

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900 AND 1910]

Order Amending Rule 1910.13-2 and Revising the Comment to Rule 1901.7; No. 429 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 9th day of May, 2005, Pennsylvania Rule of Civil Procedure 1910.13-2 and the Explanatory Comment to Pennsylvania Rule of Civil Procedure 1901.7 are amended as follows.

To the extent that prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and immediate promulgation is required in the interest of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901.7. Decision. Post-trial relief.

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Explanatory Note

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Jurisdiction is also conferred on the [**District Justices**] **magisterial district judges** over the weekend if and when a judge of the court of common pleas is not available, but any temporary order of a [**District Justice**] **magisterial district judge** expires at the resumption of business of the common pleas court at the beginning of the week or within **seventy-two (72) hours**, whichever occurs first. The [**District Justice**] **magisterial district judge** is required immediately to certify his or her order to the common pleas court and the certification under the Act has the effect of commencing a proceeding in the common pleas court and invoking the other provisions of the Act.

* * * * *

[**Because of the need for prompt implementation of the Act the Committee has addressed itself only to the minimum procedural provisions necessary to make the Act effective pending further study particularly its relationship to the Child Protection Act of 1975, 11 P. S. 2201, et seq., and other problems.**

These minimal provisional Rules include, in Rule 1901, the identification of the proceedings and definitions.

Rule 1902 provides for the commencement of the action by petition or by the filing of a certified order of a District Justice.

Rule 1903 provides for service of process in the same manner as in an action in equity.

Rule 1904 eliminates any defense pleadings. All matters are automatically at issue.

Rule 1905 provides that the decision and exceptions shall be governed by Rule 1038 which regulates trial in assumpsit without a jury

Because the exigency of the situation did not permit the Committee to follow its usual practice of submitting a Recommendation to the bench and bar for comments and suggestions prior to submission to the court, comments from the bench and bar after the rules are used in actual practice are invited.]

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1901.7’s Explanatory Comment—1977 reflect the change in title, make the comment gender-neutral and delete outdated material.

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.13-2. Form of Request for Bench Warrant and Supporting Affidavit. Form of Bench Warrant.

(a) Request for a bench warrant pursuant to Rule 1910.13-1 shall be in substantially the following form and shall be attached to the Bench Warrant form set forth in subdivision (b) of this rule:

[CAPTION]

REQUEST FOR BENCH WARRANT AND SUPPORTING AFFIDAVIT

1. _____ did not appear for a conference and/or hearing in the Court of Common Pleas of _____ County on the ____ day of _____, [**19**]**20** __, which was scheduled by an order of court compelling this person’s appearance, a copy of which is attached to this request.

* * * * *

5. I recommend that bail in this matter be set as follows:

- No bail.
- Bail to be set in the amount of _____.
- Bail to be determined by the [**district justice**] **magisterial district judge**.

Note: The following information should be supplied where the [**district justice**] **magisterial district judge** is given discretion in setting bail.

* * * * *

(b) The Bench Warrant entered by a court pursuant to Rule 1910.13-1 shall be in substantially the following form, and shall be attached to the Request for Bench Warrant form set forth in subdivision (a) of this rule:

[CAPTION]

BENCH WARRANT

AND NOW, this __ day of _____, [**199**]**20** __, the Sheriff of _____ County, or any constable, or

police officer, or other law enforcement officer is hereby ordered to take _____, residing at _____, into custody for appearance before this Court.

* * * * *

Bail in this matter shall be set as follows:

- No bail.
 Bail to be set in the amount of _____.
 Bail to be determined by the [**district justice**]
magisterial district judge.

Official Note: Standards for setting bail are set forth in Rule of Criminal Procedure 525.

BY THE COURT: _____
 JUDGE

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1910.13-2 reflect the change in title.

[Pa.B. Doc. No. 05-983. Filed for public inspection May 20, 2005, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Local Orphans’ Court Rules; Administrative Order No. 11 of 2005

Order of Court

And Now, this 6th day of May, 2005, all existing local Orphans’ Court Rules are repealed and replaced by the following rules.

These rules shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court’s name, address and computer file number, shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Orphans’ Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court’s web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

RULES OF ORPHANS’ COURT DIVISION

Rule 1. Local Rules

The local rule of the Orphans’ Court Division of the Adams County Court of Common Pleas shall be known as Adams County Orphans’ Court Rules and may be cited as either Adams C.O.C.R. (number), or Local O.C. Rule (number). These rules should be read in conformity with Supreme Court Orphans’ Court Rules. Except as otherwise provided in these rules, or by Supreme Court Rules, local Rules of Civil Procedure shall apply to proceedings in the Orphans’ Court Division of this Court.

Comment: These rules should be read in conformity with not only state, but also local, rules. For example, Adams County Rules of Judicial Administration No. 13.0 governs procedure in cases involving extended hearings. In light of extensive rule changes in the area of appearances and withdrawals of counsel, no need exists for special rules applicable to the Orphans’ Court Division.

CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3. Definitions

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

A. “*Auditor*” and “*master*,” are generally used interchangeably, without regard to technical distinctions, in these rules. The terms may be similarly used in orders, unless the scope of duties or context indicates otherwise. Notwithstanding technical differences between the two terms, an auditor shall have all the powers and duties of a master, and vice versa, unless the order of appointment or scope of duties make this inappropriate.

B. “*Exception*” means a formal disagreement with an appraisal, with a report of an auditor or master, or with an adjudication, opinion, or decree of the Court. The term includes “objection,” and the two terms may be used interchangeably.

C. “*Objection*” is included in the definition of “exception.”

D. “*Code*” means the “Probate, Estates and Fiduciaries Code,” 20 Pa.C.S.A. § 101 et seq.

E. “*Master*” may be used interchangeably with “auditor,” subject to the discussion relating to the definition of “auditor.”

Comment: The distinction between objection and exception is too esoteric to be of significance and is potentially confusing, since many people use the terms interchangeably. The prior rule’s requirement that objections and exceptions be in writing conflicts with other rules allowing oral objections in certain instances. The terms, “auditor” and “master”, are used interchangeably to avoid disputes about the authority or scope of duties of a person designated as one or the other.

PLEADING AND PRACTICE

Rule 3.4. Form of Petition

A. A proposed order or decree, bearing the caption of the case, shall be attached to the face of the petition.

B. Copies of documents essential to proper relief shall be attached to the petition as exhibits.

Rule 3.6. Depositions Etc.

Any party seeking a special order relating to depositions, discovery, production of documents and/or perpetuation of testimony shall give all interested parties, or their

counsel, at least ten days advance notice before presenting the request. Otherwise, the party shall proceed in accordance with Rules of Civil procedure.

COMPUTATION OF TIME

Rule 4. Reserved

NOTICE

Rule 5.1. Legal Periodical and Advertisement

Whenever publication in a legal periodical is required by Act of Assembly or by Rule or Order of Court, see Adams County Rule of Judicial Administration No. 11.

When advertisement is directed in these rules, unless otherwise provided, it shall be in accordance with publication requirements of Supreme Court Rule 5.1(c).

Comment: Attention is invited to the requirement in Supreme Court Rule 5.1(c) that publications occur once a week for three consecutive weeks, as contrasted with once under Pa.R.C.P. 430. Attention is also invited to the provisions of 20 Pa.C.S.A. § 745(b), which establish specific requirements for advertising accounts.

Rule 5.2. Method; Person under Incapacity

A. *When No Fiduciary.* Whenever notice is to be given to a person who is not sui juris for whom there is no guardian, trustee, or committee, notice shall be given by serving it upon him/her, if he/she is over (14) years of age, and, in all cases, upon the following persons:

- (1) his/her next of kin; and/or
- (2) his/her spouse; and/or
- (3) the person with whom he/she resides or by whom he/she is maintained; and/or
- (4) the superintendent or other official of the institution having custody of him/her; and/or
- (5) in such manner as the Court, by Special Order, may direct.

B. *Presumed Decedents and Unascertained Persons.* Whenever notice is to be given to an absentee, a presumed decedent, or to an unknown or unascertained person, it shall be given in the manner provided by Act of Assembly or, in absence thereof, in such manner as the Court, by Special Order, shall direct.

Rule 5.4. Return of Notice—Requirements

A. Return of service shall in all cases show the date and manner of service and be attached to a copy of the notice served.

B. Return of service by registered or certified mail shall also have attached the return receipt, or a photocopy thereof, or an adequate explanation of the failure to so attach.

C. *Registered or Certified Mail.* Return of notice by registered or certified mail shall state the date and place of mailing and shall include the return receipt, or photocopy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, he/she shall so state in the return. When the address of the person to be served by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

D. Return of notice by publication shall consist of proofs of publication, together with affidavits of publication by the publisher or his/her agent.

ACCOUNTS AND DISTRIBUTION

Rule 6.1. Form—Local Requirements

A. Accounts will be typed on 8 1/2" by 11" paper fastened together at the top and numbered consecutively at the bottom.

B. All accounts shall begin with a caption which shall set forth the nature of the account, the name and capacity of the fiduciary, and the name of the estate.

C. The first account of a personal representative shall contain, immediately following the caption, the date of death of the decedent and the dates when letters of the estate were advertised in each of the publications for that purpose. A copy of each of the proofs of publication shall be attached to the account.

D. Principal of personal estate and principal of converted real estate shall be stated separately.

E. Every account filed with the Register or Clerk shall be signed by each accountant, unless special leave of Court is obtained, and shall be verified by at least one accountant.

F. If the account incorporates by reference the contents of the inventory, a true and correct copy of the inventory shall be attached for review by the Court; said true and correct copy of the inventory need not be filed of record in the Office of the Clerk of Courts.

Comment: Present Supreme Court Rule 6.1 gives an accountant an option as to which form is followed. Thus, this rule should be properly captioned "local" rather than "additional" requirements, as was previously done.

Rule 6.3. Notice to Parties in Interest

A. *Notice*—No account presented by the Register or by the Clerk of the Orphans' Court shall be confirmed, nor any decree of distribution made, unless it be made to appear by the certificate of the accountant or his/her attorney, that written notice of the time of presentation of the account and proposed statement of distribution and the character thereof has been given for at least twenty-eight (28) days prior to the date fixed to every unpaid creditor who has given written notice of his/her claim to the accountant and to every other person of whom the accountant has notice or knowledge who claims an interest in the estate as beneficiary or next of kin. Acceptance of such notice may be in writing by the party in interest or by his/her attorney.

B. *Presentation of Account Objections*—All accounts shall be presented for confirmation at a regular confirmation date and must be filed not later than forty (40) days prior thereto. Although written objections are not required, if objections are made in open court at the time of presentation, the Court may require that the objector file a written objection within ten days. The Court may also require the objector to state, in writing, the specific grounds upon which objections are based. Failure to comply within ten (10) days, or such other time set by the Court, may be considered a withdrawal of any objection made only orally.

Rule 6.9. Statement of Proposed Distribution

A. *Filing*—Accounts and any accompanying statements of proposed distribution filed in the office of the Register of Wills shall be marked "filed," a notation of the date of said filing made on the decedent's index of the estate, and then transmitted to the Clerk of the Orphans' Court on the next succeeding business day for audit and confirmation by the Court after proper advertising.

The statement of proposed distribution shall be filed at the same time and in the same office with the account it accompanies.

B. *Form*—A statement of proposed distribution shall be on a paper separate from the account which it accompanies. It shall contain the names of the persons to whom it is proposed to award the balance for distribution, the amount or share awarded to each and a brief statement of the nature and reasons for the proposed awards, and a copy of the will, if any.

C. *Signature*—All statements of proposed distribution shall be signed by each accountant unless special leave of Court is obtained, and all statements of fact therein shall be verified by at least one (1) accountant.

D. *No Proposed Statement*—A fiduciary who, upon the filing of an account which reveals a balance for distribution, is unable for any reason to file therewith a statement of proposed distribution in accordance with the requirements of the Pennsylvania Supreme Court Orphans' Court Rules, shall in lieu thereof, file with the account a statement of the reasons why distribution cannot be proposed which shall conclude with a request for the appointment of an auditor to make distribution.

E. *Advertisement*—The Clerk shall give notice by advertisement of the time when statements of proposed distribution filed with him/her and with the Register will be presented to the Court for approval. The notice shall be given in conjunction with the notice of the account which it accompanies.

F. *Distribution To Minor Without Guardian*—If distribution is to be made to a minor for whom no guardian has been appointed, the accountant may request distribution in accordance with either subsection 5101 or 5103 of the Code. If distribution is requested in accordance with 5103, there shall be a statement that the distribution will not exceed the amount to which accounts are insured and the following wording:

"As to the interest of the minor(s) above named, it is proposed that his/her (their) share(s) be deposited in a separate savings account in the _____ Bank at _____, Pennsylvania, with the following notation: (Name of Minor) and _____ his/her mother-father-person having custody—not to be withdrawn until the minor, _____, becomes of age or in compliance with an Order of the Orphans' Court Division of the Adams County Court of Common Pleas during his/her minority."

G. *Real Estate*—Where real estate is distributed, the real estate in the statement of proposed distribution shall be described by metes and bounds when such description is available.

Rule 6.10(a) Objections to Accounts and Statements of Proposed Distribution

A. *Objections*—Objections to accounts and/or to statements of proposed distribution shall be governed by Local O.C. Rules 6.3 and 7.1 et seq. A copy of objections shall be served on the accountant or his/her attorney.

B. *Disposition*—

1. Objections by the Register of Wills to deductions in an account or in the statement of proposed distribution shall be considered solely to determine the clear taxable value of the estate. Objections to the amount of such deduction will be disposed of by the Court after hearing and/or argument, but the account may be confirmed and

distribution awarded subject to sufficient funds being withheld to pay inheritance tax.

2. Any party in interest or the accountant may seek adjudication of a dispute concerning deductions disallowed by the Register prior to filing an account. Issues may be resolved after hearing by the Court, an auditor may be appointed, in the discretion of the judge assigned the case.

C. *Request for Hearing*—Objections filed by anyone other than the Register of Wills may be determined after determination of facts and/or argument. Any party may request that a judge conduct a hearing to determine disputed facts, or that the matter may be referred to an auditor. Notwithstanding a request for a hearing by the Court, an auditor may be appointed, in the discretion of the judge assigned the case.

Rule 6.11. Confirmation of Accounts

If no objections are filed to either the account or the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree confirming the account absolutely and directing distribution in accordance with the statement.

EXCEPTIONS OR OBJECTIONS OTHER THAN THOSE MADE IN OPEN COURT

Rule 7.1. General Rule

A. Exceptions or objections other than those made in open court, when the case is being considered by the court, shall be in writing and copies thereof shall be served on all interested parties or their attorneys.

B. All exceptions shall be filed with the Clerk. The Clerk shall transmit exceptions to an auditor's decision for initial consideration and ruling.

C. The grounds of each exception must be clearly set forth.

D. Exceptions shall be heard by a judge who shall sustain or dismiss them in whole or in part or enter any appropriate order.

AUDITORS AND MASTERS

Article I. Rule 8.1—Notice of Hearing and Hearing Procedure

A. The Clerk shall provide a certificate of appointment to auditors and masters expeditiously after appointment. Auditors and masters shall schedule hearings without undue delay, and give notice thereof in accordance with Supreme Court Rule 5.1.

B. Auditors and masters shall call for appearances at the beginning of each hearing. Persons failing to enter a formal appearance shall not be entitled to notice of any further proceedings, or the completion and filing of the report, unless such rights are specially granted by the auditor.

C. Procedure followed shall be in accordance with good order, but may be less formal than court proceedings. Auditors shall initially determine what claims have been presented for resolution. In addition to claims to which specific objection has previously been made, interested parties or counsel may orally object to claims to which prior general objection has been made. Claims to which no objection has been made shall be allowed without further proof. Any claimant surprised by objection may request and be given an opportunity to support the claim.

D. Hearings, continuances and adjournments, shall generally be in accordance with practice and procedures

governing proceedings by masters in divorce cases. After the closing of the evidence has been announced and noted, any party may submit requests for findings of fact and conclusions of law within time limits set by the auditor or master.

Rule 8.2. Filing of Report

Reports of auditors and masters shall be filed with the Clerk.

Rule 8.3. Form of Report

In addition to requirements in Supreme Court Rules 8.3. and 8.4, reports shall contain an appendix which shall:

1. Recite the person's commission,
2. Contain notices given, with a description of how delivered or given,
3. Contain written waivers of notice,
4. Contain exceptions to the report and requests for findings submitted by counsel,
5. Contain exhibits, unless they accompany the report. Accounts and documents filed independently with the Court or belonging to its archives, and original documents reserved by the owner or custodian thereof, shall not be incorporated in the appendix. Copies, however, may be,
6. Recite the chronological summary of proceedings before the auditor,
7. Contain a bill of costs as taxed by the auditor, in the manner in which bills of costs are taxed in the Prothonotary's office.

Rule 8.4. Reserved

Rule 8.5. Reserved

Rule 8.6. Notice of Filing Report

A. Upon the completion of the reports, the auditor shall lodge it in the Clerk's office for inspection purposes only. The report shall not be filed by the Clerk, but shall be made available for inspection. Auditors shall give notice in writing to all parties or attorneys entitled to notice that:

1. the report is available for examination in the Clerk's office, and
2. exceptions thereto must be filed with the Clerk within ten (10) days.

B. If exceptions are filed, the Clerk shall return the report and exceptions to the auditor or master. If no exceptions are filed, the Clerk shall mark the report as filed, and transmit it to the Court for entry of an order.

C. Service of notice shall be sufficient if mailed first class mail, addressed to the person entitled to receive it.

Rule 8.7. Confirmation of Report

A. *Exceptions*—Other than in unusual circumstances and by leave of court, no exceptions shall be permitted after the ten-day period established by Local O.C. Rule 8.6.

B. *Reserved.*

C. *Disposition of Exceptions. Filing*—The auditor or master shall expeditiously rule upon and dispose of exceptions. Rulings, modifications and amendments shall then be filed, and the Clerk will mark the report, with rulings, modifications and amendments as filed. The Clerk shall then transmit the report, rulings, amendments and modifications to the Court for entry of a decree

nisi. The auditor or master shall provide notice of filing to interested parties or counsel, and advise them that objections or exceptions to the decree nisi, or request for resubmission to the auditor or master, must be made within ten (10) days.

D. *Decree*—The decree nisi shall be confirmed absolute, unless prior exceptions are renewed, new exceptions are filed, or a request is made for resubmission to the auditor or master, within ten (10) days. Any party may at any time after the ten-day period list exceptions or requests for argument.

OFFICIAL EXAMINERS

Rule 9. Reserved

REGISTER OF WILLS

Rule 10.1. Reserved

Rule 10.2. Appeal from the Register of Wills

Appeals from judicial acts or proceedings of the Register of Wills, and the practice and procedure with respect thereto shall be governed by rules of civil procedure. However, the order directing that a rule issue shall also direct the Register to certify the record to the Court. The petition shall include the following information:

- (a) the nature of the proceedings before the Register;
- (b) the basis for the certification, requested certification or appeal; and
- (c) the names of all parties in interest, including those not a party to the record.

Comment: Uniformity is served by making appeals subject to the procedure utilized with petitions and rules. Since the new rule applies to all appeals, no need exists for references to special appeals, such as from imposition of inheritance tax. State Rule 11.1 and 11.2, regarding jury trials, do not require supplementing.

SPECIAL PETITIONS

Rule 12.1. Family Exemption

A. *Content of Petition*—In addition to the requirements of the Supreme Court Orphans' Court Rules, a petition for the family exemption also shall set forth in separate paragraphs and in substantially the following order:

- (1) the name, residence and date of death of decedent;
- (2) the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent at the date of his/her death;
- (3) if petitioner is the surviving spouse, the date and place of the marriage; and, if a common law marriage is asserted, all averments of facts necessary to establish the validity of the marriage;
- (4) whether the decedent died testate or intestate; whether, where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;
- (5) the location, description, and valuation of property claimed; and
- (6) that ten (10) days prior notice of the filing of the petition has been given to the personal representative, or when no letters have been granted, to the parties adversely affected, with a copy of such notice attached as an exhibit.

B. *Appraisal*—No appraisal shall be required when the exemption is claimed from cash, bank savings and loan

deposits, listed securities and well-known local securities. When the exemption is claimed from other items of personalty, the petitioner shall attach a sworn appraisal of one qualified, disinterested person. The Court may accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles.

Where the exemption is claimed in personalty, no notice or advertisement of the appraisal shall be required unless directed by the Court on special order.

C. Exemption From Real Estate—If the petition requests the exemption from real estate, the practice and procedure shall be as provided in Supreme Court Rule 12.2(b) unless all parties in interest agree in writing to a valuation at which it is to be awarded.

D. Voluntary Distribution—When the personal representative, at his/her own risk, delivers assets of the estate in satisfaction or on account of exemption, he/she shall set forth the same as a credit in the account. The same may be the subject of objection by any claimant or party in interest.

E. When Petition Filed—When the procedure is by petition, questions as to the appraisement or allowance, or both, may be raised only by objection made in open court at the time fixed for presentation of the petition.

F. Higher Bid—Objections which relate only to the amount of the appraisement will be dismissed unless a definite and bona fide higher bid for the property is made, or facts appear warranting consideration by the Court.

Rule 12.2. Allowance to Surviving Spouse of Intestate

A. Content of Petition—In addition to the requirements of the Supreme Court Orphans' Court Rules, a petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

(1) the information required in a petition for family exemption under Supreme Court and Local O.C. Rule 12.1(a), as far as appropriate; and

(2) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and

(3) that ten (10) days prior written notice of the intended presentation of the petition has been given to the personal representative or, if no personal representative has been appointed, to those interested as next of kin; and, if there be no next of kin, to the Attorney General, with a copy of such notice attached as an exhibit; and

(4) shall have attached thereto a copy of the inventory and appraisement.

B. Filing of Appraisal—Appraisers appointed pursuant to Supreme Court Rule 12.2(a)(3) shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed.

C. Notice of Appraisal—Upon filing of the appraisal, the Clerk shall give notice thereof to the personal representative, and to the next of kin; and, if there is neither personal representative nor next of kin, to the Attorney General. Notice to the Attorney General shall contain a copy of the petition and the appraisal. All notices shall state that:

1. Confirmation of the appraisal and an award of the property to the surviving spouse will be considered by the

Court at a stated open court date that is at least ten (10) days later than the date notice is given.

2. The person to whom notice is given shall have the right to appear at the stated time and object.

3. If no objections are made, the property shall be awarded to the surviving spouse at the appraised value.

If the address or whereabouts of any of the next of kin is unknown, notice of the filing of such appraisement shall be given in accordance with Supreme Court Rule 5.1.

Comment: No authority exists for reducing advertisement below that required in state rule 5.1, other than by special order of court.

Rule 12.3. Extension of Time For Filing of Surviving Spouse's Election

The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension in open Court to all persons adversely affected thereby who do not join in the prayer of the petition.

If no objection is made, the Court may enter an appropriate decree upon the filing of a verified return of notice.

Rule 12.4. Appointment and Discharge of Fiduciaries

In every case where a guardian ad litem or trustee ad litem is appointed, the estate shall be liable for the compensation of the guardian ad litem or trustee ad litem in an amount to be set by the Court upon receipt by the Court of a written report of said guardian ad litem or trustee ad litem prior to the final hearing in the particular case.

Rule 12.5. Appointment of a Guardian for the Estate or Person of a Minor

A. Reserved.

B. Reserved.

C. Consent of Guardian—The petition shall have attached thereto the consent of the guardian to act as such.

1. The consent of an individual guardian shall also contain the following statements:

a. his/her business and domicile;

b. that he/she is a citizen of the United States, able to speak, read, and write the English language;

c. that he/she is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary; that he/she has no interest adverse to the minor; and,

d. if the minor and proposed guardian reside in the same household, whether it is the intention of the guardian to apply for an allowance for the support or education of the minor during minority.

2. When the proposed guardian is a corporate fiduciary, its written consent to act as such shall contain a statement that it is not the fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary; and, that it has no interest adverse to the minor.

D. Reserved.

E. Minor Over the Age of Fourteen—If the minor is over the age of fourteen (14) years, he/she shall appear in person at the presentation of the petition for the appoint-

ment of a guardian unless the petition contains his/her written joinder in the request for the designation of the given guardian.

F. Small Estates to Minors

1. Any petition to have the estate of a minor awarded without the appointment of a guardian or the entity of security shall contain, inter alia, the following:

a. A statement that the net value of the entire real and personal estate of the minor does not exceed the statutory limitations; and

b. The name of bank or insured savings and loan association in Adams County as a suggested depository.

2. The Court may require that said fund be deposited in an interest bearing deposit in said bank or be invested in said insured savings and loan association in the name of the minor and in the name of the natural guardian of the minor, subject to the express restriction, to be noted on the records of the depository, that no withdrawals shall be made therefrom during minority without Order of Court, with a further requirement that evidence of the deposit or investment marked to indicate the restriction, be promptly exhibited to the Court.

3. When the Court authorizes the parent or other person maintaining the minor to execute a receipt, deed, mortgage, or other instrument affecting property, real or personal, of the minor it shall be conditioned on the deposit of the proceeds in an account restricted as in 2 above.

G. Allowance from Minor's Estate—When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

1. The manner of the guardian's appointment and qualification and the dates thereof;

2. The age and residence of the minor, whether his/her parents are living, the name of the person with whom he/she resides, the name and age of his/her spouse and children, if any;

3. The value of the minor's estate, real and personal, and the net annual income;

4. Circumstances of the minor, whether employed or attending school; if the minor's parent(s), or other persons(s) charged with the duty of supporting him/her is/are living, the financial condition and income of such person and why he/she is/are not discharging his/her duty to support the minor; and, whether there is adequate provision for the support and education of the minor;

5. Date and amount of any previous allowance by the Court; and,

6. The financial requirements of the minor and his/her family unit, in detail, and the circumstances making such allowance necessary.

Rule 12.6. Appointment of a Trustee

A. Exhibit—The following exhibits shall be attached to the petition:

1. A copy of the trust instrument; and,

2. A written consent of the proposed trustee to act as such.

Rule 12.7(a). Discharge of a Fiduciary And Surety

A. Additional Provisions

1. The petition shall contain the averment that all parties interested in the estate as distributees have signed releases or aver a satisfactory explanation of the

failure to procure releases. If such releases are not obtained, notice of intended presentation of petition for discharge shall be advertised once in a newspaper of general circulation published in Adams County and in the Adams County Legal Journal at least ten (10) days prior to the time specified in the notice for asking the order of final discharge.

2. In the case of minor's estate not exceeding the statutory limit (currently \$25,000.00) where the account accompanies the petition, the petition shall aver that there are no unpaid creditors and the former minor has consented to the petition, or aver a satisfactory explanation of the failure of the minor to consent.

B. Discharge Under § 3531—A petition for discharge of a personal representative and/or his/her surety under § 3531 of the Probate, Estates and Fiduciaries Code (20 Pa.C.S.A.) shall conform as far as practicable to the requirements of a petition under Rule 12.5(f) (Small Estate).

Rule 12.8. Reserved

Rule 12.9. Public Sale of Real Property

A. Content of Petition—Additional Requirements

(1) *Personal Representative*.—A petition by a personal representative to sell real property at public sale under § 3353 of the Code shall also set forth in separate paragraphs;

a. the name, residence, and date of death of the decedent; whether he/she died testate or intestate; and the date of the grant of letters;

b. that the personal representative is not otherwise authorized to sell by the Act; or, is not authorized or is denied the power to do so by the will; or, that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

c. whether an inventory and appraisal have been filed; the total value of the property shown therein; and, the value at which the real property to be sold was included therein;

d. if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

e. the names and relationships of all parties in interest; a brief description of their respective interest; whether any of them are minors, incompetents or deceased, and, if so, the names and the record of the appointment of their fiduciaries;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

h. A copy of the will, deed, or decree by which the fiduciary was appointed shall be attached to a petition by a personal representative, trustee, or guardian, to sell real property at public sale.

(2) *Payment of Debts*.—A petition by a personal representative to sell real property at public sale for payment of debts, under § 3353 of the Code, shall also set forth in separate paragraphs;

a. the information required to be set forth under subparagraph 1, as far as appropriate;

b. a statement that the personal estate and the rents of real property are insufficient for payment of debts;

c. a statement of all real property owned by decedent, wherever situated, which has come to petitioner's knowledge;

d. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment;

e. that the trustee is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons; and,

f. sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

g. If the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

(3) *Guardian*.—A petition by a guardian to sell real property at public sale, under § 3353 of the Code, shall also set forth in separate paragraphs:

a. the age of minor;

b. the names of his/her next of kin and the notice given them of the presentation of the petition;

c. how title was acquired, stating the date and place of probate of the will or recording of the deed;

d. a recital of the provisions of the will or deed relating to the real property to be sold;

e. that the guardian is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value, and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the proposed sale will be for the best interests of the minor.

B. Method—Pursuant to Court Order.

Notice of the public sale of real property shall be given:

(a) by advertisement in approved form;

(b) by handbills, one of which shall be posted at a conspicuous place on the real property to be sold and at least three (3) of which shall be posted in three (3) public places in the vicinity of such real property; and

(c) by personal notice or registered or certified mail to all known parties in interest, of the time and place of the proposed sale, at least ten (10) days prior thereto.

C. Notice—Confirmation.

(1) *Notice*. After the allowance of a petition for public sale, notice in approved form shall be given in the manner provided by Rule 12.9(b) above.

(2) *Return of Public Sale*. Return of public sale of real property for the purpose of approval or confirmation by the Court shall be in the form of an affidavit, which shall set forth:

(a) the notice given as provided by Rule 12.9(b) above;

(b) the price obtained; and,

(c) the name and address of the purchaser and an averment that he/she was the highest bidder.

(3) *Confirmation*. If no objection is filed, the Court may enter a decree confirming the sale upon submission of the return of sale.

Rule 12.10. Private Sale of Real Property or Options

A. Content of Petition—Additional Requirements. A petition by a personal representative, trustee, or guardian to sell real property at private sale shall also conform as closely as practicable to the requirements of those rules with regard to a petition to sell real property at public sale by the same fiduciary.

B. Exhibits.

(1) *Personal Representative. Trustee. Guardian.*

The following exhibits shall be attached to the petition by a personal representative, trustee, or guardian, to sell real property at private sale:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed;

(b) consents to the sale signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not join or consent, except in a petition to sell at private sale for the payment of debts;

(c) a copy of the agreement of sale;

(d) affidavits, in approved form, to two competent persons approved by the Court; and

(e) if the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

C. Payment of Debts—Notice—Confirmation.

1. *Notice*. A petition for private sale of real property to pay the debts of a decedent shall be presented in open court and a date fixed for hearing. Notice of such hearing shall be given in the manner provided by Supreme Court Rule 5.6.

2. *Confirmation*. If no exception is filed, the Court may enter a decree confirming the sale at the hearing. If a substantially higher offer is received at the hearing, the Court will make such order as it deems advisable under the circumstances.

D. Higher Offer.

Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition of the fiduciary for leave to make such private sale is presented to the Court, or at any hearing fixed thereon, whereupon the Court will make such order as it deems advisable under the circumstances.

E. Security.

The Court, in the decree approving or confirming the sale, will fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

F. Petition to Fix or Waive Additional Security—Personal Representative.

1. *Form of Petition*. In a sale, whether public or private, of real estate by a personal representative without benefit of an order directing or authorizing such sale, where he/she was required to give bond as such personal representative, he/she shall present his/her petition to the

Court before the proceeds of the sale are paid to him/her by the purchaser, setting forth:

- a. the death of the decedent;
- b. the date of the grant of letters to the petitioner;
- c. the amount of bond or bonds filed by him/her and the date of such filing and the name or names of his/her surety;
- d. the total valuation of the personal estate as shown in the inventory and appraisal, if any; the total proceeds of any real estate sold previously;
- e. a short description of the real property sold, the name of the purchaser, and the amount of the consideration to be paid; and
- f. a prayer for an order fixing the amount of additional bond except for cause shown shall be the same as on the original bond.

2. *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

C. Purchase by Personal Representative.

Petitions for approval of private sales of real estate to personal representatives shall be accompanied by an appropriate order. If all parties in interest join in the petition, the order may be in final form. Otherwise, it shall set a time for consideration, which will be a Business and Orphans' Court day at least thirty (30) days later than dates on which notice is given. The petitioner shall promptly serve a copy of the petition and order on parties who have not joined. The order shall recite that leave will be granted unless objections are made on or prior to the time set for consideration.

The petition shall identify any party in interest who is not *sui juris* and request the appointment of a guardian ad litem.

Rule 12.11. Mortgage, Lease or Exchange of Real Property

A. Petition—Additional Requirements.

1. *Contents of Petition.* A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of these rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed mortgage loan; and, shall set forth sufficient facts to enable the Court to determine whether the proposed mortgage should be approved.

2. *Exhibits.* The following exhibits shall be attached to the petition:

- (a) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (b) consents to the mortgage signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent.

3. *Security.* The amount of the security or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the proposed mortgage.

4. The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange or to grant an option for the pledge, lease, or exchange of property, under the Code, shall be

governed by the appropriate provisions of these Rules governing the private sale or mortgage by such fiduciary.

Rules 12.12 to 12.15. Reserved

Rule 12.16. Settlement of Small Estates (§ 3102 of the Code)

A. Content of Petition—A petition under § 3102 of the Code for the settlement of a small estate shall be set forth in substantially the following order:

1. name, date of death, and residence of the decedent at time of death;
2. the name and address of the petitioner, his/her relationship to the decedent and whether or not he/she formed a part of decedent's household at the date of his/her death;
3. if petitioner is the surviving spouse, the date and place of the marriage;
4. whether decedent died testate or intestate; whether, where, when and to whom letters were granted, and the amount of bond given by the personal representative;
5. the names, relationships, and a brief description of the interest of all persons entitled to share in the decedent's estate under the will or intestate laws, stating which are minors, incompetents, or deceased, with the names of their fiduciaries, and whether any of them has received or retained any property of the decedent by payment of wages or pension under § 3103 of the Code, or otherwise;

6. the person entitled to the family exemption, and the facts on which the claim is based;

7. an itemized statement of the property of the decedent and its value together with a sworn or verified appraisal of one qualified, disinterested person appraising items other than cash, bank and savings and loan deposits, listed securities, and well-known local securities. The Court will accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles;

8. the disbursements made prior to the filing of the petition; the date and name of the person to whom paid and, the nature and amount of each payment;

9. the names of all unpaid claimants of whom the petitioner has notice or knowledge, the nature and amount of each claim, and whether such claims as admitted;

10. that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register; the amount of any inheritance tax assessed; and, the date of payment thereof;

11. that ten (10) days written notice of intention to present the petition has been given to every unpaid beneficiary, heir, or claimant who has not joined in the petition, or to the Attorney General, if the decedent heirs are unknown; and,

12. a prayer for distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative and the release of his/her surety, if letters have been granted and advertised.

Rules 13.1 to 13.3. Reserved

GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.1. Guardianship

A. Guardians—Except in the case of an adult child living with his/her natural parent(s), preference in ap-

pointments shall normally be given to banking institutions and suitable persons who do not, reside with the alleged incapacitated person, are not related to the person and who reside or have a regular place of business in Adams County.

B. *Estate—Consent of Proposed Guardian* - The written consent of the proposed guardian to act as guardian shall be attached to the petition.

C. *Estate—Proof of Service*—Proof of service shall be presented at the hearing. The affidavit of service shall, in all cases, recite that the petition and citation and notice were read and explained to the alleged incapacitated person.

D. *Sale of Personal Property*—Court approval for sale of personal property shall not be required.

Rule 14.3 to 14.5. Reserved

Rule 15. Adoptions

Rule 15.1. Investigations

A. Adams County Children and Youth Services is designated as the agency to perform investigations required by the Court in accordance with the Adoption Act.

B. Fees for investigations by the agency shall be periodically set by the administrative order. Until changed, the fee shall be \$75.00. Fees for obtaining child abuse clearances and criminal histories shall be in addition to the investigation fee.

C. Petitioners and/or persons filing notices of intention to adopt shall, unless excused from an investigation, pay the investigation fee within two (2) weeks of filing a petition or notice of intention to adopt, whichever is filed first.

D. Petitioners shall, within the two (2) week period, provide the agency with a description of petitioners' home and detailed directions to it.

E. Persons who are otherwise subject to investigation and who request a waiver thereof shall include, with the application for waiver, either:

1. an affidavit setting forth in detail that person's criminal history and all indicated reports of child abuse that are known to the person, or

2. original or certified copies of the person's criminal history and child abuse clearance forms.

F. Upon receipt of the material described in (e), the Clerk shall promptly provide the agency with copies thereof.

Rule 15.2. Voluntary Relinquishment to Agency

The caption for all pleadings and the docket entry shall carry the given name of the child.

Rule 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child

A. The caption for all pleadings and docket entry shall carry the given name of the child.

B. In addition to other information required by Supreme Court Rule 15.3, the petition shall describe any agreement between petitioner and natural parents regarding fees, costs, payments, or future rights of visitation and/or custody.

Rule 15.4. Involuntary Termination of Parental Rights

A. The caption for all pleadings and the docket entry shall carry the given name of the child.

B. Information required by Local Rule 15.3 (3) shall be provided.

Rule 15.5. Adoption

A. *Petition.*

1. The caption for all pleadings and the docket entry regarding an adoption shall be in the name to be taken by the proposed adoptee. Where there was a prior relinquishment or termination proceeding known to the adopting parents, there shall be a reference thereto by number and year in the petition for adoption.

2. The petition shall contain the information required by Supreme Court Rule 15.3(b).

B. *Adult—Change of Name.* An adult to be adopted who desires to assume the surname of adopting parent or parents shall advertise such desire in accordance with Pa.R.C.P. 430(b)(1).

C. *Intermediary.* When a report is filed by an intermediary and the prior relinquishment or termination proceeding is not known to the adopting parents, the report of the intermediary shall refer to the prior relinquishment or termination proceeding by number and year. Where the prior relinquishment or termination proceeding is not referred to in the Adoption Petition or in the report of the intermediary, but is known to the clerk, the Clerk shall place a memorandum in the adoption packet showing the reference to the prior relinquishment or termination proceeding.

Rule 15.6. Notice—Method and Time

A. If personal service is not obtainable and the registered or certified mail is returned undelivered, then:

1. Notice shall be sent by regular mail to the last known address of the parent and an affidavit of mailing shall be filed of record.

2. Further notice by publication shall be given in accordance with Supreme Court Rule 5.1(c).

3. The notice by publication shall appear in substantially the following form:

IN THE COURT OF COMMON PLEAS, ADAMS
COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA ORPHANS'
COURT DIVISION

NOTICE

TO: (Party to Whom Notice is Given)

You are hereby notified that a Petition for (Adoption/Involuntary Termination of Parental Rights to Child) has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for _____ at ____ o'clock, __ .M., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the (Adoption/Involuntary Termination of Your Parental Rights) with respect to your child.

You should contact 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 help.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, Pennsylvania 17325
Telephone Number: 717-337-9846, or 1-888-337-9846

(d) Proof of notice by publication shall be presented to the Court at the time of the hearing.

Rule 15.7. Impounding—Docket Entries—Reports—Privacy

The docket maintained by the Clerk shall carry only the name and date of each paper filed and shall also carry the date in reference to final action, which entry shall consist of a notation either that the decree was entered or that the petition was dismissed. Adoptions shall be indexed on an annual basis rather than to a term and number. An alphabetical index will be maintained for the convenience of the Clerk.

Rule 16. Abortion Control Act Proceedings**Rule 16.1 through 16.5 Reserved****Rule 16.6 Dockets. Docket Maintenance**

In addition to the requirements of Supreme Court Rule 16.6, all docket entries shall be referenced under an "AC" number, with the appropriate year, and not under an "OC" number.

Rule 16.7 through 16.12 Reserved**MISCELLANEOUS LOCAL RULES****Rule 18. Notices Required by the Clerk**

The Clerk of the Orphans' Court shall give the Register of Wills written notice of the appointment of masters and auditors, the filing of their reports, the filing of the surviving spouses' elections to take against or under the will of any decedent and of any other Orders of the Court awarding the family exemption, awarding the allowance to the surviving spouse of an intestate or settling a small estate.

[Pa.B. Doc. No. 05-984. Filed for public inspection May 20, 2005, 9:00 a.m.]

ADAMS COUNTY**Local Rules of Civil Procedure; Administrative Order No. 9 of 2005****Order of Court**

And Now, this 6th day of May, 2005, all existing local rules of Civil Procedure are repealed and replaced by the following rules.

Local Rules of Civil Procedure 205.2(a) and (b); 206.1(a); 206.4(c); 208.2(c), (d) and (e); 208.3(a), (b) and (c); 210; 1028(c); 1034(a) and 1035.2(a) shall become effective upon publication of the web site of the Administrative Office of Pennsylvania Courts. All other local Rules of Civil Procedure shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court's name, address and computer file number, shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court's web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

**ADAMS COUNTY COURT OF COMMON PLEAS
RULES OF CIVIL PROCEDURE****Rule 51. Title and Citation of Rules. Scope.**

All civil procedural rules adopted by the Adams County Court of Common Pleas shall be known as the Adams County Rules of Civil Procedure and may be cited as "Adams C.Civ.R. No. ____." These rules shall be read in conformity with the Pennsylvania Rules of Civil Procedure and shall apply to all civil actions, including appeals, brought before the Adams County Court of Common Pleas.

BUSINESS OF COURTS**Rule 205.2(a). Filing Legal Papers with the Prothonotary.***A. Physical Characteristics of Filed Papers*

Legal papers submitted to the Prothonotary shall comply with the following requirements of Adams County Rule of Judicial Administration No. 3.0(A).

B. Caption

The caption shall conform to Pa.R.C.P. No. 1018.

Note: Upon the filing of any paper, it is the duty of the Prothonotary to immediately docket the paper. Counsel may choose to hand carry the paper to the Court Administrator's Office if Court action is required, or may leave the paper with the Prothonotary for daily transmission to the Court.

Rule 205.2(b). Cover Sheet. (Reserved)**Rule 206.1(a). Petitions. Definition.***A. Additional Petitions*

In addition to the definition set forth in Pa.R.C.P. No. 206.1(a)(1), the following documents are defined as petitions:

1. An application to withdraw an appearance as attorney of record pursuant to Pa.R.C.P. No. 1012(c) and Adams C.Civ.R. No. 1012.
2. An application for a change of venue pursuant to Pa.R.C.P. No. 1006.
3. An application to intervene pursuant to Pa.R.C.P. No. 2328.
4. An application for name change pursuant to 54 Pa.C.S.A. § 701, et seq.
5. Preliminary objections filed pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6).
6. An application pursuant to Pa.R.C.P. No. 2952(9).
7. A petition filed under Adams C.Civ.R. No. 251.

Note: Applications pursuant to Pa.R.C.P. No. 2039 (approval relating to compromise of minor's settlement), Pa.R.C.P. 2064 (relating to compromise of incapacitated person) and Pa.R.C.P. 2206 (relating to wrongful death settlement) are governed by Adams C. Civ. R. 2039, 2064 and 2206.

Rule 206.4(c). Petition. Rule to Show Cause.

A. The procedure set forth in Pa.R.C.P. No. 206.6 is adopted and a rule to show cause shall issue following petition as a matter of course pursuant to that Rule with the exception that no rule will issue for a petition under Adams C.Civ.R. No. 206.1(a)(4). Petitions under Adams C.Civ.R. No. 206.1(a)(4) will be scheduled for hearing by the Civil Business Judge designated by the President Judge.

B. *Form Order.* The petitioner shall attach to all petitions, except those filed under Adams C.Civ.R. No. 206.1(a)(4), a proposed Order in the following form:

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY

(Caption)

ORDER

AND NOW, this ____ day of _____, 200 ____, upon consideration of the within 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 days of service upon the respondent;

(3) The petition shall be decided under Pa.R.C.P. No. 206.7;

(4) An evidentiary hearing on disputed facts, if necessary, and argument shall be held on _____, 200 ____, at _____, in Courtroom ____ of the Adams County Courthouse;

(5) The petitioner shall file a brief in support of the petition within thirty (30) days of the date of this Order. Any party opposing the petition shall file a responsive brief within seven (7) days of service of the petitioner's brief.

The filing of briefs is not necessary.

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

[In cases where a stay of execution has been requested]

(7) The request for a stay of execution shall be heard by the Court on _____, 200 ____, at _____, in Courtroom ____ of the Adams County Courthouse.

BY THE COURT,

J.

C. The Court, in its discretion, may determine that there are extraordinary circumstances justifying immediate relief or modification of the form of the Order or time period set forth therein. Any party to a petition may move the Court to modify the procedures set forth in the rule to show cause.

D. The Court may decide a request for a stay of execution by telephone or other conference with the parties or their counsel rather than the alternative set forth in the form of the Order.

E. All petitions filed with the Prothonotary's Office shall be docketed and immediately forwarded by the Prothonotary to the Court Administrator's Office who, thereafter, shall forward the petition to the Civil Business Judge designated by the President Judge. Alternatively,

petitions, once filed and docketed, may be hand delivered as set forth in the note to Adams C.Civ.R. No. 205.2(a).

F. *Service.* A petition shall be served upon all of the parties to the action contemporaneously with the filing of the petition with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the petition. The Court may excuse prior service in the case of an emergency petition.

Rule 208.1. Motion. Definition. Scope.

A. All applications to the Court for an Order in any civil action or proceeding shall be considered a motion and shall comply with all rules set forth in the Pennsylvania Rules of Civil Procedure and Adams County Local Civil Rules regarding motion practice unless specifically excluded by subparagraph B.

B. Local rules relating to motion practice shall not apply to the following matters:

(i) Petitions as defined by Pa.R.C.P. No. 206.1 and Adams C.Civ.R. No. 206.1(a);

(ii) Preliminary objections which shall be governed by Adams C.Civ.R. No. 1028(c);

(iii) Motions for judgment on the pleadings which shall be governed by Adams C.Civ.R. No. 1034(a);

(iv) Motions for summary judgment which shall be governed by Adams C.Civ.R. No. 1035.2(a);

(v) Motions relating to the conduct of a trial including, but not limited to, motions for non-suit, motions relating to jury selection, and motions to exclude expert testimony pursuant to Pa.R.C.P. No. 207.1;

(vi) Affidavits pursuant to Pa.R.C.P. No. 1066 (relating to actions to quiet title) which shall be governed by Pa.R.C.P. No. 1066 and Adams C.Civ.R. No. 1066;

(vii) Motions in limine which shall be governed by the Court's Order following pre-trial conference;

(viii) Applications pursuant to Pa.R.C.P. No. 2039 (approval relating to compromise of minor's settlement), Pa.R.C.P. 2064 (relating to compromise of incapacitated person) and Pa.R.C.P. 2206 (relating to wrongful death settlement) which shall be governed by Adams C.Civ.R. Nos. 2039, 2064 and 2206;

(ix) Any application excluded from the definition of motion by Pa.R.C.P. No. 208.1;

(x) Discovery motions shall be governed by Adams C.Civ.R. No. 208.3(c);

(xi) Motions for the appointment of arbitrators which shall be governed by Adams C.Civ.R. Nos. 1301(a) through 1303(b).

(xii) Motions filed in professional liability actions pursuant to Pa.R.C.P. No. 1042.1 et. seq. shall be governed by Adams C.Civ.R. No. 1042.1.

Rule 208.2(c). Motion. Form. Content.

All motions shall identify the applicable procedural rule, statute or other legal authority.

Rule 208.2(d). Motion. Certification. Stipulation.

(A) All motions must include a certification by counsel for the petitioner, or the petitioner, that the motion is uncontested by all affected counsel and unrepresented parties or, in the alternative, that concurrence of all affected counsel and unrepresented parties has been sought or has been unable to be obtained. All uncontested motions shall include a proposed Order on the first page of the motion.

(B) *Stipulated applications for relief.* If the parties agree to the relief sought, the application for a Court Order shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties and a proposed Order.

Rule 208.2(e). Motion. Discovery Certification.

Every motion relating to discovery shall contain a certification by counsel, or the party, that the moving party has conferred or attempted to confer with all interested parties in order to resolve the matter without Court action and, after reasonable effort, has been unable to resolve the issue.

Rule 208.3(a). Motion. Simplified Procedure.

The following "motions" shall be considered by the court without written responses or briefs:

- (1) Requests for Alternative Service pursuant to Pa.R.C.P. Rule 430;
- (2) Requests to Proceed Informa Pauperis (Pa.R.C.P. Rule 240);
- (3) Any motion certified as uncontested pursuant to Adams C.Civ.R. 208.2(d).

The foregoing motions, after filing with the Prothonotary, shall be presented to the Court Administrator. The Court Administrator shall promptly deliver the motion to the Civil Business Judge for review and determination.

Rule 208.3(b). Motion. Procedures.

(A) In addition to the requirements contained in Pa.R.C.P. No. 208.2, the moving party shall file a supporting brief concurrently with the filing of a motion. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

(B) *Response.* Within twenty (20) days after service of the moving party's motion and brief, any party opposing the motion may file a written response; however, a response is not required.

(C) *Responsive brief.* Within twenty (20) days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief, together with any opposing affidavits, depositions, transcripts or other documents. Any party who fails to file a responsive brief shall be deemed not to oppose the motion.

(D) *Reply brief.* The moving party may file a brief in reply to a responsive brief within five (5) business days after service of a responsive brief.

(E) *Argument.* Motions shall be considered on briefs by the Court without argument unless a party files a request for oral argument by praecipe. Such request shall be filed by the moving party concurrent with the filing of the motion. Requests by any opposing party shall be filed within the time period in which a response may be filed pursuant to subparagraph (B) of this Rule. Oral argument shall be held at such time and place as the Judge shall direct. A praecipe for argument not filed within the time period set forth hereinabove shall be considered by the Court as an agreement between the attorneys that the matter be submitted to the Court on briefs.

(F) Upon the filing of a motion and a supporting brief, the Prothonotary shall expeditiously transmit the file to the Court Administrator's Office who thereafter will forward the file to the Civil Business Judge designated by the President Judge. Thereafter, upon the filing of a response, a responsive brief or any other documents affecting the matter, the Prothonotary shall immediately

docket the same and expeditiously transmit the documents to the Judge in possession of the file.

(G) *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

Rule 208.3(c). Discovery Motion.

(A) Failure to answer written interrogatories. A motion seeking to compel an opposing party to answer written interrogatories shall include:

- (1) All content set forth in Pa.R.C.P. No. 208.2(a);
- (2) A concise statement concerning the date of service of the interrogatories on the opposing party;
- (3) A description of all reasonable efforts used to resolve or to obtain answers to the interrogatories;
- (4) A certification that the interrogatories have not been answered in the time period required by the Pennsylvania Rules of Civil Procedure; and
- (5) A proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY

(Caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the Motion to Compel Answers to Interrogatories, it is hereby Ordered that the (Plaintiff/Defendant) shall file answers to the (Defendant/Plaintiff)'s interrogatories within twenty (20) days of the date of this Order. Failure to comply with the time period set forth in this Order may result in the imposition of sanctions including the preclusion of evidence and the imposition of attorney fees.

BY THE COURT:

J.

(B) Other discovery motions. All discovery motions, other than those set forth in subparagraph (A) above, shall include the following:

- (1) All information contained in subparagraph (A) above;
- (2) Where applicable, a copy of the discovery request and response, if any, in dispute;
- (3) A proposed Order substantially in the form set forth in Adams C.Civ.R. No. 206.4(c).

All discovery motions other than those set forth in subparagraph (A) above shall result in the issuance of a rule pursuant to Adams C.Civ.R. No. 206.4(c) and shall proceed as a matter of course pursuant to Adams C.Civ.R. No. 206.4(c).

Rule 210. Form of Briefs.

(A) Briefs shall contain complete and accurate citations of all authorities.

(B) The brief of the moving party shall contain all relevant facts, a procedural history, the questions involved, the argument and a conclusion.

(C) The brief in opposition shall contain an argument and a conclusion. It is not necessary that a counterstatement of the case or the question involved be included; however, if the brief in opposition does not include a counterstatement of the case or the question involved, the statement of the moving party shall be deemed adopted.

(D) Briefs shall be submitted on 8 1/2" by 11" paper and shall be double spaced except as stylistically necessary when quoting resources or authority.

(E) Any brief more than fifteen (15) pages shall contain a table of contents and a table of citations.

(F) A party shall file a brief with the Prothonotary who shall immediately docket the same and expeditiously forward the brief to the appropriate Judge.

Rule 212. Pre-Trial Procedure.

(A) *Procedure.* When an action is at issue and discovery has been substantially completed, any party may, by praecipe filed with the Prothonotary, request a pre-trial conference. The praecipe shall state whether the case is to be tried before a jury or by bench trial.

(B) *Bench Trial.* The Prothonotary shall refer bench trial listings to the Civil Business Judge designated by the President Judge. The judge to whom the case is referred shall then schedule a pre-trial conference at a time convenient to the Court, counsel and/or the parties. A pretrial memorandum shall be filed within the time period and in substantially the form set forth in Adams C.Civ.R. No. 212.2.

(C) *Jury Trial.* The Prothonotary shall maintain a schedule for pre-trial conferences for cases to be tried by a jury. Conferences will be scheduled to begin on the hour during Pre-Trial Conference Days listed on the annual Court Calendar. The party requesting the conference shall state the time and date preferred for the conference; however, the Prothonotary shall retain scheduling authority. Conferences shall not be scheduled prior to 9:00 a.m., at noon, or after 3:00 p.m. except by special order of court. The Prothonotary shall notify all counsel and pro se parties of the time and date of the conference. The notice shall advise the parties of the requirement to comply with Adams C.Civ.R. No. 202.2. All pre-trial conferences shall be held by the Judge designated by the President Judge.

(D) Unless excused by the Court in advance, the attorney or party who intends to try the case shall attend the pre-trial conference. In the absence of excuse, the Court may require the attending attorney or party to try the case. If an attorney or party fails to appear for the pre-trial conference, the Court may proceed in his/her absence and enter binding rulings regarding any matter, including the admissibility of evidence.

(E) The conference Judge may sua sponte, or on the motion of any party, dispense with the need for a pre-trial conference, or in the alternative, authorize that a pre-trial conference be conducted telephonically. In the event that a party or counsel is granted permission to participate telephonically, the parties shall be responsible for making all the arrangements for telephonic participation and shall pay all costs related thereto. A party participating in a telephonic conference is not relieved from compliance with Adams C.Civ.R. No. 212.2.

(F) Although it is not necessary for the parties represented by counsel to appear, counsel must appear with authority to bind the client. Parties, or their authorized representatives, must be available by telephone during the pre-trial conference.

(G) At the conclusion of the pre-trial conference, the assigned Judge shall issue an Order setting forth the date of bench trials, or in the event of a jury trial, setting the case for a specific term. The Court Order shall designate a date certain upon which the case will be called to determine trial readiness. The parties may answer the call formally by appearance, or informally by telephone or correspondence to the Court Administrator's Office prior to the call date. Failure to answer the call may result in the case being stricken from the trial list. The Order shall also set forth when appropriate any other action taken at the pre-trial conference including the scheduling of all matters to be completed before trial.

Rule 212.1. Notice of Earliest Trial Date.

Trials by jury may be scheduled during any civil trial term so designated on the Court calendar provided that the earliest date on which the case may be tried is during the first civil trial term which follows the pre-trial conference held pursuant to Adams C.Civ.R. No. 212.2 by at least thirty (30) days. This rule may be waived by agreement of the parties with the permission of the Court.

Rule 212.2. Pre-Trial Statement.

At least five (5) days prior to the pre-trial conference held pursuant to Adams C.Civ.R. No. 212.3, each party shall submit a pre-trial statement which shall contain the following:

- (1) A brief narrative statement of the case;
- (2) The names and addresses of all persons who may be called as witnesses by the party filing the statement identifying each as a "fact witness, expert witness or damages witness." A reference which does not state the name of the witness shall be permitted when the witness is described by title or representative capacity;
- (3) A list of all exhibits which the party intends to use at trial;
- (4) A statement of the issues involved;
- (5) A statement of damages claimed;
- (6) A statement of proposed amendments to pleadings, if any;
- (7) A statement of suggested stipulations of law or facts;
- (8) Any special requests. For example, a request for a view or a request relating to matters of discovery;
- (9) Estimated duration of trial;
- (10) A copy of any written reports, or answers to written interrogatories consistent with Pa.R.C.P. No. 4003.5, containing the opinion and basis for the opinion of any person who may be called as an expert witness; and
- (11) The amount of settlement demands or offers.

A party which fails to provide a pre-trial statement as required by this Rule may be sanctioned as permitted by Pa.R.C.P. No. 212.2(c).

Rule 227.1. Post-Trial Motion.

A. *Procedure.* Upon the filing of a post-trial motion by any party, the Prothonotary shall immediately docket the motion and expeditiously forward it to the trial Judge. All post-trial motions shall be accompanied, where appropriate, by a proposed Order for a transcription of the record. Thereafter, the trial Judge shall enter an Order addressing the transcription of the record and a briefing schedule.

B. *Service.* A party filing a post-trial motion shall serve a copy of the motion on the trial Judge and every other party to the action on the same business day which the motion is filed.

Rule 236. Notice of Order or Judgment.

When the Prothonotary is required by general or local rule to give notice to any party of any hearing, order, judgment or other matter, it shall be the duty of the moving party to furnish the Prothonotary with sufficient copies of such documents. If the document is to be mailed, the moving party shall also furnish the postage, pre-paid envelope with the name and address of the recipient set forth thereon. The Prothonotary shall note the date that the notice was sent on the file copy. If sufficient copies are not provided, the Prothonotary shall make sufficient copies and charge the moving party a fee of \$1.00 per copy for the cost thereof. Additionally, the Prothonotary may assess postage fees against any moving party who fails to furnish a pre-paid envelope as required by this rule.

Rule 251. Money Paid into Court.

Except for appeals from District Justices pursuant to Pa.R.C.P.D.J. No. 1008 (see Adams County Rule of Judicial Administration 10.0), any party wishing to pay money into the Court shall, by petition, in conformance with Adams C.Civ.R. No. 206.4(c), request leave to do so. The Prothonotary shall open and maintain accounts for deposit of funds paid into Court. Disbursements from the accounts shall be made only pursuant to Court Order. The Prothonotary shall be entitled to an administrative fee of \$25.00 from the account for handling the account.

Rule 252. Accounts.

When an account is required in a civil action, the account shall proceed in accordance with the Adams County Local Orphans Court Rules except that the filing shall be with the Prothonotary.

SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS

Rule 430. Legal Publication.

Note: See Adams County Rule of Judicial Administration No. 11.

ACTIONS

Rule 1018.1. Notice to Defend.

A. The following is designated to be named in the Notice to Defend as the organization from which information can be obtained:

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone: (717) 337-9846

B. The Court Administrator, upon receiving oral or written inquiry as a result of the endorsement on any pleading, shall furnish the name and telephone number of an appropriate member of the Legal Aid Committee of the Adams County Bar Association or immediately forward to the inquiring party a prepared list of the names, addresses, and telephone numbers of all the resident members of the Bar of Adams County, or both. The Court Administrator shall include on such list Mid-Penn Legal Services, Inc., 432 South Washington Street, Gettysburg, PA 17325; Telephone number (717) 334-7623.

C. Copies of a Spanish translation of the Notice to Defend shall be made available by the Court Administrator upon request.

Rule 1028(c). Preliminary Objections.

A. Preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(2), (3), or (4).

1. *Brief.* A party filing preliminary objections pursuant to this subparagraph shall file a supporting brief within ten (10) days of the date of the filing of the preliminary objections. If a supporting brief is not filed within ten (10) days of the filing of the preliminary objections, the preliminary objections shall be deemed withdrawn and, upon praecipe, the Court shall enter an Order directing the objector to file an appropriate pleading.

2. *Responsive brief.* If a supporting brief is filed by the petitioner, the respondent shall file a responsive brief within twenty (20) days after service of the supporting brief. Any party who fails to file a responsive brief shall be deemed not to oppose the objections. Upon praecipe, the Court will enter an Order granting the preliminary objections except that no civil action or proceeding shall be dismissed with prejudice for failure to comply.

3. *Oral argument.* Preliminary objections shall be decided on briefs alone unless the Court orders oral argument. If a party desires oral argument, then, in the case of the party filing the preliminary objections, a written request for oral argument must be filed with the preliminary objections. If a responding party desires oral argument, a written request for oral argument shall be filed with the Court within ten (10) days after service of the preliminary objections. Oral argument shall be held at such time and place as the Judge shall direct.

4. *Procedure.* Upon the filing of preliminary objections pursuant to this subparagraph, the Prothonotary shall immediately docket the preliminary objections and expeditiously transmit the file to an appropriate Judge. Referrals to Judges for disposition of preliminary objections shall be made on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to an appropriate referral, the case shall be transmitted to the Court Administrator for assignment. Once the preliminary objections are assigned to a Judge, any further filings, including praecipes shall expeditiously be transmitted by the Prothonotary to the Judge in possession of the file.

B. Preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6).

1. Any party filing preliminary objections pursuant to Pa.R.C.P. No. 1028(a)(1), (5), or (6) shall attach a Notice to Plead to the preliminary objections. Such objections thereafter shall be governed by Adams C.Civ.R. Nos. 206.1(a) and 206.4(c).

C. *Service.* All preliminary objections shall be served upon all of the parties to the action contemporaneously with the filing of the preliminary objections with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the preliminary objections. The Court may excuse prior service in the case of emergency preliminary objections.

Rule 1034(a). Motion for Judgment on the Pleadings. Brief.

A. A party filing a motion for judgment on the pleadings shall file the motion, a proposed Order in the form set forth in subparagraph D. below and a supporting brief

concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn upon praecipe of an opposing party.

B. *Procedure.* Upon the filing of a motion for judgment on the pleadings and a supporting brief, the Prothonotary shall expeditiously transmit the file to an appropriate Judge. Generally, motions for judgment on the pleadings shall go to the Judge having previous involvement in the matter. Other referrals shall be transmitted on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to the appropriate referral, the case shall be transmitted to the Court Administrator for assignment.

C. *Response.* Responsive brief. Reply brief. Argument. Except as set forth hereinabove, procedures concerning the filing of a response, a responsive brief, reply brief and argument shall proceed as provided in Adams C.Civ.R. No. 208.3(b).

D. *Proposed Order.* All motions for judgment on the pleadings shall be accompanied by a proposed Order in substantially the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the attached Motion for Judgment on the Pleadings, it is hereby Ordered that argument on the Motion:

shall not be held, and the matter shall be decided upon briefs.

shall be held on _____, 200 __, at _____, in Courtroom No. ____ of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA, 17325.

Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT:

J.

E. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

Rule 1035.2(a). Motion for Summary Judgment.

A. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

B. *Procedure.* Upon the filing of a motion for summary judgment, the Prothonotary shall expeditiously transmit the file to an appropriate Judge. Generally, motions for summary judgment shall go to the Judge having previous involvement in the matter. Other referrals shall be transmitted on a rotating basis to each of the Judges of this Court. If the Prothonotary is uncertain as to the appropriate referral, the case shall be transmitted to the Court Administrator for assignment.

C. *Response.* The adverse party must file a response within thirty (30) days after service of the motion pursuant to Pa.R.C.P. No. 1035.3.

D. *Brief.* The moving party shall file a supporting brief within twenty (20) days after the service of the response by the adverse party. If a brief is not filed within the time period set forth herein, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

E. *Responsive brief.* Within fifteen (15) days of service of the moving party's brief, any party opposing the motion shall file a responsive brief, together with any portions of the record which support opposition to the motion. Previous filings in the matter need not be attached. In the event that a party fails to timely file a responsive brief, the Judge may:

1. Refuse to allow oral argument by the offending party; or
2. Order oral argument to be continued; or
3. Grant the requested relief except that no civil action or proceeding shall be dismissed with prejudice for failure to comply; or
4. Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

F. *Argument.* Motions for summary judgment shall be considered on briefs by the Court without argument unless a party files a request for oral argument by praecipe. Such request shall be filed by the moving party concurrent with the filing of the motion. Requests for oral argument by any opposing party shall be filed within the time period in which a response must be filed pursuant to subparagraph C. of this rule. Oral argument shall be held at such time and place as the Judge shall direct.

G. *Proposed order.* All motions for summary judgment shall be accompanied by a proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 __, upon consideration of the attached Motion for Summary Judgment, it is hereby Ordered that argument on the Motion:

shall not be held, and the matter shall be decided upon briefs.

shall be held on _____, 200 __, at _____, in Courtroom No. ____ of the Adams County Courthouse, 111 Baltimore Street, Gettysburg, PA, 17325.

Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT:

J.

H. *Service.* All motions shall be served upon all of the parties to the action contemporaneously with the filing of the motion with the Prothonotary. A Certificate of Service shall be a part of, or attached to, the motion. The Court may excuse prior service in the case of an emergency motion.

PROFESSIONAL LIABILITY ACTIONS**Rule 1042.1. Professional Liability. Motions.**

All applications or motions filed in professional liability actions pursuant to Pa.R.C.P. 1042.1, et. seq. shall, upon filing, be expeditiously forwarded to the Civil Business Judge designated by the President Judge. That Judge shall then direct such procedure or order such relief as is deemed appropriate.

Comment: For purposes of this rule, applications or motions shall include, but not be limited to, preliminary objections pursuant to Pa.R.C.P. 1042.2(b), a motion to extend the time for filing a certificate of merit, a motion for sanctions, a motion for conference, mediation, or scheduling order, and a motion compelling production of an expert report. Motions for post-trial relief shall be forwarded to the judge assigned to the trial of the case.

ACTION TO QUIET TITLE**Rule 1066. Quiet Title. Order.**

All affidavits filed pursuant to Pa.R.C.P. No. 1066 shall be accompanied by a proposed Order containing the requested relief as authorized by Pa.R.C.P. No. 1066.

COMPULSORY ARBITRATION**Rule 1301(a). Compulsory Arbitration.**

All civil cases within the jurisdictional limits prescribed in Section 7361 of the Judicial Code (42 Pa.C.S. § 7361) shall be subject to arbitration pursuant to Adams C.Civ.R. 1302 et. seq.

Rule 1301(b). Arbitration by Agreement.

Cases may be referred to arbitration if the parties or their counsel agree. If the case is not at issue, or where no pleadings have been filed of record, the agreement to refer shall state the issues to be considered by the board of arbitrators and shall contain all stipulations of facts reached by the parties. The agreement shall be filed of record. The case shall be subject to Adams C.Civ.R. No. 1302, et. seq.

Rule 1302(a). List of Arbitrators. Appointment to Board.

The President Judge shall appoint attorneys to serve as arbitrators and as chairpersons of the boards of arbitrators. The Court Administrator shall maintain a list of attorneys so appointed and shall assign the attorneys to serve from those lists.

Rule 1302(b). Motion for Appointment. Service. Conflicts.

A. Any party to a case, after the pleadings are closed or an agreement to arbitrate has been filed, may request the appointment of a board of arbitrators by written motion. Included in the motion shall be the names of all attorneys who, to the movant's knowledge, may have a conflicting interest in the case. The motion shall have a proposed Order attached to the front of the motion that shall provide spaces for the names of the board members to be inserted when appointed by the Court. The motion shall be accompanied by two copies of the pleadings filed by the moving party, or by two copies of the agreement to refer the case to arbitration.

B. The party moving for the appointment of a board of arbitrators shall serve a copy of the motion on all other parties, or their counsel, before the motion is filed with the Prothonotary. Proof of service shall be filed with the motion.

C. *Notification of conflicts.* Upon receipt of a motion for the appointment of a board of arbitrators, the parties or their counsel shall notify the Court Administrator of the names of all the attorneys who may have a conflicting interest in the case.

Rule 1302(c). Selection and Appointment of the Board.

After a motion for the appointment of a board of arbitrators has been received by the Court, the Court Administrator shall select three eligible attorneys to serve on the board and present an Order for appointment to the President Judge or the Judge to whom the case is assigned. Unless otherwise indicated, the person named first in the Order appointing the board shall be the chair.

Rule 1302(d). Copies of Pleadings and Distribution of Pleadings.

Upon receipt of the Order appointing a board of arbitrators, the other parties shall promptly provide to the Prothonotary's office two copies of all pleadings that they have filed in the case. The chair of the board of arbitrators shall receive the original file. The copies of the pleadings shall be distributed to the other members of the board by the Prothonotary.

Note: See Adams County Rule of Judicial Administration No. 5.0 about removing papers from the Prothonotary's office.

Rule 1302(e). Arbitrators' Fees.

A. Fees paid to the arbitrators for their services shall be set by Administrative Order of the Court.

B. In the event that a case is settled, withdrawn or terminated after the board of arbitrators has been sworn but before the case is scheduled for hearing, the board shall not be required to file a report and award. The board members shall be entitled, however, to one-half of the arbitration fees and the Prothonotary shall certify the settlement, withdrawal or termination of the case to the County Treasurer so that the said fees may be paid.

Rule 1303. Hearing.

A. *Schedule.* The chair of the board shall set the time, date and place of the arbitration hearing. A copy of the notice of the hearing shall be provided to the Court Administrator.

B. *Continuance.* A continuance of the scheduled hearing may be granted by the chair. The party requesting the continuance shall have the duty to coordinate a new time, date and place for a hearing with the arbitrators and with the other parties or their counsel. The party requesting the continuance shall also prepare notices of the rescheduled hearing with postage pre-paid envelopes and deliver them to the chair for signature and delivery. Nothing in this rule shall prohibit a party from seeking a continuance from the Court if it is refused by the chair.

C. When the board is convened for hearing, and if one or more parties is not present, any party who is present may request the Court Administrator to arrange a hearing before a Judge. The Court Administrator will attempt to schedule a hearing before a Judge on the same date as scheduled for hearing before the board. Upon consent of all parties present and the Judge before whom the hearing is scheduled, a Judge shall hear the case and enter a decision.

EQUITABLE RELIEF**Rule 1531. Special Relief. Injunctions.**

All motions for special relief, including motions pursuant to Pa.R.C.P. Nos. 1530 and 1531, shall be filed with

the Prothonotary's office and immediately forwarded by the Prothonotary to the Court Administrator's office who, thereafter, shall forward the motion to the Civil Business Judge designated by the President Judge. Alternatively, applications for special relief, when filed, may be hand delivered as set forth in the note to Adams C.Civ.R. No. 205.2(a). Upon presentation of a motion for special relief, the Civil Business Judge will advise the parties on how to proceed. All motions for special relief shall be served on the opposing party prior to the filing of the motion with the Prothonotary and a Certificate of Service shall be attached to the motion. Prior service of the motion is not required where a party is able to establish to the satisfaction of the Court that immediate and irreparable injury will be sustained before notice can be given to the opposing party.

ACTION PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901. Commencement and Referral

The Prothonotary and any Magisterial District Judge shall provide written and oral referrals to any person desiring to file a pro se petition under the Protection From Abuse Act, 23 Pa.C.S. § 6101 et. seq. to Legal Services, Inc. and Survivors, Inc. at their Adams County offices, and the Adams County Bar Association referral service. They shall also maintain sample forms and written instructions, in both Spanish and English, and give clerical assistance in completing forms.

The Prothonotary shall accept petitions without requiring the prepayment of filing fees and transmit copies to the Court Administrator for presentment to a judge for the entry of an order. Upon request by plaintiff, the Court may direct that the petition be served upon defendant by the Sheriff.

In the event an emergency petition is to be filed during a business day when the courthouse is open but a Judge is unavailable as contemplated under 23 Pa.C.S.A. Section 6110(a)(1)(iii), such emergency petition shall be filed with the Magisterial District Judge in the district where the petitioner is residing either temporarily or permanently.

Rule 1902. Hearing after Relief by Magisterial District Judge

Whenever relief is granted by a Magisterial District Judge, the Magisterial District Judge issuing the order shall contact the Court Administrator as soon as possible. The Court will, thereafter, schedule a preliminary hearing and continue the temporary order in effect pending a plenary hearing. Preliminary hearings before the Court will be conducted at 1:00 p.m. on the next Business Court Day following the granting of temporary relief by the Magisterial District Judge. The Magisterial District Judge issuing the order shall provide both parties a notice in the form set forth in Adams C.Civ.R. 1906.

The District Justice issuing the temporary order will forward all papers for filing in the Prothonotary's office so that the papers will be available to the Court at the hearing before the Court.

Rule 1903. Petition for Temporary Relief

Petitions for temporary relief may be presented to the Court without the necessity of scheduling an ex parte hearing if the petition is accompanied by an affidavit verifying the averments in the petition and the relief temporarily sought does not include eviction, or transfer of custody of minor children from defendant to plaintiff.

Where eviction or custody transfer is requested, an ex parte hearing shall be scheduled.

Rule 1904. Plenary Hearing

Unless the parties agree otherwise, plenary hearings shall be scheduled within ten (10) days after the filing of the petition.

Rule 1905. Contempt Hearing

A. *Arrest.* When the Court is available, a defendant arrested for contempt shall be produced without unnecessary delay before a judge for arraignment. If arrest occurs when the Court is unavailable, the defendant shall be arraigned before the on-call Magisterial District Judge. Upon request, defendant shall be provided with an application form for the appointment of a lawyer. Unless scheduled by a court order for a different time, contempt hearings shall be scheduled for 1:00 p.m. on the first business day of the week, at least seven (7) and no more than ten (10) days after the defendant's arrest. Bail shall be set by the Magisterial District Judge, and defendant given an opportunity to post bail. The bail may be subject to special conditions such as cessation of abuse. If the defendant is not released on bail, he or she shall be produced before a judge at the first available opportunity following arrest. The Magisterial District Judge shall also, when applicable, follow the procedure outlined in Pa.R.C.P. Rule 1901. At arraignment, the Magisterial District Judge shall advise the defendant of the following:

1. A description of the alleged contemptuous acts;
2. That those acts violate a specific Order of Court;
3. Defendant is subject because of the alleged contempt to a prison sentence of six (6) months and a fine of One Thousand Dollars (\$1,000.00);
4. A hearing will be held by a judge on a specified court business day at 1:00 p.m.
5. Defendant is entitled to be represented by a lawyer in the contempt proceeding and that, if defendant qualifies, a lawyer will be appointed to represent him or her free of charge. The defendant shall be notified that he or she must apply for the appointment of a free counsel, and the Magisterial District Judge shall provide an application form upon request;

B. *Petition and Rule:* Plaintiff will first enter the petition in the Prothonotary's office and then present it to the Court Administrator for the scheduling of a hearing. Except in unusual circumstances, hearings will be scheduled in the same manner as in arrest cases. If a specific time is requested, the Court Administrator will select a time, which will afford speedy relief and afford defendant time to prepare a defense. No answer shall be required by defendant.

C. *Criminal Complaint:* Contempt proceedings may be commenced by the filing of a criminal complaint before a Magisterial District Judge. Service shall be accomplished as in other criminal proceedings, by a constable, or police officer. If neither is available, the complaint shall be served by the Sheriff. Procedures will be the same as are followed in other protection from abuse proceedings begun before a Magisterial District Judge.

Rule 1906. Form of Notice

NOTICE

A Petition Under the Protection from Abuse Act has been filed against you as set forth in the attached Complaint. A temporary order has been entered against

you. This order will remain in effect until 1:00 p.m. on _____, 20____, when it will be considered in a Courtroom that will be designated on that date, in the Adams County Courthouse, Gettysburg, Pennsylvania. At that time, the temporary order may be continued, modified, or terminated. If the order against you is continued or modified, a full hearing on the merits will be scheduled. You may appear and either object or consent to an order against you being continued in effect until a full hearing on the merits. You may, but are not required to, appear and consent to the entry of an order for a longer period of time. Any order entered after a full hearing may remain in force for one (1) year. The Court may proceed in your absence to take testimony and enter an order granting relief to the Petitioner. You are entitled to be represented by an attorney at these hearings. 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.

Adams County Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone Number: (717) 337-9846 or 1-888-337-9846

Magisterial District Judge

ACTIONS FOR SUPPORT

Rule 1910.10. Procedure

All support proceedings shall be conducted in accordance with Pa.R.C.P. 1910.11.

Rule 1910.11. Notice

The notice required by 23 Pa.C.S.A. § 4303 shall be as follows:

To: Obligor

The law requires the Domestic Relations Office to periodically provide approved consumer reporting agencies with your name and the amount of overdue arrearages that you owe. According to our records, you owe \$ _____, and this amount will be reported unless you contest the accuracy of the information within the next twenty days by filing a written objection with this office. Your objection should specifically state the amount of money that you dispute is owed.

Upon timely receipt of an objection, this office will schedule a conference to resolve the dispute.

Dated _____ Domestic Relations Officer

Rules 1912 to 1914. Reserved

Comment: In light of comprehensive state rules, it is felt that local rules are unnecessary and might potentially become confusing. Following conference, procedures in Rule 1910.21-4 shall be followed, but no local rule is needed to indicate this.

ACTIONS FOR CUSTODY, PARTIAL CUSTODY, AND VISITATION OF MINOR CHILDREN

Rule 1915.1. Custody

In all custody cases, a preliminary conference will be held, at a time set by the Court, prior to the actual hearing on the custody matter. All parties and their counsel will be required to attend the preliminary conference. Children will not be required to attend unless either party requests their presence, and the court approves such request.

Counsel should appear at the conference prepared to schedule a hearing. Calendars, or familiarity therewith,

will be required. If a party has filed preliminary objections to the complaint or petition that has caused the scheduling of the conference, the Court will establish at the conference a schedule and procedure on a case-by-case basis for disposing of such objections as the circumstances of the case warrant. The procedure so established shall be in lieu of the procedure in Adams C.Civ.R. 1028(c).

At the preliminary conference, the parties or their counsel shall provide the Court with a written memorandum, containing at least the following:

- (a) names of witnesses;
- (b) a statement of the potential issues;
- (c) information of the possibility of an amicable settlement without a hearing;
- (d) an estimate of the time a hearing would require;
- (e) any requests that either party might have;
- (f) the de facto custody schedule that the parties have been following for the most recent 6 months (or for such shorter period, if applicable); and
- (g) any other information which would help the Court and parties resolve the case.

Rule 1916. Home Studies and Investigations

Adams County Children and Youth Services is designated as the agency authorized to conduct home studies within Adams County. Home studies may be ordered subject to the following:

1. Fees shall be periodically established by administrative order. Until changed, the fee will be seventy-five (\$75.00) dollars.

2. Requests for home studies, or the right to request a home study in the future, shall be submitted at the preliminary conference. The request may be included in the conference memorandum.

3. Payment of the home study fee shall be made, and a detailed written description of and directions to the house shall be provided to the agency:

- (a) within two weeks of the court order authorizing the study, and
- (b) at least 60 days prior to a scheduled hearing.

ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE

Rule 1920(a). Uncontested Divorce

A party may file a praecipe directing the Prothonotary to forward all papers to the Court for review and for entry of a final decree when all costs have been paid or excused and when all requirements of law and the Rules of Civil Procedure have been fulfilled. If any agreement is to be incorporated within the decree, the party shall state whether or not it is to be merged within the decree. If the defendant files the praecipe, he or she shall state by what authority he or she acts.

Rule 1920(b). Alimony

Claims for alimony pendente lite raised in a divorce complaint or by a subsequent pleading in a divorce action shall be referred to the Domestic Relations Section for a conference upon the written motion of a party, or upon the request of a party at a conference for support. Unless otherwise directed by the Court, an award of alimony pendente lite shall be effective from the date of the motion, or of the request. The procedure for alimony pendente lite shall be in accordance with Pa.R.C.P. 1910.11.

Rule 1920(c). Motion to Appoint Master

When a case is at issue and all discovery relating to issues to be submitted has been completed, a party may move for the appointment of a master. The motion shall under Pa.R.C.P. 1920.74, in item (7) list the names of local attorneys who may be interested in the case, or contain a statement that no local attorneys are known to be interested.

Rule 1920(d). Master's List and Compensation

The Court Administrator shall maintain a list of all attorneys primarily practicing in Adams County and who have not been excused from serving as masters in divorce or annulment. Any attorney may request the President Judge to excuse him or her from such service. Upon motion, the Court will appoint a master from the list to hear the issues set forth in the motion. The master shall be compensated at an hourly rate that will be periodically set by set by administrative order. Until changed, the hourly rate shall be \$50.00 per hour. No motion shall be considered unless there has been deposited with the Prothonotary the sum of \$500.00 for the purpose of guaranteeing payment of the master's fee as well as stenographer's. The master may request that additional deposits be made, if the case becomes protracted.

Rule 1920(e). Withdrawal of Issues

Upon motion of any party, the Court may withdraw issues from the master, whether or not the master has acted upon those issues.

Rule 1920(f). Payment

A. Upon notice to the parties, the master may request an order directing the Prothonotary to disburse fees, and when a master's report has not been filed within sixty (60) days of the hearing date, the stenographer may request payment by filing the bill with the Prothonotary. If no exceptions to the sums are filed within ten (10) days, the Prothonotary shall disburse funds as requested.

B. The master's report shall state the total amount of master's and stenographic fees being charged, and any amount that remains unpaid. If no exceptions or objections to the amounts are filed within the period for filing exceptions, the Prothonotary shall expeditiously pay the balance of fees requested in the report.

C. If any party excepts or objects to fees, the Prothonotary shall not disburse any money or refund until the Court rules on the exceptions.

Rule 1920(g). Fees

Under appropriate circumstances, the Court may:

- (1) excuse a moving party from depositing all or part of fees, and/or
- (2) direct the non moving party to pay all or part of the fees, and/or
- (3) direct that the County pay all or part of the fees.

Rule 1920(h). Fees as Costs

Master's fees and stenographer's fees shall be considered costs of the case. In the event that master or the Court assesses costs against a party to the action, the costs shall be paid in full or a sufficient amount to cover the costs and shall be deposited with the Prothonotary within thirty (30) days of the date of the court order. If the payment or the deposit is not made within the thirty (30) day period, in addition to other remedies, the Court may direct the master to liquidate sufficient marital property to pay all sums due and owing.

Rule 1920(i). Notice

The master shall give at least ten (10) days written notice of the time and place for taking testimony to the attorneys of record, or to the parties, in the manner prescribed by Pa.R.C.P. 1920.51.

Rule 1920(j). Hearings and Amendments

Subject to the directions of the Court, the master shall have the usual powers of the Court, with regard to the detention of witnesses for examination and the general course of the proceedings before him/her. The master shall also have the authority and power to rule on objections to the admissibility of evidence and to permit amendments to the complaint in order to have the pleadings consistent with the testimony given. However, no amendment shall be permitted which changes the grounds of the divorce alleged. In cases where amendments to the complaint have been granted, the notice of the filing of the master's report shall contain a brief summary of the amendments allowed.

Rule 1920(k). Revocation

The appointment of a master may be revoked by the Court sua sponte, or upon motion of either party for cause shown, or upon the motion of the master on the grounds that no hearing has been held within ninety (90) days after the date of his/her appointment.

Rule 1920(l). Exceptions

Exceptions to the master's report, or any motions or reasons for a new trial in relation to the verdict of any jury, where applicable, which either party shall desire to make, shall be filed with the Prothonotary, and a copy thereof served at the same time upon the opposite party of his/her attorney of record. If no exceptions have been filed to the master's report within ten (10) days, and all costs have been paid, the Prothonotary shall submit such report and all the papers in the case, including his/her certificate stating that all costs have been paid to the Court for final decree.

Rule 1920(m). Delinquent Report

A. If a master fails to file a report and recommendation within the period established by Pennsylvania Rules of Civil Procedure, the master shall report such failure to the Court, explain reasons for the failure and state when the report shall be filed.

B. The Court may terminate a master's appointment, reduce or deny the master's compensation, or order such other relief as may be appropriate, where: a master has violated this rule, or has failed to comply with the time limits of the Pennsylvania Rules of Civil Procedure, without adequate explanation. Such relief may be ordered by the Court sua sponte, or upon application of any party.

Rule 1920(n). Counseling

If either party requests counseling under § 3302 of the Divorce Code, the party making such request shall deposit fifteen dollars (\$15.00), with the Prothonotary at the time of filing the request to cover the cost of the counselor's report, unless the court shall order otherwise.

The party requesting counseling shall provide the appointed counselor with a copy of the Court Order directing such counseling.

Rule 1921. Procedure Relating to Masters' Hearing

Subject to the Court's power to withdraw issues from the master, procedures shall be as prescribed by Pa.R.C.P. 1920.55-2.

**ACTIONS BY REAL PARTIES IN INTEREST
MINORS AS PARTIES**

Rule 2039. Compromise, Settlement, Discontinuance and Distribution.

A. *Contents of the petition.* A petition for leave to compromise, settle or discontinue an action in which a minor is a party or an action for wrongful death in which a minor is interested shall set forth:

1. The facts of the case.
2. The damages sustained.
3. All expenses incurred or to be incurred, including counsel fees.
4. Any other relevant information.

B. The Court may require a hearing to determine whether the proposed compromise, settlement or discontinuance should be approved.

C. Appearance at hearing. Necessary parties and witnesses shall appear at the hearing unless excused for cause shown.

D. *Proposed Order.* All petitions pursuant to this rule shall be accompanied by alternative proposed Orders consisting of a proposed Order containing the suggested relief and a proposed Order substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

(caption)

ORDER

AND NOW, this ____ day of _____, 200 ____, the Court shall consider the attached motion at a hearing to be held on _____, 200 ____, at _____, in a Courtroom to be designated.

BY THE COURT:

J.

Rule 2064. Compromise, Settlement, Discontinuance and Distribution.

A petition for leave to compromise, settle or discontinue an action in which an incapacitated person is a party shall be governed by Adams C.Civ.R. No. 2039.

ACTIONS IN WRONGFUL DEATH

Rule 2205. Wrongful Death. Notice.

In addition to the formal notice authorized by Pa.R.C.P. No. 2205, a plaintiff in a wrongful death action may give notice to a person entitled to recover damages in the action by any means of service, other than ordinary mail, authorized by general rule.

Rule 2206. Settlement, Compromise, Discontinuance and Judgment.

A petition filed pursuant to Pa.R.C.P. No. 2206 shall be governed by Adams C.Civ.R. No. 2039.

SHERIFF'S INTERPLEADER

Rule 3252. Writ of Execution.

The office identified in Adams C.Civil R. No. 1018.1 is designated as the office to be named in a writ of execution notice.

[Pa.B. Doc. No. 05-985. Filed for public inspection May 20, 2005, 9:00 a.m.]

ADAMS COUNTY

Local Rules of Judicial Administration; Administrative Order No. 10 of 2005

Order of Court

And Now, this 6th day of May, 2005, all existing local rules of Judicial Administration are repealed and replaced by the following rules.

These rules shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Seven certified copies of these rules shall be filed with the Administrative Office of the Pennsylvania Courts. Two certified copies and a computer diskette containing the text of these rules in MSDOS, ASCII, Microsoft Word or Word Perfect format and labeled with this court's name, address and computer file number, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of these rules shall be filed with the Pennsylvania Supreme Court Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee. One certified copy of these rules shall be forwarded to the Adams County Bar Association for posting on its web site.

Upon these rules becoming effective, they shall be posted on this Court's web site.

A copy of these rules shall be kept continuously available for public inspection in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of these rules.

By the Court

JOHN D. KUHN,
President Judge

**ADAMS COUNTY COURT OF COMMON PLEAS
RULES OF JUDICIAL ADMINISTRATION**

Rule 1.0 Applicability.

The Rules adopted under this chapter shall apply to all offices in the Adams County Court System unless the context indicates otherwise. Offices in the Court system shall include the offices of Magisterial District Judges, the Clerk of Courts, Orphans' Court Division, Criminal and Miscellaneous Sections, and the Prothonotary. In some instances, these rules will also apply to the Sheriff, Register of Wills and Recorder of Deeds.

Local rules are intended to supplement state rules and shall be read in context with those rules.

Local rules may be cited:

Adams C.R.J.A. (number)—Rules of Judicial Administration

Adams C.Civ.R. (number)—Rules of Civil Procedure

Adams C.Crim.R. (number)—Rules of Criminal Procedure
Adams C.Juv.R. (number)—Rules of Orphans' Court Procedure

They may also be cited as Local (R.J.A., Civ., Crim., Juv., O.C.) Rule (number).

Rule 2.0 Court Calendar.

The Court shall promulgate a court calendar annually. There shall be included therein no less than twelve (12) weeks set aside for criminal jury trials and no less than seven (7) weeks set aside for civil jury trials. The Prothonotary and Clerk shall prepare a list, and provide each judge with a copy thereof, of cases scheduled for hearing, trial, argument or other action at least five days prior to a specified calendar day. Other than summary appeals, the hearing list shall reflect matters listed for hearing at least ten (10) days prior to hearing date. The list may be supplemented by order or with approval of a judge.

Rule 3.0 Papers Filed.

For purposes of this rule, papers include pleadings, motions, petitions and orders. Nothing in this rule shall be construed contrary to any state rule.

A. *Size and Color*

Papers filed in the Court system shall be eight and one-half inches by eleven inches (8 1/2 × 11) in size. Papers shall be on white or off-white stock. Exhibits to papers may be of a different color if the original does not permit compliance with this Rule.

B. *Characters*

Papers should be written in ink, printed, typewritten, photocopies, mimeographed or otherwise mechanically reproduced.

C. *Caption*

The caption should include the name and division of the Court, identifying case number, the names of the parties, and the title of the proceeding.

D. *Orders*

Papers requiring an order shall have a proposed order attached as the first page and shall be first filed in either the Office of the Clerk of Courts or the Office of the Prothonotary. Normally, papers should then be presented to the Court Administrator for paper routing. They may also be presented to the appropriate judge in chambers, or filed in open court.

E. *Prior Action*

If a paper refers to prior action taken by the Court, the paper shall identify the date the action was taken and the judge taking such action and shall have attached as an exhibit a copy of the order directing the action.

Rule 4.0 Bulletin Board.

Both the Prothonotary and Clerk of Courts shall maintain in public view a bulletin board for the purpose of posting required notices.

Rule 5.0 Records.

The Prothonotary, Clerk of Courts, Recorder of Deeds and Register of Wills shall be responsible for the safe-keeping of records in their respective offices. No person other than an office employee, judge, attorney admitted to practice in Pennsylvania, or persons designated by a judge or attorney may have unsupervised access to records. Attorneys may authorize not more than two employees per law office to have unsupervised access. The

designation must be written and filed in the appropriate office. Attorneys and designated employees must sign an acknowledgement that they understand this rule and will do nothing to damage or compromise the integrity of records.

Officers may authorize temporary removal of records for purposes of examination and study. Only persons qualifying for unsupervised access shall be accorded this privilege. Records must be returned to the appropriate office within one (1) hour of demand by the Officer. Officers shall require receipts and must be informed precisely where the records may be located. Any person temporarily removing the records shall authorize the Officer to seize and regain possession of the records without process or notice, wherever they may be held. Other than in cases involving masters, auditors or other court appointed persons, records may not be removed longer than fifteen (15) days. Failure to return any paper within fifteen (15) days may immediately result in the cancellation of the privilege of unsupervised access for the entire law office concerned, until such time as the Office restores the privilege.

Rule 6.0. Correction of Public Records.

Neither the Prothonotary, the Register of Wills, the Clerk of Courts, the Recorder of Deeds, nor the Sheriff shall erase any matter erroneously entered in any official or public record, such as an entry book, docket, mortgage or deed, or will book. Any erroneous entry shall be struck there from in red ink in such manner as to leave the stricken matter legible, and the correct entry inserted. Upon the making of any such correction the Officer making the same shall note the date of such making. In the event that any such Officer shall inadvertently omit to make an entry and subsequently another entry shall be made, the omitted entry may be placed upon the record but it shall not be inserted between two other entries unless the Officer shall note on the record that it was so made, together with the date thereof.

Rule 7.0 Photographs and Broadcasting.

No pictures or photographs shall be taken immediately preceding or during sessions of this Court or recesses between sessions, in any of the courtrooms or at any place in the courthouse within forty (40) feet of the entrance of such courtroom unless specially allowed by the President Judge.

No Court proceeding shall be broadcast or televised, nor shall any Court proceeding be mechanically or electronically recorded, except by the official court reporter unless specifically allowed by the President Judge.

No pictures or photographs of any party to a civil or criminal action, juror, or witness shall be taken in the law library or in any office or other room of the Courthouse, except with the knowledge and consent of the person or persons photographed.

Rule 8.0 Guardian Ad Litem.

Any interested party may move, in the case wherein facts are of record, or may petition, in cases wherein facts are not of record, for the appointment of a guardian ad litem for any party in interest, not sui juris by reason of infancy or otherwise. The fee for the guardian ad litem shall be set by the judge to whom the case is assigned, and shall be paid in the first instance by the moving or petitioning party. Thereafter, the judge may make such order as may be appropriate, including assessing the fees as costs in the case.

Rule 9.0 Termination of Inactive Cases. (Pa.R.J.A. 1901—Pa.R.C.P. 230.2)

A. The Clerk of Courts, the Prothonotary, and each District Justice shall annually review cases pending in his/her respective office on or before the first day in July. The Officer shall compile a list of cases in which there has been no docket activity for a period of two (2) years or more. The Officer shall, at least sixty (60) days prior to September 15, give notice to the parties and counsel either (a) in person, (b) by regular mail, addressed to the last address of record, or (c) by publication when notice by mail cannot be given or has been returned undelivered, that after that date the case will be considered by the Court for dismissal. The notice shall comply with the provisions of Pa. Rules of Judicial Administration 1901 and Pa. Rule of Civil Procedure 230.2.

B. If no statement of intention to proceed is made, the Court will summarily dismiss the case any time after September 15th or 60 days after service of the notice, whichever is later. If a statement of intention to proceed is made, the Court may either schedule a hearing or continue the case on active status for a period of one (1) year.

C. Magisterial District Judges shall have the same powers and duties as the Court. Either party shall have the right to appeal to the Court from any decision as in other cases in which judgment is entered by a Magisterial District Judge.

D. Officers involved in this rule shall certify to the Court that proper notice has been given pursuant to this rule.

E. Notice by publication shall be published once in a newspaper of general circulation in the Adams County area or once in the *Adams County Legal Journal*.

Rule 10.0 Money Paid into Court.

A. Any party wishing to pay money into Court shall request leave to do so by petition, in conformance with Adams County Civil Rule 206.4(c).

B. The Prothonotary and Clerk shall open and maintain accounts for the deposit of funds paid into Court, pursuant to court order. Accounts and depositories shall be approved by the Court. Disbursements or distributions shall be made pursuant to court order. An administrative fee of twenty-five (\$25.00) dollars shall be paid from the fund to the Officer for handling the funds.

C. When money is paid to the Prothonotary pursuant to Pa.R.C.P.D.J. No. 1008, the payee shall state in writing whether or not the Prothonotary is authorized to periodically release sums to a landlord without application by the landlord. If authority is granted, the tenant shall state the amount that may be periodically disbursed. Until authority is cancelled by the tenant, those sums may be periodically released without further Order of Court.

Rule 11.0 Legal Journal.

The *Adams County Legal Journal* is designated for the publication of Court or other legal notices as required by the various statutes, law, rules, order or decrees of the Court in the Commonwealth of Pennsylvania.

Rule 12.0 Law Library.

The President Judge shall appoint a chairman and committee to operate and maintain the Adams County Law Library. Committee members shall be selected from members of the Adams County Bar Association and shall serve at the pleasure of the President Judge. The commit-

tee may deal directly with the Adams County Commissioners in budgetary matters. The committee shall file annually a report and accounting with the court. Upon approval, the report shall be filed of record in the Prothonotary's office.

The Adams County Law Library shall be a facility open to the general public and used as a research facility by the Court, county officials, and county attorneys, in accordance with law, subject to rules promulgated by the committee and approved by the Court. Until changed, the following shall apply:

(1) The library is open to the public during hours of 8:00 A.M. to 4:30 P.M., Monday through Friday. The law library will remain closed during those times when the Courthouse is closed.

(2) The Adams County Law Library is intended primarily for a reference library. No books may be taken out by members of the general public. Limited borrowing privileges are as follows:

(a) All books must be returned within three (3) days from the date that they are signed out, in a register provided and located at the desk in the law library. Violation of this provision shall subject the violator to the following penalties:

(i) Books held beyond thirty (30) days—library privileges to be revoked and the offender to be reported to the Adams County Court.

(ii) After thirty (30) days, the offender will be billed for the replacement cost of the volume or volumes held.

(b) The following books are for reference only and may not be taken out of the law library: *Purdons Statutes*, *Pennsylvania Law Encyclopedia*, *United States Code Annotated*, *U. S. Code Service*, all Slip Opinions, Court Rules, Dictionaries, Directories, *Shepard Citations*, *Pennsylvania Code*, *Pennsylvania Bulletin*, and all other books maintained on shelves that are marked indicating that the contents may not be removed.

(3) For all materials which are in circulation and borrowed from the library, authorized individuals shall sign the register and indicate the volume number and title, the borrower's name (judge, attorney, or county official), address or department and the date that the volume was removed. Every item taken from the library must be signed out. When the item is returned to the library, the register must be signed to indicate the date that the item was returned. The item should be reshelfed when it is returned to the library.

(4) In furtherance of a desire to maintain the Adams County Law Library as a complete County Reference Law Library, the following publications are to be provided for the law library:

(a) All published slip opinions authored by the Adams County Court shall be delivered to the Adams County Law Library which shall hereinafter act as a depository for said Opinions.

(b) All ordinances of municipalities and townships, including Zoning Ordinances, shall be made available to the Adams County Law Library.

(5) These rules shall be posted in a conspicuous place in the Adams County Law Library.

(6) The photocopier in the law library is for the convenience of all persons authorized to use the law library. Use is restricted to making reasonable numbers of copies of library material. The Committee may subject the copier's use to conditions and restrictions by posting same by or on the copier and may revoke any person's usage privileges. The copy machine should be turned off after use.

Rule 13.0 Extended Hearing.

An extended hearing is defined as one requiring two or more hours. Parties requesting hearings, whether by order or praecipe, shall certify whether the hearing can reasonably be expected to become an extended hearing. The Court will then schedule the matter for conference or hearing as deemed appropriate by the Court.

Rule 14.0 Appeals to Court.

A. Appeals From Government Agencies

1. Whenever an appeal is filed from the final order of a governmental agency pursuant to provisions of 42 Pa.C.S.A. § 933, the appeal shall have attached thereto a copy of said final order.

2. The Prothonotary shall forward the file to the Court on the thirty-first (31st) day following the filing of said appeal. The Court shall then schedule a conference, hearing or argument, or take such other action as may be deemed necessary or appropriate.

B. Land Use Appeal

1. Whenever an appeal is filed pursuant to provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, et seq., the Prothonotary shall forward the file to the Court on the thirty-first (31st) day following the filing of said appeal. The Court shall then schedule a conference or hearing or take such other action as may be deemed necessary or appropriate.

C. License Suspension Appeal

1. All appeals from governmental action suspending or revoking licenses, rights or privileges, shall have attached thereto a copy of the suspension or revocation order.

2. Hearings for such appeals shall be held on a regularly scheduled Civil Business Court day.

D. Tax Sale Appeal

1. All tax sale appeals shall be docketed in a manner which identifies the appeal by the tax sale number. Once the appeal is filed, a separate file for that appeal shall be maintained by the Prothonotary.

Comment: Generally, all tax sales for a given year are collectively docketed as filing year-S-file number. Appeals shall be filed to the same docket number but shall also note the sale number. An example would be 04-S-235 (Sale No. 36).

E. Truancy Appeal

1. All appeals filed by a parent, guardian, or person in parental relation from a summary conviction under 24 P.S. § 13-1333 for violation of the compulsory school attendance law shall be heard on a regularly scheduled Criminal Business Court day.

Rule 15.0 Sale of Impounded Unclaimed Vehicles.

A. The Sheriff of Adams County shall, on a periodic basis, conduct sales of impounded unclaimed vehicles in conformity with 75 Pa.C.S.A. § 6310(b). The following process shall be observed for the sale of said vehicles:

1. Immediately upon impoundment of an unclaimed vehicle, the impounding law enforcement agency shall give notice to the owner of said vehicle and any lienholders in accordance with 75 Pa.C.S.A. 6309(c). Notice shall be substantially in the form stated in part B. hereof.

2. Each municipality shall be responsible for storage of its impounded unclaimed vehicles until the time of sale.

3. The Sheriff of Adams County shall notify all Adams County municipalities of the date set for the sale of impounded unclaimed vehicle in the county.

4. Upon Notice of the setting of the sale date, the local law enforcement offices shall provide the Sheriff of Adams County with the following:

(i) A list of all impounded unclaimed vehicles.

(ii) Proof of Notice to the owner of each impounded/unclaimed vehicle in accordance with sub-section B. of this rule.

(iii) Such fees as are requested by the Adams County Sheriff.

5. Upon receipt of Proof of Notice from the municipalities, Sheriff shall serve further Notice upon the owners of the vehicles subject to the sale in conformity with 75 Pa.C.S.A. 6309(c). The Sheriff shall serve Notice by publication when Notice by mail cannot be given or has been returned undelivered. Notice by publication must be given for three (3) consecutive weeks in the Adams County Legal Journal and in one local newspaper of general circulation.

6. On the date established for sale of vehicles, the Sheriff shall conduct said sale in accordance with normal personal property sale procedures.

7. Following the sale of vehicles, the Sheriff shall distribute proceeds of the sale to the individual municipalities involved.

B. Each individual municipality involved shall provide notice, in substantially the following form, to the owner of each automobile at the last known address of said owner via regular mail and certified mail, restricted delivery. Each individual municipality shall provide Proof of Notice, in substantially the following form, to the Sheriff for each vehicle that is to be sold.

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY, PENNSYLVANIA

[caption]

NOTICE OF SALE OF IMPOUNDED UNCLAIMED
VEHICLE

You, _____ *[name]*, are the owner of record of the following vehicle: *[make, model, VIN number]*. This vehicle has been impounded and designated as unclaimed by the Sheriff of Adams County. This vehicle is set to be sold on _____, 20____ at the following location: _____ *[address]*.

IF YOU WISH TO SECURE YOUR RIGHTS IN THIS VEHICLE, YOU MAY RECOVER THE VEHICLE ON THE ABOVE-REFERENCED DATE AT THE LOCATION GIVEN. IN ORDER TO RECOVER YOUR VEHICLE, YOU WILL BE RESPONSIBLE FOR SHERIFF'S ADMINISTRATIVE COSTS IN ASSOCIATION WITH THIS SALE. IF YOU WISH TO SEEK FURTHER LEGAL ADVICE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COUNTY REFERRAL OFFICER
Adams County Courthouse
Gettysburg, PA 17325
(717) 337-9846

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY, PENNSYLVANIA

[caption]

PROOF OF NOTICE OF IMPOUNDED UNCLAIMED
VEHICLE

I, _____ [name], a representative of _____ [municipality], state that the following vehicle has been impounded and remains unclaimed in the above-referenced municipality. Notice has been provided to owner at his/her last known address via regular mail and certified mail (restricted delivery) that this vehicle will be sold at the sale on _____ [date of sale]. Proof of Notice is attached. The vehicle is described as follows:

Vehicle: _____ [make, model, VIN number]

Owner of Record: _____ [name]

Last known address of owner: _____

Date of abandonment: _____

[representative of municipality]

Rule 16.0 Petitions for Board of View.

A. Content of Petition

1. Petitions filed for the appointment of a board of view shall cite therein the statutory authority under which the board is being sought.

2. The petition shall identify persons having an interest in the appointment of the board, persons who will be legally impacted by the decision of such board, and any attorney who has a real or potential conflict of interest in the matter.

B. Delivery to the Court

1. Upon the filing of the petition with the Prothonotary, the petitioner(s) shall have the petition forwarded to the Court Administrator for processing.

C. The Board

1. Boards of view shall generally be comprised of three (3) persons.

2. The chairperson of the Board shall be an attorney licensed to practice in the Commonwealth of Pennsylvania whose principal office is located in Adams County.

3. Boards of View shall be compensated at a rate established from time to time by the Court.

4. The Court may revoke the appointment of the Board or any member thereof for whatever cause that the Court deems is appropriate.

D. Report

1. The report of a Board of View shall be in writing and submitted to the Court within sixty (60) days of appointment of the Board. If the report cannot be completed and submitted within that period of time, the Chairperson shall file a preliminary report to the Court explaining the reason(s) for the delay and setting forth the expected time needed to complete the report.

[Pa.B. Doc. No. 05-986. Filed for public inspection May 20, 2005, 9:00 a.m.]

CARBON COUNTY

Charges of Indirect Criminal Contempt for Violation of Protection From Abuse Orders; No. 61 MI 05

Administrative Order No. 11-2005

And Now, this 5th day of May, 2005, pursuant to 23 Pa.C.S.A. Section 6114, it is hereby

Ordered and Decreed, that effective immediately, all charges of Indirect Criminal Contempt for violation of Protection From Abuse Orders *Shall Be Forwarded* to the Clerk of Courts Office for case management and disposition.

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 this Administrative Order in the Clerk of Court's Office.

By the Court

ROGER N. NANOVIC,
President Judge

[Pa.B. Doc. No. 05-987. Filed for public inspection May 20, 2005, 9:00 a.m.]