

LYCOMING COUNTY RULES OF COURT

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Lycoming County Rules of General Court Business

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LYCOMING COUNTY RULES OF GENERAL COURT BUSINESS

(Cite as Lyc. Co. R.G.C.B. L____)

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RULES

L4. Legal Periodical.

The *Lycoming Reporter* is designated the legal newspaper in Lycoming County for the publication of court or other legal notices, and all matters which require publication in the legal newspaper, by statute, rule, or order of court, shall be published therein. One copy of each issue of the *Lycoming Reporter* shall be deposited by the publisher in the office of the prothonotary and one in the law library of Lycoming County for public reference.

L5. Papers and Records.

A. If any part of a record or pleading cannot be found, it may be supplied by a copy thereof, duly authenticated by counsel.

B. The name of the attorney or law firm should appear on all papers or records filed with the court, but not on proposed orders.

L6. Records of Court.

A. The date of filing all papers shall be endorsed thereon by the prothonotary and shall be noted on the docket. The time and date of filing shall be endorsed on the papers filed.

B. Removal of papers. No original papers shall be removed from the office of the prothonotary except as herein provided:

(1) No original note, bond or other instrument upon which a judgment has been entered shall be removed from the office, except for use in court, without written permission of the court upon cause shown.

(2) A referee, auditor, master and other similar officer appointed by the court may remove records or such parts thereof as pertain to the purposes of his appointment for a period not exceeding ninety (90) days, unless the court for cause shown shall extend the time, upon signing a receipt thereof.

L7. Court Reporter Note/Tape Retention.

A. In the case of all court reporter notes taken on tapes made of criminal matters where the crimes charged are graded misdemeanor of the first degree or lower, the court administrator is authorized to, no sooner than seven (7) years after the notes were taken or the tapes made, direct the destruction of any such notes or tapes. In felony cases, the court administrator is authorized to direct the destruction of all court reporter notes or tapes no sooner than seventy-five (75) years after the date the notes were taken or the tapes made. In all cases other than criminal cases, the court administrator is authorized to direct the destruction of all court reporter notes or tapes no sooner than five (5) years after the date the notes were taken or the tapes made.

B. Notwithstanding subsection A of this rule, in any matter where the notes or tapes have been transcribed and the transcriptions approved by the court and filed, the court reporter may, no sooner than thirty (30) days after filing, destroy any such notes or tapes. Any party who wishes to object to the transcription shall do so within that thirty (30) day period by serving a written objection upon the court reporter. If the objection cannot be resolved to the satisfaction of the parties, any party may, by petition, request the court to determine the objection. Court reporter notes or tapes which are subject to objection shall be retained until all objections are resolved.

C. Notwithstanding subsection A and B of this rule, any party may petition the court, which may, in its discretion, order the retention of any particular court reporter notes or tapes for an additional period of time.

LYCOMING COUNTY RULES OF CIVIL PROCEDURE

(Cite as Lyc. Co. R.C.P. ____)

L76. Definitions. The words and phrases used in any rule promulgated by this court shall have the meanings as defined in Pa.R.C.P. No. 76 unless the context clearly indicates otherwise or the particular word or phrase is expressly defined elsewhere in these rules.

BUSINESS OF THE CIVIL COURTS

L205.2. Filing Legal Papers with the Prothonotary.

(a) Size of paper. Number of copies. All pleadings, motions, petitions, briefs and other legal documents filed with the prothonotary shall be on paper size 8 ½ inches by 11 inches, unless otherwise required by rule or order of court. The original and one copy of all documents to which rule L205.2(b)B applies shall be filed. Unless otherwise required by another applicable rule or order of court, only the original of a brief or any other document is required to be filed.

(b) Required cover sheets.

A. Case monitoring notice. This requirement applies to civil actions, statutory appeals and appeals from judgments of magisterial district judges, and any other civil matter requiring court action, except a matter filed under the Domestic Relations Code.

1. An original and one copy of a case monitoring notice shall be filed and served by the plaintiff or appellant:

- i. Within ten days after an answer has been filed in a mortgage foreclosure action, a credit card collection case or a forfeiture action,
- ii. With the filing of a notice of appeal in an administrative agency appeal, or
- iii. With the filing of a complaint in a general civil case.

2. When a case is commenced by a writ of summons, the case monitoring notice shall be filed only with the filing of the complaint and not with the filing of the writ of summons.

3. In the event that no case monitoring notice is filed as required by this rule, any party may file a case monitoring notice.

4. The case monitoring notice shall not exceed one page. If necessary, the caption may be abbreviated to accommodate this requirement.

5. After the case monitoring notice is filed, the procedures set forth in rule L1007 shall apply.

6. The form of the case monitoring notice shall be substantially as follows:

**COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA
CASE MONITORING NOTICE**

Plaintiff
vs.

Defendant

: DOCKET NO:
:
: CIVIL ACTION
:
DATE:

I. This matter is:

_____ **Mortgage Foreclosure** (file once an **Answer** has been filed). Time needed for trial _____.

_____ **Credit Card Collection Case** (file once an **Answer** has been filed)

a) ____ Arbitration. (\$50,000 or less) Time needed for discovery? ____ months

b) ____ Trial. Fast track (6–12 months) ____ Normal track (12–18 months) ____

_____ **Forfeiture** (file once an **Answer** has been filed)

_____ **Administrative Agency Appeal** (file with **Notice of Appeal**)

_____ **General Civil Case** (file with **Complaint**):

a) ____ Arbitration. (\$50,000 or less) Time needed for discovery? ____ months

b) ____ Fast track (6–12 months)

c) ____ Normal track (12–18 months)

d) ____ Complex track (18-24 months)

_____ **Other.** Action requested: _____

II. Jury trial demanded? _____ YES _____ NO

III. Please note any special scheduling concerns: _____

Name of filing counsel or pro se party: _____ for _____

Address:

Opposing counsel or pro se party: _____ for _____

Address:

B. Motion Cover Sheet. The procedure set forth in this section shall apply to every request for relief and/or application to the court for an order, whether by petition, motion, preliminary objection, exception, or stipulation, that the filing party desires to bring before the court or family court hearing officer, except a motion for a continuance (see rule L205.2(b)c regarding continuance) and exceptions to a Family Court Order (see Rule L1910.12 regarding exceptions).

NOTE: The use of this cover sheet is also required in orphans' court; see, Lyc. Co. O.C.R. L3.4.

1. A cover sheet substantially in the form set forth in subsection 7 of this section shall be attached to the front of every request for a court order to which this rule applies.—Any request for relief on the front of which an applicable Pennsylvania Rule of Civil Procedure requires a specific order or notice to be attached shall include that order or notice directly following the cover sheet.
2. The cover sheet shall consist of only one page. Captions may be abbreviated. If additional space is necessary to list counsel and unrepresented parties, a separate sheet may be attached. The filing party or counsel shall be responsible for identifying all parties and others to be given notice or their counsel on the cover sheet. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.
3. If a cover sheet is not attached as required by this rule, the court may choose not to act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party, or the court.
4. If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet. Such consideration must be requested if the date of the pretrial conference has been set or if the case has already been pre-tried.
5. A proposed order granting the relief requested shall be attached to the cover sheet.
6. The court shall schedule argument, hearing or briefing as the court may require, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The prothonotary shall docket and promptly forward the completed cover sheet to all parties identified on the cover sheet.
7. The form of the cover sheet shall be substantially as follows:

L206.4(c). Rule to Show Cause.

A. A rule to show cause shall be discretionary pursuant to Pa. R.C.P. 206.5.

B. A cover sheet that complies with rule L205.2(b)B shall be attached to any petition or request for relief requiring the issuance of a rule to show cause. The cover sheet includes thereon a rule to show cause order and no separate rule to show cause order is to be submitted.

C. When issuing the rule to show cause included on the cover sheet, the court shall indicate on the cover sheet whether the petition or other request for relief will be scheduled for an argument or evidentiary hearing, whether discovery on the issues will be allowed, whether an answer will be required or if briefs are required.

D. The court will grant or deny a request for a stay of execution pending disposition of a petition to open a default judgment based upon the initial review of the facts as set forth in the petition.

L208.2 Motions. Form. Content.

(d). Uncontested motions. If a motion is presented as uncontested the basis therefore shall be set forth on a page immediately following the cover sheet in the form of a written stipulation of all interested parties or a certification of filing counsel or verified statement by unrepresented parties as to the basis upon which it is appropriate to enter the uncontested order.

(e). Discovery motions.

A. All discovery motions to compel discovery or for a protective order shall include a certification by moving counsel that concurrence in the motion was sought from opposing counsel and pro se parties. The certification shall be contained on a separate page and attached following the cover sheet to the front of the motion. The certification shall state the following information:

1. the manner in which concurrence was sought; and,
2. whether or not concurrence was given, and if given in part and denied in part, the extent to which concurrence was given.

If contact with opposing counsel or pro se parties can not be made prior to the filing of the motion, the moving party shall so state in the certification. The moving party has a continuing obligation to contact opposing counsel or pro se parties to secure the concurrence or non-concurrence.

B. Concurrence may not be unreasonably refused by opposing counsel or pro se parties. If the court finds that concurrence was properly sought, and was unreasonably refused, the court may award attorneys fees and expenses to the moving party, and may impose such other sanctions as are permitted by the Pennsylvania Rules of Civil Procedure.

L208.3 Motions. Procedures. Briefs.

(a) Motion procedure.

A. **Scheduling.** Motions will be scheduled by the court scheduling technician for argument, hearing or conference as ordered by the court after an initial review of the motion, taking into account the request of the moving party as set forth in the motion cover sheet. The scheduled time shall be noted on the executed motion cover sheet and served upon the parties by the prothonotary in accordance with these local rules. The motion will be decided after argument or hearing.

B. **Briefs.** Briefs may be ordered by the court and, if so ordered, the time for filing will be set

forth on the executed motion cover sheet. If briefs are ordered, the original and one copy shall be filed with the prothonotary, who shall forward the copy to the judge. All parties shall be served with a copy of the brief contemporaneously with the filing of the brief. Where briefs are required and are not timely filed, the court may treat the request for relief as having been submitted by the defaulting party and proceed ex parte, or impose such other sanction as it shall deem appropriate.

C. Courtesy copies. No courtesy copies of motions and briefs should be mailed to the judge or court administrator.

D. Emergency motions . Emergency requests for a court order shall be filed with the prothonotary and then delivered by the filing party to the court administrator, who shall deliver the motion to an appropriate judge. All emergency motions must have a motion cover sheet as required by these rules. All emergency requests shall set forth on a separate page following the cover sheet a certification by filing counsel or pro se party that all interested parties were contacted in advance and given notice of the intention to present the emergency request and the details as to time and manner of such notice; or, if such notice was not given, a statement as to why and what efforts to give the notice were made.

E. Emergency petitions for child custody shall proceed under L1915.13-1.

(b). Motion response. If the court deems a response is necessary, the response shall be filed within twenty (20) days unless the court orders a shorter or longer time. If a response is not timely filed, or if a response is filed raising no contested issue of fact, the court may deem the matter as being uncontested and may accept all factual averments as true and issue a dispositive order accordingly without further argument, upon motion of the moving party or in its own discretion. If a response is filed raising disputed issues of fact the court will hold an evidentiary hearing or proceed in such other manner as the court shall direct.

L212. Pretrial Conferences and Trial Scheduling.

A. Trial list. Cases may be placed on the trial list in the manner set forth in rule L1007.

B. Pretrial Conferences.

1. The court administrator shall schedule a pretrial conference to be held at least fifteen (15) days before the first day of the session of trials during which the case is listed.

2. Not less than seven days before the date set for the pretrial conference, each party shall file the original and one copy of the pretrial statement and serve a copy on all other parties. The prothonotary shall forward the copy to the trial judge as soon as possible.

3. Counsel are required to be prepared to inform the court of the demand and settlement offers and to discuss settlement.

4. All parties and representatives necessary to approve settlement and with full settlement authority must attend the pretrial conference in person, unless upon written request the court authorizes appearance by telephone or otherwise excuses attendance.

5. Each party may be limited to calling witnesses or using exhibits listed on the pretrial statement.

6. The pretrial statement shall be in substantially the following form:

CIVIL PRETRIAL STATEMENT OF LYCOMING COUNTY

Caption

Docket #

1. Name of Party
2. Attorney's Name
3. Judge
4. Date of Pre-Trial
5. List all parties and counsel to the action.
6. Has there been a timely demand for a jury trial? Yes No
Number of jurors demanded: 8 ____, 12 ____.
7. Scheduling – list any unusual scheduling problems, which are anticipated.
8. Estimated time to try.
9. Brief narrative statement of the submitting party's version of the case. Attach any helpful diagram.
10. Legal theory of liability. List those theories upon which you will rely, as each party may be limited to those theories at trial.
11. If there is a counterclaim, set forth the theory of liability and contentions on damages.
12. If an agreement is involved in this action, is it written or oral? Quote the provisions of the agreement, which are central to this dispute.
13. Damages – List types and amounts of damages claimed.
14. Names of witnesses:
 - a) Definite witnesses and scope of testimony (liability, damages or both).
 - b) Possible witnesses and scope of testimony (liability, damages or both).
15. Expert witnesses – list name and specialty and attach all expert reports.
16. Exhibits –
 - A. List all exhibits and indicate whether or not they have been shown to opposing counsel.
 - B. Indicate all electronic and/or technological equipment, which is intended to be used in presentation of exhibits or evidence.
17. Requested stipulations (Qualifications of experts, admissibility of documents without custodian, special damages, etc).
18. Unusual legal issues – issues on which trial briefs should be required.
19. Outstanding motions.
20. Miscellaneous – list any matter that you feel is important but which has not been covered.

NOTE: As to settlement and attendance by parties see Lyc. Co. R.C.P. L212.

Attorney's signature

Date

C. **Listing of cases.** At least one week before the session of trial commences, the court administrator shall serve upon all counsel and pro se parties a final list of cases to be tried during the term. The listing will have prior approval from the trial judge.

D. **Re-pretrials of continued cases.** Where a continuance is allowed under rule L216 after pre-trial conference, the case will be rescheduled for trial. A re-pretrial conference will be held. At any such re-pretrial conference, the pretrial memorandum previously submitted shall be updated if appropriate, but otherwise need not be resubmitted.

E. **Striking cases from trial list.** Cases listed for trial shall remain so listed until settled of record, or until a verdict, adjudication or nonsuit is entered, or unless removed by order of court.

F. **Extensions.** For settlement purposes the court in its discretion may extend the pretrial conference to a settlement conference date or for a summary jury trial.

L216. Continuances.

A. **Time limitations.** Applications for continuance under Pa.R.C.P. No. 216 shall be submitted no later than the time set for pre-trial conferences.

B. **Prior commitments of counsel.** No continuances will be granted by reason of prior commitment of counsel in any court, state or federal, where such commitment was reasonably foreseeable and counsel has not made a reasonable attempt to secure substitute counsel.

C. **Form. Form.** All requests for continuances of any matter before the court or board of arbitration shall be made on a one-page form as promulgated by the court and obtainable from the court scheduling office or www.lycolaw.org. The form shall be completed as indicated and submitted to the court scheduling technician who will deliver it timely to the judge involved. The judge will take action on the request and will return it to the court scheduling technician for filing. Distribution to the parties will be made by the prothonotary, unless the court directs otherwise. Continuance requests on the required form may be submitted to the court scheduling technician by fax, and if so, the original need not be submitted unless requested by the court.

L220. Jury Size in Civil Trials.

A. Except as provided in subdivision B, juries in civil cases shall consist, initially, of eight members. Trials in such cases shall continue so long as at least six jurors remain in service. If the number of jurors falls below six, a mistrial shall be declared upon prompt application therefor by any party then on record.

B. Trial by a jury consisting of twelve members may be had if a written demand therefor is filed with the court as part of the original pre-trial memorandum. Such demand may appear on the pre-trial memorandum form under the heading "miscellaneous."

C. Under subdivision A hereof, each party shall be entitled as a matter of right, to four peremptory challenges, except that in cases involving multiple plaintiffs and/or multiple defendants, the trial court shall, in its discretion, determine the number of peremptory challenges available to each of the parties then of record.

L227.3. Transcript of Testimony. All costs of transcription of the record in post-trial motions and in appeals to higher courts will be charged as one of the costs of record, payable by appellant if the appeal is unsuccessful or by the appellee if the appeal is successful.

NOTE: See also Pa.R.J.A. 5000.7(c) and Pa.R.A.P. 1911, 2743 and 2771.

L 230.2. Termination of Inactive Cases. It is the policy of the Lycoming County Court of Common Pleas to terminate cases in which there has been no activity of record for two years or more, in accordance with the Pa. R.C.P. No. 230.2.

A. In January of each year, the prothonotary shall identify cases for termination and send notice in accordance with Pa. R. C. P. No. 230.2.

B. Upon receiving and filing a statement of intention to proceed, the prothonotary shall forward a copy to the District Court Administrator, who may then schedule the matter for a conference pursuant to Lyc. Co. R.C.P. L1007, if appropriate.

L250.1. Americans With Disabilities Act of 1990. Notice. When required the Notice to be included under the Americans With Disabilities Act of 1990 may be in the following form:

Americans With Disabilities Act of 1990.

The Court of Common Pleas of Lycoming County is required by law to comply with the Americans With Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court Administrator's office, telephone number (570) 327-2330. All arrangements must be made at least 72 hours prior to any hearing or business before the court.

L261. Court Administrator. The court shall appoint a court administrator, who shall serve at the discretion of the court and under the supervision and jurisdiction of the court. The duties of the court administrator shall be as itemized in these rules and as supplemented from time to time by the court.

DOCKETS

L300. Dockets. The prothonotary shall keep and maintain the following dockets:

- A. Judgment docket.
- B. Mechanics lien docket, wherein shall be entered mechanics liens, releases and waivers thereof, and municipal claims.
- C. Federal tax lien docket, wherein shall be entered federal tax liens.
- D. Secured transaction docket.
- E. Fictitious names docket.
- F. General miscellaneous docket, wherein shall be entered all other actions and proceedings of every kind, except disciplinary cases.
- G. Supplemental or pre-index docket.

SERVICE

L400.1(b). Service of Original Process. Original process shall be served within the Commonwealth (i) by the sheriff or a competent adult in all actions in equity, in partition, to prevent waste, and for declaratory judgment when declaratory relief is the only relief sought, and (ii) by the sheriff in all other actions.

L411. Action for Support. In all actions against a defendant residing in Lycoming County, the domestic relations office shall serve the complaint, order and notice in accordance with Pa.R.C.P. 411.

L430. Service by Publication.

A. Any request for service pursuant to a special order of court under Pa.R.C.P. 430 shall comply with Rule L206.

B. Service by publication shall be made in such a manner that the person so served shall have at least ten (10) days after publication to act on the matter served by publication.

C. Service shall be complete upon the appearance of the last complete publication. Proofs of publication shall be filed before judgment or any other action is taken by the plaintiff.

D. Where service by publication is permitted by Pa.R.C.P. 410, (concerning real property actions) the notice shall be published for one week in the *Lycoming Reporter* and at least one newspaper of general circulation. The notice shall be in the form required by the rules and shall include a description of the land involved.

L440. Use of Prothonotary's Office Mail Box. Service of copies of legal papers, that are allowed to be served by regular mail, may be made upon the party's attorney of record who maintains an office in Lycoming County, by placing the document in the mailbox maintained for the attorney in the office of the Lycoming County prothonotary.

BOARD OF VIEW

L501. Meeting Place. All hearings of the board of view shall be held in the courthouse, unless otherwise agreed to by all interested parties.

L502. Substitution after Appointment. If any member appointed to the board shall for any reason be unable to attend to the duties of such appointment, he shall forthwith notify the court or the court administrator to the end that a substitution may be made.

L503. Organization. The board of view shall meet annually, on the first Monday following January 1st at the courthouse and organize by the election of a president, vice president and a secretary from among their number, who shall serve until their successors are elected. The president shall preside at all meetings of the board and perform such other duties as appertain to the said office. The secretary shall keep accurate minutes of all meetings of the board, in a book to be provided for the purpose, notify the members of each meeting of the board of view, and generally do and perform the duties appertaining to his said office.

L504. Notice of Appointment. Upon the appointment of a board of view, the clerk of the court shall forthwith notify the viewers of their appointment by mailing to each a copy of the order of the court setting forth their appointment.

COSTS

L601. Non-residents and Insolvents - Security for Costs. In cases where the plaintiff resides out of the state at the time of suit brought, or subsequently removes therefrom, and in cases where proceedings in bankruptcy or insolvency are pending against the plaintiff, the defendant, on filing an answer in actions in which an answer is required, and in other actions on filing of an affidavit of a just defense to the whole of plaintiff's demand, may enter a rule for security of costs. A garnishee in attachment execution may, in like cases, enter a rule for security for garnishee's costs after interrogatories and before answers are filed. In default of security entered at the time fixed by the court, judgment of non pros may be entered by the prothonotary in favor of the defendant or the attachment quashed in cases of attachment execution.

L602. Bill of Costs.

A. **Affidavit.** The affidavit of the party or other person to the correctness of the bill and the attendance and materiality of the witnesses shall be annexed and shall be prima facie evidence to the taxing officer.

B. **Cost of transcript.** Upon the filing of the transcript of the record of a trial, the prothonotary shall record the cost thereof on the docket as a record cost as provided in Lyc. Co. R.C.P. L227.3.

C. **Bills of cost.** These shall be allowed and taxed by the prothonotary, unless manifest error in law or in fact appears in such bills.

D. **Notice of filing.** Any party filing a bill of costs shall immediately give notice of such filing to the opposite party, and in the case of Commonwealth cases, the county commissioners shall immediately be given notice. Those who receive notice of such filing shall be given a copy of the bills of costs at the same time that notice of filing is given, the copy to be furnished by the party filing the bills.

E. **Exceptions to and re-taxation of costs.** All exceptions to any bill of costs shall be in writing and be specific and shall be filed on or before the return day of the execution. Such exceptions shall be accompanied by a praecipe for a rule to show cause why the costs should not be re-taxed; this to be served upon the other party or parties in interest. Upon the filing of proper exceptions, together with a praecipe for such rule, the prothonotary shall immediately set a time for such re-taxation, with at least four (4) days notice in writing to the parties in interest and shall hear testimony if necessary.

F. **Appeal to court on costs.** Any interested party may take an appeal to the court from the re-taxation of the prothonotary. Such a hearing shall be de novo.

G. **Stay.** No exceptions or appeal shall operate to stay execution or prevent the collection of the debt or costs, but when collected on execution or paid into court, the costs excepted to will be retained until the question is decided.

JUDGMENT

L702. Satisfaction of Judgment. Whenever the prothonotary is requested to mark any judgment satisfied, whether by praecipe or otherwise, the person making or filing the request shall first satisfy the prothonotary by affidavit, and, if required by the prothonotary, by additional proof that he is the owner of the judgment or is otherwise duly authorized by such owner to cause the judgment to be marked satisfied or is a member of the bar and that the signature on the praecipe or satisfaction to be noted on the docket is genuine and authentic. Filing the affidavit required by this rule may be waived by the prothonotary only when a member of the bar of this county, known to the prothonotary or to a deputy prothonotary in attendance, appears in person in the office of the prothonotary for the purpose of satisfying a judgment. No judgment shall be satisfied by or on the order of any attorney at law unless such attorney shall have first entered his appearance for the plaintiff (defendant on a counterclaim).

MISCELLANEOUS

L901. Money Paid into Court.

A. The defendant may, upon authorization of the court, at any time pay into court, into the hands of the prothonotary, the amount he admits to be due, together with the costs up to the time, of which he shall give notice to the opposing party, or his attorney, within ten days thereafter. The plaintiff may, upon authorization by court, receive the amount so paid, and either enter a discontinuance or proceed to trial, at his option; but in the latter case he shall pay all costs subsequently accruing, unless he recovers judgment for a sum greater than that admitted to be due and paid into court.

B. Money paid into court shall be deposited by the prothonotary in such bank or trust company as the prothonotary may select, to the credit of the court in the particular case, and shall not be withdrawn except upon order of court. The prothonotary shall keep a record of such deposits and withdrawals.

L902. Appeal of a District Justice Judgment for Possession of Real Property.

A. A landlord's application under Pa. R.C.P.D.J. No. 1008B for the payment of sums deposited with the prothonotary shall be in the form of a motion and shall comply with the cover sheet requirement of rule L205.2(b)B.

B. At any stage of the proceedings following the filing of any appeal, either party may make an application for relief to the court, where relief is sought from scheduled payments, for special or unusual expenses, or to resolve other matters related to the appeal. The matter shall be heard within fourteen (14) days of filing.

CIVIL ACTIONS

L1007. Case Monitoring Notice. Scheduling Order. Trial/Hearing Scheduling.

A. This rule applies to all matters requiring a case monitoring notice pursuant to rule L205.2(b)A. When the case monitoring notice is filed, the prothonotary shall file stamp and docket the notice and immediately forward a copy to the court administrator who shall assign a judge to the case and forward the notice to that judge for further action, as follows:

(1) **Mortgage foreclosure** – trial will be scheduled at the next available time, but no sooner than thirty (30) days from the date of the notice.

(2) Credit card collection case— a scheduling order will be entered based on the track requested and any special scheduling concerns noted.

(3) Forfeiture – a pre-trial conference will be scheduled at the next available time but no sooner than thirty (30) days from the date of the notice.

(4) Administrative agency appeal – a conference with the court will be scheduled at the next available time but no sooner than thirty (30) days from the date of the notice.

(5) General civil complaint – a scheduling order will be entered based on the track requested and any special scheduling concerns noted.

(6) Other – as required by particular action filed.

B. A request for a revision of the scheduling order may be made by filing a motion that sets forth the reason for the request, along with a rule L205.2(b)B. motion cover sheet. The motion shall be accompanied by a proposed amended scheduling order. The motion shall indicate whether or not all other parties concur with the request. If the motion is uncontested, the parties shall so indicate on the motion cover sheet. If the motion is contested, the court may schedule a conference which may, upon prior arrangement, be conducted by telephone. If the *only* relief requested is a continuance of trial, the procedure to be followed is that required by rule L216.

C. A proposed amended scheduling order submitted under this rule shall be in the following form:

**COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA
AMENDED SCHEDULING ORDER**

Plaintiff

vs.

Defendant

: DOCKET NO:

:

: CIVIL ACTION

:

:

AND NOW, this _____ day of _____, 20____, the scheduling order entered _____ is hereby amended as follows:

1. This is a _____ JURY _____ NON-JURY _____ ARBITRATION LIMITS case.
- 2(a). Trial term dates: _____.
Jury selection dates: _____.
Pretrial conference dates: _____.
(The deputy court administrator will schedule the exact date and time by future notice.)
Settlement conference dates, if needed: _____.
Counsel shall immediately notify parties and witnesses of the above dates.
- 2(b). (or) List for arbitration on or after: _____.
3. Cut-off date for completion of discovery: _____.
4. Cut-off dates for providing expert reports:
(a) By plaintiff(s) _____.
(b) By defendant(s) _____.
5. Cut-off date for filing dispositive motions, including motions to exclude expert testimony under PA. R.C.P. 207.1: _____.
6. Other: _____.

Judge

cc: Deputy Court Administrator
Counsel for plaintiff: _____
Address: _____
Counsel for defendant:: _____
Address: _____

L1012. Appearance of an Attorney. Withdrawal. An attorney may withdraw an appearance as attorney for a party if the withdrawal occurs contemporaneously to the written entry of appearance of a new attorney. Otherwise, the withdrawal of appearance shall occur only upon leave of court after notice is given to the party. In all cases where an attorney is withdrawing his or her appearance, including when a contemporaneous entry of appearance is filed by a new attorney or after leave is granted by the court to withdraw as counsel, a written withdrawal of appearance shall be filed with the prothonotary.

L1018.1. Notice to Defend. Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall be in the form required by the Pennsylvania Rules of Civil Procedure. Pursuant to Pa.R.C.P. 1018.1(c), the following are designated as the offices to be named in the notice to plead from which legal help can be obtained:

IF YOU DO NOT HAVE A LAWYER CONTACT:

Pennsylvania Bar Association
Lawyer Referral Service
100 South Street
P.O. Box 186
Harrisburg, PA 17108-0186
Telephone (800) 692-7375

IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE ELIGIBLE FOR LEGAL AID THROUGH:

Legal Services Office
329 Market Street
Williamsport, PA 17701
Telephone (570) 323-8741

L1025. Designation of Trial Attorney Every pleading of a party represented by a firm or partnership or association of attorneys shall be endorsed so as to indicate clearly to the prothonotary the particular attorney who is supervising the conduct of the case and who is expected to try the same.

L1028(c). Preliminary Objections. Preliminary objections shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule L208.3(a) and L208.3(b).

L1034(a). Motion for Judgment on the Pleadings. A motion for judgment on the pleadings shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule L208.3(a) and L208.3(b).

L1035.2(a). Motion for Summary Judgment. A motion for summary judgment shall be filed in accordance with local rule L205.2(b)B and processed in accordance with local rule L208.3(a).

L1049. Itemized Statements Submitted Prior to Trial. Not less than ten (10) days before the day set for trial of any civil action, counsel may submit to opposing counsel of record or if no opposing counsel of record, to the opposing party, in writing, itemized statements of special damages claimed, such as bills for repairs, medical and hospital expenses or claims of a similar nature, and photographs or plans intended to be offered at the trial, and if not objected to in writing five (5) days prior to the trial, proof thereof shall not be required at the trial.

L1066. Entry of Judgment - Advertisement. Upon entry of judgment pursuant to Pa. R.C.P. 1066(a), the plaintiff shall, within ten (10) days thereafter, advertise the entry of judgment in the *Lycoming Reporter* and in a newspaper of general circulation in Lycoming County. The notice shall contain a warning that final judgment may be entered within thirty (30) days of the court's order.

ARBITRATION

L1301. Cases for Submission.

A. All civil cases that fall within the jurisdictional limits set by Section 7361 of the Judicial Code, 42 Pa. C.S. §7361, shall be submitted to compulsory arbitration, in accordance with the provisions of Section 7361. The amount in controversy generally will be determined from the pleadings. The court on its own motion, or on the motion of any party may, based upon affidavits, depositions, stipulation of counsel or after hearing, determine that the amount actually in controversy does not exceed the jurisdictional amount for arbitration and may enter an order submitting the case to compulsory arbitration.

B. A civil action will be referred to arbitration by the scheduling order issued under rule L1007. Prior to the case scheduling conference being held, a case may be referred to arbitration upon the filing with the prothonotary and the deputy court administrator of a praecipe signed by all parties or their counsel.

C. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference. Such cases will, however, come under the case flow control of the court administrator.

L1301.1 Agreement of Reference. Cases, whether or not in litigation, regardless of the amount in controversy, may be heard by a board of arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by a writing signed by counsel for all sides and shall be filed with the prothonotary, who will forward a copy to the deputy court administrator with a proposed rule L1007 scheduling order. Said agreement shall define the issues involved for determination by the board and shall also contain any stipulations with respect to facts. In such cases, the agreement shall take the place of the pleadings in the case and be filed of record.

L1302. List of Arbitrators.

A. The court administrator shall keep a current list of all members of the bar qualified and willing to act as arbitrators.

B. Any attorney not wishing to serve as an arbitrator shall notify the court administrator in writing.

C. An attorney may remove his or her name from the arbitrator's list and such resignation shall not affect his or her obligation or qualification to serve as an arbitrator upon any case to which he or she has been appointed by the court.

L1302.1. Selection of Arbitrators.

A. Upon receipt of a praecipe, the court administrator shall nominate from the list of attorneys a board of potential arbitrators. The nominations shall be made at random, except where an attorney is excused by reason of incapacity, illness, or other disqualification. No more than one member of the family, firm, professional corporation, or association shall be nominated to serve on one potential board.

B. The court administrator shall nominate to the potential board four (4) attorneys plus three (3) attorneys for each party involved. The list of attorneys nominated to the potential board shall be sent by the court administrator to each party or his or her attorney. Each party in the case or counsel for each party may strike off up to three (3) attorneys so named and return the list to the court administrator within five (5) days of receipt. If any or all parties strike the same name or fail to exercise their right to strike off three names from the potential board, the first three (3) remaining names will make up the board of arbitrators. The fourth listed attorney shall become an alternate arbitrator, who shall serve only if one of the first three is unable to serve or is disqualified from serving.

C. As soon as the court administrator receives that returned list from the parties (or after five (5) days if a list is not returned) each arbitrator and the alternate shall be notified of his or her selection. A final board list shall be sent to the parties or their attorneys.

L1303. Scheduling of Hearings.

A. The court calendar shall reflect that two rooms will be reserved for two days out of each month, for the purpose of holding simultaneous arbitration hearings, to the extent that there are cases to be heard.

B. Upon the receipt of a praecipe, pursuant to L1301, the office of the district court administrator shall schedule the case to be arbitrated for a one-half day hearing, to commence at either nine o'clock a.m. or one o'clock p.m., in one of the two rooms reserved.

C. After having been identified as a member of an arbitration panel under the methods set forth previously in L1302.1, and after having been scheduled to serve on an arbitration panel on a date certain, pursuant to B above, should an arbitrator be unable to serve due to a conflict of interest, conflict in scheduling, or other such reason, it shall be that panel member's responsibility to notify the district court administrator who shall then advise the alternate of his or her substitution. If further substitution is required, the district court administrator shall select an arbitrator.

D. Arbitrators who fail to appear for service without having followed the procedures set forth above, shall not be paid, and may be removed from the court administrator's list of eligible arbitrators.

L1304. Arbitrator's Questions. Arbitrators shall exercise reasonable restraint in the questioning of witnesses.

L1304.1. Continuances.

A. Continuances shall be granted only by court order for good cause shown on notice sent by the court administrator to the parties and the court. Requests for continuances shall be submitted in writing on forms provided by the court administrator. An application for continuance should be filed not later than three (3) days prior to the scheduled date for the arbitration hearing.

B. Upon failure of a party to appear at a scheduled arbitration hearing, the arbitrators shall proceed *ex parte* and render an award on the merits.

L1306. Awards. After the case has been heard, the arbitrators shall make their award within ten (10) days after the day of the hearing or the last adjournment thereof.

L1308. Compensation for Arbitrators.

A. Each of the three members of an arbitration panel shall receive compensation in the amount of \$200.00 per case for which the member serves as an arbitrator. A substitute arbitrator who does not serve shall receive \$50.00.

B. Each arbitrator shall be entitled to receive additional compensation at the rate of \$50.00 per hour in any case in which the actual time spent in the hearing exceeds three and one-half (3 1/2) hours.

C. Upon the filing of the board's report or award, the prothonotary shall certify to the county controller that the report or award, if any, has been filed, together with the names of the members of the board serving in the case. The county shall then pay the aforesaid fee to each member of the board serving on the case in accordance with subsection A of this rule.

D. In the event that a case shall be settled or withdrawn or otherwise terminated by or between the parties at any time prior to the date scheduled for hearing, the board members shall not be entitled to the aforesaid fee. If the case is settled, withdrawn, or otherwise terminated by or between the parties, on the date scheduled for hearing but prior to the scheduled starting time, the panel members shall be entitled to one-half (1/2) of the base fee as set forth in subsection A of this rule. The attorney for the plaintiff in all cases which are settled, withdrawn, or otherwise terminated at any time prior to the arbitration hearing shall notify the court administrator, who will then in turn file with the prothonotary the appropriate award form indicating disposition of the case and the amount of compensation due members of the arbitration board.

L1311. Appeals. The prothonotary shall notify the court administrator of all appeals from arbitration. All arbitration appeals shall immediately be scheduled for pre-trial conference and trial by the court administrator at the earliest practical date.

SUPPORT ACTIONS

L1910.10. Hearing Procedure. The procedure provided by Pa. R.C.P. No. 1910.12 is hereby adopted.

L1910.12. Exceptions Procedure.

A. This procedure shall apply to:

1. all exceptions to the report and recommendation entered with respect to claims filed in or collected through the domestic relations office; and,

2. all exceptions to the report and recommendation entered with respect to claims raised in a divorce action and which have not been filed in or collected through the domestic relations office.

B. The exceptions and two copies shall be filed with the prothonotary.

C. Hearing Date.

1. Upon the filing of exceptions under subparagraph A.1, above, a date for argument will be scheduled on the first available domestic relations hearing date occurring 21 days or more following the date of mailing of the temporary order.

2. Upon the filing of exceptions under subparagraph A.2, above, a date for argument will be scheduled on the first available miscellaneous date 21 days or more following the date of mailing of the temporary order.

D. At the argument, the parties will be required to stipulate on the record to all relevant facts which are not in dispute. If all of the facts necessary for resolution of the exceptions cannot be presented by way of stipulation, the court will direct preparation of a complete transcript of the proceedings held before the hearing officer, and require the posting of a deposit within a certain time period for preparation of the transcript by the party filing exceptions, or by both parties if cross-exceptions are filed, excepting any party who may have been granted leave to proceed *in forma pauperis*. The judge may also direct that further argument be held after the transcript is filed.

E. Upon completion and filing of any transcript ordered, the exceptions will be resolved based upon the argument previously presented to the court and the transcript, along with any exhibits previously entered into the record. Unless directed by the court, no further proceedings will be scheduled. Final allocation of the cost of the transcript, including any payment by a party who was previously excused from posting a deposit, will be ordered upon resolution of the exceptions.

F. If the deposit for the transcript is not paid as directed under sub-paragraph D, above, all exceptions may be decided by the court based upon the findings of fact made by the family court hearing officer.

L1910.14. Defendant Leaving the Jurisdiction. Any request for relief under Pa.R.C.P. No. 1910.14 shall be filed in the office of the prothonotary with two copies: one each for the domestic relations office and the court administrator. The court shall then direct when and by what process the defendant shall be brought before the court.

L1910.15. Paternity.

A. Initially, the procedure provided for in Pa.R.C.P. No. 1910.15(a) and (b) shall be followed.

B. If the reputed father does not execute an acknowledgment of paternity, the court shall, on its own motion or motion of any party, including the domestic relations office, order blood tests pursuant to the Uniform Act on Blood Tests to Determine Paternity, 42 Pa.C.S. Section 6133 *et seq.* The domestic relations office will make arrangements for and schedule said testing. The costs for said tests will be advanced by the county from the Title IV-D Trustee Account. The costs will then become part of the cost of the case to be recovered from the defendant in the event of a verdict that he is the father of the subject child.

C. After results of blood tests have been received, the domestic relations office shall schedule a conference with the parties to determine whether the reputed father is excluded from paternity, wishes to acknowledge paternity, or still denies paternity.

D. If after the above conference there is neither an exclusion nor an acknowledgment of paternity, the domestic relations office shall request the office of the court administrator to place the case on the next appropriate pre-trial list and schedule it for trial.

E. Thereafter, the procedure will be in accordance with Pa.R.C.P. No. 1910.15(c) through (f).

L1910.22. Attachment of Wages, Salaries and Commissions.

A. Proceedings for relief under Pa.R.C.P. No. 1910.22, if not initiated upon motion of the court or the domestic relations office, shall be initiated by the filing of a petition and rule to show cause along with a copy for the domestic relations office, in the office of the prothonotary.

B. The domestic relations office shall schedule a hearing before the family court hearing officer, who, after hearing, shall propose an order of court in conformity with the provisions of Pa.R.C.P. No. 1910.22(b) or (c).

C. Should either party to the proceeding disagree with the determination of the family court hearing officer, exceptions may be filed in accordance with the procedure found in Lyc. Co. R.C.P. L1910.10 and the matter will be heard by the court de novo.

CUSTODY AND VISITATION MATTERS

L1915.3. Custody Petitions and Procedure.

A. All petitions relating to custody or visitation with minor children shall be filed in accordance with rule L205.2(b)B.

B. All counts in a divorce complaint and all petitions relating to custody, partial custody, or visitation, of minor children shall be processed in accordance with Lyc. Co. R.C.P. L1915.3, *et seq.*

C. As part of the pre-trial procedures, the court administrator shall refer all custody-related complaints or petitions, (other than those alleging contempt or those accompanied by a petition for emergency relief, see L1915.13-1 and L1915.13-2) to a family court hearing officer for the scheduling of an initial conference with the parties and their respective counsel.

D. If the custody action is based upon a count of a divorce complaint an initial conference before a hearing officer will be scheduled upon the filing of a written praecipe or other written request by either party.

E. The court or hearing officer shall enter an order or notice scheduling the initial conference to be held at the earliest available date.

F. The moving party shall cause service of the complaint or petition or praecipe filed under subparagraph 1 or 2, above, and order or notice for conference, to be made on the opposing party.

G. Any pleading which requests the scheduling of a proceeding and also requests entry of a temporary order to maintain de facto custody provisions pending the initial conference shall set forth with specificity those facts supporting the Request for the temporary custody order pending the initial conference.

L1915.3-1. Initial Conference.

A. The parties and their respective counsel shall appear at the initial conference before the family court hearing officer.

B. If the parties reach an agreement resolving all of the issues raised, the hearing officer shall forward an order to the court for approval setting forth the terms of such agreement.

C. If the parties do not reach an agreement resolving all issues raised, the hearing officer will conduct a non-record proceeding to establish a recommended interim order as to custody, partial custody or visitation, which will govern pending further proceedings. This non-record proceeding may be a conference with attorneys, conference with parties, and/or the taking of testimony under oath and receipt of other evidence and arguments of counsel as the hearing officer deems appropriate, based upon the particular issues raised.

D. At the conclusion of the proceeding, the hearing officer shall: 1) give the parties oral notice of the essential aspects of the recommended interim order and reasons for the recommendation; 2) make an initial determination as to the use of mediation, psychological evaluations or home studies, in accordance with Rules L1915.7 and L1915.8; 3) shall set a date for the pretrial conference.

L1915.3-2. Exceptions and Reconsideration of Interim Order.

A. No exceptions may be filed to an interim order entered in a custody action. Any matter not stipulated to at the initial conference may be reviewed at the pre-trial conference or resolved at trial.

B. Should a significant change in circumstances arise after entry of an interim order and before the pre-trial conference necessitating a modification of the interim order, which modification cannot be amicably agreed upon pending the pretrial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof or verified by the filing party. The court administrator shall refer such motion to the hearing officer who entered the interim order. Based on the allegations of the motion, the hearing officer may take any one or more of the following actions deemed appropriate under the circumstances: 1) enter an order summarily denying the motion; or 2) hold a telephone or other conference with counsel for both parties; or 3) after providing the opposing party an opportunity to respond, enter a modified interim order; or 4) direct that the matter be resolved at the pre-trial conference.

L1915.3-3. Approval of Recommended Orders. Any recommended interim order of the hearing officer shall be submitted to the court for approval and upon court approval shall have the effect of a pre-trial order.

L1915.7. Settlement. A custody case will be removed from the conference or pre-trial schedule and/or the custody trial list only upon the filing of the settlement agreement or court order.

L1915.8. Physical/Mental/Psychological Examinations and Home Studies.

A. Upon agreement of the parties at the initial conference, the hearing officer may include in the recommended interim order a direction that the parties obtain physical, mental or psychological examinations and/or home studies, prior to the date of the pre-trial conference and may establish a date by which the parties must make the initial arrangements.

B. Any request by the parties for evaluations made after the initial conference and not made at the pre-trial conference or entered into by stipulation must be made by motion in accordance with Pa.R.C.P. No. 1915.8, alleging specific facts and reasons for the request, with a hearing to be held after reasonable notice to the other party.

C. Unless otherwise directed by the court or hearing officer or agreed upon by the parties, the expense of any evaluation shall be borne initially by the party requesting the evaluation and shall be paid in accordance with Pa. R.C.P. No. 1915.8. A final allocation of the expense may be made by the court upon entry of an order or decision rendered on any issues raised in the proceeding.

D. Any evaluation filed with the court shall not be available for public inspection and shall be impounded by the prothonotary.

L1915.10-1. Pre-trial Conference. At the time set for the pre-trial conference, both parties shall submit a pre-trial memorandum in the form prescribed by the court. Both parties and their respective counsel shall appear

before the court for presentation of the issues and discussion of possible settlement and disposition of any matters referred to the pre-trial conference judge.

L1915.10-2. Continuances.

Any requests for a continuance of the initial conference, pre-trial conference or trial must be made on forms provided by the court administrator's office at the earliest opportunity. Continuance requests will be evaluated in light of the court's policy that custody disputes should be promptly resolved.

L1915.12. Required Certification for Petition for Civil Contempt Relating to a Custody Order.

A. Any petition requesting a finding of contempt of a custody order must also contain, as an exhibit, a certification by counsel or by the pro se litigant, of the effort to resolve the alleged contempt without resort to the court. At a minimum, the certification shall specify which of the following applies:

1. The opposing party is represented by counsel. Counsel was apprized of the alleged contemptuous conduct and that a contempt petition would be filed unless remedial steps were offered, but the opposing party, through counsel, has declined to offer sufficient remedial steps. Such remedial steps may include assurance of compliance with the order and replacement time for custody or visitation time claimed to have been lost to the petitioning party by the alleged contemptuous conduct.

2. The opposing party is not represented by counsel. The opposing party was apprized in writing of the alleged contemptuous conduct and warned that a contempt petition would be filed unless remedial steps were offered, but the opposing party has declined to offer sufficient remedial steps. Such remedial steps may include assurance of compliance with the order and replacement time for custody or visitation time claimed to have been lost to the petitioning party by the alleged contemptuous conduct.

3. Remedial steps were offered by the opposing party, but were then not taken within a reasonable period of time.

4. Due to special circumstances (described in detail in the certification) an attempt to resolve the matter without filing a petition for contempt is likely to cause significant prejudice (also described) to the petitioning party.

B. Failure to attempt resolution of the alleged contempt in accordance with the requirements of this rule could be cause for dismissal to the petition for contempt.

L1915.13-1. Petition for Emergency Custody Relief. Ex Parte Hearing and Temporary Order.

A. Where a party believes there is a clear and present danger to the child(ren), that party may file a petition for emergency relief. The petition for emergency relief must be presented as a separate document headed "Petition for Emergency Custody Relief." The petition shall conform to the requirements of Pa.R.C.P. No. 1915.15, as may be applicable, and must allege facts which clearly specify the clear and present danger to the welfare of the child(ren).

B. Upon filing, the petitioning party or counsel must present the petition to the court administrator, who shall immediately present the petition for emergency custody relief to a judge for consideration of the allegations. The judge shall either:

1. refer the petition to a hearing officer for an immediate *ex parte* hearing, which shall be held within two (2) business days of the presentation of the petition to the family court office; or,

2. direct that an initial conference be scheduled before a hearing officer pursuant to Rule L1915.3-1; or,

3. if it is ascertained that an initial conference has already been held and an interim order already issued under Rule L1915.3-3:

a. direct that the hearing officer consider the petition for emergency custody relief as a reconsideration request under Rule L1915.3-2; or

b. direct that the issues raised be disposed of at the pre-trial conference or trial.

C. If an *ex parte* hearing is ordered, the petitioning party or counsel shall present the order to the family court office for scheduling of the *ex parte* hearing. The party seeking emergency relief must appear before the hearing officer at the time scheduled for the *ex parte* hearing. Testimony will be to whether relief is warranted because of probable cause to believe a clear and present danger to the welfare of the child(ren) involved.

D. Upon making a determination that *ex parte* relief is warranted, the hearing officer shall forward to the court for approval a recommended temporary emergency order, which will include a provision scheduling a full hearing before the court, to be held within five (5) business days of the *ex parte* hearing. Prior to the full hearing before the court, the petition for emergency custody relief and the temporary emergency order containing notice of the 5-day hearing shall be served on the opposing party by the petitioning party in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable efforts to provide a copy of the documents to any attorney whom the petitioning party reasonably believes may be representing the interests of the other party.

E. Upon making a determination that *ex parte* relief is not warranted, the hearing officer shall forward to the court for approval a recommended order denying the petition for emergency custody relief. Such order may schedule the matter for disposition at: an initial conference under Rule L1915.3-1; as a reconsideration request under Rule L1915.3-2; or, if already scheduled for a pre-trial conference or trial on other issues, direct that the emergency issues be determined with all other issues at the pre-trial conference or trial.

L1915.13-2. Petition for Emergency Relief Due to the Custodial Parent Moving the Child(ren) Outside of the Jurisdiction

A. Where a party believes there is a clear and specific intent that the child(ren) will be moved by the other party outside the jurisdiction of the court and that such move is not in the best interests of the child(ren), that party may file a petition requesting emergency relief, in a separate pleading captioned "Petition for Emergency Relief/Removal From the Jurisdiction." The petition shall conform to requirements of Pa.R.C.P. No. 1915.15, as may be applicable, and shall state the specific basis for the allegations justifying the request for an emergency hearing.

B. Upon filing, the petitioning party or counsel must present the petition to the court administrator, who shall immediately present the petition to a judge for consideration of the allegations. If the allegations are deemed sufficient in law, a timely evidentiary hearing on the issues will be held and the judge may also order any temporary relief as may be justified pending the hearing. If the allegations are not deemed sufficient in law to justify an emergency hearing, the judge may direct that the matter proceed to an initial conference under Rule L1915.3-1; or a reconsideration request under L1915.3-2; or, if already scheduled for a pre-trial conference or trial on other issues, direct that the relocation issues be determined together with all other issues.

C. Upon entry of an emergency relief order the petition, order and notice of the hearing date shall be served on the opposing party by the petitioner in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable efforts to provide a copy of the documents to any attorney whom the petitioner reasonably believes may be representing the interests of the other party.

DIVORCE OR ANNULMENT OF MARRIAGE

L1920.2. Venue. Any party may raise a question as to proper venue by filing a preliminary objection. The court may, on its own motion, enforce the venue requirement of Pa.R.C.P. No. 1920.2.

L1920.3. Commencement of Action. Processing Form. A divorce action processing form is to be filed along with any complaint or with any original or amended pleading or separate petition raising a claim for relief not already requested. An additional copy of any pleading claiming child support shall be filed with the prothonotary who shall transmit said copy to the domestic relations office.

L1920.13. Interim Relief. Any request for interim relief raised under Pa.R.C.P. No. 1920.13(c) shall be initially referred to the family court office for hearing. Proposed orders entered after hearing are subject to the exception procedure set forth in Lyc. Co. R.C.P. L1920.55.

L1920.15. Counterclaim. Subsequent Petition. Any pleading or petition seeking relief not previously requested shall be subject to provisions of Lyc. Co. R.C.P. L1920.3.

L1920.16 Bifurcation.

A. A praecipe to transmit record requesting entry of a divorce decree under Domestic Relations Code §3301(c) or §3301(d) should not be filed prior to the resolution of all other claims raised unless an order has been entered permitting bifurcation or the other party consents to bifurcation. The filing party must indicate in the praecipe to transmit that either, (1) there are no outstanding claims, or (2) bifurcation has been consented to by the other party, as verified by an affidavit attached to the praecipe to transmit, or approved by court order, a copy of which is attached to the praecipe to transmit. Where the other party does not consent to bifurcation, a request for bifurcation shall be made by motion in accordance with the procedure set forth in rule L205.2(b)B., and may be referred by the court, in its discretion, to the family court hearing office for hearing thereon.

B. A motion for appointment of master to hear a claim for divorce on "fault" grounds may include a request for bifurcation. If such a request is included, the master shall rule on both the claim for divorce and the request for bifurcation. If both are granted, the master shall forward to the court a proposed decree, retaining jurisdiction of all outstanding claims. If the request for bifurcation is denied, assuming the claim for divorce is granted, no decree shall be entered until all remaining claims are resolved.

L1920.21. Bill of Particulars.

A. A praecipe for a rule to file a bill of particulars shall be considered untimely filed if it is filed after notice of the scheduling of a master's hearing on the contested divorce has been given, provided a copy of the motion for

appointment of master was served on opposing counsel or party. All other objections as to the untimely filing of such a praecipe shall be raised by petition and rule.

B. A non pros entered pursuant to Pa.R.C.P. No. 1920.21(b) shall not be effective against ancillary claims for relief pleaded if grounds for divorce other than those under Domestic Relations Code Sections 3301(a) or 3301(b) have been alleged in the complaint or answer.

L1920.31. Joinder of Related Claims. Economic.

A. Any motion for sanctions filed pursuant to Pa.R.C.P. 1920.31 may be referred to the family court office for hearing thereon. Any oral motion for sanctions made before a master at the time of hearing shall be disposed of by the master in the same manner as the court under Pa.R.C.P. No. 4019, subject to the exceptions procedure of Lyc. Co. R.C.P. L1920.55.

B. A preliminary conference on any issues raised in the pleadings will be scheduled only if requested by the filing of a praecipe.

C. A request for a hearing on child support, spousal support, alimony pendente lite, health insurance or interim counsel fees shall be made by filing a praecipe for hearing setting forth the claims to be heard. An original and copy for the family office shall be filed with the prothonotary and copies shall be served on the opposing counsel or party.

L1920.32. Joinder of Related Claims. Custody. All claims involving custody joined with an action for divorce or annulment shall be governed by the procedures set forth in rule L1915.3 *et seq.*

L1920.33. Joinder of Related Claims. Property . Any motion for sanctions filed pursuant to Pa.R.C.P. No. 1920.33(c) may be referred to the family court office for hearing thereon. Any oral motion for sanctions made before a master at the time of hearing shall be disposed of by the master in the same manner as the court under Pa.R.C.P. No. 4019, subject to the exception procedure of Lyc. Co. R.C.P. L1920.55.

L1920.42. Affidavit and Decree Under §3301(c) or §3301(d) of the Domestic Relations Code.

A. A copy of the praecipe to transmit record, proposed divorce decree, and notice that decree will be entered (unless notice has been waived under Pa. R.C.P. No. 1920.42(e)) shall be server upon opposing counsel or party and a certificate of service shall be filed.

B. If related claims are resolved by means of a written agreement between the parties, a copy of the agreement may be attached to the praecipe to transmit record along with an appropriate proposed decree. If related claims are pending, the attached proposed decree shall contain a provision reserving the court's jurisdiction over the unresolved issues.

C. A decree will not be entered unless the appropriate administrative fee has been paid to the prothonotary or the court has granted leave to proceed in forma pauperis.

L1920.43. Special Relief. The court, in its discretion, may refer certain requests for special relief to the family court office for hearing thereon.

L1920.45. Counseling. Requests for counseling shall be made on a form provided by the family court office. The request will be scheduled by the family court office for conference or hearing, as may be appropriate. When

there is no other provision governing the time within which counseling may be requested or carried out, any request must be filed within such time as to not delay trial or a hearing.

L1920.51. Hearing by the Court. Appointment of Master.

A. All claims for relief on the merits, other than disputed claims as to custody or paternity shall initially be heard by a family court hearing officer or master. Any request for hearing before the court on matters other than custody and paternity shall be made by motion and will be granted by the court only upon cause shown.

B. Prior to a hearing on claims for equitable distribution, alimony or final counsel fees, costs and expenses, a pre-trial conference between counsel for the parties and the appointed master shall take place to narrow the claims to be determined, review compliance with discovery or disclosure, and to discuss settlement alternatives. The master may enter orders subject to court approval, pursuant to stipulation of the parties or in aid of the anticipated hearing.

C. A decree under Domestic Relations Code Sections 3301(a) and 3301(b) will not be entered unless the appropriate administrative fee has been paid to the prothonotary or the court has granted leave to proceed in forma pauperis.

D. The recommendation for disposition made by the master or hearing officer shall include a determination of the amount of master's fees or stenographic costs and a recommendation as to their allocation.

L1920.53. Hearing by Master. Report. Requests for continuances of conferences or hearings before a master or family court hearing officer shall be directed to the family court hearing office for decision by the master or hearing officer. Any disagreement with the decision of the hearing officer or master may be referred to the court for review.

L1920.55. Exception Procedure.

A. All exceptions to a Master's report and recommendation entered with respect to claims of child support, spousal support, alimony pendente lite or interim counsel fees raised in a divorce action shall be filed and processed in accordance with the procedure set forth in L1910.12.

B. Upon the filing of exceptions as to child support, spousal support, alimony pendente lite or interim counsel fees the recommended order shall be entered as a temporary order as to those issues and the exceptions shall not act as a stay pending resolution of the exception.

L1920.71. Form of Notice. The form of notice to defend and claim rights shall be in the form set forth in Pa.R.C.P. No. 1920.71 and Lyc. Co. R.C.P. L1018.1.

L1930.5. Discovery.

A. Any request for discovery in addition to that permitted by the rules shall be made to the court by motion for leave to take discovery setting forth the type of discovery sought and reasons therefor. This shall not preclude the parties from stipulating to additional discovery.

B. The serving of interrogatories concerning alimony or the determination and distribution of property rights shall be considered untimely if filed after notice of the scheduling of a master's hearing on those claims has been given, provided a copy of the motion for appointment of master was served on opposing counsel or party.

C. In the case of interrogatories served pursuant to rules of civil procedure, the first set of interrogatories propounded to a party may not exceed fifty (50) in number, including subparts, whether or not they are separately numbered. In the event that the response given to the first set of interrogatories is considered by the requesting party to indicate a need for additional interrogatories, a second set of interrogatories, again limited to fifty (50) including subparts, may be served upon a party. The second set of interrogatories must be case specific. The responding party shall not be compelled to answer any interrogatories beyond the number allowed under this rule. The court may, in its discretion, allow additional interrogatories to be served in an appropriate case.

L2039. Minor's Action - Compromise, Settlement, etc. No settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries, and such further information as the court will deem necessary; provided, however, that if the petition of the guardian for the compromise of a minor's action is accompanied by:

- (1) written medical evidence as to the minor's medical condition and his or her prognosis,
- (2) a statement under oath by the guardian certifying,
 - (a) the present physical or mental condition of the minor, and
 - (b) approval of the proposed settlement and distribution thereof;
- (3) a statement by counsel of his professional opinion of the probabilities of proof of defendant's negligence by plaintiff and the minor's negligence, if any, by defendant; and,
- (4) in the event that the minor is sixteen (16) years of age or over, his or her written approval of the proposed settlement and distribution thereof; the judge to whom said petition has been presented may approve the petition without requiring the appearance of the minor, his guardian or his doctor, in the event that he concludes that the information contained in the petition is sufficient to satisfy him that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred.

L2232. Notice of Pendency of Action. Notice required by Pa.R.C.P. No. 2232 Shall contain a statement of the pendency of the action, the prothonotary's number of the action, the parties in the action and nature thereof and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice or his cause of action will be barred and the action will proceed without him. Proof of service shall be by affidavit accompanied by a copy of the notice and the return receipt and shall be filed with the prothonotary.

L4005. Interrogatory Limits. In the case of interrogatories served pursuant to Pa. R.C.P. No. 4005, the first set of interrogatories propounded to a party may not exceed fifty (50) in number, including subparts, whether or not they are separately numbered. In the event that the response given to the first set of interrogatories is considered by the requesting party to indicate a need for additional interrogatories, a second set of interrogatories, limited to fifty (50) including subparts, may be served upon a party. The second set of interrogatories must be case specific. The responding party shall not be compelled to answer any interrogatories beyond the number allowed under this rule. The court may, in its discretion, allow additional interrogatories to be served in an appropriate case.

by an affidavit attached to the praecipe to transmit, or approved by court order, a copy of which is attached to the praecipe to transmit. Where the other party does not consent to bifurcation, a request for bifurcation shall be made by motion in accordance with the procedure set forth in rule L205.2(b)B., and may be referred by the court, in its discretion, to the family court hearing office for hearing thereon.

B. A motion for appointment of master to hear a claim for divorce on “fault” grounds may include a request for bifurcation. If such a request is included, the master shall rule on both the claim for divorce and the request for bifurcation. If both are granted, the master shall forward to the court a proposed decree, retaining jurisdiction of all outstanding claims. If the request for bifurcation is denied, assuming the claim for divorce is granted, no decree shall be entered until all remaining claims are resolved.

L1920.21. Bill of Particulars.

A. A praecipe for a rule to file a bill of particulars shall be considered untimely filed if it is filed after notice of the scheduling of a master's hearing on the contested divorce has been given, provided a copy of the motion for appointment of master was served on opposing counsel or party. All other objections as to the untimely filing of such a praecipe shall be raised by petition and rule.

B. A non pros entered pursuant to Pa.R.C.P. No. 1920.21(b) shall not be effective against ancillary claims for relief pleaded if grounds for divorce other than those under Domestic Relations Code Sections 3301(a) or 3301(b) have been alleged in the complaint or answer.

L1920.31. Joinder of Related Claims. Economic.

A. Any motion for sanctions filed pursuant to Pa.R.C.P. 1920.31 may be referred to the family court office for hearing thereon. Any oral motion for sanctions made before a master at the time of hearing shall be disposed of by the master in the same manner as the court under Pa.R.C.P. No. 4019, subject to the exceptions procedure of Lyc. Co. R.C.P. L1920.55.

B. A preliminary conference on any issues raised in the pleadings will be scheduled only if requested by the filing of a praecipe.

C. A request for a hearing on child support, spousal support, alimony pendente lite, health insurance or interim counsel fees shall be made by filing a praecipe for hearing setting forth the claims to be heard. An original and copy for the family office shall be filed with the prothonotary and copies shall be served on the opposing counsel or party.

L1920.32. Joinder of Related Claims. Custody. All claims involving custody joined with an action for divorce or annulment shall be governed by the procedures set forth in rule L1915.3 *et seq.*

L1920.33. Joinder of Related Claims. Property . Any motion for sanctions filed pursuant to Pa.R.C.P. No. 1920.33(c) may be referred to the family court office for hearing thereon. Any oral motion for sanctions made before a master at the time of hearing shall be disposed of by the master in the same manner as the court under Pa.R.C.P. No. 4019, subject to the exception procedure of Lyc. Co. R.C.P. L1920.55

L1920.42. Affidavit and Decree Under §3301(c) or §3301(d) of the Domestic Relations Code.

A. A copy of the praecipe to transmit record, proposed divorce decree, and notice that decree will be entered (unless notice has been waived under Pa. R.C.P. No. 1920.42(e)) shall be server upon opposing counsel or party and a certificate of service shall be filed.

B. If related claims are resolved by means of a written agreement between the parties, a copy of the agreement may be attached to the praecipe to transmit record along with an appropriate proposed decree. If related claims are pending, the attached proposed decree shall contain a provision reserving the court's jurisdiction over the unresolved issues.

C. A decree will not be entered unless the appropriate administrative fee has been paid to the prothonotary or the court has granted leave to proceed in forma pauperis.

L1920.43. Special Relief. The court, in its discretion, may refer certain requests for special relief to the family court office for hearing thereon.

L1920.45. Counseling. Requests for counseling shall be made on a form provided by the family court office. The request will be scheduled by the family court office for conference or hearing, as may be appropriate. When there is no other provision governing the time within which counseling may be requested or carried out, any request must be filed within such time as to not delay trial or a hearing.

L1920.51. Hearing by the Court. Appointment of Master.

A. All claims for relief on the merits, other than disputed claims as to custody or paternity shall initially be heard by a family court hearing officer or master. Any request for hearing before the court on matters other than custody and paternity shall be made by motion and will be granted by the court only upon cause shown.

B. Prior to a hearing on claims for equitable distribution, alimony or final counsel fees, costs and expenses, a pre-trial conference between counsel for the parties and the appointed master shall take place to narrow the claims to be determined, review compliance with discovery or disclosure, and to discuss settlement alternatives. The master may enter orders subject to court approval, pursuant to stipulation of the parties or in aid of the anticipated hearing.

C. A decree under Domestic Relations Code Sections 3301(a) and 3301(b) will not be entered unless the appropriate administrative fee has been paid to the prothonotary or the court has granted leave to proceed in forma pauperis.

D. The recommendation for disposition made by the master or hearing officer shall include a determination of the amount of master's fees or stenographic costs and a recommendation as to their allocation.

L1920.53. Hearing by Master. Report. Requests for continuances of conferences or hearings before a master or family court hearing officer shall be directed to the family court hearing office for decision by the master or hearing officer. Any disagreement with the decision of the hearing officer or master may be referred to the court for review.

L1920.55. Exception Procedure.

A. All exceptions to a Master's report and recommendation entered with respect to claims of child support, spousal support, alimony pendente lite or interim counsel fees raised in a divorce action shall be filed and processed in accordance with the procedure set forth in L1910.12.

B. Upon the filing of exceptions as to child support, spousal support, alimony pendente lite or interim counsel fees the recommended order shall be entered as a temporary order as to those issues and the exceptions shall not act as a stay pending resolution of the exception.

L1920.71. Form of Notice. The form of notice to defend and claim rights shall be in the form set forth in Pa.R.C.P. No. 1920.71 and Lyc. Co. R.C.P. L1018.1.

L1920.73. Form of Praeceptum to Transmit Record. The family court office shall prepare a form suitable for use in Lycoming County and this form shall be made available in the office of the prothonotary and the family court office.

L1920.74. Form of Motion for Appointment of Master. The family court office shall prepare a form suitable for use in Lycoming County and this form shall be made available in the office of the prothonotary and the family court office.

L1920.75. Form of Inventory and Appraisal. The family court office shall prepare a form suitable for use in Lycoming County and this form shall be made available in the office of the prothonotary and the family court office.

L1920.76. Form of Divorce Decree. The Family court office shall prepare a form suitable for use in Lycoming County and this form shall be made available in the office of the prothonotary and the family court office.

L1920.77. Forms for Counseling. The family court office shall prepare a form suitable for use in Lycoming County and this form shall be made available in the office of the prothonotary and the family court office.

L1930.5. Discovery.

A. Any request for discovery in addition to that permitted by the rules shall be made to the court by motion for leave to take discovery setting forth the type of discovery sought and reasons therefor. This shall not preclude the parties from stipulating to additional discovery.

B. The serving of interrogatories concerning alimony or the determination and distribution of property rights shall be considered untimely if filed after notice of the scheduling of a master's hearing on those claims has been given, provided a copy of the motion for appointment of master was served on opposing counsel or party.

C. In the case of interrogatories served pursuant to rules of civil procedure, the first set of interrogatories propounded to a party may not exceed fifty (50) in number, including subparts, whether or not they are separately numbered. In the event that the response given to the first set of interrogatories is considered by the requesting party to indicate a need for additional interrogatories, a second set of interrogatories, again limited to fifty (50) including subparts, may be served upon a party. The second set of interrogatories must be case specific. The responding party

shall not be compelled to answer any interrogatories beyond the number allowed under this rule. The court may, in its discretion, allow additional interrogatories to be served in an appropriate case.

L2039. Minor's Action - Compromise, Settlement, etc. No settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries, and such further information as the court will deem necessary; provided, however, that if the petition of the guardian for the compromise of a minor's action is accompanied by:

- (1) written medical evidence as to the minor's medical condition and his or her prognosis,
- (2) a statement under oath by the guardian certifying,
 - (a) the present physical or mental condition of the minor, and
 - (b) approval of the proposed settlement and distribution thereof;
- (3) a statement by counsel of his professional opinion of the probabilities of proof of defendant's negligence by plaintiff and the minor's negligence, if any, by defendant; and,
- (4) in the event that the minor is sixteen (16) years of age or over, his or her written approval of the proposed settlement and distribution thereof; the judge to whom said petition has been presented may approve the petition without requiring the appearance of the minor, his guardian or his doctor, in the event that he concludes that the information contained in the petition is sufficient to satisfy him that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred.

L2232. Notice of Pendency of Action. Notice required by Pa.R.C.P. No. 2232 Shall contain a statement of the pendency of the action, the prothonotary's number of the action, the parties in the action and nature thereof and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice or his cause of action will be barred and the action will proceed without him. Proof of service shall be by affidavit accompanied by a copy of the notice and the return receipt and shall be filed with the prothonotary.

L4005. Interrogatory Limits. In the case of interrogatories served pursuant to Pa. R.C.P. No. 4005, the first set of interrogatories propounded to a party may not exceed fifty (50) in number, including subparts, whether or not they are separately numbered. In the event that the response given to the first set of interrogatories is considered by the requesting party to indicate a need for additional interrogatories, a second set of interrogatories, limited to fifty (50) including subparts, may be served upon a party. The second set of interrogatories must be case specific. The responding party shall not be compelled to answer any interrogatories beyond the number allowed under this rule. The court may, in its discretion, allow additional interrogatories to be served in an appropriate case.

LYCOMING COUNTY RULES OF CRIMINAL PROCEDURE

(Cite as Lyc. Co. R. Crim. P. L____)

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L107A. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth. The District Attorney of Lycoming County having filed a certification pursuant to Pa. R. Crim. P. 107, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedures, charging any felony or the following misdemeanors where the victim is less than 18 years of age:

- Simple Assault [18 Pa. C.S.A. §2701];
- Unlawful Restraint [18 Pa. C.S.A. §2702];
- False Imprisonment [18 Pa. C.S.A. §2703];
- Recklessly Endangering Another Person [18 Pa. C.S.A. §2705];
- Luring a Child Into a Motor Vehicle [18 Pa. C.S.A. §2710];
- Indecent Assault [18 Pa. C.S.A. §3126];
- Concealing the Death of a Child [18 Pa. C.S.A. §4302];
- Endangering the Welfare of a Child [18 Pa. C.S.A. §4304];
- Corruption of Minors [18 Pa. C.S.A. §6301];

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

L140. Preliminary Arraignment.

A. In advising the defendant of his right to secure counsel of his choice and of his right to be assigned counsel, the issuing authority shall specifically describe the procedure to be followed in applying for assignment of counsel and shall have public defender application forms available.

B. The defendant shall be specifically advised that if he fails to obtain counsel to represent him at the scheduled preliminary hearing, he shall be found to have waived his right to counsel. No continuance of the preliminary hearing will be granted by reason of a failure to make timely application for counsel prior to the hearing. An application for public defender is deemed to be timely if filed with the court administrator not less than two (2) working days before the scheduled hearing, provided the defendant is advised of that fact. A working day is any day in which the court holds regularly scheduled sessions.

C. Where a preliminary hearing is not held within the time required by the Pennsylvania Rules of Criminal Procedure, the issuing authority's transcript shall set forth precisely the reasons or cause for any extension of the ten-day time limit.

L141. Preliminary Hearing. The Commonwealth/prosecutor, as well as the defendant may make written notes of the proceedings, or have his counsel do so, or make a stenographic, mechanical or electronic record of the proceedings.

L142. Continuance of Preliminary Hearing. In passing upon requests for continuance of a preliminary hearing, the issuing authority shall give due consideration to the need to expeditiously handle criminal cases.

L143. Notice of Court Arraignment. When the issuing authority notifies the defendant in writing of the date he is to appear for court arraignment, the defendant or his counsel shall indicate receipt of such notice by signing a copy thereof.

L200. Indicting Grand Jury Abolished. The Court of Common Pleas of Lycoming County having petitioned the Supreme Court for permission to abolish the indicting grand jury in this county, and that petition having been duly granted, the institution of the indicting grand jury is abolished in Lycoming County.

L301. Continuances. In deciding whether to grant or deny a request for continuance, the court shall give due consideration to the need to expeditiously handle criminal cases. All requests for continuances shall be on forms provided by the court administrator.

L303. Court Arraignment.

A. Arraignment shall be held on the next regularly scheduled arraignment day which occurs ten days or more after the preliminary hearing or waiver of preliminary hearing.

B. Defendant may enter a plea of guilty at the time of arraignment or may enter a waiver of jury trial.

C. If a written waiver of arraignment is filed prior to the scheduled date of arraignment, the scheduled date of arraignment shall be deemed the day of arraignment for the purpose of computing time limitations for filing all pre-trial motions and requests pursuant to Pa. R. Crim. P. Nos. 304, 305 and 307.

L316. Assignment of Counsel.

A. Applications for assignment of a public defender shall be filed in the office of the court administrator. Applications shall be approved or rejected in accordance with specific written standards approved by the court, which shall be on file in the office of the court administrator. The standards shall be available for public inspection. The application will be approved or rejected by the court administrator, and in the event of rejection the defendant will be advised of his right to appeal to the court.

B. Nothing herein contained shall prevent the court after notice of hearing from revoking an appointment of counsel due to the non-indigency of the defendant, but in no event shall a revocation be made when the effect thereof would require a continuance of the trial of the case.

L1401. Sentencing Judge The sentence on a plea of 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 be so notified at the time of entering the plea.

L1409. Lycoming County Parole Procedure.

A. Lycoming County Parole Committee. The Lycoming County Parole Committee is hereby established. It shall consist of three voting members as follows: Chief Adult Probation Officer (chairman), Warden of the Lycoming County Prison, and Work Release Administrator of the Lycoming County Prison. There shall also be two non-voting members -- a representative from the local office of the Pennsylvania Board of Probation and Parole and a representative of the Friends of the Court. The committee shall be responsible for initial consideration of parole petitions for inmates who are within the jurisdiction of the Court of Common Pleas by reason of the fact that their maximum sentence is less than 24 months. See Act of June 19, 1911, P. L. 1059, as amended, 61 P. S. §314.

(1) Forms for Parole Petition. The committee shall make forms for parole petitions available to all inmates within the jurisdiction of the Court of Common Pleas at the following locations: Lycoming County Prison (Warden's Office and Work Release Center), State Correctional Institution at Muncy, district court administrator's office and adult probation office.

(2) Initiation of Parole Petition by Committee. The committee shall initiate a parole petition on the inmate's behalf unless such petition has been initiated by the inmate personally. Whenever practical, the petition shall be initiated at least ten (10) days prior to the expiration of the inmate's minimum sentence; provided that the formal requirements of this rule shall not apply to an inmate whose minimum sentence is less than ninety (90) days; provided further, that if the committee recommends denial of parole for such an inmate, that the inmate must be informed in writing of his right to a court hearing pursuant to subsection A(4) below.

(3) Bi-weekly Meetings of Committee. The committee shall meet at least once every two weeks to consider all pending parole petitions. The committee shall give a schedule of the meetings to the district attorney's office, and notice of the specific cases considered at each meeting shall be given to the district attorney by daily schedule of the district court administrator. The district attorney shall assume the responsibility of notifying the prosecuting police officer. In deciding whether to recommend parole, the committee shall consider the following factors:

(a) the conduct of the inmate while in prison or at a work release facility;

- (b) the progress of the inmate in any rehabilitative program, such as drug/alcohol counseling, education, or employment; and
- (c) whether punishment as opposed to rehabilitation was the primary consideration of the sentencing judge.

(4) Denial of Parole, Right to Court Hearing. Waiver. In the event that the committee recommends denial of parole for an inmate, it must also inform the inmate of the right to file his petition with the Court of Common Pleas and have a court hearing on the petition. The hearing shall be held within thirty (30) days of the filing of the petition, and, when possible, shall be heard by the sentencing judge. The inmate may waive his right to a court hearing, but such waiver must be in writing.

(5) Granting of Parole. After the expiration of the minimum sentence, the court may grant parole of an inmate upon the committee's recommendation. Except in extraordinary circumstances, the committee shall not recommend parole prior to the expiration of the minimum sentence. In any event, parole shall be effective upon the court's approval, subject to the conditions that the court deems appropriate.

B. Procedure for Inmates in State Institutions. The procedure in section A shall not apply to inmates in state correctional institutions who are serving sentences imposed by the Lycoming County Court of Common Pleas which have maximum terms of less than 24 months. In such cases, the following procedure shall apply instead:

(1) The recommendation to grant or deny parole shall be made by the inmate's caseworker at the state institution.

(2) Denial of Parole, Hearing, Waiver. In the event that the caseworker recommends denial of parole, the inmate shall be informed of the right to a hearing. The hearing shall be conducted by a hearing officer appointed by the court at the state institution. The hearing officer shall file a written report and recommendation with the sentencing judge within fourteen (14) days of the date of the hearing. The court shall make its decision to grant or deny parole based upon that report and recommendation within fourteen (14) days of receiving the report. The right to a hearing may be waived in writing.

(3) Granting of Parole. The court may grant parole upon recommendation of the inmate's caseworker or the hearing officer. Parole shall be effective upon the court's approval, subject to the conditions the court deems appropriate.

L2002A. Approval of Search Warrant Applications by Attorney for the Commonwealth. The District Attorney of Lycoming County having filed a certification pursuant to Pa. Rules of Criminal Procedure 2002A, search warrants in all circumstances shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

L4006. Bail.

A. The person for whom bail has been set, or a private third party surety, shall, with the approval of the court or issuing authority, execute a bail bond and deposit with the clerk of courts or issuing authority, a sum of money equal to ten percent (10%) of the bail, but in no event shall such deposit be less than fifty (\$50.00) dollars. Corporate sureties are expressly prohibited from posting the deposit for bail set under this section.

B. In all court cases, except ROR or nominal bail, an administrative fee of twenty-five (\$25.00) dollars shall be paid to the issuing authority or clerk of courts at the time the bail bond is executed. In all court cases, where the defendant has been released on bail, other than ROR or nominal bail, the twenty-five (\$25.00) dollar administrative fee shall be transmitted to the clerk of courts with the transcript of the proceedings before the magistrate. In ROR and nominal bail, a twenty-five (\$25.00) dollar administrative fee shall be added to the bail amount in the event of a default. The administrative fee shall be considered as earned at the time the bail undertaking is executed.

NOTE: On November 26, 1996, the Lycoming County Court of Common Pleas issued the following order: "[I]t is hereby ORDERED and DIRECTED that Lycoming County Rule of Criminal Procedure L4006B shall be **suspended** as it relates to the District Justices collecting a \$25.00 administrative fee on any bail. The Rule is to remain in effect as it applies to the Prothonotary of Lycoming County."

C. In all cases where there has been a non-appearance before a magistrate and a bail bond has been executed, the bail bond and the twenty-five (\$25.00) dollar administrative fee shall be immediately transmitted to the clerk of courts along with a written statement of the details concerning the defendant's non-appearance and an order declaring the forfeiture of bail.

D. Judgment shall be entered immediately, under the direction of the prothonotary and clerk of court in all bail situations except ROR, nominal bail and full cash bail, unless the issuing authority or court directs that judgment be entered in these instances.

E. When the conditions of a bail bond have been performed and the defendant has been discharged from all obligations in the cause, upon an appropriate order of court, the clerk of court shall return to the accused, unless the court orders otherwise, the entire amount of cash bail deposited, less any unpaid administrative costs. In the event that judgment has been entered on any

bail bond, upon receiving an order that the defendant has been discharged from all obligations, the clerk of courts shall mark the judgment satisfied on the record.

F. If the defendant does not comply with the conditions of the bail bond, the court shall enter an order pursuant to Pa. R. Crim. P. 4016 and notice of such order of forfeiture shall be mailed forthwith by certified mail to the defendant at his last known address.

G. If the court orders the defendant to pay a fine and costs of prosecution, the balance of any cash bail deposited by the defendant may be applied to the payment of said fine and costs, as ordered by the court. Where a third party surety has posted a deposit, the deposit may be applied to the payment of fine and costs upon the written authorization of third party surety.

H. Upon authorization in writing of any party who posted a cash deposit, the court may order whatever amount is repayable from such deposit to be paid to the defendant's attorney of record.

I. Any cash deposits not claimed within one year from the notice of full and final disposition of the case shall be deemed as fees and shall be forfeited to the court. Notice of such proposed forfeitures shall be sent to the accused, the surety, if any, and the attorney of record.

J. When a defendant has failed to comply with the rules and regulations of the bail bond, or any additional conditions of his release, he may be brought before the court to determine if additional bail shall be set in his case.

K. In all cases where the accused's case is disposed of through a verdict of not guilty, or a dismissal, through nolle prosequere, or otherwise, the administrative costs provided for in this rule shall be returned to the accused. These costs shall then be placed on the county.

L. If the accused asserts an inability to pay the administrative fee set forth in this rule, the matter shall be handled by the issuing authority through the filing of a petition to proceed *in forma pauperis*.

LYCOMING COUNTY ORPHANS' COURT RULES

(Cite as Lyc. Co. O.C.R. L____)

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L2.3. Definitions. "Clerk" is used in these rules to refer to both the clerk of the orphans' court division and the register of wills. Pennsylvania law provides that, in counties of the fifth class, both offices are to be held by the same person.

PLEADING AND PRACTICE

L3.1. Notice to Defend. The notice to defend shall conform to Pa.R.C.P. No. 1018.1 and Lyc. Co. R.C.P. No. L1018.1.

L3.4. Motion Procedures. The provisions of Lyc. Co. R. C. P. L205.2(b)B shall apply to all filings in the Orphans' Court which are intended to be brought before the court for hearing, argument, conference or similar dispositive action.

L3.6. Conformity to Rules of Civil Procedure. Where no specific Lycoming County Orphans' Court rule applies, practice in the Lycoming County orphans' court division shall conform to the practice in the civil division as set forth by the Lycoming County Rules of Civil Procedure.

NOTICE

L5.2. Notice to Person Under Incapacity Where No Guardian/Trustee. If there is no guardian or trustee, notice to a person under an incapacity shall be given in accordance with a special order of court.

ACCOUNTS AND DISTRIBUTION

L6.1. Form of Account. In addition to the requisites of the form of account of Pa. O.C. Rule 6.1, to facilitate preparation, the accountant may prefer to detail the starting balance by attaching a copy of the inventory as an exhibit. (This would be inappropriate if the inventory is prepared in a form that includes substantial extraneous material or does not list assets in an orderly manner.) The opening entry would then read:

"Assets Listed in Inventory per copy attached" (insert amount)

L6.3. Notice of Filing an Account and Statement of Proposed Distribution.

A. Written notice of the filing of an account other than the periodic, and not final, account of a guardian of the estate of an incapacitated person, and, unless an audit has been requested, of the filing of a statement of proposed distribution shall be given by the accountant on the day that the account is filed to all those required to be given notice by Pa.O.C. Rule 6.3. A copy of the account and statement of proposed distribution and a verified inventory of all real and personal estate of the decedent shall be attached to the notice.

B. Immediately upon the filing of the account and statement of proposed distribution, the

clerk shall give notice of the filing by publication in the Lycoming Reporter and in one (1) newspaper of general circulation within the county, once a week, for four (4) successive weeks immediately prior to the date of confirmation.

C. **Forms.** The written notice of the filing of the account and statement of proposed distribution shall be substantially in the form prescribed in Lyc. Co. O.C.R. L17.2. The written notice of the filing of the account and request for the appointment of an auditor shall be substantially in the form prescribed by Lyc. Co. O.C.R. L17.3.

D. An affidavit which sets forth the names and addresses of those who were given written notice and the method of service of the notice shall be filed by the accountant and attached to the account or account and statement of proposed distribution.

E. The notice requirements pertaining to the periodic accounts of a guardian of the estate of an incapacitated person and the notice requirements pertaining to the periodic reports of a guardian of the person of an incapacitated person, shall be such notice as the court shall determine for the particular appointment.

L6.9. Statement of Proposed Distribution.

A. Every fiduciary filing an account in which a distribution has been or is to be made shall file with the clerk a verified statement of proposed distribution substantially in the form prescribed by Lyc. Co. O.C.R. L17.4. When real estate is to be distributed, the description of said real estate shall be by metes and bounds when such a description is available.

B. When the fiduciary who files the account does not file a statement of proposed distribution, he or she shall request the appointment of an auditor. This request shall be by motion and shall be filed at the same time the account is filed. The court shall appoint an auditor to resolve issues of law and fact and to propose a distribution of the assets of the estate.

C. Notice of the filing of the statement of proposed distribution or the request for appointment of an auditor shall be given as prescribed by Lyc. Co. O.C.R. L6.3.

L6.10. Objections to Accounts or Statements of Proposed Distribution.

A. All objections shall be in writing and the original and one copy shall be filed with the clerk between the date of the filing of the account and the date of its confirmation. A copy of the objections shall be served by the party filing them on each person listed on the affidavit of notice attached to the account or statement of proposed distribution or his or her attorney.

B. The accountant or any other party in interest may address a motion to the court requesting the appointment of an auditor to resolve issues raised by any objections. Any such motion shall be filed within ten (10) days after notice of the filing of the objections. If the appointment of an auditor is not requested, the clerk shall transmit a copy of the objections to the district court administrator so that a preliminary conference may be scheduled before the court.

C. Any person who objects to the appointment of an auditor shall file a motion within ten (10) days of notice of the filing of the motion requesting the appointment of an auditor, setting forth therein the reasons for the objections. The clerk shall transmit to the district court administrator the copy of the objections so that a conference may be scheduled before the court. After the conference the court may overrule the objections and appoint an auditor or sustain the objections and set the matter for argument or decide the matter on the merits based upon the representations of the parties at the conference.

L6.11. Confirmation of Accounts.

A. All accounts and statements of proposed distribution for which proper notice has been given shall be confirmed by the clerk on the first Tuesday of each month, unless that day is a holiday, in which event, confirmation shall be made the next day. Confirmation shall occur at least thirty-nine (39) days from the date of filing of the account and statement of proposed distribution. When the next confirmation day is fewer than thirty-nine (39) days from the date of filing, the account and statement of proposed distribution shall be confirmed on the following date. When confirmed, the statement of proposed distribution shall thereupon become the decree of distribution.

B. **Exception.** No account and statement of proposed distribution shall be confirmed until the clerk receives from the Pennsylvania Department of Revenue the Notice of Inheritance Tax Appraisement Allowance or Disallowance of Deductions and Assessments of Tax indicating that the tax has been paid in full. Upon receipt of the notice, if the account and statement of proposed distribution are otherwise ready for confirmation, the clerk shall immediately confirm the account and statement of proposed distribution. The statement of proposed distribution shall thereupon become the decree of distribution.

AUDITORS AND MASTERS

L8.1. Notice of Auditor's or Master's Hearing. Notice of hearings to be held by a master or auditor shall be given as provided by Pa.O.C. Rule 5.1. All those given notice of the request for the appointment of an auditor or master and all other parties in interest shall be given notice under this rule.

L8.6. Notice of Filing Auditor's or Master's Report. At the time of filing the report an auditor and master shall give notice of the filing of his report to all parties in interest and shall state that in the absence of exceptions his report will be confirmed twenty (20) days after the date on which the auditor or master shall have filed his report.

L8.7. Confirmation of Report.

A. If no exceptions are taken to an auditor's report within twenty (20) days of the date of its filing, the clerk shall confirm the auditor's report. When confirmed, the statement of proposed distribution found in the auditor's report shall become the decree of distribution.

B. When exceptions are filed to the report of an auditor, the court shall hear the exceptions and either: (1) confirm the auditor's report, whereupon the statement of proposed distribution found in the auditor's report shall become the decree of distribution, or (2) if the auditor has made an error of law or abused his or her discretion, modify the auditor's report and enter an appropriate decree of distribution.

REGISTER OF WILLS

L10.2. Appeals from Register of Wills.

Appeals taken from the judicial acts or proceedings of the clerk in his or her capacity as the register of wills shall be addressed to the Court of Common Pleas of Lycoming County. The original and one copy shall be filed with the clerk and the clerk shall immediately forward the copy to the district court administrator. The appeal shall state specifically the grounds upon which it is based, the necessary jurisdictional facts and the names of all interested parties.

SPECIAL PETITIONS

L12.1. Family Exemptions.

A. If the exemption is claimed, a petition and order of court will only be required when an appraisal of personal property or real estate is necessary.

B. An appraisal is necessary in the following cases:

(1) when personal property is claimed and its value is not agreed upon by all parties in interest - The court shall order an appraisal in a special order of court in each case.

(2) when real property is claimed and the value is not agreed upon by all parties in interest. In such a case the court shall appoint two appraisers and proceed in the manner set forth in section 3123(a) of the Probate, Estates and Fiduciaries Act, 20 Pa.C.S. section 101 et seq.

C. Unless otherwise directed by the court, no appraisal shall be necessary if the family exemption is claimed:

(1) in money;

(2) from personal property and the gross value of the decedent's estate does not exceed the amount of the family exemption; or

(3) in real or personal property the value of which is agreed upon by all parties in

interest.

D. Notice.

(1) When no petition and order of court are required, only the decedent's personal representative need be given notice of the claim for family exemption. No other notice shall be required.

(2) When a petition and order of court are required, notice of the filing of the petition and of the date fixed by the court for confirmation and allowance shall be given by petitioner:

(a) by actual notice to the personal representative, if any, and to all persons, other than creditors, adversely affected by allowance of the exemption who do not join in the prayer of the petition; and

(b) by advertisement once a week for two (2) successive weeks in the Lycoming Reporter and in a newspaper of general circulation.

(3) When it is necessary for the court to appoint appraisers, the notice of the claim for a family exemption shall be given after the appraisal has been made and filed.

L12.2. Allowance to Surviving Spouse of Intestate. The manner of appraising property claimed, of filing and confirming the appraisal and of advertising or giving notice thereof shall be as set forth in Lyc. Co. O.C.R. L12.1.

L12.3. Form of Petition Requesting an Extension of Time for Filing of Surviving Spouse's Election. A petition for an extension of time for the surviving spouse to file an election to take against the will shall set forth all averments required to be set forth in a petition to revoke or vacate an election under Pa.O.C. Rule 12.3(a).

L12.5. Appearance of Minor at Time of Appointment of a Guardian Except as may otherwise be required by the court, the appearance of the minor in court at the time of the selection of a guardian of his or her estate is not required. The appearance in court of a minor over the age of 14 years shall be required in all cases involving appointment of a guardian of his or her person.

L12.9. Public Sale of Real Property.

A. In addition to the requisites of Pa.O.C. Rule 12.9, a petition for the public sale of real property shall set forth, in separate paragraphs the following:

(1) when it is required that a personal representative petition the court to sell real property at public sale:

(a) the name, residence at time of death and date of death of the

decedent and whether he died testate or intestate,

(b) the date of the grant of letters,

(c) that the personal representative is not otherwise authorized by statute to sell the property or is not authorized or is denied the power to do so by the will, or that the sale has the effect of a judicial sale stating the reasons therefor,

(d) whether an inventory and appraisal has been filed, the total value of the property shown therein, and the value at which the real property to be sold was shown therein,

(e) if the personal representative entered bond with the clerk, the name of the surety and the amount of such bond,

(f) the names and relationships of all parties in interest, whether any of them are minors, incompetents or estates of deceased, and if so, the names of their fiduciaries, if any, and a brief description of their interest in the property,

(g) the improvements on the property, by whom it is occupied, if anyone, its rental value and its current tax assessment, and,

(h) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) When it is required that a trustee petition the court to sell real property at public sale,

(a) how title was acquired, if by will or deed by stating the date and place of probate of the will or recording of the deed, or, if this information is found in the trust instrument, by referring thereto,

(b) a recital of the relevant provisions of the will, deed or trust instrument pertaining to the real property to be sold,

(c) a recital of the history of the trust;

(d) the names and relationships of all parties in interest, whether any of them are minors, incompetents or estates of deceased, and if so, the names of their fiduciaries, if any, and a brief description of the parties' interests in the property,

(e) the improvements on the property, by whom it is occupied, if anyone, its rental value and its current tax assessment,

(f) that the trustee is not otherwise authorized by statute to sell the property or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale stating the

reasons therefor, and,

(g) sufficient facts to enable the court to determine that the proposed sale is in the best interest of the trust.

(3) When it is required that a guardian of a minor petition the court to sell real property of the minor at public sale,

(a) the age of the minor,

(b) the names of the next of kin,

(c) that notice of the filing of the petition has been given to the next of kin or when there are no known next of kin, that public notice in accordance with Lyc. Co. O.C.R. L12.1D.(2)(b) has been given and proofs thereof are attached to the petition as exhibits,

(d) how title was acquired and, if appropriate, the date and place of the probating of the will or recording of the deed,

(e) a recital of any relevant provisions of the will, deed or trust instrument relating to the real property to be sold,

(f) the nature and extent of the interest of the minor, and of other persons in the real property,

(g) the improvements on the property, by whom it is occupied, its rental value and its current tax assessment, and,

(h) sufficient facts to enable the court to determine that the proposed sale will be in the best interest of the minor.

B. Exhibits. The following exhibits shall be attached to a petition filed by a personal representative, trustee or guardian, to sell real property at public sale:

(1) a copy of the will, deed, trust instrument or decree through which the fiduciary was appointed,

(2) any consents or joinders of parties in interest and the names of parties who do not consent or join and proof that they have been given notice of the filing of the petition,

(3) an appraisal, and,

(4) consent of any mortgagee whose lien will not be discharged by the sale.

C. Notice.

(1) After the allowance of a petition for public sale, public notice of the time and place of the proposed sale shall be given by advertisement once a week for three (3) successive weeks in the Lycoming Reporter and in a newspaper of general

circulation. Notice to all parties in interest of the allowance of said petition shall be given by personal service or certified mail at least ten (10) days prior to the scheduled date of sale.

(2) A return filed for the purpose of approval or confirmation by the court of the public sale of real property shall be in the form of an affidavit, which shall set forth:

- (a) the type of notice given to all parties,
- (b) the price obtained, and,
- (c) the name and address of the purchaser and that he was the highest bidder.

D. In the decree approving or confirming the sale, the court will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to post, or will excuse the fiduciary from entering additional security.

L12.15. Petitions Ancillary to Proceedings Involving Adjudication of Incapacity and/or Appointment or Removal of Guardian.

Any petition or application ancillary to a proceeding involving adjudication of incapacity and/or appointment or removal of a guardian which is not specifically addressed in these rules, such as applications for discovery, for special hearing arrangements, for court directed mental or physical examination, for determination of persons to be notified of hearing, and the like shall be presented by separate application filed and forwarded to the court administrator with both a proposed citation returnable and a proposed order awarding the relief requested. Relief may, in the discretion of the court, be ordered summarily.

DISTRIBUTION - SPECIAL SITUATIONS

L13.3. Report by Fiduciary. A report filed pursuant to Pa.O.C. Rule 13.3 shall be in the form of an affidavit and shall be filed at the same time that the account and statement of proposed distribution are filed.

INCAPACITATED PERSONS

L14.1. Incapacitated Persons

A. Notice in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person is required on all persons who are sui juris and are heirs of the alleged or adjudicated incapacitated person, as defined by the intestacy laws of Pennsylvania. Such notice is required even if the person does not reside within the Commonwealth of Pennsylvania.

B. Notice required in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person, other than notice upon the alleged or adjudicated incapacitated person, shall be by personal service, by service in such manner as the court directs and/or as directed by statute in that particular case; or may be made by first class mail, postage prepaid, to the known or last known address. In the latter case, a certificate of service shall be prepared and filed verifying that the address used is the proper known or last known address, and attaching a postal service certificate of mailing.

C. Notice and Service. The petition shall include a notice and citation as prescribed by the Pennsylvania Orphans' Court Rules. Petitioner shall be responsible for obtaining a completed notice and citation from the clerk, and petitioner shall be responsible for proper service of the petition, notice and citation. In all cases, service of the petition, notice and citation shall be made upon the alleged or adjudicated incapacitated person by personal service by the sheriff or by any other competent adult, and the person making such service shall read to the alleged or adjudicated incapacitated person the petition, notice and citation, and then for a second time the notice and citation. The person making service shall explain the contents to the extent possible.

D. Service of emergency guardianship petition.

(1) Service of emergency guardianship petition on incapacitated person. Petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person at least 48 hours prior to the emergency hearing and within 48 hours of the hearing date and time being scheduled. In the event there is not 48 hours between the time the hearing is scheduled and the hearing date and time, petitioner shall serve the emergency guardianship petition in person on the alleged incapacitated person within a reasonable amount of time prior to the emergency guardianship hearing. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine the timeliness of the service. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove the reasonableness of the service.

(2) Service of emergency guardianship petition on sui juris, agents under a power of attorney, residential service providers, and other service providers. Petitioner shall serve the emergency guardianship petition on all persons who are sui juris and

would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service providers, in any reasonable manner and within a reasonable amount of time prior to the emergency guardianship hearing. Any reasonable manner shall include service in person or by telephone, facsimile, mail, or electronic transmission depending upon the circumstances. However, service by telephone alone shall not be the favored method and shall be used only in circumstances where the other methods of service would not be timely. What is a reasonable amount of time shall depend upon the circumstances, such as the amount of time that exists between the time the hearing is scheduled and the actual hearing date. It shall be in the court's discretion to determine if the manner and timeliness of the service were reasonable. Petitioner must offer evidence via affidavit and be prepared to present testimony to prove that the manner and timeliness of the service were reasonable.

E. Return of Service. Petitioner is responsible for filing a return of service conforming to Pa.R.C.P. No. 405, which also confirms that the contents of the notice and citation of the petition were read and, to the extent possible, explained, to the respondent as set forth in paragraph C, above.

F. Petition. A petition for adjudication of incapacity and/or for appointment of a guardian of the estate of the person shall be substantially in the form prescribed by Lyc. Co. O.C.R. L17.9, and shall contain all the items of information referred to therein. Language used in the petition should be easily understood. It is recommended that an affidavit of a physician or clinical psychologist be attached which contains a description of the physical and mental condition, any functional limitations and whether or not the respondent would be harmed by attendance at the proceeding to determine incapacity.

G. Status report on legal representation. At least 14 days prior to the date established for hearing on the petition, petitioner shall file in duplicate a status report on legal representation, in substantially the form prescribed by Lyc. Co. O.C.R. L17.10, each of which should have attached, under the proper caption, the appropriate order, in substantially the form prescribed by Lyc. Co. O.C.R. L17.11.

H. Proposed findings of fact. Petitioner shall provide to the court, at or before hearing, proposed findings of fact in a form suitable for adoption by the court at hearing. Such findings shall include, inter alia, in separately numbered statements, at least the facts petitioner intends to establish which are required in order for the court to grant the relief requested.

I. **Periodic report of the guardian of the person.** Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the person of an incapacitated person shall file a periodic report of the guardian of the person in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the court shall direct.

J. **Periodic report of the guardian of the estate.** Within one year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the estate of an incapacitated person shall file a periodic report of the guardian of the estate in substantially the form prescribed by the Pennsylvania Orphans' Court Rules. Notice and service of said report shall be in such manner as the court shall direct.

K. **Filing of emergency guardianship petition.** In all cases where an emergency guardianship petition is filed, a plenary petition shall be filed at the same time. Additionally, with the filing of the emergency and plenary petitions, petitioner shall file a motion cover sheet in accordance with Lyc. Co. O.C.R. L3.4. The motion cover sheet shall include within the order a rule to show cause as to why the alleged incapacitated person shall not be adjudicated capacitated. Petitioner shall serve the executed motion cover sheet on the alleged incapacitated person, counsel for the alleged incapacitated person, all persons who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time (even if the person does not reside within the Commonwealth of Pennsylvania), on the agents under the alleged incapacitated person's power of attorney, on the person or institution providing residential services to the alleged incapacitated person, and on such other parties as the court may direct, including other service providers. In the event petitioner determines that the plenary petition is not necessary, petitioner shall file a verified statement explaining the reason for the lack of necessity of the plenary guardianship. The verified statement shall be substantially in the following form:

IN THE MATTER OF
_____,
an alleged incapacitated
person

) IN THE COURT OF COMMON PLEAS OF
) LYCOMING COUNTY, PENNSYLVANIA
)
) ORPHANS' COURT DIVISION
)
) NO. _____

STATEMENT EXPLAINING REASON FOR LACK OF NECESSITY OF PLENARY GUARDIANSHIP

I, _____, petitioner/counsel for petitioner in the above-referenced matter, hereby state, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that a plenary guardianship is not necessary for the following reason(s):

Respectfully submitted,
Petitioner/Counsel for Petitioner

Dated: _____

[address]
[telephone number]

ADOPTIONS

L15.5. Request for Investigation. In the absence of a special order of court, there shall be no investigation of the petition for adoption. If an investigation of the adoption petition is necessary, the court shall order the investigating agency to conclude its investigation and file its report not later than ninety (90) days after the filing of the notice of intention to adopt.

L15.8. Proposed Findings and Decree.

A. At the conclusion of the hearing for adoption the petitioners shall submit to the hearing judge proposed findings of fact substantially in the form set forth in Lyc. Co. O.C.R. L17.5.

B. The petitioner shall attach a proposed decree to the proposed findings required by subsection A of this rule. If parental rights have previously been terminated, the decree shall be in the form set forth in Lyc. Co. O.C.R. L17.6. If parental rights are to be terminated at the time of the adoption, the decree shall be in the form set forth in Lyc. Co. O.C.R. L17.7.

FORMS

L17.2. Notice of Filing of the Account and Statement of Proposed Distribution. The notice of filing of the account and statement of proposed distribution required by Lyc. Co. O.C.R. L6.3 shall be substantially in the following form:

IN RE ESTATE OF: _____ : IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 _____ Deceased : ORPHAN'S COURT DIVISION
 :
 : DOCKET NUMBER:

TO: (Name(s) and address(es) of person(s) to be notified)

NOTICE

You are hereby notified that the accountant has filed an account and statement of proposed distribution and a verified inventory of all real and personal estate of the deceased in the Office of the Clerk of the Orphans' Court of the County of Lycoming, Lycoming County Courthouse, 48 West Third Street, Williamsport, Pennsylvania 17701. Copies of these documents are attached.

If you object to any portion of the account or statement of proposed distribution you must file objections by _____, the date the account and statement of proposed distribution will be confirmed by the Clerk of the Orphans' Court. You are hereby warned that if no objections are filed, the account and statement of proposed distribution will be confirmed and distribution will be made in accordance with the schedule of distribution. If you have any questions concerning this notice you should contact your attorney or the accountant's attorney.

(Accountant or his counsel)

(Address)

(Telephone number)

L17.3. Notice of Filing of the Account and a Request for Appointment of Auditor. The notice of filing of the account and a request for appointment of auditor required by Lyc. Co. O.C.R. L6.3 shall be substantially in the following form:

IN RE ESTATE OF: _____ : IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 _____ Deceased : ORPHAN'S COURT DIVISION
 :
 : DOCKET NUMBER:

TO: (Name(s) and address(es) of person(s) to be notified)

NOTICE

You are hereby notified that the accountant has filed in the Office of the Clerk of the Orphans' Court of the County of Lycoming, Lycoming County Courthouse, 48 West Third Street, Williamsport, Pennsylvania 17701, an account and a request for the court to appoint an auditor. The auditor will decide any issues of law or fact raised by interested parties and determine the distribution to be made of the assets of the estate. You will be notified of the date, time and place of any hearings to be held by the auditor.

(Accountant or his counsel)

(Address)

(Telephone number)

L17.4. Statement of Proposed Distribution. The statement of proposed distribution required by Lyc. Co. O.C.R. L6.9 shall be substantially in the following form:

IN RE ESTATE OF: _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____
Deceased : ORPHAN'S COURT DIVISION
: _____
: DOCKET NUMBER:

STATEMENT OF PROPOSED DISTRIBUTION
OF THE ESTATE OF _____

filed by:

Fiduciary

Capacity

1. Date of death.
2. Indicate whether the decedent died testate or intestate and the date of probate of the decedent's last will and testament (if any).
3. Date of appointment of executor or administrator.
4. Set forth the name and address of the decedent's spouse.
 - (a) Indicate whether the spouse has elected to take against the will and if so, the date of the filing of the election:
 - (b) Indicate whether the decedent married after the execution of the will or codicils (if any) and which of the said will or codicils was executed prior to the marriage:
5. Set forth the names and addresses of the decedent's surviving issue or adopted children and indicate if any of them were born or adopted after the execution of the will (if any):
6. Set forth in list form the names of all legatees or in the case of an intestacy or partial intestacy, the names of the heirs at law and the addresses of the legatees and heirs (if not previously disclosed in 4 and 5 above). Also, set forth the relationship of the legatees or heirs to the decedent, the amount or percentage of the interest and the character of the interest. This information may be in summary form but should indicate whether any of the devises and bequests have been revoked, adeemed, lapsed or been assigned, attached or disclaimed:
7. Set forth the names of all parties in interest who are under any legal disability and the names and addresses of their guardians or committees and the circumstances of the disability:

8. Set forth the names and addresses of unpaid creditors from whom the fiduciary has received written notice or of whom the fiduciary has actual notice. Also, set forth which of the amounts claimed are admitted:

9. Indicate whether or not charitable bequests are involved and if so, whether the Attorney General has been served with notice:

10. List any fiduciary capacity which the decedent held and indicate the present status and court docket number (if any):

11. Indicate whether the Pennsylvania transfer, inheritance and estate taxes have been paid in full. If so, in lieu of completing the schedule below a copy of notice of filing of appraisal may be attached:

(a) State the Pennsylvania Department of Revenue appraisal value of the estate, the amount of the debts and deductions allowed by the register of wills, and the value of the taxable estate:

Appraisal Value	_____
Less Debts and Deductions	_____
Taxable Estate	_____

(b) State the tax rate and the total amount of tax paid:

Tax Rate	_____%
Tax Paid	_____

12. Indicate whether the estate is subject to the federal estate tax and the date of receipt of a federal estate tax closing letter (if it has been received). If the letter has not been received indicate that to the personal representative's information, knowledge and belief the federal estate taxes have been paid in full in accordance with the return filed:

13. Where the accountant is requesting that an issue be decided by an auditor or by the court, set forth any such issues:

14. Indicate whether a reserve is requested and, if so, state the amount and purpose thereof:

The accountants propose to distribute the assets as follows:			
Name of Distributee	Asset to be Distributed	Inventory Value	Tax Basis Value

Total Distribution Value _____

(Accountant)

(Accountant)

NOTE: The statement of proposed distribution is to be verified using the forms set forth in the Pennsylvania Orphans' Court Rules.

IN RE ESTATE OF:

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

Deceased

: ORPHAN'S COURT DIVISION

: DOCKET NUMBER:

VERIFICATION OF NOTICE

_____(Fiduciary)_____, _____(Capacity)____ of the Estate of _____, verifies that written notice by _____(state method of service of notice)_____ was given of the filing of the [Account and Statement of Proposed Distribution/Account and Request for the Appointment of an Auditor] to every unpaid claimant who has given written notice of his claim to the accountant and to every person known to the accountant to have or claim an interest in the estate as creditor, beneficiary, heir or next of kin. Copies of said written notices are attached. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Fiduciary or Officer of
Corporate Fiduciary

Date: _____

L17.5. Proposed Findings of Fact in Adoption Cases. The proposed findings of fact required to be submitted to the hearing judge by Lyc. Co. O.C.R. L15.8A shall be substantially in the following form:

IN RE ADOPTION OF: _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____
Deceased : ORPHAN'S COURT DIVISION
: _____
: DOCKET NUMBER:

FINDINGS OF FACT

1. The petitioners are _____ and _____, his wife, who are adult citizens of the County of Lycoming and Commonwealth of Pennsylvania, and they reside at _____, Lycoming County, Pennsylvania.

2. The husband was born at _____, on _____.

3. The wife was born at _____, on _____.

4. The wife's maiden name was _____.

5. The name of adoptee is _____.

6. The adoptee was born at _____, on _____.

7. The adoptee has resided with the husband petitioner since _____, and with the wife petitioner since _____.

8. The facts with respect to termination of parental rights are as follows: _____
_____.

9. Notice of the hearing on the petition for adoption was given to all persons entitled to notice.

10. It is in the best interest of the child to allow the adoption.

11. The petitioners and the child are of the following race and faith: _____
_____.

12. There has been compliance with all of the provisions of the Adoption Act (23 Pa.C.S. §2101, et seq.).

L17.6. Decree in an Adoption.The decree to be submitted to the court in an adoption, where parental rights have already been terminated, required by Lyc. Co. O.C.R. L15.8B, shall be in the following form:

IN RE ADOPTION OF: _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____
: ORPHAN'S COURT DIVISION
: _____
: DOCKET NUMBER:

DECREE

AND NOW, this ____ day of _____, 19__, in consideration of the petition filed, after investigation made and testimony of the witnesses heard,

IT IS ORDERED AND DECREED:

That the welfare of the adoptee will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of the petitioners; and that the child shall hereafter be known as _____.

BY THE COURT,

J.

L17.7. Decree in an Adoption. The decree to be submitted to the court where parental rights are to be terminated at the time of the adoption, required by Lyc. Co. O.C.R. L15.8B, shall be in the following form:

IN RE ADOPTION OF: _____ : IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 :
 : ORPHAN'S COURT DIVISION
 :
 : DOCKET NUMBER:

DECREE

AND NOW, this ____ day of _____, 20__, after hearing on the petition filed,

IT IS ORDERED AND DECREED:

(1) That the parental rights of _____ be and hereby are terminated;

(2) That the welfare of _____ will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of _____ and _____ and shall be subject to the duties of a child of the petitioners; and that the child shall hereafter be known as _____.

Notice to the Natural Father and Natural Mother
Pennsylvania Adoption Medical History Registry

This is to inform you about an adoption law provision relating to medical history information. As the birth parent of a Pennsylvania born child who is being or was ever adopted in the past, you have the opportunity to voluntarily place on file medical history information. The information that you choose to provide could be important to the child's present and future medical care needs. The law makes it possible for you to file current medical information and it also allows you to update the information as new medically related information becomes available. Requests to release the information will be honored if the request is submitted by a birth child 18 years of age or older. The law also permits the court to honor requests for

information submitted by the adoptive parents or legal guardians of adoptees who are not yet 18 years of age. All information will be maintained and distributed in a manner that fully protects your right to privacy.

You may obtain the appropriate form to file medical history information by contacting the Adoption Medical History Registry. Members of the registry staff are available to answer your questions. Please contact the registry staff at:

Department of Public Welfare
Adoption Medical History Registry
Hillcrest, Second Floor, P.O. Box 2675
Harrisburg, PA 17105-2675 Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

County Children and Youth Social Service Agency
Any private licensed adoption agency
The Lycoming County Register and Recorder's Office

BY THE COURT,

J.

L17.9. The Petition to Adjudicate Incapacity and for the Appointment of a Guardian. The petition to adjudicate incapacity and for the appointment of a guardian referred to in Lyc. Co. O.C.R. L14.1F shall be substantially in the following form:

IN THE MATTER OF: _____ : IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: _____ :
An alleged incapacitated person : ORPHAN'S COURT DIVISION
: _____ :
: DOCKET NUMBER:

**PETITION TO ADJUDICATE INCAPACITY PURSUANT TO 20 Pa.C.S. §5511
AND FOR THE APPOINTMENT OF A GUARDIAN OF THE PERSON/OR OF THE ESTATE OF**

TO: The Honorable Judge of the Lycoming County Court:

The petition of (name of petitioner) respectfully states:

1. Name and current address of petitioner:
2. Petitioner's relationship to and interest in the alleged incapacitated person's welfare:
3. Name, age, residence and post office address of the alleged incapacitated person:
4. Name and address of person or institution providing residential services to the alleged incapacitated person:
5. Names and addresses of spouse, parents and all persons who are sui juris and who would be entitled to share in the estate of the alleged incapacitated person if that person died intestate:
6. Names and addresses of medical, social, residential, and other service providers:
7. State whether respondent has or has not been a member of the United States armed services and whether he or she is or is not receiving any benefits from the United States Veterans Administration:
8. State whether any court has ever assumed jurisdiction in any proceeding to determine the competency or capacity of the respondent, and whether any guardian of the person and/or estate has ever been appointed:

9. The name and address of respondent's attorney, if known, or the attorney known to represent the respondent on other legal matters:

10. The reason why guardianship is sought:

11. A description of the functional limitations and physical and mental conditions of the alleged incapacitated person:

12. Allegations of fact regarding the services being utilized to meet essential requirements for the alleged incapacitated person's physical health and safety, to manage the person's financial resources or to develop or regain the person's abilities:

13. Allegations of fact regarding the type of assistance required by the person and as to why no less restrictive alternatives would be appropriate:

14. Allegations of fact regarding the probability that the extent of the person's incapacities may significantly lessen or change.

15. For each type of guardian being requested, the name and address of the person or entity whom petitioner asks to be appointed as guardian:

16. An averment that the proposed guardian has no interest adverse to the alleged incapacitated person:

17. Qualifications of proposed guardian:

18. The specific areas of incapacity over which it is requested that the guardian be assigned powers:

19. If guardian of the estate is being sought, the petition shall also include the gross value of the estate and net income from all sources to the extent known:

WHEREFORE, petitioner prays this Honorable Court to grant the following relief:

(Petitioner)

L17.10. The status report on legal representation referred to in Lyc. Co. O.C.R. L14.1G shall be substantially in the following form:

IN THE MATTER OF _____) IN THE COURT OF COMMON PLEAS OF
an alleged incapacitated) LYCOMING COUNTY, PENNSYLVANIA
person)
) ORPHANS' COURT DIVISION
)
) NO. _____

STATUS OF ALLEGED INCAPACITATED PERSON'S LEGAL REPRESENTATION

1. The Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate in the above-referenced matter was filed with this Honorable Court on _____ [date] *(or is being filed herewith)*.
2. Service of the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate was served on the alleged incapacitated person on _____ [date] *(or has not been served to date)*.
3. The Hearing on the Petition to Adjudicate Incapacity and for the Appointment of a Plenary Guardian of the Person and the Estate has been scheduled for _____ [date] *(or has not been scheduled yet)*.
4. Counsel for the alleged incapacitated person *(is) (is believed to be)*: [name, address, and telephone number] **or** Petitioner does not believe that the alleged incapacitated person is represented by counsel.
5. According to Petitioner's knowledge and belief, the assets of the alleged incapacitated person consist of approximately \$_____.
6. Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and pursuant to 20 Pa.C.S. § 5511(c), be compensated by Lycoming County **or** Petitioner requests that counsel for the alleged incapacitated person be appointed by this Honorable Court and that counsel for the alleged incapacitated person not be compensated by Lycoming County.

Respectfully submitted,

Petitioner/Counsel for Petitioner

Dated: _____

[address]
[telephone number]

L17.11. The proposed order referred to in Lyc. Co. O.C.R. L14.1G shall be substantially in the following form:

IN THE MATTER OF _____,
an alleged incapacitated
person

) IN THE COURT OF COMMON PLEAS OF
) LYCOMING COUNTY, PENNSYLVANIA
)
) ORPHANS' COURT DIVISION
)
) NO. _____

ORDER

AND NOW this _____ day of _____, _____, upon consideration of the attached status report, _____ is hereby appointed as counsel for the alleged incapacitated person. Counsel for the alleged incapacitated person _____ *shall*/ _____ *shall not* be compensated by Lycoming County. A certified copy of this order shall be served on the alleged incapacitated person, counsel for the alleged incapacitated person, and all persons who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time.

BY THE COURT:

LYCOMING COUNTY COURT OF COMMON PLEAS
STANDARDS FOR COURTROOM DECORUM

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1. Attorneys should stand while addressing the court or jury, except where voicing an objection or making a statement of only a few words.
2. Attorneys should maintain a substantial distance between themselves and witnesses whom they are examining in order to maintain the voice level of both witness and attorney, to avoid intimidation of the witness and to avoid a tendency toward undue informality. It is proper to approach witnesses who are hard of hearing or when handling exhibits or when questioning concerning a map or diagram.
3. Attorneys during trial should avoid exhibiting familiarity with witnesses, jurors, or opposing counsel. Jurors and opposing counsel should never be referred to by their first names, and only when a witness is a youngster, or with permission of court, may a witness be addressed by his first name.
4. Attorneys should be impersonal toward the court and should address the court in the third person, as "the court will remember the testimony" and not, "You will remember". When the judge is on the bench he should be addressed as "Your Honor" and not as "You."
5. When objection is made to a question asked by a trial attorney he should refrain from asking the witness another question until the court has had an opportunity to rule upon the objection.
6. All objections and arguments should be made to the court rather than to opposing counsel. Bickering between counsel during the course of a trial is impermissible.
7. After an objection has been argued and the court has announced its decision, counsel should accept the decision and should not make further comment or argument, unless upon request the court permits counsel to reopen the argument.
8. Before beginning an opening statement or a closing argument counsel should first address the court by saying, "May it please the Court" or similar words and acknowledging his opposing colleague by saying, "Mr._____".
9. A male attorney appearing in court should be dressed with a coat, shirt and tie. A female attorney should use comparably conservative attire.
10. An attorney desiring a sidebar conference should first obtain leave of court before approaching the bench.
11. All attorneys who hold or have held titles such as judge, colonel, senator, etc. may not use such titles nor should they be referred to by these titles

while in the courtroom.

12. When a trial is in progress or about to begin, attorneys should not permit their clients or witnesses to use the judge's office waiting room; rather, a jury room or other witness room should be used in order to avoid any appearance of familiarity or acquaintanceship between the court and one party or witness.

13. Exhibits should be numbered in advance of their use in trial. Similarly, diagrams of the scene of an accident or incident should be prepared in advance and not from the witness stand.

14. Attorneys should anticipate the major legal issues which will arise during a trial and should present them to the court at the pre-trial conference, or in any event, at an early time in order that arguments and decision can be made without using jury time.

15. Sidebar conferences disrupt the orderly flow of the trial and are distracting to a jury. The judge cannot ordinarily know in advance whether a requested sidebar conference is necessary, and so the burden must rest upon counsel to make very limited use of the request for sidebar conference.

16. A trial attorney, like the English barrister, should take professional pride that his questions are rarely objectionable and his objections are seldom questionable.

17. Counsel should not thank the court for a favorable ruling, or the jury for a favorable verdict.

18. Police officers appearing as witnesses should not bear visible arms, and where avoidable, should not appear in uniform.

LYCOMING LAW ASSOCIATION
WORKING RULES FOR PROFESSIONALISM
(Adopted January 13, 1997)

The practice of law is a profession, a genuine calling inspired with service to the system of justice, not a common business enterprise. The quality of the profession is only as worthy as the character of the people who practice it.

Self-esteem, shared respect for each other, the clients we serve, the judges and the officer with whom we work, are essential to it.

Civility is a virtue, not a shortcoming. Willingness to temper zeal with respect for society's interest in preserving responsible judicial process will help preserve it.

Unwritten rules of professional courtesy have long sustained us. Since they are sometimes forgotten, or sometimes ignored, we should set them down again and conscientiously observe them.

1. Treat with civility the lawyers, clients, opposing parties, the Court and all the officers with whom we work. Professional courtesy is compatible with vigorous advocacy and zealous representations.

2. Communications are life lines. Keep the lines open. Telephone calls and correspondence are a two-way channel; respond to them promptly.

3. Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearings and trial dates. A reasonable request for a scheduling accommodation should never be unreasonable refused.

4. Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.

5. Procedural rules are necessary to judicial order and decorum. Be mindful that pleadings, discovery processes and motions costs time and money. They should not be needlessly used. If an adversary is entitled to something, provide it without unnecessary formalities.

6. Grant extensions of time when they are reasonable and when they will not have a material, adverse effect on your client's interest.

7. Resolve differences through negotiation, expeditiously and without needless expense.

8. Enjoy what you are doing and the company you keep. You and the world will be better for it.

Beyond all this, the respect of our peers and the society which we serve is the ultimate measure of responsible professional conduct.

Lycoming Law Association Title Search Customs

In order to produce continuity of practice among members of the Lycoming Law Association, the following statements are recognized as the prevailing customs in the matter of examining and certifying or insuring titles to real estate in Lycoming County and that certificates of title shall be subject to and in accordance with the following customs:

1. To examine titles to real estate for a period of 50 years prior to the date of certification or insurance of title, providing however, that the beginning point of the search shall be a deed or other instrument purporting to convey a full fee simple title, and which contains a special or general warranty. A straw conveyance, quitclaim, or fiduciary deed shall not be considered an appropriate beginning point.
2. To consider only mortgages recorded within 50 years of the date of the search or within such period as is required by Paragraph 1 above, whichever is longer, and to disregard others, unless the mortgage is charged in or referred to in a document in the chain of title which has been recorded or filed within 50 years, or unless the present ownership or the immediate source of title of present ownership is the party subject to such mortgage.
3. To disregard all charges unreleased of record which are more than 31 years old, including the lien of legacies created by wills proven more than 31 years ago, unless the charge is referred to as being in force and effect in a document in a chain of title which has been dated and recorded or dated and filed within 31 years.
4. To consider as sufficient evidence of the veracity of the facts any statement contained in a document dated and recorded or dated and filed more than 30 years preceding the search, pertaining to the following:
 - (a) that certain charges have been paid and released and reciting the parties to the release and the date thereof;
 - (b) any other document covered under the Ancient Document Rule of the Commonwealth of Pennsylvania.
5. To consider as sufficient evidence of the veracity of the facts any statement contained in a document acknowledged and filed or recorded which recites the date of death or the fact of death of anyone appearing in the chain of title.
6. To consider as sufficient evidence of the veracity of the facts of any statement concerning marital status of a grantor contained in a deed which has been properly acknowledged and recorded.
7. To accept the veracity of the facts of any statements pertaining to identification of the heirs of a deceased owner made in accordance with any of the following:
 - (a) The statements are contained in a deed or recorded document dated and filed more than 21 years previously; or
 - (b) The statements are contained in an affidavit made by one who has personal knowledge of the subject matter and who has no direct pecuniary interest in the transaction to which the statements relate.
8. (a) To disregard cases where a male grantor makes conveyance without the joinder of his wife if said

conveyance is dated and acknowledged prior to January 1, 1918.

(b) To disregard cases where a conveyance of individually owned property is made without joinder of a spouse where the conveyance was made after June 18, 1978, except as indicated herein. In certain situations where a decedent has conveyed individually owned property without the joinder of a surviving spouse, the surviving spouse must convey title to remove clouds on the title. These situations are:

- (i) The decedent conveyed the property subject to a reservation of the right to use or occupy the property for life;
- (ii) The decedent conveyed the property subject to a reservation of the right to revoke the conveyance or invade or dispose of the property;
- (iii) The decedent's conveyance included himself as a grantee and the conveyance was with right of survivorship;
- (iv) The decedent conveyed the property for nominal consideration within one year of the date of his death. For conveyances after July 1, 1980, the joinder of a spouse is required if a search of the records of the county in which the property is located discloses a divorce action pending at the time of the conveyance or where the attorney issuing title insurance or a certificate of title has actual knowledge of the pendency of a divorce action.

- 9. To consider as adequate the description of the premises or property in a mortgage or deed by a short description such as street address or number of acres in a municipality or subdivision thereof, frontage along a road in a suburban area, or lot number in a development, provided the instrument contains a statement incorporating the full description into the deed or mortgage by reference to some recorded instrument which contains the full description.
- 10. To consider that no attorney's certificate of title shall, in the absence of anything stated therein to the contrary, bind the attorney to any responsibility for the following items, unless a currently completed survey of the premises has been brought to the attention of the attorney and mention made of the same in the opinion of title, namely: the location and/or correctness of the boundary lines recited in the most recent deed, the quantity of land involved, the location or existence of improvements on the land, and whether or not the improvements are located within the boundaries of the land under search and encroachments of improvements from adjoining owners on the land under search.
- 11. An attorney's certificate of title, unless otherwise expressly stated therein, does not bind the attorney to any responsibility for assuring or determining whether there has been any violation of covenants, conditions or restrictions that are identified in the certificate of title, nor whether any future violation of such restrictions will cause a forfeiture or reversion of title.
- 12. An attorney's certificate of title relating to land in Lycoming County, unless otherwise expressly stated therein, is based solely upon an examination of the proper records in the Lycoming County Courthouse and no attorney shall have any responsibility for any title defect which is not disclosed by an examination of said records, except for those items about which the attorney has personal

knowledge.

13. An attorney's certificate of title is furnished without an accompanying abstract of title. A copy of the abstract of title may be furnished the client upon request and upon payment of an additional fee sufficient to cover the cost of making such copy.
14. In identification of the wards on deeds, mortgages and other instruments, it is suggested that the attorneys use the assessment wards as set forth by the county assessment bureau and not the voting wards. On deeds, it is further suggested that attorneys identify the tax parcel number of the property conveyed, using language such as the following, with the selection of the appropriate bracketed word:
"For identification purposes only, being [all] [part] of tax parcel no. _____ in the records of the Lycoming County Tax Assessment Bureau."
15. An attorney providing title insurance or a certificate of title for a lending institution shall not have any obligation to assure compliance with state or federal regulations for lending procedures or disclosure procedures absent a written agreement with the lending institution.
16. To accept as conclusive evidence the validity of a sheriff's sale or other judicial sale if the deed confirming the sale was recorded at least six years prior to the date of certification or insurance of title, unless the record reflects that notice was not given to a party in interest as required by the then-applicable Rules of Civil Procedure.
17. To conclude that notice was properly given in any tax sale if the deed in connection with said tax sale was recorded at least 21 years prior to the date of certification or insurance of title.
18. An attorney's Certificate of Title, or a title insurance policy issued by an attorney, unless otherwise expressly stated therein, assumes no responsibility for assuring or determining the ownership of any subsurface rights in the land, including but not limited to, any right, title, or interest in any oil, gas, coal, mineral, or other subsurface rights or interests.

10. To consider that no attorney's certificate of title shall, in the absence of anything stated therein to the contrary, bind the attorney to any responsibility for the following items, unless a currently completed survey of the premises has been brought to the attention of the attorney and mention made of the same in the opinion of title, namely: the location and/or correctness of the boundary lines recited in the most recent deed, the quantity of land involved, the location or existence of improvements on the land, and whether or not the improvements are located within the boundaries of the land under search and encroachments of improvements from adjoining owners on the land under search.

11. An attorney's certificate of title, unless otherwise expressly stated therein, does not bind the attorney to any responsibility for assuring or determining whether there has been any violation of covenants, conditions or restrictions that are identified in the certificate of title, nor whether any future violation of such restrictions will cause a forfeiture or reversion of title.

12. An attorney's certificate of title relating to land in Lycoming County, unless otherwise expressly stated therein, is based solely upon an examination of the proper records in the Lycoming County Courthouse and no attorney shall have any responsibility for any title defect which is not disclosed by an examination of said records, except for those items about which the attorney has personal knowledge.

13. An attorney's certificate of title is furnished without an accompanying abstract of title. A copy of the abstract of title may be furnished the client upon request and upon payment of an additional fee sufficient to cover the cost of making such copy.

14. In identification of the wards on deeds, mortgages and other instruments, it is suggested that the attorneys use the assessment wards as set forth by the county assessment bureau and not the voting wards. On deeds, it is further suggested that attorneys identify the tax parcel number of the property conveyed, using language such as the following, with the selection of the appropriate bracketed word: "For identification purposes only, being [all] [part] of tax parcel no. _____ in the records of the Lycoming County Tax Assessment Bureau."

15. An attorney providing title insurance or a certificate of title for a lending institution shall not have any obligation to assure compliance with state or federal regulations for lending procedures or disclosure procedures absent a written agreement with the lending institution.

16. To accept as conclusive evidence the validity of a sheriff's sale or other judicial sale if the deed confirming the sale was recorded at least six years prior to the date of certification or insurance of title, unless the record reflects that notice was not given to a party in interest as required by the then-applicable Rules of Civil Procedure.

17. To conclude that notice was properly given in any tax sale if the deed in connection with said tax sale was recorded at least 21 years prior to the date of certification or insurance of title.