

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 2 AND 5]

Order Amending Rules 203 and 513 of the Rules of Criminal Procedure; No. 496 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 9th day of November, 2017, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 47 Pa.B. 182 (January 14, 2017), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendment to Pennsylvania Rules of Criminal Procedure 203 and 513 are adopted, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2018.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 203. Requirements for Issuance.

(A) In the discretion of the issuing authority, advanced communication technology may be used to submit a search warrant application and affidavit(s) and to issue a search warrant.

(B) No search warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority in person or using advanced communication technology. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

(C) Immediately prior to submitting a search warrant application and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority **in person, by telephone, or by any device which [, at a minimum,]** allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant. **In any telephonic communication, if the issuing authority has a concern regarding the identity of the affiant, the issuing authority may require the affiant to communicate by a device allowing for two-way simultaneous audio-visual communication or may require the affiant to appear in person.**

(D) At any hearing on a motion for the return or suppression of evidence, or for suppression of the fruits of evidence, obtained pursuant to a search warrant, no evidence shall be admissible to establish probable cause other than the affidavits provided for in paragraph (B).

(E) No search warrant shall authorize a nighttime search unless the affidavits show reasonable cause for such nighttime search.

(F) A search warrant may be issued in anticipation of a prospective event as long as the warrant is based upon an affidavit showing probable cause that at some future time, but not currently, certain evidence of a crime will be located at a specified place.

(G) When a search warrant is issued, the issuing authority shall provide the original search warrant to the affiant and the issuing authority shall retain a contemporaneously prepared copy.

Comment

Paragraph (A) recognizes that an issuing authority either may issue a search warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for a search warrant.

Paragraph (B) does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for a search warrant must be sworn to before the issuing authority prior to the issuance of the warrant. “Sworn” includes “affirmed.” See Rule 103. The language “sworn to before the issuing authority” contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. See paragraph (C).

Paragraph (D) changes the procedure discussed in *Commonwealth v. Crawley*, [209 Pa. Super. 70,] 223 A.2d 885 (Pa. Super. 1966), aff’d *per curiam*, [432 Pa. 627,] 247 A.2d 226 (Pa. 1968). See *Commonwealth v. Milliken*, [450 Pa. 310,] 300 A.2d 78 (Pa. 1973).

The requirement in paragraph (E) of a showing of reasonable cause for a nighttime search highlights the traditional doctrine that nighttime intrusion into a citizen’s privacy requires greater justification than an intrusion during normal business hours.

An affiant seeking the issuance of a search warrant, when permitted by the issuing authority, may use advanced communication technology as defined in Rule 103.

When advanced communication technology is used, the issuing authority is required by this rule to (1) determine that the evidence contained in the affidavit(s) establishes probable cause, and (2) verify the identity of the affiant.

[The “visual” requirement in paragraph (C) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.]

Verification methods include, but are not limited to, a “call back” system, in which the issuing authority would call the law enforcement agency or police department that the affiant indicates is the entity seeking the warrant; a “signature comparison” system whereby the issuing authority would keep a list of the signatures of the law enforcement officers whose departments have advanced communication technology systems in place, and compare the signature on the transmitted information with the signature on the list; or an established password system.

Paragraph (F) was added to the rule in 2005 to provide for anticipatory search warrants. The rule incorporates the definition of anticipatory search warrants set forth in *Commonwealth v. Glass*, [562 Pa. 187,] 754 A.2d 655 (Pa. 2000).

Paragraph (G) was added to clarify who must retain possession of the original of the search warrant. When the search warrant is issued using advanced communication technology, the version delivered to the police officer is considered the original for purposes of this rule.

Official Note: Rule 2003 adopted March 28, 1973, effective for warrants issued 60 days hence; renumbered Rule 203 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended October 19, 2005, effective February 1, 2006; amended October 22, 2013, effective January 1, 2014; **amended November 9, 2017, effective January 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Final Report explaining the October 19, 2005 amendments regarding anticipatory search warrants published with the Court's Order at 35 Pa.B. 6088 (November 5, 2005).

Final Report explaining the October 22, 2013 amendments regarding the original search warrants published with the Court's Order at 43 Pa.B. 6652 (November 9, 2013).

Final Report explaining the November 9, 2017 amendments regarding electronic technology for swearing affidavits published with the Court's Order at 47 Pa.B. 7180 (November 25, 2017).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(3). Arrest Procedures in Court Cases

(a) Arrest Warrants

Rule 513. Requirements for Issuance; Dissemination of Arrest Warrant Information.

(A) For purposes of this rule, "arrest warrant information" is defined as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.

(B) ISSUANCE OF ARREST WARRANT

(1) In the discretion of the issuing authority, advanced communication technology may be used to submit a complaint and affidavit(s) for an arrest warrant and to issue an arrest warrant.

(2) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority in person or using advanced communication technology. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

(3) Immediately prior to submitting a complaint and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority **in person, by tele-**

phone, or by any device which[, at a minimum,] allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant. **In any telephonic communication, if the issuing authority has a concern regarding the identity of the affiant, the issuing authority may require the affiant to communicate by a device allowing for two-way simultaneous audio-visual communication or may require the affiant to appear in person.**

(4) At any hearing on a motion challenging an arrest warrant, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph (B)(2).

(C) DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

The affiant or the attorney for the Commonwealth may request that the availability of the arrest warrant information for inspection and dissemination be delayed. The arrest warrant affidavit shall include the facts and circumstances that are alleged to establish good cause for delay in inspection and dissemination.

(1) Upon a finding of good cause, the issuing authority shall grant the request and order that the availability of the arrest warrant information for inspection and dissemination be delayed for a period of 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs first. The 72-hour period of delay may be preceded by an initial delay period of not more than 24 hours, when additional time is required to complete the administrative processing of the arrest warrant information before the arrest warrant is issued. The issuing authority shall complete the administrative processing of the arrest warrant information prior to the expiration of the initial 24-hour period.

(2) Upon the issuance of the warrant, the 72-hour period of delay provided in paragraph (C)(1) begins.

(3) In those counties in which the attorney for the Commonwealth requires that complaints and arrest warrant affidavits be approved prior to filing as provided in Rule 507, only the attorney for the Commonwealth may request a delay in the inspection and dissemination of the arrest warrant information.

Comment

This rule was amended in 2013 to add provisions concerning the delay in inspection and dissemination of arrest warrant information. Paragraph (A) provides a definition of the term "arrest warrant information" that is used throughout the rule. Paragraph (B) retains the existing requirements for the issuance of arrest warrants. Paragraph (C) establishes the procedures for a temporary delay in the inspection and dissemination of arrest warrant information prior to the execution of the warrant.

ISSUANCE OF ARREST WARRANTS

Paragraph (B)(1) recognizes that an issuing authority either may issue an arrest warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for an arrest warrant.

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority

prior to the issuance of the warrant. The language “sworn to before the issuing authority” contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. *See* paragraph (B)(3).

This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. *See* Rule 203. For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, [24 Pa. Super. 198,] 369 A.2d 362 (Pa. Super. 1976).

The affidavit requirements of this rule are not intended to apply when an arrest warrant is to be issued for noncompliance with a citation, with a summons, or with a court order.

An affiant seeking the issuance of an arrest warrant, when permitted by the issuing authority, may use advanced communication technology as defined in Rule 103.

When advanced communication technology is used, the issuing authority is required by this rule to (1) determine that the evidence contained in the affidavit(s) establishes probable cause, and (2) verify the identity of the affiant.

[The “visual” requirement in paragraph (B)(3) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.]

Verification methods include, but are not limited to, a “call back” system, in which the issuing authority would call the law enforcement agency or police department that the affiant indicates is the entity seeking the warrant; a “signature comparison” system whereby the issuing authority would keep a list of the signatures of the law enforcement officers whose departments have advanced communication technology systems in place, and compare the signature on the transmitted information with the signature on the list; or an established password system.

Under Rule 540, the defendant receives a copy of the warrant and supporting affidavit at the time of the preliminary arraignment.

DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

Paragraph (C) was added in 2013 to address the potential dangers to law enforcement and the general public and the risk of flight when arrest warrant information is disseminated prior to the execution of the arrest warrant. The paragraph provides that the affiant or the attorney for the Commonwealth may request, for good cause shown, the delay in the inspection and dissemination of the arrest warrant information for 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs first. Upon a finding of good cause, the issuing authority must delay the inspection and dissemination.

The request for delay in inspection and dissemination is intended to provide a very limited delay in public access to arrest warrant information in those cases in which there is concern that pre-execution disclosure of the existence of the arrest warrant will endanger those serving the warrant or will impel the subject of the

warrant to flee. This request is intended to be an expedited procedure with the request submitted to an issuing authority.

A request for the delay in dissemination of arrest warrant information made in accordance with this rule is not subject to the requirements of Rule 576.

Once the issuing authority receives notice that the arrest warrant is executed, or when 72 hours have elapsed from the issuance of the warrant and the warrant has not been executed, whichever occurs first, the information must be available for inspection or dissemination unless the information is sealed pursuant to Rule 513.1.

The provision in paragraph (C)(2) that provides up to 24 hours in the delay of dissemination and inspection prior to the issuance of the arrest warrant recognizes that, in some cases, there may be administrative processing of the arrest warrant request that results in a delay between when the request for the 72-hour period of delay permitted in paragraph (C)(1) is approved and when the warrant is issued. In no case may this additional period of delay exceed 24 hours and the issuing authority must issue the arrest warrant within the 24-hour period.

When determining whether good cause exists to delay inspection and dissemination of the arrest warrant information, the issuing authority must consider whether the presumption of openness is rebutted by other interests that include, but are not limited to, whether revealing the information would allow or enable flight or resistance, the need to protect the safety of police officers executing the warrant, the necessity of preserving the integrity of ongoing criminal investigations, and the availability of reasonable alternative means to protect the interest threatened by disclosure.

Nothing in this rule is intended to limit the dissemination of arrest warrant information to court personnel as needed to perform their duties. Nothing in this rule is intended to limit the dissemination of arrest warrant information to or by law enforcement as needed to perform their duties.

Pursuant to paragraph (C)(3), in those counties in which the district attorney’s approval is required only for certain, specified offenses or grades of offenses, the approval of the district attorney is required for a request to delay inspection and dissemination only for cases involving those specified offenses.

Official Note: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended December 23, 2013, effective March 1, 2014; **amended November 9, 2017, effective January 1, 2018.**

Committee Explanatory Reports:

Report explaining the August 9, 1994 Comment revisions published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court’s Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court’s Order at 32 Pa.B. 2591 (May 25, 2002).

Final Report explaining the December 23, 2013 amendments providing procedures for delay in dissemination and sealing of arrest warrant information published with the Court's Order at 44 Pa.B. 243 (January 11, 2014).

Final Report explaining the November 9, 2017 amendments regarding electronic technology for swearing affidavits published with the Court's Order at 47 Pa.B. 7180 (November 25, 2017).

FINAL REPORT¹

Amendments of Pa.R.Crim.P. 203 and 513

Face-to-Face Requirement for Verification of Affidavits

On November 9, 2017, effective January 1, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules 203 (Requirements for Issuance) and 513 (Requirements for Issuance; Dissemination of Arrest Warrant Information) that would permit telephonic verification for the swearing of an affidavit in support of a search or arrest warrant application.

The Committee studied a suggestion to amend the provisions of Rule 203 concerning the use of advanced communications technology for submitting search warrant affidavits. The suggestion was to eliminate the "face-to-face" requirement for the swearing of an affidavit in support of a search warrant application and permit the swearing to be done telephonically. Rule 203(C) provides:

(C) Immediately prior to submitting a search warrant application and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority by any device which, at a minimum, allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant.

Additionally, the Comment states that "[t]he 'visual' requirement in paragraph (C) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received."

It was suggested that the face-to-face requirement of the rule can present significant impediments to using advance communication technology to obtain search warrants. This is especially critical when time is of the essence, such as in DUI cases, where ethanol or other intoxicants dissipate quickly. Officers who seek to obtain search warrants face significant obstacles if they must travel to a site with audio-visual conferencing equipment or to an issuing authority's office to have a face-to-face appearance. These obstacles are more onerous at nighttime and in the more remote parts of the Commonwealth. Furthermore, it was noted that the federal courts have permitted telephonic submissions for many years. See Federal Rules of Criminal Procedure 4.1 and 41.

The current "face-to-face" requirement was added as part of the 2002 rule changes that first permitted the use of advanced communications technology (ACT) in the application process for search and arrest warrants. At that time, the Committee explained this change as follows:

In devising the new ACT procedures, the Committee agreed that the rules should continue to require the

'written' affidavits, yet allow for the writing to be submitted using ACT equipment. In addition, we agreed that an important concept for the new procedure would be to require the issuing authority to verify the identity of the affiant, and to maintain the requirement that the issuing authority administer an oath to the affiant. Under the new procedure, the issuing authority and the affiant may communicate from separate locations, and the issuing authority will be able to use ACT to verify the identity of the affiant and administer the oath before the required documentation is transmitted. . . . Unlike the provisions in Federal Rule 41 that permit oral requests for warrants without the requirement of a "face-to-face" encounter, Rules 203 (Requirements for Issuance) and 513 (Requirements for Issuance) do not permit a warrant to issue based on oral testimony alone, and require that the issuing authority using ACT must be able to see the affiant when the oath is administered. 32 Pa.B. 2591 (May 25, 2002).

The Committee noted that when the original proposal was developed, the Committee had published a version of this proposal that included telephonic administration of the oath. See 29 Pa.B. 4426 (August 21, 1999). At that time, the Committee did not distinguish between telephonic and two-way simultaneous audio-visual communication for warrant affidavit verification but rather discussed the issue in terms of advance communications technology that includes both. The Committee was satisfied that any form of ACT was sufficient for the constitutional requirements of warrant issuance. Subsequently, the face-to-face requirement was incorporated into the amendments approved in 2002. The face-to-face requirement appears to have been added as a means of guaranteeing the identity of the affiant. Since this provision was added at the time that ACT first was going to be permitted, there may have been unease with the new technology without this additional guarantee of the affiant's identity.

In examining this issue, the Committee studied federal practice in this area at some length. As noted above, the federal system has permitted the use of "reliable electronic means" for search applications for some time. Originally formulated as part of Fed.R.Crim.P. 4.1, the procedures for the use of this type of technology currently are contained in Fed.R.Crim.P. 41. The Notes to Fed.R.Crim.P. 41 from the time when these provisions were added discuss the concept of "reliable electronic means":

The term "electronic" is used to provide some flexibility to the rule and make allowance for further technological advances in transmitting data. Although facsimile transmissions are not specifically identified, the Committee envisions that facsimile transmissions would fall within the meaning of "electronic means."

While the rule does not impose any special requirements on use of facsimile transmissions, neither does it presume that those transmissions are reliable. The rule treats all electronic transmissions in a similar fashion. Whatever the mode, the means used must be "reliable." While the rule does not further define that term, the Committee envisions that a court or magistrate judge would make that determination as a local matter. In deciding whether a particular electronic means, or media, would be reliable, the court might consider first, the expected quality and clarity of the transmission. For example, is it possible to read the

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

contents of the warrant in its entirety, as though it were the original or a clean photocopy? Second, the court may consider whether security measures are available to insure that the transmission is not compromised. In this regard, most courts are now equipped to require that certain documents contain a digital signature, or some other similar system for restricting access. Third, the court may consider whether there are reliable means of preserving the document for later use.

Pennsylvania has had over a decade of experience with remote submission of warrant applications with little problem, easing some of the apprehension that may have existed when use of this technology was first introduced in 2002. The Committee also noted that telephonic verification appears to have worked with little problem in the federal system. While there is potential for telephonic submissions to be abused, the Committee concluded that this potential problem could be addressed by means other than requiring video-conferencing in every case. Therefore, Rule 203 has been amended in a manner similar to that proposed in 1999. This permits telephonic verification, in addition to in-person and two-way audio-visual communications currently permitted in the rule.

Although the rule already provides for issuing authority discretion in using ACT at all, the Committee concluded that a direct statement regarding telephonic verification would be helpful. Therefore, an additional provision has been added to paragraph (C) that permits an issuing authority to refuse a telephonic application if there is a question regarding the applicant's identity. This is consistent with the federal system that permits such assurance as a "local matter."

Although the original suggestion related only to search warrant applications, the Committee's 1999 proposal included arrest warrant submissions and would have permitted telephonic submission there as well. As with Rule 203, Rule 513 (Requirements for Issuance; Dissemination of Arrest Warrant Information) contains similar language regarding face-to-face verification of the affidavit of probable cause. The Committee concluded that the same concerns and rationale applied to arrest warrant applications as well. Therefore, similar amendments have been made to Rule 513.

[Pa.B. Doc. No. 17-1932. Filed for public inspection November 22, 2017, 9:00 a.m.]

[234 PA. CODE CH. 10]

Order Amending Rules 1005, 1006 and 1007 of the Rules of Criminal Procedure; No. 497 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 9th day of November, 2017, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 47 Pa.B. 186 (January 14, 2017), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Criminal Procedure 1005, 1006, and 1007 are amended, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2018.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA MUNICIPAL COURT TRAFFIC DIVISION

PART A. Philadelphia Municipal Court Procedures

Rule 1005. Pretrial Application for Relief.

(A) All pretrial applications for relief including those for suppression of evidence may be made orally or in writing. If in writing, a copy of the application shall be submitted prior to trial to the attorney for the Commonwealth.

(B) Pretrial applications shall be heard on the day set for trial immediately prior to the trial. If the decision is adverse to the Commonwealth, the Court shall grant the Commonwealth a continuance upon motion of the attorney for the Commonwealth to give the attorney for the Commonwealth the opportunity to take an appeal.

(C) The Commonwealth's appeal shall be taken not later than 30 days from the date of the decision on the pretrial application.

(D) After an appeal pursuant to this rule is filed, and the Commonwealth has certified in the notice of appeal that the order will terminate or substantially handicap the prosecution, the Municipal Court shall take no further action in the case, unless otherwise provided in these rules.

Official Note: Rule 6005 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; renumbered Rule 1005 and amended March 1, 2000, effective April 1, 2001; **amended November 9, 2017, effective January 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the November 9, 2017 amendment regarding the effect that taking an appeal has on the ability of the Municipal Court to take further action in a case published with the Court's Order at 47 Pa.B. 7182 (November 25, 2017).

Rule 1006. Notice of Right to Appeal or to Petition for *Certiorari*; Guilty Plea Challenge Procedure.

(A) Immediately after the imposition of sentence, the judge shall inform the defendant:

(1) in the case of a trial and verdict of guilty:

(a) of the right to file a petition for a writ of *certiorari* within 30 days without costs or to appeal for trial *de novo* within 30 days without costs;

(b) of the right to jury trial on appeal; and

(c) that the charge on which the defendant was found guilty in the Municipal Court will be considered by the district attorney as the basis for the preparation of an information after the filing of the notice of appeal;

(2) in the case of a plea of guilty:

(a) of the right to file a motion challenging the validity of the plea or the denial of a motion to withdraw the plea;

(b) of the 10-day time limit within which such motion must be filed;

(c) of the right to be represented by counsel in preparing and litigating the motion and to have counsel appointed in the event the defendant is unable to afford counsel;

(d) of the right to appeal from the final order disposing of the motion within 30 days after such order;

(e) that only the claims raised in the motion may be raised on appeal; and

(3) in any case, of the right to counsel to represent the defendant on appeal and of the right to have counsel appointed to represent the defendant on appeal in the event the defendant is unable to afford counsel.

(B) After a petition for writ of *certiorari* or notice of appeal for trial *de novo* is filed, the Municipal Court shall take no further action in the case, unless otherwise provided in these rules.

Comment

For the right to file a petition for a writ of *certiorari* to the court of common pleas, see Article V, Section 26 of the Pennsylvania Constitution, and the Judicial Code, 42 Pa.C.S. § 934. See also *Commonwealth v. Speights*, 509 A.2d 1263 (Pa. Super. 1986) (petition challenging sufficiency of the evidence), and *Commonwealth v. Frazier*, 471 A.2d 866 (Pa. Super. 1984) (petition alleging that judge erred in denying motion to suppress). *Certiorari* is available in non-summary cases only. Compare Rule 460.

Official Note: Rule 6006 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended February 21, 1996, effective July 1, 1996; renumbered Rule 1006 and amended March 1, 2000, effective April 1, 2001; **amended November 9, 2017, effective January 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the February 21, 1996 amendments published with the Court's Order at 26 Pa.B. 991 (March 9, 1996).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the November 9, 2017 amendment regarding the effect that taking an appeal has on the ability of the Municipal Court to take further action in a case published with the Court's Order at 47 Pa.B. 7182 (November 25, 2017).

Rule 1007. Challenge to Guilty Plea.

(A) A motion challenging the validity of a guilty plea or the denial of a motion to withdraw a guilty plea shall be in writing and shall be filed with the sentencing judge within 10 days after imposition of sentence. The motion shall be disposed of promptly.

(B) Execution of sentence shall be stayed and the amount of bail previously determined shall continue until disposition of the motion.

(C) The attorney for the Commonwealth shall be given notice of the motion and an opportunity to respond. The judge may schedule a hearing on the motion.

(D) Upon entry of a final order denying the motion, the judge shall inform the defendant of the right to appeal the order to the Court of Common Pleas within 30 days after the date of the order.

(E) After an appeal pursuant to this rule is filed, the Municipal Court shall take no further action in the case, unless otherwise provided in these rules.

Comment

The procedures applicable to the taking and the withdrawal of a plea of guilty are set forth in Rules 590 and 591.

This rule is intended to provide the exclusive procedure for challenging the validity of a guilty plea or the denial of a motion to withdraw a plea. For a discussion of the general principles underlying the rule, see the Comment to Rule 720.

Official Note: Rule 6007 adopted July 1, 1980, effective August 1, 1980; amended March 22, 1993, effective January 1, 1994; renumbered Rule 1007 and amended March 1, 2000, effective April 1, 2001; **amended November 9, 2017, effective January 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the March 22, 1993 amendments published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the November 9, 2017 amendment regarding the effect that taking an appeal has on the ability of the Municipal Court to take further action in a case published with the Court's Order at 47 Pa.B. 7182 (November 25, 2017).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 1005, 1006, and 1007

Writs of *Certiorari* and Appeals in the Philadelphia Municipal Court

On November 9, 2017, effective January 1, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules 1005 (Pretrial Applications for Relief), 1006 (Notice of Right to Appeal or to Petition for *Certiorari*; Guilty Plea Challenge Procedure), and 1007 (Challenge to Guilty Plea) to provide that once a petition for writ of *certiorari* or notice of appeal has been filed in a Philadelphia Municipal Court case, the Municipal Court cannot take further action in the case.

The Committee recently considered the opinion of the Pennsylvania Superior Court in the case of *Commonwealth v. Richards*, 128 A.3d 786 (Pa. Super. 2015), *appeal denied*, 145 A.3d 164 (Pa. 2016). *Richards* involved a defendant charged with DUI of a controlled substance. The Philadelphia Municipal Court granted defendant's motion to suppress and the Commonwealth petitioned for

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also, note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

writ of *certiorari* to the Philadelphia Court of Common Pleas. After the petition had been filed, the Commonwealth withdrew the charges at a status hearing in the Municipal Court, apparently by mistake. The Court of Common Pleas subsequently dismissed the appeal as moot. The Commonwealth appealed to the Superior Court on the basis that the Municipal Court should not have approved the withdrawal since Pennsylvania Rule of Appellate Procedure 1701 bars a lower court from conducting proceedings when a case is on appeal. The Superior Court held that the Rules of Appellate Procedure do not apply to a court of common pleas acting in its role as an appellate court deciding a petition for writ of *certiorari* unless that court expressly adopted such rules. This finding was based on a plain reading of Rule of Appellate Procedure 103 that limits the applicability of those rules to the Supreme, Superior, and Commonwealth Courts.

Rule 1006 provides two options for taking an appeal from a Municipal Court judgment: (1) to request a trial *de novo* before the Common Pleas Court; or (2) to file a petition for writ of *certiorari*, asking the Philadelphia Court of Common Pleas, sitting as an appellate court, to review the record made in the Municipal Court. See *Commonwealth v. Williams*, 125 A.3d 425 (Pa. Super. 2015). A trial *de novo* gives the defendant a new trial without reference to the Municipal Court record while a petition for writ of *certiorari* asks the Common Pleas Court to review the record made in the Municipal Court. Generally, a defendant is required to raise all claims in a writ of *certiorari* pertaining to the proceedings in the Municipal Court, or they will be considered waived on appeal. *Commonwealth v. Coleman*, 19 A.3d 1111 (Pa. Super. 2011).

The specific provision in Rule 1006 related to the filing of a writ of *certiorari* as an option for appeals from the Municipal Court was added in 1996. The Committee provided the rationale for this addition in the Final Report from that amendment:

Several members noted that, although the Philadelphia Public Defender's office utilized petitions for writs of *certiorari* fairly frequently, many members of the private bar apparently were not aware of the continued availability of *certiorari* as an alternative to an appeal for a trial *de novo* in the court of common pleas. We therefore agreed that the rules should expressly provide for this procedure. Final Report, 26 Pa.B. 989 (March 9, 1996).

This provision had codified the right contained in Article V, Section 26 of the Pennsylvania Constitution, and the Judicial Code, 42 Pa.C.S. § 934.²

Pa.R.A.P. 1701 describes the effects on a case when an appeal has been filed. The general rule contained in Pa.R.A.P. 1701(A) states, "Except as otherwise prescribed by these rules, after an appeal is taken or review of a quasi-judicial order is sought, the trial court or other

government unit may no longer proceed further in the matter." As the *Richards* case holds, the Rules of Appellate Procedure do not apply to appeals to the court of common pleas.

The Committee concluded that the principle that the Municipal Court cannot act in a matter once a petition for writ of *certiorari* has been filed with the Court of Common Pleas would have to be specifically added to the rules to be effective. The Committee concluded that such a provision prohibiting action by the Municipal Court once an appeal was filed would be advisable to prevent confusion such as occurred in *Richards* where two courts were acting at the same time on the case at cross-purposes.

This provision also is consistent with other rules that prevent cases from moving back and forth between courts of common pleas and the minor judiciary. See *e.g.* Rule 541 (if the right to preliminary hearing is reinstated after defendant waived preliminary hearing, the preliminary hearing must be in common pleas court, unless the parties and judge agree that the issuing authority conduct the preliminary hearing) and Rule 543(G) (once a case is bound over to the court of common pleas, the case shall not be remanded to the issuing authority.) It also is consistent with the general principle that an appeal moves the case from one court to another.

In a case in which an appeal for trial *de novo* has been filed, it is much clearer that any action must be taken by the Court of Common Pleas. The Committee concluded that these appeals should also be included in the new provision for consistency. A new paragraph (B) has been added to Rule 1006 stating that once a case has been appealed from the Municipal Court to the Philadelphia Court of Common Pleas, the Municipal Court may no longer take action on that case.

The Committee noted that Pa.R.A.P. 1701(b) contains a list of actions that a trial court may take after an appeal has been filed as exceptions. The Committee considered whether to incorporate this list into the amendment to Rule 1006. However, the Committee concluded that few of these exceptions were applicable to the types of cases, *i.e.* summaries and misdemeanors, that would be subject to Rule 1006. Instead, the phrase "unless otherwise provided in these rules" has been included in the new text to permit procedures likely to be undertaken in Municipal Court case appeals, such as bail modification.

Following an inquiry from the Court subsequent to the publication of the original proposed rule changes, the Committee agreed that the proposed amendment to Rule 1006 should be included in other Municipal Court Rules that provide for appeals. In particular, this principle was deemed appropriate for Rule 1007, regarding an appeal from the denial of a motion challenging a guilty plea, and for Rule 1005, regarding appeals from pretrial applications for relief. Therefore, similar language has been added to those two rules. However, new paragraph (D) of Rule 1005 contains the additional requirement that the Commonwealth has certified in the notice of appeal that the order will terminate or substantially handicap the prosecution. This language was added to mirror the restriction governing certain Commonwealth appeals under the appellate rules, such as Pa.R.A.P. 311(d), which requires the Commonwealth to certify that a non-final order will terminate or substantially handicap the prosecution.

[Pa.B. Doc. No. 17-1933. Filed for public inspection November 22, 2017, 9:00 a.m.]

² Article V, Section 26 provides:

§ 26. Writs of *certiorari*.

Unless and until changed by rule of the Supreme Court, in addition to the right of appeal under section 9 of this article, the judges of the courts of common pleas, within their respective judicial districts, shall have power to issue writs of *certiorari* to the municipal court in the City of Philadelphia, justices of the peace and inferior courts not of record and to cause their proceedings to be brought before them, and right and justice to be done.

42 Pa.C.S. § 934 provides:

Unless and until changed by general rule, the judges of the courts of common pleas, within their respective judicial districts, shall have power, in addition to the right of appeal under section 9 of Article V of the Constitution of Pennsylvania, to issue writs of *certiorari* to the minor judiciary.

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment of Philadelphia Municipal Court Civil Rule 109—Contents of Complaints; No. 01 of 2017

Order

And Now, this 8th day of November, 2017, the Board of Judges of the Philadelphia Municipal Court having voted to rescind subsection (c) of current Municipal Court Local Rule 109 and to adopt in its place Local Rule 109(c) as follows, it is hereby *Ordered* and *Decreed* that current Municipal Court Local Rule 109(c) is rescinded and Municipal Court Local Rule 109(c) is amended as follows, effective January 2, 2018.

As required by Pa.R.J.A. 103(d), this General Court Regulation and the following local rule were submitted to the Supreme Court of Pennsylvania Minor Court Rules Committee and Civil Procedural Rules Committee for review. Written notification has been received certifying that the following local rule is not inconsistent with any general rule of the Supreme Court. This General Court Regulation and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for General Court Regulations issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this General Court Regulation and the following local rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this General Court Regulation and the following local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and local rule shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE MARSHA H. NEIFIELD,
President Judge
Philadelphia Municipal Court

Rule 109. Contents of Complaints.

* * * * *

c. Landlord/Tenant Complaint.

1. An action by a landlord against a tenant for the recovery of possession of the leased property, unpaid money due under the lease, and/ or as a result of alleged damage to the leased property shall be made in writing on a form complaint approved by the court.

2. The plaintiff or the plaintiff's agent, power of attorney, authorized representative or attorney shall sign and verify the complaint as follows:

The facts set forth in this complaint are true and correct to the best of my knowledge, information and

belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

3. The complaint shall set forth:

(a) The names, street and email addresses of the parties and of any counsel representing the parties;

(b) The location and the address of the leased property, possession of which the plaintiff is seeking;

(c) That the plaintiff is the owner of the leased property;

(d) That the plaintiff leased the property for a specified term to the defendant or to some other person under whom the defendant claims a leasehold interest;

(e) That notice to vacate was provided to the defendant in accordance with law or that no notice was required under the terms of the lease;

(f) That rent reserved and due, upon demand, remains unsatisfied, that the term for which the property was leased has been terminated by the plaintiff or ended, that a forfeiture has resulted by reason of a breach of a condition of the lease other than nonpayment of rent, and/or that the defendant is responsible for damages to the leased property or the plaintiff's personal property;

(g) That the defendant retains possession of the leased property and refuses to surrender possession of the leased property;

(h) The amount of rent, if any, which remains due and unpaid on the date the complaint is filed, whatever additional rent remains due and unpaid on the date of the trial, and/or the amount, if any, claimed for damages to the leased property and/or the plaintiff's personal property;

(i) That, if applicable, the case involves a subsidized lease or a Low Income Tax Credit unit;

(j) That, if applicable, the landlord is in compliance with the requirements of those sections of the Philadelphia Code that relate to Certificates of Rental Suitability, the City of Philadelphia Partners for Good Housing Handbook and Rental Licenses;

(k) Pertinent information relating to the City of Philadelphia's Lead Paint Disclosure Law; and

(l) Pertinent information relating to the fitness of the leased property for its intended purpose and to any notices of Philadelphia Code violations issued by the Department of Licenses and Inspections.

4. Attached to the complaint shall be:

(a) A copy of any written lease or a statement as to why a written lease is unavailable;

(b) A copy of the Rental License which was in force during any time that the plaintiff is seeking to collect rent and is in force at the time of filing;

(c) A copy of the Certificate of Rental Suitability that was provided to the defendant;

(d) A copy of any notice to vacate that was provided to the defendant;

(e) A copy, if applicable, of any relevant power of attorney, authorized representative form or other document showing that the person who verifies the complaint is authorized by the plaintiff to do so.

[Pa.B. Doc. No. 17-1934. Filed for public inspection November 22, 2017, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CAMERON COUNTY

Adoption of Rule of Judicial Administration L101 Regarding Confidential Case Documents Public Access Policy; No. 2017-1917

Order of Court

Now, October 25, 2017, in compliance with Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania, *It Is Ordered and Decreed* that the Court hereby adopts the following Rule of Judicial Administration L101 regarding public access to confidential information, which becomes effective January 6, 2018.

The District Court Administrator is hereby ordered to:

1. File one certified copy of this Order with the Administrative Office of Pennsylvania Courts to adminrules@pacourts.us;
2. Submit two paper copies of this Order to the Legislative Reference Bureau and one electronic copy in Microsoft Word format only to bulletin@palrb.us for publication in the *Pennsylvania Bulletin*;
3. Provide one copy of this Order to the members of the Elk County Bar Association and the Cameron County Bar Association;
4. Incorporate the rule into the set of Local Rules within 30 days of publication of the local rule in the *Pennsylvania Bulletin* and publish the rules on the Court's website at www.co.elk.pa.us/judicial.

5. File this order in the Prothonotary's Offices of Elk County and Cameron County.

Rule of Judicial Administration L101. Confidential Information. Public Access Policy for the Court of Common Pleas.

In both the Cameron County and the Elk County Branches of the 59th Judicial District of Pennsylvania, the following information is confidential and shall not be included in any document filed with a court or custodian, except on a Confidential Information Form filed contemporaneously with the document:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification (SID) Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S.A. § 6355); and
6. Abuse victim's address and other contact information, including employer's name, address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority.

Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall

certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form: "I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

Fee Schedule:

Photocopying/printing of scanned document: \$0.25 per page

By the Court

RICHARD A. MASSON,
President Judge

[Pa.B. Doc. No. 17-1935. Filed for public inspection November 22, 2017, 9:00 a.m.]

DELAWARE COUNTY

Amendments to the Register of Wills and Clerk of Orphans' Court Division Fee Schedules; File No. 638-2017

Order

And Now, this 6th day of November, 2017, upon consideration of the Register of Wills' and Clerk of Orphans' Court Division's common application to amend the Fee Schedule of the Register of Wills and Clerk of Orphans' Court Division in accordance with Acts 40 and 44 of 2017, both enacted on October 30, 2017, which then immediately increased the JCS Fee from \$35.50 to \$40.25, as well as the request to increase the Register of Wills Automation Fee and the Orphans' Court Computerization Fee from \$15.50 to \$15.75, it is hereby *Ordered and Decreed* that the Fee Schedules of the Register of Wills and Clerk of Orphans' Court Division previously adopted through such orders¹ *Shall be Amended* to reflect the JCS Fee of \$40.25, as well as the Register of Wills Automation Fee of \$15.75 and the Orphans' Court Computerization Fee of \$15.75, each *Effective November 30, 2017*.

Except to the extent amended by that previously set forth, the original fee schedule orders (Nos. 83 and 84—2007) dated January 31, 2007, and those subsequent, salient such orders (Nos. 785 and 786—2009 and 467—2014) *Shall in All other material respects remain as past entered*.

By the Court

KEVIN F. KELLY,
President Judge

[Pa.B. Doc. No. 17-1936. Filed for public inspection November 22, 2017, 9:00 a.m.]

¹ Per two (2) orders dated January 31, 2007, the Fees of the Register of Wills and Clerk of Orphans' Court Division were adopted by then President Judge Edward J. Zetusky, Jr. See Orders dated January 31, 2007, Nos. 83 and 84—2007.

President Joseph P. Cronin, Jr. entered two (2) orders on December 7, 2009, the first directing the Orphans' Court Computerization Fee to be charged at a rate of fifteen dollars and fifty cents (\$15.50), while the second set the Register of Wills Automation Fee also at fifteen dollars and fifty cents (\$15.50). See Orders dated December 7, 2009, Nos. 785 and 786—2009.

On July 15, 2014, President Judge Chad F. Kenney amended President Judge Zetusky's January 31, 2007, orders to reflect the JCS Fee as thirty-five dollars and fifty cents (\$35.50), effective August 8, 2014. See Order dated July 15, 2014, No. 467—2014.

ELK COUNTY**Adoption of Rule of Judicial Administration L101
Regarding Confidential Case Documents Public
Access Policy; No. 2017-756****Order of Court**

Now, October 25, 2017, in compliance with Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania, *It Is Ordered and Decreed* that the Court hereby adopts the following Rule of Judicial Administration L101 regarding public access to confidential information, which becomes effective January 6, 2018.

The District Court Administrator is hereby ordered to:

1. File one certified copy of this Order with the Administrative Office of Pennsylvania Courts to adminrules@pacourts.us;

2. Submit two paper copies of this Order to the Legislative Reference Bureau and one electronic copy in Microsoft Word format only to bulletin@palrb.us for publication in the *Pennsylvania Bulletin*;

3. Provide one copy of this Order to the members of the Elk County Bar Association and the Cameron County Bar Association;

4. Incorporate the rule into the set of Local Rules within 30 days of publication of the local rule in the *Pennsylvania Bulletin* and publish the rules on the Court's website at www.co.elk.pa.us/judicial.

5. File this order in the Prothonotary's Offices of Elk County and Cameron County.

Rule of Judicial Administration L101. Confidential Information. Public Access Policy for the Court of Common Pleas.

In both the Cameron County and the Elk County Branches of the 59th Judicial District of Pennsylvania, the following information is confidential and shall not be included in any document filed with a court or custodian, except on a Confidential Information Form filed contemporaneously with the document:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification (SID) Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S.A. § 6355); and
6. Abuse victim's address and other contact information, including employer's name, address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority.

Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form: "I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the

Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

Fee Schedule:

Photocopying/printing of scanned document: \$0.25 per page

By the Court

RICHARD A. MASSON,
President Judge

[Pa.B. Doc. No. 17-1937. Filed for public inspection November 22, 2017, 9:00 a.m.]

HUNTINGDON COUNTY**Adoption of Local Rule Hunt.Co.R.C.P. 1901.2; No.
CP-31-MD-235-2017; AO No. 3-2017****Administrative Order of Court**

And Now, this 27th day of October, 2017, Local Civil Rule of Court 1901.2, as follows, is hereby *Adopted* and shall be referenced as Hunt.Co.R.C.P. 1901.2. It is *Ordered* that in compliance with Pa.R.C.P. 239:

1. The Huntingdon County District Court Administrator shall file one copy of the Rule with the Administrative Office of Pennsylvania Courts.

2. The Huntingdon County District Court Administrator shall distribute two copies and one electronic copy containing the text of the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. The Huntingdon County District Court Administrator shall file one copy of the Rule with the Civil Procedural Rules Committee.

4. The Huntingdon County District Court Administrator shall ensure that the Local Rule is published on the Court's website.

5. The Huntingdon County Prothonotary shall ensure that the Local Rule is continuously available for public inspection in the office of Prothonotary.

6. This rule shall become effective not less than 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

GEORGE N. ZANIC,
President Judge

**Local Rule of Civil Procedure 1901.2. Scheduling of
Temporary and Emergency Protection of Abuse
Hearings.**

1. The Court of Common Pleas shall hear Petitions for Protection from Abuse each business day between the hours of 8:30 a.m. and 3:30 p.m. The Court of Common Pleas shall be considered to be "unavailable" to hear Petitions for Protection from Abuse from 3:30 p.m. on each business day until 8:30 a.m. on the next business day. The Court of Common Pleas will be "unavailable" at other times if so designated by the District Court Administrator.

2. During times when the Court of Common Pleas is "unavailable," an Emergency Petition for Protection from Abuse shall be presented to the designated on-call Magisterial District Judge, and shall not be filed in the Court of Common Pleas.

3. Should the Court of Common Pleas be “unavailable” during regular courthouse business hours, the Prothonotary shall not accept a temporary Petition for Protection from Abuse for filing, but shall instead contact Huntingdon County dispatch center. The dispatch center shall contact the on-call Magisterial District Judge who shall make arrangements to review the Emergency Petition.

4. If, following an emergency hearing, the Magisterial District Judge determines that emergency relief is merited, the Emergency Petition for Protection from Abuse shall be granted. An Emergency Order will expire at 3:00 p.m. on the following business day.

5. If an Emergency Order is granted, the on-call Magisterial District Judge shall advise the Plaintiff that the Emergency Order will expire at 3:00 p.m. on the following business day, and that a Petition for Protection from Abuse must be filed with at the Prothonotary on the next business day.

6. Should an Emergency Order be granted by the on-call Magisterial District Judge, the Huntingdon County dispatch center shall immediately forward the Emergency Order to law enforcement for service of the Emergency Order.

7. This Rule shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 17-1938. Filed for public inspection November 22, 2017, 9:00 a.m.]

SCHUYLKILL COUNTY

Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts; AD-98-17

Order of Court

And Now, this 16th day of October, 2017, at 10:30 a.m., the Schuylkill County Court of Common Pleas hereby adopts Local Rule of Judicial Administration 520 to govern the Public Access Policy of the Unified Judicial System of Pennsylvania in the Twenty-First Judicial District, effective January 6, 2018.

The Schuylkill County District Court Administrator is Ordered and Directed to do the following:

1) File one (1) copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts via email to adminrules@pacourts.us.

2) File two (2) paper copies of this Order and Rule and (1) electronic copy in a Microsoft Word format to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish the local rule on the Schuylkill County Court website at www.co.schuylkill.pa.us.

4) Incorporate the local rule into the set of local rules on www.co.schuylkill.pa.us within thirty (30) days after publication in the *Pennsylvania Bulletin*.

5) File one (1) copy of the local rule in the Office of the Schuylkill County Clerk of Courts and provide copies to the Prothonotary, Register of Wills and Domestic Relations Offices for public inspection and copying.

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

By the Court

WILLIAM E. BALDWIN,
President Judge

Local Rule of Judicial Administration 520. Public Access Policy.

In compliance with Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as on the Schuylkill County Court website at: www.co.schuylkill.pa.us.

Pursuant to Section 6 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, the photocopying fees are approved by the Schuylkill County Court and shall be in compliance with the UJS Public Access Policy. The filing offices are authorized to charge a record retrieval fee upon approval by the Court. The photocopying fees, record retrieval fees and schedule for Public Access shall be available on the Schuylkill County website at: www.co.schuylkill.pa.us. Each custodian shall post the fee schedule in their respective office in an area accessible to the public.

[Pa.B. Doc. No. 17-1939. Filed for public inspection November 22, 2017, 9:00 a.m.]

SOMERSET COUNTY

Consolidated Rules of Court; No. 56 Misc. 2017

Adopting Order

Now, this 7th day of November, 2017, it is hereby Ordered:

1. Somerset County Rule Of Judicial Administration 300 governing confidential information is *Adopted*, effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the Unified Judicial System Portal.

2. The Somerset County Court Administrator is directed to:

A. File one (1) copy of this Order and the following Local Rule of Judicial Administration with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us;

B. File two (2) certified copies of this Order along with electronic copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. Publish the Local Rules of Judicial Administration on the Somerset County website;

D. Within thirty (30) days after publication of the Local Rules of Judicial Administration in the *Pennsylvania Bulletin*, incorporate the Rules into the complete set of Local Rules published on the Somerset County website;

E. File one (1) copy of the Local Rules of Judicial Administration in the Office of the Prothonotary of Somerset County, which copy shall be continuously available for inspection in said Office.

F. File proof of compliance with this Order in the docket for this Order, which shall include a copy of each transmittal letter.

D.G. GEARY,
President Judge

RULES OF COURT

CONFIDENTIAL INFORMATION

Som.R.J.A. 300. Confidential Information Form.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form (CIF) in order to comply with the Policy. This form shall be available in each filing office as well as on the court administration website at <http://www.pacourts.us/public-record-policies>.

[Pa.B. Doc. No. 17-1940. Filed for public inspection November 22, 2017, 9:00 a.m.]

WASHINGTON COUNTY

Adoption of Local Rules of Civil Procedure; No. 2017-1

Order

And Now, this 3rd day of November, 2017, it is *Ordered, Adjudged, and Decreed* that the following Washington County Local Rules of Civil Procedure are hereby adopted, effective January 2, 2018. It is further *Ordered* that current Washington County Local Rules of Civil Procedure L-200 through L-1308, L-2039.1, and L-3129 are vacated and rescinded, effective January 2, 2018.

This Order shall be processed in accordance with Pa.R.J.A. 103(c). The District Court Administrator is directed to do the following:

1. Publish the local rules on the Court's website to be incorporated into the set of local rules on the website within 30 days after the publication of the local rules in *Pennsylvania Bulletin*.

2. File one (1) copy of the local rules in the appropriate filing offices for public inspection and copying.

3. Cause a copy hereof to be published in the *Washington County Bar Journal* once a week for two successive weeks at the expense of the County of Washington.

By the Court

KATHERINE B. EMERY,
President Judge

LOCAL RULES OF CIVIL PROCEDURE

RULES OF CONSTRUCTION

Rule 51. Title and Citation of Rules.

These rules shall be known as the Washington County Local Rules of Civil Procedure and may be cited as "Wash.L.R.C.P. _____."

Rule 52. Effective Date. Application to Pending Actions. Access to Rules.

(1) A rule or an amendment to a rule shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*, unless otherwise stated at the time of adoption.

The effective date of a rule or amendment shall be noted after the rule in its official publication in the *Pennsylvania Rules of Court*.

(2) Unless otherwise specified by the Court of Common Pleas of Washington County, a rule or amendment to a rule shall apply to actions pending on the effective date.

(3) A copy of these rules shall be accessible by the public in the Washington County Law Library and on the website of the Twenty-seventh Judicial District at www.washingtoncourts.us.

Rule 76. Definitions.

"Assigned judge" shall mean the judge to whom a particular case is assigned.

"Court" shall mean the Court of Common Pleas of Washington County.

"Court Administrator" shall mean the District Court Administrator for the Twenty-seventh Judicial District.

"Local Rule" shall mean any rule, regulation, practice, or procedure promulgated by the Court of Common Pleas of Washington County pursuant to 42 Pa. Con. Stat. § 323.

"President Judge" shall mean the President Judge of the Court of Common Pleas of Washington County.

"Prothonotary" shall mean the Office of the Prothonotary of Washington County.

Rule 106. Computation of Time.

Whenever the last day of any such period shall fall on a holiday as established by the County of Washington or the Court, or on any other business day that the courthouse is closed, such day shall be omitted from the computation.

BUSINESS OF COURTS

Rule 200. Representation by an Attorney.

(1) Individuals may represent themselves or be represented by an attorney.

(2) A corporation or similar entity, or an unincorporated association, must be represented by an attorney in all matters and proceedings before the Court.

Note: A corporation may appear in court only through an attorney at law admitted to practice before the court. *Walacavage v. Excell 2000, Inc.*, 480 A.2d 281 (Pa. Super. 1984).

Rule 200.1. Assignment of Civil Cases.

(1) The President Judge annually shall assign civil case types to the judges of the Court by Administrative Regulation. The Administrative Regulations shall be available by hard copy in the Office of the Court Administrator and the Prothonotary, and at www.washingtoncourts.us.

(2) The following case types shall be assigned:

- (a) Tort;
- (b) Contract;
- (c) Mass tort;
- (d) Professional liability;
- (e) Actions for Custody, Partial Custody, and Visitation of Minor Children;
- (f) Action of Divorce or Annulment of Marriage;
- (g) Actions for Support;
- (h) Actions Pursuant to the Protection from Abuse Act;

- (i) Common Law/Statutory Arbitration;
 - (j) Declaratory Judgment;
 - (k) Mandamus;
 - (l) Non-Domestic Relations Restraining Order;
 - (m) Quo Warranto;
 - (n) Replevin;
 - (o) Quiet Title;
 - (p) Ejectment; and
 - (q) Partition.
- (3) The following case types shall be unassigned:
- (a) Statutory Appeals or Appeals from an Administrative Agency;
 - (b) Actions involving Real Property, except for Quiet Title, Ejectment, or Partition;
 - (c) Actions in Mortgage Foreclosure; and
 - (d) Any action in which the amount in controversy, exclusive of costs and interest, is below the compulsory arbitration limit of \$50,000.00.
- (4) The President Judge, or the Court Administrator, shall have the authority to assign a case to a judge in the interest of the efficient administration of justice.
- (a) The assignment process is to facilitate administrative control and to manage the flow of cases. All judges may hear any matter that properly comes before the Court.
- (5) When more than one judge is assigned to a case type, the Court Administrator shall make individual case assignments among the judges at random.
- (6) It shall be the duty of counsel for the plaintiff/petitioner, or the plaintiff/petitioner if unrepresented, to inform all other parties in writing of the judicial assignment.

Rule 205.2(a). Pleadings and Legal Papers. Physical Characteristics. Proposed Order.

- (1) All pleadings and legal papers filed with the Prothonotary shall be on white, letter-sized (8.5 inch by 11 inch) paper of good quality, and otherwise conform to the requirements of Pa.R.C.P. 204.1.
- (a) Footnotes shall be single-spaced and in 10-point font.
 - (b) Every paper filed shall be fastened only at the top left corner of the pages with one staple, or, if the document is too thick, a metal fastener. Cloth tape and “bluebacks” shall not be used.
 - (2) All attachments, supporting documents, and exhibits shall be on letter-sized (8.5 inch by 11 inch) paper at the time of filing with the Prothonotary. Documents that are sized differently in original form shall be re-sized and reproduced to comply with this rule.
 - (3) *Proposed Order*. Every motion, petition, or preliminary objection shall include a proposed order of court which shall be attached before the certificate of service.

Rule 205.2(b). Caption Sheet.

(1) The first page of any pleading, petition, motion or other legal paper shall be a cover sheet setting forth the items of information specified below, according to the format presented in Form of Caption Sheet below. If needed, a second page may be attached and numbered “Caption Sheet 2” at the bottom of the page.

(a) The lettering shall be in a font of no smaller than twelve point size or an equivalent, and shall substantially follow the format in Form of Caption Sheet below.

(b) The Caption Sheet on the document commencing the action (e.g., praecipe or complaint), shall have a margin at the top of three (3) inches for the stamp of the Prothonotary.

(2) The information required includes:

(a) (In capital letters from the left to right margins)

“IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA”

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

(c) (In appropriate upper and lower case, except where otherwise indicated, on the right side of center on separate lines):

(i) the specific DIVISION, e.g., CIVIL or DOMESTIC RELATIONS;

(ii) the docket number;

(iii) the name of the assigned judge, if applicable;

(iv) the name of the pleading, in bold face and all capital letters;

(v) for Civil Division cases, the docket code which most accurately characterizes the primary cause of action (see Local Rule 205.2(b)(4) below). Actions for support shall be filed with the Domestic Relations Section and follow caption and docketing requirements attendant to support actions;

(vi) if the action is filed as a class action, then “CLASS ACTION” shall be set forth following the title of the document;

(vii) if the action involves real estate, then the address, municipality, ward if applicable, and a tax identification number shall be set forth;

(viii) the completed statement: “Filed on behalf of _____ (party’s name, party’s relationship to case)”;

(ix) the completed statement: “Counsel of Record: _____ (attorney’s name and Pennsylvania Identification Number, firm name, firm number, address, and telephone number)”;

(xi) every motion, petition, or pleading must include a “Certificate of Service” which sets forth the manner of service upon each party including the name of an attorney of record for each party that is represented and the address at which service was made. The “Certificate of Service” shall be substantially in the following form:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing [Title of Document] has been served upon all other parties at the address(es) listed below via [manner of service], this _____ day of _____, 20____.

[Name and address of counsel]

[signature]

(3) Form Caption Sheet.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

JOHN DOE,

Plaintiff,

vs.

BIG CORPORATION, INC., and JANE DOE,

Defendants.

CIVIL DIVISION

_____ No. _____

JUDGE _____
TITLE OF DOCUMENT

CLASS ACTION (if applicable)

Real Estate Involved (if applicable):
(Address, municipality, ward if applicable; a tax identification number is required in all cases involving real estate.)

Filed on behalf of Plaintiff, JOHN DOE Counsel of Record for this Party:

Henry Smith, Esquire
Pennsylvania I.D. #1234
Eeny, Meeny, Miny & Mo
Firm I.D. #5678
123 South Main Street, Suite 100
Washington, PA 15301-0000
724-867-5309
724-987-6543 (fax)
emmm@wcba.org (Optional. See Local Rule 440)

JURY TRIAL DEMANDED (Optional. See Pa.R.C.P. 1007.1)

Rule 206.1(a). Petitions.

(a) In addition to petitions as defined by Pa.R.C.P. 206.1(a)(1), the following applications are designated as a "petition" and are governed by the procedures set forth in Pa.R.C.P. 206.1, et seq.:

- (1) Petition to Appoint an Arbitrator;
- (2) Petition to Appoint a Receiver;
- (3) Petition to Appoint a Discovery Master;
- (4) Petition to Compel Arbitration;
- (5) Petition to Confirm an Arbitration Award;
- (6) Petition to Confirm/Enforce Settlement;
- (7) Petition for Contempt/Sanctions;
- (8) Petition to Set Aside an Arbitration Award;
- (9) Petition to Appoint a Sequestrator;
- (10) Petition to Transfer Venue;
- (11) Petition to Withdraw as Counsel; and
- (12) Any other petition that is expressly permitted or required by rule or statute.

Rule 206.4(c). Rule to Show Cause. Procedure.

(1) The Court hereby adopts Pa.R.C.P. 206.5 as the procedure governing the issuance of a rule to show cause. The issuance of a rule to show cause shall be discretionary with the Court upon presentation of a petition pursuant to Wash.L.R.C.P. 206.1(a).

(a) A petition seeking the issuance of a rule to show cause shall be presented to the assigned judge, or the general civil motions judge if unassigned.

(b) A petition which fails to facially state a prima facie case for relief, or that can be decided briefly without an answer, may be disposed of in motions court without the issuance of a rule to show cause.

(c) The petitioner shall append two proposed orders to the petition, providing for either the use of argument or an evidentiary hearing to determine the petition as set forth in Pa.R.C.P. 206.5(d).

(d) The petitioner shall provide service of the order issuing a rule to show cause to all parties within five (5) business days of the entry thereof.

(e) A request for a stay of execution, or any other form of emergency relief, shall be addressed in the body of the petition, and may be ordered by the Court upon presentation of said petition.

Rule 208.2. Motion. Form. Content.

(a) All motions shall contain a cover sheet in the form prescribed by Wash.L.R.C.P. 205.2(b).

(b) A concise statement of applicable authority shall be included in any motion, unless all parties have consented to the relief sought by the motion.

(c) Motions in which all parties have consented to the relief sought may be sent to the chambers of the assigned judge for disposition. If consent has not been obtained from all parties, the moving party shall present the motion in Motions Court after complying with all applicable rules of court.

(1) Prior to the presentation of an unconsented motion, counsel and/or the parties shall confer to attempt to resolve the subject matter of the motion. The moving party shall attach a Certificate of Compliance to the motion. The Certificate of Compliance shall substantially be in the following form:

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

[Caption] :
: No. 20____ - ____
:

CERTIFICATE OF COMPLIANCE

1. The undersigned, _____, represents [name of party], the moving party herein.

2. I certify that I have complied with Wash.L.R.C.P. 208.2(3)(a) and conferred with [opposing counsel or the opposing party] in an attempt to resolve the subject matter of this motion as noted below:

- Talked by phone: [date]
- Met in person: [date]
- Other: [type of communication] [date]
- I attempted to confer on [date(s)], but was unable to [state reason(s)].
- I did not confer for the following reason(s):
- I did not confer because this case, or another case at docket No. _____, involves an allegation of domestic violence.

Signature [date]

(d) Except as set forth in any other local rule, all motions that are to be presented in Motions Court shall contain a "Certificate of Presentation," which shall be the first page of the motion. The Certificate of Presentation shall substantially be in the following form:

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

[Caption] :
: No. 20____ - ____
:

CERTIFICATE OF PRESENTATION

1. The undersigned, _____, represents [name of party], the moving party herein.

2. The attached motion will be presented to the Hon. [Judge's name], on [date] at [time] in Courtroom No. _____.

3. The attached motion is consented / not consented to by all parties. [If not a consented to motion] A Certificate of Compliance is attached to this motion. [If consented to] A Certificate of Consent is attached to this motion.

4. The applicable authority [ties] on which the Court may rely to provide the relief sought are as follows:

Respectfully submitted,

[date]

(e) Every motion shall contain a Certificate of Service as set forth in Wash.L.R.C.P. 205.5(b)(2)(c)(xi).

(f) Every motion shall name each judge who has ruled upon any other issue in the same or a related case and shall specify the issue.

Rule 208.2(c). Concise Statement of Applicable Authority.

Every motion shall include a concise statement of the applicable authority on which the Court may rely to provide the relief sought by the moving party. The requirements for providing a concise statement of applicable authority with any motion are set forth in Wash.L.R.Civ.P. 208.2.

Rule 208.2(e). Duty to Confer; Discovery.

For all discovery motions, see Wash.L.R.Civ.P. 208.2(3)(a) for the requirements to confer with all interested parties and the filing of a Certificate of Compliance.

Rule 208.3(a). Procedures for the Disposition of Motions.

(1) *Scope.* As used in this rule, the term "motion" means any application to the Court made in any civil action or proceeding, except as provided in Pa.R.C.P. 208.1(b)(1) and (2).

(2) This Court specifically declines to adopt the alternative procedures set forth in Pa.R.C.P. 208.3(b), imposing mandatory requirements for the filing of a response or brief with respect to any motions.

Note: A party may file a brief when it is anticipated that the Court will wish to consider a brief before deciding an issue; however, there is no requirement to do so.

(3) *Procedure.* The procedure set forth in this rule shall apply to every request for relief and/or application to the Court for an order, whether by petition, motion, objections, or stipulation, that the moving party desires to bring before the Court.

(a) If expedited consideration by the Court is requested or required by statute, rule of procedure, or other controlling authority, the reason for such consideration shall be set forth in the motion.

(b) A proposed order granting the relief requested shall be attached to every motion.

(c) The Court shall schedule argument, hearing, or briefing as the Court may require, and issue a scheduling order. Unless otherwise ordered, docketing and service of the scheduling order shall be in accordance with these rules.

(4) *Presentation of a Motion.*

(a) In cases that are not assigned to a judge, motions may be presented to the General Civil Motions Judge in Motions Court. The schedule for Motions Court shall be set forth annually by Administrative Regulation, and is available in hardcopy in the Office of the Court Administrator and at www.washingtoncourts.us.

(b) All motions in cases that are assigned to a judge shall be presented in the Motions Court of the assigned judge, except as provided in Wash.L.R.C.P. 208.2(c).

(i) The Motions Court schedule for all judges assigned to civil cases shall be set forth annually by Administrative Regulation, and be made available in hardcopy in the Office of the Court Administrator and at www.washingtoncourts.us.

(c) All motions shall comply with the standard operating procedures of the judge to whom presentation is made. Standard operating procedures for the judges of the Court shall be made available at www.washingtoncourts.us.

(5) *Notice of Presentation.* The moving party shall provide notice of at least five (5) business days prior to presentation of a motion, unless the motion has the consent of all parties. A copy of the motion shall be provided to the chambers of the judge to whom the motion is being presented at least twenty-four (24) hours in advance.

(a) Every motion that has the consent of all parties shall contain a "Certificate of Consent" in a substantially similar form:

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

:
: No. 20____ - ____
:

CERTIFICATE OF CONSENT

1. The undersigned, _____, represents [name of party], the moving party herein.

2. As evidenced by the below signatures, the parties have consented to the relief sought by this motion, and request that the Court enter the proposed order.

Respectfully submitted,

[date]

Consented to by: [name, party name, and signature]
[date]

(b) The Certificate of Consent may be entered into in counterparts, and an original signature is not required of any counsel and/or party except the moving party.

Comment: It is anticipated that counsel and/or a party will provide evidence of consent by email or facsimile in many instances, and this rule encourages the use of counterparts for the convenience of the parties.

(c) Nothing in this subsection of the rule shall be read to obviate the standard operating procedures of a judge concerning the presentation of a motion.

(6) *Sanctions.* If a moving party misrepresents or falsely asserts that a motion has the consent of another party, the Court may enter an order levying sanctions and/or any other appropriate relief against the moving party. Nothing in this rule is intended to obviate the provisions of Pa.R.C.P. 1023.1.

(7) *Dispositional Aid.* In the discretion of the Court, a judge may order one, or any, of the following to aid in the disposition of a motion:

- (a) oral argument;
- (b) briefs; or
- (c) a rule to show cause as set forth in Pa.R.C.P. 208.4.

Rule 208.4. Court Order.

In all cases in which the Court enters an order after initial consideration of a motion, the Court may require the moving party, or their counsel if represented, to retrieve and file the order immediately with the Prothonotary, or, in the alternative, to require the Prothonotary to serve a copy of the order on the moving party, or their counsel if represented, by first-class mail, postage prepaid. Upon receipt of the order, the moving party shall serve a copy on all other parties within three (3) business days.

Rule 210. Briefs.

(1) Absent a court order for cause shown, the body of a brief shall not exceed 3,000 words. Non-conforming or illegible briefs may not be considered in the discretion of the Court. All briefs shall use a proportionally spaced typeface in fourteen (14) point font; the proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. All other physical characteristics of a brief shall comply with Wash.L.R.C.P. 204.1.

(2) Every brief shall contain the following:

- (a) a brief history of the case;
- (b) a statement of the issue(s) involved;
- (c) a copy of, or reference to, the pertinent parts of any relevant document, report, recommendation, order, and/or transcript;
- (d) an argument with citations of the authority relied upon;
- (e) a citation or copy to any opinion of the Court or an agency involved in the case; and
- (f) a conclusion.

(3) No supplemental brief(s) shall be filed, absent an order of court.

(4) Unless otherwise ordered by the Court, the brief of the moving party shall be filed at least twenty (20) days prior to the proceeding on the motion. The brief of the responsive party shall be filed within ten (10) days thereafter.

(5) This rule shall not apply to any brief filed in support of, or in opposition to, a motion for post-trial relief pursuant to Pa.R.C.P. 227.1.

Rule 212.1. Pre-trial Procedures. Conferences. Scheduling Management.

(a) *Purpose.* In any civil action in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which is to be tried by a judge or a jury, the Court may order the attorneys and any unrepresented parties to appear for one or more pre-trial conferences for such purposes as:

- (1) expediting disposition of the case;
- (2) establishing early and continuing control so that the case will not be protracted because of lack of management;
- (3) discouraging wasteful pre-trial activities;
- (4) improving the quality of trial through more preparation; and

(5) facilitating settlement.

(b) Unless otherwise ordered by the Court, there shall be a minimum of three (3) court conferences in every civil action in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which is to be tried by a jury: an initial case management conference; a status conference; and a pre-trial conference.

(c) *Initial Case Management Conference.* As soon as practical, but no later than thirty (30) days after the service of a complaint, the Court shall enter an order setting forth the date and time of an initial scheduling conference.

(1) Unless the Court finds good cause for delay, the initial scheduling conference shall be held within the earlier of ninety (90) days after service of the complaint or sixty (60) days after any defendant has appeared. The Court may defer the initial scheduling conference if a motion that would dispose of all of the claims within the complaint is pending.

(2) Following the conclusion of the conference, the Court shall issue an order setting forth dates for the following:

(A) the completion of expert and fact discovery;

(B) the date(s) in which to file dispositive motions at an early stage of the proceedings; and

(C) the date of the status conference.

(3) In the order issued after the case management conference, the Court may address any other topic it deems necessary to the serve the purposes of this rule, including the designation, if appropriate, of the case for arbitration, mediation, appointment of a special master, or other special procedure.

(4) Prior to filing a motion to modify any case management order, all counsel, or a party if unrepresented, shall confer in an effort to reach agreement on the proposed modification.

(5) Nothing in this rule shall be read to expand or otherwise enlarge the time for filing a pleading as set forth in Pa.R.C.P. 1026 or 1042.4.

(d) *Status Conference.* A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a status conference. If appropriate, the Court may require attendance by a party or its representative or any other individual deemed necessary to the litigation, or the reasonable availability by other means to consider possible settlement. For the purposes of this rule, the term "representative" shall include an insurance or similar representative with full authority to negotiate or settle the case as in accordance with Pa.R.C.P. 212.5(b)(2).

(1) At the conclusion of discovery, the Court shall hold a conference to review the status of the case, including:

(A) any outstanding issues concerning discovery;

(B) disposing of pending motions;

(C) settling the case and using special procedures to assist in resolving the dispute when authorized by statute or rule of court;

(D) setting forth a date for the filing of a motion of summary judgment pursuant to Pa.R.C.P. 1035.2, and issuing a briefing schedule; and

(E) setting forth a date for the scheduling of a pre-trial conference.

(e) *Pre-trial Conference.*

(1) All trial counsel shall attend the pre-trial conference. If counsel is not present for the pre-trial conference, the Court may bar their participation at trial.

(2) A party and its representative, or any other person deemed necessary to the litigation by the Court, shall be present in person at the pre-trial conference; telephonic or remote participation shall not be permitted absent prior approval by the Court for good cause. For the purposes of this rule, the term "representative" shall include an insurance or similar representative with full authority to negotiate or settle the case as in accordance with Pa.R.C.P. 212.5(b)(2).

(3) At any pre-trial conference, the Court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) obtaining admissions and stipulations from the parties, and ruling in advance on the admissibility of evidence;

(C) settling the case and using special procedures to assist in resolving the dispute when authorized by statute or rule of court;

(D) disposing of pending motions;

(E) setting forth deadlines for the filing of pre-trial statements and/or briefs by the parties;

(F) setting forth deadlines for the filing of motions in limine, proposed voir dire questions and interrogatories, and proposed jury instructions;

(G) setting a date for trial; and

(H) determining the form and content of the pre-trial order.

(4) The Court may hold a final pre-trial conference to develop a trial plan, including a plan to limit testimony or facilitate the admission of evidence. The conference shall be held as close to the start of trial as is reasonable, and shall be attended by trial counsel and any unrepresented party.

(f) *Sanctions.* Upon motion of a party, or sua sponte, the Court may issue any just orders or sanctions, including the imposition of reasonable expenses, including attorney's fees, if a party or its attorney:

(1) fails to appear at an initial case management conference, a status conference, or a pre-trial conference;

(2) is substantially unprepared to participate, or does not participate in good faith; or

(3) fails to obey an order issued pursuant to this rule.

Note: Unrepresented parties are subject to the same obligations as those imposed upon attorneys representing a party. This includes sufficient knowledge of the claim(s) asserted, potential defenses, damages and/or other relief sought, and legal issues raised in the pleadings.

(g) *Continuances.* When a case is scheduled for a conference pursuant to this rule, it shall not be continued except for good cause shown.

Rule 212.2. Pre-trial Statements.

(a) Unless otherwise ordered by the Court, the deadline for the filing of a pre-trial statement by a party shall be governed by Pa.R.C.P. 212.2. All pre-trial statements shall be filed with the Prothonotary.

(b) In addition to the requirements of Pa.R.C.P. 212.2, a pre-trial statement shall contain the following:

(1) a brief narrative statement of the facts and contentions as to liability;

(2) a listing of all exhibits available at the time of pre-trial which the party intends to introduce at trial;

(3) a specific description of damages;

(4) any presently known motions in limine and any legal research, memorandum, or brief in support thereof. Failure to include any motion in limine in the pre-trial statement will not bar a future filing of the motion if it could not have been anticipated at the time of filing the pre-trial statement or if, in the interest of justice, the Court permits late filing;

(5) a summary of legal issues involved and applicable legal authorities relied upon;

(6) the settlement status of the case to include settlement offers and demands; and

(7) the reasons supporting the settlement posture set forth by the party.

(c) There shall be attached to the pre-trial statement:

(1) a copy of all reports containing findings or conclusions of any healthcare provider who has treated or examined a party or has been consulted in connection with any injuries complained of and whom a party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such healthcare provider shall be excluded at the trial except upon consent of the party or parties or upon express order of the Court;

(2) a copy of all reports containing findings and conclusions of any expert who has been consulted in connection with the matters involved in the case and whom the party expects to call at trial. If timely production of any such report is not made, the testimony of such expert shall be excluded at the trial, except upon consent of the party or parties or upon express order of Court; and

(3) the names and addresses of all witnesses the party expects to call at trial. The witnesses shall be classified as liability or damage witnesses.

(d) Upon failure of any party to file a pre-trial statement within the time required, the Court may impose the sanctions provided in Pa.R.C.P. 4019(c). The Court may order other appropriate relief, including, but not limited to, the barring of testimony, assessment and award of attorney fees, and expenses and costs to opposing counsel.

(e) Counsel shall file supplemental pre-trial statements up to the time of trial. Supplemental statements shall include, but not be limited to, additional claims for damages, additional liability witnesses, damage witnesses, expert witnesses, and/or exhibits intended to be used at trial.

Rule 212.3. Pre-trial Conference.

The requirements of Wash.L.R.C.P. 212.1 shall supplement the rule concerning pre-trial conferences as set forth in Pa.R.C.P. 212.3.

Rule 212.7. Washington County Civil Litigation Mediation Program.

(a) In the discretion of the assigned Judge, cases listed for trial shall be submitted to the Washington County Civil Litigation Mediation Program. This rule shall not apply to asbestos cases, cases ordered to private mediation under this rule, or professional liability cases. The

selection of a case for mediation shall not delay any scheduled trial of the matter.

(b) The mediators shall be practicing attorneys that are members of the Washington County Bar Association, with an emphasis in their practice on civil litigation. A list of mediators shall be maintained by the District Court Administrator, and be selected by the Court in consultation with the Washington County Bar Association. The parties may agree to a particular mediator from the list.

(c) Upon appointment, the mediator shall schedule the mediation within sixty (60) days of the order of court. The attendance, in person, is mandatory of trial counsel, the parties, and the representative of the defendant's insurance carrier, with authority to enter into a full and complete compromise and settlement. If trial counsel, the parties, or a representative fail to appear, absent good cause, the mediation will not be held and sanctions, upon request of the mediator, shall be entered against the non-appearing individual(s) by the Court. Sanctions may include an award of reasonable mediator and attorney's fees and other costs associated with the failure to appear.

(d) At least seven (7) days prior to the mediation, each party shall file, with the mediator, a mediation statement which must include the following: (1) a succinct explanation of liability and damages; (2) significant legal issues that remain unresolved; (3) a summary of medical and expert reports (if applicable); (4) an itemized list of damages; and (5) settlement posture and rationale.

(1) This requirement shall be deemed satisfied if a party has previously filed a pre-trial statement pursuant to rule of court, in which case the mediation statement shall only provide updated or additional information.

(2) Failure to file a mediation statement may result in sanctions, if requested by the mediator.

(f) Each party to a case selected for mediation shall pay a mediation fee to be made payable to the County of Washington and submitted, for processing, to the Office of the Court Administrator. The mediation fee shall be set by administrative order, and information regarding the fee shall be available in the Office of the Court Administrator.

(g) If the case has not been resolved, within ten (10) days from the date of the mediation, the mediator shall send the Court a report setting forth the following information: (1) the mediator's assessment of liability; (2) the mediator's assessment of damages; (3) the mediator's opinion regarding the potential range of a verdict and the settlement value of the case; (4) Plaintiff's final settlement demand; (5) Defendant's final settlement offer; and (6) the mediator's recommendation regarding settlement of the case. A copy of the report shall be provided to and maintained by the Court Administrator until the case is closed.

(h) If the case is resolved and a settlement agreed upon, the mediator shall send a letter to the Judge, with copies to counsel and the Court Administrator.

(i) The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall be liable to and indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to common pleas judges.

Comment: Confidentiality of mediation communications and mediation documents are subject to the protections and exceptions prescribed in 42 Pa. Con. Stat. § 5949.

(j) Notwithstanding the preceding subsections and Wash.L.R.C.P. 1042.1—1042.20, the Court may in its discretion submit a civil case for an alternative dispute resolution (“ADR”) before a private mediator/arbitrator. The method of selection of the private mediator shall be in the discretion of the Court. All parties shall bear equally the costs of any Court-ordered ADR, unless otherwise agreed upon; provided, however, that the Court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

(1) The method of ADR shall be in the discretion of the private mediator/arbitrator.

(2) The fact that a case is selected for ADR shall not delay the scheduled trial of a case.

(3) Nothing in this rule shall prevent the parties from voluntarily engaging in ADR before a private mediator/arbitrator on their own initiative.

Note: When selecting a case for ADR before a private mediator, the Court shall consider various criteria, including the nature of the claims involved and their complexity, whether any of the litigants is pro se, the potential for a successful resolution, and the interests of justice.

Rule 212.8. Mini-Jury Trials.

(a) *Purposes.* The purpose of mini-jury trials is to establish a less formal procedure for the resolution of civil actions for money damages while preserving the right to a jury trial de novo. As a part of the Court’s pre-trial procedure, the Court may refer cases for a mini-jury trial upon motion of a party or sua sponte.

(b) *Preliminary considerations.* The following shall be considered, but shall not be controlling, in determining if civil cases are amenable for a mini-jury trial.

(1) *Time necessary for regular trial.* The Court will determine if the regular trial time would be three (3) days or more.

(2) *Consent of attorneys.* While the Court will attempt to obtain the consent of the attorneys to a mini-jury trial, the Court shall have the authority to direct a mini-jury trial as an extension of the settlement conference.

(3) *Existing offer and demand.* The Court will attempt to obtain the agreement of counsel to keep any current offer or demand open for forty-eight hours after the mini-jury trial verdict.

(4) *Credibility.* The Court will determine if the major issues will be resolved on the basis of credibility.

(5) *Appeals from arbitration.* Cases appealed from arbitration will be presumptive candidates for mini-jury trials.

(c) The following procedures shall apply to all mini-jury trials:

(1) *Attendance of parties.* Individual parties shall attend the mini-jury trial in person. An officer or other responsible lay representative of a corporate party or a claims adjuster for an insurance carrier shall attend the mini-jury trial.

(2) *Non-binding effect.* Mini-jury trials are for settlement purposes only and are non-binding. Nothing done by

counsel with reference to the mini-jury trial shall be binding on counsel, the parties, nor shall anything constitute a waiver, unless specifically stipulated to or agreed upon by the parties.

(3) *Special verdict questions.* Cases will be submitted to the jurors by way of special verdict questions. Counsel shall submit to the Special Master, forty-eight (48) hours prior to the selection of the jury, a joint statement or proposed special verdict questions, for use at trial. If counsel cannot agree on a joint statement, the Special Master will select the special verdict questions to be used. Special verdict questions for the mini-jury trial need not be the same as those for a regular jury trial. The jury will determine the amount of damages in all cases, regardless of whether a defendant is found to be liable or not liable. The Special Master will determine the format to be used and make rulings on disputed questions.

(4) *Size of Jury.* The number of jurors shall be six (6) and the agreement of five-sixths of the jury shall be necessary to reach a verdict. There shall be no preemptory challenges to jurors but jurors may be excused for cause.

(5) *Presentation of the case by counsel.* Each side shall be entitled to one hour for presentation of its case unless counsel presents a compelling reason at a pre-trial conference why more time for each side should be allocated. Presentation of the case by counsel may involve a combination of argument, summarization of evidence to be presented at the regular trial and a statement of the applicable law but only to the extent it is needed to be known by the jury in answering the special verdict questions. Counsel may call witnesses but cross-examination shall only be done as part of a party’s presentation of its case. Counsel may quote from depositions and/or reports to the extent that such evidence can reasonably be anticipated to be admissible at the time of trial. Counsel should not refer to evidence which would not be admissible at trial. The Plaintiff shall proceed first and shall have a five (5) minute rebuttal following the presentation of the defendant’s case.

(6) *Applicable law.* The Special Master will charge the jury on the applicable law to the extent it is appropriate and needed to be known by the jury in answering the special verdict questions. The points for charge shall be submitted jointly by the parties to the Special Master forty-eight (48) hours prior to the selection of the mini-jury. The Special Master shall rule on any disputes on a point for charge.

(7) *Jury verdict.* The jury will be asked to return a verdict if five-sixth of them agree to it. (The same five-sixth majority need not answer each special verdict question.)

(8) *Length of deliberations.* If the jury does not reach a five-sixth majority verdict within a reasonable time, the Special Master will consider polling the jurors individually.

(9) *Oral questions to mini-jury.* After the verdict, counsel may address questions in open court to the foreperson of the jury. Only questions that can be answered “yes” or “no” or by a dollar figure may be asked. The attorneys shall be limited to ten questions each unless a greater number is allowed by the Special Master for cause shown. No questions shall be asked the answers to which will disclose the personal view of any particular member of the jury.

(10) *Scheduling regular trial.* Should the mini-jury trial not result in a settlement, the regular trial shall not be held the same calendar week unless the jury is dismissed and will not come into contact with the balance of the venire.

(11) *Release of verdict.* The mini-jury trial is an extension of the settlement conference and the verdict shall not be made public.

(d) *Selection of Special Masters.* The Court Administrator shall maintain a roster of Special Masters who shall be designated from time to time from applications submitted by or on behalf of attorneys eligible for selection by the Court. An attorney must have been admitted to practice for not less than ten (10) years, be recommended by the Committee on Alternative Dispute Resolution or be a member of the Academy of Trial Lawyers of Southwestern Pennsylvania and determined by the President Judge to be competent to perform the duties of a Special Master. The parties may agree upon a Special Master who is not on the roster maintained by the Court Administrator, provided that the name of such person is submitted to, and approved by, the President Judge, or the judge to whom the case is assigned.

(e) Each party to a case selected for mini-jury trial shall pay a fee made payable to the County of Washington and submitted to the Office of the Court Administrator for processing. The mini-jury trial fee shall be set by administrative order, and information regarding the fee shall be available in the Office of the Court Administrator. The special master shall be compensated at a commensurate rate to their service, which shall be established by the Court Administrator and approved by the Court.

(1) *Application Process.* Any lawyer possessing the qualifications set forth for Special Master, who desires to serve as a Special Master, may submit an application on the form which is available in the Office of the Court Administrator. The Committee on Alternate Dispute Resolution shall submit a list of qualified persons to the Court Administrator. The President Judge shall certify as many Special Masters as determined to be necessary for the program.

(2) *Withdrawal by Special Master.* Any person whose name appears on the roster maintained by the Court Administrator may ask, at any time, to have his/her name removed or, if selected to serve, decline to serve but remain on the roster.

(3) *Disqualification.* Persons selected to be Special Masters shall be disqualified for bias or prejudice and shall disqualify themselves in any action in which they would be required to disqualify themselves if they were a judge. Each person serving as a Special Master shall take the prescribed oath or affirmation.

(f) *Sanctions.* If a party, or counsel, fails to comply with this rule, the Special Master may continue the mini-jury trial to another date as selected by the Court Administrator. If the mini-jury trial is continued, the Court may enter sanctions against the offending party or counsel, including the imposition of counsel fees, juror costs, and any other appropriate relief.

Rule 220A. Jury Size in Civil Trials.

The petit jury in civil cases may, in the discretion of the Court and with consent of all the parties, consist of as few as eight (8) members. If the number of jurors falls below eight (8), a mistrial shall be declared upon prompt application thereof by any party.

Rule 220.3. Examination of Jurors.

(1) After the jury panel for a particular case is drawn, a list of the persons on such panel and their completed juror questionnaire shall be handed to each attorney, or the party if unrepresented, involved in the case, and the Court shall inform the jurors of the names and addresses of each of the parties, the nature of the suit, the names of the intended witnesses, and the names of the attorneys and their associates.

(2) Examination of potential jurors shall be conducted by the Court, or its designee. The Court may permit counsel to supplement the Court's examination by such further inquiry as it deems appropriate.

(3) The Court may direct, or permit, the use of a written questionnaire to supplement oral examination of the jury panel by the Court or counsel. If a written questionnaire is used, it shall be considered confidential, and the original questionnaires and all copies shall be destroyed at the conclusion of the trial or service by a juror. Counsel, or a party if unrepresented, shall not have possession, or otherwise maintain a copy in any form, of the written questionnaire after the conclusion of voir dire.

(4) The voir dire examination of jurors shall be recorded but not transcribed, unless otherwise ordered by the Court.

Rule 221. Peremptory Challenges.

After the examination of jurors is completed, counsel, or a party if unrepresented, shall report to the Court those jurors whom they agree may be stricken for cause. If counsel are unable to agree that a juror should be stricken for cause, the Court shall make the just cause determination and may question the prospective juror to resolve the challenge for cause. Thereafter, counsel, or a party if unrepresented, shall proceed to exercise their respective peremptory challenges, and the remaining jurors shall be sworn in as the petit jury.

Rule 223. Conduct of Jury Trial.

(1) The entire examination or cross-examination of a witness shall be conducted, and objections made and argued, by the attorney commencing the same.

(2) Offers of proof shall be made at side bar, out of the hearing of the jury and out of the hearing of the witness.

Rule 223A. Exhibits.

(1) *Exhibits admitted at trial or other record proceeding.*

(a) At the conclusion of a trial or other record proceeding, all exhibits larger than 8-1/2 × 11 inches which are part of the record shall be reduced to that size, and all tangible objects which are part of the record, shall be photographed in color by the party originally proffering the evidence. The 8-1/2 × 11 inch reductions and color photographs shall be substituted in the record for the original exhibits and tangible objects unless the Court, upon motion or sua sponte, or an appellate court, shall direct otherwise. It shall be the responsibility of the judicial staff to maintain exhibits which have been admitted during the course of the trial or other record proceeding.

(b) Whenever a video deposition of a witness is presented at a trial or hearing, the video shall be marked as an exhibit as required by Pa.R.C.P. 4017.1. At the conclusion of the trial or hearing, the video shall be returned for safekeeping to the party who presented it and that party

shall maintain custody of the video until conclusion of all appellate proceedings in the case, unless the Court upon motion or sua sponte shall direct otherwise.

(c) Whenever a video deposition of a witness is presented at trial or hearing, it shall be accompanied by a transcript of the deposition as required by Pa.R.C.P. 4017.1(a)(2). The accompanying transcript shall be marked as an exhibit and retained in the record of the proceedings. In the event the record of the trial or hearing is transcribed for the appellate court or other purposes, the exhibit of the transcript accompanying the deposition shall be considered the official transcript of the testimony of the deponent. It shall not be necessary for the court reporter to also transcribe the audio portion of the video which was presented at trial or other record proceeding, so long as the record clearly reflects which part of the audio portion of the videotape deposition was offered into evidence and admitted.

(2) Disposition of exhibits after trial or other record proceeding.

(a) After trial or other record proceeding, exhibits admitted into evidence shall be retained by the Prothonotary until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained by the Prothonotary until disposition of the appeal.

(b) Within sixty (60) days of the final disposition of all appeals or the date when no further appeal may be taken under the Pennsylvania Rules of Appellate Procedure, the party who offered the exhibits may reclaim them from the Prothonotary. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Prothonotary, after obtaining an order of court allowing for the destruction of the exhibits.

(c) Notwithstanding the above, any person who has a possessory or legal interest in any exhibit which has been introduced into evidence may file a claim for such exhibit within thirty (30) days after trial or other record proceeding. The Court shall determine the validity of such claim and determine the manner and timing of disposition.

Rule 225. Opening and Closing Statements.

Except as otherwise directed by the Court, one attorney for each party or group of parties having the burden of proof shall address the jury at the conclusion of the evidence, after which the attorney for each adverse party or group of parties shall sum up. Rebuttal statements shall be permitted in the discretion of the Court.

Rule 226. Points for Charge.

(a) Unless otherwise permitted by the Court for cause shown, requested points for charge shall be limited to those relevant points set forth in the Pennsylvania Suggested Standard Civil Jury Instructions plus ten (10) additional points for charge.

(b) The points for charge requested from the Pennsylvania Suggested Standard Civil Jury Instructions shall be listed only by section number and not set forth verbatim.

Rule 227.1. Motion for Post-Trial Relief.

(a) Any post-trial motions shall be filed with the Prothonotary in accordance with Pa.R.C.P. 227.1, together with a request designating that portion of the record to be transcribed. A copy of the items filed, along with a proposed order for transcription, shall also be delivered to the trial judge, the court administrator, the court re-

porter, and every other party to the action and a certificate of such service shall be filed of record.

(b) All post-trial motions must specify the grounds relied upon as provided by Pa.R.C.P. 227.1(b)(2).

(c) Unless otherwise ordered by the Court, a brief in support of post-trial motions shall be filed within thirty (30) days following receipt of the transcript or, if no request for transcript has been made by either party, within thirty (30) days of the date of the filing of the post-trial motion.

(d) Unless otherwise provided by the Court, briefs in opposition to post-trial motions shall be filed within twenty (20) days from the date of the filing of the brief of the moving party.

(e) A copy of a brief filed in support of, or in opposition to, post-trial motions shall be served upon the trial judge and every other party to the action. A certificate of service shall accompany all briefs filed hereunder.

Rule 227.3. Transcript of Testimony.

(a) Any objections to the request designating the portion of the record to be transcribed, filed pursuant to Pa.R.C.P. 227.3, shall likewise be served upon the trial judge, the court administrator, the court reporter, and every other party to the action, and a certificate of service shall be filed of record.

(b) The party requesting a transcript of the record or any portion thereof in a motion for post-trial relief shall pay the cost thereof. Where any other party files an objection requesting that an additional portion of the record be transcribed, the trial judge, in the absence of agreement by the parties, shall in his/her discretion and to the extent this matter is not covered in the Pennsylvania Rule of Judicial Administration 4000, et. seq., assign the cost of such additional transcribing to any or all parties or to the county.

Rule 229. Discontinuance. Payment of Record Court Costs on Settlement.

(a) Unless all parties agree in writing to the contrary, the settling defendant or defendants in any filed civil action shall pay to the plaintiff record court costs which are specifically defined to be:

- (1) Initial filing fees;
- (2) Service of process fees; and
- (3) Costs to settle and discontinue the docket.

(b) Upon the filing of a praecipe to settle, discontinue, and end an action, the filing party shall deliver a copy of same to the Court Administrator for transmittal to the assigned judge.

Rule 230.2. Termination of Inactive Cases.

The proceedings to terminate inactive cases pursuant to Pa.R.C.P. 230.2 shall include cases that are appeals from local or administrative agencies, or actions that exist because of a cause of action created by rule of court or statute.

Rule 237.1. Entry of Default Judgment. Military Service.

In all cases in which a party to an action has appeared but subsequently defaults, before any decree or judgment shall be entered, the opposing party shall file an affidavit stating that the defaulting party is not in the military

service of the United States, or if the information is not available, the affidavit shall state what efforts have been made to obtain the facts.

Note: The purpose of this rule is to satisfy the requirement of the Servicemembers Civil Relief Act, Title 50 App.U.S.C. § 501, et seq.

Rule 240. In Forma Pauperis.

(a) A party seeking leave to proceed in forma pauperis shall apply to the Court for such status. The application shall include as an attachment the affidavit of the party demonstrating an inability to pay the costs of litigation.

Note: The affidavit form is set forth in Pa.R.C.P. 240; application forms are available in the County Law Library. Presentation of the application to the Court must comply with the requirements of Local Rule 208.3(a).

(b) Legal counsel employed by or affiliated with Southwestern Pennsylvania Legal Services are authorized to file a praecipe for in forma pauperis status on behalf of their client.

(c) The Prothonotary shall accept for filing by a party a praecipe as provided by Pa.R.C.P. 240(d), or an application under this rule, without charge to the party.

(1) Except as provided in Wash.L.R.C.P. 1915.37, upon withdraw of an attorney who has filed a praecipe on behalf of a client pursuant to Pa.R.C.P. 240(d), the party must file a petition to for leave to proceed in forma pauperis to continue to have the costs of litigation waived as set forth in Pa.R.C.P. 240(f).

(d) If there is an improvement in the financial circumstances of a party which will enable the party to pay costs, the party must immediately file a praecipe to decertify in forma pauperis status.

(1) The Prothonotary shall not be permitted to retroactively charge previously waived costs to a party because of a change in economic status or if a party is no longer receiving free legal service from an attorney.

(e) If the action or proceeding is commenced or appeal is taken with the simultaneous filing of the petition, the petitioner shall present the request to proceed in forma pauperis to the general civil motions judge, or in a custody, divorce, or support action, to the judge assigned to hear those actions.

(1) *Unavailability of judge.* In the event that the appropriate judge is not available to hear an in forma pauperis request, the petitioner shall file the petition with the Prothonotary in accordance with Pa.R.C.P. 240(c). Upon the filing of an unsigned petition for leave to proceed in forma pauperis with the Prothonotary, the Prothonotary shall provide a copy of the petition to the assigned judge for the case for action on the petition pursuant to Pa.R.C.P. 240(c)(3).

Rule 260. Money Paid Into Court.

(a) Where it is appropriate that money be paid into court, the Court on petition of any party or on its own motion may direct the same to be done. A petition for the payment of money into court shall set forth the reasons for requesting such action and the exact amount to be paid. Notice of the presentation of such a petition shall be given in the manner set forth in these rules.

(b) The Prothonotary shall have custody of all money paid into court and shall deposit such funds in an escrow account to the credit of the court in a bank or banks in which deposits are insured by the Federal Deposit Insurance Corporation. Upon motion of a person who appears

from the record to be prima facie interested in money paid into court, the Court may authorize the Prothonotary to invest the fund in such manner and upon such terms as the court may direct.

(c) Money paid into court may not be withdrawn or paid out except upon written order of Court.

Rule 301. Court Calendar.

The Court Administrator shall annually publish a Court Calendar, which shall have the effect of a rule of Court for the matters and dates set forth therein. The Court Calendar shall be published in the *Washington County Reports* and at www.washingtoncourts.us.

Rule 302. Argument Court. Argument List.

(1) This rule shall apply to all actions to be listed for argument, unless a specific local rule states otherwise. The Court may, in its discretion, set argument on an action outside of Argument Court.

Note: Dispositive motions shall be argued in Argument Court; non-dispositive motions should be presented and heard in Motions Court, or be specially set for argument at the discretion of the presiding judge. There is no requirement to present a scheduling motion for argument on a dispositive motion (e.g., preliminary objections, a motion for judgment on the pleadings, or a motion for summary judgment).

(2) The Court Administrator shall annually set sessions for Argument Court in the court calendar.

(a) The Court Administrator shall assign an action for Argument Court upon receipt of a copy of an appropriate motion. An action may not be scheduled for Argument Court sooner than thirty (30) days before a session.

(b) The argument list shall state the amount of time set aside for argument for each party.

(3) Briefs shall be filed in accordance with Wash.L.R.C.P. 210, unless otherwise ordered by the Court.

(4) The Prothonotary shall send notice of the argument list to all counsel of record, or the parties if unrepresented, by first-class mail, or, if applicable, in accordance with Wash.L.R.C.P. 440. It shall be the responsibility of the moving party to confirm the time and date for argument with all other counsel, or the parties if unrepresented.

(a) The Court shall publish the argument list for Argument Court in the *Washington County Reports* or at www.washingtoncourts.us.

(5) The Court shall only entertain a request for a continuance for an action scheduled for Argument Court for good cause shown.

Rule 303. Bill of Costs/Record Costs.

(1) Bills of costs must contain the names of the witnesses, the dates of their attendance, the number of miles actually traveled by them, and the places from which mileage is claimed. The bills should be verified by the affidavit of the party filing them or by the attorney of the party that the witness named were actually present in Court, and in the opinion of the affiant, that the individual was a material witness. A copy of the bill of costs shall be served on all opposing counsel and all unrepresented parties.

(2) A party upon whom a bill of costs has been served may, within ten (10) days after such service, file exceptions thereto, and the issues shall be determined by the

Court. Failure to file exceptions within the time prescribed shall be deemed a waiver of all objections and exceptions to the bill.

(3) Exceptions to a bill of costs shall be treated as a motion under these rules.

Rule 304. Appointment of a Special Presiding Officer.

Upon petition, or sua sponte, the Court may appoint a special presiding officer with respect to any or all matters before the Court, subject to limitations set forth in a statute, rule of court, or other applicable authority. The order appointing a special presiding officer shall set forth the scope of the authority of the officer, and the manner of remuneration if applicable.

SERVICE

Rule 430. Service Pursuant to Special Order of Court. Publication.

(a) *Designated Publication.* Whenever service by publication is authorized by statute, rule, or special order of court, and the manner of publication is not otherwise specified, such service shall be made by publishing the required notice one (1) time in a newspaper of general circulation in Washington County, and one (1) time in the *Washington County Reports*. Affidavits of publication shall be filed with the Prothonotary.

(b) *Designation of Legal Publication.* The *Washington County Reports*, owned and operated by the Washington County Bar Association, is hereby designated the official legal publication of Washington County.

(1) The *Washington County Reports* shall also print such other matters as are required by these rules or by order of court.

Rule 440. Service of Copies of Legal Papers.

(a) Copies of all legal papers other than original process that are filed in an action may be served upon an attorney for a party by:

(1) placing the paper in a box for the attorney in the Office of the Prothonotary, if the attorney has requested a box; or

(2) electronic transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action.

(b) The attorney for a party may withdraw the consent to receiving service of copies of legal papers in an action by filing a written statement of record with the Prothonotary. The written statement must set forth a mailing address for service and be served upon all parties.

ACTIONS

Rule 1012. Entry of Appearance.

(a) All appearances shall be entered by praecipe and filed with the Prothonotary, or, in cases involving support, the Domestic Relations Section. Where there are several plaintiffs or defendants, an appearance shall be deemed for all unless expressly restricted. No attorney shall be permitted to appear before the Court in any conference, motion, hearing, trial, or other proceedings without first entering an appearance on behalf of a party.

(b) The Prothonotary, or Domestic Relations Section, shall not permit any paper to be filed unless at least one of the attorneys signing it shall have been admitted to

practice before the bar of the Supreme Court of Pennsylvania, and any paper or praecipe filed in violation of this rule shall be suppressed.

(c) No Clerk of Court, Prothonotary, or Sheriff, or deputy of such officers shall practice in a civil or criminal action in this judicial district. No Clerk of the Orphans' Court, Register of Wills, or deputy of such office shall practice before the Orphans' Court Division. No court reporter or recorder, stenographer, law clerk, employee, or administrator of this Court shall enter an appearance or otherwise practice in this judicial district.

Rule 1018.1. Notice to Defend.

The organizations to be named in the notice to defend accompanying a complaint filed in the Court of Common Pleas of Washington County, Pennsylvania shall be:

Lawyer Referral Service,
119 South College Street,
Washington, PA 15301
(724) 225-6710

Southwestern Pennsylvania Legal Aid Society
10 West Cherry Avenue
Washington, PA 15301
(724) 225-6170

Rule 1028(c) Procedures for the Disposition of Preliminary Objections.

(1) All preliminary objections shall be filed with the Prothonotary. Copies of all preliminary objections shall be served contemporaneously on the Court Administrator and the judge to whom the case is assigned.

(2) The issues raised in all preliminary objections shall be disposed of at regular sessions of Argument Court, which shall be scheduled as part of the annual court calendar, and shall follow the procedures set forth below.

Comment: See Wash.L.R.C.P. 302, entitled "Argument Court. Argument List."

(3) The Court Administrator shall maintain the Argument Court list.

(4) The schedule for briefs shall be in accordance with these local rules, unless otherwise ordered by the Court.

(5) The argument list shall be closed thirty (30) days prior to the date for argument. The list shall then be prepared by the Court Administrator and the cases shall be set out in order of their listing. Upon the closing of the argument list, the Prothonotary shall furnish notification to all attorneys and unrepresented parties who have cases listed for argument of the listing by regular mail.

(6) Briefs shall be filed of record and conform to the requirements of Wash.L.R.C.P. 210.

(7) Issues raised, but not briefed, shall be deemed abandoned.

(8) References in any brief to parts of the record appearing in a reproduced record shall be to the pages and the lines in the reproduced record where said parts appear; e.g., "(R. pg. 30 L. 15)." If references are made in the briefs to parts of the original record not reproduced, the references shall be to the parts of the record involved, e.g., "(Answer p. 7)," "(Motion for Summary Judgment p.2)."

(9) Counsel or any party presenting oral argument shall be limited to fifteen (15) minutes total, unless prior

permission is granted to extend argument for cause shown.

(10) Prior approval of the Court must be obtained to present cases only on briefs. Any request is to be made to the Court Administrator no less than five (5) days prior to argument.

(11) All agreements for continuances and/or withdrawals shall be communicated to the Court Administrator no less than seven (7) days prior to Argument Court. The Court shall continue an argument only upon good cause shown.

Rule 1034(a). Procedures for the Disposition of a Motion for Judgment on the Pleadings.

All motions for judgment on the pleadings shall be filed with the Prothonotary. Copies of all motions for judgment on the pleadings shall be served contemporaneously on the Court Administrator and the judge to whom the case is assigned. The procedures for the disposition of a motion for judgment on the pleadings shall be identical to those described in Wash.L.R.C.P. 1028(c).

Rule 1035.2(a). Procedures for the Disposition of a Motion for Summary Judgment.

All motions for summary judgment shall be filed with the Prothonotary. Copies of all motions for summary judgment shall be served contemporaneously on the Court Administrator and the judge to whom the case is assigned. The procedures for the disposition of a motion for summary judgment shall be identical to those described in Wash.L.R.C.P. 1028(c).

Rule 1041.1. Asbestos Litigation.

(a) Upon filing of a case in asbestos the case shall be assigned to a judge, who shall preside over all proceedings relating to the case. The Prothonotary shall immediately notify the Court Administrator of the filing of an action in asbestos.

(b) All pleadings and proposed orders shall include a caption as follows:

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION—ASBESTOS

(c) In all asbestos cases, the course of litigation shall be governed by the terms set forth in a case management order (“CMO”).

(1) Any party may present a CMO to the Court for approval within sixty (60) days of the filing of the complaint. The proposed CMO shall set forth the actual dates in which each stage of the litigation must be completed.

(d) In the absence of a CMO approved by the Court within sixty (60) days from the filing of the complaint, the Court shall enter the following CMO:

**IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION—ASBESTOS**

Plaintiff(s))
)
vs.) No. _____
)
Defendants.)

CASE MANAGEMENT ORDER

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED,

ADJUDGED, and DECREED that:

1. This Case Management Order (“CMO”) shall govern the litigation in the above-captioned matter.

2. Within sixty (60) days of the commencement of the action, defendants shall select an attorney from one of their number to act as lead defense counsel. Lead defense counsel shall promptly file a notice of his or her selection with the Prothonotary. In the event that lead defense counsel ceases to act in that capacity, the defendants shall select a replacement within thirty (30) days. Replacement lead counsel shall promptly file a notice of his or her selection with the Prothonotary.

3. Plaintiff’s Answers to Standard Short Form Interrogatories shall be served on all defense counsel within six (6) months of the date of the filing of the complaint.

4. The parties shall disclose all known fact witnesses within eight (8) months of the date of the filing of the complaint.

5. Discovery shall be completed within fourteen (14) months of the date of the filing of the complaint.

6. All Motions for Summary Judgment shall be filed within sixteen (16) months of the filing of the complaint.

7. Responses to the Motions for Summary Judgment shall be filed within seventeen (17) months of the filing of the complaint.

8. After the responses to the Motions for Summary Judgment have been filed, any party may present a motion for argument date. Arguments for all Motions for Summary Judgment shall be heard on the same day.

9. Plaintiff shall file a pre-trial statement within twenty-one (21) months of the date of the filing of the complaint.

10. Defendant(s) shall file a pre-trial statement within thirty (30) days of the filing of Plaintiff’s pre-trial statement.

11. The pre-trial statements shall contain a narrative statement, a list of any expert witnesses intended to be called at trial, all expert reports, and an assessment of damages. The pre-trial statement shall also include any presently known motions in limine and any legal research, memorandum, or brief in support thereof. Failure to file a motion in limine shall bar a future filing, unless said motion could not be anticipated prior to the filing of the pre-trial statement.

12. Upon the filing of pre-trial statements by all active parties, the Court Administrator shall place the case on the trial list of the assigned judge.

13. This CMO may be modified by agreement of all parties, subject to Court approval, or upon motion of any party for good cause shown.

BY THE COURT:

ASSIGNED JUDGE

(e) It is the responsibility of the moving party to file all original Orders with the Prothonotary. Further, the moving party shall serve copies of all Orders upon all counsel of record and any pro se litigant. If the Court serves copies of any Order, such service shall be made to counsel

for the plaintiff and lead counsel for the defendants, who shall be responsible for providing service upon all counsel of record and any pro se litigant.

Rule 1042.1. Professional Liability Actions. Mediation.

(a) *Scope.* These rules shall govern mediation in all professional liability cases before the Court.

(1) This rule shall not pertain to any case involving a pro se litigant.

(b) *Selection of cases for mediation.* Either party, or the Court sua sponte, may file a motion to refer a case to mediation.

(1) The Court may also at its discretion refer a case to mediation once it is placed on the trial list.

(2) The Court shall consider the objection of any party to mediation that has not consented to settlement provided that such lack of consent shall not prevent the referral of the case to mediation.

(c) *Selection of mediator.* The Court shall select the mediator, or in the alternative, the parties may agree to the appointment of a mediator.

(1) Unless otherwise agreed to by the parties, the mediator shall be disqualified if:

(i) the mediator has personal knowledge of disputed evidentiary facts related to the mediation;

(ii) the mediator or any attorney with whom the mediator practiced law served as an attorney for the matter in controversy; or

(iii) the mediator, or anyone with whom the mediator has a close business or familial relationship, has an economic interest in the matter in controversy.

(2) The mediator shall disclose any past or present affiliations with any and all parties, including the insurance carriers and/or the M-Care Fund.

(d) *Compensation.* The fee of the mediator shall be determined by the Court. The costs shall be apportioned equally among the parties, unless otherwise agreed to by the parties or ordered by the Court. The mediator shall submit an itemized bill to the parties for costs, expenses, and time. Failure to remit payment within twenty (20) days after receipt of the bill may result in a rule to show cause why sanctions shall not be imposed.

(e) *Submissions to mediator.* Before the first mediation session, the mediator may require the parties to provide to the mediator confidential and/or pertinent information including, but not limited to, pleadings, discovery responses/production, transcripts, expert reports, and/or any other litigation related documents.

(f) *Time frame for conducting the mediation.* Unless otherwise agreed to by the parties and the mediator, or ordered by the Court, the first mediation session shall be conducted not later than sixty (60) days from the agreement to mediate or order to mediate.

(g) *Attendance and authority; sanctions.* The parties, a representative of the defendant's insurance carrier with authority to enter into a full and complete settlement of the case on behalf of the parties, and trial counsel shall personally attend the mediation. A representative of the M(Care) Fund, with full decision making authority, shall attend in person, the mediation. If any of the above individuals or representatives fails to appear at the

mediation session without good cause, or appears without full authority, the Court sua sponte, or upon motion, may impose sanctions, including an award of reasonable mediator and attorney's fees and other costs, against the responsible party.

(h) *Settlement agreement; enforcement.* Each settlement is to be confirmed in a written settlement agreement, signed by a party or a party representative with authority to sign. A party representative who signs is presumed to have full authority to bind the party. The settlement agreement is enforceable in the same manner as any other written contract and/or by a motion to enforce the settlement agreement.

(i) *Confidentiality and immunity.* The mediation shall be confidential and no record shall be made, except as provided in this rule or as ordered by the Court. The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall indemnify the mediator and other protected participants for all reasonable costs, fees, and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to common pleas judges.

Comment: Confidentiality of mediation communications and mediation documents are subject to the protections and exceptions prescribed in 42 Pa. Con. Stat. § 5949.

(j) *Report.* If the case is not settled, the mediator shall provide the Court with a detailed report outlining: (1) the mediator's assessment of liability; (2) the mediator's assessment of damages; (3) the mediator's opinion regarding the potential range of a verdict and the settlement value of the case; (4) Plaintiff's final settlement demand; (5) Defendant's final settlement offer; and (6) the mediator's recommendation regarding settlement of the case. A copy of the report shall be provided to and maintained by the Court Administrator until the case is closed.

ACTIONS IN EJECTMENT

Rule 1054. Ejectment. Specific Averments.

If an action in ejectment is commenced by filing a praecipe for a writ of summons, there shall be filed with the praecipe a copy of the description of the land for insertion in the writ.

ACTION IN REPLEVIN

Rule 1081. Replevin. Concealment of Property. Examination of Defendant.

Where a petition is presented to the Court for examination of a defendant pursuant to Pa.R.C.P. 1081, the Court may order the taking of testimony by oral examination or written interrogatories as prescribed by the rules relating to Depositions and Discovery, Pa.R.C.P. 4001, et seq. The Prothonotary shall issue as of course a subpoena to testify.

ACTION OF MORTGAGE FORECLOSURE

Rule 1143. Commencement of Action. Residential Mortgage Foreclosure.

(a) In all residential mortgage foreclosure actions, the complaint shall include a "Mortgage Foreclosure Diversion Program Notice," in the format set forth below:

**IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA**

CIVIL DIVISION

Plaintiff(s))
)
 vs.) No. _____
)
 Defendant(s))

**MORTGAGE FORECLOSURE DIVERSION PROGRAM
NOTICE**

You have been sued in court to foreclose upon the mortgage associated with your home.

You are notified that you may seek a 90-day stay in this mortgage foreclosure action if you attend a free Foreclosure Mitigation Counseling session within 20 days of being served with the complaint in this action and this notice, and make application for the stay. The purpose of this stay is to permit you an opportunity to work with the lender/plaintiff to reach an agreement to settle this proceeding. The Foreclosure Mitigation Counseling sessions are held every Wednesday at 10:00 a.m., in the Judges' Library, located on the second floor of the Washington County Courthouse, 1 South Main Street, Washington, Pennsylvania, 15301.

If you fail to appear for this free Foreclosure Mitigation Counseling session, you will not receive a 90-day stay of these proceedings and if you do not respond to the complaint, a default judgment may be entered.

YOU SHOULD STRONGLY CONSIDER ATTENDING A FORECLOSURE MITIGATION COUNSELING SESSION. THESE SESSIONS WILL BE CONDUCTED BY A REPRESENTATIVE OF SOUTHWESTERN PENNSYLVANIA LEGAL SERVICES. YOU MAY BE ABLE TO SEEK ASSISTANCE FROM A LEGAL PROFESSIONAL AT THE FORECLOSURE MITIGATION COUNSELING SESSION.

IF YOU HAVE QUESTIONS ABOUT THIS MATTER, YOU MAY HAVE THEM ADDRESSED AT THE FORECLOSURE MITIGATION COUNSELING SESSION, OR YOU MAY CONTACT SOUTHWESTERN PA LEGAL SERVICES AT:

10 WEST CHERRY AVENUE
 WASHINGTON, PA 15301
 724.225.6170
 TOLL FREE: 1-800-846-0871

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Washington County, Pennsylvania is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing.

(b) If the defendant completes the Foreclosure Mitigation Counseling session, the Court shall enter a 90-day stay upon application of the defendant.

(c) At the expiration of the 90-day stay, the defendant shall have twenty (20) days in which to take action by entering a written appearance personally or by an attorney and filing in writing with the court his or her defenses or objections to the claims set forth against him or her; provided, however, that if the defendant is served

outside the United States the defendant shall have sixty (60) days in which to respond.

COMPULSORY ARBITRATION

Rule 1301. Compulsory Arbitration. Scope.

(a) All civil actions which are subject to compulsory arbitration pursuant to 42 Pa. Con. Stat. § 7361, in which the amount in controversy, exclusive of interest and costs, is fifty-thousand (\$50,000.00) dollars or less, shall be submitted to compulsory arbitration.

(b) The amount in controversy shall be the largest amount claimed in any single count of the pleadings by any party.

(c) The court, upon the written motion of any party or sua sponte, may require that a case for which a trial is demanded be first submitted to compulsory arbitration pursuant to these rules.

Comment: Actions involving real property are not subject to compulsory arbitration.

Rule 1302. Compulsory Arbitration—Arbitrators.

(a) A list of available arbitrators shall be maintained by the Court Administrator. The list shall consist of a sufficient number of members of the Bar of Washington County who express a willingness to serve and who are actively engaged in the practice of law primarily in Washington County in accordance with Pa.R.C.P. 1302(a).

(b) Each attorney who satisfies the requirements of Rule 1302(a) may submit his or her name to the Court Administrator, who shall assign said attorneys to arbitration panels. The composition of the panels may be changed as deemed appropriate by the Court Administrator.

(c) Each panel so comprised shall consist of three (3) attorneys, the most senior of whom shall be the chairperson of the panel, unless otherwise agreed by the members of the panel.

(d) The Court may from time to time establish a special panel of arbitrators who by virtue of seniority and experience, in specific fields of the law, are uniquely qualified to serve as arbitrators in particular types of cases, and whose special service will advance the interests of justice.

(e) Each arbitrator shall be compensated at a commensurate rate to their service, which shall be established by the Court Administrator and approved by the Court.

(f) If an appointed arbitrator cannot serve at the time and place designated, the attorney shall, unless otherwise prevented by matters beyond his or her control, notify the Court Administrator at least five (5) days in advance of the date upon which the hearing has been scheduled. That attorney shall then be appointed an arbitrator at the first opportunity thereafter. If any arbitrator fails to give notice as aforesaid or simply fails to appear at a scheduled arbitration, his or her name shall be passed over and that attorney shall not receive another appointment until his or her name reappears for appointment in due course. If any arbitrator is guilty of such a failing a second time, the attorney's name shall be removed from the appropriate list or lists, and he or she shall not thereafter serve as an arbitrator until reinstated upon application to the court. An attorney who fails to appear for a second time may, in the discretion of the Court, be responsible for the payment of costs if such absence causes the arbitration to be continued.

Rule 1303. Hearing.

(a) Arbitrations shall be held on the date and at the time and place prescribed by the Court Administrator.

(b) The Court Administrator shall notify all attorneys of record of the date, time, and place of the hearing by mail. If a party is not represented by counsel, that party shall be given notice of the arbitration in accordance with Pa.R.C.P. 440. The Court Administrator shall file of record proof of notice as aforesaid. Notice shall be given to the parties or their attorneys of record at least thirty (30) days prior to the scheduled hearing.

(1) The Court Administrator shall notify all arbitrators assigned to an arbitration panel of the dates on which the arbitration panel is assigned to hear arbitration cases and the location of the arbitration hearings.

(2) Prior to the scheduled arbitration date, the Court Administrator shall send all of the arbitrators assigned to the arbitration panel a list containing the names of the cases to be heard, the names of the parties, and the names of all counsel for the parties. In the event any of the arbitrators believes that he/she has a conflict of interest in connection with hearing any particular case, the arbitrator shall immediately notify the Court Administrator in writing that the arbitrator believes that there is a conflict of interest and the reason for the conflict. The Court Administrator shall assign a substitute arbitrator to the case.

(c) On the date of the arbitration hearing, all counsel should check in with the representative of the Court Administrator located at the site of the arbitration. Cases in which all parties have checked in and have indicated they are ready to proceed will be assigned to a panel for hearing by the representative of the Court Administrator after consultation with the panel chairperson. All cases on the list are intended to be reached, and all counsel should be prepared to commence their case at the time they are directed to report for the arbitration.

(d) In the event that the panels of arbitrators are unable to reach all of the cases scheduled for arbitration on a particular day, the arbitration hearing for those cases that are not reached shall be continued by the Court Administrator to the next available date. In the event that an arbitration hearing has been commenced but is not concluded on the day scheduled for the arbitration hearing, the arbitration hearing shall be continued to a date convenient to the arbitration panel and parties.

(e) The written notice provided for in subsection (b) above shall include the following statement:

“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.”

(f) The representative of the Court Administrator shall administer the oath required by Pa.R.C.P. 1302(f) to each arbitrator.

Rule 1303.1. Scheduling of Arbitration Hearing. Discovery Time Limits.

(a) A matter subject to compulsory arbitration shall be scheduled for a hearing as set forth below.

(1) An appeal of a decision of a magisterial district judge pursuant to Pa.R.M.D.J. 1002 shall be scheduled

for arbitration within ninety (90) days of the filing of the appeal in the Court of Common Pleas.

(2) All other matters subject to compulsory arbitration shall be scheduled after one hundred fifty (150) days from the commencement of the action.

(3) The parties may seek to schedule an arbitration hearing earlier than the limits listed above in subsection (b) upon the filing of a joint praecipe with the Prothonotary. A copy of the praecipe must be provided contemporaneously to the Court Administrator.

(i) There shall be no discovery permitted after the filing of a joint praecipe.

(b) Discovery in all matters subject to compulsory arbitration other than appeals pursuant to Pa.M.D.J. 1002 shall be limited to one hundred fifty (150) days from the commencement of the action, unless otherwise ordered by the Court for good cause shown. In no case shall discovery be permitted to exceed two hundred forty (240) days.

(c) If a party fails to appear for a scheduled arbitration hearing, the Court may act as follows:

(1) immediately hear the matter as an ex parte, non-jury trial and enter a verdict; or

(2) order the matter to proceed to arbitration for a hearing and the entry of an award by the arbitration panel.

(d) A non-jury verdict entered by the Court shall not exceed \$50,000.00 to any party, exclusive of costs and interest.

Comment: When the Court “hears the matter,” it is accelerating the time for conducting a de novo trial. However, the proceeding is still a “trial” and the rules otherwise applicable to a trial in the Court of Common Pleas are not suspended. Therefore, counsel, or a party if unrepresented, should be prepared to present testimony and introduce evidence at the trial, and the Court should make findings of fact and conclusions of law. See *Hayes v. Donohue Designer Kitchen, Inc.*, 818 A.2d 1287 (Pa. Super. Ct. 2003).

Rule 1303.2. Continuances.

(a) A party may continue a scheduled arbitration hearing one (1) time upon filing of a praecipe for continuance with the Prothonotary and payment of a fee of \$50.00. The praecipe shall be filed at least five (5) days before the scheduled arbitration; the Prothonotary shall refuse a praecipe if filed later than five (5) days before the scheduled arbitration.

(1) A copy of the praecipe must be provided contemporaneously to the Court Administrator. The filing party shall be responsible for immediately notifying opposing counsel, or a party if unrepresented, of the continuance.

(b) For any request for a continuance that is either less than five (5) days before the scheduled arbitration or not the first request for continuance by a party, the requesting party shall file a motion and seek leave of court.

(1) The Court shall grant the continuance only for good cause shown.

(2) The requesting party shall pay a continuance fee of \$100.00.

(c) A pre-trial motion, whether filed prior to or after the scheduling of the arbitration, shall not be cause for continuance of the arbitration hearing.

Rule 1304. Conduct of Hearing. Generally.

(a) The board of arbitrators shall have no power to permit the amendment of pleadings, allow the addition or substitution of parties, or rule on preliminary objections, motions for judgment on the pleadings, or motions for summary judgment.

(b) The procedural rules, set forth in Pa.R.C.P. 1304, shall apply to the conduct of arbitration hearings.

(c) The parties may present agreements on awards to be entered by the arbitrators on the date of hearing.

(d) If it appears at the arbitration hearing that any defendant has not been properly served, judgment shall be entered for that defendant.

(e) If it appears at the arbitration hearing that a defendant has appealed a district justice judgment and has not served a rule to file a complaint upon the plaintiff, an award shall be entered in favor of the plaintiff.

(f) If it appears at the arbitration hearing that a complaint has not been filed, judgment shall be entered for the defendant.

Rule 1305. Conduct of Hearing. Evidence.

(a) Initially, all rulings on objections to evidence or on other issues which arise during the hearing shall be made by the chairperson of the board of arbitrators, and such rulings shall be final unless one of the other arbitrators disagrees with the same. In the latter instance, the arbitrators shall consult and vote and the final ruling shall be that of the majority.

(b) Following the hearing, the chairperson of the board of arbitration shall release to the respective parties the exhibits introduced and admitted. In no instance shall the Court maintain or keep the exhibits after the completion of the arbitration proceedings.

(c) The evidentiary rules described in Pa.R.C.P. 1305 shall apply to the conduct of arbitration hearings.

Rule 1305.1. Pleadings and Discovery.

(a) *Small Claims.* In all cases in which the amount in controversy is \$12,000.00 or less, a simplified complaint shall be encouraged and a simplified answer shall be permitted. A standard form simplified complaint and simplified answer shall be approved by the Court and provided in sufficient quantities by the Prothonotary.

(1) Discovery in cases in which the amount in controversy is \$12,000.00 or less shall be permitted only by order of court. In the event that it is necessary to continue the arbitration pending discovery, the order permitting discovery shall provide for such continuance, and the Court Administrator shall reschedule the arbitration.

(2) The Court Administrator shall design any necessary forms to facilitate appeals pursuant to Pa.M.D.J. 1002, and shall make the forms available in the magisterial districts and the Prothonotary.

(b) *Discovery in Personal Injury Cases.* For any personal injury claim subject to compulsory arbitration, the plaintiff may serve arbitration discovery requests as set forth below. The requests may be served simultaneously with the complaint.

(1) The defendant shall furnish the information sought in the discovery requests within thirty (30) days of receipt of the discovery requests.

(2) Any defendant may serve arbitration discovery requests as set forth below either together with a copy of the answer served on the plaintiff or thereafter within the time limits for discovery.

(3) The plaintiff shall furnish the information sought in the discovery requests within thirty (30) days of receipt of the discovery requests.

(4) A party may not seek additional discovery through interrogatories or requests for production of documents until that party has sought discovery through the arbitration discovery requests described herein.

(5) A party may not include any additional interrogatories or requests for production of documents in the arbitration discovery requests provided for in this local rule, absent leave of court.

(6) This local rule applies to additional defendants.

(7) The local rule does not apply to claims that do not exceed the sum of \$12,000.00 (exclusive of interest and costs) wherein the parties may only seek discovery when permitted by the Court.

**PLAINTIFF'S ARBITRATION DISCOVERY
REQUESTS FOR PERSONAL INJURY CLAIMS
DIRECTED TO DEFENDANTS**

These discovery requests are directed to Defendants, _____ . Within thirty (30) days following receipt of these requests, you shall provide the information sought in these discovery requests to every other party to this lawsuit.

IDENTITY OF DEFENDANT(S)

1. Set forth your full name and address.

INSURANCE

2. (a) Is there any insurance agreement that may provide coverage to you for this incident? Yes _____
No _____

(b) If so, list the name of each company and the amount of protection that may be available.

WITNESSES

3. List the names, present addresses and telephone numbers (if known) of any persons who witnessed the incident (including related events before and after the incident) and any relationship between the witness and you.

STATEMENTS AND OTHER WRITINGS

4. (a) Do you have any written or oral statements from any witness, including any plaintiffs? Yes _____
No _____

(b) If you answered yes, attach copies of any written statements signed, adopted or approved by any witness, attach a written summary of any other statements (include oral statements), and identify any witness from whom you obtained a stenographic, mechanical, electrical or other recording that has not been transcribed. (This request does not cover a statement by a party to that party's attorney.)

I have _____ have not _____ fully complied with request 4(b).

(c) Do you have any photographs, videotapes, surveillance tapes, maps, drawings, diagrams, etc. that you may seek to introduce at trial or that may otherwise pertain to a lawsuit? Yes _____ No _____

(d) If you answered yes, attach copies of each of these items.

I have _____ have not _____ fully complied with request 4(c).

MEDICAL DOCUMENTS

5. (a) Do you have any medical documents relating to the plaintiff? Yes _____ No _____

(b) If you answered yes, attach each of these documents.

I have _____ have not _____ fully complied with request 5(b).

CRIMINAL CHARGES

6. (a) Were any felony or misdemeanor criminal charges filed against you or any of your agents which arise out of the incident that is the subject of this lawsuit? Yes _____ No _____

(b) If you answered yes, list each felony or misdemeanor charge that is pending and each felony and misdemeanor conviction.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

Plaintiff, CIVIL DIVISION

v. NO.:

Defendant.

DEFENDANT'S ARBITRATION DISCOVERY REQUESTS

These discovery requests are directed to the Plaintiff, _____ . Within thirty (30) days following receipt of these requests, you shall provide the information sought in these discovery requests to every other party to this lawsuit.

IDENTITY OF PLAINTIFF(S)

1. Set forth your full name, address, age, employer, and type of employment.

ANSWER:

WITNESSES

2. List the names, present addresses and telephone numbers (if known) of any persons who witnessed the incident (including related events before and after the incident) and any relationship between the witness and you.

ANSWER:

STATEMENTS AND OTHER WITNESSES

3. (a) Do you have any written or oral statements from any witnesses, including any defendant?

Yes _____ No _____

(b) If you answered yes, attach any copies of written statements signed, adopted or approved by any witness, attach a written summary of any other statements (including oral statements), and identify any witness from whom you obtained a stenographic, mechanical, electrical, or other recording that has not been transcribed. (This request does not cover a statement by a party to that party's attorney.)

(c) Do you have any photographs, maps, drawings, diagrams, damage estimates, etc., that you may seek to introduce at trial or that may otherwise pertain to this lawsuit?

Yes _____ No _____

(d) If you answered yes, attach each of these writings.

I have _____ have not _____ fully complied with request 3(c).

MEDICAL INFORMATION CONCERNING PERSONAL INJURY CLAIM

4. (a) Have you received any inpatient or outpatient treatment from any hospital for any injuries or other medical conditions for which you seek damages in this lawsuit?

Yes _____ No _____

(b) If you answered yes, list the names of the hospitals, the names and addresses of the attending physicians, and the dates of the hospitalizations.

ANSWER:

(c) Have you received any chiropractic treatment for any injuries or other medical conditions for which you seek damages in this lawsuit?

Yes _____ No _____

(d) If you answered yes, list the name and address of each chiropractor and the dates of treatment.

ANSWER:

(e) Have you received any other medical treatment for any injuries or other medical conditions for which you seek damages in this lawsuit?

Yes _____ No _____

(f) If you answered yes, list the names and addresses of each physician.

ANSWER:

(g) Attach complete hospital and office records covering the injuries or other medical conditions for which you seek damages for each hospital, chiropractor, and other medical provider identified in 4(b), and 4(f) or authorizations for these records.

I have _____ have not _____ fully complied with request 4(g).

5. (a) List the name and address of your family physician for the period from five (5) years prior to this incident to the present date.

ANSWER:

(b) Have you received inpatient or outpatient treatment for injuries or physical problems that are not part of your claim in this lawsuit from any hospital within the period from five (5) years prior to the incident to the present date?

Yes _____ No _____

(c) If you answered yes, attach a separate sheet which lists the name of the hospital, the date of each treatment, the reason for the treatment, and the length of the hospitalization.

ANSWER:

(d) Have you received chiropractic treatment for injuries or physical problems that are not part of your claim in this lawsuit within the period from five (5) years prior to the incident to the present date?

Yes _____ No _____

(e) If you answered yes, attach a separate sheet which lists the dates of the treatment, the reasons for the treatment, and the chiropractor's name and address.

ANSWER:

(f) Within the period from five (5) years prior to the incident to the present date, have you receive any other medical treatment for injuries that are not part of your claim in this lawsuit?

Yes _____ No _____

(g) If you answered yes, attach a separate sheet which lists the dates of treatment, the reasons for the treatment, and the name and address of the treatment provider.

ANSWER:

I have _____ have not _____ fully complied with requests 5(b), 5(c), and 5(f).

WORK LOSS

6. (a) Have you sustained any injuries which resulted in work loss within the period from five (5) years prior to the incident in the present date?

Yes _____ No _____

(b) If you answered yes, for each injury list the date of the injury, the nature of the injury, and the dates of the lost work.

ANSWER:

7. If a claim is being made for lost income, state the name and address of your employer at the time of the incident, the name and address of your immediate supervisor at the time of the incident, your rate of pay, the dates of work loss due to the injuries from this accident, and the total amount of your work loss claim.

ANSWER:

OTHER BENEFITS

8. (a) If you are raising a claim for medical benefits or lost income, have you received or are you eligible to receive benefits from workers' compensation or any program, group contract, or other arrangement for payment of benefits as defined by Title 75 P.S. § 1719(b)?

Yes _____ No _____

(b) If you answered yes, set forth the type and amount of these benefits.

ANSWER:

INSURANCE INFORMATION

9. (a) Are you subject to the "Limited Tort Option" or "Full Tort Option" as defined in Title 75 P.S. § 1785(a) and (b)?

_____ Limited Tort Option (no claim is made for non-economic damages)

_____ Limited Tort Option (claim is made for nonmonetary damages because the injuries fall within the definition of serious injury or in 75 P.S. § 1705(d)(1)—(3) applies)

_____ Full Tort Option

(b) (Applicable only if you checked "Full Tort Option") Describe each vehicle (make, model, and year) in your household.

ANSWER:

(c) (Applicable only if you checked "Full Tort Option") Attach a copy of the Declaration Sheet for the automobile insurance policy covering each automobile in your household.

I have _____ have not _____ fully complied with request 9(c).

Plaintiff verifies that the statements made herein are true and correct. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. Con. Stat. § 4904 relating to unsworn falsification to authorities.

Date: _____

Plaintiff

Respectfully submitted,

Counsel for Defendant

Rule 1306. Delay Damages.

(a) Arbitrators may consider the subject of damages for delay pursuant to Pa.R.C.P. 238, after a decision had been reached on the merits.

(b) After the amount of the award has been determined, the panel shall make a determination as to damages for delay in accordance with Pa.R.C.P. 238 by accepting a sealed envelope containing a stipulation setting forth whether an offer was made in writing, and if so, the amount as well as the date of the offer.

(c) If damages for delay are awarded, the amount thereof shall be added to the principal amount awarded, but shall be separately stated on the award.

Rule 1307. Costs.

Witness fees and costs shall conform to fees and costs pertaining to civil actions in the Court of Common Pleas of Washington County.

Rule 1308. Appeals from Arbitration.

All appeals from arbitration must be timely filed with the Prothonotary accompanied by a check in the amount of \$500.00 or 50% of the amount in controversy, whichever is less. A copy of the appeal shall be provided contemporaneously to the Court Administrator.

EQUITABLE RELIEF

Rule 1531. Preliminary or Special Injunction. Emergency Judge Procedures.

The President Judge shall annually assign the judges to the Court of Common Pleas to be available to handle emergency civil matters where the relief sought is in the nature of a preliminary or special injunction.

MINORS AS PARTIES

Rule 2039. Petition for Approval of a Settlement Where a Minor Has an Interest.

(a) A petition for settlement of a case in which a minor has an interest shall initially be filed with the Prothonotary, except in cases where the Orphan's Court has jurisdiction.

(1) When a settlement has been reached in a case where a minor has an interest as the result of a pre-trial or settlement conference, the assigned judge shall retain jurisdiction for judicial determination of the petition in accordance with subsection (b).

(2) In cases where the matter has not been assigned to a judge, such petition shall be presented to the judge assigned to Motions Court.

(b) The petition for settlement shall contain the following:

- (1) the factual circumstances of the case;
- (2) the reasons why the settlement is a proper one; and
- (3) be accompanied by the following:
 - (i) a proposed order of distribution;
 - (ii) a written report of a physician;
 - (iii) a statement under oath by the guardian certifying (1) the present physical or mental condition of the minor, and (2) approval of the proposed settlement and distribution of proceeds;
 - (iv) a statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;
 - (v) in the event that the minor is sixteen years of age or over, his or her written approval of the proposed settlement and distribution thereof; and
 - (vi) a copy of the written fee agreement.
- (c) The order of distribution shall include an award of counsel fees. The standard for the award of counsel fees in the representation of minors is that such fees must be reasonable in accordance with the guidelines set forth in Rule 1.5 of the Pennsylvania Rules of Professional Conduct.
- (d) The Court may require the personal appearance of the minor and his or her guardian, any physician treating the minor, or any other relevant person, as well as the production of any evidence deemed necessary for approval of the petition for settlement.

INCAPACITATED PERSONS

Rule 2064. Compromise, Settlement, Discontinuance, or Distribution. Incapacitated Person.

The procedure upon presentation of a petition under Pa.R.C.P. 2064 shall be the same as prescribed by Wash.L.R.C.P. 2039.

ACTIONS FOR WRONGFUL DEATH

Rule 2205. Proof of Service. Wrongful Death.

In an action for wrongful death, the plaintiff shall file proof of service of the notice required by Pa.R.C.P. 2205.

ENFORCEMENT OF JUDGMENTS

Rule 3110. Execution against Contents of a Safe Deposit Box.

Publication in a matter involving execution against the contents of a safe deposit box shall be made in accordance with Pa.R.C.P. 430(b) and Wash.L.R.C.P. 430.

Rule 3128. Notice of Sale. Personal Property.

In addition to the notice requirements of Pa.R.C.P. 3128(a), notice of sale of personal property shall be given by the Sheriff of Washington County sending a copy of the handbill to the defendant by regular mail addressed to the last known address at least six days prior to sale.

Rule 3129.2. Notice of Sale. Real Property.

(a) The Plaintiff causing the issuance of the writ of execution for the sale of real property shall furnish to the sheriff:

- (1) a complete description of the property to be sold and the improvements, if any, with a brief recital of title, shall be included, in full, in the deed executed pursuant to a sale; and
- (2) a brief description of the property to be sold, its location, the improvements, if any, and the name of the owner or reputed owners, with or without a brief recital

of title, which shall be the description used in the notice of sale provided for in subdivisions (a) and (b) of Pa.R.C.P. 3129.1 and 3129.2. A metes and bounds description shall not be required, as long as the description sets forth the location of the property by street address and by reference to the tax parcel identification number.

(b) The notice of sale provided in Subdivisions (a) and (b) of Pa.R.C.P. 3129.1 and 3129.2 shall also include a notice of the terms and conditions of sale.

(c) Execution sales of real property shall be held only in the Sheriff's Office or the public meeting room of Washington County on the first Friday of each month except August; provided, however, that if the first Friday is a holiday, the sale shall be held the following Monday.

Rule 3136. Distribution of Proceeds.

(a) The sheriff shall, by regular mail addressed to their last known addresses, promptly send to all parties in interest a copy of the schedule of distribution stating the date on which it was filed.

(b) Any party filing exceptions shall mail copies of their exceptions to all parties in interest and serve an original and a copy of said exceptions on the sheriff.

Rule 3252. Praecipe for Writ. Money Judgment.

The office(s) to be named in the notice shall be designated by the Court under Wash.L.R.C.P. 1018.1.

Rule 3256. Praecipe for Writ. Mortgage Foreclosure.

The praecipe for the writ of execution in an action of mortgage foreclosure shall have attached to it a description of the subject property.

DEPOSITIONS AND DISCOVERY

Rule 4007.1. Deposition by Oral Examination. Notice. Place of Depositions.

(a) *Notice.* As a general rule, fourteen (14) days in advance of the contemplated taking of a deposition shall constitute reasonable notice of the taking of a deposition of a party, but this will vary according to the complexity of the contemplated testimony and the urgency of taking the deposition of a party at a particular time and place.

(1) An application by a party to shorten the time limit for notice or to seek a protective order for a properly advanced notice must be made by motion before the Court.

(b) *Place of Depositions.* Unless otherwise agreed to by the parties or ordered by the Court, all depositions in a civil action filed in the Court of Common Pleas of Washington County, shall be held in Washington County.

(c) Whenever depositions are expected to be introduced into evidence, counsel shall, before the pre-trial conference or if same are not then available before the day of trial, review such depositions and (1) extract therefrom a short statement of the qualifications of any expert witness to read to the jury, (2) eliminate unnecessary and/or irrelevant matters, and (3) eliminate all objections and statements of counsel to avoid reading same to a jury. In the event counsel, or a party if unrepresented, are unable to agree on what shall be eliminated, they shall submit to the Court for a ruling thereon before the date of trial. Failure to do so will constitute a waiver of objections.

(d) In all non-jury trials, counsel, or a party if unrepresented, shall attach to any deposition a summary of the examination of the testimony of each witness, thereby pointing out the salient points to be noted by the Court.

(e) *Conduct of Depositions.* This rule shall govern certain conduct in depositions taken in a civil action filed in the judicial district. Prior to the commencement of any deposition, this rule shall be provided to every witness so that he or she understands the parameters of permissible testimony and may have the opportunity to question his or her counsel regarding same.

(1) At the commencement of the deposition, the witness shall be instructed to ask deposing counsel, rather than counsel for the witness, for clarifications, definitions, or the explanations of any words, questions, or documents presented during the course of the deposition.

(2) All objections, except those that would be waived at trial if not made, those necessary to assert a privilege, or to present a motion pursuant to Pa.R.C.P. 4011, shall not be waived. Counsel, or a party if unrepresented, may assert non-waivable objections before the Court in the form of an appropriate motion prior to trial.

(3) An objection shall be stated concisely in a non-argumentative and non-suggestive manner.

(4) Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence as already set forth by statute, rule of court, or order of court.

(5) Counsel and the deponent shall not engage in private, off-the-record conferences, except for the purpose of deciding whether to assert a privilege. Any conference shall be a proper subject for inquiry by deposing counsel to ascertain the subject of the conference and if the witness has been coached.

(i) Counsel for the deponent shall note the occurrence and duration of any conference on the record, and must describe the purpose and outcome of the conference.

(f) Any party, or counsel for a party, who fails to adhere to this rule may on motion of a party, or the Court sua sponte, be subject to sanctions as set forth in Pa.R.C.P. 4019, including, but not limited to, an award of reasonable costs, expenses, and attorney fees.

Rule 4017.1. Objections at Video Depositions.

The following shall govern the procedure for making objections during video depositions.

(a) When counsel makes an objection, counsel shall merely state the word "objection" and request that the video operator stop the video. Any arguments on objections shall be made on the written transcript but off-camera.

(b) Once the video is stopped, counsel should first summarize the reasons for the objection in a word or phrase. Counsel may then proceed with argument on the transcript and off the camera or may merely state the summary grounds for the objection. Arguments should be brief, and should consist of no more than the reason for the objection, an answer to the reason for the objection, and brief rebuttal.

(c) Counsel shall meet and review the transcript before presentation to the trial judge who will resolve whatever objections can be resolved. Counsel should present to the judge a list setting forth by page and line numbers the objections that need rulings.

(d) Prior to the playing of the video, the Court shall advise the jurors of the procedure dealing with objections and instruct them to disregard the word "objection" when it is made. The video may then be played without interruption, except for segments stricken by the judge.

Rule 4019. Sanctions. Requirement to Confer.

Any motion for sanctions shall be governed by Wash.L.R.C.P. 208.2(e) and 208.3(a), and the motion shall contain a certification that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter or narrow the issues to be reviewed by the Court.

ADMINISTRATIVE APPEALS

Rule 6000. Zoning Appeals.

(a) Appeals from the decision of a Zoning Hearing Board shall be captioned in accordance with Wash.L.R.C.P. 205.

(b) Within ten (10) days of issuance of a Writ of Certiorari by this Court, the appellant shall serve a copy of both the notice of appeal and writ upon the solicitor for the zoning hearing board, the solicitor for the municipality within which the zoning hearing board is located, and all persons and/or entities who have entered their written appearance in the proceedings before the zoning hearing board.

(c) The record submitted to the Court, in compliance with the writ of certiorari, shall include a certified copy of the zoning ordinance in effect at the time the decision was rendered.

(d) Whenever an appeal is taken from a decision of a zoning hearing board and the record is returned by the Court to the zoning hearing board for further proceedings, and a subsequent appeal from a decision of the zoning hearing board is taken in the same case, the docketing number of the original appeal shall identify the subsequent appeal filed with the Prothonotary who shall docket and file such subsequent appeal at the docketing number of the original appeal.

Rule 7000. Board of Viewers. Membership. Compensation.

(a) The Board of Viewers for the County shall consist of nine members, not less than three of whom shall be members of the Bar of this County. An appointed Board for a case shall consist of three viewers, and the chairperson shall be an attorney. The compensation of the members of the Board shall be fixed as provided by the Court.

(b) Each member of said Board shall, before assuming the duties of their office, take and subscribe to an oath or affirmation to perform faithfully all the duties imposed upon him/her by law, which shall be filed with the Prothonotary.

(c) The petition for appointment of viewers in all eminent domain proceedings shall specify the applicable Act of Assembly, if any, under which the condemnation was made. The order appointing the viewers shall contain the tax parcel identification number of the property subject to condemnation. Notice that the petition has been presented, together with a conformed copy thereof, as well as a conformed copy of the order appointing the viewers, shall be forthwith mailed by the petitioner to the owners, or condemning body, or their attorney of record, whichever is applicable. An additional confirmed copy of such petition shall be filed with the Prothonotary for use in certifying the record to the appointed viewers. The attorney for the petitioner shall file a certification of service as aforesaid with the Prothonotary within twenty (20) days after the appointment of viewers. After receipt of the certification of service, the Prothonotary shall certify the record to the chairperson of the Board of Viewers.

Rule 7001. Hearings. Records.

(a) All hearings of the Board of Viewers shall be held publicly in the Courthouse as designated by the chairperson of the Board in consultation with the Court Administrator.

(b) Whenever it shall be desirable that a verbatim record of the hearings before the respective boards of view be taken, the Court, for cause shown, may direct an official court stenographer to take notes thereof, and copies of said record shall be furnished to counsel for the parties, who shall apportion the costs equally.

Rule 7002. Reports. Confirmation. Exceptions.

In any case in which a report of viewers shall be filed and presented to the Court for confirmation, the same shall be marked "Confirmed Nisi," which confirmation shall become absolute, and shall be so marked by the Prothonotary unless exceptions are filed thereto within thirty (30) days thereafter, or such other time as required by Act of Assembly; provided that for good cause shown, the Court may, by special order, extend the time for filing exceptions.

Rule 7003. Request for View.

Any request for a view of the premises by a jury shall be made by motion to the Court at least twenty (20) days prior to trial. The Court may assess the costs for a view upon the requesting party, or in its discretion, require the parties to share the costs equally.

[Pa.B. Doc. No. 17-1941. Filed for public inspection November 22, 2017, 9:00 a.m.]

WASHINGTON COUNTY

Public Access to Case Records in the Court of Common Pleas; No. 2017-1

Order

And Now, this 27th day of October, 2017, it is hereby Ordered, Adjudged, and Decreed that Washington County Local Rules of Judicial Administration 3000 and 3001 are adopted, effective January 5, 2018, and shall be effective for all appropriate legal papers and pleadings filed thereafter. It is further Ordered that Washington County Local Rule of Civil Procedure 510 is rescinded, effective January 5, 2018.

This Order shall be processed in accordance with Pa.R.J.A. 103(b). The District Court Administrator is directed to do the following:

1. Publish the local rules on the Court's website to be incorporated into the set of local rules on the website within 30 days after the publication of the local rules in *Pennsylvania Bulletin*.
2. File one (1) copy of the local rules in the appropriate filing offices for public inspection and copying.
3. Cause a copy hereof to be published in the *Washington County Bar Journal* once a week for two successive weeks at the expense of the County of Washington.

By the Court

KATHERINE B. EMERY,
President Judge

RULE OF JUDICIAL ADMINISTRATION

ACCESS TO CASE RECORDS

Rule 3000. Public Access Policy. Case Records. Court of Common Pleas.

(a) *Scope.* The Supreme Court of Pennsylvania has adopted a policy governing public access to Unified Judicial System case records in the courts of common pleas, entitled Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy may be accessed at www.pacourts.us, www.washingtoncourts.us, in the office of the District Court Administrator, and in the office of the applicable custodian.

(b) *Redaction.* Pursuant to Section 7.0, Subsection C of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file a pleading, exhibit, or other document that contains confidential information as defined by the policy shall file with the applicable custodian two versions of any pleading, exhibit, or other document, a redacted version and an unredacted version.

(c) *Certification of Compliance.* A party, or their attorney, shall attach a certification to each filing to attest to their compliance with this policy. The certification shall be substantially in the following form:

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Date: _____ Signature: _____
(Name)

(d) *Fee Schedule.* Unless otherwise provided by applicable authority, the fees for duplication by photocopying, or printing from electronic media or microfilm, shall not exceed \$0.25 per page. The custodian of the case record may institute a reasonable surcharge beyond the per page fee for records that are produced by request on a disc or other storage media.

(1) The court shall approve the fee schedule for any custodian pursuant to the Policy by administrative order.

(2) The custodian shall post the approved fee schedule in an area accessible to the public in his or her office and at www.washingtoncourts.us.

Rule 3001. Public Access of Official Case Records in the Magisterial District Courts.

(1) Unless otherwise provided by applicable authority, the fees for duplication by photocopying or an alternative method shall not exceed \$0.25 per page.

(2) The magisterial district court shall remit all fees collected pursuant to this rule to the County of Washington.

(3) The magisterial district court may waive the fees if it determines that the requestor is indigent.

[Pa.B. Doc. No. 17-1942. Filed for public inspection November 22, 2017, 9:00 a.m.]