

Chester County Court
of Common Pleas
Civil Rules

Editor's note: Amendments adopted June 3, 2004, effective 30 days after publication in the *Pennsylvania Bulletin*.

As of the effective date of these rules, all previous local rules of Civil Procedure are repealed, except for the Family Court Rules and the rules of the Orphans' Court Division of the Court of Common Pleas of Chester County. The comments which accompany the rules were prepared for the convenience of the bench and bar but are not part of the rules and are not officially adopted.

Title and Citation of Rules

Rule 51.1. *Citing the Rules*

These rules shall be known as the Chester County Rules of Civil Procedure, and shall be cited as “C.C.R.C.P. _____”

The Business of the Courts

Rule 200. *Assignment of Court Business*

All civil litigation in this court shall be divided into the following categories:

Category A shall consist of all civil matters which include matters filed for jury trial, non-jury trial, equity matters, and cases appealed from arbitration.

Category B shall consist of miscellaneous matters such as name change petitions, license suspension appeals, mechanics lien matters, zoning appeals and other matters requiring disposition by a judge.

Comment: Category B is not an exclusive listing of matters requiring disposition by the court. For example, petitions for appointment of arbitrators or for minor's compromise, etc. would be includable.

Category C shall consist of compulsory arbitrations.

Category D shall include all matters under the jurisdiction of the family court division.

Category E shall include all matters which do not require action by a judge, including but not limited to confessions of judgment, transfers of judgment, liens, waivers of liens, lis pendens, etc.

Matters under category D and those within the jurisdiction of the orphans' court division shall not be assigned to individual judges under this rule but shall be handled in accordance with the rules and practices of the orphans' court division and family court division.

The president judge may modify the type of case to be placed in each category or create additional categories of cases.

A. *Individual Assignment of Cases*

For matters set forth in categories A, B and C, when the case is commenced it shall be assigned for trial and pre-trial proceedings to a designated judge. The designated judge shall be responsible for the matter from the time of initial filing until final disposition, unless otherwise directed by the President Judge of the Court of Common Pleas of Chester County. The assignment of the case shall be made by the prothonotary in accordance with regulations promulgated by the president judge. The assignment regulations shall create a blind rotation system which balances *the case loads among the judges*. The sequence of assignment shall be kept secret and all steps shall be taken to prevent any person from being able to ascertain the name of the judge to whom any case may assigned before the assignment. When an action is commenced (whether by writ, complaint or otherwise) the papers filed with the prothonotary must be accompanied by a cover sheet in the form provided by the prothonotary and designed to assist the prothonotary in the assignment of each case.

B. *Related Cases*

If, at the time of the filing of any civil action or proceeding, counsel is aware that a related claim is pending, counsel shall so notify the court administrator in writing. Civil cases are deemed related when they involve common issues of fact or grow out of the same transaction. If it is later discovered that two or more matters are related, the judge to whom the latter case has been assigned may refer the case to the court administrator for reassignment to the judge to whom the earlier related case was assigned.

C. *Reassignment of Cases*

The president judge may reassign cases whenever necessary to eliminate conflicts, to promote a balance of the work load among the judges and to improve prompt and just administration of all cases.

Rule 200.1. *Emergency and Injunctive Matters*

The president judge, or the court administrator under direction of the president judge, shall assign, on a rotating basis, an emergency judge and an emergency family court judge. Emergency and injunctive matters which fall under categories A, B and C shall first be addressed to the judge to whom the case is assigned. If the assigned judge is absent or unavailable the emergency judge shall be responsible for emergency and injunctive matters which fall under categories A, B and C. The emergency family court judge shall be responsible for emergencies and injunctive matters which fall under category D.

Rule 205.2(a). *Filing Legal Papers with the Prothonotary*

All pleadings and other legal papers shall be typewritten (not less than 12 point type), double-spaced and securely fastened.

Rule 205.2(b). *Cover Sheet*

Each complaint, praecipe or other document commencing an action shall have attached to it a cover sheet in the form set forth below, which shall be served with the complaint, praecipe or other document commencing an action upon all other parties.

See Form A on Page 61

Comment: If an action is commenced without attaching such cover sheet, the prothonotary shall accept the document for filing, but shall promptly thereafter notify the lawyer or party filing the action to file a cover sheet. The Prothonotary, in such notice, shall provide the lawyer or party with a form of cover sheet and a copy of this Local Rule. If the lawyer or party shall fail, within twenty (20) days of the mailing of such notice, to file a cover sheet, the plaintiff may not proceed further in the action until the cover sheet is filed, but this rule shall in no way affect the obligation of the plaintiff to serve the original process.

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

- (a)(1) The Chester County Court of Common Pleas hereby permits the electronic filing of legal papers and the electronic service of such papers, under the terms described in this Local Rule. The actions and proceedings subject to this rule are all civil matters other than family court matters. All legal papers in all civil matters other than family court matters are subject to this rule. As used in this rule, all words specifically defined in Pa.R.C.P. No. 205.4(a)(2) shall have the same meaning when used in this rule as when used in Pa.R.C.P. No. 205.4.
- (b)(1) All legal papers shall be presented for electronic filing in portable document format (“pdf”). As authorized by Pa.R.C.P. No. 205.4(b)(1), in the event any legal paper is submitted to the Prothonotary for filing in other than portable document format, including being presented in a hard-copy format, the Prothonotary shall convert such legal paper to portable document format and maintain the legal paper in portable document format. The Prothonotary shall return the hard-copy legal paper to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(4).
- (c)(2) All legal papers that are filed electronically shall be filed through the Prothonotary’s Electronic Filing System (“Electronic Filing System”) which shall be accessible through the Chester County Prothonotary’s web site, www.efiling.chesco.org. To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply to the Prothonotary’s Office for a User Name and Password.
- (d)(1) The Prothonotary will accept for payment of all filing fees the following credit and debit cards: Discover, MasterCard and Visa. The Prothonotary will not accept advance deposit on account of future filing fees.
- (f)(1) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the Electronic Filing System. The Prothonotary shall also provide the filing party with notice that the legal paper was accepted for filing. If a legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the Prothonotary shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.
- (2) Neither the Court nor the Prothonotary shall be required to maintain a hard copy of any legal paper, notice or order filed or maintained electronically under this rule.
- (3) The Prothonotary’s fees and costs shall be paid by credit card when legal papers are filed using the Electronic Filing System. Payment of all costs and fees for the filing of a legal paper presented by a filing party at the office of the Prothonotary for electronic filing shall be paid by credit card as set forth above or by check or cash.

Editor’s Note: Adopted December 19, 2013, effective January 24, 2014.

Rule 206.1. *Petitions*

Rule 206.1(a). *Purpose and Designation*

All applications for which the procedure for the relief sought is not otherwise specifically addressed elsewhere in the rules and which require the assertion of facts not of record are hereby designated as petitions. A petition, generally speaking, is a request for relief ancillary to a given cause of action. Each petition shall be accompanied by a verification or affidavit verifying the facts stated in the petition.

Rule 206.1(b). *Title*

A petition should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely “petition”, it should be designated Defendant Jones’ Petition for Extension of Time to Join Smith as Additional Defendant).

Rule 206.2. *Motions, Petitions and Preliminary Objections—General Requirements*

All motions, petitions and preliminary objections shall be in writing and shall be accompanied by a proposed form of order; a petition shall also be accompanied by an order allowing a rule to show cause in form as set forth below, which order is hereinafter sometimes referred to as a “rule” or a “rule to show cause.” Every motion and petition shall refer to the procedural rule, statute, or other authority relied upon to justify the relief requested and shall display counsel’s name, address, I.D. number and telephone number. No motion, petition or preliminary objection shall be dismissed for failure to be accompanied by a form of proposed order or for failure to be accompanied by a form of proposed order or for failure to refer to the procedural rule, statute or other authority relied upon or for failure to display counsel’s name, address, attorney identification number or telephone number.

Comment: For discovery motions and petitions, see certification requirements under rule C.C.R.C.P. 208.2(e).

Rule 206.3. *Service and Certification*

- (a) Immediately after filing with the prothonotary, each party, shall serve upon all other counsel and unrepresented parties complete copies of all rules, proposed orders, petitions motions, preliminary objections, and answers to same.
- (b) Each party shall, within five (5) days of the filing of any document, file with the prothonotary a separate document in the form specified by C.C.R.C.P. 206.3(d) certifying that service of a complete copy has been made.
- (c) The court at its discretion may strike, dismiss or deny, any petition, motion or preliminary objection for failure of the moving party to comply with the service and certification requirements of this rule.
- (d) Certifications of service shall be in substantially the following form:

See Form B on Page 65

Rule 206.4(c). Procedure For Rule To Show Cause

(a) The petitioner shall attach to any petition a proposed order substantially in the following form:

See Form C on Page 66

(b) In instances where the order seeks a stay order or other substantive relief or seeks to have a hearing date set immediately or otherwise requests special immediate relief, the form of the order shall be modified accordingly and the order shall contain such of the following provisions as are appropriate:

See Form D on Page 67

Rule 206.4(c)(1). Per Curiam

The procedure of Pa.R.C.P. No. 206.6 is adopted. An order containing a rule to show cause, except one which by its terms grants substantive relief or which contains a stay order or seeks to require an answer by respondent(s) in less than twenty (20) days, shall be issued per curiam when presented to the court administrator.

Comment: Even if respondent does not deny any of the facts set forth in the petition, if respondent objects to the granting of the relief requested either on the basis that the facts set forth in the petition, even if true, do not warrant the granting of the relief sought, or on any other basis, respondent should file an answer specifically so stating.

Rule 206.4(c)(2). Stay or Substantive Relief

Any petitioner seeking a rule which stays proceedings or which by its terms grants substantive relief shall present the petition, proposed order and rule to the judge assigned to the case, except for family court and orphans' court matters which shall be presented to a judge sitting in that division. The court will not enter the stay or grant the relief unless:

- (1) *Notice:* it appears from the petition that reasonable notice, under the circumstances, has been given to all parties in interest of the date, time, and place of the application; or
- (2) *Stipulation:* it appears from the petition that there is an agreement by all parties in interest; or
- (3) *Exigency:* the court in its discretion shall determine that there are extraordinary circumstances justifying a stay or immediate relief.

Rule 206.4(c)(3). Admissions

All well-pled factual averments in a petition upon which a rule to show cause has been granted, or in preliminary objections endorsed with a notice to plead and properly containing averments to fact, shall be deemed admitted unless an answer specifically denying the same is filed on or before the close of court within twenty days after service of the petition upon the respondent(s), or such shorter time as the court may have allowed, or, in the case of preliminary objections, on the date on which an answer to the preliminary objections is due pursuant to the Pennsylvania Rules of Civil Procedure. The requirements of Pa.R.C.P. No. 1029 shall apply to this provision.

Rule 206.4(c)(4). When No Answer Is Filed

If no answer has been timely filed, the petitioning party, not less than five (5) days after the rule return date, may move to have the rule made absolute, granting the prayer of the petition, and the Court may consider such petition as unopposed and grant such motion as of course. The motion shall be accompanied by a proposed order and a certificate of service but no brief shall be required. The provisions of Rule 206.1(c) shall not apply to motions to make a rule absolute filed pursuant to this section.

Comment: A party upon whom a petition is served has an obligation to answer the petition if the relief sought is opposed. See comment to Rule 206.1(c) above. See C.C.R.C.P. 200.1 regarding emergency and injunctive matters. See 206.1(d) of this rule for treatment of preliminary objections which raise questions of jurisdiction or venue and any other preliminary objections which deal with facts not otherwise of record; those types of preliminary objections shall be handled under subsection 206.1(b), as though they were petitions, except that such preliminary objections shall not be accompanied by a rule to show cause.

Rule 206.5. When Answer is Filed

When an answer has been timely filed and the issue raised by the petition, motion or preliminary objection is ripe for consideration, pursuant to the provisions of Pa.R.C.P. No. 206.7, any party may file a praecipe for determination in the form described by C.C.R.C.P. No. 206.6 along with a supporting brief. If a petitioner files a praecipe for determination on petition and answer, all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted. If a respondent orders the matter for argument on petition and answer without having taken depositions or such other discovery as the court may have allowed, then all averments of fact properly pleaded in the petition shall be deemed admitted for the purposes of the rule, unless the petitioner shall have failed to take depositions or such other discovery as the court may have allowed within the time required, in which event the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer, shall be deemed admitted pursuant to Pa.R.C.P. No. 206.7(c). Responsive briefs shall

be filed within fifteen (15) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs.

Rule 206.6. Praecipe for Determination

To have any matter submitted to the Court for a decision, a party shall file with the Prothonotary a Praecipe for Determination. Immediately after filing same with the Prothonotary, each party shall serve upon all other counsel and unrepresented parties a copy of the Praecipe for Determination as well as any other documents filed therewith. The Praecipe for Determination shall be in substantially the following form:

See Form E on Page 68

Comment: This praecipe is to be filed with the prothonotary, not the court administrator.

Rule 208. Motions

Rule 208.2. General

All motions shall be filed in accordance with C.C. R.C.P. 206.2.

Rule 208.2(c). Applicable Authority

All motions should include a brief statement of applicable authority.

Rule 208.2(d). Uncontested Motions—Certification

A motion may be treated as uncontested when the moving party appends to it a certificate that counsel has conferred with all interested parties in respect to the matter and has been affirmatively advised that there are no objections to the relief sought in the proposed order.

Comment: Non-responsiveness on the part of an opponent shall not be equated by the movant to the lack of contest.

Rule 208.2(e). Discovery Motion and Petition Certification

- i. All counsel have an affirmative obligation to confer and discuss discovery matters and make a good faith effort to resolve such differences as may exist.
- ii. Any motion or petition relating to discovery must be accompanied by a certificate of counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery motion or petition in good faith, but has been unable to resolve the issue. The certificate shall set forth the exact time, place and manner (which may be telephonic) of the conference or, in a case in which counsel for the moving party cannot furnish such certificate, counsel shall furnish an alternative certificate stating that opposing counsel has refused to so confer. The alternative certificate shall also set forth the efforts made by counsel for the moving party to obtain compliance by opposing counsel and such other facts and circumstances as exist to justify the absence of the required certificate.
- iii. The court at its discretion may strike, dismiss or deny the petition or motion for failure of the moving party to comply with the certification requirements of this rule, or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of the moving party to comply with the certification requirements of this rule or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of moving counsel to arrange such conference.

Rule 208.3(a). Motions—Titles and Attachments

- (1) Generally, motions may be used to obtain relief upon undisputed facts of record, with several exceptions, one of which shall be that averments by counsel that pleadings, documents or discovery requests have been exchanged or transferred. In the latter event copies of all such documents shall be attached, unless already in the record, in which event they can be incorporated by reference. Every motion shall be signed by its moving counsel or party.
- (2) The motion or reply should state in its title exactly what is being sought, by whom and against whom (e.g. rather than merely “motion,” it should be designated Defendants’ Motion for Sanctions Against Plaintiff or Additional Defendant’s Second Motion for Sanctions Against Defendant Smith, etc.).
- (3) To promote uniformity of civil practice the following types of discovery matters shall be treated as motions, not as petitions, even though they may contain limited assertions of fact not of record:
 - a) motion for sanctions for failure to answer interrogatories;
 - b) motion for sanctions to failure to produce documents or things;
 - c) motion for sanctions for failure to appear for deposition;
 - d) motion to compel mental or physical examination;
 - e) motion to compel further answers to interrogatories;
 - f) motion to compel further production of documents.

(4) Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

- (i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;
- (ii) any motion supported by a stipulation of counsel.

(5) If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

Comment: See C.C.R.C.P. 1035.2 (a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

Rule 208.3(b). Responses

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

Rule 210. Briefs or Legal Memoranda

All briefs or legal memoranda shall contain the following matter under the following headings:

- 1) *History of the Case:* A brief, informal statement of the facts material to the matter under consideration.
- 2) *Question Presented:* Refer to the motion, petition, or preliminary objection that is before the court for decision.
- 3) *Legal Argument:* The section must contain citations to the case law, rule or statute relied on.
- 4) *Conclusion:* Specify the type of relief requested.

Rule 211.1. Oral Argument

- A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.
- B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.
- C. Any party may "request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:
 1. The judge to whom the matter is assigned.
 2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.
 3. A concise statement setting forth why oral argument is necessary.
 4. The date upon which the Praecipe for Determination was filed.

Rule 212.1. Pretrial and Settlement Conference

- A. Prior to the trial of any case (i.e. jury, non-jury, equity and arbitration appeals), the court may conduct a pretrial and settlement conference. The assigned judge may schedule a pretrial and settlement conference at any other time as he or she deems appropriate.
- B. No later than five (5) days in advance of a scheduled conference, each party shall file with the prothonotary and immediately serve upon the assigned judge and all other parties a conference memorandum.

Comment: These rules do not in any way alter the requirements of Pa.R.C.P. 212.1 et seq.

C. The conference memorandum shall set forth the following:

- (1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.
 - (2) A statement of the salient facts of the case.
 - (3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. If relief other than monetary damages is sought, information adequate for an order granting the relief sought shall be furnished.
 - (4) Special comments regarding legal issues or other appropriate matters.

- (5) Parties shall attach to the memorandum copies of reports from all experts expected to be called at trial.
 - (6) A list showing the names and addresses of all witnesses each party intends to call at trial.
 - (7) A schedule of all exhibits to be offered at trial.
 - (8) An estimate of the number of days required for trial.
- D. Except in non-jury and equity cases, the conference memorandum of each party shall provide the demand, offer and status of negotiations.
- E. All counsel shall have immediate access to their respective clients or those with settlement authority for the purpose of resolving the claim. Unless otherwise instructed, counsel shall not bring their respective clients to the pretrial and settlement conference.
- Comment:** (1) It is expected that this memorandum will not exceed 3 pages, except in unusual cases. (2) Access via telephone to the client or those with settlement authority shall be sufficient for purposes of this rule.
- F. If a settlement conference is requested in a non-jury, or equity matter, the case shall be referred to the court administrator for assignment of the settlement conference only to another judge. Once the settlement conference has been concluded, the case will then be returned to the judge originally assigned to the case. All requirements for the pretrial and settlement conference as set forth above shall apply to such settlement conference, except that the conference memoranda shall be served upon the judge conducting the conference, not the assigned judge.

Rule 216.1. *Prior Commitments of Counsel*

No continuance will be granted by reason of the absence of associate counsel or by reason of prior commitments of counsel in any court other than the Supreme, Superior or Commonwealth Courts of Pennsylvania, a federal appellate court, or in other cases in which counsel is actually on trial or is properly attached to any court of record. When it is known that counsel will be so engaged, he or she shall forthwith notify opposing counsel and the court administrator.

Rule 225.1. *Jury Trial Summation*

- (a) Unless the trial judge shall otherwise grant leave, only one attorney may sum up for any party.
- (b) In trials which involve only one plaintiff and one defendant, if evidence has been received from each party, plaintiff's attorney shall first sum up and defendant's attorney shall then follow. Plaintiff's attorney may then speak solely in rebuttal. If no evidence has been received from the defendant, the same order of summation shall apply, except that plaintiff's attorney shall not speak in rebuttal.
- (c) In trials which involve a third-party action, if evidence has been received from each party, the plaintiff's attorney shall first sum up as in (b). Defendant's attorney shall next sum up both for defendant, as in (b), and for defendant as third-party plaintiff. The attorney for the third party (i.e., additional) defendant shall next sum up as the nature of his third-party defense may require. The attorney for third-party plaintiff may then reply in rebuttal and thereafter the attorney for the original plaintiff may reply in rebuttal of only the arguments made by the original defendant.
- (d) In multi-party actions and in actions which involve third-party actions, if one or more of the parties offers no evidence, the order of summation shall be determined by the trial judge.
- (e) In actions involving more than one plaintiff, defendant or third-party defendant, the trial judge shall determine the order of speaking.

Rule 226.1. *Trial Memorandum. Proposed Findings of Fact and Conclusions of Law*

- (a) Trial Memorandum and Points for Charge. Each party shall file a trial memorandum and, in all jury trials, requested points for charge no later than the commencement of trial. Each requested point for charge shall cite the authority therefor. Additional memoranda and points for charge may be submitted during trial.
- (b) Findings of Fact and Conclusions of Law. In all cases tried by a judge sitting without a jury, each party shall file proposed findings of fact and conclusions of law no later than the commencement of trial. Additional proposed findings and conclusions of law may be submitted during trial.

Rule 227.2. *Post-Trial Motions*

- (a) All post-trial motions must specify the grounds relied upon.
- (b) Any request for leave to file additional specific grounds for post trial relief shall be made by motion and proposed order, and the motion shall contain specific reasons in support thereof. The motion shall be filed with the prothonotary within ten (10) days after verdict and the movant shall file a certification of service of the motion in the form provided by C.C.R.C.P. 206.3.

Comment: Nothing in this rule is intended to permit a party to supplement post-trial motions after receipt of the transcript without having timely obtained leave of court.
- (c) Copies of post-trial motions must be served upon the trial judge. If notes of testimony are needed the movant must notify the court reporter of the need to transcribe any part or all of the record. Failure to notify the court reporter shall mean that such party does not desire a transcript of the notes of testimony.

Comment: It is the responsibility of the party or parties requiring a transcript of the notes of testimony to obtain such transcript in a timely fashion. Counsel and parties are warned that, in light of Pa.R.C.P. No. 227.4(1)(b), the schedule for the filing of briefs cannot be extended.

(d) Thereafter, the court reporter shall prepare a transcript of such notes for each of the parties who have indicated a desire to have them, together with one original for the court. The court's copy shall contain all the notes requested to be transcribed.

Comment: See Rules of Judicial Admin. 5000.1 et seq. regarding transcripts and fees.

(e) No continuance of argument properly scheduled will be granted because of a party's failure to observe the requirements of this rule.

(f) No motion for new trial upon the ground of after discovered evidence will be entertained unless it sets forth the reasons for failure to produce the same at the trial and unless based upon affidavits containing the names of the witnesses and the substance of their expected testimony.

(g) Post-trial motions will be brought before the Court by filing a praecipe for determination under C.C.R.C.P. No. 206.6. The praecipe for determination shall be filed at the time of the filing of the post-trial motion. Upon the filing of the praecipe for determination accompanying a post-trial motion, oral argument shall be scheduled forthwith by the Court.

Comment: In view of Pa.R.C.P. No. 227.4(1)(b), which permits entry of judgment if an order disposing of all post-trial motions is not entered within one hundred and twenty (120) days after the filing of the first such motion, oral argument will be scheduled for approximately ninety (90) days following the date of the filing of the first such motion.

(h) The following schedule for the filing of briefs shall apply unless otherwise directed by the assigned judge:

(1) No less than three (3) weeks before the day set for oral argument, the moving party (petitioner or movant) shall serve upon all counsel and unrepresented parties a complete copy of the brief; the brief shall be filed with the prothonotary along with a certification that service has been made.

(2) No less than one (1) week before the day set for oral argument, the responding party shall file a brief and certification of service and shall immediately serve a copy on each counsel and unrepresented party.

(3) The Court may, in its discretion, refuse to hear argument upon issues which have not been reasonably discussed in a party's brief, and it may decline to hear oral argument addressed from any party who has failed to comply with the foregoing provisions of this rule.

(i) Oral argument may be waived by agreement of all parties but, even if oral argument is waived, briefs shall nevertheless be due pursuant to paragraph (h) above, based upon the date originally set for oral argument.

Rule 229.1. *Withdrawal of Post-Trial Motions, Exceptions or Appeal*

Whenever post-trial motions or exceptions are withdrawn or an appeal is terminated by a party, that party shall immediately advise in writing the judge whose decision, order, or adjudication was being challenged.

Rule 233.1. *Notices*

(a) The Chester County Law Reporter shall be the legal periodical for the publication of all notices. One copy of each issue shall be deposited by the publisher in the office of the prothonotary and one in the Law Library of Chester County for public reference.

(b) Except as otherwise provided by Acts of Assembly, rule or special order of court, service by publication shall be made by publication once in the Chester County Law Reporter and in one daily or weekly newspaper of general circulation within the county and in such manner that the person so served shall have at least five (5) days after publication to act thereon.

Rule 233.3. *Interpreters; Costs*

In all proceedings before a judge, district justice or hearing officer where the services of an interpreter are necessary, an official court interpreter shall be used when available. In other instances an interpreter shall be engaged by the parties, subject to the approval thereof by the court or the hearing officer.

Comment: At depositions and proceedings other than those listed above, the litigants shall bear the fees and costs of the interpreter.

Rule 241. *Bill of Costs. Counsel Fees*

(a) *Affidavit.* The affidavit of the party or other person to the correctness of the bill of costs and the attendance and materiality of the witnesses shall be annexed and shall be prima facie evidence to the taxing officer.

(b) *Taxation.* The bill of costs shall be taxed, in the first instance, by the prothonotary upon application of a party. The moving party shall "provide the adverse party with a copy of the bill within ten (10) days after filing. Exceptions shall be filed within ten (10) days of the receipt of such copy. A re-taxation shall then be had before the prothonotary upon ten (10) days notice thereof to both parties. The prothonotary shall give written notice of the re-taxation to both parties, from which either party may appeal to the court within five (5) days thereafter, provided that the appellant shall, within three (3) days after the appeal is entered, file a specification of the items to which he objects and the grounds of his objections; otherwise the appeal will be dismissed. No exceptions or appeal shall operate to stay execution or prevent the collection of the debt of costs, but when collected on execution or paid into court, the items to which exceptions have been taken will be retained until the question is decided.

(c) *Counsel Fees.* When counsel fees are sought under the provision of 42 Pa.C.S. §2503 as part of the taxable costs of a matter, the party seeking them shall do so by filing an appropriate petition within twenty (20) days of the conclusion of the case in this court. The proceedings shall be conducted under Pa.R.C.P. No. 209 and C.C.R.C.P. 206.1.

Rule 242. *Surety*

- (a) No attorney, sheriff's deputy, or other person concerned in the execution of process, shall become surety in any case, except as granted in writing by special leave of the court.
- (b) In all cases wherein the court is required to approve individual sureties, the application shall be accompanied by the affidavit of the surety, setting out the extent of his real and personal estates respectively, and the probable value of the same over and above all liens and indebtedness.
- (c) Any surety company desiring to qualify as a surety shall file with the clerk of the orphans' court division a certificate of the insurance commissioner, as required by law, accompanied by a financial statement as of December 31 of the last preceding year. Any corporation whose home office is outside of the County of Chester shall also file a stipulation agreeing that service of process, in any proceeding arising out of its acting as surety or fiduciary pursuant to approval under this or preceding rule, may be made upon it by serving. Such process upon the clerk of the orphans' court division of Chester County, and that such service shall be the equivalent of actual service upon such corporation. To continue to offer itself as surety it shall file annually with the clerk of the orphans' court division on or before the first Monday of June of each year a similar certificate and statement, and failure to do so within such time shall bar it from acting until such certificate and statement shall have been filed. A surety company which shall have complied with the requirements of this rule shall be approved by the clerk of the orphans' court division, unless otherwise provided by law, subject to the right of exceptions and hearing thereon by the court.

Rule 249.1. *Administration Conference of Civil Cases*

- A. The court shall conduct one or more administrative conferences in each case in which the judge is requested to do so by any party and may conduct administrative conferences in any matter at any time or times upon the judge's own motion.
- B. At the administrative conference the court shall become acquainted with the salient facts and issues of the case, shall determine discovery and pretrial motion schedules and shall set dates for further conferences and trial.
- C. No later than five (5) days in advance of the administrative conference, each party shall file with the assigned judge and immediately serve upon all other parties an administrative conference memorandum which shall set forth the following:
 - (1) A brief statement of the nature of the action; plaintiff shall set forth the claim and defendant(s) shall set forth the defenses.
 - (2) A statement of the salient facts of the case.
 - (3) A list of all monetary damages claimed, including lost earnings, loss of future earning capacity, medical expenses (itemized), etc. and a specification of any relief other than monetary damages being sought.
 - (4) Special comments regarding legal issues or other appropriate matters including specifically setting forth any unique or unusual aspect of the case.
 - (5) A brief statement of the status of all discovery, including a proposed schedule for the completion of discovery, the status of all outstanding pretrial motions and petitions and any further pretrial motions or petitions contemplated and a statement of any other pretrial matters requiring resolution prior to the case being ready for trial. Each Party shall submit a proposed pretrial order governing all of the matters set forth in this subparagraph.
 - (6) An estimate of the number of days required for trial.

Rule 249.2. *Matters Inactive for Two Years or More [Deleted]*

Comment: See Pa.R.C.P. No. 230.2

Rule 249.3. *Trial Readiness*

- (a) A category A matter shall be presumptively deemed ready for trial twelve (12) months from the date of the initiation of the suit, which is the earliest date on which the case may be tried for purposes of Pa.R.C.P. No. 212.1(a). A category C matter (compulsory arbitrations) in which there has been an appeal from the award of arbitrators shall be presumptively deemed ready for trial two (2) months from the date of the filing of the appeal. Such matters shall immediately thereafter be placed on the trial list of the judge to whom the case is assigned, unless prior thereto an order has been entered deferring the placement on the trial list until a later date. Such order may be entered by the court on its own motion or pursuant to the procedures set forth in paragraph (b) below.
- (b) To obtain relief from the initial automatic trial listing pursuant to paragraph (a), above and, thereafter, from any deferred trial listing, a party must file a request for an administrative conference to be held in accordance with Rule 249.1. The first request for administrative conference must be filed no later than eleven (11) months after the date of initiation of suit, except in category C matters. In category C matters, the first request for an administrative conference must be filed no later than ten (10) days after the filing of the appeal from the award of arbitrators. All subsequent requests for administrative conferences must be filed not less than thirty (30) days prior to the trial listing date. The request for an administrative conference must specify that deferment of trial listing will be requested at the conference. The request for administrative conference shall be

filed of record and a copy thereof served upon counsel of record for each other party to the action, each unrepresented party, if any, the Court Administrator, and the assigned judge.

- (c) At any time prior to placement of a case on the trial list pursuant to the procedures set forth above, the court, either on its own motion or upon agreement of the parties or upon application of any party, may determine that any matter is ready for trial, in which event the court shall file a trial readiness order and the court administrator shall then notify all parties that the case has been placed on the trial list.
- (d) Category C matters shall be governed by C.C.R.C.P. No. 1301.1 et seq., unless and until an appeal from the award of arbitrators has been filed. Following the filing of such appeal, the rules set forth above shall apply.

Actions at Law

Rule 1003.1. *Waiver of Rules. Extension of Time*

A. The time for filing briefs and answers to petitions, motions and preliminary objections may be extended by agreement of the parties and with the approval of the court, provided written notice of the agreement for extension has been filed with the prothonotary.

B. Written notice under A above shall be substantially in the following form:

<i>See Form on Page 69</i>

Rule 1007.1.A. *Jury Trial. Number of Jurors. Demand. Waiver*

A demand for jury trial shall be deemed a demand for a trial by a jury of six (6) members unless any party expressly demands a trial by twelve (12) members. Timing of the filing of the demand for jury trial and withdrawal of same shall be as set forth in Pa.R.C.P. No. 1007.1.

Rule 1012.1. *Entry of Appearance; Withdrawal of Appearance*

Every initial pleading, or other initial filing, by a party with the prothonotary shall be accompanied by a praecipe for entry of appearance which shall include the attorney's or unrepresented party's name, complete address, telephone number, and attorney identification number (if applicable). In like manner, when counsel is withdrawing from an action in accord with Pa. R.C.P. No. 1012(b), counsel shall file a praecipe for withdrawal of appearance.

Comment: The written entry of appearance will aid in giving proper notice to all counsel of record of orders, hearings and other pending matters.

Pleadings

Rule 1018.1.A. Notice to Defend—Office to be Contacted

(a) The office to be contacted for legal help to be included in the form of Notice to Defend required by Pa.R.C.P. 1018.1(b) is:
Lawyer Referral and Information Service
Chester County Bar Association
15 West Gay Street
West Chester, PA 19380
(610) 429-1500

Rule 1025.1. Endorsements

The initial pleading or appearance on behalf of a party represented by a firm or partnership or association of attorneys shall indicate clearly to the prothonotary the name, address, telephone number, and attorney identification number of the particular attorney who is supervising the conduct of the case.

Rule 1028(c). Preliminary Objections

(1) Except for preliminary objections subject to subparagraph (2) below, a brief and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the objecting party within twenty (20) days of the filing of the preliminary objections. Responsive briefs shall be filed within twenty (20) days of the filing of the praecipe for determination. The assigned judge may, at his or her discretion, extend the time for filing briefs. If the party filing the preliminary objections has failed to file a praecipe for determination within twenty (20) days of the filing of the preliminary objections, any other party may file a praecipe for determination to bring the objections before the court, in which event no brief shall be required to be filed with the praecipe. If the objecting party fails to file a brief as aforesaid, the court may dismiss the preliminary objection as abandoned. If the objecting party does file a brief, all other parties may file briefs within twenty (20) days thereafter.

(2) Where the preliminary objections properly assert facts not otherwise of record and the preliminary objections have been endorsed with a notice to plead, no praecipe for determination nor brief shall be required until the matter is ready to be submitted to the court, either upon the basis of the preliminary objections alone, if no answer has been filed, or upon the basis of the preliminary objections and answers thereto, or after a record has been developed pursuant to Pa.R.C.P. 1028(c)(2). If an answer is filed and any party wishes to develop a record on any disputed issues of material fact, depositions shall be completed within forty-five (45) days of the date of service of the answer to the preliminary objection. The time limit for the taking of the depositions may be shortened or extended by agreement of the parties or by the Court.

Rule 1034(a). Motions for Judgment on the Pleadings

Motions for judgment on the pleadings shall be scheduled, argued and decided in accordance with C.C.R.C.P. 208.3(a)(4), 208.3(a) (5), 208.3 (b), 210 and 211.1.

Note: The aforesaid rules provide as follows:

208.3(a)(4)

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.

208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

Comment: See C.C.R.C.P. 1035.2(a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.
208.3(b)

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

210

All briefs or legal memoranda shall contain the following matter under the following headings:

- 1) *History of the Case:* A brief, informal statement of the facts material to the matter under consideration.
- 2) *Question Presented:* Refer to the motion, petition, or preliminary objection that is before the court for decision.
- 3) *Legal Argument:* The section must contain citations to the case law, rule or statute relied on.
- 4) *Conclusion:* Specify the type of relief requested.

211.1

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.
2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.
3. A concise statement setting forth why oral argument is necessary.
4. The date upon which the Praeceptum for Determination was filed.

Rule 1035.2(a) Motion for Summary Judgment— Procedures for Disposition

Motions for Summary Judgment shall be scheduled, argued and decided as set forth in C.C.R.C.P. 208.3(a)(4), 208.3(a)(5), 208.3(b), 210 and 211.1.

Note: The aforesaid rules provide as follows:

208.3(a)(4)

Generally, a supporting brief, in accordance with C.C.R.C.P. 210, and praecipe for determination in the form described in C.C.R.C.P. 206.6 must be filed by the moving party with the motion and proposed order. No brief is necessary for the following motions:

(i) motion for sanctions and/or to compel in discovery matters where the only relief sought is to compel answers to interrogatories, to compel a response to a request for production of documents or things, to compel a party to appear for his or her deposition, physical examination or mental examination, or to permit entry upon land for inspection, where the motion is based upon the failure of the other party or parties to have responded to the discovery or other request and the motion is believed to be uncontested, but if the party from whom discovery, examination or inspection, etc. is sought or any other party to the action has objected to the requested discovery, examination, inspection, etc. and/or the moving party believes the motion to be contested, then briefs, in accordance with C.C.R.C.P. 210, shall be submitted as set forth above;

(ii) any motion supported by a stipulation of counsel.

208.3(a)(5)

If the movant has failed to file a praecipe for determination, any non-moving party may file a praecipe for determination to bring the motion before the Court; if the movant has not filed a brief the non-moving party shall not be required to file one, and the court may consider the movant to have abandoned his or her position.

Comment: See C.C.R.C.P. 1035.2(a) and Pa. R.C.P. 1035.1 et seq. with regard to motions for summary judgment.

208.3(b)

All other parties shall file their responses, if any, to the motion and their briefs, in accordance with C.C.R.C.P.210, within twenty (20) days of the filing of the motion, except with respect to motions for summary judgment, to which responses and briefs must be filed within thirty (30) days after service of the motion. The assigned judge may, in his or her discretion, extend the time for filing of briefs or waive the requirement. The court may treat a motion as uncontested if no response is filed. Upon the filing of a praecipe for determination, as described in Rule 206.6, the matter will be referred to the court for disposition.

210

All briefs or legal memoranda shall contain the following matter under the following headings:

- 1) *History of the Case:* A brief, informal statement of the facts material to the matter under consideration.
- 2) *Question Presented:* Refer to the motion, petition, or preliminary objection that is before the court for decision.
- 3) *Legal Argument:* The section must contain citations to the case law, rule or statute relied on.
- 4) *Conclusion:* Specify the type of relief requested.

211.1

A. Cases in which any party has sought or the court has ordered oral argument shall be scheduled for argument by the court or by the court administrator. Requests for argument before a court en banc shall be presented initially to the assigned judge.

B. The court may at any time schedule oral argument or conduct an evidentiary hearing on any matter pending before it.

C. Any party may request oral argument by filing with the brief a separate "Request for Oral Argument" which shall include the following:

1. The judge to whom the matter is assigned.
2. The specific matter (Petition/Motion/Preliminary Objections, etc.) as to which oral argument is requested.
3. A concise statement setting forth why oral argument is necessary.
4. The date upon which the Praeceptum for Determination was filed.

Compulsory Arbitration

Rule 1301.1. *Cases for Submission to Arbitration*

- (a) All civil cases at law which are now or hereafter at issue wherein the amount in controversy in each cause of action, i.e., the amount claimed in each count, stated therein, exclusive of interest and costs, does not exceed fifty thousand (\$50,000.00) dollars, and which do not involve title to real property, shall be submitted to, heard, and decided by a board of arbitrators consisting of three (3) attorneys admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law primarily in Chester County and who maintain an office in Chester County.
- (b) The court administrator may in his or her discretion consolidate cases for hearing when all the cases are subject to the provisions of the arbitration rules and when they involve common questions of fact. The court administrator shall by letter notify all counsel and unrepresented parties of any consolidation.
- (c) If the judge who has been assigned a Category A matter shall determine that the case is properly one which should be handled as an arbitration under Category C, the assigned judge shall order the case to be placed in Category C, and the case shall thenceforth be treated as though it had been so classified as an arbitration case in the first instance. The court administrator shall schedule such remanded arbitration cases for hearing as soon as practicable unless otherwise ordered by the assigned judge.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

Rule 1302.1. *Administration*

- (a) Proceedings under the arbitration rules of this court shall be administered by the office of the court administrator of this court.
- (b) The court administrator shall have the power to prescribe forms and to interpret these rules, subject to review by the court at the request of a party.
- (c) In order to be considered for appointment to a board of arbitrators, an attorney admitted to practice before the Supreme Court of Pennsylvania who is actively engaged in the practice of law primarily in Chester County and who maintains an office in Chester County shall file with the office of the Court Administrator a certified arbitration registration form indicating whether or not he or she has substantial experience in civil litigation; listing the number of years of such experience and those areas of practice in which he or she has substantial litigation experience and stating if he or she is practicing alone, is a member of a firm, or is associated in some way with one or more other lawyers (either in private practice or as an employee of some public office such as the district attorney's office, public defender's office, legal aid, etc.). Any change in his or her status in this regard shall immediately be reported to the office of the Court Administrator. Upon receipt of a fully completed certified arbitration registration form, the Court Administrator shall add the name of the person submitting the form to the list of those eligible to serve as a member of an arbitration board. Boards of arbitration shall be appointed from the list of members of the bar who have filed such information. The Court Administrator shall have sole authority to determine whether an arbitrator is qualified under these rules.
- (d) The chair of the board of arbitrators shall be appointed by the court administrator and shall be responsible for the preparation and filing of the board's report and award. All other members of the board of arbitrators shall also be appointed by the Court Administrator.
- (e) The court administrator shall have the authority to obtain and deliver to the board of arbitrators all papers of record and shall be responsible for the return thereof to the Prothonotary when not in necessary custody of the board. The court administrator shall maintain such records as are necessary for the proper administration of the arbitration system, and shall give the arbitrators such assistance as may be necessary to expedite the arbitration process.
- (f) The date, time and place of the arbitration hearing shall be assigned by the Prothonotary at the time a Category C action is commenced. The court administrator shall provide the Prothonotary with the next reasonably available date for an arbitration hearing, and the Prothonotary shall then mark that date upon the cover sheet when a Category C action is commenced. The notice of the date, time and place of arbitration hearing on the cover sheet shall include the following statement:

“This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.”

Comment: It is anticipated that a hearing will be scheduled no less than six (6) months following the initiation of suit. The court administrator will be required to adjust the interval, between filing and hearing dated, depending upon the availability of hearing rooms, the volume of cases to be tried, and the number of panels to be assigned.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

- (g) Any party may for good cause object to the matter being submitted to arbitration by notifying the court administrator in writing with notice to all other parties. The court administrator shall initially make a determination as to the validity of any such objection. Any party dissatisfied with the determination of the court administrator shall have the right to have the matter determined by the assigned judge.
- (h) All hearings shall be held in the Justice Center at West Chester, unless the arbitrators and all parties agree otherwise.
- (i) It is the professional obligation of all members of the bar who qualify as outlined in these Rules to serve on boards of arbitration, unless absent or excused for good cause and compelling reason. If an arbitrator fails to appear, or appears late at the scheduled arbitration hearing without compelling reasons, his or her name shall be stricken from the arbitration list, and

he or she will be so notified by the Court Administrator. He or she may be reinstated by application to the court, upon cause shown.

- (j) The president judge may strike from the list of eligible arbitrators the name of any attorney who has consistently demonstrated an inability to serve in a proper manner.

Rule 1302.2. *Composition of Arbitration Boards*

Each board of arbitrators shall consist of a chair, a non-chair category A and a non-chair category B attorney.

(a)(1) Chair Requirements

Unless otherwise agreed by the parties, the arbitration board shall be chaired by a member of the bar who has been admitted to the practice of law for at least ten (10) years and who has substantial experience in civil litigation.

(a)(2) Non-Chair Category A Attorney Requirements

The attorney should have five (5) years of substantial experience in civil litigation. If no attorney with five (5) years of substantial experience in civil litigation is available to serve, the Court Administrator may authorize an attorney with three (3) years of substantial experience in civil litigation to sit.

(a)(3) Non-Chair Category B Attorney Requirements

Any attorney qualified under these rules to serve as a member of a board of arbitrators.

- (b) A list of available arbitrators who are qualified to serve as chair of arbitration boards shall be maintained by the Court Administrator.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

Rule 1303.1. *Hearings*

- (a) The board of arbitrators shall have the powers conferred upon them by law, including, but not limited to the following:

- (1) To permit the amendment of any pleading. Except for good cause shown, such an amendment must be filed in writing.

Comment: (1) See Pa.R.C.P. No. 1304 for the power of arbitrators to act when a party fails to appear. (2) See Pa.R.C.P. No. 218 for the power of arbitrators when a party is not ready for trial.

Rule 1303.2. *Pre-Arbitration Memorandum*

- (a) At least seven (7) days before the date of the arbitration hearing, all parties shall file with the Prothonotary, in triplicate, a memorandum in the form provided and shall immediately serve a copy on each party. This memorandum shall set forth the following:

- (1) A brief statement of the salient facts of the claim or defense.

- (2) A statement of the legal basis of the claim or defense.

- (3) A list of all special damages claimed, such as lost earnings, loss of future earning capacity, medical expense (itemized), property damages.

- (4) A list of the names and addresses of all witnesses whom that party intends to call at arbitration.

- (5) A list of all exhibits to be offered by that party at arbitration. All exhibits shall be numbered prior to the arbitration.

- (6) An estimate of time necessary to present your claim or defense.

- (7) Special comments regarding legal issues.

- (8) A certification that the attorney has, on behalf of his/her client, made a reasonable effort to stipulate or agree to all undisputed issues of fact or law which would expedite the arbitration of this matter.

- (b) It is expected that the memorandum will not exceed two pages, except in unusual cases.

- (c) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to call a witness at the arbitration hearing who is not listed in a timely-filed pre-arbitration memorandum.

- (d) Except in extraordinary circumstances as determined by the arbitrators, a party will not be allowed to offer an exhibit at the arbitration hearing that is not listed in a timely-filed pre-arbitration memorandum.

Rule 1306.2. *Award, Where There Is Comparative Negligence or Apportionment Among Joint Tortfeasors*

Where it is determined by the board of arbitrators that the Comparative Negligence Act of 1976 (42 Pa.C.S. §7102) applies to a negligence action, the award of the board of arbitrators shall state:

- (1) the percentage of the causal negligence attributable to each of the parties;

- (2) the amount of damages, if any, sustained by the plaintiff and any counterclaimant without reduction by the percentage of that party's causal negligence, and

- (3) the amount determined by the board to be awarded the plaintiff or counterclaimant after reduction of the damages by the proportion or percentage of that party's causal contributory negligence.

Comment: A verdict form which will assist the panel of arbitrators in allocating causal negligence and calculating an award of damages under the Comparative Negligence Act shall be available from the court administrator's office.

Rule 1308.1. *Compensation of Arbitrators*

The chairman and other arbitrators shall receive compensation paid by the County as determined by the court for each case in which the arbitrator shall have signed a report and award or dissent therefrom.

Partition of Real Property

Rule 1568.1. *Public Sale*

Except as otherwise provided by act of assembly or special order of court, notice of the time and place of the sale of a property at public auction by a master in partition shall be given by publication once a week for three successive weeks immediately preceding such sale in the Chester County Law Reporter, and in one daily newspaper of general circulation within the county.

Rules 1901.2A – 1940.12A

Editor's note: For 1900 Series Rules, see Family Court Rules Section.

Joinder of Parties

Rule 2232.1. *Notice Pendency of Action*

Notice required by Pa.R.C.P. No. 2232(a) shall consist of a copy of the complaint and a statement that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice; or his cause of action will be barred and the action will proceed without him.

Proof of service shall be by affidavit accompanied with a copy of the notice and the return receipt filed with the Prothonotary.

Enforcement of Judgments for the Payment of Money

Rule 3123.1.A. *Exemption. Sheriff's Appraisement*

The sheriff shall give all parties at least forty-eight (48) hours' notice of the time and place when he will make an appraisement of the property which the defendant claims the right to retain as the exemption allowed him by law. The parties and their attorneys shall have the right to be present when the appraisement is made.

Depositions and Discovery

Rule 4007.1.A. *Place of Depositions*

In the absence of an agreement of the parties pursuant to Pa.R.C.P. No. 4002, or an order of the court upon cause shown, depositions in all cases shall be held in Chester County.

Rule 4007.1.B. *Problems Arising During Depositions*

In the event that a problem arises during the course of a deposition, which would result in the premature termination of the deposition and the subsequent filing of motions to compel answers to the questions involved, the assigned judge shall rule upon the issues on the day they have arisen. If the assigned judge is not available on that day, the court administrator shall refer the matter to the emergency judge for consideration and disposition that day. At the discretion of the judge, the consultation may be by telephone.

Comment: See Rule 206.1 A.(1) for certification required with discovery motions and petitions.

Rule 5000. *Rent Escrow Payments In Lieu Of Bond In Landlord Tenant Appeals From District Justice Decisions*

- (a) Where a tenant in possession of residential real property appeals from a judgment for the possession of the real property entered by a district justice as required by Pa.R.C.P.D.J. No. 1008(B) a supersedeas shall operate if such tenant:
- (1) at the time of filing the appeal, files with the prothonotary a verified statement of his intentions of depositing monthly rental payments required by the lease which will become due during the pendency of the court of common pleas proceedings listing the amount of rental payments to become due per month and the dates when said payments are due, a copy of which shall be served upon the appellee by certified mail within five (5) days; and
 - (2) deposits with the prothonotary the rental payments for the current month (if not already paid) and the subsequent rental payments as they become due according to the said verified statement.
- (b) Upon motion and order and certification of two days notice to tenant or his counsel by the landlord, accompanied by a copy of the escrow account from the prothonotary's office, the court may terminate the supersedeas if a monthly rental payment was not deposited in escrow within five (5) days after the date the rental payment became due.
- (c) No withdrawals shall be permitted from any such escrow account except upon court order.

Rule 5001. *Writs of Certiorari From Actions Before District Justices*

- (a) Within thirty (30) days of filing a praecipe for writ of certiorari under the provisions of Pa.R.C.P.D.J. No. 1009 the appellant shall file a praecipe for determination and a brief in support of issuance of the writ and appellee shall have fifteen (15) days to file a reply brief. The court, in its discretion, may extend the time for filing of briefs.
- (b) If appellant fails to file a brief and praecipe for determination within the time set forth in subsection (a), or within the time extended by the court, then appellee may, without filing a brief; file a Praecipe for Determination and the court may consider appellant to have abandoned his position.

Comment: See C.C.R.C.P. 206.6 for form of praecipe for determination.

Rule 5002. *Zoning and Local Agency Appeals*

- (a) This rule shall apply to all zoning and land use appeals filed under and pursuant to the Pennsylvania Municipalities Planning Code and to any appeal from any decision or determination of any political subdivision or municipal or other local authority, or any officer or agency of any such political subdivision or local authority. All such local bodies are referred to herein as the "Local Agency."
- (b) Upon the filing of any appeal requiring the Local Agency to certify and return to the Court the record made before it in the matter under appeal, the Prothonotary or Clerk shall forthwith, as of course, send to the Local Agency whose decision or action has been appealed, by registered or certified mail, a copy of the Notice of Appeal, together with a Writ of Certiorari commanding the said Local Agency, within twenty (20) days after receipt thereof, to certify to the Court its entire record in the matter in which the appeal has been taken, or a true and complete copy thereof, including any transcript of testimony available to the Local Agency at the time it receives the Writ of Certiorari.
- (c) Notice of appeal shall be given as follows:
- (i) In the case of Zoning and Land Use Appeals, if the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the appeal is filed, shall serve a true copy of the Notice of Appeal by mailing the said Notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the Local Agency and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of Court.
 - (ii) In all appeals, within seven (7) days of the filing of an appeal, if the Local Agency is not a party appellant or appellee, the appellant shall notify the Local Agency, in writing, of the date of filing such appeal and shall attach to such notice a copy of the Notice of Appeal, as filed.

- (d) The record submitted to the Court by the Local Agency in compliance with the Writ of Certiorari shall include (1) the proof of publication; (2) a complete copy of the ordinance, map and/or regulation under which the determination of the Local Agency was made, certified by counsel for the Local Agency or other Local Agency official to be the ordinance, map or regulation in effect when the decision was rendered or action taken which is the subject of the appeal; (3) the transcript of the proceedings before the Local Agency; and (4) all exhibits. The record shall be accompanied by a document entitled "Return of the Record", which shall list the contents of the record. Within five (5) days of the filing of the record with the Prothonotary, the attorney for the Local Agency or an official thereof shall give written notice to the appellant and intervenor, if any, or their attorneys of record of the date of such filing, and shall serve therewith a true copy of the Return of Record.
- (e) Whenever an appeal is taken from a Local Agency decision or determination and the record is returned by the Court to the Local Agency for further proceedings, and a subsequent appeal is taken in the same case, the number of the original appeal shall be set forth in the notice of the subsequent appeal filed with the Prothonotary or Clerk, who shall docket and file the subsequent appeal under the number of the original appeal.
- (f) Within thirty-one (31) days of the filing of the returned record, the appellant shall file a supporting Brief and a Praecipe for Determination. Appellee and any intervenors shall have thirty (30) days from the receipt of the appellant's Brief to file a reply Brief. The assigned Judge, in his discretion, may extend the time for filing of Briefs.
- Comment:** See C.C.R.C.P. 206.6 for the form of Praecipe for determination.
- (g) If the appellant fails to file his Brief within the time prescribed by these rules, or within the time as extended, the appellee or intervenor may move for dismissal of the matter. Such motion shall be served in accordance with these rules upon the appellant, who may file an Answer thereto, and the motion shall be thereafter determined by the Court as it deems just and proper. If an appellee or intervenor fails to file his brief within the time prescribed by these rules, or within the time as extended, the Court may consider such appellee or intervenor to have abandoned his position, and will proceed to dispose of the appeal on the merits.

Rule 5003. Appeals from Real Estate Assessment

The following rules shall apply to all appeals from a real estate assessment determined by the Board of Assessment Appeals ("Board") of Chester County. These rules apply to all appeals taken following their effective date, and may be applied as appropriate to current appeals ninety (90) days after their effective date.

Definitions:

Board—the Chester County Board of Assessment Appeals.

Taxing Authority— School Districts, the County of Chester and municipalities (cities, boroughs, townships).

Party—appellant, the Board, and any other person or entity entitled to notice of the appeal who or which enters an appearance.

Property Owner— as used herein, the term "owner" or "property owner" includes all owners of the property if there is more than one owner.

Date of Notification— date which appears as such on the decision of the Board.

Commercial Property—any property whose purpose is to generate income for its owner.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

Rule 5003(a). Filing Instructions

1. An appeal from the decision of the Board shall be filed within thirty (30) days from the date of notification.
2. Within ten (10) days after filing the appeal, the appellant shall serve a copy of the appeal on the Board, on all affected taxing authorities at their business addresses and, if the property owner is not the appellant, on the property owner at his, her, its or their registered address or addresses as shown on the tax records of Chester County.
3. Within twenty (20) days of service of the appeal, the appellant shall file an affidavit of service.
4. The Board shall automatically be a party to an appeal unless it specifically declines that status in writing. Any taxing authority or property owner entitled to be notified of an appeal may become a party to the proceedings by filing an entry of appearance within thirty (30) days of service of such notice. The entry of appearance shall be deemed to deny the allegations in the appellant's petition, except for the names of the parties and the location of the taxable property. However, any party may plead additional material by way of Answer or New Matter, as appropriate, within thirty (30) days of entering an appearance.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

Rule 5003(b). Contents of Appeal

1. Names and addresses of the taxpayer and the taxing authorities.
2. Identification of the property, including street address and tax parcel number.
3. Reason(s) for the appeal. For purposes of this section, where a challenge is based on fair market value, it shall be sufficient to state that the assessment is excessive or inadequate. Where the challenge is based on uniformity, it shall be sufficient to state lack of uniformity as the basis for the appeal.

4. Copy of any applicable decision of the Board.

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Rule 5003(c). Discovery Procedures

1. The appellant shall provide the Board and the other parties to the appeal with a copy of his, her, its or their appraisal within sixty (60) days of filing the appeal. The other parties shall then have ninety (90) days from the receipt of the appellant's appraisal to provide the appellant with a counter-appraisal. Any party may designate an appraisal submitted to the Board as its appraisal for the purposes of the appeal. Appraisals must certify that the appraiser's fee is not contingent upon the results of the appeal.
2. If a party fails to provide an appraisal within the time provided by this rule, by leave of court, or within such time as may be agreed to by the parties and approved by the Court, then, upon motion, the Court may preclude that party from presenting evidence of valuation at trial.
3. In cases involving commercial properties, the taxpayer shall provide, where applicable, the following to all other parties within thirty (30) days of filing the appeal:
 - (A) Income and expense statements for three (3) years prior to the appeal year;
 - (B) A current rent roll, including a list of tenants, rental amounts, lease periods and a sample lease with any special terms or renewal options;
 - (C) The right to inspect the property at a reasonable time with notice.
4. The names of all witnesses to be called at trial by any party, other than rebuttal witnesses later determined, shall be provided to all other parties within one hundred fifty (150) days of the date of filing of the appeal.
5. In any appeal involving a claim of exemption from real estate taxation, discovery shall be permitted as set forth in the Pennsylvania Rules of Civil Procedure and shall be governed by Pa.R.C.P. No. 4001 et seq. Discovery requests shall be served within one hundred twenty (120) days of the date of the filing of the appeal.
6. Additional discovery shall be by leave of court only.
7. The matter shall be scheduled for trial one hundred eighty (180) days from the date of the filing of the appeal.
8. Time periods may be extended for cause shown. Any party may at any time, and to obtain relief (advancement or deferral) from the automatic trial listing as set forth in paragraph 7 above must, request an administrative conference in accordance with C.C.R.C.P. No. 249.1 et seq.

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Rule 5003(d). Class Action Appeal

In all cases involving an appeal from class action certification, a full record shall be made before the Board of Assessment Appeals.

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Rule 5003(e). Discontinuance

The appeal may be discontinued only with the agreement of all parties or by leave of court.

Editor's note: Adopted June 19, 2012., effective thirty (30) days after publication in the Pennsylvania Bulletin

Rule 5003(f). Tax Exemption Cases

1. All appeals to court from a determination of the Board of Tax Assessment Appeals involving a claimed exemption from real estate tax shall be accompanied by the full and complete transcript of the hearing before the Board, together with all documentary evidence entered as part of that record and the Board's Findings of Fact and Conclusions of Law in support of its decision.
2. In any appeal to the Board or to court involving a claimed exemption from real estate taxation, the property owner claiming tax exemption shall be subject to such relevant discovery by written interrogatories, deposition and production of documentary evidence as reasonably bears on the property owner's claim of tax exemption. Discovery shall be requested and completed within one hundred twenty (120) days from the requesting party's receipt of notice of the initial application to the Board. Except in cases where such discovery requests has not been complied with prior to the Board's hearing, no additional discovery shall be permitted on appeal to court from the Board's decision, except by leave of court.

Comment: This rule specifically does not require simultaneous exchange of information; instead the entity filing an appeal should bear the initial expense and burden of producing an appraisal. This rule should then conserve resources by giving the respondent the opportunity to accept the appellant's appraisal as satisfactory before ordering his or its own appraisal.

Rule 5004. Appeals filed with the Clerk Of Courts

When an appeal to the Court of Common Pleas is filed with the clerk of courts, a party must file either a praecipe for determination or, if an evidentiary hearing is required, a praecipe for hearing to move the matter before the court. The appropriate praecipe should be addressed to, and served upon the court administrator.

Comment: See C.C.R.C.P. 206.6 regarding praecipe for determination.

Rule 5005. *Civil Rules Committee*

A civil procedural rules committee shall be appointed within sixty (60) days of the effective date of these rules to study and make recommendations to the court concerning local procedure in civil matters and the promulgation and amendment of local rules of civil procedure. The committee shall be composed of a judge of this court and members in good standing of the Bar of the Supreme Court of Pennsylvania who maintain principal offices for the practice of law in Chester County, all of whom shall be appointed by the president judge. The chairman of the committee shall be a non-judicial member of the committee and shall be designated by the president judge. The committee shall meet as directed by the president judge, or by the chairman of the committee, but in no event less often than semi-annually.

Rule 5006. *Effective Date and Repealer*

These rules shall become effective thirty days after the date of publication of these rules in the Pennsylvania Bulletin, pursuant to Pa.R.C.P. No. 239. All previous local rules of civil procedure are hereby repealed as of the effective date of these rules, except the rules of the Family Court and of the Orphans' Court Division of the Court of Common Pleas of Chester County, which shall remain in full force and effect.

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