

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Amendment of Rule 227.1(b) Governing Post-Trial Practice; No. 412 Civil Procedural Rules; Doc. No. 5

##### Order

*Per Curiam:*

And Now, this 21st day of July, 2004, Pennsylvania Rule of Civil Procedure 227.1(b) is amended to read as follows.

Whereas prior distribution and publication of this amendment would otherwise be required, it has been determined that immediate promulgation of the amendment is required in the interest of justice and efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

##### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 227.1. Post-Trial Relief.

\* \* \* \* \*

(b) [ **Post-trial** ] Except as otherwise provided by Pa.R.E. 103(a), post-trial relief may not be granted unless the grounds therefor,

\* \* \* \* \*

**Official Note:** If no objection is made, error which could have been corrected in pre-trial proceedings or during trial by timely objection may not constitute a ground for post-trial relief.

**Pa.R.E. 103(a) provides that the specific ground for an overruled objection, or the substance of excluded evidence, need not be stated at or prior to trial, or without having made an offer of proof, if the ground of the objection, or the substance of the evidence sought to be introduced, was apparent from the context.**

\* \* \* \* \*

##### Explanatory Comment

Prior to the present amendment, Rule of Civil Procedure 227.1(b) was inconsistent with Pennsylvania Rule of Evidence 103(a). Civil Rule 227.1(b) required without exception that grounds for post-trial relief be raised in pre-trial proceedings or at trial. Evidence Rule 103(a), however, did not require that the specific ground for an erroneous evidentiary ruling be raised prior to or at trial if the ground was apparent from the context. The present amendment to Civil Rule 227.1 carves out an exception for matters within the scope of Evidence Rule 103(a), thereby eliminating the inconsistency between the two rules.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 04-1430. Filed for public inspection August 6, 2004, 9:00 a.m.]

### PART I. GENERAL

[231 PA. CODE CH. 1940]

#### Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; No. 411 Civil Procedural Rules; Doc. No. 5

##### Order

*Per Curiam:*

And Now, this 21st day of July, 2004, Rule 1940.4 of the Pennsylvania Rules of Civil Procedure is amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective immediately.

##### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1940. VOLUNTARY MEDIATION IN CUSTODY CASES

#### Rule 1940.4. Minimum Qualifications of the Mediator.

(a) A mediator must have at least the following qualifications:

\* \* \* \* \*

(2) successful completion of basic training in domestic and family violence or child abuse and a divorce and custody mediation program approved by the [ **Academy of Family Mediators** ] **Association for Conflict Resolution**, American Bar Association, American Academy of Matrimonial Lawyers, or Administrative Office of Pennsylvania Courts;

\* \* \* \* \*

[Pa.B. Doc. No. 04-1431. Filed for public inspection August 6, 2004, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BUTLER COUNTY

#### Local Civil Court Rules; MSD 04-40239

##### Administrative Order of Court

And now, this 23rd day of July, 2004, in order to comply with the Pennsylvania Rule of Civil Procedure, 239.8, it is hereby ordered and decreed that the following Butler County Local Rules of Procedure are herewith adopted. It

is further ordered that all prior Local Rules of Procedure that have been adopted and/or revised by this Court at various times and docketed to several different docket numbers are herewith rescinded.

This Order of Court shall be effective thirty days after publication of the Rules in the *Pennsylvania Bulletin*.

The Butler County District Court Administrator is ordered and directed to:

1. File seven certified copies of this Administrative Order, including the newly adopted rules, with the Administrative Office of the Pennsylvania Courts.

2. File two certified copies and one diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one certified copy with the Pennsylvania Civil Procedural Rules Committee.

4. Electronically submit to the Administrative Office of the Pennsylvania Courts a copy of the following local rules for publication on the AOPC website.

5. Forward one copy for publication in the *Butler County Legal Journal*.

6. Forward one copy to the Butler County Law Library.

7. Keep continuously available for public inspection copies of the Order of Court and Local Rules in the office of the Prothonotary of Butler County.

*By the Court*

THOMAS J. DOERR,  
*President Judge*

**Butler County Local Civil Court Rules Promulgated pursuant to Pa. R.C.P. 239**

**Local Rules—Civil**

The principles of interpretation and rules of construction embodied to Pa.R.C.P. 102 to 153 inclusive shall apply to these rules, with the substitution of the words "Court of Common Pleas of Butler County" for the words "Supreme Court." These rules shall be cited as "Butler County Local Rule \_\_\_\_\_."

**Local Rule L206.1(a)—Petitions**

"Petition" in Butler County means an application to open a default judgment or a judgment of non-pros.

**Local Rule L206.4(c)—Rule to Show Cause—Issuance as of Course**

A Rule to Show Cause on a Petition shall be issued as of course upon the filing of the Petition. See Pa.R.C.P. 206.6.

All Petitions must be filed with the Prothonotary of Butler County.

**Local Rule L208.2(d)—Uncontested Motions—Certification**

Any Motion, as defined in Pa.R.C.P. 208.1 bearing the written consent of the opposing party, or, if represented, the opposing party's attorney of record, may be submitted to the judge assigned to the case at any time without formal notice of presentation. If no judge assignment has been made, any uncontested Motion must be presented to the unassigned Motion Court judge. The party presenting any uncontested Motion shall certify how the party believes the Motion to be uncontested.

**Local Rule L208.2(e)—Discovery Motions—Certification**

All Motions relating to discovery shall include a certification signed by counsel for the moving party that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action.

**Local Rule L208.3(a)—Motions Practice**

All Motions, as defined in Pa.R.C.P. 208.1 requesting a judge's signature are subject to these Rules.

Civil cases are assigned to individual judges. All Motions are to be heard by the judge assigned to the case. Contact the court administrator's office if you do not know the assigned judge. In the interest of Family Court or Support Court cases, contact the Docketing Section of the Butler County Domestic Relations Section.

If no judicial assignment has been made, the Motion shall be presented to the judge designated by the Court Administrator or the Domestic Relations Section as appropriate.

All Motions shall be accompanied by a certification, in writing, substantially in the form set forth below, signed by the moving party or the moving party's attorney, that a true copy of the Motion was deposited in the mail at least seven (7) calendar days preceding its presentation.

**Form of Certification**

I hereby certify that I caused a true and complete copy of the within (name of Motion) to be served on (name of persons entitled to notice) by first class, regular mail or (date of mailing), along with notice of my intention to present the same to judge (name of assigned judge) on (date of presentation).

**Failure to Provide Certification**

Motions presented without the required Certification of Notice of Presentation will not be acted upon by the Court.

**Comment**

A Motion mailed on a Monday may be presented the following Monday or thereafter. The parties are permitted to consensually shorten the time for Notice of Presentation, but are obligated to note any such agreement on the Notice of Presentation. It is the responsibility of the moving parties to append the appropriate Certification. Absent Certification, the Court will not act.

**Presentation of Motions**

Except in an emergency fully described in the Motion, all Motions shall be presented to the judge assigned to the case in Motions Court. Contact the Court Administrator's office for civil court assignments and assigned Motion's Courts Dates. In the interest of Family Court or Support Court motions, contact the docketing section of the Butler County Domestic Relations Section. Requests for this information shall be responded to by the Court Administrator's office or the Domestic Relations Section within one business day.

Motions shall not be acted upon by the court unless the Notice of Presentation required above and one or more proposed Order(s) of Court are attached, along with a verification if required.

**Local Rule L212.1—Civil Actions to be Tried**

A civil action in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which is ready for trial, shall be preaccepted for trial by filing the

same with the Prothonotary. The Praeceptum shall certify that all discovery is complete. Depositions for use at trial need not have been taken prior to Praeceptum. Objections to the Praeceptum shall be filed within ten (10) days.

After Praeceptum, the court administrator will schedule the case for a Pre-trial Conference. Pre-trial statements shall conform to Pa.R.C.P. 212.2 and shall be filed and served at least one week prior to the Pre-trial Conference.

After a Pre-trial Conference, the case may be listed for trial.

#### **Local Rule L239(f)—Inactive Case**

(f) Pursuant to Rule of Judicial Administration 1901, on the First Tuesday of December of each year, the Prothonotary of Butler County shall list for general call all civil matters, except those that are related to support, that are Inactive. A case is "Inactive" if no pleadings have been filed or actions taken for a period of two (2) years or more from the date the last pleading was filed or action was taken in that case. The Prothonotary shall give written notice of the intent to include the case on the general call list for termination of inactive cases to each of the parties of record by Certified Mail Return Receipt Requested and each attorney of record by Regular Mail at their last known addresses. Said notice shall be in the form of a Rule to Show Cause why the case should not be terminated for inactivity, and shall include, inter alia, a statement identifying the name of the case, the docket number, the date and type of the last pleading or action taken in the case, and the date, time and location that the Rule is Returnable. In addition, the Prothonotary shall cause to be published a notice listing, inter alia, all of the cases to be presented at the general call of the list, as well as the date, time and location of the general call of the list hearing. Said notice shall be published in the *Butler Eagle* and the *Butler County Legal Journal* for two (2) consecutive weeks prior to the date set for the general call of the list hearing. In the event the court is unable to conduct a hearing on the First Tuesday of December of each year for the purposes of terminating all inactive cases, the hearing shall be scheduled sua sponte for the first available date.

#### **Local Rule L1018.1(c)—Notice To Defend Form**

The name, address and telephone number of the office that a person may contact to find out where the person can obtain legal help is as follows:

Office of the Prothonotary of Butler County  
1st Floor, Courthouse  
124 West Diamond Street  
PO Box 1208  
Butler, Pennsylvania 16001  
724/284-5214

#### **Local Rule L1028(c)—Preliminary Objections**

(a) Preliminary objections shall be filed with the Prothonotary. The Preliminary Objections shall have attached an Order of Court scheduling the matter for oral argument. A brief in support of the Preliminary Objections shall be filed with the Preliminary Objections. Briefs for the non-moving parties shall be filed and served one week prior to the scheduled argument.

(b) If an Amended Complaint is filed in response to the Preliminary Objection, the Plaintiff shall contemporaneously file a Motion to cancel oral argument on the Preliminary Objections.

#### **Local Rule L1034(a)—Motion for Judgment on the Pleadings**

(a) A Motion for Judgment on the Pleading shall be filed with the Prothonotary. The Motion shall have attached an Order of Court scheduling the matter for oral argument. A brief in support of the Motion shall be filed with the Motion. Briefs for the non-moving parties shall be filed and served one week prior to the scheduled argument.

#### **Local Rule L1035.2(a)—Motion for Summary Judgment**

(a) A Motion for Summary Judgment shall be filed with the Prothonotary. The Motion shall have attached an Order of Court scheduling the matter for oral argument. A brief in support of the Motion shall be filed with the Motion. Briefs for the non-moving parties shall be filed and served one week prior to the scheduled argument.

#### **Local Rule L1301—Arbitration (Scope)**

(a) These Rules apply to all Civil Actions or issues that shall be submitted to compulsory arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S.A. § 7361, and Pa.R.C.P. No. 1301, et seq.

(b) A Board of Arbitrators, consisting of three (3) members of the bar actively engaged in the practice of law primarily in Butler County and selected as hereinafter provided, shall decide the following matters:

(1) All Civil Actions, as defined in Pa.R.C.P. No. 1001(b)(1), for money damages where the amount at issue is within the statutory arbitration limits, as provided by law and/or Order of Court. (See 42 Pa.C.S.A. § 7361.) The amount at issue shall be determined from the pleadings, by agreement of the parties, or the Court;

(2) All Civil Actions where no appearance has been entered and the plaintiff desires to have the damages assessed in an amount not to exceed the arbitration limits;

(3) All appeals from a civil judgment of a District Justice, except judgments for possession of real property; and

(4) By agreement of reference signed by the parties or their counsel. Such agreement shall define the issues and contain such stipulation as to facts, admissions or waivers of defenses or proofs as are agreed upon.

(c) These Rules shall not apply to the following actions:

(1) Actions in Ejectment;

(2) Action in Quiet Title;

(3) Action in Replevin—except by Order of Court;

(4) Action in Mandamus;

(5) Action in Quo Warranto;

(6) Action or Mortgage Foreclosure;

(7) Actions upon Ground Rent;

(8) Foreign Attachment; or

(9) Fraudulent Debtors Attachment

#### **Local Rule L1302—List of Arbitrators. Appointment to Board**

(a) The Prothonotary of Butler County shall compile and maintain a list of persons eligible and willing to serve as arbitrators and a list of persons eligible and willing to serve as chairpersons of the Board of Arbitrators. This list shall be comprised of members of the bar actively engaged in the practice of law primarily in Butler

County. "Actively engaged in the practice of law primarily in Butler County" is defined as: Persons who regularly maintain an office in Butler County for the practice of law; public defenders; assistant and deputy district attorneys; and judicial law clerks of the Court of Common Pleas of Butler County. Persons who have been determined to be eligible shall file a written consent to serve as an arbitrator or chairperson with the Prothonotary. Arbitrators and chairpersons shall be selected by the Prothonotary from those persons who have filed a consent to serve.

(b) Should a vacancy on the Board of Arbitrators occur prior to the hearing for any reason, or should a member of the Board fail to attend the hearing, a member of the Board shall notify the Prothonotary who shall immediately vacate that appointment and make an appointment to fill that vacancy. Should a vacancy on the Board of Arbitrators occur after the hearing takes place but before an award is signed by all arbitrators, or should a member of the Board fail to or refuse to perform his duties, the award shall be signed and filed by the remaining members of the Board. If the remaining members of the Board are unable to agree, they shall notify the Prothonotary who shall appoint a third member. Thereafter, the Prothonotary shall schedule a rehearing for the new Board, which shall thereafter file an award.

(c) The Board shall be chaired by a member of the Bar admitted to the practice of law for at least ten (10) years.

(d) Each member of the Board of Arbitrators, who has been duly sworn in to hear a case, shall receive as compensation a fee in the amount set by the court from time to time by a Special Order. In cases requiring hearings that exceed one-half day, the arbitrators may petition the court for additional compensation, which the court may grant for cause shown. The arbitrators shall not be entitled to receive their compensation fees until after filing a report and award with the Prothonotary. Compensation fees paid to the arbitrators shall not be taxed as costs or follow the award as other costs.

(e) Upon the filing of the arbitrators' report and award, or a discontinuance by the parties after the swearing of the arbitrators or an award by the court in accordance with Pa.R.C.P. No. 1303(b), the Prothonotary shall certify such filing to the County Commissioners and to the County Controller together with the names of the sworn members of the Board of Arbitrators and submit an Order for payment. The County Commissioners and County Controller shall thereupon pay the applicable fee to each member of the Board of Arbitrators.

(f) If an arbitrator fails in his duties or the Board of Arbitrators fails to file an award promptly, as required by Pa.R.C.P. No. 1306, the result will be the forfeiture of the arbitrator's fee.

#### **Local Rule L1303. Hearing Notice**

(a)(1) The chairperson shall fix the date and time of the arbitration hearing at the Butler County Courthouse. The hearing shall be within sixty (60) days after the appointment of the Board. Not less than thirty (30) days Notice in writing of the date and time shall be given to the arbitrators and parties or their attorneys of record.

(2) All written Notices 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.

(b) The chairperson of the Board of Arbitrators shall have the powers conferred upon him by law, including but not limited to the following:

(1) To grant continuances for good and sufficient reason before the hearing convenes. Parties shall make requests for a continuance as soon as the need arises. In the event a party requests and secures a continuance of the hearing prior to the commencement thereof, it shall be the chairperson's duty to ascertain an appropriate date and time for a new hearing and to see that all parties and arbitrators are notified both of the continuance and the new hearing schedule. If there is a dispute as to a continuance, the issue shall be submitted to the Motion Court judge.

(2) To permit the amendment of any pleading except for good cause shown, such an amendment must be filed in writing. If the court grants a continuance of the hearing, the court may, in its discretion, impose a reasonable fee upon the party so requesting the continuance if the court finds the request for the continuance was not obtained in a timely fashion. The party upon whom such fees have been imposed may not, so long as such fees remain unpaid, take any further step in such arbitration without prior leave of court. The party upon whom such fees have been imposed may not recover such fees if that party is ultimately successful in the arbitration.

[Pa.B. Doc. No. 04-1432. Filed for public inspection August 6, 2004. 9:00 a.m.]

## **CUMBERLAND COUNTY**

### **Rules of the Court of Common Pleas; No. 96-1335 Civil Term**

#### **Order of Court**

*And Now*, this 22nd day of July, 2004, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective July 26th, 2004, 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 Microsoft Word 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*

GEORGE E. HOFFER,  
*President Judge*

#### **Proposed Local Rules to be Published in Accordance with Pa.R.C.P. 239(c)(7)**

##### **Rule 206.1. Petitions**

In addition to petitions to open and for non pros, petition practice shall also be applicable to petitions to transfer venue on grounds of forum non conveniens and

petitions which seek the issuance of a rule to serve the interest of justice. See Pa.R.C.P. 206.1(a)(2)

**Rule 206.4(c). Rules to Show Cause.**

Cumberland County hereby adopts Pa.R.C.P. 206.5 as the procedure governing rules to show cause. The issuance of rules to show cause will be discretionary with the court upon presentation of a petition seeking the same.

(1) A petition for a rule to show cause shall be filed with the Prothonotary who shall docket the petition and forward same to the Court Administrator for assignment to a Judge.

(2) Upon a grant of a rule to show cause an order shall be issued in accordance with Pa.R.C.P. 206.5 governing the requirements for an answer, the scheduling of depositions, and the manner in which argument will be scheduled.

(3) The procedures with regard to rules to show cause shall also comply with the requirements with respect to motions, generally, set forth in Rule 208.3(a).

**Rule 208.2(d). Concurrence of Counsel.**

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, and motions for post-trial relief.

**Rule 208.3(a). Motions.**

All motions and petitions shall be initially presented to the Prothonotary who shall forward same to the Court Administrator for assignment to a Judge for disposition.

(1) All motions 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.

(2) The motion shall name each Judge who has ruled upon any other issue on the same or related matter, and shall specify the issue.

(3) A proposed order or decree shall be prepared by counsel and affixed to the front of each petition or motion submitted to the Court. Where the Court cannot make an ex parte determination of the matter, the proposed order shall be in the nature of a rule to show cause why relief sought ought not to be granted.

(4) The Judge to whom a motion has been assigned shall, thereafter, by order, schedule such briefing and argument as shall be deemed necessary.

(5) Except as provided in Rules 1028(c), 1034(a), and 1035.2(a), no petition or motion, including those relating to depositions and discovery, shall be placed on an argument court list unless directed by the Judge assigned thereto.

(6) Where notice of the entry of any order is required under Pa.R.C.P. 236, the petitioner or moving party shall include in the proposed order the names of the persons and/or attorneys who are required to be notified and to provide duplicate copies of the proposed order with stamped envelopes addressed to the said persons and/or attorneys.

(7) All motions regarding discovery in civil cases including, but not limited to, motions to compel, for protective orders, and for sanctions, shall be filed with the

Prothonotary who will transmit the motion/petition to the Court Administrator for assignment to a judge. Any answer or response to a discovery order or rule shall be filed, initially, with the Court Administrator who shall refer same to the judge assigned prior to filing with the Prothonotary.

(8) *Hybrid Representation.* In the event that a party who is represented by counsel of record attempts to file a motion, petition, answer or similar item on his or her own, the court will not docket the item but instead forward it to the counsel of record for such action as he or she deems appropriate on behalf of his or her client.

**Rule 1028(c). Preliminary Objections.**

All preliminary objections shall be filed with the Cumberland County Prothonotary's Office. Thereafter, the issues raised will be disposed of at regular sessions of argument court, which shall be scheduled as part of the annual court calendar. The procedure for disposition of matters at argument court shall be as follows:

(1) The Prothonotary shall maintain the argument court list.

(2) A case shall be listed by filing a praecipe, in duplicate, with the Prothonotary. The party listing the case for argument shall serve a copy of the praecipe on all counsel or any unrepresented party.

(3) The argument list shall be closed twenty (20) days prior to the date for argument. The list shall then be prepared by the Prothonotary 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.

(4) One week prior to argument, the Court Administrator, at the direction of the President Judge, shall prepare the final list of cases to be argued before either a single judge or an en banc panel of two judges, or three judges. The list of assigned cases shall be listed in the Prothonotary's Office and the Law Library six (6) days prior to the date for argument.

(5) A brief with two copies containing a statement of facts, discussion of the issues and reference to all authorities relied upon, shall be filed with the Court Administrator before argument. The party seeking the order shall furnish these briefs and serve a copy of the brief upon opposing counsel or any unrepresented party twelve (12) days before the date set for argument. A responding party shall furnish briefs in a similar manner five (5) days before the date set for argument. Argument may be denied to any party who fails to comply with the filing requirements of this paragraph. If the party seeking the order has not filed a timely brief in accordance with this rule, the Court may deny the relief sought on that basis alone.

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

(7) 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)."

(8) Counsel or any party presenting oral argument shall be limited to fifteen (15) minutes unless prior permission is granted to extend argument in a complex case.

(9) 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 later than five (5) days prior to argument. Cases submitted for argument on briefs are subject to the briefing schedule set forth in paragraph (5).

(10) Briefs will not be retained by the Court past the current argument court session. If the case is praeciped for argument but not argued during that session, a new brief will be required when the case is relisted.

(11) All agreements for continuances and/or withdrawals shall be communicated to the Court Administrator no later than seven (7) days prior to argument court.

**Rule 1034(a). Motions for Judgment on the Pleadings.**

Motions for judgment on the pleadings shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with Rule 1028(c).

**Rule 1035.2(a). Motions for Summary Judgment.**

All motions for summary judgment shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with Rule 1028(c).

Note: The foregoing rules 206.1, 206.4(c), 208.2(d), 208.3(a), 1028(c), 1034(a) and 1035.2(a) are promulgated pursuant to Pa.R.C.P. 239.1 et seq. These Supreme Court Rules require that courts of common pleas adopt rules with respect to motions practice. The rules, thus adopted, are required to be published on the web site of the Administrative Office of Pennsylvania Courts.

The foregoing local rules retain current practices and are, to a large extent, existing rules renumbered and reconfigured in accordance with the requirements of the Pennsylvania Supreme Court. These rules are derived from and also rescind existing Cumberland County rules 205-1, 206-1 through 209-2, 210-1 through 210-14, 227.1-1, 227.1-2, and 4001-1.

[Pa.B. Doc. No. 04-1433. Filed for public inspection August 6, 2004, 9:00 a.m.]

**ERIE COUNTY**

**Revision and Restatement of the Rules of Civil Procedure; Civil Division—Misc. Doc. No. 90047 Court Order 2004**

**Order**

And Now, this 8th day of July, 2004, the following revisions and additions to the Rules designated as the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania, are hereby approved, adopted and promulgated as the Rules of Court. These Rule changes, revisions and deletions shall become effective thirty (30) days after the publication of the same in the *Pennsylvania Bulletin* and they shall apply to all actions pending at the time.

WILLIAM R. CUNNINGHAM,  
*President Judge*

The following Rules have been deleted from the Local Rules of the Court of Common Pleas of Erie County, 6th Judicial District of Pennsylvania:

Rule 205.3. Civil Cover Sheet

Rule 212.1(d—e)

Rule 217. Costs of Continuance

Rule 219. View of Premises

Rule 221.1. Examination of Jurors Before Trial

Rule 227.5. Judgment on Verdict

Rule 227.6. Judgments by Agreement

Rule 248. Modification of Time

Rule 302(d—k)

Rule 303(b)(f—g)

Rule 310. Termination of Action or Proceeding Because of Inactivity

Rule 314. Sanction for Late Settlement

Rule 500. Auditors and Auditors' Reports

Rule 501. Limitations on Bail and Surety

Rule 502. Distribution

Rule 503. Assignees of Creditors

Rule 504. Sheriff

Rule 505. Surveyors

Rule 1007.2 Number of Jurors, Civil Trial

**BUSINESS OF COURTS**

**Rule 205.2. Physical Characteristics of Pleadings and Other Legal Papers**

(a)(1) All papers filed in the Office of the Prothonotary shall be filed on letter-sized paper, 8-1/2" × 11".

(2) The caption of all papers allowed or required to be filed shall contain the term and number at which the action is filed.

(b) The document(s) filed to commence an action shall include a completed and signed civil cover sheet, in the form provided by the Court.

**Rule 206.1 Petition. Definition.**

(a) As used in these rules, "petition" means

(1) An application to open a default judgment or a judgment of non-pros.

**Rule 206.4 Petition. Rule to Show Cause.**

(a) A petition shall proceed upon a rule to show cause, the issuance of which shall be as of course in accordance with the procedure set forth in Pa. R.C.P. No. 206.6.

(b) [Reserved]

(c) The petitioner shall file the petition with the Prothonotary with a copy to the assigned judge, together with a proposed order in conformity with Pa. R.C.P. No. 206.6. The assigned judge shall issue the appropriate order, and the petitioner shall provide notice of entry of the order to all parties as contemplated by Pa. R.C.P. No. 206.6.

**Rule 208.2. Motion. Form. Content.**

(a) [Reserved]

(b) [Reserved]

(c) Unless a certification is filed that a motion is presented as uncontested, any motion shall include a brief statement of the applicable authority.

(d) Except as set forth in Erie L.R. 208.3(b), a motion shall be treated as a contested motion unless it contains a

certification by counsel or by an unrepresented party that the motion is uncontested. A motion may be presented as uncontested where counsel or an unrepresented party can certify that the opposing party has consented to the relief requested or where prior notice of intention to present the motion and proposed order has been served in accordance with Local Rule No. 440 and the opposing party has neither indicated an intention to object nor appeared at the time of presentation and expressed an objection.

(e) Any motion relating to discovery shall include a certification signed by counsel for the moving party or an unrepresented party certifying that counsel or the unrepresented party has conferred or attempted to confer with all interested parties to resolve the matter without Court action.

### **Rule 208.3. Motion Procedures.**

(a) This rule describes the procedures governing non-dispositive motions within the scope of Pa.R.C.P. No. 208.1.

(1) The original of any motion shall be filed with the Prothonotary and a copy thereof shall be provided to the assigned judge. If a judge has not yet been assigned, the party seeking to present a motion shall first submit a request for judicial assignment with the trial court administrator and obtain assignment to a judge to whom the motion shall be presented. (See Erie L.R. 302 with respect to the filing of requests for judicial assignment.) The judge to whom the case has been assigned will schedule argument and either notify all parties or advise the moving party to notify all other parties of the time, date and location of argument.

(2) After any order is issued by the Court relating to a motion, whether such order grants or denies the relief requested, schedules argument thereon or deals with any other related matter, and unless the order states otherwise, the moving party shall immediately file the original of said order with the Prothonotary and contemporaneously therewith shall serve a copy of said order on all other counsel and unrepresented parties.

(3) To supplement the procedure set forth in (a)(1) above, each judge shall establish a schedule when he/she will be available for presentation of non-dispositive motions in cases assigned to that judge, which schedule must be published on the website of the Administrative Office of Pennsylvania Courts ([www.aopc.org](http://www.aopc.org)) and the website of the Erie County Court of Common Pleas ([www.eriecountygov.org](http://www.eriecountygov.org)).

(4) If counsel and/or unrepresented party notifies opposing counsel and/or parties that a motion will be presented to a judge at a specific time and then fails to appear, the Court, upon motion, will consider an appropriate sanction including, but not limited to, an award of attorney's fees.

(b) With respect to any motion which is contested, a response shall be filed within twenty (20) days after service of the motion. All motions which are contested shall be accompanied by a rule to show cause for the scheduling of a hearing or argument as appropriate. Where no response is filed, the moving party shall notify the court and the motion shall be deemed to be uncontested and the Court may proceed to issue a ruling upon the motion. Oral argument shall be scheduled by the Court unless the parties waive oral argument. Nothing set forth herein shall be deemed to limit the discretion of the Court to enter an order in accordance with Pa.R.C.P. 208.4 upon initial consideration of a motion.

### **Rule 210. Form and Content of Briefs.**

Except by prior permission of the Court, briefs (exclusive of pages containing the table of contents, table of citations and any addendum containing opinions, etc., or other similar supplementary matter) shall not exceed twenty-five (25) pages of double-spaced conventional typographical printing. This Rule shall not apply to briefs on post-trial motions. Non-conforming or illegible briefs will not be considered.

### **Rule 212.1. Pretrial Procedure**

#### *(a) Scope*

This Rule shall encompass all civil actions, except actions where jurisdiction lies in the Family/Orphans Court Division.

#### *(b) Case Management Orders (CMO)*

##### *1. Case Management Orders—General*

(A) At the time of judicial assignment, the Office of Court Administration shall issue a CMO designating dates for the close of discovery, the filing of pretrial statements, and a proposed trial term.

(B) At any time prior to judicial assignment, the parties may agree to the entry of a CMO by filing a stipulation with the Office of Court Administration and the Prothonotary.

(C) Following the entry of the CMO, any request for modification shall be done by motion filed with the Prothonotary and mailing or delivering a copy to the assigned judge.

##### *2. Case Management Orders—Time Limitations*

(A) All CMOs, except those requested by stipulation, which are issued by the Office of Court Administration, shall provide the following time limitations:

(i) Close of discovery within two hundred forty (240) days of the issuance of the CMO.

(ii) Plaintiff's pretrial statement filed within thirty (30) days of the close of discovery.

(iii) Defendant's pretrial statement filed within sixty (60) days of the close of discovery.

(iv) The proposed trial term within one hundred twenty (120) days of the discovery, or as close thereto as the availability of trial terms may allow.

(B) If a case has been accepted by the Court as "complex," all CMOs shall designate dates consistent with the following time limitations:

(i) Close of discovery is five hundred forty (540) days from the issuance of the CMO.

(ii) Plaintiff's pretrial statement filed within forty five (45) days of the close of discovery.

(iii) Defendant's pretrial statement filed within ninety (90) days of the close of discovery.

(iv) The proposed trial term within one hundred eighty (180) days of close of discovery, or as close thereto as the availability of trial terms may allow.

(C) If a case has been accepted by the Court as "expedited," all CMOs shall designate dates consistent with the following time limitations:

(i) Close of discovery is ninety (90) days from the issuance of the CMO.

(ii) Plaintiff's pretrial statement filed within fifteen (15) days of the close of discovery.

(iii) Defendant's pretrial statement filed within thirty (30) days of the close of discovery.

(iv) The proposed trial term within ninety (90) days of close of discovery, or as close thereto as the availability of trial terms may allow.

(D) A party may request that a case be designated as complex or expedited by the filing of a stipulation or motion.

(E) All cases where the amount in controversy is within the limits for mandatory arbitration shall be designated as "expedited" cases and CMOs issued accordingly.

(c) *Settlement Conference*

A party may request that the assigned judge conduct a settlement conference at any time after the filing of the last responsive pleading.

(d) *Certification For Trial*

1. These certification procedures apply to all civil jury and non-jury cases.

2. In order to have a case assigned to a particular trial term, all counsel or parties must certify the case as ready for trial by filing with the Prothonotary and serving upon the Court Administrator a certification in substantially the form contained herein and designated "Certification I."

3. If a party has failed to comply with the timetables established in the CMO or has failed to sign a Certification I after being requested to do so in writing, a party wishing to place the case on the trial list must file a certification in substantially the same form contained herein and designated "Certification II."

4. A Certification I or II indicating readiness for trial shall be filed with the Office of Court Administration and the Prothonotary no later than the last Friday of the calendar month that precedes the month immediately before the beginning of the proposed trial term, unless a different deadline is established by notice published in the Erie County Legal Journal.

5. All "Certification II's" shall be forwarded to the assigned judge for disposition.

**Rule 212.2. Pretrial Statements**

(a) In addition to the requirements set forth at Pa. R.C.P. 212.2, all Pretrial Statements shall contain:

- 1. A list of any unusual legal issues.
- 2. Where appropriate, authorization to other parties to examine pertinent records unless earlier provided.

3. For any party asserting a claim for damages, the method of calculation and how damages will be proven.

4. For any party defending a claim for damages, any defenses to the damage claims.

5. *Filing Procedure.* The original Pretrial Statements are to be filed in the Prothonotary's Office. No copy shall be forwarded to the assigned judge.

**Rule 212.3. Pretrial Conference**

(a) Upon the completion of the trial list, the assigned judge shall schedule a pretrial conference. Attendance at the conference is mandatory for all counsel, and all persons needed to authorize or approve settlement shall be present or available by telephone.

(b) In cases proceeding to trial without a jury, a pretrial conference shall be scheduled at the discretion of the assigned judge or upon request of a party.

(c) At pretrial conference, in addition to the matters included in Pa. R.C.P. 212.3(b), the Judge:

1. Shall explore, with counsel and the parties, the possibility of settlement.

2. May decide all remaining motions and requests for relief.

**Rule 212.4. Trial Lists and Continuances**

1. After the deadline for certification has passed, the Office of Court Administration, in coordination with the assigned judge, shall list all certified cases for trial.

2. When a case is listed for trial, it shall not be continued except for just cause. Except in the case of exigent circumstances, all motions for continuance must be made at least ten (10) days before the start of the trial in non-jury cases. All motions for continuance must include the reasons for the request and must be presented to the assigned judge.

3. Motions for continuance which are being made with the agreement of all counsel must be signed by all counsel or parties.

**FORMS**

CERTIFICATION I

We the undersigned, counsel for the parties in the above case, hereby certify that:

- 1. The above action is ready for trial;
- 2. All outstanding motions have been resolved;
- 3. All pretrial narratives are filed;
- 4. Counsel have met and discussed settlement of this matter.
- 5. This case is to be tried \_\_\_\_\_ jury, \_\_\_\_\_ non-jury.

\_\_\_\_\_  
Plaintiff's attorney (date)

\_\_\_\_\_  
Defendant's attorney (date)

\_\_\_\_\_  
Additional Defendant's attorney (date)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CERTIFICATION II

1. The undersigned requests that the case be placed on the Trial List for the \_\_\_\_\_(month)\_\_\_\_\_ term.

2. A case management order was entered providing for a proposed trial term of \_\_\_\_\_(month)\_\_\_\_\_.

3. A request to file a Certification I has been made of all parties.

4. This Certification II has been filed because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5. The case is otherwise ready for trial.

\_\_\_\_\_  
Signature (Counsel or Party)  
\_\_\_\_\_  
Date

**Rule 216. Re-Certification After Continuance**

If a second consecutive continuance request is granted by the Court at the request of either counsel or an unrepresented party, the Court, in its discretion, may strike the case from the trial list. Re-certification will then be required to have the case placed on a future trial list.

**Rule 220.1. Voir Dire.**

(a) The court may present a written questionnaire to the prospective jurors, in the form attached hereto as exhibit \_\_\_\_\_.

(b) Supplemental voir dire may be submitted to the court for approval.

**Rule 221. Challenges**

Neither peremptory challenges nor challenges for cause need be exercised until all prospective jurors have been questioned.

**Rule 252. Appeals in License Suspension Cases**

(a) Upon filing a license suspension appeal, the petition shall be presented to the Office of Court Administration for a judge assignment and hearing date.

(b) The Office of Court Administration shall review the petition and upon determination that the appeal is timely, shall issue a "per curiam" order of court designating the assigned judge and setting the date and time of the hearing and where appropriate providing for supersedeas.

(c) No provision for supersedeas shall be included in an appeal, pursuant to 75 Pa.C.S.A. §§ 1503, 1504, 1509, 1514, 1519 and 1572. Requests for supersedeas in cases involving those sections shall be directed to the assigned judge.

(d) Notice of the time and date of the hearing shall be provided by the petitioner to the Commonwealth as provided by the Motor Vehicle Code.

**Rule 253. Petitions for Change of Name**

(a) Upon filing, all petitions for name change shall be presented to the Office of Court Administration for judge assignment.

(b) Petitions for name change shall be presented to the assigned judge for designation of the date and time of hearing.

(c) At the time of the hearing, the petitioner shall provide the Court with the following:

- (1) A copy of the proposed decree;
- (2) A certified copy of the lien search completed by the Clerk of Records;
- (3) A verification from the Pennsylvania State Police of compliance with any applicable fingerprint requirements; and
- (4) A verification of compliance with all notice and publication requirements.

**COURT MATTERS**

**Rule 302. Trial Division Judicial Assignment**

(a) Judicial assignment to a case will be made 60 days after the filing of the complaint. Counsel and

unrepresented parties will receive notice of the assignment on the returned copy of the civil cover sheet. If no cover sheet is filed, notice will be given based upon information available to the Prothonotary. All judicial assignments will be noted in the Prothonotary computer file.

(b) If judicial attention is required prior to judicial assignment pursuant to section (a) above, counsel shall submit a request for judicial assignment with the Court Administrator on a form substantially as contained herein.

(c) To obtain judicial attention in a case wherein a complaint was filed before April 1, 1996, counsel shall submit a request for judicial assignment with the Court Administrator on a form substantially as contained herein.

ERIE COUNTY COURT OF COMMON PLEAS  
REQUEST FOR CIVIL JUDGE ASSIGNMENT

DATE COMPLAINT FILED	DOCKET NUMBER
PLAINTIFF(S)	PLAINTIFF'S ATTORNEYS (Address)
DEFENDANT(S)	DEFENDANT'S ATTORNEYS (Address)

HAS THIS CASE RECEIVED ANY PREVIOUS JUDICIAL ATTENTION?

NO \_\_\_\_\_ YES \_\_\_\_\_

If yes, name of Judge \_\_\_\_\_

ARE THERE ANY COMPANION CASES ALREADY ASSIGNED TO A JUDGE?

NO \_\_\_\_\_ YES \_\_\_\_\_

If yes, name of Judge \_\_\_\_\_ Docket Number \_\_\_\_\_

**FOR COURT USE ONLY:**

\_\_\_\_\_ has been assigned this case. This matter, and all future matters, should be taken directly to assigned judge per local rules of court.

DATE: \_\_\_\_\_ ASSIGNED BY: \_\_\_\_\_

**Rule 303. Motion Court and Other Motions and Petitions—Civil—Civil**

(a) Civil Motion Court shall be held two (2) times per week (Tuesday and Thursday) at 9:00 A.M. The only motions presented shall pertain to cases where a complaint has not yet been filed. (See Erie L.R. 302 for procedure in matters where complaint has been filed.) Effective July 1, 1997.

(b) All motions presented at civil motion court shall include a completed motion court cover sheet, in the form required by the court.

(c) (1) Motions and petitions that can be summarily heard by the Court and determined by brief order shall be heard immediately following Motion Court on Thursday of each week.

(2) The moving counsel desiring to have such summary determination of a motion or petition must notify opposing counsel and any opposing unrepresented party of his intention to argue the motion or petitions before the Court at such time. The Court may refuse to hear argument on such motions or petitions unless counsel for each side is present.

(3) The moving party shall attach to the motion or petition the proposed order.

**Rule 305. Duties of the Prothonotary**

(a) The Prothonotary shall immediately endorse all papers filed with the date and time of such filings and shall enter all rules, pleadings and other papers filed in the proper docket.

(b) The Prothonotary shall, when directed by the Court, endorse the order of the Court upon all motions presented and shall transcribe the same in the record.

(c) The Prothonotary shall be responsible for the safe-keeping of all records and papers belonging to that office. The Prothonotary shall permit no papers to be taken from the office, without written order of Court except for temporary removal by an attorney for the purpose of conducting an arbitration hearing or for copying within the Court House.

(d) All attorneys who take a paper from the files of the Court shall give their receipt in a book to be kept for that purpose and shall be responsible for the same and for damages arising from any loss.

(e) Only the Prothonotary, office clerks and attorneys shall be permitted access to the files. No entries shall be made in the dockets except at the direction of the Prothonotary.

(f) The Prothonotary shall not accept for filing any paper filed by person which shall not have endorsed thereon the address and telephone number of the person filing the paper.

(g) The Prothonotary shall provide segregated docket numbers for the law and equity sides of the Court and shall consecutively number the cases each year.

(h) In the litigation involving the validity of a municipal lien, upon motion of either party, the matter shall be transferred, from the municipal liens docket to the appearance docket and given a term and number by the Prothonotary.

(i) In all appeals to the Court from a municipal zoning board or municipalities, when said appeal has been returned to said board or municipality by the Court, should the matter then be returned to Court, it will retain the same docket number as it had on the original appeal.

**Rule 312. Fair Trial. Free Press.**

A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extra judicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(a) Evidence regarding the occurrence or transaction involved.

(b) The character, credibility or criminal record of a party, witness or prospective witness.

(c) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(d) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(e) Any other matter reasonably likely to interfere with a fair trial of the action.

See Appendix, Court Order 84-1992.

**ACTIONS AT LAW**

**CIVIL ACTION**

**Rule 1018.1. Notice to Defend. Form**

With respect to the notice to defend form required by Pa.R.C.P. 1018 the Erie County organization shall be:

Lawyer Referral Service

P. O. Box 1742

Erie, PA 16507

814/459-4411

Mon—Fri

8:30 a.m.—3:00 p.m.

**Rule 1028. Preliminary Objections**

(a) [Reserved]

(b) [Reserved]

(c) 1. Preliminary objections shall be filed with the Prothonotary's office and a copy shall be served by the objecting party upon all counsel of record and unrepresented parties. Within thirty (30) days after the filing of preliminary objections, the objecting party shall file a brief and serve a copy of the brief upon all counsel of record and unrepresented parties. At that time, the objecting party shall also serve a copy of the preliminary objections and brief upon the assigned judge.

2. The non-moving party shall file with the Prothonotary's office a responding brief within thirty (30) days of receipt of the objecting party's brief. The non-moving party shall forward a copy of the brief to the assigned judge. This deadline does not affect the filing deadlines otherwise imposed upon the non-moving party by the Pennsylvania Rules of Civil Procedure.

3. After the passage of the filing date for the non-moving party's brief, the assigned judge shall schedule the matter for an argument on the preliminary objections, unless all parties waive argument. Notice of argument shall be given by the court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission or personal delivery.

(d) If the brief of either the objecting party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(i) Overrule the objections where the objecting party has failed to comply.

(ii) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(iii) Prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(iv) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

**Rule 1034. Motion for Judgment on the Pleadings.**

(a) 1. The moving party shall file a motion for judgment on the pleadings, together with a supporting brief, with the Prothonotary and a copy of the motion and brief

shall be contemporaneously served by the moving party upon all counsel of record and unrepresented parties and upon the assigned judge.

2. The non-moving party shall file a brief in opposition to the motion for judgment on the pleadings within thirty (30) days after receipt of the motion and brief. At that time, the failure of the non-moving party to file a brief within the time required shall result in the disposition of the motion based solely upon the information received from the moving party.

3. After the passage of the filing date for the non-moving party's brief, the assigned judge shall schedule the matter for argument, unless all parties waive argument. Notice of argument shall be given by the court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission or personal delivery.

(b) If the brief of either the moving party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(i) Dismiss the motion where the moving party has failed to comply.

(ii) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(iii) Prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(iv) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

#### **Rule 1035.2. Motion for Summary Judgment**

##### *(a) 1. Procedure for Filing Summary Judgment Motions.*

(A) The moving party shall file a motion for summary judgment, together with a supporting brief, with the Prothonotary and a copy of the motion and brief shall be contemporaneously served by the moving party upon all counsel of record and unrepresented parties and upon the assigned judge. Within thirty (30) days of receipt of the moving party's brief, the non-moving party shall file a brief and, at that time, shall deliver a copy to the assigned judge. Any depositions, answers to interrogatories or affidavits in support of or in opposition to the motion shall be filed with the Prothonotary not later than the due date of the respective party's brief.

(B) If the brief of either the moving party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(i) Dismiss the motion where the moving party has failed to comply.

(ii) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(iii) Prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(iv) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

##### *2. Scheduling of Argument.*

(A) There shall be oral argument in accordance with Pa.R.C.P. No. 211, unless all parties waive argument. Notice of argument shall be given by the Court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission, or personal delivery.

(B) After the passage of the filing date of the brief of the non-moving party, the Court shall schedule argument on the motion with notice to all parties. After argument, the Court shall notify the parties of its decision.

### **COMPULSORY ARBITRATION**

#### **Rule 1301. Scope**

(a) Compulsory arbitration of matters as authorized by the Judicial Code, 42 Pa.C.S. Section 7361 as amended, shall apply to all cases at issue where the aggregate amount in controversy shall be Thirty Thousand Dollars (\$30,000.00), or less, regardless of the number of parties, except those cases involving title to real estate or which seek equitable or declaratory relief.

(b) In all cases where a party has obtained a judgment by default under Pa. R.C.P. No. 1037, the party obtaining said judgment by default may elect to have unliquidated damages assessed at a trial by arbitration with the issues limited to the amount of damages which shall not exceed \$30,000.00. The election to assess damages by arbitration shall constitute a waiver by the party making such election of any damages in excess of \$30,000.00.

(c) Discovery shall be allowed in all cases.

#### **Rule 1302. List of Arbitrators. Appointment to Board. Mediation**

(a) (1) The Board of Arbitrators in any case shall be selected in accordance with one of the procedures set forth below, from a list of attorneys admitted to practice in Erie County, who have filed their consent to act with the Prothonotary.

Those attorneys having practiced for three (3) years or more who wish to be Chairman of Boards of Arbitration shall so inform the Prothonotary of their eligibility.

(i) *Selection by Praecipe:* Upon the filing of a Praecipe for Arbitration, the Prothonotary shall nominate a Board of potential Arbitrators consisting of three (3) attorneys plus one (1) attorney for each attorney of record and unrepresented party. Not more than two (2) of the potential Arbitrators shall have been admitted to the practice of law for less than three (3) years. The list of attorneys so nominated shall be sent by the Prothonotary to each attorney of record and the unrepresented party. Each attorney of record and unrepresented party may strike off one (1) nominated attorney and return the list to the Prothonotary within five (5) days. A failure to respond within five (5) days constitutes a waiver of the right to strike one (1) name from the list. The three remaining names will make up the Board. If no name of the same name is stricken from the list, the first three (3) remaining names will make up the Board.

Upon the expiration of five (5) days, the Prothonotary shall notify all parties of the names of the Arbitration Panel and designate as Chair the first Arbitration Panel and designate as Chair the first Arbitrator, so selected, who has been admitted to the practice of law for at least three (3) years.

(ii) *Selection by agreement.* By agreement of counsel, the Prothonotary shall nominate a list of nine (9) attorneys selected at random from the entire list of potential arbitrators with an additional three (3) attorneys for each additional party with an adverse interest. Each party shall have the right to strike off attorneys so named, one at a time and alternately. If, after the striking of Arbitrators, the selection will result in a panel of members none of whom are eligible to be Chairman, the Prothonotary at the request of either counsel, shall select three (3) additional attorneys for consideration. The selection shall continue until a panel is agreed upon. If none of the three (3) chosen Arbitrators have been practicing for more than three (3) years, the counsel shall be deemed to waive this requirement. The Chairman shall be selected by counsel.

(iii) *Selection of sole arbitrator.* In any case within the limits of compulsory arbitration, a sole Arbitrator may be selected to adjudicate the case by agreement of counsel. The award shall have the same effect as that of a three (3) person panel. The Prothonotary shall nominate a list of five (5) attorneys selected at random from the entire list with an additional two (2) attorneys for each additional party with an adverse interest. Each party shall then have the right to strike off two so named, one at a time and alternately. The remaining attorney shall comprise the Board of Arbitration and shall be considered the Chairman.

(2) In the event an arbitrator selected pursuant to the above procedures is unavailable to attend the hearing for any reason, that arbitrator shall give the parties written notice of his or her unavailability five (5) days before the hearing date, so as to allow the parties time to agree on selection of a replacement arbitrator and have said replacement available to attend the hearing so as not to cause the need for rescheduling of the same. If the arbitrator fails to comply with the five (5) day notice requirement, at the time of the regularly scheduled arbitration hearing the parties shall notify the Prothonotary of the arbitrator's failure. Thereafter, the arbitrator shall automatically be stricken from the list of arbitrators maintained by the Prothonotary with leave to reapply for inclusion on the list upon petition to the Court and cause shown.

(b) Mediation is available upon the agreement of all parties. The Prothonotary, upon request for appointment of a mediator shall appoint said mediator to conduct the process. If mediation is unsuccessful, the case shall proceed to arbitration.

The following procedure shall guide the mediation process when requested by the parties:

(1) Mediation shall be conducted in cases where the amount in controversy is not greater than \$30,000.00.

(2) The mediator shall be selected by the Prothonotary's Office from a list supplied by the Court.

(3) The mediator shall designate the time for hearing with written notice to each party or their counsel. Hearings may be held at the mediator's office or elsewhere upon agreement of the parties.

(4) All parties including counsel are required to attend the mediation hearing.

(5) The parties/counsel shall immediately notify the mediator if the matter has been resolved prior to the scheduled hearing.

(6) The mediator shall file a report with the Court, with copies to the parties or their counsel, stating

mediation was successful or unsuccessful. If unsuccessful, the case shall proceed to arbitration.

#### **Rule 1303. Hearing. Notice**

(a) (1) The Chairman of the Board of Arbitrators shall designate the time for hearing with written notice to each of the members of the Arbitration panel and to each party or their counsel in compliance with Pa. R.C.P. 1303.

(2) All hearings of the Board of Arbitrators shall be held in the Erie County Court House in a hearing room designated for that purpose or in a courtroom by leave of Court.

(3) All hearings shall promptly commence at 9:30 a.m. or 1:30 p.m., unless a different time shall specifically be established by the Board of Arbitrators. In the event an Arbitrator shall not be present at the time for the swearing-in, then counsel for represented parties and any unrepresented party who does in fact appear at the scheduled hearing time, may, only if they agree unanimously

(a) have the remaining Arbitrators immediately select a replacement from the list of Arbitrators; or

(b) themselves appoint any other eligible person to act as a replacement Arbitrator; or

(c) use any other method of selection of an eligible person to act as a replacement Arbitrator.

In the event that counsel for represented parties and any unrepresented party, who does in fact appear at the scheduled hearing time, are unable to unanimously agree upon any of the foregoing options, then the replacement Arbitrator shall be selected in accordance with Erie R.C.P. 1302(a)(1)(iii), governing selection of a sole Arbitrator.

#### **Rule 1304. Conduct. Hearing. Generally**

(a) The hearings shall be conducted by the chairman with decorum in full compliance with judicial proceedings as conducted by the Court of Common Pleas. Witnesses shall be sworn in the customary manner.

(1) Smoking shall not be allowed, either by Arbitrators, attorneys, parties or witnesses.

(2) Once the witnesses are sworn and the proceedings have commenced Arbitrators and attorneys shall, throughout the hearing, use the same procedure and decorum as used before a Common Pleas Court.

#### **Rule 1305. Pretrial Exchange of Information**

(a) In cases subject to compulsory arbitration where the amount in controversy exceeds \$10,000.00, the parties shall exchange the following information at least twenty (20) days prior to the arbitration.

(i) A copy of all reports containing the substance of the facts, findings or opinions and a summary of the grounds or reasons for each opinion of any expert, including physicians, whom that party expects to call as a witness at the arbitration. The report must be signed by the expert.

(ii) Names and addresses of all witnesses the party expects to call.

(iii) Copies of all exhibits the party intends to use at the arbitration, with a designation of those documents to be produced pursuant to Pa. R.C.P. 1305.

(b) If timely production is not made of any of the information required above, the testimony of that expert, that witness, or use of that exhibit, shall be excluded by

the arbitrator(s), except upon consent of the adverse party or parties, or upon a showing of good cause made to the arbitrator(s).

### ACTION IN EQUITY

#### Rule 1531. Preliminary Injunction.

(a) Upon filing a motion for preliminary injunction, a request for a judge assignment shall be made to the Office of Court Administration.

(b) The motion for preliminary injunction shall be presented to the assigned judge to obtain a date and time for a hearing and/or consideration of a request for immediate or ex parte relief.

### ACTIONS FOR SUPPORT

#### Rule 1915.20. Scheduling of Status Conference

A status conference will be scheduled by the Family Court Judge in each case where there is a request for a court hearing. A court order will be sent to both parties advising them of the date and time for the status conference, as well as the issues to be addressed. The purpose of the status conference is to identify issues which will be the focus of the hearing, to determine the time required for hearing, address other pretrial matters such as discovery requests and exchanges of expert reports, set the date for hearing and discuss other relevant matters.

A hearing before the Court shall comport with the requirements for conducting nonjury trials, and the parties shall adhere to established trial procedure and the rules of evidence.

#### Rule 1915.22. Pretrial Order.

(a) The Judge of the Family Division or the Judge's designee shall review the facts and matters agreed upon at the pretrial status conference and issue a pretrial order. The Court may compel agreement as to undisputed facts. Counsel must object to or be deemed to have accepted the pretrial order of the Judge entered therein.

(b) The pretrial order will address the following items, as determined by the facts/issues of the particular case discussed at the status conference:

- (1) Date and time of trial;
- (2) Exchange of reports prepared by health care providers which they may have in their possession concerning the health of the minor child/children;
- (3) Exchange of reports prepared by any person who shall be called as an expert witness. Such report shall describe the substance and opinions to be contained in the expert's testimony at the time of trial;
- (4) Requirement to provide notice to the Court one (1) week prior to the commencement of trial as to whether minor child/children will be called as a witness and how this testimony will be conducted;
- (5) Exchange of documents to be introduced at the time of trial, and a final list of witnesses the party intends to call;
- (6) Deadline for any briefs to be filed with the Court concerning the legal issue(s) discussed at the Status Conference; and
- (7) Requirement that notice shall be provided to the Court within a reasonable time and no later than two (2) weeks prior to the commencement of trial.

#### Rule 1915.23. Pretrial Narrative Statements

At the time of the status conference, as prescribed by Local Rules 1915.20 and 1915.21, the Court may order the filing of pretrial narrative statements by all parties if the Court deems it necessary.

#### Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing

(a) Upon Motion of either party or upon its own Motion, the Court may appoint a Master to hear testimony and return the record together with the Report and Recommendation to Court. The moving party shall certify that all the parties have complied with the requirement of Pa.R.C.P. 1920.22, Pa.R.C.P. 1920.31, Pa.R.C.P. 1920.33 and Pa.R.C.P. 1920.46. The Motion and proposed Order requesting the appointment of a Master shall be in conformity with Pa.R.C.P. 1920.74 (see forms).

(1) Masters shall be appointed in rotation from the list of permanent part-time Masters appointed as such by the Court to determine issues of divorce, equitable distribution of property, permanent alimony and all other issues relevant thereto.

(2) Master shall be appointed to hear a claim of child and/or spousal support only upon presentation of an Affidavit of the party supplementing the Motion for appointment of a Master showing special circumstances which justify a departure from the procedure of Erie L.R. 1920.16. Should it later appear that special circumstances justifying referral of a claim for child and/or spousal support do not exist, either party or the Master may petition the Court to refer the claim to the Non-Support Intake Office.

(3) Upon appointment of a Master to hear issues which require expedited disposition (including, but not limited to, alimony pendente lite, child and/or spousal support when referred to a Master, occupancy of the marital residence, maintenance of insurance policies, and Counsel fees and expenses), a preliminary hearing will be held before the Master within thirty (30) days of the entry of the Order appointing a Master. Where discovery has not been completed or where all documents required to be filed by Pa. R.C.P. 1920.31 have not been filed prior to the preliminary hearing, the Master may, in his or her discretion, proceed with the hearing and filing of a report and recommendations (which may include recommended sanctions for failure to comply with Pa. R.C.P. 1920.31) or continue the hearing until said documents have been filed.

#### (b) PREHEARING STATUS CONFERENCE

In actions where expedited disposition is not required,

(1) The Master shall within fifteen days after receiving notice of the Master's appointment schedule a date for a pre-hearing conference to be held prior to the date of the Master's hearing and shall give notice of the time and place of the prehearing status conference by First class Mail to counsel for represented parties and directly to any unrepresented party. Said notice shall be mailed at least five business days prior the scheduled date of the conference.

(2) At the prehearing status conference, the Master shall review:

(A) The positions of the parties on each Claim, including those issues on which settlement has been reached;

(B) Discovery which has been completed, including the inventory and pretrial statements pursuant to Pa. R.C.P. 1920.33;

(C) Any documentary evidence to be presented at the hearing;

(D) The names and addresses of each witness any party proposes to call at the hearing;

(E) All matters which may be stipulated by the parties at the hearing;

(F) Establish a schedule for filing of Pretrial Narrative Statements, completion of discovery and any other relevant matters; and

(G) Such other relevant matters as should be raised by either of the parties or the Master.

(c) POST-STATUS CONFERENCE

(1) After the prehearing status conference the Master shall:

(A) Prepare a summary of the discussions and action taken at the prehearing status conference, including a statement of any stipulations, and of any matters which have been settled between the parties and which will not be raised at the hearing before the Master;

(B) Establish a schedule for the filing or service of any additional pleadings or discovery which may be deemed necessary and set hearing date(s);

(C) Serve a copy of the summary and filing schedule on counsel for the parties, or on any unrepresented party; and

(D) Indicate the amount of additional Master's fees to be paid by the litigants prior to hearing.

(d) MASTER'S HEARING

The Master shall establish a hearing date or dates at the prehearing status conference. These dates shall be included in the summary prepared pursuant to Section c (post status conference), as well as in the formal notice of Master's hearing as required by Pa. R.C.P. 1920.51(b). At least ten (10) days written notice of the time and place of any Master's hearing shall be given to the attorneys of record (or the parties where no attorney has appeared in the case) by the Master by ordinary mail.

(e) CONTINUANCES

(1) A request shall be granted by the master if both parties consent in writing at least fourteen (14) days prior to the scheduled hearing date.

(2) All other requests for continuance shall be at the discretion of the Master.

(f) SETTLEMENT

(1) In the event that all issues raised by the pleadings and referred to the Master are brought to a negotiated settlement, the parties shall, as a condition of postponement or cancellation of the Master's hearing, sign an all encompassing Marital Property Settlement Agreement prior to the time set for the Master's hearing.

(2) In the event that both parties have not signed such an Agreement, the parties, together with their respective counsel of record, shall attend the Master's hearing at the time scheduled for the purpose of entering the substance of their agreement on the record and stipulating to the entry thereof as a decree.

(g) FEES AND COSTS

(1) The initial fees, costs and compensation of the Master shall be in accordance with Administrative Order In Re Divorce Masters Miscellaneous Docket #87 and any amendments thereto.

(2) The Master shall determine additional fees due in accordance with the rate set by the Court and shall require an advance deposit of said amount prior to scheduling any further hearing.

(3) The Master shall receive compensation for a minimum of four hours for each day of a scheduled hearing that is not either:

(A) Continued in accordance with Erie L.R. 1920.51(e); or

(B) Cancelled with notice to the Master in writing at least fourteen days prior to the scheduled hearing date for the reason either that the case has been resolved or withdrawn.

(4) In the event the Master fails to grant the continuance, the parties may petition the Court for a continuance. The Court may grant a continuance and will determine the amount of additional Master's fees, if appropriate.

(5) At the conclusion of the case, the Master shall prepare a certification indicating the amount of Master's fees paid and the disposition thereof.

**Rule 1920.75. Form of Inventory.**

The Inventory required by Pa.R.C.P. 1920.33(a) shall be substantially in the following form:

(CAPTION)

INVENTORY OF

\_\_\_\_\_  
(Plaintiff) (Defendant) files the following inventory of all property owned or possessed by either party at the time this action was commenced and all property transferred within the preceding three years.

(Plaintiff) (Defendant) verifies that the statements made in this inventory are true and correct. (Plaintiff) (Defendant) understands that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
(Plaintiff) (Defendant)

ASSETS OF PARTIES

(Plaintiff) (Defendant) marks on the list below those items applicable to the case at bar and itemizes the assets on the following pages.

- ( ) 1. Real Property
- ( ) 2. Motor Vehicles
- ( ) 3. Stocks, bonds, securities, and options.
- ( ) 4. Certificates of deposit
- ( ) 5. Checking accounts, cash
- ( ) 6. Savings accounts, money market and savings certificates
- ( ) 7. Contents of safe deposit boxes
- ( ) 8. Trusts
- ( ) 9. Life insurance policies (indicate face value, cash surrender value and current beneficiaries)
- ( ) 10. Annuities
- ( ) 11. Gifts
- ( ) 12. Inheritances
- ( ) 13. Patents, copyrights, inventions, royalties

- ( ) 14. Personal property outside the home
- ( ) 15. Business (list all owners, including percentage of ownership, and office/director positions held by a party with company)
- ( ) 16. Employment termination benefits—severance pay, workers compensation claim/award
- ( ) 17. Profit share plans
- ( ) 18. Pension plans (indicate employee contribution and date plan vests)
- ( ) 19. Retirement plans, Individual Retirement Accounts
- ( ) 20. Disability payments
- ( ) 21. Litigation claims (matured and unmatured)
- ( ) 22. Military/V. A. benefits
- ( ) 23. Education benefits
- ( ) 24. Debts due, including loans, mortgages held
- ( ) 25. Household furnishings and personality (including as a total category and attach itemized list if distribution of such assets is in dispute)
- ( ) 26. Other

**MARITAL PROPERTY**

(Plaintiff) (Defendant) lists all marital property in which either or both spouses have a legal or equitable interest individually or with any other person as of the date this action was commenced:

<i>Item Number</i>	<i>Description of Property</i>	<i>Names of All Owners</i>
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**NON-MARITAL PROPERTY**

(Plaintiff) (Defendant) lists all property in which a spouse has a legal or equitable interest which is claimed to be excluded from marital property:

<i>Item Number</i>	<i>Description of Property</i>	<i>Reasons for Exclusion</i>
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**PROPERTY TRANSFERRED**

<i>Item Number</i>	<i>Description of Property</i>	<i>Names of All Creditors</i>	<i>Names of All Debtors</i>
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**LIABILITIES**

<i>Item Number</i>	<i>Description of Property</i>	<i>Names of All Creditors</i>	<i>Names of All Debtors</i>
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**ACTIONS FOR WRONGFUL DEATH**

**Rule 2206. Settlement, Compromise, Discontinuance and Judgment**

(a) All petitions for the compromise, discontinuance or settlement of wrongful death claims in which a minor or incapacitated person has an interest shall be submitted for approval to:

- (1) The assigned judge, where there is a civil action pending; or
- (2) A judge of the Orphans' Court Division where there is no civil action pending.
- (b) The petition and Order approving the petition in pending actions shall be filed with the Prothonotary and certified copies of the same shall be filed with the Register of Wills in the name of the minor or incapacitated person.

(c) The petition and Order approving the petition where there is no pending action shall be filed with the Register of Wills in the name of the minor or incapacitated person.

[Pa.B. Doc. No. 04-1434. Filed for public inspection August 6, 2004. 9:00 a.m.]

**FAYETTE COUNTY**

**Local Rules 3.7 and 3.8; Orphans' Division No. 602 of 2004**

**Order**

And Now, this 22nd day of July, 2004, pursuant to Rule 1.2 the Pennsylvania Orphans' Court Rules, it is hereby ordered that Local Rule 3.7 is rescinded and Local Rule 3.8 is amended to read as follows.

The Clerk of the Orphans' Court is directed as follows:

- (1) Seven certified copies of the Local Rules shall be filed with the Administrative Office of Pennsylvania Courts.
- (2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- (3) One certified copy shall be sent to the Fayette County Law Library and to the Editor of the *Fayette Legal Journal*.

This Local Rule shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

CONRAD B. CAPUZZI,  
*President Judge*

**Rule 3.8 Motions Court Procedure**

(a) In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the *Fayette County Legal Journal*.

(b) All applications for Court action, including motions, petitions, and any other applications shall be presented to the Court by following this Motions Court procedure.

(c) As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine," presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while "routine" motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument.

(d) All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

(e) All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party's attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers

of the persons served. The Certificate of Service shall be substantially in the following form:

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

1. Service by certified mail, return receipt requested: (Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone Number \_\_\_\_\_ Address \_\_\_\_\_

2. Service by facsimile at FAX number \_\_\_\_\_: (Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone number \_\_\_\_\_ Address \_\_\_\_\_

3. Service in person: (Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone number \_\_\_\_\_ Address \_\_\_\_\_

Date: \_\_\_\_\_ Signature \_\_\_\_\_

(f) All motions shall be accompanied by a Certificate of Presentation as set forth in O.C.R. 3.8(m).

(g) All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on a Certificate of Presentation.

(h) The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate office before presentment in Motions Court. An original proposed order, a copy of the Certificate of Presentation, motion and Certificate of Service, assembled in that order, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two (2) business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(i) All priority motions pertaining to matters already ruled on by a Judge shall be presented to that Judge in Motions Court, except in emergencies as set forth in paragraph (h) of this Rule immediately above.

(j) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

(k) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(l) Failure to accurately provide the information required by paragraph (m) below may result in the matter not being listed for Motions Court.

(m) The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

:  
:  
:  
:  
:  
: NO. \_\_\_\_ OF \_\_\_\_

CERTIFICATE OF PRESENTATION

1. The undersigned, \_\_\_\_\_, represents \_\_\_\_\_, the moving party herein.

2. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ at 9:00 o'clock A.M.

3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)

4. Judge \_\_\_\_\_ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)

5. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_.

6. Estimated time for hearing or argument to resolve the motion on its merits: \_\_\_\_\_.

Respectfully submitted,

Date: \_\_\_\_\_

[Pa.B. Doc. No. 04-1435. Filed for public inspection August 6, 2004, 9:00 a.m.]

LEHIGH COUNTY

Administrative Order; Amendments and Deletions to the Rules of Civil Procedure; No. 2004-J-51

Order

Now, this 20th day of July, 2004, *It Is Ordered* that the following Lehigh County Rules of Civil Procedure are amended as follows:

1. Local Rules 105, 205.2, 210, 211, 212.1, 290, 430, 1303.2, and 1534 are amended to read as follows, and

2. Local Rules 205.2(a), 206.1(a), 206.4(c), 208.2(c), 208.2(d), 208.2(e), 208.3(a), 208.3(b), 229, 1028(c), 1034(a), and 1035.2(a) are promulgated to read as follows, and

3. Local Rules 205.1, 205.2(b), 229.2, 1507, 1521, and 1530 are deleted as follows.

4. Pursuant to Pa.R.C.P. 239(c) and 239.8(b)—(d) (as amended June 30, 2004), the following Local Rules shall be disseminated and published as follows:

(a) Seven certified copies of the Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

(b) Two certified copies of the Local Rules and a computer diskette containing the text of the Local Rules in MS-DOS, ASCII, Microsoft Word, or WordPerfect format and labeled with the court's name and address and computer file name shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) One certified copy of the Local Rules and a computer diskette containing the text of the Local Rules in MS-DOS, ASCII, Microsoft Word, or WordPerfect format and labeled with the court's name and address and computer file name shall be filed with the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of the Pennsylvania Courts (AOPC) for publication on the AOPC web site;

(d) The Local Rules shall be kept continuously available for public inspection and copying in the office of the



Clerk of Courts, Civil Division, and upon request and payment of reasonable costs of reproduction and/or mailing the Clerk of Courts shall furnish to any person a copy of the requested Local Rule(s);

(e) A computer diskette containing the text of the following Local Rules in either MS/DOS, ACSII, Microsoft Word or WordPerfect format and labeled with the court's name and address and computer file name shall be distributed to The Bar Association of Lehigh County;

(f) The Local Rules shall be published on the web site of Lehigh County Pennsylvania Court of Common Pleas (<http://www.lccpa.org/>) and the web site of the Administrative Office of the Pennsylvania Courts (<http://ujportal.pacourts.us/>);

5. The following amendments and deletions to Local Rules 105, 205.2, 205.2(b), 211, 212.1, 229.2, 290, 430, 1303.2, 1507, 1521, 1530, and 1534 shall become effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin* as per Pa.R.C.P. 129(d); and

6. The following amendments and deletions to Local Rules 205.2(a), 206.1(a), 206.4(c), 208.2(c), 208.2(d), 208.2(e), 208.3(a), 208.3(b), 210, 1028(c), 1034(a) and 1035.2(a) shall become effective upon publication on the web site of the Administrative Office of the Pennsylvania Courts pursuant to Pa.R.C.P. 239.8(d).

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

#### **Rule 105. Bonds and Surety.**

(1) When a bond with approved security is required, the surety shall be a certified surety company in accordance with a list thereof filed in the office of the clerk of courts, or in lieu thereof, a certified check, bank money order payable to Lehigh County Clerk of Courts, or a deposit of cash.

(2) No attorney or other person officially connected with or concerned with the business of the court shall become bail or surety or post bond for any person in any proceeding, except with prior written approval of the court.

(3) Where cash is deposited in lieu of approved surety, the party required to post bond shall execute his personal bond in appropriate form stating the terms and conditions under which such cash deposit is made; provided, however, that this rule shall have no application to the posting of cash bail in criminal cases.

(4) Except in the cases of appeals from proceedings before the minor judiciary, any party filing a bond shall immediately serve a copy thereof upon the adverse party or his attorney.

(5) In all cases the form of the bond and the surety thereon shall be subject to review by the court upon the filing of a petition stating specifically the objections thereto, together with notice to the adverse party or his attorney in accordance with Leh.R.C.P. 206.1.

#### **Rule 205.1. Size of Paper.**

~~No paper or other document may be filed with the Court on any paper other than paper approximately 8 1/2" by 11" in size.~~

#### **Rule 205.2. Court Records.**

(1) Records. Filing. Docket Entries.

(i) The Clerk of Courts shall be responsible for maintaining systems for the filing of documents and shall

make appropriate entries in dockets maintained for that purpose. Documents filed shall be endorsed with the day and exact time of filing, which endorsement, in the absence of fraud, accident or mistake, shall be conclusive evidence of such date and time of filing.

(ii) The entry of a full or partial satisfaction and of the discontinuance, settlement, or termination of an action may be made by the Clerk of Courts upon praecipe of a party, the attorney of record for the party, or a duly authorized agent of the party, and such entry shall be attested by the Clerk of Courts.

(iii) Except as set forth in this rule, no person other than the Clerk of Courts or a duly appointed and sworn Deputy Clerk shall be permitted to make any entry on the court dockets.

#### (2) Removal of Court Records

(i) Except as hereinafter provided, no record, exhibit or document shall be taken from the office of the Clerk of Courts without a written order signed by one of the judges of the court and requiring the return of such record, exhibit or document within a specified time; provided, however, that under no circumstances shall a bond or recognizance be removed while the same continues in force and effect. In cases where the court authorizes the removal of records, exhibits or documents, the Clerk of Courts shall take a written receipt for the records, exhibits or documents removed and shall cause the same to be filed with the record papers in the case, which receipt shall be cancelled upon return of the records, exhibits or documents removed.

(ii) In cases pending in this court or in proceedings held before duly authorized officers of the court, the Clerk of Courts may deliver record papers or dockets to an appropriate officer of the court, accepting in return such officer's written receipt which shall be noted and filed as hereinbefore set forth.

#### **Rule 205.2(a) Requirements Governing Content of Pleadings.**

(1) All documents submitted to the clerk of courts for filing shall be on paper approximately 8-1/2" x 11" in size.

(2) All documents submitted to the clerk of courts for filing shall contain the following:

(i) the correct caption of the case, including the names of the parties, the docket number, the division of the court, and the name of the assigned judge, if any;

(ii) a title indicating the nature of the document;

(iii) the name, address, telephone number, fax number and Supreme Court identification number of the attorney filing the document;

(iv) if the party filing the document is not an attorney, the name, address, telephone number of such party.

#### **Rule 205.2(b)**

~~(1) Motions to withdraw as counsel shall contain a cover sheet in the form set forth as Appendix 1 to these Rules.~~

#### **Rule 206.1 (a) Petitions**

(1) A petition to open a default judgment or a judgment of non-pros shall be governed by Pa.R.C.P. 206.1 et seq.

(2) A petition to open and/or strike a judgment shall be governed by Pa.R.C.P. 2959 et seq.

(3) A petition to compromise, settle, or discontinue an action in which a minor has an interest under Pa.R.C.P. 2039 shall be prepared and filed pursuant to Lehigh R.C.P. 2039.

(4) A petition to compromise, settle, or discontinue an action in which an incapacitated person has an interest under Pa.R.C.P. 2064 shall be prepared and filed pursuant to Lehigh R.C.P. 2064.

(5) A petition to settle, compromise, or discontinue a wrongful death or survival action in which a minor or incapacitated person has an interest under Pa.R.C.P. 2206 shall be prepared and filed pursuant to Lehigh R.C.P. 2206.

(6) Except as otherwise provided by the Pennsylvania Rules of Civil Procedure or by statute, all other applications for relief shall be in the form of a motion and shall be governed by Lehigh R.C.P. 208(a) or (b).

Note: All Lehigh County Rules of Civil Procedure may be found on the website for the Lehigh County Court of Common Pleas, <http://www.lccpa.org>.

**Rule 206.4 (c) Rule to Show Cause**

(1) All petitions shall be filed with clerk of courts, and a copy thereof shall be delivered to the court administrator's office together with an unattached form of order as set forth in Pa. R.C.P. 206.5. If the petition is uncontested, the petition shall contain a certification to that effect.

(2) The assigned judge will address the petition and proposed rule to show cause. If the petition states prima facie grounds for relief, the assigned judge shall issue a rule to show cause and may grant a stay of proceedings. The assigned judge will determine the return date for the rule as well as the deadlines for completion of depositions, for an evidentiary hearing, or for argument, as the judge shall deem appropriate.

(3) The clerk of courts shall be responsible for service of the petition and rule to show cause on all parties.

(4) After being served with a copy of the petition and rule to show cause, the respondent shall file an answer on or before the return date fixed in the rule.

(5) All answers to petitions shall be filed with the clerk of courts, and a copy thereof shall be delivered to the court administrator's office.

**Rule 208.2 (c) Content of Motions**

(1) All motions shall identify any statute, caselaw, and/or procedural rules relied upon to justify the relief requested.

**Rule 208.2 (d) Uncontested Motions**

(1) An uncontested motion shall be accompanied by a certification of counsel that the motion is uncontested.

**Rule 208.2 (e) Discovery Motions**

(1) A motion relating to discovery must aver (i) that counsel for the movant or petitioner has conferred with opposing counsel and all unrepresented parties with respect to each matter set forth in the motion and has made a good faith effort to resolve the parties' differences, but has been unable to do so; or (ii) that counsel has made a good faith effort to confer, but has been unable to do so.

**Rule 208.3 (a) Procedures for the Disposition of Certain Motions**

(1) The following motions shall be governed by Pa.R.C.P. 208.3(a):

- (i) Motions certified as uncontested
- (ii) Motions for continuance
- (iii) Motions to extend time for discovery
- (iv) Motions to withdraw as counsel
- (v) Motions for special service
- (vi) Motions to compel discovery
- (vii) Motions regarding subpoenas, attendance and testifying based upon Pa.R.C.P. 234.1-239.9.
- (viii) Motions to reassess damages in mortgage foreclosure actions
- (ix) Emergency motions

(2) Motions shall be filed with the clerk of courts and a copy thereof, along with the original proposed order which would grant the relief requested, shall be delivered to the court administrator's office for transmittal to the assigned judge.

(3) Service of all motions shall be made and a certification of service filed in accordance with Rule 208.3(b)(3) hereinbelow. A motion to withdraw as counsel shall be served upon the movant's client as well as upon all counsel of record and any unrepresented parties.

(4) Notwithstanding the foregoing, motions for continuance may be presented directly to the assigned judge on the continuance form available from the court administrator's office. Such motions may be submitted directly to the assigned judge's chambers by hand delivery, by mail, or by facsimile transmission. Prior to submitting any such motion, the movant or his/her counsel shall confer with all counsel of record and any unrepresented parties to determine their position with respect to the continuance request, and shall indicate their position in the motion.

Note: Motions for continuances of arbitration cases shall be made pursuant to Lehigh R.C.P. 1303.1

(5) Unless the motion is certified as uncontested, the assigned judge shall provide an opportunity for argument either orally in open court, by written briefs, or by telephone conference, as the judge shall direct by written notice to all parties.

(6) In lieu of the procedures set forth in subparagraphs (2) through (4) of this rule, any motion governed by Pa.R.C.P. 208.3(a) may be presented in open court to the judge assigned to the case at this judge's weekly motion court. The movant shall give all counsel of record and all unrepresented parties not less than five days advance written notice of the date, time and place of the intended presentation of the motion, together with a complete copy of the motion. If the movant is unable to comply with this notice requirement because of an emergency, the movant shall have made a good-faith effort to notify all opposing counsel of record and all unrepresented parties as soon as possible of the intended presentation of the motion, and shall describe those efforts in the motion. This notice requirement may be waived with the consent of all interested parties, or it may be waived or modified by the court in emergency situations.

Note: The schedule of each judge's weekly motion court can be ascertained by contacting the court administrator's office (610-782-3014) or the assigned judge's chambers.

(7) Emergency motions. Motions that are certified as being emergent in nature, and setting forth the nature of the emergency, shall be filed with the clerk of courts and delivered to the judge assigned to the case, if any. If the assigned judge is not available, or if no judge has been

assigned, the motion shall be delivered to the court administrator's office for referral to another judge for scheduling and disposition.

**Rule 208.3 (b) Procedures for the Disposition of All Other Motions**

(1) All motions other than those governed by Pa.R.C.P. 208.3(a) shall be governed by the procedures set forth in this rule.

(2) Motions subject to this rule shall be filed with the Clerk of Courts, Civil Division, and shall be accompanied by a supporting brief. A copy of same, along with the original of the proposed form of order, shall be delivered to the court administrator's office for transmittal to the assigned judge.

(3) Immediately after filing a motion, the party filing the same shall serve a complete copy upon all other counsel of record and all unrepresented parties, in accordance with Pa.R.C.P. 440 (relating to service of legal papers other than original process). Within five days of the filing of the motion, the party filing the same shall file a certification of service, certifying that proper service has been made. The court in its discretion may strike, dismiss or deny any motion for failure to comply with the service and certification requirements of this rule.

(4) Any party opposing the motion shall file a response along with a supporting brief, within twenty (20) days after service of the motion. A copy thereof shall be delivered to the court administrator's office for transmittal to the assigned judge. If a response is not filed as provided above, the court may treat the motion as uncontested.

(5) If the movant does not file a supporting brief, the non-moving party need not do so, and the court may consider the movant to have abandoned the request for relief.

(6) If any motion governed by this rule requires emergency action by the court, the moving party shall indicate same in the title of the motion and shall follow either procedure set forth herein:

(i) Movant may present, with five (5) days written notice to all parties, the motion to the judge at his/her civil motion day; or

(ii) Movant may proceed as set forth in subparagraph (2) of this rule. The assigned judge, or such judge as is available, shall upon receipt of such motion from the court administrator's office, handle the motion as he/she determines appropriate.

**Rule 210 Form of Briefs.**

(1) Each brief shall contain (1) a history of the case, (2) a statement of the pertinent facts, (3) a statement of the questions involved, and (4) the argument.

(2) The argument shall be divided into as many parts as there are questions involved. Citations to opinions of an appellate court of this or another jurisdiction shall be to the official reports of that court.

**Rule 211. Oral Arguments**

(1) Any party who has failed to file a brief in accordance with applicable rules of court may be denied oral argument.

**Rule 212.1 Trial Dates, Discovery Deadlines, Pre-trial Statements**

(1) The requirements of Pa.R.C.P. 212.1 and 212.2 shall apply to civil actions to be tried non-jury.

(2) Notwithstanding the requirements of Pa.R.C.P. 212.1(b), in the event a pre-trial conference is scheduled, a pre-trial statement shall be filed by all parties, and a copy delivered to chambers of the assigned judge, not later than five (5) days prior to the pre-trial conference.

**Rule 229 Discontinuance**

(1) 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's office for transmittal to the assigned judge.

**Rule 229.2 Termination of Inactive Civil Cases**

(a) ~~The clerk of courts shall prepare for call on the first Monday of October of each year or on such other date as the court by special order may direct a list containing all civil matters in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to counsel of record and to those parties for whom no appearance has been entered as required by Pa.R.J.A. No. 1901(c). If no compelling reason for delay in prosecution of the matter is shown at the call of the list, the court may issue an order dismissing such civil matter.~~

**Rule 290. Eminent Domain.**

(1) Petition for the appointment of viewers.

(i) The petition shall be filed with the clerk of courts, civil division.

(ii) Three copies of the petition and one proposed order to appoint the viewers shall be delivered to the court administrator's office for transmittal to the court and to the appointed viewers.

(iii) The initial petition presented to the court in any eminent domain proceeding shall cite the statute under which the petition is filed.

(2) Viewers shall be sworn to discharge the duties of their appointment as viewers with impartiality and fidelity according to the best of their learning and ability, upon their initial appointment to the board of view, and thereafter need not be sworn in any proceeding referred to them.

(3) A hearing shall be held at the time fixed by the viewers, and the witnesses shall be directed by the viewers or by the attorneys to appear at a time certain.

(4) Stenographic records of hearings will not be made except in unusual cases where, for good cause shown, the court has ordered the testimony to be taken stenographically or electronically.

**Rule 430 Service by Publication**

(1) Every motion for a special order directing the method of service pursuant to Pa. R.C.P. 430 shall be accompanied by a cover sheet in the form set forth as Appendix 2 of these rules.

(2) The *Lehigh Law Journal* shall be the legal periodical for the publication of all notices.

**Rule 1028 (c). Preliminary Objections.**

(1) Preliminary objections shall be filed with the clerk of courts, served upon the adverse parties or their counsel, and a time-stamped copy thereof shall be delivered to the court administrator's office for delivery to the assigned judge.

(2) Preliminary objections must be accompanied by a brief in support thereof unless factual issues are raised, in which case the procedure set forth in (4) shall be

followed. Failure to file a brief may result in automatic dismissal of the preliminary objections.

(3) Within twenty (20) days after service of the preliminary objections, the adverse parties or their counsel shall file an amended pleading or a responsive brief with the clerk of courts, serve same upon the opposing parties or counsel, and deliver a copy to the court administrator's office for delivery to the assigned judge.

(4) Preliminary Objections raising factual issues

(i) Preliminary objections which assert facts not otherwise of record, including but not limited to, an objection under Pa. R.C.P. 1028 (a) (1), (5), or (6) shall be endorsed with a notice to plead pursuant to Pa. R.C.P. 1361. Such preliminary objections shall state specifically in underlined capital letters: THESE PRELIMINARY OBJECTIONS ASSERT FACTS NOT OTHERWISE OF RECORD.

(ii) Any response thereto shall be filed with the clerk of courts, and a time-stamped copy delivered to the court administrator's office. If an answer is filed and served, the moving party or any other party wishing to do so, shall supplement the record with the necessary facts by affidavit or deposition within thirty (30) days from the filing of the answer, unless a hearing is required by the court.

(iii) Within fourteen (14) days from the completion of the supplementation of the record, whether by the adverse party's failure to file an answer to the preliminary objections or by affidavit, deposition, or hearing the moving party shall file a brief in accordance with these rules. The opposing party shall file its brief within fourteen (14) days thereafter.

**Rule 1034 (a). Motion for Judgment on the Pleadings.**

(1) A motion for judgment on the pleadings shall be filed with the Clerk of Courts, Civil Division, and shall be accompanied by a supporting brief. A Copy of the motion and brief shall be delivered to the court administrator's office for transmittal to the assigned judge.

(2) Any party opposing the motion shall file a response along with a supporting brief, within twenty (20) days after service of the motion. If a response is not filed as provided above, the court may treat the motion as uncontested.

(3) If movant does not file a supporting brief, the non-moving party need not do so, and the court may consider the movant to have abandoned the request for relief.

(4) After a response to the motion is filed or after the response period has elapsed, the assigned judge may schedule the motion for oral argument. If so, written notice of the argument date will be given to counsel for the parties and to any unrepresented parties.

**Rule 1035.2 (a) Motion for Summary Judgment**

(1) A motion for summary judgment shall be filed with the clerk of courts, and shall be accompanied by a supporting brief. A copy of the motion and brief shall be delivered to the court administrator's office for transmittal to the assigned judge.

(2) Any party opposing the motion shall file a response along with a supporting brief, within thirty (30) days after service of the motion. If a response is not filed as provided above, the court may treat the motion as uncontested.

(3) If movant does not file a supporting brief, the non-moving party need not do so, and the court may consider the movant to have abandoned the request for relief.

(4) After a response to the motion is filed or after the response period has elapsed, the assigned judge may schedule the motion for oral argument. If so, written notice of the argument date will be given to counsel for the parties and to any unrepresented parties.

**Rule 1303.2. Scheduling of Arbitration Hearing: Notice.**

(1) A matter subject to compulsory arbitration shall be listed for hearing by (1) praecipe of any party when the pleadings are closed or the time for filing pleadings has ended, and there are not any outstanding motions requiring disposition by the court, or by (2) the court administrator under circumstances hereafter described.

(2) By Praecipe of Any Party

A party may, following compliance with the discovery notice herein required, request that a matter be scheduled for arbitration by using forms provided by the clerk of courts, civil division for such purpose.

(i) A party shall not praecipe a case for arbitration until the party has served upon opposing counsel and any unrepresented parties a notice of intent to request arbitration. Within twenty (20) days after the date of the notice, a party desiring any additional discovery shall notify other counsel and unrepresented parties of the scope and nature of such additional discovery. Discovery must be completed within 120 days from the giving of notice to pursue additional discovery.

(ii) If no discovery request is sent within twenty (20) days after the date of the notice of intent to arbitrate, a party may praecipe the case for arbitration by filing same with clerk of courts.

(iii) If a discovery request is made, a party may praecipe the case for arbitration upon completion of discovery or the expiration of 120 days from the giving of the notice to pursue discovery, whichever comes first, unless the time for discovery is extended by the court.

(iv) A party shall not be required to serve notice of intent to request arbitration if the matter has been pending for a period one (1) year or more.

(v) Notwithstanding the foregoing, discovery in cases involving district justice appeals shall be completed within sixty (60) days from the filing of the appeal.

(3) As Set by the Court Administrator

The court administrator may schedule matters for arbitration under the following circumstances:

(i) All matters that are appeals from a district justice decision may be scheduled for arbitration hearing sixty (60) days after the appeal is taken, unless there are outstanding pleadings, motions, petitions, or other matters that require court disposition. The parties to a district justice appeal shall file pleadings and complete discovery within sixty (60) days of the date of the appeal.

(ii) All other matters which are subject to compulsory arbitration may be scheduled for arbitration hearing no later than one (1) year after the commencement of the action, unless there are outstanding motions, petitions, or other matters that require court disposition. The parties to an action which is subject to compulsory arbitration shall file all pleadings and complete all discovery within six (6) months of the date of the commencement of the

action, unless the time for completion of discovery has been extended by the court upon motion of any party.

(4) In the event one or more parties do not appear for the scheduled arbitration, the remaining parties may consent to having the judge assigned to monitor the case hear the matter on the same date as the scheduled arbitration hearing. It shall be discretionary with the judge whether to hear the case as requested.

(5) The filing of dispositive motions within thirty (30) days of the scheduled arbitration hearing shall not be grounds for continuance of the hearing unless good cause is shown.

**Rule 1507. Action in Equity. Notice by Publication.**

When notice by publication is given under Pa.R.C.P. 1507, the advertisement shall contain the caption of the action, a statement that an action in equity has been commenced by the named plaintiff against the named defendant concerning the subject matter briefly described, and a statement that the named person, if the name is known, or all persons interested in the subject matter, are required to appear in the action or a default decree may be entered which will affect their interests.

**Rule 1521. Action in Equity. Indexing of Decree.**

Decrees, nisi or final, shall also be entered on the ejectment and miscellaneous index of the court.

**Rule 1530. Action in Equity. Accounting.**

(a) When the court has entered a final order directing one party to account to another, the party directed to account shall state the account and file a written statement thereof in the office of the clerk of courts within thirty (30) days after notice of the entry of said order of court, unless the court shall for cause shown allow a longer time.

(b) The statement of account shall be signed and verified by the accountant, and it shall contain the following:

- (1) The dates and sources of all items of debit;
- (2) The dates and descriptions of all items of credit, including the names of all persons to whom disbursements were made and the purposes thereof;
- (3) A recapitulation showing the total debits, the total credits, and the balance remaining;

(c) Upon filing the account, the accountant shall forthwith serve a copy thereof upon all other parties in the same manner in which a pleading may be served under Pa.R.C.P. 440.

(d) Upon the filing of exceptions, the court may refer the exceptions to an auditor that the court may appoint or may direct that the exceptions be disposed of by placing same on an argument or hearing list.

(e) If the party directed to file an account shall fail to do so within thirty (30) days or such longer period as the court may fix, the court may, on petition of any other party, find that the party directed to file an account is in contempt of court, and/or appoint an auditor to state the account upon the basis of such evidence as may be submitted to the auditor.

(f) If an auditor is appointed pursuant to subparagraph (d) or (e) of this rule, the following procedures shall govern:

(1) The auditor shall give two weeks notice in writing to the parties or their attorneys of record of the time and place fixed for hearing the matter.

(2) Testimony taken by the auditor at the hearing shall be recorded stenographically. The notes of the testimony shall not be transcribed unless exceptions are filed to the auditor's report.

(3) Within forty-five days after the conclusion of the hearing the auditor shall file a written report which insofar as it is practicable shall contain (i) a history of the proceedings before the auditor, (ii) findings of fact, numbered consecutively, (iii) a concise discussion of the evidence presented and the legal issues involved, (iv) conclusions of law, numbered consecutively, and (v) a statement of the account.

(4) Upon filing of the report the auditor shall serve a copy of the same on the parties in accordance with Pa.R.C.P. 440.

(5) Exceptions to the report of the auditor may be filed by any party within twenty (20) days after service of the auditor's report. If timely exceptions are filed, the court shall schedule and hear argument on same and shall enter such order or judgment as may be appropriate. If timely exceptions are not filed, the court shall enter judgment for the amount, if any, determined by the auditor to be due.

(6) The court shall determine the compensation and reimbursement for expenses to be allowed the auditor and stenographer, and shall direct that such items be taxed in whole or in part against the fund available for distribution or against any party or parties to the action as may be just and equitable in the circumstances. Upon the appointment of an auditor the moving party shall promptly deposit with the clerk of courts the sum of \$250.00 for the compensation and expenses of the auditor and stenographer, and the moving party shall deposit such additional sums for such purpose as the court may from time to time direct. Any sum so deposited which is not required for such purposes shall be refunded to the moving party upon the entry of the final order or decree.

**Rule 1534. Accounting by Fiduciaries.**

(1) When a receiver, assignee or other fiduciary files an account, notice shall be given of the intention to apply for confirmation thereof not less than twenty (20) days in advance of such application.

(2) Notice to all parties in interest shall be given by certified mail unless the court otherwise directs and proof of service shall be filed with the application for confirmation.

[Pa.B. Doc. No. 04-1436. Filed for public inspection August 6, 2004, 9:00 a.m.]

**MERCER COUNTY**

**Revision and Restatement of the Local Civil Rules;  
No. 2004-2375**

**Order**

And Now, this 19th day of July, 2004, the court hereby Approves, Adopts and Promulgates the Revision and Restatement of the Local Civil Rules of the Court of Common Pleas of Mercer County, effective thirty (30) days after the date of publication of these Rules in the *Pennsylvania Bulletin*; provided, however, the portion of the Local Rules governing motion practice will be considered published and effective when they appear on the AOPC web site pursuant to Pa. R.C.P. 239 and 239.8, said

date of publication believed to be July 26, 2004. In any event, they shall be effective no later than thirty (30) days following the date of publication thereof in the *Pennsylvania Bulletin* pursuant to Pa. R.C.P. 239(d).

When effective, these Local Rules of Civil Procedure supercede all prior Local Rules of Civil Procedure, which are hereby repealed.

It is also *Ordered and Directed* the Court Administrator of Mercer County, in accordance with Pa. Rule of Civil Procedure 239, shall file seven (7) certified copies of these Rules with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, file one certified copy with the Civil Procedural Rules Committee and file one copy with the Domestic Relations Procedural Rules Committee.

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

A copy of these Revised and Restated Rules shall be published in the *Mercer County Law Journal*.

*By the Court*

FRANCIS J. FORNELLI,  
President Judge

**Local Rules of the Court of Common Pleas of  
Mercer County, 35th Judicial District  
Supplementing the Rules of Civil Procedure  
Promulgated by the Supreme Court of  
Pennsylvania**

Local Rules Committee:

Peter C. Acker, Esq., Chairman

Judges of the Court of Common Pleas of Mercer County,  
35th Judicial District

Honorable Francis J. Fornelli, President Judge

Honorable Thomas R. Dobson, Judge

Honorable John C. Reed, Judge

Honorable Christopher J. St. John

**PREFACE**

The Rules of the Court of Common Pleas of Mercer County, 35th Judicial District, are intended to supplement the Rules of Civil Procedure promulgated by the Supreme Court of Pennsylvania. The latter's system of numbering has been preserved. Each local rule dealing with the same subject matter as one of the Rules of Civil Procedure has been given the same number. All local rules are preceded by the letter "L" to indicate their local character. All local rules must be read in connection with the Rules of Civil Procedure bearing the same numbers.

**RULES OF CIVIL PROCEDURE**

**BUSINESS OF COURTS**

**Rule L200 Attorneys**

(a) During the month of January of each year, the secretary of the Bar Association shall certify to the Prothonotary, the recorder of deeds, the register of wills, and the clerk of the Orphans' Court Division, any change in the members of the Mercer County Bar. Each of these officers shall retain a register of such list in his offices.

(b) One-tenth of all arbitrators' and auditors' fees and \$27.50 of each master's fee shall be deducted there from by the Prothonotary, clerk of courts or other officer and

paid over to the treasurer of the Mercer County Bar Association. The funds from this source shall be used by said treasurer to pay the dues of the members of the Mercer County Bar Association in the Pennsylvania Bar Association. The surplus, if any, remaining after the payment of said dues to the Pennsylvania Bar Association shall be used for the general purposes of the Mercer County Bar Association.

(c) No attorney shall be admitted as surety in any action pending in court and the Prothonotary shall not accept any bond or surety unless by leave of court for special cause shown.

**Rule L205.2(a) Filing Legal Papers with the Prothonotary**

All pleadings and other legal papers filed with the Prothonotary shall be prepared for flat filing on paper 8 1/2" x 11" in size and be bound by staples or similar binding.

**Rule L205.2(b) Cover Sheet**

All pleadings and other legal papers filed with the Prothonotary shall contain on the face sheet the following information: designation of the Court, date of filing, file number, caption, title of pleading, notice to plead or other form of notice, certification where applicable, and name, address, Supreme Court number, and telephone number of the attorney or law firm filing the pleading upon whom papers may be served.

**Rule L206.1(a) Petition. Definition. Content. Form.**

"Petition," as used in this chapter, shall mean an application for relief other than a motion including:

(1) an application to open a default judgment or a judgment of non pros;

(2) a request for special relief, unless the request seeks an expedited hearing date, a stay, or interim pre-hearing relief;

(3) a petition for civil contempt, except in a support or custody action;

(4) a motion for delay damages; and

(5) a petition for relief from a judgment by confession;

**Rule L206.4(c) Rule to Show Cause. Alternative Procedures**

(1) A petition seeking only the issuance of a rule to show cause shall be presented to the Court Administrator. No advance notice of the presentation need be given to any party. The Court Administrator shall transmit the petition to a Judge for disposition. It shall then be transmitted promptly to the Prothonotary for filing.

(2) A rule to show cause shall be issued by the Court as of course upon petition, pursuant to Pa.R.C.P. 206.6. The rule shall direct that an answer be filed to the petition within (20) days after service of the petition on the respondent. The Court may, in appropriate circumstances, direct that an answer be filed within a shorter period of time, or dispense with the necessity of filing an answer altogether. Every petition shall have attached to it a proposed order, providing for an evidentiary hearing. The Court on its own motion or upon request of a party may require a case to be submitted on the basis of the pleadings, depositions and/or oral argument instead of an evidentiary hearing.

(3) The petitioner shall attach to the petition a proposed order substantially in the following form:

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

Plaintiff(s) :  
 :  
 vs. :  
 : NO. \_\_\_\_\_—2004  
 Defendant(s) :

ORDER

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the foregoing petition, it is hereby ordered and decreed that

- (1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) the petition shall be decided under Pa.R.C.P. 206.7;
- (4) depositions shall be completed within \_\_\_\_\_ days of this date;
- (5) a hearing shall be held on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_ in Courtroom \_\_\_\_\_ of the Mercer County Courthouse at \_\_\_\_\_ a.m./p.m.;
- (6) notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

\_\_\_\_\_  
 \_\_\_\_\_ J.

**Rule L208.2(c) Motion. Statement of Applicable Authority.**

A motion shall include a brief statement of the applicable authority for the relief requested.

**Rule L208.2(d) Uncontested Motions**

If the moving party intends to present the motion as uncontested, the motion shall include a written consent by opposing counsel and unrepresented parties; or the motion shall include a certification that the moving party has contacted opposing counsel and unrepresented parties and that opposing counsel and unrepresented parties do not contest the motion.

**Rule L208.2(e) Motions Relating to Discovery**

Any motion relating to discovery shall include a certification by the moving party that the moving party has conferred or attempted to confer with opposing counsel and unrepresented parties having an interest in the motion in order to resolve the matter without court action.

**Rule L208.3(a) Motion Procedures**

(1) Motions will be scheduled, argued, and decided at Motions Court or Argument Court as set forth herein:

- (a) By the filing of a scheduling praecipe in accordance with the procedure set forth in this Rule.
- (b) At Motions Court, in accordance with the procedure specified in subparagraph (2) of this Rule, if the motion is of the type permitted to be presented at Motions Court; or at Argument Court or otherwise by praecipe as set forth in paragraph (4) of this Rule.

(c) In the case of a motion for preliminary injunction or similar motions which require immediate date certain scheduling, by presentation to the Office of the Court Administrator for referral to a Judge.

(d) In the case of motions which are permitted to be presented ex parte, without prior notice of presentation

and opportunity to be heard, pursuant to provisions of subparagraph (3) of this rule, by presentation to the Office of the Court Administrator for referral to a Judge.

(2) Motions Court

(a) Motions Court will be held every Monday from 9:00 a.m. until 10:30 a.m. as reflected in the court calendar.

(b) Matters to be placed on Motions Court must be filed no later than 4:30 p.m. of the preceding Thursday with the Court Administrator.

(c) All matters submitted for Motions Court must have a scheduling order attached; and a certification that notice of the hearing has been given to opposing counsel or the opposing party and set forth the manner of the notice given.

(d) Motions Court will usually deal only with those matters which can be disposed of within 15 minutes.

(e) The Court Administrator shall have the right to place any matter submitted on any available Motions Court.

(3) Ex parte orders in adversary proceedings

(a) Ex Parte Motions to the court in an adversary proceeding will not be considered without prior notice of presentation to all parties with the opportunity to be heard, except in the following cases:

(1) Motions for relief which are routinely granted as of course, on a presumption of assent, such as motions for appointment of legal counsel and guardians ad litem, and the like.

(2) Motions affecting the issuance of service of initial papers upon another who is not yet subject to the jurisdiction of the court, such as applications for substituted service, extensions of time, and the like.

(3) Motions for preliminary orders granting or scheduling a hearing thereon, or directing process or notice to bring the opponent before the court to answer.

(4) Motions for stay orders in license suspension appeals.

(5) Cases in which the adverse party has waived the opportunity to be heard or has consented to the requested action.

(6) Cases in which there are special or compelling circumstances which the court finds justifies ex parte action.

(b) Prior notice of presentation of a motion to the court shall state the date, time and place of intended presentation and shall be accompanied by a copy of the motion and the proposed order.

(c) In cases where an ex parte order is made, a copy of the motion and order shall be served promptly on the opponent and on all other parties, who may file a prompt application for reconsideration of the order.

(d) In all cases where prior notice of presentation is required under statute or rule of court, the motion shall state that the requisite prior notice was given; the date, time and manner of giving notice. If the right to ex parte relief is based on the existence of special or compelling circumstances, the motion shall state such circumstances.

(4) Scheduling of Matters

(a) Argument Court

(1) Matters for Argument Court and all other matters to be scheduled by praecipe shall be scheduled by praecipe as set forth in subsection (b) below.

(2) Courts for hearing arguments shall be held on the first Monday of each month unless otherwise ordered by the court.

(3) The Prothonotary shall keep an argument docket wherein shall be set down all cases or matters requiring argument, special examination by the court, and the taking of testimony, except trials by jury and other matters specifically regulated by Act of Assembly.

(4) All cases for argument shall be placed on the argument docket at least thirty (30) days prior to the argument day by a praecipe as set forth in subsection (b) below.

(5) The praecipe to the Prothonotary shall include the name of opposing counsel, the precise nature of the matter requiring argument, and whether the matter listed requires the taking of testimony.

(6) The Court Administrator shall give notice to all counsel that the case has been placed on the argument list. Said notice shall contain the date upon which argument will be held, and the nature of the matter requiring argument. The argument list shall be published in the *Mercer County Law Journal* prior to Argument Court.

(b) Scheduling by Praecipe.

(1) Matters for Argument Court and all other matters to be scheduled by praecipe shall be scheduled by praecipe filed with the Prothonotary and shall be signed by counsel of record or an unrepresented party.

(2) The praecipe shall be served promptly on all other counsel and unrepresented parties in the case.

(3) Upon receipt of a scheduling praecipe any party may object as follows:

(a) If the objection is to an assertion in the praecipe of readiness of the case for disposition by the court, the objection shall be made promptly to the court in accordance with Motions Court practice with notice to other parties.

(b) If an objection relates to any other assertion in the praecipe, the objecting party shall promptly file a counter praecipe stating only the matter challenged.

(4) If a party files a scheduling praecipe, knowing that the matter is not ready for disposition by the court, or knowing that the matters certified to in the scheduling praecipe are not true, the court may impose sanctions on the offending party. Sanctions may include assessment of reasonable counsel fees incurred by other parties as the result of such conduct, prohibition of additional discovery, or other appropriate order.

(5) Form of Scheduling Praecipe: The praecipe shall identify the nature of the matter to be scheduled, all opposing counsel, and designate any Judge who has previously entered a ruling in the case.

(5) Preparation and Form of Orders and Decrees. Copies for Distribution.

(a) Unless otherwise directed by the court, decrees and orders requested by a party shall be drafted by the attorney at whose instance they are to be made, and shall be submitted to the court for approval.

(b) All proposed orders presented to the court shall list the names of all counsel of record and shall indicate the party represented by each.

(c) The proposed order and any accompanying documents shall be transmitted by the parties to the Court

Administrator for scheduling. The order and documents shall then be filed in the proper office.

**Rule L208.3(b) Motions Practice. Filing of Argument Court Briefs**

(1) When a moving party files a scheduling praecipe for Argument Court, the moving party's brief shall be filed with the Court Administrator at the time the scheduling praecipe is presented, and the moving party shall serve copies of the brief on opposing counsel and unrepresented parties. All other parties shall file with the Court Administrator a brief within fifteen (15) days after service.

(2) When a non-moving party files a scheduling praecipe, the moving party shall file with the Court Administrator and with all other parties a brief within fifteen (15) days after filing of the praecipe. All other parties shall file with the Court Administrator and all other parties a brief within ten (10) days of receipt of the moving party's brief.

(3) If a party's brief is not timely filed, the court may, in its discretion:

(a) Disregard any untimely brief;

(b) Refuse oral argument by the offending party;

(c) Consider the issues raised by the offending party to be waived;

(d) Order argument continued;

(e) Enter such other order as the interests of justice may require.

**Rule L210 Form of Briefs**

Briefs shall be in the form prescribed by Pennsylvania Rule of Civil Procedure 210, and shall consist of concise and summary statements, separately and distinctly titled, of the following items in the order listed:

(1) *Matter before the Court*: State the particular pleading (motion, petition, objection, exception, application, etc.) before the court for disposition, and the particular relief requested therein.

(2) *Statement of the question(s) involved*: State the issue(s) in question form containing factual context sufficient to present the precise matter to be decided by the Court; each susceptible of a yes or no answer; each followed by the answer advocated.

(3) *Facts*: State the material facts.

(4) *Argument*: State the reason(s) why the court should answer the questions involved as proposed, including proper citation of authorities.

**Rule L212 Pre-Trial Conference**

(a) All civil actions at law and in equity, both jury and non-jury, excluding those within the jurisdictional limits of compulsory arbitration and not appealed, and actions of divorce or annulment shall be pretried unless dispensed with by special order as unnecessary. No other civil action need be pretried unless required by special order of this court.

(b) Any and all admissions of fact or documents, amendments to pleadings, agreements of counsel and any other matters resolved or determined by the court at the pre-trial conference shall be made into an order by the court and made a part of the record.

(c) At the pre-trial conference, each counsel of record representing a party to the action shall present to the court, and serve a copy on all other counsel, a narrative statement of the facts that will be offered by oral or



documentary evidence at trial, and a statement of any unusual questions of law that may arise.

(d) Each person or corporation having an actual interest in the case—whether as a party, as the insurance carrier of a party, or otherwise—shall either be personally present at the pre-trial conference or shall there be represented by someone authorized to speak for him or it with respect to the trial of the case and its settlement.

(e) All unusual questions of law shall be presented to the pre-trial judge with a statement of the authority supporting the position of that party. If a party desires, he may present such questions in the absence of the opposing party and his counsel.

(f) Exhibits may be marked prior to trial by the court stenographer. It is recommended, although it is not required, that a list of exhibits, including a description of each, be given to the court and to the stenographer at the commencement of the trial.

(g) At the pre-trial conference, each party shall submit to the court and to opposing counsel the following:

(1) A list of the names and addresses of all witnesses that party proposes to call, classifying them as witnesses to liability or to damages. The listing of a witness by a party shall impose no obligation on the party to call the witness or to procure attendance at the trial.

(2) A copy of any plan or plot that party proposes to introduce into evidence.

(h) If a party, in the exercise of reasonable diligence, first becomes aware of the necessity or the desirability of using a witness or a plan or plot subsequent to the pre-trial conference, that party shall forthwith file the name, address and classification of the witness or a copy of the plan or plot with the court and serve a copy upon opposing counsel. Filing and service less than forty-eight hours before the opening of the trial shall not be deemed compliance with this subsection.

(i) A party may not call a witness nor offer a plan or plot without complying with sub-section (g) or (h) hereof unless that party shall first secure the permission of the court upon cause shown.

#### **Rule L225 Addresses and Summing Up**

(a) Opening addresses may be made by all parties or groups of parties at the commencement of the trial in the order of their appearing in the pleadings. Any party may reserve opening address until immediately before presenting evidence.

(b) After the close of the testimony each party or group of parties shall have the right of final address or argument. The party or parties having the burden of proof shall have the right of final address or argument to the jury. However, a party who has presented no evidence and who does not appear on the record in another capacity shall have the right of final argument.

#### **Rule L227.1 Post-Trial Relief.**

Unless the court shall deem it unnecessary in a particular case, a post-trial conference shall be held, at a time fixed by the court, in every case in which a post-trial motion has been filed. The purpose of such conference will be to limit the issue which must be considered by the court in ruling upon the post-trial motion and to determine how much of the stenographic record of the trial should be transcribed.

### **COURT MATTERS**

#### **Rule L301.1 Copies of Writings**

Whenever a copy of a writing is attached to a pleading, brief or other paper submitted to the court, whether such copy is mechanically produced or otherwise, it shall be clearly legible and faithfully represent the original in every respect, and unless the original itself is not legible the court may require a substitute copy to be made and filed before the pleadings shall be considered valid or the brief or other paper considered.

#### **Rule L306 Prothonotary**

(a) The Prothonotary shall immediately endorse all papers filed with the date of such filing. Such endorsement upon a bond shall not constitute approval thereof. The Prothonotary shall enter all rules, pleadings and other papers filed in every case in the Prothonotary docket.

(b) The Prothonotary shall be responsible for the safe keeping of all records and papers belonging to his/her office.

(c) Any attorney who takes a paper from the files of Prothonotary shall give his/her receipt for it. He/She shall be responsible for the same and for damages arising from any loss of same.

(d) Only the Prothonotary, clerks, and attorneys registered in the office of the Prothonotary shall be permitted access to the files.

(e) No entries shall be made in the docket except at the direction of the Prothonotary or by order of the courts, except an entry of appearance of counsel.

(f) All papers filed with the Prothonotary shall be designated numerically starting with the number one for each calendar year.

Civil Actions 2004-1

#### **Rule L309 Trial and Trial List**

(a) There shall be a session for the trial of jury cases each month to be held at the time fixed by the court calendar.

(b) A "watch book" shall be maintained by the Prothonotary in which all cases ready for trial shall be listed. A case may be placed upon the trial list after it is at issue, all motions have been disposed of and all discovery completed by the praecipe of any party so certifying. The party placing a case on the trial list shall serve a copy of the praecipe upon all opposing parties forthwith.

(c) Unless an extension of time is agreed to in writing by all parties or allowed by the court upon cause shown, all discovery shall be completed within sixty (60) days after any party has given notice to do so. Such notice may be given at any time after a case is at issue, shall specifically refer to the time limitation provided herein, and shall be filed in the office of the Prothonotary with copies served upon all other parties.

(d) If a praecipe for the trial list is signed by or on behalf of all parties, all discovery shall be deemed completed, without compliance with paragraph (c) hereof.

(e) Each month the court administrator shall schedule for trial an appropriate number of cases and shall select them in the order of their commencement, except as otherwise directed by the court. Written notice of the scheduling of the trial shall forthwith be given to all counsel.

**Rule L310 Court Calendar**

At the beginning of each calendar year, the court shall publish in the *Mercer County Law Journal*, a court calendar for the current year which shall have the effect of a rule of court for the matters and dates set forth therein.

**Rule L312 Security for Costs**

(a) The defendant or any interested party may require the plaintiff who resides out of state, or who is in bankruptcy, or has insolvency proceedings pending against him, to file security for costs.

(b) The court, by special order upon cause shown, may require a plaintiff or a defendant who seeks affirmative relief to enter security for costs.

(c) The claimant in a sheriff's interpleader issue shall be construed to be a plaintiff within the meaning of this rule.

(d) In default of security entered at the time fixed by the court, judgment of default or other appropriate court order may be made in favor of the party obtaining the order.

**Rule L315 Bills of Costs**

(a) 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 place from which mileage is claimed. The bill shall be verified by the affidavit of the party filing it or by his/her agent or attorney that the witnesses named were actually present in court, and that, in his opinion, they were material witnesses. A copy of the bill of costs shall be served on opposing counsel.

(b) The party upon whom a bill of costs has been served may, within ten (10) days after such service, file exception thereto, and the issue shall be determined by the court. Failure to file exception within ten (10) days shall be deemed a waiver of all objections.

**Rule 316.1 Judgment by Agreement**

Except in actions to which a minor or an incapacitated person is a party and in actions for wrongful death in which a minor or incapacitated person has an interest, verdicts and non-suits, and judgments by agreement may be entered at any time but only upon written stipulation signed by the parties or by their counsel of record and filed in the case.

**Rule L316.3 Striking or Opening Judgments**

(a) Petition to open or strike a judgment shall be made to the court and, upon cause shown, a rule may be granted to show cause why the judgment should not be opened or stricken and the petitioner let in to a defense, with any further order proper in the discretion of the court. If a rule is granted by the court, a copy of the petition and order made thereto, shall be served upon the plaintiff or his attorney of record within five (5) days from the date of the order. It shall be the duty of the plaintiff, if he desires to make answer to the petition, to file said answer within twenty (20) days after service of the petition and order upon him or his attorney of record, unless the period for filing of an answer is otherwise ordered by the court, and also to serve a copy of said answer upon petitioner or his attorney of record at the time of filing the same.

(b) The prayer of the petition shall set forth whether a supersedeas is requested or not.

(c) In instances of petitions after execution has been issued, the court may, in its discretion, order a bond be filed for costs. Unless the order of the court provides otherwise, in cases where there is a levy made, the lien of any levy shall remain and continue until the matter is finally disposed of.

**Rule L316.4 Judgments: Re-Indexing**

Judgments entered on confession may be subsequently re-indexed against any defendant under any alias name upon the plaintiff's attorney filing a praecipe therefore supported by an affidavit that such alias defendant is the same person against whom the judgment was originally entered and indexed. The subsequent re-indexing shall be noted on the docket at the original number and term and shall be re-indexed on a separate line in the judgment index, clearly showing the date of such re-indexing.

**Rule L320 Termination of Inactive Cases**

During the month of July of each year, the Prothonotary shall determine in which matters not concluded there has been no activity during the previous two years. The Prothonotary shall then give notice in each such matter as provided by Pa. R.J.A. 1901(c). If no action is taken, or no written objection stating good cause is filed in such matter within 30 days, the Prothonotary shall enter an order terminating the matter. If written objection is filed in such matter within 30 days, the Prothonotary shall list the matter for the next available Argument List without further praecipe and give notice to all parties. Failure of the objector to appear and to show good cause may result in the dismissal of the action. Where publication is required, such publication shall be twice printed in the *Mercer County Law Journal*.

**MISCELLANEOUS MATTERS****Rule L321 Auditors and Auditors' Reports**

(a) Auditors shall be appointed by the Court sua sponte or upon petition.

(b) Auditors' hearings shall be held at the Courthouse except with leave of court and testimony shall be taken by a court stenographer or by a stenographer agreed upon by the parties.

(c) Auditors shall give all parties notice of the time and place of hearings before them and give public notice by advertisement once per week for two successive weeks in the *Mercer County Law Journal* and in one daily newspaper of general circulation of this county, stating that all persons must prove their claims or they will be disallowed. Auditors shall obtain from the assignors or debtors, a list of their creditors, and if the proceeds of the sale of real estate are to be distributed, identify all liens and encumbrances thereon and award distribution after determining any objections thereto.

(d) Argument before the court shall be confined to the exceptions filed with the auditor. The court may take additional testimony on exceptions if justice requires.

(e) When facts are controverted before the auditor, he/she shall report the proven facts in a concise form and shall state concisely the questions of law raised before rendering decisions thereon, with the reasons therefore. When distribution is made a schedule of the liens on the funds, paid and unpaid, shall be made and presented with the report showing the disposition made. All testimony shall be returned separately and filed with the report.

(f) Upon a claim of misconduct or unreasonable delay on the part of any auditor, the court may either vacate

the appointment or issue a rule to show cause why the auditor should not proceed forthwith in the duties of appointment.

**Rule L323 Assignees For Creditors**

(a) Assignees for the benefit of creditors and receivers shall, after they have entered security, give notice of their appointment, to every creditor and party in interest of whom they have knowledge, and shall also publish notice thereof once a week for two successive weeks in the *Mercer County Law Journal* and in one newspaper of general circulation published within the county.

(b) The assignee shall file with the account a petition for distribution in form similar to that of petitions for distribution required by the Orphans' Court Division of this Court and all such accounts and petitions for distribution shall be filed in the office of the Prothonotary.

(c) The assignee shall give written notice of the filing of the account, the petition for distribution and of the call for the audit or confirmation thereof to all interested parties. Such notice shall be given by mailing to the last known address of such parties, at least three weeks before the presentation of the account to the court, and shall also be published by the Prothonotary for two successive weeks in one newspaper of general circulation published in Mercer County and in the *Mercer County Law Journal*.

(d) Any account filed for audit and confirmation shall be audited preliminarily by the Prothonotary and then presented to the court, together with the proofs of publication and proof of the giving of the required notice to interested parties at the time fixed for the audit or confirmation thereof. If no exceptions have been filed, the account may be confirmed absolutely.

**Rule L324 Sheriff**

It shall be the duty of the sheriff, or his/her deputy, to be always present in the Courthouse during the sitting of a court and promptly to execute all orders of the court and process issued.

**Rule L325 Surveyors**

(a) All cases affecting real estate wherein questions of boundary or of conflicting surveys may arise, the court, on application of any party, or a judge at chambers, on proof of ten days' notice to all the other parties or their attorneys of such intended applications, may appoint a registered civil engineer or professional land surveyor who, upon reasonable notice to both parties, shall survey and ascertain such boundaries and conflicts and furnish a diagram thereof describing the same, and any other circumstances material to a proper investigation of the subject, and if, on trial, or otherwise, such survey appears to have been necessary or proper, the reasonable expenses of the same shall be taxed and paid as other costs.

(b) The person so appointed, before entering upon his/her duties, shall take or subscribe an oath of affirmation that he/she will impartially, to the best of his/her skill and judgment, do and perform all things enjoined and required of him/her under said appointment, which oath or affirmation shall be filed in the cause.

**Rule L326 Money Paid Into Court**

(a) A party to an action may, upon motion and such notice to the adverse party as the court may direct, pay into court the amount admitted to be due, together with costs, if any. The party entitled to the money may accept the money and settle and discontinue the action or may refuse the money and proceed with the action. If the

adverse party shall not recover more than the amount paid into court, all additional costs shall be deducted from the money. This tender into court shall in no way alter the rights of the parties as to legal tender made before suit.

(b) Parties wishing to extinguish liens upon real estate in which they have an interest may, on motion and such notice to the creditor as the court may direct, pay into court the amount due and have satisfaction entered upon the lien.

(c) Upon payment of money into court, it shall be deposited by the Prothonotary in an account in the name of the Prothonotary kept for such purposes, and shall be payable only by a check signed by the Prothonotary pursuant to the order of court. A book shall be kept in the office of the Prothonotary, in which shall be entered all moneys paid into court, with the name of the case in which it shall have been paid.

(d) In matters of bulk transfer, the petition of the transferee shall, inter alia, provide the name, address and amount of claims of creditors of the transferor insofar as known to the transferee and may request the appointment of an auditor. If the petition be approved by the court, an auditor may be appointed to determine which creditors of the transferor are entitled to recommend distribution to the court. The auditor shall give notice of appointment. Notice of the time of filing claims shall be given to the transferors and transferees, or their attorneys, by registered or certified mail to each known creditor whose name and address is set forth in the petition.

**Rule L327 Law Library**

(a) The Mercer County Law Library shall be managed by a law librarian. A Law Library committee shall be appointed by the President Judge of the Court of Common Pleas of Mercer County and shall consist of three (3) members of the Mercer County Bar Association.

(b) The committee shall recommend to the President Judge such rules and regulations for the management of the library as may be expedient and necessary for its proper care and preservation.

(c) The Mercer County Law Library shall provide research facilities for the Court of Common Pleas, Mercer County Bar Association, county offices and the general public. As mandated by Title 42 of the Pennsylvania Consolidated Statute, Section 3724, the County Law Library shall receive from the county such necessary funds, accommodations, goods and services, as shall be specified by general rules or recommendations of the State Law Library. The law library shall also be operated in conformity with the Rules of the Court of Common Pleas of Mercer County and shall be available to the general public.

**Rule L328 Official Legal Publication**

The *Mercer County Law Journal* is designated as the place of legal publication for the publication of legal notices.

**Rule L329 Pre-Trial Order**

(a) Upon receipt of a praecipe for the trial list, the court shall issue an order in the form set forth below providing for the parties to object to the certification of the case as being ready for trial, limiting the taking of depositions for use at trial, and providing for the scheduling of the trial and the pre-trial conference.

(b) All depositions for use at trial shall be completed not later than five (5) days after the date of the pre-trial conference as scheduled by the court administrator, and the order shall so provide.

(c) Any party who does not agree with the praecipe's certification of the readiness of the case for trial shall file a written objection to the certification within ten (10) days of the entry of the order. The written objection shall include a proposed court order setting the date and time for a hearing on this objection. For good cause shown at the hearing, the case will be stricken from the trial list. If no written objections to the certification are filed, continuances from the trial list will not be granted except for compelling circumstances not known to counsel for the parties at the time the order is entered.

(d) Appropriate sanctions may be imposed for failure to comply with the order, including the striking of the case from the trial list and the assessment of attorney's fees and costs resulting from the delay. The court's contempt powers and the availability of damages for delay under Pennsylvania Rule of Civil Procedure 238 are not limited by this rule.

#### ORDER

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, this case having been praeciped onto the trial list and the party filing the praecipe having thereby certified pursuant to Local Rule of Court L309 that all motions have been disposed of, that all discovery has been completed, and that this case is ready for trial, IT IS HEREBY ORDERED AND DECREED that any party who does not agree with that certification shall file a written objection to the certification within ten (10) days of the entry of this Order. If any objection is filed, a hearing will be scheduled on the objection to determine whether the case should be stricken from the trial list. The written objection shall include a proposed Order setting the date and time for this hearing. Whether or not written objections are filed, the Court Administrator will place this case on the trial list for \_\_\_\_\_ and schedule the pre-trial conference for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. No continuances from the trial list will be granted hereafter by reason of the need to take or complete depositions for use at trial or on the basis that the case is not otherwise ready for trial, unless a timely, written objection to the certification of readiness for trial is filed.

IT IS FURTHER ORDERED AND DECREED that, if this case is not stricken from the trial list, all depositions to perpetuate testimony for use at trial shall be completed not later than five days after the pre-trial conference date scheduled by the Court Administrator. In their pre-trial statements required by Local Rule of Court L212, the parties shall list all depositions taken or to be taken to perpetuate testimony for use at trial. For those depositions yet to be taken, the parties shall list the dates and times within the five days after the pre-trial conference when they will be taken.

Failure to comply with this Order shall result in appropriate sanctions, including the striking of the case from the trial list and the assessment of attorney's fees and costs resulting from the delay. This Court's contempt powers and the availability of damages for delay under Pennsylvania Rule of Civil Procedure 238 are not limited by this Order.

The purpose of this Order is to insure that this case, which has been certified as ready for trial, is in fact in that posture. It is the intention of this Court that

meaningful stipulations and settlement discussions occur at the pre-trial conference and that the integrity of the trial list be preserved. There shall be no variations from this procedure.

BY THE COURT:

\_\_\_\_\_  
Francis J. Fornelli,  
President Judge

#### CIVIL ACTIONS

##### Rule L1018.1 Notice to Defend

The organization to be named in The Notice to Defend from whom legal help can be obtained is:

Mercer County Lawyers Referral Service  
c/o Mercer County Bar Association  
P. O. BOX 1302  
Hermitage, PA 16148  
Telephone: (724) 342-3111

##### Rule L1028(c) Preliminary Objections Procedure

(1) Preliminary objections shall be scheduled for Argument Court by the filing of a praecipe in accordance with the procedure set forth in Local Rule L208.3(a)(4)

(2) Briefs shall be filed and in the form set forth in L210 and subject to L208.3(b).

##### Rule L1033 Amendment

Whenever an amended pleading is filed involving more than one paragraph of the original pleading, it shall be a complete pleading and not merely the amendments to the former pleadings. The amended pleading shall clearly indicate that it is an amended pleading and the paragraphs shall be appropriately re-numbered.

##### Rule L1034(a) Motion for Judgment on the Pleadings Procedure

(1) Motions for judgment on the pleadings shall be scheduled for Argument Court by the filing of a scheduling praecipe in accordance with the procedure set forth in Local Rule L208.3(a)(4).

(2) Briefs shall be filed and be in the form set forth in L210 and subject to L208.3(b).

##### Rule L1035.2(a) Motion for Summary Judgment Procedure

(1) Argument on motions for summary judgment shall be scheduled for argument by the filing of a praecipe in accordance with the procedure set forth in Local Rule L208.3(a)(4), provided however, no case shall be praeciped for argument until all parties have filed a response or thirty (30) days after filing the motion, whichever occurs first.

(2) Briefs shall be filed and be in the form set forth in L210 and subject to L208.3(b).

#### ACTION TO QUIET TITLE

##### Rule L1066 Form of Judgments on Order

Any order entered under subsection R.C.P. 1066(b)(1) shall include a description of the property.

#### ARBITRATION

##### Rule L1301 Scope

All cases which are now or later at issue where the amount in controversy shall be twenty-five thousand dollars (\$25,000) or less, exclusive of interest and costs, except those involving title to real estate, shall be

submitted to and heard by a board of arbitrators consisting of three (3) members of the Bar in active practice in this county.

**Rule L1302 List of Arbitrators. Appointment to Board. Oath.**

(a) Upon the filing of a praecipe for arbitration, the Prothonotary shall notify the court administrator who shall thereupon nominate a board of potential arbitrators consisting of three (3) attorneys, plus one (1) attorney for each counsel of record and each unrepresented party. The nomination shall be made from a list of members of the bar qualified to act as arbitrators, which shall be kept by the court administrator. Nomination shall be made in the order of listing, except where attorneys are excused on account of incapacity or illness, or for other reasons herein set forth. Not more than one (1) member of a firm or association of attorneys shall be appointed to the same board and no members of a firm or association of attorneys shall be appointed to a board to hear a case where another member of such firm or association of attorneys is counsel for any of the parties litigant.

(b) The list of attorneys nominated to the potential board shall be sent by the court administrator to the attorney for each party and to each unrepresented party. Each such party may strike off one (1) attorney so named and return the list to the court administrator within five (5) days of receipt. The remaining three (3) attorneys shall constitute the board of arbitration. If both or all parties strike the same name or no name from the list, the first three (3) remaining names will make up the board.

(c) As soon as the court administrator receives the returned list from the parties, or after (5) days if a list is not returned, he shall notify the Prothonotary of the arbitrators selected. The Prothonotary shall, within ten (10) days, notify the arbitrators in writing of their selection.

(d) The first member listed for a board who has been admitted to the practice of law not less than three (3) years shall be chairman of the board and shall be responsible for the setting of the date and place of hearing, for giving notice thereof to opposing counsel and to the Prothonotary, and for the filing of the board's report and award if any. The hearing must be set within sixty (60) days of the appointment of the board.

(e) Once an arbitration hearing is scheduled it may be continued once by the chairperson of the board. There may be no further continuances without leave of Court.

(f) The members of the board shall be sworn as arbitrators before entering upon their duties by a person authorized to administer oaths.

(g) All arbitration hearings shall be held in the Mercer County Courthouse unless otherwise approved by the Court at the request of the chairperson. When the hearing is to be held outside of the Courthouse, the original file shall remain at the Courthouse; and the arbiters and parties shall familiarize themselves with the file and obtain copies thereof as necessary.

**Rule L1308 Appeal. Arbitrators' Compensation. Notice**

(a) Each member of the Board of Arbitrators shall be paid by the county a fee, as fixed by the court from time to time, for each case heard, upon the filing of the board's report and award, if any.

(b) Upon the filing of the board's report or award, the Prothonotary shall certify to the county commissioners

and to the county controller that the report and award, if any, has been filed, together with the names of the members of the board serving in the case, and thereupon the county shall pay the aforesaid fee to each member of the board serving in the case.

(c) In the event a case is settled, compromised or withdrawn after the chairperson has scheduled a hearing and has mailed notice of the arbitration hearing, but before the arbiters are sworn, the chairperson shall receive a \$75.00 fee. The other two arbiters shall receive no fee. If the case is settled, compromised or withdrawn after the arbiters are sworn, fees for one-half (1/2) day's service shall be paid to all arbiters. The Board of Arbitration for a case which has been settled, withdrawn or terminated after the arbiters have been appointed but not sworn shall be assigned by the Prothonotary to hear the next case proper for arbitration. In the event an arbiter shall be disqualified from serving on the next case, such disqualified arbiter shall be appointed to a Board of Arbitration upon the first case for which the arbiter is eligible.

(d) The fees payable or paid to the members of the board of arbitrators under these rules shall not be taxed as costs, nor follow the award with other costs.

**ACTION FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN**

**Rule L1915.3 Commencement of Action. complaint. Order.**

(a) A conference before a court-appointed master shall be held in all cases involving claims for custody, partial custody or visitation. In all cases where the only issue unresolved is partial custody or visitation, a conference will be held before the Court appointed Master pursuant to Pennsylvania Rule of Civil Procedure 1915.4-2 unless either party files written notice prior to the Master's conference requesting a hearing before a Judge.

(1) A motion for the appointment of a Master shall be filed with any pleading which includes a claim for custody, partial custody or visitation. The motion shall be substantially in the form as provided by Pennsylvania Rule of Civil Procedure 1920.74.

(2) No fee shall be assessed for the appointment of a Master to hold a conference on a claim for custody, partial custody or visitation.

(3) The party filing a pleading involving a claim for custody, partial custody or visitation shall obtain from the Master appointed to conduct the conference, the time, date and place of conference for purposes of completing the Order required to be attached to such pleadings by Pennsylvania Rule of Civil Procedure 1915.3.

**Rule L1915.26 Notice of Master's Conference**

(a) If a party is represented, notice of the Master's conference shall be served on the party by the master by first-class United States mail, postage prepaid, addressed to the party's counsel.

(b) If a party is unrepresented, notice of the Master's conference shall be served on the party by the master by certified United States mail, postage prepaid, addressed to the party's last known address.

(c) A copy of said notice shall be filed with the Prothonotary.

(d) The following language shall be included in all notices of Master's conferences involving custody cases:

YOU ARE HEREBY NOTIFIED THAT A HEARING ON THE ISSUES OF PARTIAL CUSTODY AND/OR VISITATION WILL BE HELD BY THE COURT-APPOINTED MASTER UNLESS YOU REQUEST IN WRITING PRIOR TO THE COMMENCEMENT OF THE MASTER'S CONFERENCE THE MATTER BE HEARD BEFORE A JUDGE. THE FAILURE TO FILE SUCH WRITTEN REQUEST PRIOR TO THE CONFERENCE SHALL BE DEEMED A WAIVER OF YOUR RIGHT TO HAVE THE ISSUES OF PARTIAL CUSTODY AND/OR VISITATION HEARD BY A JUDGE.

A COPY OF THE REQUIRED WRITTEN REQUEST HAS BEEN INCLUDED WITH THIS NOTICE FOR YOUR CONVENIENCE.

(e) The following form shall be included with all notices of Master's conferences involving custody cases:

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA CIVIL ACTION

Plaintiff :
:
vs. : No.
:
Defendant :

REQUEST FOR A HEARING BEFORE A JUDGE

(f) I hereby certify that I desire a hearing before a Judge should the only unresolved issue involve either partial custody or visitation for the following reasons: There are complex questions of law, fact, or both.

A hearing on the issue of partial custody or visitation would take longer than one hour. There are serious allegations affecting the child's welfare.

Date: \_\_\_\_\_ Plaintiff/Defendant

Rule L1915.27 Master's Conference

(a) In the event the parties are able to resolve their differences, the Master shall dictate a proposed order which encompasses the parties' agreement in their presence. Said order shall be submitted to the appointing judge for his consideration.

(b) In the event the parties are unable to resolve their differences in cases involving disputes over primary physical custody, shared physical custody or legal custody, or in cases involving disputes over partial custody and/or visitation where either party has requested, in writing, a hearing by Judge to the commencement of the Master's conference, a hearing date before the appointing Judge shall be set by the Court Administrator. A report shall be prepared by the Master for the Court which, inter alia, shall indicate the relative positions of the parties and the Master's recommendations. Copies of said reports shall be served on the parties in accordance with L1915.26. No exceptions shall be filed to said reports.

(c) In the event the parties are unable to resolve their difference in cases involving disputes over partial custody and/or visitation and neither party has requested in writing, a hearing by a Judge prior to the commencement of the Master's conference, the parties will be deemed to have consented to a hearing before the Court-appointed Master on those issues in accordance with Pennsylvania Rule of Civil Procedure 1915.4-2 and the Master shall schedule a hearing date. The hearing shall be held in accordance with the provisions of Pennsylvania Rule of Civil Procedure 1915.4-2.

(d) A fee of \$25 shall be assessed against each party for a Master's Hearing on the issues, of partial custody

and/or visitation, however, the fee shall be waived for any party determined to be indigent.

ACTIONS OF DIVORCE OR ANNULMENT OF MARRIAGE

Rule L1920.51 Hearing by the Court. Appointment of Master. Notice of Hearing.

(a) All actions for divorce under Section 3301(a) (b) and (d)(l)(i) of the Divorce Code or for annulment, and all claims for alimony, alimony pendente lite, bifurcation, equitable distribution of marital property, exclusive possession of the marital residence, counsel fees, costs, expenses, or any aspect thereof shall be heard by a master in the absence of a court order to the contrary.

(1) All actions or claims described in Section (a) hereof will not be referred to a master until one of the parties files a motion for the appointment of a master to hear the action(s) and/or claims(s) at issue and pays an amount to be determined by court order, in addition to all other costs provided by law, for the appointment of a master. The motion shall be substantially in the form as provided by Pennsylvania Rule of Civil Procedure 1920.74. The motion shall be filed with the Prothonotary together with the proper fee.

(2) Upon receipt of the proper fee, the Prothonotary shall forward the motion to the court administrator for assignment to a master.

(3) Unless the moving party is granted leave to proceed in forma pauperis, no master will be appointed until the proper fee for the appointment of the master is paid, or the court permits otherwise. If the monies are not forthcoming and there are no other proceedings in the case for a period of two years, the matter will be subject to termination pursuant to Mercer County Local Rule L320.

Rule L1920.53 Hearing by Master. Report

(a) Where an action for divorce or annulment has been referred to a master, a conference shall be held before the master prior to a hearing in the absence of a court order to the contrary.

(1) The moving party shall deposit an amount to be determined by court order with the Prothonotary before a master's hearing on an action for divorce or annulment.

(2) In the event the master believes the amount of time (s)he must devote to the case will exceed four (4) hours said time, or does exceed four (4) hours, (s)he may recommend to the court that additional monies be deposited by a party prior to the hearing or assessed against a party as costs.

(3) The master's fee shall be taxed as part of the costs and paid as directed in the final decree.

(4) In the event the parties resolve their differences prior to the hearing, all sums deposited with the Prothonotary for the hearing shall be returned to the depositor.

(5) In the event the master's fee for the hearing is less than the amount deposited with the Prothonotary for the hearing, the difference shall be returned to the depositor. If there was more than one depositor, the difference shall be returned in proportion to the respective amounts deposited.

Rule L1920.54 Hearing by Master. Report. Related Claims.

(a) Where a claim for alimony, alimony pendente lite, bifurcation, equitable distribution of marital property exclusive possession of the marital residence, counsel

fees, costs, expenses or any aspect thereof, has been referred to a master. a conference shall be held before the master prior to a hearing in the absence of a court order to the contrary.

(b) With the exception of claims for alimony, alimony pendente lite, bifurcation, counsel fees, costs or expenses;

(1) The moving party shall deposit an amount to be determined by court order with the Prothonotary before the master's hearing: and,

(2) In the event the master believes the amount of time he must devote to the case will exceed four (4) hours said time or does exceed four (4) hours, (s)he may recommend to the court that additional monies be deposited by a party prior to the hearing or assessed against a party as costs.

(3) The master's fee shall be taxed as part of the costs and paid as directed in the final decree or a separate order.

(4) In the event the parties resolve their differences prior to the hearing, all sums deposited with the Prothonotary for the hearing shall be returned to the depositor.

(5) In the event the master's fee for the hearing is less than the amount deposited with the Prothonotary for the hearing, the difference shall be returned to the depositor. If there was more than one depositor, the difference shall be returned in proportion to the respective amounts deposited.

(6) The notes of testimony will not be transcribed unless exceptions are filed.

**Rule L1920.55-2 Master's Report. Notice. Exceptions. Final Decree.**

(a) Exceptions to a master's report must be filed with the Prothonotary within the time prescribed by law.

(1) The party filing the exceptions shall serve a copy thereof on the date of filing on every other party, the appointing judge, the master, the court administrator and the court reporter by first class mail, postage prepaid, or by handing them a true and correct copy thereof.

(2) After receipt of notice of the filing of exceptions to a master's report, the court administrator shall schedule a conference before the appointing judge.

(3) At the conclusion of the conference, an order will be entered setting forth what portions of the master's hearing are to be transcribed and setting the argument date on the exceptions.

(4) The party filing the exceptions shall pay all transcription charges in the absence of a court order to the contrary.

**RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY**

**Rule L1930.7 Flat Filing of Papers**

All papers filed with the clerk of the Domestic Relations Section shall be prepared for flat filing on paper approximately 8 1/2 inches x 11 inches in size. Such papers shall contain on their face the following information: designation of the Court, designation of the section of the Court, date of filing, file number, caption, title of pleading, notice to plead or other form of notice, certification when applicable, name, address, Supreme Court number, and telephone number of the attorney or law firm filing the pleading upon whom papers may be served when applicable.

**Rule L1930.8 Clerk of the Domestic Relations Section**

(a) The clerk of the Domestic Relations Section shall immediately endorse all papers submitted for docket filing with the date of such filing. The clerk of the Domestic Relations Section shall enter all rules, pleading and other papers submitted for docket filing in every case in the docket maintained by the Domestic Relations Section.

(b) The clerk of the Domestic Relations Section shall be responsible for the safekeeping of all records and papers submitted for docket filing in the Domestic Relations Office.

(c) No entry shall be made in the docket except at the direction of the clerk of the Domestic Relations Section or by Order of Court, except an Entry of Appearance by counsel.

(d) All papers filed with the clerk of the Domestic Relations Section shall be designated numerically starting with the number 1 for each calendar year and followed by the alphabetical symbols "D. R." and the year of filing.

**Rule L1930.9 Information to Consumer Credit Bureaus**

(a) The Domestic Relations Section shall, before releasing information as to arrearage for support owing by any obligor, notify the obligor by regular mail by sending the following notice:

This Notice is sent to inform you that

\_\_\_\_\_  
 (Name of Consumer Credit Bureau of organization)  
 of \_\_\_\_\_  
 (Address)

has requested information as to the arrearage you owe under your support Order through the Domestic Relations Section of the Court of Common Pleas of Mercer County, Pennsylvania. Our records indicate your arrearages are \$ \_\_\_\_\_ as of \_\_\_\_\_, 20 \_\_\_\_.

This information will be released to said Credit Bureau unless, within 20 days of this date, we receive a written objection from you contesting the accuracy of the calculated arrearages or stating a valid reason why the information should not be made available.

\_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
 Director, Domestic Relations

(b) A fee will be imposed by the Domestic Relations Section upon the Consumer Credit Bureau of organization requesting information.

**INCAPACITATED PERSONS AS PARTIES**

**Rule L2056 Procedure when Incapacity of a Party is Ascertained**

Except as otherwise directed by the court, notice shall be given by personal service on such guardian, or by leaving a copy of the notice at his/her residence or place of business, or by mailing a notice by registered or certified mail. If service, as above cannot be made, then notice shall be given by such publication as the court may direct.

**UNINCORPORATED ASSOCIATIONS AS PARTIES****Rule L2152 Actions by Associations**

The plaintiff's initial pleading in an action prosecuted by an association shall set forth the names and addresses of all officers thereof or of all persons known to be holding themselves out as such. In case the said officers do not constitute the trustees ad litem, or have not consented to the prosecution of the action by consent in writing attached to the initial pleading, the plaintiffs shall serve notice, in the manner provided in the Pennsylvania Rules of Civil Procedure of the bringing of the action upon said officers within ten (10) days thereafter and file proof thereof in the action; otherwise, the action shall be automatically stayed until such proof is filed.

**ACTIONS FOR WRONGFUL DEATH****Rule L2205 Notice to Persons Entitled to Damages**

The notice shall in all cases be given personally or by registered or certified mail to each person entitled by law to recover damages in the action, unless the plaintiff shall file an affidavit that the identity or whereabouts of any such person is unknown to him after diligent search therefore, in which case the plaintiff shall cause the notice to be advertised once in a newspaper of general circulation published in Mercer County and in the *Mercer County Law Journal*.

**CONFESSION OF JUDGMENT FOR MONEY****Rule L2952 Confessed Judgments**

When a judgment is entered upon any instrument containing a warrant of attorney, which instrument accompanies a mortgage, a statement shall be placed in the complaint showing the book and the page where said mortgage is recorded. If the instrument is entered without a complaint a statement shall be placed upon the instrument itself.

**ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY****Rule L3110 Execution Against Contents of Safe Deposit Box**

When the plaintiff seeks to serve a party by publication as provided in paragraph (c) of R.C.P. 3110, it shall be sufficient service to publish said notice once in a newspaper of general circulation in Mercer County and once in the *Mercer County Law Journal*. Proofs of publication shall be filed.

**Rule L3112 Service of the Writ Upon Garnishee, Real Property of Defendant in Name of Third Party**

Whenever a party seeks to serve a garnishee by publication as provided in paragraph (c) of R.C.P. 3112, it shall be sufficient service to publish said notice once in a newspaper of general circulation in Mercer County and once in the *Mercer County Law Journal*. Proofs of publication shall be filed.

**Rule L3123 Debtor's Exemption**

The sheriff following an appraisal or designation shall immediately thereafter and before sale give notice thereof by first class United States mail to all interested parties of the appraisal or designation, which notice shall set forth the right of appeal to the Court of Common Pleas within forty-eight (48) hours thereof.

**Rule L3128 Notice of Sale Personal Property**

One copy of the handbill shall be mailed by certified United States mail to the defendant by the sheriff.

**DEPOSITIONS AND DISCOVERY****Rule L4010 Physical and Mental Examination of Persons**

When a mental or physical examination has been made pursuant to R.C.P. 4010, counsel shall be prepared to deliver and exchange medical reports, as provided therein, not more than five (5) days after any report, written or oral, has been received.

[Pa.B. Doc. No. 04-1437. Filed for public inspection August 6, 2004, 9:00 a.m.]