

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Promulgation of Rule 229.2 Governing Petitions to Transfer Structured Settlement Payment Rights; No. 480 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 15th day of June, 2007, Pennsylvania Rule of Civil Procedure 229.2 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 1, 2007.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

(a) Words used in this rule, which are defined by the Structured Settlement Protection Act, shall have the meaning set forth in the Act.

Official Note: See Section 2 of the Act, 40 P. S. § 4002, which defines numerous terms including “best interests,” “dependents,” “payee,” “structured settlement obligor,” and “structured settlement payment rights.”

(b) A petition to transfer structured settlement payment rights shall be filed in the county in which the payee is domiciled.

Official Note: See Section 4 of the Act, 40 P. S. § 4004, providing that the court of common pleas of the judicial district in which the payee is domiciled shall have jurisdiction over the petition.

(c) The parties to the petition shall be the payee and the transferee.

(d) The petition shall be verified by the transferee and shall contain:

(1) a statement setting forth the payment provisions of the structured settlement agreement and the payment rights that the payee seeks to transfer,

(2) separate paragraphs which in bold type set forth

(i) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges, and

(ii) the following statement setting forth the interest rate:

“Based on the net amount that the payee will receive from this transaction (\$ _____) and the amounts and timing of the structured settlement payments that would be assigned, the payee is, in effect, paying interest at a rate of _____ % per year.”

(3) four attachments:

(i) a Payee’s Affidavit in Support of Petition, in the form prescribed by subdivision (f) as Attachment 1,

(ii) an initial order of court scheduling the hearing, in the form prescribed by subdivision (g),

(iii) a certification by an attorney for the transferee representing to the best of his or her knowledge, information and belief, formed after reasonable inquiry, that the transfer will comply with the requirements of the Act and will not contravene any other applicable federal or state statute or regulation or the order of any court or administrative authority, and

(iv) a final order of court granting the petition, in the form prescribed by subdivision (i).

Official Note: These four attachments are in addition to any other documents which are required to support the findings set forth in Section 3 of the Act, 40 P. S. § 4003.

Subdivision (d) requires that two documents be verified. As the two documents contain different information, each must be verified by a different person. The petition to transfer structured settlement payment rights must be verified by the transferee. The Payee’s Affidavit in Support of Petition must be verified by the payee. The transferee is not required to verify the information set forth in the Payee’s Affidavit.

(e)(1) If the petition and Payee’s Affidavit in Support of Petition meet the requirements of this rule and contain factual allegations which, if established, will support the findings set forth in Section 3 of the Act, the court shall promptly enter an order scheduling a hearing date. The transferee shall give notice of the hearing, in the form prescribed by subdivision (h), to the payee, the structured settlement obligor, the annuity issuer, the payee’s spouse and any person who receives child support, alimony or alimony pendente lite from the payee.

(2) If the petition is denied without a hearing for failure to meet the requirements of this rule or to contain necessary factual allegations, which will support the findings set forth in Section 3 of the Act. The court shall state reasons for the denial and the payee may file an amended petition as of course.

(f) The Payee’s Affidavit in Support of Petition shall be substantially in the following form:

(Caption)

Payee’s Affidavit in Support of Petition to Transfer Structured Settlement Rights

I, _____, the payee, verify that the statements below are true and correct:

1. **Payee’s name, address and age:** _____

2. **Marital Status:**

_____ Never Married; _____ Married;
 _____ Separated; _____ Divorced

If married or separated, name of spouse: _____

3. **Minor children and other dependents:**

Names, ages, and places of residence: _____

4. **Income:**

(a) Payee’s monthly income and sources: _____

(b) If presently married, spouse's monthly income and sources: _____

5. Child support, alimony or alimony pendente lite:

Obligation to pay: ____ Yes ____ No

If yes, state the amount of the obligation, to whom payable, and whether there are arrearages: _____

6. Previous transfers:

Have you previously filed a petition to transfer payment rights under the structured settlement that is the subject of this petition? ____ Yes ____ No

If yes, for each petition that you filed,

(a) If the transfer was submitted for court approval, list the court, the case caption and case number, and state whether the court approved or disapproved the transfer: _____

(b) If the transfer was approved,

(i) State the name of the transferee and identify (listing due dates and payment amount(s)) the payments involved in the transfer: _____

(ii) State the amount of money and the manner in which the money was used: _____

(c) Have you ever transferred payments without court approval? If so, please explain: _____

7. Reasons for transfer:

Describe in detail your reasons for the proposed transfer, including an explanation as to why a sale of a lesser amount of the structured settlement amount will not better serve your interests: _____

8. Payment of debts:

If you seek the transfer in order to pay debts, list each debt, including the name of the creditor and the amount presently owed:

Debt	Creditor	Amount Owed
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Verification

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

DATE: _____ Signature _____

(g) The initial order of court shall be substantially in the following form:

(CAPTION)

Initial Order of Court

On this ____ day of _____, 2____, it is ordered that a hearing on this Petition to Transfer Structured Settlement Payment Rights will be held on _____, in Courtroom _____ at _____ o'clock. The payee shall bring income tax returns for the prior two (2) years to the hearing.

Within seven (7) days, the transferee shall give notice of the hearing date to the payee, the structured settlement obligor, the annuity issuer, the payee's spouse and any person receiving child support, alimony, or alimony pendente lite. The transferee shall attach a certificate of service to the notice of hearing date. A copy of the notice with the certificate of service shall be filed with the court prior to the hearing.

BY THE COURT:

J.

(h) The notice of hearing shall be substantially in the following form:

(CAPTION)

Notice of Hearing on Petition to

Transfer Structured Settlement Payment Rights

To: _____

You are hereby given notice that _____ (name of payee)

has filed a petition to transfer structured settlement payment rights. A hearing in this matter has been scheduled on _____, 2____ at _____ o'clock in courtroom no. _____, courthouse, _____ (address).

You are entitled to support, oppose or otherwise respond to the payee's petition, either in person or by counsel, by filing written comments with the court prior to the hearing or by attending the hearing.

Date _____ Transferee _____

Address _____

Telephone Number _____

(i) The final order of court shall be substantially in the following form:

(CAPTION)

Final Order of Court

On this ____ day of _____, 2____, it is ordered that the Petition to Transfer of Structured Settlement Payment Rights is granted.

The court specifically finds that:

(1) the payee has established that the transfer is in the best interests of the payee or the payee's dependents;

(2) based on the certification by an attorney for the transferee, and the court having not been made aware of any statute, regulation or order that would be incompatible with the proposed transfer, the transfer will not

contravene any applicable federal or state statute or regulation, or the order of any court or administrative authority;

(3) the transfer complies with the remaining requirements of the Structured Settlement Protection Act, including Sections 3(a)(2), 3(a)(4), 3(a)(5) and 3(a)(6);

(4) the payments that are to be transferred are designated as follows: _____

(5) the terms of this order shall survive the death of the payee and shall be binding on the payee's heirs, beneficiaries and assigns;

(6) the payee shall receive from the transferee, as of _____, the amount of \$ _____, from which no funds are owed for counsel fees, administrative fees, or other costs, fees or expenses.

BY THE COURT:

J.

Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

Explanatory Comment

In 2000, the General Assembly passed the Structured Settlement Protection Act, Act of February 11, 2000, P. L. 1, 40 P. S. § 4001 et seq., providing for, inter alia, the court of common pleas to permit the transfer of structured settlement payment rights only upon an express finding that the transfer is in the best interests of the payee. While the Act requires the disclosure of information to the payee concerning the transfer, it does not specify what factual allegations or other information must be included in the petition to enable the trial court to make its determination. New Rule 229.2 is intended to provide the additional information necessary for a trial court to determine whether a petition to transfer structured settlement payment rights satisfies the best interest standard.

Subdivision (c) of the rule identifies the parties to the petition as the payee and the transferee. The transferee is required to verify the petition and, in doing so, must set forth the circumstances surrounding the proposed transfer of structured settlement payment rights. The petition must contain averments that the requirements of the Act have been satisfied, e.g., the proper disclosures have been made to the payee. In contrast, the payee is required through the Payee's Affidavit in Support of Petition to provide the necessary information to enable the trial court to determine whether the transfer is in the best interests of the payee. The court will enter an order scheduling a hearing date only if the petition and the payee's affidavit meet the requirements of the rule and contain factual allegations, which, if established, satisfy the requirements of Section 3 of the Act, 40 P. S. § 4003.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 07-1132. Filed for public inspection June 29, 2007, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Civil Procedural Rules Committee; Proposed Amendment to Local Rule 102 Definitions; Proposed Repeal and Replacement of Local Rule 131 Self Representation

The Philadelphia Municipal Court Civil Procedural Rules Committee is proposing the amendment of Rule 102 Definitions and the repeal and replacement of Rule 131 Self Representation. The proposed changes are being submitted to the bench and bar for comments and suggestions.

All communications in reference to the proposed changes should be sent not later than July 30, 2007 to:

The Honorable Barbara S. Gilbert, Chair
Municipal Court Civil Procedural Rules Committee
1301 Filbert Street
Suite 1305
Philadelphia, PA 19107

Rule 102 of the Philadelphia Municipal Court Civil Procedure Rules is amended to include the following:

Rule 102. Definitions.

Authorized Representative—An authorized representative is an individual who is an agent of a party, has personal knowledge of the subject matter of litigation, and files a written authorization with the Court prior to the commencement of trial. A written authorization shall be signed by a party and specify the nature and extent of the authority that the party has given to the authorized agent. A valid written authorization must be filed with the Court before an authorized representative may take any actions on behalf of a party. An approved written authorization form is attached to these rules.

Rule 131 of the Philadelphia Municipal Court Civil Procedure Rules is repealed and replaced by the following:

Rule 131. Representations.

a. An individual or sole proprietor may be represented by himself or herself, by an attorney at law, or by an authorized representative.

b. A corporation as defined in Part II of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by an officer, an attorney at law, or by an authorized representative.

c. A general partnership as defined in Part III of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by a partner, an attorney at law, or by an authorized representative. A limited partnership as defined in Part III of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by a general partner, an attorney at law, or by an authorized representative. A limited liability company as defined in Part III of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by a manager, an attorney at law, or by an authorized representative.

d. A professional association as defined in Part IV of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by an officer of its board of governors, an attorney at law, or by an authorized representative.

e. A business trust as defined in Part V of Title 15 of *Pennsylvania Consolidated Statutes* may be represented by a trustee, an attorney at law, or by an authorized representative.

f. If authorized by a party, an authorized representative may take any action that a party may take, including, but not limited to, filing a statement of claim, filing a landlord tenant complaint, testifying, submitting documents into evidence, and making filings and appearing in court after the adjudication of a small claims or landlord tenant action. A party shall always have the right to file a document limiting or rescinding a person's right to act as an authorized representative.

g. Notwithstanding the above, a party may not use an authorized representative in any action in which the City of Philadelphia is seeking fines, penalties, unpaid taxes, or unpaid water/sewer charges.

Official Note: An authorized representative is defined in Rule 102. The addition of an authorized representative as a person who may be a representative of a party is intended to permit a party to select and authorize an individual who has knowledge of the subject matter of litigation to represent it in all court proceedings. As noted in the definition of an authorized representative, a person must file an appropriate authorization form prior to the commencement of trial in order to act as an authorized representative. This rule is not intended to allow a non-lawyer to establish a business for the purpose of representing others in Court proceedings.

[Pa.B. Doc. No. 07-1133. Filed for public inspection June 29, 2007, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rules of the Criminal Procedure; Criminal Division; No. CP-02-AD-3-2007 Rules Doc.

Order of Court

And Now, to-wit this 11th day of June, 2007, it is hereby *Ordered*, pursuant to action of the Board of Judges, that the following Allegheny County local rules of Criminal Procedure (All.C.R.Crim.P.) are adopted as the Rules of this Court. All prior Allegheny Court Rules of Criminal Procedure are rescinded as of the effective date of the new Rules.

And Further, it is *Ordered* that these Rules shall be effective thirty (30) day after the publication in the *Pennsylvania Bulletin*.

By this Order, the District Court Administrator for the Fifth Judicial District is hereby directed to:

1. File seven (7) certified copies of this Order and the following Rules with the Administrative Office of Pennsylvania Courts.

2. Distribute two (2) certified copies of the following Rules and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy of the following Rules with the Criminal Procedural Rules Committee.

4. File original of this Order of Court and the following Rules in the office of the Prothonotary and a certified copy of this Order of Court and the following Rules in the office of the Clerk of Courts.

By the Court:

JOSEPH M. JAMES,
President Judge

Local Rules of The Court of Common Pleas of Allegheny County, Pennsylvania (Fifth Judicial District), Governing the Practice and Procedures in Criminal Matters

Rule 100.1. Scope of Rules.

These rules are adopted in accordance with the Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.) and govern criminal proceedings in the Criminal Division of the Court of Common Pleas, as well as the magisterial district courts and Pittsburgh Municipal Court, of Allegheny County, Pennsylvania.

Rule 101.1. Construction of Rules.

All rules of construction adopted by the Supreme Court of Pennsylvania shall apply to local rules adopted by the Court of Common Pleas of Allegheny County that govern the practice and procedure in criminal matters.

Rule 102.1. Citation of Local Rules.

These rules shall be known as the Allegheny County Rules of Criminal Procedure and shall be cited as "All.C.R.Crim.P."

Rule 103.1. Definitions.

Definitions contained in Pa.R.Crim.P. 103 shall apply to all local rules heretofore and hereafter adopted which govern practice and procedure in criminal matters.

Rule 105.1. Rules and Administrative Orders of Court.

(a) The Clerk of Courts shall maintain a consolidated set of local rules, fully updated, for public inspection during business hours.

(b) The Clerk of Courts shall establish and maintain a docket to be known as the Administrative Docket, in which shall be filed and recorded all Administrative Orders indexed by year, number and caption.

Rule 112.1. Pittsburgh Municipal Court; Publicity, Broadcasting, and Recording of Proceedings; Electronic Devices.

(a) Except as provided for in Pa.R.Crim.P. 542(C)(5), the broadcasting, televising, recording of proceedings, or the taking of photographs, is prohibited in all courtrooms in the Pittsburgh Municipal Court.

(b) Except as provided for in Pa.R.Crim.P. 542(C)(5), all persons present at hearings at the Pittsburgh Municipal Court who are in possession of any electronic device including, but not limited to, cellular telephones, beepers, personal data assistants, and the like, must turn such devices off before entering the courtroom.

(c) If any electronic device is enabled or in any way disrupts court proceedings, the Sheriff is authorized to confiscate the device until the conclusion of the proceedings and/or to remove the person in possession of the device from the courtroom.

Rule 114.1. Legal Advertising.

(a) In all actions, proceedings, or other matters, where by law or Rule of Court, notice is required to be given by advertisement in a newspaper, such publication shall be in a newspaper of general circulation in Allegheny County and proof of publication shall be on the affidavit of the publisher or the agent of the publisher, filed of record before the entry of final order, decree or judgment.

(b) The daily edition of the *Pittsburgh Legal Journal* is designated as the legal newspaper of the Court for the publication of legal notices. All advertisements or notices required by law or Rule of Court to be advertised in a newspaper of general circulation shall also be advertised in the *Pittsburgh Legal Journal* daily edition, unless dispensed with by an order of the Court filed of record.

Rule 116. Court Sessions.

(a) Court shall be in session on Monday through Friday throughout the calendar year except for legal holidays, unless otherwise ordered by the President Judge.

(b) For each day of court sessions, the Administrative Judge shall designate a Motions Judge, who will be available to hear motions on matters wherein a judge has not been assigned, all bail hearings pursuant to All.C.R.Crim.P. 529.1, all bench warrant hearings pursuant to All.C.R.Crim.P. 150.1, all consent and default forfeiture orders entered pursuant to 42 Pa.C.S. §§ 6801 and 6802, and other matters of a miscellaneous nature as determined by the Administrative Judge.

Rule 117.1. Coverage for Issuing Warrants, Preliminary Arraignments and Summary Trials, and Setting and Accepting Bail.

(a) All magisterial district judges' offices shall be open for regular business on Mondays through Fridays from 8:30 a.m. until 4:30 p.m. prevailing time except court holidays or as otherwise published on the website of the Fifth Judicial District of Pennsylvania at www.alleghencycourts.us.

(b) Continuous coverage for issuance of search and arrest warrants, acceptance of criminal complaints, conduct of preliminary arraignments, setting and acceptance of bail, holding of summary trials or setting of collateral therefor shall be provided at Pittsburgh Municipal Court Arraignment Court, Municipal Courts Building, 660 First Avenue, Pittsburgh, PA 15219. Arraignment Court shall be staffed by an on-duty issuing authority and support personnel during all off-hours and during regular business hours, if circumstances prevent utilization of the established magisterial district judge office.

(c) Magisterial district judges and the Clerk of Courts shall be authorized to accept bail in accordance with the provisions of the Pa.R.Crim.P. and as between both entities shall provide continuous coverage to do so.

COMMENT: Arraignment Court provides off-hours coverage for Protection from Abuse Act cases pursuant to 23 Pa.C.S. § 6110 and Rule 1203 the Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges, and issuance of arrest warrants pursuant to Rules 210 and 211 of Pennsylvania Rules of Juvenile Court Procedure (Pa.R.J.C.P.), as well.

Rule 120.2. Counsel; Change of Address or Telephone.

Defense counsel shall promptly file in the Clerk of Courts written notice of any change of address and/or telephone number and give prompt written notice thereof to the Attorney for the Commonwealth and co-counsel, if any.

Rule 122.1. Court Appointed Counsel; General Guidelines.

(a) The Office of the Public Defender of Allegheny County may petition the Court for the appointment of counsel at any time.

(b) If, in any court case, prior to arraignment and the assignment of a judge, the Office of the Public Defender of Allegheny County asserts a conflict in representation, the Office of the Public Defender shall refer a request to the Office of Conflict Counsel, which shall accept the case or appoint counsel under the authority of the Administrative Judge.

(c) After a judge has been assigned to a case, the Public Defender shall file a petition to withdraw. The court shall make a determination on the record as to whether a valid conflict exists precluding the Public Defender's representation. If the judge grants the petition, the Office of Conflict Counsel shall accept the case or appoint counsel.

(d) In homicide cases and cases deemed by the Administrative Judge to be of a complex nature, the provisions of (b) and (c) shall not apply and, in those cases, the appointment of counsel shall be at the discretion of the Administrative Judge or a designee.

(e) The Administrative Judge of the Criminal Division shall maintain a list of eligible attorneys available for appointments. Attorneys interested in appointments shall submit a request for consideration to the Office of Conflict Counsel.

(f) Upon appointment by the Office of Conflict Counsel, private counsel will receive an appointment order with information concerning the date and time of the next court appearance. Counsel must be available on the next court appearance date.

(g) Attorneys requesting and accepting court appointments should be familiar with the procedures for consideration as court appointed counsel, the Court Appointed Counsel Fee Schedule, Billing Guidelines and Billing Procedures set forth by the Administrative Judge of the Criminal Division which are available in the Clerk of Courts Office and published on the website of the Fifth Judicial District of Pennsylvania at www.alleghencycourts.us.

Rule 131.1. Designation of Pittsburgh Municipal Court; Homicide Cases; Court Reporters.

(a) Pittsburgh Municipal Court is designated as the central location for all preliminary arraignments, whether live or by use of advanced communication technology, wherein the defendant is charged with Criminal Homicide (18 Pa.C.S. § 2501), Murder (18 Pa.C.S. § 2502), Voluntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2504), Drug Delivery Resulting in Death (18 Pa.C.S. § 2506), Homicide by Vehicle (75 Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. § 3735), Homicide by Watercraft (30 Pa.C.S. § 5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. § 5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. § 2603), Murder of Unborn Child (18 Pa.C.S. § 2604) and/or Voluntary Manslaughter of Unborn Child (18 Pa.C.S. § 2605) for a criminal incident arising within the jurisdiction of Allegheny County, Pennsylvania, and for all preliminary hearings for criminal complaints wherein the defendant is charged with Criminal Homicide (18 Pa.C.S. § 2501), Murder (18 Pa.C.S. § 2502), Voluntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2503).

§ 2504), Drug Delivery Resulting in Death (18 Pa.C.S. § 2506), Homicide by Vehicle (75 Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. § 3735), Homicide by Watercraft (30 Pa.C.S. § 5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. § 5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. § 2603), Murder of Unborn Child (18 Pa.C.S. § 2604) and/or Voluntary Manslaughter of Unborn Child (18 Pa.C.S. § 2605) for a criminal incident arising within the jurisdiction of Allegheny County, Pennsylvania.

(b) The President Judge shall assign a magisterial district judge to preside in Pittsburgh Municipal Court for any preliminary hearing wherein one or more of the aforementioned charges are brought.

(c) The Allegheny County Court Reporters Office is designated as the official court reporting entity for and shall record and transcribe all notes of testimony at all preliminary hearings in cases heard at Pittsburgh Municipal Court pursuant to this rule.

Rule 131.2. Designation of Pittsburgh Municipal Court; Act 33 Cases.

(a) This rule is applicable only to cases involving any child, as that term is defined in Subsection (1) of the definition of "Child" in 42 Pa.C.S. § 6302, who is excluded from the Juvenile Act in accordance with Subsection (2)(ii) and (iii) of the definition of "Delinquent act" in 42 Pa.C.S. § 6302 (hereinafter "excluded actor").

(b) Pittsburgh Municipal Court is designated as the central site for all filings of criminal complaints, all preliminary arraignments, whether live or by use of advanced communication technology, and for all preliminary hearings for excluded actors.

(c) Magisterial district judges and senior magisterial district judges assigned to Pittsburgh Municipal Court are authorized to conduct preliminary arraignments and preliminary hearings wherein an excluded actor is charged with:

(1) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense, which, if committed by an adult, would be classified as:

- (A) Rape as defined in 18 Pa.C.S. § 3121.
- (B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.
- (C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).
- (D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).
- (E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.
- (F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.
- (G) Kidnapping as defined in 18 Pa.C.S. § 2901.
- (H) Voluntary manslaughter as defined in 18 Pa.C.S. § 2503.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes, as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(2) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the

alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

- (A) Rape as defined in 18 Pa.C.S. § 3121.
- (B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.
- (C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).
- (D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.
- (E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.
- (F) Kidnapping as defined in 18 Pa.C.S. § 2901.
- (G) Voluntary manslaughter as defined in 18 Pa.C.S. § 2503.
- (H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

(d) The complaint and/or affidavit of probable cause, if applicable, shall include the basis for the arresting officer's determination that an offense is excluded from the Juvenile Act in accordance with Subsection (2)(ii) and/or (iii) of the definition of "Delinquent act" in 42 Pa.C.S. § 6302.

(e) Excluded actors shall be afforded preliminary arraignments pursuant to Pa.R.Crim.P. 540.

(f) The magisterial district judge may determine at the preliminary arraignment or at the preliminary hearing that the child is not an excluded actor. In such a case, the affiant may elect to proceed with a delinquency case based upon the same conduct of the child by contacting the Allegheny County Juvenile Probation Office Intake Division or, if the delinquency case implicates issuance of an arrest warrant, the affiant may submit a written allegation to the magisterial district judge, pursuant to Pa.R.J.C.P. 231, and request an arrest warrant, pursuant to Pa.R.J.C.P. 210. The arresting officer shall then comply with the dictates of Pa.R.J.C.P. 220.

Rule 150.1. Bench Warrants.

(a) In any court case when a bench warrant issued by a judge of the Criminal Division is executed, or the subject of the warrant has surrendered, the bench warrant hearing shall be conducted in open court and on the record by the Motions Judge.

(b) If the defendant is incarcerated in the Allegheny County Jail, these proceedings may be conducted using two-way simultaneous audio-visual communication, in the discretion of the Motions Judge.

(c) If bail is set as a result of the bench warrant hearing, the requirements of All.C.R.Crim.P. 529.1 must be met.

Rule 202.1. Approval of Search Warrant Applications by Attorney for the Commonwealth in Homicide Cases.

The District Attorney, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants in the following circumstances: wherein the search warrant is relative to the investigation or prosecution of the following criminal offenses: Criminal Homicide (18 Pa.C.S. § 2501), Murder (18 Pa.C.S. § 2502), Voluntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2504), Drug Delivery Resulting in Death (18 Pa.C.S. § 2506), Homicide by Vehicle (75

Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. § 3735), Homicide by Watercraft (30 Pa.C.S. § 5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. § 5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. § 2603), Murder of Unborn Child (18 Pa.C.S. § 2604) and Voluntary Manslaughter of Unborn Child (18 Pa.C.S. § 2605) shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an Attorney for the Commonwealth prior to filing.

Rule 454.1. Summary Offenses; County Intermediate Punishment.

Magisterial district judges are authorized to sentence appropriate and eligible offenders to participate in the Allegheny County Intermediate Punishment Program by undergoing house arrest, electronic monitoring, and drug and alcohol treatment upon conviction for violations of 75 Pa.C.S. § 1543(b)(1) and (b)(1.1)(i).

Rule 507.1. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Homicide Cases.

The District Attorney, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Pennsylvania Rules of Criminal Procedure, charging Criminal Homicide (18 Pa.C.S. § 2501), Murder (18 Pa.C.S. § 2502), Voluntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2504), Drug Delivery Resulting in Death (18 Pa.C.S. § 2506), Homicide by Vehicle (75 Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. § 3735), Homicide by Watercraft (30 Pa.C.S. § 5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. § 5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. § 2603), Murder of Unborn Child (18 Pa.C.S. § 2604) and Voluntary Manslaughter of Unborn Child (18 Pa.C.S. § 2605) shall not hereafter be accepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an Attorney for the Commonwealth prior to filing.

Rule 523.1. Behavior Clinic Evaluation as Condition of Bail.

(a) In any court case, wherein the defendant is preliminarily arraigned and the issuing authority has a good faith doubt as to the defendant's adjudicative competency or has reason to believe that the defendant is severely mentally disabled and may be in need of eventual court-ordered treatment upon a determination of clear and present danger pursuant to the definitions in the Mental Health Procedures Act (50 P.S. § 7101, et seq.), the issuing authority may make it a condition of bail that the defendant be examined by the Behavior Clinic within forty-eight (48) hours if the preliminary arraignment occurs on Monday through Friday, otherwise within seventy-two (72) hours.

(b) In any court case, at the time of the preliminary hearing, if the issuing authority has a good faith doubt as to the defendant's adjudicative competency or has reason to believe that the defendant is severely mentally disabled and may be in need of eventual court-ordered treatment upon a determination of clear and present danger pursuant to the definitions in the Mental Health Procedures Act (50 P.S. § 7101, et seq.), the issuing authority, when permitted by the Pa.R.Crim.P., may make it a condition of bail that the defendant be examined by the Behavior Clinic within seventy-two (72) hours of the preliminary hearing.

Rule 525.1. Authorized Agents of Bondsman or Surety to Sign Bail Bonds.

(a) Only authorized agents of a professional bail bondsman or surety company may sign as surety on any bail bond posted by said professional bail bondsman or surety company.

(b) The Clerk of Courts shall require proper identification and proof of authorization by any agent of a professional bail bondsman or surety company before allowing him to sign as surety on any bail bond.

Rule 528.1. Percentage Cash Bail.

The bail authority, after consideration of the criteria set forth in Pa.R.Crim.P. 523, may issue an order allowing the defendant to post as bail a cash deposit of a sum of money equal to ten percent (10%) of the amount of bail set.

Rule 529.1. Modification of Bail Order Prior to Verdict.

(a) All motions concerning bail before verdict pursuant to Pa.R.Crim.P. 529(C) shall be heard by the Motions Judge of the Criminal Division in open court and on the record.

(b) Notice of hearing concerning bail before verdict must be given to the Attorney for the Commonwealth, defense counsel of record and the Bail Agency Unit and no hearing shall be conducted unless the Attorney for the Commonwealth and a representative of the Bail Agency Unit are present.

(c) In cases of emergency, if defense counsel of record could not be notified of the bail hearing, defense counsel shall be promptly notified by the Bail Agency Unit of the Motions Judge's disposition on the motion and if, upon such notification, defense counsel requests an opportunity to be heard, another hearing will be scheduled by the Bail Agency Unit.

Rule 530.1. Designation of Bail Agency.

The Division of Pre-Trial Services, Bail Agency Unit, is designated as the bail agency of the Court of Common Pleas of Allegheny County.

Rule 531.1. Qualifications of Sureties and Professional Bondsmen.

(a) No surety company shall be qualified to act as surety in Allegheny County in criminal cases except upon petition to and approval by the Administrative Judge of the Criminal Division of the Court of Common Pleas.

(b) Upon presentation of such petition, the Administrative Judge shall direct the District Attorney of Allegheny County to conduct an investigation of the allegations of fact contained in the petition, to report the results of such investigation and to make any recommendations to the Administrative Judge at such time as may be set for hearing with notice to the petitioner.

(c) After hearing on the petition, the Administrative Judge shall enter an appropriate order. Denial of the authority to act as surety in Allegheny County shall be deemed a final order.

Rule 543.1. Disposition of Case at Preliminary Hearing.

(a) When a defendant has been held for court, after either a preliminary hearing or a waiver thereof, the issuing authority shall serve the defendant with a subpoena directing his/her appearance for arraignment at the Court Arraignment Office in accordance with the provi-

sions of All.C.R.Crim.P. 571.2. Defendant or defendant's counsel shall indicate receipt of notice by signing a copy thereof.

(b) When a defendant has been held for court, pursuant to Pa.R.Crim.P. 543(D)(2), the subpoena for the defendant's required appearance for arraignment at the Court Arraignment Office shall be included in defendant's notice of the results of the preliminary hearing by first class mail, as set forth in Pa.R.Crim.P. 543(D)(2)(b) and (c).

(c) When either the provisions of (a) or (b) of this rule apply, the date and time of the arraignment shall be duly recorded by the issuing authority in the Magisterial District Judge System (MDJS).

Rule 570.1. Pretrial Conference.

At the pretrial conference, the assigned judge shall ascertain whether the parties wish to proceed by jury or non-jury trial, or by plea, and shall fix a date and time certain for necessary proceedings. The defendant shall be issued a hearing notice directing the defendant to appear on that date and at such time as the Court shall designate.

Rule 570.2. Individual Judicial Calendars.

(a) Judges of the Court of Common Pleas of Allegheny County, Criminal Division, shall maintain individual judicial case calendars and, pursuant to the procedures established by the Administrative Judge, cases shall be assigned and recorded in the Common Pleas Case Management System (CPCMS).

(b) With the exception of those matters specified in All.C.R.Crim.P. 116.1(b), 582.1 and 582.2, once assigned to a case, the judge shall preside throughout all proceedings, unless reassigned by Order of Court.

Rule 570.3. Behavior Clinic Orders and Records.

In any court case, the facilities and staff of the Behavior Clinic shall be available for the examination of a defendant upon the order of a judge of this Court. The records and reports of the Behavior Clinic are confidential records of the court to be used only as directed by the court. In the event, however, that the reports of the Behavior Clinic or testimony by any representative thereof be used by the court, such shall be made available to counsel for both sides.

Rule 571.1. Arraignment; Material to be Provided to Defendant.

At arraignment, the defendant or counsel for defendant shall be given and shall execute a receipt for a copy of the criminal information, a hearing notice for the next court appearance, and a notice advising the defendant of the time period within which pretrial motions must be filed.

Rule 571.2. Arraignment; Presence of Defendant and Counsel.

A defendant whose charges are held for or waived to court shall appear in person on the date and at the time ordered for arraignment at the Court Arraignment Office, accompanied by counsel who must file an appearance at that time in accordance with Pa.R.Crim.P. 120, provided that:

(a) If defense counsel has entered an appearance, either personally or by mail prior to the date set for the arraignment, defense counsel shall not be required to be present at arraignment if the defendant appears personally.

(b) If defense counsel secures an Order of Court authorizing defense counsel to appear on behalf of the defendant at arraignment, defense counsel may appear in lieu of the defendant at arraignment, accept and acknowledge receipt of the materials specified in All.C.R.Crim.P. 571.1, and defense counsel shall be responsible for notifying the defendant of the next required court appearance.

(c) Such order shall not excuse a defendant from any personal interview required by the Attorney for the Commonwealth for evaluating the eligibility of the defendant for Accelerated Rehabilitative Disposition.

(d) If such an order has been obtained and arraignment cannot be completed due to a delay of a criminal information being filed by the Attorney for the Commonwealth or for other good reason and it is necessary to schedule a subsequent arraignment, the defendant shall not be required to appear in person at such later arraignment if the attorney of record appears on the defendant's behalf. Counsel may do so without further Order of Court.

(e) If the defendant appears for scheduled arraignment without the defendant's counsel of record and it is necessary to schedule a subsequent arraignment, the defendant must appear personally at the rescheduled arraignment, unless an order of the court is obtained authorizing the defendant's attorney to appear on the defendant's behalf.

(f) A defendant shall not be required to appear in person at a scheduled arraignment if all charges have been dismissed or withdrawn, or an order of nolle prosequi or return to magisterial district judge for further proceedings prior to arraignment or for such other reason granted by order of the court has been entered.

Rule 571.5. PDQ; Fast Track Pleas.

When an attorney representing a defendant whose case has been approved for PDQ (fast track plea) disposition elects not to appear at arraignment with the defendant, the proposed PDQ order shall be given to the defendant for completion with counsel. The defendant shall be rescheduled for a subsequent arraignment within ten (10) business days. If, on the subsequent arraignment date, the PDQ forms have been completed by the defendant and counsel indicates acceptance of PDQ disposition by the defendant, the defendant's case shall be scheduled for the first available PDQ hearing date. If PDQ disposition is rejected by the defendant, the defendant and the case file shall be directed to Court Arraignment for scheduling of a pretrial conference.

Rule 580.1. Disposition of Pretrial Motions; Timing.

All outstanding pretrial motions shall be heard and disposed of prior to the selection of a jury.

Rule 580.2. Procedure Following Recusal.

In the event that any assigned judge shall recuse himself or herself from trial of any case, the case shall forthwith be referred to the Administrative Judge for reassignment to any available judge, including the Administrative Judge.

Rule 580.3. Transfer of Juvenile from Criminal Proceedings.

(a) This rule is applicable only to cases involving any child, as that term is defined in Subsection (1) of the definition of "Child" in 42 Pa.C.S. § 6302, who is excluded from the Juvenile Act in accordance with Subsection (2)(ii), (iii), and (v) of the definition of "Delinquent act" in 42 Pa.C.S. § 6302 (hereinafter "excluded actor").

(b) Should any excluded actor seek transfer of a case from Criminal Division to the Juvenile Section of the Family Division, such excluded actor shall file a petition to transfer (hereinafter "petition") with the Clerk of Courts within twenty (20) days after the excluded actor's preliminary hearing.

(c) The Clerk of Courts shall identify and segregate all case files maintained on excluded actors and, upon request, make such files available to the Judge designated to hear petitions at any time such files are necessary for the orderly administration of justice.

(d) If the excluded actor's petition is denied, the case shall proceed in the Criminal Division.

(e) If the excluded actor's petition is granted, and barring an appeal by the Commonwealth, the criminal proceeding shall halt immediately. The case shall be transferred to the Juvenile Section of the Family Division together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony related to the case. If the child is incarcerated in the Allegheny County Jail, the child shall be transferred immediately to Shuman Center. The Court may release the child to the custody of a parent, guardian or custodian, or other person legally responsible for the child. The Court shall direct completion and transmission of written notification of the transfer to the Juvenile Section of the Family Division and, if applicable, to the Sheriff.

(f) Upon receipt of the order of court transferring the case to the Juvenile Section of the Family Division, the Clerk of Courts shall immediately transfer the case file to the Prothonotary.

Rule 582.1. Joinder; Trial of Separate Indictments or Informations.

In the event that all cases to be joined for trial have been assigned to the same judge, that assigned judge shall rule on any motion for joinder. In all other cases, the Administrative Judge shall rule on such motion.

Rule 582.2. Consolidation of Cases.

(a) When one or more defendants are charged in more than one criminal information and those cases have been assigned to different judges, in the interest of judicial economy, at the request of either party, or on the Court's own motion, such cases shall be consolidated in the following manner:

(1) The judge assigned to the most serious criminal information(s) as reflected by the grade of the offense(s) shall dispose of all criminal informations.

(2) If all the criminal informations are of the same grading, the judge assigned to the criminal information(s) scheduled for the earliest original pretrial conference date shall dispose of all the criminal informations.

(3) If a defendant is incarcerated, the judge assigned to the criminal information(s) scheduled for the earliest original pretrial conference date shall dispose of all criminal informations irrespective of whether that Judge is assigned to the most serious criminal information.

(b) Nothing herein prohibits the assigned judges from agreeing to modify this procedure, where the interest of judicial economy so dictates, nor do these provisions prohibit any of the assigned judges from denying consolidation of any one or all of the criminal informations.

Rule 602.1. Waiver of Right to Testify by Defendant.

In all cases, the defendant may waive the right to testify. The judge shall ascertain from the defendant

whether the waiver is a knowing, voluntary and intelligent waiver. A waiver colloquy, on the record, should be conducted by defense counsel, but may be supplemented by the Court and/or the Attorney for the Commonwealth. In a jury trial, the colloquy shall be held outside the presence of the jury before the defense rests its case.

Rule 602.2. Waiver of Character Defense.

In all cases, the defendant shall have the right to call character witnesses in the defendant's defense. Where the defendant chooses not to call character witnesses, the trial judge shall ascertain from the defendant whether this is a knowing, voluntary and intelligent waiver. A waiver colloquy, on the record, should be conducted by defense counsel, but may be supplemented by the Court and/or the Attorney for the Commonwealth. In a jury trial, the colloquy shall be held outside the presence of the jury before the defense rests its case.

Rule 630.1. Requests for Information Concerning Prospective Jurors.

All requests for lists of prospective jurors, requests for juror qualification forms and any other requests for information concerning prospective jurors pursuant to Pa.R.Crim.P. 630 shall be made in writing to the President Judge.

Rule 701.1. Pleas to Multiple Informations.

When a defendant is charged in more than one criminal information and the cases have been assigned to different judges, the provisions of All.C.R.Crim.P 582.2 shall apply when the defendant seeks to consolidate all criminal informations before one judge for purposes of entering a general plea of guilty to all cases, a negotiated plea, a plea of nolo contendere or any combination of the foregoing pleas.

Rule 705.1. Fines, Costs and Restitution.

(a) In any matter in the Criminal Division, wherein fines, costs and/or restitution are ordered by the Court, all monies shall be paid to and be collected by the Clerk of Courts.

(b) The Clerk of Courts shall keep proper records of the collection and disbursement of any court-ordered fines, costs and/or restitution and make appropriate payment to parties entitled to same.

Rule 720.1. Post-Sentence Motions.

(a) Counsel filing post-sentence motions shall indicate thereon in writing whether or not a transcript is required for the hearing of the motion and whether the same, if required, has been ordered from the court reporter.

(b) In the event that one or more claims of ineffective assistance of trial counsel is raised in post-sentence motions, counsel filing the motions shall indicate thereon in writing that an evidentiary hearing on the matter is requested and attach thereto a preliminary order of court scheduling said hearing for action by the judge.

(c) In the event that one or more claims of after-discovered evidence is raised in post-sentence motions, counsel filing the motions shall indicate thereon in writing that an evidentiary hearing on the matter is requested and attach thereto a preliminary order of court scheduling said hearing for action by the judge.

Rule 720.2. Briefs Required; Time for Filing; Copies to be Served.

(a) Upon receiving notice of an order that, pursuant to Pa.R.Crim.P. 720(B)(2)(a), briefs are required for a resolution of the motion, the defendant shall file a brief not

later than twenty-one (21) days prior to the day scheduled for argument. The Commonwealth shall file a brief not later than seven (7) days after service of the defendant's brief. A reply may be filed by defendant two (2) days after service of the Commonwealth's brief, and by the Commonwealth two (2) days after service of defendant's reply brief.

(b) One copy of each brief shall be filed with the Clerk of Courts, one copy shall be served on each co-defendant separately represented, one copy shall be served on the Attorney for the Commonwealth, and one copy shall be served on the Court Administrator of the Criminal Division.

Rule 902.1. Form and Filing of PCRA Petitions.

Petitions under the Post Conviction Relief Act shall be docketed to the case number of the conviction which the defendant is challenging, with a cross-reference to companion cases, if any.

Rule 903.1. Time for Preliminary Order.

Except where summary dispositions may be made pursuant to Pa.R.Crim.P. 907, the judge shall review the petition and enter a preliminary order thereon, within twenty (20) days following its receipt.

Rule 904.1. Waiver of Post-Conviction Counsel.

If the petitioner indicates that he wishes to proceed without the assistance of post-conviction counsel, the judge shall schedule a date to place a waiver colloquy on the record, at which time the petitioner, appointed or retained counsel, and the Attorney for the Commonwealth shall be present.

Rule 905.1. Amended Petitions.

(a) Counsel for petitioner shall file an amended petition within thirty (30) days of the entry of the order directing the filing of an amended petition, or within the time otherwise set forth in the order of the court.

(b) The amended petition shall plead specific facts which are the basis of the relief requested in the petition, and either point to the place in the record where such are found or attach supporting affidavits or other proffers of evidence.

(c) For good cause shown, the judge may extend the time for filing an amended petition.

Rule 906.1. Answers to Petitions.

(a) If an amended petition is ordered by the judge or if deemed necessary by the Commonwealth's attorney, the Commonwealth shall have thirty (30) days from the filing of the amended petition to file an answer, or such time as is otherwise set forth by order of the court.

(b) For all petitions, when the judge has ordered the Commonwealth to file an answer and the Attorney for the Commonwealth fails to file an answer within the time permitted in the preliminary order or in any extension(s) which may be granted, counsel for the petitioner may move the Court that the requested relief be granted. The judge shall forthwith enter an order either directing the Attorney for the Commonwealth to file an answer or fixing the time for a hearing or argument.

Rule 907.1. Disposition Without Hearing.

If, after reviewing the petition and any amendments and answers thereto, the judge determines that there are no genuine issues of material fact, a notice and order comporting with the requirements of Pa.R.Crim.P. 907 shall be entered and served upon the petitioner, by certified mail, and upon counsel, as prescribed by Pa.R.Crim.P. 114.

Rule 908.1. Hearing.

(a) If the judge determines that a hearing is required under Pa.R.Crim.P. 907 and 908, the judge shall set a hearing date within sixty (60) days of the filing of the answer by the Commonwealth.

(b) The judge shall render a decision within ninety (90) days following the close of the evidentiary hearing or following the submission of post-hearing briefs.

[Pa.B. Doc. No. 07-1134. Filed for public inspection June 29, 2007, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY

Public Access Policy of the United Judicial System Magisterial District Court Records—Fees for Copies

And Now, this 11th day of April, 2007, it is hereby Order and Directed pursuant to Public Access Policy of the United Judicial System Magisterial District Court Records, the following fee schedule is hereby enacted effective April 16, 2007:

Fees

\$0.50 per page copied.

\$8.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of requested court dockets.

Pre-payment of estimated costs for services may be required at the discretion of the magisterial district court judge.

Fees paid for services are non-refundable.

Each magisterial district court is to establish a reasonable time when their court records are accessible.

All monies generated from the previous fees are to be transferred monthly to the County of Bucks General Fund.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 07-1135. Filed for public inspection June 29, 2007, 9:00 a.m.]

ELK AND CAMERON COUNTIES

Promulgation of Local Rules; County Branch Elk Doc. No. 2007-493; County Branch Cameron Doc. No. 2007-1748

Order of Court

Now, June 8, 2007, *It Is Ordered and Decreed* as follows:

1. The Local Rules of Court are hereby adopted, effective 30 days after publication in the *Pennsylvania Bulletin*;

2. The District Court Administrator of the 59th Judicial District is hereby *Ordered* to:

a. File seven certified copies of this Order and the Local Rules with the Administrative Office of Pennsylvania Courts;

b. File two certified copies and a computer diskette containing this Order and the Local Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one certified copy of this Order and the Local Rules with the Pennsylvania Civil Procedural Rules Committee;

d. Provide one copy of this Order and the Local Rules to each member of the Elk County Bar Association and the Cameron County Bar Association;

e. Keep continuously available for public inspection copies of this Order and the Local Rules.

It Is Further Ordered and Decreed that contemporaneously with the effective date of the within Local Rules, any previously adopted local rules of court are rescinded and vacated.

RICHARD A.
President Judge

Rule L205.2. Pleadings and Other Legal Papers. Format.

1. All papers and documents consisting of more than one page shall be fastened or stapled on the top.

2. The first page of any pleading filed, except a pleading requiring a Notice to Defend, shall be an identification sheet, setting forth the following information and typed according to the format presented in Appendix A.

a. In capital letters, centered from left to right margin:

“IN THE COURT OF COMMON PLEAS OF THE FIFTY-NINTH JUDICIAL DISTRICT OF PENNSYLVANIA.”

b. In capital letters, on the left side of center, the complete names of all parties (if the party filing the attached pleading has made a previous filing, an appropriate and obvious shortened caption may be used).

c. Type on the right side of center:

i. The county branch, either Cameron or Elk.

ii. The type of action, i.e., Civil, Criminal, Orphans’ Court Division.

***Note:** The word **Division** shall not be used except for “Orphans’ Court Division.”

iii. The docket number, if assigned, beginning with the year, i.e., 2007-XXX.

iv. The name of the pleading.

v. The specific type of action in Civil cases, e.g. Divorce, Custody, etc. or in Orphans’ Court cases, e.g., Adoption.

vi. The completed statement “Filed on behalf of _____ (party’s name and relationship to case).”

vii. The completed statement showing the name, address, and telephone number of counsel of record.

3. The Prothonotary shall not accept for filing any pleading or other document that does not comply with this Rule or other applicable Pa. Rule of Civil Procedure (Pa.R.C.P. 204.1, 205.2, 205.3).

APPENDIX to Rule L205.2

IN THE COURT OF COMMON PLEAS OF THE FIFTY-NINTH JUDICIAL DISTRICT OF PENNSYLVANIA

SAMUEL HAZLET and ETHYL R. HAZLET, his wife,	*	COUNTY BRANCH (CAMERON)(ELK)
	*	
Plaintiffs	*	CIVIL
	*	
vs.	*	NO. _____
	*	
W. BARTON LEACH; A. JAMES CASNER, T/D/B/A CASNER AND LEACH REALTY, A PARTNERSHIP, Defendants	*	Answer to Complaint Joining Additional Defendant
	*	
vs.	*	Filed on behalf of: SUSAN SMITH, Additional Defendant
	*	
SUSAN SMITH,	*	Counsel of Record for this Party:
	*	Janice T. Gray, Esq.
	*	Simes, Smith, Gray, & Moynihan
	*	Firm #123
	*	2496 Frick Building
	*	Pittsburgh, PA 15219
	*	(412) 555-1234
JOHN DOE, Additional Defendant	*	
	*	
vs.	*	
	*	

Rule L206.1(a). Petition.

1. All petitions, which allege facts not of record, must be verified and shall be endorsed with a notice to plead. Petitions shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order of court for scheduling the hearing. Hearing on a petition will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for hearing.

2. A petition submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any petition initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. The proposed order scheduling a hearing on the petition shall include the phrase “_____ hour(s) is allotted for the hearing.” Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator’s office, in writing, to request a continuance in order to reschedule the time necessary for the hearing.

4. The Court, in its discretion and for good cause shown, may grant a prompt written request from counsel or self-represented party to allow testimony by telephone or videoconference. The party requesting the opportunity to participate electronically shall bear the cost thereof unless the Court provides otherwise and shall arrange for the administration of an oath at the location from which the testimony will be given.

Rule L206.4. Rule to Show Cause.

1. A rule to show cause must strictly comply with Pa.R.C.P. 206.4. As with all other pleadings, a petition for a rule to show cause must be filed with Prothonotary prior to being presented to the Court.

2. A petition for a rule to show cause submitted to the Court by facsimile or other electronic submission will not be considered except in extraordinary or emergency situations. Any petition initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. A proposed order of court in the form prescribed by Pa.R.C.P. 206.5 shall be attached to the petition for a rule to show cause.

4. *A proposed order of court in the form prescribed by Pa.R.C.P. 206.5 shall not be used to schedule an argument on general motions, preliminary objections, or a hearing on petitions that do not comply with Pa.R.C.P. 206.4.*

Rule L208.3(b). Motion. Alternative Procedures.

1. All motions which request relief on matters of record shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order of court for scheduling the argument. Argument on a motion will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for argument. The Court, in its discretion, may decide the matter at argument or take the matter under advisement.

2. Motions submitted to the Court by facsimile or other electronic submission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. The Court, in its discretion, may hear any argument by telephone or videoconference provided that counsel has submitted a prompt written request to the Court to participate electronically. The party requesting the opportunity to participate electronically shall bear the cost thereof unless the Court provides otherwise.

4. A court reporter will not attend arguments unless specifically directed by the Court.

5. Emergency motions shall be governed by the above procedure except that, after filing, the moving party shall notify the Prothonotary and the Court Administrator of the emergency situation and may request that the Court immediately consider the motion. If the moving party is requesting a waiver of the certificate of service requirement, the party shall make every effort to notify the opposing parties of the substance of the motion and the time of filing and presentation to the Court.

6. Motions to compel discovery shall be considered by the Court without the necessity for briefs and argument.

7. Motions involving disputed issues of fact will be disposed of in accordance with Pa.R.C.P. 208.4.

8. Motions involving questions of law only will be disposed of by the Court on briefs without oral argument unless the moving party files a praecipe for argument simultaneously with the motion.

9. No response is required to any motion unless required by Pa. Rule of Civil Procedure or unless required by the Court in the scheduling order. (e.g., Pa.R.C.P. 1035.3)

10. The proposed order scheduling an argument on the motion shall include the phrase “_____hour(s) is allotted for the argument.” Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator’s office, in writing, to request a continuance in order to reschedule the time necessary for the argument

Rule L210. Briefs.

1. Briefs shall be prepared in the form prescribed by Pa.R.C.P. 210. Briefs shall not be filed of record unless directed by the Court. Unless otherwise directed, briefs shall be submitted to the Court as follows:

a. The moving party shall submit a brief fourteen (14) days in advance of argument

b. The responding party shall submit a brief seven (7) days in advance of argument.

Rule L212.1. Trial.

1. Trial sessions shall be held at such time as established by the annual court calendar to dispose of all trial-ready jury and non-jury cases.

2. Cases shall be placed on the civil trial list by filing a certificate of readiness and a praecipe to list with the Prothonotary, along with a certificate of service showing service on all other parties in interest or their counsel of record.

3. Any party or counsel of record filing a certificate of readiness shall certify thereon that: (1) all pleadings have been completed; (2) all pretrial discovery procedures have been completed; (3) all medical examinations have been completed and medical reports exchanged; and (4) the case is ready for trial.

4. Any party or counsel of record who is served with a copy of a certificate of readiness that has been filed by an adverse party shall have ten (10) days from the date of service in which to file exceptions thereto. A proposed order scheduling argument on the exceptions shall be submitted simultaneously with the filing of the exceptions and argument on the exceptions will be scheduled thereafter.

Rule L212.2. Pre-trial Statement.

1. No less than ten (10) days prior to the date scheduled for the pre-trial conference, each party shall file with the Prothonotary a pre-trial statement containing those items set forth in Pa.R.C.P. 212.2 and serve other counsel of record or self-represented litigant. In addition, the pre-trial statement shall set forth an estimate of the length of time which will be required to present the party’s case in chief. Amendments to a pre-trial statement may be submitted up to 30 days prior to the date trial is to begin and not thereafter unless approved by the Court.

Rule L212.3. Pre-trial Conference.

1. For the purposes of this rule, “pre-trial conference” shall mean a type of conference described in Pa.R.C.P. 212.3.

2. Except as otherwise ordered by the Court, a pre-trial conference shall be held at a date and time directed by the Court Administrator. Pre-trial conferences are extended to all jury and non-jury actions not subject to arbitration under Rule L1301.

3. Counsel attending the pre-trial conference must have actual authority to stipulate on items of evidence and admissions, and must have actual settlement authority. If counsel does not have such authority then the person or corporation having an actual interest in the case, whether as a party, as an insurance carrier or otherwise, shall be personally present at the pre-trial conference.

4. The attorney who will be in charge of the handling of the trial of the case as well as any other attorney who will handle the examination or cross-examination of witnesses must attend the pre-trial conference.

5. During the pre-trial conference a date certain will be established for jury selection.

6. Immediately following the pre-trial conference the Court will issue a case management order covering all matters addressed at pre-trial. Following the issuance of a case management order, the Court Administrator shall schedule active jury and non-jury cases for trial on a date certain after consultation with counsel and any self-represented party.

Rule L216. Motion for Continuance.

1. All continuance motions must be filed with the Prothonotary before being presented to the Court.

2. A motion for continuance shall be in writing, shall be signed by counsel, shall set forth specifically the reason for the request, and shall contain a statement that opposing counsel or any self-represented litigant either objects or does not object to the proposed continuance. In addition, any motion for continuance filed by an attorney shall include a statement that the client represented by the attorney requesting the continuance has been made aware of the motion and has consented to the continuance.

3. Motions submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic submission must be filed of record within two (2) business days thereafter.

4. All motions for continuances based upon a calendar conflict due to an appearance scheduled in another court must include a copy of the scheduling order or notice issued by the other court. Since the Court of Common Pleas of the 59th Judicial District routinely schedules cases on a date certain after consultation with all counsel, absent extraordinary circumstances, a motion for continuance based upon proceedings scheduled in another court of record or appellate court will be granted only if the other court's scheduling order was issued before the order scheduling the proceeding for which the continuance is sought.

Rule L227.1. Post-Trial Conferences.

1. In every case in which a motion for post-trial relief has been filed or, alternatively, at the Court's discretion, the Court Administrator shall schedule a post-trial conference to be held as soon as the business of the Court permits. The purpose of such conference shall be to determine the precise issue or issues that will be before

the Court on said motion and the extent of the trial record that will need to be transcribed.

a. Absent a request for transcription of a portion of the record, the Court will dispose of the motion without transcript.

b. A party filing a post-trial motion who desires a transcript shall cause the transcript or portion thereof to be prepared before the motion is argued.

c. In all cases where a transcript is requested, the party requesting the transcript must present a motion and order to the Court specifically identifying that portion of the record that is requested, and in the event that less than all of the trial is to be transcribed, the date and witnesses that are requested.

d. The court reporter shall, upon written request of counsel, provide an estimate of the cost of the transcript. Unless otherwise directed by the Court, the court reporter shall not begin transcribing notes until a deposit is made by the requesting party in an amount equal to one-half of the estimate cost of the transcription. Upon completion of the transcript, the court reporter shall invoice the party requesting the transcript. The transcript shall not be filed nor a copy delivered to any party until the invoice is paid in full. In the discretion of the Court and upon order specially made, the invoice may be taxed as costs of suit.

Rule L230.2. Termination of Inactive Cases.

1. On or before September 1 of each year, the Prothonotary shall prepare a list of all civil matters in which there has been no activity of record for two years or more prior thereto by serving a notice of proposed dismissal of court case.

2. The Prothonotary shall serve notice of proposed dismissal for each case on counsel of record, and on the parties if not represented, at least sixty (60) days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.

a. Where it would be unduly burdensome to research the captions, parties, and mailing addresses of Cameron County divorce cases that have been inactive for two years or more, such cases shall be terminated pursuant to Pa.R.C.P. 230.2, provided, however, the Cameron County Prothonotary shall serve notice of the proposed dismissal upon plaintiffs' counsel or self-represented plaintiffs, at least sixty (60) days prior to the date of the proposed termination.

b. The President Judge shall determine when the use of L230.2(a) is appropriate and shall issue an order of court authorizing the Cameron County Prothonotary to proceed under this rule.

Rule L430. Service by Publication.

1. In all actions where service by publication is permitted, publication shall be made one time in a daily newspaper published in the county in which the action is brought, as no legal journal or publication exists in the 59th Judicial District.

Rule L1018. Notice to Defend. Form.

1. The officer to be named in the notice to defend from whom information concerning legal help can be obtained is:

- a. For matters filed in Elk County:

Elk County Prothonotary
Elk County Courthouse
Main Street
Ridgway, PA 15853
(814) 776-5344

- b. For matters filed in Cameron County:

Cameron County Prothonotary
Cameron County Courthouse
20 East Fifth Street
Emporium, PA 15834
(814) 486-3349

Rule L1028. Preliminary Objections.

1. Preliminary objections shall be filed with Prothonotary and shall include a proposed order scheduling argument on the preliminary objections, including a provision for the time allotted for the argument. Courtesy copies for the Court are not required. Briefs shall be filed in accordance with Pa.R.C.P. 210 and Rule L210.

Rule L1042.21. Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.

1. Upon agreement of the parties that mediation would be appropriate for resolution of a case, a "stipulation for mediation" requesting a mediation conference and signed by all parties and counsel shall be filed of record and submitted to the Court. The stipulation shall specify that all parties involved agree to the mediation and believe that there is a realistic possibility of settlement. The Court shall request the appointment of a senior judge to act as the mediator.

2. Prior to the mediation conference,

a. All discovery must be completed.

b. A discussion of consent to settle must have taken place with all defendant doctors and health care providers.

c. The respective insurers must have completed all relevant claim evaluations.

d. All pre-trial dispositive motions, e.g., motions for summary judgment, must have been filed and resolved.

3. The date, time and place of the mediation conference shall be established by the mediator/judge.

4. Unless specifically requested by the mediator/judge, the parties shall not contact or forward documents to the mediator/judge.

5. The mediation session procedure shall be directed by the mediator/judge, but shall generally include an introduction of the parties, opening statements by counsel and any of the principals, if desired. Thereafter, caucuses will be conducted with the respective parties to permit the mediator/judge to develop and refine the parties' positions.

6. Counsel who will actually try the case must attend the mediation conference, as must any unrepresented party. All parties, insurers and principals of parties with decision-making authority must attend the mediation conference in person unless excused by the mediator/judge. Any doctor who has not provided a signed statement indicating that he or she has discussed the case with his or her attorney of record and do or do not consent to a settlement must attend the mediator conference.

7. All mediation proceedings, including any statement made or writing submitted by a participant, shall not be disclosed to any person who is not directly involved with the mediation conference.

The parties' settlement positions and statements during mediation shall not be disclosed to the trial judge unless mutually agreed to by the parties. In the event of a non-jury trial, under no circumstances shall the parties' settlement positions and statements be disclosed to the trial judge.

No transcript or other recording may be made of the mediation conference and the mediation proceedings shall not be used by any adverse party for any reason in the litigation at issue provided, however, that a settlement agreement resulting from the mediation conference may be sought to be enforced.

8. The mediator/judge shall submit a confidential report to the trial judge indicating whether a settlement has been reached. The mediator/judge may recommend that further mediation be ordered if settlement has not been achieved.

Rule L1301. Compulsory Arbitration.

1. All civil matters where the amount in controversy, exclusive of interest and costs, does not exceed the maximum limitation prescribed by 42 Pa.C.S. 7361(b)(2) shall be tried before a Board of Arbitrators appointed from the list of available arbitrators for the 59th Judicial District.

2. The list of arbitrators shall consist of all active members of the Elk County and Cameron County Bar Associations in the 59th Judicial District, excepting only such attorney who files with the Prothonotary of each county in the district a written statement to the effect that he or she does not wish to be an arbitrator.

3. The Board of Arbitrators shall be chaired by a member of the Bar admitted to the practice of law for at least three (3) years.

4. Within ten (10) days after any party files a praecipe for arbitration, the Prothonotary shall appoint three arbitrators, with the first named to be the chairperson.

5. Appointment shall be rotated as evenly as possible among the members of the Bar, but no person shall be appointed to act as an arbitrator when another member of the same law firm has been appointed; or when an attorney is related by blood or marriage to any party involved; or when an attorney is a partner or associate of any attorney involved; or when an attorney informs the Prothonotary in writing that he or she is unable or does not wish to accept such appointment.

6. The party filing a praecipe shall immediately mail a copy of the praecipe to the adverse party or counsel.

7. If an appointed arbitrator dies or becomes incapable of acting before a hearing, the Prothonotary shall immediately appoint a substitute arbitrator.

8. A member of a Board of Arbitrators who would be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator; and a substitute shall be immediately appointed by the Prothonotary.

9. If any case is settled or discontinued after the arbitrators have been appointed, and before a hearing, counsel for the plaintiff shall immediately notify all appointed arbitrators at least one (1) day prior to any scheduled hearing, and upon failure to do so, counsel shall pay each appointed arbitrator \$50.00.

10. The arbitrators shall be sworn and hold all hearings at the courthouse facilities of the appropriate county unless the parties or their counsel agree to an alternate location.

11. The arbitrators shall hold a hearing within sixty (60) days after their appointment unless the time is extended by agreement of all parties or their counsel. The chairperson shall give at least thirty (30) days notice of the hearing to all parties or their counsel. No hearing shall be continued to a date more than one hundred eighty (180) days from date of appointment unless upon good cause.

12. The arbitrators shall conduct the hearing and receive evidence in accordance with Pa.R.C.P. 1304 and 1305.

13. The arbitrators shall make their award in substantially the form set forth in Pa.R.C.P. 1312 and file it with the Prothonotary within one day after the hearing, unless the time is extended by the parties. If an appointed arbitrator dies, becomes incapable of acting, or refuses to perform his duties after a hearing, but before an award is made, the case shall be decided and the award signed by the remaining arbitrators. If they cannot agree, the case shall be heard de novo by three arbitrators, two of whom shall be the original arbitrators, and one of whom shall be immediately appointed by the Prothonotary. The decision of the majority of the appointed arbitrators shall be conclusive.

14. The award shall be docketed, notice given, molded, and judgment entered as prescribed by Pa.R.C.P. 1307.

15. Within 30 days from the date of filing of an award, any party may appeal to the Court as provided by Pa.R.C.P. 1308.

16. Parties to appeal, discontinuance of appeal, and appeal procedures shall be in accordance with Pa.R.C.P. 1309, 1310, and 1311.

17. Each appointed arbitrator shall be paid \$125.00 from county funds and an additional \$10.00 for travel from one county to another within the judicial district. The chairperson of the arbitration board shall be entitled to an additional \$25.00 in compensation, or a total of \$150.00, plus \$10.00 for travel from one county to another within the judicial district. In cases requiring hearings of unusual complexity, the Court, upon petition of the appointed arbitrators, may allow additional compensation. Upon petition of any party, the Court may, for cause shown, disallow compensation to any or all of the appointed arbitrators. The arbitrators' compensation shall not be taxed as costs nor follow the award.

Rule L1910.4. Support. Commencement of Action.

1. All claims for support must be initiated in the appropriate county Domestic Relations Section of the Court of Common Pleas of the 59th Judicial District by filing a complaint for support or a copy of the divorce complaint containing a count for support. An application for child support services must also be completed.

2. If an agreement regarding support is reached pursuant to a divorce, the support agreement shall be specifically set forth apart from the remaining provisions of the divorce agreement and shall be filed in the appropriate county Domestic Relations Section.

3. Each complaint in divorce that contains a count for child support shall allow for a separate domestic relations number to be assigned by the Domestic Relations Section.

4. Filing fees shall be determined by the Prothonotary.

Rule L1910.11. Support. Office Conference. Subsequent Proceedings. Order.

1. In Cameron County, Pa.R.C.P. 1910.11 is hereby adopted.

Rule L1910.12. Support. Office Conference. Hearing. Record. Exceptions. Order.

1. In Elk County, the Alternative Hearing Procedure, Pa.R.C.P. 1910.12, is hereby adopted.

Rule L1915.3. Custody and Visitation. Commencement of Action.

1. All complaints for custody, partial custody and visitation are to be filed with the appropriate county Prothonotary and shall be substantially in the form prescribed in Pa.R.C.P. 1915.15 and 1915.16.

Rule L1915.4-2. Custody Conference.

1. In all claims for custody, partial custody and visitation, the custody conference officer shall conduct a custody conference.

2. A conference fee of \$100.00 shall be submitted at time of filing the custody complaint or petition to modify custody unless the Court prior to the filing of a custody complaint or petition to modify custody has granted plaintiff or petitioner in forma pauperis status. The fee is payable to the custody conference officer. The custody conference officer may petition the Court for additional fees in appropriate circumstances.

3. If an agreement is reached at the custody conference, said agreement shall be noted by the custody conference officer or reduced to a written proposal signed by both parties and shall be submitted to the Court for an order.

4. If no agreement is reached at the conference, the custody conference officer shall make a recommendation for an interim custody order to the Court. A custody pretrial conference will be scheduled with the Court, following which, if necessary, a custody trial will be scheduled.

5. Prior to the custody pre-trial conference, the parties shall complete and submit a pre-trial statement to the Court and opposing party.

6. Prior to a custody trial, the parties shall complete and submit a parenting plan to the Court and opposing party.

7. Unless specifically ordered by the Court, the minor children shall not appear at the custody pre-trial conference or the custody trial.

Rule L1915.15. Form of Complaint. Caption. Order.

1. The complaint for custody, partial custody and visitation or a petition to modify custody shall be in the form prescribed by Pa.R.C.P. 1915.15.

2. The order accompanying said complaint shall be in the form prescribed in Pa.R.C.P. 1915.16, except that the order in custody matters shall not require the children to appear at the custody conference. The order shall direct the parties to appear for a conference at the Domestic Relations Section, Elk County Courthouse Annex, Center Street, Ridgway, PA. (see Appendix L1915.15.) Service of the hearing notices is the responsibility of the moving party.

3. The officer to be named in the order to appear from whom information concerning legal help can be obtained is:

a. For matters filed in Elk County:
Elk County Prothonotary
Elk County Courthouse
Main Street
Ridgway, PA 15853
(814) 776-5344

b. For matters filed in Cameron County:
Cameron County Prothonotary
Cameron County Courthouse
20 East Fifth Street
Emporium, PA 15834
(814) 486-3349

APPENDIX to Rule L1915.15

IN THE COURT OF COMMON PLEAS OF THE
FIFTY-NINTH JUDICIAL DISTRICT OF
PENNSYLVANIA

_____* COUNTY BRANCH *
Plaintiff (ELK)(CAMERON) *
vs. * CIVIL ACTION - CUSTODY *
_____* *
Defendant * NO.

ORDER AND NOTICE

You, _____, Defendant, have been sued in court to obtain or modify custody, partial custody or visitation of the child(ren): _____.

You are ordered to appear in person at the Elk County Domestic Relations Section, 2nd Floor, Elk County Courthouse Annex, 300 Center Street, Ridgway, PA, on _____ at _____ a.m./p.m. for

- _____ a conciliation or mediation conference
- _____ a pretrial conference
- _____ a hearing before the court.

If you fail to appear as provided by this order, an order for custody, partial custody or visitation may be entered against you or the court may issue a warrant for you arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Prothonotary Prothonotary
Elk County Courthouse OR Cameron County Courthouse
Main Street East 4th Street
Ridgway PA 15853 Emporium, PA 15834
(814) 776-5344 (814) 486-3349

BY THE COURT:

DATE: _____

A. AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Elk / Cameron County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made

at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Rule L1920.3. Divorce. Commencement of Action.

1. A complaint for divorce shall be filed with the appropriate county Prothonotary of the Court of Common Pleas of the 59th Judicial District.

2. The officer to be named in the notice to defend from whom legal help can be obtained is:

a. For matters filed in Elk County:

Elk County Prothonotary
Elk County Courthouse
Main Street
Ridgway, PA 15853
(814) 776-5344

b. For matters filed in Cameron County:

Cameron County Prothonotary
Cameron County Courthouse
20 East Fifth Street
Emporium, PA 15834
(814) 486-3349

3. The request for the entry of a decree in divorce which includes the approval or incorporation of a settlement agreement shall be denied unless the claims addressed in the settlement agreement, i.e., custody, support, alimony, alimony pendente lite, counsel fees, expenses and costs, and equitable distribution of property, have been raised of record in accordance with 23 Pa.C.S.A. 3104.

Rule L1920.51. Appointment of Master.

1. The Court shall, whenever necessary, appoint a permanent master who shall be an attorney. The permanent master's fee for all claims related to a divorce shall be \$500. Said fee is payable to the permanent master and shall be submitted with the motion for the appointment of a master at time of filing. The permanent master may petition the Court for additional fees in appropriate circumstances and the allocation of the permanent master's fee may be determined in the master's report and recommendation.

2. All claims for equitable distribution, alimony, alimony pendente lite, attorney's fees and costs shall be referred to a permanent master for hearing. The party requesting the hearing shall file with the appropriate county Prothonotary a motion for the appointment of a master in substantially the form prescribed in Pa.R.C.P. 1920.74.

3. The permanent master shall prepare a case management order and schedule the master's conference or hearing.

4. The permanent master shall conduct the conference/hearing with due regard to the law and according to Pa.R.C.P. 1920.55-2 and to the established rules of evidence. The permanent master shall have the general power of a court, including, but not limited to:

a. The power to issue subpoenas and the power to issue an attachment upon allowance by the court for failure to comply therewith.

b. The power to administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and facts of the case submitted.

c. The power to compel the production of all books, paper, and documents which shall be deemed material to the case.

5. The permanent master shall tape record the hearing for later transcription upon request by any party. The party requesting the same shall pay the cost thereof.

6. Form and procedures with respect to a claim for custody and/or visitation incident to a divorce shall be as prescribed by Local Rule L1915.3, L1915.4-2 and L1915.15.

Rule L1920.53. Hearing by Master. Report.

1. All actions requesting a divorce pursuant to 23 Pa.C.S.A. 3301(a) or an annulment pursuant to 23 Pa.C.S.A. 3303 shall be referred to the permanent master upon the filing of a motion for the appointment of a master substantially in the form prescribed by Pa.R.C.P. 1920.74 with the appropriate county Prothonotary. The permanent master's fee shall be \$500. Said fee is payable to the permanent master and shall be submitted with the motion for the appointment of a master at time of filing. The permanent master may petition the Court for additional fees in appropriate circumstances.

2. The permanent master shall give at least ten (10) days written notice of the time and place of the hearing to both parties or their attorneys.

MAGISTERIAL DISTRICT JUDGES

PCPMDJ Rule L112 Availability and Temporary Assignments of Magisterial District Judges

1. The Court shall file an order of court establishing an annual on-call schedule for magisterial district judges to be available at all times to handle matters requiring immediate attention and possessory matters.

2. The on-call schedule may be amended upon cause shown by the assigned on-call magisterial district judge and the agreement of another magisterial district judge within the district to be the substitute on-call magisterial district judge.

3. The order of court establishing the annual on-call schedule and any subsequent orders amending the annual on-call schedule shall be conspicuously posted in the offices of the magisterial district courts within the judicial district and the Court Administrator shall distribute copies to all law enforcement agencies and other agencies affected.

[Pa.B. Doc. No. 07-1136. Filed for public inspection June 29, 2007, 9:00 a.m.]
