

**PART I**  
**LOCAL RULES OF CIVIL PROCEDURE**

(cited as L.R.C.P. No. \_\_\_\_)

**RULES OF CONSTRUCTION**

**Rule 51                    Title of Rules.    Purpose**

These Local Rules of Civil Procedure are intended to implement the Pennsylvania Rules of Civil Procedure to which their numbers correspond. They shall be cited as "L.R.C.P. No. \_\_\_\_."

**Rule 76                    Definitions**

Unless the context clearly indicates otherwise, the words and phrases used herein shall bear the same meaning as they bear in the Pennsylvania Rules of Civil Procedure.

**Rule 101                  Principles of Interpretation**

In the construction of any of these rules, the principles of interpretation set forth in the Pennsylvania Rules of Civil Procedure shall be used.

**BUSINESS OF COURTS**

**Rule 205.2(a)    Pleadings and Other Legal Papers.    Format.**

All pleadings and other legal papers shall be 8½" x 11" in size and be side bound.

Adopted April 25, 2005, effective August 10, 2005.

**Rule 205.2(b)    Cover Sheet**

Every petition and motion requiring an evidentiary hearing shall have attached thereto a cover sheet as a front page. The cover sheet shall be substantially in the following form:

[CAPTION]

COVER SHEET  
FOR PETITION REQUIRING EVIDENTIARY HEARING

-1-

Has any judge heard this matter previously?

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

-2-

If yes, which judge has heard it? \_\_\_\_\_

-3-

How much time will be reasonably necessary to conduct the hearing?

\_\_\_\_\_ minutes \_\_\_\_\_ hours \_\_\_\_\_ days

I hereby certify all of the above statements are true and correct to the best of my knowledge.

\_\_\_\_\_  
Attorney for Petitioner

Adopted April 25, 2005, effective August 10, 2005.

**Rule 205.3 Pleadings and Other Legal Papers. Name of Attorney to be Typewritten or Printed**

Every legal paper signed by an attorney shall have the name of the attorney typewritten or printed immediately beneath the place of signature.

**Rule 205.4 Limited Electronic Filing and Service of Legal Papers**

The Prothonotary of Armstrong County is hereby authorized to accept for filing, legal papers as defined in subsection (a) of this Rule, by electronic transmission.

(a) As used in this rule, the following words shall have the following meanings:

"electronic filing," the electronic transmission of legal papers by means other than facsimile transmissions.

"filing party," an attorney, party or other person who files a legal paper by means of electronic filing, and

"legal paper," a writ of summons or a complaint in civil action.

(b) A legal paper shall be presented for filing in the format of Adobe PDF.

(c)(1) The electronic filing of a legal paper shall be accomplished via the website designated by the Prothonotary and accessible at <http://www.landata.com>.

(2) All parties, including those who are not attorneys, shall qualify for access to the electronic filing system at the designated website, by complying with the following:

- (i) create, and thereafter use, a Username and Password;
- (ii) provide account information for the financial institution from which each transaction shall automatically deduct the filing cost; and
- (iii) download the required software.

(3) A legal paper electronically submitted by all parties who qualify for access as outlined in Section (2) shall be electronically time stamped upon submission. All legal papers electronically submitted will be accepted on a twenty-four (24) hour basis, however, filing a legal paper electronically does not alter the filing deadline for that document. Unless otherwise ordered, filing must be completed before midnight local time in order to be considered timely filed that day. Legal paper electronically submitted are deemed to be filed on the date and time stated on the time stamp, however, if received on a Weekend Day or Courthouse Holiday it shall be deemed to have been filed on the next business day.

(d) Any lawyer or any non-lawyer party will qualify for access to the electronic filing system at the designated website by

- 1) creating, and thereafter using, a username and password;
- 2) providing the Prothonotary with sufficient account information and consents to enable an automatic deduction from the filer's bank account for the filing fee; and
- 3) downloading the required software.

(e) An electronically filed legal paper shall be electronically time stamped immediately upon its filing. The electronic filing of a legal paper may be accomplished at any time of day. Filing shall be deemed to occur at the time of a successful submission. Any successful submission accomplished before 11:59:59 P.M. shall be deemed to have been accomplished during the Prothonotary's regular business hours of that same day.

(f) A filing party shall pay the cost of the electronic filing of a legal paper by an Automated Clearing House (ACH) debit.

(g) A filing party shall be responsible for any delay, disruption or interruption, and assumes the risk of improper or untimely filing as set forth in Pa.R.C.P. No. 205.4(e).

(h) Immediately after an attempt to file a legal paper electronically, the Prothonotary shall inform the submitter of whether the attempt was successful or whether it failed. The acknowledgement of a successful submission shall recite the time of filing. If an attempt to file was unsuccessful, the Prothonotary shall immediately inform the submitter of the reason therefore.

(i) As soon as practicable after an electronic filing, the Prothonotary shall electronically provide the filer with a printable version of the legal paper bearing an imbedded seal.

(j) The Prothonotary need not maintain a hard copy of any legal paper filed electronically except as required to comply with Pa.R.C.P. No. 205.4(b)(2)(ii).

(k) The filing party shall provide a valid return email address with a legal paper transmitted.

Adopted April 12, 2007, effective May 28, 2007; Amended April 29, 2008, effective May 28, 2008

**Rule 206.1(a) Petition. Definition. Content. Form**

(1) "Petition," as used in this chapter, shall mean:

- (i) an application to open a default judgment or a judgment of non pros;
- (ii) a request for special relief, unless the request seeks an expedited hearing date, a stay, or interim pre-hearing relief;
- (iii) a petition for civil contempt, except in a support or custody action;
- (iv) a motion for delay damages; and
- (v) a petition for relief from a judgment by confession.

(2) A petition shall specify the relief sought and state the material facts, which constitute the grounds therefor.

(3) A petition shall be divided into paragraphs numbered

consecutively. Each paragraph shall contain as far as practicable only one material allegation.

**Comment**

When a request for special relief is filed and an expedited hearing date, a stay, or interim pre-hearing relief is sought, the request is to be treated as a motion, not a petition. The procedure regarding civil contempt adjudications in support and custody actions is governed by separate state rules of civil procedure.

Adopted April 25, 2005, effective August 8, 2005.

**Rule 206.2 Answer to Petition**

(a) An answer shall state the material facts which constitute the defense to the petition.

(b) An answer to a petition shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition.

(c) No answer shall contain a separate section entitled or equivalent to new matter. If an answer does contain such a separate section, no reply thereto need be filed.

**Rule 206.3 Verification**

(a) A petition or an answer containing an allegation of fact which does not appear of record shall be verified.

(b) Rescinded on May 20, 2004, effective July 24, 2005.

**Rule 206.4(c) Rule to Show Cause**

(1) A petition seeking only the issuance of a rule to show cause shall be filed with the Prothonotary. Thereafter, the Prothonotary shall immediately transmit the petition to the Court Administrator. No advance notice of the filing need be given to any party.

(2) A rule to show cause shall be issued by the Court as of course upon petition, pursuant to Pa.R.C.P. No. 206.6. The rule shall direct that an answer be filed to the petition within twenty (20) days after service of the petition on the respondent. The Court may, in appropriate circumstances, direct that an answer be filed within a shorter period of time, or dispense with the necessity of filing an answer altogether.

(3) Every petition shall have attached to it a proposed order substantially in the form prescribed below, providing for an evidentiary hearing. The Court on its own motion or upon request of a party may require a case to be submitted on the

basis of depositions and oral argument instead of an evidentiary hearing.

[CAPTION]

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, upon consideration of the foregoing petition, it is hereby **ORDERED** that

1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

2) the respondent shall file an answer to the petition within twenty (20) days of service upon respondent;

3) the petition shall be decided under Pa.R.C.P. No. 206.7;

4) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_ (day of week) \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_M. in Courtroom No. \_\_\_\_\_ of the Armstrong County Courthouse in Kittanning, Pennsylvania;

5) notice of the entry of this Order shall be provided to all parties by the Prothonotary.

BY THE COURT,

\_\_\_\_\_J.

**Comment**

A request for a stay of execution pending disposition of a petition to open a default judgment falls within the definition of a "motion." See L.R.C.P. No. 208.1.

Adopted April 25, 2005, effective August 10, 2005.

**Rule 208.1 Motion. Definition.**

As used in this chapter, "motion" shall have the meaning ascribed to it by Pa.R.C.P. No. 208.1. The term shall include the following:

(1) a request for special relief where an expedited hearing date, a stay, or interim pre-hearing relief is sought; and

(2) a motion for a stay of execution pending disposition of a petition to open a default judgment.

Adopted May 20, 2004, effective July 24, 2004

**Rule 208.2 Rescinded on April 25, 2005, effective June 13, 2005**



\_\_\_\_\_  
Attorney

(7) The certificate of service shall be substantially in the form prescribed as follows:

[CAPTION]

**CERTIFICATE OF SERVICE  
(Civil Division Matter)**

I, the undersigned, hereby certify that I caused a copy of the attached Notice of Intent to Present Motion, Petition or Application to Motions Court Judge to be served upon

<u>Name of Person</u>	<u>Method of Service</u>	<u>Date of Service</u>
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and that attached to said Notice was a true and correct copy of the legal paper referred to therein.

\_\_\_\_\_  
Attorney

(8) Every motion, request, and application presented to the Motions Judge shall have attached thereto a suggested order granting the relief requested.

(9) After presentation of a motion, request, or application, the Motions Judge may enter any order permitted under Pa.R.C.P. No. 208.4

Comment

Motions Court is not intended as the forum for the presentation of petitions as defined by L.R.C.P. No. 206.1(a). A motion to continue is properly presentable in Motions Court pursuant to L.R.C.P. No. 216, as is a petition to compromise, settle or discontinue an action brought by a minor pursuant to L.R.C.P. No. 2039.

Adopted April 25, 2005, effective August 10, 2005

**Rule 210            Briefs**

Issues which are raised by pleadings, petitions, motions, applications, or otherwise and which are not addressed in a brief by the person raising such issues, shall be deemed to have been waived when submission of the brief has been ordered by the Court.

**Rule 212.1 Case Ready for Pre-Trial Conference**

(a) A case involving a civil action or an action in equity, including an appeal from compulsory arbitration and any matter triable by a judge sitting without a jury, may be placed upon the Pre-Trial Conference List upon praecipe of any party directed to the Prothonotary. A case involving an orphans' court matter shall likewise be placed on the Pre-Trial Conference List by the Prothonotary upon delivery to the Prothonotary by the Clerk of the Orphans' Court Division of a copy of any praecipe filed with the Clerk to cause the matter to be scheduled for a pre-trial conference.

(b) The Prothonotary, at least monthly, shall provide the Court Administrator with a list of all cases placed upon the Pre-Trial Conference List.

(c) The Court Administrator shall cause each case on the Pre-Trial Conference List to be scheduled for a pre-trial conference before one of the judges of the Court. The Prothonotary shall serve a copy of the scheduling order upon all attorneys of record and upon all parties for whom no appearance has been entered, at least twenty (20) days before the scheduled date.

(d) Discovery shall be substantially completed prior to the filing of the praecipe placing the case on the Pre-Trial Conference List.

(e) The Court, upon petition presented in Motions Court, upon good cause shown, may continue the date of a pre-trial conference or remove a case from the Pre-trial Conference List.

(f) A pre-trial conference subsequent to the first such conference may be scheduled by the Court on its own motion. A party may move that a subsequent pre-trial conference be scheduled by motion presented in Motions Court.

**Rule 212.2 Pre-Trial Statements**

(a) All parties shall file a pre-trial statement at least three (3) days prior to the initial pre-trial conference.

(b) A party may file an amended pre-trial statement as of course at any time prior to the issuance of the Trial List. After the Trial List has been issued, an amended pre-trial statement may be filed only with prior leave of court. Such leave shall be granted only for good cause and when no party will be substantially prejudiced as a result of the granting of such leave. The court may impose such conditions as it deems to be

appropriate in connection with the granting of such leave, including the imposition of costs upon the moving party.

**Rule 212.3            Pre-Trial Conference**

(a) Unless excused by the Court, all parties must be present in the Armstrong County Courthouse during the pre-trial conference. When a party is an entity such as a corporation or partnership, an officer, principal or employee of such entity shall be present, who must have authority to settle. When the real party in interest is an insurer, the presence or immediate availability by telephone of a representative of the insurer who has authority to settle will be sufficient.

(b) Attorneys present at the pre-trial conference must have complete authority to enter into stipulations concerning liability, evidentiary, and other trial related issues.

(c) If discovery has not been completed before the pre-trial conference is conducted, the Court at the conference may, on motion of any party or on its own motion, set a date by which all discovery must be completed.

(d) The Court may proceed with a pre-trial conference when not all parties are present or represented, if it appears that notice of the conference was given under these rules.

(e) At the pre-trial conference, when it appears that the case is or will soon be ready for trial, the Court may set a date certain for the trial or may cause the case to be placed on the Ready for Trial List.

(f) The Court may impose appropriate sanctions upon a party for failure to abide by any rule pertaining to pre-trial statements or pre-trial conferences.

**Rule 214                Preferences on Trial Lists**

(a) Preference shall be given in the preparation of Trial Lists as required by Pa.R.C.P. No. 214.

(b) A judge's Trial List in any month shall ordinarily be comprised of the two most senior cases on the judge's Trial Ready List, unless the preference requirements of Pa.R.C.P. No. 214 are applicable. Although the Court may treat a case on the Trial List as a "stand-by," parties must be prepared to proceed on the date for trial stated in the Trial List notice.



**Rule 248            Modification of Time**

The time prescribed by any of these rules for the doing of any act may be extended or shortened by written agreement of the parties or by order of Court.

**Rule 249** Rescinded on May 20, 2004, effective July 24, 2004.

**Rule 250            Scope of Business of Courts Chapter**

These rules pertaining to Business of Courts shall apply to all civil actions and proceedings at law and in equity.

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

**Rule 430            Service of Original Process by Publication**

The Armstrong County Legal Journal, the address of which is Law Library, Armstrong County Courthouse, Kittanning, PA 16201, shall be the legal publication for advertisement of notices constituting original process.

**Rule 440            Service of Legal Papers Other than Original Process. Proof of Service**

After a legal paper other than original process has been served pursuant to Pa.R.C.P. No. 440, a proof of service shall be filed with the Prothonotary, indicating the person who has been served, the manner of service and the date of service.

**ACTIONS AT LAW**

**Rule 1018.1        Notice to Defend**

(a) Every notice to defend shall designate the "Prothonotary of Armstrong County, Armstrong County Courthouse, Suite 103, Kittanning, PA 16201 (telephone: 724-543-2500)" as the person from whom legal help can be obtained.

(b) The Prothonotary, upon receiving an oral or written inquiry as the result of a person being served with a pleading containing a notice to defend, shall, in lieu of advising such person, immediately forward to the person the names, addresses and telephone numbers of all resident members of the Armstrong County Bar Association and of Laurel Legal Services, Inc.

**Rule 1028(c) Preliminary Objections. Brief. Scheduling Order**

At the time of filing, all preliminary objections shall be accompanied by a separate brief in support thereof, addressing issues raised in the objections. The preliminary objections must also be accompanied by a proposed order for the purpose of scheduling a hearing or argument thereon, substantially in the form prescribed as follows:

[CAPTION]

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, upon consideration of the (the nature of the preliminary objection and the name of the objector), it is **ORDERED** as follows:

1. An evidentiary hearing to be followed by oral argument will be held upon the Preliminary Objections on (day of week), \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_M. in Courtroom No. \_\_\_\_\_ of the Armstrong County Courthouse in Kittanning, Pennsylvania. (Strike if no evidentiary hearing is necessary.)

**OR**

1. Oral argument upon the Preliminary Objections will be held on (day of week), \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_M. in Courtroom No. \_\_\_\_\_ of the Armstrong County Courthouse in Kittanning, Pennsylvania. (Strike if evidentiary hearing is necessary.)

2. (Name of party to whom preliminary objections are addressed) shall file a brief concerning the issues raised in the Preliminary Objections on or before \_\_\_\_\_, 2\_\_\_\_\_.

3. Notice of the entry of this Order shall be served by the Prothonotary.

BY THE COURT,

\_\_\_\_\_J.

Adopted April 25, 2005, effective August 10, 2005

**Rule 1034(a) Motion for Judgment on the Pleadings. Brief. Scheduling Order**

At the time of filing, all motions for judgment on the pleadings shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed as follows:

[CAPTION]

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, upon consideration of the \_\_\_\_\_ (the nature of the motion)\_\_\_\_\_, it is hereby **ORDERED** as follows:

1. Oral argument upon the Motion will be held on \_\_\_\_\_ (day of week) \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_M. in Courtroom No. \_\_\_\_\_, of the Armstrong County Courthouse, Kittanning, Pennsylvania.

2. \_\_\_\_\_ (Name of party defending against motion) shall file a brief concerning the issues raised in the Motion on or before \_\_\_\_\_, 2\_\_\_\_\_.

3. Notice of the entry of this order shall be served upon all parties by the Prothonotary.

BY THE COURT,

\_\_\_\_\_J.

Adopted April 25, 2005, effective August 10, 2005.

**Rule 1035.2(a) Motion for Summary Judgment. Brief. Scheduling Order**

At the time of filing, all motions for summary judgment shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed as follows:

[CAPTION]

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, upon consideration of the \_\_\_\_\_ (the nature of the motion)\_\_\_\_\_, it is hereby **ORDERED** as follows:

1. Oral argument upon the Motion will be held on \_\_\_\_\_ (day of week) \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_M. in Courtroom No. \_\_\_\_\_, of the Armstrong County Courthouse, Kittanning, Pennsylvania.

2. \_\_\_\_\_ (Name of party defending against motion) shall file both a response pursuant to Pa.R.C.P. No. 1035.3 and a separate brief concerning the issues raised in the Motion on or before \_\_\_\_\_, 2\_\_\_\_\_.

3. Notice of the entry of this order shall be served upon all parties by the Prothonotary.

BY THE COURT,

\_\_\_\_\_J.

Adopted April 25, 2005, effective August 10, 2005

## **COMPULSORY ARBITRATION**

### **Rule 1301            Scope. Arbitration Limits**

(a) All cases, except those involving title to real estate, shall be referred for hearing before and decision by a Board of Arbitrators, when the amount in controversy, exclusive of interest and costs, is \$50,000 or less. When the amount in controversy exceeds said limit, it shall be referred to the Board upon agreement of all parties.

Adopted October 3, 2006, effective November 20, 2006

### **Rule 1302            List of Arbitrators. Appointment to Board**

(a) A Board of Arbitration shall be composed of three members of the Bar of Armstrong County, at least one of whom shall have been admitted to the practice of law for at least five (5) years. Upon praecipe, the Prothonotary shall appoint the arbitrators from a list of lawyers who are qualified to act, and they shall be chosen in alphabetical order. No more than one lawyer from a single law firm shall be appointed to the same Board. The first arbitrator so appointed who has been admitted to the practice of law for at least five (5) years shall serve as chairperson. If an appointed member becomes unable to serve, the chairperson shall ask the Prothonotary to appoint a replacement, whereupon the Prothonotary shall do so.

(b) The compensation of arbitrators shall be set by orders of the president judge from time to time entered.

(c) A fee of \$20.00 shall be paid to the Prothonotary at the time of the filing of a praecipe directing appointment of a Board of Arbitration. The Prothonotary shall subsequently pay the sum of \$20.00 to the duly appointed chairperson immediately after the appointment. Upon any appeal of the decision of the Board of Arbitration, the appellant shall be credited for such payment toward the costs payable as a result of the appeal.

Adopted October 3, 2006, effective November 20, 2006

### **Rule 1303            Hearing. Notice**

(a) All hearings before a Board of Arbitration shall be conducted in the Armstrong County Courthouse.

(b) The chairperson of the Board of Arbitration shall be responsible for the scheduling of hearings and the mailing of notice of such hearings. The chairperson shall grant a continuance if all parties to the action agree.

(c) Not less than thirty (30) days notice in writing shall be given by the chairperson to the parties or their attorneys of record and to other members of the Board.

Adopted October 3, 2006, effective November 20, 2006

### **ACTIONS IN EQUITY**

**Rule 1524** Rescinded on May 20, 2004, effective July 24, 2004.

**Rule 1527** Rescinded on May 20, 2004, effective July 24, 2004.

### **PARTITION OF REAL PROPERTY**

#### **Rule 1557      Order Directing Partition**

(a) A party seeking an order directing partition because of a default shall proceed under Pa.R.C.P. No. 1511(a), and shall file a motion with the Court alleging with specificity the facts constituting the default, including pertinent dates. No advance notice of the filing of such a motion need be given.

(b) The motion shall have attached thereto a copy of the notice of intention to enter a default judgment served upon the defaulting party pursuant to Pa.R.C.P. No. 237.1; provided, however, that this requirement shall not apply where a party has been served by publication.

#### **Comment**

Pa.R.C.P. No. 237.1, pertaining to notice of praecipe for entry of judgment by default for failure to plead, applies to default judgment entered pursuant to Pa.R.C.P. No. 1511(a). See the definition of "judgment by default" set forth in Pa.R.C.P. No. 237.1.

#### **Rule 1559      Master Hearing**

(a) Where the parties have counsel of record, notice shall be given in writing to such counsel. The notice shall be given not less than twenty (20) days prior to making an examination or holding a hearing.

(b) Parties not represented by counsel of record shall be notified both by registered or certified mail and by first class mail not less than twenty (20) days prior to the date of making an examination or holding a hearing. If the notice by first class mail is not returned as undelivered, service shall be deemed to have been made. If all such notice to a party is

returned undelivered, notice shall be given to that party by publication as set forth in (c) below.

(c) Notice to parties who cannot be notified pursuant to subsections (a) or (b) of this Rule shall be notified by publication in a newspaper of general circulation in Armstrong County one time and in the Armstrong County Legal Journal one time. Publication shall not be less than twenty (20) days before the date set for hearing or examination.

(d) The Master shall in his report set forth the notice given.

**Rule 1566            Preliminary Determination. Notice to Accept or Reject**

(a) Preliminary notice of a proposed partition and allotment or purports under Pa.R.C.P. No. 1560(b) or (c) or the inability to partition the property as provided under Pa.R.C.P. No. 1563 shall be given in the same manner as prescribed by L.R.C.P. No. 1559.

(b) The notice shall provide that the parties shall have twenty (20) days after service to accept or reject the proposed plan of allocation or to object to a private sale confined to the parties. Said notice shall also include all other applicable information specified in Pa.R.C.P. No. 1566.

(c) Notice of private sale confined to the parties as required in Pa.R.C.P. No. 1566(c) shall be given in the same manner prescribed by L.R.C.P. No. 1559, and may be combined with notice of proposed partition as set forth in subsections (a) and (b) of this Rule.

**Rule 1567            Private Sale Confined to the Parties. Bond**

The Master, before accepting payment for property sold at a sale confined to the parties, shall file a bond in the amount of the payment, unless all parties waive such requirement in writing and the waiver is approved by order of Court. The Master may move the Court for such an order.

**Rule 1569            Master's Report. Exceptions**

The Master shall give all persons in interest written notice of the date on which he intends to file his report and proposed decree in the same manner prescribed by L.R.C.P. No. 1559.

**Rule 1572            Sale Not Confined to the Parties. Notice.  
                         Manner. Bond**

(a) Unless otherwise directed by special order of Court, a private sale not confined to the parties shall be held on the premises to be sold and shall be by open bidding. Not less than ten percent (10%) of the purchase price shall be paid at the time of sale, the balance to be paid upon delivery of the deed.

(b) Unless otherwise directed by special order of Court, notice of a public sale shall be given by the Master by publication of a notice once a week for three (3) consecutive weeks in a newspaper of general circulation in each county in which the property is located and in the Armstrong County Legal Journal. The last publication shall be no less than ten (10) days before the date of sale. Notice shall also be given by a handbill conspicuously posted on the property at least ten (10) days before the date of sale. The notice shall state the down payment required at time of sale and identify who will pay the transfer taxes and real estate taxes.

(c) The Master, before accepting payment for property sold at a sale not confined to the parties or at a public sale, shall file a bond in the amount of payment, unless all parties waive such requirement in writing and the waiver is approved by order of Court. The Master may move the Court for such an order.

**Rule 1573            Return of Sale and Schedule of Distribution.  
                         Notice**

(a) Notice of the return of sale and proposed schedule of distribution shall be given by the Master in the same manner prescribed by L.R.C.P. No. 1559.

(b) The notice shall include a statement that if the return is approved, a decree nisi will be entered, which decree will become final if no exceptions thereto are filed within ten (10) days of the date it is entered.

**Rule 1574            Costs and Counsel Fees**

Each attorney shall furnish to the Master a request for a specific amount of counsel fees, together with a recommendation of whether the fees should be charged against the property or the fund resulting therefrom, and shall suggest the apportionment of the same among the parties. The Master shall attach these requests, recommendations and suggestions to his return of sale for consideration by the Court.



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

### **Rule 1901.3 Commencement of Action. Procedure. Temporary Order**

(a) The procedure in an action under the Protection from Abuse Act shall be governed by the requirements of the Pennsylvania Rules of Civil Procedure pertaining to such actions.

(b) The Court, in its discretion, may grant a temporary ex parte order solely on the basis of the facts averred in the petition.

(c) A temporary ex parte order providing for an eviction at the commencement of the action will only be issued after a hearing. A request for such a hearing, either oral or in writing, may be made at Motions Court, and the Court will attempt to conduct such a hearing immediately after all other motions, petitions and applications have been acted upon. Notice of such a request need not be given.

## **ACTIONS FOR SUPPORT**

### **Rule 1910.10 Alternative Hearing Procedures**

(a) A support action shall proceed as prescribed by Pa.R.C.P. No. 1910.12.

(b) All claims for alimony pendente lite shall be decided under the procedures set forth in Pa.R.C.P. No. 1910.12. If at the time a complaint for alimony pendente lite is filed in the Domestic Relations Section, there is a matter involving the same parties then pending before a hearing officer of the Domestic Relations Section, the claim shall be referred directly to the hearing officer for adjudication.

#### **Comment**

Pa.R.C.P. No. 1920.31 and L.R.C.P. 1920.31 govern the procedure for adjudicating a claim for support or alimony pendente lite asserted in a divorce proceeding.

### **Rule 1910.12 Office Conference. Hearing. Continuances. Appearances by Attorneys. Exceptions to Hearing Officer's Report. Transcript**

(a) An office conference scheduled as a result of the filing of a complaint shall be continued by the conference officer one

time upon written request of a party. Each party shall be entitled to one such continuance. Thereafter, an additional continuance shall be allowed by the conference officer only if the parties agree thereto in writing or if an order of Court is obtained directing the same.

(b) The continuance of an office conference scheduled as a result of the filing of a petition to modify shall be allowed by the conference officer only if the parties agree thereto in writing or if an order of Court is obtained directing the same.

(b.1) Notwithstanding the provisions of subsections (a) and (b) of this Rule, if litigation on a current complaint or current petition to modify, including exceptions or appeals thereon, is still pending at the time a new petition to modify is filed, the office conference will not be scheduled until after the current litigation has been disposed of, unless otherwise directed by special order of Court.

(c) The continuance of a hearing to be conducted by a hearing officer may be allowed at the hearing officer's discretion.

(c.1) Notwithstanding the provisions of subsections (a), (b), (b.1), or (c) of this Rule, a general continuance or its equivalent may only be obtained by order of court. The Court, in its order granting a general continuance or its equivalent, may provide for the automatic dismissal of the cause then before it if no further action is requested or directed by a party within 180 days of the Order of Court granting the continuance.

(d) An application for a court order directing a continuance of either an office conference or a hearing shall be presented in Motions Court.

(d.1) The failure of a party to appear at a hearing after receiving notice thereof may be deemed by the hearing officer as the withdrawal of that party's complaint for support, petition to modify, or demand for hearing, as the case may be.

(e) An attorney who represents a party in any action for support shall file a written appearance. Except as otherwise provided in Pa.R.C.P. No. 1910.6, the withdrawal of an appearance shall be governed by Pa.R.C.P. No. 1012(b).

(f) A party who files exceptions to a hearing officer's report shall order, pay for, and file with the Prothonotary, a transcript of the hearing. The hearing officer shall contact the exceptant's lawyer, or if there is none, the exceptant, by mail regarding the amount and method of payment. A down payment of \$100.00 or one-half of the estimated cost of the transcript is

hereby deemed to be reasonable. The Court will enforce payment of a delinquent balance for a transcript with its contempt papers. If a transcript is not filed with the Prothonotary before argument on the exceptions, the exceptions may be dismissed for that reason.

Adopted August 13, 2010, effective November 1, 2010

**Rule 1910.21 Temporary Suspension of Order for Income Withholding**

A party who seeks to suspend temporarily an order for income withholding shall present a motion in Motions Court.

Comment

23 Pa.C.S.A. Section 4348(h) states the circumstances under which an order for income withholding may be terminated.

**Rule 1910.25 Support. Contempt Petition. Form of Order.**

(a) Every order accompanying a petition for contempt and scheduling a hearing upon the Petition shall designate the "Prothonotary of Armstrong County, Armstrong County Courthouse, Room 103, Kittanning, PA 16201 (telephone: 724-543-2500)" as the person from whom legal help can be obtained.

(b) The Prothonotary, upon receiving an oral or written inquiry as the result of a person being served with a pleading containing a notice to defend, shall, in lieu of advising such person, immediately forward to the person the names, addresses and telephone numbers of all resident members of the Armstrong County Bar Association and of Laurel Legal Services, Inc.

Adopted October 28, 2003, effective December 15, 2003

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

**Rule 1915.3 Commencement of Action. Complaint. Order for Conciliation Conference. Conciliation Conference**

(a) An order shall be attached to the original copy of the complaint or petition directing the defendant to appear at a conciliation conference in Room 202 of the Armstrong County Courthouse. The order shall be substantially in the form prescribed by Appendix H of these Local Rules. Upon presentation of the proposed order to the Court Administrator by the Prothonotary, the Court Administrator shall cause such a conference to be scheduled for a date not more than thirty (30) days after the filing of the complaint or petition.

(b) The parties and their lawyers shall all attend the

conciliation conference.

(c) As a first order of business at the conciliation conference, the parties shall view and discuss the videotape "Children in the Middle" by Arbuthnot and Gordon. The videotape shall be made available by the Court Administrator and must be returned to the Court Administrator at the conclusion of the conference.

(d) After viewing the videotape, the parties and their respective attorneys shall then meet and discuss the issues with the goal of reaching an amicable settlement based on the best interests and welfare of the child/children involved. When appropriate, the input of the child/children shall be received and weighed.

(e) If at the conciliation conference the parties cannot agree upon a resolution of all the issues and a hearing before a judge becomes necessary to finally resolve the issues, the parties and their lawyers shall discuss and complete a Conciliation Conference Checklist. A blank checklist will be given to the parties by the Court Administrator at the commencement of the conciliation conference. A blank checklist will also be given to any requesting party at any time in advance of the conciliation conference so that the party may prepare therefor.

(f) The Court will attempt to make itself available during any conciliation conference to decide issues such as the necessity of psychological evaluations, the necessity of home studies, or cost allocation. If the Court is then unavailable, an appropriate motion may be presented at Motions Court in order to resolve the same.

Comment

The petition of a custodial parent seeking leave to relocate comes within the purview of this rule.

**Rule 1915.7 Consent Order. Final and Temporary**

(a) If at any time during the course of a custody proceeding the parties agree upon a resolution of all the issues and are then available to consent in writing to an order reflecting the same, they shall so notify the Court. The Court will make its staff available to the parties and their lawyers for the immediate preparation of a final consent order.

(b) If after a conciliation conference the parties cannot agree upon a resolution of all the issues, counsel and the parties shall, within seven (7) days after such conference, submit to the Court a proposed temporary order providing for the

occurrence of those things agreed upon at the conciliation conference. If the Court has not entered an order immediately after the conciliation conference directing such attendance at a mediation orientation session, the proposed temporary order shall contain a provision requiring the parties together to attend an orientation session before a mediator as required by L.R.C.P. No. 1940.3(a). The proposed temporary order may provide for the deferral of evaluations and home studies until after such time as mediation is rejected or terminated. The proposed temporary order shall not contain a provision for the scheduling of a hearing before the Court. The completed Conciliation Conference Checklist shall be attached to the proposed temporary order. Amended October 28, 2003, effective December 18, 2003.

Comment

If, after an orientation session conducted under the rules pertaining to mediation, mediation is terminated or rejected, a hearing before the Court may be obtained pursuant to L.R.C.P. No. 1940.6.

**Rule 1915.11                      Attendance of Child at Conciliation  
Conference or Hearing**

(a) Upon motion presented at Motions Court, the Court may direct that a child attend a conciliation conference.

(b) The parties shall make any child age nine (9) or older available to the Court for *in camera* examination during a hearing. Upon motion presented at Motions Court, the Court may direct that any other child attend a hearing.

**ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

**Rule 1920.31      Claims for Support or Alimony Pendente Lite**

(a) When a claim for support or alimony pendente lite is filed as a count in a divorce complaint rather than as a separate action in the Domestic Relations Section, the demand for hearing thereon shall be filed with the Domestic Relations Section, together with a copy of the divorce pleading which contains that count.

(b) Upon receipt of a demand for hearing filed pursuant to subsection (a), above, the Domestic Relations Section shall require the demanding party to complete and file a complaint in form prescribed by the Domestic Relations Section. The Domestic Relations Section shall not require a filing fee in connection therewith; nor shall it impose the filing fee as a cost upon any party.

(c) If at the time the demand for hearing is filed pursuant to subsection (a), above, a matter involving the same parties is then pending before a hearing officer of the Domestic Relations Section, the claim for support or alimony pendente lite shall be referred directly to the hearing officer for adjudication.

**Rule 1920.51 Appointment of Master. Preliminary Conference. Security for Payment of Master's Fees and Costs. Allocation**

(a) In all divorce or annulment actions where there are unresolved issues properly referable to a master under applicable statutes or rules of court, a party may move for the appointment of a master. The form of the motion shall be as prescribed by Pa.R.C.P. No. 1920.51(a)(3). The moving party shall pay a sum of money to the Prothonotary at the time the motion is filed, which sum shall be determined from time to time by order of Court, as security for payment of master's fees and costs.

(b) The master shall schedule a preliminary conference immediately after the order of appointment has been entered. The preliminary conference shall occur within sixty (60) days of the date of appointment, and it shall be attended by the parties and their counsel. At the preliminary conference, those present shall explore the possibility of resolving the issues in dispute without further litigation. At least three (3) days in advance of the preliminary conference, the parties shall exchange memoranda expressing their perceptions of and position on the issues, providing the master with a copy of the same. If a party fails to appear either personally or through counsel at a preliminary conference, the costs of the conference shall be assessed against such party in any ultimate equitable distribution award recommended by the master.

(c) After payment to the Prothonotary of an additional sum of money as security for payment of the master's fees and costs, the master shall schedule an evidentiary hearing to receive evidence on all issues which were not resolved at the preliminary conference. The master shall schedule the evidentiary hearing only after a party has presented satisfactory proof to him that the additional security for costs have been paid. The amount of the additional security shall be determined from time to time by order of Court.

(d) The Court may, upon motion of the master presented at Motions Court, require a party to enter security for the master's fees and costs in addition to that required under subsections (a) and (c) of this rule.

(e) The master's fees and costs shall be regarded as costs of the case, and the master may recommend and the Court may order

an equitable allocation of the same as part of the final adjudication and order, even if the security already paid is sufficient to pay them in full.

(f) The provisions of this rule shall apply to instances where the Court appoints a master pursuant to its own motion.

(g) The master's fee and costs incurred as a result of the scheduling or conducting of a preliminary conference or a hearing shall be paid by the Prothonotary upon approval of the court.

Comment

See L.R.C.P No. 1920.31 for the procedure to be followed in claims for alimony pendente lite asserted in a divorce proceeding.

Adopted August 13, 2010, effective November 1, 2010

**Rule 1920.55-2 Master's Report. Exceptions. Transcript**

A party who files exceptions to a master's report pursuant to Pa.R.C.P. No. 1920.55-2(b) shall order and file a transcript of the hearing conducted by the master.

**VOLUNTARY MEDIATION IN CUSTODY ACTIONS**

**Rule 1940.3 Order for Orientation Session**

(a) Except as provided in subsection (b) below, in all cases where the conciliation conference conducted pursuant to L.R.C.P. No. 1915.3 leaves unresolved custody, partial custody, visitation or relocation issues, the Court will order the parties to attend an orientation session. The orientation session shall be scheduled by the parties to occur within fourteen (14) days of the date of the conciliation conference.

(b) The Court will not order the parties to attend an orientation session if such an order is prohibited by Pa.R.C.P. No. 1940.3(b). If the parties cannot agree upon whether or not an orientation session is so prohibited, upon motion, the Court will conduct a hearing to resolve the issue.

(c) If after an orientation session the parties agree to mediation, counsel for plaintiff or petitioner shall prepare a consent order and cause it to be signed by the parties. The consent order shall be substantially in the form prescribed by Appendix I of these Local Rules. After the consent order has been signed by the parties, it shall be forwarded to the Court for signing and entry.

Amended October 28, 2003, effective December 15, 2003.

**Rule 1940.4 Minimum Qualifications of the Mediator**

(a) All orientation sessions and mediations shall be conducted by a mediator appointed from time to time by order of the Court. A post-graduate student meeting the qualifications of Pa.R.C.P. No. 1940.4(c) may mediate if the duly appointed mediator has actual and direct supervision of the same.

(b) The Court Administrator shall cause the mediator to file an affidavit regarding qualifications and a proof of insurance in January of every year.

Comment

A post-graduate student who is seeking to become a child custody mediator is afforded the opportunity to receive training under subsection (a), under certain conditions which insure maximum involvement by the duly appointed mediator in each particular case.

**Rule 1940.6 Termination of Mediation. Need for Hearing**

If after an orientation session mediation is rejected or terminated and there is still a need for a hearing before the Court, either party may file a motion requesting a hearing date. The motion shall inform the Court of the amount of time necessary for the hearing.

**Rule 1940.7 Mediator Compensation**

A mediator shall be compensated for services rendered at a rate established from time to time by order of the Court.

**MINORS AS PARTIES**

**Rule 2039 Compromise, Settlement, Discontinuance. Distribution. Petition. Contents.**

(a) 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 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, and arrangements for payment of unpaid bills. The petition shall be accompanied by a written report of the attending physician stating the extent of the injury, the treatment given and the prognosis for the injured party.

(b) The minor shall be present in Court at the time of the

presentation of the petition unless excused by the Court for cause shown.

(c) If the petition is not joined in or consented to by both parents or co-guardians, its presentation shall be in accordance with L.R.C.P. 208.3(a) pertaining to Motions Procedure. Notice of such presentation shall be given in accordance therewith to the non-joining or non-consenting parent or co-guardian. If the whereabouts of such person are unknown, the petition shall so state.

Adopted April 29, 2008, effective June 17, 2008

Comment

The Petition will preferably be presented at a duly scheduled session of Motions Court.

## **INCAPACITATED PERSONS AS PARTIES**

### **Rule 2064      Compromise, Settlement, Discontinuance. Distribution. Petition. Contents**

Every petition for approval by the Court of a proposed compromise, settlement or discontinuance of an action for injury to the person of an incapacitated person 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 and arrangements for payment of unpaid bills. The petition shall be accompanied by a written report of the attending physician stating the extent of the injury, the treatment given and the prognosis for the injured party.

Comment

The Petition will preferably be presented at a duly scheduled session of Motions Court.

## **ACTIONS FOR WRONGFUL DEATH**

### **Rule 2205      Notice to Persons Entitled to Damages.**

(a) The notice prescribed in Pa.R.C.P. No. 2205 shall be in substantially the form prescribed in Appendix J of these Local Rules. The plaintiff shall attach to the notice a copy of the complaint, if the action has been commenced by a complaint.

(b) When a person entitled to notice is not sui juris, such notice shall be addressed to his guardian if any, and if no guardian, to the person having legal custody or by whom such

person is maintained.

(c) An affidavit of service of such notice shall be filed with the Prothonotary's Office and shall set forth the names and addresses of the persons to whom the notice was sent and the date of mailing such notice.

## **JOINDER OF PARTIES**

### **Rule 2227            Compulsory Joinder**

After a complaint has been filed, a plaintiff desiring to join an unwilling person having only a joint interest in the subject matter of the action, either as a defendant or as an involuntary plaintiff, shall proceed by petition and rule to show cause. The petition shall set forth the substantive law permitting such joinder.

### **Rule 2232            Defective Joinder**

(a) The notice required by Pa.R.C.P. No. 2232(a) shall be served as directed by special order of Court, entered after petition. The notice shall be in such form as prescribed by the special order.

(b) A party who has been joined and who desires to be dropped from the action pursuant to Pa.R.C.P. No. 2232(b) shall proceed by petition and rule to show cause.

(c) A party who desires to join any additional person who could have joined or who could have been joined in the action pursuant to Pa.R.C.P. No. 2232(c), shall proceed by petition and rule to show cause.

## **INTERVENTION**

### **Rule 2328            Petition to Intervene**

A person who seeks leave to intervene shall proceed by petition and rule to show cause.

## **SUBSTITUTION OF PARTIES**

### **Rule 2352            Substitution of Successor. Objections.**

(a) The Prothonotary shall serve a copy of the statement filed under Pa.R.C.P. No. 2352(a) or a copy of the rule to show cause issued under Pa.R.C.P. No. 2352(b) upon all parties or their attorneys of record.

(b) A party who objects to a substitution under Pa.R.C.P. No. 2352(a) shall proceed by petition and rule to show cause.

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

**Rule 3110            Execution Against Contents of Safe Deposit Box.  
Service of Petition and Rule to Show Cause by  
Publication.**

If service of the petition and rule to show cause is to be accomplished by publication, the publication shall occur one time in a newspaper of general circulation in the community in which the safe deposit box is located.

### **ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS**

**Rule 3252            Writ of Execution. Money Judgments. Notice.**

The notice of the defendant in a writ of execution shall designate the "Prothonotary of Armstrong County, Armstrong County Courthouse, Room 103, Kittanning, PA 16201 telephone: (724) 543-2500" as the person from whom the defendant can obtain information on where to get legal help.