

THE COURTS

Title 255—LOCAL COURT RULES

COLUMBIA AND MONTOUR COUNTIES

Business of the Courts; Case No. 2014-MV-1

Order

And Now, this 30th day of September, 2014, it is hereby *Ordered and Decreed* that revisions to the 26th Judicial District's Local Rules are adopted for use in both Columbia, and Montour Counties, Court of Common Pleas of the 26th Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The 26th Judicial District Court Administrator is Ordered and Directed to do the following:

1) File seven (7) copies of this Order and Revised Rule with the Administrative Office of Pennsylvania Courts.

2) Forward two (2) certified copies of this Order and Revised Rules together with an electronic version of the Revised Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Forward one (1) certified copy of this Order and Rule to the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

4) Copies shall be kept continuously available for public inspection in the Offices of the Columbia and Montour County Prothonotaries.

By the Court

HONORABLE THOMAS A. JAMES, Jr.,
President Judge

BUSINESS OF THE COURT

L.R. No. 1.01. Title and Citation of Rules.

These rules shall be known as the Local Rules for Columbia and Montour Counties, the 26th Judicial District, and shall be cited as "L.R. No."

L.R. No. 1.02. Purpose and Scope.

The purpose of these rules is to provide procedure for practice in the Courts of Common Pleas of Columbia and Montour Counties, which shall be referred to hereinafter as "the 26th Judicial District."

L.R. No. 1.03. Interpretation.

These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. At every stage of any such action or proceeding, the Court may, in the interests of justice, disregard any error or defect of procedure which does not affect the substantial rights of the parties.

L.R. No. 1.04. Effective Date of Rules.

These rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and all former local rules relating to practice and procedure in the 26th Judicial District shall be rescinded as of that date. (Published in *Pa. Bulletin* on or before November 1st, 2014.)

L.R. No. 1.05. Number, Gender, Tense.

The singular shall include the plural, and the plural the singular. Words used in the masculine gender shall include the feminine and neuter. Words used in the past or present tense shall include the future.

L.R. No. 1.06. Words and Phrases.

Words and phrases shall be construed according to rules of grammar and according to their common and approved usage, but technical words and phrases and such others as have acquired a particular meaning, or as are expressly defined by rule, shall be construed according to such meaning or definition.

L.R. No. 1.07. Numerals.

Roman numerals and Arabic numerals shall be given their usual meaning.

L.R. No. 1.08. Bonds.

A rule requiring a Bond or undertaking with Sureties to be posted by any person, shall be construed to permit, in lieu thereof, a Bond given by any indemnity or surety company authorized to do business in this Commonwealth, and approved by the proper authority.

L.R. No. 1.09. Computation of Time.

A. When any period of time is referred in any rule, such period in all cases, except as otherwise provided in Pa.R.C.P. 107, shall be computed as to exclude the first and include the last day of such period.

B. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the Laws of this Commonwealth, such day shall be omitted from the computation.

L.R. No. 1.10. Time for Publication for Successive Weeks.

Whenever in any rule providing for the publishing of notices, the phrase "successive weeks" is used; weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

L.R. No. 1.11. Notice by Publication.

A. The following are designated as newspapers of general circulation in and for Columbia County and thereby approved by the Court for legal notices, legal advertising, and related matters:

1. *Press-Enterprise*, Bloomsburg, PA

B. The following are designated as newspapers of general circulation in and for Montour County and thereby approved by the Court for purposes of legal notices, legal advertising, and related matters:

1. *The Danville News*, Danville, PA

2. *Press-Enterprise*, Bloomsburg, PA

3. *The Daily Item*, Sunbury, PA

L.R. No. 1.12. Continuances.

A. No matter scheduled by the Court for conference, hearing, argument or trial (with or without a jury), whether civil or criminal, shall be continued, rescheduled,

or stricken except upon written Motion requesting the same signed by the client and acknowledging said client's concurrence of the request.

B. A request for continuance in any matter scheduled before a district justice, special master, Board of Arbitration, hearing officer, or any other specially presiding tribunal will not be entertained by the Court. Instead, all such requests shall be addressed to the appropriate specially presiding tribunal.

L.R. No. 1.13. Court Reporter Notes Retention.

A. In the case of all Court Reporter notes taken of criminal matters where the crime charged is graded a misdemeanor of the first degree or lower, the Court Administrator is authorized to, no sooner than ten (10) years after the notes are taken, direct the destruction of any such notes.

B. In felony cases, the Court Administrator is authorized to direct the destruction of all Court Reporter notes no sooner than twenty-five (25) years after the notes were taken, or the expiration of the maximum sentence, whichever is the latter, with the exception of Homicide case notes, which shall be retained for seventy-five (75) years.

C. In all cases other than criminal cases, the Court Administrator is authorized to direct the destruction of all Court Reporter notes no sooner than ten (10) years after the date the notes were taken.

D. Notwithstanding Subsections A, B, or C of this rule in any matter where the notes or tapes have been transcribed and the transcription is approved by the Court and filed, the Court Reporter may, no sooner than thirty (30) days after filing, destroy any such notes or tapes. Any party who wishes to object to the transcription shall do so within the thirty (30) day period for serving written objection upon the Court Reporter. If the objection cannot be resolved to the satisfaction of the parties, any party may, by petition, request the Court to determine the objection. Court Reporter notes which are subject to objection shall be retained until all objections are solved.

E. Notwithstanding Subsections A, B, or C of this rule, a party may petition the Court, which may, in its discretion, order the retention of any particular Court Reporter notes for an additional period of time.

L.R. No. 1.14. Termination of Inactive Cases.

A. By the first day of September of each year, the Prothonotary and each District Justice shall assemble a list of all civil and criminal matters in which no steps or proceedings have been taken for two years or more prior thereto. The Prothonotary and each District Justice shall give notice thereof to counsel of record and to the parties for whom no appearance has been entered, as provided by Pa.R.J.A. No. 1901(c), that if a Motion as set forth below is not filed by the first day of December, the matter will be dismissed.

B. Unless a Motion to remove the matter from the dismissal list is filed by the first day of December, the Prothonotary or each District Justice will dismiss the matter without further notice to the parties.

C. The Motion to remove the matter from the list shall be filed with the appropriate Court in accordance with L.R. No. 301 et. seq. and shall set forth the following:

1. Good cause why the matter should not be dismissed.
2. A proposed Order setting forth appropriate deadlines for the filing and closing of pleadings, the completion of discovery and trial listing.

3. Any other matter necessary to move the case to its conclusion.

L.R. No. 1.15. Form of Papers.

A. All papers filed within the 26th Judicial District shall be prepared on 8 1/2 x 11 inch paper. Exhibits which have length longer than 11 inches shall be reduced. All papers shall be typewritten, double-spaced, and legible. Script and italic type are discouraged, but not prohibited. Backers are optional. All paper must be stapled at the top and not on the side.

B. All papers shall be signed by the attorney submitting the paper. Immediately beneath the signature, there shall appear the attorney's typewritten name, office address, attorney identification number, and telephone number.

L.R. No. 1.16. Filing of Papers.

A. Only papers required by the Pennsylvania Rules of Civil Procedure to be filed with the Prothonotary shall be filed with the Prothonotary.

B. Domestic Relations papers will be filed only at the Domestic Relations Office.

C. Trial Briefs, Pretrial Memoranda, and trial documents such as Points for charge, Motions in Limine, and similar documents shall be stamped "Received but NOT FILED of record."

L.R. No. 1.17. Service of Documents.

A. Unless a manner of service is specifically prescribed by statute or by the Rules of the Supreme Court of Pennsylvania, service of all papers filed within the 26th Judicial District shall be made with this rule.

B. Unless specifically prescribed by statute or by the Rules of the Supreme Court of Pennsylvania, service shall be the responsibility of the party or the party's attorney filing the paper. Unless specifically authorized by opposing counsel, leaving a paper in the attorney's mail box in the Prothonotary's Office shall not be in compliance with this rule and shall not constitute service.

C. *Service upon Attorney of Record:* All documents required to be served will be served by first class mail to all attorneys of record or by personally delivering a copy of the document to the attorney's office. All documents shall contain a certification of service indicating how service was made.

D. *Unrepresented Parties:* when a party is unrepresented by an attorney, service of all documents shall be made by both first class mail and by certified mail, return receipt requested.

L.R. No. 1.18. Endorsements.

All documents that initiate proceedings against another party or seek to alter the status of previous determinations, and which are not specifically governed by the endorsement provisions of the Pennsylvania Rules of Civil Procedure, shall contain the following endorsement prominently displayed on the first page of the paper:

TAKE NOTICE

PAPERS HAVE BEEN FILED IN COURT WHICH MAY AFFECT YOUR VALUABLE RIGHTS OR SUBSTANTIAL INTEREST. FAILURE BY YOU TO TAKE PROMPT ACTION COULD RESULT IN THE LOSS OF THESE VALUABLE RIGHTS OR SUBSTANTIAL INTEREST.

YOU SHOULD TAKE THIS PAPER TO AN ATTORNEY AT ONCE. IF YOU DO NOT HAVE AN ATTORNEY

OR CANNOT AFFORD ONE, GO TO OR PHONE THE OFFICES SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

NORTH PENN LEGAL SERVICES
168 EAST FIFTH STREET
BLOOMSBURG, PA 17815
(570) 784-8760

PENNSYLVANIA LAWYER REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
PO BOX 186
HARRISBURG, PA 17108
1-800-692-7375

MATTERS INITIATED BY COMPLAINT OR WRIT

L.R. No. 2.01. Matter Initiated by Complaint or Writ—Scope.

This Chapter shall govern practice when a matter is initiated by a Complaint, by a Writ of Summons, or by an amicable action, and shall not cover matters initiated by Petitions, Motions, Appeals, Applications, Exceptions, Preliminary Objections, or similar documents.

L.R. No. 2.02. Compulsory Arbitration.

1. Scope:

All civil cases where the amount in controversy (exclusive of interest and costs) is Fifty Thousand and 00/100 (\$50,000.00) Dollars or less shall, except those cases involving title to real estate, equity cases, mandamus, quo warranto, and mortgage foreclosure shall first be submitted to a Board of Arbitrators in accordance with Section 7361 of the Judicial Code, 42 Pa.C.S.A.

2. Listing for Arbitration:

A matter shall be listed for Arbitration by filing a Certificate of Readiness. Unless a Certificate of Readiness is complete in all regards, the Court Administrator shall not list the matter for arbitration and shall return the Certificate of Readiness to the party who submitted the Certificate of Readiness until a properly completed Certificate of Readiness is filed.

3. Selection of Arbitrators:

A. The Court Administrator shall maintain a master list of arbitrators consisting of all Attorneys actively engaged in the practice of law in the 26th Judicial District arranged in a random manner. Each case for which a Certificate of Readiness for Arbitration has been filed shall be assigned by the Court Administrator to an Arbitration Board consisting of three (3) attorneys and chosen randomly from the master list. It is the intent of this Rule that the members of the Bar serving on an arbitration panel receive an equal number of appointments.

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

C. Not more than one (1) member or associate of a firm or association of attorneys shall be appointed to the same Board.

D. If any attorney wishes to be replaced as an arbitrator in any particular arbitration hearing, the attorney shall advise the Court Administrator, in writing, no later than ten (10) days before the scheduled arbitration setting forth the reasons why the attorney cannot be present at the arbitration and the attorney can be excused from serving on the Board of Arbitration for reasonable cause. If the reason why the attorney cannot appear at the scheduled arbitration arose after the seven

(7) day period, the attorney shall immediately advise the Court Administrator of the reasons why he or she cannot attend the arbitration.

E. The Court Administrator shall excuse an attorney from an Arbitration only for the following reasons:

1. A conflict with a court appearance, except a matter before a District Justice.
2. Illness;
3. Important personal business, such as funeral, birth of a child, etc., family illness;
4. A conflict of interest with the parties to the arbitration; and/or,
5. Other reasons for just cause.

F. An attorney who has been appointed to a Board of Arbitration may not secure a substitute for his or her appearance at the Board of Arbitration. The substitute must be selected by the Court Administrator in accordance with the procedures set forth above.

G. In the event that an attorney, without leave of the Court Administrator, fails to serve as an arbitrator after having been notified of his/her appointment, the Chair of the Board of Arbitration shall advise the Court that the attorney failed to serve as required and shall send a copy to the attorney. The Court, in its discretion may impose appropriate sanctions upon the Attorney.

4. Scheduling of Hearings:

The Court Administrator shall schedule arbitration hearings by calling counsel of record and the board of arbitrators and the alternate arbitrator and shall send out a notice of the date, time and location of the arbitration and the names of the arbitrators and the alternate arbitrator.

5. Pre-hearing Memorandum:

In all matters where the amount in controversy exceeds \$25,000.00 the parties shall file a Pre-Hearing Memorandum, in the form substantially as set forth in Columbia County Rule No. 212.2 no later than five (5) days prior to the hearing. The chair of the board of arbitration, in his or her discretion, shall set up a conference call with counsel to address any unusual questions of fact or law. The chair of the board, in his or her discretion, may deny counsel who has failed to file a timely Pre-Hearing Memorandum or participate in the conference from offering exhibits or presenting testimony.

6. Conduct of Hearing-Evidence:

The conduct of hearings and evidence shall be governed by Pa.R.C.P. No. 1305.

7. Record:

A record may be made of proceedings before a Board of Arbitration at the expense of the requesting party.

8. Report and Award:

Within seven (7) days after the hearing, the chairman of the Board of Arbitration shall file a report and award with the Prothonotary who shall forthwith forward a copy to each party or his counsel and the Court Administrator. The award shall be signed by all or by a majority of the members of the Board. The Prothonotary shall enter the award on the docket.

9. Compensation:

Each member of the Board of Arbitrators who has signed the report or files a minority report shall receive as compensation for his services at a rate set by the

Court of Common Pleas. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on Petition of the members of the Board and for cause shown, may allow additional compensation. The Court may also, on Petition of any party to a case, on cause shown and to prevent injustice, reduce the amount of such compensation or disallow compensation entirely. The members of a Board shall not be entitled to receive their fees until after filing a report with the Prothonotary.

(L.R. No. 2.02 Revised 4/5/11)

L.R. No. 2.04. Listing Matters for Trial.

A. Cases at issue shall be listed for trial by either party filing a Certificate of Readiness for Trial Listing with the Prothonotary and by mailing a copy to all opposing counsel and to the Court Administrator in accordance with the provisions of L.R. No. 1.17 (A Sample of the Certificate of Trial Readiness Form is attached at the end of these rules.) No matter shall be listed for trial when discovery proceedings are pending. In the event that a matter is listed for trial in which there are pending discovery proceedings, it may be stricken from the list upon Motion of a party.

B. Once a matter has been listed for trial, discovery requests or proceedings shall not be initiated except upon Order of Court or written agreement of counsel filed with the Court.

L.R. No. 2.05. Pretrial Conference.

A. In any civil action filed within the 26th Judicial District in which a Praecipe for Trial Listing has been filed, the Court shall hold a Pretrial Conference with counsel for the parties.

B. At least fifteen (15) days prior to the Pretrial Conference, counsel for Plaintiff shall contact all counsel and conduct a conference among counsel to exchange lists of witnesses to be called at trial, to resolve objections to deposition testimony, to mark all exhibits to be used at trial, to discuss the prospects for settlement and attempt to agree on the authenticity of said exhibits. Counsel who intends to try the case shall attend the attorney conference. Counsel shall make a good faith effort to agree on the authenticity and admissibility of the exhibits as well as objections to deposition testimony. If such agreement cannot be reached, the objecting party shall be prepared to state in detail the reasons for the objection together with any authorities in support of his position at the Pretrial Conference.

C. Counsel for each party shall thereafter submit a Pretrial Memorandum to the Judge before whom the case is scheduled date least ten (10) days prior to the scheduled Pretrial Conference. The Pretrial Memorandum shall contain the following:

1. A concise statement of the claim or defense on liability and damages;
2. A separate list of the issues involved on liability and damages;
3. A separate list of those attorneys present at the attorney conference with identification of the party each represents and the date of the attorney conference.
4. A separate list of witnesses on liability and on damages, showing the address of each and a concise summary of each witness's proposed testimony;
5. A separate list of exhibits on liability and damages;

6. A list of all deposition transcripts to be used in lieu of testimony and a statement of known objections thereof;

7. A statement of all stipulations sought from opposing parties;

8. A statement of any special request, such as request for a view, special time for a witness, courtroom needs, etc.;

9. A list of any special voir dire examination of prospective jurors request by counsel;

10. Identification of any unusual legal issues which counsel expect to arise in the case. Motions in Limine should be filed no later than the date for submission of the Pretrial Memorandum; and

11. State of the status of settlement negotiations to date.

D. Clients shall be consulted by counsel in advance of the Pretrial Conference as to authority with respect to settlement, including definite minimum or maximum limits of amounts of authority, and respecting such other questions as may be reasonably anticipated to be relevant.

E. At trial, each party will be limited to those witnesses, exhibits and documents set forth in the Pretrial Memorandum unless:

1. All parties affected by any change agree in writing, which shall be filed with the Court;

2. Prompt notice of changes in the list of witnesses, exhibits or documents is made by filing with the trial Judge and serving other counsel with a Supplemental Pretrial Memorandum;

F. At the conclusion of the Pretrial Conference, the Court may issue an Order deciding the action taken. The Order may reflect any amendments to the pleadings allowed, agreements between counsel, admissions of fact, notation of any exhibits which counsel stipulate may be received in evidence without formal proof, the limitation on the number of expert witnesses and other appropriate matters.

G. In all medical malpractice cases (and other cases deemed appropriate by the Court) in which a Praecipe for Trial Listing has been filed, the Court Administrator, in its discretion, or at the direction of the Court, may promptly refer the case to Mediation or a settlement conference under the direction of the Court as follows:

1. Trial counsel must attend the Mediation or Settlement Conference. No substitute counsel shall be permitted to attend in place of trial counsel.

2. Trial counsel must be authorized to discuss and conclude settlement at the Mediation or Settlement Conference. The parties or their insurance representatives shall be available either in person or by telephone if necessary to conclude settlement.

3. Notice of the date, time and place of the Mediation or Settlement Conference will be sent to counsel by the Court.

4. At least seven (7) days prior to the Mediation or Settlement Conference, counsel shall submit Pre-Conference Statements to the Court which shall contain all of the following:

a. A brief statement of the facts and events out of which the party's claim or counterclaim arose or upon which the party's defense is based.

- b. A brief summary of the known special damages that party has incurred to date, if applicable.
- c. A list of witnesses who will testify at trial.
- d. An estimate of the trial time required.
- e. A statement of unusual legal issues presented, including significant questions of evidence.
- f. A list of exhibits to be introduced at trial.
- g. A statement of settlement negotiations to date, including the Plaintiff's most recent demand and the Defendant's most recent offer.
- h. Expert reports shall be attached to the Pre-Conference Statements.

MATTERS NOT INITIATED BY COMPLAINT OR WRIT

L.R. No. 3.01. Matters Not Initiated by Complaint or Writ—Scope.

This chapter shall apply to Documents, which are defined as including, but not limited to, Petitions, Motions, Appeals, Applications, Exceptions, Objections, Preliminary Objections, and every other matter not ultimately disposed of through a jury trial, nonjury trial, Arbitration, or Master.

L.R. No. 3.02. Matters That Do Not Require the Taking of Testimony for Final Disposition.

A. This rule shall establish the procedure for listing those matters for Argument Court which do not require the taking of testimony or the creation of a factual record for disposition and which involve only a question of law.

B. The following matters will be covered by this rule:

1. Preliminary Objections;
2. Motions for Summary Judgment;
3. Post-Trial Motions;
4. Appeals where facts are found by a fact finder below;
5. Exceptions where facts are found by a fact finder below; and,
6. Any other matter that is initiated by a document other than a complaint or writ of summons.

C. The Moving Party shall make the initial determination that the taking of testimony for final disposition is not necessary, and that the disposition of the matter requires only a determination of an issue of law.

D. The Moving Party shall file with the Prothonotary's Office the following:

1. Two copies of the Document;
2. One copy of the brief in support of the document. Briefs shall not be filed, but shall be stamped "RECEIVED, BUT NOT FILED OF RECORD" by the Prothonotary or Court Administrator;
3. The party may file a certificate of service with regard to the Brief;
4. The Praeceptum for Argument shall be substantially in the following form:

**(CAPTION)
PRAECEPTUM**

TO THE PROTHONOTARY:

Please place the following case on the next Argument List for Plaintiff/Defendant's _____ to be argued.

If the Document is not accompanied by a Brief and Praeceptum, the Prothonotary shall time stamp and docket the Document. The Court Administrator will not schedule the matter until L.R. No. 3.02(D) is complied with.

E. The Prothonotary shall deliver one (1) copy of the Document, Brief, and Praeceptum to the Court Administrator's office and retain one copy of the Document for filing.

F. The Moving Party shall, within three (3) days of filing, serve a copy of the Document, Praeceptum, and Brief upon opposing counsel, as provided at L.R. No. 1.17C.

G. If the Respondent determines that the taking of testimony is necessary for disposition of the matter, and the matter does not involve only a determination of an issue of law, the Respondent shall file a Response as provided for at L.R. No. 3.03G within ten (10) days of service of the Moving Party's Document. The Respondent shall attach to the Response a Rule Returnable, as set forth at L.R. No. 3.05, and the matter shall proceed in accordance with the procedures set forth at L.R. No. 3.03. The Prothonotary shall take a copy of the Rule Returnable to the Court Administrator's office. After a return date is secured, the Prothonotary shall cause the executed Rule to be delivered to the Respondent for service upon all parties of record. The Respondent shall serve the documents upon all counsel of record within three (3) days of receipt, as provided at L.R. No. 1.17C.

If the taking of testimony is not necessary for the disposition of the matter, the document shall not be endorsed with a notice to plead.

H. All matters not requiring the taking of testimony shall be disposed of at Argument Court, and all counsel of record must be present. The Judge to whom the case is assigned shall assemble a list of cases to be heard at Argument Court and shall provide notice to counsel of record, setting forth the following:

1. The date, time, and place of Oral Argument.
2. The date upon which the Respondent's Brief shall be due.

The Moving Party may file a Reply to the Respondent's Brief within ten (10) days from service of Respondent's Brief with the Court. The Respondent shall have the right to respond to the Moving Party's Reply Brief within ten (10) days after the service of the Moving Party's Brief. The Moving Party's Reply Brief shall be limited to matters raised in the Respondent's Brief and the Respondent's Reply to the Moving Party's Reply Brief shall be limited to the Moving Party's Reply Brief.

At Argument Court, the parties shall be limited to fifteen minutes of argument. The Court, in its discretion, may direct a longer or shorter period of time for argument.

I. Principal Briefs shall contain the following information:

1. The caption of the case;
2. A brief procedural history and comprehensive statement of relevant facts;
3. The issues before the Court; and,
4. Comprehensive argument and discussion addressed to the issues with all relevant and recent authorities. The argument shall specifically cite and endeavor to distinguish all conflicting or opposing authorities. Any additional briefing shall be at the discretion and with the permission of the Court.

J. If the Respondent does not file a Brief as required by these Rules, the Court, in its discretion, may deny the opportunity to the Respondent to present oral argument.

K. A party may file a written request to the Court for a Continuance of Oral Argument or for an extension of time to file a Brief. The request shall comply with the requirements of L.R. No. 1.12 and, further, indicate the reasons for the proposed extension or continuance, and shall further state whether opposing counsel agrees or objects to said request.

L.R. No. 3.03. Matters Which Require the Taking of Testimony for Final Disposition.

A. This Rule shall establish the procedure for listing those matters which require taking of testimony or the creation of a factual record for disposition.

B. The Moving Party shall make the initial determination as to whether a matter requires taking of testimony for final disposition and shall proceed under this Rule.

C. All Documents covered by this Rule shall be signed by the attorney of record, and include a Verification as provided for in Pa.R.C.P. No. 1024.

D. The Document shall include, as a first page, a Rule Returnable substantially in the form set forth at L.R. No. 3.05 followed by an Endorsement as set forth at L.R. No. 1.18 and shall be endorsed with a Notice to Plead as follows:

An answer and affirmative defenses must be filed by the date set forth on the rule returnable issued in this case or the facts will be deemed admitted and any affirmative defenses waived.

E. The Moving Party shall file with the Prothonotary two (2) copies of the Document and one (1) copy of a Brief in support thereof. The contents of the Brief shall be in accordance with the provisions of L.R. No. 3.024.

F. The Prothonotary shall deliver one (1) copy of the Document and the Brief to the Court Administrator's office. After execution of the Rule by the Court, the Prothonotary shall return copies to the Moving Party who shall serve the Document as provided at L.R. No. 1.17C upon all counsel of record within three (3) days of receipt.

G. The Respondent shall file and serve no later than the date set forth in the Rule Returnable, a verified Response admitting or denying the well pleaded facts set forth in the Moving Party's Document. All such well pleaded facts, not specifically denied in the Response, shall be taken as admitted. The Response shall include, under a separate heading, affirmative defenses to notify the Moving Party of legal issues that need to be determined. No reply is required to the Affirmative Defenses. If no Response is filed, all well pleaded facts in the Moving Party's Document shall be taken as admitted.

H. The Respondent shall file a Brief responding to the Brief filed by the Moving Party at or before the Rule Returnable date. The contents thereof shall be in accordance with the provision of L.R. 3.02J.

I. At the time set for the Rule Returnable the Court, in its discretion, shall enter an Order setting forth the manner in which the matter shall be determined. If there are no disputed material facts, the Court may place the matter on the Argument List or hear argument on the Rule Returnable date. If questions of fact exist the Court may schedule a hearing or order the taking of depositions and require findings of fact and conclusions of law.

J. All Motions shall attach this Order:

(CAPTION)

ORDER

AND NOW, this _____ day of _____, 201 __, upon consideration of the within Motion, it is hereby ordered as follows:

(1) a Rule is issued upon the Respondent to show cause why the moving party is not entitled to the relief requested;

(2) the Respondent shall file an Answer to the Motion within twenty (20) days of service upon the Respondent;

(3) the Motion shall be decided under Pa.R.C.P. No. 206.7;

(4) a hearing/argument/pre-disposition conference shall be held on the _____ day of _____, 201 __, at _____ o'clock, _____ m, in the undersigned Judge's Chambers of the _____ County Courthouse, _____, Pennsylvania; and,

(5) Notice of entry of this Order shall be provided to all parties by the moving Party.

BY THE COURT:

_____ J.

L.R. No. 3.04. Motions Requesting Ex Parte Relief.

A. A Moving Party intending to present to the Court a Motion Requesting Injunctive Relief, a Stay of Proceedings, a Motion to Compel Discovery, or other ex parte relief shall make a diligent and conscientious effort to notify any known opposing counsel of the intent to present such a Motion at the earliest possible time.

B. Consistent with the requirement set forth in Subsection A, the Moving Party shall, at a minimum, speak with opposing counsel by telephone, or leave a specific message with his or her staff during regular business hours, or, if such notice must be delivered after the close of regular business hours, the Moving Party shall make reasonable attempts to speak with opposing counsel at his or her home, or leave a specific message with a competent adult residing therein.

C. A Motion presented to the Court pursuant to Subsection A shall include a Certificate signed by the Moving Party stating whether or not opposing counsel was notified of the time such Motion would be presented, and, if opposing counsel was not personally notified, setting forth the efforts made by the Moving Party to do so. Failure to attach a Certificate in accordance with this subsection shall be grounds for denial of the relief sought.

D. In matters in which a party is unrepresented by counsel, counsel for the Moving Party shall follow the same procedures set forth above in Subsections A, B, and C in attempting to notify an unrepresented party.

E. Upon the filing of a motion to compel written discovery, the Court shall not issue an ex parte order granting the motion in less than ten (10) days after the filing of the motion to give the opposing party time to respond to the motion.

(L.R. No. 3 Revised 11/4/11)

DISCOVERY PRACTICE

L.R. No. 4.01. Number of Interrogatories.

Interrogatories to a party, as a matter of right, shall not exceed forty (40) in number. Interrogatories inquiring as to the name and location of witnesses, or the existence, location and custodian of documents or physical evidence shall be construed as one interrogatory. All other inter-

rogatories, including subdivisions of one number interrogatory, shall be construed as separate interrogatories. If counsel for a party believes that more than 40 interrogatories are necessary, he shall consult with opposing counsel promptly and attempt to reach a written Stipulation as to a reasonable number of additional interrogatories. Counsel are expected to comply with this requirement in good faith. In the event a written Stipulation cannot be agreed upon, the party seeking to submit additional interrogatories shall file a Motion with the Court showing the necessity of relief.

L.R. No. 4.02. Number of Requests for Admissions.

Request for admissions to a party, as a matter of right, shall not exceed forty (40) in number. If counsel for a party believes that more than forty (40) requests for admissions are necessary, he shall consult with opposing counsel promptly and attempt to reach a written Stipulation as to a reasonable number of additional requests for admissions. Counsel are expected to comply with this requirement in good faith. In the event a written Stipulation cannot be agreed upon, the party seeking to submit additional requests for admission shall file a Motion with the Court showing the necessity of relief.

L.R. No. 4.03. Objections to Discovery Requests.

Any objection to an interrogatory, request for production of documents or request for admission shall be served upon opposing counsel within thirty (30) days of service of said request. Failure to serve upon opposing counsel a timely objection in accordance with the provisions of this Rule shall be deemed a waiver of objection to the interrogatory, request for production of documents or request for admission. If no answer or objections to discovery requests have been served, and if no written extensions of time for providing responses to discovery requests have been granted, a Moving Party, pursuant to L.R. No. 3.04, may present a Motion to Compel Discovery *ex parte*.

L.R. No. 4.04. Procedure in Deposition by Oral Examination.

A. A period of at least twenty (20) days is hereby determined by the Court to be "reasonable notice" required by Pa.R.C.P. 4007.1(b).

B. In the scheduling of any deposition, the party noticing the deposition is required to make reasonable efforts to first contact opposing counsel and agree upon a mutually convenient date, time and place of deposition before issuing a notice of deposition.

CUSTODY, PARTIAL CUSTODY AND VISITATION MATTERS

L.R. No. 5.01. Custody, Partial Custody and Visitation—Scope.

These rules shall, in conjunction with Pa.R.C.P. No. 1915.1 *et. seq.* govern the practice and procedure in all actions and claims for custody, partial custody and visitation of minor children within the 26th Judicial District.

L.R. No. 5.02. Request for Special Master Form.

A. Pleadings in all actions and claims for custody, partial custody and visitation of minor children shall be as provided in the Pennsylvania Rules of Civil Procedure.

B. In the event there is an existing Order for custody, partial custody, or visitation entered in Columbia or Montour County, any further actions involving any of the minor children who are the subject of such existing Order shall be designated as a Petition for Modification of Custody and shall be filed to the same term and number

as the previously entered Order. The Special Master shall dismiss any custody action which does not conform with the requirements of this rule.

C. All actions and claims for custody, partial custody and visitation of minor children shall be accompanied by referral in substantially the following form to be attached at the front of the Complaint.

(CAPTION)

REFERRAL

AND NOW, to-wit, on this ___ day of _____, 20 __, the within matter is hereby referred to _____, Special Master, for further proceedings in accordance with Rules of Court, Chapter V, dated May 23, 1990, pertaining to Special Masters in Custody and Visitation matters.

BY THE PROTHONOTARY:

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

North Penn Legal Services
168 E. 5th Street
Bloomsburg, PA 17815
(570) 784-8760

L.R. No. 5.03. Service.

A. All pleadings shall be served in accordance with the applicable Pennsylvania Rules of Civil Procedure.

B. Notices scheduling the Conference of the Special Master shall be served in accordance with the provision of L.R. No. 1.17.

L.R. No. 5.04. Special Master—Persons to be Present at Conference.

A. All actions or claims for custody, partial custody and visitation of minor children shall be referred to a Special Master, who shall be an attorney, who shall promptly fix a time and place for a Conference to be attended by all parties-in-interest and their counsel.

B. The Special Master has the discretion to exclude other persons from the conference.

C. The party having physical custody of the child(ren) who are the subject of the action shall bring the child(ren) to the Conference unless excused from doing so by the Special Master.

L.R. No. 5.05. Special Master's Conference.

A. At the Special Master's Conference, the Special Master shall hear the positions of the parties-in-interest relative to custody, partial custody and visitation of minor children.

B. The Special Master may, at his or her discretion, hear the positions of the parties in whatever manner he or she deems appropriate, including, but not limited to, statements of the parties-in-interest and their counsel, documentary evidence, medical records, records of courts and governmental agencies, and statements from the minor children involved.

C. The Special Master shall not swear in, or take testimony under oath from, any individuals at the Conference, nor shall any testimony record be made of the Conference.

D. The goal of the Special Master shall be to mediate the differences between the parties, encourage an ami-

cable resolution of their differences and, if appropriate, refer the parties to counseling or other services which may assist the parties and the minor child or children. Such referral to services, however, shall not be binding on the parties, and the mere fact of such referral by the Special Master shall not create any obligation upon the 26th Judicial District to make payment for such services.

E. In the event a settlement is reached between the parties, such settlement shall be submitted in writing by the Special Master to the Court for entry of a consent Order pursuant to Pa.R.C.P. 1915.7. However, should the Special Master find that such Agreement is not in the best interest of the minor child(ren), the Special Master shall note his or her objection and the reasons therefore in the Special Master's Report to the Court, and shall include in such Report such recommendations as the Special Master finds to be appropriate. The Court shall be the final arbiter as to the appropriateness of the entry of any Consent Order.

F. In the event the parties are unable to reach an Agreement, the Special Master shall offer to the parties and the Court a recommendation as to what the Special Master finds to be in the best interest of the minor child(ren).

G. The Special Master may recommend major changes in the status quo, including, but not limited to, a change in legal custody or primary physical custody, provided the Special Master finds such changes to be in the best interest of the minor child(ren).

L.R. No. 5.06. Time of Special Master's Conference.

A. The Special Master's Conference shall be held on the date fixed therefore by the Special Master, except that the Special Master may, in his or her discretion, continue the Conference to a date certain for cause shown. No Conference shall be continued indefinitely.

B. All claims or actions referred to the Special Master shall be concluded by him or her within sixty (60) days after such referral unless such time is extended by the Court upon the recommendation of the Special Master.

L.R. No. 5.07. Report to the Court.

A. In each case, the Special Master shall submit a Report to the Court which shall note whether an agreement has been reached, and, if so, the terms of such agreement and the Special Master's findings of whether such agreement appears to be in the best interest of the minor child or children. If no agreement has been reached, the Special Master's Report to the Court shall include the following:

1. A statement of the manner of service of the Notice of the Special Master's Conference;
2. A statement indicating the basis of the Court's jurisdiction;
3. The recommendations of the Special Master regarding Custody, Partial Custody and Visitation of the minor child or children; and
4. If a major change in the status quo is recommended, a statement of the reasons for such recommendation.

B. The Report shall be served by the Special Master upon the attorney of any represented party, or, if not represented, directly upon the party by ordinary mail.

C. Following the filing of the Master's Report, the Court shall enter an appropriate Order which may be in substantially the following form:

(CAPTION)

ORDER OF COURT

AND NOW, to-wit, on this _____ day of _____, 20 __, upon presentation of the attached Report To The Court, it is hereby ORDERED AND DECREED that the recommendations of the Master are incorporated by reference herein as an Interim Order.

If no Exceptions are filed within twenty (20) days of service of these Recommendations, this Order shall become a Final Order and shall remain in effect until further Order of Court. If Exceptions are filed this Order shall remain an Interim Order until disposition of the Exceptions, or further Order of Court.

BY THE COURT:

_____, J.

L.R. No. 5.08. Exceptions to the Special Master's Report.

A. A party may take Exceptions to the recommendations of the Special Master by filing the same within twenty (20) days after the entry by the Court of an Order pursuant to L.R. No. 5.07(C). Such Exceptions shall be filed with the Prothonotary of the appropriate county.

B. Exceptions shall be stated with particularity and shall be endorsed with a blank proposed Order for a pre-trial conference.

C. If Exceptions are not filed within twenty (20) days after the execution by the Court of an Order pursuant to L.R. No. 5.07(C), the Court may adopt any or all of the recommendations of the Special Master as a final Order.

D. In the event exceptions are timely filed, the excepting party shall state in the exceptions whether or not that party objects to the immediate implementation of the interim order pending further court hearing on the matter. If there is no objection, the matter shall proceed to a de novo custody trial in accordance with the local rules.

If there is a timely objection in the exceptions to the immediate implementation of the interim order, custody shall be governed by any prior order then in effect. If there is no such prior order or if such order has been substantially modified in writing or by circumstances, a party may request a hearing regarding the establishment of an interim order pending full de novo hearing.

If a hearing is requested regarding the interim order, the Court will forthwith schedule a hearing to establish an appropriate interim order or grant appropriate special relief. If no hearing is requested regarding the interim order, the interim order shall remain in full force and effect until further order of court. The matter shall then proceed to a de novo custody trial in accordance with the local rules.

L.R. No. 5.09. Trial on Exception.

A. The Custody Trial on any Exception shall be de novo.

B. To facilitate the mediation process and to encourage frank, open and meaningful exchanges between the parties and their respective counsel, all statements made by the parties or witnesses, including the minor child(ren), as well as any documents or reports received by the Special Master, shall not be the subject of direct or cross-examination, including, but not limited to, purposes of impeachment, at a later trial or hearing before the Court; provided, however, that documents or reports may

be received at a later trial or hearing if their admissibility is independently established at such later hearing.

C. The Special Master shall, in no event, be a witness for or against any party in any subsequent custody, partial custody, or visitation proceeding involving the minor child(ren).

D. The Court may hold such pre-trial conferences on any Exceptions as it deems appropriate.

E. The de novo trial or hearing on any Exceptions shall be held in accordance with the applicable Pennsylvania Rules of Civil Procedure and the applicable Local Rules of Civil Procedure.

L.R. No. 5.10. Home Study Investigations.

A. The Special Master shall not have the authority to direct the performance of Home Study Investigations.

B. In the event any party desires Home Study Investigations, such party must petition the Court. If the Court determines that Home Studies are appropriate, it shall also assess the costs for such Home Studies upon the parties as the Court deems appropriate.

C. A party may be excused from payment of any fees for Home Study Investigations if the Court finds, after hearing, that such party has established, by preponderance of the evidence, that he or she is indigent.

D. No request for Home Study Investigations shall be made prior to the filing of Exceptions. Requests for Home Studies may be made contemporaneously with the filing of Exceptions.

L.R. No. 5.11. Costs and Fees.

A. In all cases referred to the Special Master, he or she shall make a recommendation as to the party or parties against whom the costs and fees of the Special Master should be assessed. As such costs and fees shall be initially paid to the Special Master by Columbia County or Montour County, as applicable, such costs and fees as are assessed a party or parties pursuant to this rule shall thereafter be payable to the appropriate county.

B. The Special Master may, if appropriate, make a recommendation that a party payor reimburse the filing fee and Sheriff's service costs of the Complaint.

C. The Court may, at its discretion, direct the payment of costs and fees in accordance with the recommendation of the Special Master, or in such other manner as the Court finds to be appropriate.

L.R. No. 5.12. Prosecution of Action.

A. In addition to the information required by Pa.R.C.P. 1915.15, every Complaint for Custody, Partial Custody or Visitation shall contain the following averments:

1. Plaintiff has been advised of the requirement to attend the seminar entitled "Kids First" or the "Child-Focused Parenting" course, or such other parenting seminar as selected and approved by the Court.

2. Defendant has been advised of the requirement to attend the seminar entitled "Kids First" or the "Child-Focused Parenting" course, or such other parenting seminar as selected and approved by the Court.

B. An Information sheet concerning the Court's parenting seminar shall be attached to the Complaint.

C. All parents must register for the respective seminar within ten (10) days of service of the Complaint and attend the next available class.

L.R. No. 5.13. Child Custody Seminar.

A. Brochures and registration forms will be available from both the Prothonotary and the Court Administrator and are available online.

B. The moving party is responsible for ensuring that the opposing party received the seminar brochure and registration form.

C. Parents residing outside of Columbia/Montour counties may contact the presenter for possible alternative programs if unable to attend the seminar.

D. The Court has authorized the seminar presenter to approve individual changes to the registration, only upon a showing of good cause.

E. Parents must attend the seminar. A parent's visitation or custody may be affected by their failure to comply.

F. Parents proceeding in forma pauperis or on public assistance must provide proof of such to the presenter.

G. Upon successful completion of the seminar, the presenter will issue a certification of completion to the parties. A copy of said certificate shall also be provided by the presenter to the Court Administrator for the Prothonotary file.

H. The presenter shall provide the Court Administrator with a list of non-attendees against whom the Court may issue contempt proceedings.

I. This seminar is in addition to the Special Master's conference and parents must comply with attendance before the Special Master as governed in other local rules.

SUPPORT ACTIONS

L.R. No. 6.01. Non-Support and Related Matters—Scope.

These rules shall, in conjunction with Pa.R.C.P. 1910.1 et seq., govern the practice and procedure in all actions and claims to enforce a duty of support with the 26th Judicial District.

L.R. No. 6.02. Adoption of Alternative Hearing Procedure.

A. All actions or claims to enforce the duty of support shall proceed pursuant to the alternative hearing procedure of Pa.R.C.P. 1910.12.

B. Special Masters shall be appointed by the Court and shall be compensated at a rate to be determined by the Court.

C. Following Exceptions to a recommendation of the Domestic Relations Hearing Officer, a hearing de novo shall be promptly scheduled before a Special Master pursuant to Pa.R.C.P. 1910.12(b), at which hearing testimonial evidence shall be received and a stenographic record of the hearing shall be made. The Special Master shall then make a Report to the Court pursuant to Pa.R.C.P. No. 1910.12(d).

L.R. No. 6.03. Exceptions.

A. Any Exceptions to the recommendation of a Domestic Relations Hearing Officer shall be in writing and shall be filed directly with the Domestic Relations Section of Columbia or Montour County as applicable.

B. Any Exceptions to the Special Master's Report shall be in writing and should be filed directly with the Domestic Relations Section of Columbia or Montour County as applicable. No Exceptions shall be filed with the Prothonotary's Office.

C. Exceptions shall be stated with particularity.

D. The Court may strike improperly filed Exceptions unless it finds that the interest of justice demand otherwise.

L.R. No. 6.04. Argument on Exceptions to Special Master's Report.

A. Any Exceptions to the Special Master's Report shall be taken within the time period established by Pa.R.C.P. No. 1910.12(e).

B. Such Exceptions shall be accompanied by a Praecipe for Argument.

C. Upon receipt of Exceptions and a Praecipe for Argument, the Domestic Relations Section of Columbia or Montour County, as applicable, shall forward such Praecipe, together with a copy of the Exceptions which were filed, to the Court Administrator who shall then schedule the matter for Argument Court. Briefing and argument shall be conducted in accordance with the provisions of L.R. No. 3.02.

D. Pursuant to Pa.R.C.P. No. 1910.12(g), the filing of Exceptions shall not act as a supersedeas.

E. If no Exceptions are timely filed, the Court shall review the Special Master's Report and enter an appropriate Order.

F. The Special Master shall include in his or her report an appropriate notification of the time period within which Exceptions are to be filed and the place where Exceptions are to be filed.

L.R. No. 6.05. Non-Compliance with Prior Order of Support.

A. A Special Master shall have jurisdiction to initially hear all cases in which the Domestic Relations Offices of Columbia or Montour County, as applicable, find non-compliance with any prior support Order.

B. At such hearing, testimony and evidence shall be received and a stenographic record of the testimony shall be made.

C. Following such hearing, the Special Master shall make an appropriate Recommendation to the Court, which recommendation may include, but is not limited to, a recommendation of a finding of contempt.

D. In the event the Special Master makes a recommendation for a finding of contempt, the matter shall be promptly scheduled by the Domestic Relations Section and the Court Administrator for disposition before the Court of Common Pleas. In the event of any other recommendation by the Special Master, the parties shall have the right to file Exceptions to the Special Master's recommendations within ten (10) days after the date of the Special Master's Report. If no Exceptions are filed within such period, the Court shall review the Report and enter an appropriate final Order. Exceptions shall be stated with particularity.

E. In all non-compliance cases, the Court shall have the final authority to make a determination as to the appropriateness of any finding of contempt or any sanction against any individual found to be in a state of noncompliance with any prior Order regarding support.

L.R. No. 6.06. Alimony Pendente Lite.

A. In the event a request for alimony pendente lite is at issue in the Divorce proceeding, at the request of the proponent the matter shall be referred to the Domestic Relations Office for disposition in accordance with L.R. No. 6.01 et seq.

B. Request for referral to the Domestic Relations Office shall include the following:

1. The name, address and telephone number of the parties' attorney;

2. The address, telephone number and social security numbers of the parties; and

3. The names, addresses and telephone numbers of the parties' place of employment.

DIVORCE AND ANNULMENT ACTIONS

L.R. No. 7.01. Divorce and Annulment—Scope.

These rules shall, in conjunction with Pa.R.C.P. 1920.1 et seq., govern the practice and procedure in all actions and claims for divorce and annulment with the 26th Judicial District in which a Special Master is appointed.

L.R. No. 7.02. Appointment of Special Master.

A. A Motion for the Appointment of a Special Master shall be as provided in the Pennsylvania Rules of Civil Procedure.

B. Each party filing a Motion for Appointment of a Special Master shall deposit with the appropriate County's Prothonotary a sum which shall be determined by Order of Court. Such sum shall be applied to payment for the Special Master's and Court Reporter's services.

C. The Special Master may estimate the time required for each Special Master's Hearing, and may, in his or her discretion, require the deposit of reasonable additional sums for Court Reporter's and Special Master's fees prior to scheduling the Special Master's Hearing.

L.R. No. 7.03. Pre-Hearing Conference.

A. Following the appointment of the Special Master, such Special Master shall promptly schedule a Pre-Hearing Conference.

B. At or before the time of the Pre-Hearing Conference, each party shall file and serve upon the other party a Pre-Trial Statement as prescribed by Pa.R.C.P. 1920.33.

C. At or before the time of the Pre-Hearing Conference, each party shall file a complete Inventory pursuant to Pa.R.C.P. 1920.33.

L.R. No. 7.04. Duties of Special Master—Special Master's Hearing.

A. The Special Master shall take testimony in all contested divorce and annulment actions referred to him or her and all cases involving factual disputes arising from the action and any related claims as enumerated in the Divorce Code, and shall submit a written Report to the Court pursuant to the applicable Pennsylvania Rules of Civil Procedure.

B. The Special Master shall not direct the preparation of any transcript of the Master's Hearing unless appropriate arrangements are made to guarantee payment for the preparation of such transcript to the Court Reporter or Stenographer. Any party desiring a transcript may be required to make advance payment for the same.

L.R. No. 7.05. Duties of Special Master—Administrative Review of Divorces.

The duly-appointed Special Masters shall review all cases in which a request has been made for Entry of a Divorce Decree with the 26th Judicial District and shall submit a written Recommendation to the Court approving or disapproving each such request for a Divorce Decree. The Special Master may consider any outstanding finan-

cial obligation of the parties to the Special Master or Court Reporter or the Court in making such administrative review.

L.R. No. 7.06. Compensation of Special Masters.

A. The Special Masters shall be compensated by the Counties of Columbia and Montour, as applicable, for each review preceding an Entry for a Divorce Decree at a rate to be established by the Court.

B. The Special Masters shall be compensated for all other services at a rate to be determined by the Court. Such compensation shall be assessed as costs of litigation to be paid by the appropriate party as may be equitable and consistent with principles of prevailing law. The collection of said Master's fees shall be at the direction of the Court.

C. In the event a party is granted leave to proceed in forma pauperis, the Master shall be entitled to payment of Master's costs by the appropriate county, unless costs are assessed against a party not certified as proceeding in forma pauperis.

D. The obligation of the parties to make payment of a Special Master's and Court Reporter's costs in any Equitable Distribution action shall act as a judicial lien upon all property distributed pursuant to such action, and such lien may be reduced to judgment by the Special Master upon filing of a Praeceptum to Reduce Lien to Judgment filed with the appropriate county's Prothonotary.

L.R. No. 7.07. Administration Review Fee.

Every party filing a request for entry of a Decree in Divorce within the 26th Judicial District shall deposit such sum as directed by the Court with the Prothonotary of the appropriate county, in addition to any other costs imposed by law, to cover the Administrative Review Fee of the Special Master.

ORPHANS COURT ACTIONS

L.R. No. 8.01. Accounts.

A. All fiduciary accounts required to be filed with the Clerk of the Orphan's Court pursuant to Pa.O.C.R. 6.6. which have been on file for at least two (2) weeks, shall be advertised by the Clerk on the first and second Thursday of the following month in a newspaper designated by L.R. No. 1.11.

B. All accounts advertised in accordance with Subsection A, shall be presented to the Court by the Clerk for confirmation nisi and approval of the Statement of Proposed Distribution contained therein. If no objections are filed thereto within ten (10) days of the confirmation nisi the Clerk shall confirm absolutely the account and approval of the Statement of Proposed Distribution.

C. When Exceptions are filed to the account and/or the Statement of Proposed Distribution, on proper motion of counsel for a party in interest, the Court may refer the matter to a member of the bar as Auditor if in the opinion of the Court such reference is required.

D. All accounts on file with the Clerk of the Orphans' Court and ready for presentation to the Court, wherein an Audit is required, shall be presented to the Court by the Clerk of the Orphans' Court and the Court may appoint an Auditor, if in its opinion it is required.

E. Every Executor, Administrator, Trustee, Guardian, or other fiduciary or his attorney, shall give to every unpaid claimant, who has given written notice of his claim to the fiduciary or his attorney of record, and to every other person, firm, or corporation known to the

fiduciary to have an interest in the estate as beneficiary, heir, or next of kin, written notice of the filing of his account by letter mailed to the last known address of said unpaid claimant, person, firm, or corporation at least twenty (20) days prior to the date when said account will be presented to the Court for confirmation nisi; provided, however, that personal service of said notice may be made in such case as said fiduciary may elect. Said notice shall conform to the requirements of Pa.O.C.R. 6.3.

L.R. No. 9.01. Auditors.

A. All Auditors shall be selected and appointed by the Court. They shall be members of the Bar, not in any case holding the Offices of the Register of Wills or Clerk of the Orphan's Court.

B. When an Auditor is appointed for any purpose, he shall be given written notice of the time and place of the meeting of the audit to the Executor, Administrator, Guardian, or Trustee filing the Account to be audited, or to his attorney of record, and to every other person known to the Accountant to have an interest in the estate as beneficiary, heir, or next of kin, Guardian Ad litem, Trustee Ad litem, an unpaid claimant who has given notice of his claim to the Executor, Administrator, Guardian, or Trustee or their attorneys of record. Notice of the time and place of the meeting of the audit shall also be given by the Auditor by advertisement in two newspapers of general circulation printed in the County (one newspaper if only one is printed therein) once a week for two successive weeks, and in this notice all persons shall be required to present their claim before such Auditor or be debarred from coming in for a share of the assets or fund to be distributed.

C. Whenever any matter in the Orphans Court shall be referred to an Auditor, his/her Report shall be filed and presented to the Court. Before presenting his/her Report, every Auditor shall give at least five (5) days written notice to the parties appearing of record or their counsel, that his/her Report has been completed, is on file in his/her office, and may be examined by the parties in interest or their counsel; said notice shall also contain the date the Auditor proposes to file his/her Report with the Court. When presented, said Auditor's Report shall be confirmed nisi by the Court and marked filed by the Clerk, and unless Exceptions are filed within ten (10) days after such confirmation nisi, the Clerk shall enter the same confirmed absolutely.

D. If Exceptions are filed to a Report of an Auditor and the grounds of the Exceptions do not appear from the record or from the Report and are not purely matters of law, the facts alleged in the Exceptions shall be verified by Affidavit.

E. The Audits shall comply with the PA O.C. Rules presently 8.1 et al. as they may be amended.

F. If Exceptions are filed to a report of an Auditor, simultaneously therewith, the party filing said Exceptions shall file a Praeceptum for Argument.

L.R. No. 10.01. Adoptions.

A. Whenever a Notice of Intent to Adopt is filed within the 26th Judicial District, a copy thereof shall promptly be filed with the Clerk of Orphans' Court of Columbia or Montour County, as applicable, who shall in turn transmit said copy to the Director of Columbia or Montour County Office of Children's Services, as applicable. Said agency shall forthwith conduct a Home Investigation for each proposed adoption and shall present a report thereof to the Court prior to the scheduled date of the adoption proceeding.

B. When a Notice of Intent to Adopt is filed within the 26th Judicial District, the proposed adopting parent or parents shall pay an additional filing fee in accordance with appropriate Order of Court for the use of Columbia County or Montour County, as applicable, to defray in part the expenses which are incurred by the Court and the respective Office of Children and Youth Services in preparing the investigative report required by 23 Pa.C.S.A. § 2535.

C. No such additional filing fee will be required when the proposed adopting parent or parents are among the persons exempt from filing a Report of Intention to Adopt under 23 Pa.C.S.A. § 2531(c).

D. No such additional filing fee will be required when the intermediary is a public or voluntary child care agency other than Columbia County or Montour County Office of Children and Youth Services in which case the investigative report will be prepared by the child care agency as intermediary.

L.R. No. 11.01. Appointment of Guardians.

A. Notice of Petition for Appointment of Guardian for Incapacitated Person Form:

Each Petition for Appointment of Guardian for an Incapacitated Person shall contain the following Notice in large print:

**COURT OF COMMON PLEAS
OF _____ COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION**

**TO: _____
IMPORTANT NOTICE
CITATION WITH NOTICE**

A PETITION HAS BEEN FILED WITH THIS COURT TO HAVE YOU DECLARED AN INCAPACITATED PERSON. IF THE COURT FINDS YOU TO BE AN INCAPACITATED PERSON, YOUR RIGHTS WILL BE AFFECTED, INCLUDING YOUR RIGHT TO MANAGE MONEY AND PROPERTY AND TO MAKE DECISIONS. A COPY OF THE PETITION WHICH HAS BEEN FILED BY _____, PETITIONER, IS ATTACHED.

YOU ARE HEREBY ORDERED TO APPEAR AT A HEARING TO BE HELD IN COURTROOM NO. _____, AT THE _____ COUNTY COURTHOUSE, _____, PENNSYLVANIA, ON AT _____ M. TO APPOINT A GUARDIAN TO ACT ON YOUR BEHALF.

TO BE AN INCAPACITATED PERSON MEANS THAT YOU ARE NOT ABLE TO RECEIVE AND EFFECTIVELY EVALUATE INFORMATION AND COMMUNICATE DECISIONS AND THAT YOU ARE UNABLE TO MANAGE YOUR MONEY AND/OR OTHER PROPERTY, OR TO MAKE NECESSARY DECISIONS ABOUT WHERE YOU WILL LIVE, WHAT MEDICAL CARE YOU WILL GET, OR HOW YOUR MONEY WILL BE SPENT.

AT THE HEARING, YOU HAVE THE RIGHT TO APPEAR AND TO BE REPRESENTED BY AN ATTORNEY, IF YOU DO NOT HAVE AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE COURT TO APPOINT AN ATTORNEY TO REPRESENT YOU AND TO HAVE THE ATTORNEY'S FEES PAID FOR YOU IF YOU CANNOT AFFORD TO PAY THEM YOURSELF. YOU ALSO HAVE THE RIGHT TO REQUEST THAT THE COURT ORDER THAT AN INDEPENDENT EVALUATION BE CONDUCTED AS TO YOUR ALLEGED INCAPACITY.

IF THE COURT DECIDED THAT YOU ARE AN INCAPACITATED PERSON, THE COURT MAY APPOINT A GUARDIAN FOR YOU, BASED ON THE NATURE OF ANY CONDITION OR DISABILITY AND YOUR CAPACITY TO MAKE AND COMMUNICATE DECISIONS. THE GUARDIAN WILL BE OF YOUR PERSON AND/OR YOUR MONEY AND OTHER PROPERTY AND WILL HAVE EITHER LIMITED OR FULL POWERS TO ACT FOR YOU.

IF THE COURT FINDS YOU ARE TOTALLY INCAPACITATED YOUR LEGAL RIGHTS WILL BE AFFECTED, AND YOU WILL NOT BE ABLE TO MAKE A CONTRACT OR GIFT OF YOUR MONEY OR OTHER PROPERTY. IF THE COURT FINDS THAT YOU ARE PARTIALLY INCAPACITATED, YOUR LEGAL RIGHTS WILL ALSO BE LIMITED AS DIRECTED BY THE COURT.

IF YOU DO NOT APPEAR AT THE HEARING (EITHER IN PERSON OR BY AN ATTORNEY REPRESENTING YOU) ON THE _____ DAY OF _____, 20____, THE COURT WILL STILL HOLD THE HEARING IN YOUR ABSENCE AND MAY APPOINT THE GUARDIAN REQUESTED.

BY: _____
CLERK, ORPHANS' COURT

B. Citation for Hearing Form:

A proposed Citation for Hearing which shall include a paragraph for appointment of interim counsel shall be attached to the Petition. The proposed Citation for Hearing shall be substantially in the following form:

**(CAPTION)
CITATION**

AND NOW, this _____ day of _____, 20____, upon consideration of the verified Petition which at attached hereto, a citation is hereby issued upon the Petitioner to show cause why the requested adjudication of incapacity should not be made. A hearing will be held to determine Respondent's lack of capacity on _____, the day of _____, 20____, at _____ o'clock _____ m., before the Honorable _____. The place of the hearing will be Courtroom No. _____, of the County Courthouse, _____, Pennsylvania.

The Respondent has the right to be present and have an attorney of his or her choice. Interim Counsel, _____ is hereby appointed to represent the interests of the alleged incapacitated person pending the appearance of other counsel on behalf of the Respondent.

Personal service shall be made on the alleged incapacitated person and the contents and terms of the attached Petition shall be explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.

The Petitioner is ORDERED and DIRECTED to notify the Court at least seven (7) days prior to the hearing if the aforementioned counsel has not entered his/her appearance or if substitute counsel has not been retained.

At the hearing scheduled for this matter, the Court will make a determination as to responsibility for the payment of costs and counsel fees.

This Petition shall be served no less than twenty (20) days in advance of the hearing by personal service on the alleged incapacitated person and by certified mail, return receipt requested, to all persons residing within the Commonwealth of Pennsylvania who are eigh-

teen (18) years of age or older who would be entitled to share in the estate of the alleged incapacitated person in the event of death. Service shall also be made by way of certified mail, return receipt requested, to any person or institution providing residential services to the alleged incapacitated person; to any other service providers defined in the attached Petition; to any person or entity serving as attorney-in-fact for the Respondent; and upon _____ .

The alleged incapacitated person shall be present at the hearing unless the Petitioner present deposition or testimony of, or a sworn statement by a physician or licensed psychologist that the alleged incapacitates physical or mental condition would be harmed by his/her presence. The alleged incapacitated person's legal counsel may also stipulate of record that the presence of the alleged incapacitated person is not necessary.

BY THE COURT:

_____, J.

C. Contents of Petition:

Each Petition for the appointment of a guardian shall be in plain language and shall include the following information:

1. The name and address of the Petitioner, along with a statement of the Petitioner's relationship, if any, to the alleged incapacitated person.
2. The name, age, and post office address of the alleged incapacitated person.
3. The names and addresses of the spouse, parents and presumptive adult heirs of the alleged incapacitated person. (Presumptive adult heirs are those individuals having attained the age of majority who would inherit the alleged incapacitated person's estate as intestate heirs, had the alleged incapacitated person deceased on the date of the filing of the Petition.)
4. The name and address of the person or institution providing professional residential services to the alleged incapacitated person.
5. The names and addresses of all other professional service providers covering the six (6) month preceding the filing of the petition.
6. Each location at which the alleged incapacitated person has resided for the preceding three (3) year period.
7. The names and addresses of each person who at any time during the preceding three (3) years is known to have administered any of the financial affairs of the alleged incapacitated person. If a power of attorney exists and is in effect, a copy of the power of attorney is to be attached to the petition as an exhibit, if available to the petitioner.
8. A Statement of whether the alleged incapacitated person is known to have a will and whether a copy of any known will is available for production at the time of hearing.
9. The name and address of the person or entity whom petitioner asks to be appointed guardian and the qualifications of the proposed guardian.
10. An averment that the proposed guardian has no adverse to the alleged incapacitated person.
11. Concise factual averments as to why the appointment of a guardian is requested, including:

- a. A description of the functional limitations and physical and mental condition of the alleged incapacitated person.
- b. The steps taken to find a less restrictive alternative.
- c. The specific areas of incapacity over which it is requested that a guardian be assigned powers.

12. If a limited or plenary guardian of the estate of the alleged incapacitated person is sought, an inventory of the assets of the alleged incapacitated person, including estimated or known values thereof, and the net income all sources to the extent known.

13. A proposed Order of Court, to be appended on top of the Petition and beneath the Form required by L.R. No. 11.01(A) above. The proposed Order is to specify the precise scope of authority requested for the guardian and the specific areas as to which the guardian will be assigned powers.

14. The form is required to be sent to the PSP repository provided by the Petitioner to the Court for the Orphan's Court clerk at or before the time of the Hearing.

D. Form of Petition for Adjudication of Incapacitated Person Petitions for adjudication of incapacity shall be substantially in the following form:

(CAPTION)

PETITION FOR APPOINTMENT OF GUARDIAN OF THE (ESTATE) AND/OR (PERSON) OF _____

1. The Petitioner is _____, residing at _____ (Street) _____, _____ (City) _____ (County) _____, _____ (State) _____, _____ (Zip Code) _____.

2. The Respondent, an alleged incapacitate person, is of _____, who is _____ years of age and who resides at _____ (Street) _____, _____ (City) _____, _____ (County) _____, _____ (State) _____, _____ (Zip Code) _____.

3. The names and address of the spouse, parents and presumptive adult heirs of the alleged incapacitated person are as follows:

Name	Relationship	Address
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4. The names and addresses of the persons or institution providing professional residential services to the alleged incapacitated person are as follows:

5. The names and addresses of all other professional serviced providers during the last six (6) months are as follows:

6. During the last three (3) years, the alleged incapacitated person has resided at the following addresses (list all addresses):

Address	Date
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7. During the last three (3) years, the following persons are known to have administered all or part of the financial affairs of the alleged incapacitated person:

Name	Address
------	---------

8. A Power of Attorney (is/is not) in effect. A copy of the Power of Attorney in effect is attached hereto and herein by reference as Exhibit A. The name and address of the acting as attorney-in-fact for the alleged incapacitated person is:

9. The alleged incapacitated person (is/is not) known to have a Will. A copy of which (will/will not) be available for production at the time of the hearing.

10. The Guardian proposed is: _____ (Name) _____, _____ (residing at) (Street) _____, _____ (City) _____,

____ (State) ____, _____ (Zip Code) _____, or (with offices located at) _____ (Street) _____, _____ (City) _____, _____ (State) _____, _____ (Zip Code) _____. The qualifications of the proposed Guardian are as follows:

11. The proposed Guardian has no interest adverse to the alleged incapacitated person.

12. Your Petitioner believes and avers that the following steps were taken in order to find a less restrictive alternative to Guardianship:

13. Your Petitioner requests that a Guardianship as assigned powers over the person (and/or) estate of the alleged incapacitated person.

14. An inventory of the known assets of the alleged incapacitated person including estimates as to values thereof and the net income or the incapacitated person from all sources is attached hereto and incorporated herein by reference as Exhibit B. (This paragraph is required for all petitions seeking powers over the estate of the alleged incapacitated person.)

15. The alleged incapacitated person has the following functional limitations and physical and mental conditions which cause (him/her) to be an incapacitated person as defined by law:

(Add subparagraphs as necessary)

16. The best interest and welfare of the alleged incapacitated person will be served by granting the Guardianship requested because: (Set forth facts showing that the granting of the Guardianship will be in the best interest and welfare of the alleged incapacitated person.)

WHEREFORE, your Petitioner request that the Court appoint _____, Guardian of the person (and/or) estate of _____.

Attorney for Petitioner

VERIFICATION

I verify that the statements made in this Petition 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 falsifications to authorities.

Signature of Petitioner

L.R. No. 11.02. Service of Petition.

A. Service on Alleged Incapacitated Person

Each Petition seeking appointment of a guardian shall be served upon the alleged incapacitated person by personal service. The contents and terms of the Petition shall be explained to the maximum extent possible in language and terms the individual is most likely to understand. A copy of the Petition shall be left with the alleged incapacitated person. Service shall be no less than twenty (20) days in advance of the scheduled hearing and shall be made by a person trained and experienced in evaluating individuals with incapacities of the type alleged in the Petition.

B. Notice to Others

In addition to service upon the alleged incapacitated person, notice of the scheduling of the hearing shall be given to the following by United States Postal Service, certified mail, return receipt requested, to the last known address of:

1. All persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time.

2. The person or institution providing professional residential services to the alleged incapacitated person.

3. To each person known to have a Power of Attorney who at the time of the filing of the Petition was acting pursuant to the Power of Attorney on behalf of the alleged incapacitated person.

4. To such other persons as the Court shall direct.

C. Affidavit of Service Upon Alleged Incapacitated Person Form

(CAPTION)

AFFIDAVIT OF SERVICE

I, _____, an individual residing at _____, hereby verify and state as follows:

1. I am a person trained and experienced in evaluating persons of incapacities with the type alleged in the Petition filed to the above term and number.

2. On _____, 20 __, at _____ a.m., I personally served a true and correct copy of the said Petition upon the alleged incapacitated person at (state place of service) _____.

3. At the time of service of the Petition, I left a true and correct copy of the Petition with the alleged incapacitated person. In addition, I explained the contents and terms of the Petition to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.

4. 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 falsifications to authorities.

Signature

D. Proof of Notice Form

Proof of Notice as required under these Rules shall be substantially in the following form:

(CAPTION)

PROOF OF NOTICE

I, _____, attorney for Petitioner in the above incapacity proceeding, certify that on _____, 20 __, I served Notice of the hearing scheduled in the above captioned matter seeking an adjudication of incapacity by mailing a true and correct copy of the Petition with Order for hearing appended thereto by certified mail, return receipt requested, postage prepaid, to the following persons and/or institutions at the addresses indicated below:

Name	Address
------	---------

Attached to this Proof of Notice are return receipt cards evidencing said service of Notice.

Attorney for Petitioner

L.R. No. 11.03. Responsive Pleading.

No responsive pleading shall be required to a Petition filed seeking an adjudication of incapacity. All Averments in such a Petition shall be deemed denied.

L.R. No. 11.04. Appointment of Interim Counsel.

Upon filing of a Petition seeking an adjudication of incapacity, the Court shall appoint interim counsel to represent the interests of the alleged incapacitated person in the incapacity proceedings. Such counsel shall act as legal counsel for the alleged incapacitated person in the proceeding until such time as other legal counsel shall

have entered a written appearance on behalf of the alleged incapacitated person in accordance with these Rules.

L.R. No. 11.05. Conduct of Hearing/Trial.

A. Timing of Depositions

Any Petitioner intending to present testimony by deposition of individuals qualified by training and experience in evaluating individuals with incapacities of the type alleged shall not schedule any such deposition at a date sooner than twenty (20) days following the service of the Petition upon the alleged incapacitated person.

B. Presence of Alleged Incapacitated Person

The alleged incapacitated person shall be present at the hearing unless:

1. The Court is satisfied, upon deposition or testimony of, or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his/her presence and further that such person is unable to appreciate the subject matter of the Petition and nature of the proceeding seeking an adjudication of incapacity; or

2. It is impossible for the alleged incapacitated person to be present because of his/her earlier absence from the Commonwealth.

C. Request for Hearing at Residence

A request for the hearing to be held at the residence of the alleged incapacitated person shall be presented to the Court by Motion no later than ten (10) days prior to the schedule date of the hearing. Such Motion shall set forth the basis upon which the location of the hearing shall be changed. Included in the Motion shall be the consent of all persons or entities to whom notice of the hearing shall have been given. If consent cannot be obtained because a person or entity objects to the change of location or for some other valid reason such as lack of capacity, the Moving Party shall note in the Motion that such consent could not be obtained and specify the reason therefore. Notice of the filing of the Motion shall be given to the alleged incapacitated person and to all persons and entities who received notice of the scheduling of the hearing.

D. Notification Regarding Counsel

The Petitioner shall notify the Court at least seven (7) days prior to the hearing if counsel has not been retained by or on behalf of the alleged incapacitated person. If counsel has been retained for the alleged incapacitated person, counsel shall enter a written appearance no later than seven (7) days prior to the scheduled hearing. In appropriate cases, the Court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained by or on behalf of that individual. At the time of the hearing, the Court shall determine that alleged incapacitated person's ability to pay for counsel. If the Court finds such person is unable to make such payment, the costs of appointment of counsel shall be paid by the County.

E. Closure of Hearing; Non-Jury Nature

The hearing shall be closed to the public unless the alleged incapacitated person or his counsel objects. The hearing shall be without a jury unless written request for a jury trial is filed no later than twenty (20) days following service of the Petition upon the alleged incapacitated person.

L.R. No. 11.06. Evidentiary Standard.

No person shall be found to be incapacitated in the absence of the presentation of clear and convincing evidence.

L.R. No. 11.07. Grounds for Dismissal.

If the Court determines that the proceeding has not been instituted to aid or benefit the alleged incapacitated person, or that the Petition is incomplete or fails to provide sufficient facts to proceed, the proceeding may be dismissed.

L.R. No. 11.08. Production of Will.

The alleged incapacitated person's last known Will shall be produced by the Petitioner at the time of the hearing, if the same is available. In the event that the Court makes a determination of incapacity, the Court shall receive a copy of said Will and direct that the same be made part of the record under seal of the Court, unless the Court finds in its discretion that the nature of the incapacity does not warrant incorporation of a copy of the Will into the record. The Court may further order a guardian to present a copy of any Will of a person adjudicated incapacitated if located subsequent to the hearing, regardless of whether such Will predates or postdates a Will previously made part of the record.

L.R. No. 11.09. Submission of Proposed Findings of Fact.

On the date of the scheduled guardianship hearing, counsel for each party participating herein shall present to the Court proposed specific findings of fact concerning:

A. The nature of any condition or disability which impairs the individual's capacity to make and communicate decisions.

B. The extent of the individual's capacity to make and communicate decisions.

C. The need for guardianship services, if any, in light of such facts as the availability of family, friends, and other supports to assist the individual in making decisions, and in light of the existence, if any, of advance directives such as durable powers of attorney or trusts.

D. The type of guardian, limited or plenary, of the person or estate, needed based on the nature of any condition or disability and the capacity to make and communicate decisions.

E. The proposed duration of the guardianship.

L.R. No. 11.10. Presentation of Proposed Final Order.

Counsel for the Petitioner shall prepare and present a proposed final Order to the Court at the time of the guardianship hearing.

L.R. No. 11.11. Notices of Post-Trial Rights.

At the conclusion of a proceeding in which the person has been adjudicated incapacitated, the court shall inform the person of his right to appeal and to petition to modify or terminate the guardianship. A review hearing may be set at such time in the discretion of the Court.

L.R. No. 11.12. Production of Will Following Hearing.

Following an adjudication of incapacity in which the Court shall have ordered the production of any Will of the incapacitated person, upon locating any Will of the incapacitated person, the guardian shall present a Motion directly to the Court requesting that copies of such Will

or Wills be made a part of the record under seal. Such Motion shall contain an Order directing the filing of the copy or copies of the incapacitated person's Will as part of the record under seal of the court.

L.R. No. 11.13. Proceedings for Emergency Guardianship Form.

A. Proceedings for appointment of an emergency guardian shall be conducted in accordance with 20 Pa.C.S.A. § 5513. A Petition for the appointment of an emergency guardian is expected to be in substantially the form provided under these Rules. To the extent that compliance is not possible, the Petitioner shall aver the reason for the noncompliance, such as the lack of opportunity to ascertain the required information. In addition, the Petitioner shall aver in concise and summary form those factual averments upon which Petitioner relies in requesting the appointment of an emergency guardian.

B. Service of Petition and Citation

The Petition and Citation seeking the appointment of an emergency guardian shall be served upon the alleged incapacitated person promptly and so as to facilitate the opportunity for the incapacitated person promptly and so as to facilitate the opportunity for the incapacitated person to appear at the hearing on the Petition. In addition, notice of the proceeding to be given to such other persons as required under these Rules or in such other manner as the Court shall direct, unless the Court shall determine such notice is not feasible in the circumstances.

CRIMINAL PROCEDURE

L.R. No. 12.01. Criminal Procedure—Scope.

These Rules supplement the Pennsylvania Rules of Criminal Procedure and are applicable to all criminal proceedings within the 26th Judicial District. In the event of conflict between these rules and the Pennsylvania Rules of Criminal Procedure or any applicable statute, such Rule or statute shall prevail over these Rules. These Rules are intended to apply in matters where the statute or the Pennsylvania Rules of Criminal Procedure are silent. The numbering of these Rules is intended, so far as possible, to relate to the subject matter of relevant Pennsylvania Rules of Criminal Procedure.

L.R. No. 12.02. Filing and Service.

A. All Petitions, Motions, or other Applications seeking relief from the Court shall be in writing and shall be filed with the Clerk of Court of the respective Court where trial will be or was held. Any such documents requiring immediate attention shall be forwarded directly to the appropriate Court Administrator by the attorney filing such papers.

B. Service shall be the responsibility of the Moving Party, and shall be in accordance with applicable law and L.R. No. 1.17 and other special instructions as directed by the Court.

L.R. No. 12.03. Notice to Defendants.

At the time of Preliminary Arraignment (in cases where an Arrest Warrant is issued) or at the time a Summons is served upon the defendant (in cases where a Summons is issued) the issuing authority shall give the following Notice to the defendant:

NOTICE

To protect your legal rights, it is important that you promptly obtain an attorney to represent you at the preliminary hearing and any other proceedings in this

case. If you believe that you cannot afford an attorney, you may qualify for representation by the Public Defender's Office. To apply for representation, you should contact the following as soon as possible:

(Name, address and phone number of the appropriate Public Defender's Office to be inserted here.)

L.R. No. 12.04. Briefs and Argument.

A. Briefs shall be filed in such form and such manner as provided at L.R. No. 3.02J.

B. Argument shall be scheduled and conducted in such manner as provided at L.R. No. 3.02.

C. Failure to comply with the applicable Rules regarding argument and Briefs may be considered by the Court to be a withdrawal of the matter by the Moving Party or a withdrawal of the opposition of the Respondent, as the case may be. The Court may also, in its discretion, consider the matter upon the Brief and argument of the non-defaulting party, grant a continuance upon Motion of the non-defaulting party, or impose any sanctions the Court may deem appropriate.

L.R. No. 12.05. Supervision Fee.

A. Pursuant to 71 P.S. § 180-7.20, a monthly supervision fee in an amount as established by Order of Court shall be imposed as a condition of supervision on any offender placed on probation, parole, accelerated rehabilitative disposition, probation without verdict, or intermediate punishment.

B. The offender may request that the Court reduce, waive, or defer the fee upon showing the offender meets one of the factors as provided in 71 P.S. § 180-7.20(a).

L.R. No. 12.06. Petition for Parole, Furlough, or Work Release.

All Petitions for parole, furlough, or work release shall designate as part of the caption the name of the sentencing judge from whose sentence parole, furlough, or work release is requested.

L.R. No. 12.07. Continuances.

Request for continuances in any criminal case shall be as provided by L.R. No. 1.12.

L.R. No. 12.328. Broadcasting in the Courtroom and Its Environs.

A. Montour County

The entire second floor of the Montour County Courthouse is defined as "the courtroom or its environs." The taking of photographs or video or audio recordings or radio or television recording or broadcasting is prohibited on the said second floor during the progress of or in connection with any judicial proceedings.

B. Columbia County

The entire second floor of the Columbia County Courthouse is defined as "the courtroom or its environs." The taking of photographs or video or audio recordings or radio or television recording or broadcasting is prohibited on the said second floor during the progress of or in connection with any judicial proceedings.

L.R. No. 12.140. Post-Verdict Procedures.

A. Trial counsel shall continue to have an obligation to represent the Defendant through sentencing and post sentence motion unless permission for leave to withdraw as counsel has been granted by the Court. Trial counsel

shall also be required to brief and argue any post sentence motions (if the Court directs briefing and argument), unless succeeding counsel has entered an appearance or permission to withdraw has been granted by the Court.

B. No transcriptions of the record shall be made prior to argument on post sentence except upon petition by a party, approved by the Court.

L.R. No. 12.4006. Types of Bail.

A. *10% Cash Bail*

The Court or issuing authority may allow a sum of money, equal to ten percent (10%) of the bail fixed, to be deposited with the respective Clerk of Court of the County where trial will be held. When so allowed, the Court of issuing authority shall direct the Defendant to be responsible for the balance, and may in its discretion, require another person to also become a surety for the balance of the Defendant who is not a resident of the 26th Judicial District. Such additional surety may or may not be an individual residing with the 26th Judicial District, so long as the Court or issuing authority is satisfied that such individual is an appropriate surety.

B. *Real Estate*

Real estate shall not be accepted as surety for bail unless accompanied by:

1. A certification by an attorney licensed to practice in this Commonwealth stating the ownership of the real estate so offered and all liens against the same; and

2. An appraisal or opinion letter (at the discretion of the Court or issuing authority) of the real estate made within thirty (30) days of the bail motion by a license real estate broker or appraiser; and

3. All record owners of the real estate must execute the appropriate surety documents.

C. *Administrative Fees*

In all court cases, a non-refundable administrative fee of twenty-five dollars (\$25.00) shall be paid to the issuing authority or the Clerk of Court of the respective county where trial will be held at the time the bail bond is executed. In all court cases where the Defendant has been released on bail, the administrative fee shall be transmitted to the appropriate Clerk of Court with the transcript of the proceedings before the District Justice. The administrative fee shall be considered as earned at the time of bail undertaking is executed.

D. *Non-Appearance Before District Justice*

In all cases where there has been a non-appearance before a District Justice and a bail bond has been executed, the bail bond and the twenty-five dollar (\$25.00) administrative fee shall be immediately transmitted to the appropriate Clerk of Court along with a written statement of the details concerning the Defendant's non-appearance.

E. *Discharge*

When the conditions of a bail bond have been performed and the Defendant has made all required appearance in the case, The Clerk of Court shall return to the person posting bail, unless the Court orders otherwise, the entire amount of the cash bail deposited, less any administrative costs. In the event a Judgment has been entered on any bail bond, upon receiving an Order that the Defendant has been discharged from all obligations, the Clerk of Court shall mark the Judgment satisfied on

the record. The Clerk may require payment of the appropriate filing and satisfaction fees before marking the Judgment satisfied.

[Pa.B. Doc. No. 14-2178. Filed for public inspection October 24, 2014, 9:00 a.m.]

MERCER COUNTY

Administrative Order; No. 4 AD 2014

And Now, this 25th day of September, 2014, The Court Hereby Approves, Adopts and Promulgates Mercer County Administrative Order # 4, effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*, pursuant to Rule 103(c) of the Pennsylvania Rules of Judicial Procedure, and Rule 105 of the Pennsylvania Rules of Criminal Procedure.

It is further *Ordered and Directed* that the Court Administrator of Mercer County shall file one (1) certified copy each of these orders with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies each to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Criminal Procedural Rules Committee.

It is further *Ordered and Directed* that Administrative Orders shall be kept continuously available for public inspection and copying in the Offices of the Clerk of Court and Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, these offices shall furnish to any person a copy of these Administrative Orders. This order shall be published in the *Mercer County Law Journal*.

By the Court

THOMAS R. DOBSON,
President Judge

Administrative Order #4 AD 2014

And Now, this 22nd day of September, 2014, *It Is Hereby Ordered* that an automation fee of \$5.00 shall be assessed by the Clerk of Courts to all cases referred by the Domestic Violence Program to the Cost Coordinator for collection.

By the Court

THOMAS R. DOBSON,
President Judge

[Pa.B. Doc. No. 14-2179. Filed for public inspection October 24, 2014, 9:00 a.m.]

MERCER COUNTY

Local Rules of Court; No. 5 AD 2014

And Now, this 25th day of September, 2014, The Court Hereby Approves, Adopts and Promulgates these amendments to Mercer County Local Rule of Criminal Procedure L-571. Said amendments shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*, pursuant to Rule 103(c) of the Pennsylvania Rules of Judicial Procedure, and Rule 105 of the Pennsylvania Rules of Criminal Procedure.

It is further *Ordered and Directed* that the Court Administrator of Mercer County shall file one (1) certified copy of this order and amendments with the Administra-

tive Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Criminal Procedural Rules Committee.

It is further *Ordered and Directed* that Local Rules shall be kept continuously available for public inspection and copying in the Offices of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, these offices shall furnish to any person a copy of these Local Rules. These amendments shall be published in the *Mercer County Law Journal*.

By the Court

THOMAS R. DOBSON,
President Judge

Rule L-571. Arraignments.

Amendment:

(a) A defendant who is charged with crimes that do not include Driving Under the Influence shall be arraigned in Common Pleas Court on the Tuesday of the eighth week following that defendant's preliminary hearing by the Magisterial District Judge.

A defendant who is charged with at least one count of Driving Under the Influence shall be arraigned in Common Pleas Court on Tuesday of the twelfth week following the defendant's preliminary hearing by the Magisterial District Judge.

If no Common Pleas Arraignment Court is scheduled for said Tuesday, a defendant's arraignment shall take place on the next scheduled Arraignment Court.

New section to be added:

(h) ARD hearings for all eligible defendants charged with at least one count of Driving Under the Influence shall be held immediately following their arraignment. The District Attorney of Mercer County shall, at the time of arraignment, notify each defendant whether he/she is or is not eligible for admission into the ARD Program.

[Pa.B. Doc. No. 14-2180. Filed for public inspection October 24, 2014, 9:00 a.m.]

SCHUYLKILL COUNTY

Amend Rule of Civil Procedure 1303(c) Arbitration Hearing, Notice and Continuances; S1985-14

Order of Court

And Now, this 13th day of October, 2014, at 11:50 a.m., Schuylkill County Rule of Civil Procedure No. 1303(c), is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is *Ordered and Directed* to do the following:

1) File seven (7) certified copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts.

2) Forward two (2) certified copies of this Order and Rule and a computer diskette containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Forward one (1) certified copy of this Order and Rule with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Copies shall be kept continuously available for public inspection in the Office of the Schuylkill County Prothonotary and the Schuylkill County Law Library.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

SCHUYLKILL COUNTY RULE OF CIVIL PROCEDURE

Rule 1303(c).

(c) Within 10 days of the notice of the arbitration hearing, any opposing party or opposing counsel shall submit a written report to the Court Administrator listing the names of their witnesses who will be used at the hearing and an estimate of the time required to present their case.

ONLY THOSE WITNESSES LISTED BY THE PARTIES, AND REPORTED AS REQUIRED IN THIS RULE, WILL BE PERMITTED TO TESTIFY AT THE ARBITRATION HEARING, UNLESS THE COURT DIRECTS OTHERWISE.

ANY PARTY THAT DOES NOT TIMELY PROVIDE THE ESTIMATE OF THE TIME REQUIRED TO PRESENT THEIR CASE MAY, IN THE DISCRETION OF THE BOARD OF ARBITRATION, BE LIMITED TO 30 MINUTES TO PRESENT THEIR CASE.

[Pa.B. Doc. No. 14-2181. Filed for public inspection October 24, 2014, 9:00 a.m.]

WESTMORELAND COUNTY

Rules W1301, W1303 and W1312; No. 3 of 2014

And Now this 18th day of September, 2014, it is *Hereby Ordered* that Westmoreland County Rules of Civil Procedure W1301, W1303 and W1312 are rescinded, and new Rules W1301, W1303 and W1312 are adopted effective January 1, 2015.

By the Court

RICHARD E. McCORMICK, Jr.,
President Judge

Rule W1301. Cases for Submission to Arbitration.

(a) All civil cases including Landlord/Tenant and Relplevin actions, wherein the amount in controversy at issue (exclusive of interest and costs) is \$30,000 or less, shall be heard and decided by a board of arbitration consisting of three members of the bar. Cases involving title to real estate or actions in equity are excluded from arbitration.

(b) The prothonotary shall, at the time the complaint is filed, assign a trial judge.

(c) *Complaint*

1) Every Complaint filed in Compulsory Arbitration, whether filed by a plaintiff against a defendant or by a defendant against an additional defendant, shall contain, in addition to the Notice to Defend required by Pa.R.C.P. 1018.1, a Notice of Duty to Appear at Arbitration Hearing immediately following the Notice to Defend which shall be in the form provided in Westmoreland County Rule of civil Procedure 1303(b).

2) The plaintiff shall, at the time of filing a case subject to arbitration, provide the court administrator a copy of the State Cover Sheet Complaint. The party who files an appeal of a magisterial district judge's decision shall, at the time of filing the Notice of Appeal, provide the court administrator a copy of the Notice of Appeal. Any party filing a reinstatement of any case subject to arbitration as provided in subsection (a), shall, at the time of filing the Reinstatement, serve a copy of the Reinstatement on the court administrator.

(d) Landlord/Tenant appeals shall be automatically scheduled by the court administrator upon receipt of the Cover Sheet. Parties to all other arbitration-eligible cases must file a Certificate of readiness.

(e) The court, on its own motion or on motion of either party, may by depositions, settlement conference, hearing or otherwise, determine that the amount actually in controversy does not exceed \$30,000 (exclusive of interest and costs) and enter an order referring the case to arbitration.

Note: See W1312 for form, amount, and subject matter of awards.

Rule W1303. Hearing.

(a) With the exception of Landlord/Tenant appeals, which will be scheduled on the first available date following 60 days from filing of the Complaint, the court administrator shall schedule the case for arbitration upon receipt of a Certificate of Readiness.

(b) The court administrator shall, 30 days prior to the arbitration date, provide notice of the hearing date to the parties. The Notice shall, pursuant to Pa.R.C.P. 1303(a)(2), contain the following:

Notice of Duty to Appear at Arbitration Hearing

This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party

or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.

Note: This local rule results in the loss of the right to a trial de novo on appeal. A dismissal or judgment which results from this local rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

(c) A party must notify the court administrator in advance of scheduling in the event that party believes it will need more than forty-five minutes to present its case.

(d) The court shall promulgate rules of procedure and rules of conduct to be followed by various boards of arbitration. These rules shall be available through the court administrator.

(e) All requests for continuance shall be submitted on a form available through the court administrator. The court administrator may grant a maximum of two continuances provided there is no objection. Any additional continuances must be approved by the assigned judge.

Rule W1312. Award.

(a) The oath or affirmation shall be administered by the court administrator.

(b) The Report and Award shall be in the form set forth in Pa.R.C.P. 1312.

(c) Arbitrators may not award punitive damages.

(d) Arbitrators may award costs.

(e) Arbitrators may award possession in Landlord/Tenant matters.

(f) Arbitrators may award possession and monetary value of the property or special damages sustained in a replevin action.

(g) Monetary awards shall not exceed the jurisdictional limit of \$30,000 exclusive of interest and costs.

Note: A copy of the Form of Oath, Award and Notice of Entry of Award form is provided in the Forms section of the Westmoreland County Rules of Court.

Note: With regard to recovery of costs, see *Mancini v. Southwestern Pennsylvania Transportation Authority*, 756 A.2d 108, 110 (Pa. Cmwlth. 2000) and *Sillings v. Protected Home Mutual Life Ins. Co.* 84 W.L.J. 7 (2001).

Note: See: *Zelenak v. Mikula*, 911 A.2d 542 (Pa. Super. 2006) as to what is included in record costs.

Note: See: Comment to Pa.R.C.P. 1301 for awarding possession and damages in replevin cases.

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