

CIVIL RULES

CONSTRUCTION AND INTERPRETATION OF RULES

Rule 126. Construction and Application in General

(a) These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action.

(b) The court at every stage of any action may disregard any error or defect of procedure, which does not affect the substantial rights of the parties.

(c) Unless otherwise expressly stated, as used in these rules,

(1) "Action" means any action or proceeding of any nature pending before the Court of Common Pleas of York County;

(2) "County" means York County;

(3) "Court" means the Court of Common Pleas of York County or a judge thereof; and

(4) "Prothonotary" means the Prothonotary of the Court of Common Pleas of York County.

(Effective June 13, 1994)

PLEADING AND PRACTICE

Rule 205.2. Form of Pleadings, Papers and Affidavits

(a) All pleadings, papers and affidavits which are not expressly regulated as to form by Act of Assembly or Rule of Court shall conform to the Rules of Civil Procedure as far as is practicable.

(b) The original of all pleadings, papers and affidavits to be presented to and filed with the court shall be backed by and securely stapled in a document cover.

(c) All pleadings, papers, affidavits and other documents filed in this court shall be on paper approximately 8 1/2" by 11" in size.

(d) No paper shall be filed with the Prothonotary unless it is written in ink, printed, typewritten, photostated, mimeographed or otherwise mechanically reproduced; contains the caption of the proceeding, including the name and division of the court, identifying case number, the names of the parties, the title of the proceeding, and the name of the paper; and is endorsed with the name, address, and attorney identification number of the attorney filing it, or the name and address of the party if he has no attorney. The caption of any paper filed subsequent to a complaint need only state the name of the first party on each side with an appropriate indication of the other parties.

(Effective June 13, 1994)

Rule 206. Petitions. Definition. Content. Form.

All Civil Petitions proceeding under Pa.R.Civ.P. No. 206.1 et seq. shall be filed and presented to the Court pursuant to Local Rules 6030 through 6034.

(added July 12, 2004, effective immediately)

Rule 208. Motions. Presentation to Appropriate Motions Court Judge.

A. All Civil Motions proceeding in accordance with Pa.R.Civ.P. No. 208.1(b)(2)(iv) shall be filed and presented to the District Court Administrator for assignment to the appropriate Motions Court Judge.

B. Any other Civil Motions proceeding in accordance with Pa.R.Civ.P. No. 208.1 et seq. shall be filed and presented in accordance with Local Rules 6030 through 6034 unless the parties have participated in a Pre-Trial

Conference after which time the Motion shall be filed and presented to the Judge who conducted the Pre-Trial Conference.

(added July 12, 2004, effective immediately)

TRIAL

Rule 212. Pretrial Conference

(a) When an action is at issue, any party thereto, who desires to proceed to trial shall list the action for a pre-trial conference by filing a Praecipe requesting a pre-trial conference and noting whether the proposed trial is a jury or non-jury trial.

(b) All actions listed for a pre-trial conference shall be placed by the District Court Administrator on a pre-trial conference list and assigned by him, under the direction of the President Judge, to a judge for a Pre-trial conference. The pre-trial conference shall be scheduled after the issuance of an Order Preliminary to Pre-Trial conference and compliance therewith.

(c) Upon issuance of a pretrial order, counsel shall take the following steps:

(1) Counsel for plaintiff shall, within seven (7) days of receiving said order, send all opposing counsel a list of the name and address of plaintiff's witnesses, the subject of their testimony and any discovery desired by the plaintiff.

(2) Within seven (7) days after receiving such list, opposing counsel shall respond in writing listing the name and address of their witnesses, the subject of their testimony and any discovery desired by them.

(3) If counsel for plaintiff desires additional discovery as a result of the witness list received from opposing counsel, he shall promptly advise opposing counsel of the discovery desired.

(4) When any discovery has been indicated by either counsel, counsel for the plaintiff shall initiate an attempt to amicably schedule the same.

(5) After the information as to witnesses has been exchanged and all discovery has been completed, counsel for plaintiff shall have the primary responsibility for writing to the court setting forth the full caption of the case, the number of the case and certifying that the matter is now ready for a pretrial conference.

(6) Counsel are also expected to comply with any other dictates of the court as found in the pretrial order.

(d) Pretrial conferences shall be held in chambers or in such other location as ordered by the assigned judge on such date and time as the assigned judge shall designate. The assigned judge shall give each party or counsel written notice of the date and time of the pretrial conference.

(e) At least two (2) weeks in advance of the pretrial conference, counsel for the plaintiff shall submit to counsel for all other parties a realistic demand for settlement, and counsel for all other parties shall submit a realistic response thereto. All counsel shall, at the pretrial conference, advise the court of such demands and responses. At the pretrial conference, all parties shall have available, either in person or by phone, a person with complete settlement authority to resolve the case.

(f) Counsel for each party responsible for the trial of the case is required to be present at the pretrial conference at the date and time fixed, unless he advises the judge of his inability to attend not less than seven (7) days prior to the scheduled pretrial conference, obtains from the judge a suitable alternate date or time, and advises all other counsel thereof or is otherwise excused by the judge from attending the pretrial conference. Failure to timely attend the pretrial conference by any counsel who has not complied with the foregoing may result in the court's imposition of appropriate sanctions against said counsel.

(g) Each counsel shall bring the following to the pretrial conference:

- (1) That portion of his file as he will have at trial.
- (2) All tangible exhibits or illustrations to be used at trial.
- (3) A written memorandum setting forth:
 - (i) A statement of the factual and legal issues to be resolved;
 - (ii) Any desired amendments to the pleadings;
 - (iii) Any admitted or agreed facts to be made a part of the record in lieu of proof;
 - (iv) Any desired additional discovery, together with an explanation of why the same has not been waived, or could not be obtained prior to the conference;
 - (v) An itemized list of all special damages claimed;
 - (vi) A list of the names and addresses of all witnesses to be called, and the subject of their testimony;
 - (vii) A list of all exhibits to be identified or introduced;

(viii) A statement of any objections or evidentiary problems to be resolved prior to trial;

(ix) Any special requests, such as a view of the premises and special time for witnesses;

(x) The most recent offer or demand authorized by the client;

(xi) An estimate of the time needed for trial.

(h) After the pretrial conference procedure has been completed, the assigned judge shall file a pretrial order, furnish a copy thereof to each party or counsel, and file a certification of readiness for trial.

(i) A judge is not disqualified from sitting as the trial judge because said judge did or did not preside at the pretrial conference.

(Effective June 7, 2000)

Rule 215. Assignment and Order of Trial

Except as otherwise directed by the court, actions shall be assigned by the District Court Administrator for jury trials and shall be tried in the order listed by him.

(Effective June 13, 1994)

Rule 216. Call of Trial List. Continuances

(a) A preliminary call of the trial list shall be made on the Monday two (2) weeks before the trial week.

(b) A final call of the trial list shall be made on the Monday preceding the trial week.

(c) An attorney shall be deemed to certify a good faith intention to proceed with the trial of the action in the following trial period when answering at the preliminary or final call that the action is ready for trial.

(d) At the preliminary or final call, an action may be continued for any cause specified by Pa. R.C.P. 216(a) and shall be continued if no party answers the call.

(e) No continuance may be granted subsequent to the final call of the trial list if based upon:

(1) An agreement of counsel; or

(2) A cause known to exist or the existence of which could have been reasonably discovered with due diligence before or at the final call.

(f) At the opening of the Court, the trial list shall be called to remove actions which have been settled and to dispose of applications for continuances, subject to subdivision (e)(2) of this rule.

(Effective June 13, 1994)

Rule 216A. Continuance When Absent Witness Not Served

(a) An application for continuance because of the absence of a witness not a party who has not been served with a subpoena shall be accompanied by an affidavit which shall state:

- (1) The facts to which the witness would testify if present or if his deposition should be taken;
- (2) The grounds for believing that the absent witness would so testify or give his deposition;
- (3) The efforts made to procure the attendance or deposition of such absent witness; and
- (4) The reasons for believing that the witness can be subpoenaed at a later date or that his deposition can and will be taken.

(b) The application for continuance may be refused if:

- (1) The moving party knew of the intended absence of the witness in time to subpoena him;
- (2) The witness lives within the Commonwealth and with reasonable diligence could have been subpoenaed within five (5) days of the day set for trial;
- (3) The adverse party agrees that the witness, if present, would testify to the facts set forth in the affidavit; or
- (4) The deposition of the witness could have been obtained with reasonable diligence.

(Effective June 13, 1994)

Rule 223. Trial Briefs

Counsel shall submit to the court at the beginning of trial briefs containing authority supporting all rulings to be requested of the court.

(Effective June 13, 1994)

Rule 223A. Attachment of Witnesses

No attachment for a witness shall issue unless it is shown that service was made upon said witness a reasonable time before the trial and that the testimony would be competent and material.

(Effective June 13, 1994)

Rule 223B. Admission and Custody of Tangible Exhibits

(a) Counsel for the respective parties shall retain possession, and shall be responsible for the care and custody, of all tangible exhibits used at trial, whether or not the same have been presented, marked, identified and used, until such time as they have been formally offered into evidence and the court has made a specific order directing their admission into evidence.

(b) From and after the making of such formal court order of admission, the Prothonotary shall take possession, and shall be responsible for the care and custody, of all such tangible exhibits during the remainder of the trial and thereafter until further order of the court.

(c) Immediately upon the termination of the trial, the Prothonotary shall assemble and identify all such exhibits to the particular case and shall be responsible for their secure care, custody and maintenance, and no such exhibits shall thereafter be removed or destroyed except upon order of the court.

(d) At any time after final disposition of the case, the Prothonotary may, after notice to counsel for all parties, petition the court for an order authorizing the removal and disposition by destruction or otherwise of any tangible exhibit of a size or weight precluding its enclosure in a regular case file.

(Effective June 13, 1994)

Rule 225. Opening Addresses to the Jury

One attorney for each plaintiff or each group of plaintiffs asserting the same cause of action may make an opening address to the jury. One attorney for each defendant or each group of defendants against whom the same cause of action is asserted may make an opening address. The proof offered by any party shall not be restricted to matters referred to in such addresses if otherwise admissible.

(Effective June 13, 1994)

Rule 225A. Closing Addresses to the Jury

After the close of the evidence, one attorney may address the jury for each party or group of parties asserting the same cause of action or against whom the same cause of action is asserted. The attorney of a party under a burden of proof may make an address in reply to other addresses with respect to matters relating to such burden of proof.

(Effective June 13, 1994)

Rule 227.1. Post-Trial Motions

(a) Filing

(1) Motions for a new trial, for judgment n.o.v., and to remove a nonsuit shall be filed with the Prothonotary, and copies thereof shall forthwith be served upon all other parties or counsel and the trial judge.

(b) Contents

(1) All post-trial motions shall set forth with specificity the reasons therefor and all matters assigned as error.

(2) Additional or supplemental reasons and assignments may subsequently be filed only by leave of court, and copies thereof shall forthwith be served upon all parties or counsel.

(3) No reason or assignment not so set forth shall be heard at argument.

(c) Notice of filing

(1) The party filing a post-trial motion shall forthwith give notice of the filing of a post-trial motion on the District Court Administrator, identifying the case by caption, counsel, date of trial and date of filing of the post-trial motion.

(d) Transcription and filing of trial record

(1) Trial records will not be transcribed and filed unless and until a post-trial motion has been filed with the Prothonotary, a request for transcription has been made in accordance with Pa. R.C.P. 227.3, and notice thereof has been given.

(2) The District Court Administrator shall be responsible for seeing that all such records are transcribed and filed as required.

(e) Scheduling of argument

(1) After the entry of the verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial, or the filing of the decision or adjudication in the case of a trial without jury or equity trial, and upon the request of a party after the filing of a post-trial motion, the trial judge shall enter a separate order fixing the date and time when post-trial motions will be argued . In the event the trial judge subsequently determines that the matter should be heard by a court en banc, the order scheduling the argument shall be rescinded and the matter shall proceed pursuant to the applicable provisions of Rule 6032.

(2) Unless transcription of a substantial portion of the record is required pursuant to Pa.R.C.P. 227.3 or some extenuating circumstance exists, the date set for such argument shall be not less than sixty (60) nor more that ninety (90) days from the date of the verdict, discharge, nonsuit, decision, or adjudication.

(f) Filing of briefs

(1) Except for post-trial motions containing a request that a portion of the record be transcribed pursuant to Pa.R.C.P. 227.3, any party filing a post-trial motion shall file a brief in support thereof within fifteen (15) days of the filing of such motion.

(2) Where a post-trial motion contains a request that a portion of the record be transcribed, the trial judge may, after objection, if any, enter an order pursuant to Pa. R.C.P. 227.3, which order shall include a date by which the designated portion of the record shall be transcribed and filed. In that instance, the date by which the moving party must file a supporting brief pursuant to Rule 227.1 (e)(1), shall be extended to fifteen (15) days after the filing of the transcript.

(3) Within twenty (20) days after service of the brief in support of a post-trial motion, all parties desiring to oppose such motion shall file a brief in opposition.

(4) Within five (5) days after service of the brief in opposition, the moving party may file a reply brief.

(5) Failure of any party to duly file and serve a brief in support of, or in opposition to, any matters raised by a post-trial motion, shall constitute a waiver of the position of such party as to such issue.

(Effective June 13, 1994)

Rule 400.1 Person to Make Service

Original process shall be served within the Commonwealth:

(i) by the Sheriff or a competent adult who is not a party in the following actions: equity, partition, prevent waste, and declaratory judgment when declaratory relief is the only relief sought, and;

(ii) by the Sheriff in all other actions.

(Effective August 6, 1999)

PUBLICATION

Rule 430. Manner of Publication

Whenever an Act of Assembly or a rule of court specifies that notice shall be given or service shall be made by publication but does not specify the manner of publication or expressly states that publication shall be made in such manner as the Court of Common Pleas shall direct, publication shall be made one (1) time in the York Legal Record and one (1) daily newspaper of general circulation in the county.

(Effective June 13, 1994)

LANDLORD TENANT APPEALS

Rule 1008. Landlord and Tenant Appeals

(a) In lieu of posting a bond to act as a supersedeas, a party against whom a district justice has entered judgment for the possession of real property and who files an appeal may make rental payments becoming due during the court of common pleas proceedings by depositing with the Prothonotary an amount equal to the monthly rental payment for the month in which the appeal was taken and by depositing with the Prothonotary, pursuant to Pa. R.C.P.D.J. 1008, the monthly rental payment for each additional month until final disposition of the case. The tenant shall file an affidavit with the Prothonotary attesting to the amount of the monthly rent, together with any documentation of same, and shall immediately serve a copy of said affidavit on the landlord or counsel for the landlord. The deposit of the monthly rental payment for the next month shall be made by the thirtieth day following the filing of the appeal and thereafter by the same day each month.

(b) In the event of the failure of the tenant to promptly make monthly payment with the Prothonotary, the landlord may present a praecipe to the Prothonotary requesting judgment for the possession of real estate. Such praecipe must certify that the tenant is in default at the time of the filing of the praecipe and that notice of the filing of the praecipe has been served on the tenant. Upon the filing of the praecipe, the Prothonotary, after confirming that the tenant has failed to make the required payment, shall enter judgment for possession of real estate in favor of the landlord.

(c) After the entry of a final judgment in the court of common pleas proceedings and, upon appropriate praecipe, the Prothonotary shall distribute the accumulated deposits in accordance with the terms of the judgment; the accumulated deposits shall be applied to the payment of the judgment (including costs) against a landlord or tenant. No other withdrawals shall be permitted from any such escrowed deposits except pursuant to court order.

(Effective June 13, 1994)

PRETRIAL PROCEEDINGS

Rule 1018.1. Form of Notice to Defend

(a) Every Complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a notice to defend in both English and Spanish.

(b) In actions at law and in equity, the notice to defend shall be in substantially the following form:

[CAPTION]

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the foregoing pages, you must take action within twenty (20) days after this Complaint and notice are served by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. **YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.** **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

Lawyer Referral Service of
The York County Bar Association
York County Bar Center
137 East Market Street
York, Pennsylvania 17401
Telephone No. (717) 854-8755

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AVISO

USTED HA SIDO DEMANDADO EN LA CORTE. Si usted desea defenderse de las quejas expuestas en las páginas siguientes, debe tomar acción dentro de veinte (20) días a partir de la fecha en que recibió la demanda y el aviso. Usted debe presentar comparecencia escrita en persona o por abogado y presentar en la Corte por escrito sus defensas o sus objeciones a las demandas en su contra. Se le avisa que si no se defiende, el caso puede proceder sin usted y la Corte puede decidir en su contra sin mas aviso o notificación por cualquier dinero reclamado en la demanda o por cualquier otra queja o compensación reclamados por el Demandante. **USTED PUEDE PERDER DINERO, O PROPIEDADES U OTROS DERECHOS IMPORTANTES PARA USTED. LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI USTED NO TIENE O NO CONOCE UN ABOGADO, VAYA O LLAME A LA OFICINA EN LA DIRECCION ESCRITA ABAJO PARA AVERIGUAR DONDE PUEDE OBTENER ASISTENCIA LEGAL.**

Lawyer Referral Service of
The York County Bar Association
York County Bar Center
137 East Market Street
York, Pennsylvania 17401
Telephone No. (717) 854-8755

(c) Spanish translations of the notice to defend for divorce and custody complaints and petitions for protection from abuse shall be available in the office of the Prothonotary.

(Effective June 13, 1994)

Rule 1028. Preliminary Objections

See Rules 6030(b) and 6031.

Rule 1034. Motion for Judgment on the Pleadings

See Rules 6030(b) and 6031.

Rule 1035. Motion for Summary Judgment

See Rules 6030(b) and 6031.

Rule 1037. Affidavit as to Military Service

- (a) When a party is entitled to take judgment by default the moving party shall file the affidavit required by the Soldiers' and Sailors' Civil Relief Act of October 17, 1940, 54 Stat. 1180, ch. 888, §200, as amended, 50 U.S.C.S. Appx. §520, stating whether the adverse party is in military service as therein defined.
- (b) If the moving party is unable to ascertain whether the adverse party is in military service, the moving party shall so state in the affidavit.
- (c) In accordance with 50 U.S.C.S. Appx. §520, no judgment by default may be entered without leave of court if the moving party does not file an affidavit stating that the defendant is not in the military service.

(Effective June 13, 1994)

Rule 1038. Trial Without a Jury

Actions to be tried before the court without a jury shall be tried before the assigned judge on the date and time fixed at the pretrial conference.

(Effective June 13, 1994)

Rule 1042.21. Motion for settlement conference or mediation.

All motions for a settlement conference or mediation pursuant to Rule 1042.21 shall be assigned to a Judge pursuant to Local Rules 6030 through 6034.

(added July 12, 2004, effective immediately)

Rule 1054. Praecipe for Writ

See action of ejectment, Pa. R.C.P. 1051 et seq.

If an action of ejectment is commenced by filing a praecipe for a writ of summons, the praecipe shall contain:

(1) A description of the land sufficient to identify it, either by metes and bounds or by reference to street number, dimensions, area or adjoinders; and

(2) A reference to a place of record from which a complete description may be obtained.

(Effective June 13, 1994)

ARBITRATION

Rule 1301. Actions to which Arbitration Applies

(a) Actions at issue. All actions which are at issue in which the amount in controversy is thirty thousand dollars (\$30,000) or less, except those involving title to real estate, shall first be submitted to and heard by a board of arbitrators consisting of three (3) members of the Bar of York County for consideration and award. The term "amount in controversy" shall mean the amount, exclusive of interest and costs, claimed by any party to the case, as determined by the pleadings or agreement of reference, but a multiplicity of claims or counterclaims, each of which is thirty thousand dollars (\$30,000) or less, shall not bar compulsory arbitration. An order of consolidation of an action involving more than thirty thousand dollars (\$30,000) with an action involving less than that amount shall bar compulsory arbitration.

(b) Actions not at issue. An action not at issue may be referred to a board of arbitrators by agreement of reference signed by all parties or their counsel and filed with the Prothonotary. The agreement of reference shall define the issues involved for determination by the board, and may also contain stipulations with respect to facts submitted or agreed to or defenses waived. In such case, the agreement of reference shall take the place of the pleadings in the case.

(Effective June 13, 1994)

Rule 1301A. When at Issue

(a) When the action is at issue. An action shall be at issue when:

- (1) A party or counsel files with the Prothonotary, after the close of all pleadings, a praecipe for reference; or
- (2) The parties or counsel file with the Prothonotary, an agreement of reference; or
- (3) The court issues an order of reference on its own motion, or on motion of a party, when the pleadings disclose that any verdict probably will be in an amount less than thirty thousand dollars (\$30,000).

Upon receipt by the Prothonotary of a praecipe for reference, an agreement of reference, or an order of reference, the Prothonotary shall certify to the District Court Administrator that the action is at issue.

(b) Service of Praecipe. Any party proceeding under subsection (a)(1) above shall forthwith serve a copy of said praecipe upon the opposing parties or their counsel, and shall file with the Prothonotary evidence showing

such service. Failure to serve such copy shall result in the action being stricken from the Arbitration List and the costs of the praecipe and administrative costs connected therewith being taxed against the party who fails to serve such copy. The action may not be relisted for arbitration until the costs so taxed have been paid.

(Effective June 13, 1994)

Rule 1302. Selection of Arbitrators

(a) Certification of panelists and chairpersons. In all cases subject to arbitration the members of the board of arbitration shall be appointed by the District Court Administrator from the list of members of the Bar of York County who are certified to act as chairpersons and from the list of members of the Bar of York County who are certified to act as panelists. Any member of the Bar of York County who applies for certification as a panelist and/or as a chairperson shall certify as to the following qualifications:

- (i) As to panelists that they are currently engaged in the active practice of law and maintain their principal office in York County.
- (ii) As to chairpersons that they have been engaged in the active practice of law for a minimum of three years subsequent to their admission to practice before the Supreme Court of Pennsylvania, that they are currently engaged in the active practice of law and maintain their principal office in York County, that their practice includes civil litigation, and that they have tried at least one civil case in any forum in Pennsylvania during the past year.
- (iii) Any panelist or chairperson whose status has changed in regard to any of the certified matters shall immediately contact the District Court Administrator and ask to be removed from the appropriate certified list. The forms for Application for Certification as Chairperson shall be available at the District Court Administrator's office.

(b) Arbitrator lists. The list of qualified arbitrators shall be divided into one list for all qualified chairpersons and one other list for all qualified panelists. Appointment to each board shall be made in alphabetical order, one from the chairperson list and two from the panelist list, except that the same person shall not serve both as chairperson and panelist. If the same person's name is selected as chairperson and panelist, the next person in alphabetical order not yet selected on the panelist list shall be named as a panelist and the chairperson's name as a panelist shall be passed over as already selected.

(c) Membership on the board of arbitrators. The board of arbitrators shall consist of three members. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same board, nor shall an attorney act as arbitrator who is related by blood or marriage to any party to the case or to any attorney of record, or who is or has been a law partner or an associate of any attorney of record in the case. An attorney shall not act as arbitrator in a case involving a party or party's insurance carrier either of whom the attorney represents in other matters. The District Court Administrator shall assign to each board appointed by him not more than four cases which shall be taken in order from the arbitration list.

(d) Failure to act as arbitrator. In case any attorney so appointed fails to act, the District Court Administrator shall remove said attorney and appoint the next attorney on the list to serve on the board. Any attorney who fails to act in a case, without good cause shown, shall be disqualified from thereafter serving on a board of arbitrators, unless reinstated by appropriate motion to the court.

(e) Motions. Any party to the action may raise questions of the action being arbitrable under these rules, or the composition of the board, preliminarily by informally notifying the District Court Administrator in writing, with notice to opposing counsel. Within three (3) days of such informal notice, the party raising the question shall file with the court a written notice based on such question. The court shall decide such question before the case is heard by the board. Failure to raise such questions within ten (10) days of receipt of a notice of such appointment, constitutes a waiver thereof.

(Effective June 13, 1994)

Rule 1303. Handling of Actions at Issue

(a) Duty of District Court Administrator. The District Court Administrator shall maintain a list of all actions for arbitration in the order in which they are placed at issue. It shall be the duty of the District Court Administrator to supervise all such actions in order to assure their prompt disposition.

(b) Time of hearing. The District Court Administrator shall fix a date, time and place for the hearing, which date shall be not less than thirty (30) nor more than sixty (60) days after the action was placed at issue. The District Court Administrator shall designate the room in which the hearing shall be held.

(c) Notice to parties. The District Court Administrator shall notify the parties or their counsel and all members of the board of the names of the chairperson and all members of the board and of the date, time and place of the hearing.

(d) **Scheduling of cases.** The District Court Administrator shall schedule as many cases for one day as may conveniently be heard by each board, with the cases to be equally divided among the boards.

(e) **Length of time required for hearing.** It shall be the duty of the party who files the praecipe or agreement for reference to note thereon the length of time estimated by the parties to be required for hearing.

(f) **Continuance of parties.** Once the District Court Administrator has scheduled a time for a hearing and notified the parties as provided in subsection (b) and (c) hereof, there shall be no unilateral continuance. A request of a party or counsel for continuance of such scheduled hearing shall be granted only by the chairperson of the board to a specific date, time and place after consultation with the District Court Administrator and notice thereof shall be given by the chairperson to all parties, board members and the District Court Administrator. At the discretion of the chairperson, a continued arbitration hearing may be held at a suitable, neutral location outside of the courthouse such as a law office conference room provided that the location is not more than five miles from the courthouse. No hearing shall be continued generally, and for any case in which a continued hearing cannot be held within twenty (20) days of the date originally fixed therefor, the chairperson shall direct the removal from the Arbitration List without prejudice to any party to relist and shall notify the parties and Prothonotary for entry upon the docket. Any case continuance handled in violation of this subsection may be ignored by the District Court Administrator with a directive that the case be heard as scheduled.

(g) **Removing matter from arbitration.** No party shall unilaterally remove a matter from the arbitration list without leave of court. Voluntary non-suits shall be in accordance with Pa.R.C.P. 1304(a).

(h) **Continuance of arbitrators.** Once a case has been scheduled as provided in subsection (f) hereof, no case may be continued by an arbitrator. An arbitrator must request that he be excused by the District Court Administrator from a board which a hearing has been scheduled, whereupon another qualified attorney shall be appointed as a replacement.

(i) **Settlement, voluntary non-suit, summary judgment.** In cases of settlement, voluntary non-suit and summary judgment, arising after a case has been scheduled as provided in subsection (f) hereof, the parties or counsel shall notify the chairperson, whereupon the board shall enter an award in conformance therewith.

(j) **Procedure after board convened.** Once a board has been convened, the procedure shall follow Pa.R.C.P. 1303(b).

(Effective June 13, 1994)

Rule 1304. Hearings and Evidence

(a) Conduct of hearings and presentation of evidence shall be in accordance with Pa.R.C.P. 1304 and 1305.

(b) The board shall confer with counsel immediately before the arbitration hearing, at which conference the board may consider:

- (1) The simplification of the issues;
- (2) The reasonable limitation of the number of witnesses;
- (3) The prospects of settlement;
- (4) Such other matters as may aid in the hearing or other disposition of the action.

(Effective June 13, 1994)

Rule 1305. Pre-Hearing Procedures

(a) Prior conference of counsel. Counsel shall confer in person, in advance of the hearing before the board of arbitrators, to accomplish the following purposes:

(1) **Lists and marking of exhibits.** Examine, mark and list all exhibits which any of them may intend to introduce at the hearing, whether in the case in chief or in rebuttal. Only exhibits so listed and marked shall be offered in evidence at the hearing, except for good cause shown.

(2) **Admissibility of exhibits.** Agree so far as possible as to the authenticity and admissibility of such exhibits and note briefly the grounds for objection to any exhibits not so agreed upon, and counsel for the plaintiff shall keep a record of such objections and grounds therefor;

(3) **Statement of contested issues.** Agree so far as possible as to the rules of law governing the case, and identify contested issues of law, if any;

(4) **Statement of uncontested facts.** Agree so far as possible as to the facts. If the incontestability of any fact is challenged, the party objecting, and the grounds for the objection, shall be identified.

(b) Arranging conference of counsel. Counsel for the plaintiff shall be responsible for arranging the conference between counsel before the hearing. The conference between counsel shall be held at least one (1) week prior to hearing at the office of counsel for the plaintiff; provided, however, that if plaintiff's counsel has no office in York County, the conference shall be held at the office of counsel for the defendant.

(Effective June 13, 1994)

Rule 1306. Report and Award

(a) Filing of report. The chairperson of the board of arbitration shall file a report with the Prothonotary, which shall contain an award, within ten (10) days after hearing, unless the court upon application of the board shall extend the time for filing the same. The report shall be signed by all or a majority of the panelists of the board. The Prothonotary shall file the original report and award. The chairperson shall mail copies of the report and award to the parties or their counsel. The report and award shall be substantially in the form of a verdict of a jury, and need not contain a recital of facts, nor a statement of reasons for the action taken by the board.

(Effective June 13, 1994)

Rule 1308. Compensation of Arbitrators.

(a) Amount. The chairperson and each member of the board of arbitrators, who has signed a report, or files a minority report, shall be paid by the County for each day of service the following fee:

(1) The chairperson **\$90 per case.**

(2) A member **\$75 per case.**

(b) Complex cases. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the court, on petition of the Board presented to the District Court Administrator, and for cause shown, may allow additional compensation. The court may also, on petition of any party to a case, on cause shown and to prevent injustice, reduce the amount of such compensation, or disallow compensation entirely. To the extent that additional compensation is ordered, such compensation shall be paid by the County, in such amount as the court shall direct.

(c) When arbitrator is entitled to compensation. The members of the board shall be entitled to receive their fees only upon filing with the Prothonotary awards for all cases heard by them on that day. When the same are filed, the Prothonotary shall issue an order for payment of such fees, which shall be immediately paid from county funds. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

(d) Appeal in matter arbitrated without complaint. In actions referred to arbitration by an agreement of reference without the filing of a complaint, and if taken by a plaintiff, shall be accompanied by a complaint, and if taken by a defendant, shall be accompanied by a rule of the plaintiff to file a complaint.

(Effective December 18, 1995)

EQUITY

Rule 1501A. Pretrial Conference

Actions in equity shall be listed for pretrial conference in the same manner as actions at law as provided by Rule 221.

(Effective June 13, 1994)

Rule 1501B. Trial

Except as authorized by the Court in the manner prescribed in Pa.R.C.P. 1513, actions in equity shall not be entered in the Trial Watch Book, but shall be tried before the assigned judge on the date and time fixed at the pretrial conference.

(Effective June 13, 1994)

Rule 1501.3. Proceedings

Proceedings in actions in equity shall be heard and disposed of in the same manner as in actions at law as provided in Rules 6030 to 6034, inclusive.

(Effective June 13, 1994)

Rule 1507. Notice to Interested Persons Not Parties

When notice is given to interested persons not parties as prescribed by Pa. R.C.P. 1507, the advertisement shall contain the caption of the action, a statement that an action in equity has been commenced by the named plaintiff against the named defendant concerning a subject matter briefly named or described and that the named person notified, if his name is known, or all persons interested in the subject matter of the action are required to appear in the action to represent their interests or a decree may be entered which will bind such interests in the subject matter of the action.

Note: As to the manner of publication, see Rule 6230.

(Effective June 13, 1994)

AUDITORS, REFEREES, AND SPECIAL MASTERS

Rule 1514. Qualification of Auditors, Referees, and Special Masters

Auditors, referees, and special masters shall be members of the Bar of the county.

(Effective June 13, 1994)

Rule 1514A. Notice of Meeting

(a) An auditor shall give at least ten (10) days' notice of the time and place of the first meeting before him to the accountant, if one had been appointed to audit an account or settle exceptions thereto, and to every person who has any claim who has given him written notice of a claim. In the case of an assigned estate, or a matter not arising from the filing of an account, the auditor shall also give notice by publication. In all cases, the notice shall state that any person who claims any interest in the matter before the auditor must prove such claim before the auditor or he may be forever barred.

(b) A referee or special master shall give at least ten (10) days' notice of the time and place of the first meeting before him to the parties to the action.

As to the manner of publication, see Rule 430.

(Effective June 13, 1994)

Rule 1514B. Uncontested Claims

The auditor may allow uncontested claims without proof or may disallow them when without merit.

(Effective June 13, 1994)

Rule 1514C. Report of Auditor, Referee, and Special Master

Time for Filing

(a) The auditor, referee, or special master shall file a report within two (2) months after the date of appointment, unless upon application to the court the time is extended for cause shown.

(b) If an auditor, referee or special master fails to file his report within the required time, his appointment may be vacated and he may be denied compensation for services and reimbursement for expenditures.

(Effective June 13, 1994)

Rule 1514D. Report of Auditor, Referee, and Special Master Contents

(a) As far as practicable, the report of the auditor, referee, or special master shall consist of:

- (1) A history of the proceedings before him, showing its regularity, the appearances before him, and the meetings and taking of testimony and the hearing of argument;
- (2) A concise discussion of the evidence, with specific references to the notes of testimony, and of questions of law;
- (3) Findings of fact, stated in consecutively-numbered paragraphs;
- (4) Conclusions of law, stated in consecutively-numbered paragraphs; and
- (5) In the case of an auditor, a statement of the account and of the schedule of distribution, by reference to the original which has been filed when possible.

(b) The report shall be accompanied by the notes of testimony taken before the auditor, referee, or special master, and the exhibits admitted in evidence. The notes and exhibits shall be bound under a cover separate from the report itself and shall be indexed and the pages consecutively numbered.

Note: An auditor may recommend the making of a partial distribution in accordance with Pa.R.C.P. 1534(c).

(Effective June 13, 1994)

Rule 1514E. Report of Auditor, Referee, and Special Master,

Filing and Notice

(a) An auditor, referee, or special master shall file a report in the office of the Prothonotary.

(b) Notice of the filing of the report shall be given:

(1) By an auditor, to all persons entitled to notice under Rule 1514A and to all persons who appeared at the meeting before the auditor;

(2) By a referee or special master, to all parties to the action.

(c) The notice shall be set forth that the report has been filed in the office of the Prothonotary and is open to inspection and that it will be presented to the court for confirmation on a specified date and hour not less than ten (10) days thereafter unless exceptions are filed before that time with the auditor, referee, or special master, and in the office of the Prothonotary.

Note: As to the form, effect, and service of copies of exceptions, see Rule 6160 et seq.

(Effective June 13, 1994)

**Rule 1514F. Report of Auditor, Referee, and Special Master. Confirmation. Exceptions Heard by the
Court**

(a) If no exceptions are filed to the report of the auditor, referee, or special master, before the time specified in the notice, the report shall be confirmed nisi.

(b) If no exceptions are filed within ten (10) days thereafter, the confirmation shall become absolute as of course.

(c) Exceptions filed to the report or to the confirmation nisi of a report shall be heard and determined by the court.

(Effective June 13, 1994)

Rule 1514G. Compensation and Reimbursement of Auditor, Referee, and Special Master

In the decree of confirmation nisi, the court shall determine the compensation and reimbursement for expenses to be allowed the auditor, referee, special master, and stenographer, and shall direct that they be taxed in whole or in part against the fund available for distribution or against any party or parties to the action as may be just and equitable under the circumstances.

(Effective June 13, 1994)

Rule 1516. Requests for Findings and Conclusions

Requests for findings of fact and conclusions of law shall be separately numbered. Each request shall be followed by a reference to the page and line of the transcript of the testimony on which it is based.

(Effective June 13, 1994)

ACCOUNTS

Rule 1530. Accounting by a Party to an Action

(a) When a party to an action at law or in equity is ordered to file an account pursuant to Pa. R.C.P. 1021 or 1530(b), respectively, the account shall be filed in the office of the Prothonotary within thirty (30) days thereafter, unless an extension is allowed upon cause shown.

(b) Subsequent proceedings with respect to the account shall be in conformity with Pa. R.C.P. 1530(c), (d), and (e).

(c) If the party ordered to file an account fails to do so, the court, upon the motion of any party, in addition to any other appropriate sanction, shall appoint an auditor to state the account upon the basis of such evidence as may be submitted and to file the account, together with a report thereon.

(Effective June 13, 1994)

Rule 1534. Inventory and Appraisalment

(a) Unless waived by the court, a fiduciary, who in the course of the performance of his duties will be required to file an account in the office of the Prothonotary, shall, within thirty (30) days after appointment as fiduciary, make and file in the office of the Prothonotary an inventory and appraisalment of all property subject to his administration as fiduciary.

(b) The appraisalment shall be made by two (2) or more appraisers who shall first be sworn or affirmed to value and appraise the property to the best of their ability without prejudice or partiality.

(Effective June 13, 1994)

Rule 1534A. Form of Accounts

(a) Accounts shall contain:

(1) A caption, including the court, term, and number, and a title stating the type of account and the name of the accountant;

(2) The dates and sources of all items of debit, the dates of all items of credit, the names of all persons to whom the disbursements were made and the purposes thereof;

(3) Except in the case of receivership or assigned estates, separate accounts for the principal of personal estate, principal of converted real estate, income from personal estate, and income from real estate;

(4) A recapitulation itemizing the property remaining in the estate;

(5) The names and addresses of all persons known to be interested in the estate in any capacity and a brief statement of their claims; and

Note: The filing of a certification of notice is required by Rule 1534(c).

(6) A schedule of distribution.

(b) Accounts shall be signed and verified by the accountant.

(c) Accounts shall be endorsed with the name of the accountant, or if he is represented by an attorney, with the name of the attorney, together in each case with an address within the Commonwealth.

(d) No account which contains a credit for fees paid for legal services shall be presented to the court for confirmation nisi, unless the name of the attorney is endorsed thereon.

(Effective June 13, 1994)

Rule 1534B. Notice by Publication

(a) Unless otherwise provided by an Act of Assembly or otherwise directed by the court, the Prothonotary shall cause to be published in the York Legal Record and one (1) newspaper of general circulation published in the county, an advertisement stating that on a specified date the accounts listed therein which have been filed in the Prothonotary's office shall be presented to the court for confirmation nisi.

(b) The date specified shall be the first Monday of the month following the date of publication and shall be not less than twenty-one (21) days after publication.

(c) The publication shall be made once.

(d) The expense of the publication shall be divided equally among the accounts listed in the advertisement and assessed by the Prothonotary as costs.

(Effective June 13, 1994)

Rule 1534C. Notice to Parties in Interest

(a) The accountant shall give ten (10) days' notice to every person who has any claim who has given the accountant written notice of a claim.

(b) If the accountant is the guardian of an incompetent, the accountant shall also give notice to the spouse or next of kin of the incompetent, to his personal representative if he is deceased, and to the former incompetent, if he has regained competency.

(c) The notice shall state that the account has been filed, the date on which it will be presented for confirmation, and that the account may be confirmed and distribution ordered unless exceptions are filed with the Prothonotary on or before that date.

(d) Before confirmation the accountant shall file a certificate stating the names and addresses of all persons who have been given notice, the date thereof, and the manner in which the notice has been given.

(Effective June 13, 1994)

Rule 1534D. Presentation for Confirmation. Disposition

(a) Accounts filed in the office of the Prothonotary shall be presented to the court for confirmation as the court directs.

(b) Upon presentation for confirmation an account shall be confirmed nisi if:

(1) No exceptions have been filed and no objections have been made thereto at or prior to the presentation for confirmation;

Note: As to the form, effect of, and service of copies of exceptions, see Rule 6160 et seq.

(2) Proper publication has been made and notice given; and

(3) The account complies with Rule 1534A.

(c) If no exceptions are filed to the decree of confirmation within ten (10) days after the entry thereof, the decree shall become absolute as of course.

(Effective June 13, 1994)

Rule 1534E. Appointment of Auditor

(a) If exceptions are filed to an account, the court shall hear and determine the exceptions or, on its own motion or on the motion of any party, may refer the account and the exceptions to an auditor.

b) The auditor shall pass upon the exceptions and report thereon to the court.

Note: As to the procedure after the appointment of the auditor, see Rule 1514 et seq.

(Effective June 13, 1994)

CHILD CUSTODY ACTIONS

Rule 1915.1. Scope

The rules set forth in this section shall govern and practice and procedure in all actions for custody, partial custody and visitation of minor children, including Habeas Corpus proceedings and claims for custody, partial custody or visitation asserted in an action of divorce or support. These local rules shall be viewed as supplementing the Pennsylvania Rules of Civil Procedure governing custody as set forth in Pa. R. C. P. 1915.1 et seq.

Matters raised by petition, or motion prior to trial, which require consideration by the Court, and which are not otherwise provided for in these rules, shall proceed as set forth in Local Rules 6030 et seq.

(Effective June 7, 2000)

Rule 1915.3. Commencement of Action

All complaints relating to custody of minor children shall be presented to the District Court Administrator for assignment in accordance with these rules. Upon payment of the designated filing and administration fees, the complaint shall thereafter be filed in the office of the Prothonotary and served in accordance with rules of court. The complaint shall specifically designate the relief sought by the party who filed the pleading.

(Effective June 13, 1994)

Rule 1915.3(b). Reference to Conciliator

1. Assignment. The District Court Administrator shall assign all child custody actions to a conciliator designated by the court, who shall be a member of the bar of this court, to conduct a conciliation conference with both counsel and the parties. Further, the Court Administrator shall enter an order setting the date, time and place for such conciliation in accordance with a previously arranged schedule for each conciliator.

2. Scheduled Date. The District Court Administrator shall set the conciliation date within ten (10) - fifteen (15) days from the date of the filing of the complaint. In the event the conciliation is unable to be scheduled within the ten (10) -fifteen (15) day period, the District Court Administrator shall schedule the conference at the next available time.

3. Service. Counsel for the moving party shall serve a copy of the complaint and order for conciliation upon the respondent in accordance with rules of court. The District Court Administrator shall notify the conciliator of the list of cases scheduled for conciliation for each date. Further, the District Court Administrator shall provide facilities to conduct the conciliation conference.

4. Continuance. Should a party request a continuance of the established date, the party requesting such continuance shall be responsible for arranging such continuance in accordance with rules of court, which shall include the preparation of a motion and/or proposed order changing the hearing date. The motion shall be presented to the conciliator for recommendation, not less than forty-eight (48) hours prior to the conference. Absent cause, the conciliator may deny the request for continuance. If a continuance is requested by the party having majority custody of the child and if the non-custodial party has not exercised rights of custody since the filing of the action, the burden is upon the moving party to ensure that a conciliation conference is held within twenty (20) days from the date of the filing of the action.

5. Administrative Fee. The conciliator shall be compensated at the rate of \$125.00 for each report actually filed. Each conference is expected to last one (1) hour. In the event the conciliation lasts more than one (1) hour, the conciliator may address the issue of the assessment of an additional fee. This fee shall be added to the cost of the action and shall be collected by the Prothonotary at the time the Report and Order are filed by the court. The fee may be changed from time to time upon direction from the court without the necessity of amending these rules. The Prothonotary shall post the administrative fee for such filings in its office. The fee shall be paid to the conciliator by the Prothonotary when the conciliator's report is filed. In the event the moving party is unable to pay the administrative fee, such party may apply for an order to proceed in forma pauperis. The District Court Administrator, on behalf of the court, is authorized to issue upon the respondent and the County of York a rule to show cause why the moving party should not proceed as requested. If the court authorizes in forma pauperis status, the administrative fee shall be paid by the County of York upon certification by the District Court Administrator. In the event a party files a request for an additional conciliation, modification or initial contempt proceeding involving custody issues, the party shall pay an additional fee for such conciliation conference, which must be paid prior to the conferences. The filing of a second or subsequent contempt proceeding shall be presented directly to the court. The procedure for appointment of the conciliator shall be in accordance with these rules.

6. Attendance. All parties and any child at issue who is over the age of seven (7) years is mandated to be present and available at the conciliation conference. Failure of a party to appear at the conference may provide grounds for the entry of temporary or permanent Order. Conciliation shall commence at the designated time with or without counsel for the parties being present.

7. Authority of Conciliator. The conciliator shall have the following authority and responsibility:

(a) Conciliate custody cases, which specifically includes meeting with the parties and children, if appropriate.

(b) Address the issue of interim or temporary Orders.

(c) Address the issue of appointment of counsel for the child consistent with rules of court.

(d) Address the issue of home studies, as appropriate.

(e) Address the issue of utilization of expert witnesses, as appropriate.

(f) Address the issue of allocation of costs between the parties including, but not limited to, costs of court, home studies, expert fees, attorneys' fees or other similar costs.

(g) Address the issue of resolutions for contempt proceedings filed for the first time by a party in a case.

(h) Maintain an alphabetized list of all cases the conciliator has heard so that the District Court Administrator always appoints the same conciliator for the same parties.

(i) To address any other issues as hereafter may be approved by the court including, but not limited to, the issue of action to be taken on petitions for special relief.

8. Memorandum by Parties. At the conciliation conference, each party shall present a memorandum addressing the following:

(a) Proposed order (this should be the same relief that is set forth in the Complaint filed by the moving party).

(b) Names and addresses of factual witnesses.

(c) Names and addresses of expert witnesses.

(d) Issues for resolution.

(e) Estimated length of trial.

(f) Whether a home study is requested.

(g) Whether the party will agree to a joint psychologist for evaluation or requests psychological evaluations.

The form for the Memorandum shall be provided by the District Court Administrator's office and is expected to be submitted by both parties at the commencement of the conference. Failure to produce the information set forth in this rule prior to trial may be grounds for excluding the evidence or witnesses at trial or for imposition of other sanctions. The parties are directed to supplement the memorandum from time to time.

9. Summary by Conciliator. Following the conclusion of each conference, the conciliator shall prepare a conciliator's summary, together with a proposed order encompassing the agreement of the parties, to be submitted to the court for entry as an Order. If no final agreement has been achieved, a summary of the items as set forth in this rule shall be submitted to the court.

10. Record. No record shall be made at the conciliation conference.

(Effective June 7, 2000)

Rule 1915.3(c). Entry of Court Order

Upon review of the Conciliator's Summary, the court may issue an Order addressing the appropriate issues. Such Order shall be mailed to the parties by the court.

(Effective June 13, 1994)

Rule 1915.3(d). Scheduling of Hearing

If the parties are unable to agree to a resolution, the court shall issue a Pre-Trial Order, scheduling a conference in chambers, at which time both counsel shall be present and the parties shall be personally available. Although the court may not discuss the case with the parties, they are directed to be present in the event issues arise where the parties' input may be beneficial. The failure of a party to comply with the Pre-Trial Order or Order Preliminary to Trial shall not be sufficient basis to prevent the scheduling of the Pre-Trial Conference with the court. Rather, the court will take such dilatory actions into account when assessing costs, including counsel fees, if appropriate. The failure to comply with the rules of court are a basis for imposition of appropriate sanctions.

(Effective July 14, 1999)

Rule 1915.7. Consent Order

If an agreement for custody, partial custody or visitation is reached and the parties desire a Consent Order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed Order bearing the written consent of the parties and their counsel. The parties or the children need not be present unless the court so directs.

(Effective June 13, 1994)

Rule 1915.8. Physical and Mental

Examination of Persons

The court may assess, inter alia, the costs of psychological evaluation, the cost of physical examinations, the costs of home studies and/or the costs of other outside agency services which aid the court in making a custody determination against one (1) or both of the parties.

(Effective June 13, 1994)

Rule 1915.11. Appointment of Attorney for Child

The court may appoint an attorney to represent the child in an action and assess the costs against one or both of the parties.

(Effective June 13, 1994)

DIVORCE AND ANNULMENT OF MARRIAGE

Rule 1920.1. Definitions Conformity to Civil Action.

Matters raised by petition or motion prior to trial, which require consideration by the Court, and which are not otherwise provided for in these rules, shall proceed as set forth in Local Rules 6030 et seq.

(Effective June 7, 2000)

Rule 1920.31. Income and Expense Statement – Sanctions

** deleted according to the Administrative Order of Judge J. Chronister dated 11/19/02. This deletion took effect on January 1, 2003.*

Rule 1920.33. Inventory and Appraisal -Sanctions

** deleted according to the Administrative Order of Judge J. Chronister dated 11/19/02. This deletion took effect on January 1, 2003.*

Rule 1920.4. Service When a Party Cannot Be Located

(a) When service of the complaint cannot be effectuated within the Commonwealth pursuant to Pa. R.C.P. 1920.4(a)(1)(i) or 1920(a)(1)(ii), plaintiff shall proceed by Special Order of Court pursuant to Pa. R.C.P. 1920.4(a)(1)(iii). Plaintiff may request that service be authorized by the court in the manner provided by subsection (b) of this rule or may propose an alternate method of accomplishing service.

(b) The request for the Special Order of Court may set out the following method of accomplishing service:

(1) File an affidavit of good faith investigation pursuant to Pa. R.C.P. 1920.4(3) listing the names and addresses, not to exceed three (3) in number, of people who may know the whereabouts of the defendant.

(2) After filing the aforesaid affidavit, plaintiff shall mail, both by certified and regular mail, a copy of the complaint and affidavit to the defendant at his/her last known address; and by certified mail, a copy of the complaint and affidavit to those people named in the affidavit, together with a cover letter directing them to forward the complaint to defendant and requesting any information as to defendant's new residence.

(3) In the event information of a new residence is received, plaintiff shall mail, both by certified and regular mail, the complaint and affidavit to the new address.

(4) After completion of (1), (2) and (3) aforesaid, plaintiff shall file an affidavit attesting to the mailing of the copies of the complaint and affidavit, including mailing to any new residence of the defendant.

(c) Plaintiff may proceed with the action twenty (20) days after service is accomplished pursuant to the Special Order.

(Effective June 13, 1994)

Rule 1920.45. Counseling

** Deleted according to the Administrative Order of Judge J. Chronister dated 11/19/02. This deletion took effect on January 1, 2003.*

Rule 1920.51. Divorce Hearing Masters Proceedings

(a) Qualifications and duties of divorce masters. The Divorce Masters Office shall be responsible for scheduling and conducting all proceedings involving a master appointed pursuant to Pa.R.C.P. 1920.51, *et seq.* The court shall employ permanent salaried masters who shall not engage in any private domestic relation matters and who shall serve at the pleasure of the court. Their qualifications and duties shall be as follows:

- (1) The Director of the Divorce Masters Office. The Director shall be a full-time salaried employee of the County of York and shall serve at the pleasure of the court. The Director shall be a member of the Bar of York County and shall have at least five (5) years experience of practice in the field of Divorce and Family Law. The Director shall be responsible for the operation of the Divorce Masters Office, including supervision of the employees of the office and the other masters employed by the court. The Director shall assign cases to other masters employed by the court and shall conduct proceedings in cases not assigned to other masters. The Director shall report directly to the judge presiding over the Family Court Division.
- (2) Masters. The court may also employ part-time or full-time masters to work under the supervision of the Director. Such additional masters shall be members of the Bar of York County, shall be employees of the County of York, and shall serve at the pleasure of the court. The part-time masters shall be available at least twenty (20) hours per week to fulfill their assigned duties.

- (3) Special Masters. In cases where the Divorce Masters Office is not able to conduct proceedings pursuant to Pa.R.C.P. 1920.51, *et seq.* due to a conflict or extraordinary circumstance, the court may appoint a member of the Bar of York County to sit as a special master in any particular case. Such special master shall serve at the pleasure of the court and shall be an independent contractor of the County of York, with compensation set by the court on a case-by-case basis.
 - (4) General Duties. In each case in which a master is appointed, the master shall preside over all conferences and hearings necessary for the preparation of a final or interim report and recommendation, as appropriate. The master may schedule conferences with counsel, with or without the parties present.
- (b) Appointment of a master.
- (1) Fee certification. The Motion for the Appointment of a Master for divorce, annulment or any related claim shall be made on the form prescribed by the Divorce Masters Office. The Motion shall be presented first to the Prothonotary, who shall certify thereon that the fees have been paid. The moving party shall serve a copy of the Motion upon the opposing party or counsel.
 - (2) Counsel to present Motion to Divorce Masters Office. The original Motion and three copies shall then be presented at the Divorce Masters Office for the issuance of an order appointing a master and scheduling such further proceedings as may be necessary.
 - (3) Divorce Masters Office to file and to serve. The Divorce Masters Office shall file the original Motion and scheduling Order with the Prothonotary and provide a copy of each to both the moving party and the responding party.
- (c) Filing fees. The designated parties shall pay to the Prothonotary the following fees, at the times indicated.
- (1) Prothonotary's fees. In every action of divorce or annulment initiated by a party, the moving party shall pay to the Prothonotary's Office the required filing fees, as published in the Prothonotary's Office fee schedule.
 - (2) Fees to appoint a master. Upon the presentation of a Motion to Appoint a Master, the moving party shall pay to the Prothonotary, in addition to the fees set forth in subsection (1) of this provision, the following fees, to bring these claims before the master:
 - [a] Divorce or annulment, equitable distribution, alimony, counsel fees, costs and/or expenses. The moving party shall pay a fee of three hundred dollars (\$300.00) for a Motion to Appoint a Master including all or one of the following: divorce, annulment, equitable distribution of marital property, alimony, counsel fees, costs and expenses. A moving party filing an Amended Motion to add one or more of these issues to the Appointment shall not be required to pay an additional fee. For

additional provisions concerning alimony, see subsection [c], below.

[b] Alimony pendente lite. The moving party shall pay a fee of fifty dollars (\$50.00) for a Motion to Appoint a Master for alimony pendente lite. For additional provisions, see subsection (5)(d), Alimony pendente lite – additional provisions, below.

[c] Modification of alimony. The moving party shall pay a fee of two hundred dollars (\$200.00) for a Motion to Appoint a Master for the modification of a final alimony order.

[d] Modification of alimony pendente lite. The moving party shall pay a fee of fifty dollars (\$50.00) for a Motion to Appoint a Master for the modification of a prior award of alimony pendente lite.

[e] Additional fees. If more than two full days of hearings are necessary to resolve the case, then the parties shall pay an additional fee of one hundred fifty dollars (\$150) for each additional day of testimony or part thereof. The master shall not proceed beyond the second full day of hearings until these additional fees have been paid.

(3) Fee changes. The fees stated in this subsection are subject to change by publication.

(4) Award of costs. The fees set forth in subsection (c)(2) shall be regarded as costs of the case, and the master may recommend that either party bear those costs or reimburse the other party in full or in part for those costs.

(5) Request for return of appointment fees. In any action where the appointment of a master is withdrawn after the appointment has been made by the court, the party who paid the fees specified in subsection (c)(2) may petition the court for the return of part of the fees in accordance with the following provisions:

[a] Refund of appointment fees. Only in those cases where no preliminary hearing or conference has been held and written notice of discontinuance or revocation of the appointment of a master has been delivered to the Divorce Masters Office no less than fifteen (15) days in advance of the first originally scheduled proceeding, the fees may be remitted in full, less fifty dollars (\$50.00).

[b] Master's consent. The petition for remission of fees will not be approved by the court unless endorsed by the master appointed to hear the case in question.

(d) Filing of income and expense statements and inventories.

(1) Moving party's filing of Income and Expense Statement. When a Motion for the Appointment of a Master for any claim, set forth in Pa.R.C.P. 1920.31, is presented to the Divorce Masters Office as set forth in subsection (b)(2), above, it shall be accompanied by a copy of the moving party's Income and Expense Statement that has been filed with the Prothonotary. The Income and Expense Statement shall be in the form required by Pa.R.C.P. 1910.27, and shall be substantially complete.

- (2) Moving party's filing of Inventory. When a Motion for the Appointment of a Master for equitable distribution is presented to the Divorce Masters Office as set forth in subsection (b)(2) above, it shall be accompanied by a copy of the moving party's Inventory that has been filed with the Prothonotary. The Inventory, as required by Pa.R.C.P. 1920.33, shall be substantially complete.
 - (3) Respondent's Income and Expense Statement. Within thirty (30) days after receiving notice that a master has been appointed to hear any claim, other than divorce or annulment, the responding party shall present to the Divorce Masters Office a copy of that party's Income and Expense Statement that has been filed with the Prothonotary. The Income and Expense Statement shall be in the form required by Pa.R.C.P. 1910.27, and shall be substantially complete.
 - (4) Respondent's Inventory. Within thirty (30) days after receiving notice that a master has been appointed to hear a claim for equitable distribution, the responding party shall present to the Divorce Masters Office a copy of that party's Inventory that has been filed with the Prothonotary. The Inventory, as required by Pa.R.C.P. 1920.33, shall be substantially complete.
 - (5) Sanctions for failure to file. Parties failing to comply with the requirements of this subsection (d) shall be subject to Court Ordered sanctions and may be subject to sanctions imposed by the master, *sua sponte*, as permitted by subsection (f)(9), below.
- (e) Alimony pendente lite – additional provisions.
- (1) Additional documents required. When a Motion for Appointment of a Master is presented to the Divorce Masters Office with respect to a claim for alimony pendente lite, the moving party shall also present the following additional documents to the Divorce Masters Office:
 - [a] A time stamped copy of the initial pleading, filed with the Prothonotary, in which the claim for alimony pendente lite was raised.
 - [b] The original and two copies of the "Background for APL" form as prescribed by the Divorce Masters Office.
 - [c] The original and two copies of the "Petition for Alimony Pendente Lite" form as prescribed by the Divorce Masters Office.
 - [d] The Prothonotary's payment receipt.
 - (2) APL referred to DRO. A Motion for the Appointment of a Master solely on the issue of alimony pendente lite may be referred by the Divorce Masters Office to the Domestic Relations Office for a conference pursuant to Pa.R.C.P. 1910.11. Any party aggrieved by the order entered as the result of such conference may request a hearing *de novo* which may be conducted by a judge. However, the court, in its sole discretion, may refer it back to the Divorce Masters Office for a hearing of record pursuant to Pa.R.C.P. 1920.54.

- (f) Preliminary proceedings.
- 1) Notice of preliminary conference. Upon appointment, the Divorce Masters Office shall give counsel or the parties not less than ten (10) days written notice of a preliminary conference to be conducted by the master.
 - 2) Scheduling of additional proceedings. At the close of the preliminary conference, the master may schedule additional proceedings, including one or more settlement conferences.
 - 3) Notice of other conferences and hearings. The Divorce Masters Office shall give counsel or the parties not less than ten (10) days written notice of any subsequent conference or hearing.
 - 4) Continuance requests. All requests for continuances are to be submitted on the Court's "Application for Continuance" form and shall include the response of opposing counsel. Requests for continuances shall be submitted to the Divorce Masters Office. The master shall rule on all requests for continuances. Any party aggrieved by the master's ruling may seek relief by filing a Motion for Continuance in Current Business Court.
 - 5) Attendance at conferences. Both parties and their counsel shall attend all conferences unless excused in advance by the master. Parties may participate by speaker telephone, but only with the prior consent of the master and the adverse party or by order of court. A request for a party to be excused or for a party to participate by speaker telephone must be made in writing and delivered to opposing counsel and to the Divorce Masters Office no less five (5) days in advance of the scheduled conference.
 - 6) Failure to appear. If any party fails to appear at any conference or hearing, either in person or by counsel, the master may proceed with the conference or hearing without the participation of that party provided that written notice of the conference or hearing has been given as set forth above.
 - 7) Good faith effort to settle. The parties, with the aid of their counsel and the appropriate assistance of the master, should make a good faith effort to resolve contested matters, including the marital property division, and shall determine those items which are contested and upon which testimony shall be taken at a scheduled hearing.
 - 8) Master's conference memoranda. During the initial conference or any subsequent conference, the master shall determine what discovery shall be provided by the parties and shall include a description of this discovery in a conference memorandum, which shall be provided to the parties shortly after the conference. In addition to other matters contained within it, the conference memorandum shall set a date by which all of the identified discovery shall be produced.
 - 9) Sanctions by masters. If either party fails to comply with the discovery deadlines established by the master in the prehearing statement or otherwise, the master, on motion of the adverse party or *sua sponte*, may impose any or all of the following sanctions:
 - [a] The matter may be continued until discovery is complete.

[b] The master, in his or her discretion may apply any of the sanctions set out in Pa.R.C.P. 4019(c)(1), (2), (3), or (5).

- (10) Actions to compel discovery. If either party fails to comply with the discovery deadlines established by the master, the adverse party may elect to file a motion in current business court to compel discovery in accordance with the master's directive.
 - (11) Notice of Master's hearings. When the case is ready to proceed, the master shall establish the time and place for the formal hearing and shall give no less than ten (10) days notice thereof by mail to counsel. If either party does not have counsel, then the ten (10) day notice shall be mailed directly to that party at the address noted on the records of the Prothonotary or such other address as the party may have provided in writing to the Divorce Masters Office after service of the Complaint.
- (g) Stenographic record.
- (1) Hearings of record. All hearings before a master shall be conducted on the record. Transcripts may be produced by either an official reporter or by electronic recording devices, in the Court's sole discretion.
 - (2) Preparation of transcript. At the conclusion of the hearing or any portion thereof, the master may direct that a transcript be prepared for use by the master in preparing the master's report and recommendation. Such transcript may be on paper or may be reproduced electronically by the reporter.
 - [a] In the case of paper transcripts or electronic media containing the full text of paper transcripts, the parties or their counsel may obtain copies at their own expense from the court reporter.
 - [b] In the case of electronic transcripts, the master may request a "real time" copy of the court reporter's notes. "Real time" copies of the court reporter's notes are not available to the parties or their counsel, but are only available for use by the court at a reduced cost to the parties. Therefore, if the parties or their counsel wish to have a transcript of the proceedings, they must request a paper transcript or electronic media containing the full text of the paper transcript from the court reporter and must pay the fees imposed by the court reporter.
 - (3) Master's report without transcript. The master may elect to prepare a report and recommendation without the benefit of a transcript of the proceedings.
 - (4) Parties to pay transcript costs. The master shall direct the manner in which the costs of the transcript shall be paid. If the master orders the transcript, then both parties shall pay the assessed transcript costs within fifteen (15) days of the notice sent by the court reporter(s) of the amount due.

- (5) Assessment of costs. These costs shall be treated in the same manner as those set forth in subsection (c)(4), above.
- (6) Sanctions for failure to pay. In the event a party fails to pay the transcript cost, as directed by the master, the compliant party may file a motion with the Court to compel payment. The Court shall order that a judgement be entered against the non-compliant party for the sum of their portion of the transcript cost plus counsel fees in an amount not less than two hundred fifty dollars (\$250.00).

** was amended by the Administrative Order of Judge J. Chronister dated 11/19/02*

(Effective January 13, 2003)

Rule 1920.55 Masters Reports and Exceptions

(a) Masters reports and recommendations.

(1) *Effective date for alimony pendente lite and alimony.* All reports from the masters recommending an award of alimony pendente lite or alimony shall contain a recommendation for the effective date of that order. All reports from the masters recommending an award of interim counsel fees shall contain a recommendation for a date by which the award must be paid.

(2) *Draft court orders.* In all cases, the master's report and recommendation shall be accompanied by one or more draft orders setting forth the master's recommended resolution of the case.

(3) *Assessment of costs and expenses.* In any case, the master may assess any costs or expense in the case against either party. The master may recommend that the party pay these costs before the granting of the divorce or the enforcement of any economic decree; PROVIDED, HOWEVER, that the master must first consider the effects of staying the granting of a divorce or the enforcement of any economic decree upon the other party. The master's recommended assessment of costs and expenses shall be binding on the parties unless specific exceptions are filed with respect to this recommended assessment.

(b) Filing Exceptions.

(1) *Filing of exceptions.* Exceptions to the master's report, filed pursuant to Pa. R.C.P. 1920.55, shall be filed in the Office of the Prothonotary, with copies provided to the Divorce Masters

Office and to the opposing party.

(2) *Time for filing exceptions.* Regardless of whether a transcript has been filed, a party must file any Exceptions to the master's report and recommendation within ten (10) days after the notice of the filing of said report has been mailed. A party filing Exceptions shall also file a certification that the transcript has been requested in accordance with Local Rules.

(3) *Request of transcript.* In the event no transcript has been filed by the court reporter prior to the time that a party files Exceptions, the party filing Exceptions shall make a written request to the court reporter for the preparation and filing of the transcript. This request must be made within ten (10) days after the date of the notice from the Divorce Masters Office that the report and recommendation has been filed. Any party requesting a transcript shall pay the costs of such transcript to the court reporter, within fifteen (15) days of the written notice from the court reporter that the transcript has been transcribed. In the event such party fails to pay the transcript cost within the fifteen (15) days allowed, then that party is deemed to have waived the right to file amended Exceptions, as set forth in this subsection and that party's briefing schedule commences, as set forth in subsection (6), below.

(4) *Amended Exceptions.* If a party wishes to file additional Exceptions after reviewing the transcript, the party may do so by filing amended Exceptions within ten (10) days after the court reporter filed the transcript, provided that the party has timely paid the transcription costs.

(5) *Briefs to reference transcript.* The moving party's brief shall direct the Court to the specific page or pages of the transcript of the notes of testimony that support the moving party's position on all issues raised by the Exceptions. The responding party's brief shall direct the Court to the specific page or pages the transcript of the notes of testimony that support the responding party's position on all issues raised by the Exceptions.

(6) *Filing and service of briefs.*

[a] *Moving party.* In Rule 1920.55 proceedings on the Exceptions to a master's report, the party filing the Exceptions shall file a brief in support thereof within twenty (20) days from the filing of the transcript.

[b] *Opposing party.* Within fifteen (15) days after the service of the moving party's brief, all other parties desiring to oppose the issue raised by such proceeding shall file a brief in opposition.

[c] *Reply.* Any moving party may file a reply brief within five (5) days after the service of the brief in opposition.

[d] *Listing and disposition.* See Rule 6031(b).

[e] *Sanctions.* See Rule 6031(c).

(g) *Transmittal of the record.* If no Exceptions are filed within ten (10) days of the notice of the filing of the master's report and recommendation, or if Exceptions have been filed but addressed by the court, then either party may move for the entry of a Final Order of Court by filing a "Praecipe to Transmit Record" with the Prothonotary. The Divorce Masters Office shall not be responsible for preparing or filing this Praecipe.

** was amended by the Administrative Order of Judge J. Chronister dated 11/19/02*

(Effective January 13, 2003)

MINORS AND INCOMPETENTS

See actions for wrongful death, Pa. R.C.P. 2206, incompetents as parties, Pa. R.C.P. 2051 et seq., and minors as parties, Pa. R.C.P. 2026 et seq.

Rule 2039. Form of Petition for Compromise

A petition for leave to compromise, settle or discontinue an action to which a minor or an incompetent is a party or an action for wrongful death in which a minor is interested shall set forth:

- (a) The facts out of which the cause of action arose;
- (b) The elements of damage sustained;
- (c) All expenses incurred or to be incurred, including the counsel fees requested;
- (d) The facts relied upon by the defendant; and
- (e) Any circumstances relevant to the propriety of granting the petition.

Note: See Rules 6030(d)(3) and 6034(j)(1).

(Effective June 13, 1994)

Rule 2039A. Hearing on Petition

(a) The court shall not approve the compromise, settlement or discontinuance of an action to recover damages for personal injuries to a minor or an incompetent plaintiff without a hearing to determine whether the compromise, settlement, or discontinuance is in the best interests of the plaintiff.

(b) The injured plaintiff and his natural guardian shall appear at the hearing unless excused for cause shown.

(c) Appropriate medical reports shall be submitted in lieu of testimony of the plaintiff's attending physician.

Note: No action to which a minor or an incompetent is a party may be com-promised, settled, or discontinued except after approval by the court pursuant to a petition presented by the guardian of the minor, or, in the case of the incompetent, by any party in interest. Pa. R.C.P. 2039(a), 2064(a). A similar requirement of court approval is imposed when the action is one for wrongful death and the minor is beneficially interested therein. Pa. R.C.P. 2206(a).

(Effective June 13, 1994)

Rule 2064. Settlements of Actions Involving Incompetent Parties

See Rule 2039 and 2039.A for the procedure for the approval of settlements of actions in which an incompetent is a party.

Rule 2206. Wrongful Death Settlements

See Rules 2039 and 2039.A for the procedure for the approval of settlements of wrongful death actions in which a minor or incompetent has an interest.

EXEMPTIONS

Rule 3123. Exemptions on Execution

(a) When the defendant in execution claims the right to retain any property by virtue of an exemption, the Sheriff shall give all parties to the action not less than forty-eight (48) hours' notice of the time and place when he will make an appraisal of the property claimed by the defendant.

(b) The parties and their attorneys or agents may be present at the appraisal.

(c) The Sheriff shall file the appraisal on or before the return day of the writ of execution.

(d) Exceptions to the appraisal may be filed no later than five (5) days after the return day of the writ.

Note: As to the form, effect, and service of copies of exceptions, see Rule 6160 et seq.

(e) If no exceptions are filed, the appraisal shall be confirmed as of course.

(Effective June 13, 1994)

Rule 3129.1. Notice to Internal Revenue Service

In any case where notice is required to be given to the Internal Revenue Service, in accordance with the provisions of the Federal Tax Lien Act of 1966, 26 U.S.C. Section 7425, (b) and (c), a copy of such notice certified by counsel to be a correct copy and indicating the date of service upon or delivery to the Internal Revenue Service shall be filed with the Sheriff prior to the date fixed for the sale.

(Effective June 13, 1994)

Rule 3132. Exceptions and Motions

(a) Exceptions to the confirmation of a Sheriff's or Coroner's sale or motions to set such sale aside shall be filed in the Office of the Prothonotary within one (1) week after the acknowledgement of the Sheriff's or Coroner's deed from the real estate sold.

Note: As to the form, effect and service of copies of exceptions, see Rule 6160 et seq.

(b) Upon cause shown by petition filed by the actual delivery of the deed, the court may extend the time for filing exceptions and motions.

(c) A motion to set aside a Sheriff's or Coroner's sale shall set forth with particularity the ground therefor and shall be verified. If based upon facts not appearing of record, the motion shall be supported by depositions.

(Effective June 13, 1994)

Rule 3135. Time for Acknowledgment

Writs of execution must be returned and filed before the acknowledgment of Sheriff's or Coroner's deeds for the real estate sold by virtue thereof.

(Effective June 13, 1994)

Rule 3135A. Time for Delivery of Deed

(a) Sheriff's and Coroner's deeds shall be retained by the Prothonotary undelivered until one (1) week after acknowledgment and until disposition has been made of any exception or motion to set the sale aside.

(b) The Prothonotary shall then deliver the deed to the Sheriff or Coroner for recording as provided by the Act of April 22, 1905, P.L. 265, §4, 12 P.S. §2536, 2537.

(Effective June 13, 1994)

Rule 3202. Notice to Sheriff

A person claiming property levied upon by the Sheriff shall give the Sheriff written notice of such claim.

(Effective June 13, 1994)

Rule 3203. Entry of Rule. Notice

(a) The rule to interplead shall be entered by the Prothonotary as of course and shall be made returnable not less than ten (10) days from the entry of the rule.

(b) The Sheriff shall give all parties prompt notice of the entry of the rule.

(Effective June 13, 1994)

Rule 3206. Abandonment by Plaintiff

(a) The plaintiff may at any time abandon the levy by filing a writing with the Sheriff.

(b) A plaintiff who abandons a levy after the rule for interpleader has been made absolute shall be liable for costs which have been incurred in the interpleader up to that time.

Note: In addition to an express abandonment by writing under this rule, a plaintiff also abandons the property by failing to show cause why a rule to interplead should not be granted. Act of June 22, 1931, P.L. 883, §1, 12 P.S. §2358.

(Effective June 13, 1994)

Rule 4001. Discovery Motions

See Rules 6031(d) and 6034.

RULE 4003.5. EXPERT REPORTS IN COMPLEX CASES

(a) This rule shall apply to all professional negligence, informed consent, and products liability cases.

(b) Within thirty (30) days of the close of the pleadings, counsel for the parties shall meet to attempt to frame a written plan for the management of discovery for the case including a discovery deadline. This plan shall set a time frame for the production of expert reports or the answering of expert interrogatories. Said plan shall be in writing and signed by all counsel or unrepresented parties of record. Counsel for the plaintiff shall have the responsibility for initiating such a meeting, which shall be held at the office of plaintiff's counsel if said office is in York County. If plaintiff's counsel has no office in York County, the meeting shall be held in the office of counsel that is closest to the York County Courthouse or as otherwise agreed by the parties. If any counsel would have to travel more than 125 miles to the conference, the conference may be held by telephone.

(c) If the parties cannot agree on a time frame for the production of expert reports or the answering of expert interrogatories, the plaintiff shall produce all expert reports or answer expert interrogatories within one year of the close of pleadings. The defendant shall produce all expert reports or answer expert interrogatories within 120 days of the production of plaintiff's expert reports or answers to expert interrogatories. Any additional defendant shall produce all expert reports or answer expert interrogatories within 120 days of production of any expert reports or answers to expert interrogatories implicating the additional defendant.

(d) No deadline established pursuant to Subsection (b) or (c) of this Rule shall be changed without an Order of Court. However, the Court shall grant changes in the deadlines for cause shown by motion or by stipulation.

(e) Once a party has provided an initial expert report or answered expert interrogatories, said party may provide a supplemental report or supplemental answers to interrogatories so long as this is done within a reasonable time before trial and so long as it does not delay the trial of the matter.

(f) Reports or answers to interrogatories provided pursuant to this Rule, may be used to support or oppose Motions for Summary Judgment without the need for an affidavit executed by the expert in connection with the Summary Judgment Motion.

(g) This Rule shall apply to all cases pending at the time of the enactment of this Rule. In all cases where the pleadings have closed at the time of the enactment of this Rule, the provisions of Subsection (c) shall apply and the time periods will commence from the date of the enactment of this Rule.

(Effective December 18, 1995)

Rule 4009. Mandatory Exchange of Medical Reports in Personal Injury Cases

(a) In general. In every civil action involving a claim for damages on account of personal injuries allegedly sustained, counsel for all parties shall exchange copies of all reports of medical examinations of any person for whose alleged personal injuries damages are sought by any party at least ten (10) days before the pretrial conference. A report later made, or a report of a later examination, shall be submitted to opposing counsel as soon as such report is made.

(b) Definitions.

(1) "Report," as used in this rule, shall include every written communication from a physician, medical practitioner or any other person engaged in diagnosing and treating illness or injury, or from the agent of any such person, containing information regarding the medical history, condition, diagnosis and/or prognosis of the person examined.

(2) "Medical Examination," as used in this rule, shall include an interview, observation, physical or mental examination and any other scientific or medical technique or practice designed to obtain information regarding the medical history, condition, diagnosis and/or prognosis of the person examined.

(c) Sanctions. Failure to comply with the terms of this rule may, in the discretion of the judge, result in the exclusion of medical testimony relating to findings contained in reports which were not exchanged. The judge may also refuse to permit the testimony of any medical witness who has not made a written report of his examination in time for it to be exchanged in compliance with this rule before the pretrial conference.

Comment: This rule does not apply to malpractice actions where the report of the plaintiff's expert or the defendant's expert witness is sought. It does, however, require the exchange of reports of treating physicians in a malpractice case, to which this section is specifically made applicable.

(Effective June 13, 1994)

Rule 4012. Protective Orders.

Any Motion for a Protective Order shall be filed and presented in accordance with Local Rule 6034.

(added July 12, 2004, effective immediately)

Rule 4017. Stenographer's Fee

Upon the completion by the stenographer of the transcript of testimony taken out of court for use as depositions in court or for discovery, the party causing the taking of such testimony shall forthwith pay the stenographer's fee therefor. The court may refuse to admit in evidence the transcript if the fee has not been paid.

(Effective June 13, 1994)

Rule 4019. Sanctions.

All Motions for Sanctions proceeding in accordance with Pa.R.Civ.P. No. 4019 shall be filed and presented in accordance with Local Rule 6034.

(added July 12, 2004, effective immediately)

Rule 6015. Procedure

(a) When an appeal from a tax assessment is at issue on the merits, any party thereto who desires to proceed to hearing shall file a praecipe listing the matter for a pretrial conference and shall comply with Rule 212.

(b) When all necessary pretrial conferences have been completed, the assigned judge shall file a prehearing order, furnish a copy thereof to each party, and file a certificate of readiness for hearing.

(c) The assigned judge shall in the prehearing order fix the date and time of hearing.

(d) The assigned judge may, in the exercise of judicial discretion, request the assignment of one or more additional judges to sit with the assigned judge to hear and decide the case.

(e) The Pennsylvania Rules of Civil Procedure, including but not limited to the rules governing discovery, shall be applicable to all tax assessment appeals filed in York County.

(Effective June 13, 1994)

APPEALS

Rule 6016. Pleadings

(a) Petition for review. Appeals from an appealable determination of government agencies of which this court has jurisdiction pursuant to the applicable law or general rule shall be commenced by filing a Petition for Review with the Prothonotary of York County. The Petition for Review shall contain the following:

- (i) A statement of the basis for the jurisdiction of this court;
- (ii) The names and addresses of the parties seeking review; the name and address of the government agency which made the determination sought to be reviewed;
- (iii) Reference to the order or other determination sought to be reviewed, with a copy of the same, if in writing, attached to the Petition for Review;
- (iv) Concise statement of the reasons for the appeal;
- (v) And a statement of relief sought. The reasons for the appeal may be stated in the alternative, and relief of several different types may be requested. A Petition for Review need not be verified.

(b) Zoning appeals. In zoning appeals, the pleading commencing the appeal shall be entitled Notice of Appeal, shall identify the property which is the subject of the zoning matter and state the names and addresses of all property owners, real and equitable, of such property. An original and one (1) copy of the Notice of Appeal shall be filed with the Prothonotary, and shall otherwise conform to Rule 6016(a).

(c) Answer. No Answer to the Petition for Review or Notice of Appeal need be filed; the reasons for the appeal stated therein shall be deemed to be denied and at issue.

NOTE: The term "government agencies" is used pursuant to the definitions contained in 2 Pa.C.S.A. Sections 101 et seq.

(Effective June 13, 1994)

Rule 6017. Service

A copy of the appeal pleading shall be served by the appellant in person on or by mailing the same, by registered or certified mail, to the government agency which made the determination sought to be reviewed and to all other entities or persons named as appellees or respondents and all parties of record before the government

agency within ten (10) days of filing the same with the Prothonotary. Service shall be complete on the date of mailing.

(Effective June 13, 1994)

Rule 6018. Agency Board

(a) *Petition for review.* Appellant shall serve upon the government agency, together with the Petition for Review as set forth in Rule 6017, a notice shall state that a true and complete copy of the entire record of the proceedings before the government agency which is the subject matter of the appeal, including any transcript of testimony in existence and available to the government agency, must be certified and filed by the government agency with the Prothonotary within the time period required under the applicable law, or if no such time period has been established, within twenty (20) days of receipt of such notice. Rule 6018(a) shall not apply to zoning appeals, as the same are governed by Section 101 of the Pennsylvania Municipalities Planning Code, 53 P. S. Section 11001-A.

(b) *Failure to file record.* In the event any political subdivision or municipal or other local authority, of the officers or agency of any political subdivision or local authority, whose decision, adjudication or order is the subject of an appeal to the Court, fails to certify or file with the Prothonotary the record of the hearing held by such agency in the subject action within the time period required under the applicable law, and where the procedures for compliance therewith are not otherwise provided for in such applicable law, any party to the appeal may forthwith petition the Court for relief. In response to such petition or on its own motion, the Court may remand the proceedings to the local agency for the purpose of making a full and complete record or completing the transcription and filing the certification of the record to the Prothonotary, as the case may be, within a stated period of time, or for further disposition in accordance with the order of the Court. Provided, however, that no appeal brought before the Court pursuant to Sections 10916.1 or 10913.3 of the Pennsylvania Municipalities Planning Code shall be remanded for further hearings before any such local agency. In its order in final disposition of the appeal, the Court shall assess against such local agency or such other party as the Court shall determine, the costs and reasonable expenses and attorney's fees incurred as a result of any such remand.

Note: The term "local agency" is used pursuant to the definitions contained in 2 Pa.C.S.A. Sections 101 et seq. The last sentence of Rule 6018(b) is primarily intended as a remedy for cases where the record is simply not

timely filed by the local agency, and may include appropriate interest and delay damages where applicable.

(Effective June 7, 2000)

Rule 6019. Hearing Request

In the event a full and complete record of the proceedings before the local agency was not made, either party may, within thirty (30) days of filing of the appeal pleading, file a motion requesting that an evidentiary hearing be held by the court. The opposing party may contest such motion by filing an answer therefore within ten (10) days of service of the same. Upon considering such motion, the court may remand the proceedings to the government agency for the purpose of making a full and complete record as the court may deem appropriate.

(Effective June 13, 1994)

Rule 6030. Types of Proceedings

(a) Scope. Rules 6030 through 6034, inclusive, provide the procedure for the disposition of certain matters either by one judge or by a court en banc, to the extent that procedure is not governed by the Pennsylvania Rules of Civil Procedure.

(b) Matters for disposition by one judge. Matters to be disposed of by one judge shall include the following:

- (1) Preliminary objections;
- (2) Motions for judgment on the pleadings, summary judgment and all other pre-trial relief;
- (3) Motions for post-trial relief and all other post-trial matters unless the trial judge orders that such matters be heard by a court en banc pursuant to Pa.R.C.P. 227.2;
- (4) Exceptions to the report of a master in divorce;
- (5) Appeals from decisions of a zoning hearing board, a board of school directors or other local government agency;
- (6) Any other matter not specifically required to be disposed of by a court en banc, by the motions' judge, or by the President Judge.

(c) Matters for disposition by a court en banc. Matters to be disposed of by a court en banc shall consist of:

(1) Matters specifically required to be heard en banc pursuant to statute, rule or appellate decision;

(2) Matters specifically ordered to be heard en banc by a judge of this court, either pursuant to Pa.R.C.P. 227.2 or otherwise.

(d) Matters for disposition by motions' judge. Matters to be disposed of by the motions' judge shall consist of the following:

(1) All motions and petitions arising under Pennsylvania Rules of Civil Procedures 4001 et seq. except when a pretrial conference has been held in a matter, all subsequent discovery motions shall be directed to the pretrial conference judge;

(2) Petitions to strike or open a judgment;

(3) Petitions for approval of minor settlements, wrongful death settlements and settlements involving incompetents;

4) Petitions for a name change;

(5) All other civil motions or petitions at law or equity that require a hearing unless specifically reserved for the President Judge by rule of court or statute or for the family or orphans' court division;

(6) All other civil motions or petitions at law or equity not specifically included in any other subsection of this rule;

(7) Petitions or motions for leave of court to withdraw entry of appearance;

(8) Writs of certiorari and statements of objection; and

(9) Criminal pre-trial motions unless specifically assigned by the President Judge or the District Court Administrator.

(e) Matters for disposition by President Judge. Matters to be disposed of by the President Judge shall include the following:

(1) Termination of inactive civil cases under Rule 6035;

(2) Appointment of constables;

(3) Appointment of persons to Board of View;

(4) Securing of out of county judge; and

(5) Detective licenses.

(f) Motions in Limine. All motions in limine shall be presented to the assigned trial judge.

(Effective June 13, 1994)

Rule 6031. Procedure in One-Judge Matters

(a) Matters other than motions for post-trial relief.

(1) Filing and service of briefs.

(i) In proceedings initiated by a petition to which an answer is filed raising an issue of fact, the moving party shall proceed as provided in Pa. R.C.P. 209 (relating to duty of petitioner to proceed after answer filed). In proceedings initiated by a motion for summary judgment, the parties shall proceed as provided in Pa.R.C.P. 1035 (relating to motion for summary judgment).

(ii) Within ten (10) days of the completion of the proceedings required by Pa.R.C.P. 209 or Pa.R.C.P. 1035, whichever is applicable, within fifteen (15) days after the filing of the transcript of a government agency such as a zoning hearing board from whose decision an appeal has been filed, or within ten (10) days after the filing of any other proceeding raising an issue for disposition by one judge, the party filing such proceeding shall file a brief in support thereof.

(iii) Within fifteen (15) days after the service of such brief, or thirty (30) days in the case of a Motion for Summary Judgment, all other parties desiring to oppose the issue raised by such proceeding shall file a brief in opposition.

(iv) Any moving party may, within five (5) days after the service of the brief in opposition, file a reply brief.

(v) Unless the time for filing and serving briefs has been extended by the Court for cause shown, where briefs have not been timely filed and served as required by this rule, the Court may, upon request of a party:

1. Deny the relief requested by dismissing the motion without prejudice, where the moving party has failed to comply;
2. Deny the relief requested upon the merits where the moving party has failed to comply;
3. Grant the relief requested upon the merits, where the responding party has failed

to comply;

4. Permit oral argument, but only by the complying party, and thereafter issue a decision upon the merits;
5. Grant such other relief or impose such other sanctions, as the Court shall deem proper.

** 6031(a)(1)(vi) is deleted. This deletion took effect on June 7, 2000.*

(2) Listing and disposition.

(i) Upon timely filing and service of briefs, any party may enter the case upon the One-Judge Disposition List for disposition of such issues by filing a praecipe which shall include the information required by the Prothonotary. Such party shall forthwith give written notice of such listing to all other parties of record, and shall file with the Prothonotary evidence showing such notice.

(ii) The District Court Administrator, under the direction of the President Judge, shall assign the case to a judge for disposition of such issues.

(iii) All such issues shall be considered and disposed of on briefs without oral argument; provided, however, that at the time of filing a brief any party may, by letter attached to the brief, request oral argument thereon, and if such request is granted, oral argument may be had in open court or in chambers as the judge shall direct.

(iv) The information required by the Prothonotary shall include a statement as to whether a Judge was previously assigned to the case (other than for a Motions Court matter), and if so, the name of the Judge. This information shall be included for all Pre-Trial Motions and when a request is made for a Pre-Trial Conference.

(added July 12, 2004, effective immediately)

(b) Motions for post-trial relief.

See Rule 227.1(e) and (f).

(Effective June 7, 2000)

Rule 6032. Procedure in Court En Banc Matters

Post-trial or other motions specially heard by court en banc. Where the trial judge orders that a post-trial or any other motion be heard by a court en banc, the procedure for filing of briefs shall be as set forth in Rule 6031(b), except that the moving party shall file a supporting brief within fifteen (15) days after the order that the matter be heard en banc or the time provided in Rule 6031(b)(2)(ii), whichever last occurs. As part of the order determining that the matter shall be heard en banc, the trial judge shall, with the assistance of the District Court Administrator, set a time and place for oral argument and designate the additional judge or judges (not more than two) who shall constitute the court en banc.

(Effective June 13, 1994)

Rule 6033. Briefs

(a) Content. All briefs shall be typewritten on 8 1/2" by 11" paper and shall contain complete and accurate citations of all authorities. Briefs shall contain a procedural history of the case, a statement of facts, a statement of questions involved and argument. All briefs more than ten (10) pages in length shall contain an index.

(b) Number of copies. Parties shall file two (2) copies of briefs with respect to matters for disposition by one judge and three (3) copies of briefs with respect to matters for disposition by a court en banc.

(c) Filing and service. All briefs shall be filed in the Office of the Prothonotary and shall have attached hereto a certificate of service as to all other parties which conforms to the requirements of Pa.R.C.P. 233(b).

(Effective June 13, 1994)

Rule 6034. Procedure in Motions' Court Matters

(a) Business sessions. Business sessions are conducted by the assigned motions' court judge at the times listed in the current court calendar when the Courthouse is in session. Motions are to be presented to the motions' judge by the following priorities: out-of-town counsel, followed by local counsel, based upon seniority.

(b) Notice Requirements. Counsel and unrepresented parties must notify opposing counsel or unrepresented parties of their intention to present a motion or petition to the motions judge three full business days in advance of the specific business session at which it will be presented. Counsel and unrepresented parties must also provide opposing counsel or unrepresented parties with a copy of the motion or petition to be presented three full business days in advance of the specific business session at which it will be presented. For

purposes of this rule only, service on opposing counsel or unrepresented parties by facsimile transmission shall constitute appropriate service. Service by facsimile transmission later than 12:00 p.m. shall be deemed service as of 9:00 a.m. the next full business day. The motions judge must receive a copy of any motion or petition at least twenty-four hours in advance of the business session at which it will be presented.

(c) Certification of Notice. At the time of the presentation of a motion or petition at a business session, counsel or an unrepresented party must certify to the court that proper notice has been given. Absent such certification, the petition or motion will not be heard until the notice requirements of this rule have been satisfied.

(d) Cooperation among counsel encouraged. Counsel and unrepresented parties are encouraged to confer prior to the presentation of any motions or petitions. This is particularly applicable to discovery issues. These good faith efforts shall become a factor when determining the propriety of sanctions for the failure to comply with the rules, in determining the exigency of the circumstances or when ruling on requests for other types of relief under applicable law.

(e) Certification for Discovery Motions and Petitions. At the time of the presentation of a discovery motion or petition at a business session, a movant or petitioner shall certify to the court in writing that a good faith effort has been made to resolve any discovery disputes that are the subject of the motion or petition.

(f) Conflicts. In the event of a conflict with any of the other York County judges, counsel or an unrepresented party shall advise the chambers of the motions' judge and the opposing counsel or unrepresented parties in order that the appropriate priority accommodations and adjustments can be made. In the event counsel or an unrepresented party opposing the motion or petition has a conflict and that conflict cannot be resolved with the counsel or unrepresented party presenting the petition, the reason for the conflict as well as the position of counsel or an unrepresented party on the petition or motion should be communicated to the motions' court judge in writing prior to the business session at which the petition or motion will be presented.

(g) Continuances of scheduled hearing. In all matters in which a hearing has been scheduled by the motions' judge and in which a continuance is sought, counsel or an unrepresented party must first contact counsel for the opposing party or unrepresented parties to determine whether there is an objection to the continuance. If there is no objection, an order representing the agreement of the parties shall be submitted seeking a rescheduled hearing. In the event of an objection by opposing counsel or an unrepresented party, a request for a continuance must be made to the motions' judge in writing a reasonable period of time in advance

of the scheduled hearing. A copy of said request must be provided to opposing counsel or unrepresented parties when it is submitted to the motions' judge.

(h) Disposition of matters submitted at business sessions. Counsel and unrepresented parties shall be prepared to discuss the matters raised in a motion or petition at the business session where it is presented. At or following the business session, the motions' judge may dispositively resolve the issues raised by a motion or petition by final order, briefing schedule, and/or the scheduling of a hearing.

(i) Filing. Either before or after the presentation of a motion or petition in a business session, all motions or petitions presented shall be filed by the movant or petitioner.

(j) Matters to be submitted in chambers. The following matters should be submitted in chambers:

- (1) Petitions for approval of minor settlements, wrongful death settlements and settlements involving an incompetent;
- (2) Motions to make rule absolute;
- (3) Stipulated orders;
- (4) Motions for alternative service;
- (5) Petitions for name changes; and
- (6) Petitions for preliminary injunctions and temporary restraining orders.

(k) Content of Motion. All motions to be disposed of by the motions Judge, either in motions court or in chambers shall include:

1. A brief statement of all prior determinations of the Court;
2. A brief statement of all pending matters before the Court;
3. A brief statement of all related cases pending in any Court.

(Effective June 7, 2000)

Rule 6035. Termination of Inactive Cases

(a) All civil cases filed in this court, except as provided in (a) (1), (2), and (3), which shall not have been reduced to judgment or final order, and in which no action has been taken for a continuous period of two (2) years or more and which lack any docket activity for the same period of time or more, preceding the end of each calendar year, shall be terminated as herein provided, in accordance with Pa.R.J.A. 1901.

- (1) In condemnation proceedings in which payment of damages into court by the condemnor

has been made, the proceedings shall not be terminated for a period of six (6) years, commencing from the date of such payment;

(2) In all divorce proceedings, the cases shall not be terminated for a period of five (5) years, commencing from the date of last docket activity;

(3) All support and custody proceedings shall be governed by the provisions set forth in Rule 1915.1, et seq.

(b) On a quarterly basis throughout the calendar year, the Prothonotary shall furnish to the District Court Administrator a list of all cases, which have become inactive cases as herein defined as of the close of the preceding quarter.

(c) Such list shall set forth for each such case:

(1) The docket number, and type of action;

(2) The name and address of counsel of record for each party;

(3) The name and address of each party for whom there is no counsel of record; and

(4) The date of the last action taken of record therein.

(d) The District Court Administrator shall give notice of all such cases by ordinary mail, postage prepaid, to the last address of record of counsel of record for each party; the parties for whom there is no counsel of record; the Prothonotary's office; and all opposing counsel. Service of this notice by publication will only be utilized if the attempted mailing was returned undelivered.

(e) The parties of record shall have 30 days from the date of the notice of termination to file a written objection with the Prothonotary setting forth the due diligence of prosecution during the two years of docket inactivity and all compelling reasons for the delay. The objecting party shall also serve a copy of the objection upon all opposing counsel. All other parties of record shall have 30 days to file a reply to the objection to termination, averring that prejudice has occurred and that the matter should be terminated, by serving a copy upon the Prothonotary and all parties.

(f) The matter will be disposed of as follows:

(1) If no written objection to the termination notice is filed within 30 days, the matter will be summarily dismissed in accordance with Pa.R.J.A. 1901.

(2) If an objection to termination is filed, and no reply is filed within 30 days by any party of record, the matter shall be returned to active status for a period of one year.

(3) If an objection to termination is filed, and a reply is filed by any party, the parties are directed to proceed in accordance with Local Rule 6034.

(Effective June 1, 1999)

RULE 6036. INACTIVE CUSTODY CASES.

(a) All custody cases filed in this Court in which no action has been taken for a continuous period of three (3) years or more and which lack any docket activity for the same period of time or more, preceding the end of each calendar year, shall be placed on inactive status as herein provided.

(1) On or before the fourth Friday of June of each calendar year, the Prothonotary shall furnish to the District Court Administrator and the judge or judges assigned to hear custody cases a list of all cases which have become inactive cases as herein defined as of the close of the preceding calendar year.

(2) Such list shall set forth for each such case:

- (i) The docket number;
- (ii) The name and address of counsel of record for each party;
- (iii) The name and address of each party for whom there is no counsel of record; and
- (iv) The date of the last action taken of record therein.

(b) The Court shall enter an order directing that all such cases in which no action has been taken of record, and which lack any docket activity for the same period of time or more, are thereby placed on inactive status. The Prothonotary shall enter such order on the docket as to each such case.

(c) Any case placed on the inactive list may be reactivated by the filing of a praecipe to reactivate and the payment of a filing fee of \$15.00.

(Filing fee, effective January 1, 1996).

(Effective December 18, 1995)

COSTS

Rule 6100. Security for Costs

(a) If the plaintiff is a non-resident of Pennsylvania or if insolvency or bankruptcy proceedings are pending against him, the court may order the plaintiff to give security for costs on the motion of a defendant who has

filed an answer to the plaintiff's complaint, if an answer is required in the action, or who has filed an affidavit that he has a just defense against the plaintiff's claim, if an answer is not required in the action.

(b) If the plaintiff fails to give the security ordered by the court, the Prothonotary, upon praecipe of the defendant, shall enter a judgment of non pros against the plaintiff.

(c) If the security for costs given by the plaintiff becomes insufficient, the defendant may move for the filing of additional security in the same manner and subject to the same conditions as provided for the giving of the original security.

(Effective June 13, 1994)

Rule 6101. Bill of Costs. Form

(a) A bill of costs as to attendance of witnesses shall include the names of the witnesses, the date of their attendance in court, the number of miles actually travelled by them and the place from which mileage is claimed.

(b) The bill shall be verified by the party filing it or his attorney. The verification shall state that the bill of costs is correct, that the witnesses named were actually present in court and that in the opinion of the affiant they were material witnesses.

(c) A bill of costs shall be filed with the Prothonotary within five (5) days after the action has been tried or an appeal has been taken from an award of arbitrators or a report of viewers.

(Effective June 13, 1994)

Rule 6102. Taxation and Retaxation of Costs.

Exceptions

(a) Upon presentation of the bill of costs by the party entitled thereto, the Prothonotary shall tax the costs in accordance with the bill, unless manifest error of law or fact is apparent on the face of the bill.

(b) Within five (5) days after the taxation of costs, any party may file exceptions thereto with the Prothonotary, who shall then retax the costs.

Note: As to the form, effect of and service of copies of exceptions, see Rule 6160 et seq.

(Effective June 13, 1994)

Rule 6103. Appeal from Retaxation of Costs

(a) Within three (3) days after the retaxation of costs, any party may appeal therefrom.

(b) Within three (3) days after taking the appeal, the appellant shall file a specification of the items to which he objects, or the Prothonotary, on the praecipe of any party, shall dismiss the appeal.

(c) The taking of an appeal shall not stay execution on the judgment, but any sum collected on execution which represents the items of costs which are the subject of the appeal shall be paid to the Prothonotary to be held by him pending the determination of the appeal.

(d) Appeals under this rule shall be disposed of in accordance with Rule 6031.

(Effective June 13, 1994)

Rule 6160. Form of Exceptions

(a) Exceptions shall be numbered consecutively.

(b) Each exception shall specifically set forth the ground therefor but shall not contain any discussion.

(c) Exceptions to a finding or a conclusion or the failure to make a finding or conclusion shall specify the finding or conclusion which the exceptant claims should have been made.

(Effective June 13, 1994)

Rule 6161. Waiver

Objections not covered by exceptions are deemed waived unless leave to file exceptions covering such objections is granted by the Court upon cause shown.

(Effective June 13, 1994)

Rule 6162. Service of Copies

In addition to the service on other parties prescribed by Pa.R.C.P. 440, a copy of exceptions shall also be served upon the judge or the officer or appointee of the court to whose action the exceptions have been filed.

(Effective June 13, 1994)

Rule 6190. Money Paid into Court

(a) When appropriate, the court, on its own motion or on the petition of any party, may direct the payment of money into court.

(b) A petition for the payment of money into court shall set forth the reason for requesting such leave and the exact amount to be paid. Such notice of the filing of the petition shall be given as the court may direct.

(c) The Prothonotary shall have custody of all money paid into court until withdrawn. The Prothonotary shall deposit the funds specially to the credit of the court in a bank or banks in which deposits are insured by the Federal Deposit Insurance Corporation.

(d) Upon the petition of a person who appears from the record to be prima facie entitled to money paid into court, the court may direct the Prothonotary to invest the fund in such manner and upon such terms as the court may specify.

(e) If an order specifies that money paid into court is to be deposited in an interest bearing account, the party or parties to benefit shall provide the Prothonotary with a fully completed IRS W-9 form or other similar form required by the bank where the money is to be deposited. The Prothonotary shall not deposit such moneys until the parties have complied with this provision.

(f) Money paid into court may be withdrawn only on order of the court.

(Effective June 13, 1994)

NAMES

Rule 6205. Change of Name

(a) Notice of the filing of a petition for change of name and of the date, time and location of the hearing to consider the petition shall be given by publication in the York Legal Record and one (1) newspaper of general circulation in the county. The publication shall appear not less than twenty (20) days before the hearing. The same notice shall be served not less than twenty (20) days before the hearing by first class mail on any nonpetitioning parent of a child whose name may be affected by the proceedings.

(b) At the hearing, the petitioner shall present to the court proof of publication of said notice and, where required, proof of service of the notice. The petitioner shall also present to the court official searches of the offices of the York County Prothonotary and Recorder of Deeds and of the proper offices of any other county where the petitioner may have resided within five (5) years of the filing of the petition for change of name, or a

certificate in lieu thereof given by a party authorized by law to make such searches, showing that there are no judgments of record or any other matter of like character against said petitioner.

NOTE: For a discussion of the requirements for a change of name petition, see Section 6 of the Act of December 16, 1982, P.L. 1309, No. 295, 54 Pa. C.S.A. §101, notes. (Supp.)

(Effective June 13, 1994)

Rule 6210. Designation of Legal Newspaper

The York Legal Record is designated as the legal newspaper for the publication of court and legal notices.

(Effective June 13, 1994)

Rule 6236. Date and Time of Filing

The Prothonotary shall endorse the date and time of filing upon all papers filed in the Prothonotary's office and shall note the date and fact of filing on the case docket.

(Effective June 13, 1994)

Rule 6237. Restriction on Removal of Files and Documents

(a) No file containing original documents, nor any original document contained therein, may be removed from the Office of the Prothonotary, except by special order of the court, by anyone other than the following:

- (1) A judge of the court or a judge's authorized representative;
- (2) The District Court Administrator;
- (3) The Prothonotary and regularly employed and duly authorized employees of that office;
- (4) A master in divorce or in child custody cases for use in connection with official duties;
- (5) A chairperson of a board of arbitrators for use in connection with official duties.
- (6) A mediator appointed in accordance with Rule 6301 for use in official duties.

(b) Every person authorized to remove a file or document shall at the time of removal give to the Prothonotary a written receipt for the same identifying the person by whom, or on whose behalf, the same is removed, and such person shall be personally responsible for the custody and return of the same.

(Effective June 13, 1994)

Rule 6238. Entries on Dockets and Records

(a) Appearances shall be entered by attorneys by the filing of a praecipe.

(b) Unless otherwise directed by the court, an entry of satisfaction, settlement, discontinuance or receipt may be made by the filing of a praecipe by the attorney appearing of record, or, if none, by the filing of the form required by the Prothonotary by a party of record, if attested by or for the Prothonotary, and upon the payment of all costs imposed by law.

(c) Entries upon the dockets or other records of the Prothonotary shall be made only by the Prothonotary or under the direction of the Prothonotary.

(Effective June 13, 1994)

TRIAL

Rule 6260. Incorporated Documents and Exhibits to Pleadings as Evidence

A document or other instrument incorporated into a pleading or an exhibit to a pleading may be offered in evidence without producing or accounting for the absence of the original if the adverse party in a responsive pleading has not demanded the production of the original at the trial.

(Effective June 13, 1994)

Rule 6263. Trial List.

(a) No action shall be listed for trial by jury until all necessary pretrial conferences have been completed and the assigned judge shall have filed a certification of readiness for trial.

(b) Any action in which all necessary pretrial conferences have been completed and a certification of readiness for trial has been filed may be listed for trial by jury by any party by filing with the Prothonotary a praecipe listing the action for trial for a particular trial term. Said praecipe shall be filed within the deadlines set forth in the published court calendar.

(c) Any party listing an action for trial by jury shall give written notice of such listing to all other parties of record and shall file with the Prothonotary evidence showing such notice. Failure to give such notice shall be grounds for striking the action from the trial list upon motion of any party.

(d) The District Court Administrator shall prepare a list of all cases for trial by jury, listed in the order in which praecipe for trial listing are filed, except as otherwise provided by an Act of Assembly or directed by Order of Court.

(e) The District Court Administrator shall cause each trial list to be published in the York Legal Record at the expense of the County of York one (1) time at least two (2) weeks before the first day of the trial period.

(f) If an action is not tried during a trial term for which it has been listed, the action must be relisted for trial by the filing of a praecipe by any party.

(g) An action that has been listed for trial may not be relisted for a subsequent trial term until it has been removed from the trial list by an order of court, by the District Court Administrator, or at a call of the trial list.

(Effective December 18, 1995)

Mediation

Rule 6300. Cases Eligible for Civil and Family Law Mediation.

(a) *Civil Cases.* Civil cases which shall be eligible for mediation shall be those civil cases filed with the York County Court of Common Pleas which, if not settled, would be heard and decided by a Board of Arbitrators, a jury, or a Judge, and which do not involve issues of divorce, equitable distribution, alimony or alimony pendente lite, support or custody.

(b) *Family Law Cases.* Family law cases which shall be eligible for mediation shall be those Family Law cases filed with the York County Court of Common Pleas which, if not settled, would be heard and decided by a Judge or Master, and which involve equitable distribution, alimony, alimony pendente lite, counsel fees, costs, expenses and such other related issues as the parties and mediator agree. Pursuant to these rules, no request for mediation shall be filed until ninety (90) days after the filing of the divorce complaint.

Any case where either party is or has been a subject of domestic violence or child abuse at any time during the pendency of an action under this section or within twenty-four (24) months preceding the filing of an action under this section shall not be eligible for mediation under this section.

(Effective June 7, 2000)

Rule 6301. Selection of Mediators.

(a) The York County Bar Association shall present to the President Judge a list of attorneys authorized to practice before the York County Court of Common Pleas who have agreed to serve as mediators for cases eligible for mediation under Rule 6300(a). The President Judge may strike names from the list and, within ten (10) business days from the receipt of the list, shall forward the final list of mediators to the Civil Motions Court Judge and the York County Bar Association. The list of proposed mediators shall be presented to the President Judge by the York County Bar Association annually, but not later than the tenth business day in January.

(b) The York County Bar Association Family Law Section shall present to the Administrative Judge of the Family Division a list of attorneys authorized to practice before the York County Court of Common Pleas who have agreed to serve as mediators for cases eligible for mediation under Rule 6300(b). The Administrative Judge of the Family Division may strike the names from the list and, within ten (10) business days from the receipt of the list, shall forward the final list of mediators to the York County Bar Association. The list of proposed mediators shall be presented to the Administrative judge of the Family Division by the York County Bar Association annually, not later than the tenth business day in January.

(c) Mediation Training Requirements:

(1) Attorneys selected by the Bar Association and approved by the President Judge as mediators for cases submitted under Rule 6300(a) shall be certified as professional mediators, or shall have at least four (4) hours of mediation training. Attorneys who are not certified mediators must attend a one (1) hour training or review course pertaining to mediation at least annually.

(2) Persons selected as mediators for cases submitted under Rule 6300(b) must have fulfilled the requirements of a general member of the Academy of Family Mediators (which includes at least forty (40) hours of approved training in Family Law Mediation), or have received thirty (30) hours of Custody Mediation Training approved by the York County Family Court Division, plus be a practicing Family Law Attorney.

(d) No person shall serve as a mediator in a case where the mediator or any member of his or her firm:

(1) Previously or currently represents one or more parties (or their insurers, if applicable to the case);

or

(2) Is personally acquainted with or related to one or more of the parties; or

(3) Has personal knowledge or familiarity with the case; or

(4) Has been or may be called as a witness in the case.

(Effective June 7, 2000)

Rule 6302. Motion for Mediation.

(a) An attorney for any party, or any unrepresented party, in any civil case or family law case eligible for mediation may file a motion and proposed order for mediation of the case. Any Judge involved in any motion, petition, trial or other proceeding in a civil case or family law case eligible for mediation may issue an order directing that the case be mediated.

(b) A motion for mediation may be made at any stage in the proceedings, so long as the case is pending in the Court of Common Pleas of York County. The motion for mediation shall not affect or delay other proceedings in the case. For Family Law cases, no request for mediation shall be filed until ninety days after the filing of the Divorce complaint.

(c) The motion for mediation of cases submitted under Rule 6300(a) shall be presented to the Civil Motions Court Judge in chambers for his or her signature for an order for mediation.

(d) The motion for mediation of cases submitted under Rule 6300(b) shall be presented to the Family Law Judge in chambers for his or her signature for an order for mediation.

(e) The motion shall contain the following information:

(1) The Caption of the Case;

(2) The names, addresses and telephone numbers of each attorney and unrepresented party in the case; in the case of the attorneys, the motion shall identify the party represented by the attorney;

(3) If the parties have agreed upon a mediator from the list of mediators approved by the Court, the motion shall identify the mediator;

(4) A request for referral of the case to a mediator;

(5) In Family law cases, an averment that no party or child subject to these proceedings is or has been

a subject of domestic violence or child abuse at any time during the pendency of this action or within twenty-four months (24) preceding the filing of this action;

(6) An averment that the opposing parties consent to the mediation, or if consent is not given, that all opposing parties have been given three full business days notice of the presentation of the motion.

(f) Upon receipt of the signed order from the Court, the moving party shall file motion and order with the Prothonotary and serve the motion and order in accordance with the applicable rules for service of motions, and the moving party shall serve the motion and order upon the assigned mediator.

(g) The first motion for mediation by a party shall not require the consent of opposing counsel or opposing parties. Second and subsequent motions for mediation shall be presented at current business except when all parties concur with the motion.

(h) Upon receipt of a motion for mediation, the Court shall assign a mediator to the case, unless the parties have agreed upon a mediator.

(Effective June 7, 2000)

Rule 6303. Mediation Conference.

(a) All mediation conferences shall be scheduled by the mediator. The conferences shall be scheduled to last two (2) hours.

(b) In Family Law cases, mediators shall screen each party in advance of the mediation, using the Tolman Screening Model and shall not conduct mediation in those cases where the mediator determines, in his or her sole discretion, that mediation is not appropriate due to domestic violence, substance abuse, mental illness or other reasons under the Tolman Screening Model. The mediator shall notify the parties that he or she has determined that the case is not appropriate for mediation but shall not specify the reason for the rejection.

(c) All parties shall attend the mediation conference. Counsel may attend upon request of the mediator, or upon request of a party, provided advance notice to the mediator and all other parties have been given. If a party is insured for the claim which is the subject of the mediation, a representative of insurer and counsel shall attend the mediation conference and shall have full settlement authority.

(d) Prior to the mediation conference, the Prothonotary shall permit the mediator to receive the file for the case for review and for reference during the mediation conference. The mediator shall return the file to the Prothonotary no later

than the third business day following the mediation conference.

(e) The mediator may request the parties to submit a list of issues and a brief summary of the parties' position on each issue.

(f) At the time of the mediation conference, the mediator shall begin the conference by explaining the conference procedure. Counsel and/or the parties shall be prepared to discuss all of the issues pertaining to the case.

(g) All discussions during the mediation conference shall be deemed to be for settlement purposes only and no statement by any party or counsel or by the mediator may be used as an admission or as evidence or otherwise in any proceeding in the case. All mediation communications and mediation documents shall be privileged to the extent provided by 42 Pa.C.S.A. § 5949. The mediator shall not be called as a witness in any proceeding in the case where the subject of the mediator's testimony would reveal anything pertaining to the matters discussed or addressed in the mediation conference.

(Effective June 7, 2000)

Rule 6304. Duties and Compensation of the Mediator.

(a) Within ten (10) days of service of the order for mediation, the mediator shall contact each of the parties to the dispute and shall schedule the date of mediation. The date of the mediation shall be not less than twenty (20) days nor more than sixty (60) days from the date of the order. If a scheduling conflict arises, it is the responsibility of counsel or unrepresented party with the scheduling conflict to contact the mediator and all opposing counsel or parties to reschedule the mediation.

(b) At least five (5) business days prior to the scheduled date of the mediation, each party shall pay to the mediator the sum of \$150.00 as the mediator's fee for the scheduling and attendance at the mediation conference. Parties authorized to proceed in forma pauperis shall be exempt from payment of this fee, and the mediator will not be paid for this portion of the mediation.

(c) At the conclusion of the mediation conference, the mediator shall file a report with the Prothonotary, setting forth the caption of the case, the identity of counsel, and the identity of any unrepresented parties. The report shall further indicate the date on which a mediation conference was held, or the date on which the mediation was scheduled but at which one or more parties failed to participate. This report shall be filed for the purpose of establishing compliance or lack of compliance with the Court order pertaining to mediation.

(d) At the conclusion of the mediation conference, if appropriate, the mediator shall prepare a Memorandum of Understanding, summarizing any agreements reached by the parties, and shall provide copies of the memorandum to the parties and their counsel of record. The parties and their counsel shall be responsible for converting the Memorandum of Understanding into a contract, stipulation, or proposed order, and for taking the steps necessary to implement such documents and agreements.

(Effective June 7, 2000)

Rule 6305. Sanctions for Failing to Participate in Mediation.

(a) In the event that any party has been ordered to participate in mediation pursuant to these rules and fails to cooperate in the scheduling of a time for mediation conference, or fails to attend the scheduled mediation conference, or fails to pay the mediator pursuant to the requirements of Rule 6304(b), such party shall be subject to the following sanctions:

(1) Payment of \$150.00 to the mediator as reimbursement for the mediator's time in attempting to schedule and attend the mediation conference, except where the party has paid the mediator's fee;

(2) Payment of reasonable attorney's fees and costs incurred by other parties to the mediation during the mediation process.

(b) The Court shall have the authority to impose alternative sanctions in the event it can be established that the party failing to cooperate with the mediation did so due to events beyond the party's control, or that the party's conduct was otherwise justified.

(c) The sanctions permitted by this rule shall be in addition to and not in lieu of other sanctions or penalties which may be imposed by the Court pursuant to law or rule of court.

It Is Further Ordered that in accordance with Pa.R.C.P. 239 the District Court Administrator shall;

(a) File 7 certified copies hereof with the Administrative Office of Pennsylvania Courts.

(b) Distribute 2 certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File 1 certified copy hereof with the Civil Procedural Rules Committee established by the Supreme Court of the Commonwealth of Pennsylvania.

(d) File 1 certified copy hereof with the Domestic Relations Committee established by the Supreme

Court of the Commonwealth of Pennsylvania.

(e) Cause a copy hereof to be published one time in the *York Legal Record* at the expense of the County of York.

(f) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

(Effective June 7, 2000)