

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 213]

Notice of Proposed Public Access Policy Concerning Official Case Records of the Magisterial District Courts

The Administrative Office of Pennsylvania Courts is planning to recommend that the Supreme Court of Pennsylvania adopt this proposed public access policy concerning official case records of the magisterial district courts. At my direction, a working group comprised of magisterial district judges, district court administrators, and Administrative Office of Pennsylvania Courts/Supreme Court staff crafted this proposed policy that is being published for public comment. The proposed policy covers official case record information that would be accessible by the public, how requests for access are to be handled, applicable fees, and other pertinent recommendations.

In particular, the working group recommends eliminating the inclusion of social security numbers and financial account numbers in publicly filed documents with the magisterial district courts. Cases of the magisterial district courts are initiated via forms designed by the Administrative Office of Pennsylvania Courts. It is the recommendation of the working group that the fields for social security numbers and financial account numbers should be removed entirely from those forms. If sound reasons exist for collection of this information by the courts, then alternatively the working group recommends either the truncation of these numbers to the last four digits on the forms, or adding a "public inspection copy" page to the forms that would not display these numbers. In recognition however that sometimes such information is integral to a case, the working group recommends that litigants or their attorneys be required to place this sensitive information on a separate confidential form filed with the court that would be inaccessible to the public. For more information, please review § 213.97 of the proposed policy and accompanying commentary.

Balancing the public's right of access to official records with an individual's privacy interests is an important public policy issue. This proposed policy is one more step in the Unified Judicial System's continual effort to achieve that balance.

The Explanatory Report highlights the working group's considerations in formulating this proposed policy. I request that interested persons submit suggestions, comments, or objections concerning this proposal to the working group through

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no later than May 28, 2008.

ZYGMONT A. PINES,
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Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 213. ACCESS TO POLICY CONCERNING OFFICIAL CASE RECORDS OF THE MAGISTERIAL DISTRICT COURTS

Subchapter D. PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA: OFFICIAL CASE RECORDS OF THE MAGISTERIAL DISTRICT COURTS

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§ 213.91. Definitions.

(a) "Access" means that the public may inspect and photocopy the official case records of the magisterial district courts, except as provided by law or as set forth in this policy.

(b) "Official case records of the magisterial district courts" means the records filed with the court and maintained in the paper case files pursuant to specific legal authority.

(c) "Public" means any person, business, non-profit entity, organization or association.

§ 213.92. Statement of General Policy.

(a) It is the policy of the Unified Judicial System to facilitate access by the public to the official case records of the magisterial district courts consistent with all relevant legal authority.

(b) This policy shall govern the access by the public to the official case records of the magisterial district courts.

(c) Security, possession, custody and control of the official case records of the magisterial district courts are generally the responsibility of the Magisterial District Judge or his/her designated staff.

(d) Facilitating access by the public shall not substantially impede the orderly conduct of magisterial district court business.

§ 213.93. Requesting Access to Official Case Records of the Magisterial District Courts.

(a) All requests for access by the public to the official case records of the magisterial district courts shall be made in writing to the court on a form prescribed by the Administrative Office of Pennsylvania Courts.

(b) A request shall identify or describe the records sought with specificity to enable the court staff to ascertain which records are being requested. A request need not include any explanation of the requestor's reason for requesting or intended use of the records.

(c) If the requestor does not submit a completed form, access may be delayed until the form is completed or

until a time when court staff is available to monitor such access to ensure the integrity of the case records.

(d) A requestor, whether acting on his/her own behalf or as another's agent, may request access to a maximum of 10 different case records during any given business day from a magisterial district court.

§ 213.94. Responding to Requests for Access to Official Case Records of the Magisterial District Courts.

(a) As promptly as practicable but in no case longer than 5 business days after receipt of a request for access to the official case records of the magisterial district court, the court shall respond in one of the following manners:

- (1) fulfill the request;
- (2) notify the requestor in writing that the information requested is available upon payment of applicable fees and specify those fees;
- (3) notify the requestor in writing that the request cannot be fulfilled because the requestor has not complied with the provisions of this policy and specify the areas of non-compliance;
- (4) notify the requestor in writing that the information cannot be provided and specify the reasons why; or
- (5) notify the requestor in writing that the request has been received and the expected date the information will be available. If the information will not be available within 30 business days, the court shall notify the district court administrator and the requestor simultaneously.

(b) If a court denies a request for access, a requestor may seek review of that determination within 10 business days. The request for review shall be submitted in writing to the president judge of the judicial district or president judge's designee. The president judge or designee shall make a determination and forward it in writing to the requestor. This remedy need not be exhausted before other relief is sought.

§ 213.95. Fees.

(a) Reasonable fees may be imposed for providing the public with access to the official case records of the magisterial district courts pursuant to this policy.

(b) The president judge of each judicial district shall establish a fee schedule by local rule pursuant to Pa.R.J.A. No. 103. The fee schedule shall be publicly posted.

§ 213.96. Official Case Records of the Magisterial District Courts Not Accessible by the Public.

(a) The following items or information residing in the official case records of the magisterial district courts are not accessible to the public:

- (1) Forms filed pursuant to § 213.97 of this policy;
- (2) Information sealed pursuant to an order by a common pleas or appellate court;
- (3) Information to which access is restricted by federal law, state law, or state court rule; and
- (4) Notes, drafts, and work product of the magisterial district court.

(b) With the approval of the Chief Justice of Pennsylvania, the Court Administrator of Pennsylvania may determine that additional information in the official case records of the magisterial district courts is not accessible by the public because it presents a risk to personal

security, personal privacy, or the fair, impartial and orderly administration of justice.

§ 213.97. Confidential Information in Pleadings or Other Papers Filed with Magisterial District Courts.

(a) Unless otherwise required by law or requested by the court, parties and their attorneys are directed to refrain from including, in all documents filed with the court, including exhibits attached thereto, any of the following information:

- (1) social security numbers; and
- (2) financial institution account numbers, credit card numbers, PINS or passwords to secure accounts.

(b) The parties and their attorneys are solely responsible for complying with the provisions in subsection A. The court staff will not review any document for compliance with subsection A.

(c) If a party is required by law or requested by the court to include any of the information set forth in subsection A, the information shall be filed on a separate form prescribed by the Administrative Office of Pennsylvania Courts. This form shall not be accessible to the public.

EXPLANATORY REPORT

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

INTRODUCTION

Article V, Section 10(c) of the Pennsylvania Constitution vests the Supreme Court with the authority to prescribe practices and procedures for public access to the records of the Unified Judicial System (UJS) including magisterial district courts. Guided by constitutional and common law principles,¹ the policies governing access to UJS records begin with the presumption of openness.

This presumption in the Judiciary is long-standing, both in policy and practice. In 1994, the Supreme Court established standards and protocols for public access to court records, beginning with the policy on access to magisterial district judge, formerly district justice, records, whether stored electronically or in hard copy. With the advancements in the Court's automation efforts, the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* ("Electronic Records Policy") was adopted by the Court effective January 1, 2007. This policy covers access to the case record information maintained in the UJS' three automated statewide case management systems—the Pennsylvania Appellate Court Management System (PACMS), the Common Pleas Criminal Court Case Management System (CPCMS), and the Magisterial District Judge System (MDJS). Specifically, the Electronic Records Policy addresses what electronic case record information is available to the public; how requests for access are handled; applicable fees and other related issues. In addition to the electronic record policy, the Supreme Court also promulgated Rule of Judicial Administration 509, effective July 1, 2007, that sets forth procedures for access to the financial records of the Unified Judicial System.

The promulgation of the aforementioned policies and rules affirms that the endeavor to ensure that UJS records are publicly accessible has been methodical and

¹ The constitutional provisions that speak to accessibility of court records can be found in the Fifth and Sixth Amendments of the United States Constitution and Article I §§ 7, 9, and 11 of the Pennsylvania Constitution.

focused. The next logical step in such work was a review of the standards governing access to magisterial district court paper records that are maintained in the case files.

In the spring of 2007, the Court Administrator of Pennsylvania convened a working group to formulate a statewide public access policy for official case records of magisterial district courts. The working group was comprised of magisterial district judges, district court administrators, representatives for the clerks of court and prothonotaries, counsel from the Supreme Court's rules committees, and Administrative Office of Pennsylvania Courts (AOPC) staff. Its mission was to precisely define what official case records of the magisterial district courts are accessible and how requests should be facilitated in light of current UJS access policies, statutory provisions governing access to records (including proposed changes),² and other jurisdictions' access rules and policies related to limited jurisdiction courts. The working group was asked to specifically address release of sensitive information, such as social security numbers.

Court records, including those maintained in the magisterial district courts, often contain sensitive and private information, particularly related to litigants' personal identifiers (such as, social security numbers). Any objective to uniformly protect that information residing in existing and future court records would necessarily involve careful scrutiny of each case record and redaction of pertinent information in accord with applicable policy provisions prior to permitting access by the public.

As is noted in the commentary to § 213.97, the working group considered this approach, but ultimately rejected it for the following reasons. Depending on individual court resources, this approach could cause delays in fulfilling public access requests to official case records of the magisterial district courts, result in the inadvertent release of non-public information, and/or impede the business of the court. Hence, redaction and retroactive application of this policy is not viewed as a viable solution.

The procedures set forth in this proposed policy are intended to further the UJS' open records policy, protect an individual's privacy and personal security, assure uniform response by UJS court staff, and eliminate any artificial barriers that may delay or complicate access by the public. The working group recommends that this proposal should be applied prospectively.

§ 213.91. Definitions.

(a) "Access" means that the public may inspect and photocopy the official case records of the magisterial district courts, except as provided by law or as set forth in this policy.

(b) "Official case records of the magisterial district courts" means the records filed with the court and maintained in the paper case files pursuant to specific legal authority.

(c) "Public" means any person, business, non-profit entity, organization or association.

COMMENTARY

This policy is not intended to govern access to the official case records of the magisterial district courts by system and related personnel, as defined in 42 Pa.C.S. § 102; or by any federal, state, or local governmental agency, employees or officials of such an agency if acting in their official capacity.

² See, e.g., PA. STAT. ANN. tit. 65, §§ 66.1—66.9 (West 2006) as well as amendments to the same set forth Act 3—2008 (SB 1, PN 1763).

§ 213.92. Statement of General Policy.

(a) It is the policy of the Unified Judicial System to facilitate access by the public to the official case records of the magisterial district courts consistent with all relevant legal authority.

(b) This policy shall govern the access by the public to the official case records of the magisterial district courts.

(c) Security, possession, custody and control of the official case records of the magisterial district courts are generally the responsibility of the Magisterial District Judge or his/her designated staff.

(d) Facilitating access by the public shall not substantially impede the orderly conduct of magisterial district court business.

COMMENTARY

Subsection A recognizes that public access to the official case records of the magisterial district courts is grounded in constitutional and common law principles. The Pennsylvania Supreme Court summarized the interests protected in providing public access as:

"generally, to assure the public that justice is done even-handedly and fairly; to discourage perjury and the misconduct of participants; to prevent decisions based on secret bias or partiality; to prevent individuals from feeling that the law should be taken into the hands of private citizens; to satisfy the natural desire to see justice done; to provide for community catharsis; to promote public confidence in government and assurance that the system of judicial remedy does in fact work; to promote the stability of government by allowing access to its workings, thus assuring citizens that government and the courts are worthy of their continued loyalty and support; to promote an understanding of our system of government and courts." Commonwealth v. Fenstermaker, 530 A.2d 414, 417 (1987).

Subsection B provides consistency and predictability across courts and furthers equal access to the courts and official case records of the magisterial district courts. The intent of this provision is to preclude the adoption of different policies or local rules by judicial districts and/or courts that may be inconsistent with Unified Judicial System policy.

Subsection C acknowledges the responsibility of the magisterial district judges and their staff to maintain the integrity of the official case records. See also Rule 17 of the Rules Governing Standards of Conduct of Magisterial District Judges relating to supervision of magisterial district courts by president judges.

Subsection D recognizes that magisterial district courts require some flexibility in implementing the provisions of this policy, given the differences in resources and caseloads among the over 500 magisterial district courts. For example, a magisterial district court may set aside a designated time each week in which the public may inspect and copy official case records, or magisterial district court staff may make an extra copy of each notice of court proceeding produced that could be available to the public for review.

Requests for case record information that cannot be satisfied without substantially impeding the orderly conduct of court business in a magisterial district court may be referred to the AOPC, provided that the requestor is not requesting access to the official case records of the magisterial district court but is merely interested in

obtaining electronic case record information that is maintained in the MDJS.³ Because the AOPC does not have access to the official case records of the magisterial district courts, any requests to inspect or copy the paper records should be handled by the appropriate magisterial district court. However, if the requestor is willing to accept access to the electronic case record information⁴ in lieu of the official case records, the request can be handled by AOPC. Access to information maintained in the MDJS is governed by the Electronic Record Policy, which along with pertinent request forms can be found at <http://www.aopc.org/index/PublicAccessPolicy>.

§ 213.93. Requesting Access to Official Case Records of the Magisterial District Courts.

(a) All requests for access by the public to the official case records of the magisterial district courts shall be made in writing to the court on a form prescribed by the Administrative Office of Pennsylvania Courts.

(b) A request shall identify or describe the records sought with specificity to enable the court staff to ascertain which records are being requested. A request need not include any explanation of the requestor's reason for requesting or intended use of the records.

(c) If the requestor does not submit a completed form, access may be delayed until the form is completed or until a time when court staff is available to monitor such access to ensure the integrity of the case records.

(d) A requestor, whether acting on his/her own behalf or as another's agent, may request access to a maximum of 10 different case records during any given business day from a magisterial district court.

COMMENTARY

All requests for access, whether for copies or inspection, shall be made in writing on a request form prescribed by AOPC. The form should be designed to include the requestor's name, address, phone number, etc., as contact information will be helpful to court personnel should they have questions about the request upon receipt. Moreover, the requestor must provide sufficient distinguishing information about their request for the court to determine with certainty the parties and/or the case(s) involved. As provided in Subsection C, if the requestor is unable or unwilling to complete the form, access may be delayed until a court staff member is available to sit with the requestor and monitor the use of the file to ensure integrity of the same. Similar procedures are in place in courts of Delaware and New Jersey.⁵

³ See Section II.A.3. of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Magisterial District Court Records* which provides in part that "[r]equests for docket or case index information that cannot be satisfied without substantially impeding the orderly conduct of office business may be referred to the AOPC."

⁴ It is important to note that the electronic case record information maintained in the MDJS is a subset of the information that is maintained in the official case files at the magisterial district courts. That is, all the information contained in the official case records on file with the courts is not captured by the MDJS.

⁵ Delaware Directive #80-021 (5th Supplement) "Policy Directive 80-021: Public Access to Judicial Records—Protection of Witness Information—Procedure for Sealing Files," pp. 9-10 provides in part the following information: "How much identification or information should the court require of those who request information? . . . Although not required, it is helpful to have persons complete the 'Application for Access to Court Records' and provide that to the court by facsimile or in person. The information on the completed form is helpful in case there is a subsequent question concerning the information released. . . . A person requesting information does not need to provide identification in order to receive the information. However, the person must provide sufficient distinguishing information about their request for the court to determine with certainty the defendant and/or the case involved. . . ."

New Jersey Directive #15-05 "Judiciary Open Records: Policies and Procedures for Access to Case-Related Court Records—Staff Guidelines," p. 2 provides in part: "While the form asks for the requestor's name, address, and other information, records requested must still be provided even if the requestor does not provide that personal information. . . . Where a requestor seeks to inspect a file, that is, to have physical custody of the file for some period, there is a legitimate concern to ensure that the file is not tampered with. In such instances, the requestor should be asked to provide some form of personal identification. If the requestor is unable or unwilling to do so,

The proposed policy establishes 10 records as the maximum number of official case records of the magisterial district courts or files that a single requestor could request per business day for a number of reasons. See Subsection D. First and foremost, the staff of the magisterial district courts must attend to the business of the court—caseload management. Furthermore, a daily limit on the volume of requests helps to ensure that the courts are open to all people, and not just a few individual requestors with sufficient resources to divert the courts' resources, perhaps to the detriment of other requestors. This provision strikes an appropriate balance between accommodating reasonable requests for official case records of the magisterial district courts in bulk while not impinging upon the court's ability to conduct its business.

Of course, requestors who are not interested in actually accessing the official case records of the magisterial district courts may make their request to the AOPC, since the AOPC maintains the MDJS, which contains an electronic subset of the magisterial district courts' official case records. The MDJS does not capture copies or images of case records; it is essentially a database of court record information entered by the magisterial district courts. Access to information maintained in the MDJS is governed by the Electronic Records Policy, posted at <http://www.aopc.org/index/PublicAccessPolicy>. Section 3.10 of the Electronic Records Policy permits bulk requests. Thus, a requestor who wishes access to information captured in the official case records of the magisterial district courts that exceeds the limitation set forth above could receive case information recorded in the MDJS from the AOPC, as permitted under the Electronic Records Policy.

A court may wish to implement a practice whereby persons who regularly request information from the court do not need to complete a request form for each request, but may complete one form noting what information is generally requested.

§ 213.94. Responding to Requests for Access to Official Case Records of the Magisterial District Courts.

(a) As promptly as practicable but in no case longer than 5 business days after receipt of a request for access to the official case records of the magisterial district court, the court shall respond in one of the following manners:

(1) fulfill the request;

(2) notify the requestor in writing that the information requested is available upon payment of applicable fees and specify those fees;

(3) notify the requestor in writing that the request cannot be fulfilled because the requestor has not complied with the provisions of this policy and specify the areas of non-compliance;

(4) notify the requestor in writing that the information cannot be provided and specify the reasons why; or

(5) notify the requestor in writing that the request has been received and the expected date the information will be available. If the information will not be available within 30 business days, the court shall notify the district court administrator and the requestor simultaneously.

(b) If a court denies a request for access, a requestor may seek review of that determination within 10 business

production of the file may be delayed until a court staff member is available to sit with the requestor and monitor the use of the file. . . ."

days. The request for review shall be submitted in writing to the president judge of the judicial district or president judge's designee. The president judge or designee shall make a determination and forward it in writing to the requestor. This remedy need not be exhausted before other relief is sought.

COMMENTARY

Implementing the provisions of this policy should not unduly burden or impinge upon the business of the courts. The question addressed by this section is not whether there is to be access, but rather *how and when access should be afforded*.

There are two competing interests that must be addressed in this section. First, any requirements imposed upon courts regarding how and when they should respond to these requests must not interfere with the courts' ability to conduct their day-to-day operations, especially in light of the limited resources with which many courts have to function. Second, all requests should be handled by courts in a predictable, consistent, and timely manner statewide. This section strikes the appropriate balance between these two competing interests.

Subsection A(3) provides that if a requestor has failed to comply with this policy, then written notification to the requestor should set forth the specific areas of non-compliance. For example, a requestor may have failed to pay the appropriate fees associated with the request. Section 213.95 of this policy permits the establishment of reasonable fees for access.

Subsection A(4) requires that any written notification to the requestor stating that the information requested cannot be provided shall set forth the reason(s) for this determination. For example, the requested information may be restricted from access pursuant to legal authority (e.g., statute, court rule, etc.).

Under subsection A(5), the court shall specifically state in its written notification to the requestor the expected date that the information will be available. If the information will not be available within 30 business days, the court shall provide written notification to the requestor and the district court administrator at the same time. Possible reasons a court may need the additional period of time include:

- the request, particularly if for official case records of the magisterial district court in bulk, involves such voluminous amounts of information that the court may not be able to fulfill the same within the initial 5 business day period without substantially impeding the orderly conduct of the court;
- records in closed cases may be located at an off-site facility;
- records may be in use by a magisterial district judge or court staff; or
- the court is not able to determine if this policy permits the release of the requested information within the initial 5 business day period. Therefore, the court may require an additional period of time to conduct an administrative review of the request to make this determination.

§ 213.95. Fees.

(a) Reasonable fees may be imposed for providing the public with access to the official case records of the magisterial district courts pursuant to this policy.

(b) The president judge of each judicial district shall establish a fee schedule by local rule pursuant to Pa.R.J.A. No. 103. The fee schedule shall be publicly posted.

COMMENTARY

The objective of courts in responding to public access requests is not to make a profit; rather it is to foster the values of open court records without unduly burdening court resources. Put simply, fees should not be financial barriers to accessing case record information. Fees assessed by courts in satisfying public access requests must be reasonable, fair and affordable.

A public access request may be for information that is not readily available and requires staff intervention to fulfill the same. The staff time and other costs incurred by magisterial district courts in fulfilling a request should be passed on to the requestor. Clearly, absent the request, the court would not incur these costs.

The charging of fees in responding to public access requests is not novel. The *Public Access Policy of the Unified Judicial System of Pennsylvania: Magisterial District Court Records* provides that "[f]ee[s] for photocopying shall not exceed \$.50 per page." Moreover, the Right To Know Law ("RTKL") provides that fees may be charged by agencies in fulfilling RTKL requests. The fees must be reasonable and based on the prevailing fees for comparable services provided by local business entities, except for postage fees which must be the actual cost of postage.⁶ Further, it appears that many court systems charge a fee in responding to public access requests, including Arizona,⁷ Delaware,⁸ Florida,⁹ Idaho,¹⁰ Maryland,¹¹ Minnesota,¹² New Jersey,¹³ Utah,¹⁴ and Vermont.¹⁵

⁶ See 65 Pa.C.S. § 66.7. It is important to note that Act 3 of 2008 has substantially amended the RTKL, with the majority of the provisions taking effect on January 1, 2009. Section 1307 of Act 3 retained the fee provisions referenced above.

⁷ Arizona Rule 123 Public Access to the Judicial Records of the State of Arizona. Subsection (f)(3) provides different levels of fees for requestors for non-commercial purposes and commercial purposes. For non-commercial requestors "[i]f no fee is prescribed by statute, the custodian shall collect a per page fee based upon the reasonable cost of reproduction." See Rule 123(f)(3)(A). For commercial requestors, "the custodian shall collect a fee for the cost of: (i) obtaining the original or copies of the records and all redaction costs; and (ii) the time, equipment and staff used in producing such reproduction." See Rule 123(f)(3)(B)(i) and (ii).

⁸ Directive 80-021 (5th Supplement) "Policy Directive 80-021: Public Access to Judicial Records," p.5. "The person requesting the information shall bear the cost of complying with the request for information as determined by the court where the records are located." Copies set at \$.25 per page; Civil and Criminal/Traffic transcripts set at \$10.00 and \$7.00, respectively.

⁹ See FLA. J. ADMIN. R. 2.420(f)(3) and FLA. STAT. ANN. § 119.07 which appear to permit the charging for cost of duplication, labor and administrative overhead.

¹⁰ IDAHO ADMIN. R. 32(J)(6). "The cost to make a paper copy of any record filed in a case with the clerk of the district court shall be as specified in I.C. § 31-3201. The cost for any copying of any record shall be the actual cost as designated by the order of the Administrative District Judge."

¹¹ Maryland Rule of Procedure 16-1002(d)(1)-(4) provides that "Reasonable fees means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access. Unless otherwise expressly permitted by these Rules, a custodian may not charge a fee for providing access to a court record that can be made available for inspection, in paper form or by electronic access, with the expenditure of less than two hours of effort by the custodian or other judicial employee. A custodian may charge a reasonable fee if two hours or more of effort is required to provide the requested access. The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a court record."

¹² MN ST ACCESS TO REC RULE 8(6) (WEST 2006). "When copies are requested, the custodian may charge the copy fee established by statute but, unless permitted by statute, the custodian shall not require a person to pay a fee to inspect a record. When a request involves any person's receipt of copies of publicly accessible information that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the judicial branch, the custodian may charge a reasonable fee for the information in addition to costs of making, certifying, and compiling the copies."

¹³ Directive #15-05 "Judiciary Open Records: Policies and Procedures for Access to Case-Related Court Records—Staff Guidelines", p. 2. "The fees that the Judiciary is permitted to charge for copying costs are set by statute; those fees should always be collected, even if the requestor is seeking a copy of just a one page record."

¹⁴ UTAH J. ADMIN. R. 4-202.08 establishes a uniform fee schedule for requests for records, information, and services.

¹⁵ 1 VT. STAT. ANN. § 316(b)-(d) and (f) provide that if any cost is assessed it is based upon the actual cost of copying, mailing, transmitting, or providing the document.

Subsection B requires the president judge of each judicial district to establish a fee schedule by local rule which would necessitate providing a copy of the same to the AOPC. *See* Pa.R.J.A. 103 regarding the procedure for adoption, filing and publishing a local rule.

While fees may vary depending upon the request and particular resources of a court, it is envisioned that access fees will be uniform, to every extent possible, across the judicial districts.

The president judge may wish to implement a policy that requires pre-payment for requests wherein the fees are expected to be in excess of \$100. Such a policy would be consistent with the RTKL¹⁶ as well as Pa.R.J.A. No. 509(d)(2).

§ 213.96. Official Case Records of the Magisterial District Courts Not Accessible by the Public.

(a) The following items or information residing in the official case records of the magisterial district courts are not accessible to the public:

- (1) Forms filed pursuant to § 213.97 of this policy;
- (2) Information sealed pursuant to an order by a common pleas or appellate court;
- (3) Information to which access is restricted by federal law, state law, or state court rule; and
- (4) Notes, drafts, and work product of the magisterial district court.

(b) With the approval of the Chief Justice of Pennsylvania, the Court Administrator of Pennsylvania may determine that additional information in the official case records of the magisterial district courts is not accessible by the public because it presents a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice.

COMMENTARY

Examples of information that are not accessible to the public pursuant to Subsection A include:

- (a) Identities of child victims of sexual or physical abuse (*See* 42 Pa.C.S. § 5988).
- (b) Executed search warrants and affidavits that are sealed (*See* Pa.R.Crim.P. 211 and *PG Publishing Company v. Commonwealth*, 614 A.2d 1106 (Pa. 1992)).
- (c) Executed arrest warrants and affidavits that are sealed (*See Commonwealth v. Fenstermaker*, 530 A.2d 414 (Pa. 1987)).
- (d) Documents that are not filed or required to be filed with the magisterial district court—e.g. investigative records under the control of law enforcement and prosecutor, are not public judicial documents to which access may be permitted. *Commonwealth v. Espola*, 9 Pa.D&C 4th 12 (Pa. Com. Pl. 1990)

Subsection B acknowledges that it is difficult to anticipate every possible occurrence that might impact upon public access, whether related to technology, administration, security or privacy, after implementation of this policy. Moreover, resolution of issues that may have statewide impact need to be accomplished in a timely and coordinated fashion.

By way of example, law enforcement and court personnel raised security concerns with the AOPC almost two years ago concerning the electronic release of MDJS criminal court data prior to the execution of active arrest

warrants that jeopardized the safety of police officers and potentially impeded the administration of justice. The Court Administrator reviewed the specific concerns and quickly took action to remedy the situation by instituting a 30-day hold on release of the electronic data. While this example did not involve access to paper court records, it illustrates that in a judicial system as vast as Pennsylvania's it is important that such measures can be taken in an effective manner without delay. This provision is also contained in Section 3.00(m) of the Electronic Records Policy.

It is important to note that other state court systems' policies and rules have similarly provided for the need to promptly address unanticipated privacy and security concerns. *See Massachusetts' Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 3. Moreover, the RTKL provides that the definition of "public records" does not include "a record the disclosure of which . . . would be reasonably likely to result in a substantial and demonstrable risk of physical harm or the personal security of an individual."¹⁷

§ 213.97. Confidential Information in Pleadings or Other Papers Filed with Magisterial District Courts.

(a) Unless otherwise required by law or requested by the court, parties and their attorneys are directed to refrain from including, in all documents filed with the court, including exhibits attached thereto, any of the following information:

- (1) social security numbers; and
- (2) financial institution account numbers, credit card numbers, PINS or passwords to secure accounts.

(b) The parties and their attorneys are solely responsible for complying with the provisions in subsection A. The court staff will not review any document for compliance with subsection A.

(c) If a party is required by law or requested by the court to include any of the information set forth in subsection A, the information shall be filed on a separate form prescribed by the Administrative Office of Pennsylvania Courts. This form shall not be accessible to the public.

COMMENTARY

The rise in the occurrence of the crime of identity theft and the availability of sensitive information in the official case records of the magisterial district court records has prompted significant concerns and questions. Should sensitive information be recorded in documents filed with the court? Should sensitive information be accessible to the public? Is this information necessary for the courts to function effectively?

As court records are increasingly made available online, the judiciary should be proactive in the review of its forms and procedures to eliminate, to the extent feasible, the inclusion of sensitive information—specifically, social security numbers and financial account numbers—in publicly filed court documents.¹⁸ However, removal of this information from the official case records of the magisterial district courts is no simple task. Various resolutions to this issue were considered ranging from prohibiting

¹⁷ Act 3 of 2008, Section 708(b)(1)(ii).

¹⁸ *See, e.g.*, Lehigh County Rule of Civil Procedure 205.2(a)(12) and Bucks County Civil Division Administrative Order No. 6, Paragraph 10 (prohibiting inclusion of social security numbers in documents to be filed with the court). Also, the 2008 Traffic Citation form for Philadelphia Traffic Court has been amended to remove the social security number field.

¹⁶ *See* 65 P.S. § 66.7(h) and in Act 3 of 2008 the same provision is found in Section 1307(h).

litigants from recording this information on documents filed with the courts to requiring court staff to redact this information from court documents before providing access.

Most of the forms that are found within the official case records of the magisterial district courts are statewide forms that are generated from the MDJS. There are 149 forms generated by the MDJS for use by litigants, the courts, and other governmental entities in Pennsylvania (including PennDOT, State Police, Department of Welfare, Department of Health, Pennsylvania Commission on Crime and Delinquency). Approximately 18 MDJS forms and/or citations include fields for the entry of full social security numbers, including the Non-Traffic Citation, Criminal Complaint and those related to the suspension and/or revocation of a defendant's driver's license. In the civil, criminal and landlord-tenant context, the forms may also provide "narrative" sections where the affiant/litigant may include sensitive information, such as social security numbers.

While § 213.97 focuses on the exclusion of specified sensitive information by a party when filing documents with the court, particularly in the narrative sections described above, *it is recommended that fields for social security and financial account numbers on MDJS forms be removed entirely*, especially if that information is extraneous to the court's adjudication of the case or if collection of the information is not otherwise required by law. Quite simply, if the information is not collected in the first place, concerns regarding personal privacy and security can be avoided.

Alternative solutions to full removal of these sensitive identifiers exist, aside from the procedures outlined in § 213.97, assuming that the collection of this information by the courts is necessary to conducting its business or required by law. Under those circumstances, it may be advisable to simply require the truncation of social security and financial account numbers to the last four digits on the forms. Truncating the numbers would require the revision of the forms to only provide space for four digits. Another option may be to add a "public inspection copy" to the forms. For example, the non-traffic citation is a multi-page form. An additional sheet could be added to the citation form to "black out" the display of the defendant's social security number. This page along with the court's usual copy would be filed with the court. Upon receipt of a request for access, court staff would provide only the "public inspection copy" to the requestor.

In addition to the approaches listed above, it is recommended that § 213.97 be adopted. Section 213.97 provides that if the full social security number or financial account information is required, parties or their attorneys should file this information on a separate form. This form shall not be accessible to the public.

This approach of using a separate form is not unique. Arizona,¹⁹ California,²⁰ Kansas,²¹ Minnesota,²² and

¹⁹ Rule 43(g) of the Rules of Family Law Procedure restricting the inclusion social security numbers, bank account numbers, credit card numbers and other financial account information.

²⁰ Rule 1.20 of the California Rules of Court amended to permit the inclusion of only the last four digits of social security and financial account numbers, effective January 1, 2008, in documents filed with the courts. A form entitled Reference List of Identifiers (form MC-120) was adopted to carry out the purposes of Rule 1.20.

²¹ Kansas Rules Relating to District Courts Rule 123 (Rule Requiring Use of Cover Sheets and Privacy Policy Regarding Use of Personal Identifiers in Pleading). The Rule provides that in divorce, child custody, child support or maintenance cases, a party must enter certain information only on the cover sheet which is not accessible to the public. Specifically, a party's or party's child's SSN and date of birth must be entered on the cover sheet only. Moreover, the Rule provides that unless required by law, attorneys and parties shall not include SSNs in pleadings filed with the court (if must be included use last four digits), dates of birth (if must be included use year of birth), and financial account numbers (if must be included use last four digits).

Washington²³ already use a similar procedure/form. In addition, in response to the Judicial Conference Policy on Privacy and Electronic Access to Case Files and E-Government Act of 2002, federal courts have adopted local rules to protect sensitive information in court records. For example, the United States District Court for the Middle District of Pennsylvania issued standing order 04-5 "In Re: Notice of Electronic Availability of Case File Information" which provides in part that

"You should not include sensitive information in any civil case document filed with the Court unless such inclusion is necessary and relevant to the case. You shall not include sensitive information in any *criminal* case document filed with the Court . . . The following personal data identifiers must be partially redacted from the document in a civil or criminal case (except a Social Security case), whether it is filed traditionally or electronically: Social Security numbers to the last four digits; financial account numbers to the last four digits. . . ."²⁴

Parties and their attorneys are responsible for removing all social security numbers and financial information from the documents before the documents are filed with the court. Subsection B specifically provides that courts shall not review each pleading or other paper for compliance with this section. Although courts may incur some additional administrative responsibilities in handling the forms under subsection C, it is not believed the burden of processing the same will be substantial. The burden is appropriately placed on the parties and their attorneys, rather than court staff, to eliminate the identifiers.

In developing the list of identifiers in Subsection A that must be excluded, consideration was also given to including operator license numbers, dates of birth, and names of minor children. While some other jurisdictions have included such identifiers, it was concluded that the proposed policy should require the exclusion of only two identifiers, because the benefits of continuing to include such additional information in court documents in terms of adjudication and administration outweigh any additional privacy protections gained.

The restriction on access to social security numbers has been the focus of recently adopted legislation by the Pennsylvania General Assembly. Act 60 of 2006 prohibits *inter alia* the public posting or display of an individual's social security number. See 74 P.S. § 201. In addition, Act 3 of 2008 which rewrote the RTKL exempts social security numbers, financial information and personal identification numbers from access requirements.

It is noteworthy to mention that consideration was given to requiring court staff to redact social security numbers and financial account numbers from court records before permitting access. If such a policy was enacted, each document that is contained in the court's paper file would have to be carefully scrutinized and possibly redacted pursuant to the policy provision before it could be released to the public. Depending on individual court resources, such a policy may cause delays in fulfilling public access requests to official case records of the magisterial district courts, result in the inadvertent release of non-public information, or impede the business

²² Minnesota General Rules of Practice for the District Courts, Rule 11.02, restricting the inclusion of the following identifiers: social security numbers, employer identification numbers, and financial account numbers of a party or person.

²³ WASH. CT. GR. 22 (2006). Please note that this rule only applies to family law and guardianship court records.

²⁴ The United States District Court for the Eastern District of Pennsylvania has similar provisions in Local Civil Rule 5.1.3 and Local Criminal Rule 53.2. And the United States District Court for the Western District of Pennsylvania has a similar provision in Local Civil Rule 5.1.1.

of the court. For these reasons, redaction is not viewed as a viable solution for removal of the specified sensitive identifiers.

The implementation of this policy should be prospective (i.e., only applicable to official case records of the magisterial district courts that are filed on or after the date of implementation). It is strongly recommended that the provisions of § 213.97 be cross-referenced in the applicable Rules of Civil Procedure Governing the Actions and Procedures Before Magisterial District Judges as well as the Rules of Criminal Procedure, so that litigants and counsel are put on notice regarding these new filing requirements.

[Pa.B. Doc. No. 08-555. Filed for public inspection March 28, 2008, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS [207 PA. CODE CH. 33]

Amendment of Canon 7 B(1)(c) of the Code of Judicial Conduct; No. 317 Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 17th day of March, 2008, Canon 7 B(1)(c) of the Code of Judicial Conduct is amended to read as follows.

To the extent that 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 207. JUDICIAL CONDUCT PART II. CONDUCT STANDARDS CHAPTER 33. CODE OF JUDICIAL CONDUCT Subchapter A. CANONS

* * * * *

Canon 7. Judges should refrain from political activity inappropriate to their judicial office.

* * * * *

B. Campaign conduct.

(1) Candidates, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election:

* * * * *

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit [or appear to commit] the candidate with respect to cases, controversies or issues that are likely to come

before the court; or misrepresent their identity, qualifications, present position, or other fact.

* * * * *

[Pa.B. Doc. No. 08-556. Filed for public inspection March 28, 2008, 9:00 a.m.]

PART II. CONDUCT STANDARDS [207 PA. CODE CH. 61]

Amendment to Rule 7 of the Rules Governing the Conduct of Members of the Court of Judicial Discipline; Doc. No. 1 JD 94

Order

And Now, this 18th day of March, 2008, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted amendments to Rule 7 of the Rules Governing the Conduct of Members of the Court of Judicial Discipline, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Rule 7 shall become effective immediately.

WILLIAM H. LAMB,
President Judge

Annex A

TITLE 207. JUDICIAL CONDUCT PART II. CONDUCT STANDARDS

CHAPTER 61. RULES GOVERNING THE CONDUCT OF MEMBERS OF THE COURT OF JUDICIAL DISCIPLINE

Rule 7. Political Activity.

* * * * *

C. Non-judicial members of the Court shall not hold office in any political party or political organization during the member's term of service.

(1) Non-judicial members should not act in any capacity in any political organization of a candidate for judicial office or judicial appointment.

(2) Non-judicial members should not publicly endorse a candidate for judicial office or judicial appointment and should not solicit or contribute funds for a candidate for judicial office.

[Pa.B. Doc. No. 08-557. Filed for public inspection March 28, 2008, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 17]

Proposed Amendment to Rule 1736

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure 1736. The amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is in bold while deleted material is bracketed.

All communications in reference to the proposed amendment should be sent no later than April 28, 2008 to:

Dean R. Phillips, Chief Counsel
D. Alicia Hickok, Deputy Counsel
Scot Withers, Deputy Counsel
Appellate Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
or Fax to
717-795-2116
or E-Mail to
appellaterules@pacourts.us

*By the Appellate Court
Procedural Rules Committee*

HONORABLE JANE CUTLER GREENSPAN,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1736. Exemption from Security.

(a) *General rule.*—No security shall be required of:

* * * * *

(b) *Supersedeas automatic.*—Unless otherwise ordered pursuant to this chapter the taking of an appeal by any party specified in Subdivision (a) of this rule shall operate as a *supersedeas* in favor of such party, **which *supersedeas* shall continue through any proceedings in the United States Supreme Court.**

Official Note: This rule is self-executing, and a party entitled to its benefits is not required to bring the exemption to the attention of the court under Rule 1732 (application for stay or injunction pending appeal). However, the appellee may apply under Rule 1732 for elimination or other modification of the automatic *supersedeas* or under Rule 1737 (objections to security) for an order requiring security as a condition to the continuance of the stay, or for relief under any other applicable provision of this chapter.

The 1987 amendment eliminates the automatic *supersedeas* for political subdivisions on appeals from the common pleas court where that court has affirmed an arbitration award in a grievance or similar personnel matter.

Explanatory Comment—2008

The definition of “Appeal” in Pa.R.A.P. 102 does not reference proceedings in the United States Supreme Court. Rule 102 further defines “Determination” as “Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise.” While the word “otherwise” could be read broadly to include the United States Supreme Court, the more specific reference to the Pennsylvania Constitution as limiting the scope of the term suggests that the

Federal Courts are not part of the definition when “court” is used in the Rules. In light of this ambiguity, the Rule has been amended to make clear that the automatic *supersedeas* in subsection (b) continues through any proceedings in the United States Supreme Court.

[Pa.B. Doc. No. 08-558. Filed for public inspection March 28, 2008, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Proposed Amendment to Rule 2116

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure 2116. The amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is in bold while deleted material is bracketed.

All communications in reference to the proposed amendment should be sent no later than April 28, 2008 to:

Dean R. Phillips, Chief Counsel
D. Alicia Hickok, Deputy Counsel
Scot Withers, Deputy Counsel
Appellate Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or Fax to
717-795-2116

or E-Mail to
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court
Procedural Rules Committee*

HONORABLE JANE CUTLER GREENSPAN,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2116. Statement of Questions Involved.

(a) *General rule.*—The statement of the questions involved must [state the question or questions in the briefest and most general terms, without names, dates, amounts or particulate of any kind] set forth concisely the issues to be resolved, expressed in the terms and circumstances of the case but without unnecessary detail. The statement shall be no more than two pages and will be deemed to include every subsidiary question fairly comprised therein. [It

should not ordinarily exceed 15 lines, must never exceed one page, and must always be on a separate page, without any other matter appearing thereon. This rule is to be considered in the highest degree mandatory, admitting of no exception; ordinarily no point] Mno question will be considered [which] unless it is [not] set forth in the statement of questions involved or is fairly suggested thereby. [Whenever possible each] Each question [must] shall be followed [immediately] by an answer stating simply whether [it was affirmed, negated, qualified or not answered by the court or government unit below] the court or government unit agreed, disagreed, did not answer, or did not address the question. If a qualified answer was given to the question, appellant shall indicate [, most briefly] the nature of the qualification, or if the question was not answered or addressed and the record shows the reason for such failure, the reason shall be stated briefly in each instance without quoting the court or government unit below .

* * * * *

Note: The 2008 amendments are intended to reinforce the importance placed upon a party's statement of a limited number of concise questions that enable the Court to understand the nature of the legal issue, and in a general way what points it will be called on to decide. Thus, a party should incorporate the pertinent terms and circumstances of the case, but without details such as names, dates, amounts or particulars that are irrelevant to the resolution of the issues presented to the Court.

Previously, some practitioners violated Pa.R.A.P. 124 to avoid the 15-line and one page restrictions of Pa.R.A.P. 2116 by adjusting fonts, spacing, and margins. Appellate courts may find issues to be waived when they are not set forth in compliance with the Rules of Appellate Procedure. The increase from one to two pages should provide ample space for most parties to articulate their questions in an informative yet concise manner. A party requiring more than two pages for a statement of questions should file an application under Pa.R.A.P. 123 asking for extra pages, explaining why additional pages are needed, and attaching the proposed questions to the application. See Pa.R.A.P. 105.

The current language of the Rule is consistent with the standard set forth in Pa.R.A.P. 1115(a)(3) for questions presented for review in a Petition for Allowance of Appeal to the Supreme Court.

Explanatory Comment

The Appellate Procedural Rules Committee is publishing for comment proposed revisions to Pa.R.A.P. 2116. Although other rules, such as Pa.R.A.P. 2118, also have page limits, the Committee did not perceive an impetus to change those rules at this time. Recent opinions reveal a frustration with Pa.R.A.P. 2116 by both the bench and the bar.

For example, in *Commonwealth v. duPont*, 860 A.2d 525, 530 (Pa. Super. 2004), appellant filed a Statement of Questions that was in "italicized type of smaller size, with narrower line spacing and margins than the rest of the brief" to comply with the single-page requirement.

At the same time, although there are several opinions in which the Superior Court alludes to the fact that Pa.R.A.P. 2116 is "in the highest degree mandatory," panels of the court have been inconsistent in response to violations. In cases such as *In re S. A.*, 925 A.2d 838, 841 n.6 (Pa. Super. 2007), the Superior Court has refused to address issues that carried over to the second page; see also *Commonwealth v. Jaroweki*, 923 A.2d 425, 427-28 (Pa. Super. 2007); *Commonwealth v. Andrulewicz*, 911 A.2d 162, 165 n.7 (Pa. Super. 2006).

On the other hand, in cases such as *Universal Underwriters Ins. Co. v. A. Richard Kacin, Inc.*, 916 A.2d 686, 689 n.6 (Pa. Super. 2007), the Superior Court recited the violation but did not impose consequences upon the appellant for violating the rule; see also *Burgoyne v. Pinecrest Cmty. Ass'n*, 924 A.2d 675, 679 n.2 (Pa. Super. 2007); *Commonwealth v. Bell*, 901 A.2d 1033, 1034 (Pa. Super. 2006) (where Statement of Questions Involved was omitted entirely). In a few instances—where there were violations of multiple rules—the court refused review altogether. See, e.g., *Karn v. Quick & Reilly*, 912 A.2d 329, 336-37 (Pa. Super. 2006), *allowance of appeal denied*, 931 A.2d 659 (Pa. 2007); *Branch Banking & Trust v. Gesiorski*, 904 A.2d 939, 942 (Pa. Super. 2006).

It appears, therefore, that the standard of the rule as enforced may better be viewed as whether the appellant's conduct has impeded meaningful appellate review. Accordingly, the Committee proposes revising Pa.R.A.P. 2116 to remove "in the highest degree mandatory" and to substitute "two pages" for "15 lines . . . never exceed[ing] one page."

This Recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court for adoption. Proposed new material is in bold, while bold bracketed material is deleted.

[Pa.B. Doc. No. 08-559. Filed for public inspection March 28, 2008, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1920]

Amendment of Rule 1910.21 Governing Support Order; Enforcement; Withholding of Income; Proposed Recommendation 94

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, May 16, 2008 directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
FAX (717) 795-2175
E-mail: patricia.miles@pacourts.us

By the Domestic Relations Procedural Rules Committee
NANCY P. WALLITSCH, ESQUIRE,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.21. Support Order. Enforcement. Withholding of Income.

* * * * *

(c) Order for Withholding. * * *

* * * * *

(f) Income Withholding When the Obligor Defaults on Support Order.

(1) When an obligor is subject to an order for income withholding and payment is made by the employer within 15 days from the date upon which the obligor's obligation would be considered overdue (i.e. the date upon which delinquent support is equal to one month's support obligation), the payment shall be considered timely and any past due support shall not be converted to overdue support or subject to automated enforcement mechanisms.

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. The court may also direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

* * * * *

Explanatory Comment—2000

1. Rule 1910.21 continues to implement the requirements of mandatory income withholding under 23 Pa.C.S. § 4348(b) in all support cases except those in which there is no overdue support and either the parties agree to an alternative arrangement or the court finds good cause for not requiring such withholding. Consistent with Act 1997-58, advance notice to the obligor is no longer required before the court may issue an order for income withholding. Notice is now provided concurrently with issuance of the order to the obligor's employer under subdivision (e).

2. This rule continues to apply to the withholding of "income," not merely wages. Income is broadly defined in 23 Pa.C.S. § 4302 as including "compensation for services, including, but not limited to, wages, salaries, bonuses, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in

property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income with respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; worker's compensation; unemployment compensation; other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source."

The Consumer Credit Protection Act, 15 U.S.C. § 1673, sets forth the limitations on monetary withholding. It is important to note, however, that these federal limitations apply only to an obligor's wages or earnings, as those terms are defined in the Consumer Credit Protection Act, and do not apply to any additional forms of income set forth in 23 Pa.C.S. § 4302.

3. The term "employer" is broadly defined in 23 Pa.C.S. § 4302 as including an individual, partnership, association, corporation, trust, federal agency, commonwealth agency or political subdivision paying or obligated to pay income.

4. Subdivision (c) requires all orders for income withholding to include a provision directing the employer to withhold any income which may be payable to the obligor at the end of the employment relationship. This provision contemplates forms of income payable to obligor "in lieu of" regular income as a direct result of the end of the employment relationship—e.g., lump-sum commutations of workers' compensation benefits, severance pay, golden parachutes, or any form of income payable in lieu of the regular stream of income which had been used during the course of employment to secure the monthly support obligation.

5. Subdivision (f) differs in scope and purpose from subdivision (c). Subdivision (f) applies only in cases involving overdue support, and permits the court to increase the rate of income withholding until the overdue support is paid in full. It also allows the court to order the employer to withhold all forms of income which may be owing and payable to the obligor "in addition to" regular income—e.g., bonuses, proceeds from the exercise of stock options or any other kinds of income which are periodically payable during the course of employment.

6. Subdivision (g) incorporates former Rule 1910.22(e) relating to income withholding for multiple support obligations. The provision is amended only to establish the priority of collecting child support before spousal support in cases where the maximum amount of income which can be withheld under the Consumer Credit Protection Act is not sufficient to cover all of the obligor's support obligations in full. In those cases, the income must be allocated first to meet all of the obligor's child support obligations before it may be used to satisfy any of the obligor's spousal support obligations. The portion of the obligation which cannot be

satisfied through income withholding will have to be collected through other available means of enforcement.

Explanatory Comment—2008

New subdivision 1910.21(f)(1) is intended to address circumstances in which an employer timely withholds income from an obligor pursuant to an income withholding order, but a delay occurs in receipt of the funds by the State Collection and Disbursement Unit. In those cases, it would be inappropriate to consider the obligor's payment as untimely and convert past due support to overdue support because an obligor subject to an income withholding order has no control over the timing of the transmission of the funds from the employer. This new rule addresses solely timing issues by providing a 15-day grace period. It does not apply to obligors who are not subject to an order for income withholding.

[Pa.B. Doc. No. 08-560. Filed for public inspection March 28, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BLAIR COUNTY

Repeal and Adoption of Local Rules; No. 2008 GN
1148

Order

And Now, this 22nd day of February, 2008, it is hereby Ordered and Decreed that the following Blair County Local Rules are amended as follows:

1. B.C.L.R. 76, 205.2(b), 206.4(c), 208.3(a), 208.3(b), 210.1, 211, 216, 229, 275, 310, 320, 325, 330, 350, 360, 365, 375, 1028(c), 1034(a), 1035.2(a), 1301, 1302(A), 1303, 1304, 1305, 1308, and 1400 as implemented between February 28, 1998 and May 23, 2005, are repealed;

2. B.C.L.R. 76, 205.2(b), 206.4(c), 208.3(a), 208.3(b), 216, 365, 1028(c), 1034(a), 1035.2(a), 1301, 1303, 1304, and 1308 are amended as reflected in the following rules;

3. New B.C.L.R. 208.2(c), 229, 230.2, 300, 301, 302, 303, and 1301-1 are adopted as reflected in the following rules;

4. Pursuant to Pa.R.Civ.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 Judicial Records, Civil Division, and upon request and payment of reasonable costs of reproduction and/or mailing the Clerk of Judicial Records shall furnish to any person a copy of the requested Local Rule(s);

e. A computer diskette containing the text of the attached 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 Blair County Bar Association;

f. The attached repeals, amendments, and new adoptions to Local Rules 76, 210.1, 211, 216, 216.1, 229.1, 230.2, 275, 300, 302, 303, 310, 320, 325, 330, 350, 360, 365, 375, 1301, 1301-1, 1302 (A), 1303, 1304, 1305, 1308, and 1400 shall be effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin* as per Pa.R.Civ.P. 239(d); and

g. The following repeals, amendments, and new adoptions to Local Rules 205.2(b), 206.4(c), 208.2(c), 208.3(a), 208.3(b), 1028(c), 1034(a), 1035.2(a) shall become effective upon publication on the web site of the Administrative Office of the Pennsylvania Courts pursuant to Pa.R.Civ.P. 239.8(d).

By the Court

JOLENE GRUBB KOPRIVA,
President Judge

RULE 76 Definitions

Blair County Bar Association Mediation Program—An alternative dispute resolution tool which utilizes the time and skills of several experienced members of the Blair County Bar who act as neutral mediators. This program provides the parties with an opportunity to expand and develop areas of agreement which can resolve their dispute at considerable savings of financial and human resources to everyone involved. Submission of cases to the Blair County Bar Association Mediation Program is voluntary, unless ordered otherwise.

Blair County Local Rules—These rules apply to any civil matter of business coming before this Court, unless designated otherwise. They shall be cited as B.C.L.R.

Notice of Argument/Hearing—An Order of Court setting a date, time and location for hearing on a petition or motion requiring a decision of Court. See B.C.L.R. 301.

Pretrial Conference—A conference among counsel, the Court and such other persons as directed to be present or permitted to attend by the judge. The purpose shall be to discuss the posture of the case, including settlement, in an effort to prepare the case for trial. A formal narrative is required for this conference. See Pa.R.Civ.P. 212.2—212.3.

Settlement Conference/Judicial Mediation—A meeting among counsel, litigants, the Court and other such persons as directed by the judge to be present in person for the purpose of resolving the action. This meeting shall be attended in person unless excused by the judge. All persons with settlement authority shall be required to attend unless specifically excused by the Court.

Status Conference—A conference among counsel and a court representative to take place early in the litigation or at any other point the Court deems necessary to move the case toward resolution. No pretrial narratives are necessary. Counsel should be prepared to discuss the present status of the lawsuit, appropriate time limits for discovery, and the possible use of alternative dispute resolution. The Court may set discovery deadlines at this time and may schedule a formal pretrial. See B.C.L.R. 300.

Summary Jury Trial—A form of alternative dispute resolution to be scheduled upon request of the parties and/or at the discretion of the Court. The purpose of the summary jury trial is to provide an expedited proceeding which promotes settlement. The attendance of the parties with authority to settle, including insurance adjuster, is mandatory. See B.C.L.R. 302.

RULE 205.2(b) Cover Page

(1) For the initial pleading in any civil action, the pleading shall be accompanied by a completed Court of Common Pleas of Blair County Civil Cover Sheet to be attached to the first page of the pleading. The Court of Common Pleas of Blair County Civil Cover Sheet, as set forth below, shall be available to the parties at the Office of the Prothonotary of Blair County.

(2) All other pleadings and entries of appearance filed in any matter shall be accompanied by an identification cover page which should be attached to the first page of pleading and which will be structured to indicate:

- (a) Full case caption;
- (b) Realm of the court to which the matter is to be sent, i.e. civil, criminal, family, orphans, juvenile, or miscellaneous;
- (c) Title of the pleading or indication of entry of appearance;
- (d) Name of the assigned or presiding judge, if applicable;
- (e) Civil court code number, if applicable, as assigned on the Court of Common Pleas of Blair County Civil Cover Sheet in the initial pleading;
- (f) Indication whether the matter is a subject for arbitration (“ARB”);
- (g) Indication of the party for whom the pleading is filed. If there is no attorney involved, the name, address, and telephone number of the party or parties is required;
- (h) Name, Supreme Court identification number, law firm name, if applicable, address, and telephone number of filing attorney as well as the names of counsel and law firms representing other parties with indication of the party represented;
- (i) Identification Cover Pages shall include the caption for the case, the type of court, the title of the pleading, the name of the presiding judge, an identification of the moving or pleading party and their attorney, and an identification of the opposing party and their attorney. Other than the information contained in the caption, the cover page should be justified to the right side of the page in substantially the following form:

Court of Common Pleas of Blair County
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
TOTAL NUMBER OF PLAINTIFFS	TOTAL NUMBER OF DEFENDANTS	COMMENCEMENT OF ACTION <input type="checkbox"/> Complaint <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Petition Action <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer from Other Jurisdiction
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000 or less <input type="checkbox"/> More than \$50,000 <input type="checkbox"/> Not Applicable		JURY TRIAL DEMANDED? ARBITRATION CASE (\$0 - \$50,000) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

NATURE OF THE CASE: Place an "X" to the left of the ONE case category that most accurately describes your PRIMARY CASE. If you are making more than one type of claim, check the one that involves the largest amount of damages or the one you consider most important.

WRIT/MISCELLANEOUS

- Writ of Summons 100
- Complaint Miscellaneous 101
- Petition Miscellaneous 102
- Minor's Claim 103
- Protection from Abuse (PFA) 104
- Petition for Name Change 105

- Breach of Contract – Insurance 301
- Breach of Contract – Employment 302
- Breach of Contract – Construction 303
- Breach of Contract – Sale of Goods 304
- Breach of Warranty 305
- Credit Card/Consumer Credit 306
- Complaint Replevin 307

- District Justice (DJ) Appeal 503
- License/Registration Suspension Appeal 504
- Inspection Station Appeal 505
- Local Agency Appeal 506
- Board of Elections Appeal 507
- Tax Sale Appeal 508

TORT

- Motor Vehicle Accident 200
- Other Personal Injury 201
- Assault/Battery 202
- Trespass 203
- Defamation (Libel/Slander) 204
- Medical Malpractice 205
- Legal Malpractice 206
- Other Professional Liability 207
- Products Liability 208
- Premises Liability (Slip-and-Fall) 209
- Wrongful Death/Survival 210
- Asbestos 211

REAL PROPERTY/EQUITY

- Complaint in Mortgage Foreclosure 400
- Complaint Ejectment 401
- Complaint Partition 402
- Complaint in Quiet Title 403
- Complaint Mandamus 404
- Eminent Domain/Declaration of Taking 405
- Lis Pendens 406
- Condemnation 407
- Complaint in Equity 408
- Quo Warranto 409

JUDGMENTS/LIENS

- Judgment Complaint in Confession 600
- Judgment Exemption 601
- Consent Judgment/Judgment Note 602
- Declaratory Judgment 603
- Judgment Transcript 604
- Mechanic's Lien/Claim 605

CUSTODY

- Complaint Custody 700
- Foreign Custody 701

DIVORCE

- Complaint Divorce 800
- Foreign Divorce 801
- Divorce/Custody 802

APPEALS

- Appeal of Arbitration Award 500
- Board of Assessment Appeal 501
- Zoning/and Use Appeal 502

RELATED PENDING CASES (List by Case Caption and Case Number – Indicate Whether the Related Cases Have Been Consolidated)

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: (or Pro Se Litigant)
 Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY (OR PRO SE LITIGANT)		SUPREME COURT IDENTIFICATION NO.	ADDRESS
PHONE NUMBER	FAX NUMBER	EMAIL ADDRESS	
SIGNATURE			DATE

RULE 206.4(c) Rule To Show Cause

(1) We hereby adopt Pa.R.Civ.P. 206.5 as local procedure for rules to show cause.

(2) A petitioner seeking the issuance of a rule to show cause shall attach to the petition a proposed order in the form prescribed in subdivision (6) and give notice to all other parties of the intention to request the court to issue the rule.

(3) If the petition is within the scope of Rule 206.1(a), is properly pleaded, and states prima facie grounds for relief, the court shall enter an order issuing a rule to show cause and may grant a stay of proceedings.

(4) Argument/hearing shall be scheduled in front of the judge to whom the case is assigned for a date certain after the deadline for filing the answer. It is within the discretion of the presiding judge to determine whether the matter can be decided on briefs alone.

(5) Briefs addressing whether a rule to show cause should issue shall be filed according to the briefing schedule ordered by the presiding judge at the conclusion of the evidentiary hearing. If the Court declines to hold an evidentiary hearing, the Court shall provide a briefing schedule in the order issuing the rule.

(6) The form of order required by subdivision (2) shall be substantially in the following form:

(CAPTION)

ORDER

AND NOW, this ____ day of _____, _____, upon consideration of the foregoing petition, it is hereby ordered 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 this date;

(3) the petition shall be decided under Pa.R.Civ.P. No. 206.7.

(4) an evidentiary hearing on disputed issues of material fact shall be held on the ____ day of _____, ____ in Courtroom ____ of the Blair County Courthouse.

(5) notice of entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

_____ J.

RULE 208.2(c) Content of Motions

Any motion or petition based upon a statute or rule of court shall cite the specific statute or rule which authorizes the requested relief. See Pa.R.Civ.P. 239.3(a).

RULE 208.3(a) Presentation of Motions and Petitions

(1) All motions and petitions requesting an Order of Court shall be filed with the Prothonotary's Office, which shall forward the motion or petition to the Court Administrator's Office for further processing.

(a) **Exceptions:** The following motions or petitions shall be filed directly with the Court Administrator's Office, which will forward them to the appropriate judge:

(i) Motions for Continuance, except with respect to juvenile and domestic matters. B.L.C.R. 216.1.

(ii) Petitions for Court approval of stipulations or agreements.

(iii) Notice of Argument/Hearing, or agreed upon Order, may be presented to the Court Administrator's designee immediately prior to the beginning of Motions Court. The Court Administrator's designee will then assign a date and time and will submit the Notice of Argument/Hearing or Order for the judge to execute said Order without counsel being present. B.C.L.R. 301.

(b) Counsel shall always prepare and submit with any motion or petition a proposed order granting the requested relief.

(c) The movant and respondent shall serve copies of their respective filings upon the opposing party at the time such filings are promptly time-stamped with the Prothonotary's Office in order to afford opposing party immediate notice of the filing. After receiving a date for hearing, the movant shall inform the opposing party of the date and time of the hearing. The movant shall likewise serve the opposing party with a copy of signed orders for scheduling hearings. (Failure to do so may result in dismissal and/or sanctions.)

(2) The Court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the Court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the parties to the proceeding are given an opportunity for argument.

(a) This rule does not prevent the Court from denying the moving party's request for relief without the opportunity for an argument where the motion is procedurally defective, untimely filed, or fails to set forth adequate grounds for relief.

(b) Parties may choose to submit responses and briefs at the time of presentation, provided that copies have been served on every other party. However, parties are not required to file responses and briefs in these instances.

(c) When filing a motion, the procedure as set forth in B.C.L.R. 206.4(c) is likewise applicable under this section.

RULE 208.3(b) Alternative Procedures for the Presentation of Motions

(1) It is the preference of the Court to decide specified motions on briefs. Counsel may request oral argument in situations where a brief is insufficient to properly set forth the argument. The request for oral argument must be made in writing within ten (10) days of filing the motion, and submitted to Court Administration, with a statement setting forth the reasons for the necessity of oral argument. Court Administration shall refer the matter to the assigned judge.

(a) It shall be at the discretion of that judge whether argument will be scheduled.

(b) The Court may sua sponte schedule oral argument as it deems necessary.

(c) If the request for oral argument is approved, the moving party shall file a brief within twenty (20) days.

(d) All response briefs must be filed no later than twenty (20) days of receipt of the moving party's brief. Reply briefs shall then be filed within ten (10) days of receipt of the moving party's brief.

(e) Service shall be made in conformity with Pa.R.Civ.P. 440.

(f) If response briefs are not timely filed the Court may dispose of the motion without such response brief and/or a monetary sanction may be imposed by the Court.

(g) All requests for extension of the twenty (20) days to file responsive briefs shall be submitted in writing to Court Administration and will be referred to the assigned judge.

(h) If a motion is settled or withdrawn prior to disposition, the moving party shall so inform Court Administration in writing.

RULE 216 Continuances

(a) The Court disfavors continuances due to the difficulty in promptly rescheduling matters. All applications for continuance shall be made by written motion. The motion shall specify the factual basis for the request of the proposed continuance. The request for continuance shall be filed with the Court Administration and will be forwarded to the assigned judge.

(b) Any request must specify the position of the opposing party/parties. Failure to specify the position of the opposing party/parties results in automatic denial of the request.

(c) Requests for continuances shall be filed at least ten (10) days in advance of the hearing date. Where the continuance is not timely filed, the reasons for the delay shall be specifically set forth in the motion. Faxed continuances will only be accepted in emergency situations.

(d) Any continuance request shall contain certification that the client has been notified and does not oppose the request.

(e) Court Administration shall notify the requesting party of the Court's decision on the motion and it shall be the requesting party's obligation to notify all parties of record.

(f) Continuance pro formas shall be prescribed by the Court and obtained from Court Administration.

(g) Continuances for Domestic Relations, Juvenile Probation and custody proceedings shall be filed with the respective departments.

RULE 229 Discontinuances

(a) Any discontinuance of an action shall be in accordance with Pa.R.Civ.P. 229. A discontinuance may also be entered by a written direction (praecipe) to the Prothonotary if it is signed by the plaintiff's attorney or by a pro se plaintiff and the same shall be accepted by the Prothonotary if all costs due the Prothonotary have been paid.

(b) Counsel shall provide a copy of the discontinuance to the Court Administration simultaneous with providing the original to the Prothonotary. Any written direction to the Prothonotary complying with this rule may be sent to the Prothonotary by mail and shall be accepted for filing.

(c) Failure of plaintiff's counsel or a pro se plaintiff to file a discontinuance upon settlement or withdrawal of such action may result in a fine of up to one hundred dollars (\$100) within the discretion of the Court and/or a hearing will be set for the attorney or pro se plaintiff to explain the reasons for their failure to discontinue the action. Client(s) must attend such hearing with counsel.

RULE 230.2 Termination of Inactive Cases

We hereby adopt Pa.R.Civ.P. 230.2 and Pa.R. of Judicial Administration 1901.

RULE 300 Status Conferences

(a) In any complex case or other action which the Court deems applicable, a status conference may be scheduled by the Court for purposes of discussing the following, including, but not limited to:

- (1) The facts of the case;
- (2) The status of discovery and what discovery is anticipated in the case;
- (3) Any novel legal questions which are or may be at issue in the case;
- (4) The status of the settlement demand and any responsive offers; and
- (5) Setting and/or modifying of discovery deadlines. The Court reserves the right to establish discovery deadline dates prior to a status conference pursuant to 42 Pa.C.S.A. § 323.

(b) Status conferences shall be scheduled upon request of the parties or at the discretion of the Court.

(c) Subsequent to the status conference, the court may issue any Order deemed necessary providing counsel with dates and times for any future proceedings that may be required.

(d) No written narratives need be filed for status conferences.

RULE 301 Notice of Hearing/Argument

(a) A motion or petition, requesting an Order of Court, with the exception of cases falling within B.C.L.R. 206.4(c), shall include a Notice of Hearing/Argument, (substantially in the format in subsection (5)), the granting of which shall be discretionary with the Court, and a Proposed Order granting the requested relief citing the specific statute or rule which authorizes the requested relief.

(1) All such motions/petitions shall be filed in the Prothonotary's Office, who will forward same to Court Administration.

(2) If a hearing or argument is requested, a date, time and location will be assigned by Court Administration.

(3) Once a Notice of Hearing/Argument or Order has been signed by the Court, Court Administration shall mail a copy to the moving party.

(4) It shall be the responsibility of the moving party to notify all other parties of record of the date, time, and location of the hearing/argument.

(5) The format of the Notice of Argument/Hearing shall be as follows:

(CAPTION)

NOTICE OF HEARING/ARGUMENT

AND NOW, this ____ day of _____, 20____, a hearing/argument is set for the ____ day of _____, 20____, at ____ a.m./p.m. in Courtroom No. ____ in the Blair County Courthouse, Hollidaysburg, Pennsylvania.

BY THE COURT:

_____ J.

Estimated length of time requested for hearing/argument: _____

RULE 302 Blair County Summary Jury Trial Rules

(a) *Preliminary Considerations.* The following shall be considered, but shall not be controlling, in determining if civil cases are appropriate for a summary jury trial:

(1) *Time Necessary for Regular Trial, Damages and Issues Involved.* The Court will determine if the regular trial time would be one or several days, including time for jury selection and closings and charge. The Court will also consider the amount of damages and whether complex legal issues are involved.

(2) *Consent of Attorneys.* The Court will attempt to obtain the consent of the attorneys to conduct a summary jury trial, but the Court shall have the authority to direct a summary jury trial as an extension of the settlement conference.

(3) *Offer and Demand.* The Court will consider the existing offer and demand, if any, in assessing the suitability of a case for jury trial.

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

(b) *Summary Jury Trials.* The following procedures shall apply to all summary jury trials:

(1) *Attendance of Parties.* Individual parties shall attend the summary jury trial. Additionally, an officer or other responsible lay representative of a corporate party or a claims adjuster for an insurance carrier shall attend the summary jury trial.

(2) *Non-Binding Effect.* Summary jury trials are for settlement purposes only and are non-binding. Nothing done by counsel with reference to the summary jury trial shall be binding on counsel or the parties or shall constitute a waiver. However, a summary jury trial may be made binding or damages can be floored and capped with a high/low by agreement of counsel and parties.

(3) *Special Verdict Questions.* The cases will be submitted to the summary jury trial by way of special verdict questions. Each counsel shall submit a statement of proposed special verdict questions for use at the summary jury trial prior to the selection of the jury. Special verdict questions for the summary jury trial need not be the same as those for the formal jury trial. In the Court's discretion, the jury may be requested to determine the amount of damages in any given case regardless of whether a defendant is found to be liable or not liable. The Court will determine the verdict slip format to be used and rule on disputed special verdict questions.

(4) *Selection of Juries.* Summary juries shall consist of eight (8) jurors. Counsel shall not be present at jury selection except by leave of Court. The Court will select summary juries using the standard summary jury trial voir dire questions contained under Section 3 of this rule. Should counsel wish the Court to ask additional voir dire questions, they should submit proposed voir dire for the Court's use no later than ten (10) days prior to the jury selection date.

(5) *Narrative Statements.* In the discretion of the Court, counsel may be required to file narrative statements which will be read to the jury at the start of the summary jury trial. Such narrative statements shall consist of a brief (1-2 pages) description of each party's position on the facts and the law. The purpose of reading the narrative statements is to provide the jury with a short overview of each party's case prior to presentation by counsel.

(6) *Presentation of the Case by Counsel.* Each side shall be entitled to one (1) hour for presentation of its case unless counsel presents a compelling reason at a pre-trial or status conference why more time for each side should be allowed. Presentation of the case by counsel will involve a combination of argument, summarization of the evidence which would be presented at the standard trial and a statement of the applicable law, but only to the extent it is needed to be known by the jury in answering the special verdict questions. Counsel may argue the reasonable inferences that may be drawn from the discovery. Counsel may choose to present live testimony. In such cases, no more than two (2) witnesses for each side may be called for full direct examination and cross examination. Time spent by counsel in direct examination and cross examination of witnesses counts against their respective one (1) hour allotted times. Counsel may quote from depositions and may use exhibits and video tapes. Counsel should not refer to evidence which would not be admissible at trial. The plaintiff shall proceed first and shall have a short rebuttal (10-15 minutes as determined by the Court).

(7) *Points for Charge & Pre-trial Motions.* The Court will charge the jury on the applicable law to the extent it is appropriate and necessary for the jury in answering the special verdict questions. The attorneys shall each submit proposed points for charge to the Court no later than ten (10) days prior to the selection of the summary jury. The Court shall rule on any disputes regarding points for charge and/or proposed verdict slips. Any pre-trial motions shall be submitted to the Court no later than ten (10) days prior to the summary jury trial date.

(8) *Jury Verdict.* The jury will be asked to determine a verdict if seven (7) out of eight (8) or six (6) out of eight (8) of them, within the discretion of the Court, agree to it.

(9) *Length of Deliberations.* If the jury does not reach a verdict within a reasonable time, the Court will consider polling the jurors individually.

(10) *Oral Questions to the Summary Jury.* After the verdict, counsel and the Court may address questions in open court to the jury. No one is required to answer. Participation by jurors is strictly voluntary.

(11) *Settlement Conference.* Within sixty (60) days of the non-binding summary jury trial, the Court will schedule a settlement conference at which an amicable resolution of the action will be attempted. Parties, representatives of corporate parties, and claims adjusters with authority to settle the case are required to personally attend the settlement conference.

(12) *Regular Trial Date Unaffected.* Submission of a case to the summary jury trial process will in no way affect the scheduling of that case for standard trial.

(13) *Existing Offer and Demand.* Should counsel agree to conduct a summary jury trial, the existing offer and demand shall remain unaltered through the summary jury trial until the settlement conference.

(14) *Non-release of Summary Verdict to Media.* The summary trial is an extension of the settlement conference, and as such, the verdict shall not be released to the media.

(b) *Standard Summary Jury Trial Voir Dire Questions.* The Court will select your jury. In addition to the written juror questionnaire completed by each juror, the Court will give the following voir dire:

(1) The Court will determine the juror's availability for the specific date and time of the summary jury trial. If

the case starts in the morning, the Court will determine prospective jurors availability all day. If it begins in the afternoon, the Court will determine their availability through the dinner hour into the early evening.

(2) The Court will ask if any of the prospective jurors for any health reason are unable to perform their task as jurors, which would require them to sit for a period of as long as one (1) hour without a recess, e.g., any hearing difficulties, recent surgeries, nervous conditions.

(3) The Court will give the parties a brief factual summary of the case to determine if any of the jurors have knowledge of the allegations in the case.

(4) The Court will specifically identify the plaintiff and defendant by name and address to further determine if any of the prospective jurors know them.

(5) The Court will determine if any of the prospective jurors have had any social or business dealings, past or present, with either of the attorneys or their law firms.

(6) If there are any particular witnesses who are significant to the case, lay or medical, the Court will identify them to the jury and determine the prospective jurors knowledge or contact with them.

(7) The Court will explore whether any of the prospective jurors have had a similar injury to that claimed by the plaintiff or if a close friend or family member has had such an injury so it can be determined whether there might be some bias regarding the injury itself.

(8) When any of the parties is other than an individual, the Court will emphasize and explore the prospective juror's ability to give a corporation, for example, the same fair consideration to which any other party is entitled.

(9) The prospective jurors will be asked whether they have any fixed opinions which would prevent them from awarding money damages in cases where fault is determined to exist and an actual injury has resulted from the defendant.

(10) The prospective jurors will be asked whether they have any fixed opinion that would prevent them from deciding that a defendant is not liable if the evidence shows either that the defendant was not at fault or that the defendant's fault caused no actual injury to the plaintiff.

(11) The prospective jurors will be asked whether any of them have been involved either as a plaintiff or a defendant in the particular type of case before the court or whether a family member or close personal friend has been involved in a case such that it would have any bearing on their ability to sit fairly and impartially (e.g., medical malpractice, slip and fall, automobile collision).

(12) The prospective jurors will be asked if there is any other reason not stated by the Court why they would be unable to sit fairly and impartially in this particular matter.

(13) If counsel desire any additional voir dire, it should be submitted to the Court at least ten (10) days prior to jury selection. We note that any positive responses will result in the prospective juror being stricken. We make no concerted attempt to rehabilitate summary trial jurors since we have so many from which to pick. In terms of an equal mix of ages, gender, and other background information, we try to assure a diverse selection.

RULE 303 Motions For Decision

Any motion not specified in B.C.L.R. 1028(c), 1034(a), or 1035.2(a) shall be governed by a twenty (20) day briefing schedule unless otherwise specified by the Court. See B.C.L.R. 208.3(B).

RULE 365 Pa.R.Civ.P. 212.1—212.3 Pretrial Procedure

(a) Pretrial conferences shall be scheduled at the direction of the trial judge.

(b) The pretrial judge shall generally be the trial judge.

(c) Notice of the pretrial conference shall be contained within an *order* issued by the trial judge. Notice shall be provided in most cases at least thirty (30) days in advance of the pretrial.

(d) Narratives shall be required for the first pretrial and shall be filed ten (10) days prior to the date of the conference.

(e) The narrative shall contain the following:

(1) A brief summary of the facts;

(2) All items of economic damages which the Plaintiff intends to prove, including medical bills, property damages bills and loss of earnings;

(3) The names and addresses of all persons who may be called as witnesses, classifying them as liability and/or damage witnesses;

(4) Copies of all reports of any expert who treated, examined, or was consulted in connection with the injuries complained of, and who may be called as an expert witness.

(5) Copies of all reports of any expert whose opinion will be offered in evidence at the time of trial. Such reports shall include the findings and conclusions of the expert;

(6) Any special legal or evidentiary issues;

(7) The estimated length of trial;

(8) Any scheduling problems;

(9) The settlement demand and any responsive offers; and

(10) A list of anticipated exhibits to be used at the time of trial.

(f) At least one week prior to the pretrial conference, all parties shall confer and consult with each other as often as may be necessary for the following purposes:

(1) To explore in every respect the possibility of settlement; including exchange of good faith demand and offer, and

(2) To consider the factual and legal issues involved.

(g) Supplements to a written pretrial memorandum may be filed by any party after their original pretrial memorandum has been filed. However, no supplemental pretrial memorandum may be filed later than thirty (30) days prior to the scheduled jury selection. Should any party need additional time for preparation, or discovery as a result of a supplemental pretrial memorandum being filed, a petition must be promptly filed with the Court seeking such an extension of time prior to the scheduled trial date.

(h) Any narrative and/or supplement not timely filed may result in a fine and a copy of the sanctioning order shall be sent to the litigants by the Court.

(i) Counsel attending the pretrial conference must have complete authority to stipulate regarding items of evidence and admissions, and must have full settlement authority. Counsel shall have the client and those with settlement authority available either in person or by phone for consultations regarding settlement.

(j) At the pretrial conference, counsel shall be prepared to discuss fully with the Court the possibility of settlement of the case. At the conclusion of the conference, the judge shall make an order reciting the actions taken at the conference, including the agreements made by the parties as to any of the matters considered, the issues of trial and the admissions of fact obtained at the conference. The pretrial conference Order shall include a date for the filing of any pretrial motions and supporting briefs, voir dire questions, and a scheduled date for argument if appropriate.

(k) Motions for Summary Judgment, consolidation, bifurcation and severance must be made at least thirty (30) days before the date of the pretrial conference. Such motions generally require a decision before meaningful progress can be made in preparing a case for trial or negotiating a resolution to the lawsuit. It is the preference of the Court to resolve these matters prior to the pretrial conference if possible.

RULE 1028(c) Preliminary Objections

(1) Preliminary Objections must be filed with the Prothonotary, who will forward them to the assigned judge.

(2) The moving party must file a supporting brief with the Prothonotary, no later than twenty (20) days after filing the Preliminary Objections.

(3) All response briefs shall be filed no later than twenty (20) days of receipt of the moving party's brief.

(4) Service shall be made in conformity with Pa.R.Civ.P. 440.

(5) All requests for extension of the twenty (20) day period to file responsive briefs shall be submitted in writing to Court Administration, and it will be referred to the assigned judge for consideration.

(6) If a brief in support of preliminary objections is not filed within the twenty (20) days after the preliminary objections have been filed, they shall be dismissed by Order of Court.

RULE 1034(a) Judgment on the Pleadings

(1) Motions for Judgment on the Pleadings, accompanied by a supporting brief, shall be filed with the Prothonotary and forwarded to the assigned judge.

(2) Response briefs shall be filed no later than twenty (20) days after receipt of the moving party's brief.

(3) Service shall be made in conformity with Pa.R.Civ.P. 440.

(4) All requests for extension of the twenty (20) day period to file a responsive brief shall be submitted in writing to Court Administration, and it will be referred to the assigned judge for consideration.

(5) If a Motion for Judgment on the Pleadings is filed without a supporting brief, the motion will be dismissed by Order of Court.

(6) An Order for Argument shall be attached to the motion.

(7) If argument is granted, the date, time, and location of the argument is determined by Court Administration and the Order signed by the judge.

RULE 1035.2(a) Motions for Summary Judgment

(1) Motions for Summary Judgment, accompanied by a supporting brief, shall be filed with the Prothonotary, who will forward the motion and brief to the assigned judge.

(2) Response briefs shall be filed no later than thirty (30) days after receipt of the moving party's brief.

(3) Service shall be made in conformity with Pa.R.Civ.P. 440.

(4) All requests for extension of the thirty (30) day period to file a responsive brief shall be submitted in writing to Court Administration, and it will be referred to the assigned judge for consideration.

(5) If a motion for summary judgment is filed without a supporting brief, the motion will be dismissed by Order of Court.

(6) An Order for Argument shall be attached to the motion.

(7) If argument is granted, the date, time, and location of the argument is determined by Court Administration and an Order signed by the judge.

(8) Once the Order for Argument is signed by the judge, Court Administration shall mail a copy to the moving party.

(9) It shall be the responsibility of the moving party to notify all other parties of record of the date, time, and location of the argument.

RULE 1301 Arbitration

(a) Cases for Submission:

(1) *By Court Administration*—Court Administration, through Civil Case Management, will schedule all Civil Cases which are at issue wherein the amount in controversy (exclusive of interest and costs) shall be fifty thousand dollars (\$50,000.00) or less, per the pleadings. This includes all appeals from a civil judgment of magisterial district judges, except those involving title to real estate or actions in equity. The above cases identified shall be submitted to, heard and decided by a Board of Arbitrators, consisting of three (3) members of the Blair County Bar to be selected as hereinafter provided.

(2) *By the Parties*—Cases, regardless of amount or subject in controversy, may be referred to a Board of Arbitrators by *Agreement of Reference* signed by all parties or their counsel, and may contain stipulations with respect to facts submitted or agreed upon or defense in such cases, the Agreement of Reference shall take the place of the pleadings in the case and shall be filed of record.

(3) *By the Court*—Cases may be referred to arbitration where the Court is satisfied that the matter involves fifty thousand dollars (\$50,000.00) or less, in accordance with Pa.R.Civ.P. 1301.

RULE 1301-1 Arbitrators

Arbitrators will be selected from a Court-approved list after consultation with the Blair County Bar Association. No attorneys from the same law firm or office will serve on the same panel. One attorney will serve as the Case Manager, as designated by the court.

(a) Three (3) attorneys will serve on each panel. There will be weekly panels selected each year. Panels will meet weekly in the designated location. The Case Manager will be responsible for:

(1) Assuring readiness for arbitration-discovery completion, outstanding motions status.

(2) Reviewing estimated trial time.

(3) Discussing and encouraging resolution through pro bono mediation or other forms of alternative dispute resolution prior to hearing.

(b) Following receipt of assigned case list, the Case Manager will contact the attorneys and/or parties in each case within ten (10) days after receiving the assignment.

(c) The Case Manager shall obtain files and award forms from Court Administration who files the awards with the Prothonotary.

(d) The Case Manager will swear in the panel and take the oath.

(e) Substitutions for panel members will be processed by Court Administration, who will secure a Court Order naming any substitute panel member.

RULE 1303 Arbitration Process

(a) *Administrative Fee*—Arbitration, under B.C.L.R. 1301(a)(1) and (3), shall require the Plaintiff to pay to the Prothonotary an Administrative Fee of one hundred fifty dollars (\$150) within thirty (30) days of the date of the Court's Order designating the matter to be scheduled for arbitration. The Plaintiff or the Plaintiff's attorney of record shall notify in writing the assigned Judge and Court Administration, or its designee, of such payment. The arbitration hearing shall be scheduled by Court Administration only upon Plaintiff's payment of the Administrative Fee.

(b) *Notice*—Pursuant to Pa.R.Civ.P. 1303, Court Administration, or its designee, shall give to the parties or their attorneys of record and the assigned judge at least thirty (30) days notice in writing of the date, time and place of the arbitration hearing.

(1) The written notice required under subsection (b) of this provision 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.”

(2) A party is “present” if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.

(c) *Preparation*—When the board of arbitrators is convened for the hearing, if one or more of the parties is not ready, the case shall proceed and the arbitrators shall make an award unless the Court:

(1) orders a continuance, or;

(2) hears the matter if the notice of arbitration contains the statement required by subsection (b)(1) of this provision and all parties present consent.

(d) *Continuance Request*—A party moving for a continuance shall notify in writing all parties, the assigned Judge and Court Administration, or its designee, of the continuance request.

(1) The Administrative Fee, under subsection (a) of this provision, shall include the costs of the initial scheduling.

(2) At the Court's discretion, each party may be granted one (1) continuance without imposition of any additional fee.

(3) A party requesting an additional continuance shall pay to the Prothonotary a Continuance Fee of fifty dollars (\$50.00) at the time of the continuance request. The moving party shall notify in writing the assigned Judge and Court Administration, or its designee, of such payment.

(4) A party requesting any continuance within seventy-two (72) hours of the scheduled arbitration time shall pay to the Prothonotary the Arbitration Costs at the time of the continuance request. Such Arbitration Costs shall be set at fifty dollars (\$50.00) for the Case Manager of the arbitration panel, and forty dollars (\$40.00) for each additional Arbitrator of the arbitration panel. Such payment shall not impact the applicability of any other Arbitration costs.

(5) If a continuance request is granted, Court Administration, or its designee, shall give to the parties, or the attorneys of record, and the assigned Judge notice in writing of the new date, time and place of the arbitration hearing. Such notice shall meet the requirements set forth under subsection (b) of this provision. The arbitration hearing shall be rescheduled by Court Administration only upon the moving party's payment of any applicable Continuance Fees or Arbitration Costs.

(e) *Arbitration Costs*—Arbitration Costs shall follow the verdict, and shall be paid to the Prothonotary by the unsuccessful party within thirty (30) days of the Arbitration Award, or if an Appeal of the Arbitration Award is filed, then within thirty (30) days of the final judgment.

(1) For each Civil Case eligible for arbitration under B.C.L.R. 1301(a)(1) and (3), Arbitration Costs shall be set at one hundred fifty dollars (\$150.00) for the Case Manager of the arbitration panel, and one hundred twenty-five dollars (\$125.00) for each additional Arbitrator of the arbitration panel.

(2) For each Civil Case in which the arbitration hearing lasts four and a half (4 1/2) hours or more, Arbitration Costs shall be set at two hundred twenty-five dollars (\$225.00) for the Case Manager of the arbitration panel, and two hundred dollars (\$200.00) for each additional Arbitrator of the arbitration panel.

(f) *Settlements*—Counsel shall work diligently to assure settlements will be reached prior to the arbitration hearing.

(1) If a settlement occurs prior to the scheduled arbitration hearing, the parties shall notify in writing the assigned Judge and Court Administration, or its designee, of the settlement no later than seventy-two (72) hours prior to the scheduled arbitration hearing.

(2) If a Settlement occurs within seventy-two (72) hours of the scheduled arbitration hearing, or if the parties fail to timely notify the assigned Judge and Court Administration, or its designee, under subsection (f)(1) of this provision, the parties shall pay the Arbitration Costs.

A. The Arbitration Costs shall be set at fifty dollars (\$50.00) for the Case Manager of the arbitration panel, and forty dollars (\$40.00) for each additional Arbitrator of the arbitration panel.

B. Such Arbitration Costs are to be paid to the Prothonotary by the parties, with fifty per cent (50%) contribution from the plaintiff(s), jointly and severally, and fifty

per cent (50%) contribution from the defendant(s), jointly and severally, unless otherwise agreed upon by the parties.

C. Such payment shall be made within ten (10) days of the scheduled arbitration hearing.

(g) *Arbitration Appeal Fee*—A party appealing an Arbitration Award, under B.C.L.R. 1308, shall pay to the Prothonotary an Arbitration Appeal Fee of one hundred dollars (\$100.00) at the time of filing the appeal. An appeal from the Arbitration Award does not, in any way, relieve any party of any duty to pay any applicable Administrative Fees or Continuance Fees.

(h) *Willful Absence*—A party who willfully fails to appear at any appropriately scheduled arbitration hearing under B.C.L.R. 1301(a)(1) and (3) may be held in Contempt of Court. Such finding and any appropriate sanction shall be in the discretion of the assigned judge.

(i) *Order of Court*—Any applicable Administrative Fees, Continuance Fees, Arbitration Costs, or other payment obligations designated under this provision shall be enforced by Order of Court.

RULE 1304 Conduct of Arbitration Hearings

(a) The Board of Arbitrators shall conduct the hearing in accordance with Pa.R.Civ.P. 1304 and 1305.

(b) Generally every document submitted pursuant to Pa.R.Civ.P. 1305(b) shall state the name and present address of the individual or entity who provided the information contained in the document.

(c) The Arbitration Case Manager does not have the duty or power to grant any continuance. Continuances are filed through Court Administration and may only be granted by the Court.

RULE 1308 Arbitration Appeals

Appeal. Arbitrator's Compensation. Notice

(a) Appeals from an award of a Board of Arbitrators shall be in conformity with Pa.R.Civ.P. 1308.

(b) The Blair County Court of Common Pleas will establish the amount of compensation for arbitrators by Court Order. The members of the panel shall not be entitled to receive their fees until after filing the award with Court Administration.

(c) Attorneys of record or parties who have no attorney shall be notified of the award of the Board of Arbitrators by the Prothonotary, in conformity with Pa.R.Civ.P. 1307.

(d) In all other respects not clarified or established herein, the Pennsylvania Rules of Civil Procedure for Compulsory Arbitration (Rule 1301 et seq.) shall be applicable.

[Pa.B. Doc. No. 08-561. Filed for public inspection March 28, 2008, 9:00 a.m.]

BUTLER COUNTY

Local Rules of Court; MSD No. 08-40073

Administrative Order of Court

And now, this 12th day of March, 2008 in order to comply with the Pennsylvania Rule of Civil Procedure, 239, 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 immediately 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 attached local rules for publication on the AOPC web site.

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

Rule L51 Title of Rules. Purpose.

These Rules of Civil Procedure are intended to implement the Pennsylvania Rules of Civil Procedure to which their numbers correspond. They shall be cited as "Butler County L.R.C.P."

Rule L76 Definitions.

Unless the context clearly indicates otherwise, the words and phrases used herein shall bear the same meaning as they bear in the Pennsylvania Rules of Civil Procedure.

Rule L101 Principles of Interpretation.

In the construction of any of these rules, the principles of interpretation set forth in the Pennsylvania Rules of Civil Procedure shall be used.

Rule L205.2 (b) Cover Sheet.

Every pleading and other legal papers of two (2) or more pages shall have a cover sheet in substantially the following format:

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

PLAINTIFF

Case No.

vs.

DEFENDANT

Type of Document: _____

If this is a Complaint, designate whether the case is subject to Compulsory Arbitration (jurisdictional amount \$35,000) or not.

_____ amount in controversy does not exceed \$35,000

_____ amount in controversy exceeds \$35,000

_____ issues in case are not subject to Compulsory Arbitration

Filed on behalf of _____ (Plaintiff / Defendant)
 Counsel of record for this party _____ (Name of attorney primarily responsible)
 Supreme Court I.D. No. _____
 _____ (Firm Name, if any)
 _____ (Address)
 _____ (Phone)
 _____ (Fax Number)
 _____ (E-Mail Address)

Rule L205.4 Electronic Filing.

(Reserved for future implementation.)

Rule L206.1(a)(2) Petitions.

“Petition” in Butler County shall include, in addition to matters defined in Pa.R.C.P. 206.1(a), a petition to open a confessed judgment. Each petition filed with the Court shall contain a proposed order for the Court’s consideration. Said proposed order shall follow the provision of Pa.R.C.P. 206.5, with alternative provisions in paragraph (d)(4) and (5), so that the Court may determine whether to proceed with depositions or an evidentiary hearing on disputed issues of material fact.

Rule L206.4(c) Rule to Show Cause.

Upon the filing of a Petition with the Prothonotary, the Petition shall be forwarded by the Prothonotary to the assigned judge. The issuance of a Rule to show cause on a petition shall be discretionary with the Court as provided by Pa.R.C.P. 206.5.

Rule L208.2(d) Uncontested Motions.

Any motion, as defined by Pa.R.C.P. 208.1, bearing the written consent of the opposing party, or the opposing party’s attorney of record, may be submitted to the assigned judge without formal notice of presentation, in a manner set forth in Butler County L.R.C.P. L208.3(a).

Rule L208.3(a) Motions Procedure—Motions Court.

(1) *Motion Court Session.* There shall be a session of the Court for presentation of motions, appropriate requests and applications, one day per week with each civil court judge. The days and times of Motion Court for each respective judge are posted with the Court’s calendar. The Court’s motion calendar is posted on the local web site, www.co.butler.pa.us.

(a) If no judicial assignment has been made in a civil case, moving counsel or party shall obtain a judge assignment for the case from the Office of the Prothonotary. Thereafter, civil motions shall be presented to the assigned judge during that judge’s Motion Court session.

(2) *Filing.* Uncontested motions and contested motions may be filed in the office of the Prothonotary or in Motions Court. Upon filing with the Prothonotary, the Prothonotary shall place appropriate stamps and notations on each motion, make an appropriate docket entry and promptly forward the motion to the Court Administrator for presentation to a judge for the entry of an appropriate order. Except for emergency motions, motions will be considered by the judge assigned to the case during that judge’s weekly Motions Court session. Motions presented during Motions Court shall be reflected in the court record and shall be logged in the Court Administration log book. The Motion shall thereafter be docketed by the Prothonotary upon its receipt from the Judge or Court Administration.

(3) *Emergencies.* In the case of a true emergency, a motion, appropriate request or application shall be presented to the Court Administrator who will immediately

refer the matter to a judge for consideration. If a moving party claims that an emergency exists, the nature of the emergency, and the reasons why any required notice could not be given, must be set forth in the motion, request or application being filed.

(4) *Uncontested Motions.* Uncontested motions are defined as those:

(a) Where all parties or their counsel of record have consented to the motion and order. Counsel may certify that all parties or their counsel have consented or attach written consent; or

(b) Where the proposed order seeks only a rule to show cause with a return hearing or argument date and no such other further relief; or

(c) Where the proposed order seeks only the appointment of a master, mediator or hearing officer and no such other further relief.

(5) *Required pre-filing notice.* Before any motion is filed, the moving party shall serve a copy of the motion, request or application and any proposed order, and a statement of the date and time of the intended presentation, to counsel of record and any unrepresented party at least five days in advance of the presentation. Service may be accomplished personally, by first class mail, or by facsimile transmission. Service shall be made pursuant to Pa.R.C.P. 440.

(6) Cover Sheet. A cover sheet, that may from time to time be adopted by Administrative Order shall be attached to each contested and uncontested motion and every copy of the same that is filed or served.

**In the Court of Common Pleas of Butler County
Commonwealth of Pennsylvania**

_____	}	_____ Civil Division
Versus		_____ No
_____		_____

I. Notice

You are hereby notified that the attached matter will be:

Filed on _____ 20 ____ .

Presented to Assigned Judge _____ on _____ at 9:00 am

II. Certificate of Notice/Service

I gave reasonable prior notice of filing and a copy of this document to _____ at _____ on _____ 20 ____ by:

Personal Service Fax Mail

Other (explain) _____

III. Information for Court Administrator

Is this an original filing in this case? No Yes

Judge Assignment:

Thomas Doerr (courtroom 1) Michael Yeager (courtroom 3) Marilyn Horan (courtroom 4)

Other _____

Adverse party position?

Opposes **CONSENTS** **UNOPPOSED** Unknown

I certify all the above statements are true and correct.

Date _____ 20 _____
Signature _____

Counsel for: _____

(a) Any motion, request or application that is filed without the required certification of notice and service on the cover page may not be substantively acted upon by the court.

(8) *Verification.* A motion that sets forth facts not of record shall be properly verified.

(9) *Suggested Order.* Every motion, request and application shall have attached thereto a suggested order concerning the relief that is requested by the moving party.

Rule L212.1 Civil Actions to be Tried by Jury and by Non-Jury. Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.

(a) In all civil actions which indicate a jury trial demand or which seek a non-jury trial disposition, the Court Administrator shall schedule said cases for a Status Conference before the assigned judge. Status Conferences shall not be scheduled sooner than ninety (90) days following the filing of the complaint. At the Status Conference, counsel for the parties or pro se parties are required to appear. The Status Conference shall be conducted by the Court and shall focus upon determining a schedule for completion of pleadings, progress of discovery and anticipated date for filing a praecipe for trial or arbitration.

(1) Status Conferences may also be ordered upon written motion of a party, setting forth reasons in support of the request for status conference. The Court may enter appropriate orders at the conclusion of the Status Conference.

(b) *Summary Trials.* Upon request of all parties, the Court may consider scheduling a case for a summary trial pursuant to procedures agreed upon by the parties and the Court

(c) *Scheduling.* Jury and Non-Jury Trials in civil actions shall be scheduled in accordance with each civil court judge's calendar as published by the court and available on the Butler County web site, www.co.butler.pa.us.

(1) Following the filing of the praecipe for trial with the Prothonotary, the Prothonotary shall forward the praecipe to the Court Administrator for scheduling of the case for pre-trial conference and trial. Unless the court's calendar is otherwise scheduled, a case shall be scheduled for pre-trial conference within sixty (60) days of the filing of the praecipe for trial. The trial term during which the case shall be scheduled shall occur within ninety (90) to one hundred and twenty (120) days from the filing of the praecipe. These times may be subject to variance to accommodate the court's calendar and scheduling availability.

(a) Cases will generally be scheduled on each trial list in chronological order according to the date of praecipe for trial or arbitration appeal, while giving preference to cases described in Pa.R.C.P. 214. The Court Administrator shall publish a copy of the trial list on the Butler County

web site, www.co.butler.pa.us, and furnish a copy to the Prothonotary, who in turn shall forward the trial list to each attorney of record and non-represented parties for cases scheduled on the trial list.

(2) Non-Jury Trials may be scheduled in a back-up category during jury trial weeks and during non-jury trial sessions of the Court as noted on the trial calendar.

(d) A pre-trial statement shall be filed by all plaintiffs within thirty (30) days after the praecipe for trial is filed. Pre-trial statements on behalf of all defendants and additional defendants shall be filed no later than five (5) days prior to the scheduled pre-trial conference date.

(e) In the event there is an appeal of a compulsory arbitration decision, the appeal date shall be regarded as a praecipe for trial for purposes of implementation of scheduling and timing for filing of pre-trial statements as set forth hereinabove.

(f) *Butler County Mediation Program.* Upon request of all parties, an agreement to submit a case to mediation may be filed to access the Butler County Mediation Program.

(1) The mediators shall be practicing attorneys from the Butler County Bar admitted at least ten (10) years with practice emphasis in civil litigation. The mediators will be selected by the assigned judge from a list maintained by the Prothonotary.

(2) Each party to a case submitted for mediation will pay a mediation fee as established by administrative order of court. The mediation fee will be utilized to compensate the mediator.

(3) The inclusion of cases in the Mediation Program of Butler County will be voluntary. The attendance of trial counsel and parties at the mediation conference shall be mandatory. A representative of any party's insurance company which may be involved in the case shall be available by telephone during the course of the mediation. If any party fails to appear, the mediation conference will not be held and the non-appearing party shall, within thirty (30) days, pay to the other party that party's attorney's fees and expenses in preparing for and attending the mediation conference, if said fees are assessed and recommended by the mediator.

(4) The parties to any civil case may voluntarily agree to submit a case for mediation through the Butler County Mediation Program by filing an agreement to submit and by paying the mediation fees. The form for said application is set as follows:

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

_____ : CIVIL DIVISION
: :
Plaintiff :
vs. : No. _____
: :
_____ :
Defendant :

AGREEMENT TO SUBMIT CASE TO BUTLER COUNTY MEDIATION PROGRAM

We agree to submit the above case to mediation under the Mediation of Butler regulations and herewith tender the Mediation Fee as established by administrative order of court for the program.

Plaintiff

Defendant

Signature

Printed Name

Attorney for

Additional Parties

Signature

Printed Name

Attorney for

Assignment of Proposed Mediators

The following members of the Butler County Bar are offered for selection as proposed mediators to hear testimony, make a report, and render an award. As per Local Rule L212.1(f)(5), each party shall strike one of the hereinafter proposed mediators. This completed form shall then be returned to the Prothonotary within twenty (20) days of the date of assignment of the proposed mediators.

Prothonotary

Date of Assignment

(5) The Court and Prothonotary will prepare a list of three (3) proposed mediator names, which shall be transmitted to the parties. The plaintiff and defendant shall each strike one name. The remaining named proposed mediator shall be appointed to serve as the mediator. In the case of additional parties, one additional proposed mediator shall be added to the list for each additional party who shall likewise strike one proposed mediator's name. The listing of mediators with strikes shall be returned to the Prothonotary within thirty (30) days from the date when the list of proposed mediators was served on the parties.

(6) Upon the Prothonotary's receipt of the returned proposed mediator assignment form from the parties, the Prothonotary shall docket the same and forward a copy thereof to Court Administration. The Court will then appoint the remaining proposed mediator to serve as mediator for the case. The Court Administrator shall schedule the mediation conference to be held within sixty days of the assignment of the case to a mediator. The conference may not be continued unless by Order of Court.

(a) Scheduling order format:

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

_____ : CIVIL DIVISION
:
:
Plaintiff :
:
vs. : No. _____
:
:
:
Defendant :

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, the Court hereby appoints _____ mediator. The mediation conference is hereby scheduled for _____ at _____ o'clock _____ M. at _____. The conference may not be continued unless by Order of Court. The mediator shall file his or her report within twenty (20) days from the date of the mediation conference in accordance with Butler County L.R.C.P. L212.1(f)(9)

BY THE COURT,

J.

(7) Cases which proceed to voluntary mediation, but do not get resolved, may apply for and be given preference on the trial list pursuant to Pa.R.C.P. 214(b).

(8) *Mediation Statement.* If no pre-trial statement as per the Pa.R.C.P. 212.2 has been filed as of ten (10) days prior to the mediation conference, then, at least ten (10) days prior to the mediation conference, each party shall file a mediation statement which must include the following:

- (a) party's succinct statement of position regarding liability and damages
- (b) significant legal issues involved, with citation of legal authority
- (c) medical reports
- (d) expert reports
- (e) itemized list of damages
- (f) last settlement posture and rationale

In the event a pre-trial statement has been previously filed, said pre-trial statement shall serve to provide the information required for a mediation statement. In the event any prior pre-trial statement requires updating or additional information to provide all categories for a mediation statement, said supplementation to the pre-trial statement shall be filed at least (10) days prior to the mediation conference.

If a party fails to timely file the mediation conference statement, the mediation conference may not be held and party who fails to timely file the required statement may be required to pay the attorneys fees and expenses of those parties who have timely filed their statements.

(9) *Mediation Conference Report.* Within twenty (20) days from the date of mediation conference, the mediator shall file with the Prothonotary a sealed mediation conference report which shall set forth the following:

- (a) Plaintiff's final settlement demand
- (b) Defendant's final settlement offer
- (c) Mediator's assessment of liability
- (d) Mediator's assessment of damages
- (e) Mediator's opinion regarding potential range of verdict and settlement

All parties will be provided with a copy of the mediator's conference report by the mediator. Upon receipt and docketing of the report, the Prothonotary shall forward the file, including the sealed report, to the assigned Judge. If the case has not been settled, upon motion of either party or on the Court's own motion, a status conference may be scheduled before the Court.

(10) Mediation communications and mediation documents shall be subject to the limitations on scope of Discovery and Deposition as per Pa.R.C.P. 4011(d) and 42 Pa.C.S.A. § 5949.

Rule L212.3 Pre-Trial Procedures.

(a) *Pre-Trial Settlement Conferences.* In addition to matters set forth in Pa.R.C.P. 212.3 for consideration at a pre-trial conference, the Court will consider, and attempt to resolve all motions in limine filed up to that time. It is encouraged that all known or anticipated pre-trial motions in limine be presented prior to or at the pre-trial conference.

(1) Each party, corporation and insurance carrier of a party who has an actual interest in the case, or can have an effect on the settlement of the case, shall be personally present at the pre-trial settlement conference. Said party or representative must be authorized to speak for such party, corporation or insurance carrier with respect to the trial and settlement of the case. The Court may, upon appropriate requests of counsel, for good cause, permit a party or representative to appear by telephone rather than in person.

(2) Attorneys present at the pre-trial conference must have complete authority to enter into stipulations concerning liability and other trial related and evidentiary issues.

(3) Settlement negotiations may be considered at the pre-trial conference.

(4) At least five (5) days prior to the pre-trial settlement conference all plaintiffs shall have made a bonafied written demand and proposal for settlement to all opposing counsel and non-represented parties. By the time of the pre-trial settlement conference, each defendant or additional defendant shall respond in writing to such written demand.

(b) *Civil Trial Status Reports.* Counsel for the parties shall file a civil trial status report in the form set forth herein. Said status report shall be filed no later than noon on the Wednesday preceding jury selection. The civil trial status form may be filed in person, or by facsimile transmission to the Office of Court Administration at (724) 284-5185.

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

_____	:	
_____	:	
_____	:	(case number)
Plaintiff	:	
	:	
vs.	:	
	:	
_____	:	
_____	:	
_____	:	
Defendant	:	

CIVIL CASE STATUS REPORT

Plaintiff's Counsel Name: _____ Phone No. _____
 Fax No. _____
 Defendant's Counsel Name: _____ Phone No. _____
 Fax No. _____
 Number on Trial List: _____

Status of settlement negotiations: _____

Anticipated length of trial: _____

Motions, evidentiary rulings necessary prior to trial or scheduling issues-(identify issues generally): _____

Date: _____

(1) Following the filing of civil trial status report forms by counsel or unrepresented parties, the Court will publish the schedule for jury selection by posting the list on the Butler County web site, www.co.butler.pa.us, and by fax transmission to counsel and any unrepresented parties. The jury selection list shall also be available in the Office of Court Administration and the Office of the Prothonotary. Jury selection dates are established pursuant to the court's calendar which is published on the Butler County web site.

Rule L216(c) Grounds for Continuance.

(1) The date for filing of civil trial status reports, as set forth in Butler County L.R.C.P. L212.3(b) shall constitute the date for call of the trial list for purposes of any applications for continuance pursuant to Pa.R.C.P. 216 (c).

(2) If the basis for a continuance is a required appearance of an attorney or party in a court of another County, the policy of this Court is to grant such a continuance only if the other matter was scheduled prior to the Butler County matter being scheduled. Any motion for a continuance on these grounds must include a true and correct copy of the scheduling order entered by the other court. This Court may communicate with the other court in order to resolve any conflicts to the benefit and satisfaction of both courts.

Rule L220.1 Voir Dire.

(a) Any proposed Voir Dire questions shall be submitted to the Court in advance of jury selection as directed by the Court in it's pre-trial conference order. Unless otherwise directed, proposed Voir Dire questions are required to be submitted no later than one (1) week prior to jury selection.

(b) At the time of jury selection, counsel shall submit to the Court proposed jury instructions for cases to be tried by a jury.

Rule L223 Conduct of Trial. Generally.

(a) At the time of commencement of a non-jury trial, counsel for all parties shall present to the Court proposed findings of fact and conclusions of law.

(b) Oversized exhibits must be submitted to the court reporter in 8" x 10" form to be included with the transcript.

Rule L230.2 Termination of Inactive Cases.

(a) On April 1 of each year, the Prothonotary shall begin to prepare a list of all cases in which there has been no activity of record for two (2) years as of said April 1st date. The Prothonotary shall then initiate the process of terminating inactive cases in the manner provided for in Pa.R.C.P. 230.2.

(b) On the date for termination of inactive cases, as identified in L230.2(a) above, the Prothonotary shall deliver to the assigned judge the listing of cases wherein a statement of intention to proceed was filed on behalf of the party and also a list of cases administratively terminated upon the failure of any party to file a statement of intention to proceed in accordance with Pa.R.C.P.230.2(f). For those cases wherein a statement of intention to proceed has been filed, a status conference may be scheduled for that case before the assigned judge.

Rule L430 Service Pursuant to Special Order of Court. Publication.

(a) *Designated publication.* Whenever service by publication is authorized by law or rule/order of court and the manner of publication is not otherwise specified, such service shall be made by publishing the required notice one (1) time in a newspaper of general circulation in Butler County, and one (1) time in the *Butler County Legal Journal*. Affidavit of publications shall be filed with the Office of the Prothonotary.

(b) *The Butler County Legal Journal.* The *Butler County Legal Journal*, owned and operated by the Butler County Bar Association, is hereby designated the official legal publication of Butler County.

Rule L1018.1 Notice to Defend. Form.

(a) The organization to be named in the Notice to Defend to find out where legal help may be obtained:

Office of Prothonotary, Butler County
1st Floor Courthouse
124 West Diamond Street
P. O. Box 1208
Butler, PA 16003
(724) 284-5214

Butler County Bar Association
201 Main Street
Butler, PA 16001
(724) 841-0130

Rule L1028(c) Preliminary Objections.

(1) Preliminary objections shall be filed with the Prothonotary. A brief in support of preliminary objections shall be filed at the same time as the filing of the preliminary objections. Briefs for the non-moving parties shall be filed and served no later one (1) week prior to the scheduled submission/argument date.

(2) If an amended pleading is filed in response to the preliminary objections, the amending party shall contemporaneously file a motion to cancel any submission/argument date scheduled to address the preliminary objections.

(3) Upon the filing of preliminary objections, oral argument or submission without oral argument will be scheduled by the court. Any party may submit a request for argument on their preliminary objections. Upon receipt of a request for argument, a time for argument will be assigned for the scheduled submission date.

Rule L1034(a) Motion for Judgment on the Pleadings.

(1) A motion for judgment on the pleadings shall be filed with the Prothonotary. A brief in support of the motion shall be filed at the same time as the motion for judgment on the pleadings is filed. Briefs for the non-moving parties shall be filed and served one (1) week prior to the scheduled submission or argument date.

(2) Upon the filing of motion for judgment on the pleadings, oral argument or submission without oral argument will be scheduled by the court. Any party may submit a request for argument on their motion for judgment on the pleadings. Upon receipt of a request for argument, a time for argument will be assigned for the scheduled submission date.

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

(1) A motion for summary judgment shall be filed with the Prothonotary. A brief in support of the motion shall be filed at the same time as the motion for summary judgment is filed. Briefs for the non-moving parties shall be filed and served no later than one (1) week prior to the scheduled submission or argument date.

(2) Upon the filing of motion for summary judgment, oral argument or submission without oral argument will be scheduled by the court. Any party may submit a request for argument on their motion for summary judgment. Upon receipt of a request for argument, a time for argument will be assigned for the scheduled submission date.

Rule L1301 Arbitration.

(a) These rules apply to all civil actions or issues that shall be submitted to compulsory arbitration pursuant to § 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 by 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 court has established the arbitration limits for Butler County for compulsory arbitration at Thirty-Five Thousand (\$35,000.00) Dollars. The amount at issue shall be determined from the pleadings, by agreement of the parties, or by the Court;

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

(3) All appeals from a civil judgment of the magisterial district court, except judgments for possession of real property;

(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, waivers of defenses, or proofs as are agreed upon. The parties may agree to extend the Arbitration jurisdictional limits for a case up to \$50,000. Such agreement must be by all parties and approved by the court.

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

- (1) Action 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 in mortgage foreclosure;
- (7) Action upon ground rent;
- (8) Action in foreign attachment; or
- (9) Action for fraudulent debtors attachment

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. 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 attorneys who regularly maintain an office in Butler County for the practice of law, including 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 with the Prothonotary. Arbitrators shall be selected by the Prothonotary from those persons who have filed their consents to serve.

(b) If an arbitrator is not able to serve on his or her appointed date, said arbitrator shall secure a replacement arbitrator from the list of attorneys who have consented to serve. Said arbitrator shall notify the Prothonotary of the replacement and the Prothonotary shall appoint said substitute attorney to replace arbitrator. 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 or her 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 re-hearing 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 three (3) years.

(d) Each member of the board of arbitrators who have been duly sworn to hear a case shall receive as compensation a fee in the amount set by the court from time to time by administrative order. In cases requiring hearings that exceed one half (1/2) day, the arbitrators may petition the court for additional compensation, which the court may grant for cause shown. The arbitrators shall be entitled to receive their compensation fees as follows:

(1) Following hearing, after filing the award with the Prothonotary as per Butler County L.R.C.P. L1306; or

(2) If a continuance is requested after the date of posting of a hearing time for the case as per Butler County L.R.C.P. L1303(d), the arbitrators shall be paid from the funds paid by the continuing party as per Butler County L.R.C.P. L1304; or

(3) If a case settles after the posting of a hearing time for the case as per Butler County L.R.C.P. L1303(d), but before the scheduled arbitration hearing, the arbitrators shall be paid by the county as per administrative order under Local Rule L1302(d) upon Order of Court that directs payment in the case.

(a) When counsel agree upon terms for settlement, they shall notify the Court, in writing, as soon as possible such that the case can be removed from the Arbitration hearing list. Any case that is removed from the list after posting of the time for arbitration under Local Rule L1303(d) which does not settle of record, shall not be

re-listed for Arbitration unless the arbitrators fees paid to the original Arbitration panel as per Local Rule L1303(e) are reimbursed to the County by counsel for the parties.

Compensation fees paid to arbitrators shall not be taxed as costs or follow the award as other costs.

(e) Upon the filing of the arbitrators' award, discontinuance by the parties after the swearing of the arbitrators, Order of Court continuing the case after posting of a hearing time as per Butler County L.R.C.P. 1303(d)(2), Order of Court removing the case from Arbitration based upon settlement of the case of record as per Butler County L.R.C.P. L1302(d)(3), or an award by the Court in accordance with Pa.R.C.P. No. 1303(b), the Prothonotary shall certify such filing to the Court and submit a statement for payment to the Office of the Court Administrator. The County shall thereupon pay the applicable fee to each member of the board of arbitrators.

(f) If an arbitrator fails in his or her 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.

Rule L1303 Hearing. Notice.

(a) Upon the filing of a praecipe for arbitration or a referral of a case for arbitration by the Court, a hearing date shall be assigned by Court Administration. The praecipe for Arbitration shall be in the following format:

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

Plaintiff : **CASE # AD**
:
:
vs. :
:
:
Defendant :

PRAECIPE FOR ARBITRATION

The _____ (Plaintiff / Defendant) hereby requests that the above case be scheduled for Compulsory Arbitration.

Note: Either party may request that a Pre-Arbitration conference be scheduled before the assigned Judge by filing a written motion or by checking the box below.

_____ A pre-hearing conference before the assigned Judge is requested.

Preliminary estimate of time required for arbitration hearing _____ .

_____ Date _____ Counsel for Plaintiff / Defendant

Counsel/party fax contact information:
Plaintiff/Counsel fax # _____
Defendant /Counsel fax # _____

Respectfully submitted,

(b) The Court Administrator's Office shall fix the date for the arbitration hearing at the Butler County Courthouse. There shall be at least two (2) arbitration panels scheduled for single arbitration date each month. The scheduled dates will be noted in the court calendar as posted on the Butler County web site, www.co.butler.pa.us. The scheduling order will be in the following format:

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

Plaintiff : CASE # AD
vs. :
Defendant :

ORDER OF COURT

The above-captioned matter is scheduled for Arbitration on _____.

A Pre-Arbitration conference:

_____ has not been requested
_____ is scheduled _____ @ _____ m in Courtroom # _____.

An Arbitration status report, in the form set forth in Butler County L.R.C.P. 1303(a)(4), shall be filed with Court Administration on or before _____. A copy of the Arbitration status report form is available on the Butler County Website, www.co.butler.pa.us. The time for the Arbitration shall be posted on the Butler County Website and faxed to counsel on or before _____.

Any continuance of the Arbitration hearing must be obtained upon motion presented to the assigned Judge. Continuances requested after the posting of the time for the Arbitration shall only be granted upon the payment of the Arbitrators' fees.

BY THE COURT,

(1) For each monthly arbitration date, the Prothonotary shall appoint two (2) panels of three (3) arbitrators each. Said lists shall be forwarded to Court Administration by the Prothonotary.

(c) Arbitration Status Report. All orders of court scheduling the arbitration hearing shall provide for notification that an arbitration status report shall be filed with Court Administration fourteen (14) days prior to the scheduled arbitration date. The arbitration status report shall be in the format set forth below:

Caption

ARBITRATION STATUS REPORT

Plaintiff's Counsel Name & Phone No. _____
FAX No. _____
Defendant's Counsel Name & Phone No. _____
FAX No. _____

Status of Settlement negotiations: _____

Anticipated total length of Arbitration Hearing—(counsel should consult with all sides to provide a reliable estimate of time because other arbitration hearings may be scheduled to follow the time allotted for your case) _____.

Other considerations that the court needs to be aware of concerning scheduling of a hearing time: _____.

NOTICE: Any continuance requested after the scheduling of a hearing time for your arbitration hearing as per Butler County L.R.C.P. 1303(d) will require the payment of the arbitrators' fees.

Date: _____

Plaintiff / Defendant
(legal counsel or party, if unrepresented)

This form may be filed individually or jointly by all counsel and any unrepresented parties.

This form may be filed in person or by FAX to the office of the Court Administrator. FAX # 724-284-5185

(d) Upon receipt of the arbitration status report forms, the arbitration cases will be scheduled for a specific time for hearing before a panel of arbitrators on the scheduled arbitration date. Notification of the scheduled arbitration time shall be forwarded to all counsel and unrepresented parties by mail and/or facsimile transmission. The scheduled arbitration times will also be posted on the Butler County web site, www.co.butler.pa.us, and in the offices of Court Administration and the Prothonotary.

(e) The Order of Court scheduling the arbitration time shall also contain a notice that will 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 trial de novo on appeal from a decision entered by a judge in such circumstance.

(f) Arbitration Time Scheduling Order. The scheduling order for the arbitration time shall be in the following format:

Caption

ARBITRATION TIME SCHEDULING ORDER

And now, _____, the Arbitration hearing for the above case is scheduled for _____ at _____ o'clock _____ M in Room _____ of the Butler County Courthouse. _____ hour(s) or _____ day(s) has/have been allotted for this case to be presented and concluded.

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 trial de novo on appeal from a decision entered by a judge in such circumstance.

Any continuance requested after this date WILL require the payment of the arbitrators' fees.

BY THE COURT,

Rule L1304 Continuances.

Continuances of hearings before board of arbitrators may only be obtained by leave of court. Parties seeking a continuance shall file their requests for continuance before the assigned judge for the case. Continuances will be granted by the Court only for good and sufficient reasons as presented by the parties. Any continuance requested and granted after the posting of the arbitration times as set forth in Rule L1303(d) shall include a requirement that the party requesting a continuance shall be responsible for payment of the arbitrators' fees as established pursuant to special order of court. 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.

Rule L1305 Authority of the Board Chairperson.

(a) The chairperson of the board of arbitrators shall have the powers conferred upon him or her by law, including but not limited to the following:

(1) The chair of the board of arbitrators shall have initial authority to make all rulings on objections to evidence or on other issues that arise during the hearing. Such rulings shall be final unless objected to by one of the other arbitrators. In the later instance, the arbitrators shall consult and vote and the final ruling shall be that of the majority.

(2) Following the hearing and entry of award, the chair of the board of arbitrators shall release the exhibits to the party who offered them.

Rule L1306 Award.

Arbitrators shall file their award within seven (7) days after the completion of the arbitration hearing. Arbitrators who fail to file the award as required by this Rule may forfeit their fees. The arbitrators may consider the subject of damages for delay after an award has been made in accordance with Pa.R.C.P. 238. Any such delay damages shall be added to the principal amount awarded, but shall be separately stated on the report and award.

Rule L4008 Location of Deposition for Cases Filed in Butler County.

Unless parties otherwise agree, or unless by court order otherwise for good cause shown under Pa.R.C.P. 4012, depositions for Butler County cases shall occur in Butler County.

[Pa.B. Doc. No. 08-562. Filed for public inspection March 28, 2008, 9:00 a.m.]

ERIE COUNTY**Rules of Criminal Procedure Nos. 106, 117, 310, 541, 570, 571, 590 and 600; No. AD-16-08****Order**

And Now, To-Wit, this 6th day of March, 2008, the following Local Rules of Criminal Procedure having been consented to by the Criminal Practice Section and approved by the Court are hereby *Ordered* adopted and effective as to Erie County 30 days after publication of same in the *Pennsylvania Bulletin*.

By the Court

ELIZABETH K. KELLY,
President Judge

RULE 106—Continuances

A deadline shall exist for the filing of continuances by either the Commonwealth or a defendant for cases listed for a particular trial term. This deadline shall be the second business day of the week immediately preceding the trial term. The deadline may be extended by the Court. Any motions for continuance filed prior to the deadline shall be considered by the pre-assigned judge. After the deadline, all motions for continuance must be considered by the judge who will preside over the case at trial. Notice as to the last date for continuances shall be published by the court in its annual schedule.

RULE 117—Magisterial District Judge Coverage for Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail

A. To the extent required by Pa.R.Crim.P. 117, Magisterial District Judges shall be available to provide continuous coverage for the issuance of search warrants, the issuance of arrest warrants, to accept and set bail, to conduct summary trials, and to conduct preliminary arraignments.

1. The provision of continuous coverage shall be by the traditional on-call system as presently established and exercised in Erie County. Specifically, the Magisterial District Judges shall remain on-call during non-regular business hours on a rotating basis. The Assistant Court Administrator shall maintain a copy of said rotating schedule.

2. The hours of 6:00 a.m. to 10:00 p.m. for conducting a summary trial or bench warrant hearing pursuant to Pa.R.Crim.P. 431 shall not be extended.

B. Magisterial District Judges, the Clerk of Courts and the Warden of the Erie County Prison shall be authorized to accept bail pursuant to, and subject to the limitations of, the Pennsylvania Rules of Criminal Procedure. The Warden's authority is limited to accepting the bail deposit, delivering the bail to the issuing authority or Clerk of Courts and, under Pennsylvania Rule of Criminal Procedure 525, releasing the defendant upon execution of the bail bond.

C. Regular business hours for each Magisterial District Judge Office shall be Monday through Friday from 8:30 a.m. until 4:30 p.m.

RULE 310—A.R.D.

A. An original application for entry into the Accelerated Rehabilitation Disposition (A.R.D.) program shall be filed with the Commonwealth, and a copy shall be filed at the Office of the Criminal Court Administrator. The Criminal Court Administrator shall mark the date of filing on the copy. The application shall include language that waives Pa.R.Crim.P. 600.

B. The filing deadlines imposed by Pa.R.Crim.P. 567, 568, 572, 573, 578 and 579 shall be specially calculated in those instances where a defendant applies for, is refused entry into, or is revoked from the A.R.D. program as follows:

1. When the application is made BEFORE arraignment, all filing deadlines are preserved and calculations shall commence upon date of refusal or revocation.

2. When the application is made AFTER arraignment, filing of the application shall toll the running of the deadlines. Any number of days remaining shall remain and calculations will recommence upon date of refusal or revocation.

3. When any filing deadline has passed before the filing of the A.R.D. application, that deadline shall be deemed missed and unavailable except upon motion and order of the court.

C. The procedure for the expedited A.R.D. process is set forth in Erie L.R. 541A.

RULE 541—Waiver of Preliminary Hearing: Filing for Expedited A.R.D.

A. *Expedited A.R.D.* An original application for entry into the Expedited Accelerated Rehabilitative Disposition ("Expedited A.R.D.") program may be filed with the Magisterial District Judge who is assigned to preside over

the preliminary hearing. The Magisterial District Judge shall forward the application to the Clerk of Courts and the Criminal Court Administrator.

Note—Expedited A.R.D. applies only to DUI cases that meet the following minimum criteria: (1) the BAC must be no greater than .30%; (2) the defendant must have no criminal history exclusive of summary offenses; and (3) the case must not involve a motor vehicle accident.

RULE 570—Pretrial Conference

A. *Treatment Court.* After the filing of a criminal information, an original application for entry into the Drug Court or Mental Health Court programs shall be filed with the Commonwealth, and a copy shall be filed with the Criminal Court Administrator. The Criminal Court Administrator shall mark the date of filing on the copy.

B. *Case Assignments.* All cases bound to Court will be assigned to one of the Judges in the Trial Division by the Court Administrator at or about the time of the arraignment or waiver thereof. The assigned judge will hear and resolve all pretrial matters pertaining to the case. If a case proceeds to trial before a judge other than the assigned judge, the trial judge shall entertain motions in limine and any other pretrial motions.

RULE 571—Arraignment

The defendant and counsel (or a representative of counsel) shall be required to appear at the scheduled time of arraignment unless a waiver is filed. The defendant and counsel may waive appearance at arraignment by the filing of a signed "Waiver of Arraignment and Entry of Appearance" prior to the scheduled date of arraignment.

RULE 590—Pleas and Plea Agreements

A. In all cases disposed of by plea (except post-arraignment pleas), the assigned judge shall be the sentencing judge. However, in any case where the assigned judge is unavailable for sentencing, another judge designated by the President Judge shall conduct the sentencing. A sentencing date shall be set for all cases at the time of plea. Any change requested in this date must be made directly with the assigned sentencing judge and subject to his or her discretion.

1. *Post-Arraignment Pleas.* If a defendant enters a plea before the Court no later than ten (10) days after arraignment or refusal from the ARD/PWOV or Treatment Court programs, the defendant may have the option of assignment to another judge of the trial division, other than the original assigned judge, for purposes of sentencing. The assignment of alternative sentencing judges under this section shall be determined by the President Judge.

B. *Plea Agreements.* A deadline shall exist, after which the Court should not accept a plea to lesser or reduced offenses. This deadline shall be the second business day of the week immediately preceding the first day of the trial term. Said deadline may be extended by the Court upon good cause shown. If a case is called to trial by the

Court Administrator after that date, the Commonwealth and defendant shall (1) proceed to trial; (2) enter a plea as charged (summary offenses may be withdrawn at any time); or (3) the Court shall dismiss the case.

RULE 600—Trial Terms

A. *Criminal Trial Terms.* Criminal cases (excluding those listed in paragraph B) shall be tried during a two-week period in the months of January, March, May, July, September and November.

B. *Separate Trial List.* All DUI cases and other cases where the most serious offense involves simple assault, (including cases involving alleged domestic abuse), bad checks or cases requiring expedited handling due to speedy trial concerns shall be tried during a two-week period in the months of February, April, June and October.

C. *Notice.* All cases listed for a trial session shall be subpoenaed by the Court Administrator at least one (1) month prior to the start of the trial term when time permits. The Court may direct the listing of any case for any term as it deems necessary or appropriate.

[Pa.B. Doc. No. 08-563. Filed for public inspection March 28, 2008, 9:00 a.m.]

SUPREME COURT

Duty Assignment Schedule for Emergency Petitions in the Year 2008; No. 316 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 14th day of March, 2008, the emergency duty assignment order of December 20, 2007, is herewith amended as follows:

January	Justice Thomas G. Saylor Justice Max Baer	(Eastern District) (Western District)
February	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
March	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)
April	Justice Thomas G. Saylor Justice Max Baer	(Eastern District) (Western District)
May	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)

PATRICIA NICOLA,
Chief Clerk

Supreme Court of Pennsylvania

[Pa.B. Doc. No. 08-564. Filed for public inspection March 28, 2008, 9:00 a.m.]