

ORPHANS' COURT

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

Rule 7.1 Discovery Motions

- (a) Following the entry of an appointment order, the discovery hearing officer 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) Following an agreement or hearing, the Discovery Report and Recommendation shall be filed with the Clerk.
- (c) Upon receipt of the filing, the Report and Recommendation shall be assigned to a judge for entry of an Order of Court.

CIVIL

CHAPTER I. BUSINESS OF THE COURT

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. Efforts to seek concurrence shall be made in a manner that is reasonably expected to give the other party(s) an opportunity to respond.

- (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 an answer, 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 be removed from the civil status conference list if a:
 - (1) Preacipe to Discontinue the Action is filed,
 - (2) A subsequent 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.
- (g) If all parties fail to appear for the status conference, the Court will issue a case management order as deemed appropriate.

CHAPTER III. PLEADINGS

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 thirty (30) 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), the preliminary objections will be automatically listed for decision on the briefs only at the first argument session more than ninety (90) days following filing of the preliminary objections.
- (e) If either party wishes to request oral argument (for complex cases or novel legal issues), they must file with the Prothonotary, and serve upon all parties, a motion containing the request within sixty (60) days following the filing of the preliminary objections.
- (f) The Prothonotary shall maintain the argument court list and the cases shall be set out in order of their listing.
- (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 preacipe 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.

CHAPTER VI. CUSTODY

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, 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.

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 before holding the conciliation. 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 the custody conference officer shall prepare a Conference Summary Report. This report shall contain facts gathered by the conciliator during the conference.
- (f) Within seven (7) days following a conciliation conference, the custody conference officer will submit their Conference Summary Report and proposed order(s) to the Court Administrator's Office for assignment to a judge:
 - (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 with their Conference Summary Report to the Court Administrator who shall transmit the order to the assigned judge for disposition and filing.

- (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 for disposition and filing. 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 in 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.

CHAPTER VII. DIVORCE

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

- (a) All divorce discovery disputes prior to the entry of a final divorce decree shall be assigned to the Divorce Hearing Officer.
 - (1) If the Hearing Officer has not previously been appointed, the Court will issue an appointment Order upon receipt of the initial discovery motion.
 - (2) If the Hearing Officer has already been appointed, any subsequent divorce discovery motion will be routed to the Hearing Officer for review and disposition.
 - (3) Within 10 days following receipt of the appointment order or subsequent discovery motion, the Hearing Officer will schedule a settlement conference and argument with counsel (and the parties if one or more are unrepresented).
- (b) Settlement Conference and Argument.
 - (1) 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.
 - (2) If no agreement can be reached, the Hearing Officer will hear argument and 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 Report and Recommendation will be assigned to a judge for entry of an Order of Court
- (c) Contempt.
 - (1) If either party fails to abide by a Memorandum or Report and Recommendation, the aggrieved party may file the appropriate contempt motion which will be routed to the Hearing Officer for review and disposition under the same procedures outlined above.
 - (2) 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 of 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 of 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, if needed. 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, 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.

CRIMINAL

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 provided by the Court; 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 Magisterial District Judge 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 provided by the Court 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.

RULES OF JUDICIAL ADMINISTRATION

CHAPTER II. CUSTODY OF EXHIBITS

Rule 5102. General Provisions

- (a) 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.
 - (1) 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.
 - (2) 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.
 - (3) If no court recorder or court reporter is present for a hearing where evidence is submitted, the presiding judge or hearing officer shall designate someone as the custodian.
- (b) The proponent of an exhibit at a hearing or trial shall provide the custodian with an index of their proposed exhibit(s).
 - (1) The index shall include a numbered list of the exhibit(s), a textual description or identification of each exhibit, and space to note whether each exhibit was admitted, rejected, or not offered.
 - (2) Each exhibit shall be pre-marked as notated on the index.

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:
 - (A) Homicides. Retain exhibits 75 years.
 - (B) Summary cases. Retain exhibits 5 years.
 - (C) 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.