

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 400]

Technical Amendments Concerning Execution of Judgments for Money

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 410 and 412 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to make technical amendments concerning the execution of judgments for money. The Committee has not submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
Fax 717-795-2175

or e-mail to: minorrules@pacourts.us

no later than Monday, February 21, 2005.

By the Minor Court Rules Committee

THOMAS E. MARTIN, Jr.,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 410. [**Bond for**] Stay of Execution **Generally**.

Execution shall be stayed as to the property of the defendant upon the occurrence of any of the following:

(1) **Upon written direction of the plaintiff to the executing officer.**

(2) **Upon the entry of [If the defendant, or any person or party in interest, enters] a bond with the district justice by any person or party in interest, with security approved by [him] the district justice, in the amount of the plaintiff's judgment, including probable interest and costs, or in such lesser amount as**

the district justice may direct, [the district justice shall stay execution as to the property of the defendant. The bond shall name] naming the Commonwealth of Pennsylvania as the obligee, and [shall be] conditioned to pay the amount due within [ninety (90)] 90 days of the entry of the bond, unless the time for payment is extended by the district justice. [This rule does not apply to judgments obtained for wages for manual labor.]

Official Note: Compare Pa.R.C.P. No. 3121(a) [(2)]. Other rules in this chapter may also provide for a stay in specific circumstances covered by those rules.

Rule 412. Notice of Sale.

A. (1) The executing officer shall give notice of the sale of personal property at least six days prior to the sale [**by handbills posted in the office of the district justice from which the order of execution issued, at the place of sale and, if different from the place of sale, at the place of levy and by mailing a copy of the handbill to the defendant at his last known address and to the plaintiff**].

(2) **The executing officer shall give notice of the sale in the following manner:**

(a) **By handbill posted in the office of the district justice from which the order of execution issued and, if different from the office from which the order issued, in the office of the district justice in whose magisterial district the place of the sale is located.**

(b) **By handbill posted at the place of sale and, if different from the place of sale, at the place of levy.**

(c) **By mailing a copy of the handbill to the plaintiff and to the defendant at his or her last known address.**

B. The notice of sale shall include a notice that all claims to the property must be filed before sale in the office of the district justice from which the order of execution issued and that all claims to the proceeds must be filed in that office before distribution; that a **proposed** schedule of distribution will be filed in that office on a date specified not later than five [(5)] days after the sale; and that distribution will be made in accordance with the **proposed** schedule unless exceptions are filed within ten [(10)] days thereafter. No further notice of the filing of the schedule of distribution need be given.

* * * * *

Official Note: Compare Pa.R.C.P. No. 3128. See **Section 8151** of the Judicial Code, [**§ 8151,**] 42 Pa.C.S. § 8151, [**added by § 10(96) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53,**] as to giving notice to the Department of Revenue [, **at least twenty days prior to sale, a report or return concerning the property to be sold, unless exempted by regulation**].

REPORT

*Proposed Amendments to Pa.R.C.P.D.J. Nos. 410 and 412***Technical Amendments Concerning Execution of Judgments for Money**

The Minor Court Rules Committee (hereinafter the Committee) is proposing technical amendments to Rules 410 and 412 of the Rules of Conduct, Office Standards, and Civil Procedure for District Justices to address two separate issues concerning the execution of judgments for money.

The Committee reviewed Pa.R.C.P.D.J. No. 410 in response to an inquiry from a constable who asked if execution of a money judgment could be stayed upon request of the plaintiff. The Committee noted that the district justice rules governing execution of money judgments do make provision for a stay of execution in certain circumstances,¹ but not specifically at the direction of the plaintiff. The Committee further noted that the Rules of Civil Procedure governing actions in the courts of record do provide for a stay of execution "upon written direction of the plaintiff."²

The Committee believed it advisable to incorporate a provision into the district justice rules to allow for stay upon written direction of the plaintiff. The Committee reasoned that post-judgment settlement negotiations may affect a plaintiff's desire to move forward with execution once commenced, and believed that a plaintiff should have the ability to stay execution by contacting the executing officer directly.

Accordingly, the Committee proposes that Rule 410 be amended to provide for the stay of execution upon written direction of the plaintiff to the executing officer. To accomplish this, the Committee proposes that Rule 410 be tabulated into an introductory clause and two subparagraphs containing the provisions as to when execution shall be stayed, including the new provision regarding a stay at the direction of the plaintiff. In addition, the Committee proposes that the current provision regarding the inapplicability of the rule to judgments obtained for wages for manual labor be deleted. This provision was based on a prior law³ that was repealed by the Judiciary Act Repealer Act,⁴ and was not expressly codified in the Judicial Code (Title 42, *Pennsylvania Consolidated Statutes*).

The Committee reviewed Pa.R.C.P.D.J. No. 412 in response to an inquiry from a constable who suggested that executing officers be required to post notice of a sale in the office of the district justice in whose magisterial district the place of sale is located if different from the office from which the order of execution issued.⁵ It was suggested that this requirement would aid in informing an executing officer of other levies that may have been made upon the same property that is the subject of his or her levy and sale. This information is needed so that an executing officer will know if there is an existing levy by another executing officer that has priority over his or her levy.

¹ See Pa.R.C.P.D.J. No. 410 (providing for stay of execution upon entry of bond), Pa.R.C.P.D.J. No. 413 (providing for stay of sale of property because of objection to levy or other property claim), and Pa.R.C.P.D.J. No. 420 (providing for relief in cases of property claims and disputes).

² Pa.R.C.P. No. 3121(a)(1).

³ The Act of May 14, 1874, P. L. 145, No. 79, § 1, 12 P. S. § 2207.

⁴ The Act of April 28, 1978, P. L. 202, No. 53, § 2, 42 Pa.C.S. § 20002(a) [640] as amended by the Act of Oct. 5, 1980, P. L. 693, No. 142, § 324(b).

⁵ Rule 412 already requires the posting of a handbill in the office of the district justice from which the order of execution issued. This proposal would not change that requirement, but would require that the notice be posted in a second district justice office if the place of sale is located in a different magisterial district.

The Committee agreed that the proposed notice requirement would be helpful. Accordingly, the Committee proposes that Rule 412A be divided into two subparagraphs. Subparagraph (1) would contain the existing provision that notice of the sale be given at least six days prior to the sale. Subparagraph (2) would contain the requirements as to how notice is to be given, including the new provision discussed above.

In addition, the Committee proposes other minor revisions to the rules and notes to address gender neutrality issues and to enhance clarity.

[Pa.B. Doc. No. 05-47. Filed for public inspection January 7, 2005, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CLEARFIELD COUNTY

Local Rules of Civil Procedure; 2004-29-MD

Order

Local Rules L205.2(a) and (b), L205.4, L206.1, L206.4, L206.6, L206.7(c), L208.2, L208.3(b), L208.4, L210, L211, L1028, L1034(c) and L1035.2(c) are adopted pursuant to Pa.R.C.P. Nos. 239.1, 239.2, 239.3, 239.4, 239.5, 239.6, and 239.7, and are effective thirty days after publication in the *Pennsylvania Bulletin*. All local rules inconsistent with the foregoing local rules are suspended as of the effective date of the foregoing rules.

In accordance with Pa.R.C.P. No. 239, the Court Administrator of Clearfield County shall transmit certified copies of this order and the foregoing Local Rules as follows:

A. Seven (7) certified copies with the Administrative Office of Pennsylvania Courts;

B. Two (2) certified copies and a diskette containing the rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

C. One (1) certified copy to the Civil Procedural Rules Committee of the Pennsylvania Supreme Court;

D. One (1) copy in the office of the Prothonotary of Clearfield County to be kept continuously available for public inspection and copying. In addition, one (1) copy shall be delivered to the Clearfield County Law Library.

In addition, the Court Administrator of Clearfield County shall cause the foregoing rules to be published on the website of the Administrative Office of Pennsylvania Courts and on the Clearfield County website.

By the Court

FREDRIC J. AMMERMAN,
President Judge

Local Rule 205.2(a)—Filing Legal Papers with the Prothonotary

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including Local Rules 205.2(a) and 205.2(b). All documents filed in any office of the Court shall be endorsed with the day and exact time of filing, which endorsement,

in the absence of fraud, accident or mistake shall be conclusive evidence of such date and time of filing.

(a)(1) No pleading, papers, affidavits or other documents may be filed in any office of the Court on paper other than 8 1/2" x 11" in size.

(a)(2) No paper shall be filed in any office of the Court unless it is written in ink, clearly legible, printed, or typewritten with lines not closer than typewriting double spacing (except quotations); contains the caption of the proceeding, including the name and division of the Court, identifying case number, the names of the parties, the title of the proceeding and the name of the paper. All papers filed shall be endorsed with the name, address, telephone number and I.D. number of the attorney filing it or the name, address and telephone number of the party if there is no attorney. The caption of any paper filed subsequent to the initial pleading need only state the name of the first party on each side with an appropriate indication of the other parties.

(a)(3) The use of bluebacks or other backing is not required.

(a)(4) All papers and other documents shall be securely affixed at the top left corner.

(a)(5) A proposed order shall accompany all petitions, motions or other requests for relief.

Local Rule 205.2(b)

COVER SHEET

All papers constituting the initial pleadings shall have a cover sheet in substantially the following form:

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION—(LAW)(EQUITY)

No. _____

Type of Case: _____

Type of Pleading: _____

Filed on Behalf of: _____

(Plaintiff/Defendant)

Counsel of Record for this Party: _____

(Name of Attorney)

Supreme Court No.: _____

(Firm name, if any)

(Address)

(Phone)

Dated: _____

Local Rule 205.4

(a) No original documents shall be filed by electronic filing except by special leave of the Court.

(b) In the event the Court permits filing in accordance with subsection(a), the party filing legal papers shall comply with Pa.R.C.P. 205.4.

Local Rule 206.1—Petition. Content. Form.

(a) As used in this chapter, "petition" means:

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

(2) a petition may also be used to bring before the Court any proper matter for which no other specific procedure is authorized or in which only a petition is prescribed as the authorized procedure for bringing such matter before the Court for disposition.

Note: A petition for relief from a judgment by confession is governed by Pa.R.C.P. Rule 2959. Motions are governed by Local Rule 208.1 et seq.

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

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

(d) A petition shall be verified in accordance with Pa.R.C.P. 206.3.

(e) Except for emergency matters, no petition seeking ex parte action shall be considered by the Court unless the petition contains a certification by counsel for the moving party that concurrence in the petition has been sought from all opposing counsel and that such concurrence has been granted or denied. Where concurrence has been granted, the written concurrence of opposing counsel shall be attached to the petition. In the event a party is not represented, except in emergency matters, no petition seeking ex parte action shall be considered by the Court unless the petition contains a certification by counsel that prior notice of the contents of the petition and order and that counsel intends to present the petition and order to the Court for action has been given to the opposing party.

(f) All petitions, except those made in the course of trial or hearing, shall be in writing. All written petitions shall be signed by counsel and may be filed at any time during regular business hours with the prothonotary. Counsel's signature upon a petition shall constitute a certification that counsel has read the petition and that, to the best of counsel's knowledge, information and belief, it is supported by sufficient legal or factual grounds and that it is not interposed merely for delay. Except where counsel has presented the petition to the Court to secure an order, the prothonotary shall deliver daily a petitions list with accompanying petitions to the Court Administrator to monitor and assign to a judge.

(g) All petitions shall have affixed to the front of the petition a proposed order in accordance with Local Rule 206.6(a) or (b).

(h) All petitions and answers thereto, shall comply with these provisions.

(i) Failure to comply with any provision of this rule may constitute sufficient grounds for the Court to dismiss the petition and/or deny any requested relief.

Local Rule 206.4

The procedure for issuing a rule to show cause shall be the procedure set forth in Pa.R.C.P. 206.6 and Local Rule 206.6.

Local Rule 206.6

Upon filing of a petition, the prothonotary shall issue a rule to show cause where petitioner seeks only to direct respondent to file an answer in accordance with Pa.R.C.P.

206.6(c)(2). In such cases, the order shall only include sections c(1), (2), (3), and (6) as set forth in Pa.R.C.P. 206.6(1).

(a) The order for a rule to file an answer shall be as follows:

(CAPTION)
ORDER

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

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

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER 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.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT,

(b) The orders seeking relief from the Court other than the filing of an answer shall be as follows:

(CAPTION)
ORDER

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

- (1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
 - (2) _____
- (any special relief requested);

(3) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;

(4) the petition shall be decided under Pa.R.C.P. No. 206.7;

(5) depositions shall be completed within _____ days of this date;

(6) an evidentiary hearing on disputed issues of material fact shall be held on _____ in Courtroom _____ of the Clearfield County Courthouse;

(7) notice of the entry of this order shall be provided to all parties by the petitioner.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER 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.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT,

(g) The moving party shall serve the petition on the respondent or his attorney in accordance with Pa.R.C.P. 440. After service, the moving party shall file a certificate of service within five (5) days of the service of the petition and order showing how the petition was served, and if by mail, the address of the respondent or his attorney to which the petition was directed.

Local Rule 206.7

(c)(a)(1) In the event no answer is filed within twenty (20) days of service of the petition, then the petitioner may praecipe the prothonotary, which praecipe shall contain a certification that no answer has been filed, and shall also include a proposed order. Upon receipt of the praecipe, the prothonotary shall forward the praecipe to the Court Administrator who shall deliver the praecipe together with certification and attached proposed order to the Court for the entry of the proposed order.

(c)(1) The petitioner, in lieu of discovery, may request the Court to hold an evidentiary hearing as to the disputed issues of fact. In such instance the petition shall be decided on petition and answer and the testimony presented to the Court.

Local Rule 208.2 Motion. Form. Content

- (a) All motions shall:
 - (1) be in writing and be filed in the office of the prothonotary;
 - (2) contain a caption setting forth the name of the Court, the number of the action, the name of the motion, and the name of the moving party;
 - (3) be divided into paragraphs numbered consecutively;
 - (4) set forth with particularity material facts constituting grounds on which they are based, precisely state the relief being sought, and include a proposed order;
 - (5) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a pro se designation for each party that is unrepresented, and the address at which service was made; and
 - (6) be signed and endorsed, indicating the signing attorney of record has read the motion and that, to the best of his or her knowledge, information and belief, there are good grounds to support such motion and it is not interposed merely for delay;
- (b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of Court;
- (c) All motions shall include a brief statement of the applicable statute, case, or procedural rule authorizing the grant of such relief;
- (d) All motions shall contain a certification by counsel for the moving party that concurrence in the motion has been sought from all opposing counsel and that such concurrence has been granted or denied. Where concurrence has been granted, the written concurrence of opposing counsel shall be attached to the motion. Failure to comply with this provision shall constitute sufficient grounds for the Court to deny the motion.
- (e) All motions 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 order to resolve the matter without Court action.
- (f) All motions shall include a proposed order in the form set forth in 208.4(b)(2).

(g)(1) For cause shown, any moving party may request expedited disposition of any motion filed with the prothonotary. If expedited disposition is requested, a praecipe shall be filed with the motion explaining the grounds for requesting such expedited disposition. Upon receipt of a praecipe for expedited disposition, the Court Administrator shall promptly notify the moving party of the judicial assignment. It shall be the responsibility of the moving party to arrange a teleconference among the judge and all other counsel interested in the subject of the motion within three (3) business days of the time the motion is presented.

(g)(2) The praecipe required by subparagraph (g)(1) shall be substantially in the following form:

(CAPTION)
PRAECIPE

TO THE COURT ADMINISTRATOR:

Expedited Disposition of attached motion is requested for the following reasons:

ATTORNEY FOR (Plaintiff or Defendant)
FOR COURT ADMINISTRATOR ACTION ONLY
____ MOTION OR PETITION ASSIGNED TO JUDGE
____ COUNSEL FOR MOVING PARTY NOTIFIED OF
JUDICIAL ASSIGNMENT

Local Rule 208.3(b) Motions. Response

All motions shall be governed by the procedure set forth in Local Rule 208.4.

Local Rule 208.4 Procedure As To Disposition Of Motion

- (a) At the initial consideration of a motion, the Court may enter an order that:
 - (1) disposes of the motion, or
 - (2) sets forth the procedures the Court will use for deciding the motion which may include one or more of the following:
 - (i) the filing of initial or supplemental responses,
 - (ii) the filing of initial or supplemental briefs,
 - (iii) the filing of affidavits, depositions and the like,
 - (iv) the issuance of a rule to show cause pursuant to subdivision (b) of this rule,
 - (v) the holding of an evidentiary hearing, and
 - (vi) the entry of an order providing for any other procedure for developing the record.

(b) The order required by paragraph (a) shall be substantially in the following form:

(CAPTION)
ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the foregoing motion, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within _____ days of this date;
- (3) the motion shall be decided under Pa.R.C.P. 206.7;
- (4) depositions and all other discovery shall be completed within _____ day of this date;
- (5) an evidentiary hearing on disputed issues of material fact shall be held on _____, in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. _____ ;
- (6) argument shall be held on _____, in Courtroom No. _____ of the Clearfield County Courthouse; and
- (7) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT,

(c) the Court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its discretion, provide for disposition of the matter on briefs, without the necessity of oral argument. In such instances, the Court shall establish a briefing schedule in its initial order.

(d) The Court, in its discretion, may permit forms of discovery other than depositions.

(e) The party obtaining the issuance of a rule to show cause shall forthwith serve a true and correct copy of the Court order entering the rule along with a copy of the underlying petition, upon each attorney of record and pro se parties in the manner prescribed by Pa.R.C.P. 440. An affidavit of service shall be filed within five (5) days from the date of the service of the motion and the order setting the rule with the prothonotary.

Local Rule 210 Submission and Form of Briefs.

(a) All briefs shall be lodged with the Court Administrator and a copy thereof served upon every other party.

Note: Briefs are not to be filed in the prothonotary's office or delivered directly to the Court.

(b) Briefs shall be typewritten or printed and double-spaced (except for quotations) on paper approximately 8-1/2 inches by 11 inches in size, and shall contain:

- (1) A history of the case.
- (2) A statement of the question or questions involved.
- (3) A copy of, or reference to, the pertinent parts of any relevant document, report, recommendation, and order, portions of the relevant testimony involved with a reference to the transcript and page where it may be found.
- (4) An argument with citations of the authority relied upon divided into as many sections as there are questions involved.
- (5) A conclusion.
- (6) Opinions of Court or Agency involved.

(c) Briefs shall be submitted to the Court in accordance with a schedule set by the Court upon request of either party. The moving party shall deliver a copy of the brief to the adverse party and file a copy with the Court Administrator in accordance with the schedule. The respondent shall deliver the brief to the moving party and file a copy with the Court Administrator in accordance with the schedule. No supplemental brief shall be filed except upon special allowance by the Court and within such time as the Court may direct.

(d) All counsel appearing in any other proceeding scheduled for hearing before the Court shall provide the Court with a brief or memorandum of law setting forth legal authorities relied upon. Such brief or memorandum of law shall be provided to the Court at the time of the hearing unless otherwise specified by these Local Rules or by Order of the Court.

(e) *Informal Letter Briefs.* Notwithstanding this Rule, the Court may in any case allow the parties to file an informal letter brief.

Local Rule 211

Either party may file a praecipe with the prothonotary to direct the Court Administrator to establish a briefing schedule for petitions, motions, and special motions; arguments for preliminary objections and motions for judgment on pleadings; assign a case to a judge for further action; and to set dates for special hearings and pretrial matters generally. Upon receipt of the praecipe,

the Prothonotary shall transmit the praecipe to the Court Administrator. The Court Administrator, after consultation with the president judge or where a judge has acted in a case after consultation with that judge, shall assign the matter to a judge and establish such schedule or date. The Court Administrator shall give written notice to all attorneys or pro se parties of the actions taken under this rule.

Local Rule 1028 Preliminary Objections

(c)(1) Preliminary objections shall be filed with the prothonotary. At the time of filing such pleading with the prothonotary, the moving party shall also file a praecipe, pursuant to Local Rule 211, requesting the Court Administrator to schedule an argument date for consideration of the preliminary objections.

(2) In the event there are factual disputes arising from the preliminary objections and answers thereto, the procedure to be followed shall be as set forth in Local Rule 208.4.

(3) Disposition of a motion for preliminary objections shall be made after oral argument.

(4) In the event the Court determines that briefs shall be filed following argument on the preliminary objections, then it shall enter an order establishing a briefing schedule.

(5) The judge to whom the preliminary objections have been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

Local Rule 1034 Motion for Judgment on the Pleadings

(c)(1) A motion for judgment on the pleadings shall be filed with the prothonotary. At the time of filing such motions with the prothonotary, the moving party shall also file a praecipe, pursuant to Local Rule 211, requesting the Court Administrator to assign the matter to a judge to schedule an argument date for consideration of the motion for judgment on the pleadings.

(2) Disposition of a motion for judgment on the pleadings shall be made after oral argument.

(3) In the event the Court determines that briefs shall be filed following argument on the motion for judgment on the pleadings, then it shall enter an order establishing a briefing schedule.

(4) The judge to whom the motion for judgment on the pleadings has been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

Local 1035.2 Motion for Summary Judgment

(c)(1) A motion for summary judgment shall be filed with the prothonotary. At the time of filing such motions with the prothonotary, the moving party shall serve a copy of the motion on the other party or parties to the case who shall file a response and such affidavits or exhibits in accordance with Pa.R.C.P. 1035.3.

(2) Upon the filing of the response or in the event no response is filed within thirty (30) days of the service of the motion, either party may file a praecipe pursuant to Local Rule 211 requesting the Court Administrator to

assign the matter to a judge to establish a briefing schedule and argument for consideration of the motion.

(3) Upon filing a motion for summary judgment, the moving party shall file a brief, pursuant to Local Rule 210, in accordance with the schedule established by the Court Administrator and shall serve a copy thereof upon all opposing counsel and any pro se party at their respective addresses of record. When filed, the brief shall be accompanied by a certificate indicating that such has been served upon the moving party.

(4) All parties who wish to contest a motion for summary judgment shall file a reply brief and a certificate such has been served on the moving party in accordance with the schedule established by the Court Administrator.

(5) Disposition of a motion for summary judgment shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(6) The judge to whom a motion for summary judgment has been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

(7) Failure to comply with these provisions may be sufficient basis for the Court to deny the motion or deem such motion uncontested.

Local Rule 1005—Appellate Procedure from District Justices

Service of Notice of Appeal and Other Documents from Appeal from a District Justice Decision

(1) The Prothonotary shall require that in regard to any appeal from a District Justice civil decision that the appellant provide with the Notice of Appeal a stamped envelope, pre-addressed to the appellee, at the appellee's address as listed on the Complaint form filed in the office of the District Justice or as otherwise appearing in the records from that office, or the attorney of record, if any, of the appellee, as well as a stamped envelope, pre-addressed, to the District Justice in whose office the judgment was rendered. Copies of the Notice of Appeal, and Rule to File a Complaint pursuant to Rule of District Justice Procedure 1004B, if applicable, shall thereupon be mailed by the Prothonotary by first class mail to the appellee and District Justice.

(2) The Prothonotary shall note such service and any return thereof on the Court's docket.

(3) The Prothonotary shall not be required to file a Notice of Appeal to a District Justice judgment or verdict without the appellant providing the above described stamped and addressed envelopes for service purposes.

(4) At the conclusion of any District Justice civil case, upon rendering of the decision, the District Justice shall provide a copy of this Rule to the party against whom the judgment or verdict is rendered, with the same either being made when applicable by personal service or through the mail along with the notice of entry of judgment or verdict.

(5) Upon the Court of Common Pleas disposing of the appeal from a District Justice decision, the Prothonotary shall in all cases utilize the Common Pleas notification request form, prepared by the Administrative Office of Pennsylvania Courts (being AOPC Form 729B-98 or any future revision of the same) in order to notify the District Justice of the result of the appeal. The Prothonotary shall

also provide the District Justice a copy of the Court Order or document which is dispositive of the case.

[Pa.B. Doc. No. 05-48. Filed for public inspection January 7, 2005, 9:00 a.m.]

DELAWARE COUNTY

Adoption of Local Rule 1042.21 Medical Professional Liability Actions; Motions for Mediation; 00-3708

Order

And Now, to wit, this 20th day of December, 2004, it is hereby *Ordered* that Delaware County Local Rule 1042.21 is *Adopted* and shall read as follows:

(A) The ADR Committee of the Delaware County Bar Association shall prepare a list of available co-mediators it deems appropriate for mediation in medical professional liability actions subject to approval by the Court. The list shall be updated annually by the Committee and resubmitted to the Court for approval.

(B) The Court Administrator shall designate the assigned co-mediators upon request by the Court.

(C) In the event the Court approves a motion for mediation and only if the parties have not agreed to a private mediator(s), the Court shall request the Civil Court Administrator to designate co-mediators. The Court shall thereafter order mediation, including in its Order the name, address, and telephone number of the co-mediators. A copy of the Court order shall be forwarded to the Civil Court Administrator, and to the selected co-mediators. If a co-mediator has a conflict of interest, or is unable to serve for any reason, then the co-mediator shall immediately notify the Civil Court Administrator for purposes of further assignment.

(D) The co-mediators shall confer with each other and all counsel to establish the date, time, and place of the mediation session pursuant to the Court's Order. Unless specifically requested by the co-mediators, the parties shall not contact or forward documents to the co-mediators. Counsel who are primarily responsible for the case and any unrepresented party shall attend the mediation session. All parties, insurers and principals of parties of decision-making authority must attend the mediation session in person, unless their attendance is excused by the co-mediators for good cause shown; in such an event, they must be available by telephone during all mediation sessions. All parties, insurers, principals, and counsel must be prepared to fully discuss all liability and damage issues and to participate in meaningful settlement negotiations.

(E) The co-mediators, (generally comprised of an experienced member of the Plaintiff's Bar and an experienced member of the Defense Bar), will jointly conference the case, attempting to facilitate settlement (utilizing standard mediation practices, including shuttle diplomacy, caucusing, etc.), or they may give a neutral evaluation. The co-mediators cannot be called as a witness as to the mediation of any issue arising therefrom. All communications among the co-mediators, the parties, and/or their counsel shall remain confidential. Any comments and/or opinions expressed by the co-mediators are advisory only. All counsel, parties, their agents and/or representatives shall comply with these directives, including the foregoing terms and conditions contained in this local Rule.

(F) No mediation proceedings, including any statement made or writing submitted by a participant, shall be disclosed to any person who is not directly involved with the mediation session. The parties' settlement positions and/or statements shall not be disclosed to the trial Judge unless mutually agreed to by the parties; and, in the event 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 proceeding shall not be used by any adverse party for any reason including the litigation at issue.

(G) The moving party who sought mediation shall notify the Court and the Civil Court Administrator in writing at the conclusion of the mediation process indicating whether or not a settlement has been reached.

(H) The moving party shall pay the cost of the co-mediators and shall pay each co-mediator directly. The rate of compensation for each co-mediator is \$150.00 per hour. The party who initially filed the motion for mediation shall also pay a \$50.00 non-refundable administrative fee paid to the Delaware County Bar Association upon assignment of the co-mediators by the Court.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 05-49. Filed for public inspection January 7, 2005, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that John Wilson Davis, II, having been disbarred from the practice of law in the State of Maryland by Order dated July 29, 2004, the Supreme Court of Pennsylvania issued an Order on December 17, 2004, disbaring John Wilson Davis, II, from the Bar of this Commonwealth, effective January 16, 2005. 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. 05-50. Filed for public inspection January 7, 2005, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Philip L. Kantor having been disbarred from the practice of law in the State of New Jersey by Order dated June 24, 2004, the Supreme Court of Pennsylvania issued an Order on December 17, 2004, disbaring Philip L. Kantor from the Bar of this Commonwealth, effective January 16, 2005. 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. 05-51. Filed for public inspection January 7, 2005, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that L. Van Stillman having been disbarred from the practice of law in the State of Florida by Order dated May 6, 2004, the Supreme Court of Pennsylvania issued an Order on December 17, 2004, disbaring L. Van Stillman from the Bar of this Commonwealth, effective January 16, 2005. 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. 05-52. Filed for public inspection January 7, 2005, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that John A. Evans having been suspended from the practice of law in the State of New Jersey for a period of three months, the Supreme Court of Pennsylvania issued an Order dated December 22, 2004 suspending John A. Evans from the practice of law in this Commonwealth for a period of three months, effective January 21, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside 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. 05-53. Filed for public inspection January 7, 2005, 9:00 a.m.]

SUPREME COURT

**Law Clerks Employed by Judges of the Courts of
the Unified Judicial System of Pennsylvania; No.
267 Judicial Administration; Doc. No. 1**

Order

Per Curiam:

And Now, this 21st day of December, 2004, it is hereby *Ordered*, effective September 1, 2005, that all law clerks

employed by judges of the courts of the Unified Judicial System of Pennsylvania are prohibited from appearing as counsel in the division/section of the court in which the judge by whom they are employed serves. Further, in courts which have no formally established divisions or

sections, the law clerks are prohibited from appearing as counsel in the court itself.

[Pa.B. Doc. No. 05-54. Filed for public inspection January 7, 2005, 9:00 a.m.]
