

# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Adoption of Philadelphia Civil Rule \*1035.2(a)

##### Order

*And Now*, this 26th day of October, 2006, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on September 21, 2006 to rescind the current Philadelphia Civil Rule \*1035.2(a) and to adopt the rule as follows, *It Is Hereby Ordered* that existing Philadelphia Civil Rule \*1035(a) is rescinded, and the following Philadelphia Civil Rule \*1035.2(a) is adopted.

This General Court Regulation is issued in accordance with Pa.R.C.P. No. 239.8 and shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>). The original General Court Regulation shall also be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, for publication on its website, and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov>.

*By the Court*

HONORABLE C. DARNELL JONES, II,  
*President Judge*

#### THE FOLLOWING RULE IS A COMPLETE RE-WRITE OF EXISTING PHILADELPHIA CIVIL RULE \*1035.2(a):

##### Rule \*1035.2(a). Motion for Summary Judgment

(1) *General Rule.* After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, and in accord with any case specific case management Order, any party may file a motion for summary judgment, as provided in Pa.R.C.P. No. 1035.1 et seq., and this local rule.

(2) *Content of the Motion for Summary Judgment.* The moving party shall provide the bases for the entry of summary judgment in a motion divided into consecutively numbered paragraphs. Each paragraph shall contain as far as practicable only one material allegation. The moving party must reference in each allegation the "record" (as that term is defined in Pa.R.C.P. No. 1035.1) which the moving party wants the court to consider, and shall attach a copy of that record as an exhibit. The moving party shall include with the motion a brief or memorandum of law, as provided in Phila.Civ.R. \*210. The brief or memorandum of law shall provide the court with the legal bases for summary judgment in light of the allegations made in the motion, and shall not reference any fact or pleading not raised in the motion. Any fact or allegation mentioned in the brief or memorandum of law which is not listed in the summary judgment motion will not be considered by the court.

(3) *Service of Summary Judgment Motion.* The summary judgment motion, exhibits and brief or memorandum of law must be served on the party or parties against whom summary judgment is requested, as provided in Pa.R.C.P. No. 440.

(4) *Response to Motion for Summary Judgment.* The adverse party or parties must file a response to the motion for summary judgment within thirty (30) days of service of the motion, as provided in Pa.R.C.P. No. 1035.3. The response to the motion shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion for summary judgment. The response shall state whether each of the allegation is admitted or denied. No general denial is acceptable. The factual reasons for the denial or dispute must be specifically stated and the "record," (as that term is defined in Pa.R.C.P. No. 1035.1) supporting the denial or dispute must be attached as an exhibit. A response may also include additional allegations demonstrating any genuine issue of material fact, in which event the responding party must reference and attach a copy of the "record," (as that term is defined in Pa.R.C.P. No. 1035.1) which demonstrates the existence of a genuine issue of material fact.

Adopted by the Board of Judges of the Court of Common Pleas on September 21, 2006.

[Pa.B. Doc. No. 06-2260. Filed for public inspection November 17, 2006, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### DAUPHIN COUNTY

#### Promulgation of Local Rule Criminal Procedure 520 (Bail Bond); No. 0091-14 MD 2006

##### Order

*And Now*, this 26th day of October, 2006, Dauphin County Local Rule of Criminal Procedure 520 is promulgated as follows:

##### Rule 520. BAIL.

1. Magisterial District Judges, the Clerk of Courts and certain designated officials at the Dauphin County Prison are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure and Dauphin County Local Rules of Court. (See Pa.R.Crim.P. 117(c), 520, and 525).

2. Payment of monetary bail during regular business hours shall be posted at the appropriate Magisterial District Judge's Office or at the Clerk of Courts' Office. Payment of monetary bail outside of regular business hours shall be posted at Night Court pursuant to Local Rule 117.

3. The Magisterial District Judge with jurisdiction over a court case may accept bail at any time until the defendant is held for court at the conclusion of the preliminary hearing.

4. Property bail shall be posted with the Clerk of Courts or the appropriate Magisterial District Court during regular business hours.

5. Other than monetary bail and property bail, all other bail may be posted outside of regularly scheduled work hours at the Dauphin County Prison. The Warden, Deputy Warden, shift commanders and records officers are authorized to accept such bail and to witness a defendant's signature on the bail bond at any time. The defendant and the surety shall be given a copy of the bail bond.

This rule shall be effective immediately.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 06-2261. Filed for public inspection November 17, 2006, 9:00 a.m.]

## DAUPHIN COUNTY

### Promulgation of Local Rules; No. 0091-15 MD2006

#### Order

*And Now*, this 26th day of October, 2006, Dauphin County Local Rule of Criminal Procedure 150 is amended as follows:

#### **Rule 150: Bench Warrants**

*A. Bench Warrants Issued by the Court of Common Pleas*

1. When an individual is committed to Dauphin County Prison pursuant to a bench warrant issued by the Court of Common Pleas, s/he shall be detained pending a bench warrant hearing. The Warden or his designee shall notify the Dauphin County Court Administrator, District Attorney, Public Defender, Sheriff, and Dauphin County Pretrial Services within 12 hours of the fact of such commitment.

2. (a) Bench Warrant Court shall be convened at 8:00 A.M. on Monday (Tuesday when Monday is a holiday) and Thursday at the Video Conference Room of the Dauphin County Court House for purpose of conducting a hearing on all bench warrant commitments pending at Dauphin County Prison. The scope of the hearing may include a determination as to whether the bench warrant is still valid, whether the appropriate person has been detained, the reasons why the person failed to appear, and the setting of bail when appropriate.

(b) The motions judge shall preside at Bench Warrant Court.

(c) The District Attorney and Public Defender shall each assign an attorney for the hearing. The participation of a Public Defender at this hearing shall not be construed as an entry of appearance on behalf of the defendant.

(d) Dauphin County Prison shall arrange to have the committed prisoner available for video conference at the appointed hour.

(e) A court reporter shall be assigned to each hearing.

(f) Where a person has been committed at an out-of-county facility, the Court Administrator may make arrangements for the video-conference connection with that facility.

#### **B. Bench Warrants Issued by a Magisterial District Judge**

1. When an individual is committed to Dauphin County Prison pursuant to a bench warrant issued by a Magisterial District Judge, s/he shall be detained pending a bench warrant hearing. The Warden or his designee shall notify the Dauphin County Court Administrator, Central Court, District Attorney, Public Defender, Sheriff, and Dauphin County Pretrial Services within 12 hours of the fact of such commitment.

2. (a) Bench Warrant Court shall be convened at Central Court every Monday (Tuesday if Monday is a holiday) and Thursday at a time to be set by the Court. Bench Warrant Court may also be convened on any other date that Central Court is in session. The scope of the hearing may include a determination as to whether the bench warrant is still valid, whether the appropriate person has been detained, the reasons why the person failed to appear, and the setting of bail when appropriate.

(b) The District Attorney and Public Defender may each assign an attorney for the hearing. The participation of a Public Defender at this hearing shall not be construed as an entry of appearance on behalf of the defendant.

(c) Dauphin County Prison shall arrange for the committed prisoner to be available at the appointed hour for a Rule 150 Hearing, whether it be at Central Court, via video conferencing, or at the office of the issuing authority.

(d) Where a person has been committed at an out-of-county facility, the Court Administrator may make arrangements for the video-conference connection with that facility.

Comments: The provisions of this rule do not apply to DRO bench warrants.

When a defendant fails to appear for a preliminary hearing and a Magisterial District Judge holds the hearing in absentia, binds the case over to court, and issues a bench warrant for defendant's arrest, the MDJ retains jurisdiction to dispose of the warrant until date of arraignment. See Pa.R.Crim.P. 543(D)(3).

This rule shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 06-2262. Filed for public inspection November 17, 2006, 9:00 a.m.]