

“SINCE YOU WERE GONE: UPDATE ON THE COURTS”

Presented by the Civil Litigation Section and Civil Division

PROGRAM MATERIALS

TABLE OF CONTENTS

Current Listing of Western District Judges with Pittsburgh Chambers.....	3
Current Listing of Western District Judges with Johnstown Chambers.....	4
Current Listing of Western District Judges with Erie Chambers.....	5
Western District Local Rules.....	6 - 135
Current Listing of Allegheny County Civil Division Judges.....	136
Allegheny County Specially Assigned Cases.....	137
Allegheny County Calendar Control Operating Procedures	138 - 140
Allegheny County Discovery Motions Procedures	141
<i>Lau v. Allegheny Health Network</i> Discovery Opinion.....	142-176
Allegheny County Uncontested General Motions Procedures	177-178
Allegheny County Contested General Motions Procedures	179
Allegheny County Local Rules.....	180 - 346

Pittsburgh Chambers' Information

The United States District Court for the Western District of Pennsylvania

was created by an Act of Congress on April 20, 1818.

The court is recognized throughout the nation for its standards of excellence, fairness and professionalism.

District Judge / Magistrate Judge

Biography & Chambers' Rules / Contact Information

Bissoon	Cathy Bissoon, District Judge
Bloch	Alan N. Bloch, Senior District Judge
Cercone	David Stewart Cercone, Senior District Judge
Colville	Robert J. Colville, District Judge
Conti	Joy Flowers Conti, Senior District Judge
Dodge	Patricia L. Dodge, Magistrate Judge
Eddy	Cynthia R. Eddy, Chief Magistrate Judge
Fischer	Nora Barry Fischer, Senior District Judge
Hardy	W. Scott Hardy, District Judge
Horan	Marilyn J. Horan, District Judge
Hornak	Mark R. Hornak, Chief Judge
Kelly	Maureen P. Kelly, Magistrate Judge
Lenihan	Lisa P. Lenihan, Magistrate Judge
Ranjan	J. Nicholas Ranjan, District Judge
Schwab	Arthur J. Schwab, Senior District Judge
Stickman	William S. Stickman IV, District Judge
Wiegand	Christy Criswell Wiegand, District Judge

Johnstown Chambers Information

The United States District Court for the Western District of Pennsylvania

was created by an Act of Congress on April 20, 1818.

The court is recognized throughout the nation for its standards of excellence, fairness and professionalism.

208 Penn Traffic Building
319 Washington Street
Johnstown, PA 15901

District Judge / Magistrate Judge

Biography & Chambers' Rules / Contact Information

[Gibson](#) Kim R. Gibson, Senior District Judge

[Haines](#) Stephanie L. Haines, District Judge

[Pesto](#) Keith A. Pesto, Part-time Magistrate Judge

Erie Chambers Information

The United States District Court for the Western District of Pennsylvania

was created by an Act of Congress on April 20, 1818.

The court is recognized throughout the nation for its standards of excellence, fairness and professionalism.

U.S. Courthouse
17 South Park Row
Erie, PA 16501

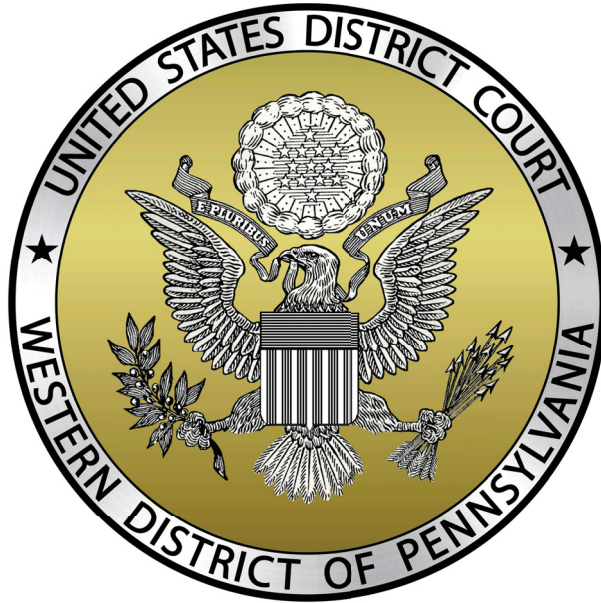
District and Magistrate Judges

Biography & Chambers' Rules / Contact Information

Cercone David Stewart Cercone, Senior District Judge

Baxter Susan Paradise Baxter, District Judge

Lanzillo Richard A. Lanzillo, Magistrate Judge



LOCAL RULES OF COURT

Effective: November 1, 2016

Table of Contents

LOCAL CIVIL RULES OF COURT

LCvR 1.1 SCOPE OF RULES.....	1
A. Title and Citation	1
B. Scope of Rules	1
C. Relationship to Prior Rules; Actions Pending on Effective Date.....	1
D. Rule of Construction and Definitions	1
LCvR 1.2 RULES AVAILABLE ON WEBSITE OR IN OFFICE OF CLERK OF COURT	1
LCvR 3 ASSIGNMENT TO ERIE, JOHNSTOWN OR PITTSBURGH DOCKET	1
LCvR 5.1 GENERAL FORMAT OF PAPERS PRESENTED FOR FILING.....	2
A. Filing and Paper Size	2
B. Lettering	2
C. Printing on One Side	2
D. Page Fasteners.....	2
E. Exhibits to Briefs.....	2
F. Separate Documents	2
G. Exceptions on Motion.....	2
H. Withdrawal of Files	2
I. Exhibits	3
J. Law Enforcement Evidence.....	3
K. Exhibits Retained by Clerk.....	3
L. Hyperlinks	3
1 Electronically filed documents may contain:.....	3
2 Electronically filed documents may not contain in text or footnotes:.....	3
LCvR 5.2 DOCUMENTS TO BE FILED WITH THE CLERK OF COURT.....	4
A. Only Original to be Filed	4
B. Attorney Identification	4
C. No Faxed Documents.....	4
D. Redaction of Personal Identifiers.....	4
1. Social Security Numbers.....	4
2. Names of minor children	4
3. Dates of birth	4
4. Financial account numbers	4
5. Home addresses	4
E. Personal Identifiers Under Seal	5
F. Unredacted Version Retained by Court.....	5
G. Counsel and Parties Responsible	5
H. Leave of Court Required To File Under Seal.....	5
LCvR 5.3 PROOF OF SERVICE WHEN SERVICE IS REQUIRED BY FED. R. CIV. P. 5	5

LCvR 5.4 FILING OF DISCOVERY MATERIALS	6
A. No Filing of Discovery Materials	6
B. Discovery Materials Necessary to Decide a Motion	6
C. Necessary Portions to be Filed With Clerk of Court	6
D. Custodian of Discovery Materials	6
LCvR 5.5 FILING OF DOCUMENTS BY ELECTRONIC MEANS	6
LCvR 5.6 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS	6
LCvR 7 MOTION PRACTICE AND STIPULATIONS	6
A. Motions Filed in Actions Pending in this Court	6
B. Motions Not Filed in Actions Pending in this Court.....	7
C. Discovery Motions	7
D. Proposed Order of Court	7
E. Stipulations.....	7
LCvR 7.1 DISCLOSURE STATEMENT AND RICO CASE STATEMENT	7
A. Disclosure Statement.	7
1. Disclosure Statement Required	7
2. Purpose of Disclosure Statement.....	7
3. Disclosure Statement Contents.....	7
B. RICO Case Statement.....	8
LCvR 8 PLEADING UNLIQUIDATED DAMAGES	8
LCvR 10 PRO SE CIVIL RIGHTS ACTIONS BY INCARCERATED INDIVIDUALS.....	8
A. Approved Form Required	8
B. Responsibilities; Service.....	8
C. Timing of Appointment of Counsel.....	9
D. Appeal.....	9
E. Powers of a Magistrate Judge	9
LCvR 16.1 PRETRIAL PROCEDURES	10
A. Scheduling and Pretrial Conferences -- Generally	10
B. Scheduling Orders and Case Management	11
1. Initial Scheduling Order	11
2. Additional Topics	11
3. Final Scheduling Order	11
4. Additional Topics	12
5. Requirement to Confer; Scheduling Motion Certificate.....	12
C. Pretrial Statements and Final Pretrial Conference.....	12
D. Procedures Following Disclosure Of Information That May Be Privileged.....	15
LCvR 16.2 ALTERNATIVE DISPUTE RESOLUTION.....	16
A. Effective Date and Application	16
B. Purpose.....	16
C. ADR Options	16
D. ADR Designation.....	17
E. ADR Practices and Procedures	17

LCvR 17.1 MINORS OR INCOMPETENT PERSONS -- COMPROMISE SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION	17
A. Court Approval Required	17
B. Contents of Petition	17
C. Contents of Court Order	17
D. Payment of Funds	18
LCvR 17.2 SETTLEMENT PROCEDURE FOR SEAMAN SUITS	18
A. Court Approval Required	18
B. Contents of Petition	18
C. Seaman to Appear	19
D. Contents of Court Order	19
LCvR 23 CLASS ACTIONS AND COLLECTIVE ACTIONS	19
A. Class Action Information	19
B. Initial Disclosures	20
C. Matters to be Addressed at Initial Scheduling Conference	20
D. Time and Expense Records	20
E. Joint Report of the Parties	20
F. Order Following Pretrial Conference	20
G. Conference Following Class Certification Decision	21
H. Notice to the Class	21
I. Class Settlements	21
J. Collective Actions	21
LCvR 24 NOTICE OF CONSTITUTIONAL QUESTION	22
A. Notification to Court Required	22
B. Failure to Comply Not Waiver	22
LCvR 26.1 DISCOVERY MOTIONS	22
LCvR 26.2 DISCOVERY OF ELECTRONICALLY STORED INFORMATION	23
A. Duty to Investigate	23
B. Designation of Resource Person	23
C. Preparation for Meet and Confer	23
D. Duty to Meet and Confer	23
E. Case Management Conference	23
LCvR 26.3 CERTIFICATION BY SERVING OR FILING ELECTRONIC DOCUMENTS	24
LCvR 30 VIDEOTAPE DEPOSITIONS	24
A. Procedures	24
B. Objections During Deposition	24
LCvR 31 SERVING NOTICES AND WRITTEN QUESTIONS IN ELECTRONIC FORM	25
LCvR 33 SERVING AND RESPONDING TO INTERROGATORIES TO PARTIES IN ELECTRONIC FORM	25
A. Electronic Form	25
B. Definition of Writable Electronic Form	25
C. Hard Copy Form	25

LCvR 34 SERVING AND RESPONDING TO REQUESTS FOR PRODUCTION IN ELECTRONIC FORM	25
A. Electronic Form	25
B. Hard Copy Form.....	26
LCvR 36 SERVING AND RESPONDING TO REQUESTS FOR ADMISSION IN ELECTRONIC FORM	26
A. Electronic Form	26
B. Hard Copy Form.....	26
LCvR 37.1 REFERRAL OF DISCOVERY MOTIONS BY CLERK OF COURT	27
LCvR 37.2 FORM OF DISCOVERY MOTIONS	27
LCvR 40 ASSIGNMENT OF ACTIONS.....	27
A. Civil Action Categories	27
B. Criminal Action Categories	28
C. Assignment of Civil Actions	28
D. Related Actions	28
E. Assignment of Related Actions	29
F. Erie or Johnstown Actions	29
G. No Transfer of Actions	29
LCvR 47 VOIR DIRE OF JURORS	29
A. Examination of Jurors Before Trial.....	29
B. Required Questions to Jurors Collectively	30
C. Required Questions to Each Juror.....	30
D. Jury List.....	30
LCvR 52 FINDINGS BY THE COURT.....	31
LCvR 54 COSTS.....	31
A. Jury Cost Assessment.....	31
B. Taxation of Costs	31
LCvR 56 MOTION FOR SUMMARY JUDGMENT	32
A. Application.....	32
B. Motion Requirements	32
1. A Concise Statement of Material Facts	32
2. Memorandum in Support	32
3. Appendix	32
C. Opposition Requirements.....	32
1. A Responsive Concise Statement.....	33
2. Memorandum in Opposition.....	33
3. Appendix	33
D. Moving Party's Reply to Opposing Party's Submission	33
E. Admission of Material Facts.....	33
LCvR 66 RECEIVERS	33
A. Rule as Exercise of Vested Authority.....	33
B. Inventories.....	33

C. Reports	34
D. Compensation of Receivers and Attorneys.....	34
LCvR 67.1 BONDS AND OTHER SURETIES.....	34
A. By Non-Resident	34
B. By Other Parties	34
C. Qualifications of Surety	34
D. Persons Who May Not Be Sureties	34
LCvR 67.2 DEPOSIT IN COURT	34
A. Investment of Funds by Clerk of Court.....	34
B. Administrative Fee.....	34
C. Motion Required for Deposit Into Interest Account.....	35
D. Court Registry Investment System	35
E. Petition Required for Investment.....	35
F. IRS Regulations Applicable	35
LCvR 67.3 WITHDRAWAL OF A DEPOSIT PURSUANT TO FED. R. CIV. P. 67	35
LCvR 71.A CONDEMNATION OF PROPERTY	36
LCvR 72 MAGISTRATE JUDGES	36
A. Duties under 28 U.S.C. §§ 636(a)(1) and (2).....	36
B. Disposition of Misdemeanor Cases -- 28 U.S.C. § 636(a)(3)	36
C. Nondispositive Pretrial Matters	37
D. Dispositive Pretrial Motions and Prisoner Cases	38
1.....	38
2. Objections to Magistrate Judge's Proposed Findings.....	38
E. Special Master References and Trials by Consent	38
F. Other Duties	39
G. Assignment of Duties of Magistrate Judges.....	40
H. Forfeiture of Collateral in Lieu of Appearance.....	40
LCvR 77 SESSIONS OF COURT	41
LCvR 83.1 FREE PRESS -- FAIR TRIAL PROVISIONS.....	41
A. Release of Information in Civil Actions.....	41
B. Matters on Which Extrajudicial Statements Are Not Precluded.....	42
C. Photography, Recording and Broadcasting	42
LCvR 83.2 ADMISSION TO PRACTICE AND APPEARANCE OF ATTORNEYS AND STUDENTS	43
A. Admission to Practice -- Generally.....	43
1. Roll of Attorneys	43
2. Eligibility; Member in Good Standing	43
3. Procedure For Admission	43
4. Agreements of Attorneys	44
5. Practice in Criminal Branch Prohibited.....	44
B. Pro Hac Vice Admissions	44
C. Appearances and Withdrawals of Appearance	45
1. Appearance -- How entered.....	45

2. Attorney Identification Number.....	45
3. Separate Praecipe Unnecessary	45
4. Withdrawal of Appearance.....	45
D. Student Practice Rule.....	45
1. Purpose.....	45
2. Student Requirements	46
3. Program Requirements.....	46
4. Supervisor Requirements	46
5. Certification of Student, Program and Supervisor	47
6. Activities	48
7. Limitation of Activities	48
LCvR 83.3 RULES OF DISCIPLINARY ENFORCEMENT FOR ATTORNEYS.....	48
A. Introduction	48
1. Responsibility of Court.....	48
2. Adoption of Rules of Professional Conduct.....	48
3. Sanctions for Misconduct.....	49
4. Admission to Practice as Conferring Disciplinary Jurisdiction	49
B. Disciplinary Proceeding	49
1. Reference to Counsel.....	49
2. Recommendation of Counsel.....	49
3. Order to Show Cause	49
4. Hearings.....	50
C. Attorneys Convicted of Crimes	50
1. Immediate Suspension	50
2. Definition of Serious Crime	50
3. Certified Copy of Conviction as Evidence	51
4. Mandatory Reference for Disciplinary Proceeding	51
5. Discretionary Reference for Disciplinary Proceedings.....	51
6. Reinstatement Upon Reversal	51
D. Discipline Imposed by Other Courts	51
1. Notice by Attorney of Public Discipline.....	51
2. Proceedings after Notice of Discipline.....	51
3. Stay of Discipline in Other Jurisdiction	52
4. Reciprocal Discipline	52
5. Conclusive Evidence of Final Adjudication.....	52
6. Appointment of Counsel	52
E. Disbarment on Consent or Resignation	52
1. Automatic Cessation of Right to Practice.....	52
2. Attorney to Notify Clerk of Disbarment.....	53
F. Disbarment on Consent While under Disciplinary Investigation or Prosecution.....	53
1. Consent to Disbarment.....	53
2. Consent Order	53
3. Public Record	53
G. Reinstatement.....	54
1. After Disbarment or Suspension	54
2. Time of Application Following Disbarment	54
3. Hearing on Application.....	54
4. Duty of Counsel	54
5. Deposit for Costs of Proceeding	54
6. Conditions of Reinstatement.....	54

7. Successive Petitions.....	55
H. Service of Papers and Other Notices	55
I. Duties of the Clerk of Court.....	55
1. Filing Certificate of Conviction	55
2. Filing Disciplinary Judgment	55
3. Filing Consent Order.....	55
4. Transmittal of Record to Other Courts	56
5. National Discipline Data Bank.....	56
J. Retention of Control	56
K. Confidentiality.....	56
LCvR 100.1 TRANSFER OF MULTIDISTRICT LITIGATION.....	57
A. Composite Number Assigned.....	57
B. Clerk of Court to Maintain Multidistrict Docket Sheet	57
C. No Separate Appearance Required.....	57
D. Notification of Representing Counsel	57
E. Liaison Counsel to be Designated	57
F. Only Original Documents to be Filed	57
LCvR 100.2 PUBLICATION OF NOTICE OR ADVERTISEMENTS.....	58
LCvR 2241 ACTIONS UNDER 28 U.S.C. § 2241	58
A. Scope.....	58
B. The Petition	58
1. Naming the Respondent.....	58
2. Form.....	58
C. Filing the Petition.....	59
D. The Answer and the Reply	59
1. The Answer	59
2. The Reply	60
E. Powers of a Magistrate Judge	60
F. Applicability of the Federal Rules of Civil Procedure	60
G. Appeals.....	60
H. The Appointment of Counsel	60
LCvR 2254 ACTIONS UNDER 28 U.S.C. § 2254	61
A. Scope.....	61
B. The Petition	61
1. Naming the Respondent.....	61
2. Form.....	61
C. Filing the Petition.....	62
D. Preliminary Review.....	62
E. The Answer and the Reply	63
1. The Answer	63
2. The Reply	64
F. Discovery.....	64
G. Expanding the Record.....	64
H. Evidentiary Hearing	64
I. Second or Successive Petitions.....	64
J. Powers of a Magistrate Judge.....	64
K. Applicability of the Federal Rules of Civil Procedure.....	65

L. Appeals.....	65
M. The Appointment of Counsel.....	65
LCvR 2255 ACTIONS UNDER 28 U.S.C. § 2255	65
A. Scope.....	65
B. The Motion	66
1. Form.....	66
C. Filing and Serving the Motion	67
D. Preliminary Review.....	67
E. The Answer and the Reply	67
1. Order Directing Response	67
2. The Reply	68
F. Discovery.....	68
G. Expanding the Record.....	68
H. Evidentiary Hearing	68
I. Second or Successive Motions	68
J. Powers of a Magistrate Judge.....	68
K. Appeals	68
L. Applicability of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.....	68
M. The Appointment of Counsel.....	68
LOCAL CRIMINAL RULES OF COURT	71
LCrR 1 CITATION AND APPLICABILITY TO <i>PRO SE</i> DEFENDANTS.....	71
LCrR 5 INITIAL APPEARANCE BEFORE MAGISTRATE JUDGE.....	71
A. Opportunity to Consult With Counsel	71
B. Notification of Counsel.....	71
C. Eligibility for Appointed Counsel	71
D. Entry of Appearance.....	71
E. Withdrawal of Appearance.....	71
LCrR 10 ARRAIGNMENTS	71
LCrR 12 PRETRIAL MOTIONS.....	72
A. Timing	72
B. Requirements.....	72
C. Response.....	72
D. Reply Memorandum	72
E. Motion to Extend Time.....	72
LCrR 16 DISCOVERY AND INSPECTION	73
A. Compliance With Fed. R. Crim. P. 16	73
B. Timing	73
C. Exculpatory Evidence	73
D. Voluntary Disclosure	73
E. Obligation to Confer.....	73
F. Status Conference	73
LCrR 23 LAW ENFORCEMENT EVIDENCE.....	73

LCrR 24.1 JURY LIST	74
LCrR 24.2 EXAMINATION OF JURORS BEFORE TRIAL	74
A. Examination of Jurors Before Trial.....	74
B. Required Questions.....	74
C. Questions to Individual Jurors	75
LCrR 24.3 COMMUNICATION WITH A TRIAL JUROR	75
A. During Trial.....	75
B. After Trial.....	75
LCrR 24.4 JUROR NOTE TAKING	75
LCrR 28 INTERPRETERS	76
LCrR 32 PROCEDURE FOR GUIDELINE SENTENCING	76
A. Timing of Sentencing	76
B. Presentence Investigation and Report.....	76
C. Presentence Procedures	76
1. Confidentiality	76
2. Administrative Resolution	76
3. Disclosure of PSR to Court.....	77
4. Objections; Positions of the Parties	77
5. Responses to Objections and Positions.....	77
6. Action on Objections; Addendum.....	77
7. Court's Tentative Findings and Rulings.....	77
8. Supplemental Information and Memoranda	78
9. Additional Information and Memoranda	78
10. Introducing Evidence	78
11. Court Determinations.....	78
D. Judicial Modifications	78
E. Pre-Plea Presentence Investigations and Reports.....	78
F. Revocation of Probation and Supervised Release	78
G. Nondisclosure of Probation Office's Sentencing Recommendation	78
LCrR 41 INSPECTION AND COPYING OF SEIZED PROPERTY	79
LCrR 46 TYPES OF BAIL IN CRIMINAL CASES	79
LCrR 49 ELECTRONIC CASE FILING; SEALING OF DOCUMENTS	79
A. Electronic Case Filing Policies and Procedures.....	79
B. Filing by Electronic Means.....	80
C. Service by Electronic Means	80
D. Filing Under Seal.....	80
E. Provision of Sealed Documents to Opposing Party.....	80
LCrR 57 ASSIGNMENT OF CASES	80
A. Criminal Action Categories	80
B. Assignment of Criminal Cases to District Judges.....	81
C. Related Actions	81

LCrR 58	PROCEDURES FOR MISDEMEANORS AND OTHER PETTY OFFENSES	81
LCrR 83	FREE PRESS -- FAIR TRIAL PROVISIONS	81
A.	Release of Information in Criminal Litigation	81
B.	Release Beyond Public Record	81
C.	Subjects Likely to Be Materially Prejudicial	82
LCrR 83.2	PRO HAC VICE ADMISSIONS	83
	LOCAL BANKRUPTCY APPELLATE RULES OF COURT	85
LBR 8007-2	APPEAL TO THE DISTRICT COURT FROM THE BANKRUPTCY COURT	85
LBR 9015-1	JURY TRIAL IN BANKRUPTCY COURT	86
	APPENDICES TO RULES	87
	APPENDIX LCvR 7.1.A	88
	APPENDIX LCvR 7.1.B	89
	APPENDIX LCvR 16.1.A	92
	Appendix LCvR 16.1.D	97
	APPENDIX LCvR 23.E	99
	Appendix LCvR 26.2.C-CHECKLIST	104
I.	Preservation	104
II.	Resource Person	104
III.	Informal Discovery About Locations of Data and Types of Systems	105
IV.	Proportionality and Costs	105
V.	Search	105
VI.	Phasing	105
VII.	Production	106
VIII.	Privilege	106
IX.	E-Discovery Special Masters and/or E-Mediators	106
X.	Expedited or Limited Discovery	106
	Appendix LCvR 26.2.C-GUIDELINES	107
	APPENDIX LCvR 26.2.E-MODEL ORDER	112

APPENDIX LCvR/LCrR 83.2.A CERTIFICATION	117
APPENDIX LCvR/LCrR 83.2.B-MOTION	118
APPENDIX LCvR/LCrR 83.2.B-AFFIDAVIT	119

LCvR 1.1 SCOPE OF RULES

A. Title and Citation. These rules shall be known as the Local Rules of the United States District Court for the Western District of Pennsylvania. They may be cited as "LCvR."

B. Scope of Rules. These rules shall apply in all proceedings in civil and criminal actions.

C. Relationship to Prior Rules; Actions Pending on Effective Date. These rules supersede all previous rules promulgated by this Court or any Judge of this Court. They shall govern all applicable proceedings brought in this Court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

D. Rule of Construction and Definitions. United States Code, Title 1, Sections 1 to 5, shall, as far as applicable, govern the construction of these rules. Unless the context indicates otherwise, the word "Judge" refers to both District Judges and Magistrate Judges.

LCvR 1.2 RULES AVAILABLE ON WEBSITE OR IN OFFICE OF CLERK OF COURT

Copies of these rules, as amended and with any appendices attached hereto, are available on the Court's website (<http://www.pawd.uscourts.gov>) or in hard copy from the Clerk of Court's office for a reasonable charge to be determined by the Board of Judges. When amendments to these rules are made, notices of such amendments shall be provided on the Court's website, in the legal journals for each county and on the bulletin board in the Clerk of Court's office. When amendments to these rules are proposed, notice of such proposals and of the ability of the public to comment shall be provided on the Court's website, in the legal journals for each county and on the bulletin board in the Clerk of Court's office.

LCvR 3 ASSIGNMENT TO ERIE, JOHNSTOWN OR PITTSBURGH DOCKET

Where it appears from the complaint, petition or other pleading that the claim arose OR any plaintiff or defendant resides in: Crawford, Elk, Erie, Forest, McKean, Venango, or Warren County, the Clerk of Court shall give such complaint, petition or other pleading an Erie number and it shall be placed on the Erie docket. Should it appear from the complaint, petition or other pleading that the claim arose OR any plaintiff or defendant resides in: Bedford, Blair, Cambria, Clearfield or Somerset County, the Clerk of Court shall give such complaint, petition or other pleading a Johnstown number and it shall be placed on the Johnstown docket. All other cases or matters for litigation shall be docketed and processed at Pittsburgh. In the event of a conflict between the Erie and

Johnstown dockets, the Clerk of Court shall place the action on the plaintiff's choice of those two dockets.

LCvR 5.1 GENERAL FORMAT OF PAPERS PRESENTED FOR FILING

A. Filing and Paper Size. In order that the files in the Clerk of Court's office may be kept under the system commonly known as "flat filing," all papers presented to the Court or to the Clerk of Court for filing shall be flat and as thin as feasible. Further, all pleadings and other documents presented for filing to the Court or to the Clerk of Court shall be on 8½ by 11 inch size paper, white in color for scanning purposes and electronic case filing (ECF).

B. Lettering. The lettering or typeface shall be clearly legible and shall not be smaller than 12 point word processing font or, if typewritten, shall not be smaller than pica. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font type and size used in footnotes shall be the same as that used in the body of the brief. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

C. Printing on One Side. The lettering or typeface shall be on only one (1) side of a page.

D. Page Fasteners. All papers and other documents filed in this Court shall be securely fastened with a paper clip, binder clip or rubber band. The use of plastic strips, staples or other such fasteners is prohibited, with the exception that administrative and judicial records may be firmly bound.

E. Exhibits to Briefs. Exhibits to a brief or motion shall accompany the brief or motion, but shall not be attached to or bound with the brief or motion. Exhibits shall be secured separately, using either lettered or numbered separator pages to separate and identify each exhibit. Each exhibit also shall be identified by letter or number on the top right hand corner of the first page of the exhibit. Exhibits in support of a pleading or other paper shall accompany the pleading or other paper but shall not be physically bound thereto. In all instances where more than one exhibit is part of the same filing, there shall be a table of contents for the exhibits.

F. Separate Documents. Each motion and each brief shall be a separate document.

G. Exceptions on Motion. Exceptions to the provisions of this rule may be made only upon motion and for good cause or in the case of papers filed in litigation commenced *in forma pauperis*.

H. Withdrawal of Files. Records and papers on file in the office of the Clerk of Court may be produced pursuant to a subpoena from any federal or state Court, directing their production. Records and papers may be removed from the files only upon order of Court. Whenever records and papers are withdrawn, the

person receiving them shall leave with the Clerk of Court a signed receipt describing the records or papers taken.

I. Exhibits. All exhibits received in evidence, or offered and rejected, upon the hearing of any cause or motion, shall be presented to the deputy clerk, who shall keep the same in custody, unless otherwise ordered by the Court, except that the clerk may without special order permit an official court reporter to withdraw exhibits, by means of a signed descriptive receipt, for the purpose of preparing the transcript.

J. Law Enforcement Evidence. In all cases where money, firearms, narcotics, controlled substances or any matter of contraband is introduced into evidence, such evidence shall be maintained for safekeeping by law enforcement during all times when court is not in session, and at the conclusion of the case. The law enforcement agent will be responsible for its custody if the evidence is required for any purpose thereafter. See *also* LCrR 23.

K. Exhibits Retained by Clerk. Trial exhibits shall be retained by the deputy clerk until it is determined whether an appeal has been taken from a final judgment. In the event of an appeal, exhibits shall be retained by the deputy clerk until disposition of the appeal. Otherwise, they may be reclaimed by counsel for a period of thirty (30) days after which the exhibits may be destroyed by the deputy clerk.

L. Hyperlinks. The use of hyperlinks is permitted but is not required. Because a hyperlink contained in a filing is no more than a convenient mechanism for accessing material cited in the document, a hyperlink reference is extraneous to any filed document and does not make the hyperlinked document part of the court's record.

1 Electronically filed documents may contain:

- (a) Hyperlinks to either Westlaw or Lexis/Nexis for cited legal authority, but hyperlinks to a cited authority may not replace standard citation format. Standard citations must be included in the text of the filed document;
- (b) Hyperlinks to other documents previously filed within the CM/ECF in the Western District of Pennsylvania or from any other federal court; and
- (c) Hyperlinks to other portions of the same document.

2 Electronically filed documents may not contain in text or footnotes:

- (a) Hyperlinks to sealed or restricted documents;
- (b) Hyperlinks to websites not listed in (a); or
- (c) Hyperlinks to audio or video files.

Hyperlinking must comply with the hyperlinking protocol in the [Court's Electronic Case Filing Policies and Procedures](#). Non-conforming documents may be ordered stricken by the Court.

LCvR 5.2 DOCUMENTS TO BE FILED WITH THE CLERK OF COURT

A. Only Original to be Filed. As to any document required or permitted to be filed with the Court in paper form, only the original shall be filed with the Clerk of Court.

B. Attorney Identification. Any document signed by an attorney for filing shall contain under the signature line the name, address, telephone number, fax number, e-mail address (if applicable) and Pennsylvania or other state bar identification number. When listing the bar identification number, the state's postal abbreviation shall be used as a prefix (e.g., PA 12345, NY 246810).

C. No Faxed Documents. Documents shall not be faxed to a Judge without prior leave of Court. Documents shall not be faxed to the Clerk of Court's office, except in the event of a technical failure with the Court's Electronic Case Filing ("ECF") system. "Technical failure" is defined as a malfunction of Court owned/leased hardware, software, and/or telecommunications facility which results in the inability of a Filing User to submit a filing electronically. Technical failure does not include malfunctioning of a Filing User's equipment.

D. Redaction of Personal Identifiers. A filed document in a case (other than a social security case) shall not contain any of the personal data identifiers listed in this rule unless permitted by an order of the Court or unless redacted in conformity with this rule. The personal data identifiers covered by this rule and the required redactions are as follows:

- 1. Social Security Numbers.** If an individual's Social Security Number must be included in a document, only the last four digits of that number shall be used;
- 2. Names of minor children.** If the involvement of a minor child must be mentioned, only that child's initials shall be used;
- 3. Dates of birth.** If an individual's date of birth must be included, only the year shall be used;
- 4. Financial account numbers.** If financial account numbers must be included, only the last four digits shall be used.

Additional personal data identifier in a criminal case document only:

- 5. Home addresses.** If a home address must be included, only the city and state shall be listed.

E. Personal Identifiers Under Seal. A party wishing to file a document containing the personal data identifiers listed above may file in addition to the required redacted document:

1. a sealed and otherwise identical document containing the unredacted personal data identifiers, or
2. a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

F. Unredacted Version Retained by Court. The sealed unredacted version of the document or the sealed reference list shall be retained by the Court as a part of the record.

G. Counsel and Parties Responsible. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk of Court will not review each document for compliance with this rule.

H. Leave of Court Required To File Under Seal. A party wishing to file any document under seal must obtain prior leave of Court for each document that is requested to be filed under seal. A party must file a motion seeking leave to file such documents under seal. Only after obtaining an order of Court granting such a motion will a party be permitted to file a document under seal.

Comment (2016)

LCvR 5.2.H implements the Court's standing Order dated January 27, 2005 (2:05-mc-00045-DWA) *In re Confidentiality and Protective Orders in Civil Matters*, which ordered that effective July 1, 2005, any provision in a Confidentiality Order or Protective Order filed on or after June 30, 2005 that permits the parties to designate documents as confidential documents to be filed with the Court under seal is null and void and that on or after July 1, 2005, parties wishing to file documents under seal must obtain prior leave of Court for each ECF document that is requested to be filed under seal.

LCvR 5.3 PROOF OF SERVICE WHEN SERVICE IS REQUIRED BY FED. R. CIV. P. 5

Except as otherwise provided by these rules, the filing or submission to the Court by a party of any pleading or paper required to be served on the other parties pursuant to Fed. R. Civ. P. 5, shall constitute a representation that a copy thereof has been served upon each of the parties upon whom service is required. No further proof of service is required unless an adverse party raises a question of notice.

LCvR 5.4 FILING OF DISCOVERY MATERIALS

A. No Filing of Discovery Materials. Discovery requests and responses referenced in Fed. R. Civ. P. 5(d) shall not be filed with the office of the Clerk of Court except by order of Court.

B. Discovery Materials Necessary to Decide a Motion. A party making or responding to a motion or seeking relief under the Federal Rules of Civil Procedure shall file only that portion of discovery requests and responses as needed to decide the motion or determine whether relief should be granted.

C. Necessary Portions to be Filed With Clerk of Court. When discovery requests and responses are needed for an appeal, upon an application and order of the Court, or by stipulation of counsel, the necessary portion of the discovery requests and responses shall be filed with the Clerk of Court.

D. Custodian of Discovery Materials. The party serving discovery requests or responses or taking depositions shall retain the original and be custodian of it.

LCvR 5.5 FILING OF DOCUMENTS BY ELECTRONIC MEANS

Except for documents filed by *pro se* litigants, or as otherwise ordered by the Court, documents must be filed, signed and verified by electronic means to the extent and in the manner authorized by the Court's Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LCvR 5.6 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

Documents may be served through the Court's transmission facilities by electronic means to the extent and in the manner authorized by the Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. Transmission of the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LCvR 7 MOTION PRACTICE AND STIPULATIONS

A. Motions Filed in Actions Pending in this Court. Motions in all civil actions pending in this Court shall comply with the applicable Federal Rules of Civil Procedure, the applicable Local Rules, the orders of the assigned Judge and the practices and procedures of the assigned Judge that are posted at the following internet link: <http://www.pawd.uscourts.gov/pages/chamber.htm>.

B. Motions Not Filed in Actions Pending in this Court. All motions of a civil nature that are not filed in a civil action pending in this Court shall comply with the applicable Federal Rules of Civil Procedure and the applicable Local Rules, shall be filed with the Clerk of Court upon payment of any appropriate filing fee, and shall be served on any interested parties. The Court's fee schedule is posted at the following internet link:

<http://www.pawd.uscourts.gov/pages/fee.htm>.

C. Discovery Motions. In addition to the general requirements of this LCvR 7, any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 shall comply with the requirements of LCvR 37.1 and 37.2, and any motion *in limine* shall comply with the requirements of LCvR 16.1.C.4.

D. Proposed Order of Court. All motions shall be accompanied by a proposed order of Court.

E. Stipulations. The parties, without Court approval, may file a stipulation one time which extends for a period not to exceed 45 days from the original due date the time for filing either an answer to a complaint or a motion pursuant to Fed. R. Civ. P. 12.

LCvR 7.1 **DISCLOSURE STATEMENT AND RICO CASE STATEMENT**

A. Disclosure Statement.

1. Disclosure Statement Required. A corporation, association, joint venture, partnership, syndicate, or other similar entity appearing as a party or amicus in any proceeding shall file a Disclosure Statement, at the time of the filing of the initial pleading, or other Court paper on behalf of that party or as otherwise ordered by the Court, identifying all parent companies, subsidiaries, and affiliates that have issued shares or debt securities to the public. In emergency or any other situations where it is impossible or impracticable to file the Disclosure Statement with the initial pleading, or other Court paper, it shall be filed within seven days of the date of the original filing. For the purposes of this rule, "affiliate" shall be a person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified entity; "parent" shall be an affiliate controlling such entity directly, or indirectly through intermediaries; and "subsidiary" shall be an affiliate controlled by such entity directly or indirectly through one or more intermediaries.

2. Purpose of Disclosure Statement. The purpose of this Disclosure Statement is to enable the Judges of this Court to determine the need for recusal pursuant to 28 U.S.C. § 455 or otherwise. Counsel shall have the continuing obligation to amend the Disclosure Statement to reflect relevant changes.

3. Disclosure Statement Contents. The Disclosure Statement shall identify the represented entity's general nature and purpose and if the entity is

unincorporated. The statement shall include the names of any members of the entity that have issued shares or debt securities to the public. No such listing need be made, however, of the names of members of a trade association or professional association. For purposes of this rule, a "trade association" is a continuing association of numerous organizations or individuals operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the membership. The form of the Disclosure Statement is set forth in "Appendix LCvR 7.1.A" to these Rules.

- B. RICO Case Statement.** Any party filing a civil action under 18 U.S.C. §§ 1961-1968 shall file with the complaint, or within fourteen (14) days thereafter, a RICO case statement in the form set forth at "[Appendix LCvR 7.1.B](#)" or in another form as directed by the Court.

LCvR 8 PLEADING UNLIQUIDATED DAMAGES

No party shall set forth in a pleading originally filed with this Court a specific dollar amount of unliquidated damages in a pleading except as may be necessary to invoke the diversity jurisdiction of the Court or to otherwise comply with any rule, statute or regulation which requires that a specific amount in controversy be pled in order to state a claim for relief or to invoke the jurisdiction of the Court.

LCvR 10 PRO SE CIVIL RIGHTS ACTIONS BY INCARCERATED INDIVIDUALS

A. Approved Form Required. All *pro se* civil rights actions filed in this district by incarcerated individuals shall be submitted on the Court approved form supplied by the Clerk of Court. If the plaintiff does not use the Court approved form, the complaint must substantially follow the form. Any complaint that does not utilize or substantially follow the form, or does not comply with the requirements set forth herein, may be returned to the *pro se* petitioner with a copy of the court's standardized form, a statement of reasons for its return and a directive that the prisoner resubmit the claims outlined in the original filing in compliance with the Court's requirements.

A properly filed complaint must:

1. be submitted on the required form;
2. identify each defendant in the caption of the complaint; and
3. be signed by the plaintiff;

If additional pages are needed, they must be neatly written or typed, on one side only, of 8½ by 11 inch paper, white in color for scanning purposes and ECF.

B. Responsibilities; Service. All individuals filing *pro se* civil rights actions assume responsibilities inherent to litigation. Incarcerated individuals are not

relieved of these responsibilities. One important obligation is the service of a properly filed complaint. Failure to comply with the requirements set forth herein may render the service of the complaint impossible and subject to dismissal for failure to prosecute.

To effectuate proper service, a plaintiff must provide:

1. an identical copy of the complaint for each named defendant. It is the plaintiff's responsibility, not that of the Clerk of Court or the Court, to submit these copies;
2. a completed United States Marshals 285 Form for each and every defendant named in the complaint. Additional copies of this form are available either through the United States Marshal's Office or the Clerk of Court;
3. a completed **Notice of Lawsuit and Waiver of Service of Summons** form for each and every defendant named in the complaint who **is not** an employee, or agency of, the federal government sued in his or her official capacity. Additional copies of this form are available through the Office of the Clerk of Court; and
4. a completed **Summons** form for each and every defendant that **is** an employee, or agency of, the federal government, as well as an identical copy of the complaint and a completed summons form for service on the Attorney General of the United States and the United States Attorney for the Western District of Pennsylvania.

C. Timing of Appointment of Counsel. Absent special circumstances, no motions for the appointment of counsel will be granted until after dispositive motions have been resolved.

D. Appeal. The *pro se* plaintiff shall have thirty (30) days to file an appeal with the Third Circuit Court of Appeals from a final decision of the District Court on a dispositive motion. Where it appears that the papers filed by a prisoner show that he had delivered his notice of appeal to the prison authorities within 30 days after the date of judgment from which the appeal is taken, the time for filing the formal notice of appeal shall be extended for a period not to exceed 30 days beyond the time required by Rule 4 of the Federal Rules of Appellate Procedure.

E. Powers of a Magistrate Judge. Within 21 days of commencement of a civil rights proceeding, the plaintiff shall execute and file a "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form, either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. Respondent shall execute and file within 21 days of its appearance a form either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. If all parties do not consent to Magistrate Judge jurisdiction, a District Judge shall be assigned and the Magistrate Judge shall continue to manage the case consistent with 28 U.S.C. § 636.

The "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form is available on this Court's website (www.pawd.uscourts.gov). If a party elects to have the case assigned to a District Judge, the Magistrate Judge shall continue to manage the case by deciding non-dispositive motions and submitting reports and recommendations on the petition and on dispositive motions, unless otherwise directed by the District Judge.

Comment (June 2008)

With regard to LCvR 10.D, examples of final judgments are Court orders that: 1) grant a motion to dismiss, or a motion for judgment on the pleadings or a motion for summary judgment **AND** 2) end all claims against all defendants. If a Court order ends fewer than all claims against all defendants, it generally cannot be appealed to the Third Circuit Court of Appeals until there is a subsequent Court order that ends all of the remaining claims against all of the remaining defendants.

LCvR 16.1 PRETRIAL PROCEDURES

A. Scheduling and Pretrial Conferences -- Generally.

1. There shall be two phases of pretrial scheduling as set forth in LCvR 16.1.B: (1) a discovery phase to be governed by an initial scheduling order; and (2) a post-discovery phase to be governed by a final scheduling order.
2. As soon as practicable but not later than thirty (30) days after the appearance of a defendant, the Court shall enter an order, which may be revised as set forth in LCvR 16.1.A.3 below, setting forth the date and time of an initial scheduling conference and the dates by which the parties shall confer and file the written report required by Fed. R. Civ. P. 26(f), which shall be in the form set forth at "[Appendix LCvR 16.1.A](#)" to these Rules and shall be referred to as the Rule 26(f) Report. Unless the Court finds good cause for delay, the initial scheduling conference shall take place within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared. The Court may defer the initial scheduling conference if a motion that would dispose of all of the claims within the Court's original jurisdiction is pending.
3. The Court may conduct such further conferences as are consistent with the circumstances of the particular case and this Rule, and may revise any prior scheduling order for good cause.
4. Unrepresented parties are subject to the same obligations as those imposed upon attorneys representing a party. All counsel and unrepresented parties shall have sufficient knowledge of the claim asserted, defenses presented, relief sought, and legal issues fairly raised by the pleadings so as to allow for a meaningful discussion of all such matters at each conference.

5. Upon request or *sua sponte*, the Court may permit attendance by telephone of counsel or unrepresented parties at any conference.

6. Scheduling conferences shall not be conducted in any civil action involving Social Security claims, bankruptcy appeals, *habeas corpus*, government collection and prisoner civil rights, unless the Court to whom the case is assigned directs otherwise.

B. Scheduling Orders and Case Management.

1. Initial Scheduling Order. Unless the Court finds good cause for delay, the Court shall issue the initial scheduling order as soon as practicable but no later than at or immediately after the initial scheduling conference. Such conference shall take place within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared. The initial scheduling order shall set forth dates for the following:

- a. the topics identified in Fed. R. Civ. P. 16(b)(3)(A);
- b. completion of fact discovery;
- c. a post-discovery status conference to be held within thirty (30) days after the completion of fact discovery; and
- d. designation, if appropriate, of the case for arbitration, mediation, early neutral evaluation, or appointment of a special master or other special procedure;

2. Additional Topics. The initial scheduling order may also address:

- a. The topics identified in Fed. R. Civ. P. 16(b)(3)(B)(i)-(vii);
- b. Dates for completion of expert discovery, including the dates for expert disclosures required by Fed. R. Civ. P. 26(a)(2) and the dates by which depositions of experts shall be completed;
- c. Such limitations on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs; and
- d. The date to file dispositive motions at an early stage of the proceedings (i.e., before completion of fact discovery or submission of experts' reports).

3. Final Scheduling Order. At the post-discovery status conference or as soon thereafter as practicable, the Court shall enter a final scheduling order that sets forth dates for the following:

- a. Filing dispositive motions and responses thereto;
- b. Filing motions *in limine* and motions to challenge the qualifications of any proposed expert witness and/or the substance of such expert's testimony;
- c. Filing pretrial statements required by LCvR 16.1.C;
- d. Further conferences before trial including the final pretrial conference.

4. Additional Topics. The final scheduling order may also include:

- a. The presumptive trial date; and
- b. Any other matters appropriate in the circumstances of the case.

5. Requirement to Confer; Scheduling Motion Certificate. Before filing a motion to modify any scheduling order, counsel or an unrepresented party shall confer with all other counsel and unrepresented parties in an effort to reach agreement on the proposed modification. Unless a motion to modify the scheduling order is filed jointly by all parties, any motion to modify shall be accompanied by a certificate of the movant denominated a Scheduling Motion Certificate stating that all parties have conferred with regard to the proposed modification and stating whether all parties consent thereto.

C. Pretrial Statements and Final Pretrial Conference.

1. By the date specified in the Court's scheduling order, which generally will be no sooner than 30 days after the close of discovery (including expert discovery), counsel for the plaintiff or an unrepresented plaintiff shall file and serve a pretrial statement. The pretrial statement shall include:

- a. a brief narrative statement of the material facts that will be offered at trial;
- b. a statement of all damages claimed, including the amount and the method of calculation of all economic damages;
- c. the name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises, and identifying each witness as a liability and/or damage witness;
- d. the designation of those witnesses whose testimony is expected to be presented by means of a deposition and the designation of the portion of each deposition transcript (by page and line number) to be presented if already deposed (and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony);

- e.** an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those that the party expects to offer and those that the party may offer if the need arises and assigning an exhibit number to those that the party expects to offer;
 - f.** a list of legal issues that the party believes should be addressed at the final pretrial conference;
 - g.** copies of all expert disclosures that the party made pursuant to Fed. R. Civ. P. 26(a)(2) with respect to expert witnesses identified in the pretrial statement pursuant to LCvR 16.1.C.1.c; and
 - h.** copies of all reports containing findings or conclusions of any physician who has treated, examined, or has been consulted in connection with the injuries complained of, and whom a party expects to call as a witness at the trial of the case.
- 2.** Within 30 days of filing of the plaintiff's pretrial statement, counsel for the defendant or an unrepresented defendant shall file a pretrial statement meeting the requirements set forth in LCvR 16.1.C.1, including defenses to the damages claims asserted against the defendant by any party and a statement of all damages claimed by the defendant in connection with a counterclaim, cross-claim or third party claim, including the amount and the method of calculation of all economic damages.
- 3.** Within 30 days of the filing of the defendant's pretrial statement, counsel for any third-party defendant or an unrepresented third-party defendant shall file a pretrial statement meeting the requirements set forth above for plaintiffs and/or for defendants, as appropriate.
- 4.** Before filing a motion *in limine*, counsel or an unrepresented party shall confer with all other counsel and unrepresented parties in an effort to reach agreement on the issue to be raised by the motion. In the event an agreement is not reached, the motion *in limine* shall be accompanied by a certificate of the movant denominated a Motion *in Limine* Certificate stating that all parties made a reasonable effort to reach agreement on the issue raised by the motion.
- 5.** Following the filing of the pretrial statements, counsel and any unrepresented parties shall meet with the Court at a time fixed by the Court for a final pretrial conference. Prior to and in preparation for the conference, counsel and unrepresented parties shall:
 - a.** make available for examination by opposing counsel or opposing unrepresented parties all exhibits identified in the pretrial statement and examine all exhibits made available by opposing counsel or opposing unrepresented parties;

b. confer and determine in a jury case whether counsel and any unrepresented parties can agree that the case shall be tried non-jury. If an agreement is reached, the parties shall report to the Court at the conference. If no agreement is reported, no inquiry shall be made by the Court and no disclosure shall be made by any counsel or unrepresented party identifying the counsel or party who failed to agree; and

c. unless previously filed or otherwise ordered, prepare a motion accompanied by or containing supporting legal authority for presentation at the final pretrial conference on any legal issues that have not been decided.

6. Unless otherwise ordered by the Court, the following shall be done at the final pretrial conference:

a. counsel and any unrepresented party shall indicate on the record whether the exhibits of any other party are agreed to or objected to, and the reason for any objection;

b. motions prepared pursuant to LCvR 16.1.C.5.c shall be presented, accompanied by or containing supporting legal authority;

c. counsel and any unrepresented party shall be prepared to disclose and discuss the evidence to be presented at trial, including (a) any anticipated use of trial technology in the presentation of evidence or in the opening statement or closing argument, and (b) any anticipated presentation of expert testimony and any challenges thereto;

d. counsel and any unrepresented parties shall advise the Court of any depositions for use at trial of experts or unavailable witnesses that they anticipate will or may be taken after the final pretrial conference and the timing of the depositions. Subject to the provisions of Fed. R. Civ. P. 26 and 37 regarding the identification and disclosure of witnesses, absent good cause shown by an objecting party, the deposition shall be permitted on such terms as ordered by the Court. In the event that such deposition will be taken other than by stenographic means, the party taking the deposition shall have the deposition transcribed and the transcript shall be made available for the Court to make rulings on any objections raised during the course of the deposition. Prior to use in the trial, the party offering the testimony shall edit any video recording to reflect the Court's ruling on objections;

e. counsel shall have inquired of their authority to settle and shall have their clients present or available by phone. The Court shall inquire whether counsel have discussed settlement;

f. counsel and any unrepresented party wishing to supplement his or her pretrial statement shall file and serve a motion to do so not

less than seven (7) days before the final pretrial conference, which motion shall be granted in the absence of prejudice to another party;

g. if not previously done, the Court shall schedule the case for trial; and

h. such record shall be made of the conference as the Court orders or as any party may request.

7. Failure to fully disclose in the pretrial statements (or, as permitted by the Court, at or before the final pretrial conference) the substance of the evidence proposed to be offered at trial, may result in the exclusion of that evidence at trial, at a hearing or on a motion unless the parties otherwise agree or the Court orders otherwise. The only exception will be evidence used for impeachment purposes.

8. In the event that the civil action has not been tried within 12 months of the final pretrial conference, the Court upon request of any party shall schedule a status conference to discuss the possibility of settlement and establish a prompt trial date.

D. Procedures Following Disclosure Of Information That May Be Privileged.

1. Unless a party requests otherwise, the following language will be included in the Scheduling Order to aid in the implementation of Fed. R. Evid. 502:

a. The producing party shall promptly notify all receiving parties of the inadvertent production of any material protected by the attorney-client privilege and/or that constitutes trial preparation material as set forth in Fed. R. Civ. P. 26(b)(3). Any receiving party who has reasonable cause to believe that it has received material protected by the attorney-client privilege and/or that constitutes trial preparation material shall promptly notify the producing party.

b. Upon receiving notice of inadvertent production, any receiving party shall immediately retrieve all copies of the inadvertently disclosed material and sequester such material pending a resolution of the producing party's claim either by the Court or by agreement of the parties.

c. If the parties cannot agree as to the resolution of a claim of privilege or a claim of protection as trial preparation material, the producing party may move the Court for a resolution within 30 days of the notice set forth in subparagraph (a). Nothing herein shall be construed to prevent a receiving party from moving the Court for a resolution, but such motion must be made within the 30-day period.

2. As provided in Fed. R. Evid. 502(d), the Court may enter an Order stating that the production of material protected by the attorney-client

privilege and/or that constitutes trial preparation material, regardless of inadvertence, does not result in a waiver of the privilege or protection attaching to said material for purposes of the proceeding pending before the Court or in any other federal or state proceeding. A model Order is located at "[Appendix LCvR 16.1.D.](#)"

Comment (2016)

Regarding LCvR 16.1.C.1 and LCvR 16.1.C.6, courts that have dealt with the issue have split on whether depositions of witnesses for use at trial may be taken after the passing of the discovery deadline. Compare *RLS Assocs., LLC v. United Bank of Kuwait PLC*, 2005 U.S. Dist. LEXIS 3815, 66 Fed. R. Evid. Serv. (CBC) 924 (S.D.N.Y. Mar. 9, 2005) and *Estenfelder v. Gates Corp.*, 199 F.R.D. 351 (D. Colo. 2001) with *Crawford v. United States*, No. 11-cv-666-JED-PJC, 2013 WL 249360 at 4 (N.D. Okla., Jan 23, 2013) and *Integra Lifesciences I, Ltd. v. Merck KgaA*, 190 F.R.D. 556, 1999 U.S. Dist. LEXIS 21170 (S.D. Cal. 1999). As a general matter, (1) a party should not have to depose its own witnesses during discovery, (2) should not have to spend the money to take for-trial depositions until it became likely that a trial would actually occur, and (3) litigants are entitled to present their relevant and admissible evidence at trial. Accordingly, the Local Rule addresses the issue in the context of the pre-trial conference by requiring the parties and the Court to set a time, after the filing of the pre-trial statements and before trial within which depositions for use at trial may be taken. In addition, assuming the witness was properly disclosed under Fed. R. Civ. P. 26, the Local Rule places the burden on a party opposing the taking of a deposition for use at trial to show good cause why any such deposition should not be permitted.

LCvR 16.2 ALTERNATIVE DISPUTE RESOLUTION

A. Effective Date and Application. LCvR 16.2 shall govern all actions as the Board of Judges shall determine, from time to time, commenced on or after June 1, 2006, with the exception of Social Security cases and cases in which a prisoner is a party. Cases subject to LCvR 16.2 also remain subject to the other Local Rules of the Court.

B. Purpose. The Court recognizes that full, formal litigation of claims can impose large economic burdens on parties and can delay resolution of disputes for considerable periods. The Court also recognizes that an alternative dispute resolution ("ADR") procedure can improve the quality of justice by improving the parties' understanding of their case and their satisfaction with the process and the result. The Court adopts LCvR 16.2 to make available to litigants a broad range of Court-sponsored ADR processes to provide quicker, less expensive and potentially more satisfying alternatives to continuing litigation without impairing the quality of justice or the right to trial. The Court offers diverse ADR services to enable parties to pursue the ADR process that promises to deliver the greatest benefits to their particular case. In administering these Local ADR Rules and the ADR program, the Court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

C. ADR Options. The Court-sponsored ADR options for cases include:

1. Mediation

2. Early Neutral Evaluation
3. Arbitration

D. ADR Designation. At the Rule 26(f) "meet and confer" conference, the parties are required to discuss and, if possible, stipulate to an ADR process for that case. The Rule 26(f) written report shall (1) designate the specific ADR process that the parties have selected, (2) specify the time frame within which the ADR process will be completed, and (3) set forth any other information the parties would like the Court to know regarding their ADR designation. The parties shall use the form provided by the Court. When litigants have not stipulated to an ADR process before the Scheduling Conference contemplated by LCvR 16.1, the assigned Judge will discuss the ADR options with counsel and unrepresented parties at that conference. If the parties cannot agree on a process before the end of the Scheduling Conference, the Judge will make an appropriate determination and/or selection for the parties.

E. ADR Practices and Procedures. The ADR process is governed by the ADR Policies and Procedures, as adopted by the Board of Judges for the United States District Court for the Western District of Pennsylvania, which sets forth specific and more detailed information regarding the ADR process, and which can be accessed either on the Court's official website (www.pawd.uscourts.gov) or from the Clerk of Court.

LCvR 17.1 MINORS OR INCOMPETENT PERSONS -- COMPROMISE SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION

A. Court Approval Required. No action to which a minor is a party shall be compromised, settled, discontinued or dismissed except after approval by the Court pursuant to a petition presented by the guardian of the minor or the natural guardian of the minor, such as the circumstances might require.

B. Contents of Petition. In all such cases, the minor's attorney shall file with the Clerk of Court, as part of the record, a petition containing (1) a statement of the nature of the evidence relied on to show liability, (2) the elements of damage, (3) a statement of the services rendered by counsel, (4) the expenses incurred or to be incurred and (5) the amount of fees requested. The petition shall contain written statements of minor's attending physicians, setting forth the nature of the injuries and the extent of recovery. If required by the Judge, such statements of attending physicians shall be in affidavit form. The petition shall be verified by the affidavit of the minor's counsel. In claims for property damage, the extent of the damage shall be described and the statement shall be supported by the affidavit of the person who appraised the damage or made the repairs.

C. Contents of Court Order. When a compromise or settlement has been so approved by the Court, or when a judgment has been entered upon a verdict or by agreement, the Court, upon petition by the guardian or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the Court may make such order as it deems proper fixing counsel fees and other proper expenses. The

Court shall then order the balance of the fund to be paid to the guardian of the estate of the minor qualified to receive the fund except that if the amount payable to the minor does not exceed the sum of one hundred thousand dollars (\$100,000.00), the Court may order the monies deposited in a federally insured bank or savings and loan in an account to be marked "not to be withdrawn until majority has been attained or further order of Court." If the amount of anticipated interest would cause the account to exceed \$100,000.00, then the Court may order the deposit to be made in two or more savings institutions. If the minor has no guardian of his or her estate and the balance does not exceed ten thousand dollars (\$10,000.00), the Court on its own motion or upon petition of any person entitled to apply for the appointment of a guardian for the minor may authorize the amount of the judgment to be paid to the guardian of the person, the natural guardian, the person by whom the minor is maintained, or the minor.

D. Payment of Funds. When a judgment has been entered in favor of a minor plaintiff and no petition has been filed under the provision of Subparagraph C of this rule, the amount of the judgment shall be paid only to a guardian of the estate of the minor qualified to receive the fund. If the minor has no such guardian and the judgment does not exceed ten thousand dollars (\$10,000.00), the Court on its own motion or upon petition of any person entitled to apply for the appointment of a guardian for the minor may authorize the amount of the judgment to be paid to the guardian of the person, the natural guardian, the person by whom the minor is maintained, or the minor.

LCvR 17.2 SETTLEMENT PROCEDURE FOR SEAMAN SUITS

A. Court Approval Required. No suit in admiralty or civil action to which a seaman is a party shall be compromised, settled, discontinued or amicably or voluntarily dismissed except after approval by the Court pursuant to a petition presented by the seaman's attorney and upon payment to the Clerk of Court of the filing fee.

B. Contents of Petition. In all such cases, the seaman's attorney shall file with the Clerk of Court, as part of the record, a petition containing:

1. a statement of the essential facts relating to liability;
2. the elements of claimed damage, including a statement of amounts already paid to or on behalf of the seaman;
3. a statement of services rendered by counsel;
4. the expenses incurred or to be incurred by counsel; and
5. the amount of fees and expenses requested by counsel.

The petition shall also include copies of written statements of those physicians who have treated or examined the seaman setting forth the nature of the injuries and the extent of recovery and a copy of the release, if any, signed or to be signed by the seaman. The petition shall be verified by the seaman's attorney.

C. Seaman to Appear. No such compromise, settlement, discontinuance or dismissal shall be approved by the Court unless the seaman appears in open Court before the Judge to whom the petition is presented. At such time, the Court shall examine the seaman under oath in order to insure that the seaman's rights are fully protected and that he or she comprehends the nature of the action being taken by him or her and on his or her behalf before such petition and release shall be approved and order entered thereon.

D. Contents of Court Order. When a compromise or settlement has been so approved by the Court, or when a judgment has been entered on a verdict or by agreement, the Court, upon petition filed by the seaman's counsel, shall make an order approving or disapproving the agreement entered into by the attorney and the seaman for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the Court may make such order as it deems proper, fixing counsel fees and other proper expenses. The petition to be filed by counsel for the seaman in those instances where a judgment has been entered need only contain a statement of those matters referred to in LCvR 17.2.B.1-.5. The Court shall then order the balance of the fund to be paid to the seaman unless he or she be a minor or an incompetent, in which case the Court shall order the balance of the fund to be paid to a guardian of the estate of the seaman qualified to receive the fund.

LCvR 23 CLASS ACTIONS AND COLLECTIVE ACTIONS

The following procedures will govern class action and collective action proceedings in this district, except as otherwise provided in applicable federal statutes.

A. Class Action Information.

1. The caption of the complaint in any action sought to be maintained as a class action shall include in the legend "Complaint-Class Action."
2. If not included in the Complaint, a statement shall be filed with the Complaint under a separate heading styled "Class Action Statement," which shall contain the following information:
 - a. the proposed definition of the alleged class; and
 - b. information relating to the class action, including:
 - i. the size (or approximate size) of the alleged class;
 - ii. the alleged questions of law or fact claimed to be common to the class;
 - iii. the basis upon which the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

iv. the basis upon which the representative parties will fairly and adequately protect the interests of the class.

B. Initial Disclosures. For any action sought to be maintained as a class action, the initial disclosures provided by all parties pursuant to Fed. R. Civ. P. 26(a)(1) shall include disclosures regarding the class certification allegations and any defenses thereto.

C. Matters to be Addressed at Initial Scheduling Conference (hereafter "Pretrial Conference"). In addition to the requirements of Fed. R. Civ. P. 16, with respect to any case in which class claims are alleged, the parties should be prepared to address the following topics at the Pretrial Conference:

1. the timing of the filing of a motion for class certification;
2. the appointment of interim class counsel;
3. the scope of any discovery, including any discovery of Electronically Stored Information consistent with the provisions of LCvR 26.2, necessary for resolution of any class certification motion;
4. the briefing schedule; and
5. the timing of and plan for any methods for alternative dispute resolution to be utilized.

D. Time and Expense Records. Anyone seeking Court approval for payment for legal services rendered or costs advanced in a class action will maintain contemporaneous time and expense records. Upon request of Lead Class Counsel, time and expense records will be provided to that counsel or its designee on a periodic basis. The Court will inform counsel of any specific requirements that it has regarding record keeping at the Pretrial Conference.

E. Joint Report of the Parties. At least seven (7) days prior to the Pretrial Conference, the parties shall submit a "Joint Report of the Parties and Proposed Scheduling and Discovery Order -- Class Action" setting forth their respective positions on the timing and scope of class certification discovery, the filing of a motion for class certification, and the appointment of class counsel. A form "Joint Report of the Parties and Proposed Scheduling and Discovery Order -- Class Action" is available. See "[Appendix LCvR 23.E](#)." This is in lieu of the Fed. R. Civ. P. 26(f) Report. To the extent appropriate given the facts of the case, the parties are encouraged to stipulate to any facts regarding the approximate size and definition of the class, the qualifications of proposed class counsel, and any other matters relevant to the findings to be made by the Court under Fed. R. Civ. P. 23.

F. Order Following Pretrial Conference. After the Pretrial Conference, the Court will enter an order addressing the matters discussed at the Pretrial Conference. The Court may require the parties to draft a proposed order.

G. Conference Following Class Certification Decision. After resolution of the motion for class certification, the Court will schedule a conference to discuss how the case will proceed in light of the ruling on class certification. At this conference, the parties should be prepared to discuss the following topics:

1. if a party has sought appeal of the decision pursuant to Fed. R. Civ. P. 23(f), whether or not any party will seek a stay of proceedings before the District Court;
2. disclosures not otherwise provided in initial Fed. R. Civ. P. 26(a)(1) disclosure;
3. the completion of any remaining discovery; and
4. if applicable, a plan of notice.

H. Notice to the Class. If a class is certified and notice is required under either Fed. R. Civ. P. 23 or LCvR 100.2, or otherwise directed by the Court, prior to the conference following the class certification decision, the parties shall meet and make efforts to agree on the text of the proposed class notice, the manner of class notice, and the procedures to be used to identify the class. To the extent the parties cannot agree on these matters, they shall file jointly a proposed plan for class notice and the language on which they do agree. On the matters on which they disagree, the parties may provide briefs to supplement their position.

Once the Court approves a plan of class notice and a form of class notice, the Approved Class Notice shall be posted on the Court's website, in addition to any other notice procedures approved by the Court. Notice to be posted on the Court's website shall contain the following disclaimer:

**CONTACT COUNSEL
IDENTIFIED IN THIS NOTICE IF
YOU HAVE ANY QUESTIONS.
DO NOT CONTACT THE COURT.**

I. Class Settlements. Parties seeking approval of any class settlement, voluntary dismissal, or compromise shall provide the Court with sufficient information for the Court to make findings with respect to the fairness and reasonableness of the settlement to the class.

J. Collective Actions. Civil actions containing Collective Action claims involving a group or groups of multiple plaintiffs who may elect to join or "opt into" the action as plaintiffs, *e.g.*, The Age Discrimination in Employment Act, 29 U.S.C. 621, *et seq.*, or the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*, shall be managed to the extent practicable in accordance with the provisions of LCvR 23, subject to the following:

1. The caption of a Complaint asserting a Collective Action claim shall include in the legend "Complaint -- Collective Action." If not included in the Complaint, a statement shall be filed with the Complaint under a separate

heading styled "Collective Action Statement," which shall contain the following:

- a. the proposed definition of the alleged Collective Action;
 - b. the size (or approximate size) of the alleged Collective Action; and
 - c. the questions of law or fact claimed to be common to the Collective Action.
2. LCvR 23.H shall not apply to Collective Action claims.
 3. If a Complaint seeking class certification of Class Action claims also asserts Collective Action claims, the Class Action claims shall be governed by LCvR 23.

Comment (June 2008)

Counsel should acquaint themselves with the requirements of Fed. R. Civ. P. 23, the accompanying advisory committee notes, and the latest version of the Manual on Complex Litigation with respect to discovery and other practices in class actions.

LCvR 24 NOTICE OF CONSTITUTIONAL QUESTION

A. Notification to Court Required. In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn in question, or in any action, suit or proceeding in which a state or any agency, officer, or employee, thereof is not a party, and in which the constitutionality of any statute of that state affecting the public interest is drawn in question, the party raising the constitutional issue shall notify the Court of the existence of the question either by checking the appropriate box on the civil cover sheet or by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

B. Failure to Comply Not Waiver. Failure to comply with this rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the federal rules or statutes.

LCvR 26.1 DISCOVERY MOTIONS

In addition to the general requirements of LCvR 7.1, any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 shall comply with the requirements of LCvR 37.1 and 37.2.

LCvR 26.2 DISCOVERY OF ELECTRONICALLY STORED INFORMATION

A. Duty to Investigate. Prior to a Fed. R. Civ. P. 26(f) conference, counsel shall:

1. Investigate the client's Electronically Stored Information ("ESI"), such as email, electronic documents, and metadata, and including computer-based and other digital systems, in order to understand how such ESI is stored; how it has been or can be preserved, accessed, retrieved, and produced; and any other issues to be discussed at the Fed. R. Civ. P. 26(f) conference.
2. Identify a person or persons with knowledge about the client's ESI, with the ability to facilitate, through counsel, preservation and discovery of ESI.

B. Designation of Resource Person. In order to facilitate communication and cooperation between the parties and the Court, each party shall, if deemed necessary by agreement or by the Court, designate a single resource person through whom all issues relating to the preservation and production of ESI should be addressed.

C. Preparation for Meet and Confer. Prior to the Fed. R. Civ. P. 26(f) conference, the parties should refer to both the Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in "[Appendix LCvR 26.2.C-CHECKLIST](#)" to these Rules, and the Guidelines for the Discovery of Electronically Stored Information set forth in "[Appendix LCvR 26.2.C-GUIDELINES](#)" to these Rules.

D. Duty to Meet and Confer. At the Fed. R. Civ. P. 26(f) conference, and upon a later request for discovery of ESI, counsel shall meet and confer, and attempt to agree, on the discovery of ESI.

E. Case Management Conference. Prior to the case management conference, the parties shall complete and file a copy of the form Rule 26(f) Report of the Parties set forth in "[Appendix LCvR 16.1.A](#)" to these Rules or the form Rule 26(f) Report (Class Actions) set forth in "[Appendix LCvR 23.E](#)" to these Rules, as applicable. At the direction of the Court, the parties may be required to submit a draft of the Stipulated Order re: Discovery of Electronically Stored Information for Standard Litigation set forth in "[Appendix LCvR 26.2.E-MODEL ORDER](#)" to these Rules. The parties may also choose to file an order under Rule 502(d) such as the model Order set forth in "[Appendix LCvR 16.1.D](#)" to these Rules.

Comment (revised 2016)

1. Regarding LCvR 26.2.B, the resource person must have sufficient familiarity with the party's ESI to meaningfully discuss technical issues and provide reliable information relative to the preservation and production of ESI. The resource person is permitted to, and, in fact, encouraged to, involve persons with technical expertise in these discussions, including the client, client's employee, or a third party. The resource person may be an individual party, a

party's employee, a third party, or a party's attorney, and may be the same person referenced in LCvR 26.2.A.2.

2. Regarding LCvR 26.2.D, the parties have an ongoing obligation to supplement their disclosures. See Fed. R. Civ. P. 26.

3. Detailed information regarding the Court's Electronic Discovery Mediation and Special Master, along with other ESI resources, can be found on the Court's website at <http://www.pawd.uscourts.gov/ed-information>.

LCvR 26.3 CERTIFICATION BY SERVING OR FILING ELECTRONIC DOCUMENTS

Unless actual notice to the contrary is given in writing by the serving party, service under these Local Civil Rules of any electronic document containing an electronic representation of the original signature of any person shall constitute a certification by the server that as of the time of service he or she is in possession of the signer's actual original signature on a hard copy of the electronic document served. Service by a party or any counsel under LCvRs 33, 34 or 36 of responses to interrogatories, requests for production or requests for admission ("Written Discovery") shall constitute a certification by the server of such responses that no alteration has been made to the Written Discovery as originally served upon such party or counsel. The filing with the Court for any purpose by any party or counsel of Written Discovery or responses thereto served in electronic form pursuant to LCvRs 33, 34 and 36 shall constitute the certification by such party or counsel that the content of such electronic document so filed is the same as when it was served or received by the filing party.

LCvR 30 VIDEOTAPE DEPOSITIONS

A. Procedures.

1. Witnesses shall be placed under oath on the video-record.
2. Immediately upon the conclusion of the deposition, the operator shall label the recording by deponent's name, caption of the case, and case number.

B. Objections During Deposition.

1. Evidence objected to shall be taken subject to the objections. All objections shall be noted upon an index listing pertinent videotape reel and videotape recorder counter numbered by the operator, which index shall be retained with the videotape recording.

LCvR 31 SERVING NOTICES AND WRITTEN QUESTIONS IN ELECTRONIC FORM

Any party serving any notice or written questions pursuant to the provisions of Rules 31(a)(3), 31(a)(5) or 31(b) of the Fed. R. Civ. P. may serve such notice or written questions in electronic form.

LCvR 33 SERVING AND RESPONDING TO INTERROGATORIES TO PARTIES IN ELECTRONIC FORM

A. Electronic Form. Any party may, pursuant to Rule 33 of the Fed. R. Civ. P., serve upon any other party interrogatories in Writable Electronic Form (as hereinafter defined) and require that written answers to such interrogatories also be provided in electronic form, except that a responding party shall retain the option to produce business records in the form and manner permitted pursuant to Fed. R. Civ. P. 33(d). Upon request by any party, interrogatories must be served upon that party in Writable Electronic Form. Unless the serving party specifically requests that the written answers be provided in hard-copy form, the responding party shall provide the written answers to such interrogatories in electronic form. Any party responding in electronic form to interrogatories may serve such response in a form that may not be altered.

B. Definition of Writable Electronic Form. "Writable Electronic Form" means a format that allows the recipient to copy or transfer the text of the document into the written answer or written response, or permits the written answer or written response to be typed directly into the document, and thus avoids the need to retype the text.

C. Hard Copy Form. In the event that the parties elect not to use the electronic form for interrogatories or written responses thereto, interrogatories shall be prepared in such a fashion that sufficient space for insertion of the written responses thereto is provided after each interrogatory or sub-section thereof. The original and two (2) copies shall be served upon the party to whom such interrogatories is directed. The responding party shall insert answers on the original interrogatories served upon him or her and shall retain the original and be the custodian of it. If there is not sufficient space on the original for insertion of written responses, the responding party may use and attach supplemental pages for the written responses. In lieu of the foregoing procedure, the responding party may retype each interrogatory with the response to such interrogatory appearing immediately thereafter.

LCvR 34 SERVING AND RESPONDING TO REQUESTS FOR PRODUCTION IN ELECTRONIC FORM

A. Electronic Form. Any party may, pursuant to Rule 34 of the Fed. R. Civ. P., serve upon any other party requests for production in Writable Electronic Form (as defined in LCvR 33.B) and require that written responses thereto also be provided in electronic form, except that a party producing documents or electronically stored information shall produce them in the manner and form as may be permitted or required pursuant to Fed. R. Civ. P. 34(b)(2)(E). Upon

request by any party, requests for production must be served upon the requesting party in Writable Electronic Form. Unless the serving party specifically requests that the written responses be provided in hard-copy form, the responding party shall provide the written responses to such requests for production in electronic form. Any party responding in electronic form to requests for production may serve such written response in a form which may not be altered.

B. Hard Copy Form. In the event that the parties elect not to use the electronic form for requests for production or written responses thereto, requests for production shall be prepared in such a fashion that sufficient space for insertion of the written responses thereto is provided after each request or sub-section thereof. The original and two (2) copies shall be served upon the party to whom such request for production is directed. The responding party shall insert written responses on the original request for production served upon him or her and shall retain the original and be the custodian of it. If there is not sufficient space on the original for insertion of written responses, the responding party may use and attach supplemental pages for the written responses. In lieu of the foregoing procedure, the responding party may retype each request with the written response to each such request appearing immediately thereafter.

LCvR 36

SERVING AND RESPONDING TO REQUESTS FOR ADMISSION IN ELECTRONIC FORM

A. Electronic Form. Any party may, pursuant to Rule 36 of the Fed. R. Civ. P., serve upon any other party requests for admission in Writable Electronic Form (as defined in LCvR 33.B) and require that written answers thereto also be provided in electronic form. Upon request by any party, requests for admission must be served upon the requesting party in Writable Electronic Form. Unless the serving party specifically requests that the written answers be provided in hard-copy form, the responding party shall provide the written answers to such requests for admission in electronic form. Any party responding in electronic form to requests for admission may serve such written response in a form which may not be altered.

B. Hard Copy Form. In the event that the parties elect not to use the electronic form for requests for admission or written responses thereto, requests for admission shall be prepared in such a fashion that sufficient space for insertion of the written responses thereto is provided after each request or sub-section thereof. The original and two (2) copies shall be served upon the party to whom such request for admission is directed. The responding party shall insert written answers on the original request for admission served upon him or her and shall retain the original and be the custodian of it. If there is not sufficient space on the original for insertion of written responses, the responding party may use and attach supplemental pages for the written responses. In lieu of the foregoing procedure, the responding party may retype each request with the written response to each such request appearing immediately thereafter.

LCvR 37.1 REFERRAL OF DISCOVERY MOTIONS BY CLERK OF COURT

All discovery motions shall be referred to the member of the Court to whom the case was assigned for disposition, except in cases where such matters may be required to be submitted to the emergency or miscellaneous judge, or the judge to whom matters may be temporarily referred by the judge to whom the case was assigned.

LCvR 37.2 FORM OF DISCOVERY MOTIONS

Any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 shall include, in the motion itself or in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

LCvR 40 ASSIGNMENT OF ACTIONS

A. Civil Action Categories. All civil actions in the Court shall be divided into the following categories:

1. antitrust and securities cases;
2. labor-management relations;
3. *habeas corpus*;
4. civil rights;
5. patent, copyright, and trademark;
6. eminent domain;
7. all other federal question cases;
8. all personal and property damage tort cases, including maritime, F.E.L.A., Jones Act, motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest;
9. insurance, indemnity, contract, and other diversity cases; or
10. government collection cases (includes *inter alia*, Health & Human Services (formerly Health, Education and Welfare) student loans, Veterans Administration overpayment, Social Security overpayment, enlistment overpayment, Housing & Urban Development loans, General Accounting Office loans, mortgage foreclosures, Small Business Administration loans, civil and coal mine penalties, and reclamation fees).

B. Criminal Action Categories. All criminal cases in this district shall be divided into the following categories:

- 1a. Narcotics and Other Controlled Substances, 1 to 2 Defendants
- 1b. Narcotics and Other Controlled Substances, 3 to 9 Defendants
- 1c. Narcotics and Other Controlled Substances, 10 or more Defendants
- 2a. Fraud and Property Offenses, 1 to 2 Defendants
- 2b. Fraud and Property Offenses, 3 to 9 Defendants
- 2c. Fraud and Property Offenses, 10 or more Defendants
3. Crimes of Violence
4. Sex Offenses
5. Firearms and Explosives
6. Immigration
7. All others

For purposes of determining the appropriate category, the number of defendants in related indictments which are returned during the same grand jury session shall be combined.

See also LCrR 57.A.

C. Assignment of Civil Actions. Each civil action shall be assigned to a Judge who shall have charge of the case. The assignment shall be made by the Clerk of Court from a non-sequential list of all Judges arranged in each of the various categories. Sequences of Judges' names within each category shall be kept secret and no person shall directly or indirectly ascertain or divulge or attempt to ascertain or divulge the name of the Judge to whom any case may be assigned before the assignment is made by the Clerk of Court.

D. Related Actions. At the time of filing any civil or criminal action or entry of appearance or filing of the pleading or motion of any nature by defense counsel, as the case may be, counsel shall indicate on an appropriate form whether the action is related to any other pending or previously terminated actions in this Court. Relatedness shall be determined as follows:

1. all criminal actions arising out of the same criminal transaction or series of transactions are deemed related;
2. civil actions are deemed related when an action filed relates to property included in another action, or involves the same issue of fact, or it grows

out of the same transaction as another action, or involves the validity or infringement of a patent involved in another action; and

3. all *habeas corpus* petitions filed by the same individual shall be deemed related. All *pro se* civil rights actions by the same individual shall be deemed related.

E. Assignment of Related Actions.

1. If the fact of relatedness is indicated on the appropriate form at time of filing, the Clerk of Court shall assign the case to the same Judge to whom the lower numbered related case is assigned, who may reject the assignment if the Judge determines that the cases are not related or the assignment does not otherwise promote the convenience of the parties or witnesses or the just and efficient conduct of the action.

2. If the fact of relatedness is not indicated on the appropriate form at time of filing, after a case is assigned, the assigned Judge may transfer the later-filed case to the Judge who is assigned the lower-numbered related case, (i) *sua sponte*, (ii) upon motion of a party, and/or (iii) upon suggestion of any other Judge in this Court, if the Judge assigned the later-filed case(s) determines that the cases are related or the transfer would promote the convenience of the parties or witnesses or the just and efficient conduct of the action.

F. Erie or Johnstown Actions. All actions qualifying for the Erie or Johnstown calendars shall be assigned to Judges designated by the Court to hear such actions.

G. No Transfer of Actions. Except in the case of death, disability, recusal required or permitted by law or other exceptional circumstances approved by the Chief Judge, no civil action shall be transferred from one Judge to another where:

1. the action has already been transferred from one Judge to another;
2. the action has been pending for more than two years; or
3. there are dispositive motions pending.

LCvR 47 VOIR DIRE OF JURORS

A. Examination of Jurors Before Trial. During the examination of jurors before trial, the Clerk of Court, or the representative of the Clerk of Court conducting such examination, shall state the following to the jurors collectively:

1. the name and county of residence of each of the parties;
2. the nature of the suit; and

3. the caption of the action.

B. Required Questions to Jurors Collectively. The following questions shall be posed to the jurors collectively:

1. Do you know any of the parties?
2. Do you know any of the attorneys in the case? Have they or their firms ever represented you or any members of your immediate family?
3. Do you know anything about this case?
4. Are you, or any member of your immediate family, employees, former employees, or stockholders in any of the corporate parties?

C. Required Questions to Each Juror. The following questions, to the extent the trial judge deems appropriate, shall, *inter alia*, be put to each juror individually:

1. How old are you?
2. Where do you live? How long have you lived there?
3. What is your educational background?
4. What is your present occupation? (If retired, what was your occupation?)
5. Who is your employer? (If retired, who was your employer?)
6. Are you married? If so, what is your spouse's occupation and who is your spouse's employer? (If your spouse is retired, what was his or her occupation and who was his or her employer?)
7. Do you have any (adult) children? If so, how old are they? For whom do they work, and what do they do?
8. Do you own your own home?
9. Do you drive a car?
10. Have you ever been a party to a lawsuit?
11. Any other question, which in the judgment of the trial Judge or the Judge in charge of miscellaneous matters after application being made, shall be deemed proper.

D. Jury List. Members of the bar of this Court shall be permitted to have a copy of each jury list on condition that a receipt be signed with the Clerk of Court at the date of delivery thereof which shall contain as the substance the following certification:

"I hereby certify that I and/or my firm or associates have litigation pending and in connection therewith, I will require a list of jurors. I further acknowledge to have received a copy of said list of jurors from the Clerk of Court and hereby agree that I will not, nor will I permit any person or agency, to call or contact any juror identified on said list at his or her home or any other place, nor will I call or contact any immediate member of said juror's family, which includes his or her spouse, children, mother, father, brother, or sister, in an effort to determine the background of any member of said jury panel for acceptance or rejection of said juror.

Date: _____ " /s/ _____

LCvR 52 FINDINGS BY THE COURT

In all non-jury cases, civil or criminal, the Court may direct suggested findings of fact and conclusions of law to be filed, and require the parties and their counsel to set forth the pages of the record and the exhibit number with specific reference to that part of the exhibit or record which it is contended supports the findings or conclusions.

LCvR 54 COSTS

A. Jury Cost Assessment.

1. Whenever the Court finds, after 14 days notice and a reasonable opportunity to be heard, that any party or lawyer in any civil case before the Court has acted in bad faith, abused the judicial process, or has failed to exercise reasonable diligence in effecting the settlement of such case at the earliest practicable time, the Court may impose upon such party or lawyer the jury costs, including mileage and per diem, resulting therefrom.
2. The Court shall issue a rule to show cause and conduct a hearing of record to inquire into the facts prior to imposing any sanction.

B. Taxation of Costs.

1. Absent extenuating circumstances, the Clerk of Court will tax costs for a prevailing party only after the time for filing an appeal has expired. Generally, costs will not be taxed while an appeal is pending because of the possibility that the judgment may be reversed. However, if a party believes there is a reason why there should be an immediate taxation in a particular case, that party may make a written request for taxation prior to resolution of the appeal.
2. While there is no strict deadline for filing a bill of costs with the Court, a bill of costs must be filed within a reasonable period of time, which should

be no later than 45 days after a final judgment is entered by the District Court. However, if an appeal has been filed, counsel may defer filing a bill of costs until 30 days after the mandate has been filed in the District Court, or after an appeal has been withdrawn.

3. Upon receipt of a bill of costs, the Clerk of Court will issue a schedule for objections and responses.

4. If after a bill of costs is filed the parties resolve the matter between themselves, the parties must immediately notify the Clerk of Court in writing that the bill of costs is being withdrawn or has been resolved.

LCvR 56 MOTION FOR SUMMARY JUDGMENT

A. Application. The procedures that follow shall govern all motions for summary judgment made in civil actions unless the Court, on its own motion, directs otherwise, based on the particular facts and circumstances of the individual action.

B. Motion Requirements. The motion for summary judgment must set forth succinctly, but without argument, the specific grounds upon which the judgment is sought and must be accompanied by the following:

1. A Concise Statement of Material Facts. A separately filed concise statement setting forth the facts essential for the Court to decide the motion for summary judgment, which the moving party contends are **undisputed and material**, including any facts which for purposes of the summary judgment motion only are assumed to be true. The facts set forth in any party's Concise Statement shall be stated in separately numbered paragraphs. A party must cite to a particular pleading, deposition, answer to interrogatory, admission on file or other part of the record supporting the party's statement, acceptance, or denial of the material fact;

2. Memorandum in Support. The supporting memorandum must address applicable law and explain why there are no genuine issues of material fact to be tried and why the moving party is entitled to judgment as a matter of law; and

3. Appendix. Documents referenced in the Concise Statement shall be included in an appendix. Such documents need not be filed in their entirety. Instead, the filing party may extract and highlight the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting, will be adequate.

C. Opposition Requirements. Within 30 days of service of the motion for summary judgment, the opposing party shall file:

1. A Responsive Concise Statement. A separately filed concise statement, which responds to each numbered paragraph in the moving party's Concise Statement of Material Facts by:

- a. admitting or denying whether each fact contained in the moving party's Concise Statement of Material Facts is undisputed and/or material;
- b. setting forth the basis for the denial if any fact contained in the moving party's Concise Statement of Material Facts is not admitted in its entirety (as to whether it is undisputed or material), with appropriate reference to the record (See LCvR 56.B.1 for instructions regarding format and annotation); and
- c. setting forth in separately numbered paragraphs any other material facts that are allegedly at issue, and/or that the opposing party asserts are necessary for the Court to determine the motion for summary judgment;

2. Memorandum in Opposition. The memorandum of law in opposition to the motion for summary judgment must address applicable law and explain why there are genuine issues of material fact to be tried and/or why the moving party is not entitled to judgment as a matter of law; and

3. Appendix. Documents referenced in the Responsive Concise Statement shall be included in an appendix. (See LCvR 56.B.3 for instructions regarding the appendix).

D. Moving Party's Reply to Opposing Party's Submission. Within 14 days of service of the opposing party's submission in opposition to the motion for summary judgment, the moving party may reply to the opposing party's submission in the same manner as set forth in LCvR 56.C.

E. Admission of Material Facts. Alleged material facts set forth in the moving party's Concise Statement of Material Facts or in the opposing party's Responsive Concise Statement, which are claimed to be undisputed, will for the purpose of deciding the motion for summary judgment be deemed admitted unless specifically denied or otherwise controverted by a separate concise statement of the opposing party.

LCvR 66

RECEIVERS

A. Rule as Exercise of Vested Authority. In the exercise of the authority vested in the District Courts by Fed. R. Civ. P. 66, this rule is promulgated for the administration of estates by receivers, appointed by the Court, in civil actions.

B. Inventories. Unless the Court otherwise orders, a receiver, as soon as practicable after his or her appointment and not later than thirty (30) days after he or she has taken possession of the estate, shall file an inventory of all the property and assets in his or her possession or in the possession of others who

hold possession as his or her agent, and in a separate schedule an inventory of the property and assets of the estate not reduced to possession by him or her but claimed and held by others.

C. Reports. Within three (3) months after the filing of the inventory, and at regular intervals of three (3) months thereafter until discharged, or at such other times as the Court may direct, the receiver shall file reports of his or her receipts and expenditures and of his or her acts and transactions in an official capacity.

D. Compensation of Receivers and Attorneys. No compensation for services of receivers and attorneys in connection with the administration of an estate shall be ascertained and awarded by the Court until after notice to such persons in interest as the Court may direct. The notice shall state the amount claimed by each applicant.

LCvR 67.1 BONDS AND OTHER SURETIES

A. By Non-Resident. In every action filed by a plaintiff who is not a resident of this district, the defendant, after answer to the complaint, may by petition and for good cause shown, have a rule upon the plaintiff to enter security for costs in such sum, in such manner and within such period of time as shall be determined by order of the Court upon hearing on the rule, all proceedings to stay meanwhile. If security for costs is not entered as ordered, the Court shall dismiss the action.

B. By Other Parties. The Court, on motion, may order any party to file an original bond for costs or additional costs in such an amount and so conditioned as the Court by its order may designate.

C. Qualifications of Surety. Every bond for costs under this rule must have as surety either (1) a cash deposit equal to the amount of the bond or (2) a corporation authorized to act as surety on official bond under 31 U.S.C. § 9304.

D. Persons Who May Not Be Sureties. No clerk, marshal, member of the bar, or other officer of this Court will be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

LCvR 67.2 DEPOSIT IN COURT

A. Investment of Funds by Clerk of Court. The Clerk of Court will invest funds under Fed. R. Civ. P. 67 as soon as the business of his or her office allows.

B. Administrative Fee. All registry invested accounts are subject to an administrative handling fee at a rate established by the Judicial Conference of the United States. The fee will be assessed and funds will be withdrawn from

each invested account in accordance with Judicial Conference directives and this may be accomplished by the authority herein and without further order of Court.

C. Motion Required for Deposit Into Interest Account. The posting party must move the Court to have registry funds deposited into an interest-bearing account, the Court Registry Investment System ("CRIS"), which is administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, and shall be the only investment mechanism authorized. The proposed investment order should be reviewed by the Clerk of Court or his or her financial deputy to insure that all of the required investment information is included. It is the responsibility of the posting party to serve the Clerk of Court or his or her financial deputy with a copy of the signed investment order. In most instances, the office of the Clerk of Court can provide a standard investment order that would satisfy the requirements of the federal rules and these Local Rules.

D. Court Registry Investment System. CRIS is the designated depository for the Court. The Clerk of Court shall, upon an order from the Court, deposit funds subject to Fed. R. Civ. P. 67 into CRIS.

E. Petition Required for Investment. If the attorney for the party on whose behalf the deposit is made desires to invest funds in a manner other than at the designated depository of the Court, and if the investment is in accordance with the requirements of the federal rules, and specifically Fed. R. Civ. P. 67, a petition and proposed order may be presented for the Court's consideration.

F. IRS Regulations Applicable. Registry deposits involving designated or qualified settlement funds may be subject to IRS Regulations that require the appointment of an administrator outside of the Court to handle fiduciary and tax matters. A registry account may be a designated or qualified settlement fund if:

1. there has been a settlement agreement in the case;
2. the Court has entered an order establishing or approving a deposit into the registry as a settlement fund; and
3. the liability resolved by the settlement is of a kind described in 26 U.S.C. § 468B or 26 C.F.R. § 1.468B-1(c).

It is the responsibility of the depositing party to identify any registry deposit intended to be a designated or qualified settlement fund. Depositors should contact the office of the Clerk of Court prior to the deposit of settlement fund monies to insure that proper procedures are followed for the reporting of interest income and the payment of income tax on registry accounts.

LCvR 67.3 WITHDRAWAL OF A DEPOSIT PURSUANT TO FED. R. CIV. P. 67

The Court's order for disbursement of invested registry funds must include the name and address of the payee(s) in addition to the total amount of the principal and interest (if the interest is not known, the order may read "plus interest") which will be disbursed to each payee. In order for the Clerk of Court to comply with

the Internal Revenue Code and the rules thereunder, payees receiving earned interest must provide a W-9 Taxpayer Identification and Certification form to the office of the Clerk of Court prior to disbursement from the invested account. The disbursement order should be reviewed by the Clerk of Court or the financial deputy prior to being signed by the Judge in order to insure that the necessary information is provided.

LCvR 71.A CONDEMNATION OF PROPERTY

When the United States files separate land condemnation actions and concurrently files a single declaration of taking relating to those separate actions, the Clerk of Court is authorized to establish a master file so designated. If a master file is established, the declaration of taking shall be filed, and the filing of the declaration of taking therein shall constitute a filing of the same in each of the actions to which it relates when reference is made thereto in the separate actions.

LCvR 72 MAGISTRATE JUDGES

A. Duties under 28 U.S.C. §§ 636(a)(1) and (2). Each Magistrate Judge appointed by this Court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a)(1) and (2) and may:

1. exercise all the powers and duties conferred or imposed upon United States commissioners or Magistrate Judges by law or the Federal Rules of Criminal Procedure;
2. administer oaths and affirmations, impose conditions of release under 18 U.S.C. § 3142 and take acknowledgments, affidavits, and depositions;
3. conduct removal proceedings and issue warrants of removal in accordance with Fed. R. Crim. P. 40;
4. conduct extradition proceedings, in accordance with 18 U.S.C. § 3184; and
5. supervise proceedings conducted pursuant to letters rogatory, in accordance with 28 U.S.C. § 1782.

B. Disposition of Misdemeanor Cases -- 28 U.S.C. § 636(a)(3).

1. A Magistrate Judge may, upon the express consent of the defendant:
 - a. try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401; and
 - b. dismiss or quash a misdemeanor indictment or information, decide a motion to suppress evidence; and

c. direct the probation service of the Court to conduct a presentence investigation in any misdemeanor case.

2. A Magistrate Judge shall:

a. file the record of proceedings and all other official papers with the Clerk of Court within twenty-one (21) days after disposing of a misdemeanor or, in other cases, after completing his or her assigned duties;

b. transmit immediately to the Clerk of Court all fines collected or collateral forfeited.

3. An appeal from a judgment of a Magistrate Judge having been certified to the Court in accordance with the Rules of Procedure for Trials before Magistrate Judges (18 U.S.C. § 3402), the appellant shall, within fourteen (14) days, serve and submit a brief. The United States Attorney shall serve and submit a reply brief within fourteen (14) days after receipt of a copy of the appellant's brief;

4. In a case involving a petty offense as defined in 18 U.S.C. § 1(3), payment of a fixed sum may be accepted in lieu of appearance and as authorizing the termination of the proceeding;

5. There shall be maintained at the office of the Clerk of Court a list of those petty offenses for which collateral forfeiture may apply and the amounts of said collateral forfeiture. The list shall enumerate those offenses for which collateral forfeiture shall not apply and for which appearance shall be mandatory;

6. Nothing contained in this rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a Magistrate Judge or, upon arrest, taking him or her immediately before a Magistrate Judge;

C. Nondispositive Pretrial Matters.

1. In accordance with 28 U.S.C. § 636(b)(1)(A), a Magistrate Judge may hear and determine any pretrial motion or other pretrial matter, other than those motions specified in Rule 4 of the Rules Governing Section 2254 and Section 2255 Proceedings.

2. Objections to Magistrate Judge's Determination. Any party may object to a Magistrate Judge's determination made under this rule within fourteen (14) days after the date of service of the Magistrate Judge's order, unless a different time is prescribed by the Magistrate Judge or District Judge. Such party shall file with the Clerk of Court, and serve on all parties, written objections which shall specifically designate the order or part thereof objected to and the basis for objection thereto. The opposing party shall be allowed fourteen (14) days after date of service to respond

to the objections. The District Judge assigned to the case shall consider the objections and set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. The District Judge may also reconsider any matter *sua sponte*.

D. Dispositive Pretrial Motions and Prisoner Cases.

1. In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), a Magistrate Judge may hear, conduct such evidentiary hearings as are necessary or appropriate, and submit to a District Judge proposed findings of fact and recommendations for the disposition of:

- a. applications for post-trial relief made by individuals convicted of criminal offenses;
- b. prisoner petitions challenging conditions of confinement; and
- c. motions for injunctive relief (including temporary restraining orders and preliminary injunctions), for judgment on the pleadings, for summary judgment, to dismiss or permit the maintenance of a class action, to dismiss for failure to state a claim upon which relief may be granted, to involuntarily dismiss an action, for judicial review of administrative determinations, and for review of default judgments.

2. Objections to Magistrate Judge's Proposed Findings. Any party may object to the Magistrate Judge's proposed findings, recommendations or report under this rule within fourteen (14) days after date of service. Such party shall file with the Clerk of Court, and serve on all parties, written objections which shall specifically identify the portions of the proposed, recommendations or report to which objection is made and the basis for such objections. Such party may be ordered to file with the Clerk of Court a transcript of the specific portions of any evidentiary proceedings to which objection is made. The opposing party shall be allowed fourteen (14) days after date of service to respond to the objections. A District Judge shall make a *de novo* determination of those portions to which objection is made and may accept, reject or modify in whole or in part, the findings and recommendations made by the Magistrate Judge. The District Judge, however, need not conduct a new hearing and may consider the record developed before the Magistrate Judge, making his or her own determination on the basis of that record, or recommit the matter to the Magistrate Judge with instructions.

E. Special Master References and Trials by Consent.

1. A Magistrate Judge may serve as a special master subject to the procedures and limitations of 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53.
2. Where the parties consent, a Magistrate Judge may serve as a special master in any civil case without regard to the provisions of Fed. R. Civ. P. 53(b).

3. The Magistrate Judges may, upon consent of the parties, conduct any and all proceedings in a jury or non-jury civil matter and order the entry of judgment in accordance with 28 U.S.C. § 636(c).

F. Other Duties. A Magistrate Judge is also authorized to:

1. exercise general supervision of the civil and criminal calendars of the Court, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the Judges;
2. conduct pretrial conferences, settlement conferences, omnibus hearings and related pretrial proceedings;
3. conduct arraignments in cases not triable by the Magistrate Judge to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or *nolo contendere* and ordering a presentence report in appropriate cases;
4. receive grand jury returns in accordance with Fed. R. Crim. P. 6(f), issue bench warrants and enter orders sealing the record in accordance with Fed. R. Crim. P. 6(e), 6(f) and 9(a);
5. conduct *voir dire* and select petit juries for the Court;
6. accept petit jury verdicts in civil cases in the absence of a District Judge;
7. conduct necessary proceedings leading to the potential revocation of probation;
8. issue subpoenas, writs of *habeas corpus ad testificandum* or *habeas corpus ad prosequendum*, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for Court proceedings;
9. order the exoneration or forfeiture of bonds;
10. conduct proceedings for the collection of civil penalties of not more than \$200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 484(d);
11. conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;
12. review petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act;
13. approve deferred prosecution agreements in felony cases pending before the Magistrate Judge in which no indictment or information has been filed;

14. issue administrative inspection warrants and other compulsory process sought by administrative agencies of the United States; and

15. perform any additional duty as is not inconsistent with the Constitution and laws of the United States.

G. Assignment of Duties of Magistrate Judges. The Clerk of Court will assign each non-prisoner civil action to a District Judge or a Magistrate Judge by automated random selection such that a Magistrate Judge will be assigned a case, in the first instance, approximately one-third of the time. All prisoner civil cases and non-death penalty habeas cases will be assigned only to a Magistrate Judge.

In the event the action is assigned to a Magistrate Judge, each party shall execute and file within 21 days of its appearance a form, either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. If a party elects to have the case assigned to a District Judge, the Magistrate Judge shall continue to manage the case by deciding non-dispositive motions and submitting reports and recommendations on dispositive motions, unless otherwise directed by the District Judge. If all parties do not consent to Magistrate Judge jurisdiction, a District Judge shall be assigned and the Magistrate Judge shall continue to manage the case consistent with 28 U.S.C. § 636.

H. Forfeiture of Collateral in Lieu of Appearance.

1. Pursuant to paragraph G(2) of the order of this Court of March 9, 1971, adopting rules for United States Magistrate Judges (LCvR 72.A), this list is established setting forth those petty offenses for which trial appearance shall be mandatory and the amounts of collateral forfeiture which may be acceptable in lieu of appearance.

2. Petty offenses for which trial appearance shall be mandatory:

a. traffic offenses:

i. indictable offenses;

ii. offenses resulting in an accident where one of the following conditions are met:

(a) two or more vehicles are involved;

(b) personal injury has resulted; or

(c) property damage in excess of \$200 has resulted.

iii. operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit producing drug, or permitting another person who is under the influence of

intoxicating liquor or a narcotic or habit producing drug to operate a motor vehicle owned by the defendant or in his or her custody or control;

iv. reckless driving;

v. leaving the scene of an accident;

vi. driving while under suspension or revocation of a driver's license;

vii. driving without being licensed to drive;

viii. exceeding the speed limit by more than 15 miles per hour; or

ix. a second moving traffic offense within a 12-month period, as indicated by a notation on a driver's license.

b. non-traffic offenses:

i. drunkenness; or

ii. disorderly conduct.

3. In all other petty offenses collateral forfeitures may be accepted by the duly authorized representative of the agency in an amount not greater than 25% of the maximum fine established by law for each offense, but in no event less than ten dollars (\$10.00); provided, however, that the enforcing agencies shall file with the Clerk of Court a schedule of collateral forfeitures approved by the Chief Judge. However, in those petty offenses for which the maximum fine established by law is less than ten dollars (\$10.00), collateral forfeitures may be accepted in an amount equal to the maximum fine.

LCvR 77 SESSIONS OF COURT

Sessions of the Court shall be held at Pittsburgh, Erie and Johnstown at such times as may be required to expedite the business of the Court. The Clerk of Court shall post and make available to interested members of the bar, each Judge's tentative schedule of trials, both jury and non-jury, from time to time.

LCvR 83.1 FREE PRESS -- FAIR TRIAL PROVISIONS

A. Release of Information in Civil Actions. A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if there is a substantial likelihood that such extrajudicial statement would materially prejudice such civil action and relates to:

1. evidence regarding the occurrence or transaction involved;
2. the character, credibility, or criminal record of a party, witness, or prospective witness;
3. the performance or results of any examinations or tests or the refusal or failure of a party to submit to such;
4. his or her opinion as to the merits of the claims or defenses of a party except as required by law or administrative rule; or
5. any other matter substantially likely to materially prejudice such civil action.

B. Matters on Which Extrajudicial Statements Are Not Precluded. Nothing in this rule is intended to preclude the issuance of extrajudicial statements made in connection with hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him or her.

C. Photography, Recording and Broadcasting.

1. Except as hereafter provided, all forms, means and manner of taking photographs, recording, broadcasting and televising are prohibited in any hearing room, corridor or stairway leading thereto, on any floor occupied entirely or in part by the United States District Court for the Western District of Pennsylvania, in any United States Courthouse or federal facility, or any other building designated by the United States District Court for the Western District of Pennsylvania as a place for holding Court or other judicial proceeding, whether or not Court is in session.
2. Exceptions:
 - a. Photographs may be taken and radio and television may be transmitted with the voluntary consent of the individual involved in and from the press rooms set aside for the use of members of the press and other communications media.
 - b. Subject to the approval of the presiding Judge, the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings in the Courtrooms of this district will be permitted under the following conditions:
 - i. available light is to be used;
 - ii. only one camera is to be used. The station owning that camera must make a tape available to all stations requesting one;

iii. the camera must remain in one position throughout. It must be in position before the opening of Court and remain there until the Court has recessed;

iv. microphones must be placed in fixed positions and remain there throughout; and

v. camera and microphone personnel shall not move about the Courtroom during the proceeding.

Comment (June 2008)

1. The amended Rule conforms to the standard set forth in *United States v. Wecht*, 484 F.3d 194, 205 (3d Cir. 2007) (exercising "supervisory authority to require that District Courts apply LCvR 83.1 to prohibit only speech that is substantially likely to materially prejudice ongoing criminal proceedings") and to the governing law of professional conduct. Former LCvR 83.1.A-E, governing free press and fair trial issues relating to criminal proceedings, has been moved to the Local Criminal Rules.

2. LCvR 83.1.C includes in the Local Rules the provisions of the standing order dated May 21, 1968.

LCvR 83.2 ADMISSION TO PRACTICE AND APPEARANCE OF ATTORNEYS AND STUDENTS

A. Admission to Practice -- Generally.

1. Roll of Attorneys. The bar of this Court consists of those heretofore and those hereafter admitted to practice before this Court, who have taken the oath prescribed by the rules in force when they were admitted or prescribed by this rule.

2. Eligibility; Member in Good Standing. Any person who is eligible to become a member of the Bar of the Supreme Court of Pennsylvania or who is a member in good standing of the bar of the Supreme Court of Pennsylvania, or a member in good standing of the Supreme Court of the United States, or a member in good standing of any United States District Court, may be admitted to practice before the bar of this Court.

3. Procedure For Admission. No person shall be admitted to practice in this Court as an attorney except on oral motion of a member of the bar of this Court, who shall submit a Certification in the form set forth at "[Appendix LCvR/LCrR 83.2.A Certification](#)". He or she shall, if required, offer satisfactory evidence of his or her moral and professional character, and shall provide the same information set forth in subsection B, below. He or she shall take the following oath or affirmation:

"I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL CONDUCT MYSELF AS AN ATTORNEY AND COUNSELOR OF THIS COURT, UPRIGHTLY AND ACCORDING TO LAW; AND THAT I

WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES.
SO HELP ME GOD."

If admitted, the applicant shall, under the direction of the Clerk of Court, sign the roll of attorneys and pay such fee as shall have been prescribed by the Judicial Conference and by the Court.

4. Agreements of Attorneys. All agreements of attorneys relating to the business of the Court shall be in writing; otherwise, if disputed, they will be considered of no validity.

5. Practice in Criminal Branch Prohibited. No attorney shall be permitted to practice in the criminal branch of the federal law as counsel for any person accused of crime in the United States District Court for the Western District of Pennsylvania where said attorney is serving by appointment or election in any of the following categories in either the state of Pennsylvania or for the United States of America:

- a. district attorney of any county in the Commonwealth of Pennsylvania;
- b. assistant, deputy or special advisor of any district attorney of any county in the Commonwealth of Pennsylvania;
- c. Attorney General of the Commonwealth of Pennsylvania;
- d. assistant, deputy or special advisor of the Attorney General of the Commonwealth of Pennsylvania;
- e. legal counsel for and any assistant or deputy of any agency of the United States government; or
- f. magistrates or justices of the peace of any city, county or state.

B. Pro Hac Vice Admissions. All motions for admission *pro hac vice* must be accompanied by the filing fee. A motion for admission *pro hac vice* must be made by the attorney seeking to be admitted and must be accompanied by an affidavit from the attorney seeking to be admitted *pro hac vice* (the "affiant"). The affidavit must include the affiant's name, law firm affiliation (if any), business address, and bar identification number. The affiant must attest in the affidavit that the affiant is a registered user of ECF in the United States District Court for the Western District of Pennsylvania, that the affiant has read, knows, and understands the Local Rules of Court for the United States District Court for the Western District of Pennsylvania, and that the affiant is a member in good standing of the bar of any state or of any United States District Court. The affidavit must list the bars of any state or of any United States court of which the affiant is a member in good standing. The affiant must attach to the affidavit one current certificate of good standing from the bar or the court in which the affiant primarily practices. The affidavit also must list and explain any previous disciplinary proceedings concerning the affiant's practice of law that resulted in a

non-confidential negative finding or sanction by the disciplinary authority of the bar of any state or any United States court. The Court will not rule on a motion for admission *pro hac vice* that does not include an affidavit containing the information and attestations required by this rule. The forms of the motion for admission *pro hac vice* and accompanying affidavit are set forth in "[Appendix LCvR/LCrR 83.2.B-MOTION](#)," and "[Appendix LCvR/LCrR 83.2.B-AFFIDAVIT](#)."

Comment (February 2013)

The Local Rules of Court for the United States District Court for the Western District of Pennsylvania and instructions for becoming a registered user of ECF in the United States District Court for the Western District of Pennsylvania are available on the Court's website. "***A Declaration pursuant to 28 U.S.C. §1746 in lieu of an affidavit shall be sufficient to comply with the requirements of this Rule.***"

C. Appearances and Withdrawals of Appearance.

- 1. Appearance -- How entered.** In all criminal cases involving privately retained counsel, a notice of appearance of counsel shall be filed at or before the first appearance of counsel.
- 2. Attorney Identification Number.** Any appearance by a Pennsylvania attorney shall contain a Pennsylvania attorney identification number.
- 3. Separate Praecipe Unnecessary.** In a civil action, no separate praecipe for appearance need be filed by an attorney for an original party or for an intervenor. The endorsement of names of attorneys appearing on the first pleading or motion filed by a party shall constitute the entry of appearance of such attorneys. Appearance by other attorneys shall be by praecipe filed with the Clerk of Court.
- 4. Withdrawal of Appearance.** In any civil proceeding, no attorney whose appearance has been entered shall withdraw his or her appearance except upon filing a written motion. The motion must specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.

Comment (February 2013)

A motion for withdrawal of counsel's appearance that sets forth the basis for withdrawal should disclose that basis only in a manner consistent with the applicable provisions of the Pennsylvania Rules of Professional Conduct. See Pa. R. Prof. Conduct 1.16, comment 3.

D. Student Practice Rule.

- 1. Purpose.** This rule is designed to provide law students with clinical instruction in federal litigation, and thereby enhance the competence of lawyers practicing before the United States District Courts.

2. Student Requirements. An eligible student must:

- a. be duly enrolled in a law school accredited by the American Bar Association;
- b. have completed a least three semesters of legal studies, or the equivalent;
- c. be enrolled for credit in a law school clinical program that has been approved by this Court;
- d. be certified by the Dean of the law school, or the Dean's designee, as being of good character, and having sufficient legal ability to fulfill the responsibilities of a legal intern to both the client and this Court;
- e. be certified by this Court to practice pursuant to this rule; and
- f. not accept personal compensation from a client or other source for legal services provided pursuant to this rule.

3. Program Requirements. A law school clinical practice program:

- a. must provide the student with academic and practice advocacy training, utilizing law school faculty or adjunct faculty, including federal government attorneys or private practitioners, for practice supervision;
- b. must grant the student academic credit for satisfactory participation therein;
- c. must be certified by this Court;
- d. must be conducted in such a manner as not to conflict with normal Court schedules;
- e. may accept compensation other than from a client; and
- f. must secure and maintain professional liability insurance for it activities.

4. Supervisor Requirements. A supervisor must:

- a. have faculty or adjunct faculty status at the law school offering the clinical practice program, and must be certified by the Dean of the law school as being of good character, and having sufficient legal ability and adequate training to fulfill the responsibilities of a supervisor;
- b. be admitted to practice before this Court;

- c. be present with the student at all times during Court appearance, and at all other proceedings, including depositions in which testimony is taken;
- d. co-sign all pleadings or other documents filed with this Court;
- e. assume full professional responsibility for the student's guidance in, and for the quality of, any work undertaken by the student pursuant to this rule;
- f. be available for consultation with represented clients;
- g. assist and counsel the student in all activities conducted pursuant to this rule, and review such activities with the student so as to assure the proper practical training of the student and the effective representation of the client; and
- h. be responsible for supplementing oral or written work of the student, where necessary, to ensure the effective representation of the client.

5. Certification of Student, Program and Supervisor.

a. Students.

(1) Certification by the law school Dean and approval by this Court shall be filed with the Clerk of Court, and unless it is sooner withdrawn, shall remain in effect until expiration of 18 months.

(2) Certification to appear in a particular case may be withdrawn at any time, in the discretion of the Court, and without any showing of cause.

b. Program.

(1) Certification of a program by this Court shall be filed with the Clerk of Court and shall remain in effect indefinitely unless withdrawn by the Court.

(2) Certification of a program may be withdrawn by this Court at any time.

c. Supervisor.

(1) Certification of a supervisor must be filed with the Clerk of Court, and shall remain in effect indefinitely unless withdrawn by this Court.

(2) Certification of a supervisor may be withdrawn by the Court at any time.

(3) Certification of a supervisor may be withdrawn by the Dean by mailing notice of such withdrawal to the Clerk of Court.

6. Activities. A certified student, under the personal supervision of the supervisor, as set forth in LCvR 83.2.C.4, may:

a. represent any client including federal, state or local governmental bodies, in any civil or administrative matter, if the supervising lawyer and the client on whose behalf the student is appearing have consented in writing to that appearance; or

b. engage in all activities on behalf of the clients that a licensed attorney may engage in.

7. Limitation of Activities. The Court retains the power to limit a student's participation in a particular case to such activities as the Court deems consistent with the appropriate administration of justice.

Comment (June 2008)

The amended Rule adds headings, modifies the numbering and clarifies and modernizes language in the Rule. More substantively, the amended Rule adds a section on *pro hac vice* admissions. In addition, it permits students to practice before the Court after completing three (as opposed to four) semesters of legal study.

LCvR 83.3 RULES OF DISCIPLINARY ENFORCEMENT FOR ATTORNEYS

A. Introduction.

1. Responsibility of Court. The United States District Court for the Western District of Pennsylvania, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding (*pro hac vice*), promulgates the following rules of Disciplinary Enforcement superseding all of its rules pertaining to disciplinary enforcement heretofore promulgated.

2. Adoption of Rules of Professional Conduct. Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with others, that violate the rules of professional conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The rules of professional conduct adopted by this Court are the rules of professional conduct adopted by the Supreme Court of Pennsylvania, as amended from time to time, except that Rule 3.10 has been specifically deleted as a rule of this Court, and as otherwise provided by specific order of this Court.

3. Sanctions for Misconduct. For misconduct defined in these rules, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

4. Admission to Practice as Conferring Disciplinary Jurisdiction. Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

B. Disciplinary Proceeding.

1. Reference to Counsel. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court shall come to the attention of a District Judge or Magistrate Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, or in the event a petition for reinstatement has been filed by a disciplined attorney, the Chief Judge shall in his or her discretion and with prior agreement of the Disciplinary Board of the Supreme Court of Pennsylvania appoint as counsel attorneys serving in the Office of Disciplinary Counsel of the Disciplinary Board or one or more members of the bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules or in conjunction with such a reinstatement petition, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

2. Recommendation of Counsel. Should such counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which in the judgment of the counsel should be awaited before further action by this Court is considered or for any other valid reason, counsel shall file with this Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.

3. Order to Show Cause. Should such counsel conclude after investigation and review that a formal disciplinary proceeding should be initiated, counsel shall obtain an order of this Court upon a showing of probable cause requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

4. Hearings. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the Chief Judge shall set the matter for prompt hearing before one or more Judges of this Court, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge, or if there are fewer than three Judges eligible to serve or the Chief Judge is the complainant, by the Chief Judge of the Court of Appeals. Where a Judge merely refers a matter and is not involved in the proceeding, he or she shall not be considered a complainant.

All such proceedings shall be conducted by counsel appointed pursuant to LCvR 83.3.B.1 or such other counsel as the Court may appoint for such purpose.

The Judge or Judges to whom a disciplinary proceeding is assigned by the Chief Judge may conduct a further hearing, and/or otherwise take additional testimony, or hear or receive oral or written argument, and shall make a recommendation based thereon to the Board of Judges. The Board, after consideration of the recommendation, shall enter such order as it shall determine by a majority vote of the active Judges in service at the next meeting of the board to be appropriate, including dismissal of the charges, reprimand, suspension for a period of time, disbarment, or such action as may be proper.

C. Attorneys Convicted of Crimes.

1. Immediate Suspension. Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before this Court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, the Chief Judge shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Chief Judge may set aside such order when it appears in the interest of justice so to do upon concurrence of a majority of active Judges in service.

2. Definition of Serious Crime. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

3. Certified Copy of Conviction as Evidence. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

4. Mandatory Reference for Disciplinary Proceeding. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall refer the matter for the institution of a disciplinary proceeding in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

5. Discretionary Reference for Disciplinary Proceedings. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.

6. Reinstatement Upon Reversal. An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

D. Discipline Imposed by Other Courts.

1. Notice by Attorney of Public Discipline. Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of the United States or the District of Columbia, or by a Court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such action.

2. Proceedings after Notice of Discipline. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall forthwith issue a notice directed to the attorney containing:

- a. A copy of the judgment or order from the other Court; and
- b. An order to show cause directing that the attorney inform this Court within thirty (30) days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in LCvR 83.3.D.4 that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

3. Stay of Discipline in Other Jurisdiction. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.

4. Reciprocal Discipline. Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of LCvR 83.3.D.2, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears that:

- a. the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
- b. there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject;
- c. the imposition of the same discipline by this Court would result in grave injustice; or
- d. the misconduct established is deemed by this Court to warrant substantially different discipline.

In the event that an attorney files a timely answer alleging one or more of the elements set forth in LCvR 83.3.D.4, the Chief Judge shall set the matter for prompt hearing before one or more Judges of this Court who may order and conduct a further hearing, or take testimony or hear argument, and make a recommendation to the Board of Judges. The Board, after consideration of the recommendation, shall enter such order, as it shall determine by a majority vote of the active Judges in service at the next meeting of the Board, including dismissal of the charges, reprimand, suspension for a period of time, disbarment, or such action as may be proper.

5. Conclusive Evidence of Final Adjudication. In all other respects, a final adjudication in another Court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purposes of a disciplinary proceeding in this Court.

6. Appointment of Counsel. This Court may at any stage appoint counsel to prosecute the disciplinary proceedings, pursuant to LCvR 83.3.B.I.

E. Disbarment on Consent or Resignation.

1. Automatic Cessation of Right to Practice. Any attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other Court of the United States or the District of Columbia,

or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

2. Attorney to Notify Clerk of Disbarment. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

F. Disbarment on Consent While under Disciplinary Investigation or Prosecution.

1. Consent to Disbarment. Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit stating that the attorney desires to consent to disbarment and that:

- a. the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;
- b. the attorney is aware that there is presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth;
- c. the attorney acknowledges that the material facts so alleged are true; and
- d. the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself or herself.

2. Consent Order. Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

3. Public Record. The Order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

G. Reinstatement.

1. After Disbarment or Suspension. An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by order of this Court.

2. Time of Application Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of this disbarment.

3. Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the Chief Judge of this Court. Upon receipt of the petition, the Chief Judge shall refer the petition to counsel for investigation and recommendation, and shall assign the matter for a hearing, or other appropriate action, before one or more Judges of this Court, provided, however, that if the disciplinary proceeding was predicated upon the complaint of a Judge of this Court, the hearing shall be conducted before a panel of three (3) other Judges of this Court appointed by the Chief Judge, or, if there are fewer than three (3) Judges eligible to serve or the Chief Judge was the complainant, by the Chief Judge of the Court of Appeals. The Judge or Judges assigned to the matter shall schedule a hearing, if necessary, at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

The Judge or Judges shall make a recommendation to the Board of Judges and the Board shall enter an appropriate order, as determined by a majority vote of the active Judges in service at the next meeting of the Board.

4. Duty of Counsel. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

5. Deposit for Costs of Proceeding. Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding.

6. Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him or

her, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditioned, in the discretion of the Judge or Judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

7. Successive Petitions. No petition for reinstatement under this rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

H. Service of Papers and Other Notices. Service of an order to show cause instituting a formal disciplinary proceeding or other papers or notices required by these rules shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address most recently registered by him or her with the Clerk of Court. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address most recently registered with the Clerk of Court; or to counsel or respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding under these rules.

I. Duties of the Clerk of Court.

1. Filing Certificate of Conviction. Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the Clerk of the Court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

2. Filing Disciplinary Judgment. Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another Court, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk of Court shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

3. Filing Consent Order. Upon being informed that an attorney admitted to practice before this Court has been disbarred on consent or resigned in another jurisdiction while an investigation into allegations of misconduct was pending, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order striking the attorney's name from the rolls of those admitted to practice has been filed

with the Court, and, if not, shall promptly obtain a certified or exemplified copy of such judgment or order and file it with the Court.

4. Transmittal of Record to Other Courts. Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of this Court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

5. National Discipline Data Bank. The Clerk of Court shall promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.

J. Retention of Control. Nothing contained in these rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.

K. Confidentiality. All investigations of allegations of misconduct, and disciplinary proceedings authorized by these rules shall be kept confidential until or unless:

1. the Judge or Judges to whom the matter is assigned determine otherwise;
2. the respondent-attorney requests in writing that the matter be public;
3. the investigation or proceeding is predicated on a conviction of the respondent-attorney for a crime; or
4. the Court determines that discipline is appropriate in accordance with LCvR 83.3.B.4.

This rule shall not prohibit counsel, appointed pursuant to LCvR 83.3.B.1 or any member of this Court, from reporting to law enforcement authorities the suspected commission of any criminal offense.

Comment (June 2008)

The amended Rule adds headings, modifies the numbering and clarifies and modernizes language in the Rule. The amendment reorganizes the Rule and clarifies the process whereby allegations of attorney misconduct are investigated and, if appropriate, prosecuted. The amended Rule clarifies that the word "Counsel" refers to a member of the bar of the Court appointed by the Chief Judge to perform the investigation and/or prosecution.

LCvR 100.1 TRANSFER OF MULTIDISTRICT LITIGATION

A. Composite Number Assigned. Whenever the Court consents to the transfer of a group of actions to this district in order to hold coordinated or consolidated pretrial proceedings as set forth in Title 28 U.S.C. § 1407, the group of actions shall be given the composite number previously assigned by the Judicial Panel on Multidistrict Litigation. Individual actions within the group shall be given specific civil action numbers.

B. Clerk of Court to Maintain Multidistrict Docket Sheet. The Clerk of Court shall maintain a multidistrict litigation docket sheet for the group of actions compositely numbered, as well as an individual docket sheet for each separate action. All pleadings, papers, depositions, interrogatories, and other documents or material, relating to two or more actions shall be entered only on the multidistrict litigation docket sheet. If such pleading or document relates to a single action only, it shall be entered on the individual action docket sheet.

C. No Separate Appearance Required. Counsel who entered an appearance in the transferor court prior to the transfer need not enter a separate appearance before this Court.

D. Notification of Representing Counsel. Upon receipt of an order of transfer, attorneys representing litigants in transferred cases shall notify the Clerk of this Court of the names, addresses and telephone numbers of attorneys of record. No litigant may list more than one attorney as its legal representative for the purpose of service.

E. Liaison Counsel to be Designated. Prior to the first pretrial conference, counsel for plaintiffs and for defendants shall designate, subject to the approval of the Court, liaison counsel. Liaison counsel shall be authorized to receive notices on behalf of the parties by whom they have been designated. They shall be responsible for the preparation and transmittal of copies of such notices as they may receive as liaison counsel to each of the attorneys included on the list prepared in accordance with the preceding paragraph.

F. Only Original Documents to be Filed. Unless the Judicial Panel on Multidistrict Litigation or this Court by order specifically otherwise directs for a specific case or group of cases, only the original of all documents shall be filed with the Clerk of this Court; provided, however, upon remand, it shall be the responsibility of the attorneys who filed a given document to furnish an adequate number of copies for transmittal to the transferor Court. The Clerk of Court shall notify counsel of the number of copies needed. The copies shall be furnished within thirty (30) days from the date of notification of remand. Upon receipt of an order of the Judicial Panel transferring or remanding cases, without further order of this Court, the Clerk of Court shall assemble the files, together with their documentation, and forward the files as directed by the Judicial Panel.

LCvR 100.2 PUBLICATION OF NOTICE OR ADVERTISEMENTS

Any notice or advertisement required by law or rule of Court to be published in any newspaper shall be a short analysis, setting forth the general purpose of such notice or advertisement, and shall also be published in the Pittsburgh Legal Journal, Erie County Law Journal, and/or Cambria County Legal Journal which are also designated as the official newspapers for this District or other publications ordered by the Court.

LCvR 2241 ACTIONS UNDER 28 U.S.C. § 2241

A. Scope. These rules shall apply in the United States District Court, Western District of Pennsylvania, in all proceedings initiated by federal prisoners under 28 U.S.C. § 2241. In filings submitted to this Court, these Local Rules shall be cited as "LCvR 2241.____." In addition to these rules, all parties also should consult the applicable provisions of the federal *habeas corpus* statute at 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996.

B. The Petition.

1. Naming the Respondent. If the petitioner is currently serving a sentence imposed by a federal Court and he or she is challenging the execution of his or her sentence, petitioner must name as respondent the warden or custodian of the prison or correctional facility where petitioner is incarcerated.

2. Form.

a. Form of Petitions Required. A petitioner who files a petition seeking relief pursuant to 28 U.S.C. § 2241 may submit his or her petition on the standard form supplied by this Court. If the petitioner does not use the standard form, the petition must substantially follow the standard form supplied by this Court. Petitions that do not utilize the standard form shall contain all of the information required by the standard form. If the petitioner is represented by counsel, Electronic Case Filing (ECF) procedures apply.

b. Content. The petitioner is to state all grounds for relief, provide specific facts supporting each argument, and identify the relief requested. An accompanying memorandum of law is not required but will be accepted by the Clerk of Court at the time the petition is filed.

c. Where to Get the Standard Form. The standard form supplied by this Court for 28 U.S.C. § 2241 petitions can be obtained free of charge from the following sources: (i) this Court's website (www.pawd.uscourts.gov) (FORMS/MANUALS); (ii) this Court's Office of the Clerk of Court upon request; (iii) the Federal Public

Defender's website (<http://paw.fd.org>); or (iv) the Federal Public Defender's Office upon request.

d. Requirements Concerning Filing Format. All filings in 28 U.S.C. § 2241 proceedings must be typed, word-processed or neatly written in ink. All filings must be submitted on paper sized 8½ by 11 inches. No writing or typing shall be made on the back of any filing.

e. Return of Petitions that Do Not Substantially Comply With Local Form Rules. If the form or other initial filing submitted by a *pro se* petitioner does not substantially comply with these Local Rules, the filing may be returned to the *pro se* petitioner with a copy of the Court's standard form, a statement of reasons for its return, and a directive that the petitioner resubmit the claims outlined in the original filing on the Court's form. A petitioner will be given 21 days or as directed by the Court to return his or her filing on the form supplied by this Court. A petitioner may seek leave of Court for an extension of time to return the form.

f. Certificate Required in Death Penalty Case. A petitioner challenging the execution of a sentence of death pursuant to a federal Court judgment shall file with the Clerk of Court a copy of the "Certificate of Death Penalty Case" required by the Third Circuit L.A.R. Misc. 111.2(a). The certificate will include the following information: names, addresses, and telephone numbers of parties and counsel; if set, the proposed date of execution of the sentence; and the emergency nature of the proceedings. Upon docketing, the Clerk of Court will transmit a copy of the certificate, together with a copy of the relevant documents, to the Clerk of the Court of Appeals as required by Third Circuit L.A.R. Misc. 111.2(a).

C. Filing the Petition. The original Section 2241 petition shall be filed with the Clerk of Court. Section 2241 petitions must be accompanied by the applicable filing fee or a motion requesting leave to proceed *in forma pauperis*.

D. The Answer and the Reply.

1. The Answer.

a. When Required. Upon undertaking preliminary review of the motion for relief under 28 U.S.C. § 2241, if the Court finds that there is no basis for dismissal, the Court must enter an order directing the respondent to file an Answer within the time frame permitted by the Court. The respondent is not required to file a Response to the petition unless a Judge so orders. An extension may be granted only for good cause shown.

b. Contents. The Response must address the allegations in the petition. All relevant documents should be attached to the Response as exhibits. In addition, the Response must state

whether any claim in the petition is barred by a failure to exhaust administrative remedies, a procedural bar, or non-retroactivity.

2. The Reply. Although not required, the petitioner may file a Reply (also known as "a Traverse") within 30 days of the date the respondent files its Response. If the petitioner wishes to file a Reply after 30 days have passed, he or she must file a motion requesting to do so and an extension may be granted only for good cause shown.

E. Powers of a Magistrate Judge. Within 21 days of commencement of a Section 2241 proceeding in the Erie or Pittsburgh Divisions, the petitioner shall execute and file a "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form, either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. Respondent shall execute and file within 21 days of its appearance a form either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. If all parties do not consent to Magistrate Judge jurisdiction, a District Judge shall be assigned and the Magistrate Judge shall continue to manage the case consistent with 28 U.S.C. § 636.

The "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form is available on this Court's website (www.pawd.uscourts.gov) (CASE ASSIGNMENT SYSTEM). If a party elects to have the case assigned to a District Judge, the Magistrate Judge shall continue to manage the case by deciding non-dispositive motions and submitting reports and recommendations on the petition and on dispositive motions, unless otherwise directed by the District Judge.

F. Applicability of the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure may be applied to a proceeding under these rules.

G. Appeals.

1. Upon entry of a final decision decided pursuant to 28 U.S.C. § 2241, the Court shall set forth the judgment on a separate document and enter the judgment on the civil docket as required under Fed. R. Civ. P. 58(a)(1).
2. The time for filing a notice of appeal is governed by Fed. R. App. P. 4(a) and such time commences when the Court enters the judgment as described in said Rule.

H. The Appointment of Counsel. There is no constitutional right to counsel in proceedings brought pursuant to 28 U.S.C. § 2241. Financially eligible petitioners may, however, request that counsel be appointed at any time. See 18 U.S.C. § 3006A. The Court may appoint counsel for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A. This Local Rule is not intended to alter or limit the appointment of counsel available pursuant to 18 U.S.C. § 3006A.

Comment (June 2008)

All Section 2241 *habeas* cases in the Erie and Pittsburgh Divisions are assigned to a Magistrate Judge only.

LCvR 2254 ACTIONS UNDER 28 U.S.C. § 2254**A. Scope.**

1. These rules shall apply in the United States District Court, Western District of Pennsylvania, in all proceedings initiated under 28 U.S.C. § 2254. In addition to these rules, all parties also should consult 28 U.S.C. § 2254 and the applicable provisions of the federal *habeas corpus* statute at 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996.

2. These Local Rules are intended to supplement, when necessary, the corresponding rules promulgated by the United States Supreme Court that are entitled "Rules Governing Section 2254 Proceedings for the United States District Courts." Those rules are cited herein as "the Federal 2254 Rules," and a specific Federal 2254 Rule is cited as "Federal 2254 Rule ____." All parties should consult the Federal 2254 Rules at the commencement of litigation to ensure compliance with the Federal 2254 Rules, as supplemented by these Local Rules. In filings submitted to this Court, these Local Rules shall be cited as "LCvR 2254.____."

B. The Petition.

1. **Naming the Respondent.** If the petitioner is currently under a state Court judgment and he or she is challenging the state Court conviction/sentence, he or she must name as respondent the state officer who has custody (i.e., the warden or superintendent). The petitioner must also name as respondent the District Attorney of the county in which he or she was convicted and sentenced. If a petitioner is challenging parole proceedings, he or she must name as respondent the Pennsylvania Board of Probation and Parole.

2. Form.

a. **Form of Petitions Required.** A petitioner who files a petition seeking relief pursuant to 28 U.S.C. § 2254 may submit his or her petition on the standard form supplied by this Court. If the petitioner does not use the standard form, the petition must substantially follow the standard form supplied by this Court or the form attached to the Federal 2254 Rules. Petitions that do not utilize the standard forms shall contain all of the information required by the standard forms. If the petitioner is represented by counsel, the Electronic Case Filing (ECF) procedures apply.

b. Content. The petitioner is to state *all* grounds for relief, provide specific facts supporting each argument, and identify the relief requested. An accompanying memorandum of law is not required but will be accepted by the Clerk of Court at the time the petition is filed.

c. Where to Get the Standard Form. The standard form supplied by this Court for 28 U.S.C. § 2254 petitions can be obtained free of charge from the following sources: (i) this Court's website (www.pawd.uscourts.gov) (FORMS/MANUALS); (ii) this Court's Office of the Clerk of Court upon request; (iii) the Federal Public Defender's website (<http://paw.fd.org>); or (iv) the Federal Public Defender's Office upon request.

d. Requirements Concerning Filing Format. All filings in 28 U.S.C. § 2254 proceedings must be typed, word-processed or neatly written in ink. All filings must be submitted on paper sized 8½ by 11 inches. No writing or typing shall be made on the back of any filing.

e. Return of Petitions that Do Not Substantially Comply With Local Form Rules. If the form or other initial filing submitted by a *pro se* petitioner does not substantially comply with Federal 2254 Rule 2, as supplemented by these Local Rules, the Clerk of Court will accept the petition and file it for the sole purpose of preserving the timeliness. If the Court so directs, the filing may be returned to a *pro se* petitioner with a copy of the Court's standard form, a statement of reasons for its return, and a directive that the petitioner resubmit the claims outlined in the original filing on the Court's form. A petitioner will be given 21 days to return his or her filing on the form supplied by this Court. A petitioner may seek leave of Court for an extension of time to return the form.

f. Certificate Required in Death Penalty Case. A petitioner challenging the imposition of a sentence of death pursuant to a state Court judgment shall file with the Clerk of Court a copy of the "Certificate of Death Penalty Case" required by the Third Circuit L.A.R. Misc. 111.2(a). The certificate will include the following information: names, addresses, and telephone numbers of parties and counsel; if set, the proposed date of execution of the sentence; and the emergency nature of the proceedings. Upon docketing, the Clerk of Court will transmit a copy of the certificate, together with a copy of the relevant documents, to the Clerk of the Court of Appeals as required by Third Circuit L.A.R. Misc. 111.2(a).

C. Filing the Petition. The original Section 2254 petition shall be filed with the Clerk of Court. Section 2254 petitions must be accompanied by the applicable filing fee or for leave to proceed *in forma pauperis*.

D. Preliminary Review. These Local Rules provide no supplement to Federal 2254 Rule 4. Please consult that rule regarding preliminary review.

E. The Answer and the Reply.

1. The Answer.

a. When Required. Upon the directive of the Court, the respondent shall file an Answer to the petition in a form consistent with LCvR 2254.E.1.b-f.

The Respondent may, within the time frame permitted by the Court for the filing of the Answer, file a motion to dismiss if the respondent believes that there is a clear procedural bar to the action, such as the failure to exhaust, statute of limitations, abuse of the writ, and/or successive petitions. A motion to dismiss need not be in a form consistent with LCvR 2254.E.1.b-f. However, such a motion must be accompanied by a certified copy of all relevant state Court records.

b. Contents. The Answer is more than just a responsive pleading that simply admits or denies the allegations contained in the petition. In *habeas* petitions challenging a state conviction/sentence, the Answer shall contain a discussion of the relevant procedural and factual history of all state proceedings, including the state Court trial, direct appeal, and post-conviction proceedings. In *habeas* petitions challenging state parole proceedings, the Answer shall contain the relevant procedural and factual history of the parole proceedings and any state Court proceedings which related to the parole proceedings.

The Answer also shall address procedural issues, the merits of the petition, and shall contain accompanying legal argument and citation to appropriate authorities. All assertions of historical or procedural facts shall be accompanied by citations to the state Court record and shall appear in a style comporting with the designations employed in the index of materials prepared in accordance with LCvR 2254.E.1.d.

c. The respondent must also provide the Court with a certified copy of all relevant transcripts of the state trial and post-conviction proceedings; relevant documentary evidence admitted at those proceedings; briefs submitted by either party to any state Court relating to the matter; opinions and dispositive orders of the state Court or agency; other relevant state Court/agency records; and a certified copy of the docket sheets of all the state Courts/agencies involved. Care should be taken so that all items are photocopied accurately, legibly, and in full.

d. The respondent shall also submit an index of all material described in LCvR 2254.E.1.c. The pages of the records must be sequentially numbered so that citations to those records will identify the exact location where the information appears.

e. If any item identified in LCvR 2254.E.1.c is not available at the time the respondent submits an answer, the respondent shall notify the Court that the item is unavailable. Once the item becomes available, the respondent shall provide a supplemental lodging of the item and index within 21 days of its availability.

f. As set forth in this Court's "Electronic Case Filing Policies and Procedures," in addition to the items that must be filed electronically with the Answer, a respondent shall also submit the original state Court records, or a certified complete copy of those records. The records shall be submitted in the traditional manner on paper. The Clerk of Court shall note on the docket that the original state Court records have been received. State Court records are not part of this Court's permanent case file and will be returned to the appropriate state Court upon final disposition, including appeals.

2. The Reply. Although not required, the petitioner may file a Reply (also known as "a Traverse") within 30 days of the date the respondent files its Answer. If the petitioner wishes to file a Reply after 30 days have passed, he or she must file a motion requesting leave to do so. An extension may be granted only for good cause shown.

F. Discovery. These Local Rules provide no supplement to Federal 2254 Rule 6. Please consult that rule regarding discovery.

G. Expanding the Record. If either party intends to rely on any document(s) that are not a part of the state Court record, such party must include those documents in a separate appendix attached to the pleading by which those documents are being submitted. In addition, that party should address, in its documents filed with the Court, why reliance on those documents is proper under the federal *habeas* statute and Federal 2254 Rule 7.

H. Evidentiary Hearing. These Local Rules provide no supplement to Federal 2254 Rule 8. Please consult that rule regarding evidentiary hearings.

I. Second or Successive Petitions. These Local Rules provide no supplement to Federal 2254 Rule 9. Please consult that rule regarding second or successive petitions.

J. Powers of a Magistrate Judge. Within 21 days of commencement of a Section 2254 proceeding in the Erie or Pittsburgh Divisions, the petitioner shall execute and file a "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form, either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. Respondent shall execute and file within 21 days of its appearance a form either consenting to the jurisdiction of the Magistrate Judge or electing to have the case randomly assigned to a District Judge. If all parties do not consent to Magistrate Judge jurisdiction, a District Judge shall be assigned and the Magistrate Judge shall continue to manage the case consistent with 28 U.S.C. § 636.

The "CONSENT TO JURISDICTION BY UNITED STATES MAGISTRATE JUDGE" form is available on this Court's website (www.pawd.uscourts.gov) (CASE ASSIGNMENT SYSTEM). If a party elects to have the case assigned to a District Judge, the Magistrate Judge shall continue to manage the case by deciding non-dispositive motions and submitting reports and recommendations on the petition and on dispositive motions, unless otherwise directed by the District Judge.

K. Applicability of the Federal Rules of Civil Procedure. These Local Rules provide no supplement to Federal 2254 Rule 11. Please consult that rule regarding applicability of the Federal Rules of Civil Procedure.

L. Appeals.

1. Upon entry of a final decision decided pursuant to 28 U.S.C. § 2254, the Court shall set forth the judgment on a separate document and enter the judgment on the civil docket as required under Fed. R. Civ. P. 58(a)(1).
2. The time for filing a notice of appeal is governed by Fed. R. App. P. 4(a) and such time commences when the Court enters the judgment as described above in said Rule.

M. The Appointment of Counsel. There is no constitutional right to counsel in proceedings brought pursuant to 28 U.S.C. § 2254. Financially eligible petitioners may, however, request that counsel be appointed at any time. See 18 U.S.C. § 3006A. Pursuant to Federal 2254 Rule 6(a), the Court may, if necessary for effective discovery, appoint counsel for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A. Pursuant to Federal 2254 Rule 8(c), if an evidentiary hearing is warranted, the Court must appoint counsel to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A. This Local Rule is not intended to alter or limit the appointment of counsel available pursuant to Federal 2254 Rule 6(a), Federal 2254 Rule 8(c), or 18 U.S.C. § 3006A

Comment (June 2008)

All non-death penalty Section 2254 *habeas* cases in the Erie and Pittsburgh Divisions are assigned to a Magistrate Judge only. (Death penalty Section 2254 *habeas* cases continue to be assigned to District Judges only.)

LCvR 2255 ACTIONS UNDER 28 U.S.C. § 2255

A. Scope.

1. These rules shall apply in the United States District Court, Western District of Pennsylvania, in all proceedings initiated under 28 U.S.C. § 2255. In addition to these rules, all parties also should consult 28 U.S.C. § 2255 and the applicable provisions of the federal *habeas corpus* statute, 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective

Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996.

2. These Local Rules are intended to supplement, when necessary, the corresponding rules promulgated by the United States Supreme Court that are entitled "Rules Governing Section 2255 Proceedings for the United States District Courts." Those rules are cited herein as "the Federal 2255 Rules," and a specific Federal 2255 Rule is cited as "Federal 2255 Rule ____." All parties should consult the Federal 2255 Rules at the commencement of litigation to ensure compliance with the Federal 2255 Rules, as supplemented by these Local Rules. In filings submitted to this Court, these Local Rules shall be cited as "LCvR 2255.____."

B. The Motion.

1. Form.

a. Form of Motions Required. Motions seeking relief under 28 U.S.C. § 2255 filed with this Court may be submitted on the standard form supplied by this Court. If the movant does not use the standard form, the motion must substantially follow the standard form supplied by this Court or the form attached to the Federal 2255 Rules. Motions that do not utilize the standard forms shall contain all of the information required by the standard forms.

b. Content. In the § 2255 motion, the movant is to state *all* grounds for relief, provide specific facts supporting each argument, and identify the relief requested. An accompanying memorandum of law is not required but will be accepted by the Clerk of Court at the time the motion is filed.

c. Where to Get the Standard Form. The standard form supplied by this Court for 28 U.S.C. § 2255 motions can be obtained free of charge from the following sources: (i) this Court's website (www.pawd.uscourts.gov); (ii) this Court's Office of the Clerk of Court upon request; (iii) the Federal Public Defender's website (<http://paw.fd.org>); or (iv) the Federal Public Defender's Office upon request.

d. Requirements Concerning Filing Format. All filings in Section 2255 proceedings must be typed, word-processed or neatly written in ink. All filings must be submitted on paper sized 8½ by 11 inches. No writing or typing shall be made on the back of any filing.

e. Return of Motions that Do Not Substantially Comply With Local Form Rules. If the form or other initial filing submitted by a *pro se* movant does not substantially comply with Federal 2255 Rule 2, as supplemented by these Local Rules, the Clerk of Court will accept the motion and file it for the sole purpose of preserving the timeliness. If the Court so directs, the filing may be returned to a *pro se* movant with a copy of the Court's standard form, a statement

of reasons for its return, and a directive that the movant resubmit the claims outlined in the original filing on the Court's form. A movant will be given 21 days to return his or her filing on the form supplied by this Court. A party may seek leave of Court for an extension of time to return the form.

f. Certificate Required in Death Penalty Case. A movant challenging the imposition of a sentence of death pursuant to a federal Court judgment shall file with the Clerk of Court a copy of the "Certificate of Death Penalty Case" required by the Third Circuit L.A.R. Misc. 111.2(a). The certificate will include the following information: names, addresses, and telephone numbers of parties and counsel; if set, the proposed date of execution of the sentence; and the emergency nature of the proceedings. Upon docketing, the Clerk of Court will transmit a copy of the certificate, together with a copy of the relevant documents, to the Clerk of the Court of Appeals as required by Third Circuit L.A.R. Misc. 111.2(a).

C. Filing and Serving the Motion.

1. The original Section 2255 motion shall be filed with the Office of the Clerk of Court.
2. Upon receiving the filing, the Clerk of Court will docket it at two places. The Clerk of Court will assign a civil case number for the motion, open that civil case, and enter the motion at that civil case number. At the same time, the Clerk of Court will file and docket the motion at the movant's related criminal case number. All filings related to the motion thereafter will be filed and docketed at the criminal case number only, with the exception of the final judgment order. The final judgment order will be filed and docketed at the civil case number only. If the movant is represented by counsel, Electronic Case Filing (ECF) procedures apply.
3. Following docketing of the filing, the Clerk of Court will deliver a copy of the filing to the United States Attorney by way of a Notice of Electronic Filing (NEF) or by hard copy. Although the United States Attorney has no obligation to do so, he or she may elect to respond to the motion prior to receipt of a District Court order directing that a response be filed.

D. Preliminary Review.

These Local Rules provide no supplement to Federal 2255 Rule 4. Please consult that rule regarding preliminary review.

E. The Answer and the Reply.

1. **Order Directing Response.** Upon undertaking preliminary review of the motion for relief under 28 U.S.C. § 2255 (and the United States Attorney's initial response, if any), if the Court finds that there is no basis for dismissal, the Court must enter an order directing the United States Attorney to respond by way of an Answer, motion or other form of

response within 45 days. An extension may be granted only for good cause shown.

2. The Reply. Although not required, the movant may file a Reply within 30 days of the date the United States Attorney files its Answer or other form of response. If the movant wishes to file a Reply after 30 days have passed, he or she must file a motion requesting leave to do so. An extension may be granted only for good cause shown.

F. Discovery. These Local Rules provide no supplement to Federal 2255 Rule 6. Please consult that rule regarding discovery.

G. Expanding the Record. These Local Rules provide no supplement to Federal 2255 Rule 7. Please consult that rule regarding expanding the record.

H. Evidentiary Hearing. Local Rules of Criminal Procedure [insert Local Rule here when that Rule is finalized] apply at a hearing under Federal 2255 Rule 8(d).

I. Second or Successive Motions. These Local Rules provide no supplement to Federal 2255 Rule 9. Please consult that rule regarding second or successive motions.

J. Powers of a Magistrate Judge. Motions filed under 28 U.S.C. § 2255 shall be assigned to District Judges only.

K. Appeals.

1. Upon entry of a final decision on a motion decided pursuant to 28 U.S.C. § 2255, the Court shall set forth the judgment on a separate document and enter the judgment on the civil docket as required under Fed. R. Civ. P. 58(a)(1).

2. The time for filing a notice of appeal is governed by Fed. R. App. P. 4(a) and such time commences when the Court enters the judgment as described above in subsection (a).

L. Applicability of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. These Local Rules provide no supplement to Federal 2255 Rule 12. Please consult that rule regarding the applicability of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

M. The Appointment of Counsel. There is no constitutional right to counsel in proceedings brought under 28 U.S.C. § 2255. Financially eligible movants may, however, request that counsel be appointed at any time. See 18 U.S.C. § 3006A. Pursuant to Federal 2255 Rule 6(a), the Court may, if necessary for effective discovery, appoint counsel for a movant who qualifies to have counsel appointed under 18 U.S.C. § 3006A. Pursuant to Federal 2255 Rule 8(c), if an evidentiary hearing is warranted, the Court must appoint counsel to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A. This Local Rule is not intended to alter or limit the appointment of counsel

available pursuant to Federal 2255 Rule 6(a), Federal 2255 Rule 8(c), or 18
U.S.C. § 3006A.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LOCAL CRIMINAL RULES OF COURT

LOCAL CRIMINAL RULES OF COURT

LCrR 1 CITATION AND APPLICABILITY TO *PRO SE* DEFENDANTS

These rules may be cited as "LCrR." Where the defendant is proceeding *pro se*, references in these rules to defense counsel shall be taken to include the *pro se* defendant.

LCrR 5 INITIAL APPEARANCE BEFORE MAGISTRATE JUDGE

A. Opportunity to Consult With Counsel. A defendant shall be given an opportunity to consult with counsel at his or her Initial Appearance and before an initial interview with Pretrial Service Officers. The Federal Public Defender, or an attorney from the CJA Panel if the Federal Public Defender has a conflict, as directed by the Court, will provide advice of rights to defendants before their interview with Pretrial Services. Notwithstanding the foregoing, the Court may establish a separate protocol or procedure for situations involving the substantially contemporaneous arrests of ten or more individuals.

B. Notification of Counsel. It is the responsibility of the Magistrate Judge assigned to criminal duty to notify the Federal Public Defender, or the defendant's retained counsel if known, before the Initial Appearance.

C. Eligibility for Appointed Counsel. When a defendant requests appointment of counsel, and the Court determines that the defendant is eligible for appointed counsel, the Court will appoint counsel under the Criminal Justice Act at the time of the Initial Appearance.

D. Entry of Appearance. In all criminal cases involving privately retained counsel, a notice of appearance of counsel shall be filed at or before the first appearance of counsel. See *also* LCvR 83.2.C.1.

E. Withdrawal of Appearance. In any criminal proceeding, no attorney whose appearance has been entered shall withdraw his or her appearance except upon filing a written petition stating reasons for withdrawal, and only with leave of Court and upon reasonable notice to the client. See *also* LCvR 83.2.C.4.

LCrR 10 ARRAIGNMENTS

Arraignments may be conducted by the Magistrate Judge in cases triable by the Magistrate Judge and in other cases to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or *nolo contendere* and ordering a presentence report in appropriate cases. Upon the request of the defendant, the government shall provide available Fed. R. Crim. P. 16 material to the defendant at the time of the arraignment, and the Fed. R. Crim. P. 16 receipt shall be filed with the Court. Upon written request by the defendant, the Magistrate Judge

may set a date for the filing of pretrial motions up to 45 days from the date of the arraignment, and order that the period of the extension shall be excluded from the time within which the trial of the case shall commence under the Speedy Trial Act, as necessary to provide the defendant with adequate time for investigation and preparation of motions. Any other motions for extension of time shall be filed with the District Judge.

Comment (February 2013)

Forms for Motions to Extend Time to File Pretrial Motions will be available to counsel at the time of the arraignment and may be approved by Order of the Magistrate Judge. The 45 day period will be excluded from the Speedy Trial Act 18 U.S.C. § 3161 et seq.

LCrR 12 PRETRIAL MOTIONS

A. Timing. Motions that must be made before trial under Fed. R. Crim. P.12, those made under Rule 41, and a motion for a bill of particulars under Fed. R. Crim. P. 7 shall be made within fourteen days after arraignment, unless the court extends the time at arraignment, or upon written application made within the said fourteen day period. The court, in its discretion, may, however, for good cause shown, permit a motion to be made and heard at a later date.

B. Requirements. All such motions shall contain a short and plain description of the requested relief and incorporate or be accompanied by a memorandum or brief setting forth the reasons and legal support for the granting of the requested relief.

C. Response. Any party opposing a motion may file and serve a response within fourteen days after service of the motion, unless the time period is otherwise extended by the Court. Every response shall incorporate or be accompanied by a memorandum or brief setting forth the reasons and legal support for the respondent's position.

D. Reply Memorandum. The movant may file and serve a reply memorandum within fourteen days after service of the response, unless the time period is otherwise extended by the Court.

E. Motion to Extend Time. Any motion to extend the time limits set forth above shall set forth the grounds upon which it is made and whether the continuance sought shall constitute, in whole or in part, excludable time as defined by 18 U.S.C. § 3161(h). Said motion to extend time shall be accompanied by a proposed form of Order that, if adopted, will state fully and with particularity the reasons for granting the motion as well as the proposed findings of the Court as to excludable time. Extensions of the time limits set forth above shall be excludable to the extent authorized by 18 U.S.C. § 3161(h). Extensions shall be granted by the Court where warranted by the ends of justice in accordance with the list of factors set forth in § 3161(h)(7)(B). The Court may consider good faith scheduling conflicts, additional time needed for reasonable preparation, the interests of the defendant and the government in maintaining continuity of

counsel, and other unavoidable problems, such as emergencies and illness. This list is illustrative and not exclusive.

LCrR 16 DISCOVERY AND INSPECTION

A. Compliance With Fed. R. Crim. P. 16. The parties shall comply with Fed. R. Crim. P. 16, including the reciprocal discovery provisions of Fed. R. Crim. P. 16(b).

B. Timing. Upon a defendant's request, the government shall make available the Rule 16 material at the time of the arraignment. If discovery is not requested by the defendant at the time of the arraignment, the government shall disclose such material within seven (7) days of a defendant's request. The government shall file a receipt with the Court which sets forth the general categories of information subject to disclosure under Rule 16, as well as any exculpatory evidence, and the items provided under each category.

C. Exculpatory Evidence. At the time of arraignment, and subject to a continuing duty of disclosure thereafter, the government shall notify the defendant of the existence of exculpatory evidence, and permit its inspection and copying by the defendant.

D. Voluntary Disclosure. Nothing in this rule shall be construed to prevent the government from voluntarily disclosing material to the defendant at an earlier time than that required by Fed. R. Crim. P. 16, Fed. R. Crim. P. 26.2 and 18 U.S.C. § 3500.

E. Obligation to Confer. Counsel shall confer and attempt to resolve issues regarding additional discovery before a motion to produce is filed with the Court.

F. Status Conference. The Court shall hold a status conference with counsel approximately 30 days after Arraignment, on a date certain to be set by the Court. Counsel must be prepared to discuss case scheduling matters, including the timing of disclosures required by law or by rule of Court, as well as the progress of discovery to date. The attendance of the defendant shall be at the discretion of the Court.

LCrR 23 LAW ENFORCEMENT EVIDENCE

In all cases where money, firearms, narcotics, controlled substances or any matter of contraband is introduced into evidence, such evidence shall be maintained for safekeeping by law enforcement during all times when court is not in session, and at the conclusion of the case. The law enforcement agent will be responsible for its custody if the evidence is required for any purpose thereafter. See *also* LCvR 5.1.J.

LCrR 24.1 JURY LIST

Members of the bar of this court shall be permitted to have a copy of each jury list on condition that a receipt be signed with the Clerk of Court at the date of delivery thereof which shall contain as the substance the following certification: "I hereby certify that I and/or my firm or associates have litigation pending and in connection therewith, I will require a list of jurors. I further acknowledge to have received a copy of said list of jurors from the Clerk of Court and hereby agree that I will not, nor will I permit any person or agency, to call or contact any juror identified on said list at his or her home or any other place, nor will I call or contact any immediate member of said juror's family, which includes his or her spouse, children, mother, father, brother, or sister, in an effort to determine the background of any member of said jury panel for acceptance or rejection of said juror.

/s/ _____

Date: _____ "

LCrR 24.2 EXAMINATION OF JURORS BEFORE TRIAL

Jury selection in a criminal case shall be governed by Fed. R. Crim. P. 23 and 24 and by such procedures established by the trial judge. In its discretion, the Court may require potential jurors to complete a questionnaire before the formal voir dire process commences.

A. Examination of Jurors Before Trial. During the examination of jurors before trial, the Judge or a representative of the Clerk of Court conducting such examination, shall state the following to the jurors collectively:

1. The name of each of the defendants and the names of the attorneys for the parties; and
2. The nature of the case and the offenses charged.

B. Required Questions. The examination of jurors shall contain the following questions, or questions substantially similar thereto:

1. Do you know any of the defendants?
2. Do you know any of the attorneys in the case? Have they or their firms ever represented you or any members of your immediate family?
3. Do you know anything about this case?
4. (If appropriate) Are you or any member of your immediate family, employees, former employees or stockholders in any of the corporations or businesses involved in this case? The names of corporations and businesses involved in this case are:

5. Are you or any member of your immediate family employed by the federal government (with the exception of military service)? What do they do?

6. Are you or any member of your immediate family employed by any law enforcement agency?

C. Questions to Individual Jurors. The following questions, where appropriate, shall, *inter alia*, be put to each juror individually:

1. What is your present occupation?

2. Who is your employer?

3. If you are retired, who was your last employer and what was your occupation?

4. Are you married? If so, what is your spouse's occupation and who is your spouse's employer?

5. Do you have any children? Do any of them work in the Western District of Pennsylvania? For whom do they work and what do they do?

6. Have you ever been a witness or defendant in a criminal case?

7. Have you ever been the victim of a crime?

8. Any other question which in the judgment of the Court shall be deemed proper.

LCrR 24.3 COMMUNICATION WITH A TRIAL JUROR

A. During Trial. During the trial, no party, attorney for a party, or person acting on behalf of a party or attorney, shall communicate directly or indirectly with any of the following: (1) a juror, (2) an excused juror, (3) an alternate juror or (4) a family member or person living within the same household as a juror, excused juror or alternate juror.

B. After Trial. After a verdict is rendered or a mistrial is declared, the Court shall inform the jury that no juror is required to speak to anyone, but that a juror may do so if the juror wishes.

LCrR 24.4 JUROR NOTE TAKING

Jurors may be permitted to take notes in the discretion of the Court. If jurors are permitted to take notes, the Court will provide jurors with the necessary materials, and shall retain custody of the notes when Court is not in session or

the jury is not deliberating. After the jury is discharged by the Court, the notes shall be destroyed.

LCrR 28 INTERPRETERS

A court certified interpreter will be provided by the Court and present for all proceedings involving defendants who are not proficient in English.

LCrR 32 PROCEDURE FOR GUIDELINE SENTENCING

The following procedures hereby are established to govern sentencing proceedings in this Court, in addition to the requirements of Fed. R. Crim. P. 32; the Sentencing Reform Act of 1984, 18 U.S.C. § 3551 *et seq.*; and the advisory United States Sentencing Guidelines ("U.S.S.G."), as promulgated under that Act and by the Sentencing Commission Act, 28 U.S.C. § 991 *et seq.*

A. Timing of Sentencing. Unless the Court orders otherwise, sentencing proceedings shall be scheduled no earlier than 14 weeks following the entry of a plea of guilty or *nolo contendere*, or the entry of a verdict of guilty.

B. Presentence Investigation and Report. Counsel is directed to the requirements of Fed. R. Crim. P. 32(c) and Fed. R. Crim. P. 32(d) regarding Presentence Investigations and Reports.

C. Presentence Procedures. No later than 7 weeks prior to the date set for sentencing, the United States Probation Office ("USPO") shall disclose the tentative Presentence Investigation Report ("PSR") to only the defendant, the defendant's attorney, and the attorney for the government. See Fed. R. Crim. P. 32(e)(2) and § 6A1.2(a) of the U.S.S.G.

1. Confidentiality. The PSR is a confidential court document. No copies or dissemination of the PSR shall be made without the express permission or Order of this Court, except that, pursuant to Third Circuit Local Appellate Rule 30.3(c), copies may be made for the United States Court of Appeals in any appeal from the sentence. The unauthorized copying or disclosure of the PSR may be treated as a contempt of court and be punished accordingly.

2. Administrative Resolution. If a party disputes facts or factors material to sentencing contained in the PSR, or seeks the inclusion of additional facts or factors material to sentencing, that party shall have the obligation to pursue the administrative resolution of that matter through informal presentence conferences with opposing counsel and the USPO.

a. The party seeking administrative resolution of such facts and factors shall do so within 2 weeks from the disclosure of the tentative PSR.

b. No later than 2 weeks after the disclosure of the tentative PSR, following any good faith efforts to resolve disputed, or include additional, material facts or factors described above, the USPO shall notify the attorneys for the government and the defendant of those matters that have, or have not, been administratively resolved.

3. Disclosure of PSR to Court. Following the 2 week time period for administrative resolution, and no later than 5 weeks before sentencing, pursuant to Fed. R. Crim. P. 32(g), the USPO shall disclose the PSR, as may be amended, to the Court, the defendant, the attorney for the defendant, and the attorney for the government.

4. Objections; Positions of the Parties. No later than 4 weeks before sentencing, the parties each shall file with the court a pleading entitled "Position of [Defendant or Government, as appropriate] With Respect to Sentencing Factors," pursuant to Fed. R. Crim. P. 32(f) and § 6A1.2(b) of the U.S.S.G. This pleading shall set forth any objections to the PSR and any anticipated grounds for: (a) departure from the advisory guideline sentencing range; or, (b) a sentence outside of the advisory guideline sentencing range, pursuant to the provisions of 18 U.S.C. § 3553(a). The party's Position With Respect to Sentencing shall be accompanied by a written statement certifying that filing counsel has conferred with opposing counsel and with the USPO in a good faith effort to resolve any disputed matters.

5. Responses to Objections and Positions. A party may file a response to the opposing party's Position With Respect to Sentencing Factors no later than 3 weeks prior to the sentencing.

6. Action on Objections; Addendum. After receiving counsel's objections and any responses thereto, the USPO shall conduct such further investigation as appropriate. The USPO may meet or otherwise confer with counsel to discuss unresolved factual or legal issues.

a. No later than 2 weeks before sentencing, the USPO shall serve an addendum which shall set forth any unresolved objections to the PSR, the grounds for those objections, the responses thereto, and the USPO's comments thereon.

b. The USPO shall certify that the PSR, together with any revision thereof and any addendum thereto, have been disclosed to the defendant and all counsel of record, and that the addendum fairly sets forth any remaining objections and responses.

7. Court's Tentative Findings and Rulings. Prior to the sentencing hearing, the Court shall notify the parties and the USPO of the Court's tentative findings and rulings, to the extent practicable, concerning disputed facts or factors. Reasonable opportunity shall be provided to the parties, prior to the imposition of sentence, for the submission of oral or written objections to the Court's tentative findings and rulings.

8. Supplemental Information and Memoranda. No later than 1 week before sentencing, a party may file supplemental information or a memorandum with respect to sentencing of the defendant, and shall serve the same upon the USPO. If counsel for the defendant intends to submit letters to the Court for consideration at sentencing, said letters should be electronically filed at least seven calendar days before sentencing. Opposing counsel may file a response to any supplemental information or memorandum no later than three days before sentencing.

9. Additional Information and Memoranda. For good cause shown, the Court may allow additional information and memoranda, and the responses thereto, to be raised at any time prior to the imposition of sentence.

10. Introducing Evidence. When any fact or factor material to the sentencing determination is reasonably in dispute, the parties shall be given an adequate opportunity to introduce evidence and to present information to the Court regarding that fact or factor, in accordance with § 6A1.3(a) of the U.S.S.G.

11. Court Determinations. Except with respect to any objection made pursuant to Fed. R. Crim. P. 32(f) and LCrR 32.C.5, above, the Court may accept as accurate any undisputed portion of the PSR as a finding of fact. However, with respect to disputed portions of the PSR, the Court shall make determinations pursuant to Fed. R. Crim. P. 32(i)(3) and § 6A1.3 of the U.S.S.G.

D. Judicial Modifications. For good cause shown, the time limits set forth in LCrR 32 may be modified by the Court.

E. Pre-Plea Presentence Investigations and Reports. Under appropriate circumstances, and with the written consent of the defendant pursuant to Fed. R. Crim. P. 32(e)(1), the Court may order the USPO to conduct a Presentence Investigation and prepare a PSR for a defendant prior to the entry of a plea of guilty or *nolo contendere*. The scope of any pre-plea PSR shall be determined by the Court.

F. Revocation of Probation and Supervised Release. In every case where revocation of probation or supervised release is sought, the United States Probation Office shall prepare and disclose to the defendant's attorney and the attorney for the government a Violation Work Sheet outlining the terms and class of the original conviction, the grading of each alleged violation and the advisory guideline range of sanctions for the alleged violation, if applicable.

G. Nondisclosure of Probation Office's Sentencing Recommendation. The specific sentencing recommendation of the United States Probation Office, which is submitted to the Court, shall not be disclosed to the parties or their counsel.

LCrR 41 INSPECTION AND COPYING OF SEIZED PROPERTY

Under appropriate circumstances, upon the filing of a motion and a showing of good cause by the party seeking relief, the Court may enter an order which permits such party (1) to have reasonable access to seized property, including documents, for inspection; or (2) to obtain copies of seized documents or property other than contraband. The moving party shall bear the cost of copying, unless otherwise ordered by the Court for good cause shown. In fashioning an order for relief under this Rule, the Court shall consider, among other things, the burden of compliance with the order upon the government, as well as the needs of the party seeking relief. Nothing herein is intended to limit any remedies which may be available under Fed. R. Crim. P. 41(g).

LCrR 46 TYPES OF BAIL IN CRIMINAL CASES

Provided that a bond in the form available at the office of the Clerk of Court is executed, any of the following may be accepted as security:

A. United States currency, or a certificate of deposit of a federally insured bank or savings and loan association, or federal, state or local government securities or bonds, or corporate securities or bonds of companies listed on the New York Stock Exchange, or a combination thereof, in the face amount of the bail, provided that the instruments are payable on demand, and provided further that, if the instruments are payable to one or more persons, the Clerk of Court or the appropriate judicial officer is satisfied that the endorsements of all owners have been secured as obligors.

B. Real property in the Commonwealth of Pennsylvania, including realty in which the defendant has an interest, in which the market value of the property after subtracting the current value of all mortgages, liens and judgments, equals the amount of the bond. *See also* Fed. R. Crim. P. 46(e).
The Clerk of Court shall maintain in its office and on its official website the procedures and requirements for posting of property bonds.

C. A surety company or corporation authorized by the Secretary of Treasury of the United States to act as surety on official bonds under the Act of August 13, 1894 (28 Stat. 279, as amended, U.S.C. Title 6, 1-13).

D. Such other property as the court deems sufficient pursuant to the Bail Reform Act of 1984, 18 U.S.C. § 3142(c)(2)(K).

LCrR 49 ELECTRONIC CASE FILING; SEALING OF DOCUMENTS

A. Electronic Case Filing Policies and Procedures. Counsel must comply with the Electronic Case Filing Policies and Procedures promulgated by the Court which govern all criminal cases and matters. All documents must comply with the privacy protection provisions set forth in Fed. R. Crim. P. 49.1 and LCvR 5.2.D.

B. Filing by Electronic Means. Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the Court's Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. See *also* LCvR 5.5.

C. Service by Electronic Means. Documents may be served through the Court's transmission facilities by electronic means to the extent and in the manner authorized by the Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. Transmission of the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. See *also* LCvR 5.6.

D. Filing Under Seal. The following documents shall be accepted by the Clerk for filing under seal without the necessity of a separate sealing order: (1) Motions setting forth the substantial assistance of a defendant in the investigation or prosecution of another person pursuant to U.S.S.G. § 5K1.1 or Fed. R. Crim. P. 35; (2) Motions for writs to produce incarcerated witnesses for testimony; (3) Motions for subpoenas for witnesses; (4) Motions by counsel seeking authorization for the expenditure of funds under the Criminal Justice Act, or seeking reimbursement for expenses incurred or attorney's fees. Such documents should be presented to the Clerk in hard copy for scanning and docketing under seal.

E. Provision of Sealed Documents to Opposing Party. Counsel of record may exchange copies of sealed documents, without obtaining leave of court, if the document is provided in an ongoing criminal case.

LCrR 57 **ASSIGNMENT OF CASES**

A. Criminal Action Categories. All criminal cases in this district shall be divided into the following categories:

- 1a.** Narcotics and Other Controlled Substances, 1 to 2 Defendants
- 1b.** Narcotics and Other Controlled Substances, 3 to 9 Defendants
- 1c.** Narcotics and Other Controlled Substances, 10 or more Defendants
- 2a.** Fraud and Property Offenses, 1 to 2 Defendants
- 2b.** Fraud and Property Offenses, 3 to 9 Defendants
- 2c.** Fraud and Property Offenses, 10 or more Defendants

3. Crimes of Violence
4. Sex Offenses
5. Firearms and Explosives
6. Immigration
7. All Others.

For purposes of determining the appropriate category, the number of defendants in related indictments which are returned during the same grand jury session shall be combined.

See *also* LCvR 40.B.

B. Assignment of Criminal Cases to District Judges. All criminal cases shall be assigned by the Clerk of Court at the earlier of (1) the time of filing of the indictment or information; (2) when any appeal is taken from a Magistrate Judge's decision on bail; (3) upon the filing of a motion for return of seized property; (4) upon the filing of a motion to quash a subpoena; (5) upon the filing of a motion to dismiss the complaint; (6) upon the filing of any motions of a similar nature that a Magistrate Judge concludes must be handled by a District Judge; or, (7) at the time of filing any motion in a case at the magisterial stage for a competency determination.

C. Related Actions. At the time of filing any criminal action or entry of appearance or any initial pleading or motion by defense counsel, as the case may be, counsel shall indicate on an appropriate form whether the action is related to any other pending or previously terminated actions in this Court. For the purpose of completing the form, all criminal actions arising out of the same criminal transaction or series of transactions are deemed related.

LCrR 58 PROCEDURES FOR MISDEMEANORS AND OTHER PETTY OFFENSES

See LCvR 72.

LCrR 83 FREE PRESS -- FAIR TRIAL PROVISIONS

A. Release of Information in Criminal Litigation. A lawyer or law firm shall not release or authorize the release of information or opinion that a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which he or she or the firm is associated, if there is a substantial likelihood that such release would materially prejudice ongoing criminal proceedings.

B. Release Beyond Public Record. With respect to a pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement that a reasonable person

would expect to be disseminated by means of public communication, that goes beyond the public record, if there is a substantial likelihood that such statement would materially prejudice such pending investigation.

C. Subjects Likely to Be Materially Prejudicial. From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, extrajudicial statements by a lawyer or law firm associated with the prosecution or defense that a reasonable person would expect to be disseminated by means of public communication relating to the following subjects are substantially likely to be considered materially prejudicial to ongoing criminal proceedings:

1. the prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public of any dangers he or she may present;
2. the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
3. the performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
4. the identity, testimony or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
5. the possibility of a plea of guilty to the offense charged or a lesser offense; or
6. any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case, except that counsel may announce without further comment that the accused asserts innocence or denies the charges made against him or her.

Unless otherwise prohibited by law, the foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of his or her or its official or professional obligations, from announcing the fact, time and place of arrest, the identity of the investigating and arresting officer or agency, and the length of the investigation; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused asserts innocence or denies the charges made against him or her.

LCrR 83.2 PRO HAC VICE ADMISSIONS

Pro Hac Vice Admissions. A motion for admission *pro hac vice* must be made by the attorney seeking to be admitted and must be accompanied by an affidavit from the attorney seeking to be admitted *pro hac vice* (the “affiant”). The affidavit must include the affiant’s name, law firm affiliation (if any), business address, and bar identification number. The affiant must attest in the affidavit that the affiant is a registered user of ECF in the United States District Court for the Western District of Pennsylvania, that the affiant has read, knows, and understands the Local Rules of Court for the United States District Court for the Western District of Pennsylvania, and that the affiant is a member in good standing of the bar of any state or of any United States District Court. The affidavit must list the bars of any state or of any United States court of which the affiant is a member in good standing. The affiant must attach to the affidavit one current certificate of good standing from the bar or the court in which the affiant primarily practices. The affidavit also must list and explain any previous disciplinary proceedings concerning the affiant’s practice of law that resulted in a non-confidential negative finding or sanction by the disciplinary authority of the bar of any state or any United States court. The Court will not rule on a motion for admission *pro hac vice* that does not include an affidavit containing the information and attestations required by this rule. The forms of the motion for admission *pro hac vice* and accompanying affidavit are set forth in “[Appendix LCvR/LCrR 83.2.B-MOTION](#),” and “[Appendix LCvR/LCrR 83.2.B-AFFIDAVIT](#).”

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LOCAL BANKRUPTCY APPELLATE RULES OF COURT

LOCAL BANKRUPTCY APPELLATE RULES OF COURT**LBR 8007-2 APPEAL TO THE DISTRICT COURT FROM THE BANKRUPTCY COURT**

A. Appeals to the United States District Court from the United States Bankruptcy Court for the Western District of Pennsylvania pursuant to 28 U.S.C. § 158, shall be taken in the manner prescribed in Part VIII of the Federal Rules of Bankruptcy Procedure (hereinafter Fed. R. Bankr. P.), Rule 8001, *et seq.*

B. Where, after a notice of appeal to the United States District Court has been filed in the Bankruptcy Court, the appellant fails to designate the contents of the record on appeal or fails to file a statement of issues on appeal within the time required by Fed. R. Bankr. P. 8006, or fails to provide, when appropriate, evidence that a transcript has been ordered and that payment therefor has been arranged, or fails to take any other action to enable the bankruptcy clerk to assemble and transmit the record:

1. the bankruptcy clerk shall provide fourteen (14) days notice to the appellant and appellee of an intention to transmit a partial record consistent with Subsection B.2. of this rule;
2. after the 14 day notice period required by subsection B.1. of this rule has expired, the clerk of the bankruptcy court shall thereafter promptly forward to the clerk of the United States District Court a partial record consisting of a copy of the order or judgment appealed from, any opinion, findings of fact, and conclusions of law by the court, the notice of appeal, a copy of the docket entries, any documents filed as part of the appeal, and any copies of the record which have been designated by the parties pursuant to Fed. R. Bankr. P. 8006; the record as transmitted shall be deemed to be the complete record for purposes of the appeal; and
3. the district court may dismiss said appeal for failure to comply with Fed. R. Bankr. P. 8006 upon its own motion, or upon motion filed in the district court by any party in interest or the United States trustee.

C. Notwithstanding any counter designation of the record or statement of issues filed by the appellee, if the appellee fails to provide, where appropriate, evidence that a transcript has been ordered and that payment therefore has been arranged, or the appellee fails to take any other action to enable the bankruptcy clerk to assemble and transmit the record pursuant to Fed. R. Bankr. P. 8006, the bankruptcy clerk shall transmit the copies of the record designated by the parties and this shall be deemed to be the complete record on appeal.

LBR 9015-1 JURY TRIAL IN BANKRUPTCY COURT

A. In accordance with 28 U.S.C. § 157(e), the Bankruptcy Judges of this Court are specially designated to conduct jury trials where the right to a jury applies. This jurisdiction is subject to the express consent of all parties.

B. The jurors will be drawn from the same qualified jury wheels, consisting of the same counties, that are used in this Court.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

APPENDICES TO RULES

APPENDIX LCvR 7.1.A
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

)	
)	Civil Action No. _____
vs.)	or
)	
)	Criminal Action No. _____
)	

DISCLOSURE STATEMENT

Pursuant to LCvR 7.1 of the Western District of Pennsylvania and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for _____, in the above captioned action, certifies that the following are parents, subsidiaries and/or affiliates of said party that have issued shares or debt securities to the public:

or

Pursuant to LCvR 7.1 of the Western District of Pennsylvania and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for _____, in the above captioned action, certifies that there are no parents, subsidiaries and/or affiliates of said party that have issued shares or debt securities to the public.

Date

Signature of Attorney or Litigant

APPENDIX LCvR 7.1.B

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

_____)	
)	
vs.)	Civil Action No. _____
)	
)	
_____)	

RICO CASE STATEMENT

Pursuant to LCvR 7.1.B, any party filing a civil action under 18 U.S.C. §§ 1961-1968 shall set forth those facts upon which such party relied to initiate the RICO claim as a result of the "reasonable inquiry" required by Fed. R. Civ. P. 11. The statement shall be in paragraph form corresponding by number and letter to the paragraphs and subparagraphs appearing below and shall provide in detail and with specificity the information required herein.

1. State whether the alleged unlawful conduct is in violation of any or all of the provisions of 18 U.S.C. §§ 1962(a), (b), (c) or (d).

2. List each defendant and state the alleged misconduct and basis of liability of each defendant.

3. List alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each.

4. List the alleged victims and state how each victim has been allegedly injured.

5. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. The description of the pattern of racketeering shall include the following information:

a. A list of the alleged predicate acts and the specific statutes which were allegedly violated;

b. The date of each predicate act, the participants in each such predicate act and the relevant facts surrounding each such predicate act;

c. The time, place and contents of each alleged misrepresentation, the identity of persons by whom and to whom such alleged misrepresentation was made and if the

predicate act was an offense of wire fraud, mail fraud or fraud in the sale of securities. The "circumstances constituting fraud or mistake" shall be stated with particularity as provided by Fed. R. Civ. P. 9(b);

d. Whether there has been a criminal conviction for violation of any predicate act and, if so, a description of each such act;

e. Whether civil litigation has resulted in a judgment in regard to any predicate act and, if so, a description of each such act;

f. A description of how the predicate acts form a "pattern of racketeering activity."

6. State whether the alleged predicate acts referred to above relate to each other as part of a common plan, and, if so, describe in detail the alleged enterprise for each RICO claim. A description of the enterprise shall include the following information:

a. The names of each individual partnership, corporation, association or other legal entity which allegedly constitute the enterprise;

b. A description of the structure, purpose, function and course of conduct of the enterprise;

c. Whether each defendant is an employee, officer or director of the alleged enterprise;

d. Whether each defendant is associated with the alleged enterprise;

e. Whether it is alleged that each defendant is an individual or entity separate from the alleged enterprise, or that such defendant is the enterprise itself, or a member of the enterprise; and

f. If any defendant is alleged to be the enterprise itself, or a member of the enterprise, an explanation whether each such defendant is a perpetrator, passive instrument or victim of the alleged racketeering activity.

7. State and describe in detail whether it is alleged that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.

9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

- a. The recipient of the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and
 - b. A description of the use or investment of such income.
12. If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.
13. If the complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:
 - a. The identity of each person or entity employed by, or associated with, the enterprise and
 - b. Whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).
14. If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.
15. Describe the alleged injury to business or property.
16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.
17. List the damages sustained by each plaintiff for which each defendant is allegedly liable.
18. List all other federal causes of action, if any, and provide the relevant statute numbers.
19. List all pendent state claims, if any.
20. Provide any additional relevant information that would be helpful to the court in processing the RICO claim.

APPENDIX LCvR 16.1.A**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

[CAPTION]

[JUDICIAL OFFICER(S)]

Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES

Counsel for the parties and unrepresented parties shall confer regarding the matters identified herein and prepare a signed report in the following form to be filed at least 21 days before the Initial LCvR 16.1 Scheduling Conference or at such other time as ordered by the court. This report form may be downloaded from the Court's website as a word-processing document and the information filled in as requested on the downloaded form. The dates to be provided in the report are suggested dates and may be accepted or modified by the Court.

1. **Identification of counsel and unrepresented parties.** Set forth the names, addresses, telephone and fax numbers and e-mail addresses of each unrepresented party and of each counsel and identify the parties whom such counsel represent:
2. **Set forth the general nature of the case** (patent, civil rights, anti-trust, class action, etc.):
3. **Date Rule 26(f) Conference was held, the identification of those participating therein and the identification of any party who may not yet have been served or entered an appearance as of the date of said Conference:**
4. **Date of Rule 16 Initial Scheduling Conference as scheduled by the Court:** (Lead Trial Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference with their calendars in hand for the purpose of scheduling other pre-trial events and procedures, including a Post-Discovery Status Conference; Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference prepared to discuss the anticipated number of depositions and identities of potential deponents and the anticipated dates by which interrogatories, requests for production of documents and requests for admissions will be served):
5. **Identify any party who has filed or anticipates filing a dispositive motion pursuant to Fed. R. Civ. P. 12 and the date(s) by which any such anticipated motion may be filed:**
6. **Designate the specific Alternative Dispute Resolution (ADR) process the parties have discussed and selected, if any, and specify the anticipated time frame for completion of the ADR process. Set forth any other information the parties wish to communicate to the court regarding the ADR designation:**

7. **Set forth any change that any party proposes to be made in the timing, form or requirements of Fed. R. Civ. P. Rule 26(a) disclosures, whether such change is opposed by any other party, whether any party has filed a motion seeking such change and whether any such motion has been ruled on by the Court:**
8. **Subjects on which fact discovery may be needed.** (By executing this report, no party shall be deemed to (1) have waived the right to conduct discovery on subjects not listed herein or (2) be required to first seek the permission of the Court to conduct discovery with regard to subjects not listed herein):
9. **Set forth suggested dates for the following** (The parties may elect by agreement to schedule a Post-Discovery Status Conference, as identified in Paragraph 12, below, at the conclusion of Fact-Discovery rather than at the conclusion of Expert Discovery. In that event, the parties should provide suggested dates only for the events identified in sub-paragraphs 9.a through 9.e, below. The parties shall provide such information even if dispositive motions pursuant to Fed. R. Civ. P. 12 have been or are anticipated to be filed. If there are dates on which the parties have been unable to agree, set forth the date each party proposes and a brief statement in support of each such party's proposed date. Attach to this report form a proposed Court Order setting forth all dates agreed to below and leaving a blank for the insertion of a date by the Court for any date not agreed to):
 - a. **Date(s) on which disclosures required by Fed. R. Civ. P. 26(a) have been or will be made:**
 - b. **Date by which any additional parties shall be joined:**
 - c. **Date by which the pleadings shall be amended:**
 - d. **Date by which fact discovery should be completed:**
 - e. **If the parties agree that discovery should be conducted in phases or limited to or focused on particular issues, identify the proposed phases or issues and the dates by which discovery as to each phase or issue should be completed:**
 - f. **Date by which plaintiff's expert reports should be filed:**
 - g. **Date by which depositions of plaintiff's expert(s) should be completed:**
 - h. **Date by which defendant's expert reports should be filed:**
 - i. **Date by which depositions of defendant's expert(s) should be completed:**
 - j. **Date by which third party expert's reports should be filed:**
 - k. **Date by which depositions of third party's expert(s) should be completed:**

10. If the parties agree that changes should be made to the limitations on discovery imposed by the Federal Rules of Civil Procedure or Local Rule or that any other limitations should be imposed on discovery, set forth such changes or limitations:

11. Please answer the following questions in regard to the discovery of electronically stored information (“ESI”):

a. **ESI.** Is either party seeking the discovery of ESI in this case?

- Yes No [If “No,” skip to sub-part (e) below.]

b. **ESI Discovery Plan.** The parties have reviewed and discussed the Court’s Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in “[Appendix LCvR 26.2.C-CHECKLIST](#)” to the Local Rules and:

- Have agreed that, in light of the facts and issues in this case, there is no need to complete an ESI discovery plan, and will conduct ESI discovery by

_____.

- Have developed an ESI discovery plan (as attached).

- Will have an ESI discovery plan completed by _____.

NOTE: At the direction of the Court, parties may be required to submit a draft of the Stipulated Order re: Discovery of Electronically Stored Information for Standard Litigation set forth in “[Appendix LCvR 26.2.E-MODEL ORDER](#)” to the Local Rules, to address specific issues relative to the parties’ exchange of electronic discovery and ESI. If the parties are unable to do so, they should advise the Court promptly.

c. **Preservation.** Have the parties agreed on any protocol for the preservation of electronic data and/or potentially relevant ESI?

- Yes No

d. **ADR.** Does any party believe that the exchange of ESI is necessary prior to conducting meaningful Alternative Dispute Resolution (“ADR”) in this case?

- Yes No

e. **Clawback Agreement.** The parties have reviewed F.R.C.P. 26(b)(5), F.R.E. 502 and [LCvR 16.1.D](#), Procedures Following Inadvertent Disclosure, and:

- Request the Court enter an Order implementing Federal Rule of Evidence 502(d) such as the model Order set forth in “[Appendix LCvR 16.1.D](#)” to the Local Rules and filed with this Report.

- Have agreed on alternate non-waiver language, which either is or will be incorporated within the ESI discovery plan.

- Are unable to agree on appropriate non-waiver language.

f. **EDSM and E-Mediator.** Does any party believe that the appointment of an

E-Discovery Special Master (“EDSM”) or E-Mediator would help resolve ESI discovery issues in this case? For further information, see the Court’s official website at <http://www.pawd.uscourts.gov>.

- Yes No

g. Other. Identify all outstanding disputes concerning any ESI issues:

- 12.** Set forth whether the parties have elected to schedule the Post-Discovery Status Conference following the completion of Fact Discovery or Expert Discovery; in either event the parties shall be prepared at the Post-Discovery Status Conference to discuss and/or schedule the following: (The parties are *not* required during their Rule 26(f) Conference to consider or propose dates for the items identified below. Those dates will be determined, if necessary, at the Post-Discovery Status Conference. Lead trial counsel for each party and each unrepresented party are required to attend the Post-Discovery Status Conference with their calendars in hand to discuss those items listed below that require scheduling. In addition, a representative with settlement authority of each party shall be required to attend; representatives with settlement authority of any insurance company providing any coverage shall be available throughout the Conference by telephone):
- a. Settlement and/or transfer to an ADR procedure;**
 - b. Dates for the filing of expert reports and the completion of expert discovery as itemized in sub-paragraphs 9.f. through 9.k., above, if the parties elected to defer such discovery until after the Post-Discovery Status Conference;**
 - c. Dates by which dispositive motions pursuant to Fed. R. Civ. P. 56, replies thereto and responses to replies should be filed;**
 - d. Dates by which parties' pre-trial statements should be filed;**
 - e. Dates by which *in limine* and *Daubert* motions and responses thereto should be filed;**
 - f. Dates on which motions *in limine* and *Daubert* motions shall be heard;**
 - g. Dates proposed for final pre-trial conference;**
 - h. Presumptive and final trial dates.**
- 13.** Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):
- 14.** Set forth whether the parties anticipate that the court may have to appoint a special master to deal with any matter and if so, specify the proposed role of any such master and any special qualifications that such master may require to perform such role:

- 15.** If the parties have failed to agree with regard to any subject for which a report is required as set forth above, except for proposed dates required in paragraph 9, above, briefly set forth the position of each party with regard to each matter on which agreement has not been reached:

- 16.** Set forth whether the parties have considered the possibility of settlement of the action and describe briefly the nature of that consideration:

Respectfully submitted,

(Signatures of counsel and unrepresented parties)

Appendix LCvR 16.1.D

Order implementing Federal Rule of Evidence 502(d)

1. **No Waiver by Disclosure.** This Order is entered pursuant to Rule 502(d) of the Federal Rules of Evidence. Subject to the provisions of this Order, if a party (the “Producing Party”) discloses information in connection with the pending litigation, that the Producing Party thereafter claims to be protected by the attorney-client privilege and/or trial preparation material protection (“Protected Information”), the disclosure of that Protected Information will not constitute or be deemed a waiver or forfeiture—in this or any other federal, state, arbitration, or any other proceeding—of any claim of privilege or protection as trial preparation material that the Producing Party would otherwise be entitled to assert with respect to the Protected Information and its subject matter.

2. **Notification Requirements; Best Efforts of Receiving Party.** A Producing Party must promptly notify the party receiving the Protected Information (the “Receiving Party”), in writing that it has disclosed the Protected Information without intending a waiver by the disclosure. The notification by the Producing Party shall include as specific an explanation as possible why the Protected Information is covered by the attorney-client privilege and/or constitutes trial preparation material. Upon such notification, the Receiving Party must—unless it contests the claim of attorney-client privilege or protection as trial preparation material in accordance with paragraph (3)—promptly (a) notify the Producing Party that it will make best efforts to identify and return, sequester or destroy (or in the case of electronically stored information, delete) the Protected Information and any reasonably accessible copies it has and (b) provide a certification that it will cease further review, dissemination and use of the Protected Information. [For purposes of this Order, Protected Information that has been stored on a source of electronically stored information that is not reasonably accessible, such as backup storage media, is sequestered. If such data is retrieved, the Receiving Party must promptly take steps to delete or sequester the restored Protected Information.]

3. **Contesting Claims of Privilege or Protection as Trial Preparation Material.** If the Receiving Party contests the claim of attorney-client privilege or protection as trial preparation material, the Receiving Party must—within 30 days of receipt of the notification referenced in Paragraph (2)—move the Court for an Order finding that the material referenced in the notification does not constitute Protected Information. This Motion must be filed (with Court approval) under seal and cannot assert the fact or circumstance of the disclosure as a ground for determining that the material does not constitute Protected Information. Pending resolution of the Motion, the Receiving Party must not use the challenged information in any way or disclose it to any person other than as required by law to be served with a copy of the sealed Motion.

4. **Stipulated Time Periods.** The parties may stipulate to extend the time periods set forth in subparagraphs (2) and (3).

5. **Burden of Proving Privilege or Protection as Trial Preparation Material.** The Disclosing Party retains the burden—upon challenge pursuant to Paragraph (3)—of establishing the privileged or protected nature of the Protected Information.

6. ***In Camera* Review.** Nothing in this Order limits the right of any party to petition the Court for an *in camera* review of the Protected Information.

7. **Voluntary and Subject Matter Waiver.** This Order does not preclude a party from voluntarily waiving the attorney-client privilege or trial preparation material protection. The provisions of Federal Rule of Evidence 502(a) apply when the Disclosing Party uses or indicates that it may use information produced under this Order to support a claim or defense.

8. **Rule 502(b)(2).** The failure to take reasonable steps to prevent the disclosure shall not give rise to a waiver of the privilege.

9. **Other Clawback and Confidentiality Obligations.** This Order does not affect or rescind any Clawback Agreement or Order governing protection of confidential information to which the parties have otherwise agreed.

10. **Severability.** The invalidity or unenforceability of any provisions of this Order shall not affect the validity or enforceability of any other provision of this Order, which shall remain in full force and effect.

Note

The Court has adopted this Model Order to implement fully the protections of Federal Rule of Evidence 502(d) if the parties believe a Rule 502(d) order is in the best interests of their clients. The fact that the parties enter into a Rule 502(d) order to streamline discovery and avoid privilege waiver, however, does not affect in any way their right to review documents, ESI, and information before production.

The parties are free to opt against requesting a Rule 502(d) order, to request that Court not enter such an Order, or to request that the court enter a modified version of the Model Order. For example, the parties could narrow the scope of their 502(d) order by limiting it to a certain universe of documents, permitting privilege waiver if the producing party did so intentionally or did not take reasonable steps to prevent disclosure, or applying privilege waiver to the documents produced but not to other documents governing the same subject matter. The parties could also expand the protection against waiver to privileges other than the attorney-client privilege or as to trial preparation material. The Court takes no position on the advisability of a Rule 502(d) order in a particular case.

APPENDIX LCvR 23.E**Fed. R. Civ. P. 26(f) JOINT REPORT OF THE PARTIES (CLASS ACTION)**

- 1. Identification of counsel and unrepresented parties.**
- 2. Set forth the general nature of the case** (anti-trust, consumer finance, securities, employment, etc):
- 3. Date Rule 26(f) Conference was held, the identification of those participating therein and the identification of any party who may not yet have been served or entered an appearance as of the date of said Conference:**
- 4. Date of Rule 16 Initial Scheduling Conference as scheduled by the Court:** *(Lead Trial Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference with their calendars in hand for the purpose of scheduling other pre-trial events and procedures, including a Post-Discovery Status Conference; Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference prepared to discuss the anticipated number of depositions and identities of potential deponents and the anticipated dates by which interrogatories, requests for production of documents and requests for admissions will be served):*
- 5. Identify any party who has filed or anticipates filing a dispositive motion pursuant to Fed. R. Civ. P. 12 and the date(s) by which any such anticipated motion may be filed:**
- 6. Designate the specific Alternative Dispute Resolution (ADR) process the parties have discussed and selected, if any, and specify the anticipated time frame for completion of the ADR process. Set forth any other information the parties wish to communicate to the court regarding the ADR designation:**
- 7. Set forth any change that any party proposes to be made in the timing, form or requirements of Fed. R. Civ. P. Rule 26(a) disclosures, whether such change is opposed by any other party, whether any party has filed a motion seeking such change and whether any such motion has been ruled on by the Court:**
- 8. Discovery prior to Class Certification must be sufficient to permit the Court to determine whether the requirements of Fed. R. Civ. P. Rule 23 are satisfied, including a preliminary inquiry into the merits of the case to ensure appropriate management of the case as a Class Action. However, in order to ensure that a class certification decision be issued at an early practicable time, priority shall be given to discovery on class issues. Once Class Certification is decided, the Court may, upon motion of a party, enter a second scheduling and discovery order, if necessary.**
- 9. Subjects on which class certification discovery may be needed. (By executing this report, no party shall be deemed to (1) have waived the right to conduct discovery on subjects not listed herein or (2) be required to first seek the**

permission of the Court to conduct discovery with regard to subjects not listed herein):

- 10. Set forth suggested dates for the following** *(The parties shall provide such information even if dispositive motions pursuant to Fed. R. Civ. P. 12 have been or are anticipated to be filed, except to the extent discovery and other proceedings have been or will be stayed under the Private Securities Litigation Reform Act or otherwise. If there are dates on which the parties have been unable to agree, set forth the date each party proposes and a brief statement in support of each such party's proposed date. Attach to this report form a proposed Court Order setting forth all dates agreed to below and leaving a blank for the insertion of a date by the Court for any date not agreed to):*
- a. **Date(s) on which disclosures required by Fed. R. Civ. P. 26(a) have been or will be made:**
 - b. **Date by which any additional parties shall be joined:**
 - c. **Date by which the pleadings shall be amended:**
 - d. **Date by which class certification discovery shall be completed:**
 - e. **Date by which plaintiffs' expert reports as to class certification shall be filed:**
 - f. **Date by which defendants' expert reports as to class certification shall be filed:**
 - g. **Date by which depositions of class certification experts must be completed:**
 - h. **Plaintiffs' Motion for Class Certification, Memorandum in Support, and all supporting evidence shall be filed by _____:**
 - i. **Defendants' Memorandum in Opposition to Class Certification and all supporting evidence shall be filed by _____:**
 - j. **Plaintiffs' Reply Memorandum in support of class certification, if any, shall be filed by _____:**
 - k. **The Class Certification hearing shall be as scheduled by the Court.**
- 11. After the resolution of the motion for class certification, the Court shall hold a Post-Certification Determination Conference to discuss how the case shall proceed in light of the disposition of the Class motion. If the parties wish to establish a schedule for post-Class Certification pretrial matters at this time, set forth suggested dates for the following:**
- a. **Date by which fact discovery should be completed:**
 - b. **Date by which plaintiff's expert reports should be filed:**

- c. **Date by which depositions of plaintiff's expert(s) should be completed:**
- d. **Date by which defendant's expert reports should be filed:**
- e. **Date by which depositions of defendant's expert(s) should be completed:**
- g. **Date by which third party expert's reports should be filed:**
- h. **Date by which depositions of third party's experts should be completed.**
12. **If the parties agree that changes should be made to the limitations on discovery imposed by the Federal Rules of Civil Procedure or Local Rule or that any other limitations should be imposed on discovery, set forth such changes or limitations:**
13. **Please answer the following questions in regard to the discovery of electronically stored information ("ESI"):**
- a. **ESI. Is either party seeking the discovery of ESI in this case?**
 Yes **No [If "No," skip to sub-part (e) below.]**
- b. **ESI Discovery Plan. The parties have reviewed and discussed the Court's Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in "[Appendix LCvR 26.2.C-CHECKLIST](#)" to the Local Rules and:**
- Have agreed that, in light of the facts and issues in this case, there is no need to complete an ESI discovery plan, and will conduct e-discovery by**
_____.
- Have developed an ESI discovery plan (as attached).**
- Will have an ESI discovery plan completed by**
_____.
- NOTE: At the direction of the court, parties may be required to submit a draft of the Stipulated Order re: Discovery of Electronically Stored Information for Standard Litigation set forth in "[Appendix LCvR 26.2.E-MODEL ORDER](#)" to the Local Rules, to address specific issues relative to the parties' exchange of electronic discovery and ESI. If the parties are unable to do so, they should advise the Court promptly.**
- c. **Preservation. Have the parties agreed on any protocol for the preservation of electronic data and/or potentially relevant ESI?**
 Yes **No**
- d. **ADR. Does any party believe that the exchange of ESI is necessary prior to conducting meaningful Alternative Dispute Resolution (ADR) in this case?**
 Yes **No**

- e. **Clawback Agreement.** The parties have reviewed F.R.C.P. 26(b)(5), F.R.E. 502 and [LCvR 16.1.D.](#), Procedures Following Inadvertent Disclosure, and:
- Request the Court enter an Order implementing Federal Rule of Evidence 502(d) such as the model Order set forth in “[Appendix LCvR 16.1.D](#)” to the Local Rules and filed with this Report.
 - Have agreed on alternative non-waiver language, which either is or will be incorporated within the ESI discovery plan.
 - Are unable to agree on appropriate non-waiver language.
- f. **EDSM and E-Mediator.** Does any party believe that the appointment of an E-Discovery Special Master (“EDSM”) or E-Mediator (<http://www.pawd.uscourts.gov/ed-information>) would help resolve ESI discovery issues in this case?
- Yes No
- g. **Other.** Identify all outstanding disputes concerning any ESI issues:
-
-
-

14. **Set forth whether the parties have elected to schedule the Post-Discovery Status Conference following the completion of Fact Discovery or Expert Discovery; in either event the parties shall be prepared at the Post-Discovery Status Conference to discuss and/or schedule the following:** *(The parties are not required during their Rule 26(f) Conference to consider or propose dates for the items identified below. Those dates will be determined, if necessary, at the Post-Discovery Status Conference. Lead trial counsel for each party and each unrepresented party are required to attend the Post-Discovery Status Conference with their calendars in hand to discuss those items listed below that require scheduling. In addition, a representative with settlement authority of each party shall be required to attend; representatives with settlement authority of any insurance company providing any coverage shall be available throughout the Conference by telephone):*
- a. **Settlement and/or transfer to an ADR procedure;**
 - b. **Dates for the filing of expert reports and the completion of expert discovery as itemized in sub-paragraphs 11.b. through 11.h., above, if the parties elected to defer such discovery until after the Post-Discovery Status Conference;**
 - c. **Dates by which dispositive motions pursuant to Fed. R. Civ. P. 56, replies thereto and responses to replies should be filed;**
 - d. **Dates by which parties' pre-trial statements should be filed;**
 - e. **Dates by which *in limine* and *Daubert* motions and responses thereto should be filed;**
 - f. **Dates on which motions *in limine* and *Daubert* motions shall be heard;**

- g. Dates proposed for final pre-trial conference;**
 - h. Presumptive and final trial dates.**
- 15. Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):**
 - 16. Set forth whether the parties anticipate that the court may have to appoint a special master to deal with any matter and if so, specify the proposed role of any such master and any special qualifications that such master may require to perform such role:**
 - 17. If the parties have failed to agree with regard to any subject for which a report is required as set forth above, except for proposed dates required in paragraph 10 and/or 11, above, briefly set forth the position of each party with regard to each matter on which agreement has not been reached:**
 - 18. Set forth whether the parties have considered the possibility of settlement of the action and describe briefly the nature of that consideration:**

Respectfully submitted,

Appendix LCvR 26.2.C-CHECKLIST

United States District Court
Western District of Pennsylvania

**CHECKLIST FOR RULE 26(f) MEET AND CONFER
REGARDING ELECTRONICALLY STORED INFORMATION**

In cases where electronically stored information will be exchanged between the parties, the Court encourages the parties to engage in on-going meet and confer discussions and use the following Checklist to guide those discussions. These discussions should be framed in the context of the specific claims and defenses involved. The usefulness of particular topics on the checklist, and the timing of discussion about these topics, may depend on the nature and complexity of the matter. Parties may obtain discovery of such materials, and on such terms, as permitted by the Federal Rules of Civil Procedure, the Local Rules of Court, and the applicable Orders of Court.

I. Preservation

- The ranges of creation, last modified, last accessed, or receipt dates for any known ESI to be preserved.
- The description of data from sources that are not reasonably accessible and that will not be reviewed for responsiveness or produced, but that will be preserved pursuant to Federal Rule of Civil Procedure 26(b)(2)(B).
- The description of data (including source and volume) from sources that (a) the party believes could contain relevant information but (b) has determined, under the proportionality factors, should not be preserved.
- Whether or not to continue any interdiction of any document destruction program, such as ongoing erasures of e-mails, voicemails, and other electronically-recorded material and/or any ongoing preservation requirements (i.e., “evergreen”).
- The names and/or general job titles or descriptions of custodians for whom ESI will be preserved (e.g., “HR head,” “scientist,” “marketing manager,” etc.).
- The number of custodians for whom ESI will be preserved.
- The list of systems, if any, that contain ESI not associated with individual custodians and that will be preserved, such as enterprise databases, legacy data, and human resource records.
- Any disputes related to scope or manner of preservation.
- Any non-party to consult regarding ESI, including entities over which a party has control.

II. Resource Person

- The identity of each party’s e-discovery resource person(s).

III. Informal Discovery About Locations of Data and Types of Systems

- Identification of systems from which discovery will be prioritized (e.g., email, structured databases, database types, and unstructured data).
- Description of systems in which potentially discoverable information is stored.
- Location of systems in which potentially discoverable information is stored.
- How potentially discoverable information is stored.
- How discoverable information can be collected from systems and media in which it is stored.
- Whether there are known relevant file paths or data locations.

IV. Proportionality and Costs

- The amount and nature of the claims being made by either party.
- The nature and scope of burdens associated with the proposed preservation and discovery of ESI.
- The likely benefit of the proposed discovery.
- Costs that the parties will share to reduce overall discovery expenses, such as the use of a common electronic discovery vendor or a shared document repository, or other cost-saving measures.
- Limits on the scope of preservation or other cost-saving measures.
- Whether there is potentially discoverable ESI that will not be preserved consistent with proportionality concerns.

V. Search

- The search method(s), including specific words or phrases or other methodology (cluster technology/predictive coding), that will be used to identify discoverable ESI and filter out ESI that is not subject to discovery.
- The quality control method(s) the producing party will use to evaluate whether a production is missing relevant ESI or contains substantial amounts of irrelevant ESI.

VI. Phasing

- Whether it is appropriate to conduct discovery of ESI in a phased or iterative approach (e.g., by issue, timeframe, custodians, databases, liability v. damages):
- Sources of ESI most likely to contain discoverable information and that will be included in the first phases of Fed. R. Civ. P. 34 document discovery. (i.e., known relevant file paths, email between specific parties during a given period of time).
- Sources of ESI less likely to contain discoverable information from which discovery will be postponed or avoided.
- Custodians (by name or role) most likely to have discoverable information and whose ESI will be included in the first phases of document discovery.
- Custodians (by name or role) less likely to have discoverable information and from whom discovery of ESI will be postponed or avoided.
- The time period during which discoverable information was most likely to have been created or received.

- The issues that are relevant to any party's claim or defense.

VII. Production

- The formats in which structured ESI (database, collaboration sites, etc.) will be produced.
- The formats in which unstructured ESI (email, presentations, word processing, etc.) will be produced.
- The extent, if any, to which metadata will be produced and the fields of metadata to be produced.
- The production format(s) that ensure(s) that any inherent searchability of ESI is not degraded when produced.

VIII. Privilege

- How any production of privileged information or trial preparation material will be handled.
- Whether the parties can agree upon alternative ways to identify documents withheld on the grounds of privilege or protection of trial preparation material to reduce the burdens of such identification.
- Whether the parties will enter into a Fed. R. Evid. 502(d) Stipulation and Order that addresses inadvertent or agreed production, and if so, the form and content of such Order.

IX. E-Discovery Special Masters and/or E-Mediators

- Would it be helpful to the parties for the Court to appoint an E-Discovery Special Master and/or E-Mediator? For further information, see the Court's official website at <http://www.pawd.uscourts.gov/ed-information>.

X. Expedited or Limited Discovery

- Are the parties willing to engage in limited discovery or an expedited discovery schedule? _____

Appendix LCvR 26.2.C-GUIDELINES

United States District Court
Western District of Pennsylvania

**GUIDELINES FOR THE DISCOVERY OF
ELECTRONICALLY STORED INFORMATION**

GENERAL GUIDELINES**Guideline 1.01 (Purpose)**

Discovery often now includes the review and production of electronic information. The discovery of electronically stored information “ESI” provides many benefits such as the ability to search, organize, and target the ESI using the text and associated data. At the same time, the Court is aware that the discovery of ESI is a potential source of cost, burden, and delay. These Guidelines should assist the parties as they engage in electronic discovery. The purpose of these Guidelines is to encourage reasonable electronic discovery with the goal of limiting the cost, burden and time spent, while ensuring that information subject to discovery is preserved and produced to allow for fair adjudication of the merits. At all times, the discovery of ESI should be handled consistently with Fed. R. Civ. P. 1 to “secure the just, speedy, and inexpensive determination of every action and proceeding.”

These Guidelines also promote, when ripe, the early resolution of disputes regarding the discovery of ESI without Court intervention. These guidelines are a supplement to LCvR 26.2.

Guideline 1.02 (Cooperation)

The Court expects cooperation on issues relating to the preservation, collection, search, review, and production of ESI. The Court notes that an attorney’s representation of a client is not compromised by conducting discovery in a cooperative manner. Cooperation in reasonably limiting ESI discovery requests on the one hand, and in reasonably responding to ESI discovery requests on the other hand, tends to reduce litigation costs and delay. The Court emphasizes the particular importance of cooperative exchanges of information at the earliest possible stage of discovery, including during the parties’ Fed. R. Civ. P. 26(f) conference.

Guideline 1.03 (Discovery Proportionality)

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(1) and 26(g)(1)(B)(iii) should be applied to the discovery plan and its elements, including the preservation, collection, search, review, and production of ESI between parties.¹ To assure reasonableness and proportionality in discovery, parties should consider factors that include the importance of the issues at stake in the litigation, the burden or expense of the proposed discovery compared to its likely benefit, the amount in controversy, the parties’ resources, the parties’ relative access to relevant information, and the importance of the discovery in adjudicating the merits of the case. To further the application of the proportionality standard, discovery requests for production of ESI and related responses should be reasonably targeted, clear, and as specific as practicable.

¹ Fed. R. Civ. P. 45(c)(2)(B) outlines a different standard with regard to non-parties through its direction to courts to protect, through measures that include fee-shifting, such non-parties from significant discovery expenses.

ESI DISCOVERY GUIDELINES

Guideline 2.01 (Preservation)

- (a) At the outset of a case, or sooner if feasible, counsel for the parties should discuss preservation. Such discussions should continue to occur periodically as the case and issues evolve.
- (b) In determining what ESI to preserve, parties should apply the proportionality standard referenced in Guideline 1.03. The parties should strive to define a scope of preservation that is proportionate and reasonable and not disproportionately broad, expensive, or burdensome.
- (c) The Parties should be directed in their discussions concerning preservation by the Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in "[Appendix LCvR 26.2.C-CHECKLIST](#)" to the Local Rules. At the direction of the Court, or at the request of a party or the parties, a Court Order concerning preservation may be submitted for Court approval, with the Stipulated Order re: Discovery of Electronically Stored Information for Standard Litigation set forth in "[Appendix LCvR 26.2.E-Model Order](#)" to the Local Rules providing a framework for applicable provisions.

Guideline 2.02 (Rule 26(f) Meet and Confer)

At the required Rule 26(f) meet and confer conference, when a case involves electronic discovery, the topics that the parties should consider discussing include: 1) preservation; 2) systems that contain discoverable ESI; 3) search and production; 4) phasing of discovery; 5) protective orders (including application of [LCvR 16.1.D](#) and Fed. R. Evid. 502); and 6) opportunities to reduce costs and increase efficiency. In order to be meaningful, the meet and confer should involve direct communications between counsel (preferably, in person and/or by telephone), and be as sufficiently detailed on these topics as is appropriate in light of the specific claims and defenses at issue in the case. The topics to discuss include those set forth in Question 11 of the Rule 26(f) report set forth in "[Appendix LCvR 16.1.A](#)" to the Local Rules and Question 13 the Rule 26(f) report for Class Actions set forth in "[Appendix LCvR 23.E](#)" to the Local Rules, as applicable. In addition, some or all of the details set forth in LCvR 26.2 and the Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in "[Appendix LCvR 26.2.C-CHECKLIST](#)" to the Local Rules may be useful to discuss, especially in cases where the discovery of ESI is likely to be a significant cost or burden. The Court encourages the parties to address any agreements or disagreements related to the above matters in the joint case management statement required by LCvR 26.2. At the direction of the Court, the parties may be required to submit a draft of a Stipulated Order re: Discovery of Electronically Stored Information for Standard Litigation such as the model Order set forth in "[Appendix LCvR 26.2.E-MODEL ORDER](#)" to the Local Rules.

Guideline 2.03 (Informal Discovery Regarding ESI)

Consistent with Guideline 1.02, the Court strongly encourages an informal discussion about the discovery of ESI (rather than deposition) at the earliest reasonable stage of the discovery process. Counsel, or others knowledgeable about the parties' electronic systems, including how potentially relevant data is stored and retrieved, should be involved or made available as necessary. Such a discussion will help the parties be more efficient in framing and responding

to ESI discovery issues, reduce costs, and assist the parties and the Court in the event of a dispute involving ESI issues.

Guideline 2.04 (Disputes Regarding ESI Issues)

Disputes regarding ESI that counsel for the parties are unable to resolve shall be presented to the Court at the earliest possible opportunity, such as at the initial Case Management Conference. The Court may require additional meet and confer discussions, if appropriate. The Court may appoint and/or the Parties may seek the appointment of an E-Discovery Special Master or E-Discovery Mediator (<http://www.pawd.uscourts.gov/ed-information>) to assist the Court in resolving ESI disputes.

EDUCATION GUIDELINES

Guideline 3.01 (Judicial Expectations of Counsel)

It is expected that counsel for the parties, including all counsel who have appeared, as well as all others responsible for making representations to the Court or opposing counsel (whether or not they make an appearance), will be familiar with the following in each litigation matter:

- (a) The electronic discovery provisions of the Federal Rules of Civil Procedure, including Rules 26, 33, 34, 37, and 45, and Fed. R. Evid. 502 (including applicable Advisory Committee Reports); and
- (b) LCvR 26.2, these Guidelines, and this Court's Checklist for Rule 26(f) Meet and Confer Regarding ESI set forth in "[Appendix LCvR 26.2-CHECKLIST](#)" and Stipulated E-Discovery Order for Standard Litigation set forth in "[Appendix LCvR 26.2.E-MODEL ORDER](#)" to the Local Rules.

confer about ESI and to help resolve disputes without court intervention. The resource person is not necessarily the person who would be designated to testify related to a person or entity's preservation efforts, document retention policies, collection efforts, or other related matters.

4. PRESERVATION

The parties have discussed their preservation obligations and needs and agree that preservation of potentially relevant ESI (e.g., email, text ESI, voicemail, spreadsheets, databases, etc.) will be reasonable and proportionate. To reduce the costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

a) Only ESI accessed, modified, created or received between [the dates] _____ and _____ relating to the above-captioned matter will be preserved¹;

b) Based upon their investigation to date, the parties have exchanged a list of the types of ESI they believe should be preserved and the custodians, or general job titles or descriptions of custodians, for whom they believe ESI should be preserved. The parties shall add or remove custodians as reasonably necessary;

c) The parties have agreed/will agree on the number of custodians per party for whom ESI will be preserved;

d) The following data sources are not reasonably accessible, and the parties agree not to preserve the following: [e.g., backup media created before _____, ESI in foreign jurisdictions, data in slack space, digital voicemail, instant messaging, automatically saved versions of ESI];

e) The following data sources will be preserved but not searched, reviewed, or produced: [e.g., backup media of [named] system, systems no longer in use that cannot be accessed, etc.];

f) In addition to the agreements above, the parties agree that data from the following sources (a) could contain relevant information but (b) under the proportionality factors, should not be preserved: [the following databases that by their nature change as new information is added to them, accessed and modified dates, etc.]:
_____;

g) In terms of preservation, the parties agree/disagree that there is no need for forensic images of servers, databases, computers, cell phones, etc. [except for the following data sources: _____]²

¹ The parties may estimate or agree to the volume of data to be produced (i.e., number of documents, files, or GB of data).

5. SEARCH AND IDENTIFICATION

The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if appropriate, they will meet and confer about methods to search ESI in order to identify ESI that is subject to production in discovery and filter out ESI that is likely not subject to discovery. The parties are permitted to use reasonable search methods to narrow down the ESI to be reviewed for production in discovery (e.g., search terms, technology assisted review, deduplication, elimination of correspondence with attorneys, client self-collection efforts, etc.); however, the parties must be prepared to discuss the reasonableness of such efforts.

6. PRODUCTION FORMATS

The parties agree to produce ESI in (check all that apply) TIFF, native, PDF, and/or paper or a combination thereof (check all that apply) file formats.³ If particular ESI warrants a different format, the parties will cooperate to arrange for the mutually acceptable production of such ESI.⁴ The parties agree not to degrade the searchability of ESI as part of the document production process, and have discussed the necessary level of resolution to permit the effective use of produced ESI. Additionally, the parties agree to discuss appropriate load files, if any.

² To the extent the parties disagree, cost-shifting may occur to the extent a party is required to expend resources on imaging which the Court determines to be unnecessary or not proportional.

³ To the extent production is not in native format, the parties should consider agreement on metadata fields to be produced.

⁴ By way of example, the parties could agree to produce excel ESI in native format while providing other ESI in TIFF format with conventional production numbering (PI 00001) and load files.

7. PHASING

When the parties require some discovery prior to ADR/mediation, the parties agree to phase the production of ESI. The initial production will be from the following sources and custodians:_____.

This agreement will not limit the parties' discovery if ADR/mediation is unsuccessful. However, the parties will continue to explore appropriate and proportional phasing of discovery throughout the discovery process.

When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties agree to phase the production of ESI and the initial production will be from the following sources and custodians:_____.⁵

Following the initial production, the parties will continue to prioritize the order of subsequent productions.

8. ESI PROTECTED FROM DISCOVERY OR PUBLIC DISCLOSURE

a) Pursuant to Fed. R. Evid. 502(b) and (d), the production of ESI which is privileged or is protected trial preparation material is not a waiver of privilege or protection from discovery in this case or in any other federal, state, arbitration or other proceeding so long as it was: [the parties may include their stipulated agreement, if any as to waiver of privilege, in this order or in a separate order as set forth in the Order implementing Federal Rule of Evidence 502(d) set forth in "[Appendix LCvR 16.1.D](#)" to the Local Rules].⁶

b) The parties may agree upon a "quick peek" process, without waiver of privilege or protection as trial preparation material, pursuant to Fed. R. Civ. P. 26(b)(5).

c) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log.

⁵ A phased or iterative approach may be used to conduct the ESI (e.g., by issue, timeframe, custodians, databases, issue, liability, or damages).

⁶ This Paragraph 8 can be modified to limit (or entirely eliminate) the situations in which a producing party (or non-party) could be found to have failed to take (i) reasonable steps to prevent the disclosure of privileged or trial preparation material ESI, and/or (ii) prompt and reasonable steps to rectify this error, as provided under Fed. R. Civ. P. 502(b)(2)-(3). This paragraph can also be modified to address different types of produced materials to different standards than those outlined in Fed. R. Evid. 502(b).

d) Communications may be identified on a privilege log by category, rather than individually, if agreed upon by the parties or ordered by the Court.

e) The parties have/have not agreed to use the Form Inadvertent Production Provision of LCvR 16.1.D (The Clawback Agreement), and its terms are incorporated herein.

f) The parties have/have not agreed to use the Form Protective Order ([add hyperlink](#)) (App. LPR 2.2) for protection of Confidential Information, such as trade secrets, and its terms are incorporated herein.

9. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

IT IS SO STIPULATED, through Counsel of Record.

Dated:

Counsel for Plaintiff

Dated:

Counsel for Defendant

IT IS SO ORDERED that the foregoing Agreement is approved.

Dated:

UNITED STATES DISTRICT/MAGISTRATE

JUDGE

APPENDIX LCvR/LCrR 83.2.A CERTIFICATION

**CERTIFICATION FOR BAR ADMISSION FOR THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

I, _____, do certify as follows:

1. I am a member in good standing of the Bar of:
 - a. The Supreme Court of Pennsylvania _____, Bar # _____
 - b. The United States District Court for the _____
 - c. The Supreme Court of the United States _____

2. I am a member in good standing of the following state Bars/Bars of United States District Courts (also note Bar identification numbers):

3. I am affiliated with the law firm of _____

 or
 I am in the sole practice of law _____

4. My business address, telephone number and email address are:

5. I am a registered user of the CM/ECF electronic docketing system of this Court.
6. I have read, know and understand the Local Rules of this Court.
7. The following is a listing and description any prior disciplinary proceedings against me that resulted in a non-confidential negative finding or sanction against me (if none, so state):

8. Attached is a certificate of good standing from the Bar of _____ that is current within the prior twelve (12) months.

I DECLARE UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED BY ME ON _____.

SIGNATURE: _____

STATEMENT OF MOVING ATTORNEY

I, _____, A MEMBER IN GOOD STANDING OF THE BAR OF THIS COURT, DO HEREBY CERTIFY THAT I BELIEVE THE ABOVE CANDIDATE FOR ADMISSION TO THE BAR OF THIS COURT IS OF GOOD MORAL AND PROFESSIONAL CHARACTER AND, TO THE BEST OF MY KNOWLEDGE, IS ELIGIBLE FOR ADMISSION TO THE BAR OF THIS COURT.

NAME: _____

DATE: _____

APPENDIX LCvR/LCrR 83.2.B-MOTION
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

_____)
vs.) Civil Action No. _____
_____)
_____)

MOTION FOR ADMISSION *PRO HAC VICE* OF _____

[Affiant], undersigned counsel for [Plaintiff/Defendant] _____, hereby moves that [Affiant] be admitted to appear and practice in this Court in the above-captioned matter as counsel pro hac vice for [Plaintiff/Defendant] _____ in the above-captioned matter pursuant to LCvR 83.2 and LCvR 83.3, LCrR 83.2 and this Court's Standing Order Regarding Pro Hac Vice Admissions dated May 31, 2006 (Misc. No. 06-151).

In support of this motion, undersigned counsel attaches the Affidavit for Admission Pro Hac Vice of [Affiant] filed herewith, which, it is averred, satisfies the requirements of the foregoing Local Rules and Standing Order.

Respectfully submitted,

Dated: _____

[Affiant's name] (Bar. ID NO. _____)
[Affiant's Address/Contact Details]

Counsel for [Plaintiff/Defendant]

**APPENDIX LCvR/LCrR 83.2.B-AFFIDAVIT
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

_____)
vs.) Civil Action No. _____
_____)
_____)

**AFFIDAVIT OF _____ IN SUPPORT OF
MOTION FOR ADMISSION *PRO HAC VICE***

I, _____, make this affidavit in support of the motion for my admission to appear and practice in this Court in the above-captioned matter as counsel pro hac vice for [Plaintiff/Defendant]_____ in the above-captioned matter pursuant to LCvR 83.2 and LCvR 83.3, LCrR 83.2 and this Court's Standing Order Regarding Pro Hac Vice Admissions dated May 31, 2006 (Misc. No. 06-151).

I, _____, being duly sworn, do hereby depose and say as follows:

1. I am a [Lawyer/Partner/Associate] of the law firm [_____].
2. My business address is _____.
3. I am a member in good standing of the bar[s] of _____.
4. My bar identification number(s) [is/are] _____.
5. A current certificate of good standing from _____ is attached to this Affidavit as Exhibit ____.
6. [if applicable] The following are a complete list of any previous disciplinary proceedings concerning my practice of law that resulted in a non-confidential negative finding or sanction by the disciplinary authority of the bar of any state or any United States court: _____: [Insert additional explanation as appropriate.]
7. I attest that I am a registered user of ECF in the United States District Court for the Western District of Pennsylvania.
8. I attest that I have read, know and understand the Local Rules of Court for the United States District Court for the Western District of Pennsylvania

9. Based upon the foregoing, I respectfully request that I be granted pro hac vice admission in this matter.
I certify and attest that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are false, I am subject to punishment.

Dated: _____













[Affiant]

Fifth Judicial District of Pennsylvania

County of Allegheny

Administration Civil Criminal District Judges Family Jury Orphans' PMC

Civil | Judges

Judges	Suffix Code	Address	Telephone	Courtroom Procedures	Revised
Connelly, Patrick M.		711 City-County Building	412.350.5904		3/18/22
Della Vecchia, Michael A. (Senior Judge)		710 City-County Building	412.350.0281		7/28/20
Hertzberg, Alan D.		816 City-County Building	412.350.6333		2/8/21
Ignelzi, Philip A.		820 City-County Building	412.350.3800		6/17/20
James, Joseph M. (Senior Judge)		707 City-County Building	412.350.5598		1/25/22
Klein, Arnold I.		708 City-County Building	412.350.4373		6/17/20
Lutty, Paul F., Jr. (Senior Judge)		814 City-County Building	412.350.5468		
McGinley, Mary C.		817 City-County Building	412.350.1484		1/19/22
McVay, Jr., John T.		709 City-County Building	412.350.3779		3/11/21
O'Brien, W. Terrence (Senior Judge)		705 City-County Building	412.350.5898		6/17/20
Regan, Daniel D.		704 City-County Building	412.350.6563		
Ward, Christine A. (Administrative Judge)		819 City-County Building	412.350.5793		6/17/20

SHERIFF SALE

Real Estate Continuance Order

COVID-19 INFORMATION

Emergency Operations Orders

Positive Test Results

Mask Policy

MICROSOFT TEAMS RESOURCES

Using a Mobile Smartphone, Tablet, iPad

How to download the MS Teams application

How to join a MS Teams meeting

Using a Computer

How to access MS Teams

How to join a MS Teams meeting

Recorded Training

Teams Video Training

Resources

Home

Division Telephone

Employment Opportunities

Contact Us

Disclaimer

Interpreter Services and Disability

Accommodations (ADA)

Jail Oversight Board

Fifth Judicial District of Pennsylvania

County of Allegheny

Administration Civil Criminal District Judges Family Jury Orphans' PMC

Civil | Specially Assigned Case Types

Case types that are specially assigned:

- Abandoned & Blighted Property Conservator Act 135 Cases - Honorable John T. McVay, Jr.
- Asbestos - Honorable Arnold I. Klein & Honorable Alan D. Hertzberg
- Calendar Control - Honorable Patrick M. Connelly
- Class Action Cases - Honorable Philip A. Ignelzi
- Commerce & Complex Litigation Center Cases - Honorable Christine A. Ward & Honorable Philip A. Ignelzi
- Construction - Honorable Michael A. Della Vecchia
- County Beverage Tax - Honorable Arnold I. Klein
- Election Cases - Honorable Joseph M. James
- Eminent Domain Cases - Honorable Michael A. Della Vecchia
- Housing Court - Honorable Patrick M. Connelly
- Mortgage Conciliation - Honorable John T. McVay, Jr.
- Pennsylvania Liquor Control Board - Honorable Arnold I. Klein
- Prisoner Rights - Honorable Arnold I. Klein
- Right-to-Know Appeals - Honorable Terrance W. O'Brien
- Save Your Home - Honorable John T. McVay, Jr.
- Special Name Change - Honorable Christine A. Ward
- Structured Settlement Approvals - Honorable Christine A. Ward
- Toxic Substance Cases - Honorable Philip A. Ignelzi
- Water Exoneration Hearing Board Appeals - Honorable Christine A. Ward
- Zoning Cases - Honorable Joseph M. James

SHERIFF SALE

Real Estate Continuance Order

COVID-19 INFORMATION

Emergency Operations Orders

Positive Test Results

Mask Policy

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How to access MS Teams

How to join a MS Teams meeting

Recorded Training

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Resources

Home

Division Telephone

Employment Opportunities

Contact Us

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Jail Oversight Board

Civil Division

700 City-County Building

414 Grant Street

Pittsburgh, PA 15219

directions by Google maps

Hours of Operation

Monday through Friday

8:30 a.m.-4:30 p.m.



711 City-County Building
414 Grant Street
Pittsburgh, PA 15219
Telephone: 412-350-5904

Standard Operating Procedures for

Judge Patrick M. Connelly

In compliance with the Fifth Judicial District Emergency Operations Plan

CALENDAR CONTROL MOTIONS

Local Rule 208.3(a)(3)

Calendar Control Judge

- a. Motions in any case that has been listed for trial on a published trial list shall be presented to the Calendar Control Judge. This includes all motions that would otherwise have been heard by the Motions Court or the Special Motions Court.*
- b. In any case, including a case that is not on a published trial list, all motions relating to the following matters shall be presented to the Calendar Control Judge:*

i. the compromise, settlement, and discontinuance of an action to which a minor is a party; and

NOTE: See Local Rule 2039 for the procedures governing a petition presented pursuant to Pa.R.C.P. No. 2039.

ii. the compromise, settlement, and discontinuance of an action to which an incapacitated person is a party.

NOTE: See Local Rule 2064 for the procedures governing a petition presented pursuant to Pa.R.C.P. No. 2064.

Contested Motions. Calendar Control Motions will be scheduled daily. You are required to file your motion with the Department of Court Records first then after your motion has been filed it should be emailed to civilcalcontrolmotions@alleghenycourts.us for scheduling, all parties who have email addresses available should be copied on this email. Please put in the subject line of the email the case name and docket number; in the body of the email please list all parties in the case and their email addresses, or other contact information if email is not available, and state how much time will be needed for argument. Please provide your proposed order as a separate document in **Word Format**. Once the motion is received, it will be scheduled for remote argument by Judge Connelly's staff approximately 10 days from receipt of the motion. You can participate remotely through any device including a desktop computer, laptop, smartphone, tablet, or telephone. All parties will be notified of the date and time of argument via an email with the call-in telephone number and Microsoft Teams access information as well as detailed instructions on how to participate remotely.

Uncontested Motions. Any motion that is uncontested should be identified as such in the body of the motion. You are required to file your motion with the Department of Court Records first then after your motion has been filed it should be emailed to civilcontrolmotions@alleghencourts.us for signing, all parties who have email addresses available should be copied on this email. Please put in the subject line of the email the case name and docket number; in the body of the email please list all parties in the case and their email addresses, or other contact information if email is not available, and state that the motion is uncontested or consented to. Please provide your proposed order as a separate document in **Word Format**. If a motion is identified as uncontested, the order will be signed and filed without argument and no appearance by any party will be necessary.

Emergency Motions. Emergency motions are motions that need to be addressed sooner than the 10-day time period for contested motions and will be scheduled accordingly, or consented motions that need to be signed immediately. You are required to file your motion with the Department of Court Records first then after your motion has been filed it should be emailed to civilcontrolmotions@alleghencourts.us for scheduling or signing, all parties who have email addresses available should be copied on this email. Please put in the subject line of the email **Emergency** then the case name and docket number; in the body of the email please list all parties in the case and their email addresses, or other contact information if email is not available, and state how much time will be needed for argument or if the motion is consented to please state that, also please indicate the reason the motion is an emergency. Please provide your proposed order as a separate document in **Word Format**. Once the motion is received, it will be scheduled for remote argument by Judge Connelly's staff as soon as possible or if the motion is consented to the order will be signed as soon as possible. You can participate remotely through any device including a desktop computer, laptop, smartphone, tablet, or telephone. All parties will be notified of the date and time of argument via an email with the call-in telephone number and Microsoft Teams access information as well as detailed instructions on how to participate remotely.

All motions should meet the following requirements:

- The subject line of all emails regarding motions should be titled as the case name and docket number and whether the motion is contested, uncontested, or an emergency.
- All parties who have email addresses should be copied on the email to the Court.
- Contact information for all parties, including email addresses, should be either clearly laid out in the email accompanying the motion, or prominently displayed on the cover page of the motion.
- Notice of electronic service should also be displayed on the cover page as well as on the Certificate of Service.

- Each contested motion will be allotted 15 minutes for argument unless more time is requested by counsel.
- **The proposed order must be provided as a separate Word document.**

Any questions regarding calendar control motions should be directed to Judge Connelly's Secretary, Erin Liddell: ELiddell@alleghecourts.us .

Fifth Judicial District of Pennsylvania

County of Allegheny

Administration Civil Criminal District Judges Family Jury Orphans' PMC

Civil | Discovery Motions

IF YOUR CASE IS ON A PUBLISHED TRIAL LIST, AND YOU HAVE A DISCOVERY ISSUE REQUIRING THE PRESENTATION OF A DISCOVERY MOTION, THAT DISCOVERY MOTION SHALL BE HEARD BY THE CALENDAR CONTROL JUDGE, IRRESPECTIVE OF THE SUSPENSION

Remote Discovery Court Procedures

The Court is currently conducting Discovery Motions Court via advanced communication technology.

This page will be updated when in-person proceedings resume. Any conflicts with the Local Rules are superseded by the following procedures until further notice. Until that time, the following rules and procedures must be followed for the Court to hear your motion:

- **Absent compelling circumstances, and pursuant to [Lau v. AHN](#) the Court requires the parties to conduct a meaningful "meet and confer" prior to presentation of any contested motion. The Court will inquire into the specifics of the meet and confer during the hearing.**
- All communications must CC all parties in the matter. Parties should also provide a personal contact number to the Court in the event the Court must use conference calling or needs to speak to a party.
- All Motions **MUST** be accompanied by a [Remote Discovery Motions Form](#).
- All forms must be fully completed, and all contact information must be provided, or the motion **WILL NOT** be heard.
- Upon receipt and review of your form and motion the Court will contact the parties with a time, date, and conference information. This will come in the form of a Microsoft Teams Meeting Invitation. Your motion will be scheduled a minimum of ten (10) days in advance to in order to comply with notice requirements unless all parties agree to waive. Waiver does not guarantee an earlier date.
- If your Motion resolves prior to your hearing, please notify the Court immediately so the slot may be freed for another party.
- The Court prefers parties to appear by webcam if possible. This is for the benefit of our Court Reporter.
- Allegheny County Courts utilizes Microsoft Teams. A Teams account and download is not required if using a desktop or laptop computer running Microsoft Edge or other browser (Please note: Teams currently **does not** support Apple Safari, unless you have downloaded and installed the program). Mac users should note Microsoft Edge is free and can be downloaded from Microsoft. **If using a mobile device, you must download the App in your respective App Store and you may be required to create a free Microsoft account in order to connect.**

Microsoft Teams Download Link:

<https://products.office.com/en-us/microsoft-teams/download-app>

- As much as possible please try to participate from a quiet location
- PLEASE ATTEMPT A TEST PRIOR TO YOUR SCHEDULED HEARING TO REDUCE TECHNICAL DIFFICULTIES AT THE TIME OF YOUR HEARING
- Please practice appropriate web conferencing etiquette. Speak one at a time and pause between speakers to accommodate for any potential lag in the video/audio.
- Your hearing may be recorded for the aid and benefit of the Court Reporter. Any party having an objection must inform the Court prior to going on the record.
- **All parties MUST be informed of all proceedings. If an email address for a party is unknown the moving party must inform the Court in its initial submission and verify/attest the conference information and contact information for the Court shall be communicated/placed in the mail to the party within twenty-four (24) hours Parties who do not abide by this procedure risk rescission of any Order resulting from their conduct and/or sanctions.**
- Currently the Court is **not receiving physical mail**.

ALL DISCOVERY COMMUNICATIONS AND QUESTIONS MUST BE SENT VIA EMAIL TO:

civildiscomotions@alleghencycourts.us

Download Links:

[Remote Discovery Motions Procedures](#)

[Remote Discovery Motions Form](#)

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COVID-19 INFORMATION

[Emergency Operations Orders](#)

[Positive Test Results](#)

[Mask Policy](#)

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[How to join a MS Teams meeting](#)

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[Teams Video Training](#)

Resources

[Home](#)

[Division Telephone](#)

[Employment Opportunities](#)

[Contact Us](#)

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

**I.L., a Minor, by ASHLEY LAU and
JUSTIN KEATING, Guardians, and
ASHLEY LAU and JUSTIN KEATING,
individually,**

Plaintiffs,

CIVIL DIVISION

G.D. 18 - 011924

vs.

**ALLEGHENY HEALTH NETWORK; WEST
PENN ALLEGHENY HEALTH SYSTEM,
INC., d/b/a THE WESTERN
PENNSYLVANIA HOSPITAL;
ALLEGHENY SPECIALTY PRACTICE
NETWORK; ALLEGHENY CLINIC;
CENTURY MEDICAL ASSOCIATES;
ALLEGHENY PERINATAL ASSOCIATES;
JAMES ROWLAND, M.D.; CHRISTANN
JACKSON, M.D.; RONALD THOMAS,
M.D.; MARIA N. UDREA, M.D.; JOHN
LUIZA, M.D.; FAITH IGHOYIVWI, M.D.;
PAUL WEINBAUM, M.D.; and,
AURORA MARCELO MIRANDA, M.D.,**

Defendants.

OPINION and ORDER of COURT

IGNELZI, J.

This Pretrial Discovery Opinion and Order of Court involves the discovery deposition of a defendant physician in a medical negligence action and various objections raised, including but not limited to, the scope and breadth of opinion testimony at deposition. Before this Court are Plaintiffs' Motion to Overrule

Objection and Reconvene Deposition (ECF 53)¹ and Defendants' Response in Opposition to Plaintiffs' Motion (ECF 52). Plaintiffs seek to reconvene the deposition to compel the physician to answer questions regarding the timing of the delivery and any follow-up questions that reasonably flow from his responses. (ECF 53, Proposed Order at ¶¶2-3). This Court is the assigned Special Motions Judge pursuant to Allegheny County Local Rule 208.3(a)(5).² The Special Motions Judge handles the bulk of all pretrial discovery motions. The motions assignment has a

¹ "ECF" means electronic court filing identified on the Department of Court Records docket.

² This Court currently presides as the assigned Special Motions Judge for pretrial discovery matters before the Court of Common Pleas of Allegheny County ("CCPAC"). See Allegh. L. R. 208.3(a)(5). CCPAC employs a master calendar list with designated procedures for the disposition of motions, including a Calendar Control Judge (Rule 208.3(a)(3); Motions Judge (Rule 208.3(a)(4); and Special Motions Judge (Rule 208.3(a)(5). This Court also presides over General Docket trials and is also assigned to the Commerce and Complex Litigation Center pursuant to Allegh. L. R. 249. See *also* https://www.alleghenycourts.us/civil/commerce_complex_litigation.aspx

Pursuant to Allegh. L. R. 208(a)(5)(c):

All uncontested matters may be presented to the Special Motions Judge on Fridays at 10:00 A.M., 12:00 Noon, and 2:00 P.M. For contested motions, the moving party may obtain a Friday argument date and time, in person or by telephone, from the Assignment Room (700 City-County Building, 412-350-5463) between 1:30 P.M. and 4:30 P.M.; or the moving party may place the matter on a 2:00 P.M. Add-On List any time after 8:30 A.M. on the Friday on which it will be argued. The Add-On List is located in the Courtroom of the Special Motions Judge.

long and storied history.³ As with any storied history, there are certain portions which need to be amended and changed.⁴

³ The designated times to present motions are euphemistically known among local counsel as “Happy Hour.” Regrettably, while “Happy Hour” may be perceived as an efficient pre-COVID-19 manner to address discovery issues, provide counsel court-time and social opportunity, it spawned a veritable cottage guild of litigants seeking the Special Motions Judge’s intervention oft-times to mediate issues related to counsel’s behavior, counsel’s (in)ability to properly ascertain the governing Rules of Discovery Procedure, to compel counsel to professionally confer and consult with opposing counsel to resolve issues, or to compel counsel to make reasonable efforts to expedite litigation consistent with the interests of the client. Experience suggests counsel, at times, used ready-access to “Happy Hour” as opportunity for informal continuing legal education, such as requiring the court to sift through voluminous and/or excessive poorly-drafted interrogatories, answers, requests for admission/production, and/or responses.

Any continuing acceptance of informal “Happy Hour” norms undermines judicial economy by compelling a party to seek court intervention to, in effect, have the Court examine and edit a party’s lax work product. “Happy Hour” motion practice is not a substitute for meeting and conferring beforehand to resolve issues.

As a result, the Court has proposed an amendment to Allegheny Local Rule 208.3(a)(4)(b) to promote that counsel confer and consult before presenting a Motion. The proposed amendment at Rule 208.3(a)(4)(b)(ii) reads as follows:

(b) Presentation:

(ii) Absent compelling circumstances, the Court requires the parties to conduct a meaningful “meet and confer” prior to presentation of any contested motion. The Court will inquire into the specifics of the meet and confer during the hearing.

⁴ As of February 8, 2021, the Court has posted this requirement in the Remote Discovery Court Procedures – Civil Discovery Motions, Fifth Judicial District of Pennsylvania, Allegheny County. See <https://www.alleghenycountycourts.us/Civil/DiscoveryMotions.aspx>. While this Court is not requiring a certification, it is this Court’s intent to capture and apply the spirit of Federal Rule of Civil Procedure addressing parties’ failure to make disclosures or to cooperate in discovery and apply sanctions. As Fed.R.Civ.P. 37(a)(1) in pertinent part states: “The [discovery] motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” This Court is henceforth adopting the well-reasoned standard underlying the duty of counsel in good faith to confer and consult. At hearing, counsel will be accountable for the specifics of their meaningful efforts to meet and confer.

As per this Opinion, the previous herein described “Happy Hour” norms are no longer acceptable and offending counsel will be sanctioned for egregious conduct. Henceforth, counsel at bar in Allegheny County is well-informed to exercise professional discretion in applying the proper discovery rules to the appropriate discovery vehicle (interrogatories, production requests, admissions, and depositions) when submitting notices, requests or responses to opposing counsel *before* a party is compelled to seek court intervention. For example, voluminous and repetitive written interrogatories are not an expedient substitute for simply noticing a deposition and asking the questions directly of the deponent *without the need* to appear at Happy Hour to reconcile the dispute related to counsel’s choice or manner of discovery. To be clear, this guidance is not intended to chill the zealous advocacy of any party or to seek resolution of legitimate discovery disputes. It is intended to establish a new norm for motions practice in the Court of Common Pleas of Allegheny County before the Special Motions Judge.

Procedural Summary

This action was initiated on September 17, 2018, by Praecipe for Writ of Summons (ECF 1). Thereafter, on November 7, 2018, Plaintiffs filed their initial Complaint (ECF 19)⁵ in medical negligence related to the birth of I.L., a minor. Plaintiffs aver as a result of an emergent cesarean section on September 24, 2016, the baby suffered hypoxic ischemic encephalopathy (HIE) causing severe injury to the brain due to deprivation of oxygen. (ECF 53 at ¶15).

Plaintiffs' Third Amended Complaint (ECF 38), alleges, *inter alia*, that deponent Defendant, Ronald Thomas, M.D.: acted in his own right as a medical practitioner and as agent of specific corporate Defendants (ECF 38 at ¶12); signed a prenatal ultrasound report that was conducted on or about August 25, 2016 (ECF 38 at ¶38); was consulted by co-Defendant physician Christann Jackson, M.D. related to a September 23, 2016 sonogram; and "recommended that an induction should be scheduled within the next day or so given the bowel appearance and doppler results[.]" (ECF 38 at ¶¶45, 46).

Count IV of Plaintiffs' Third Amended Complaint against Dr. Thomas alleges negligence, and avers that Defendant Deponent Thomas failed to exercise reasonable treatment and care, in any or all of the following respects:

- (a) In failing to make a plan for delivery by 38 weeks;
- (b) In failing to arrange for Ashley's admission to the hospital and delivery of I.L. at 38 weeks 1 day on September 23, 2016, given elevated

To assist in this transition, this Court acknowledges the wit of Mark Twain who stated that *humor is mankind's greatest blessing*. Heeding Samuel Clemens' adage – and to create a new local euphemism to encapsulate this transformation – this Court announced on its first day assigned as Special Motions Judge, that its stated goal is to convert "Happy Hour" into "Happy Minute." As the injection of appropriate humor is necessary so that advocates and jurists not take themselves too seriously, it is the expectation that by adopting this simple new "Happy Minute" moniker, this quip will be a blessing for lawyers and judges to acknowledge their respective roles to effect judicial economy and resolve discovery issues by meeting and conferring before presentation of a motion.

⁵ Plaintiffs subsequently filed a First Amended Complaint (ECF 23), Second Amended Complaint (ECF 31), and a Third Amended Complaint (ECF 38).

umbilical artery value in combination with fetal growth restriction and gastroschisis with evidence of increasing bowel dilation;

- (c) In failing to arrange for delivery of I.L. before the presentation of Ashley Lau on September 24, 2016 at West Penn Hospital in active labor; and
- (d) In failing to review and/or correctly interpret the electronic fetal monitor tracing recorded on September 22, 2016 which clearly reflected contractions mandating admission and delivery of I.L. on September 23, 2016 at the latest.

(ECF 38 at ¶177).

Dr. Thomas' video deposition was conducted on August 5, 2020 from 10:09 a.m. until 2:05 p.m. The Plaintiffs' Motion (ECF 53) and Defendants' Response (ECF 52) relate to the scope and breadth of the deposition, objections raised, and the conduct of counsel. Plaintiffs aver Defense Counsel's objections and interruptions frustrated the essential purpose of discovery by raising speaking objections and directing the Defendant deponent to not answer certain questions related to medical opinion testimony. (ECF 53 at ¶18). Defendants aver that due to Plaintiffs' Counsel's repetitive questioning, unnecessarily prolonged deposition, and personal attacks on counsel; that Defense Counsel had properly placed valid objections and ended the deposition after four hours. (ECF 52 at ¶1). The repetitive areas are detailed in Defendant's Response at Exhibit B consisting of four (4) pages containing sixty-one (61) bullet points. (ECF 52, Exhibit B).

Each party incorporated excerpts of the deposition in support of their contentions. Dr. Thomas' complete deposition transcript was attached as Exhibit A to Defendants' Response. (Deposition of Ronald Thomas, M.D., August 5, 2020, ECF 52 at Exh. A). Defense Counsel raised objections at deposition pages 21, 24, 28, 29, 48, 50, 62, 66, 67, 97, 105, 108, 118, 145, 146, and 148. This Court has reviewed the pertinent pleadings and every page and line of the one hundred forty-

nine (149) page deposition transcript including objections and the interaction of counsel.⁶

Factual Summary

Upon review of the record before this Court, the nature of Dr. Thomas' medical training and specialty is high-risk obstetrics. (Dr. Thomas dep. at p. 31). The Complaint, deposition transcript, and related pleadings provide limited information, but it may be inferred that Dr. Thomas is an expert in maternal fetal medicine.⁷ In this instance, Dr. Thomas was involved in two ultrasound examinations of the mother Ms. Lau, dated September 1 and 23, 2016. (*Id.* at p. 6). On September 23, Dr. Thomas was consulted and recommended that an induction should be scheduled within the next day or so given the bowel appearance and the doppler results. (ECF 38 at ¶¶45-47).

Dr. Thomas did not see Ms. Lau on either September 1 or 23. (Dr. Thomas dep. at p. 7). On September 24, 2016 at 5:17 p.m., the child was delivered via emergency C-section at West Penn Hospital. (ECF 38 at ¶¶47-52). Dr. Thomas did not speak to Ms. Lau or her family after the events of labor and delivery and had no direct involvement whatsoever. (Dr. Thomas dep. at pp. 60-61).

It is clear from review of the Third Amended Complaint and Dr. Thomas' Deposition Transcript, that one of the Plaintiffs' theories against Dr. Thomas involves his participation on September 23, 2016, the day before delivery. It is alleged that on that date, Dr. Jackson read the ultrasound / sonogram and did a remote evaluation with Dr. Thomas. Based upon this remote evaluation, it is alleged Dr. Thomas suggested delivery within the next day or two. Plaintiffs contend delivery should have occurred on September 23, 2016 at the latest.

⁶ Defendant's Response in Opposition to Plaintiff's Motion to Overrule Objection and Reconvene Deposition (ECF 52) contains at Exhibit A: Dr. Thomas' August 5, 2020 Deposition Transcript and Exhibit B: Defendant's List of instances of Plaintiff's repetitive questioning at Dr. Thomas' Deposition.

⁷ For the specific purpose of addressing the Motion and Response before this Court, the Court takes judicial notice of public information at [Ronald L Thomas, MD | Find A Doctor | Allegheny Health Network \(ahn.org\)](https://www.ahn.org). At said website, Dr. Thomas' areas of expertise are listed as: Genetics, Gestational Diabetes, High Risk Obstetrics, Maternal-Fetal Medicine, Miscarriage, OB/GYN Ultrasounds, and Recurrent Pregnancy Loss.

The deposition questions and objections are related to factual testimony, standard of care, timing and management of delivery, opinion testimony, and repetitive questioning.

Scope and Standard of Review

In preparing this Opinion, this Court has reviewed substantial appellate law as well as opinions from Pennsylvania Courts of Common Pleas including District and County reports. This review includes Allegheny County Court of Common Pleas discovery opinions by the well-recognized jurist, the Honorable R. Stanton Wettick and the recent and well-reasoned opinions of the Honorable Terrence R. Nealon of the Court of Common Pleas of Lackawanna County. This Court adopts the standard of review for discovery disputes as thoroughly articulated in Howarth-Gadomski v. Henzes, M.D., 2019 WL 6354235 (Lacka. Co. 2019) and Karim v. Reedy, M.D., 2016 WL 111324 (Lack. Co. 2016).⁸

“The trial court is responsible for overseeing discovery between the parties and, therefore, it is within that court's discretion to determine the appropriate measures to insure adequate and prompt discovery of matters allowed by the Rules of Civil Procedure.” Rohm and Haas Co. v. Lin, 992 A.2d 132, 143 (Pa. Super. 2010), cert. denied, 565 U.S. 1093 (2011). Under Pa.R.C.P. 4003.1, “discovery is liberally allowed with respect to any matter, not privileged, which is relevant to the cause being tried.” Berg v. Nationwide Mutual Insurance Company, Inc., 44 A.3d 1164, 1178 n. 8 (Pa. Super. 2012), *app. denied*, 619 Pa. 719, 65 A.3d 412 (2013). Information is relevant “if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable, or supports a reasonable inference or presumption

⁸ This Court notes that Judge Nealon's Opinions in Howarth-Gadomski, *infra* and Karim, *infra* address at length Judge Wettick's Opinions in Lattaker v. McGee Women's Hosp. of UPMC, 2016 WL 3678620 (Alleg. Co. 2016); McLane v. Valley Medical Facilities, Inc., 2009 WL 6471086 (Alleg. Co. 2009); and Belan v. Ward, 67 Pa. D. & C. 4th 529 (Alleg. Co. 2004). This Court incorporates by reference and adopts the reasoning and conclusions of Judge Nealon in Howarth-Gadomski and Karim as applied to the above-referenced J. Wettick Opinions as will be discussed herein.

regarding a material fact.” Klein v. Aronchick, 85 A.3d 487, 498 (Pa. Super. 2014), *app. denied*, 628 Pa. 632, 104 A.3d 5 (2014). The relevancy standard applicable to discovery is necessarily broader than the relevancy test used at trial for the admission of evidence. Com. v. TAP Pharmaceutical Products, Inc., 904 A.2d 986, 994 (Pa. Cmwlth. 2006); George v. Schirra, 814 A.2d 202, 205 (Pa. Super. 2002). Moreover, any doubts regarding relevancy are to be resolved in favor of discovery. Ario v. Deloitte & Touche, LLP, 934 A.2d 1290, 1293 (Pa. Cmwlth. 2007).

“Pennsylvania has a long history of liberal discovery in order to further the truth-determining process essential to our judicial system, prevent unfair surprises should the matter proceed to trial, enhance an attorney's ability to strongly and effectively advocate for a client, and enable the efficient operation of our judicial system.” Office of the District Attorney of Philadelphia v. Bagwell, 155 A.3d 1119, 1138 (Pa. Cmwlth. 2017), *app. denied*, 643 Pa. 669, 174 A.3d 560 (2017). “Of the various discovery procedures available to litigants, depositions provide the most effective means of investigating a claim or defense via spontaneous responses to commonly unscripted questions.” Ezrin v. Hospice Preferred Choice, Inc., 2018 WL 4778396, at *5 (Lacka. Co. 2018). In a deposition setting, “as the inquiry proceeds, the framing of each question is dependent upon the answers to preceding questions.” Arvonio v. PNC Wealth Management, 35 Pa. D. & C. 5th 213, 220-223 (Lacka. Co. 2013) (quoting Nardell v. Scranton-Springbrook Water Service Co., 24 Pa. D. & C. 2d 663, 667 (Luz. Co. 1961)). As a result, depositions provide litigants and their counsel the opportunity to discover the details of their adversary's claims or defenses while simultaneously locking witnesses into their anticipated trial testimony. See Brown v. Trinidad, 111 A.3d 765, 774 (Pa. Super. 2015) (“Although taking the deposition of a witness on the day of trial is unusual, we agree with the trial court that it nonetheless had the effect of making Trinidad aware of what [the witness's] trial testimony

would be.”). To that end, “[l]itigants and their counsel have an obligation to act reasonably in scheduling and conducting discovery depositions.” Euceda v. Green, 40 Pa. D. & C. 5th 317, 331 (Lacka. Co. 2014).

Our discovery rules are designed “to allow a fair trial on the merits” and to enable the party seeking to prove a claim or defense to secure discovery pertinent to the matters which [s]he will be required to prove at trial. Keystone Dedicated Logistics, LLC v. JGB Enterprises, Inc., 77 A.3d 1, 12 (Pa. Super. 2013). For that reason, the party objecting to discovery generally bears the burden of establishing that the requested information is not discoverable. Koken v. One Beacon Ins. Co., 911 A.2d 1021, 1025 (Pa. Cmwlth. 2006); Brogan v. Rosenn, Jenkins & Greenwald, LLP, 27 Pa. D. & C. 5th 553, 562 (Lacka. Co. 2013). Furthermore, any limitations on discovery sought by the civil litigants should be construed narrowly. Venosh v. Henzes, 31 Pa. D. & C. 5th 411, 420 (Lacka. Co. 2013), *aff'd*, 105 A.3d 788 (Pa. Super. 2014).

Howarth-Gadomski v. Henzes, M.D., 2019 WL 6354235 at *3-4 (Lacka. Co. 2019). *See also* Karim v. Reedy, M.D., 2016 WL 111324 (Lacka. Co. 2016)(Judge Nealon articulated the scope and standard of review almost identically as in Howarth-Gadomski with additional citations to several Lackawanna County cases: Scranton Laminated Label, Inc. v. Florimonte, 27 Pa. D. & C. 5th 502, 521 (Lacka. Co. 2013), *aff'd*, 100 A.3d 314 (Pa. Super. 2014), *app. denied*, 105 A.3d 313 (Pa. 2014), *cert. denied*, 135 S.Ct. 1505 (U.S. 2015) and McAndrew v. Donegal Mut. Ins. Co., 56 Pa. D. & C. 4th 1, 7 (Lacka. Co. 2002)).

Discovery Deposition Objections

The first objection Defense Counsel raised is that Dr. Thomas is only a fact witness and therefore Plaintiffs are not permitted to seek opinion testimony. Plaintiffs’ Counsel questioned Dr. Thomas about Hypoxic Ischemic Encephalopathy

("HIE"). (Dr. Thomas dep. at page 21, line 1 to page 23, line 1).⁹ Defense Counsel continued throughout the deposition to object to Plaintiffs' Counsel seeking expert opinion testimony. (*Id.* at 145:13-147:12).

Q. And I know the American College of Obstetrics has a definition that they have used in the past. They define HIE as an etiology considered to be a limitation of oxygen and blood flow near the time of birth. Is that a fair definition of HIE?

A. That is fair.

DEFENSE COUNSEL: Counselor, objection. You are going far afield here. My client was not involved in delivery. I have given you some latitude here, but please get to the facts of this case. He is not here to talk about HIE. He is not here to talk about his criteria or ACOG. So, he is a fact witness, please focus on his facts. He is not here to talk about HIE, so get a new question, please.

(*Id.* at 21:1-16).

The second objection Defense Counsel raised precluded any questioning that did not involve Dr. Thomas' participation. Defense Counsel justified this objection by stating: "[b]ut what happens after his involvement, that is a retrospective review." (*Id.* at 22:25-23:1).

Defense Counsel continued to object that Dr. Thomas is not giving opinions unless it relates to his specific involvement in Plaintiff's care:

A. So, the antenatal testing again has to be emphasized as being a view of a chronic nature, not to address an acute episode or an acute insult.

Q. Do you think that this was an acute insult?

⁹ Deposition transcript citations are in the following format: page number : line number.

DEFENSE COUNSEL: He is not going to answer that. He is not here to comment on what happened to your client after his care ended, so he is not answering that.

(*Id.* at 28:1-3).

The next objection Defense Counsel raised was Dr. Thomas did not deliver the baby, Plaintiffs' Counsel could not ask anything about the delivery:

DEFENSE COUNSEL: He is not talking about delivery. Unless you know a fact that I don't, he wasn't involved in delivery.

PLAINTIFFS' COUNSEL: I am not talking about this delivery. I am talking about the management of patients like this. We are talking about –

DEFENSE COUNSEL: He's not answering. Counselor, I'm going to spare you. You are trying to get standard of care opinions out of a fact witness on a topic he had no involvement with, so he is not answering that.

(*Id.* at 50:24-51:9).

Defense Counsel concluded that any questions about delivery were not permitted and maintained his objections because Dr. Thomas' last involvement with the patient was on September 23, 2016 (the day before delivery on September 24). However, Dr. Thomas had participated in a remote evaluation with Dr. Jackson on September 23, 2016, wherein Dr. Thomas suggested delivery within the next day or two. (*Id.* at 8:16-22). Later in the deposition, Plaintiffs' Counsel pursued questioning Dr. Thomas about the events of September 24, 2016.

Defense Counsel objected to Plaintiffs' Counsel asking whether Dr. Thomas' September 23, 2016 recommendation was to have the patient admitted and delivered within 24 to 48 hours. (*Id.* at 62:14-72:18).

DEFENSE COUNSEL: No, counselor. You are trying to be cute here and get an opinion that I have told you he won't give. So, he has answered your question generically. We are not talking about this patient after the 23rd.

(*Id.* at 62:21-25).

Defense Counsel objected that this question had been asked and answered at least five (5) times. (*Id.* at 66:3-5). However, notwithstanding Defense Counsel's objections, this was the first time Dr. Thomas testified about a 24 to 48 hour recommendation. (*Id.* at pp. 62:14-72:18). At this point, Doctor Thomas indicated that delivery would be acceptable within that week and further testified that he thought there was a three to four-day window to work with in terms of moving toward delivery. (*Id.* at 72:14-18).

Defense Counsel next objected that Dr. Thomas is not a records custodian and asserted that Plaintiffs' questions are not reasonably calculated to lead to the discovery of admissible evidence. (*Id.* at 96:1-97:6).

Again, Defense Counsel asserts Dr. Thomas is not an expert. (*Id.* at 108:22-23). When questioned by Plaintiffs' Counsel as to whether Dr. Thomas will be supplying expert testimony at trial, Defense Counsel would not make such a representation. (*Id.* at 108:24-109:4). In fact, Defense Counsel stated Dr. Thomas will defend himself at trial as the law allows within the confines of his treatment. (*Id.*). Despite almost three pages of argument between counsel, Dr. Thomas does eventually answer the question. (*Id.* at 110:1-22).

Finally, Defense Counsel suspended the deposition after alleging he was personally attacked when Plaintiffs' Counsel stated that Defense Counsel was

coaching the witness. (*Id.* at 148:2-149:23). As a result, Defense Counsel unilaterally terminated the deposition. (*Id.* at 149:1-2).

Application of Law to Defendants' Objections

I. Discovery of Defendant Expert Opinions

Defense Counsel's first objection is that Plaintiffs may not seek the opinion of a defendant physician. This Court notes that prior to 1978, former Pennsylvania Rule of Civil Procedure 4011(f) had extended testimonial proscription to parties, and stated that "[n]o discovery....shall be permitted which....would require a deponent, whether or not a party, to give an opinion as an expert witness, over his objection." Smith v. SEPTA, 3 Pa. D. & C. 476, 477 n.2 (Phila. Co. 1977). However, on November 20, 1978, the Supreme Court rescinded Pa.R.C.P. 4011(f). See Neal by Neal v. Lu, 530 A.2d 103 (Pa. Super. 1987). In its stead, the Supreme Court adopted Pa.R.C.P. 4003.1.

This Court addresses each section of Pa.R.C.P. 4003.1 as applied to Dr. Thomas' deposition. The privilege exception of Pa.R.C.P. 4003.1(a) was not raised nor is at issue.¹⁰ Plaintiffs' Counsel's questioning, particularly regarding the timing of delivery and standards of care were relevant to the subject matter and any claims or defense of the plaintiff or any of the other party defendants of this medical malpractice lawsuit. While said discovery responses may not be admissible at trial for evidentiary reasons, there is no preclusion at this juncture for a party to

¹⁰ Pa.R.C.P. 4003.1(a) states:

Subject to the provisions of Rules 4003.2 to 4003.5 inclusive and Rule 4011, ***a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action***, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. (emphasis added).

seek responses that may lead to the discovery of admissible evidence pursuant to Rule 4003.1(b).¹¹

Pursuant to Pa.R.C.P. 4003.1(c), defense counsel do not have grounds for an objection asserting that because the information sought from a defendant expert involves an opinion or contention that it should therefore be precluded in discovery. To the contrary, Rule 4003.1(c), specifically states: “Except as otherwise provided by these rules, ***it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.*** (emphasis added). See also Howarth-Gadomski, *infra*, at *4-5 (1989 Explanatory Comment to Rule 4003.1(c) confirms that opinions are discoverable in Pennsylvania).

While the 1978 amendment and Pa.R.C.P 4003.1 are clear, the application of the amendment and Rule throughout the trial courts of Pennsylvania has not been clear nor consistent.¹² As a result of the inconsistency of application, it is understandable that Defense Counsel herein made objections relying on the nuanced case law previously developed in Allegheny County.¹³ Cf. Lattaker v.

¹¹ Pa.R.C.P. 4003.1(b) states: “It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” On a practical note, discovery is akin to “peeling an onion.” Delving further into discovery, layers are removed and one learns facts the party did not know at an earlier stage of discovery. Thus, later discovered items may render an item which did not appear reasonably calculated to lead to the discovery of admissible evidence to be the exact opposite.

¹² See Judge Nealon’s thorough analysis of the varying trial court applications of the Rule related to discovery of defendant expert opinions. Howarth-Gadomski, *infra* at *6-8. It is worth noting one Court of Common Pleas permitted plaintiffs’ counsel to ask opinion questions of a treating physician who was not a party defendant in the case. Accord Bosciano v. Centre Medical & Surgical Associates, 82 Pa. C. & C. 4th 201, 2006 WL 472241 (Centre Co. 2006) (stating “the Jistarri principle allies to admissibility, not discoverability”).

¹³ See Matthew P. Keris, *It Ain’t Over ‘Til It’s Over: Judge Wettick Affirms Practice of Limiting Deposition Opinions of Defendant Physicians*, Defense Digest, Vol 22, No. 4 (December 2016):

As it currently stands, the issue of doctors’ opinions at depositions can be argued both ways, at least until an appellate court offers further guidance. Until then, if defense counsel does not want a client to be compelled to provide standard of care testimony at deposition, he or she can continue the practice of having them state on the deposition record that they will not serve as an expert at the time of trial and instruct their client not to provide answers to those questions if asked. This protective practice ain’t over until an appellate court says it’s over.

Magee Women’s Hospital of UPMC, 2016 WL 3678620 (Alleg. Co. 2016); McLane v. Valley Medical Facilities, Inc., 2009 WL 6471086 (Alleg. Co. 2009); and Belan v. Ward, 67 Pa. D. & C. 4th 529 (Alleg. Co. 2004).¹⁴ As discussed herein, those nuances are now obsolete as applied to expert opinion in discovery – an objection related to an expert providing an opinion in discovery is no longer viable.

Discovery responses related to the timing of delivery or standards of care may lead to the discovery of admissible evidence related to the plaintiffs’ or any other party’s conduct as pertaining to a claim or defense. In medicine, as in other professional disciplines, standards of care evolve. **At the discovery phase**, this Special Motions Court will not parse the nuances of standards of care, the innumerable facts specific to a case, determine whether a physician (or other person within a specialized discipline) can refuse to answer an inquiry within their general knowledge or within the realm of their qualifications, knowledge, skill, experience, training, or education and *then* determine whether the response would be admissible at trial. Persons within specialized disciplines, including physicians, are inherently adept at answering questions within those realms for purposes of discovery, **irrespective** as to whether the answers are admissible at trial.¹⁵

Further, this Court does not find any of the limits of the scope of discovery as set forth in Pa.R.C.P 4011 applicable here.¹⁶ To the contrary, this Court finds that

¹⁴ To simplify reference these three opinions shall be identified hereinafter as Lattaker-McLane-Belan, the “Wettick Trilogy.”

¹⁵ Protestations including counsel’s unnecessary instructions for a witness not to answer (absent privilege or other reason by court order as set forth herein) are counterproductive to the discovery process. Moreover, the unjustified refusal to answer and subsequent compelled intervention of the Special Motions Court is a strain on judicial economy. In effect, counsel’s overzealous conduct would have the Special Motions Court engage in prognostic folly to determine admissible evidence before the conclusion of discovery. Moreover, the additional expenditure of counsel’s time and court resources to provide an unnecessary prognostic ruling far outweighs the witness simply answering the question at deposition and preserving the objection for the time of trial, **after** all discovery has concluded. To conclude otherwise would flip judicial economy on its head and place the Court in an obligatory position to babysit legal professionals over myriad nuanced discovery disputes. Special Motions Court or “Happy Hour” is not the judicial mechanism for presupposing the materiality of one’s claim or defense and/or is not the forum for a party seeking premature admissibility determinations. See n.2, *infra*. The Rules of Evidence provide recourse for the parties at the time of trial.

¹⁶ Pa.R.C.P. No. 4011, Limitation of Scope of Discovery:

conduct of counsel raising spurious or speaking objections, instructing a deponent not to answer, or ending a deposition in contradiction to the reasoning set forth herein to thereby compel opposing counsel to expend unnecessary legal effort and Court intervention may – in itself – be a violation of Pa.R.C.P. 4011(b). As such, future deposition conduct that would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent or any person or party, particularly to reschedule a deposition because of said conduct; shall be met with the imposition of sanction(s) in this matter or any similar matters brought before this Court presiding as Special Motions Judge.

As this Court is the assigned Special Motions Judge pursuant to Allegh. L. R. 208.3(a)(5), it concludes that in the Courts of Common Pleas of Allegheny County, a defendant-physician can be asked opinion questions, including standards of care, and properly grounded hypothetical questions in deposition.

During the deposition, Defense Counsel asserted Dr. Thomas is not an expert. (Dr. Thomas dep. at 108:22-23). When questioned by Plaintiffs' Counsel as to whether Dr. Thomas will be supplying expert testimony at trial, Defense Counsel would not make such a representation but stated Dr. Thomas will defend himself at trial as the law allows within the confines of his treatment. (*Id.* at 108:24-109:4). This deposition interaction requires this Court to examine whether a stipulation by Defense Counsel limiting the scope of the defendant expert's opinion at trial precludes inquiry at deposition. Upon review, this Court finds that such stipulations are not workable.

As a starting point, this Court finds Judge Nealon's opinions in Howarth-Gadomski v. Henzes, M.D., 2019 WL 6354235 (Lacka. Co. 2019) and Karim v. Reedy,

No discovery, including discovery of electronically stored information, shall be permitted which

- (a) is sought in bad faith;
- (b) would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent or any person or party;
- (c) is beyond the scope of discovery as set forth in Rules 4003.1 through 4003.6;
- (d) is prohibited by any law barring disclosure of mediation communications and mediation documents; or
- (e) would require the making of an unreasonable investigation by the deponent or any party or witness.

M.D., 2016 WL 111324 (Lacka. Co. 2016) instructive and persuasive, including Judge Nealon's analysis of Judge Wettick's Trilogy of Lattaker-McLane-Belan.

The Wettick Trilogy, Lattaker-McLane-Belan, (which first established and then expanded the "stipulation rule") addresses nuances related to the scope of defendant expert opinions dependent upon the nature of whether the deponent would be offering expert testimony at trial and/or would stipulate to limiting their testimony.

The proffered opportunity for a defendant-physician to avoid answering standard of care questions, based upon a stipulation not to offer any expert testimony on the standard of care at the time of trial, was first mentioned in Belan v. Ward, 67 Pa. D. & C. 4th 529 (Alleg. Co. 2004). In summarizing the plaintiff's discovery argument, now-retired Judge R. Stanton Wettick stated:

According to plaintiff, the defendant should have a choice: the defendant shall fully respond to deposition inquiries relevant to the standard of care, including information that may enhance counsel's ability to crossexamine the witness, or the defendant shall place on the record that he or she will not be offering any expert testimony as to the standard of care.

Howarth-Gadomski v. Henzes, M.D., 2019 WL 6354235 at *6 (Lacka. Co. 2019) *citing to Belan*, at 531. (Defendant-physician must answer questions relating to standard of care **unless** physician states on record they will not be offering any expert testimony on the issue at trial).

After Belan (2004), Judge Wettick refined the stipulation standard in McLane (2009):

In my discovery rulings, where a professional states prior to or at his deposition that he or she will not be offering any expert testimony, I have drawn the following line: The witness may be questioned about all decisions that he or she made at the time he or she was furnishing

services. The witness can be asked about what this witness did and did not do and why this witness did not take other actions. However, the witness who will not be offering expert testimony cannot be asked to make an after the fact evaluation of his or her work.

Id. at *2. (Cytotechnologists cannot be compelled to answer deposition opinion questions if not offering expert testimony at trial).

Finally, in Lattaker (2016), Judge Wettick sought to further nuance the stipulation standard when defense counsel declined to allow the defendant-obstetrician to offer opinions about fetal monitoring strips:

Under both the rulings in McLane and Karim, the treating physician may be asked to look at strips, PAP smear slides, x-rays, and the like if this will assist in remembering what occurred. The only difference is that under McLane, the defendants cannot be asked what they see today, and why the medical treatment they provided did not fall below the standard of care.

Lattaker v. Magee Women's Hospital of UPMC, 2016 WL 3678620 at *5.

This Court finds the Lattaker-McLane-Belan line of cases an untenable standard applicable to deposition opinion testimony in Allegheny County. This Court cannot disregard the practical distinctions in every case, especially in medical negligence lawsuits whereby facts and opinions are invariably intertwined and amorphous during the discovery phase of litigation. "When dealing with medical evidence, the line of demarcation between fact and opinion is often amorphous." Karim, at *13. Special Motions Court in Allegheny County is not the proper venue for the parties to parse the nuances and distinctions of facts from opinions based upon stipulations relating to the discovery of defendant expert opinions. This Court finds no compelling authority to limit discovery in this regard.

Furthermore, the rule creates more problems than it allegedly solves. By example, consideration must be given its applicability and/or enforcement at trial related to adverse inference jury instructions. The standard jury charge instruction

regarding adverse inference is found at Pa.S.S.J.I. (Civ) §5.50 (2020) with subcommittee notes.¹⁷

The general rule in Pennsylvania is that “[i]f a party fails to call a witness or other evidence within his or her control, the fact finder may be permitted to draw an adverse inference.” Leonard Packel and Anne Poulin, *Pennsylvania Evidence* § 427 at 348, note 1 (West's Pennsylvania Practice 2013, 4th Edition, 2019-2020 Supplement, December 2019). This rule applies in civil cases and when applied to witnesses it is known as the “missing witness rule.” *Id.*

A review of the standard jury instruction and supporting authority referenced by Packel and Poulin in *Pennsylvania Evidence* leads to the conclusion that the area of the law related to the adverse inference/missing witness rule is as clear as mud. In Allegheny County it is time to clear the discovery waters with less pretrial agitation and fewer unnecessary esoteric discovery disputes.

As Judge Nealon opined in Howarth-Gadowksi citing his analysis in Karim, the stipulation alternative articulated by Judge Wettick in McLane would “create disputes regarding any negative or adverse inferences to be drawn from the defendant-physician's failure to offer medical opinion testimony or to discuss the standard of care,” which testimony would be “within that party's exclusive control, and would presumably be favorable to or support the cause of that party.” Howarth-Gadowski at *7.

A pretrial discovery stipulation precluding a defendant expert litigant from testifying at trial related to opinions or standards of care improperly and prematurely handcuffs defendant expert litigants from exercising their right to testify at trial. The attempt to enforce such stipulations only creates additional disputes. Simply stated, throughout discovery and even during trial, facts and opinions are uncovered that may alter legal strategy or assessment. A defendant expert litigant must retain the option to testify at trial related to opinions and standards of care.

¹⁷5.50 (Civ)

FAILURE OF A PARTY TO TESTIFY—ADVERSE INFERENCE

The [plaintiff] [defendant] did not testify during the trial. You may find that [his] [her] testimony would have been unfavorable to [his] [her] case, unless [his] [her] failure to testify is satisfactorily explained.

For example, a defendant may change their mind and determine they must testify at trial. This Court finds that any stipulation does not bar such a determination by a party. Discovery and trial are fluid by their nature -- information obtained in discovery or during trial may alter legal strategy or the previous stipulation to not testify. It is also respectfully submitted, that if a defendant was precluded from testifying at trial by any discovery stipulation this would create presumptive grounds for appeal. From the defendant party's perspective, the stipulation is not workable.

The "stipulation rule" also fails to address the plaintiff's independent right to call the defendant healthcare provider / physician in their case-in-chief or read their deposition in their case-in-chief. See Pa.R.C.P. 4020(a)(1), *Use of Depositions at Trial*. In this instance, the plaintiff has the right to know answers in discovery in advance of trial.

Restricting defendant expert testimony in discovery based upon a stipulation unintentionally welcomes a myriad of discovery-based nuances that will require the Court to address unnecessary minutia whereby the former "stipulation rule" will be swallowed by a plethora of discovery-litigated exceptions. Further, it creates additional problems at trial.

Plainly stated, the "stipulation" objection is an unworkable mechanism. It improperly precludes appropriate inquiry *in discovery* of relevant and material information, or information that may lead to the discovery of other admissible evidence.

Finally, as addressed by Judge Nealon in Howarth-Gadomski (2019) and Karim (2016) and referenced above:

No Pennsylvania statute, rule, or appellate authority entitles a malpractice defendant-deponent to refuse to answer questions soliciting medical opinions, including those regarding the standard of care. Rule 4003.1(c), the Explanatory Comments to Rules 4003.1 and

4003.5, and our decisional precedent firmly state that such a party-deponent may not object to deposition inquiries on the basis that they seek opinion testimony, and that a defendant-physician need not author a pre-trial expert report since any plaintiff may discover that party's opinions via an oral deposition.

Howarth-Gadomski at *1.

“The governing law simply does not provide a defendant-healthcare professional with the ability to prevent the discovery of his or her opinions based upon that defendant's agreement not to disclose them at trial.” Karim at *13.

Further review of the Wettick Trilogy with the beacon of hindsight has now exposed its foundational flaw. There is no Pennsylvania statute, rule, or appellate authority for the creation of the stipulation rule. In this Court's humble opinion grounded in litigation practicum, the stipulation rule has caused confusion among discovery counsel when applied to varying fact patterns. In practice, despite its noble intellectual intent, the stipulation rule has inadvertently welcomed more problems than it has solved. Simply put, the clinical cure had become worse than the disease. As such, this opinion offers a new remedy in Allegheny County related to discovery depositions of defendant expert litigants.

The Court would be remiss in its duty to provide guidance to practitioners in failing to address the consequences of rejecting the Wettick Trilogy Lattaker-McLane-Belan. For example, the implementation of the Stipulation Rule precluded plaintiffs from asking defendant treating physicians questions relating to whether the treatment provided to the plaintiff met the accepted standard of professional care. This line of discovery questioning is appropriate and permissible now and in the future.

Henceforth, applying this Court's standard to the facts of McLane, it would be appropriate for plaintiff's counsel to have the witness cytotechnologist review slides with a microscope at the deposition and question the deponent on their present review of the slides. Similarly, applying the standard to the facts of Lattaker, it is appropriate and permissible for the defendant treating physician to

be required to review fetal monitoring strips and likewise be questioned by plaintiff's counsel about the review.

II. Retrospective Review

Defense Counsel objected on the basis that Dr. Thomas did not participate in the delivery of the baby and therefore the physician's opinion or insights are a retrospective review and not discoverable. This Court disagrees. By their very nature, opinions sought in medical negligence lawsuits are retrospective reviews of facts which, by necessity, include expert analysis of those facts in conjunction with standards of care and other factors related to the care of the patient. In this matter, the retrospective review involves an obstetrics delivery in 2016 and the facts and medical opinions related to legal claims and defenses surrounding that delivery. Specifically, an issue within this case relates to allegations about Dr. Thomas' recommendations for the timing of delivery.

This Court finds no prohibition to preclude deposition questioning because the defendant expert did not actually participate in every element of the patient's care.¹⁸ Broader questioning is permitted as the scope of discovery is broad and

¹⁸ The physician's opinion related to areas within his expertise that are founded on claims or defenses in the subject lawsuit are open for discovery. In the matter before this Court, the deponent physician is qualified in the areas of Genetics, Gestational Diabetes, High Risk Obstetrics, Maternal-Fetal Medicine, Miscarriage, OB/GYN Ultrasounds, and Recurrent Pregnancy Loss. See n.7, *infra*.

In modern obstetrics medical practice, the sole practitioner is rare as many doctors in an obstetrics practice are involved with the pregnant patient from initial date of diagnosis through delivery. It is not unusual that differing physicians from the same practice may interact with the patient on different dates. It is possible that the physician that delivers the child may have never met the mother patient before delivery, particularly in emergent circumstances. See *also* Danforth's Obstetrics and Gynecology, Tenth Edition, Chapter 1., Prenatal Care, LWW-OBGYN 10TH CH 01 Vern L. Katz, June 2010 (discussion of various factors related to pregnancy and interaction of patient and care providers throughout gestation).

The patient does not solely make the decision for the timing of delivery. It is the medical practice in consultation with other members of the clinical team guided by principles, in conjunction with the unique circumstances attendant to the patient, which determine the timing of delivery. Thus, members of the clinical team – in the area of their expertise – and within the realm of the particular physician's qualifications, knowledge, skill, experience, training, or education may express a professional opinion on the timing of delivery – regardless of whether or not the specific physician actually delivers the baby.

expressly includes the discovery of expert opinions. See discussion of Pa.R.C.P. 4003.1 and 4011, Discovery of Defendant Expert Opinions, *infra*.

The ability to discover the potential expert testimony of a party witness, either by propounding written interrogatories or by taking oral or written depositions, is fettered only by the general limitations that apply to all discovery. Since the rescission of Rule 4011(f) in 1978, the party witness against whom discovery is sought can no longer object on the ground that the requested disclosure would require him or her “to give an opinion as an expert witness.”

Neal v. Lu, M.D., 530 A.2d 103 at 107 (Pa. Super. 1987).

Judge Nealon’s analysis in Karim v. Reedy, M.D., 2016 WL 111324 at *11 (Lacka. Co. 2016) thoroughly addresses the nature of retrospective reviews in medical negligence cases, confirming “[i]t is quite common for defendant-physicians in malpractice trials to offer retrospective assessments of the propriety of their care. (Karim citing, e.g., Hyrcza v. West Penn Allegheny Health System, Inc., 978 A.2d 961, 978 (Pa. Super. 2009). In effect, every evaluation of care in a medical negligence case is a retrospective review:

Indeed, expert witnesses who review medical records, deposition transcripts and other pertinent information in order to address the standard of care and causation issues in medical professional liability

There are several important principles to consider in the timing of delivery. First, the decisions regarding delivery timing are complex and must take into account relative maternal and newborn risks, practice environment, and patient preferences. Second, late-preterm or early-term deliveries may be warranted for maternal benefit or newborn benefit, or both. In some cases, health care providers will need to weigh competing risks and benefits for the woman and her fetus. For these reasons, and because the recommendations for timing of delivery are based on limited data, decisions regarding timing of delivery always should be individualized to the needs of the patient. Additionally, recommendations for timing of delivery before 39 weeks of gestation are dependent on an accurate determination of gestational age.

“Medically indicated late-preterm and early-term deliveries,” ACOG Committee Opinion No. 818, American College of Obstetricians and Gynecologists, *Obstet. Gynecol.* 2021; 137:e29–33 (February 2021).

actions always conduct after-the-fact evaluations and provide retrospective assessments of the quality of the care and the impact, if any, that it had upon the patient's outcome.

Karim at *11.

This Court adopts the rationale of Karim, and similarly applies the same reasoning to defendant medical care personnel. Defendant expert parties may similarly be questioned at deposition like any other expert witness and may also provide retrospective assessments in discovery.¹⁹ In accord with Judge Nealon, this Court finds that current expert opinions may be discoverable regardless of admissibility at trial. This standard is soundly supported by Petrancosta v. Malik, 2014 WL 4100723 (M.D. Pa. 2014) and Cravath v. Mercy Hospital, 2013 WL 6991989 (Lacka. Co. 2013) cited in Karim.

In Pentrancosta, the Federal District Court evaluated a dispute concerning the permissible scope of discovery and expert testimony pursuant to Fed.R.Civ.P. 26 in a medical negligence action. At deposition, defense counsel objected to a treating physician answering questions about X-rays and CAT scans related to plaintiff's condition. Defense counsel asserted that the physician's current opinion, retrospective interpretation, or present day review was not reasonably calculated to lead to the discovery of admissible evidence because the physician would not be offered as an expert at trial. Petrancosta, at *5. In reaching its conclusion, the court distinguished Jistarri v. Nappi, 549 A.2d 210 (Pa. Super. 1998)(defendant may not be required to give expert testimony *on the negligence of other defendants at trial*) from the issue of whether the defendant doctor may provide his *opinion at deposition in discovery*. The court concluded, "there is no basis for Defendant's contention that inadmissibility at trial means that Dr. Malik's current opinion is not reasonably calculated to lead to the discovery of other admissible evidence." *Id.* at *6. Accordingly, plaintiff was permitted to re-depose the physician with defendant

¹⁹ This applied standard in no manner prejudices whether the defendant expert's responses will be favorable or unfavorable to any party. Moreover, it does not preclude any party from filing Motion(s) in Limine or objections at the time of trial related to admissibility or other legal issues. However, defense counsel may not use such an objection as a basis for the witness not to answer at deposition.

ordered to pay the cost of the second appearance fee for the videographer and court reporter. *Id.* at *9. The court found “the better practice is to allow the deposition to proceed and deal with objections before trial.” *Id.* at *8.

In Cravath, the Lackawanna County Court of Common Pleas ordered a defendant physician to submit to a re-deposition and respond to opinion-related inquiries. Defense counsel had objected on 59 separate occasions and directed the defendant doctor not to answer plaintiff counsel’s questions. Upon review of the deposition transcript and record, and applying the standards of Pa.R.C.P. 4003.1 and 4011, Judge Mazzone opined, “[t]he discovery deposition of a defendant physician is not limited to his treatment, as Defense Counsel suggests. It is clear that a defendant physician can be asked opinion question and properly-ground hypothetical questions as well.” Cravath, at *5 *citing* Neal v. Lu, M.D., 530 A.2d 103 (Pa. Super. 1987). The court concluded, “[a] plaintiff has a right to depose a defendant physician as to facts he knows and opinions he holds.” Cravath at *5.²⁰

This Court finds the reasoning of Karim to be well-grounded and concludes that Dr. Thomas may be questioned on his opinion related to the timing of delivery. In conjunction with Pennsylvania Rules of Civil Procedure 4003.1 and 4011, and the underlying persuasive precedent of Pentrancosta and Cravath, this Court holds that defendant expert opinions are discoverable regardless of whether said opinions will be ultimately admissible at trial.

²⁰ In ruling upon a standard of care question, the Cravath court at *3-4 *citing* Buckman v. Verazin, 54 A.3d 956 (Pa. Super. 2012) stated:

2. Inquiry: "If a patient was experiencing chest pain after an angioplasty procedure, do you understand that the standard of care requires you to determine whether a patient's chest pain is relieved by physical exertion, meaning walking or sitting up before discharge?" (N.T. 70-83).

Ruling: Not Permissible—this inquiry interjects a standard of care that the doctor is asked to accept. As stated in Buckman, what the doctor believed to be the standard of care is of "no moment."

This Court takes exception with the Cravath court’s statement of the holding in Buckman and the Cravath court’s conclusion as applied to the standard of care inquiry above. This Court holds that a physician is well-adept in their education, training, skills, and experience to answer such a question; albeit to agree, disagree, accept, reject, modify, amend, explain, or otherwise condition their response.

As such, a deponent physician may be examined, *in discovery*, of his professional opinion or the standard of care related to the timing of delivery for a patient that was in his medical practice's care. The Special Motions Discovery Court does not prejudge nor address the admissibility of any such opinion obtained in discovery – that is a matter addressed by the trial court.²¹

III. Records Custodian Objection / Instruction Not to Answer

During deposition, Defense Counsel objected that Dr. Thomas was not a records custodian and instructed the deponent not to answer a question in a line of questions about worksheets from the medical record. (Dr. Thomas dep. 94:7-97-21). This Court finds no basis for Defense Counsel to instruct the witness not to answer. The question did not relate to a privilege or preclusion from a prior order of court. Albeit Dr. Thomas may not be a "records custodian," but Defense Counsel's characterization is not a substantive basis for an objection to question the witness's knowledge about the patient's medical record. As the transcript indicates, Dr. Thomas eventually did answer the question. (*Id.* at 97:10-21)("there is nothing in the worksheets that is not part of the ultrasound images or the formal report.").

Even if Plaintiffs Counsel's questioning related to qualifying Dr. Thomas as a "records custodian," which it did not, this is still not an appropriate objection to direct a witness not to answer. Merely questioning a witness about the medical records with regard to how they are prepared generated or maintained is not improper especially when the witness has knowledge as to these specific items. As is indicated by Dr. Thomas' answer, he understood the Plaintiffs Counsel's questions and was able to answer.

²¹ By way of example, while Dr. Thomas was not asked to interpret fetal monitoring strips applicable to the time of delivery, it would be permissible upon re-deposition to question him about the strips. This discovery standard is consistent with the holding of Karim.

This Court acknowledges there are valid and strategic reasons for counsel to place objections on the record. This Court further acknowledges the prior caselaw on discovery in Allegheny County promoted and encouraged such objections.²² However, absent privilege or prior court order, an instruction to a deponent not to answer a question without a good faith basis²³ will subject the obstructionist to risk of sanction.²⁴ To obstruct the answer to a question defeats the purpose of a discovery deposition and disregards the inherent protections afforded by Rule 4016(b) which preserves valid objections for consideration at trial.

Hall v. Clifton Precision, 150 F.R.D. 525, 530 (E.D. Pa. 1993) provides guidance on the issue of speaking objections and interjections requiring that an objection be concise and non-suggestive.²⁵ As summarized in Association of Trial Lawyers of America, July, 2004, ATLA Annual Convention Reference Materials, Volume 2, *Advocacy Track: Discovery: Overcoming Obstacles in Getting to the Truth*, § III. *Speaking Objections*:

The [Hall] court reasoned that allowing speaking objections and interjections could become a tool for defending attorneys to effectively circumvent the no-consultation rule and interrupt the flow of a deposition. Hall, 150 F.R.D. at 530. The court further prohibited

²² This Court is professionally familiar with Defense Counsel in this case. As a trial lawyer, this jurist had litigated cases against Defense Counsel and as a jurist has had the honor and privilege of presiding over a case tried by Defense Counsel before this Court. Simply stated, Defense Counsel is a superb, highly qualified, and ethical lawyer. Defense Counsel was only advocating that which was heretofore permissible in Allegheny County during depositions.

²³ This Court acknowledges that there may be regrettable circumstances where deposition questions might be sought in bad faith or other circumstances that would be oppressive to the deponent. However, based on this Court's experience as a civil trial lawyer for twenty-two years and three years as a Judge in the Civil Division, this is the exception and not the norm of practitioners in Allegheny County. This Court is loath to create rules to remedy exceptions. Such circumstances do not preclude objecting counsel's good faith prerogative to seek court intervention for the protection of the deponent pursuant to Pa.R.C.P. 4012(a).

²⁴ "A common tactic in depositions is to impede the questioning lawyer's progress with objections or instructions not to answer." A. Darby Dickerson, *The Law of Ethics and Civil Depositions*, 57 MD. L. REV. 273, 345 (1998) citing to Hall, 150 F.R.D. at 531 (addressing improper "strategic interruptions, suggestions, statements, and arguments of counsel").

²⁵ As set forth hereinafter, this Court provides a detailed analysis on its adoption of some of the standards discussed by Judge Gawthrop in Hall.

an attorney from instructing a witness not to answer a question unless the objection is on the ground that the witness's potential answer is “protected by a privilege or a limitation on evidence directed by the court.” *Id.* at 531.

See Ethical Issues in Depositions, 2 Ann.2004 ATLA-CLE 1461 (2004).

While counsel may object at deposition to identify an issue as a transcript place-marker, the objection is not to be an instructional speaking objection nor an instruction not to answer. As set forth earlier in this Opinion, this Court has detailed the objections by Defense Counsel. It is clear all the objections were speaking objections. It is not necessary for objecting counsel to make such lengthy and detailed objections.

Pa.R.C.P. 4016(b), *Taking of Depositions. Objections*, provides instructive guidance:

Objections to the competency of a witness or to the competency, relevancy, or materiality of the testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which was known to the objecting party and which might have been obviated or removed if made at that time.

A close and thorough reading of Pa.R.C.P. 4016 confirms the fundamental distinction between Pa.R.C.P. 4016(b) and 4016(c) as applied to deposition objections.²⁶ When both subsections (b) and (c) are read in conjunction, it is

²⁶ Pa.R.C.P. No. 4016

Rule 4016. Taking of Depositions. Objections

.....

(b) Objections to the competency of a witness or to the competency, relevancy, or materiality of the testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which was known to the objecting party and which might have been obviated or removed if made at that time.

evident under Rule 4016(b) that objections to the “competency, relevancy, or materiality of the testimony are not waived by failure to make them before or during the taking of the deposition” *unless* the ground for the objection might have been “obviated or removed.”

As a practical matter, discovery is a dynamic process searching for information that may lead to admissible evidence. Oft-times the grounds for an objection cannot be determined at the time of deposition because, by its very nature, discovery is an ongoing process. In discovery, information is being developed. Therefore, a party cannot be charged in those circumstances to register an objection and/or have the responding party obviate or remove the objection contemporaneous with the deposition.

This Court sitting as Special Motions Discovery Judge has no special powers of foreseeability as to eventual substantive issues that will be presented at trial and has no mystical faculty to count evidentiary angels dancing on the head of a mid-discovery pin. Moreover, pursuant to Pa.R.C.P. 4003.1 and 4020(a) and (c) “any information gathered during discovery is still subject to the rules of evidence regarding its admissibility.” Bennett v. Graham, 714 A.2d 393, 396 (Pa. 1998). As such, admissibility of evidence at trial remains subject to the authority of the trial court. As stated in Rule 4003.1(b), and additionally referenced at 5 West’s Pa. Prac., Discovery §10:4, “it is not grounds for objection that the information sought (for example, hearsay) will be inadmissible at trial if the information appears reasonably calculated to lead to discovery of admissible evidence.” Plainly assessed, Rule 4016(b) applies to the **substance** of the elicited testimony.

In contrast, Rule 4016(c) commands that errors or irregularities “in the **form** of oral questions or answers . . . are waived unless seasonable objection is made at the taking of the deposition.” Objections to the form include compound, questions that are ambiguous, unintelligible, misstatements of evidence or

(c) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of oral questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might have been obviated, removed, or cured if objections had been promptly made, are waived unless seasonable objection is made at the taking of the deposition.

testimony, argumentative, assuming facts not in evidence, calling for speculation and deponent answers that are non-responsive. See 5 West's Pa. Prac., Discovery §10:9. The underlying rationale for objections as to form being waived if not raised at deposition is that counsel is provided opportunity to obviate or remove the error or irregularity contemporaneous with the transcribed record of testimony. In other words, once etched in stone the testimony as recorded will not change unless counsel objects to preserve the issue and provides the responding party synchronous opportunity to cure.²⁷

As affirmed in this Opinion, the objection shall be stated succinctly identifying the proper grounds for the objection without argument. See *also, Id.* at §10:13.

To further clarify the parameters of deposition objections in Allegheny County, this Court adopts the guidance of Lackawanna County Local Rule of Civil Procedure 4007.1(a), that counsel making any objection during an oral deposition shall state the word “objection,” and briefly state the legal basis for the objection without argument.

IV. Repetitive Deposition Questions

As identified above, the deposition transcript is replete with objections. Upon detailed review of Defendant's Response, Exhibit B (ECF 52 at Exh. B containing four-page list with 61 line items) and Dr. Thomas's entire deposition transcript, this Court disagrees with Defense Counsel that the questioning was repetitive. Although the deposition was lengthy, considerable time and effort was expended on counsels' competitive rejoinders regarding the discoverable nature of the questions asked and appropriateness of follow-through questions.

²⁷ While the Court is absolutely confident of the Court's interpretation of Pa.R.C.P. 4016, counsel can avoid any confusion or misinterpretation by both counsel stipulating at the commencement of the deposition to preserve all objections until trial, except to those objections as to form. See Talmadge v. Ervin, 236 A.3d 1154, 1160 (Pa. Super. 2020) *citing* Starner v. Wirth, 269 A.2d 674, 677 (Pa. 1970) (case involved trial recorded deposition testimony of an expert witness which was recorded for **use at trial**). To be clear, the matter *sub judice* is related to a discovery deposition of a party defendant.

Accordingly, follow-through questions are permissible. Plaintiffs' Counsel may ask reasonable follow-up questions that arise from Dr. Thomas' previous answer to a question. *See also, Cravath v. Mercy Hospital*, 2013 WL 6991989 (Lacka. Co. 2013)(court grants re-deposition of physician after deponent was instructed on 59 occasions not to answer plaintiff counsel's inquiries):

The scope of this deposition will be limited to the questions deemed permissible and any relevant follow-up questions which reasonably flow from the answers received from the initial response. We caution Counsel, however, not to expand the scope of the inquiries and further caution Counsel not to direct the deponent to refuse to testify on matters that have been deemed "permissible," qualified or otherwise.

Id. at *5. (emphasis omitted).

As adopted herein, counsel making any objection during an oral deposition shall state the word "objection," and briefly state the legal basis for the objection without argument, nor instruct the witness not to answer. Plainly put, "Objection. Asked and answered," will comply with this Court's standard henceforth.²⁸

In addition, this Court does note that Defense Counsel properly objected to a repetitive line of questioning related to the baby being oxygenated and neurologically intact on September 23, as asked and answered. (Dr. Thomas dep. at 118:2-119:13). Plaintiffs' Counsel is precluded from further inquiry on this issue.

As adopted herein, the fact that a question is repetitive or irrelevant is not an appropriate ground for instructing a witness not to answer a question, since it does not involve a matter of privilege or limitation from a prior court order. The proper procedure to follow when an objection is raised to a question propounded in a deposition is for the attorney who raises the objection to note his objection but to allow the question to be answered.

²⁸ See Lacka. Co. R.C.P. 4007.1(a), "Counsel making an objection during an oral deposition shall state the word 'objection,' and briefly state the legal basis for the objection without argument," adopted herein.

Counsel herein and litigants before the Court of Common Pleas of Allegheny County are well-advised to heed the admonishment quoted above from Cravath relating to the parameters of permissible and relevant follow-up questions in depositions.

Conclusion

As stated earlier, this Court is aware of the standards applicable to depositions established by Judge Gawthrop in Hall v. Clifton Precision, a Div. of Litton Systems, Inc., 150 F.R.D. 525, 531, 62 USLW 2103, 27 Fed.R.Serv.3d 10 (E.D. Pa. 1993).

The underlying purpose of a deposition is to find out what a witness saw, heard, or did—what the witness thinks. A deposition is meant to be a question-and-answer conversation between the deposing lawyer and the witness. There is no proper need for the witness's own lawyer to act as an intermediary, interpreting questions, deciding which questions the witness should answer, and helping the witness to formulate answers.

Hall at 528.

This Court is cognizant of the April 22, 1994 Opinion by Judge Wettick in Acri v. Golden Triangle Mgmt. Acceptance Co., GD93-12188, 1994 Pa. Dist. & Cnty. Dec. LEXIS 150, 1994 WL 1691957, *printed in* 142 Pittsburgh Legal J. 225 (Alleg. Co. 1994) where the court acknowledged that “[w]e need not turn the lawyer for the deponent into a fly on the wall in order to protect litigants’ rights to obtain information from a witness. . .” Acri at *17.

In essence Judge Wettick in Acri rejected all the mandates of Hall. This Court adopts the following analysis of the Hall opinion:

- 1. Any objection shall be stated concisely in a non-argumentative and non-suggestive manner; and**
- 2. Counsel shall not direct or request that a witness not answer a question unless counsel has objected on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court.**

This Court finds the above two proposals from Hall persuasive and practical as applied to deposition discovery in Allegheny County. “In short, depositions are to be limited to what they were and are intended to be: question-and-answer sessions between a lawyer and a witness aimed at uncovering the facts in a lawsuit.” *Id.* at 531.

Henceforth, this Court parts company with Judge Wettick’s rationale in Acri wherein he concluded, “I choose not to follow the Hall v. Clifton Precision guidelines[.]” In short, choosing not to follow the practical application of Hall to discovery depositions in Allegheny County has permitted the discovery court tail to wag the trial court dog. This shall no longer be the case. For the reasons set forth, this Court now adopts the deposition guidelines stated herein.²⁹

²⁹ The “*Hall Standards*” have been recognized by courts throughout the country. See Armstrong v. Hussmann Corp., 163 F.R.D. 299, 301–05, 66 Empl. Prac. Dec. (CCH) P 43707 (E.D. Mo. 1995); In re ML-Lee Acquisition Fund II, L.P. and ML-Lee Acquisition Fund (Retirement Accounts) II, L.P. Securities Litigation, 848 F. Supp. 527, 567, Fed. Sec. L. Rep. (CCH) P 98,198 (D. Del. 1994); Bucher v. Richardson Hosp. Authority, 160 F.R.D. 88, 94 (N.D. Tex. 1994); Holland v. Fisher, 3 Mass. L. Rptr. 167, 1994 WL 878780 (Mass. Super. Ct. 1994); Van Pilsum v. Iowa State University of Science and Technology, 152 F.R.D. 179, 180–81, 28 Fed. R. Serv. 3d 574 (S.D. Iowa 1993); Johnson v. Wayne Manor Apartments, 152 F.R.D. 56, 58–59, 28 Fed. R. Serv. 3d 508 (E.D. Pa. 1993); Deutschman v. Beneficial Corp., 132 F.R.D. 359, Fed. Sec. L. Rep. (CCH) P 95895 (D. Del. 1990); In re Amezaga, 195 B.R. 221, 35 Fed. R. Serv. 3d 163 (Bankr. D. P.R. 1996); Damaj v. Farmers Ins. Co., 164 F.R.D. 559 (N.D. Okla. 1995); Bucher v. Richardson Hosp. Authority, 160 F.R.D. 88 (N.D. Tex. 1994); Odone v. Croda Intern. PLC., 170 F.R.D. 66, 37 Fed. R. Serv. 3d 157 (D.D.C. 1997); Paramount Communications Inc. v. QVC Network Inc., 637 A.2d 34, 55, Fed. Sec. L. Rep. (CCH) P 98063 (Del. 1994); Dominick v. Troscoso, 1996 WL 408769 (Mass. Super. Ct. 1996); Burrows v. Redbud Community Hosp. Dist., 187 F.R.D. 606 (N.D. Cal. 1998); Quantachrome Corp. v. Micromeritics Instrument Corp., 189 F.R.D. 697, 46 Fed. R. Serv. 3d 253 (S.D. Fla. 1999); Collins v. International Dairy Queen, Inc., 1998 WL 293314 (M.D. Ga. 1998); Chapsky v. Baxter V. Mueller Div., Baxter Healthcare Corp., 1994 WL 327348 (N.D. Ill. 1994); Sinclair v. Kmart Corp., 1996 WL 748038 (D. Kan. 1996); Boyd v. University of Maryland Medical System, 173 F.R.D. 143, 38 Fed. R. Serv. 3d 1030 (D. Md. 1997); Metayer v. PFL Life Ins. Co., 1999 WL 33117063 (D. Me. 1999). Phinney v. Paulshock, 181 F.R.D. 185, 42 Fed. R. Serv. 3d 244 (D.N.H. 1998), *aff’d*, 199 F.3d 1, 45 Fed. R. Serv. 3d

The unilateral termination of a deposition must be supported by a good faith factual or legal basis that, by necessity, could not be addressed by preserving an objection on the record or by submitting a prior motion for protective order. The absence of a good faith factual or legal basis to unilaterally end a deposition shall result in sanction.

This standard does not preclude nor limit counsel from raising or preserving an objection as to admissibility *at the time of trial* pursuant to the Pennsylvania Rules of Evidence, including the filing of a Motion in Limine. The preservation of the objection should not disrupt the fair examination of the deponent while, at the same time, provide protection on the issue of admissibility for trial.

Finally, this Court does not now, and in the future will not, condone any type of conduct which reduces or denigrates the level of legal professionalism to unnecessary argumentative barbs or other less than professional behavior. Suffice it to say once:

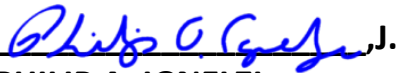
Counsel should never forget that even though the deposition may be taking place far from a real courtroom, with no black-robed overseer peering down upon them, as long as the deposition is conducted under the caption of this court and proceeding under the authority of the rules of this court, counsel are operating as officers of this court. They should comport themselves accordingly[.]

Hall v. Clifton Precision, a Div. of Litton Systems, Inc., 150 F.R.D. 525, 531, 62 USLW 2103, 27 Fed.R.Serv.3d 10 (E.D. Pa. 1993). A word to the wise shall be sufficient for all counsel bringing discovery deposition matters before this Court.

1328 (1st Cir. 1999); Mruz v. Caring, Inc., 107 F. Supp. 2d 596 (D.N.J. 2000), order rev'd on other grounds, 166 F. Supp. 2d 61 (D.N.J. 2001); U.S., for Use and Benefit of Boucher, v. Murphy, 11 F. Supp. 572 (W.D. Mich. 1935); and Teletel, Inc. v. Tel-Tel US Corp., 2000 WL 1335872 (S.D. N.Y. 2000); Plaisted v. Geisinger Medical Center, 210 F.R.D. 527, 54, 54 Fed. R. Serv. 3d 191 (M.D. Pa. 2002) ("We believe that Hall has established clear, workable guidelines."). 2 Leighton, *Litigating Premises Security Cases*, Chapter 8 Discovery, § 8:14 Motion and memorandum for deposition protocol (December 2020).

An Order of Court shall follow, this **30th day of March, 2021.**

BY THE COURT:


PHILIP A. IGNELZI



Standard Operating Procedures
for
UNCONTESTED
General Motions

**PLEASE READ ALL INSTRUCTIONS BEFORE
SUBMITTING YOUR MOTION!**

The following rules and procedures must be followed for the Court to act on your Uncontested Motion:

1. Beginning 8-2-2021, UNCONTESTED MOTIONS may either be submitted to Civiluncontestedmotions@allegheycourts.us or they may be presented to the presiding Motions Judge in Courtroom 703 of the City-County Building, PGH., PA 15219. In person presentation shall be based on our calendar posted online at www.allegheycourt.us. All UNCONTESTED motions **must contain a certification on the cover page that the motion is UNCONTESTED and or NOT OPPOSED.**
 - The cover page should also certify that the case is NOT on any published trial list, and that the case HAS NOT been designated complex or complex designation is not pending.
 - Please be advised that your motion **must also be filed with the Department of Court Records at www.dcr.allegheycounty.us before the Court will consider your motion. Submitting your motion with this email box DOES NOT FILE it with the Department of Court Records.**
2. All communications sent to the below email address must CC all parties in the matter. Parties should also provide a personal contact number to the Court in the event the Court must use conference calling or needs to speak to a party.
3. Uncontested General Motions **MUST** include the following information:
 - all contact information for all attorneys, or if unrepresented, parties including name(s).
 - email addresses;
 - phone numbers;
 - U.S. Mail addresses;
 - Date the Motion was served, and
 - **Statement that all parties consent/do not oppose the Motion.**
[Sample provided on website]
4. All Uncontested General Motion coversheets must include the above information, or the Motion **WILL NOT** be addressed.

5. **All Uncontested General Motions sent by email should be sent in PDF to the below address, and all such Motions MUST ALSO include a copy of the Parties' proposed Order in Microsoft Word format for the Court. Motions not meeting these specifications **WILL NOT BE HEARD.****

ALL DOCUMENTS AND COMMUNICATIONS RELATING TO UNCONTESTED GENERAL MOTIONS MUST BE SENT TO:

Civiluncontestedmotions@alleghecourts.us



Standard Operating Procedures
for
CONTESTED
General Motions

**PLEASE READ ALL INSTRUCTIONS BEFORE
PRESENTING YOUR MOTION!**

The following rules and procedures must be followed for the Court to hear your Motion.

PLEASE DO NOT SUBMIT YOUR CONTESTED MOTION ELECTRONICALLY. HOWEVER, YOUR MOTION MUST BE FILED WITH THE DEPARTMENT OF COURT RECORDS AT www.dcr.alleghenycounty.us BEFORE THE COURT WILL CONSIDER YOUR MOTION.

1. Beginning 8-2-2021, all CONTESTED MOTIONS MUST be presented by the movant in person to the presiding Motions Judge in Courtroom 703 of the City-County Building, PGH., Pa. 15219. All motions must provide the respondent with 10 days' notice pursuant to local rule 208.3 unless the matter is a true emergency. The General Motions Judge routinely presides daily at 9:30 am in Courtroom 703 of the City-County Building, Pittsburgh, PA 15219. However, please check the Court's calendar posted online at www.alleghenycourts.us for any changes due to Court scheduling, holidays and or further Orders of Court. Please be advised your motion must also be filed with the Department of Court Records at www.dcr.alleghenycounty.us before the Court will consider your Motion.
2. In addition to what is required in all Civil action coversheets, coversheets for all General Motions **MUST** include the following information:
 - all contact information for all attorneys, or if unrepresented, parties including name(s);
 - email addresses;
 - phone numbers;
 - U.S. Mail addresses, and
 - Date the Motion was served. [Sample provided on website]
3. All General Motions coversheets must include the above information, or the Motion **WILL NOT** be heard.

LITIGANTS ARE ENCOURAGED TO CAREFULLY READ THE LOCAL RULES AND THESE PROCEDURES, HOWEVER QUESTIONS REGARDING GENERAL MOTIONS MAY BE SUBMITTED TO THE FOLLOWING:

Civilgenmotions@alleghenycourts.us



ALLEGHENY COUNTY
CIVIL AND FAMILY COURT RULES

(amended January 11, 2022)

TABLE OF CONTENTS

	Page
The Court of Common Pleas.....	1
Local Rule 1 Structure of the Court of Common Pleas of Allegheny County.....	1
Local Rule 2 Notice by Publication.....	1
Local Rule 3 Money Deposited in Court.....	2
Business of Courts.....	2
Local Rule 76 Definitions.....	2
Local Rule 105 Bonds.....	3
Local Rule 198 Actions Between Family Members.....	3
Local Rule 200 Representation by an Attorney.....	3
Local Rule 205.2(a) Requirements Governing the Physical Characteristics of Pleadings, Petitions, Motions, and Other Legal Papers. Cover Sheets.....	4
Local Rule 205.2(b) Cover Sheet.....	5
FORM 205.2(b) Cover Sheet.....	6
Local Rule 205.4. Electronic Filing of Legal Papers in Allegheny County.....	8
Local Rule 206.4(c) Procedures for the Disposition of Petitions.....	11
Local Rule 208.3(a) Procedures for the Disposition of Motions.....	12
FORM 208.3(a) Adjournment of Hearing "Green Sheet".....	18
Local Rule 210 Requirements Governing the Form and Content of a Brief.....	21
Local Rule 212.1 Pre-Trial Procedure for All Actions in the Civil Division of the Court of Common Pleas of Allegheny County. Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.....	21
Local Rule 213 Petitions for Consolidation. Survival Actions.....	23
Local Rule 214 Issue Docket, Trial Lists and Trials.....	24
FORM 214 Form of Praecipe to Place Case at Issue.....	24
Local Rule 220.1.Voir Dire.....	28
Local Rule 227.1 Post-Trial Motions. Filing of Appeals. Request for Transcript, Certification and Waiver Forms.....	38
FORM 227.1B Notice of Proof of Filing or Delivery of the Transcript.....	40
Local Rule 234.1 Subpoena.....	41
Local Rule 237.1 Entry of Default Judgment, Military Service.....	41
Local Rule 239 Local Rules.....	41
Local Rule 240 In Forma Pauperis.....	42
Local Rule 249 Special Assignments Among Judges. Commerce and Complex Litigation Center. Asbestos Judge. Class Action Judge. Elections Judge. Real Estate Tax Appeals Judge. Zoning.....	42
Local Rule 253 Taxation of Costs.....	43
Habeas Corpus.....	44
Local Rule 301 Formal Requirements.....	44
Local Rule 302 Contents of Petition.....	44
Local Rule 303 Procedure.....	45

Service	45
Local Rule 440 Certificate of Service.....	45
Miscellaneous.....	46
Local Rule 501 Election Day Overseers and Judges.....	46
Local Rule 502 Appeals From Decisions of the Board of Property Assessment Appeals and Review	46
Local Rule 502.1 Notice of Change of Ownership of Property. Change of Address. Withdrawal or Substitution of Counsel.....	47
FORM 502.1 Change of Ownership. Change of Address.....	47
Local Rule 503 Appeals From Real Estate Tax Assessment.....	48
FORM 503(3) Petition for Assessment Appeal.....	53
FORM 503(10) Tax Assessment Appeal Discovery Requests	55
FORM 503(14) NOTICE	56
FORM 503(15A) Letter	57
FORM 503(15B) Court Order	57
FORM 503(16A) Letter	57
FORM 503(16B) Court Order	58
FORM 503(17) Letter	58
FORM 503(18) Notice That Matter Is Ripe for Decision	59
Local Rule 504 Appeals From Real Estate Tax Exemption.....	59
Local Rule 505 Change of Name of a Natural Person.....	60
FORM 505A Petition for a Name Change	63
FORM 505B(i) Order Scheduling Hearing on Name Change (used if Petition is brought by a person(s) of full legal age)	66
FORM 505B(ii) Order Scheduling Hearing on Name Change (used if Petition is brought on behalf of a Minor(s)).....	67
FORM 505C Decree for Change of Name	68
FORM 505D Case Transfer Order.....	69
Eminent Domain	71
Local Rule 600 Eminent Domain. Scope.....	71
Local Rule 601 Definitions.....	72
Local Rule 602 Administrator.....	72
Local Rule 603 Preliminary Objections.....	73
Local Rule 604 Petitions for the Appointment of Viewers. Notices of Special Damages. Claims Before Board of Viewers	74
FORM 604 Appointment of Views	75
Local Rule 605 Viewers' Plans.....	76
Local Rule 606 Notices of View. Directions to Viewers and Access to Property.....	77
Local Rule 607 Notices of Additional Condemnees and Mortgagees.....	77
Local Rule 608 Discovery Prior to Hearing Before Board of Viewers.....	77
Local Rule 609 Hearings and Continuances. Notice	77
Local Rule 610 Findings of Fact and Conclusions of Law.....	78
Local Rule 611 Settlements.....	78
Local Rule 612 Exceptions Before Viewers in Municipal Improvement Assessment Proceedings.....	78

Local Rule 613 Appeals to Court of Common Pleas.....	78
Local Rule 614 Discovery On Appeal to Court of Common Pleas.....	79
Local Rule 615 Pre-Trial Statements On Appeal Before Court of Common Pleas.....	79
Local Rule 616 Special Rules for Sewer Cases.....	80
FORM 616 Appointment of Viewers – Sewer Cases.....	84
Equitable Relief.....	85
Local Rule 1001 Civil Actions Raising Claims for Relief Heretofore Asserted in an Action in Equity.....	85
FORM 1001 Request for Assignment of Equity Claims to an Individual Judge	85
Local Rule 1007 Conformity to Civil Action at Law. Description of Real Estate	86
Actions at Law / Civil Action / Pleadings.....	86
Local Rule 1018.1 Notice to Defend Form.....	86
Local Rule 1028(c) Procedures for the Disposition of Preliminary Objections.....	87
Local Rule 1034(a) Procedures for the Disposition of a Motion for Judgment on the Pleadings.....	88
Local Rule 1035.2(a) Procedures for the Disposition of a Motion for Summary Judgment. ..	90
Local Rule 1038 Trial Without Jury.....	90
Compulsory Arbitration.....	91
Local Rule 1301 Scope	91
Local Rule 1301.1 Discovery in Compulsory Arbitration Proceedings (Except Small Claims).	92
Local Rule 1301.1A Plaintiff’s Arbitration Discovery Request for Personal Injury Claims...93	
FORM 1301.1B Defendant’s Arbitration Discovery Requests for Personal Injury Claims.....	95
Local Rule 1302 List of Arbitrators. Appointments to Board. Oath.....	99
Local Rule 1303 Arbitration Hearing. Notice.....	99
FORM 1303 Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing	100
Local Rule 1303(a)(2) Failure to Appear for Hearing	101
Local Rule 1304.1. Housing Court Mediation.....	102
Form 1304.1 Housing Court Agreement to Mediate	102
Local Rule 1306 Award. Delay Damages.....	103
Local Rule 1308 Appeal. Arbitrators' Compensation. Notice	103
Local Rule 1320 Small Claims Procedure	103
FORM 1320A Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing.....	104
FORM 1320B Notice of Intention to Appear.....	106
Local Rule 1321. Housing Court Procedures.	106
Local Rule 1331 Consumer Credit Transaction.....	107
Judicial Administration.....	107
Local Rule 1901. Prompt Disposition of Matters; Termination of Inactive Cases – Civil Division Matters Only	107

Actions for Support.....	108
Local Rule 1910.5. Complaint. Order of Court	108
Local Rule 1910.6. Entry of Appearance.....	108
Local Rule 1910.6. Service. Proof of Service. [Rescinded]	109
Local Rule 1910.7. No Pleading by Defendant Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.....	110
Local Rule 1910.10. Alternative Hearing Procedures.	110
Local Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.....	110
Local Rule 1910.15. Paternity. [Rescinded]	112
Local Rule 1910.19. Support Order. Modification. Termination.	112
Action for Custody, Partial Custody and Visitation of Minor Children	112
Local Rule 1915.1(a)(1). Scope.....	112
Local Rule 1915.1(b). Definitions.	112
Local Rule 1915.3(b)*(1). Scheduling of Hearing Date.....	113
Local Rule 1915.3(c). Commencement of Action. Complaint. Waiver. Fees. Refunds....	113
Local Rule 1915.3(d). Confirmation of Custody.....	115
Local Rule 1915.3(e). Grandparents. Third Parties.	116
Local Rule 1915.4(a). Service. Rescheduling.....	116
Local Rule 1915.4-3. Orientation. Mediation. Confidentiality. Mediator. Qualifications. Conciliation. Psychological Evaluation and Home Study.	117
Local Rule 1915.9(a). Pre-Trial Procedures.	119
Local Rule 1915.12(a)(1). Civil Contempt for Disobedience of Custody Order, Petition, Service, Order.	119
Local Rule 1915.14(a). Noncompliance. Contempt. Arrest.	120
Local Rule 1915.15(a)(1). Form of Complaint. Caption. Order.	120
Local Rule 1915.16(c). Form of Order and Notice, Joinder, Intervention.	120
Local Rule 1915.17. Appointment of Parenting. Coordinator.....	121
Action of Divorce or for Annulment of Marriage.....	129
Local Rule 1920.12. Complaint. Contents and Filing.	129
Local Rule 1920.33. Joinder of Related Claims. Distribution of Property. Resolution of Claims for Equitable Distribution of Marital Property and Alimony.	130
Local Rule 1920.42. Affidavit and Decree Under Section 3301(c) or 3301(d) of the Divorce Code. Obtaining Decrees	132
Local Rule 1920.46. Representative of Defendant in Military Service.....	133
Local Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing. Contested and Uncontested Divorce Claims Under §§3301(a) and 3301(b) of the Divorce Code	134
Local Rule 1920.55. Master’s Report. Notice. Exceptions. Final Decree	137
Local Rule 1920.62. Proceedings by Indigent Parties.	137
Local Rule 1930. Domestic Relations Matters Generally.	138
Local Rule 1930.1. Electronic Filing in Family Division Matters. [Rescinded]	141
Minors as Parties.....	141
Local Rule 2039. Compromise, Settlement, Discontinuance and Distribution.	141

Incapacitated Persons as Parties	143
Local Rule 2064. Compromise, Settlement, Discontinuance and Distribution.	143
Actions for Wrongful Death.....	144
Local Rule 2205. Service of Notice to Persons Entitled to Damages.....	144
Local Rule 2206. Settlement, Compromise, Discontinuance and Judgment.....	144
Joinder of Parties	145
Local Rule 2232. Service of Notice to Persons Required to Be Joined.....	145
Enforcement of Judgments for the Payment of Money	145
Local Rule 3121 Stay of Execution. Setting Aside Execution.	145
Local Rule 3129.2 Notice of Sale. Real Property.....	145
Local Rule 3139 Notice of Sheriff's Return.....	147
Local Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories.....	148
Actions Upon Mechanics Liens, Municipal and Tax Claims and Charges on Land	148
Local Rule 3190 Judgment. Execution.	148
Local Rule 3206 and 3207 Statement of Objection (“Goods Claim”).....	149
Local Rule 3252 Writ of Execution. Money Judgments.....	149
Discovery — Expert Reports	149
Local Rule 4002.1 Filing Discovery Material. Requests for Expert Reports in Professional Negligence and Product Liability Actions.....	149
Local Rule 4003.5 Requests For Expert Reports in Professional Liability and Product Liability Actions.	149
FORM 4003.5A Defendant’s Request to Plaintiff for Production of Expert Reports.	154
FORM 4003.5B Plaintiff’s Request to Defendant or Additional Defendant for Production of Expert Reports.....	154
FORM 4003.5C Defendant’s or Additional Defendant’s Request to Other Defendant or Additional Defendant for Production of Expert Reports	155
FORM 4003.5D Plaintiff’s Praeipe Requesting that the Case be Placed on the Next Available Trial List	156
FORM 4003.5E Plaintiff’s Notice of Filing of Praeipe Requesting That the Case Be Placed on the Next Available Trial List	156
Local Rule 4009.12 Authorizations.	157

**LOCAL RULES OF CONDUCT, OFFICE STANDARDS
AND CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES**

Local Magisterial District Judge Rule 409 Writ of Execution. Money Judgment Entered by District Justice.....	157
Local Magisterial District Judge Rule 420 Statement of Objection (“Goods Claim”).....	158
Local Magisterial District Judge Rule 1005 Service of Notice of Appeal and Other Papers.	158

Local Magisterial District Judge Rule 1008 Appeal as Supersedeas.....159
Local Magisterial District Judge Rule 1011 Writ of Certiorari.....159

**LOCAL RULES OF THE CIVIL AND FAMILY DIVISIONS OF THE
COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

The Court of Common Pleas

Local Rule 1 Structure of the Court of Common Pleas of Allegheny County.

- (1) The Court of Common Pleas of Allegheny County consists of the following divisions:
 - (a) Civil Division: which includes General Docket ("GD"), Arbitration ("AR"), Landlord-Tenant ("LT") and Property Assessments ("BV").
 - (b) Family Division, which includes the Adult and Juvenile Court sections;
 - (c) Orphans' Court Division; and
 - (d) Criminal Division.
- (2) Each Division of the Court is managed by an Administrative Judge, who is appointed by the Supreme Court of Pennsylvania.
- (3) The Office of the Clerk of the Court of Common Pleas (as defined at 42 Pa.C.S. § 2701 *et seq.*) includes three county officials:
 - (a) Prothonotary, who serves the Civil Division (which is divided into sections for General Docket and Arbitration matters) and the Family Division;
 - (b) Register of Wills, who is also the Clerk of Court of the Orphans' Court Division; and
 - (c) Clerk of Court of the Criminal Division.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 2 Notice by Publication.

- (1) In all actions where notice is required to be given by advertisement in a newspaper, proof of publication shall be made by the affidavit of the owner, publisher or the designated agent thereof and filed of record before the entering of any final order, decree or judgment.
- (2) The Pittsburgh Legal Journal is designated as the newspaper of this Court for the publication of legal notices. All notices which are required to be advertised in a newspaper shall also be advertised in the Pittsburgh Legal Journal.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 3 Money Deposited in Court.

- (1) Any officer or person distributing money in proceedings in this Court shall have the docket in the proper office receipted, or shall have received an acknowledged receipt and release for such sums paid.
- (2) Except as hereinafter provided, all money deposited with the Prothonotary shall be deposited by the Prothonotary in an institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. All deposits with the Prothonotary in excess of Five Thousand Dollars (\$5,000.00) shall be deposited by the Prothonotary in interest-bearing accounts, or may be invested in United States Government obligations or United States Government guaranteed obligations.
- (3) All interest accrued on deposits, other than deposits of costs, made for a period of three (3) months or more in excess of Five Thousand Dollars (\$5,000.00) shall be paid to the party or parties ultimately determined to be entitled to the fund.
- (4) All accrued interest not distributed pursuant to subdivision (3) of this local rule shall be paid to the county treasurer.
- (5) The Prothonotary shall charge for the benefit of the county a commission equal to one-half of one percent (0.5%) on all deposits of less than One Thousand Dollars (\$1,000.00) and one-fourth of one percent (0.25%) on all deposits and interest accrued on deposits of One Thousand Dollars (\$1,000.00) or more.
- (6) The Prothonotary shall maintain a record of all moneys deposited, and paid out, setting forth the names of the parties from whom the money was received and to whom the money was paid, and the commissions charged pursuant to subdivision (5) of this rule.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Business of Courts

Local Rule 76 Definitions.

"Board of Judges" shall mean all members of the Court, excluding Senior Judges.

"Court" shall mean all divisions of the Court of Common Pleas of Allegheny County.

"Local Rule" shall mean any rule regulating practice or procedure promulgated by the Court of Common Pleas of Allegheny County pursuant to Section 323 of the Judicial Code (42 Pa.C.S. § 323).

"Housing Court" shall mean the special court within the Civil Division, [See 42 Pa. C.S. §917] which shall hear all matters involving residential landlord tenant disputes (which include the rental of property involving a mobile home), statutory appeals from public housing, federal Section 8 grievance hearings, and all summary appeals relating to code enforcement matters involving properties leased or rented to residential tenants.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 105 Bonds.

(1) **Bonds — Property.**

All bonds, bail and security except those of approved surety companies, shall have endorsed or attached an affidavit showing the value of the property given as surety, and the liens upon it. The affidavit shall state whether the same property has been used as security for any other purpose and, if so, all details. The person liable for the debt shall not be qualified to act as surety for himself or herself.

(2) **Bonds — Corporate Surety.**

No corporation may act as sole surety or guarantor on bonds or undertakings in this Court unless it has been approved by the Orphans' Court Division of this Court.

(3) **Bonds — Prohibited Sureties.**

No attorney, Sheriff, Prothonotary, their deputies or Court personnel shall be admitted as surety in any action.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 198 Actions Between Family Members.

(1) All cases between spouses, former spouses, or persons living as spouses shall be filed in the Family Division. Cases between other family members shall be filed in the Civil Division.

(2) The Administrative Judge of the Division in which a case is filed has the authority, in consultation with the other Administrative Judge, to transfer a case to the other Division.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 200 Representation by an Attorney.

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

(2) Except as otherwise provided by subdivision (3), a corporation, partnership and unincorporated association must be represented by an attorney.

(3) A corporation, partnership or unincorporated association may be represented by an officer or by a partner in the following actions:

(a) a civil action brought in or appealed to this Court in which the relief sought is monetary damages which do not exceed the jurisdictional limit for an action before a Magisterial District Judge.

(b) an appeal from a judgment entered in a Magisterial District Judge Court in an action for the recovery of the possession of real property.

Note: A corporation must be represented by an attorney regardless of the amount in controversy if the lawsuit involves a dispute between shareholders or officers of the same corporation.

Note: See the opinion of Strassburger, J. in Hammond Press, Inc. v. Verzinskie, AR02-000702 (C.P. Allegheny 5/6/03).

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

**Local Rule 205.2(a) Requirements Governing the Physical Characteristics of Pleadings,
Petitions, Motions, and Other Legal Papers. Cover Sheets.**

(1) Basic Requirements.

- (a) Footnotes shall be single-spaced.

Note: See Pa.R.C.P. 204.1 for other requirements.

- (b) All attachments, supporting documents, and exhibits shall be on eight and one-half inches by eleven inches paper at the time of filing with the Department of Court Records.
- (i) A smaller document shall be reproduced, if possible, on eight and one-half inches by eleven inches paper.
- (ii) A larger document shall be reduced and reproduced to eight and one-half inches by eleven inches size, provided it will still be legible.
- (iii) If it is not possible to obtain a legible photocopy of the document or exhibit because of unique characteristics or inherent limitations, e.g., maps, surveys, computer printouts, data processing cards, drafter's plans, tracing paper, red pencil marks, colored paper, tape recordings, cassettes, movies, etc., the filing party shall present the document or material to the Department of Court Records to be stamped, docketed, and filed. Each such special filing shall be accompanied by one (1) cover sheet.
- (c) In any case where a reproduced document under subdivision (b) above has been included in the pleadings or where a filing has been made under subdivision (b), and such reproduced document is not legible, an exact recitation of the contents of the document or evidence or, by agreement of the parties, the material sections of the same, shall be typed on white paper, eight and one-half inches by eleven inches in size, in twelve point type with double-spacing and margins of one inch on each side and the top and bottom of the page. This retyped document shall bear a certification of accuracy by counsel for the filing party.

Note: Local Rule 205.2(a) does not affect the provisions of Pa.R.C.P. 1019(i), requiring that copies of certain writings be attached to pleadings.

(2) Proposed Orders of Court.

Every preliminary objection, petition and motion shall include a proposed order of court which shall be the last page of the preliminary objection, petition or motion.

(3) **Other Filing Requirements.**

- (a) Every document shall be attached only at the top left corner of the pages with one staple or, if the document is too thick for a staple, then at the top of the pages with a metal fastener (not a binder clip).
- (b) Cloth tape is prohibited and shall not be used to cover the staple or metal fastener.
- (c) "Bluebacks" shall not be used.

Note: It is recommended that the case number be entered at the top or bottom right corner on every page of every filing because of the possibility that pages of a filing may come apart.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 205.2(b) Cover Sheet.

- (1) (a) The first page of any pleading, petition, motion or other legal paper shall be a cover sheet setting forth the items of information specified below, according to the format presented in Form of Cover Sheet (FORM 205.2(b)) (see subsection (3) below). If needed, a second page may be attached and numbered "Cover Sheet 2" at the bottom of the page.
- (b) The lettering shall be in a font of no smaller than twelve point size or an equivalent, and shall substantially follow the format in Form of Cover Sheet (FORM 205.2(b)) (see subsection (3) below).

(2) **The information required includes:**

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

"IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA"

- (b) (In capital letters on left side of center) the complete names of all parties; if the party filing the attached pleading has made a previous filing, an appropriate and obvious shortened caption may be used.
- (c) (In appropriate upper and lower case, except where otherwise indicated, on the right side of center on separate lines):
 - (i) The specific DIVISION, i.e., CIVIL, FAMILY, CRIMINAL, or ORPHANS' COURT;
 - (ii) The docket number;
 - (iii) The issue number, if assigned and the date the case is listed for trial, if assigned;
 - (iv) The name of the pleading, in bold face and all capital letters;
 - (v) For Civil Division cases, the docket code which most accurately characterizes the primary cause of action (see Local Rule 205.2(b)(4) below);

- (vi) If the action is filed as a class action, then "CLASS ACTION" shall be set forth on the line following the Civil Division docket code;
- (vii) If the action involves real estate, then the address, municipality, ward if applicable, lot and block number shall be set forth;
- (viii) The completed statement: "Filed on behalf of _____ (party's name, party's relationship to case)";
- (ix) The completed statement: "Counsel of Record: _____ (attorney's name and Pennsylvania Identification Number, firm name, address and telephone number)"; and
- (x) In cases in which a party is represented only by out-of-county counsel, the following notice shall appear: "Party Represented by Out-of-County Counsel Only."

Note: This notice is required to alert court personnel to the need to mail a notice of earliest trial date, pursuant to Local Rule 212.1(3). See also FORM 214, Praecipe to Place Case at Issue, paragraph 6, Local Rule 214(1)(b).

- (xi) Every pleading, petition and motion must include a Certificate of Service which sets forth the manner of service upon each party including the name of an attorney of record for each party that is represented and the address at which service was made.

(3)

FORM 205.2(b) Cover Sheet

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JOHN DOE,

Plaintiff,

vs.

BIG CORPORATION, INC.,
and JANE DOE,

Defendants.

CIVIL DIVISION

GD No. _____
(Use AR or LT No. for Arbitration Cases and BV
No. for Assessment Appeals.)

TITLE OF DOCUMENT

CLASS ACTION (If applicable.)

Real Estate Involved:
600 Grant Street, Pittsburgh, PA 15219
(Address, municipality, ward if applicable, lot and
block number required in all cases involving real
estate.)

Issue No. _____ (If assigned.) (Required after case is placed at issue. See Local Rule 214(1).)

Date on GD Trial List _____ (Required after case appears on a published trial list for GD cases.)

Filed on behalf of Plaintiff, JOHN
DOECounsel of Record for this
Party,

Henry Smith,
Esquire
Pennsylvania I.D.
#12345Smith &
Jones

667 Fort Pitt Boulevard, Suite 121
Pittsburgh, Pennsylvania 15219-3456
412-281-1234
412-281-5678 (fax) (Optional. See
Pa.R.C.P.440(a)(1)(ii).)
smtt@acba.org (Optional. See Pa.R.C.P.
205.4(g)(2).)

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

[New page] CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing

[Title of Document] has been served upon all other parties at the address(es) below via

_____, this _____ day of _____ 20_____.

[Name and address of counsel]

[signature]_____

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended Oct. 9, 2014, effective upon publication on the UJS Portal. Amended December 27, 2019, effective February 19, 2020

Rule 205.4. Electronic Filing of Legal Papers in Allegheny County.

Note: This Local Rule has been promulgated in compliance with Pa.R.Civ.P. 239.9(a) which provides, "If a court permits or requires the electronic filing of legal papers with the Department of Court Records, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule."

- (a) (1) Except as noted in the subsections below, use of the Allegheny County Department of Court Records Civil/Family Division (hereinafter "DCR") electronic filing system is permissive for the filing of all legal papers, including original process, in all actions and proceedings brought in or appealed to the court.

Note: A "legal paper" is defined in Pa.R.C.P. 205.4(2) as "a pleading or other paper filed in an action, including exhibits and attachments."

- A. Use of the DCR's electronic filing system is mandatory for all actions and proceedings involving personal injury or death allegedly caused by asbestos.
- B. Use of the DCR's electronic filing system is not permitted for the following Civil Division Filings:
 - 1. Initial filings in Petitions for Name Change;

Note: Secondary filings in Petitions for Name Change may be filed electronically.

- 2. Initial filings for Exemplification of Records;

Note: Secondary filings involving Exemplification of Records may be filed electronically.

- 3. Cases or filings under seal.
- C. The following filings are permitted to be filed through the DCR's electronic filing system but will not be scheduled for argument unless a party obtains a hearing date as indicated below:
 - 1. The following secondary filings in General Docket and Arbitration Docket cases, for which procedures for scheduling argument are set forth in the local rules indicated below: (i) preliminary objections (*see* Local Rule 1028(c)), (ii) petitions (*see* Local Rule 206.4(c)); (iii) motions for judgment on the pleadings (*see* Local Rule 1034(a)); and (iv) motions for summary judgment (*see* Local Rule 1035.2(a)).
 - 2. The following secondary filings in Housing Court cases for which procedures for scheduling argument are set forth in the local rules indicated below: (i) preliminary objections (*see* Local

Rule 1028(c)), (ii) petitions (*see* Local Rule 206.4(c)); (iii) motions for judgment on the pleadings (*see* Local Rule 1034(a)); and [(iii)] (iv) motions for summary judgment (*see* Local Rule 1035.2(a)).

- D. Use of the DCR's electronic filing system is not permitted for the following Family Division filings:
1. Legal papers relating to Protection from Abuse matters which must be processed with the PFA office in Family Division before they can be filed.
 2. Legal papers relating to custody, partial custody or visitation matters which must be processed through the Generations office before they can be filed.
 3. Legal papers relating to spousal or child support must be processed through Family Division before they can be filed.
 4. Legal papers relating to divorce which contain or address counts or counterclaims for support, alimony pendente lite, alimony or custody, partial custody and visitation, must be processed through the offices to which reference is made in (D)(1), (2) or (3) of this subsection.

Note: Divorce pleadings which do not include or address any of the counts enumerated above may be filed electronically, including but not limited to, § 3301(c) or § 3301(d) affidavits of consent, counter-affidavits, waiver of notice of intention to request entry of a decree, notice of intention to request a divorce decree, and praecipe to transmit the record.

5. All legal papers which must be presented to a Family Division Judge in motions court before filing with the office of the DCR.
- (b) (1) Legal papers may be filed using the DCR's electronic filing system in the following file formats only: Portable Document Format (.pdf), Microsoft Word (.doc or .docx), WordPerfect for Windows, version 6.0 or higher (.wpd), TIF (.tif), GIF (.gif), JPEG (.jpg), or PCX (.pcx).
- (c) (1) [RESERVED]
- (2) The DCR's electronic filing website is dcr.alleghenycounty.us ("www" does not appear before and ".com" does not appear after this web address). Persons may access the DCR's electronic filing system by first registering and establishing a User ID and password using the "Register" link at the DCR's electronic filing website. The User ID for Pennsylvania licensed attorneys is their Supreme Court of Pennsylvania identification number issued by the court. Non-attorney users may, at the time of registration, designate any combination of letters or numbers they may wish to use as a User ID.

- (d) (1) The following credit and debit cards may be used on the DCR's electronic filing website to pay filing-related fees: Visa, MasterCard, Discover, and American Express. Such fees may also be paid by depositing in advance sufficient funds with the DCR. The DCR may also accept payments by electronic checking/ACH (Automatic Clearing House). See the DCR website for additional information.
- (2) [RESERVED]
- (3) [Intentionally omitted as Allegheny County has not designated a third party to operate the electronic filing system.]
- (e) [RESERVED]
- (f) (1) When a legal paper has been successfully transmitted electronically, the DCR's electronic filing website shall generate a printable acknowledgement page and shall transmit to the filer an initial email confirming the electronic receipt of the legal paper and the date and time thereof. Subsequently, after the DCR has processed the electronic filing, the DCR shall transmit, to the filer, an email stating the date and time of acceptance of the filing or stating that the filing has not been accepted and the reasons for non-acceptance. A legal paper will not be considered filed if the DCR responds to the filing by notifying the filer that the filer has not (i) maintained with the DCR sufficient funds to pay the fees and costs of the filing or (ii) authorized payment by credit or debit card of such fees and costs.
- (2) The DCR shall maintain an electronic file for the legal papers, including original process, in any civil action or proceeding at law or in equity brought in or appealed to the court, including any action pursuant to the Eminent Domain Code of 1964 or the Municipal Claims Act of 1923.
- (3) [RESERVED]
- (4) The procedures for payment of the fees and costs of the DCR shall be set forth on the DCR website: dcr.alleghenycounty.us (www.does not appear before and ".com" does not appear after this web address).
- (5) [RESERVED]

Editor's Note: Adopted April 5, 2012, effective February 22, 2013. Amended December 27, 2019, effective February 19, 2020. Amended November 29, 2021, effective January 11, 2022.

[Local Rule 1930.1 Electronic Filing in Family Division Matters.

[Rescinded in its entirety.]

Note: See Local Rule 205.4 for information regarding e-filing of Family Division matters.]

Local Rule 206.4(c) Procedures for the Disposition of Petitions.

(1) Scope.

This local rule describes the procedures for an application to strike and/or open a default judgment or a judgment of non pros governed by Pa.R.C.P. 206.1 et seq.

Note: This court has not promulgated a local rule, numbered Local Rule 206.1(a)(2), which provides for any other application to be governed by Rule 206.1 et seq.

(2) General Docket and Arbitration Docket Cases – Striking and/or Opening a Default Judgment or a Judgment of Non Pros.

- (a) A petition to strike and/or open a default judgment or a judgment of non pros shall be presented to the General Motions Judge. It may be presented only after service of a copy of the petition and notice of the date of presentation on all other parties. Except in cases of emergency or with the consent of all other parties, the date of presentation shall be at least ten (10) days after service of a copy of the petition and notice of the date of presentation.

Note: The court does not schedule the date and time of presentation. The petitioner selects a date and time at which the General Motions Judge is hearing motions and petitions. See Civil Division link on the Website of the Common Pleas Court of Allegheny County (www.alleghencourts.us) for the name and courtroom of the judge who is sitting as the General Motions Judge and the times that matters which have not been scheduled with the court may be presented. Ordinarily, unscheduled matters may be presented each day at 9:30 A.M. and 1:30 P.M.

If the case is on the trial list, the petition shall be presented to the Calendar Control Judge. See Local Rule 208.3(a)(3).

- (b) If, upon presentation of the petition, a rule to show cause is entered, the court order issuing the rule shall set the time within which the answer to the petition shall be filed and the time within which depositions shall be completed. If the court order does not set an argument date, at any time after the date by which the depositions were to be completed, any party may order the cause for argument before the General Motions Judge by filing a praecipe to set a date and time for the final argument and transmitting a copy of the praecipe to the following email address: Civilgenmotions@alleghencourts.us. The Chief Motions Clerk shall notify the moving party of the time and date for the final argument and the moving party shall promptly serve written notice thereof upon all other parties to the proceedings.
- (c) Depositions and other evidence that a court may consider shall be filed at least fourteen (14) days before the argument date.
- (d) Briefs are required. The brief of the moving party shall be filed with the Department of Court Records and served on all other parties at least fourteen

(14) days prior to the argument. The brief of the party opposing the petition shall be filed at least seven (7) days prior to the argument.

(3) Housing Court Cases – Striking and/or Opening Default Judgments and Judgments of Non Pros.

- (a) The original and a copy of the petition to strike and/or open a default judgment or a judgment of non pros (or a copy if filed electronically) shall be taken to the Housing Court Clerk (Housing Court Help Desk: First Floor City County Building, 414 Grant Street, Pittsburgh, PA 15219). The clerk will place, on the original and the copy of the petition, a date and time for an argument before the Housing Court Judge. The clerk will file the original petition with the Department of Court Records and return the copy to the party filing the petition. This party shall promptly serve copies of the petition on all other parties with notice of the date and time of the argument.
- (b) The petitioner shall notify a Housing Court Clerk (412-350-4462) if the petition scheduled for argument becomes moot. Otherwise, if the petitioner does not appear on the date of the argument, the court will enter an order dismissing the petition for failure of the moving party to appear.

Note: A form for filing a petition to strike and/or open a default judgment for pro se petitioners is available at the Housing Court Help Desk.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020. Adopted November 29, 2021, effective January 11, 2022.

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

- (1) As used in this rule, "motion" means any application to the court made in any civil action or proceeding except as provided by subdivisions (b) (1) and (2) of Pa.R.C.P. 208.1.
 - (a) This court has not promulgated a local rule, numbered Local Rule 208.3(b), because this court has not imposed requirements for the filing of a response or a brief with respect to any motion. However, the parties are encouraged to submit briefs when it is anticipated that the court will want to consider briefs before deciding the issue.
 - (b) This local rule does not govern motions filed in specially assigned cases (see the court's website page for a list of the specially assigned case types) or any other case specially assigned by an order of court to a single judge. Procedures for disposition of motions in specially assigned cases may be established by case management orders, standard operating procedures, or other directives issued by the assigned judge.

Note: At the time of these amendments the following matters are identified on the Court's website as specially assigned case types: Abandoned & Blighted Property Conservator (see

Local Rules 701 et seq.), Asbestos, Class Action, Commerce & Complex Litigation Center, Construction, County Beverage Tax, Election, Eminent Domain, Mortgage Conciliation, Pennsylvania Liquor Control Board, Prisoner Rights, Right-to-Know, Save Your Home, Special Name Change (see Local Rule 505), Structured Settlement Approvals, Toxic Substance, Water Exoneration Hearing Board Appeals, and Zoning. This list is periodically updated.

- (c) Procedures for disposition of the following are set forth in the following local rules:
 - (i) Preliminary objections (governed by Local Rule 1028(c)),
 - (ii) Motions for judgment on the pleadings (governed by Local Rule 1034(a)),
 - (iii) Motions for summary judgment (governed by Local Rule 1035.2(a)), and
 - (iv) Petitions to strike and/or open a default judgment or a judgment of non pros (governed by Local Rule 206.4(c)).

(2) Procedure applicable to all motions: A motion may be presented only after service of the copy of the motion and notice of the date, time, and location of presentation on all other parties. Except in cases of emergency, or with the consent of all other parties, the date of presentation shall be at least ten (10) days after service of a copy of the motion and the notice of the date of presentation.

Note: If after reviewing Sections (3) through (6) below questions remain as to where a motion should be presented or which judges should hear a particular motion, please send an inquiry email to Civilgenmotions@allegheycourts.us.

(3) **Calendar Control Judge**

- (a) The Calendar Control Judge shall hear the following:
 - i. All motions in any case that has been listed for trial or has appeared on a published trial list shall be presented to the Calendar Control Judge. This includes all motions that would otherwise have been heard by the General Motions Judge or the Discovery Motions Judge.

Note: The docket will show if a case has been listed for trial on a published trial list. For docket entries, go to <https://dcr.allegheycounty.us> and click on Civil/Family Division, then "Search" and enter the docket number.

- ii. All motions relating to the following matters, regardless of whether a case has been listed for trial or has appeared on a published trial list:
 - (a) the compromise, settlement, and discontinuance of an action to which a minor is a party;

Note: See Local Rule 2039 for the procedures governing a petition presented pursuant to Pa.R.C.P. 2039.

- (b) the compromise, settlement, and discontinuance of an action to which an incapacitated person is a party;

Note: See Local Rule 2064 for the procedures governing a petition presented pursuant to Pa.R.C.P. 2064.

- (c) praecipes to place at issue; and
- (d) contested motions for continuance of an arbitration hearing, other than in Housing Court cases, which are presented to the Housing Court Judge. Such motions shall be presented using the Cover Sheet and Adjournment of Hearing Form (Form 208.3(a)) which is available on the Court's website at <https://www.alleghencourts.us/civil/arbitration.aspx>.

Note: To reschedule an arbitration hearing date with agreement of all parties, an Adjournment of Hearing Form shall be presented to the arbitration email at civilarb@alleghencourts.us. These procedures are published on the Court's website at <https://www.alleghencourts.us/courts/arbitration.aspx>.

(b) Presentation:

- (i) The Calendar Control Judge does not schedule the date or time of presentation. The moving party/petitioner selects the date and time for presentation.

Note: Calendar Control Motions are generally held at 9:30 a.m. Please refer to the Calendar Control Judge's standard operating procedures and the Calendar Control Motions schedule, which can be found at: https://www.alleghencourts.us/Civil/Calendar_Control_New.aspx.

- (ii) A courtesy copy shall be provided to the Calendar Control Judge in advance of presentation of the motion.

(4) Discovery Motions Judge

(a) The Discovery Motions Judge shall hear the following:

- (i) All discovery motions for General and Arbitration Docket cases that have not yet appeared on a published trial list or been assigned a trial date; with the exceptions set forth below in subsection (iv) this includes Arbitration Docket cases which have been assigned an arbitration hearing date (although such motions are disfavored);

Note: The scheduling of an arbitration hearing does not constitute appearance on a published trial list or the assignment of a trial date.

- (ii) All motions relating to pre-complaint discovery;
- (iii) Discovery in aid of execution;
- (iv) All motions to dismiss based upon affidavits of non-involvement pursuant to Pa. R.C.P. No. 1036 et seq.

- (b) The following discovery motions will not be heard by the Discovery Motions Judge and shall be heard by the General Motions Judge:
 - (i) Requests for injunctive relief, including discovery on requests for injunctive relief; and
 - (ii) Discovery disputes relating to or arising out of a Rule to Show Cause issued by the General Motions Judge.
- (c) Discovery motions assigned to a specific Judge shall be heard by the assigned judge.
- (d) Presentation
 - (i) The Discovery Motions Judge does not schedule the date of time of presentation, but typically hears all motions at 2:00 p.m. on Fridays, unless otherwise indicated. Scheduling is not required.
 - (ii) Absent compelling circumstances, the court requires the parties to conduct a meaningful “meet and confer” prior to presentation of any contested motion. The court will inquire into the specifics of the meet and confer during the hearing.
 - (iii) All parties must bring an additional coversheet/caption for the benefit of the Court Reporter.
 - (iv) The moving party shall, upon entering the court room, present to the clerk all motions and coversheets. The moving party shall indicate whether the motion is contested or uncontested/unopposed. If a party is unable to represent to the clerk affirmative assent to a motion being uncontested/unopposed, the motion shall be classified as contested. See explanatory note below.
 - a. Uncontested or unopposed motions will be heard first, followed by contested motions.

Note: In presenting a motion as uncontested or unopposed, counsel certifies to the court that a copy of the motion, exhibits, and any proposed order was served on every other party or attorney of record, including notice of the time, date, and location for presentation, and at least ten days have passed or counsel has obtained the consent or affirmation that said motion is not opposed. Mere failure of the opposing party to appear at precisely 2:00 p.m. does not render a motion uncontested/ unopposed. The court in its discretion will determine when enough time has elapsed to render the motion uncontested/unopposed.

(5) Housing Court Judge

- (a) The Housing Court Judge shall hear the following:
 - (i) All motions involving Housing Court cases. (See Local Rule 76 Definitions for information relating to which cases shall be assigned to the Housing Court or ruled upon the Housing Court Judge.);
 - (ii) All contested requests for the continuance of an arbitration hearing in a Housing Court matter; and

- (iii) All Motions for Late Appeal of Disposition from a Magisterial District Judge in a Landlord Tenant Proceeding.
- (b) Presentation:
 - (i) All Housing Court Motions must be filed electronically or in person with the Department of Court Records. No motion will be scheduled for argument unless requested as set forth in subsection (a) or (b) below.
 - (a) For electronically filed motions, the party must request that the motion be scheduled for oral argument by submitting the motion to the Housing Court Help Desk email at HCHelpdesk@alleghecourts.us. This party shall immediately serve copies of the motion on all other parties with notice of the date and time of the argument.
 - (b) If the motion is not electronically filed, the original and a copy of the (motion shall be taken to the Housing Court Clerk (Housing Court Clerk at the Housing Court Help Desk: First Floor City County Building). The clerk will place, on the original and the copy of the motion, a time and date for an argument before the Housing Court Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing the motion. This party shall immediately serve copies of the motion on all other parties with notice of the date and time of the argument.

Note: The moving party will not receive an oral argument date unless the moving party either takes the motion to the Housing Court Help Desk or submits the motion to the Help Desk email: HCHelpdesk@alleghecourts.us. For further information concerning Housing Court procedures, forms and protocols Parties should go to the Court's website at https://www.alleghecourts.us/civil/Housing_Court.aspx.

- (ii) The party seeking a contested continuance of an arbitration hearing shall present to the Housing Court Judge an Adjournment of Hearing Form (FORM 208.3(a)) (see subsection (3)(a)(ii)(d) above), which may be obtained from the Housing Court Clerk at the Housing Court Help Desk: First Floor City-County Building, or by going to the Court's website, and specifically the arbitration page where such forms are available to download.

Note: If all parties agree to the continuance, the Housing Court Clerk has the authority to sign the Adjournment of Hearing continuing the case (FORM 208.3(a)) (see subsection (3)(a)(ii)(d) above).

- (iii) Motion for Late Appeal shall be filed with the Department of Court Records and a copy immediately provided to the Housing Court Clerk (See Housing Court Help Desk: First Floor City County Building, for Forms relating to Motions for Late Appeal).

- (a) The Housing Court Clerk will schedule the motion with the Housing Court Judge. The motion will generally be scheduled on a date which provides all other parties with ten (10) days' notice of the scheduled argument date. However, if an eviction is scheduled, the Housing Court Clerk will make every effort to schedule argument on Motion for Late Appeal before the scheduled eviction, although the Court may not be able to schedule a hearing before the eviction date. The filing party is responsible for informing the Housing Court Clerk of the date of any scheduled eviction.
- (b) The filing party is required to serve the Motion for Late Appeal upon the opposing party, and if the filing party is the tenant, also required to serve the Motion for Late Appeal upon the Magisterial District Court issuing the Disposition.

(6) General Motions Judge

- (a) The General Motions Judge shall hear the following for any General and Arbitration Docket case that has not yet appeared on a published trial list or been listed for trial:
 - (i) All motions relating to the following:
 - (a) pleadings including amendments, joinder of parties, late joinder of additional defendants;
 - (b) withdrawal and disqualification of counsel;
 - (c) discontinuances, consolidation, severance, and coordination of actions in different counties (Pa.R.C.P. 213.1);
 - (d) transfers between Arbitration and General Docket;
 - (e) certificates of merit (Pa.R.C.P. 1042.1 et seq.);
 - (f) requests for injunctive relief, including discovery on requests for injunctive relief; and
 - (g) discovery disputes relating to or arising out of a Rule to Show Cause issued by the General Motions Judge.
 - (ii) All motions for any Arbitration Docket case prior to listing for trial, except:
 - (a) discovery motions, which shall be presented to the Discovery Motions Judge;
 - (b) the compromise, settlement, and discontinuance of an action to which a minor is a party, which shall be presented to the Calendar Control Judge;
 - (c) the compromise, settlement, and discontinuance of an action to which an incapacitated person is a party, which shall be presented to the Calendar Control Judge;
 - (d) contested requests for the continuance of an arbitration hearing, which shall be presented to the Calendar Control Judge.

- (iii) All petitions to strike and/or open a default judgment or a judgment of non pros (the procedure including presentation, for which is found at Local Rule 206.4(c), not below);
- (iv) All motions not otherwise addressed in Local Rules 208.3, 1028(c), 1034(a), or 1035.2(a).

(b) Presentation:

- (i) The General Motions Judge typically hears motions daily at 9:30 a.m. and 1:30 p.m. in Courtroom 703. The General Motions Judge does not schedule the date or time of presentation. The moving party/petitioner selects the date and time for presentation.
- (ii) The original motion must be filed with the Department of Court Records. A copy of the motion shall be provided to the Chief Motions Clerk prior to presentation.
- (iii) The Chief Motions Clerk will file any order issued by the Court.

(7) FORM 208.3(a) Arbitration Adjournment of Hearing Form and Cover Sheet

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA
CIVIL DIVISION**

COVER SHEET

Plaintiff(s)

Case Number: _____

vs.

Type of pleading:

Adjournment of Arbitration Hearing

Defendant(s)

Filed on behalf of
(Name of filing party)

 Counsel of Record

Individual, if Pro Se

Address, Telephone Number, and Email Address:

Attorney's State ID: _____

Attorney's Firm ID: _____

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY
PENNSYLVANIA**

ARBITRATION SECTION

_____ No. _____, 20__

vs.

Presently listed _____

_____ No. of Times Continued _____

_____ Landlord/Tenant Action _____

A false certification of consent of all parties is subject to the provisions of 18 Pa.C.S.A. § 4904 (a) pertaining to unsworn falsification to authorities and is sanctionable under 42 Pa.C.S.A. § 2503.

ADJOURNMENT OF HEARING

On _____, 20____, on order of court, the date of hearing is adjourned to _____, 20_____.

Stipulation

BY THE COURT:

REASON FOR CONTINUANCE:

Note: A Microsoft Word version of this form can be obtained and downloaded from the Civil Arbitration page of the Court's website at [Civil | Arbitration \(allegheycourts.us\)](http://Civil | Arbitration (allegheycourts.us)).

(1) **Housing Court Cases.**

- (a) All motions involving Housing Court cases shall be heard by the Housing Court Judge. This includes all motions heard both before and after the appeal of an award from arbitration.
- (b) If not filed electronically, the original and a copy of any motion shall be taken to the Housing Court Clerk (Housing Court Clerk at the Housing Court Help Desk: First Floor City County Building). The clerk will place, on the original and the copy of the motion, a time and date for an argument before the Housing Court Judge. If not filed electronically, the clerk will file the original with the Department of Court Records and return the copy to the party filing the motion. *This party shall immediately serve copies of the motion on all other parties with notice of the date and time of the argument.* If the motion is filed electronically, the filing party shall take a copy of the motion to the Housing Court Clerk for scheduling argument before the Housing Court Judge. Where the motion is filed electronically, no argument will be scheduled without the filing party bringing a copy of the motion to the Housing Court Clerk for the purposes of scheduling the argument. *This party shall immediately serve copies of the motion on all other parties with notice of the date and time of the argument.*

Note: The Housing Court Clerk's scheduling of a motion for an argument on a date after the date of the arbitration hearing does not continue the arbitration hearing unless the moving party obtains a continuance pursuant to paragraph (7)(c) of this Local Rule.

- (c) Requests for the continuance of an arbitration hearing will be presented to the Housing Court Judge. The party seeking a continuance will present to the Housing Court Judge an Adjournment of Hearing Form (FORM 208.3(a)) (see subsection (6)(c) above), which may be obtained from the Housing Court Clerk at the Housing Court Help Desk: First Floor City County Building

Note: If all parties agree to the continuance, the Housing Court Clerk has the authority to sign the Adjournment of Hearing "Green Sheet" continuing the case (FORM 208.3(a)) (see subsection (6)(c) above).

- (d) Motion for Late Appeal of Judgment from a Magisterial District Judge in a Landlord Tenant Proceeding.
 - (i) Motions for Late Appeal shall be filed with the Department of Court Records and a copy immediately provided to the Housing Court Clerk (See Housing Court Help Desk: First Floor City County Building, for Forms relating to Motions for Late Appeal).
 - (ii) The Housing Court Clerk will schedule the motion with the Housing Court Judge. The filing party is still expected to provide the other party with ten (10) days' notice of the scheduled argument date. However, if an eviction is scheduled, the Housing Court Clerk will make every effort to schedule

argument on the Motion for Late Appeal before the scheduled eviction, although the Court may not be able to schedule a hearing before the eviction date. The filing party is responsible for informing the Housing Court Clerk of the date of any scheduled eviction.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 210 Requirements Governing the Form and Content of a Brief.

All briefs in excess of ten (10) pages shall contain a table of contents and a table of citations.

Note: See Local Rule 1028(c)(1)(b)(iii) which imposes page limits for briefs addressing preliminary objections.

See Pa.R.C.P. 204.1 and Local Rules 205.2(a) and 205.2(b) for requirements governing the physical characteristics of pleadings and other legal papers (including briefs) and cover sheets.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 212.1 Pre-Trial Procedure for All Actions in the Civil Division of the Court of Common Pleas of Allegheny County. Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.

- (1) Pa.R.C.P. 212.1 through 212.3 and Local Rules 212.1 through 212.3 apply to all civil actions, both jury and non-jury, to be tried in the Civil Division; appeals from Compulsory Arbitration shall be exempt unless such cases include a demand for a jury trial, and under such circumstances parties involved in such a case must comply with Local Rules 212.1 through 212.3.
- (2) **Definitions.** In these rules, the following words shall have the following meanings:
 - (a) *"pre-trial conference"*—a conference scheduled by the Court in accordance with Pa.R.C.P. 212.3 in which, in addition to matters set forth in Pa.R.C.P. 212.3, the Court shall:
 - (i) determine whether the parties have complied with this local rule; and
 - (ii) attempt an amicable settlement of the case.
 - (b) *"Conciliating Judge"*—the Judge assigned to conduct the pre-trial conference.
- (3) **Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.** Notices required by Pa.R.C.P. 212.1 shall be given by publication in the *Pittsburgh Legal Journal*, and notice shall be provided to unrepresented parties and to those out-of-county counsel identified in paragraph 6 of the Praeceptum to Place the Case at Issue (see FORM 214w).

Note: As soon as there is a published trial list, trial dates appear as docket entries in each individual case on the trial list. Docket entries are available online at: <https://dcr.alleghenycounty.us/> and click on Civil/Family Division, then "Case Search" (in upper right corner) and enter the docket number.

Additionally, published trial lists are also available on the Civil Division's website at: www.alleghecourts.us.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 212.2 Pre-Trial Statement.

- (a) Each party shall file and serve upon all other parties a written pre-trial statement in conformity with the requirements of Pa.R.C.P. 212.2, except as set forth in (b) below.
- (b) For cases which will be tried by the jury, each party or group of parties with joint representation by one counsel shall be entitled to make a voir dire statement and to propose no more than five additional voir dire questions which are not duplicative of the voir dire already covered in Local Rule 220.1 and the Juror Questionnaire. If the party or group of parties wishes to avail itself of this opportunity, the following shall be included in the pre-trial statement:
 - (i) Verbatim text of the voir dire statement of 200 words or fewer, which will be given by counsel at the outset of voir dire; and
 - (ii) Not more than five proposed additional voir dire questions, which shall be handled in accordance with Local Rule 220.1(c).
- (c) Disputes as to the propriety of any party's proposed voir dire statement or proposed voir dire questions shall be raised with the Calendar Control Judge during the conciliation which is scheduled immediately after the Call of the List. Each party shall bring to the conciliation an extra set of copies of their proposed voir dire statement and proposed additional voir dire questions.
- (d) Should a party, parties, or the Calendar Control Judge request that a Judge preside over voir dire and jury selection, the Judge presiding over the voir dire and jury selection shall have complete discretion over the voir dire and jury selection process, notwithstanding the preceding subsections of this local rule.

Note: The deadline for each party to file and serve its pre-trial statement is published with the trial list in the Pittsburgh Legal Journal. Generally, Plaintiffs are required to fulfill the requirements of Pa.R.C.P. 212.2 forty-five (45) days prior to the commencement of the trial term in which the case is listed, and all other parties are required to fulfill the requirements of Pa.R.C.P. 212.2 thirty (30) days prior to the commencement of the trial term in which the case is listed.

Editor's note: Adopted October 4, 2006, effective December 4, 2006. Amended October 14, 2008, effective 30 days after publication in the *Pennsylvania Bulletin*. Amended December 27, 2019, effective February 19, 2020.

Local Rule 212.3 Conduct of Pre-Trial Conference.

- (1) The conduct of the pre-trial conference shall be in conformity with Pa.R.C.P. 212.3.

- (2) Notice of the time, date and Conciliating Judge for the pre-trial conference shall be provided by publication in the Pittsburgh Legal Journal, and notice shall be provided to unrepresented parties and to those out-of-county counsel who submitted notice of their address to the Calendar Control section of the Civil Division at the time the case was placed at issue.

Note: The dates and times of pre-trial conciliations are also available on the Civil Division's website at: www.alleghenycourts.us.

- (3) Any application for rescheduling a pre-trial conference shall be addressed to the Conciliating Judge before whom the pre-trial conference is scheduled.

Note: See Local Rule 214(5)(f) regarding petitions to continue the trial of cases on the General Docket.

- (4) Unless excused by the Conciliating Judge, each party with a financial interest and each non-party with a financial interest (such as insurers) shall be present with full authority to settle the case. However, parties without a financial interest need not attend.
- (5) The Judge presiding at the pre-trial conference may impose such sanctions as are deemed appropriate against counsel and/or the party(ies) for failure to comply with this rule.
- (6) **Housing Court Judge.** Actions involving residential landlord tenant disputes (which include the rental of property involving a mobile home), statutory appeals from public housing and federal Section 8 grievance hearings, and all code enforcement matters involving properties leased or rented to residential tenants shall be assigned to the Housing Court and heard by the Housing Court Judge.

Note: Pre-trial conferences and other pre-trial procedures in cases assigned for trial to a particular Judge may be conducted according to the procedures directed by that Judge.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 213 Petitions for Consolidation. Survival Actions.

- (1) Petitions for Consolidation shall bear the captions of each case as to which consolidation is requested, including all issue numbers.
- (2) At the time of presentation of a petition for consolidation of cases, counsel shall bring sufficient copies of the petition, so that there will be one copy of the petition for the Court file of every case as to which consolidation is requested.
- (3) Transfer and consolidation of survival actions and related wrongful death actions are governed by Pa.R.C.P. 213.

Note: As to settlement of survival actions, see Local Rule 2206 and Orphans' Court Local Rule 12.16F.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 214 Issue Docket, Trial Lists and Trials.

(1) Issue Docket - General Docket ("GD") Cases.

- (a) After the expiration of sixty (60) days from the date of service of the original complaint upon each defendant, and after all of the pleadings in a case are closed, any of the parties may file a praecipe to place the case at issue, thereby signifying that the case is ready to be listed for trial. The Praecipe to Place the Case at Issue shall be in the same form as FORM 214 (see subsection (b) below). Cases placed at issue receive consecutive numbers ("issue numbers") which are used to track the placement of cases on a trial list. After an issue number is assigned to a case, it shall be included on the caption and cover sheet of all subsequent filings. The Prothonotary shall keep an issue docket of cases placed at issue. The Calendar Control Office of the Court of Common Pleas shall create the civil trial lists from those cases which have been placed at issue.

Note: The Court has provided a mandatory form of Praecipe to Place Case at Issue, FORM 214 (see subsection (b) below), which requires that counsel provide the Court with certain information regarding the case, to facilitate the orderly assembly of trial lists.

Note: See Local Rule 4003.5(7)(a) regarding priority on trial lists for professional liability and product liability cases which meet certain criteria. The form to be used to obtain priority placement on trial lists for such cases is found at FORM 4003.5D at Local Rule 4003.5(10)(d). This form is filed, at the appropriate time, in addition to the Praecipe To Place Case At Issue.

- (b)

FORM 214 Form of Praecipe to Place Case at Issue

[CASE CAPTION, INCLUDING DOCKET NUMBER]

PRAECIPE TO PLACE CASE AT ISSUE

The undersigned party hereby certifies the accuracy of the following information to the Court, and requests that the Prothonotary assign an issue number to this case, list this case on the issue docket, and place it in order on the next available trial list:

- 1. At least sixty days have passed since the service of the original complaint on all defendants.
- 2. All pleadings have been filed.
- 3. All preliminary motions and objections have been disposed of.
- 4. There are _____ plaintiffs and _____ defendants remaining in the case. Plaintiffs remaining in the case, and their counsel, are: [list the parties and their counsel]. Defendants who have actually been served and who remain in the case, and their counsel, are: [list the parties and their counsel].

5. According to documents filed in the case, the following parties are not presently represented by counsel and should be provided with notice of earliest trial date pursuant to Local Rule 212.1(3) at the following addresses: [list unrepresented parties and their mailing addresses].

Alternative 5. According to documents filed in the case, there are no unrepresented parties in this case at this time.

6. According to documents filed in the case, the following parties are presently represented only by out-of-county counsel. Such counsel should be provided with notice of earliest trial date pursuant to Local Rule 212.1(3): [list party, their out-of-county counsel, and counsel's mailing address].

Alternative 6. According to documents filed in the case, there are no parties in this case who are represented only by out-of-county counsel.

7. I estimate that the following number of days will be required for the trial of this case, including the time required for jury selection, closing arguments and charge:

- No more than 1 trial day
- 2 to 3 trial days
- 4 to 6 trial days
- 7 to 10 trial days
- 11 to 15 trial days
- More than 15 trial days

8. A jury trial has/has not [circle one] been requested in this case.

9. If this is a civil action that raises only claims for equitable relief, see Local Rule 1001 and FORM 1001 at Local Rule 1001(3).

Respectfully submitted,

Dated: _____

By: _____
[Identification of pro se party or counsel]

[Address and telephone number of pro se party or counsel]

(2) **Exceptions to Issue Docket.**

The following types of cases need not be placed at issue or otherwise certified ready for trial:

- (a) cases pending on the Compulsory Arbitration docket (AR) and (LT);
- (b) appeals from Compulsory Arbitration;
- (c) cases originally filed in the general docket (GD) and transferred to Compulsory Arbitration; and
- (d) cases in which a new trial has been granted by either the court of original or appellate jurisdiction.

Note: In cases in which a new trial has been granted, prompt written notice of the granting of such relief should be given by plaintiff to the Calendar Control Office of the Civil Division.

(3) **Removal From The Issue Docket.**

Cases which have been stricken from the issue docket shall receive new issue numbers after full compliance with this local rule and the filing of a subsequent Praecipe to Place Case at Issue.

(4) **Trial Terms.**

Civil Division trial terms are generally scheduled for five or six week periods commencing each January, March, May, September and November.

(5) **Trial Lists. Call of The List. Date of Trial.**

- (a) **Initial Publication of Trial Lists.** The trial dates for each term and the cases scheduled to be tried during that term are published approximately one hundred and twenty (120) days prior to the beginning of each of the trial terms in the Pittsburgh Legal Journal. It shall be the responsibility of in-county counsel to monitor the Pittsburgh Legal Journal for the initial listing of a case on a trial list. Publication of trial lists in the Pittsburgh Legal Journal is the only form of notice given to in-county counsel of the listing of a case for trial. Unrepresented parties and out-of-county counsel who submit notice of their address to the Calendar Control Office of the Civil Division (see Local Rule 212.1(3)) are mailed a notice of earliest trial date.

Note: As soon as there is a published trial list, trial dates appear as docket entries in each individual case on the trial list. Docket entries are available online at: prothonotary.county.allegheny.pa.us (no www. and no .com). Additionally, published trial lists are also available on the Civil Division's website at: www.alleghencourts.us.

- (b) **Pre-trial Discovery Deadlines.** Deadlines for the completion of discovery are published with the trial list in the Procedure, so that the response may be served on or before the date set for completion of discovery.

Note: Generally, discovery is required to be completed sixty (60) days prior to the commencement of the trial term in which the case is listed for trial.

- (c) **Call of the List.** Each day during the trial term at 9:00 a.m., the Calendar Control Judge calls the daily trial list. Counsel for each party in each case listed for the first time on that date shall appear at said time, personally or through a representative, and shall advise the Court, when the case is called:
- whether counsel for each party is ready for trial (each party, in turn, advises the court);
 - the expected time required to try the case; and/or
 - of any settlements which have occurred.

Counsel shall be prepared to commence trial on and after the date of the Call of the List. Counsel shall be prepared to engage in conciliation immediately after the Call of the List, or at such other time as the Court may thereafter direct. Cases not commenced on the date listed will be called again the following day and each day thereafter, until the case is commenced, removed from the list by motion or settlement, or the trial term ends. Cases not commenced during the trial term are placed on a future trial list.

- (d) **Daily Publication of Updated Trial List.** During each trial term, daily trial lists, updated to reflect settlements, continuances, cases called for trial, or other dispositions of cases, are published daily in the Pittsburgh Legal Journal. It is the responsibility of all parties to monitor the status of their cases on the updated trial list. Written notice of updates will not be sent.

Note: Updated trial lists are also available on the Civil Division website at: www.alleghencycourts.us.

- (e) **Date of Trial.** The dates for which cases are listed for trial are intended to serve as close estimates as to when each case will be reached for trial.
- (f) **Trial Policy.**
- (i) When the list of cases is first published, trial counsel must ascertain the readiness of their cases as to bills, reports, etc. and the availability of witnesses, doctors, experts, etc. involved in the case.
 - (ii) When it is ascertained that any person necessary for the trial of the case may not be available during the trial term, the deposition of that person for use at trial must be taken forthwith.
 - (iii) Requests for continuances or adjustments of the trial date should be made as soon as possible after the initial publication of the trial list. Last-minute requests for continuances ordinarily will not be granted to accommodate counsel, clients or witnesses for business trips, vacations or any absence during trial terms or for failure to comply with any of the trial policy rules.

- (iv) Counsel, as listed for the case, must be available and ready to try the case at the time it is called.
- (v) If listed counsel are not available, absent compelling reasons, substitute counsel must be available.
- (vi) A law firm not having sufficient trial counsel may be required to obtain substitute trial counsel.
- (vii) If listed counsel is not available and no substitute counsel is provided, the case will proceed without counsel.
- (viii) When called to select a jury, unless excused by the Court, counsel must appear within fifteen (15) minutes; if not present when so called, a clerk will select the jury and the case will be ordered to trial notwithstanding the absence of counsel.
- (ix) The trial policy rules will be applied regardless of the directions or desires of clients.

Note: As to motions relating to cases appearing on a published trial list, see Local Rule 208.3(a)(3) regarding the Calendar Control Judge. As to pre-trial statements, see Local Rule 212.2.

- (6) **Exception to Trial Lists.** Cases which have been assigned to an individual judge do not appear on a trial list; rather, such cases proceed to trial as ordered by the individual assigned judge. Local Rule 220.1 Voir Dire.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 220.1. Voir Dire.

In all civil actions to be tried before a jury, the parties shall be provided with the responses to the "Juror Questionnaire" completed by the members of the panel at the time that they report for jury duty (see Form), and the members of the panel shall be asked the questions set forth in this Local Rule (except those which all parties shall agree in advance to strike as inappropriate for the type of case involved). The questions shall be propounded by an Assignment Room Clerk, in the presence of all counsel. The voir dire process is open to the public.

The following questions shall be asked in a standard civil lawsuit, that is, one that is something other than a medical malpractice or asbestos case.

(a) *To be Addressed to the Group:*

1) *Clerk*—"This case is expected to last ____ days. Does that impose a serious hardship for anyone?"

2) *Clerk*—"The attorneys in this lawsuit will now introduce themselves, their law firms, and the parties they represent."

[Attorneys proceed with introductions.]

Clerk—"Have you had any social, business or professional contact with any of these attorneys or their law firms?"

Clerk—"Do you know or have you had any social, business or professional contact or employment with any of the parties, or are any of you stockholders in____? *[Insert name of company(ies).]*

Clerk—"This lawsuit concerns____." *[Insert a description —products liability, motor vehicle accident, fall down, construction, contract, etc.—along with a time period or date and place, if applicable.]*

3) *Clerk*—"The attorneys are now permitted to give you a brief statement about the case.

In their statement, each attorney will say what they believe the evidence will show at trial. You will not hear the actual evidence until the witnesses testify when the trial begins.

You are not to form any conclusions based upon the statements of the attorneys.

You cannot make your decision until the end of the trial."

[Attorneys proceed, in turn, to deliver their approved voir dire statements.]

[If no party elects to deliver a voir dire statement, then the Clerk proceeds as set forth below.]

Clerk—"Does anyone know anything about this case?"

4) *Clerk*—"The attorneys will now identify for you all of their possible witnesses in this case."

[Attorneys proceed in turn to identify the names and addresses of all their potential witnesses, including expert witnesses. This list should include all non-party witnesses listed in each party's pre-trial statement, unless all parties have agreed otherwise.]

Clerk—"Do you know or have you had any association, either yourself or through any member of your family, with any of these individuals?"

(b) *To be Asked Individually:*

Clerk—"We will begin questioning. Juror #1, will you please step forward?"

1) *Clerk*—"Based on anything you have read, seen or heard, do you have any feelings or opinions about a lawsuit seeking money damages?"

a. *Clerk*—"If so, what are those feelings or opinions?"

b. *Clerk*—"Do you think those feelings or opinions might affect your judgment in this case?"

2) *Clerk*—"This case involves a claim for money damages and is the type commonly called a ____ [*products liability, motor vehicle accident, breach of contract, etc.*] lawsuit."

a. *Clerk*—"Do you have any feelings about this kind of case, or the parties involved in this kind of case, that would tend to make you favor one party or the other; that is, the person bringing the lawsuit or the person being sued?"

b. *Clerk*—"If so, what are those feelings?"

c. *Clerk*—"Will that influence your judgment in this case so that you may not be able to be fair and impartial?"

3) *Clerk*—"Do you have any feelings or opinions as to whether there should be a minimum or maximum amount of money that can be awarded to an injured party?"

4) *Clerk*—"Is there any reason why you feel you cannot serve as a fair and impartial juror in this case?"

The following questions shall be asked in medical malpractice cases:

(c) *To be Addressed to the Group:*

1) *Clerk*—"This case is expected to last ____ days. Does that impose a serious hardship for anyone?"

2) *Clerk*—"The attorneys in this lawsuit will now introduce themselves, their law firms, and the parties they represent."

[*Attorneys proceed with introductions.*]

Clerk—"Have you had any social, business or professional contact with any of these attorneys or their law firms?"

Clerk—"Do you know or have you had any social, business or professional contact or employment with any of the parties, or are any of you stockholders in ____? [*Insert name of company(ies).*]

Clerk—"This case is a Medical Malpractice lawsuit." [*Insert a description—along with a time period or date and place, if applicable.*]

3) *Clerk*—"The attorneys are now permitted to give you a brief statement about the case.

In their statement, each attorney will say what they believe the evidence will show at trial. You will not hear the actual evidence until the witnesses testify when the trial begins.

You are not to form any conclusions based upon the statements of the attorneys. You cannot make your decision until the end of the trial."

[Attorneys proceed, in turn, to deliver their approved voir dire statements.]

[If no party elects to deliver a voir dire statement, then the Clerk proceeds as set forth below.]

Clerk—"Does anyone know anything about this case?"

4) Clerk—"The attorneys will now identify for you all of their possible witnesses in this case."

[Attorneys proceed in turn to identify the names and addresses of all their potential witnesses, including expert witnesses. This list should include all non-party witnesses listed in each party's pre-trial statement, unless all parties have agreed otherwise.]

Clerk—"Do you know or have you had any association, either yourself or through any member of your family, with any of these individuals?"

(d) *To be Asked Individually:*

Clerk—"We will begin questioning. Juror #1, will you please step forward?"

1) Clerk—"Based on anything you have read, seen or heard, do you have any feelings or opinions about a lawsuit seeking money damages for personal injuries?"

a. Clerk—"If so, what are those feelings or opinions?"

b. Clerk—"Do you think those feelings or opinions might affect your judgment in this case?"

2) Clerk—"This case involves a claim for money damages and is the type commonly called a Medical Malpractice lawsuit."

a. Clerk—"Do you have any feelings about this kind of case, or the parties involved in this kind of case, that would tend to make you favor either the patient or the healthcare provider?"

b. Clerk—"If so, what are those feelings?"

c. Clerk—"Will that influence your judgment in this case so that you may not be able to be fair and impartial?"

3) Clerk—"Do you have any feelings or opinions as to whether there should be a minimum or maximum amount of money that can be awarded to an injured party?"

4) Clerk—"Do you have any feelings or opinions about whether medical malpractice lawsuits affect the costs or availability of medical services?"

"If so, what are those feelings or opinions?"

5) *Clerk*—"Do you feel it is wrong to sue a [*Insert appropriate provider, e.g. doctor, nurse, hospital, nursing home . . .*] even in circumstances where the [*Insert as before.*] was careless in providing medical care to a patient and caused harm to that patient?"

6) *Clerk*—"Do you believe that just because the patient suffered a complication, did not get better, or even died, that the [*Insert appropriate provider, e.g. doctor, nurse, hospital, nursing home . . .*] must have done something wrong so that the patient or family is entitled to compensation?"

7) *Clerk*—"Is there any reason why you feel you cannot serve as a fair and impartial juror in this case?"

The following questions shall be asked in asbestos cases:

(e) *To be Addressed to the Group:*

1) *Clerk*—"This case is expected to last ____ days. Does that impose a serious hardship for anyone?"

2) *Clerk*—"The attorneys in this lawsuit will now introduce themselves, their law firms, and the parties they represent."

[*Attorneys proceed with introductions.*]

Clerk—"Have you had any social, business or professional contact with any of these attorneys or their law firms?"

Clerk—"Do you know or have you had any social, business or professional contact or employment with any of the parties, or are any of you stockholders in ____? [*Insert name of company(ies).*]

Clerk—"This lawsuit concerns ____." [*Insert a description-products liability, negligence, etc.—along with a time period or date and place, if applicable.*]

3) *Clerk*—"The attorneys are now permitted to give you a brief statement about the case.

In their statement, each attorney will say what they believe the evidence will show at trial. You will not hear the actual evidence until the witnesses testify when the trial begins.

You are not to form any conclusions based upon the statements of the attorneys. You cannot make your decision until the end of the trial."

[*Attorneys proceed, in turn, to deliver their approved voir dire statements.*]

[If no party elects to deliver a voir dire statement, then the Clerk proceeds as set forth below.]

Clerk—"Does anyone know anything about this case?"

4) Clerk—"The attorneys will now identify for you all of their possible witnesses in this case."

[Attorneys proceed in turn to identify the names and addresses of all their potential witnesses, including expert witnesses. This list should include all non-party witnesses listed in each party's pre-trial statement, unless all parties have agreed otherwise.]

Clerk—"Do you know or have you had any association, either yourself or through any member of your family, with any of these individuals?"

(f) *To be Asked Individually:*

Clerk—"We will begin questioning. Juror #1, will you please step forward?"

1) Clerk—"Based on anything you have read, seen or heard, do you have any feelings or opinions about a lawsuit seeking money damages for personal injuries?"

a. Clerk—"If so, what are those feelings or opinions?"

b. Clerk—"Do you think those feelings or opinions might affect your judgment in this case?"

2) Clerk—"This case involves a claim for money damages and is the type commonly called a____*[Insert a description-products liability, negligence, etc.]* lawsuit."

a. Clerk—"Do you have any feelings about this kind of case, or the parties involved in this kind of case, that would tend to make you favor one party or the other; that is, the person bringing the lawsuit or the person being sued?"

b. Clerk—"If so, what are those feelings?"

c. Clerk—"Will that influence your judgment in this case so that you may not be able to be fair and impartial?"

3) Clerk—"Do you have any feelings or opinions as to whether there should be a minimum or maximum amount of money that can be awarded to an injured party?"

4) Clerk—"Have you or any member of your household or immediate family ever suffered from:

a) Any type of cancer?

b) Asbestosis?

- c) Emphysema?
- d) Silicosis?
- e) Chronic bronchitis?
- f) Black lung?
- g) Mesothelioma
- h) Any other lung or respiratory disease?"

5) *Clerk*—"Have you or any member of your household or immediate family ever been employed by a business engaged in manufacturing, supplying, or removing insulation products containing asbestos?"

6) *Clerk*—"Have you or any member of your household or immediate family ever worked or been exposed to products which you understood to contain asbestos or silica?"

7) *Clerk*—"Have you been exposed to any information from the internet, newspapers, radio, television, or from other people, discussing alleged health problems with asbestos or silica?"

8) *Clerk*—"Have you ever smoked:

- a) Cigarettes?
- b) Cigars?
- c) Pipe?"

9) *Clerk*—"If yes, what year did you stop smoking:

- a) Cigarettes?
- b) Cigars?
- c) Pipe?"

10) *Clerk*—"Is there any reason why you feel you cannot serve as a fair and impartial juror in this case?"

(g) Up to five additional proposed voir dire questions may be submitted by each party or group of parties with joint representation by one counsel. Disputes as to the propriety of these questions shall be handled as set forth in Local Rule 212.2(c). At the time of voir dire, those proposed additional voir dire questions which were permitted by the Calendar Control Judge will

be propounded by the Assignment Room Clerk, in the presence of all counsel, individually to each member of the panel.

(h) At the conclusion of individual questions to each member of the panel as set forth in parts (b), (d), (f) and (g) above, counsel will be permitted to ask reasonable follow-up questions regarding each panel member's responses to prior questions and responses to the Juror Questionnaire. In the absence of agreement by all parties to the contrary, the order of follow-up questioning shall proceed as the parties appear in the caption of the case.

FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA

**COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY
CIVIL DIVISION—JUROR QUESTIONNAIRE**

1) Full Name: _____ Maiden Name (if any): _____

2) Age: _____ Place of Birth: _____

3) Neighborhood or Municipality in which you live: _____ Zip Code: _____

Length of time at current address: _____ Rent or Own: _____

4) Single Married Divorced Widowed Separated

Spouse's Name: _____ Spouse's Maiden Name (if any): _____

5) Your Employment/Occupation:

Present Job Employer Time at this Job

If Retired:

Last Employer Last Held Position Time at this Job

What prior occupations and employers have you had?

6) Please indicate your highest level of education: Elementary Jr. High/Middle School
 High School (did not graduate) High School Graduate GED
Technical/Vocational Training College (did not graduate) College Graduate
Advanced Degree

College or University Degree, Diploma, or Certificate Attained Major Course of Study

7) Have you ever served in the military? Yes No

If so, in what branch? _____ Years _____ to _____

What did you do? _____ Final Rank _____

Honorable Discharge? Yes No

8) Have you or any members of your family been involved as a plaintiff, defendant, witness or juror in a civil or criminal lawsuit or court case? Yes No

1. Who was involved? _____

2. What was the nature of the lawsuit? _____

3. Were you or your family member the Plaintiff, Defendant, witness or juror? _____

4. What was the outcome? _____

9) Have you ever been involved in an automobile accident? Yes No

10) Are you licensed to drive a motor vehicle? Yes No

11) Do you own or lease a motor vehicle? Yes No

12) Please list your family doctor and/or any other doctors that have treated you in the past two years: _____

13) Please provide the following information about the following people:

	Name	Age	Level of Education	Current Occupation & Employer	Do they reside with you?
Your Mother:					
Your Father:					
Your Spouse:					
Child/Stepchild 1:					
Child/Stepchild 2:					
Child/Stepchild 3:					
Child/Stepchild 4:					
Child/Stepchild 5:					
Child/Stepchild 6:					
Other Adult Member of Household 1:					
Other Adult Member of Household 2:					
Other Adult Member of Household 3:					

14) If you have brothers or sisters, what do they do for a living? _____

15) Do you or any members of your family have a friendship or association with anyone who is a police officer, judge, lawyer, or employee of the court system? If so, please explain: _____

16) Have either you or members of your family ever worked for or done business with the insurance industry or owned stock in an insurance company? Yes [] No []

17) Have either you, members of your family, or any close friends ever worked for or done business with the medical or healthcare field? Yes [] No []

18) Do you have any physical or mental condition or other situation which could affect your ability to serve on a jury? Yes [] No []

I VERIFY, SUBJECT TO THE PENALTIES OF SECTION 4904 OF THE CRIMES CODE (18 Pa.C.S. § 4904) RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES, THAT THE FACTS SET FORTH IN THIS QUESTIONNAIRE ARE TRUE AND CORRECT.

Dated: _____ Signature: _____

Editor's Note: Adopted October 29, 2012, effective November 17, 2012.

Local Rule 227.1 Post-Trial Motions. Filing of Appeals. Request for Transcript, Certification and Waiver Forms.

(1) Post-Trial Motions.

- (a) Post-Trial Motions shall be filed in the Office of the Department of Court Records and a copy shall be delivered to the Trial Judge. Argument shall be scheduled by the Trial Judge without praecipe.
- (b) On all Motions for Post-Trial Relief, only those portions of the testimony relating to the questions raised need be transcribed. If counsel cannot agree on the evidence to be transcribed, the matter may be submitted to the Trial Judge. The reporter shall arrange the transcript so that omitted portions may be inserted in the event this becomes necessary. A moving party desiring to rely wholly or in part on a transcript of the testimony or on the charge of the Court shall file in the Office of the Department of Court Records a certificate from the court reporter, stating that the testimony relied upon or the charge has been ordered and is being transcribed. Such certificate shall be filed within a period of ten days from the filing of the Motion for Post-Trial Relief. Upon failure to file such certificate within the time prescribed, it shall be conclusively presumed a transcript of said testimony is not necessary and is waived. When a Motion for Post-Trial Relief is abandoned at or before argument before the Court, or when it is found by the Court to have no merit or is denied, the cost of the transcript may be assessed against the party filing the Motion.
- (c) Unless accompanied by an affidavit stating the names of all witnesses expected to testify, and the substance of the testimony they are expected to offer, no Motion for a New Trial will be entertained on the grounds of after-discovered evidence.
- (d) Upon the filing of any Motion for Post-Trial Relief, the Court may, on its own motion or on the motion of any interested party, hold a post-trial hearing and/or conciliation.

Note: See Pa.R.C.P. 106 regarding computation of time.

- (2) **Appeals.** When filing documents necessary to effectuate an appeal of a Civil Division matter in accordance with the Pennsylvania Rules of Appellate Procedure and specifically Pa.R.A.P. 905 and 906, filings with this Court are made in the appropriate division of the Department of Court Records identified in Rule 1(3) of these Rules.

- (a) *Filing and Request for Transcript, Certification and Waiver Form.*
- (i) At the time of filing a Notice of Appeal in the Court of Common Pleas, and pursuant to Pa.R.A.P. 906, whether or not a transcript or waiver has already been filed, the appellant shall attach to all copies of the Notice of Appeal a copy of the completed and acknowledged Request for Transcript, Certification and Waiver, FORM 227.1A. FORM 227.1A can be obtained from the Allegheny County Office of Court Reporters or from the Fifth Judicial District of Pennsylvania's website under the Administration tab.
 - (ii) The Request for Transcript, Certification and Waiver must be completed by the party placing the order, signed by a Judge, if required by Pa.R.A.P. 1922(b), and delivered to the Manager of the Court Reporters to place an order for a transcript for any purpose.
 - (iii) FORM 227.1A also shall be prepared and filed to demonstrate waiver of a transcript or portion thereof in connection with an appeal.
 - (iv) The Manager of Court Reporters shall insert the date the Request form is received and shall acknowledge said receipt by signature.
 - (v) A copy of the form, as acknowledged by the Manager of Court Reporters, shall be satisfactory proof of a transcript order or waiver.
 - (vi) When a transcript is ordered, the Manager of Court Reporters shall obtain the signature of the court reporter and insert the estimated number of pages and the estimated completion date in the appropriate place on the form.
 - (vii) The copies of the Request form then shall be distributed to the designated persons by the Manager of the Court Reporters.
- (b) *Notice of Proof of Filing or Delivery of the Transcript.*
- (i) The Notice of Proof of Filing or Delivery of the Transcript (FORM 227.1B) (see subsection (d)(i) below) shall be filed with the Department of Court Records and distributed to the designated persons by the Manager of the Court Reporters.
 - (ii) If a requisite transcript or portion thereof has already been filed with the Department of Court Records, a photocopy of the Request for Transcript, Certification and Waiver (FORM 227.1A) and the Notice of Proof of Filing or Delivery of the Transcript (FORM 227.1B) may be attached to the Notice of Appeal.
- (c) Transcripts of testimony may not be photocopied.
- (d) *Forms:*

FORM 227.1B Notice of Proof of Filing or Delivery of the Transcript

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

_____ Civil Division

_____ Case No.:

NOTICE OF PROOF OF FILING OR DELIVERY OF THE TRANSCRIPT

Proceeding: _____ Complete Case _____

Plaintiff's Case _____

Date: _____ Defendant's Case _____

Charge _____

Judge: _____ Closing Argument _____

Other _____

I hereby certify that I have filed and/or delivered the above-described transcript with/to the following:

Date Signature

Department of Court Records _____

Attorney _____

Court Reporter

If no objections are made to the text of the transcript within five (5) days after such notice, the transcript will become part of the record.

Copies: Judge/Department of Court Records/Manager of Court Reporters/Attorney/Other

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 234.1 Subpoena.

- (1) The copy of any subpoena (the original of which issued from this Court) left with a witness who has been subpoenaed shall have endorsed on said copy the caption, the number and term of the case, and the name, office address and telephone number of the attorney causing the subpoena to be issued and served.
- (2) A copy of the original subpoena with a completed return of service shall be filed with the Department of Court Records.
- (3) Subpoenas duces tecum for production of hospital records shall be served between the hours of 9:00 a.m. and 5:00 p.m. and at least two days before the time stated in the subpoena for appearance. A one-day witness fee and round-trip mileage shall be tendered at the time the subpoena is served.
- (4) Subpoenas requiring production of hospital records shall not be deemed to apply to x-rays or other data not strictly a part of a hospital record unless they are specifically requested in the subpoena.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 237.1 Entry of Default Judgment, Military Service.

In all cases in which a party to an action has appeared but subsequently defaults, before any decree or judgment shall be entered, the opposing party shall file an affidavit stating that the defaulting party is not in the military service of the United States, or if the information is not available, the affidavit shall state what efforts have been made to obtain the facts.

Note: This local rule is mandated by the "Servicemembers Civil Relief Act," Title 50 App. U.S.C. Section 501 et seq.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 239 Local Rules.

- (1) **Adoption of Local Rules.**
 - (a) In the absence of special circumstances, the Administrative Judge of the Civil Division shall notify the Allegheny County Bar Association Court Rules Committee of any proposed local rule change, to solicit comments and input regarding the proposed local rule change.
 - (b) No local rule shall be adopted, amended or repealed except by a majority vote of the members of the Court present at a regular or special meeting of the Board of Judges. Action on proposed local rule changes may be taken by the Board of Judges only if the members of the Board of Judges have received at least seventy-two hours' notice of the proposed rule change.
 - (c) Every local rule shall be promulgated in accordance with these procedures.

- (2) **Construction of Local Rules.** All rules of construction adopted by the Supreme Court of Pennsylvania shall apply to local rules adopted by the Court of Common Pleas of Allegheny County, Pennsylvania. Without limiting the generality of the foregoing, definitions contained in Pa.R.C.P. 76 shall apply to all local rules heretofore and hereafter adopted which govern procedure in the Civil Division and in the Family Division.
- (3) **Citation to Local Rules.** These Rules may be known as the "Allegheny County Local Rules." Citations to these rules shall be: "Allegh. L. R. No. ____"

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 240 In Forma Pauperis.

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

Note: See affidavit form in Pa.R.C.P. 240. Application forms for pro se litigants are available in the office of the Prothonotary.

Note: For presentation to the Court, see Local Rule 208.3(a)(4).

Note: For indigent divorce cases, see Local Rule 1920.62.

- (2) Counsel employed by or affiliated with Neighborhood Legal Services are authorized to file a praecipe for in forma pauperis status.
- (3) The Prothonotary shall accept for filing by a party, a praecipe as provided by Pa.R.C.P. 240, or an application under this rule, without charge to the party.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 249 Special Assignments Among Judges. Commerce and Complex Litigation Center. Asbestos Judge. Class Action Judge. Elections Judge. Real Estate Tax Appeals Judge. Zoning.

- (1) **Commerce and Complex Litigation Center.**
 - (a) Creation. Administrative Order No. 13 of 2007 (AD07-000013) established a Commerce and Complex Litigation Center. This Center is within the Civil Division of the Court.
 - (b) Assignment of Cases to the Center.
 - (i) A description of the type of cases handled by the Center and of the procedures for assignment of cases to the Center is set forth in a *Description of the Docket and Procedures of the Commerce and Complex Litigation Center* prepared by the judges assigned to the Center

- (ii) The *Description* may be obtained from the Allegheny County Court of Common Pleas website at www.alleghenycourts.us by selecting civil and then selecting commerce and complex litigation center.

Editor's Note: Effective February 4, 2008. This Local Rule 249(1) replaces Local Rule 249(1) that was adopted on October 4, 2006, effective December 4, 2006. There are no changes to Local Rule 249(2) - (8).

(2) **Asbestos Judge.**

Actions for personal injury or property damage caused by asbestos, upon filing shall be assigned to the Asbestos Judge, prior to the case being assigned to a general trial list.

(3) **Class Action Judge.**

Class action cases, upon filing, shall be assigned to the Class Action Judge in accordance with Pa.R.C.P. 1701 *et seq.*

(4) **Elections Judge.**

Except with respect to matters of an emergency nature arising on an election day, actions relating to elections, upon filing, shall be assigned to the Elections Judge.

Note: See Local Rule 501 regarding Election Day Judges.

(5) **Real Estate Tax Appeals Judge.**

Real estate tax assessment appeals and real estate tax exemption appeals shall be assigned to the Real Estate Tax Appeals Judge.

(6) **Zoning.**

Zoning appeals shall be assigned to the Zoning Appeals Judge.

(7) **Assignment of Certain Actions Seeking Equitable Relief to Individual Judge.**

The placing of a case at issue involving only claims for equitable relief, Quiet Title, Quo Warranto and Mandamus results in assignment to an individual judge.

(8) **Discretionary Assignment of Cases to An Individual Judge.**

At the discretion of the Administrative Judge or the Calendar Control Judge, in the interests of efficiency and justice, the Court may assign cases to individual judges for any purpose, including pre-trial proceedings and trial.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 253 Taxation of Costs.

(1) **Costs After Judgment.**

Costs shall be taxed by the Department of Court Records. Objections shall be presented to the General Motions Judge or, if the case was tried, to the Trial Judge.

(2) Costs After Settlement.

In Civil Division cases, absent an agreement to the contrary at the time of a settlement requiring the payment of monetary damages, the paying party or parties shall reimburse the recipient the record costs incurred by that party. Where there are multiple payors, the reimbursement of record costs shall be prorated.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29, 2021, effective January 11, 2022.

Habeas Corpus

Local Rule 301 Formal Requirements.

Any request for issuance of a writ of habeas corpus shall be in writing by petition and in accordance with the following:

- (1) The caption shall contain the name of the Commonwealth at the relation of the petitioner in whose behalf the relief is requested, and name as respondent the person who exercises the alleged unlawful restraint, as well as the capacity in which such restraint is asserted, if any.
- (2) The petition shall contain allegations of fact and shall be signed and verified by petitioner. If petitioner is unable to sign and verify the petition, the reason shall be set forth.
- (3) When the person restrained is an incapacitated person or a minor, the petition shall be brought on behalf of the person restrained by that person's next friend, parent or guardian.
- (4) Where the restraint arises out of arrest and incarceration, for any summary or criminal offense, a notice of presentation and a copy of the petition for habeas corpus shall be given forthwith to the District Attorney of Allegheny County.
- (5) A proposed preliminary order shall be attached to the petition.
- (6) Petitions alleging restraint by law enforcement authorities shall be filed in the Criminal Division; petitions alleging restraint pursuant to an order of Court shall be filed in the Division of Court which issued the order; other petitions shall be filed in the appropriate division of the court.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 302 Contents of Petition.

The petition for the issuance of the writ of habeas corpus shall contain allegations of fact as follows:

- (1) The basis for the jurisdiction and venue of the Court shall be set forth, as well as the place of confinement or restraint. If the place of confinement or restraint is unknown, this shall be alleged.

- (2) Facts must be alleged that show precisely the alleged illegal restraint and the identity of the person in whose custody the person is restrained.
- (3)
 - (a) Any prior or pending legal proceeding pertaining to the restraint shall be referred to specifically. Any basis or authority for the restraint shall be specifically set forth. If the basis or authority for the restraint is unknown, this shall be alleged.
 - (b) When the restraint is a result of a commitment by an issuing authority, a statement of the proceedings before the issuing authority shall be attached.
- (4) The facts upon which the right to relief is based must be alleged and a succinct statement of the reasons why the restraint is unlawful shall be set forth without extended argument.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 303 Procedure.

The procedure for issuance of a writ of habeas corpus shall be as follows:

- (1) The petition shall be presented with an appropriate order. The order signed at the time application for relief is made may deny the requested relief, set a hearing date, grant a rule or grant any other appropriate relief.
- (2) When the Court directs the release of a relator upon any conditions of bail pending hearing on the petition, the order shall contain the amount and type of bail and the office in which bail shall be posted.
- (3) Upon the direction of the Court that a writ be issued, the order shall be filed with the Prothonotary, and a proper writ of habeas corpus shall be procured from the Prothonotary and served on the respondent as the Court may direct.

Note: It is expected that where the petitioner proceeds upon petition and rule that the order of Court granting the rule shall also provide a direction of notice to the appropriate parties.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Service

Local Rule 440 Certificate of Service.

- (1) Copies of all legal papers other than original process that are required to be served on each party to the action pursuant to Pa.R.C.P. 440, shall include a Certificate of Service, which sets forth the date and manner of service.
- (2) The Certificate of Service shall set forth the name of an attorney of record for each of the parties that is represented by counsel and the address at which service was made.

Note: The mere statement "Service upon all counsel of record" is not acceptable.

- (3) If any parties are not represented by counsel, the Certificate of Service shall identify the party as being unrepresented by using a "pro se" designation and shall set forth the address at which service was made.
- (4) The address listed in the Certificate of Service may be an e-mail address or telephone number used for a facsimile transmission where service was made in this fashion provided that such service is authorized under the Pennsylvania Rules of Civil Procedure.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Miscellaneous

Local Rule 501 Election Day Overseers and Judges.

- (1) **Election Overseers.** Applications for the appointment of election overseers shall be presented to the Court at least three days before any primary or election, and reasonable notice shall be given of the proposed appointment to other political parties.
- (2) **Judges on Election Days.** In advance of each election day, the President Judge shall enter an administrative order designating which judges of the Court shall be available in the Assignment Room throughout the day to handle matters of an emergency nature relating to the election.

Note: See Local Rule 249(4) regarding Elections Judge for non-emergency matters relating to elections.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 502 Appeals From Decisions of the Board of Property Assessment Appeals and Review.

- (1) Tax assessment appeals from decisions of the Board of Property Assessment Appeals and Review shall be governed by Local Rule 503.
- (2) Tax exemption appeals from decisions of the Board of Property Assessment Appeals and Review shall be governed by Local Rule 504.

Note: Under the former Local Rule 502, there was some confusion regarding whether Local Rule 502 applied both to tax assessment appeals and to tax exemption appeals from the Board of Property Assessment Appeals and Review. New Local Rules 503 and 504 have been adopted to address the different procedures that apply to tax assessment and tax exemption appeals. New Local Rule 502 incorporates Local Rules 503 and 504 and sets forth the procedures that apply when both a tax assessment appeal and a tax exemption appeal will be or have been filed with respect to the same subject property.

(3)

When the Board of Property Assessment Appeals and Review has decided both the tax exempt status and the assessed value of the subject property, a party or parties may appeal both of these decisions to the Court of Common Pleas by filing two separate appeals. The tax assessment appeal shall refer to the separately filed tax exemption appeal and shall be governed by Local Rule 503. The tax exemption appeal shall refer to the separately filed tax assessment appeal and shall be governed by Local Rule 504. The tax assessment appeal shall be stayed until such time as the Court has entered a final order with respect to the taxexemption appeal.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

**Local Rule 502.1 Notice of Change of Ownership of Property. Change of Address.
Withdrawal or Substitution of Counsel.**

- (1) If at any time during the course of an appeal filed pursuant to Local Rules 503 or 504 ownership of the property at issue is transferred, changed, or altered in any way, the property owner listed of record in the appeal is required to file notice of the transfer/change/alteration with the Department of Court Records, Civil Division (FORM 502.1) (see subsection (2) below). The Notice shall provide the following information:
- (a) The name(s) and address(es) of the new owner(s) of the property;
 - (b) The type of transfer/change/alteration (*e.g.*, property sold, joint tenant added); and
 - (c) The date of the transfer/change/alteration.

Note: An appeal to the Board of Viewers is an appeal to the Court of Common Pleas. See Local Rule 503(9). See Pa.R.C.P. 1012 for notice requirements when there is a withdrawal or substitution of counsel. See Pa.R.C.P. 440 and Local Rule 440 for requirements of service of legal papers.

FORM 502.1 Change of Ownership. Change of Address.

NOTICE

Department of Court Records, Civil Division
First Floor, City County Building
414 Grant Street
Pittsburgh, PA 15219

Re: [ORIGINAL CASE CAPTION AND DOCKET NUMBER]

- (1) The names(s) and address(es) of the new owner(s) of the property is (are):
-
-

(2) The ownership of the property that is the subject of the referenced assessment appeal has been changed, as follows (e.g., property sold, joint tenant added, etc.):

(3) The date of the transfer/change/alteration was: _____

Dated: _____ Signed: _____

Editor's Note: Adopted June 5, 2008, effective July 28, 2008.

Local Rule 503 Appeals From Real Estate Tax Assessment.

The following provisions shall govern all tax assessment appeals from the Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review:

Note: Under the former Local Rule 502, there was some confusion regarding whether Local Rule 502 applied both to tax assessment appeals and to tax exemption appeals from the Board of Property Assessment Appeals and Review. New Local Rule 503 applies only to tax assessment appeals. For procedure governing tax exemption appeals, see Local Rule 504.

(1) **Parties.**

- (a) The following parties must be listed in the caption of the appeal:
 - (i) owner(s) of the real estate and/or taxable property;
 - (ii) the municipality in which the property is located;
 - (iii) the school district in which the property is located; and
 - (iv) the County of Allegheny.
- (b) Any entity other than those set forth in subsection (1)(a) of this local rule must file a Petition to Intervene with the Real Estate Tax Appeals Judge in accordance with the Pennsylvania Rules of Civil Procedure to become a party.

(2) **Caption.**

- (a) The party filing the appeal shall be designated as the petitioner. All other parties shall be designated as respondents or interested parties.
- (b) The caption and cover sheet shall clearly state whether the appeal involves commercial or residential property.

(3) **Time For and Content of Appeals.**

- (a) An appeal from the Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review must be filed with the Department of Court Records, Civil Division, within thirty (30) days of the date of mailing by the Board of the notice of its Disposition of Appeal from Real Estate Assessment.

- (b) An appeal shall be in substantially similar form as set forth in Petition for Assessment Appeal (FORM 503(3)) (see subsection (20)(a) below) and shall contain the following:
 - (i) the names of the parties;
 - (ii) an identification of the property by address, lot and block number;
 - (iii) whether the property is residential or commercial; and
 - (iv) the name of the party that appealed to the Board of Property Assessment Appeals and Review.

Note: The Petitioner, in filing a Petition for Appeal from Disposition of the Board of Property Assessment Appeals and Review, is deemed to have raised all challenges to the assessment that the law permits.

(4) **Notice. Service.**

Petitioner shall give notice of the appeal by first class mail, postage prepaid, to all parties and the Board of Property Assessment Appeals and Review, within seven (7) days of the filing of the appeal, and shall file proof of service thereof.

(5) **Action Required of Department of Court Records, Civil Division.**

- (a) Upon the docketing of any appeal from a Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review, the Department of Court Records, Civil Division, shall obtain the information contained in the Board of Property Assessment Appeals and Review's Disposition of Appeal from Real Estate Assessment.
- (b) Upon obtaining the information contained in the Board of Property Assessment Appeals and Review's Disposition of Appeal from Real Estate Assessment, the Department of Court Records, Civil Division, shall place this information in the court file in hard copy form, and make it available on the Department's publicly accessible website in electronic form.

(6) **Filing of Appeals.**

The filing of an appeal by any party shall act as an appeal by all parties.

(7) **Withdrawal of Appeals.**

No appeal may be withdrawn without the consent of all other parties or leave of court. Any party who fails to appear at the conciliation without prior notice to the Board of Viewers shall be deemed to have consented to the withdrawal of the appeal.

(8) **Motions.**

All motions in real estate tax assessment appeals shall be presented to the Real Estate Tax Appeals Judge.

(9) **Board of Viewers.**

All tax assessment appeals from a Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review shall be assigned to a Board of Viewers appointed by the Administrative Judge of the Civil Division pursuant to 72 P. S. § 5020-518.1.

(10) **Discovery.**

- (a) In all cases involving non-residential property, the taxing bodies may serve a copy of Tax Assessment Appeal Discovery Requests, (FORM 503(10)) (see subsection (20)(b) below) on the taxpayer. The taxpayer shall furnish the information sought in the Discovery Requests within forty-five (45) days after receipt thereof.
- (b) No party may seek additional discovery through Interrogatories, Request for Production of Documents or otherwise until discovery has been sought through the Tax Assessment Appeal Discovery Requests. Parties seeking additional discovery or any discovery in cases involving residential property must petition the Real Estate Tax Appeal Judge for discovery, who may refer the petition to the Administrative Chair of the Board of Viewers for recommendation.
- (c) Any discovery disputes, including without limitation any Motion(s) for Protective Order or Motion(s) to Compel, shall be presented upon proper notice to the Real Estate Tax Appeal Judge.
- (d) Discovery shall conclude sixty-five (65) days prior to the date scheduled for conciliation.

(11) **Conciliation.**

- (a) All appeals shall be conciliated prior to a hearing by the panel of the Board of Viewers assigned to hear the appeal.
- (b) At the time of conciliation, all parties or their counsel shall be present with full authority to effectuate a settlement of the appeal.

Note: Parties and counsel are advised to pay particular attention to the notice of conciliation. In appropriate cases, the conciliation and hearing may be scheduled on the same day. In such instances, the parties must appear at the conciliation ready to move directly into a hearing if the conciliation does not result in settlement.

- (c) If any party fails to comply with the provisions of this local rule, the Board of Viewers may include in their report a recommendation for the imposition of appropriate sanctions, including but not limited to, attorneys' fees and costs against the party or parties failing to comply.

(12) **Pre-Trial Statement in Non-Residential Tax Assessment Appeal.**

- (a) Sixty (60) days prior to the date scheduled for conciliation of a non-residential tax assessment appeal, the petitioner shall distribute to all counsel of record, or if counsel have not entered an appearance on the party(ies), and to the panel of the Board of Viewers assigned to the case a pre-trial statement. The pre-trial statement shall incorporate the following information or documents:

- (i) a description of the user of the real estate and the nature of the real estate;
- (ii) a list of all persons who will give testimony in the trial of this appeal;
- (iii) a list of all exhibits which the party intends to use at trial;
- (iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.

Note: Former Local Rule 502 required only the owner of non-residential property to file a conciliation statement. Local Rule 503 has been redrafted to require, in an appeal of non-residential property, both the taxpayer and the taxing bodies to file pre-trial statements. In conjunction with the change from a "conciliation" statement to a "pre-trial" statement, new Local Rule 503 shifts the focus of the parties' anticipated evidence at trial and eliminates the need to list information that will not be part of the party's case at trial. Local Rule 503 also requires parties to include in the pre-trial statement any expert reports and/or appraisals. By its terms, this subsection (12) does not apply to residential tax assessment appeals.

- (b) Twenty (20) days prior to the date scheduled for conciliation of a non-residential tax assessment appeal, the respondent(s) shall distribute to all counsel of record, or if counsel have not entered an appearance on the party(ies), and to the panel of the Board of Viewers assigned to the case a pre-trial statement. The pre-trial statement shall incorporate the following information or documents:
 - (i) a description of the use of the real estate and the nature of the real estate;
 - (ii) a list of all persons who will give testimony in the trial of this appeal;
 - (iii) a list of all exhibits which the party intends to use at trial;
 - (iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.
- (c) All interested parties whose interests are aligned with the petitioner shall distribute their Pre-Trial Statement in accordance with subsection (12)(a) of this local rule. All interested parties whose interests are aligned with the respondent(s) shall distribute their Pre-Trial Statement in accordance with subsection (12)(b) of this local rule.
- (d) The failure to comply with subsections (12)(a), (12)(b) and (12)(c) of this local rule shall result in appropriate relief, which may include the exclusion or limitation at trial of testimony or evidence which was not provided in the pre-trial statement or a recommendation for the imposition of attorneys' fees and costs against the party or parties failing to comply.

(13) **Hearing.**

- (a) The Board of Viewers shall schedule a hearing and shall provide notice of the hearing to all parties and/or counsel of record. The notice shall be sent by regular mail and shall state that if any party fails to appear at the hearing it will proceed without them or the appeal will be dismissed with prejudice.

Note: Parties and counsel are advised to pay particular attention to the notice of hearing. In appropriate cases, the conciliation and hearing may be scheduled on the same day. In such instances, the parties must appear at the conciliation ready to move directly into a hearing if the conciliation does not result in settlement.

- (b) The hearing shall be recorded by a court reporter.
- (c) The Board of Viewers, at its discretion, may continue the hearing.

(14) **Report.**

Following the hearing, the Board of Viewers shall file its written Special Masters Report and Recommendation with the Department of Court Records, Civil Division. This Special Masters Report along with a Notice in substantially similar form as set forth in Notice (FORM 503(14)) (see subsection 20(c) below), shall be mailed to all counsel or parties if not represented by counsel.

(15) **Objections. Trial Transcript.**

- (a) The parties may file objections to the Special Masters Report and Recommendation within ten (10) days of receipt of the Special Masters Report and Recommendation and Notice. Objections must be accompanied by a certification of counsel, or a party if unrepresented, that the trial transcript, or necessary portions of the transcript, have been ordered from the court reporter and paid for. Copies of the objections and certification shall be filed with the Department of Court Records, Civil Division, and served on all counsel of record or party(ies) if unrepresented, and the Board of Viewers.
- (b) If no trial transcript is filed within ninety (90) days of the date the Objections were filed, the Administrative Chair of the Board of Viewers shall send the objecting party a letter, with copies to all counsel and parties not represented by counsel, stating that the transcript must be paid for and filed within thirty (30) days of the date of the letter, and that if no transcript is filed within that time period, then a court order will be issued overruling the objections with prejudice. (FORMS 503(15A) and 503(15B)) (see subsections 20(d) and 20(e) below).

Note: If, through no inaction on the part of the objecting party the court reporter is unable to meet the deadline set e filing of the transcript in the letter from the Administrative Chair, the objecting party may ask for an extension of time from the Administrative Chair.

(16) **Briefs on Objections.**

- (a) Within twenty (20) days of the date on which the transcript is filed of record, the objecting party shall file a Brief in Support of Objections and shall serve a copy on all counsel of record or if counsel have not entered their appearance on the party(ies), and the Board of Viewers. The Brief in Support of Objections shall refer to transcript page numbers where possible.
- (b) If no brief is filed within twenty (20) das of the date the transcript is filed, the Administrative Chair of the Board of Viewer shall send the objecting party a letter, with copies to all counselor parties not represented by counsel, stating that

if a brief is not filed within twenty (20) days of the date of the letter, then a court order will be entered overruling the objections with prejudice. (FORMS 503(16A) and 503(16B)) (see subsections (20)(f) and (20)(g) below).

Note: If a Brief in Support of Objections has been filed by a taxing body, other taxing bodies may rely on that brief, and in such event the Administrative Chair will not send a FORM 503(16A) letter to the other taxing bodies.

(17) **Opposing Briefs.**

- (a) Within twenty (20) days after the moving party has filed its Brief in Support of Objections, responding parties shall file their Briefs in Opposition to Objections and serve a copy on all counsel of record or on the party(ies) if unrepresented, and the Board of Viewers.
- (b) If no Brief in Opposition is filed and served within twenty (20) days, the Administrative Chair of the Board of Viewers shall send the opposing party(ies) a letter, with copies to all counsel and parties not represented by counsel, stating that if an opposing brief is not filed within twenty (20) days of the date of the letter, the decision will be made without reference to any brief that you may file thereafter. (FORM 503(17)) (see subsections (20)(h) below).

Note: If a Brief in Opposition has been filed by a taxing body, other taxing bodies may rely on that brief, and the Administrative Chair will not send a FORM 503(17) letter to the other taxing bodies.

(18) **Decision.**

After the filing date set for Briefs in Opposition to Objections has passed, the objecting party shall notify the Board of Viewers that the matter is ripe for decision by filing a Notice That Matter is Ripe for Decision (FORM 503(18)) (see subsection (20)(i)(below). The objecting party shall serve a copy of this Notice on all counsel of record or if counsel have not entered their appearance on the party(ies), and upon the Board of Viewers. Upon the filing of this Notice, the Court shall schedule oral argument or decide the objections on the briefs without oral argument.

(19) **Final Order.**

In the event that none of the parties files Objections as described above, the Special Masters Report and Recommendation shall become the final Order of Court. The Administrative Judge of the Civil Division, or another judge assigned by the Administrative Judge, will enter an Order of Court to this effect.

(20) **Forms**

- (a)

FORM 503(3) Petition for Assessment Appeal

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

(Name),

CIVIL DIVISION

Petitioner,

No. BV _____

v.

(Name or Names),

COMMERCIAL / RESIDENTIAL
(choose one)

Respondents.

REAL ESTATE INVOLVED

INTERESTED PARTIES (if applicable):

Petition for Appeal from Disposition
of the Board of Property Assessment
Appeals and Review

(Names)

**PETITION FOR APPEAL FROM DISPOSITION OF
THE BOARD OF PROPERTY ASSESSMENT APPEALS AND REVIEW**

This Petition for Appeal from Disposition of the Board of Property Assessment Appeals and Review is filed pursuant to Local Rule 503(3) by (name):

1. The owner of this commercial/residential (choose one) real estate and/or taxable property is (name), and the address of this real estate is (address) (the "Property"). The Property has been assigned lot and block number (fill in).
2. The County of Allegheny, the municipality (fill in) and the school district (fill in) are the taxing bodies interested in the taxable status of the Property.
3. The Office of Property Assessments made an assessment of the Property. (Name) appealed from this assessment to the Board of Property Assessment Appeals and Review (the "Board") asking that the assessment be reduced/raised (choose one). The Board is authorized pursuant to the Administrative Code of Allegheny County to hear all appeals from assessments made by the Office of Property Assessments.
4. Following a hearing, a Disposition of Appeal from Real Estate Assessment was mailed by the Board. The information contained in the Board's Disposition of Appeal from Real Estate Assessment shall be placed in the court records, both in paper and electronic form, by the Department of Court Records, Civil Division.
5. Petitioner is filing this appeal to the Common Pleas Court of Allegheny County.

WHEREFORE, Petitioner requests this Honorable Court to set the assessment to such amount as may be right and proper.

Date: _____

(Signature)

NOTE: Under Pennsylvania law the Court of Common Pleas of Allegheny County can increase or decrease the assessment, no matter who appealed.

(b)

FORM 503(10) Tax Assessment Appeal Discovery Requests

[CASE CAPTION, INCLUDING DOCKET NUMBER]

AND NOW, comes (name) and serves the within Tax Assessment Appeal Discovery Requests upon (name). Pursuant to Local Rule 503(10), all applicable responses to these Requests must be furnished within forty-five (45) days after the receipt of these Requests.

REQUESTS FOR DOCUMENTS

Please produce a copy of the following:

1. Any and all surveys (land, structural, environmental, etc.), building plans and site plans showing design construction and location of the subject property.
2. Any and all mortgages, promissory notes, deeds, and agreements of sale made or assumed on the subject property within the last three years and the corresponding closing statements.
3. Any and all appraisals or evaluations on the subject property which have been made during the last three years.
4. Any and all loan applications of any kind involving or relating to the subject property which have been signed or submitted within the past three years.
5. Any and all leases, land leases, agreements, licenses, occupancy schedules, rent schedules (or rolls) relating to the subject property for the last three years.
6. Any and all written listing agreements, offers to purchase or offers to sell the subject property made within the last three years.
7. Any and all soil tests or mineral evaluations, permit requests, permits, requests relative to zoning variance, or similar applications or requests to any governmental body within the past three years concerning the subject property and the result of any such applications or requests.
8. Any and all federal and state Income Tax Returns and audited financial statements with respect to the subject property within the last three years.
9. Any and all corporate or partnership prospectus or private placement memorandum that contain any reference to the value of the subject property within the last three years.

10. Any and all insurance policies and/or binders covering the subject property, its building contents, buildings or any business located thereon from the last three years.

11. Any and all documents which describe in whole or in part any physical improvements to the subject property (whether by the owner or by a tenant) within the last three years.

12. Any and all documents listing or describing capital improvement(s) made to the subject property over the past three years including the costs of the capital improvements and the completion date(s).

13. Any and all documents relating to leasing commissions paid with respect to the subject property over the last three years including the corresponding tenant space, the commission paid, and the date.

INTERROGATORIES

Please provide the following information:

1. The name, address and telephone number of the person to contact regarding conducting an inspection of the subject property.

Date: _____
_____ (Signature)

(c)

FORM 503(14) NOTICE

NOTICE

Pursuant to the provisions of 72 P.S. § 5020-518.1(c) and Local Rule 503(9), attached is the Report of the Special Master.

Any party objecting to the Report shall file Objections at the Secondary Desk of the Department of Court Records, Civil Division, on the First Floor of the City-County Building, 414 Grant Street, Pittsburgh, PA 15219, with ten (10) days of the receipt of this Notice. Objections must be accompanied by a certification of counsel or of the objecting party, if unrepresented, that the trial transcript, or necessary portions of the transcript, have been ordered from the Court Reporter's Office (Room 415, County Office Building, 412-350-5414) and paid for by the objecting party. Copies of the Objections and certification shall be served on the Administrative Chair of the Board of Viewers (Room 811, City-County Building) and on all counsel of record or the parties, if unrepresented.

In the event that none of the parties files Objections, the Report and Recommendation of the Special Master will be adopted as the final Order of Court.

DATED: _____

ADMINISTRATIVE CHAIR
BOARD OF VIEWERS

(d)

FORM 503(15A) Letter

Re: [case name and docket number]

Dear [Objecting Party],

It has been ninety (90) days since you filed your Objections to the Masters Report in the subject case and no trial transcript has been filed with the Department of Court Records, Civil Division. You must contact the court reporter and the transcript must be paid for and filed within thirty (30) days of the date of this letter. See Local Rule 503(15).

If the transcript has not been paid for and filed within thirty (30) days of the date of this letter, A COURT ORDER PURSUANT TO LOCAL RULE 503(15)(b) WILL BE ISSUED OVERRULING THE OBJECTIONS WITH PREJUDICE.

Very truly yours,
Administrative Chair, Board of Viewers

(e)

FORM 503(15B) Court Order

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20____, it appearing that ninety (90) days after the Objections in this case were filed, a letter dated _____ was mailed by the Board of Viewers' Administrative Chair to the objecting party; this letter stated that within thirty (30) days from the date of the letter, the trial transcript must be paid for and filed; thirty (30) days have passed since the date of the letter; and the transcript has not been filed.

IT IS ORDERED THAT, pursuant to Local Rule 503(15)(b) the objections in this case are overruled with prejudice.

BY THE COURT:

(f)

FORM 503(16A) Letter

Re: [case name and docket number]

Dear [Objecting Party],

It has been twenty (20) days since the transcript in the referenced case was filed with the Department of Court Records, Civil Division. Pursuant to Local Rule 503(16)(a), your brief is now overdue. If it is not filed and served within twenty (20) days of the date of this letter, A COURT ORDER PURSUANT TO LOCAL RULE 503(16)(b) WILL BE ISSUED OVERRULING YOUR OBJECTIONS WITH PREJUDICE.

Very truly yours,
Administrative Chair, Board of Viewers

(g)

FORM 503(16B) Court Order

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20____, it appearing that twenty (20) days after the transcript in this case was filed, a letter dated _____ was mailed by the Board of Viewers' Administrative Chair to the objecting party; this letter stated that if a brief is not filed by the objecting party and served within twenty (20) days of the date of the letter, a court order will be issued overruling the objections with prejudice; twenty (20) days have passed since the date of the letter; and the objecting party has not filed a brief,

IT IS ORDERED THAT, pursuant to Local Rule 503(16)(b) the objections in this case are overruled with prejudice.

BY THE COURT

J._

(h)

FORM 503(17) Letter

Re: [case name and docket number]

Dear [Opposing Party]:

It has been twenty (20) days since the Objecting Party filed a Brief in Support of Objections and no brief in opposition has been filed by you. If no Brief in Opposition is filed and served within (20) days of the date of this letter, the decision will be made without reference to any brief that you may file thereafter.

(i)

FORM 503(18) Notice That Matter Is Ripe for Decision**[CASE CAPTION, INCLUDING DOCKET NUMBER]****NOTICE THAT MATTER IS RIPE FOR DECISION**

AND NOW, comes (name) and notifies this Honorable Court pursuant to Local Rule 503(18) that this matter is ripe for decision and requests that this Honorable Court schedule oral argument or decide the objections on the briefs at its convenience.

A Brief in Opposition to the Objections _____ has _____ has not (please check appropriate line) been filed.

Date: _____

 (Signature)

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended June 5, 2008, effective July 28, 2008.

Local Rule 504 Appeals From Real Estate Tax Exemption.

The following provisions shall govern tax exemption appeals from decisions of the Board of Property Assessment Appeals and Review:

Note: Under the former Local Rule 502, there was some confusion regarding whether Local Rule 502 applied both to tax assessment appeals and to tax exemption appeals from the Board of Property Assessment Appeals and Review. Local Rule 504 has been added to specifically address procedures governing tax exemption appeals. For procedure governing tax assessment appeals, see Local Rule 503.

(1) Parties.

- (a) The following parties must be listed in the caption of the appeal:
- (i) owner(s) of the real estate and/or taxable property;
 - (ii) the municipality in which the property is located;
 - (iii) the school district in which the property is located; and
 - (iv) the County of Allegheny.
- (b) Any entity other than those set forth in subsection (1)(a) of this local rule must file a Petition to Intervene with the Real Estate Tax Appeal Judge in accordance with the Pennsylvania Rules of Civil Procedure to become a party.

(2) Caption.

- (a) The party filing the appeal shall be designated as the appellant. All other parties shall be designated as appellees or interested parties.

(b) The caption and cover sheet shall clearly state that it is a tax exemption appeal.

(3) **Time For and Content of Appeals.**

(a) An appeal from the decision of the Board of Property Assessment Appeals and Review must be verified pursuant to Pa.R.C.P. 206.3 and filed as a General Docket case with the Prothonotary within thirty (30) days of the date of mailing of the notice by the Board.

(b) An appeal shall contain the following:

(i) names of the parties;

(ii) identification of the property by address, deed book volume and page, and lot and block numbers;

(iii) a concise statement of the reasons for the appeal; and

(iv) a copy of the decision of the Board of Property Assessment Appeals and Review.

(c) No Order of Court is required to file a timely appeal.

(4) **Notice.**

Appellant shall give notice of the appeal by first class mail, postage prepaid, to all parties and the Board of Property Assessment Appeals and Review, within seven days of the filing of the appeal and shall file proof of service thereof.

(5) **Filing of Appeals.**

The filing of an appeal by any party shall act as an appeal by all parties.

(6) **Withdrawal of Appeals.**

No appeal may be withdrawn without the consent of all other parties or leave of court.

(7) In all other respects, tax exemption appeals from decisions of the Board of Property Assessment Appeals and Review shall be governed by the Pennsylvania Rules of Civil Procedure and the Allegheny County Local Rules governing civil actions assigned to an individual judge.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 505 Change of Name of a Natural Person.

(1) All proceedings for a change of name pursuant to 54 Pa.C.S. §§ 701-705 shall be brought in the Civil Division, except where an adoption proceeding is commenced in the Orphans' Court Division, in which case the Orphans' Court Division shall adjudicate any change of name ancillary to that proceeding. In cases where an adoption has been concluded in any other court and the only judicial relief sought in Allegheny County is a change of name, the Petition shall be filed in the Civil Division

Note: See 23 Pa.C.S. § 2904. See also Supreme Court Orphans' Court Rule 15.5(e) where the adopted person has attained majority.

- (2) All Petitions (FORM 505A) (see subsection (3)(a) below) shall be filed on the General Docket (GD).
- (3) Requirements for Filing a Petition.
 - (a) The Petition shall contain two proposed Orders designated as follows:
 - (i) Either
 - (A) Order Scheduling Hearing on Name Change (used if Petition is brought by a person(s) of full legal age) (FORM 505B(i)) (see subsection (3)(b)(i) below), or
 - (B) Order Scheduling Hearing of Name Change (used if Petition is brought on behalf of a minor) (FORM 505B(ii)) (see subsection (3)(b)(ii) below); and
 - (ii) Decree for Change of Name (FORM 505C) (see subsection (3)(c) below).
 - (b) The following is required by the Department of Court Records:
 - (i) Petition and one (1) extra copy.
 - (A) If Petitioner's safety would be in jeopardy by reason of the publication of the name change, Petitioner may:
 - (1) Describe why, under paragraph 6, publication would present a risk; or
 - (2) Seek to waive publication and/or have the record sealed by presenting a Motion, Affidavit, and Proposed Order to the Special Name Change Judge prior to filing the Petition with the Department of Court Records.
 - (ii) A completed fingerprint card (if applicable – children 12 or under are not required to have fingerprints taken) (obtained from either a state or local police department). "Name Change" should be written in red across the top of the completed card.
 - (iii) A stamped 8-1/2" x 11" envelope addressed to:

PA State Police
Central Repository
1800 Elmerton Avenue
Harrisburg, PA 17110
 - (iv) A stamped letter size envelope addressed to:

Department of Court Records of Allegheny County
First Floor City-County Building
414 Grant Street
Pittsburgh, PA 15219
ATTENTION: Second Deputy

- (v) A stamped letter size envelope to the attorney for the filing party, or the pro se party.
- (vi) The filing fee applicable to a Petition for a name change.

Note: A current listing of the fees charged by the Department of Court Records can be found on the Department of Court Records web site: <https://dcr.alleghenycounty.us> (no www and no .com).

- (c) After Petitioner has been notified that the fingerprinting process has been completed, the petitioner shall take one of the following actions to obtain a hearing date:
 - (i) submit the petition by email to the Civilgenmotions@alleghenycourts.us email address with a request that the Court issue an Order scheduling the hearing date;
 - (ii) take the original or a copy of the Petition filed with the Department of Court Records, and the Department of Court Record's file to the Chief Motions Clerk, located in Courtroom 703, City-County Building; or
 - (iii) if the record has been sealed or publication waived, the Petitioner may take the file to the Special Name Change Judge's chambers instead of the Chief Motions Clerk.
- (d) Scheduling a hearing:
 - (i) If the Petition is submitted by email to Civilgenmotions@alleghenycourts.us, the General Motions Judge will issue a scheduling Order, and the Chief Motions Clerk shall file the scheduling Order with the Department of Court Records and return the Scheduling Order by email to the Petitioner;
 - (ii) If the Petition is taken to the Chief Motions Clerk, the General Motions Judge shall schedule the time and date for a hearing; or
 - (iii) If the Petition is taken to the Special Name Change Judge's chambers, the Special Name Change Judge will set the time and date for a hearing.
- (e) Upon receipt of the scheduling Order the Petitioner shall proceed with advertising the Petition in two (2) papers of general circulation; one of the publications shall be the Pittsburgh Legal Journal, the official paper for the publication of legal notices for Allegheny County.
- (f) Where the Petitioner has a prior conviction of a felony but is not barred by 54 Pa.C.S. § 702(c) from obtaining a judicial change of name, the Petitioner shall provide the Court with an envelope affixed with sufficient postage and pre-addressed to the following so that copies of the Order Scheduling Hearing on Name Change may be sent:
 - (i) The District Attorney of Allegheny County

Allegheny County Courthouse
436 Grant Street
Pittsburgh, PA 15219

(ii) To any other District Attorney of any county in which Petitioner was convicted of a felony.

(iii) Office of the Attorney General
Commonwealth of Pennsylvania
1600 Strawberry Square
Harrisburg, PA 17120

(g) In those cases where the Petitioner is seeking to change the name of a minor and a parent files an objection to the Petition or appears to oppose the Petition, the case shall immediately be transferred to the Family Division using FORM 505D (see subsection (3)(d) below) for all further proceedings with respect to the minor’s Petition.

Editor’s Note: Amended November 29, 2021, effective January 11, 2022.

(4) FORMS:

(a) **FORM 505A Petition for a Name Change**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

In Re the Petition of: DOCKET No. GD _____

_____ (Print Your Current Name)

For a Name Change to:

_____ (Print Your New Name)

VERIFIED PETITION FOR A NAME CHANGE

And now comes Petitioner(s), _____

_____ by this Petition, and upon being duly sworn, respectfully represents and shows this Court:

1. That the Petitioner(s) is of full legal age and is a bona fide resident of the County of Allegheny, Commonwealth of Pennsylvania, whose residence address is

_____.

Petitioner(s) has been a bona fide resident of Allegheny County, Commonwealth of Pennsylvania for _____ year(s) immediately prior to filing this Petition. Petitioner(s) was born on the _____ day of _____, _____ in the County of _____, State of _____, and Country of _____.

2. Petitioner's(s') present name is _____.

3. Petitioner(s) is not married or is married to _____.

4. Petitioner(s) is the Father and/or Mother of the following minor children:

None

Name	Date of Birth	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Petitioner(s) has resided at the following address(es) over the last five (5) years:

6. Petitioner(s) requests the change of name for the following reasons (describe in detail):

_____.

7. The proposed change in the Petitioner(s) name, if granted, will not be detrimental to the interests of any other person and is not against the public interest.

8. This Petition is not filed to defraud creditors.

Wherefore, the Petitioner(s), intending to change his/her name, requests that by an Order of this Court, made and entered herein, the Petitioner's(s') name be changed to and decreed to be:

Respectfully submitted,

(Sign Your Current Name)

Address: _____

City, State, Zip: _____

Telephone: _____

VERIFICATION

I, (_____), verify that the statements made
(Print Your Current Name)
in the foregoing Petition are true and correct to the best of my knowledge or information and belief.

I understand that this verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: _____

(Sign Your Current Name)

(b) (i) **FORM 505B(i) Order Scheduling Hearing on Name Change** (used if Petition is brought by a person(s) of full legal age)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

In Re: Petition of _____ CIVIL DIVISION
_____ GD No. _____

_____ Petitioner(s).

ORDER SCHEDULING HEARING ON NAME CHANGE

AND NOW, this _____ day of _____, 20____, upon hearing of the within motion of _____ Esquire/pro se, attorney for the Petitioner(s) above named, it is ORDERED and DECREED that the within Petition be heard on the _____ day of _____, 20____ at _____ before the General Motions Judge. Petitioner(s) shall obtain a judgment search from all counties in which he/she has resided during the last five (5) years. It is

further Ordered that the Petitioner(s) shall advertise once in the Pittsburgh Legal Journal, and once in a newspaper of general circulation in Allegheny County.

BY THE COURT,

_____, J.

(b) (ii) **FORM 505B(ii) Order Scheduling Hearing on Name Change** (used if Petition is brought on behalf of a Minor(s))

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

In Re: Petition of

CIVIL DIVISION

GD No. _____

Petitioner(s)

ORDER SCHEDULING HEARING ON NAME CHANGE

AND NOW, this _____ day of _____, 20____, upon hearing of the within motion of _____, Esquire/pro se, attorney for the Petitioner(s) above named, it is ORDERED and DECREED that the within Petition be heard on the _____ day of _____, 20____ at _____ before the General Motions Judge.

Petitioner(s) shall obtain a judgment search from all counties in which he/she has resided during the last five (5) years.

IT IS FURTHER ORDERED that Petitioner(s) shall obtain an affidavit of consent from the non-petitioning parent and/or serve a copy of this scheduling order by certified and regular mail forthwith.

IT IS FURTHER ORDERED that the Petitioner(s) shall advertise once in the Pittsburgh Legal Journal, and once in a newspaper of general circulation in Allegheny County.

BY THE COURT,

_____, J.

(c) **FORM 505C Decree for Change of Name**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

In Re: Petition of

CIVIL DIVISION

GD No. _____

Petitioner(s)

DECREE FOR CHANGE OF NAME

AND NOW, this _____ day of _____, 20____, upon hearing on the within Petition and upon motion of _____, Esquire/pro se, attorney for Petitioner(s), with proof of publication and proof that there are no judgments or decrees of record or any other matter of like effect against Petitioner(s), and it appearing that there are no legal objections to the granting of the prayer of the Petition, it is ORDERED and DECREED that the name(s) of the Petitioner(s) be and are, from and after this date changed to

_____.

BY THE COURT,

_____ J.

(d) **FORM 505D Case Transfer Order**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

In Re: Petition for Change of Name of:

_____ GD No. _____

_____ FD No. _____

(a) minor(s)

Petitioner(s): _____

CASE TRANSFER ORDER

AND NOW, the _____ day of _____, 20____, the Court makes the following findings:

1. The subject of the Petition for a Change of Name is

_____ who (is a) (are) minors.

2. The non-petitioning parent has filed an objection to the proposed Petition for Change of Name or has appeared before the Court and opposes the Petition.

It is therefore ORDERED, ADJUDGED and DECREED as follows:

1. Pursuant to Local Rule 505(3)(f) this matter is hereby transferred to the Family Division for all further proceedings with respect to the Petition for Change of Name.

2. The Department of Court Records shall conduct a search of its records to determine if the family involved in this contested name change has an existing Family Division docket number. If there is an existing Family Division docket number, this Petition shall be matched to the existing file and transferred to the Family Division. If there is no existing Family Division docket number, the Department of Court Records shall assign a Family Division docket number and open a case file. In

either event, the above-referenced docket number shall be cross-referenced with the Family Division docket number.

3. The party who filed the Petition for Change in Name shall be responsible for serving the Family Division scheduling order on the opposing party in a manner consistent with the Rules of Civil Procedure.

4. The party who filed the Petition for Change of Name shall provide the following information:

A. Name(s), Address(es) and Date(s) of Birth of the minor(s) involved:

Name	Address	Date of Birth
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Name of the father of the minor child(ren) _____

Address and telephone number of the father _____

Date of Birth of the father _____

C. Name of the mother of the minor child(ren) _____

Address and telephone number of the mother _____

Date of Birth of the mother _____

D. List any prior Family Court involvement and case numbers: (Examples of these cases include: Protection from Abuse, Child Support, Child Custody, and Divorce.)

BY THE COURT:

_____ J.

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020. Amended November 29, 2021, effective January 11, 2022.

Eminent Domain

Local Rule 600 Eminent Domain. Scope.

The rules of this chapter shall be construed consistent with the provisions of the Eminent Domain Code, 26 P.S. § 1-101 et seq., and shall apply to all eminent domain and assessment of benefits proceedings, including but not limited to:

- (1) All preliminary objections to a declaration of taking, including the objection that there was an earlier *de facto* taking;
- (2) Petitions for the appointment of viewers on claims for compensation where no declaration of taking property has been filed;
- (3) Preliminary objections to a petition for the appointment of viewers;
- (4) Petitions for the appointment of viewers to ascertain just compensation, including special damages;
- (5) Petitions for the appointment of viewers to assess benefits or to assess benefits and ascertain just compensation where statutes permit municipalities to assess the properties benefited for the costs, damages and expenses of public improvements; and
- (6) Appeals from Board of Viewers’ awards of damages or assessments of benefits whether or not objections other than or in addition to the amount of the award are raised by the appeal.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 601 Definitions.

- (1) Appeal — an action contesting the decision, report or recommendation of the Viewers, which is filed with the Prothonotary and a courtesy copy delivered to the Board of Viewers.
- (2) Applicable trial term — the first term assigned by the Court of Common Pleas during which the trial is scheduled to be conducted.
- (3) Board of Viewers — the administrative body designated by the Court of Common Pleas to hear eminent domain and assessment of benefits proceedings.
- (4) Hearing — the mechanism by which the Viewers shall hear testimony and receive evidence.
- (5) Hearing date — the first date scheduled by the Viewers for a hearing, without regard to any request for a continuance, unless otherwise ordered by the Viewers.
- (6) Trial — the mechanism by which the Court of Common Pleas shall hear testimony and receive evidence in an appeal.
- (7) View — the date and time scheduled for the parties and the Viewers to inspect the subject property.
- (8) Viewers — the panel of the Board of Viewers which shall preside at the View and Hearing and shall issue the decision, report or recommendation of the Board of Viewers.
- (9) Viewers' Plans — the plan or any supplemental plan required under Section 1-509 of the Eminent Domain Code.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 602 Administrator.

- (1) The Administrative Judge shall appoint one (1) of the members of the Board of Viewers to serve as Administrator for a term of two (2) years. The Administrator may be reappointed.
- (2) The Administrator shall be primarily responsible to the Court for the efficient and prompt administration and disposition of the matters before the Board of Viewers. The Administrator shall keep records and submit such data to the Court as may be required.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 603 Preliminary Objections.

Preliminary objections to a declaration of taking or to a petition for the appointment of viewers shall not be subject to any other local rules and shall be governed by the following procedures:

- (1) No brief shall be required upon the filing of the preliminary objections.
- (2) The filing of preliminary objections shall stay all other proceedings as to only the parcel or parcels that are the subject of the preliminary objections.
- (3) Preliminary objections shall be filed with the Prothonotary upon which the Prothonotary shall stamp the date and time on which the preliminary objections were filed. The party filing the preliminary objections immediately shall take the stamped preliminary objections and the Prothonotary's file to the Administrative Judge.
- (4) Upon receiving the stamped preliminary objections and the Prothonotary's file for the captioned matter, the Administrative Judge shall either hear the preliminary objections or designate another judge to hear the preliminary objections.
- (5) The judge assigned to hear the preliminary objections shall schedule a status conference, which shall take place as soon as practicable after the date stamped on the preliminary objections. At the status conference, the judge shall determine whether the parties shall submit evidence in support of or in opposition to the preliminary objections by deposition, by hearing, or by a combination thereof, and shall schedule a date and time for the submission of all evidence and for the submission of briefs. The judge may consider such other issues as are raised by the parties.
- (6) Unless mutually extended by the parties or otherwise ordered by the presiding judge for good cause shown, all discovery relating to the preliminary objections, including all depositions, must be completed no later than sixty (60) days after the date stamped on the preliminary objections.
- (7) Pursuant to Section 1-406 of the Eminent Domain Code, the parties must present in one pleading, and the Court shall consider, all preliminary objections at one time.
- (8) A party, either by filed consent of all parties or by leave of court for good cause shown, may amend that party's preliminary objections.
- (9) After the submission of evidence, the presiding judge shall promptly decide all preliminary objections.
- (10) The parties shall not file post-trial motions. The order of court ruling upon the preliminary objections is the final order from which an appeal may be taken.

Note: This rule recognizes Pa.R.A.P. 311(e), which provides for an appeal as of right following a court order ruling upon preliminary objections in eminent domain cases.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 604 Petitions for the Appointment of Viewers. Notices of Special Damages. Claims Before Board of Viewers.

- (1) Each petition for the appointment of viewers, whether filed by a condemnee or by the condemnor and whether including one or more than one property, shall be assigned a newdocket number.
- (2) Where a declaration of taking has been filed, a petition for the appointment of viewers shall include in the caption as a “Sur No.” a reference to the docket number at which the declaration of taking was filed, as follows:

No. _____ 20

Sur No. _____ 20

- (3) A petition for the appointment of viewers shall include all information required to be set forth by Section 1-502 of the Eminent Domain Code.
- (4) A condemnee who desires to claim special damages shall set forth the type of special damages sought either in the petition for appointment of viewers or in a written notice to be served upon all other parties and the Board of Viewers at least forty days before the hearing date.
 - (a) If any petitioner is seeking the determination of any damages or benefits payable under Article VIA of the Eminent Code, the petition for appointment of viewers must clearly set forth which of those damages or benefits are to be litigated before the Viewers. If the petitioner fails to comply with the terms of this paragraph, any damages or benefits payable under Article VIA of the Eminent Domain Code shall not be litigated before the Viewers.
 - (b) Documents in support of or in opposition to damages or benefits payable under Article VIA of the Eminent Domain Code which properly have been designated under subsection (1) of this local rule as issues to be litigated before the Viewers shall be admitted into evidence at the Viewers' Hearing without the necessity of calling a witness to authenticate the document or to testify about the document's contents, provided that at least twenty (20) days' notice of the intention to offer such documents was given to every other party accompanied by a copy of each document to be offered.
- (5) Before presentation of a petition for the appointment of viewers to the Administrative Judge, or such other Judge as the Administrative Judge may designate, the petitioner shall file a copy of the petition with the Chief Clerk of the Board of Viewers. The Chief Clerk shall thereupon designate the particular members of the Board of Viewers to serve in the case by completing Appointment of Viewers (FORM 604) (see subsection (8) below).
- (6) A copy of any petition filed by a condemnee shall be sent promptly by registered or certified mail, return receipt requested, postage prepaid to the adverse party or parties as required by Section 1-502(f) of the Eminent Domain Code and to all other condemnees known to the condemnee filing the petition to have an interest

- (7) in the property.
- (8) A copy of any petition filed by a condemnor shall be sent promptly by registered or certified mail, return receipt requested, postage prepaid to all condemnees known to the condemnor to have an interest in the property.

FORM 604 Appointment of Views

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,

PENNSYLVANIA IN THE MATTER OF: CIVIL DIVISION

CONDEMNATION OF No. GD _____

Plaintiff,

vs.

Defendant.

ORDER OF COURT

AND NOW, this ____ day of _____, 20__, the within Petition having been presented in open court in consideration thereof, it is ORDERED THAT

are appointed as Viewers as provided by law to view the property and to ascertain such damages as they may find to have been caused to Plaintiff's property by reason of the condemnation and taking by Defendant as set forth in the within Petition.

_____ J.

BOARD OF VIEWERS

Administrative Chair

Date of View_____

Date and Time of Exceptions Hearing_____

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 605 Viewers' Plans.

- (1) The condemnor, in cases where a declaration of taking has been filed, or the municipality(including a municipal authority), in cases of municipal improvement assessment proceedings, shall furnish Viewers' Plans to the Viewers and to the condemnees or to the abutting property owners within thirty (30) days after being served with the petition for the appointment of viewers or within thirty (30) days of filing the petition if the condemnor or municipality is the petitioner or within thirty (30) days following receipt of a written request from a condemnee or an abutting owner.
- (2) If no declaration of taking has been filed, the condemnor shall furnish Viewers' Plans to the Viewers and to the condemnees within sixty (60) days of an adjudication that there has been a taking or that the condemnor is liable for consequential damages in cases where the condemnor contests its liability or within sixty (60) days of service upon it of a petition for the appointment of viewers where it does not file preliminary objections to the petition.
- (3) If the condemnor or the municipality fails to furnish Viewers' Plans within the time specified, the Administrative Judge or such other Judge as the Administrative Judge may designate, upon petition of the condemnee or abutting owner, may permit the condemnee or abutting owner to have Viewers' Plans made and order that the cost thereof be charged to the condemnor or municipality. In such a case, the Viewers shall determine and award reasonable amounts for professional engineering services and related costs.
- (4) Viewers' Plans shall indicate the entire property involved, the improvements thereon, the extent and nature of the condemnation and such other physical data, including grades, as may be necessary for the proper determination of just compensation.
- (5) Plans of municipal improvements shall indicate the location and names of owners of affected properties. Each property shall be identified by a Viewers' number beginning with "V-1" and running consecutively. Street improvement plans shall also show the cuts and fills resulting from change of grade in the center line as well as at the property lines on each side of stations fifty feet apart. Sewer improvement plans shall show frontal and depth dimensions of affected property, and where the whole of any property cannot be served by the sewer, the drainage line shall be shown on the plan.
- (6) If, in the opinion of the Viewers, the plans are insufficient, the Viewers may require revisions or the submission of supplemental plans. If the condemnor or the municipality fails to furnish adequate Viewers' Plans within the time specified by the Viewers, the provisions of subdivision (3) of this Rule may be invoked.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 606 Notices of View. Directions to Viewers and Access to Property.

- (1) The Viewers shall schedule a view and shall give notice of the view as required by Section 1-504, 1-505 and 1-506 of the Eminent Domain Code.
- (2) At least three (3) days before the scheduled View of the property involved, the petitioner shall provide the Viewers and all parties with written directions to the property.
- (3) At the time of the View, the persons in possession of the property shall provide access to the interior of all buildings on the property.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 607 Notices of Additional Condemnees and Mortgagees.

Within twenty (20) days after service of a petition for the appointment of viewers, each condemnee shall furnish to the Viewers and to the condemnor a notice containing the information required by Sections 1-502(a)(4) and 1-506(a) of the Eminent Domain Code regarding the names, addresses and type of interest of all mortgagees and all other known condemnees who have an interest in the property and have not been identified in the petition.

Note: "All other known condemnees" may include, but is not limited to, tenants or other occupants of the property as of the date of condemnation. Family members of the owner generally need not be listed. "Type of interest" may include, but is not limited to, such things as whether an occupancy was under an oral or written lease, whether the lease contains clause(s) intended to terminate the leasehold in the event of condemnation, and whether there is an easement or right of way.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 608 Discovery Prior to Hearing Before Board of Viewers.

- (1) All discovery disputes shall be presented upon proper notice to the Administrative Judge, or to such other Judge as the Administrative Judge may designate to preside over the case.
- (2) Discovery shall close ten (10) days prior to the Hearing unless otherwise mutually agreed by the parties or ordered by the Court.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 609 Hearings and Continuances. Notice.

- (1) The Viewers shall schedule a Hearing and shall give notice of the Hearing date as required by Sections 1-504, 1-505 and 1-506 of the Eminent Domain Code.

Local Rule 610 Findings of Fact and Conclusions of Law.

- (2) If a party who has been given reasonable notice of a scheduled hearing does not appear at the hearing, the Viewers may proceed to hear the case ex parte.
- (3) Scheduled hearings shall not be continued except by order of the Viewers.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 610 Findings of Fact and Conclusions of Law.

- (1) A party may request the Viewers to specifically include in their report specific findings of fact. A party must orally make this request known to the Viewers and to opposing parties no later than the conclusion of the Hearing and shall file and serve written proposed findings of fact within ten days of the conclusion of the Hearing.
- (2) The Viewers shall include in their report a written adoption or rejection of any requests for specific findings of fact made in accordance with subsection (1) of this Rule.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 611 Settlements.

If a case is settled by the parties, notice of the settlement shall be given to the Viewers.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 612 Exceptions Before Viewers in Municipal Improvement Assessment Proceedings.

In municipal improvement assessment proceedings, exceptions to the schedule of proposed awards and assessments shall be filed in writing with the Chief Clerk of the Board of Viewers within ten (10) days following the exhibition of the schedule. Exceptions shall be heard on the date set forth in the schedule and shall be decided by the Viewers.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 613 Appeals to Court of Common Pleas.

- (1) A party may appeal the Viewers' report to the Court of Common Pleas.
- (2) An appeal shall set forth the information required by Section 1-516 of the Eminent Domain Code.
- (3) No answer need be filed to an appeal.
- (4) Appeals shall automatically be placed at issue upon filing.
- (5) Appeals, except in municipal improvement assessment proceedings, shall be filed at the same docket number as the hearing before the Viewers and shall include in the caption as a "Sur No." a reference to the docket number at which the

- (6) declaration of taking, if any, was filed in the manner set forth in Local Rule 604(2).
- (7) Appeals in municipal improvement assessment proceedings shall be assigned new docket numbers. Reference to the docket number of the Viewers' Hearing shall be set forth in a separately numbered paragraph of such appeals.
- (8) The caption of an appeal shall identify the condemnee or the property owner as plaintiff and the condemnor or municipality as defendant.
- (9) The appealing party shall serve a copy of the appeal on all other parties and upon the Board of Viewers within five (5) days after filing. The appellant shall file proof of service of a copy of the appeal upon all parties.
- (10) An appeal raising objections other than or in addition to the amount of damages shall state in the caption under the designation of the docket number the following phrase in capital letters: INVOLVES OBJECTIONS OTHER THAN OR IN ADDITION TO AMOUNT OF AWARD.
- (11) A party filing an appeal raising an objection other than or in addition to the amount of damages, shall obtain at the time of filing from the Administrative Judge's Clerk, or the Clerk of any such Judge as the Administrative Judge may designate a date for argument of the legal questions raised by the appeal. The legal argument shall be heard by the Administrative Judge or such other Judge as the Administrative Judge may designate. The appealing party shall promptly serve notice of the date obtained upon all other parties.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 614 Discovery On Appeal to Court of Common Pleas.

- (1) Discovery after an appeal is taken to the Court of Common Pleas shall be governed by the Pa.R.C.P. 4001 *et seq.* relating to discovery.
- (2) Discovery shall close twenty (20) days prior to the first day of the applicable trial term unless otherwise mutually agreed by the parties or ordered by the Court.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 615 Pre-Trial Statements On Appeal Before Court of Common Pleas.

- (1) Thirty (30) days prior to first day of the applicable trial term, the condemnor(s) and condemnee(s) shall serve the opposing party or parties with a pre-trial statement, which contains the following:
 - (a) A list of the names and addresses of all persons who may be called as witnesses, classifying them as liability or damage witnesses. Witnesses may be described by title or representative capacity.
 - (b) A list of all exhibits which the party intends to use at trial.
 - (c) The written report of any expert (on value or otherwise) who may be offered as a witness at trial.

Note: Expert reports may include, without limitation, appraisals, machinery, environmental and engineering reports.

- (2) The exhibits listed pursuant to subsection (1) of this local rule, or copies thereof, shall be made available to the opposing party or parties.
- (3) In the event of non-compliance with subdivisions (1) or (2), the trial judge may, in his or her discretion, grant appropriate relief, which may include:
 - (a) the preclusion or limitation of the testimony of
 - (i) any witness whose identity is not disclosed in the Pre-Trial Statement, or
 - (ii) any expert witness whose opinion have not been set forth in the report submitted with the Pre-Trial Statement or otherwise summarized in the Pre-Trial Statement as provided by subsection (1)(c) of this local rule, and
 - (b) the preclusion of exhibits not listed in the Pre-Trial Statement and made available.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 616 Special Rules for Sewer Cases.

In all cases involving the construction, installation or renovation of sewers, the following additional procedures shall be followed. These local rules shall be read in pari materia with the Eminent Domain Code and the Second Class Counties Code. To the extent this local rule conflicts with any portion of Local Rules 600-615, this local rule shall govern; to the extent this local rule does not conflict with any portion of Local Rules 600-615, then they shall also apply.

(1) **Declaration of Taking.**

The condemnor shall file a declaration of taking, which lists the affected property(ies) by name and address of owner and by Lot and Block number.

(2) **Petition for Appointment of Viewers.**

After a declaration of taking has been filed, the condemnor or any condemnee may file a Petition for Appointment of Viewers (FORM 616) (see subsection (13) below). Attached to any Petition filed on behalf of the condemnor shall be:

- (a) a copy of the Viewers' Plan on which each property shall be identified by a viewers' number beginning with "V-1," running consecutively and corresponding to the owners' name and Lot and Block number;
- (b) street improvement plans, which shall show the cuts and fills resulting from any change of grade in the center line as well as the property lines on each side of stations fifty feet apart;
- (c) sewer improvement plans, which shall show frontal and depth dimensions of affected property, and where the whole of any property cannot be served by the sewer, the sewer improvement plan shall show the drainage line; and

- (d) if benefits are to be determined, a certified copy of all hard and soft construction costs.

(3) Presentation of Petition for Appointment of Viewers to Board of Viewers. Proposed Scheduling Order.

Before presenting a Petition for Appointment of Viewers (FORM 616) (see subsection (13) below) to the Administrative Judge, or such other judge as the Administrative Judge may designate, the petitioner shall file a copy of the petition with the Chief Clerk of the Board of Viewers. At the time of filing, the Chief Clerk of the Board of Viewers shall complete a proposed scheduling order which the petitioner must present to the Administrative Judge, or such other judge as the Administrative Judge may designate along with the petition for appointment of viewers. The Petition and shall state:

- (a) the names of the Viewers to be appointed;
- (b) the date and time of the View;
- (c) the date after which the Viewers' initial report should be available in the office of the clerk of the municipality in which the property or properties are located;
- (d) the last date upon which the affected parties may file written exceptions to the Viewers' initial report; and
- (e) the date and time of the Exceptions Hearing.

Note: The Proposed Scheduling Order Form will be available from the Chief Clerk of the Board of Viewers.

(4) Presentation of Petition for Appointment of Viewers to Court.

After obtaining the proposed scheduling order from the Chief Clerk of the Board of Viewers, the petitioner shall present the petition for appointment of viewers, along with the proposed scheduling order, to the Administrative Judge, or such other Judge as the Administrative Judge may designate. After the Administrative Judge or such other Judge as the Administrative Judge may designate has approved the appointment of Viewers and has entered the scheduling order, the petitioner must:

- (a) If the petitioner is the condemnee, the petitioner must serve a copy of the petition for appointment of viewers and the scheduling order on the condemnor by certified mail, return receipt requested postage pre-paid, by Sheriff's service, or by personal service.
- (b) If the petitioner is the condemnor, the petitioner must serve a copy of the Petition for Appointment of Viewers and the scheduling order on all condemnees affected by the petition by certified mail, return receipt requested postage pre-paid, by Sheriff's service, or by personal service. In addition, the condemnor shall advertise the scheduling order in a publication of general circulation, and shall file a copy of the scheduling order in the office of the clerk of the municipality where the property(ies) is located.

(5) **Condemnor's Obligations When Petition for Appointment of Viewers is Filed by Condemnee.**

Within ten (10) days after receiving a copy of the scheduling order entered after presentation of a Petition for Appointment of Viewers filed on behalf of a condemnee, the condemnor shall file with the Viewers a copy of those documents which Local Rule 616(b) requires the condemnor to attach to a Petition for Appointment of Viewers filed on behalf of a condemnor and shall serve a copy on all affected parties or their counsel of record.

(6) **Certification of Notice -- Petition for Appointment of Viewers and Scheduling Order.**

At least ten (10) days before the date of the View, the petitioner shall certify in writing to the Viewers that the petition and scheduling order have been served, advertised, and/or posted in accordance with subsection (4) of this Rule.

(7) **Viewers' Initial Report.**

Within twenty (20) days after the View, the Viewers shall deliberate and determine benefits and/or damages on each V-numbered parcel set forth in the petition for appointment of viewers and shall submit an initial report containing an itemized award of benefits and/or damages. Attached to the Viewers' initial report shall be a notice, which shall contain the following:

- (a) a brief and concise statement listing the Lot and Block numbers affected and informing the parties that the Viewers have issued an initial report which contains an itemized award of benefits and/or damages;
- (b) a statement informing the affected parties of their right to file exceptions to the initial report;
- (c) a statement informing the affected parties that they will not be heard at the scheduled exceptions hearing unless they have timely filed written exceptions; and
- (d) an announcement that the full text of the initial report shall be made available by the condemnor in the office of the clerk of the municipality where the property or properties are located.

Note: All parties will have received by way of the scheduling order notice of the latest date on which the Viewers' initial report will be issued. See Local Rule 616(3) and (4). Accordingly, all parties are responsible for making sure that they obtain a copy of the Viewers' initial report prior to the date on which written objections to that report must be filed.

(8) **Service of Viewers' Initial Report.**

The Viewers shall mail a copy of their initial report (with the notice attached) to the condemnor or its counsel of record. The condemnor shall immediately post a copy of the initial report in the office of the clerk of the municipality where the property or properties are located. Within ten (10) days of the date of the Viewers' initial report, the condemnor shall serve all affected condemnees with a copy of the Viewers' initial report and the attached notice by certified mail, return receipt

requested postage pre-paid, by Sheriff's service, or by personal service.

(9) **Certification of Notice -- Viewers' Initial Report.**

At least ten (10) days before the date of the exceptions hearing, the condemnor shall certify in writing to the Viewers that the initial report and attached notice have been served and posted in accordance with subsection (8) of this local rule.

(10) **Exceptions Hearing.**

An exceptions hearing shall be held on the date and time set forth in the scheduling order. Only those condemnees who have timely submitted their written objections to the Viewers' initial report shall be heard by the Viewers at the exceptions hearing. The Viewers shall consider the exceptions of the condemnees and make any adjustments the Viewers deem necessary to their initial award of damages and/or benefits.

(11) **Viewers' Final Report.**

Within twenty (20) days after the exceptions hearing, the Viewers shall serve a copy of their final report on all parties. Attached to the report shall be a notice advising the parties of their right to appeal the Viewers' decision to the Court of Common Pleas.

Within five (5) days of the date of the Viewers' final report, the condemnor shall post the Viewers' final report with the notice attached in the office of the clerk of the municipality where the property or properties are located. Within five (5) days of the date of the Viewers' final report, the condemnor also shall make arrangements to advertise in the next available issue of a publication of general circulation a notice in the following form:

The Board of Viewers has issued its final report, which contains an itemized award of benefits and/or damages for the following Lot and Block numbers: [list]. The full text of the report may be obtained at the [municipality office and address]. Your rights as a property owner may be affected by this report.

(12) **Appeals to Court of Common Pleas.**

Appeals to the Court of Common Pleas shall be governed by the Eminent Domain Code, the Second Class Counties Code and Local Rules 613, 614, and 615.

(13)

FORM 616 Appointment of Viewers – Sewer Cases

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN THE MATTER OF: CIVIL DIVISION

CONDEMNATION OF No. GD _____

Plaintiff,

vs.

Defendant.

ORDER OF COURT

AND NOW, this ____ day of _____, 20_, the within Petition having been presented in open court in consideration thereof, it is ORDERED THAT

are appointed as Viewers as provided by law to view the property and to ascertain such damages as they may find to have been caused to Plaintiff's property by reason of the condemnation and taking by Defendant as set forth in the within Petition.

_____ J.

BOARD OF VIEWERS

Administrative Chair

Date of View _____

Date Initial Report Available _____ Last Date for Filing Exceptions_

Date and Time of Exceptions Hearing_

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Equitable Relief

Local Rule 1001 Civil Actions Raising Claims for Relief Heretofore Asserted in an Action in Equity.

- (1) A civil action that raises only claims for relief heretofore asserted in equity shall be assigned to an individual judge when the case has been placed at issue pursuant to Local Rule 214.

Note: A request for assignment to an individual judge may be made to Calendar Control using FORM 1001 (see subsection (3) below).

- (2) A civil action that raises claims for relief heretofore asserted in an action in equity and claims for relief heretofore asserted in the action of assumpsit and/or the action in trespass will not be assigned to an individual judge prior to trial without a court order entered pursuant to a motion or by the court sua sponte.

Note: A motion for the assignment of a case to an individual judge shall be presented to the Calendar Control Judge or the Administrative Judge regardless of whether the case is on a published trial list.

- (3)

FORM 1001 Request for Assignment of Equity Claims to an Individual Judge

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

(CAPTION)

(CASE NUMBER)

TO: Calendar Control Clerk
734 City-County Building
414 Grant Street
Pittsburgh, PA 15219

REQUEST FOR ASSIGNMENT OF EQUITY CLAIMS TO AN INDIVIDUAL JUDGE

This is a nonjury case that raises only claims for relief heretofore asserted in equity. A copy of this request has already been furnished to all other parties.

DATED: _____

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29, 2021, effective January 11, 2022.

Local Rule 1007 Conformity to Civil Action at Law. Description of Real Estate.

When an action is commenced by a praecipe for a writ of summons under Pa.R.C.P. 1007(1), the praecipe shall not constitute lis pendens as to any real estate not identified or described in the praecipe.

Note: In accordance with Local Rule 205.2(b)(2)(c)(vii), a description of the real estate involved must also be included on the cover sheet.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Actions at Law / Civil Action / Pleadings

Local Rule 1018.1 Notice to Defend Form.

- (1) The agency to be named in the notice to defend accompanying complaints filed in the Court of Common Pleas of Allegheny County, Pennsylvania shall be:

Lawyer Referral Service
Allegheny County Bar Association
400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555
<https://www.getapittsburghlawyer.com/>

- (2) The agency to be named in the notices required by Pa.R.C.P. 237.1, 237.4, 237.5, 430, 1910.25, 1910.27, 1915.12, 1915.15, 1915.16, 1920.71, 1920.73, 3146 and 3252 shall be:

Lawyer Referral Service
Allegheny County Bar Association
400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555
<https://www.getapittsburghlawyer.com/>

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

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

(1) General Docket and Arbitration Docket Cases.

- (a) (i) Preliminary objections shall be filed with the Department of Court Records.
- (ii) A request to schedule the date and time for argument shall be transmitted by email to the following email address: civilpos@alleghenycourts.us, accompanied by a PDF copy of the preliminary objections and brief and a proposed order in Microsoft Word Format.

Note: If preliminary objections are filed to preliminary objections, these preliminary objections will be scheduled for argument at the same time as the argument for the preliminary objections which are the subject of the preliminary objections.

In cases of multiple defendants, if any other defendants have not filed responsive pleadings at the time another defendant files preliminary objections, argument on these preliminary objections will not be scheduled sooner than sixty (60) days after filing.

In an arbitration case, the filing of preliminary objections or the scheduling of the preliminary objections for an argument on a date after the date of the arbitration hearing does not continue the arbitration hearing unless the moving party obtains a continuance pursuant to Local Rule 208.3(d).

- (iii) The party filing the preliminary objections shall, promptly after filing, serve copies of these preliminary objections on all other parties and shall promptly serve all other parties with notice of the date and time of the argument, after the date and time for argument has been set.
- (b) (i) Except for preliminary objections raising issues of fact, which are governed by subdivision (c), and Arbitration Docket cases, a brief and proposed order of court shall be filed with all preliminary objections. Failure to file a brief with preliminary objections shall be cause for denial of the preliminary objections.

Note: In an Arbitration Docket case, there are no requirements for the filing of briefs. Frequently, the motion refers to the controlling legislation and case law.

- (ii) Any party opposing preliminary objections shall file a brief in opposition to the preliminary objections at least seven (7) days prior to the argument.
- (iii) A brief shall not exceed ten (10) double-spaced pages except in cases designated complex or where permitted by order of court entered pursuant to a motion presented to the General Motions Judge.
- (c) (i) Where preliminary objections contain grounds raising issues of fact under Pa.R.C.P. 1028(a)(1), (5), or (6), they: shall be titled on the cover sheet "Preliminary Objections Raising Questions of Fact"; shall be endorsed with a notice to plead; shall not have a brief attached; and will be scheduled for argument not sooner than ninety (90) days after filing.
- (ii) All evidence that the parties wish the court to consider shall be filed with the Department of Court Records at least twenty (20) days prior to the argument.

- (iii) The party which filed the preliminary objections shall file its brief at least fourteen (14) days prior to the argument; the parties opposing the preliminary objections shall file their briefs at least seven (7) days prior to argument.
- (d) (i) If the preliminary objections include the ground of improper venue, they: shall be titled on the cover sheet "Preliminary Objections Raising Questions of Venue"; shall be endorsed with a notice to plead; shall be accompanied by a brief and proposed order of court, as provided for in paragraph (1)(b) of this Local Rule; and shall include all preliminary objections as required under Pa.R.C.P. 1028(b).
- (e) If the moving party fails to schedule argument on preliminary objections, any other party is permitted to schedule argument in the manner set forth in subsection (1)(a)(ii), above.

(2) Housing Court Proceedings.

- (a) If not filed electronically, the original and a copy of the preliminary objections shall be taken to the Housing Court Clerk (Housing Court Help Desk: First Floor City County Building). The Housing Court Clerk will place, on the original and the copy of the preliminary objections, a time and date for an argument before the Housing Court Judge. The Housing Court Clerk will file the original with the Department of Court Records and return the copy to the party filing the preliminary objections. *This party shall promptly serve copies of the preliminary objections on all other parties with notice of the date and time of the argument.* If filed electronically, the filing party shall take a copy of the preliminary objections to the Housing Court Clerk, and the Housing Court Clerk will place on the copy of the preliminary objections a time and date for an argument before the Housing Court Judge. *This party shall promptly serve copies of the preliminary objections on all other parties with notice of the date and time of the argument.*
 - (i) The moving party, after contacting all other parties, shall notify the Housing Court Clerk prior to the argument (412-350-4462) if the matters raised in the preliminary objections are resolved. Otherwise, if the moving party does not appear on the date of the argument, the court will enter an order dismissing the preliminary objections for failure of the moving party to appear.
 - (ii) The moving party, after a discussion with other parties, shall notify the Housing Court Clerk if the preliminary objections are moot because of the filing of an amended pleading.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020. Amended November 29, 2021, effective January 11, 2022.

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

(1) General Docket and Arbitration Docket Cases.

- (a) (i) A motion for judgment on the pleadings shall be filed with the Department of Court Records. A request to schedule the date and time for argument shall be transmitted by email to the following email address:

civilmsjjobs@alleghencourts.us, accompanied by a PDF copy of the motion and brief and a proposed order. The motion will be placed on an argument list, the date and time of which shall be published in the Pittsburgh Legal Journal.

Note: Motions for judgment on the pleadings filed before 4:00 P.M. on the forty second (42nd) day before the next argument list will be placed on that list. Motions filed less than forty-two (42) days before the date of the next argument list will be placed on the following argument list. No motion for judgment on the pleadings shall be placed on an argument list or otherwise scheduled for argument if the case has appeared on a published trial list prior to the filing of the motion without an order of court entered by the Calendar Control Judge.

- (ii) The party filing the motion shall, promptly after filing, serve copies of the motion on all other parties and file a certificate of service. Furthermore, upon notification of the date of the argument list on which the motion will be argued, the moving party shall promptly serve all other parties with notice of the date and time of the argument and file a certificate of service.

Note: Argument lists are placed under "Civil Division" on the Website of the Common Pleas Court (www.alleghencourts.us) at least thirty (30) days before the date scheduled for argument. The list will identify the judge who will hear the argument.

In an arbitration case, the filing of a motion for judgment on the pleadings or the scheduling of the motion for an argument on a date after the date of the arbitration hearing does not continue the arbitration hearing unless the moving party obtains a continuance pursuant to Local Rule 208.3(d).

- (iii) If the motion has been resolved, the moving party shall promptly notify the court. Prior to the publication of the argument list, notice shall be given to the Calendar Control Clerk (412-350-5417). After publication of the argument list, notice shall be given to the secretary of the judge to whom the argument has been assigned.
 - (iv) In a General Docket case, the brief of the moving party and proposed order of court shall be filed with the motion. Any party opposing the motion must file a brief at least seven (7) days prior to the argument and furnish a copy of the brief to the judge to whom the argument is assigned. In an Arbitration Docket case, there are no requirements for the filing of briefs. Frequently, the motion refers to the controlling legislation and case law.
- (b) This rule does not govern motions for judgment on the pleadings filed in asbestos litigation and cases otherwise designated by the court for special management (Pa.R.C.P. 1041.1 and 1041.2), class actions, cases designated as complex, and other cases specially assigned by an order of court to a single judge.

(2) **Housing Court Proceedings.**

- (a) The original and a copy of the motion for judgment on the pleadings (or a copy if filed electronically) shall be taken to the Housing Court Clerk (Housing Court Help Desk: First Floor City County Building). The Housing Court Clerk will place, on the original and the copy of the motion (or a copy if filed electronically), a time and date for an argument before the Housing Court Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing

the motion. This party shall promptly serve copies of the motion on all other parties with notice of the date and time of the argument.

Note: The Housing Court Clerk scheduling of oral argument on a motion for judgment on the pleadings on a date after the date of the arbitration hearing does not delay the arbitration hearing unless the moving party obtains a continuance pursuant to Local Rule 208.3(a)(6)(a)(iii).

- (b) There are no requirements for the filing of briefs. Frequently, the motion refers to the controlling legislation, statute, regulation and case law.
- (c) The moving party, after contacting the other parties, shall notify the Housing Court Clerk if the motion is withdrawn. Otherwise, if the moving party does not appear on the date of the argument, the court will enter an order dismissing the motion for failure of the moving party to appear.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020. Amended November 29, 2021, effective January 11, 2022.

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

(1) General Docket and Arbitration Docket Cases.

The procedures for the disposition of a motion for summary judgment are identical to the procedures for the disposition of a motion for judgment on the pleadings described in Local Rule 1034(a)(1), and in addition a response in opposition to the motion shall be filed as provided for in Pa.R.C.P. 1035.3.

(2) Housing Court Cases.

The procedures for the disposition of a motion for summary judgment are identical to the procedures for the disposition of a motion for judgment on the pleadings described in Local Rule 1034(a)(2).

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29, 2021, effective January 11, 2022.

Local Rule 1038 Trial Without Jury.

- (1) One or more judges, as required, will be assigned to hear non-jury cases during the periods scheduled for jury trials.
- (2) Parties who elect to have their case tried without a jury after a demand for jury trial has been filed shall enter into and file the following written stipulation:

"The undersigned parties in the above captioned case at law hereby agree that it shall be tried by a Judge without a jury in accordance with Pa.R.C.P. 1038."

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Compulsory Arbitration

Local Rule 1301 Scope.

- (1) The following civil actions shall first be submitted to and heard by a Board of Arbitrators:
 - (a) Civil actions, proceedings and appeals or issues therein where the demand is for \$50,000 or less (exclusive of interest and costs);
 - (b) Replevin without bond and replevin with bond once bond has been set by the Court;
 - (c) Appeals from final judgments of Magisterial District Judges; and
 - (d) Matters transferred to Compulsory Arbitration by the Court even though the original demand may have exceeded \$50,000.

- (2) The following civil actions are not subject to Compulsory Arbitration as set forth, above:
 - (a) Actions seeking only an accounting;

Note: In an action seeking both money damages and an accounting, a Board of Arbitrators may award money damages but may not order an accounting.
 - (b) Actions seeking only equitable relief; and

Note: In an action seeking both money damages and equitable relief, a Board of Arbitrators may award money damages but may not order equitable relief.
 - (c) Actions in which the Commonwealth is a party defendant or an employee of the Commonwealth is a party defendant under the provisions of 42 Pa.C.S., Chapter 85B (relating to actions against Commonwealth parties).

- (3) A Board of Arbitrators may not enter an award in favor of any party in excess of \$50,000 (exclusive of interest and costs).

Note: While a Board of Arbitrators may hear a lawsuit in which any party claims an amount in excess of \$50,000, the award of the Board of Arbitrators to any party may not exceed \$50,000 (exclusive of interest and costs). However, with the agreement of all parties, a Board of Arbitrators may award up to the amount agreed upon in excess of \$50,000 if all parties also agree that the arbitration award is final and cannot be appealed to Court.

- (4) If a party files a counterclaim or a cross-claim seeking an award in excess of \$50,000 (exclusive of interest and costs), any party may file a petition to transfer the entire case to the General Docket. At the discretion of a judge, such a counterclaim or cross-claim may be severed and transferred to the General Docket.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29,

2021, effective January 11, 2022.

Local Rule 1301.1 Discovery in Compulsory Arbitration Proceedings (Except Small Claims).

- (1) For any personal injury claim filed in Compulsory Arbitration, the plaintiff may serve arbitration discovery requests (see FORM 1301.1A) (see subsection (8)(a) below) either together with the copy of the Complaint served on the defendant or thereafter.
- (2) The defendant shall furnish the information sought in the discovery requests within thirty (30) days of receipt of the discovery requests.
- (3) For any personal injury claim filed in Compulsory Arbitration, any defendant may serve arbitration discovery requests (see FORM 1301.1B) (see subsection (8)(b) below) either together with a copy of the Answer served on the plaintiff or thereafter.
- (4) The plaintiff shall furnish the information sought in the discovery requests within thirty (30) days of receipt of the discovery requests.
- (5)
 - (a) A party may not seek additional discovery through interrogatories or requests for production of documents until that party has sought discovery through the arbitration discovery requests described herein.
 - (b) A party may not include any additional interrogatories or requests for production of documents in the arbitration discovery requests provided for in this local rule.
- (6) This local rule applies to additional defendants.
- (7) The local rule does not apply to claims that do not exceed the sum of \$3,000.00 (exclusive of interest and costs) wherein the parties' right to discovery for Small Claims shall be governed by Local Rule 1320.

Note: While this local rule does not bar additional discovery in arbitration proceedings, it is anticipated that depositions, additional interrogatories or additional requests for the production of documents will be unreasonably burdensome in most arbitration proceedings involving personal injury claims.

Note: This local rule does not affect the right to discovery provided by Pa.R.C.P. 4001-4020 for Compulsory Arbitration cases which are appealed pursuant to Pa.R.C.P. 1308-1311.

(8) (a)

FORM 1301.1A Plaintiff's Arbitration Discovery Requests for Personal Injury Claims

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

_____)	AR _____
Plaintiff)	
)	
vs.)	
)	
_____)	
Defendant)	

**PLAINTIFF'S ARBITRATION DISCOVERY
REQUESTS FOR PERSONAL INJURY CLAIMS**

These discovery requests are directed to _____

Within thirty (30) days of service of these discovery requests, you shall provide the information sought in these discovery requests to every other party to this lawsuit.

IDENTITY OF DEFENDANT(S)

1. Set forth you full name and address. _____

INSURANCE

2. (a) Is there any insurance agreement that may provide coverage to you for this incident?

Yes _____ No _____

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

WITNESSES

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

STATEMENTS AND OTHER WRITINGS

4. (a) Do you have any written or oral statements from any witness, including any plaintiff?

Yes _____ No _____

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

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

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

Yes _____ No _____

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

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

MEDICAL DOCUMENTS

5. (a) Do you have any medical documents relating to the plaintiff?

Yes _____ No _____

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

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

CRIMINAL CHARGES

6. (a) Were any felony or misdemeanor criminal charges filed against you or any of your agents as a result of the incident that is the subject of this lawsuit?

Yes _____ No _____

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

Defendant verifies that the statements made herein are true and correct. Defendant understands that false statements herein are made subject to the penalties of 18 Pa. C. S. § 4904 relating to unsworn falsifications to authorities.

Date: _____
Defendant

(b)

FORM 1301.1B Defendant's Arbitration Discovery Requests for Personal Injury Claims

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

_____,) AR _____
Plaintiff)
)
vs.)
)
_____,)
Defendant)

**DEFENDANT'S ARBITRATION DISCOVERY
REQUESTS FOR PERSONAL INJURY CLAIMS**

These discovery requests are directed to _____

Within thirty (30) days of service of these discovery requests, you shall provide the information sought in these discovery requests to every other party to this lawsuit.

IDENTITY OF PLAINTIFF(S)

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

WITNESSES

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

STATEMENTS AND OTHER WRITINGS

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

Yes _____ No _____

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

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

(c) Do you have any photographs, maps, drawings, diagrams, etc. that you may seek to introduce at trial?

Yes _____ No _____

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

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

MEDICAL INFORMATION CONCERNING PERSONAL INJURY CLAIM

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

Yes _____ No _____

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

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

Yes _____ No _____

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

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

Yes _____ No _____

(f) If you answered yes, list the name and address of each physician or other treatment provider and the dates of the treatment.

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

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

OTHER MEDICAL INFORMATION

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

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

Yes _____ No _____

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

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

Yes _____ No _____

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

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

Yes _____ No _____

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

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

WORK LOSS

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

Yes _____ No _____

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

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

REQUESTS 8 AND 9 APPLY ONLY TO PERSONAL INJURY CLAIMS ARISING OUT OF A MOTOR VEHICLE ACCIDENT.

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

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

INSURANCE INFORMATION

9. (a) Are you subject to the "Limited Tort Option" or "Full Tort Option" as defined in 75 P.S. § 1705(a) and (b)?

____ Limited Tort Option (no claim made for non-monetary damages)

____ Limited Tort Option (claim is made for non-monetary damages because the injuries fall within the definition of serious injury or because one of the exceptions set forth in 75 P.S. § 1705(d)(I)-(3) applies)

____ Full Tort Option

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

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

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

Plaintiff verifies that the statements made herein are true and correct. Plaintiff understands that false statements herein are made subject to the penalties of Pa. C. S. § 4904 relating to unsworn falsifications to authorities.

Date: _____
_____ Plaintiff

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 1302 List of Arbitrators. Appointments to Board. Oath.

- (1) Subject to approval by the Calendar Control Judge of the Civil Division of the Court, lawyers who are actively engaged in the practice of law in Allegheny County shall be appointed to serve as arbitrators.
- (2) Only lawyers who are "active" on the rolls of The Disciplinary Board of the Supreme Court of Pennsylvania are to be treated as lawyers "actively engaged in the practice of law" for purposes of subsection (1).
- (3) An Arbitration Clerk shall appoint to each Board of Arbitrators three (3) lawyers summoned from the list of approved lawyers, according to the directions of the Calendar Control Judge of the Civil Division.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 1303 Arbitration Hearing. Notice.

- (1) The Department of Court Records shall assign the date, time and place of hearing before a Board of Arbitrators as follows:
 - (a) for complaints filed by presenting to the Department of Court Records, placing said information on the Complaint which is filed and on the copies of the Complaint which are to be served upon all other parties, and
 - (b) for Complaints filed through the electronic filing system, the Department of Court Records shall give notice to the filing party of the date, time and place of hearing before a Board of Arbitrators through the electronic filing system.
 - (c) The filing party shall notify the parties to be served with copies of the Complaint of the date, time and place of hearing before a Board of Arbitrators; which notice shall be served with the copy of the Complaint.

- (2) Every Complaint (except for Small Claims—see Local Rule 1320(2)) filed in Compulsory Arbitration, whether filed by a plaintiff against a defendant or by a defendant against an additional defendant, shall contain a Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing (FORM 1303) (see subsection (4) below). The Notice of Hearing Date and Notice of Duty to Appear shall immediately follow the Notice (to Defend) which is required by Pa.R.C.P. 1018.1(b).
- (3) Immediately before the time set for hearing, an Arbitration Clerk shall assign cases to each Board of Arbitrators and shall designate the room in which the cases are to be heard. An Arbitration Clerk shall designate the order in which cases shall be heard from those listed in the published daily Arbitration List, in addition to cases listed specially by a Judge.
- (4)

FORM 1303 Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

	ARBITRATION DOCKET
Plaintiff,	NO. _____
vs.	HEARING DATE _____
Defendant.	

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the attached copy of the suit papers, YOU MUST complete and detach two of the copies of the attached "Notice of Intention to Appear." One completed copy of the "Notice of Intention to Appear" must be filed or mailed to the Department of Court Records, First Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and the other completed copy must be mailed to: _____ within TWENTY (20) days from the date these papers were mailed. 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association

400 Koppers Building,
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: (412) 261-5555
www.getapittsburghlawyer.com

HEARING NOTICE

YOU HAVE BEEN SUED IN COURT. The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street Pittsburgh, Pennsylvania, on _____, _____ at 9:00 A.M. **IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.**

DUTY TO APPEAR AT ARBITRATION HEARING

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.**

NOTICE: YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 1303(a)(2) Failure to Appear for Hearing.

- (1) If a party fails to appear for a scheduled arbitration hearing, the matter may, if all present parties agree, be transferred immediately to a Judge of the Court of Common Pleas for an ex parte hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial de novo on appeal.

Note: This local rule results in the loss of the right to a trial de novo on appeal, as described in the local rule. A dismissal or judgment which results from this local rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

- (2) A non-jury verdict entered at a hearing held pursuant to Local Rule 1303(a)(2)(1) shall not exceed \$25,000 (exclusive of interest and costs) to any party.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 1304.1. Housing Court Mediation

- (1) When a Housing Court matter is scheduled for an arbitration hearing, the parties will have the opportunity to participate in mediation prior to the arbitration hearing on the day of the scheduled hearing upon mutual consent of both parties. Mediation is not mandatory.
- (2) Upon checking in with the Arbitration Clerk, the parties will advise the Arbitration Clerk of their desire to have the dispute mediated before a landlord tenant arbitrator mediator, and at that time the parties will execute an Agreement to Mediate;
- (3) If the mediation is successful, the parties will immediately enter into a Consented to Order of Court outlining the terms of the parties' Settlement;
- (4) If the mediation is unsuccessful, the parties will proceed to an arbitration which shall be heard by a panel of arbitrators that does not include the mediator on that same day;
- (5)

Form 1304.1 Housing Court Agreement to Mediate.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

PLAINTIFF,

ARBITRATION DOCKET

VS.

NO. _____ - _____ - _____

DEFENDANT

HEARING DATE: _____

AGREEMENT TO MEDIATE

This _____, day of _____, 20____, Plaintiff and Defendant identified in the above captioned action, agree to make every effort to in good faith resolve their dispute involving the property located at _____, through mediation (an effort by an unbiased person to help the parties reach a settlement).

Both Plaintiff and Defendant voluntarily enter into this Agreement to Mediate.

Editor's Note: Adopted December 27, 2019, effective February 19, 2020.

Local Rule 1306 Award. Delay Damages.

Any party seeking damages under Pa.R.C.P. 238 (relating to award of damages for delay in an action for bodily injury, death or property damage) shall submit a photocopy of any written offer of settlement made by a party against whom damages are demanded or set forth in writing the fact that no written offer has been made and shall seal the photocopy of the written offer or the written statement that no offer has been made in an envelope bearing the caption and number of the case being arbitrated and shall deliver the same to the arbitrators and opposing counsel at the conclusion of the hearing. The arbitrators shall not open said envelope until they have reached their basic award. The envelope and the writing contained therein shall be filed with the papers in the case.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 1308 Appeal. Arbitrators' Compensation. Notice.

- (1) In addition to satisfying the requirements of Pa.R.C.P. 1308(a), a party appealing an award shall also pay to the Department of Court Records any fee required for filing the appeal.
- (2) A member of a Board of Arbitration who has signed an award or filed a minority report in each of the cases heard before that Board shall receive compensation of \$150 per diem after the filing of that member's reports/awards. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Calendar Control Judge of the Civil Division, on petition of the members of the Board and for cause shown, may allow additional compensation.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29, 2021, effective January 11, 2022.

Local Rule 1320 Small Claims Procedure.

The following procedure shall govern Small Claims, which include appeals from Magisterial District Judges where the damages claimed do not exceed the sum of \$3,000 (exclusive of interest and costs), and civil actions where the damages claimed do not exceed the sum of \$3,000 (exclusive of interest and costs).

- (1) The Complaint may be simplified to contain only the names and addresses of the parties, a statement indicating concisely the nature and amount of the claim, the signature of the plaintiff or the plaintiff's attorney (Pa.R.C.P. 1023), an endorsement (Pa.R.C.P. 1025), a Notice of Hearing Date and three copies of a Notice of Intention to Appear as set forth in subparagraph (3) hereof.
- (2) Every Complaint filed in Compulsory Arbitration as a Small Claim, whether filed by a plaintiff against a defendant or by a defendant against an additional defendant, shall contain a Notice of Hearing Date, Notice to Defend, and Notice of Duty to Appear at Arbitration Hearing (FORM 1320A) (see subsection (9)(a) below). The Notice of Hearing Date and Notice of Duty to Appear shall immediately follow the Notice (to Defend) which is required by Pa.R.C.P. 1018.1(b).

- (3) The filed Notice of Intention to Appear shall be a sufficient answer to the Complaint (FORM 1320B) (see subsection (9)(b) below)
- (4) A counterclaim which qualifies as a "Small Claim" as defined herein may be set forth in either the filed Notice of Intention to Appear or a separate pleading, by a statement indicating concisely the nature and amount of same. The counterclaim filed as a separate pleading shall be in substantially the same form as the Complaint, without the Notice of Hearing or Notice of Intention to Appear.
- (5) No reply to a counterclaim shall be required. If one is filed, it may be limited to a general denial.
- (6) The provisions of Local Rules 212.1, 212.2 and 212.3 shall not apply to actions involving only Small Claims as defined herein.
- (7) Except as otherwise provided by order of the Discovery Motions Judge upon good cause shown, in Small Claims proceedings, there shall be no discovery by deposition upon oral examination or upon written interrogatories under Pa.R.C.P. 4005 and 4007 or requests for admissions under Pa.R.C.P. 4014.
- (8) The Department of Court Records, on praecipe of the plaintiff accompanied by a certificate as required by Pa.R.C.P. 237.1(a)(2), shall enter judgment against the defendant for failure to file either a responsive pleading or a copy of the Notice of Intention to Appear within twenty (20) days from service thereof, with damages to be assessed in the manner provided by the rules.
- (9) (a)

FORM 1320A Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

ARBITRATION DOCKET

_____ No. _____

Plaintiff,

vs.

HEARING DATE: _____

Defendant.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the attached copy of the suit papers, YOU MUST complete and detach two of the copies of the attached "Notice of Intention To Appear."

One completed copy of the "Notice of Intention to Appear" must be filed or mailed to Department of Court Records, First Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and the other completed copy must be mailed to:

within TWENTY (20) days from the date these papers were mailed. 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 lost 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.

LAWYER REFERRAL SERVICE, The Allegheny County Bar Association
4th Floor Koppers Building, 436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: (412) 261-5555

HEARING NOTICE

YOU HAVE BEEN SUED IN COURT. The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in the Arbitration Assembly Room, Courtroom Two, Seventh Floor City-County Building, Pittsburgh, PA 15219, on _____, ____ (insert date and year) at 9:00 A.M. IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.

DUTY TO APPEAR AT ARBITRATION HEARING

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.

NOTICE: You must respond to this complaint within twenty (20) days or a judgment for the amount claimed may be entered against you **before the hearing.**

If one or more of the parties is not present at the hearing, the matter may be heard immediately before a judge 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) **FORM 1320B Notice of Intention to Appear**

NOTICE OF INTENTION TO APPEAR

(Three copies required)

To the Plaintiff or the
Plaintiff's Attorney

Case Caption _____
Hearing Date _____

I intend to appear at the hearing scheduled for the above date and defend against the claim made against me.

I do not owe this claim for the following reasons:

I certify that I have mailed a copy of this Notice to the Plaintiff or the Plaintiff's attorney.

Date: _____ Sign here: _____

Address: _____

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended November 29, 2021, effective January 11, 2022.

Local Rule 1321. Housing Court Procedures.

The following procedures shall govern all claims filed with or transferred to the Housing Court (see Local Rule 76 for definition of Housing Court), including appeals from Magisterial District Judges involving Landlord and Tenant issues.

1. **Service of Notice of Appeal and Other Papers:** see Local Magisterial District Court Rule 1005 regarding service of Notice of Appeal and, if appellant was the tenant before the Magisterial District Judge, of the Complaint.
2. **Complaint:** The Complaint may be simplified by filing a "short form" Landlord Tenant Complaint available at the Housing Court Help Desk. All Complaints shall contain a signature of the plaintiff or the plaintiff's counsel (Pa.R.C.P. 1023), an endorsement (Pa.R.C.P. 1025), a Notice of Hearing Date, Notice to Defend, and Notice of Duty to Appear at Arbitration Hearing (Form 1320A) and three copies of a Notice of Intention to Appear (Form 1320B) hereof, and must have the following attached to it:

- (a.) A copy of the written Lease, if any, that exists between the parties and which is the subject of the appeal; and,
 - (b.) A copy of the written Notice to Quit or Notice of Lease Termination, if any, that was served upon to the Tenant.
3. **Arbitration:** At the time the Complaint is filed, an arbitration hearing date is assigned by the Housing Court Clerk, and the case will be heard before an arbitration panel. See local rules 1301-1308 for arbitration procedures.
4. **Notice of Intention to Appear (Form 1320B):** the filed Notice of Intention to Appear shall be a sufficient answer to the Complaint.
5. A counterclaim may be set forth in either the filed Notice of Intention to Appear or a separate pleading, by a statement indicating concisely the nature and amount of same. No reply to a counterclaim shall be required. If one is filed, it may be limited to a general denial.
6. For Motion and Petition Practice, including requests for in forma pauperis, related to Housing Court Matters see Local Rules 206.4(c)(5), 208.3(a)(7), 1028(c)(3), and 1034(a)(3).

Note: See Forms 1320A and 1320B.

Editor's Note: Adopted December 27, 2019, effective February 19, 2020.

Local Rule 1331 Consumer Credit Transaction.

The agency to be named in any notice required by Pa.R.C.P. 1328(b) and 1329(3)(2) shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Judicial Administration

Local Rule 1901. Prompt Disposition of Matters; Termination of Inactive Cases – Civil Division Matters Only

AND NOW, pursuant to the suspension of Pa.R.C.P. 230.2 by the Pennsylvania Supreme Court as of April 23, 2014, the Civil Division of the Court of Common Pleas of Allegheny County employs Rule 1901 of the Pennsylvania Rules of Judicial Administration and this local rule of Judicial Administration to terminate on this Court's docket stale claims which appears to have been abandoned or resolved by the parties without notice to the Court.

- (1) At the direction of the District Court Administrator, the Department of Court Records (DCR) shall prepare lists of civil matters that have been dormant for

more than two (2) years beginning with the oldest filings.

- (2) Notice of the proposed termination of these cases shall be published in the Pittsburgh Legal Journal. Case listings shall be available at the websites of the Department of Court Records – Civil/Family Division (<http://dcr.alleghenycounty.us>) and the Fifth Judicial District (www.alleghenycourts.us). Further, copies of the lists shall be made available for inspection at the DCR – Civil/Family Division, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and Court Administration, 300 Frick Building, 437 Grant Street, Pittsburgh, PA 15219.
- (3) If no action is taken or no written objection is docketed as to any listed case within thirty (30) days after notice is published, all identified cases will be administratively terminated by an order of court and so reflected on the docket.
- (4) All matters so terminated may not be reinstated except upon written motion to the Calendar Control Judge.

Actions for Support

Local Rule 1910.5 Complaint. Order of Court

- (1) The complaint shall be on a pre-printed form provided by the Intake Office of the Domestic Relations Section of the Court, substantially in the form provided by Rule 1910.26(a).

Local Rule 1910.6. Entry of Appearance.

- (1) Any attorney who files and/or serves a legal paper or appears on behalf of a client in any cause of action in Family Division—Adult Section must complete, file, and serve a praecipe for appearance, substantially in the form set forth in (2), identifying the cause or causes of action in which he/she will be acting as counsel and identifying by name the party who the attorney is representing.

- (2) Form.

PRAECIPE FOR APPEARANCE

Kindly enter my appearance as counsel for _____

Name of Party* _____

in the above-captioned cases in the following:

_____ All matters

_____ Divorce (and all claims raised pursuant thereto) Only

_____ Support Only

_____ Custody Only

_____ Protection From Abuse Only

_____ Other: _____

Once my appearance is entered, I understand that I must appear at all

proceedings and accept service for my client unless I obtain Court permission to withdraw my appearance.

Supreme Court #: _____

Name: _____

Address: _____

Phone #: _____

Date: _____ Signature: _____

* Your client must be identified by name, not solely as Plaintiff or Defendant.

- (3) Praecept of appearance forms shall be available from Domestic Relations Officers, Hearing Officers, Judges' staff, Room 4020, and the Office of the Prothonotary on the 1st floor of the City-County Building.
- (4) The attorney must appear at all Family Division proceedings and receive service on behalf of his/her client with respect to all causes of action in which the attorney has indicated on the praecipe for appearance he/she is representing his/her client. If the attorney fails to appear, the court may impose sanctions including but not limited to fines and counsel fees.
- (5) Entering an appearance or filing any legal paper in a divorce action obligates the attorney to represent the client in any and all claims or counterclaims which are raised pursuant to the divorce action.
- (6) No pro se motions will be accepted involving a cause of action in which a litigant is represented by counsel.
- (7) Each attorney shall file and serve a praecipe for appearance with respect to each of his/her cases which are pending as of January 1, 2002.

Editor's note: Adopted April 22, 2002, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1910.6. Service. Proof of Service. [Rescinded]

Editor's note: Rescinded January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

**Local Rule 1910.7. No Pleading by Defendant Required. Question of Jurisdiction or
Venue or Statute of Limitations in Paternity.**

(b)(1) If preliminary objections challenging venue or jurisdiction in a support matter are filed, the proceedings shall be listed for argument in conformity with Local Rule 1930(b). The filing of preliminary objections shall not automatically stay the support proceedings. A party or counsel may present a motion requesting a stay pending decision on the preliminary objections.

Editor's note: Amended January 5, 1996, effective February 26, 1996;
amended January 18, 2001, effective 30 days after publication in the Pennsylvania
Bulletin.

Local Rule 1910.10. Alternative Hearing Procedures.

*(a) The Family Division, Court of Common Pleas, Allegheny County, adopts the alternative hearing procedure of Rule 1910.12.

Local Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

(b)(1)(a) Unless a court order obtained from the Motions Judge directs to the contrary, the hearing will be held on the same day as the conference.

(c)(3) Any motion by a party for a separate listing of the hearing and/or for a request for discovery shall be presented to the Motions Judge prior to the conference or hearing. Notice of the motion shall be served upon the opposing party or opposing counsel of record prior to presentation.

(e)(1) Where a hearing officer has reserved decision on a case and the parties were not given a copy of the recommendation at the conclusion of the hearing, three days shall be added to the 10-day filing period for exceptions if notice of the recommendation is given by mail to the parties and/or counsel of record.

(h)

(1) Any party filing exceptions shall serve them upon all other parties and file the original and one copy with the Exceptions Clerk by the end of the next business day following the filing of the exceptions with the prothonotary.

(2) Any party filing exceptions shall also order from the court reporter the transcript of testimony unless the parties stipulate to the contrary or unless the exceptions are not based on the testimony contained in the record.

- (3) Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed to be waived.
- (4) A legible copy of the Hearing Officer's Recommendations and a copy of the transcript order from or stipulation that the transcript is not necessary or a statement that the exceptions are not based on the testimony contained in the record shall be attached to the exceptions.
- (i) Exceptions shall be placed on the next available "Support Argument List" occurring more than 13 days after the transcript of testimony and the exceptant's brief are filed with the Exceptions Clerk. The court shall serve notice on all parties of the date and place of the argument. If the respondent files a brief, it shall be filed at least seven calendar days prior to argument, with the Hearing Officer's Secretary in room 616, City-County Building. If cross-exceptions are filed, the cross-exceptant's brief must be filed at least seven calendar days prior to argument and may respond to the first exceptant's brief. The party filing the first exceptant's brief may file a second brief, in response to the cross-exceptant's brief, at least four calendar days prior to argument. No brief for either party shall exceed 10 pages.
- (j) Exceptions must be scheduled for argument no more than 45 days after exceptions are filed. Failure to schedule will result in an automatic termination of the exceptions on grounds of unreasonable inactivity. The exceptant will not be permitted to reinstate exceptions without written application to the Court for good cause shown.
- (k) If exceptions are filed to the Recommendation of Hearing Officer recommending that the exceptant be held in contempt, the exceptions shall immediately be placed on the next "Support Argument List" occurring more than five days after the filing of exceptions. The party filing exceptions shall title them "Contempt Exceptions" and serve notice on all other parties, and the court reporter, of the date and time of argument. The court reporter's fees shall be posted and the transcript prepared immediately after exceptions are filed. For purposes of this subsection the exceptant shall file a brief at least three days prior to argument. If the respondent files a brief, it shall be filed at least one day prior to argument.
- (l) No exceptions may be filed to a recommendation of a Hearing Officer labeled "interim." The interim recommendation shall be entered as a temporary support order pending the entry of a final recommendation and order.

Editor's note: Amended January 5, 1996, effective February 26, 1996; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1910.15. Paternity. [Rescinded]

Note: Procedure for obtaining genetic testing is set forth in Pa.R.C.P. 1910.15.

Local Rule 1910.19. Support Order. Modification. Termination.

(c)*(1) The following procedure shall be used to modify or terminate an existing support order:

- (A) Where there is a material and substantial change of circumstances, any party may schedule before the domestic relations counselor a conference to request an increase, reduction, modification, or suspension of an award. Both parties and their counsel shall attend this conference. If an agreement is not reached at the conference, the counselor may schedule the matter for a hearing before a Hearing Officer, which shall be conducted in accordance with the procedures set forth in Rule 1910.12.
- (B) The Hearing Officer may recommend the modification or termination of the existing order in any appropriate manner based on the evidence presented.

Action for Custody, Partial Custody and Visitation of Minor Children

Local Rule 1915.1(a)(1). Scope.

This rule shall be applicable to all actions for custody, partial custody and visitation whether filed as an independent cause of action or as a count in a related proceeding.

- i. All individuals withstanding to pursue an action for custody, partial custody or visitation with children from birth to age 17 shall complete the custody education program for adults.
- ii. All children ages 6 to 15 who are in the care of a party or parties shall participate in an interactive group program for children.
- iii. Parties also shall participate in the mediation orientation program. Additionally, step-parents, step-children, grandparents and others closely involved with the custody of children may also participate in the education programs, upon consent of the parties.

Local Rule 1915.1(b). Definitions.

- i. “Generations” means the education programs for adults and children, the mediation orientation program operated by the Allegheny County Family Division pursuant to 23 Pa.C.S. 3901-3904. The “Generations Center” is located at Suite 400, 4th Floor, Allegheny Building, Pittsburgh, Pennsylvania, 15219, telephone (412) 350-4311, and serves as the Family Division Administrative Office for the Generations Program.
- ii. “Generations education” means the custody education program for adults pursuing claims for custody and the interactive education program for children ages 6 to 15.
- iii. “Generations Mediation Orientation” means the custody mediation program for adults pursuing claims for custody.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.3(b)*(1). Scheduling of Hearing Date

Editor's note: Rescinded April 2, 1998, effective May 25, 1998.

Local Rule 1915.3(c). Commencement of Action. Complaint. Waiver. Fees. Refunds.

- i. Prior to the filing of any divorce complaint containing a count for custody or any complaint for custody, shared custody, partial custody or visitation, or any other court papers seeking to initiate or reinstate any proceeding to compel, modify, terminate or otherwise affect contact between children and parties, the moving party shall deliver the original of the court paper initiating the custody action to the Generations Center. The Center shall immediately provide the moving party with an order of court ("Scheduling Order") setting forth the dates when the adults and children shall attend the education programs and Mediation Orientation, a Domestic Violence Waiver Form, and program descriptions. The Scheduling Order shall also specify the location for the adult and children's educational programs. The Mediation Orientation shall always take place in the "Center." This Scheduling Order is then attached to the original complaint or petition for filing.
- ii. Any custody matter in which there has been no activity, as reflected by the docket, for 120 days shall be deemed a new action for purposes of this rule.
- iii. Parties to an action to modify or enforce a final order of court for custody, partial custody or visitation, as well as parties to an action deemed to be new, must complete the Generations program, if they have not already done so, before they will be permitted to praecipe for any proceeding before the court.
- iv. Notwithstanding the parties previous completion of the Generations program, all parties to actions referenced in (iii) of this local rule shall be required to participate in another mediation orientation, as provided by these rules, before they will be permitted to praecipe for any proceeding before the court.
- v. Prior to the filing of any divorce complaint containing a count for custody or any complaint for custody, partial custody or visitation, or any other court papers seeking to initiate any proceeding to compel, modify, terminate or otherwise affect contact between children and parties, the moving party shall deliver the original of the court paper initiating the custody action to the Generations Center. The Center shall immediately provide the moving party with an order ("Scheduling Order") setting forth the dates and times when the parties and children shall attend Lighthouse, Sandcastles, Generations Mediation/Orientation (the "Programs"), a Domestic Violence Waiver form and program descriptions. The Scheduling Order shall also specify the location for the adult and children's educational programs, Lighthouse and/or Sandcastles. The mediation program, Generations, shall always take place in

the “Center.” This Scheduling Order is then attached to the original complaint or petition for filing.

- vi. Within six days of filing, the moving party shall provide the Center with a time-stamped copy of the court paper initiating the action and the Scheduling Order.
- vii. The moving party shall be solely responsible for insuring that any court paper filed during this process is filed at the same docket number as any previously filed Family Division action involving the same parties, or if necessary, to consolidate separate cases under the oldest number.
- viii. No party shall be compelled to attend any portion of these Programs with the opposing party, or to participate in the mediation orientation, in cases where either party, or a child or either party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past 24 months. In such cases, appropriate arrangements for separate sessions for the education programs should be made with the Center. The Center shall also be notified personally or by mail through the use of a domestic violence waiver form that the victim of abuse elects not to attend the mediation orientation session. The opposing party shall have the opportunity to contest the cancellation of the mediation orientation through Motions Court. If mediation does not occur, the case will be set down promptly for a custody/partial custody conciliation before a Domestic Relations Officer.
- ix. All other requests to waive attendance at any portion of the Programs will require an order of court which may be sought through Motions Court. Waivers will be granted only in exigent circumstances. The moving party shall be responsible for filing any order entered in response to such request, and for service upon the Generations Center and the opposing party.
- x. All moving parties who are required to participate in the education and mediation orientation shall pay all fees required for those Programs.
- xi. The moving party shall pay all of his or her fees for the education and mediation orientation programs prior to receiving a Scheduling Order.
- xii. Upon receipt of the Scheduling Order, the responding party shall pay fees seven days prior to the scheduled session.
- xiii. The fee for adult education is \$40 for each party. The fee for children’s education is \$30 for each child. Each party shall pay one-half of each child’s total fee. The fees for education shall be payable to the Allegheny County Treasurer by certified check or money order. No cash or personal checks will be accepted.

- xiv. The fee for mediation orientation shall be \$100 for each party. The fee for mediation orientation shall be made payable to the Allegheny County Treasurer by cashiers' check or money order. No cash or personal checks will be accepted.
- xv. Under exigent circumstances, the court will consider waiver, reduction or assessment of fees to the other party for those unable to pay. Any such request must be presented through Motions Court and must be accompanied by a verified affidavit of indigence or other proof of economic hardship in accordance with Pa.R.C.P. 240 and 1920.62.
- xvi. Under no circumstances will any party or child be permitted to participate in any of the Programs absent timely payment of fees.
- xvii. In accordance with the Generations Program Description and Instruction Package, which are available at the Generations Center, fees for the education/mediation program are non-refundable with the following exceptions:
 - a. The parties are excused from participation in mediation orientation because a Domestic Violence Waiver has been filed by either or both parties.
 - b. A signed Custody Consent Order is filed and served on the Generations Center seven days before the scheduled education program or the scheduled mediation orientation.
 - c. Petitioner withdraws the pleadings seven days prior to the scheduled education or mediation orientation.
 - d. Respondent's fees are refunded when Petitioner fails to appear for education and/or mediation.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.3(d). Confirmation of Custody

- i. An order confirming custody to formalize a de facto custody arrangement to which there is no contest or opposition may be established through this Court's Motion Court procedure for represented and unrepresented parties.
- ii. Any party(ies) may seek confirmation of their current arrangement as a legal and/or physical custody of any child(ren) as follows:
 - a. A Complaint for Custody must be prepared properly in accordance with Pa.R.C.P. 1915.3 and 1915.15. All of the information required by Rule 1915.15 must be provided. Additionally, a copy of the most recent custody order relating to the child or children must be attached, if any exists.
 - b. All parties must be served in accordance with Pa.R.C.P. 1930.4 with movant's Complaint for Confirmation of Custody together with the exhibits. The complaint is deemed filed when notice of its presentation is give.
 - c. All parties are to be provided seven days' notice of the date and time of presentation of movant's petition.

- d. If no party appears to oppose movant's petition, the court will grant interim relief confirming custody in movant without prejudice to any party's right to seek reconsideration or modification at any time.
- e. If this court has granted such relief, the prothonotary shall accept for filing the Complaint for Custody without a Scheduling Order from the Generations Center if the Complaint for Custody is accompanied by the Petition of Confirmation of Custody together with exhibits and a signed Order of Court confirming Custody in the movant. Filing fees charged by this Court's prothonotary for the Complaint for Custody and any other document in reference therein, must be paid unless the party has sought waiver of the fees through the court's established procedure to secure an in forma pauperis status.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.3(e). Grandparents. Third Parties.

- i. A grandparent who wishes to pursue custody or partial custody should refer to the statutory provisions found in 23 Pa.C.S. 5311-5314, and should carefully review these provisions to ensure that he or she has standing to bring an action.
- ii. The partial custody claims of grandparents or other third party shall not be scheduled for education, mediation or for a conference/hearing without an Order from a Family Division judge though regular or pro se motions. Grandparents/third parties who are not represented by an attorney may obtain assistance on how to prepare, serve, and file a motion if they meet financial eligibility requirements from the pro se volunteer attorney program

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.4(a). Service. Rescheduling.

- i. The moving party shall be solely responsible for serving the responding party(ies) with true and correct copies of the court's papers initiating the custody action, the Scheduling Order, the Domestic Violence Waiver and the Program descriptions within five days of the date of the Scheduling Order.
- ii. The moving party shall also file a Proof of Service indicating the date, time and manner of such service with the court's prothonotary and the Generations Center.
- iii. Rescheduling of the education seminar date and/or time for any of the Programs should be sought only when necessary.
- iv. No case will be rescheduled for a date longer than 70 days after the issuance of the Scheduling Order, except upon order of court, which shall be granted only in exigent

circumstances. Requests to reschedule a date after expiration of the 70 days should be made through Family Division's motions court.

- v. Any party seeking to reschedule the education sessions must contact the Center at 412-350-4311 to determine available dates
- vi. Any party seeking to reschedule the Generations mediation session must seek rescheduling through Motions Court.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.4-3. Orientation. Mediation. Confidentiality. Mediator. Qualifications. Conciliation. Psychological Evaluation and Home Study.

- i. Mediators shall have a college degree and either an advanced degree or equivalent experience. Additionally, all mediators without exception shall take a basic 40-hour domestic mediation training seminar conducted by trainers who have been approved by the American Academy of Family Mediators and a basic domestic violence training seminar which has been approved by the American Academy of Family Mediators. All mediators shall carry liability insurance. Mediators shall adhere to the standards of practice adopted by the American Academy of Family Mediators and the American Bar Association.
 - a. If at any time prior to or during any mediation session, it becomes apparent to the mediator or parties that the mediator has an actual conflict, the mediation shall be discontinued immediately, and a new mediator shall be assigned.
 - b. No one shall act as a mediator if he or she has provided legal representation, counseling or therapy for the parties or children. Subsequent to the mediation, no mediator shall act as legal counsel or as a therapist or expert for parties who took part in the mediation or children who were the subject thereof.
- ii. All mediation conducted through Generations shall be "closed." Accordingly, the contents of such mediation shall be confidential. If both parties provide written consents, mediators may, but shall not be required, to discuss such contents with counsel or others. Disclosure by the mediator of anything learned during the mediation process shall be controlled by 42 Pa.C.S. 5949.
- iii. No one except the parties shall be permitted in the Generations Benter's office at the time set for mediation.
- iv. At the conclusion of the mediation session, if an agreement is reached, the mediator shall write a Memorandum of Understanding ("Memorandum"). The Memorandum shall not be legally binding upon the parties. Should parties have counsel, they shall be referred to counsel to reduce the Memorandum to a Parenting Agreement and/or Order of Court. Should parties not have counsel, they shall be referred to the

- Allegheny County Bar Association Lawyer Referral Service (“Lawyer Referral”). Lawyer Referral shall provide each party with the name of an attorney who has agreed to represent the party. Such counsel shall reduce the Memorandum to a mutually agreeable Parenting Agreement and/or order of court for a flat fee of \$100 per party. Counsel shall be responsible for no other action on behalf of the party and need not enter an appearance with this Court.
- v. In the event no resolution results from the mediation, the parties may consent to continue to mediate with the same mediator, or by consent the parties may choose a different Generations mediator. Up to an additional six hours of mediation may be scheduled for a fee of \$100 per hour at \$50 per party. Absent consent to an alternative arrangement or Order of Court, each party shall be responsible for their own fee.
 - vi. If at any time during these six additional hours of mediation the parties are able to reach a Memorandum of Understanding, which, in turn, is reduced to a Parenting Agreement and/or Order of Court, or should the mediator in his or her sole discretion declare that the mediation is at a permanent and irrevocable impasse and should be terminated, the mediator shall refund to each party \$50 for each full hour not used during the mediation.
 - vii. Parties who elect to litigate the custody issue shall be required to present a praecipe to schedule a conciliation with on to the court’s custody Domestic Relations Officers (“DROs”). This praecipe must be presented to eh Generations Center and must have a copy of the certificate of completion of mediation attached.
 - viii. Partial custody establishments, modification and contempts which are not settled by the DROs will be listed for hearing.
 - ix. Custody cases which are not resolved by the DROs may be referred by the DRO for psychological evaluations. After the evaluation is completed, the parties may praecipe for conciliation before a judge.
 - x. Parties who did no elect to pursue litigation at the completion of their mandatory mediation orientation session and who subsequently determine that they may need to return to litigation, may obtain by filing a praecipe, a copy of the certificate of completion of mediation, and a copy of the underlying pleading with the Generations Center.
 - xi. Parties who have never been though the Programs and wish to proceed directly to conciliation must obtain an order permitting them to do so from the judge in either regular or pro se motions.
 - xii. Where the parties have gone to education but not to mediation (i.e. because the mediation was canceled because the parties had a consent order, or the parties were previously waived from mediation by a judge and a court order was issued following

conciliation/hearing, etc.) the case will automatically be scheduled for mediation orientation only, and the petitioner will be provided an appropriate Scheduling Order. Petitioner and Respondent will pay fees as stated above in the usual case.

- xiii. For parties who attended mediation orientation more than one year ago, whether they now have a new action (i.e., the case that initially brought them to mediation was establishment and now they seek modification or enforcement) or they need to resolve finally the action that originally brought them to mediation orientation (i.e., they initially mediated the issue of establishment but never turned the memorandum into a consent order), they will automatically be scheduled for mediation orientation as set forth above.
- xiv. For parties who attended mediation orientation less than one year ago, they may file a praecipe for conciliation and proceed through the court process.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.9(a). Pre-Trial Procedures.

- i. Preliminary objections shall be argued in conformity with Local Rule 1930(b).
- ii. Pre-Trial Statements
 - a. In all actions for full and partial custody, the parties shall be in conformity with the pre-trial order issued by the assigned judge.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.12(a)(1). Civil Contempt for Disobedience of Custody Order, Petition, Service, Order.

- i. The agency to be named in the notice accompanying a petition for civil contempt shall be:

Lawyer Referral Service
920 City-County Building
Pittsburgh, PA 15219
Telephone: (412) 261-0518

Editor's note: Original Rule 1915.12(a)*1 adopted March 5, 1982. Current rule promulgated April 2, 1998, effective May 25, 1998.

Local Rule 1915.14(a). Noncompliance. Contempt. Arrest.

- i. If the moving party fails to pay fees as specified, fails to appear for education and/or mediation orientation or fails to ensure that any child within their physical custody appears for education, the custody action shall be dismissed without prejudice, and any fees paid by the moving party shall be forfeited.
- ii. If the non-moving party fails to pay fees as specified, fails to appear for education and/or mediation orientation or fails to insure than any child within their physical custody appears for education, an immediate rule to show cause why the non-moving party should not be held in contempt shall issue from this court. Such rule will be returnable on a date certain within 14 days.

Editor's note: Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.15(a)(1). Form of Complaint. Caption. Order.

- i. The agency to be named in the Order of Court accompanying the complaint shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor's note: Former local rule 1915.15(a)(1) rescinded and new local rule 1915.15(a)(1) adopted October 17, 2006, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.16(c). Form of Order and Notice, Joinder, Intervention.

- i. The agency to be named in the Order of Court and notice under this rule shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor's note: Former local rule 1915.16(c) rescinded and new local rule 1915.16(c) adopted October 17, 2006, effective 30 days after publication in the Pennsylvania Bulletin.

Local Rule 1915.17. Appointment of Parenting. Coordinator.

- (a) In cases involving repeated or intractable conflict affecting implementation of a Final Custody Agreement, Parenting Plan or Order, concerning custodial parenting time or responsibility, the Court may, on the application of either party or its own motion, appoint a Parenting Coordinator to assist the parties in implementing the custodial arrangement set forth in the Custody Agreement/Parenting Plan/Order and in resolving related parenting issues about which they do not agree. Appointment of a Parenting Coordinator shall occur when this Court concludes that such action serves the best interests of the child(ren).
- (b) The Parenting Coordinator shall discuss relevant parenting issues with both parties and other persons as needed, and shall attempt to facilitate a mutually accepted resolution.
- (c) If the parties are unable to resolve the issue(s), the Parenting Coordinator is authorized (but is not required) to decide the issue.
- (d) The Parenting Coordinator has the authority to decide issues concerning partial physical custody and visitation to the extent set forth in the Custody Agreement/Parenting Plan/Order appointing the Parenting Coordinator. The following specific issues are excluded from the Parenting Coordinator's function and decision-making authority:
 - a. A change in legal custody decision-making authority set forth in the Custody Agreement/Parenting Plan/Order;
 - b. A change in primary physical custody (residential parenting time) as set forth in the Custody Agreement/Parenting Plan/Order;
 - c. A change in the court-ordered custody schedule (parenting time) that substantially reduces or expands the child(ren)'s time with one or both parents;
 - d. A change in the geographic residence of the child(ren)'s (relocation) that would render implementation of the current Custody Agreement/Parenting Plan/Order impossible or impracticable;
 - e. Determination of financial issues, other than allocation of the Parenting Coordinator's fees.

The Parties may mutually agree in writing to submit any of the excluded issues set forth above to the Parenting Coordinator for facilitation and recommendation which recommendation shall only become binding upon written agreement of the parties

- (e) The Parenting Coordinator shall be either:
 - a. A licensed mental health professional with a master's degree (or equivalent or higher degree) who has practiced at least 5 years; or
 - b. A licensed attorney practicing family law for at least 5 years.

- (f) The Parenting Coordinator's qualifications shall include, at a minimum:
 - a. Training or expertise in family dynamics, childhood development, custody, separation and divorce; and
 - b. Training in the parenting coordination process and family law as established by the Pennsylvania Supreme Court; and
 - c. Forty hours of mediation training under Pa.R.C.P. 1940.4, excluding mediation supervision under Pa.R.C.P. 1940.4(a)(4); and
 - d. Completion of at least ten continuing education credits in any topic related to Parenting Coordination in each two year period.
- (g) Protocols for the Parenting Coordination process shall be set forth in the Order appointing the Parenting Coordinator and/or by separate agreement between the parties and the Parenting Coordinator. In cases where abuse (as defined under 23 Pa.C.S. 6102) is alleged, the protocols should include measures for the safety and protection of the participants, unless the Court deems the measures unnecessary.
- (h) A Court-appointed Parenting Coordinator is an officer of the Court, and has quasi-judicial immunity.
- (i) Communications with the Parenting Coordinator are not confidential
- (j) The Parenting Coordinator's decisions may be provided to the parties verbally, but shall be communicated in writing as soon as practicable and filed in the prothonotary's office at the parties' custody docket.
- (k) Decisions made by the Parenting Coordinator shall be binding upon the parties pending further Order of Court.
- (l) Any party seeking judicial review of the Parenting Coordinator's decision must file a Petition for de novo hearing within 20 days of the filing of the decision stating specifically the issue(s) to be reviewed and attaching a copy of the decision. The Petition must be served on the other party(ies) and the Parenting Coordinator, in accordance with the Rules of Civil Procedure. The hearing before the Court shall be de novo. The Court shall hear the case on the record, and shall render a decision within the time periods set forth in Tule 1915.4.
- (m) The parties shall share the cost of the Parenting Coordinator pursuant to the parties' respective financial circumstances or as the Parenting Coordinator or Court may otherwise direct.

- (n) In allocating costs, the Parenting Coordinator or Court may consider whether one party has caused a disproportionate need for the services of the Parenting Coordinator.
- (o) In review proceedings under subsection (l), the Court may elect to impose counsel fees and/or the Parenting Coordinator’s fees upon the non-prevailing party, upon cause shown.
- (p) The Court may maintain a roster of individuals it deems qualified to serve as Parenting Coordinators, and may establish training and grievance procedures if it deems them appropriate.
- (q) The Order entered pursuant to this Rule shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS
_____, COUNTY, PENNSYLVANIA

Plaintiff	:		
	:		
vs.	:		:
	:	NO. _____	
Defendant	:		
	:		

CIVIL ACTION---CUSTODY
[AGREEMENT, PARENTING PLAN AND] ORDER
FOR PARENTING COORDINATION

AND NOW, [the above-captioned Parties agreeing and] the Court finding that it is in the best interest of the child(ren), [NAMES OF CHILDREN, DOB] that a Parenting Coordinator be appointed to assist in implementing the custodial arrangement set forth in the Custody Agreement/Parenting Plan/Order dated _____ and in resolving related parenting issues about which they do not agree, the following is [STIPULATED AND] ORDERED.

1. APPOINTMENT AND TERM:

_____ is appointed as the Parties’ Parenting Coordinator for a term of [__] months, or until the resignation of the Parenting Coordinator or termination of the appointment by the Court, whichever occurs first. The Parenting Coordinator’s Terms of Engagement are attached hereto and are incorporated into this [Custody Agreement/Parenting Plan/Order]. The Court shall have authority to sanction a party for non-compliance with the Parenting Coordinator’s Terms of Engagement.

Legal counsel for _____ [or either party, if pro-se] shall provide copies of all Orders, Pleadings and Custody Evaluations in this case to the Parenting Coordinator within ten (10) days of the date hereof.

2. ROLE OF THE PARENTING COORDINATOR

- A. Parenting Coordination involves two components:
 - 1) The Parenting Coordinator shall attempt to resolve issues arising out of the custody order/court approved agreement/parenting plan through facilitation, mediation, consultation, coaching and education, all of which are non-decision-making functions;
 - 2) If it is apparent to the Parenting Coordinator that the continued similar efforts are unlikely to resolve the issue(s), the Parenting Coordinator shall have the authority to resolve the dispute by providing a Decision for the parties on the issue(s).
- B. The Parenting Coordinator will not function as the psychotherapist, counselor, attorney or advocate for the parties, or the parties' child(ren), or family. However, the Parenting Coordinator is permitted and encouraged to facilitate communication and agreement between the parties whenever possible, and shall always act in a manner conducive to the best interests of the child(ren).

3. PARENTING COORDINATOR'S AUTHORITY

The Parenting Coordinator, in order to implement the custodial arrangement set forth in the custody agreement/parenting plan/order and resolve related issues about which they do not agree, is authorized to make decisions about issues that may include, but are not limited to, the following:

- A. Dates, times, places and conditions for transitions between households;
- B. Temporary variation from the schedule for a special event or particular circumstance;
- C. Minor adjustments to the physical custody schedule as set forth in the Custody Order/Agreement/Parenting Plan;
- D. School issues, apart from school selection;
- E. Child[ren]'s participation in recreation, enrichment, and extracurricular activities, programs travel;
- F. Child care arrangements;
- G. Clothing, equipment, toys and personal possessions of the child[ren];
- H. Behavioral management of the child[ren];
- I. Information exchange (school, health, social, etc.) and communication with or about the child[ren];
- J. Coordination of existing or court-ordered services for either of the parties or child[ren] (e.g. Psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management, parenting classes, etc.);
- K. Other related custody issues that the parties mutually agree, in writing, to submit to the Parenting Coordinator.

4. EXCLUSIONS FROM PARENTING COORDINATOR’S AUTHORITY:

A. The following specific issues are excluded from the Parenting Coordinator’s function and decision-making authority, except as provided in subparagraph (B) hereinbelow:

- 1) A change in legal custody decision-making authority set forth in the Custody Agreement/Parenting Plan/Order;
- 2) A change in primary physical custody (residential parenting time) set forth in the Custody Agreement/Parenting Plan/Order;
- 3) A change in the Court-ordered custody schedule (parenting time) that substantially reduces or expands the child[ren]’s time with one or both parties;
- 4) A change in the geographic residence of the child[ren]’s (relocation) that would render implementation of the current Custody Agreement/Parenting Plan/Order impossible or impracticable;
- 5) Determination of financial issues, other than allocation of the Parenting Coordinator’s fees;
- 6) Other: _____.

B. The Parties may mutually agree in writing to submit any of the excluded issues set forth above to the Parenting Coordinator for facilitation and recommendation which recommendation shall only become binding upon the written agreement of the parties.

5. NON-CONFIDENTIALITY OF COMMUNICATIONS:

No communications of the parties and/or their lawyers with the Parenting Coordinator are confidential. The Parenting Coordinator may communicate in writing with the Court regarding any matter, and shall send contemporaneous copies of any such communications to [the parties (if pro se)] legal counsel.

6. SOURCES OF INFORMATION:

Each party shall provide the Parenting Coordinator with all information that the Parenting Coordinator requests, including signed HIPPA releases and other forms requested. The Parenting Coordinator is authorized to contact any professional or other individual as the Parenting Coordinator deems necessary (e.g. the children, therapists, physicians, childcare providers, teachers, family members, etc.).

7. COMMUNICATION WITH THE PARENTING COORDINATOR:

A. Protocol:

The Parenting Coordinator shall determine the protocol of all communications, interviews, and sessions, including who shall or may attend the sessions (including the children), and whether the sessions will be conducted in person or by other means. Where domestic violence or abuse, as defined under 23 Pa.C.S. 6102, is alleged, the protocols should include measures addressing the safety of all participants, unless the Court deems the measures unnecessary.

B. Oral or Written Communications With the Parenting Coordinator

The parties and their attorneys shall have the right to receive, but not to initiate, oral ex-parte (one-sided) communications from the Parenting Coordinator, but the fact of such communication shall be known to the other party. Any party or legal counsel may communicate in writing with the Parenting Coordinator provided a copy is sent to the other party simultaneously. Any documents, tape recordings or other material which one party gives to the Parenting Coordinator must also be made available to the other party or his/her legal counsel for inspection and copying. In accordance with paragraph 5 hereinabove, no such communications are confidential.

C. Written Communications Between Parenting Coordinator and Appointing Judge

- (1) The Parenting Coordinator will have the ability to initiate written communication with the Appointing Judge, and shall contemporaneously send copies to both attorneys
 - (a) in the event of non-compliance of a party with any provision of the Appointment Order (including provisions relating to the compensation of the Parenting Coordinator); and/or
 - (b) detailing the Parenting Coordinator's reasons for withdrawing from service in this case.
- (2) Absent an emergency affecting the child[ren]'s health or welfare, any communication from the Parenting Coordinator to the court shall be in writing, and shall be copied simultaneously to the parties (or, if represented, counsel). If the Parenting Coordinator has communicated only orally with the Court on an emergency basis, the Parenting Coordinator promptly shall communicate to the parties (or, if represented, counsel) in writing the substance of the oral communication.

8. PARENTING COORDINATION DECISION-MAKING PROCESS

- A. Prior to the Parenting Coordinator making a Decision, the Parenting Coordinator shall provide a notice and opportunity for each of the parties to be heard, unless exigent circumstances render contact with both parties impracticable or potentially dangerous to a party and/or the child[ren]. In the event a party is given advance written notice of a session but does not attend, the Parenting Coordinator may make a Decision despite that party's absence.
- B. Decisions:

- 1) The Parenting Coordinator's Decisions may be communicated to the parties orally, but must be confirmed in writing as soon as practicable and filed in the prothonotary's office at the parties' above captioned custody docket;
- 2) The Parenting Coordinator's Decision shall be binding upon the parties unless and until revised by Court Order.

9. JUDICIAL REVIEW:

A. Review of Decisions:

Any party seeking judicial review of a Parenting Coordinator's Decision must file a Petition for a de novo hearing within 20 days of the filing of the Decision, specifically stating the issue(s) and attaching a copy of the Decision. The Petition must be served on the other party(ies) and Parenting Coordinator in accordance with the Rules of Civil Procedure. The hearing before the Court shall be de novo. The Court shall hear the case on the record, and shall render a decision within the time periods set forth in Rule 1915.4.

B. New Court Proceedings:

Prior to filing any new motions, petition or complaint with the Court involving non-emergency custody or parenting of the child[ren] within the scope of the Parenting Coordinator's authority, the parties shall participate in no fewer than two sessions with the Parenting Coordinator to attempt resolution of the specific disputed issue[s] (and to permit a Decision to be made to the extent authorized by paragraph 3 hereinabove).

C. The procedures set forth in this Section 9 are mandatory, and may not be waived by the parties.

10. QUASI-JUDICIAL IMMUNITY

In accordance with Pa.R.C.P. 1915.17, the Court-appointed Parenting Coordinator is an Officer of the Court, and has quasi-judicial immunity. As such the Parenting Coordinator cannot be sued based on his/her actions performed within the scope of this [Custody Agreement/Parenting Plan/Order].

11. CHILD ABUSE REPORTING:

The Parenting Coordinator is a person required to report suspected child abuse pursuant to 23 Pa.C.S.A. 6311.

12. TESTIMONY:

The Parenting Coordinator cannot be compelled to testify in any proceeding absent a Court Order. In the event the Parenting Coordinator elects or is required to testify,

he/she shall be compensated commensurate with his/her rate by one or both of the parties as the Court deems appropriate.

13. ALLOCATION OF FEES:

The parties will share the obligation to pay the fees of the Parenting Coordinator: _____% Mother, _____% Father. Fees may be reallocated by the Court or the Parenting Coordinator if he/she determines that one party has disproportionately caused the need for the service. The Parenting Coordinator may, in his/her discretion charge parties for missed sessions or sessions cancelled less than 24 hours prior to the scheduled session.

14. TERMINATION/WITHDRAWAL OF PARENTING COORDINATOR

- A. Neither party may unilaterally terminate the Parenting Coordinator’s services without Court approval, nor may the parties do so by mutual agreement without Court approval.
- B. The Parenting Coordinator may withdraw from service at any time, upon ten days written notice to [the parties], all counsel of record, and the Court.
- C. Dissatisfactions with the Parenting Coordinator’s Decisions is not grounds for termination. The opposing party and Parenting Coordinator shall be given notice of any petition for termination. The court may rule on the petitions[s] submitted, or may schedule argument or an evidentiary hearing.

15. ACCEPTANCE

- A. The parties acknowledge that each has reviewed this agreement and had the opportunity to consult with legal counsel.
- B. Each party agrees that the appointment of _____ as Parenting Coordinator, and agrees to fully cooperate with the Parenting Coordinator in compliance with this Custody Agreement/Parenting Plan/Order.

16. This Custody Agreement, Parenting Plan/Order shall not be effective until accepted by the Parenting Coordinator as evidenced by his/her/ signature below:

[SIGNATURES]

Mother:

Father:

Date: _____

Date: _____

Attorney for Mother:

Attorney for Father:

Other Party (if any):

Date: _____

I agree to my appointment as the Parenting Coordinator for the parties as set forth above.

Date

Parenting Coordinator

ORDER

[The above Agreement is entered as a Court Order]

SO ORDERED.
BY THE COURT:

_____, Judge

Distribution:
Plaintiff [Attorney for Plaintiff]:
Defendant [Attorney for Defendant]:
Parenting Coordinator:

Action of Divorce or for Annulment of Marriage

Local Rule 1920.12. Complaint. Contents and Filing.

(a) The Complaint

- (1) The plaintiff in the complaint and the defendant in the answer, counterclaim or other petition shall set forth each claim as a separate count.
- (2) If a claim is made by either party to the action for custody, partial custody, or visitation, the relevant count in the pleading must comply with the requirements of the applicable rules.

- (3) If a claim is made by either party to the action for alimony pendente lite, alimony, or support, the party shall attach to the pleading as an exhibit the Family Division Support/Alimony Pendente Lite/Alimony Information Sheet. These sheets may be obtained from the Intake Office or the Screening Window in the Family Division.

(b) Filing the Complaint.

- (1) All divorce and annulment complaints shall be filed and the filing fee paid in the Prothonotary's Office (Suite 200, Allegheny Building) where they will be assigned a docket number. The number given to the divorce will also be assigned to any other claim contained in the divorce complaint or other pleadings subsequently filed in this action. If there is a prior action between the parties, the case shall be docketed in conformity with Local Rule 1930(f).
- (2) A party filing any secondary pleading to the divorce action (answer, counterclaim or other petition) shall file such pleadings at the Family Division Prothonotary on the second floor of the Allegheny Building, 429 Forbes Avenue.
- (3) If the divorce proceeding includes a claim for support, alimony pendente lite or counsel fees, any party seeking a conference/hearing on said claim shall file a praecipe at the screening window in Family Division requesting that a conference/hearing date be scheduled and further stating that there is no existing order of support and/or alimony pendente lite providing for the support of a spouse. The party seeking the conference/hearing shall provide a copy of the pleading raising the claim for support, alimony pendente lite or counsel fees and the Family Division Support/Alimony Pendente Lite/Alimony Information Sheet to the clerk at the screening window at the time the praecipe for conference/hearing is filed. Where there is an existing order for support and/or alimony pendente lite providing for the support of a spouse, a hearing will be scheduled only pursuant to an order of court obtained by following the procedures required for filing motions at Family Division Motions Court as provided in Local Rule 1930(a).

Local Rule 1920.33. Joinder of Related Claims. Distribution of Property. Resolution of Claims for Equitable Distribution of Marital Property and Alimony.

(a) Scheduling Conciliations for Contested Claims Raised Under §§3301 and 3701 of the Divorce Code.

- (1) A conciliation before the court shall be scheduled where either party has raised the claim of alimony and/or equitable distribution of marital property that is contested by the opposing party and (1) the parties are divorced, have both filed affidavits of consent pursuant to 23 Pa.C.S. §3301(c) or have been living separate and apart for two years and (2) there is compliance with the requirements of subpart B of this local rule. If both alimony and equitable distribution are raised, they shall be conciliated together.

Note: If either party has an outstanding claim for counsel fees, that claim must also be raised at the conciliation. Any outstanding claim for counsel fees that is not included in a final court order covering the alimony and equitable distribution

claims shall be deemed to be denied by the court in the absence of specific language to the contrary.

- (2) No conciliation shall be scheduled until both parties have complied with Rules 1920.31(a) and 1920.33(a) of the Pennsylvania Rules of Civil Procedure relating to the filing of an inventory and appraisal and income and expense statements. If alimony is the only claim before the court, only Rule 1920.31(a) need be complied with.
- (3) Once both parties have complied with subparts A and B of this Local Rule, either party may schedule the conciliation pursuant to Local Rule 1930(c).
- (4) The party scheduling the conciliation shall notify the opposing party of the conciliation date.
- (5) In the absence of compelling circumstances, all parties shall be present for the conciliation; however, upon written agreement between counsel for the parties (where counsel believes appearance by the parties would not be fruitful or necessary) parties may be excused from attendance at the first conciliation.

(b) Action to be Taken Where a Party Fails to Comply with Rules 1920.31(a) or 1920.33(a).

- (1) On praecipe of any party who has complied with Rules 1920.31(a) and 1920.33(a), a rule shall be entered upon a non-complying party to file the inventory and appraisal and/or a statement of income and expense within 30 days of the service of the rule.
 - (i) The praecipe.
 - a. The praecipe shall be prepared substantially in the following form: “The plaintiff/defendant has complied fully with Rules 1920.31(a) and/or 1920.33(a) and the opposing party has failed to do so. Plaintiff/Defendant therefore, requests that a rule be entered directing compliance with Rules 1920.31(a) and/or 1920.33(a) within 30 days of the date of the service of the rule.”
 - (ii) The praecipe shall be filed in the Administrative Office of Family Division. The party filing the praecipe is responsible for serving copy of the rule on the opposing party.
- (2) If it is necessary for the court subsequently to issue an order directing compliance with Rules 1920.31(a) and/or 1920.33(a), such order shall, in the absence of compelling circumstances, contain, inter alia, a provision for payment of counsel fees and costs to the moving party.

(c) Scheduling Hearings for Uncontested Claims Raised Under Sections 3501 and 3701 of the Divorce Code.

- (1) Where a party has raised claims for alimony and/or equitable distribution of marital property and has reasonable grounds to anticipate that the opposing party does not intend to appear at any conciliation or court hearing to contest these claims, the claims shall be scheduled for a hearing before the court.
- (2) A hearing is scheduled by filing a praecipe with the Family Division Docket Clerk. The praecipe shall allege that the party filing the praecipe believes that the claims will not be contested by the opposing party.
- (3) The party filing the praecipe is responsible for serving the opposing party with the notice of the hearings before the court. This hearing notice shall also contain a statement to the opposing party as to exactly what relief is sought as well as a copy of the proposed order required by paragraph (E) below.
 - (1) Service of this notice of hearing and proposed order shall be made in accordance with Rule 1920.51.
- (4) Prior to filing the praecipe, a party must have complied with Rules 1920.31(a) and 1920.33(a) of the Pennsylvania Rules of Civil Procedure.
- (5) [Rescinded January 5, 1996, effective February 26, 1996.]
- (6) At the uncontested hearing, the court shall hear only the essential facts required to enter an order. If the opposing party appears to contest the claim, the hearing shall be discontinued, and the case shall proceed under Part I of this Local Rule.

Note: the purpose of Part III of this rule is to deal with claims of alimony and/or property distribution where no consent can be obtained but there also appears to be no contest. It is contemplated that the Court will be able to expeditiously deal with these cases particularly where property is minimal or where only a nominal alimony order is sought.

(d) Court Approved Settlements

- (1) Where parties have reached an agreement on the issues of alimony and/or equitable distribution of marital property, and where court approval of the agreement is desired, the agreement shall be included with the proposed divorce decree. The agreement shall be signed by all parties and/or their counsel.

Local Rule 1920.42. Affidavit and Decree Under Section 3301(c) or 3301(d) of the Divorce Code. Obtaining Decrees.

- (a) If a complaint and the 3301(d) affidavit have been filed under Section 3301(d) of the Divorce Code and 20 days have passed from service of the 3301(d) affidavit have

elapsed¹ and the responding party has not filed a contested responsive pleading within 20 days of service of the affidavit, the moving party shall mail to the responding party's current address or otherwise deliver to the responding party a Notice of Intention as required by Pa.R.C.P. 1290.42(c) giving the responding party 20 additional days in which to deny these allegations. The 20 additional days to be given the responding party in the Notice of Intention begins to run on the date on which the notice is mailed or delivered. Registered or certified mail is not required. The moving party shall insert in the notice a date on which the court is in session that is at least 20 days from the date of mailing or delivery.

- (b) If the responding party has not responded to the additional notice of intention, the court, on praecipe in the form prescribed by rule 1920.73, will review the complaint and the 3301(d) affidavit and, if appropriate enter a final decree. An affidavit of service shall be filed for both the 3301(d) complaint and the 3301(d) affidavit. However, only on affidavit of service is necessary if the complaint and the 3301(d) affidavit were served at the same time.
- (c) In all cases the moving party is responsible for submitting a proposed decree in the form required by Pa.R.C.P. 1920.76 prior to court review of the divorce claim.
- (d) Scheduling a Conciliation Before the Court Under Section 3301(d) (1)(iii).
 - (A) Where the responding party has denied one or more of the allegations set forth in the moving party's affidavit under Section 3301(d) of the Code, either party may obtain a date for conciliation of the divorce claim from the docket clerk, Room 611, City-County Building, and then filing a "Praecipe for Conciliation Date" listing such date with the Prothonotary, Suite 200, Allegheny Bldg., 429 Forbes Avenue, Pittsburgh, PA 15219 and serving copies of same on all parties of record.

Local Rule 1920.46. Representative of Defendant in Military Service

- (c) In all actions in divorce, except 3301(c) claims, where the defendant is in the military service, the plaintiff shall, at the time of the filing of the complaint, petition the court to appoint an attorney to represent the defendant, setting forth in said petition the address of the defendant. A copy of the complaint must be furnished to the attorney thus appointed, who shall then send a copy to the defendant, together with a form of power of attorney authorizing the appointed counsel to appear for the defendant and to accept service of all papers.

¹ Conforms to amended State Rule 1920.42*(d)(1) effective January 1, 1996.

Local Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing. Contested and Uncontested Divorce Claims Under §§3301(a) and 3301(b) of the Divorce Code.

(f)(1) All contested actions for divorce or annulment shall be first conciliated by the court. A conciliation date may be obtained from the Family Division Docket Clerk. If the case cannot be settled at the conciliation, the following rules will apply.

- (2) In all contested actions for divorce or annulment the case shall be heard by a master in the absence of a court order to the contrary. Unless the court directs otherwise, the moving party shall be preliminarily responsible for paying the master's 'fee for trial and preparation of the master's report, the reporter's fees and any costs or poundage due to the Prothonotary; all of said sums shall be paid to the Prothonotary prior to the hearing before the master.
- (3) Within 10 days after the fees are paid into the court the master shall give written notice to the parties of a hearing to be held not more than 30 days thereafter. At the time and place set forth in the notice, the master shall begin the hearing and, unless the court directs otherwise, shall continue the same from day to day until completed.
- (4) All testimony shall be taken stenographically by one of the reporters of this court or a judge's secretary, and the transcript thereof shall be filed of record within 30 days. Any additional costs of the transcript over the amount deposited shall be paid by the moving party. Any delay in this payment shall be grounds for dismissal of the proceedings unless adequate cause is shown for the delay
- (5) Within 30 days of receipt of the transcript, the master shall file a report making findings of fact and conclusions of law and suggesting a form of decree; the master shall serve copies of the report on the parties and shall file an affidavit of service.
- (6) Exceptions to the master's report may be filed by the parties within 10 days after receiving notice of the filing of the master's report. Copies of the exceptions shall be served on the opposing party. The exceptant shall, on the date of filing of the exceptions, give a copy of the exceptions to the docket clerk in order to obtain an argument date.
- (7) The master's fee and transcript costs shall be taxed as part of the costs and paid as directed by the final decree.
- (8) The master appointed by the court to hear a contested divorce shall, after prior notice to both parties, petition the Motions Judge to award the master's fees. The petition shall state that the master has filed a report with the Prothonotary and given notice to counsel of the filing thereof and that the master has no further duties to perform and the master shall include a detailed list of the services provided and the amount which the master considers to be reasonable compensation.

(g) Uncontested Actions Under §§3301(a) and (b) of the Code.

(1) Actions for divorce or annulment which are uncontested shall be listed for hearing upon filing a praecipe for hearing and, except as otherwise provided by Bule 1920.62, depositing with the Prothonotary the sum of \$43 to be applied as follows: Master's Fee- \$25; Court Reporter's Fee- \$15; Poundage and Mailing Expense- \$3. The amount deposited shall be taxed as costs.

(2) The praecipe for hearing shall be in the following form:

Praecipe for Hearing Date

(Caption No. _____)

1. Kindly list the above-captioned action for hearing.
2. Defendant was served under Rule 412 or 403. Serve notice of hearing upon Defendant by ordinary mail addressed as follows:

(address)

or

2. Defendant was served under Rule 430. Serve notice of hearing upon defendant by registered mail at Defendant's last known address:

(address)

with a copy by ordinary mail to each of the following:
(list names and addresses of persons named in the investigation affidavit under Rule 430 as likely to know the present whereabouts of the defendant.)

or

2. An appearance has been entered for Defendant. Serve notice of hearing upon Defendant's attorney of record.

Attorney for Plaintiff

(end of form)

(3) All notices of hearing shall be mailed by the Prothonotary at least 20 days before the hearing date, and proof of notice shall be filed in the form of a statement of the names and addresses of the persons notified.

(4) Notice of hearing shall be in the following form:

Notice of Hearing

To _____

You are notified that the case of _____
v. _____, No. _____ Term _____
will be heard on _____ at _____ o'clock ____ m. (prevailing time) at
Room No. _____, Pittsburgh, PA when and where you may
appear and be heard if you desire.

Prothonotary

(end of form)

Note: If a party is confined in prison and desires to appear, application may be made to the court for a writ of habeas corpus and testificandum.

- (5) The daily list of uncontested actions shall be heard by one or more masters appointed by the Administrative Judge of the Family Division.
- (6) The attorney of record for the plaintiff must be available and ready to proceed at the time for which the hearing is scheduled or arrange to have a substitute appear for him, unless (1) the action has become contested or (2) upon cause shown by written motion, the hearing has been continued by court order.
- (i) If the action is contested, the procedure for contested actions shall apply.
 - (ii) If the hearing is continued, it will not be relisted for hearing until another praecipe for hearing is filed together with payment to the Prothonotary of the addition sum of \$1 to be applied toward the expenses of new service of notice of hearing.
- (7) If the action has not become contested or the hearing has not been continued by court order and the plaintiff does not appear at the hearing, the master will be paid from the funds deposited and the action will not be relisted for hearing until another praecipe for hearing is filed and an additional sum of \$27.25 is deposited with the Prothonotary.

- (8) The testimony shall be transcribed and filed within 10 days of the hearing. Within five days after testimony has been transcribed and filed, the master shall file a report and recommendations and serve notice thereof on all interested parties. The record, including the master's report and recommendations, shall be submitted to the court for disposition.
- (9) In the event the moving party does not wish to file exceptions to the master's report and recommendations, the moving party shall submit a proposed decree in divorce to the court. In the event a party wishes to file exceptions to the master's report and recommendations, the party shall do so within 10 days from the filing thereof. The exceptions shall be filed in the office of the Prothonotary with notice to the court and the opposing party. Also, the exceptant shall provide a copy of the exceptions to the Docket Clerk in order to obtain an argument date.

Local Rule 1920.55. Master's Report. Notice. Exceptions. Final Decree.

- (c) (1) Any party filing exceptions shall immediately serve them upon all other parties and the court reporter and shall, unless otherwise provided by order of court, order the transcript of testimony, unless the transcript has previously been filed.
- (2) Briefs shall be filed and argument scheduled as provided by order of court after the period for filing exceptions has expired.

Local Rule 1920.62. Proceedings by Indigent Parties.

- (a) Any person claiming to be an indigent party and who either desires to commence an action in divorce or is a party to a pending action in divorce in Allegheny County shall be referred to the Allegheny County Bar Association to make application under oath.
- (b) The Allegheny County Bar Association is hereby authorized to assign an attorney from among its members to represent each applicant determined by it to be an indigent person.
- (c) An order permitting a party to proceed without payment of costs may provide:
 - That the Prothonotary shall accept, file, docket and process all pleadings, orders and decrees without prepayment of costs;
 - That the Sheriff shall make service and return of service without prepayment of costs;
 - That the master shall hear the testimony and make and file a report without prepayment of costs.
- (d) In the event it is determined that the applicant or any other person who is legally responsible to the applicants is or has become financially able to pay the costs, an order may be entered against that person for the payment of all or any part of costs including reasonable counsel fees.

Local Rule 1930. Domestic Relations Matters Generally.

(a) Family Division Matters

- (1) Family Division motions may be presented to the motions judge at 1:30 p.m. on each court day, unless notice that motions will not be heard, or that motions will be heard at a different time, is published in the *Pittsburgh Legal Journal*.
- (2) The party who presents a motion shall include a notice of presentation and certificate of service in the absence of written consent thereto. The notice of presentation and certificate of service shall be contained on a separate page of the motion or petition following the identification sheet. This notice is required even if the opposing party is not represented by counsel. Seven days' notice of presentation of any motion is required absent an emergency or consent by the opposing party to a shorter notice of presentation.
- (3) On the same date that the motion is presented, the party who presents a motion to the motions judge shall obtain any required hearing or conciliation date from the Family Division docket clerk and file with the Prothonotary the motion and the court order entered by the court. If a party fails to present the motion to the docket clerk as required by this rule the docket clerk shall refuse to give a hearing or conciliation date. If the signed order schedules a conference or hearing before a domestic relations officer, a copy of the pleading and order must be left with the docket clerk.
- (4) The Pittsburgh Legal Journal publishes a monthly list setting forth the dates that a judge assigned to the Adult Section of the Family Division will hear motions. Unless there are unusual circumstances, where a judge has been actively involved in the matter that is the subject of the motion, counsel should present the motion to the assigned judge.
- (5) Any motion which involves support payments that are assigned to the Pennsylvania Department of Public Welfare or in which the plaintiff is not represented by private counsel shall be served on the IV-D Attorney, Fort Pitt Commons Building, Third Floor, 445 Fort Pitt Boulevard, Pittsburgh, PA 155216 as well as on the plaintiff.
- (6) Any motion which involves support payments or any other matter which is governed by the Uniform Interstate Family Support Act (UIFSA) or the Intrastate Family Support Act (IFSA) and in which the plaintiff is not represented by private counsel shall be served on the IV-D Attorney, Fort Pitt Commons Building, Third Floor, 445 Fort Pitt Boulevard, Pittsburgh, PA 155216 as well as on the plaintiff.

(b) Procedure for Preliminary Objections and Motions for Judgment on the Pleadings or Summary Judgment

- (1) Preliminary Objections shall be scheduled on the next available Friday Support Exception Argument List occurring more than 13 days after the Preliminary Objections are filed with the Prothonotary and the Exceptions Clerk. Objector shall

serve notice on all parties of the time and place of argument. No preliminary objections shall be accepted for filing by the Exceptions Clerk unless accompanied by a brief. Failure to file a brief with the Preliminary Objections shall be cause for dismissal of the Preliminary Objections. If Respondent files a brief it shall be filed with the Exceptions Clerk at least seven days prior to argument. Except as provided by Local Rule 1910.7, the scheduling of Preliminary Objections shall stay all proceedings.

Note: Local Rule 1910.7 relates to support proceedings. Divorce and custody proceedings are stayed upon scheduling of preliminary objections.

(2) Motions for Judgment on the Pleadings or Summary Judgment shall be scheduled on the next available Friday Support Exception Argument List occurring more than 41 days after the motion is filed. Movant shall serve notice on all parties of the time and place of argument. Respondent's Answer, if any, together with any opposing affidavits shall be filed at least 21 days prior to the argument date. Movant shall file a brief at least 14 days prior to argument. Respondent's brief, if any, shall be filed at least seven days prior to argument.

(c) **Scheduling Conciliations:** Matters that are tried by a judge will not be lists for trial until they have been conciliated by a judge.

The following matters may be scheduled for a conciliation by filing a praecipe with the Docket Clerk: conciliation on §3301(d) divorce claims; custody claims with order of court attached, see Pa.R.C.P. 1915(a) and (c); partition and equity claims and equitable distribution and alimony claims (provided that both parties have filed an inventory, appraisal, income and expense statement that either (a) the parties are divorced, (b) both parties have filed an affidavit under Section 3301(c) of the Divorce Code or (c) both parties agree that they have lived separate and apart for at least two years and that the marriage is irretrievably broken.

Note: A detailed description of the procedures, as well as the necessary forms, can be found in the Family Division Court Manual, see (g) of this Rule.

For other matters a party may present a petition to the motions judge which contains the factual background, the relief sought, and a request for conciliation.

(d) Continuances [Rescinded]

Note: Procedure of obtaining a continuance in Family Division is set forth in detail in the Family Division Court Manual.

(e) Enforcement of and Equitable Distribution Award

A party seeking to enforce an equitable distribution award shall present to the motions judge a petition for enforcement with a proposed order requesting the court to schedule a

conciliation or a contempt hearing before a hearing officer. No petition shall be presented unless notice of its presentation is given to the respondent. If the court enters an order permitting the petitioner to proceed, the petitioner shall obtain immediately from the Docket Clerk a date for the conciliation or contempt hearing, file the original copy of the petition with the Prothonotary, serve the respondent with the court order and file proof of service.

(f) Case Numbers. Suffixes.

- (1) All pleadings filed with the Adult Section of the Family Division shall be filed under the originally assigned case number for the involved family. After an original case number has been assigned to all pleadings, regardless of the caption or nature of the case, all pleadings shall be filed under the originally assigned number. The caption shall reflect the appropriate party initiating each original action as the plaintiff.
- (2) If counsel or a party believes that there may be a previously assigned case number, but the number is not known, the information may be obtained from the Prothonotary's Name Index located on the mezzanine level of the Prothonotary's Office.
- (3) In addition to the docket number assigned to all matters involving the family, the Prothonotary shall assign a three-digit suffix designating the judge to whom the case is assigned. All pleadings must include the suffix as well as the docket number.
- (4) All motions, exceptions, conciliations, hearings and other matters shall be listed only before the judge to whom the case is assigned, absent a compelling emergency or the long-term unavailability of the designated judge.
- (5) Cases in which the initial pleading was filed before May 1, 1998, may be amended to add the suffix of the judge most familiar with the case.
- (6) In the event that a defendant in a support matter has more than one case, the captions of all of the cases shall be amended to assign them to the judge assigned to the case filed first in time. If there is no judge assigned to the case filed first in time, the cases will be assigned to the next judge in the rotation for assigning suffixes.

(g) Family Division Court Manual

Except as otherwise provided by the Pennsylvania Rules of Civil Procedure (Pa.R.C.P.) or by local rule adopted by the Court of Common Pleas of Allegheny County (Local Rules), practice in the Adult Section of the Family Division shall be governed by the Court Manual for the Adult Section of Family Division of the Court of Common Pleas of Allegheny County. Current copies of the Court Manual shall be available at the office of the Administrator, Adult Section of Family Division.

Local Rule 1930.1. Electronic Filing in Family Division Matters. [Rescinded]

Note: See Local Rule 205.4 for information regarding e-filing of Family Division Matters.

Minors as Parties

Local Rule 2039. Compromise, Settlement, Discontinuance and Distribution.

(1) Contents of Petition.

A petition under Pa.R.C.P. 2039 shall be verified by the guardian of the minor and shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall be accompanied by the following exhibits:

- (a) A statement of counsel's professional opinion regarding the desirability of the settlement and reasons therefor, including a discussion with specific references to the factual circumstances as to both the liability and damages aspects of the case; a description of the services rendered; a description and the amount of reimbursable expenses requested; and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3% of the present value of a structured settlement or 33-1/3% of the gross recovery of any other settlement.

Note: If settlement proceeds are to be split between a minor and another party(ies) to the litigation, the injuries to this other party(ies) must also be described.

- (b) A statement by the attending physician as to the injuries sustained by the minor, treatment administered and the prognosis.
- (c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

(2) Deposit of Funds by Order of Court.

- (a) All petitions under Pa.R.C.P. 2039, where the proceeds of settlement are to be deposited in a savings account or in a certificate of deposit, shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$_____ shall be deposited only in the name of

_____, a
minor, by attorney

_____,
counsel of record, in a savings account or
certificate of deposit in a federally insured
bank, savings and loan association or credit
union. The savings account or certificate of
deposit shall be marked "NOT TO BE
WITHDRAWN UNTIL THE MINOR
REACHES THE AGE OF MAJORITY OR
BY FURTHER ORDER OF COURT."

- (b) Proof of deposit is to be filed with the Clerk of the Orphans' Court within thirty (30) days by attorney _____, counsel of record.

(3) **Presentation of Petition.**

All petitions under Pa.R.C.P. 2039 shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division who will then deliver the petition to the Calendar Control Judge for signature.

(4) **Annuity Contracts.**

- (a) Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this Court.
- (b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Clerk of the Orphans' Court Division of this Court.
- (c) Proof of purchase of any annuity contract is to be filed with the Clerk of the Orphans' Court within thirty (30) days by attorney _____, counsel of record.

Note: For approval of a settlement of a minor's claim where no action has been instituted, see Orphans' Court Local Rule 12.16G.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Incapacitated Persons as Parties

Local Rule 2064. Compromise, Settlement, Discontinuance and Distribution.

(1) **Contents of Petition.**

A petition under Pa.R.C.P. 2064 shall be verified by the guardian or guardian ad litem of the incapacitated person, and shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall be accompanied by the following exhibits:

- (a) A statement of counsel's professional opinion regarding the desirability of the settlement and reasons therefor, including a discussion with specific references to the factual circumstances as to both the liability and damages aspects of the case; a description of the services rendered; a description and the amount of reimbursable expenses requested; and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3% of the present value of a structured settlement or 33-1/3% of the gross recovery of any other settlement.
- (b) A statement by the attending physician as to the injuries sustained by the incapacitated person, treatment administered and the prognosis.
- (c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

(2) **Deposit of Funds by Order of Court.**

- (a) All petitions under Pa.R.C.P. 2064 shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$_____ shall be paid to _____, the guardian of the estate. [If the guardian of the estate is an individual, include the following sentence.] A surety bond shall be posted in the same net amount as stated above.

- (b) Proof of surety bond is to be filed with the Clerk of the Orphans' Court within thirty (30) days by _____, guardian of the estate.

Note: If no guardian has been appointed, see Pa.R.C.P. 2064.

(3) **Presentation of Petition.**

All petitions under Pa.R.C.P. 2064 shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division and thereafter presented to the Calendar Control Judge.

(4) **Annuity Contracts.**

- (a) Where the terms of settlement of an incapacitated person's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this Court.
- (b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Clerk of the Orphans' Court Division of this Court.

Note: For approval of a settlement of an incapacitated person's claim where no action has been instituted, see analogous procedures at Orphans' Court Local Rule 12.16G.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Actions for Wrongful Death

Local Rule 2205. Service of Notice to Persons Entitled to Damages.

Service under this rule shall be made by personal service by any competent adult as provided in Pa.R.C.P. 402 or by registered mail pursuant to Pa.R.C.P. 403.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

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

Petitions of any party in interest pursuant to Pa.R.C.P. 2206, where a civil action has been instituted and where no minor and no incapacitated person has an interest, shall be presented to the Calendar Control Judge. Where a minor or incapacitated person has an interest, petitions shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division and thereafter to the Calendar Control Judge for signature. See Local Rule 2039 where a minor has an interest and Local Rule 2064 where an incapacitated person has an interest.

Note: See 20 Pa.C.S. § 3323. The contents of a petition under this local rule are analogous to those required by Orphans' Court Local Rule 12.16F. As to settlement of survival actions where no action has been instituted, see Orphans' Court Local Rule 12.16F.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Joinder of Parties

Local Rule 2232. Service of Notice to Persons Required to Be Joined.

Service under this rule shall be made by personal service by any competent adult as provided in Pa.R.C.P. 402 or by registered mail pursuant to Pa.R.C.P. 403.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Enforcement of Judgments for the Payment of Money

Local Rule 3121 Stay of Execution. Setting Aside Execution.

- (1) **Notice.** Notice shall be given to the party executing the judgment when application will be made for a stay of execution.
- (2) **Delivery of Copy of Order Staying Execution to Sheriff.** Orders staying execution, certified to be true and correct by the Department of Court Records, an attorney or a party litigant, shall be provided to the Sheriff.

Note: Except with respect to mortgaged property where no commission is due unless the property is actually sold by the sheriff as provided in 68 Pa.C.S.A. §2310, when a writ of execution is stayed after the Sheriff has served or has attempted to serve the writ, the sheriff's commission referred to as poundage will be calculated based on the face amount of the writ unless the plaintiff files an affidavit within three business days the actual amount paid or to be paid to the plaintiff in cash or in kind as consideration for staying the writ or satisfying the judgment. If an affidavit is filed, the Sheriff's poundage will be calculated based on the consideration set forth in the affidavit.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended December 27, 2019, effective February 19, 2020.

Local Rule 3129.2 Notice of Sale. Real Property.

(1) **Conditions of Sale in Notice.**

The following procedures and conditions of sale shall govern every Sheriff's sale of real estate, and shall be set forth in any published notice:

- (a) If the successful bidder at the sale is the plaintiff in the writ of execution upon which the real estate is being sold, the successful bidder shall pay the full amount of the purchase money to the Sheriff on or before the first Monday of the following month, unless the time is extended by the Court. Upon the failure of the successful bidder to so pay the purchase money, the Sheriff shall return the writ "real estate unsold," stating in the return that the sale was held pursuant to the writ, that the plaintiff was the successful bidder at the sale, and that the plaintiff failed to pay the bid and complete the sale. The plaintiff shall thereupon forfeit all moneys advanced on the writ, which moneys shall be applied by the Sheriff first to costs on the writ and then to liens in order of their priority.

- (b) If the successful bidder at the sale is not the plaintiff in the writ of execution upon which the real estate is being sold, and:
 - (i) If the sale is held on the first Monday of the month, and an adjourned Sheriff's sale is held within six days thereafter, the successful bidder may pay either the full amount bid at the time of the sale or ten percent (10%) of the bid in cash (but not less than seventy-five dollars (\$75.00)), and thereafter pay the balance before the time of the adjourned sale. If the successful bidder fails to pay the balance before the time of the adjourned sale, the Sheriff shall resell the real estate at the adjourned sale, and the payment made at the original sale shall be applied by the Sheriff to any deficiency in the price at which the real estate is resold; or
 - (ii) If the sale is held on any day other than the first Monday of the month, the successful bidder shall pay the full amount bid at the time of sale, and upon failure of the successful bidder to do so, the Sheriff shall thereupon at that time resell the real estate.

(2) **Filings With the Sheriff Prior to Sale:**

All writs and copies of orders certified from the record by the Prothonotary directing judicial sales of real estate must be filed with the Sheriff in accordance with the policies of the Sheriff's office.

Note: As a matter of information, counsel should know that the Sheriff's office requires that the following be filed in the Sheriff's office prior to the sale:

- (a) The following must be filed with the Sheriff, along with the writs and copies of orders, not less than twenty-five days before the date of sale:
 - (1) Original writ of execution
 - (2) One copy of writ of execution for each defendant*
 - (3) A stamped envelope addressed to each defendant*
 - (4) One self-addressed stamped envelope
 - (5) Affidavit of Compliance with Act 91 of 1983 or Affidavit of Inapplicability of Act 91 of 1983, as appropriate
 - (6) Affidavit of last known mailing address of the Defendant
 - (7) Affidavit Pursuant to Pa.R.Civ.P. 3129.1 (list of interested persons and entities)
 - (8) Notice of Sheriff's Sale
 - (9) Long description of the property (deed description)
 - (10) Three copies of Sheriff Form 56 (short description of property for newspaper advertising)

- (11) One short description in all CAPITAL LETTERS (for preparation of handbill), which must contain the signature, address and telephone number of the person presenting the writ or order.
- (12) Sheriff's Form 14 (Directions to post property with handbill. Include property street address, borough, municipality and ward.)
- (13) If Defendant(s) are to be served - a Notice of Sheriff's Sale for each Defendant and "Instructions to Sheriff" form for each Defendant, noting Defendant's name and address.

* Not required for mortgage foreclosure or tax sale.

- (b) A copy of the return of service filed in accordance with Pa.R.Civ.P. 3129.2(c)(2) must be filed with the Sheriff not less than five days prior to the sale. The return of service must have the original returned mailing cards attached, if applicable.
- (c) A deposit of money for costs and expenses is required.

Note: Sheriff's Forms and sample notices can be obtained from the Sheriff's office, 436 Grant Street, First Floor, Pittsburgh, PA 15219.

(3) Dates of Sales of Real Property.

Judicial sales of real estate shall be held on the second Monday of September and the first Monday of all other months. When any of the above dates falls on a legal holiday, the Judicial sales of real estate shall be held on the Tuesday following.

(4) Notice to Internal Revenue Service.

In any case where notice is required to be given to the Internal Revenue Service, in accordance with the provisions of the Federal Tax Lien Act of 1966, 26 U. S. C. § 7425(b) and (c), a copy of such notice, certified by counsel to be a correct copy and indicating the date of service upon or delivery to the Internal Revenue Service, shall be filed with the Prothonotary' prior to the date fixed for the sale.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 3139 Notice of Sheriff's Return.

Postcard notice of the filing of the Sheriff's return shall be given by the Sheriff to the judgment debtor at the judgment debtor's last known address.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories.

- (1) The hearing to assess the amount of the judgment shall be scheduled before the General Motions Judge. Written notice to the garnishee in the form provided by Pa.R.C.P. 3146(a)(2) shall be served in accordance with Pa.R.C.P. 440 at least twenty days prior to the scheduled hearing. The Plaintiff shall serve the garnishee with a copy to the Defendant. Service shall be evidenced by a certificate of service.
- (2) The agency to be named in the notice provided by Pa.R.C.P. 3146 shall be:

Lawyer Referral Service
Allegheny County Bar Association
4th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

**Actions Upon Mechanics Liens, Municipal
and Tax Claims and Charges on Land**

Local Rule 3190 Judgment. Execution.

(1) **Tax Sales.**

Before objection to the adequacy of the price offered for real estate pursuant to Section 14 of Act of July 5, 1947, P.L. 1258, 53 P.S. § 26114, is filed, the objector shall deposit a certified or cashier's check with the solicitor for petitioner for ten (10) percent of the original offer, or a minimum of one hundred dollars (\$100.00), subject to forfeiture to all interested taxing authorities in the event the original offer is not raised in said amount in open Court.

The objection filed in the office of the Prothonotary shall have endorsed thereon acceptance of service and receipt for deposit by counsel for petitioner. After bidding in open Court and acceptance of successful bid by the Court, deposits shall be returned to unsuccessful bidders, provided the accepted bid exceeds by ten percent, or a minimum of one hundred dollars (\$100.00), the price offered.

(2) **Delinquent Tax Liens.**

- (a) All orders to strike off and amend delinquent tax liens shall set forth:
 - (i) original description and change of description;
 - (ii) original ownership and change of ownership;
 - (iii) location by political subdivision and lot and block number, if any;
 - (iv) amount of taxes to be stricken in dollars and cents; and
 - (v) disposition of costs of the proceedings.

- (b) Counsel shall serve certified copies of all such orders of Court on the Controller's Office and the County Law Department.
- (c) Counsel shall also serve certified copies of orders of Court changing ownership or description of property on the Register of Deeds Office.

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 3206 and 3207 Statement of Objection (“Goods Claim”).

(See Magisterial District Justice Local Rule 420.)

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 3252 Writ of Execution. Money Judgments.

The agency to be named in the notice on writs of executions issued pursuant to Pa.R.C.P. 3252(a) shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006.

Discovery — Expert Reports

Local Rule 4002.1 Filing Discovery Material. Requests for Expert Reports in Professional Negligence and Product Liability Actions.

All requests for production of expert reports made in professional negligence and product liability actions in accordance with Local Rule 4003.5 shall be filed with the Prothonotary. Expert reports furnished pursuant to Local Rule 4003.5 are discovery material that shall not be filed, except as provided by Pa.R.C.P. 4002.1.

Note: See also Local Rule 4003.5, relating to expert reports in professional negligence and product liability actions.

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 4003.5 Requests For Expert Reports in Professional Liability and Product Liability Actions.

(1) **Scope of the Rule.**

- (a) This local rule applies to any professional negligence case or any product liability case which has been placed at issue.

- (b) A professional negligence case includes any case with Code 006 (Trespass-Assault and Battery) in which it is claimed that the defendant provided medical treatment without obtaining an informed consent; any case with Code 007 (Trespass-Medical/Hospital Negligence); and any case with Code 009 (Trespass-Other) in which the defendant is an accountant, architect, attorney, engineer, hospital, physician or other professional person in which the gist of the case is that professional services failed to meet the accepted standards of the profession.
- (c) A product liability case is any action, whether based on tort or contract theories, claiming damages caused by a defective product, including any case with Code 004 (Trespass-Products Liability).

Note: This local rule creates additional requirements for the pre-trial production of expert reports for cases within the scope of this rule. The parties must also meet the requirements of the Pennsylvania Rules of Civil Procedure governing discovery and the Allegheny County Local Rules for the pre-trial production of expert reports.

(2) Production of Plaintiff's Expert Reports.

- (a) In any professional negligence or product liability case which has been placed at issue, any defendant against whom a claim of professional negligence or product liability has been made may serve on any plaintiff making that claim a Defendant's Request to Plaintiff for Production of Expert Reports (FORM 4003.5A) (see subsection (10)(a) below). The request shall specify the plaintiff to whom it is directed and the party making the request. The request may not be made earlier than one hundred eighty (180) days after the defendant filed its original answer to the plaintiff's complaint.

Note: An additional defendant may serve a Defendant's Request to Plaintiff for Production of Expert Reports on a plaintiff pursuant to section (2)(a) of this rule if the plaintiff is actively pursuing a claim against the additional defendant.

- (b) Any plaintiff to whom a request for production of expert reports has been directed pursuant to subsection (2)(a) of this rule shall within one hundred eighty (180) days after service of the request furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that plaintiff to support the claims of professional negligence or product liability made by that plaintiff against the requesting party.

(3) Production of Defendant's and Additional Defendant's Expert Reports.

- (a) Any plaintiff who has furnished any defendant or additional defendant expert reports summarizing the expert testimony that will be offered by that plaintiff to support that plaintiff's claims of professional negligence or product liability made against that defendant or additional defendant may serve on that defendant or addition defendant a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports (FORM 4003.5B) (see subsection (10)(b) below). The request shall specify the party to whom it is directed and the party shall specify the party to whom it is directed and the party making the request. The

request may not be made earlier than one hundred eighty (180) days after the complaint was served on the party to whom the request is directed.

Note: Subsection (3)(a) of this rule applies to a plaintiff who has furnished expert reports to a defendant or additional defendant with or without a request for production of expert reports. Under subsection (3)(a) of this rule, the plaintiff must file a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports in order to compel a defendant to submit expert reports.

- (b) Any party to whom a request for production of expert reports has been directed pursuant to subsection (3)(a) of this local rule shall within sixty (60) days after service of the request furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party to support the defenses to the requesting party's claims.
- (c) If the defendant or additional defendant to whom a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports has been directed has raised claims against other parties pursuant to Pa.R.C.P. 2251 *et seq.* (Joinder of Additional Defendants), the expert reports shall also summarize the expert testimony that will be offered by that party in support of these claims against other parties.
- (d) The defendant or additional defendant who has furnished expert reports summarizing the expert testimony offered by that party in support of claims against other parties pursuant to subsection (3)(c) of this local rule may serve a Defendant's or Additional Defendant's Request to Other Defendant or Additional Defendant for Production of Expert Reports (FORM 4003.5C) (see subsection ((10)(c) below). The request shall specify the party to whom it is directed and the party making the request. The request may not be made earlier than one hundred eighty (180) days after the complaint was served on the party to whom the request is directed.
- (e)
 - (i) Any party to whom a request for production of expert reports has been directed pursuant to subsection (e)(d) of this local rule shall within sixty (60) days after service of the request furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party supporting the defenses to the claims and any claims raised against the requesting party and any other parties joined pursuant to Pa.R.C.P. 2251 *et seq.*
 - (ii) If any defendant or additional defendant or any employee or other agent of any defendant or additional defendant is a professional person, this person shall furnish an expert report summarizing his or her testimony only if he or she intends to offer any expert testimony that is inconsistent with or beyond the fair scope of any testimony given in any deposition of this defendant. If this person was not deposed, this person must file an expert report if he or she intends to offer any expert testimony.

(4) **Contents of the Expert Reports. Responses to Requests for Production.**

An expert report required by this rule shall encompass all issues in the liability phase of the case for which expert testimony will be offered at trial, including issues of professional negligence, product defect, and causation of harm. The report shall be signed by the expert and shall fully comply with the requirements of Pa.R.C.P. 4003.5 (Discovery of Expert Testimony. Trial Preparation Material).

(5) **Compelling Production of Report.**

A party who has not received expert reports required to be produced under this local rule may file a motion to compel the production of a report and for sanctions pursuant to Pa.R.C.P. 4019. In ruling on a motion to compel, the Court shall give consideration to the complexity of the case, the diligence of the parties in making and responding to discovery requests, and other relevant factors. A party who has proceeded with reasonable diligence shall be given a reasonable time in which to complete necessary discovery and to file an expert report.

Note: A party cannot justify the non-production of an expert report required by this local rule simply by stating that discovery has not been completed or that the party failing to provide the report has not yet identified the experts whom he or she intends to call at trial. However, a party who has acted diligently should not be required to file expert reports if discovery of significant information has not been completed because of difficulties obtaining discovery from other parties or third persons or because of the complexity of the case.

(6) **Substitute/Additional/Supplemental Reports.**

Any expert report required by this local rule shall reflect the best information available to the party furnishing the report at the time it is furnished. Except as provided in subsection (7) of this local rule, a party may file substitute, additional and supplemental expert reports without leave of Court. These substitute, additional and supplemental reports may introduce new theories of liability or causation or new defenses. They may be prepared by other experts.

(7) **Listing Case for Trial.**

(a) A plaintiff who has furnished expert reports summarizing all expert testimony that will be offered by that plaintiff to support his or her claims of professional negligence or product liability may file a praecipe requesting that the case be placed on the next available trial list (FORM 4003.5D) (see subsection (10)(d) below). The plaintiff shall serve a notice of the filing of the praecipe on all other parties (FORM 4003.5E) (see subsection (10)(e) below). This praecipe may not be filed earlier than one hundred eighty (180) days after the plaintiff served a copy of the original complaint on each defendant who continues to be a party in the case.

Note: Subsection (7)(a) is intended to give priority to those professional negligence and product liability cases that the plaintiff is ready to try. The product liability and professional negligence cases for which the plaintiff has not filed a praecipe pursuant to subsection (7)(a) of this local rule

shall be listed for trial by the Court after the cases listed pursuant to this subsection have received priority.

- (b) After a plaintiff has filed a praecipe requesting that the case be placed on the next available trial list, the plaintiff's right to file additional/supplemental reports is subject to the provisions of subsection (7)(d) of this local rule.
- (c) After a plaintiff has filed a praecipe requesting that the case be placed on the next available trial list, each other party in the case shall file within sixty (60) days expert reports summarizing all expert testimony that will be offered by that party to support the defenses to the plaintiff's claims and to support any claims and defenses involving other parties. After sixty (60) days, each other party's right to file additional/supplemental reports is subject to the provisions of subsection (7)(d) of this local rule.
- (d)
 - (i) A party may file a supplemental expert report which responds to an opposing expert report within sixty (60) days after the opposing expert report was filed.
 - (ii) Except as provided in subsection (7)(d)(i), a party may not file a supplemental expert report which introduces a new theory of liability of causation or a new defense without leave of Court for good cause shown.
 - (iii) Except as provided in subsection (7)(d)(i), a party may not subsequently file an expert report prepared by a new expert without leave of Court for good cause shown.
 - (iv) Except as provided for in subsection (7)(d)(v), any party may, without leave of Court, substitute another expert for the expert identified in expert reports produced under this local rule. Reasonable notice of the substitution shall be given to all other parties. The testimony of any substituted expert may not be inconsistent with or go beyond the fair scope of the testimony in the expert reports produced under this local rule.
 - (v) A party may not substitute another expert for a party, employee or agent of a party who has been identified as an expert witness.
 - (vi) The provisions of subsections (7)(d)(ii), (iii) and (v) of this local rule apply only after a plaintiff has filed a praecipe requesting that the case be placed on the next available trial list pursuant to subsection (7)(a) of this local rule.

Note: Subsection (7)(d) applies only to additional or supplemental expert reports covering issues in the liability phase of the case for which expert testimony will be offered at trial. Subsection (7)(d) applies to additional or supplemental expert reports that are included as part of a pre-trial statement filed pursuant to Local Rule 212.2.

(8) Use of Reports/Summary Judgment.

- (a) Reports provided pursuant to this local rule, responses to requests for production of expert reports, and the failure to provide expert reports when required by Court

order entered pursuant to section (5) of this local rule may be used in supporting or opposing motions for summary judgment.

- (b) In the absence of a Court order issued prior to the date of the argument on a motion for summary judgment, it shall not be necessary to file affidavits executed by the reporting expert in connection with summary judgment motions.

(9) **Service and Filing Requirements.**

All requests for the production of expert reports shall be served by the requesting party on all other parties and copies of all expert reports furnished pursuant to this local rule shall be served by the responding party on all other parties. All requests for the production of expert reports shall be filed with the Court. Expert reports furnished pursuant to this local rule are discovery material that shall not be filed except as provided by Pa.R.C.P. 4002.1

(10) **Forms:**

- (a)

FORM 4003.5A Defendant's Request to Plaintiff for Production of Expert Reports

[CAPTION]

DEFENDANT'S REQUEST TO PLAINTIFF FOR PRODUCTION OF EXPERT REPORTS

TO: _____

FROM: _____

Pursuant to Local Rule 4003.5 you are requested within one hundred and eighty (180) days of service of this request to furnish me expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence or product liability that you have made against me. You shall serve copies of all expert reports on all other parties.

DATED: _____

ATTORNEY FOR DEFENDANT

- (b)

FORM 4003.5B Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports

[CAPTION]

PLAINTIFF'S REQUEST TO DEFENDANT OR ADDITIONAL DEFENDANT FOR PRODUCTION OF EXPERT REPORTS

TO: _____

FROM: _____

I have furnished you expert reports summarizing the expert testimony that I will offer to support the claims of professional negligence or product liability that I have made against you.

Pursuant to Local Rule 4003.5, you are requested within sixty (60) days of service of this request to furnish me expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence or product liability that I have raised against you.

If you have raised claims against other parties pursuant to Pa.R.C.P. 2251 et seq. (Joinder of Additional Defendants), your expert reports shall also summarize the expert testimony that you will offer in support of these claims against those other parties.

You shall serve copies of all expert reports on all other parties.

DATED: _____

ATTORNEY

FOR PLAINTIFF

(c)

FORM 4003.5C Defendant's or Additional Defendant's Request to Other Defendant or Additional Defendant for Production of Expert Reports

DEFENDANT'S OR ADDITIONAL DEFENDANT'S REQUEST TO OTHER DEFENDANT OR ADDITIONAL DEFENDANT FOR PRODUCTION OF EXPERT REPORTS

TO: _____

FROM: _____

I have furnished you expert reports summarizing the expert testimony that I will offer to support the claims that I have raised against you pursuant to Pa.R.C.P. 2251 et seq. (Joinder of Additional Parties).

Pursuant to Local Rule 4003.5, you are requested with sixty (60) days to furnish me expert reports summarizing the expert testimony that you will offer to support your defenses to my claims against you and to support any claims you have raised against me pursuant to Pa.R.C.P. 2251 et seq.

If you have raised claims against other parties pursuant to Pa.R.C.P. 2251 et seq., your expert reports will also summarize the expert testimony that you will offer in support of your claims against these other parties.

You shall serve copies of all expert reports on all other parties.

DATED: _____
ATTORNEY

FOR DEFENDANT

(d)

FORM 4003.5D Plaintiff's Praecipe Requesting that the Case be Placed on the Next Available Trial List

[CAPTION]

PLAINTIFF'S PRAECIPE REQUESTING THAT THE CASE BE PLACED ON THE NEXT AVAILABLE TRIAL LIST

This is a professional negligence or product liability case. I have furnished to the other parties' expert reports summarizing all expert testimony that plaintiff will offer to support his or her claims of professional negligence or product liability. Pursuant to Local Rule 4003.5(7)(a), I request that the court list this case for trial on the next available trial list.

If it is anticipated that this case will take more than ten days to try, I have sent a letter to the Complex Case Judge (with copies to all other counsel) stating that I have requested that this case be listed for trial on the next trial list pursuant to Local Rule 4003.5(7)(a), that this case cannot be tried within ten (10) days, and that a pretrial conference should be scheduled.

DATED: _____
ATTORNEY FOR PLAINTIFF

TO BE FILED IN ROOM 734 OF THE CITY COUNTY BUILDING

(e)

FORM 4003.5E Plaintiff's Notice of Filing of Praecipe Requesting That the Case Be Placed on the Next Available Trial List

[CAPTION]

PLAINTIFF'S NOTICE OF FILING OF PRAECIPE REQUESTING THAT THE CASE BE PLACED ON THE NEXT AVAILABLE TRIAL LIST

I have filed a praecipe pursuant to Local Rule 4003.5(7)(a) requesting that this product liability or professional negligence case be listed on the next available trial list.

Pursuant to Local Rule 4003.5(7)(a), each other party in the case is hereby given notice that they must within sixty (60) days furnish expert reports summarizing all expert testimony that will be offered by that party to support the defenses to the plaintiff's claims and to support any

claims or defenses involving other parties. After sixty (60) days, the right to file additional/supplemental reports is subject to the provisions of Local Rule 4003.5(7)(d).

DATED: _____
ATTORNEY FOR PLAINTIFF

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Rule 4009.12 Authorizations.

Upon a request for production of documents, plaintiff may either produce the requested records or, if the records are of a type created and maintained by a healthcare provider, furnish written authorization to copy the records of any healthcare provider by whom plaintiff was treated for injuries or disabilities complained of, or prior injuries or disabilities, where the same may be relevant. If a plaintiff provides the records themselves, they shall be produced along with a certification as to completeness or, if not complete, an explanation of what has been deleted or removed.

Note: This procedure is affected by the following opinions: Greynolds v. McAllister, 130 P.L.J. 414 (1982) (Wettick, J.); Talarico v. Montefiore Hospital, 138 P.L.J. 210 (1990) (Wettick, J.); Bowser v. Ryder Truck Rental, Inc., 141 P.L.J. 316 (1993) (Wettick, J.).

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

LOCAL RULES OF CONDUCT, OFFICE STANDARDS AND CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES

Local Magisterial District Judge Rule 409 Writ of Execution. Money Judgment Entered by District Justice.

The agency to be named in the Notice Accompanying Order of Execution of judgments for the payment of money rendered by a Magisterial District Judge pursuant to Pa.R.C.P.M.D.J. 409(6) shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Editor's Note: Adopted October 4, 2006, effective December 4, 2006

Local Magisterial District Judge Rule 420 Statement of Objection (“Goods Claim”).

- (1) At the same time a Statement of Objection is filed which will be heard by a Board of Arbitrators, and using envelopes provided by the Prothonotary with the Prothonotary’s return address, every claimant filing a Statement of Objection shall address an envelope to every party at his or her address as listed on the complaint form filed in the office of the Magisterial District Judge or as otherwise appears in the records of that office, or the attorney of record, if any; or an address as listed in the Prothonotary’s records.
- (2) The Prothonotary shall select an arbitration hearing date within three to four weeks and inform the claimant of that date by stamping it on a copy of the Statement of Objection.
- (3) Using the envelopes addressed by the claimant filing the Statement of Objection under subsection (1) of this local rule, the Prothonotary shall mail by first-class mail to every party a copy of the Statement of Objection which has been stamped with the date, time and place of the arbitration hearings.
- (4) Such first-class mailings under subsection (3) of this local rule, when indicated on the record by the Prothonotary, shall operate as service and proof of service. Any returned mail shall be noted on the Court’s docket.

Editor’s Note: Adopted October 4, 2006, effective December 4, 2006.

Local Magisterial District Judge Rule 1005 Service of Notice of Appeal and Other Papers.

- (1) At the same time an appeal is filed and using envelopes provided by the Prothonotary with the Prothonotary's return address, every appellant from a judgment entered by a Magisterial District Judge:
 - (a) shall address an envelope to every other party at that party's address as listed on the complaint form filed in the office of the Magisterial District Judge or as otherwise appears in the records of that office, or the attorney of record, if any;
 - (b) shall address an envelope to the Magisterial District Judge in whose office the judgment was rendered; and
 - (c) shall, if the appellant was a defendant in the action before the Magisterial District Judge, (i) self-address an envelope, to the address used by the appellant for the appeal, and (ii) in addition to the envelopes required by subsection (1)(a) of this local rule, address another envelope to every other defendant, if any, at that defendant's address as it appears in the records of the Magisterial District Judge, or that defendant's attorney of record, if any.
- (2) Using the envelopes addressed by the appellant under subsection (1)(a) of this local rule, the Prothonotary shall mail by first-class mail:
 - (a) to every party other than appellant, (i) a copy of the notice of appeal, and (ii) if any other party was a plaintiff in the action before the Magisterial District Judge, a copy of the rule pursuant to Pa.R.C.P.M.D.J. 1004B, or, if any other party was a defendant in the action before the Magisterial District Judge, a copy of the complaint, with such service and any return being noted on the Court's docket;
 - (b) to the Magisterial District Judge, a copy of the notice of appeal, with such service

- (c) and any return being noted on the Court's docket; and
 - (d) if appellant was a defendant in the action before the Magisterial District Judge, to appellant and any other defendant, a copy of any complaint filed pursuant to a rule to file a complaint, with such service and any return being noted on the Court's docket.
- (3) Pursuant to Pa.R.C.P.M.D.J. 1005C, such first-class mailings by the Prothonotary pursuant to this Local Magisterial District Judge Rule shall operate as service and proof of service as required by Pa.R.C.P.M.D.J. 1005A and 1005B.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Magisterial District Judge Rule 1008 Appeal as Supersedeas.

In the event the Prothonotary terminates the supersedeas by virtue of the failure of the appellant to make the payments into Court when and as required, the Prothonotary, upon praecipe of the party on whose behalf the Magisterial District Judge entered the judgment for possession, shall issue a Certificate of Termination of the Supersedeas which will evidence the termination of the supersedeas when received by the Magisterial District Judge.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

Local Magisterial District Judge Rule 1011 Writ of Certiorari.

- (1) At the same time a praecipe for a writ of certiorari is filed and suing envelopes provided by the Prothonotary with the Prothonotary's return address, every party filing a praecipe:
- (a) shall address an envelope to every other party at his or her address as listed on the complaint form filed in the office of the Magisterial District Judge or as otherwise appears in the records of that office, or the attorney of record, if any;
 - (b) shall address an envelope to the Magisterial District Judge in whose office the judgment was rendered; and
 - (c) shall self-address an envelope.
- (2) Using the envelopes addressed by the party filing the praecipe under subsection (1) of this local rule, the Prothonotary shall mail by first class mail:
- (a) to every party other than the party filing the praecipe, a copy of the writ of certiorari, and
 - (b) to the Magisterial District Judge to whom it is directed, a copy of the writ of certiorari.
- (3) Such first-class mailings under subsection (2) of this local rule, when indicated on the record by the Prothonotary, shall operate as service and proof of service as required by Pa.R.C.P.M.D.J. 1011B and 1011C. Any returned mail shall be noted on the Court's docket.
- (4) Upon receipt of the record, the Prothonotary shall notify the filing party, using the self-addressed envelope, to file its specification of errors.

- (5) The party filing the praecipe is responsible for scheduling an argument date with the Arbitration Office, 536 Courthouse, 436 Grant Street, and notifying the other parties of the argument date before the Special Motion's Judge.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.