

**FOURTEENTH
JUDICIAL DISTRICT
OF
PENNSYLVANIA**

RULES

OF THE

COURT OF COMMON PLEAS

OF

FAYETTE COUNTY, PENNSYLVANIA

UPDATED: January 5, 2018

Abbreviated Table of Contents

Rules of Civil Procedure.....	11
Rules of Criminal Procedure	56
Rules of Judicial Administration	69
Orphans' Court Rules	73

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

FREQUENTLY CALLED NUMBERS
(Area Code 724)

Administrative Office of Fayette County Courts.....	430-1230
Adult Probation Office	430-1251
Clerk of Courts	430-1253
Commissioner’s Office	430-1200
Coroner	430-1270
Child Custody Services	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
Problem Solving Court Manager/Liaison	430-4845
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 John F. Wagner, Jr.

***President Judge*.....(724) 430-1236**
Honorable Steve P. Leskinen.....(724) 430-2060
Honorable Nancy D. Vernon..... (724) 430-1397
Honorable Linda R. Cordaro(724) 430-1396
Honorable Joseph M. George, Jr.....(724) 430-4843
Honorable Senior Judge Gerald R. Solomon.....(724) 430-1234

TABLE OF CONTENTS

RULES OF CIVIL PROCEDURE

RULES OF CONSTRUCTION

Rule 51	Title and Citation of Rules	12
Rule 52	Effective Date. Application to Pending Actions	12
Rule 76	Definitions	12
Rule 101	Principles of Interpretation	12

BUSINESS OF COURTS

Rule 201	Case Assignment	13
Rule 201.1	Random Assignment	13
Rule 202	Papers and Records	13
Rule 203	Rescinded	14
Rule 204	Rescinded	14
Rule 205.2	Rescinded	14
Rule 205.2(a)	Form of Papers	14
Rule 205.2(b)	Rescinded	15
Rule 206.1	Rescinded	15
Rule 206.1(a)	Petition, Definition, Content and Form	15
Rule 206.4	Rescinded	15
Rule 206.4(c)	Rule to Show Cause	16
Rule 208.2	Rescinded	16
Rule 208.2(c)	Motions – Statement of Applicable Authority	16
Rule 208.2(d)	Uncontested Motion Certificate	17
Rule 208.2(e)	Discovery Motion Certificate	17
Rule 208.3	Rescinded	17
Rule 208.3(a)	Motions Court Procedure	17
Rule 210	Form and Content of Briefs	20
Rule 210.1	Rescinded	20
Rule 210.2	Rescinded	20
Rule 211	Rescinded	20
Rule 211.1	Rescinded	20
Rule 211.2	Rescinded	21
Rule 211.3	Rescinded	21
Rule 212	Rescinded	21
Rule 212.1	Pre-Trial Procedure; Certificate of Readiness for Pre-Trial Conference	21
Rule 212.2	Pre-Trial Statements	23
Rule 212.3	Pre-Trial Conference	24

Rule 212.4	Discontinuance Payment of Record Costs on Settlement...	25
Rule 212.5	Mediation	25
Rule 214	Trials	30
Rule 216	Continuances: Absence of Witness or Attorney	30
Rule 223	Examination of Witnesses and Addresses to Jury	31
Rule 227.1	Motion for Post-trial Relief.....	31
Rule 230.2	Rescinded	32
Rule 234	Subpoena Duces Tecum.....	32
Rule 430(b)	Designation of Legal Periodical	32
Rule 1018.1	Notice to Defend	33
Rule 1028	Rescinded	33
Rule 1028(c)	Preliminary Objections	33
Rule 1034	Rescinded	34
Rule 1034(a)	Judgment on the Pleadings	34
Rule 1035.2	Rescinded	35
Rule 1035.2(a)	Summary Judgment.....	35
Rule 1042	Rescinded	35

ARBITRATION

Rule 1301	Compulsory Arbitration: Cases Covered	36
Rule 1302	Compulsory Arbitration: Arbitrators	36
Rule 1303	Compulsory Arbitration: Initiation, Scheduling, Hearings and Continuances.....	38
Rule 1308	Compulsory Arbitration: Appeals.....	39

PARTITION OF REAL PROPERTY

Rule 1559	Notice of Master's Hearing in Partition	40
Rule 1566	Notice of Proposed Partition	40
Rule 1568	Notice of Public Sale in Partition	40
Rule 1569	Notice of Filing Master's Report in Partition	40
Rule 1573	Notice of Filing Return of Sale in Partition.....	41

ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901.1	Actions Pursuant to the Protection From Abuse Act	42
Rule 1901.1-2	Commencement in Court.....	42
Rule 1901.1-3	Emergency Relief by the Minor Judiciary.....	43
Rule 1901.1-4	Service of Petition and Order	44

Rule 1901.1-5	Arrest for Violation of Order	44
Rule 1901.1-6	Private Criminal Complaint for Violation of Order or Agreement.....	45
Rule 1901.1-7	Out of County Orders.....	46
Rule 1901.1-8	Civil Contempt	46
Rule 1901.1-9	Notification Upon Release	47

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

Rule 1915.1	Scope.....	48
Rule 1915.2	Procedure	48
Rule 1915.3	Fees and Costs.....	49
Rule 1915.4	Exceptions	49

ACTIONS OF DIVORCE AND ANNULMENT

Rule 1920.3	Discontinuance of Divorce Action.....	50
Rule 1920.31	Alimony Pendente Lite and Child Support Claims	50
Rule 1920.51(a)	Master's Fee, Power of Master Stenographer's Fee and Filing Costs	50
Rule 1920.51(b)	Notice of Master's Hearing.....	51
Rule 1920.52	Separation Agreements	51
Rule 1920.53(a)(1)	Time for Master's Hearing	51
Rule 1920.53(a)(2)	Duty of Master	51
Rule 1920.76	Statement to Accompany Decree.....	52

MINORS AS PARTIES

Rule 2039(a)	Petitions for Approval of Settlement of Actions Of Minors and Incompetents.....	53
--------------	--	----

INTERPLEADER BY DEFENDANTS

Rule 230	Money Paid into Court.....	53
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RULES OF CRIMINAL PROCEDURE

Rule 4	Citing the Criminal Procedural Rules	55
Rule 86	Rescinded	55
Rule 101	Rescinded	55
Rule 106	Continuances	55
Rule 114.1	Orders and Court Notices: Filing, Service and Docket Entries	56
Rule 117	Coverage: Issuing Warrants: Preliminary Arraignments And Summary Trials: and Setting and Accepting Bail	57
Rule 301	Diversions Program for Transmission of Sexually Explicit Images by Minors	57
Rule 301(A)	Diversions Program for Cyber Harassment of a Child.....	58
Rule 305	Rescinded	58
Rule 305.1	Rescinded	58
Rule 535	Return of Cash Deposits	59
Rule 571	Arrest (and form)	59
Rule 575	Motions Court Procedure	61
Rule 1107	Juror Information Questionnaires	64
Rule 1107.1	General	64
Rule 1107.2	Copies	64
Rule 1107.3	Restrictions	64
Rule 1107.4	Dispositions of Questionnaires and Copies.....	65
Rule 1107.5	Supplemental Questionnaires	65
Rule 1107.6	Completion of Questionnaires and Supplemental Questionnaires.....	65

RULES OF JUDICIAL ADMINISTRATION

Rule 101	Title and Citation of Rules	67
Rule 102	Public Access Policy: Trial Courts	67
Rule 507	Retention and Disposition of Court Reporter Notes	68
Rule 1901	Prompt Disposition of Matters; Termination of Inactive Cases	69
Rule 1903	Fee Schedule	70
Rule 4007	Request for Transcript.....	70
Rule 4008	Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.....	71
Rule 5000.13	Rescinded	73

ORPHANS' COURT RULES

Rule 1	Vacated.....	73
Rule 1.1	Vacated.....	73
Rule 1.2	Vacated.....	73
Rule 2	Vacated.....	73
Rule 2.1	Vacated.....	73
Rule 3	Vacated.....	73
Rule 3.1	Vacated.....	73
Rule 3.2	Vacated.....	73
Rule 3.3	Vacated.....	73
Rule 3.7	Vacated.....	73
Rule 3.8	Vacated.....	73
Rule 4	Vacated.....	73
Rule 4.1	Vacated.....	73
Rule 4.2	Vacated.....	73
Rule 4.3	Vacated.....	73
Rule 4.4	Vacated.....	73
Rule 4.5	Vacated.....	73
Rule 5	Vacated.....	73
Rule 5.1	Vacated.....	73
Rule 5.2	Vacated.....	73
Rule 5.3	Vacated.....	73
Rule 5.4	Vacated.....	73
Rule 5.5	Vacated.....	73
Rule 5.6	Vacated.....	73
Rule 6	Vacated.....	73
Rule 6.1	Vacated.....	73
Rule 6.2	Vacated.....	73
Rule 7	Vacated.....	73
Rule 7.1	Vacated.....	73
Rule 7.2	Vacated.....	73
Rule 7.3	Vacated.....	73
Rule 8	Vacated.....	73
Rule 8.1	Vacated.....	73
Rule 8.2	Vacated.....	73
Rule 8.3	Vacated.....	73

**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. The party's or counsel's facsimile number and email address, along with the party's or counsel's address, phone number and counsel's Supreme Court identification number, shall be listed on all civil case pleadings.

(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. Amended November 18, 2011, effective January 9, 2012.*

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

PAPERS AND RECORDS

(a) The court administrator and members of a judge's staff may remove records from the prothonotary's office for official Court business. In addition, the following, if appointed by the Court, shall have authority to remove records from the office of the Prothonotary:

1. Referees;
2. Auditors;
3. Masters;
4. Attorneys; and
5. other similar officers.

All such records shall be returned within three months after their taking unless the Court authorizes a longer retention.

(b) Except as provided in section (a), no record shall be removed from the prothonotary's office except upon subpoena duces tecum or order of Court.

(c) Any original record filed may be reviewed in the prothonotary's office and copied by paying the prescribed fee charged by the prothonotary's office for such copying

NOTE: Adopted November 18, 2011, effective January 9, 2012.

RULE 203

NOTE: Rescinded April 9, 2010, effective May 30, 2010.

RULE 204

NOTE: 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 paper books 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 205.2(b)

NOTE: *Rescinded November 17, 2011.*

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

NOTE: *Rescinded January 25, 2017, effective March 13, 2017.*

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

Note: Rescinded August 30, 2016, effective October 16, 2016.

RULE 212.1

PRE-TRIAL PROCEDURE; CERTIFICATE OF READINESS FOR PRE-TRIAL CONFERENCE

(a) Except in those cases involving compulsory arbitration, there shall be 240 days from the filing of the complaint in which the parties shall complete discovery. Discovery will not be permitted after the 240 day period except by order of Court upon good cause shown.

(b) In those cases where it is apparent that extensive discovery will be required, counsel may present a motion requesting a status conference, or file and present an appropriate motion, with the trial Judge to whom the case has been assigned to establish an alternate discovery time table.

(c) Unless otherwise agreed upon by the parties, or ordered by the Court, all depositions shall be held in Fayette County.

(d) At any time after the close of discovery, the Court may, in its discretion, direct the parties to attend a status conference, or the Court may compel the filing of pre-trial statements, schedule the pre-trial conference, or otherwise intervene to expedite the litigation.

(e) If there is an appeal of the award of arbitrators, this rule shall apply, except that there shall be 60 days from the filing of the appeal in which the parties shall complete discovery.

(f) At the close of discovery and upon the filing of a pre-trial statement by the moving party, the movant shall file a Certificate of Readiness for Pre-trial Conference.

- (1) The Certificate of Readiness shall be substantially in the form which follows this rule and shall be served with written notice to all parties.
- (2) If a party objects to the Certificate of Readiness as filed by any party, the objecting party is required to file the objection within 20 days; otherwise, all parties will be deemed to be in agreement with the statement contained in the Certificate of Readiness.

- (3) Objections to the Certificate of Readiness shall be presented forthwith as a priority motion to the Judge to whom the case is assigned. If an objection to the Certificate of Readiness has been filed, the Prothonotary shall only transmit the docket to the Trial Judge for pre-trial conference after the Judge resolves the objection.
- (4) If no objection to the Certificate of Readiness has been filed within 20 days, the Prothonotary shall transmit the docket to the Trial Judge to schedule a pre-trial conference.
- (5) In accordance with Local Rule 212.3, the Trial Judge shall schedule the pre-trial conference upon transmission of the docket from the Prothonotary.
- (6) A Certificate of Readiness is not required for cases assigned to arbitration.

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

Plaintiff	:	Civil Action
	:	
Vs.	:	NO.
	:	
Defendant	:	JUDGE _____
	:	
	:	Jury Trial _____
	:	Non-jury Trial _____
	:	Arbitration _____

CERTIFICATE OF READINESS

I hereby certify, pursuant to Fayette County Rule of Civil Procedure 212.1, that the above-captioned case is ready for trial. All pleadings are closed; all witnesses are presently available to appear at trial; the moving party's pre-trial statement has been filed and served upon the other parties; and discovery is complete, except for those depositions to be taken solely for the purpose of being presented at trial. Any such deposition shall be completed prior to trial and a transcript of the deposition shall be submitted to the Court at least five (5) days prior to trial or all objections will be deemed waived.

I further certify that immediately after filing, I will serve a time-stamped copy of this certificate upon all counsel, and/or any unrepresented party.

Print Name

Signature of Counsel

Representing

Address

Date

Telephone No.

NOTE: *Amended December 19, 2003, effective February 9, 2004. Amended January 26, 2010, effective March 15, 2010. Amended August 30, 2016, effective October 16, 2016.*

RULE 212.2

PRE-TRIAL STATEMENTS

(a) Time tables:

- (1) All plaintiffs, within twenty (20) days after the 240 day period, or the extension thereof, shall file their pre-trial statements with the Prothonotary.
- (2) All original defendants, within twenty (20) days of the filing of the plaintiff's pre-trial statements, shall file their pre-trial statements with the Prothonotary.
- (3) All other parties, within twenty (20) days of the filing of original defendants' pre-trial statements, shall file their pre-trial statements with the Prothonotary.

(b) The pre-trial statement shall contain:

- (1) A brief narrative statement of the essential facts upon which liability is asserted or denied.
- (2) The legal issues involved and legal authorities relied upon.
- (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) A specific description of damages.
 - (i) Any party seeking to recover damages for personal injuries shall attach to their pre-trial statement, if not previously provided to all parties, 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.
 - (ii) A list of the damages that the party intends to claim and prove at trial.
- (5) The settlement status of the case.
- (6) A realistic estimate of the trial time required for presentation of their case, as well as total trial time required.

- (7) There shall be attached to the pre-trial statement:
- (i) A copy of all reports containing findings or conclusions of any physician who has treated or examined the party or has been consulted in connection with any injuries complained of and whom the party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such physician shall be excluded at the trial except upon consent of all parties or upon express order of the Court.
 - (ii) A copy of all reports containing findings or conclusions of any expert who has been consulted in connection with the matters involved in the case and whom the party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such expert shall be excluded at the trial except upon consent of all parties or upon express order of Court.
- (8) Upon failure of any party to file a pre-trial statement within the time required, upon motion the Court may impose the sanctions provided in Pa.R.C.P. Sec. 4019(c). Also, the Court may order other appropriate relief including, but not limited to, the barring of testimony, assessment and awarding of attorney fees, and expenses and costs to opposing counsel.
- (9) Counsel, upon agreement of all parties, or upon Order of Court, may file a supplemental pre-trial statement up to the time of trial as long as such filing does not delay trial. Supplemental statements may include additional claims for damages, additional damage and/or liability witnesses, expert witnesses, and/or exhibits intended to be used at trial.

NOTE: *Adopted January 26, 2010, effective March 15, 2010. Amended August 26, 2015, effective October 12, 2015. Renumbered August 30, 2016, effective October 16, 2016.*

RULE 212.3

PRE-TRIAL CONFERENCE

- a) When a case is scheduled for pre-trial conference, it shall not be continued except for just cause and upon order of the pre-trial judge.
- b) The pre-trial 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.
- c) Parties must also be present, except when the real party in interest is an insurance company, a 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.
- d) The Court shall encourage the amicable settlement of the controversy and the parties and their attorneys shall be prepared to discuss settlement.

- e) The judge presiding at the pre-trial conference shall refer to arbitration all cases where the amount in controversy is found not to exceed the jurisdictional limits of arbitration except where title to lands or tenements may come in question.
- f) If there is not an amicable settlement of the controversy at the pre-trial conference, then the pre-trial judge shall issue a pre-trial adjudication which shall, in the discretion of the judge, control the subsequent course of the action.

NOTE: *Adopted January 26, 2010, effective March 15, 2010. Amended August 30, 2016, effective October 16, 2016.*

RULE 212.4

DISCONTINUANCE PAYMENT OF RECORD COSTS ON SETTLEMENT

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

- Initial filing fees;
- Service of process fees; and
- Costs to settle and discontinue the docket.

NOTE: *Adopted January 26, 2010, effective March 15, 2010.*

RULE 212.5

MEDIATION

(a) Certification of Mediators.

- (1) The President Judge shall certify as many mediators as determined to be necessary.
- (2) All mediators will be members of the Fayette County Bar Association.
- (3) An attorney may be certified by the President Judge as a mediator if:
 - (i) he or she has been a member of the Pennsylvania bar for a minimum of ten (10) years;
 - (ii) he or she has been admitted to practice before the Fayette County Court of Common Pleas;
 - (iii) he or she has been referred to the President Judge by the Civil Rules Committee of the Fayette County Bar Association. Notwithstanding such referral, the President Judge may nonetheless certify an attorney as a mediator.

(iv) he or she has been determined by the President Judge to be competent to perform the duties of a mediator;

(v) he or she has professional liability insurance in the minimum amount of a \$300,000.00 single limit policy.

(4) Each individual certified as a mediator shall take the oath or affirmation prescribed by 42 Pa.C.S.A. §3151 before serving as a mediator.

(5) A list of all persons certified as mediators shall be maintained in the office of the Court Administrator.

(6) A member of the bar certified as a mediator may be removed from the list of certified mediators by the President Judge for any reason.

(b) Payment of Mediators.

(1) The parties shall pay the mediator directly. The court assumes no responsibility for the supervision or enforcement of the parties' agreement to pay for mediation services.

(2) Any charges relating to the mediator's services shall be shared equally by the parties.

(3) The mediator shall be paid a mediation fee of One Hundred and Seventy-Five (\$175.00) Dollars per hour, divided equally among all of the parties to the mediation. A deposit of One Hundred and Seventy-Five (\$175.00) Dollars shall be paid by each party within twenty (20) days of the order directing mediation. Failure to pay the deposit by all parties shall result in the cancellation of the mediation and shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019. Failure to pay the balance due twenty (20) days after receipt of the mediator's bill shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019.

(4) Except as provided herein, a mediator shall not accept anything of value from any source for services provided under the court-annexed mediation program.

(c) Types of Cases Eligible for Mediation.

Every personal injury, medical or professional malpractice, wrongful death or damage to property action filed in the Fayette County Court of Common Pleas is eligible for mediation, except any case which the assigned judge determines, after application by any party or by the mediator, is not suitable for mediation.

(d) Voluntary Mediation.

The parties to any civil action, with the exception of arbitration and domestic relations/custody cases, may voluntarily submit the case to mediation by filing a joint motion of all parties with the assigned judge in accordance with the local Motions Court procedure.

(e) Mandatory Mediation.

The assigned judge may order a case to mandatory mediation at any time. All cases selected for mandatory mediation by the assigned judge, and which are not settled or referred to arbitration, shall be given preference pursuant to Pa.R.Civ.P. 214(2) on the trial list of the assigned judge.

(f) Mediation Conference Scheduling.

(1) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator.

Within ten (10) days of his or her assignment, the mediator shall notify all parties and the Court Administrator of the date, time and place of the mediation, which shall be within forty-five (45) days of the assignment.

(2) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the President Judge.

(3) The court administrator shall provide the mediator with a current docket sheet.

(4) The mediator shall advise the court administrator as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies at no charge to the mediator. However, the assigned Judge, in his or her discretion, may require that the parties share in the cost of providing the necessary copies.

(5) Any continuance of the mediation session beyond the period prescribed in the referral order must be approved by the assigned judge.

(6) A person selected as a mediator shall be disqualified for bias or prejudice as if he or she were a district justice or judge. A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may, in his or her discretion, end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the original mediator or initiate another alternative dispute resolution mechanism.

(g) The Mediation Session and Confidentiality of Mediation Communications.

(1) The mediation session shall take place as directed by the court and the assigned mediator. The mediation session shall take place in a neutral setting designated by the mediator.

(2) The parties shall not contact or forward documents to the mediator except as directed by the mediator or the court.

(3) At least ten (10) days prior to the Mediation, the parties and/or their attorneys shall be required to prepare and submit a Confidential Position Paper disclosed only to the mediator in the format attached or as modified by the mediator or the assigned judge. The Confidential position paper shall not become a part of the court record and shall be destroyed at the conclusion of the mediation.

(4) If the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter file a report with the assigned Judge stating that there has been compliance with the requirements of mediation in accordance with the local rules, but that no settlement has been reached.

(5) In the event that a settlement is achieved at the mediation session, the mediator shall file a report with the assigned Judge stating that a settlement has been achieved. The order of referral may direct the mediator to file the report in a specific form.

(6) Unless stipulated in writing by all parties and the mediator or except as required by law or otherwise ordered by the court, all discussions which occur during mediation shall remain strictly confidential and no communication at any mediation session (including, without limitation, any verbal, nonverbal or written communication which refers to or relates to mediation of the pending litigation) shall be disclosed to any person not involved in the mediation process, and no aspect of the mediation session shall be used by anyone for any reason.

(7) No one shall have a recording or transcript made of the mediation session, including the mediator.

(8) The mediator shall not be called to testify as to what transpired in the mediation.

(9) Prior to the beginning of the mediation, all parties and their attorneys shall be required to sign a form developed by the Court wherein the parties agree:

(i) to the terms of the mediation; and

(ii) to waive any professional liability claims that they might assert against the mediator, the assigned Judge, the Court of Common Pleas of the 14th Judicial District, or Fayette County, as a result of their participation in the mediation process.

(h) Duties of Participants at the Mediation Session.

(1) Parties. All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (A) and (B) below.

Unless attendance is excused, willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions pursuant to Pa.R.Civ.P. 4019.

(A) Corporation or Other Entity. A party other than a natural person (e.g., a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(B) Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(2) Counsel. Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(3) Insurers. Insurer representatives are required to attend in person unless excused, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(4) Request to be Excused. A person who is required to attend a mediation session may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than ten (10) days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

Where an individual requests to be excused from personal participation at the mediation, a preference shall be given to attending by telephone at the expense of the excused party rather than complete excusal from the mediation.

(i) Mediator's Report.

Within fifteen (15) days of the mediation, the mediator shall send to the assigned judge a mediation report which shall advise that court whether the case has settled. If not, the mediation report shall set forth the following:

- (1) plaintiff's final settlement demand;
- (2) defendant's final settlement offer;
- (3) Mediator's assessment of liability;
- (4) Mediator's assessment of damages;
- (5) Mediator's opinion regarding potential range of verdict and settlement value of case; and
- (6) Mediator's recommendation regarding settlement of case.

The mediator shall provide all parties and the Court Administrator with a copy of the mediation report.

Appendix A: Form for Confidential Position Paper

Confidential Position Paper

Case Caption:

Docket #:

Assigned Judge:

Date of Report:

A. Summary of Critical Facts .

B. Insurance Coverage

C. Prior demands and offers of settlement

D. Issues that may Assist the Mediator, with citations

- E. Medical and Expert reports
- F. Itemized list of damages
- G. succinct statement of position regarding liability and damages

NOTE: *Adopted July 30, 2010, effective September 20, 2010. Amended August 30, 2016, effective October 16, 2016.*

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

(a) Any party to any proceeding may file preliminary objections to any pleading pursuant to Pa.R.C.P. 1028(a). Such preliminary objections must be filed within twenty (20) days of the service of the pleading to which the moving party is objecting. A timely filing of an amended pleading by the non-moving party shall render the preliminary objections moot in accordance with Pa.R.C.P. 1028(c)(1)(l).

(b) In the event the preliminary objections properly raise an issue of fact under Pa.R.C.P. 1017(a)(4) and Pa.R.C.P. 1028(c)(2) then the non-moving party shall file its response within twenty (20) days after service of the preliminary objections.

(c) In the event an amended pleading is not timely filed by the non-moving party, the preliminary objections shall be presented in Motions Court pursuant to FCR 208.3(a) within forty (40) days of the filing of the preliminary objections, accompanied by a proposed Order.

(d) Upon agreement of the parties, the preliminary objections may be submitted as a priority Motion for disposition by the Court at that time. The parties shall be permitted no more than three (3) minutes to orally present their positions on the issues raised and any briefs or memorandums the parties wish for the Court to consider shall be submitted to the Court at that time. Otherwise, the preliminary objections shall be presented by the moving party as a routine Motion accompanied by a proposed

Order. Upon receipt of such a Motion, the Court shall establish a briefing schedule, and, if deemed necessary by the Court, an argument date for disposition of the preliminary objections. If the preliminary objections properly raise an issue of fact, the Court shall enter an Order establishing the procedure to be followed for the making of a factual record, for the briefing of the issues raised, and for setting an oral argument date and time, if deemed necessary by the Court.

(e) All briefs shall be served on all other parties to the case and on the assigned Judge. A certificate of service shall be filed with the Prothonotary but the brief itself shall not be filed of record. Failure to comply with the briefing schedule may result in the denial of oral argument or such other sanctions as the Court deems appropriate.

(f) Failure of a party to comply with the requirements of these rules may result in either the entry of the relief requested or the denial of such relief as the circumstances may warrant.

NOTE: *Adopted June 29, 2004, effective July 26, 2004. Amended March 9, 2010, effective March 22, 2010. Amended February 25, 2015, effective February 28, 2015.*

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, 2004.*

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

NOTE: *Rescinded September 20, 2010.*

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 208.3 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 assigned PFA Judge on any business day from 8:30 A.M. through 3:00 P.M.; the PFA Judge will, at the earliest possible time consistent with his/her 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 local domestic violence agency, if available.

(3) PFA petition forms and instructions are available in the Fayette County Law Library or on the website of the Administrative Office of Fayette County Courts at www.co.fayette.pa.us.

NOTE: Amended, November 19, 2014, Effective January 12, 2015.

1901.1-3

EMERGENCY RELIEF BY THE MINOR JUDICIARY

(a) From 3:00 P.M. each day to the resumption of business at 8:30 A.M. the next morning; from 3:00 P.M. of the last day of the business week to 8:30 A.M. of the first day of the next business week; during any holiday; and at any other time that the assigned PFA Judge is declared to be unavailable, 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 Magisterial District Judge in the district where the plaintiff lives or, when unavailable, with the court ordered Duty Magisterial District Judge, who may grant relief in accordance with the Act.

(b) Magisterial District Judge.

(1) The Magisterial District Judge shall provide petition forms and assist in the preparation thereof.

(2) If, following an ex parte proceeding, the Magisterial District Judge determines that emergency relief is warranted; he/she shall issue an emergency order.

(3) The Magisterial District Judge shall certify the emergency order issued and the petition to the Court.

(4) The Magisterial District Judge shall advise the plaintiff that the emergency order will expire at 3:00 P.M. on the next business day of Court.

(5) The Magisterial District Judge shall advise the plaintiff that the plaintiff is responsible for obtaining the certified record from the Magisterial District Judge 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 assigned PFA Judge for ex parte proceedings as provided for in 1901.1-2(b).

NOTE: Amended November 19, 2014, effective January 12, 2015.

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) A party who is requesting a child custody mediation conference must file, after filing an appropriate complaint/petition, with the Prothonotary a "Request to Schedule Child Custody Mediation" form, along with the \$100.00 filing fee, in accordance with F.C.R. 1915.3. The requesting party must also serve on the Administrative Office of Fayette County Courts a copy of the Request for Child Custody Mediation Conference, along with a copy of the receipt for the filing fee. The Administrative Office of Fayette County Courts shall refer the request form to Child Custody Services and a mediation conference shall be scheduled. All parties must attend this child custody mediation conference unless excused by the child custody mediator/hearing officer. Children shall not attend the conference, unless directed by the Court or directed by the Child Custody Mediator/Hearing Officer.

(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) Attorneys and pro se litigants shall adhere to the custody instructions and shall specifically use the forms which accompany those instructions that are available in the Fayette County Law Library or on the website at www.co.fayette.pa.us/ChildCustody.

NOTE: Amended November 19, 2014, effective January 12, 2015. Amended April 2, 2015, effective May 24, 2015.

RULE 1915.3

FEES AND COSTS

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 file and serve a Request to Schedule Child Custody Mediation and 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* with Court approval in accordance with Pa.R.C.P. §240. Attorneys and pro se litigants shall adhere to the instructions and shall specifically use the form which accompanies the instructions to proceed in forma pauperis that are available in the Fayette County Law Library or on the website at www.co.fayette.pa.us/CourtAdmin.

Note: *Amended February 8, 2005, effective April 1, 2005. Amended April 2, 2015, effective May 24, 2015.*

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 106

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 therefore did not previously exist, or the defendant was not aware of the grounds for the motion, or the

interests of justice require it.

(c) A request for continuance on the grounds that an attorney of record is unavailable may only be entertained when that attorney has an engagement in Federal Court, in Pennsylvania Appellate Court, a previously scheduled Common Pleas Court hearing, an 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 575); 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. Renumbered and Amended May 15, 2015, effective July 13, 2015.*

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 §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

DIVERSIONARY PROGRAM FOR TRANSMISSION OF SEXUALLY EXPLICIT IMAGES BY MINORS

The Court hereby recognizes the Fayette County Diversionary Program for Transmission of Sexually Explicit Images by Minors as a dispositional alternative for the summary offense enumerated at 18 Pa.C.S.A. §6321(a) and as authorized by 18 Pa.C.S.A. §6321(f) and Pennsylvania Rule of Criminal Procedure Rule 300.

The conditions and parameters of this program shall be governed by the Crime Victims' Center of Fayette County and must include an educational training session of not less than two hours regarding the legal and nonlegal consequences of sharing sexually explicit images. Diversion into the program may only be authorized by a magisterial district judge or other judicial authority with jurisdiction over the violation.

All costs and administrative expenses associated with the diversionary program shall be the responsibility of the defendant. If the defendant successfully completes the diversionary program, the defendant's records of the charge of violating 18 Pa.C.S.A. §6321(a) shall be expunged.

NOTE: *Adopted May 15, 2015, effective July 13, 2015.*

RULE 301(A)

DIVERSIONARY PROGRAM FOR CYBER HARASSMENT OF A CHILD

The Court hereby recognizes the Fayette County Diversionary Program for Cyber Harassment of a Child as a dispositional alternative for the summary offense enumerated at 18 Pa.C.S.A. §2709(a.1) and as authorized by 18 Pa.C.S.A. §2709(a.1)(2)(i).

The conditions and parameters of this program shall be governed by the Crime Victims' Center of Fayette County and must include an educational training session of not less than two hours regarding the legal and nonlegal consequences of cyber harassment. Diversion into the program may only be authorized by a magisterial district judge or other judicial authority with jurisdiction over the violation.

All costs and administrative expenses associated with the diversionary program shall be the responsibility of the defendant. If the person successfully completes the diversionary program, the person's records of the charge of violating 18 Pa.C.S.A. §2709(a.1) shall be expunged.

NOTE: *Adopted, March 23, 2016, effective May 16, 2016.*

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 571

ARRAIGNMENT

(A) Arraignment shall be held on the third Thursday of each month before an assigned Judge.

- (B) At the arraignment, the defendant shall be advised of:
- (1) The right to be represented by counsel;
 - (2) The nature of the charges contained in the information; and
 - (3) The right to file motions, including a Request for a Bill of Particulars, a Motion for Pretrial Discovery and Inspection, a motion requesting Transfer from Criminal Proceedings to Juvenile Proceedings and an Omnibus Pretrial Motion, and the time limits within which the motions must be filed.
 - (4) If the defendant fails to appear without cause at any proceeding for which the defendant's presence is required, including trial, that the defendant's absence may be deemed a waiver of the right to be present, and the proceeding may be conducted in the defendant's absence.

If the defendant or counsel has not received a copy of the Information(s) pursuant to Pa.R.Crim. 562, a copy thereof shall be provided.

(C) A defendant may waive appearance at arraignment if the following requirements are met:

- (1) The defendant is represented by counsel of record and counsel concurs in the waiver; and

(2) The defendant and counsel sign and file with the Clerk of Courts a waiver of appearance at arraignment, which acknowledges that the defendant:

- (a) Understands the nature of the charges;
- (b) Understands the rights and requirements set forth in Pa. R.Crim.P. 571(C) and
- (c) Waives his or her right to appear for arraignment.

(D) The waiver of appearance at arraignment shall be in substantially the following form:

YOU MUST BE REPRESENTED BY COUNSEL TO WAIVE THE APPEARANCE AT ARRAIGNMENT

(Pa. Rule of Criminal Procedure 571 (D))

**IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,
PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,
v.

Defendant.

No. _____ of 20 _____

OTN: _____

Arraignment Date: _____

ENTRY OF APPEARANCE

Enter my appearance for the above-named Defendant.

INTERPRETER NEEDED

Attorney for Defendant [PRINTED]

Date

Attorney I.D. #

Address of Attorney

Attorney Phone #

Email Address of Attorney

Attorney's SIGNATURE

WAIVER OF APPEARANCE AT ARRAIGNMENT

I hereby waive my appearance at arraignment and I stand mute with respect to my plea. I have been advised by my attorney of the charges against me and that my attorney will receive copies of the Criminal Information filed in this case. I know I have the right:

1. to file a request in writing for a Bill of Particulars with the Clerk of Courts and a copy to be served on the District Attorney within seven (7) days following the above listed arraignment date (Pa. Rule of Criminal Procedure 572);
2. to file a motion with the Court in writing, requesting pretrial Discovery and Inspection and a copy to be served on the District Attorney within fourteen (14) days after the above listed arraignment date (Pa. Rule of Criminal Procedure 573);
3. to file an Omnibus motion with the Court in writing requesting all other kinds of pretrial relief and a copy to be served on the District Attorney within thirty (30) days after the above listed arraignment date (Pa. Rules of Criminal Procedure 578 & 579).

THE TIME LIMITS SET FORTH TO EXERCISE THESE RIGHTS WILL BE STRICTLY ENFORCED!

4. If I fail to appear without cause at any proceeding for which my presence is required, including trial, my absence may be deemed a waiver of the right to be present, and the proceeding may be conducted in my absence. (Pa. Rule of Criminal Procedure 571).

I am hereby notified that, as a condition of bail, I am required to notify in writing the Clerk of Courts' office, the District Attorney's office, and my bondsman of any change of address and/or telephone number within forty-eight (48) hours after any change by mail or delivering in person said notice to each of the above (Pa. Rule of Criminal Procedure 117).

IF I FAIL TO APPEAR FOR ANY SCHEDULED COURT DATE, THE HEARING OR TRIAL WILL CONTINUE IN MY ABSENCE AND A BENCH WARRANT WILL BE ISSUED FOR MY ARREST, WITH AN ADDED CONTEMPT PENALTY OF UP TO SIX MONTHS INCARCERATION.

Signature of Defendant

Date

Signature of Attorney

NOTE: Amended May 10, 2002, effective July 8, 2002. Amended November 26, 2016, effective January 16, 2017.

RULE 575

MOTIONS COURT PROCEDURE

(6) 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 presentment 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 102

PUBLIC ACCESS POLICY: CASE RECORDS OF THE TRIAL COURTS

All filings in the Court of Common Pleas of Fayette County shall comply with the Public Access Policy of the Unified Judicial System of Pennsylvania. Information that is confidential as defined by the Public Access Policy shall not be included in any document filed in the Court of Common Pleas of Fayette County, except on a Confidential Information Form filed contemporaneously with the document.

Confidential information filed in accordance with the Public Access Policy shall be on a standardized Confidential Information Form provided by the Administrative Office of Pennsylvania Courts. The form shall be available in each filing office as well as on the Court's website at www.co.fayette.pa.us. Failure to comply with the requirements may result in the matter being before the court for hearing or sanctions.

A copy of this policy shall be continuously available for public inspection in the custodian's office, in the Administrative Office of Fayette County Courts and on the Court's website at www.co.fayette.pa.us.

NOTE: Adopted September 18, 2017, effective January 6, 2018

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

(a) Civil Cases

(1) When no docket activity has occurred in a civil case, except in proceedings of custody, eminent domain, and condemnation, for a period of more than two years, the Prothonotary shall commence proceedings under this rule to terminate the action.

(2) The Prothonotary shall provide notice of the proposed dismissal of each civil case that has been dormant for more than two (2) years to all counsel of record and to any pro se litigants in person or by regular mail at the last address of record and shall set forth a brief identification of the case to be terminated. If such notice cannot be given or has been returned undelivered, notice may be given by publication once in the Fayette Legal Journal by stating the caption of each case, the names of the attorneys of record or pro se litigants, and the requirements of filing a statement of intention to proceed.

(3) If no action is taken or no statement of intention to proceed is docketed within sixty (60) days of the notice or of the publication, the Prothonotary shall administratively enter an order as of course dismissing the civil case with prejudice for failure to prosecute. Any civil case terminated under this rule may be reinstated by the Court upon written petition for good cause shown.

(4) Any filing of a statement of intention to proceed shall be accompanied by such filing fee as may be allowed by law to be charged by the Office of the Prothonotary in accordance with the fee bill of that office.

(b) Criminal Cases

(1) At the Call of the Criminal Trial List in March and September each year, the Clerk of Courts shall present to the Court a list of cases where no docket activity has occurred for a period of more than two years.

(2) Notice of the proposed dismissal of each case shall be given by the Clerk of Courts to the prosecutor and the defendant in person or by regular mail at least thirty (30) days before the date on which the list is to be called.

(3) If no good cause for continuing a proceeding is shown at the Call of the Criminal Trial List, an order for dismissal shall be entered forthwith by the Court.

NOTE: *Adopted November 24, 2015, effective January 18, 2016.*

RULE 1903

FEE SCHEDULE

Pursuant to Section 5.00 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, the fee for photocopying the official case records of the magisterial district courts shall be \$0.25 per page and exact postage shall be charged when official case records are requested to be mailed. The fee schedule shall be publicly posted.

NOTE: *Adopted June 11, 2015, effective July 27, 2015.*

RULE 4007

REQUESTS FOR TRANSCRIPTS

(A) All requests for transcripts shall be set forth on a standardized form provided by the Administrative Office of Pennsylvania Courts. The “Request for Transcript or Copy” form is available in the office or on the website of the Administrative Office of Fayette County Courts. The form shall indicate the current rates authorized to be charged for transcripts under these rules.

(B) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the Administrative Office of Fayette County Courts.

(C) The production of daily, expedited, same day or rough draft transcripts are only available at the discretion of the court reporter.

(D) When a litigant requests a transcript,

(1) the district court administrator shall request the court reporter to estimate the transcript cost. The ordering party shall make partial payment in the amount of seventy-five percent (75%) of the estimated transcript cost. All payments are nonrefundable and shall be made by money order, certified check, or check from an attorney payable to the County of Fayette and delivered to the Administrative Office of Fayette County Courts. No payments shall be made to the court reporter.

(2) upon receipt of the deposit by the Administrative Office of Fayette County Courts, the court reporter shall prepare the transcript.

(3) the court reporter shall notify the ordering party and the district court administrator of the completion of the transcript and of the final balance due.

(4) upon payment of any balance owed to the Administrative Office of Fayette County Courts, the court reporter shall deliver the original transcript to the appropriate filing office and a copy for the ordering party in the form requested to the district court administrator.

(E) When a transcript is requested for which the court or county is responsible for the cost, the court reporter shall prepare the transcript without the necessity of a deposit.

NOTE: *Adopted January 12, 2017, effective March 6, 2017.*

RULE 4008

TRANSCRIPT COSTS PAYABLE BY A REQUESTING PARTY OTHER THAN THE COMMONWEALTH OR A SUBDIVISION THEREOF.

(A) Costs

(1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in an electronic format shall not exceed:

- (a) for an ordinary transcript, \$2.50 per page;
- (b) for an expedited transcript, \$3.50 per page;
- (c) for a daily transcript, \$4.50 per page; and
- (d) for same day delivery, \$6.50 per page.

(2) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

(B) Economic hardship -- In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the court as provided herein. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance the litigation, the requesting party must demonstrate good cause shown before the court shall waive or adjust the cost of obtaining the transcript.

(1) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as

defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

(3) Transcript costs for ordinary transcripts in matters that are not subject to an appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, rough draft or same day transcripts may be waived at the court's discretion for parties who qualify for economic hardship under subdivision (B)(1) or (B)(2) and upon good cause shown.

(4) To request a waiver of all or a portion of transcript costs in accordance with Rule 4008(B)(1) through (B)(3), the applicant must attach to the Request for Transcript a "Petition to Proceed In Forma Pauperis and Affidavit" in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure. The Petition and Affidavit are available in the office or on the website of the Administrative Office of Fayette County Courts. The applicant must file the Petition and Affidavit in the appropriate filing office and provide a copy to the Administrative Office of Fayette County Courts for presentation as a routine motion to the presiding judge.

(5) To proceed under Rule 4008(B)(3), after presentation of the "Petition to Proceed In Forma Pauperis and Affidavit" through Motions Court, the presiding judge, at his or her discretion, may schedule a hearing to determine whether the applicant has established good cause to receive a waiver of all or a portion of transcript costs. The determination of good cause shown is at the discretion of the presiding judge.

(6) Litigants who have been approved for representation by legal aid services are not required to prove economic hardship. Legal aid services shall be entitled to obtain ordinary transcripts for no cost by attaching to their Request for Transcript a letter of certification verifying in accordance with Rule 4008(B) that the represented client meets financial eligibility and that the matter is under appeal or that the transcript being requested is necessary to advance the current litigation.

(7) Transcripts requested in accordance with Rule 4008(B)(1) through (B)(3) shall have costs imputed to the County of Fayette for payment to the court reporter. In accordance with Rule 4007(E), no deposit shall be required.

(C) Assignment and allocation of transcript costs

(1) Assignment of costs. The requesting party, or party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Original costs to produce the transcript shall not be assessed against any party for transcripts prepared at the initiation of the court.

(2) Allocation of costs. When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

(D) Copies of transcript

(1) A request for a copy of any transcript previously ordered, transcribed and filed of record shall be made pursuant to the "Request for Transcript or Copy" form and the request filed with the Administrative Office of Fayette County Courts.

(a) If the request is for an electronic copy, the Administrative Office of Fayette County Courts shall collect \$0.50 per page and direct the court reporter to provide the electronic copy to the district court administrator for the requesting party.

(b) If the request is for a paper format copy, the district court administrator shall notify the filing office to collect \$0.75 per page, prepare a paper copy of the transcript, and provide the copy to the requesting party.

NOTE: *Adopted January 12, 2017, effective March 6, 2017.*

RULE 5000.13

NOTE: *Adopted December 3, 1998, effective January 25, 1999. Rescinded January 12, 2017, effective March 6, 2017.*

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

*(All Orphans' Court local rules were vacated on September 1, 2016
by order of the Supreme Court)*