

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its Internal Operating Procedures. These amendments are reflected in the Superior Court Internal Operating Procedures with amendments to Pa. Code 65.1 et seq.

These changes were approved on September 15, 2010, effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

ADMINISTRATIVE OFFICES AND STAFF

§ 65.5. Panels.

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C. [If a member of a panel is unable to attend or is disqualified from sitting on a particular case, the presiding judge of that panel shall secure another judge to sit on that case. If a member of a panel is unable to attend or is disqualified from sitting on a particular panel, the President Judge shall designate and assign another judge to sit on the panel.]

1. After the Prothonotary has listed the cases for an argument panel, but before the actual argument of the cases: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the presiding judge of that panel shall notify the President Judge or his/her designee, and the President Judge or his/her designee shall secure another judge to sit on that case; (b) if a member of a panel becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to sit on the panel.

2. After the Prothonotary has listed the cases for a submitted panel: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case; if the two remaining judges are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with I.O.P. 65.5F.; (b) if a member becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to the panel.

3. If, after oral argument on a case, a judge becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case. If the two remaining judges

are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with I.O.P. 65.5F.

D. The presiding judge of each panel shall be the commissioned judge highest in seniority, except where the panel includes the President Judge who shall then be the presiding judge. The presiding judge shall preside at all panel sessions, assign the cases, and record the assignment of cases. The presiding judge shall transmit to the members of the panel and the Reporter a record of all assignments and/or other actions taken by the panel.

E. All discussions, votes, and drafts of decisions prior to the filing of the final decision shall remain confidential.

F. If, following argument or submission, a member of the three judge panel assigned to decide an appeal becomes unavailable, and the remaining two judges are unable to decide the appeal, they shall request the President Judge or his/her designee to either reassign the appeal for reargument or submission before another panel, or they may request that the appeal be reargued before a court en banc. If the full court shall decline to accept the appeal for reargument before a court en banc, the President Judge or his/her designee shall reassign the same to another three judge panel for reargument or submission and decision.

Comment

In accordance with Pa.R.A.P. 3102(a), a panel of three judges constitutes a quorum of the Court. 42 Pa.C.S. § 325(e)(1) authorizes the President Judge to make assignments. Subdivision (C) and (D) of this rule [does] do not alter the effect of Pa.R.A.P. 3102(b).

§ 65.6. Courts en banc.

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B. The President Judge shall assign the judges to each en banc panel and shall designate the location, the time, and the date of each session. [**The identity of the members of the en banc panel shall be confidential prior to the session.**] The presiding judge of a Court en banc shall be the commissioned judge highest in seniority, except where the Court en banc includes the President Judge, who shall then preside.

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APPELLATE MEDIATION PROGRAM

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

§ 65.43. Policy.

The Appellate Mediation Program facilitates settlements or otherwise assists in the resolution of eligible Civil, Family and Orphans' Court appeals. Attorneys with the requisite experience are appointed by the Court to administer the program and conduct mediations. The Mediator shall report directly to the President Judge or his or her designee.

A. After an appeal is filed and contemporaneous with the issuance of docketing information, the Superior Court Prothonotary shall provide the Appellant with a Mediation Statement Form directing the Appellant to submit a

factual and procedural summary of the case, the issues raised on appeal, a copy of any opinion or order entered in the lower court and such other information that might impact the mediation process.

B. The completed Mediation Statement shall be confidential. It shall be delivered directly to the Mediator whose identity and address will be provided with the Appellate Mediation Statement Form. The Mediation Statement shall not be filed with the Prothonotary and shall not be served on opposing counsel.

C. Based on the Mediation Statement and any other submitted documents, the Mediator, in his or her discretion, shall determine whether the case on appeal will be mediated. The Mediator shall notify the parties when a case is selected for mediation. Once the Mediator selects a matter for mediation, participation is mandatory.

D. In the event that a case has not been selected for mediation, a party or parties to such an appeal may request the Mediator to reconsider the case for mediation. The Mediator may, in his or her discretion, accept such reconsidered case for mediation, provided that no case shall be eligible for the mediation program after the filing of Appellant's brief and the Mediator shall not reconsider and accept a case after that time has passed.

E. After selection of a case for mediation, and in order to facilitate the mediation, the Mediator shall distribute instructions, procedures and forms to the parties. The parties will prepare and timely submit to the Mediator all forms sent in conjunction with the mediation program.

F. The Mediator shall schedule and conduct confidential mediation sessions. The mediation of selected cases shall be conducted in person, however, if necessary, the Mediator may permit the mediation to take place telephonically, or by videoconference if available. Such mediation sessions shall be scheduled and completed prior to the date set for the filing of Appellant's initial brief. A briefing schedule shall not be deferred during the pendency of mediation unless the Court determines otherwise. A referral to mediation shall not defer or extend the time for ordering any necessary transcripts. Unless otherwise ordered by the Court and for good cause shown, the appellate process will not be interrupted as a result of the pendency of mediation.

G. Unless the Mediator directs otherwise, mediation sessions must be attended by: 1) for each party, the lead attorney who is responsible for the appeal; 2) the parties to the appeal; and 3) if other than or in addition to a party, by the person or persons with actual, full and complete authority to agree to the terms of a settlement of the case. Attendance by other persons who may beneficially influence a settlement shall be within the discretion of the Mediator.

H. No party shall be bound by statements or actions at a mediation session unless a settlement is reached. If the case settles, the agreement shall be reduced to writing and signed by all parties at the mediation session or as soon as possible thereafter. A settlement agreement shall be binding upon all parties to the agreement.

I. In the event of settlement, the Appellant shall promptly file with the Prothonotary a Praecipe for Discontinuance of the appeal pursuant to Pa.R.A.P. 1973 and serve a copy of the Praecipe on the trial judge who presided in the case in the Court of Common Pleas pursuant to Pa.R.A.P. 121(c). The Praecipe shall contain a Notice of Service of the trial court judge pursuant to Pa.R.A.P. 121(d).

J. The Mediator shall keep confidential any statements made or information developed during the mediation process. The parties, their attorneys and other persons attending the mediation are likewise prohibited from disclosing statements made or information developed during the mediation process to anyone other than clients, principals, co-counsel, or those whose final permission and authority is essential to effectuate a settlement, and then, only upon receiving confirmation that the recipients will honor the confidentiality of the information. Similarly, the parties are prohibited from using any confidential information obtained as a result of the mediation process as a basis for any motion or argument to any court.

K. The Mediator shall not participate in any attempts to enforce a settlement. Further, the Mediator cannot be called as a witness in any action or proceeding to enforce a settlement reached as a result of the Appellate Mediation Program.

L. All mediation communications and mediation documents are confidential, inadmissible and are privileged communications pursuant to 42 Pa.C.S.A. § 5949. Upon completion of the mediation proceedings, the Mediator will destroy, in a secure manner, all written documentation submitted during the consideration of and/or conduct of mediation.

M. The Mediator will provide a program evaluation form, to counsel for the parties and, if appropriate, to parties. Candid evaluations are encouraged, but are voluntary and may be submitted anonymously.

WIRETAPS

§ 65.51. [Policy] (Rescinded).

[Pursuant to § 5704(5) of the Wiretapping and Electronic Surveillance Control Act, it is the policy of the Court not to entertain applications for the installation and use of Pen Registers.]

[Pa.B. Doc. No. 10-1993. Filed for public inspection October 22, 2010, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY Administration Order No. 43

Order of Court

And Now, this 8th day of October 2010, Administrative Order No. 43 is hereby rescinded effective December 1, 2010.

By the Court

SUSAN DEVLIN SCOTT,
President Judge

[Pa.B. Doc. No. 10-1994. Filed for public inspection October 22, 2010, 9:00 a.m.]

INDIANA COUNTY

**Amended Local Rule of Criminal Procedure 117;
No. AD-2-2006****Administrative Order of Court**

And Now, September 30, 2010, it is *Ordered* and *Directed* that Amended Local Rule of Criminal Procedure 117 is adopted as follows:

The Court Administrator is *Directed* to:

1. File one (1) certified paper copy of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts,
2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,
3. Publish a copy of this Order and Amended Rule on the Unified Judicial System's web site at <http://ujsportal.pacourts.us>,
4. File one (1) certified copy of the Amended Rule with the Criminal Procedural Rules Committee,
5. Keep continuously available for public inspection copies of the Order and Amended Rule in the Prothonotary & Clerk of Courts.

This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

WILLIAM J. MARTIN,
President Judge

Local Rule 117. Issuing Warrants; Preliminary Arraignments and Summary Trials; Setting and Accepting Bail; and Magisterial District Judge On-Call and After Hours Procedure.

(a) After hours coverage shall be provided by a Magisterial District Judge, assigned on a rotational schedule in conformity with subsections (d) and (e) of this Rule, who has countywide jurisdiction.

1. The "Duty" Magisterial District Judge will hold Court by video conferencing available from any approved advanced communication technology site. The Magisterial District Court Office will remain closed to the public during after hours coverage except at the discretion of the Magisterial District Judge.

2. In the event a Magisterial District Judge is needed when the Court is not scheduled for after hours coverage for the issuance of a search or arrest warrant, a protection from abuse petition, or other emergency matter; the "Duty" Magisterial District Judge will be contacted through the Indiana County Emergency Management Agency at 724/349-1428.

3. Procedures for executed summary warrants shall be pursuant to PA.R.Crim.P.431.

(b) Monetary Bond may be posted outside of regularly scheduled daily work hours at the Indiana County Jail.

The Indiana County Sheriff's Office is designated to accept bail deposits as provided in Rule 117, having the defendant sign the bail bond, releasing the defendant and delivering the bail deposit and bail bond to the issuing authority or the Clerk of Courts. After hour bail deposits must be in the form of cash or a money order. The posting of \$10,000.00 or more in cash shall require the submission of Form 8300, an Internal Service Regulation. All

persons wishing to post bail after hours shall contact the duty sheriff by calling the Indiana County Emergency Management Agency at 724/349-1428.

(c) All Magisterial District Judges shall be available during regular Court business hours on regular business days.

(d) A Magisterial District Judge shall be available at 8:00 A. M., 4:00 P. M., and 12:00 A. M. on non-business days and on non-business hours of regular business days.

(1) Magisterial District Judges shall only be available under this subsection for the purpose of executing actions enumerated under Pa.R.Crim.P. 117(A).

(2) An arresting Officer must fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment.

(3) At least thirty (30) minutes before any period of availability under this section, staff of the Indiana County Jail shall inform the Magisterial District Judge of all pending requests.

(e) A Magisterial District Judge shall be available on-call at all times of all days for the purposes of reviewing and signing search warrants, arrest warrants, and Petition for Emergency Protection From Abuse Orders.

(f) If a preliminary arraignment is required, the arresting Officer shall fax a signed Criminal Complaint and any other pertinent information to the on-duty Magisterial District Judge before any preliminary arraignment. Upon fax, a copy of the Criminal Complaint shall be sent to the Indiana County Jail, and the accused shall be transferred to the Indiana County Jail for purposes of preliminary arraignment.

(g) Magisterial District Judges shall be made available under subsection (d) and subsection (e) on a rotating basis pursuant to the direction of the President Judge.

(h) This Rule shall be made effective thirty (30) days after publication within the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 10-1995. Filed for public inspection October 22, 2010, 9:00 a.m.]

SCHUYLKILL COUNTY

Administrative Order 2010.2 Amendments; No. AD-139-2010**Public Access Policy of the Unified Judicial
System of Pennsylvania
Official Case Record Public Access
Administrative Order**

And Now, this 6th day of October, 2010, at 10:00 a.m., Pursuant to Public Access Policy of the Unified Judicial System of Pennsylvania. Official Case Records of the Magisterial District Courts adopted by the Pennsylvania Supreme Court, *It Is Hereby Ordered* that Schuylkill County Administrative Order 2010.2 is Amended and shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to:

- 1) File seven (7) certified copies of the Administrative Order with the Administrative Office of Pennsylvania Courts; and

2) Submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:

- a) two (2) certified copies of the Administrative Order;
 - b) a copy of the Administrative Order on a computer diskette.
- 3) Send one (1) certified copy with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
- 4) Forward one (1) copy to the *Schuylkill Legal Record* for Publication.
- 5) Keep continuously available for public inspection and copying in the Office of the Prothonotary.

**Public Access Policy of the Unified Judicial
System of Pennsylvania
Official Case Records of the Magisterial
District Courts**

Schedule for Public Access

A Magisterial staff member will be available every Monday and Wednesday from 1:00 p.m. - 4:30 p.m. and Friday from 1:00 p.m. - 3:00 p.m. to process requests for public Access to Magisterial District Court Records.

Requests to permit access at other times will only be granted by the Magisterial District Judge if there are extenuating circumstances.

Fees

- (1) \$0.25 per page copied;
- (2) Facsimile \$0.25 per page;
- (3) \$5.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of court dockets involving complex or voluminous records;
- (4) Pre-payment of estimated costs for services may be required at the discretion of the Magisterial District Court Judge;
- (5) Fees paid are non-refundable;
- (6) Fees may be waived if the Magisterial District Judge determines that the requestor is indigent;
- (7) All fees received pursuant to this Rule shall be identified as revenue to the Magisterial District Court but shall be remitted monthly to the general fund of the County of Schuylkill.

These revisions shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

WILLIAM E. BALDWIN,
President Judge

[Pa.B. Doc. No. 10-1996. Filed for public inspection October 22, 2010, 9:00 a.m.]