

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENN- SYLVANIA COURTS

[204 PA. CODE CH. 211]

#### Promulgation of Consumer Price Index and Judi- cial Salaries Under Act 51 of 1995; No. 188; Doc. No. 1

##### Order

*Per Curiam:*

*And Now*, this 5th day of November, 1997, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 1998, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 211. CONSUMER PRICE INDEX

##### § 211.1. Consumer Price Index.

(a) Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage of increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 1998, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 188 Judicial Administration Docket No. 1.

(b) The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending September 30, 1997, was 2.5 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Thursday, October 16, 1997).

##### § 211.2. Judicial Salaries.

The Court Administrator of Pennsylvania also reports that the following judicial salaries are adopted to implement Act 51 of 1995: Section 2.1. Judicial salaries effective January 1, 1998.

(a) Supreme Court.—The annual salary of the Chief Justice of the Supreme Court shall be \$129,353 and the annual salary of each of the other justices of the Supreme Court shall be \$125,936.

(b) Superior Court.—The annual salary of the President Judge of the Superior Court shall be \$123,833, and the annual salary of the other judges of the Superior Court shall be \$121,992.

(c) Commonwealth Court.—The annual salary of the President Judge of the Commonwealth Court shall be \$123,833. The annual salary of each of the other judges of the Commonwealth Court shall be \$121,992.

(d) Courts of common pleas.—

(1) The annual salary of a president judge of a court of common pleas shall be fixed in accordance with the following schedule:

(i) Allegheny County, \$111,475.

(ii) Philadelphia County, \$112,001.

(iii) Judicial districts having six or more judges, \$110,424.

(iv) Judicial districts having three to five judges, \$109,898.

(v) Judicial districts having one or two judges, \$109,372.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$110,424.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$109,898.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$110,424.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$109,898.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$109,372.

(e) Philadelphia Municipal Court.—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$108,320. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$106,481.

(f) Philadelphia Traffic Court.—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$57,841. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$57,315.

(g) District justices.—A district justice shall receive an annual salary payable by the Commonwealth of \$54,160.

(h) Senior judges.—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$333 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge

retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 97-1847. Filed for public inspection November 21, 1997, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CUMBERLAND COUNTY

#### Rules of the Court of Common Pleas No. 95-1387 Civil Term

##### Order of Court

*And Now*, this 7th day of November, 1997, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective January 1, 1998, or thirty (30) days after publication in the *Pennsylvania Bulletin*.

Pursuant to Pa.R.C.P. 239, the Court Administrator is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette, formatted in Word Perfect 6.1 for Windows reflecting the text in the hard copy version, one (1) copy to the Supreme Court Civil Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the Cumberland Law Journal.

*By the Court*

HAROLD E. SHEELY,  
*President Judge*

##### Notice to Defend

**Rule 1018.1-1.** As provided by Pennsylvania Rule of Civil Procedure No. 1018.1, the following officer is designated to be named in the Notice to Defend in order to find out where legal help can be obtained: Cumberland County Bar Association, 2 Liberty Avenue, Carlisle, Pennsylvania, (717) 249-3166.

*Note:* This rule was formerly Rule 327. Adopted June 13, 1975, effective July 1, 1975. Amended October 31, 1997, effective January 1, 1998.

##### Rule 206-2.

(a) All motions and petitions shall be initially presented to the Prothonotary, who shall transmit same to the Court Administrator for assignment to a judge for disposition. The motion or petition shall name each judge who has ruled upon any other issue in the same or related matter, and shall specify the issue.

(b) All motions and petitions submitted to the court shall be in writing and shall prominently indicate the individual attorney responsible for the matter. Where that attorney is not the one who personally submits the papers, the names of both attorneys shall be clearly indicated.

(c) All motions and petitions shall contain a paragraph indicating that the concurrence of any opposing counsel of record was sought, and the response of said counsel; provided, that this requirement shall not apply to preliminary objections, motions for judgment on the pleadings, motions for summary judgment, petitions to open or

strike judgments, motions for post-trial relief, suppression motions, motions to quash or dismiss informations, PCRA petitions, habeas corpus petitions challenging the sufficiency or evidence at preliminary hearings, and post-sentence motions.

*Note:* Section (a) changes former practice. Section (b) is derived from former Rule 206-2. Section (c) is an addition to Rule 206-2.

Adopted June 17, 1976, effective July 1, 1976; amended November 27, 1985, effective January 1, 1986; amended as to sub (a) April 1, 1995, effective April 30, 1995; Amended as to sub (c) October 31, 1997, effective January 1, 1998.

[Pa.B. Doc. No. 97-1848. Filed for public inspection November 21, 1997, 9:00 a.m.]

### McKEAN COUNTY

#### Adoption of Rules; No. 158 December Term, 1904

##### Order

*And Now*, this 3rd day of November 1997, the following Rule L303(1) Supporting Memorandum of Law and Rule L1302 Arbitration are hereby promulgated and adopted for use effective thirty days after the date of publication of the rules in the *Pennsylvania Bulletin*.

*By the Court*

JOHN M. CLELAND,  
*President Judge*

##### Proposed Rules

1. Rule L303(1) Supporting Memorandum of Law shall be amended as follows:

(a) "All motions, exceptions, preliminary objections, and petitions, upon filing, must be supported by a brief or memorandum of law in support thereof. If not so supported, then the motion or exceptions shall be summarily disposed of, unless counsel promptly requests permission for good cause to file the required memorandum or brief at a later date.

The Court will then fix a date for the filing of a reply brief and for oral argument. If no reply brief is filed as ordered, then the non-filing party will not be heard at oral argument except by leave of Court.

This rule shall not apply to exceptions taken to the recommendation of the Family Law Master or Permanent Hearing Officer."

(b) By including a note at the end thereof as follows:

*Note*

It is not the intention of this rule to require "full blown" briefs on simple or routine issues. The extent of memorandums of law or briefs submitted in support of the motion should be in proportion to the complexity of the issue which the motion raises.

Consequently, a complicated motion, such as a motion for summary judgment, should be supported by a brief or memorandum which fully discusses the facts and the applicable law.

A routine motion or a motion presenting uncomplicated issues may be supported by a recitation of fact or authority in the motion itself or in a cover letter. In those situations, all that is required is a citation to the appropriate rule, statute or case law which establishes

that the movant is entitled to the relief requested and that the Court has the power to grant it.

Rule L1302 Arbitration shall be amended in its entirety as hereinafter set forth:

*Arbitration*

(a) All cases which are at issue, where the amount in controversy (exclusive of interest and costs) shall be \$25,000 or less, except those involving title to real estate, equity actions, actions upon bail bonds and recognizances, actions upon penal statutes, and other actions which do not involve the recovery of money damages, including divorce, mandamus and quo warranto, shall be submitted to and heard and decided by a Board of Arbitration which shall be composed of three (3) attorneys. The Prothonotary shall maintain a list of available arbitrators who shall all be members of the Bar actively engaged in the practice of law primarily in McKean County.

(b) Cases which are not at issue, and whether or not suit has been filed, may be submitted to a Board of Arbitration by agreement of reference signed by all parties or their counsel. The agreement of reference shall define the issues to be submitted to the Board, and, when agreeable to the parties, shall also contain stipulations with respect to facts agreed or defenses waived. When a case is submitted to the Board by agreement of reference, the agreement shall take the place of pleadings and shall be filed of record in the office of the Prothonotary and shall be assigned a number and term.

(c) Cases shall be placed on the arbitration list by one or more of the parties in the case or their counsel filing a Praeceptum for Arbitration, together with a listing fee in the amount of \$100. Ten days after the case has been praecipated onto the list, if no objections thereto have been filed, the Prothonotary shall promptly appoint a panel of three (3) arbitrators to hear and decide the case, and shall forward copies of all pleadings and other documents filed in the case to all arbitrators. The chairman so appointed shall forthwith establish the time, date and place of trial and notify all counsel of record, unrepresented parties, and members of the arbitration panel thereof at least 30 days in advance unless a shorter time is stipulated to. All trials shall be held within 60 days of the date the chairman is appointed by the Court. In the event the matter is settled prior to hearing but after the chairman has scheduled a hearing, \$50 of the filing fee shall be paid to the chairman as reimbursement for office expenses. In the event the matter has been settled prior to hearing and before the chairman has scheduled a hearing, \$50 of the filing fee shall be refunded to the party who paid it. In either event the remaining \$50 shall be retained by the Prothonotary to reimburse expenses. The filing fee shall be charged to the party first listing the case for hearing, and only be assessed one time per case.

(d) Each member of a Board of Arbitrators who has signed the award shall receive as compensation for his services in each case a fee of Two Hundred Fifty (\$250.00) Dollars. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on petition of the members of the Board and for cause shown, may allow additional compensation. The members of a Board shall not be entitled to receive their fees until after filing an award with the Prothonotary. When the same is filed, the Prothonotary shall issue an order for payment of such fees which shall be immediately paid from County funds as in the case of all other County debts. Fees paid to Arbitrators shall not be taxed as costs nor follow the award as other costs.

(e) Before entering upon their duties the members of the Board of Arbitrators shall subscribe to an oath to perform their duties and decide the case submitted to them justly and equitably, and with due diligence, which oath shall be filed with their award. In all cases, a decision by majority of the members of the Board of Arbitrators shall be conclusive.

(f) The Board of Arbitrators, or a majority of the members thereof, shall conduct the hearing before them with due regard to the law and according to the established rules of evidence, and shall have the general powers of a court including, but not limited to, the following powers:

(1) To issue subpoenas to witnesses to appear before the Board as in other civil actions, and to issue an attachment upon allowance by the Court for failure to comply therewith.

(2) To compel the production of all books, papers and documents which they shall deem material to the case.

(3) To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and facts of the case submitted to them.

(4) To adjourn their meetings from time to time. Requests for continuances shall be made to the Court of Common Pleas.

(g) If, after the appointment of a Board of Arbitrators, but before hearings, one of the members thereof shall die or become incapable of acting, or shall refuse to attend the hearing, or shall remove or depart from the county, the remaining members of the Board shall, upon agreement of the parties, proceed to hear the matter at issue.

(h) If a member of the Board dies or becomes incapable of acting, or shall fail or refuse to perform his duties, after hearing but before an award shall be made, the case shall be decided and the award signed by the remaining members of the Board. If they cannot agree, the matters shall be heard de novo by a new Board, to consist of the remaining members plus a third to be appointed by the Prothonotary.

(i) The Board shall have the right to proceed ex parte in a proper case if, after due notice, one of the parties fails to appear at the hearing and does not request a continuance for good cause.

(j) The Board of Arbitrators shall file an award with the Prothonotary within 20 days after the hearing. The award shall be signed by all or a majority of the members of the Board. The Prothonotary shall file the award and enter the same in the proper dockets and transmit a copy thereof by mail to the parties or their counsel. The Prothonotary shall record any award in the judgment index as verdicts are now recorded.

(k) The award, if any, unless appealed from as herein provided, shall be final and shall have all the attributes and legal effect of a judgment entered by a court of competent jurisdiction. If no appeal is taken within the time allotted therefor, execution process may be issued on the award as in the case of other judgments.

(l) An appeal from an award by the Board of Arbitrators may be taken pursuant to procedure established in the Pennsylvania Rules of Civil Procedure.

(m) All appeals shall be de novo. Despite any costs which a successful appellant may recover from the ad-

verse party, he shall nevertheless not be entitled to recover the arbitrators' fees paid by him as a condition of taking his appeal.

(n) Any party may file exceptions with the Court from the decision of the Board of Arbitration within twenty (20) days from the filing of the award for either or both of the following reasons and for no other:

(1) That the arbitrators misbehaved themselves in the conduct of the case;

(2) That the actions of the Board was procured by corruption or other undue means. If such exceptions shall be sustained, the award of the Board shall be vacated by the Court.

(o) Any case not arbitrable under the foregoing provisions of this Rule may be submitted to arbitration according to the procedure herein provided, by stipulations of all Parties thereto or their counsel.

(p) This Rule shall apply to cases involving more than one claim, including counter claims, if none of such claims exceed \$25,000.

(q) This Rule shall govern cases pending in the Court of Common Pleas of McKean County on the effective date hereof, and all such cases to which the rule shall be applicable which are listed for trial shall be stricken from the trial list and referred to arbitration under the provisions hereof.

(r) The Prothonotary shall provide such printed forms as shall be appropriate to effectuate the provisions of this rule.

(s) All rules of this court or portions thereof which are inconsistent herewith are hereby repealed.

[Pa.B. Doc. No. 97-1849. Filed for public inspection November 21, 1997, 9:00 a.m.]

## SOMERSET COUNTY

### Consolidated Rules of Court; No. 80 Miscellaneous 1997

#### Adopting Order

Now, this 27 day of October, 1997, it is hereby *Ordered*:

1. The following designated Somerset County Rules of Civil Procedure (Som. R.C.P.), following hereto, are hereby adopted as Rules of this Court, effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Som. R.C.P. 212.1. Filing of Pretrial Statement.

Som. R.C.P. 212.2. Pretrial Statement. Content.

Som. R.C.P. 212.3. Pretrial Conferences.

2. Som. R.C.P. 214, relating to civil trials, scheduling, call of list and jury selection, is amended to read in its entirety, as shown on the following revised pages 1, 2 and 3 of Som. R.C.P. 214, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

3. Som. R.J.A. 1021, relating to civil trial scheduling and pretrial conference, is amended to read in its entirety as shown in the following consisting of one page, containing Som. R.J.A. 1021, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

4. Upon the effective date of the Rules designated above in paragraphs 1, 2, and 3 of this Order, presently existing Som. R.C.P. 212 is rescinded.

5. The Somerset County Court Administrator shall:

A. File ten (10) certified copies of this Order and the following Rules with the Administrative Office of Pennsylvania Courts;

B. Distribute two (2) certified copies of this Order and the following Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

C. File one (1) certified copy of this Order and the following Somerset County Rules of Civil Procedure with the Pennsylvania Civil Procedural Rules Committee; and

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

*By the Court*

EUGENE E. FIKE, II,  
*President Judge*

#### Rules of Court

Trial Case

Procedure

Pretrial Conference and Pretrial Statements

##### **Som. R.C.P. 212.1. Filing of Pretrial Statement.**

At least seven days before the pretrial conference, each party shall file a written pretrial statement.

##### **Som. R.C.P. 212.2. Pretrial Statement. Content.**

A pretrial statement shall contain the information required by Pa.R.C.P. 212.2, and in addition, a concise statement of significant propositions of law involved, together with citation of authorities relied upon.

##### **Som. R.C.P. 212.3. Pretrial Conference.**

A. A formal pretrial conference in each jury case shall be scheduled no later than the fourth week preceding commencement of the trial session, unless otherwise scheduled by special order. Pretrial conferences will be scheduled in nonjury cases only on timely motion, and only for cause.

B. A formal record of each pretrial conference will be made and transcribed, and a copy furnished to each counsel and unrepresented party, as of course.

C. Trial counsel for each party must be present unless excused for cause shown. All counsel shall be prepared to summarize in detail the trial testimony of each named witness if requested. Counsel shall be prepared and familiar with the case and shall be authorized to act for their clients with respect to the trial of the case.

D. At the conference, counsel shall also inform the court of the following:

1. Readiness for trial, including all proceedings and actions, if any, to be taken prior to trial; and
2. Estimated trial time; and
3. Chances of settlement.

E. Parties may attend the conference, as counsel shall determine. The court and counsel may interrogate the parties, if called to testify, or to make any record statement, on any relevant matter.

Trial Case

Case Procedure

##### **Som. R.C.P. 214. Civil Trials. Scheduling. Call of List. Jury Selection.**

A. A "trial case" is a case which is ready for plenary jury or nonjury trial on the merits, and: (i) in which a

jury trial is mandated unless waived, (ii) in which a jury trial although not mandated has been ordered by the court, (iii) which is a nonjury civil action at law or in equity filed in the Prothonotary's office which is governed by the Pennsylvania Rules of Civil Procedure, or (iv) which is a paternity action at issue and ready for trial under the Pennsylvania Rules of Civil Procedure governing support and paternity actions.

B. Civil trial cases are ready for trial within the meaning of these rules only when a trial scheduling praecipe is filed with the Prothonotary in the form provided in Som. R.J.A. 1099, available through the Court Administrator's office or Prothonotary's office, or when ordered on the trial list by court order.

C. A final call of the list, for final report of readiness and estimated trial time, shall be held on the first day of the second week preceding commencement of the trial session, at which call, trial counsel must, unless excused for cause, be present to report for readiness for trial.

D. At the call of the list, the report of readiness for trial means that: All parties, witnesses and counsel will (barring unexpected subsequent causes) be available, prepared and present for trial on the scheduled trial date and throughout the trial session until the case is called and trial completed. The readiness report is a professional commitment to the court and to all others in the case as above defined. Therefore, the readiness report certifies that reporting counsel has made the necessary recent inquiries of parties and witnesses in advance so that the readiness report will be informed and dependable. Accordingly, if readiness is qualified in any way for any reason, the court must be informed thereof at the time of the call of the list, and facts which existed and should have been discovered before the readiness report are not cause for later continuance.

E. Trials will begin on the date and time shown on the trial schedule, or as soon thereafter as the preceding case is concluded.

F. Juries for all civil jury trials shall be selected in accordance with the following procedure:

1. Juries for all cases on the trial schedule shall be selected on the first day of the trial session.

2. Jury selection includes voir dire and all steps necessary to be ready for trial, except that the jury will not be sworn until the trial actually begins.

3. Before the jury is sworn, counsel will be permitted additional voir dire, upon request.

*NOTE:* For general scheduling procedures, see Som. R.J.A. 1010 et seq. (Derived from former R50-101, R50-201, R50-204, R50-207, R50-206).

Scheduling Procedure—  
Civil Trial Cases

**Som. R.J.A. 1021. Civil Trial Scheduling.  
Pretrial Conference.**

A formal pretrial conference in each jury case shall be scheduled no later than the fourth week preceding commencement of the trial session, unless otherwise scheduled by special order. Pretrial conferences will be scheduled in nonjury cases only on timely motion, and for cause. (Derived from former R50-204).

*NOTE:* See also Pa.R.C.P. 212.1, 212.2 and 212.3 and corresponding Somerset County Rules of Civil Procedure.

[Pa.B. Doc. No. 97-1850. Filed for public inspection November 21, 1997, 9:00 a.m.]