

ARMSTRONG COUNTY LOCAL RULES

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PART I
LOCAL RULES OF CIVIL PROCEDURE

(cited as L.R.C.P. No. ____)

RULES OF CONSTRUCTION

Rule 51 Title of Rules. Purpose

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

Rule 76 Definitions

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

Rule 101 Principles of Interpretation

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

BUSINESS OF COURTS

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

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

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

Rule 205.2(b) Cover Sheet

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

[CAPTION]

**COVER SHEET
FOR PETITION REQUIRING EVIDENTIARY HEARING**

-1-

Has any judge heard this matter previously?

_____ Yes _____ No

-2-

If yes, which judge has heard it? _____

-3-

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

_____ minutes _____ hours _____ days

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

Attorney for Petitioner

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

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

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

Rule 205.4 Rescinded on November 21, 2011, effective January 9, 2012.

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.

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

Rule 249 Rescinded on May 20, 2004, effective July 24, 2004.

Rule 250 Scope of Business of Courts Chapter

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

SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS

Rule 430 Service of Original Process by Publication

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

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

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

ACTIONS AT LAW

Rule 1018.1 Notice to Defend

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

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

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

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

[CAPTION]

ORDER

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

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

OR

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

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

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

BY THE COURT,

_____J.

Adopted April 25, 2005, effective August 10, 2005

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

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

[CAPTION]

ORDER

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

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

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

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

BY THE COURT,

_____ J.

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

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

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

[CAPTION]

ORDER

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

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

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

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

BY THE COURT,

_____ J.

Adopted April 25, 2005, effective August 10, 2005

COMPULSORY ARBITRATION

Rule 1301 Scope. Arbitration Limits

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

Adopted October 3, 2006, effective November 20, 2006

Rule 1302 List of Arbitrators. Appointment to Board

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

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

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

Adopted October 3, 2006, effective November 20, 2006

Rule 1303 Hearing. Notice

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

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

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

Adopted October 3, 2006, effective November 20, 2006

ACTIONS IN EQUITY

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

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

PARTITION OF REAL PROPERTY

Rule 1557 Order Directing Partition

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

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

Comment

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

Rule 1559 Master Hearing

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

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

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

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

Rule 1566 Preliminary Determination. Notice to Accept or Reject

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

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

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

Rule 1567 Private Sale Confined to the Parties. Bond

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

Rule 1569 Master's Report. Exceptions

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

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

(a) Unless otherwise directed by special order of Court, a

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

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

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

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

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

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

Rule 1574 Costs and Counsel Fees

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

ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901.3 Commencement of Action. Procedure. Temporary Order

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

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

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

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 1915.3 Deleted.

Adopted November 21, 2011, effective January 9, 2012

Rule 1915.4-3 Pretrial 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 November 21, 2011, effective January 9, 2012

Rule 1915.7 Consent Order. Final and Temporary

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

(b) If after a conciliation conference the parties cannot agree upon a resolution of all the issues, counsel and the parties shall, within seven (7) days after such conference, submit to the Court a proposed temporary order providing for the occurrence of those things agreed upon at the conciliation conference. If the Court has not entered an order immediately after the conciliation conference directing such attendance at a mediation orientation session, the proposed temporary order shall contain a provision requiring the parties together to attend an orientation session before a mediator as required by L.R.C.P. No. 1940.3(a). The proposed temporary order may provide for the deferral of evaluations and home studies until after such time as mediation is rejected or terminated. The proposed temporary order shall not contain a provision for the scheduling of a hearing before the Court. The completed Conciliation Conference Checklist shall be attached to the proposed temporary order.

Amended October 28, 2003, effective December 18, 2003.

Comment

If, after an orientation session conducted under the rules

If, after an orientation session conducted under the rules

pertaining to mediation, mediation is terminated or rejected, a hearing before the Court may be obtained pursuant to L.R.C.P No. 1940.6.

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

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

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

ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE

Rule 1920.31 Claims for Support or Alimony Pendente Lite

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

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

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

**Rule 1920.51 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 Order for Orientation Session

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

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

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

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

Rule 1940.4 Minimum Qualifications of the Mediator

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

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

Comment

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

Rule 1940.6 Termination of Mediation. Need for Hearing

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

Rule 1940.7 Mediator Compensation

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

MINORS AS PARTIES

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

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

(b) The minor shall be present in Court at the time of the presentation of the petition unless excused by the Court for cause shown.

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

Adopted April 29, 2008, effective June 17, 2008

Comment

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

INCAPACITATED PERSONS AS PARTIES

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

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

Comment

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

ACTIONS FOR WRONGFUL DEATH

Rule 2205 Notice to Persons Entitled to Damages.

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

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

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

JOINDER OF PARTIES

Rule 2227 Compulsory Joinder

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

Rule 2232 Defective Joinder

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

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

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

INTERVENTION

Rule 2328 Petition to Intervene

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

SUBSTITUTION OF PARTIES

Rule 2352 Substitution of Successor. Objections.

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

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

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

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

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

ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

Rule 3252 Writ of Execution. Money Judgments. Notice.

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

PART II
LOCAL RULES OF CRIMINAL PROCEDURE

(cited as L.R.Crim.P. ____)

SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS

Rule 101 Construction

These rules shall be construed using the same rules of construction as are used in construing the Pennsylvania Rules of Criminal Procedure.

Rule 102 Citing the Local Rules of Criminal Procedure

These rules shall be cited as "L.R.Crim.P. ____."

BUSINESS OF THE COURTS

Rule 103 Definitions

Words and phrases defined by the Pennsylvania Rules of Criminal Procedure shall bear the same meaning when used in these rules, unless the context clearly indicates otherwise.

Rule 105 Local Rules. Noncompliance

No case shall be dismissed nor request for relief granted or denied because of failure to comply with one or more of these rules. In any case of noncompliance, the Court will alert the party to the specific provision at issue and will provide a reasonable time for subsequent compliance.

Rule 106 Continuances in Court Cases

(a) A motion seeking the continuance of any proceeding shall be substantially in the form prescribed by Appendix Y of these Rules.

(b) When appropriate, a motion seeking a continuance shall have attached thereto a waiver of Pa.R.Crim.P. 600 signed by the defendant.

(c) A proposed order substantially in the form prescribed by Appendix Z of these Rules shall be attached to the motion seeking the continuance.

Adopted January 7, 2008, effective February 26, 2008

Rule 114 Orders and Court Notices. Service

(a) Except as stated in subsection (b), below, the Clerk of Courts shall serve copies of all orders and court notices.

(b) The Court Administrator shall serve copies of all notices for criminal case status conferences, omnibus pretrial motion hearings, ARD court, plea court, trials and sentencings.

Adopted January 7, 2008, effective February 26, 2008

**Rule 117 Magisterial District Judges. Coverage. Admission
to Bail by Jail Warden or Designee**

(a) All Magisterial District Judge Offices shall be open for regular business from 8:00 A.M. to 4:30 P.M., prevailing time, Monday through Friday, except for County holidays.

(b) Magisterial District Judges shall be available twenty-four hours per day every day to provide continuous coverage for the services recited in Pa.R.Cr.P. 117(a) and for services required in any Protection from Abuse Act case. A Magisterial District Judge shall be deemed to have satisfied this directive by remaining on-call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the Court. The schedule, and any amendments or alterations thereof, shall be distributed and publicized in accord with past practice.

(c) On forms prescribed by the Court, a Magisterial District Judge may request additions or amendments to the schedule prepared by the Court in order to provide for vacations, emergencies, and the like.

(d) In addition to those persons who are authorized by statute or the Pennsylvania Rules of Criminal Procedure to admit an arrestee to bail, the Warden of the Armstrong County Jail, or the designee of the Warden, shall have the authority to do the same in accordance with and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

Adopted October 3, 2006, effective November 20, 2006

COUNSEL

Rule 121 Waiver of Counsel in Guilty Plea Proceeding

After an appropriate colloquy, the Court will require a defendant who wishes to waive counsel to sign a written waiver of counsel.

Rule 123 Application for Assignment of Counsel

All applications for assignment of counsel pursuant to Pa.R.Crim.P. 122 shall be submitted to the Armstrong County Public Defender's Office. The application shall be in form prescribed from time to time by the Office. The determination of whether a defendant is without financial resources and unable to employ counsel shall be made by the Public Defender. The Public Defender shall be responsible for preparation of written eligibility guidelines biennially. All such guidelines shall be approved by the Court prior to implementation.

INVESTIGATIONS

SEARCH WARRANTS

Rule 202 Approval of Search Warrant Applications by the Attorney for the Commonwealth.

The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 202, no search warrant shall be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. Whenever feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

ACCELERATED REHABILITATIVE DISPOSITION (ARD)

COURT CASES

Rule 310 Placing Case on ARD Court List.

Upon written request delivered directly to the Court

Administrator and signed by the District Attorney, the Court Administrator shall place a case on the ARD Court List.
Adopted January 7, 2008, effective February 26, 2008

Rule 313 Repealed.

PRE-TRIAL PROCEDURES IN COURT CASES

COMPLAINT PROCEDURES

Rule 507 Approval of Police Complaints by Attorney for the Commonwealth

(a) The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Pennsylvania Rules of Criminal Procedure, charging any offense set forth in subsection (b), below, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

(b) Subsection (a) of this rule shall apply when any of the following offenses is charged:

- (i) Criminal homicide, in violation of 18 Pa.C.S. §2501;
- (ii) Murder in any degree, in violation of 18 Pa.C.S. §2502;
- (iii) Voluntary manslaughter, in violation of 18 Pa.C.S. §2503;
- (iv) Involuntary manslaughter, in violation of 18 Pa.C.S. §2504;
- (v) Homicide by vehicle, in violation of 18 Pa.C.S. §3732;
- (vi) Homicide by vehicle while driving under the influence, in violation of 18 Pa.C.S. §3735;
- (vii) Aggravated assault, in violation of 18 Pa.C.S. §2702(a)(1) through (6), inclusive;
- (viii) Rape, in violation of 18 Pa.C.S. §3121;

- (ix) Involuntary deviate sexual intercourse in violation of 18 Pa.C.S. §3123;
- (x) Robbery, in violation of 18 Pa.C.S. §3701(a)(1)(i) through (iv), inclusive; and
- (xi) Aggravated assault by vehicle while driving under the influence, in violation of 75 Pa.C.S. §3735.1.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. When feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

BAIL

Rule 528 Monetary Condition of Release on Bail. Realty as Security

(a) When realty is offered to satisfy a monetary condition of bail, in full or in combination with other forms of security, a completed affidavit of surety and surety information page (including a warrant of attorney for confession of judgment) must be submitted to the Clerk of Courts. The affidavit and the surety information page shall be in such form as the Clerk may prescribe from time to time.

(b) The affidavit of surety and the surety information page shall be signed by the defendant and by all owners of the realty being offered as security if the realty is not owned by the defendant.

(c) Attached to each affidavit of surety submitted pursuant to paragraph (a), above, shall be the following:

- (i) a photocopy of the deed, decree of distribution or other instrument of record, bearing all pertinent recording data, by which title was acquired, and
- (ii) the written certification by a lawyer licensed to practice law in the Commonwealth certifying the names of the current owners of record of the realty, certifying that good and marketable title is vested in them, and further certifying the nature, holder and unpaid balance of each lien

that then encumbers the realty, including, but not limited to, mortgage, judgment and tax liens. A title insurance policy with the County of Armstrong appearing as a named insured may be Substituted for the lawyer's written certification.

(d) The Clerk of Courts shall make the determination of whether the net value of the property is sufficient to satisfy the monetary condition. For property located outside the Commonwealth but within the United States, the Clerk may impose reasonable conditions designed to perfect the lien. The Clerk shall not accept realty outside the Commonwealth as fulfillment of the monetary condition, in whole or in part, without special approval of Court.

(e) The Clerk of Courts shall, as final acceptance of the realty as security, cause of judgment to be confessed against all owners thereof in the appropriate county, in favor of the Commonwealth for the use of Armstrong County. The Clerk of Courts is hereby authorized to execute all judgment lien releases for property that may be encumbered by the judgment lien, but not intended to serve as security, and is further authorized to cause the judgment lien to be marked as satisfied after the full and final disposition of the case. The Clerk shall file a certificate among the papers of the criminal case certifying that judgment has been entered and setting forth the pertinent details of entry.

(f) A fee shall be paid to the Clerk of Courts at the time of the submission of the affidavit of surety. The amount of the fee shall be determined from time to time by Order of the Court. No cost arising from the perfection, release or satisfaction of a judgment lien shall be paid by the Clerk, but shall be borne by the defendant or a surety.

MOTION PROCEDURES

Rule 578 Omnibus Pretrial Motions for Relief. Cover Sheet

Every omnibus pretrial motion for relief requiring an evidentiary hearing or argument 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 OMNIBUS PRETRIAL MOTION REQUIRING EVIDENTIARY HEARING**

-1-

Has any judge heard this matter previously?
_____ Yes _____ No

-2-

If yes, which judge has heard it? _____

-3-

How many witnesses do you believe will testify (combined total)? _____

-4-

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

Adopted January 7, 2008, effective February 26, 2008

Rule 585 *Nolle Prosequi*

An order of *nolle prosequi* will be considered only upon motion of the attorney for the Commonwealth, either orally in open court or in writing.

PLEA PROCEDURES

Rule 590 Pleas and Plea Agreements

(a) Upon written request delivered directly to the Court Administrator and signed by both the District Attorney and defense counsel (or by a defendant if there is no defense counsel), the Court Administrator shall place a case on the Plea Court List.

(b) No written request directing that a case be placed on a Plea Court List shall be signed by the District Attorney or defense counsel (or by a defendant, if there is no defense counsel) unless the applicable plea agreement, if any, has first been signed by the District Attorney, the defendant, and defense counsel, if any.

Adopted January 7, 2008, effective February 26, 2008

TRIAL PROCEDURES IN COURT CASES

GENERAL PROVISIONS

**Rule 602 Presence of the Defendant. Transportation from
Current Place of Detention**

If a defendant represented by counsel is in detention in any facility other than the Armstrong County Jail, and if he is scheduled for any appearance before the Court, defense counsel shall petition the court for an order causing his temporary release from his current place of confinement and his transportation to an confinement at the Armstrong County Jail pending and during his appearance before the Court. If the defendant is not represented by counsel, the attorney for the Commonwealth shall file such a petition. The petition shall have an appropriate Order attached thereto, and it shall be filed no later than ten (10) days before the date of appearance.

NON-JURY PROCEDURES

Rule 620 Waiver of Jury Trial

After an appropriate colloquy, a written waiver of jury trial shall be signed by the defendant if the Court ascertains that the defendant is knowingly and intelligently ready to waive the same.

POST-TRIAL PROCEDURES IN COURT CASES

SENTENCING PROCEDURES

Rule 700 Sentencing Judge

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received the plea, if the defendant has been so notified at the time of entering the plea or if he agrees thereto at the time of sentencing.

Comment

This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

Rule 702**Aids in Imposing Sentence**

(a) As an aid in imposing sentence, the Court will consider applications submitted to the Probation Office for the electronic monitoring of the defendant while confined to his home, and the fact of approval or disapproval thereof by the Probation Office, the attorney for the Commonwealth and the Warden of the Armstrong County Jail.

(b) Applications for electronic monitoring shall be in such form as may from time to time be prescribed by the Probation Office. Such applications shall be available at the Probation Office.

(c) A bench warrant will be issued for the arrest and confinement of a defendant who fails to appear for an interview by the Probation Office in connection with the preparation of a pre-sentence investigation report.

PART III
LOCAL ORPHANS' COURT RULES

(cited as L.O.C. Rule ____)

**PRACTICE RELATING TO CERTAIN
PETITIONS, MOTIONS and APPLICATIONS**

Rule 1.2A Definition. Parties in Interest

"Parties in interest" can include intestate heirs, legatees, devisees, residuary heirs, beneficiaries, creditors, claimants, and lienholders. Who the parties in interest are in a particular situation will depend upon the circumstances.

Comment

The definition does not contain an exhaustive list. For instance, 20 Pa.C.S. §767 authorizes the Court to join a taxing authority as a party in interest when the interests of the taxing authority may be adversely affected in a proceeding before the Court. This may be done *sua sponte* or upon motion of a party.

Rule 1.2B Filing with Clerk. Format.

(a) All petitions, motions and applications shall be filed with the Clerk.

(b) All petitions and other legal papers shall be 8½" x 11" in size and shall be stapled in the left margin. Staples shall be the sole means by which the pages are fastened. Pages shall be typewritten or printed.

Rule 1.2C Contents of Petition. Exhibits. Consents. Order

(a) In addition to the items required by Pa.O.C. Rule 3.4(a), a petition shall set forth the names and addresses of all persons who are parties in interest.

(b) In addition to the items required by Pa.O.C. Rule 3.4(b), a petitioner shall attach to the petition true and correct copies of all wills, deeds, contracts, and other instruments pertaining thereto. The petition shall state the place, if any, where the instruments may be found of record. The petition shall state whether or not a similar petition has been filed with or presented to any other court in the Commonwealth of Pennsylvania and, if it has, the result thereof. In the case of a petition for the settlement of a small estate, an original copy of the decedent's death certificate shall be attached thereto.

(c) Whenever a party in interest other than a petitioner desires to consent to or join in the prayer of a petition, there shall be attached to the petition a written consent signed by the party in substantially the form prescribed by Appendix K of these Local Rules. All consents shall be signed by at least one witness.

(d) Every petition shall have an appropriate order attached thereto. A petition seeking the award of a citation shall have attached thereto an order awarding a citation, substantially in the form of the order prescribed by Appendix L of these Local Rules.

Adopted October 3, 2006, effective November 20, 2006

Rule 1.2D Petitions Requiring Notice After Filing. Proof of Service. Answers

(a) Except as provided in subsection (d), below, notice of the filing of a petition shall be given to all parties in interest whose consents are not attached. A copy of the petition shall be attached to the notice. The notice shall be substantially in the form prescribed by Appendix M of these Local Rules. The notice shall state that the party in interest has twenty (20) days after the date of its service upon him to file an answer to the petition; provided, however, that the Court may set a shorter period of time within which an answer may be filed or may set a date certain by which the same may be done, for good cause alleged in the petition itself.

(b) The petitioner shall file a proof of service of notice.

(c) A party in interest may file a written answer to the petition at any time within the time limit set forth in the notice. "Answer," as the term is used in this rule, includes not only a formal answer admitting or denying the factual averments of the petition, but also a preliminary objection or any other objection or disagreement with the petition or the relief being sought. All answers shall be filed with the Clerk. A copy of the answer shall be served upon the petitioner or petitioner's attorney. A proof of service shall be filed thereafter.

(d) The provisions of this rule shall not apply to petitions

(i) where all parties in interest are petitioners or consent to the granting thereof;

(ii) when notice requirements are dispensed with by pertinent rule or statute, or when good

cause is shown for dispensing with notice

- requirements;
- (iii) seeking the issuance of a citation;
- (iv) seeking the appointment of a guardian for an alleged incapacitated person;
- (v) for termination of parental rights;
- (vi) for adoption; and
- (vii) for compromise, settlement, and distribution of a minor's claim.

Notice of petitions described in clauses (iii), (iv), (v) and (vi) shall be given as prescribed by applicable rule or statute. Notice of petitions described in clause (vii) shall be given as prescribed by L.O.C.R. 12.16.

Adopted April 29, 2008, effective June 17, 2008

RULES OF CONSTRUCTION

Rule 2.1A Construction of Rules

These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The Court at every stage of any action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties in interest.

Rule 2.2A Waiver of Time Limitation

The Court upon its own motion or the petition of any party may extend any limitation of time prescribed by these rules.

Rule 2.3A Words and Phrases

Unless the context clearly indicates otherwise, the words and phrases used herein shall bear the same meaning as they bear in the Pennsylvania Orphans' Court Rules.

PLEADING AND PRACTICE

Rule 3.2A Permissible Pleadings

The pleadings in matters before this Court shall be limited

to a petition, an answer, new matter, a reply, preliminary objections, and an answer to preliminary objections.

Rule 3.2B Endorsement. Signature. Verification

(a) Every pleading shall be endorsed with the name, address, telephone number and Supreme Court identification number of counsel and the party on whose behalf the pleading is filed.

(b) Every pleading shall be signed by the attorney, and where facts outside the record are averred, shall be verified by one or more of the parties. If this is impracticable, it may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to sign shall be set forth.

Rule 3.5A Mode of Proceeding on Petition.

(a) The mode of proceeding on petition shall be by citation to be awarded by the Court upon application of petitioner in any case where jurisdiction over the person of the respondent is required and has not previously been obtained. In all other cases, the mode of proceeding shall be by notice as prescribed by Rule 1.2D of these rules. A copy of the petition shall be served with the citation or notice unless service is made by publication.

(b) No citation will be awarded which commands a party to personally appear before the Court, unless the order awarding the citation specifically directs that such a command be contained therein.

Comment

In the Orphans' Court, a citation is the proper process by which initial personal jurisdiction over the person is obtained. *In re: Hicks' Estate*, 414 Pa. 131, 199 A.2d 283 (1964).

Rule 3.5B Citation Where Jurisdiction Over the Person is Required. Personal Service. Proof of Service

(a) A citation where jurisdiction over the person is required shall be served in the manner prescribed by 20 Pa.C.S. §765, when the person can be served within the Commonwealth.

(b) Proof of personal service of the citation shall be by affidavit of the person or the return of the sheriff making service. It shall state the date, time, place, and manner of service and that true copies of the citation and petition were handed to the respondent.

Comment

20 Pa.C.S. §765 governs the service within the Commonwealth of a citation to obtain personal jurisdiction. *Kelsey Estate* 31 D & C 170 (1963).

20 Pa.C.S. §768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5C Citation Where Jurisdiction Over the Person is Required. Service by Mail. Proof of Service

(a) When a citation to obtain jurisdiction over a person is to be served upon a person outside the Commonwealth, service of the citation may be accomplished by certified mail, return receipt requested, within the United States and registered mail elsewhere.

(b) When service of the citation is by certified mail, the affidavit of service shall state that the return receipt bears a signature purporting to be that of the respondent, his agent, or a member of his household. The return receipt shall be filed with the affidavit. When service is by registered mail, proofs of mailing shall be filed with the affidavit.

Comment

Despite the authorization by this rule to serve original process by mail upon non-residents of the Commonwealth, the Due Process Clause of the Fourteenth Amendment can operate as a limitation on the jurisdiction of our courts.

20 Pa.C.S. §768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5D Citation Where Jurisdiction Over the Person is Required. Service by Publication. Proof of Service

(a) When a citation to obtain personal jurisdiction over a person cannot be served personally or by mail because the person cannot be found, the Court may, upon motion, authorize service by publication. Notice in advance of the presentation of such a motion is not required. When the last known residence of the respondent was in Armstrong County, such service shall be by publication once a week for three (3) successive weeks in a newspaper of general circulation published in the County and in the Armstrong County Legal Journal. If the respondent's last

known residence was not in Armstrong County or is unknown, the

publication shall be as the Court may direct. The first publication shall not be less than twenty-one (21) days before the last day to file an answer.

(b) When service of the citation is by publication, the return shall consist of the proofs of publication verified by the affidavits of the publishers.

Comment

20 Pa.C.S. §768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5E Preliminary Objections. Answers

The practice and procedure relating to preliminary objections and answers thereto shall be governed by the pertinent Pennsylvania Rules of Civil Procedure as implemented by the Local Rules of Civil Procedure, including those requiring the filing of proposed scheduling orders.

Rule 3.5F Disposition of Issues Raised by Pleadings

(a) If the respondent fails to file an answer, the averments of fact set forth in the petition shall be deemed admitted and the Court may enter a decree granting the prayer of the petition.

- (i) In proceedings where personal jurisdiction over the person served was not required, the petitioner shall file a praecipe with the Clerk directing the Clerk forthwith to transmit the record to the Court. The praecipe shall be substantially in the form prescribed by Appendix N of these Local Rules.
- (ii) In proceedings where personal jurisdiction over the person served was required, the petitioner shall present a motion for order to transmit the record at any duly scheduled session of Motions Court in accordance with the Local Rule of Civil Procedure pertaining thereto. The motion shall state all the relevant facts of record, including the name of the petitioner, the type of petition, the date of service upon the respondent, the fact that a proof of service was filed as

required by local rule, and the fact that no answer was filed by the respondent. The motion shall have attached thereto a proposed order in the form prescribed by Appendix O of these Local Rules.

When there is more than one respondent, the Court may, in its discretion, refrain from acting until the last date has passed on which any respondent could have filed an answer.

(b) If the petitioner fails to file a reply to an answer which contains new matter, the averments of fact set forth under new matter shall be deemed admitted and the case will be at issue.

(c) If the petitioner fails to file an answer to properly and appropriately pleaded factual averments of preliminary objections, the averments of fact set forth in said preliminary objections shall be deemed admitted, and the case will be at issue on the preliminary objections.

(d) The Court may, upon motion in appropriate cases, enter judgment on the pleadings in favor of any party or parties entitled thereto.

Comment

Subsection (a)(ii) provides a greater degree of protection, in default situations, to a respondent when personal jurisdiction over him must be obtained. This results from the additional notice requirements set forth in the Local Rule of Civil Procedure pertaining to Motions Court.

Rule 3.5G Motion for Judgment on the Pleadings

The practice and procedure relating to motions for judgment on the pleadings shall be governed by the pertinent Pennsylvania Rules of Civil Procedure, as implemented by the Local Rules of Civil Procedure, including those requiring the filing of proposed scheduling orders. Notice in advance of the filing of such a motion is not required.

Rule 3.5H Service of Pleadings and Legal Papers, Other than Petitions

Pleadings and legal papers, other than petitions, shall be served by the filer in the manner prescribed by Pa.R.C.P. No. 440, as implemented by the Local Rules of Civil Procedure, except that all filings shall be with the Clerk.

Comment

The methods of service of citations to obtain personal jurisdiction over the person are found at Rule 3.5B through Rule 3.5D of these rules. The methods of service of notice, including notice of the filing of a petition, are found at Rule 5.1A of these rules.

Rule 3.5I Jury Trial

A person entitled to and desiring a trial by jury shall make timely demand therefor in accordance with 20 Pa.C.S. §777.

Rule 3.5J Trials. Jury and Non-jury. Pre-trial Conference List. Motion for Non-jury trial without Pre-trial Conference

(a) When pleadings have been filed by the parties in conformity with prescribed procedure, or when the time for filing additional pleadings has expired, the matter may be placed on the Pre-trial Conference List by filing a praecipe with the Clerk. The Clerk shall deliver a copy thereof to the Prothonotary, and the case shall thereafter proceed as if it were an action in equity in the Civil Division, except as otherwise prescribed by these rules. A copy of the praecipe shall be served as prescribed by Rule 3.5H of these rules.

(b) As an alternative to placing a case on the Pre-trial Conference List, a matter may be scheduled for non-jury trial upon motion presented at any duly scheduled session of Motions Court pursuant to Local Rules of Civil Procedure.

Comment

Under this rule, relatively simple matters may be scheduled for non-jury trial without the case being the subject of a pre-trial conference.

The Prothonotary maintains a Pre-trial Conference List in accordance with the Local Rules of Civil Procedure. All filings after the case has been placed on the Pre-trial Conference List will nonetheless continue to be made with the Clerk of the Orphans' Court Division.

Rule 3.5K Continuances

The practice and procedure relating to continuances shall be governed by the pertinent Local Rules of Civil Procedure. An application for continuance may be presented at any duly scheduled session of Motions Court pursuant to said Rules.

Rule 3.5L Costs Taxable to Fiduciary or Estate Fund

When a fiduciary, in good faith, defends the estate fund against a claim, the fiduciary shall not be personally liable for any taxable costs, and any costs otherwise taxable against him shall be taxed instead against the estate fund.

Rule 3.6A Discovery

No discovery shall be conducted except with leave of Court. After leave is granted, the permitted discovery shall be conducted as prescribed by the Pennsylvania Rules of Civil Procedure. Motions for leave to conduct discovery may be presented at any duly scheduled session of Motions Court pursuant to the Local Rules of Civil Procedure.

Rule 3.6B Subpoenas

Subpoenas, including subpoenas duces tecum, shall be issued as of course by the Clerk.

Rule 3.7A Attorneys. Appearances. Surety

(a) An endorsement of an attorney on any legal paper filed with the Clerk shall constitute a written appearance.

(b) No attorney may withdraw an appearance without leave of court unless another attorney simultaneously enters an appearance for the same party.

(c) No attorney may act as surety in any proceeding, except with leave of court.

NOTICE

Rule 5.1A Method of Notice Generally

(a) Except as may be provided otherwise by statute or by any rule adopted by the Supreme Court of Pennsylvania, and except as specifically directed or permitted otherwise by these rules, whenever notice is to be given to a person, it shall be given

- (i) by personal service upon the attorney appearing of record for such person, delivery at the office of such

attorney, or by mail; or

- (ii) if there is no such attorney, by personal service, delivery at the residence of such person or by mail, if his residence is known; or
- (iii) if his residence is not known, by publication during three (3) successive calendar weeks in the legal periodical and in a newspaper of general circulation published at or near his last known address within the county; or
- (iv) in such other manner as the Court shall direct.

(b) "Mail" as the term is used in subsection (a) of this rule means registered mail providing for a return receipt or certified mail providing for a return receipt, except for addresses outside the United States, in which event it means registered mail. In the event such registered or certified mail is returned to the sender as unclaimed, refused or undelivered, "mail" shall also mean ordinary mail with the return address of the sender appearing thereon. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen (15) days after mailing.

Rule 5.1B Method. Legal Publication

The legal periodical in which all publications of notice required by any statute, rule of Court or order pertaining to Orphans' Court matters is the Armstrong County Legal Journal, the address of which is Armstrong County Courthouse, Law Library, Kittanning, PA 16201.

Rule 5.2A Method. Persons Under Incapacity

(a) Notice to a person who is not sui juris and who has no guardian or trustee shall be given in such manner as the Court shall direct by special order. Such special order shall issue upon presentation of a petition reciting all known circumstances of the person that are relevant in determining who would be most concerned with his best interests. Notice in advance of the presentation of such a petition is not required.

(b) Notwithstanding the provisions of subsection (a) of this rule, when a minor's net interest in any estate is \$25,000 or

less, notice shall be given to the minor and, in addition thereto, to the parent or other person maintaining the minor.

(c) In the case of notice of the filing of an account and a statement of proposed distribution, and notwithstanding the provisions of subsection (a) of this rule, when a person who is not sui juris and who has no guardian or trustee, has no interest in the residuary estate but only a fixed interest by way of legacy or bequest, and the obligation to pay the same is fully recognized in the proposed statement of distribution, then notice shall be given to such person, and, in addition thereto, to the parent or other person maintaining him.

Comment

20 Pa.C.S. §5101 authorizes the Court to permit the distribution of a minor's share of an estate directly to the minor or the parent or other person maintaining the minor, when the share has a net value of \$25,000 or less. Notice as permitted by Rule 5.2A(b) of these rules would therefore appear to be appropriate.

Rule 5.4A Notice. Proof of Service

Proof of service of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice. A proof of service by mail or by delivery shall include the name and address of each party in interest so served. The proof of service shall be substantially in the form prescribed by Appendix O-1 of the Local Rules.

Amended October 28, 2003, effective December 22, 2003.

ACCOUNTS AND DISTRIBUTION

Rule 6.1A Form

(a) Accounts shall be substantially in the form prescribed by Appendix P of these Local Rules or in the form prescribed by Pa.O.C. Rule 6.1, at the election of the accountant. Each account shall bear the proper caption.

(b) All accounts shall be typewritten on 8½" x 11" paper and shall be stapled in the left margin. Staples shall be the sole means by which the pages are fastened.

Comment

The preferred form of the account to be filed by the personal representative of an estate in most instances is the one set forth in Appendix P.

20 Pa.C.S. §3392 pertains to the classification and order of

payment of claims and charges against the assets of an insolvent estate. The claims and charges enumerated in 20 Pa.C.S. §3392(2), (3), (4), and (5) are all to be included in that portion of the disbursements section of Appendix P labeled "Preferred Debts."

Rule 6.3A Notice to Parties in Interest. Time

(a) Notice of the filing with the Clerk of an account and a schedule of proposed distribution shall be given by the accountant to all parties in interest at least twenty (20) days prior to the date when the same will be presented to the Court for confirmation.

(b) Notice of the filing of an account and schedule of proposed distribution shall be substantially in the form prescribed by Appendix Q of these Local Rules.

Rule 6.4A Time for filing

An account must be filed no later than thirty (30) days before the regularly scheduled confirmation date published in the annual Court calendar upon which the accountant desires to have the account presented to the Court for confirmation and the statement of proposed distribution, if any, presented for approval.

Rule 6.6 Filing with Clerk of the Orphans' Court Division

All accounts shall be filed with the Clerk.

Rule 6.9A Statement of Proposed Distribution. Distribution Determined by Auditor

(a) When distribution is being proposed by an accountant, the accountant shall attach to the account, as its last page or pages, a statement of proposed distribution in the form of a proposed decree. The proposed decree shall be substantially in the form prescribed by Appendix R of these Local Rules.

(b) After confirmation of an account when no distribution has been proposed, a fiduciary may petition the Court for the appointment of an auditor to determine distribution, pursuant to Rule 8.0A of these rules.

Rule 6.10A Objections to Accounts and Statements of Proposed Distribution

(a) Objections to an account or a statement of proposed

distribution shall be in writing and shall be filed with the Clerk.

(b) Objections may be filed at anytime before the day the account is to be presented to the Court for confirmation.

(c) Objections shall be numbered consecutively and each objection shall be specific as to description or amount, raise but one issue of law or fact, and set forth briefly the reason or reasons in support thereof.

(d) Copies of the objection shall be served by the objector promptly upon the accountant and all parties in interest.

Rule 6.10B No Objections Filed

Except as otherwise provided by statute or the Pennsylvania Orphans' Court Rules, no interested party may object to or in any other manner challenge an account or statement of proposed distribution after the account has been confirmed or the proposed distribution has been approved.

Comment

An order of confirmation or approval will be in the form of a final order and not a decree nisi.

Rule 6.10C Appointment of Auditor

Pursuant to Rule 8.0A of these rules, the accountant, the objector, or any other party in interest must move for the appointment by the Court of an auditor to resolve the issues raised by the objections. The Court may, in its discretion, resolve the issues without such an appointment. Notice in advance of the presentation of such a motion is not required.

EXCEPTIONS

**Rule 7.1A No Exceptions to Orders or Decrees Generally.
Waiver of Grounds**

(a) No exceptions shall be filed to any order or decree unless permitted by the terms of such order or decree or by Pa.O.C. Rule 7.1.

(b) Exceptions to an order or decree may not be sustained unless the grounds are specified in the exceptions and were raised by petition; motion; answer; claim; objection; offer of proof; exceptions to auditor's reports, master's reports or appraisements; or other appropriate method.

Comment

Pa.O.C. Rule 7.1(e) does not permit the filing of an exception to any order in involuntary termination or adoption matters under the Adoption Act.

Rule 7.1B Exceptions to Auditor's Report, Master's Report or Appraisement. Time. Waiver of Grounds

(a) Exceptions to an auditor's report, a master's report, or an appraisement must be filed within ten (10) days after its date of filing. If a party files timely exceptions, any other party may file cross exceptions within ten (10) days after the filing of exceptions.

(b) Exceptions to an order or decree may not be sustained unless the grounds are specified in the exceptions and were raised by petition, motion, answer, claim, objection, offer of proof, or other appropriate method.

Rule 7.1C Form of Exceptions. Place of Filing

(a) Exceptions, whether to an order or decree, auditor's report, master's report, or appraisement, shall be in writing filed with the Clerk.

(b) Exceptions shall be set forth in consecutively numbered paragraphs, each paragraph raising but one issue, and stating the ground or grounds therefor. Exceptions shall be signed by the exceptant or the exceptant's attorney.

AUDITORS AND MASTERS

Rule 8.0A Appointment. Petition.

a) The Court, on its own motion or upon petition of an accountant or any other party in interest, may appoint an auditor or master.

(b) The petition shall recite why the appointment is sought and what issues the auditor or master is likely to be called upon to resolve.

Comment

The purposes of auditors, masters, and of certain other Orphans' Court Division officers may be found at 20 Pa.C.S. §751.

Rule 8.0B Oath

The auditor or master, before undertaking appointive duties,

shall take an oath before the Clerk to faithfully perform such duties.

Rule 8.1A Notice of Hearings

(a) The auditor or master shall fix a date, time and place for hearing and shall give written notice to the accountant or petitioner and all parties in interest or their counsel of record of the hearing by first class mail at least twenty (20) days prior thereto. In the event notice cannot be given in such manner, notice shall be given by advertisement one time in the Armstrong County Legal Journal and one time in a newspaper of general circulation in the county where the decedent resided. The date of publication shall be at least twenty (20) days prior to the hearing.

(b) the notice shall include the following:

- (i) the caption and number of the case;
- (ii) the fact and date of appointment;
- (iii) the name of the fiduciary of the estate
- (iv) the time and place of hearing;
- (v) a general statement of the matters to be determined; and
- (vi) the signature and the typewritten name, address and telephone number of the auditor or master.

Rule 8.1B Conduct of Hearings

(a) All hearings before an auditor or master shall be conducted in accordance with the Pennsylvania Rules of Evidence.

(b) The hearings may be continued or adjourned from time to time by the auditor or master for cause shown or upon agreement of all parties present, but each continuance or adjournment shall be to a day certain not more than thirty days distant.

(c) Auditors and masters shall have the authority to administer oaths to witnesses.

(d) Auditors and masters shall have the authority to issue subpoenas, including subpoenas duces tecum.

(e) With leave of court, the auditor or master may retain experts as an aid in the performance of appointed duties. Leave may be obtained by motion presented in Motions Court pursuant to the Local Rules of Civil Procedure. All parties in interest shall receive notice of the presentation of such a motion.

(f) An official court reporter shall take all the testimony and thereafter transcribe the same.

Rule 8.3A Form of Auditor's Report

(a) In addition to the requirements of Pa.O.C. Rule 8.3, an auditor's report shall include a statement of proposed distribution and shall have attached a proposed decree which confirms the report and states in detail the distribution proposed by the auditor.

(b) The auditor's report and proposed statement of distribution shall provide for the payment of the auditor's fees and expenses, imposing them upon one or more parties in such manner as is equitable.

(c) The auditor's report shall state the manner of service of notice of the hearing.

Rule 8.6A Notice of Filing of Report

(a) An auditor or master shall timely file the report with the Clerk and simultaneously serve notice thereof upon the accountant, all parties who appeared at the hearing, and all parties who received notice of the hearing other than by publication. The notice shall be given by first class mail. A copy of the report shall be attached to the notice. Proof of service of the notice shall be filed immediately after mailing of the same. A copy of the notice shall be attached to the proof.

(b) The notice of the filing of the report shall be substantially in the form prescribed by Appendix S of these Local Rules. The notice shall state that exceptions thereto must be filed within ten (10) days of the date of filing of the report or the report may be confirmed in the case of an auditor or its recommendation adopted in the case of a master.

Rule 8.7A Confirmation of Auditor's Report

Unless exceptions to an auditor's report are timely filed,

the report will be confirmed by the Court. The Clerk shall transmit the report as of course so it may be so confirmed.

Rule 8.7B Confirmation of Master's Report

Unless exceptions to a master's report are timely filed, the Court will adopt its recommendations. The Clerk shall transmit the report to the Court as of course so its recommendations may be so adopted.

OFFICIAL EXAMINERS

Rule 9.1A Appointment. Petition

(a) The Court, on its own motion, or upon petition of an auditor or any other party in interest, may appoint an official examiner.

(b) The petition shall recite why the appointment is sought.

Comment

The purpose of official examiners and of certain other Orphans' Court Division officers may be found at 20 Pa.C.S. §751.

Rule 9.1B Order to Appear for Examination. Service. Attachment of Person for Failure to Appear. Civil Contempt

(a) An official examiner may order any person in custody or control of estate or trust assets to appear before him for examination. The order may include a directive to bring papers, other information, or the assets themselves, in an appropriate case. The official examiner shall cause the order to be personally served upon the person by a competent adult. An affidavit of service shall be promptly filed by the person making such service.

(b) If the person directed to appear before the official examiner fails to appear despite proper service, the official examiner may petition the Court for an attachment of the person. The official examiner may file a petition seeking an adjudication of civil contempt. The Court will direct the manner of service of the contempt petition by special order. Notice of the presentation of either kind of petition is required.

Rule 9.1C Compensation

The compensation of the official examiner shall be paid from the estate fund. The amount of such compensation shall be fixed by special order of court.

REGISTER OF WILLS

Rule 10.1A Filing of Inventory with Register of Wills

The inventory filing requirement set forth in 20 Pa.C.S. §3301 will be deemed to have been satisfied by the filing of a Pennsylvania Inheritance Tax return with the Register. If the decedent owned real estate outside the Commonwealth at the time of his death, a memorandum describing the real estate shall be attached to the return.

Comment

20 Pa.C.S. §3301 requires the personal representative of an estate to file an inventory with the Register of Wills.

Rule 10.2A Appeals from the Register of Wills. Petition. Contests. Citation. Service. Procedure

(a) Appeals from a judicial act or decision of the Register of Wills shall be by petition directed to the Court.

(b) The petition shall bear the proper caption and shall be in paragraph form, stating the nature of the proceedings before the Register; the basis for the appeal, including the relevant facts which the petition relies upon; the names and addresses of all parties in interest, including those who are not a party to the record; and a prayer for appeal.

(c) When a petition for appeal has been filed with the Court, the Register of Wills shall cause the record to be certified to the Court and properly docketed in the Orphans' Court Division dockets.

(d) After the record has been certified and docketed as required in subparagraph (c) of this rule, the Court will award a citation directed to all parties in interest.

SPECIAL PETITIONS

FAMILY EXEMPTION

Rule 12.1A Family Exemption. Petition. Procedure

In the event a petition is filed because the fiduciary has disallowed a claim for a family exemption, the matter shall proceed under Rule 3.5A of these rules.

Rule 12.1B Personal Property. Appraisalment

When personal property is claimed as the family exemption and an appraisalment is necessary, it shall be done in such manner as the Court may direct by special order in each case. The petition seeking such special order shall have a proposed special order attached thereto.

Rule 12.1C Real Property. Appraisalment

When real property is claimed as the family exemption, an appraisalment shall be done in accordance with 20 Pa.C.S. §3123.

Rule 12.1D Return of Appraisalment. Notice of Filing

The order of appointment shall fix the date upon which the written appraisalment shall be filed with the Clerk by the appraisers. The appraisalment shall describe the property, specify the value, and specify the liens and encumbrances upon the property. The appraisers shall timely file their appraisalment with the Clerk and simultaneously serve notice thereof to all parties in interest who have been served with the petition other than by publication. The notice shall state the date of filing of the appraisalment, the fact that the appraisalment will be confirmed by the Court unless written exceptions are timely filed with the Clerk. The notice shall be served by first class mail, and the appraisers shall attach a copy of the appraisalment to the notice. A proof of service of notice shall be filed and a copy of the notice shall be attached thereto.

Rule 12.1E Employment of Counsel by Appraisers

The appraisers shall hire a lawyer to aid them in the preparation and filing of their appraisalment, and in giving the required notice of the filing thereof.

Rule 12.1F Appraisers Compensation and Expenses

In addition to the requirements set forth in Rule 12.1D of these rules concerning contents of the appraisal, the appraisal shall have attached thereto a statement of the appraisers fees and expenses. An order of confirmation shall direct payment of the same by the personal representative.

Rule 12.1G Confirmation of Appraisal

Unless exceptions to an appraisal are timely filed, the appraisal will be confirmed by the Court. The Clerk shall transmit the appraisal as of course so it may be confirmed.

Rule 12.1H Hearing or Argument

Any exceptant or other party in interest may move the Court to schedule a hearing, an argument, or both, upon the exceptions, in the event the Court has not done so on its own. Notice of the presentation of such motion is not required.

ALLOWANCE TO SURVIVING SPOUSE OF INTESTATE

**Rule 12.2A Allowance to Surviving Spouse of Intestate.
Appraisal**

The manner of appraising the property, of filing and confirming the appraisal, and of giving notice thereof shall be as prescribed by Rule 12.1A through 12.1H of these rules, pertaining to claim for family exemption.

**EXTENSION OF TIME FOR FILING OF
SURVIVING SPOUSE'S ELECTION**

Rule 12.3A Petition for Extension of Time to File Election

A surviving spouse who seeks an extension of time to file an election under 20 Pa.C.S. Chapter 22 shall proceed under Rule 3.5A of these rules.

**APPOINTMENT OF A GUARDIAN FOR THE ESTATE OR
PERSON OF A MINOR**

**Rule 12.5A Appointment of a Guardian for the Estate or Person
 of a Minor**

(a) A hearing shall be held upon every petition filed for the appointment of a guardian of the person or the estate of a minor, even if the consents of all parties in interest are attached and even if no objection to the petition is filed by any party in interest.

(b) In lieu of the notice requirements of Rule 1.2E of these rules, the notice shall be substantially in the form prescribed by Appendix T of these Local Rules. The notice shall be served by the petitioner upon the minor if at least twelve (12) years of age, upon all parties in interest, including non-custodial parents, and upon any adult who actually has physical custody of the minor, even if their consents are attached to the petition. A copy of the petition shall be attached to the notice. A proof of service of the notice shall be filed. The notice shall be served at least twenty (20) days in advance of the hearing.

(c) The proposed guardian or co-guardians shall appear at the hearing. The minor shall appear at the hearing if he is at least 14 years of age.

(d) All bonds shall be filed with the Clerk within thirty (30) days of the date of appointment. Failure to file the bond may be deemed to be a refusal of the appointment.

Comment

An alternative to the appointment of a guardian of the estate may be the establishment of a sequestered deposit under 20 Pa.C.S. §5103.

20 Pa.C.S. §5101 authorizes the Court to permit the distribution directly to a minor of up to \$25,000 by a decedent's estate or trust.

PARTITION

Rule 12.8A Partition. Procedure

If the Court determines that there shall be a partition of real estate which can be divided without prejudice to or spoiling the whole, the Court shall enter an order directing partition, which shall set forth the names of all the co-tenants and the

nature and extent of their interests in the realty. Further proceedings shall be in conformity with the Pennsylvania Rules of Civil Procedure pertaining to partition actions. All filings shall be with the Clerk.

Comment

20 Pa.C.S. §3534 concerns distribution of assets in kind; it authorizes a court to partition real property in certain circumstances or to direct its sale, in others.

PUBLIC SALE OF REAL PROPERTY

Rule 12.9A Public Sale of Real Property

(a) After allowance of a public sale of real property, the petitioner shall, in addition to such notice as is required by law, give notice of the sale to each party in interest. The notice may be given by first class mail and must be given at least twenty (20) days prior to the date of the proposed sale. In addition, notice of the sale must be published one time in a newspaper of general circulation in the community where the real property is located.

(b) The notice shall bear the caption of the estate and shall contain:

- (i) the address of the property and the municipality in which it is located;
- (ii) the area of the property in terms of acres or square feet;
- (iii) a list of the improvements on the property;
- (iv) a deed or survey description of the property, if one is available;
- (v) the name of the grantee of the last recorded deed for the property, together with the deed or record book volume and page; and
- (vi) the liens and encumbrances thereon, including the identity of the lienholders and encumbrance holders.

Comment

For the power of personal representatives of an estate to sell real property, see 20 Pa.C.S. Chapter 33, Subchapter C. For the power of a guardian of a minor to sell real property, see 20 Pa.C.S. Chapter 51, Subchapter F. For the power of a guardian of the estate of an incapacitated person to sell real property, see 20 Pa.C.S. Chapter 55, Subchapter D.

INALIENABLE PROPERTY

Rule 12.12A Inalienable Property

After the filing of a petition to sell, mortgage, lease or exchange inalienable property pursuant to 42 Pa.C.S. Chapter 83, the matter shall proceed under Rule 3.5A of these rules.

CLAIMS OF MINORS AND INCAPACITATED PERSONS

Rule 12.16 Compromise, Settlement, Discontinuance. Distribution. Petition. Contents.

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

(b) The minor shall be present in Court at the time of the presentation of the petition unless excused by the Court for cause shown.

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

Comment

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

Adopted April 28, 2008, effective June 17, 2008

Rule 12.16A Claims of Minors and Incapacitated Persons

(a) A petition filed under this rule shall contain the same information prescribed by the Local Rules of Civil Procedure governing such petitions filed in civil actions.

(b) Petitions for approval by the court of a proposed compromise, settlement, or discontinuance of a cause of action for injury to the person of a minor or to an incapacitated person shall be governed by Rule 1.2D and Rule 3.5F(a)(1) of these Rules.

(c) If no party in interest answers or objects to such a petition for approval involving a minor, the minor shall be present in Court at the time the record is transmitted to the Court upon praecipe filed pursuant to Rule 3.5F(a)(i) of these Rules. The praecipe shall be filed immediately before commencement of a duly scheduled session of Motions Court. Adopted October 28, 2003, effective December 22, 2003.

Comment

Upon subsection (c) of this rule, the Motions Judge will review the record, see the minor and act upon the petition.

DISTRIBUTION - SPECIAL SITUATIONS

Rule 13.3A Report by Fiduciary. Distributee Whose Identity or Whereabouts Are Unknown

(a) When the existence, identity or whereabouts of a distributee is unknown, the report shall be contained within the body of a petition seeking approval to withhold or to make an award other than to the distributee. Notice of the filing of the petition shall be given as directed by special order of Court.

(b) The report shall set forth the nature of the investigation made to locate the distributee, in complete detail, and, in cases of intestacy, a family tree as complete as possible, supported by such documentary evidence as the fiduciary has been able to obtain. An investigation shall include, when appropriate, inquiries of relatives, friends and neighbors; residents of the household in which the decedent resided; labor unions; places of employment; social, fraternal or beneficial

organizations; insurance companies; churches; schools; the Social

Security Administration; the Veterans' Administration; and such other possible sources of information as circumstances may suggest, including naturalization records.

GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.1A Service of Notice of Filing of Petition and Hearing. Proof of Service

(a) Notice of the petition for appointment of guardian and hearing shall be served by the petitioner upon those persons entitled thereto under 20 Pa.C.S. §5511(a). A copy of the petition shall be attached to the notice. Service of the notice shall be given at least ten (10) days in advance of the hearing. The notice shall be substantially in the form prescribed by Appendix U of these Local Rules.

(b) Proof of service of the notice shall be presented to the Court at time of hearing.

(c) The petition shall have attached thereto a preliminary order of Court in the form prescribed by Appendix V of these Local Rules.

Rule 14.1B Appointment of Counsel. Application

The petitioner shall notify the Court at least seven (7) days prior to the final hearing upon the petition if counsel has not been retained by or on behalf of the alleged incapacitated person. Such notification shall consist of an application alleging the same and requesting the appointment of an attorney. Notice in advance of the presentation of such application is not required.

Rule 14.1C Independent Evaluation

A petition filed by an alleged incapacitated person seeking an order for an independent evaluation shall be presented to the Court in Motions Court pursuant to the Local Rules of Civil Procedure, after appropriate notice is given to the counsel for the petitioner, or, if unrepresented, to petitioner.

Rule 14.1D Emergency Guardian

(a) A separate petition for appointment of an emergency guardian shall be filed.

(b) After a petition for the appointment of an emergency

guardian has been filed, the matter shall proceed on citation and hearing. The provisions of 20 Pa.C.S. §5511, including those relating to counsel, shall be applicable, except when the Court has found that such provisions are not feasible under the circumstances. If a petitioner believes that one or more provisions of 20 Pa.C.S. §5511 are not feasible under the circumstances, the petitioner shall state the factual basis for the same, and the Court may, in its discretion, dispense with compliance in the order awarding the citation. If not all required provisions have been complied with by the time of the hearing upon the petition, the Court may, in its discretion at the hearing, further dispense with compliance, if compliance is shown to have been unfeasible.

(c) The petition shall have attached to it a preliminary order of court (emergency guardian) in form prescribed by Appendix W of these Local Rules.

(d) The citation issued in connection with a petition for appointment of emergency guardian shall be modeled after the citation prescribed by Pa.O.C. Rule 14.5, with appropriate changes. A proposed citation shall be presented to the Court for review at the time the petition is presented.

Rule 14.1E Telephone Testimony

If all parties or their attorneys of record agree, the Court will receive the testimony of a physician or other expert witness by telephone. In the event there is no such agreement, the Court will nonetheless consider permitting the same upon motion of any party presented at Motions Court in accordance with the Local Rules of Civil Procedure.

Rule 14.1F Order of Appointment Not in Form of Decree Nisi

An order appointing a guardian for an incapacitated person shall be in the form of a final order and not a decree nisi.

Rule 14.1G Annual Guardianship Reports.

The annual reports required by 20 Pa.C.S. §5521(c) shall be in such form as prescribed by the Pennsylvania Orphans' Court Rules: Form G-02 - Annual Report of the Guardian of the Estate; Form G-03 - Annual Report of the Guardian of the Person. The Guardian, as an alternative, may utilize the form prescribed by the Department of Veteran's Affairs - Federal Fiduciary's Account, VA Form 21-4706(b) November 2002, or any amendments thereof.

Amended April 29, 2008, effective June 17, 2008

Rule 14.1H Testamentary Writings

All testamentary writings of the incapacitated person, even those apparently revoked by subsequent instruments, shall, at the time of the filing of the inventory, be filed with the Clerk, to be kept under seal and not to be opened without order of court. The Clerk shall not transcribe, photocopy, microfilm or otherwise duplicate the writings, but shall merely docket their receipt; provided, however, that the Clerk shall provide the appointing judge with a photocopy of the same for retention in the judge's private file.

ADOPTION

Rule 15.1A Filing

(a) All papers in adoption matters, including petitions for voluntary and involuntary termination, shall be filed with the Clerk. Every petition shall have a proposed order fixing a hearing date attached thereto. Notice regarding adoption-related petitions shall be given in accordance with statute.

(b) Petitioners seeking more than one involuntary or voluntary termination or more than one adoption must file separate petitions for each child involved. A filing fee is payable for each such petition.

Amended April 29, 2008, effective June 17, 2008

Rule 15.1B Orders Not in Form of Decrees Nisi

An order terminating parental rights and an order decreeing an adoption shall each be in the form of a final order and not a decree nisi.

Comment

Pa.O.C. Rule 7.1(e) does not permit the filing of an exception to any order in involuntary termination or adoption matters under the Adoption Act.

Rule 15.4A Involuntary Termination of Parental Rights. Form of Notice

(a) The notice required by 23 Pa.C.S. §2513(b) shall state the following in italics, which will be in addition to the language explicitly called for by said statute:

Should you appear and indicate that you intend to oppose the termination of your rights, the time will be used as a pre-trial conference and a new hearing date

will be set.

(b) The notice required by 23 Pa.C.S. §3513(b) shall designate the "Prothonotary of Armstrong County, Room 103, Armstrong County Courthouse, Kittanning, PA 16201 (telephone: 724-543-2500)" as the person from whom information can be obtained about legal help.

Comment

The Local Rules of Civil Procedure designate the Prothonotary as the person from whom information can be obtained about legal help. This rule makes the Prothonotary the source of similar information in orphans' court matters, as well.
Adopted August 13, 2010, effective November 1, 2010

Rule 15.5A Adoption. Disclosure of Fees and Costs

At the hearing upon the petition for adoption, there shall be offered in evidence a report, certified by counsel for the petitioner, setting forth the amount of fees, costs and expenses paid or to be paid to counsel, and any other fees, costs and expense paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

Comment

This rule mirrors the requirements of Pa.O.C. Rule 15.5(d).

TITLE OF RULES

Rules 17.1A

These rules shall be known as the Local Orphans' Court Rules and shall be cited as "L.O.C. Rule ____."

MISCELLANEOUS

Rule 18.1A Notice by Clerk of Entry of Order, Decree, Etc.

(a) The Clerk shall immediately give written notice by regular mail of the entry of any order, decree, judgment, memorandum or opinion to the lawyer for the petitioner or accountant, or, if unrepresented, to the petitioner or accountant directly, and to all other parties in interest who have entered an appearance.

(b) Service by the Clerk 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.

Comment

Rule 1.2C of these rules requires that the name and address of each party in interest be set forth in the body of any petition filed with the Clerk. The proof of service of the notice of the filing of an account or petition will set forth similar information. See Rule 5.4A of these rules. The proof of service of a citation will set forth the same information. See Rule 3.5B and Rule 3.5C of these rules.

PART IV
LOCAL RULES GOVERNING CONDUCT, OFFICE
STANDARDS AND CIVIL PROCEDURE FOR DISTRICT
JUSTICES

(cited as L.R.C.P.D.J. No. ____)

APPELLATE PROCEEDINGS WITH RESPECT TO JUDGMENTS AND
OTHER DECISIONS OF DISTRICT JUSTICES IN CIVIL MATTERS

Rule 1008 Appeal as Supersedeas

(a) The procedure set forth in subsection (b) of this rule may be used as an alternative to the procedure set forth in Pa.R.C.P.D.J. No. 1008(B), but only when the judgment entered against the appellant includes no award of money damages for physical damage to the leasehold property. The appellant shall bear the burden of demonstrating to the Prothonotary the applicability of subsection (b) of this rule.

(b) When an appeal is from a judgment of a district justice for the possession of real property, receipt by the district justice of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the appeal deposits with the prothonotary a sum of money equal to the monthly rent payment due for the month in which the appeal was taken and by subsequently timely depositing a sum equal to the monthly rent with the prothonotary within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter.

(c) Upon motion presented at Motions Court pursuant to the Local Rules of Civil Procedure, the Court will strike an appeal whenever a subsequent rent payment required as a condition of a supersedeas has not been paid to the Prothonotary.

PART V
LOCAL RULES OF JUDICIAL ADMINISTRATION

(cited as L.R.J.A No. ____)

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1901 Termination of Inactive Case. Notice

(a) Rescinded October 28, 2003, effective December 15, 2003.

(b) The Clerk of Courts shall list for general call on the first Monday of November of each year at 10:00 A.M. all criminal proceedings in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to the District Attorney, any private prosecutor and the defendant. If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

(c) The Clerk of the Orphans' Court Division shall list for general call on the first Monday of November of each year at 10:00 A.M. all civil matters in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered. If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the Clerk of the Orphans' Court Division shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(d) Each District Justice shall annually provide to the Court Administrator on or before the first day of September in each year a list of all civil and criminal matters in which no steps or proceedings have been taken for two (2) years or more prior thereto. The Court Administrator shall thereupon give notice to the parties in all civil matters, and to the police or private prosecutor, in all criminal matters, that the matter will be dismissed on the first Monday of November at 10:00 A.M. by the District Justice of the District in which the matter was commenced, unless good cause is shown. Each District Justice shall hear all objections to dismissal in the Third Floor Hearing Room of the Armstrong County Courthouse at 10:00 A.M. on the first Monday of November of each year.

(e) Notice of an opportunity for hearing on a proposed

termination shall be given by the Prothonotary, Clerk of Courts, the Clerk of the Orphans' Court Division, or Court Administrator, as the case may be, as follows:

- i) in person or by regular mail to the last address of record of the parties or their counsel of record; or
- ii) by publication one time in the Armstrong County Legal Journal, at least thirty (30) days before the date of the general call, where notice by regular mail cannot be given or has been returned undelivered.

Comment

Former L.R.J.A. No. 1901(a) is now governed by Pa.R.C.P. No. 230.2.

Rule 1904 Custody, Storage and Disposal of Exhibits

(a) The term "official custodian," as used in this rule, shall mean the Prothonotary, Clerk of Courts, or Clerk of the Orphans' Court Division, as the case may be.

(b) All exhibits received in evidence, or offered and rejected, upon the hearing of any cause or motion shall be delivered to the official custodian, who shall keep the same in custody, unless otherwise ordered by the Court.

(c) All exhibits initially taken into custody by the official custodian shall be taken from the custody of the official custodian by the party who produced or offered them, or by such party's attorney of record, within ninety (90) days after the discontinuance of the case or the entry of a final judgment by the Court, or, in the event of an appeal, within ninety (90) days of the disposition of the case by the appellate court; otherwise, such exhibits shall be deemed to have been abandoned. The person seeking a return of exhibits shall, upon request, produce such identification as may satisfy the official custodian. After a return of exhibits, the official custodian shall enter the act upon the appropriate docket.

(d) The official custodian may petition the Court in writing for an order authorizing the destruction or disposal of any abandoned exhibits; provided, however, that the official custodian shall give written notice to the attorney of record of the party who produced or offered the exhibits, or if there is no attorney of record, to the unrepresented party, at least thirty (30) days in advance of the presentation of the petition, by

regular mail sent to the attorney's or the party's last known address. The notice shall be substantially in the form prescribed by Appendix X of these Local Rules.

(e) After the destruction or disposal of an exhibit, the official custodian shall verify such destruction or disposal by affidavit filed in the appropriate case file. The affidavit shall include a description of the method and date of disposal.

RULES GOVERNING COURT REPORTING AND TRANSCRIPTIONS

Rule 5000.13 Retention and Safeguarding of Reporters' Notes

(a) Every court reporter who is an employee of the County of Armstrong shall cause all notes of proceedings to be stored and retained in the facilities owned by and provided by the County for such purposes.

(b) In the month of January of each year, every court reporter who is an independent contractor hired from time to time by the County shall deliver to the Court for storage, retention, and protection all notes of proceedings conducted two or more years earlier.

PART VI

LOCAL LAW LIBRARY RULES

(cited as L.L.L.R. No. ____)

Rule 1 Open to Lawyers and General Public. Hours

The Armstrong County Law Library ("Law Library") shall be open to lawyers and the general public during the regular business hours of the Court.

Rule 2 Purpose

The Law Library shall serve as a legal research facility for the Court, County officials, lawyers and the general public. No books, other works or library equipment may be removed from the Law Library by anyone except the Court.

Rule 3 Role of President Judge

The President Judge shall have authority to make all decisions pertaining to the Law Library. The President Judge shall be the chairman ex officio of the Law Library Committee.

Rule 4 Law Library Committee

A committee of four resident lawyers appointed by the President Judge shall oversee the general operation of the Law Library and make such recommendations to the President Judge as may be appropriate from time to time. The Law Library Committee shall make recommendations for the selection of books, other works and equipment for the Law Library. The members of the Law Library Committee shall serve without compensation.

Rule 5 Law Librarian

The general day-to-day operations of the Law Library shall be conducted by a Law Librarian appointed by the President Judge. The compensation of the Law Librarian shall be fixed in the same manner as that of other Court personnel. The Law Librarian shall be supervised by the President Judge.

PART VII

LOCAL RULES OF JUVENILE COURT PROCEDURE

(cited as L.J.C.P.R. No. ____)

**Rule 102 Citing the Local Rules of Juvenile Court
Procedures**

These Local Rules of Juvenile Court Procedure are intended to implement the Pennsylvania Rules of Juvenile Court Procedure. A rule shall be cited as "L.R.J.C.P. _____."

Rule 210 Approval of Arrest Warrant Applications

(a) The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.J.C.P. 210(b), no arrest warrant application charging any offense set forth in subsection (b), below, shall hereafter be accepted by any judicial officer unless it has been approved by an attorney for the Commonwealth prior to its filing.

(b) Subsection (a) of this rule shall apply when any of the following offenses is charged:

- (i) Criminal homicide, in violation of 18 Pa.C.S. §2501;
- (ii) Murder in any degree, in violation of 18 Pa.C.S. §2502;
- (iii) Voluntary manslaughter, in violation of 18 Pa.C.S. §2503;
- (iv) Involuntary manslaughter, in violation of 18 Pa.C.S. §2504;
- (v) Homicide by vehicle, in violation of 18 Pa.C.S. §3732;
- (vi) Homicide by vehicle while driving under the influence, in violation of 18 Pa.C.S. §3735;
- (vii) Aggravated assault, in violation of 18 Pa.C.S. §2702(a)(1) through (6), inclusive;

- (viii) Rape, in violation of 18 Pa.C.S. §3121;
- (ix) Involuntary deviate sexual intercourse in violation of 18 Pa.C.S. §3123;
- (x) Robbery, in violation of 18 Pa.C.S. §3701(a)(1)(i) through (iv), inclusive; and
- (xi) Aggravated assault by vehicle while driving under the influence, in violation of 75 Pa.C.S. §3735.1.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. When feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

Adopted October 3, 2006, effective November 20, 2006

Rule 1167 Filing and Service of Court Orders and Notices.

All orders and court notices subject to the Rules of Juvenile Procedure - Dependency Matters - shall be served by the Armstrong County Children, Youth and Family Services.

Adopted January 22, 2007, effective March 10, 2007

APPENDIX C

[CAPTION]

APPLICATION FOR CONTINUANCE

NOW COMES _____, by and through
(Name of Applicant)

(his) (her (its) attorney, _____, who
(Name of Attorney)

applies for a continuance based on the following:

1. The above-captioned matter is scheduled for

(Name of proceeding, i.e., argument, hearing, trial, etc.)
on the _____, 2_____, at _____ .M.,
before _____ .
(Name of Judge, Master, etc.)

2. The moving party for said proceeding is

(Name of party whose claim is to be heard)

3. The other parties are:

_____ represented by: _____
_____ represented by: _____
_____ represented by: _____

4. The proceeding was scheduled by _____
(Order or notice)
dated _____ .
(Date)

5. The proceeding (has) (has not) been previously
continued (____ time(s)). (The party filing this application
has obtained a continuance ____ time(s)).

APPENDIX C (continued)

6. A continuance is requested because

(State specific reason for request. If continuance is requested because of a conflicting court matter, state (1) name of the case; (2) the court; (3) the nature of the scheduled proceeding; (4) the date, time and expected duration of the conflicting proceeding; and (5) the date of the order or notice scheduling the conflicting proceeding. Attach a copy of the order or notice.)

7. (a) _____ The following parties have been notified of this request and have no objection:

(b) _____ The following parties have not been notified of this request:

(c) _____ Efforts to notify the opposing party include: _____

APPENDIX C (continued)

(d) _____ The following parties objected to the
continuance for the reason stated herein: _____

8. The proceeding, when heard, will not exceed _____
(hours) (days).

9. I specifically request a continuance to the next
available date.

Respectfully submitted,

APPENDIX C (continued)

[CAPTION]

ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the attached Application of _____ (Name of Applicant) requesting a continuance:

_____ the Application is denied.

_____ the Application is granted and the matter is scheduled for _____, 2_____ at _____ .m. before (Date) (Time)

_____ is hereby continued until (Name of judge, master, etc.)

_____, 2_____ at _____ .m. (Date) (Time)

The applicant shall promptly notify all interested parties of this Order. Thereafter, the Prothonotary shall serve notice of the entry of this Order upon all parties.

BY THE COURT,

_____ J.

APPENDIX C-1

[CAPTION]

ORDER

AND NOW, this _____ day of _____, 2____, upon consideration of the Motion for Post-Trial Relief, 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) The movant shall file a brief in support of the Motion on or before _____, 2____.

3) ____ (Name of party defending against Motion) _____ shall file a brief concerning the issues raised in the Motion on or before _____, 2____.

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

BY THE COURT,

_____ J.

APPENDIX H

[CAPTION]

ORDER

You, _____ (Name of Defendant or Respondent) _____, have been sued in court concerning custody, partial custody, visitation or relocation of the children: _____
_____.

You are **ORDERED** to appear in person in Room 202 of the Armstrong County Courthouse in Kittanning, Pennsylvania on _____, 2____ at _____.M. for a conciliation conference.

If you fail to appear as required by this order, an order concerning custody, partial custody, visitation or relocation may be entered against you or the court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PROTHONOTARY OF ARMSTRONG COUNTY
ARMSTRONG COUNTY COURTHOUSE
ROOM 103
KITTANNING, PA 16201
724-543-2500

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Armstrong County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Date: _____ BY THE COURT, _____ J.

APPENDIX I

[CAPTION]

CONSENT ORDER FOR MEDIATION IN A
CHILD CUSTODY MATTER

AND NOW, this _____ day of _____, 2_____,
the parties having consented to the entry of this Order as
witnessed by their signatures below, it is hereby **ORDERED** as
follows:

1) The parties are hereby referred to mediation.
Mediation shall be conducted by _____ (Name of mediator) in
accordance with Pa.R.C.P. No. 1940.1 through Pa.R.C.P. No.
1940.9, inclusive.

2) The compensation of the mediator shall be paid by
the parties as follows: _____% by Plaintiff/Petitioner and
_____ % by Defendant/Respondent in accordance with the following:

_____.

3) The following issues shall be the subject of the
mediation:

APPENDIX I (continued)

4) The rules set forth in 42 Pa.C.S. §5949, relating to confidential mediation communications and documents, shall be applicable.

5) Other:

BY THE COURT,

_____ J.

CONSENTED TO BY:

Plaintiff/Petitioner

Date: _____

Defendant/Respondent

Date: _____

APPENDIX J

[CAPTION]

NOTICE

TO: _____ (Name of Person)

TAKE NOTICE that an action has been instituted for the wrongful death of (name of decedent) at the above-captioned number.

A copy of the complaint is attached. (Strike if inapplicable.)

Name of Attorney for Plaintiff
Address
Telephone Number

APPENDIX K

[CAPTION]

CONSENT

I, _____, having read and considered the contents of the foregoing _____
_____ (type of petition),
do hereby consent to the Court granting the prayer for relief,
and I join in such prayer.

Date: _____

Witnessed:

APPENDIX L

[CAPTION]

ORDER AWARDING CITATION

AND NOW, this _____ day of _____, 2_____,
upon presentation and consideration of the foregoing Petition, it
is hereby **ORDERED** that a citation be awarded, directed to
_____, to show cause why the relief prayed
for therein should not be granted.

The citation shall be returnable on _____,
2_____.

OR

The citation shall be returnable within twenty (20)
days of the date of its service upon the person cited.

BY THE COURT,

_____ J.

APPENDIX M

[CAPTION]

NOTICE

TO: _____ (Name of Person)

TAKE NOTICE that _____ (name of petitioner) filed a
Petition _____ (type of petition) with
the Clerk of the Orphans' Court Division in connection with the
above-captioned matter on _____, 2____. A copy of the
petition is attached.

You have twenty (20) days from the date you were served
with this notice to file an Answer with the Clerk of the Orphans'
Court Division admitting or denying the averments of the
Petition, specifically stating your objections thereto and
averring the facts which you rely upon. (Strike if
inapplicable.)

OR

You have until _____, 2____ to
file an Answer with the Clerk of the Orphans' Court Division
admitting or denying the averments of the Petition, specifically
stating your objections thereto and averring the facts which you
rely upon. (Strike if inapplicable.)

If you do not file a timely Answer, the Court may grant
the prayer of the Petition without further notice to you.

Name of Attorney for Petitioner
Address
Telephone Number

APPENDIX N

[CAPTION]

PRAECIPE TO TRANSMIT RECORD

TO THE CLERK OF THE ORPHANS' COURT DIVISION:

I, the undersigned, hereby direct the Clerk of the Orphans' Court Division forthwith to transmit the record of this matter, including this praecipe, to the Court for review and action. I certify that notice of _____ (type of petition) _____ was served upon all parties in interest and that the required proofs of service have been filed. The date of service of the last notice to be served was _____, 2____.

Attorney for Petitioner

APPENDIX O

[CAPTION]

ORDER TO TRANSMIT THE RECORD

AND NOW, this _____ day of _____, 2_____,
upon consideration of Petitioner's Motion to Transmit the Record,
it is hereby **ORDERED** that the Clerk of the Orphans' Court
Division immediately transmit the full record of the above-
captioned matter to the Court for further action.

BY THE COURT,

_____ J.

APPENDIX O-1

[CAPTION]

PROOF OF SERVICE

I, the undersigned, hereby certify that I caused a copy of the attached Notice to be served upon the following parties in interest

Name and Address
of Person

Method of Service

Date of Service

and that attached to said Notice was a true and correct copy of the legal paper referred to therein.

Date: _____

Attorney

APPENDIX P

**IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

ESTATE OF _____, :
DECEASED, LATE OF _____ : Estate No. _____
_____ :

Date of Death: _____ Date of first publication of Letters: _____

Date Letters Granted: _____ Date to which Account is Stated: _____

ACCOUNT

RECEIPTS

Principal - Realty

Total Principal - Realty \$ _____

Income - Realty

(include date of receipt, source of payment and amount)

Total Income - Realty \$ _____

Principal - Personalty

Total Principal - Personalty \$ _____

Income - Personalty

(include date of receipt, source of payment and amount)

Total Income - Personalty \$ _____

APPENDIX P (continued)

DISBURSEMENTS

Costs of Administration
(include date of payment, payee and amount)

Total Costs of Administration \$ _____

Preferred Debts
(include date of payment, payee and amount)

Total Preferred Debts \$ _____

Other Debts
(include date of payment, payee and amount)

Total Other Debts \$ _____

Advance Distributions
(include date of payment, distributee and amount)

Total Advance Distributions \$ _____

RECAPITULATION

Receipts:

Principal - Realty	\$ _____
Income - Realty	\$ _____
Principal - Personalty	\$ _____
Income - Personalty	\$ _____

Total Receipts \$ _____

Disbursements:

Costs of Administration	\$ _____
Preferred Debts	\$ _____
Other Debts	\$ _____
Advance Distributions	\$ _____

Total Disbursements \$ _____

Balance for Distribution \$ _____

APPENDIX P (continued)

AFFIDAVIT

STATE OF _____ SS
COUNTY OF _____

The above named Accountant(s) being duly sworn according to law depose(s) and say(s) that Letters _____ were granted to _____ and advertised more than four months prior to the filing of this Account; that the disbursements shown in the Account have been made to the parties entitled thereto and that the Account as stated is true and correct as _____ verily believe.

Sworn to and subscribed before me
this _____ day of _____,
2____.

APPENDIX Q

[CAPTION]

NOTICE

Attached is a true and correct copy of the account of

which was filed in the Office of the Clerk of the Orphans' Court Division on _____, 2_____, and which will be presented to the Court for confirmation on _____, 2_____, unless written objections are filed.

Also attached is a proposed decree of distribution, which was filed on the same day, and which sets forth the distribution as proposed by the accountant(s). It will be presented to the Court for approval at the same time the account is presented. (Strike if inapplicable.)

After the account is confirmed, the Court will be asked to appoint an Auditor to determine distribution. (Strike if inapplicable.)

Also attached is a copy of the will. (Strike if inapplicable.)

Unless written objections to the account are filed in accordance with the Local Rules of Orphans' Court on or before _____, 2_____, the Court may confirm the account.

APPENDIX Q (continued)

Unless written objections to the proposed decree of distribution are filed in accordance with the Local Orphans' Court Rules on or before _____, 2____, the Court may approve it and enter a decree directing distribution as proposed. (Strike if inapplicable.)

Dated this _____ day of _____, 2____.

Attorney

Address:

APPENDIX R

[CAPTION]

DECREE CONFIRMING ACCOUNT AND
DIRECTING DISTRIBUTION

AND NOW, this _____ day of _____, 2____,
it appearing that the account was duly filed; that proper notice
was given to all parties in interest; and that no objections have
been filed which require consideration before the entry of this
decree; NOW, THEREFORE, the account is confirmed, the statement
of proposed distribution is approved, and the accountant is
directed to make distribution as follows:

BY THE COURT,

_____ J.

APPENDIX S

[CAPTION]

NOTICE OF FILING AUDITOR'S (MASTER'S) REPORT

TAKE NOTICE, that the undersigned, the duly appointed auditor, (master,) filed his (her) Report with the Clerk of the Orphans' Court Division on _____, 2____. A copy of the Report is attached.

Under the Local Orphans' Court Rules, you have ten (10) days from the date the Report was filed to file written exceptions to it with the Clerk of the Orphans' Court Division. If you fail to do so, the Court may confirm the Report (may adopt the recommendations of the Report).

Auditor (Master)

APPENDIX U

[CAPTION]

NOTICE OF PETITION FOR APPOINTMENT
OF GUARDIAN AND HEARING

TO: _____ (Name of Person)

TAKE NOTICE that a Petition for Appointment of Guardian of the Person and/or the Estate has been filed by _____ (name of petitioner) _____ in connection with this matter. A copy of the petition is attached.

The Court will hold a hearing upon the petition on _____ (day of week) _____, _____, 2____ at _____ .M. in Courtroom No. _____ of the Armstrong County Courthouse, Kittanning, Pennsylvania. You may appear at that time and be heard if you wish.

Attorney
Address
Telephone Number

APPENDIX V

[CAPTION]

PRELIMINARY ORDER

AND NOW, this _____ day of _____, _____, the foregoing Petition for Appointment of Guardian having been presented in open Court, upon consideration thereof, it is **ORDERED** that a Citation be awarded, directed to the above-named alleged incapacitated person, to show cause why he/she should not be adjudged an incapacitated person and a plenary/limited guardian of his/her person and estate be appointed.

The time and place of hearing on the petition are fixed for _____, _____, _____, at _____ .M. in Courtroom No. _____ of the Armstrong County Courthouse, Kittanning, Pennsylvania.

The petitioner shall give notice to all persons who are entitled thereto as intestate heirs under 20 Pa.C.S. §5511(a), at least ten (10) days in advance of the hearing.

BY THE COURT,

J.

APPENDIX W

[CAPTION]

PRELIMINARY ORDER
(Emergency Guardian)

AND NOW, this _____ day of _____, _____,
the foregoing Petition for Appointment of Emergency Guardian
having been presented in open Court, upon consideration thereof,
it is **ORDERED** that a Citation be awarded, directed to the above-
named alleged incapacitated person, to show cause why an
emergency plenary/limited guardian of his/her person and estate
should not be appointed.

The time and place of hearing on the petition are fixed
for _____, _____, 2 _____, at
_____ .M. in Courtroom No. _____ of the Armstrong County
Courthouse, Kittanning, Pennsylvania.

The Court finds that

[] Service of notice of the hearing on
the petition for emergency guardian is not
feasible under the circumstances and is
waived.

[] Notice of the hearing to the
following persons is feasible under the
circumstances and directs that the same be
given as indicated: _____

_____.

APPENDIX W (continued)

[] Strict compliance with 20 Pa.C.S. §5511(e); relating to contents of the petition, is not feasible under the circumstances and is waived.

[] Strict compliance with 20 Pa.C.S. §5511(a), pertaining to the right to counsel, is not feasible under the circumstances and is waived in connection with the petition for appointment of emergency guardian only.

BY THE COURT,

_____ J.

APPENDIX Y

[CAPTION]

MOTION FOR CONTINUANCE

NOW COMES _____, by and through
(Name of Movant)
(his) (her) (its) attorney, _____, who
(Name of Attorney)
applies for a continuance based on the following:

1. The above-captioned matter is scheduled for

(Name of proceeding, i.e., argument, hearing, trial, etc.)
on _____, the ____ day of _____, 2____,
at ____ .M., before _____.
(Name of Judge)

2. The other party is represented by _____

3. The proceeding was scheduled by _____.
(Order or Notice)
dated _____.
(Date)

4. The proceeding (has) (has not) been previously
continued (____ time(s)). (The party filing this application has
obtained a continuance _____ time(s)).

5. A continuance is requested because

(State *specific* reason for request. If continuance is requested because of a conflicting court
matter, state (1) name of the case; (2) the court; (3) the nature of the scheduled proceeding;
(4) the date, time and expected duration of the conflicting proceeding; and (5) the date of the
order or notice scheduling the conflicting proceeding. Attach a copy of the order or
notice.)

6. Check all that apply:

- (a) The (Commonwealth) (Defendant) (Co-Defendant) has been notified of the presentation of this motion, as evidenced by the attached Certificate of Service, in accordance with L.R.Cr.P. 106.
- (b) The (Commonwealth) (Defendant) (Co-Defendant) has not been notified of the presentation of this Motion as required by L.R.Cr.P. No. 106. The reasons therefor are the following:

- (c) The (Commonwealth) (Defendant) (Co-Defendant) has informed me that (he) (she) (it) has no objection to a continuance.

7. The proceeding, when heard, will not exceed

No. of hours/days

8. I specifically request a continuance to the next available date.

Respectfully submitted,

Adopted January 8, 2008, effective February 28, 2008

APPENDIX Z

[CAPTION]

ORDER

AND NOW, this ____ day of _____,
2____, upon consideration of the foregoing Motion for
Continuance:

____ the Motion is denied.

____ the Motion is granted and the matter is
scheduled for _____, 2 _____ at _____ .m. before
(Date) (Time)

_____ is hereby continued until _____,
(Name of Judge)
2 _____ at _____ .m. before _____
(Name of Judge)

_____, 2 _____ at _____ .m.

The applicant shall promptly notify all interested
parties of this Order.

Thereafter, the Clerk of Courts shall serve notice of
the entry of this Order upon all parties.

BY THE COURT,

_____ J.

Adopted January 8, 2008, effective February 28, 2008