

**FOURTEENTH  
JUDICIAL DISTRICT  
OF  
PENNSYLVANIA**

**RULES**

**OF THE**

**COURT OF COMMON PLEAS**

**OF**

**FAYETTE COUNTY, PENNSYLVANIA**

*JULY 2009*

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*(Unless otherwise indicated, all rules were effective as of April 10, 1989)*

**FREQUENTLY CALLED NUMBERS**  
**(Area Code 724)**

Adult Probation Office .....	430-1251
Clerk of Courts .....	430-1253
Commissioner's Office .....	430-1200
Coroner .....	430-1270
Court Administrator .....	430-1230
Child Custody Office .....	434-6022
District Attorney .....	430-1245
Domestic Relations .....	430-1260
Fayette County Prison .....	430-1222
Jury Commissioner .....	430-1279
Juvenile Probation office .....	430-1223
Law Library .....	430-1228
Prothonotary .....	430-1272
Public Defender .....	430-1220

Recorder of Deeds .....	430-1238
Register of Wills .....	430-1206
Sheriff.....	430-1295
County Solicitor .....	430-1200
Treasurer.....	430-1256
Fayette County Bar Association .....	437-7994

**Fayette County Courthouse  
61 East Main Street  
Uniontown, Pennsylvania 15401  
FAX (724) 430-1001**

**JUDGES**

Honorable Conrad B. Capuzzi,  
*President Judge*.....(724) 430-1233  
Honorable Gerald R. Solomon.....(724) 430-1234  
Honorable John F. Wagner, Jr.....(724) 430-1236  
Honorable Ralph C. Warman..... (724) 430-4021  
Honorable Steve P. Leskinen .....(724) 430-2060



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**RULES OF CIVIL PROCEDURE  
OF THE  
COURT OF COMMON PLEAS  
OF  
FAYETTE COUNTY, PENNSYLVANIA**

## **RULES OF CONSTRUCTION**

### **RULE 51**

#### **TITLE AND CITATION OF RULES**

All civil rules adopted by the Court of Common Pleas of Fayette County, Pennsylvania, shall be known as the Rules of Civil Procedure for the Court of Common Pleas of Fayette County, Pennsylvania, and may be cited as "F.C.R.\_\_\_\_\_."

### **RULE 52**

#### **EFFECTIVE DATE. APPLICATION TO PENDING ACTIONS**

(a) These rules shall be effective thirty days after publication in the Pennsylvania Bulletin.

(b) Unless otherwise ordered for cause shown, these rules shall apply to actions pending on the effective date.

### **RULE 76**

#### **DEFINITIONS**

All words and phrases used in these rules shall have the same meanings as in the Pennsylvania Rules of Civil Procedure

### **RULE 101**

#### **PRINCIPLES OF INTERPRETATION**

These rules shall be construed in accordance with the principles of interpretation set forth in the Pennsylvania Rules of Civil Procedure, specifically including Rules 101 through 153, and Rule 239(b) (1).

These rules shall be given numbers that are keyed to the numbers of the Pennsylvania Rules of Civil Procedure to which the rules correspond.

## **BUSINESS OF COURTS**

### **RULE 201**

#### **CASE ASSIGNMENT**

(a) All civil cases, not including family court matters, filed in the Prothonotary's Office shall be assigned to a Judge as set forth in FCR 201.1. The Prothonotary shall notify the assigned Judge of the assignment upon the filing of the initial responsive pleading of any defendant. The assigned Judge's name shall be placed on all subsequent pleadings by counsel under the number and term of the case.

b If pending cases which arise from the same transaction or occurrence are assigned to different Judges, the Court, on its own motion or the motion of any party, may order the cases consolidated before the Judge assigned to the first case filed.

**NOTE:** Adopted December 19, 2003, effective February 10, 2004. Amended June 8, 2004, effective July 26, 2004.

### **RULE 201.1**

#### **RANDOM ASSIGNMENT**

Civil cases set forth in FCR 201(a) shall be assigned randomly by the Prothonotary's computer system to a Judge. Those cases which have not yet been assigned and require an emergency determination as provided in FCR 208.3(a)(1)(iii) will be immediately assigned randomly by the Prothonotary's computer system, after the President Judge approves the case as being in compliance with FCR 208.3(a).

**NOTE:** Adopted December 19, 2003, effective February 10, 2004. Amended

**June 8, 2004, effective July 26, 2004. Amended June 29, 2004, effective July 26, 2004.**

## **RULE 202**

### **STATUS CONFERENCE**

As to cases filed on or after the effective date of FCR 201(a), the assigned Judge shall schedule a status conference no sooner than thirty (30) days after the initial responsive pleading to the complaint is filed.

**NOTE: Adopted December 19, 2003, effective February 10, 2004. Amended June 8, 2004, effective July 26, 2004.**

## **RULE 203**

### **CASE MANAGEMENT ORDER**

(a) At the FCR 202 status conference, the assigned Judge shall enter a case management order which may include the following:

- (1) a date for discovery to be completed;
- (2) referral to arbitration of all cases when the amount actually in controversy does not exceed the jurisdictional limits of arbitration. The Court shall set forth the estimated length of time for the arbitration hearing in the referral order;
- (3) a date for all dispositive motions, including motions for summary judgment and for judgment on the pleadings, to be filed;
- (4) a pretrial conference date; and
- (5) the earliest trial date on which the case may be tried pursuant to Pa.R.C.P. 212.1(a).

**NOTE: Adopted December 19, 2003, effective February 10, 2004. Amended June 8, 2004, effective July 26, 2004.**

## **RULE 204**

**NOTE: Adopted December 19, 2003, effective February 10, 2004. Amended June 8, 2004, effective July 26, 2004. Rescinded July 29, 2004.**

## **RULE 205.2**

**NOTE:** Rescinded June 29, 2004, effective July 26, 2004.

### **RULE 205.2(a)**

#### **FORM OF PAPERS**

- 1 All documents filed shall be on 8 ½ inch x 11 inch paper and shall comply with the following requirements:
  - (i) The document shall be prepared on good quality white paper.
  - (ii) The text must be double spaced. Margins must be at least one inch on all four sides.
  - (iii) The lettering shall be clear and legible and shall be on only one side of a page. Exhibits and similar supporting documents and paperbooks may be lettered on both sides of the page.
  - (iv) Documents and papers must be firmly bound. Any metal fasteners or staples must be covered.
  - (v) No backers or top strips are permitted.

**NOTE:** Filing Legal Papers With Prothonotary, adopted June 29, 2004, effective July 26, 2004, Rescinded February 22, 2005. Form of Papers, adopted February 22, 2005, effective March 4, 2005.

## **RULE 206.1**

**NOTE:** Rescinded June 29, 2004, effective July 26, 2004.

## **RULE 206.1(a)**

### **PETITION, DEFINITION, CONTENT AND FORM**

In addition to petitions to open and for non pros, petition practice shall also be applicable to petitions to transfer venue on grounds of forum non conveniens.

**NOTE:** Adopted June 29, 2004, effective July 26, 2004.

## **RULE 206.4**

**NOTE:** Rescinded June 29, 2004, effective July 26, 2004.

## **RULE 206.4(c)**

### **RULE TO SHOW CAUSE**

(1) Fayette County hereby adopts Pa.R.C.P 206.5 as the procedure governing Rules to Show Cause. The issuance of Rules to show Cause will be discretionary with the Court upon presentation of a petition seeking the same.

i A petition for a Rule shall be presented to the assigned judge as a Priority Motion in accordance with FCR 208.3(a).

(A) Those petitions which show no merit on their face or which can be determined by a short presentation by the respective attorneys in Motions Court will be disposed of without a formal fact finding procedure.

(B) If it appears to the Court that formal fact finding is necessary to the disposition of the Rule, the Court will set a date for argument subsequent to the filing of an Answer and the taking of any necessary

discovery.

(ii) In the event that the Court grants the Rule to Show Cause, an order to that effect will be issued in accordance with Pa. R.C.P. 206.5, setting forth the time mandates for the Respondent's Answer and any depositions required prior to argument.

A Said order will also indicate the date set for argument on the matter.

(B) The Petitioner for the Rule must provide notice of the entry of this order to all parties within seven (7) business days of the entry thereof.

(iii) A request for a stay of execution pending disposition of a petition to open may be ordered upon presentation of said petition.

**NOTE: Adopted June 29, 2004, effective July 26, 2004.**

## **RULE 208.2**

**NOTE: Rescinded June 29, 2004, effective July 26, 2004.**

## **RULE 208.2(c)**

### **MOTIONS – STATEMENT OF APPLICABLE AUTHORITY**

All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on the Certificate of Presentation, which form appears in FCR 208.3(a) (1)(vii).

**NOTE: Adopted June 29, 2004, effective July 26, 2004.**

## **RULE 208.2(d)**

### **UNCONTESTED MOTION CERTIFICATE**

All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

**NOTE:** Adopted June 29, 2004, effective July 26, 2004.

### **RULE 208.2(e)**

## **DISCOVERY MOTION CERTIFICATE**

Any motion relating to discovery must contain a certification that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action.

**NOTE:** Adopted June 29, 2004, effective July 26, 2004.

### **RULE 208.3**

**NOTE:** Rescinded June 29, 2004, effective July 26, 2004.

### **RULE 208.3(a)**

## **MOTIONS COURT PROCEDURE**

1 In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the Fayette County Legal Journal.

2 All applications for Court action, including motions, petitions, and those other applications specifically listed in Pa.R.C.P. 208.1 (b)(1) and (2), shall be presented to the Court by following this Motions Court procedure. The party presenting the motion to the Court is to select the day on which the motion will be listed for Motions Court.

3 As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine", presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while

“routine” motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument. All priority motions will be presented to the assigned Judge in Motions Court.

4 All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

5 All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party’s attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers of the persons served. The Certificate of Service shall be substantially in the following form:

### CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

1. Service by regular mail:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone Number\_\_\_\_  
Address; (and/or)

2. Service by facsimile at FAX number \_\_\_\_\_:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone number\_\_\_\_  
Address; (and/or)

3. Service in person:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone number\_\_\_\_  
Address

Date:\_\_\_\_\_ Signature\_\_\_\_\_

(6) All motions shall be accompanied by a Certificate of Presentation as set forth in FCR 208.3(a)(12).

(7) All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court’s authority to grant the relief requested. Said citation shall be placed  
on a Certificate of Presentation.

8 The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate office before presentment in Motions Court. An original proposed order, a copy of the Certificate of Presentation, Certificate of Service, and the motion, assembled in that order, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two (2) business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(9) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

10 The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

11 Failure to accurately provide the information required by paragraph (12) below may result in the matter not being listed for Motions Court.

12 The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,  
PENNSYLVANIA

:  
:  
:  
:  
:  
: NO. \_\_\_\_\_ OF \_\_\_\_\_

#### CERTIFICATE OF PRESENTATION

1. The undersigned, \_\_\_\_\_, represents \_\_\_\_\_, the moving party herein.

2. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_ at 9:00 o'clock A.M.

3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.

4. Judge \_\_\_\_\_ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)

5. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_.

6. Estimated time for hearing or argument to resolve the motion on its merits:\_\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_

Date: \_\_\_\_\_

**NOTE:** Adopted June 29, 2004, effective July 26, 2004. Amended July 29, 2004, effective August 5, 2004. Amended February 8, 2005, effective March 4, 2005.

## **RULE 210**

### **FORM AND CONTENT OF BRIEFS**

(a) The brief of the moving party shall contain a statement of the questions involved, a history of the case, and argument; and shall have appended to it a copy of the relevant docket entries, all pleadings or papers in the nature thereof upon which the particular application is based or that are necessary to a full understanding of the questions involved and any adjudication, decision, or opinion previously filed. The brief of the responding party needs contain only that party's argument, but a counter statement of the questions involved and a counter-history of the case may be added.

(b) The argument shall be divided into as many parts as there are questions to be argued, each part with a heading indicating the particular question discussed therein. If reference is made to the evidence or charge, the argument shall set forth in immediate connection therewith, or in a footnote thereto a reference to the page or pages of the transcript where the matter referred to appears. When a finding of fact or the refusal to find a fact is discussed, the argument shall contain a synopsis of all the evidence on the question, with a reference to the page or pages of the transcript where the evidence may be found.

(c) The matter will be decided on the briefs submitted unless oral argument is requested.

(d) This rule applies to all briefs submitted to the Court En Banc as well as those submitted to individual Judges.

## **RULE 210.1**

### **PREPARATION OF ORDERS, OPINIONS, TRANSCRIPTS AND DEPOSITIONS**

(a) All orders and opinions shall be written on eight and one-half (8 1/2) inch x eleven (11) inch good quality, opaque, white, unglazed paper and shall, as

nearly as practicable, conform with the following requirements:

(1) There shall be twenty-five (25) double spaced lines of material on each page;

(2) Margins shall be one and one-quarter (1 1/4) inches on the left side, one (1) inch on the top and bottom and one-half (1/2) inch on the right side.

(b) All transcripts of testimony shall be prepared in conformity with the requirements set forth in paragraph (a) if on paper having no ruled margin lines. All transcripts of testimony prepared on paper with ruled margin lines shall, as nearly as practicable, conform with the same requirements, subject to the following modifications:

(1) The first line of typing shall be within one-quarter (1/4) inch of the top margin line.

(2) The left hand margin shall be one space from the left ruled margin line. where "Q" and "A" are utilized, there shall be two spaces between the "Q" and "A" and the following text.

(3) The right hand margin shall be within one-quarter (1/4) inch of the right ruled margin line.

(4) The last line of typing shall be within one-quarter (1/4) inch of the bottom margin line.

(5) The combined space outside the right and left ruled margin lines shall not exceed a total of one and three-quarter (1 3/4) inches.

(c) All masters reports; transcripts of depositions and other papers filed in any case shall conform, as nearly as practicable, with the foregoing requirements for transcripts of testimony.

(d) This rule shall be binding upon court stenographers, secretaries, and all other persons who perform services in court related matters.

## **RULE 210.2**

**NOTE:** Rescinded April 4, 2003, effective July 21, 2003.

## **RULE 211**

**NOTE:** Rescinded June 8, 2004, effective July 26, 2004.

## **RULE 211.1**

**NOTE:** Rescinded June 8, 2004, effective July 26, 2004.

## **RULE 211.2**

**NOTE:** Rescinded June 8, 2004, effective July 26, 2004.

## **RULE 211.3**

**NOTE:** Rescinded June 8, 2004, effective July 26, 2004.

## **RULE 212**

### **PRE-TRIAL PROCEDURE**

a There will be no pretrial conference in arbitration cases unless the award of arbitrators is appealed. In paternity cases, the pretrial conference shall be conducted by the Domestic Relations Hearing Officer, who shall provide a report of same to the assigned Judge.

(b) The parties shall file pretrial statements as follows:

(1) All plaintiffs, within twenty (20) days after the discovery deadline set by the assigned Judge; and

(2) All defendants, within twenty (20) days of the filing of the plaintiffs pretrial statements; and

(3) All other parties, within twenty (20) days of the filing of defendants' pretrial statements.

(c) No discovery will be permitted after the pretrial conference except upon express order of the Court.

d The written pretrial statement required under these Rules will consist of a brief summary of the essential facts upon which liability is asserted or denied and the legal issues involved. There shall be attached to said statement:

1 A copy of all reports containing findings or conclusions of any physician who has treated or examined a party or has been consulted in connection with any injuries complained of and who a party expects to call as a witness at the time of trial of the case. If timely production of any such report is not made, the testimony of such physician shall be excluded at the trial except upon consent of the other party or parties or upon express order of the Court.

2 A copy of all reports containing findings and conclusions of any expert who has been consulted in connection with the matters involved in the case and who a party expects to call as a witness at the trial. If timely production of any such report is not made, the testimony of such expert shall be excluded at the trial, except upon consent of the other party or parties or upon express order of the Court.

3 A list of the names and addresses of all witnesses the party expects to call, which witnesses shall be classified as liability or damage witnesses.

4 The pretrial statement of any party seeking to recover damages for personal injuries will also be accompanied by a written authorization to inspect and make copies of the records and reports of any physician, hospital or clinic by whom or where said party may have been examined, treated or hospitalized for the injuries or disabilities complained of, and covering prior injuries or disabilities where the same may be relevant.

5 The pretrial statement of any party seeking to recover damages shall include a list of the damages that the party intends to claim and prove at the trial.

6 All counsel shall attach a list of exhibits, which shall contain the identifying mark of each exhibit together with a brief description of the exhibit.

7 All parties shall set forth a realistic estimate of the trial time required for presentation of their own case, as well as total trial time required.

8 The pretrial statement shall include a brief history of settlement negotiations.

e Upon failure of any party to file a pretrial statement within the time required, the Court may impose the sanctions provided in Pa.R.C.P. 4019(c).

f At the pretrial conference, each counsel shall make available to opposing counsel for inspection and copying the actual exhibits, which are expected to be offered in evidence at trial. In addition, the written list of exhibits will be marked to indicate those exhibits which are to be admitted into evidence by stipulation, those exhibits to which there is an agreement of authenticity and a waiver of formal proof but to which objections of admissibility are reserved and those exhibits to which objections to admissibility and challenges to authenticity and proof are reserved generally. The nature of the objection in each instance shall be briefly stated.

If any exhibits are known to exist or probably will be required but are not available at the time of the pretrial conference, the substance thereof must be disclosed to opposing parties and numbers or letters shall be reserved for such exhibits upon counsel's list of exhibits. If not discovered or not realized to be necessary until after the pretrial conference, exhibits must nevertheless be marked before trial. Exhibits not submitted and marked in the manner provided herein shall not be admitted at the trial unless the trial Judge is satisfied that their existence or the necessity for introducing them could not have been determined at the earlier stages referred to in this Rule.

g Motions to amend, to consolidate, to sever, motions in *limine*, and other

pertinent matters, may be determined by the assigned Judge at the pretrial conference provided at least 20 days notice is given to the Judge and all parties before the pretrial conference.

h The Judge presiding at the pretrial conference shall enter a pretrial adjudication. Counsel must file written objections within 10 days and present the objection to Motions Court or be deemed to have accepted the pretrial adjudication.

i Willful failure to fully disclose in the pretrial statement or at the pretrial conference the substance of the evidence as to liability, defenses, damages and the identity of all witnesses proposed to be offered at the trial will result in the exclusion of that evidence or the testimony of those witnesses at the trial. The only exceptions will be matters or witnesses whom the Judge determines were not discoverable at the time of the pretrial conference, and matters to be used solely for impeaching purposes.

j When a case is scheduled for pretrial conference, it shall not be continued except for just cause and upon order of the pretrial Judge. If there is a failure to comply with the pretrial rules or with any order issued in the pretrial procedure, the Judge may impose such sanctions as are warranted by the circumstances. Sanctions may include the dismissal of the plaintiff's cause of action, the grant of permission to proceed *ex parte*, or the barring of any defendant or other party from offering any testimony. If the parties fail to comply, the action may be dismissed.

k The pretrial conference shall be attended by the attorney who will try the case or by an attorney who is fully prepared and authorized as to all matters, which may reasonably be expected to arise during the conference. Parties must also be present, except where the real party in interest is an insurance company, common carrier, corporation or other artificial legal entity, in which instance a representative thereof, other than the attorney, must be present with full authority and power to discuss and settle the case. At the pretrial conference, the Court shall encourage the amicable settlement of the controversy and the parties and their attorneys shall be prepared to discuss settlement.

l The pretrial adjudication shall control the subsequent course of the action. The adjudication of the pretrial Judge may include a requirement that one or more of the parties submit a trial brief, or a statement of legal authorities, to be submitted at least ten (10) days before the jury selection date. The adjudication may impose such other requirements on the parties as the circumstances may indicate in the discretion of the Judge.

m After the pretrial conference and the entry of the pretrial adjudication, no amendment to any pretrial statement or pleading shall be presented to the Prothonotary for filing unless authorized at the pretrial conference or upon further order of Court.

n The Court may on motion of any party enlarge any time period set forth in these Rules relating to pretrial procedure.

**Note: Amended December 19, 2003, effective February 9, 2004.**

## **RULE 214**

### **TRIALS**

a There shall be four (4) Sessions of Civil Jury Trial terms each year, beginning respectively on the third Monday of January, April, July, and October, unless otherwise specifically ordered.

b The jury selection day shall be the first day of the Civil Jury Trial term, and such other days as the Court may direct.

c Non-jury and equity trials shall be scheduled at the pretrial conference.

d As to any civil jury trial, unless the assigned Judge directs otherwise, a trial date and a jury selection date shall be determined at the pretrial conference.

**NOTE:** Amended September 24, 1998. Amended December 19, 2003, effective February 10, 2004. Amended June 8, 2004, effective July 26, 2004.

## **RULE 216**

### **CONTINUANCES: ABSENCE OF WITNESS OR ATTORNEY**

(a) Every motion for continuance because of the absence of a witness who has not been served with a subpoena shall be supported by an affidavit as required by Pa.R.C.P. 216(A)(3). The motion may be refused if (i) the party applying or the party's attorney knew of the intended absence of the witness in time to subpoena the witness, or (ii) the witness lives in the state and could, by reasonable diligence, have been subpoenaed within five (5) days of the date set for trial, or (iii) the adverse party stipulates that the witness, if present, would testify to the facts set forth in the affidavit.

(b) The absence of an attorney shall not be deemed to be grounds for a continuance unless such absence is caused by an engagement in a Federal Court, a Pennsylvania Appellate Court, a previously scheduled Common Pleas Court hearing, by the attorney's illness, or by some special or unexpected circumstance rendering the attorney's absence practically involuntary. When two or more attorneys are of record for the same party, the absence of one of them shall not be deemed grounds for a continuance or for passing the case, except for reasons satisfactory to the Court.

(c) Except for cause shown as stated in the motion, a motion for continuance shall comply with the following requirements:

(1) The motion shall be signed by the moving party and counsel for the moving party; and

(2) The motion shall be consented to and signed by all counsel, and unrepresented parties of record, or it must be presented as a Priority Motion; and

(3) If the motion is made necessary by a pre-existing hearing commitment, a copy of the order setting such hearing shall be attached to the motion, and the motion for continuance must be presented as soon as possible after the conflict is established, and in no event more than two weeks after the mailing of notice of the hearing that is proposed to be continued; and

(4) Counsel must obtain from the Court at least three dates available to all parties and all counsel for the continued hearing. Alternately, each counsel may provide a list of the dates counsel or counsel's client is unavailable during the three-month period following the date the motion for continuance is presented.

**NOTE: Amended May 9, 1997, effective August 4, 1997.**

## **RULE 223**

### **EXAMINATION OF WITNESSES AND ADDRESSES TO JURY**

Except as otherwise specifically allowed by the Trial Judge, only one attorney for a party or group of parties having a common interest shall examine or cross-examine any particular witness or make an opening or closing address to the jury, but both addresses need not be made by the same attorney.

## **RULE 227.1**

### **MOTION FOR POST-TRIAL RELIEF**

(a) A motion for post-trial relief shall be presented in Motions Court as a Routine Motion within ten (10) days after the date it is filed of record, accompanied by a transcript order or a statement that no transcript is necessary, and together with a

proposed order for the Court's use in setting the date and time for argument, or in ordering that the matter be submitted on briefs.

1 Unless otherwise ordered, the brief of the moving party shall be served on all parties and the assigned Judge within fifteen (15) days from the presentation of the motion pursuant to F.C.R. 208.3(a); and the briefs of all responding parties shall be served on all other parties and the assigned Judge within (15) days after service of the moving party's brief. A certificate of service shall be filed of record, but the brief itself need not be filed.

2 Failure to comply with the briefing schedule may result in the denial of oral argument, a civil contempt fine of up to \$100 per day, deemed waiver of issues not fully developed, and/or such other sanctions as are appropriate. The briefing schedule shall not be stayed pending completion of the transcript unless specially ordered by the Court.

**NOTE:** *Amended August 25, 2005, effective October 17, 2005.*

## **RULE 230.2**

### **TERMINATION AND DISMISSAL OF INACTIVE CIVIL MATTERS PURSUANT TO Pa. R. J. A. NO. 1901**

**Note:** Amended, renamed and renumbered F. C. R. J. A. 1901.

## **RULE 234**

### **SUBPOENAS DUCES TECUM**

(a) Every subpoena duces tecum shall describe specifically the books, papers or tangible things desired to be produced and, if unreasonable or oppressive, may be quashed on application to the Court at any time before the date specified in the subpoena for compliance therewith.

(b) No subpoena duces tecum for public records or papers shall be issued except by special order of the Court.

## **RULE 430(b)**

### **DESIGNATION OF LEGAL PERIODICAL**

The Fayette Legal Journal shall be the legal periodical for the publication of all legal advertisements and notices required by statute, rule or special order of Court.

## **RULE 1018.1**

### **NOTICE TO DEFEND**

The organization and agency to be named in the notices accompanying complaints and in the notice of praecipe for entry of default judgment filed in the Court of Common Pleas of Fayette County, shall be:

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
P. O. Box 186  
Harrisburg, PA 17108  
Telephone: 1-800-692-7375

**NOTE:** Amended January 21, 1998, effective February 2, 1998.

## **RULE 1028**

**NOTE:** Rescinded June 29, 2004, effective July 26, 2004.

## **RULE 1028(c)**

### **PRELIMINARY OBJECTIONS**

(1) Preliminary objections shall be presented in Motions Court as a Routine Motion within ten (10) days after the date for filing an amended pleading pursuant to Pa.R.C.P. 1028(c)(1) or a response is due from the non-moving party, accompanied by a proposed order for the Court's use in setting the date and time for argument.

(i) Unless otherwise ordered, the brief of the moving party shall be served on all parties and the assigned Judge within fifteen (15) days from the presentation of the motion pursuant to FCR 208.3(a); and the briefs of all responding parties shall be served on all other parties and the assigned Judge within fifteen (15) days after service of the moving party's brief. A certificate of service shall be filed with the Prothonotary, the brief itself need not be filed.

(ii) Failure to comply with the briefing schedule may result in the denial of oral argument or such other sanctions as are appropriate.

**NOTE: Adopted June 29, 2004, effective July 26, 2004.**

## **RULE 1034**

**NOTE: Adopted June 8, 2004. Amended June 18, 2004, effective July 26, 2004. Rescinded June 29, 2004, effective July 26, 2004.**

## **RULE 1034(a)**

### **JUDGMENT ON THE PLEADINGS**

(1) A Motion for Judgment on the Pleadings shall be presented in Motions Court as a Routine Motion within ten (10) days after the date on which a response is due from the non-moving party, accompanied by a proposed order for the Court's use in setting the date and time for argument. A response to the motion shall be filed within 20 days after service of the same.

i Unless otherwise ordered, the brief of the moving party shall be served on all parties and the assigned Judge within fifteen (15) days from the presentation of the motion pursuant to FCR 208.3(a); and the briefs of all responding parties shall be served on all other parties and the assigned Judge within fifteen (15) days after service of the moving party's brief. A certificate of service shall be filed with the Prothonotary, the brief itself need not be filed.

ii Failure to comply with the briefing schedule may result in the denial of oral argument or such other sanctions as are appropriate.

**NOTE: Adopted June 29, 2004, effective July 26, 2004.**

## **RULE 1035.2**

**NOTE:** Adopted June 8, 2004. Rescinded June 29, 2004, effective July 26.

### **RULE 1035.2(a)**

#### **SUMMARY JUDGMENT**

(1) A Motion for Summary Judgment shall be presented in Motions Court as a Routine Motion within ten (10) days after a response is due from the non-moving party, accompanied by a proposed order for the Court's use in setting the date and time for argument.

(i) Unless otherwise ordered, the brief of the moving party shall be served on all parties and the assigned Judge within fifteen (15) days from the presentation of the motion pursuant to FCR 208.3(a); and the briefs of all responding parties shall be served on all other parties and the assigned Judge within fifteen (15) days after service of the moving party's brief. A certificate of service shall be filed with the Prothonotary, the brief itself need not be filed.

(ii) Failure to comply with the briefing schedule may result in the denial of oral argument or such other sanctions as are appropriate.

**NOTE:** Adopted June 29, 2004, effective July 26, 2004.

## **RULE 1042**

### **MEDIATION OF MEDICAL PROFESSIONAL LIABILITY ACTIONS**

(a) A mediation conference may be requested at the F.C.R.202 status conference or any time thereafter upon agreement and motion of the parties. The conference shall be confidential and no record shall be made thereof.

(b) (1) Except as provided in Pa.R.C.P. 1042.21(a)(2), each party shall pay, pro rata, an initial non-refundable mediation fee of \$500.00 per session. The fee shall be made

payable to the Prothonotary for deposit in the Fayette County Medical Professional Liability Trustee Account and shall be submitted at the time the motion seeking a conference is filed. The receipt for payment shall be attached to the motion upon presentation to the assigned Judge through Motions Court or a mediator will not be appointed.

(2) A session shall consist of a time period of three (3) hours or less.

(c) The mediator will be appointed in seriatim fashion by the Court Administrator from a list approved by the Court and shall consist of lawyers from Fayette County who have experience in medical professional liability litigation and who shall receive the mediation fee of \$500.00 per session .

(d) The mediator shall conduct the session for the purpose of effectuating a settlement within sixty (60)days from the date of appointment.

(e) The attendance of trial counsel, the parties, and a representative of the insurance carrier for the Defendant(s)at all scheduled sessions shall be mandatory. Failure to attend will cause the session to be rescheduled with attorney fees and expenses assessed against the nonappearing person.

(f) At least ten (10) days prior to the session, each party shall provide the mediator and the parties with a statement which must include the following:

- (1) the party's position regarding liability and damages;
- (2) a listing of all legal issues involved, with citation of applicable legal authority;
- (3) medical reports;
- (4) expert reports;
- (5) an itemized list of damages; and
- (6) the last informal settlement posture and rationale.

If a party fails to timely provide the required statement, the session will be rescheduled with attorney's fees and expenses assessed against the offending party.

(g) If the initial session is insufficient to complete the conference, then subsequent sessions may be scheduled as necessary. In such event, the parties shall pay, pro rata, a non-refundable \$500.00 fee for each subsequent session, except if the mediation has been directed pursuant to Pa.R.C.P. 1042.21(a)(2), in which case the moving party shall pay the entire fee. The total fee for all subsequent sessions shall be paid to the Prothonotary for deposit in the Fayette County Medical Professional Liability Trustee Account immediately upon the conclusion of the final conference session.

(h) In the event a party withdraws from mediation resulting in the termination of the process, that party shall be responsible for the total cost of the mediation fee.

(i) (1) If the case is not settled, the mediator shall, within ten (10) days of the final conference session, file with the Prothonotary a report setting forth the following:

- i Plaintiff's final settlement demand;
- ii Defendant's/Additional Defendant's final settlement offer;

- (iii) The mediator's assessment of liability;
- (iv) The mediator's assessment of damages;
- (v) The mediator's opinion regarding the potential range of a verdict and settlement value of the case;
- (vi) The mediator's recommendations regarding settlement of the case; and
- (vii) The number of sessions conducted.

2 The Prothonotary shall seal and make confidential the report of the mediator and shall provide a copy of the report to the assigned Judge.

3 The Prothonotary shall pay the amount due to the mediator within ten (10) days of the filing of the report.

4 If the case is settled, the mediator shall, within five (5) days of the final conference session, file a report indicating such settlement and the number of sessions conducted. Additionally, a written settlement agreement shall be executed by a person(s) having the authority to do so and filed with the Prothonotary who shall discontinue the action. The agreement shall be sealed if requested by the parties.

**NOTE:        *Adopted December 10, 2004, effective January 31, 2005.***

## **ARBITRATION**

### **RULE 1301**

#### **COMPULSORY ARBITRATION: CASES COVERED**

a Any civil action where the amount in controversy is Fifty Thousand (\$50,000) Dollars or less and title to real estate is not involved, shall be submitted to compulsory arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S. Section 7361, and Rules 1301 to 1314 of the Pennsylvania Rules of Civil Procedure, as well as these rules.

b The amount in controversy in any action shall be deemed to exceed Fifty Thousand (\$50,000) Dollars if any count in the complaint or counter-claim demands an amount in excess of Fifty Thousand (\$50,000) Dollars.

c Notwithstanding the amount demanded, if the Court determines that the amount in controversy does not exceed Fifty Thousand (\$50,000) Dollars for the purposes of these rules; the Court shall order the matter to arbitration.

(d) If separate actions are consolidated for trial and the amount in controversy in any of these actions exceeds Fifty Thousand (\$50,000) Dollars, arbitration shall not apply.

(e) If the same transaction or occurrence, or series of transactions or occurrences, give rise to more than one cause of action and separate actions have been commenced, all such actions shall be consolidated for arbitration and heard together. Before proceeding with any hearing, the board of arbitration shall inquire of the parties whether any other action has been commenced.

**NOTE:** *Amended March 11, 1996, effective April 29, 1996. Amended November 8, 2005, effective January 1, 2006. Amended July 27, 2006, effective September 11, 2006.*

## **RULE 1302**

### **COMPULSORY ARBITRATION: ARBITRATORS**

(a) The Court Administrator shall maintain a roster of arbitrators, which shall include all attorneys as set forth in subparagraph (c) herein.

(b) The roster of arbitrators shall be divided into two lists, designated "chair" and "arbitrator". The chair list shall consist of qualified attorneys who have been actively engaged in civil trial practice for at least (5) years. The arbitrator list shall consist of all other qualified attorneys.

(c) All attorneys who are actively engaged in the practice of law in Fayette County shall be listed on the roster of arbitrators unless:

- (1) Upon petition, they have requested to be removed from the list by court order; or
- (2) They have been removed from the list for some other reason by court order.

d The Court may remove any attorney from the roster of arbitrators, or either of its lists, as the Court deems appropriate, upon cause shown

e Each arbitrator shall be paid the sum of Two-hundred (\$200.00) Dollars a day for each morning and afternoon session attended or One Hundred (\$100.00) for each morning or afternoon session attended. In cases requiring lengthy hearings or involving unusual questions of law or fact, the Court may, on petition of the arbitrators, increase their fees to an amount that will reasonably compensate them for necessary services performed.

(f) To each board of arbitration the Court Administrator shall appoint three (3) arbitrators. The first arbitrator shall be from the chair list; the second from the arbitrator list, and the third may be from either list. The Court Administrator shall select arbitrators from the lists in rotation and in such fashion that, as nearly as possible, each attorney is selected once before any other attorney is selected to serve again.

(g) No more than one member of any firm or association of attorneys or one

of any group of attorneys sharing a suite of offices shall be appointed to any one board or arbitration.

(h) An arbitrator may be excused from serving only by order of Court. If an arbitrator fails, without reasonable cause, to perform his scheduled duties, his name will be removed from the roster of arbitrators.

(i) If an arbitrator is excused or fails to appear or is unable to continue to act, the Court Administrator will appoint a substitute from the same list.

(1) The appointment of a board of arbitration shall be substantially in the following form:

(caption)  
APPOINTMENT OF BOARD OF ARBITRATION

The following are appointed to a board of arbitration:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The board will convene on  
Date: \_\_\_\_\_

\_\_\_\_\_  
COURT ADMINISTRATOR

**NOTE: Amended March 15, 2001, effective May 6, 2001.**

## RULE 1303

### COMPULSORY ARBITRATION: INITIATION, SCHEDULING, HEARINGS AND CONTINUANCES

(a) The Court Administrator shall designate the third and fourth Tuesday of each calendar month as arbitration day. In the event it conflicts with Criminal or Civil Court Trial Sessions, the Court Administrator shall designate an alternate date and advise all parties thereof.

(b) For each arbitration day, the Court Administrator shall appoint a board of arbitration. The Court Administrator shall appoint an additional board or boards if the Court Administrator determines that the number of pending cases so requires. The

Court Administrator shall notify all arbitrators of their appointment at least thirty (30) days before the arbitration day involved.

(c) When arbitration is ordered in any case, the Court shall schedule that case to be heard on the next arbitration day which is at least forty-five (45) days thereafter.

(d) The Court Administrator will prepare a list of cases scheduled to be heard on each arbitration day. Cases shall be listed in chronological order according to the date on which arbitration was ordered. The list shall include the name of the attorney for each party. A copy of the list will be posted in the Prothonotary's office. At least thirty (30) days before the arbitration day, the Court Administrator will furnish to each arbitrator appointed to serve on that day, to each attorney involved, and to any party not represented by counsel a copy of the list as well as a roster of each board appointed to sit on that day and notice of the place each board will sit.

(e) The senior arbitrator from the chair list shall chair a board of arbitration.

(f) The arbitration procedure is intended to be economical for the parties and, therefore, the proceedings are abbreviated and somewhat less formal. The consequences to the litigants are nevertheless of great significance. To assure that all present understand the seriousness of the proceedings, the arbitrators will conduct their proceedings with appropriate dignity and decorum at all times.

(g) Each board of arbitration shall hear cases in the order in which they appear on the list for the day. If more than one board is sitting on the same day, when a board completes one case, it will take the next case remaining on the list.

(h) Each board of arbitration will convene at 9.30 o'clock A.M. and will remain in session until 4:00 o'clock P.M., or such earlier time as all cases on the list have been heard. The lunch recess will ordinarily be from noon until 1:30 o'clock P. M. and, unless the parties consent, no case will be called to start during that period.

(i) If an arbitrator is unable to hear a particular case because of a conflict of interest, the case will be heard by another board of arbitration sitting on the same day. If no other board is sitting on that day, the case will be continued to the next arbitration day.

(j) Each board of arbitration shall file its award in each case with the Prothonotary not later than noon of the next business day after the hearing is concluded.

(k) When it is not possible to conclude a hearing on the day on which it commences, the board of arbitration will fix the time and place to resume the hearing. Each hearing will be completed within ten (10) days after the arbitration day unless the Court allows a longer time.

(l) The Court Administrator will coordinate the hearings on each arbitration day. At the conclusion of its hearings on any day, each board will report to the Court Administrator its disposition of the cases heard by it.

m If a party is not prepared to proceed when his case is called to be heard, the board of arbitration shall hear the parties who are present and decide the case on

the basis of their evidence. If none of the parties is prepared to proceed when a case is called to be heard, the board of arbitration shall enter an award for the defending parties on each count.

n Continuances shall be granted by the Court upon cause shown. There shall be no continuances granted on the date of the hearing except for emergencies.

o A \$25.00 fee shall be charged for continuances. No continuance shall be granted without payment of the required fee unless waived by the Court. Proof of payment shall be attached to the motion when presented in accordance with Fayette County Rule 208.3.

**NOTE:** Amended May 30, 2002, effective July 22, 2002. Amended December 19, 2003, effective February 10, 2004. Amended December 16, 2008, effective February 2, 2009.

## **RULE 1308**

### **COMPULSORY ARBITRATION: APPEALS**

For the purpose of filing an appeal from the award of arbitrators, the compensation of the arbitrators shall be deemed to be Three Hundred (\$300.00) Dollars. The Prothonotary, within fifteen (15) days, shall forward a copy of the appeal to the judge assigned to that case.

**NOTE:** Amended March 15, 2001, effective May 6, 2001. Amended October 4, 2004, effective November 22, 2004.

## **PARTITION**

## **RULE 1559**

### **NOTICE OF MASTER'S HEARING IN PARTITION**

The master shall give all parties or their attorneys at least ten (10) days notice of the time and place of the master's hearing, in the manner provided by Pa.R.C.P. No. 440.

## **RULE 1566**

### **NOTICE OF PROPOSED PARTITION**

The master shall give all parties or their attorneys preliminary notice of the proposed partition and allotment of purports or the inability to partition the property in the manner provided by Pa.R.C.P. No.440.

## **RULE 1568**

### **NOTICE OF PUBLIC SALE IN PARTITION**

The master shall give notice of the time, place, and terms of a sale of real estate at public auction, not confined to the parties, by publication once each week for three consecutive weeks in one daily newspaper of general circulation within the county and in The Fayette Legal Journal, by posting the premises to be sold, and by the circulation of at least fifty (50) printed handbills among persons who may be known to be interested in buying the property and among persons residing in the neighborhood in which it is located. If the real estate lies in different counties, the first publication shall be made at least sixty (60) days before the date of sale.

## **RULE 1569**

### **NOTICE OF FILING MASTER'S REPORT IN PARTITION**

When the master's report is prepared the master shall, in the manner provided by Pa. R.C.P. No.440, give all persons in interest or their attorneys at least ten (10)

days notice of the date on which the master's report and proposed decree are to be filed.

## **RULE 1573**

### **NOTICE OF FILING RETURN OF SALE IN PARTITION**

When the master has conducted a public sale the master shall, in the manner provided by Pa.R.C.P. No.440, give all persons in interest or their attorneys at least ten (10) days' notice of the date on which the return of sale and proposed decree are to be filed.

## **ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT**

### **RULE 1901.1-1**

### **ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT**

Pursuant to the authority set forth in the Protection From Abuse Act of December 19,1990, P. L. 1240, as amended, 23 Pa.C.S. Sec. 6101 et seq., the following practices, procedures, and rules are promulgated.

It is the purpose and policy of the Court of Common Pleas of Fayette County, Pennsylvania, to implement and effectuate the Protection From Abuse Act and its amendments to protect victims from abuse; to streamline and facilitate enforcement; to establish duties upon the Prothonotary, Sheriff, District Justices, Prison, Warden, Crime Victim/Witness Coordinator, and police departments; and to provide emergency relief.

### **1901.1-2**

### **COMMENCEMENT IN COURT**

- (a) A petition for Protection From Abuse (PFA) shall be presented to the Court as a routine motion in accordance with Fayette County Rule 211 and assigned to the PFA Judge who will schedule a hearing on the petition.
- b If the petition seeks temporary relief for protection from abuse and alleges immediate and present danger of abuse to the plaintiff and/or minor children, the same shall be presented directly to the PFA Judge on any business day from 8:30 A.M. through 4:00 P.M.; the PFA Judge will, at the earliest possible time consistent with his schedule, conduct an ex parte proceeding. Thereafter, the Court may enter such temporary order, as it deems necessary to protect the plaintiff and/or minor children pending hearing on the petition.
- (c) Assistance and advice to plaintiffs not represented by counsel.
  - (1) Petition forms and written information referring individuals to the local domestic violence program, Southwestern Pennsylvania Legal Aid Society, and Fayette County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.
  - (2) Clerical assistance in the preparation and filing of the petition shall be provided by the Southwestern Pennsylvania Legal Aid Society.

### **1901.1-3**

#### **EMERGENCY RELIEF BY THE MINOR JUDICIARY**

- (a) From the close of business at 4:30 P. M. each day to the resumption of business at 8:00 A.M. the next morning, and from 4:30 P.M. of the last day of the business week to 8:00 A.M. of the first day of the next business week, a Petition for Protection from Abuse seeking ex parte emergency relief based upon an allegation of immediate and present danger of abuse to the plaintiff and/or minor children shall be filed with the District Justice in the district where the plaintiff lives or, when unavailable, with the court ordered Duty District Justice, who may grant relief in accordance with the Act.
- (b) District Justice.
  - (1) The District Justice shall provide petition forms and assist in the preparation thereof.
  - (2) If, following an ex parte proceeding, the District Justice determines that emergency relief is warranted; he/she shall issue an emergency order.
  - (3) The District Justice shall certify the emergency order issued and the petition to the Court.
  - (4) The District Justice shall advise the plaintiff that the emergency

order will expire at 4:30 P. M. on the next business day of Court.

(5) The District Justice shall advise the plaintiff that the plaintiff is responsible for obtaining the certified record from the District Justice and for filing the certified record with the Prothonotary on the next business day of Court.

(c) Prothonotary.

(1) The Prothonotary shall accept the certified record from the plaintiff for filing, without the payment of fees.

(2) The Prothonotary shall provide the plaintiff with a verified statement form which must be completed by the plaintiff setting forth the abuse by the defendant, if the abuse has not already been set forth in the Petition for Emergency Order.

(3) The Prothonotary shall provide the plaintiff with a copy of the petition, verified statement and emergency order and advise the plaintiff to present same to the PFA Judge for ex parte proceedings as provided for in 1901.1-2(b).

#### **1901.1-4**

### **SERVICE OF PETITION AND ORDER**

(a) The plaintiff shall ensure that the petition and order are promptly served upon the defendant and that the order is served upon the police department with appropriate jurisdiction to enforce the order.

(b) Where the plaintiff avers that service cannot be safely effectuated by an adult individual other than a law enforcement officer, the Sheriff of Fayette County shall serve the petition and order on the defendant. The Sheriff shall advise the Court that service has been effectuated as well as the cost therefor.

(c) Where the plaintiff avers that service of an emergency order cannot be safely effectuated by an adult individual other than a law enforcement officer, the District Justice issuing the order shall have the same served by a constable at the initial expense of the county. The constable shall file a return of service as well as the cost therefor.

#### **1901.1-5**

### **ARREST FOR VIOLATION OF ORDER**

(a) Upon arrest for violation of a PFA order or court approved consent agreement, the defendant shall be taken, without unnecessary delay, to the District

Justice in the district where the alleged violation occurred, or if unavailable, to the court ordered Duty District Justice for preliminary arraignment and bail pursuant to the Pennsylvania Rules of Criminal Procedure.

At the preliminary arraignment the defendant shall be notified

(1) That he is charged with indirect criminal contempt for violation of a PFA order or court approved consent order, and

(2) That he is entitled to be represented by counsel and, if unable to afford counsel and otherwise qualifies, a Public Defender will be appointed.

(b) Immediately following the preliminary arraignment, the District Justice shall provide the arresting officer and the defendant with written notice of the time and date for hearing on the charge. The written notice shall be signed by each.

(c) It shall be the duty of the arresting officer to notify the plaintiff of the time and date for hearing.

(d) The District Justice shall cause the following completed forms to be delivered to the Clerk of Courts prior to the scheduled hearing.

(1) Criminal complaint;

(2) Probable cause affidavit, if any;

(3) Warrant of arrest, if any;

(4) Certificate of bail, if required, and discharge of commitment; and

(5) Receipts for notice of hearing.

(e) When the defendant has been arrested without a warrant for a PFA violation, a criminal complaint shall be filed against the defendant prior to the preliminary arraignment.

(f) Where the police officer has been unsuccessful in his attempts to locate the defendant, the officer shall file a criminal complaint and affidavit of probable cause with the District Justice where the alleged violation occurred, or if unavailable, with the court ordered Duty District Justice who shall issue a warrant of arrest for the defendant.

## **1901.1-6**

### **PRIVATE CRIMINAL COMPLAINT FOR VIOLATION OF ORDER OR AGREEMENT**

(a) A private criminal complaint shall be filed with the District Justice in the district where the alleged abuse occurred, or if unavailable, with the court ordered Duty District Justice.

(b) The approval of the District Attorney is not required prior to the filing of a criminal complaint under this section.

(c) The procedure for filing a private criminal complaint for indirect criminal contempt for violation of a non-economic provision of an order or court approved consent agreement pursuant to Section 6113.1 of the Act is as follows:

(1) District Justice.

(i) The District Justice shall provide the complaint form and assist in the preparation thereof.

(ii) The District Justice shall set a date for hearing consistent with the schedule of the PFA Judge and prepare a notice of hearing.

(iii) The District Justice shall provide the plaintiff with a copy of the private criminal complaint and notice of hearing, receipt of which shall be acknowledged in writing by the plaintiff.

(iv) The District Justice shall serve a copy of the private complaint and notice of hearing on the defendant by certified mail return receipt requested.

(v) The District Justice shall notify the District Attorney that the return receipt has been received or that the criminal complaint has been returned undelivered.

(2) Clerk of Courts.

(i) The Clerk of Courts shall process the documents received from the District Justice and forward them to the PFA Judge.

## **1901.1-7**

### **OUT OF COUNTY ORDERS**

(a) A PFA order issued by a District Justice or Court in another judicial district within the Commonwealth or PFA order issued by a comparable court in another state shall be enforced in the same manner as a PFA order entered by a Fayette County Court provided, however, that such order has been properly recorded in the Registry of the Pennsylvania State Police, or until a Pennsylvania State Police Registry has been established, has been properly registered with the Prothonotary of Fayette County.

**b** Until the Pennsylvania State Police Registry is established and fully operational, the Prothonotary shall maintain a Registry in which shall be entered certified copies of protection from abuse orders issued by a court in another judicial district within the Commonwealth or a comparable court in another state.

(1) A valid PFA order may be registered by the plaintiff by obtaining a

certified copy of the order of the issuing court endorsed by the Prothonotary of that court and by presenting that certified order to the Prothonotary or Clerk of Fayette County for filing.

(2) Upon receiving a certified order for registration and upon completion of filing and registration, the Prothonotary shall provide the plaintiff with a copy bearing proof of registration, which copy shall then be filed by the plaintiff with the appropriate law enforcement agency.

(3) No costs shall be assessed for registration of an order.

(4) Registration of PFA orders shall not be required upon the establishment and operation of the Pennsylvania State Police Registry.

## **1901.1-8**

### **CIVIL CONTEMPT**

(a) A plaintiff may file a petition for civil contempt alleging that a defendant has violated any provision of an order or a Court-approved consent agreement.

(b) A petition for civil contempt shall be presented to the court as a routine motion in accordance with Fayette County Rule 211 and assigned to the issuing judge who will schedule a hearing on the petition.

## **1901.1-9**

### **NOTIFICATION UPON RELEASE**

(a) The Warden of the Fayette County Prison shall use all reasonable means to notify the plaintiff sufficiently in advance of the release of the defendant from any incarceration imposed as a result of a finding of contempt.

(b) Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include terms and conditions imposed on any temporary release from custody. The plaintiff shall keep the Warden of the Fayette County Prison and Crime Victim/Witness Coordinator apprised of contact information; failure to do so will constitute a waiver of any rights to notification under these provisions.

**NOTE:**        **Adopted January 20, 1998, effective March 16, 1998.**

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

**RULE 1915.1**

**SCOPE**

(a) This rule shall apply to any action for custody, partial custody, or visitation, whether filed as an independent cause of action or as a count in a related proceeding.

(b) Upon the filing of any complaint, petition, or motion relating to child custody, partial custody or visitation, in which there is no agreed-upon Order disposing of the issues, the case shall proceed in accordance with Pa. R.C.P. No. 1915.4-1, et seq., and these Rules.

**RULE 1915.2**

**PROCEDURE**

a Upon motion requesting the same, the Court shall enter an Order referring the matter to a child custody mediator/hearing officer. The Prothonotary shall mail a copy of the Order to each party and counsel of record, if any. All parties must attend the conference, unless excused by the child custody mediator/hearing officer. Children need not attend, unless ordered by the Court.

b The child custody mediator/hearing officer shall conduct the conference as an informational and conciliatory proceeding. Upon the filing of any complaint, petition, or motion, relating to child custody, partial custody or visitation, the parties are required to attend at least one session of a child custody education program, the cost of which may be assessed against a party or parties, unless the court waives the requirement upon petition filed for good cause shown. A defaulting party may be subject to sanctions by the Court. The child custody mediator/hearing officer may require the parties to attend additional sessions of a child custody program and shall monitor attendance.

(c) The child custody mediator/hearing officer may request proposed findings of fact and conclusions of law, and shall set a schedule for their submission. Upon submission of findings of fact and conclusions of law, if any are required, or upon conclusion of the hearing where none are required, the child custody mediator/hearing officer shall make a report and recommendation to the Court, including, when necessary, a report and recommendation relating to interim or special relief including, when appropriate, the assessment of counsel fees and costs and other necessary

expenses. The child custody mediator/hearing officer shall notify the parties of the filing with the Prothonotary of the report and recommendation. The notice of filing shall be made a part of the record.

c In actions for contempt, the Court shall refer the matter to the child custody mediator/hearing officer for a conference to determine whether an amicable resolution is possible. If the matter is resolved, then an order of amicable resolution of contempt shall be entered. If resolution cannot be accomplished, the mediator shall forthwith cause the parties and counsel to appear before the Court for the purpose of scheduling a hearing on the merits.

### **RULE 1915.3**

#### **FEES AND COSTS**

a (a) Upon the filing of any complaint, petition, or motion relating to child custody, partial custody, visitation, or contempt, where there is at the time of filing no agreed-upon Order disposing of the issues, the moving party shall pay to the Prothonotary (in addition to any other required fees), a non-refundable conciliation fee in the amount of One Hundred (\$100.00) Dollars, or shall file to proceed *in forma pauperis* in accordance with Pa.R.C.P. No. 240.

**Note: Amended February 8, 2005, effective April 1, 2005.**

b

### **RULE 1915.4**

#### **EXCEPTIONS**

(a) A party filing exceptions shall request and cause to be filed any transcript required and make any necessary payment or deposit therefore.

(b) When both parties file exceptions, the cost of the transcript shall be borne proportionately.

(c) Exceptions shall be presented to the Court as a routine motion in accordance with Fayette County Rule 211 and assigned for argument.

**NOTE: Amended August 21, 2001, effective October 15, 2001.**

## **ACTIONS OF DIVORCE AND ANNULMENT**

### **RULE 1920.3**

#### **DISCONTINUANCE OF DIVORCE ACTION**

No discontinuance shall be entered in an action of divorce or annulment of marriage except by the filed agreement of the parties or by leave of Court.

### **RULE 1920.31**

#### **ALIMONY PENDENTE LITE AND CHILD SUPPORT CLAIMS**

A party seeking alimony pendente lite or child support shall proceed by filing a copy of the complaint or petition requesting alimony pendente lite or child support with the Domestic Relation Office. The Director of the Domestic Relations Office shall assign the case to a Domestic Relations Hearing Officer to be processed in accordance with Pa. R. C. P. Nos. 1910,1, et seq.

### **RULE 1920.51(a)**

#### **MASTER'S FEE, POWER OF MASTER, STENOGRAPHER'S FEE AND FILING COSTS**

(a) Costs, including the master's fee, shall be paid prior to the time that a master is appointed. When a master is appointed, the master shall control the conduct of the hearing as in a trial by Judge without a jury.

(b) The special master shall receive Fifty Dollars (\$50.00) per hour for hearings, research and reports, not to exceed Five Hundred Dollars (\$500.00). The Court may upon petition by the special master increase the fee to compensate the special master for additional necessary services.

c The master in a divorce under Section 3301(a) or (b) of the Act shall receive One Hundred Fifty (\$150.00) Dollars per case. However, in a case requiring lengthy hearings or involving unusual questions of law or fact, the Court may, upon petition of the master, increase the master's fee to compensate the master for additional necessary services.

d The stenographer shall be paid at the rate of Two Dollars and

Twenty-five Cents (\$2.25) per original page, and Thirty Cents (.30) per copy page for notes of testimony taken and transcribed by the stenographer in hearings held by the master in a divorce.

(e) In the event that a hearing is canceled, other than by the stenographer, the stenographer shall be paid an appearance fee of Seventy-five (\$75.00) Dollars.

(f) The filing costs for a case involving a special master shall be Seven Hundred Fifty (\$750.00) Dollars.

(g) The filing costs for cases involving a divorce under Section 3301(a) or (b) of the Act shall be Two Hundred Twenty-five (\$225.00) Dollars.

**NOTE: Amended September 13, 1996, effective November 4, 1996.**

### **RULE 1920.51(b)**

#### **NOTICE OF MASTER'S HEARING**

The master shall give at least ten (10) days written notice of the time and place of all hearings to all attorneys of record or to the parties, if not represented by counsel.

### **RULE 1920.52**

#### **SEPARATION AGREEMENTS**

Upon request of either party, the Court may incorporate into the divorce decree or decree of annulment the terms of the parties' separation agreement which has been filed of record.

### **RULE 1920.53(a)(1)**

#### **TIME FOR MASTER'S HEARING**

All hearings before a master shall be concluded within fifteen (15) days of the initial date of hearing unless the time has been previously extended by the Court.

### **RULE 1920.53(a)(2)**

## **DUTY OF MASTER**

Upon appointment to a specific case, the master shall satisfy himself or herself of the jurisdiction of the Court and of the formal sufficiency and regularity of the record. If not so satisfied, the master shall afford the parties an opportunity to make the necessary corrections, and if they are not made within a reasonable time, shall report to the Court for its instruction.

## **RULE 1920.76**

### **STATEMENT TO ACCOMPANY DECREE**

At the time the Prothonotary gives the parties notice that a decree in divorce has been entered, the Prothonotary shall also give written notice that the decree is subject to an appeal to the Superior Court at any time within thirty (30) days.

## **MINORS AS PARTIES**

### **RULE 2039(a)**

### **PETITIONS FOR APPROVAL OF COMPROMISE, SETTLEMENT OR DISCONTINUANCE OF ACTIONS OF MINORS AND INCOMPETENTS**

Every petition for approval by the Court of a proposed compromise, settlement, or discontinuance of an action for injury to the person of a minor or incompetent shall contain a description of the injury, a brief account of the circumstances under which it was sustained, a statement of the nature of the evidence relied on to establish liability, any limits on the defendant's financial responsibility, a list of the expenses incurred, the fees of counsel, arrangements for payment of unpaid bills, and it shall be accompanied by a certificate of the attending physician setting forth the extent of the injury, the treatment given, and the prognosis for the injured party.

## **INTERPLEADER**

### **RULE 2307**

#### **MONEY PAID INTO COURT**

(a) On motion and twenty-four (24) hours' notice to the plaintiff or the plaintiff's attorney, a defendant may have leave to pay into Court the amount of money he admits to be due, together with the costs accrued. The plaintiff may then receive the amount so paid and either enter a discontinuance or proceed to trial. If he elects to proceed to trial, he shall pay all costs subsequently accruing unless he recovers judgment for a principal sum in excess of the amount paid into Court.

(b) All moneys paid into Court shall be deposited by the Prothonotary in such incorporated banks or trust companies as the Court may designate, to the credit of the Court in the particular case; and no money shall be withdrawn except upon an order of the Court signed by two Judges thereof and attested by the Prothonotary with the seal of the Court attached. A copy of this rule shall be certified and delivered by the Prothonotary to all depositories of the Court.



**RULES OF CRIMINAL PROCEDURE  
OF THE  
COURT OF COMMON PLEAS  
OF  
FAYETTE COUNTY, PENNSYLVANIA**

## **RULE 4**

### **CITING THE CRIMINAL PROCEDURAL RULES**

All criminal procedural rules adopted by the Court of Common Pleas of Fayette County, Pennsylvania, shall be known as the Fayette County Rules of Criminal Procedure and may be cited as "F.C.R.Crim.P. \_\_\_\_\_".

**Note:** Adopted February 17, 2000, effective April 24, 2000.

## **RULE 86**

### **DEPOSIT AND DISPOSITION OF PERCENTAGE CASH BAIL: CONSENT THERETO AND FORM**

**NOTE:** Rescinded December 19, 2005.

## **RULE 101**

### **COURT REPORTER NOTES/TAPE RETENTION - CRIMINAL CASES**

**Note:** Rescinded April 4, 2003, effective July 21, 2003.

## **RULE 114.1**

## **ORDERS AND COURT NOTICES: FILING; SERVICE; AND DOCKET ENTRIES.**

The Court, by and through the President Judge, hereby designates the Court Administrator of Fayette County as the entity responsible for service of all Court notices on each party's attorney, or the party if unrepresented.

**NOTE: Adopted June 8, 2004, effective July 26, 2004.**

### **RULE 117**

#### **COVERAGE: ISSUING WARRANTS: PRELIMINARY ARRAIGNMENTS AND SUMMARY TRIALS: AND SETTING AND ACCEPTING BAIL**

- A All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays from 8:00 AM to 4:30 PM.
- B On-call Magisterial District Judge(s) shall be available for continuous coverage in Protection from Abuse Act cases, the issuance of warrants, accepting bail, and for providing the services set forth in Pa.R.Crim.P No. 117(A)(2)(a), (b), (c), and (d). The President Judge shall establish the schedule of on-call duty in accordance with the traditional system presently utilized.
- C Magisterial District Judges, the Clerk of Courts and Warden of the Fayette County Prison or his designee, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.
- D Magisterial District Judges shall be available during normal business hours for all other business.

**Note: Adopted June 22, 2006, effective August 1, 2006.**

### **RULE 301**

#### **CONTINUANCES**

- (a) The Court may, in the interest of justice, grant a continuance, on its own

motion, or on the motion of either party. The Court shall on the record identify the moving party and state for the record the Court's reasons justifying the granting or denial of the continuance.

(b) A motion for continuance of trial made on behalf of the defendant shall be made to the assigned Plea Judge no later than forty-eight hours before the time set for trial. A later motion shall be entertained only when the opportunity therefor did not previously exist, or the defendant was not aware of the grounds for the motion, or the interests of justice require it.

(c) The absence of an attorney shall not be deemed to be grounds for a continuance unless such absence is caused by an engagement in Federal Court, a Pennsylvania Appellate Court, a previously scheduled Common Pleas Court hearing, by the attorney's illness, or by some special or unexpected circumstance rendering the attorney's absence practically involuntary. When two or more attorneys are of record for the same party, the absence of one of them shall not be deemed grounds for a continuance or for passing the case, except for reasons satisfactory to the court.

(d) Except for cause shown as stated in the motion, a motion for continuance shall comply with the following requirements:

(1) The motion shall be signed by the moving party and counsel for the moving party; and

(2) The motion shall be consented to and signed by all counsel, and unrepresented parties of record, or it must be presented as a Priority Motion (in accordance with Fayette County Rule 211); and

(3) If the motion is made necessary by a pre-existing hearing commitment, a copy of the order setting such hearing shall be attached to the motion, and the motion for continuance must be presented as soon as possible after the conflict is established, and in no event more than two weeks after the mailing of notice of the hearing that is proposed to be continued; and

(4) Counsel must obtain from the Court at least three dates available to all parties and all counsel for the continued hearing. Alternately, each counsel may provide a list of the dates counsel or counsel's client is unavailable during the three-month period following the date the motion for continuance is presented.

**NOTE: Adopted May 9, 1997, effective July 28, 1997.**

## **RULE 303**



**WAIVER OF ARRAIGNMENT AND ENTRY OF PLEA**

I, \_\_\_\_\_, Defendant, in the above case, being advised of the offense charged in the Information, of my rights to an Arraignment, and of my right to file certain pretrial motions (including a Request for a Bill of Particulars) within seven (7) days of this Waiver, a Request for Pretrial Discovery and/or Inspection within fourteen (14) days of this Waiver, and any Omnibus Pretrial Motions within thirty (30) days of this Waiver, do hereby waive Court Arraignment, enter a plea of \_\_\_\_\_ and request a \_\_\_\_\_ trial.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Attorney for Defendant (print)

**ENTRY OF APPEARANCE**

TO THE CLERK OF COURTS: Enter my Appearance as attorney for the above-named defendant and please forward a copy of the Information(s) filed against the defendant in accordance with PA.R.Crim.P. 120 in the above case.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT (signature)

I D. NO. \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE NO. \_\_\_\_\_

**NOTE: Amended May 10, 2002, effective July 8, 2002.**

**RULE 305**

**NOTE:** Adopted June 8, 2004, effective July 26, 2004. Rescinded July 29, 2004, effective

### **RULE 305.1**

**NOTE:** Adopted June 8, 2004, effective July 26, 2004. Rescinded July 29, 2004, effective

### **RULE 535**

#### **RETURN OF CASH DEPOSITS**

Upon full and final disposition of the case, the issuing authority or the Clerk of Courts shall retain thirty percent (30%) of the amount deposited, but in no event less than Ten (\$10.00) Dollars, as administrative costs, which includes the Clerk's poundage fee for the percentage cash bail program. The balance shall be returned to the depositor, unless the depositor at the time the balance is to be returned otherwise agrees in writing. The thirty per cent (30%) to be retained shall be considered as earned at the time the bail undertaking is executed and the defendant or the third party surety deposits the cash. Any money not claimed within one hundred eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the county of Fayette.

**NOTE:** Adopted November 1, 2005, effective December 19, 2005.

### **RULE 575**

#### **MOTIONS COURT PROCEDURE**

a In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the Fayette County Legal Journal.

(b) All applications for Court action, including motions, petitions, and

any other applications shall be presented to the Court by following this Motions Court procedure. The party presenting the motion to the Court is to select the day on which the motion will be listed for Motions Court.

(c) As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine", presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while "routine" motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument.

d All documents filed shall be on 8 ½ inch x 11 inch paper and shall comply with the following requirements:

(1) The document shall be prepared on good quality white paper.

(2) The text must be double spaced. Margins must be at least one inch on all four sides.

(3) The lettering shall be clear and legible shall be on only one side of a page. Exhibits and similar supporting documents and paperbooks may be lettered on both sides of the page.

(4) Documents and papers must be firmly bound. Any metal fasteners or staples must be covered.

(5) No backers or top strips are permitted.

(e) All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

f Any motion relating to discovery must contain a certification that counsel has conferred or attempted to confer with the District Attorney in order to resolve the matter without court action.

g All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party's attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers of the persons served. The Certificate of Service shall be substantially in the following form:

#### CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

1. Service by certified mail, first class mail:

(Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address; (and/or)

2. Service by facsimile at FAX number \_\_\_\_\_:

(Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone number \_\_\_\_\_  
Address; (and/or)

3. Service in person:

(Name of person served) \_\_\_\_\_, \_\_\_\_\_ Phone number \_\_\_\_\_  
Address

Date: \_\_\_\_\_ Signature \_\_\_\_\_

(h) All motions shall be accompanied by a Certificate of Presentation as set forth in F.C.R.Crim.P 575(o).

(i) All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on a Certificate of Presentation.

(j) The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate filing office before presentation in Motions Court. An original proposed order (if any), a copy of the Certificate of Presentation, Certificate of Service, and motion, assembled in that order, shall be delivered to the Court Administrator and every other party of record. Pursuant to Pa.R.Crim.P. 576(B)(1), all motions and other documents for which filing is required shall be served on each party and the Court Administrator so as to be received at least two (2) business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(k) All priority motions pertaining to matters already ruled on by a Judge shall be presented to that Judge in Motions Court, except in emergencies as set forth in paragraph (j) of this Rule immediately above.

(l) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

(m) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(n) Failure to completely provide the information required by the Certificates of Presentation and Service may result in the matter not being listed for Motions Court.

(o) The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,  
PENNSYLVANIA

:  
:  
:  
:  
:  
: NO. \_\_\_\_\_ OF \_\_\_\_\_

CERTIFICATE OF PRESENTATION

1. The undersigned, \_\_\_\_\_, represents \_\_\_\_\_, the moving party herein.
2. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_ at 9:00 o'clock A.M.
3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)
4. Judge \_\_\_\_\_ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)
5. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_.
6. Estimated time for hearing or argument to resolve the motion on its merits: \_\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_

Date: \_\_\_\_\_

**NOTE:** Adopted July 29, 2004, effective September 13, 2004. Amended February 8, 2005, effective March 28, 2005. Adopted July 21, 2006, effective September 4, 2006.

**RULE 1107**

**JUROR INFORMATION QUESTIONNAIRES**

**RULE 1107.1**

**GENERAL**

Confidential Juror Information Questionnaires ("questionnaires") will be maintained securely in the office of the Jury Commissioners. The juror questionnaires shall not constitute a public record.

## **RULE 1107.2**

### **COPIES**

Complete and accurate copies of the original questionnaires (“copies”) shall be collated into numbered binders, which shall be available only to judges, attorneys for the Commonwealth and defendants’ attorneys. Attorneys and judges may examine copies prior to jury selection by making arrangements with the designated custodian. The Court Administrator shall be the official custodian. Copies shall be made available from and returned to the office of the Court Administrator. Copies shall not constitute public records.

## **RULE 1107.3**

### **RESTRICTIONS**

Copies shall not be removed from the designated area except upon prior court order for good cause shown. The designated area shall be any courtroom. Copies shall not be duplicated, distributed or published. Defendants shall not be furnished copies of the questionnaires unless they are unrepresented by counsel at trial.

## **RULE 1107.4**

### **DISPOSITIONS OF QUESTIONNAIRES AND COPIES**

a **Impaneled jurors; original questionnaires.** All original questionnaires of all impaneled jurors shall be retained by the Jury Commissioners in a sealed file and shall be destroyed (1) year after the trial session in which they were selected, unless otherwise ordered by the Court.

b **Impaneled jurors; copies.** At the completion of selection of all juries for each trial session, all copies shall be returned to the Jury Commissioners and destroyed, unless otherwise ordered by the trial judge upon timely request of any unrepresented defendant, any defendant’s attorney, or the attorney for the

Commonwealth.

**c Jurors not impaneled.** All original and all copies of questionnaires of all jurors not impaneled and not selected for any trial shall be destroyed upon completion of the jurors' service.

## **RULE 1107.5**

### **SUPPLEMENTAL QUESTIONNAIRES**

The Jury Commissioners are hereby authorized to require the completion of a supplemental confidential juror information questionnaire mandated by Pa.R.Crim.P. 1107.

## **RULE 1107.6**

### **COMPLETION OF QUESTIONNAIRES AND SUPPLEMENTAL QUESTIONNAIRES.**

The Jury Commissioners shall develop appropriate procedures for distributing or mailing, collecting, collating, copying, binding, maintaining, securing and destroying questionnaires, supplemental questionnaires and all copies, as provided and required by law. The Jury Commissioner shall, in writing, inform jurors of the procedures for maintaining confidentiality of the questionnaires.

**Note: Adopted September 2, 1999, effective October 25, 1999.**

**RULES OF  
JUDICIAL ADMINISTRATION  
OF THE  
COURT OF COMMON PLEAS  
OF  
FAYETTE COUNTY,  
PENNSYLVANIA**

## **RULES OF JUDICIAL ADMINISTRATION**

### **RULE 101**

#### **TITLE AND CITATION OF RULES**

All rules of judicial administration adopted by the Court of Common Pleas of Fayette County, Pennsylvania, shall be known as the Fayette County Rules of Judicial Administration and may be cited as "F.C.R.J.A. \_\_\_\_\_."

### **RULE 507**

#### **RETENTION AND DISPOSITION OF COURT REPORTER NOTES**

##### **a. Raw Notes of Testimony**

(1) Raw notes of testimony are those on paper tapes and/or other media in the original state which they existed when taken at the time of testimony.

2 Once transcribed, raw notes of testimony may be destroyed 6 days after the filing of the transcript.

3 Raw notes of testimony that have not been transcribed may be destroyed seven years from the date of testimony.

4 Notwithstanding the above provisions, a party may petition on good cause shown for a court order directing that particular raw notes of

testimony be retained for a longer period of time than otherwise required.

**b. Transcribed Notes of Testimony**

(1) Transcribed notes of testimony filed with the Prothonotary, Clerk of the Orphans' Court, or Clerk of Courts are subject to the retention periods set forth in the County Records Manual under those offices, and need not be retained by the Judicial District, court reporter or Court.

2 Transcribed notes of testimony filed in juvenile matters shall be retained by the appropriate office until the subject reaches the age of 25, or, 10 years after the last action in the case, whichever is later.

**c. Record Retention Disposal Log**

1 Disposal of raw notes of testimony shall be accomplished as provided in Section 2.3 of the *Record Retention & Disposition Schedule* promulgated by the Supreme Court of Pennsylvania/Administrative Office of Pennsylvania Courts.

2 When completing Disposal Log Forms, the raw notes need not be listed on the Records Disposal Log by caption and case number, but may be listed merely by the hearing date.

Comment: This Rule is derived from the *Record Retention & Disposition Schedule* referred to above.

**Note: Adopted April 3, 2003, effective July 21, 2003**

**RULE 1901**

**PROMPT DISPOSITION OF MATTERS;  
TERMINATION OF INACTIVE CASES**

**NOTE: Rescinded October 1, 2003.**

## **RULE 5000.13**

### **USE OF COURT REPORTER TRANSCRIPTS**

(a) In all cases, the Court shall have the original transcript available for its own use. No person shall reproduce the original or a copy of the transcript by copy machine or other methods of image production unless specifically authorized by order of Court. Any person making such a reproduction is liable to the reporter for the cost, and shall be liable for any other costs or damages as provided by law.

(b) The Prothonotary, Clerk of Courts and Clerk of Orphans' Court shall not **permit** the original transcript or a copy thereof to leave its custody except for use by a Judge or by order of Court or to send it to an Appellate Court, as required by law or rules of Court.

**Note:**        **Adopted December 3, 1998, effective January 25, 1999.**

**ORPHANS' COURT RULES**  
**OF THE**  
**COURT OF COMMON PLEAS**  
**OF**  
**FAYETTE COUNTY, PENNSYLVANIA**

*(Unless otherwise indicated, all rules were effective as DECEMBER 1, 1984)*

## **RULE 1**

### **LOCAL RULES**

#### **Rule 1.1**

#### **LOCAL RULES**

These rules shall govern practice in the Orphans' Court Division of the Court of Common Pleas of Fayette County. A rule may be cited as "O.C.R. \_\_\_\_\_".

#### **Rule 1.2**

#### **SUPREME COURT RULES**

These rules are intended to supplement the Supreme Court Orphans' Court Rules. The terms used herein shall have the same meanings as set forth in the Supreme Court Orphans' Court Rules.

## **RULE 2**

### **ATTORNEYS**

#### **Rule 2.1**

#### **APPEARANCES**

Every attorney presenting any paper to the Orphans' Court Division or to the Clerk shall have endorsed thereon the name, office address and telephone number in Pennsylvania of such attorney. Such endorsement shall constitute an appearance, which may be withdrawn only by leave of Court and for cause shown, after due notice to the client. An appearance may also be entered by praecipe.

## **RULE 3**

### **SURETIES AND FIDUCIARIES**

### **Rule 3.1 INDIVIDUAL SURETIES**

No individual will be approved as surety in any proceeding without special order of the Court after written application made to the Court. Such application shall contain a complete statement under oath of the applicant, listing applicant's real property, the encumbrances thereon, if any, its location, the amount of the assessed value thereof for county tax purposes and the fair market value thereof.

### **Rule 3.2 CORPORATE SURETIES**

Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk

### **Rule 3.3 CORPORATE FIDUCIARIES**

Corporations having fiduciary powers and authorized to do business in the Commonwealth may act as fiduciaries in matters pending in this Court; provided, however, that initially there shall be filed with the Clerk a copy of the certificate issued by the State Banking Department, the Comptroller of Currency, the Federal Reserve Board, or the Federal Home Loan Bank Board, as the case may be, evidencing its right to exercise fiduciary powers, certified to be true and correct by an executive officer of the corporation. Thereafter, on or before the first day of May of each year, such corporation shall file a statement, verified by the oath or affirmation of an executive officer thereof, that it continues to be qualified to act in such capacity.

Except where required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

### **RULE 3.7**

**NOTE: Adopted June 8, 2004, effective July 26, 2004. Rescinded July 22, 2004, effective September 6, 2004.**

### **RULE 3.8 MOTIONS COURT PROCEDURE**

a In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the Fayette County Legal Journal.

b All applications for Court action, including motions, petitions, and any other applications shall be presented to the Court by following this Motions Court procedure. The party presenting the motion to the Court is to select the day on which the motion will be listed for Motions Court.

c As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine", presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while "routine" motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument.

(d) All documents filed shall be on 8 ½ inch x 11 inch paper and shall comply with the following requirements:

- 2 The document shall be prepared on good quality white paper.
- 3 The text must be double spaced. Margins must be at least one inch on all four sides.
- 4 The lettering shall be clear and legible shall be on only one side of a page. Exhibits and similar supporting documents and paperbooks may be lettered on both sides of the page.

5 Documents and papers must be firmly bound. Any metal fasteners or staples must be covered.

6 No backers or top strips are permitted.

(e) All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

(f) All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party's attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers of the persons served. The Certificate of Service shall be substantially in the following form:

### CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

1. Service by certified mail, first class mail:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone Number\_\_\_\_  
Address; (and/or)

2. Service by facsimile at FAX number \_\_\_\_\_:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone number\_\_\_\_  
Address; (and/or)

3. Service in person:

(Name of person served)\_\_\_\_\_, \_\_\_\_\_ Phone number\_\_\_\_  
Address

Date:\_\_\_\_\_ Signature\_\_\_\_\_

(g) All motions shall be accompanied by a Certificate of Presentation as set forth in O.C.R. 3.8(n).

(h) All motions and other applications for Court action must set forth a specific

citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on a Certificate of Presentation.

(i) The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate filing office before presentment in Motions Court. An original proposed order, a copy of the Certificate of Presentation, Certificate of Service, and motion assembled in that order, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two (2) business days before presentation in Motions

Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(j) All priority motions pertaining to matters already ruled on by a Judge shall be presented to that Judge in Motions Court, except in emergencies as set forth in paragraph (i) of this Rule immediately above.

(k) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

(l) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(m) Failure to completely provide the information required by the Certificates of Presentation and Service may result in the matter not being listed for Motions Court.

(n) The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,  
PENNSYLVANIA

:  
:  
:  
:  
:  
: NO. \_\_\_\_\_ OF \_\_\_\_\_

#### CERTIFICATE OF PRESENTATION

1. The undersigned, \_\_\_\_\_, represents \_\_\_\_\_, the moving party herein.
2. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_ at 9:00 o'clock A.M.
3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)
4. Judge \_\_\_\_\_ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)
5. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_.
6. Estimated time for hearing or argument to resolve the motion on its merits:

\_\_\_\_\_  
Respectfully submitted,  
\_\_\_\_\_

Date: \_\_\_\_\_

***Note: Adopted June 8, 2004, effective July 26, 2004. Amended July 22, 2004, effective September 6, 2004. Amended February 8, 2005, effective March 28, 2005.***

## **RULE 4**

### **PLEADINGS**

#### **Rule 4.1 Filing**

All petitions, motions, objections, exceptions, and similar papers shall be presented to the Court in accordance with F.C.R. 211.

#### **Rule 4.2 Service**

The filing party shall serve a copy of each paper on each party in interest and shall certify to the Court the time and manner of such service.

#### **Rule 4.3 Petitions**

Any request to the Court for a determination of substantive matters shall be in the form of a petition, verified by the petitioner. In addition to the information required by Pa.O.C. Rule 3.4, the petition shall set forth:

- (a) The basis of the Court's jurisdiction; and
- (b) The names and addresses of all parties in interest.

## **Rule 4.4 Motions**

Other requests to the Court, such as requests for hearings or continuances and other procedural matters, may be in the form of a motion.

## **Rule 4.5 Objections to Account**

Objections to any inventory, account or proposed distribution shall be in writing and may be filed on or before the day of audit. Objections to any report of an auditor or master shall be in writing and shall be filed within 10 days after filing of the report. Each objection shall refer to one item or class of related items, shall be specific as to description and amount, and shall set forth the reasons therefor.

## **RULE 5**

### **ACCOUNTS AND AUDIT**

#### **Rule 5.1 Time of Filing Accounts**

The Register shall publish annually a list of monthly deadlines for filing accounts.

#### **Rule 5.2 Petition for Distribution**

Each account shall be accompanied by a petition for distribution, signed and verified by the fiduciary, stating such of the following as may be pertinent;

- a The name and the manner and time of appointment of the fiduciary; And the date and place of recording of any will, trust agreement or other governing instrument;
- (b) The name and the date and place of death of a decedent; or the name, age and present condition of a minor or incompetent; or the names, ages, and legal status of the settlor and beneficiaries of a trust;
- (c) The residence of a decedent, incompetent or minor; or the situs of a *trust*;
- (d) The date of the first complete advertisement of letters and the

publications in which it appeared;

(e) A list of any significant prior findings or proceedings in the same matter; and the dates and file numbers thereof

(f) Whether any required Pennsylvania inheritance tax or Federal estate tax has been paid;

(g) The name and relationship to the decedent of the person who has claimed a family exemption and whether the amount thereof has been paid or delivered;

(h) Whether a surviving spouse, if any, elected to take against the will;

(i) In case of an intestacy, the amount of any allowance set aside for a surviving spouse;

(j) Whether a decedent was married or divorced or had children after making his/her last will, specifying the circumstances;

(k) The name and address of each creditor whose claim the fiduciary has declined to pay, the amount and nature of the claim, and the fiduciary's reason for declining to pay;

(l) In case of an intestacy, the names, addresses and relationships to the decedent of all those entitled to share in the estate and the share of each. If any such person takes through a deceased parent, explain the relationship to the decedent;

(m) Any facts or circumstances relating to the proposed distribution which are not readily apparent from the account; and

(n) A statement of the time and manner of notifying all unpaid creditors, beneficiaries and other interested parties of the filing of the account and the time for audit.

### **Rule 5.3 Exhibits**

To each petition for distribution shall be attached a copy of the will, trust agreement, election, assignment, or other document relating to the proposed distribution.

### **Rule 5.4 Schedule of Distribution**

With each petition for distribution, the fiduciary shall file a proposed decree and schedule of distribution. The schedule shall specify the items of personal and real property to be distributed to each person. The description of any real property shall include a recital of the source of title and be sufficiently detailed to serve as a description in a deed of the property.

## **Rule 5.5            Changes**

If there are receipts or disbursements after an account is filed, the fiduciary shall report these in a supplementary petition for distribution filed at the time of audit. The fiduciary will also file a revision of the proposed decree and schedule for distribution reflecting these changes.

## **Rule 5.6            Audits and Claims**

Accounts shall be called for audit on the third Monday of each month and on such other days as the Court shall specify. The fiduciary is not required to attend. If the Court schedules a later hearing on any contested claim, the claimant shall within ten (10) days file a written statement of his claim, setting forth the material facts upon which the claim is based.

## **RULE 6**

### **SMALL ESTATES**

#### **Rule 6.1            Personal Property – Petition by Interested Party**

A petition for distribution under Section 3102 of the Probate, estates, and Fiduciaries Code shall set forth the information required for petitions for distribution under Rule 5.2 of these rules. In addition, there shall be annexed to the petition an inventory of the real and personal property of the decedent and an account of all receipts and disbursements of the decedent's funds.

#### **Rule 6.2            Real and Personal Property- Petition by Personal Representative**

A petition by a personal representative under Section 3531 of the Probate, Estates, and Fiduciaries Code will be in substantially the same form as prescribed by 6.1 hereof.

## **RULE 7**

### **DECREES AND EXCEPTIONS**

#### **Rule 7.1            Finality**

All orders, decrees, and adjudications of the Orphans' Court Division shall be final except one, which specifically allows exceptions to be filed.

#### **Rule 7.2            Exceptions**

If allowed, exceptions shall be filed within ten (10) days of the filing of the order to which exceptions are taken. Exceptions shall be in writing and signed by the exceptant or his counsel. Each exception shall specify the alleged error, refer to just one item or a class of related items, and set forth the reason for the exception.

#### **Rule 7.3            Portion of Estate Not Affected by Exceptions**

When the matters which are the subject of an adjudication, schedule of distribution, or the report of an auditor or master are so separate and distinct that an exception to any one or more, whether sustained or dismissed, cannot affect the balance, and the accountant will not be prejudiced by the distribution of such balance, confirmation of the adjudication, schedule of distribution or report shall not be deferred, except as to those matters to which exceptions have been taken, and distribution may proceed as to the balance. Any party from whom such distribution has been withheld may petition the Court to order distribution.

## **RULE 8**

## **APPEALS FROM REGISTER**

### **Rule 8.1 Forms of Appeal**

An Appeal from a decision of the Register shall be taken by notice of appeal addressed to the Court. The notice of appeal shall set forth:

- (a) The nature of the proceedings before the Register;
- (b) The decision from which the appeal is taken;
- (c) A concise statement of the relevant facts
- (d) The grounds for appeal;
- (e) The basis of the Courts jurisdiction; and
- (f) The names of all parties in interest.

### **Rule 8.2 Service**

The appellant shall serve a copy of the notice of appeal on each party in interest and certify to the Court the time and manner of doing so.

### **Rule 8.3 Review**

The Court will consider such evidence and allow such argument, as it deems appropriate in determining the appeal.