

**LOCAL RULES OF CIVIL PROCEDURE**  
**OF THE**  
**COURT OF COMMON PLEAS**  
**OF ERIE COUNTY**  
**6<sup>TH</sup> JUDICIAL DISTRICT**  
**OF PENNSYLVANIA**

**Updated July 2020**

(Includes Guidelines for the Conduct of Arbitration in  
Uninsured and Underinsured Motorist Coverage)

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**RULE 51.1. TITLE AND CITATION OF RULES**

These Rules, when adopted by the Erie County Court of Common Pleas in accordance with Pa. R.C.P. 239, shall be known as the Erie County Local Rules of Civil Procedure and may be cited as "Erie L.R. \_\_\_\_\_".

**RULE 106. COMPUTATION OF TIME**

Whenever the last day of any such period shall fall on a County Holiday or on any other day when the County Court House is closed, such day shall be omitted from the computation.

**BUSINESS OF COURTS**

**RULE 205.2(a). PLEADINGS AND LEGAL PAPERS. PHYSICAL CHARACTERISTICS**

- (1) All papers filed in the Office of the Prothonotary shall be filed on letter-sized paper, 8-1/2" x 11".
- (2) The caption of all papers allowed or required to be filed shall contain the term and number at which the action is filed.

**RULE 205.2(b). PLEADINGS AND LEGAL PAPERS. COVER SHEET**

The document(s) filed to commence an action shall include a completed and signed civil cover sheet, in the form provided by the Court, as follows:

ERIE COUNTY COURT OF COMMON PLEAS  
CIVIL COVER SHEET

Docket No. \_\_\_\_\_

Plaintiffs	Defendants
Plaintiffs' Attorney	Defendants' Attorney

TYPE OF CIVIL ACTION:

- |                             |                           |                          |
|-----------------------------|---------------------------|--------------------------|
| <u>Contract</u>             | <u>Tort</u>               | <u>Appeal</u>            |
| _____                       | _____ Medical Malpractice | _____ Zoning/Land Use    |
|                             | _____ Premises            | _____ License Suspension |
| <u>Municipal/Government</u> | _____ Motor Vehicle       | _____ Assessment         |
| _____                       | _____ Product Liability   | _____ Arbitration        |
|                             | _____ Other               | _____ Other              |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Filing Party or Attorney

\_\_\_\_\_  
Print

**RULE 206.1(a). PETITION. DEFINITION.**

As used in these rules, “petition” means an application to open a default judgment or a judgment of non-pros.

**RULE 206.4(c). PETITION. RULE TO SHOW CAUSE.**

(1) A petition shall proceed upon a rule to show cause, the issuance of which shall be as of course in accordance with the procedure set forth in Pa. R.C.P. No. 206.6.

(2) Where the petitioner requests a stay of execution pending the disposition of a petition to open a default judgment, the Court shall promptly dispose of the request.

(3) The petitioner shall file the petition with the Prothonotary with a copy to the assigned judge, together with a proposed order in conformity with Pa. R.C.P. No. 206.6. The assigned judge shall issue the appropriate order, and the petitioner shall provide notice of entry of the order to all parties as contemplated by Pa. R.C.P. No. 206.6.

**RULE 208.2(c). MOTIONS. NON-DISPOSITIVE. STATEMENT OF AUTHORITY**

Unless a certification is filed that a motion is presented as uncontested, any motion shall include a brief statement of the applicable authority.

**RULE 208.2(d). MOTIONS. NON-DISPOSITIVE. CERTIFICATION OF NO CONTEST**

Except as set forth in Erie L.R. 208.3(b), a motion shall be treated as a contested motion unless it contains a certification by counsel or by an unrepresented party that the motion is uncontested. A motion may be presented as uncontested where counsel or an unrepresented party can certify that the opposing party has consented to the relief requested or where prior notice of intention to present the motion and proposed order has been served in accordance with Local Rule No. 440 and the opposing party has neither indicated an intention to object nor appeared at the time of presentation and expressed an objection.

**RULE 208.2(e). MOTIONS. DISCOVERY**

Any motion relating to discovery shall include a certification signed by counsel for the moving party or an unrepresented party certifying that counsel or the unrepresented party has conferred or attempted to confer with all interested parties to resolve the matter without Court action.

**RULE 208.3(a). MOTIONS. NON-DISPOSITIVE. PROCEDURES**

(1) This rule describes the procedures governing non-dispositive motions within the scope of Pa.R.C.P. No. 208.1.

(2) The original of any motion shall be filed with the Prothonotary and a copy thereof shall be provided to the assigned judge. If a judge has not yet been assigned, the party seeking to present a motion shall first submit a request for judicial assignment with the trial court administrator and obtain assignment to a judge to whom the motion shall be presented. (See Erie L.R. 302 with respect to the filing of requests for judicial assignment.) The judge to whom the case has been assigned may schedule argument and, if granted, either notify all parties or advise the moving party to notify all other parties of the time, date and location of argument. (See Pa.R.C.P. 211, the granting of argument is discretionary with the Court.)

(3) After any order is issued by the Court relating to a motion, whether such order grants or denies the relief requested, schedules argument thereon or deals with any other related matter, and unless the order states otherwise, the moving party shall immediately file the original of said order with the Prothonotary and contemporaneously therewith shall serve a copy of said order on all other counsel and unrepresented parties.

(4) To supplement the procedure set forth in (a)(2) above, each judge shall establish a schedule when he/she will be available for presentation of non-dispositive motions in cases assigned to that judge, which schedule must be published on the website of the Administrative Office of Pennsylvania Courts ([www.aopc.org](http://www.aopc.org)) and the website of the Erie County Court of Common Pleas ([www.eriecountygov.org](http://www.eriecountygov.org)).

(5) If counsel and/or unrepresented party notifies opposing counsel and/or parties that a motion will be presented to a judge at a specific time and then fails to appear, the Court, upon motion, will consider an appropriate sanction including, but not limited to, an award of attorney's fees.

### **RULE 208.3(b). MOTIONS. NON-DISPOSITIVE. RESPONSES**

With respect to any motion which is contested, a response shall be filed within twenty (20) days after service of the motion. All motions which are contested shall be accompanied by a rule to show cause for the scheduling of a hearing or argument as appropriate. Where no response is filed, the moving party shall notify the court and the motion shall be deemed to be uncontested and the Court may proceed to issue a ruling upon the motion. Oral argument is discretionary with the Court. Nothing set forth herein shall be deemed to limit the discretion of the Court to enter an order in accordance with Pa.R.C.P. 208.4 upon initial consideration of a motion.

### **RULE 210. FORM AND CONTENT OF BRIEFS.**

Except by prior permission of the Court, briefs (exclusive of pages containing the table of contents, table of citations and any addendum containing opinions, etc., or other similar supplementary matter) shall not exceed twenty-five (25) pages of double-spaced conventional typographical printing. This Rule shall not apply to briefs on post-trial motions. Non-conforming or illegible briefs will not be considered.

### **RULE 212.1. PRETRIAL PROCEDURE**

(a) Scope

This Rule shall encompass all civil actions, except actions where jurisdiction lies in the Family/Orphans Court Division.

(b) Case Management Orders (CMO)

1. Case Management Orders - General

- (A) At the time of judicial assignment, the Office of Court Administration shall issue a CMO designating dates for the close of discovery, the filing of pretrial statements, and a proposed trial term.
- (B) At any time prior to judicial assignment, the parties may agree to the entry of a CMO by filing a stipulation with the Office of Court Administration and the Prothonotary.
- (C) Following the entry of the CMO, any request for modification shall be done by motion filed with the Prothonotary and mailing or delivering a copy to the assigned judge.



2. Case Management Orders - Time Limitations

- (A) All CMOs, except those requested by stipulation, which are issued by the Office of Court Administration, shall provide the following time limitations:
  - (i) Close of discovery within two hundred forty (240) days of the issuance of the CMO.
  - (ii) Plaintiff's pretrial statement filed within thirty (30) days of the close of discovery.
  - (iii) Defendant's pretrial statement filed within sixty (60) days of the close of discovery.
  - (iv) The proposed trial term which will be the next available trial term for which the case can be certified.
- (B) If a case has been accepted by the Court as "complex," all CMOs shall designate dates consistent with the following time limitations:
  - (i) Close of discovery is five hundred forty (540) days from the issuance of the CMO.
  - (ii) Plaintiff's pre-trial statement filed within forty five (45) days of the close of discovery.
  - (iii) Defendant's pretrial statement filed within ninety (90) days of the close of discovery.
  - (iv) The proposed trial term which will be the next available trial term for which the case can be certified.
- (C) If a case has been accepted by the Court as "expedited," all CMOs shall designate dates consistent with the following time limitations:
  - (i) Close of discovery is ninety (90) days from the issuance of the CMO.
  - (ii) Plaintiff's pretrial statement filed within fifteen (15) days of the close of discovery.
  - (iii) Defendant's pretrial statement filed within thirty (30) days of the close of discovery.
  - (iv) The proposed trial term which will be the next available trial term for which the case can be certified.
- (D) A party may request that a case be designated as complex or expedited by the filing of a stipulation or motion.
- (E) All cases where the amount in controversy is within the limits for mandatory arbitration shall be designated as "expedited" cases and CMOs issued accordingly.

(c) Settlement Conference

A party may request that the assigned judge conduct a settlement conference at any time after the filing of the last responsive pleading.

(d) Mediation

Mediation is available upon agreement of all parties. The Prothonotary, upon request for appointment of a mediator, may appoint a mediator to conduct the process. Other alternatives for locating a trained mediator include the Erie County Bar Association's Mediation Service.

The following procedure shall guide the mediation process when requested by parties:

1. A mediator may be selected through the Prothonotary's Office from a list supplied by the Court, through the Erie County Bar Association's Mediation Program or by other means agreed upon by the parties.
2. The mediator shall designate the time for hearing with written notice to each party or their counsel. Hearings may be held at the mediator's office or elsewhere upon agreement of the parties.
3. All parties, including counsel, may attend the mediation.
4. The parties/counsel shall immediately notify the mediator if the matter has been resolved prior to the scheduled hearing.
5. Upon completion of the mediation, the mediator shall file a report with the Court, with copies to the parties or, if represented, to their counsel, stating only whether the case has settled. If the case has not settled, it shall proceed to arbitration or trial.

\*(e) Certification For Trial

1. These certification procedures apply to all civil jury and non-jury cases.
2. In order to have a case assigned to a particular trial term, all counsel or parties must certify the case as ready for trial by filing with the Prothonotary and serving upon the Court Administrator a certification in substantially the form contained herein and designated "Certification I."
3. If a party has failed to comply with the timetables established in the CMO or has failed to sign a Certification I after being requested to do so in writing, a party wishing to place the case on the trial list must file a certification in substantially the same form contained herein and designated "Certification II."
4. A Certification I or II indicating readiness for trial shall be filed with the Office of Court Administration and the Prothonotary no later than the last Friday of the calendar month that precedes the month immediately before the beginning of the proposed trial term, unless a different deadline is established by notice published in the Erie County Legal Journal.
5. All "Certification II's" shall be forwarded to the assigned judge for disposition.

\*Comment: To comply with this Rule, all counsel must certify that they have "met and discussed settlement of this matter." (See the Form for Certification I). One preferred method of alternative dispute resolution which would satisfy the requirements of this Rule is mediation. The Erie County Bar Association has established a Mediation Program; guidelines and forms can be obtained from the ECBA offices at (814) 459-3111, or on-line at [www.eriebar.com](http://www.eriebar.com).

## **RULE 212.2. PRETRIAL STATEMENTS**

- (a) In addition to the requirements set forth at Pa. R.C.P. 212.2, all Pretrial Statements shall contain:
  - 1. A list of any unusual legal issues.
  - 2. Where appropriate, authorization to other parties to examine pertinent records unless earlier provided.
  - 3. For any party asserting a claim for damages, the method of calculation and how damages will be proven.
  - 4. For any party defending a claim for damages, any defenses to the damage claims.
  - 5. Filing Procedure. The original Pretrial Statements are to be filed in the Prothonotary's Office. No copy shall be forwarded to the assigned judge.

## **RULE 212.3. PRETRIAL CONFERENCE**

- (a) Upon the completion of the trial list, the assigned judge shall schedule a pretrial conference. Attendance at the conference is mandatory for all counsel, and all persons needed to authorize or approve settlement shall be present or available by telephone.
- (b) In cases proceeding to trial without a jury, a pretrial conference shall be scheduled at the discretion of the assigned judge or upon request of a party.
- (c) At pretrial conference, in addition to the matters included in Pa. R.C.P. 212.3(b), the Judge:
  - 1. Shall explore, with counsel and the parties, the possibility of settlement.
  - 2. May decide all remaining motions and requests for relief.

## **RULE 212.4. TRIAL LISTS AND CONTINUANCES**

- (a) After the deadline for certification has passed, the Office of Court Administration, in coordination with the assigned judge, shall list all certified cases for trial.
- (b) When a case is listed for trial, it shall not be continued except for just cause. Except in the case of exigent circumstances, all motions for continuance must be made at least ten (10) days before the start of the trial in non-jury cases. All motions for continuance must include the reasons for the request and must be presented to the assigned judge.
- (c) Motions for continuance which are being made with the agreement of all counsel must be signed by all counsel or parties.

**FORMS**

**CERTIFICATION I**

We the undersigned, counsel for the parties in the above case, hereby certify that:

1. The above action is ready for trial;
2. All outstanding motions have been resolved;
3. All pretrial narratives are filed;
4. Counsel have met and discussed settlement of this matter.
5. This case is to be tried \_\_\_\_\_ jury, \_\_\_\_\_ non-jury.

\_\_\_\_\_  
Plaintiff's attorney (date)

\_\_\_\_\_  
Defendant's attorney (date)

\_\_\_\_\_  
Additional Defendant's attorney (date)

**CERTIFICATION II**

1. The undersigned requests that the case be placed on the Trial List for the     (month)     term.
2. A case management order was entered providing for a proposed trial term of     (month)    .
3. A request to file a Certification I has been made of all parties.
4. This Certification II has been filed because:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_
5. The case is otherwise ready for trial.

\_\_\_\_\_  
Signature (Counsel or Party)

\_\_\_\_\_  
Date

## **RULE 216. RE-CERTIFICATION AFTER CONTINUANCE**

If a second consecutive continuance request is granted by the Court at the request of either counsel or an unrepresented party, the Court, in its discretion, may strike the case from the trial list. Re-certification will then be required to have the case placed on a future trial list.

## **RULE 220.1. VOIR DIRE.**

(a) The court may present a written questionnaire to the prospective jurors, in the form attached hereto as Exhibit A. Exhibit A may be found on Page 22 of the Appendix.

(b) Supplemental voir dire may be submitted to the court for approval.

## **RULE 221. CHALLENGES**

Neither peremptory challenges nor challenges for cause need be exercised until all prospective jurors have been questioned.

## **RULE 225. ADDRESSING THE JURY**

(a) Opening addresses may be made by all parties or groups of parties at the commencement of the trial in the order of their appearing in the pleadings.

(b) After the close of the testimony, each party or group of parties shall have the right of final address or argument. The party or group of parties not having the burden of proof shall address the jury first and the party or group of parties having the burden of proof shall have the right of final address in the order of their appearing in the pleadings. In cases of groups or parties not having identical interest, except interest arising from one injury, the Court, when requested, shall allow separate addresses for each interest.

(c) The opening and closing addresses of counsel shall be recorded by the Court stenographer.

## **RULE 226. POINTS FOR CHARGE. MOTION FOR DIRECTED VERDICT**

(a) The trial Judge may rule upon the parties' points for charge out of the hearing of the jury and, as to any points for charge read to the jury, not ascribe such points to any party or attorney.

(b) Points for charge shall be submitted prior to selection of the jury with the right to supplement them prior to closing arguments.

## **RULE 227.3. TRANSCRIPT OF TESTIMONY**

Any party filing objections to the moving party's request for transcription shall present such objections to the trial Judge for prompt scheduling of argument on the objection.

See Appendix, Court Order No. 6003-1995.

## **RULE 236. NOTICE BY PROTHONOTARY OF ENTRY OF JUDGMENT**

When filing a request for entry of judgment, a party shall provide the Prothonotary with the original and sufficient copies of judgments and notices thereof, together with postage prepaid envelopes addressed to all parties entitled to notice thereof.

## **RULE 251. ALTERNATE DISPUTE RESOLUTION/SUMMARY JURY TRIAL**

(a) General - By stipulation of the parties with approval of the court, a case may be selected for a summary jury trial.

(b) Summary jury trial - The summary jury trial is an abbreviated proceeding during which the parties' attorneys summarize their cases before a jury, which will consist of six persons unless the parties with concurrence of the court agree otherwise. Selection of jurors and voir dire shall be conducted in the usual manner as for trials not governed by this local rule. Witnesses will not be allowed to testify, unless otherwise stipulated by the parties. Documentary, physical and demonstrative evidence shall be admitted as stipulated by the parties and approved by the court. Unless the parties stipulate otherwise, the verdict is advisory only. Counsel are to submit proposed voir dire questions and proposed jury instruction as ordinarily required.

## **RULE 252. APPEALS IN LICENSE SUSPENSION CASES**

(a) Upon filing a license suspension appeal, the petition shall be presented to the Office of Court Administration for a judge assignment and hearing date.

(b) The Office of Court Administration shall review the petition and upon determination that the appeal is timely, shall issue a "per curiam" order of court designating the assigned judge and setting the date and time of the hearing and where appropriate providing for supersedeas.

(c) No provision for supersedeas shall be included in an appeal, pursuant to 75 Pa.C.S.A. §§1503, 1504, 1509, 1514, 1519 and 1572. Requests for supersedeas in cases involving those sections shall be directed to the assigned judge.

(d) Notice of the time and date of the hearing shall be provided by the petitioner to the Commonwealth as provided by the Motor Vehicle Code.

## **RULE 253. PETITIONS FOR CHANGE OF NAME**

(a) Upon filing, all petitions for name change shall be presented to the Office of Court Administration for judge assignment.

(b) Petitions for name change shall be presented to the assigned judge for designation of the date and time of hearing.

(c) At the time of the hearing, the petitioner shall provide the Court with the following:

- (1) A copy of the proposed decree;
- (2) A certified copy of the lien search completed by the Clerk of Records;
- (3) A verification from the Pennsylvania State Police of compliance with any applicable fingerprint requirements; and
- (4) A verification of compliance with all notice and publication requirements.

**COURT MATTERS**

**RULE 302. TRIAL DIVISION JUDICIAL ASSIGNMENT**

(a) Judicial assignment to a case will be made 60 days after the filing of the complaint if not made sooner at the request of a party. Counsel and unrepresented parties will be sent notice of the assignment. All judicial assignments will be noted in the electronic docketing system.

(b) If judicial attention is required prior to judicial assignment pursuant to section (a) above, counsel shall submit a request for judicial assignment with the Court Administrator on a form substantially as contained herein.

**ERIE COUNTY COURT OF COMMON PLEAS REQUEST FOR CIVIL JUDGE ASSIGNMENT**

DATE COMPLAINT FILED	DOCKET NUMBER
PLAINTIFF(S)	PLAINTIFF'S ATTORNEYS (Address)
DEFENDANT(S)	DEFENDANT'S ATTORNEYS (Address)

HAS THIS CASE RECEIVED ANY PREVIOUS JUDICIAL ATTENTION?

NO \_\_\_\_\_ YES \_\_\_\_\_

If yes, name of Judge \_\_\_\_\_

ARE THERE ANY COMPANION CASES ALREADY ASSIGNED TO A JUDGE?

NO \_\_\_\_\_ YES \_\_\_\_\_

If yes, name of Judge \_\_\_\_\_ Docket Number \_\_\_\_\_

FOR COURT USE ONLY:

\_\_\_\_\_ has been assigned this case. This matter, and all future matters, should be taken directly to assigned judge per local rules of court.

DATE: \_\_\_\_\_ ASSIGNED BY: \_\_\_\_\_

### **RULE 303. MOTION COURT AND OTHER MOTIONS AND PETITIONS-CIVIL**

(a) Civil Motion Court shall be held two (2) times per week (Tuesday and Thursday) at 9:00 A.M. The only motions presented shall pertain to cases in which no judicial assignment has yet been made. (See Erie L.R. 208.2(c)-208.3(b), generally, for procedure in matters where complaint has been filed.)

(b) The Court Administrator shall publish a schedule of the judges assigned to hear motions in those civil cases where no judicial assignment has yet been made.

(c) (1) The moving counsel desiring to have such summary determination of a motion or petition must notify opposing counsel and any opposing unrepresented party of his intention to argue the motion or petitions before the Court at such time, in accordance with Erie LR 440. The Court may refuse to hear argument on such motions or petitions unless counsel for each side is present.

(2) The moving party shall attach to the motion or petition the proposed order.

### **RULE 304. FAMILY LAW/ORPHANS' DIVISION MOTION COURT**

(a) Motion Court, for the purpose of obtaining a Final Order or an order for Emergency Relief, shall be held Monday, Tuesday, Wednesday and Thursday at 9:00 a.m.

(b) All other Petitions and Motions seeking a Rule to Show Cause, Argument, or hearing date shall be presented only by counsel or pro se litigant, in duplicate, to the Family/Orphans' Court Administrator between the hours of 9:00 a.m. to 11:00 a.m. and 1:30 to 3:00 p.m., Monday through Friday.

(c) A Motion Court Cover Sheet in the form which follows this rule shall be completed and attached to all Motions or Petitions filed.

(d) The Family/Orphans' Court Administrator shall be responsible for scheduling with the Judges all Arguments, Hearings and Rules To Show Cause on the Motions or Petitions presented to the Family/Orphans' Court Administrator.

(e) The attorneys or pro se litigants presenting a Motion or Petition to the Family/Orphans' Court Administrator shall be responsible for filing original Petitions or Motions and Orders with the Prothonotary or Clerk of the Orphans' Court and serving copies of the Order and Petition or Motion on opposing counsel or pro se litigants.

(f) The Family/Orphans' Court Administrator shall collect one copy of the Petition or Motion and Order for the hearing Judge.

(g) The Motions or Petitions and Order shall be filed on the date the Order is signed.

(h) For Motions or Petitions seeking Emergency Relief or a final Order, notice shall be given to opposing counsel or pro se litigants pursuant to Rule 440 of the Erie County Local Rules.

(i) Insofar as this Rule is inconsistent with Erie County Local Rule 303, Rule 304 shall apply.



DATE: \_\_\_\_\_, \_\_\_\_\_ HEARING REQUIRED: YES   
 MOTIONS JUDGE: \_\_\_\_\_ NO   
 HEARING JUDGE: \_\_\_\_\_  
 CAPTION: \_\_\_\_\_ VS. \_\_\_\_\_  
 DOCKET NO: \_\_\_\_\_

**FAMILY / ORPHANS' DIVISION  
 MOTION COVER SHEET AND NOTICE**

You are hereby notified that the attached motion/petition will be presented by me on:

\_\_\_\_\_:

- to the Court Administrator as a contested matter  
 9:00 a.m. - 11:00 a.m. and 1:30 p.m. - 3:00 p.m.  
 Monday through Friday:
- to Motion Court at 9:00 a.m.

**CERTIFICATION OF NOTICE AND SERVICE  
 (To be completed for Motion Court presentation)**

The undersigned represents that a copy of this motion and proposed order have been served up all parties or their counsel of record on \_\_\_\_\_ in accordance with:

- A. Local Rule No. 440, hereby providing:
  - Two full business days prior notice by  hand delivery,  fax,
  - Five full business days prior notice by mail; or
- B. Local Orphans' Court Rule 12 for Special Petitions, thereby providing:
  - Ten full business days written notice.

**UNCONTESTED MOTION CERTIFICATE**

The undersigned represents that:

- All parties or counsel have consented and consents are attached.
- The Order seeks only a return hearing or argument date and no other relief.

**INFORMATION FOR COURT ADMINISTRATOR**

- A. If a Judge has heard previously, please identify:
  - Kelly  Connelly  Dunlavey
  - Trucilla  Domitrovich
  - Cunningham  DiSantis
  - Bozza  Garhart
- B. Estimated court time required \_\_\_\_\_ minutes \_\_\_\_\_ hours \_\_\_\_\_ days
- C. Is this motion/position opposed?  yes  no  unknown

**(OVER)**

## FAMILY COURT MOTIONS

**CUSTODY:** Petition/Motion relating:

- |                                 |                                     |
|---------------------------------|-------------------------------------|
| G Temporary custody             | G Special relief (Custody)          |
| G Approval of custody agreement | G Custody Contempt                  |
| G Waive attendance at sem       | G Continuance (Custody)             |
| G Custody Order: _____          | G Counsel fees & expenses (Custody) |

**DIVORCE:** Petition/Motion relating to:

- |                                    |                                  |
|------------------------------------|----------------------------------|
| G Exclusive possession of property | G Approve QDRO                   |
| G Bifurcation                      | G Divorce Contempt               |
| G Filing Inven/Pre-Trial Stmt      | G Divorce, Special Relief        |
| G Waive Attendance at sem          | G Amend pleadings divorce        |
| G Alimony Pendente Lite            | G Counsel fees & expenses (Divo) |
| G Divorce Other: _____             |                                  |

**SUPPORT:** Petition/Motion relating to:

- |                                       |                         |
|---------------------------------------|-------------------------|
| G Cont conf/de novo hearing (support) | G Paternity/Blood tests |
| G Support Other: _____                | G Support Contempt      |

## ORPHANS' COURT MOTIONS

**DECEDENTS' ESTATES:** Petition/Motion relating to:

- G Inheritance Tax Return
- G Family Exemption
- G Settlement of Small Estate
- G Approval of sale of property
- G App settlement/Wrongful Death, et
- G Decedents' Estates Other: \_\_\_\_\_

**ADOPTIONS:** Petition for:

- G Adoption
- G Voluntary Relinquishment
- G Involuntary Termination
- G Confirm Consent
- G Adoption Other: \_\_\_\_\_

**MINOR'S ESTATES:** Petition for:

- G Appr Set of Minor's Claim
- G Auth to Release Funds from Minor's Account
- G Minor's Estates
- Other: \_\_\_\_\_

**GUARDIANSHIPS:** Petition for:

- G Minor guardianship
- G Alleged Incapacitated
- G Emergency Intervention
- G Discharge/Sub/Guardian
- G Guardianship
- G Other: \_\_\_\_\_

I hereby certify all of the above statements are true and correct.

Name(s) of opposing counsel or pro se litigants

By \_\_\_\_\_

Attorney for  Plaintiff  Defendant

## **RULE 305. DUTIES OF THE PROTHONOTARY**

(a) (1) The Prothonotary shall immediately stamp all papers filed with the date and time of such filings and make an appropriate entry for each filing in the docket pursuant to applicable rules of procedure, statute or Court Order. No entries shall be made in the docket except at the direction of the Prothonotary.

(2) The Prothonotary, duly authorized court personnel, and under the supervision of the Prothonotary, attorneys, pro se litigants and members of the public shall be permitted access to the files.

(3) No entries shall be made in the docket except at the direction of the Prothonotary.

(b) The Prothonotary shall be responsible for the safekeeping of all records and papers belonging to that office. The Prothonotary shall permit no papers to be taken from the office without order of Court except for temporary removal by an attorney for the purpose of conducting an arbitration, for copying within the Court House or other recognized Court purpose. Those removing papers from the file of the Court shall sign them out on a form used for that purpose and shall be responsible for damages arising from any loss.

(c) The Prothonotary shall not accept for filing any paper filed by a person which shall not have endorsed thereon the address and telephone number of the person filing the paper. The Prothonotary shall consecutively number the cases each year.

(d) In the litigation involving the validity of a municipal lien, upon motion of either party, the matter shall be transferred, from the municipal liens docket to the appearance docket and given a term and number by the Prothonotary.

(e) In all appeals to the Court from a municipal zoning board or municipalities, when said appeal has been returned to said board or municipality by the Court, should the matter then be returned to Court, it will retain the same docket number as it had on the original appeal.

## **RULE 306. TERMS OF COURT**

(a) Regular terms of Court for the trial of civil jury cases will be held in February, April, June, August and October.

(b) The Court may schedule special sessions and/or special civil jury terms of Court at other times and dates than those set forth in sub-paragraph (a) above.

(c) Requests for trials outside the regular civil trial terms are discouraged. However, if there are compelling reasons to make such a request, the proper procedure to be followed is to file a Motion with the assigned judge, giving due notice of the date and time of presentation to opposing counsel, in accordance with established motion practice.

## **RULE 311. PROCEDURE IN STATUTORY APPEALS**

(a) Unless a contrary procedure is provided for otherwise in Statute or general Rule of Court, this Rule shall apply to all statutory appeals where this Court has jurisdiction to review adjudications of School Districts, municipalities or State Administrative Agencies or offices. This Rule shall have no applicability to state Administrative Agencies or officers or proceedings under the Uniform Arbitration Act.

(b) In cases where the Court does not have the prerogative of receiving evidence in lieu of or in supplement to the record made in the administrative proceedings, or in cases where no motion for additional evidence was filed or granted pursuant to paragraph (d) herein, the disposition of appeals shall be by requesting a judge assignment after twenty (20) days of the docketing of the record from the administrative proceeding or after the denial of the motion for additional evidence, whichever is later. In such cases, all procedures otherwise applicable to the listing of cases for argument, assignment to a Judge, briefs, etc., shall apply to appeals governed by this Rule.

(c) In cases where a party is entitled, as a matter of right, to have either a de novo evidentiary hearing in this Court, or to supplement the record made in the administrative proceedings, any party so entitled shall request, within twenty (20) days of the docketing of the appeal, judicial assignment and submit an appropriate motion to the assigned judge for hearing. Such a motion shall set forth with particularity the basis on which the movant claims a right to submit further evidence and shall contain a certificate that the motion has been served on all other parties.

(d) In cases where the Court may receive evidence for cause shown, or at the discretion of the Court, any party wishing to request that the Court receive evidence, shall file a request for judicial assignment with the trial court administrator and present an appropriate motion to the assigned judge within twenty (20) days after the docketing of the record of the administrative proceeding being reviewed. The motion shall state with particularity the authority upon which movant relies and the particular factors which he believes indicate that the receipt of further evidence is justified. Where indicated by the circumstances, the following factors may be considered by the Court in acting upon such motions in addition to any otherwise applicable standard governing the exercise of the Court's discretion:

- (1) Whether movant was represented by counsel before the administrative tribunal.
- (2) Whether previously undisclosed or newly discovered evidence exists which was not made available to the administrative tribunal prior to its decision.
- (3) The overall adequacy for the purpose of appellate review of the record made before the administrative tribunal.
- (4) The apparent regularity and fundamental fairness of the administrative proceedings, as disclosed by the record.
- (5) Such other factors as may be considered in the interest of justice.

No motion contemplated by this section shall be acted upon until all interested parties have been given an opportunity to respond to the motion through argument. If, after argument, the Court denies, in whole, a motion under this section, the case shall proceed as provided in section (b) above.

In granting the relief requested in motions contemplated by this section, the Court may, unless otherwise indicated by applicable statutes, limit the evidence it will receive to matters which are not cumulative of material already included in the record made before the administrative tribunal, or impose other reasonable restrictions upon the scope or nature of the evidence to be received. The Court may, in its discretion, at the request of any party or on its own motion, require that any party intending to offer evidence pursuant to this Rule file a pre-hearing narrative statement fairly setting forth the nature of the evidence to be offered such that all parties may have adequate notice of the facts at issue prior to hearing and the scope and nature of the evidentiary proceeding.

(e) In cases in which evidence is received by the Court pursuant to this Rule, all parties shall submit proposed findings of fact to the Court, after the close of the evidentiary proceedings, along with their respective briefs on the merits of the appeal in accordance with a schedule fixed by the hearing Judge. The hearing Judge shall retain the case and make the final disposition of the appeal, including the adoption of findings of fact, where appropriate.

(f) No case shall be listed for argument and no motion shall be filed requesting that a hearing be set until the record of the administrative tribunal is docketed with the Prothonotary. It shall be the duty of the administrative agency involved to promptly notify all parties of the filing of the record.

(g) Unless a different time is specified by statute, or Rule of Court, it shall be the duty of the administrative agency involved to docket the record of the proceedings before it with the Prothonotary no later than thirty (30) days from service of the notice of appeal upon the tribunal or agency. The record shall, in all cases, contain at least a brief adjudication setting forth the findings and conclusions of the administrative tribunal.

(h) In the event that any administrative tribunal fails to comply with the provisions of this Rule, or of any statute, relating to the time within which to transmit its record to this Court, any party may, by motion, apply for an order compelling the transmittal of a complete record.

(i) Unless otherwise required by statute, the order of a single Judge of this Court which is dispositive of the merits of the appeal shall constitute a final order of this Court in all matters subject to this Rule. Neither the filing of exceptions nor en banc proceedings shall be required or permitted.

### **RULE 312. FAIR TRIAL. FREE PRESS.**

A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extra judicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

- (a) Evidence regarding the occurrence or transaction involved.
- (b) The character, credibility or criminal record of a party, witness or prospective witness.
- (c) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.
- (d) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.
- (e) Any other matter reasonably likely to interfere with a fair trial of the action.

See Appendix, Court Order 84-1992.

**SERVICE OF ORIGINAL PROCESS AND  
OTHER LEGAL PAPERS**

**RULE 430. DESIGNATION OF LEGAL PUBLICATION**

The Erie County Legal Journal is hereby designated as the legal publication for the publication of all notices and matters that are required to be published by the Pennsylvania Rules of Civil Procedure or Order of Court.

**RULE 440. SERVICE OF LEGAL PAPERS OTHER THAN ORIGINAL PROCESS**

(a) Prior to the presentation to the Court of any motion or petition requesting an immediate Order of Court, (except for a motion or petition filed under Pa.R.C.P. 1531(a) or a Rule To Show Cause which grants no relief), opposing counsel and unrepresented parties must be given two (2) full business days' notice by personal delivery or facsimile transmission to each party or their counsel's office, or five (5) full business days' notice if by mail. The notice must give the date and time when the motion or petition will be presented to the Court and must accompany a copy of the proposed motion and order. The motion or petition must contain a certificate signed by counsel verifying that proper notice was given under this Rule. Service by email is allowed if, pursuant to Pa.R.C.P. 205.4(g), the parties have agreed to service by electronic transmission or have provided an email address in an appearance or other legal paper that has been filed in that civil action.

(b) The Certificate of Notice shall be in the following form:

**CERTIFICATE OF NOTICE**

I certify that on (Date of Notice) I gave notice to all counsel of record and unrepresented parties, of my intention to present the within Petition/Motion to the Court on (Date of Presentation) by

- (a) first class mail
- (b) facsimile transmission
- (c) email
- (d) hand delivery,

\_\_\_\_\_  
(Name of Counsel)

(c) The Court will not enter an order on a petition or motion without the Certificate of Notice being attached unless special cause be shown to the Court.

**OFFICIAL RULES COMMITTEE COMMENT:**

The intention of this Rule is to provide opposing counsel or parties with two (2) full business days' notice from the date of fax, email or personal delivery, and five (5) full business days' notice from the date of deposit in the U.S. mail. For example, if a motion is to be presented on Thursday at 9:00 a.m., the notice of intent to present the motion must be delivered or faxed before 9:00 a.m. on the preceding Tuesday. If notice is given by mail, it must be postmarked no later than the Wednesday of the preceding week.

**RULE 442. SERVICE IN MAGISTERIAL DISTRICT JUDGE APPEALS**

In appeals from judgments of Magisterial District Judges in Civil Matters as governed by Rules 1001 et seq. of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges, the appellant in a Magisterial District Judge proceeding, in lieu of service and proof of service pursuant to Rule 1005A and 1005B, may at appellant's option file with the notice of appeal a stamped envelope pre-addressed to the appellee at appellee's address as listed on the complaint form filed in the office of the Magisterial District Judge or as otherwise appearing in the records of that office, or the attorney of record, if any, of the appellee, and a stamped envelope pre-addressed to the Magisterial District Judge in whose office the judgment was rendered. Copies of the notice of appeal and, if any, Rule pursuant to Rule 1004B of the Magisterial District Judge Rules shall thereupon be mailed by the Prothonotary or Clerk by first class mail with such service and any return being noted on the Court's docket.

NOTE: Erie L.R. 442 implements the option authorized by Rule 1005C of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges as added March 27, 1992, effective June 25, 1992.

## MISCELLANEOUS MATTERS

### **RULE 506. MONEY PAID INTO COURT**

(a) A party to an action, may upon motion and upon such notice to the adverse party as the Court may direct, pay into Court the amount admitted to be due, together with costs, if any. The party entitled to the money may accept the money and settle and discontinue the action or may refuse the money and proceed with the action. If the adverse party shall not recover more than the amount paid into Court, all additional costs shall be deducted from the money. This tender into Court shall in no way alter the rights of the parties as to legal tender made before suit.

(b) Parties wishing to extinguish liens upon real estate in which they have an interest, may upon motion and such notice to the creditor as the Court may direct, pay into Court the amount due and have satisfaction entered upon the lien.

(c) Upon payment of money into Court, to abide its order, the same shall be deposited by the Prothonotary in an account in the name of the Prothonotary kept for such purposes, and shall be payable only by a check signed by the Prothonotary pursuant to order of the Court. A book shall be kept in the office of the Prothonotary, in which shall be entered all monies paid into Court, with the name of the case in which it shall have been paid.

(d) Under the provisions of the bulk transfers section of the Uniform Commercial Code, 13 Pa. C.S.A. 6106(4) the petition of the transferee, in addition to other necessary allegations, shall give the name, address and amount of claims of creditors of the transferor insofar as the same are known to him and may request the appointment of an auditor. If the petition is approved by the Court, an auditor may be appointed forthwith to determine what creditors of the transferor are entitled to recommend distribution to the Court. The auditor shall give notice of his appointment and perform all his duties in accordance with the provisions of Rule 500\*. He shall give notice of the time of filing claims to the transferors and transferees, or their attorneys, by registered or certified mail to each known creditor whose name and address is set forth in the petition.

*\*[Erie L.R. 500 was deleted by the changes which were made pursuant to the order of July 8, 2004. Any continued reference to Erie L.R. 500 is an oversight which the Rules Committee will bring to the court's attention.]*

(e) The Prothonotary, upon receipt of any payment or deposit of funds or damages due or estimated to be due in eminent domain proceedings, pursuant to any statute, rule or order of Court, shall, within five (5) days of receipt of such funds or damages, deposit the same in a federally insured depository in Erie County, Pennsylvania, subject to withdrawal on a daily basis without notice, such deposit to bear interest at a rate not less than the current rate at any time advertised by said institutions to be paid to its customers for depository accounts with similar withdrawal provisions as above.

(1) If the amount of such funds so paid or deposited with the Prothonotary exceed the maximum amount that deposits with such institutions are insurable by an agency of the United States of America, the Prothonotary shall open as many accounts as may be necessary to provide that all such funds so paid or deposited are fully insured by an agency of the United States of America.

(2) Any funds deposited by the Prothonotary under this Rule shall be deposited in the name of the Court for use of the parties who may be entitled thereto, and shall not be withdrawn except by Order of Court authorizing the Prothonotary to withdraw all or a part of any such funds so deposited and to make distribution of the same in accord with the terms of such Order. A record of all funds received and paid out hereunder, including the source of such funds, the number and term of the proceedings under which the same were deposited, and to whom payments of funds withdrawn are made, shall be kept by the Prothonotary.



(3) Interest earned on funds deposited shall belong to and, upon Court Order authorizing withdrawal, be paid to the party or parties entitled thereto less the appropriate deduction for poundage which the Prothonotary shall receive for the handling of monies paid into Court in accordance with the statutory fee schedule established by the General Assembly of the Commonwealth of Pennsylvania.

(4) The Prothonotary shall after deposit of funds, as above described, mail a copy of said depository agreement to all parties of record and file a copy of same with the papers in the case.

### **RULE 507. DEFICIENCY JUDGMENT ACT**

(a) Petitions pursuant to 42 Pa. C.S.A. §8103, as amended, to fix the fair market value of real property bought by a plaintiff at a sheriff sale shall disclose in addition to the requisites of the section, the following:

(1) The date of the sheriff's sale.

(2) The date of entry and the amount of judgment entered in the proceeding and the amount of the interest due thereon to the date of the sheriff's sale and the costs of the proceedings upon which the said judgment was obtained.

(3) An itemized statement of all prior liens, costs, taxes, municipal claims not discharged by the sale, and the amount of any such items paid at distribution on the sale.

(b) The service of the petition shall be in accordance with Pa. R.C.P. Nos. 440 and 441.

### **RULE 508. ACCOUNTING**

When in any action a judgment has been entered directing the defendant to account to the plaintiff, the defendant shall, within thirty (30) days (unless the Court shall for cause shown allow a longer time), state the account and file the statement thereof in the Office of the Prothonotary giving notice and copy of account forthwith to the plaintiff, or his attorney, that this has been done. Within thirty (30) days after such notification the plaintiff, if dissatisfied with the statement of account filed by the defendant, shall file exceptions thereto and move for the appointment of an auditor to hear and report upon questions of fact and law raised by the exceptions. The auditor and all parties shall thereafter follow Erie L.R. 500\*.

*\*[Erie L.R. 500 was deleted by the changes which were made pursuant to the order of July 8, 2004. Any continued reference to Erie L.R. 500 is an oversight which the Rules Committee will bring to the court's attention.]*

## **ACTIONS AT LAW**

### **CIVIL ACTION**

#### **RULE 1018.1. NOTICE TO DEFEND. FORM**

With respect to the notice to defend form required by Pa.R.C.P. 1018 the Erie County organization shall be:

Lawyer Referral & Information Service  
P.O. Box 1792  
Erie, PA 16507

814/459-4411  
Mon - Fri  
8:30 a.m. - Noon; 1:15 p.m. - 3:00 p.m.

#### **RULE 1028(c). PRELIMINARY OBJECTIONS**

1. Preliminary objections shall be filed with the Prothonotary's office and a copy shall be served by the objecting party upon all counsel of record and unrepresented parties. Within thirty (30) days after the filing of preliminary objections, the objecting party shall file a brief and serve a copy of the brief upon all counsel of record and unrepresented parties. At that time, the objecting party shall also serve a copy of the preliminary objections and brief upon the assigned judge.

2. The non-moving party shall file with the Prothonotary's office a responding brief within thirty (30) days of receipt of the objecting party's brief. The non-moving party shall forward a copy of the brief to the assigned judge. This deadline does not affect the filing deadlines otherwise imposed upon the non-moving party by the Pennsylvania Rules of Civil Procedure.

3. After the passage of the filing date for the non-moving party's brief, the assigned judge may schedule the matter for an argument on the preliminary objections. Notice of argument, if scheduled, shall be given by the court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission or personal delivery.

4. If the brief of either the objecting party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(A) Overrule the objections where the objecting party has failed to comply.

(B) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(C) If argument is granted prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(D) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

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

1. The moving party shall file a motion for judgment on the pleadings, together with a supporting brief, with the Prothonotary and a copy of the motion and brief shall be contemporaneously served by the moving party upon all counsel of record and unrepresented parties and upon the assigned judge.

2. The non-moving party shall file a brief in opposition to the motion for judgment on the pleadings within thirty (30) days after receipt of the motion and brief. At that time, the failure of the non-moving party to file a brief within the time required shall result in the disposition of the motion based solely upon the information received from the moving party.

3. After the passage of the filing date for the non-moving party's brief, the assigned judge may schedule the matter for argument. Notice of argument, if scheduled, shall be given by the court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission or personal delivery.

4. If the brief of either the moving party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(A) Dismiss the motion where the moving party has failed to comply.

(B) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(C) If argument is granted, prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(D) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

**RULE 1035.2(a). MOTION FOR SUMMARY JUDGMENT**

1. Procedure for Filing Summary Judgment Motions.

(A) The moving party shall file a motion for summary judgment, together with a supporting brief, with the Prothonotary and a copy of the motion and brief shall be contemporaneously served by the moving party upon all counsel of record and unrepresented parties and upon the assigned judge. Within thirty (30) days of receipt of the moving party's brief, the non-moving party shall file a brief and, at that time, shall deliver a copy to the assigned judge. Any depositions, answers to interrogatories or affidavits in support of or in opposition to the motion shall be filed with the Prothonotary not later than the due date of the respective party's brief.

(B) If the brief of either the moving party or non-moving party is not filed within the time periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(i) Dismiss the motion where the moving party has failed to comply.

(ii) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(iii) If argument is granted, prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(iv) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

2. Scheduling of Argument.

(A) There may be oral argument in accordance with Pa.R.C.P. No. 211. If granted, notice of argument shall be given by the Court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission, or personal delivery.

(B) After the passage of the filing date of the brief of the non-moving party, the Court may schedule argument on the motion with notice to all parties. The Court shall notify the parties of its decision.

**RULE 1042.21 PRETRIAL PROCEDURE IN MEDICAL PROFESSION LIABILITY ACTIONS. SETTLEMENT CONFERENCE; MEDIATION**

- (a) Any motion by a healthcare provider requesting a court ordered mediation, shall set forth the following minimum information:
- (1) the date of the proposed mediation or the time frame during which the mediation will take place;
  - (2) the identity of the proposed mediator;
  - (3) the location of the proposed mediation; and
  - (4) any other terms that has been consented to by the parties or which are being proposed by the moving health care provider.
- (b) If the motion has been consented to, such consent shall be noted in the motion and, where possible, written consents from the parties shall be attached.
- (c) Any party opposing a Motion for mediation shall file their objections within ten (10) days of service of the Motion.

**ACTION TO QUIET TITLE**

**RULE 1066. FORM OF JUDGMENT OR ORDER**

- (a) Unless otherwise ordered by the Court, notice is not required.
- (b) Any order entered under Pa. R.C.P. 1066 (b)(1) shall include a description of the property.

**COMPULSORY ARBITRATION**

**RULE 1301. SCOPE**

(a) Compulsory arbitration of matters as authorized by the Judicial Code, 42 Pa. C.S. Section 7361 as amended, shall apply to all cases at issue where the aggregate amount in controversy shall be Fifty Thousand Dollars (\$50,000.00), or less, regardless of the number of parties, except those cases involving title to real estate or which seek equitable or declaratory relief.

(b) In all cases where a party has obtained a judgment by default under Pa. R.C.P. No. 1037, the party obtaining said judgment by default may elect to have unliquidated damages assessed at a trial by arbitration with the issues limited to the amount of damages which shall not exceed \$50,000.00. The election to assess damages by arbitration shall constitute a waiver by the party making such election of any damages in excess of \$50,000.00.

(c) Discovery shall be allowed in all cases.

**RULE 1302. LIST OF ARBITRATORS. APPOINTMENT TO BOARD.**

(a) (1) The Board of Arbitrators in any case shall be selected in accordance with one of the procedures set forth below, from a list of attorneys admitted to practice in Erie County, who have filed their consent to act with the Prothonotary.

Those attorneys having practiced for three (3) years or more who wish to be Chairman of Boards of Arbitration shall so inform the Prothonotary of their eligibility.

(i) Selection by Praecept: Upon the filing of a Praecept for Arbitration, the Prothonotary shall nominate a Board of potential Arbitrators consisting of three (3) attorneys plus one (1) attorney for each attorney of record and unrepresented party. Not more than two (2) of the potential Arbitrators shall have been admitted to the practice of law for less than three (3) years. The list of attorneys so nominated shall be sent by the Prothonotary to each attorney of record and the unrepresented party. Each attorney of record and unrepresented party may strike off one (1) nominated attorney and return the list to the Prothonotary within five (5) days. A failure to respond within five (5) days constitutes a waiver of the right to strike one (1) name from the list. The three remaining names will make up the Board. If no name of the same name is stricken from the list, the first three (3) remaining names will make up the Board.

Upon the expiration of five (5) days, the Prothonotary shall notify all parties of the names of the Arbitration Panel and designate as Chair the first Arbitration Panel and designate as Chair the first Arbitrator, so selected, who has been admitted to the practice of law for at least three (3) years.

(ii) Selection by agreement: By agreement of counsel, the Prothonotary shall nominate a list of nine (9) attorneys selected at random from the entire list of potential arbitrators with an additional three (3) attorneys for each additional party with an adverse interest. Each party shall have the right to strike off attorneys so named, one at a time and alternately. If, after the striking of Arbitrators, the selection will result in a panel of members none of whom are eligible to be Chairman, the Prothonotary at the request of either counsel, shall select three (3) additional attorneys for consideration. The selection shall continue until a panel is agreed upon. If none of the three (3) chosen Arbitrators have been practicing for more than three (3) years, the counsel shall be deemed to waive this requirement. The Chairman shall be selected by counsel.

(iii) Selection of sole arbitrator: In any case within the limits of compulsory arbitration, a sole Arbitrator may be selected to adjudicate the case by agreement of counsel. The award shall have the same effect as that of a three (3) person panel. The Prothonotary shall nominate a list of five (5) attorneys selected at random from the entire list with an additional two (2) attorneys for each additional party with an adverse interest. Each party shall then have the right to strike off two so named, one at a time and alternately. The remaining attorney shall comprise the Board of Arbitration and shall be considered the Chairman.

(2) In the event an arbitrator selected pursuant to the above procedures is unavailable to attend the hearing for any reason, that arbitrator shall give the parties written notice of his or her unavailability five (5) days before the hearing date, so as to allow the parties time to agree on selection of a replacement arbitrator and have said replacement available to attend the hearing so as not to cause the need for rescheduling of the same. If the arbitrator fails to comply with the five (5) day notice requirement, at the time of the regularly scheduled arbitration hearing the parties shall notify the Prothonotary of the arbitrator's failure. Thereafter, the arbitrator shall

automatically be stricken from the list of arbitrators maintained by the Prothonotary with leave to reapply for inclusion on the list upon petition to the Court and cause shown.

**RULE 1303. HEARING. NOTICE**

(a) (1) The Chairman of the Board of Arbitrators shall designate the time for hearing with written notice to each of the members of the Arbitration panel and to each party or their counsel in compliance with Pa. R.C.P. 1303.

(2) All hearings of the Board of Arbitrators shall be held in the Erie County Court House in a hearing room designated for that purpose or in a courtroom by leave of Court.

(3) All hearings shall promptly commence at 9:30 a.m. or 1:30 p.m., unless a different time shall specifically be established by the Board of Arbitrators. In the event an Arbitrator shall not be present at the time for the swearing-in, then counsel for represented parties and any unrepresented party who does in fact appear at the scheduled hearing time, may, only if they agree unanimously

(A) have the remaining Arbitrators immediately select a replacement from the list of Arbitrators; or

(B) themselves appoint any other eligible person to act as a replacement Arbitrator; or

(C) use any other method of selection of an eligible person to act as a replacement Arbitrator.

In the event that counsel for represented parties and any unrepresented party, who does in fact appear at the scheduled hearing time, are unable to unanimously agree upon any of the foregoing options, then the replacement Arbitrator shall be selected in accordance with Erie R.C.P. 1302(a)(1)(iii), governing selection of a sole Arbitrator.

(b) In no event, shall a scheduled arbitration be canceled or rescheduled without written authorization of the Chairman or order of court obtained upon a showing of good cause. If such authorization or order is not obtained, the arbitration shall be held as scheduled.

(c) In the event that a party or an arbitrator requests that the hearing be rescheduled and if that request is granted as provided herein, then that party or arbitrator shall undertake the work needed to reschedule the hearing, including contacting the Court Administrator to obtain available dates and coordinating those dates with all counsel, parties and arbitrators, as well as preparing and dispatching all required written notices of the rescheduled hearing.

**RULE 1304. CONDUCT. HEARING. GENERALLY**

(a) The hearings shall be conducted by the chairman with decorum in full compliance with judicial proceedings as conducted by the Court of Common Pleas. Witnesses shall be sworn in the customary manner.

(1) Smoking shall not be allowed, either by Arbitrators, attorneys, parties or witnesses.

(2) Once the witnesses are sworn and the proceedings have commenced Arbitrators and attorneys shall, throughout the hearing, use the same procedure and decorum as used before a Common Pleas Court.

### **RULE 1305. PRETRIAL EXCHANGE OF INFORMATION**

(a) In cases subject to compulsory arbitration where the amount in controversy exceeds \$10,000.00, the parties shall exchange the following information at least twenty (20) days prior to the arbitration.

(i) A copy of all reports containing the substance of the facts, findings or opinions and a summary of the grounds or reasons for each opinion of any expert, including physicians, whom that party expects to call as a witness at the arbitration. The report must be signed by the expert.

(ii) Names and addresses of all witnesses the party expects to call.

(iii) Copies of all exhibits the party intends to use at the arbitration, with a designation of those documents to be produced pursuant to Pa. R.C.P. 1305.

(b) If timely production is not made of any of the information required above, the testimony of that expert, that witness, or use of that exhibit, shall be excluded by the arbitrator(s), except upon consent of the adverse party or parties, or upon a showing of good cause made to the arbitrator(s).

### **RULE 1306. AWARD**

(a) In each case, at the time of the entry of the Arbitrator's award or upon a determination that a scheduled hearing would not take place, the chairman shall file a Certificate of Arbitrator's fees to indicate the time expended and Arbitrator's fees to be paid. Fees of the panel shall be assessed as follows:

(1) An arbitration was scheduled, but no hearing was convened or award entered. The chairman, only, shall receive \$25.00.

(2) In all other cases, the Arbitrators shall be paid at the rate of \$60.00 per hour, or a portion thereof, with the chairman receiving an additional \$25.00.

### **RULE 1307. AWARD DOCKETING. NOTICE. LIEN. JUDGMENT. MOLDING THE AWARD.**

When the Certificate, report and award, if any, are filed with the Prothonotary, the Prothonotary or his deputy shall certify the Arbitrator's fees for payment under the procedure followed as to other debts of the County.

## **ACTIONS IN EQUITY**

### **RULE 1531. PRELIMINARY INJUNCTION.**

(a) Upon filing a motion for preliminary injunction, a request for a judge assignment shall be made to the Office of Court Administration.

(b) The motion for preliminary injunction shall be presented to the assigned judge to obtain a date and time for a hearing and/or consideration of a request for immediate or ex parte relief.

## **CLASS ACTIONS**

### **RULE 1703. COMMENCEMENT OF ACTION. ASSIGNMENT TO A JUDGE**

Upon filing the complaint, the plaintiff shall also file with the Prothonotary a Praecipe for Assignment and shall serve a copy thereof upon the Court Administrator, who shall promptly assign the action to a judge who shall be responsible for all further proceedings. In the event plaintiff does not file a Praecipe for Assignment, any other party may do so.

## **ACTIONS FOR SUPPORT**

### **RULE 1910.4. COMMENCEMENT OF ACTION. FEE**

(a) The Support Intake Officer may aid any person requesting help in the preparation and filing with the Court of a complaint for support.

(b) All support pleadings must be filed with the Support docketing Office and copies provided to the Support Counseling Office.

(c) In all actions in which spousal support, alimony pendente lite and temporary counsel fees are pending, upon motion and order, hearing on all matters may be heard concurrently by the Court.

### **RULE 1910.5. COMPLAINT. ORDER OF COURT**

The order directing the parties to appear shall include the following language: "*Failure of either party to appear at the support counseling conference, or to appear without the required financial information, may subject that party to sanctions which may include attorney's fees and any other relief the Court so directs.*"

### **RULE 1910.7. NO PLEADING BY DEFENDANT REQUIRED. QUESTION OF JURISDICTION OR VENUE OR STATUTE OF LIMITATIONS IN PATERNITY.**

If defendant raises a question of jurisdiction or venue, or in paternity cases the defense of statute of limitations, those issues shall be raised by filing a motion to dismiss. Said motion shall be presented in Motion Court to the Judge of the Family Division, at which time a date and time for argument on the motion shall be scheduled.

### **RULE 1910.10. ALTERNATIVE HEARING PROCEDURES**

The Erie County Court of Common Pleas hereby adopts Pennsylvania Rule of Civil Procedure 1910.11.

### **RULE 1910.11. OFFICE CONFERENCE. SUBSEQUENT PROCEEDINGS. ORDER**

(a) No temporary order regarding spousal support shall be entered if one party raises the issue of spousal entitlement.



(b) The support office shall issue the conference summary and recommendation within forty-eight (48) hours of the support conference.

(c) If no agreement is reached at the support conference, the hearing de novo shall be scheduled at that time. The hearing de novo shall be held no later than thirty (30) days from the date of the support office conference.

(d) If a temporary order is entered pursuant to Pa. R.C.P. 1910.11(f), that temporary order shall automatically expire on the thirtieth (30th) day after the support conference.

(e) A demand for a hearing de novo pursuant to Pa. R.C.P. 1910.11(h) shall set forth with specificity the issues to be raised before the Court at the de novo hearing. However, such demand shall not impair the right to a de novo hearing on all issues.

(f) If no demand for a de novo hearing is filed within ten (10) days from the date of the summary and recommendation, the temporary order and support office summary and recommendation shall be made a final order of Court and the trial de novo canceled.

(g) Any party may file a responsive pleading within five (5) days from receipt of the demand for the de novo hearing.

#### **RULE 1910.16-1. ALIMONY PENDENTE LITE**

(a) All Motions and Petitions for alimony pendente lite, modification or termination thereof including counsel fees, shall be filed with the Domestic Relations Office.

(b) The Domestic Relations Office shall make a recommendation as to alimony pendente lite pursuant to the procedures of Erie County Local rules and Pennsylvania Rules of Civil Procedure 1910.11 and 1910.12 which shall be determined in accordance with support guidelines, Pennsylvania Rule of Civil Procedure 1910.16-2 and as a formula in Rule 1910.16-5.

(c) All Motions and Petitions for alimony pendente lite, modification, termination, or exceptions therefrom shall be subject to fees as established by the Domestic Relations Office.

#### **COMMENT**

A count for Alimony Pendente Lite in a Divorce Complaint does not activate the processing of that claim. The filing of a Petition for Alimony Pendente Lite in the Domestic Relations Office pursuant to Rule 1910.16-1 activates that claim and establishes the effective date of the claim.

#### **RULE 1910.19. SUPPORT ORDER. MODIFICATION. TERMINATION**

A petition seeking to modify or terminate a support order may be prepared by the Support Intake Office. A petition under this Rule shall be filed in the Support Docketing Office and a copy shall be filed with the Support Counseling Office.

See Appendix, Court Order No. 90508-1998.

**ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND  
VISITATION OF MINOR CHILDREN**

**RULE 1915.1        SCOPE**

These rules shall govern the practice and procedure in all actions for any type of custody initiated in Erie County, Pennsylvania. These rules shall be read in conjunction with and supplement the state rules as set forth in Pa.R.C.P. Nos. 1915.1 – 1915.25. In the event of any conflict between these rules and the state rules, the Pennsylvania Rules shall control.

**RULE 1915.3        COMMENCEMENT OF ACTION. COMPLAINT. ORDER**

(a) An original verified complaint, substantially in the form provided by Pa.R.C.P. No. 1915.15(a), and two copies per party shall first be presented to the Custody Conciliation Office prior to being filed at the Prothonotary's Office.

(b) The custody conciliation office will assign a time and date for the conciliation conference, and attach the order provided for in Pa. R.C.P. 1915.3(b) to the original and all copies. The moving party shall then file the original pleading with the Prothonotary, and serve the responding party or parties as provided in the Pennsylvania Rules of Civil Procedure.

(c) The custody office shall not reject any complaint for custody or modification of custody submitted for assignment of a conciliation time and date, except as provided for in subsection (d). It is the responsibility of a party objecting to jurisdiction, venue, service, standing or any other legal defect, to file and serve the proper responsive pleading, and to request a stay by the court, if appropriate, pursuant to Local Rule 1915.5.

(d) Grandparents and all other third parties shall file according to the procedure set forth in Local Rule 1915.6 unless there is no open case involving the minor child or children.

**RULE 1915.3-2        CRIMINAL OR ABUSE HISTORY. HEARING**

In addition to the requirements of Pa. R.C.P. 1915.3-2, a party may raise consideration of criminal convictions or abuse history pursuant to 23 Pa. C.S. Section 5329. The party raising a Section 5329 objection shall present a motion pursuant to Local Rule 1915.13 requesting a hearing to determine whether a party, or household member, poses a threat to a child and/or whether a party, or household member, is in need of counseling.

**RULE 1915.4-1      HEARING PROCEDURE.  
BYPASS CUSTODY CONCILIATION CONFERENCE.**

(a) [Erie County shall utilize a custody conciliation conference as an initial non-record proceeding as set forth at Local Rule 1915.4-3.] Complaints for custody or petitions for modification shall initially proceed through the Office of Custody Conciliation of Erie County, Pennsylvania. Except in relocation cases subject to Local Rule 1915.17, partial custody and supervised physical custody cases subject to Local Rule 1915.4-2, and Section (b) of this rule, custody actions shall proceed in accordance with Pa.R.C.P. 1915.4-3.

(b) A party may present a motion to bypass the custody conciliation conference to the duty judge during motion court pursuant to Local Rule 1915.13. A motion to bypass the custody conciliation may be granted in cases wherein:

- (1) there are complex questions of law, fact or both; or
- (2) there are serious allegations affecting the child's welfare.

**RULE 1915.4-2      OFFICE CONFERENCE. PROCEEDINGS.**

(a) Except as provided for at Local Rule 1915.4-1, all custody complaints and petitions for modification shall initially be conciliated by a conference officer at an office conference.

(b) The office conference is not a hearing but an opportunity for parties to reach agreement early in the custody process. No evidence or testimony is presented. Ordinarily, conferences shall not last more than one hour. The objectives of the office conference are:

- (1) To facilitate immediate agreement and the entry of consent orders where the nature of the parties' dispute is minor and can be resolved quickly without the need for trial;
- (2) To identify those cases not appropriate for resolution within the context of the conciliation process; and
- (3) To identify the need for referral to outside professionals or agencies and to provide the parties with information and other assistance needed to accomplish such referral.

(c) Participation in the office conference:

- (1) Children and Third Parties: Children and third parties, other than attorneys, shall not be present for or participate in conferences. Exceptions may be made at the discretion of the Court.
- (2) Parties must participate in conferences in a cooperative manner and at all times adhere to the directives of the person conducting the conference.
- (3) Prior to agreeing to a custody order, a party may consult with her or his attorney, and a reasonable opportunity to do so will be provided by the conference officer.

(d) An attorney who attends an office conference with a client will participate consistent with the following standards:

- (1) The manner and scope of participation in conferences shall be determined by the conference officer;
- (2) Attorneys shall fully cooperate with the efforts of the conference officer to facilitate the agreement of the parties;
- (3) Counsel shall at all times behave in a professional manner and

refrain from engaging in hostile or antagonistic conduct directed toward any conference participant;

(4) Attorneys shall advise their clients in a manner not disruptive of the conciliation process which may require consulting with the client outside the conference room;

(5) Attorneys shall not engage in legal argument, except that counsel may advise of legal issues relevant to the formation of an interim or consent order;

(6) Counsel shall not attempt to question the other party, present evidence or engage in conduct characteristic of any adversarial proceedings;

(e) All agreements reached at an office conference, whether a full or partial agreement, shall be reduced to a Consent Agreement and shall be signed by the parties immediately upon conclusion of the proceeding. If the parties partially agree or agree to reschedule the office conference, an interim order containing the agreed upon terms of the parties may be submitted to the duty judge for approval of the court.

(f) If no agreement is reached at the office conference, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for trial; except that actions for partial custody or supervised physical custody shall be assigned to a hearing officer and shall proceed in accordance with Pa.R.C.P. 1915.4-2(b) and Local Rule 1915.4-2(g) below. The conference officer shall prepare a summary report detailing the parties' respective positions, which shall be filed and submitted to the hearing officer and the parties.

(g) Hearing before the Hearing Officer.

- (1) In accordance with Pa.R.C.P. 1915.4-2, parties, after an unsuccessful office conference, will be scheduled for a custody hearing before a hearing officer.
- (2) A pretrial order will be issued which directs parties to submit a pretrial narrative statement and parenting plan. The pretrial narrative statement and parenting plan is due ten (10) days prior to the scheduled hearing date and may be dropped off or mailed to the Custody Conciliation Office at the Erie County Courthouse.
- (3) Continuance requests for custody hearings will be considered only if made in writing and containing the written consent of all parties. Such requests shall be presented to the Custody Office for consideration by the hearing officer.
- (4) The hearing shall be conducted in accordance with Pa.R.C.P. 1915.4-2.
- (5) The Court may issue an interim order consistent with the hearing officer's proposed order. If exceptions are filed, the interim order shall continue in effect.
- (6) Exceptions may be filed to the custody hearing officer's report and proposed order pursuant to Pa.R.C.P. 1915.4-2. If filing exceptions, in addition to those requirements contained in Pa.R.C.P. 1915.4-2, Erie County requires the following:
  - i. A copy of the hearing officer's report and proposed order from which the exceptions are filed must be attached to the exceptions.
  - ii. When filing exceptions, a transcript must be ordered from the Court Reporter's Office in accordance with Erie County Rules of Judicial Administration 4001-4008. A copy of the completed

Transcript Request Form, along with a transcript deposit receipt or proof of transcript fee waiver, shall be attached to the original exceptions. The only time a transcript is not necessary is if the exceptions are not based on the testimony contained in the record. If both parties file exceptions to the report and proposed order of the hearing officer, they shall equally bear the cost of the transcript of testimony. If a party fails to pay for the transcript or obtain a waiver of the cost of the transcript, the court reporter shall notify the court, after which the exceptions of the non-paying party may be dismissed by the judge if the transcript was needed for determining the exceptions.

- iii. The original exceptions shall be timely filed with the Prothonotary's office at the Erie County Courthouse. Within twenty (20) days of filing the exceptions, a time stamped copy must be delivered to Court Administration.
- iv. The party filing exceptions must also serve a time stamped copy on the opposing party or that party's counsel of record.
- v. Once exceptions and all related documents are filed with the Prothonotary and a copy is provided to Court Administration, argument on the exceptions will be placed on the next available argument list for an assigned judge. The Court will issue an order and serve notice on all parties of the date and place of argument.

#### **RULE 1915.4-3      NON-RECORD PROCEEDINGS. TRIAL**

Non-Record Proceedings governed by Pa.R.C.P. 1915.4-3 shall follow the office conference process detailed in Local Rule 1915.4-2, paragraphs (a)-(f).

[(a) Except as provided for at Local Rule 1915.17, all custody complaints and petitions for modification shall be initially referred to the Office of Custody Conciliation of Erie County, Pennsylvania for a custody conciliation conference before a custody conciliation officer.

(b) The Conciliation Conference is not a hearing but an opportunity for parents to reach agreement early in the custody process. No evidence or testimony is presented. Ordinarily, conferences shall not last more than one hour. The objectives of the Conciliation Conference are:

(1) To facilitate immediate agreement and the entry of consent orders where the nature of the parties' dispute is minor and can be resolved quickly without the need for trial;

(2) To identify those cases not appropriate for resolution within the context of the conciliation process; and

(3) To identify the need for referral to outside professionals or agencies and to provide the parties with information and other assistance needed to accomplish such referral.

(c) All agreements reached at a Conciliation Conference, whether a full or partial agreement, shall be reduced to a Consent Agreement and shall be signed by the parties immediately upon conclusion of the proceeding. If the parties partially agree or agree to reschedule the custody conciliation conference, an interim

order containing the agreed upon terms of the parties may be submitted to the duty judge for approval of the court. The parties' consent to an interim order shall not constitute the waiver to a de novo trial for any issue.

(d) If no agreement is reached at the conciliation conference, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for trial. The conciliation officer shall prepare a summary report detailing the parties' respective positions, which shall be filed and submitted to the court and the parties.

(e) The Custody Conciliation Officer may refer custody matters directly to the Court if appropriate.

(f) **Participation in Conciliation Process:**

(1) **Children and Third Parties:** Children and third parties, other than attorneys, shall not be present for or participate in custody conferences. Exceptions may be made at the discretion of the Court.

(2) Parties must participate in conferences in a cooperative manner and at all times adhere to the directives of the person conducting the conference.

(3) Prior to agreeing to a custody order, a party may consult with her or his attorney, and a reasonable opportunity to do so will be provided by the conciliator.

(g) An attorney who attends a Conciliation Conference with a client will participate consistent with the following standards:

(1) The manner and scope of participation in conferences shall be determined by the conciliator;

(2) Attorneys shall fully cooperate with the efforts of the custody conciliator to facilitate the agreement of the parties;

(3) Counsel shall at all times behave in a professional manner and refrain from engaging in hostile or antagonistic conduct directed toward any conference participant;

(4) Attorneys shall advise their clients in a manner not disruptive of the conciliation process which may require consulting with the client outside the conference room;

(5) Attorneys shall not engage in legal argument, except that counsel may advise of legal issues relevant to the formation of an interim or consent order;

(6) Counsel shall not attempt to question the other party, present evidence or engage in conduct characteristic of any adversarial proceedings;

(h) At any time during the conciliation process the conciliator may terminate the proceedings and refer the case to court.]

## **RULE 1915.5**

### **QUESTION OF JURISDICTION, VENUE OR STANDING, PRELIMINARY OBJECTIONS.**

A party raising preliminary objections in accordance with Pa.R.C.P. No. 1915.5 shall, prior to filing, present the preliminary objections to Family Court Administration for assignment to a judge and scheduling of a date and time for a hearing. Thereafter, the moving party shall file the original pleading with the Prothonotary and serve the objections and notice of hearing in accordance with the Pennsylvania Rules of Civil Procedure.

**RULE 1915.6            JOINDER OF PARTIES**

Grandparents and all other third parties seeking any type of custody of a minor child with an open custody docket before this court shall present a Motion to Intervene to the duty judge at Motion Court. Notice to all responding parties must be provided pursuant to Local Rule 440, and certificate of notice must be attached to the motion. If the motion raises contested issues, the duty judge may issue a Rule to Show Cause. The signed Rule to Show Cause Order shall be presented to Family Court Administration for assignment to a judge and scheduling of a date and time. Thereafter, the moving party shall file the original pleading with the Prothonotary and provide for service pursuant to the Pennsylvania Rules of Civil Procedure.

**RULE 1915.12            CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER. PETITION.**

In addition to the requirements of Pa.R.C.P. No. 1915.12, the original contempt petition with notice and order, and a photo copy, shall be presented to Family Court Administration for assignment to a judge and for scheduling of a date and time for the contempt hearing. Thereafter, the moving party shall file the original pleading with the Prothonotary and provide for service pursuant to the Pennsylvania Rules of Civil Procedure.

**RULE 1915.13            SPECIAL RELIEF**

Motions for Special Relief shall be presented to the duty judge during Motion Court. The motion must allege, with specificity, the need for the court to enter interim or special relief. Notice to all responding parties must be provided pursuant to Local Rule 440, and certificate of notice must be attached to the motion. If the motion raises contested issues, the duty judge may issue a Rule to Show Cause. The signed Rule to Show Cause Order shall be presented to Family Court Administration for assignment to a judge and scheduling of a date and time. Thereafter, the moving party shall file the original pleading with the Prothonotary and provide for service pursuant to the Pennsylvania Rules of Civil Procedure.

**RULE 1915.17            RELOCATION**

(a) A party proposing to relocate with a minor child shall follow the procedures set forth at Pa.R.C.P. 1915.17.

(b) If the non-relocating party has no objection to relocation and no objection to modification of the custody order consistent with the relocating party's proposal for revised custody schedule, the parties may obtain an order approving the proposal for revised custody schedule by presenting a Petition to Confirm Relocation with the agreed upon custody order before the duty judge at Motion Court.

(c) If the non-relocating party files a counter-affidavit objecting to either the relocation or to modification of the order, any party may either:

(l) obtain an expedited full hearing on the proposed relocation by presenting copies of the relocation notice, the counter-affidavit, the complaint for custody or petition for modification, whichever is applicable, and a request for hearing to Family Court

Administration.

or

(2) may waive their right to an expedited hearing and participate in a custody conciliation conference by obtaining a time and date from the custody conciliation office in addition to following the filing requirements of Pa.R.C.P. No. 1915.17. Thereafter, the moving party shall file the original pleading with the Prothonotary and provide for service pursuant to the Pennsylvania Rules of Civil Procedure.

(d) If the non-relocating party was properly served notice of proposed relocation and has failed to timely object, the party proposing relocation, in addition to following the requirements of Pa.R.C.P. No. 1915.17(e), shall present a Petition to Confirm Relocation with a proposed order including the information set forth at 23 Pa.C.S. Section 5337(c)(3) to the duty judge at Motion Court. Thereafter, the moving party shall file the original pleading with the Prothonotary and provide for service pursuant to the Pennsylvania Rules of Civil Procedure.

#### **RULE 1915.26      CHILDREN COPE WITH DIVORCE**

(a) All parties participating in custody proceedings must attend the Children Cope With Divorce program. A copy of the brochure providing information on the program must be included in all complaints involving parties that have not previously attended the program.

(b) Subsequent proceedings and the entry of any order or decree shall not be delayed because of the lack of participation in the Children Cope With Divorce program.

(c) Any party seeking to waive the costs of participating in the Children Cope With Divorce program shall present an appropriate motion before the duty judge at Motion Court.

#### **RULE 1915.27      CANCELLATION OF CUSTODY PROCEEDINGS.**

(a) A scheduled **[custody conciliation] office conference and/or hearing before a hearing officer** may not be cancelled without the written consent of the parties, or leave of court. If a responding party does not consent to cancel an **[conciliation] office conference or hearing**, a motion to cancel may be presented in motion court by the requesting party with proper notice pursuant to Local Rule 440.

(b) If none of the parties appear for a scheduled **[custody conciliation] office conference**, the **conference [conciliation] officer** will prepare and send a proposed Order to the duty judge that indicates the **[custody conciliation] office conference** is cancelled, and that the pleading is dismissed without prejudice.

(c) If any one party fails to appear for a scheduled **[custody conciliation] office conference** and all parties have been served, the appearing party or parties may:

- (1) reschedule the **[custody conciliation] office conference**; **[or]**
- (2) **in the case of an initial complaint or petition for modification of an existing order seeking sole custody or primary physical custody,**



- (3) request an immediate referral for trial; in the case of an initial complaint or petition for modification of an existing order seeking partial custody and/or supervised physical custody, request an immediate referral for a hearing before a hearing officer; or**
- (4) request dismissal of the pleading without prejudice.**

If the appearing party or parties request to reschedule the **[custody conciliation] office** conference, the appearing party or parties are responsible for serving notice of the rescheduled conference. If the appearing party requests an immediate referral for a trial, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for scheduling of a trial. **If the appearing party requests an immediate referral for a hearing before a hearing officer, the case shall be promptly referred by the Custody Conciliation Office to the hearing officer for scheduling of a hearing.**

(d) If the complaint or petition has not been served, the **[conciliation] office** conference may be rescheduled at the request of the appearing party or parties. The **[c] Custody [c]Conciliation [o] Office** will prepare a new notice and order to be filed and served by the appearing party or parties, along with the petition and complaint and other documents required to be filed with the complaint.

(e) A scheduled **[de novo]** trial shall not be cancelled without leave of court. A motion to cancel the **[de novo]** trial shall be presented to the judge assigned to the custody trial. **A scheduled hearing before a hearing officer shall not be cancelled without leave of court. A motion to cancel the hearing before a hearing officer shall be presented to the family motion court judge.** If all parties agree to the **[trial's]** cancellation, signed consent of the parties shall be attached to the motion.

## **ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

### **RULE 1920.31. CLAIMS FOR CHILD AND/OR SPOUSAL SUPPORT**

(a) A claim for child and/or spousal support raised in an action for divorce by complaint, counterclaim or petition shall be substantially in the form set forth in Pa. R.C.P. 1910.27.

(b) Where a claim for child and/or spousal support is raised in an action for divorce, a true and correct copy of the complaint, counterclaim, or petition by which the claim for child and/or spousal support is raised shall be filed with the Non-Support Intake Office. The claim for child support shall be docketed in the Non-Support Intake Office and shall thereafter proceed in accordance with Pa. R.C.P. 1910.1 et seq. and local rules governing proceedings for child support. The docket entry in the Non-Support Intake Office shall include a reference to the appearance docket number of the divorce action.

### **RULE 1920.51. HEARING BY THE COURT. APPOINTMENT OF MASTER. NOTICE OF HEARING**

(a) Upon Motion of either party or upon its own Motion, the Court may appoint a Master to hear testimony and return the record together with the Report and Recommendation to Court. The Motion shall be filed with the Office of the Prothonotary. If the Motion is filed by a party, then the Motion must be accompanied by the appropriate fee, as established by the Court. The moving party shall certify that all the parties have complied with the requirement of Pa.R.C.P. 1920.31, Pa.R.C.P. 1920.33 and Pa.R.C.P. 1920.46. The Motion and proposed Order requesting the appointment of a Master shall be in conformity with L.R.C.P. 1920.74.

(1) Masters shall be appointed in rotation from the list of permanent part-time Masters appointed as such by the Court to determine issues of divorce, equitable distribution of property, permanent alimony and all other issues relevant thereto. If all Court appointed Masters are conflicted out of serving, the Court may appoint a one-time Master for the hearing.

(2) A Master shall be appointed to hear a claim of child and/or spousal support only upon presentation of an Affidavit of the party supplementing the Motion for appointment of a Master showing special circumstances which justify a departure from the procedure of Erie L.R. 1920.16. Should it later appear that special circumstances justifying referral of a claim for child and/or spousal support do not exist, either party or the Master may petition the Court to refer the claim to the Non-Support Intake Office.

(3) Upon appointment of a Master to hear issues which require expedited disposition (including, but not limited to, alimony pendente lite, child and/or spousal support when referred to a Master, occupancy of the marital residence, maintenance of insurance policies, and Counsel fees and expenses), a preliminary record hearing will be held before the Master within thirty (30) days of the entry of the Order appointing a Master. Where discovery has not been completed or where all documents required to be filed by Pa.R.C.P. 1920.31 have not been filed prior to the preliminary hearing, the Master may, in his or her discretion, proceed with the hearing and filing of a report and recommendations (which may include recommended sanctions for failure to comply with Pa.R.C.P. 1920.31) or continue the hearing until said documents have been filed.

#### **(b) PRE-HEARING STATUS CONFERENCE**

In actions where expedited disposition is not required,

(1) The Master shall within fifteen days after receiving notice of the Master's appointment schedule a date for a pre-hearing status conference to be held prior to the date of the Master's hearing and shall give notice of the time and place of the pre-hearing status conference by First Class Mail to counsel for represented parties and directly to any unrepresented party. Said notice shall be mailed at least five business days prior to the scheduled date of the conference. The conference shall be attended by Counsel of Record, only, if all parties are represented by counsel.

(2) At the pre-hearing status conference, the Master shall review:

(A) The positions of the parties on each Claim, including those issues on which settlement has been reached;

(B) Discovery which has been completed, including the inventory and pretrial statements pursuant to Pa.R.C.P. 1920.33;

(C) Any documentary evidence to be presented at the hearing;

(D) The names and addresses of each witness any party proposes to call at the hearing;

(E) All matters which may be stipulated by the parties at the hearing;

(F) Establish a schedule for filing of Pretrial Narrative Statements, completion of discovery and any other relevant matters; and

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

(c) POST-STATUS CONFERENCE

(1) After the pre-hearing status conference the Master shall:

(A) Prepare a summary of the discussions and action taken at the pre-hearing status conference, including a statement of any stipulations, and of any matters which have been settled between the parties and which will not be raised at the hearing before the Master;

(B) Establish a schedule for the filing or service of any additional pleadings or discovery which may be deemed necessary and set hearing date(s);

(C) Serve a copy of the summary and filing schedule on counsel for the parties, or on any unrepresented party; and

(D) Indicate the amount of additional master's fees to be paid by the litigants prior to hearing.

(d) MASTER'S HEARING

(1) The Master shall establish a hearing date or dates at the pre-hearing status conference. These dates shall be included in the summary prepared pursuant to Section c (post status conference), as well as in the formal notice of Master's hearing as required by Pa.R.C.P. 1920.51(b). At least twenty (20) days written notice of the time and place of any Master's hearing shall be given to the attorneys of record (or the parties where no attorney has appeared in the case) by the Master by ordinary mail.

(2) Counsel and parties will be expected to be present and participate during the entirety of the Master's hearing; otherwise they shall be subject to sanctions or other remedies deemed appropriate by the Court.

(e) CONTINUANCES

(1) A request shall be granted by the Master if both parties consent in writing.

(2) All other requests for continuance shall be at the discretion of the Master, unless otherwise ordered by the Court.

(f) SETTLEMENT

(1) In the event the parties reach a negotiated settlement, then both parties must notify the Master of such agreement in writing, and both parties must request a postponement or cancellation of the Master's hearing, in order to postpone or cancel the Master's hearing.

(2) The parties may attend the scheduled Master's hearing at the time scheduled for the purpose of entering the substance of their agreement on the record.

(g) FEES AND COSTS

(1) The initial fees, costs and compensation of the Master shall be in accordance with Administrative Order In Re Divorce Masters Miscellaneous Docket No. 90001-07 and any amendments thereto.

(2) The Master shall determine additional fees due in accordance with the rate set by the Court and shall require an advance deposit of said amount prior to scheduling any further hearing. The Master shall have the authority to apportion the additional fees and advance deposits between the parties prior to trial, and the Master may reapportion such fees in the Master's Report.

(3) The Master shall receive compensation for a minimum of four hours for each day of a scheduled hearing that is not either:

(A) Continued in accordance with Erie L.R. 1920.51(e); or

(B) Cancelled with notice to the master in writing at least fourteen (14) days prior to the scheduled hearing date for the reason either that the case has been resolved or withdrawn.

(4) In the event the Master fails to grant the continuance, the parties may petition the Court for a continuance. The Court may grant a continuance and will determine the amount of additional master's fees, if appropriate.

(5) At the conclusion of the case, the Master shall prepare a certification indicating the amount of Master's fees paid the disposition thereof.

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

If the issues of divorce or annulment are raised for determination by the Master, then these issues shall be first determined prior to a trial on the economic issues.

(a) Where the Master concludes that a recommendation to grant the divorce or annulment should be filed, the Master shall notify the parties of this conclusion in writing (a copy of which shall be attached to the Master's report) subsequent to the termination of the hearing(s). The Master shall forthwith proceed to hear testimony and take evidence on all other matters at issue in the action prior to the filing of a report and recommendation.

(b) Where the Master concludes that a recommendation to deny the divorce or annulment should be filed, the Master shall file a report and recommendation in accordance with the terms of Pa.R.C.P. 1920.53(A). No evidence or testimony shall be taken on any other matter at issue unless and until the Court determines that a divorce or annulment should be granted.

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

(a) In the event exceptions are not timely filed by either party, either party may praecipe the Court for the entry of a final order.

(b) Where the parties stipulate on the record that additional documentary evidence shall be submitted subsequent to the hearing(s), the Master shall file the report and recommendation within thirty (30) days of receipt of that evidence or in accordance with Pa.R.C.P. 1920.53(a)(1), whichever date is later.

(c) Exceptions must be timely filed at the Office of the Prothonotary, and shall be served on the opposing party or their counsel of record. Only matters raised on exceptions will be considered by the Court, and any matters not raised on exceptions shall be deemed to be waived.

(1) Within twenty (20) days of filing the exceptions, the moving party shall file their request for argument and proposed Order with the Court Administrator.

(2) Both parties shall file their briefs no later than ten (10) days prior to the scheduled argument. If the briefs are not timely filed, then the Court may dismiss the exceptions, refuse or limit argument on the exceptions, or enter any other relief deemed appropriate by the Court.

(3) Copies of exceptions and briefs shall be provided to all counsel of record (or to a party directly if unrepresented by counsel) the Master and to the Judge.

**RULE 1920.73. PRAECIPE TO TRANSMIT RECORD**

(a) The Praecipe to Transmit Record shall follow the form set forth in Pennsylvania Rules of Civil Procedure 1920.73(b).

(b) If the parties have dependent children 18 years or under, a copy of the parties' completion certification form or waiver of the "Children Cope with Divorce" program may be attached to the Praecipe to Transmit Divorce, if completed by the parties. Although, in accordance with 23 Pa. C.S. § 5332, the Court may require the parties to attend the program, the failure of a party to attend the program shall not impede the transmittal of the record. As such, upon proper praecipe, a final decree may be issued even if one or both parties have not attended the Children Cope with Divorce" program. Notwithstanding the above, parties who are otherwise obliged to attend the program by Court Order, must still attend the program.

**RULE 1920.74. MOTION FOR APPOINTMENT OF MASTER**

**MOTION FOR APPOINTMENT OF MASTER**

\_\_\_\_\_ (Plaintiff) (Defendant), moves the court to appoint a master with respect to the following claims:

- |  |   |
|--|---|
| <input type="checkbox"/> Divorce               | <input type="checkbox"/> Distribution of Property |
| <input type="checkbox"/> Annulment             | <input type="checkbox"/> Counsel Fees             |
| <input type="checkbox"/> Alimony               | <input type="checkbox"/> Costs & Expenses         |
| <input type="checkbox"/> Alimony Pendente Lite | <input type="checkbox"/> Support                  |

Name, address, and telephone number of opposing counsel or party is:

1. Discovery is complete as to the claim(s) for which the appointment of a master is requested.

(a) Plaintiff's Inventory Filed: \_\_\_\_\_

- (b) Defendant's Inventory Filed: \_\_\_\_\_
- (c) Plaintiff's Income & Expense Statement Filed: \_\_\_\_\_
- (d) Defendant's Income & Expense Statement Filed: \_\_\_\_\_

If no Inventory and/or Income and Expense Statement has been filed, a copy of the Court Order allowing appointment of a Master must accompany this Motion.

2. The non-moving party (has) (has not) appeared in the action (personally) (by his attorney, \_\_\_\_\_, Esquire).

3. The Statutory ground(s) for divorce (is) (are) \_\_\_\_\_

4. Delete the inapplicable paragraph(s):

- (a) The action is not contested.
- (b) An agreement has been reached with respect to the following claims: \_\_\_\_\_
- (c) The action is contested with respect to the following claims: \_\_\_\_\_

5. The action (involves) (does not involve) complex issues of law or fact.

6. The hearing is expected to take \_\_\_\_\_(hours) (days).

7. The full name, address and telephone number of the non-moving party (or their attorney, if represented) is \_\_\_\_\_

8. Additional information, if any, relevant to the motion: \_\_\_\_\_

As the moving party or attorney for the moving party, I certify that all parties have complied with the requirements of Pa.R.C.P. 1930.50 (Discovery), 1920.31 (Filing of Income & Expense Statement), 1920.33 (Filing of Inventory), and 1920.46 (Military Service).

DATE: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature of moving counsel or party

Typed Name, Address and Phone  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 -( ) \_\_\_\_\_

**ORDER:**

**IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

**PLAINTIFF,** )  
Plaintiff )  
 )  
v. ) No. 11390 - 2005  
 )  
**DEFENDANT,** )  
Defendant )

**ORDER APPOINTING MASTER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20 , upon  
consideration of the foregoing Motion for Appointment of Master, it is hereby Ordered,  
Adjudged and Decreed that \_\_\_\_\_, Esquire, is hereby  
appointed Master with respect to all claims of record as of the time of the Master's hearing and  
all issues otherwise raised or preserved by the pleadings.

BY THE COURT:

## **RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY**

### **Rule 1930.4. SERVICE OF ORIGINAL PROCESS IN DOMESTIC RELATIONS MATTERS.**

(c) *Service by Mail.* Except in Protection from Abuse matters unless authorized by special order of court pursuant to subdivision (b) above, original process may also be served by mailing the complaint and order to appear, if required, to the defendant's last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen days, service may be deemed complete.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.

(3) When using certified mail, return receipt requested, pursuant to this Rule, it is permissible to utilize the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt.



## **MINORS AS PARTIES**

### **RULE 2039. COMPROMISE, SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION IN MINORS' ACTIONS**

(a) All petitions presented for the compromise, settlement, discontinuance and distribution in minors' actions shall be submitted to:

- (1) The assigned judge, where there is a civil action pending; or
- (2) A judge in the Orphans' Court Division where there is no civil action pending.

(b) All approved petitions shall be filed in the Office of the Prothonotary. The guardian of the minor shall file a certified copy of the petition and approving order in the Office of the Register of Wills under the name of the minor.

(c) In cases where no action has been filed, all petitions and orders approving settlement shall be filed in the Office of the Register of Wills under the name of the minor.

## **INCAPACITATED PERSONS AS PARTIES**

### **RULE 2064. COMPROMISE, SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION IN ACTIONS FILED BY OR ON BEHALF OF INCAPACITATED INDIVIDUALS**

(a) All petitions presented for compromise, settlement, discontinuance and/or distribution in actions filed by or on behalf of incapacitated individuals shall be submitted to:

- (1) The assigned judge, where there is a civil action pending; or
- (2) A judge in the Orphans' Court Division where there is no civil action pending.

(b) All approved petitions shall be filed in the Office of the Prothonotary. The guardian of the incapacitated individual shall file a certified copy of the petition and approving order in the Office of the Register of Wills under the name of the incapacitated individual.

(c) In cases where no action has been filed, all petitions and orders approving compromise, settlement, discontinuance or distribution shall be filed in the Office of the Register of Wills under the name of the incapacitated individual.

## **ACTIONS FOR WRONGFUL DEATH**

### **RULE 2205. NOTICE TO PERSONS ENTITLED TO DAMAGES**

The notice shall in all cases be served personally or by registered mail upon each person entitled by law to recover damages in the action, unless the plaintiff shall file an affidavit that the identity or whereabouts of any such person is unknown to him, after diligent search, in which case the plaintiff shall cause the notice to be advertised once in the newspaper of general circulation published in Erie County, and once in the Erie County Legal Journal. Affidavit of service of notice shall be filed.

### **RULE 2206. SETTLEMENT, COMPROMISE, DISCONTINUANCE AND JUDGMENT**

(a) All petitions for the compromise, discontinuance or settlement of wrongful death claims in which a minor or incapacitated person has an interest shall be submitted for approval to:

- (1) The assigned judge, where there is a civil action pending; or
- (2) A judge of the Orphans' Court Division where there is no civil action pending.

(b) The petition and Order approving the petition in pending actions shall be filed with the Prothonotary and certified copies of the same shall be filed with the Register of Wills in the name of the minor or incapacitated person.

(c) The petition and Order approving the petition where there is no pending action shall be filed with the Register of Wills in the name of the minor or incapacitated person.

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

### **RULE 3136. DISTRIBUTION OF PROCEEDS OF SALE OF REAL PROPERTY**

(a) Upon filing the proposed schedule of distribution, the Sheriff shall immediately mail a copy of the proposed schedule of distribution including a copy of the list of liens, clearly indicating thereon the date on which the proposed schedule of distribution was filed, to all parties and lien creditors, as well as to any other persons in interest as set forth in the Pa. R.C.P. No. 3129.1(b) Affidavit.

(b) The Sheriff shall include with the copy of the proposed schedule of distribution transmitted to the Prothonotary a copy of the list of liens and a copy of the certificate or guaranty required by Pa.R.C.P. 3136(c).

## **RULE 3252. WRIT OF EXECUTION - MONEY JUDGMENTS**

A writ of execution shall contain the following designation as the organization available to receive requests for free legal help:

Lawyer Referral & Information Service  
P.O. Box 1792  
Erie, PA 16507

814/459-4411  
Mon - Fri  
8:30 a.m. - Noon; 1:15 p.m. - 3:00 p.m.

## **DEPOSITIONS AND DISCOVERY**

### **RULE 4002. AGREEMENT REGARDING DISCOVERY OR DEPOSITION PROCEDURE**

(a) Unless otherwise provided in writing or in the transcript, all objections except as to the form of the questions are reserved until the trial of the matter.

(b) Unless otherwise provided in writing or in the transcript, the parties shall be deemed to have waived their right to require inspection, reading and signature to the transcript by the person whose oral deposition is being taken.

### **RULE 4007.1 PROCEDURE IN DEPOSITION BY ORAL EXAMINATION**

Prior to scheduling any discovery deposition, counsel should first attempt to arrange a date and time satisfactory to all counsel. Only if a mutually convenient date and time cannot be arranged after a good faith effort to do so may the counsel scheduling the deposition select a date and time without the consent of the other parties. Unless ordered by the court, or as otherwise permitted by the Pennsylvania Rules of Civil Procedure, any discovery deposition not scheduled upon consent of the parties may be scheduled only after written notice has been given by the party scheduling the deposition to opposing counsel and any unrepresented party. The written notice must be served upon opposing counsel and on any unrepresented party by hand delivery, fax transmission or first class United States mail at least 14 days prior to the date scheduled for the deposition.

### **RULE 4007.4. SUPPLEMENTING RESPONSES**

No special prior order of Court shall be necessary for the Court to enforce those duties set forth in Pa. R.C.P. 4007.4 (1) or (2) by appropriate relief at time of or during the trial.

**RULE 4017.1. VIDEOTAPE DEPOSITIONS**

(a) If a videotape deposition is to be offered by any party at trial and such videotape deposition has been completed prior to the settlement conference, the party offering same shall inform the Court at the settlement conference, or before, of any unresolved objections in order that the Court may schedule an editing session prior to trial.

(b) If any such videotape deposition is taken after the settlement conference, the party desiring to offer said deposition shall immediately notify the Court of the deposition and the evidentiary issue in order that the Court may schedule an editing session.

GUIDELINES FOR THE CONDUCT OF ARBITRATION IN  
UNINSURED AND UNDERINSURED MOTOR/ST CLAIMS

**I. Preamble**

The Civil Rules Committee of the Erie County Bar Association submits the following guidelines as suggested rules of conduct and of procedure that may be utilized in uninsured and underinsured motorist claims. Since UM and UIM arbitrations fall outside of the rule-making jurisdiction and power of the Pennsylvania courts, the application of these guidelines will be dependent upon the agreement of the parties and the authority bestowed upon the arbitrators by the applicable insurance contract documents.

**II. Disqualification of Arbitrators**

An arbitrator shall be disqualified if his impartiality can reasonably be questioned, including but not limited to instances where:

- (a) He, or a lawyer with whom he practices, currently represents any of the parties in any legal matters;
- (b) He has a personal bias or prejudice concerning a party;
- (c) He has personal knowledge of disputed evidentiary facts;
- (d) He served as a lawyer in the matter in controversy, or a lawyer with whom he practices law served as a lawyer concerning the matter;
- (e) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a substantial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

**III. Arbitrator's Conduct**

Arbitrators shall conduct themselves in accordance with all applicable provisions of the Pennsylvania Code of Judicial Conduct and, in particular, with the following provisions of Canon 3 of the Code of Judicial Conduct, as modified:

- 1. An arbitrator shall be faithful to the law of Pennsylvania and maintain professional competence in it. An arbitrator shall be unswayed by partisan interests, by the party whom appointed him or by fear of criticism. An arbitrator should be impartial, should not be an advocate for the party appointing him and should independently evaluate the UM or UIM claim.
- 2. An arbitrator should maintain proper order and decorum.
- 3. An arbitrator should be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom he deals in an official capacity,

and should require similar conduct of lawyers, the arbitrator's staff, and others subject to his or her direction and control.

4. An arbitrator should accord to every person who is legally interested in a proceeding and to his lawyer the full right to be heard according to law and, except as authorized by law, shall not consider ex parte communications concerning a pending proceeding.
5. An arbitrator should dispose promptly of the business of the arbitration.
6. An arbitrator should abstain from public comment on a pending arbitration and should require similar abstention by personnel subject to his direction or control.

#### **IV. Communications Between Parties and Arbitrators**

- A. Ex parte communication between counsel for any party and any of the arbitrators shall be limited to disclosure of the following:
  1. Whether the nature of proceedings is an uninsured motorist claim or underinsured motorist claim;
  2. The names of parties involved;
  3. The names of opposing counsel and the arbitrator chosen by opposing counsel (if known);
  4. The names of proposed neutral arbitrators;
  5. The arbitrator's fee; and
  6. The scheduling of the arbitration hearing.
- B. There shall be no communication with any arbitrator outside of the arbitration hearing of matters which might tend to influence the ultimate decision of the arbitrators, including, but not limited to, the nature and the merits of the claim, the amount(s) paid on behalf of the third party tortfeasor(s), the monetary limits of insurance policies (whether UM or UIM), any legal issues and settlement discussions.
- C. Communication between neutral arbitrators and any party and their counsel shall be limited to only those matters necessary to permit the neutral arbitrator to perform his or her administrative duties and duties as chairperson of the arbitration panel. Whenever possible, communication shall not be ex parte and, in the event of an unavoidable ex parte communication, disclosure of it shall be made as soon as practicable to all other interested parties and counsel.

#### **V. Prehearing Discovery**

- A. Unless otherwise agreed, all prehearing discovery shall be governed by the terms of the applicable insurance policy and the discovery provisions of the

Pennsylvania Rules of Civil Procedure. The parties shall attempt to informally resolve all requests and disputes relating to discovery. Any party may submit, in writing, a request to the arbitration panel to enforce a discovery request. The arbitration panel shall, to the extent applicable, follow the Pennsylvania Rules of Civil Procedure in ruling on any such request.

- B. To the extent permitted by Pennsylvania law, the neutral arbitrator may issue written subpoenas for the purposes of discovery. All requests for the issuance of a subpoena shall be submitted in writing to the neutral arbitrator, with copies being sent to the remaining arbitrators and to opposing counsel.
- C. Unless otherwise directed by the arbitration panel, the parties shall exchange the following information and things at least twenty (20) days prior to the date set for the arbitration.
  - 1. A report of any expert that a party intends to call as a witness, which sets forth the substance of the facts, findings or opinions of each expert and a summary of the grounds or reasons for each such finding or opinion.
  - 2. The name, address and telephone number of all witnesses the party expects to call.
  - 3. Copies of all exhibits the party intends to offer into evidence.

## **VI. Implementation of Standards**

- A. Counsel for the parties and the arbitrators shall forward to all other parties and arbitrators their signed copy of the agreement to be bound by these Standards of Professional Conduct.
- B. At the opening of the UM or UIM arbitration hearing, the neutral arbitrator shall ask each of the other arbitrators to confirm that they have complied with these standards or to reveal any aspect in which they have not.

**JUROR INFORMATION QUESTIONNAIRE**  
**Confidential; Not Public Record**

<b>Name: Last</b>	<b>First</b>	<b>Middle Initial</b>	<b>City/Township:</b>
<b>Communities in which you resided over the past 10 years:</b>			
<b>Marital Status:</b>	<input type="checkbox"/> Married	<input type="checkbox"/> Single	<input type="checkbox"/> Separated
<b>Race:</b>	<input type="checkbox"/> White	<input type="checkbox"/> Black	<input type="checkbox"/> Hispanic
			<input type="checkbox"/> Divorced
			<input type="checkbox"/> Widowed
			<input type="checkbox"/> Other _____
<b>Your Occupation:</b>		<b>Your Occupation(s) past 10 years:</b>	
<b>Spouse/Other's Occupation:</b>		<b>Spouse/Other's Occupation(s) past 10 years:</b>	
<b>Children Occupation(s):</b>		<b>Children Occupation(s) past 10 years:</b>	
<b>Number of Children:</b> _____			
<b>Level of Education:</b> Yours _____ Spouse/Other _____ Children _____			

- |            |                          |  |
|------------|--------------------------|--|
| <b>Yes</b> | <b>No</b>                |  |
| G          | <input type="checkbox"/> | 1. Do you have any physical or psychological disability or are you presently taking any medication?<br>Explain _____   |
| G          | <input type="checkbox"/> | 2. Have you ever served as a juror before?<br>If so, were you ever on a hung jury?   |
| G          | <input type="checkbox"/> | 3. Do you have any religious, moral, or ethical beliefs that would prevent you from sitting in judgment in a criminal case and rendering a fair verdict? Explain _____   |
| G          | <input type="checkbox"/> | 4. Have you or anyone close to you ever been the victim of a crime? Explain _____  |
| G          | <input type="checkbox"/> | 5. Have you or anyone close to you ever been charged with or arrested for a crime, other than a traffic violation? Explain _____   |
| G          | <input type="checkbox"/> | 6. Have you or anyone close to you ever been an eye witness to a crime, whether or not it ever came to court?<br>Explain _____   |
| G          | <input type="checkbox"/> | 7. Have you ever been involved as a party or witness in a civil lawsuit or a criminal case?<br>Explain _____   |
| G          | <input type="checkbox"/> | 8. Have your or anyone close to you ever worked in law enforcement or the justice system? This includes police, prosecutors, attorneys, detectives, security or prison guards, and court related agencies?   |
| G          | <input type="checkbox"/> | 9. Would you be more likely to believe the testimony of a police officer or any other law enforcement officer because of his or her job?   |
| G          | <input type="checkbox"/> | 10. Would you be less likely to believe the testimony of a police officer or any other law enforcement officer because of his or her job?  |
| G          | <input type="checkbox"/> | 11. Would you have any problem following the court's instruction that the defendant in a criminal case is presumed to be innocent unless and until proven guilty beyond a reasonable doubt?  |
| G          | <input type="checkbox"/> | 12. Would you have any problem following the court's instruction that the defendant in a criminal case does not have to take the stand or present evidence, and it cannot be held against the defendant if he or she elects to remain silent or present no evidence? |
| G          | <input type="checkbox"/> | 13. Would you have any problem following the court's instruction in a criminal case that just because someone is arrested, it does not mean that the person is guilty of anything?   |
| G          | <input type="checkbox"/> | 14. In general, would you have any problem following and applying the judge's instruction on the law?  |
| G          | <input type="checkbox"/> | 15. Would you have any problem during jury deliberations in a criminal/civil case discussing the case fully but still making up your own mind?   |
| G          | <input type="checkbox"/> | 16. Is there any other reason you could not be a fair juror in a criminal/civil case? Explain _____  |

**I hereby certify that the answers on this form are true and correct. I understand that false answers provided herein subject me to penalties under 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.**

Signature \_\_\_\_\_

Date \_\_\_\_\_

RULE 1107.ORD: 9/18/98



\_\_\_ Official Use Only  
Box \_\_\_\_\_ Seat \_\_\_\_\_  
Box \_\_\_\_\_ Seat \_\_\_\_\_  
Box \_\_\_\_\_ Seat \_\_\_\_\_

**IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
JUROR QUESTIONNAIRE**

1. Full Name: \_\_\_\_\_

Any other names by which you are known \_\_\_\_\_

2. Year of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

3. Neighborhood or Municipality in which you live: \_\_\_\_\_

Length of time at current address: \_\_\_\_\_ Rent or Own: \_\_\_\_\_

List other locations where you lived in the past five (5) years: \_\_\_\_\_

4. Marital Status: \_\_\_\_\_ Spouse's name: \_\_\_\_\_

If other than single, how long have you been married, divorced, etc.? \_\_\_\_\_

5. Your Employment/Occupation

Present Job \_\_\_\_\_ Employer \_\_\_\_\_ Time at this job \_\_\_\_\_

If retired, Last Employer \_\_\_\_\_ Last Position Held \_\_\_\_\_ Time at this job \_\_\_\_\_

6. Please indicate your highest level of education:  Elementary  High School  GED

Technical/Vocational  College Graduate

For all education you have had after high school, please provide the name of the school, college or university attended, the certificate or degree attained and the major course of study:

School, College or University	Degree or Certificate Attained	Major Course of Study

7. Family's Employment/Occupation – Please provide information regarding your spouse, parents and children and their current occupations/employers and /or any employment within the last five years:

<u>Name (relationship)</u>	<u>Occupation/Employer</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

8. Have you ever served in the military  Yes  No If yes, in which branch? \_\_\_\_\_

Years: \_\_\_\_\_ to \_\_\_\_\_ Final Rank: \_\_\_\_\_ What did you do? \_\_\_\_\_

Honorable Discharge?  Yes  No

9. Have you or any members of your family been involved as plaintiff, defendant, witness or juror in a civil or criminal lawsuit or court case?  Yes  No

If yes, who was involved? \_\_\_\_\_ What was the nature of the lawsuit? \_\_\_\_\_

Were you or your family member the plaintiff, defendant, witness or juror? \_\_\_\_\_

10. Do either you or any member of your immediate family or close friends have a business relationship, friendship or association with any person who is a law enforcement officer, a judge, a lawyer or a person who works or is affiliated with the Court system?  Yes  No

Please describe: \_\_\_\_\_

11. Have either you, your spouse or your parents, children, brothers or sisters ever worked for or done business with the insurance industry or have any of you owned stock in an insurance company?  Yes  No

If yes, please explain: \_\_\_\_\_

12. Have either you, your spouse or your parents, children, brothers or sisters ever worked for or done business with the medical or healthcare industry?  Yes  No

If yes, please explain: \_\_\_\_\_

13. Have you ever been in an automobile accident?  Yes  No

14. Are you a licensed driver of a motor vehicle?  Yes  No

15. Please list your family doctor and/or any other doctors that have treated you in the last two years.

\_\_\_\_\_

16. Do you have any physical or mental or other situation which will affect your ability to serve on a jury?  Yes  No

**I VERIFY, SUBJECT TO THE PENALTIES OF SECTION 4904 OF THE CRIMES CODE (18 Pa.C.S. 4904) RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES, THAT THE FACTS SET FORTH IN THIS QUESTIONNAIRE ARE TRUE AND CORRECT.**

Dated: \_\_\_\_\_ Signature \_\_\_\_\_