

## **L-200 ATTORNEYS**

Subject to the Pennsylvania Bar Admission Rules, membership in the Bar of this County shall be by formal admission in open Court. Only attorneys who are admitted to the Bar of this County may be appointed as an arbitrator, counsel for indigent defendants, or master.

### **L-200.2 ASSIGNMENT OF CIVIL CASES**

- a. When filing a civil complaint, except those within the arbitration limits, mortgage foreclosure, ejectment, replevin, and quiet title actions, the plaintiff shall provide the Prothonotary with a copy of the complaint for delivery by the Prothonotary to the Court Administrator.
- b. Upon receipt of the copy of the complaint, the Court Administrator shall assign the case to a Judge according to the following procedure:
  1. Assignments shall be made at random to one of the Judges assigned to decide civil cases.
  2. Assignments shall be made at random to any one of the five Judges for divorce, equity, zoning, and other actions.
  3. When the case had been assigned, the Court Administrator shall notify the Judge of the assignment.
  4. The Court Administrator shall note the assignment on the docket and mail notice of the assignment to the attorney for the plaintiff or to the plaintiff if no attorney has entered an appearance on behalf of the plaintiff.
- c. It shall be the duty of the plaintiff or his attorney to give written notice of the assignment to all other parties.
- d. The assignment process is to facilitate administrative control and flow of cases only. All Judges may hear any matter that properly comes before the Court.

### **L-200.3 APPEAL FROM ARBITRATION**

Appellant shall furnish the Prothonotary with a copy of the appeal from the arbitrator's award for the Court Administrator, who will assign the cases in accordance with the procedure outlined in L-200.2(b) above.

**L-200.4 APPEAL FROM A DECISION OF A BOARD OF VIEWERS**

Appellant shall furnish the Prothonotary with a copy of the appeal from the decision of the Board of Viewers for the Court Administrator, who will assign the case in accordance with the procedure outlined in L-200.2(b) above. Once the assignment has been made, the Court Administrator will place the case on the trial list of the Judge to whom the case has been assigned.

*Explanatory Comment to L-200.2, L-200.3, L-200.4*

*The Court Administrator's copy of the complaint or appeal is used to assign the case to a Judge.*

*Failure to provide the Prothonotary with this copy may delay the assignment process.*

*Motions relating to cases that have not been assigned in accordance with this rule will not be heard until of the parties initiates the assignment process by contacting the Court Administrator and requesting that the case be assigned.*

**L-200.5 DAILY MOTIONS COURT**

- a. A daily Civil Motions Judge is assigned by the President Judge on a rotating basis. Assignments are indicated on the Court calendar.
- b. The Motions Judge shall assume the bench at 9:15 a.m. on each day that the Court is open for business.
- c. The Motions Judge shall afford all parties an opportunity to present any civil matter that requires immediate consideration in open Court. As used herein, the term "motion" shall include every type of motion, petition, or request for action by the Court.
- d. The Motions Judge will act on all civil motions and petitions that are not related to cases assigned to a trial Judge. Motions relating to assigned cases are governed by L-200.6.
- e. Before an uncontested motion is presented, the moving party shall furnish a copy of the motion and any proposed order to every other party or counsel of record.

In all contested matters, the moving party shall serve upon the opposing party or opposing counsel a copy of the proposed motion prior to presentation to the Motions Judge and shall inform his opponent of the date and time at which the proposed motion is to be presented, at least three days prior to the date for presentations.

*Explanatory Comment to L-200.5*

*The underlying purpose of these notice provisions is to give general guidance of the Court's standard of reasonable notice; depending on the type of case or the intervention being requested, the standard may vary. The Court will determine the actual adequacy of the notice that was given on a case by case basis, if the opposing party or counsel moves to vacate that order because of inadequate notice.*

**Cross Reference:** *Motions in assigned cases – See L-200.6*

- f. The motion shall name each Judge who has ruled upon any other issue in the same or related case and shall specify the issue. The motion shall be accompanied by a certificate of the filing attorney, stating the time and manner of service on any party or counsel.
- g. At each session of Motions Court, uncontested matters shall be heard before contested matters.

**L-200.6 PRESENTATION OF MOTIONS IN ASSIGNED CASES**

- a. The trial Judge assigned to a specific case will hear all motions relating to that case including but not limited to, the following:

- Preliminary Objections
- Continuances
- Motions to Join Additional Defendants
- Motions for Judgment on the Pleadings
- Discovery Motions
- Motions for Summary Judgment

- b. All pre-trial motions shall be heard by the trial Judge, unless the Judge orders the matter transferred to the Argument Court, in which case the trial Judge shall be a member of the Court *en banc*. The trial Judge's order, which disposes of the motion is not subject to exceptions before a Court *en banc*.
- c. The trial Judge will be available to hear these motions twice weekly at times to be noted on his individual calendar.
- d. Before an uncontested motion is presented, the moving party shall furnish a copy of the motions, together with any proposed order to every other party or counsel of record.

In contested matters, the moving party shall so furnish a copy of the motion and any order to all other parties or counsel at least three days in advance of the presentation together with notice of when the presentation is to occur.

- e. The motion shall be accompanied by a certificate of the filing attorney, stating the time and manner of service on any party or counsel.

***Explanatory Comment to L-200.6 (d)***

*The underlying purpose of these notice provisions is to give general guidance of the Courts' standard of reasonable notice. Depending on the type of case or the intervention being requested, the standard may vary. The Court will determine the actual adequacy of the notice that was given on a case by case basis, if the opposing party or counsel moves to vacate an order because of inadequate notice.*

***Explanatory Comment – Civil Pre-Trial Motions Practice***

*The following chart summarizes the Local Rules on case assignment and civil pre-trial motions practice.*

**MOTIONS CHART**

**CIVIL MOTIONS**

**UNASSIGNED CASES**

*The following cases are not assigned and all motions relating to these cases will be heard by the Judge of the Term in General Motions Court at 9:15 a.m. daily:*

1. Protection From Abuse
2. Arbitration
3. Mortgage Foreclosure
4. Ejectment
5. Replevin
6. Quiet Title
7. Landlord/Tenant
8. Name Changes
9. Motion to Open/Strike Judgment (only if previously unassigned)
10. Worker's Compensation
11. LCB Appeals from Suspension
12. Motions on Civil Appeals from District Justice decisions
13. Appeals from Sheriff's Determinations
14. Petition to Settle Minor's Claim
15. Complaint in Partition
16. Tax Assessment Appeal
17. Mechanics Lien

**ASSIGNED CASES**

*The following civil cases must be brought to the Court Administrator's Office for assignment and motions related to these cases will be heard by the assigned Judge.*

1. Equity
2. Zoning
3. Arbitration Appeals
4. Appeals from Decision of Board of Viewers
5. Mandamus

6. Injunction
7. Declaratory Judgment
8. Condemnation
9. Trespass & Assumpsit
10. Eminent Domain

#### **FAMILY COURT CASES**

*The following cases are to be heard before the judge designated in the current Administrative Regulations on file in the Prothonotary's Office.*

1. Custody
2. Divorce
3. Domestic Relations

#### **SCHOOL DISTRICT CASES**

*See current Administrative Regulations on file in the Prothonotary's Office.*

#### **MISCELLANEOUS CASES**

1. Violation of Protection from Abuse  
(These cases are heard by the Judge who signed the original Protection from Abuse Order)
2. Driver's License Suspension  
(See current Administrative Regulations on file in Prothonotary's Office)
3. Forfeitures  
(These cases are heard by the Judge assigned to the underlying criminal case. If there is no Judge assigned to the underlying criminal case, the motion should be brought to the Court Administrator's Office for assignment)
4. Rule to Show Cause for Contempt  
(These cases are heard by the Judge who signed the order allegedly resulting in the contempt)

#### **CRIMINAL MOTIONS**

*Criminal Motions must be brought to the Court Administrator's Office for assignment except for the following which are heard by the Criminal Motions Judge:*

1. Extradition proceedings

2. Assignment of defense counsel for cases no listed on the criminal trial list

**THE MOTIONS CHART IS SUBJECT TO ANNUAL REVISION**

***Explanatory Comment – Filing of Motions***

*Washington County Court of Common Pleas operates on an individual calendar system. This means that each Judge maintains his own calendar and schedules his own cases.*

*Filing a motion or petition with the Prothonotary does not trigger scheduling. In order to have an issue decided, the issue must be presented to the appropriate Judge.*

**L-200.7 POST-TRIAL MOTIONS – CIVIL**

- a. As used herein, the term “post-trial motion” shall include motions for a new trial, motion for judgment n.o.v., motions to take off compulsory non-suit, exceptions to any order of Court, and any other request for relief following trial.
- b. A copy of all post-trial motions in civil cases shall be served on the trial Judge after the original has been filed with the Prothonotary. All post-trial motions in civil cases shall be heard by the trial Judge unless he orders the matter transferred to the Argument Court, in which case the trial Judge shall be a member of the Court *en banc*.
- c. Briefs shall be filed with the trial Judge if the post-trial motions are to be heard by that Judge along.

**L- 206.4(C) - PROCEDURES FOR THE DISPOSITION OF PETITIONS**

The procedure specified in Pa.R.C.P. 206.5 is hereby adopted to govern petition practice in the Court of Common Pleas of Washington County, and accordingly, the issuance of a Rule to Show Cause upon the filing and presentation of a Petition, shall be discretionary with the Court. However, in the event that a Rule to Show Cause is issued, the procedure is then governed by Pa.R.C.P. 206.7.

The petitioning party shall give Notice to all other parties of the intention to request the Court to issue the Rule, pursuant to Local Rule 208.3(a). The Petition shall be filed in the Washington County Prothonotary’s Office and promptly served upon all other parties.

Upon execution of the Order issuing the Rule, the original Order shall be filed with the Prothonotary’s Office. Notice of Entry of the Order shall be provided to all parties and their counsel, if known, by the Petitioner.

A Request for Stay of Proceedings Pending Disposition of the Petition, shall be included in the text of the Petition, to be considered and processed in accordance with the

above procedures. If the need for emergency relief is necessary, the request shall be presented to the general civil motions judge, with Notice to opposing counsel, if known, and unrepresented parties of the date and time of presentation.

If Briefs are required, the Brief of the petitioning party shall be filed with the Prothonotary and served on all other parties at least ten (10) days prior to the Argument date. The Brief of the party opposing the Petition shall be filed at least five (5) days prior to the Argument and served on all other parties.

**L- 208.2 (c)**

All motions shall include a brief statement of the applicable authority, which shall be included on the Certification page. (With regard to the Certification page referenced in Local Rules 208.2(c), (d) and (e), the Statement of Authority, Status of Motion as contested or uncontested, and the reference to conferring with counsel in discovery matters should all be incorporated on one page, labeled Certification of Counsel, which should also incorporate certification of mailing.)

**L-208.2(d)**

All motions shall include a Certification, signed by counsel for the moving party, stating whether or not said motion is contested or uncontested. (With regard to the Certification page referenced in Local Rules 208.2(c), (d) and (e), the Statement of Authority, Status of Motion as contested or uncontested, and the reference to conferring with counsel in discovery matters should all be incorporated on one page, labeled Certification of Counsel, which should also incorporate certification of mailing.)

**L- 208.2(e)**

All motions relating to discovery shall include a Certification signed by counsel for the moving party, certifying that counsel has conferred or attempted to confer with all interested parties in order to resolve the discovery matter without court action. (With regard to the Certification page referenced in Local Rules 208.2(c), (d) and (e), the Statement of Authority, Status of Motion as contested or uncontested, and the reference to conferring with counsel in discovery matters should all be incorporated on one page, labeled Certification of Counsel, which should also incorporate certification of mailing.)

**L- 208.3(a) PROCEDURES FOR THE DISPOSITION OF MOTIONS**

1. Scope (i) 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.

(ii) 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 motions.

(iii) This Local Rule does not govern motions 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, and any other cases which, by Court Order, have been assigned to a judge where the Order provides for this judge to consider any motions that the parties file.

## 2. Presentation Of Motions In Assigned Cases

(i) The trial judge assigned to a specific case will hear all motions relating to that case. All Pre-trial Motions shall be heard by the trial judge, which judge shall be available to hear these motions at times to be noted on the judge's individual calendar.

(ii) Before an uncontested motion is presented, the moving party shall furnish a copy of the Motion, together with any proposed Order, to every other party or counsel of record.

(iii) In contested matters, the moving party shall so furnish a copy of the Motion and any proposed Order to all other parties or counsel at least three (3) calendar days in advance of the presentation, together with Notice of when the presentation is to occur. The Motion shall be accompanied by a Certificate of the filing attorney, stating the time and manner of service on any party or counsel.

## 3. Presentation of Motions in Unassigned Cases

(i) A daily Civil Motions Judge is assigned by the President Judge on a rotating basis. This General Civil Motions Judge is also known as Judge of the Term.

(ii) The General Civil Motions Judge shall assume the bench at 9:15 a.m. on each day that the Court is open for business.

(iii) The General Civil Motions Judge of the Term will act on all civil motions and petitions that are not related to cases assigned to a trial judge.

(iv) Before an uncontested motion is presented, the moving party shall furnish a copy of the Motion and any proposed Order to every other party or counsel of record.

(v) In all contested matters, the moving party shall serve upon the opposing party or opposing counsel a copy of the proposed Motion prior to presentation to the General Civil Motions Judge of the Term, and shall inform his opponent of the date and time at which the proposed Motion is to be presented, at least three (3) days prior to the date for presentation.

(vi) The Motion shall name each judge who has ruled upon any other issue in the same or related case and shall specify the issue. The Motion shall be accompanied by a Certificate of the filing attorney, stating the time and manner of service on any party or counsel.

(vii) At each daily session of Motions Court, presided over by the Judge of the Term, uncontested matters shall be heard by the Court before contested matters.

## 4. Emergency Motions

(i) In a situation where the emergency nature of the matter prevents three (3) days advance notice of a motion, a moving party shall provide the opposing party or counsel, if known, with as much notice as is reasonably possible under the circumstances.

5. Responses/Briefs

(i) There is no requirement for the filing of a response or the filing of Briefs prior to presentation of motions. However, the parties are encouraged to submit Briefs when it is anticipated that the Court will wish to consider Briefs before deciding an issue.

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The Brief of the moving party shall contain a statement of the history of the case, a statement of the issues involved, a statement of the argument, and a short conclusion stating the precise relief sought.

The Brief of the responding party need only contain the argument, but the responding party may add a counter-history of the case.

**L-212 PRE-TRIAL PROCEDURE**

- a. There shall be 240 days from the filing of the complaint in which the parties shall complete discovery. Discovery will not be permitted after the 240 day period except by order of Court upon good cause shown.
- b. In those cases where it is apparent that extensive discovery will be required, counsel may request a status conference with the trial Judge to whom the case has been assigned to establish an alternative discovery timetable. A copy of the revised timetable shall be served upon the Court Administrator by the moving party.
- c. After the time for discovery has expired, or if discovery is completed prior to the expiration of the 240 day period, any party may file a Certificate of Readiness in accordance with Local Rule 212.1. The Certificate shall be filed with the Prothonotary in duplicate. The Prothonotary shall forward one copy to the Court Administrator. At least 10 days' written notice to all parties shall be given prior to the filing of the Certificate.
- d. Place of depositions – Washington County cases. Unless otherwise agreed to by the parties, or ordered by the Court, all depositions in cases pending in Washington County shall be held in Washington County.

- e. If after the close of discovery, neither party files a Certificate of Readiness, the Court Administrator, after an additional 75 days, shall place the case on a trial list. The parties will be required to complete the Certificate of Readiness during the pre-trial conference.
- f. At any time after the close of discovery, the Court may, in its discretion, direct the parties to attend a status conference; or the Court may compel the filing of pre-trial statements, schedule the pre-trial conference, or otherwise intervene to expedite the litigation.
- g. At any time, the parties may agree to submit a case to voluntary mediation under the Washington County Civil Litigation Mediation Program (see Washington County Local Court Rule L-210). Each party shall specify in his or her pre-trial statement whether he or she wishes to submit his or her case to voluntary mediation under the Washington County Civil Litigation Mediation Program. Each party shall also file with the Court Administrator the Consent to Submit Case to Voluntary Mediation (see Washington County Local Rule L-210(k)).

**L-212.1 CERTIFICATE OF READINESS FOR PRE-TRIAL CONFERENCE**

- a. The Certificate of Readiness for pre-trial shall substantially conform to the form shown in Appendix A.
- b. If a party objects to the Certificate of Readiness as filed by an opposing party, the party objecting is required to raise these objections before the trial Judge within 10 days of service; otherwise the opposition will be deemed to be in agreement with the statement contained therein.
- c. Objections to the Certificate as filed by opposing counsel shall be served on all parties or counsel of record, the Judge to whom the case is assigned, and the Court Administrator.
- d. Once the Certificate of Readiness has been delivered to the Court Administrator and the time for objections has expired, without an objection having been filed, the Court Administrator will place the case on the trial list.

**L-212.2 PRE-TRIAL STATEMENTS**

- a. Timetables
  - 1. All plaintiffs within 20 days after the 240-day period or extension thereof or the filing of the Certificate of Readiness, shall file their pre-trial statement with the Prothonotary; and

2. All original defendants, within 20 days of the plaintiff's pre-trial statements, shall file their pre-trial statements with the Prothonotary; and
  3. All other parties, within 20 days of the filing of original defendant's pre-trial statements, shall file their pre-trial statement with the Prothonotary.
- b. The pre-trial statement shall contain:
1. A brief narrative statement of the facts and contentions as to liability;
  2. A listing of all exhibits available at the time of pre-trial which the party intends to introduce at trial;
  3. A specific description of damages;
  4. Any presently known motions in limine and any legal research, memorandum, or brief in support thereof. Failure to include any motion in limine in the pre-trial statement will not bar a future filing of the motion if it could not have been anticipated at the time of filing the pre-trial statement or if, in the interest of justice, the Court permits late filing;
  5. A summary of legal issues involved and legal authorities relied upon;
  6. The settlement status of the case;
  7. The reasons supporting a party's evaluation of his settlement posture.
  8. There shall be attached to the pre-trial statement:
    - (i) A copy of all reports containing findings or conclusions of any physician who has treated or examined a party or has been consulted in connection with any injuries complained of and whom a party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such physician shall be excluded at the trial except upon consent of the party or parties or upon express order of the Court.
    - (ii) A copy of all reports containing findings and conclusions of any expert who has been consulted in connection with the matters involved in the case and whom the party expects to call at trial. If timely production of any such report is not made, the testimony of such expert shall be

excluded at the trial, except upon consent of the party or parties or upon express order of Court.

(iii) The names and addresses of all witnesses the party expects to call. The witnesses shall be classified as liability or damage witnesses.

9. Each party shall state in his or her pre-trial statement whether he or she wished to submit to voluntary mediation under the Washington County Civil Litigation Mediation Program (see Washington County Local Rule L-210). Each party shall also file with the Court Administrator the Consent to Submit Case to Voluntary Mediation (see Washington County Local Rule L-210(k)).
10. Upon failure of any party to file a pre-trial statement within the time required, the Court may impose the sanctions provided in Pa. R.C.P. No. 4019 (c). Also, the Court may order other appropriate relief, including, but not limited to, the barring of testimony, assessment and award of attorney fees, and expenses and costs to opposing counsel.
11. Counsel shall file supplemental pre-trial statements up to the time of trial. Supplemental statement shall include, but not be limited to, additional claims for damages, additional liability witnesses, damage witnesses, expert witnesses, and/or exhibits intended to be used at trial.

#### **L-212.3 PRE-TRIAL CONFERENCE**

- a. The pre-trial conference shall be attended by trial counsel, the litigants and a representative with settlement authority from any involved insurance carrier. Such a representative may be an attorney of record. The Judge shall attempt to achieve an amicable settlement of the litigation. If settlement is not possible, then an effort shall be made to narrow legal issues, to reach stipulations as to facts not in controversy, and in general to shorten the time and expense of trial. The court shall enter a written pre-trial order to become part of the record in the case embracing all stipulations, admissions and other motions which may come before it.
- b. When a case is scheduled for pre-trial conference, it shall not be continued except for good cause shown and upon the order of the pre-trial Judge. If there is failure to comply with the pre-trial rules, sanctions may be imposed. Sanctions may include the grant of permission to proceed ex parte, the award of attorney fees and expenses, and/or the barring of any party from offering testimony.
- c. The Judge presiding at the pre-trial conference shall refer to arbitration all cases where the amount actually in controversy is found not to exceed the

judicial limits of arbitration or is otherwise precluded. The Judge will indicate in the order the party responsible for the filing fee.

- d. In all jury trials, requests for instructions to the jury, together with citations to legal authorities in support thereof, proposed voir dire questions and jury interrogatories shall be filed and served seven (7) days prior to the scheduled pretrial conference so that the court may address those matters in the event the cause can not be resolved during the conference, unless the court enters a case-specific trial order.

#### **L-214.1 COMPLEX CIVIL LITIGATION**

- a. The Judge to whom a case is assigned may designate a case complex where the case involves multiple parties and/or counsel, expert or out-of-state witnesses, complex legal or factual issues, an anticipated trial length of five days or more, agreement of counsel, or such other criteria as may appear significant to the Court.
- b. Application by any trial counsel must be made to the trial judge assigned to the case, upon notice of presentation to all counsel. Applications shall set forth the grounds for consideration of the case as a complex case.
- c. If the trial judge approves the application, the Court Administrator shall designate the case as a complex case on the trial list.
- d. Cases so listed may be set for trial on a date certain by the trial judge. The Court, however, recognizes the general rule that cases should be called for trial in the order that they had been filed with the Prothonotary. If a date is selected outside a regular jury trial term, 60 days notice shall be given by the Court to the Jury Commissioners to empanel a sufficient number of prospective jurors.
- e. A case so listed shall be tried as scheduled except for good cause shown. In such event, a new trial date shall be set as in (d) above.
- f. Failure of a party or counsel to be prepared for trial shall be treated under Pa. R.C.P. 218.

#### **L-220.1 JURY VOIR DIRE – CIVIL LITIGATION**

- a. **Voir Dire, Generally.** The parties or their attorneys in all civil jury trials shall have the right to question jurors, who are being impaneled with references to challenges for cause, and for peremptory challenges, and it shall not be necessary to propound questions through the presiding judge, but they shall be asked by the attorneys or by litigants not represented by attorneys.
- b. **Confidential Juror Questionnaires.** Each prospective juror shall complete and verify a confidential juror information questionnaire. Such confidential questionnaire shall be given to the prospective juror upon reporting to the civil jury courtroom and shall be collected by a court employee who will ensure

that each questionnaire is completed. In the event that a prospective juror declines to answer some or all of the questions, the matter will be taken up with the court. At the conclusion of the trial or service by a juror, the original confidential juror questionnaire and any copies provided to counsel shall be destroyed by a court employee.

- c. **Examination of Jurors.** Once a panel of prospective jurors is assigned to a particular case for selection, each attorney or unrepresented litigant shall receive one (1) photocopy of each prospective juror's questionnaire on that panel. After counsel have reviewed the questionnaires, the court employee shall inform the jurors of the names and addresses of the parties, the date and place of the accrual of the cause of action, the general nature of the suit, and the names of the witnesses who may be called to testify. Examination of prospective jurors shall then be conducted by counsel under the supervision of a court employee. Counsel will ask questions approved by the court and will utilize the information contained in the questionnaire and may ask pertinent and relevant follow-up questions based on the individual juror's written or verbal responses. There shall be no transcript of the examination conducted by counsel.
- d. **Selection of Jurors.** Upon conclusion of such examination, counsel shall report to the trial judge those jurors whom they agree may be stricken for cause. If the attorneys are unable to agree that a juror should be stricken for cause the trial judge shall make the just cause determination and may, along with counsel, question the prospective juror on the record. Counsel shall proceed to exercise their peremptory challenges and the jurors remaining shall be sworn and handled subsequently as a group.

#### **L-229 DISCONTINUANCE. PAYMENT OF RECORD COURT COSTS ON SETTLEMENT**

Unless all parties agree in writing to the contrary, the settling defendant or defendants in any filed civil action shall pay to the plaintiff record court costs which are specifically defined to be:

1. Initial filing fees;
2. Service of process fees;
3. Costs to settle and discontinue the docket.

#### **L-230.2 INACTIVE CASES**

Before the second Monday in December of each year, the Court Administrator shall prepare a list of civil cases in which no paper has been filed or action taken for more than two years. The Court, by the President Judge, shall, on the second Monday of December of each year, issue a "Notice of Proposed Termination of Court Case" to all parties of record advising that, in the absence of a response or reply, the case will be

stricken as stale. Copies of the aforementioned notice shall be sent by the Prothonotary by regular mail to each attorney of record, and, in the absence thereof to the litigants to the last address of record. The Prothonotary shall make an appropriate notation upon the docket of the mailing. Similarly, the Notice of Stale Case List shall be published once in the *Washington County Reports* during December.

On or before the second Monday of February of the following year, the parties must file a reply to the aforesaid Notice with a "Statement of Intention to Proceed" advising the Court that the case should not be terminated. With the exception of the cases in which a Statement of Intention to Proceed is filed, the cases remaining on the list will be terminated for want of prosecution, with prejudice. A copy of the Order shall then be filed at each number and term to which it is applicable.

#### **L-236 NOTICE OF COURT ORDERS, DECREES AND OPINIONS**

In compliance with Pa. R.C.P. 236, the Prothonotary shall mail a copy of any order, decree, or judgment to the persons or parties entitled thereto.

#### **L-507.1 COURT REPORTER NOTE/TAPE RETENTION**

- a. In criminal cases in which the most serious crime charged is a misdemeanor or the first degree or less, the Court Administrator is authorized to direct the destruction of notes taken and/or tapes made by the court reporter at any time after seven (7) years from the date when such notes were taken or tapes were made.
- b. In felony cases the Court Administrator is authorized to direct the destruction of all court reporter notes or tapes at any time after 50 years from the date when such notes were taken or tapes were made. Where there has been an acquittal in a felony case, the Court Administrator is authorized to direct the destruction of all court reporter notes or tapes after seven years from the date when such notes were taken or tapes were made. Prior to destruction 30 days notice shall be given to all interested parties and a court order authorizing the destruction shall be obtained and filed.
- c. In all cases other than criminal cases, the Court Administrator is authorized to direct the destruction of notes taken and/or tapes made by the court reporter at any time after seven (7) years from the date when such notes were taken or tapes were made.
- d. Notwithstanding the provisions of subsection a through c of this rule, in any case in which the court reporter has transcribed from notes taken and/or tapes made and such transcription has been approved the Court and filed, the court reporter may destroy any such notes and/or tapes any time after thirty (30) days from the date of filing of the transcription.
- e. Notwithstanding the provisions of subsections a through d of this rule, any party pay petition the Court for an order directing the retention of particular

notes and/or tapes of the court reporter for a period of time beyond that required herein.

**L- 510 PUBLIC ACCESS OF OFFICIAL CASE RECORDS IN THE WASHINGTON COUNTY MAGISTERIAL DISTRICT COURTS**

Fee Schedule

1. The price per page of copy is \$.25.
2. Fees may be waived if the magisterial district judge determines that the requestor is indigent.
3. Fees received pursuant to this Rule shall be remitted to the County of Washington.

**L-805 BAR VACATION**

- a. In preparing the Court Calendar, the President Judge will normally indicate office weeks for the last three weeks in August and one week in December.

During these times, Motions Court will be conducted as usual or as the Court may direct.

During office weeks, hearings (except of an emergency nature) will not be held and counsel are not entitled to require their opponents to answer interrogatories, present clients for depositions, etc., except by leave of Court.

- b. The Court will consider excusing an attorney from Court scheduled appearances (hearing, arbitration, trial term) on a case by cases basis. Requests should be in writing and should be sent to the Court Administrator for processing.

**L-809 MONEY IN COURT**

- a. A defendant may pay into Court the amount which he admits to be due, together with costs accrued.
- b. The plaintiff may receive the amount so paid and enter a discontinuance or proceed to trial, at his option. In the latter case, the Plaintiff shall pay all costs subsequently accruing unless he recovers judgment for a sum in excess of that paid into Court.
- c. In all cases where money is paid into Court and is subsequently paid out of Court, the Prothonary shall act for the Court in receiving and paying out said money. Money paid into Court shall be deposited in such bank or trust

company as the Prothonotary, as the agent of the Court, may designate, or the parties agree upon in writing. This money shall be deposited to the credit of the Prothonotary, as the agent of the Court, and shall be drawn out only upon as order of the Court attested by the Prothonotary. A copy of this rule shall be inserted in the bank book in which the deposits are made. Such interest as accrues shall enure to the benefit of those entitled to the principal. In creating any account hereunder, the Prothonotary shall use the social security number or employer identification number of the person entitled to such interest.

*Explanatory Comment to L-809*

*When a Judge orders the Prothonotary to place money paid into Court into a interest bearing account, the Prothonotary is required to collect poundage for the handling of the money unless the order, by its terms, directs otherwise. (See 42 P.S. §21071).*

**L-810 WASHINGTON COUNTY CIVIL LITIGATION MEDIATION PROGRAM**

- a. There will be at least two (2) sessions of the Civil Litigation Mediation Program held each calendar year. At each session, mediators will hold settlement / conciliation conferences for those cases selected for the Civil Litigation Mediation Program.
- b. The mediators will be practicing attorneys from Washington County, with an emphasis in their practice on civil litigation. The mediators will be selected by the Civil Litigation Mediation Program Committee of the Washington County Bar Association, with the approval of the court.
- c. The inclusion of cases in the Civil Litigation Mediation Program will be mandatory, except that asbestos cases will not be included in the Civil Litigation Mediation Program. The attendance of trial counsel, the plaintiff, the defendant/additional defendant and a representative of the defendant's/additional defendant's insurance carrier (if the defendant/additional defendant is insured) at the settlement/conciliation conference shall be mandatory. If the plaintiff, the defendant/additional defendant or the insurance carrier representative fail to appear, the settlement/conciliation conference will not be held and the non-appearing plaintiff, defendant/additional defendant (if self-insured or uninsured) or insurance company representative shall, within thirty (30) days, pay to the other party that party's attorney's fees and expenses in preparing for and attending the settlement/conciliation conference, as assessed and ordered by the mediator.
- d. Each mediator will serve one (1) day per session of the Civil Litigation Mediation Program and will be expected to prepare for and hold two (2) settlement/conciliation conferences per day. Two (2) mediators will serve for each day session of the Program.

- e. On or before May 15 and September 15, the Court Administrator will select the twenty (20) oldest cases (by date of filing) from the combined civil trial lists of all civil trial judges for inclusion in each session of the Civil Litigation Mediation Program.
- f. Upon assignment of a mediator for each case selected for mediation, the mediator shall within ten (10) days of his or her assignment to a case notify the Court Administrator of the date and time of the settlement/conciliation conference. The mediator shall schedule the settlement/conciliation conference within sixty (60) days of the assignment of the case.
- g. The parties to any case on the civil trial list may at any time by agreement voluntarily submit a case to mediation by the filing of the Civil Litigation Mediation Program consent Submission Form. These forms are available through the Court Administrator's office. However, any such submission shall not delay any scheduled trial of the matter. Further, upon motion of any party to submit a case to mediation, then on a civil trial list, the Court shall direct the parties to proceed to mediation if the scheduling of the mediation will not delay any scheduled trial in the matter.
- h. For all cases which are selected for mandatory mediation and are not either: (1) settled or (2) referred to arbitration or (3) mediated due to the failure of one or more of the parties to pay the \$150.00 mediation fee, those cases, pursuant to Pa. R.C.P. 214(s), will be given preference on the trial list. The trial of those cases given preference will be held as soon as is practicable after the date of the settlement/conciliation conference. Cases voluntarily submitted into the Mediation Program will not be given preference on the trial list.
- i. If a case is otherwise determined by the Court to be ready for trial, the fact that a settlement/conciliation conference has been scheduled but not yet held will not delay the trial of a case. If the settlement/conciliation is not held, the mediation fee referred to in paragraph (k) will be refunded to each party.
- j. At least ten (10) days prior to the settlement/conciliation conference, each party shall file a settlement/conference statement which must include the following:
  - 1. party's succinct statement or position regarding liability and damages;
  - 2. significant legal issues involved, with citation of legal authority
  - 3. medical reports;
  - 4. expert reports

5. itemized list of damages;
6. last settlement posture and rationale.

This requirement will be deemed to be satisfied if a party has previously filed a pre-trial statement pursuant to Washington County Local Rule L-212.2 in which case that party will be required to file only a settlement/conciliation statement providing updated information not set forth in the pre-trial statement, but required by the settlement conciliation conference statement.

If a party fails to file timely the settlement/conciliation conference statement, the settlement/conciliation conference will not be held and the party who fails to file timely the required statement will pay the attorney's fees and expenses of those parties who have filed timely their statements.

- k. Each party to a case selected for mediation will pay a mediation fee of \$150.00 to be made payable to the Washington County Civil Litigation Mediation Program Trustee Account and to be submitted to the Court Administrator's Office. For those cases subject to mandatory mediation, the \$150.00 mediation fee shall be paid within ten (10) days of the date of the Notice of Scheduling of Settlement /Conciliation Conference. For those cases voluntarily submitted to mediation, the \$150.00 mediation fee shall be paid with the filing of the Consent to Submit Case to Civil Litigation Mediation Program. Failure to pay the \$150.00 mediation fee shall result in the cancellation of the settlement/conciliation conference and shall subject the offending party to the sanctions set forth in Paragraph (j) of the Mediation Program.
- l. Within ten (10) days from the date of the settlement/conciliation conference, the mediator shall file with the Prothonotary a settlement/conference report which shall set forth the following:
  1. Plaintiff's final settlement demand;
  2. Defendant's final settlement offer;
  3. Mediator's assessment of liability
  4. Mediator's assessment of damages;
  5. Mediator's opinion regarding potential range of verdict and settlement value of case;
  6. Mediator's recommendation regarding settlement of case

All parties and the Court Administrator will be provided with a copy of the mediator's settlement/conciliation conference report.

- m. Notwithstanding the preceding subsections and L-1042.1-1042.20, the Court may in its discretion set a civil case for an alternative dispute resolution (“ADR”) before a private mediator. The method of selection of the private mediator shall be in the discretion of the Court. All parties shall bear equally the costs of any Court-ordered private mediation; provided, however, that the Court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

*Note:* When selecting a case for ADR before a private mediator, the Court should consider various criteria, including the nature of the claims involved and their complexity, whether any of the litigants is *pro se*, the potential for a successful resolution, and the interests of justice.

- (1) The method of ADR shall be addressed to the discretion of the private mediator.
- (2) The fact that a case is selected for ADR shall not delay the scheduled trial of a case.
- (3) Nothing in this rule shall prevent the parties from voluntarily engaging in ADR before a private mediator on their own initiative.

#### ***Explanatory Comment***

This local rule reflects the strong judicial policy in favor of parties voluntarily settling lawsuits expressed by the Supreme Court of Pennsylvania in *Rothman v. Fillette*, 469 A.2d 543 (Pa. 1983). The use of Court-directed ADR processes reduce the expense of litigation and often times leads to a quicker and more satisfying alternative when compared to continuing on a more traditional path of litigation. An ancillary benefit to ADR is the potential of reducing the burden on the finite resources of the Court.

*(m. – effective August 30, 2010)*

#### **L-812 MINI-JURY TRIALS**

- a. Purposes: The purpose of min-jury trials is to establish a less formal procedure for the resolution of civil actions for money damages while preserving the right to a jury trial is a trial de novo. As a part of the Court’s pre-trial procedure, the Court may refer cases for a min-jury trial either on motion of a party or sua sponte.
- b. Preliminary considerations: The following shall be considered, but shall not be controlling, in determining if civil cases are amendable for mini-jury trial.
  - 1. Time necessary for regular trial. The Court will determine if the regular trial time would be three (3) days or more.

2. Consent of attorneys. While the Court will attempt to obtain the consent of the attorneys to a mini-jury trial, the Court shall have the authority to direct a mini-jury trial as an extension of the settlement conference.
  3. Existing offer and demand. The Court will attempt to obtain the agreement of counsel to keep any current offer and demand open for forty-eight hours after the mini-jury trial verdict.
  4. Credibility. The Court will determine if the major issues will be resolved on the basis of credibility.
  5. Appeals from arbitration. Cases appealed from arbitration will be presumptive candidates for mini-jury trials.
- c. The following procedures shall apply to all mini-jury trials.
1. Attendance of parties. Individual parties shall attend the mini-jury trial. An officer or other responsible lay representative of a corporate party or a claims adjuster for an insurance carrier shall attend the mini-jury trial.
  2. Non-binding effect. Mini-jury trials are for settlement purposes only and are non-binding. Nothing done by counsel with reference to the mini-jury trial shall be binding on counsel, or the parties or shall constitute a waiver, unless specifically stipulated to or agreed upon by the parties.
  3. Special verdict questions. Cases will be submitted to the juries by way of special verdict questions. Counsel shall submit a joint statement or proposed special verdict questions for use at trial prior to the selection of the jury. If counsel cannot agree on a joint statement, the Court or special master will select the special verdict questions to be used. Special verdict questions for the mini-jury trial need not be the same as those for a regular jury trial. The jury will determine the amount of damages in all cases, regardless of whether a defendant is found to be liable or not liable. The Court or special master will determine the format to be used and made rulings on disputed questions.
  4. Size of Juries. The number of jurors shall be six (6) and the agreement of five-sixths of the jury shall be necessary to reach a verdict. There shall be no preemptory challenges to jurors but jurors may be excused for cause.
  5. Presentation of the Case by Counsel. Each side shall be entitled to one hour for presentation of its case unless counsel presents a compelling reason at a pre-trial conference why more time for each side should be allocated. Presentation of the case by counsel may

involve a combination of argument, summarization of evidence to be presented at the regular trial and a statement of the applicable law but only to the extent it is needed to be known by the jury in answering the special verdict questions. Counsel may call witnesses but cross-examination shall only be done as part of a party's presentation of its case. Counsel may quote from depositions and/or reports to the extent that such evidence can reasonably be anticipated to be admissible at the time of trial. Counsel should not refer to evidence which would not be admissible at trial. The Plaintiff shall proceed first and shall have a five (5) minute rebuttal following the presentation of the defendant's case.

6. Applicable law. The judge or special master will charge the jury on the applicable law to the extent it is appropriate and needed to be known by the jury in answering the special verdict questions. The attorneys shall agree upon the points for charge. The points for charge shall be submitted to the Court or special master prior to the selection of the mini-jury. The Court or special master shall rule on any disputes on a point for charge.
  7. Jury verdict. The jury will be asked to return a verdict if five-sixth of them agree to it. (The same five-sixth majority need not answer each special verdict question.)
  8. Length of Deliberations. If the jury does not reach a five-sixth majority verdict within a reasonable time, the Court or special master will consider polling the jurors individually.
  9. Oral questions to mini-jury. After the verdict, counsel may address questions in open court to the foreperson of the jury. Only questions that can be answered yes or no or by a dollar figure may be asked. The attorneys shall be limited to ten questions each unless a greater number is allowed by the Court or special master for cause shown. No questions shall be asked the answer to which will disclose the personal view of any particular member of the jury.
  10. Scheduling regular trial. Should the mini-jury trial not result in a settlement, the regular trial shall not be held the same calendar week unless the jury is dismissed and will not come into contact with the balance of the venire.
  11. Release of verdict. The mini-jury trial is an extension of the settlement conference and the verdict shall not be made public.
- d. Selection of Special Masters. The Court Administrator shall maintain a roster of special master who shall be designated from time to time by the Court from applications submitted by or on behalf of attorneys eligible for

selection by the Court, an attorney must have been admitted to practice for not less than ten (10) years, be recommended by the Committee on Alternate Dispute Resolution or be a member of the Academy of Trial Lawyers of Southwestern Pennsylvania and determined by the President Judge to be competent to perform the duties of a special master. The parties may agree upon a mediator from without the roster maintained by the Court Administrator, including a person who is not a lawyer, provided that the name of such person be submitted to, and approved by, the President Judge

1. Application Process. Any lawyer possessing the qualifications set forth for a special master who desires to serve as a special master may submit an application on the form which is available in the Office of the Court Administrator. The Committee on Alternate Dispute Resolution shall submit a list of qualified persons to the Court Administrator. The President Judge shall certify as many special Masters as determined to be necessary for the program.
2. Withdrawal by Special Master. Any person whose name appears on the roster maintained by the Court Administrator may ask at any time to have his/her name removed or, if selected to serve, decline to serve but remain on the roster.
3. Disqualification. Persons selected to be special masters shall be disqualified for bias or prejudice and shall disqualify themselves in any action in which they would be required to disqualify themselves if they were a judge. Each person serving as a special master shall take the prescribed oath or affirmation.

**L-1002 AUTHORITY OF ATTORNEY**

- a. The Prothonotary shall not permit any paper to be filed unless at least one of the attorneys signing it shall have been admitted to practice before the bar of the Supreme Court of Pennsylvania, and any paper or praecipe filed in violation of this rule will be suppressed.
- b. No Prothonotary, Sheriff, Clerk of Courts, or deputy of such officers shall practice before the Civil or Criminal Divisions. No Register of Wills or deputy of such office shall practice before the Orphans' Court Division. No reporter, stenographer, law clerk, or administrator of this Court shall practice before any division of this Court.

**L-1012 PRAECIPE FOR APPEARANCE**

All appearances shall be entered in writing by praecipe filed and where there are several plaintiffs or defendants, an appearance will be deemed for all unless expressly restricted.

***Explanatory Comment to L-1012***

*While the Pennsylvania Rules of Civil Procedure do not require an attorney to enter an appearance, please be advised that your failure to do so in Washington County may result in notices of scheduled events being sent to your clients instead of you. Notices are automatically generated by computer and if your name, address, and identification number have not been entered, there is no way for a notice to be sent to you.*

**L-1012.1 CASE DESCRIPTION**

When an initial document is filed in an action, the document shall be identified by applying the description of case types listed below. This information shall be placed on the first page of filing.

**ACTIONS COMMENCED BY:**

- Complaint Civil Action
- Complaint in Mandamus
- Complaint in Equity
- Complaint in Equity (Injunction)
- Complaint in Divorce
- Complaint in Custody
- Complaint in Arbitration
- Complaint in Protection from Abuse
- Complaint in Asbestos
- Complaint in Declaration Eminent Domain
- Complaint in Declaratory Judgment

**REAL PROPERTY:**

- Ejectment
- Quiet Title
- Partition
- Mortgage Foreclosure
- Mechanics Lien
- Replevin
- Landlord/Tenant

**OTHER**

**APPEALS:**

- Zoning Board
- District Justice
- Tax Assessment
- Landlord/Tenant

***Explanatory Comment to L-1012.1***

*This information shall be used to determine Judge assignments. Suggested cover sheets with this information will be supplied by the Prothonotary.*

**L-1018.1 NOTICE TO DEFEND**

The notice required by Pa. R.C.P. No. 1018.1 shall include the following names, addresses, and telephone numbers:

- a. Lawyer Referral Service, 119 South College Street, Washington, Pennsylvania 15301, telephone number 724-225-6710
- b. Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, Pennsylvania 15301, telephone number 724-225-6170

**L- 1028(c)**

All Preliminary Objections shall be filed in the Washington County Prothonotary's Office and promptly served upon all other counsel and unrepresented parties. If no Amended Complaint is filed within twenty (20) days, the objecting party shall thereafter present a Scheduling Motion to the assigned judge for the case, to schedule argument on the objections pursuant to Local Rule 208.3(a), with advance notice of said Motion to all parties. The Scheduling Order shall be filed with the Prothonotary by the objecting party and promptly served on all other counsel and unrepresented parties. A copy shall also be furnished to the Court Administrator. In unassigned cases, the objecting party should present the Scheduling Motion to the General Civil Motions Judge of the Term pursuant to Local Rule 208.3(a)

Where Preliminary Objections contain grounds raising issues of fact, said objections shall be endorsed with a Notice to Plead and the Court will schedule disposition of said objections with due consideration for the time required by the parties to obtain evidence required for consideration of said objections. All evidence that the parties wish the Court to consider shall be filed with the party's Brief.

The objecting party shall file a Brief with the Prothonotary no later than ten (10) business days prior to the Argument date. The Respondent's Brief must be filed with the Prothonotary no later than five (5) business days prior to the Argument date. A party filing a Brief shall promptly serve a copy on all other counsel and unrepresented parties.

In the event that either or both parties wish to submit the matter on briefs without oral Argument, they shall communicate that wish to the Court, in writing, prior to the Argument day. However, Briefs shall still be filed with the Prothonotary on the days required by this Rule, unless an extension is obtained through leave of Court.

If a party's Brief is not timely filed, the Court may, in its discretion:

- (i) Disregard the untimely brief;
- (ii) Refuse oral argument by the offending party;
- (iii) Consider the issues raised by the offending party to be waived;
- (iv) Order Argument to be continued;
- (v) Enter such other Order as the interests of justice may require.

**L-1034(a)**

All Motions for Judgment on the Pleadings shall be filed in the Washington County Prothonotary's Office and promptly served upon all other counsel and unrepresented parties. The moving party shall promptly thereafter present a Scheduling Motion to the assigned judge for the case to schedule Argument on the Motion pursuant to Local Rule 208.3(a) with advance Notice of said Motion to all counsel and unrepresented parties. The Scheduling Order shall be filed with the Prothonotary by the moving party and promptly served on all other counsel and unrepresented parties. A copy of the Scheduling Order shall be provided to the Court Administrator. In unassigned cases, the Scheduling Motion should be presented to the General Civil Motions Judge of the Term pursuant to Local Rule 208.3(a)

The moving party shall file a Brief with the Prothonotary no later than ten (10) business days prior to the Argument date. The Respondent's Brief must be filed with the Prothonotary no later than five (5) business days prior to the Argument date. A party filing a Brief shall file the original with the Prothonotary, and shall promptly serve a copy on all other counsel and unrepresented parties.

In the event that either or both parties wish to submit the matter on Briefs without oral Argument, they shall communicate that wish to the Court, in writing, prior to the Argument day. However, Briefs shall still be filed with the Prothonotary on the days required by this Rule, unless an extension is obtained through leave of Court.

If a party's Brief is not timely filed, the Court may, in its discretion:

- (i) Disregard the untimely Brief;
- (ii) Refuse oral argument by the offending party;
- (iii) Consider the issues raised by the offending party to be waived;
- (iv) Order Argument to be continued;
- (v) Enter such other Order as the interests of justice may require.



2. Plaintiff's Answers to Standard Short Form Interrogatories shall be served on all defense counsel within six (6) months of the date of the filing of the complaint.
3. The parties shall disclose all known fact witnesses within (8) months of the date of the filing of the complaint.
4. Discovery shall be completed within fourteen (14) months of the date of the filing of the complaint.
5. All Motions for Summary Judgment shall be filed within (16) months of the filing of the complaint.
6. Responses to the Motions for Summary Judgment shall be filed within seventeen (17) months of the filing of the complaint.
7. After the responses to the Motions for Summary Judgment have been filed, any party may present a motion for argument date. Arguments for all Motions for Summary Judgment shall be heard on the same day.
8. Plaintiff shall file a pre-trial statement within twenty-one (21) months of the date of the filing of the complaint.
9. Defendant(s) shall file a pre-trial statement within thirty (30) days of the filing of Plaintiff's pre-trial statement.
10. The pre-trial statements shall contain a narrative statement, a list of any expert witnesses intended to be called at trial, all expert reports, and an assessment of damages. The pre-trial statement shall also include any presently known motions in limine and any legal research, memorandum, or brief in support thereof. Failure to file a motion in limine shall bar a future filing, unless said motion could not be anticipated prior to the filing of the pre-trial statement.
11. This CMO may be modified by agreement of all parties, subject to Court approval, or upon motion of any party for good cause shown.

BY THE COURT:

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ASSIGNED JUDGE

(4) Upon the filing of pre-trial statements by all active parties, the Court Administrator shall place the case on the trial list of the assigned judge.

*Note: This rule abolishes the Certificate of Readiness procedure embodied in L-212.1 for asbestos cases unless otherwise specified in a joint proposed CMO which is approved by the Court.*

(5) Within sixty (60) days of the filing of the complaint, defendants shall select an attorney from one of their number to act as lead defense counsel. Lead defense counsel shall promptly file a notice of his or her selection with the Prothonotary.

(a) In the event lead defense counsel ceases to act in that capacity, the defendants shall select a replacement within thirty (30) days. Replacement lead counsel shall promptly file a notice of his or her selection with the Prothonotary.

(6) It is the responsibility of the moving party to file all original Orders with the Prothonotary. Further, the moving party shall serve copies of all Orders upon all counsel of record and any *pro se* litigant. If the Court serves copies of any Order, such service shall be made to counsel for the plaintiff and lead counsel for the defendants, who shall be responsible for providing service upon all counsel of record and any *pro se* litigant.

*(effective August 30, 2010)*

## **LOCAL RULE 1042 - PROFESSIONAL LIABILITY MEDIATION**

### 1042.1 Scope

These rules shall govern mediation in all professional liability cases before the Court.

### 1042.12 Selection of cases for mediation

- a. Upon placement on trial list pursuant to Local Rule 212 either party may petition the court to refer a case to mediation.
  - (1) The Court may also at its discretion refer a case to mediation once it is placed on the trial list.
  - (2) The Court shall consider the objection from any party that has not consented to settlement. The Court shall consider the objection of any party that has not consented to settlement provided that such lack of consent shall not prevent the referral of the case to mediation.
- b. This rule shall not pertain to any case involving a *pro se* litigant.

### 1042.13 Selection of mediator

- a. The Court Administrator shall maintain a list of no less than three (3) mediators to be selected by the President Judge.
- b. The Court shall select the mediator.
- c. Unless otherwise agreed, the mediator shall be disqualified if:
  - (1) The mediator has personal knowledge of disputed evidentiary facts related to the mediation;
  - (2) The mediator or any attorney with whom the mediator practiced law served as an attorney for the matter in controversy;
  - (3) The mediator, or anyone with whom the mediator has a close business or familial relationship, has an economic interest in the matter in controversy.
- d. The mediator shall disclose any past or present affiliations with any and all parties, including the insurance carriers and/or the M-Care Fund.

### 1042.14 Compensation

The fee of mediator shall be affixed by the Court. The parties shall bear the costs evenly, unless agreed otherwise by the parties. Mediator shall submit a bill to the parties for time and expenses. Failure to remit payment within twenty (20) days after receipt may result in a rule to show cause why sanctions shall not be imposed.

1042.15 Submissions to mediator

Before the first mediation session, the mediator may require the parties to provide to the mediator confidential and/or pertinent information including, but not limited to, pleadings, discovery responses/production, transcripts, expert reports, and/or any other litigation related documents.

1042.16 Time frame for conduct of the mediation

Unless otherwise agreed to by the parties and the mediator or ordered by the Court, the first mediation session shall be conducted not later than sixty (60) days from the agreement to mediate or order to mediate.

1042.17 Attendance and Authority; Sanctions

The parties and a representative with authority to enter into a full and complete compromise and settlement of the case on behalf of the parties shall attend the mediation, including trial counsel. A representative of the M(Care) Fund, with full decision making authority, shall attend in person during all mediation sessions. If any of the above individuals or representatives fails to appear at the mediation session without good cause, or appears without full authority, the Court, *sua sponte*, or upon motion, may impose sanctions, including an award of reasonable mediator and attorney's fees and other costs, against the responsible party.

1042.18 Settlement Agreement; Enforcement

Each settlement is to be confirmed in a written settlement agreement, signed by a party or a party representative with authority to sign. A party representative who signs is presumed to have full authority to bind the party. The settlement agreement is enforceable in the same manner as any other written contract and/or by a motion to enforce the settlement agreement.

1042.19 Confidentiality and Immunity

- a. Mediation shall be confidential and no record shall be made, except as provided by LR 1042.20 or as ordered by the Court.
- b. The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall be liable and indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to Common Pleas Judges.

1042.20 Report

If the case is not settled the mediator shall provide the Court with a detailed report outlining: (1) Plaintiff's final settlement demand; (2) Defendant(s) final settlement offer; (3) The mediator's assessment of liability; (4) The mediator's assessment of damages; (5) The mediator's opinion regarding the potential range of a verdict and settlement value of a case; and (6) The mediator's recommendation regarding settlement of the case.

A copy of the report shall be provided and maintained by the Court Administrator until the case is closed.

*(effective August 30, 2010)*

### **L-1301      ARBITRATION**

- a. Pursuant to Section 7361 of the Judicial Code, 42 Pa. C.S. §7361 and Pa. R.C.P. 1301, & 11. Civil suits or actions in the court of Common Pleas where the amount in controversy is \$35,000.00 or less shall be first tried by a Board of Arbitrators except:
  - 1. Cases involving title to real estate;
  - 2. Cases where an accounting is demanded;
  - 3. Replevin
  - 4. Actions requiring equitable or declaratory relief;
  - 5. Actions in mandamus, quo warranto, and mortgage foreclosure.
- b. Matters may be transferred to compulsory arbitration by the Court although the demand exceed \$35,000.00
- c. Matters may be placed at arbitration by consent of the parties. 42 Pa. C.S.A. §7362.
- d. Arbitration cases are not routinely assigned and all motions relating to these cases are heard by the Motions Judge.

**Comment [S1]:** The limits of Arbitration were raised to \$50,000 by Administrative Order effective July 10, 2006.

### **L-1302      ARBITRATORS**

- a. The Court Administrator shall maintain a list of those members of the Bar of Washington County who are qualified and willing to serve as Arbitrators. The list shall be divided into three parts: lawyers with ten years or more experience; lawyers with five to ten years experience; lawyers with less than five years experience. The Court Administrator shall designate the chairman.
- b. Not more than one member or associate of a firm or association of attorneys shall be appointed to any one Board.

- c. Sufficient Board of Arbitration shall be provided by the Court Administrator so that all cases to be tried on a given day shall be called before 4:00 p.m.
- d. A member of the Board who fails to serve and does not provide a qualified replacement may be removed from the Court Administrator's list of eligible Arbitrators.
- e. Arbitrators shall be paid at the rate of \$250.00 per full day of service. In the event that an arbitrator is required to serve more than one day, the Court Administrator shall determine what additional time was required and set compensation with Court approval.

***Explanatory Comment L-1302***

*Arbitrators are randomly selected and scheduled automatically by computer program. In order to be eligible for selection as an arbitrator, attorneys must complete an application form which may be obtained from the Court Administrator.*

**L-1303 HEARING, NOTICE, CONTINUANCE, CALL OF THE LIST**

- a. The hearing date assigned to an arbitration case shall not be less than 120 nor more than 150 days from the date of filing.

(a)(1)(i) After the pleadings have been closed for thirty (30) days, any party may initiate arbitration by filing with the Prothonotary a Praeceptum for Reference to a Board of Arbitration. The Praeceptum for Reference to a Board of Arbitration shall be substantially in the following form:

(Caption)

**PRAECEPTUM FOR REFERENCE TO A BOARD OF ARBITRATION**

To the Prothonotary:

Kindly refer this matter to a Board of Arbitration. I certify that at least ten (10) days notice of the filing of this Praeceptum has been given to all parties to this action.

Date: \_\_\_\_\_ By \_\_\_\_\_  
Attorney for \_\_\_\_\_

As noted, the moving party shall notify all other parties or their counsel of their intent to file such Praeceptum at least ten (10) days prior to the filing.

(a)(1)(ii) Upon filing of the Praeceptum, the Prothonotary shall furnish a copy to the Court Administrator for scheduling.

- b. Continuances shall be granted by the Court upon cause shown. There shall be no continuances granted on the date of the hearing except for emergencies.
- c. A \$25.00 fee shall be charged for continuances. No continuances shall be granted without payment of required fee unless waived by the Court. Proof of payment shall be attached to the Motion when presented.
- d. If a continuance has not been obtained and neither the plaintiff nor the defendant nor counsel for either parties appears, the case shall be dismissed and will not be rescheduled for arbitration. In order to maintain the litigation, the plaintiff must enter an appeal and proceed in accordance with L-1308.

When the defendant has not been served, a continuance is necessary to keep the case active.

- e. In a complex case, the Court, upon motion, may order the Court Administrator to schedule the case to a date certain and shall have a Board of Arbitrators appointed to hear such case.
- f. On the date of the hearing, the Court Administrator shall call the list at a place designated by the Court Administrator at 9:15 a.m. for the morning session and again at 1:15 p.m. for the afternoon session. All parties and counsel shall be present at the appointed time and respond “ready” or “not ready” when called. The Court Administrator shall assign “ready” cases to Boards of Arbitration and designate the room in which the cases are to be heard. They shall be assigned in order in which they appear on the list and in which they are “ready” to proceed. There shall be a second call of the list at 9:30 a.m. and 1:30 p.m.

(a)(2)(i) If a party fails to appear for a scheduled arbitration hearing, the matter may 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 a 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

(a)(2)(ii) A non-jury verdict entered at a hearing held pursuant to Local Rule 1303(a)(2)(i) shall not exceed \$50,000 (exclusive of interest and costs) to any party.

(a)(2)(iii) The Hearing Notice issued by the Prothonotary shall state the following:

#### DUTY TO APPEAR AT ARBITRATION HEARING

THIS MATTER WILL BE HEARING BY A BOARD OF ARBITRATORS AT THE TIME, DATE AND PLACE SPECIFIED BUT, IF ONE OR MORE OF THE PARTIES

IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD AT THE SAME TIME AND DATE BEFORE A JUDGE OF THE COURT WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

**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.**

**L-1304 PLEADING AND DISCOVERY**

- a. In all cases in which the amount in controversy is \$8,000.00 or less, a simplified complaint and a simplified answer shall be permitted and encouraged. He simplified complaint and the simplified answer shall be provided in approved form in sufficient quantities by the Prothontary.
- b. Discovery in cases in which the amount in controversy is \$8,000.00 or less shall be permitted only by order of Court. In the event that it is necessary to continue the hearing pending discovery, the order permitting discovery will provide for such continuance, and the Court in the same order will reschedule the hearing.
- c. Litigants who appeal from a decision of the District Justice in matters covered by these rules shall be furnished forms with printed instructions for use. The Court Administrator will design the form and make it available in the office of the Prothonotary and in the offices of the District Justices. (See Appendix B)

**L-1305 RESERVED**

**L-1306 AWARDS**

- a. The Board shall make an award promptly upon the termination of the hearing, and said award shall be transmitted by the Chairman of the Board forthwith to the Court Administrator. The award shall dispose of all claims for relief and shall comply with Pa. R.C.P. 1312. The Court Administrator may direct the Chairman of the Board of Arbitrators to clarify the award as may be necessary.
- b. The Court Administrator shall make sufficient copies of the award so that the Prothontary may mail a copy to each party.
- c. Any party seeking damages under Pa. R.C.P. 238 shall either submit a stipulation to the Board of Arbitrators in a sealed envelope, setting forth the

amount of the written offer of settlement, or, if a stipulation is not obtainable, as aforesaid, the Board of Arbitrators shall reconvene the hearing for the purpose of assessing any damages under Pa. R.C.P. 238.

**L-1307        RESERVED**

**L-1308        APPEAL, ARBITRATOR'S COMPENSATION, NOTICE**

- a. An appeal from an award shall be taken conformably to Pa. R.C.P. 1313 within 30 days after the entry of the award on the docket.
- b. The appealing party shall pay to the Prothonotary the sum of \$250.00 but not more than 50% of the amount in controversy, as compensation for the Arbitrators, which shall not be taxed as costs or be recoverable in any proceeding.
- c. The Court in an appropriate case may permit an appeal to proceed in forma pauperis
- d. When a case scheduled for arbitration is settled or continued, the attorney for the plaintiff or the attorney seeking the continuance shall immediately notify the Court Administrator.

**L-1901.1-1    ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT**

Pursuant to the authority set forth in the Protection from Abuse Act of December 19, 1009, P.J. 1240, as amended, 23 Pa. C.S. § 6101 et seq., the following practices, procedures, and rules are promulgated.

It is the purpose and policy of the Court of Common Pleas of Washington County, Pennsylvania, to implement and effectuate the Protection from Abuse Act and its amendments to protect victims from abuse, to streamline and facilitate enforcement; to establish duties upon the Prothonotary, the Sheriff, Magisterial District Judges, and police departments; and to provide for emergency relief.

**L-1901.1-2    COMMENCEMENT IN COURT**

- a. Petitions for Protection from Abuse shall be presented to the appropriate Family Court Judge, who will schedule a hearing on the petition. If the plaintiff petitions from a temporary order and alleges immediate and present danger of abuse, the Court may conduct an ex-parte proceeding and may enter a temporary order as it deems necessary.
- b. Assistance and advice to individuals not represented by counsel
  1. Forms sufficient for this purpose shall be provided by the Washington County Prothonotary, or by Domestic Violence Services of Southwestern Pennsylvania.

2. Clerical assistance to help with writing and filing the petition shall be provided by the Prothonotary, or by Domestic Violence Services of Southwestern Pennsylvania.
3. Written instructions, in English and in Spanish, to the local domestic violence program, to the Southwestern Pennsylvania Legal Aid Society, and to the Washington County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.
4. Petitions will be accepted between 9:00AM and 3:15PM, Monday through Friday except court holidays.

**L-1901.1-3 EMERGENCY RELIEF BY THE MINOR JUDICIARY**

- a. From 3:15 p.m. each day to the resumption of business at 9:15 a.m. the next morning and from 3:15 p.m. of the last day of the business week to 9:15 a.m. of the first day of the next business week, a petition for protection from abuse may be filed before the Magisterial District Judges in the district where the plaintiff lives or the on-call Magisterial District Judge who may grant relief in accordance with the Act.
- b. An order issued under subsection (a) will expire at 3:15 p.m. on the next business day.
- c. Magisterial District Judge.
  1. The Magisterial District Judge shall certify the emergency order issued under subsection (a) and the petition to the Court.
  2. The Magisterial District Judge shall advise the plaintiff that the plaintiff is responsible for picking up the certified record at the Magisterial District Judge's office on the next business day of court and filing it with the Prothonotary of Washington County.
  3. The Magisterial District Judge shall advise the plaintiff regarding the procedure for initiating a contempt charge.
  4. The Magisterial District Judge shall advise the plaintiff of the existence of programs for victims of domestic violence and the availability of legal assistance.
- d. Prothonotary.
  1. The Prothonotary shall accept the certified record from the Magisterial District Judge for filing and assign a case number.

2. The Prothonotary shall provide the plaintiff with a copy of the petition and emergency order and advise the plaintiff to take the documents to the Domestic Violence Services of Southwestern Pennsylvania.
- e. Family Court Judge.
1. The Family Court Judge will schedule hearings on protection orders issued under subsection (a) and will review and continue in effect protection orders that are necessary to protect the plaintiff until the hearing.
  2. The Family Court Judge may order service of the petition, emergency and temporary order by the Sheriff pursuant to L-1901.1-4(b).

**L-1901.1-4 SERVICE OF PETITION AND ORDER**

- a. The plaintiff shall ensure that the petition and order are promptly served upon the defendant and that the order is served upon police departments with appropriate jurisdiction to enforce the order.
- b. Where the plaintiff avers that service cannot be safely effectuated by an adult individual other than a law enforcement officer and the Court so orders, the Sheriff of Washington County shall serve the petition and order on the defendant. The Sheriff shall advise the Court that service has been effectuated, as well as the cost of service.
- c. If the Court orders service by the Sheriff upon the defendant, the plaintiff shall promptly serve the order upon the appropriate police departments.

**L-1901.1-5 ARREST FOR VIOLATION OF ORDER**

- a. If the defendant is arrested for violation of a Protection from Abuse order, the defendant shall be taken before the Magisterial District Judge in the district where the alleged violation occurred or the on-call Magisterial District Judge.
- b. The defendant shall be arraigned forthwith pursuant to the Pennsylvania Rules of Criminal Procedure and Washington County Local Court Rules.
- c. Bail shall be set to insure the defendant's presence at the contempt hearing in accordance with Pa. R. Crim. P. 520 et seq.
- d. Procedure for scheduling hearing before the Court:
  1. Violation of an order issued by the Washington County Court of Common Pleas.
    - i. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at 9:30 AM on the next date that the judge will hear Protection from Abuse related matters.

2. Violation of an order issued by a Magisterial District Judge or court in another judicial district within the Commonwealth or an order issued by a court of another state.
  - i. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at 9:30 AM on the next date that the judge will hear Protection from Abuse related matters.
- e. The Magisterial District Judge shall inform the arresting officer, the plaintiff, and the defendant of the hearing date and time. Written notice of the hearing shall be delivered to the plaintiff and defendant and each shall sign a receipt.
- f. The Magisterial District Judge shall cause the following completed forms to be delivered to the Clerk of Courts: (1) criminal complaint; (2) probable cause affidavit; (3) certificate of bail, if required, and discharge of commitment; and (4) receipts for notice of hearing. The documents shall be delivered by 9:00 a.m. on the morning of the hearing. Delivery may be made by the arresting officer.

**L-1901.1-6 PRIVATE CRIMINAL COMPLAINT FOR VIOLATION OF ORDER OR AGREEMENT**

- a. The private criminal complaint shall be filed with the Magisterial District Judge in the jurisdiction in Washington County where the abuse occurred or with the on-call Magisterial District Judge.
- b. The approval of the District Attorney of Washington County is not required prior to the filing of a private criminal complaint under this section.
- c. The procedure for filing a private criminal complaint for indirect criminal contempt for violation of a non-economic provision of an order or court-approved consent agreement pursuant to Section 6113.1 of the Act is as follows:
  1. Magisterial District Judge.
    - i. The Magisterial District Judge shall prepare the private criminal complaint and notices of hearing.
    - ii. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at 9:30 AM on the next date that the judge will hear Protection from Abuse related matters.
    - iii. The Magisterial District Judge shall give the plaintiff a copy of the private criminal complaint and notice of hearing, receipt of which shall be acknowledged in writing by the plaintiff.

- iv. The Magisterial District Judge shall forward the original documents to the Clerk of Courts of Washington County.
  - 2. Clerk of Courts.
    - i. The Clerk of Courts shall process the documents received from the Magisterial District Judge and forward them to the Family Court Judge before whom the hearing is scheduled.
- d. The procedure for service of the private criminal complaint is as follows:
  - 1. The Magisterial District Judge shall serve a copy of the private criminal complaint and notice of hearing on the defendant by certified mail, return receipt requested.
  - 2. The Magisterial District Judge shall notify the Family Court Judge, before whom the hearing is scheduled, that the return receipt has been received or that the private criminal complaint has been returned undelivered.

**L-1901.1-7 CIVIL CONTEMPT FOR VIOLATION OF ORDER OR AGREEMENT**

- a. A plaintiff may file a petition for civil contempt or modification, alleging that a defendant has violated any provision of an order or court-approved consent agreement.
- b. Plaintiff shall obtain a hearing date from the issuing Judge at that Judge's regularly scheduled motions court.
- c. Plaintiff shall cause the petition and order scheduling a hearing to be served upon the defendant.

**L-1901.1-8 NOTIFICATION UPON RELEASE**

- a. Criminal Victim/Witness Assistance Program shall use all reasonable means to notify the plaintiff sufficiently in advance of the release of the defendant from any incarceration imposed as a result of a finding of contempt.
- b. Notification shall be required for work release, furlough, medical leave, community service, discharge, escape, and recapture. Notification shall include the terms and condition imposed on any temporary release from custody. The plaintiff shall keep the Crime Victim/Witness Assistant Program advised of contact information; failure to do so will constitute a waiver of any rights to notification under these provisions.

**L-1901.1-9 MODIFICATION, EXTENSION or WITHDRAWAL OF ORDER OR AGREEMENT**

- a. A plaintiff or defendant may file a petition for modification, extension or withdrawal of an order or consent agreement any time during the pendency of the order.
- b. The party seeking modification shall file a petition through the Domestic Violence Services of Southwestern Pennsylvania and a hearing shall be scheduled for the next available hearing date for modifications or extension.
- c. The hearings for modification, extension or withdrawal of an order or consent agreement will be held once per month and will be scheduled for 1:00PM.
- d. The party seeking modification shall cause the petition and order scheduling the hearing to be promptly served upon the opposing party.
- e. No orders for withdrawal will be permitted unless the costs for both the Prothonotary and Sheriff's service are paid.

**L-1901.1-10 REGISTRY: OUT OF STATE ORDERS**

- a. The Prothonotary shall maintain a registry in which shall be entered certified copies of protection from abuse orders issued by a comparable court in another state.
- b. A valid order may be registered by the plaintiff by obtaining a certified copy of the order of the issuing court endorsed by the Prothonotary of that court and filing and presenting that certified order to the Prothonotary of Washington County.
- c. Upon receiving a certified order for registration, the Prothonotary shall provide the plaintiff with a copy bearing proof of registration to be filed with the appropriate law enforcement agency.
- d. No costs shall be assessed for registration of an order.

**L-1901.2 ACTIONS PURSUANT TO OLDER ADULTS PROTECTIVE SERVICES ACT**

**L-1901.2-1 DEFINITIONS**

“Act” means “older Adults Protective Services Act” No. 79, effective July 1, 1988, 35 P.S. §10211 et seq.

“Action” means a petition to enjoin interference with services, or to require access to persons or to records as set further in Section 7 of the Act, or an emergency petition as set forth in Section 10 of the Act.

**L-1901.2-2 COMMENCEMENT OF ACTION**

- a. Except as provided in subsection (b), an action shall be commenced by filing with the Prothonotary a petition, setting forth a concise statement of the facts relied upon to justify the relief requested, and a prayer for the relief desired.
- b. Filing in the office of the Prothonotary a certified order of a Magisterial District Judge entered pursuant to L-1901.2-4.

**L-1901.2-3 SERVICE**

- a. Service of the petition or certified order of the Magisterial District Judge shall be made pursuant to Pa. Rules of Civil Procedure 400 et eq.
- b. An order entered under Sections 7 and 10 of the Act shall be served and enforced by such persons and in such manner as the Court shall direct in the order.

**L-1901.2-4 HEARINGS**

- a. Within ten (10) days after the filing of a petition under Section 7 of the Act, the Motions Judge of the Court of Common Pleas shall schedule a hearing at which the petitioner must prove the facts justifying the relief requested by a preponderance of the evidence. The Court shall advise the respondent of his right to be represented by counsel. No pleading need be filed in response to the petition.
- b. Emergency petitions pursuant to section 10 of the Act shall be presented to the Motions Judge of the Court of Common Pleas during normal Courthouse hours; otherwise to the on-call Magisterial District Judge. The Motions Judge or Magisterial District Judge shall accept and decide such emergency petitions promptly pursuant to Section 10 of the Act.
- c. Certified orders of the Magisterial District Judge shall be filed in the Prothonotary's office by 9:15 a.m. on the following business day, at which time they shall expire.
- d. The Magisterial District Judge shall advise the petitioners of the need to appear before the Motions Judge at 9:15 a.m. on the Court's next business day for continuing relief.

**L-1901.2-5 DECISION POST-TRIAL RELIEF**

- a. The decision of the Court shall be governed by Pa. R.C.P. 1038(b) and (c).
- b. Post-trial relief shall be governed by Pa. R.C.P. 227.1 to 227.4

## MINORS AS PARTIES

### L-2039.1 PETITION FOR APPROVAL OF SETTLEMENTS WHERE A MINOR HAS AN INTEREST

a. A petition for settlement of a case in which a minor has an interest shall initially be filed with the Prothonotary. When a minor's settlement has been approved by a settlement conference or a Trial Judge, that Judge shall retain jurisdiction for judicial determination of the petition in accord with paragraph B. In all other cases, such petition will be determined by the Motions Court Judge.

b. The petition shall:

1. Set forth the factual circumstances of the case;
2. State the reasons why the settlement is a proper one; and
3. Be accompanied by the following:
  - a. A proposed order of distribution;
  - b. A written report of a physician;
  - c. A statement under oath by the guardian certifying (1) the present physical or mental condition of the minor, and (2) approval of the proposed settlement and distribution thereof.
  - d. A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion; and
  - e. In the event that the minor is sixteen years of age or over, his or her written approval of the proposed settlement and distribution thereof.

c. The Order of Distribution shall include an award of counsel fees. The standard for the award of counsel fees in the representation of minors is that such fees must be reasonable in accordance with the guidelines set forth in Rule 1.5 of the Rules of Professional Conduct. Under normal circumstances a counsel fee in the amount of one-third of the net fund recovered shall be considered reasonable, subject to the approval of the Court. The attorney fee determined shall be reduced by the amount of collateral payments received as counsel fees for representation involving the same matter from third parties such as Blue Cross/Blue Shield.

d. The approving Judge, to whom the petition is submitted, may, at his or her discretion, require the personal appearance of the minor, his guardian, his doctor, or any other relevant party, as well as the production of any other evidence deemed necessary for approval of the Petition.

**ENFORCEMENT OF MONEY JUDGMENTS  
FOR THE PAYMENT OF MONEY**

**L-3129 - NOTICE OF SALE – REAL PROPERTY**

a. The Plaintiff causing the issuance of the writ of execution for the sale of real property shall furnish to the sheriff, (1) a complete description of the property to be sold and the improvements, if any, with a brief recital of title, which complete description and recital shall be included in full in the deed executed pursuant to a sale; and (2) a brief description of the property to be sold, its location, the improvements, if any, and the name of the owner or reputed owners, with or without a brief recital of title, which shall be the description used in the notice of sale provided for in Subdivisions (a) and (b) of Pa. R.C.P. 3129.1, 3129.2.

b. The notice of sale provided in Subdivisions (a) and (b) of pa. R.C.P. 3129.1, 3129.2 shall also include a notice of the terms and conditions of sale.

c. Execution sales of real property shall be held only in the Sheriff's Office or the meeting room of the Washington County Office Building on the first Friday of each month except August provided, however, that if the first Friday be a holiday, the sale shall be held the following Monday.

**DEPOSITIONS AND DISCOVERY**

**L – 4017(d) – FILING OF CERTIFICATE OF DEPOSITION**

a. Upon completion of the stenographic transcription of any deposition, the stenographer before whom the deposition has been taken shall file with the Prothonotary a Certificate of Deposition. The Certificate of Deposition shall contain the following information and shall substantially conform to the form shown in Appendix K.

1. The name(s) of the person(s) deposed; and
2. That the witness was duly sworn; and
3. The total number of pages in each deposition; and
4. The date, time and place deposition was taken; and
5. The counsel present at deposition; and

6. The name of counsel who has received the original transcription and copies thereof.

b. The Prothonotary shall promptly file the Certificate and record its filing on the docket.

c. Custody and responsibility for original deposition transcript shall remain with the attorney who has received the original transcription until the case is terminated or the deposition has been filed pursuant to paragraph 4 herein.

d. The attorney having custody of the original deposition shall forthwith file the entire original deposition transcription with the Prothonotary whenever so directed by the Court.