

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

**Effective \_\_\_\_\_<sup>1</sup>**

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<sup>1</sup> The changes to the local rules of civil procedure effective this date primarily relate to civil case management, termination of inactive cases, and electronic filing. The local civil rules related to family court and domestic relations matters have not changed, unless included herein.

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## **RULES OF CONSTRUCTION**

### **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.Civ.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 Courthouse 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) CIVIL 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 and available at: <https://erierecountypa.gov/courts/court-information/general-forms/>

### **RULE 205.4 ELECTRONIC FILING AND SERVICE OF LEGAL PAPERS**

(a)(1) Upon implementation of an electronic filing system, the Erie County Court of Common Pleas shall permit the electronic filing of legal papers in all civil cases, except:

- (A) All filings pertaining to Family Division and Domestic Relations Section matters;
- (B) All filings in cases brought pursuant to either the Protection From Abuse Act and the Protection of Victims of Sexual Violence or Intimidation Act;
- (C) A name change petition;
- (D) A motion for involuntary transfer of vehicle ownership;
- (E) An appeal from a driver's license suspension; or
- (F) An appeal from a decision of a magisterial district judge.

(a)(2) The President Judge may further expand or restrict the categories of cases subject to this Rule by administrative order.

(b)(1) All legal papers filed electronically shall be submitted for electronic filing in portable document format (pdf). Proposed orders accompanying a filing may be submitted in Microsoft Word format.

(c)(2) All legal papers filed electronically shall be filed through the Prothonotary's electronic filing system, which shall be accessible through the Erie County Prothonotary's website at <https://eriecountypa.gov/departments/clerk-of-records/prothonotary-civil-records/>. Parties may be required to register prior to utilizing the electronic filing system. As part of the registration process, parties may be required to provide a name, mailing address, e-mail address, phone number, and/or other identifying information as determined by the Prothonotary.

(d)(1) The Prothonotary will accept for payment of all filing fees the following credit and debit cards: American Express, Discover, Mastercard and Visa. The Prothonotary will not accept advance deposit on account of future filing fees.

(e)(1) The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the Prothonotary.

(f)(1) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the electronic filing system. The Prothonotary shall also provide the filing party with notice that the legal paper was accepted for filing. If a legal paper is not accepted upon presentation for filing or is refused for filing by the electronic filing system, the Prothonotary shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor. All acknowledgements and notices under this subsection may be sent to the e-mail address provided by the filing party.

(f)(2) Neither the Court nor the Prothonotary shall be required to maintain a hard copy of any legal paper, notice or order filed or maintained electronically under this Rule.

(f)(3) Reserved.

(f)(4) The Prothonotary's fees and costs shall be paid by credit card when legal papers are filed using the electronic filing system. Payment for all costs and fees for the filing of a legal paper presented by a filing party to the office of the Prothonotary for electronic filing shall be paid by credit card as set forth above, or by check or cash. If a legal paper is submitted without the requisite fee, it may be deemed to have been accepted for filing as of the date payment is received pursuant to 42 P.S. § 21073(b).

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

In addition to the definition of "Petition" in Pa.R.Civ.P. 206.1, "Petition" also includes petition for reinstatement under Erie L.R. 230.2(b), petition of appeal in license suspension matters under Erie L.R. 252, petition for change of name under Erie L.R. 253, and an application for approval of the compromise, settlement, and discontinuance of minors' actions, actions by incapacitated persons and/or actions for wrongful death under Erie L.R. 2039, 2064, and 2206.

**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.Civ.P. 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.Civ.P. 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.Civ.P. 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 Erie L.R. 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.Civ.P. 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 moving party shall first submit a request for judicial assignment with the trial court administrator. (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.Civ.P. 211, noting 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) If the Court schedules argument, or if the moving party notifies opposing counsel and/or the 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.
- (5) (a) Civil Motion Court shall be held Monday, Tuesday, Wednesday, 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 a 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) The moving party desiring to have such summary determination of a motion or petition must notify opposing counsel and any opposing unrepresented party of their intention to argue the motion or petitions before the Court at such time, in accordance with Erie L.R. 440. The Court may refuse to hear argument on such motions or petitions unless counsel for each side is present.  
  
(d) The moving party shall attach to the motion or petition the proposed order

**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.Civ.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.

**CIVIL CASE MANAGEMENT**

**(Upon the commencement of any action following the effective date of these Local Rules)**

**RULE 212.1. PRETRIAL PROCEDURE**

(a) Scope

This Rule shall apply to all civil actions, except

1. Actions where jurisdiction lies in the Family Division or the Domestic Relations Section, including actions for support and actions for divorce and annulment of marriage;
2. Actions in mortgage foreclosure;
3. Actions in eminent domain;
4. Actions subject to compulsory arbitration;
5. Actions filed pursuant to either the Protection From Abuse Act or the Protection of Victims of Sexual Violence or Intimidation Act; and
6. Appeals of real estate tax assessments.

(b) Initial Case Management Conference

1. Upon the commencement of any action filed after the effective date of these Rules, the Court shall hold an initial case management conference. Initial

case management conferences shall be held one day per month as shall be designated by the Court Administrator.

2. At least 7 days prior to the case management conference, each party shall file with the Prothonotary a brief summary of the case, not to exceed three pages, and mail or deliver a copy to the assigned judge. The case summary shall be substantially in accordance with Form 212.1(A), and shall set forth the general nature of the case, whether there are any preliminary objections or motions for judgment on the pleadings pending or anticipated, suggested dates for the completion of expert and fact discovery, suggested dates by which to file dispositive motions, and the amenability of the party to alternative dispute resolution. If the case was issued by a Writ of Summons or is an appeal from a civil judgment of the Magisterial District Courts to which a complaint has not yet been filed, the party shall notify the Court whether the party intends to file a complaint within 90 days from the date of the conference.
3. If a party fails to file a brief summary of the case, or fails to attend the case management conference, the Court may, in its discretion:
  - (A) Schedule the matter for a subsequent case management conference;
  - (B) Schedule the matter for a contempt hearing;
  - (C) Adopt a proposed schedule for a case management order offered by one party appearing where another party fails to appear; or
  - (D) Impose any other appropriate sanction.
4. In any action where an initial case management conference has not previously been held, and where a prior case management order has not yet been issued, any party desiring a case management order shall first seek a judicial assignment from Court Administration in accordance with Erie L.R. 302(b), and subsequently file a praecipe with the Prothonotary, mailing or delivering a copy to the assigned judge, requesting that the matter be scheduled for a case management conference.

(c) Case Management Orders

1. After the initial case management conference, the Court shall issue a case management order setting forth a timeline for discovery, the filing of dispositive motions, the exchange of expert reports, the scheduling of

alternative dispute resolution (if applicable), the deadlines for the filing of pretrial narratives, and the earliest date on which the case may be tried.

2. In matters it deems complex, or otherwise in its discretion, the Court may defer setting a deadline on any of the items and may schedule one or more status conferences, at which time the Court can address or re-address the issuance of a case management order.
3. If the case is one initiated by a Writ of Summons to which a complaint has not yet been filed, the Court may schedule a status conference at a time when the Court can re-address the issuance of a case management order, or the Court may, in its discretion, set a schedule for the filing of a complaint and the close of all pleadings.
4. If the case is an appeal from a civil judgment of the Magisterial District Courts, and a complaint has not yet been filed, the Court may schedule a status conference at a time when the Court can re-address the issuance of a case management order, or the Court may, in its discretion, set a schedule for the filing of a complaint and the close of all pleadings.

(d) Case Management Order Time Limitations

The time limitations set forth in the case management order shall be at the discretion of the assigned judge, made in consultation with the parties at the initial case management conference. Although specific time limitations may vary depending upon the nature and complexity of the case, and the extent of anticipated discovery, as a general matter, the following timelines may be imposed:

1. Close of discovery within 240 days from the issuance of the initial case management order.
2. The exchange of expert reports and the filing of any dispositive motions within 30 days from the close of discovery.
3. The filing of Plaintiff's pretrial narrative within 60 days from the close of discovery.
4. The filing of Defendant's pretrial narrative within 90 days from the close of discovery.
5. The earliest date on which the case may be tried.

(e) Modification of Case Management Orders

1. Following the entry of a case management order, any request for modification shall be made by motion filed with the Prothonotary, mailed or delivered to the assigned judge, and served on the opposing party. To the extent the parties are in agreement with a proposed modification, they may file a joint motion, which shall indicate counsel's (or an unrepresented party's) consent, either through signature or an email attached as an exhibit thereto.
2. Upon receipt of a motion for modification, the assigned judge may grant or deny the motion, either in full or in part, or set the matter for a case management conference. The modification or extension of the time limitations set forth in the existing case management order shall be at the discretion of the assigned judge. Nothing in this Rule shall be construed to prevent the Court from *sua sponte* modifying a case management order at any time.

(f) Mediation

Mediation is available upon agreement of all parties. 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. If the parties cannot mutually agree on a mediator, the Prothonotary shall nominate potential mediators consisting of three (3) attorneys plus one (1) attorney for each attorney of record and unrepresented party. The list of attorneys so nominated shall be sent by the Prothonotary to each attorney of record and 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 remaining name will be appointed as mediator. If no name or the same name is stricken from the list, the first name will be appointed as mediator. Other alternatives for locating a trained mediator include the Erie County Bar Association's Mediation Service.
3. The mediator shall designate the time for mediation with written notice to each party or their counsel. Mediations may be held at the mediator's office or elsewhere upon agreement of the parties.
4. All parties, including counsel, may attend the mediation.

5. The parties/counsel shall immediately notify the mediator if the matter has been resolved prior to the scheduled mediation.
6. 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.

(g) Certification for Trial

1. After the close of discovery, if a date certain has not yet been set for trial by the assigned judge as part of the civil case management process, then any party may request that the trial be scheduled by filing a Certification for Trial with the Prothonotary, and serving a copy on the assigned judge.
2. If the parties are in agreement that the matter is ready for trial, then they shall file a certification substantially in the same form as Form 212.1(B) and designated "Certification I."
3. Within their Certification I, the parties must certify that they have "met and discussed settlement of this matter, and have discussed other means of alternative dispute resolution of the case." One method of alternative dispute resolution, which would satisfy the requirements of this Rule, is mediation.
4. If the parties are not in agreement that the matter is ready for trial, or are otherwise unable to file a Certification I, then any party wishing to set the matter for trial may file with the Prothonotary, and serve a copy upon the assigned judge, a certification substantially in the same form as Form 212.1(C) and designated "Certification II." Upon receipt of the Certification II, the assigned judge shall schedule the case for a status conference to determine whether the matter is ready for trial.

**FORM 212.1(A)**

**Erie L.R. 212.1 CIVIL CASE SUMMARY**

**NATURE OF THE CASE**

Please set forth the general nature of the case:

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**PENDING/ANTICIPATED PRELIMINARY OBJECTIONS/MOTIONS FOR  
JUDGMENT ON THE PLEADINGS**

Are there any pending or anticipated preliminary objections or motions for judgement on the pleadings in this case? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide more detail:

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**SUGGESTED DATES**

Set forth suggested dates for the following:

Date by which fact discovery should be completed: \_\_\_\_\_

Date by which expert reports should be exchanged: \_\_\_\_\_

Dates by which dispositive motions and responses thereto should be filed: \_\_\_\_\_

Dates by which Pretrial Statements should be filed: \_\_\_\_\_

Proposed Trial Term: \_\_\_\_\_

**WRIT OF SUMMONS/MDJ APPEAL**

Is this a case which has either been initiated by a Writ of Summons or is an appeal of a civil judgment from the Magisterial District Courts **and a complaint has not yet been filed?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, does the Plaintiff anticipate filing a complaint within 90 days of the case management conference?

Yes \_\_\_\_\_ No \_\_\_\_\_

**ADR**

Are you interested in attempting to resolve this case by a method of alternative dispute resolution?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, select one or more of the following:

Mediation       Arbitration       Other



**FORM 212.1(B)**

**CERTIFICATION I**

We the undersigned, 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, and have discussed other means of alternative dispute resolution of the case; and
5. This case is to be tried jury [or non-jury].

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

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

**FORM 212.1(C)**

**CERTIFICATION II**

1. The undersigned requests that the case be scheduled for trial.
2. A case management order was entered providing the earliest date for trial as \_\_\_\_\_.
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)

### **RULE 212.2. PRETRIAL STATEMENTS**

- (a) In addition to the requirements set forth in Pa.R.Civ.P. 212.2(a), all Pretrial Statements shall contain:
  - 1. The estimated length of trial.
  - 2. A list of any unusual legal issues.
  - 3. Where appropriate, authorization to other parties to examine pertinent records unless earlier provided.
  - 4. For any party asserting a claim for damages, the method of calculation and how damages will be proven.
  - 5. For any party defending a claim for damages, any defenses to the damage claims.

### **RULE 212.3. PRETRIAL CONFERENCE**

- (a) Prior to the commencement of a jury trial, 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.Civ.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 216. RE-CERTIFICATION AFTER CONTINUANCE**

- (a) 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.

- (b) Motions for continuance which are being made with the agreement of all counsel must be signed by all counsel or parties.
- (c) 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.
- (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 shall 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**

- (a) Rule 227.3 shall govern the process for the request, payment and receipt of transcripts of record proceedings before the Erie County Court of Common Pleas. This Rule shall be read in conjunction with and supplement the Uniform Rules Governing Court Reporting and Transcripts, as set forth in the Pennsylvania Rules of Judicial Administration ("Pa.R.J.A."), Nos. 4001-4016. In the event of any conflict between this Rule and the state rules, the Pennsylvania Rules shall control.
- (b) Requests for Transcripts:
  - (i) The original transcript request shall be on a standardized form ("Transcript Request Form") provided by the Administrative Office of Pennsylvania Courts and shall be filed with the appropriate filing office of the case docket. The form is available on The Unified Judicial System's Web Portal, the website for the Erie County Court of Common Pleas, or by contacting the District Court Administrator for the Erie County Court of Common Pleas. In order for the request to be processed, a copy of the request must be served on the District Court Administrator, as well as on all other individuals designed by Pa.R.J.A. 4007. For purposes of service on the District Court Administrator, the request may be hand delivered to Room 210 of the Erie County Courthouse, e-mailed to the District Court Administrator, or mailed to: District Court Administrator, Erie County Courthouse, 140 West 6th Street, Room 210, Erie, PA 16501.
  - (ii) The District Court Administrator will not direct the court reporter to proceed with transcription until either (1) receipt of partial payment in the amount of one-half of the estimated cost of the transcript; or (2) receipt of an order granting permission to proceed *in forma pauperis* or waiving costs in accordance with Pa.R.J.A. 4008(B) and Erie County Rule of Judicial Administration 4008(B). The party ordering the transcript is responsible for contacting the court reporter to determine the amount of deposit required. Deposit checks shall be made payable to the County of Erie and delivered to the District Court Administrator.
  - (iii) Upon receipt of notification from the court reporter of the completion of the transcript and the amount of the balance owed, the party ordering the transcript shall forward to the District Court Administrator a check in the amount of the balance due. The check shall be made payable to the County of Erie. Upon receipt of final payment, the District Court Administrator

will direct the court reporter to file and deliver the transcript in accordance with Pa.R.J.A. 4007(D)(4).

(c) Transcript Costs Payable by a Requesting Party Other than the Commonwealth or a Subdivision Thereof:

(i) The per page cost for a transcript in electronic format shall be as follows:

(1) \$2.50 per page for an ordinary transcript;

(2) \$3.50 per page for an expedited transcript;

(3) \$4.50 per page for a daily transcript; and

(4) \$6.50 per page for same day delivery.

(5) If the transcript is requested in bound paper format, the costs shall be as stated above, plus a surcharge of \$0.25 per page.

(6) The trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation where the judge determines that the surcharge is necessary because of the need for the court reporter to significantly expand their dictionary.

(7) Costs for a copy of any transcript previously ordered, transcribed and filed of record shall be in accordance with Pa.R.J.A. 4008(D). Copy requests may be directed to the District Court Administrator in person in Room 210 of the Erie County Courthouse, e-mailed to the District Court Administrator, or mailed to: District Court Administrator, Erie County Courthouse, 140 West 6th Street, Room 210, Erie, PA 16501. The District Court Administrator will inform the requesting individual of the total amount due for copying. The full copying fee shall be paid prior to receipt of the copy. Checks shall be made payable to the County of Erie and delivered to the District Court Administrator.

(ii) Economic Hardship

(1) In accordance with Pa.R.J.A. 4008(B)(1), a litigant who has already been permitted to proceed with the commencement of the underlying action or with the taking of the appeal *in forma pauperis* will, in matters under appeal or where the transcript is necessary to advance the litigation, receive waiver of transcript costs. The order

granting the litigant *in forma pauperis* status shall be attached to the Transcript Request Form which is filed and served in accordance with Pa.R.J.A. 4007 and Erie County Rule of Judicial Administration 4007. In addition to attaching the order to the request, the litigant should also attach a verified statement indicating that the party is aware of their continuing obligation to inform the court of improvement in their financial circumstances and that no such improvement has occurred since entry of the order granting permission to proceed *in forma pauperis*. A litigant's failure to attach the *in forma pauperis* order to the transcript request may result in delayed transcription.

- (2) Any litigant who has not already been granted *in forma pauperis* status, but who wishes to pursue waiver of or reduction in transcript costs, shall file a petition requesting waiver of or reduction in transcript costs under the docket of the case. The petition must include:
  - (A) the caption and docket number of the case;
  - (B) a statement indicating whether or not the transcript is in a matter which is currently under appeal;
  - (C) a statement indicating whether or not the transcript is necessary to advance pending litigation; and
  - (D) a fully completed and executed affidavit substantially in the form required by Pa.R.Civ.P. 240(b).

Upon filing the petition and affidavit, the party requesting waiver of or reduction in transcript costs shall also serve a copy of the same on the judge assigned to the case for disposition. The petitioner shall be responsible for forwarding a copy of the resulting order to the District Court Administrator. Failure to serve the order may result in delayed transcription.

## **RULE 230.2. TERMINATION OF INACTIVE CASES**

- (a) Notice of Intention to Proceed
  - (1) In any case where a party files a timely statement of intention to proceed in response to a notice of proposed termination, the party seeking to proceed, within 14 days from the filing of the notice of intention to proceed, shall file with the Prothonotary a brief narrative, not to exceed three pages, explaining the reason(s) for the delay in prosecuting the case. The party seeking to

proceed shall mail or deliver a copy of the narrative to the assigned judge, as well as opposing counsel of record and any unrepresented parties.

- (2) Thereafter, the Court shall hold a status conference as required under Pa.R.Civ.P. 230.2(h). After the status conference, the Court shall issue a revised case management order setting strict deadlines for the completion of discovery and resolution of any outstanding issues.

If a party fails to file a narrative, provides an unsatisfactory reason for delay in their narrative, or if any party fails to attend the status conference, the Court may, in its discretion:

- (A) Schedule the matter for a subsequent status conference;
- (B) Award counsel fees for dilatory, obdurate, or vexatious behavior, after an evidentiary hearing where necessary;
- (C) Schedule the matter for a contempt hearing;
- (D) Adopt a proposed schedule for a case management order offered by one party appearing where another party fails to appear;
- (E) Dismiss the action after consideration of a motion for entry of judgment of non pros; or
- (F) Impose any other appropriate sanction.

(b) Reinstatement after Termination

- (1) In any case reinstated after termination pursuant to Pa.R.Civ.P. 230.2(d), the petitioning party, within 14 days from the granting of the petition for reinstatement, shall file with the Prothonotary a brief narrative, not to exceed three pages, explaining the reason(s) for the delay in prosecuting the case. The petitioning party shall mail or deliver a copy of the narrative to the assigned judge, as well as opposing counsel of record and any unrepresented parties.

- (2) Thereafter, the Court shall hold a status conference. After the status conference, the Court shall issue a revised case management order setting strict deadlines for the completion of discovery and resolution of any outstanding issues. If a party fails to file a narrative, provides an unsatisfactory reason for delay in their narrative, or if any party fails to attend the status conference, the Court may, in its discretion:

- (A) Schedule the matter for a subsequent status conference;

- (B) Award counsel fees for dilatory, obdurate, or vexatious behavior, after an evidentiary hearing where necessary;
- (C) Schedule the matter for a contempt hearing;
- (D) Adopt a proposed schedule for a case management order offered by one party appearing where another party fails to appear;
- (E) Dismiss the action after consideration of a motion for entry of judgment of non pros; or
- (F) Impose any other appropriate sanction.

**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 instructions 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 curium" 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. PETITION 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 of a case shall be made immediately upon the commencement of an action. In cases subject to Erie L.R. 311, judicial assignment shall take place immediately upon the filing of an appeal. 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 assignment does not occur upon the commencement of the action, a request for judicial assignment may be made at any time, and shall be made prior to the filing of any petition, praecipe, or motion requiring judicial attention. In such cases, counsel or an unrepresented party shall submit a request for judicial

assignment with the Court Administrator on a form available at: <https://eriecountypa.gov/courts/court-information/general-forms/>.

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

For Family Law Motions Court rules see Orphans' Court Local Rules 3.0 and 3.5 and utilize the Family Law/Orphans' Court Motions Cover Sheet and Notice found in Appendix A of the Orphans' Court Local Rules.

#### **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.
  - (2) The Prothonotary, duly authorized court personnel, and under the supervision of the Prothonotary, attorneys, unrepresented 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, e-mail address, and telephone number of the person filing the paper.
- (d) The Prothonotary shall consecutively number the cases each year.
- (e) 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.
- (f) 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**

Regular terms of Court for the trial of civil jury cases shall be scheduled by the Court Administrator and posted on the County's website.

### **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 they believe 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.

### **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, Statute, 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.Civ.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, email 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.Civ.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.

## 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) 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 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 their 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.

#### **ACTIONS AT LAW**

#### **CIVIL ACTION**

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

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

Lawyer Referral & Information Service  
P.O. Box 1792  
Erie, PA 16507  
(814) 459-4411  
Monday Friday (8:30 a.m.- 5:00 p.m.)  
<https://www.eriebar.com/public/services/lawyer-referral-service>



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

1. Preliminary objections shall be filed with the Prothonotary 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. If the objecting party requests oral argument, the objecting party shall do so in writing when serving 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 serve a copy of the responding brief to the assigned judge and the moving party. This deadline does not affect the filing deadlines otherwise imposed upon the non-moving party by the Pennsylvania Rules of Civil Procedure. If the non-moving party requests oral argument, the non-moving party shall do so in writing when serving a responding brief upon the assigned judge.
3. After the passage of the filing date for the non-moving party's responding 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 non-moving party has failed to comply and where the requested relief is supported by law,
  - (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. If the moving party requests oral argument, the moving party shall do so in writing when serving the motion and brief upon the assigned judge.
2. The non-moving party shall file a responding brief within thirty (30) days after receipt of the motion and supporting brief. If the non-moving party requests oral argument, the non-moving party shall do so in writing when serving a responding upon the assigned judge. At that time, the failure of the non-moving party to file a responding 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 responding 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. If the moving party requests oral argument, the moving party shall do so in writing when serving the motion and brief upon the assigned judge. Within thirty (30) days of receipt of the moving party's brief, the non-moving party shall file a responding brief and, at that time, shall deliver a copy to the assigned judge. If the non-moving party requests oral argument, the non-moving party shall do so in writing when serving its responding brief upon 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 non-moving 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.Civ.P. 211. If granted, notice of argument shall be given by the Court to each attorney of record and 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 PROFESSIONAL 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 have 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.Civ.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.Civ.P. 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) 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.
  - (1) Selection by Praecipe. Upon the filing of a Praecipe 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.

- (2) 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.
  - (3) 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.
- (b) 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 their 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.Civ.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, in a courtroom by leave of Court, or at a location via agreement by the parties and the Board of Arbitrators.

- (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 L.R. 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.
- (b) 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.
  - (1) 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.
  - (2) Names and addresses of all witnesses the party expects to call.
  - (3) 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.Civ.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 their 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.

**••• [Local Rules of Civil Procedure under the headings Actions for Support, Actions for Custody, Partial Custody and Visitation of Minor Children; and Actions of Divorce or Annulment of Marriage have not been changed and are not included herein for publication.]**

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

Service of process in domestic relations matter shall be in accordance with Pa.R.Civ.P 1930.4.

## MINORS AS PARTIES

### **RULE 2039. COMPROMISE, SETTLEMENT, AND DISCONTINUANCE**

- (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, AND DISCONTINUANCE**

- (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 them, 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. COMPROMISE, SETTLEMENT, AND DISCONTINUANCE**

- (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.Civ.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.Civ.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. -12:00 p.m. and 1:15-- 4:00 p.m.

#### **RULE 3282. DEFICIENCY JUDGMENTS**

- (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 Section 8103, 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; and
  - (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.Civ.P. 3283.

## **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.Civ.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 their impartiality can reasonably be questioned, including but not limited to instances where:

- (a) The individual attorney, or a lawyer with whom they practice, currently represents any of the parties in any legal matters;
- (b) The individual attorney has a personal bias or prejudice concerning a party;
- (c) The individual attorney has personal knowledge of disputed evidentiary facts;
- (d) The individual attorney served as a lawyer in the matter in controversy, or a lawyer with whom they practice law served as a lawyer concerning the matter;
- (e) The individual attorney knows that either themselves, individually or as a fiduciary, or their spouse or minor child residing in their 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 they deal in an official capacity, and should require similar conduct of lawyers, the arbitrator's staff, and others subject to their direction and control.
4. An arbitrator should accord to every person who is legally interested in a proceeding and to their 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 their 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 their 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 preheating 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.
- A. 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.
- B. 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.