

Schuylkill County Rules of Civil Procedure

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APPEALS FROM CERTAIN ADMINISTRATIVE AGENCIES

**RULE 14 APPEALS FROM ZONING BOARD AND
GOVERNMENTAL AGENCIES.**

I. PENNSYLVANIA MUNICIPALITIES PLANNING CODE (nothing contained in this Local Rule shall supersede the requirements of the Pennsylvania Municipalities Planning Code).

A. APPEAL NOTICE. A land use appeal shall be in writing and shall contain the following:

1. A caption in substantially the following form:

In Re:

The Appeal of _____ (Name) _____ from the decision of the
_____ (Name of local agency, such as zoning hearing board or governing body).

2. Where applicable and where available to the appellant, in separately numbered paragraphs and in the following order:

- a. name and address of the appellant.
- b. name and address of the local agency the decision of which is being appealed.
- c. the name and address of the owners, both real and equitable of any real estate which may be the subject of the application and an identification of any real estate which may be the subject matter of the application.
- d. a chronology of the case, including the following dates:
 - i. date of application.
 - ii. date of filing application with the zoning officer.
 - iii. date of action of the zoning officer or other official.
 - iv. date of appeal or request to local agency.
 - v. dates of all hearings.
 - vi. date of decision or adjudication from which the appeal has been taken.
 - vii. date decision received.
- e. the purpose for which the original application was made.
- f. all specific legal and factual grounds relied upon for the appeal.
- g. prayer for relief specifying all relief sought by the appellant.

3. A certification by the appellant that a transcript of the proceedings has been ordered, if one is not already in existence. At the time of the ordering, a party

must make satisfactory arrangements with the reporter for payment of the costs of the transcript.

B. INTERVENTION

1. Notice of intervention under Section 1004-A of the Pennsylvania Municipalities Planning Code shall be under caption of the appeal and contain:

- i. name and address of intervenor.
- ii. nature of interest of intervenor in the proceedings.
- iii. statement setting forth the factual and legal circumstances under which the intervenor alleges a right to intervene.
- vi. a brief summary of the position of intervenor and grounds therefor.

2. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

3. The petitioner seeking intervention in a land use appeal shall comply with the procedures in Sch.R.C.P. 208.3 to submit the matter to the Court.

C. CERTIORARI

1. In making its return, the local agency shall submit its entire record, including but not limited to:

- a. all original papers filed, in chronological order, commencing with the application and all documents relating thereto, including correspondence;
- b. the transcript of testimony in existence and available to the local agency within the time it is required to make its return;
- c. the complete current zoning ordinance of the municipality, including maps, and any relevant prior ordinances or citation of, and copies of rules or regulations which affect the appeal;
- d. the findings of fact and conclusions of law of the local agency and its decision; and
- e. the names and addresses of all persons officially recognized as parties by the local agency.

2. The return on the certiorari shall be verified by the chairman or other officer designated by the local agency.

3. Notice of making the return shall be given forthwith by the Prothonotary to appellant who shall, within 4 days after receipt of the notice of making the

return, give written notice of the return to the municipality, any applicant before the local agency and any property owner, whether real or equitable, whose land is the subject matter of the application, as well as all other parties to the original proceedings. The appellant shall contemporaneously file a certificate of service of such notice, setting forth the name and address of each party served and the manner of service.

4. If a transcript subsequently becomes available, a supplemental return, containing such transcript, shall be promptly filed, and notice given as required by I(C)(3) above.

D. SUBMISSION TO COURT

1. Unless otherwise ordered by the court or by stipulation of the parties, the only issues before the court shall be those raised by the specific legal or factual grounds and prayers for relief in the appeal notice pursuant to subsection A(2)(f) and (g), and supplemental grounds filed in writing within 5 days of receipt of notice that the transcript has been filed.

2. Upon receiving notice of the return on certiorari, any party may submit the appeal to the court for disposition by praecipe pursuant to Sch.R.C.P. 205.2(b). The submitting party shall contemporaneously file a brief supporting that party's position and an affidavit of service on all other parties or their counsel. The briefs of all other parties shall be filed within 20 days of such service. If any party believes that the proper consideration of the appeal requires the presentation of additional evidence, that party shall, on or before the date when that party's brief is due, file a written motion, in compliance with Sch.R.C.P. 208.1 et seq., and shall be accompanied by the praecipe mandated by Sch.R.C.P. 205.2(b), setting forth specifically the nature of the proposed additional testimony and the reasons why such testimony is necessary for the proper consideration of the appeal.

3. In the absence of a motion to present additional testimony, the Court may render a decision based solely on the record, briefs of the parties and oral argument if requested; may direct that the parties brief and/or argue additional issues; or may remand the matter for additional hearing. If a motion for additional hearing is filed and it is shown that proper consideration of the appeal requires the presentation of additional evidence, the Court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review if permitted by law, or may refer the case to a referee to receive additional evidence.

4. An appeal from a decision on remand shall be docketed to the original docket from which the remand was made. Only issues arising from the remand

may be raised. All requirements of all parties (including, but not limited to, the local agency), as elsewhere provided in this Rule shall apply to an appeal after remand.

II. LOCAL AGENCY LAW. Except as otherwise provided in the Local Agency Law, 2 Pa.C.S.A. §101 et seq., appeals taken under the Local Agency Law shall be governed by part I above to the extent applicable.

III. OTHER GOVERNMENT AGENCIES. Appeals taken from any governmental action for which no other procedure is provided by statute or rule shall be governed by part I above to the extent applicable.

RULE 14A TAX ASSESSMENT APPEALS.

I. Real Estate Tax Assessment Appeal

(a) An appeal from a decision of the Schuylkill County Board of Assessment Appeals (“Board”) shall be captioned “Real Estate Tax Assessment Appeal” and shall be filed with the Prothonotary within the time prescribed by statute.

(b) The Real Estate Tax Assessment Appeal shall contain the following:

(1) Caption designating the named party taking the appeal as Appellant, the Board as Appellee, and if Appellant is a taxing authority it shall join the owner of the real estate involved as of course as a party in the assessment appeal by designating such named owner in the caption as Respondent (“Respondent”).

(2) A brief description of the subject real estate, its location, the name and address of the owner and the municipality and the school district wherein the real estate is located.

(3) The nature of and reasons for the appeal.

(4) A copy of the Board’s Notice of Final Determination and Order shall be attached as an exhibit.

(5) A verification.

(c) Appellant shall serve a copy of the Real Estate Tax Assessment Appeal by certified mail upon the Board addressed to 401 North Second Street, Pottsville, Pennsylvania, 17901, and upon the Respondent at such person’s last known mailing address.

(d) Appellant shall file a Certificate of Service with the Prothonotary within five (5) days of the filing of the Real Estate Tax Assessment Appeal, certifying that the appeal was served in accordance with the provisions of (c) above.

(e) No response to the appeal need be made by either the Appellee or the Respondent.

II. Intervention

(a) The County of Schuylkill and the municipality and school district wherein the real estate is located may intervene as of course during pendency of the appeal by filing a Notice of Intervention with the Prothonotary.

(b) Notice of Intervention shall contain the name of the intervening party as an additional party designated as Intervenor in the caption, and shall set forth that such identified party is intervening.

(c) Intervenor shall serve copies of the Notice of Intervention by certified mail upon Appellant, Appellee, and Respondent and any other intervening parties of record.

(d) Intervenor shall file a Certificate of Service with the Prothonotary within five (5) days of the filing of Notice of Intervention, certifying that the Notice of Intervention was served in accordance with (c) above.

(e) No response is required to be made by any party served with a copy of a Notice of Intervention.

III. Discovery

(a) Depositions and Discovery shall be applicable to real estate tax assessment appeals only as permitted by the Court.

IV. Pretrial Conference

(a) The Court, upon application of a party, may schedule a pretrial conference.

(b) The attorney attending a pretrial conference shall be the trial attorney, and such attorney, or a party in attendance without counsel, shall be prepared to discuss the status of the case as well as any stipulations that may be reasonably agreed to by the parties.

(c) In the event of unexcused failure of trial counsel or a party without counsel to attend a pretrial conference, the conference may nevertheless be held and the presiding judge may impose such sanctions as deemed appropriate.

V. Class Actions

(a) Pa.R.C.P. 1701, et seq. and Sch.R.C.P. 1703, et seq. shall be applicable to real estate tax assessment appeals.

VI. Post-Trial Relief

- (a) Post-trial motions shall not be filed in Real Estate Tax Assessment Appeals. The decision of the trial court in all such cases is a final, appealable order.

RULE 15 SUPERSEDEAS IN APPEALS.

Unless otherwise provided by law, the grant of a supersedeas or a stay of proceedings in connection with appeals shall be discretionary with the Courts and may be upon ex parte application; provided, however, that the other parties of record in the proceedings shall have the right to petition for the withdrawal of such supersedeas or stay.

RULES OF CONSTRUCTION

RULE 51 TITLE AND CITATION OF RULES.

(a) All Civil procedural rules adopted by the Court of Common Pleas of Schuylkill County shall be known as the Schuylkill County Rules of Civil Procedure and shall be cited as "Sch.R.C.P. ____."

RULE 52 EFFECTIVE DATE OF RULES.

These rules are intended to supplement and implement the Pennsylvania Rules of Civil Procedure, and they shall govern the practice and procedure in the Court of Common Pleas of Schuylkill County when appropriate. These Rules have been filed with the Administrative Office of the Pennsylvania Courts on March 5, 1996, as required by Pa.R.J.A. 103(c)(1) and shall be effective from such date.

RULE 76 DEFINITIONS.

(a) Unless the context clearly indicates otherwise, the words and phrases used in any rule promulgated by the Court of Common Pleas of Schuylkill County shall be given the same meanings as said words and phrases are given by Pa.R.C.P. 76, except:

(1) "Court" or "The Court" shall mean the Court of Common Pleas of Schuylkill County.

(2) "Rule" shall mean any rule of court promulgated by the Court of Common Pleas of Schuylkill County.

RULE 101 PRINCIPLES OF INTERPRETATION.

(a) In the construction of any Schuylkill Rule, the principles set forth in Pa.R.C.P. 101 through 153 shall be employed whenever possible.

RULE 105.1 APPROVAL OF SURETIES AND BONDSMEN, LIMITATIONS.

(a) Sureties and bondsmen required at the commencement of actions shall be approved by the Court. No attorney, sheriff's officer, officer of the court, or person concerned in the issue or execution of process, shall become bail except by written leave of Court.

(b) Individual Sureties

When other than corporate security is offered, the party offering it shall at the same time present an affidavit of justification of the surety in the following form for approval of the Court:

(CAPTION)
JUSTIFICATION OF SURETY

State of Pennsylvania

ss.

County of Schuylkill

_____, being duly sworn, depose(s) and says(s):

1. I (we) reside at _____ in the County of _____ and are by occupation _____.

2. I am (We are) the owner(s) of real estate in said County of _____, consisting of a piece of ground in size _____, situate at No. _____, in the _____ of _____, which is improved with the following buildings:

3. The said property was obtained by me (us) by deed or will from _____ in the year _____, the title is in my (our) name(s) alone, and the deed or will is recorded in Schuylkill County in Deed (Will) Book Volume _____, page _____.

4. I am (We are) surety for the following named persons, and no others, in the following amounts:

5. I (We) do not contemplate the sale of the above described property and am (are) not now negotiating any sale of the same.

6. There are no encumbrances upon said property, except:

7. The said property has not been offered and accepted as bail or security for any other bail or bond still in force, except _____.

8. The above property is assessed by the County for taxation in the sum of \$ _____, and I (we) believe that at present said property would sell for \$ _____ County Assessment Code No. _____.

9. I (we) have read over the foregoing affidavit and swear the facts set forth therein are true and correct.

Sworn and subscribed before me
this ____ day of _____, 20____.

RULE 107 PUBLICATION.

- (a) The Schuylkill Legal Record is designated the legal publication for the Court of Common Pleas of Schuylkill County.

BUSINESS OF COURTS

RULE 202 CONTINGENT FEE AGREEMENT.

(a) All moneys collected by an attorney under a contingent fee agreement shall be paid, after the deduction of fees and proper charges for costs and expenses of the case, directly to the client without other deduction unless otherwise authorized in writing by the client.

RULE 205.1 CUSTODY OF PAPERS.

(a) All papers relating to civil matters shall be filed in the Office of the Prothonotary, with the exception of support matters which shall be filed with the Domestic Relations Section in accordance with appropriate statutes, Pennsylvania Rules of Civil Procedure, and these rules, with a case number and year thereon and the date and hour of filing to be stamped thereon by the Prothonotary or Clerk of the Domestic Relations Section.

(b) Upon receipt by the Prothonotary of the record of a case transferred from another judicial district, the Prothonotary shall assign a case number and year to the action and shall notify all counsel of record thereof.

(c) Prepayment of costs for filing. The Prothonotary, Clerk of Court of Common Pleas, Register of Wills, Clerk of the Orphans' Court Division, Clerk of the Domestic Relations Section, and the Recorder of Deeds shall have the right to require payment for the filing, recording, or service of a paper or pleading at the time same is filed and, if said officer is unable to determine in advance the amount so required, he shall have a right to require a reasonable sum as a deposit against the costs for filing, recording, or service of a paper or pleading at the time same is filed.

(d) The record papers in the Office of the Prothonotary and Domestic Relations Section shall be in the custody of said officials who shall be responsible for their safekeeping. No person, other than the Prothonotary or the Chief of the Domestic Relations Section, or their duly authorized clerks, shall have access to the files in which such record papers are kept.

(e) Auditors, masters, and other similar officers appointed by the Court shall have authority to remove such records as may be necessary for the purposes of their appointment, and they shall return the same within three (3) months unless the Court authorizes their longer retention.

(f) None other than those named in (e) shall be permitted to remove the papers from the Office of the Prothonotary or Domestic Relations Section without a written Order

of Court. It shall be the duty of the Prothonotary and the Chief of the Domestic Relations Section to insure full compliance with this rule.

(g) The record papers may be examined and copied by any other party in interest only in the office of the Prothonotary or Domestic Relations Section. However, the original transcript of testimony may not be photocopied.

(h) The Prothonotary shall keep and maintain the following dockets:

- (1) Suit Docket
- (2) Judgment Docket
- (3) Federal Tax Lien Docket
- (4) Secured Transaction Docket
- (5) Fictitious Names Docket

RULE 205.2(a) FILING LEGAL PAPERS.

All papers, pleadings, and documents filed with the Prothonotary and Domestic Relations Section shall be on 8 ½ x 11 inch paper, and where signatures are required, such signatures shall be in black or blue-black ink.

RULE 205.2(b) FILING LEGAL PAPERS. PRAECIPE TO TRANSMIT.

All filings which require action by a judge or an assignment by the Court Administrator shall be accompanied by a praecipe to transmit on Prothonotary Form 205.2(b), and shall indicate the nature of the filing and what action is being sought to move the matter forward. The purpose of the praecipe is to advise the Court of what may be necessary for a disposition (i.e. when a hearing is required; when a matter is ripe for disposition on the record; matters that can be immediately addressed) and to expedite action on the filing. When a non-jury trial or a hearing involving witnesses is being requested, then the moving party shall list the witnesses to be presented and include an estimate as to the time required to present the case. In matters requiring a non-jury trial or hearing, opposing counsel is required to submit a report in WRITING to the Court Administrator within ten (10) days of the moving party's filing of the praecipe to transmit, (1) listing the names of the witnesses they will use at trial or hearing; and (2) an estimate of time required to present their case. Failure to file the praecipe to transmit or to indicate what action is required from the Court may result in denial of the relief sought. Failure to list witnesses may result in the preclusion of their testimony.

FORM OF PRAECIPE TO TRANSMIT.

Pursuant to this Rule, the Praecipe to Transmit shall be in the following form:

(CAPTION)

PRAECIPE FOR CERTIFICATION – PROTHONOTARY FORM 205.2(b)

TO: THE PROTHONOTARY: Transmit the attached filing to the Court Administrator for Assignment to a Judge. The nature of the filing and requested action is as follows:

___ Jury Trial – (Complete Certificate of Readiness)
___ Non-Jury Trial – Any matter dispositive of the case e.g.:

() Equity Actions; () Tax Appeals; () Summary Appeals;
() Name Change Actions; () Permanent Injunctions;
() Other _____ (specify)

I estimate it will require ___ hours to present the plaintiff's/defendant's case and I will present only the following witnesses for testimony:

___ Petition pursuant to Pa.R.C.P. 206.1 requesting () Issuance of Rule to Show Cause; () Transfer to Court for disposition, no answer having been filed; () Transfer to Court for disposition, contested matter and fact finding complete or unnecessary; () Other _____ (specify)

Issue that can be decided on the record and briefs, being:
() Gov't Appeal; () Exceptions; () Judgment on the Pleadings; () Summary Judgment;
() Other _____ (specify)

Issue that can be assigned for immediate action, being:
() Stipulation; () Uncontested Motion; () Motion for Appointment; () Quiet Title Motion;
() Other _____ (specify)

___ Contested Motion (Memo Attached), being:
() Discovery Motion; () Other _____ (specify)

___ Transmit to Custody Officer. Reason: _____
(If hearing is required, complete the time and witness portion of this form.)

___ Hearing required/requested. Reason for Hearing: _____

() Special Relief; () Contempt Petition; () Preliminary Injunction; () Other _____ (specify)

I estimate it will require _____ hours to present the plaintiff's/defendant's case and I will present only the following witnesses for testimony:

Attorney for Plaintiffs

Date: _____

For Defendant: _____

For Plaintiff: _____

Notice: In matters requiring a non-jury trial or hearing, opposing counsel is required to submit a report in WRITING to the Court Administrator within 10 days, (1) listing the names of the witnesses they will use at the hearing; and (2) an estimate of the time required to present their case.

RULE 206.1(a) PETITIONS.

As used in this chapter, "petition" includes an application:

- (1) to open a default judgment, or
- (2) to open a judgment of non pros.

Petition and answer practice shall comport with Pa.R.C.P. 206.1 and 206.2 and the rule provisions of Sch.R.C.P. 1019 setting forth the authority on which the Petition is based.

RULE 206.4(c) RULE TO SHOW CAUSE.

(1) A rule to show cause shall issue as a matter of course pursuant to Pa.R.C.P. 206.6.

(2) Each petition seeking issuance of a rule to show cause shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b). Upon filing, an Order in the form set forth in Sch.R.C.P. 206.6 shall be issued as of course and the parties shall thereafter proceed pursuant to the provisions of Pa.R.C.P. 206.7 and Sch.R.C.P. 206.7.

RULE 206.6 FORM OF ORDER.

Pursuant to this rule the petitioner shall attach to any petition seeking a rule to show cause a proposed order and the following form:

(CAPTION)

ORDER

AND NOW, this ____ day of _____, 20 ____, upon consideration of the foregoing petition, it is hereby DIRECTED that:

- (1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) The respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) Depositions shall be completed within 60 days of this date unless otherwise extended by the court;
- (5) Either party may request oral argument pursuant to Sch.R.C.P. 206.7(d); and
- (6) Notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT,

J.

RULE 206.7 PROCEDURE AFTER ISSUANCE OF RULE TO SHOW CAUSE.

- (a) In the event the respondent fails to file an answer to the rule within the time set forth in the rule, the movant may request to have the matter assigned to the Court for entry of an appropriate order by praecipe to transmit pursuant to Sch.R.C.P. 205.2(b).
- (b) If the defendant files an answer to a disputed rule raising no issue of material fact, either party may request to have the matter assigned to the Court for entry of an appropriate order by filing a Praecipe to Transmit pursuant to Sch.R.C.P. 205.2(b).
- (c) When a contested case is at issue, and the parties have complied with the fact finding provisions of Pa.R.C.P. 206.7(c) and 206.7(d), where applicable, either party may move to have the matter assigned to the Court for disposition by praecipe pursuant to Sch.R.C.P. 205.2(b).
- (d) In cases where an answer has been filed, each party shall file of record a brief in support of their respective position within twenty (20) days of the date of filing the

praecipe to transmit the matter to the court for disposition. Unless otherwise requested, contested petitions shall be decided upon the record. Either party may request oral argument by filing a written request for oral argument with the Court Administrator of Schuylkill County.

RULE 208.1 MOTION. DEFINITION.

(a) All motions or petitions for appointment, and all miscellaneous matters, shall be governed by this Rule, 208.1 et seq.

RULE 208.2(c) MOTION. FORM.

All motions shall state with particularity the grounds on which they are based, and each shall be accompanied by a form of order which, if approved by the Court, would grant the relief sought by the motion. Every response in opposition to a motion shall be accompanied by a form of order, which, if approved by the Court, will deny or amend the relief sought by the motion.

RULE 208.2(d) UNCONTESTED MOTIONS.

Every uncontested motion shall be accompanied by a certificate of counsel that such motion is uncontested, substantially in the following form:

(CAPTION)
CERTIFICATION

_____ hereby certifies that a copy of the attached petition/motion was served upon the party listed below, in the manner and date set forth, and that the undersigned has received an affirmative response from that party indicating that the petition/motion is not opposed.

Date served: _____ Served upon: _____
(name)

Manner of Service: _____
(address)

(signature)

RULE 208.2(e) MOTION. DISCOVERY-RELATED ISSUES.

A party may, with respect to discovery-related issues, file a motion for scheduling conference with the Court when the party is unable to coordinate the scheduling of depositions or other discovery despite reasonable and good faith efforts to do so.

The motion for scheduling conference should state in specific detail the efforts which counsel has made to schedule discovery and otherwise complete discovery. Upon addressing a motion for scheduling conference and any response thereto, the Court may hold a hearing or scheduling conference at its discretion.

RULE 208.3(a) MOTION PROCEDURE.

An original and one copy of all motions or filings pursuant to this provision, together with a praecipe to transmit as set forth in Sch.R.C.P. 205.2(b), shall be filed with the Prothonotary, which office shall transmit the pleadings to the Court Administrator for assignment to a Judge for disposition. The praecipe must indicate the nature of the action requested of the Court to move the matter forward.

- (1) Motions for final judgment in quiet title actions, where service was made by publication, shall contain a certificate of publication indicating the dates and sources of such publication.
- (2) Any interested party may make a written request for oral argument on a motion. The Court may require oral argument whether or not requested by a party.
- (3) This Rule does not apply to matters set forth in Pa.R.C.P. 208.1(b)(1) and (b)(2).

RULE 208.3(b) MOTION PROCEDURE. RESPONSE REQUIRED.

Every motion not certified as uncontested shall be accompanied by a memorandum containing a concise statement of the legal contentions and authorities relied upon in support of the motion and an affidavit of service upon the party against whom relief is sought, or to his attorney. Any party opposing the motion shall file and serve such answer or other response that may be appropriate, a memorandum in opposition, and an affidavit of service upon the other party within twenty (20) days after service of the originating motion and supporting brief, unless the Pennsylvania Rules of Civil Procedure mandate a period of time different than twenty (20) days. In the absence of a timely response, the motion may be treated as uncontested. The Court may require or permit further briefing, if appropriate.

RULE 210 FORM OF BRIEFS.

The brief of the moving party shall contain a history of the case, a statement of the issues involved, and argument. The brief of any responding party shall contain an argument and may contain a counterhistory of the case and a counterstatement of the issues involved.

RULE 211 ARGUMENT/ORAL ARGUMENT.

Unless otherwise requested by counsel in writing all matters will be decided based upon the written arguments set forth in the briefs of the litigants. Requests for oral argument shall be submitted in writing to the assigned judge, or when there has not been a specific assignment to the Court Administrator, and shall be submitted not later than the date that the last brief is due to be filed. Requests for oral argument shall include an explanation providing the reason that the argument contained in the brief does not adequately address the issue. Failure to request oral argument in writing, including matters in which argument is required by rule (e.g. Pa.R.C.P. 1910.12(g)), will be deemed by the court to constitute an agreement by the parties to waive oral argument, and allow disposition on the record.

RULE 212.1 PRE-TRIAL LISTING AND OBJECTIONS THERETO.

(a) When a case is at issue, counsel shall proceed to complete discovery where desired and shall hold settlement meetings at which serious attempt shall be made by counsel to resolve the issues raised by the pleadings.

Thereafter, any party may list the case for pre-trial by filing a certificate of readiness on Prothonotary Form 212. The Prothonotary shall then promptly forward the certificate to the Court Administrator. Failure to complete each item of Prothonotary Form 212 shall be cause for striking the case from the pre-trial list.

Misrepresentations in the completion of this form which would delay the court process may be subject to the contempt powers of the Court.

(b) A copy of Prothonotary Form 212 shall be served on all counsel contemporaneously with the filing thereof. Within 20 days after filing of the form, opposing counsel may file with the Prothonotary written objections thereto stating the reasons, and shall serve a copy thereof upon the Court Administrator and other counsel. Upon receipt of the objections to a certificate of readiness, the moving party should file a written response with the Prothonotary and Court Administrator within 10 days of the date of filing of the objections and contemporaneously serve the response upon opposing counsel. The Prothonotary shall transmit the response to

the objections to the Civil Deputy Court Administrator so the response can be considered along with the objections. The Court Administrator shall promptly deliver the certificate, objections, and any response thereto to the President Judge who shall promptly dispose of said objections. Failure to file such objections constitutes a waiver of any objections to the certificate of readiness, including, but not limited to, any claim that discovery has not been completed. If a summary judgment motion is contemplated by the non-moving party, that party must file objections to the certificate of readiness or the right to do so will be deemed waived.

(c) The filing of a Certificate of Readiness and the failure to object thereto constitute an assertion that counsel will be available to try the case within the next two civil terms established by the official court calendar.

(d) In the event a party or parties object to the filing of a Certificate of Readiness on the grounds that counsel is not available to try the case within the next two civil trial terms established by the official court calendar, counsel must state in specific detail the reasons why substitute counsel cannot be present within the next two civil terms established by the official court calendar to try the case in the place of lead counsel. Furthermore, if objections to a Certificate of Readiness are filed on the basis that counsel and substitute counsel are not available to try the case within the next two civil trial terms established by the official court calendar, counsel must specifically identify all conflicts or other trial attachments within the next two civil terms established by the official court calendar, and must further attach all attachment orders to the Objections to the Certificate of Readiness.

(e) Each case on the pre-trial list shall be assigned by the President Judge to one of the Judges for pre-trial and trial proceedings. Thereupon, the Judge to whom a case is assigned shall summon the parties to a pre-trial conference.

(f) This rule shall be applicable to paternity cases where trial is demanded on the issue of paternity.

(g) The Court appoints the Schuylkill County Bar Association Alternate Dispute Resolution Program as the authorized program for alternate dispute resolution for civil cases filed in Schuylkill County.

RULE 212.2 PRE-TRIAL CONFERENCE.

(a) Pre-trial conferences shall be mandatory in all contested civil actions listed for trial by jury, and shall be held in the chambers of the Judge for the purposes set forth in Pa.R.C.P. 212.

(b) At least 1 week prior to the pre-trial conference, each of the parties shall submit a memorandum to the Court, with a copy to opposing counsel, containing:

- 1) A narrative statement of the facts which will be offered into evidence on behalf of that party.
 - 2) The names and addresses of all witnesses the party expects to call, classifying them as witness to liability, non-liability, damages, diminution of damages, or expert.
 - 3) A statement of the legal theory upon which the cause of action or defense is predicated, together with a complete citation of authorities relied on.
 - 4) A complete list of photographs, contracts, maps, models, records or other documents or things intended to be used for evidence at the time of trial.
 - 5) A written statement setting forth an itemized list of damages that any party intends to claim and prove at the time of trial.
 - 6) A written detailed statement of items of claim for which a defense is believed available and the method to be used for proving such defense items.
 - 7) A list of stipulations which opposing counsel reasonably can be expected to agree for purposes of avoiding need for proof.
 - 8) A history of negotiations to date.
 - 9) Where appropriate, a rough sketch illustrating the incident giving rise to the cause of action.
 - 10) Copies of reports received from expert listed as a witness.
 - 11) Such other matters as may be required by the Conference Judge.
- (c) The attorneys who will actively try the case shall attend the pre-trial conference. At the time of the pre-trial conference, the parties or their authorized representatives shall be present or immediately available by telephone at the time of the conference. If a party, by contract or otherwise, has relinquished the right to settle and to control the conduct of the case, the person with such authority must be present or immediately available by telephone at the time of the conference. Any failure to comply with the foregoing may result in the imposition of sanctions.
- (d) Failure to fully disclose in the pre-trial memorandum or the pre-trial conference the substance of the evidence as to liability, defenses, witnesses, exhibits, damages proposed to be offered at the trial, etc., may result in the exclusion of that evidence at the trial.
- (e) The Judge may, at his discretion:
- 1) Require any party to file a supplemental memorandum, communicate to his client the recommendations of the Court or conduct additional negotiations.
 - 2) Require the parties to submit points for charge on or before a designated date.

- 3) Schedule an additional pre-trial settlement conference.
 - 4) Certify the case as ready for trial.
- (f) Failure to file a pre-trial memorandum in accordance with these rules and/or failure to promptly attend the pre-trial conference may be deemed contempt of court and subject to such sanctions as the Court may impose.

RULE 212.3 CASES CERTIFIED FOR TRIAL.

- (a) All cases certified by the pre-trial Judge for trial shall be consolidated by the Court Administrator in a trial list according to the record age of the cases, giving priority to those cases as required by law or special Order of Court.
- (b) At least 2 weeks before the first day of the next civil jury trials, the Court Administrator shall post the trial list in his office and in the office of the Prothonotary and shall also mail a copy of the trial list to each counsel, whose names appear on the certificate of readiness, for the cases listed.
- (c) There shall be no call of the civil jury trial list. In the event of a settlement or discontinuance, counsel for plaintiff shall promptly notify the assigned judge. Continuances shall be granted only by the assigned judge and only for good cause shown.
- (d) Paternity cases will be called for trial at the discretion of the Judge to whom such cases are assigned.
- (e) Any attorney who appears as trial counsel in more than 2 cases on any civil trial list shall within 5 days after the list is posted identify to the Court Administrator which 2 trials he/she will try and the name and address of the associate counsel who will try the remaining cases. Trial counsel shall contemporaneously also notify opposing counsel. Upon failure of counsel to timely designate associate counsel as required, the Court Administrator shall strike from the trial list all of that trial counsel's cases except those 2 commenced earlier than the others.

RULE 213 CONSOLIDATION AND SEVERANCE OF ACTIONS AND ISSUES.

It shall be the duty of counsel at the pre-trial conference to advise the Court of any pending case that arises out of the same facts or circumstances as the case on the trial list. The Court, either by application or on its own motion, may order such cases consolidated for trial and, if need be, continue the case on the trial list until the other case or cases are at issue for the purpose of consolidating them for trial.

RULE 216 APPLICATION FOR CONTINUANCE.

Applications for continuance of any court scheduled proceeding shall be made to the scheduling judge in writing on the general continuance form available through the office of the Court Administrator. The movant shall comply with Pa.R.C.P. 216, state whether the request is opposed, indicate the number of times the case has been previously continued and specify the reason for the request. If the request is due to a prior attachment of counsel, a copy of the scheduling notice or attachment order shall accompany the continuance application. Each request for continuance shall include a certification by counsel that his/her client has been informed about the request for a continuance.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as soon as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

RULE 216.1 MEDICAL WITNESSES.

Medical witnesses shall be served with a subpoena to appear. All reasonable effort will be made to schedule the testimony of medical witnesses at times consistent with the schedule of such witness, provided that the progress of the proceedings are not unduly interfered with or delayed.

RULE 216.2 CONFLICT OF COUNSEL.

(a) No case shall be continued because of a pending engagement of an attorney in any court, other than the Supreme Court of the United States, the Supreme, Superior or Commonwealth Courts of Pennsylvania, or a Federal Appeals Court. When it is known subsequent to the listing of the trial, that counsel will be engaged, counsel shall forthwith notify opposing counsel and the Court of such engagement.

RULE 217 COSTS ON CONTINUANCE.

When an application for the continuance of any proceeding scheduled by the Court, by a master appointed by the Court, by a custody conciliator appointed by the Court or by any officer of the Domestic Relations Section, is presented so close to the scheduled time for the proceeding as to cause undue inconvenience to the opposing party and/or their counsel, the Court may impose on the party making the application, or that party's counsel, the reasonable costs and expenses actually incurred by the opposing party which would not have been incurred if the application had been made more promptly. When determining the appropriateness of imposing costs and expenses, the Court shall consider the extent of notice to the parties when the proceeding was scheduled, the time when the applicant or counsel knew or should have known of the need for a continuance, how soon in advance of the scheduled proceeding the application for continuance was made and the inconvenience and expenses of opposing parties and their counsel.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as soon as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

RULE 223 CONDUCT OF THE JURY TRIAL.

- (a) The following rules shall apply to all civil jury trials.
 - (i) The attorney for a party who begins the examination or cross-examination of a witness must alone conduct it through all its stages unless otherwise permitted by the Court.
 - (ii) The mechanical or electronic recording of proceedings in the courtroom, without first obtaining leave of the Presiding Judge to do so, is forbidden.
 - (iii) The conduct of all trials shall be under the control and supervision of the Trial Judge, who shall be free to alter or change the usual procedure if the ends of justice so require.

RULE 225 OPENING AND CLOSING ARGUMENTS.

(a) The defendant's attorney may make his opening speech immediately following the opening speech of the plaintiff's attorney or at the opening of the defendant's case. After the evidence is closed, only 1 attorney for each party or group of parties may address the jury. Closing addresses shall be limited to one for each party or group of parties and shall be made in the reverse order of presentation of testimony, so that the last defendant to present testimony will make the first closing and the first plaintiff to present testimony will make the final closing address.

RULE 226 POINTS FOR CHARGE.

(a)(1) Points for charge shall be submitted to the Trial Judge as directed by pre-trial order of that Judge.

(2) The points for charges shall be in writing and shall be signed by counsel, and shall include a citation of authority justifying each point submitted.

(3) Unless otherwise directed by the Trial Judge, only those points for charge submitted in compliance with subsections (1) and (2) hereof will be considered by the trial Judge at the time of trial.

RULE 227.1 POST-TRIAL MOTIONS.

(a) All motions for post-trial relief shall be filed in the Prothonotary's office and copies shall be served promptly upon the Trial Judge and all opposing counsel.

(b) A motion for post-trial relief which alleges after discovered evidence, misconduct of a party or the jury or any matter of fact which was not brought out at the trial, must be supported by affidavit stating the after discovery, the names of the witnesses in support of the motion, the substance of their expected testimony, and the party's belief of its sufficiency to change the verdict; otherwise such reasons will be disregarded.

(c) Upon receipt of a Motion for Post-trial Relief, the Trial Judge may promptly schedule a conference of counsel to resolve any dispute between the parties as to the portion of the trial record required for the disposition of the motion. If parties cannot agree, the Trial Judge shall enter an order designating the portions to be transcribed and assigning the costs of transcription. The Judge shall also at that time establish a briefing schedule. In the event a party fails to pay the estimated or final costs of transcription in accordance with Rule 5000.6 of the Schuylkill County Rules of Judicial Administration within 10 days after receipt of the stenographer's statement, the transcription of the record shall be deemed unnecessary to the disposition of the motions.

RULE 227.2 COURT EN BANC.

(a) Should the Trial Judge, on the Judge's own motion, or on motion of a party, determine matters raised in the post-trial motion should be heard by a court en banc, the President Judge shall designate the members of the court who shall compose the panel.

RULE 234.1 CIVIL BENCH WARRANTS

Upon an Applicant's filing in the Office of the Prothonotary a Motion with a Proposed order in compliance with the Pa. Rules of Civil Procedure, seeking a Civil Bench Warrant, the Applicant shall pay the filing fee and the Schuylkill County Sheriff's fee. The Motion and Proposed Order shall be forwarded to the Court promptly for disposition. The Bench Warrant will be issued if appropriate. Any Order granting the Bench Warrant and the Motion shall be returned to the Prothonotary's Office and then certified copies of the Order and Motion promptly forwarded to the Sheriff's Office for service.

RULE 252 REQUIREMENTS FOR INDEXING AN ACTION AS A LIS PENDENS.

When a praecipe for a writ of summons, a complaint or a counterclaim is filed, the prothonotary shall index the action as a lis pendens against real property if, but only if, the party filing the praecipe, the complaint or the counterclaim, or his attorney:

- (1) files a separate praecipe describing real property by metes and bounds or a sufficient description to identify it, and the volume and page in the Recorder of Deeds Office of this county where recorded description of said property appears;
- (2) directs in said separate praecipe that the action shall be listed on a lis pendens against said real property; and
- (3) files with said separate praecipe a certification that said action;
 - (A) is a proceeding to revive and continue the lien of debts against a defendant's property, or
 - (B) is a proceeding conveying or vesting title to real property in this Commonwealth; or
 - (C) is a proceeding of which purchasers of the described real property should have constructive notice; and
- (4) files with said separate praecipe a written verified statement, as verified is defined in Pa.R.C.P. 76, setting forth the basis and subject matter of the cause of

action and that said action affects the title to the real property so described or of any interest in said real property.

RULE 262 CHANGE OF NAME--ADVERTISING.

In all proceedings for a change of name, the notice required shall be published in the Schuylkill Legal Record and in a newspaper of general circulation in Schuylkill County, the last day of publication to appear at least seven (7) days before the date set for the hearing thereon.

RULE 301 BOARDS OF VIEWERS.

(a) COMPOSITION AND APPOINTMENT OF BOARDS OF VIEWERS PURSUANT TO 42 Pa.C.S.A. §2142

The President Judge shall appoint the members of the Board of Viewers for a term of office of not less than three nor more than six years. The members shall be adult residents of Schuylkill County and at least one-third of the members shall be members of the bar of the Commonwealth. The President Judge shall fill the vacancy in an unexpired term of a board member. All appointments shall be subject to the power of the President Judge to remove members without cause and to appoint successors.

(b) PETITIONS FOR APPOINTMENT OF A BOARD OF VIEWERS

Petitions for appointment of a panel of the Board of Viewers shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) and shall comply with Sch.R.C.P. 206.1(a). In case of a vacancy in the panel appointed in a specific case before the panel takes its final action, the President Judge shall fill such vacancy by appointing another member of the Board of Viewers to the panel.

(c) APPEALS FROM DECISION OF VIEWERS

Any party who appeals to the Court from the decision of the Viewers shall comply with 26 Pa. C.S.A. §517, and shall file a praecipe to transmit pursuant to Sch. R.C.P. 205.2(b).

(d) STENOGRAPHIC NOTES

(1) Stenographic notes of a hearing shall be taken and a transcript prepared for the Viewers' use whenever the Viewers decide such is necessary. The cost of taking the stenographic notes and of the original transcript shall be paid by the County. An

interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(2) Whenever, in the opinion of the Viewers, it is not necessary to have stenographic notes taken, but an interested party has stenographic notes of a hearing taken, that party shall pay for the taking and/or the transcribing of the stenographic notes if ordered by that party. However, in the event the Viewers elect to have the notes transcribed, the cost of the original transcript shall be paid by the County, and an interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(3) Arrangements for the taking and transcription of stenographic notes shall be made exclusively through the Court Reporters Office of the Schuylkill County Court of Common Pleas.

(e) COMPENSATION OF VIEWERS

(1) Compensation of Viewers shall be on a case by case basis in an amount fixed by the Court. The Chairman of the Board of Viewers shall file a petition for compensation of the Viewers directed to the President Judge at the time the Report of the Board of Viewers is filed.

(2) Compensation approved by the President Judge pursuant to a Petition for Compensation shall be paid to the Viewers by the County.

(Rule 301 Adopted 2/7/24; effective 4/17/24)

SERVICE OF LEGAL PAPERS

RULE 400.1 PERSONS TO MAKE SERVICE.

Original process of all actions filed in the County of Schuylkill shall be served within the Commonwealth:

- (a) by the sheriff or a competent adult in the actions in equity, partition, prevent waste, and declaratory judgment when declaratory relief is the only relief sought, and
- (b) by the sheriff in all other actions.

RULE 410.1 SERVICE BY PUBLICATION - EJECTMENT ACTIONS.

Service by publication when appropriate shall be made by publishing the appropriate notice one (1) time in the Schuylkill Legal Record and a newspaper of general circulation in Schuylkill County. No further action can be taken until twenty (20) days after the date of publication. Proof of publication shall be filed in the Prothonotary's Office.

RULE 410.2 SERVICE - ACTION TO QUIET TITLE.

Service by publication when appropriate, shall be made by publishing the appropriate notice one (1) time in the Schuylkill Legal Record and in a newspaper of general circulation in Schuylkill County. Said notice shall be in substantially the following form:

(CAPTION OF CASE)

To _____
(Name(s) of Defendant(s))

You are notified that the Plaintiff(s) has/have commenced an action against you to quiet the title to the following land:

(Description)

If you wish to defend this action, you must enter a written appearance personally or by an attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment

may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

(Name)

(Address)

(Telephone Number)

(Note: For the office designated by the Court, See Sch.R.C.P. 1018.1)

(2) Service shall be complete upon appearance of the publication. Proofs of publication shall be filed before judgment or any other action is taken by plaintiff.

**RULE 410.3 SERVICE BY PUBLICATION OF ACTIONS FOR THE
EXECUTION AND ENFORCEMENT OF JUDGMENTS AS
REQUIRED BY 41 P.S. §407.**

(b)(2) Service upon a defendant by publication of actions commenced in accordance with the requirements of the Act of January 30, 1974, P.L. 13, No. 6, §407 as amended, (41 P.S. Section 407), when authorized by Pa.R.C.P. 400 et seq., shall be made by the Sheriff publishing once in the Schuylkill Legal Record and in one daily newspaper of general circulation within Schuylkill County a notice which shall be substantially in the following form:

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF SCHUYLKILL**

(CAPTION)

TO _____
(Name of Defendant)

You are notified that _____ (Name of Plaintiff) has commenced an action to execute on residential real property pursuant to a judgment entered by confession in the Court of Common Pleas of Schuylkill County, which judgment is entered to docket number _____, _____ (date) 20____. You are required to defend this action, which seeks to obtain possession of real estate which you own or in which you reside, which real estate is located at:

(Street Address)

(City and State)

and described as follows:

****NOTE:** This published notice shall also include a Notice to Defend substantially in the form set forth at Pa.R.C.P. 430(b).

RULE 440 SERVICE OF PAPERS.

- (a) Unless otherwise provided by an Act of Assembly or Rule of Court, a copy of each paper filed in any case, other than the writ or complaint by which an action is commenced or other original process, shall be served by the party filing it upon all other parties to the litigation or their attorneys of record in Schuylkill County within forty-eight (48) hours after filing.
- (b) Whenever any person, having been served with a petition, rule, notice, pleading or process, original or interlocutory, fails to appear in response thereto, proof of service of the same must be filed in the case before the Court will act thereon.
- (c) All notices shall be in writing.
- (d) Except as otherwise provided by Acts of Assembly, rule or special Order of Court, service by publication shall be made once in the Schuylkill Legal Record and in one (1) daily or weekly newspaper of general circulation within Schuylkill County.

ACTIONS AT LAW - PLEADINGS

RULE 1001.0 MEDIATION.

(a) **General Applicability.** Every civil action, except protection from abuse matters, filed in the Schuylkill County Court of Common Pleas is eligible for mediation. Prior to filing suit and whenever practicable thereafter, parties and their counsel are encouraged to consider and to pursue mediation options. The pursuit of mediation does not toll the running of a Statute of Limitations unless all parties agree in writing to that effect.

(b) **Procedure for Mediation in Non-Jury Civil Trials, Civil Jury Trial and Cases Subject to Arbitration.** Parties and their attorneys in all civil cases which will result in a non-jury civil trial, civil jury trial or arbitration may mutually elect to pursue mediation at any point before a case is listed for trial or arbitration.

(c) **Certifications in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration.** All certificates of readiness filed with the Court Administrator in accordance with Schuylkill County Rule 212.1 listing a case for a Non-Jury Civil Trial, a Civil Jury Trial or Arbitration shall contain a certification that mediation was pursued or, if not, was the subject of good faith consideration by counsel and all parties. All pre-trial conference memoranda filed in accordance with Schuylkill County Local Rule 212.2 shall include certification by the attorney submitting the same that mediation has been previously pursued or, if mediation has not been pursued, that the topic of mediation was discussed not only by counsel with their clients but also by all counsel and/or pro se parties and rejected only after good faith consideration.

(d) **Mediation Programs.** Parties and their attorneys are encouraged to use mediation to resolve disputes either through the Alternative Dispute Resolution Program administered by the Schuylkill County Bar Association or any other mediation program acceptable to the parties.

Comment: Parties and their attorneys are encouraged to use mediation as a means to bring disputes to conclusion economically and expeditiously. While mediation is voluntary, the Court may feel strongly that the use of mediation will conclude pending litigation. Parties and their attorneys are urged to accept the advice of the Court when mediation is suggested as a means to resolve the case. The Court may recommend that the parties in any civil case, except protection from abuse matters, utilize mediation or other alternative dispute resolution processes, including, but not necessarily limited to, services offered by the Alternative Dispute Resolution Program as administered through the Schuylkill County Bar Association whenever it appears to the judge presiding in such case that mediation or other alternative dispute resolution processes are likely to resolve the case. An issue may arise regarding

insurance policies, and particularly professional negligence policies, wherein ultimate approval of a settlement rests with the insured. The use of mediation may lead parties to evaluate their positions and achieve a mutually acceptable resolution. This rule cannot rewrite an insurance contract, but participation in mediation may educate all interests with respect to the merits of resolving a pending dispute without protracted litigation. All parties should come to the mediation process with appropriate motivations. The process should be used in good faith; for example, it should not be used as an alternative means for discovery. It is anticipated that the Pennsylvania Supreme Court may enact rules directing certain types of cases to use alternative dispute resolution processes, including mediation, as a prerequisite step for certification prior to trial. This rule is adopted in anticipation of such and will be amended to comply with the mandates of any future rules adopted by the Pennsylvania Supreme Court.

RULE 1012 DUTIES OF COUNSEL.

Every counsel of record in any civil proceeding shall be timely present for each hearing, conference or other court proceeding involving his or her client as scheduled pursuant to the provision of these rules, or as the Court may otherwise direct. It shall further be the duty of counsel to promptly notify the client of the date, time, place and duty to be present at each proceeding involving the client's case until such time as the case has been disposed of by final order or decree. Counsel who fail to comply with this rule may be held in Contempt of Court.

Unless otherwise relieved by Order of Court, counsel of record in any civil proceeding shall be responsible for representing his or her client until the entry of a final order or decree. Thereafter, counsel shall notify his or her client in writing that his or her representation of the client has been concluded and that the client will have to make arrangements to continue representation for any appeal or seek other counsel. Counsel shall certify by praecipe that such notice was given. The praecipe shall be filed within ten (10) days after notice is sent to the client, and a copy of the praecipe shall be served as any other pleading on all other parties. The obligation of counsel shall cease upon the filing and service of said praecipe unless counsel has filed an appeal for the client, thereby obligating counsel to continue representation through the appellate process.

RULE 1018.1. NOTICE TO DEFEND. FORM.

- (a) Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a Notice to Defend, followed by a Notice Concerning Mediation.
- (b)– (c) Reserved.

(c)(1) Pennsylvania Bar Association Lawyer Referral Service, 100 South Street, P.O. Box 186, Harrisburg, PA 17108, Telephone 1-800-692-7375, is designated as the organization or agency to be named in the notice to defend from which legal help can be obtained.

(d) The required Notice to Defend and the Notice Concerning Mediation shall be in substantially the following form:

**IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW**

Plaintiff	:	No.
	:	
v.	:	
	:	
Defendant	:	

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**PENNSYLVANIA BAR ASSOCIATION LAWYER REFERRAL SERVICE
100 South Street, P.O. Box 186
Harrisburg, PA 17108
Telephone: 1-800-692-7375**

**NOTICE CONCERNING MEDIATION OF ACTIONS
PENDING BEFORE THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY**

The Judges of the Court of Common Pleas of Schuylkill County believe that mediation of lawsuits is a very important component of dispute resolution. Virtually all lawsuits can benefit in some manner from mediation.

The Court has adopted Schuylkill County Local Rule 1001 to encourage the use of mediation. This early alert enables litigants to determine the best time during the life of their lawsuit for a mediation session. The intent of this early alert is to help the parties act upon the requirement to consider good faith mediation at the optimal time.

The Schuylkill County Bar Association provides mediation services and can be reached at (570) 628-1235.

RULE 1019 CONTENTS OF PLEADINGS, GENERAL AND SPECIFIC AVERMENTS.

Whenever any right, claim or defense is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation, or Rule of Court, the first pleading in which such right, claim or defense is asserted shall cite, for the information of the Court, the statute, ordinance, regulation or rule so relied upon.

RULE 1021 CLAIM FOR RELIEF.

Whenever a party claims relief in the form of liquidated money damages, he shall, at the conclusion of his pleading, state the precise amount of damages claimed and, if entitled to interest, the date or dates from which interest thereon, or any part thereof, is claimed.

RULE 1028(c) PRELIMINARY OBJECTIONS.

- (1) All preliminary objections will be disposed of by one Judge on behalf of the Court, unless such objections are certified by the Judge to be of sufficient importance to require disposition by the Court en banc.
- (2) Preliminary objections shall be accompanied by a memorandum of law in support of the objections. A certification of service thereof upon opposing counsel shall be filed within 10 days after the filing of the preliminary objections.
- (3) Respondent's memorandum of law contra the preliminary objections shall be filed within twenty (20) days after service of the brief of the moving party, and shall contain a certification of service upon the moving party.
- (4) When the date for the filing of respondent's memorandum has passed, the Prothonotary shall deliver the preliminary objections, memorandum of law, and

other file papers to the Court Administrator. The Judge to whom the preliminary objections are assigned may, if requested, set the matter for oral argument, or may dispose of the objections on the briefs submitted.

(5) Preliminary objections filed in domestic relations and paternity cases shall not be cause for delay in hearings or interviews scheduled by the Domestic Relations Office. Such objections will be determined by the Court when and if hearings before a Judge and/or a jury are required for adjudication of the issues involved in the petition or complaint. Defendant's brief will be filed with the objections and plaintiff's brief shall be filed 3 days before any scheduled hearing.

(6) In the event disposition of a preliminary objection requires fact finding, the filing party shall accompany the preliminary objections with a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b), specifying that a hearing is required and the reasons the hearing is necessary.

RULE 1029 DENIALS. DEMANDS OF PROOF. EFFECT OF FAILURE TO DENY OR DEMAND PROOF.

(a) In actions in which book accounts may be offered in evidence, if a copy thereof is attached to any pleading, it shall not be necessary to produce the books at the trial, unless a responsive pleading shall allege that the account or copy is incorrect, stating particulars, or that the books are not books or original entry, and shall demand the production of the books at the trial; otherwise, the copy shall be admitted as evidence without further proof.

RULE 1033 AMENDMENT.

Pleadings amended before trial shall be executed, verified and filed in their complete amended form. Amendments to pleadings allowed at the trial need not be executed, verified and filed.

RULE 1034(a) MOTION FOR JUDGMENT ON THE PLEADINGS.

A motion for judgment on the pleadings shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) indicating that the matter can be disposed of on the record and shall further be accompanied by the brief of the moving party. The answer and brief of any opposing party shall be filed within twenty (20) days from the date of service of the original motion.

RULE 1035.2(a) MOTION FOR SUMMARY JUDGMENT.

A motion for summary judgment shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) indicating that the matter can be disposed of on the record and shall further be accompanied by the brief of the moving party. The answer and brief of any opposing party shall be filed within thirty (30) days after service of the original motion.

RULE 1042.1 PROFESSIONAL LIABILITY ACTIONS.

The Court appoints the Schuylkill County Bar Association Alternate Dispute Resolution Program as the authorized program for alternate dispute resolution for civil cases filed in Schuylkill County.

ACTION TO QUIET TITLE

RULE 1066 FORM OF JUDGMENT OR ORDER.

- (a) When judgment is given for a plaintiff in any action brought under Pa.R.C.P. 1061(b)(4), the Court will enter an Order directing a writ of possession to issue.

COMPULSORY ARBITRATION

RULE 1301 SCOPE OF PROCEDURE.

- (a) All civil cases, where the amount in controversy (exclusive of interest and costs) is less than the compulsory arbitration amount for fourth class counties as set forth in the Judicial Code [42 Pa.C.S.A. 7361(b)], including claims or mechanics liens and all appeals from a civil judgment of a Magisterial District Judge, excepting those involving title to real property and those involving equitable or other than monetary relief, shall be submitted to compulsory arbitration.
- (b) In addition, cases, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by an agreement of reference signed by all of the parties and their counsel. The agreement of reference may contain stipulations as to facts agreed upon or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings and shall be filed of record.
- (c) The Court, on its own motion or on the motion of either party at pre-trial settlement conference, after depositions, after hearing or otherwise, may determine that the amount actually in controversy does not exceed the compulsory arbitration amount as set forth at 42 Pa.C.S.A. §7361(b) and may enter an order of reference to a Board of Arbitration.

RULE 1302 LIST OF ARBITRATORS, APPOINTMENT OF BOARD, OATH.

- (a) A list of available arbitrators shall be prepared annually by the Court Administrator, consisting of members of the bar actively engaged in the practice of law in the 21st Judicial District and who have not notified the Court Administrator in writing of his or her desire not to participate as an arbitrator.
- (b) The Court Administrator shall appoint from said list three members to each Board of Arbitrators, at least one of whom shall have been admitted to the practice of law before the Supreme Court of Pennsylvania for more than five years prior to his or her appointment.
- (c) Each Board shall be chaired by the member senior in years admitted to the practice of law in the 21st Judicial District.
- (d) Not more than one member or associate of any firm or association of attorneys shall be appointed to the same Board.
- (e) A member of a Board who would be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as

an arbitrator. Any request for recusal of an appointed Board member shall be submitted to the Office of the Court Administrator within seven days of the appointment of the arbitrator setting forth specifically the reasons the Board member should not act as an arbitrator. The Court Administrator shall immediately contact that member of the Board with regard to the request for recusal, and the Board members shall advise the Court Administrator as to whether or not voluntary withdrawal as an arbitrator will take place. In the event that the arbitrator does not voluntarily withdraw, the request for recusal shall be transmitted to the Court for appropriate action.

(f) Members of the Board of Arbitration will generally be assigned to a panel for a period of one day. The chairperson and each associate member of the panel shall receive the payment rate established by the President Judge. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

RULE 1303 HEARING, NOTICE AND CONTINUANCES.

(a) The scheduled dates for arbitration, which will generally consist of two consecutive days, shall be set forth on the annual court calendar as compiled by the Court Administrator, as well as such other dates as may be ordered by the President Judge as caseloads warrant. The Court Administrator shall designate the place, time, and specific date for hearings, and give at least 30 days written notice thereof to the arbitrators, the parties, or their attorneys of record. The Notice shall include the following language:

"The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

(b) When a case is at issue, the case may be ordered upon the next available arbitration list by filing with the Prothonotary an arbitration certificate of readiness on or before 45 days preceding the next arbitration schedule. The Prothonotary shall promptly serve the certificate upon the Court Administrator. The certificate shall be on forms provided by the Prothonotary and shall contain the following:

1. the caption of the case;
2. name, address and phone number of trial counsel for all parties;
3. certification that all outstanding motions are resolved;
4. certification that discovery has been completed and disclosure made to the other parties of any and all reports to be utilized at the arbitration hearing; and

5. a complete list of all witnesses who are to be called at the time of the arbitration hearing and an estimate of the time that will be required to present that parties portion of the case.

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

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

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

(d) At the time the moving party files an arbitration certificate of readiness specified in subsection (b) above, the moving party shall also file a Pre-Arbitration Memorandum which sets forth: (1) a narrative statement of the facts which will be offered into evidence by that party; (2) a statement of legal theory upon which the cause of action or defense is predicated; (3) a complete list of witnesses to be called and the anticipated areas of each witness's testimony; (4) a complete list of exhibits to be presented; (5) a statement setting forth an itemized list of the damages that a party intends to claim and prove; (6) a rough sketch illustrating the incident giving rise to the cause of action (where appropriate); and (7) a statement of any unusual or intricate legal issues or claims together with a citation of legal authorities relied upon.

The non-moving party shall file its Pre-Arbitration Memorandum within twenty (20) days of receipt of the moving party's Memorandum. The non-moving party's Pre-Arbitration Memorandum shall contain the same seven topics as the moving party's Memorandum.

THE FAILURE OF THE MOVING PARTY TO FILE ITS PRE-ARBITRATION MEMORANDUM AT THE TIME AN ARBITRATION CERTIFICATE OF READINESS IS FILED SHALL RENDER THE CERTIFICATE OF READINESS A NULLITY. THE FAILURE OF THE NON-MOVING PARTY TO FILE ITS PRE-ARBITRATION MEMORANDUM MAY RESULT, AT THE DISCRETION OF THE ARBITRATION PANEL, IN THE EXCLUSION OF SOME OR ALL OF THE NON-MOVING PARTY'S EVIDENCE AT THE TIME OF THE ARBITRATION HEARING, TO THE EXTENT THAT THE MOVING PARTY CAN DEMONSTRATE PREJUDICE.

(e) Arbitrators may not grant continuances. Applications for continuances of any scheduled arbitration hearing shall be on the Application for Continuance Form available from the Prothonotary or Court Administrator's Office. The Application for Continuance must be filed with the Prothonotary and the Continuance Fee must be paid upon filing. Continuance requests should be submitted to the Prothonotary at least twenty (20) days before such hearing and after written notice of such application has been provided to the opposing counsel. The application shall indicate the number of continuances previously requested, and whether or not the continuance is opposed.

The Prothonotary shall promptly serve the Continuance Form upon the Court Administrator.

Whenever any case has been continued twice after assignment of a board of arbitration, the case shall be certified by the Court Administrator to the President Judge or his designee, to rule upon the request for continuance. In the interest of expediting disposition of the case the judge may order a conference or enter an appropriate order including but not limited to an order for non pros or an order directing the board to proceed with hearing whether or not the defendant appears and defends.

Continuances within 20 days of an arbitration hearing shall not be granted without approval of the President Judge or his designees and only upon exigent circumstances. In the event of an emergency continuance, the Court may assess actual expenses against the moving party or counsel which may have been incurred by the Court or the opposing party. The actual costs which may include added arbitration fees, actual work loss, travel expenses, expert fees, etc., shall be certified to the Court by the party incurring such fees for appropriate consideration. Added arbitration fees may likewise be assessed where a late continuance results in the need for additional payment to a Board of Arbitration.

(f) The Court may assess a late settlement fee for arbitration cases which are settled within three days of the scheduled arbitration hearing.

RULE 1305 CONDUCT OF HEARING/EVIDENCE.

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

(b) Where all parties are present, the chairman of the board of arbitration shall be responsible for the conduct of the hearing. The chairman shall make preliminary

rulings on objections and evidentiary matters, which shall be binding unless overridden by a majority of the board of arbitration.

RULE 1306 AWARD, DAMAGES FOR DELAY.

- (a) Arbitrators shall not consider the subject of damages for delay until an award has been made on the merits of the case, including the determination of the amount of damages, if any, to be awarded.
- (b) After the determination and announcement of the award on the merits and damages, the arbitrators shall make a determination as to any delay by:
 - 1) Accepting a stipulation from the parties which contains the following:
 - a) whether an offer was made in writing;
 - b) the amount of the offer;
 - c) the date of the offer, or
 - 2) If no stipulation is reached, the panel shall take evidence regarding damages for delay from counsel following the original deliberation and announcement of the award.
- (c) The arbitrators shall separately enumerate the delay damages as to each party on the appropriate form, and then add this amount to the principal sum awarded in order to reach a total amount of award. Only the total amount shall be shown on the Report and Award but the computation form must be appended when the Award is filed.

RULE 1308 APPEAL COMPENSATION.

- (a) In filing an appeal, the appellant shall make payment to the Prothonotary for compensation of the arbitrators. The compensation assessed by the Prothonotary of Schuylkill County shall be the arbitration daily compensation rate established by the President Judge. The parties thereafter shall proceed as set forth in Sch.R.C.P. No. 212.1.

ACTIONS IN EQUITY

**RULE 1511 JUDGMENT UPON DEFAULT OR
ADMISSION.**

(a) If a judgment is entered upon default or admission, the plaintiff shall submit to the Court a proposed decree for the Court's consideration when entering the appropriate decree.

RULE 1513 TRIAL. ADVISORY VERDICT BY JURY.

(a) When any equity action is at issue, either party may submit the case to the Court for disposition on Prothonotary Form 205.2(b), unless the Court, on its own motion or on motion of a party, has entered an Order directing that all or some of the issues of fact be submitted to a jury in accordance with Pa.R.C.P. 1513.

(b) At any time prior to the date fixed for hearing or trial, the Court, on its own motion or on motion of either party, may schedule a conference to attempt to resolve the matter or simplify the issues.

RULE 1531 INJUNCTIONS.

An application for an injunction shall be immediately transmitted by counsel to the Court Administrator for assignment to a judge for disposition.

RULE 1534 ACCOUNTING BY FIDUCIARIES.

(a) Fiduciaries filing accounts with the Prothonotary shall comply with Pa.R.C.P. 1534 if applicable, and insofar as practicable, shall follow the procedure provided by the Orphans' Court Rules of the Supreme Court of Pennsylvania and of the Orphans' Court Division of the Court of Common Pleas of Schuylkill County, except as hereinafter provided in subsections (b) and (c). All duties imposed by said rules on the Register of Wills or Clerk of the Orphans' Court, as applicable for the particular account, shall be performed by the Prothonotary.

(b) If at the expiration of 30 days after the filing of said account, provided that notice shall have been given as required and proof hereof filed, no exceptions are filed to the account or to the proposed distribution, the account shall be confirmed absolutely as of course and the accountant shall make the distribution proposed and

file in the Prothonotary's Office a release or satisfaction of award from the distributees.

(c) If exceptions are filed to the account or to the proposed distribution, the account shall be listed by the Prothonotary for audit before the Court following the expiration of 30 days from the date of filing the account, and the Court shall make such adjudication and order such distribution as shall be proper under the circumstances.

PARTITION OF REAL PROPERTY

RULE 1568 PUBLIC SALE. NOTICE.

(a) Except as therein provided by Act of Assembly or special Order of Court, notice of the time and place of sale of real estate at public auction by a master in partition shall be advertised by the master once a week for three successive weeks in the Schuylkill County Legal Record and in a newspaper of general circulation in the County. The first advertisement to be not less than twenty-one days before the date of sale. The master shall also post handbills of such advertisement, one on the real estate to be sold and not less than six additional handbills in as many other public places in the county. Whenever a property or properties so to be sold lie in different counties, publication of notice of sale shall be in such manner as the Court by special order may direct.

CLASS ACTIONS

**RULE 1703 COMMENCEMENT OF CLASS ACTION.
ASSIGNMENT OF JUDGE.**

(a) Counsel for the plaintiff(s) shall immediately notify the Court Administrator that a class action complaint has been filed and shall forward a copy of the Complaint to the Court Administrator for assignment of the action to a judge.

RULE 1707 DISCOVERY PERTAINING TO CLASS ACTION ISSUES.

(a) Whenever discovery is permitted with respect to the class action issues, the Order granting such limited discovery shall also indicate the period of time during which discovery shall be permitted. All parties are required to complete such discovery within that time period.

RULE 1710 DETERMINATION OF CLASS ACTION CERTIFICATION.

(a) The presiding Judge may require the parties to submit proposed Findings of Fact and Conclusions of Law pertaining to whether or not the case should be certified as a class action.

RULE 1712 ORDER AND NOTICE OF CERTIFICATION AS CLASS ACTION.

- (a) After the entry of an order of certification of a class action, the presiding Judge shall conduct a Class Action Notice Conference at which all parties shall be represented for the purpose of considering the matters set forth in Pa.R.C.P. 1712.
- (b) If at the time of the Class Action Notice Conference, the Court determines that individual notice is to be given, a uniform statement shall be drafted by which each individual who is to receive notice may opt for exclusion from the class.
- (c) The proposed form of notice required by Pa.R.C.P. 1712(c) to be submitted for approval by the plaintiff to the Court and to all named defendants, must be submitted no later than fifteen (15) days prior to the Class Action Notice Conference.

RULE 1713 PRE-TRIAL OF CLASS ACTIONS.

(a) In addition to the normal matters to be considered at pre-trial conferences, as set forth within these rules, a pre-trial conference conducted in a class action case shall consider the matters set forth in Pa.R.C.P. 1713.

PROTECTION FROM ABUSE

RULE 1905 NOTIFICATION UPON RELEASE.

(a) Notification upon release. The Warden of Schuylkill County shall notify the victim by contacting Schuylkill Women In Crisis sufficiently in advance of the release of the offender from any incarceration imposed under a Protection from Abuse action and/or contempt, and any criminal act between family or household members, sexual or intimate partners or persons who share biological parenthood.

Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.

(b) The Warden of Schuylkill County shall immediately notify the Schuylkill Women In Crisis 24-hour hotline sufficiently in advance of the release of any defendant sentenced in accordance with subsection (a). Notification shall include transmitting the message by telephone and also faxing the release form which shall include the terms and conditions imposed on any temporary release from custody.

(c) The plaintiff must keep the Schuylkill Women In Crisis advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) It shall be the responsibility of Schuylkill Women In Crisis to promptly notify the victim of the release.

RULE 1906 CONTEMPT OF ABUSE ORDER.

The procedure governing the enforcement of Protection from Abuse Orders is set forth at Sch.R.Crim.P.D.J. 130.1.

ACTIONS FOR SUPPORT

RULE 1910.4 COMMENCEMENT OF ACTION.

(c) If a claim for spousal support or child support is properly raised pursuant to Pa.R.C.P. 1920.31 and the Divorce Code, then:

(1) One (1) certified copy and two (2) photocopies of the pleading in which child or spousal support is claimed shall be filed by the party seeking such relief with the Domestic Relations Section within forty-eight (48) hours of its first filing in the Prothonotary's office.

(2) The Domestic Relations Section shall assign a support docket number (S.D. #____) to the action, and thereafter all pleadings in the case shall contain both the civil number and the support docket number.

(3) Thereafter, the claim for child support or spousal support shall proceed as if initiated as an original action under Pa.R.C.P. 1910.5.

RULE 1910.10 ALTERNATIVE HEARING PROCEDURE.

(a) The action shall proceed as prescribed by Pa.R.C.P. 1910.11 unless the Court has appointed a Hearing Officer in which case the action shall proceed as provided by Sch.R.C.P. 1910.12.

RULE 1910.11 OFFICE CONFERENCE. REQUEST FOR CONTINUANCE.

A request for continuance of a support conference shall be made in writing to the Domestic Relations Director on a form established by the Court. The request shall include a statement of the reasons for the request, whether the request is opposed or unopposed, the number of times the case has been previously continued, and a certification by counsel that his/her client has been informed about the request for continuance. The Domestic Relations Director shall have authority to approve only one continuance request from each party. If the Domestic Relations Director denies a request for a continuance, he/she shall state the reasons for the denial on the written request.

A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the President Judge.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall

promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as soon as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

**RULE 1910.12 OFFICE CONFERENCE. HEARING. RECORD.
EXCEPTIONS. ORDER.**

(b)(1) If an agreement has not been reached by the parties, the court shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Pa.R.C.P. 1910.26(e). Within ten (10) days after the date of the order, either party may demand a hearing before a hearing officer. If a demand for hearing is filed, the matter shall be assigned to the Hearing Officer for hearing and further proceedings in accordance with Pa. R.C.P. 1910.12(b)-(g) and these rules. If no hearing is requested, the order shall become final.

(i) A request for continuance of a support hearing shall be made in writing to the Hearing Officer on a form established by the Court. The request shall include a statement of the reasons for the request, whether the other party is opposed or unopposed, and the number of times the case has been previously continued. The Hearing Officer shall have authority to approve only one continuance request from each party. If the Hearing Officer denies a request for a continuance, he shall state the reasons for the denial on the written request.

(ii) A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the President Judge.

(iii) Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as soon as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

(c)(3) The order may also specify the time within which such discovery must be completed.

(d) Within five (5) business days following the taking of testimony, the Hearing Officer shall file with the court a report containing a recommendation with respect to the entry of an order of support.

(e)(1) In complex contested matters which require the hearing to be continued in progress, the Hearing Officer may assess additional fees of \$100.00 per each additional hearing day. Each additional conference, beyond the first, shall be considered for these purposes as a hearing.

(2) Where additional Hearing Officer's fees are assessed, the moving party shall deposit the fee with the Domestic Relations office and concurrently file a Praecipe substantially in the following form:

(CAPTION)

PRAECIPE FOR DEPOSIT OF ADDITIONAL HEARING OFFICER'S FEE

To the Prothonotary:

As directed by the Hearing Officer in the above captioned case, deposit the sum of \$_____.00 for _____ additional hearing days in compliance with Sch.R.C.P. 1910.12(e).

Attorney for (Plaintiff/Defendant)

Received this day the sum of \$_____.00, additional Hearing Officer's fees in the above captioned case.

Domestic Relations Office

(f)(1) Within five (5) days of filing Exceptions to the Report of the Hearing Officer, pursuant to Pa.R.C.P. 1910.12(f), the party raising exceptions shall request a transcript of all of the testimony, pursuant to Pa.R.J.A. 5000.5, and shall thereupon make a deposit with the court reporter for the cost of said transcript pursuant to Pa.R.J.A. 5000.6.

(2) If both parties file Exceptions to the Report of the Hearing Officer, they shall equally bear the cost of the transcript of the testimony.

(3) In the event of the failure of an excepting party within the time allowed either to order the transcript, or to pay for the same, or to file a memorandum of law, the exceptions may be deemed to have been withdrawn and may be dismissed by the Court.

(4) Upon filing of the transcript of testimony, the file shall be delivered to the Court for disposition pursuant to Pa.R.C.P. 1910.12(h). Within ten (10) days of receiving notice of such filing with the Court, the moving party shall file a memorandum of law related to the issues raised in the exceptions, and shall within three (3) days serve a copy of such memorandum upon counsel or upon the opposing party, if not represented by counsel. The opposing party may within ten (10) days file an opposing memorandum.

RULE 1910.19 SUPPORT ORDER. MODIFICATION. REVIEW. TERMINATION.

(a)(1) A petition for modification or termination of an existing support order shall not request any relief other than modification or termination. The original and two (2) copies of the petition shall be filed with the Domestic Relations Section.

(2) Where the order which the petitioner seeks to modify was entered less than three (3) years prior to the filing of the petition, the petition shall specifically aver the reasons for the relief sought.

(3) Where a petition is filed pursuant to 23 Pa.C.S.A. §4352(a), the petition shall allege the date of the entry of the order of support which the petitioner seeks to have reviewed and shall not request any relief other than review of the previous order. No specific change of circumstance need be alleged.

(4) The Domestic Relations Officer shall promptly schedule a conference pursuant to Pa.R.C.P. 1910.12, and shall serve a copy of the petition upon the responding party or such party's attorney of record.

(5) No answer to such petitions need be filed.

(6) After review of the information and evidence, the Conference Officer or the Hearing Officer will recommend to the Court that the current order be modified, or that the petition be dismissed in the event there is not a significant change in circumstances. The recommendation may result in any appropriate increase, decrease, modification or rescission of the prior order, as well as modification of other terms as authorized by law.

RULE 1910.21 CIVIL CONTEMPT.

(a)(1) The Office of the Public Defender, 120 South Claude A. Lord Boulevard, Pottsville, Pennsylvania, 17901, (570) 628-2420, is designated as the office to be named in the notice to plead.

RULE 1910.25-4 CONTEMPT. ALTERNATIVE PROCEDURE. RECORD HEARING. REPORT. EXCEPTIONS. ORDER.

Civil Contempt for Non Payment of Support shall proceed in accordance with Pa.R.C.P. 1910.25-4.

RULE 1910.26 DESIGNATED OFFICE.

(b)(1) For the office to be named in the Order of Court, refer to "Sch.R.C.P. 1018.1."

CUSTODY PROCEDURE

RULE 1915.1(b) DEFINITIONS.

These rules shall govern all actions for custody, partial custody, and visitation, including original actions, petitions for relocation, petitions to modify decrees, registration of foreign decrees and petitions for contempt. The rules shall be interpreted as supplementing the Rules of Civil Procedure governing custody actions Pa.R.C.P. 1915.1 et seq.

“Kids First.” A four hour orientation and education program established to help parents and other parties in child custody actions to understand the effects of separation, divorce, and family conflicts in their lives and in the lives of their children.

RULE 1915.3 COMMENCEMENT OF ACTION. COMPLAINT. ORDER.

(a) Other than pleadings related to relocation, the moving party shall file in the office of the Prothonotary an original and one (1) copy of all pleadings involving custody issues, including complaints, petitions for modifications, special relief or contempt and preliminary objections. The filing shall be accompanied by the payment of the designated filing and administrative fees. The Prothonotary shall immediately transmit the original and copy to the Civil Court Administrator for assignment and scheduling. The Court Administrator will return the original to the Prothonotary and give the copy to the Conciliation Office, which will send to the moving party a copy of the scheduling order and a conciliation questionnaire. The moving party shall be responsible for service of a copy of the pleading, scheduling order and conciliation questionnaire upon all other parties pursuant to Pa.R.C.P. 402, and shall file a proof of service that complies with Pa.R.C.P. 1930.4(h).

(a.1) A request for a continuance of a Custody Conference or Hearing shall be on the Continuance Form established by the Court. The Continuance Form shall be filed in the Prothonotary’s Office and immediately transmitted to the Custody Conciliation Office. Continuance forms are available from the Prothonotary or Court Administrator’s Office.

The request shall include a statement of the reasons for the request, whether the request is opposed or unopposed, the number of times the case has been previously continued and a certification by counsel that his/her client has been informed about the request for continuance.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is

necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

The Custody Conciliation Officer shall have the authority to approve only one continuance request from each party. If the Custody Conciliation Officer denies the request for a continuance for any reason, the Officer shall state the reasons for the denial on the written request.

A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the President Judge. It is that party's responsibility to advise the Custody Conciliation Officer of the appeal and of the President Judge's decision.

(a.2) In addition to the information required by Pa.R.C.P. 1915.15, every complaint for custody, partial custody or visitation, and every petition for modification of an existing custody order, shall contain the following language:

(1) "Plaintiff has been advised of the requirements to attend the Kids First program."

(2) "Defendant has been advised of the requirements to attend the Kids First program."

(a.3) A completed order shall be attached to the complaint or petition which includes a provision that all parties attend the Kids First Program and the Custody Conciliation Conference which shall be substantially in the form set forth in Sch.R.C.P. 1915.15. All parties named in the pleadings must register for and attend the Kids First program as ordered.

(a.4) PARENT EDUCATION PROGRAM

(1) The Court Administrator shall determine the dates, times, and location of the Parent Education Program designated by the Court.

(2) Brochures and registration forms for the Parent Education program will be available at the Custody Office, Schuylkill County Law Library, and the Prothonotary's Office.

- (3) Parties residing outside of Schuylkill County may contact the presenter for possible alternative programs or alternative scheduling if they are unable to attend the scheduled program.
- (4) The presenter of the Program is authorized to approve individual requests for changes to the registration requirements and scheduling, only upon a showing of good cause.
- (5) Upon successful completion of the Program, the presenter shall issue a certificate of completion to the party and provide the Court Administration of Schuylkill County with a certification of completion which shall be docketed and made part of the record.
- (6) The affidavit of service or the certificates of service of a complaint for custody/modification for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child(ren) shall contain a statement that the opposing party or counsel of record for the opposing party has been served with the Parent Education brochure and registration form.
- (7) A party to a custody proceeding who has successfully completed the Parent Education program will be excused from attending another program if the party files of record an affidavit stating that the party has attended and successfully completed the Parent Education program designated by the Court with a copy of the certificate of completion attached as an exhibit.
- (c) If a custody claim is asserted in a divorce complaint or counterclaim, the moving party shall, after filing the divorce with the Prothonotary, provide two (2) copies, with the appropriate order attached as per Sch.R.C.P. 1915.15, to the Civil Court Administrator for assignment and scheduling. Thereafter the pleading will be processed and served as in subsection (a) hereof.

**RULE 1915.4(a) PROMPT DISPOSITION OF CUSTODY CASES –
CONCILIATION.**

- (1) The Court shall appoint one or more person(s) as Court Conciliation Officer(s) to:
 - (i) conciliate custody cases filed with the Court;
 - (ii) recommend to the Court interim Orders in appropriate custody cases which shall be in the best interest of the child;
 - (iii) recommend appointment of counsel for the child;

- (iv) recommend the ordering of home studies, psychologicals, or other evaluations by expert witnesses.
- (2) All custody matters not specifically reserved to the Court shall be promptly scheduled for a conference before the Custody Conciliation Officer. All parties shall complete the Court's custody conciliation questionnaire and attend such conference.
- (3) To facilitate the conciliation process and encourage frank, open, and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses shall not be admissible as evidence in Court. The Custody Conciliation Officer may not be a witness for any party.
- (4) More than one (1) conciliation conference may be scheduled by the Custody Conciliation Officer, as that Officer deems necessary to conciliate the matter.
- (5) If the parties are able to reach an agreement during the conciliation conference, the Conciliation Officer will prepare a stipulation and submit it to the parties for their signature. Upon execution of the stipulation by all parties, the Conciliation Officer will also sign indicating his or her review and shall transmit the stipulation and a proposed order to the Court for approval.
- (6) If at the conclusion of the conciliation process the case remains contested, the custody Conciliation Officer shall transfer the case to the Court for assignment to a Judge; except that actions for partial custody shall be assigned to a hearing officer and shall proceed in accordance with Pa.R.C.P. 1915.4-2. As part of that transfer, the custody Conciliation Officer shall prepare and file a report to the Court with copies to the parties. The report shall include such information about the case as shall be directed by the court, which may include a suggested interim order for consideration by the Court. The failure of a party to appear for conciliation will not preclude the entry of an interim order. A report by the Conciliation Officer will be filed with the Prothonotary, who shall seal the report to all except the Court and the parties.
- (7) If after receiving the Conciliation Officer's report, the Court orders the parties to submit to evaluations and/or studies, the parties shall promptly comply with the Court's direction regarding the payment for and scheduling of the evaluations and studies. Following receipt of the report(s) from the expert(s), the Court will promptly schedule another conference for the parties with the Conciliation Officer. If the parties reach an agreement at this conference, they may proceed in accordance with subsection (5) hereof. If no agreement is achieved, the Conciliation Officer will proceed pursuant to subsection (6) hereof and provide the Court and parties with a supplemental report.

**RULE 1915.4-2 PARTIAL CUSTODY. OFFICE CONFERENCE. HEARING.
RECORD. EXCEPTIONS. ORDER**

(b)(4) A party who files exceptions to the hearing officer's report pursuant to Pa.R.C.P. 1915.4-2(b)(4) shall contemporaneously file a supporting brief and serve a copy of the exceptions and brief on all other parties. Any party opposing exceptions to the hearing officer's report shall, within twenty (20) days after being served with exceptions, file a brief in opposition thereto and serve the opposing parties with a copy thereof.

When the exceptions are filed to a hearing officer's report, the Custody Office shall immediately notify the stenographer, who shall complete and file the transcript of the proceedings before the hearing officer within thirty (30) days. Unless granted leave by the Court to proceed *in forma pauperis*, the party filing exceptions shall pay the cost of transcription. If exceptions are filed by more than one party, the transcription costs shall be shared by the excepting parties on a pro rata basis. The transcription costs shall be paid within thirty (30) days of the date of filing exceptions. If the costs are not timely paid, the stenographer shall so notify the Court after which the exceptions of the non-paying party may be dismissed.

The exceptions to the hearing officer's report shall be decided on the briefs of the parties unless oral argument is requested by praecipe of one or more parties.

**RULE 1915.5 QUESTION OF JURISDICTION OR VENUE.
NO RESPONSIVE PLEADING BY DEFENDANT REQUIRED.
COUNTERCLAIM.**

(a) Only the issues set forth in Pa.R.C.P. 1915.5(a) may be raised by way of preliminary objections. Filing of preliminary objections shall be as set forth in Sch.R.C.P. 1915.3, and thereafter shall be governed by Sch.R.C.P. 1028(c).

(b) If a question of jurisdiction or venue is raised prior to the conciliation conference, such objections shall be referred by the Custody Conciliation Officer to the Court for disposition.

(c) Counterclaims, crossclaims or answers shall be filed with the Prothonotary prior to the conciliation conference, and a copy provided to the Custody Conciliation Officer.

RULE 1915.7 CONSENT ORDER.

If the parties are able to reach an agreement prior to the conciliation conference, they may file a petition requesting that a consent order be entered and include a proposed order. The order shall be substantially in the form of the custody stipulation utilized pursuant to Sch.R.C.P. 1915.4. The parties may be required to complete a questionnaire. The Court may, in its discretion, enter an order without taking testimony.

If the parties are able to reach an agreement after the conciliation conference, they may file a stipulation signed by the parties and counsel. The order shall be substantially in the form of the custody stipulation utilized pursuant to Sch.R.C.P. 1915.4. The Court may, in its discretion, enter an order without taking testimony.

If an order for psychological and/or home evaluations has been entered, then the proposed order shall include a provision to vacate the order for psychological and/or home evaluations.

RULE 1915.8 PHYSICAL AND MENTAL EXAMINATION OF PERSONS.

(a) The Custody Conciliation Officer shall maintain and, on request, provide counsel and the parties with a list of psychiatrists, psychologists, social workers, counselors, and the like, who are available for consultation, evaluation, and testimony in custody matters.

In the event that psychological studies, home studies or other evaluations are deemed necessary to a proper disposition of the matter and ordered by the Court, the cost of such studies may be assessed against the parties in a manner as determined by the Court after reviewing the report of the Custody Conciliation Officer following the conciliation conference. Such assessment will be based on what the Court believes to be in the best interest of the child and what will best facilitate the timely resolution of the matter, taking into consideration the parties' ability to pay.

RULE 1915.12 CIVIL COMPLAINT.

(a) Petitions for contempt of Custody Orders shall follow the procedure and form set forth in Pa.R.C.P. 1915.12. The petitioner shall complete a praecipe to transmit indicating that the matter is a contempt petition, shall list witnesses and time necessary for hearing and list the Judge who entered the Order to be enforced. Filing and transmittal shall follow Sch.R.C.P. 1915.3.

Upon receipt of service of a petition for contempt and the praecipe for transmittal the responding party shall, within five (5) days, submit a written report to the Court Administrator estimating the time required for presentation of respondent's case and a list of witnesses to be called.

RULE 1915.15 FORM OF COMPLAINT.

(a) In addition to the information required by Pa.R.C.P. 1915.15(a) and (b), each complaint for custody, partial custody, or visitation, or a petition to modify an existing custody order, shall have attached to its front an order in substantially the following form:

**THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

	:	
Plaintiff	:	No: S-
	:	
vs.	:	Custody
	:	
Defendant	:	

ORDER OF COURT

AND NOW, this _____ day of _____, 20 __, at _____ o'clock ____ .m.;
you are hereby ORDERED to appear as follows:

You have been sued in Court to obtain/modify (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child(ren) named in the Complaint.

I. CUSTODY CONCILIATION CONFERENCE

You are ORDERED to appear in person at the Custody Conciliation Office, of the Schuylkill County Courthouse on _____, for a Custody Conciliation Conference.

You are further ORDERED to bring with you the fully completed conciliation questionnaire provided by the Court.

If you fail to appear as provided by the Order, an Order of Custody may be entered against you or the Court may issue a Warrant for your arrest.

You must file with the Court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the Court (including, but not limited to, a conference with a conference officer or judge or conciliation) but not later than 30 days after service of the complaint or petition.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. §5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

II. PARENT EDUCATION PROGRAM

1. ALL PARTIES NAMED ABOVE SHALL ATTEND AND COMPLETE THE PARENT EDUCATION PROGRAM DESIGNATED BY THE COURT. THE PROGRAM IS REQUIRED FOR ALL PARTIES PARTICIPATING IN A CUSTODY ACTION. PARTICIPATION IS REQUIRED WHETHER OR NOT AN AGREEMENT IS SUBMITTED.

2. EACH OF YOU SHALL CONTACT THE PARENT EDUCATION PROGRAM INDENTIFIED IN THE ENCLOSED BROCHURE OR BY CALLING (TOLL FREE) 888-215-7445 WITHIN TEN (10) DAYS OF RECEIVING THIS ORDER TO REGISTER AND ATTEND THE NEXT AVAILABLE PROGRAM. IF YOU FAIL TO COMPLY WITH THE PROVISIONS OF THIS ORDER, CONTEMPT CHARGES AGAINST YOU SHALL BE FILED WITH THE COURT.

YOU ARE EACH REQUIRED TO PAY THE FEE FOR THE PROGRAM DIRECTLY TO THE PROGRAM PROVIDER. THIS INFORMATION IS INCLUDED IN THE ENCLOSED BROCHURE OR BY CALLING (TOLL FREE) 888-215-7445.

3. LOCATION OF PARENTING EDUCATION PROGRAM:

**SCHUYLKILL COUNTY COURTHOUSE
401 N. 2ND STREET
POTTSVILLE, PA 17901
570-628-1330**

FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN FINES, IMPRISONMENT OR OTHER SANCTIONS.

III. GENERAL PROVISIONS

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

**Pennsylvania Bar Association Lawyer Referral Service
100 South Street, P.O. Box 186, Harrisburg, PA 17108
1-800-692-7375**

Counsel and *pro se* litigants without counsel are ORDERED to *immediately* consult their schedules for conflicts and to promptly request a continuance where necessary because of a prior attachment or emergency situation. All requests for a continuance of a Custody Conciliation Conference must be made on the APPLICATION FOR CONTINUANCE form available from the offices of the Court Administrator, Custody Conciliator or Prothonotary in the Schuylkill County Courthouse. The application must be filed in the Prothonotary Office. A continuance will be granted only upon good cause shown.

The moving party shall immediately serve on all interested parties a copy of the original pleading, this order, the designated Parent Education Program Brochure which includes registration and information, and a custody conciliation questionnaire; and shall further file an affidavit verifying service.

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

IV. INMATE PROVISIONS

YOU ARE A NAMED PARTY IN AN ACTION SEEKING CUSTODIAL RIGHTS REGARDING YOUR CHILD(REN). THE SCHUYLKILL COUNTY CUSTODY CONCILIATION OFFICE WILL AFFORD YOU THE OPPORTUNITY TO HAVE INPUT VIA TELEPHONE AT THE CONFERENCE WITH THE CUSTODY CONCILIATOR. YOU ARE RESPONSIBLE FOR ARRANGING THE TELEPHONE CONFERENCE THROUGH THE APPROPRIATE PRISON PERSONNEL ONCE YOU ARE NOTIFIED OF THE DAY AND TIME OF THE CONFERENCE. YOU MUST PROVIDE THE CUSTODY CONCILIATION OFFICE WITH A TELEPHONE NUMBER AND A CONTACT PERSON SO THAT THE CUSTODY CONCILIATION OFFICE CAN CONTACT THE PERSON AT THE SCHEDULED TIME FOR THE CUSTODY CONFERENCE.

IN THE EVENT THAT YOU ELECT TO PARTICIPATE IN THE CONFERENCE VIA TELEPHONE CONFERENCE YOU MUST NOTIFY OUR OFFICE WITH THE APPROPRIATE CONTACT INFORMATION AT LEAST FORTY-EIGHT (48) HOURS PRIOR TO THE SCHEDULED CONFERENCE.

IN ADDITION YOU HAVE THE RIGHT TO FILE A *WRIT OF HABEAS CORPUS AD TESTIFICANDUM*.

IF YOU ELECT NEITHER APPROACH, YOU MAY SUBMIT AN INFORMAL BRIEF AT LEAST TWENTY-FOUR (24) HOURS PRIOR TO THE SCHEDULED CONFERENCE THAT SETS FORTH YOUR PROPOSAL REGARDING THE CUSTODIAL ISSUES REGARDING YOUR CHILD(REN). YOUR BRIEF WILL BE CONSIDERED AT THE TIME OF THE SCHEDULED CONFERENCE.

BY THE COURT,

Date: _____

RULE 1915.17 CUSTODY CONFERENCE CONTINUANCE.

A request for a continuance of a Custody Conference or Hearing shall be on the Continuance Form established by the Court. The Continuance Form shall be filed in the Prothonotary's Office and immediately transmitted to the Custody Conciliation Office. Continuance forms are available from the Prothonotary or Court Administrator's Office.

The request shall include a statement of the reasons for the request, whether the request is opposed or unopposed, the number of times the case has been previously

continued and a certification by counsel that his/her client has been informed about the request for continuance.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

The Custody Conciliation Officer shall have the authority to approve only one continuance request from each party. If the Custody Conciliation Officer denies the request for a continuance for any reason, the Officer shall state the reasons for the denial on the written request.

A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the President Judge. It is that party's responsibility to advise the Custody Conciliation Officer of the appeal and of the President Judge's decision.

ACTIONS OF DIVORCE OR ANNULMENT OF MARRIAGE
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RULE 1920.1 DEFINITIONS.

(a)(1) As used in this chapter:

"additional issues" shall mean any claim beyond the claim for divorce, or annulment, as follows:

- (i) distribution of property,
- (ii) alimony,
- (iii) child support,
- (iv) alimony pendente lite,
- (v) counsel fees, costs and expenses, and
- (vi) child custody or visitation;

"Associate Domestic Relations Master" means those attorneys, who are members of the Bar of Schuylkill County, appointed by the Court to act as the Domestic Relations Master where the standing Domestic Relations Master shall have a conflict of interest or when the caseload prevents the standing Master from attending to all cases promptly;

"Domestic Relations Master" shall mean that attorney(s), a member of the Bar of Schuylkill County who has actively practiced law for more than five (5) years and who during such practice has regularly represented clients in custody, support, and divorce actions, who has been appointed by the Court as Permanent Divorce Master and as the Permanent Hearing Officer of the Domestic Relations Section to hear support actions;

"moving party" shall be that party who initially presents a motion for appointment of Master, notwithstanding that the opposing party may subsequently move for the Master to hear additional issues beyond the initial appointment; and

"qualified professionals" shall consist of those persons or organizations, as defined by Section 104 of the Divorce Code, which have filed an application with the Court Administrator and which have been approved by the President Judge for listing in the Prothonotary's office.

RULE 1920.3 COMMENCEMENT OF ACTION.

- (a) If an action for divorce is filed separately during the pendency of an action for custody, partial custody or visitation between the parties, then the complaint shall be docketed to the same term and number as such custody matter.
- (b) Any party filing a pleading with the Prothonotary which raises a claim for child support, spousal support, or alimony pendente lite in a divorce action shall, within forty-eight (48) hours thereof, file a certified copy and two (2) photocopies of same with the Domestic Relations Section, where it shall proceed in accordance with the practice and procedure of the Domestic Relations Section after being assigned a support docket number (S.D. #____).
- (c) Any party filing an action for divorce with the Prothonotary, where there is also an action for child support or spousal support pending between the parties, shall include the support docket number (S.D. #____) in the caption. If any divorce pleading includes claims for child support, spousal support, or alimony pendente lite beyond the scope of the active support matter (based on change in circumstances or as a new issue), then a copy of the pleading shall, within forty-eight (48) hours, be filed with the Domestic Relations Section where it shall proceed in accordance with the practice and procedure of the Domestic Relations Section.

RULE 1920.4 SERVICE.

- (f) A true and correct copy of every pleading or other filing shall be sent by ordinary mail to the opposing counsel of record, or to a party where there is no counsel of record.

RULE 1920.11 PLEADING ALLOWED.

- (a) All actions for divorce or annulment shall be deemed at issue twenty (20) days after service of the Complaint.

**RULE 1920.13 PLEADING MORE THAN ONE CAUSE OF ACTION.
ALTERNATIVE PLEADING.**

- (d) A claim for child support, spousal support, or alimony pendente lite, whether filed as a separate petition or as a count in the divorce complaint, shall conform to the requirements of Pa.R.C.P. 1910.26.
- (e) A claim for custody, whether filed as a separate complaint or petition, or as a count in the divorce complaint, shall conform to the requirements of Pa.R.C.P. 1915.15.

- (f) Once a divorce action has been commenced, a Complaint for Alimony Pendente Lite should be filed with the Domestic Relations Section. A fee of \$15.00 shall be charged for this filing.
- (g) The contents of the Alimony Pendente Lite complaints should conform to the Rules for the contents of a Support Complaint and should also provide the date and docket number of the previously filed divorce action.
- (h) Upon filing of a Complaint for Alimony Pendente Lite in the Domestic Relations Section, a Praecipe shall be filed in the Prothonotary's office requesting the Prothonotary to note on its docket that an Alimony Pendente Lite claim has been filed with the Domestic Relations Section and docketed to S.D. No. ____.
- (i) Thereafter, the Alimony Pendente Lite claim shall proceed in the same manner as a Support Complaint, that is, first to a conference, then either by Agreement or Recommended Order, or Exceptions to a Hearing Officer.
- (j) Enforcement and Modification of an Alimony Pendente Lite Order shall follow the same procedure as enforcement or modification of a Support Order.
- (k) No award of Alimony Pendente Lite or of spousal support shall automatically continue after the entry of a divorce decree, whether the divorce action has been bifurcated or not. A recipient of Alimony Pendente Lite seeking to have the same continue after the entry of a divorce decree or a recipient of a spousal support seeking to convert it to Alimony Pendente Lite after the entry of a divorce decree shall file a complaint for Alimony Pendente Lite in the Domestic Relations Section of the Court.

RULE 1920.15 COUNTERCLAIM. SUBSEQUENT PETITION.

- (c) A claim for child support, spousal support, or alimony pendente lite, whether filed as a separate petition or as a counterclaim, shall conform to the requirements of Pa.R.C.P. 1910.26.
- (d) A claim for custody, whether filed as a separate petition or as a counterclaim, shall conform to the requirements of Pa.R.C.P. 1915.15.

RULE 1920.16 SEVERANCE OF ACTIONS AND CLAIMS.

- (a) Where one or more additional issues are pending, a decree of divorce or annulment may be entered if the parties stipulate. A bifurcation stipulation shall include the following:

I understand that having a divorce entered prior to the disposition of additional issues poses substantial risks and may result in additional litigation. These risks have been thoroughly discussed with my attorney and I am willing to have the divorce decree entered prior to the disposition of any outstanding additional issues. I shall pursue any additional issues and claims without unreasonable delay.

(b) A bifurcation stipulation shall be signed by the parties and their respective counsel. A stipulation entered between unrepresented parties shall be approved only upon petition and hearing.

(c) Where the action is ready for the entry of a decree of divorce or annulment but bifurcation is opposed, the court may upon application and after hearing enter a bifurcation order if (1) neither party would be substantially economically prejudiced and (2) the opposing party is unreasonably delaying the entire action by failing to file required pleadings or failing to initiate other appropriate action.

**RULE 1920.21 BILL OF PARTICULARS IN DIVORCE OR ANNULMENT.
NON PROS.**

(a)(1) A Request for a Bill of Particulars shall be filed within twenty (20) days of the service of the Complaint.

**RULE 1920.31 JOINDER OF RELATED ISSUES. CHILD SUPPORT.
ALIMONY. ALIMONY PENDENTE LITE. COUNSEL FEES.
EXPENSES. MODIFICATION OF ALIMONY.
MODIFICATION OF ALIMONY PENDENTE LITE.**

(d)(1) A request for counsel fees, costs and expenses, or modification of alimony, shall be made by petition. The petition shall include:

- (i) petitioner's income and expense statement as prescribed by the rules of court;
- (ii) a copy of petitioner's most recent federal income tax return;
- (iii) a verification by the petitioner's employer of petitioner's wages for the past six (6) months;
- (iv) petitioner's inventory and appraisal of property as prescribed by the rules of court; and
- (v) a certification by counsel setting forth services rendered to date, including time expended and the services and time estimated to be rendered and the fee requested therefore, and a list of all expenses for which reimbursement is sought.

(2) A Respondent's answer to the petition shall include information similar to that required of the petitioner together with a concise statement of respondent's position in regard to the amounts claimed by petitioner and reasons why an award should not be entered as requested.

(3) After the petition is at issue, the petitioner or respondent shall move for the appointment of a Domestic Relations Master. The Master shall proceed as provided for in Pa.R.C.P. 1920.51 et seq. and these Rules.

(e) All payments in response to an Order of Court for child support, alimony, or alimony pendente lite shall be made through the Domestic Relations Office unless otherwise ordered by the Court.

(f) A petition for alimony pendente lite, and modification of alimony pendente shall be made through the Domestic Relations Office.

RULE 1920.34 JOINDER OF PARTIES.

(a) No order staying the proceedings under this section or any other section of these rules shall be granted ex parte unless the Court deems it necessary.

RULE 1920.42 AFFIDAVIT AND DECREE UNDER SECTION 3301(c) OR 3301(d) OF THE DIVORCE CODE.

(c) In the absence of a Waiver of Notice, a praecipe presented under Pa.R.C.P. 1920.42(a) shall contain a certification by the presenting party or their counsel that advance notice of the presentation of the praecipe was delivered to the opposing party or to his attorney in accordance with Pa.R.C.P. 1920.42(d). Where no appearance has been entered on behalf of the defendant, notice shall be served on the defendant in like manner as a complaint [see Pa.R.C.P. 1920.4. Service].

(d) There shall be attached to a praecipe presented under Pa.R.C.P. 1920.42(a) a proposed form for the final decree substantially in the form provided for in Pa.R.C.P. 1920.76.

RULE 1920.43 PETITION FOR SPECIAL RELIEF UNDER DIVORCE CODE.

(a) All petitions for special relief under the Divorce Code shall be presented only to the Judge assigned to hear such petitions at the time of filing.

(b) The original and one copy of all such petitions shall be time stamped by the Prothonotary prior to presentation of said petition, and a copy of each such petition shall be provided to the Court Administrator contemporaneously with the presentation of the petition to the assigned Judge.

(c) No application for injunction or other special relief will be considered by the Court unless the factual reasons are set forth specifically and in detail in the pleadings and affidavits. The pleading or averring of conclusions will not be sufficient. Upon consideration of the pleadings and attached affidavits, the court may order that a hearing be held or grant such other relief as the Court may deem appropriate and necessary.

RULE 1920.45 COUNSELING.

(e) If there is a request for counseling pursuant to the Divorce Code, and the parties cannot agree upon a Counselor, a qualified professional from the list maintained in the Prothonotary's office shall be appointed by either the Court where the matter has not yet been assigned to a Master, or by the Master, without leave of Court, where the matter has been referred to the Master.

RULE 1920.51 APPOINTMENT OF MASTER.

(f) A motion for appointment of a Master shall contain a certificate by the moving party that all parties have complied with the filing requirements of Pa.R.C.P. 1920.31(a)(1), 1920.33(a) and 1920.46. Where no appearance has been entered on behalf of the defendant, service of advance notice shall be by first-class mail to the defendant's last known address.

(1) If Pa.R.C.P. 1920.31(a)(1) or 1920.33(a) are inapplicable, the moving party shall so certify in his motion. A Master shall not be appointed until the parties have either complied with Pa.R.C.P. 1920.31(a)(1), 1920.33(a) and 1920.46 or the Court has made an Order under Pa.R.C.P. 4019.

(g)(1) Before presenting a motion for appointment of a Master, the moving party shall deposit with the Prothonotary the applicable Master's fees for the issues raised in the amount as set by Order of Court. The Prothonotary shall endorse the fact of such payment upon the proposed "Order Appointing Master" before same is submitted to the Court.

(2) No Master's fee shall be refunded after a pre-hearing conference has been held or continued under "Sch.R.C.P. 1920.51(j)(2)."

(h) The Court, upon motion for appointment of Master, shall refer the matter to the Domestic Relations Master, designate the issues to be considered, and serve the Order of Appointment on the Master.

(i) Within ten (10) days of being served by the Court with the order of Master's appointment, the Domestic Relations Master may move the Court to have an Associate Domestic Relations Master appointed in his place for cause shown. The

Court in its discretion, based on the averments of the motion, may deny the motion or may enter a modified order replacing the Domestic Relations Master with an Associate Domestic Relations Master. Where an Associate Domestic Relations Master is appointed, he shall proceed as provided for below.

(j)(1) The Master, within ten (10) days of being served with the order of Master's appointment, may give notice of the time and place for a pre-hearing conference, by first-class mail at least five (5) business days prior to the pre-hearing conference.

(2) A pre-hearing conference may be continued only for cause shown and upon approval of an "Application for Continuance" by the Court Administrator or Master.

(k)(1) Within twenty (20) days after the appointment of a Master by the Court, but no later than the pre-hearing conference, each party shall file a memorandum substantially in the form required by Sch.R.C.P. 212.2(b) prior to a pre-trial conference.

(2) Either party may include in their memorandum copies of documents, reports, bills, statements, or appraisals certified by competent expert witnesses, officials, or from governmental records which are to be offered into evidence. Unless objected to at the pre-hearing conference, same may be entered into evidence without further proof. If there are objections, then the evidentiary rules must be strictly complied with. However, should the documentary evidence objected to be substantiated at the time of hearing and it appears that the objections to the documentary evidence were in bad faith, the cost of producing the witnesses to substantiate such evidence may be assessed against the objecting party.

(l) At the pre-hearing conference the Master will review the following with counsel for the parties or, where a party has appeared without counsel, with the party:

(1) the respective positions of the parties on each claim, including those where settlement has been reached;

(2) discovery which has been completed, including the income and expense statements (see Pa.R.C.P. 1920.33);

(3) any documentary evidence to be presented at hearing under Sch.R.C.P. 1920.51(k);

(4) the witnesses each party proposes to call at hearing;

(5) all matters which may be stipulated by the parties at hearing; and

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

(m) Following the pre-hearing conference, the Master shall:

(1) prepare a summary of the discussions and action taken at the pre-hearing conference;

(2) serve a copy of the summary on counsel for the parties, or where a party has appeared without counsel, on the party;

(3) include notice with the summary served that either party shall have ten (10) days to serve each other party and the Master with a countersummary addressed to such points as that party views differently than was noted in the summary by the Master and that at the expiration of said ten (10) days the Master's summary and any countersummaries properly served will be included as part of the record; and

(4) where it appears that discovery has not been completed, including specifically filing of income and expense statements, inventory and appraisal, and pre-hearing memoranda [see Sch.R.C.P. 1920.51(k)], the Master may proceed and deem the right to file waived, direct parties to complete discovery prior to the time set for hearing, direct that the discovery be completed and a second pre-hearing conference be scheduled, or move the court to vacate the Master's appointment with forfeiture of Master's fees paid.

(n)(1) In complex contested matters which require the hearing to be continued in progress, the Master may assess additional Master's fees of \$75.00 per each additional hour. Each additional conference, beyond the first, shall be considered for these purposes as a hearing.

(2) Where additional Master's fees are assessed, the moving party shall deposit the fee with the Prothonotary and concurrently file a Praeceptum substantially in the following form:

(CAPTION)

PRAECEPTUM FOR DEPOSIT OF ADDITIONAL MASTER'S FEE

To the Prothonotary:

As directed by the Master in the above-captioned case, deposit the sum of \$_____.00 for _____ additional Master's Hearing days at the rate of \$75.00 per hour in compliance with Sch.R.C.P. 1920.51(n).

Attorney for (Plaintiff/Defendant)

RECEIVED this day the sum of \$_____.00, additional Master's fee in the above-captioned case.

Prothonotary

**RULE 1920.52 HEARING BY COURT. DECISION.
DECREE.**

(e) Hearings by the Court shall be conducted as in actions at law tried by a judge without a jury in accordance with these Rules.

(f) A petition for the allowance of a jury shall be filed within ten (10) days after the action is at issue, unless the Court, upon a rule to show cause, shall extend the time.

**RULE 1920.53 HEARING BY MASTER. REPORT.
CONTINUANCE.**

(d) The Master shall direct the examination of witnesses and the general course of the proceedings before him. Subpoenas for the attendance of witnesses before the Master shall be issued by the Prothonotary under the seal of Court. The Master shall cause a record to be kept of all proceedings before him. If objection is made to the admission of evidence, an offer and statement of purpose of said evidence, as well as the objection and its grounds, and the Master's ruling shall be noted in the record.

(e) The Master shall hold a hearing within sixty (60) days after the pre-hearing conference provided for in Sch.R.C.P. 1920.51(j); or, when he finds that counseling is required under Pa.R.C.P. 1920.45, within sixty (60) days after the expiration of the time for the completion of counseling under that Rule.

(f) The Master or Court Administrator may grant only one continuance of a hearing to a day certain to each party. However, the Master may continue any hearing in progress.

The motion for continuance shall be made in writing to the President Judge on a form established by the Court. The motion shall include a statement of the reasons for the request, whether the other party or the Master is opposed or unopposed to the request, the number of times the case has previously been continued and a certification by counsel that his/her client has been informed about the request for continuance. If the Master is opposed to the motion, he/she shall state his/her reasons for opposition on the written form.

Counsel have an ongoing duty to consult their scheduling calendar immediately upon receipt of a notice scheduling a court proceeding. In the event a continuance is necessary because of a prior attachment or emergency situation, counsel shall promptly request a continuance, and failure to do so may subject counsel to the contempt powers of the Court. Continuance requests shall be made as soon as the conflict is, or should be known, or within twenty-four (24) hours after discovery of emergency circumstances. Emergency circumstances must be explained in writing, and requests due to scheduling conflicts must include a copy of the conflict attachment notice.

(g)(1) In a contested case the testimony given at a Master's hearing shall be taken by an official court reporter who shall be paid an appearance fee by the party first moving for the appointment of the Master.

(2) Upon the closing of the record at the Master's Hearing the parties may agree to those portions of the record to be transcribed, or the Master may direct that all or a portion of the record shall be transcribed. The Master may make an interim allocation of the transcript fees which shall be paid pursuant to Pa.R.J.A. 5000.6.

(3) Within five (5) days after the filing of exceptions to the Master's report, the party raising exceptions shall request a transcript of all the testimony pursuant to Pa.R.J.A. 5000.5, and shall thereupon make a deposit with the court reporter for the cost of the transcript pursuant to Pa.R.J.A. 5000.6.

(i) If both parties file exceptions to the Master's report, they shall equally bear the cost of the transcript.

(4) In the event of the failure of an excepting party within the time allowed either to order the transcript, or to pay for the same, or to file a memorandum of law as required by these Rules or Order of Court, the exceptions may be deemed to have been withdrawn and may be dismissed by the court.

(5) Upon payment of all fees, the court reporter shall certify the transcript and shall give notice to the Master and to the parties that the transcript has been certified. All objections to the transcript shall be raised within ten (10) days after the date of the notice of the certification, or the objections are deemed to be waived.

(h)(1) The testimony in an uncontested case shall be transcribed in question and answer form, shall be read by the witness, and shall be sworn to and signed by the witness in the presence of the Master. Before the Master shall certify such testimony he may examine the witness as to any answers given in such testimony and may demand that the testimony be supplemented, in writing, by answers to other specific questions, or under oath before an official court reporter.

(2) The Master's report shall be filed:

(i) within thirty (30) days after the closing of the record; or

(ii) within thirty (30) days after the notice of the certification of the transcript by the court stenographer when a transcript has been requested; or,

(iii) within thirty (30) days after the final memorandum or brief is due, whichever last occurs.

(i) Should the Master fail to file his final report within the time specified in Sch.R.C.P. 1920.53(g) or 1920.53(h), there being no rule or other matter not disposed of, a party shall have the right to obtain a rule upon the Master to show cause why the final report should not be filed promptly. If no good cause is shown, and if no report is filed, the Court shall take appropriate action promptly. No action

taken hereunder by a party shall adversely influence the Master against that party, and the willful violation of this admonition shall result in the removal of the Master from consideration for appointment as a Master thereafter, any other disciplinary and remedial action that the Court may feel appropriate under the circumstances, or both.

(j) The Master shall enclose the papers in the case in a strong paper backer arranged in the following order:

- (1) Recommendation as to the form and content of the final decree as to the divorce or annulment and for the disposal of related claims;
- (2) In an uncontested case, the Master's report in the form required by Pa.R.C.P. 1920.53(c) and in a contested matter, in the form required by Pa.R.C.P. 1920.53(b);
- (3) Testimony; except that in a contested matter, the transcript by the court reporter may be separate from the other papers as long as it is filed at the same time;
- (4) Exhibits, if any, which are not included with the transcript;
- (5) Docket entries;
- (6) Record papers in the case; and
- (7) A certificate of service of the Notice required by "Sch.R.C.P. 1920.55."

**RULE 1920.55-2 MASTER'S REPORT. NOTICE. EXCEPTIONS.
FINAL DECREE.**

(d) In all cases, whether contested or uncontested, the Master shall serve written notice upon counsel of record for the parties, or by first class mail to the last known address of any party not represented by an attorney of record, of the Master's intent to file his report with the Prothonotary on a date certain and that all exceptions to the report shall be filed within twenty (20) days from the date of filing of the Master's report. This notice shall be substantially in the form provided for in Sch.R.C.P. 1920.55(e) and shall have attached thereto a copy of the Master's report and the proposed decree.

(e) Notice of filing Master's Report shall be substantially in the following form:

(CAPTION)

NOTICE OF PROPOSED FILING OF MASTER'S REPORT
AND THE TIME IN WHICH TO FILE EXCEPTIONS

Dear Counselor (or party *pro se*):

The report of the Master in the above entitled case will be filed in the office of the Prothonotary on _____, 20__.

The Master recommends in his report, which is enclosed, that a final decree in divorce (or annulment) be entered on the grounds of _____ (or that the complaint be dismissed). (and that the related issues be disposed of according to the proposed "Order of Court" enclosed herewith).

You are hereby notified that written exceptions to the report of the Master must be filed with the Prothonotary within twenty (20) days from the date of filing of the report or a final decree may be entered by the Court without further notice.

MASTER

- (f) As a final item in the report, the Master shall certify that the notice, with proposed decree and report enclosed, required by this Rule have been served on the parties or their counsel at least four (4) business days prior to the filing of the report.
- (g) After the Master's report has been on file twenty (20) days in the office of the Prothonotary and no exceptions filed, the Prothonotary shall transmit the Master's report to the Court for review.
- (h) A party filing exceptions to the Master's Report shall contemporaneously file a praecipe for transmittal pursuant to Sch.R.C.P. 205.2(b) indicating that the matter can be disposed of on the record. The moving party shall, within twenty (20) days of filing the exceptions, file a brief in support of said exceptions. The answer and brief of any opposing party shall be filed within twenty (20) days after service of the brief of the moving party.
- (i) If both parties file exceptions to the Master's Report, the exceptions shall be consolidated for consideration by the Court without the necessity of filing a second praecipe. The briefing requirements of Sch.R.C.P. 1920.55(h) shall also apply to this section. For purposes of complying with the briefing schedule, each party shall be considered the moving party with respect to the exceptions filed by that party and the responding party to the exceptions filed by the opposing party.
- (j) In all cases where the related claims include one or more issues from alimony, alimony pendente lite, and child support, it shall be the responsibility of the recipient to notify the Domestic Relations Section of such Order.

RULE 1920.62 PROCEEDINGS BY INDIGENT PARTIES.

- (d) The Court may hear testimony, or upon its own motion or the motion of either party, may appoint the Domestic Relations Master to hear testimony and return the record and the transcript of the testimony to the Court, together with a report and recommendation upon petition as provided for in Pa.R.C.P. 1920.62(a).
- (e) Upon being served with an order for appointment as a Master on a petition by a party averring inability to pay all or part of the costs of the action, the Master shall, within ten (10) days, give notice of the time and place for hearing on the petition to the parties. Such hearing shall be held not less than ten (10) days nor more than thirty (30) days after notice is served on the parties by the Master.
- (f) The Master shall file a transcript of the testimony together with his report and recommendation within thirty (30) days after receipt of the transcript. Upon filing, the Master shall immediately send notice, substantially in the form required by "Sch.R.C.P. 1920.55(c)," of the filing of the report to each party and accompany the notice with a copy of the report and recommendation.
- (g) After the filing of the Master's Report, the procedure provided for in "Sch.R.C.P. 1920.55(g)" et seq. shall be followed.

RULE 1920.71 FORM OF NOTICE.

- (a) The following shall appear at the beginning of the Notice to Defend and Claim Rights as provided for in Pa.R.C.P. 1920.71:

(CAPTION)

You have been sued in Court for:

- | | |
|---|---|
| <input type="checkbox"/> Divorce | <input type="checkbox"/> Annulment |
| <input type="checkbox"/> Distribution of Property | <input type="checkbox"/> Alimony |
| <input type="checkbox"/> Child Support | <input type="checkbox"/> Alimony pendente lite |
| <input type="checkbox"/> Custody/Visitation | <input type="checkbox"/> Counsel fees, costs,
and expenses |

- (b) For the office to be named in the notice to defend and claim rights, refer to Sch.R.C.P. 1018.1.

RULE 1920.74 FORM OF MOTION FOR APPOINTMENT OF MASTER. ORDER.

- (b)(1) The order appointing a Master shall be substantially in the following form:

(CAPTION)

AND NOW, _____, 20____, _____, Esquire, is appointed Master
with respect to the following claims:

- | | |
|---|--|
| <input type="checkbox"/> Divorce | <input type="checkbox"/> Annulment |
| <input type="checkbox"/> Distribution of Property | <input type="checkbox"/> Alimony |
| <input type="checkbox"/> Child Support | <input type="checkbox"/> Alimony pendente lite |
| <input type="checkbox"/> Custody/Visitation | counsel fees, costs,
and expenses |

BY THE COURT:

_____ J.

MINORS AS PARTIES

RULE 2032 FILING AFFIDAVIT AS TO AGE.

- (a) A party, required to file the affidavit under Pa.R.C.P. 2032, shall do so within twenty (20) days from the date of service of the Rule.

RULE 2039 PETITIONS FOR APPROVAL OF MINORS' COMPROMISES.

- (a)(1) Petitions for Approval of Settlement or Compromise in matters in which a minor has an interest shall be filed in the Orphans' Court Division where the minor resides if no suit has been previously filed or in the Prothonotary's Office under the docket number of the previously filed suit.
- (2) The petition shall set forth:
- (i) The factual background of the claim;
 - (ii) The identification of the parties, including the age of the minor and the addresses of the biological parents of the minor; (if the minor is not living with both natural parents, a copy of any order of court awarding custody or guardianship and a description of where and with whom the minor has resided over the preceding five years);
 - (iii) Counsel's analysis of the liability and damages issues relevant to the determination of the reasonableness of the proposed settlement;
 - (iv) Counsel's certification that the settlement is reasonable and in the best interest of the minor;
 - (v) The types and amounts of insurance coverage applicable to the claim and representation as to the efforts made to identify other collateral sources;
 - (vi) Whether there are any unpaid liens, claims or debts. Where claims or debts have been waived, petitioner shall attach as an exhibit written proof of waiver of such lien, claim or debt;
 - (vii) A request for authorization of parent or natural guardian to sign the proposed release;
 - (viii) A description of the type of account into which the settlement proceeds will be deposited;
 - (ix) A statement of the proposed distribution of the settlement funds which includes the proposed percentage of counsel fees and an itemization of costs.

The petitioner shall attach appropriate documentation in support of the itemized costs; and

(x) Certification of joinder of the custodial parent(s) or appointed guardians in the proposed settlement.

(3) The petition shall contain the following exhibits:

(i) Copies of medical reports or records evidencing the diagnosis and prognosis of the minor's injuries;

(ii) Investigative or police accident reports which provide background information regarding the incident which caused the minor's injuries; and

(iii) The counsel fee agreement with the parents or natural guardians of the minor executed by any attorney seeking recovery of counsel fees.

(4) Any amendments or supplements to the petition required by the Court shall be filed of record.

(5) All petitions filed under this rule shall be assigned to the Orphans' Court for disposition. The Court may approve a petition without a hearing. If the Court schedules a hearing, the Court may require the personal attendance and testimony of the guardian, the treating physician, the representative of the financial institution responsible for the investment of settlement funds or any other evidence which the Court deems necessary to determine whether the proposed settlement adequately protects the minor's interests.

(6) The Court may require a hearing on the issue of counsel fees if counsel seeks the recovery of fees in excess of 25% of the gross settlement amount. If a hearing on counsel fees is required, the Court shall require the testimony of counsel primarily responsible for the preparation of the case.

(7) Except as otherwise required by the Court, the appearance of the minor shall not be required.

(8) The Petitioner shall attach a proposed order found at subsection (c) which sets forth:

(i) The Court's authorization for the petitioner to enter into a settlement and release on behalf of the minor;

(ii) Reference to the total amount of the settlement;

(iii) A complete statement of the distribution of the settlement amount as set forth in the petition;

(iv) Identification of the type of account to be utilized, which account shall comply with Pa.R.C.P. 2039, including a provision that no withdrawal shall be

made from any such account until the minor attains majority or by a prior order of court;

(v) A provision that counsel shall provide the court with an Affidavit of Deposit of Minor's Funds within thirty (30) days from the date of the order. Said affidavit shall be in substantially the form as follows:

(CAPTION)

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

The undersigned, counsel for _____, parents and natural guardians of _____, a minor, hereby certifies that the net settlement amount of \$ _____ as set forth in this Court's order dated _____ was deposited by _____ into a restricted, federally insured account, marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT" on _____. Account No. _____ is entitled: _____, a minor. Proof of deposit is attached hereto as Exhibit A.

Counsel for Parents and Natural Guardians of
_____, a minor

(b) The Court shall, in appropriate cases, authorize the parent or natural guardian to deposit cash to be paid for the benefit of the minor into an interest bearing, restricted account, insured by the Federal government, which conforms to the provisions of Pa.R.C.P. 2039.

(c) Form of Proposed Order. The form of proposed order shall be substantially as follows:

(CAPTION)

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, at _____m., upon consideration of the Petition for Approval of Minor's Settlement, it is hereby ORDERED and DIRECTED that the Compromise Settlement in the sum of _____ Dollars (\$ _____) is APPROVED, and that the Settlement be distributed as follows:

1. The sum of _____ Dollars (\$ _____) shall be paid to _____ for his legal representation of the plaintiff(s).
2. The sum of _____ Dollars (\$ _____) shall be paid to _____ for costs expended.
3. The sum of _____ Dollars (\$ _____) shall be distributed to the benefit of _____, a minor, to be placed in one or more federally insured savings

accounts or federally insured savings certificates in the name of the minor so that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are insured, and to be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT".

Counsel for petitioners is ORDERED to cause the restricted account to be created and to file an affidavit of deposit of minor's funds within thirty (30) days hereof.

Jurisdiction of any further proceeding concerning the minor's estate is transferred to the Orphans' Court Division for disposition.

Pursuant to Sch. Co. O.C. Rule 12.5B(c), if no withdrawals are made from the account prior to the minor reaching his/her majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the natural parent(s) and the former minor without further Order of this Court.

BY THE COURT,

INCAPACITATED PERSONS AS PARTIES

**RULE 2059 NOTICE TO INCAPACITATED PERSONS OF APPLICATION
FOR GUARDIAN AD LITEM.**

- (a) In every case in which a petition is filed for the appointment or removal of a guardian ad litem for an incapacitated person, a copy of the petition and stay order issued thereon shall be served personally on the incapacitated person immediately upon the filing of the petition.

**RULE 2064 COMPROMISE, SETTLEMENT, DISCONTINUANCE AND
DISTRIBUTION IN ACTION INVOLVING AN INCAPACITATED
PERSON.**

- (a) A Petition for Approval of a Compromise, Settlement, Discontinuance and Distribution in an action in which an incapacitated person has an interest shall be filed in the Orphans' Court Division if no suit has been previously filed, or in the Prothonotary's Office under the docket number of the previously filed suit.
- (b) The Petition shall contain the same information, exhibits, and similar proposed order, modified as may be applicable, and be subject to the same requirements referable to counsel fees, as prescribed under Sch.R.C.P. 2039, applicable to Petitions for Approval of Minors' Compromises.

(Adopted 7/9/25; effective 9/23/25)

ACTIONS FOR WRONGFUL DEATH

RULE 2205 NOTICE TO PERSONS ENTITLED TO DAMAGES.

- (a) The notice prescribed in Pa.R.C.P. 2205 shall name the decedent, the court, file number of the action, and state that, if the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such person may petition the Court to remove the plaintiff and to substitute as a new plaintiff any person entitled by law to recover damages in the action or a personal representative of the decedent.
- (b) An affidavit of service of such notice shall be filed in the Prothonotary's Office within five (5) days after service or as soon thereafter as the registered return receipt, signed by the person to whom it is addressed is returned to the plaintiff.

RULE 2206 PETITIONS FOR APPROVAL OF WRONGFUL DEATH AND SURVIVAL SETTLEMENTS.

- (a)(1) Petitions for Approval of Wrongful Death and Survival Settlements shall be filed in the Orphans' Court Division where the estate is being administered if no suit has been previously filed or in the Prothonotary's Office under the docket number of the previously filed suit.
- (2) The petition shall set forth:
 - (i) A heading briefly identifying the purpose of the petition;
 - (ii) The factual background of the claim;
 - (iii) Whether the decedent died intestate; if the decedent died testate, a copy of the will shall be attached to the petition;
 - (iv) Identification of the wrongful death beneficiaries;
 - (v) Whether any wrongful death beneficiaries are minors or incapacitated persons and whether a guardian has been appointed for the person or estate;
 - (vi) Counsel's analysis of the liability and damages issues relevant to the determination of the reasonableness of the proposed settlement;
 - (vii) The types and amounts of insurance coverage applicable to the claim and representation as to the efforts made to identify other collateral sources;
 - (viii) The proposed apportionment between wrongful death and survival recoveries including the factual basis for said apportionment;
 - (ix) Whether there are any unpaid liens, claims or debts;

- (x) A statement of the proposed distribution of the settlement funds, which includes the percentage of requested counsel fees and an itemization of costs. The petitioner shall attach appropriate documentation in support of the itemized costs; and
 - (xi) Certification of joinder of the beneficiaries in the terms of the proposed settlement and petition.
- (3) The petition shall contain the following exhibits:
- (i) Copies of accident, medical or expert reports related to the alleged cause of death of decedent;
 - (ii) The counsel fee agreement between any counsel seeking recovery of counsel fees and the administrator, executor or beneficiaries on whose behalf approval of settlement is sought; and
 - (iii) A copy of correspondence from the Pennsylvania Department of Revenue approving the proposed allocation of settlement funds between the wrongful death and the survival actions.
- (4) Any amendments or supplements to the petition required by the Court shall be filed of record.
- (5) All petitions filed under this rule shall be assigned to the Orphans' Court for disposition. The Court may approve a petition without a hearing. If the Court schedules a hearing, the Court may require the personal attendance and testimony of the administrator or executor of the estate on whose behalf the settlement is sought, the representative of the financial institution responsible for the investment of settlement funds received by a minor or incapacitated person, or any other evidence which the Court deems necessary to determine whether the proposed settlement adequately protects the interests of the decedent's estate or the distribution to minors or incapacitated persons.
- (6) The Court may require a hearing on the issue of counsel fees. If a hearing on counsel fees is required, the Court shall require the testimony of counsel primarily responsible for the preparation of the case.
- (7) The Petitioner shall attach a proposed order in substantially the following form and setting forth:
- (i) The Court's authorization for the petitioner to enter into a settlement and release;
 - (ii) Reference to the total amount of the settlement; and
 - (iii) A complete statement of the distribution of the settlement amount as set forth in the petition.

(CAPTION)

ORDER OF COURT

AND NOW, this ____ day of _____, 20 __, at _____.m., upon consideration of the Petition for Approval of Wrongful Death and Survival Settlement, noting the consent of the Pennsylvania Department of Revenue, and the certification filed by counsel, the Court finds that there are no outstanding unpaid creditors of the Estate and that the proposed settlement of the civil survival action is adequate to protect the interests of the estate and beneficiaries, IT IS THEREFORE ORDERED AND DECREED that payment of _____ Dollars (\$_____) in settlement of the Survival Action is APPROVED.

The settlement proceeds shall be distributed as follows:

TO: _____, attorney at law, \$_____ for counsel fees;

TO: _____, attorney at law, \$_____ for reimbursement
of costs;

The balance of the settlement is apportioned as follows:

Wrongful Death Action \$_____

TO: (spouse)

TO: (child)

TO: (other)

Survival Action \$_____

TO: _____, personal representative of the Estate of _____.

BY THE COURT,

JOINDER OF PARTIES

RULE 2232 DEFECTIVE JOINDER. CHANGE OF PARTIES.

(a)(1) Where notice of the pendency of an action to recover damages for an injury, not resulting in death, inflicted upon the person of a wife or a minor is given by the defendant under Pa.R.C.P. 2232(a), it shall be given within twenty (20) days after service upon him of the complaint, unless the Court, on petition, permits the giving of notice on a later date.

(2) The notice shall state the court, and docket number of the action, the parties thereto and its nature, and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice, or his cause of action will be barred and the action will proceed without him.

(b)(1) Application under Pa.R.C.P. 2232(b), to drop from the record a party who has been misjoined or against whom no claim for relief is asserted in the action, shall be by motion and served on all other parties.

(c)(1) Application under Pa.R.C.P. 2232(c), to join as a party any other person who could have joined or could have been joined as such in this action, shall be by motion and served on all other parties.

RULE 2959 OPENING JUDGMENTS.

(a) A petition for a rule to show cause why a judgment by default for want of an answer should not be opened, must have attached to it a copy of the proposed answer to the complaint if an answer is required under the Pennsylvania Rules of Civil Procedure.

(b) The petition to strike off or open a judgment shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P.

205.2(b) requesting the issuance of a rule to show cause. If a rule to show cause is issued the parties shall immediately proceed to develop any necessary factual evidence by deposition. When the matter is ripe for disposition either party may transmit the case to the Court by filing a praecipe for transmittal pursuant to Sch.R.C.P. 205.2(b), indicating that the issue may be disposed of on the record.

RULE 3104 LIS PENDENS.

(a) The Prothonotary shall index on the judgment index in his office all proceedings, (1) for specific performance of an agreement to purchase or sell real estate, (2) in lunacy or habitual drunkenness, (3) to revive and continue the lien of debts against a decedent's real estate, (4) to declare void any agreement, deed, or other paper conveying or vesting title to real estate, or (5) any proceeding by which purchasers of real estate would be deemed to have had constructive notice. In each case all owners of the land as indicated by the pleading filed shall be indexed as defendants.

RULE 3112 SERVICE BY PUBLICATION FOR THE ENFORCEMENT OF JUDGMENTS FOR PAYMENT OF MONEY.

(a) When service by publication may be had under Pa.R.C.P. 3112(c), the plaintiff may cause service to be made by publication once in the Schuylkill Legal Record and in one (1) newspaper of daily circulation in Schuylkill County of a notice which shall be in substantially the following form:

NOTICE IF HEREBY GIVEN TO _____ that on _____ a writ of execution issued against real property of _____ held in your name and described as follows:

Said writ issued on JUDGMENT No. _____, 20 _____. You are directed to notify _____ that the plaintiff issued an attachment execution against you which _____ is/are required to defend.

RULE 3130 NOTICE OF SALE OF SECURITIES.

(a) When notice to a defendant of the sale of securities is required by Pa.R.C.P. 3130, such notice may be given by the Sheriff by ordinary mail, first class postage prepaid, addressed to the defendant at his or her last known residence and by the posting of handbills in the Sheriff's Office, which mailing and which handbills shall contain a description of the securities to be sold, the name and place of the business of the broker through whom sale will be made, and the date when the securities will be offered for sale.

DEPOSITIONS AND DISCOVERY

RULE 4007.1 EXAMINATION BY ORAL DEPOSITION.

(a) In every civil action filed in Schuylkill County, unless otherwise ordered by the Court, all discovery by deposition on oral examination of fact witnesses shall be conducted within Schuylkill County.

RULE 4007.2 WHEN LEAVE OF COURT REQUIRED COMPLETION OF DISCOVERY.

(b) After a case has been certified as ready for arbitration or trial pursuant to these rules there shall be no discovery proceeding whatsoever except upon order of court, or by agreement of counsel which does not result in delay of the case.

RULE 4009 PRODUCTION OF DOCUMENTS.

(a) Unless otherwise ordered by the Court, a "place", in order to be deemed reasonable for purposes of Pa.R.C.P. 4009(b)(1), shall be located within Schuylkill County.

RULE 4011 LIMITATIONS OF SCOPE OF DISCOVERY AND INSPECTION.

(a) A party who has given a signed or electronically recorded statement to another party shall not be required to submit to deposition for discovery by such other party with respect to the subject matter of such statement unless he has been furnished with a copy of such statement not less than forty-eight (48) hours prior to the deposition.

(b) The term "party" as used herein means (1) a party to the litigation; (2) any officer, director or managing agent of a party; and (3) any agent or employee of a party where the conduct of such agent or employee is within the subject matter of the issues set forth in the pleadings.

(c) A "statement" within the meaning of this rule shall include a signed statement, a recorded interview or transcript of any such recorded interview.

RULE 4015 PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN.

(a) Letters rogatory, substantially in the following form, may be issued on the application of either party:

COURT OF COMMON PLEAS OF
SCHUYLKILL COUNTY, PENNSYLVANIA

To the Appropriate Judicial Authority in _____

Whereas a certain suit is pending before us, in which A.B. is plaintiff and C.D. is defendant, and it has been suggested to us that there are witnesses residing within your jurisdiction, without whose testimony justice cannot completely be done between the said parties; we, therefore, request that you, in furtherance of justice, will by the proper and usual process of your court, cause such witness or witnesses as shall be named or pointed out to you by the said parties, or either of them, to appear before you or some competent person by you for that purpose to be appointed and authorized, at a time and place by you to be fixed, and there to answer on their oaths or affirmations, to the several interrogatories hereunto annexed; and that you will cause their testimony to be committed to writing, and returned to us under cover duly closed and sealed, together with these presents; and we shall be ready and willing to do the same for you in similar case when required.

Witness, etc.

RULE 4017.1 OBJECTIONS DURING VIDEOTAPE DEPOSITION.

(a) Objections made during videotape depositions shall be made only upon the stenographic record and not on the video/audio tape portion of the record.

(b) Upon objection made during videotape deposition, the tape operator shall announce on camera that the tape is being turned off; the operator shall then pause the tape during argument on the objection; upon completion of the argument, the tape operator shall resume taping and announce on camera that taping has resumed.