

THE COURTS

Title 255—LOCAL COURT RULES

CARBON COUNTY

Amendment of Local Rule L206.1—Motions and Petitions Procedure; No. 96-1298

Administrative Order 8-1996

And Now, this 25th day of June, 1996, it is hereby

Ordered and Decreed that the following Local Rule be and is hereby *Promulgated* to become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

In accordance with Pa.R.C.P. 239, seven (7) certified copies of this order shall be filed with the Administrative Office of the Pennsylvania Courts; two (2) certified copies shall be forwarded to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and one (1) certified copy shall be filed with the Civil Procedural Rules Committee.

By the Court

JOHN P. LAVELLE,
President Judge

Rule L206.1. Motions and Petitions Procedure.

(1) *Motions, Petitions, and Continuances.*

(A) Motions, Petitions, and Continuances shall be submitted to the Civil Filing Office along with the requisite filing fee, without the necessity of presentation to the Court. These matters shall include, but not be limited to, routine Rules to Show Cause, Requests for Hearings, Discovery Motions, Child Custody matters, Requests for Alternative Service, Quiet Title matters, Change of Name proceedings, and Motor Vehicle and Liquor License Suspension Appeals.

(B) After the motion or petition is filed and time stamped, it shall be forwarded by the Civil Filing Office to the Motions and Petitions Coordinator in the Office of Court Administration for Court action and/or scheduling. The Motions and Petitions Coordinator shall return the Order or Rule to the Civil Filing Office in order to conform all copies. The Civil Filing Office shall then file the original signed order and forward by regular mail to each attorney of record or unrepresented party a copy of the Petition or Motion together with the conformed copy of the Order or Rule.

(C) A rule to show cause shall be issued at the discretion of a judge of the court as contemplated by Pa.R.C.P. 206.5. The court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its own discretion, provide for disposition of the matter on briefs without the necessity of oral argument. In such instances, the court shall establish a briefing schedule in its initial order.

(D) *Uncontested Continuances* will be accepted by mail providing they are received at least three (3) working days in advance of the scheduled event. The filing office should stamp the continuance filed and then forward said continuance to the Motions and Petitions Coordinator, who will, in turn, present it to the assigned Judge for disposition and signature. After the continuance is acted upon, it will be delivered to the filing office for completion of docketing and the mailing of the copies. If the continuance

is received *less than three (3) working days* before the scheduled event, the attorney will be required to *personally present* it to the Motions and Petitions Coordinator for processing.

(2) *Filing Requirements.* All Motions and Petitions subject to this rule shall be accompanied by the following items in the following order:

(A) A completed cover sheet in the Form of Exhibit "A";

(B) A proposed order (and rule to show cause, if necessary);

(C) Stamped, addressed envelopes for each attorney of record and unrepresented party;

(D) Sufficient copies of the Petition, Motion and proposed Order or Rules for each attorney of record and unrepresented party; and

(E) Memorandum of Law, if Motion or Petition is contested.

(F) All Motions and Petitions shall be in writing, signed by a party or counsel of record and shall contain the caption of the case, the name, address, telephone number and Supreme Court identification of counsel for the moving party and the names and addresses of adverse parties and their attorneys.

(3) No motion for a preliminary injunction shall be filed unless a complaint in equity has already been docketed in the Civil Filing Office. Upon the filing of said complaint, the attorney presenting said motion shall attach to his motion a copy of his complaint and an affidavit that a preliminary injunction is an appropriate relief. This motion shall then be presented to the Motions and Petitions Coordinator who will present it to the assigned judge.

For any motion for a Temporary Restraining Order to be considered, a brief must be filed prior to the preliminary injunction hearing. The brief shall address, with particularity, why irreparable harm will result if an injunction is not granted and why an adequate remedy at law is not available.

(4) *Response Requirements.* Any party opposing the Motion or Petition shall file the following documents with the Civil Filing Office no later than 4:30 P.M. on the date twenty (20) days after the date of the signing of the Court Order or Rule to Show Cause:

(A) Completed cover sheet in the form of Exhibit "A";

(B) Proposed order;

(C) Answer to the Motion or Petition (if necessary);

(D) Copy of a transmittal letter to each counsel of record and/or unrepresented party; and

(E) A Memorandum of Law.

The filing party shall immediately serve copies of all documents filed in the Civil Filing Office on each attorney of record and unrepresented party.

(5) *Discovery Motions.* Any Motion relating to discovery must be accompanied by a Certificate signed by counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery Motion and was unable to resolve the differences which exist. Said Certificate shall set forth the exact time and place of the conference or consultation. Where counsel for the moving party cannot furnish the

required Certificate, he shall furnish an alternate Certificate stating that opposing counsel has refused to so meet and confer and stating such other facts and circumstances supporting the absence of the required Certificate and movant's efforts to obtain compliance by opposing counsel.

(NOTE: This Rule is borrowed from Rule 4 of Local Rules for Fed. Dist. Ct. of Western PA).

(6) The Court shall not act upon any Petition or Motion which does not conform with the provisions of this Rule.

CARBON COURT OF COMMON PLEAS
CIVIL DIVISION
MOTION COURT COVER SHEET

vs.

NO. _____

FILING OF: _____

Movant () Respondent ()

___ Assigned Judge
___ Court Action Taken
___ Returned to Attorney for Deficiencies
___ Action Deferred by Court
<i>For Court Use Only</i>

TYPE OF FILING (check one):

- () 1. Pretrial Discovery Motion (432)
- () 2. Motion for Discovery in Aid of Execution (480)
- () 3. Preliminary Objections to (576) _____
- () 4. Motion for Summary Judgment (306)
- () 5. Motion for Judgment on Pleadings (294)
- () 6. Petition for Leave to Join Additional Defendant (403)
- () 7. Petition for TRO or Preliminary Injunction (438)
- () 8. Petition to Open or Strike Judgment (498)
- () 9. Petition for Alternative Service (409)
- () 10. Petition for Leave to Amend (465) _____
- () 11. Petition to Consolidate Actions (424)
- () 12. Petition to Compromise Minor's Action (435)
- () 13. Petition for Leave to Withdraw (510)
- () 14. Petition for Reconsideration (441)
- () 15. Petition for Advancement on Trial List (404)
- () 16. Other Motion or Petition (specify):

() 17. Response to: _____

OTHER PARTIES:

Attorney's Name (Typed) _____

Attorney for: _____

() Movant () Respondent

N. B. The numbers after the Motion or Petition above are docket codes used in the Court Computer System. Please be precise when checking your Motion or Petition.

Exhibit "A"

Rev. 6/12/96

[Pa.B. Doc. No. 96-1132. Filed for public inspection July 12, 1996, 9:00 a.m.]

TIOGA COUNTY
Rules of Civil Procedure; No. 131 MD 1996

Order

And Now, June 25, 1996, the following Local Rules of the Court of Common Pleas of Tioga County, Pennsylvania are hereby promulgated and adopted for use effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Tioga County is directed to:

1. File seven (7) certified copies of the Order and Rules with the Administrative Office of Pennsylvania Courts;
2. File two (2) certified copies of the Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. File one (1) certified copy of the Order and rules 212.1, 212.2, 216, 1018.1, 1301, 1301.1, 1303 and 1308 with the Civil Procedural Rules Committee pursuant to Pa.R.C.P. 239;
4. File one (1) certified copy of the Order and rules 1910.10, 1915.3 and 1920.55-1 with the Domestic Relations Rules Committee pursuant to Pa.R.C.P. 239;
5. File one (1) certified copy of the Order and rule 303 with the Criminal Procedural Rules Committee pursuant to Pa.R.Crim.P. 6(d).

Rule TC-212.1. Praecipe for Trial Form.

_____ : IN THE COURT OF COMMON PLEAS
 V. : OF TIOGA COUNTY, PENNSYLVANIA
 _____ : NO. _____ CIVIL DIVISION 19 ____

PRAECIPE FOR TRIAL

AND NOW, _____, 19__ comes the _____ by his/her counsel, _____, Esq. and requests the Court to schedule the above captioned matter for trial. In support thereof, the _____ makes the following statements.

1. That a complaint was filed on the _____ day of _____ 19__.
2. That all pleadings are closed and all discovery has been completed, including depositions.
3. That all attorneys of record or unrepresented parties (agree/disagree) that the matter is ready for trial. (If all parties do not agree, identify those parties and note their objections.)

WHEREFORE, _____ requests the Court to schedule the matter for trial.

Rule TC-212.2. Pre-Trial Memorandum Form.

_____ : IN THE COURT OF COMMON PLEAS
 V. : OF TIOGA COUNTY, PENNSYLVANIA
 _____ : NO. _____ CIVIL DIVISION 19 ____

PRE-TRIAL MEMORANDUM

(Representing Plaintiff/Counterclaimant)

1. A brief statement of the factual situation or a reference to the pleadings.
2. An itemized list of all specials, including loss of wages.
3. The amount being demanded, payment of which would result in settlement. This demand to be broken down to reflect the specific amounts being demanded for specials, pain and suffering, permanent injury, loss of consortium, etc.

(Representing Defendant/Plaintiff as Additional Defendant)

1. Paragraphs in plaintiff's complaint which will be admitted at trial without requirement of proof.
2. The defense to be presented to plaintiff's claim.
3. The offer being made which, if accepted, would result in settlement.

All previous local rules of Tioga County, excluding the Orphans Court rules, are repealed on the effective date of the new rules.

By the Court

ROBERT E. DALTON, Jr.,
President Judge

BUSINESS OF COURT

Rule TC-205.1. Filing Legal Papers.

Any legal paper which requires the signature of or action by the Court including but not limited to motions, petitions, objections, exceptions and rules to show cause shall be filed as follows:

- (1) original with the Prothonotary's office,
- (2) one copy with the Court Administrator,
- (3) copies to all counsel of record or unrepresented parties.

Rule TC-212. Pre-Trial Conference.

(a) Upon the filing of a Praecipe for Trial which shall be substantially in the form set forth in Rule TC-212.1, the Court Administrator shall schedule a date and time certain for a Pre-Trial Conference which date shall not be less than thirty (30) days after the filing date.

(b) A Pre-Trial Memorandum substantially in the form set forth in Rule TC-212.2 shall be prepared and submitted by all parties at the time of the conference with copies provided to all other parties.

(Both Plaintiff & Defendant)

4. The names and addresses of all witnesses to be called, including a designation as to whether the witness will testify to liability or damages.
5. A list of exhibits to be offered, including a brief description of each.
6. A summary of expected expert testimony if the expert will testify in person and a copy of any expert's report.
7. Legal issues or questions which will likely require rulings by the Court, together with any citations which will support rulings to be requested.
8. Estimated time for trial of the case.
9. Any legal or factual issues to which the parties will stipulate.
10. A copy of any plan or plot to be introduced into evidence. In negligence cases, there shall be a drawing or plot of the accident submitted at the pre-trial conference.

In addition, all attorneys shall be accompanied by or have direct access to their respective parties or representatives who have the authority to agree upon a settlement or the attorney shall have such authority.

Rule TC-216. Continuances.

All requests for the continuance of any hearing scheduled by the Court shall be filed in writing unless waived by the Court.

ACTIONS AT LAW

Rule TC-1018.1. Notice to Defend.

The agency to be named in all Notices to Defend from whom legal help may be obtained shall be:

Susquehanna Legal Services
79 Nichols St.
Wellsboro, PA 16901
(717) 724-3464

COMPULSORY ARBITRATION

Rule TC-1301. Scope.

(a) All civil actions wherein the amount in controversy is within the limits set by Section 7361 of the Judicial Code, 42 Pa.C.S.A. 7361, shall first be submitted to and heard by a board of arbitrators.

(b) Referral to arbitration shall be accomplished by the filing of a Praecipe for Arbitration substantially in the form set forth in Rule TC-1301.1, or by order when the Court determines that proper jurisdiction of a civil action lies before arbitrators.

Rule TC-1301.1. Praecipe for Arbitration Form.

		: IN THE COURT OF COMMON PLEAS
V.		: OF TIOGA COUNTY, PENNSYLVANIA
		: NO. _____ CIVIL DIVISION 19 ____

PRAECIPE FOR ARBITRATION

AND NOW, _____, 19__ comes the _____ in the above captioned matter and requests the Court to schedule an Arbitration for the reasons more fully set forth below:

- (1) That the amount in controversy is within the limits set forth in 42 Pa.C.S.A. 7361.
- (2) That the matter does not involve title to real estate.
- (3) That the matter does not require equitable or declaratory relief.

WHEREFORE, _____ requests the Court to appoint a board of arbitrators and schedule the matter for arbitration.

Rule TC-1302. List of Arbitrators.

(a) All members of the bar within Tioga County shall be eligible to serve as arbitrators unless a written waiver is filed in the Prothonotary's office.

(b) The Prothonotary shall list available arbitrators alphabetically by surname and selection shall be made alphabetically taking into consideration the requirements and limitations set forth in Pa.R.C.P 1302.

Rule TC-1303. Hearing. Notice.

(a) Subsequent to the filing of a Praecipe for Arbitration and the appointment of arbitrators, the Court Administrator shall provide written notice of the date and

time for arbitration to all counsel of record or unrepresented parties and to the arbitrators.

Rule TC-1308. Arbitrators' Compensation.

Each member of a board of arbitrators who has signed the award or filed a minority report shall receive as compensation a fee of forty dollars (\$40) per hour for hearing and deliberation time.

ACTIONS FOR SUPPORT

Rule TC-1910.10. Alternate Hearing Procedures.

The Court adopts the alternative hearing procedures as set forth in Pa.R.C.P. 1910.12.

ACTIONS OF DIVORCE**Rule TC-1920.55-1. Procedures for Matters Referred to Master.**

All divorce proceedings shall be conducted in accordance with Pa.R.C.P. 1920.55-2.

ACTIONS FOR CUSTODY/VISITATION**Rule TC-1915.3. Commencement of Action.**

(a) Upon the filing of a Complaint for Custody, Partial Custody or Visitation, the matter shall be referred to the Child Custody Conference Officer for an informal conference among the parties.

(b) At the time of the conference, an attempt shall be made to reach an amicable agreement between the parties.

(1) If an agreement is reached, it shall be reduced to writing, signed by all parties and submitted to the Court for approval and order.

(2) If no agreement is reached, the officer shall prepare a biographical history of the parties and recommend the Court order such psychological testing, counseling, home studies or mediation as the Court shall deem appropriate. Thereafter, the matter shall be scheduled for a hearing before the Court.

(c) Costs of such psychological testing, counseling, home studies or mediation shall be assessed by the Court.

RULES OF CRIMINAL PROCEDURE**Rule TC-303. Arraignment.**

All defendants are required to appear in open court for purposes of Arraignment.

RULES OF JUDICIAL ADMINISTRATION**Rule TC-1901. Termination of Inactive Cases.**

The Court Administrator shall, on a quarterly basis, list for general call all civil, criminal and orphans court matters in which no steps or proceedings have been taken for one (1) year or more prior thereto and shall give notice thereof to all counsel of record or unrepresented parties as provided by Pa.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at or before the general call, an order for dismissal shall be entered forthwith by the Court.

RULES GOVERNING DISTRICT JUSTICES**Rule TC-1005. Service of Notice of Appeal.**

In lieu of service or proof of service by personal service or certified or registered mail, an appellant may file with the notice of appeal a stamped envelope self-addressed to the appellee at the address listed on the complaint form filed in the office of the district justice, or the attorney of record if there is one, AND a stamped envelope pre-addressed to the district justice in whose office the judgment was rendered. Copies of the notice of appeal and rule, if applicable, shall thereupon be mailed by the Prothonotary by first class mail, with such service and any return being noted on the docket.

[Pa.B. Doc. No. 96-1133. Filed for public inspection July 12, 1996, 9:00 a.m.]

COMMONWEALTH COURT**Regular Sessions of Commonwealth Court for the Year 1997; No. 126 M. D. No. 3****Order**

And Now, this 24th day of June, 1996, pursuant to Pa.R.A.P. 3703, the following calendar is fixed for the year 1997:

Session

February 3-7
March 10-14
April 7-11
May 5-9
June 2-6
September 8-12
October 6-10
November 3-7
December 8-12

*By the Court**Situs*

Philadelphia
Pittsburgh
Harrisburg
Philadelphia
Pittsburgh
Harrisburg
Philadelphia
Pittsburgh
Harrisburg

JAMES GARDNER COLINS,
President Judge

[Pa.B. Doc. No. 96-1134. Filed for public inspection July 12, 1996, 9:00 a.m.]