THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 293 Judicial Administration No. 1

Order

Per Curiam

And now, this 18th day of September, 2006 it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The fees outlined in the Financial Regulations are effective as of January 1, 2007.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 17. GOVERNANCE OF THE SYSTEM

CHAPTER 35. Budget and Finance

Subchapter A. General Provisions

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, Philadelphia Municipal Court and Philadelphia Traffic Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2007, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

(1)	Actions involving $500 or less	$43.00
(2)	Actions involving more than $500 but not more than $2,000	$57.50
(3)	Actions involving more than $2,000 but not more than $4,000	$71.50
(4)	Actions involving more than $4,000 but not more than $8,000	$107.50
(5)	Landlord-tenant actions involving less than $2,000	$64.50
(6)	Landlord-tenant actions involving more than $2,000 but not more than $4,000	$78.50
(7)	Landlord-tenant actions involving more than $4,000 but not more than $8,000	$107.50
(8)	Order of execution	$32.50
(9)	Objection to levy	$14.50
(10)	Reinstatement of complaint	$7.50
(11)	Entering Transcript on Appeal or Certiorari	$4.00

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2007, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

(1)	Custody cases, except as provided in section 1725(c)(2)(v)	$6.50

(b) *Criminal cases.*—In calendar year 2007, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

(1)	Summary conviction, except motor vehicle cases	$41.00
(2)	Summary conviction, motor vehicle cases, other than paragraph (3)	$32.50
(3)	Summary conviction, motor vehicle cases, hearing demanded	$39.50
(4)	Misdemeanor	$46.50
(5)	Felony	$54.00

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2007, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1)	Entering transcript of judgment from another member of the minor judiciary	$7.50
(2)	Marrying each couple, making record thereof, and certificate to the parties	$36.00

(3)	Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse)	$14.50
(4)	Issuing a search warrant (except as provided in subsection (d))	$14.50
(5)	Any other issuance not otherwise provided in this subsection	$14.50

42 Pa.C.S. § 3571.

In calendar year 2007, Commonwealth portion of fines, etc.

* * * * *

(2)	Amounts payable to the Commonwealth:	
(i)	Summary conviction, except motor vehicle cases	$14.20
(ii)	Summary conviction, motor vehicle cases other than subparagraph (iii)	$14.20
(iii)	Summary conviction, motor vehicle cases, hearing demanded	$14.20
(iv)	Misdemeanor	$18.60
(v)	Felony	$28.80
(vi)	Assumpsit or trespass involving:	
(A)	$500 or less	$17.95
(B)	More than $500 but not more than $2,000	$28.80
(C)	More than $2,000 but not more than $4,000	$42.90
(D)	More than $4,000 but not more than $8,000	$71.65
(vii)	Landlord-tenant proceeding involving:	
(A)	$2,000 or less	$28.70
(B)	More than $2,000 but not more than $4,000	$35.70
(C)	More than $4,000 but not more than $8,000	$50.15
(viii)	Objection to levy	$7.25
(ix)	Order of execution	$21.67
(x)	Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs))	$10.15
(xi)	Order of possession	$15.00
(xii)	Custody cases (except as provided in section 1725(c)(2)(v))	$5.20

[Pa.B. Doc. No. 06-1897. Filed for public inspection September 29, 2006, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 294 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 18th day of September, 2006, it is Ordered pursuant to Article V , Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2005 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2005 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 294 Judicial Administrative Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2005 was 3.4% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOOSAO, March 30, 2006.)

[Pa.B. Doc. No. 06-1898. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 1]

Order Amending Pa.R.A.P. 124; No. 173 Appellate Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 15th day of September, 2006, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rule of Appellate Procedure 124 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall become effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 124. Form of Papers; Number of Copies.

(a) *Size and other physical characteristics.*—All documents filed in an appellate court shall be on 8 1/2 inch by 11 inch paper and shall comply with the following requirements:

(1) The document shall be prepared on white paper (except for covers, dividers, and similar sheets) of good quality.

(2) The first sheet (except the cover of a paperbook) shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.

(3) The text must be double spaced, but quotations more than two lines long may be indented and single spaced. Except as provided in subdivision (2)**[, margins]. Margins** must be at least one inch on all four sides.

(4) The lettering shall be clear and legible and no smaller than point **[11] 12**. The lettering shall be on only one side of a page, except that exhibits and similar supporting documents and paperbooks may be lettered on both sides of a page.

* * * * *

Explanatory Comment—2006

The 2006 amendment changes the required type size from "no smaller than point 11" to "no smaller than point 12" and conforms the type size requirements to Pa.R.C.P. No. 204.1 and Pa.R.Crim.P. 575.

[Pa.B. Doc. No. 06-1899. Filed for public inspection September 29, 2006, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 19]

Proposed Amendment to Rule 1925; Proposed Recommendation No. 62

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure 1925. The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

Proposed new material is bold while deleted material is bold and bracketed.

All communications in reference to the proposed amendment should be sent no later than October 31, 2006 to:

Dean R. Phillips, Chief Counsel
D. Alicia Hickok, Deputy Counsel
Appellate Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or Fax to
717-795-2116

or E-Mail to
appellaterules@pacourts.us

The Explanatory Report which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

By the Appellate Court Procedural Rules Committee

HONORABLE THOMAS A. WALLITSCH,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1925. Opinion in Support of Order.

(a) *General rule.*—Upon receipt of the notice of appeal**,** the judge who entered the order **[appealed from] giving rise to the notice of appeal**, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief statement, in the form of an opinion, of the reasons for the order, or for the rulings or other **[matters] errors** complained of, or shall specify in writing the **specific** place in the record where such reasons may be found.

If the appeal is based upon an order or ruling issued by a judge that was not the judge at trial, the trial judge may request that the judge who made the interim ruling draft a statement in accordance with the standards above to explain the reasons for his or her decision.

(b) *Direction to file statement of* ***[matters] errors*** *complained of* ***on appeal; instructions to the appellant and trial court.***—

[The lower court forthwith] If the trial judge desires clarification of the errors complained of on appeal, the trial judge may enter an order directing the appellant to file of record in the **[lower] trial** court and serve on the trial judge a concise statement of the **[matters] errors** complained of on **[the]** appeal **[no later than 14 days after entry of such order. A failure to comply with such direction may be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of]**.

(1) ***Filing and Service.*** **Appellant shall file of record the statement of errors complained of and concurrently shall serve the trial judge. Filing of record and service on the trial judge shall be in person or by mail as provided in Pa.R.A.P. 121(a)**

and shall be complete on mailing if appellant obtains a United States Postal Service form in compliance with the requirements set forth in Pa.R.A.P. 1112(c). Service on parties shall be concurrent with filing and shall be by any means of service specified under Pa.R.A.P. 121(c).

(2) *Time for Filing and Service.* The trial judge shall allow the appellant at least 21 days from the date of the order's entry on the docket for the filing and service of the statement of errors complained of on appeal. Upon application of the appellant and for good cause shown, the trial judge may enlarge the time period initially specified or permit a supplemental statement to be filed. In extraordinary circumstances, a trial judge may allow for the filing of a statement or supplemental statement nunc pro tunc.

(3) *Contents of Order.* The trial judge's order directing the filing and service of a statement of errors complained of on appeal shall specify:

(i) the date the statement of errors complained of shall be filed and served;

(ii) that the statement of errors complained of shall be filed of record;

(iii) that the statement of errors complained of shall be served on the trial judge pursuant to subparagraph (b)(1);

(iv) that any issue not properly included in a statement timely filed and served pursuant to subdivision (b) shall be deemed waived.

(4) *Requirements; Waiver.*

(i) The statement of errors complained of on appeal shall set forth only those errors for which the appellant intends to seek review. The trial judge shall not require the citation of authorities; however, appellant may choose to include pertinent authorities in the statement.

(ii) The statement shall briefly identify each ruling that the appellant intends to challenge with sufficient detail to identify all pertinent issues for the trial judge.

(iii) Each ruling identified in that manner will be deemed to include every subsidiary issue fairly included therein; any rulings not included in the statement of errors complained of shall be deemed waived.

(iv) If the appellant cannot readily discern the basis for the trial judge's decision, he must preface the statement with an explanation as to why his statement of errors complained of has identified the errors in only general terms. In such a case, the generality of the statement of errors complained of will not be grounds for finding waiver.

(v) The trial judge shall not require appellant or appellee to file a brief, memorandum of law, or response as part of or in conjunction with the statement of errors complained of.

(c) *Remand.*

(1) Upon application of the appellant and for good cause shown, an appellate court may remand in either a civil or criminal case for clarification as to any questions of timeliness.

(2) Upon application of the appellant and for good cause shown, an appellate court may remand in a civil case for the filing nunc pro tunc of a statement of errors complained of on appeal or for amendment of a timely filed and served statement and for the preparation and filing of a corresponding opinion by the trial court.

(3) If an appellant in a criminal case was ordered to file a statement of errors complained of on appeal and failed to do so, upon application of the appellant and for good cause shown, the appellate court may remand for the filing of a statement of errors complained of on appeal nunc pro tunc and for the preparation and filing of a corresponding opinion by the trial court.

(4) In a criminal case, counsel may file of record and serve on the trial judge a statement of intent to file an *Anders/McClendon* brief in lieu of filing a statement of errors complained of. If, upon review of the *Anders/McClendon* brief, the appellate court believes that there are potentially meritorious issues for review, those issues will not be waived; instead, the appellate court may remand for the filing of a statement of errors complained of, a supplemental opinion pursuant to 1925(a), or both. The trial court may, but is not required to, replace appellant's counsel.

[(c)] (d) *Opinions in errors on petition for allowance of appeal.*—Upon receipt of notice of the filing of a petition for allowance of appeal under Rule 1112(b) (appeals by allowance), the appellate court below which entered the order sought to be reviewed, if the reasons for the order do not already appear of record, shall **promptly** file of record at least a brief statement, in the form of an opinion, of the reasons for the order.

Official Note: **[Subdivisions (a) and (b) of this rule are based on former Supreme Court Rule 56 and eliminate the blanket requirement of the prior practice for a service of a statement of matters complained of. See also former Superior Court Rule 46 and former Commonwealth Court Rule 25. Subdivision (c) of this rule is intended to provide the Supreme Court and the parties with at least a brief informal memorandum of the reasons for the decision of the appellate court below. See In re Harrison Square Inc., 470 Pa. 246, 368 A.2d 285 (1977).]**

Subdivision (a) This subdivision permits the trial judge to ask for a statement of errors complained of on appeal if the record is inadequate and the trial judge needs to clarify the errors complained of. The revisions clarify that a trial judge may refer the 1925(a) opinion to another judge if the trial judge did not issue the ruling in question. There may be times when more than one judge will issue 1925(a) opinions. The time period for transmission of the record is specified in Pa.R.A.P. 1931 and is unaffected by these amendments.

Subdivision (b)(1) This subdivision maintains the requirement that the statement be both filed of record in the lower court and served on the trial judge. Service on the trial judge may be accomplished by mail or by personal service. The date of mailing will be considered the date of service upon the trial judge only if counsel obtains a United States Postal Service form from which the date of mailing can be verified, as specified in Pa.R.A.P. 1112(c). Counsel is advised to retain date-stamped copies of the postal forms (or pleadings if served by

hand), in case questions arise later as to whether the statement was timely served on the trial judge.

Subdivision (b)(2) This subdivision extends the time period for drafting the statement from 14 days to at least 21 days, with the trial court permitted to enlarge the time period or to allow the filing of a supplemental statement upon good cause shown. In *Commonwealth v. Mitchell*, 2006 Pa. LEXIS 1286 (July 19, 2006), the Court expressly observed that a statement filed "after several extensions of time" was timely. An enlargement of time upon timely application might be warranted if, for example, there was a serious delay in the transcription of the notes of testimony or in the delivery of the order to appellate counsel. A trial court should also enlarge the time or allow for a supplemental statement when new counsel is retained or appointed. A supplemental statement may also be appropriate when the ruling challenged was so non-specific—e.g., "Motion Denied"—that counsel could not be sufficiently definite in his or her initial 1925(b) statement.

A nunc pro tunc statement will generally be allowed only when there has been a breakdown in the process constituting extraordinary circumstances. See, e.g., *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 577 Pa. 231, 248-49, 843 A.2d 1223, 1234 (Pa. 2004) ("We have held that fraud or the wrongful or negligent act of a court official may be a proper reason for holding that a statutory appeal period does not run and that the wrong may be corrected by means of a petition filed nunc pro tunc.") Courts have also allowed nunc pro tunc relief when "non-negligent circumstances, either as they relate to appellant or his counsel" occasion delay. *McKeown v. Bailey*, 1999 PA Super. 135, ¶ 6, 731 A.2d 628, 630 (Pa. Super. 1999). However, even when there is a breakdown in the process, the appellant must attempt to remedy it within a "very short duration" of time. Id.; *Amicone v. Rok*, 2003 PA Super. 500, 839 A.2d 1109 (Pa. Super. 2003) (recognizing a breakdown in process, but finding the delay too long to justify nunc pro tunc relief).

Subdivision (b)(3) This subdivision specifies what a trial judge must advise appellants when ordering a statement of errors complained of on appeal.

Subdivision (b)(4) This subdivision sets forth the parameters for the statement of errors complained of on appeal and should aid counsel in complying with the concise-yet-sufficiently-detailed requirement by allowing counsel to rely on the fact that subsidiary issues will be deemed included if the overarching issue is identified. This provision has been taken from the United States Supreme Court rules. See Sup. Ct. R. 14.1. It recognizes that there may be times that an appellant cannot be specific, because of the non-specificity of the ruling complained of on appeal. In such instances, appellants are encouraged to seek leave to file a supplemental 1925(b) statement to clarify their position in response to the trial court's more specific 1925(a) opinion. This subsection also allows—but does not require—appellant to state the authority upon which it challenges the ruling in question, but it expressly states that a 1925(b) statement is not a brief and appellant shall not file a brief with the 1925(b) statement.

Subparagraph (c)(1) applies to both civil and criminal cases and allows an appellate court to seek additional information—whether supplementation of the record or additional briefing-if it is not apparent whether an initial or supplemental statement of errors appealed from was timely filed or served.

Subparagraph (c)(2) allows an appellate court to remand a civil case to allow an initial or supplemental statement of errors appealed from and/or a supplemental opinion.

Subparagraph (c)(3) allows an appellate court to remand in criminal cases when the appellant has failed to respond to an order to file a statement of errors complained of on appeal. Currently, the appeal must be quashed if no timely statement of errors appealed from is filed or served; however, because the failure to file and serve a timely statement is a failure to perfect the appeal, it is presumptively prejudicial and "clear" ineffectiveness. See, e.g., *Commonwealth v. Halley*, 582 Pa. 164, 870 A.2d 795 (Pa. 2005); *Commonwealth v. West*, 2005 Pa. Super. 269, 880 A.2d 654 (Pa. Super. 2005). Because of the clear ineffectiveness, direct appeal rights are restored through a post-conviction relief process. Id. However, the judicial resources expended and delay occasioned by such a process may prejudice either the defendant or the Commonwealth. Accordingly, the proposed amendments allow the court to determine on direct appeal whether there is an instance of clear ineffectiveness, and, if so, to remand for appellant to file a statement of errors complained of and the trial judge to file a corresponding 1925(a) opinion. This is similar to the circumstances in *Commonwealth v. Mitchell*, 2006 Pa. LEXIS 1286 (July 19, 2006), where the appellant originally instructed counsel not to raise any issues on appeal, and, although the trial court requested a statement of errors, counsel did not file one because the appellant directed him not to. When the appellant expressed a desire to revoke his waiver, upon application, the Supreme Court remanded and restored his direct appeal rights.

Subparagraph (c)(4) This subdivision clarifies the special expectations and duties of a criminal lawyer. Even lawyers seeking to withdraw pursuant to the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967) and *Commonwealth v. McClendon*, 495 Pa. 467, 434 A.2d 1185 (Pa. 1981) are obligated to comply with all rules, including the filing of a 1925(b) statement. See *Commonwealth v. Myers*, 2006 Pa. Super. 58, 897 A.2d 493 (Pa. Super. Mar. 22, 2006); *Commonwealth v. Ladamus*, 2006 PA Super. 65, 896 A.2d 592 (Pa. Super. Mar. 29, 2006). However, because a lawyer will not file an *Anders/McClendon* brief without concluding that there are no non-frivolous issues to raise on appeal, this amendment allows a lawyer to file, in lieu of a statement of errors, a statement that no errors have been raised because the lawyer is (or intends to be) seeking to withdraw under *Anders/McClendon*. At that point, the appellate court will remand only if it finds potentially non-frivolous issues during its constitutionally-required review of the record.

Subparagraph (d) was formerly (c). The text has not been revised.

EXPLANATORY REPORT

This Explanatory Report is not part of the rule or note. It is intended to explain to the bench and bar the considerations that have informed the proposed rule change. This Recommendation, which is published for comment, proposes amendments to Pa.R.A.P. 1925 and its note that address certain issues arising from its application, especially issues pertaining to waiver. The following is a discussion of the purpose of Rule 1925, its application by the appellate courts, and issues that have arisen regarding application of the rule—including a brief discussion of the waiver doctrine. The Committee believes that the proposed amendments to the rule balance the interests of both bench and bar.

Rule 1925(a)

Rule 1925(a) requires trial court judges to prepare an opinion or otherwise state the reasons for their ruling. This is to aid the appellate courts in evaluating the claims of error raised on appeal. While other jurisdictions do not require trial court opinions, because Pennsylvania's appellate courts lead the nation in the number of appeals relative to the number of judges, the preparation of trial court opinions is deemed necessary to assist the appellate process.

The first paragraph of Rule 1925(a) remains the same, while the 2006 proposed amendment would clarify that if a complex issue was decided pre-trial by a judge different from the trial judge, the trial judge may request that the other judge prepare an opinion regarding that ruling. Such a referral is not necessary in every case or even in most cases where another judge has made a pre-trial ruling, and a request is not mandatory upon the other judge to prepare such an opinion.

Rule 1925(b)

Waiver on Appeal for Non-Compliance with the Timing, Filing and Service Requirements

Because trial judges are required to write opinions under Rule 1925(a) in a relatively short time, see Pa.R.A.P. 1931(a) and (b), the trial judges have the option under Rule 1925(b) to request the appellant to file what is currently called a "statement of matters complained of on appeal." The recommendation proposes to change "matters" to "errors" in order to clarify that the purpose of the Rule 1925(b) statement is to identify the bases for the appeal. Under both the existing rule and the recommendation, a trial judge does not have to request a Rule 1925(b) statement, but may do so to clarify the issues to prepare the Rule 1925(a) opinion. For example, in criminal cases, parties may appeal without filing post-sentence motions, and the trial judge may wish to ascertain what allegations of error appellant intends to raise on appeal. Likewise, if there have been many issues raised in post-sentence motions in criminal cases or post-verdict motions in civil cases, the trial judge may wish to ascertain which of those issues will be pursued on appeal. The trial judge should not be required to address issues in a Rule 1925(a) opinion that appellant knows will not be raised in the appellate court.

Because of the importance of the Rule 1925(a) opinion to the appellate courts, and the importance of a Rule 1925(b) statement to assist the trial court in preparing a Rule 1925(a) statement, cases from the Pennsylvania Supreme Court have underlined the necessity for appellants to follow the rules and file and serve on the trial judge timely Rule 1925(b) statements when ordered.

In *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (Pa. 1998), the Pennsylvania Supreme Court held that failure to file a Rule 1925(b) statement when requested to do so will result in waiver. See also *Commonwealth v. Butler*, 571 Pa. 441, 812 A.2d 631 (2002) (applying *Lord* to a PCRA). Subsequent to *Lord*, some Superior Court panels declined to find waiver when the untimeliness of the Rule 1925(b) statement was determined not to have impeded appellate review, in that the trial court addressed those issues in its Rule 1925(a) opinion. See *Commonwealth v. Alsop*, 2002 Pa. Super. 146, 799 A.2d 129 (Pa. Super. 2002); *Commonwealth v. Ortiz*, 2000 Pa. Super. 13, 745 A.2d 662 (Pa. Super. 2002). However, in companion cases decided in 2005, *Commonwealth v. Castillo*, 585 Pa. 395, 888 A.2d 775 (Pa. 2005) and *Commonwealth v. Schofield*, 585 Pa. 389, 888 A.2d 771 (Pa. 2005), the Supreme Court affirmed the bright line waiver rule in *Lord* and expressly disapproved the rulings in *Alsop* and *Ortiz*, thus denying broad discretion to appellate court judges to accept late-filed or incomplete Rule 1925(b) statements. *Schofield* also held that the formalities of the rule must be followed—including the requirements that the 1925(b) statement be filed of record and served on the trial judge and that appellant must follow through to make sure that the filings are part of the certified record on appeal (see Pa.R.A.P. 1931 and Explanatory Comment—2004). If appellants fail to follow these requirements, they will have waived the issues raised on appeal.

However, the Supreme Court also recognized in *Castillo* that under certain circumstances an appellant could properly seek relief from the literal application of Rule 1925(b). *Castillo*, 585 Pa. at 400, 403 n.6, 888 A.2d at 778, 780 n.6 (not disputing the Commonwealth's contention that the burden of Rule 1925(b) is minimal because appellants "may proactively seek from the trial court an extension of time to file or the ability to amend a statement if needed" and that remand to permit amendment of a Rule 1925(b) statement as in *Commonwealth v. Moran*, 2003 Pa. Super. 166, 823 A.2d 923 (Pa. Super. 2003) was "not inconsistent with" *Lord* or *Butler*.)

The Pennsylvania Supreme Court has made it clear that the proper functioning of the appellate process requires that a trial judge has sufficient information to prepare his or her Rule 1925(a) opinions. While exceptions may be made when the interests of justice require, an unfettered exercise of discretion would be inappropriate because it could lead to "unsupportable distinctions between similarly situated litigants." *Castillo*, 585 Pa. at 402, 888 A.2d at 779.

The 2006 revisions to Rule 1925(b) are designed to make it clear that the requirements of the rule are mandatory and will result in waiver if not strictly followed. Revisions have been made to ensure that this is clear to practitioners. At the same time, following *Castillo*, the revisions are designed to amplify and standardize those situations where the interests of justice require some flexibility in the application of the rule.

There has been considerable concern among practicing attorneys about the application of the rule and the risks of waiver. The revisions have been drafted after considering input from many individual attorneys as well as the organized bar and they have attempted to balance the need for a uniform application of the rule and the ability to provide relief when circumstances require. While the new rule attempts to provide appellants and courts with the means to avoid unjust waivers, it does not provide courts with unfettered discretion to excuse the consequences of non-compliance.

Waiver on Appeal for Non-Conciseness or Vagueness

The 2006 amendments also attempt to address the concern of the Bar raised by cases in which courts found waiver: (a) because the Rule 1925(b) statement is too vague; or (b) because the Rule 1925(b) statement is so repetitive and voluminous that it does not enable the trial judge to focus on issues that are likely to be raised on appeal. Opinions of the intermediate appellate courts have condemned both practices. See, e.g., *Lineberger v. Wyeth*, 2006 PA Super. 35, ¶ 14, 894 A.2d 141, 154 (Pa. Super. 2006); *Kanter v. Epstein*, 2004 Pa. Super. 470, 866 A.2d 394, 401 (Pa. Super. 2004), appeal denied, __ Pa. ___, 880 A.2d 1239 (Pa. 2005), cert. denied sub nom *Gadon & Rosen, P.C. v. Kanter*, 2006 U.S. LEXIS 76 (Jan. 9, 2006).

While conciseness and vagueness are very case-specific inquiries, certain observations may be helpful. First, the 1925(b) statement is only the first step in framing the issues to be raised on appeal, and the requirements of Pa.R.A.P. 2116 are even more stringent. Thus, the 1925(b) statement of errors complained of on appeal should be viewed as an initial winnowing. Second, when appellate courts have been critical of sparse or vague 1925(b) statements, they have not criticized the number of issues raised but the paucity of useful information contained in the statement. The more carefully the appellant frames the 1925(b) statement, the more likely it will be that the trial judge will be able to articulate the rationale underlying the decision and provide a basis for counsel to determine the advisability of appealing that issue. Thus, counsel should begin the winnowing process at the 1925(b) stage and should articulate specific rulings with which he/she takes issue and why he/she takes issue with them (note, for example, that the *Lineberger* court found the omission of any reference to the *Nanty-Glo* rule from the 1925(b) statement to be a waiver).

There is no adverse consequence to an appellant who, upon reviewing a trial court's 1925(a) statement, decides to limit the scope or number of questions to raise on appeal—or even to withdraw the appeal altogether. In the United States Supreme Court, the standard has been explained thus: the questions should be "expressed concisely in relation to the circumstances of the case, without unnecessary detail. The questions should be short and should not be argumentative or repetitive." Sup. Ct. R. 14.1.

Waiver on Appeal in Criminal Cases

In a criminal case, there are additional considerations that must be addressed, some of which are constitutional. Accordingly, while the courts have held that the only remedy a civil appellant can receive is whatever monetary recovery can be had upon a malpractice suit, a criminal appellant can have his/her appeal rights restored when counsel fails to comply with the 1925(b) order, because the failure to perfect an appeal is "clear" ineffectiveness. See, e.g., *Commonwealth v. Halley*, 582 Pa. 164, 870 A.2d 795 (Pa. 2005); *Commonwealth v. West*, 2005 PA Super. 269, 880 A.2d 654 (Pa. Super. 2005). The proposed rule allows the appellate court to remand upon such finding of "clear ineffectiveness" rather than require the appeal to be quashed and then reinstated through a post-conviction relief proceeding.

Further, appellate courts must ensure that an appellant's constitutional right to appeal has been satisfied by ensuring that a lawyer be allowed to withdraw from representation only if there are no non-frivolous issues for appeal. A lawyer seeking to withdraw must therefore follow the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967) and *Commonwealth v. McClendon*, 495 Pa. 467, 434 A.2d 1185 (Pa. 1981). Appellate courts have held that during the period the lawyer is still representing the appellant, he or she has an obligation to comply with all rules, including the filing of a 1925(b) statement. See *Commonwealth v. Myers*, 2006 Pa. Super. 58, 897 A.2d 493 (Pa. Super. Mar. 22, 2006); *Commonwealth v. Ladamus*, 2006 Pa. Super. 65, 896 A.2d 592 (Pa. Super. Mar. 29, 2006). As noted above, if a lawyer is seeking to withdraw, he or she has concluded that there are no non-frivolous issues to be raised. It follows, then, that the lawyer cannot articulate issues for the purpose of a 1925(b) opinion. For this reason, the amended rule will allow a lawyer to file a statement of errors complained of on appeal (in compliance with the rules of timeliness, filing, and service) that indicates that the lawyer intends to file an *Anders/McClendon* brief. At the same time, the appellate court is still constitutionally required to assure itself that there are no non-frivolous issues to be raised. If, during that review, the appellate court concludes that there are potentially non-frivolous issues to be raised, it may remand for a statement of errors complained of and a corresponding trial court opinion addressing those issues.

[Pa.B. Doc. No. 06-1900. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 4, 1000, 1700 AND 2250]

Amendment of Rules Governing Joinder of Additional Defendants; Proposed Recommendation No. 218

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

All communications in reference to the proposed recommendation should be sent not later than November 9, 2006 to:

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

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

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 400. SERVICE OF ORIGINAL PROCESS

SERVICE UPON PARTICULAR PARTIES

Rule 425. Additional Defendants.

(a) Original process shall be served upon an additional defendant who is not already a party to the action in the same manner as if he **or she** were an original defendant. **[Copies of all pleadings filed in the action shall be served with the complaint against the additional defendant.] The joining party, upon request, shall furnish copies of all or specified pleadings filed in the action.**

***Official Note*: [Prior pleadings must be served with the complaint whether the complaint is original process served upon the additional defendant or a pleading served under Rule 440.]**

See Rule 213(b) for the right of an additional defendant to move for a severance and Rule 1006(d) for the right to move for a change of venue.

(b) The defendant or additional defendant shall serve a copy of his complaint upon every prior party **[but need not attach copies of any pleadings previously filed in the action]**.

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

PLEADINGS

Rule 1017. Pleadings Allowed.

(a) Except as provided by Rule 1041.1, the pleadings in an action are limited to

(1) a complaint**[,] and** an answer thereto,

***Official Note:* The term "complaint" includes a complaint to join an additional defendant.**

(2) a reply if the answer contains new matter **[or],** a counterclaim **or a cross-claim**,

(3) a counter-reply if the reply to a counterclaim **or cross-claim** contains new matter,

(4) a preliminary objection and **[an answer] a response** thereto.

* * * * *

Rule 1031. Counterclaim.

(a) The defendant may set forth in the answer under the heading "Counterclaim" any cause of action cognizable in a civil action which the defendant has against the plaintiff at the time of filing the answer.

***Official Note*: See Rule 2256 governing counterclaims in an action involving an additional defendant.**

See Rule 213(a) and (b) governing consolidation and severance of causes of action.

* * * * *

Rule 1031.1. Cross-claim.

Any party may set forth in the answer or reply under the heading "Cross-claim" a cause of action against any other party to the action that the other party may be

(1) solely liable on the underlying cause of action or

Official Note: The term "underlying cause of action" refers to the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim.

(2) liable to or with the cross-claimant on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action is based.

Official Note: Subparagraph (2) permits a cross-claimant to raise a claim that another party is liable over to the cross-claimant or jointly and severally liable with the cross-claimant.

The right to assert a cross-claim in a class action is limited by Rule 1706.1 to the grounds set forth in that rule.

CHAPTER 1700. CLASS ACTIONS

Rule 1706.1. Joinder of Additional Defendants. **Cross-Claims.**

Any defendant or additional defendant may only join as an additional defendant any person**[, whether or]** not a party to the action, **or may assert a cross-claim against another party to the action,** who may be

(1) solely liable on the plaintiff's cause of action**[;],** or

* * * * *

***Official Note*: [The three bases of joinder provided by this rule are identical to the bases of joinder provided by Rule 2252(a)(1) through (3) governing the joinder of additional defendants generally.]**

The right of joinder under Rule 1706.1 of an additional defendant based upon liability "on the plaintiff's cause of action" is not as broad as the right under Rule 2251(b) governing the joinder of additional defendants generally

Similarly, the right of cross-claim under this rule is not as broad as the right under Rule 1031.1 governing cross-claims generally.

CHAPTER 2250. JOINDER OF ADDITIONAL DEFENDANTS

Rule 2252. Right to Join Additional Defendants.

(a) Except as provided by Rule 1706.1, any **[defendant or additional defendant] party** may join as an additional defendant any person **[whether or]** not a party to the action who may be

(1) solely liable on the **[plaintiff's] underlying** cause of action, or

***Official Note*: The term "underlying cause of action" refers to the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim.**

(2) **[liable over to the joining party on the plaintiff's cause of action, or] Rescinded.**

(3) **[jointly or severally liable with the joining party on the plaintiff's cause of action, or] Rescinded.**

(4) liable to **or with** the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the **[plaintiff's] underlying** cause of action is based.

***Official Note*: Paragraph (4) permits a joining party to join an additional defendant who may be liable over to the claimant or jointly and severally liable with the joining party.**

The joinder of an additional defendant in a class action is limited by Rule 1706.1 to the grounds set forth in **[subparagraphs (1) to (3)] that rule**.

(b) **[If the person sought to be joined is not a party to the action the] The** joining party may file as of course a praecipe for a writ or a complaint.

(1) If the joinder is by writ**,** the joining party shall file a complaint within twenty days from the filing of the praecipe for the writ. If the joining party fails to file the complaint within the required time, **[the plaintiff or the additional defendant joined] any other party** may seek a rule to file the complaint and an eventual judgment of non pros in the manner provided by Rule 1037(a) for failure to file a complaint.

* * * * *

(d) **[If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint, assert in the answer as new matter that such party is alone liable to the plaintiff or liable over to the joining party or jointly or severally liable to the plaintiff or liable to the joining party directly setting forth the ground therefor. The case shall proceed thereafter as if such party had been joined by a writ or a complaint] Rescinded**.

***Official Note*: See Rule 1031.1 governing cross-claim for the procedure to assert a claim against a person already a party to an action.**

Rule 2253. Time for Filing Praecipe or Complaint.

(a) Except as provided by Rule 1041.1(e), neither a praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by complaint, shall be filed by the original defendant or an additional defendant later than

(1) sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof**, or**

(2) the time for filing his or her answer,

whichever is later, unless such filing is allowed by order of the court or by the written consent of all parties approved by and filed with the court. The praecipe for a writ to join an additional defendant or the complaint joining the additional defendant shall be filed within twenty days after notice of the court order or the court approval of the written consent or within such other time as the court shall fix.

* * * * *

Rule 2255. Procedure.

* * * * *

[(b) No pleadings shall be filed between the additional defendant and any party other than the one joining the additional defendant except that the additional defendant may file a counterclaim against the plaintiff.] Rescinded.

* * * * *

Explanatory Comment

In the spring of 2006, the Civil Procedural Rules Committee published for comment Recommendation No. 208 which, inter alia, proposed to add notes to Rules 2252(d) and 2255(b) governing joinder of additional defendants to make clear that Rule 2255(b) does not bar the assertion of a cross-claim between parties to an action. The sense of the comments received to the publication was that the rules remained antiquated and that the matter was of sufficient importance to be included in the text of the rules rather than in notes. The Committee has revised the proposal in light of these comments.

The present recommendation proposes the following revisions:

I. *Cross-claim*

Rule 2252 governing joinder of an additional defendant was amended in 1969 by adding subdivision (d) providing that "If the person sought to be joined is a party, the joining party shall, without moving for severance or the filing of a praecipe for a writ or a complaint," assert the claim in the answer as new matter. This amendment was described in the commentary to the 1969 amendments to Rule 2252 as "the equivalent of the cross-claim between two defendants under the federal rules." However, the term "cross-claim" did not appear in the rules.

The present recommendation proposes that the assertion of a claim by one party against another party be a matter of pleading rather than joinder of parties. The claim is to be pleaded as a cross-claim under proposed new Rule 1031.1. The claims which may be asserted in a cross-claim are identical to those which serve as bases for joining an additional defendant under revised Rule 2252(a) discussed below.

II. *Joinder of Additional Defendants*

1. The recommendation proposes that Rule 2252(a) be amended to limit the rules governing joinder of additional defendants to the joinder of persons not already parties to an action:

> . . . any **[defendant or additional defendant] party** may join as an additional defendant any person **[, whether or]** not a party to the action . . .

2. The joinder may be effected by "any party," not simply the defendant or additional defendant as under the present rule. This revision acknowledges that a plaintiff may join an additional defendant in his or her capacity as defendant on a counterclaim. In light of this revision, subparagraphs (a)(1) and (4) describing the bases for joining an additional defendant refer to the "underlying cause of action": rather than the "plaintiff's cause of action." A new note explains the term "underlying cause of action" as referring to "the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim."

3. Subdivision (a)(2) and (3) setting forth liability over and joint or several liability as bases for joining an additional defendant are to be deleted as they are subsumed in subdivision (a)(4) which provides for joinder of a person who is

> (4) liable to **or with** the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the **[plaintiff's] underlying** cause of action is based.

A note explains that this provision includes the joinder of a person as "an additional defendant who may be liable over to the claimant or jointly and severally liable with the joining party."

4. Current Rule 2255(b) prohibiting the filing of pleadings between an additional defendant and "any party other than the one joining the additional defendant" is to be rescinded.

5. The time for joinder of an additional defendant without leave of court under present Rule 2253(a) is "sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof." It frequently occurs, however, that if a defendant has filed preliminary objections, he or she is not in a position to join an additional defendant within the sixty-day time period. In addition, if an additional defendant is joined just prior to the end of the sixty-day period, that additional defendant may have no opportunity to timely join another additional defendant as the sixty-day period may have expired. Consequently, it is proposed that Rule 2253(a) be amended to provide that an additional defendant may be joined without leave of court within the existing sixty-day period provided by the present rule or within "the time for filing his or her answer," whichever is longer. This revision will allow the joining party to join an additional defendant without leave of court either after disposition of preliminary objections or after expiration of the sixty-day period but, in either case, within the time for filing his or her answer.

III. *Conforming Amendments*

Rule 420 governing service upon an additional defendant is revised to delete the burdensome requirement that the joining party serve with the complaint copies of all pleadings in the action. Rather, "**[** t **]**he joining party, upon request, shall furnish copies of all or specified pleadings filed in the action."

Rule 1017 governing pleadings allowed is revised to provide a numerical list of pleadings which may be filed. The revised rule in subdivision (a)(2) and (3) includes a reference to the cross-claim proposed under new Rule 1031.1.

The note to Rule 1031(a) governing counterclaims is revised by adding a paragraph cross-referring to Rule 2256 relating to counterclaims in an action involving an additional defendant.

Rule 1706.1 governing joinder of an additional defendant in a class action is revised to permit a party to assert a cross-claim against another party to the action on the grounds limited by that rule.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-1901. Filed for public inspection September 29, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONROE COUNTY

Amendment to Rule of Civil Procedure 1301 Compulsory Arbitration—Scope; 15 admin 2006, 7099 CV 06

Order

And Now, this 12th day of September, 2006, Monroe County Local Rule of Civil Procedure Number 1301 is amended as follows in conformity with the provisions of Section 7361 (b) of Title 42 of the Pennsylvania Consolidated Statutes, Compulsory Arbitration effective thirty (30) days after publication the in *Pennsylvania Bulletin*.

It Is Further Ordered that seven (7) certified copies of this Order and the attached Rule of Civil Procedure shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies and one (1) diskette shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania; one copy to the *Monroe County Legal Reporter* for publication, and that one copy shall be filed with the Prothonotary of Common Pleas of Monroe County.

By the Court

RONALD E. VICAN,
President Judge

Compulsory Arbitration

Rule 1301—Scope

1. All civil cases where the amount in controversy (exclusive of interest and costs) shall be Fifty Thousand ($50,000.00) Dollars or less except those involving title to real estate, equity cases, mandamus, quo warranto and mortgage foreclosure, shall first be submitted to a Board of Arbitrators in accordance with Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361. The amount in controversy shall be determined from the pleadings or by agreement of counsel. The Court may of its own motion or upon the motion of any parties strike from the trial list and certify for arbitration any case which should have been arbitrated in the first instance.

2. No case shall be scheduled for arbitration until (1) the expiration of 30 days from the most recent service either of (a) the complaint upon an original or an additional defendant; or (b) a counterclaim upon the plaintiff; and (2) unless counsel for the moving party certifies at the time of filing of Praecipe for the trial list that:

a. All preliminary objections have been finally determined;

b. Counsel for the moving party has completed all discovery and knows of no pending discovery on the part of opposing counsel which will delay hearing;

c. The moving party and witnesses are available and ready to proceed to hearing;

3. Form: A case shall be listed for arbitration by filing a Praecipe in the form attached to this rule.

4. Notice: Notice of the date, time and place of arbitration shall be provided to counsel for the parties or if unrepresented, to the party directly by the Court Administrator, and shall include the following provision pursuant to Pa.R.C.P. 1303(a)(2):

> "This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

Form—Praecipe for Arbitration

COURT OF COMMON PLEAS OF MONROE COUNTY

FORTY-THIRD JUDICIAL DISTRICT

COMMONWEALTH OF PENNSYLVANIA

_____ NO. _____ _____
PRAECIPE FOR ARBITRATION
_____ 43 J.D.R.C.P. 1301

vs.

_____

_____

TO THE PROTHONOTARY
OF SAID COURT: ARBITRATION NO. _____

Appoint arbitrators in the above case
( ) Amount in controversy is $50,000.00 or less.
( ) The case has been at issue more than thirty days.
( ) Order of the Court.
( ) Judgment has been entered Sec Leg, Assessment of Damages only.
( ) Estimated time required for hearing is ____ hours.
( ) There is Companion Case No. _____ _____
( ) Other

The case is to be tried by and notices sent to:

_____

_____

Attorney(s) for Plaintiff(s) or Pro Se Plaintiff	Attorney(s) for Defendant(s) or Pro Se Defendant
_____	_____
Address	Address
_____	_____
Phone Number	Phone Number

I CERTIFY that all preliminary objections have been finally determined; that I have completed all discovery and know of no discovery on the part of opposing counsel which will delay a hearing; that the moving party and witnesses are available and ready to proceed.

I CERTIFY that a copy of this Praecipe has been provided to the following by the moving party.

Name:	Address:
_____	_____
_____	_____

Dated: _____ , 20 ____ _____
Attorney for the

[Pa.B. Doc. No. 06-1902. Filed for public inspection September 29, 2006, 9:00 a.m.]