

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 100]

Amendment of Rule 51 to Provide for the Scope of the Rules of Civil Procedure; Proposed Recom- mendation No. 197

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 51 governing the title and citation of the rules of civil procedure be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than February 16, 2005 to:

Harold K. Don, Jr., Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 100. RULES OF CONSTRUCTION

Rule 51. Title and Citation of Rules. **Scope.**

(a) [All] These rules [adopted by the Supreme Court under the authority of Article V, Section 10(c) of the Constitution of 1968, or of any Act of Assembly,] shall be known as the Pennsylvania Rules of Civil Procedure and may be cited as "Pa.R.C.P. No. ____."

* * * * *

(b) Except as otherwise provided by general rule, these rules prescribe practice and procedure in civil actions and proceedings appealed to or brought in the courts of common pleas.

Official Note: The rules of civil procedure apply where appropriate "in matters brought before an appellate court within its original jurisdiction." See Rule of Appellate Procedure 106. However, the rules do not apply to a challenge in Commonwealth Court to a nomination petition pursuant to the Election Code. See *In re Johnson*, 509 Pa. 347, 502 A.2d 142 (1985).

The rules of civil procedure are not applicable in the district justice courts. Civil actions and pro-

ceedings in district justice courts are governed by the Rules of Civil Procedure for District Justices, Pa.R.C.P.D.J. 201 et seq.

The rules of civil procedure do not govern proceedings in the Orphans' Court Division of the Court of Common Pleas except to the extent that Orphans' Court Rule 3.1 provides that "pleading and practice shall conform to the pleading and practice in equity in the local Court of Common Pleas."

The family law actions of Chapter 1900 of the rules of civil procedure constitute an independent chapter of rules. Other chapters of the rules of civil procedure do not apply to these actions except to the extent that a rule of Chapter 1900 so provides. See, for example, Rule 1920.1(b) providing that an action in divorce or for annulment of marriage "shall be in accordance with the rules relating to a civil action" and Rule 1930.5(b) providing for discovery pursuant to Rule 4001 et seq. in specified domestic relations matters.

The rules of civil procedure have limited application in actions pursuant to the Eminent Domain Code of 1964 and the Municipal Claims Act of 1923. See for example Rule 4001(a) providing that the rules of civil procedure governing discovery are applicable to these actions.

Civil actions and proceedings to which the rules of civil procedure do not apply include petitions for change of name (54 Pa.C.S. § 701 et seq.) and tax sales of real property (72 P.S. § 5860.101 et seq.) With the exception of Rule 227.1(g) prohibiting the filing of a motion for post-trial relief, the rules do not apply to appeals to the courts of common pleas from local administrative agencies.

Explanatory Comment

Rule 51 was initially promulgated in 1939 and governs the title and citation of the rules of civil procedure. The recommendation proposes that the current text of the rule be designated subdivision (a) and revised to acknowledge that all rules promulgated by the Supreme Court of Pennsylvania are no longer rules of civil procedure.

The rules of civil procedure do not presently contain a scope provision setting forth the actions and proceedings or the courts to which they apply. This omission has resulted in the argument being made that the rules govern proceedings in district justice courts. It is proposed that Rule 51 be amended by adding new subdivision (b) containing the general statement that the rules govern civil actions and proceedings in the courts of common pleas.

A general statement of the scope of the rules of civil procedure must be qualified. It is impossible to state definitively the application of the rules with respect to all actions and proceedings and all courts. Consequently, the rule has been prefaced with the phrase "Except as otherwise provided by general rule" and a note has been added calling attention to examples of the application of the rules, or the inapplicability of the rules as the case may be, in actions and proceedings other than the usual "civil action." The note contains an express statement

that the rules of civil procedure do not apply to actions and proceedings in district justice courts.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 04-2127. Filed for public inspection December 3, 2004, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

General Court Regulation; Orphans' Court Division; No. 2004-01

Electronic Filing and Service of Legal Papers

On October 18, 2004, the Supreme Court of Pennsylvania adopted Pa.O.C.R. 3.7, authorizing the electronic filing of legal papers in Orphans' Court matters. Rule 3.7(a) provides that any court which implements electronic filing must establish procedures, by local rule, consistent with Rule 3.7. The within General Court Regulation is issued in conformance with Rule 3.7(a) and contains the procedures applicable to electronic filing of legal papers in Philadelphia County.

(1) Authorization for Electronic Filing.

(a) Commencing January 1, 2005, parties may file all legal papers with the Clerk by means of electronic filing in portable document format ("pdf").

(b) Commencing July 1, 2005, parties shall file all legal papers with the Clerk by means of electronic filing in pdf.

(c) Commencing January 1, 2005, in the event any legal paper or exhibit is submitted in hard-copy format, the Clerk shall convert such legal paper or exhibit into pdf, without changing the content or format of the legal paper or exhibit, and shall accept the legal paper or exhibit for filing in pdf. The Clerk shall return the hard-copy legal paper or exhibit to the filing party for retention as required by Pa.O.C.R. 3.7(c)(3).

(2) Website, Username and Password.

(a) Website. The Orphans' Court Electronic Filing System shall be available at all times at the Court's website address, <http://courts.phila.gov>, or at such other website as the Court may designate from time to time.

(b) Username and Password. To obtain access to the Orphans' Court Electronic Filing System, counsel or a party not represented by counsel ("filing party") shall apply for a Username and Password at the Court's website.

(3) Electronic Filing of Legal Paper.

(a) A filing party shall file all legal papers and exhibits in pdf at the Court's website.

(b) In the event an exhibit is not available in pdf and the filing party is unable to convert the exhibit to pdf, the filing party shall submit the exhibit via facsimile utilizing the Electronic Filing Transmittal Form generated by the Electronic Filing System.

(c) The Clerk shall not maintain a hard copy of any legal paper or exhibit filed electronically under this rule.

(d) A hard copy of the legal paper shall be signed and, as required, verified prior to the electronic filing of the legal paper, and the filing party shall retain such hard copy as required by Pa.O.C.R. 3.7(b)(4) and 3.7(c)(3).

(4) Redaction and Access.

(a) All legal papers and exhibits filed electronically shall be available electronically to the filing parties.

(b) The Clerk shall provide public access to a redacted copy of electronically-filed legal papers and exhibits, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(c) The Clerk shall redact the following personal data identifiers from all electronically-filed legal papers, including the Cover Sheet, for purposes of public access:

i. Minor's estate. Only the initials of the minor shall be displayed.

ii. Social Security numbers.

iii. Dates of birth.

iv. Financial account numbers.

v. Home addresses.

(d) A filing party shall redact the personal data identifiers listed in subsection (c) from all exhibits to a legal paper. The Clerk shall not review exhibits to determine whether personal data identifiers have been redacted.

(5) Filing Date.

(a) Immediately upon receipt of the legal paper, the Court shall provide the filing party with email notification that the legal paper has been received by the Court's Electronic Filing System.

(b) Within six (6) business hours of receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been accepted for filing or rejected.

(c) A legal paper accepted for filing shall be deemed to have been filed as of the date and time it was received by the Court's Electronic Filing System. If a legal paper is rejected, the Clerk shall specify the reason. Subject to the provisions of subsection (d), a rejected legal paper shall be deemed as not having been filed.

(d) Any filing party for whom the failure of the Court's website or the erroneous rejection of a legal paper resulted in an untimely filing may file a petition requesting that the legal paper be deemed filed as of the submission date. Such petition shall state the date and time of the alleged failure or rejection. A petition alleging failure of the Court's website shall state why the legal paper could not be timely filed in person in the Clerk's office. A petition alleging erroneous rejection of a legal paper shall state why the rejection was erroneous and why the legal paper could not be timely resubmitted.

(6) Automation Fee. Payment of Filing Fees.

(a) Commencing January 1, 2005, the Clerk shall collect, in addition to all other applicable fees, an automation fee of \$10.00 for each legal paper for which a filing fee is now charged.

(b) Commencing July 1, 2005, the Clerk is authorized to charge the sum of \$1.00 per page for each page of a legal document or exhibit which is not filed in pdf.

(c) All fees collected pursuant to this rule shall be set aside by the Clerk and remitted monthly to the First Judicial District's Procurement Unit.

(d) The Clerk shall not accept a legal paper as filed prior to payment of the required filing fee.

(7) Local Procedures. The Court may develop further administrative procedures, as needed, to implement this rule and to provide for security of the electronic filing system, as required by changing technology. All such administrative procedures shall be posted on the Court's website.

This General Court Regulation is promulgated in accordance with the April 11, 1986, Order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1, Phila. Civ. R. * 51 and Pa.O.C.R. 3.7, and shall become effective on January 1, 2005. As required by Pa. R.C.P. 239, the original General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the Administrative Judge of the Orphans' Court Division, and copies shall be submitted to the Clerk of the Orphans' Court Division, Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Orphans' Court Procedural Rules Committee. Copies of the Regulation shall also be submitted to *American Lawyer Media*, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District

JOSEPH D. O'KEEFE,
Administrative Judge,

[Pa.B. Doc. No. 04-2128. Filed for public inspection December 3, 2004, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rules of Court of Common Pleas; No. 3 of 2004

Order of Court

And Now, to-wit, this 16th day of November, 2004, pursuant to action of the Board of Judges, the within new Local Rule 1001 affecting the Civil Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOSEPH M. JAMES,
President Judge

Local Rule 1001 Civil Actions Raising Claims for Relief Heretofore Asserted in the Action in Equity

(a) A civil action that raises only claims for relief heretofore asserted in equity shall be assigned to an individual judge when the case has been placed at issue pursuant to Local Rule 214.

(b) A civil action that raises claims for relief heretofore asserted in the action in equity and claims for relief heretofore asserted in the action of assumpsit and/or the action in trespass will not be assigned to an individual judge prior to trial without a court order entered pursuant to motion or by the court sua sponte.

NOTE

A motion for the assignment of a case to an individual judge shall be presented to the Special Motions Judge if

the case is not on a published trial list and to the Calendar Control Judge if the case is on a published trial list.

[Pa.B. Doc. No. 04-2129. Filed for public inspection December 3, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Local Rules of Civil Procedure; No. 10130 of 2001

Order

New rules L1042.210 through L1042.223 relating to medical malpractice mediation are approved and adopted as follows and are effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator shall transmit certified copies of this order and the rules as follows:

1. Seven copies with the Administrative Office of Pennsylvania Courts;
2. Two copies, as well as a computer diskette containing the text of these rules, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. One copy with the Civil Procedural Rules Committee of the Pennsylvania Supreme Court;
4. One copy shall be kept continuously available in the office of the Prothonotary for public inspection and copying; and
5. One copy, as well as a computer diskette containing the text of these rules, to the Law Library of Beaver County.

By the Court

ROBERT E. KUNSELMAN,
President Judge

L. 1042.210. Medical Malpractice Mediation

L. 1042.211. Scope

These rules shall govern mediation in all medical malpractice cases before the Court. These rules must be read in pari materia with Pa.R.C.P. 1041.21, 1042.51. Nothing in these rules shall be construed to deprive the Court of its inherent authority to control cases before it or to conduct settlement conferences, which are distinguished from mediation.

L. 1042.212. Mediation Defined

Mediation is a confidential, informal, non-adversarial process whereby a neutral, third party, known as the "Mediator," assists disputing parties in resolving by agreement some or all of the differences between them. The Mediator has no authority to render a decision; rather the decision-making discretion rests with the disputing parties. The role of the Mediator is to facilitate communication, help clarify interests and issues, identify any further information that may be gathered to assist in making decisions, and foster joint problem solving, in order to enable the parties to come to a resolution that is mutually acceptable to them. The Mediator may offer his or her opinion as to a range of settlement values if the parties so desire.

L. 1042.213. Scheduling and Selection of Cases for Mediation.

(a) Upon the filing of every medical malpractice case, a mandatory status conference shall be scheduled by the Court. The purpose of this conference shall be to determine if a case should be submitted to Mediation pursuant to these Rules. The time of this conference may be rescheduled upon motion of any party with good cause shown.

(1) Plaintiff's counsel shall provide the Court Administrator with a clocked copy of the cover sheet of the Complaint at the time the Complaint is filed. The Court Administrator shall, at the one-year anniversary of the filing of the Complaint, schedule a status conference to determine whether the case is appropriate for mediation. The Court Administrator shall notify counsel of record and/or pro-se litigant of the date and time of the conference. All trial counsel and/or pro-se litigant must attend this conference. Other parties, healthcare providers, insurance carriers, and representatives of the M-Care Fund shall be available by phone.

(b) Upon motion of any party, including a motion pursuant to Pa.R.C.P. No 1041.21, or upon written agreement of the parties, the Court may refer a case to mediation. Any objection to the motion to request mediation must be filed within ten (10) days of the filing of the motion. A case ordered for mediation shall remain on the court docket and the trial list, if applicable.

(c) The Court shall consider the objection that the health care provider has not consented to settlement. The Court may order the parties or their representative, counsel or insurance carriers to attend a status conference to explore the consent to settle issue.

(d) The Court shall consider the objection that the parties have not exchanged experts' reports and can order the parties to do so before Mediation begins.

L. 1042.214. Listing of Approved Mediators.

The Court Administrator shall maintain and make available to the parties a list of all approved mediators. The Court shall select mediators to be placed on the list who meet the following minimum qualifications: (1) admitted to the practice of law in Pennsylvania for at least ten (10) years; (2) at least ten (10) years of experience trying civil cases with considerable experience trying medical malpractice cases; (3) completion of the approved mediation training program offered in Beaver County, or other training verified and approved by the Court after a written submission by the attorney seeking to be approved and, (4) has been determined by the Court to be competent to perform the duties of a mediator. Any attorney desiring to be considered as an approved mediator must make such request in writing to the Court and furnish evidence of meeting the above qualifications. The Court may consider any other mediator agreed upon by the parties.

L. 1042.215. Selection of Mediator; Disqualification.

(a) Within fifteen (15) days of the entry of an order for mediation, or an agreement to mediate, the parties must choose their mediator.

(b) Unless otherwise agreed, the mediator shall be disqualified if:

(1) The mediator has personal knowledge of disputed evidentiary facts related to the mediation;

(2) The mediator or any lawyer with whom the mediator practiced law served as a lawyer for the matter in controversy;

(3) The mediator, or anyone with whom the mediator has a close business or familial relationship, has an economic interest in the matter in controversy.

(c) The Mediator shall disclose any past or present affiliations with any and all parties, including the insurance carriers and/or the M-Care Fund.

L. 1042.216. Compensation of Mediator.

The fees for the mediator shall be a minimum of \$250.00 per hour plus reasonable expenses. The parties shall agree to share the costs evenly, unless as part of the settlement, they agree to a different allocation. The parties agree to advance payment of \$1,000.00 to the mediator at least five (5) business days in advance of the scheduled mediation. The mediator shall submit to the parties a bill for all time and expenses spent in the case. The party or parties responsible to pay the mediator shall do so no later than thirty (30) days after receipt of the mediator's bill. Mediator fees in excess of the amount deposited by the parties shall be promptly paid in equal proportions or in such other portions as the parties agree. Any unused advance payment shall be promptly refunded to the parties by the mediator.

L. 1042.217. Submissions to Mediator.

Before the first mediation session, the mediator may require the parties to provide to the mediator confidential and/or pertinent information including, but not limited to, pleadings, discovery responses/production, transcripts, expert reports, and/or any other litigation related documents.

L. 1042.218. Time Frame for Conduct of the Mediation.

Unless otherwise agreed to by the parties and the mediator or ordered by the Court, the first mediation session shall be conducted not later than sixty (60) days from the agreement to mediate or order to mediate. Mediation shall be completed within thirty (30) days thereafter.

L. 1042.219. Attendance and Authority; Sanctions.

The parties and persons with authority to enter into a full and complete compromise and settlement of the case on behalf of the parties shall attend the mediation, including the lawyers who will try the case. In an appropriate case, representatives of the M(Care) Fund must either attend in person or be available by telephone during all mediation sessions. If a party or its representative, counsel or insurance carrier fails to appear at the mediation session without good cause, or appears without decision making discretion, the Court, sua sponte, or upon motion, may impose sanctions, including an award of reasonable mediator and attorney's fees and other costs, against the responsible party.

L. 1042.220. Settlement Agreement; Enforcement.

Each settlement is to be confirmed in a written settlement agreement, signed by a party or a party representative with authority to sign. A party representative who signs is presumed to have full authority to bind the party. The settlement agreement is enforceable in the same manner as any other written contract and/or by a motion to enforce the settlement agreement.

L. 1042.221. Confidentiality.

(a) Mediation sessions and discussions constitute settlement conferences under the applicable rules of evidence. Nothing said or disclosed during the mediation sessions, nor any document produced during the sessions

that is not otherwise discoverable, shall be admissible as evidence or for impeachment or other purposes in any judicial proceeding.

(b) Pursuant to 42 Pa.C.S.A. § 5949, disclosure of mediation communications and mediation documents may not be required or compelled through discovery or any other process.

(c) Statements made to the mediator privately shall remain confidential unless disclosure to the other side is expressly authorized for the purposes of the mediation conference.

(d) All statements made by the parties or mediator during the sessions and any documents created expressly for or during the session will be inadmissible for any purpose except to enforce an alleged settlement agreement or adjudicate an attorney's lien.

(e) No transcript or other recording may be made of the mediation session.

L. 1042.222. Mediator Immunity.

The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production will be liable and shall indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to Common Pleas Judges.

L. 1042.223. Report to the Court

Upon the conclusion of the case, the Mediator shall complete and return the Mediator's Report form supplied by the Court Administrator within five (5) days. If a case is settled through Mediation, the case shall be settled and discontinued with the Prothonotary in a timely manner.

[Pa.B. Doc. No. 04-2130. Filed for public inspection December 3, 2004, 9:00 a.m.]

BERKS COUNTY

Rules of Court; No. 98-8009 Prothonotary; No. 1-MD-2000 Clerk of Courts

Order

And Now, August 17, 2004, it is hereby *Ordered And Decreed* that the following local Rule for Jury Costs On Continuance Of A Cause Of Action in the 23rd Judicial District composed of Berks County be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the rule in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of Common Pleas of Berks County.

Rule 217.3 Jury Costs on Continuance of a Cause of Action

When a continuance is granted upon application, the Court may impose on the party making the application

for continuance, the reasonable costs actually incurred by the County and/or the jurors in impaneling a jury.

When a continuance has been granted and costs imposed, the party upon whom such costs have been imposed may not, so long as such costs remain unpaid, take any further step in such or any other suit without prior leave of court.

By the Court

ARTHUR E. GRIM,
President Judge

[Pa.B. Doc. No. 04-2131. Filed for public inspection December 3, 2004, 9:00 a.m.]

CARBON COUNTY

Amending Policy for Paroling Defendants Sentenced for Minimum of up to 90 Days for DUI; No. 073 MI 91

Administrative Order 24-2004

And Now, this 17th day of November, 2004, in order to provide for the new DUI legislation, it is hereby

Ordered and Decreed that, effective immediately, the Carbon County Court of Common Pleas hereby *Amends* this Court's Administrative Order 25-2001 dated October 30, 2001 filed to 073 MI 91 to provide that a defendant convicted and sentenced to serve a minimum term of imprisonment of not more than ninety (90) days pursuant to Driving Under Influence of Alcohol or Controlled Substance, 75 Pa.C.S. § 3802 et seq., shall be paroled immediately upon serving his minimum sentence. Unless otherwise ordered by the Sentencing Court, the Carbon County Warden is hereby authorized and directed to release any defendant pursuant to this Order without further action or order of Court.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order and Rule in the Clerk of Court's Office.

By the Court

RICHARD W. WEBB,
President Judge

[Pa.B. Doc. No. 04-2132. Filed for public inspection December 3, 2004, 9:00 a.m.]

MONTGOMERY COUNTY

Amendments to Local Rules of Civil Procedure 205.2(b), 208.3(b), 212.1*(d), *920 and 1302

Order

And Now, this 4th day of November, 2004, the Court approves and adopts the following Amendments to Montgomery County Local Rules of Civil Procedure 205.2(b), 208.3(b), 212.1*(d), *920, and 1302. In conformity with Pa.R.C.P. 239(c)(7), the Amendments to Rules 205.2(b) and 208.3(b) shall become effective upon publication on the web site of the Administrative Office of Pennsylvania Courts (www.ujspportal.pacourts.us). The remaining Amendments shall become effective thirty days after publication in the Pennsylvania Bulletin.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in The Legal Intelligencer. In further conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

S. GERALD CORSO,
President Judge

Rule 205.2(b). Cover Sheet.

(1) Initial Pleadings. A Civil Cover Sheet, in such form as prescribed by the Court, shall be attached to any document commencing an action. The failure to file the cover sheet as required may result in an Order imposing sanctions.

(2) Petitions or Motions. The cover sheet required by Rules 208.3(b), 1028(c), 1034(a) and 1035.2(a) shall be as follows:

- (a) Cover Sheet of the Moving Party

See Form

- (b) Cover Sheet of the Respondent

See Form

Comment:

1. The Civil Cover Sheet form referenced in this rule is available on line at www.montcopa.org/prothy/forms.html.

Rule 208.3(b). Motion Practice. Rule to Show Cause.

- (1) * * *

(2) Listing. Excepting motions for sanctions or contempt of a prior court order, the Court Administrator shall fix promptly a return day which shall not be less than thirty (30) days from the date of filing of said motion, and the moving party shall forthwith serve the respondent with a copy of the motion and the cover sheet indicating the return day thereon. The moving party shall

thereafter file a certification that the motion and the rule return date were served upon all parties, in substantially the following form:

See Form Certificate of Service

Motions for sanctions or contempt of a prior court order shall be forwarded by the Court Administrator to the assigned Judge for the scheduling of a hearing.

Motions that are alleged to be "emergencies" will not initially be given a rule return date, but rather the Court Administrator will forward the emergency motion to the assigned Judge. If the matter is deemed to be an emergency by the assigned Judge, the Judge will process the matter accordingly. If the matter is not deemed to be an emergency, the matter will be returned to the Court Administrator for listing pursuant to this Rule.

All pre-trial motions that are filed after the underlying case has been praeciped for trial or ordered on the trial list will be made rule returnable "at time of trial."

- (3) * * *

Rule 212.1*(d). Certification Required for Trial List.

(1) [Certification shall be by all parties] When a case is ready to be placed into the civil trial inventory, counsel must file a trial praecipe containing a certification by filing counsel that all counsel of record consent to the filing of the trial praecipe. Consent must be affirmatively obtained, but the signatures of all counsel are no longer required on the trial praecipe. The consent of unrepresented parties to the filing of the trial praecipe is not required. If all parties to an action are unrepresented, however, any such party may file a trial praecipe.

- (2) * * *
(3) * * *
(4) * * *

Comment:

1. The trial praecipe form referenced in this rule is available on line at www.montcopa.org/prothy/forms.html.

Rule *920. Board of Assessment Appeals.

- (a) * * *
(b) * * *
(c) * * *

(d) The appeal shall be forwarded by the Court Administrator to the Court for a settlement conference upon the filing of a trial praecipe [signed by all counsel of record] containing a certification by filing counsel that all counsel of record consent to the filing of the trial praecipe.

- (e) * * *
(f) * * *

Comment:

1. The trial praecipe form referenced in this rule is available on line at www.montcopa.org/prothy/forms.html.

Rule 1302*. List of Arbitrators. Appointment to Board. Oath.

- (a) * * *
(b)

(1) Upon the filing of an **arbitration** praecipe **[signed by all counsel]** containing a **certification by filing counsel that all counsel consent to the filing of the praecipe**, with notice to opposing counsel and any unrepresented parties, the Arbitration Administrator shall select the Board of Arbitrators, consisting of three members of the Bar of this Court from the list of attorneys qualified to serve as follows:

- (a) * * *
- (b) * * *
- (c) * * *
- (d) * * *

(e) If any counsel refuses **[to sign]** to consent to **the filing of** the praecipe for arbitration, any party may request a conference before the designated Judge on the case in order to determine whether the case should be placed on the arbitration list and scheduled for hearing.

- (f) * * *

Comment:

1. The arbitration praecipe form referenced in this rule is available on line at www.montcopa.org/prothy/forms.html.

2. If all parties to an action are unrepresented, any such party may file an arbitration praecipe.

[Pa.B. Doc. No. 04-2133. Filed for public inspection December 3, 2004, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated November 16, 2004, Cornelia Farrell Maggio is *Disbarred On Consent* from the practice of law in this Commonwealth, effective December 16, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 04-2134. Filed for public inspection December 3, 2004, 9:00 a.m.]
