

# RULES OF THE COURT OF COMMON PLEAS

## PRELIMINARY RULES

### Rule 1. Title and Citation of Rules

- (a) The Rules of Court of the Ninth Judicial District shall hereinafter be known as the Cumberland County Rules of Procedure. They shall be abbreviated generally as C.C.R.P.; however Cumberland County Rules of Criminal Procedure shall be cited as C.C.R.Crim.P., Cumberland County Rules of Juvenile Court Procedure shall be cited as C.C.R.J.C.P., Cumberland County Orphans' Court Rules shall be cited C.C.R.O.C.P., and Cumberland County Rules of Judicial Administration shall be cited as C.C.R.J.A.
- (b) All rules issued prior to January 1, 2024 are expressly rescinded.

### Rule 2. Structure

The following structure shall be utilized for the Cumberland County Rules of Procedure for any future amendments, revisions, additions, and improvements to the rules. All rules, practices, precedents, and forms in effect at this time shall continue in full force and effect until such time as they are expressly rescinded or revised hereafter by order of the court.

#### Cumberland County Rules of Procedure

PRELIMINARY RULES	C.C.R.P. 1-50
CIVIL	C.C.R.P. 51-6114
ORPHANS COURT	C.C.R.O.C.P. 1.1-16.6
CRIMINAL	C.C.R.Crim.P. 100-1101
DELINQUENCY AND DEPENDENCY	C.C.R.J.C.P. 100-1800
RULES OF JUDICIAL ADMINISTRATION	C.C.R.J.A 101-4016

### Rule 3. Applicability and Footnotes

- (a) The Cumberland County Rules of Procedure are applicable to the Court of Common Pleas, Civil Action; Court of Common Pleas, Criminal; Court of Common Pleas, Orphans'; Court of Common Pleas, Juvenile unless otherwise provided.
- (b) The footnotes in the rules are for information only and shall not be considered part of the rules.

### Rule 4. Erroneous Entries

- a) Any matter erroneously entered in any book, docket, mortgage or deed book, will book or other official record in the offices of the Prothonotary, Register of Wills, Clerk of Courts, Recorder of Deeds and the Sheriff shall be so marked, and the correct entry shall be inserted. If material is omitted, the omitted entry shall be placed on the record in a manner which will allow a clear and unambiguous reading of the record. In every case the date of the correction shall be noted.
- b) If a document is erroneously electronically filed to the wrong docket, the docket note shall summarize the error and the document shall be hidden from public access. The document shall then be filed to the correct electronic docket.

### Rule 5. Court Calendar

The Court Calendar will be determined by the Court on a yearly basis. The Court Administrator will prepare the calendar at the direction of the President Judge.

## **Rule 6. Court Fee Schedule**

The hourly pay rate for each type of court appointed or contracted position will be determined by the Court on a yearly basis. The Court Administrator will prepare and distribute the fee schedule at the direction of the President Judge.

## **Rule 7. Legal Journal**

The Cumberland Law Journal is designated as the official legal publication of Cumberland County and the legal newspaper designated by this Court for the publication of legal notices.

Advertisement of the following notices in the Cumberland Law Journal is hereby dispensed with:

- (a) Proposed budgets of Municipalities
- (b) Meetings, decisions and filings of Reports of Viewers
- (c) Any other notice involving a local government or one of its instrumentalities unless expressly provided otherwise by statute.

## **CIVIL**

### **CHAPTER I. BUSINESS OF THE COURT**

#### **RULE 205.4. Electronic Filing and Service of Legal Papers Filed in the Civil Trial Division**

- (a) The Cumberland County Court of Common Pleas does hereby permit electronic filing of legal papers with the Prothonotary through its Electronic Filing System, as well as the electronic service of such papers, under terms more specifically provided in Pennsylvania Rule of Civil Procedure 205.4.
  - (1) The Prothonotary's Office will provide the necessary technical assistance to those parties who lack the capability to file legal papers electronically.
  - (2) As used in this rule, the following words shall have the following meanings:
    - (i) "electronic filing" shall be the electronic transmission of legal papers by means other than facsimile transmission;
    - (ii) "filing party" shall be an attorney, party or other person who files a legal paper by means of electronic filing; and
    - (iii) "legal paper" shall be a pleading or other paper filed with the Prothonotary in any civil action, including attachments and exhibits, even if the legal papers are not adversarial in nature or do not require a response from the non-filing party or parties.
- (b) Legal papers shall be presented for filing in a portable document format ("PDF"). As authorized by Pa.R.C.P. 205.4 (b)(1), in the event a legal paper is presented for filing in a hard-copy format or an electronic format other than a PDF, the Prothonotary shall convert said legal paper into a PDF and shall maintain it in that format. The Prothonotary shall return the hard-copy legal paper to the filing party for retention as required by Pa.R.C.P. 205.4(b)(4).
- (c) The Prothonotary shall always provide access to its Electronic Filing System, except during periods of required maintenance.
  - (1) Legal papers may be filed electronically through the Electronic Filing System, which will

be accessible through the Cumberland County Prothonotary website.

- (2) To obtain access to the Electronic Filing System, counsel or any unrepresented party must first register with the Prothonotary's Office for a Username and Password.
- (3) The time and date of filing a legal paper and any receipt of the legal paper filed electronically shall be that registered by the Electronic Filing System. The Prothonotary shall provide, through the Electronic Filing System's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.
- (4) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the Electronic Filing System's website.

(d) A filing party shall pay the cost of the electronic filing of a legal paper by approved credit or debit card. The following cards have been approved for payment of the electronic filing: American Express, Discover, MasterCard and Visa.

(e) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the Prothonotary or the Electronic Filing System based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

- (1) If a pleading or other legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the Prothonotary by email, or the Electronic Filing System, as may be appropriate, shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.
- (2) The Court upon motion shall resolve any dispute arising under paragraph (1) of this subdivision. If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted, or filed by the Electronic Filing System, the Court may order that the paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.

(f) As authorized by Pa.R.C.P. 205.4(f), the following administrative procedures are adopted:

- (1) Verification of pleadings, as required by Pa.R.C.P. 206.3 and 1024, as well as any other documents executed by the client or third parties, such as Affidavits or Certificates of Service, shall be scanned and attached to the electronic filing in a PDF at the time the legal paper is submitted for electronic filing.
- (2) Filings containing personal identifiers in civil matters, such as Social Security numbers, dates of birth, financial account numbers and names of minor children, shall be modified or partially redacted in all documents electronically filed in the office and shall be filed with a confidential information form.
- (3) The Prothonotary is authorized to refuse for filing a legal paper submitted without the requisite filing fee; such legal paper shall only be deemed to have been filed on the date that said filing fee payment was received by the Prothonotary.
- (4) Neither the Court nor the Prothonotary shall be required to maintain a hard copy of any legal paper, notice or Order filed or maintained electronically under this Rule.

(g) Service:

- (1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served:
  - (i) as provided by Pa.R.C.P. 440; or
  - (ii) by electronic transmission, other than facsimile transmission, to all parties who have previously submitted electronic filing in the same case, pursuant to C.C.R.P. 205.4 and Pa.R.C.P. 205.4(g).
- (2) Service by electronic transmission is complete when a legal paper is sent:

- (i) to the recipient's electronic mail address, or
- (ii) to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

(3) Copies of all Notices, Orders or Judgments from the Court in any action shall be served by electronic transmission through the Electronic Filing System to all parties who have previously submitted electronic filings in the same case. If a party or parties have not yet submitted electronic filing in a particular case, then the Prothonotary shall provide notice by facsimile, other electronic means, or by forwarding a hard copy to said party or parties.

## **Rule 206.1 Petitions**

All Petitions not enumerated in Pa. R.C.P. 206.1(1)(applications to strike and/or open a default judgment or a judgment of non pros) shall follow all requirements for the filing of Motions laid out in C.C.R.P. 208.3.

## **Rule 208.3. Motions**

All motions shall be filed with the Prothonotary who shall forward them to the Court Administrator for assignment to a judge for disposition.

- (a) All motions submitted to the Court shall:
  - (1) prominently indicate the individual attorney responsible for the matter and their email address, or attorney is not the one who personally submits the papers, the names and email address of both attorneys shall be clearly indicated;
  - (2) state whether a judge has ruled upon any other issue in the same or related matter, and, if so, shall specify the judge and the issue; and
  - (3) include a brief statement of the applicable authority.
- (b) A proposed order or decree shall be affixed to the front of each motion submitted to the Court.
- (c) Where notice of the entry of any order is required under Pa.R.C.P. 236, the filing party shall include in the proposed order the names of the persons and/or attorneys who are required to be notified and to provide stamped envelopes addressed to the said persons and/or attorneys.
- (d) Except as provided in C.C.R.P. 1028, 1034, and 1035.2, no motion shall be placed on an argument court list unless directed by the assigned judge.
- (e) Prior to filing any motion, the filing party shall seek concurrence of any other party and any *guardian ad litem*, except that this requirement shall not apply to preliminary objections, motions for judgment on the pleadings, motions for summary judgment, petitions to open or strike judgments, and motions for post-trial relief.
  - (1) If a response is received, the filed document shall note the position of each opposing party.
  - (2) If no response is received, the filed document shall note the manner and timing of each attempt to seek concurrence.
  - (3) If no response is received or there is opposition to the requested relief, the filing party shall include a proposed order, as prescribed by the Court and available on the Court Website, directing each opposing party to file a written response.
- (f) The judge to whom a motion has been assigned shall, thereafter, by order, schedule such hearing, briefing, and/or argument as shall be deemed necessary.
- (g) If a party who is represented by counsel of record attempts to file a motion, petition, answer, or similar item on their own, the item may be stricken from the record and instead forwarded to the counsel of record for such action as they deem appropriate on behalf of the client.

## **Rule 212.1-1. Case Management**

A civil judge will hold civil status conferences in alternating months on a date which will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5).

- (a) The purpose of the status conferences will be to ensure cases progress in a timely manner.
- (b) Cases will be automatically scheduled for a civil status conference in the following instances:
  - (1) one year following the filing of the complaint, every civil case will be scheduled for a civil status conference.
  - (2) any case where an Intent to Proceed is filed in response to a two-year purge notice shall be scheduled for the next available civil status conference date.
- (c) A case will only be removed from the civil status conference list if a:
  - (1) Preacipe to Discontinue the Action is filed,
  - (2) comprehensive case management order is filed, or
  - (3) Motion to Continue or Specially Set a status conference is granted.
- (d) Cases will be handled in the order that they were listed.
- (e) All parties should be prepared to address:
  - (1) outstanding discovery,
  - (2) expert reports,
  - (3) dispositive Motions,
  - (4) trial timing, and
  - (5) any other relevant matter relating to the issuance of a comprehensive case management order.
- (f) Following the status conference, the Court will issue a case management order.

## **Rule 212.1-2. Call of Civil Trial List**

- (a) For each term of court, the civil trial list shall be called on a date which will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5). Any case not answered at the first call, shall, at the option of the court, be placed at the end of the list or stricken from it.
- (b) At the call of the trial list, counsel for all parties shall indicate that discovery has been completed, that Alternative Dispute Resolution options have been considered and, if agreed to, have been completed or will be completed so as not to delay trial, and that the case is otherwise ready for trial in all respects. Any case not ready for trial in all respects shall, at the option of the court, be placed at the end of the list or stricken from it.

## **Rule 212.1-3. Listing for Jury Trial**

- (a) Except as provided in subsection (c), cases shall be listed for jury trial only by filing a praecipe directing the Prothonotary to list the case for trial. The party listing the case for trial shall promptly serve a copy of the praecipe on all other parties. The praecipe shall be in the form prescribed by the Prothonotary.
- (b) The trial list for cases at law shall close seven (7) weeks before the first day of trials. Trial lists shall be prepared by the Prothonotary with the cases arranged in the order of their listing. Copies of each trial list shall be made available to members of the Bar.
- (c) Where a case is listed for jury trial by direction of the Court, notice of such listing shall be given to counsel by the Prothonotary.

## **Rule 212.1-4. Listing for Non-Jury Trial**

If neither party is requesting a jury trial, either party can request the matter be scheduled for a bench trial by filing a praecipe with the Prothonotary. The Prothonotary shall forward the praecipe to the Court Administrator' Office for scheduling before the appropriate judge.

### **Rule 212.2. Pretrial Memorandum**

No later than Friday prior to the pretrial conference, each party to a civil action shall file (and serve a copy on all other parties) a pretrial memorandum with the Prothonotary, who will transmit it to the Court Administrator. The memorandum shall set forth in the following order:

- (a) A statement of the basic facts as to liability.
- (b) A statement of the basic facts as to damages.
- (c) A statement as to the principal issues of liability and damages.
- (d) A summary of legal issues regarding admissibility of testimony, exhibits or any other matter, and legal authorities relied on.
- (e) The identity of witnesses to be called.
- (f) A list of exhibits with brief identification of each.
- (g) The current status of settlement negotiations including a statement as to whether an Alternative Dispute Resolution option has been utilized.
- (h) Estimated length of trial.

### **Rule 212.3. Pretrial Conference**

- (a) For each term of court, a pretrial conference date will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5).
- (b) The pretrial conference shall be attended by the attorney who will try the case. If the trial attorney fails to attend the pretrial conference, he or she shall not be permitted to try the case.
- (c) Any case in which the trial attorney fails to appear for the pretrial conference may be placed at the end of the list or stricken from it. The court may impose alternative or additional appropriate sanctions on the party or counsel failing to appear.

### **Rule 223. Trial Procedure**

In all trials the order of procedure shall be as follows:

- (a) The counsel for the affirmative shall open their case and state the facts and, if necessary, the principles of law involved so that the relevancy of the facts may be understood, but without argument. Thereafter, the opposing counsel may open their case and proceed in like manner or may reserve their right to open until after the affirmative case in chief. If reserved, the counsel for the affirmative shall call witnesses for examination and cross-examination. If not reserved, the counsel for the affirmative shall present their case in chief at the close of the affirmative case. Closing arguments shall be in inverse order of the opening statements. Unless specifically allowed, no opening statement or summation shall exceed thirty (30) minutes.
- (b) Upon the return of the jury to the courtroom, the judge shall examine the written verdict. If irregular, the judge shall further instruct the jury and send it back for further deliberation. If the written verdict is in proper form, regular and valid, the judge shall hand it to the Prothonotary clerk who shall inquire of the foreman:

"Have you reached a verdict?"

Upon an affirmative response, the Prothonotary clerk shall inquire of the foreman:

“What is your verdict?”

Thereupon the foreman shall pronounce the verdict.

Upon demand for a poll being made, the Prothonotary clerk shall inquire of each juror separately as to their verdict. The Court shall instruct the Prothonotary clerk as to the form of the question after consultation with counsel if desired.

If no demand for a poll is made or if the poll shows a legal verdict, the Prothonotary clerk shall enter the verdict and shall inquire of the jury in the usual form as to whether or not the same is their verdict.

## **CHAPTER II. MISCELLANEOUS RULES**

### **Rule 330. Land Use Appeals**

- (a) Contemporaneously with the notice of the filing of the complete return of the record, the Prothonotary shall forward the appeal to Court Administration for assignment of a judge of the Court of Common Pleas. The Court Administrator shall assign appeals to the judges on a rotating basis.
- (b) Within ten (10) days after the Prothonotary gives notice of the filing of the complete return of the record, any party who believes the appeal is not ready for disposition may file a motion for a conference. The motion for a conference shall state why the party believes that the appeal is not ready for disposition and shall identify all actions that the party requests. The Prothonotary shall immediately serve a copy of the motion upon the assigned judge.
- (c) At the conference, the Court may:
  - (1) Require or approve supplementation of the record.
  - (2) Fix a time for a de novo hearing before the Court.
  - (3) Employ expert(s) to aid the Court to frame an appropriate order.
  - (4) Refer the appeal to a referee to receive additional evidence, with directions as to time deadlines and other matters the Court deems appropriate.
  - (5) If allowed by law, remand the appeal to the local agency with directions as to time deadlines and other matters, including mediation.
  - (6) Specially set a date for oral argument.
- (d) After the conference, the Court shall issue an appropriate order addressing the filing of briefs.
- (e) If no party has filed a request for a conference within ten (10) days after the Prothonotary gives notice of the filing of the complete return of the record, the Court shall immediately issue a standard order setting a briefing schedule and specially set a date for oral argument.
- (f) The standard briefing schedule shall be as follows:
  - (1) The appellant shall file a brief within forty (40) days after the date the Prothonotary gives notice of the filing of the local agency's complete record. The appellant shall limit the brief to the issues appellant raised in the land use appeal.
  - (2) Each other party shall file a responsive brief within thirty (30) days after service of appellant's brief.
  - (3) The appellant may file a reply brief within ten (10) days after service of the responsive brief.
- (g) If appellant fails to file a brief within the time period established under the rules of this section or by the Court after a conference, any party may file and serve a praecipe stating that the appeal is ready for disposition together with a brief, or may petition the Court for dismissal of

the appeal. If a party files a praecipe requesting disposition due to the failure of the appellant to file a brief, the Court shall render a decision, without oral argument, on the record before it.

### **Rule 367. Bill of Costs**

A party entitled to costs shall file a bill of costs with the Prothonotary which shall be served upon the opposing party or their attorney. Such bill shall set forth the witnesses in attendance at trial, the statutory witness fees paid to such witnesses, and the places from which mileage is claimed. The bill shall be verified under oath as being true and correct to the best of the affiant's knowledge and belief which verification shall include a statement that the witnesses were material and necessary. If the opposing party objects to a bill of costs, they must file exceptions, in writing, with the Prothonotary, within ten (10) days of service. The Prothonotary shall hear and determine the objections. If either party is dissatisfied with the decision of the Prothonotary, the matter shall be heard by the Court; but no exception or appeal shall operate to stay execution or prevent the collection of the debt or costs, but any costs subject to the exception shall be retained until the question is decided.

### **Rule 500. Prothonotary Posting and Access**

- (a) The Prothonotary shall provide and maintain in the public room of their office a bulletin board upon which notices, the posting of which is required by the Rules of Court, may be posted. The Prothonotary may remove expired postings on a regular basis.
- (b) The Prothonotary shall make all matters or documents required or authorized, except juvenile cases and other non-public files, from August 2001 forward, available on the Prothonotary's website for public access. The Prothonotary shall provide access to the public to search these records by docket number or by name of the plaintiff or defendant.
- (c) The Prothonotary shall provide access to certain non-public files, specifically Cumberland County family law actions from August 2001 forward, by use of a password login, to:
  - (1) Certain subscribing Pennsylvania licensed attorneys.
  - (2) Unrepresented litigants for their own cases only.

Note: For the purpose of internet access, non-public files shall include divorce, custody, and protection from abuse cases filed after the effective date of this rule.

## **CHAPTER III. PLEADINGS**

### **Rule 1018.1. Notice to Defend**

As provided by Pennsylvania Rule of Civil Procedure No. 1018.1, the following officer is designated to be named in the Notice to Defend in order to find out where legal help can be obtained:

Cumberland County Bar Association's Find a Lawyer  
32 South Bedford Street  
Carlisle, PA 17013  
Phone: 717-249-3166 EXT. 105

### **Rule 1028. Preliminary Objections**

All preliminary objections shall be filed with the Cumberland County Prothonotary's Office. Thereafter, the issues raised (unless specifically excluded by other rule, see C.C.R.P. 330, 1915.5, and 1920.12) will be disposed of at regular sessions of argument court, which shall be scheduled as part of the

annual court calendar (See C.C.R.P. 5). All cases will be decided on written argument unless oral argument is specifically requested. If granted, oral argument will be held off the record. The procedure for disposition of matters by argument court shall be as follows:

- (a) The objecting party shall file a brief with the Prothonotary simultaneously with the preliminary objections. If the brief is not timely filed, the Court may deny the relief sought on that basis alone. This brief shall:
  - (1) be limited to twenty (20) double-spaced pages (unless *prior* court approval has been granted).
  - (2) contain a statement of facts, discussion of the issues, and reference to all authorities relied upon.
  - (3) address all issues raised in the objections, or else they shall be deemed abandoned.
  - (4) note references to parts of the record appearing in a reproduced record shall be to the pages and the lines in the reproduced record where said parts appear, e.g., "(r. pg. 30 l. 15)," and, if references are made in the brief to parts of the original record not reproduced, the references shall be to the parts of the record involved, e.g., "(Answer p. 7)," "(Motion for Summary Judgment p. 2)."
- (b) The objecting party shall immediately serve a copy of the brief upon opposing counsel and any unrepresented party and shall file an affidavit of service.
- (c) Within twenty (20) days of the date of service of the objecting party's brief, the responding party shall file and serve a brief in accordance with the requirements of subsections (a)(1-4) of this rule.
- (d) Except as provided in subsection (e), ten (10) business days following the close of the briefing schedule, the preliminary objections will be automatically listed for decision on the briefs only at the next available argument session.
- (e) If either party wishes to request a later argument date or oral argument (for complex cases or novel legal issues), they must file with the Prothonotary, and serve upon all parties, a praecipe containing the request within five (5) business days following the close of the briefing schedule.
- (f) The Prothonotary shall maintain the argument court list.
  - (1) The argument list shall be closed forty (40) days prior to the date for argument.
  - (2) The list shall then be prepared by the Prothonotary and the cases shall be set out in order of their listing.
  - (3) Upon the closing of the argument list, the Prothonotary shall furnish notification by regular mail to all attorneys and unrepresented parties who have cases listed for argument.
- (g) One week prior to argument, the Court Administrator shall prepare the final list of cases to be decided and post it to the Prothonotary's Website.
- (h) Counsel or any party presenting oral argument shall be limited to fifteen (15) minutes unless prior permission is granted to extend argument in a complex case.
- (i) Briefs will be retained by the Prothonotary and will be on the record.
- (j) If the preliminary objections resolve prior to the argument court date, a praecipe to withdraw the listing shall be filed immediately.
- (k) In the interest of judicial economy, if a single case has objections listed for multiple argument court dates, they shall be consolidated to the latest scheduled argument court session.

#### **Rule 1034. Motions for Judgment on the Pleadings**

Motions for judgment on the pleadings shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with C.C.R.P. 1028.

## **Rule 1035.2. Motions for Summary Judgment**

All motions for summary judgment shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with C.C.R.P. 1028.

## **CHAPTER IV. ARBITRATION**

### **Rule 1301. Compulsory Arbitration**

- (a) All civil cases which are at issue in which the total amount in controversy is Fifty Thousand Dollars (\$50,000) or less, exclusive of interest and costs, except those cases involving title to or possession of or occupancy of real estate, shall be submitted for hearing and award to three members of the Bar to be designated as a Board of Arbitrators.
- (b) All cases in trespass, otherwise meeting the requirements of (a), in which no appearance has been entered for the defendant (including those cases in which a default judgment has been entered against the defendant pursuant to Pa.R.C.P. 1037(a)), shall be submitted to a Board of Arbitrators for hearing and award upon the question of damages, unless damages have been assessed in accordance with Pa.R.C.P. 1037(b).

### **Rule 1302. Board of Arbitrators**

- (a) In all cases requiring compulsory arbitration in accordance with C.C.R.P. 1301, any party may file a petition with the Prothonotary for the appointment of a Board of Arbitrators. The petition shall set forth that the matter is at issue, the amount in controversy, the names of members of the Bar of Cumberland County who are interested in the matter or otherwise disqualified to sit as arbitrators, and a request for the appointment of a Board of Arbitrators.
- (b) Upon receipt of the petition, the Prothonotary shall forward it to the Court Administrator for assignment to a judge for review and appointment of the Board of Arbitrators.
- (c) The Board of Arbitrators shall be appointed from the list of arbitrators. The first member appointed shall act as Chairman and shall fix the time and place for hearing.
- (d) In any case listed for trial before the court, if it shall come to the attention of the court that the case qualifies for compulsory arbitration under C.C.R.P. 1301, the court may direct the plaintiff to file a Petition for Appointment of a Board of Arbitrators.
- (e) The compensation of the Chairmen and Board Members shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).

## **CHAPTER V. SUPPORT**

### **Rule 1910.10. Hearing Procedure**

The Court of Common Pleas of Cumberland County adopts the alternative hearing procedure set forth in Pa.R.C.P. 1910.12.

### **Rule 1910.12. Conduct of Hearing and Exceptions**

- (a) Hearings shall be conducted by the Support Hearing Officer.
- (b) The Support Hearing Officer shall engage the services of a Court Reporter or a Courtroom Technician; however, the notes of testimony shall not be transcribed unless:
  - (1) required by the Support Hearing Officer to prepare the report and recommendation to

the Court,

(2) ordered by the Court, or

(3) requested by a litigant in accordance with Local Rule 4007.

(c) When exceptions are filed, the Domestic Relations Office shall immediately forward the cases to the Court Administrator who shall assign them to judge. The assigned judge will set a briefing and argument schedule.

## **CHAPTER VI. CUSTODY**

### **Rule 1915.1. Applicability of Custody Rules**

These rules shall govern all actions for custody, partial custody, and visitation, including original actions to modify and for contempt. The rules shall be interpreted as supplementing the Rules of Civil Procedure governing custody actions. Pa. R.C.P. 1915.1 et seq.

### **Rule 1915.3-1. Custody Complaint**

(a) The original complaint shall be filed with the Prothonotary who shall forward the copy of the complaint to the Court Administrator for assignment to a custody conference officer.

(b) If a custody claim is asserted in a divorce complaint, and either party desires a hearing on the custody issue, a copy of the divorce complaint, together with a simple motion for hearing, filed with the Prothonotary who shall forward the copy of the complaint to the Court Administrator for assignment to a custody conference officer.

### **Rule 1915.3-2. Custody Conference Officers**

(a) The court shall appoint a member(s) of the Bar or other appropriate person, as an official of the court, to:

(1) Conciliate custody cases filed with the court;

(2) Recommend to the court that interim or temporary orders be entered in appropriate custody cases;

(3) Recommend appointment of counsel for the child;

(4) Recommend the utilization of home studies and expert witnesses.

(b) The compensation for a custody conference officer shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).

(c) All petitions for contempt or modification shall be filed in the same manner as original complaints in Rule 1915.3-1 and the Court Administrator shall refer same to the custody conference officer for review.

### **Rule 1915.3-3. Custody Conciliation Conference**

(a) The conciliation before the custody conference officer shall not be more than forty-five (45) days from the date of assignment by the Court Administrator. The custody conference officer may reschedule the conference at the request of either party. The rescheduled date shall not be more than seventy-five (75) days from the date of assignment by the Court Administrator. If the conciliation conference is rescheduled, a new order shall be issued setting the time, date, and place for the conference and shall be docketed with the Prothonotary.

(b) If the responding party intends to file counterclaims or crossclaims, they shall be filed prior to the conciliation conference, where possible.

- (c) If a question of jurisdiction or venue is raised prior to the conciliation conference, such objections shall be referred by the custody conference officer to the court for disposition. No other pleading need be filed to a claim for custody or visitation.
- (d) To facilitate the conciliation process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, shall not be admissible as evidence in court. The custody conference officer shall not be a witness for or against any party, neither shall the conciliator permit the recording in any way of the proceeding.
- (e) At the conclusion of the conference where the case remains contested the custody conference officer shall prepare a Conference Summary Report. This report shall contain facts gathered by the conciliator during the conference. This report shall be filed of record.
- (f) Within seven (7) days following a conciliation conference, the custody conference officer will submit their proposed order(s) to the Court:
  - (1) SETTLED CASE: If the parties reach an agreement, the custody conference officer shall draft a proposed order in conformance with the agreement of the parties. The custody conference officer shall thereafter submit the proposed order to the Court Administrator who shall transmit the order to the assigned judge for disposition.
  - (2) CONTESTED CASE: Should the parties fail to reach an agreement prior to the conclusion of the conciliation conference, the custody conference officer shall submit their Conference Summary Report and any proposed recommended order to the Court Administrator who shall transmit the order to the assigned judge, who shall thereafter review the proposed recommended order and direct the matter for hearing. The proposed recommended order may contain a requirement that the parties file a pretrial memorandum with the judge to whom the matter has been assigned.
  - (3) GAL APPOINTMENT: If the parties agree to the appointment of a *guardian ad litem* (GAL) or the custody conference officer recommends appointment of a GAL, the custody conference officer shall include a proposed GAL appointment order with the Conference Summary Report. If either party requests that the county pay the GAL's fees, the conference officer shall colloquy the parties on their ability to pay and make a recommendation regarding payment of the GAL's fees.

#### **Rule 1915.4. Emergency and Special Relief**

- (a) Definitions.
  - (1) Petitions for Special Relief shall be filed to address a specific circumstance that does not necessitate the modification of an existing Custody Order and does not involve a violation of the existing Custody Order.
  - (2) Petitions for Contempt shall be filed to address past or ongoing violations of an existing Custody Order.
  - (3) Emergency Petitions for Custody shall be filed when there is an immediate threat to the health, safety, or welfare of the child.
- (b) Procedure.
  - (1) Petitions for Special Relief and for Contempt will follow the same procedure as a Custody Complaint as laid out **C.C.R.P. 1915.3-1**.
  - (2) Emergency Petitions for Custody will promptly be personally delivered to a judge by Court Administration for review and action.

#### **Rule 1915.11. Parenting Coordination**

- (a) The Court Administrator shall maintain a current roster of qualified individuals willing to serve as parenting coordinators upon court appointment pursuant to Pa.R.C.P. 1915.11-1.
- (b) The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parents and, if unable to reach an agreement, where necessary recommend a resolution to the court.
- (c) For simplification purposes, the general term “parent” is used to describe any party to a custody case, which includes the universe of people who act in a parental capacity in a custody proceeding.
- (d) Appointment of a Parenting Coordinator.
  - (1) If the parents cannot agree on a parenting coordinator, the court may select one, upon a motion to designate, wherein the requesting parent will identify their choice(s) of parenting coordinator along with hourly rates and allocation of fees.
  - (2) The non-requesting parent will be noticed to respond to the request with their choice(s) and required information. Thereafter, the court may designate a parenting coordinator without a hearing.
- (e) Scope of Authority of the Parenting Coordinator.
  - (1) Unless the parents’ consent in writing, the parenting coordinator shall not contact collateral sources or speak with the child(ren) and to effectuate this provision, the parents shall execute releases, as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals.
  - (2) Any communication with the collateral sources or child(ren) shall be limited to the issue(s) currently before the parenting coordinator.
- (f) Fees.
  - (1) The compensation for a parenting coordinator shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).
  - (2) Waiver of fees or reduced fees. Upon written request of a parent, which may be filed using the Unified Judicial System of Pennsylvania form designated a Motion to Proceed In Forma Pauperis, CPCMS 2046, the court shall engage in a need-based assessment of a parent’s ability to pay, so that indigent or low-income parents may participate in the parenting coordination program at a reduced fee or, as appropriate, no fee.

### **Rule 1915.13. School Determination Court**

- (a) When, following conciliation, the parties are unable to agree where a child will attend school, the assigned judge will attempt to schedule a full hearing prior to the start of the relevant school year.
- (b) If a date for a full hearing is unavailable, the assigned judge will schedule the matter for school determination court.
  - (1) School determination court shall be scheduled as part of the annual court calendar (See C.C.R.P. 5).
  - (2) Each party shall have 10 minutes to present evidence and argument why their preferred school should be selected.
  - (3) Following the abbreviated proceeding, the presiding judge shall enter an interim school determination order pending a full hearing before the assigned judge.

## **Rule 1915.5. Preliminary Objections in Custody**

Preliminary objections in custody are excluded from the procedure found in C.C.R.P. 1028 and shall be handled by the assigned judge.

## **CHAPTER VII. DIVORCE**

### **Rule 1920.12. Preliminary Objections in Divorce**

Preliminary objections in divorce matters are excluded from the procedure found in C.C.R.P. 1028 and shall be handled by the assigned judge.

### **Rule 1920.42. Praecipes to Transmit Record**

All Praecipes to Transmit Record filed pursuant to Rule 1920.42 shall include a proposed order or decree.

### **Rule 1920.51-1. Appointment of Divorce Hearing Officer for Discovery**

- (a) Either party may request the appointment of the Divorce Hearing Officer for the purposes of resolving discovery disputes and settlement prior to (or in limited situations, after) the entry of an order approving grounds for divorce. All divorce discovery disputes prior to the entry of a final divorce decree shall be handled by the Divorce Hearing Officer. The party requesting the appointment shall pay to the Prothonotary an initial administrative fee as listed on the Prothonotary's Fee Schedule, although this fee may be reapportioned between the parties by the Hearing Officer or waived following a motion to the Court demonstrating good cause.
- (b) Appointment.
  - (1) The party seeking appointment shall use the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Discovery and Settlement prescribed by the Court and available on the Court Website.
  - (2) The completed motion and proposed order shall be filed with the Prothonotary and served upon the other party.
  - (3) The other party shall have 30 days from the date of service of the Motion to file a response, including any discovery issues the respondent believes should also be addressed by the Hearing Officer. Failure to timely respond may result in the Hearing Officer recommending the requested relief without a Conference or Hearing.
- (c) Initial Conference.
  - (1) Within 10 days following receipt of the appointment order, the Hearing Officer will schedule an initial conference with counsel (and the parties if one or more are unrepresented).
  - (2) If an agreement is reached (on discovery or global resolution), the Hearing Officer will file a Memorandum outlining the agreement. This Memorandum will be assigned to a judge for entry as an Order of Court.
  - (3) The appointment of the Divorce Hearing Officer will terminate automatically upon the filing of the Memorandum.
- (d) Hearing.
  - (1) If no agreement is reached at the initial conference, the Divorce Hearing Officer will schedule a hearing. Proof of hearing notice (as well as proof of notice of any continued or additional hearing dates) shall be filed of record.

- (2) Following the hearing, the Divorce Hearing Officer will file and serve a Report and Recommendation outlining the required exchange of discovery, as well as an apportionment of the fees for appointment, if appropriate.
- (3) The appointment of the Divorce Hearing Officer will terminate automatically upon the filing of the Report and Recommendation.

(e) Exceptions.

- (1) Exceptions to a Discovery Report and Recommendation will follow the procedures outlined in Pa. R.C.P. 1920.55-2.
- (2) If exceptions are filed, the Prothonotary shall promptly forward the case to the Court Administrator who shall assign them to a judge.
- (3) If no timely exceptions are filed, the Report and Recommendation will be assigned to a judge for entry as an Order of Court.

(f) Contempt.

- (1) If either party fails to abide by a Memorandum or Report and Recommendation, the aggrieved party may file the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Discovery and Settlement.
- (2) The Divorce Hearing Officer will be reappointed and will follow the same procedures outlined above.
- (3) The Divorce Hearing Officer is authorized to recommend contempt sanctions, including, but not limited to: apportionment of the appointment fees, preclusion of evidence at future hearings, and awarding of counsel fees.

## **Rule 1920.51-2. Appointment of Divorce Hearing Officer for Ancillary Claims**

(a) Once discovery is substantially complete and all prerequisites have been established, either party may request the appointment of the Divorce Hearing Officer for the purposes of resolving alimony, equitable division of marital property, counsel fees, and costs and expenses.

“Substantially complete,” as used here, means that both parties have all documents and other information necessary to proceed to trial, except for recent pay statements, updated account statements, and proof of change of circumstances that may be provided before the hearing.

The party requesting the appointment shall pay to the Prothonotary an initial administrative fee as listed on the Prothonotary’s Fee Schedule, although this fee may be reapportioned between the parties by the Hearing Officer or waived following a motion to the Court demonstrating good cause.

(b) Appointment.

- (1) The party seeking appointment shall use the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Ancillary Claims prescribed by the Court and available on the Court Website.
- (2) The completed motion and proposed order shall be filed with the Prothonotary and served upon the other party.
- (3) If all prerequisites are met, the Court will enter an order appointing the Hearing Officer and directing the filing of initial pre-trial statements.

(c) Preliminary Conference.

- (1) Within 10 days following receipt of the appointment order, the Hearing Officer will schedule a pre-hearing conference with counsel (and the parties if one or more are unrepresented).
- (2) At this conference, the Divorce Hearing Officer will address all outstanding pre-trial matters.
- (3) If an agreement is reached or there are action steps required by either party prior to the next proceeding, the Hearing Officer will file a Memorandum outlining the agreement

and/or next steps. This Memorandum will be assigned to a judge for entry as an Order of Court.

(d) Settlement Conference.

- (1) If no agreement is reached at the Preliminary Conference, the Hearing Officer will schedule a Settlement Conference with the parties and counsel.
- (2) If an agreement is reached or there are action steps required by either party prior to the next proceeding, the Hearing Officer will file a Memorandum outlining the agreement and/or next steps, including scheduling additional settlement conferences if needed. This Memorandum will be assigned to a judge for entry as an Order of Court.

(e) Hearing.

- (1) If no agreement can be reached, the Divorce Hearing Officer will promptly schedule hearings as necessary and set deadlines for updated, comprehensive pre-trial statements and exchange of exhibits. Proof of hearing notice (as well as proof of notice of any continued or additional hearing dates) shall be filed of record.
- (2) Following the hearing(s), the Divorce Hearing Officer will file and serve a Final Report and Recommendation addressing all outstanding economic claims, as well as an apportionment of the fees for appointment if appropriate.
- (3) The appointment of the Divorce Hearing Officer will terminate automatically following the filing of the Final Report and Recommendation.

(f) Exceptions.

- (1) Exceptions to a Report and Recommendation will follow the procedures outlined in Pa. R.C.P. 1920.55-2.
- (2) If exceptions are filed, the Prothonotary shall promptly forward the cases to the Court Administrator who shall assign them to a judge of the Court of Common Pleas.
- (3) If no timely exceptions are filed, the Report and Recommendation will be assigned to a judge for entry as an Order of Court.

(g) Contempt.

- (1) If, at any point, either party fails to comply with written directives of the Hearing Officer, upon Motion, or *sua sponte*, the Hearing Officer may continue the matter or recommend contempt sanctions, including, but not limited to: apportionment of the appointment fees, preclusion of evidence at future hearings, and awarding of counsel fees.
- (2) The recommendation for sanctions may be made at the conclusion of the action or on an interim basis if the failure to comply is resulting in unjustifiable delay, prejudice to the other party, or both.

(h) Vacating the Hearing Officer.

- (1) If the parties withdraw or settle all claims pending before the Hearing Officer, a Motion to Vacate Hearing Officer shall be filed prior to entry of the final divorce decree.
- (2) The Motion shall include the position of the opposing party, allegations or attachments demonstrating that all matters pending before the Hearing Officer have been resolved, and a proposed order vacating the Hearing Officer.

## **CHAPTER VIII. DEPOSITIONS AND DISCOVERY**

### **Rule 4001. Discovery Motions**

All motions and petitions regarding discovery in civil cases, including, but not limited to, motions to compel, for protective orders and for sanctions, shall be filed, with the Prothonotary who will transmit the motion/petition to the Court Administrator for assignment to a judge or Discovery Hearing Officer. Any answer or response to an order or rule shall be filed and assigned in the same manner.

## **Rule 4005. Number of Interrogatories, Requests for the Production of Documents, and Request for Admissions**

- (a) Interrogatories, requests for the production of documents, and/or requests for admissions to a party as a matter of right, shall not exceed forty (40) in number for each type.
- (b) Interrogatories, requests for the production of documents, and/or requests for admissions inquiring as to the names and locations of witnesses, or the existence, location and custodian of documents or physical evidence each shall be construed as one (1) interrogatory, request for the production of documents, and request for admission. All other interrogatories, requests for the production of documents, and/or requests for admissions, including subdivisions or one numbered interrogatory, request for the production of documents, and/or request for admissions, shall be construed as separate interrogatories, requests for the production of documents, and/or requests for admissions.
- (c) If counsel for a party believes that more than forty (40) interrogatories, requests for the production of documents, and/or requests for admissions are necessary, they shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional interrogatories, requests for the production of documents, and/or requests for admissions. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the party seeking to submit additional interrogatories, requests for the production of documents, and/or requests for admissions shall file a motion with the court showing the necessity for relief.

## **CHAPTER IX. PROTECTION FROM ABUSE**

### **Rule 6113.1. Private Criminal Complaints**

The filing of private criminal complaints, alleging criminal contempt of a Protection from Abuse Order as authorized by 23 P.S. 6113.1, shall be filed with the District Attorney of Cumberland County.

### **Rule 6114(c). Notification Upon Release**

- (a) The Warden of the Cumberland County Prison shall use all reasonable means to immediately notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under a Protection from Abuse Action or contempt. Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.
- (b) The plaintiff must keep the Warden of the Cumberland County Prison advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

## **ORPHANS' COURT**

## **CHAPTER I. PRELIMINARY RULES**

### **Rule 1.6. Mediation by Agreement, Local Rule, or Court Order**

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

- (a) The interested parties may engage the services of a mediator, either prior to or after any

interested party has filed a Pleading before the Court, including an account filed by a fiduciary.

- (b) Upon the filing of a Pleading before the Court, including an account filed by a fiduciary, the Clerk may provide the filing party with generic information, regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.
- (c) The filing party may provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure, should include:
  - (1) A brief description of the mediation process;
  - (2) The anticipated benefits of mediation for litigants and associated professionals; and
  - (3) Contact information to initiate mediation.
- (d) All the interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.
- (e) In such request for mediation, all interested parties shall identify:
  - (1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;
  - (2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;
  - (3) Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and
  - (4) The scheduled date for the initial mediation conference.
- (f) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.
- (g) Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.
- (h) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.
- (i) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.
- (j) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L.1125, No.169 (35 P.S. §§10225.101 -10225.5102), as may be amended.
- (k) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

## **CHAPTER II ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

### **Rule 2.6. Filing with the Clerk**

- (a) Accounts to be confirmed shall be filed not later than 4:30 p.m. (Eastern Prevailing Time) of the fifth Friday preceding the date fixed for confirmation of accounts.
- (b) The Court Calendar, including the dates for confirmation of accounts, shall be determined in accordance with C.C.R.P. 5.
- (c) Advertisement by the Clerk as required by PEF Code §745, shall be in the Cumberland Law Journal and The Sentinel.
- (d) The advertisement of the account shall indicate whether a statement of proposed distribution is included.

### **Rule 2.9. Confirmation of Accounts; Awards**

If no objections are filed to the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree directing distribution in accordance with the statement of proposed distribution.

### **Rule 2.11. Appointment of Official Examiners**

Rules pertaining to auditors and hearing officers in Chapter IX of Pa. Orphans' Court Rules shall extend to official examiners insofar as applicable.

## **CHAPTER III. PETITION PRACTICE AND PLEADING**

### **Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification**

Where notice of the entry of any decree is required, the petitioner or moving party shall include in the proposed decree, the names of all parties or their counsel, if represented, who are required to be notified of the proposed decree, and shall provide the Clerk with stamped envelopes addressed to the said parties or their counsel, if represented.

### **Rule 3.7. Time for Filing and Service of Responsive Pleadings**

Disposition of Matters after Pleadings are Closed - No Answer. If no responsive pleading is filed, upon proof of service of the citation or notice and the petition, the Court may grant the desired relief requested.

## **CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS**

### **Rule 5.16. Small Estates**

Petitions for settlement of small estates under PEF Code §3102 shall set forth:

- (a) The name and address of the petitioner and petitioner's relationship to the decedent;
- (b) The name, date of death and domicile of decedent;
- (c) Whether the decedent died testate or intestate, the date of the probate of the will, if applicable, and the date of grant of letters, if any, and whether the personal representative has been required to give bond and, if so, the amount of the bond;
- (d) The name and relationship of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under PEF Code §3101, or otherwise, and whether any of them is a minor, incapacitated or deceased with the name of his fiduciary, if any;

- (e) The person(s), if any, entitled to the family exemption and, if a claim therefore is made in the petition, any additional facts necessary to establish the right to the family exemption;
- (f) An inventory of the real and personal estate of the decedent, the value ascribed to each item, either incorporated in the petition or attached as an exhibit;
- (g) A list showing the nature, amounts and preferences of all unpaid claimants against the estate and indicating which claims are admitted;
- (h) If any unpaid beneficiary, heir or claimant has not joined in the petition, a statement that notice of the intention to present the petition has been given as required by Pa.R.O.C.P. 4.2; and
- (i) A prayer for distribution of the personal property to those entitled, and in appropriate cases, for the discharge of the personal representative.
- (j) There shall be attached to the petition the following exhibits:
  - (1) The original of the decedent's will if it has not been probated, or a copy thereof if it has been probated;
  - (2) The joinders or consents of unpaid beneficiaries, heirs and claimants insofar as they are obtainable;
  - (3) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution or the family exemption; and
  - (4) A certificate of the Register showing the status of payment of the inheritance tax.
- (k) No appraisement shall be required unless ordered by the Court.

## **CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE**

### **Rule 7.5. Legal Argument**

- (a) Preliminary objections and other filings requiring briefing and/or oral argument shall be handled by the judge assigned to the matter.
- (b) Upon receipt of objections, or upon request of either party, the assigned judge shall issue an order setting a briefing schedule and, if necessary, a date for oral argument before the assigned judge.

## **CHAPTER IX. AUDITORS AND MASTERS**

### **Rule 9.1. Notice of Hearings**

- (a) On appointment, the auditor shall schedule a hearing and give notice thereof to all parties in interest at least twenty days prior to the hearing in accordance with Chapter IV of the Pa. Orphans' Court Rules.
- (b) Rules pertaining to auditors shall extend to hearing officers insofar as applicable.

### **Rule 9.2. Filing of Report**

Reports of auditors and hearing officers shall be filed with the Clerk.

### **Rule 9.6. Notice of Filing of Report**

The auditor or hearing officer shall give notice of filing the report to all interested parties.

### **Rule 9.7. Confirmation of Report**

- (a) If no objections are filed, the Clerk shall transmit the auditor's report to the Court for confirmation. If objections are filed, the Court shall, after argument, make such disposition as the Court shall determine.
- (b) Objections to the auditor's report shall be filed with the Clerk within twenty days after service of the notice of filing of said report. Objections shall be specific as to the basis of the objections whether as to the findings of fact or conclusions of law, or both.
- (c) If objections are filed, any interested party may request a briefing schedule and/or argument in accordance with C.C.R.O.C.P. 7.5.

## CRIMINAL

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

The District Attorney of Cumberland County having filed a certification pursuant to Pa.R.Crim.P. 202A, all applications for search warrants must be reviewed and approved by an attorney for the Commonwealth before being presented to and/or issued by any judicial officer. This approval will be noted on the search warrant application with an "approval number" that includes the approving attorney's initials.

### **Rule 456. Summary Warrants**

- (a) Central Booking is available during defined time periods to hold defendants with summary warrants that police encounter during their normal course of duty or constables executing warrants issued to them directly by a magisterial district judge.
- (b) Defined hours: Sunday through Thursday during non-court hours. Central Booking will not accept defendants with summary warrants on Friday, Saturday, and County holidays. At any time during the defined hours that Central Booking may experience full capacity, police and/or constables will be informed of a temporary suspension of acceptance of Summary Warrant defendants over the 911 Police Radio System.
- (c) This policy does not pertain to juvenile defendants with summary warrants. Juvenile defendants with summary warrants will not be accepted at Central Booking.
- (d) In the event that Central Booking is able to ascertain that the defendant has a medical or medication issue that puts them at risk during holding, Central Booking will issue a Payment Determination Hearing Notice and immediately release the defendant. An officer or constable serving a summary warrant should ask the defendant if they require *life-sustaining* medication over the period of time until the defendant might be released (the next day). If the defendant indicates that they do require *life-sustaining* medication, the officer or constable should inform Central Booking of this as soon as possible, so that Central Booking can make a release determination, as described above.
- (e) If the defendant suffers a medical episode while in Central Booking, the defendant will be released to EMS.
- (f) Central Booking will complete an Intake form on each defendant brought in on a summary warrant so that updated contact information is collected.
- (g) Warrant Procedures:
  - (1) Summary Warrants for Non-Payment:

- (i) Per this policy, warrants not issued to a constable for service by an MDJ should be verified on AOPC <https://ujsportal.pacourts.us/> .
- (ii) For verified active warrants, the defendant's case attached to the warrant can be located at <https://ujsportal.pacourts.us/> by accessing ePay. You will need the defendant's first name, last name, and DOB. Select MDJ cases and the case associated with the warrant.
- (iii) The defendant must pay the amount necessary to bring the payment plan on the warrant's case up to date. If the delinquent payment amount cannot be made *in full* at the time of service, the defendant may be transported to Central Booking.
- (iv) For constables: A Fee bill must be attached to the warrant paperwork at Central Booking in order to facilitate proper addition of fees to the defendant's case. Central Booking will forward the Fee bill to the magisterial district judge for review and assessment.
- (v) The defendant will be held at Central Booking until either a). A release amount as defined in this policy can be paid, or b). the issuing magisterial district judge is informed and makes a determination of action.
- (vi) Release Policy: The Central Booking Center will release defendants immediately when the following release amounts are met:
- (vii) The release amount will be based on the delinquent payment amount as determined through AOPC's ePay system. If the full amount of the delinquent payment plan is under \$200, delinquent payment amount must be paid in full.
- (viii) If the full amount of the delinquent payment plan is \$200 or over, the minimum amount of \$200 or 50% of the total, whichever is greater, must be paid.
- (ix) If the defendant has multiple summary warrants, the total of all warrants delinquent payment plans will determine the release amount. If the total of all of the amounts owed on all cases exceeds \$1000.00, the defendant must pay a minimum of \$500. *That amount should be put towards the oldest case first, next oldest, etc.*
- (x) A chart of release amounts is attached to this policy.
- (xi) If the release amount is met, but bringing the payment plan into current status is not equal to the full amount owed on the warrant, the defendant will be given a Payment Determination Hearing Notice scheduling such hearing on a weekday and time selected by each magisterial district judge for their cases. This date shall be not less than 2 weeks following release (providing at least 10 days notice per Rule 456).
- (xii) Central Booking will email a copy of the receipt and the hearing notice, if applicable, to the magisterial district judge to notify them of the payment and release. The magisterial district judge shall clear the warrant.
- (xiii) If the defendant is not able to make the release amount, Central Booking may still collect a lesser amount towards the summary warrant total. The defendant will be held until court hours the next morning and the issuing magisterial district judge is informed and makes a determination of action.
- (xiv) No defendant shall be committed without following the steps outlined in Title 42 Pa. C.S. 4137 for sections (a3) and (a4). After issuance of a warrant, bail and a

contempt hearing shall be set. If imprisonment is a possibility, hearings should be set on Public Defender day. For District Courts that regularly schedule hearings in only the morning or afternoon on PD day, select a time that corresponds with the Public Defender's normal schedule (am or pm).

(2) Summary Warrants for Failure to Respond:

- (i) Per this policy, warrants not issued to a constable for service by an MDJ should be verified on AOPC <https://ujsportal.pacourts.us/> .
- (ii) Pursuant to Rule 431, the police officer or constable serving the warrant shall:
  - (A) Accept a signed guilty plea and the full amount of fines and costs if stated on the warrant;
  - (B) Accept a signed not guilty plea and the full amount of the collateral on the warrant if stated on the warrant; or
  - (C) If the defendant is unable to pay the full amount of fines and costs or the defendant is unable to pay the collateral, transport the defendant to Central Booking.
- (iii) Signed plea paperwork shall be forwarded to the MDJ office. The magisterial district judge shall clear the warrant.
- (iv) For constables: A Fee bill must be attached to the warrant paperwork at Central Booking in order to facilitate proper addition of fees to the defendant's case. Central Booking will forward the Fee bill to the magisterial district judge for review and assessment.
- (v) Release Policy: The Central Booking Center will release defendants immediately when the following release amounts are met:
  - (A) For a guilty plea, after completing the plea paperwork the defendant will be released.
  - (B) [Deleted]
  - (C) If the defendant has multiple summary warrants for Failure to Respond, the total of all warrants' fines and costs will determine the release amount. If the total of all of the amounts owed on all cases exceeds \$1000.00, the defendant must pay a minimum of \$500. *That amount should be put towards the oldest case first, next oldest, etc.*
  - (D) If the release conditions are met, but the full amount of fines and costs is not paid, the defendant will be given a Payment Determination Hearing Notice for a date and time selected by each magisterial district judge for their cases for the following week.
  - (E) For not guilty pleas, 100% of the collateral, if stated on the warrant, must be paid.
- (vi) If a defendant has summary warrants for Failure to Pay and Failure to Respond, apply the appropriate policy to each type, separately.
- (vii) Central Booking will email a copy of the signed receipt, signed plea paperwork, and any hearing notices to the magisterial district judge to notify them of the payment and release. The magisterial district judge shall clear the warrant.

(viii) If the defendant cannot meet the release amount or the collateral, the magisterial district judge shall conduct a bench warrant hearing. If the magisterial district judge is unavailable, please refer to (g)(3). (Release without payment).

(3) Release without payment: Central Booking will email the Magisterial District Office that a defendant is being held on a summary warrant. If the Magisterial District Office has not contacted Central Booking regarding holding a bench warrant hearing for the defendant by noon the following day, the defendant will be released with a Payment Determination Hearing Notice scheduling such hearing on a weekday and time selected by each magisterial district judge for their cases. This date shall be not less than 2 weeks following release (providing at least 10 days' notice per Rule 456).

(4) Collection of Money:

- (i) Warrants must clearly establish the total amount owed or collateral amount. If a Failure to Respond Warrant has no fines and costs or collateral listed, you should accept the guilty plea or not guilty plea without payment and forward to the magisterial district judge per the policy below ("Upon facilitating payment" and "When a warrant is served and payment is facilitated"). The amount paid shall be "warrant satisfied".
- (ii) Each Police Department may determine if they will facilitate the monetary satisfaction of the warrant as described below. If a department does not want to participate in the payment process, the defendants may be transported to Central Booking.
- (iii) **For Failure to Pay:** Police or Constables serving a warrant and facilitating collection may assist the defendant to make a payment through AOPC's ePay (<https://ujsportal.pacourts.us/> ).
- (iv) **For Failure to Respond:** Police or constables serving a warrant and facilitating collection may assist the defendant to make a payment through the Valu Payment System.
- (v) Upon facilitating payment, the defendant should be given a copy of the warrant as a receipt with the following information:
  - (A) Amount Paid
  - (B) Date
  - (C) Officer/Constable Name and Signature
  - (D) Identifying Badge #/Constable Id
  - (E) Signature of Defendant
- (vi) When a warrant is served and payment is facilitated by an officer or a constable, the issuing MDJ Office must be informed by the police officer or constable via email that the warrant has been served, and the amount paid, so that the warrant can be cleared from the system. The magisterial district judge shall clear the warrant. A copy of the receipt must be forwarded to the magisterial district judge.
- (vii) At Central Booking, defendants will be allowed to use the phone to make calls to obtain payments.
- (viii) Central Booking will utilize ePay and Official payments as detailed above.

- (ix) Cash payments collected at Central Booking will be receipted per booking policy and payments will be submitted to Magisterial District Court 09-2-02 for processing.
- (x) Magisterial District Court 09-2-02 shall enter the information as a new case and provide a refund to the originating MDJ's office.
  - (A) Enter district court number 09-2-02. Click on Payment Icon that says "Receipt by Responsible Participant."
  - (B) The "Responsible Participant" entered is the Court receiving the payment.
  - (C) It will then say that there is no balance due.
  - (D) Click "Add" and a new screen appears.
  - (E) In "Assessment Category" choose "Escrow"
  - (F) For "Assessment Type" choose "Night Court Payment"
  - (G) For "Assessment Amount" type in the amount collected
  - (H) There is a place for docket number, which is the case that had the warrant.
  - (I) In the comments, we would put "Warrant served for \_\_\_\_\_ defendant. \_\_\_\_\_ amount collected."

(5) Procedure for Central Booking when a defendant comes in with a Fingerprint Order and is found to have a summary warrant:

- (i) If the defendant is currently housed in another institution, Central Booking will notify the magisterial district judge by faxing a copy of the warrant with the name of the institution on it.
- (ii) If the defendant comes in during business hours on a Fingerprint Order or on a View Arrest and they have a Summary Warrant:
  - (A) If the defendant has the cash or the ability to pay via a credit card, Central Booking will collect the payment.
  - (B) If the defendant does not have the ability to pay, Central Booking will contact the Constable for that MDJ and request that they pick the defendant up and take him to the MDJ's Office. If the Constable is not available, Central Booking will issue a Payment Determination Hearing Notice.
  - (C) If the defendant enters Central Booking and he or she has children in the car, Central Booking will attempt to collect payment as detailed above, but will issue a Payment Determination Hearing Notice if the defendant is unable to pay.

(6) Procedure for Cumberland County Prison when a defendant is incarcerated on another matter and has summary warrants:

- (i) Cumberland County Prison will provide the defendant with a Payment Determination Hearing Notice upon release, along with a receipt copy of the warrant, documenting "Payment Determination Hearing Notice has been served, date of release, and correction officer signature."
- (ii) Cumberland County Prison will notify the applicable magisterial district judge that the defendant has been issued a Payment Determination Hearing Notice. The magisterial district judge will then cancel the warrant.

**Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth**

The District Attorney of Cumberland 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 Rules of Criminal Procedure, charging one (1) or more of the following offenses:

- (a) The following offenses set forth in Chapter 9 of the Pennsylvania Crimes Code entitled "Inchoate Crimes":
  - (1) Corrupt Organizations in violation of 18 Pa.C.S. § 911;
- (b) All offenses set forth in Chapter 25 of the Pennsylvania Crimes Code entitled "Criminal Homicide";
- (c) All offenses set forth in Chapter 26 of the Pennsylvania Crimes Code entitled "Crimes Against Unborn Child";
- (d) The following offenses set forth in Chapter 27 of the Pennsylvania Crimes Code entitled "Assault":
  - (1) Aggravated Assault in violation of 18 Pa.C.S. § 2702;
  - (2) Discharge of Firearm into an Occupied Structure in violation of 18 Pa.C.S. § 2707.1;
  - (3) Stalking in violation of 18 Pa.C.S. § 2709.1;
  - (4) Ethnic Intimidation in violation of 18 Pa.C.S. § 2710;
  - (5) Neglect of a Care-Dependent Person in violation of 18 Pa.C.S. § 2713;
  - (6) Abuse of a Care-Dependent Person in violation of 18 Pa.C.S. § 2713.1;
  - (7) Threat to Use Weapons of Mass Destruction in violation of 18 Pa.C.S. § 2715;
  - (8) Weapons of Mass Destruction in violation of 18 Pa.C.S. § 2716;
  - (9) Strangulation in violation of 18 Pa.C.S. § 2718;
- (e) All offenses set forth in Chapter 29 of the Pennsylvania Crimes Code entitled "Kidnapping";
- (f) All offenses set forth in Chapter 30 of the Pennsylvania Crimes Code entitled "Human Trafficking";
- (g) All offenses set forth in Chapter 31 of the Pennsylvania Crimes Code entitled "Sexual Offenses";
- (h) All offenses set forth in Chapter 32 of the Pennsylvania Crimes Code entitled "Abortion;"
- (i) The following offenses set forth in Chapter 33 of the Pennsylvania Crimes Code entitled "Arson, Criminal Mischief and Other Property Destruction":
  - (1) Arson and Related Offenses in violation of 18 Pa.C.S. § 3301;
- (j) The following offenses set forth in Chapter 35 of the Pennsylvania Crimes Code entitled "Burglary and Other Criminal Intrusion":
  - (1) Burglary in violation of 18 Pa.C.S. § 3502;
- (k) The following offenses set forth in Chapter 37 of the Pennsylvania Crimes Code entitled "Robbery":
  - (1) Robbery in violation of 18 Pa.C.S. § 3701;
  - (2) Robbery of Motor Vehicle in violation of 18 Pa.C.S. § 3702;
- (l) The following offenses set forth in Chapter 41 of the Pennsylvania Crimes Code entitled "Forgery and Fraudulent Practices":
  - (1) Fraudulent Destruction, Removal or Concealment of Recordable Instruments in violation of 18 Pa.C.S. § 4103;
  - (2) Deceptive or Fraudulent Business Practices in violation of 18 Pa.C.S. § 4107;
  - (3) Insurance Fraud in violation of 18 Pa.C.S. § 4117;
  - (4) Washing Vehicle Titles in violation of 18 Pa.C.S. § 4118;
- (m) All offenses set forth in Chapter 43 of the Pennsylvania Crimes Code entitled "Offenses Against the Family;"
- (n) All offenses set forth in Chapter 47 of the Pennsylvania Crimes Code entitled "Bribery and Corrupt Influence;"

- (o) All offenses set forth in Chapter 49 of the Pennsylvania Crimes Code entitled "Falsification and Intimidation;"
- (p) All offenses set forth in Chapter 51 of the Pennsylvania Crimes Code entitled "Obstructing Governmental Operations;"
- (q) The following offenses set forth in Chapter 55 of the Pennsylvania Crimes Code entitled "Riot, Disorderly Conduct and Related Offenses:"
  - (1) Riot in violation of 18 Pa.C.S. § 5501;
  - (2) Abuse of Corpse in violation of 18 Pa.C.S. § 5510;
  - (3) Gambling Devices, Gambling, Etc. in violation of 18 Pa.C.S. § 5513;
  - (4) Facsimile Weapons of Mass Destruction in violation of 18 Pa.C.S. § 5516;
- (r) All misdemeanor and felony offenses set forth in Chapter 55, Subchapter B of the Pennsylvania Crimes Code entitled "Cruelty to Animals";
- (s) All offenses set forth in Chapter 57 of the Pennsylvania Crimes Code entitled "Wiretapping and Electronic Surveillance;"
- (t) The following offenses set forth in Chapter 59 of the Pennsylvania Crimes Code entitled "Public Indecency:"
  - (1) Prostitution and Related Offenses in violation of 18 Pa.C.S. § 5902;
  - (2) Obscene and Other Sexual Material and Performances in violation of 18 Pa.C.S. § 5903;
  - (3) Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms in violation of 18 Pa.C.S. § 6105;
  - (4) Firearms Not to be Carried Without a License in violation of 18 Pa.C.S. § 6106;
  - (5) Sale or Transfer of Firearms in violation of 18 Pa.C.S. § 6111;
- (u) The following offenses set forth in Chapter 63 of the Pennsylvania Crimes Code entitled "Minors:"
  - (1) Corruption of Minors in violation of 18 Pa.C.S. § 6301;
  - (2) Sexual Abuse of Children in violation of 18 Pa.C.S. § 6312;
  - (3) Unlawful Contact with Minors in violation of 18 Pa.C.S. § 6318;
  - (4) Solicitation of Minors to Traffic Drugs in violation of 18 Pa.C.S. § 6319;
  - (5) Sexual Exploitation of Children in violation of 18 Pa.C.S. § 6320;
  - (6) Transmission of Sexually Explicit Images by Minor in violation of 18 Pa.C.S. § 6321;
- (v) The following offenses set forth in Chapter 75 of the Pennsylvania Crimes Code entitled "Other Offenses":
  - (1) Invasion of Privacy in violation of 18 Pa.C.S. § 7507.1;
  - (2) Operation of Methamphetamine Laboratory in violation of 18 Pa.C.S. § 7508.2;
- (w) All offenses set forth in Chapter 76 of the Pennsylvania Crimes Code entitled "Computer Offenses";
- (x) All offenses set forth in Chapter 77 of the Pennsylvania Crimes Code entitled "Vehicle Chop Shot and Illegally Obtained and Altered Property";
- (y) The following offenses set forth in Chapter 63 of the Pennsylvania Domestic Relations Code entitled "Child Protective Services":
  - (1) Failure to Report Child Abuse by Mandated Reporter in violation of 23 Pa.C.S. § 6319;
- (z) The following offenses set forth in Chapter 9 of the Pennsylvania Fish and Boat Code entitled "Enforcement":
  - (1) Resisting or Interfering with a Game Officer in violation of 30 Pa.C.S. § 904;
  - (2) Homicide by Watercraft while DUI in violation of 30 Pa.C.S. § 5502.1;
  - (3) Homicide by Watercraft in violation of 30 Pa.C.S. § 5502.2;
- (aa) The following prohibited acts set forth in "The Controlled Substance, Drug Device and Cosmetic Act":
  - (1) Acquisition of Controlled Substance by Fraud in violation of 35 P.S. § 780-113(a)(12);

- (2) Delivery by Practitioner in violation of 35 P.S. § 780-113(a)(13);
- (3) Unlawful Delivery or Possession with Intent to Deliver a Controlled Substance in violation of 35 P.S. § 780-113(a)(30);
- (4) Illegal Sale of Non-Controlled Substance in violation of 35 P.S. § 780-113(a)(35);
- (5) Designer Drugs in violation of 35 P.S. § 780-113(a)(36);

(bb) All violations of 73 P.S. §§ 517.1-517.19 entitled "Home Improvement Consumer Protection Act";

(cc) The following offenses under the Pennsylvania Motor Vehicle Code:

- (1) Homicide by Vehicle in violation of 75 Pa.C.S. § 3732;
- (2) Aggravated Assault by Vehicle in violation of 75 Pa.C.S. § 3732.1;
- (3) Fleeing or Attempting to Elude Police Officers in violation of 75 Pa.C.S. § 3733;
- (4) Homicide by Vehicle While DUI in violation of 75 Pa.C.S. § 3735;
- (5) Aggravated Assault by Vehicle While DUI in violation of 75 Pa.C.S. § 3735.1;
- (6) Accidents Involving Death or Personal Injury (Felony Only) in violation of 75 Pa.C.S. § 3742;
- (7) Accidents Involving Death or Personal Injury While Not Properly Licensed in violation of 75 Pa.C.S. § 3742.1.

### **Rule 526. Reinstatement of Bail Bond**

In accordance with 42 Pa.C.S. § 5747.1(b)(2), a bail bondsman shall not be continued by the court as surety on reinstated bail unless a written consent is signed by the bail bondsman agreeing to such extension of suretyship.

### **Rule 571. Acknowledgment Of Arraignment**

Every defendant shall be arraigned before a judge, before the Clerk of Court, the Clerk's deputy or by first class mail, where the defendant is represented by counsel of record and upon timely initiative, hereinafter set forth:

- (a) Arraignment shall take place at the Cumberland County Courthouse, at the Cumberland County Prison, at the State Correctional Institution at Camp Hill, by first class mail, or at such other place as may be designated by an order of the President Judge.
- (b) If defense counsel chooses to have the defendant arraigned via first class mail, then the defendant and their counsel must complete the Acknowledgment of Arraignment form as prescribed by the Court and available on the Court Website; and file the Acknowledgment of Arraignment form with the Clerk of Court before the date set for arraignment.
- (c) Except when arraignment is done via first class mail, arraignment shall take place no later than ten (10) days after the information has been filed, unless waived by a defendant who has counsel, or is otherwise postponed by the court for cause shown.
- (d) Defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment no later than five (5) days before the date scheduled for the arraignment.
  - (1) Such notice shall include a caption containing the name of the case, and the docket number and/or the offense tracking number.
  - (2) A completed subpoena to appear for formal arraignment shall be executed and given personally to the defendant by the District Justice following a preliminary hearing on the charges or a waiver thereof. Notice may also be given by first-class mail or in accordance with Pa.R.Crim.P. 114.
- (e) If a defendant is represented by private counsel, or court-appointed counsel other than the Public Defender, defendant may appear with counsel before the Clerk of Court for arraignment anytime

prior to the scheduled formal arraignment, at which time counsel shall enter a formal appearance, if an appearance has not been previously entered of record.

(f) At arraignment, the defendant shall be instructed to appear at a pretrial conference pursuant to Pa.R.Crim.P. 570 and trial.

(g) Acknowledgment of Arraignment form as prescribed by the Court and available on the Court Website shall be signed, and a copy given to defendant, on arraignments held before the Clerk of Courts or a deputy. Upon any refusal to sign the form, the Clerk or deputy shall read the form to defendant and attest to same.

### **Rule 576.1. Electronic Filing in Criminal Dockets**

(a) The Cumberland County Clerk of Courts Office and the Administrative Office of Pennsylvania Courts (AOPC) agreed upon an implementation plan for PACFile in Cumberland County for certain criminal filings. Legal papers may be filed electronically using the PACFile electronic filing system pursuant to Pa.R.Crim.P. 576.1. Electronic filing is permissive and not mandatory.

(b) As used in this rule, the following words shall have the following meanings:

- (1) "electronic filing," the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;
- (2) "filing party," an attorney, defendant, or other person who files a legal paper by means of electronic filing;
- (3) "legal paper," a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, copies of exhibits, and attachments. The following documents are excluded from the definition of "legal paper" and are therefore prohibited from being filed electronically:
  - (i) applications for search warrants,
  - (ii) applications for arrest warrants,
  - (iii) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,
  - (iv) submissions filed *ex parte* as authorized by law,
  - (v) submissions filed or authorized to be filed under seal, and
  - (vi) exhibits offered into evidence, whether or not admitted, in a court proceeding;
  - (vii) Notices of Appeal, which must be filed directly with the Clerk of Courts in physical paper format.
- (4) "original document," a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and
- (5) "the system," the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

(c) Attorneys or self-represented parties who file legal papers electronically must establish a PACFile account using the Unified Judicial System of Pennsylvania Web Portal. Pursuant to Pennsylvania Rule of Criminal Procedure 576.1(D)(2), the establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed using PACFile.

(d) Applicable filing fees for the electronically filed legal papers shall be paid electronically to the Clerk of Courts simultaneously with the filing.

(e) A party who was granted In Forma Pauperis status shall not pay filing fees to the Clerk of Courts.

(f) All filings shall comply with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

**(g) Service of Legal Papers.**

- (1) Attorneys or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.
- (2) Service of legal papers on any attorney or party who has not established an account as provided in subsection (C) of this rule shall be made in accordance with Pa.R.Crim.P. 576. Specifically, the following offices must be served in accordance with Rule 576: Sheriff, Probation Services, Court Reporter, and Court Administration. This applies to the service of court orders and notices. Distribution to those parties not automatically served via PACFile with a court order or notice must be filed with the Clerk of Courts office with a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.
- (3) Service upon an attorney or defendant participating in the system shall be done electronically.

**Rule 600. Criminal Trial List**

The Criminal Trial List shall be maintained and distributed by the Court Administrator.

**Rule 700. Sentencing Judge**

The sentence on a plea guilty or nolo contendere may be imposed by a judge other than the judge who received the plea of guilty or nolo contendere. In such event, the defendant must have been so notified at the time of entering the plea.

**DELINQUENCY AND DEPENDENCY MATTERS**

**Rule 1205. Electronic Filing and Service of Juvenile Court Legal Papers**

- (a) The Cumberland County Clerk of Courts Office and the Administrative Office of Pennsylvania Courts (AOPC) agreed upon an implementation plan for PACFile in Cumberland County for certain Juvenile Court filings. Legal papers may be filed electronically using the PACFile electronic filing system pursuant to Pa.R.J.P. 1205. Electronic filing is permissive and not mandatory.
- (b) As used in this rule, the following words shall have the following meanings:
  - (1) "electronic filing," the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;
  - (2) "filing party," an attorney or other person who files a legal paper by means of electronic filing;
  - (3) "legal paper," a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, copies of exhibits, and attachments. The following documents are excluded from the definition of "legal paper" and are therefore prohibited from being filed electronically:
    - (i) Submissions filed ex parte as authorized by law;
    - (ii) exhibits offered into evidence, whether or not admitted, in a court proceeding.
    - (iii) Notices of Appeal, which must be filed directly with the Clerk of Courts in physical paper format.
  - (4) "original document," a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and

(5) "the system," the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

(c) Attorneys or self-represented parties who file legal papers electronically must establish a PACFile account using the Unified Judicial System of Pennsylvania Web Portal. Pursuant to Pennsylvania Rule of Juvenile Court Procedure 1205(D)(2), the establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed using PACFile.

(d) All filings shall comply with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

(e) Service of Legal Papers.

(1) Attorneys or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format and be served legal papers in a physical format which were electronically filed. Attorneys or self-represented parties who file a proposed court order electronically or in a physical paper format must include a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.

(2) Service of legal papers on any attorney or party who has not established an account as provided in subsection (c) of this rule shall be made in accordance with Pa.R.J.C.P. 1167(B) and 1345(B). This applies to the service of court orders which shall be served by the Clerk of Courts. Orders in need of distribution to parties not automatically served via PACFile must be filed with the Clerk of Courts office with a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.

## RULES OF JUDICIAL ADMINISTRATION

### CHAPTER I. TRANSCRIPTS

#### Rule 4002. Transcript Definitions

All terms in these rules shall have the same meaning as defined in Pa. R.J.A. No. 4002. As further clarification:

(a) *Commonwealth or subdivision thereof* includes any Pennsylvania state, county, regional, or municipal government entity, including any department, board, attorney, employee or agent acting on behalf of that entity.

(b) *Transcript* includes any electronic or paper record, including orders, prepared by a court reporter or court recorder of any proceeding presided over by a judge, a magisterial district judge, or a master.

(c) All transcripts fall into one of two categories regarding need and purpose:

(1) an *ordinary* transcript is either:

(i) required by rule because notice of appeal has been filed; or

(ii) required by order or rule to advance litigation in a matter currently before the court.

(2) a *non-ordinary* transcript is any transcript requested or prepared for any reason other than *ordinary* as defined in section (c)(1) above.

(d) The terms *daily*, *expedited*, *rough draft* and *same-day delivery* all refer to variations in the delivery deadline and cost for *non-ordinary* transcripts.

#### Rule 4007. Requests for Transcripts

- (a) All requests for transcripts shall be submitted to the appropriate filing office, with a copy to the district court administrator's office, utilizing a form prescribed by the district court administrator, which shall include all elements required in the form provided by the state court administrator.
- (b) The Request for Transcript of a court proceeding shall be filed in the appropriate filing office (Prothonotary, Clerk of Courts, Register of Wills/Clerk of the Orphans' Court and/or Domestic Relations). The requesting party shall also serve copies of the formal request to:
  - (1) the judge presiding over the matter;
  - (2) the court reporter, court recorder or transcriptionist;
  - (3) the district court administrator's office; and
  - (4) opposing counsel, or if not represented, the opposing party.
- (c) A request for daily, expedited, or same-day transcripts shall be filed in the appropriate filing office (Prothonotary, Clerk of Courts, Register of Wills/Clerk of the Orphans' Court and/or Domestic Relations) at least ten (10) days before the scheduled proceeding. Copies of the written request shall be provided as required in paragraph (b)(2) above. In the event of an emergency, a party may request by oral motion a daily, expedited, or same-day transcript. This request will be accommodated upon approval of the trial judge and the court reporter or court recorder.
- (d) When a litigant requests a transcript:
  - (1) The district court administrator's office will issue an invoice within six (6) business days after the receipt of the transcript request. Unless a waiver is granted pursuant to C.C.R.J.A 4008(b), the invoice shall be for a non-refundable, partial payment of 90% of the estimated transcript cost. This deposit shall be paid by cash, money order, certified check, or law firm check made payable to Cumberland County, and shall be delivered to the district court administrator's office within seven (7) calendar days from the date of the invoice. Upon receipt of the deposit by the district court administrator's office, the court reporter, court recorder or transcriptionist shall commence production of the requested transcript.
  - (2) Upon completion of the transcript, the court reporter, court recorder or transcriptionist shall deliver it to the district court administrator's office. The district court administrator's office will then issue a final invoice to the requester. Upon receipt of the final invoice, payment of the final balance shall be paid by cash, money order, certified check, or law firm check made payable to Cumberland County and shall be delivered to the district court administrator's office within seven (7) calendar days from the date of the invoice. Once full and final payment is received, the district court administrator's office shall provide a copy of the transcript to the requestor.

#### **Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof**

- (a) Costs:
  - (1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in an electronic format shall be:
    - (i) for an ordinary transcript, \$2.50 per page;
    - (ii) for an expedited transcript, \$3.50 per page, expedited transcripts are only available if the court reporter or court recorder is able to accommodate;
    - (iii) for a daily transcript, \$4.50 per page, daily transcripts are only available if the court reporter or court recorder is able to accommodate; and
    - (iv) for same day delivery, \$6.50 per page, same delivery transcripts are only available if the court reporter or court recorder is able to accommodate.
  - (2) When the transcript is prepared in bound paper format, the costs shall be in accordance

with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

(b) Economic hardship – minimum standards:

- (1) The application to waive all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.
- (2) Such application should be prepared in the form of a Petition to Waive All or a Portion of the Transcript Costs and filed in the appropriate filing office.
- (3) Any request for hardship reduction or waiver of costs for any ordinary transcript shall be filed contemporaneously with the request for transcript.
- (4) No reduction or waiver of costs shall be requested or granted for any non-ordinary transcript unless the requesting party demonstrates reasonable need.
- (5) Copies of the forms listed above shall be provided to:
  - (i) The presiding judge;
  - (ii) The court reporter;
  - (iii) The Court Administrator's Office; and
  - (iv) Opposing counsel or the opposing party if self-represented.

(c) Copies of transcript:

A request for a copy of any transcript previously ordered, transcribed and filed of record shall be provided by the appropriate filing office according to the following schedule:

- (1) \$0.50 per page bound, paper format, and,
- (2) \$0.50 per page electronic copy, not to exceed \$50.00. An additional \$20.00 fee may be charged if the copy cannot be emailed directly and needs to be transferred to another medium or multiple emails are required for file transfer.

(d) Additional Costs:

- (1) A trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for court reporters to significantly expand their dictionary.
- (2) Such surcharges are at the discretion of the trial judge.

## CHAPTER II. CUSTODY OF EXHIBITS

### Rule 5102. General Provisions

The court recorder or court reporter for all, or a portion, of a court proceeding shall be designated as the "Custodian," as defined by Pa. R.J.A. 5101(a)(2), for all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceeding submitted during that period.

- (a) If only one custodian is involved with a proceeding, they shall file with the appropriate records office all submitted exhibits and index of exhibits within 5 business days of the conclusion of the proceeding.
- (b) If multiple custodians are involved with a proceeding, the first custodian shall provide the subsequent custodian (and so on, if more than two custodians) with the submitted exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the appropriate records office all submitted exhibits and index of exhibits within 5 business days of the conclusion of the proceeding.

### Rule 5103. Custody of Exhibits. Special Provisions

- (a) The proponent shall retain custody of physical evidence (including, but not limited to weapons, cash, other items of value, drugs, or other dangerous materials) and bulky, oversized, or

otherwise physically impractical exhibits at all times during and after a court proceeding.

- (1) These non-documentary exhibits must be photographed by the proponent, converted to a letter sized document, and appropriately marked and produced during the court proceeding for inclusion in the documentary record.
- (2) Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, non-documentary evidence shall be returned to the proponent for safekeeping as required by any applicable retention schedule, statute, rule, regulation, or policy, or until further order of court.
- (3) Unless otherwise ordered, the proponent or filing office shall maintain non-documentary exhibits for a minimum of following time periods:
  - i. Non-criminal matters. Retain exhibits until the later of the expiration of the appeal period or final disposition of the appeal if one is taken.
  - ii. Criminal matters:
    1. Homicides. Retain exhibits 75 years.
    2. Summary cases. Retain exhibits 5 years.
    3. Other cases. Retain exhibits 20 years.

(b) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive.

(c) Any exhibit containing confidential information or equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 shall include a Confidential Document Form so that the document can be properly sealed by the record office.

# RULES OF THE COURT OF COMMON PLEAS

## PRELIMINARY RULES

### Rule 1. Title and Citation of Rules

- (a) The Rules of Court of the Ninth Judicial District shall hereinafter be known as the Cumberland County Rules of Procedure. They shall be abbreviated generally as C.C.R.P.; however Cumberland County Rules of Criminal Procedure shall be cited as C.C.R.Crim.P., Cumberland County Rules of Juvenile Court Procedure shall be cited as C.C.R.J.C.P., Cumberland County Orphans' Court Rules shall be cited C.C.R.O.C.P., and Cumberland County Rules of Judicial Administration shall be cited as C.C.R.J.A.
- (b) All rules issued prior to January 1, 2024 are expressly rescinded.

### Rule 2. Structure

The following structure shall be utilized for the Cumberland County Rules of Procedure for any future amendments, revisions, additions, and improvements to the rules. All rules, practices, precedents, and forms in effect at this time shall continue in full force and effect until such time as they are expressly rescinded or revised hereafter by order of the court.

#### Cumberland County Rules of Procedure

PRELIMINARY RULES	C.C.R.P. 1-50
CIVIL	C.C.R.P. 51-6114
ORPHANS COURT	C.C.R.O.C.P. 1.1-16.6
CRIMINAL	C.C.R.Crim.P. 100-1101
DELINQUENCY AND DEPENDENCY	C.C.R.J.C.P. 100-1800
RULES OF JUDICIAL ADMINISTRATION	C.C.R.J.A 101-4016

### Rule 3. Applicability and Footnotes

- (a) The Cumberland County Rules of Procedure are applicable to the Court of Common Pleas, Civil Action; Court of Common Pleas, Criminal; Court of Common Pleas, Orphans'; Court of Common Pleas, Juvenile unless otherwise provided.
- (b) The footnotes in the rules are for information only and shall not be considered part of the rules.

### Rule 4. Erroneous Entries

- a) Any matter erroneously entered in any book, docket, mortgage or deed book, will book or other official record in the offices of the Prothonotary, Register of Wills, Clerk of Courts, Recorder of Deeds and the Sheriff shall be so marked, and the correct entry shall be inserted. If material is omitted, the omitted entry shall be placed on the record in a manner which will allow a clear and unambiguous reading of the record. In every case the date of the correction shall be noted.
- b) If a document is erroneously electronically filed to the wrong docket, the docket note shall summarize the error and the document shall be hidden from public access. The document shall then be filed to the correct electronic docket.

### Rule 5. Court Calendar

The Court Calendar will be determined by the Court on a yearly basis. The Court Administrator will prepare the calendar at the direction of the President Judge.

## **Rule 6. Court Fee Schedule**

The hourly pay rate for each type of court appointed or contracted position will be determined by the Court on a yearly basis. The Court Administrator will prepare and distribute the fee schedule at the direction of the President Judge.

## **Rule 7. Legal Journal**

The Cumberland Law Journal is designated as the official legal publication of Cumberland County and the legal newspaper designated by this Court for the publication of legal notices.

Advertisement of the following notices in the Cumberland Law Journal is hereby dispensed with:

- (a) Proposed budgets of Municipalities
- (b) Meetings, decisions and filings of Reports of Viewers
- (c) Any other notice involving a local government or one of its instrumentalities unless expressly provided otherwise by statute.

## **CIVIL**

### **CHAPTER I. BUSINESS OF THE COURT**

#### **RULE 205.4. Electronic Filing and Service of Legal Papers Filed in the Civil Trial Division**

- (a) The Cumberland County Court of Common Pleas does hereby permit electronic filing of legal papers with the Prothonotary through its Electronic Filing System, as well as the electronic service of such papers, under terms more specifically provided in Pennsylvania Rule of Civil Procedure 205.4.
  - (1) The Prothonotary's Office will provide the necessary technical assistance to those parties who lack the capability to file legal papers electronically.
  - (2) As used in this rule, the following words shall have the following meanings:
    - (i) "electronic filing" shall be the electronic transmission of legal papers by means other than facsimile transmission;
    - (ii) "filing party" shall be an attorney, party or other person who files a legal paper by means of electronic filing; and
    - (iii) "legal paper" shall be a pleading or other paper filed with the Prothonotary in any civil action, including attachments and exhibits, even if the legal papers are not adversarial in nature or do not require a response from the non-filing party or parties.
- (b) Legal papers shall be presented for filing in a portable document format ("PDF"). As authorized by Pa.R.C.P. 205.4 (b)(1), in the event a legal paper is presented for filing in a hard-copy format or an electronic format other than a PDF, the Prothonotary shall convert said legal paper into a PDF and shall maintain it in that format. The Prothonotary shall return the hard-copy legal paper to the filing party for retention as required by Pa.R.C.P. 205.4(b)(4).
- (c) The Prothonotary shall always provide access to its Electronic Filing System, except during periods of required maintenance.
  - (1) Legal papers may be filed electronically through the Electronic Filing System, which will

be accessible through the Cumberland County Prothonotary website.

- (2) To obtain access to the Electronic Filing System, counsel or any unrepresented party must first register with the Prothonotary's Office for a Username and Password.
- (3) The time and date of filing a legal paper and any receipt of the legal paper filed electronically shall be that registered by the Electronic Filing System. The Prothonotary shall provide, through the Electronic Filing System's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.
- (4) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the Electronic Filing System's website.

(d) A filing party shall pay the cost of the electronic filing of a legal paper by approved credit or debit card. The following cards have been approved for payment of the electronic filing: American Express, Discover, MasterCard and Visa.

(e) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the Prothonotary or the Electronic Filing System based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

- (1) If a pleading or other legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the Prothonotary by email, or the Electronic Filing System, as may be appropriate, shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.
- (2) The Court upon motion shall resolve any dispute arising under paragraph (1) of this subdivision. If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted, or filed by the Electronic Filing System, the Court may order that the paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.

(f) As authorized by Pa.R.C.P. 205.4(f), the following administrative procedures are adopted:

- (1) Verification of pleadings, as required by Pa.R.C.P. 206.3 and 1024, as well as any other documents executed by the client or third parties, such as Affidavits or Certificates of Service, shall be scanned and attached to the electronic filing in a PDF at the time the legal paper is submitted for electronic filing.
- (2) Filings containing personal identifiers in civil matters, such as Social Security numbers, dates of birth, financial account numbers and names of minor children, shall be modified or partially redacted in all documents electronically filed in the office and shall be filed with a confidential information form.
- (3) The Prothonotary is authorized to refuse for filing a legal paper submitted without the requisite filing fee; such legal paper shall only be deemed to have been filed on the date that said filing fee payment was received by the Prothonotary.
- (4) Neither the Court nor the Prothonotary shall be required to maintain a hard copy of any legal paper, notice or Order filed or maintained electronically under this Rule.

(g) Service:

- (1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served:
  - (i) as provided by Pa.R.C.P. 440; or
  - (ii) by electronic transmission, other than facsimile transmission, to all parties who have previously submitted electronic filing in the same case, pursuant to C.C.R.P. 205.4 and Pa.R.C.P. 205.4(g).
- (2) Service by electronic transmission is complete when a legal paper is sent:

- (i) to the recipient's electronic mail address, or
- (ii) to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

(3) Copies of all Notices, Orders or Judgments from the Court in any action shall be served by electronic transmission through the Electronic Filing System to all parties who have previously submitted electronic filings in the same case. If a party or parties have not yet submitted electronic filing in a particular case, then the Prothonotary shall provide notice by facsimile, other electronic means, or by forwarding a hard copy to said party or parties.

## **Rule 206.1 Petitions**

All Petitions not enumerated in Pa. R.C.P. 206.1(1)(applications to strike and/or open a default judgment or a judgment of non pros) shall follow all requirements for the filing of Motions laid out in C.C.R.P. 208.3.

## **Rule 208.3. Motions**

All motions shall be filed with the Prothonotary who shall forward them to the Court Administrator for assignment to a judge for disposition.

- (a) All motions submitted to the Court shall:
  - (1) prominently indicate the individual attorney responsible for the matter and their email address, or attorney is not the one who personally submits the papers, the names and email address of both attorneys shall be clearly indicated;
  - (2) state whether a judge has ruled upon any other issue in the same or related matter, and, if so, shall specify the judge and the issue; and
  - (3) include a brief statement of the applicable authority.
- (b) A proposed order or decree shall be affixed to the front of each motion submitted to the Court.
- (c) Where notice of the entry of any order is required under Pa.R.C.P. 236, the filing party shall include in the proposed order the names of the persons and/or attorneys who are required to be notified and to provide stamped envelopes addressed to the said persons and/or attorneys.
- (d) Except as provided in C.C.R.P. 1028, 1034, and 1035.2, no motion shall be placed on an argument court list unless directed by the assigned judge.
- (e) Prior to filing any motion, the filing party shall seek concurrence of any other party and any *guardian ad litem*, except that this requirement shall not apply to preliminary objections, motions for judgment on the pleadings, motions for summary judgment, petitions to open or strike judgments, and motions for post-trial relief.
  - (1) If a response is received, the filed document shall note the position of each opposing party.
  - (2) If no response is received, the filed document shall note the manner and timing of each attempt to seek concurrence.
  - (3) If no response is received or there is opposition to the requested relief, the filing party shall include a proposed order, as prescribed by the Court and available on the Court Website, directing each opposing party to file a written response.
- (f) The judge to whom a motion has been assigned shall, thereafter, by order, schedule such hearing, briefing, and/or argument as shall be deemed necessary.
- (g) If a party who is represented by counsel of record attempts to file a motion, petition, answer, or similar item on their own, the item may be stricken from the record and instead forwarded to the counsel of record for such action as they deem appropriate on behalf of the client.

## **Rule 212.1-1. Case Management**

A civil judge will hold civil status conferences in alternating months on a date which will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5).

- (a) The purpose of the status conferences will be to ensure cases progress in a timely manner.
- (b) Cases will be automatically scheduled for a civil status conference in the following instances:
  - (1) one year following the filing of the complaint, every civil case will be scheduled for a civil status conference.
  - (2) any case where an Intent to Proceed is filed in response to a two-year purge notice shall be scheduled for the next available civil status conference date.
- (c) A case will only be removed from the civil status conference list if a:
  - (1) Preacipe to Discontinue the Action is filed,
  - (2) comprehensive case management order is filed, or
  - (3) Motion to Continue or Specially Set a status conference is granted.
- (d) Cases will be handled in the order that they were listed.
- (e) All parties should be prepared to address:
  - (1) outstanding discovery,
  - (2) expert reports,
  - (3) dispositive Motions,
  - (4) trial timing, and
  - (5) any other relevant matter relating to the issuance of a comprehensive case management order.
- (f) Following the status conference, the Court will issue a case management order.

## **Rule 212.1-2. Call of Civil Trial List**

- (a) For each term of court, the civil trial list shall be called on a date which will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5). Any case not answered at the first call, shall, at the option of the court, be placed at the end of the list or stricken from it.
- (b) At the call of the trial list, counsel for all parties shall indicate that discovery has been completed, that Alternative Dispute Resolution options have been considered and, if agreed to, have been completed or will be completed so as not to delay trial, and that the case is otherwise ready for trial in all respects. Any case not ready for trial in all respects shall, at the option of the court, be placed at the end of the list or stricken from it.

## **Rule 212.1-3. Listing for Jury Trial**

- (a) Except as provided in subsection (c), cases shall be listed for jury trial only by filing a praecipe directing the Prothonotary to list the case for trial. The party listing the case for trial shall promptly serve a copy of the praecipe on all other parties. The praecipe shall be in the form prescribed by the Prothonotary.
- (b) The trial list for cases at law shall close seven (7) weeks before the first day of trials. Trial lists shall be prepared by the Prothonotary with the cases arranged in the order of their listing. Copies of each trial list shall be made available to members of the Bar.
- (c) Where a case is listed for jury trial by direction of the Court, notice of such listing shall be given to counsel by the Prothonotary.

## **Rule 212.1-4. Listing for Non-Jury Trial**

If neither party is requesting a jury trial, either party can request the matter be scheduled for a bench trial by filing a praecipe with the Prothonotary. The Prothonotary shall forward the praecipe to the Court Administrator' Office for scheduling before the appropriate judge.

### **Rule 212.2. Pretrial Memorandum**

No later than Friday prior to the pretrial conference, each party to a civil action shall file (and serve a copy on all other parties) a pretrial memorandum with the Prothonotary, who will transmit it to the Court Administrator. The memorandum shall set forth in the following order:

- (a) A statement of the basic facts as to liability.
- (b) A statement of the basic facts as to damages.
- (c) A statement as to the principal issues of liability and damages.
- (d) A summary of legal issues regarding admissibility of testimony, exhibits or any other matter, and legal authorities relied on.
- (e) The identity of witnesses to be called.
- (f) A list of exhibits with brief identification of each.
- (g) The current status of settlement negotiations including a statement as to whether an Alternative Dispute Resolution option has been utilized.
- (h) Estimated length of trial.

### **Rule 212.3. Pretrial Conference**

- (a) For each term of court, a pretrial conference date will be scheduled by Court Administrator on the yearly court calendar (See C.C.R.P. 5).
- (b) The pretrial conference shall be attended by the attorney who will try the case. If the trial attorney fails to attend the pretrial conference, he or she shall not be permitted to try the case.
- (c) Any case in which the trial attorney fails to appear for the pretrial conference may be placed at the end of the list or stricken from it. The court may impose alternative or additional appropriate sanctions on the party or counsel failing to appear.

### **Rule 223. Trial Procedure**

In all trials the order of procedure shall be as follows:

- (a) The counsel for the affirmative shall open their case and state the facts and, if necessary, the principles of law involved so that the relevancy of the facts may be understood, but without argument. Thereafter, the opposing counsel may open their case and proceed in like manner or may reserve their right to open until after the affirmative case in chief. If reserved, the counsel for the affirmative shall call witnesses for examination and cross-examination. If not reserved, the counsel for the affirmative shall present their case in chief at the close of the affirmative case. Closing arguments shall be in inverse order of the opening statements. Unless specifically allowed, no opening statement or summation shall exceed thirty (30) minutes.
- (b) Upon the return of the jury to the courtroom, the judge shall examine the written verdict. If irregular, the judge shall further instruct the jury and send it back for further deliberation. If the written verdict is in proper form, regular and valid, the judge shall hand it to the Prothonotary clerk who shall inquire of the foreman:

"Have you reached a verdict?"

Upon an affirmative response, the Prothonotary clerk shall inquire of the foreman:

“What is your verdict?”

Thereupon the foreman shall pronounce the verdict.

Upon demand for a poll being made, the Prothonotary clerk shall inquire of each juror separately as to their verdict. The Court shall instruct the Prothonotary clerk as to the form of the question after consultation with counsel if desired.

If no demand for a poll is made or if the poll shows a legal verdict, the Prothonotary clerk shall enter the verdict and shall inquire of the jury in the usual form as to whether or not the same is their verdict.

## **CHAPTER II. MISCELLANEOUS RULES**

### **Rule 330. Land Use Appeals**

- (a) Contemporaneously with the notice of the filing of the complete return of the record, the Prothonotary shall forward the appeal to Court Administration for assignment of a judge of the Court of Common Pleas. The Court Administrator shall assign appeals to the judges on a rotating basis.
- (b) Within ten (10) days after the Prothonotary gives notice of the filing of the complete return of the record, any party who believes the appeal is not ready for disposition may file a motion for a conference. The motion for a conference shall state why the party believes that the appeal is not ready for disposition and shall identify all actions that the party requests. The Prothonotary shall immediately serve a copy of the motion upon the assigned judge.
- (c) At the conference, the Court may:
  - (1) Require or approve supplementation of the record.
  - (2) Fix a time for a de novo hearing before the Court.
  - (3) Employ expert(s) to aid the Court to frame an appropriate order.
  - (4) Refer the appeal to a referee to receive additional evidence, with directions as to time deadlines and other matters the Court deems appropriate.
  - (5) If allowed by law, remand the appeal to the local agency with directions as to time deadlines and other matters, including mediation.
  - (6) Specially set a date for oral argument.
- (d) After the conference, the Court shall issue an appropriate order addressing the filing of briefs.
- (e) If no party has filed a request for a conference within ten (10) days after the Prothonotary gives notice of the filing of the complete return of the record, the Court shall immediately issue a standard order setting a briefing schedule and specially set a date for oral argument.
- (f) The standard briefing schedule shall be as follows:
  - (1) The appellant shall file a brief within forty (40) days after the date the Prothonotary gives notice of the filing of the local agency's complete record. The appellant shall limit the brief to the issues appellant raised in the land use appeal.
  - (2) Each other party shall file a responsive brief within thirty (30) days after service of appellant's brief.
  - (3) The appellant may file a reply brief within ten (10) days after service of the responsive brief.
- (g) If appellant fails to file a brief within the time period established under the rules of this section or by the Court after a conference, any party may file and serve a praecipe stating that the appeal is ready for disposition together with a brief, or may petition the Court for dismissal of

the appeal. If a party files a praecipe requesting disposition due to the failure of the appellant to file a brief, the Court shall render a decision, without oral argument, on the record before it.

### **Rule 367. Bill of Costs**

A party entitled to costs shall file a bill of costs with the Prothonotary which shall be served upon the opposing party or their attorney. Such bill shall set forth the witnesses in attendance at trial, the statutory witness fees paid to such witnesses, and the places from which mileage is claimed. The bill shall be verified under oath as being true and correct to the best of the affiant's knowledge and belief which verification shall include a statement that the witnesses were material and necessary. If the opposing party objects to a bill of costs, they must file exceptions, in writing, with the Prothonotary, within ten (10) days of service. The Prothonotary shall hear and determine the objections. If either party is dissatisfied with the decision of the Prothonotary, the matter shall be heard by the Court; but no exception or appeal shall operate to stay execution or prevent the collection of the debt or costs, but any costs subject to the exception shall be retained until the question is decided.

### **Rule 500. Prothonotary Posting and Access**

- (a) The Prothonotary shall provide and maintain in the public room of their office a bulletin board upon which notices, the posting of which is required by the Rules of Court, may be posted. The Prothonotary may remove expired postings on a regular basis.
- (b) The Prothonotary shall make all matters or documents required or authorized, except juvenile cases and other non-public files, from August 2001 forward, available on the Prothonotary's website for public access. The Prothonotary shall provide access to the public to search these records by docket number or by name of the plaintiff or defendant.
- (c) The Prothonotary shall provide access to certain non-public files, specifically Cumberland County family law actions from August 2001 forward, by use of a password login, to:
  - (1) Certain subscribing Pennsylvania licensed attorneys.
  - (2) Unrepresented litigants for their own cases only.

Note: For the purpose of internet access, non-public files shall include divorce, custody, and protection from abuse cases filed after the effective date of this rule.

## **CHAPTER III. PLEADINGS**

### **Rule 1018.1. Notice to Defend**

As provided by Pennsylvania Rule of Civil Procedure No. 1018.1, the following officer is designated to be named in the Notice to Defend in order to find out where legal help can be obtained:

Cumberland County Bar Association's Find a Lawyer  
32 South Bedford Street  
Carlisle, PA 17013  
Phone: 717-249-3166 EXT. 105

### **Rule 1028. Preliminary Objections**

All preliminary objections shall be filed with the Cumberland County Prothonotary's Office. Thereafter, the issues raised (unless specifically excluded by other rule, see C.C.R.P. 330, 1915.5, and 1920.12) will be disposed of at regular sessions of argument court, which shall be scheduled as part of the

annual court calendar (See C.C.R.P. 5). All cases will be decided on written argument unless oral argument is specifically requested. If granted, oral argument will be held off the record. The procedure for disposition of matters by argument court shall be as follows:

- (a) The objecting party shall file a brief with the Prothonotary simultaneously with the preliminary objections. If the brief is not timely filed, the Court may deny the relief sought on that basis alone. This brief shall:
  - (1) be limited to twenty (20) double-spaced pages (unless *prior* court approval has been granted).
  - (2) contain a statement of facts, discussion of the issues, and reference to all authorities relied upon.
  - (3) address all issues raised in the objections, or else they shall be deemed abandoned.
  - (4) note references to parts of the record appearing in a reproduced record shall be to the pages and the lines in the reproduced record where said parts appear, e.g., "(r. pg. 30 l. 15)," and, if references are made in the brief to parts of the original record not reproduced, the references shall be to the parts of the record involved, e.g., "(Answer p. 7)," "(Motion for Summary Judgment p. 2)."
- (b) The objecting party shall immediately serve a copy of the brief upon opposing counsel and any unrepresented party and shall file an affidavit of service.
- (c) Within twenty (20) days of the date of service of the objecting party's brief, the responding party shall file and serve a brief in accordance with the requirements of subsections (a)(1-4) of this rule.
- (d) Except as provided in subsection (e), ten (10) business days following the close of the briefing schedule, the preliminary objections will be automatically listed for decision on the briefs only at the next available argument session.
- (e) If either party wishes to request a later argument date or oral argument (for complex cases or novel legal issues), they must file with the Prothonotary, and serve upon all parties, a praecipe containing the request within five (5) business days following the close of the briefing schedule.
- (f) The Prothonotary shall maintain the argument court list.
  - (1) The argument list shall be closed forty (40) days prior to the date for argument.
  - (2) The list shall then be prepared by the Prothonotary and the cases shall be set out in order of their listing.
  - (3) Upon the closing of the argument list, the Prothonotary shall furnish notification by regular mail to all attorneys and unrepresented parties who have cases listed for argument.
- (g) One week prior to argument, the Court Administrator shall prepare the final list of cases to be decided and post it to the Prothonotary's Website.
- (h) Counsel or any party presenting oral argument shall be limited to fifteen (15) minutes unless prior permission is granted to extend argument in a complex case.
- (i) Briefs will be retained by the Prothonotary and will be on the record.
- (j) If the preliminary objections resolve prior to the argument court date, a praecipe to withdraw the listing shall be filed immediately.
- (k) In the interest of judicial economy, if a single case has objections listed for multiple argument court dates, they shall be consolidated to the latest scheduled argument court session.

#### **Rule 1034. Motions for Judgment on the Pleadings**

Motions for judgment on the pleadings shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with C.C.R.P. 1028.

## **Rule 1035.2. Motions for Summary Judgment**

All motions for summary judgment shall be filed with the Cumberland County Prothonotary's Office and disposed of in the same manner as preliminary objections in accordance with C.C.R.P. 1028.

## **CHAPTER IV. ARBITRATION**

### **Rule 1301. Compulsory Arbitration**

- (a) All civil cases which are at issue in which the total amount in controversy is Fifty Thousand Dollars (\$50,000) or less, exclusive of interest and costs, except those cases involving title to or possession of or occupancy of real estate, shall be submitted for hearing and award to three members of the Bar to be designated as a Board of Arbitrators.
- (b) All cases in trespass, otherwise meeting the requirements of (a), in which no appearance has been entered for the defendant (including those cases in which a default judgment has been entered against the defendant pursuant to Pa.R.C.P. 1037(a)), shall be submitted to a Board of Arbitrators for hearing and award upon the question of damages, unless damages have been assessed in accordance with Pa.R.C.P. 1037(b).

### **Rule 1302. Board of Arbitrators**

- (a) In all cases requiring compulsory arbitration in accordance with C.C.R.P. 1301, any party may file a petition with the Prothonotary for the appointment of a Board of Arbitrators. The petition shall set forth that the matter is at issue, the amount in controversy, the names of members of the Bar of Cumberland County who are interested in the matter or otherwise disqualified to sit as arbitrators, and a request for the appointment of a Board of Arbitrators.
- (b) Upon receipt of the petition, the Prothonotary shall forward it to the Court Administrator for assignment to a judge for review and appointment of the Board of Arbitrators.
- (c) The Board of Arbitrators shall be appointed from the list of arbitrators. The first member appointed shall act as Chairman and shall fix the time and place for hearing.
- (d) In any case listed for trial before the court, if it shall come to the attention of the court that the case qualifies for compulsory arbitration under C.C.R.P. 1301, the court may direct the plaintiff to file a Petition for Appointment of a Board of Arbitrators.
- (e) The compensation of the Chairmen and Board Members shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).

## **CHAPTER V. SUPPORT**

### **Rule 1910.10. Hearing Procedure**

The Court of Common Pleas of Cumberland County adopts the alternative hearing procedure set forth in Pa.R.C.P. 1910.12.

### **Rule 1910.12. Conduct of Hearing and Exceptions**

- (a) Hearings shall be conducted by the Support Hearing Officer.
- (b) The Support Hearing Officer shall engage the services of a Court Reporter or a Courtroom Technician; however, the notes of testimony shall not be transcribed unless:
  - (1) required by the Support Hearing Officer to prepare the report and recommendation to

the Court,

(2) ordered by the Court, or

(3) requested by a litigant in accordance with Local Rule 4007.

(c) When exceptions are filed, the Domestic Relations Office shall immediately forward the cases to the Court Administrator who shall assign them to judge. The assigned judge will set a briefing and argument schedule.

## **CHAPTER VI. CUSTODY**

### **Rule 1915.1. Applicability of Custody Rules**

These rules shall govern all actions for custody, partial custody, and visitation, including original actions to modify and for contempt. The rules shall be interpreted as supplementing the Rules of Civil Procedure governing custody actions. Pa. R.C.P. 1915.1 et seq.

### **Rule 1915.3-1. Custody Complaint**

(a) The original complaint shall be filed with the Prothonotary who shall forward the copy of the complaint to the Court Administrator for assignment to a custody conference officer.

(b) If a custody claim is asserted in a divorce complaint, and either party desires a hearing on the custody issue, a copy of the divorce complaint, together with a simple motion for hearing, filed with the Prothonotary who shall forward the copy of the complaint to the Court Administrator for assignment to a custody conference officer.

### **Rule 1915.3-2. Custody Conference Officers**

(a) The court shall appoint a member(s) of the Bar or other appropriate person, as an official of the court, to:

(1) Conciliate custody cases filed with the court;

(2) Recommend to the court that interim or temporary orders be entered in appropriate custody cases;

(3) Recommend appointment of counsel for the child;

(4) Recommend the utilization of home studies and expert witnesses.

(b) The compensation for a custody conference officer shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).

(c) All petitions for contempt or modification shall be filed in the same manner as original complaints in Rule 1915.3-1 and the Court Administrator shall refer same to the custody conference officer for review.

### **Rule 1915.3-3. Custody Conciliation Conference**

(a) The conciliation before the custody conference officer shall not be more than forty-five (45) days from the date of assignment by the Court Administrator. The custody conference officer may reschedule the conference at the request of either party. The rescheduled date shall not be more than seventy-five (75) days from the date of assignment by the Court Administrator. If the conciliation conference is rescheduled, a new order shall be issued setting the time, date, and place for the conference and shall be docketed with the Prothonotary.

(b) If the responding party intends to file counterclaims or crossclaims, they shall be filed prior to the conciliation conference, where possible.

- (c) If a question of jurisdiction or venue is raised prior to the conciliation conference, such objections shall be referred by the custody conference officer to the court for disposition. No other pleading need be filed to a claim for custody or visitation.
- (d) To facilitate the conciliation process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, shall not be admissible as evidence in court. The custody conference officer shall not be a witness for or against any party, neither shall the conciliator permit the recording in any way of the proceeding.
- (e) At the conclusion of the conference where the case remains contested the custody conference officer shall prepare a Conference Summary Report. This report shall contain facts gathered by the conciliator during the conference. This report shall be filed of record.
- (f) Within seven (7) days following a conciliation conference, the custody conference officer will submit their proposed order(s) to the Court:
  - (1) SETTLED CASE: If the parties reach an agreement, the custody conference officer shall draft a proposed order in conformance with the agreement of the parties. The custody conference officer shall thereafter submit the proposed order to the Court Administrator who shall transmit the order to the assigned judge for disposition.
  - (2) CONTESTED CASE: Should the parties fail to reach an agreement prior to the conclusion of the conciliation conference, the custody conference officer shall submit their Conference Summary Report and any proposed recommended order to the Court Administrator who shall transmit the order to the assigned judge, who shall thereafter review the proposed recommended order and direct the matter for hearing. The proposed recommended order may contain a requirement that the parties file a pretrial memorandum with the judge to whom the matter has been assigned.
  - (3) GAL APPOINTMENT: If the parties agree to the appointment of a *guardian ad litem* (GAL) or the custody conference officer recommends appointment of a GAL, the custody conference officer shall include a proposed GAL appointment order with the Conference Summary Report. If either party requests that the county pay the GAL's fees, the conference officer shall colloquy the parties on their ability to pay and make a recommendation regarding payment of the GAL's fees.

#### **Rule 1915.4. Emergency and Special Relief**

- (a) Definitions.
  - (1) Petitions for Special Relief shall be filed to address a specific circumstance that does not necessitate the modification of an existing Custody Order and does not involve a violation of the existing Custody Order.
  - (2) Petitions for Contempt shall be filed to address past or ongoing violations of an existing Custody Order.
  - (3) Emergency Petitions for Custody shall be filed when there is an immediate threat to the health, safety, or welfare of the child.
- (b) Procedure.
  - (1) Petitions for Special Relief and for Contempt will follow the same procedure as a Custody Complaint as laid out **C.C.R.P. 1915.3-1**.
  - (2) Emergency Petitions for Custody will promptly be personally delivered to a judge by Court Administration for review and action.

#### **Rule 1915.11. Parenting Coordination**

- (a) The Court Administrator shall maintain a current roster of qualified individuals willing to serve as parenting coordinators upon court appointment pursuant to Pa.R.C.P. 1915.11-1.
- (b) The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parents and, if unable to reach an agreement, where necessary recommend a resolution to the court.
- (c) For simplification purposes, the general term “parent” is used to describe any party to a custody case, which includes the universe of people who act in a parental capacity in a custody proceeding.
- (d) Appointment of a Parenting Coordinator.
  - (1) If the parents cannot agree on a parenting coordinator, the court may select one, upon a motion to designate, wherein the requesting parent will identify their choice(s) of parenting coordinator along with hourly rates and allocation of fees.
  - (2) The non-requesting parent will be noticed to respond to the request with their choice(s) and required information. Thereafter, the court may designate a parenting coordinator without a hearing.
- (e) Scope of Authority of the Parenting Coordinator.
  - (1) Unless the parents’ consent in writing, the parenting coordinator shall not contact collateral sources or speak with the child(ren) and to effectuate this provision, the parents shall execute releases, as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals.
  - (2) Any communication with the collateral sources or child(ren) shall be limited to the issue(s) currently before the parenting coordinator.
- (f) Fees.
  - (1) The compensation for a parenting coordinator shall be set each year via the annual Court Fee Schedule (See C.C.R.P. 6).
  - (2) Waiver of fees or reduced fees. Upon written request of a parent, which may be filed using the Unified Judicial System of Pennsylvania form designated a Motion to Proceed In Forma Pauperis, CPCMS 2046, the court shall engage in a need-based assessment of a parent’s ability to pay, so that indigent or low-income parents may participate in the parenting coordination program at a reduced fee or, as appropriate, no fee.

### **Rule 1915.13. School Determination Court**

- (a) When, following conciliation, the parties are unable to agree where a child will attend school, the assigned judge will attempt to schedule a full hearing prior to the start of the relevant school year.
- (b) If a date for a full hearing is unavailable, the assigned judge will schedule the matter for school determination court.
  - (1) School determination court shall be scheduled as part of the annual court calendar (See C.C.R.P. 5).
  - (2) Each party shall have 10 minutes to present evidence and argument why their preferred school should be selected.
  - (3) Following the abbreviated proceeding, the presiding judge shall enter an interim school determination order pending a full hearing before the assigned judge.

## **Rule 1915.5. Preliminary Objections in Custody**

Preliminary objections in custody are excluded from the procedure found in C.C.R.P. 1028 and shall be handled by the assigned judge.

## **CHAPTER VII. DIVORCE**

### **Rule 1920.12. Preliminary Objections in Divorce**

Preliminary objections in divorce matters are excluded from the procedure found in C.C.R.P. 1028 and shall be handled by the assigned judge.

### **Rule 1920.42. Praecipes to Transmit Record**

All Praecipes to Transmit Record filed pursuant to Rule 1920.42 shall include a proposed order or decree.

### **Rule 1920.51-1. Appointment of Divorce Hearing Officer for Discovery**

- (a) Either party may request the appointment of the Divorce Hearing Officer for the purposes of resolving discovery disputes and settlement prior to (or in limited situations, after) the entry of an order approving grounds for divorce. All divorce discovery disputes prior to the entry of a final divorce decree shall be handled by the Divorce Hearing Officer. The party requesting the appointment shall pay to the Prothonotary an initial administrative fee as listed on the Prothonotary's Fee Schedule, although this fee may be reapportioned between the parties by the Hearing Officer or waived following a motion to the Court demonstrating good cause.
- (b) Appointment.
  - (1) The party seeking appointment shall use the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Discovery and Settlement prescribed by the Court and available on the Court Website.
  - (2) The completed motion and proposed order shall be filed with the Prothonotary and served upon the other party.
  - (3) The other party shall have 30 days from the date of service of the Motion to file a response, including any discovery issues the respondent believes should also be addressed by the Hearing Officer. Failure to timely respond may result in the Hearing Officer recommending the requested relief without a Conference or Hearing.
- (c) Initial Conference.
  - (1) Within 10 days following receipt of the appointment order, the Hearing Officer will schedule an initial conference with counsel (and the parties if one or more are unrepresented).
  - (2) If an agreement is reached (on discovery or global resolution), the Hearing Officer will file a Memorandum outlining the agreement. This Memorandum will be assigned to a judge for entry as an Order of Court.
  - (3) The appointment of the Divorce Hearing Officer will terminate automatically upon the filing of the Memorandum.
- (d) Hearing.
  - (1) If no agreement is reached at the initial conference, the Divorce Hearing Officer will schedule a hearing. Proof of hearing notice (as well as proof of notice of any continued or additional hearing dates) shall be filed of record.

- (2) Following the hearing, the Divorce Hearing Officer will file and serve a Report and Recommendation outlining the required exchange of discovery, as well as an apportionment of the fees for appointment, if appropriate.
- (3) The appointment of the Divorce Hearing Officer will terminate automatically upon the filing of the Report and Recommendation.

(e) Exceptions.

- (1) Exceptions to a Discovery Report and Recommendation will follow the procedures outlined in Pa. R.C.P. 1920.55-2.
- (2) If exceptions are filed, the Prothonotary shall promptly forward the case to the Court Administrator who shall assign them to a judge.
- (3) If no timely exceptions are filed, the Report and Recommendation will be assigned to a judge for entry as an Order of Court.

(f) Contempt.

- (1) If either party fails to abide by a Memorandum or Report and Recommendation, the aggrieved party may file the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Discovery and Settlement.
- (2) The Divorce Hearing Officer will be reappointed and will follow the same procedures outlined above.
- (3) The Divorce Hearing Officer is authorized to recommend contempt sanctions, including, but not limited to: apportionment of the appointment fees, preclusion of evidence at future hearings, and awarding of counsel fees.

## **Rule 1920.51-2. Appointment of Divorce Hearing Officer for Ancillary Claims**

(a) Once discovery is substantially complete and all prerequisites have been established, either party may request the appointment of the Divorce Hearing Officer for the purposes of resolving alimony, equitable division of marital property, counsel fees, and costs and expenses.

“Substantially complete,” as used here, means that both parties have all documents and other information necessary to proceed to trial, except for recent pay statements, updated account statements, and proof of change of circumstances that may be provided before the hearing.

The party requesting the appointment shall pay to the Prothonotary an initial administrative fee as listed on the Prothonotary’s Fee Schedule, although this fee may be reapportioned between the parties by the Hearing Officer or waived following a motion to the Court demonstrating good cause.

(b) Appointment.

- (1) The party seeking appointment shall use the form and proposed order for Motion to Appoint the Divorce Hearing Officer for Ancillary Claims prescribed by the Court and available on the Court Website.
- (2) The completed motion and proposed order shall be filed with the Prothonotary and served upon the other party.
- (3) If all prerequisites are met, the Court will enter an order appointing the Hearing Officer and directing the filing of initial pre-trial statements.

(c) Preliminary Conference.

- (1) Within 10 days following receipt of the appointment order, the Hearing Officer will schedule a pre-hearing conference with counsel (and the parties if one or more are unrepresented).
- (2) At this conference, the Divorce Hearing Officer will address all outstanding pre-trial matters.
- (3) If an agreement is reached or there are action steps required by either party prior to the next proceeding, the Hearing Officer will file a Memorandum outlining the agreement

and/or next steps. This Memorandum will be assigned to a judge for entry as an Order of Court.

(d) Settlement Conference.

- (1) If no agreement is reached at the Preliminary Conference, the Hearing Officer will schedule a Settlement Conference with the parties and counsel.
- (2) If an agreement is reached or there are action steps required by either party prior to the next proceeding, the Hearing Officer will file a Memorandum outlining the agreement and/or next steps, including scheduling additional settlement conferences if needed. This Memorandum will be assigned to a judge for entry as an Order of Court.

(e) Hearing.

- (1) If no agreement can be reached, the Divorce Hearing Officer will promptly schedule hearings as necessary and set deadlines for updated, comprehensive pre-trial statements and exchange of exhibits. Proof of hearing notice (as well as proof of notice of any continued or additional hearing dates) shall be filed of record.
- (2) Following the hearing(s), the Divorce Hearing Officer will file and serve a Final Report and Recommendation addressing all outstanding economic claims, as well as an apportionment of the fees for appointment if appropriate.
- (3) The appointment of the Divorce Hearing Officer will terminate automatically following the filing of the Final Report and Recommendation.

(f) Exceptions.

- (1) Exceptions to a Report and Recommendation will follow the procedures outlined in Pa. R.C.P. 1920.55-2.
- (2) If exceptions are filed, the Prothonotary shall promptly forward the cases to the Court Administrator who shall assign them to a judge of the Court of Common Pleas.
- (3) If no timely exceptions are filed, the Report and Recommendation will be assigned to a judge for entry as an Order of Court.

(g) Contempt.

- (1) If, at any point, either party fails to comply with written directives of the Hearing Officer, upon Motion, or *sua sponte*, the Hearing Officer may continue the matter or recommend contempt sanctions, including, but not limited to: apportionment of the appointment fees, preclusion of evidence at future hearings, and awarding of counsel fees.
- (2) The recommendation for sanctions may be made at the conclusion of the action or on an interim basis if the failure to comply is resulting in unjustifiable delay, prejudice to the other party, or both.

(h) Vacating the Hearing Officer.

- (1) If the parties withdraw or settle all claims pending before the Hearing Officer, a Motion to Vacate Hearing Officer shall be filed prior to entry of the final divorce decree.
- (2) The Motion shall include the position of the opposing party, allegations or attachments demonstrating that all matters pending before the Hearing Officer have been resolved, and a proposed order vacating the Hearing Officer.

## **CHAPTER VIII. DEPOSITIONS AND DISCOVERY**

### **Rule 4001. Discovery Motions**

All motions and petitions regarding discovery in civil cases, including, but not limited to, motions to compel, for protective orders and for sanctions, shall be filed, with the Prothonotary who will transmit the motion/petition to the Court Administrator for assignment to a judge or Discovery Hearing Officer. Any answer or response to an order or rule shall be filed and assigned in the same manner.

## **Rule 4005. Number of Interrogatories, Requests for the Production of Documents, and Request for Admissions**

- (a) Interrogatories, requests for the production of documents, and/or requests for admissions to a party as a matter of right, shall not exceed forty (40) in number for each type.
- (b) Interrogatories, requests for the production of documents, and/or requests for admissions inquiring as to the names and locations of witnesses, or the existence, location and custodian of documents or physical evidence each shall be construed as one (1) interrogatory, request for the production of documents, and request for admission. All other interrogatories, requests for the production of documents, and/or requests for admissions, including subdivisions or one numbered interrogatory, request for the production of documents, and/or request for admissions, shall be construed as separate interrogatories, requests for the production of documents, and/or requests for admissions.
- (c) If counsel for a party believes that more than forty (40) interrogatories, requests for the production of documents, and/or requests for admissions are necessary, they shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional interrogatories, requests for the production of documents, and/or requests for admissions. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the party seeking to submit additional interrogatories, requests for the production of documents, and/or requests for admissions shall file a motion with the court showing the necessity for relief.

## **CHAPTER IX. PROTECTION FROM ABUSE**

### **Rule 6113.1. Private Criminal Complaints**

The filing of private criminal complaints, alleging criminal contempt of a Protection from Abuse Order as authorized by 23 P.S. 6113.1, shall be filed with the District Attorney of Cumberland County.

### **Rule 6114(c). Notification Upon Release**

- (a) The Warden of the Cumberland County Prison shall use all reasonable means to immediately notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under a Protection from Abuse Action or contempt. Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.
- (b) The plaintiff must keep the Warden of the Cumberland County Prison advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

## **ORPHANS' COURT**

## **CHAPTER I. PRELIMINARY RULES**

### **Rule 1.6. Mediation by Agreement, Local Rule, or Court Order**

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

- (a) The interested parties may engage the services of a mediator, either prior to or after any

interested party has filed a Pleading before the Court, including an account filed by a fiduciary.

- (b) Upon the filing of a Pleading before the Court, including an account filed by a fiduciary, the Clerk may provide the filing party with generic information, regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.
- (c) The filing party may provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure, should include:
  - (1) A brief description of the mediation process;
  - (2) The anticipated benefits of mediation for litigants and associated professionals; and
  - (3) Contact information to initiate mediation.
- (d) All the interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.
- (e) In such request for mediation, all interested parties shall identify:
  - (1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;
  - (2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;
  - (3) Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and
  - (4) The scheduled date for the initial mediation conference.
- (f) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.
- (g) Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.
- (h) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.
- (i) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.
- (j) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L.1125, No.169 (35 P.S. §§10225.101 -10225.5102), as may be amended.
- (k) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

## **CHAPTER II ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

### **Rule 2.6. Filing with the Clerk**

- (a) Accounts to be confirmed shall be filed not later than 4:30 p.m. (Eastern Prevailing Time) of the fifth Friday preceding the date fixed for confirmation of accounts.
- (b) The Court Calendar, including the dates for confirmation of accounts, shall be determined in accordance with C.C.R.P. 5.
- (c) Advertisement by the Clerk as required by PEF Code §745, shall be in the Cumberland Law Journal and The Sentinel.
- (d) The advertisement of the account shall indicate whether a statement of proposed distribution is included.

### **Rule 2.9. Confirmation of Accounts; Awards**

If no objections are filed to the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree directing distribution in accordance with the statement of proposed distribution.

### **Rule 2.11. Appointment of Official Examiners**

Rules pertaining to auditors and hearing officers in Chapter IX of Pa. Orphans' Court Rules shall extend to official examiners insofar as applicable.

## **CHAPTER III. PETITION PRACTICE AND PLEADING**

### **Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification**

Where notice of the entry of any decree is required, the petitioner or moving party shall include in the proposed decree, the names of all parties or their counsel, if represented, who are required to be notified of the proposed decree, and shall provide the Clerk with stamped envelopes addressed to the said parties or their counsel, if represented.

### **Rule 3.7. Time for Filing and Service of Responsive Pleadings**

Disposition of Matters after Pleadings are Closed - No Answer. If no responsive pleading is filed, upon proof of service of the citation or notice and the petition, the Court may grant the desired relief requested.

## **CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS**

### **Rule 5.16. Small Estates**

Petitions for settlement of small estates under PEF Code §3102 shall set forth:

- (a) The name and address of the petitioner and petitioner's relationship to the decedent;
- (b) The name, date of death and domicile of decedent;
- (c) Whether the decedent died testate or intestate, the date of the probate of the will, if applicable, and the date of grant of letters, if any, and whether the personal representative has been required to give bond and, if so, the amount of the bond;
- (d) The name and relationship of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under PEF Code §3101, or otherwise, and whether any of them is a minor, incapacitated or deceased with the name of his fiduciary, if any;

- (e) The person(s), if any, entitled to the family exemption and, if a claim therefore is made in the petition, any additional facts necessary to establish the right to the family exemption;
- (f) An inventory of the real and personal estate of the decedent, the value ascribed to each item, either incorporated in the petition or attached as an exhibit;
- (g) A list showing the nature, amounts and preferences of all unpaid claimants against the estate and indicating which claims are admitted;
- (h) If any unpaid beneficiary, heir or claimant has not joined in the petition, a statement that notice of the intention to present the petition has been given as required by Pa.R.O.C.P. 4.2; and
- (i) A prayer for distribution of the personal property to those entitled, and in appropriate cases, for the discharge of the personal representative.
- (j) There shall be attached to the petition the following exhibits:
  - (1) The original of the decedent's will if it has not been probated, or a copy thereof if it has been probated;
  - (2) The joinders or consents of unpaid beneficiaries, heirs and claimants insofar as they are obtainable;
  - (3) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution or the family exemption; and
  - (4) A certificate of the Register showing the status of payment of the inheritance tax.
- (k) No appraisement shall be required unless ordered by the Court.

## **CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE**

### **Rule 7.5. Legal Argument**

- (a) Preliminary objections and other filings requiring briefing and/or oral argument shall be handled by the judge assigned to the matter.
- (b) Upon receipt of objections, or upon request of either party, the assigned judge shall issue an order setting a briefing schedule and, if necessary, a date for oral argument before the assigned judge.

## **CHAPTER IX. AUDITORS AND MASTERS**

### **Rule 9.1. Notice of Hearings**

- (a) On appointment, the auditor shall schedule a hearing and give notice thereof to all parties in interest at least twenty days prior to the hearing in accordance with Chapter IV of the Pa. Orphans' Court Rules.
- (b) Rules pertaining to auditors shall extend to hearing officers insofar as applicable.

### **Rule 9.2. Filing of Report**

Reports of auditors and hearing officers shall be filed with the Clerk.

### **Rule 9.6. Notice of Filing of Report**

The auditor or hearing officer shall give notice of filing the report to all interested parties.

### **Rule 9.7. Confirmation of Report**

- (a) If no objections are filed, the Clerk shall transmit the auditor's report to the Court for confirmation. If objections are filed, the Court shall, after argument, make such disposition as the Court shall determine.
- (b) Objections to the auditor's report shall be filed with the Clerk within twenty days after service of the notice of filing of said report. Objections shall be specific as to the basis of the objections whether as to the findings of fact or conclusions of law, or both.
- (c) If objections are filed, any interested party may request a briefing schedule and/or argument in accordance with C.C.R.O.C.P. 7.5.

## CRIMINAL

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

The District Attorney of Cumberland County having filed a certification pursuant to Pa.R.Crim.P. 202A, all applications for search warrants must be reviewed and approved by an attorney for the Commonwealth before being presented to and/or issued by any judicial officer. This approval will be noted on the search warrant application with an "approval number" that includes the approving attorney's initials.

### **Rule 456. Summary Warrants**

- (a) Central Booking is available during defined time periods to hold defendants with summary warrants that police encounter during their normal course of duty or constables executing warrants issued to them directly by a magisterial district judge.
- (b) Defined hours: Sunday through Thursday during non-court hours. Central Booking will not accept defendants with summary warrants on Friday, Saturday, and County holidays. At any time during the defined hours that Central Booking may experience full capacity, police and/or constables will be informed of a temporary suspension of acceptance of Summary Warrant defendants over the 911 Police Radio System.
- (c) This policy does not pertain to juvenile defendants with summary warrants. Juvenile defendants with summary warrants will not be accepted at Central Booking.
- (d) In the event that Central Booking is able to ascertain that the defendant has a medical or medication issue that puts them at risk during holding, Central Booking will issue a Payment Determination Hearing Notice and immediately release the defendant. An officer or constable serving a summary warrant should ask the defendant if they require *life-sustaining* medication over the period of time until the defendant might be released (the next day). If the defendant indicates that they do require *life-sustaining* medication, the officer or constable should inform Central Booking of this as soon as possible, so that Central Booking can make a release determination, as described above.
- (e) If the defendant suffers a medical episode while in Central Booking, the defendant will be released to EMS.
- (f) Central Booking will complete an Intake form on each defendant brought in on a summary warrant so that updated contact information is collected.
- (g) Warrant Procedures:
  - (1) Summary Warrants for Non-Payment:

- (i) Per this policy, warrants not issued to a constable for service by an MDJ should be verified on AOPC <https://ujsportal.pacourts.us/> .
- (ii) For verified active warrants, the defendant's case attached to the warrant can be located at <https://ujsportal.pacourts.us/> by accessing ePay. You will need the defendant's first name, last name, and DOB. Select MDJ cases and the case associated with the warrant.
- (iii) The defendant must pay the amount necessary to bring the payment plan on the warrant's case up to date. If the delinquent payment amount cannot be made *in full* at the time of service, the defendant may be transported to Central Booking.
- (iv) For constables: A Fee bill must be attached to the warrant paperwork at Central Booking in order to facilitate proper addition of fees to the defendant's case. Central Booking will forward the Fee bill to the magisterial district judge for review and assessment.
- (v) The defendant will be held at Central Booking until either a). A release amount as defined in this policy can be paid, or b). the issuing magisterial district judge is informed and makes a determination of action.
- (vi) Release Policy: The Central Booking Center will release defendants immediately when the following release amounts are met:
- (vii) The release amount will be based on the delinquent payment amount as determined through AOPC's ePay system. If the full amount of the delinquent payment plan is under \$200, delinquent payment amount must be paid in full.
- (viii) If the full amount of the delinquent payment plan is \$200 or over, the minimum amount of \$200 or 50% of the total, whichever is greater, must be paid.
- (ix) If the defendant has multiple summary warrants, the total of all warrants delinquent payment plans will determine the release amount. If the total of all of the amounts owed on all cases exceeds \$1000.00, the defendant must pay a minimum of \$500. *That amount should be put towards the oldest case first, next oldest, etc.*
- (x) A chart of release amounts is attached to this policy.
- (xi) If the release amount is met, but bringing the payment plan into current status is not equal to the full amount owed on the warrant, the defendant will be given a Payment Determination Hearing Notice scheduling such hearing on a weekday and time selected by each magisterial district judge for their cases. This date shall be not less than 2 weeks following release (providing at least 10 days notice per Rule 456).
- (xii) Central Booking will email a copy of the receipt and the hearing notice, if applicable, to the magisterial district judge to notify them of the payment and release. The magisterial district judge shall clear the warrant.
- (xiii) If the defendant is not able to make the release amount, Central Booking may still collect a lesser amount towards the summary warrant total. The defendant will be held until court hours the next morning and the issuing magisterial district judge is informed and makes a determination of action.
- (xiv) No defendant shall be committed without following the steps outlined in Title 42 Pa. C.S. 4137 for sections (a3) and (a4). After issuance of a warrant, bail and a

contempt hearing shall be set. If imprisonment is a possibility, hearings should be set on Public Defender day. For District Courts that regularly schedule hearings in only the morning or afternoon on PD day, select a time that corresponds with the Public Defender's normal schedule (am or pm).

(2) Summary Warrants for Failure to Respond:

- (i) Per this policy, warrants not issued to a constable for service by an MDJ should be verified on AOPC <https://ujsportal.pacourts.us/> .
- (ii) Pursuant to Rule 431, the police officer or constable serving the warrant shall:
  - (A) Accept a signed guilty plea and the full amount of fines and costs if stated on the warrant;
  - (B) Accept a signed not guilty plea and the full amount of the collateral on the warrant if stated on the warrant; or
  - (C) If the defendant is unable to pay the full amount of fines and costs or the defendant is unable to pay the collateral, transport the defendant to Central Booking.
- (iii) Signed plea paperwork shall be forwarded to the MDJ office. The magisterial district judge shall clear the warrant.
- (iv) For constables: A Fee bill must be attached to the warrant paperwork at Central Booking in order to facilitate proper addition of fees to the defendant's case. Central Booking will forward the Fee bill to the magisterial district judge for review and assessment.
- (v) Release Policy: The Central Booking Center will release defendants immediately when the following release amounts are met:
  - (A) For a guilty plea, after completing the plea paperwork the defendant will be released.
  - (B) [Deleted]
  - (C) If the defendant has multiple summary warrants for Failure to Respond, the total of all warrants' fines and costs will determine the release amount. If the total of all of the amounts owed on all cases exceeds \$1000.00, the defendant must pay a minimum of \$500. *That amount should be put towards the oldest case first, next oldest, etc.*
  - (D) If the release conditions are met, but the full amount of fines and costs is not paid, the defendant will be given a Payment Determination Hearing Notice for a date and time selected by each magisterial district judge for their cases for the following week.
  - (E) For not guilty pleas, 100% of the collateral, if stated on the warrant, must be paid.
- (vi) If a defendant has summary warrants for Failure to Pay and Failure to Respond, apply the appropriate policy to each type, separately.
- (vii) Central Booking will email a copy of the signed receipt, signed plea paperwork, and any hearing notices to the magisterial district judge to notify them of the payment and release. The magisterial district judge shall clear the warrant.

(viii) If the defendant cannot meet the release amount or the collateral, the magisterial district judge shall conduct a bench warrant hearing. If the magisterial district judge is unavailable, please refer to (g)(3). (Release without payment).

(3) Release without payment: Central Booking will email the Magisterial District Office that a defendant is being held on a summary warrant. If the Magisterial District Office has not contacted Central Booking regarding holding a bench warrant hearing for the defendant by noon the following day, the defendant will be released with a Payment Determination Hearing Notice scheduling such hearing on a weekday and time selected by each magisterial district judge for their cases. This date shall be not less than 2 weeks following release (providing at least 10 days' notice per Rule 456).

(4) Collection of Money:

- (i) Warrants must clearly establish the total amount owed or collateral amount. If a Failure to Respond Warrant has no fines and costs or collateral listed, you should accept the guilty plea or not guilty plea without payment and forward to the magisterial district judge per the policy below ("Upon facilitating payment" and "When a warrant is served and payment is facilitated"). The amount paid shall be "warrant satisfied".
- (ii) Each Police Department may determine if they will facilitate the monetary satisfaction of the warrant as described below. If a department does not want to participate in the payment process, the defendants may be transported to Central Booking.
- (iii) **For Failure to Pay:** Police or Constables serving a warrant and facilitating collection may assist the defendant to make a payment through AOPC's ePay (<https://ujsportal.pacourts.us/> ).
- (iv) **For Failure to Respond:** Police or constables serving a warrant and facilitating collection may assist the defendant to make a payment through the Valu Payment System.
- (v) Upon facilitating payment, the defendant should be given a copy of the warrant as a receipt with the following information:
  - (A) Amount Paid
  - (B) Date
  - (C) Officer/Constable Name and Signature
  - (D) Identifying Badge #/Constable Id
  - (E) Signature of Defendant
- (vi) When a warrant is served and payment is facilitated by an officer or a constable, the issuing MDJ Office must be informed by the police officer or constable via email that the warrant has been served, and the amount paid, so that the warrant can be cleared from the system. The magisterial district judge shall clear the warrant. A copy of the receipt must be forwarded to the magisterial district judge.
- (vii) At Central Booking, defendants will be allowed to use the phone to make calls to obtain payments.
- (viii) Central Booking will utilize ePay and Official payments as detailed above.

- (ix) Cash payments collected at Central Booking will be receipted per booking policy and payments will be submitted to Magisterial District Court 09-2-02 for processing.
- (x) Magisterial District Court 09-2-02 shall enter the information as a new case and provide a refund to the originating MDJ's office.
  - (A) Enter district court number 09-2-02. Click on Payment Icon that says "Receipt by Responsible Participant."
  - (B) The "Responsible Participant" entered is the Court receiving the payment.
  - (C) It will then say that there is no balance due.
  - (D) Click "Add" and a new screen appears.
  - (E) In "Assessment Category" choose "Escrow"
  - (F) For "Assessment Type" choose "Night Court Payment"
  - (G) For "Assessment Amount" type in the amount collected
  - (H) There is a place for docket number, which is the case that had the warrant.
  - (I) In the comments, we would put "Warrant served for \_\_\_\_\_ defendant. \_\_\_\_\_ amount collected."

(5) Procedure for Central Booking when a defendant comes in with a Fingerprint Order and is found to have a summary warrant:

- (i) If the defendant is currently housed in another institution, Central Booking will notify the magisterial district judge by faxing a copy of the warrant with the name of the institution on it.
- (ii) If the defendant comes in during business hours on a Fingerprint Order or on a View Arrest and they have a Summary Warrant:
  - (A) If the defendant has the cash or the ability to pay via a credit card, Central Booking will collect the payment.
  - (B) If the defendant does not have the ability to pay, Central Booking will contact the Constable for that MDJ and request that they pick the defendant up and take him to the MDJ's Office. If the Constable is not available, Central Booking will issue a Payment Determination Hearing Notice.
  - (C) If the defendant enters Central Booking and he or she has children in the car, Central Booking will attempt to collect payment as detailed above, but will issue a Payment Determination Hearing Notice if the defendant is unable to pay.

(6) Procedure for Cumberland County Prison when a defendant is incarcerated on another matter and has summary warrants:

- (i) Cumberland County Prison will provide the defendant with a Payment Determination Hearing Notice upon release, along with a receipt copy of the warrant, documenting "Payment Determination Hearing Notice has been served, date of release, and correction officer signature."
- (ii) Cumberland County Prison will notify the applicable magisterial district judge that the defendant has been issued a Payment Determination Hearing Notice. The magisterial district judge will then cancel the warrant.

**Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth**

The District Attorney of Cumberland 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 Rules of Criminal Procedure, charging one (1) or more of the following offenses:

- (a) The following offenses set forth in Chapter 9 of the Pennsylvania Crimes Code entitled "Inchoate Crimes":
  - (1) Corrupt Organizations in violation of 18 Pa.C.S. § 911;
- (b) All offenses set forth in Chapter 25 of the Pennsylvania Crimes Code entitled "Criminal Homicide";
- (c) All offenses set forth in Chapter 26 of the Pennsylvania Crimes Code entitled "Crimes Against Unborn Child";
- (d) The following offenses set forth in Chapter 27 of the Pennsylvania Crimes Code entitled "Assault":
  - (1) Aggravated Assault in violation of 18 Pa.C.S. § 2702;
  - (2) Discharge of Firearm into an Occupied Structure in violation of 18 Pa.C.S. § 2707.1;
  - (3) Stalking in violation of 18 Pa.C.S. § 2709.1;
  - (4) Ethnic Intimidation in violation of 18 Pa.C.S. § 2710;
  - (5) Neglect of a Care-Dependent Person in violation of 18 Pa.C.S. § 2713;
  - (6) Abuse of a Care-Dependent Person in violation of 18 Pa.C.S. § 2713.1;
  - (7) Threat to Use Weapons of Mass Destruction in violation of 18 Pa.C.S. § 2715;
  - (8) Weapons of Mass Destruction in violation of 18 Pa.C.S. § 2716;
  - (9) Strangulation in violation of 18 Pa.C.S. § 2718;
- (e) All offenses set forth in Chapter 29 of the Pennsylvania Crimes Code entitled "Kidnapping";
- (f) All offenses set forth in Chapter 30 of the Pennsylvania Crimes Code entitled "Human Trafficking";
- (g) All offenses set forth in Chapter 31 of the Pennsylvania Crimes Code entitled "Sexual Offenses";
- (h) All offenses set forth in Chapter 32 of the Pennsylvania Crimes Code entitled "Abortion;"
- (i) The following offenses set forth in Chapter 33 of the Pennsylvania Crimes Code entitled "Arson, Criminal Mischief and Other Property Destruction":
  - (1) Arson and Related Offenses in violation of 18 Pa.C.S. § 3301;
- (j) The following offenses set forth in Chapter 35 of the Pennsylvania Crimes Code entitled "Burglary and Other Criminal Intrusion":
  - (1) Burglary in violation of 18 Pa.C.S. § 3502;
- (k) The following offenses set forth in Chapter 37 of the Pennsylvania Crimes Code entitled "Robbery":
  - (1) Robbery in violation of 18 Pa.C.S. § 3701;
  - (2) Robbery of Motor Vehicle in violation of 18 Pa.C.S. § 3702;
- (l) The following offenses set forth in Chapter 41 of the Pennsylvania Crimes Code entitled "Forgery and Fraudulent Practices":
  - (1) Fraudulent Destruction, Removal or Concealment of Recordable Instruments in violation of 18 Pa.C.S. § 4103;
  - (2) Deceptive or Fraudulent Business Practices in violation of 18 Pa.C.S. § 4107;
  - (3) Insurance Fraud in violation of 18 Pa.C.S. § 4117;
  - (4) Washing Vehicle Titles in violation of 18 Pa.C.S. § 4118;
- (m) All offenses set forth in Chapter 43 of the Pennsylvania Crimes Code entitled "Offenses Against the Family;"
- (n) All offenses set forth in Chapter 47 of the Pennsylvania Crimes Code entitled "Bribery and Corrupt Influence;"

- (o) All offenses set forth in Chapter 49 of the Pennsylvania Crimes Code entitled "Falsification and Intimidation;"
- (p) All offenses set forth in Chapter 51 of the Pennsylvania Crimes Code entitled "Obstructing Governmental Operations;"
- (q) The following offenses set forth in Chapter 55 of the Pennsylvania Crimes Code entitled "Riot, Disorderly Conduct and Related Offenses:"
  - (1) Riot in violation of 18 Pa.C.S. § 5501;
  - (2) Abuse of Corpse in violation of 18 Pa.C.S. § 5510;
  - (3) Gambling Devices, Gambling, Etc. in violation of 18 Pa.C.S. § 5513;
  - (4) Facsimile Weapons of Mass Destruction in violation of 18 Pa.C.S. § 5516;
- (r) All misdemeanor and felony offenses set forth in Chapter 55, Subchapter B of the Pennsylvania Crimes Code entitled "Cruelty to Animals";
- (s) All offenses set forth in Chapter 57 of the Pennsylvania Crimes Code entitled "Wiretapping and Electronic Surveillance;"
- (t) The following offenses set forth in Chapter 59 of the Pennsylvania Crimes Code entitled "Public Indecency:"
  - (1) Prostitution and Related Offenses in violation of 18 Pa.C.S. § 5902;
  - (2) Obscene and Other Sexual Material and Performances in violation of 18 Pa.C.S. § 5903;
  - (3) Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms in violation of 18 Pa.C.S. § 6105;
  - (4) Firearms Not to be Carried Without a License in violation of 18 Pa.C.S. § 6106;
  - (5) Sale or Transfer of Firearms in violation of 18 Pa.C.S. § 6111;
- (u) The following offenses set forth in Chapter 63 of the Pennsylvania Crimes Code entitled "Minors:"
  - (1) Corruption of Minors in violation of 18 Pa.C.S. § 6301;
  - (2) Sexual Abuse of Children in violation of 18 Pa.C.S. § 6312;
  - (3) Unlawful Contact with Minors in violation of 18 Pa.C.S. § 6318;
  - (4) Solicitation of Minors to Traffic Drugs in violation of 18 Pa.C.S. § 6319;
  - (5) Sexual Exploitation of Children in violation of 18 Pa.C.S. § 6320;
  - (6) Transmission of Sexually Explicit Images by Minor in violation of 18 Pa.C.S. § 6321;
- (v) The following offenses set forth in Chapter 75 of the Pennsylvania Crimes Code entitled "Other Offenses":
  - (1) Invasion of Privacy in violation of 18 Pa.C.S. § 7507.1;
  - (2) Operation of Methamphetamine Laboratory in violation of 18 Pa.C.S. § 7508.2;
- (w) All offenses set forth in Chapter 76 of the Pennsylvania Crimes Code entitled "Computer Offenses";
- (x) All offenses set forth in Chapter 77 of the Pennsylvania Crimes Code entitled "Vehicle Chop Shot and Illegally Obtained and Altered Property";
- (y) The following offenses set forth in Chapter 63 of the Pennsylvania Domestic Relations Code entitled "Child Protective Services":
  - (1) Failure to Report Child Abuse by Mandated Reporter in violation of 23 Pa.C.S. § 6319;
- (z) The following offenses set forth in Chapter 9 of the Pennsylvania Fish and Boat Code entitled "Enforcement":
  - (1) Resisting or Interfering with a Game Officer in violation of 30 Pa.C.S. § 904;
  - (2) Homicide by Watercraft while DUI in violation of 30 Pa.C.S. § 5502.1;
  - (3) Homicide by Watercraft in violation of 30 Pa.C.S. § 5502.2;
- (aa) The following prohibited acts set forth in "The Controlled Substance, Drug Device and Cosmetic Act":
  - (1) Acquisition of Controlled Substance by Fraud in violation of 35 P.S. § 780-113(a)(12);

- (2) Delivery by Practitioner in violation of 35 P.S. § 780-113(a)(13);
- (3) Unlawful Delivery or Possession with Intent to Deliver a Controlled Substance in violation of 35 P.S. § 780-113(a)(30);
- (4) Illegal Sale of Non-Controlled Substance in violation of 35 P.S. § 780-113(a)(35);
- (5) Designer Drugs in violation of 35 P.S. § 780-113(a)(36);

(bb) All violations of 73 P.S. §§ 517.1-517.19 entitled "Home Improvement Consumer Protection Act";

(cc) The following offenses under the Pennsylvania Motor Vehicle Code:

- (1) Homicide by Vehicle in violation of 75 Pa.C.S. § 3732;
- (2) Aggravated Assault by Vehicle in violation of 75 Pa.C.S. § 3732.1;
- (3) Fleeing or Attempting to Elude Police Officers in violation of 75 Pa.C.S. § 3733;
- (4) Homicide by Vehicle While DUI in violation of 75 Pa.C.S. § 3735;
- (5) Aggravated Assault by Vehicle While DUI in violation of 75 Pa.C.S. § 3735.1;
- (6) Accidents Involving Death or Personal Injury (Felony Only) in violation of 75 Pa.C.S. § 3742;
- (7) Accidents Involving Death or Personal Injury While Not Properly Licensed in violation of 75 Pa.C.S. § 3742.1.

### **Rule 526. Reinstatement of Bail Bond**

In accordance with 42 Pa.C.S. § 5747.1(b)(2), a bail bondsman shall not be continued by the court as surety on reinstated bail unless a written consent is signed by the bail bondsman agreeing to such extension of suretyship.

### **Rule 571. Acknowledgment Of Arraignment**

Every defendant shall be arraigned before a judge, before the Clerk of Court, the Clerk's deputy or by first class mail, where the defendant is represented by counsel of record and upon timely initiative, hereinafter set forth:

- (a) Arraignment shall take place at the Cumberland County Courthouse, at the Cumberland County Prison, at the State Correctional Institution at Camp Hill, by first class mail, or at such other place as may be designated by an order of the President Judge.
- (b) If defense counsel chooses to have the defendant arraigned via first class mail, then the defendant and their counsel must complete the Acknowledgment of Arraignment form as prescribed by the Court and available on the Court Website; and file the Acknowledgment of Arraignment form with the Clerk of Court before the date set for arraignment.
- (c) Except when arraignment is done via first class mail, arraignment shall take place no later than ten (10) days after the information has been filed, unless waived by a defendant who has counsel, or is otherwise postponed by the court for cause shown.
- (d) Defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment no later than five (5) days before the date scheduled for the arraignment.
  - (1) Such notice shall include a caption containing the name of the case, and the docket number and/or the offense tracking number.
  - (2) A completed subpoena to appear for formal arraignment shall be executed and given personally to the defendant by the District Justice following a preliminary hearing on the charges or a waiver thereof. Notice may also be given by first-class mail or in accordance with Pa.R.Crim.P. 114.
- (e) If a defendant is represented by private counsel, or court-appointed counsel other than the Public Defender, defendant may appear with counsel before the Clerk of Court for arraignment anytime

prior to the scheduled formal arraignment, at which time counsel shall enter a formal appearance, if an appearance has not been previously entered of record.

(f) At arraignment, the defendant shall be instructed to appear at a pretrial conference pursuant to Pa.R.Crim.P. 570 and trial.

(g) Acknowledgment of Arraignment form as prescribed by the Court and available on the Court Website shall be signed, and a copy given to defendant, on arraignments held before the Clerk of Courts or a deputy. Upon any refusal to sign the form, the Clerk or deputy shall read the form to defendant and attest to same.

### **Rule 576.1. Electronic Filing in Criminal Dockets**

(a) The Cumberland County Clerk of Courts Office and the Administrative Office of Pennsylvania Courts (AOPC) agreed upon an implementation plan for PACFile in Cumberland County for certain criminal filings. Legal papers may be filed electronically using the PACFile electronic filing system pursuant to Pa.R.Crim.P. 576.1. Electronic filing is permissive and not mandatory.

(b) As used in this rule, the following words shall have the following meanings:

- (1) "electronic filing," the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;
- (2) "filing party," an attorney, defendant, or other person who files a legal paper by means of electronic filing;
- (3) "legal paper," a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, copies of exhibits, and attachments. The following documents are excluded from the definition of "legal paper" and are therefore prohibited from being filed electronically:
  - (i) applications for search warrants,
  - (ii) applications for arrest warrants,
  - (iii) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,
  - (iv) submissions filed *ex parte* as authorized by law,
  - (v) submissions filed or authorized to be filed under seal, and
  - (vi) exhibits offered into evidence, whether or not admitted, in a court proceeding;
  - (vii) Notices of Appeal, which must be filed directly with the Clerk of Courts in physical paper format.
- (4) "original document," a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and
- (5) "the system," the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

(c) Attorneys or self-represented parties who file legal papers electronically must establish a PACFile account using the Unified Judicial System of Pennsylvania Web Portal. Pursuant to Pennsylvania Rule of Criminal Procedure 576.1(D)(2), the establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed using PACFile.

(d) Applicable filing fees for the electronically filed legal papers shall be paid electronically to the Clerk of Courts simultaneously with the filing.

(e) A party who was granted In Forma Pauperis status shall not pay filing fees to the Clerk of Courts.

(f) All filings shall comply with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

**(g) Service of Legal Papers.**

- (1) Attorneys or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.
- (2) Service of legal papers on any attorney or party who has not established an account as provided in subsection (C) of this rule shall be made in accordance with Pa.R.Crim.P. 576. Specifically, the following offices must be served in accordance with Rule 576: Sheriff, Probation Services, Court Reporter, and Court Administration. This applies to the service of court orders and notices. Distribution to those parties not automatically served via PACFile with a court order or notice must be filed with the Clerk of Courts office with a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.
- (3) Service upon an attorney or defendant participating in the system shall be done electronically.

**Rule 600. Criminal Trial List**

The Criminal Trial List shall be maintained and distributed by the Court Administrator.

**Rule 700. Sentencing Judge**

The sentence on a plea guilty or nolo contendere may be imposed by a judge other than the judge who received the plea of guilty or nolo contendere. In such event, the defendant must have been so notified at the time of entering the plea.

**DELINQUENCY AND DEPENDENCY MATTERS**

**Rule 1205. Electronic Filing and Service of Juvenile Court Legal Papers**

- (a) The Cumberland County Clerk of Courts Office and the Administrative Office of Pennsylvania Courts (AOPC) agreed upon an implementation plan for PACFile in Cumberland County for certain Juvenile Court filings. Legal papers may be filed electronically using the PACFile electronic filing system pursuant to Pa.R.J.P. 1205. Electronic filing is permissive and not mandatory.
- (b) As used in this rule, the following words shall have the following meanings:
  - (1) "electronic filing," the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;
  - (2) "filing party," an attorney or other person who files a legal paper by means of electronic filing;
  - (3) "legal paper," a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, copies of exhibits, and attachments. The following documents are excluded from the definition of "legal paper" and are therefore prohibited from being filed electronically:
    - (i) Submissions filed ex parte as authorized by law;
    - (ii) exhibits offered into evidence, whether or not admitted, in a court proceeding.
    - (iii) Notices of Appeal, which must be filed directly with the Clerk of Courts in physical paper format.
  - (4) "original document," a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and

(5) "the system," the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

(c) Attorneys or self-represented parties who file legal papers electronically must establish a PACFile account using the Unified Judicial System of Pennsylvania Web Portal. Pursuant to Pennsylvania Rule of Juvenile Court Procedure 1205(D)(2), the establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed using PACFile.

(d) All filings shall comply with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

(e) Service of Legal Papers.

(1) Attorneys or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format and be served legal papers in a physical format which were electronically filed. Attorneys or self-represented parties who file a proposed court order electronically or in a physical paper format must include a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.

(2) Service of legal papers on any attorney or party who has not established an account as provided in subsection (c) of this rule shall be made in accordance with Pa.R.J.C.P. 1167(B) and 1345(B). This applies to the service of court orders which shall be served by the Clerk of Courts. Orders in need of distribution to parties not automatically served via PACFile must be filed with the Clerk of Courts office with a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.

## RULES OF JUDICIAL ADMINISTRATION

### CHAPTER I. TRANSCRIPTS

#### Rule 4002. Transcript Definitions

All terms in these rules shall have the same meaning as defined in Pa. R.J.A. No. 4002. As further clarification:

(a) *Commonwealth or subdivision thereof* includes any Pennsylvania state, county, regional, or municipal government entity, including any department, board, attorney, employee or agent acting on behalf of that entity.

(b) *Transcript* includes any electronic or paper record, including orders, prepared by a court reporter or court recorder of any proceeding presided over by a judge, a magisterial district judge, or a master.

(c) All transcripts fall into one of two categories regarding need and purpose:

(1) an *ordinary* transcript is either:

(i) required by rule because notice of appeal has been filed; or

(ii) required by order or rule to advance litigation in a matter currently before the court.

(2) a *non-ordinary* transcript is any transcript requested or prepared for any reason other than *ordinary* as defined in section (c)(1) above.

(d) The terms *daily*, *expedited*, *rough draft* and *same-day delivery* all refer to variations in the delivery deadline and cost for *non-ordinary* transcripts.

#### Rule 4007. Requests for Transcripts

- (a) All requests for transcripts shall be submitted to the appropriate filing office, with a copy to the district court administrator's office, utilizing a form prescribed by the district court administrator, which shall include all elements required in the form provided by the state court administrator.
- (b) The Request for Transcript of a court proceeding shall be filed in the appropriate filing office (Prothonotary, Clerk of Courts, Register of Wills/Clerk of the Orphans' Court and/or Domestic Relations). The requesting party shall also serve copies of the formal request to:
  - (1) the judge presiding over the matter;
  - (2) the court reporter, court recorder or transcriptionist;
  - (3) the district court administrator's office; and
  - (4) opposing counsel, or if not represented, the opposing party.
- (c) A request for daily, expedited, or same-day transcripts shall be filed in the appropriate filing office (Prothonotary, Clerk of Courts, Register of Wills/Clerk of the Orphans' Court and/or Domestic Relations) at least ten (10) days before the scheduled proceeding. Copies of the written request shall be provided as required in paragraph (b)(2) above. In the event of an emergency, a party may request by oral motion a daily, expedited, or same-day transcript. This request will be accommodated upon approval of the trial judge and the court reporter or court recorder.
- (d) When a litigant requests a transcript:
  - (1) The district court administrator's office will issue an invoice within six (6) business days after the receipt of the transcript request. Unless a waiver is granted pursuant to C.C.R.J.A 4008(b), the invoice shall be for a non-refundable, partial payment of 90% of the estimated transcript cost. This deposit shall be paid by cash, money order, certified check, or law firm check made payable to Cumberland County, and shall be delivered to the district court administrator's office within seven (7) calendar days from the date of the invoice. Upon receipt of the deposit by the district court administrator's office, the court reporter, court recorder or transcriptionist shall commence production of the requested transcript.
  - (2) Upon completion of the transcript, the court reporter, court recorder or transcriptionist shall deliver it to the district court administrator's office. The district court administrator's office will then issue a final invoice to the requester. Upon receipt of the final invoice, payment of the final balance shall be paid by cash, money order, certified check, or law firm check made payable to Cumberland County and shall be delivered to the district court administrator's office within seven (7) calendar days from the date of the invoice. Once full and final payment is received, the district court administrator's office shall provide a copy of the transcript to the requestor.

#### **Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof**

- (a) Costs:
  - (1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in an electronic format shall be:
    - (i) for an ordinary transcript, \$2.50 per page;
    - (ii) for an expedited transcript, \$3.50 per page, expedited transcripts are only available if the court reporter or court recorder is able to accommodate;
    - (iii) for a daily transcript, \$4.50 per page, daily transcripts are only available if the court reporter or court recorder is able to accommodate; and
    - (iv) for same day delivery, \$6.50 per page, same delivery transcripts are only available if the court reporter or court recorder is able to accommodate.
  - (2) When the transcript is prepared in bound paper format, the costs shall be in accordance

with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

(b) Economic hardship – minimum standards:

- (1) The application to waive all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.
- (2) Such application should be prepared in the form of a Petition to Waive All or a Portion of the Transcript Costs and filed in the appropriate filing office.
- (3) Any request for hardship reduction or waiver of costs for any ordinary transcript shall be filed contemporaneously with the request for transcript.
- (4) No reduction or waiver of costs shall be requested or granted for any non-ordinary transcript unless the requesting party demonstrates reasonable need.
- (5) Copies of the forms listed above shall be provided to:
  - (i) The presiding judge;
  - (ii) The court reporter;
  - (iii) The Court Administrator's Office; and
  - (iv) Opposing counsel or the opposing party if self-represented.

(c) Copies of transcript:

A request for a copy of any transcript previously ordered, transcribed and filed of record shall be provided by the appropriate filing office according to the following schedule:

- (1) \$0.50 per page bound, paper format, and,
- (2) \$0.50 per page electronic copy, not to exceed \$50.00. An additional \$20.00 fee may be charged if the copy cannot be emailed directly and needs to be transferred to another medium or multiple emails are required for file transfer.

(d) Additional Costs:

- (1) A trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for court reporters to significantly expand their dictionary.
- (2) Such surcharges are at the discretion of the trial judge.

## **CHAPTER II. CUSTODY OF EXHIBITS**

### **Rule 5102. General Provisions**

The court recorder or court reporter for all, or a portion, of a court proceeding shall be designated as the "Custodian," as defined by Pa. R.J.A. 5101(a)(2), for all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceeding submitted during that period.

- (a) If only one custodian is involved with a proceeding, they shall file with the appropriate records office all submitted exhibits and index of exhibits within 5 business days of the conclusion of the proceeding.
- (b) If multiple custodians are involved with a proceeding, the first custodian shall provide the subsequent custodian (and so on, if more than two custodians) with the submitted exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the appropriate records office all submitted exhibits and index of exhibits within 5 business days of the conclusion of the proceeding.

### **Rule 5103. Custody of Exhibits. Special Provisions**

- (a) The proponent shall retain custody of physical evidence (including, but not limited to weapons, cash, other items of value, drugs, or other dangerous materials) and bulky, oversized, or

otherwise physically impractical exhibits at all times during and after a court proceeding.

- (1) These non-documentary exhibits must be photographed by the proponent, converted to a letter sized document, and appropriately marked and produced during the court proceeding for inclusion in the documentary record.
- (2) Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, non-documentary evidence shall be returned to the proponent for safekeeping as required by any applicable retention schedule, statute, rule, regulation, or policy, or until further order of court.
- (3) Unless otherwise ordered, the proponent or filing office shall maintain non-documentary exhibits for a minimum of following time periods:
  - i. Non-criminal matters. Retain exhibits until the later of the expiration of the appeal period or final disposition of the appeal if one is taken.
  - ii. Criminal matters:
    1. Homicides. Retain exhibits 75 years.
    2. Summary cases. Retain exhibits 5 years.
    3. Other cases. Retain exhibits 20 years.

(b) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive.

(c) Any exhibit containing confidential information or equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 shall include a Confidential Document Form so that the document can be properly sealed by the record office.