

POTTER COUNTY COURT OF COMMON PLEAS 55th JUDICIAL DISTRICT



LOCAL RULES

Revised April 18, 2019

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**Judge's Chambers
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Potter County Common Pleas
Local Rules

RULE L126

LIBERAL CONSTRUCTION AND APPLICATION OF LOCAL RULES

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The Court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

RULE L205.2(a)

FILING LEGAL PAPERS WITH THE PROTHONOTARY

- (a) All papers filed with the Prothonotary in an action at law or in equity and in other matters designated shall be prepared for flat filing and shall be on letter-sized paper, 8½" x 11".
- (b) All papers described in (a) above shall be bound at the top, not the side, so that they may be assembled with other papers in the case in a top bound file cover.
- (c) Motions and petitions shall be filed with the Prothonotary or clerk of the Orphans Court for presentation to the court.
- (d) Except for matters of extreme emergency and routine matters that are not contested, no motion or petition requesting ex parte action shall be heard by the court unless prior notice of its presentation has been given to opposing counsel of record.
- (e) Proposed Orders shall be filed with all motions, petitions, and rules as a matter of course.
- (f) All motions, petitions, and rules shall contain a certificate of concurrence or non-concurrence from the opposing party counsel or an explanation of why the same cannot be obtained.
- (g) Pleadings filed with the Prothonotary by facsimile will generally not be accepted and shall not be effective unless followed by the filing of an original pleading. There may be rare instances where a fax is acceptable due to any emergency situation; however, even in those cases, the original is to be properly filed with the Prothonotary as soon as is possible. Filing by facsimile must be pre-approved by the Court, the Prothonotary/Clerk of Courts, or a Deputy of the Prothonotary/Clerk of Courts. If this emergency procedure is followed the date the facsimile is received shall be the effective filing date.

RULE L205.2(b)

COVER SHEET

Every initial pleading and every first pleading after new counsel begins representation shall have a cover sheet which discloses the identity and addresses of the parties along with the name, address and phone number of counsel representing each party if known in substantially the following form:

Plaintiff

vs.

Defendant

:IN THE COURT OF COMMON PLEAS
:OF POTTER COUNTY, PA
:
:No. _____ of _____
:
:CIVIL DIVISION

Type of Document: _____
(Filed on Behalf of) _____

Attorney _____ for _____ Plaintiff: _____
Address: _____
Phone Number: _____
Fax Number: _____

Attorney for Defendant: _____
Address: _____
Phone Number: _____
Fax Number: _____

RULE L206.4(c)

RULE TO SHOW CAUSE

Rules to show cause will issue as a matter of course in accordance with Pa.R.Civ.P. 206.6. Rule to show cause orders shall contain the information required in Pa.R.Civ.P. 206.6 (c)(1),(2),(3) and (6).

RULE L208.2(c)

STATEMENT OF AUTHORITY

All motions, except motions for continuances, shall be supported by a statement of authority citing a statute, rule of court or case law in support of the requested relief. The statement may be in the form of a brief or memorandum of law filed contemporaneously with the motion; or, in routine motions that do not raise complex legal or factual issues, in the body of the motion itself.

Rule L208.2(d)

CERTIFICATION OF POSITION: MOTIONS/PETITIONS

Prior to submitting any motion/petition, the movant or his/her counsel shall confer with all counsel of record and any unrepresented parties to determine their position with respect to the motion. The movant or his/her counsel shall include in or attach to his/her motion a certification that the movant or his/her counsel has conferred, or attempted to confer, with all interested parties to ascertain their position on the motion (contested, uncontested or no position). The ascertained position shall be indicated in the certification.

RULE L208.3(a)

MOTION PROCEDURES

- (a) Upon the filing of any motion, petition, exceptions, or the like, requiring legal argument, the matter will be scheduled by the court in an order which will also establish the advance briefing schedule. If a party reasons it needs to file a brief in addition to any statement of authority provided pursuant to Local Rule L208.2(c), and no briefing schedule is in effect, such a brief shall be due four (4) days before argument. This Rule in no way abrogates the requirements of Local Rule L208.2(c). Briefs may also be submitted after a matter is heard in the court's discretion. If the brief is not presented to the court when ordered, the court, in its discretion, may refuse to consider a late brief or to hear oral argument. If evidence is to be received in support of the filing, the proponent shall express the same and advise how much time should be allocated for the matter.
- (b) The court may with prior approval allow oral argument on any motion by speaker telephone conference provided that the conversations of all parties are audible to all persons present, or upon stipulation of all parties, by regular telephone conference call. The Court reserves the right to limit the length of telephone argument or testimony. Upon request of any party, such oral argument may be recorded by a court reporter or otherwise under such conditions as the court shall deem practicable. Counsel shall schedule such telephone calls at a time mutually agreeable to all parties and the court. The expense of

the call will be the responsibility of the party requesting the call, unless the court directs otherwise.

- (c) Emergency Motions will be scheduled either by a proposed order or by notice. All parties should be present for a hearing to take place. The absence of a properly notified party will be deemed a consent to the relief sought.
- (d) Briefs shall be required as a matter of course in support of all Preliminary Objections as outlined in Local Rule L208.2(c). If a party reasons it needs to file a brief in addition to any statement of authority provided pursuant to Local Rule L208.2(c), and no briefing schedule is in effect, such a brief shall be due four (4) days before argument. This Rule in no way abrogates the requirements of Local Rule L208.2(c).
- (e) All motions must contain a proposed scheduling order and information for the Court Administrator. The information for the Court Administrator must contain an estimate of the total amount of time needed to complete the hearing as stipulated in Local Rule L307.
- (f) Unless otherwise noted, it is the sole responsibility of the party seeking relief to serve signed orders submitted by the party seeking relief.

RULE L210

FORM AND CONTENT OF BRIEFS

Except by prior permission of the Court, briefs (exclusive of pages containing the table of contents, table of citations and any addendum containing opinions, etc., or other similar supplementary matter) shall not exceed twenty-five (25) pages of double-spaced conventional typographical printing. This Rule shall not apply to briefs on post-trial motions. Non-conforming briefs will not be considered unless an exemption was granted by the Court prior to submission.

Rule L212.1

TIME FOR COMPLETING DISCOVERY - CIVIL

- (a) The parties shall complete discovery within 210 days from the filing of the complaint. Discovery will not be permitted after the 210 day period except by order of court upon good cause shown.
- (b) In those cases where it is apparent that extensive discovery will be required or when the pleadings have not closed within 80 days from the filing of the complaint, the court -upon Praecept of any party - will hold a status conference to establish an alternative discovery timetable.
- (c) If matters arise at any time during the discovery period or thereafter which counsel reasonably believes has or will prejudice their case or has or will cause counsel to fall out of compliance with this rule, counsel shall request a status conference.

- (d) At any time, the court may, in its discretion, direct the parties to attend a status conference, modify the above timetable, refer the case to mediation, list a case for arbitration, direct a case be listed for trial, or otherwise intervene to expedite the litigation.
- (e) If at any time the case is referred to mediation the above timetable shall be stayed pending the conclusion of the mediation.

COMMENT

It is the intention of this rule to have a case trial ready and listed for pre-trial conference within 12 months from the filing of the complaint. The time standards for general civil matters is: all nonjury cases should be tried or otherwise disposed of within 12 months/360 days after initial filing and all jury cases should be tried or otherwise disposed of within 18 months/540 days after initial filing. It is contemplated that there will be instances when a shorter or longer timetable will be indicated.

RULE L212.3

PRE-TRIAL CONFERENCE

- (a) For purpose of this rule, “pre-trial” shall mean a type of conference described in Pa. R.Civ.P. 212.3.
- (b) Except as otherwise ordered by the court, pre-trial conferences shall be held at times directed by the court. Pre-trial conferences are extended to all actions not subject to arbitration under Local Rule L1302, and arbitration comes by special order. Counsel shall be trial ready and fully prepared as of the time of the pre-trial conference, otherwise, said matter shall be stricken from the trial list.
- (c) Any application for continuance of the conference shall be by motion addressed to the court.
- (d) Counsel attending the pre-trial conference must have complete authority to stipulate on items of evidence and admissions and must have full settlement authority. If counsel does not have such authority then the person or corporation having the actual interest in the case, whether as a party, as an insurance carrier or otherwise, shall be personally present at the pre-trial conference.
- (e) At least seven (7) days before the date set for the pre-trial conference, each party shall submit to the court and opposing counsel a pre-trial statement in accordance with Pa.R.Civ.P. 212.2, to include:
 - (1) A narrative statement of the facts that will be offered by oral or documentary evidence at trial, and a statement of any unusual questions of evidence anticipated with respect to proof of such facts.

- (2) A statement of any unusual questions of law anticipated with respect to the issues in the case. All such questions shall be presented with a statement of authority supporting the position taken with respect to such unusual questions of law.
 - (3) A list of names and addresses of all persons who may be called as witnesses, classifying them as liability and/or damage witnesses. The listing of a witness by a party shall impose no liability on the party to call the witness or to procure his attendance at trial.
 - (4) Medical reports of any doctor who treated, examined or was consulted in connection with the injuries complained of, and who may be called as a witness.
 - (5) The reports of any expert whose opinion will be offered in evidence at the time of trial. Such report shall include the findings and conclusions of the expert.
 - (6) A list of all items of special damages which the party intends to prove, including medical bills, property damage bills (or estimates if there are not bills) and loss of earnings. Claims for loss of earnings shall set forth the names of employers, dates of absences and rates of pay. If the party is self-employed, information which forms the basis for the loss of income attributable to the injuries shall be supplied.
 - (7) Each party's pre-trial statement shall include an exhibit list and a copy of all exhibits, which shall be pre-marked, that the party may use at trial. At the time of trial, a copy of the pre-marked exhibits must be provided to the Court and a copy of the exhibits list must be provided to the Court, court reporter, and opposing counsel.
 - (8) A copy of any hypothetical questions to be used with regard to the subject except the physical or mental condition of the party, or the cause thereof, together with the name and address of the witness to whom it is to be propounded.
 - (9) A copy of any plan or plot proposed to be introduced into evidence.
 - (10) An estimate of the length of time which will be required to present the party's case in chief.
- (f) Counsel shall meet before trial and review their respective exhibits to determine whether a stipulation can be reached regarding the admissibility of any exhibits, thereby alleviating the need of calling a sponsoring witness.
 - (g) For each exhibit which shall be made part of the record the party offering the exhibit shall provide a copy of the exhibit to the Court and opposing counsel.
 - (h) If a party, in the exercise of reasonable diligence, first becomes aware after the pre-trial conference of the necessity or desirability of using a witness, an exhibit, a hypothetical

question, plot or plan, they shall forthwith provide the court and other counsel with the same information with respect to such witness, exhibit hypothetical question, plot or plan as is required on the pre-trial statement set forth in (e) above.

Failure to provide such information shall not be in compliance with this subsection, and may, in the discretion of the court, justify refusal by the court to permit the use of such witness, exhibit, hypothetical question, plan or plot at trial.

RULE L216

CONTINUANCES

Any party seeking a continuance, must do so by written motion and notify opposing counsel or *pro se* parties and state in the Motion whether the parties and/or counsel agree to the continuance. In the absence of the same, the motion will be summarily denied. A party seeking a continuance must also prepare and submit a proposed order and appropriately circulate the signed order. No continuances of hearings or trials scheduled will be granted except for good cause shown. All filing fees for a continuance must be paid before the Court will consider the motion.

RULE L225

ADDRESSES AND SUMMING UP

- (a) Opening addresses may be made by all parties or groups of parties at the commencement of the trial in the order of their appearing in the pleadings. Any party may reserve their opening address until immediately before presenting their evidence.
- (b) After the close of the testimony, each party or group of parties shall have the right of final address or argument in inverse order to the order of opening addresses, unless otherwise ordered by the court.
- (c) The Court reserves the right to regulate the number and length of addresses to the jury or to the court pursuant to Pa.R.Civ.P. 223(a)(3).

RULE L226

PROPOSED JURY INSTRUCTIONS

1. In all trials the attorneys of record trying the case and any unrepresented parties, if they deem advisable, may submit in writing to the Court proposed points for charge or jury instructions, if any, not later than the beginning of opening statements. The Court may also direct the submission of proposed points for charge at any time prior to charging the jury.

2. Once the trial commences, points for charge or jury instructions shall be accepted only by leave of Court as justice shall require.

RULE L227.1

MOTION: POST-TRIAL AND POST-HEARING

The moving party in all post-trial and post-hearing motions or petitions shall, if argument thereon is to be with reference to the testimony, include a request for a transcript of the testimony, or such part thereof as the moving party desires to have transcribed for the purposes of such motion in compliance with Local Rule R.J.A. 4001, et seq.

RULE L230.2

TERMINATION OF INACTIVE CASES - CIVIL

The Court hereby grants authority to the Prothonotary to terminate civil cases through the procedure outlined in Pa.R.Civ.P. 230.2.

Within thirty (30) days after the date of proposed termination the Prothonotary shall generate a list of all civil cases, excluding divorce cases filed under 23 Pa.C.S. § 3301 (c) and (d) where neither party resides in Potter County, and shall provide the list to the Court Administrator. The Court Administrator shall promptly schedule each listed matter for a status conference, at which the Court may establish appropriate timelines to ensure a timely and efficient disposition of the case.

RULE L302

AFFIDAVITS

All affidavits filed or on documents of Record or on documents presented to the Court for any reason will contain a jurat.

RULE L306

NOTICE

- (a) All notices shall be in writing.
- (b) Except as otherwise provided by Act of Assembly, rule or special order of court, whenever any process, paper or notice is required to be served upon a party, such service

shall be made in accordance with the procedure set forth in Pa.R.Civ.P. 440, unless service is to be made by publication, in which event service shall be made as provided by Local Rule L440.

- (c) All notices shall carry the same weight and effect as a court order.

RULE L307

CONTESTED MATTERS

In all contested matters, including those requiring hearings and arguments, counsel for the moving party shall give a written, good faith estimate as to the length of each such proceeding to the Court Administrator at the time of listing and shall indicate whether testimony is to be taken and/or whether argument shall be heard.

RULE L309

TRIAL SESSIONS and TRIAL LIST

- (a) Except as specially scheduled by the Court Administrator, Jury trial sessions will be held at such times as shall be established in the annual court calendar.
- (b) All civil cases to be tried by either Jury or Judge shall be listed by filing with the Prothonotary a Praeceptum to List. The Praeceptum shall contain the date on which it is submitted to the Prothonotary and whether Jury or Non-Jury Trial is requested.
- (c) To place a case on the trial list, counsel for one or more of the parties in the case shall file a Praeceptum to List for Trial. Listing a case for trial constitutes a certification by the listing attorney that the case is in fact trial ready. The Praeceptum shall include a statement of concurrence or non-concurrence of the trial listing from all other parties. The party placing a case on the trial list shall forthwith serve a copy of the Praeceptum upon all other counsel of record, who, if for any reason oppose such certification, shall within ten (10) days thereafter file their reasons opposing listing.
- (d) Upon receipt of the Trial List, the court shall schedule a pre-trial conference to be held on each case on the Trial List. Said conference shall be held in the manner provided by Local Rule L212.3.
- (e) No continuance will be granted because of any litigant being “not ready for trial” unless notice that the litigant is not ready is presented to the Court within ten (10) days from the date of said listing. Lawyers involved in said civil litigation shall present themselves, clients and other parties, if directed, before the Court and at the Court’s direction for a status update at any time.

- (f) Upon completion of the pre-trial conferences, if a jury trial or non-jury trial is required, the Court will direct the Court Administrator to schedule the matter for trial and notice of the trial shall be provided to counsel.

RULE L410

SERVICE – REAL PROPERTY ACTIONS

- (a) If a defendant is deceased or his identity or whereabouts are unknown and the plaintiff motions the Court for an order authorizing service of publication upon such a defendant, the plaintiff shall attach an affidavit to such motion setting forth the following averments:
 - (1) The plaintiff has caused the records in the offices of the Register and Recorder to be examined to ascertain the date of death of the defendant, whether he died testate or intestate, the names and addresses of all the defendant’s heirs, legatees or devisees, and whether or not there has been any adverse conveyance of the real estate that is subject of the suit.
 - (2) The plaintiff has made a good faith effort to locate the whereabouts of the defendant, defendants, or defendant’s heirs, stating in detail the efforts made. An illustration of a good faith effort to locate the defendant includes (1) inquiries of postal authorities including inquiries pursuant to the Freedom of Information Act, 39 C.F.R. Part 265, (2) inquiries of relatives, neighbors, friends, and employers of the defendant, (3) examinations of local telephone directories, courthouse records, voter registration records, local tax records, and motor vehicle records, and (4) a reasonable internet search. Note to Pa.R.Civ.P. 430.
 - (2) In the case of a corporation that has been dissolved, the plaintiff has caused the records in the offices of the Register and Recorder to be examined to ascertain whether or not there has been adverse conveyance or distribution of the real estate that is the subject of the suit.
- (b) Unless otherwise directed by the court or required by law or rule of court, service by publication shall be made for one (1) week in a newspaper of general circulation in the county.

RULE L430

SERVICE, PETITION, RULES ORDERS AND NOTICES

Whenever service by publication is authorized by law or rule of court and the manner of publication is not otherwise specified, such service shall be made by publishing the required notice one time in a newspaper of general circulation in Potter County, unless otherwise required by law or Rule of Court. Affidavits of publication shall be filed in the Prothonotary’s office.

Unless otherwise provided by an Act of Assembly or rule of the court, a copy of each paper filed in any case, other than the writ, complaint, or other process by which an action is commenced, shall be served by the party filing it promptly upon all other parties to the litigation or their attorneys of record. The manner of service shall be in conformity with Pa.R.Civ.P. 440. No matter shall be considered by the court unless there has been filed either a proof of service, acceptance of service or certificate of service.

It is the responsibility of the moving party to serve all scheduling orders upon opposing counsel and *pro se* litigants. Unless otherwise directed, Orders and Opinions originating from the Court, will generally be sent to all counsel of record and *pro se* parties by the Prothonotary with a notation that the Order has been circulated by that office. If the Court or Prothonotary does not have the address of the opposing party the moving party shall be responsible for service upon the opposing party. When in doubt the moving party should be vigilant to serve opposing counsel and *pro se* litigants. Proposed orders submitted by counsel which are executed by the Court shall be returned to counsel for service on all interested parties and proof of service shall be filed with the Court.

RULE L506

BONDS - CIVIL

In all bonds for purposes other than bail filed with the Prothonotary or Clerk of Courts of Potter County, including but not limited to a counterbond in replevin, the following rules shall apply:

- (a) For all personal property posted as bond, an affidavit of some knowledgeable person acceptable to the Prothonotary shall be presented, duly executed, and setting for the net value of the item or items posted.
- (b) The Prothonotary may charge a reasonable storage fee for the storage and or detention of personal property as posted.
- (c) If real estate is sought to be presented as bond, the person presenting the same therefore shall cause an appropriate entry to be made in the Prothonotary's Office, for which he shall pay the Prothonotary customary fees, produce proof of such entry to the Prothonotary together with an affidavit from a good and reliable source to be approved by the Prothonotary setting forth the net value of said property (net value being market value less existing liens of Record) and an affidavit from the purported owners of the real interest owned by them in the subject property. Such an entry shall cause and create a lien on the subject property to the extent of the face amount of the bond.

RULE L512

BOARD OF ASSESSMENT APPEALS

The Pennsylvania Rules of Civil Procedure shall be applicable to all assessment appeals filed in Potter County before the Court of Common Pleas.

In all cases where an appeal is taken from a real estate assessment fixed by the Board of Assessment Appeals, the petition for allowance of appeal shall have attached to it a photocopy of the appealed-from order of said board and shall have attached to it a proposed preliminary decree which shall provide:

1. that the appeal to court is permitted and said case is to proceed in conformity with the Pennsylvania Rules of Civil Procedure.
2. that within five (5) days from the date of the preliminary decree, appellant shall serve a copy of the petition and preliminary decree upon the board, upon the Board of County Commissioners, the governing body of the municipality and the Board of the School Directors of the school district in which the real estate is situate, and upon the property owner, if he/she is not the appellant.
3. that the taxing authorities aforesaid and the property owner, if he/she is not the appellant, be and are hereby entitled to intervene as parties appellee.

The appeal shall be scheduled by the Court Administrators for a nonjury trial upon the filing of a Praecipe to List for Trial. Listing a case for trial constitutes a certification by the listing attorney that the case is in fact trial ready. The Praecipe shall include a statement of concurrence or non-concurrence of the trial listing from all other parties. The party placing a case on the trial list shall forthwith serve a copy of the Praecipe upon all other counsel of record, who, if for any reason oppose such certification, shall within ten (10) days thereafter file their reasons opposing listing.

RULE L1012

APPEARANCES - CIVIL

If more than one counsel enters their appearance for a party, one such counsel shall be designated as Chief Counsel. Except as herein set forth, when counsel ceases to be actively involved in a case, a motion to withdraw shall be filed with a proposed order. Counsel shall note in the Motion whether the client and opposing counsel consent to the request. Notice of the filing of the Motion and Order scheduling hearing or argument on same, shall be provided to the client and opposing counsel and an appropriate certificate of service shall be attached to the Motion. Generally a hearing will not be necessary if the client and opposing counsel do not object to the Motion. In the alternative, counsel may withdraw without leave of court if new counsel files an appearance and the change of counsel does not delay the litigation. Absent new counsel entering

an appearance or Order of the Court granting withdrawal, an attorney has an affirmative and ethical obligation to appear for all proceedings and work diligently and zealously to represent their client. Should the Court grant leave to withdraw, counsel shall then file a Praecipe to withdraw with the Prothonotary.

RULE L1018.1

NOTICE TO DEFEND

The entity, to be named in the notice to defend, from whom information can be obtained, is:

Office of the Prothonotary
Potter County Courthouse
One East 2nd Street, Room 23
Coudersport, PA 16915
Telephone: 814-274-9740

RULE L1028(c)

PRELIMINARY OBJECTIONS

Upon receipt of the Preliminary Objection the Court Administrator will schedule oral argument by Order. The Order will state the date and time set for argument, along with ordering briefs due at least four (4) days before argument. This briefing deadline is in addition to the requirement detailed in Local Rule L208.2(c).

RULE L1033

AMENDED PLEADING

Whenever an amended pleading is filed, such pleading shall be a complete pleading and not merely set forth the amendments to the former pleading. The amended pleading shall clearly indicate that it is an amended pleading, the paragraphs shall be renumbered, and the new portion shall be underlined.

RULE L1034(a)

MOTIONS FOR JUDGMENT ON THE PLEADINGS

Upon receipt of a motion for judgment on the pleadings, the Court Administrator will schedule the date and time of hearing and oral argument. If a party reasons it needs to file a brief in addition to any statement of authority provided pursuant to Local Rule L208.2(c), and no

briefing schedule is in effect, such a brief shall be due four (4) days before argument. This Rule in no way abrogates the requirements of Local Rule L208.2(c).

RULE L1035.2(a)

SUMMARY JUDGMENT

Upon receipt of a motion for summary judgment, the Court Administrator will schedule the date and time of hearing and oral argument. If a party reasons it needs to file a brief in addition to any statement of authority provided pursuant to Local Rule L208.2(c), and no briefing schedule is in effect, such a brief shall be due four (4) days before argument. This Rule in no way abrogates the requirements of Local Rule L208.2(c). All affidavits and supporting documentation must be filed at or before the time of argument.

RULE L1042.21

**PRE-TRIAL PROCEDURE IN MEDICAL PROFESSIONAL LIABILITY ACTIONS
SETTLEMENT CONFERENCE; MEDIATION**

- A. The county/region will maintain a list of mediators in the area who are willing to take part in medical professional liability mediation, together with appropriate contact information. The list will be furnished upon request. Parties may propose other mediators in addition to those listed.
- B. Any motion by a healthcare provider requesting a court ordered mediation shall set forth the following minimum information.
 - 1. The date of the proposed mediation or the time frame during which the mediation will take place.
 - 2. The identity of the proposed mediator
 - 3. The location of the proposed mediation; and
 - 4. Any other terms that have been consented to by the parties or which are being proposed by the moving health care provider.
- C. If the motion has been consented to, such consent shall be noted in the motion and, where possible, written consents from the parties shall be attached.
- D. Any party opposing a Motion for mediation shall file their objections within ten (10) days of service of the Motion.

RULE L1066

FORM OF JUDGMENT OR ORDER

Any order entered under Pa.R.Civ.P. 1066(b)(1) shall include a description of the property. If notice of the entry of such an order is given by publication, it shall be given as provided by Local Rule L410.

RULE L1301

ARBITRATION

- (a) All cases which are at issue, where the amount in controversy (exclusive of interest and costs) shall be twenty-five thousand dollars (\$25,000.00) or less, except those involving title to real estate, equity actions upon bail bonds and recognizances, actions upon penal statutes, and other actions which do not involve the recovery of money damages, including divorce, mandamus and quo warranto, shall be presided over and decided by a Board of Arbitration which shall be composed of three (3) attorneys who are member of the Bar of Potter County. If there are an insufficient number of Potter County attorneys available for a given case, the Board may include attorneys from adjacent counties who regularly practice in Potter County. The Court may also assign to arbitration any case in which the Court makes a preliminary determination that the defacto amount in controversy is twenty-five thousand dollars (\$25,000.00) or less, regardless of the pleadings.
- (b) Cases shall be placed on the arbitration list in the same manner cases are placed on the trial list under Local Rule L511. Ten days after a case has been praeciped onto the list, if no objections thereto have been filed, the Prothonotary shall then promptly appoint a panel of three arbitrators, who shall be members of the Potter County Bar, except as provided herein, to hear and decide the case. The chairman so appointed shall forthwith establish the time, date, and place of trial and notify all counsel of record, unrepresented parties, and members of the arbitration panel thereof at least thirty (30) days in advance unless a shorter time is stipulated to. All trials shall be held within forty-five (45) days of the date the chairman is appointed.
- (c) Each member of the Board of Arbitration who has signed the report or files a minority report shall receive as compensation for his services in each case a fee of one hundred fifty dollars (\$150.00). The chairman of the board shall receive one hundred seventy-five dollars (\$175.00). In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on petition of the members of the Board and for cause shown, may allow additional compensation. The Court may also, on petition of any party to a case, on cause shown and to prevent injustice, reduce the amount of such compensation or disallow compensation entirely. The members of a Board shall not be entitled to receive their fees until after filing a report with the Prothonotary. When the same is filed, the Prothonotary shall issue an order for payment of such fees which shall

be immediately paid from County funds as in the case of all other County debts. Fees paid to Arbitrators shall not be taxed as costs or follow the award as other costs.

- (d) Once Arbiters have been appointed hereunder, the Prothonotary shall not mark the case discontinued, settled or ended or terminate the case in any other way until the Chairman of the Board of Arbitration has received the sum of seventy-five dollars (\$75.00) settlement costs and the other two members of the Board the sum of fifty dollars (\$50.00) each as Arbitrator's settlement costs, the above sum to be paid through the office of the Prothonotary of Potter County.

The party initially requesting that a Board of Arbitration be appointed shall remain liable for settlement fees above indicated. Settlement fees shall be due and payable any time after appointment of the Board and before the settlement of any case prior to trial or hearing, but in no event more than forty-five (45) days after the date of the appointment, unless said time is extended by the Chairman of the Board.

- (e) Before entering upon their duties, the members of the Board of Arbitrators shall subscribe to an oath to perform their duties and decide the case submitted to them justly and equitably, and with due diligence, which oath shall be filed with their report. In all cases, a decision by a majority of the members of the Board of Arbitrators shall be conclusive.
- (f) The Board of Arbitrators, or a majority of the members thereof, shall conduct the hearing before them with due regard to the law and according to the established rules of evidence, which, however, shall be liberally construed to promote justice, and shall have the general powers of a court including, but not limited to, the power to administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition and to decide the law and facts of the case submitted to them.
- (g) If, after the appointment of the Board of Arbitrators, but before hearings, one of the members thereof shall die or become incapable of acting, or shall refuse to attend the hearing, or shall remove or depart from the county, upon the agreement of all parties the remaining members of the Board shall proceed to hear the matter at issue. Otherwise, the Prothonotary shall fill the vacancy as provided herein.
- (h) If a member of the Board dies or becomes incapable of acting, or shall fail or refuse to perform his duties, after hearing but before a report shall be made, upon the agreement of all parties, the case shall be decided and the report signed by the remaining members of the Board. If the remaining Arbitrators cannot agree, the matters shall be heard de novo by a new Board, to consist of the remaining members plus a third to be appointed by the Prothonotary.
- (i) The Board shall have the right to proceed ex parte in a proper case if, after due notice, one of the parties fails to appear at the hearing and does not request a continuance for good cause.

- (j) The Board of Arbitrators shall file a report with the Prothonotary, which shall contain an award in appropriate cases, within twenty (20) days after hearing. The Report shall be signed by all or a majority of the members of the Board. The Prothonotary shall record any award in the judgment index as verdicts are now recorded.
- (k) The award, if any, unless appealed from as herein provided, shall be final and shall have all the attributes and legal effect of a judgment entered by a court of competent jurisdiction. If no appeal is taken within the time allotted for such appeal, execution process may be issued on the award as in the case of other judgments.
- (l) An appeal from an award by the Board of Arbitration may be taken pursuant to procedure established in Pa.R.Civ.P. 1308.
- (m) All appeals shall be de novo. Despite any costs which a successful appellant may recover from the adverse party, he shall nevertheless not be entitled to recover the Arbitrators' fees paid by him as a condition of taking his appeal.
- (n) Any party may file exceptions with the Court from the decision of the Board of Arbitration within twenty (20) days from the filing of the report for either or both of the following reasons and for no other:
 - (1) That the arbitrators engaged in misconduct in the conduct of the case;
 - (2) That the action of the Board was procured by corruption or other undue means.

If such exceptions shall be sustained, the report of the Board shall be vacated by the Court.
- (o) This Rule shall apply to cases involving more than one claim, including counter claims, if none of such claims exceed \$25,000.00.
- (p) This Rule shall govern cases pending in the Court of Common Pleas of Potter County on the effective date hereof, and all such cases to which the rule shall be applicable which are listed for trial shall be stricken from the trial list and referred to arbitration under the provisions hereof.

RULE L1341

MEDIATION

- (a) Appropriate civil cases, excluding medical professional liability actions*, that have progressed beyond the exchange of expert reports and family law cases that involve a claim for equitable distribution of property may be referred to mediation by order of the Court (mediation of custody disputes is addressed by Local Rule L1940.1), on the motion

* See Pa.R.Civ.P. 1042.21 for Medical Professional Liability Actions - Motion for Settlement Conference or Mediation

of any party which shall include a certification that there is the belief there is a realistic possibility of settlement, following a stipulation by all parties or on the Court's initiative.

- (b)(1) The parties shall, within 30 days after the date of the court order referring a case to mediation, choose a mediator who is available during the appropriate period and has no apparent conflict of interest. If the parties are unable to choose a mutually acceptable mediator the Court will appoint a mediator.
- (b)(2) Except by agreement of all parties or as otherwise ordered by the Court, the cost of the mediator's services shall be divided evenly amongst the parties. Compensation shall be paid directly to the mediator upon the conclusion of mediation or as otherwise agreed by the parties and the mediator. Failure to pay the mediator shall be brought to the attention of the Court.
- (c) Promptly after being chosen to mediate a case, the mediator shall, after consulting with all parties, fix a time, place and date for mediation. All mediations shall occur within 90 days of the Court's order referring the case to mediation.
- (d) At least 10 days before the date of mediation, the mediation may be continued one time by agreement of all parties. The party requesting the continuance shall give written notice of the continuance to the mediator. The mediator shall reschedule mediation within 60 days from the date the mediation was to originally occur with notice provided to all parties. In the event that the parties fail to agree to a continuance more than 10 days prior to the date of the scheduled mediation, a continuance shall be filed with and decided by the Court. If the case is continued by the Court, the mediator shall reschedule the mediation in accordance with the Court's order granting the continuance.
- (e)(1) All named parties and their counsel are required to attend mediation unless excused under subparagraph (e)(4) below. A party other than a natural person (*e.g.* a corporation or an association) satisfies the attendance requirement if represented by one authorized to reach a settlement (other than outside counsel) and is knowledgeable about the facts of the case. A unit or agency of government satisfies the attendance requirement if represented by a person who has, to the greatest extent feasible, full settlement authority and is knowledgeable about the facts of the case, the agency's legal position and the procedures and policies under which the government agency decides whether or not to accept a proposed settlement. If the action is brought by the government on behalf of one or more individuals, at least one such individual must also attend. Any party who fails to attend mediation will be subject to sanctions.
- (e)(2) Each represented party must be accompanied at the mediation by the lawyer who would be primarily responsible for trying the disputed matter. If a party is proceeding *pro se* and the opposing party is represented by counsel, the Court may appoint counsel to assist the *pro se* party at mediation. The appointed attorney shall receive as compensation for his/her services a fee of \$250.00 that shall be paid by the *pro se* party. In cases where mediation is extended beyond one day the Court, upon petition of the attorney and for

cause shown, may grant additional compensation. The Court may waive all or part of the attorney's fee if the *pro se* party demonstrates a financial inability to pay.

- (e)(3) Insurer representatives are required to attend in person unless excused under subparagraph (e)(4) below, if their assent would be necessary to achieve a settlement.
- (e)(4) A person who is required to attend mediation may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must file a motion with the Court no fewer than 10 days prior to the date set for mediation and must further serve a copy of the motion on all parties and the mediator.
- (e)(5) A person excused from appearing in person must be available to participate by telephone.
- (f) Within 5 days following the conclusion of mediation, the mediator shall file a written report with the Court that includes the caption and case docket number, the date of the mediation, whether any follow-up mediation was scheduled, whether the case was settled in whole or in part and any stipulations reached by the parties.

EXPLANATORY COMMENT

Mediation is a flexible, generally non-binding, confidential process (See 42 Pa.C.S.A. § 5949) in which a neutral person (the mediator), selected by the parties, facilitates settlement of their case through negotiations. The parties may agree that mediation will be binding. The purpose of the mediator is to improve communication across party lines, help parties articulate their interests and to understand the interests of their opponent, and identify issues to help generate a mutually agreeable resolution to the dispute. A hallmark of mediation is its capacity to expand traditional settlement discussion and broaden resolution options by often exploring litigant needs and interests that may be independent of the legal issues in controversy.

COMMENT

All named parties and their counsel are required to attend mediation. This requirement reflects the Court's view that the principle values of mediation include affording litigants the opportunity to articulate directly to opposing parties their positions and interests and to hear, first hand, their opponent's version of the matter in dispute. Mediation also enables parties to seek mutually agreeable solutions with their party-opponents.

RULE L1915.4

DIVORCE/CUSTODY EDUCATION

The Court in its discretion may require all parties in a contested custody proceeding arising out of a divorce or a separate custody case to attend a parent education class as the Court selects, and shall be responsible for reasonable fees for the program. The goal of the program

being to facilitate communication between the custodial parties and reduce the stress on the children, parents and caregiver litigants will attend the programs as directed. Attendance will be excused only with Court permission after written application. Litigants who claim they are indigent may apply to the Court for a waiver or reduction of fees, with all such applications to be in writing and complete with appropriate income and financial information.

RULE L1920.33

MARITAL SETTLEMENT AGREEMENT POST-DECREE APPROVAL

Pursuant to 42 Pa.C.S.A. § 5505 the Court shall not incorporate a marital settlement agreement more than thirty (30) days after the entry of a divorce decree. If the parties file a marital settlement agreement signed by both parties and a petition requesting that the court approve the agreement as an order of court, the Court shall consider such approval.

RULE L1940.1

**CONTESTED CHILD CUSTODY CASES-
MEDIATION REFERRAL PROCEDURE**

1. Generally, contested child custody cases, including those raised in divorce matters, shall be referred to mediation orientation unless waived by leave of Court or removed from mediation orientation, in accordance with Pa.R.Civ.P. 1940.1, et seq.
2. Custody mediation shall be promptly conducted in accordance with procedures established by the court from time to time at the shared expense of the parties, and in accordance with Pa.R.Civ.P. 1940.1, et seq.
3. If agreement is reached before or after mediation, the agreement shall be reduced to a stipulation which shall provide the basis of a Consent Order of Court.
4. If mediation does not result in agreement between the parties, the Mediator shall refer the matter to the court for hearing and disposition.
5. The parties will be responsible for the costs of mediation in accordance with an appropriate order. Remediation will not be permitted until payment is made to Potter County. Payment of mediation costs is enforceable through the court.

Orphan's Court Rules

RULE O15

FINDING OF FACT AND TRANSCRIPTS IN ADOPTION AND TERMINATION CASES

- (a) Persons filing an adoption or termination of parental rights petition shall, at the time of hearing, submit proposed findings of fact and a proposed decree.
- (b) Persons filing an adoption or termination of parental rights petition shall be responsible for the cost of any transcripts thereof required by law or rule of Court.

RULE O15.5(c)

ADOPTION - REQUEST FOR INVESTIGATION

Any person, party or attorney, who will hereafter file a Report of Intention to Adopt pursuant to 23 Pa.C.S.A. § 2531 shall also file a request for Court-Ordered investigation or submit a statement that an investigation was made by the agency which placed the child and that the appropriate information is contained or will promptly thereafter be contained in a Report of Intermediary filed under 23 Pa.C.S.A. § 2533.

Criminal Rules

RULE CR120

APPEARANCES

- (a) An attorney representing a defendant at a preliminary hearing or in a court case shall sign an entry of appearance and provide the same to the Magisterial District Judge or file the same with the Clerk of Courts before the beginning of the pending proceeding.
- (b) If provided to the Magisterial District Judge, they will not file the entry of appearance, but shall transmit the same with the docket transcript and the same shall be filed of record with the docket transcript with the Clerk of Courts.
- (c) An attorney who has been retained or appointed by the court shall continue such representation through direct appeal or until granted leave to withdraw by the court pursuant to Pa.R.Crim.P. 120(A)(4).

RULE CR528

BAIL

Any criminal defendant or any person posting bail for said criminal defendant under a bail order set by a judicial officer, when offering up property for bail, shall submit forthwith an affidavit of value by some good and reputable person acceptable to the Magistrate, Judge or Clerk of Court receiving said bail. Said affidavit shall state that the persons offering said bail are the true and lawful owners and have a net equity in said property equal to a given dollar amount.

The Clerk of Court shall cross-index a Record of such offer of property for bail in the General Index of the Prothonotary's Office under the names of record property owners and the defendant. Such Record shall, additionally, include the following information:

- (a) a brief reference to the property, the acreage, township or borough, and Deed Book reference;
- (b) the amount of bail to be posted as against the property; and
- (c) all encumbrances relating to the property such as liens, judgments, mortgages, and delinquent taxes.

Fees will be in accordance with the Clerk of Courts/Prothonotary fee schedule. No criminal defendant shall be released on property bail unless proof of making such entry as herein described is submitted to the appropriate authority.

The entry herein described shall become a lien on the subject property as of the date and time it is entered to the extent of the amount of bail.

The appropriate authority, whether it be the Magisterial District Judge or the Judge of the Court of Common Pleas, Criminal Division, shall, upon request at the appropriate time, issue a directive to the Prothonotary of Potter County and the bail shall be terminated as of a particular date and Prothonotary shall immediately upon the receipt of said Order mark the appropriate entry in the Record “discontinued”.

When monetary bail is posted poundage will be retained by Potter County.

RULE CR542

SCHEDULING OF CRIMINAL COURT JURY SELECTION AND RELATED PROCEEDINGS

1. At the time of Preliminary Hearing or at the time of waiver of such Preliminary Hearing, the Magisterial District Judge having jurisdiction over the criminal case shall furnish each criminal defendant with a written form setting forth mandatory dates and times for the following:
 - a. Criminal Court Arraignment
 - b. Criminal Conferences (2)
 - c. Jury Selection

Defendant shall appear as directed for all these proceedings, unless appropriate waivers are executed and filed or his attendance is excused due to a resolution of his case, by means such as a plea, ARD, or *nolle proesse*.

2. Any failure of the defendant to appear as directed in this Rule may constitute grounds for the issuance of a bench warrant and, where appropriate, revocation or modification of bail.
3. All scheduling done pursuant to this Rule shall be under the supervision of the District Court Administrator, and shall be accomplished on a case by case basis by the various Magisterial District Judges in accordance with a master calendar and guidelines established by the District Court Administrator. All such scheduling dates shall be deemed mandatory.
4. Criminal conferences shall be held in accordance with the foregoing on the dates set by the District Court Administrator, after consultation with the Office of the District Attorney.

Criminal conferences shall be conducted on an informal basis with the goal of prompt and expeditious resolution of criminal cases. A representative of the District Attorney’s Office will meet informally with the defendant and counsel to discuss possible resolution of the case. Defendants and all counsel are required to attend. The District Attorney Representative in charge of the conferences shall promptly report on the status of each

criminal case to the District Court Administrator as soon as the conferences are completed. The District Court Administrator shall reserve necessary schedule time for the prompt implementation of the results of the criminal conferences. Failure of the Defendant to appear at the criminal conference may result in the issuance of a bench warrant.

5. Counsel shall not be permitted to represent the Defendant at the proceedings described in this Rule without first filing an appropriate Entry of Appearance as provided in Local Rule CR120.
6. Various mandatory forms implementing this Rule shall be available at the Office of the District Attorney and all Magisterial District Judge office locations, and shall be available to counsel upon request.
7. The Court from time to time may implement a Call of the Criminal List requiring counsel and parties to be present for case status reports, updates, and for the purpose of facilitating a disposition of the case by plea or otherwise.

RULE CR576.1

ELECTRONIC FILING AND SERVICE OF LEGAL PAPERS

(A) General Scope and Purpose of the Rule

Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Potter County, the 55th Judicial District, as of April 6, 2017. The Administrative Office of Pennsylvania Courts and the judicial district of Potter County have agreed upon an implementation plan for PACFile in Potter County.

(B) PACFile

(1) The exclusive system for electronic filing is the PACFile System, developed and administered by the Administrative Office of Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal.

(2) Pursuant to Pa.R.Crim.P. 576.1(D)(2), establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed on the PACFile system in any judicial district that permits electronic filing.

(3) Any party who declines to participate in the electronic filing system, or who is unable to electronically file or accept service of legal papers, which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format by the Clerk of Courts and other parties, whether electronically filed or otherwise, as required by Pa.R.Crim.P. 576.

(C) Legal Papers

(1) "Legal papers" which may be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including

orders, exhibits and attachments, but excluding:

- (a) applications for search warrants;
- (b) applications for arrest warrants;
- (c) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment;
- (d) submissions filed ex parte as authorized by law; and
- (e) submissions filed or authorized to be filed under seal.

(2) The applicable general rules of the Court and Court policies that implement the rules shall continue to apply to all filings of legal papers regardless of the method of filing.

(3) Any legal paper submitted for filing to the Clerk of Courts in paper (or ‘hard-copy’) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by applicable rules of the Court and record retention policies. The Clerk of Court shall convert such hard-copy legal paper to pdf and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.Crim.p. 576.1(C) and this rule.

(D) Filing Fees

Applicable filing fees shall be paid through procedures established by the Administrative Office of Pennsylvania Courts and the Clerk of Courts and at the same time and in the same amount as required by statute, Court rule or order, or published fee schedule.

(E) Record on Appeal

Electronically filed legal papers, and copies of legal papers filed in paper format as provided in subsection (C)(4), shall become the record on appeal.

(F) Confidential Information

Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and Potter County Court and refrain from including any confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in paper format.

RULE CR625

CRIMINAL TRIAL LIST

The Commonwealth shall provide the Court Administrator with a list of cases which are trial ready at least thirty days prior to jury selection. The Commonwealth shall structure the list of cases in order of priority with the most pressing cases listed first. The Court Administrator will endeavor to schedule trials accordingly based upon the Commonwealth’s list and the Court Calendar.

Juvenile Rules

RULE J210

ARREST PROCEDURES IN DELIQUENCY CASES

The following are designated as issuing authorities for arrest warrants for juveniles in delinquency cases:

1. Any Judge of the Court of Common Pleas of Potter County - 55th Judicial District.
2. Any Magisterial District Judge of Potter County - 55th Judicial District.
3. When the Potter County Courthouse is closed, applications under Pennsylvania Rule of Juvenile Court Procedure 210 shall be submitted to the “on-duty” Magisterial District Judge.

Rules of Judicial Administration

RULE R.J.A.10

DRESS CODE

1. All officers of the Court shall dress appropriate for court sessions; appropriate dress entails attire suitable for formal professional or business engagements - including dress shoes unless other shoes are required for documented medical purposes.
2. Jurors, witnesses, parties, and members of the public should dress appropriately for a judicial proceeding. No persons shall wear hats or other headwear in the courtroom unless for a genuine religious or medical purpose.

RULE R.J.A.20

ELECTRONIC DEVICE USAGE

1. No cellular telephones shall be permitted in the courtroom except for those in possession of law enforcement officers and officers of the Court, and only then if set to make no noise. No one may openly use a cellphone in the courtroom. If a law enforcement officer or an officer of the Court needs to utilize their phone they must exit the courtroom.
2. Computers, tablets, and other electronic devices may be used in the courtroom by officers of the Court and their assistants only by permission of the Court. Such devices shall be powered down when brought into the courtroom and may be turned on only when the officer's case is before the Court. Such devices may only be used for professional purposes. No other person shall be allowed to bring such electronic devices into the courtroom unless given permission in advance by the Court.
3. Any electronic devices used in violation of this Rule shall be removed from the courtroom and may be retrieved upon departure of the courthouse.
4. Only the Judge and other courtroom staff shall utilize the courtroom telephone without the permission of the Court.

Rule R.J.A. 30

FOOD AND DRINK

1. No food or drink shall be permitted in the courtroom.
2. This rule shall not apply to the Judge, jurors, counsel, and other participants given water during a trial or extended hearing, or those given special permission by the Court.

RULE R.J.A.40

FILING OF DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

Pursuant to Section 7 of the Public Access Policy of the Unified Justice System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as the Potter County Prothonotary/Clerk of Courts/Orphan's Court website at: <http://www.pottercountypa.net/post.php?pid=12>.

RULE R.J.A.303

ADMISSION TO POTTER COUNTY BAR

Any lawyer wishing to become admitted to the Potter County Bar, upon proof that said lawyer is licensed to practice before the Supreme Court of Pennsylvania and who intends to maintain a primary or secondary law office within Potter County, is eligible.

Upon submission of the sum of Fifty (\$50.00) Dollars to the Prothonotary of Potter County, which shall be transferred to the Treasurer of the Potter County Bar, and an affidavit containing a statement that he or she is a duly licensed lawyer to practice in the Commonwealth of Pennsylvania and is a member of the Pennsylvania Bar "in good standing", as well as the address of his or her Potter County Office, the lawyer shall become a member of the Potter County Bar. Although not required for admission to the local bar, any applicant may request a formal admission ceremony with the Court.

All members of the Potter County Bar shall receive Court appointments from time to time, as necessary. The Court shall endeavor to not assign cases to attorneys who may not be competent within a practice area relating to the case.

RULE R.J.A.308

PROTHONOTARY

- (a) The Prothonotary shall immediately endorse all papers filed with the date of such filing, and shall promptly enter into an appropriate docket all pleadings, rules, orders of court and other papers filed in every case. When scheduling or judicial response is necessary, the papers shall be promptly forwarded to the court administrator.
- (b) The Prothonotary shall be responsible for the safekeeping of all records and papers belonging in his or her office. No paper may be taken from the files of the Prothonotary without the consent of the Prothonotary or one authorized by the Prothonotary to give such consent. A record shall be made of any paper removed from the Prothonotary's office and the person who receipts for such paper shall be responsible for return of the same and for any financial loss occasioned by failure to return the paper.

- (c) Only the Prothonotary, his or her clerks, attorneys registered in Potter County and such other persons as the Prothonotary shall specially authorize shall be permitted direct access to the Prothonotary's files, other than as permitted by law.
- (d) No entries shall be made in any Prothonotary's docket except at the direction of the Prothonotary or by order of court.

RULE R.J.A.504

LIMITATIONS ON BAIL AND SECURITY

Neither the Prothonotary, nor his or her deputy, nor the Sheriff or Sheriff's Deputy or clerk, nor any attorney at law, shall be admitted as bail or surety in any action, civil or criminal, unless by leave of the court for special reasons shown.

RULE R.J.A.1901

PROMPT DISPOSITION OF MATTERS; TERMINATION OF INACTIVE CASES -
CRIMINAL

The clerk of courts shall list at the first criminal argument court held after March 1 of each year all criminal proceedings in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the district attorney, any private prosecutor and the defendant, as provided by Pa.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

RULE R.J.A.4001

SCOPE OF RULES AND POLICY
(Transcripts)

The President Judge and the District Court Administrator appoint the Senior Court Reporter as designee for purposes of the administration of Local Rules R.J.A.4007, R.J.A.4008, and R.J.A.4011.

RULE R.J.A.4007

REQUEST FOR TRANSCRIPTS

- (A) All requests for transcripts shall be set forth on a standardized form provided by the Senior Court Reporter.
- (B) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office - the Potter County Prothonotary's Office for civil matters and the Potter County Clerk of Courts' Office from orphans court or criminal court matters. The requesting party shall also serve copies of the formal request to:
 - (1) the judge presiding over the matter;

- (2) the court reporter, court recorder or transcriptionist;
 - (3) the Senior Court Reporter;
 - (4) the District Court Administrator; and
 - (5) opposing counsel, but if not represented, the opposing party.
- (C) Requests for expedited or rough draft transcripts shall be filed in writing to the Senior Court Reporter at least 10 days prior to the proceeding. Copies of the written request shall be delivered as required by subsection (B). In the event of an emergency, a party may request by oral motion a daily, expedited or rough draft transcript.
- (D) When a litigant requests a transcript,
- (1) the litigant ordering a transcript shall make a non-refundable partial payment in the amount of 50% of the total anticipated cost of the transcript, as established by the court reporter, court recorder or transcriptionist. The payment shall be by cash, money order, certified check, or law firm check made payable to the appropriate filing office - the Potter County Prothonotary's Office, Clerk of Courts' Office, or Clerk of Orphans' Court Office - and shall be delivered to the Potter County Prothonotary/Clerk of Courts' Office.
 - (2) the court reporter, court recorder or transcriptionist shall prepare the transcript upon direction of the Senior Court Reporter.
 - (3) the court reporter, court recorder or transcriptionist shall notify the ordering party and the Senior Court Reporter of the completion of the transcript and deliver a copy of the transcript to the judge presiding over the matter. Checks for the final balance are to be made payable to the appropriate filing office - the Potter County Prothonotary's Office, Clerk of Courts' Office, or Clerk of Orphans' Court Office - and shall be delivered to the Potter County Prothonotary/Clerk of Courts' Office.
 - (4) upon payment of any balance owed, the court reporter, court recorder or transcriptionist shall deliver the original transcript to the Potter County Prothonotary's Office or Clerk of Courts' Office and copies to the parties. Checks for the final balance are to be made payable to the appropriate filing office - the Potter County Prothonotary's Office, Clerk of Courts' Office, or Clerk of Orphans' Court Office - and shall be delivered to the Potter County Prothonotary/Clerk of Courts' Office.
- (E) When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship pursuant to the procedure set forth in Local Rule R.J.A.4008(B). In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the Court. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance the litigation, the requesting party must demonstrate reasonable need before the Court shall waive or adjust the cost of obtaining the transcript.

- (F) When a transcript is requested for which the court or county is responsible for the cost, the court reporter, court recorder or transcriptionist shall prepare the transcript without the necessity of a deposit.

RULE R.J.A.4008

TRANSCRIPT COSTS

(A) Costs

- (1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in an electronic format shall be:
 - (a) for an ordinary transcript, \$2.25 per page;
 - (b) for an expedited transcript*, \$3.00 per page;
 - (c) for a daily transcript*, \$4.00 per page; and
 - (d) for same day delivery*, \$6.00 per page.²
- (2) When the requesting party is the Commonwealth or a subdivision thereof, the cost for a transcript in an electronic format shall be \$1.25 per page.
- (3) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraphs (1) and (2) relating to electronic format plus a surcharge of \$0.25 per page.

(B) Economic Hardship Standards

- (1) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the court to proceed *in forma pauperis* or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.
- (2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by 50 percent for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.
- (3) Transcript costs for ordinary transcripts in matters that are not subject to an appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, rough draft or same day transcripts may be waived at the court's discretion for parties who qualify for economic hardship under subdivision (B)(1) or (B)(2) and upon good cause shown

* The availability of expedited, daily, and same day delivery transcripts shall be at the discretion of the Court and the court reporter based upon the court reporter's schedule and obligations.

- (4) The application to waive all or a portion of the costs for a transcript shall be in the form of a Petition to Waive All or a Portion of the Transcript Costs and shall be filed in the appropriate filing office - the Potter County Prothonotary's Office, Clerk of Courts' Office, or Clerk of Orphans' Court Office - and shall be delivered to the Potter County Prothonotary/Clerk of Courts' Office. Any application for waiver or reduction of transcript costs shall be filed contemporaneously with the request for transcript and a copy served to:
 - (1) the judge presiding over the matter;
 - (2) the court reporter, court recorder or transcriptionist;
 - (3) the Senior Court Reporter; and
 - (4) opposing counsel, but if not represented, the opposing party.
- (5) The Petition to Waive All or a Portion of the Transcript Costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure. A blank Petition to Waive All or a Portion of the Transcript Costs and affidavit in this form may be obtained from the Potter County Prothonotary/Clerk of Courts' Office.
- (6) Litigants who have been approved for representation by legal aid services are not required to prove economic hardship. Legal aid clients shall be entitled to obtain ordinary transcripts for no cost. Legal aid services must provide a letter of certification verifying that the client meets financial eligibility for legal aid services and that the matter is under appeal or that the transcript being requested is necessary to advance the litigation and the letter must be filed with the Transcript Request Form.

(C) Assignment and Allocation of Transcript Costs

- (1) *Assignment of costs.* The requesting party, or party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the Court.
- (2) *Allocation of costs.* When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

(D) Request for Transcript Copies

A request for copies of a transcript previously ordered, transcribed, and filed of record shall be made to the appropriate filing office and the cost shall be at that Office's standard rate, not to exceed \$0.75 per page.

(E) Additional Costs

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

RULE R.J.A.4011

DEADLINE FOR DELIVERY OF TRANSCRIPT

- (A) Unless otherwise ordered by the court, the court reporter or transcriptionist shall deliver the transcript for those cases under appeal within 14 days of receiving notice from the appropriate filing office, as required by Pa.R.A.P. 1922(a).
- (B) The court reporter or transcriptionist shall deliver transcripts for all other requests within 30 calendar days of receiving notice from the appropriate filing office, as provided by Rule R.J.A.4007, unless an accelerated time frame is mandated by court order, law or local rule.

IN RE:
LOCAL RULES

IN THE COURT OF COMMON PLEAS OF
POTTER COUNTY, PENNSYLVANIA

; NO. *130r* 2011
: MISCELLANEOUS DIVISION

ORDER

AND NOW, this 13¹¹¹ day of September, 2017, the Court adopts the attached Local Rules,
which shall be effective thirty (30) days after publication in the Pennsylvania Bulletin.

BY THE COURT



Stephen P.B. Minor, P.J., 55¹¹¹ Judicial District

