

THE COURTS

Title 255—LOCAL COURT RULES

LYCOMING COUNTY

Amendments to Rules of Procedure; Doc. No. 05-00136

Order

And Now, this 20th day of January, 2005, it is hereby Ordered and Directed as follows:

1. The following Lycoming County Rules of Civil Procedure are rescinded: L200.1, L206, L206.5, L206.7, L210, L212, L227.1, L701, L1007, L1910.9, L1910.19, L1910.21, L1910.24, L1910.25, L1920.1, L1920.22, L1920.34, L1920.61 and, L4019.

2. The following Lycoming County Rules of General Court Business are rescinded: L1, L2, and L3.

3. Lycoming County Rule of Criminal Procedure L300 is rescinded.

4. The following new Lycoming County Rules of Civil Procedure numbers L205.2, L206.4(c), L208.2, L208.3, L212, L440, L1007, L1028(c), L1034(a), L1035.2(a) and L1930.5 are promulgated.

5. Lycoming County Rules of Civil Procedure L216, L902, L1301, L1301.1, L1915.3, L1915.3-2, L1915.8, L1920.16, L1920.43, L1920.45 and L1920.51 are revised as follows.

6. Lycoming County Orphans' Court Rule L3.4 is revised to refer to Lyc. Co. R.C.P. L205.2(b)B in place of Lyc. Co. R.C.P. L206.

7. The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Forward two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. Forward one (1) certified copy of this order to the Pennsylvania Civil Procedural Rules Committee, one (1) certified copy of this order to the Pennsylvania Domestic Relations Procedural Rules Committee, and one (1) certified copy of this order to the Pennsylvania Criminal Procedural Rules Committee.

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

f. Keep continuously available for public inspection copies of this order.

8. The rule changes approved by this order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

KENNETH D. BROWN,
President Judge

L205.2. Filing Legal Papers with the Prothonotary

(a) *Size of Paper.* All pleadings, motions, petitions, briefs, and other legal documents filed with the prothono-

tary shall be on paper size 8 1/2 inches by 11 inches, unless otherwise required by rule or order of court.

(b) Required Cover Sheets

A. *Initial Case Monitoring Notice.* This requirement applies to civil actions, statutory appeals, or any other matter commenced by filing a document with the prothonotary, except a domestic relations case.

1. When filed, every complaint, writ of summons, appeal or, any other initial document which is filed to commence a civil matter requiring a trial or arbitration hearing, shall be accompanied by two copies of the initial case monitoring notice which shall be substantially in the form set forth under subsection 4 of this section.

2. The initial case monitoring notice shall not exceed one page. If necessary, the caption may be abbreviated to accommodate this requirement.

3. After the initial case monitoring notice is filed, the procedures set forth in rule L1007 shall apply.

4. The form of the initial case monitoring notice shall be substantially as follows:

COURT OF COMMON PLEAS, LYCOMING COUNTY,
PENNSYLVANIA
INITIAL CASE MONITORING NOTICE AND ORDER

Plaintiff : DOCKET NO:
: CIVIL ACTION

vs. :
: TYPE OF ACTION: _____

Defendant :
:

1. This matter was commenced on the date of _____ by _____ complaint _____ writ of summons _____ other (specify): _____.

2. It is requested the case be processed under Lyc. Co. R.C.P. L1007 as follows (check one):

_____ ARBITRATION (Damages of \$25,000 or less; hearing in 6-12 months)

_____ NORMAL TRACK (Trial in 12-18 months)

_____ COMPLEX TRACK (Trial in 18-24 months)

_____ ADMINISTRATIVE TRACK (First trial term after 90 days)

Name(s) of Filing Party(ies) _____

Signature _____ Date: _____

ORDER

1. (a) _____ A case scheduling conference is scheduled for _____, at _____, ____ .M., in courtroom no. _____; the parties or their counsel shall attend. Plaintiff shall initiate discussions on a case scheduling order, in compliance with Lyc. Co. R.C.P. L1007A. (See court Calendar or refer to www.lycolaw.org for trial term dates and deadlines.) An agreed-upon proposed case scheduling order may be filed in advance of the date of the scheduled conference.

(b) The court administrator is directed to place this case on the next trial list occurring more than 90 days after the date of this order pursuant to Lyc. Co. R.C.P. L1007B.

2. FILING PARTY SHALL IMMEDIATELY SERVE A COPY OF THIS ORDER UPON ALL OTHER PARTIES OR THEIR ATTORNEYS AND FILE PROOF OF TIMELY SERVICE.

Judge _____ Date _____

cc: Deputy court administrator
Name of filing party/attorney—include address and telephone number

B. Motion Cover Sheet. The procedure set forth in this section shall apply to every request for relief and/or application to the court for an order, whether by petition, motion, preliminary objection, exception, or stipulation, that the filing party desires to bring before the court or family court hearing officer, except a motion for a continuance (see rule L205.2(b)c regarding continuance).

Note: The use of this cover sheet is also required in orphans' court; see, Lyc. Co. O.C.R. L3.4.

1. A cover sheet substantially in the form set forth in subsection 7 of this section shall be attached to the front of every request for a court order to which this rule applies, with the exception of any request for relief on the front of which an applicable Pennsylvania Rule of Civil Procedure requires a specific order or notice to be attached.

2. The cover sheet shall consist of only one page. Captions may be abbreviated. If additional space is necessary to list counsel and unrepresented parties, a separate sheet may be attached. The filing party or counsel shall be responsible for identifying all parties and others to be given notice or their counsel on the cover sheet. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.

3. If a cover sheet is not attached as required by this rule, the court may choose not to act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party, or the court.

4. If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet. Such consideration must be requested if the date of the pretrial conference has been set or if the case has already been pretried.

5. A proposed order granting the relief requested shall be attached to the cover sheet.

6. The court shall schedule argument, hearing or briefing as the court may require, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The prothonotary shall docket and promptly forward the completed cover sheet to all parties identified on the cover sheet.

7. The form of the cover sheet shall be substantially as follows:

COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA MOTION COVER SHEET

Caption (may be abbreviated) vs. Docket No. Case assigned to Judge Case assigned to Judge none Family Court Hearing Officer
1. Name of filing party:
2. Filing party's attorney:
3. Type of filing:

4. The following is/are requested: Argument Evidentiary Hearing Court conference Rule to show cause Entry of uncontested order (attach supporting documentation) Expedited consideration. State the basis:
6. Name and addresses of filing and all counsel of record and unrepresented parties:
5. Time required: Attach this cover sheet to original motion previously filed on: Continued on separate sheet.

ORDER

- 1. An argument factual hearing court conference is scheduled for at m. in courtroom no., Lycoming County Courthouse, Williamsport, PA.
2. Briefs are to be filed by the following dates: Filing party Responding party(ies)
3. A rule is issued upon respondent to show cause why the petitioner is not entitled to the relief requested.
4. A response to the motion/petition shall be filed within days.
5. Other

Judge Date

cc: ALL PARTIES OR OTHERS TO BE SERVED WITH NOTICE MUST BE DESIGNATED IN "6." ABOVE.

L206.4(c). Rule to Show Cause.

A. A rule to show cause shall be discretionary pursuant to Pa.R.C.P. 206.5.

B. A cover sheet that complies with rule L205.2(b)B shall be attached to any petition or request for relief

requiring the issuance of a rule to show cause. The cover sheet includes thereon a rule to show cause order and no separate rule to show cause order is to be submitted.

C. When issuing the rule to show cause included on the cover sheet, the court shall indicate on the cover sheet whether the petition or other request for relief will be scheduled for an argument or evidentiary hearing, whether discovery on the issues will be allowed, whether an answer will be required or if briefs are required.

D. The court will grant or deny a request for a stay of execution pending disposition of a petition to open a default judgment based upon the initial review of the facts as set forth in the petition.

L208.2 Motions. Form. Content.

(d). *Uncontested motions.* If a motion is presented as uncontested the basis therefore shall be set forth on a page immediately following the cover sheet in the form of a written stipulation of all interested parties or a certification of filing counsel or verified statement by unrepresented parties as to the basis upon which it is appropriate to enter the uncontested order.

(e). *Discovery motions.*

A. All discovery motions to compel discovery or for a protective order shall include a certification by moving counsel that concurrence in the motion was sought from opposing counsel and pro se parties. The certification shall be contained on a separate page and attached following the cover sheet to the front of the motion. The certification shall state the following information:

1. the manner in which concurrence was sought; and,
2. whether or not concurrence was given, and if given in part and denied in part, the extent to which concurrence was given.

If contact with opposing counsel or pro se parties can not be made prior to the filing of the motion, the moving party shall so state in the certification. The moving party has a continuing obligation to contact opposing counsel or pro se parties to secure the concurrence or non-concurrence.

B. Concurrence may not be unreasonably refused by opposing counsel or pro se parties. If the court finds that concurrence was properly sought, and was unreasonably refused, the court may award attorneys fees and expenses to the moving party, and may impose such other sanctions as are permitted by the Pennsylvania Rules of Civil Procedure.

L208.3 Motions. Procedures. Briefs.

(a) *Motion procedure.*

A. *Scheduling.* Motions will be scheduled by the court scheduling technician for argument, hearing or conference as ordered by the court after an initial review of the motion, taking into account the request of the moving party as set forth in the motion cover sheet. The scheduled time shall be noted on the executed motion cover sheet and served upon the parties by the prothonotary in accordance with these local rules. The motion will be decided after argument or hearing.

B. *Briefs.* Briefs may be ordered by the court and, if so ordered, the time for filing will be set forth on the executed motion cover sheet. If briefs are ordered, the original and two copies shall be filed with the prothonotary, who shall forward them to the judge. All parties

shall be served with a copy of the brief contemporaneously with the filing of the brief. Where briefs are required and are not timely filed, the court may treat the request for relief as having been submitted by the defaulting party and proceed ex parte, or impose such other sanction as it shall deem appropriate.

C. *Courtesy copies.* No courtesy copies of motions and briefs should be mailed to the judge or court administrator.

D. *Emergency motions.* Emergency requests for a court order shall be filed with the prothonotary and then delivered by the filing party to the court administrator, who shall deliver the motion to an appropriate judge. All emergency motions must have a motion cover sheet as required by these rules. All emergency requests shall set forth on a separate page following the cover sheet a certification by filing counsel or pro se party that all interested parties were contacted in advance and given notice of the intention to present the emergency request and the details as to time and manner of such notice; or, if such notice was not given, a statement as to why and what efforts to give the notice were made.

E. Emergency petitions for child custody shall proceed under L1915.13-1.

(b). *Motion response.* If the court deems a response is necessary, the response shall be filed within twenty (20) days unless the court orders a shorter or longer time. If a response is not timely filed, or if a response is filed raising no contested issue of fact, the court may deem the matter as being uncontested and may accept all factual averments as true and issue a dispositive order accordingly without further argument, upon motion of the moving party or in its own discretion. If a response is filed raising disputed issues of fact the court will hold an evidentiary hearing or proceed in such other manner as the court shall direct.

L212. Pretrial Conferences and Trial Scheduling.

A. *Trial list.* Cases may be placed on the trial list in the manner set forth in rule L1007.

B. *Pretrial Conferences.*

1. The court administrator shall schedule a pretrial conference to be held at least fifteen (15) days before the first day of the session of trials during which the case is listed.

2. Not less than seven days before the date set for the pretrial conference, each party shall file the original and two copies of the pretrial statement and serve a copy on all other parties. The prothonotary shall forward the two copies to the trial judge as soon as possible.

3. Counsel are required to be prepared to inform the court of the demand and settlement offers and to discuss settlement.

4. All parties and representatives necessary to approve settlement and with full settlement authority must attend the pretrial conference in person, unless upon written request the court authorizes appearance by telephone or otherwise excuses attendance.

5. Each party may be limited to calling witnesses or using exhibits listed on the pretrial statement.

6. The pretrial statement shall be in substantially the following form:

d. return the executed scheduling order to the prothonotary.

2. The prothonotary shall transmit a copy of the order to the filing attorney or pro se party.

3. Upon receiving the executed order, the filing or pro se party shall immediately serve a copy of the order upon all other counsel or unrepresented parties.

4. In a case where all parties are represented by counsel, counsel shall make every reasonable efforts to agree with all other parties to a case scheduling order prior to the date of the case scheduling conference. Any such agreed-upon proposed order shall be filed prior to the date scheduled for the case scheduling conference. The filing party shall be responsible to initiate the effort to secure agreement on an order and to see that it is filed at the earliest possible date. The proposed order, when filed, shall be accompanied by a rule L205.2(b)B cover sheet with a request for the entry of an uncontested order.

5. If a case scheduling order is agreed upon, it shall establish a proposed trial term and pre-trial conference dates, as well as deadlines for discovery, dispositive motions and for the exchange of expert reports. The dates shall be based upon the assigned judge's trial term list and the guidelines set forth in subsection A.6 of this rule. The scheduling order shall be substantially in the form provided by section C of this rule.

6. The agreed upon trial term or arbitration listing shall ordinarily comply with the following guidelines:

a. Arbitration limits case—the arbitration to occur within six (6) to twelve (12) months after the first defendant is served.

b. Normal track—the trial to occur between twelve (12) and eighteen (18) months after the first defendant is served. Most cases will be considered normal.

c. Complex track—the trial to occur between eighteen (18) and twenty-four (24) months after the first defendant is served.

7. Case Scheduling Conference.

a. The case scheduling conference will occur as scheduled if:

- (1) the parties cannot agree to a case scheduling order;
- (2) the court does not accept the parties' proposed case scheduling order; or
- (3) the proposed order is not filed in a timely manner.

b. After the case scheduling conference, the court shall issue a case scheduling order.

c. Any party may, at any time, file a written request for a case scheduling conference if it appears that a revision of the case scheduling order is required.

B. Administrative Track Exceptions. The procedures set forth in section A of this rule that relate to a scheduling conference shall not apply to mortgage foreclosure cases, landlord/tenant cases appealed from a decision of a district justice, appeals from administrative agencies, municipal code appeals, appeals of decisions of board of viewers, or other cases assigned to the administrative track by the trial judge. Actions of this type shall be governed by the procedures set forth in this section.

1. In all actions governed by this section, the initial case monitoring notice shall include a request for the court to list the action for trial and shall include a proposed scheduling order directing the court administrator to list the case in accordance with this section.

2. When an action is listed for trial under the administrative track as provided by this section, the action shall either be placed on the trial list for the first trial term occurring more than ninety (90) days after the order is executed, or by direction of the court, be scheduled for a prompt conference. A case scheduling order will be issued in compliance with the time limits of this section.

3. All discovery in cases processed under this track must be completed not less than fourteen (14) days prior to the pre-trial conference.

4. In actions involving requests for declaratory relief under Pa.R.C.P. 1601 et seq., which do not involve a jury trial, the court may, upon the joint request of all parties, assign the action to the administrative track.

C. The form of the scheduling order shall be one page (captions may be abbreviated) and shall be substantially as follows:

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

SCHEDULING ORDER

It is ORDERED AND DIRECTED as follows:

1. This is a JURY NON-JURY ARBITRATION LIMITS case.
2. Case monitoring track: NORMAL, COMPLEX, ADMINISTRATIVE
3. (a) Trial term dates: _____ .
(b) Jury selection dates: _____ .
(c) Pretrial conference dates: _____ .
The deputy court administrator will schedule the exact date and time by future notice.
- (d) Settlement conference dates, if needed: _____ .
- (e) Counsel are attached for the above dates and shall immediately notify parties and witnesses to be available.
4. List for arbitration on or after: _____ .
5. Cut-off date for completion of discovery: _____ .
6. Cut-off dates for filing expert reports:
(a) By plaintiff(s)— _____ .
(b) By defendant(s)— _____ .
7. Cut-off date for filing dispositive motions, including motions to exclude expert testimony under PA.R.C.P. 207.1: _____ .

8. Mediation: The parties agree to use alternative dispute resolution (ADR) as follows:

- (a) Lycoming Mediation Project: Yes No
- (b) Other ADR (Specify): Yes No
- (c) Above ADR is: Binding Non-Binding

9. This Order cancels the case scheduling conference, which had previously been scheduled for the date of _____.

10. Other: _____.

Judge Date

cc: Deputy court administrator
List all parties—if pro se or out of County, include address

L1028(c). Preliminary Objections.

Preliminary objections shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule L208.3.

L1034(a). Motion for Judgment on the Pleadings.

A motion for judgment on the pleadings shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule L208.3.

L1035.2(a). Motion for Summary Judgment.

A motion for summary judgment shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule.

L1301. Cases for Submission to Arbitration

A. * * *

B. A civil action will be referred to arbitration by the scheduling order issued under rule L1007. Prior to the case scheduling conference being held, a case may be referred to arbitration upon the filing with the prothonotary and the deputy court administrator of a praecipe signed by all parties or their counsel.

C. * * *

L1301.1. Agreement to submit to arbitration.

Cases, whether or not in litigation, regardless of the amount in controversy, may be heard by a board of arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by a writing signed by counsel for all sides and shall be filed with the prothonotary, who will forward a copy to the deputy court administrator with a proposed rule L1007 scheduling order. Said agreement shall define the issues involved for determination by the board and shall also contain any stipulations with respect to facts. In such cases, the agreement shall take the place of the pleadings in the case and be filed of record.

L1915.3. Custody Petitions and Procedure.

A. All petitions relating to custody or visitation with minor children shall be filed in accordance with rule L205.2(b)B.

* * * * *

L1915.3-2. Exceptions and Reconsideration of Interim Order.

A. * * *

B. Should a significant change in circumstances arise after entry of an interim order and before the pre-trial conference necessitating a modification of the interim order, which modification cannot be amicably agreed upon pending the pretrial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof or verified by the filing party. The court administrator shall refer such motion to the hearing officer who entered the interim

order. Based on the allegations of the motion, the hearing officer may take any one or more of the following actions deemed appropriate under the circumstances: 1) enter an order summarily denying the motion; or 2) hold a telephone or other conference with counsel for both parties; or 3) after providing the opposing party an opportunity to respond, enter a modified interim order; or 4) direct that the matter be resolved at the pre-trial conference.

L1915.8. Physical/Mental/Psychological Examinations and Home Studies.

* * * * *

B. Any request by the parties for evaluations made after the initial conference and not made at the pre-trial conference or entered into by stipulation must be made by motion in accordance with Pa.R.C.P. No. 1915.8, alleging specific facts and reasons for the request, with a hearing to be held after reasonable notice to the other party.

* * * * *

L1920.16 Bifurcation.

A. A praecipe to transmit record requesting entry of a divorce decree under Domestic Relations Code § 3301(c) or § 3301(d) should not be filed prior to the resolution of all other claims raised unless an order has been entered permitting bifurcation or the other party consents to bifurcation. The filing party must indicate in the praecipe to transmit that either, (1) there are no outstanding claims, or (2) bifurcation has been consented to by the other party, as verified by an affidavit attached to the praecipe to transmit, or approved by court order, a copy of which is attached to the praecipe to transmit. Where the other party does not consent to bifurcation, a request for bifurcation shall be made by motion in accordance with the procedure set forth in rule L205.2(b)B., and may be referred by the court, in its discretion, to the family court hearing office for hearing thereon.

* * * * *

L1930.5. Discovery.

A. Any request for discovery in addition to that permitted by the rules shall be made to the court by motion for leave to take discovery setting forth the type of discovery sought and reasons therefor. This shall not preclude the parties from stipulating to additional discovery.

B. The serving of interrogatories concerning alimony or the determination and distribution of property rights shall be considered untimely if filed after notice of the scheduling of a master's hearing on those claims has been given, provided a copy of the motion for appointment of master was served on opposing counsel or party.

C. In the case of interrogatories served pursuant to rules of civil procedure, the first set of interrogatories propounded to a party may not exceed fifty (50) in number, including subparts, whether or not they are separately numbered. In the event that the response given to the first set of interrogatories is considered by the requesting party to indicate a need for additional interrogatories, a second set of interrogatories, again limited to fifty (50) including subparts, may be served upon a party. The second set of interrogatories must be case specific. The responding party shall not be compelled to answer any interrogatories beyond the number allowed under this rule. The court may, in its discretion, allow additional interrogatories to be served in an appropriate case.

L1920.43. Special Relief.

The court, in its discretion, may refer certain requests for special relief to the family court office for hearing thereon.

L1920.45. Counseling.

Requests for counseling shall be made on a form provided by the family court office. The request will be scheduled by the family court office for conference or hearing, as may be appropriate. When there is no other provision governing the time within which counseling may be requested or carried out, any request must be filed within such time as to not delay trial or a hearing.

L1920.51. Hearing by the Court. Appointment of Master.

A. All claims for relief on the merits, other than disputed claims as to custody or paternity shall initially be heard by a family court hearing officer or master. Any request for hearing before the court on matters other than custody and paternity shall be made by motion and will be granted by the court only upon cause shown.

* * * * *

Orphans' Court Rule

L3.4. Motion Procedures.

The provisions of Lyc. Co. R.C.P. L205.2(b)B shall apply to all filings which are intended to be brought before the court for hearing, argument, conference or similar dispositive action.

[Pa.B. Doc. No. 05-275. Filed for public inspection February 11, 2005, 9:00 a.m.]

WESTMORELAND COUNTY

Rescinding and Adopting Rule W1920.12; No. 3 of 2005

Order

And Now, this 28th day of January, 2005, It Is Hereby Ordered that current Westmoreland County Rule of Civil Procedure W1915.8 is rescinded and new Rule W1915.8 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

Rule W1915.8 Physical and Mental Examination of Persons

(a) Evaluations may be ordered in accordance with Pa.R.C.P. 1915.8 in a custody proceeding by the Court on its own motion, by consent of the parties, or by motion of either party. In the event an evaluation is ordered, a Pretrial Conference will be automatically scheduled.

(b) Failure to pay as ordered may result in contempt proceedings and appropriate penalties as provided in Pa.R.C.P. 1915, et. seq.

(c) The Order for a custody evaluation shall also schedule the next court event. If the evaluation is ordered at the Conciliation Conference, the Order shall also schedule a Pretrial Conference.

[Pa.B. Doc. No. 05-276. Filed for public inspection February 11, 2005, 9:00 a.m.]
