading to an appellate jurisdiction petition for review is authorized, unless the petition for review is filed pursuant to the Notes to Rules 341 or 1311 (seeking review of a trial court or other government unit's refusal to certify an interlocutory order for immediate appeal), Rule 1762 (regarding release in criminal matters), Rule 3321 (regarding appeals from decisions of the Legislative Reapportionment Commission) or Rule 3331 (regarding review of special prosecutions and investigations). Where an answer is authorized, the time for filing an answer shall be as stated in Rule 123(b).

(b) **Original jurisdiction petitions for review.** Where an action is commenced by filing a petition for review addressed to the appellate court's original jurisdiction, the pleadings are limited to the petition for review, an answer thereto, a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, a preliminary objection, and an answer thereto. Every pleading filed after an original jurisdiction petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: The 2004 amendments made clear that, with five limited exceptions, no answer or

other pleading to a petition for review addressed to an appellate court's appellate jurisdiction is proper. With regard to original jurisdiction proceedings, practice is patterned after Rules of Civil Procedure 1017(a) (Pleadings Allowed) and 1026 (Time for Filing, Notice to Plead). The ten additional days in which to file a subsequent pleading are in recognition of the time required for agency coordination where the Commonwealth is a party. See Rule 1762(b)(2) regarding bail applications.

Rule 1517. Applicable Rules of Pleading.

Unless otherwise prescribed by these rules, the practice and procedure under this chapter relating to pleadings in original jurisdiction petition for review practice shall be in accordance with the appropriate Pennsylvania Rules of Civil Procedure, so far as they may be applied.

Official Note: See Rule 1762(b)(2) regarding bail applications. See also Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1531. Intervention.

(a) [**Notice of intervention**] **Appellate jurisdiction petition for review proceedings.** A party to a proceeding before a government unit [**which**] that resulted in a quasijudicial order may intervene as of right in a proceeding under this chapter relating to such order by filing a notice of intervention (with proof of service on all parties to the matter) with the prothonotary of the appellate court within 30 days after notice of the filing of the petition for review. [**In the case of a person for whom an appearance has been entered pursuant to Rule 1514(d) (entry of appearance) the failure to file a timely notice of intervention under this rule shall operate to strike off the appearance of such person in the appellate court.**] The notice of intervention may be in substantially the following form:

* * * * *

After 30 days after notice of filing of an appellate petition for review, permission to intervene may be sought by application pursuant to Rule 123.

(b) [**Application for intervention**] **Original jurisdiction petition for review proceedings.** A person not named as a respondent in [**the**] an original jurisdiction petition for review, who desires to intervene in a proceeding under this chapter, [**and who is not entitled to file a notice of intervention under Subdivision (a) of this rule,**] may seek leave to intervene by filing an application for leave to intervene (with proof of service on all parties to the matter) with the prothonotary of the court [**within 30 days after the filing of the petition for review**]. The application shall contain a concise statement of the interest of the applicant and the grounds upon which intervention is sought.

Official Note: A nonparty may file a brief as of right under Rule 531 (participation by amicus curiae) and, therefore, intervention is not necessary in order to participate in the appellate court where the petition for review is filed. However, except as provided in Rule 521(b) (status of Attorney General) and Rule 522(b) (status of Court Administrator), the mere filing of a brief does not confer party status. Where, for example, a nonparty to a petition for review proceeding in the Commonwealth Court desires to be in a position to seek further review in the Supreme Court of Pennsylvania or the Supreme Court of the United States of [**the**] an order of the

Commonwealth Court disposing of the petition for review, the nonparty should intervene or seek leave to intervene in the Commonwealth Court at the outset, since under Rule 501 (any aggrieved party may appeal), party status is a prerequisite to the right to further review.

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1532. Special and Summary Relief.

(a) *Special relief.* At any time after the filing of a petition for review, the court may, on application, order the seizure of property, dispose of seized property, [grant relief in the nature of peremptory mandamus,] issue a preliminary or special injunction, appoint a temporary receiver or grant other interim or special relief required in the interest of justice and consistent with the usages and principles of law.

(b) *Summary relief.* At any time after the filing of a petition for review in an appellate or original jurisdiction matter the court may on application enter judgment if the right of the applicant thereto is clear.

Official Note: Subdivision (a) [of this rule, which incorporates Rule 123(a) (contents of application for relief), makes clear that a request for two or more types of relief, including alternative relief] provides examples of specific types of interim relief that may be sought using the procedures set forth in Rule 123 (application for relief). Thus, multiple forms of relief, including those in the alternative, may be combined in the same application, [notwithstanding the fact that] even though separate actions might otherwise be necessary under the Pennsylvania Rules of Civil Procedure. Compare Rule 106 (original jurisdiction matters)[. See also]; 42 Pa.C.S. § 708(e) (single form of action).

[Subdivision (b) of this rule is a generalization of Pa.R.Civ.P. 1098 (peremptory judgment). Cf. Pa.R. Civ. P. 1035(a) (motion for summary judgment), which is not available until after the pleadings are closed.]

Subdivision (b) authorizes immediate disposition of a petition for review, similar to the type of relief envisioned by the Pennsylvania Rules of Civil Procedure regarding judgment on the pleadings and peremptory and summary judgment. However, such relief may be requested before the pleadings are closed where the right of the applicant is clear.

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

* * * * *

Rule 1541. Certification of the Record.

[When under the applicable law the questions raised by the petition for review may be determined by the court in whole or in part upon the record before the government unit] Upon notice from the appellate court of the filing of a petition for review addressed to the appellate jurisdiction of an appellate court, the government unit shall prepare and transmit the record as provided by Chapter 19 (preparation and transmission of record and related matters).

Official Note: [Based in part on former Pa.R.Civ.P. 5 and former Commonwealth Court Rule

23.] Rule 102 defines “government unit” to include “any court or other officer or agency of the unified judicial system.” Thus, if the order to be reviewed was filed by a trial court, that court shall certify the record. This occurs when the petition for review was filed pursuant to Rule 1762, 3321 or 3331, or the note to Rules 341 or 1311.

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1542. [Oral Argument and] Evidentiary Hearing.

[(a) *General rule.* Except as otherwise ordered by the court on its own motion or on application of any party, after the pleadings are closed the matter may be listed for argument before or submission to the court. At argument or on briefs any party may urge in support of its position any factual ground appearing of record or any legal ground not theretofore waived.

(b) *Evidentiary Hearing.*] In any matter [where under the applicable law the questions raised by the petition for review may be determined by the court in whole or in part upon the record made before the court and where, before or at final hearing,] addressed to the appellate court’s original jurisdiction, where it appears that a genuine issue as to a material fact has been raised by the pleadings, depositions, answers to interrogatories, stipulations of fact, admissions on file and supporting verified statements, if any, the court on its own motion or on application of any party shall, after notice to the parties, hold an evidentiary hearing for the development of the record.

Official Note: In view of Rule 106 (original jurisdiction matters) and Rule 1532 (special and summary relief), motions for judgment on the pleadings, Pa.R.C.P. 1034, summary relief and [for] summary judgment [under], Pa. R. [Civ.] C. P. [1034 and] 1035, will be available where a petition for review [with notice to plead] invoking the appellate court’s original jurisdiction has been filed. The procedure under this rule is intended to be flexible, although subject to the control of the appellate court by either rule of court adopted pursuant to Rule 104(a)(3) (rules of court) or by order[, and is necessarily experimental. The rule permits the case to pass directly from the evidentiary hearing before a single judge to a panel or the court en banc without the necessity of a preliminary decision by the hearing judge.]

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1543. [Trial by Jury] (Rescinded).

[An issue of fact shall be tried to a jury where the right to such trial is secured either by the Constitution or statutes of this Commonwealth or by the Constitution of the United States. Any right to trial by jury shall be deemed waived unless expressly reserved in the petition for review or an answer thereto.]

Official Note: * * *

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1551. Scope of Review.

(a) [Review of quasijudicial orders] Appellate jurisdiction petitions for review. Review of

quasijudicial orders shall be [**heard**] **conducted** by the court on the record **made before the government unit**. No question shall be heard or considered by the court which was not raised before the government unit except:

* * * * *

(b) [**Other matters**] **Original jurisdiction petitions for review**. The court shall hear and decide [**all other matters raised by petition**] **original jurisdiction petitions** for review [**with the scope of review provided by**] **in accordance with law**. This chapter is not intended to modify [**or**], enlarge [**the scope of judicial review of determinations of government units as heretofore existing**] or **abridge the rights of any party to an original jurisdiction petition for review**.

Official Note: Subdivision (a) is a generalization of former Pa.R. [**Civ.**] C.P. 8 and makes no change in substance except to provide that procedural issues not raised below are waived—unless excused under Paragraph (a)(3). Compare Rule 302 (requisites for reviewable issue). [**Paragraph 3 of the Order amending Subdivision (a)(1) provides that where an administrative proceeding was commenced prior to September 1, 1976, a petitioner for review of a quasijudicial order entered in such proceeding may raise in the appellate court questions involving procedure before the government unit notwithstanding the fact that the questions were not raised before the government unit below.**]

Subdivision (b) is based on Section 10(c) of Article V of the Constitution of Pennsylvania, which prevents this chapter from enlarging the [**substantial**] **substantive** rights of the petitioner or abridging the [**substantial**] **substantive** rights of the government unit named in the petition. Under the new practice, the appellate judge should inquire: "Assuming that this case had been properly brought before me by a complaint in equity (or in mandamus, replevin, quo warranto, etc., or by two or more of such actions properly consolidated for hearing and disposition) containing the factual allegations of the petition for review, to what relief, if any, would the moving party have been entitled under the prior practice?" This rule makes clear that the moving party is entitled to the same relief, and no more, under the new practice, since only the procedural requirement for separately labeled papers has been eliminated.

* * * * *

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1561. Disposition of Petition for Review.

(a) [**General rule**] **Appellate jurisdiction petitions for review**. The court may affirm, modify, vacate, set aside or reverse any order brought before it for review, and may remand the matter and direct the entry of such appropriate order, or require such further proceedings [**to be had,**] as may be just under the circumstances.

(b) [**Other relief**] **Original jurisdiction petitions for review**. Where the petition for review raises questions [**which**] that formerly were determinable in an action in equity, replevin, mandamus, quo warranto or for a declaratory judgment or upon a petition for a writ of certiorari or prohibition, or in another similar plenary

action or proceeding, the court may grant the relief heretofore available in any such plenary action or proceeding.

* * * * *

(d) **Review of detention**. Except as prescribed by Rule 1762(a)(2) (release [**prior to sentence**] **in criminal matters**) or by Rule 3331 (review of special prosecutions or investigations), review in the nature of criminal habeas corpus or post conviction [**hearing**] relief may not be granted under this chapter.

Official Note: * * *

Subdivision (b) is based on 42 Pa.C.S. § 708(e) (single form of action) (which provides that 1 Pa.C.S. § 1504 (statutory remedy preferred over common law) does not limit the jurisdiction of a court over a petition for review proceeding, but to the extent applicable shall limit the relief available) and 42 Pa.C.S. § 5105(d)(2) (scope of appeal). Under 42 Pa.C.S. § 102 (definitions), statutory references to "appeal" include proceedings on petition for review. The subdivision is intended to make clear that the petition for review is a generic pleading which will permit the court to consider simultaneously all aspects of the controversy.

Subdivision (c) is intended to make clear that the petition for review does not encompass trespass or assumpsit actions, but that an appeal may reach tort or contract matters adjudicated by a government unit as contemplated by Section 2(h) of the Judiciary Act Repealer Act (42 P. S. § 20002(h)). As to ancillary statutory damages, see 42 Pa.C.S. § 8303 (action for performance of a duty required by law).

Subdivision (d) is intended to make clear that the scope of this chapter is essentially civil in nature. The application of the petition for review to questions of release prior to sentence in criminal matters and in questions arising out of special prosecutions or investigations is merely a recognition of the technical need for a plenary filing to bring the question within the appellate jurisdiction of the appropriate court. **See Rule 1762(b)(2) regarding bail applications.**

REVIEW OF DETERMINATIONS OF THE BOARD OF FINANCE AND REVENUE

Rule 1571. Determinations of the Board of Finance and Revenue.

* * * * *

(f) **Record**. No record shall be certified to the court by the Board of Finance and Revenue. After the filing of the petition for review, the parties shall take appropriate steps to prepare and file a stipulation of such facts as may be agreed to and to identify the issues of fact, if any, which remain to be tried. See Rule 1542 [**(b)**] (evidentiary hearing).

(g) **Oral argument**. Except as otherwise ordered by the court on its own motion or on application of any party, after the record is closed, the matter may be listed for argument before or submission to the court.

(h) **Scope of review**. Rule 1551(a) [**(review of quasijudicial orders)**] (appellate jurisdiction petitions for review) shall be applicable to review of a determination of the Board of Finance and Revenue except that:

* * * * *

(i) *Exceptions.* Any party may file exceptions to an initial determination by the [**trial**] court under this rule within 30 days after the entry of the order to which exception is taken. Such timely exceptions shall have the effect, for the purposes of Rule 1701(b)(3) (authority of lower court or agency after appeal) of an order expressly granting reconsideration of the determination previously entered by the court. Issues not raised on exceptions are waived and cannot be raised on appeal.

Official Note: Subdivision (b) represents an exercise of the power conferred by 42 Pa.C.S. § 5105(a) (right to appellate review) to define final orders by general rule [, and is derived from the provisions of Section 1104(a) of the Fiscal Code (72 P.S. § 1104(a)), which are suspended absolutely by these rules]. The following statutes expressly require the Board of Finance and Revenue to act within six months in certain cases:

Section 1103 of [**the**] **The Fiscal Code** (72 P.S. § 1103).

[**Act of May 21, 1931 (P.L. 149, No. 105), known as The Liquid Fuels Tax Act, § 7 (72 P.S. § 2611g).**

Act of May 5, 1933 (P.L. 284, No. 104), known as the Malt Beverage Tax Law, § 4 (47 P.S. § 106).]

Act of December 5, 1933, (**Sp. Session 1933-34**), (P.L. 38, No. 6), known as the Spirituous and Vinous Liquor Tax Law, § 5 (47 P.S. § 749).

* * * * *

Sections 234 (sales and use tax) [**and**], 341 (personal income tax), and 2005 (malt beverage tax), act of March 4, 1971 (P.L. 6, No. 2), known as The Tax Reform Code of 1971 (72 P.S. §§ 7234, 7341, 9005). **The following statute requires the Board of Finance and Revenue to act within twelve months in certain tax refund matters:**

Section 3003.5 of the Tax Reform Code of 1971, Act of March 4, 1971, P.L. 6, No. 2, 72 P.S. § 10003.5. Section 3003.5 was added by Section 41 of the Act of June 16, 1994, P.L. 279, No. 48.

The following statutes are covered by Section 1103 of The Fiscal Code (**petition to Board of Finance and Revenue for review**):

[**Section**] **Sections 809** (various insurance taxes) and 1001 (miscellaneous settlements, e.g., under the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of 1921, § 212 (40 P.S. § 50) (retaliatory insurance taxes) [; with respect to district justice collections; etc.]) of The Fiscal Code (72 P.S. §§ 809 and 1001).

* * * * *

Act of June 22, 1935 (P.L. 414, No. 182), known as the State Personal Property Tax Act, § 18(b) (72 P.S. § 3250-11a(b)) (corporate loans tax). See [**act**] **Act of April 25, 1929 (P.L. 669, No. [228] 288), § 1.**

* * * * *

[**Act of December 27, 1951 (P.L. 1742, No. 467), known as The Realty Transfer Tax Act, § 10.1 (72 P.S. § 3291.1).**

Act of June 19, 1964 (P.L. 7, No. 1), known as the Motor Carriers Road Tax Act, § 20 (72 P.S. § 2617.20).

Act of June 22, 1964 (P.L. 16, No. 2), known as The Mutual Thrift Institutions Tax Act, § 4 (72 P.S. § 1986.4).]

Act of January 24, 1966 ([**1965**] P.L. (1965) 1509, No. 531), § 11 (40 P.S. § 1006.11) (surplus lines tax).

Sections 407 (corporate net income tax), [**503 (corporation income tax),**] 603 (capital stock—franchise tax), 702 (bank shares tax), 802 (title insurance and trust companies shares tax), 904 (insurance premiums tax) [**and**], 1102 (utilities gross receipts tax), **1111-C (realty transfer tax) and 1503 (mutual thrift institutions tax)** of [**The**] the Tax Reform Code of 1971 (72 P.S. §§ 7407, [**7503,**] 7603, 7702, 7802, 7904 [**and**], 8102, **8111-C and 8503**).

75 Pa.C.S. § 9616(f) (motor carriers road tax).

The basis of jurisdiction of the court under this rule will ordinarily be 42 Pa.C.S. § 763 (direct appeals from government agencies). Subdivision (c) is not intended to change the practice in connection with the review of orders of the Board of Finance and Revenue insofar as the amount of detail in the pleadings is concerned. What is required is that the petitioner raise every legal issue in the petition for review which the petitioner wishes the court to consider. The legal issues raised need only be specific enough to apprise the respondent of the legal issues being contested (e.g. "valuation," "manufacturing," "sale for resale," etc.). See generally *House of Pasta, Inc. v. Commonwealth*, 37 Pa. Cmwlth. Ct. 317, 390 A.2d 341 (1978).

Subdivision (e) is based on Section 1104(e) of The Fiscal Code [(72 P.S. § 1104(e))], which [**is**] was suspended absolutely by these rules, and subsequently repealed.

* * * * *

Subdivision (h) is based on Section 1104(d) of The Fiscal Code [(72 P.S. § 1104(d))], which [**is**] was suspended absolutely by these rules and subsequently repealed, and is intended as a continuation of the prior law, except, of course, that the separate specification of objections has been abolished by these rules.

Subdivision (i) is intended to make clear that the failure to file exceptions will result in waiver by [**an appellant**] a petitioner of any issues previously presented to the Commonwealth Court. [**Compare note to Rule 343 (order determining challenge to plea of guilty).**]

See also [**rule**] **Rule 1782** (security on review in tax matters).

[Pa.B. Doc. No. 04-1337. Filed for public inspection July 23, 2004, 9:00 a.m.]

[210 PA. CODE CHS. 17 AND 33]
Order Amending Pa.R.A.P. 1762 and 3331; No. 156
Appellate Procedural Rules; Doc. No. 1

Amended Order

Per Curiam:

And Now, this 8th day of July, 2004, upon the recommendation of the Appellate Court Procedural Rules Com-

mittee, the proposal having been published before adoption at 33 Pa.B. 3603 (July 26, 2003).

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Appellate Procedure 1762 and 3331 are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 60 days after adoption.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

STAY IN CRIMINAL MATTERS

Rule 1762. Release in Criminal Matters.

[(a) *Release prior to sentence.*

(1) Application for release prior to sentence shall be governed by the applicable provisions of the Pennsylvania Rules of Criminal Procedure.

(2) An order granting or denying release or modifying the conditions of release prior to sentence shall be subject to review pursuant to Chapter 15 (judicial review of governmental determinations). Service of a petition for review under Rule 1514(c) (service) shall be upon the district attorney in lieu of the Attorney General of Pennsylvania. Any answer to the petition shall conform to Rule 123(b) (answer) in lieu of Rule 1516 (other pleadings allowed). Rule 1517 (applicable rules of pleading) and Rule 1531 (intervention) through Rule 1551 (scope of review) shall not be applicable to a petition for review filed under this paragraph.

(b) *Release pending appeal.* Application for release pending appeal in criminal matters shall be governed by the applicable provisions of the Pennsylvania Rules of Criminal Procedure and must ordinarily be made in the first instance to the lower court.

(c) *Contents and service of application for release.* An application in an appellate court for release, or for modification of the conditions of release, shall set forth specifically and clearly the rulings complained of and the amount of bail which the defendant was under in the lower court, and shall be accompanied by a copy of the information or indictment. A copy of the application shall be served on the judge of the court below. All other parties below shall be served as prescribed by Rule 121(b) (service of all papers required).

(d) *Entry of bail.* Bail shall be entered in the lower court pursuant to the Pennsylvania Rules of Criminal Procedure.

(e) *Extradition matters.* Release in extradition matters shall be governed by the procedures prescribed by this rule, except that it shall not be necessary for a copy of an information or indictment to accompany an application under this subdivision.

(f) *Opinion by lower court.* Upon receipt of a copy of an application to an appellate court under this

rule the judge who entered the order in the court below, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief statement, in the form of an opinion, of the reasons for the order, or shall specify in writing the place in the record where such reasons may be found.]

(a) Applications relating to bail when an appeal is pending shall ordinarily first be presented to the lower court, and shall be governed by the Pennsylvania Rules of Criminal Procedure. If the lower court denies relief, a party may seek relief in the appellate court by filing an application, pursuant to Rule 123, ancillary to the pending appeal.

(b) Applications relating to bail when no appeal is pending:

(1) Applications relating to bail when no appeal is pending shall first be presented to the lower court, and shall be governed by the Pennsylvania Rules of Criminal Procedure.

(2) An order relating to bail shall be subject to review pursuant to Chapter 15 (judicial review of governmental determinations). Any answer shall be in accordance with Rule 1516 (other pleadings allowed), and no other pleading is authorized. Rule 1517 (applicable rules of pleading) and Rule 1531 (intervention) through 1551 (scope of review) shall not be applicable to a petition for review filed under this paragraph.

(c) *Content.* An application for relief under subdivision (a) or a petition for review under subdivision (b) shall set forth specifically and clearly the matters complained of and a description of any determinations made by the lower court. Any order and opinions relating to the bail determination shall be attached as appendices.

(d) *Service.* A copy of the application for relief or the petition for review and any answer thereto shall be served on the judge of the lower court. All parties in the lower court shall be served in accordance with Rule 121(b) (service of all papers required). The Attorney General of Pennsylvania need not be served in accordance with Rule 1514(c) (service), unless the Attorney General is a party in the lower court.

(e) *Entry of Bail.* Bail shall be entered in the lower court pursuant to the Pennsylvania Rules of Criminal Procedure.

(f) *Extradition matters.* Relief relating to bail in extradition matters shall be governed by the procedures prescribed by this rule.

(g) *Opinion of lower court.* Upon receipt of a copy of an application for relief under subdivision (a) or a petition for review under subdivision (b) that does not include an explanation for the bail determination, the judge who made the bail determination below shall forthwith file of record a brief statement of the reasons for the determination or where in the record such reasons may be found.

* * * * *

[Explanatory Note—1979

At the request of the Criminal Procedural Rules Committee, a copy of the application in the appel-

late court for release in criminal matters is required to be served upon the lower court judge, and a requirement (similar to Rule 1925) is added that the lower court judge indicates on the record the reasons for the order.]

Explanatory Note—2004

The 2004 amendments establish a simple dichotomy in procedures for seeking appellate review of lower court orders relating to bail: If an appeal is pending, an application for relief ancillary to the appeal is the proper method for invoking appellate court consideration. If no appeal is pending, the party seeking relief must file a petition for review.

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 33. BUSINESS OF THE

SUPREME COURT

REVIEW OF SPECIAL PROSECUTIONS OR INVESTIGATIONS

Rule 3331. Review of Special Prosecutions or Investigations.

(a) General rule. [Any] Within the time specified in Rule 1512(b)(3) (special provisions), any of the following orders shall be subject to review pursuant to Chapter 15 (judicial review of governmental determinations):

* * * * *

The petition shall [also] conform to Rule 123(a) (contents of application for relief) and any answer to the petition shall conform to [Rule 123(b) (answer) in lieu of] Rule 1516(a) ([other pleadings allowed] general rule). A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for the filing of an answer, file a letter stating that an answer to the petition for review will not be filed. [Rule 1516,] Rule 1517 (applicable rules of pleading) [and Rule 1519 (form of petition for review with notice to plead)] through Rule 1551 (scope of review) shall not be applicable to a petition for review filed under this rule. Seven copies of any papers filed under this rule shall be filed with the original. Rule 3309 (applications for extraordinary relief) shall not be applicable to an order reviewable under this rule.

(b) Briefs and record. [The petitioner shall serve and file his brief not later than 14 days after the entry of the order sought to be reviewed. Any other party shall serve and file his brief within seven days after service of the brief of the petitioner.] The petitioner may file and serve a brief in support of the petition for review with the petition for review. Any other party may file and serve an answer and supporting brief within 14 days of service of the petition. Each party shall append to the petition or answer as much of the record below as the party desires to bring to the attention of the court. The Supreme Court on its own initiative may direct that the lower court comply with Rule 1925 (opinion in support of order) or that the record be otherwise corrected or supplemented.

(c) Distribution and disposition. Upon receipt of the last paper [which] that a party is entitled to file under

this rule, the papers filed under this rule shall be distributed by the Prothonotary to the Supreme Court for its consideration. The Supreme Court may thereafter dispose of the petition or set it down for argument.

(d) Interlocutory matters. The interlocutory or final nature of an order shall not be affected by this rule and, unless independent grounds appear for the review of an interlocutory order, the interlocutory nature of the order will be a sufficient reason for denying the petition. The denial of a petition shall be deemed a disposition on the merits unless otherwise ordered or unless the petition expressly seeks permission to appeal from an interlocutory order and asserts no other basis of jurisdiction on appeal.

(e) Remand of record. Unless otherwise ordered:

(1) A certified copy of the judgment of the Supreme Court and the opinion of the court, if one has been filed, shall be transmitted to the lower court forthwith upon entry, notwithstanding the pendency of any application for reargument or other proceeding affecting the judgment[, which]. This transmission shall be in lieu of the remand of the record.

* * * * *

Official Note: This rule is intended to provide a simple and expeditious method for Supreme Court supervision of special prosecutions and investigations, e.g., orders of the supervising judge of an investigating grand jury, findings of contempt (whether civil or criminal) by witnesses called before such a grand jury, etc. Rule 702[(b)](c) (supervision of special prosecutions or investigations) and 42 Pa.C.S. § 722(5) (direct appeals from courts of common pleas) vest jurisdiction over such matters in the Supreme Court. However, this rule is not applicable to review of investigating grand jury issues [which] that collaterally arise in a plenary criminal prosecution initiated by complaint, information or indictment. Rule 1512(b)(3) (special provisions) requires that review be sought within ten days. Essentially, the procedure is analogous to the review of a bail order under Rule 1762 (release in criminal matters). [The last brief is due not later than 21 days after the entry of the order sought to be reviewed.] There is no delay for certification of the record, oral argument is ordinarily not available, and the matter is ready for final disposition by the Supreme Court immediately upon completion of the briefing schedule. The term "investigating grand jury" in Subdivision (a) includes a "multicounty investigating grand jury" convened under 42 Pa.C.S. § 4544 (convening multicounty investigation grand jury).

* * * * *

Under Rule 1702(a) (stay ancillary to appeal), the Supreme Court or a justice thereof will not entertain an application for relief under Rule 1781 (stay pending action on petition for review) in connection with a special prosecution or investigation order until a petition for review has been filed under this rule.

[Pa.B. Doc. No. 04-1338. Filed for public inspection July 23, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Adoption of Local Rule 206.1(a)(c) Petition. Definition. Form. Content

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 206.1(a) related to petitions is *Adopted* and shall read as follows:

The following applications are defined as “petitions” and are to be governed by Rule 206.1, et seq.

The following petitions are scheduled for a hearing upon filing

- (1) Petition for adjudication of local agency
- (2) Petition for appointment of CPA as auditor
- (3) Petition for appointment of private police officer
- (4) Petition for appointment of a receiver
- (5) Petition for approval of bond
- (6) Petition to approve increase in municipal tax levy
- (7) Petition for attachment of bank accounts
- (8) Petition for change of name pursuant to 54 Pa.C.S.A. § 701 et seq.
- (9) Petition to change school district election districts
- (10) Petition to compromise, settle, or discontinue minor’s action pursuant to Pa.R.Civ.P. 2039
- (11) Petition to disapprove a private sale by the Tax Claim Bureau
- (12) Petition to evict
- (13) Petition for expunction
- (14) Petition to fix fair market value of real property sold pursuant to Pa.R.Civ.P. 3282
- (15) Petition to issue certificate of title
- (16) Petition for judicial review of revocation of firearms license
- (17) Petition to levy taxes exceeding 30 mills for general municipal purposes
- (18) Petition nunc pro tunc—license suspension appeal
- (19) Petition for objection and exception to upset tax sale
- (20) Petition for private detective license
- (21) Petition for release of property from levy pursuant to Pa.R.Civ.P. 3119
- (22) Petition for return of firearms
- (23) Petition for sale of school district real estate
- (24) Petition to sell real estate at private sale
- (25) Petition to set aside tax sale of real estate
- (26) Petition to set tax millage for police benefits

- (27) Petition to stay tax sale
- (28) Petition to strike off nomination petition
- (29) Petition for supplemental relief in aid of execution pursuant to Pa.R.Civ.P. 3118
- (30) Petition to transfer liquor license
- (31) Petition for vehicle registration suspension

The following petitions are referred directly to a Judge.

- (32) Petition to direct the Sheriff to relist Sheriff’s sale
- (33) Petition for emergency relief—stay all proceedings
- (34) Petition for emergency relief—stay public sale of real property
- (35) Petition for emergency relief—set aside Sheriff’s sale
- (36) Petition for ex parte writ of seizure
- (37) Petition for liquor license appeal
- (38) Petition nunc pro tunc—liquor license appeal
- (39) Petition to postpone Sheriff’s sale
- (40) Petition to proceed in forma pauperis
- (41) Petition to set aside Sheriff’s sale
- (42) Petition to stay Sheriff’s sale
- (43) Petition to stay suspension
- (44) Petition for zoning hearing—remand to Hearing Board

The following petitions require an answer within twenty (20) days.

- (45) Petition to amend answer
- (46) Petition to amend caption
- (47) Petition to amend complaint
- (48) Petition to amend new matter
- (49) Petition to appoint arbitrator
- (50) Petition to appoint Board of View pursuant to 56 P. S. § 1-504
- (51) Petition to approve settlement of wrongful death and survival action
- (52) Petition to approve disbursement of funds
- (53) Petition to approve settlement
- (54) Petition for change of venue
- (55) Petition to confirm arbitration award
- (56) Petition for confirmation of the sale of real property
- (57) Petition for contempt
- (58) Petition for counsel fees
- (59) Petition for counsel fees and costs
- (60) Petition to disburse proceeds of escrow fund
- (61) Petition to disqualify attorney from representing client
- (62) Petition to disqualify the Board of Judges of Delaware County

- (63) Petition to dissolve or terminate supersedeas
- (64) Petition to enforce settlement
- (65) Petition for interpleader pursuant to Pa.R.Civ.P. 2302
- (66) Petition to intervene pursuant to Pa.R.Civ.P. 2328
- (67) Petition to issue order of possession
- (68) Petition to issue subpoena
- (69) Petition to join additional defendant
- (70) Petition for leave to join third party
- (71) Petition to mark judgment satisfied
- (72) Petition to merge judgments
- (73) Petition nunc pro tunc—appeal from district justice judgment
- (74) Petition nunc pro tunc—join additional defendant
- (75) Petition to open confessed judgment
- (76) Petition to open judgment of non pros
- (77) Petition to open order to settle, discontinue and end
- (78) Petition to open safe deposit box
- (79) Petition to open sealed record
- (80) Petition to open and/or strike judgment
- (81) Petition to pay judgment in installments
- (82) Petition to quash appeal and vacate supersedeas
- (83) Petition to quash writ to join additional defendant
- (84) Petition for reassessment of damages
- (85) Petition to reduce order to judgment
- (86) Petition to reinstate appeal
- (87) Petition to remand to arbitration modify judgment
- (88) Petition to remand for clarification of arbitrator's award
- (89) Petition to remove satisfaction and reinstate judgment
- (90) Petition to return writ of execution
- (91) Petition for settlement of survival action
- (92) Petition for stay of execution
- (93) Petition to stay mortgage foreclosure
- (94) Petition to strike appeal
- (95) Petition to strike lis pendens
- (96) Petition to strike mechanic's lien
- (97) Petition to strike non pros
- (98) Petition to strike and/or set aside garnishment
- (99) Petition to strike writ of certiorari
- (100) Petition to substitute party

- (101) Petition to take depositions
- (102) Petition to take depositions for preparation of pleadings
- (103) Petition to transfer to major case status
- (104) Petition to vacate arbitration award
- (105) Petition to vacate judgment
- (106) Petition to vacate, set aside and/or modify arbitrator's award
- (107) Petition to vacate and strike off order to settle, discontinue and end
- (108) Petition to withdraw appearance
- (109) Petition for writ of habeas corpus
- (a) Petitions filed pursuant to Rule 206.1 shall be processed as follows:
 - (1) *Cases not yet assigned to a judge*
 - (a) The originals of all petitions shall be filed with the Office of Judicial Support.
 - (b) Service shall be contemporaneously made by the moving party in conformity with Pa.R.C.P. 440, or in the case of petitions that constitute initial process, in conformity with the Pennsylvania rules of Civil Procedure governing the manner of service of original process (see Pa.R.C.P. 400ff).
 - (c) Each petition shall be accompanied by the following:
 - i. A cover sheet pursuant to Rule 205.2(b) clearly indicating the filing date and advising that an answer to the petition must be filed within twenty (20) days from that date.
 - ii. A certification that service in conformity with Pa.R.C.P. 440 or, in the case of original process, in conformity with the Pennsylvania Rules of Civil Procedure governing the service of original process is being contemporaneously made.
 - iii. A form of proposed order fairly encompassing the relief requested.
 - (d) Each answer to petitions filed pursuant to this Rule shall be accompanied by the following:
 - i. A cover sheet pursuant to Rule 205.2(b) clearly indicating that they are being filed pursuant to Rule 206.1; and
 - ii. A form or proposed Order fairly encompassing the relief requested.
 - (i) On the 21st day after filing the Office of Judicial Support shall send the record papers to the Court Administrator for reference by the Court Administrator to the appropriate judge.
 - (ii) The moving party shall promptly advise the Court Administrator in writing if a matter has been resolved or withdrawn.
 - (iii) Requests for an extension of the 20-day period in which to respond to a motion must be made in writing to the Court Administrator. The request shall indicate whether or not it is opposed by all other parties. No agreement entered into by the parties to extend the 20-day period shall be honored by the court without written notice to and the consent of the Court Administrator.

(2) *Cases assigned to a judge*

(i) All applications that would otherwise be the subject of a petition will be processed by the assigned judge and should be directed to his or her chambers. The moving party shall contemporaneously notify all parties affected by the application.

(ii) The form of all such applications and the time in which to respond thereto shall be determined by the judge on an ad hoc basis as circumstances and the exercise of his or her sound discretion shall warrant.

(iii) Where the application takes the form of a formal petition, the original shall be filed with the Office of Judicial Support. The face sheet shall clearly indicate that a copy of the motion or petition has contemporaneously been submitted to the assigned judge, who shall be identified on the notice.

(iv) The original of a formal response to a petition shall also be filed with the Office of Judicial Support, and a copy shall be contemporaneously submitted to the assigned judge.

(3) *Emergency Matters or Stays of Proceedings in Non-Family Matters*

(i) Petitions seeking relief in emergency situations or stay of proceedings shall first be taken to the Office of Judicial Support to be time-stamped and docketed and then immediately brought by the party seeking the emergency relief or the stay of proceedings to the Court Administrator for reference to the appropriate judge.

(ii) After the request for emergency relief or stay of proceedings has been either granted or denied by the court, the motion shall be returned to the Office of Judicial Support for filing of the Order.

(iii) Hearing dates, where required, shall be set by the judge to whom the matter has been referred, or, where that judge will not also be the hearing judge, by the Court Administrator.

(iv) The moving party shall make a good faith effort to give all parties affected by the application as much advance notice as reasonably possible of the date and time he/she intends to present his/her application and shall attach to the application a certification of the good faith effort that has been made. This certification shall provide the specific details of the moving party's efforts to comply with the advance notice requirement of this section, including, but not limited to, the method(s) by which notice was sought to be given, the date(s) and time(s) when notice was sought to be given, the address(es) and/or phone number(s) and/or fax number(s) at which notice was sought to be given and the identity(ies) of the party(ies) to whom notice was sought to be given. When the court fixes a hearing date following the submission of an application under this Rule, a second certification shall be filed by the moving party providing similar specific information setting forth the efforts that have been made to give to all affected parties as much notice as possible of the date, time and place set by the court for the hearing.

(v) Except in emergency situations, no stay of proceedings shall be granted without actual prior notice to all parties affected thereby.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1339. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY**Adoption of Local Rule 208.1 Motions. Non-Family Matters****Order**

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.1 is *Adopted* as follows:

(a) The originals of all Motions shall be filed with the Office of Judicial Support.

(b) Service shall be contemporaneously made by the moving party in conformity with Pa. R.C.P. 440.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1340. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY**Adoption of Local Rule 208.2 Motions. Form. Content****Order**

And Now, to wit, this 29th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.2 is *Adopted* as follows:

(a) All Motions shall be:

(1) In conformity with Pa.R.C.P. 208.2 and

(2) Include a cover sheet pursuant to Local Rule 205.2(b) clearly indicating the filing date and advising that any response to the Motion must be filed within twenty (20) days from that date.

All responses to Motions filed under Rule 208.1 shall be accompanied by a cover sheet pursuant to Local Rule 205.2(b) and shall include a form of proposed Order.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1341. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Adoption of Local Rule 208.2(d) Uncontested Motions. Certifications

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.2(d) is *Adopted* as follows:

If counsel for the moving party determines that a motion is uncontested by all parties involved in the case, counsel shall file a certification that the motion is uncontested. The moving party must complete the cover sheet pursuant to 205.2 and check the appropriate box, and include the certification with the motion.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1342. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Adoption of Local Rule 208.3(a) Simplified Procedure

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.3(a) is *Adopted* as follows:

The following "Motions" may be submitted for consideration by the Court without written responses or briefs.

1. Motion to compel discovery in aid of execution
2. Motion to break and enter
3. Motion requiring a supersedeas appeal board
4. Motion for writ of seizure
5. Motion for return of personal property
6. Motion for reconsideration
7. Motion for peremptory judgment

The foregoing motions, after filing with the Office of Judicial Support shall be presented to the Court Administrator's Office, which shall promptly deliver the motion to the appropriate Judge or schedule the case for a hearing before the Court. The moving party shall include a cover sheet pursuant to Rule 205.2(b) and shall promptly notify all parties affected of the hearing date, if so advised by the Court.

If a hearing date has been assigned, requests for a continuance shall be made on a fully completed continuance application form, available in the Court Administrator's Office and then submitted to the Court Administrator. Stamped envelopes, pre-addressed to all parties in interest, shall accompany the continuance application form. Requests for continuance received by the Court

Administrator within one (1) week of the hearing date may be referred to the appropriate Judge for review.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1343. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Adoption of Local Rule 208.3(b) Alternative Procedures

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.3(b) is *Adopted* as follows:

(a) Motions filed pursuant to Rule 208.1 and 208.2 shall be processed as follows:

(1) *In cases that are not assigned to a judge,*

(i) on the 21st day after filing the Office of Judicial Support shall send the record papers to the Court Administrator for reference by the Court Administrator to the appropriate judge.

(ii) The moving party shall promptly advise the Court Administrator in writing if a matter has been resolved or withdrawn.

(iii) Requests for an extension of the 20-day period in which to respond to a motion must be made in writing to the Court Administrator. The request shall indicate whether or not it is opposed by all other parties. No agreement entered into by the parties to extend the 20-day period shall be honored by the court without written notice to and the consent of the Court Administrator.

(2) *In cases that are assigned to a judge,*

(i) all applications that would otherwise be the subject of a motion or petition will be processed by the assigned judge and should be directed to his or her chambers. The moving party shall contemporaneously notify all parties affected by the application.

(ii) The form of all such applications and the time in which to respond thereto shall be determined by the judge on an ad hoc basis as circumstances and the exercise of his or her sound discretion shall warrant.

(iii) Where the application takes the form of a formal motion or petition, the original shall be filed with the Office of Judicial Support. The face sheet shall clearly indicate that a copy of the motion or petition has contemporaneously been submitted to the assigned judge, who shall be identified on the notice.

(iv) The original of a formal response to a motion or petition shall also be filed with the Office of Judicial Support, and a copy shall be contemporaneously submitted to the assigned judge.

(3) *Emergency Matters or Stays of Proceedings in Non-Family Matters.*

(i) Motions seeking relief in emergency situations or stay of proceedings shall first be taken to the Office of Judicial Support to be time-stamped and docketed and then immediately brought by the party seeking the emergency relief or the stay of proceedings to the Court Administrator for reference to the appropriate judge.

(ii) After the request for emergency relief or stay of proceedings has been either granted or denied by the court, the motion shall be returned to the Office of Judicial Support for filing.

(iii) Hearing dates, where required, shall be set by the judge to whom the matter has been referred, or, where that judge will not also be the hearing judge, by the Court Administrator.

(iv) The moving party shall make a good faith effort to give all parties affected by the application as much advance notice as reasonably possible of the date and time he/she intends to present his/her application and shall attach to the application a certification of the good faith effort that has been made. This certification shall provide the specific details of the moving party's efforts to comply with the advance notice requirement of this section to include, but not limited to, the method(s) by which notice was sought to be given, the date(s) and time(s) when notice was sought to be given, the address(es) and/or phone number(s) and/or fax number(s) at which notice was sought to be given and the identity(ies) of the party(ies) to whom notice was sought to be given. When the court fixes a hearing date following the submission of an application under this Rule, a second certification shall be filed by the moving party providing similar specific information setting forth the efforts that have been made to give to all affected parties as much notice as possible of the date, time and place set by the court for the hearing.

(v) Except in emergency situations, no stay of proceedings shall be granted without actual prior notice to all parties affected thereby.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1344. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Adoption of Rule 208.2(e) Motion. Certification

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.2(e) is hereby *Adopted* and shall read as follows:

(a) All motions relating to discovery shall include a certificate signed by counsel for the moving party that counsel for that party has conferred or at-

tempted to confer with all interested parties in order to resolve the matter without Court action, and shall set forth the nature of the efforts made to resolve the matter. Failure to comply with the foregoing shall result in the refusal of the Court to hear the motion.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1345. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Amendment of Local Rule 205.2 Filing Legal Papers with the Office of Judicial Support

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 205.2 is *Amended* and shall read as follows:

(a) All papers filed with the Office of Judicial Support shall include the following:

1. The facing page of all pleadings, petitions, and motions, and all other matters filed in the Office of Judicial Support shall provide a space three (3") inches in height, on the top right under the docket number for use of the Office of Judicial Support in affixing the date and time of filing.

2. Attorneys of record shall indicate their identification number and their business telephone number on all papers filed with the Office of Judicial Support.

(b) A cover sheet is to be completed and attached to the following:

The moving party is to check the appropriate box on the form.

1. Petitions filed pursuant to Rule 206.1

2. Motions filed pursuant to Rule 208.1

3. Responses to Motions or Petitions

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

5. Summary Judgment Motions pursuant to Rule 1035.2 (a)

6. Family Law Petitions and Motions file pursuant to Rule 206.8

See Cover Sheet for Motions/Petitions Notice

7. Writs of Summons or Complaints

See Civil Cover Sheet Form

8. Preliminary Objections pursuant to Rule 1028 (c)

See Notice Pursuant to Rule 1028(c) Form

By the Court

KENNETH A. CLOUSE,
President Judge

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

COVER SHEET—NOTICE OF FILING OF MOTION OR PETITION UNDER LOCAL RULES OF CIVIL PROCEDURE

CASE CAPTION:

CIVIL CASE NO.

NATURE OF MATTER FILED: (please check one)

- Petition Pursuant to Rule 206.1 Response to Petition Motion for Judgment or Pleadings Pursuant to Rule 1034(a)
- Motion Pursuant to Rule 208.1 Response to Motion Summary Judgment Pursuant to 1035.2
- Family Law Petition/Motion Pursuant to Rule 206.8

A motion or petition was filed in the above captioned matter on the ____ day of _____, _____, which:

Requires you, Respondent, to file an Answer within twenty (20) days of the above date to this notice, or risk the entry of an Order in favor of the Petitioner. Answers must be filed and time stamped by the Office of Judicial Support by 4:30 PM on the following date _____, _____, _____.

Requires you, Respondent, to appear at a hearing/conference on the ____ day of _____, _____, at ____ in Courtroom _____, Delaware County Courthouse, Media, Pennsylvania. At this hearing/conference you must be prepared to present all testimony and/or argument, and must ensure that your witnesses will be present.

Was timely answered, thus requiring the scheduling of the following hearing in the above captioned matter on: _____, _____, _____ at 10:00 AM in Courtroom _____.

You, Petitioner/Movant, are responsible for notifying all interested responding parties of this hearing date at least ten (10) days prior thereto.

At this hearing, all parties must be prepared to present all testimony and/or argument and must ensure that their witnesses will be present.

Qualifies as an Uncontested Motion or Petition, and as such requires neither an answer from the Respondent nor the scheduling of a hearing in this matter.

Has been assigned to Judge _____.

FOR OFFICE USE ONLY

Mailing date: _____

Processed by: _____

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CIVIL ACTION LAW

NO. _____

Plaintiff

vs.

Defendant

NOTICE PURSUANT TO RULE 1028(c)

To: PLAINTIFF AND DEFENDANT

The filing date of the preliminary Objections of _____ to _____ Complaint is _____.

You are advised that a Reply Memorandum of law must be filed within twenty (20) days of that date, on or by _____.

Attorney of Record or Party

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
 CIVIL COVER SHEET AND ENTRY OF APPEARANCE

1. Case Caption:

Court Term & No.

- _____ Jury
- _____ Non Jury
- _____ Arbitration
 (\$0-\$50,000)

2a. Plaintiff(s)
 (Name and address)

2b. Defendant(s)
 (Name and address)

3a. Related Cases? _____ Yes _____ No
 If yes, show Caption and Case Numbers

3b. Case Subject to Coordination Order? _____ Yes _____ No
 If yes, show Caption and Date of Order

4. Entry of Appearance

To the Office of Judicial Support:

Kindly enter my appearance on behalf of _____, (a) plaintiff in this action. Papers may be served at the address set forth below.

 Attorney for party named above (Please print)

Address: _____

 Attorney I.D. Number

Telephone: (_____) _____

Fax: (_____) _____

 Attorney Signature

 Date

Choose only the one description which best reflects the principal type of case or relief sought from the list.

Case Description

APPEAL		Intentional Tort	_____
Minor Court		Assault and Battery	_____
Money Judgement	_____	Libel and Slander	_____
Landlord and Tenant	_____	Defamation	_____
Code Enforcement	_____	Employment/Wrongful Discharge	_____
Personal Injury	_____	False Imprisonment	_____
Breach of Contract	_____	Fraud	_____
Other _____	_____	Malicious Prosecution	_____
Local Agency		Negligence	
Civil Service	_____	Motor Vehicle	_____
Motor Vehicle	_____	Real Property	_____
Licenses and Inspections	_____	Premises Liability	_____
Liquor Control Board	_____	Product Liability	_____
Tax Assessment Boards	_____	Toxic Tort	_____
Zoning Board	_____	Asbestos	_____
Other _____	_____	DES	_____
Proceedings Commenced by Petition		Implant	_____
		Toxic Waste	_____
		Other _____	_____

Appointment of Arbitrators _____	Professional Malpractice _____
Change of Name _____	Dental _____
Compel Medical Examination _____	Legal _____
Election Matters _____	Medical _____
Eminent Domain _____	Other _____
Leave to Issue Subpoena _____	Equity _____
Mental Health Proceedings _____	Real Property _____
Other _____	Stockholders Derivative Action _____
	Waste Prevention _____
ACTIONS COMMENCED BY WRIT OF	Other _____
SUMMONS OR COMPLAINT	Declaratory Judgement _____
	Ground Rent _____
Abuse of Process _____	Mandamus _____
Action of Wrongful Death _____	Real Property _____
Class Action _____	Ejectment _____
Confession of Judgement/Money _____	Quiet Title _____
Confession of Judgement/	Mortgage Foreclosure _____
Real Property _____	Mechanics Lien _____
Contract _____	Partition _____
Construction _____	Prevent Waste _____
Insurance/Bad Faith _____	Replevin _____
Negotiable Instruments _____	Saving Action Um/Uim _____
Other _____	Quo Warranto _____
	Other _____

[Pa.B. Doc. No. 04-1346. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Amendment of Local Rule 1018.1 Notice to Defend. Form

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1018.1 is *Amended* and shall read as follows:

(c) Pursuant to Pa. R.C.P. 1018.1(c), the Lawyers' Reference Service, Front & Lemon Streets, Media, Pennsylvania 19063, (610) 566-6625, is designated as the agency to be named in the notice from whom legal help can be obtained.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1347. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Amendment of Local Rule 1910.21(a)3 Civil Contempt

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1910.21(a)3 is *Amended* and shall read as follows:

(3) The Lawyers' Reference Service, Front & Lemon Streets, Media, Pennsylvania 19063, (610) 566-6625, is designated as the agency to be named in the notice.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1348. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 206B Related to Non-Family Matters—Motion Hearing, and Trial Divisions

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 206B related to Non-Family matters—Motion Hearing and Trial Divisions is *Rescinded*.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1349. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 207 Petition to Change Name**Order**

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 207 is hereby *Rescinded*.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1350. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 208 Medical Malpractice. Health Care Provider. Affidavit of Noninvolvement**Order**

And Now, to wit, this 29th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 208 relating to Medical Malpractice, Health Care Provider, and Affidavit of Noninvolvement is *Rescinded*.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1351. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 1025 Use of Backers. Endorsement of Pleadings

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1025 is *Rescinded*.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1352. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 206A and Adoption of Local Rule 206.8 Petitions. Rules. Answers. Motions in Family Matters**Order**

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 206A is *Rescinded*, and *Adopted* as Delaware County Local Rule 206.8 Petitions, Rules, Answers, and Motions in Family Matters which shall read as follows:

I. Cases not yet Assigned to a Judge

(a) The original of all family law motions or petitions, including divorce, custody, or equitable distribution shall be filed in the Office of Judicial Support, which shall docket the pleading and forward to the Court Administrator by either the moving party or the Office of Judicial Support to obtain a hearing or conference date. All matters involving support are to be filed directly with the Domestic Relations Office pursuant to Pa.R.C.P. 1910.4. All family law motions or petitions are initially listed for a hearing and/or conference.

(b) Service shall be contemporaneously be made by the moving party in conformity with Pa.R.C.P. 440, or in the case of motions or petitions that constitute initial process, in conformity with the Pennsylvania Rules of Civil Procedure governing the matter of service of original process. (See Pa.R.C.P. 400 ff.)

(c) All motions or petitions shall be accompanied by the following:

i. A cover sheet, pursuant to Local Rule 205.2(b), plainly appearing on the face thereof indicating the filing date and the nature of the matter listed.

ii. A proposed order page encompassing the relief requested.

iii. A certification that service of the hearing/conference date in conformity with Pa.R.C.P. 440 or, in the case of original process, in conformity with the Pennsylvania Rules of Civil Procedure governing the service of original process is being contemporaneously made.

If one of the above items is not included in the motion or petition, the Court Administrator shall send notice to the moving party to refile the original motion or petition.

(d) Answers to a motion or petition filed prior to the hearing pursuant to this Rule shall be accompanied by the following:

i. A cover sheet, pursuant to Rule 205.2(b), clearly indicating that they are being filed pursuant to Rule 206.8 and

ii. A proposed order fairly encompassing the relief requested.

(e) Upon receipt of the motion or petition, the Court Administrator shall promptly schedule a hearing. The moving party shall promptly notify all parties affected of the hearing date. In the event that the moving party does not appear to file the motion or petition and obtain a hearing date, the moving party shall file an original and include a copy of the motion or petition with a self addressed stamped envelope with sufficient postage for return of the hearing date, which upon receipt by the moving party shall notify all affected parties of the hearing date.

(f) The moving party shall file a certificate setting forth that notice was given to all affected parties of the date, time and place set by the court for the hearing/conference.

(g) Matters that are uncontested at the time of filing shall be so certified by the moving party and shall follow the procedure set forth in rule 208.2(d). The Office of Judicial Support shall promptly refer them to the Court Administrator.

(h) Where a matter is to be withdrawn, a Praeceptum to Withdraw Motion or Petition must be filed with the Office of Judicial Support, which shall promptly forward it to the Court Administrator. If the case has been referred to a Judge, the Court Administrator shall promptly forward the Praeceptum to the judge.

(i) After a hearing date has been assigned, requests for a continuance must be made on a continuance application form (available in the Court Administrator's Office) and submitted along with a stamped envelope preaddressed to the party requesting the continuance. Requests for a continuance may be referred to the appropriate Judge for review. After review of the continuance, the Court Administrator shall forward the result of the request of the continuance to the party who applied for the continuance. The requesting party must notify all parties affected of the result of the continuance request and the new hearing date, if applicable.

II. *Emergency Matters or Stays or Proceedings in Cases not yet Assigned to a Judge*

(a) Motions or petitions seeking relief in emergency situations or stay of proceedings shall be brought first to the Office of Judicial Support to be docketed and time-stamped and then immediately brought by the party seeking the emergency relief or the stay of proceedings to the Court Administrator for reference to the appropriate Judge. The motion or petition shall be accompanied by the items required in 206.8(1)(c).

(b) The motion or petition shall be accompanied by a certification that the moving party has made a good faith effort to give all parties affected by the application as much advance notice as reasonably possible of the date and time that the application will be presented to the Court. This certification shall provide the specific details of the moving party's efforts to comply with the advance notice requirement of this section including, but not limited to, the method(s) by which notice was sought to be given, the address(es) and/or phone number(s) and/or fax number(s) at which notice was sought to be given, and the identity(s) of the party(s) to whom notice was sought to be given.

(c) Hearing dates, where required, shall be set by the Judge to whom the matter has been referred by the Court Administrator or, where that Judge will not also be the hearing Judge, by the Court administrator. The moving party shall promptly notify all parties affected of the hearing date and shall file a certification providing specific information setting forth the efforts that have been made to give to all affected parties as much notice as possible of the date, time and place set by the Court for the hearing. Such specific information includes, but not limited to, the method(s) by which notice was sought to be given, the address(es) and/or phone number(s) and/or fax numbers(s) at which notice was sought to be given and the identity(s) of the party(s) to whom notice was sought to be given.

(d) After the Court has decided the request for emergency relief or stay of proceedings, the motion or petition shall be returned to the Court Administrator who shall then forward it to the Office of Judicial Support for filing of the Order.

(e) Except in emergency situations, no stay of proceedings shall be granted without actual prior notice to all parties affected thereby.

III. *Cases Assigned to a Judge*

(a) All applications, to include emergency matters, that would otherwise be subject of a motion or petition will be processed by the assigned Judge and should be directed to his/her chambers. The moving party shall contemporaneously notify all parties affected by his or her application.

(b) The form of all such applications and the time in which to respond thereto shall be determined by the Judge on an ad hoc basis as circumstances and the exercise of the Judge's sound discretion shall warrant.

(c) Where the application takes the form of a formal motion or petition, the original shall be filed with the Office of Judicial Support. The cover sheet, pursuant to Rule 205.2(b) shall clearly indicate that a copy of the motion or petition has contemporaneously been submitted to the assigned Judge, who shall be identified on the notice.

(d) The original of a formal response to a motion or petition shall also be filed with the Office of Judicial Support, and a copy shall be contemporaneously submitted to the assigned Judge.

Comment:

1. The following applications are not governed by Rule 206.8, et seq. but rather are governed by the provisions of the general rule(s) governing the particular matter: Protection From Abuse Petitions pursuant to 23 Pa.C.S.A. 6101 et seq.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1353. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 206.6 and Renumbered as Local Rule 206.4(c) Rule to Show Cause. Alternative Procedures

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 206.6 is *Rescinded* and *Renumbered* as Delaware County Local Rule 206.4(c) Rule to Show Cause Alternative Procedures which shall read as follows:

Rules to show cause shall issue as of course with the filing of any Petition or Motion requiring a response in family and non-family matters.

Explanatory Comment: In non-family matters governed by Rule 206.1(a), the notice requirement serves the identical purpose of a rule to show cause, and no paper formally designated "Rule to Show Cause" shall be necessary.

In family matters, governed by 206.8, present practice shall continue with rules issuing as of course pursuant to Rule 206.4(c)

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1354. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 1028 and Renumbered as Local Rule 1028(c) Disposition of Preliminary Objections, Motions for Summary Judgment and Motions for Judgment on the Pleadings

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1028 is hereby *Rescinded* and *Renumbered* as Delaware County Local Rule 1028(c) which shall read as follows:

1. Procedure Defined

(a) Preliminary objections, motions for summary judgment and motions for judgment on the pleadings shall be accompanied by a memorandum of law in support thereof.

(b) Service shall be made in conformity with Pa.R.C.P. 440.

(c) All such motions shall be accompanied by a notice, plainly appearing on the face thereof, of the date the motion was filed with the Office of Judicial Support and advising that a reply memorandum of law must be filed within twenty (20) days from that date, except that in the case of summary judgment motions the notice shall advise that a reply memorandum must be filed within thirty (30) days from that date. The moving party shall also file with his motion a certification of service in conformity with Pa.R.C.P. 405(b). This certification shall state that the notice required by this Rule has been given.

(d) If any motion subject to this Rule is filed without an accompanying memorandum, the Office of Judicial Support shall send the record papers to the Court Administrator. Otherwise, the Office of Judicial Support shall not send the record papers to the Court Administrator until the opposing party has filed his reply memorandum or until twenty (20) days after the motion was filed (or in the case of summary judgment motions, thirty (30) days), whichever occurs first. Upon receiving the record papers from the Office of Judicial Support the Court Administrator shall then refer the matter to the appropriate judge. All requests for an extension of the prescribed time in which to answer such motions must be approved by the Court. Such approval shall be sought by a letter addressed to the Court Administrator. No agreement entered into solely by the parties will be honored by the Court.

(e) Any motion subject to this rule which is filed without accompanying memorandum may be dismissed. If a reply memorandum has not been filed pursuant to the notice required by section (c) of this rule, the Court may dispose of the matter without such memorandum.

(f) If any matter is settled or withdrawn prior to disposition, the Court Administrator shall be promptly advised, and the moving party shall file an appropriate praecipe with the Office of Judicial Support.

(g) The Court in its discretion may grant additional time in which to file a reply memorandum, request additional memoranda, or call for oral argument, or advance the time for filing.

2. Matters Requiring Factual Supplement to the Record

(a) In the case of preliminary objections based on facts not presently a part of the record, a memorandum of law and notice to opposing parties to file a reply memorandum of law within twenty (20) days need not be filed contemporaneously with the preliminary objections. Instead, the face sheet notice shall indicate the date the preliminary objections were filed with the Office of Judicial Support and shall be endorsed with a notice to plead pursuant to Pa.R.C.P. 1361.

(b) If an answer is filed and served, the moving party shall undertake to supplement the record with the necessary facts by affidavit, deposition or testimony, as the case may require, within sixty (60) days from the filing of the answer.

(c) Within two (2) weeks from the completion of the supplementation of the record, whether by the adverse party's failure to file an answer to the preliminary objections or by affidavit, deposition or testimony, the moving party shall file a memorandum of law. This memorandum shall be processed in accordance with Section 1 of this Rule.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1355. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 1034 and Renumbered as Local Rule 1034(a) Motion for Judgment on the Pleadings

Order

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1034 is *Rescinded* and *Renumbered* as Delaware County Local Rule 1034(a) which shall read as follows:

(a) The procedure for Motion for judgment on the pleadings shall be set forth in Rule 1028(c).

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1356. Filed for public inspection July 23, 2004, 9:00 a.m.]

DELAWARE COUNTY

Rescission of Local Rule 1035.2 and Renumbered as Local Rule 1035.2(a) Motion for Judgment**Order**

And Now, to wit, this 28th day of June, 2004, it is hereby *Ordered* that Delaware County Local Rule 1035.2 is hereby *Rescinded* and *Renumbered* as Delaware County Local Rule 1035.2(a) which shall read as follows:

(a) The procedure for summary judgment motions shall be set forth in Rule 1028(c) except that respondent shall have thirty (30) days from the filing date of the motion in which to file a reply memorandum.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 04-1357. Filed for public inspection July 23, 2004, 9:00 a.m.]

LACKAWANNA COUNTY

Repeal and Adoption of Rules of Civil Procedure; 94 CIV 102**Order**

And Now, this 9th day of July, 2004, it is hereby *Ordered* and *Decreed* that the following Lackawanna County Rules of Civil Procedure are amended as follows:

1. Lacka. Co. R.C.P. 205, 206, 206.1, 206.2, 285, 295, 1018.2, 1028, 1501, 1511, 1530 and 4010.1 as implemented between January 1, 1994 and November 22, 2003, are repealed;

2. Lacka. Co. R.C.P. 210, 211(a), 212(a) and (d), 212.5(a), 213, 214(a), 240, 250 and 430.3 are amended as reflected in the following rules;

3. New Lacka. Co. R.C.P. 205.2, 206.1, 206.4, 208.2, 208.3, 230.2, 1028(c), 1034(a) and 1035.2(a) are adopted as reflected in the following rules;

4. Pursuant to Pa. R.Civ.P. 239(c) and 239.8(b)—(d) (as amended June 30, 2004), the following Local Rules shall be disseminated and published as follows:

(a) Seven certified copies of the Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

(b) Two certified copies of the Local Rules and a computer diskette containing the text of the Local Rules in MS-DOS, ASCII, Microsoft Word, or WordPerfect format and labeled with the court's name and address and computer file name shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) One certified copy of the Local Rules and a computer diskette containing the text of the Local Rules in MS-DOS, ASCII, Microsoft Word, or WordPerfect format and labeled with the court's name and address and computer file name shall be filed with the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of the Pennsylvania Courts (AOPC) for publication on the AOPC web site;

(d) The Local Rules shall be kept continuously available for public inspection and copying in the Office of the

Clerk of Judicial Records, Civil Division, and upon request and payment of reasonable costs of reproduction and/or mailing the Clerk of Judicial Records shall furnish to any person a copy of the requested Local Rule(s);

(e) A computer diskette containing the text of the following Local Rules in either MS/DOS, ASCII, Microsoft Word or WordPerfect format and labeled with the court's name and address and computer file name shall be distributed to the Lackawanna Bar Association;

(f) The Local Rules shall be published on the web site of the Lackawanna Bar Association (www.lackawannabar.com) and the web site of the Administrative Office of the Pennsylvania Courts (<http://ujportal.pacourts.us/>);

5. The following repeals, amendments and new adoptions to Local Rules 211(a), 212(a) and (d), 215.5(a), 213, 214(a), 230.2, 240, 250, 285, 295, 430.3, 1501, 1511, 1530, and 4010.1 shall become effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin* as per Pa.R.Civ.P. 239(d); and

6. The following repeals, amendments and new adoptions to Local Rules 205, 205.2, 206, 206.1, 206.2, 206.4, 208.2, 208.3, 210, 1018.2, 1028(c), 1034(a) and 1035.2(a) shall become effective upon publication on the web site of the Administrative Office of the Pennsylvania Courts pursuant to Pa. R.Civ.P. 239.8(d).

By the Court

CHESTER T. HARHUT,
President Judge

RULES OF CONSTRUCTION**Rule 51. Title and Citation of Rules.**

All rules adopted by the Court of Common Pleas of Lackawanna County pertaining to Civil Procedure shall be known as the Lackawanna County Court of Common Pleas Rules of Civil Procedure and may be cited as "Lacka. Co. R.C.P. _____."

Rule 52. Effective Date of Rules.

Each rule adopted by the Court of Common Pleas of Lackawanna County, whether civil, criminal, orphans', or governing district justices, shall become effective upon the date specified by the court in promulgating the rule; but, no rule shall be effective until notice of its promulgation is published in the "Lackawanna Jurist." The content of each rule promulgated shall be made available through the Lackawanna County Bar Association and as mandated by law or rule of the Pennsylvania Supreme Court.

Rule 76. Definitions.

Unless the context clearly indicates otherwise, each word or phrase when used in any rule promulgated by the Court of Common Pleas of Lackawanna County shall have the same meaning as that word or phrase is given in the Pennsylvania Rules of Civil Procedure, with the exception of the following:

(a) "court" or "the court" shall mean the Court of Common Pleas of Lackawanna County;

(b) "rule" shall mean any rule of civil procedure promulgated by the Court of Common Pleas of Lackawanna County;

(c) "party" or "parties" shall mean the party or parties appearing in a civil action pro se, or the attorney or attorneys of record for such party or parties, where appropriate.

Rule 101. Principles of Interpretation.

In the construction of any rule, the principles set forth in the chapter of the Pennsylvania Rules of Civil Procedure designated "Rules of Construction" shall be observed unless the application of such principles would result in a construction inconsistent with the manifest intent of the court.

Rule 127. Construction of Rules.

(a) The object of all interpretation and construction of the Rules of Civil Procedure of the Court of Common Pleas of Lackawanna County is to ascertain and effectuate the intention of this court.

(b) Each rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of the rule is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of a rule are not explicit, the intention of the Court of Common Pleas of Lackawanna County may be ascertained by considering, among other matters:

- (1) the occasion and necessity for rule;
- (2) the circumstances under which the rule was promulgated;
- (3) the purpose for which the rule was promulgated and the object to be attained;
- (4) the prior practice, if any, upon the same or similar subjects;
- (5) the consequences of a particular interpretation;
- (6) the history of the rule; and,
- (7) the practice followed under the rule.

Rule 128. Presumptions and Ascertaining the Intent of the Court of Common Pleas of Lackawanna County.

In ascertaining the intention of the Court of Common Pleas of Lackawanna County in the promulgation of a rule of civil procedure, all seeking to interpret the rule should be guided by the following presumptions:

- (a) that the Court of Common Pleas of Lackawanna County does not intend a result that is absurd, impossible of execution, or unreasonable;
- (b) that the Court of Common Pleas of Lackawanna County intends that the entire rule or chapter of rules is to be effective and certain;
- (c) that the Court of Common Pleas of Lackawanna County does not intend to violate the Constitution of the United States or of this Commonwealth or any rule promulgated by the Supreme Court of Pennsylvania;
- (d) that the Court of Common Pleas of Lackawanna County intends to favor the public interest as against any private interest; and,
- (e) that no rule shall be construed to confer a right to trial by jury where such right does not otherwise exist.

Rule 130. Construction of Rules and Derogation of the Common Law.

The principle that laws in derogation of the common law are to be strictly construed shall have no application to any rule of civil procedure promulgated by the Court of Common Pleas of Lackawanna County.

Rule 151. Effective Date of Amendments.

An amendment to a rule of procedure, whether civil, criminal, orphans', or governing district justices, shall be effective upon the date specified by the court in promulgating the amendment; but, no amendment shall be effective until notice of its promulgation is published in the "Lackawanna Jurist." The content of each amendment promulgated shall be made available through the Lackawanna County Bar Association and as mandated by law or rule of the Pennsylvania Supreme Court.

THE BUSINESS OF THE COURT**Rule 171. Sessions of Court.**

The court shall annually, by order, prescribe the official Judicial Calendar of the Court of Common Pleas of Lackawanna County for the next calendar year following said annual order, and shall in said order prescribe the sessions of court to be held during the year and designate the time for each. Such order shall be published in the "Lackawanna Jurist."

Rule 172. Holidays

The Court of Common Pleas of Lackawanna County shall not be in session on any day designated by the laws of Pennsylvania or by any proper authority as a legal holiday within the commonwealth of Pennsylvania. Whenever the initial day of any session of court or any return day shall fall on any legal holiday, the next succeeding secular weekday shall be considered the initial day of said session or the return day as the case may be. Motion court due to be held on a legal holiday will be postponed to the next regular day of hearing motions.

Rule 188. Professional Conduct.

The Code of Professional Responsibility, as adopted by the Supreme Court of Pennsylvania, is hereby adopted as the standard of conduct for members of the bar of this court.

Any attorney of this court who shall be found to have violated any of the standards of conduct established for attorneys of this court or to have been disbarred from practice or disciplined in any court of record of this Commonwealth, of the United States, or of any other state, territory or insular possession of the United States may be suspended or disbarred from practice in this court or otherwise disciplined as the court shall determine.

PRACTICE AND PROCEDURE GENERALLY**Rule 200. Attorneys Practicing Before This Court.**

- (a) Any person of good moral and professional character who is learned in the law and has been formally admitted to the bar of this court or of the bar of the Supreme Court of Pennsylvania may practice law in this court.
- (b) Attorneys of record of other counties of Pennsylvania, who have yet to be admitted to the bar of the Supreme Court of Pennsylvania but who are eligible for admission on motion to said bar, and attorneys of record from other states, who have been admitted to the general practice of law in such other states, may be admitted to practice pro hac vice in this court for a particular case or proceeding on oral motion of an associate attorney of record appearing in the case or proceeding who is a member of the bar of this court.

(c) Any attorney admitted to the bar of this court under this rule shall file with the Clerk of Judicial Records of Lackawanna County an address for the service or receipt of all pleadings, motions, notices and other papers served

or sent in pursuance of the rules of this court. Any changes of address shall be reported promptly to the Clerk of Judicial Records.

Rule 200.1. Appearances and Withdrawals.

(a) The signing of a pleading or motion by an attorney shall be deemed an entry of appearance. Appearance by an attorney or a party not signing pleadings or motions shall be by praecipe filed with the Clerk of Judicial Records.

(b) Appearance of counsel shall not be withdrawn except by leave of court or by stipulation of counsel representing all parties to the action. If at the time that withdrawal is sought, the case has been assigned to a judge for trial or has been tried, a motion to withdraw shall be presented to the trial judge for determination. Otherwise, such motion shall be presented at motion court and a rule to show cause shall issue to the client represented by the movant and to all other parties in the litigation.

Rule 201. Agreements of Attorneys.

All agreements of attorneys pertaining to the business of the Court of Common Pleas of Lackawanna County shall be in writing signed by all parties to the agreement or shall be entered on the record if made in the course of a court proceeding; otherwise, such agreements shall have no validity if disputed by any party to the alleged agreement.

Rule 205.2. Civil Filing Requirements

(a) All new civil actions are to be filed on 8 1/2" x 11" paper in the Office of the Clerk of Judicial Records, Lackawanna County Courthouse, 200 N. Washington Avenue, Scranton, PA 18503.

(b) No summons, complaint, pleading or other document used to commence a new civil action will be accepted for filing by the Clerk of Judicial Records unless it is accompanied by a duly completed Civil Cover Sheet in the format set forth in Form 1 of the Appendix.

206.1. Definition of Petition.

(a) In addition to an application to open a default judgment or a judgment of non pros, a party seeking relief from the court shall proceed by petition and rule when the party is seeking an order which is not otherwise covered by any statute or rule of civil procedure governing motions, including an order:

- (1) imposing sanctions for failure to obey a discovery order;
- (2) holding a party or witness in contempt;
- (3) granting relief from any other judgment, including judgments entered by confession; or
- (4) granting a preliminary injunction

(b) Any party presenting a petition seeking the issuance of a rule to show cause must follow the procedures set forth in Lacka. Co. R.C.P. 206.4(c).

Rule 206.4. Issuance of Rule to Show Cause.

(a) Any petition presented pursuant to Lacka. Co. R.C.P. 206.1(a) shall proceed upon a rule to show cause.

(b) The procedure following the issuance of the rule to show cause shall be in accordance with Pa. R.Civ.P. 206.7.

(c) In conformity with Pa. R.Civ.P. 206.6, a rule to show cause shall be issued as of course upon the filing and presentment of the petition. To secure a rule to show cause, the petition shall be presented to the Motions

Court judge under Lacka. Co. R.C.P. 208.3(a) and shall be accompanied by a proposed order in the format prescribed by Pa. R.Civ.P. 206.6(c) and the Official Note thereto. The court may grant a stay of execution or stay of the proceedings only upon request by the petitioner and for cause shown. Following presentment of the petition to the Motions Court judge, the petitioner shall proceed pursuant to Lacka. Co.R.C.P. 211 and secure a rule returnable date and a hearing date, if necessary, from the Court Administrator and shall thereafter file the original petition and rule to show cause with the Clerk of Judicial Records, with copies of the same being served upon all counsel and unrepresented parties in accordance with the Pennsylvania Rules of Civil Procedure and Lacka. Co. R.C.P. 440. The petitioner shall file a certificate of service with the Clerk of Judicial Records verifying that the petition and rule have been duly served upon all counsel and unrepresented parties.

Rule 208.2. Motion. Form. Content.

(c) In addition to the form and content requirements set forth in Pa. R.Civ.P. 208.2, a motion shall include a brief statement of the applicable authority with citations to the official reports. If a moving party relies upon an unpublished opinion as authority, a copy of the unpublished opinion must accompany the motion as an attachment.

(d) All motions shall contain a certification by counsel for the movant that counsel has sought concurrence in the motion from each party and, when appropriate, that the motion being presented is uncontested.

(e) Any motion relating to discovery shall include a certification signed by counsel for the moving party certifying that counsel has conferred or attempted to confer with all interested parties in a good faith effort to resolve by agreement the issues raised by the motion without court intervention, together with a detailed explanation why such agreement could not be reached. If part of the issues raised by the motion have been resolved by agreement, the statement shall specify the issue(s) so resolved and the issue(s) remaining unresolved.

(f) A party seeking relief from the court by way of motion shall serve all counsel and unrepresented parties with a copy of the motion, together with notice that the motion will be presented to the court on a date certain, at least three (3) business days (excluding Saturdays, Sundays and holidays) prior to the date of presentation.

Rule 208.3. Motion Procedure.

(a) (1) Except for discovery motions which are governed by Lacka. Co. R.C.P. 4000, 4000.1, 4012, 4013 and 4019, any motion as defined by Pa. R.Civ.P. 208.1 shall be presented in Motion Court which shall be held daily by the designated Motions Court judge on Monday through Thursday at 9:00 a.m. and by the Court en banc on Friday at 9:30 a.m. Counsel and pro se litigants who desire to make motions or to present petitions at Motion Court shall write their names legibly in the motion book maintained for such purposes. Unless otherwise directed by the Motions Court judge, all motions shall be heard in the order in which the names appear in the motion book. Motion court involving domestic relations and orphans' court matters shall be held by the judges assigned to the family court division and the orphans court division at the times and on the days designated by the Court Administrator pursuant to Lacka. Co. R.C.P. 1915.5, 1915.12—1915.14, and 1920.22 and Lacka. Co. O.C.R. 1.2(2).

(a) (2) Whenever practicable, emergency motions shall likewise be presented in Motion Court pursuant to Lacka. Co.R.C.P. 208.3(a)(1). In the event that an emergency motion cannot be presented in Motion Court, the party or counsel presenting an emergency motion shall submit the motion to the Court Administrator who will assign the emergency motion to an available judge under Pa. R.Civ.P. 249 for disposition.

(b) The Motions Court judge may dispose of the motion at the time of initial consideration or may defer any ruling and, in the interim, either (i) set forth procedures for disposition of the motion pursuant to Pa. R.Civ.P. 208.4(a)(2) or (b)(1), or (ii) direct the parties to proceed under Lacka. Co. R.C.P. 211.

Rule 210. Submission and Form of Briefs.

(a) A copy of any brief which is submitted to the court or to any judge of the court shall be filed to the docket number of the case to which the brief pertains in the office of the Clerk of Judicial Records.

(b) All briefs shall be typewritten and printed or otherwise duplicated on 8 1/2 by 11 paper and shall be endorsed with the name of the case, the court, the docket number of the case, and the name and the address of the attorney filing same. Briefs shall contain an accurate citation to all official authorities relied upon, and shall contain a photocopy of any unofficial authority or any authority not found within the Lackawanna County Law Library. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and an argument. The brief of each party, if more than fifteen pages in length, shall contain an index and table of citations of the cases, statutes and other authorities referred to within the brief, with references to the pages at which they are cited.

Rule 210.1. Transcription Required for Argument.

(a) If in the opinion of counsel for any party a transcription of testimony or of a prior court proceeding is necessary for the just disposition of a matter to be argued to the court or to an individual judge of the court, that counsel shall serve upon the office of the court reporters and upon all other parties to the action a written notification that such transcription shall be required. Such notice shall be provided as soon as practicable and, in any event, not later than five (5) days after the filing of motion or petition which is to be argued. Said notice shall contain:

- (1) the full caption of the case;
- (2) the date(s) of the proceedings(s) for which a transcription is deemed necessary;
- (3) the type of proceeding for which the transcription is deemed necessary; and,
- (4) the date on which the transcription is required, which date should be no later than seven (7) days prior to the scheduled date of argument.

(b) As soon as can be determined after receipt of the notice required by paragraph (a), the office of the court reporters shall advise all parties and the court of the approximate date on which said transcription shall be available, so that the parties and the court can consider alternative argument dates if such appears necessary or desirable.

Rule 211. Disposition of Motions and Petitions.

(a) To assign a motion or petition to a judge for disposition or to schedule a motion or petition for argument where a rule returnable does not set a schedule, a

party shall file with the Clerk of Judicial Records and the Court Administrator a Praeceptum for Assignment. See Appendix, Form 2.

(b) Prior to filing a Praeceptum for Assignment, the moving or petitioning party shall contact counsel for all other parties of record to determine whether an opposing party or lawyer wishes to present oral argument. The moving or petitioning party shall indicate on the Praeceptum for Assignment whether the matter is being submitted on briefs and without the necessity of oral argument or is to be scheduled for argument by the Court Administrator. No Praeceptum for Assignment will be accepted by the Clerk of Judicial Records or the Court Administrator unless the moving or petitioning party has indicated in writing whether the matter is to be submitted on briefs or scheduled for oral argument.

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

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

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

(f) If any party other than the moving or petitioning party fails to timely file and serve a brief, that party may be deemed not to oppose the motion or petition and may not be allowed to present oral argument.

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

Rule 212. Pre-Trial Procedure and Conference.

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

(a) Prior to Filing of Certificate of Readiness

After a complaint alone has been filed or after a complaint and answer have been filed, all parties may jointly praecipite a case for a preliminary pre-trial settlement conference if it is the joint consensus of the parties that the case may be settled as a result of such a conference, and it is the intention of the parties to avoid ordinary pre-trial procedures leading to the filing of a certificate of readiness.

At such a conference, the basis for the joint consensus that a settlement may be effected at this preliminary stage shall be stated in a joint presentment entitled: "PLAINTIFF/DEFENDANT PRELIMINARY PRE-TRIAL SETTLEMENT STATEMENT." See Appendix, Form 3.

(b) After Filing Certificate of Readiness

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

(c) If the court determines at the time of the status conference that a party has not fully complied with Lacka. Co. R.C.P. 214(b), the court may strike the original certificate of readiness and remove the case from the

judge's individual calendar or may take such other action as it deems appropriate under the circumstances. At the status conference, the court will also schedule the pre-trial conference and the trial date.

(d) For the pre-trial conference, each party shall submit to the court and serve on all other parties at least seven (7) days prior to the scheduled time of the conference, a pre-trial statement substantially in the form set forth in Plaintiff/ Defendant Pre-Trial Statement or such other form as shall be required by the assigned judge. See Appendix, Form 4. The court may in its discretion require the parties to submit a pre-trial order in the format contained in former Lacka. Co. R.C.P. 212.1. See Appendix, Form 5.

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

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

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

Rule 212.2. Miscellaneous Instructions Pertaining to Trial.

(a) In all non-jury trials, the appropriate waiver of a jury trial shall be executed and filed no later than the day trial commences.

(b) In all jury trials, requests for instructions to the jury, together with citations to legal authorities in support thereof, proposed voir dire questions, and jury interrogatories shall be submitted in duplicate at chambers. Such materials shall be filed when the judge may direct, but in the absence of any specific direction, not later than the day when trial commences.

(c) Except upon stipulation by affected counsel or by order of the judge, no statement contained in preliminary pre-trial memoranda or the pre-trial order shall be made the subject of comment to the jury by any party at the trial of the case.

(d) Any counsel needing special equipment, device, personnel, or courtroom arrangements shall be responsible for assuring that such items are available at the

time they are needed. Personnel assigned to the judge shall not be expected or depended upon to provide service for any party or counsel in the absence of a notation contained in the final pre-trial order.

212.5. Mediation.

(a) *Submission to mediation.* Except as otherwise provided by Pa. R.Civ.P. 1042.21, the court administrator or a judge may submit a civil case to the court-annexed Mediation Program only with the consent of all parties.

(b) *Certification of Mediators.* The President Judge shall certify as many mediators as determined to be necessary under this Rule. An individual may be certified as a mediator only if [s]he has been admitted to practice law in Pennsylvania for at least ten years and has been determined by the President Judge to be competent to perform the duties of a mediator. The Court Administrator shall maintain a list of all persons who have been certified as mediators.

(c) *Compensation of Mediators.* The services of the mediators shall be provided *pro bono* and no mediator shall be called upon more than twice in a single calendar year to act as a mediator without prior approval of the mediator.

(d) *Application for Mediation.* The parties may request mediation by submitting a written application to the Court Administrator in the form attached as Form No. 6.

(e) *Assignment for Mediation.* If the parties have jointly requested mediation, the Court Administrator shall designate the assigned mediator, and shall direct the mediator to establish the date, time and place for the initial mediation session within thirty days from the date of the referral order. The Clerk of Judicial Records shall make the original case file available to the mediator for purposes of the mediation session.

(f) *Mediation Session.* The mediator shall establish the date, time and place of the mediation session. Unless specifically requested by the mediator, the parties shall not contact or forward documents to the mediator. Counsel who are primarily responsible for the case and any unrepresented party shall attend the mediation session. All parties, insurers and principals of parties with decision-making authority must attend the mediation session in person, unless their attendance is excused by the mediator for good cause shown, in which event they must be available by telephone during the entire mediation session. All parties, insurers, principals and counsel must be prepared to discuss all liability and damage issues and to participate in meaningful settlement negotiations.

(g) *Confidentiality.* All mediation proceedings, including any statement made or writing submitted by a participant, shall not be disclosed to any person who is not directly involved with the mediation session. The parties' settlement positions and statements during mediation shall not be disclosed to the trial judge unless mutually agreed to by the parties, but in the event that the case involves a non-jury trial, under no circumstances shall the parties' settlement positions and statements be disclosed to the assigned judge. No transcript or other recording may be made of the mediation session and the mediation proceedings shall not be used by any adverse party for any reason in the litigation at issue.

(h) *Mediation Report.* The mediator shall submit a confidential report to the assigned judge indicating whether a settlement has been reached. In the event that a settlement has not been achieved, the mediator's report

shall include a recommendation as to whether further mediation should be ordered.

Rule 213. Motions for Consolidation or Severance of Actions and Issues.

A motion to consolidate or sever actions or issues pursuant to Pa. R.C.P. 213 shall be made in accordance with Lacka. R.C.P. 208.3.

Rule 214. Listing Cases for Hearing or Trial.

(a) The Court Administrator shall assign a case for hearing or trial upon the filing of a Certificate of Readiness in the form attached to the Appendix of these Local Rules as Form 7. The Certificate of Readiness should identify the judge who has decided any case dispositive motion under Lacka. Co. R.C.P. 1028, 1034 or 1035.2, and whenever practicable, the Court Administrator shall assign the case for hearing or trial to the judge who has decided that case dispositive motion.

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

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

Rule 214.1. Hearing and Trial Terms.

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

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

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

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

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

Rule 214.3. Notice of Hearing or Trial.

(a) Notice of trial in a jury case will be provided by the judge to whom the case has been assigned for trial.

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

Rule 216. Application for Continuance.

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

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

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

Rule 223. Civil Trials.

(a) Schedule of Commencement of Trial

During a trial session, cases shall be called for trial in the order in which they were scheduled for trial by the assigned judge.

(b) Openings and Closings

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

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

(2) Opening remarks shall consist only of a succinct statement, without argument, of the positions and contentions of the party represented by the speaker and a brief recital of the evidence intended to be introduced in support of the same;

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

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

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

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

(c) Conduct of Trial

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

Rule 223.1. Trial Briefs.

Prior to the commencement of trial, counsel shall furnish to the court a trial brief which shall contain a succinct statement of the evidence to be presented, the position of the party filing the same with respect to anticipated legal issues to be encountered, and citation of legal authorities relief upon to support the legal positions of the party and to support any requests for rulings which the party anticipates seeking from the court.

Rule 223.2. Additional Submission for Non-Jury Trials.

In all civil actions tried by a judge without a jury, counsel for the respective parties shall each present to the trial judge requests for findings of fact and conclusions of law. These requests shall be filed with the Clerk of Judicial Records and shall thereby become part of the record of the court in the case.

Rule 226. Points for Charge and Jury Interrogatories.

Points upon which the trial judge is requested to charge the jury in civil litigation shall not exceed twelve (12) in number without leave of court. Points to be requested shall be framed so that each constitutes a single request which may be completely answered by a single affirmation or negation. Counsel for each party shall furnish that party's requested points for charge to the judge and to opposing counsel at the beginning of the trial unless otherwise allowed or directed by the court. Such requests may be supplemented for matters arising during the trial that could not have been reasonably anticipated at the beginning of the party's case in chief.

For each requested point for charge, counsel shall cite the legal authority as the basis for which that particular point is requested which citation shall be made immediately following the particular request to which it applies.

Any special interrogatories which are to be requested shall also be framed so that each constitutes a single request which may be answered by simple affirmation or negation.

Rule 227.1. Post-Trial Motions in Jury Trials.

(a) All post-trial motions after trial pursuant to Pa. R.C.P. 227.1 shall be filed within ten days after nonsuit or verdict or disagreement of the jury.

(b) All post-trial motions must be written and the movant and respondent of each post-trial motion shall serve copies of each document which they file with reference to any such motion upon the trial judge and all other parties. Such service shall be made prior to or immediately after the time the document is filed in the office of the Clerk of Judicial Records.

(c) All motions of the type set forth in paragraph (a) above shall contain specific references to the alleged errors which form the basis of the motion. A post-trial motion will be dismissed as of course as dilatory and in needless expense to the county and to the litigants if the reasons set forth are mere conclusions, are captious, or are not supported by the record.

(d) Whenever a post-trial motion is based upon matters not appearing of record, it shall be made in the form of a petition for rule to show cause and shall be supported by affidavits or depositions upon argument thereof.

(e) A motion for a new trial on the ground of after-discovered evidence must be made on petition, verified by affidavit, setting forth the names of the witnesses or sources of evidence which have been discovered, a reasonable expectation as to what is to be proved by such evidence, and an assertion that the movant did not know of the evidence before or during the trial. In the event that the rule to show cause is granted, all of the foregoing matters shall be established by deposition or by testimony presented in court at the time that the motion is considered.

(f) Unless for good cause shown the court orders otherwise, post-trial motions may be decided without the transcript of testimony having been prepared.

(g) Where it is determined that a transcript or a portion thereof is necessary, counsel shall have as a matter of right ten additional days to submit additional allegations of error following receipt of the transcript.

Rule 229. Discontinuance.

Leave of court is required for a plaintiff to discontinue an action as to less than all defendants. Such leave of court shall be sought by petition and rule to show cause.

Rule 230.2. Termination of Inactive Cases

The termination of inactive cases in which there has been no activity of record for two years or more shall be governed by the procedure set forth in Pa. R.Civ.P. 230.2 (effective July 1, 2003).

Rule 238. Notice of Settlement Offer.

Each settlement offer made pursuant to Pa. R.C.P. 238(b) and each response given to such offer shall be in writing and dated.

Rule 240. Proceeding In Forma Pauperis in Civil Cases.

(a) Any party who is represented by counsel who certifies on the application or by separate document that the plaintiff is indigent, or any party who is represented by court-appointed counsel or by counsel furnished from a non-profit legal services organization providing free legal services to the indigent may apply to the court for leave to proceed in forma pauperis.

(b) If the party is represented by an attorney, the Clerk of Judicial Records shall allow the party to proceed in forma pauperis upon the filing of a praecipe in the form prescribed by Pa. R.Civ.P. 240(d)(1) and (i). In all other cases, the party seeking to proceed in forma pauperis shall file a petition and an affidavit in the form prescribed by Pa. R.Civ.P. 240(c) and (h).

(c) Parties eligible to apply for leave to proceed in forma pauperis, as set forth in subsection (a) above, may also apply to the court for relief from payment of special or unusual expenses, i.e., those costs not related to filing and service of process.

(d) The right to apply for leave to proceed in forma pauperis shall likewise be available to parties in any civil action commenced before the minor judiciary. Applications in such cases shall be brought to the presiding District Justice for disposition in the manner set forth in subparagraph (a) above.

Rule 248. Modification of Time.

The time prescribed by any rule herein for the doing of any act may be extended or shortened by written agreement of the parties or by order of court.

Rule 250. Scope of Chapter.

(a) The rules contained within this chapter entitled "Practice and Procedure Generally" shall apply to all civil actions and proceedings unless otherwise designated in a particular rule and as limited by subsection (b) below.

(b) The rules contained within this chapter shall apply to class actions only to the extent that they do not conflict with Pa. R.C.P. 1701-1716, Lacka. Co. R.C.P. 1703-1713, and such other rules as may be promulgated by this court with respect to class actions.

Rule 250.1. Suspension of Rules.

The court may suspend one or more of these rules in individual cases by written order. When a judge of this court issues any order in a specific case which is not consistent with these rules, such order shall constitute a suspension of these rules for such case only and only to the extent that it is inconsistent.

Rule 261. Court Records.

(a) The Clerk of Judicial Records shall endorse upon all papers filed the date and time of filing the same, and note the same in the continuance docket. No parol

evidence shall be received to contradict such endorsement, unless upon an allegation, verified by affidavit, of fraud or mistake.

(b) No person other than the Clerk of Judicial Records or his or her deputy or designee shall make any entry upon the docket or records of the court.

(c) The Clerk of Judicial Records shall allow no papers to be taken from his or her office, except when specially allowed by the court or one of the judges thereof, unless the same be called for trial or a hearing before a referee, board of arbitrators, auditor, or master, and then only upon receipt of the person or persons authorized to take such records.

(d) In cases where tax or municipal liens shall be divested without having been paid in full, by reason of any order of this court or of the United States Court in Bankruptcy, either by compromising said liens or directing the sale of the lien premises free and clear of such liens, the Clerk of Judicial Records may, upon praecipe of the solicitor for the municipal sub-division which filed the lien, enter upon the record of each lien thus divested in the municipal lien docket and judgment index an annotation to the effect that the lien has been divested under order of court, making specific reference to the number and term of this court or to the number and bankruptcy court under which the lien was divested.

Rule 262. Court Records (Transcripts).

In order to implement Supreme Court Order No. 35 and subject to Lacka. Co. R.C.P. 261, counsel shall not be permitted to take any court records out of the Clerk of Judicial Records' office, by order of court or otherwise, for the purpose of photocopying transcripts.

Only in an emergency situation may counsel be permitted to photocopy a transcript, but the court reporter still must be paid the copy rate since counsel is not entitled to a free transcript indirectly off the court reporter's services and since counsel cannot receive a free transcript directly from the reporter.

Rule 263. Ordering of Transcripts.

Counsel for the moving party shall serve a formal request for transcript on the court stenographer. The court stenographer will then provide counsel for the moving party with an estimate of the transcript fee for an original and one copy. Upon receipt of at least one half of said transcript fee, transcription will commence. However, filing of the original transcript and delivery of a copy to counsel shall not be made until full payment is made.

Delivery of copies ordered by opposing counsel will be made only after the moving party has made full payment for the original and one copy and payment in full is made by opposing counsel for any copies so ordered.

Rule 275. Costs.

(a) Taxation of Bill of Costs

A bill of costs, accompanied by an affidavit of their correctness and the necessity for the number of witnesses in attendance, shall be taxed by the Clerk of Judicial Records.

(b) Notice

Any party requesting taxation of costs by the Clerk of Judicial Records shall give the Clerk and all other parties ten (10) days written notice of such request. The Clerk shall fix the time for taxation and notify the parties or their counsel.

(c) Exceptions

Any party desiring to challenge the correctness of a bill of costs may do so by filing with the Clerk of Judicial Records within ten (10) days after service of the bill of costs written exceptions thereto, accompanied by an affidavit attesting to the truth of the facts asserted within the exceptions. Exceptions to a bill of costs shall particularize the items objected to in detail unless the exceptions are to the whole bill for any particular reason.

(d) Clerk's taxation

The clerk of Judicial Records shall tax the costs upon consideration of the bill of costs and any exceptions presented thereto, which taxation shall be subject to appeal to the court.

(e) Appeal

An appeal taken to the court from the Clerk of Judicial Records' taxation of a bill of costs must be taken within thirty (30) days from the date of filing of the Clerk's taxation.

(f) Security for Costs

The defendant in any case, upon entering an appearance or upon filing a responsive pleading, may petition for a rule on plaintiff to give security for costs. Such petition and rule shall be in accordance with Lacka. Co. R.C.P. 206.

Rule 290. Appellate Court Filing Fees.

When an appeal is brought by filing a notice of appeal in the office of the Clerk of Judicial Records and for which a filing fee is required by the Court of Common Pleas of Lackawanna County and an additional filing fee is required by the appellate court to be collected by the clerk of Judicial Records of Lackawanna County, such appellate court filing fee shall be paid by a separate check or money order made payable to the prothonotary of the appellate court involved. It shall be the obligation of the Clerk of Judicial Records to forward said filing fee to the appellate court, consistent with the Pennsylvania Rules of Appellate Procedure.

SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS

Rule 400.1. Notice to Serve.

(a) Any document or process issued out of the office of the Clerk of Judicial Records, other than a complaint, shall contain a notice to serve directed to the sheriff of the appropriate county to serve the process on or before a day certain, which shall be not less than five days in advance of any return date set with respect to the process, or to otherwise return the process marked "Not Found."

(b) The form of such notice to serve will read:

TO THE SHERIFF of _____ COUNTY:

You are hereby authorized and directed to effect service of the within process on or before _____.

If you are unable to do so, return said process marked "Not Found" with reasons therefore.

Attorney for

Rule 430. Service by Publication in Actions in Ejectment.

Service upon a defendant by publication in an action in ejectment shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of

general circulation within Lackawanna County, a notice which shall be substantially in the following form:

Commonwealth of Pennsylvania
County of Lackawanna

(CASE CAPTION)

To _____
(Name of defendant)

You are notified that _____
(Name of plaintiff)

the plaintiff, has commenced an action in ejectment against you, which you are required to defend, to recover possession of land described as follows:

NOTICE

If you wish to defend you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in
Lacka. Co. R.C.P. 1018.1)

(Attorney for plaintiff)

(Address of Attorney for plaintiff)

(b) When service is to be made by publication in accordance with subsection (a) above, if an affidavit is filed that the heirs and assigns of a named former owner of the property are unknown, the publication shall be directed for the former owner and his heirs and assigns generally.

Rule 430.2. Service by Publication in Actions in Replevin.

(a) Service upon a defendant by publication in an action in replevin shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation in Lackawanna County a notice which shall be substantially in the following form:

Commonwealth of Pennsylvania
County of Lackawanna

(CASE CAPTION)

To _____
(Name of defendant)

You are notified that _____ has
(Name of plaintiff)

commenced an action in replevin, which you are required to defend, and in which the following property may be seized:

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you

without further notice for the relief requested by the plaintiff. You may lost money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in
Lacka. Co. R.C.P. 1018.1)

(Attorney for plaintiff)

(Address of Attorney for plaintiff)

(b) When service is to be made by publication in accordance with subsection (a) above, if an affidavit is filed that the heirs and assigns of a named former owner of the property are unknown, the publication shall be directed to the former owner and his heirs and assigns generally.

Rule 430.3. Service by Publication in Action Requesting Equitable Relief

(a) Service upon a defendant by publication in an action seeking equitable relief shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County a notice which shall be substantially in the following form.

Commonwealth of Pennsylvania
County of Lackawanna

(CASE CAPTION)

To _____
(Name of defendant)

You are notified that _____ has
(Name of plaintiff)

commenced an action in equity against you which you are required to defend.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in
Lacka. Co. R.C.P. 1018.1)

(Attorney for plaintiff)

(Address of Attorney for plaintiff)

(b) When service is made by publication upon the heirs and assigns of a named former owner or party in interest and said heirs and assigns are unknown, the publication shall be directed to the heirs and assigns generally if within the complaint or by separate affidavit it is stated that the heirs and assigns are unknown.

Rule 430.4. Service by Publication for the Enforcement of Judgments for Payment of Money.

When service by publication may be had under Pa. R.C.P. 3112(c), the plaintiff may cause service to be made by publication once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation in Lackawanna County a notice which shall be in substantially the following form:

Commonwealth of Pennsylvania
County of Lackawanna

(CASE CAPTION)

NOTICE IS HEREBY GIVEN TO _____ that on _____ a writ of execution issued against _____ (date) real property of _____ held in your name and described as follows:

(In addition to the description, see Lacka. Co. R.C.P. 3129.1)

Said writ issued on judgment No. _____, 20 ____.

You are directed to notify _____ that the plaintiff issued an attachment execution against you which _____ is/are required to defend.

Rule 430.5. Service by Publication of Actions Pursuant to 41 P. S. Section 407.

Service upon a defendant by publication of actions commenced in accordance with the requirements of Section 407 of Act No. 6 of 1974, 41 P. S. Section 407, when authorized pursuant to Pa. R.C.P. 430, shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County a notice which shall be substantially in the following form:

Commonwealth of Pennsylvania
County of Lackawanna

(CASE CAPTION)

To _____ (Name of defendant)

You are notified that _____ (Name of plaintiff)

has commenced an action to execute on residential real property pursuant to a judgment entered by confession in the Court of Common Pleas of Lackawanna County, which judgment is entered to docket number _____ 20 ____.

You are required to defend this action, which seeks to obtain possession of real estate which you own or in which you reside, which real estate is located at

(Street Address)

(City and State)

and is described as follows:

(In addition to the description, see Lacka. Co. R.C.P. 3129.1)

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lost money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in Lacka. Co. R.C.P. 1018.1)

(Attorney for plaintiff)

(Address of Attorney for plaintiff)

Rule 440. Service of Legal Papers Other Than Original Process.

(a) Service

Unless otherwise provided by statute or by rule of the Supreme Court of Pennsylvania or of this court, a copy of all pleadings, petitions, motions, rules, answers to rules to show cause, notices, or other papers required to be served on another party shall be served in the manner provided by Pa. R.C.P. 440 or 441 or as otherwise directed by order of this court within five (5) days from the filing thereof. If timely service is not effected in accordance with this rule, the legal paper shall be considered void and of no effect. Upon affidavit filed setting forth such failure of timely service, the party upon whom the paper should have been served may proceed as though said legal paper had never been filed.

(b) Certificate of Service

The party serving the paper(s) shall file in the office of the Clerk of Judicial Records a certificate or affidavit of service showing the date, manner of service, and person upon whom service was made. Such certificate or affidavit of service shall be filed immediately upon effecting service, and a copy of same shall be served on all parties.

(c) Service by Publication

Unless otherwise specifically provided by statute, court rule, or order of court, whenever service by publication may be made pursuant to Pa. R.C.P. 430, said service shall be accomplished by publication once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County. Such publication is to be made in such a manner that the person so served thereby shall have at least five (5) days after publication to answer the legal paper which is served in that fashion.

ACTIONS AT LAW

Rule 1018.1. Notice to Defend.

The agencies to be designated on the notice to defend which is required by Pa. R.C.P. 1018.1 to appear in every complaint filed in the Court of Common Pleas of Lackawanna County by a plaintiff or by a defendant against an additional defendant shall be as follows:

Northern Pennsylvania Legal Services
507 Linden Street, Suite 300
Scranton, PA 18503-1631
Telephone (570)342-0184

and

Lawyer Referral Service
Lackawanna Bar Association
204 Wyoming Avenue, Suite 205
Scranton, PA 18503-1010
Telephone (570) 969-9600

Rule 1019. Contents of Pleadings, General and Specific Averments.

Whenever any right, claim, or defense is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation, Pennsylvania Rule of Civil Procedure, or rule herein, the first pleading in which such right, claim, or defense is asserted shall cite for the information of the court the statute, ordinance, regulation, or rule so relied upon.

Rule 1021. Claims for Relief-Accounting.**(a) Time for filing Account**

When a judgment has been entered directing the defendant to account to the plaintiff, the defendant shall, within thirty (30) days, unless the court shall for cause shown allow a longer time, state the account and file the statement thereof in the office of the Clerk, of Judicial Records, and shall at the same time serve a copy of said account upon all adverse parties to whom the defendant has been ordered to account.

(b) Exceptions

Within thirty (30) days after such notification, any adverse party who has received the accounting, if dissatisfied with the statement of account filed by the defendant, shall file exceptions thereto and move for the appointment of an auditor to hear and report upon the questions of fact and law raised by the exceptions.

(c) Failure to File Account

If the defendant shall for any reason fail to file a statement of account within thirty (30) days or such longer period as the court may fix, the court shall, on motion of an adverse party to whom the defendant has been ordered to account, appoint an auditor to state the account between the parties upon the basis of such evidence as may be submitted to the auditor.

(d) Auditor's Report Exceptions

The auditor shall give two weeks notice in writing to the parties on their attorneys of record of the time and place fixed for the hearing on the matter. When the auditor has prepared his report, notice that it is ready for filing shall be given to the parties or their attorneys. Exceptions thereto must be filed with the auditor within ten (10) days after such notice has been received. If exceptions are filed, the auditor shall, with his report as originally prepared, report supplementally on the exceptions. When the auditor's report has been filed, the court, after hearing argument on the exceptions thereto, will enter such order for judgment as the case may require.

Rule 1021.1. Claim for Relief.

In actions for injury to persons or property where some or all of the damages are not liquidated, the claims for relief in the complaint, in specifying the amounts of damages to which the party deems himself entitled, shall state only that said damages are in excess of, or not in excess of the amount below which cases are required to be presented to arbitration.

Rule 1028. Preliminary Objections.

(c) (1) A party filing preliminary objections shall file the original preliminary objections with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co.R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co.R.C.P. 211(b) prior to filing the praecipe for assignment.

(2) The filing of briefs, assignment of preliminary objections, and scheduling of oral argument, if necessary, shall be governed by Lacka. Co. R.C.P. 211(c)—(g).

Rule 1033. Amendments to Pleadings

When an amendment to a pleading is allowed or is made prior to trial, the whole pleading, as amended, shall be executed, verified, and filed, provided that, exhibits attached to prior pleadings need not be recopied into the amended pleadings

Amendments to pleadings allowed at the trial need not be executed, verified, and filed if the amendment is made a part of the trial record.

Rule 1034. Motion for Judgment on the Pleadings.

(a) (1) A party filing a motion for judgment on the pleadings shall file the original motion for judgment on the pleadings with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co.R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co.R.C.P. 211(b) prior to filing the praecipe for assignment.

(2) The filing of briefs, assignment of motion for judgment on the pleadings, and scheduling of oral argument, if necessary, shall be governed by Lacka. Co. R.C.P. 211(c)—(g).

Rule 1035.2. Motion for Summary Judgment

(a) (1) A party filing a motion for summary judgment shall file the original motion for summary judgment with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co.R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co.R.C.P. 211(b) prior to filing the praecipe for assignment.

Rule 1037. Judgment Upon Default for Repair of Property.

(a) In all actions in which the only damages to be assessed are the cost of repairs theretofore made to property, the plaintiff may seek judgment upon default assessing damages for the cost of repairs by filing, with a praecipe waiving any other damages under such judgment, the affidavits required by subsection (b) of this rule and, by sending to the defendant by registered mail directed to his or her last known address, a copy of the repair bill and the affidavit of the person who performed the repairs required by subsection (b) of this rule, together with a notice setting forth the date of the intended assessment of damages, which date shall be not less than ten (10) days from the date of mailing of the notice. Said notice shall contain a statement that damages will be assessed in the amount of the repair bill unless, prior to the date of intended assessment, the defendant files a written praecipe with the Clerk of Judicial Records requesting trial on the issue of such damages.

(b) Together with the praecipe waiving any damages other than the cost of repairs, the plaintiff shall file an affidavit indicating the date of the mailing to defendant of the notice of the intended assessment of damages and an affidavit of the person who performed the repairs containing an itemized repair bill setting forth the charges for labor and material used in the repair of the property and a statement indicating the qualifications of the person who made or supervised the repairs, that the repairs

were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged.

(c) If the defendant fails to file with the Clerk of Judicial Records prior to the date of intended assessment of damages a praecipe requesting a trial on the issue of such damages, the plaintiff on or after the date of intended assessment of damages may file a praecipe directing the Clerk of Judicial Records to enter judgment in plaintiff's favor in the amount of the repair bill, which the Clerk of Judicial Records shall promptly do.

(d) In the event that the defendant does file a praecipe requesting a trial on the issue of such damages, the case shall proceed as any civil action and shall be subject to arbitration if the amount in controversy is an amount requiring arbitration.

Rule 1054. Abstracts of Title.

Abstracts of title shall contain a specification of all facts or equitable matter on which the party relies, a reference to all records, an abstract thereof, and, as to deeds, mortgages, or contracts, shall give their date, the date of acknowledgment, and if recorded, when and where recorded.

Rule 1075. Seizure of Property Before Judgment in Actions in Replevin.

(a) A return of service required by Pa. R.C.P. 1075.1(d) or Pa. R.C.P. 1075.2(c), pertaining to service of motions for writ of seizure and notice of hearings made by one other than the sheriff, shall indicate the manner in which service was made and, if service was accomplished in a manner other than those provided in Pa. R.C.P. 402, the affidavit shall indicate why service could not be made in a manner indicated in that rule.

(b) A petition to vacate a writ of seizure as provided in Pa. R.C.P. 1075.1(g) shall be accompanied by a rule to show cause and shall follow the procedure set out in Lacka. Co. R.C.P. 206.

Rule 1098. Peremptory Judgment in Actions in Mandamus.

(a) A plaintiff in an action in mandamus seeking a peremptory judgment shall do so by motion and in compliance with the notice provision of Lacka. Co. R.C.P. 206.1(c), unless the urgency of the case is such as to require action before notice can reasonably be given.

(b) The court at the time such motion is presented shall determine whether the motion can be acted upon forthwith or whether it requires additional consideration. If additional consideration is required, the court shall schedule presentation of any documentary or testimonial evidence which it desires as soon as practicable and shall thereafter rule on said motion and either grant or deny peremptory judgment.

(c) The pendency of a motion for peremptory judgment in a mandamus action does not excuse or relax the defendant's responsibility to timely file a responsive pleading to the plaintiff's complaint.

Rule 1301. Arbitration.

(a) All civil actions brought in the Court of Common Pleas of Lackawanna County in which the amount in controversy is \$30,000.00 or less shall first be submitted to arbitration and heard by a panel of three arbitrators selected from members of the bar of this court in accordance with the provisions of this rule, with the exception of:

- (1) cases involving title to real estate; and,

(2) cases which have been consolidated for trial with cases in which the amount in controversy exceeds \$30,000.00.

(b) All members of the bar of this court shall constitute the Board of Arbitrators and all members shall act as arbitrators unless excused by the court. Each attorney engaged in active practice in this court shall file with the Court Administrator information indicating whether he or she is practicing alone, is associated with one or more attorneys, or is a member of a firm, and further indicating the length of time he or she has actively engaged in the practice of law. Upon any change in his or her status of practicing or being associated with any other lawyer, he or she shall immediately notify the Court Administrator of such change.

(c) The Court Administrator shall appoint arbitration panels consisting of three attorneys each, taken from the list of eligible attorneys which the Court Administrator shall maintain on the basis of the information provided pursuant to subsection (b) of this rule. Each member of the bar, other than those excused from service, shall serve on only one arbitration panel per year unless the number of panels so chosen is insufficient to conveniently dispose of all of the arbitration cases within the year. In such circumstance, the Court Administrator shall appoint to additional arbitration panels those attorneys who have indicated their availability for such service. No more than one member of a family, firm, or association shall serve on an arbitration panel. The members of each arbitration panel shall have a cumulative experience of, at least, ten (10) years, dating from their admission to practice in Pennsylvania.

(e) Each arbitration panel shall sit in session one day during the calendar year and on that day shall hear as many arbitration cases as the Court Administrator has scheduled for that panel. More than one action or controversy may be scheduled for a single arbitration panel if, in the judgment of the Court Administrator, such panel can conveniently dispose of more than one case during its day of arbitration. In the event that a scheduled case cannot be heard, it shall be reassigned to the next available arbitration panel by the Court Administrator.

(f) The Court Administrator shall notify all arbitrators of the day on which they shall serve, which notification shall be made as soon as the arbitration panel is selected. For each arbitration panel, the member with the earliest admission to practice in Pennsylvania shall serve as chairperson. Arbitrators so appointed to a specific panel may be excused or transferred to another panel by the Court Administrator, but only for good cause shown, in which instance the Court Administrator shall designate a successor to that arbitrator as soon as practical.

(g) The arbitration panel shall file its findings and award, if any, as well as any written opinion as in its discretion it may choose to submit, within seven days from the conclusion of the hearing in each case. If a member of the panel dissents from the majority's findings or award, that arbitrator shall so state on the award form and may, in his or her discretion, submit an opinion indicating the reason(s) for such dissent.

(h) Any party may appeal from the findings or award of the arbitration panel to the Court of Common Pleas of Lackawanna County in the same manner as appeals de novo are commenced before the court.

(i) In any instance where all parties in an arbitration case agree to a settlement prior to the taking of any testimony at the arbitration hearing the parties shall sign

a stipulation stating the exact form of any desired arbitration award, which stipulation shall be furnished to the Court Administrator or to the arbitration panel.

(j) If a stenographic record of an arbitration hearing is desired by any party, such party shall provide the Court Administrator with a written request for same no later than five (5) days prior to the date fixed for the hearing and shall at the time of the submission of such request pay a fee in the amount set by the court, which fee shall be considered the stenographer's appearance fee. The Court Administrator shall arrange for stenographic service and shall forward the aforesaid appearance fee to the stenographer. All parties requesting a transcript of the record shall compensate the stenographer at the rate prescribed by the court.

(k) Each member of an arbitration panel who actually hears testimony in one or more arbitration cases on the day of the panel's service shall receive a fee in an amount set by the court. Arbitrators may petition the court for additional compensation in protracted or complex arbitration cases. The court in its discretion shall determine the amount of additional compensation, if any, that the arbitrators shall receive.

INJUNCTIONS

Rule 1531. Injunctions.

No application for an injunction will be considered by the court unless the factual reasons are set forth specifically and in detail. The pleading of conclusions will not be sufficient. If an application for an injunction is considered, the court will issue an order for a hearing to be scheduled by the Court Administrator pursuant to Pa. R.Civ.P. 1531. Requests for immediate hearings will be granted upon approval of the court if it finds that extraordinary and urgent circumstances exist which require an immediate hearing.

Rule 1531.1. Contempt Proceedings on Injunctions.

Unless the president Judge directs otherwise for reasons of manifest necessity, contempt proceedings on injunction matters shall be heard and decided by the judge whose order is involved.

CLASS ACTION RULES

Rule 1703. Commencement of Action; Assignment of Judge.

(a) Upon the proper filing of a class action in the office of the Clerk of Judicial Records, counsel for the plaintiff(s) shall notify the Court Administrator and the President Judge that a class action complaint has been filed and shall forward to the President Judge a copy of said complaint.

(b) Upon notification that a class action complaint has been filed and upon receipt of said complaint, the President Judge shall assign a judge of the Court of Common Pleas of Lackawanna County to preside over the case for all purposes in conformity with Pa. R.C.P. 1703.

Rule 1707. Discovery Pertaining to Class Action Issues.

In any case in which the judge assigned to a class action permits discovery with respect to the class action issues, the order granting such limited discovery shall also indicate the period of time during which discovery with respect to the class action issues shall be permitted. All parties are required to complete such discovery within that time period.

Rule 1710. Determination of Class Action Certification Hearing.

The judge to whom a class action is assigned may request the parties to submit proposed findings of fact and conclusions of law pertaining to the question of whether or not the case should be certified as a class action. In a case in which proposed findings of fact and conclusions of law are requested, the judge shall determine the time when they are to be submitted.

Rule 1712. Order and Notice of Certification as Class Action.

(a) After the entry of an order of certification of a class action, the judge to whom the case has been assigned shall in the usual course conduct a class action notice conference at which all parties shall be represented for the purpose of considering the matters set forth in Pa. R.C.P. 1712.

(b) If at the time of the class action notice conference the court determines that individual notice is to be given, a uniform statement shall be drafted by which each individual who is to receive notice may opt for inclusion or exclusion from the class.

(c) The proposed form of notice required by Pa. R.C.P. 1712(c) must be submitted for approval by the plaintiff to the court and to all named defendants no later than fifteen (15) days prior to the class action notice conference.

Rule 1713. Pre-Trial of Class Actions.

In addition to the normal matters to be considered at pre-trial conferences, as set forth within these rules, a pre-trial conference conducted in a class action case shall consider the matters set forth in Pa. R.C.P. 1713.

ACTIONS FOR SUPPORT

Rule 1910.10. Alternative Support Proceedings.

In accordance with Pa. R.C.P. 1910.10, the hearing procedure of Pa. R.C.P. 1910.12 is hereby adopted in this judicial district.

Rule 1910.12. Office Conference. Cost and Fees. Hearing Record. Exceptions Order.

(a) Any party or parties, who do not agree with the recommendation of a domestic relations officer made pursuant to Pa. R.C.P. 1910.11(d), shall be required to pay a permanent hearing officer's or master's hearing fee within ten (10) days of the issuance of the recommendation. Otherwise, a hearing pursuant to Pa. R.C.P. 1910.12(b)(1) will not be scheduled and the recommendation shall be entered as an order of court as where agreement is reached under Pa. R.C.P. 1910.11(d).

(b) If the fee is timely paid pursuant to (a), a permanent hearing officer's or master's hearing shall be scheduled for a date at least three (3) weeks from the date of the notice of hearing.

(c) Any request for a continuance of a permanent hearing officer's or master's hearing must be in writing and received by the domestic relations office at least fourteen (14) days prior to the date of hearing. Any requests for continuance, received within fourteen (14) days of a scheduled hearing for whatever reason, shall be subject to rescheduling fees.

(d) Exceptions to the report and proposed order of the permanent hearing officer or master shall be accepted only if accompanied by a required filing fee. When a final order is entered, it shall be retroactive to the date on which the temporary support order was signed.

(e) If exceptions are filed to the proposed order of support recommended by the master, the said proposed order shall be entered as a temporary support order. The court shall hear arguments on exceptions and enter an appropriate final order.

(f) When exceptions to the report and proposed order of the permanent hearing officer or master are filed, a bill for the hearing transcript shall issue to the excepting party or parties. If payment is not made within fourteen (14) days of the date of billing, the exceptions will be dismissed.

(g) If payment for the transcript is timely received, the entire record, upon receipt of the transcript, shall be provided to the Court Administrator for an argument date.

(h) All fees referred to in this rule shall be in an amount which is periodically set forth in a schedule issued by the court and available in the domestic relations office.

ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.1. Scope; Definitions.

(a) (1) These rules govern local practice and procedure in all actions for custody, partial custody, visitation, modification of existing orders, and contempt of court, including all actions heretofore commenced by petition for writ of habeas corpus and all claims for custody, partial custody, or visitation asserted in an action of divorce or for support.

(2) If a claim for custody, partial custody, visitation, or modification of an existing order is raised during the course of an action of divorce or for support, the court shall enter an order directing that the determination of the claim shall be referred to a hearing officer appointed by the court for an expeditious resolution of the claim.

(b) As used in these rules, unless the context of a rule indicates otherwise,

“conference” means a pre-hearing negotiating session conducted under the auspices of the court by a hearing officer appointed by the court at which all counsel shall be present;

“de novo hearing” means a hearing before a judge of the court upon exceptions to the report of the hearing officer;

“hearing officer” means an attorney engaged in the practice of law before the Court of Common Pleas of Lackawanna County who is duly licensed to practice law in the Commonwealth of Pennsylvania; shall conduct pre-hearing conferences at such times and places as the court shall direct; shall encourage and supervise the formulation of consent orders; shall, in cases where consent orders cannot be obtained, conduct evidentiary hearings at which the hearing officer may examine the parties and all other witnesses whom the hearing officer may have reason to believe have knowledge of any facts relevant and material for the just and proper examination of the case; may recommend counseling and conduct oral examination of the child(ren) who is (are) the subject of the action and request investigation reports from social services agencies; shall submit a report to the court which shall include a comprehensive opinion reflecting a thorough analysis of the record as a whole and specifying the reasons for the hearing officer’s recommended order; and, shall perform such other duties relating to actions involving custody of children and visitation rights as the court may from time to time direct;

“joint custody” in the context of any report or opinion and orders shared custody as that term is defined in Pa. R.C.P. 1915.1(b).

Rule 1915.2. Venue.

In conjunction with the assumption of jurisdiction and venue, the court may direct the taking of testimony by or before other competent tribunals as set forth more fully in the Uniform Child Custody Jurisdiction Act, 23 Pa.C.S.A. §§ 5341 et seq.

Rule 1915.3. Prosecution of Action.

(a) Except as otherwise provided by subdivisions (c) and (d) of this rule, an action shall be commenced by filing a verified complaint.

(b) A completed order shall be attached to the complaint directing the defendant and any interested parties to appear at the time and place and for the purpose specified. The order shall be substantially in the form provided by Pa. R.C.P. 1915. The order shall be completed by the Court Administrator prior to filing the complaint.

(c) (1) A claim for custody, partial custody, visitation, or modification of an existing order, which is joined with an action of divorce or for support shall be asserted:

(i) by the plaintiff in the complaint or in a subsequent petition filed to the same term and number as the original action;

(ii) by the defendant, as a counterclaim in the original action or in a subsequent petition filed to the same term and number as the original action.

(2) The complaint, petition, or counterclaim shall be substantially in the form required by Pa. R.C.P. 1915.

(3) An order shall be affixed as provided by subdivision (b) of this rule.

(d) An action for attachment for contempt for failure to obey an existing court order shall be commenced by petition and rule to show cause and shall be prosecuted before a judge of this court only and in the manner provided by Pa. R.C.P. 1915.12.

Rule 1915.4. Service, Proof of Service.

(a) Original service shall be made pursuant to Pa. R.C.P. 412.

(b) Where an attorney has entered an appearance on behalf of a party, service of all subsequent pleadings may be made on the attorney.

(c) Where service is made on an attorney of record, proof of service shall be by an affidavit of service of the party making service or by acceptance of service executed by the attorney receiving it.

Rule 1915.5. Jurisdiction and Venue. Responsive Pleadings. Discovery Motion Practice.

(a) A party must raise questions of personal jurisdiction or venue by preliminary objection filed within twenty (20) days of service of the pleading to which objection is made or at the time of hearing, whichever first occurs. Failure to raise those questions shall constitute a waiver of any underlying rights related to personal jurisdiction and/or venue.

(b) Other than a verified complaint or petition and preliminary objection, no other pleading shall be required.

(c) Counterclaims under Lacka. Co. R.C.P. 1915.3(c)(ii) shall be asserted within twenty (20) days of service of the initial adversary pleading upon the party asserting the claim or at the time of hearing, whichever first occurs.

Failure to timely assert such a claim shall not delay the hearing, but shall not preclude a party from seeking such relief

(d) (1) Discovery shall be limited to the following motions practice unless authorized by special order of court:

(i) motions authorized by the Uniform Child Custody Jurisdiction Act, 42 Pa.C.S. § 5341 et seq.;

(ii) motion for physical or mental examinations; and,

(iii) motion for home study.

(2) All discovery motions shall be in writing and filed with the court no later than five (5) days after the pre-hearing conference. All motions shall be supported or opposed according to the practice followed on motion for summary judgment under Pa. R.C.P. 1035(d).

(3) Motion for continuance and for home study shall be determined, in the first instance, by the hearing officer. All other motions shall be raised to and addressed expeditiously by the court in the manner customary for motion practice and shall be given calendar priority. In no event shall motion practice be permitted to retard or delay the hearing, unless otherwise provided by court order.

The appropriate procedure for appealing a denial of a motion for home study and/or continuance is to seek relief under Pa. R.C.P. 1915.13.

(e) Upon application showing extraordinary circumstances and undue prejudice, the court may authorize additional discovery by special order.

Rule 1915.6. Joinder of Parties.

Where a grandparent or great-grandparent of the child(ren) has a statutory right to visitation, the plaintiff or petitioner shall notify that person of the pendency of the action and of the right to intervene in the manner provided by Pa. R.C.P. 1915.16.

Rule 1915.7. Consent Order.

(a) A consent order shall be entered only upon stipulation of the parties, either orally in open court upon the record or by written agreement. When the stipulation is entered upon the record in open court, all parties affected by it shall be present and shall note their agreement on the record. When the stipulation is by a written agreement, it shall be signed by all parties affected by it and witnessed by their counsel. A proposed consent order substantially in the form provided by Lacka. Co. R.C.P. 1915.17(d) shall be attached to the stipulation or agreement.

(b) A consent order may include:

(1) a provision for counseling under 32 Pa.C.S.A. § 5305;

(2) the submission of a plan under 23 Pa.C.S.A. § 5306; and,

(3) a provision for visitation under 23 Pa.C.S.A. §§ 5311—5313.

Rule 1915.8. Physical and Mental Examination of Person.

Where a physical or mental examination of a child or a party is requested, costs shall be borne by the party requesting the examination(s) unless otherwise ordered by the court or agreed by parties.

Rule 1915.9. Default Judgment, Summary Judgment.

No judgment may be entered prior to, during or subsequent to an evidentiary hearing:

(a) by default for want of an answer;

(b) on the pleadings;

(c) by summary judgment; or,

(d) by nonsuit.

Rule 1915.10. Decision.

(a) The court may issue a written decision and order before the record or any part of it is transcribed.

(b) The cost of transcription shall not be at the expense of the court or the county unless otherwise ordered by court.

Rule 1015.11. Presence of Child Required at Hearing. Interrogation of Child at Time of Hearing.

(a) The person having custody of the child(ren) on the day of the hearing shall be responsible for assuring the child's(ren's) presence at the hearing.

(b) Interrogation of the child(ren) shall be in camera in the presence of the court, court personnel, and counsel of record only, unless there are compelling reasons to do otherwise. The order of interrogations shall be, first, by the court and then by the parties in the order of their burden of proof.

Rule 1915.12. Civil Contempt for Disobedience of Custody Order.

A petition for civil contempt shall be assigned only to a judge of the court, who shall take testimony, make a decision, and specify the conditions which must be fulfilled to purge the contempt. The petition shall be substantially in the form provided by Pa. R.C.P. 1915.12.

Rule 1915.13. Special Relief.

(a) At any time after commencement of the action, the court may, on application of any party or ex parte on the application of a hearing officer, grant appropriate interim or special relief. Such relief may include issuance of a writ of ne exeat directed to the present custodian of the child(ren) where flight to evade jurisdiction is imminent.

(b) when relief is sought on application of a party, the court shall grant appropriate interim or special relief only after written notice and hearing unless it appears to the satisfaction of the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held, in which case the court may issue a preliminary or special injunction without a hearing or without notice. In determining whether a preliminary or special injunction should be granted and whether notice of a hearing should be required, the court may act on the basis of the averments of the pleadings or petition and may consider affidavits of parties or third persons, or any other proof which the court may require.

(c) Special relief and/or interim relief granted without notice to the opposing party shall be deemed dissolved unless a hearing on the continuance of the special and/or interim relief is held within five (5) days after granting such relief or within such other time as the parties may agree or as the court upon cause shown shall direct.

Rule 1915.14. Disobedience of Order Other Than For Custody.

The court may issue a bench warrant for the arrest of any person who fails to obey any court order related to a

custody proceeding and shall cause that person to be produced in open court to show cause why he or she should not be adjudged in contempt for willful disobedience.

Rule 1915.17. Pre-Hearing Conference and Consent Order.

(a) A pre-hearing conference shall be scheduled no sooner than ten (10) days after the pleading under these rules commencing the action has been filed. All actions commenced under these rules shall be scheduled for conference.

(b) The pre-hearing conference shall be held to focus issues of fact and law and to explore the possibility of a negotiated settlement and consent order.

(c) A continuance may be granted upon good cause shown to afford a party reasonable opportunity to obtain counsel and to prepare a defense.

(d) A consent order shall be in substantially the following form:

(Case Caption)

CONSENT ORDER

NOW THIS, ____ day of _____, 20____, the attached stipulation of the parties is incorporated herein by reference and made an Order of this Court with the same full force and effect.

BY THE COURT:

_____ J.

Rule 1915.18. Notice of Hearing and Order.

(a) A hearing shall be scheduled no sooner than twenty (20) days after the pre-hearing conference has been held and no sooner than twenty (20) days after the service of the order setting the time and date for hearing, unless for cause shown, the court orders an earlier hearing.

(b) Hearings shall be stenographically recorded. Witnesses may be sequestered.

(c) A continuance may be granted by the hearing officer upon good cause shown to afford a party reasonable opportunity to obtain counsel and to prepare a defense.

(d) Written notice of the hearing in the form required by Pa. R.C.P. 1915.15 shall be given no less than twenty days prior to hearing to each attorney of record and/or the parties by the plaintiff or petitioner. Service shall be by the means set forth in Pa. R.C.P. 412.

(e) The rules of evidence shall govern the taking of testimony and the admission of exhibits, except that all material and relevant evidence which has substantial probative value may be received and evaluated notwithstanding technical objections to its admissibility.

Rule 1915.19. Appointment of Hearing Officer. Report.

(a) The court may appoint standing hearing officers to hear the testimony and return the record to the court, together with a report and recommendation.

(b) The hearing officer shall file the report and recommendation no later than thirty (30) days after the record is closed. The hearing officer shall immediately send notice of the filing of the report to each party or the attorneys of record together with a copy of the report and recommendation. The notice shall be dated with the date of mailing.

(c) The hearing officer's report shall contain findings of fact, conclusions of law, and a recommendation. The

report may be in narrative form and shall state the reasons for the recommendation. The conclusions of law shall include a discussion of the law and the facts and the legal conclusions reached by the hearing officer.

Rule 1915.20. Exceptions to Hearing Officer's Report. De Novo Hearings. Final Order.

(a) Within ten (10) days after notice of the filing of the hearing officer's report has been mailed, exceptions may be filed by any party to the report or any part thereof, to ruling on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearings. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the final order, leave is granted to file exceptions raising those matters.

(b) If no exceptions are filed to the hearing officer's report within the ten (10) day period, the plaintiff or petitioner shall prepare and file a praecipe to transmit the entire record and a proposed order. The Clerk of Judicial Records shall then transmit the entire record and proposed order to the court which shall review the record and, if approved, shall enter a final order.

(c) A final order shall be in substantially the following form:

(Case Caption)

FINAL ORDER

NOW, this ____ day of _____, 20____, the attached report and recommendation is incorporated herein by reference and made the order of this court with the same full force and effect.

BY THE COURT:

_____ J.

(d) If exceptions are filed, the court shall hear arguments, take testimony, and enter an appropriate final order. No exceptions may be filed to the final order.

(e) Exceptions shall be served upon the hearing officer and all opposing counsel.

(f) All costs associated with the exceptions, including transcription costs, shall be borne by the party or parties taking the same, unless otherwise ordered by court.

ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.3. Commencement of Action.

(a) Initial Pleading

Every complaint, counterclaim, or petition, in an action for divorce or annulment, shall be filed with the Clerk of Judicial Records.

(b) Child or Spousal Support

Any party filing with the Clerk of Judicial Records a claim for child or spousal support in a complaint, counterclaim, or petition in a divorce action shall, simultaneously therewith, file a conformed copy thereof in the domestic relations office of this court where it shall proceed in accordance with the practice and procedure of the domestic relations section of this court.

Rule 1920.22. Discovery.

(a) Motion

A party seeking a special order of court for discovery pursuant to Pa. R.C.P. 1920.22(a) shall request the same by written motion in accord with Lacka. Co. R.C.P. 206.1

(b) Compliance

All requests for discovery shall be complied with within the time period established by the order therefore or, if no order is required or no period is established by the order, then within thirty (30) days from the date of service thereof.

(c) Motion for Compliance

If a party fails to comply with requested discovery within the time period provided by Lacka. Co. R.C.P. 1920.22(b), the requesting party may, upon expiration of said time period, file a motion for compliance and serve a copy thereof on the attorney for the noncomplying party or, if no attorney is of record, then on the noncomplying party. Upon service thereof, the noncomplying party shall comply with the requested discovery within fifteen (15) days, unless additional time is granted by the court.

(d) Sanctions

If a motion for compliance is filed and served and the opposing party fails to comply with Lacka. Co. R.C.P. 1920.22(c) the court shall impose the following sanctions as additional sanctions to those which the court deems appropriate:

(1) Counsel fees. Require the noncomplying party to pay reasonable counsel fees of the requesting party.

(2) Monetary sanctions. Require the noncomplying party to pay to the requesting party a sum to be set by the court for each day of noncompliance.

Rule 1920.33. Inventory and Appraisalment.

Failure to File

If a party fails to comply with the filing requirements of Pa. R.C.P. 1920.33(a), the opposing party may file a motion for compliance in accordance with Lacka. Co. R.C.P. 1920.22(c) which shall proceed in accordance with said rule and shall be subject to the imposition of sanctions in accordance with Lacka. Co. R.C.P. 1920.22(d). In addition thereto, the court may order that, if the opposing party has fully complied with the requirements of Pa. R.C.P. 1920.33(a), the same shall be taken to be established for the purposes of the action.

Rule 1920.51. Hearing by the Master.

(a) Preliminary Conference

The appointed master shall schedule a preliminary conference within twenty (20) days from the date of assignment. Such preliminary conference shall be for the purpose of attempting to effectuate a settlement of all matters in dispute and shall be attended by the attorneys for both parties and, unless otherwise excused by the master, by both parties. Each party shall, at least five (5) days prior to the preliminary conference, supply to opposing counsel and to the master a preliminary conference memorandum which shall contain:

(1) as attachments thereto, all filings required by Pa. R.C.P. 1920.31 and 1920.33(b); and,

(2) a list of the legal issues which are present and the proposed resolution thereof including the authority which is the basis of such proposed resolution.

(b) Sanctions

If a party or his attorney willfully violates the requirements hereof or fails to attend the preliminary conference without good cause shown to the master, the master may recommend and the court may impose appropriate sanctions as prescribed by Pa. R.C.P. 4019 and, in addition thereto, may bar the offending party from offering any

testimony or introducing any evidence in support of or in opposition to the claims for the matters to be included in the preliminary hearing memorandum in accordance herewith.

(c) Masters Hearing

If the matter cannot be resolved at the preliminary conference, the master shall schedule a hearing on all unresolved items. The date and time of such hearing or hearings shall be established by the master.

(d) (1) Continuances. No hearing or preliminary conference shall be continued without agreement by both parties or good cause shown to the master.

(2) Opposition to continuance. If the master grants a continuance requested by one of the parties and opposed by the other party, the grant of such continuance shall be made by the master in writing and shall include the reason for which such continuance was granted.

(3) Repeated continuances. In the event of repeated continuances, either party may petition the court in accordance with Lacka. Co. R.C.P. 206, for appropriate relief.

MINORS AND INCOMPETENT PARTIES**Rule 2032. Filing Affidavit as to Age.**

(a) A party, who files and serves on another party a rule to file of record an affidavit indicating whether that party is an adult or a minor, shall at the time of filing such rule also file a certificate of service indicating the manner of service of said rule and the date on which such service was made.

(b) The rule filed and served by a party shall advise the recipient party who is directed to file the affidavit of the date of filing of rule in the office of the Clerk of Judicial Records.

(c) The party who is to file the affidavit shall do so within ten (10) days from the date of service of the rule.

Rule 2039. Compromise, Settlement, Discontinuance or Distribution in Action Involving a Minor.

Notwithstanding the provisions of any rule of this court to the contrary, if a petition is presented to the court pursuant to Pa. R.C.P. 2039 for the compromise, settlement, or discontinuance of, or distribution of a fund resulting from an action to which a minor is a party, the court, if it so chooses, may act upon said petition immediately upon its presentation.

Rule 2056. Notice to Guardian of Incompetent.

In a case in which a defendant is incompetent, the notice required by Pa. R.C.P. 2056(b) may be given by personal service or by registered mail. If registered mail is utilized for this purpose, the plaintiff, the plaintiff's attorney, or any competent adult acting on behalf of the plaintiff shall send a registered letter to the last known address of the guardian of the incompetent defendant requiring a receipt signed by the guardian. If the letter is returned by the post office without a receipt signed by the guardian but with a notation by the postal authorities that the guardian refused to accept the letter, the plaintiff shall have the right of service by ordinary mail addressed to the guardian of the incompetent at the same address with the return address of the sender appearing thereon.

Rule 2059. Notice to Incompetent of Application for Guardian Ad Litem.

In every case in which a petition is filed for the appointment or removal of a guardian ad litem for an

incompetent party, a copy of the petition and the rule to show cause or stay order issued thereon shall be served personally on the incompetent immediately upon the filing of the petition.

Rule 2064. Compromise, Settlement, Discontinuance and Distribution in Action Involving an Incompetent.

The practice upon the presentation of a petition pursuant to Pa. R.C.P. 2064 shall be the same as that prescribed under Lacka. Co. R.C.P. 2039.

ACTIONS FOR WRONGFUL DEATH

Rule 2205. Notice to Persons Entitled to Damages.

(a) The notice prescribed in Pa. R.C.P. 2005 shall name the decedent and state the court, term and number of the action. If the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such person may petition the court to remove the plaintiff and to substitute as a new plaintiff any person entitled by law to recover damages in the action or the personal representative of the decedent.

(b) An affidavit of service by registered mail of such notice shall be filed in the office of the Clerk of Judicial Records within five (5) days after service or as soon thereafter as the registered return receipt, signed by the person to whom it is addressed, is returned to the plaintiff.

JOINDER AND SUBSTITUTION OF PARTIES

Rule 2227. Compulsory Joinder.

Application under Pa. R.C.P. 2227(b) to join an unwilling co-owner of a solely joint cause of action as a defendant or an involuntary plaintiff in an action shall be by petition and rule to show cause; the petition shall set forth the substantive grounds for such joinder.

Rule 2232. Defective Joinder. Change of Parties.

(a) In any case in which the defendant is required by Pa. R.C.P. 2232(a) to give notice of the pendency of an action to recover damages for any injury, not resulting in death, inflicted upon the person of a husband or wife or a minor, such notice shall be given by registered mail within twenty (20) days after service upon the defendant of the complaint.

(b) The notice shall state the court, term, and number of the action, the parties thereto, and its nature, and that the person to whom it is addressed is required to join therein within twenty (20) days after the receipt of such notice or his or her cause of action will be barred and the action will proceed without him or her.

(c) Application under Pa. R.C.P. 2232(b) to drop from the record a party who has been misjoined or against whom no claim for relief is asserted in the action shall be by petition and rule to show cause directed to all other parties. Alternatively, a defendant in an action against whom no claim for relief is asserted may seek dismissal of the action as it pertains to him by demurrer.

(d) An application under Pa. R.C.P. 2232(c) to join as a party any other person who could have joined or have been joined as such in the action shall be by petition and rule to show cause.

Rule 2253. Extension of Time Limits to Join Additional Defendants.

Application to the court for an extension of time in which to file a praecipe or compliant to join an additional defendant shall be by motion, duly verified, if facts not

appearing of record are averred. The court, if it so chooses, may act upon said motion immediately upon its presentation.

Rule 2352. Praecipe for Rule for Substitution of Successor.

The praecipe filed with the Clerk of Judicial Records pursuant to Pa. R.C.P. 2352(b) to show cause why the successor should not be substituted as a party shall set forth the last known address of the successor. Said address shall then be set forth in the rule.

Rule 2353. Service by Publication of Rule Concerning Substitution of Parties.

Service by publication of the rule to show cause why the successor should not be substituted as a party shall be made by publishing said rule, together with a notation of the nature and number of the action in which the rule is issued and the relief demanded, and that, if said successor does not appear in this court within twenty (20) days after the last publication, said rule may be made absolute in his absence. Said publication shall be made as prescribed by Lacka. Co. R.C.P. 440(c).

EXECUTION AND ENFORCEMENT OF JUDGMENTS

Rule 2959. Return Day for Rules Pertaining to Judgment by Confession.

The return day for a rule to show cause why relief from a judgment by confession should not be granted shall be determined in accordance with Lacka. Co. R.C.P. 206 unless the court directs a different return day at the time the petition is presented.

Rule 3128. Notice of Resale of Personal Property by Sheriff.

No resale shall be scheduled without first giving notice to all bidders who appeared at the originally scheduled sale. The resale date cannot be sooner than seventy-two (72) hours from the original sale date.

Rule 3129.1. Notice of Sale. Real Property.

(a) Whenever a sale of real property is governed by Pa. R.C.P. 3129.1, all handbills, written notices, and publications shall include, as part of the location of the property, a street address.

(b) Street address is defined as the street number and street name where a number exists. Where no street number exists, the street address is defined as the land and/or portion of land between the nearest two street numbers and/or intersecting streets which do exist and the street name.

Rule 3130. Notice of Sale of Securities.

When notice to a defendant of the sale of securities is required by Pa. R.C.P. 3130, such notice may be given by the sheriff by ordinary mail, first class postage prepaid, addressed to the defendant at his or her last known residence and by the posting of handbills in the sheriff's office, which mailing and which handbills shall contain a description of the securities to be sold, the name and place of the business of the broker through whom such sale will be made, and the date when the securities will be offered for sale.

Rule 4000. Motion Practice for Discovery and Scheduling Matters.

(a) Any court order regarding discovery, including orders involving sanctions and pre-trial deadlines for the completion of discovery, the exchange of expert reports,

the filing of case dispositive motions, and other scheduling matters prior to the filing of a Certificate of Readiness, which a party seeks pursuant to any provisions of Pa. R. Civ. P. 4001 through 4020 or any provisions of the Rules of Civil Procedure of the court of common pleas of Lackawanna County pertaining to discovery or scheduling orders shall be sought by the presentation of a motion in compliance with the provisions of Lacka. Co. R.C.P. 206.1, 400.1 and 4019.

Rule 400.1. Motion for Presentation before a Special Trial Master.

(a) Presentation to the court of a motion pursuant to Lacka. Co. R.C.P. 4000 shall in all circumstances be initially presented to and decided by a Special Trial Master appointed by the Court who shall follow the same procedures set forth in Lacka. Co. R.C.P. 4000.

(b) An order of the Special Trial Master may be appealed *de novo* by presentation of an appeal motion to the court, together with proof of payment of the Clerk of Judicial Records of an appeal cost of an amount to be set by the court from time to time. The appeal motion shall be filed within ten days of the order of the Special Trial Master and shall be considered by the court pursuant to Lacka. Co. R.C.P. 4000.

(c) Motions practice before the Special Trial Master shall be conducted in compliance with Lacka. Co. R.C.P. 206.1 and the Master shall hear motions in the Lackawanna County courthouse on Monday and Thursday at 9:30 a.m., unless otherwise agreed by counsel and the Master or by order of the Master.

(d) Presentation of a motion in any case in which the Special Trial Master is involved shall be presented to the court rather than through the procedure set forth in this Rule.

Rule 4007.1. Objections During Oral Depositions; Speaking Objections

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

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

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

Rule 4012. Protective Orders.

(a) If a deposition is being taken within the Lackawanna County courthouse and demand is made for its suspension, a motion for a protective order under Pa. R.C.P. 4012(b) shall be made immediately to the Special Trial Master for Discovery, if available, in which event the motion may be oral and heard. If the Special Trial Master for Discovery is not available, the motion for a protective order may be oral and shall be presented to the Special Trial Master for Discovery within forty-eight (48) hours of the suspension of the taking of the deposition. Otherwise, the objecting party or deponent will be deemed to have waived the objection and the taking of the deposition shall be immediately resumed on notice to all interested parties and the deponent.

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

Rule 4013. Stay of Proceedings by Discovery.

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

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

Rule 4017.1. Objections During Videotape Depositions.

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

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

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

Rule 4019. Petitions for Sanctions before a Special Trial Master.

(a) Any party seeking sanctions pursuant to Pa. R.C.P. 4019 for violation of an order of the Special Trial Master pursuant to Lacka. Co. R.C.P., of an order of the court pursuant to Lacka. Co. R.C.P. 4000, or otherwise pursuant to Pa. R.C.P. 4019 shall, in all circumstances, initially do so by motion to the Special Trial Master pursuant to Lacka. Co. R.C.P. 4000.1.

(b) Any order of the Special Trial Master granting or denying a sanction may be appealed *de novo* by presentation of an appeal motion to the court, together with proof of payment to the clerk of Judicial Records of an appeal cost of an amount to be set by the court from time to time, and said appeal motion shall be considered by the court pursuant to Lacka. Co. R.C.P. 4000.

Rule 4020. Use of Deposition at Trial.

(a) If all or part of a deposition is offered in evidence as substantive evidence of its contents because of the unavailability of the witness, whether or not a party, the counsel offering said deposition shall first submit to the court such evidence as will enable the court to find that the appropriate facts under Pa. R.C.P. 4020(a)(3) exist.

(b) An application to the court to use all or part of a deposition of a witness, whether or not a party, as substantive evidence pursuant to Pa. R.C.P. 4020(a)(3) shall be made upon reasonable notice to all parties.

Rule 4021. Assignment of Judge for Discovery Proceedings.

In an appropriate case, the court upon its own motion or upon motion of any party may elect to designate one judge to direct all discovery proceedings in that case and to hear and rule upon all motions and petitions relating to discovery. Such designation shall be made by the President Judge.

FORM 1

Court of Common Pleas of Lackawanna County

Civil Cover Sheet

FOR CLERK OF JUDICIAL RECORDS USE ONLY
Docket Number:

PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S ADDRESS
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
TOTAL NUMBER OF PLAINTIFFS	TOTAL NO. OF DEFENDANTS	COMMENCEMENT OF ACTION Complaint Petition Action Notice of Appeal Writ of Summons Transfer from other jurisdictions
AMOUNT IN CONTROVERSY In Excess of Jurisdictional Amount? Yes No	COURT PROGRAMS Arbitration Jury Non-Jury Petition Minor Court Appeal Statutory Appeals Other:	
CASE TYPE AND CODE (SEE INSTRUCTIONS)		
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)		
REMARKS:		
TO THE CLERK OF JUDICIAL RECORDS: Please enter my appearance on behalf of Plaintiff; Papers may be served at the address set forth below:		
NAME OF PLAINTIFF'S ATTORNEY OR PRO SE PLAINTIFF		ADDRESS
PHONE NUMBER	FAX NUMBER	
SUPREME COURT IDENTIFICATION NO.		E-MAIL ADDRESS
SIGNATURE		DATE

LACKAWANNA COUNTY COURT OF COMMON PLEAS CIVIL COVER SHEET INSTRUCTIONS

An attorney or pro se party filing a document commencing any type of civil action shall file a properly completed Civil Cover sheet. Copies of the Civil Cover Sheet shall be attached to service copies of the document commencing the action.

PARTIES

Regardless of the type of action, the initiating party or parties shall be designated as Plaintiff or Plaintiffs and the responding party or parties shall be designated as Defendant or Defendants. Names of individuals shall be listed as last name, first name, middle initial. Full names of agencies and corporations shall be provided. Spouses shall be listed as separate parties unless the claim of one spouse is limited to a claim for consortium in which case the designation, et ux. or et vir shall be used. Where there are more than three plaintiffs or defendants, a supplemental form listing the additional parties shall be attached to the Cover Sheet.

The section labeled "Remarks" is for procedural matters only. These may include such matters as related cases where consolidation might be advisable. Matters such as expected difficulty with service of process or the status of settlement discussions do not belong in this section.

CASE TYPE AND CODE DESIGNATION

FAM	Family Court	TORT/BF	Tort Bad Faith
FAM/CUST	Custody	TORT/WCP	Wrongful Use of Civil Process
FAM/DIV	Divorce	TORT/O	Other torts
MCT	Minor Court Appeal	NGL/MVA	Motor Vehicle Accident
LAG	Local Agency Appeal	NGL/NF	No-Fault Benefits
LAG/MVS	Motor Vehicle Suspension	NGL/PI	Personal Injury
LAG/ZB	Zoning Board Appeal	NGL/PREM	Premises Liability
LAG/O	Other Agency Appeals	NGL/PROD	Product Liability
PCP/VAL	Validation of Tax Title	NGL/TT	Toxic Tort
PCP/TS	Tax Sale	NGL/O	Other Negligence Action
PCP/OBJ	Objection to Tax Sale	MLP/D	Dental Malpractice
PCP/PRIV	Petition to set aside private sale	MLP/L	Legal Malpractice
PCP/O	Other Proceedings commenced by Petition	MLP/M	Medical Malpractice
CJ	Confession of Judgment	MLP/O	Other Malpractice
CLASS	Class Action	EQ	Equity
CNT	Contract cases	REPL	Replevin
DECL	Declaratory Judgment	RP	Real Property
COND/DT	Condemnation/Declaration of Taking	RP/EJ	Ejectment
TORT/AB	Assault & Battery	RP/QT	Quiet Title
TORT/LS	Libel & Slander	RP/MF	Mortgage Foreclosure
TORT/FR	Fraud	RP/ML	Mechanic's Lien
		RP/PRT	Partition
		PP	Personal Property Actions

STATUTORY CAUSE OF ACTION

If the action is commenced pursuant to statutory authority, the specific statute must be identified with full citation.

PENDING CASES

Previously filed related cases must be identified by caption and docket number whether or not consolidated.

FORM 2

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

Plaintiff(s)
vs.
Defendant(s)

:
:
:
:
:
:
:
:
:
:
:

NO. _____ -CV- _____

PRAECIPE FOR ASSIGNMENT

TO: Lackawanna County Court Administrator

Please be advised that the Plaintiff/Defendant has filed _____
(identify motion, petition or preliminary objection)

in the above-captioned case.

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

(Attorney for Plaintiff)

(Attorney for Defendant)

_____ Address

_____ Address

_____ Telephone Number

_____ Telephone Number

Respectfully submitted:

Date: _____

By: _____

FORM 3

PLAINTIFF/DEFENDANT PRE-TRIAL
SETTLEMENT STATEMENT

Case Caption

Court Term & No.

- I. Facts in brief detail:
- II. Contentions of the parties as to liability and pertinent legal issues:
- III. A statement of settlement negotiations to date, including plaintiff's most recent demand and the defendant's most recent offer:
- IV. Plaintiff's contentions as to injuries and special damages:
 - (a) Injuries sustained:
 - (b) Special damages:
 - (1) Medical:
 - (2) Loss of earnings:
 - (3) Out-of-pocket expenses (type and amount):
 - (4) Other:
- V. Nature and extent of loss suffered by plaintiff, or the right sought to be enforced (non-personal injury cases):
- VI. Any other factor which should aid in disposing of the action:

FORM 4

PLAINTIFF/DEFENDANT PRE-TRIAL CONFERENCE STATEMENT

Case Caption

Court Term & No.

- I. Version of the facts in brief detail:
- II. Contentions as to liability and/or legal issues pertinent:
- III. List of requested stipulations of fact or authenticity (admissibility of documents):
- IV. Estimated trial time:
- V. A list of all documents or exhibits other than those a party expects to use for impeachment or rebuttal purposes. The list should be specific enough to enable the judge and opposing counsel to identify each document or exhibit. A party may, at his option, produce copies of all documents or exhibits at the pretrial conference in lieu of listing them in the pretrial statement:
- VI. A list by name and address of all witnesses the party intends to call at trial, except those who may be used for rebuttal or impeachment purposes. If the parties learn the names of any additional witnesses after the pretrial conference, they will promptly exchange names and addresses:
- VII. A statement of settlement negotiations to date, including the plaintiff's most recent demand and the defendant's most recent offer:
- VIII. All legal issues or other questions which counsel reasonably anticipate will arise during selection of the jury or during trial:
 - IX. Plaintiff's contentions as to injuries and special damages:
 - (a) The injuries sustained are as follows:
 - (b) The special damages are as follows:
 - (1) Medical—(here set forth names of doctors, hospitals, etc., and amount of bills for same):
 - (2) Loss of earnings—including amount of time lost, occupation and employer rate of pay:
 - (3) Any other out-of-pocket expenses (type and amount):
 - (4) Other:
 - (c) Nature and extent of loss suffered by plaintiff (primary or counterclaim) or the right sought to be enforced (non-personal injury cases):
 - X. Any additional issues you feel should be considered as an aid in disposing of this action:

Attorney_____
Party Represented

FORM 5

Pre-Trial Order

- (1) Jurisdiction. A statement as to the nature of the action and the authority under which the jurisdiction of the court is invoked.
- (2) Facts. A comprehensive written stipulation of all uncontested facts in such form that it can be read to the jury as the first evidence at trial.
 - (a) These facts should include all matters capable of ascertainment, such as ownership, agency, dimensions, physical characteristics, weather conditions, road surfaces, etc. Approximations and estimates which are satisfactory to counsel will be accepted by the judge.
 - (b) No facts should be denied unless opposing counsel expects to present contrary evidence on the point at trial, or genuinely challenges the fact on credible grounds.
 - (c) The facts relating to liability and to damages are to be separately stated.
 - (d) The parties shall reach agreement on uncontested facts even though relevancy is disputed; if such facts are ruled admissible, they need not be proved.
 - (e) The parties shall also set forth their respective statements of facts which are in dispute, separating those referring to liability from those referring to damages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE COURTS

FORM NO. 6

REQUEST FOR MEDIATION

PLAINTIFF(S): _____

DEFENDANT(S): _____

INSURER(S): _____

PLAINTIFF'S ATTORNEY: _____

DEFENDANT'S ATTORNEY: _____

ASSIGNED JUDGE: _____

TYPE OF CASE: _____

STATUS OF CASE: _____

THE REASON THE PARTIES REQUESTING MEDIATION BELIEVE THIS CASE IS APPROPRIATE FOR MEDIA-
TION: _____

Respectfully submitted,

Counsel for _____

FORM 7

Court of Common Pleas County of Lackawanna	CERTIFICATE OF READINESS CIVIL TRIAL LISTING ACTION	NUMBER ACTION
ALL CIVIL CASES SHALL BE ASSIGNED TO A JUDGE FOR TRIAL BY THE COURT ADMINISTRATOR UPON THE FILING OF A CERTIFICATE OF READINESS IN THE FOLLOWING FORM:		
TYPE OF TRIAL REQUESTED <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Arbitration	ESTIMATED TIME _____ DAYS	DATE PREPARED _____
PLAINTIFF(S)		
DEFENDANT(S)		
ADDITIONAL DEFENDANTS(S)		
I CERTIFY THAT ALL DISCOVERY IN THE CASE HAS BEEN COMPLETED; ALL NECESSARY PARTIES AND WITNESSES WILL BE AVAILABLE; SERIOUS SETTLEMENT NEGOTIATIONS HAVE BEEN CONDUCTED; ALL DEPOSITIONS FOR USE AT TRIAL HAVE BEEN COMPLETED OR SCHEDULED; NO CASE DISPOSITIVE MOTIONS ARE PENDING NOR DOES ANY PARTY CONTEMPLATE THE FILING OF SAME; NO CERTIFICATE OF READINESS HAS BEEN FILED WITHIN THE PAST 24 HOURS BY ANY PARTY OR LAWYER OF RECORD IN THIS CASE; THE CASE IS READY IN ALL RESPECTS FOR TRIAL; THAT A COPY OF THIS CERTIFICATE OF READINESS HAS BEEN SERVED ON ALL COUNSEL HAVING AN INTEREST IN THE CASE NO LESS THAN 15 DAYS PRIOR TO THE FILING; NO PARTY OR COUNSEL OBJECTS TO THE FILING OF THIS CERTIFICATE OF READINESS.		
DATE SERVED _____	SIGNATURE OF TRIAL COUNSEL _____	
COUNSEL WHO WILL ACTUALLY TRY THE CASE		
FOR THE PLAINTIFF(S) ADDRESS	TEL. NUMBER	
FOR THE DEFENDANT(S) ADDRESS	TEL. NUMBER	
FOR THE ADDITIONAL DEFENDANT(S)	TEL. NUMBER	
IDENTIFY ANY JUDGE WHO HAS DECIDED A CASE DISPOSITIVE MOTION IN THIS CASE PURSUANT TO LACKA. CO. R.C.P. 1028, 1034 OR 1035.2: _____		
CASE ASSIGNED TO JUDGE _____ STATUS CONFERENCE SCHEDULED FOR _____ AT _____ .M.		
IMPORTANT NOTICE: FILE CERTIFICATE WITH THE CLERK OF JUDICIAL RECORDS, LACKAWANNA COUNTY COURTHOUSE, SCRANTON, PA		
CJR-CV-2		

[Pa.B. Doc. No. 04-1358. Filed for public inspection July 23, 2004, 9:00 a.m.]

LANCASTER COUNTY

Amended Rule of Civil Procedure No. 208.3(a)

Administrative Order

The following is Amended Lancaster County Rule of Civil Procedure No. 208.3(a). Alternative Procedure, which will be effective July 26, 2004.

By the Court

MICHAEL A. GEORGELIS,
President Judge

Rule 208.3(a). Alternative Procedures

A. Praecept for Assignment. Any party may file a praecipe to assign a motion for disposition at the expiration of the briefing schedule set forth in Local Rule 208.3(b). The Prothonotary shall assign the matter to a judge for disposition and shall deliver the file to the assigned judge.

B. Oral Argument. Any party may request oral argument by filing a praecipe. Oral argument shall be held at such time and place as the judge shall direct.

C. Emergency Motions. Emergency motions must be presented to the Business Judge, who will advise the parties how to proceed.

D. Discovery Motions. Discovery motions shall be governed by Local Rule 208.3(c) which can be accessed on the Court's webpage at www.co.lancaster.pa.us/courts.

[Pa.B. Doc. No. 04-1359. Filed for public inspection July 23, 2004, 9:00 a.m.]

LYCOMING COUNTY

Amendments to the Orphan's Court Rules; No. 04-00130

Order

And Now, this 6th day of July, 2004, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Orphan's Court Rule L6.3 is revised as follows. (Bold face is new language; strikeout is removed language.)

2. The Clerk of the Orphan's Court is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Forward two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

d. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

e. Keep continuously available for public inspection copies of this order.

3. The rule revision approved by this order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

KENNETH D. BROWN,
President Judge

L6.3. Notice of Filing an Account and Statement of Proposed Distribution.

A. Written notice of the filing of an account other than the periodic, and not final, account of a guardian of the estate of an incapacitated person, and, unless an audit has been requested, of the filing of a statement of proposed distribution shall be given by the accountant **on the day that the account is filed** at least thirty-nine (39) days prior to the date of their confirmation by the clerk to all those required to be given notice by Pa.O.C. Rule 6.3. A copy of the account and statement of proposed distribution and a verified inventory of all real and personal estate of the decedent shall be attached to the notice.

B. Immediately upon the filing of the account and statement of proposed distribution, the clerk shall give notice of the filing by publication in the *Lycoming Reporter* and in one (1) newspaper of general circulation within the county, once a week, for four (4) successive weeks immediately prior to the date of confirmation.

C. Forms. The written notice of the filing of the account and statement of proposed distribution shall be substantially in the form prescribed in Lyc. Co. O. C. R. L17.2. The written notice of the filing of the account and request for the appointment of an auditor shall be substantially in the form prescribed by Lyc. Co. O. C. R. L17.3.

D. An affidavit which sets forth the names and addresses of those who were given written notice and the method of service of the notice shall be filed by the accountant and attached to the account or account and statement of proposed distribution.

E. The notice requirements pertaining to the periodic accounts of a guardian of the estate of an incapacitated person and the notice requirements pertaining to the periodic reports of a guardian of the person of an incapacitated person, shall be such notice as the court shall determine for the particular appointment.

[Pa.B. Doc. No. 04-1360. Filed for public inspection July 23, 2004, 9:00 a.m.]

WASHINGTON COUNTY

Local Civil Rules; Rescinded: 200.8, 200.9, 200.10 and 212.4; Amended: 1303(a) and 1901; Renumbered: 210 to 810, 211 to 812 and 223.2 to 220.1; Adopted: 1028(c), 1034(A), 1035.2(a), 208.2(c), 208.2(d), 208.2(e), 210, 206.4(C) and 208.3(a); No. 2004-1

Amended Order

And Now, this 6th day of July, 2004, The Court Order dated June 28th on the previously captioned matter is amended to read: *It Is Hereby Ordered* that the previously-stated Washington County Local Civil Rules be rescinded, amended, renumbered, and adopted.

The Washington County Local Civil Rule changes shall become effective July 26, 2004.

DAVID L. GILMORE,
President Judge

[Pa.B. Doc. No. 04-1361. Filed for public inspection July 23, 2004, 9:00 a.m.]

YORK COUNTY
Amendment to Local Rules; No. 765 MA 2004

Administrative Order

And Now, To Wit, this 12th day of July, 2004, it is *Ordered* that the York County Local Rules of Court are amended as per the following provisions.

By the Court

JOHN H. CHRONISTER,
President Judge

Amendment to York County Local Rules of Court

The York County Local Rules of Court are hereby amended by adding the following provisions. These changes are being made to bring the York County Local Rules of Court into compliance with the Pennsylvania Rules of Civil Procedure. The Amended Rules identify the local procedure by which the statewide rules are implemented.

Rule 206. Petitions. Definition. Content. Form.

All Civil Petitions proceeding under Pa.R.Civ.P. No. 206.1 et seq. shall be filed and presented to the Court pursuant to Local Rules 6030 through 6034.

Rule 208. Motions. Presentation to Appropriate Motions Court Judge.

A. All Civil Motions proceeding in accordance with Pa.R.Civ.P. No. 208.1(b)(2)(iv) shall be filed and presented to the District Court Administrator for assignment to the appropriate Motions Court Judge.

B. Any other Civil Motions proceeding in accordance with Pa.R.Civ.P. No. 208.1 et seq. shall be filed and

presented in accordance with Local Rules 6030 through 6034 unless the parties have participated in a Pre-Trial Conference after which time the Motion shall be filed and presented to the Judge who conducted the Pre-Trial Conference.

Rule 1042.21. Motion for settlement conference or mediation.

All motions for a settlement conference or mediation pursuant to Rule 1042.21 shall be assigned to a Judge pursuant to Local Rules 6030 through 6034.

Rule 4012. Protective Orders.

Any Motion for a Protective Order shall be filed and presented in accordance with Local Rule 6034.

Rule 4019. Sanctions.

All Motions for Sanctions proceeding in accordance with Pa.R.Civ.P. No. 4019 shall be filed and presented in accordance with Local Rule 6034.

Rule 6031(a)(2). Listing and Disposition.

(i) The information required by the Prothonotary shall include a statement as to whether a Judge was previously assigned to the case (other than for a Motions Court matter), and if so, the name of the Judge. This information shall be included for all Pre-Trial Motions and when a request is made for a Pre-Trial Conference.

[Pa.B. Doc. No. 04-1362. Filed for public inspection July 23, 2004, 9:00 a.m.]