

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

If yes, which judge has heard it? _____

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Rule 205.4 Rescinded June 4, 2013, effective June 20, 2013

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**

Rule 208.3(a) Motions Procedure. Motions Judge. Motions Court

(1) The designated Motions Judge shall sit every Tuesday and Friday at 8:30 A.M., except on holidays ("Motions Court").

(2) Motions, requests and applications intended for consideration by the Motions Judge shall be presented at Motions Court, and are not to be filed in the Office of the Prothonotary in advance of such presentation. The Prothonotary or a deputy shall be present at every session of Motions Court to receive such papers for filing.

(3) Except in an emergency situation, no motion, request or application shall be presented without compliance with the notice provisions of this rule. In an emergency situation, the nature of the emergency and the reasons why the required notice could not be given must be set forth in the motion, request or application then being filed.

(4) For all motions, requests and applications subject to the notice requirements of this rule, a copy of the same together with a notice of the date and time of the intended presentation shall be served upon the other parties at least two (2) business days in advance of the presentation. Service of the copy and the notice may be accomplished personally, by first class mail or by facsimile transmission. Service by mail shall be deemed to be accomplished on the date the mail was received.

(5) A copy of the notice of intended presentation shall be presented to the Motions Judge at the time of presentation of the motion, request or application. The copy shall have attached to it a certificate stating the date and manner of service.

(6) The notice of intended presentation shall be substantially in the form prescribed as follows:

**[CAPTION]
NOTICE OF INTENT TO PRESENT MOTION,
PETITION OR APPLICATION TO
MOTIONS JUDGE**

To: _____ (name of person)

TAKE NOTICE that the attached (Name of legal paper) _____ will be duly presented to the Motions Judge in Motions Court on the second floor of the Armstrong County Courthouse, Kittanning, Pennsylvania on (day of week), _____, 2_____, at _____M. The Motions Judge will be asked to sign an order granting the prayer for relief. You may appear and be heard at that time if you wish.

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 216 Continuances. Applications

(a) Pa.R.C.P. No. 216 shall apply to continuances of both jury and non-jury trials.

(b) Continuances of proceedings other than trials will be granted only for good cause shown. The Court shall be guided by the factors set forth in Pa.R.C.P. No. 216 in determining whether such continuances should be granted.

(c) A party seeking a continuance of any proceeding, including a trial, shall present to the Court an application for continuance substantially in the form prescribed by Appendix C of these Local Rules. When all attorneys of record and unrepresented parties do not agree that a continuance should be granted, such application shall be presented at Motions Court.

(d) The Court will not consider granting a continuance a second time upon agreement of the attorneys unless there is a statement attached to the application signed by all parties to the action that they are aware of the filing of the application and that they consent to the continuance.

Rule 227.1 Motion for Post-Trial Relief. Scheduling Order

A motion for post-trial relief shall be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed by Appendix C-1 of these Local Rules.

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

Rule 236 Notice by Prothonotary of Entry of Order, Decree or Judgment

(a) The phrase "order, decree, or judgment," as used in Pa.R.C.P. No. 236 (a)(2), includes any rule to show cause, adjudication, opinion, and memorandum issued by the court.

(b) Service by the Prothonotary of a copy of the document itself shall be sufficient notice of its entry if the front page of the copy bears the date and time of its entry.

(c) The Prothonotary may serve the required notice upon an unrepresented party by ordinary mail, addressed to the party at the address most recently appearing in a pleading filed by him, or, if there is no such pleading, then to the most recent address appearing in any pleading.

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

**Rule No. 1061.1 Adverse Party Compelled to Commence
Action in Ejectment**

When an adverse party in a quiet title action is compelled to commence an action in ejectment, such an action shall be commenced by the filing of a complaint at a new case number. The new action shall be governed by the rules pertaining to an action in ejectment.

Adopted November 21, 2014, effective January 11, 2015.

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.

Rule 1901.5 Service of Indirect Criminal Contempt Complaint

(a) A defendant in a Protection from Abuse proceeding who has been arrested for an alleged violation of an order shall be served with a certified copy of the Indirect Criminal Contempt Complaint by the Court or the Magisterial District Judge at the preliminary arraignment. If a Magisterial District Judge conducts the preliminary arraignment, the original copy of the complaint shall forthwith be forwarded to the Clerk of Courts.

(b) If an arrest of the defendant has not been effected, the Court Administrator shall serve a certified copy of the Indirect Criminal Contempt Complaint upon the defendant by first class mail simultaneously with service of the notice of non-jury trial.

Adopted November 21, 2011, effective January 9, 2012

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 1915.4-3.1 Rescinded on May 1, 2019, effective June 24, 2019

Rule 1915.4-3.2 Rescinded on May 1, 2019, effective June 24, 2019

Rule 1915.11 Rescinded on May 1, 2019, effective June 24, 2019

Rule 1915.3 Commencement of Action; Custody Conciliation Conference Fee

(a) Every party who initiates a custody action by the filing of a custody complaint, custody count in a divorce action, or petition for modification of custody, shall, in addition to the filing fee assessed by the Prothonotary, pay to the Prothonotary a custody conciliation conference fee in an amount to be set from time to time by administrative order of court.

Adopted May 1, 2019, effective June 24, 2019

Rule 1915.4-3 Custody Conciliation Conference

(a) All adult parties named in an action for custody, whether initiated by complaint, custody count in a divorce action, or petition for modification of custody, shall attend a custody conciliation conference scheduled by the Court Administrator. A Conciliation Conference Officer ("CCO") shall preside at the conciliation conference. Children who are the subject of the custody action shall not participate in the conciliation conference.

(b) Failure of a party to appear at the conciliation conference may result in the entry of a custody or partial custody order by the Court on the recommendation of the CCO in the absence of that party. Unless otherwise excused by the Court, the failure of the filing party to attend the conciliation conference shall result in the dismissal of the action.

(c) To encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties or their attorneys at the conference shall not be admissible as evidence at a later custody hearing. The CCO shall not be a witness for or against any party.

(d) At the conciliation conference, the parties shall, under the supervision of the CCO, attempt to reach a final, comprehensive custody agreement that will then be converted to a final custody consent order to be entered by the Court.

(e) If the parties are unable to reach a comprehensive, final custody agreement, they shall attempt to reach a temporary custody agreement, which may then be entered as a temporary consent order by the Court. Temporary orders may include provisions for temporary legal or physical custody, drug and alcohol evaluations or treatment, counseling, psychological evaluations, home study evaluations, visit coaching, supervised custody, and other matters pertaining to the best interests of the subject child(ren).

(f) The CCO shall have the ability to request that any party submit to a urine drug analysis at the conciliation conference, which shall be performed with that party's consent. If a party requests that another party submit to a drug analysis, the drug analysis shall be performed at the discretion of the CCO and with the consent of that party.

(g) In all cases where a final, comprehensive custody consent agreement is not reached, the CCO shall provide a written report to the Court within five days of the conference, which may contain the following:

- (1) recommendations with regard to the necessity of psychological evaluations, home study evaluations, drug and alcohol evaluations and/or treatment, co-parenting or reunification counseling, supervised custody, visit coaching, and/or the appointment of a guardian ad litem;

- (2) the CCO's review of jurisdiction, venue, standing and relocation issues;
- (3) progress, if any, on issues before the CCO, as well as any recommendations for temporary custody/partial custody orders, including the need for an expedited hearing in emergency and relocation cases;
- (4) the scheduling of a pre-trial conference.

Adopted July 16, 2019, effective September 3, 2019

(h) Conciliation conferences shall not be continued except by written request or motion filed with the Prothonotary at least two (2) business days prior to the date scheduled. Said written request or motion must indicate whether notice of the request was made on all other parties.

(i) If the parties reach a final settlement agreement, or the case is withdrawn, prior to the conciliation conference, the filing party may request a refund of the conciliation conference fee by filing a written motion with the Prothonotary requesting the same.

Adopted May 1, 2019, effective June 24, 2019

Rule 1915.4-4 Pre-trial Conference

(a) If at the conciliation conference the parties cannot agree upon a resolution of all the issues and a trial before a judge becomes necessary, the Court Administrator shall cause a pretrial conference to be scheduled to occur within ninety (90) days after the date the conciliation conference was held.

(b) The Court will schedule a trial date at the pretrial conference and a date for an additional pretrial conference when appropriate. The parties must attend each pre-trial conference.

Adopted May 1, 2019, effective June 24, 2019

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.

Adopted June 4, 2013, effective July 22, 2013

Rule 1915.14 Disobedience of Order Directing Custody Evaluation

If a party fails to submit to a child custody evaluation; fails to cause a household member to submit a child custody evaluation; or fails to pay his or her share of the costs thereof, the Court may dismiss the complaint or impose other appropriate sanctions.

Adopted June 4, 2013, effective July 22, 2013

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 Hearing by Court. 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 November 21, 2011, effective January 9, 2012

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 Rescinded

Amended April 27, 2012, effective June 18, 2012.

Rule 1940.4 Rescinded

Amended April 27, 2012, effective June 18, 2012.

Rule 1940.6 Rescinded

Amended April 27, 2012, effective June 18, 2012.

Rule 1940.7 Rescinded

Amended April 27, 2012, effective June 18, 2012

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 Court will not entertain a petition under Pa.R.C.P. 2039 unless the minor's guardian has commenced an action in this Court by filing either a praecipe for writ of summons or a complaint, with subsequent service of the writ or the complaint.

(c) In each and every case, the Court will conduct a hearing on the petition. The petitioner shall file a proposed scheduling order for the hearing at the time the petition is filed. The subject child or children shall be present for the hearing.

(d) A certified copy of the petition and a certified copy of the scheduling order shall be served by the petitioner upon any non-petitioning parent at least ten days in advance of the hearing unless the written consent, joinder or statement of no objection of the non-petitioning parent to the proposed compromise, settlement, discontinuance and distribution is attached to the petition.

Comment

The jurisdictional power of the Court to try the action is a prerequisite to the Court's authority to approve its compromise, settlement or discontinuance; hence the requirement for service of original process. See Roche v. Scavicchio, 70 Pa.D&C 75 (Phila. 1950). Amended March 31, 2016. Effective May 22, 2016

INCAPACITATED PERSONS AS PARTIES

**Rule 2064 Compromise. Settlement. Discontinuance.
 Distribution. Petition. Content**

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.