

**SUPREME COURT OF PENNSYLVANIA
ADMINISTRATIVE OFFICE
OF PENNSYLVANIA COURTS**

2014

**PROTHONOTARIES'
PROCEDURES MANUAL**



PREPARED BY PROTHONOTARIES' ADVISORY COMMITTEE

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DISCLAIMER

This publication is designed to be a quick reference guide for prothonotaries and their assistants. It is neither comprehensive nor guaranteed to be completely up to date. Therefore, it should not be used as a substitute for in depth research or opinions of your respective solicitors. Similarly, it should not be cited as authority for any action or inaction by anyone other than prothonotaries or their staff. It is simply a manual written by prothonotaries for prothonotaries.



ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

ZYGMONT A. PINES, ESQUIRE
COURT ADMINISTRATOR OF PENNSYLVANIA

July 2014

**FOREWORD FROM THE COURT ADMINISTRATOR
OF PENNSYLVANIA**

TO

PROTHONOTARIES

It is with pleasure that I provide you with the 23rd edition of the Prothonotaries' Procedures Manual, an invaluable tool and resource for prothonotaries. The uniformity of procedures used in prothonotary offices across the state are promoted by the manual, which sets forth rules, statutes, definitions, forms, references and procedures with regard to court records.

This valuable resource tool results from the dedicated efforts of the Prothonotaries' Procedures Manual Committee. Their work and significant contributions are greatly appreciated, and the Committee has my thanks.

Sincerely,

A handwritten signature in black ink, appearing to read "Z. A. Pines", written in a cursive style.

Zygmunt A. Pines
Court Administrator of Pennsylvania

HISTORY OF MANUAL

This Prothonotaries' Procedures Manual was written in order to fill the need for a quick reference guide for prothonotaries and their assistants in the everyday running of their offices.

This Manual began as a joint project between the Administrative Office of Pennsylvania Courts of the Supreme Court of Pennsylvania and the Prothonotaries' and Clerks of Courts' Associations, which formed the Prothonotaries' Procedures Manual Advisory Committee. The membership from the Administrative Office was composed of officers directly dealing with a prothonotary's responsibilities.

The Association was represented by nine members from various counties, ranging in experience from five to over twenty years, and included a representative from the Pennsylvania Historical and Museum Commission, Bureau of Archives and Manuscripts. The Committee met with the prothonotaries of the Supreme, Superior, and Commonwealth Courts; the Executive Director of the Supreme Court's Civil Procedural Rules Committee; the Pennsylvania Department of Revenue; the Office of the Auditor General; the Bureau of Motor Vehicles and Licensing; the Bureau of Vital Statistics and others. The Committee's legal opinions were provided by Robert A. Weinert, Esq., Association Solicitor.

The Committee members researched, discussed and wrote the material contained in the original Manual. It was based on the daily work experiences and tribulations of a prothonotary with the intent that the Manual would be helpful to newly-elected and incumbent officials and employees.

The Manual provides information about the rules of civil, appellate, and administrative procedures, including cites and quotes of pertinent references. It enables a prothonotary to find answers and provide authoritative comment, copies of acceptable forms, suggested procedures and other relevant information.

Another purpose of this Manual is to provide a basis on which to build and improve on in the future. With this idea in mind, the intent is to have the Committee continue working with the Administrative Office to keep the Manual current, and expand it based on the recommendations of all prothonotaries and their employees. It is to be their vehicle to improve the system, provide input into the unification system, and provide a prothonotary with an effective tool with which to work. It is a Manual written by prothonotaries for prothonotaries.

(Note: This original History page was dated March 1990)

IN SPECIAL RECOGNITION

The Prothonotaries' Procedures Manual as it exists today is the result of the combined efforts of the original Prothonotary Manual Advisory Committee who first researched and wrote it. We offer our heartfelt appreciation and sincere thanks to them for having undertaken the daunting task of producing that first manual. The current manual is also the result of the subsequent hardworking Prothonotary Manual Committees that met, discussed, tweaked and continually reviewed, updated and refined the manual over the ensuing years. We also applaud their hard efforts.

While the manual began in book form on typewriters, with our ever changing technology it evolved over the years to a computer disc format and now will be available over the Internet through the efforts of the Administrative Office of Pennsylvania Courts and its hardworking and dedicated staff. Our thanks to all those who have had a part in making Internet publication a reality.

We wish to offer our personal appreciation and gratitude to Maria A. Ilgenfritz of the Judicial Programs Department of the Administrative Office of Pennsylvania Courts for going above and beyond to help refine, correct and improve our manual. Her commitment and dedication to the task are greatly appreciated.

Acknowledging Their Past Endeavors

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42 Pa.C.S.A. § 4304	Y-1R-2
Goodrich Amram 2d 1915.13:1	Y-1R-3
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Goodrich Amram 2d 1032:9	Y-1R-6
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CHAPTER A

GUIDELINES FOR PROTHONOTARY

REFERENCES. It is recommended that each Prothonotary should have a minimum working reference library of Purdon Titles 1-3 (Constitution), 1-6 (Adoption to Bailees and Factors (Especially 5 P.S. § 34 - Where Prothonotary is party to suit)), 12A (UCC); 13 (8101 to End) (Commercial Code), 16 (Counties), 21-23 (Deeds, Mortgages & Divorce), 25 (Election Code), 42 (JARA and Rules of Civil Procedure), 43-45 (Labor/Legal Notices), 50-51 (Mental Health/Military), 72 (Taxation and Fiscal Affairs), Index, Pennsylvania Rules of Court - Desk Copy, Goodrich Amram 2d Procedural Rules Service with Forms (sets the standard for treatises on Pa.R.C.P.), Black's Law Dictionary and the Pennsylvania Bulletin. It should be noted that a Prothonotary almost has a daily need to refer to Title 42 (JARA & Rules of Civil Procedure). Purdon's Pennsylvania Legislative Service (providing timely service of recently passed Acts) and Purdon's Statutes Annotated (reporting case law according to Purdon Titles) are excellent references to have. (Included in the manual are copies of pertinent references used in the writing of this publication.)

READING PURDONS. When reading PURDONS it is wise to review the Historical Notes, Library References, Notes of Decisions, Cross References, Law Review Commentaries, Cumulative Annual Pocket Part or Supplementary Pamphlet.

Reference:

42 P.S. § 20003. Cross Reference and Interpretation

READING PENNSYLVANIA RULES OF CIVIL PROCEDURE. A note to a rule or an explanatory comment is not a part of the rule but may be used in construing the rule (Pa.R.C.P. No. 129(e)).

GLOSSARY. The Glossary in this manual, Pennsylvania Rules of Civil Procedure (R.C.P.) and Purdon's provide specific meanings for terms as used in the publication and should be referred to in order to have a clear and accurate meaning of the text. It should be noted that especially in the R.C.P., certain chapters have a definition section that give a specific meaning for the term as used in that section, e.g., a common term may have different meanings in different sections, and if the real meaning is not known, the reader could be misled. (NOTE: See Black's Law Dictionary or equivalent for more specific definitions.)

PROTHONOTARY. (Functions, responsibility and duties).

A. PURDON'S CHAPTER 27 - OFFICE OF THE CLERK OF THE COURT OF COMMON PLEAS.

1. General Provisions. Sections 2701 Scope and purpose of chapter; 2702 Place of filing of documents; and 2703 Notice of transfer of functions and duties, discussed and no recommendations made. Section 2704 Responsibility for entry, maintenance and certification of data and certification of data and certification of amicable judgments.

2. Specific Provisions. Sections 2731 Prothonotary (Historical Note on Constitutional authority); 2732 Selection of Prothonotary; 2733 Seal; 2734 Office of the Prothonotary; 2735 Staff (Subsection (c) should be referred to when discussing staff increases and salaries); 2736 Matters or documents filed in the office of the Prothonotary (The section basically states that all items to be filed in the court of common pleas shall be filed with the Prothonotary except for items specified in the sections 2756 and 2776 for criminal and orphans' court. In all suits or actions subject to compulsory arbitration in which the Prothonotary of the court shall be a party, or in which he may be interested, the duties hereinbefore required to be performed by him shall be performed by the recorder of deeds, the clerk of the orphans' court, the sheriff, coroner or treasurer of the same county pursuant to 5 P.S. § 34.

3. Duties. Section 2737 Power and duties of the Office of the Prothonotary. "Notes of Decisions" of interest:

#1. In general. First paragraph stating Prothonotary has no judicial powers nor does he have power to act as an attorney for others by virtue of his office (refer to 42 Pa.C.S.A. §§ 2501 et seq, Representation of Litigants). Last paragraph, McFadden vs. Kessler on deputies' power to act.

#5. Collection, keeping and accounting for moneys--in general. Last paragraph, Deckert's Appeal, regarding Prothonotary monies not liable to attachment.

#8. Payment of judgments, collection, etc., Prothonotary has no power to accept monies for payment of judgment. EXCEPTION - Receiving payment for a motor vehicle judgment under 75 Pa.C.S.A. § 1772.

#10.5. (Pocket Part) Certification. Power of Prothonotary to make searches and issue certifications (Petticord v Joyce (Allegheny County Prothonotary) and #22 (Pocket Part) liability for negligence by deputy). Requirement to perform a "Sheriff's Lien Search" and the right to refuse a search request referred to judgment section for research.

#12. Amendment and correction of judgments. Fourth paragraph on proper method to correct errors in docket and indexes.

#15. Names of parties generally, entry of judgments. Third paragraph, Wood v Reynolds, it is the duty of the plaintiff to see that his judgment be rightly entered (Also see the Fifth paragraph and Note #20).

#27. Hours. Prothonotary may set own hours, receive documents after closing and enter the following day as of the day received. EXCEPTION: The Office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions (25 P.S. § 2937).

#29. Due process, judgments by confession. Requirement of a disclosure statement by Swarb v Lennox presently only applies to counties under the jurisdiction of the U. S. District for the Eastern District.

#41. Seal. Buehler v Paxson stated in essence where a document in conformity with the statutes should have borne the judicial seal, which could have been affixed by the Prothonotary, the absence of such seal was a defect and not a mere informality.

4. DEPUTIES TO ACT IN CERTAIN CASES. Whenever any county officer is authorized or required to appoint a deputy or deputies, such deputy or principal deputy, where there are more than one, shall, during the necessary or temporary absence of his principal, perform all duties of such principal, and also, in case of a vacancy or as provided in 16 P.S. 401(b), until a successor is qualified. While fulfilling these duties, in the case of a vacancy, the deputy shall receive the salary provided by law for the principal OR the salary provided for the deputy, whichever is greater. (16 P.S. § 408(a))

5. IMMIGRATION. This is a non-judicial function which the Prothonotary need not perform.

6. References:

42 P.S. § 20003. Cross Reference and Interpretation.

42 Pa.C.S.A. §§ 2701-2705. General Provisions.

42 Pa.C.S.A. §§ 2731 - 2738. Prothonotaries.

42 Pa.C.S.A. § 7362. Voluntary Arbitration of Pending
Judicial Matters

[See main volume for [1173] to [1483]; (b) to (l)]

1978, April 28, P.L. 202, No. 53, § 2, effective June 27, 1978. As affected 1980, Oct. 5, P.L. 693, No. 142, § 324(b), eff. in 60 days.

Historical and Statutory Notes

Act 1982-326 legislation

Section 402 of Act 1982, Dec. 20, P.L. 1409, No. 326, [§ 20092 of this title] known as the JARA Continuation Act of 1982, provides as follows:

“Article III of this act [§§ 20061 to 20083 of this title] shall be deemed a part of section 2(a)

[this subsection] of the act of April 28, 1978 (P.L. 202, No. 53), known as the ‘Judiciary Act Repealer Act,’ for purposes of section 3 of that act [§ 20003 of this title].”

§ 20003. Cross Reference and Interpretation

(a) **Cross Reference**—This act shall be deemed a part of the act of July 9, 1976 (P.L. 586, No. 142), known as the “Judiciary Act of 1976” for the purposes of 1 Pa.C.S. § 1975 (relating to effect of repeal on limitations) and § 1978 (relating to repeal as obsolete does not affect substantive rights).

(b) **Interpretation**.—The specific repeals effected by section 2 are intended to eliminate obsolete, unnecessary or suspended statutory provisions. General rules promulgated pursuant to the Constitution of Pennsylvania and the Judicial Code in effect on the effective date of the repeal of a statute, shall prescribe and provide the practice and procedure with respect to the enforcement of any right, remedy or immunity where the practice and procedure had been governed by the repealed statute on the date of its repeal. (If no such general rules are in effect with respect to the repealed statute on the effective date of its repeal, the practice and procedure provided in the repealed statute shall continue in full force and effect, as part of the common law of the Commonwealth, until such general rules are promulgated.) Nothing in this act is intended to revive any act heretofore supplied and repealed by later inconsistent legislation. The fact that this act specifically repeals part of an act shall not create any implication that the unrepealed parts of such act are consistent with or are not supplied by the applicable provisions of the Pennsylvania Consolidated Statutes or other later statutes.

(c) Repealed. 1982, Dec. 20, P.L. 1409, No. 326, art. III, § 318, effective in 60 days.

(d) **District justices**.¹—An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the “district justice” in and for the appropriate magisterial district. 1978, April 28, P.L. 202, No. 53, § 3, effective June 27, 1978.

¹ References to district justices are deemed references to magisterial district judges pursuant to 2004, Nov. 30, P.L. 1618, No. 207, § 28(1), effective Jan. 31, 2005.

Historical and Statutory Notes

Act 1982-326 legislation

Section 402 of Act 1982, Dec. 20, P.L. 1409, No. 326, [§ 20092 of this title], known as the JARA Continuation Act of 1982, provides as follows:

“Article III of this act [§§ 20061 to 20083 of this title] shall be deemed a part of section 2(a)

[§ 20002(a) of this title] of the act of April 28, 1978 (P.L. 202, No. 53), known as the ‘Judiciary Act Repealer Act,’ for purposes of section 3 of that act [this subsection].”

Research References

Encyclopedias

Summary Pa. Jur. 2d Criminal Law § 27:115, Prohibition Against Reduction of Other Charge of Theft to Charge of Retail Theft.

Treatises and Practice Aids

Goodrich-Amram 2d § 3025:2, Historical Background; Scope of the Rule.
Goodrich-Amram 2d Rule 1006, Venue. Change of Venue.
Goodrich-Amram 2d Rule 3020, Definition.

CHAPTER 27

OFFICE OF THE CLERK OF THE COURT OF COMMON PLEAS

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 2701. Scope and purpose of chapter.
- 2702. Place of filing of documents.
- 2703. Notice of transfer of functions and duties.
- 2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments.
- 2705. Responsibility for reports to executive agencies.

SUBCHAPTER B. PROTHONOTARIES

- 2731. Prothonotary.
- 2732. Selection of prothonotary.
- 2733. Seal.
- 2734. Office of the prothonotary.
- 2735. Staff.
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- 2737. Powers and duties of the office of the prothonotary.
- 2737.1. Incorrect debtor identified.
- 2738. Criminal, probate, estates and fiduciary matters.

SUBCHAPTER C. CLERKS OF THE COURTS

- 2751. Clerk of the courts.
- 2752. Selection of clerk of the courts.
- 2753. Seal.
- 2754. Office of the clerk of the courts.
- 2755. Staff.
- 2756. Matters or documents filed in the office of the clerk of the courts.
- 2757. Powers and duties of the office of the clerk of the courts.

SUBCHAPTER D. CLERKS OF ORPHANS' COURT DIVISIONS

- 2771. Clerk of the orphans' court division.
- 2772. Selection of clerk of the orphans' court division.
- 2773. Seal.
- 2774. Office of the clerk of the orphans' court division.
- 2775. Staff.
- 2776. Matters or documents filed in the office of the clerk of the orphans' court division.
- 2777. Powers and duties of the office of the clerk of the orphans' court division.

SUBCHAPTER A. GENERAL PROVISIONS

Cross References

Division of business under this chapter, administrative staff of courts of common pleas and Philadelphia Municipal Court, see 42 Pa.C.S.A. § 102.

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2702

§ 2701. Scope and purpose of chapter

(a) **Purpose.**—The purpose of this chapter is to facilitate the prompt, fair and efficient administration of justice by specifying the respective powers and duties of prothonotaries, clerks of the courts and clerks of orphans' court divisions.

(b) **Effect of other provisions of law.**—The provisions of this chapter shall be subject to any inconsistent statute, home rule charter or optional plan of government, and to any inconsistent general rule or rule of court heretofore or hereafter adopted pursuant to and subject to the limitations of constitutional authority.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

New.

Library References

Clerks of Courts ⇨1.
Westlaw Topic No. 79.
C.J.S. Courts § 236.

Research References

Treatises and Practice Aids

Goodrich-Amram 2d § 76:6, Prothonotary.
Standard Pennsylvania Practice 2d 2d § 3:79, Powers and Duties.

Standard Pennsylvania Practice 2d 2d CH 3 II A REF, Ch. 3, Div. II A References.

§ 2702. Place of filing of documents

Where jurisdiction of any matter is by law vested in a court of common pleas or in the Philadelphia Municipal Court, all applications for relief or other documents relating to the matter shall be filed in or transferred to the office of the clerk of the court of common pleas and handled by the appropriate office specified by or pursuant to this chapter.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

New.

Library References

Clerks of Courts ⇨67.
Westlaw Topic No. 79.
C.J.S. Courts § 251.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d
§ 15:5, Place of Application.

Standard Pennsylvania Practice 2d 2d
§ 2:206, Effect of Pennsylvania Court
of Common Pleas Decisions on Other
Courts.

Standard Pennsylvania Practice 2d 2d
CH 15 I A REF, Ch. 15, Div. I A
References.

Standard Pennsylvania Practice 2d 2d
CH 2 VIII A REF, Ch. 2, Div. VIII A
References.

Notes of Decisions

Philadelphia court rules 1

1. Philadelphia court rules

Philadelphia Civil Rule 240, which re-
quires filing of all exceptions in posttrial
motions with posttrial motion clerk, with-
out provision for transfer to prothonota-
ry, is in violation of 42 Pa.C.S.A. §§ 2702,

2736 and Rules App.Proc., Rule 1921, 42
Pa.C.S.A., which require the filing of all
documents which will constitute the rec-
ord on appeal in office of prothonotary
and that the entire record be transmitted
to the Superior Court on appeal. *Burns*
v. City of Philadelphia, 504 A.2d 1321,
350 Pa.Super. 615, Super.1986. Appeal
And Error ⇌ 510; Appeal And Error ⇌
619

§ 2703. Notice of transfer of functions and duties

Whenever pursuant to section 2756(b)(2) (relating to exceptions) a clerk of the courts files a waiver of any functions and duties ordinarily incident to his office, the order of court appointing another officer or other person to perform such functions and duties entered pursuant to this chapter shall not be valid for any purpose until filed in the Administrative Office. The Administrative Office shall cause all such orders to be published in the Pennsylvania Code.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

New.

Library References

Clerks of Courts ⇌67.

Westlaw Topic No. 79.

C.J.S. Courts § 251.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d
§ 3:90, Powers and Duties.

Standard Pennsylvania Practice 2d 2d
CH 3 II B REF, Ch. 3, Div. II B
References.

§ 2704. Responsibility for entry, maintenance and certification of data and certification of amicable judgments

The prothonotary, clerk of the courts and clerk of the orphans' court division shall:

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2705

(1) Be responsible for the accurate and timely creation, maintenance and certification of the record of matters pending before or determined by the courts of common pleas and the Philadelphia Municipal Court, including data and reports relating thereto.

(2) Within 30 days after the entry of any money judgment, other than upon a verdict or after decision by a court, deliver to the authorities who assess for county tax purposes in the county where the judgment was entered a written report of the docket number where the judgment was entered, the date the judgment was entered, the amount of the judgment, the names of all parties to the proceeding in which the judgment was entered, the addresses of the persons in favor of whom the judgment was entered and the names and addresses of all assignees of the judgment. Failure to perform the duties imposed by this paragraph shall not impair the validity of any judgment or the lien thereof.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1980, Oct. 5, P.L. 693, No. 142, § 501(a), effective in 60 days.

Historical and Statutory Notes

Act 1980-142 legislation

The 1980 amendment added the language in the section heading following the word "data" and, in the first sentence of the text, after "shall" inserted the colon, inserted the "(1)" before "Be" and added subsec. (2).

Official Source Note:

New.

Prior Laws:

1921, May 20, P.L. 938, § 1 (17 P.S. § 1914).

Library References

Clerks of Courts ¶69.
Westlaw Topic No. 79.
C.J.S. Courts § 252.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d § 3:79, Powers and Duties.
Standard Pennsylvania Practice 2d 2d § 2:206, Effect of Pennsylvania Court of Common Pleas Decisions on Other Courts.

Standard Pennsylvania Practice 2d 2d CH 3 II A REF, Ch. 3, Div. II A References.
Standard Pennsylvania Practice 2d 2d CH 2 VIII A REF, Ch. 2, Div. VIII A References.

§ 2705. Responsibility for reports to executive agencies

(a) **Community Affairs.**—The office of clerk of the court of common pleas shall certify to the Department of Community Affairs a copy of any order of court incorporating, merging, dissolving, annexing any territory from or to, confirming the adoption, amendment or repeal of any home rule charter or optional plan of government, or otherwise affecting the corporate status of any municipality.

(b) **Insurance Department.**—The prothonotary and the clerk of the orphans' court division shall make to the Insurance Department such periodic or special reports concerning matters commenced against any person subject to the supervision of the Insurance Department as the department may specify by regulation.

(c) **Department of Justice.**—The prothonotary and the clerk of the courts shall make to the Department of Justice such periodic or special reports concerning criminal matters as the department may specify by regulation.

(d) **Department of Labor and Industry.**—The clerk of the courts shall notify the Department of Labor and Industry of every conviction under the act of May 18, 1937 (P.L. 665, No. 176), known as the "Industrial Homework Law,"¹ if the department is not a party to the proceedings.

(e) **Department of Transportation.**—The office of the clerk of the court of common pleas shall comply with the reporting requirements of Title 75 (relating to vehicles).

(e.1) **Department of Revenue.**—The clerk of the courts shall report to the Department of Revenue, for the purposes of an audit of tax returns, the name of any person convicted of selling, distributing, delivering or manufacturing or possessing with intent to sell, distribute, deliver or manufacture any controlled substance or designer drug under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act,² when the value of the controlled substance or the designer drug, or combination thereof, amounts to \$1,000 or more. As used in this subsection, the term "convicted" includes having pleaded guilty or nolo contendere.

(f) **Superseding administrative office procedures and standards.**—The manner of making any informational report required by or pursuant to subsections (a) through (e) or by or pursuant to any other similar statute by the office of the clerk of the court of common pleas may be modified by procedures and standards prescribed pursuant to section 4301 (relating to establishment and maintenance of judicial records) with the approval of the Department of Justice.

1978, April 28, P.L. 202, No. 53, § 10(22), effective June 27, 1978. Amended 1989, Dec. 22, P.L. 726, No. 98, § 1, effective in 60 days.

¹ 43 P.S. § 491-1 et seq.

² 35 P.S. § 780-101 et seq.

Historical and Statutory Notes

Act 1989-98 legislation

The 1989 amendment added subsec. (e.1).

Act 1996-58 legislation

Section 301 of 1996, June 27, P.L. 403, No. 58, 71 P.S. § 1709.301, provides that

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2731

the following function of the Department of Community Affairs is transferred to the Department of Community and Economic Development: all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferred elsewhere by this act and currently performed by the Department of Community Affairs under subsec. (a) of this section.

Official Source Note:

Derived from act of February 27, 1847 (P.L. 172, No. 131), § 2 (17 P.S. § 416); act of May 17, 1921 (P.L. 789, No. 285), § 210 (40 P.S. § 48), act of July 9, 1976

(No. 142), § 6 (1976 Purd. Pamph. No. 4) and similar statutes.

Prior Laws:

1976, Nov. 24, P.L. 1196, No. 263, § 5.
1974, June 17, P.L. 341, No. 110, § 1.
1971, June 29, P.L. 263, No. 65, § 4.
1968, July 31, P.L. 757, No. 236, § 1.
1937, May 18, P.L. 665, No. 176, § 17.1 (43 P.S. § 491-17.1).
1927, April 27, P.L. 476, § 2.
1921, May 17, P.L. 789, art. II, § 210 (40 P.S. § 48).
1921, May 17, P.L. 682, art. III, § 337.7 (40 P.S. § 459.7(i)).
1847, Feb. 27, P.L. 172, § 2 (17 P.S. § 416).

Library References

Clerks of Courts ⇐67.
Westlaw Topic No. 79.
C.J.S. Courts § 251.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d
§ 3:77, Generally.

Standard Pennsylvania Practice 2d 2d
CH 3 II A REF, Ch. 3, Div. II A
References.

SUBCHAPTER B. PROTHONOTARIES

§ 2731. Prothonotary

(a) **General rule.**—In each county of this Commonwealth there shall be one prothonotary for the court of common pleas, who shall be known as the “Prothonotary of (the respective) County.”

(b) **Multicounty judicial districts.**—In multicounty judicial districts the prothonotary shall be the prothonotary of the branch of the court of common pleas established for the county.

(c) **Philadelphia.**—In the first judicial district there shall be one prothonotary for the Court of Common Pleas of Philadelphia County and the Philadelphia Municipal Court, who shall be known as the “Prothonotary of Philadelphia.”

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

Derived from Constitution, Art. V, Schedule, § 16(y), Art. IX, § 4; act of July 28, 1953 (P.L. 723, No. 230), § 401

(16 P.S. § 3401), act of August 9, 1955 (P.L. 323, No. 130), § 401 (16 P.S. § 401).

Library References

Clerks of Courts ⇐2.
Westlaw Topic No. 79.
C.J.S. Courts § 237.

Research References

Treatises and Practice Aids

Goodrich-Amram 2d § 76:6, Prothonotary.
 Standard Pennsylvania Practice 2d 2d § 1:19, Rules in Pari Materia.
 Standard Pennsylvania Practice 2d 2d § 21:1, Commencement of Action by Filing Complaint.
 Standard Pennsylvania Practice 2d 2d § 3:80, Generally.

Standard Pennsylvania Practice 2d 2d § 3:104, Administrative Staff.
 Standard Pennsylvania Practice 2d 2d CH 3 III REF, Ch. 3, Div. III References.
 Standard Pennsylvania Practice 2d 2d CH 1 II B REF, Ch. 1, Div. II B References.
 Standard Pennsylvania Practice 2d 2d CH 3 II B REF, Ch. 3, Div. II B References.

Notes of Decisions

Fees 1
 Philadelphia 2

2. Philadelphia

1. Fees

Former provisions of Const. Art. 5, § 16, which provided for fixed salaries and which provided that the prothonotary should pay all fees collected into the county treasury, was construed to mean that the prothonotary was entitled to retain his fees until the legislature had fixed his salary; and until then, he could not be restrained from taking them. Perot's Appeal, 86 Pa. 335, 1878, affirming 12 Phila. 353, 34 L.I. 28.

In view of former constitutional provision that for Philadelphia there should be one prothonotary for all courts of common pleas who should appoint necessary assistants, such county officer would not be considered a county officer within City-County Consolidation Amendment; and although former Art. 14, § 8 (repealed; see now, Art. 9, § 13), provided that county officers should become city officers upon adoption of amendment, such prothonotary did not become subject to the provisions of the Philadelphia Home Rule Charter. *Lennox v. Clark*, 93 A.2d 834, 372 Pa. 355, Sup.1953. Clerks Of Courts ⇐ 1

§ 2732. Selection of prothonotary

(a) **General rule.**—The prothonotary of each county shall be selected and may be removed, in the manner provided by the act of July 28, 1953 (P.L.723, No. 230), known as the "Second Class County Code,"¹ or the act of August 9, 1955 (P.L.323, No. 130), known as "The County Code,"² as the case may be.

(b) **Philadelphia.**—The Prothonotary of Philadelphia shall be appointed by the Court of Common Pleas of Philadelphia County. 1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

¹ 16 P.S. § 3101 et seq.

² 16 P.S. § 101 et seq.

Historical and Statutory Notes

Official Source Note:

Subsection (a) new, Subsection (b) derived from Constitution, Art. V, Schedule, § 16(y).

Prior Laws:

Const.1874, Art. 5, Schedule, § 16(y), adopted April 23, 1968.
 1834, April 14, P.L. 333, § 76 (17 P.S. § 1481).

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2733

Library References

Clerks of Courts ⇨3, 8.
Westlaw Topic No. 79.
C.J.S. Courts §§ 238, 241.

Research References

Treatises and Practice Aids	Standard Pennsylvania Practice 2d 2d
Standard Pennsylvania Practice 2d 2d	CH 3 III REF, Ch. 3, Div. III Refer-
§ 3:80, Generally.	ences.
Standard Pennsylvania Practice 2d 2d	
§ 3:104, Administrative Staff.	

Notes of Decisions

In general 1
Compensation 2

1. In general

The act of April 14, 1834, P.L. 333 (repealed) provided for appointments for each of the courts. All duties of a prothonotary and clerk are judicial. *Cardello v. Fleming*, 43 Pa. D. & C. 367, 90 Pitts.L.J. 63 (1942). Clerks Of Courts ⇨ 66

Although court of common pleas had authority to appoint prothonotary, prothonotary was not employed by court, but instead by Philadelphia County, and thus, doctrine of respondeat superior did not

apply to make court of common pleas liable for negligence of prothonotary in failing to index writs of revival of judgment. *Commonwealth Federal Sav. and Loan Ass'n v. Pettit*, 586 A.2d 1021, 137 Pa.Cmwlt. 523, Cmwlt.1991. Clerks Of Courts ⇨ 72

2. Compensation

Question of proper compensation for county officers was a legislative matter and one which Legislature could not delegate; thus court could not fashion what it viewed to be proper salaries. *Bakes v. Snyder*, 403 A.2d 1307, 486 Pa. 80, Sup. 1979. Constitutional Law ⇨ 70.1(12)

§ 2733. Seal

The prothonotary shall have custody of a counterpart of the seal of the court or courts for which he is the prothonotary.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

New.

Library References

Clerks of Courts ⇨65.
Westlaw Topic No. 79.
C.J.S. Courts § 249.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d
§ 3:81, Powers and Duties, Generally.

§ 2734. Office of the prothonotary

(a) **General rule.**—There shall be an office of the prothonotary in each county of this Commonwealth, which shall be supervised by the prothonotary of the county who shall, either personally, by deputy or by other duly authorized employees or agents of the office, exercise the powers, and perform the duties by law vested in and imposed upon the prothonotary or the office of the prothonotary.

(b) **Facilities and services.**—The office of the prothonotary shall be provided with all necessary accommodations, goods and services pursuant to section 3722 (relating to general facilities and services furnished by county).

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:	1925, March 19, P.L. 59, No. 39, §§ 1, 2 (17 P.S. §§ 1518, 1519).
New.	1917, May 24, P.L. 304, § 1.
Prior Laws:	1915, April 21, P.L. 157, § 1.
1955, Aug. 9, P.L. 323, § 1306 (16 P.S. § 1306).	1911, June 9, P.L. 753, No. 315, § 1.
1953, July 28, P.L. 723, art. XIII, § 1305 (16 P.S. § 4305).	1897, May 26, P.L. 100, §§ 1, 2 (17 P.S. §§ 1489, 1513).
1929, May 2, P.L. 1278, art. III, §§ 226, 229.	1859, March 22, P.L. 194, No. 195, § 1.

Library References

Clerks of Courts ⇄2.
Westlaw Topic No. 79.
C.J.S. Courts § 237.

Research References

Treatises and Practice Aids	Standard Pennsylvania Practice 2d 2d § 10:41, Seal.
Standard Pennsylvania Practice 2d 2d § 3:80, Generally.	Standard Pennsylvania Practice 2d 2d CH 10 III B REF, Ch. 10, Div. III B References.
Standard Pennsylvania Practice 2d 2d § 3:81, Powers and Duties, Generally.	

§ 2735. Staff

(a) **General rule.**—The prothonotary may appoint and remove such deputies and other administrative staff of the office of the prothonotary as may be necessary.

(b) **Solicitor.**—The prothonotary may appoint and remove a solicitor, who shall be a member of the bar of this Commonwealth. The solicitor shall advise upon all legal matters that may be submitted by the prothonotary to him, and shall conduct any litigation when required to do so by the prothonotary.

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(c) **Compensation and duties.**—The prothonotary, except as otherwise provided by statute or home rule charter or optional plan of government, may fix the compensation and duties of the staff of the office of the prothonotary. Where the compensation of the staff of the office of the prothonotary is fixed by a county salary board, the prothonotary shall be a member of the salary board for such purpose. 1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(22.1), effective June 27, 1978.

Historical and Statutory Notes

Act 1978–53 legislation

Act 1978–53, § 10(22.1), in subsec. (b), in the first sentence, substituted “this Commonwealth” for “the Supreme Court”.

Official Source Note:

Derived from act of July 28, 1953 (P.L. 723, No. 230), §§ 1304, 1307, 1308.1 and 1823 (16 P.S. §§ 4304, 4307, 4308.1 and 4823), act of August 9, 1955 (P.L. 323, No. 130), §§ 1305, 1307, 1308 and 1623 (16 P.S. §§ 1305, 1307, 1308 and 1623).

Prior Laws:

1961, June 7, P.L. 245, § 1.
1957, April 9, P.L. 52, No. 26, § 1.
1955, Aug. 9, P.L. 323, §§ 1304, 1305, 1307, 1308 (16 P.S. §§ 1304, 1305, 1307, 1308).

1953, July 28, P.L. 723, art. XVIII, § 1823 (16 P.S. § 4823).

1953, July 28, P.L. 723, art. XIII, §§ 1307, 1308.1 (16 P.S. §§ 4307 and 4308.1).

1947, July 5, P.L. 1308, §§ 8, 11.

1933, May 23, P.L. 952, § 1.

1931, June 9, P.L. 401, § 1.

1929, May 2, P.L. 1278, art. III, §§ 223, 224, 228, 233.

1925, March 19, P.L. 59, No. 39, §§ 1 to 3 (17 P.S. §§ 1518 to 1520).

1917, June 7, P.L. 415, § 2.

1917, May 24, P.L. 304, § 1.

1915, April 21, P.L. 157, § 1.

1911, June 9, P.L. 753, No. 315, §§ 1, 2.

1897, May 26, P.L. 100, No. 83, § 1.

1874, May 15, P.L. 186, No. 120, § 4.

1874, Feb. 12, P.L. 43, No. 2, § 2.

1852, March 1, P.L. 100, § 1.

1834, April 14, P.L. 333, § 75.

Cross References

Deputy register of wills, see 20 Pa.C.S.A. § 902.

Library References

Clerks of Courts ⇐6.
Westlaw Topic No. 79.
C.J.S. Courts §§ 260 to 265.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d § 3:84, Appointment of Deputies and Staff.

Standard Pennsylvania Practice 2d 2d § 3:85, Solicitors.

Notes of Decisions

Fees 2

Law governing 1

1. Law governing

If the court should find the provisions of 16 P.S. § 101 et seq., authorizing the prothonotary, register of wills, sheriff, county treasurer, recorder of deeds and clerks of courts each to appoint one person as solicitor in his office, to be in irreconcilable conflict with the provision of 16 P.S. § 1623, authorizing the salary board to fix the number of employes in each such office, 1 Pa.C.S. § 1933 would require the general provision of 16 P.S. § 1623 to yield to the special provisions of the earlier sections relating to each office. *Sukala v. Shope*, 63 Pa. D. & C.2d 517, 55 Wes.C.L.J. 37 (1973). Statutes ⇌ 223.4

Since the provisions of 16 P.S. § 101 et seq. in separate sections authorize the prothonotary, register of wills, sheriff, county treasurer, recorder of deeds and clerk of courts, respectively, each to appoint one person as his solicitor, the salary board may not, under the guise of fixing the number of such employes, as

authorized by 16 P.S. § 1623, eliminate entirely the post of solicitor in each of those offices. *Sukala v. Shope*, 63 Pa. D. & C.2d 517, 55 Wes.C.L.J. 37 (1973).

In Philadelphia the prothonotary retained the power under former provisions of Const. Art. 5, § 16 to appoint his assistants in spite of Art. 14, § 8 (repealed; see now Art. 9, § 13), which related to city-county consolidation, and in spite of 53 P.S. § 13131, which relates to home rule, and was not bound by the civil service provisions of the Home Rule Charter. *Burke v. Clark*, 87 Pa. D. & C. 329 (1954), affirmed in part, modified in part and reversed in part on other grounds 93 A.2d 834, 372 Pa. 355. Clerks Of Courts ⇌ 6

2. Fees

Solicitor for county prothonotary was not entitled to additional attorney fees with reference to federal court action where it was not clear that activities with reference to that action were any different from official duties of solicitor. In re *Montgomery*, 445 A.2d 873, 67 Pa. Cmwlth. 2, Cmwlth.1982. Counties ⇌ 74(1)

§ 2736. Matters or documents filed in the office of the prothonotary

All matters or documents required or authorized to be filed in the office of the clerk of the court of common pleas shall be filed in the office of the prothonotary except:

(1) Matters or documents specified in section 2756 (relating to matters or documents filed in the office of the clerk of the courts).

(2) Matters or documents specified in section 2776 (relating to matters or documents filed in the office of the clerk of the orphans' court division).

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Historical and Statutory Notes

Official Source Note:

New.

Prior Laws:

1953, Aug. 21, P.L. 1305, § 4 (16 P.S. § 9657).

Library References

Clerks of Courts ⇌ 69.
Westlaw Topic No. 79.
C.J.S. Courts § 252.

Research References

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d § 15:5, Place of Application.

Standard Pennsylvania Practice 2d 2d § 3:81, Powers and Duties, Generally.

Standard Pennsylvania Practice 2d 2d CH 15 I A REF, Ch. 15, Div. I A References.

Notes of Decisions

In general 1

And Error ⇔ 510; Appeal And Error ⇔ 619

1. In general

Philadelphia Civil Rule 240, which requires filing of all exceptions in posttrial motions with posttrial motion clerk, without provision for transfer to prothonotary, is in violation of 42 Pa.C.S.A. §§ 2702, 2736 and Rules App.Proc., Rule 1921, 42 Pa.C.S.A., which require the filing of all documents which will constitute the record on appeal in office of prothonotary and that the entire record be transmitted to the Superior Court on appeal. *Burns v. City of Philadelphia*, 504 A.2d 1321, 350 Pa.Super. 615, Super.1986. Appeal

Prothonotaries are public officers upon whom many duties may be imposed by Legislature, and they may have control of documents similar to those filed with recorder of deeds, but when paper is directed to be filed in prothonotary's office, act may give record a quasi judicial character. *Delco Ice Mfg. Co. v. Frick Co.*, 178 A. 135, 318 Pa. 337, Sup.1935. *Clerks Of Courts* ⇔ 69

A prothonotary must accept papers and file them. He must also collect the fees fixed by the legislature. *Com. ex rel. Cohen v. Roberts*, 11 Pa. D. & C.2d 257, 105 Pitts.L.J. 21 (1958).

§ 2737. Powers and duties of the office of the prothonotary

The office of the prothonotary shall have the power and duty to:

(1) Administer oaths and affirmations and take acknowledgments pursuant to section 327 (relating to oaths and acknowledgments), but shall not be compelled to do so in any matters not pertaining to the proper business of the office.

(2) Affix and attest the seal of the court or courts to all the process thereof and to the certifications and exemplifications of all documents and records pertaining to the office of the prothonotary and the business of the court or courts of which it is the prothonotary.

(3) Enter all civil judgments, including judgments by confession.

(4) Enter all satisfactions of civil judgments.

(5) Exercise the authority of the prothonotary as an officer of the court.

(6) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, order or rule of court, or ordinance of a county governed by a home rule charter or optional plan of government.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(23), effective June 27, 1978.

Historical and Statutory Notes

Act 1976-142 legislation

Section 24(e) of 1976, July 9, P.L. 586, No. 142, as amended by 1979, July 20, P.L. 166, No. 54, § 1, provides:

"Until otherwise provided by statute, the prothonotary and the clerk of the orphans' court division of all counties of the second class shall set apart from the fees fixed under or pursuant to 42 Pa.C.S. § 1725 or under any other statute and collected by them on the following actions, proceedings and appeals and remit monthly the total collected to the county treasure for the exclusive use and benefit of the public law library in the county:

"(1) The sum of \$1.00 for all appeals to the court of common pleas from any administrative agency, independent agency, government unit, government agency, or Commonwealth agency.

"(2) The sum of \$1.00 for any and all other appeals which are filed with or are to be heard by the court of common pleas which are not specifically set forth in paragraph (1), including, but not limited to appeals from district justices, the Pittsburgh Magistrates Court and the Traffic Court of Pittsburgh.

"(3) The sum of \$1.00 for appointments of Boards of View.

"(4) The sum of \$1.00 for certiorari to district justices and the Pittsburgh Magistrates Court and the Traffic Court of Pittsburgh.

"(5) The sum of \$1.00 for the commencement of any civil action or proceeding.

"(6) The sum of \$1.00 for the filing of a praecipe for and issuance of a writ of execution or attachment.

"(7) The sum of \$1.00 for the entry of any judgment by confession or otherwise.

"(8) The sum of \$1.00 for the filing of adversary and amicable scire facias proceedings.

"(9) The sum of \$1.00 for every filing with respect to fictitious names, whether individual or corporate.

"(10) The sum of \$1.00 for the probate of any will, the issuance of letters of administration, or any petition for disposition of decedents estates independent of the issuance of letters testamentary or of administration.

"(11) The sum of \$1.00 for the filing of any account of any fiduciary in the office of the clerk of the orphans' court division or in the office of the prothonotary.

"(12) The sum of \$1.00 for the filing of any petition for a writ of habeas corpus for the custody of a minor child or any petition for the award of custody of a minor child.

"(13) The sum of \$1.00 for the filing of any praecipe for the issuance of any miscellaneous writs or for the filing of any petition for a citation or the filing of any caveat not specifically provided for in this subsection."

Act 1978-53 legislation

Act 1978-53, § 10(23), in par. (3), inserted "including judgments by confession".

Official Source Note:

Paragraph (1) derived from act of July 28, 1953 (P.L. 723, No. 230), § 1305 (16 P.S. § 4305), act of August 9, 1955 (P.L. 323, No. 130), § 1306 (16 P.S. § 1306). Paragraphs (2) to (6) new.

1978 Amendment: To give effect to act of February 24, 1806 (P.L. 334, 4 Sm.L. 270), § 28 (12 P.S. § 739), act of March 21, 1806 (P.L. 558, 4 Sm.L. 326), § 8 (12 P.S. § 738).

Prior Laws:

1978, April 28, P.L. 124, No. 52, § 67.
1972, July 12, No. 185, § 1305 (53 P.S. § 6780-605).

1957, June 10, P.L. 281, No. 143, § 1.
1957, June 10, P.L. 281, No. 142, § 1.

1955, Aug. 9, P.L. 323, § 1306 (16 P.S. § 1306).

1953, July 28, P.L. 723, art. XIII, § 1305 (16 P.S. § 4305).

1929, May 2, P.L. 1278, art. III, §§ 226, 229.

1915, April 21, P.L. 157, § 1.

1911, June 9, P.L. 753, No. 315, § 1.

1859, March 22, P.L. 194, No. 195, § 1.
1849, April 9, P.L. 524, § 8 (17 P.S. § 1917).

1834, April 14, P.L. 333, § 77 (17 P.S. § 1482).

1817, Feb. 3, P.L. 31, 6 Sm.L. 398, § 1 (42 P.S. § 952).

1806, March 21, P.L. 558, 4 Sm.L. 326, § 8 (12 P.S. § 738).

1806, Feb. 24, P.L. 334, 4 Sm.L. 270, § 28 (12 P.S. § 739).

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2737

Cross References

Confession of judgment, see Pa.R.C.P. No. 2950 et seq., 42 Pa.C.S.A.

Law Review and Journal Commentaries

Abolition of the confession of judgment note in retail installment sales contracts. 73 Dick.L.Rev. 115 (1968).

Confession of judgment procedure—unconstitutionality. 75 Dick.L.Rev. 169 (1970).

Confessions of judgment: The due process defects. 43 Temp.L.Q. 279 (1970).

Confessions of judgment in Pennsylvania. 34 U.Pitt.L.Rev. 103 (1972).

Library References

Clerks of Courts §64.
Westlaw Topic No. 79.
C.J.S. Courts §§ 249, 254.

Research References

Encyclopedias

Summ PA Jur. 2d Municipal Law § 8:21, Prothonotary.

Forms

10 West's Pennsylvania Forms § 17.5, Praeipite to Satisfy.

Treatises and Practice Aids

Goodrich-Amram 2d Rule 2951, Goodrich Explanatory Comment.

Goodrich-Amram 2d § 2951(A):2, Confession of Judgment.

Standard Pennsylvania Practice 2d 2d § 3:81, Powers and Duties, Generally.

Standard Pennsylvania Practice 2d 2d § 67:1, Generally.

Standard Pennsylvania Practice 2d 2d § 67:6, Generally.

Standard Pennsylvania Practice 2d 2d § 10:41, Seal.

Standard Pennsylvania Practice 2d 2d § 67:82, Generally.

Standard Pennsylvania Practice 2d 2d § 78:44, Prothonotaries.

Standard Pennsylvania Practice 2d 2d § 65:104, Generally.

Standard Pennsylvania Practice 2d 2d § 96:145, Evidence of Value.

Standard Pennsylvania Practice 2d 2d CH 67 I B REF, Ch. 67, Div. I B References.

Standard Pennsylvania Practice 2d 2d CH 67 V A REF, Ch. 67, Div. V A References.

Standard Pennsylvania Practice 2d 2d CH 78 V A REF, Ch. 78, Div. V A References.

Standard Pennsylvania Practice 2d 2d CH 96 IV I REF, Ch. 96, Div. IV I References.

Standard Pennsylvania Practice 2d 2d CH 10 III B REF, Ch. 10, Div. III B References.

Standard Pennsylvania Practice 2d 2d CH 65 VIII A REF, Ch. 65, Div. VIII A References.

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1. In general

Prothonotary has no judicial powers nor does he have power to act as attorney for others by virtue of his office. *Smith v. Safeguard Mut. Ins. Co.*, 239 A.2d 824,

212 Pa.Super. 83, Super.1968. Clerks Of Courts ⇌ 65; Clerks Of Courts ⇌ 66

"Prothonotary" is merely clerk of court of common pleas. *Smith v. Safeguard Mut. Ins. Co.*, 239 A.2d 824, 212 Pa.Super. 83, Super.1968. Clerks Of Courts ⇌ 1

Philadelphia Court Rule 145, providing for the prothonotary to enter an interlocutory order requiring a party to answer interrogatories within 30 days or suffer entry of judgment in favor of the party propounding the interrogatories, is invalid because it is inconsistent with Pa. R.C.P. No. 4019, 42 Pa.C.S.A., by its elimination of judicial discretion in the imposition of sanctions and by its delegation to the prothonotary of the court's power to impose sanctions (notwithstanding the power of the court to vest powers in the prothonotary under the Judicial Code). *Bowles v. Cohen*, 9 Pa. D. & C.3d 309 (1979). Pretrial Procedure ⇌ 309

Omission in Const. Art. 14, § 8, (repealed; see now, Art. 9, § 13), which related to city-county consolidation, to refer to Const. Art. 5, § 16, which pertains to the judiciary, indicated lack of intent to affect the powers of the prothonotary and the register of wills granted in Const. Art. 5, § 16. *Burke v. Clark*, 87 Pa. D. & C. 329 (1954), affirmed in part, modified in part and reversed in part on other grounds 93 A.2d 834, 372 Pa. 355. Clerks Of Courts ⇌ 65; Registers Of Deeds ⇌ 4

The mere absence of a prothonotary from his office does not constitute a vacancy, since the prothonotary is entitled to appoint deputies; and, in case of his sickness, absence, or other temporary disability, the person designated as principal deputy prothonotary is empowered to act. *McFadden v. Kessler*, 50 Pa. D. & C. 20 (1944). Clerks Of Courts ⇌ 7

2. Administering oaths

The prothonotary cannot administer the oath to an insolvent's petition. *Detwiler v. Casselberry*, 5 W. & S. 179, 1843.

3. Bonds

A prothonotary is liable upon his official bond, to any one who may be injured by his neglect or violation of duty, and the statute of limitations does not apply to such an action. *Saylor v. Com.*, 5 A. 227; 2 Cent.Rep. 562, 1886; *McKeehan v. Com.*, 3 Pa. 151, 1846; *Mann's Appeal*,

1 Pa. 24, 1845; *Com. v. Conard*, 1 Rawle 249, 1829; *Work v. Hoofnagle*, 1 Y. 506, 1795.

The sureties are responsible for the damages occasioned by an erroneous certificate of judgments. But only to the person to whom it is given. *Siewers v. Com.*, 87 Pa. 15, 1878; *Ziegler v. Com.*, 12 Pa. 227, 1849; *McCaraher v. Com.*, 5 W. & S. 21, 1843.

The bond is valid, though not approved. *McKeehan v. Com.*, 3 Pa. 152, 1846; *Young v. Com.*, 6 Binn. 88, 1813.

Where prothonotary was not liable to one who was injured by negligence of indexing clerk in prothonotary's office in improperly indexing judgment note, bonding company, which signed prothonotary's bond as surety rather than as indemnitor, was not liable to the one injured. *Com. to Use of Orris v. Roberts*, 141 A.2d 393, 392 Pa. 572, Sup.1958. *Clerks Of Courts* ⇨ 74

Under the evidence in an action on a prothonotary's official bond for damages from his failure to properly index a judgment, the court properly refused to direct a verdict for plaintiff. *Commonwealth v. Cruikshank*, 96 A. 825, 251 Pa. 390, Sup. 1916. *Clerks Of Courts* ⇨ 75

If a prothonotary is told to issue a writ of testatum fieri facias and fails to include a waiver of exemption which was a part of the judgment, he is liable for any loss thereby sustained by the plaintiff. *Wilson v. Arnold*, 33 A. 552, 172 Pa. 264, Sup. 1896. *Clerks Of Courts* ⇨ 72

4. Custody of moneys—In general

A prothonotary, as such, is authorized to receive costs due to his predecessor, and the sureties in his official bond are liable therefor, *Watson v. Smith*, 26 Pa. 395, 1856; but if a prothonotary receives fees for the sheriff, he need not pay interest on them until there has been a demand and refusal to pay over. *Shafer v. McIlhaney's Adm'rs*, 26 A. 213, 154 Pa. 58, Sup. 1893.

Provisions of 17 P.S. § 1481 (repealed) were considered in *Bradley's Estate*, 39 C.C. 401, 21 Dist. 1022, 60 Pitts. 177, 1911, in considering the running of the statute of limitations against the estate of a deceased prothonotary on a claim for fees and costs collected.

Moneys received in their official capacity are not liable to attachment. *Ross v. Clarke*, 1 Dall. 354, 1788. This includes money paid into court to be distributed by decree of the court, without an order directing such payment. *Deckert's Appeal*, 5 W. & S. 342, 1843.

5. — Bank failures, custody of moneys

The liability of the prothonotary for moneys paid into court is merely that of a debtor; and he may deposit it to his own account, and cannot be held liable for the default of the bank, if he used ordinary prudence in selecting it, unless he deposits it in another bank than those directed by rule of court. *Yohe v. Com.*, 13 A. 546, 12 Cent.Rep. 430, 2 Mona. 640, 1888; *Aurentz v. Porter*, 56 Pa. 115, 1868.

6. — Successor prothonotaries, custody of moneys

The court cannot by rule compel a prothonotary after the expiration of his term of office, to pay over to his successor moneys received by him in his official capacity and retained, *In re Matz*, 1 Foster, 15, 1873; the remedy is by action; and the prothonotary in office at the time the action is brought is the proper use-plaintiff. *Yohe v. Commonwealth*, 13 A. 546, Sup. 1888.

7. — Judgment payments, custody of moneys

The prothonotary has no power to receive payment of a judgment; and such payment will not discharge the judgment debtor. *Baer v. Kistler*, 4 Rawle 364, 1834; *Tompkins v. Woodford*, 1 Pa. 156, 1845; *Wells v. Baird*, 3 Pa. 351, 1846; but see *Deckert's Appeal*, 5 W. & S. 342, 1843.

8. Deputies

It has always been recognized that the prothonotary might appoint a deputy, who might do all the acts that the prothonotary himself might do, except such as were in the nature of a personal trust, *Reigart v. McGrath*, 16 S. & R. 65, 1827; *Com. v. Finney*, 17 S. & R. 282, 1828; *Boso's Application*, 6 Kulp 83, 1890; *Scola's Case*, 8 C.C. 344, 1890; e.g., attest a writ, *Reigart v. McGrath*, 16 S. & R. 65, 1827; *Drumheller v. Mumaw*, 9 Pa. 19, 1848; *Harden v. Roberts*, 9 C.C. 160, 1890; administer an oath or take an

affidavit. *Com. v. Greason*, 5 S. & R. 333, 1819; *Reigart v. McGrath*, 16 S. & R. 65, 1827; *Drumheller v. Mumaw*, 9 Pa. 19, 1848; *Com. v. Jermon*, 29 L.I. 165, 1872; *Myers v. Ziegler*, 1 W.N.C. 112, 1874; *Henderson v. Alexander*, 1 Lanc. 11, 1883; *Davison v. Clifford*, 3 C.C. 452, 2 Leh. 384, 414, 3 Montg. 17, 1887.

9. Discovery

Philadelphia Court Rule 145, providing for the prothonotary to enter an interlocutory order requiring a party to answer interrogatories within 30 days or suffer entry of judgment in favor of the party propounding the interrogatories, is invalid because it is inconsistent with Pa. R.C.P. No. 4019, 42 Pa.C.S.A., by its elimination of judicial discretion in the imposition of sanctions and by its delegation to the prothonotary of the court's power to impose sanctions (notwithstanding the power of the court to vest powers in the prothonotary under the Judicial Code. *Bowles v. Cohen*, 9 Pa. D. & C.3d 308 (1979).

10. Certification

Prothonotary has power to make searches and issue certifications and exemplifications of documents and records in his office without regard to purpose for which such certification is obtained. *Petticord v. Joyce*, 531 A.2d 1383, 516 Pa. 35, Sup.1987. *Clerks Of Courts* ⇐ 65

11. Summons, issuance

A prothonotary, acting in his official capacity, may legally issue a summons, in a case in which he is a party plaintiff. *Kerns v. Huntzinger*, 2 Leg.Rec.R. 79, 1881.

12. Entry of judgment—In general

A deputy cannot use his official position to gain an advantage over one who applies to him as a public officer; e.g., by entering a confession of judgment in his own favor prior to one which he was requested to enter in favor of a third person. *Pryor v. Lloyd*, 4 Lack.L.N. 328, 13 York 5, 1898.

The object of the judgment docket is to afford notice to subsequent purchasers and incumbrancers. *Coyne v. Souther*, 61 Pa. 455, 1869; *Fulton's Estate*, (*Hood's Appeal*), 51 Pa. 204, 214, 1866.

13. — Amount, entry of judgment

Subsequent lien creditors and purchasers need look no further than the judgment docket; and as against other lien creditors, the entry on the judgment docket is conclusive of the amount of the judgment payable out of the proceeds of execution, though it appears from the appearance docket that a greater amount was actually recovered, and the act of 1843, April 3, P.L. 127, § 1 (repealed) did not cure the defect, so as to make the judgment enforceable for the amount entered on the appearance docket. *Coyne v. Souther*, 61 Pa. 455, 1869; *Mann's Appeal*, 1 Pa. 24, 1845; *Trustees System v. Robin*, 77 Pitts. 20, 1929; *Mehaffy's Appeal*, 7 W. & S. 200, 1844; *Bear v. Patterson*, 3 W. & S. 233, 1842; *Crutcher v. Commonwealth*, 6 Wh. 340, 1841.

An entry in the judgment docket of more than the amount actually due will not benefit the judgment creditor; and in such case the appearance docket will govern. *Hance's Appeal*, 1 Pa. 408, 1845.

When a judgment for \$500, on which interest is due, is amicably revived for "\$500, with interest," and so entered, the fair and reasonable intendment is that the judgment is to bear interest from the date of revival, and interest prior thereto cannot be allowed on distribution, to the prejudice of a subsequent encumbrancer, *Kistler v. Mosser*, 21 A. 357, 140 Pa. 367, 1891, reversing 2 Northam. 189; but this rule applies only when the subsequent lien creditor would be injured if the entry on the judgment docket were not followed; and when a judgment for a debt and interest at an agreed rate, which was more than the legal rate, was properly entered on the continuance docket, but entered on the judgment index only for the debt "and interest," but the actual amount of the judgment according to the continuance docket, owing to certain credits, was less than its amount according to the judgment index, it was held that interest should be allowed at the agreed rate. *Nicholson's Appeal*, 20 W.N.C. 339, 1887.

14. — Names of parties generally, entry of judgment

Docketing and indexing of judgment is sufficient to operate as lien and to give prospective purchasers of land constructive notice thereof if judgment debtor is individuated with degree of accuracy suf-

ficient either to lead reasonably careful searcher to conclude that he is person named, or to suggest to searcher the wisdom of inquiry to ascertain such fact. *Russeck v. Shapiro*, 84 A.2d 514, 170 Pa.Super. 89, Super.1951. Judgment ⇌ 767; Judgment ⇌ 769

A judgment entered and indexed in the name of a firm and not in the name of the individuals composing it, will be postponed to the claim of a subsequent lien creditor without notice, whose judgment is properly indexed in the names of the partners composing the firm. *Hamilton's Appeal*, 103 Pa. 368, 1883.

If the Christian names of the defendants are not entered on the judgment-docket, the judgment, though valid as between the parties, cannot affect subsequent purchasers, or judgment-creditors, *Ridgway's Appeal*, 15 Pa. 177, 1850; *York Bank's Appeal*, 36 Pa. 458, 1860; *Smith's Appeal*, 47 Pa. 128, 1864; and so, of the omission of an initial letter in the defendant's name, which distinguishes him from others of the same name, *Wood v. Reynolds*, 7 W. & S. 406, 1844; *Crouse v. Murphy*, 21 A. 358, 140 Pa. 335, 12 L.R.A. 58, 23 Am.St.Rep. 232, 1891; it is the duty of the plaintiff to see that his judgment be rightly entered. *Wood v. Reynolds*, 7 W. & S. 406, 1844.

When there is no other means of notice but the record, a prior judgment creditor will be postponed in distribution, if he has neglected to have his judgment entered either in the correct name of the defendant, or in the name in which he took and held title to the land, or in a name which though spelled differently, is practically identical in sound with the sound of the correct name as commonly pronounced. *Delaney v. Becker*, 14 Pa.Super. 392, 1900, reversing 46 Pitts. 347, 12 York 188.

If a judgment creditor desires to bind a particular asset of the debtor as against a future purchaser or a mortgagee, the burden is upon him to see that his judgment is recorded and indexed in the same name as that in which the asset is registered. *Tioga Trust Co., to Use of v. Home Owners' Loan Corp.*, 42 Pa. D. & C. 165 (1941). Judgment ⇌ 767; Mortgages ⇌ 163(1)

A judgment entered and indexed against "Margaret E. Kelley" is not superior in lien to a subsequent mortgage

given by the judgment debtor under the name "Margaret Kelly" upon a property title to which is held by her in that name. *Tioga Trust Co., to Use of v. Home Owners' Loan Corp.*, 42 Pa. D. & C. 165 (1941). Mortgages ⇌ 163(1)

When a defendant signed several confessions of judgment by different names, but none by her real name, it was held that in the absence of evidence that any of the parties were misled, or that the rights of third parties had intervened, the judgments should rank in the order of their entry. *Shaver's Case*, 18 C.C. 202, 5 Dist. 610, 1896.

15. — First name, entry of judgment

Judgment which was docketed and indexed in Christian name of "Albert" was not constructive notice to subsequent purchaser of land from one whose Christian name was "Abraham" that judgment was lien on land, and judgment creditor could not assert judgment as lien against land in hands of such purchaser. *Russeck v. Shapiro*, 84 A.2d 514, 170 Pa.Super. 89, Super.1951. Judgment ⇌ 769

A judgment recorded and indexed in the name of "Mikola Borys" did not constitute "constructive notice" of a judgment against "Nikolai Borys", and hence subsequent purchaser of realty from judgment debtor was entitled to possession as against purchaser at sheriff's sale under execution issued on the judgment, unless prior to conveyance purchaser from judgment debtor had actual knowledge of defectively recorded judgment. *Jaczyszyn v. Paslawski*, 24 A.2d 116, 147 Pa.Super. 97, Super.1942. Judgment ⇌ 767

A common variant of the first name in indexing and docketing a judgment is unobjectionable. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

If the first or Christian, name of a defendant is not entered on judgment docket, the judgment, though valid as between the parties, will not affect subsequent purchasers or judgment creditors. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767

A judgment indexed and docketed against the judgment debtor's correct surname and initial of Christian name is sufficient to constitute constructive notice to subsequent encumbrancers, at least where debtor is well known by the short-

ened designation, but, if initials are employed instead of Christian names, errors therein are as fatal as in the names themselves. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

When it is commonly known that certain first or Christian names are interchangeably used, and the initial and dominant letters of each are identical, indicating to the eye that they are the same, and giving the same sound and substance to each, the judgment index must be searched for each; and a purchaser from the heirs of Francis Ross is bound to look for liens indexed in the decedent's lifetime against Frank Ross. *Burns v. Ross*, 64 A. 526, 215 Pa. 293, Sup.1906. Judgment ⇌ 769; Names ⇌ 16(2)

16. — Middle name or initial, entry of judgment

A judgment docketed and indexed in the name of "Caroline Kerl" constituted constructive notice of a judgment against "Caroline C. Kerl," in view of fact that name was unusual and used by no other person in the county and that debtor was not more generally known by name with initial than without it; and hence judgment creditor owning judgment docketed in name of "Caroline Kerl" was entitled to a prior lien on judgment debtor's real estate as against owner of a subsequently acquired judgment docketed against "Caroline C. Kerl." *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

The omission of the middle initial of the judgment debtor's name in the entry of a judgment does not automatically vitiate the entry and subordinate it to subsequent judgments more accurately docketed. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 286

In order to constitute constructive notice, it is not necessary that the name of the judgment debtor as docketed and indexed should be letter perfect. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

In order to constitute constructive notice to subsequent encumbrancers, all that is legally necessary in docketing and indexing of judgments is that the defendant should be individuated with a degree of accuracy sufficient either to lead a

reasonably careful searcher to conclude that he is person who is object of search or to suggest to the searcher the wisdom of inquiry to ascertain the fact. *Coral Gables v. Kerl*, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

17. — Name by which known, entry of judgment

A description of the party by the name by which he is commonly known, is sufficient; as "A. Jones" for "Abel Jones." *Jenny v. Zehnder*, 101 Pa. 296, 1882; *Jones's Estate*, 27 Pa. 336, 1856.

When land stands in the name of John E. Whitman, and is sold as such at sheriff's sale, a judgment against John E. Whitman has priority of lien over an earlier judgment against Elmer Whitman, who is the same as John E. Whitman, *Weaver v. Whitman*, 33 C.C. 275, 1907; and a judgment docketed against George A. Baker will be postponed on distribution of a fund raised by the sale of land, title to which was taken in the name of George A. Becker, to subsequent judgments docketed against George A. Becker. *Delaney v. Becker*, 14 Pa.Super. 392, 1900, reversing 46 Pitts. 347, 12 York 188.

When a judgment is entered on the appearance docket in the name of John Cawley or Cauley, but in the judgment docket as John Cawley, an attorney employed to search for judgments against John Cauley is not liable in damages for not reporting this judgment. *Barr v. Iams*, 46 Pitts. 365, 1899; but when a judgment note is signed "Majh" or "Majk Greczula," and the judgment is entered against "Mike Greczula," it will be a lien on land held by a deed in which the name of "Michael Greczula," prior to a subsequent mortgage in the latter name, since "Majk" is well-known to be the Polish equivalent of "Mike," and is so pronounced, and "Greczula" and "Grecula" are pronounced alike. *German Building & Loan Assn. v. Greczula*, 5 Lack. 28, 1903.

18. — Idem sonans, entry of judgment

The principle of idem sonans applies to entries on the judgment-docket; and therefore, a judgment against John Bobb, is a valid lien on the lands of John Bubb, *Myer v. Fegaly*, 39 Pa. 429, 1861; see *Bergman's Appeal*, 88 Pa. 120, 1879;

Cadden's Estate, 8 Luz. 109, 26 Pitts. 171, 1879; but a judgment against William Burger is not notice of a judgment against William Buergee, Schumaker v. Schoen, 19 Pitts. 69, 1874; so also, a judgment against George P. Joest is not payable out of the proceeds of the lands of George P. Yoest; Heil's Appeal, 40 Pa. 453, 1861.

19. — Notice, entry of judgment

It is always the duty of the plaintiff to see that his judgment is properly entered; and if it is not correctly entered, it will not hold against a subsequent lien creditor, unless the latter had actual personal knowledge of the prior lien. Crouse v. Murphy, 21 A. 358, 140 Pa. 335, 12 L.R.A. 58, 23 Am.St.Rep. 232, 1891; Hutchinson's Appeal, 92 Pa. 186, 1879; Coyne v. Souther, 61 Pa. 455, 1869; Smith's Appeal, 47 Pa. 128, 1864; Heil's Appeal, 40 Pa. 453, 1861; Delaney v. Becker, 14 Pa.Super. 392, 1900, reversing 46 Pitts. 347, 12 York 188; German Building & Loan Assn. v. Grecula, 5 Lack. 28, 1903; Zimmer's Estate, 22 Lanc. 394, 10 Northam. 86, 1895; Wood v. Reynolds, 7 W. & S. 406, 1844; Schall v. Rutledge, 1 York 33, 1880.

Though actual personal notice of a prior judgment is equivalent to the constructive notice intended by the entry on the judgment docket, and will preserve the priority of the prior judgment, it must be personal notice of the specific lien and must be given before the rights of the subsequent creditor have attached. Hamilton's Appeal, 103 Pa. 368, 1883; McCray v. Clark, 82 Pa. 457, 1877; Fulton's Estate, (Hood's Appeal,) 51 Pa. 204, 1866; Smith's Appeal, 47 Pa. 128, 1864; Stephens's Executors' Appeal, 38 Pa. 9, 1861; York Bank's Appeal, 36 Pa. 458, 1860.

Actual notice to purchaser of land of judgment which operates as lien, if had by purchaser before his interest attaches, is as effectual as constructive notice given by judgment docket, and efficacy of such notice is not destroyed by fact that judgment itself is defectively entered or indexed. Russeck v. Shapiro, 84 A.2d 514, 170 Pa.Super. 89, Super.1951. Judgment ⇌ 767; Judgment ⇌ 769

If a person is confronted with circumstances, wholly outside record, which, in exercise of common prudence, ought to put a reasonable man on inquiry which

would lead to knowledge of existence of judgment, he will be charged with notice of the facts that such inquiry, properly pursued, would have disclosed, and therefore he is put on inquiry by facts and circumstances reasonably disclosed by the record itself. Department of Public Assistance of Com. of Pa. v. Reustle, 56 A.2d 221, 358 Pa. 111, Sup.1948. Judgment ⇌ 785(1)

Actual notice of a defectively entered judgment, if received by a subsequent lienor before his interest attaches, is as effective to give priority to the judgment as is the constructive notice given by the judgment docket. Coral Gables v. Kerl, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 785(2)

Where indexing and docketing of judgment contains sufficient information to put an ordinarily prudent person upon guard, inquiry becomes a duty and, if an investigation, reasonably pursued, would disclose identity of judgment debtor, subsequent lienor is bound by notice of previous judgments, even though inaccurately recorded. Coral Gables v. Kerl, 6 A.2d 275, 334 Pa. 441, Sup.1939. Judgment ⇌ 767; Judgment ⇌ 769

Record or judgment properly entered and docketed is notice of what it contains or recites as well as of such facts as may be fairly inferred from its recitals. First Nat. Bank of Spring Mills v. Walker, 145 A. 804, 296 Pa. 192, Sup.1929. Judgment ⇌ 288

A party entitled to notice from the judgment docket may receive it from some other source and be bound. He is not required to look elsewhere, and cannot be affected by constructive notice unless the entry in the docket conform to the legal requirements, but actual notice to such party before his interest attaches affects him. In re Hickman's Estate, 40 Pa.Super. 244, 1909.

Knowledge that the prior judgment had been given, without knowledge that it was entered of record, is insufficient, when an actual search of the records before the subsequent judgment was entered failed to reveal the prior judgment. Zimmer's Estate, 22 Lanc. 394, 10 Northam. 86, 1895.

20. — Priority, entry of judgment

As a general rule, the order of actual entry on the judgment docket, rather than

the time of the entry as stated, determines the priority of lien. *Polhemus's Appeal*, 32 Pa. 328, 1858; *Glasgow v. Kann*, 32 A. 1095, 171 Pa. 262, 1895; and a judgment regularly entered cannot be deprived of its priority by giving an earlier date to a judgment entered afterward. *In re Kann's Estate*, 32 A. 1095, 171 Pa. 262, Sup.1895.

If the entry is in a wrong name, so that those searching may be misled, or if it is wrongly described as to amount, or in any other material particular, third parties will always be protected in acting on the faith of it. *Coyne v. Souther*, 61 Pa. 455, 1869.

A failure to liquidate on the docket a revival judgment will not postpone its lien, *Fulton's Estate (Hood's Appeal)*, 51 Pa. 204, 214, 1866; though a judgment nisi on an award is properly docketed, it cannot be revived against subsequent judgment creditors without actual notice, if the judgment absolute was not also entered on the judgment docket. *Stephens's Executors' Appeal*, 38 Pa. 9, 1861.

The judgment docket is evidence of the order in which liens are entered. *Polhemus's Appeal*, 32 Pa. 328, 1858.

Under the act of 1849, April 16, P.L. 664, § 5 (obsolete) when a judgment was not entered on the judgment docket, though it was entered on the appearance docket, it would be postponed to subsequent judgments regularly entered on the judgment docket. *Mann's Appeal*, 1 Pa. 24, 1845.

A judgment entered on the judgment docket, but not on the judgment index, will be postponed to subsequent judgments regularly docketed and indexed. *Barry's Estate*, 3 Luz. 141, 1874.

When a judgment is actually entered several days prior to a later judgment, which, by mistake, is given a prior position on the docket, the judgment which was actually entered first will be entitled to priority. *Buhl v. Wagner*, 22 C.C. 608, 1899.

21. — Liens, entry of judgment

As between the parties, a judgment is a lien on the defendant's real estate, though it be not entered on the judgment docket. *York Bank's Appeal*, 36 Pa. 458, 1860; *Summy v. Hiestand*, 65 Pa. 300, 1870; *Worrell v. Vandusen Oil Co.*, 1 Leg.Gaz.

53, 1869; *Hamilton's Appeal*, 103 Pa. 368, 1883.

Purchasers must take notice of the filing of a refusal to accept a release of judgment filed of record. *Fisler v. Stewart*, 43 A. 396, 191 Pa. 323, Sup.1899.

Unliquidated judgments, where the ascertainment of the amount is a mere matter of computation, are liens from the date of entry. *Campbell v. Floyd*, 25 A. 1033, 153 Pa. 84, Sup.1893.

22. — Amendment, entry of judgment

An amendment of the record cannot affect the rights of a subsequent judgment-creditor, a mortgagee or a purchaser. *Zimmerman v. Briggans*, 5 W. 186, 1836; *Crutchen v. Com.*, 6 Wh. 349, 1841.

Where judgment based on defendant's agreement to pay plaintiff's income taxes on partnership earnings had been paid and satisfied of record, subsequent audit of plaintiff's tax return showing a reduced tax liability did not entitle defendant to modification of judgment directed by the Supreme Court, since there was no longer a judgment to be modified. *Lance v. Mann*, 60 A.2d 35, 360 Pa. 26, Sup. 1948. Appeal And Error ⇌ 1185

A judgment may be subject to proceedings on equitable principles so long as it remains a judgment, and a petition to modify may be regarded as an equitable application for relief from judgment. *Lance v. Mann*, 60 A.2d 35, 360 Pa. 26, Sup.1948. Judgment ⇌ 456(1); Judgment ⇌ 460(1)

Judgments may be corrected to agree with the facts, and to express the true intent of the court and jury. *Davis v. Commonwealth Trust Co.*, 7 A.2d 3, 335 Pa. 387, Sup.1939. Judgment ⇌ 303

The proper practice when errors, clerical or otherwise, are discovered in the judgment docket or index, is not to deface the record with erasures or blots or interlineations, but to put on it an explanation, showing the error, how it was made, and how and when and by whom corrected. *In re Kann's Estate*, 32 A. 1095, 171 Pa. 262, Sup.1895. Records ⇌ 10

Errors in the entry of the amount may be amended. *Hance's Appeal*, 1 Pa. 408, 1845.

Entries on appearance docket should not be erased; further entries should be made to correct docket. *Reeder v. Traction Co.*, 31 Dauph. 139, 1927.

Erasing docket entries which were a nullity cannot affect rights of parties. *Reeder v. Traction Co.*, 31 Dauph. 139, 1927.

An improper entry of the name of the judgment debtor cannot be amended to the prejudice of subsequent lien creditors, *Zimmerman v. Briggans*, 5 W. 186, 1836; but when the clerk has corrected an erroneous entry, the court may ratify the correction and direct that the judgment as corrected stand as of the date of the entry. *Prowattain v. McTier*, 7 L.I. 183, 1 Phila. 105, 1850.

One not misled cannot appeal. *Nicholson's Appeal*, 20 W.N.C. 339, 1887.

23. — Erasures and interlineations, entry of judgment

The fact that there are apparent erasures and interlineations in the record of a judgment does not destroy its validity, the presumption being that they were attributable to clerical mistake of the officer or his clerk, which was corrected as soon as made. *Specht v. Sipe*, 15 Pa.Super. 207, 1900; *C. Wilderman Co. v. St. Mary's Church*, 13 Dist. 686, 2 Just. 200, 1904.

24. — Liability for errors, entry of judgment

In case of neglect, the party injured must look to the prothonotary. *Mann's Appeal*, 1 Pa. 24, 1845; *Barry's Estate*, 3 Luz. 141, 1874; see *Speakman v. Knight*, 3 Phila. 25, 1857.

Prothonotary who provided printed forms, fee bill, signed his name to no-lien certificate, and provided them to his deputy, and authorized their use would be liable for issuance of erroneous no-lien certificate by his duly authorized deputy. *Petticord v. Joyce*, 531 A.2d 1383, 516 Pa. 35, Sup.1987. *Clerks Of Courts* ⇌ 72

Where employees in office of prothonotary of Allegheny County were not employed in the private affairs of the prothonotary, but were public servants employed and paid by the county for performance of certain duties involving public affairs of county, prothonotary was not liable under doctrine of respondeat superior, for negligence of indexing

clerk in prothonotary's office in improperly indexing judgment note. *Com. to Use of Orris v. Roberts*, 141 A.2d 393, 392 Pa. 572, Sup.1958. *Clerks Of Courts* ⇌ 72

It is the creditor's duty to see that his judgment is properly entered on the judgment docket; and if there is any mistake, the remedy of the party aggrieved is against the prothonotary. *Coyne v. Souther*, 61 Pa. 455, 1869.

25. Revival

The object of the provision concerning scire facias or execution was to give record notice of judgment liens; and when this object is attained by entering in the docket a confession of judgment at the time the sci. fa. issues, a failure to note the sci. fa. on the docket entry of the original judgment is not fatal, but an amicable sci. fa. to revive must be docketed; it is not sufficient to file it with the papers of the original action, and to note it on the docket entry of that action. *Mellon's Appeal*, 96 Pa. 475, 1879; *McCleary's Appeal*, 1 W. & S. 299, 1841.

26. Liability for errors generally

A party who has complied with the law will not be prejudiced by an error of the prothonotary in the performance of his official duties, *Ihmsen v. Monongahela Navigation Co.*, 27 Pa. 267, 1856; *Miller's Appeal*, 2 Penny. 72, 11 W.N.C. 506, 1882; *McLaughlin v. Phillips*, 10 C.C. 382, 1891; *Albright v. Lehigh Coal & Navigation Co.*, 52 A. 33, 203 Pa. 65, 1902; e.g., by his neglect to sign process, *McCormick v. Meason*, 1 S. & R. 92, 1814; *Benjamin v. Armstrong*, 2 S. & R. 392, 1816; or to sign the jurat to an affidavit, *Maples v. Hicks*, Bright.N.P. 56, 1844; *Harman v. Hock*, 6 Lanc. 307, 1889; *Cake v. Cake*, 26 A. 781, 156 Pa. 47, 1893; but a failure to comply with the law will not be excused because the prothonotary's clerk informed the party that he had fully complied therewith. *Carr v. McGovern*, 66 Pa. 457, 1870.

27. Fees

There is no penalty for receiving the fee before the service is performed. *Baldwin v. Cash*, 7 W. & S. 427, 1844.

28. Hours

The prothonotary may perform his official duties at any hour he pleases, though he is not bound to perform them out of

Note 28

regular office hours, unless he has previously promised to do so, if he receives papers on Sunday, he may enter them the first thing on Monday, and a lien acquired thereby will be valid. *Kauffman's Appeal*, 70 Pa. 261, 1872; *Polhemus's Appeal*, 32 Pa. 328, 1858; *Clark v. Wallace*, 3 P. & W. 441, 1832.

Appeal to common pleas court from summary conviction for speeding was timely even though filed on 31st day where prothonotary's office was closed for one half of 30th day; even though Wednesday was locally mandated nonlegal holiday, it was within court's power and responsibility to assure that prothonotary's office was open for purpose of receiving court documents during regular business hours. *Com. v. Koeck*, 520 A.2d 53, 360 Pa.Super. 200, Super.1987. Time ⇌ 11

A prothonotary may receive a paper after closing hours and file and enter it on his records the following day as of the day received. *Burd v. Bennett Transp. Co.*, 21 Erie C.L.J. 59 (1939). *Clerks Of Courts* ⇌ 67

Since the published statement of the prothonotary as to his policy on business hours was neither a statute nor a rule of court, a deviation from such statement of policy is no different from a waiver of an unwritten practice to close the office at a specific hour. *Keller v. Flinchbaugh*, 80 York 108, 40 Pa. D. & C.2d 428 (1966).

29. Judgments by confession—In general

Validity of judgment confessed does not depend on conformity with statute, or on precise words by which agreement for entry of action was expressed. *Pittsburgh Terminal Coal Corporation v. Potts*, 92 Pa.Super. 1, 1927; *Pittsburgh Terminal Coal Corporation v. McClements*, 92 Pa.Super. 29, 1927; followed in *Hillman Gas Coal Co. v. Bozicevich*, 92 Pa.Super. 39, 1927.

Power of Pennsylvania prothonotary to enter judgments at instance of plaintiffs upon confessions of defendants is derived from the instrument under which he acts and not from his office, and his entry of judgment is a ministerial act. *Swarb v. Lennox*, U.S.Pa.1972, 92 S.Ct. 767, 405 U.S. 191, 31 L.Ed.2d 138, rehearing denied 92 S.Ct. 1303, 405 U.S. 1049, 31 L.Ed.2d 592. *Clerks Of Courts* ⇌ 67; *Judgment* ⇌ 46(1)

Death of a debtor revokes the warranty of attorney to confess judgment and a judgment entered on a warrant of attorney after the death of debtor will be stricken off. *Mancine v. Concord-Liberty Sav. and Loan Ass'n*, 445 A.2d 744, 299 Pa.Super. 260, Super.1982. *Judgment* ⇌ 44

Judgment by confession against dead person was void, not merely voidable. *Mancine v. Concord-Liberty Sav. and Loan Ass'n*, 445 A.2d 744, 299 Pa.Super. 260, Super.1982. *Judgment* ⇌ 37

Mortgagee's alleged acquiescence in mortgagors' receivership was no bar to its accelerating indebtedness or confessing judgment, particularly when an order terminating the receivership expressly and unqualifiedly declared that mortgagee's rights were not affected by the receivership proceedings; furthermore, mortgagors, who sought to open judgment confessed upon mortgage note, lacked standing to assert that receiver allegedly gave mortgagee a preference over other creditors. *Bell Federal Sav. and Loan Ass'n of Bellevue v. Laura Lanes, Inc.*, 435 A.2d 1285, 291 Pa.Super. 395, Super.1981. *Judgment* ⇌ 37; *Mortgages* ⇌ 408

Where parties did not complain of form of decision arrived at by procedures which lacked sanction of common law, statute or rule of court in amicable action by tax collector to compel payment of compensation allegedly due him by political subdivisions, Commonwealth Court would decide appeal from the decision on the merits in the interest of ending the controversy. *Cooke v. Borough of Greenville*, 278 A.2d 182, 2 Pa.Cmwlth. 417, Cmwlth.1971. *Submission Of Controversy* ⇌ 20

Prothonotary has duty to record all judgments entered by court or confessed by parties before court, and he may be authorized to act for another in same manner that any other person may be, but then his powers are derived from instrument under which he acts and not from his office. *Smith v. Safeguard Mut. Ins. Co.*, 239 A.2d 824, 212 Pa.Super. 83, Super.1968. *Clerks Of Courts* ⇌ 65; *Judgment* ⇌ 271

An amicable action is mode of instigating litigation without intervention of sheriff, and is peculiar to Pennsylvania practice and of ancient sanction and existence

independent of statute. *Gilberton Coal Co. v. Schuster*, 169 A.2d 44, 403 Pa. 226, Sup.1961. Judgment ⇨ 29

Amicable actions, although authorized by 12 P.S. § 316 (repealed), were of ancient origin and practice in Pennsylvania, and existed independently of statute. *Cselouch v. Sariti*, 52 Lack.Jur. 185 (1951). Submission Of Controversy ⇨ 1

Provisions of 12 P.S. § 316 (repealed), provided a convenient way in which persons willing to become parties to action could, even without the intervention of attorneys, put their agreement in writing and present it to the prothonotary for entry on his docket, with the result that the action should be deemed depending for such entry. *Cselouch v. Sariti*, 52 Lack.Jur. 185 (1951). Submission Of Controversy ⇨ 2

Endorsement "Am. Eject." on cover of statement for entry of judgment for rent is not proper form for entry of amicable actions of ejectment; but rule to open judgment, thus irregular on its face, will be dismissed, rule to strike off being proper remedy. *Hoben v. Boyle*, 20 Sch. 11, 1923.

Unless case stated was based on suit already pending or amicable action entered under provisions of act 1836, June 13, P.L. 572 [12 P.S. § 316 (repealed)], court was without jurisdiction to entertain it, and it would be stricken from record. *Wallace v. Wallace*, 16 Sch. 422, 1920.

30. — Law governing, judgments by confession

Provisions of 17 P.S. § 1482 (repealed) need not have been strictly followed, *McCalmont v. Peters*, 13 S. & R. 196, 1825; and, notwithstanding those provisions, judgment could have been entered by attorney, *Cook v. Gilbert*, 8 S. & R. 567, 1822; and the defendant himself could have appeared before the prothonotary and confessed judgment, *Reed v. Hamet*, 4 W. 441, 1835.

31. — Due process, judgments by confession

No judgment by confession may be entered by defendant creditors on lease or note given in consumer or consumer financing transaction against individual natural Pennsylvania residents whose income is less than \$10,000 a year, where documents provide substantially that the

prothonotary or any attorney may confess judgment for amount due, plus attorney's fees and costs. *Swarb v. Lennox*, E.D.Pa. 1970, 314 F.Supp. 1091, probable jurisdiction noted 91 S.Ct. 1220, 401 U.S. 991, 28 L.Ed.2d 529, affirmed 92 S.Ct. 767, 405 U.S. 191, 31 L.Ed.2d 138, rehearing denied 92 S.Ct. 1303, 405 U.S. 1049, 31 L.Ed.2d 592. Judgment ⇨ 46(4)

Judgments and executions entered in accordance with Pennsylvania confession of judgment procedure comply with due process requirements if there has been understanding and voluntary consent of debtor in signing document containing confession of judgment clause; but if there has not been such understanding, consent procedure violates due process requirements of notice and opportunity to be heard prior to entry of judgment. *Swarb v. Lennox*, E.D.Pa.1970, 314 F.Supp. 1091, probable jurisdiction noted 91 S.Ct. 1220, 401 U.S. 991, 28 L.Ed.2d 529, affirmed 92 S.Ct. 767, 405 U.S. 191, 31 L.Ed.2d 138, rehearing denied 92 S.Ct. 1303, 405 U.S. 1049, 31 L.Ed.2d 592. Constitutional Law ⇨ 315

32. — Opening, judgments by confession

Superior Court's review of a trial court order denying a petition to strike a judgment entered by confession is limited to a determination of whether the record as filed by the party confessing judgment is sufficient to sustain the judgment; by contrast, a trial court order denying a petition to open will be reversed only where there has been a manifest abuse of discretion or error of law. *First Union Nat. Bank v. Portside Refrigerated Services, Inc.*, 827 A.2d 1224, Super.2003. Appeal And Error ⇨ 982(2); Appeal And Error ⇨ 1024,5

With regard to opening a confessed judgment, equitable considerations are generally no longer relevant unless related to a particular defense asserted and the petitioning party has burden of producing sufficient evidence to substantiate its alleged defense. *Bell Federal Sav. and Loan Ass'n of Bellevue v. Laura Lanes, Inc.*, 435 A.2d 1285, 291 Pa.Super. 395, Super.1981. Judgment ⇨ 68.1(4)

Allegation that mortgagee refused to accept monthly installments after accelerating the indebtedness pursuant to mort-

Note 32

gage note was not a valid defense for purposes of determining mortgagors' right to open judgment confessed upon mortgage note. *Bell Federal Sav. and Loan Ass'n of Bellevue v. Laura Lanes, Inc.*, 435 A.2d 1285, 291 Pa.Super. 395, Super.1981. Judgment ⇨ 68.1(2)

To open a confessed judgment, a party must act promptly, allege a meritorious defense, and present sufficient evidence of that defense to require submission of issues to a jury. *Bell Federal Sav. and Loan Ass'n of Bellevue v. Laura Lanes, Inc.*, 435 A.2d 1285, 291 Pa.Super. 395, Super.1981. Judgment ⇨ 67.3; Judgment ⇨ 68.1(2); Judgment ⇨ 68.1(4)

Even assuming that implied election to retain collateral in satisfaction of debts in meritorious defense to action to collect deficiency, where debtors did not allege, nor present any evidence, that secured creditor manifested intention to retain collateral in satisfaction of debtors' obligation to secured creditor, but, rather, record amply showed that secured creditor had elected to repossess and sell collateral and hold debtors liable for any deficiency, trial court properly denied debtors' petitions to open confessed judgment. *First Nat. Bank of Pennsylvania v. Cole*, 435 A.2d 1283, 291 Pa.Super. 391, Super.1981. Judgment ⇨ 68.5(7)

Party seeking to open confessed judgment must act promptly, allege meritorious defense, and present sufficient evidence of that defense to require submission of issues to jury. *First Nat. Bank of Pennsylvania v. Cole*, 435 A.2d 1283, 291 Pa.Super. 391, Super.1981. Judgment ⇨ 67.3; Judgment ⇨ 68.1(2); Judgment ⇨ 68.1(4)

33. — Ejectment, judgments by confession

In order to support amicable action of ejectment, it was necessary that property interest which gave rise to action to have been such as would have supported adverse action. *Gilberton Coal Co. v. Schuster*, 169 A.2d 44, 403 Pa. 226, Sup. 1961. Judgment ⇨ 46(1)

Provisions of 12 P.S. § 316 (repealed) represented mere recognition of common-law practice and were not intended to change existing rule that ejectment lay for real property only, whether action was adverse or amicable. *Gilberton Coal*

Co. v. Schuster, 169 A.2d 44, 403 Pa. 226, Sup.1961. Judgment ⇨ 30

Agreement, which gave plaintiff exclusive license, right and privilege of carrying away material contained in culm deposits, vested in plaintiff a mere license and not such possessory interest in land as would entitle plaintiff to maintain either adverse or amicable action in ejectment. *Gilberton Coal Co. v. Schuster*, 169 A.2d 44, 403 Pa. 226, Sup.1961. *Mines And Minerals* ⇨ 50; *Mines And Minerals* ⇨ 83

Court order which prohibited judgment on amicable actions in ejectment, without rule to show cause, was contrary to 12 P.S. § 316 and 17 P.S. § 1482 (both repealed) and was void. *Equipment Corporation of America v. Primos Vanadium Co.*, 132 A. 360, 285 Pa. 432, Sup.1926 Courts ⇨ 80(1)

"This has been the practice for many years, and the right to follow this procedure existed independent of statute. *Cook v. Gilbert*, 8 Serg. & R. 567; *McCalmont v. Peters*, 13 Serg. & R. 196; *Hatch v. Stitt*, 66 Pa. 264; *Flanigen v. Philadelphia*, 51 Pa. 491; *Wood v. Harlan*, 78 Pa.Super.Ct. 92. * * * The rule in question is an innovation on the practice which has heretofore prevailed, and shifts the burden, which theretofore had been upon the defendant to satisfy the court that a judgment which he had confessed ought not to be maintained against him, to the shoulders of the plaintiff to satisfy the court that a duly executed confession of judgment in his favor should lead to its contemplated end."

"These statutes give legislative sanction to the entry of amicable actions and the confession of judgment thereon. So far as we have knowledge, it is the custom throughout the commonwealth for such actions to be entered in ejectment and judgments thereon to be entered at the instance of plaintiffs upon defendants' confessions.

34. Letters of attorney

A deputy prothonotary cannot execute a power of attorney to discontinue a suit, given to the prothonotary as an individual. *Mechanics' Bank v. Fisher*, 1 Rawle 341, 1828.

35. Seal

A writ of summons of a court of common pleas, in conformity with 12 P.S.

§ 161 and 17 P.S. § 251 (both repealed) should have bore the judicial seal authorized by 17 P.S. § 222 (repealed) which could have been affixed by the prothonotary by virtue of 17 P.S. § 1482 (repealed); the absence of such seal was a defect and not a mere informality. *Buehler v. Paxson*, 33 Pa. D. & C. 583 (1938).

36. Naturalization proceedings

Under the act of congress of February 1, 1876, a declaration of intention to become a citizen could be made before a deputy clerk of courts away from the county seat, or elsewhere than in open court, or in his regular office. *Scola's Case*, 8 C.C. 344, 1890; *Boso's Application*, 6 Kulp 83, 1890.

37. Records—In general

A prothonotary of the court of common pleas cannot take proof of the execution of an instrument within the recording acts, or the probate of an unacknowledged assignment of an oil and gas lease for the purpose of having it placed on record. *Midland Gas Co. v. Jefferson County Gas Co.*, 85 A. 853, 237 Pa. 602, Sup.1912. Acknowledgment ⇨ 16

38. — Maintenance of records

Under 17 P.S. § 1481 (repealed), the prothonotary has custody of the records of the court, which included books, records, dockets, and indices, and was responsible for their safe keeping and preservation from defacement, or from change, loss, or detraction in any way. And hence the work of transcribing old judgment dockets, ordered under the act of 1827, March 29, P.L. 154 [incorporated in 17 P.S. § 1901 et seq. (repealed)] should have been under his direction and supervision; but there was no statutory provision by which authority was given to the court to impose the task upon him, or to ratify or approve an appointment made by him to do the work, nor was there any provision made for his compensation for making or supervising such transcribing. *In re Transcription of Perry County Judgment Index Dockets*, 11 Dist. 557, 1902.

39. — Search of records

The incidental powers of the prothonotary include the making of searches; and his sureties are liable for his negligence in this regard. *McCaraher v. Com.*, 5 W. & S. 21, 1843; *Ziegler v. Com.*, 12 Pa. 227, 1849; but only to the person who

employs him, or to whom he expressly affirms the correctness of the search. *Siewers v. Com.*, 87 Pa. 15, 1878.

Prothonotary has power to make searches and issue certifications and exemplifications of documents and records in his office without regard to purpose for which such certification is obtained. *Peticord v. Joyce*, 531 A.2d 1383, 516 Pa. 35, Sup.1987. Clerks Of Courts ⇨ 65

40. Satisfaction of judgment

It has been held, that the proper practice is that satisfaction should be entered on the record by the holder of the judgment, or some one authorized by him, and the prothonotary should then attest it, and that the prothonotary has no power to himself enter satisfaction on receipt of a written order from the holder of the judgment. *McIntire v. Irwin*, 1 Chest. 457, 1 Del. 312, 3 York 108, 1882.

The wrongful entry of satisfaction will in all cases render the prothonotary and his sureties liable for damage resulting to an innocent plaintiff. *Van Etten v. Com.*, 102 Pa. 596, 1883; *Coyne v. Souther*, 61 Pa. 455, 1869.

41. Subpoenas

Provisions of 17 P.S. § 1482 (repealed) did not supersede § 2 of the act of 1815, March 13, P.L. 150, 6 Sm.L. 286, 287 (repealed) which required the subpoena in divorce to be signed by the judge; therefore, a subpoena, issued and signed by the prothonotary and allowed by the judge would not be quashed though not signed by him. *White v. White*, 18 Dist. 434, 10 Lack. 168, 1909.

Trial court in first-degree murder prosecution did not err in quashing subpoena duces tecum to subpoena president judge of another county to compel him to produce court records concerning codefendants, who were separately tried and convicted, which defendant hoped would reveal pattern of leniency and special treatment and thus could be used to impeach their credibility, where subpoena was erroneously addressed to president judge instead of clerk of court, who was proper custodian of county's judicial records, clerk testified and produced all court records concerning two of codefendants, defendant had ample opportunity to cross-examine clerk, and two of codefendants testified and were subjected to cross-examination by defendant. *Com. v.*

Note 41

Pass, 360 A.2d 167, 468 Pa. 36, Sup. 1976. Witnesses ⇨ 16

42. Taking recognizance and bail

The prothonotary may take the recognizance on a certiorari to a justice's judgment, *Patton v. Miller*, 13 S. & R. 254, 1825; *Clark v. McCormack*, 2 Phila. 68, 13 L.I. 52, 1856; and bail to assure a stay of execution may be taken before the prothonotary, and afterwards perfected by the court. *Stroop v. Gross*, 1 W. & S. 141, 1841.

A deputy clerk of the quarter sessions may take a recognizance of bail. *Com. v. Gray*, 28 C.C. 319, 1903; *Com. v. Finney*, 17 S. & R. 282, 1928.

43. Certiorari proceedings

The only officers authorized to administer the required oath are: judges of the court of common pleas out of which the writ issues, the prothonotary of the court issuing the writ, and the justice of the peace or alderman before whom the case in which the certiorari is taken is pending. *Cameroni v. Andrewsh*, 47 Lack.Jur. 5, 56 Pa. D. & C. 109 (1946).

The recognizance must be taken either by a judge of the court of common pleas, or by the prothonotary, or by the magistrate to whom the certiorari issues; another magistrate has no power to take it. *Wesley v. Sharpe*, 19 Pa.Super. 600, 1902, reversing 10 Kulp 514, 8 Del. 447.

§ 2737.1. Incorrect debtor identified

(a) Procedure.—A creditor that files for a judgment by confession under section 2737(3) (relating to powers and duties of the office of the prothonotary) shall comply with the Pennsylvania Rules of Civil Procedure regarding confession of judgment, including any notice provisions. A debtor who has been incorrectly identified and had a confession or judgment entered against him may petition the court for costs and reasonable attorney fees as determined by the court.

(b) Effect on judgment.—A judgment shall not be stricken or opened because of a creditor's failure to provide a correctly identified debtor with instructions pursuant to this section regarding procedures to follow to strike a judgment or regarding any rights available to an incorrectly identified debtor.

2000, Dec. 20, P.L. 742, No. 105, § 2, effective in 60 days. Amended 2004, Nov. 29, P.L. 1364, No. 176, § 1, imd. effective.

Library References

Costs ⇨ 38.
Westlaw Topic No. 102.
C.J.S. Costs § 36.

Research References

Treatises and Practice Aids
Standard Pennsylvania Practice 2d 2d
§ 67:82, Generally.

Notes of Decisions

Notice 1

1. Notice

In context of petition to strike or open judgment entered by confession, notice pursuant to rule of civil procedure on

pleadings and procedure for striking off or opening judgment, rather than notice pursuant to rule of civil procedure on notice served prior to execution on judgment by confession, was required for compliance with statutory notice requirement under incorrect debtor provision in

COMMON PLEAS CLERK OF COURT 42 Pa.C.S.A. § 2738

judicial code chapter specifying powers and duties of prothonotaries. First Union Nat. Bank v. Portside Refrigerated Services, Inc., 827 A.2d 1224, Super.2003. Judgment ⇨ 42

§ 2738. Criminal, probate, estates and fiduciary matters

(a) **General rule.**—The personnel of the office of the prothonotary shall exercise the powers and perform the duties vested in or imposed upon the office of the clerk of the court of common pleas by:

(1) Subchapter C (relating to clerks of the courts)¹ where no separate clerk of the courts is authorized for the county.

(2) Subchapter D (relating to clerks of orphans' court divisions)² where no separate clerk of the orphans' court division is authorized for the county.

(b) **Criminal matters.**—Except as provided in subsection (a)(1), the office of the prothonotary shall not exercise the powers and perform the duties of the office of the clerk of the courts.

(c) **Probate, estates and fiduciary matters.**—Except as provided in subsection (a)(2), the office of the prothonotary shall not exercise the powers and perform the duties of the office of the clerk of the orphans' court division.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

¹ 42 Pa.C.S.A. § 2751 et seq.

² 42 Pa.C.S.A. § 2771 et seq.

Historical and Statutory Notes

Official Source Note:

New.

Library References

Clerks of Courts ⇨64.
Westlaw Topic No. 79.
C.J.S. Courts §§ 249, 254.

Research References

Encyclopedias

Summ PA Jur. 2d Municipal Law
§ 8:21, Prothonotary.

Treatises and Practice Aids

Standard Pennsylvania Practice 2d 2d
§ 1:19, Rules in Pari Materia.
Standard Pennsylvania Practice 2d 2d
§ 21:1, Commencement of Action by
Filing Complaint.

Standard Pennsylvania Practice 2d 2d
§ 3:81, Powers and Duties, Generally.

Standard Pennsylvania Practice 2d 2d
CH 1 II B REF, Ch. 1, Div. II B
References.

Standard Pennsylvania Practice 2d 2d
CH 3 II B REF, Ch. 3, Div. II B
References.

not have the required \$295 for perfecting an appeal, did not contain a specific allegation "of poverty" was not a fatal defect; petitioner was entitled to evidentiary hearing at which time he was to have affirmative burden of proving his poverty as well as his then present inability to pay the appeal costs. *Oppen v. Callahan*, 422 A.2d 1117, 282 Pa.Super. 282, Super.1980. States ⇨ 184.36

Technical defect, consisting of failure to allege poverty in petition for leave to file appeal from award of board of arbitrators in forma pauperis, could have been cured by affidavit or petition nunc pro tunc. *Oppen v. Callahan*, 422 A.2d 1117, 282 Pa.Super. 282, Super.1980. States ⇨ 184.36

In handling petitions to appeal in forma pauperis there must be considerable discretion vested in lower courts so that persons who are not in poverty may not enjoy the privilege of appealing an arbitration decision without payment of costs; this is especially true when lower court conducts a hearing on the petition. *Davila v. Soto*, 378 A.2d 443, 250 Pa.Super. 42, Super.1977. Appeal And Error ⇨ 389(1)

Appellant-tenants were "unable to pay the costs" of appeal in a landlord-tenant dispute, and thus would be allowed to appeal in forma pauperis, though they "regularly" made installment payments on a station wagon, a truck and a televi-

sion set. *Gerlitzki v. Feldser*, 307 A.2d 307, 226 Pa.Super. 142, Super.1973. Appeal And Error ⇨ 389(1)

Question as to whether appellants are entitled to appeal in forma pauperis is not whether they are unable to pay the costs but whether they are in poverty, and for such purposes "poverty" does not refer solely to an appellant's net worth but to whether he is able to obtain the necessities of life. *Gerlitzki v. Feldser*, 307 A.2d 307, 226 Pa.Super. 142, Super.1973. Appeal And Error ⇨ 389(1)

Where appellants, seeking to appeal in forma pauperis, alleged that they had no income except public assistance benefits and that their net worth was minimal, it appeared prima facie that they were in "poverty." *Gerlitzki v. Feldser*, 307 A.2d 307, 226 Pa.Super. 142, Super.1973. Appeal And Error ⇨ 389(2)

Plaintiff, who filed a complaint in equity seeking an accounting of commissions due him from defendant, and who, after the action was transferred to the law side and heard by an arbitration panel which entered an award which he believed to be inadequate, sought to appeal to the common pleas court, was entitled to appeal in forma pauperis, regardless of the fact that the appeal was from an alleged inadequate award rather than from an award against him. *Mitek v. Ste-Mel Signs, Inc.*, 294 A.2d 813, 222 Pa.Super. 395, Super.1972. Appeal And Error ⇨ 389(1)

§ 7362. Voluntary arbitration of pending judicial matters

(a) **General rule.**—A civil matter or issue therein may be referred by consent of the parties to one or more appointive judicial officers or other persons for hearing or hearing and disposition.

(b) **Government units.**—Any government unit of this Commonwealth, with the consent of the solicitor or other official counsel of the unit, may agree to the reference of a civil matter pursuant to this section.

(c) **Procedure.**—The appointive judicial officers or other persons appointed or designated pursuant to this section shall have such powers and shall proceed in such manner as shall be prescribed by general rules.

(d) **Appeal.**—Any party to a matter referred under this section shall have such rights of appeal, if any, as shall be prescribed by general rules. Where no right to appeal is prescribed by general

rule, all parties shall be deemed to have waived any right to appeal which they might otherwise enjoy under the Constitution of Pennsylvania or otherwise in mutual consideration of an expeditious final disposition of the matter, but no such waiver shall apply if it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

Bar Association Comment

Source: Derived from act of January 12, 1706 (1 Sm.L. 49), § 3 (5 P.S. § 8), act of June 16, 1836 (P.L. 715) (5 P.S. § 1 et seq.), act of May 14, 1874 (P.L. 166) (5 P.S. § 201 et seq.), act of May 25, 1925 (P.L. 670) (5 P.S. §§ 180 and 181), act of July 28, 1953 (P.L. 723), § 3207 (16 P.S. § 6207), act of August 9, 1955 (P.L. 323), § 2807 (16 P.S. § 2807).

Historical and Statutory Notes

Prior Laws:

- 1705, 1 Sm.L. 49, § 3 (5 P.S. § 8).
 1705, 1 Sm.L. 50.
 1806, March 1, P.L. 558.
 1808, March 28, P.L. 168, ch. 115.
 1809, March 29, P.L. 168, ch. 115.
 1810, March 20, P.L. 145.
 1813, Feb. 25, 6 Sm.L. 28, P.L. 87, ch. 65.
 1814, March 26, P.S. 236, 6 Sm.L. 206, §§ 1, 2 (42 P.S. §§ 643, 644).
 1820, March 28, 7 Sm.L. 323, P.L. 172, ch. 116.
 1824, Feb. 24, 8 Sm.L. 195, P.L. 27, ch. 27.
 1825, April 11, 8 Sm.L. 442, P.L. 172, ch. 100.
 1836, June 14, P.L. 628, §§ 13, 14 (39 P.S. §§ 212, 213).
 1836, June 16, P.L. 715, § 47 (5 P.S. § 142).
 1836, June 16, P.L. 715, §§ 40 to 46 (5 P.S. §§ 121 to 127).
 1836, June 16, P.L. 715, § 39 (5 P.S. § 111).
 1836, June 16, P.L. 715, § 33 (5 P.S. § 81).
 1836, June 16, P.L. 715, §§ 27, 28, 25, 29 to 32 (5 P.S. §§ 71 to 77).
 1836, June 16, P.L. 715, §§ 20, 21, 23, 24, 26, 34, 34.1 (5 P.S. §§ 51 to 53, 54, 57, 58, 58.1).
 1836, June 16, P.L. 715, §§ 48, 22 (5 P.S. §§ 45, 46).
 1836, June 16, P.L. 715, §§ 17, 18, 37 (5 P.S. §§ 41 to 43).
 1836, June 16, P.L. 715, §§ 13 to 15, 36, 16 (5 P.S. §§ 31 to 35).
 1836, June 16, P.L. 715, §§ 11, 12, 36 (5 P.S. §§ 25 to 27).
 1836, June 16, P.L. 715, §§ 8 to 10 (5 P.S. §§ 21 to 23).
 1836, June 16, P.L. 715, §§ 1 to 7 (5 P.S. §§ 1 to 7).
 1838, April 14, P.L. 457, No. 75.
 1840, April 21, P.L. 449, §§ 1, 2 (5 P.S. §§ 55, 56).
 1846, April 13, P.L. 303, § 2 (5 P.S. § 80).
 1847, Feb. 11, P.L. 85, No. 45.
 1847, Feb. 24, P.L. 153, § 1 (5 P.S. § 128).
 1851, April 14, P.L. 622, No. 336, § 14.
 1852, April 21, P.L. 386, No. 249, § 1.
 1852, May 3, P.L. 541, § 1 (5 P.S. § 79).
 1855, April 26, P.L. 304, § 1 (42 P.S. § 641).
 1869, April 6, P.L. 725, No. 698.
 1870, Jan. 20, P.L. 85, No. 60.
 1870, Feb. 23, P.L. 219, No. 213.
 1871, June 22, P.L. 1363, No. 1266.
 1874, May 14, P.L. 159, § 1.
 1874, May 14, P.L. 166, §§ 1 to 3, 7 (5 P.S. §§ 201 to 203, 207).
 1876, May 5, P.L. 110, §§ 1, 2 (5 P.S. §§ 59, 60).
 1877, March 23, P.L. 28, § 1 (5 P.S. § 36).
 1925, May 13, P.L. 670, §§ 1, 2 (5 P.S. §§ 180, 181).
 1952, Jan. 14, P.L. (1951) 2022, § 1.

CHAPTER B

GENERAL PROVISIONS

ACCEPTING OR REFUSING FILING BY THE PROTHONOTARY

(Pa.R.C.P. Nos. 205.2, 205.3, and 42 P.S. § 21073(b)).

1. Documents that comply with R.C.P. may not be refused based on a requirement of a local rule of civil procedure or judicial administration.

2. Refusal may be made to accepting a document or performing a service to any person, political subdivision or the Commonwealth UNTIL THE REQUISITE FEE IS PAID.

3. Prothonotary should accept any document for filing except as specifically indicated in certain rules.

4. For filing pleadings and other legal papers with the Prothonotary, including limitations on facsimile filings, see Pa.R.C.P. No. 205.3 and Explanatory Comment.

5. The Prothonotary shall not accept a filing commencing an action without a completed cover sheet as required by Pa.R.C.P. 205.5 subject to exceptions listed at Pa.R.C.P. 205.5(a)(1)

(Note: The latest version of this form will be published on the website of the AOPC at www.pacourts.us)

ADDRESSES (Pa.R.C.P. Nos. 1012 and 1025).

One of the basic reasons that addresses are included in pleadings is for administrative purposes, e.g., where to contact or correspond with the party.

1. Parties. The address of the plaintiff should be listed in the caption or text of the initial pleading. The address of the defendant/respondent may not be known at the time of filing, but may be obtained after service.

2. Attorney/Pro Se. The initial pleading, reply, or appearance should contain the complete address, telephone number, and for attorney - the Supreme Court I.D. number.

BOND REQUIREMENTS FOR OFFICEHOLDERS and STAFF

1. Prothonotary shall give and acknowledge a bond to the county prior to taking oath of office (16 P.S. § 420)

2. The bond shall be conditioned upon the faithful discharge by the Prothonotary and his/her staff. (16 P.S. § 421)

3. The bond shall be in the name of the county for the use of the county, the Commonwealth and such person(s) for whom money shall be collected or received. (16 P.S. § 422)

4. The bond shall be approved by the court of common pleas. (16 P.S. § 423)

5. The controller shall be the custodian of the bond and in the absence of a controller, the commissioners. (16 P.S. § 425)

(NOTE: If there is no controller in the county, the Prothonotary shall hold the bond for the commissioners and chief clerk.)

6. The bond shall be acknowledged before the Recorder of Deeds. (16 P.S. § 426)

(NOTE: The Recorder of Deeds shall acknowledge his/her bond before the Prothonotary.)

7. The amount of the county bond shall be set by the commissioners. (16 P.S. § 427)

(NOTE: The Commonwealth sets the amount for the bond required to be given by the state. See Reference B-1R-14.1 – B1R-14.15.)

8. The staff handling monies shall give and acknowledge a single bond covering them payable to the Prothonotary. The salary board shall determine each position requiring a bond and shall designate the amount. (16 P.S. §§ 429 and 430)

(NOTE: Not all counties follow the above procedures for the county bond; the commissioners may arrange for a blanket bond to cover all officeholders and staff.)

CAPTION (Pa.R.C.P. Nos. 1018 (Pleadings) and 1704 (Class Action)).

1. Common oversights:

a. In the first line ensure the correct county is shown and the appropriate designation of Civil Action - LAW or EQUITY.

b. Parties in the action are to be listed in the caption of the initial pleading; in subsequent filings, only the first party need be named followed by an appropriate indication of the other parties, e.g., et al.

c. Type of Pleading. Under the file number of the caption, list the type of pleading. If the pleading is trespass/assumpsit, only the term "Civil Action" is to appear; for all others, the term Civil Action - TYPE, e.g., "Civil Action - Ejectment", "Civil Action - Asbestos", etc.

2. Amending caption:

a. Where the original defendant has disclaimed any interest in the fund paid into court and been discharged of all liability, the claim is then against the fund. A court order may then be entered amending the caption to substitute a monetary amount in the former defendant's place.

b. At the time of trial, the jury should be sworn with the party plaintiffs designated as the plaintiffs on the one side, against the fund or the property which stands in place of the original defendant, ex: Andrew P. Slavin and Edward K. Slavin, plaintiffs, v. \$12,992.93, defendant. (Slavin v. Slavin, 84 A.2d 313)

CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE

(42 Pa.C.S.A. § 1725.1(a)(1) (Act 1996-119)).

1. The Prothonotary shall collect an Act 1996-119 fee on all child custody case filings as of February 4, 1997. The fee is to be charged on all initial custody cases after February 4, 1997 regardless of whether custody is sought in a custody complaint, a count in a divorce action or a count in a divorce counterclaim. The fee should be considered a one-time charge on all child custody case filings. The fee is not charged on petitions to modify an existing custody order.

2. Eighty percent of the fee is to be remitted monthly to the Administrative Office of Pennsylvania Courts, for the operation of the information system.

3. Current Act 1996-119 fee as of January 1, 2014 is \$7.50, with \$6.00 being remitted monthly to the AOPC and \$1.50 being remitted monthly to the county.

CHILDREN'S TRUST FUND \$10.00 SURCHARGE (11 P.S. § 2238 (Act 1988-151) as amended).

1. The Prothonotary shall collect the \$10.00 surcharge on all DIVORCE COMPLAINTS filed as of June 1, 1990.

2. Prior to the 1990 amendment, the surcharge was collected when a praecipe was filed for the appointment of a master or it was requested the record be transmitted to the court for the final divorce decree. Therefore, the Prothonotary must still collect the surcharge on the divorce decrees for cases commenced prior to implementation of the amending act.

3. The proceeds are to be transmitted monthly to the Pa. Department of Revenue and reported on the Prothonotary Monthly Report (Rev. 711 EX), line 6. The Department of Revenue requests that the Writ Tax and Surcharges be combined in the same check for payment.

CIVIL BAIL BONDS.

If court enters an order of bail directing release on a monetary condition, one or a combination of the following forms of security may be accepted to satisfy full amount of bail:

1. U. S. currency

2. Bearer bonds of U. S. Government, of Commonwealth of Pennsylvania, or of any political subdivision of the Commonwealth

a. Defendant or surety must file a sworn schedule verifying value and marketability of the bonds which shall be approved by Prothonotary.

3. Realty located within Commonwealth of Pennsylvania with actual net value at least equal to amount of bail.

a. Persons desiring to post property as bail must present documentation, certified by an attorney or other approved party (e.g. title company) listing all encumbrances relating to said property (judgments, liens, mortgages, delinquent taxes, etc.) as well as the assessed valuation of the property.

b. All joint tenants or tenants by the entirety must execute the bail bond on both sides of bond form.

c. After bond is approved and completed, the original bail bond and certification may be filed as a judgment. A copy of these documents may be substituted in the case file.

d. If property is located in another county, Prothonotary may certify judgment to that county.

e. The filing and transfer fees should be the responsibility of the surety posting bail.

4. Realty located outside the Commonwealth but within the United States, under same conditions as above.

5. Surety bond of a licensed professional bondsman or of a surety company authorized to do business in Pennsylvania.

(NOTE: Certification of Bail and Discharge Bond, Form AOPC 414, as utilized in the Clerk of Courts' Office, may be used by Prothonotary.)

References:

Bail Bond
Release of Prisoner
Surety Information Page
Affidavit of Surety
Bail Payment

COMPUTATION OF TIME.

Computation of time by days, weeks, or months is found in Pa.R.C.P. Nos. 106, 107 and 108 respectively.

(NOTE: See HOLIDAYS in this chapter.)

COUNTY RECORDS IMPROVEMENT FUND.

Act 1998-8, effective March 30, 1998, created a County Records Improvement Fund in counties of classes 2A through 8, and established a County Records Improvement Committee comprised of the County Commissioners, Sheriff, Prothonotary, Clerk of Courts, Register of Wills and Treasurer or their equivalent in a home rule county. Act 2002-32, effective June 16, 2002, increased the amount to \$2.00 of the fee collected by the Recorder of Deeds which shall be deposited in this fund and shall be expended in accordance with a comprehensive records management plan developed by the Committee.

COURT STRUCTURES.

Structures of all courts in the United States.

Reference:

Diagrams from the National Center for State Courts.

DOCKETS/DOCKET ENTRIES.

Shall contain date of filing and a brief, concise description of document filed.
An appealable order entry shall include the date the order is docketed.

References:

- 16 P.S. § 9871. Judgment docket; contents; fees for entries.
- 42 Pa.C.S.A. § 4301. Establishment and maintenance of judicial records.
- 204 Pa. Code 173.1. Minimum standards for prothonotary records.
- Fraternal Order of Police v. Philadelphia, 655 A.2d 666

ELECTRONIC FILING and SERVICE OF LEGAL PAPERS

Pa.R.C.P. No. 205.4

(NOTE: Rule 205.4 is intended as a further step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents.)

EXPUNGEMENT.

PROCEDURE -- Upon receipt of petition, court order and the appropriate fee, the Prothonotary shall:

1. Obliterate all identifiers for defendant and plaintiff from all media including but not limited to paper, electronic, optical and microform (security and office copies).
2. Certify and serve copies of expungement order as directed by the court.
3. Place under seal or destroy case file as directed by the court.
4. Place petition, court order and affidavits of other agencies served, if any, under seal in accordance with local practice.

FEDERAL DISTRICT COURT

Notice of Removal (U.S.C.A. 28 §§ 1446(a) and (d))

a. A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant(s) in such action.

d. Promptly after the filing of such notice of removal of a civil action the defendant(s) shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such state court, which shall effect the removal and the state court shall proceed no further unless and until the case is remanded.

FEE SCHEDULE. (42 P.S. § 21071 et seq.)

1. Prothonotaries of Second Class A through Eighth Class and Home Rule Counties, fee schedule, definitions and other pertinent data are contained in the reference cited.

a. Pursuant to Act 1998-164 (effective 1/21/99), the Prothonotary may increase any fee or charge that exists as of the effective date of this section with the approval of the President Judge. The amount of any increase may not be greater than the aggregate of the Consumer Price Index from the month in which the fee was last established through June, 1998.

b. The amount of any fee or charge may be increased every three years, provided that the amount of the increase may not be greater than the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three years preceding the last increase in the fee or charge.

c. In addition to any other fee, an automation fee of not more than \$5 may be charged and collected by the Prothonotary for the initiation of any action or legal proceeding. The automation fee shall be deposited into a special prothonotary automation fund established in each county. Moneys in the special fund shall be used solely for the purpose of

automation and continued automation update of the office of the prothonotary.

Reference:

Opinion of Robert A. Weinert, Esq., Solicitor

FEE/TAX DOCUMENT RECORDING.

The fees and taxes paid to the Prothonotary should be stamped or recorded on the items for which paid. This provides a good verification of payment and record of taxable costs in the file for future reference.

FILE/TERM NUMBERS.

Subsequent pleadings shall contain the court of common pleas number of the original pleading. In lien filings, e.g. municipal, mechanics, etc., where a pleading is filed, the pleading should carry the number of the original filing, e.g. MLD, MSL, etc.

HOLIDAYS.

Effect on calculation of appeal periods when counties exchange a federal legal holiday for another day.

References:

Bassett v. Bassett, U.S. District Court of Pennsylvania, Middle District, 43 M.D. Appeal Docket 1995

List of federal legal holidays, 5 USCS § 6103

JUDICIAL COMPUTER SYSTEM AUGMENTATION ACCOUNT.

(42 Pa.C.S.A. § 3733(a)(1) (Act 2002-122)).

1. The Prothonotary shall collect the \$23.50 surcharge on all initial civil actions or legal proceedings filed as of December 8, 2009. The fee shall remain \$23.50 until December 31, 2014. Specifically, the \$11.25 temporary surcharge created by Act 49 of 2009 which was set to expire on January 7, 2012 has been extended to December 31, 2014.

2. The proceeds are to be transmitted monthly to the Pa. Department of Revenue and reported on the Prothonotary Monthly Report (Rev. 711 EX), line 7. The Department of Revenue requests that the Writ Tax and Surcharges be combined in the same check for payment.

LETTERS ROGATORY.

See 42 Pa.C.S.A. §§ 5324, 5325, 5326.

NOTICE BY PROTHONOTARY OF ENTRY OF ORDER, DECREE OR JUDGMENT.

See Pa.R.C.P. No. 236.

NUMBER. TENSE.

The singular shall include the plural, and the plural, the singular. Words used in the past or present tense shall include the future.

OATHS, AFFIDAVITS AND ACKNOWLEDGMENTS.

1. The Prothonotary may, if so desired, administer oaths in the form of affidavits and take acknowledgments on any document that requires an Affidavit or an Acknowledgment, even though it does not pertain to the work of the office. Authority for this is found in 42 Pa.C.S.A. § 2737, which gives the Prothonotary these rights, but the Prothonotary cannot be forced to exercise these rights if the Prothonotary elects not to do so.

a. The Prothonotary is authorized to administer oaths in accordance with general practice in the county.

2. Oaths and appointments may be filed in the office in accordance with general practice in the county, or as prescribed by law.

a. Prothonotary shall file stamp, number and record in appropriate docket.

NOTE: An oath or affirmation of a member of a borough council may only be taken before any judge or justice of the peace of the county, or before the mayor of the borough when he has qualified, and shall be filed with the borough secretary and be preserved among the records of the borough for a period of six years. **(53 P.S. § 46002)**

ORDERS.

1. For an order to be effective, it must be "entered".

2. Date that an order is entered is the date that the order is filed with the prothonotary.

See NOTICE BY PROTHONOTARY OF ENTRY OF ORDER, DECREE, OR JUDGMENT, Pa.R.C.P. No. 236.

POLITICAL ACTIVITY.

The prohibition against political activity by court-appointed employees does not apply to Prothonotaries and their staff.

Reference:

Pennsylvania Supreme Court Guidelines, as amended 11/24/98.

PROTECTION FROM ABUSE CHARGES

1. Protection From Abuse Surcharge (23 Pa.C.S.A. § 6106(d))
2. Indirect Criminal Contempt Fine (23 Pa.C.S.A. § 6114(b))
3. Any monies collected are submitted to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), line 12, pursuant to their instructions. There is no collection commission.

RETENTION AND DISPOSITION SCHEDULE.

A retention and disposition referral is noted at the end of each applicable section. For regulations regarding records retention and disposition, refer to new procedures established by Act 1998-29, 16 P.S. § 13001 et seq, effective August 18, 1998. (See County Records Manual)

SATISFACTIONS AND TERMINATIONS.

Satisfactions and terminations are to be submitted by the filing of a written praecipe; the prior practice of entering same directly on the docket by the party or counsel is no longer authorized.

Form:

Praecipe and Power of Attorney for Satisfaction and/or Termination

SIGNATURE/SIGNING. (Pa.R.C.P. No. 1023).

Documents submitted for filing that require a signature are to contain the original signature as opposed to a copy or facsimile signature. If the signature is not legible, the signer's name should be type or printed below the signature.

SIZE/FORM OF PAPERS. (Pa.R.A.P. No. 124).

The size and forms of papers filed in the court of common pleas is set by the Rules of Appellate Procedure. The size of paper shall be 8½" x 11", etc.

STIPULATIONS AGAINST LIENS.

For indexing information, see 49 Pa.C.S.A. § 1402.
For electronic indexing, see 49 Pa.C.S.A. § 1402(b).

Reference:
Act 2004-96 (HB 237, PN 266)

TERMINATION OF INACTIVE CASES. (Pa. R.C.P. No. 230.2 and Pa.R.J.A. No. 1901).

This rule provides an administrative method for the termination of inactive cases. The court is responsible for serving notice on counsel or unrepresented parties. A Notice form is provided in the rule and shall contain the date of the proposed termination. Parties shall have 60 days to respond to the notice. Unserved notices must be advertised in the legal journal for the county or a newspaper of general circulation if there is no journal. It is the Prothonotary's responsibility to obtain an address for an attorney when the notice is returned by checking a legal directory or contacting the AOPC. If parties fail to file a Statement of Intention to Proceed (form provided in the rule), the Prothonotary shall terminate the case with prejudice for failure to prosecute. Remedy for termination is by filing a petition to the court to reinstate the action.

UNITED STATES DISTRICT COURTS IN PENNSYLVANIA.

1. Eastern District Jurisdiction:
Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, and Philadelphia counties.

2. Middle District Jurisdiction:
Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York counties.

3. Western District Jurisdiction:
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland counties

Reference:

List including addresses and telephone numbers of federal district court clerks.

VERIFIED. (Pa.R.C.P. Nos. 76 and 1024)

When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities. (Note: This may be used instead of a notarization.)

WHAT COPY TO ACCEPT.

1. Under normal conditions, the Prothonotary should accept only the original of a pleading or filing; the document should contain original signatures. The only exceptions should be by cited statutes or where there are conflicting statutes, e.g. filing of a copy of bail bond for judgment.

2. It is suggested that if any "copies", e.g., other than original, are submitted for duplicate clocking to verify the filing, that these copies be stamped or marked "COPY" -- this eliminates the possibility of anyone trying to submit a copy for an original.

WRIT TAX. (72 P.S. § 3172)

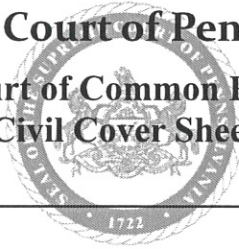
1. The 25¢ and 50¢ taxes described in this statute are in addition to the items listed in the Prothonotary's fee schedule.

a. No exception for collection of writ tax, including government agencies or political subdivisions.

2. The proceeds are to be transmitted monthly to the Pa. Department of Revenue and reported on the Prothonotary Monthly Report (Rev. 711 EX), lines 1 through 5. The Department of Revenue requests that the Writ Tax and Surcharges be combined in the same check for payment.

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet



County _____

For Prothonotary Use Only:

Docket No: _____

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint Writ of Summons Petition
 Transfer from Another Jurisdiction Declaration of Taking

Lead Plaintiff's Name: _____

Lead Defendant's Name: _____

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
(check one) outside arbitration limits

Is this a *Class Action Suit*? Yes No

Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: _____

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute: Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
- Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other: _____

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations
 Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional:

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.

(ii) actions for support, Rules 1910.1 et seq.

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.

(iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.

(vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

C

Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 16 P.S. Counties (Refs & Annos)

Chapter 4. Other Provisions Concerning Counties (Refs & Annos)

Article XIA. Court Records

→→ § 9871. Judgment docket; contents; fee for entries

It shall be the duty of each of the prothonotaries of the several courts of common pleas district courts and circuit courts [FN1] in this commonwealth, to make, prepare and keep a docket, to be called the judgment docket, in which said docket no case shall be entered until after there shall have been a judgment or award of arbitrators in such case, and into which shall be copied the entry of every judgment and every award of arbitrators, immediately after the same shall have been entered; which entries, so to be made in the said judgment docket, shall be so made that one shall follow the other in the order of time in which the said judgments and awards shall have been rendered, entered or filed, as aforesaid; and the entries in each case in said judgment docket shall particularly state and set forth the names of the parties, the term and number of the case, and the date, and in case the judgment shall be for a sum certain, the amount of the judgment or award; and when any judgment shall be revived by scire facias or otherwise, or when any execution shall issue in any case, a note thereof shall be made in the proper judgment docket, at the place where the other entries in such case may have been made; and whenever any transcript of any testatum execution, or any transcript showing the balance appearing to be due from any executor, administrator or guardian, or from any collector of any township, ward or district, shall be delivered to any of the said prothonotaries, the docket entries made in such case shall be copied into the said judgment docket, in like manner as judgments and awards are herein directed to be copied; and the fee for all the entries made in each case, in the judgment docket, shall be twelve and a half cents, and no more.

CREDIT(S)

1827, March 29, P.L. 154, § 3.

[FN1] District courts and circuit courts are now nonexistent, see Const. Art. 5.

REPEALED IN PART

<This section is repealed, except insofar as relates to recorders of deeds, by § 2(a)[108] of Act 1978, April 28, P.L. 202, No. 53 [42 P.S. § 20002(a)[108]].>

RULES OF CIVIL PROCEDURE

<This section is not deemed to be suspended or affected by Pa.R.C.P. Nos. 2950 to 2962 and 2970 to 1974, 42 Pa.C.S.A. governing confession of judgment for money or for possession of real property. See Pa.R.C.P. No. 2975, 42 Pa.C.S.A.>

HISTORICAL AND STATUTORY NOTES


Transferred from 17 P.S. § 1903 in 1981.

In Philadelphia, executions must be docketed in order to constitute a lien upon after-acquired real estate, by act of 1853, April 20, P.L. 610, § 9.

CROSS REFERENCES

Partnerships, indexing of judgments against, see Pa.R.C.P. No. 2133, 42 Pa.C.S.A.

LIBRARY REFERENCES

Judgment  277, 284, 766.
Westlaw Topic No. 228.
C.J.S. Judgments §§ 116, 130, 132, 559 to 560, 562.

RESEARCH REFERENCES

Treatises and Practice Aids

Goodrich-Amram 2d Rule 3020, Definition.

NOTES OF DECISIONS

In general 1

Amendment and correction, entry of judgment 15

Amount of judgment or award, entry of judgment 12

Appearance or continuance docket, entry of judgment 4

Docket as notice, generally 16

Entry of judgment 3-15

Entry of judgment - Amendment and correction 15

Entry of judgment - Amount of judgment or award 12

Entry of judgment - Appearance or continuance docket 4

Entry of judgment - Erasures and interlineations in record 13

C

Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)

Part V. Administration of Justice Generally

Chapter 43. Dockets, Indices and Other Records

Subchapter A. Establishment, Maintenance and Effect of Judicial Records (Refs & Annos)

→ → § 4301. Establishment and maintenance of judicial records

(a) **General rule.**--All system and related personnel shall establish and maintain such records as shall be required by law.

(b) **Supervision by Administrative Office.**--All system and related personnel engaged in clerical functions shall establish and maintain all dockets, indices and other records and make and file such entries and reports, at such times, in such manner and pursuant to such procedures and standards as may be prescribed by the Administrative Office of Pennsylvania Courts with the approval of the governing authority. All such procedures and standards shall be uniform to the maximum extent practicable so as to facilitate the temporary assignment of personnel of the system, other than county staff, within the unified judicial system.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

BAR ASSOCIATION COMMENT

Source Note: New.

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1978, April 28, P.L. 124, No. 52, § 67.

1972, July 12, No. 185, § 1305 (53 P.S. § 6780-605).

C

West's Pennsylvania Administrative Code Currentness

Title 204. Judicial System General Provisions

Part VI. Judicial Council of Pennsylvania

Subpart E. Administration of Justice Generally

Chapter 173. Uniform Procedures, Indexes and Dockets

→→ § 173.1. Minimum standards for prothonotary records.

(a) *General rule.* The minimum standards for maintenance of records in the Office of the Prothonotary shall be as follows:

(1) An annual numbering system referring to the year and case number shall be adopted, to wit, 73-485.

(2) One General Docket shall be employed in which all actions, Judgments, Liens or matters (Federal Liens, Secured Transactions, Fictitious Names, Notary Docket and Power of Attorney Register shall be maintained as heretofore) shall be recorded in chronological order, regardless of type or description, and which shall be recorded as briefly as possible:

(i) Caption.

(ii) Attorneys.

(iii) Number of case.

(iv) Type of action or matter and, if trespass, whether motor vehicle or not.

(v) Jury trial, trial by judge without jury, arbitration or other.

(vi) The date of filing each paper and brief description of that paper, e.g., Summons, Complaint, Interrogatories, Notice of Depositions, Preliminary Order, Final Order, Judgment and amount, Award and amount, Verdict and amount, Settle, Discontinue and End, or Termination or Termination with Prejudice.

(vii)(A) In rem matters or those actions requiring identification by a real estate description shall be identified by either recording the name of the record owner or the tax map unit and parcel number or indicator as established by modern tax identification system.

(B) Prothonotaries employing manual systems shall maintain a separate Locality Index which shall contain the name of either the record title owner or a tax map unit and parcel number or indicator as established by modern tax identification system.

(viii) All satisfactions, terminations by parties or entries of Settle, Discontinue and End shall be accomplished by satisfaction piece and not by entry of signature on docket.

(3) The General Docket shall have the following index system:

(i) A judgement Index in which all Judgments, Liens and Lis Pendens shall be recorded in chronological order of their filing. Said index shall contain the following information:

(A) Name of defendant.

Name of plaintiff.

(B) Number of case.

(C) Docket and page.

(D) Date of filing.

(E) Nature of Proceedings.

(ii) A Miscellaneous Index in which all other actions or matters shall be recorded. Said index shall contain the following information:

(A) Names of plaintiff and defendants.

(B) Number of case.

(C) Docket and page.

(D) Date of filing.

(E) Nature of proceedings.

(b) *Scope.* The minimum standards set forth in subsection (a) of this section shall apply to all offices adopting computer or other electro-data processing systems. The same minimum standards may also be adopted by any Prothonotary's Office employing manual procedures. Any Prothonotary may include additional information if local

practice or custom dictates.

Adopted Jan. 25, 1974.

204 Pa. Code § 173.1, 204 PA ADC § 173.1

Current through Pennsylvania Bulletin, Vol. 44, Num. 12, dated March 22, 2014.

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Understanding the Court Structure Charts

The court structure charts summarize in one-page diagrams the key features of each state's court organization. The format meets two objectives: (1) it is comprehensive, indicating all court systems in the state and their interrelationship, and (2) it describes the jurisdiction of the court systems, using a standard set of terminology and symbols. The court structure charts employ the common terminology developed by the National Center for State Courts' Court Statistics Project (CSP) for reporting caseload statistics.

The charts also provide basic descriptive information, such as the number of authorized justices, judges, and magistrates (or other judicial officers). Each court system's subject matter jurisdiction is indicated using the Court Statistics Project case types. Information is provided on the number of courts and on the use of districts, circuits, or divisions in organizing the courts within the system. The charts also include links to the state's court system Web site as well as to the Web sites of specific courts, when available.

CSP Case Types

In addition to defining CSP case types, the *State Court Guide to Statistical Reporting* organizes cases into a three-level hierarchy. The first, and broadest, level is the case *category*, which, in the trial courts, consists of civil, domestic relations, criminal, juvenile, and traffic/other violations cases. The second level, the case *sub-category*, refers to classes of cases within the case category. For example, tort cases are a sub-category of civil cases and felony cases are a sub-category of criminal cases. The third level of the organizational hierarchy is the *case type*. The case type is the most precise descriptor of the case in question. Case types can further refine the cases within a sub-category (e.g., DWI/DUI is a case type within the sub-categories of both felony and misdemeanor cases) or they can describe a case within a case category (e.g., adoption is a case type within the domestic relations case category).

For the purpose of simplicity, the court structure charts use the term "case type" to refer to each court system's subject matter jurisdiction, even if the jurisdiction listed is actually a case category or a case sub-category. In most instances, the case category is listed when the court in question has jurisdiction over all of the case types within the category. In turn, the case sub-category is listed when the court has jurisdiction over all of the case types within the case sub-category. Case types are listed individually when (1) the case type does not fall under a case sub-category or (2) the court has jurisdiction only over that specific case type.

Appellate Courts

The rectangle representing each appellate court contains information on the number of authorized justices; the number of geographic divisions, if any; whether court decisions are made en banc, in panels, or both; if the court assigns cases to another court (mainly from a court of last resort to an intermediate appellate court); and the Court Statistics Project case types that are heard by the court. The case types are shown separately for appeal by right, appeal by permission, death penalty, and original proceeding case categories. In some instances, the case type is prefaced by the word "limited," implying that the court has subject matter jurisdiction over some, but not all, of the case types within a case sub-category. For example, a court of last resort may have by right jurisdiction over only those appeals that challenge the constitutionality of a statute. If the appeal containing that challenge is from a criminal case, the court is said to have appeal by right limited criminal jurisdiction.

If a case type is simply listed, the court shares jurisdiction over it with other courts. In other words, an appellate court can have both appeal by right and appeal by permission jurisdiction over the same Court Statistics Project case type. This arises, in part, because the Court Statistics Project case types are defined broadly to be applicable to every state's courts. For example, a court may have appeal by right jurisdiction over tort cases above a certain dollar amount, but appeal by permission jurisdiction over tort cases below that amount. The list of case types would include either "civil" or "tort, contract, and real property" for both appeal by right and appeal by

permission jurisdiction. The duplication of a case type under both headings can also occur if appeals from one lower court for that case type are mandatory while appeals from another lower court are discretionary. Also, statutory provisions or court rules in some states automatically convert an appeal by right into an appeal by permission—for example, when an appeal is not filed within a specified time limit. The presence of exclusive jurisdiction, however, is always explicitly stated.

Trial Courts

The rectangle representing each trial court also lists the applicable Court Statistics Project case types. These include civil, domestic relations, criminal, juvenile, and traffic/other violations. As described for the appellate court rectangles, if a case type is simply listed, the court system shares jurisdiction over it with other courts, and the presence of exclusive jurisdiction is always explicitly stated.

The absence of a case type from a list means that the court does not have that subject matter jurisdiction. The dollar amount jurisdiction is shown when there is an upper or a lower limit to the cases that can be filed in a court. A dollar limit is not listed if a court does not have a minimum or maximum dollar amount jurisdiction for general civil cases. In criminal cases, jurisdiction is distinguished between “felony,” which means the court can try a felony case to verdict and sentencing, and “preliminary hearings,” which applies to those limited jurisdiction courts that can conduct preliminary hearings that bind a defendant over for trial in a higher court.

Trial courts can have what is termed incidental appellate jurisdiction. The presence of such jurisdiction over the decisions of other courts is noted in the list of case types as either “civil appeals,” “criminal appeals,” or “administrative agency appeals.” A trial court that hears appeals directly from an administrative agency has an “A” in the upper-right corner of the rectangle.

For each trial court, the chart states the authorized number of judges and whether the court can impanel a jury. The rectangle representing the court also indicates the number of districts, divisions, or circuits into which the court system is divided. These subdivisions are stated using the court system’s own terminology. The descriptions, therefore, are not standardized across states or court systems.

Unlike appellate courts, which are solely state funded, some trial courts are totally funded from local sources while others receive some form of state funds. The type of funding a court receives is noted within that court’s rectangle.

Symbols and Abbreviations

A legend is included with each state structure chart that defines the symbols and abbreviations used in the charts. Readers should be aware that, while the legend is the same for each state, not every state contains all of the elements shown in the legend. The legend consists of three symbols and eight abbreviations. The symbols indicate the court level (a thicker border on the rectangle of a court denotes an appellate level court while a thinner border denotes a trial level court) and the route of appeal (indicated by an arrow). The abbreviations are as follows: “COLR” for court of last resort, “IAC” for intermediate appellate court, “GJC” for general jurisdiction court, “LJC” for limited jurisdiction court, “A” for direct appeal from an administrative agency decision, “S” for state funded, “M” for mixed state and local funding, and “L” for locally funded.

As stated above, an “A” in the upper-right corner of a rectangle, representing either an appellate court or a trial court, indicates that the court receives appeals directly from the decision of an administrative agency. If “administrative agency appeals” is listed as a case type, the court hears appeals from decisions of another court on an administrative agency’s actions. It is possible for a court to have both an “A” designation and to have “administrative agency appeals” listed as a case type. Such a court hears appeals directly from an administrative agency (“A”) and has appellate jurisdiction over the decision of a lower court that has already reviewed the decision of the administrative agency.

The number of justices or judges is sometimes stated as “FTE.” This represents “full-time equivalent” authorized judicial positions. “DWI/DUI” stands for “driving while intoxicated/driving under the influence.” The dollar amount jurisdiction for civil cases is indicated in parentheses with a dollar sign. Where the small claims dollar amount jurisdiction is different, it is noted.

The court structure charts are convenient summaries. They do not substitute for the state’s depiction of its court system, as found on some court Web sites, or for the detailed descriptive material contained in the tables of *State Court Organization, 2004*. Moreover, they are based on the Court Statistics Project’s terminology and categories. This means that a state may have established courts that are not included in these charts. Some states have courts of special jurisdiction to receive complaints on matters that are more typically directed to administrative boards and agencies. Since these courts adjudicate matters that do not fall within the Court Statistics Project case types, they are not included in the charts. The existence of such courts, however, is recognized in a footnote to the state’s court structure chart.

Alabama

(Court structure as of Fiscal Year 2010)

Supreme Court

9 justices sit in 5-judge panels of 5 and en banc
Assigns cases to the Court of Civil Appeals

COLR
S

CSP Case Types:

- Appeal by right tort, contract, and real property, probate (\$50,000 – no maximum), limited administrative agency.
- Appeal by permission criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Death penalty appeal by permission.
- Original proceeding writ application. Exclusive bar/judiciary, certified questions, advisory opinion.

[link](#)

Court of Civil Appeals

5 judges sit en banc

IAC
S

CSP Case Types:

- Appeal by right in civil (\$0 - \$50,000), administrative agency.
- Original proceeding writ application.

[link](#)

Court of Criminal Appeals

5 judges sit en banc

IAC
S

CSP Case Types:

- Appeal by right criminal, juvenile. Interlocutory appeals in criminal, juvenile.
- Death penalty appeal by right, writ application.
- Original proceeding writ application.

[link](#)

Circuit Court (41 circuits)

144 judges
Jury trials

GJC
A
M

CSP Case Types:

- Tort, contract, real property (\$3,000 – no maximum). Exclusive civil appeals.
- Domestic relations.
- Felony, misdemeanor, and criminal appeals.
- Juvenile.

[link](#)

District Court (67 districts)

106 judges
No jury trials

LJC
M

CSP Case Types:

- Tort, contract, real property (\$3,000 - 10,000). Exclusive small claims (up to \$3,000).
- Paternity, custody, support, visitation, adoption.
- Preliminary hearings, misdemeanor.
- Juvenile.
- Traffic infractions.

Probate Court (68 courts)

68 judges
No jury trials

LJC
L

CSP Case Types:

- Exclusive mental health, probate/estate. Real property.
- Adoption.

Municipal Court (274 courts)

275 judges
No jury trials

LJC
L

CSP Case Types:

- Misdemeanor.
- Exclusive ordinance violations. Traffic infractions, parking.

Legend

- = Appellate level
- = Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

L = Locally funded

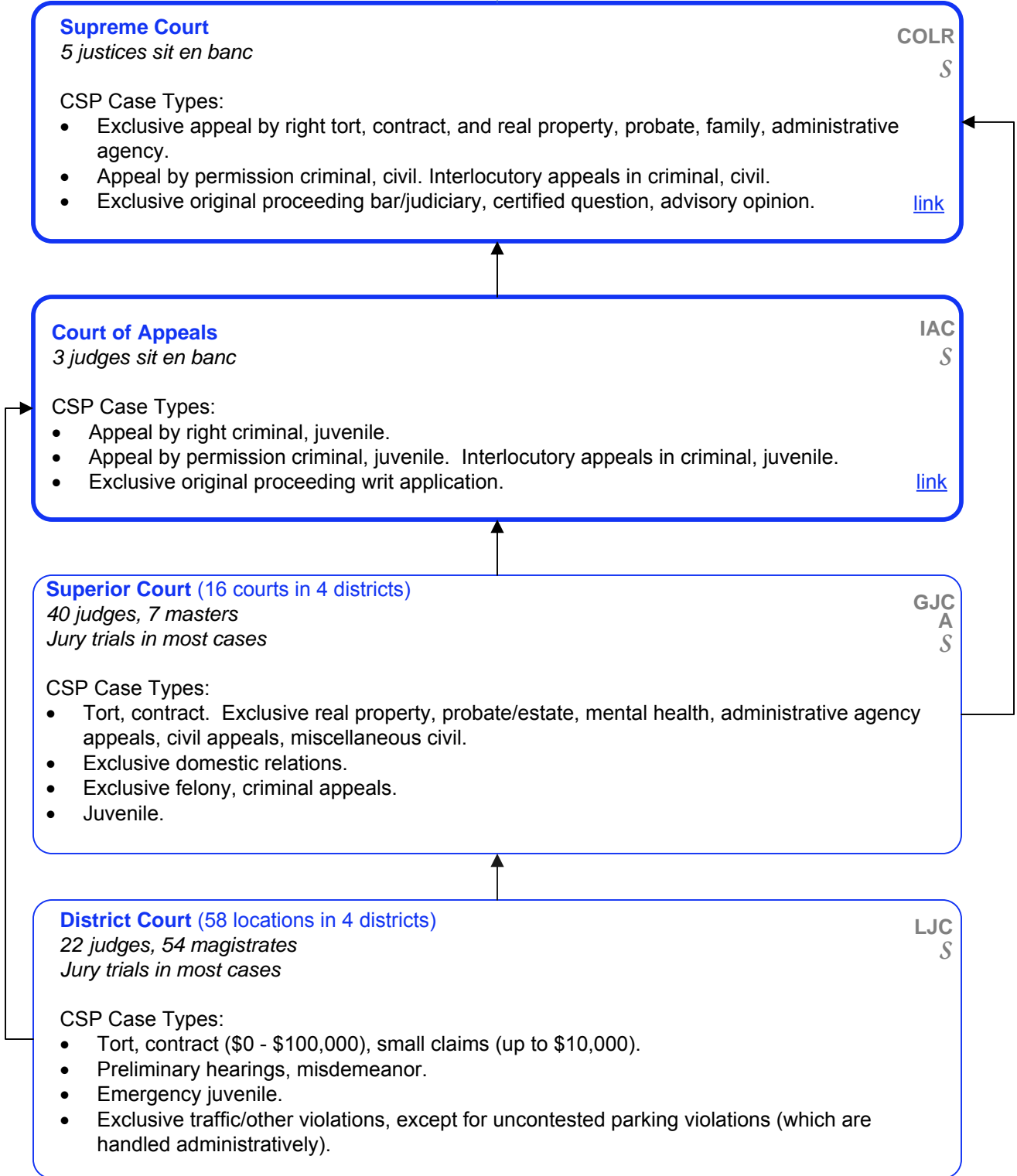
M = Mixed (state and locally) funded

AOC Web site:

www.judicial.alabama.gov

Alaska

(Court structure as of Fiscal Year 2010)



Legend



= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

ℓ = Locally funded

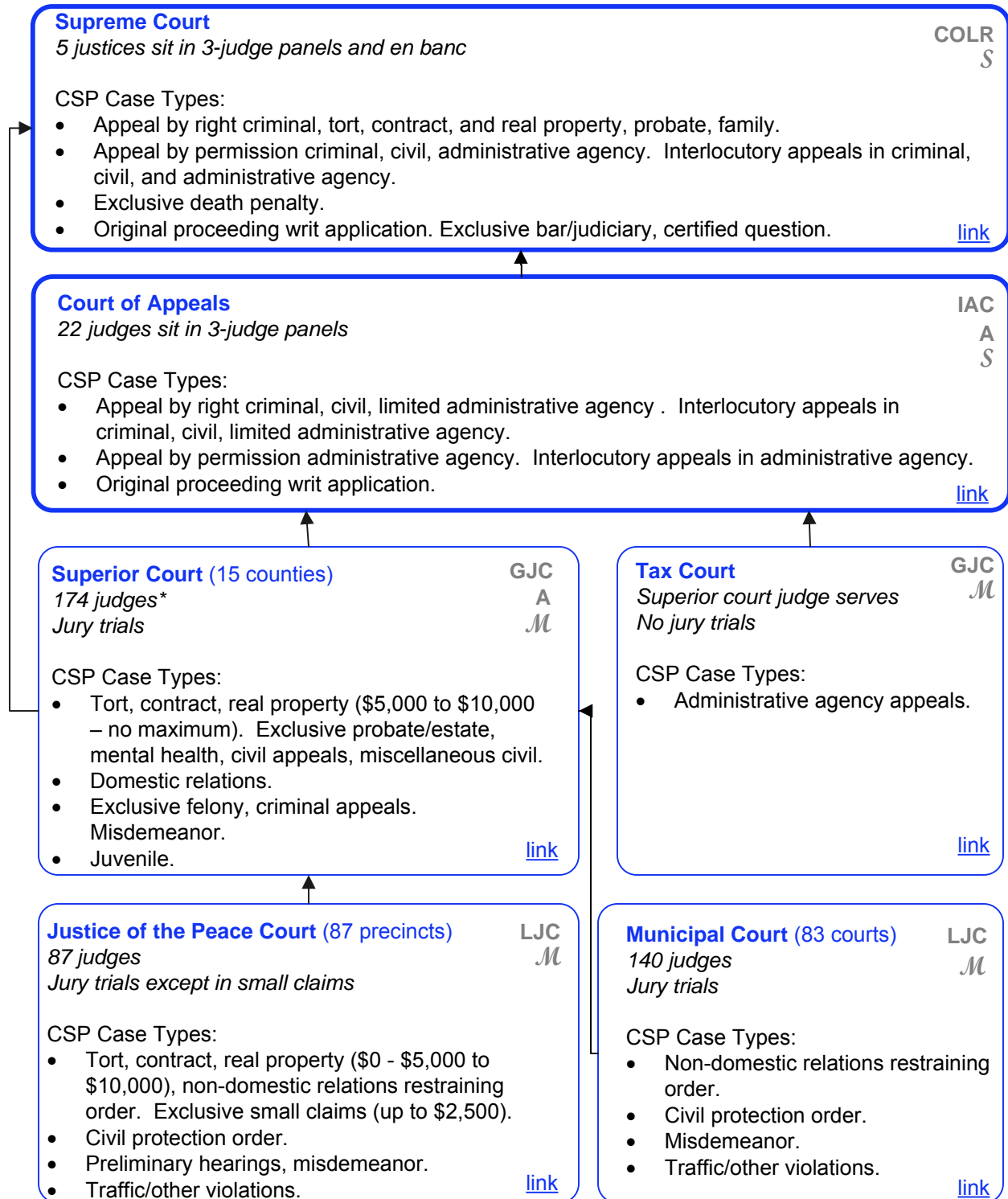
ℳ = Mixed (state and locally) funded

AOC Web site:

www.courts.alaska.gov

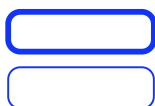
Arizona

(Court structure as of Fiscal Year 2010)



*There are also approximately 97 full- and part-time judges pro tempore, commissioners, and hearing officers in the Superior Court.

Legend



= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

L = Locally funded

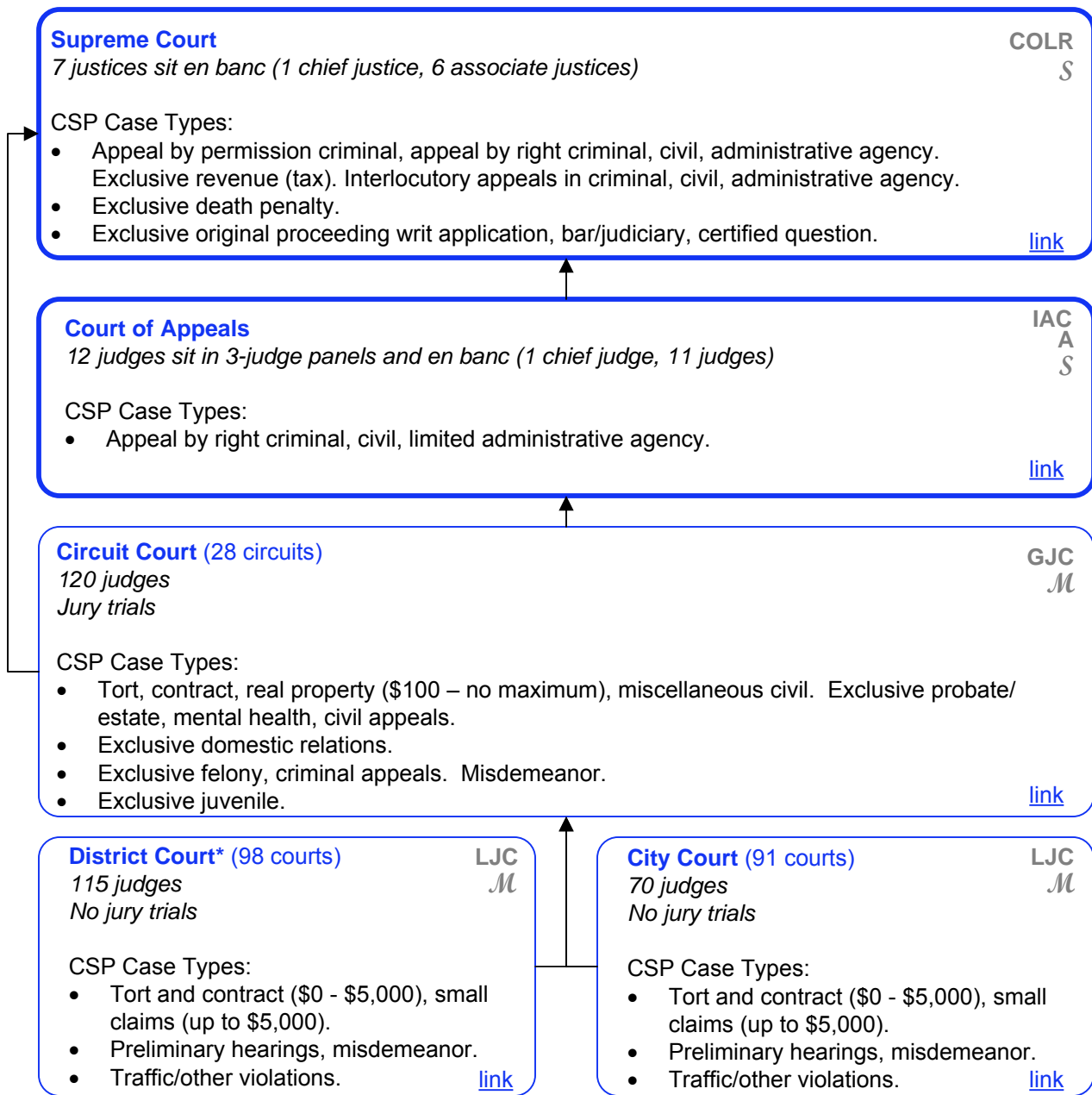
M = Mixed (state and locally) funded

AOC Web site:

www.azcourts.gov

Arkansas

(Court structure as of Calendar Year 2010)



*Act 663 of 2007 created pilot state district court judgeships. These judges have jurisdiction to hear tort and contract cases up to \$25,000 as well as probate/estate and domestic relations cases pending in Circuit Court. In 2009, there were 25 state district court judgeships in 21 courts.

Note: In 2001, Arkansas combined the Chancery and Probate Court with the Circuit Court and reduced the number of limited jurisdiction courts from six to two by combining the County, Police, Common Pleas, and Justice of the Peace courts into the Municipal Court which was renamed and is now the District Court.

AOC Web site: www.courts.arkansas.gov

Legend

 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
ℓ = Locally funded
M = Mixed (state and locally) funded

California

(Court structure as of Fiscal Year 2010)

Supreme Court

7 justices sit en banc

COLR
A
S

CSP Case Types:

- Appeal by permission criminal, civil, limited administrative agency.
- Exclusive death penalty.
- Original proceeding writ application. Exclusive bar/judiciary, certified question.

[link](#)



Courts of Appeal (6 districts)

105 justices sit in panels

IAC
A
S

CSP Case Types:

- Appeal by right criminal, civil, administrative agency.
- Appeal by permission criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Original proceeding writ application.

[link](#)



Superior Court (58 counties)

1,646 judges, 376 commissioners and referees*

Jury trials except in appeals, domestic relations, and juvenile cases

GJC
A
S

CSP Case Types:

- Tort, contract, real property (\$25,000 – no maximum), miscellaneous civil. Exclusive small claims (up to \$7,500), probate/estate, mental health, civil appeals. [Limited jurisdiction: tort, contract, real property (\$0 - \$25,000).]
- Exclusive domestic relations.
- Exclusive criminal.
- Exclusive juvenile.
- Exclusive traffic/other violations.

[link](#)

*Includes 50 new judgeships effective 2008, but not funded.

AOC Web site: www.courts.ca.gov

Legend



= Appellate level



= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

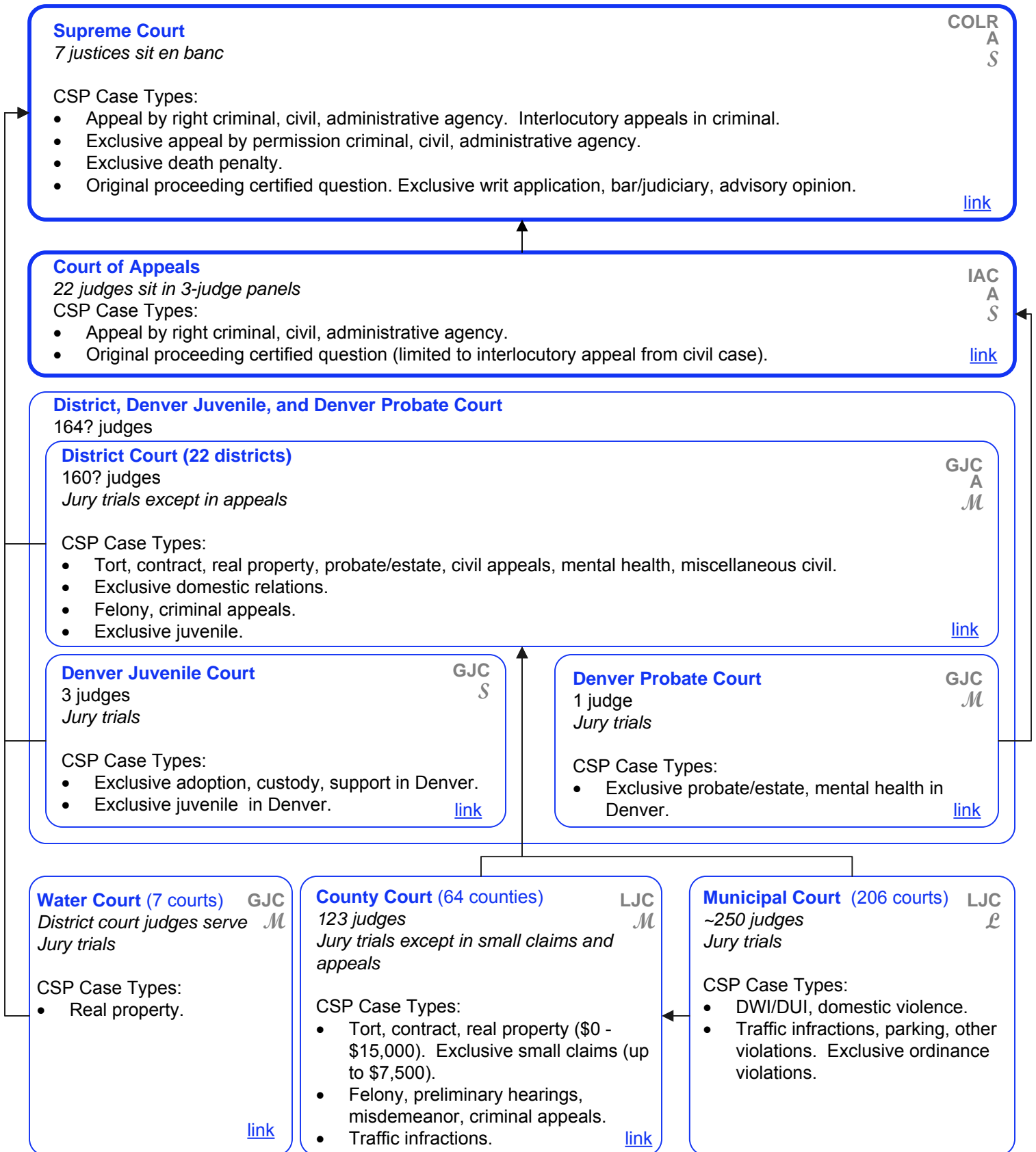
S = State funded

ℒ = Locally funded

ℳ = Mixed (state and locally) funded

Colorado

(Court structure as of Fiscal Year 2010)



Legend

 = Appellate level
 = Trial level

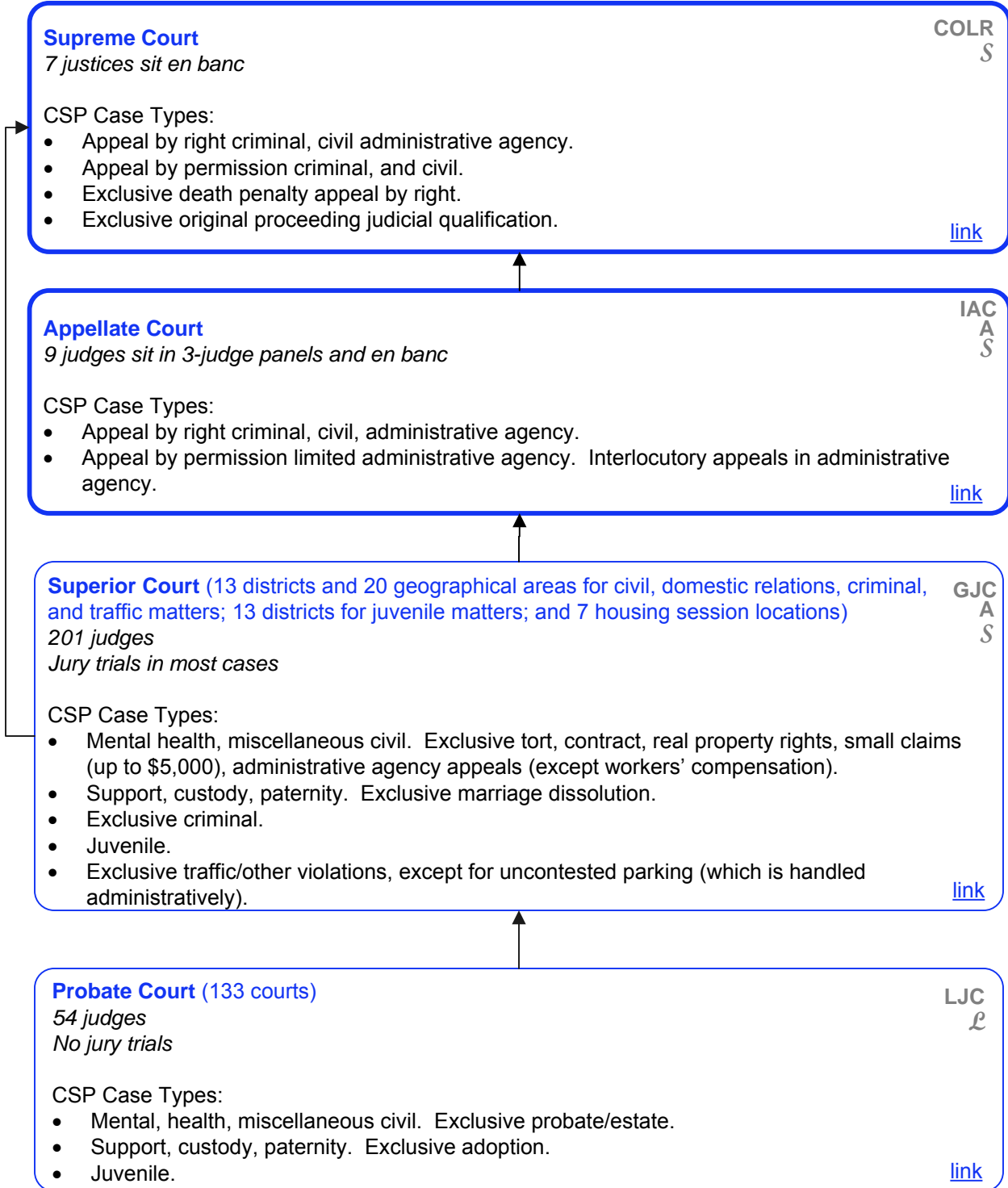
COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed (state and locally) funded

AOC Web site:
www.courts.state.co.us

Connecticut

(Court structure as of Fiscal Year 2010)



Legend

= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

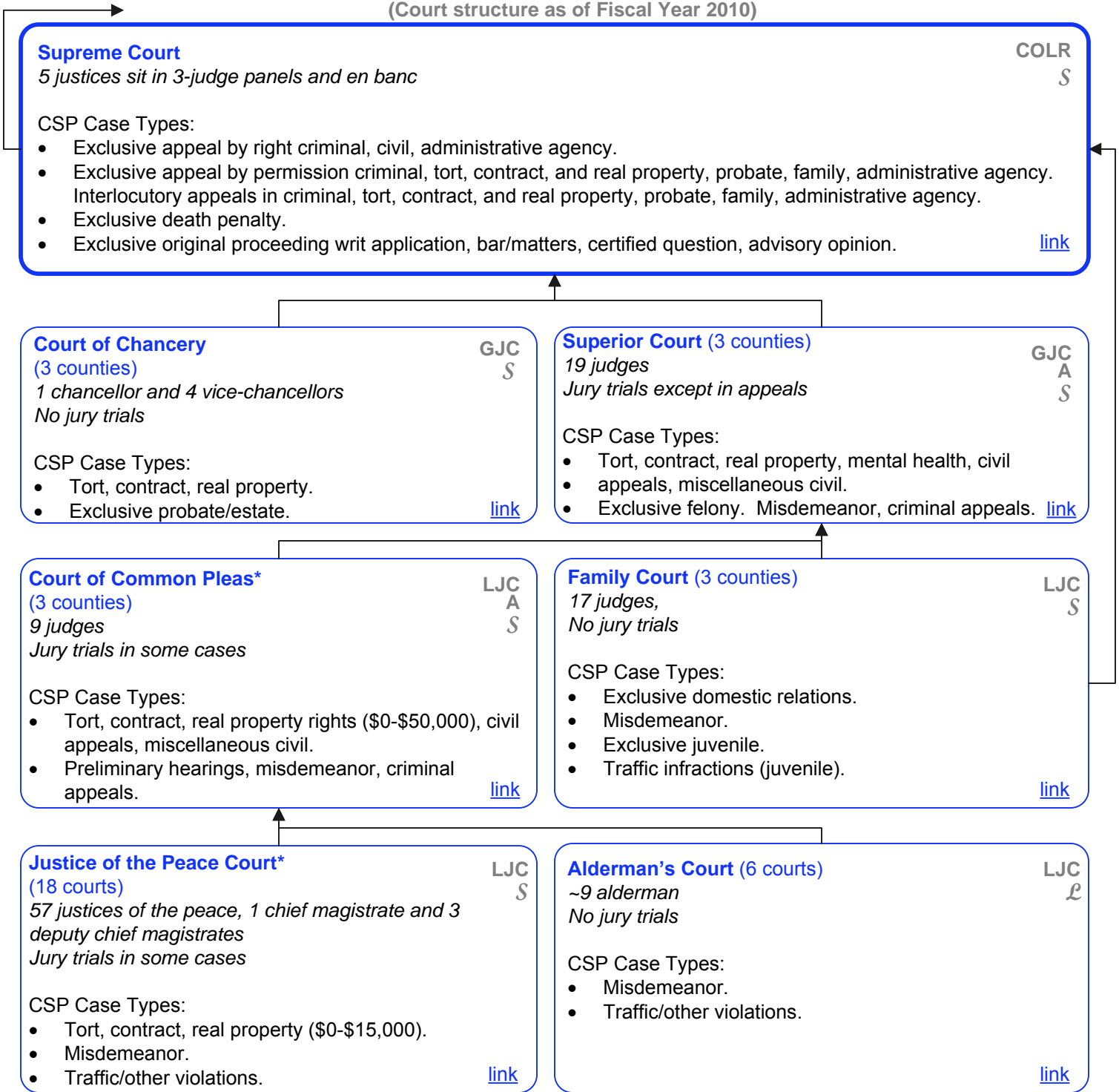
ℒ = Locally funded

.M = Mixed (state and locally) funded

AOC Web site:
www.jud.ct.gov

Delaware

(Court structure as of Fiscal Year 2010)



* The Municipal Court of Wilmington was eliminated effective May 1, 1998, and a new Justice of the Peace Court was created in Wilmington.

AOC Web site: <http://courts.state.de.us>

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed (state and locally) funded

District of Columbia

(Court structure as of Calendar Year 2010)

Court of Appeals COLR
A
S

9 judges sit in 3-judge panels and en banc

CSP Case Types:

- Exclusive appeal by right criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Exclusive appeal by permission misdemeanor, small claims.
- Exclusive original proceeding writ application, bar/judiciary, certified question. [link](#)



Superior Court GJC
A
S

*62 judges, 25 magistrates**

Jury trials

CSP Case Types:

- Exclusive civil (\$5,001 - no maximum). Small claims (up to \$5,000).
- Exclusive domestic relations.
- Exclusive criminal.
- Exclusive juvenile.
- Exclusive traffic/other violations, except for most parking cases (which are handled administratively). [link](#)

*Does not include senior judges that serve on a part-time basis.

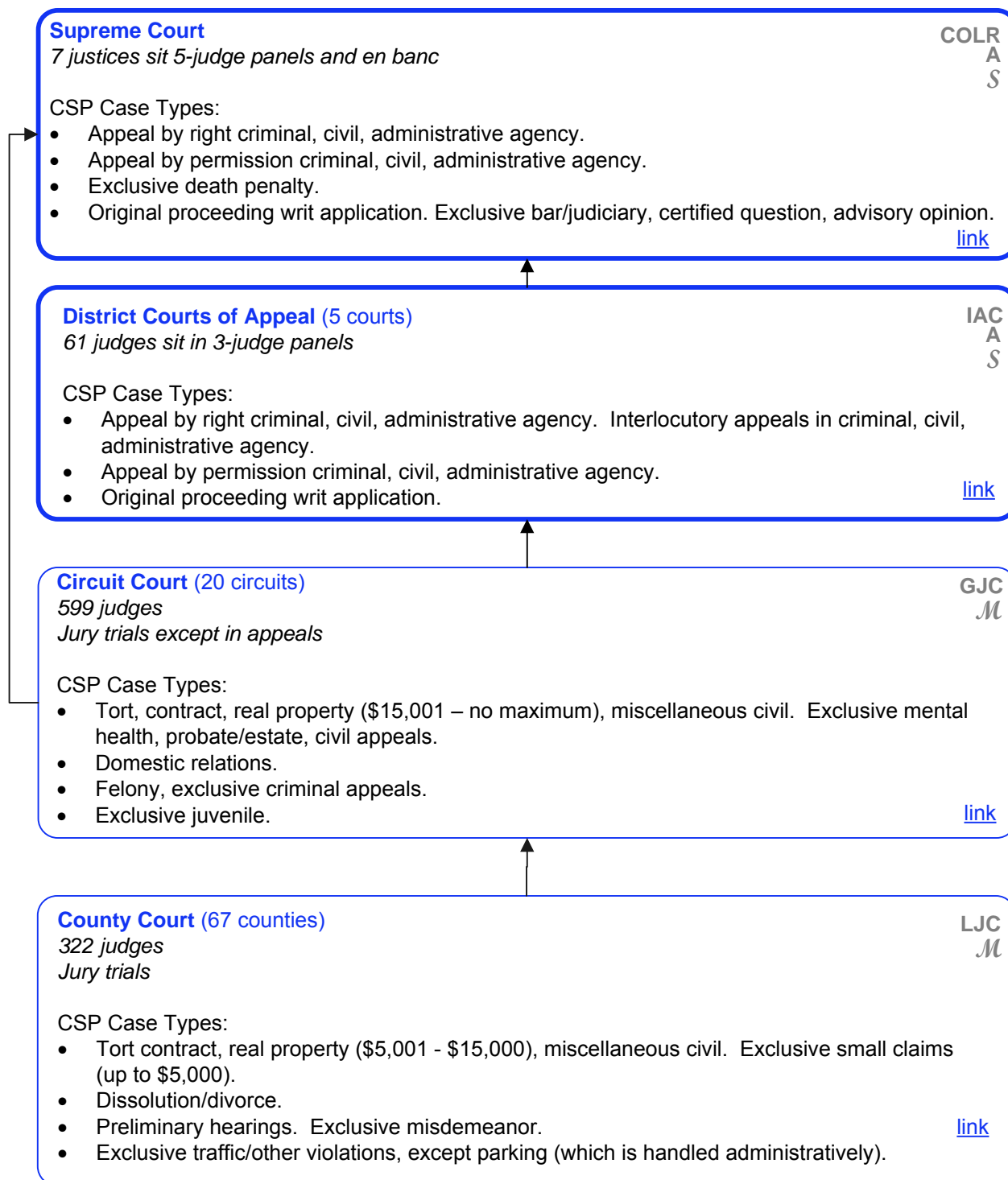
AOC Web site: www.dccourts.gov/dccourts/index.jsp

Legend

	= Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
	= Trial level	IAC = Intermediate Appellate Court	S = State funded
		GJC = General Jurisdiction Court	L = Locally funded
		LJC = Limited Jurisdiction Court	M = Mixed (state and locally) funded
		↑ = Route of appeal	

Florida

(Court structure as of Fiscal Year 2010)



AOC Web site: www.flcourts.org

Legend

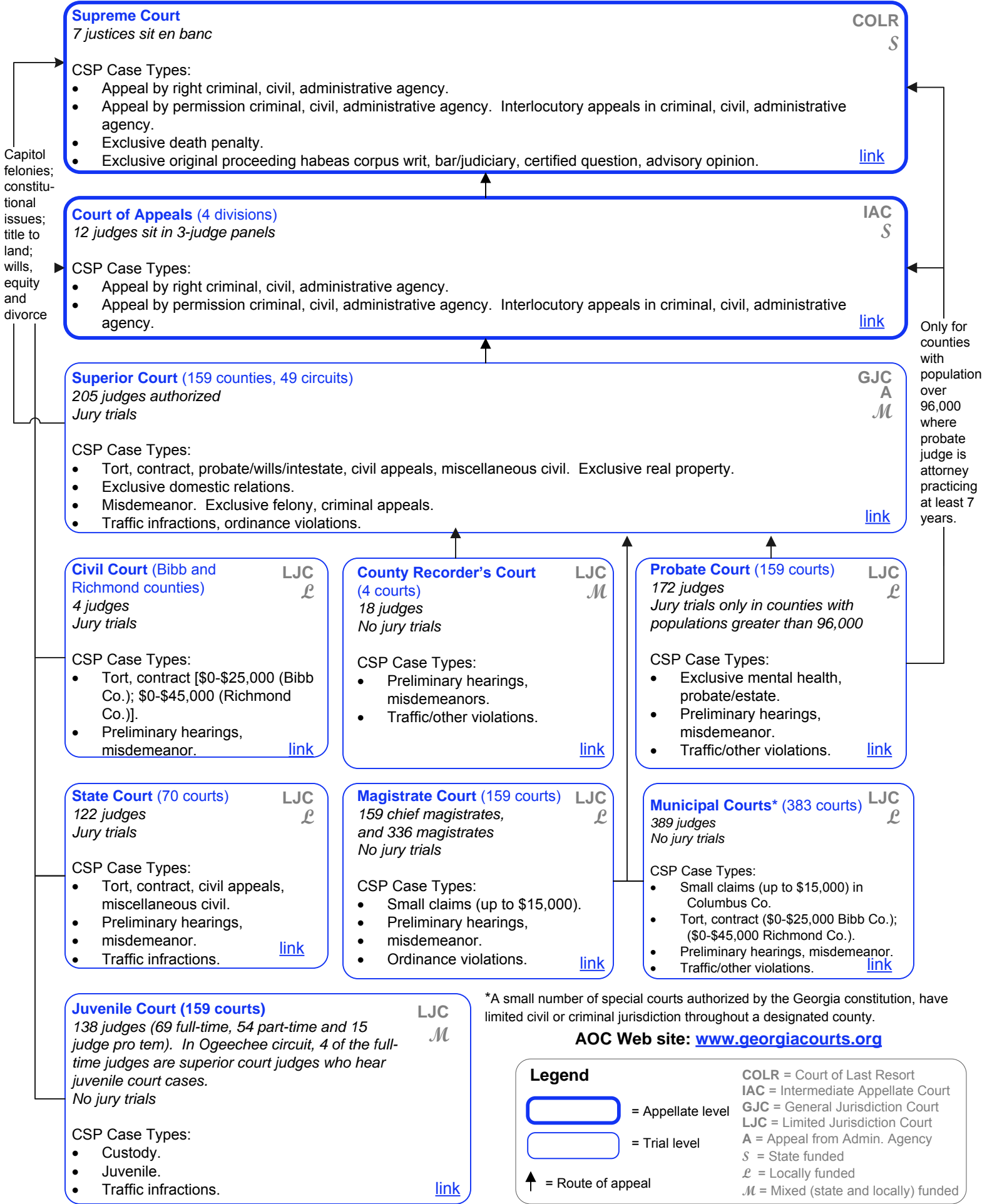
 = Appellate level
 = Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed (state and locally) funded

Georgia

(Court structure as of Calendar Year 2010)



Supreme Court COLR S
7 justices sit en banc

CSP Case Types:

- Appeal by right criminal, civil, administrative agency.
- Appeal by permission criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Exclusive death penalty.
- Exclusive original proceeding habeas corpus writ, bar/judiciary, certified question, advisory opinion.

[link](#)

Court of Appeals (4 divisions) IAC S
12 judges sit in 3-judge panels

CSP Case Types:

- Appeal by right criminal, civil, administrative agency.
- Appeal by permission criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.

[link](#)

Superior Court (159 counties, 49 circuits) GJC A M
205 judges authorized
Jury trials

CSP Case Types:

- Tort, contract, probate/wills/intestate, civil appeals, miscellaneous civil. Exclusive real property.
- Exclusive domestic relations.
- Misdemeanor. Exclusive felony, criminal appeals.
- Traffic infractions, ordinance violations.

[link](#)

Civil Court (Bibb and Richmond counties) LJC L
4 judges
Jury trials

CSP Case Types:

- Tort, contract [\$0-\$25,000 (Bibb Co.); \$0-\$45,000 (Richmond Co.)].
- Preliminary hearings, misdemeanor.

[link](#)

County Recorder's Court (4 courts) LJC M
18 judges
No jury trials

CSP Case Types:

- Preliminary hearings, misdemeanors.
- Traffic/other violations.

[link](#)

Probate Court (159 courts) LJC L
172 judges
Jury trials only in counties with populations greater than 96,000

CSP Case Types:

- Exclusive mental health, probate/estate.
- Preliminary hearings, misdemeanor.
- Traffic/other violations.

[link](#)

State Court (70 courts) LJC L
122 judges
Jury trials

CSP Case Types:

- Tort, contract, civil appeals, miscellaneous civil.
- Preliminary hearings, misdemeanor.
- Traffic infractions.

[link](#)

Magistrate Court (159 courts) LJC L
159 chief magistrates, and 336 magistrates
No jury trials

CSP Case Types:

- Small claims (up to \$15,000).
- Preliminary hearings, misdemeanor.
- Ordinance violations.

[link](#)

Municipal Courts* (383 courts) LJC L
389 judges
No jury trials

CSP Case Types:

- Small claims (up to \$15,000) in Columbus Co.
- Tort, contract (\$0-\$25,000 Bibb Co.); (\$0-\$45,000 Richmond Co.).
- Preliminary hearings, misdemeanor.
- Traffic/other violations.

[link](#)

Juvenile Court (159 courts) LJC M
138 judges (69 full-time, 54 part-time and 15 judge pro tem). In Ogeechee circuit, 4 of the full-time judges are superior court judges who hear juvenile court cases.
No jury trials

CSP Case Types:

- Custody.
- Juvenile.
- Traffic infractions.

[link](#)

Only for counties with population over 96,000 where probate judge is attorney practicing at least 7 years.

*A small number of special courts authorized by the Georgia constitution, have limited civil or criminal jurisdiction throughout a designated county.

AOC Web site: www.georgiacourts.org

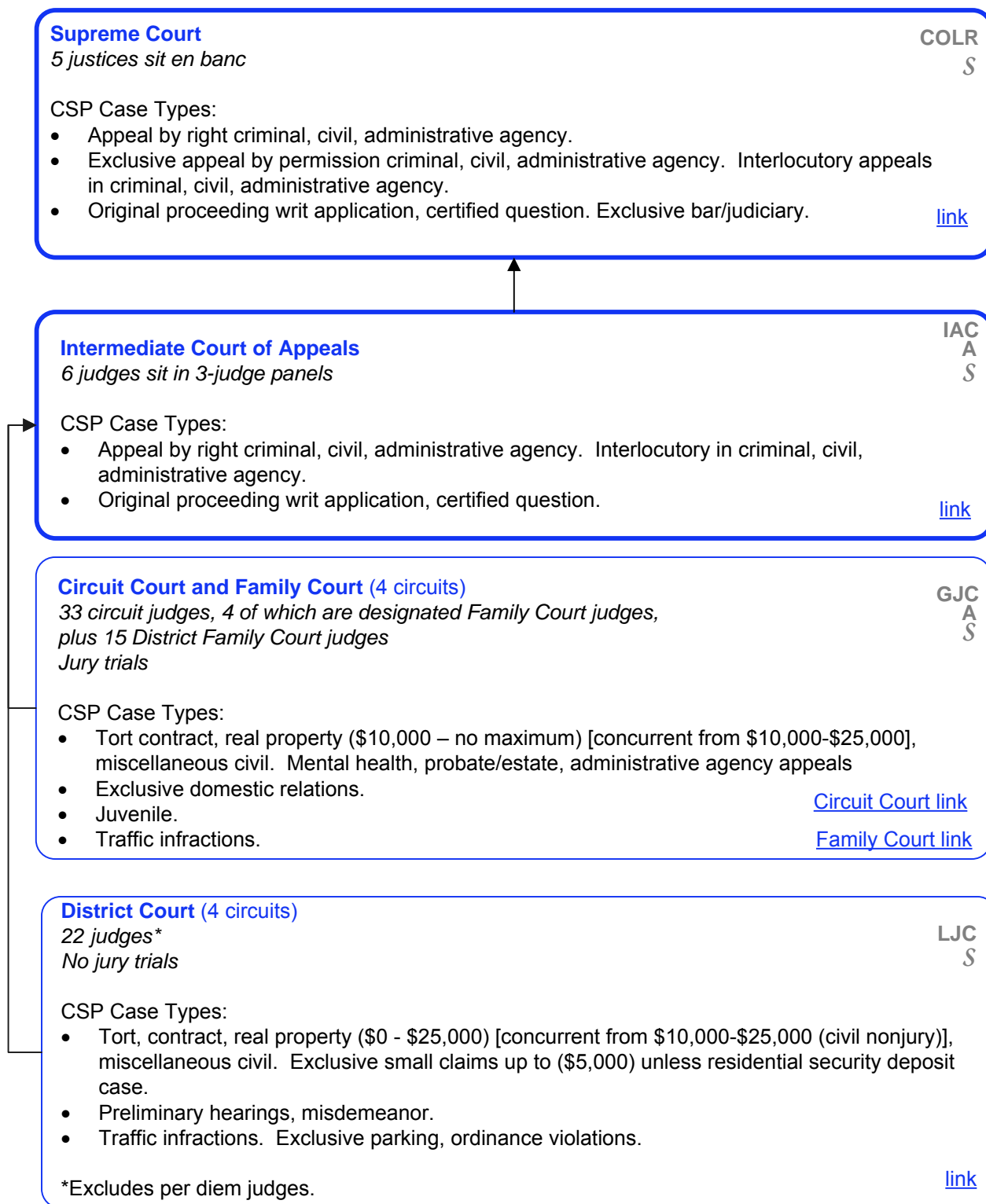
Legend

- = Appellate level
- = Trial level
- ↑ = Route of appeal

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed (state and locally) funded

Hawaii

(Court structure as of Fiscal Year 2010)



AOC Web site: www.courts.state.hi.us

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort A = Appeal from Admin. Agency

IAC = Intermediate Appellate Court S = State funded

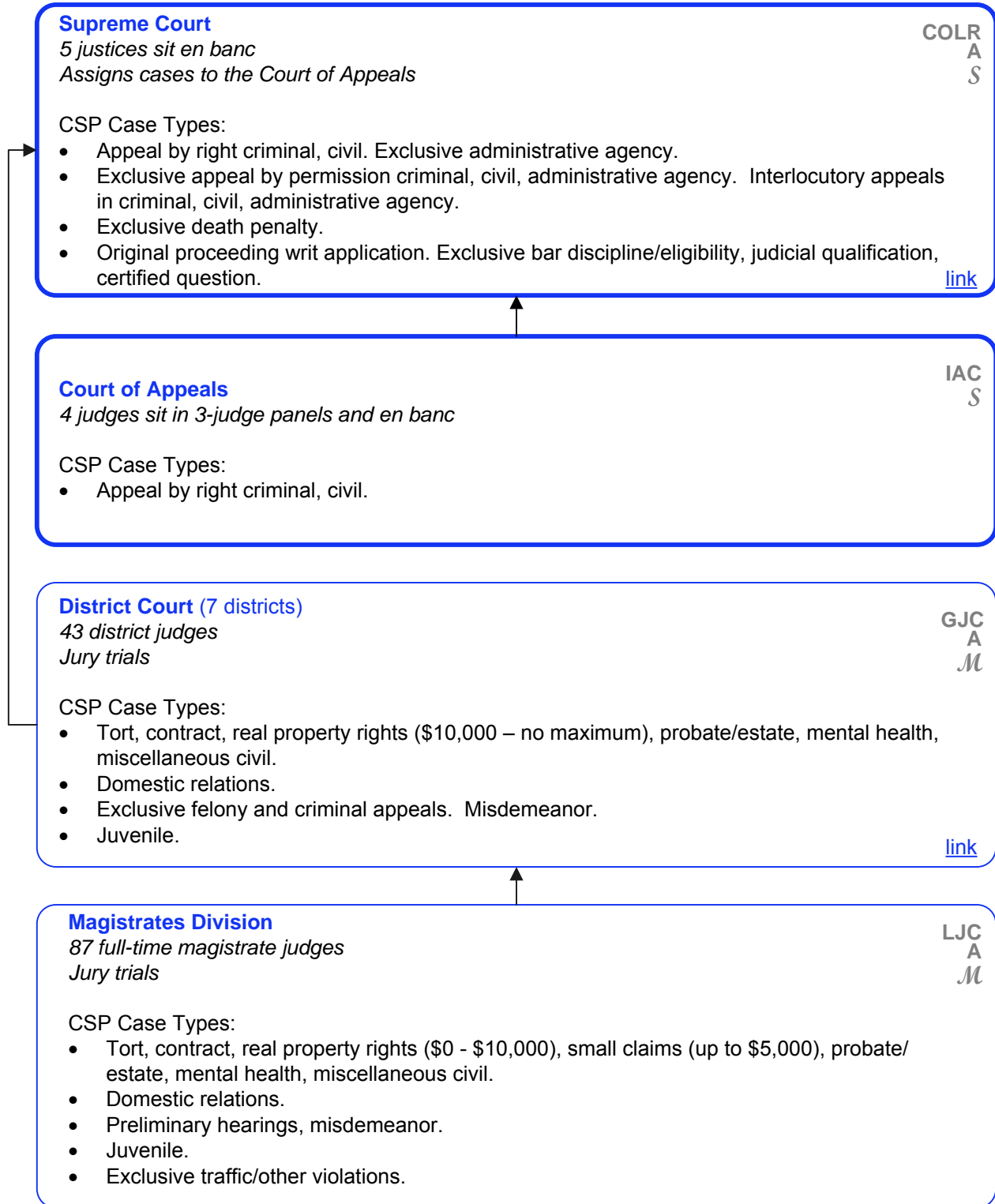
GJC = General Jurisdiction Court ℓ = Locally funded

LJC = Limited Jurisdiction Court ℳ = Mixed: state and locally funded

↑ = Route of appeal

Idaho

(Court structure as of Calendar Year 2010)



Notes: The Magistrates Division of the District Court functions as a limited jurisdiction court. There are an additional 44 senior judges that serve the judicial branch.

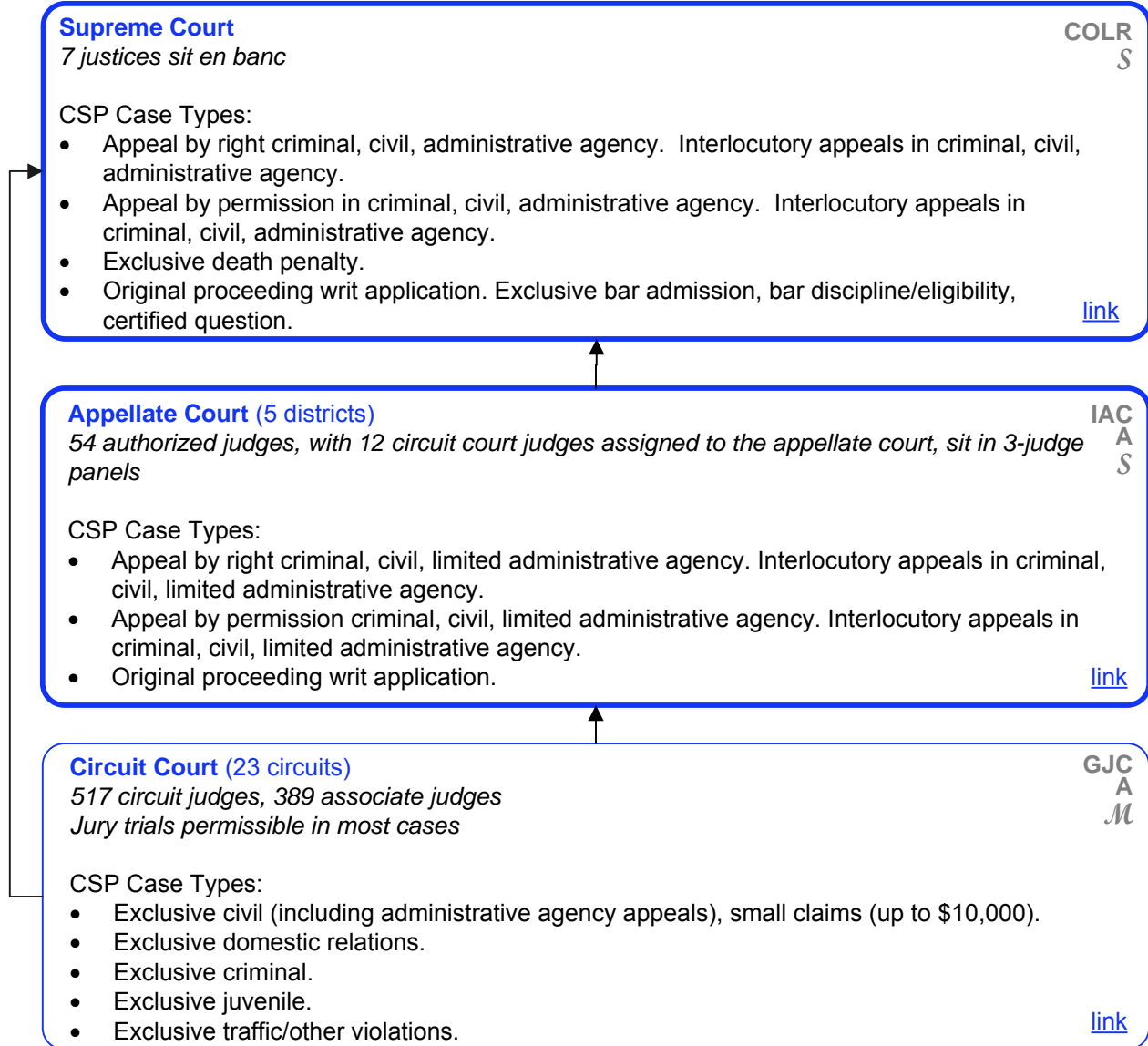
AOC Web site: www.isc.idaho.gov

Legend

<p> = Appellate level</p> <p> = Trial level</p>	<p>COLR = Court of Last Resort</p> <p>IAC = Intermediate Appellate Court</p> <p>GJC = General Jurisdiction Court</p> <p>LJC = Limited Jurisdiction Court</p> <p style="text-align: center;">↑ = Route of appeal</p>	<p>A = Appeal from Admin. Agency</p> <p>S = State funded</p> <p>ℓ = Locally funded</p> <p>M = Mixed: state and locally funded</p>
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Illinois

(Court structure as of Calendar Year 2010)



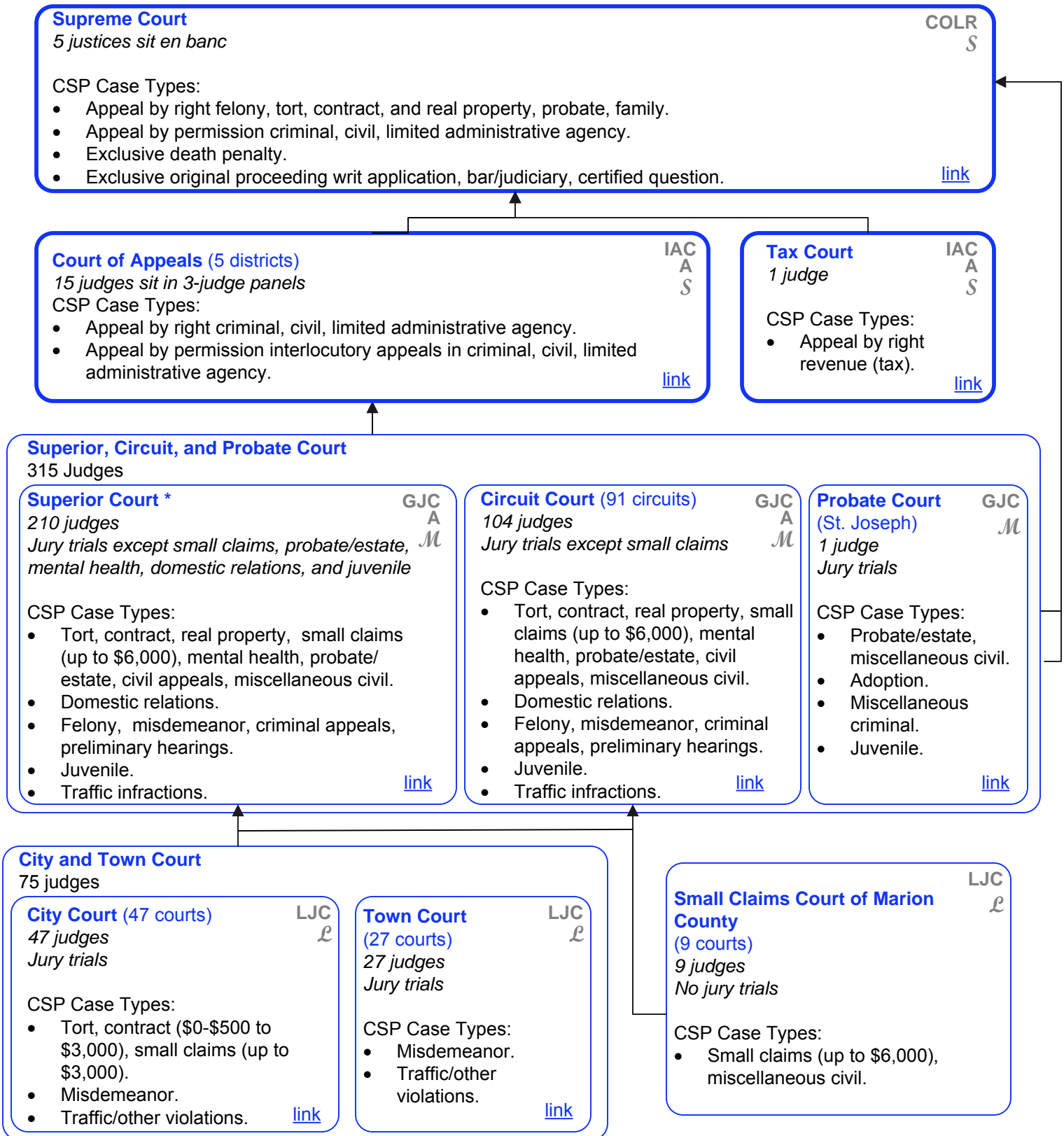
AOC Web site: www.state.il.us/court

Legend

	= Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
	= Trial level	IAC = Intermediate Appellate Court	S = State funded
		GJC = General Jurisdiction Court	L = Locally funded
		LJC = Limited Jurisdiction Court	M = Mixed: state and locally funded
		↑ = Route of appeal	

Indiana

(Court structure as of Calendar Year 2010)



* Effective January 1, 1996, all Municipal Courts became Superior Court. Effective January 1, 2009, all County Courts merged with Superior Court.

Legend

 = Appellate level
 = Trial level

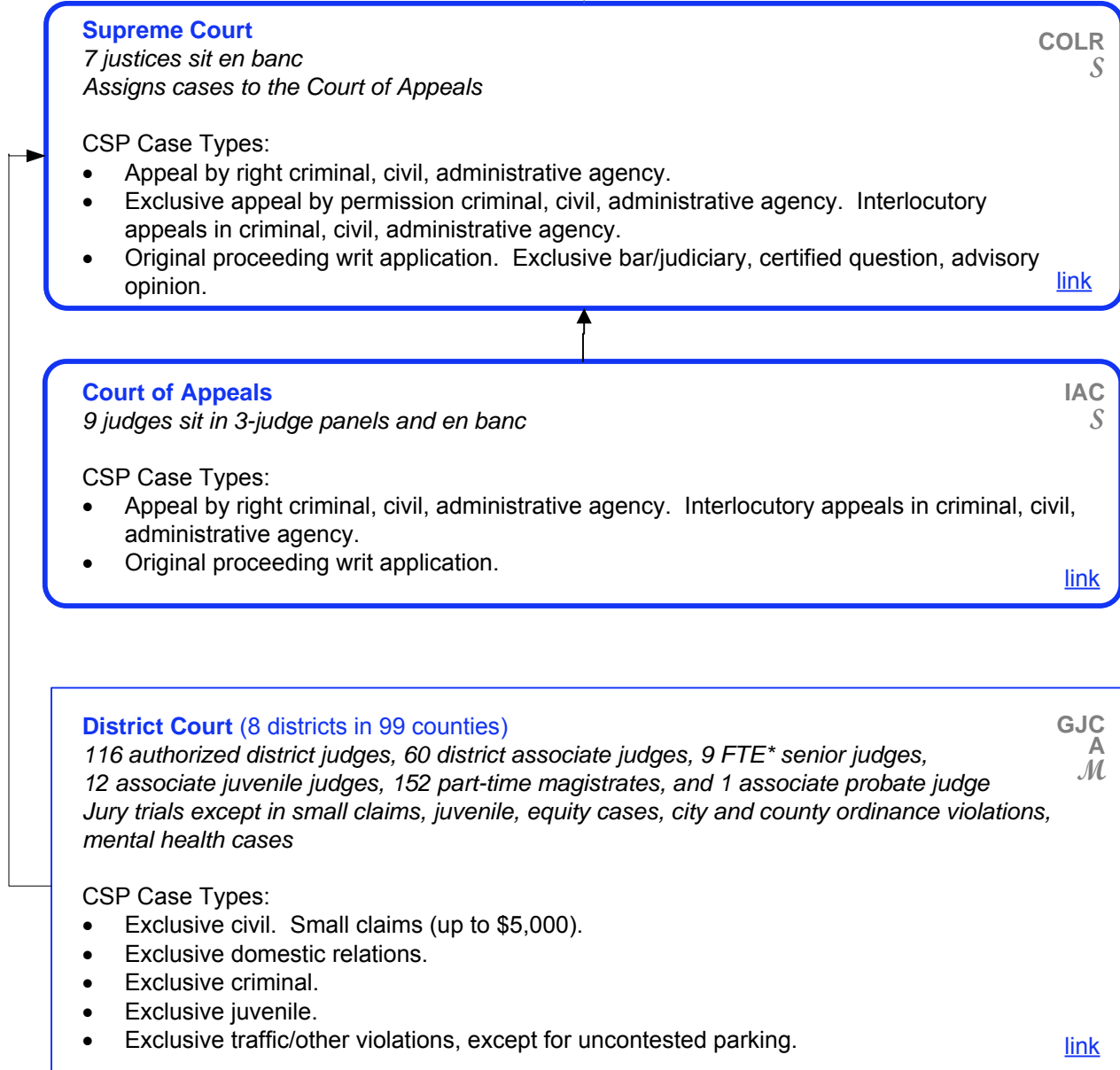
COLR = Court of Last Resort
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A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

AOC Web site: www.in.gov/judiciary/

Iowa

(Court structure as of Calendar Year 2010)



* Includes 37 senior judges who work ¼ time (13 weeks/year).

AOC Web site: www.iowacourts.gov

Legend

= Appellate level

= Trial level

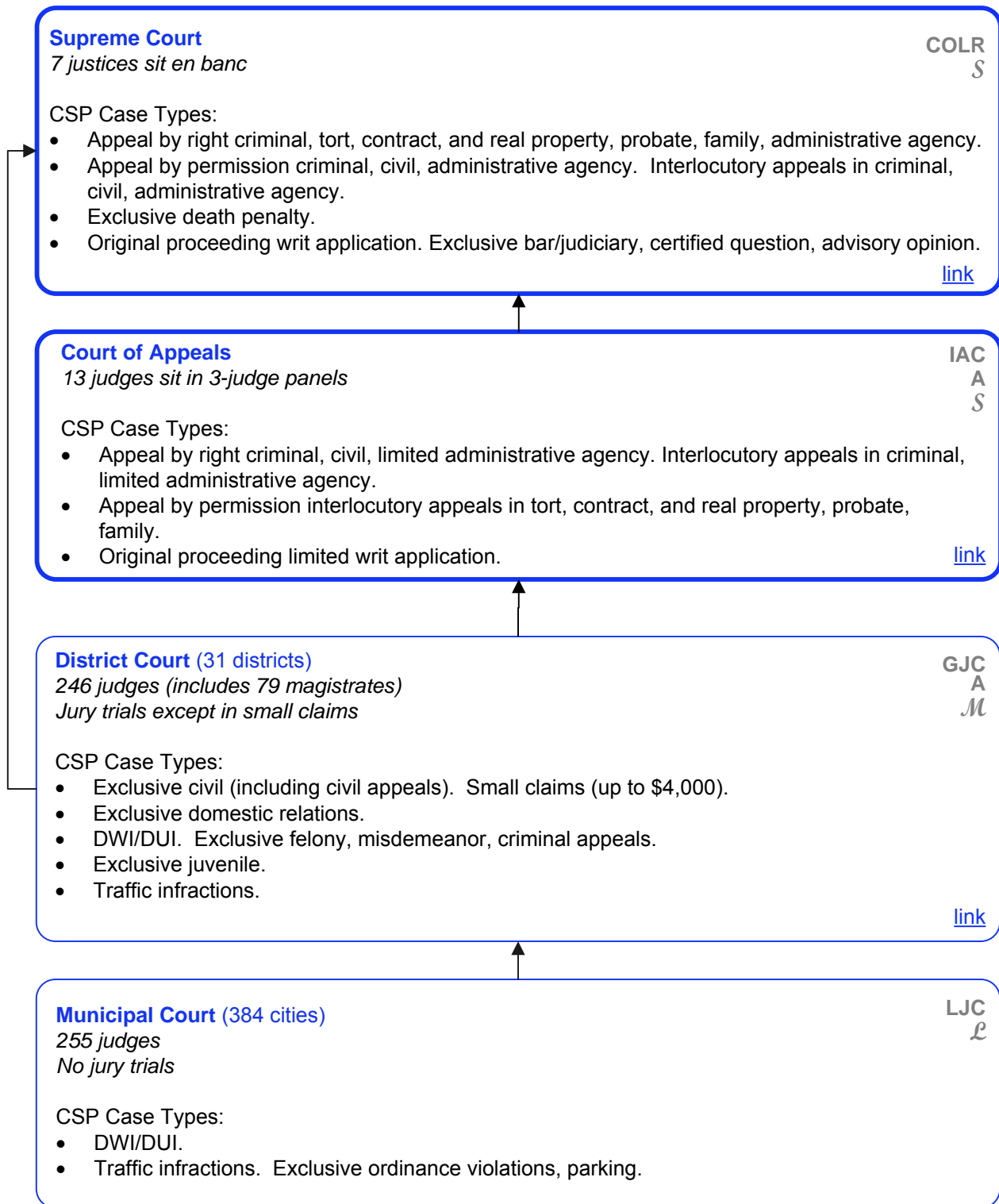
↑ = Route of appeal

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

Kansas

(Court structure as of Fiscal Year 2010)



AOC Web site: www.kscourts.org

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

Kentucky

(Court structure as of Fiscal Year 2010)

Supreme Court

7 justices sit en banc

COLR
S

CSP Case Types:

- Appeal by right felony (limited to 20 yr+ sentence), workers' compensation. Interlocutory appeals in felony, workers' compensation.
- Appeal by permission criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Exclusive death penalty.
- Original proceeding writ application. Exclusive bar/judiciary, certified question, advisory opinion. [link](#)

Court of Appeals

14 judges sit in 3-judge panels, (sit en banc in a policy-making capacity)

IAC
S

CSP Case Types:

- Appeal by right criminal (limited to less than 20 year sentence), civil, limited administrative agency.
- Appeal by permission misdemeanor, civil, limited administrative agency. Interlocutory appeals in misdemeanor, civil, limited administrative agency.
- Original proceeding limited writ application. [link](#)

Circuit Court (57 judicial circuits)

95 judges plus domestic relations commissioners
Jury trials except in appeals

GJC
A
S

CSP Case Types:

- Tort, contract, real property (\$4,001-no maximum), interstate support, probate/estate. Exclusive civil appeals, miscellaneous civil.
- Domestic relations.
- Misdemeanor. Exclusive felony, criminal appeals.
- Juvenile. [link](#)

Family Court (71 counties)

51 judges
Jury trials

GJC
S

CSP Case Types:

- Domestic relations.
- Domestic violence.
- Juvenile.
- Civil (contract, probate) [link](#)

District Court (60 judicial districts)

116 judges plus trial commissioners
Jury trials in most cases

LJC
S

CSP Case Types:

- Tort, contract, real property (\$0 - \$4,000), probate/estate. Exclusive mental health, small claims (up to \$1,500).
- Domestic relations.
- Preliminary hearings, misdemeanor.
- Juvenile.
- Exclusive traffic/other violations. [link](#)

Note: There are also 60 senior status judges that can serve on any court except the Supreme Court.

Legend

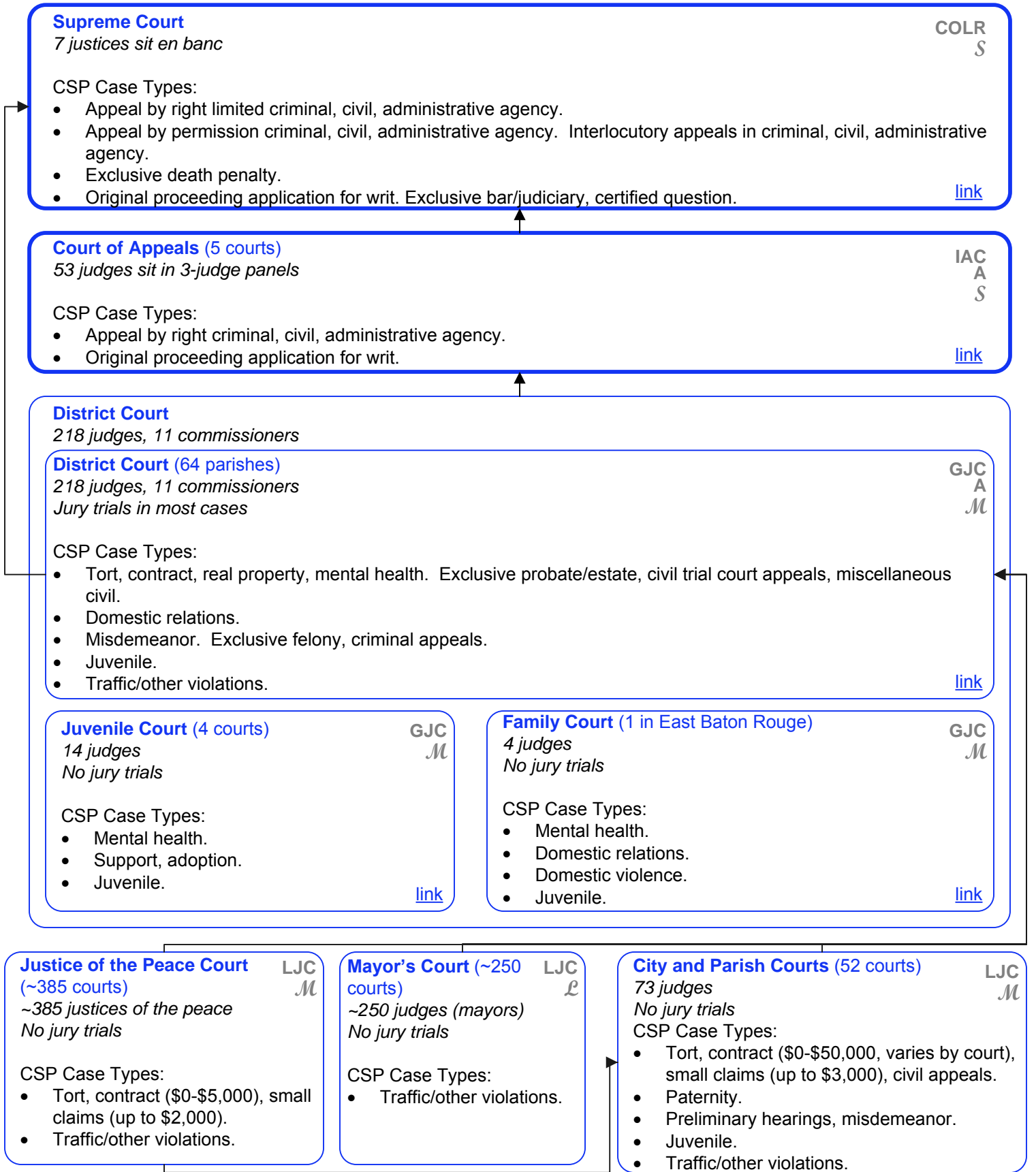
- = Appellate level
 = Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal
 A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

AOC Web site:
www.courts.ky.gov

Louisiana

(Court structure as of Calendar Year 2010)



Legend

- = Appellate level
- = Trial level

- COLR = Court of Last Resort
- IAC = Intermediate Appellate Court
- GJC = General Jurisdiction Court
- LJC = Limited Jurisdiction Court
- ↑ = Route of appeal
- A = Appeal from Admin. Agency
- S = State funded
- L = Locally funded
- M = Mixed: state and locally funded

AOC Web site: www.lasc.org

Maine

(Court structure as of Fiscal Year 2010)

Supreme Judicial Court Sitting as Law Court

7 justices sit in 3-judge panels and en banc

COLR
A
S

CSP Case Types:

- Exclusive appeal by right criminal, civil, limited administrative agency. Interlocutory appeals in criminal, civil, limited administrative agency.
- Exclusive appeal by permission criminal (limited to extradition, 1yr+ sentence), limited administrative agency.
- Exclusive original proceeding application for writ, bar/judiciary, certified question.

[link](#)

District Court (30 locations)

36 judges plus 8 family law magistrates

No jury trials

GJC
S

CSP Case Types:

- Tort, contract, real property rights (\$0-no maximum). Exclusive small claims (up to \$4,500), mental health.
- Exclusive domestic relations (except for adoption).
- Felony, preliminary hearings, misdemeanor.
- Exclusive juvenile.
- Traffic infractions, ordinance violations.
- Exclusive parking.

[link](#)

Superior Court (17 locations)

17 justices

Jury trials in some cases

GJC
A
S

CSP Case Types:

- Tort, contract, real property, civil appeals, miscellaneous civil.
- Felony, misdemeanor, criminal appeals.

[link](#)

Probate Court (16 counties)

17 part-time judges

No jury trials

LJC
L

CSP Case Types:

- Exclusive probate/estate jurisdiction.
- Exclusive adoption.

[link](#)

Note: The Administrative Court was eliminated effective March 15, 2001, with the caseload absorbed by the District Court.

AOC Web site: www.courts.state.me.us

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

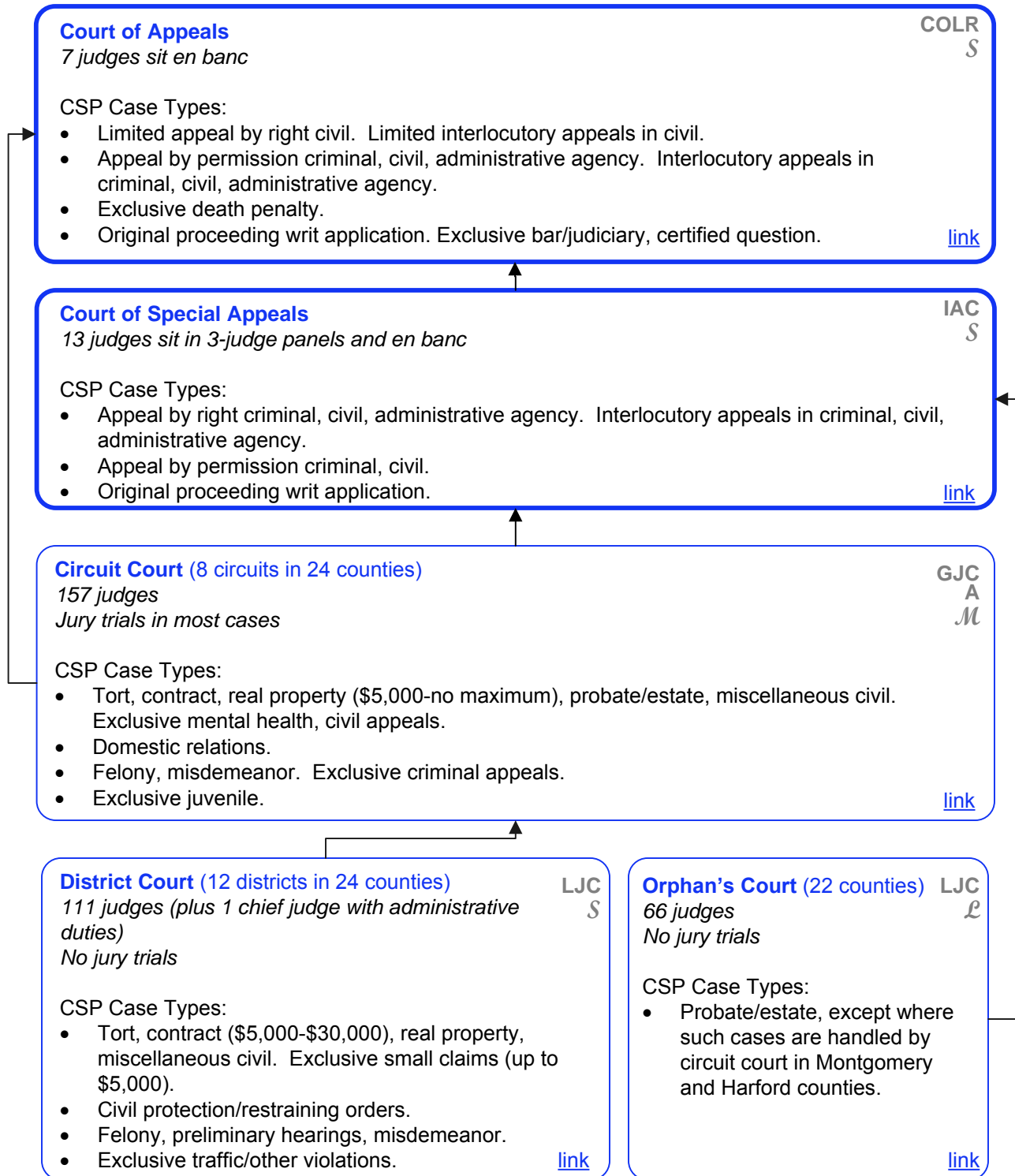
S = State funded

L = Locally funded

M = Mixed: state and locally funded

Maryland

(Court structure as of Fiscal Year 2010)



AOC Web site: www.courts.state.md.us

Legend

 = Appellate level

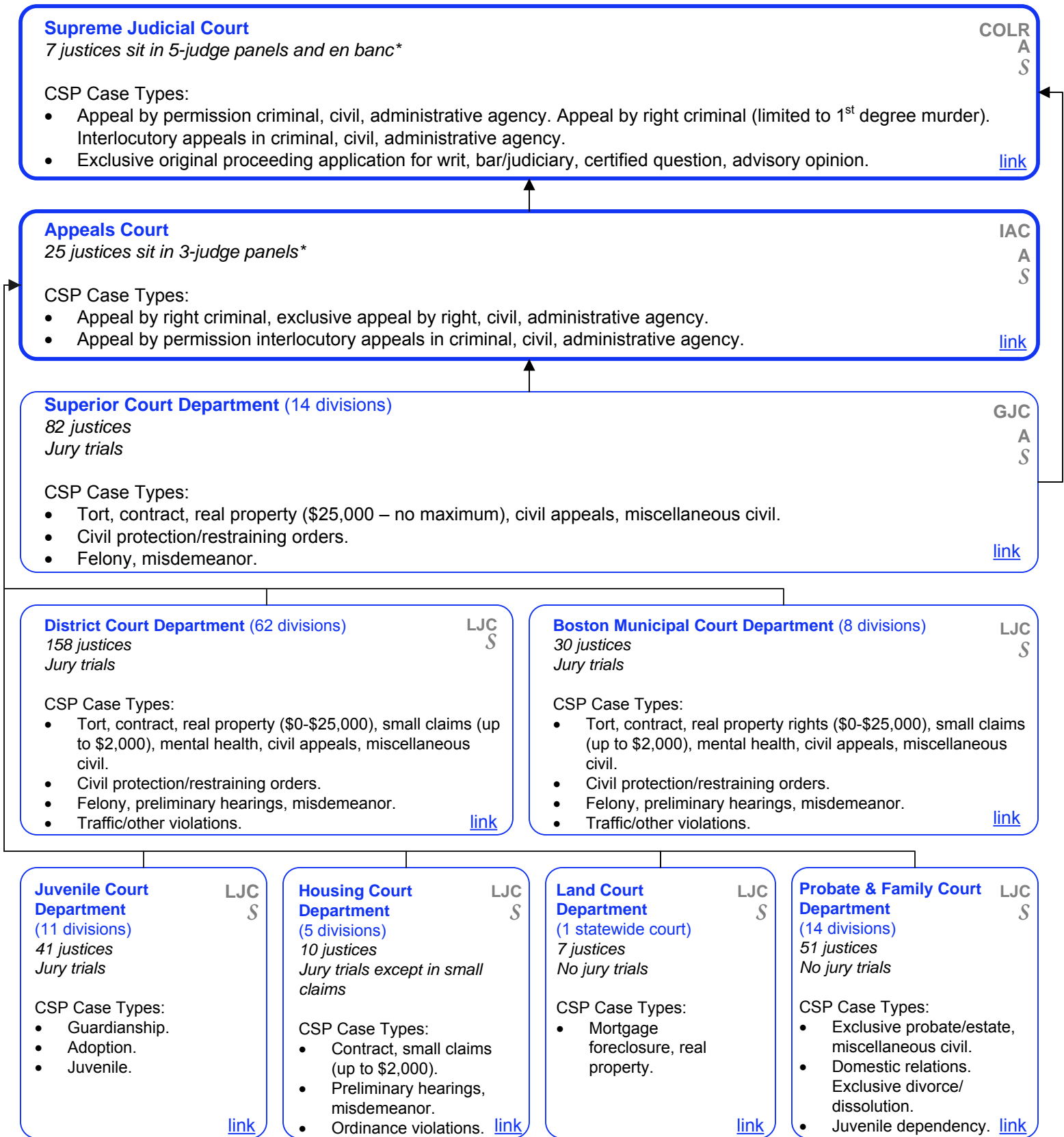
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

Massachusetts

(Court structure as of Fiscal Year 2010)



Note: All Departments (general and limited jurisdiction trial courts) make up the Trial Court of Massachusetts. The Administrative Office of the Trial Court reports caseload data by Department; thus, each Department is treated as a unique CSP reporting unit.

Legend

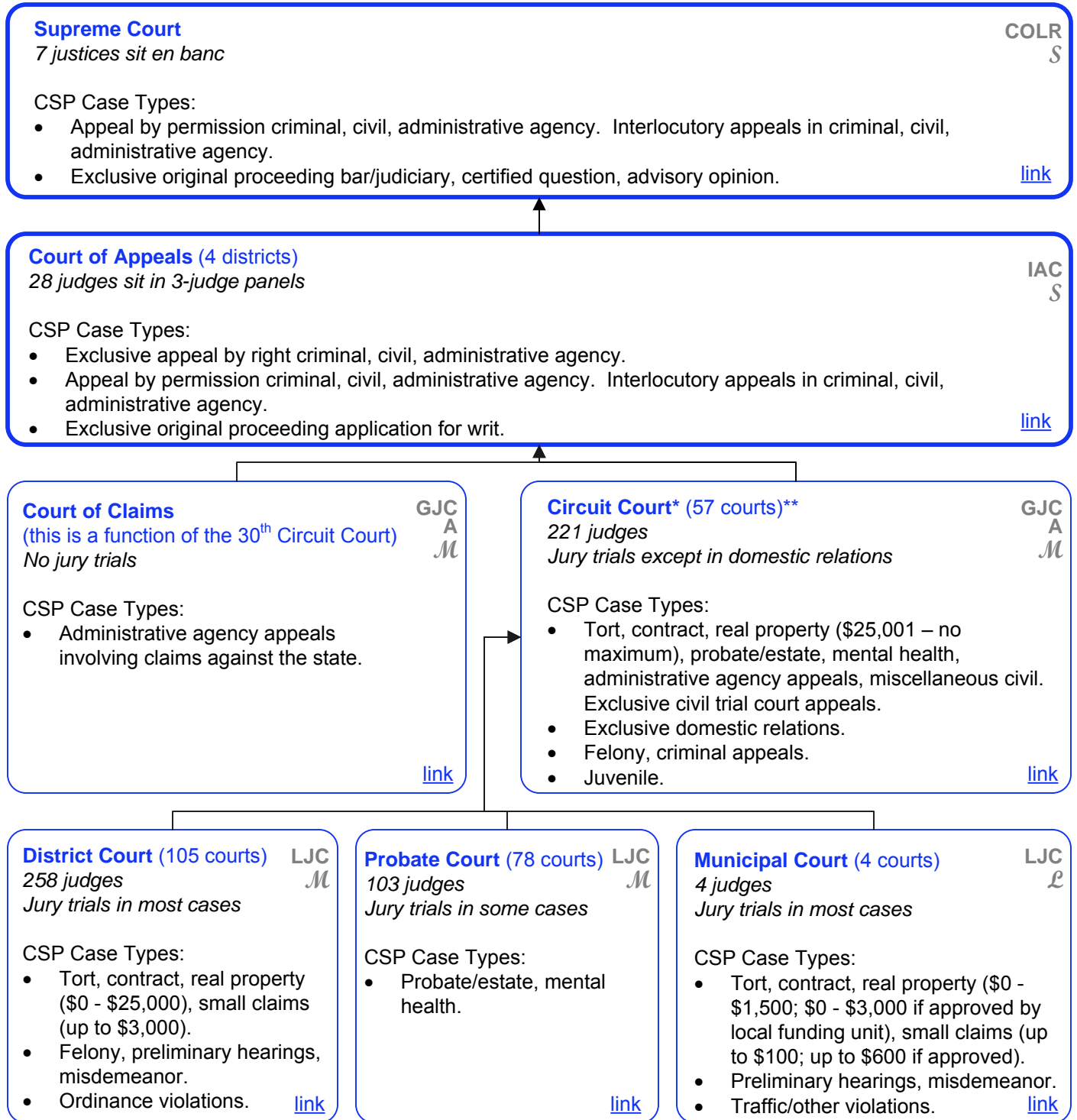
 = Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
 = Trial level	IAC = Intermediate Appellate Court	S = State funded
	GJC = General Jurisdiction Court	L = Locally funded
	LJC = Limited Jurisdiction Court	M = Mixed: state and locally funded
	↑ = Route of appeal	

*The justices also sit individually in the “single justice” side of the court, on a rotating basis.

AOC Web site: www.mass.gov/courts

Michigan

(Court structure as of Calendar Year 2010)



*The Recorder's Court of Detroit merged with the Circuit Court effective October 1, 1997.

**A Family Division of Circuit Court became operational on January 1, 1998.

AOC Web site: www.courts.michigan.gov

Legend

<p> = Appellate level</p> <p> = Trial level</p>	<p>COLR = Court of Last Resort</p> <p>IAC = Intermediate Appellate Court</p> <p>GJC = General Jurisdiction Court</p> <p>LJC = Limited Jurisdiction Court</p> <p>↑ = Route of appeal</p>	<p>A = Appeal from Admin. Agency</p> <p>S = State funded</p> <p>L = Locally funded</p> <p>M = Mixed: state and locally funded</p>
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Minnesota

(Court structure as of Calendar Year 2010)

Supreme Court

7 justices sit en banc

COLR
A
S

CSP Case Types:

- Appeal by right felony, civil administrative agency.
- Appeal by permission criminal, civil, limited administrative agency.
- Original proceeding application for writ, certified question. Exclusive bar discipline/eligibility, advisory opinion.

[link](#)

Court of Appeals

19 judges sit in 3-judge panels en banc

IAC
A
S

CSP Case Types:

- Appeal by right criminal, civil, workers' compensation. Interlocutory appeals in criminal, civil, workers' compensation.
- Appeal by permission criminal, civil. Exclusive workers' compensation. Interlocutory appeals in criminal, civil, workers' compensation.
- Original proceeding application for writ, certified question.

[link](#)

District Court (10 districts)

289 judges

Jury trials except in small claims and non-extended juvenile jurisdiction cases

GJC
M


CSP Case Types:

- Exclusive civil (conciliation division: \$0 - \$7,500).
- Exclusive domestic relations.
- Exclusive criminal.
- Exclusive juvenile.
- Exclusive traffic/other violations.

[link](#)

AOC Web site: www.mncourts.gov/default.aspx

Legend

 = Appellate level

 = Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

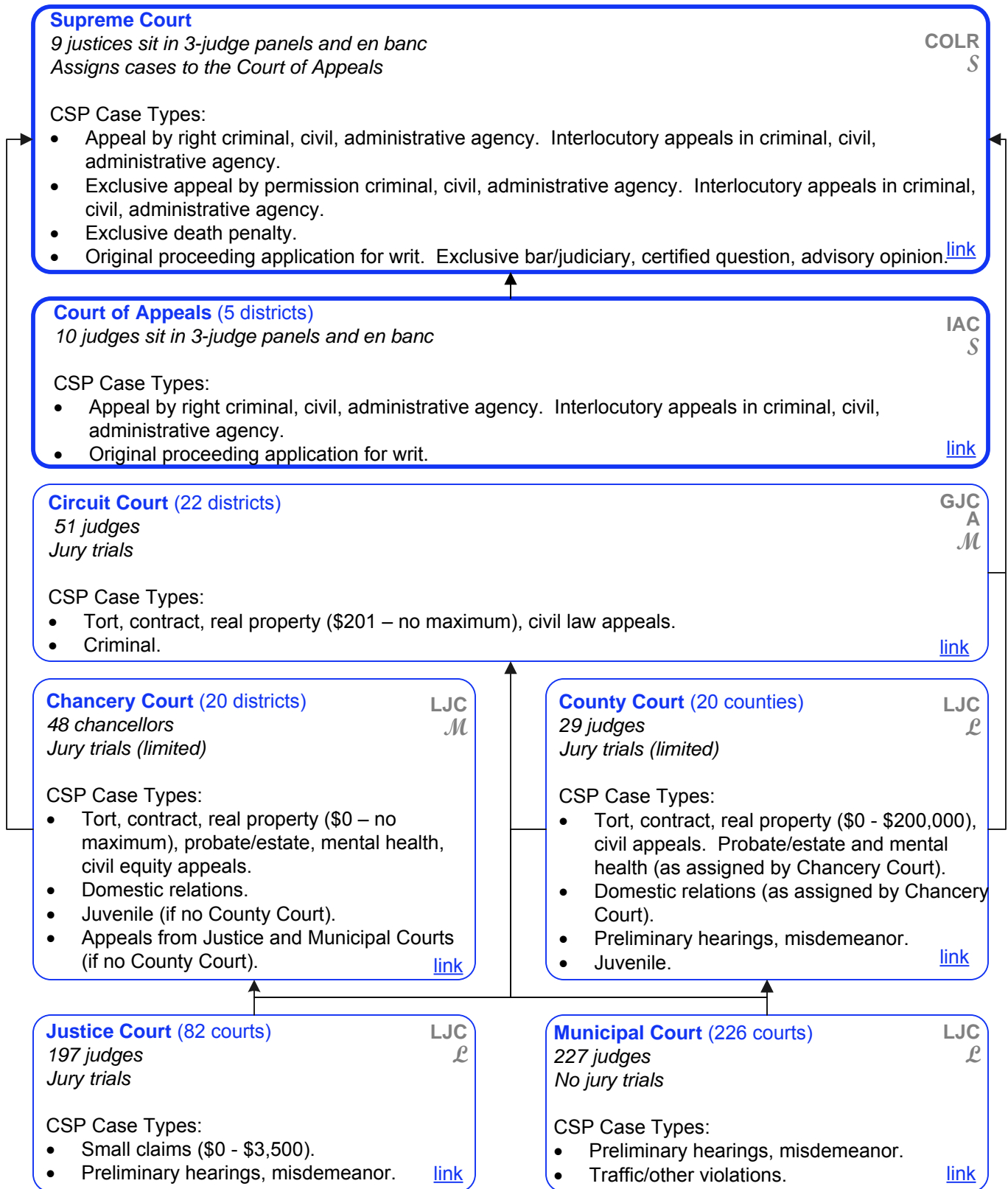
S = State funded

L = Locally funded

M = Mixed: state and locally funded

Mississippi

(Court structure as of Fiscal Year 2010)



The Family Court was abolished July 1, 1999 and merged into County Court.

Legend

 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court

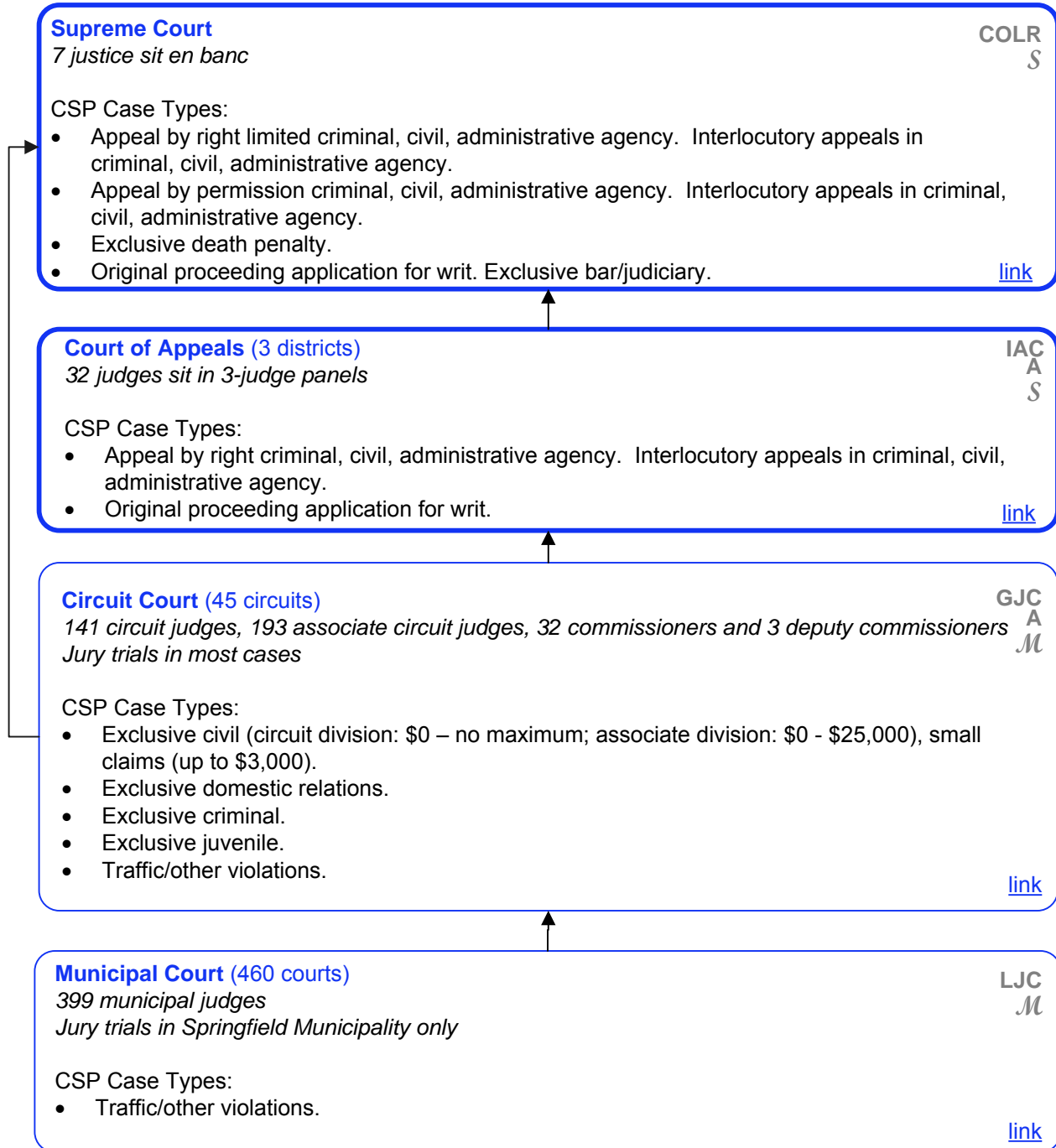
A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

↑ = Route of appeal

AOC Web site:
www.courts.ms.gov

Missouri

(Court structure as of Fiscal Year 2010)



AOC Web site: www.courts.mo.gov

Legend

= Appellate level

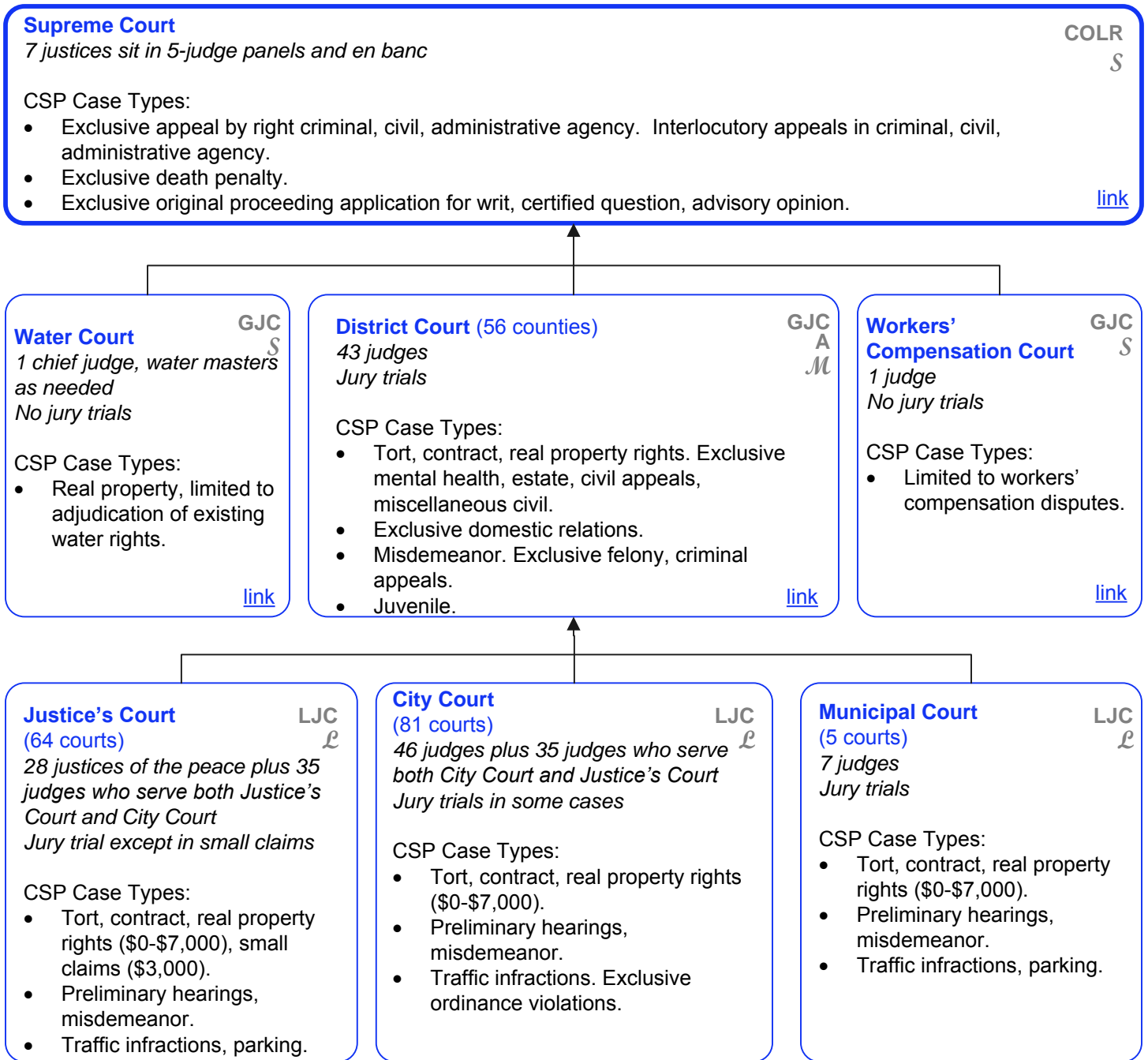
= Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 ℓ = Locally funded
 M = Mixed: state and locally funded

Montana

(Court Structure as of Calendar Year 2010)



AOC Web site: www.courts.mt.gov

Legend

 = Appellate level

 = Trial level

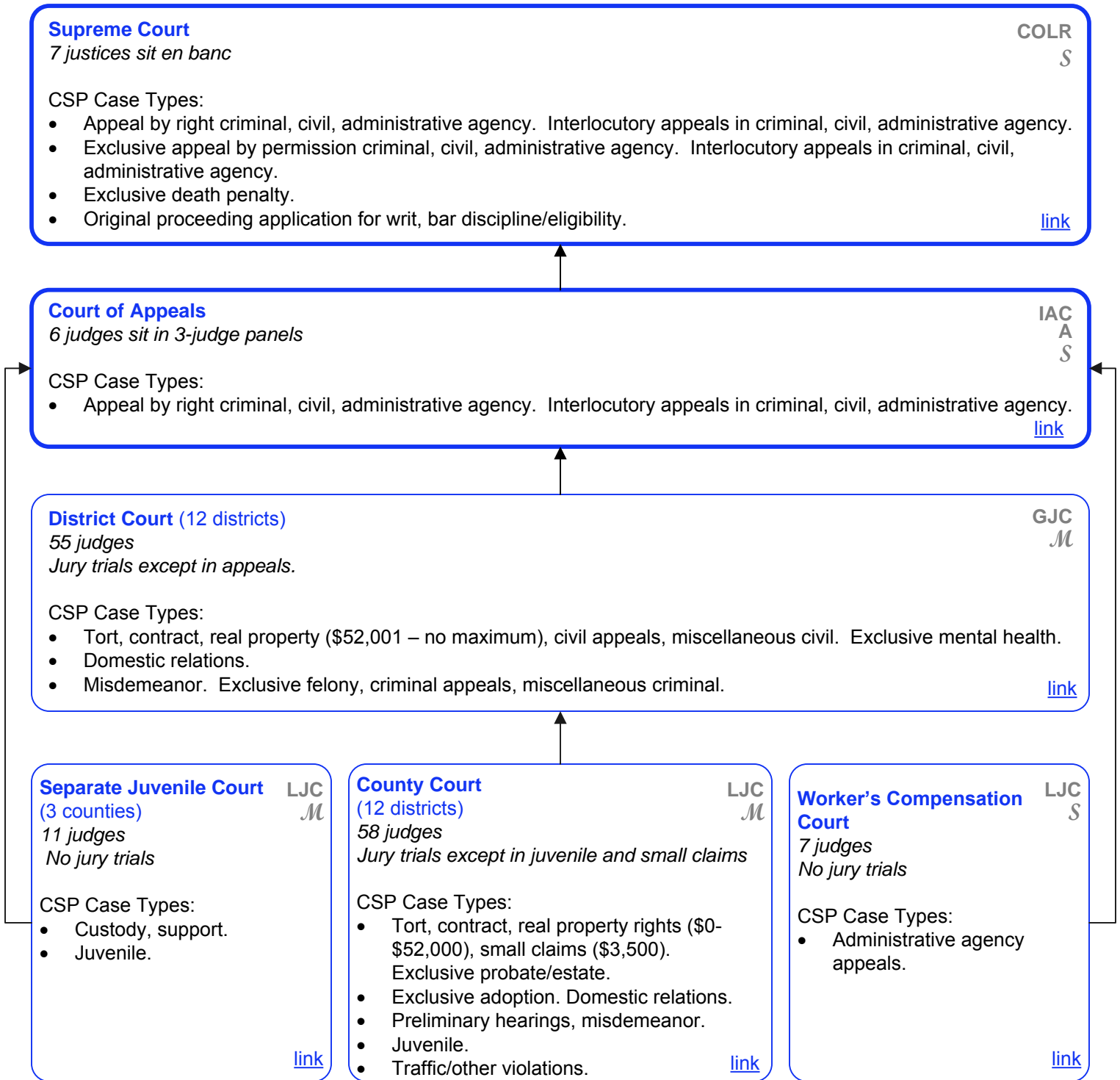
COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

Nebraska

(Court structure as of Calendar Year 2010)



AOC Web site: www.supremecourt.ne.gov

Legend

= Appellate level

= Trial level

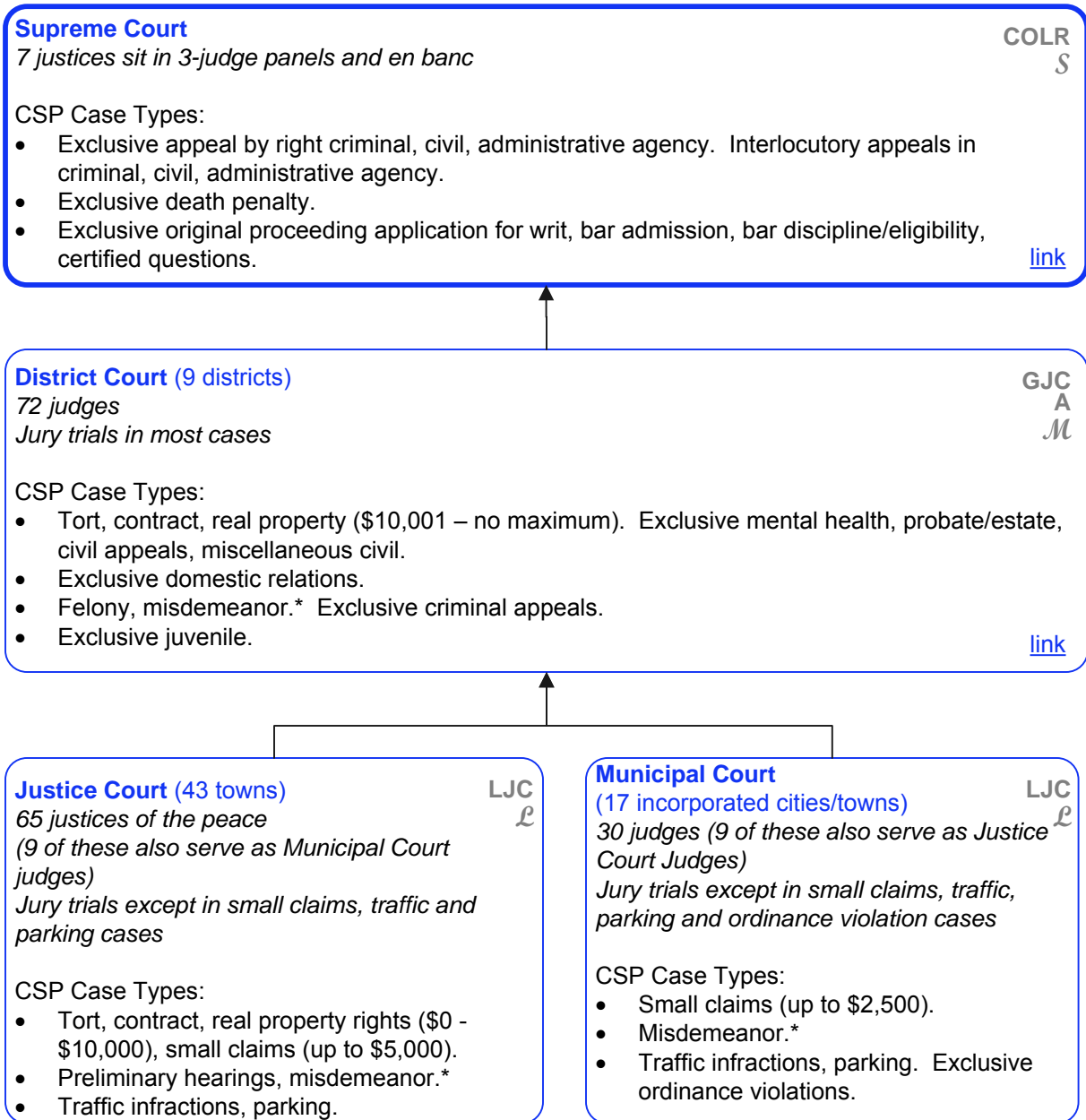
↑ = Route of appeal

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

Nevada

(Court structure as of Fiscal Year 2010)



*District Court hears gross misdemeanor cases; Justice & Municipal Courts hear misdemeanors with fines under \$1,000 and/or sentence of less than six months.

AOC Web site: www.nevadajudiciary.us

Legend

= Appellate level

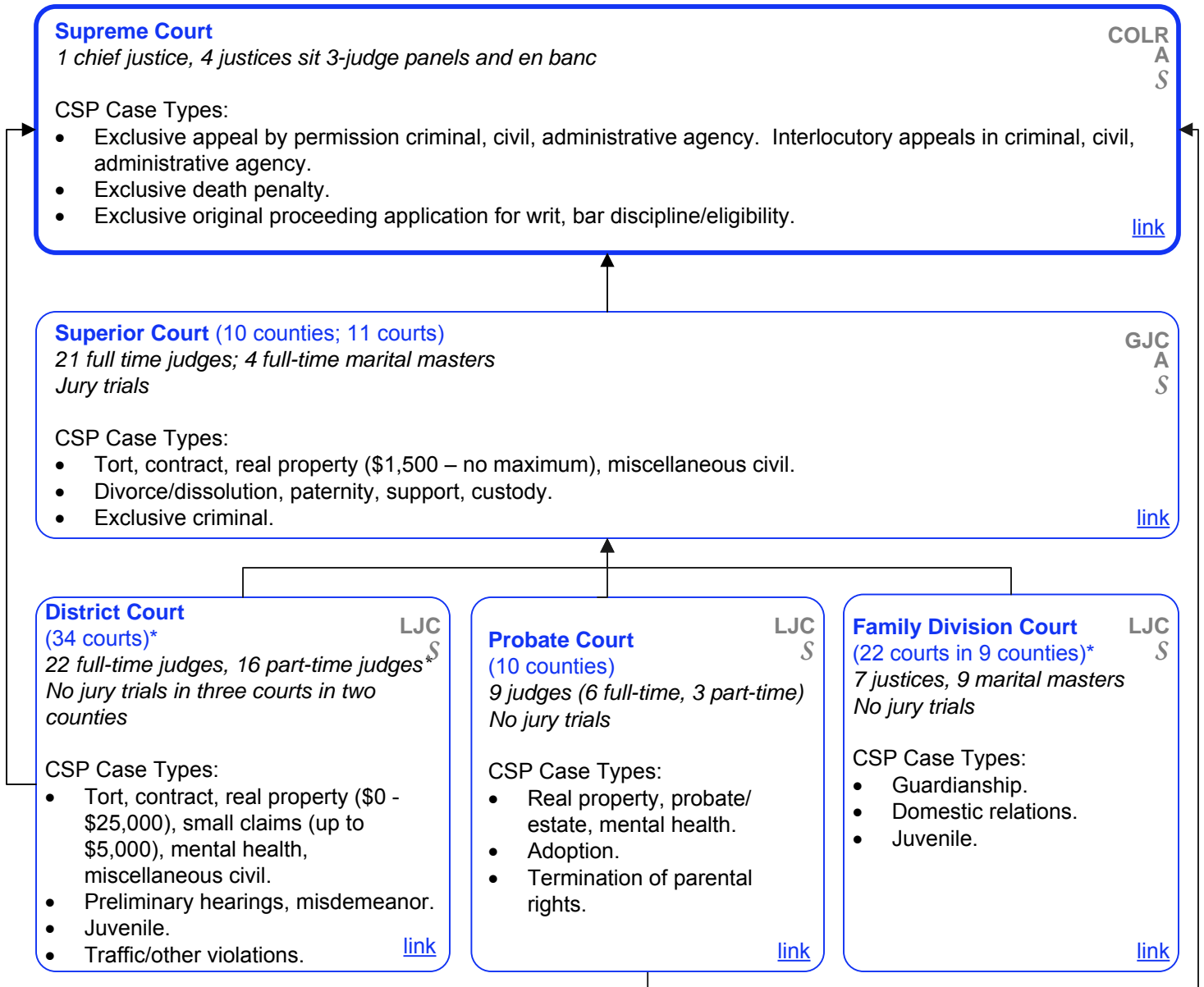
= Trial level

COLR = Court of Last Resort A = Appeal from Admin. Agency
 IAC = Intermediate Appellate Court S = State funded
 GJC = General Jurisdiction Court ℓ = Locally funded
 LJC = Limited Jurisdiction Court M = Mixed: state and locally funded

↑ = Route of appeal

New Hampshire

(Court structure as of Calendar Year 2010)



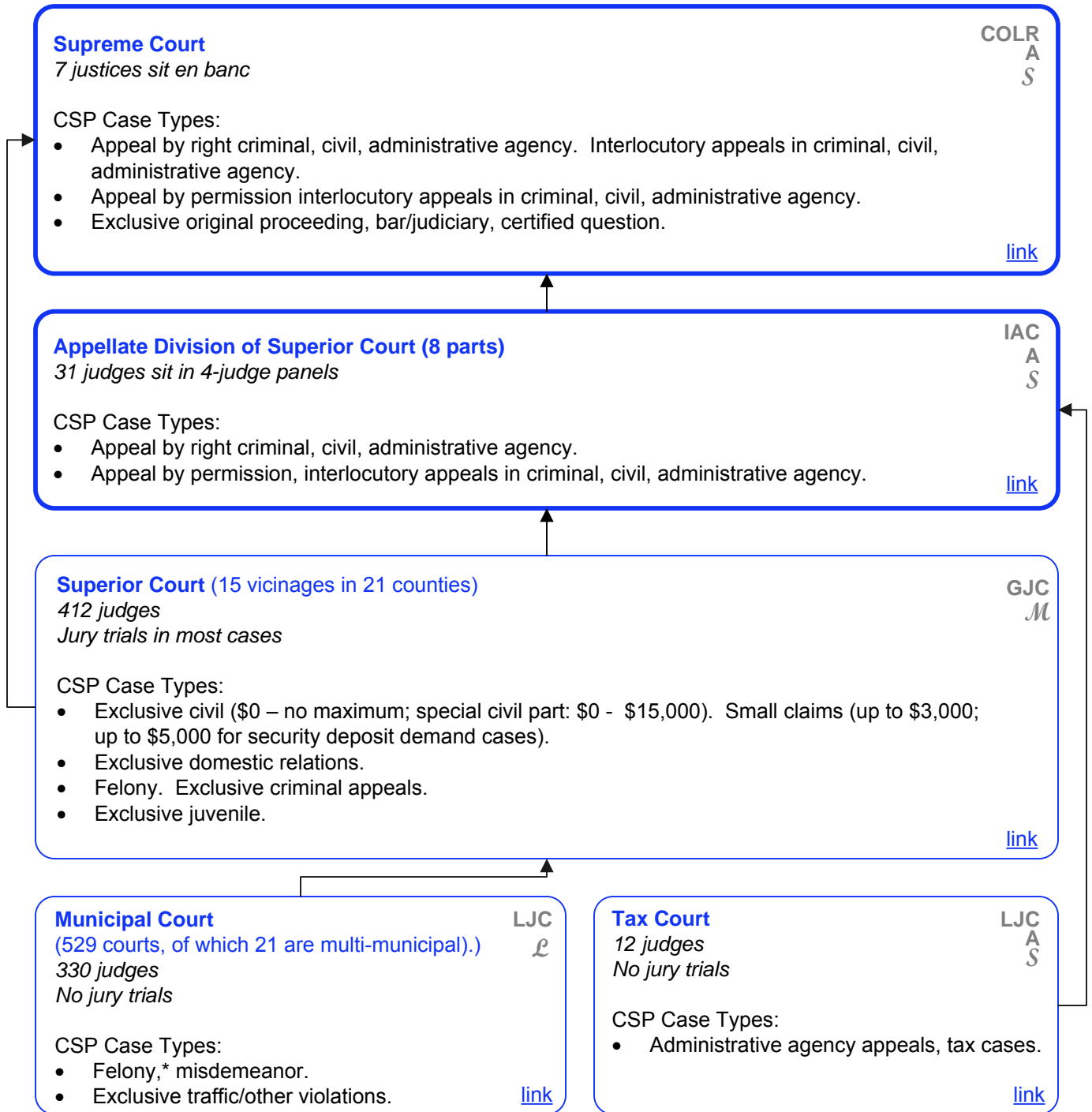
* The Family Division Court was created in 2005. The Municipal Court merged with the District Court in May, 2000. Eleven per diem judges also serve the District Court.

AOC Web site: www.courts.state.nh.us

Legend		
	= Appellate level	COLR = Court of Last Resort
	= Trial level	IAC = Intermediate Appellate Court
		GJC = General Jurisdiction Court
		LJC = Limited Jurisdiction Court
		↑ = Route of appeal
		A = Appeal from Admin. Agency
		S = State funded
		L = Locally funded
		M = Mixed: state and locally funded

New Jersey

(Court structure as of Fiscal Year 2010)



* Felony cases are handled on first appearance in the Municipal Courts and then are transferred through the county Prosecutor's office to the Superior Court.

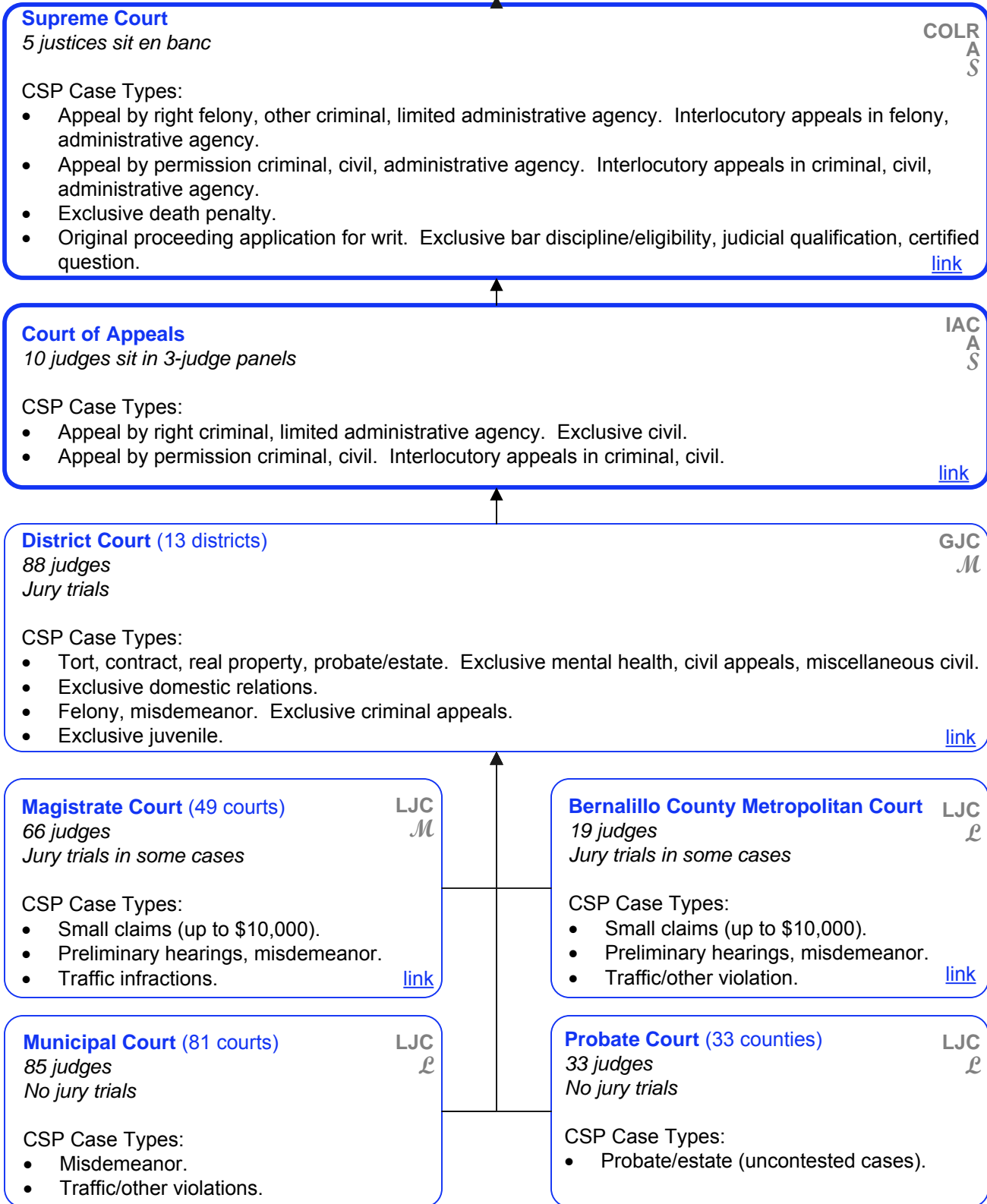
AOC Web site: www.judiciary.state.nj.us

Legend

<p> = Appellate level</p> <p> = Trial level</p>	<p>COLR = Court of Last Resort</p> <p>IAC = Intermediate Appellate Court</p> <p>GJC = General Jurisdiction Court</p> <p>LJC = Limited Jurisdiction Court</p> <p>↑ = Route of appeal</p>	<p>A = Appeal from Admin. Agency</p> <p>S = State funded</p> <p>L = Locally funded</p> <p>M = Mixed: state and locally funded</p>
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New Mexico

(Court structure as of Fiscal Year 2010)



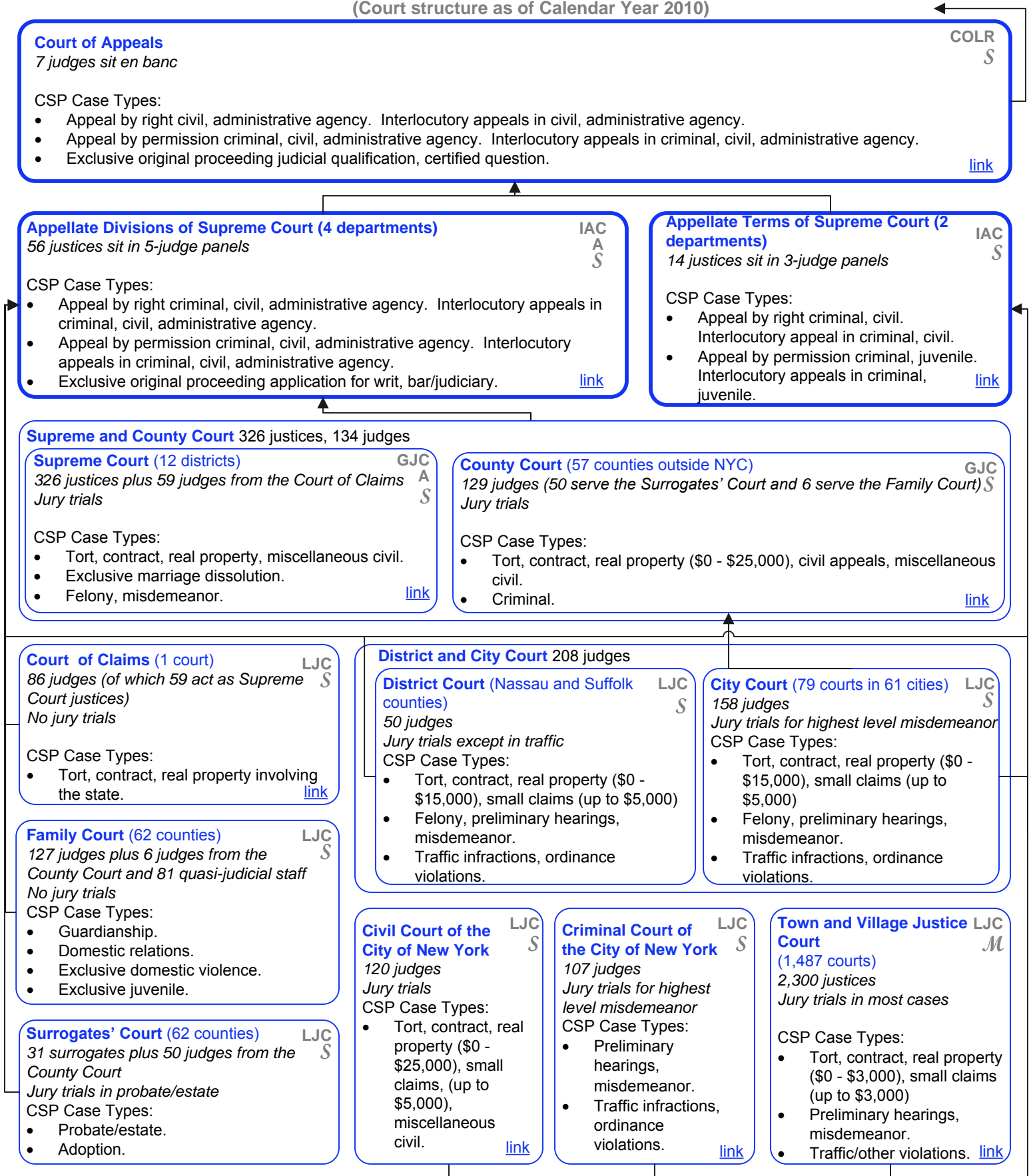
AOC Web site: www.nmcourts.gov

Legend

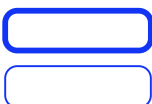
	= Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
	= Trial level	IAC = Intermediate Appellate Court	S = State funded
		GJC = General Jurisdiction Court	L = Locally funded
		LJC = Limited Jurisdiction Court	M = Mixed: state and locally funded
		↑ = Route of appeal	

New York

(Court structure as of Calendar Year 2010)



Legend



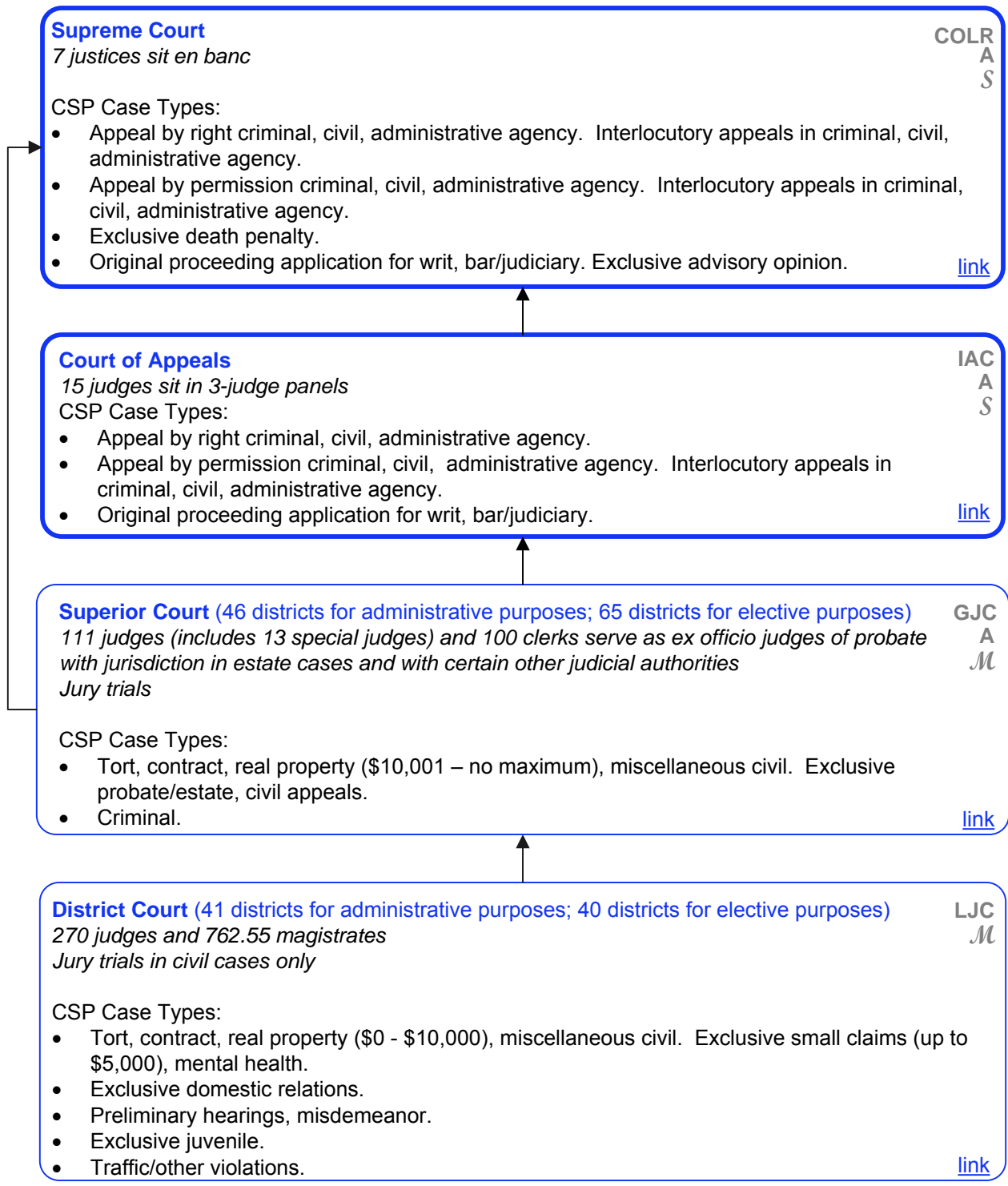
Appellate level
Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
A = Appeal from Admin. Agency
S = State funded
ℒ = Locally funded
M = Mixed: state and locally funded
↑ = Route of appeal

AOC Web site:
www.courts.state.ny.us

North Carolina

(Court structure as of Fiscal Year 2010)



AOC Web site: www.nccourts.org

Legend

 = Appellate level

 = Trial level

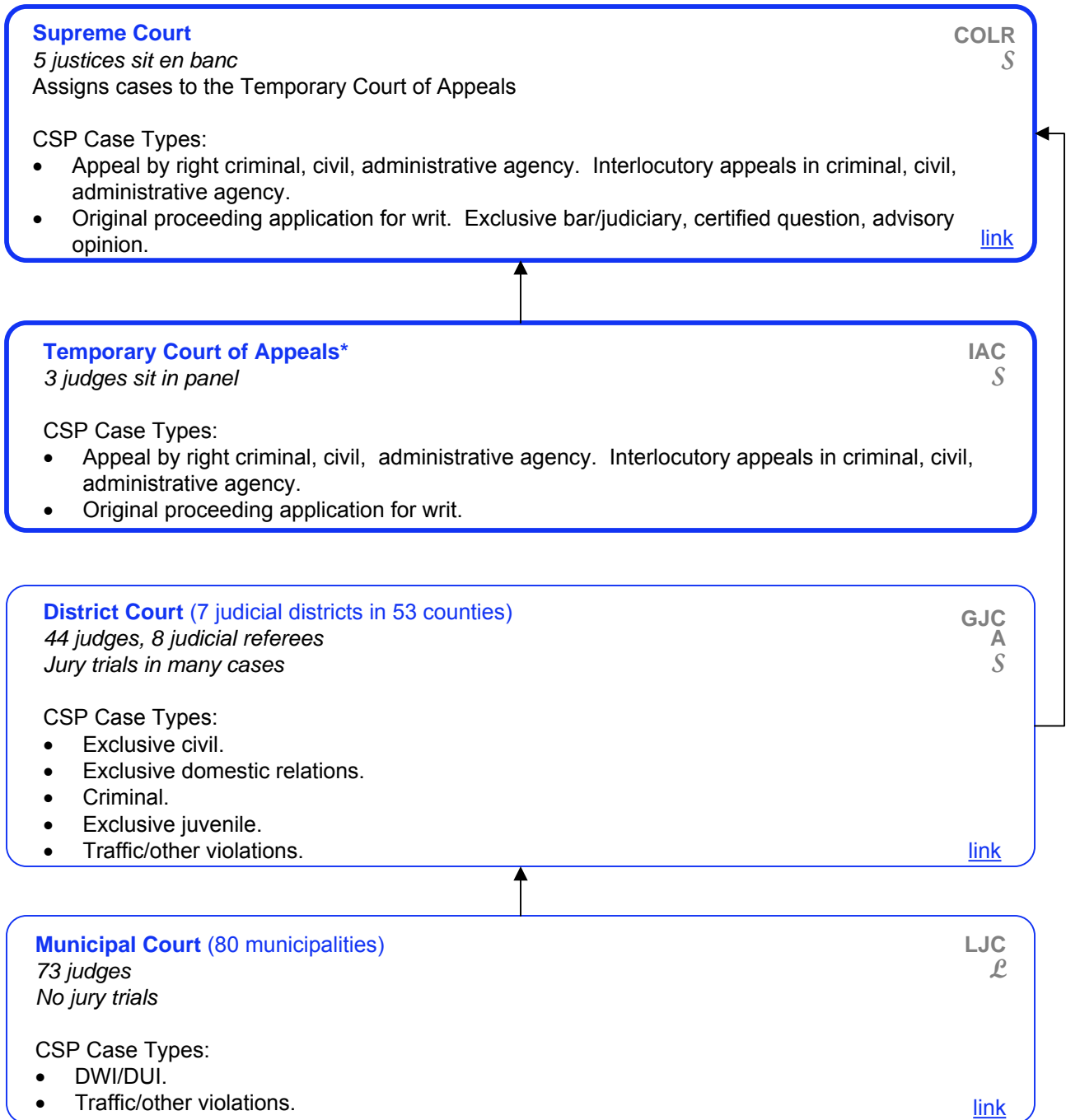
↑ = Route of appeal

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IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
S = State funded
ℓ = Locally funded
M = Mixed: state and locally funded

North Dakota

(Court structure as of Calendar Year 2010)



*Note: A temporary Court of Appeals was established July 1, 1987, to exercise appellate and original jurisdiction as delegated by the Supreme Court. Authorization for the Court of Appeals extends to January 1, 2012.

AOC Web site: www.ndcourts.gov

Legend		
 	= Appellate level	
 	= Trial level	
	COLR = Court of Last Resort	A = Appeal from Admin. Agency
	IAC = Intermediate Appellate Court	S = State funded
	GJC = General Jurisdiction Court	ℓ = Locally funded
	LJC = Limited Jurisdiction Court	ℳ = Mixed: state and locally funded
	↑ = Route of appeal	

Ohio

(Court structure as of Calendar Year 2010)

Supreme Court COLR
A
S
7 justices sit en banc

CSP Case Types:

- Appeal by right criminal, civil, administrative agency.
- Exclusive appeal by permission criminal, civil, limited administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Exclusive death penalty.
- Original proceeding application for writ. Exclusive bar/judiciary, certified question. [link](#)

Court of Appeals (12 courts) IAC
A
S
69 judges sit in 3-judge panels

CSP Case Types:

- Appeal by right criminal, civil, administrative agency. Interlocutory appeals in criminal, civil, administrative agency.
- Original proceeding application for writ. [link](#)

Court of Common Pleas (88 courts) GJC
A
M
394 judges
Jury trials in most cases

CSP Case Types:

- Tort, contract, real property (\$500 – no maximum), administrative agency appeals, miscellaneous civil. Exclusive mental health, probate/estate.
- Exclusive domestic relations.
- Felony, misdemeanor.
- Exclusive juvenile.
- Traffic/other violations (juvenile only). [link](#)

Municipal Court (129 courts) LJC
M
216 judges
Jury trials in most cases

CSP Case Types:

- Tort, contract, real property (\$0 - \$15,000), small claims (up to \$3,000), miscellaneous civil.
- Criminal.
- Traffic infractions, ordinance violations. [link](#)

County Court (36 courts) LJC
M
39 judges
Jury trials in most cases

CSP Case Types:

- Tort, contract, real property (\$0 - \$15,000), small claims (up to \$3,000), miscellaneous civil.
- Criminal.
- Traffic infractions, ordinance violations. [link](#)

Court of Claims LJC
S
Judges assigned by the Chief Justice
Jury trials in some cases

CSP Case Types:

- Civil (actions against the state, victims of crime cases). [link](#)

Mayors Court (~335 courts) LJC
L
~335 mayors or magistrates
No jury trials

CSP Case Types:

- DWI/DUI, other misdemeanors.
- Traffic/other violations. [link](#)

Legend

= Appellate level
 = Trial level

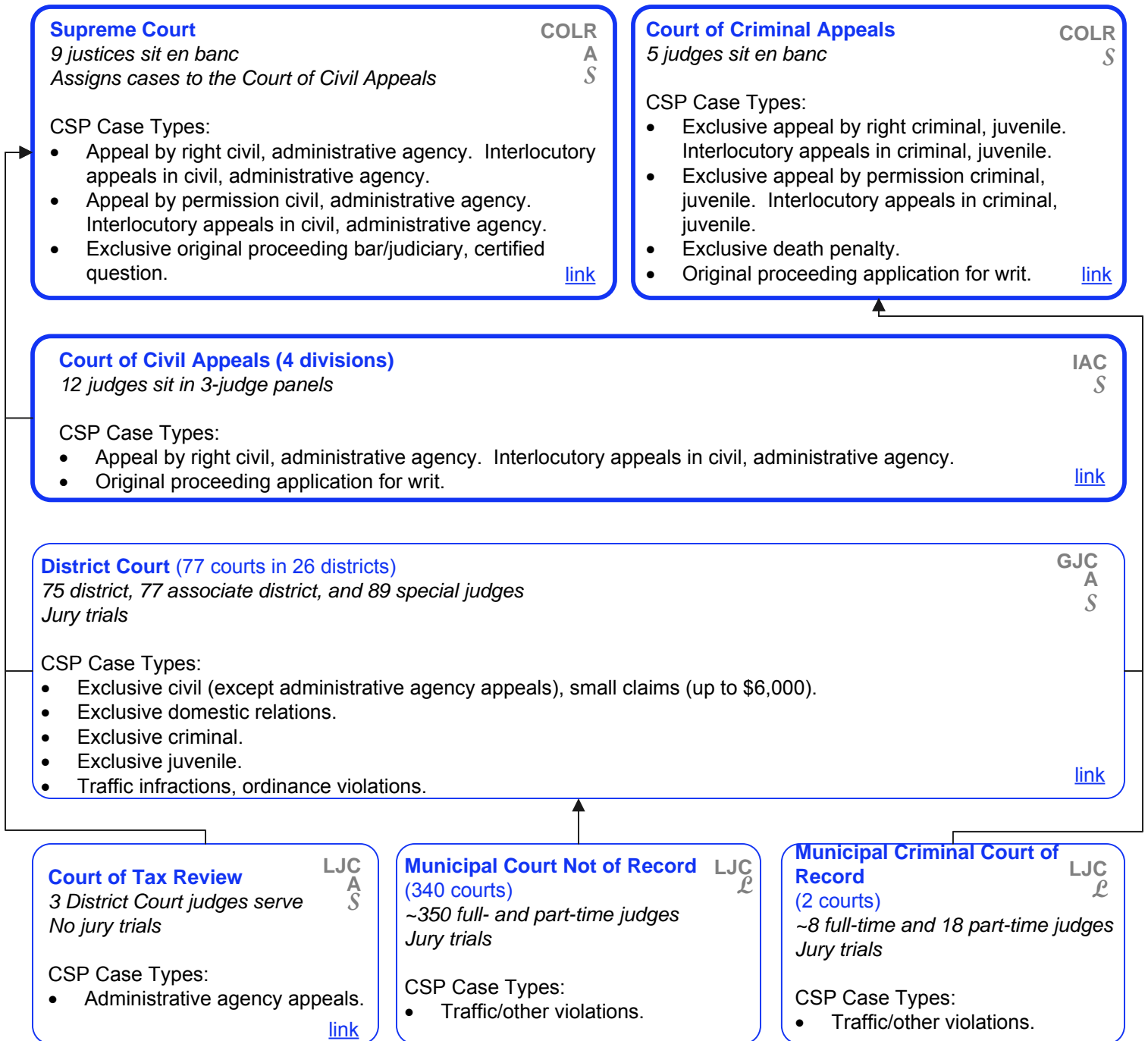
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LJC = Limited Jurisdiction Court
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A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

AOC Web site:
www.sconet.state.oh.us

Oklahoma

(Court structure as of Fiscal Year 2010)



Note: Oklahoma has a workers' compensation court, which hears complaints that are handled exclusively by administrative agencies in other states.

AOC Web site: www.oscn.net

Legend

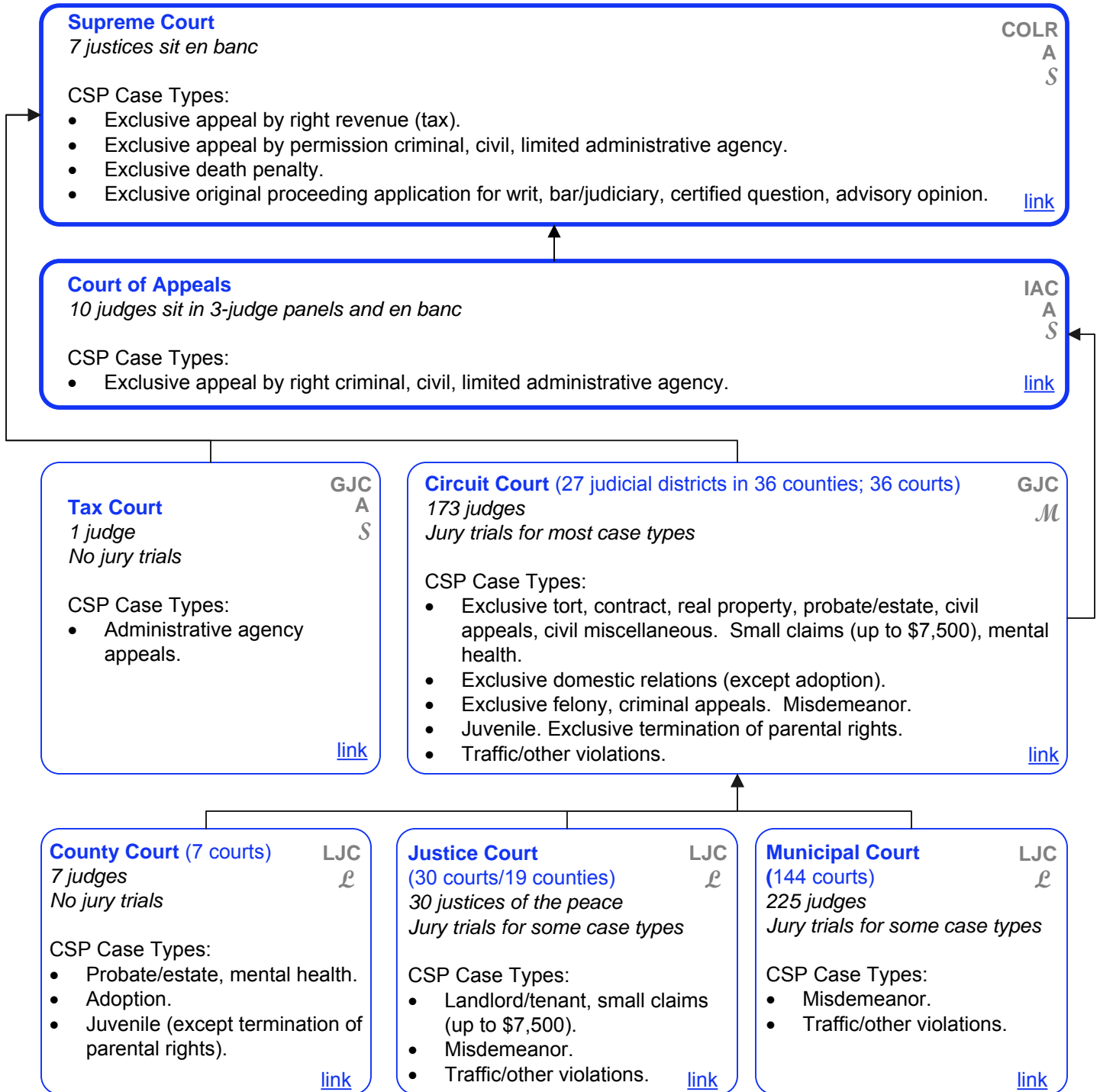
 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

Oregon

(Court structure as of Calendar Year 2010)



Note: Effective January 15, 1998 all District Courts were eliminated and District judges became Circuit judges.

AOC Web site:

www.courts.oregon.gov/OJD/courts/index.page

Legend

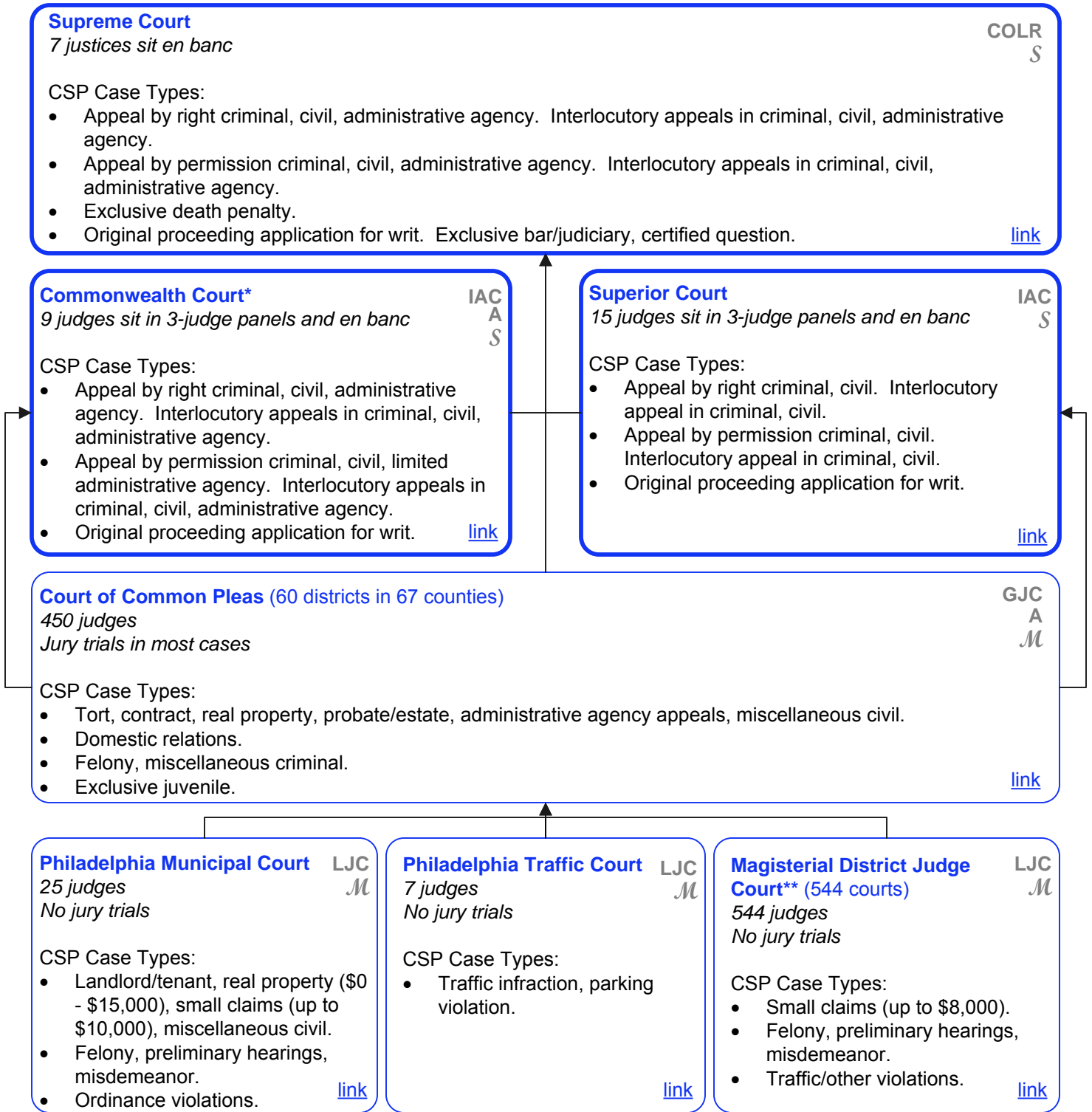
 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
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A = Appeal from Admin. Agency
S = State funded
ℓ = Locally funded
M = Mixed: state and locally funded

Pennsylvania

(Court structure as of Calendar Year 2010)



*Commonwealth Court hears cases brought by and against the Commonwealth.

**Effective January 1, 2005, the Pittsburgh Municipal Court merged with the Allegheny County Magisterial District Judge Court.

Legend

= Appellate level

= Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

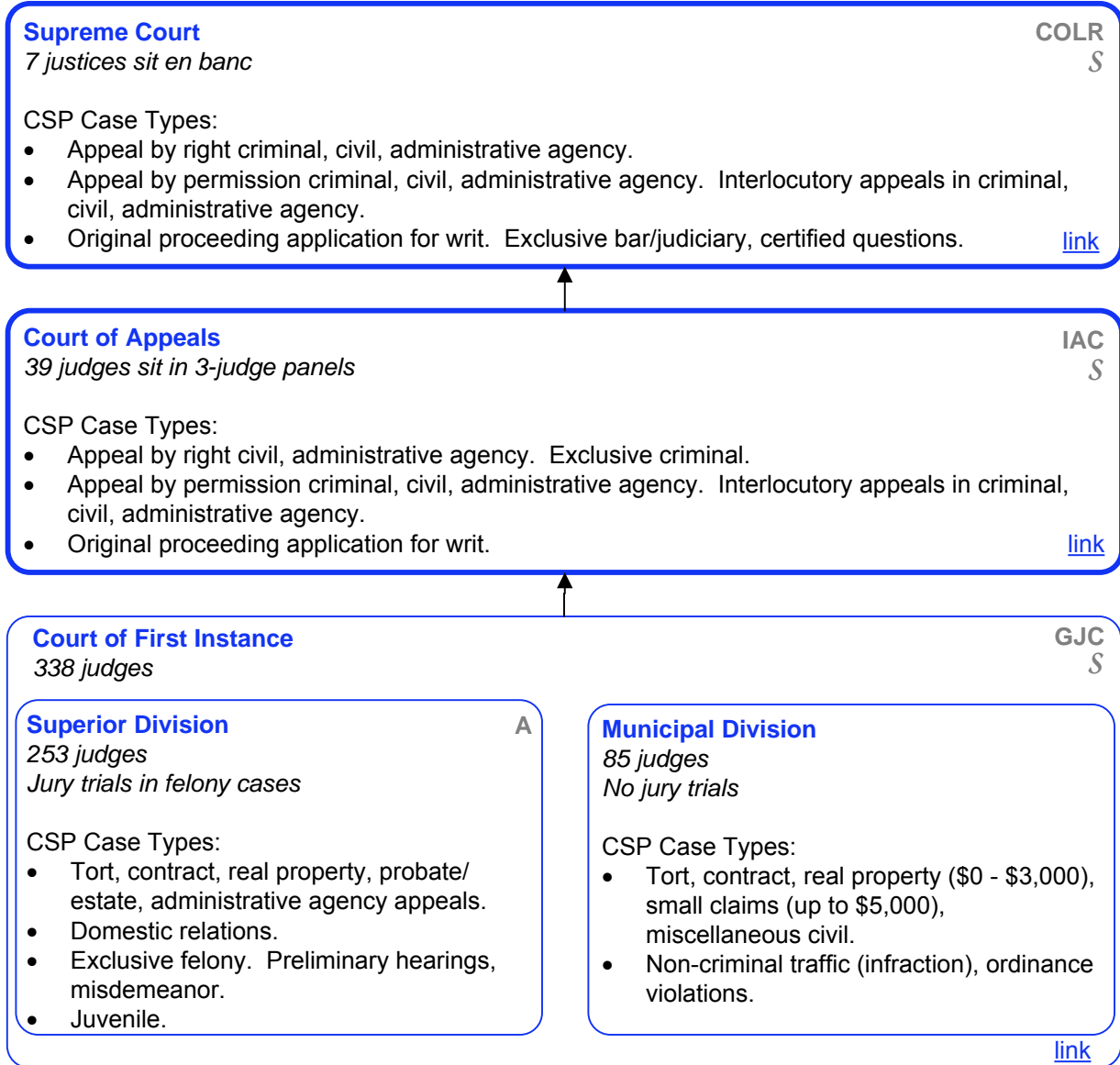
A = Appeal from Admin. Agency
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 L = Locally funded
 M = Mixed: state and locally funded

↑ = Route of appeal

AOC Web site:
www.pacourts.us

Puerto Rico

(Court structure as of Fiscal Year 2010)



Note: The Judicial Law 2001, renamed the Judicial Reform Act of 1994, changed the name of the intermediate appellate court from the Circuit Court of Appeals to the Court of Appeals and abolished the District Division of the Court of First Instance. The District Division was abolished in 2002, and its functions were transferred to the Superior Division.

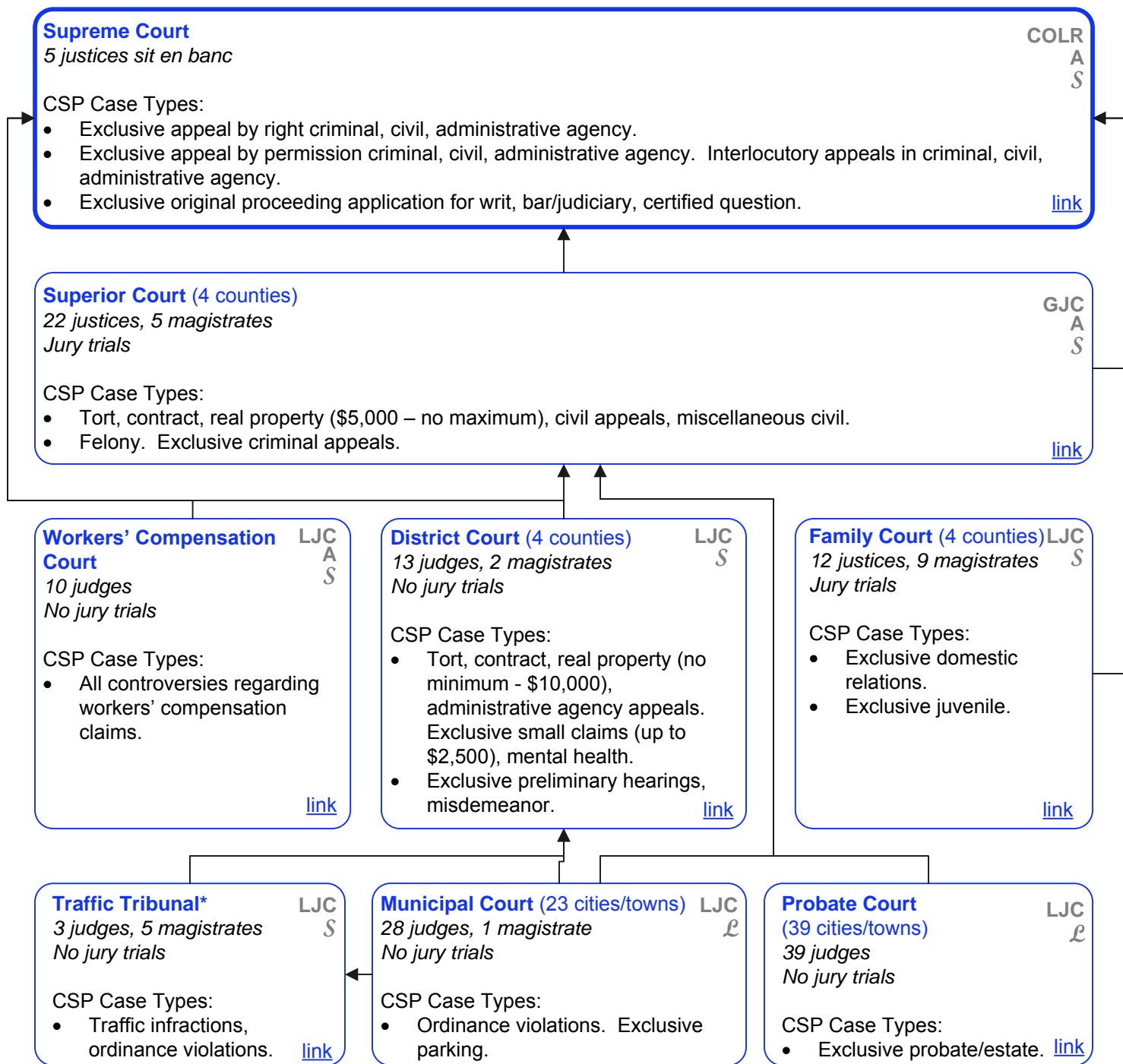
AOC Web site: www.ramajudicial.pr

Legend

	= Appellate level	COLR = Court of Last Resort	A = Appeal from Admin. Agency
	= Trial level	IAC = Intermediate Appellate Court	S = State funded
		GJC = General Jurisdiction Court	ℓ = Locally funded
		LJC = Limited Jurisdiction Court	ℳ = Mixed: state and locally funded
		↑ = Route of appeal	

Rhode Island

(Court structure as of Calendar Year 2010)



*This court was formerly known as the Rhode Island Administrative Adjudication Court.

AOC Web site: www.courts.ri.gov/default.aspx

Legend

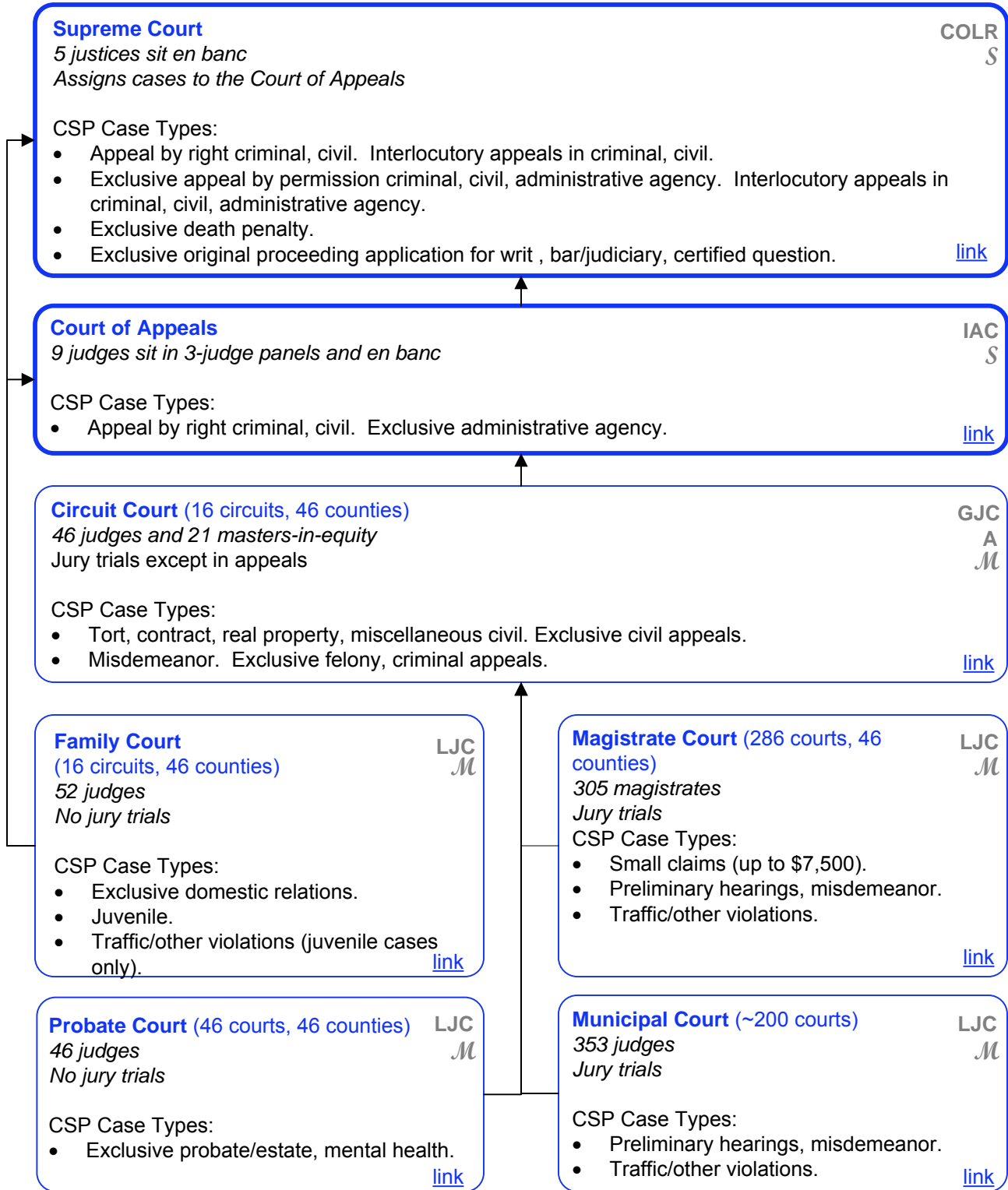
 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
ℓ = Locally funded
M = Mixed: state and locally funded

South Carolina

(Court structure as of Fiscal Year 2010)



AOC Web site: www.sccourts.org

Legend

= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

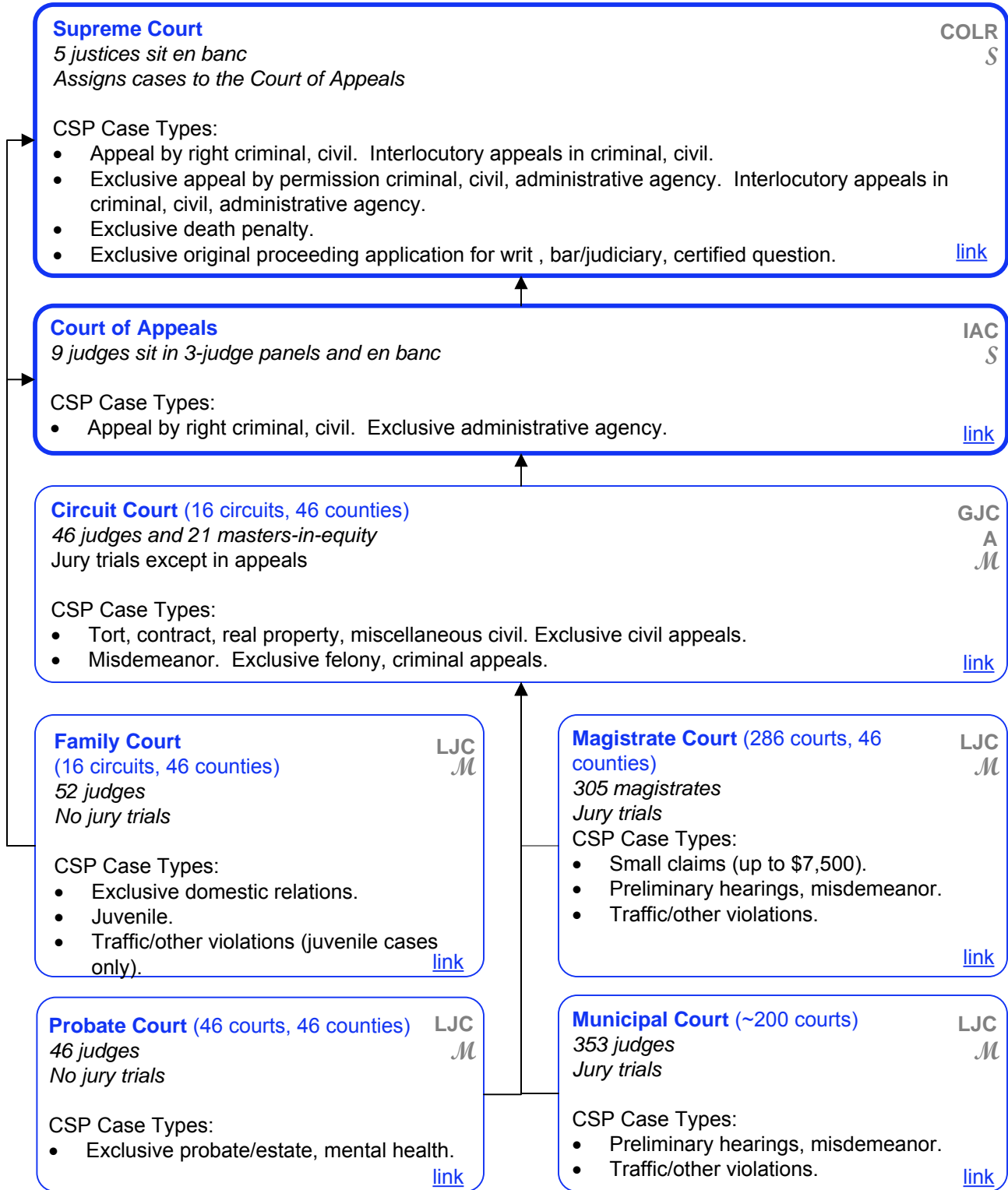
S = State funded

L = Locally funded

M = Mixed: state and locally funded

South Carolina

(Court structure as of Fiscal Year 2010)



AOC Web site: www.sccourts.org

Legend

 = Appellate level
 = Trial level

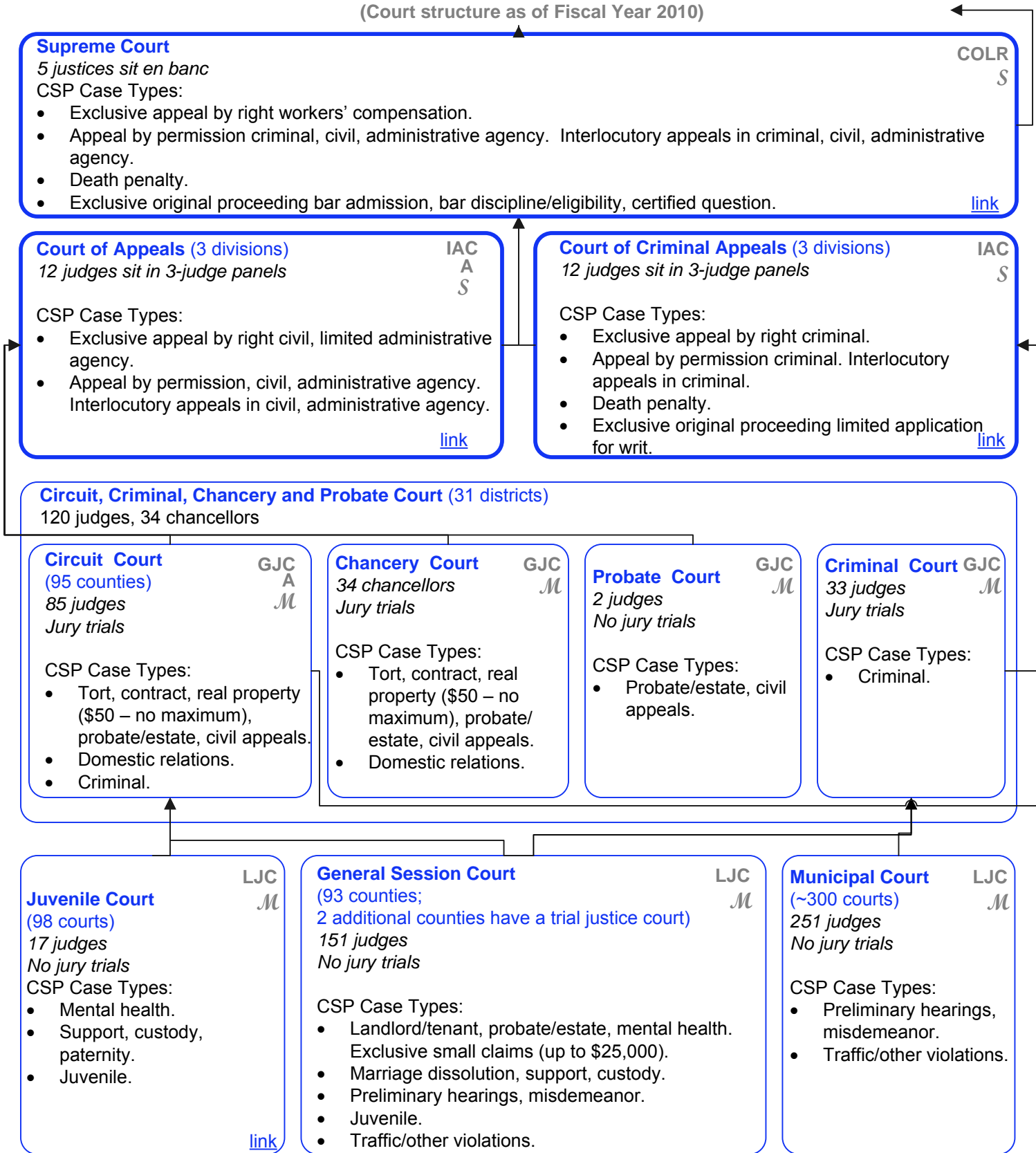
COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

↑ = Route of appeal

Tennessee

(Court structure as of Fiscal Year 2010)



Legend

 = Appellate level
 = Trial level

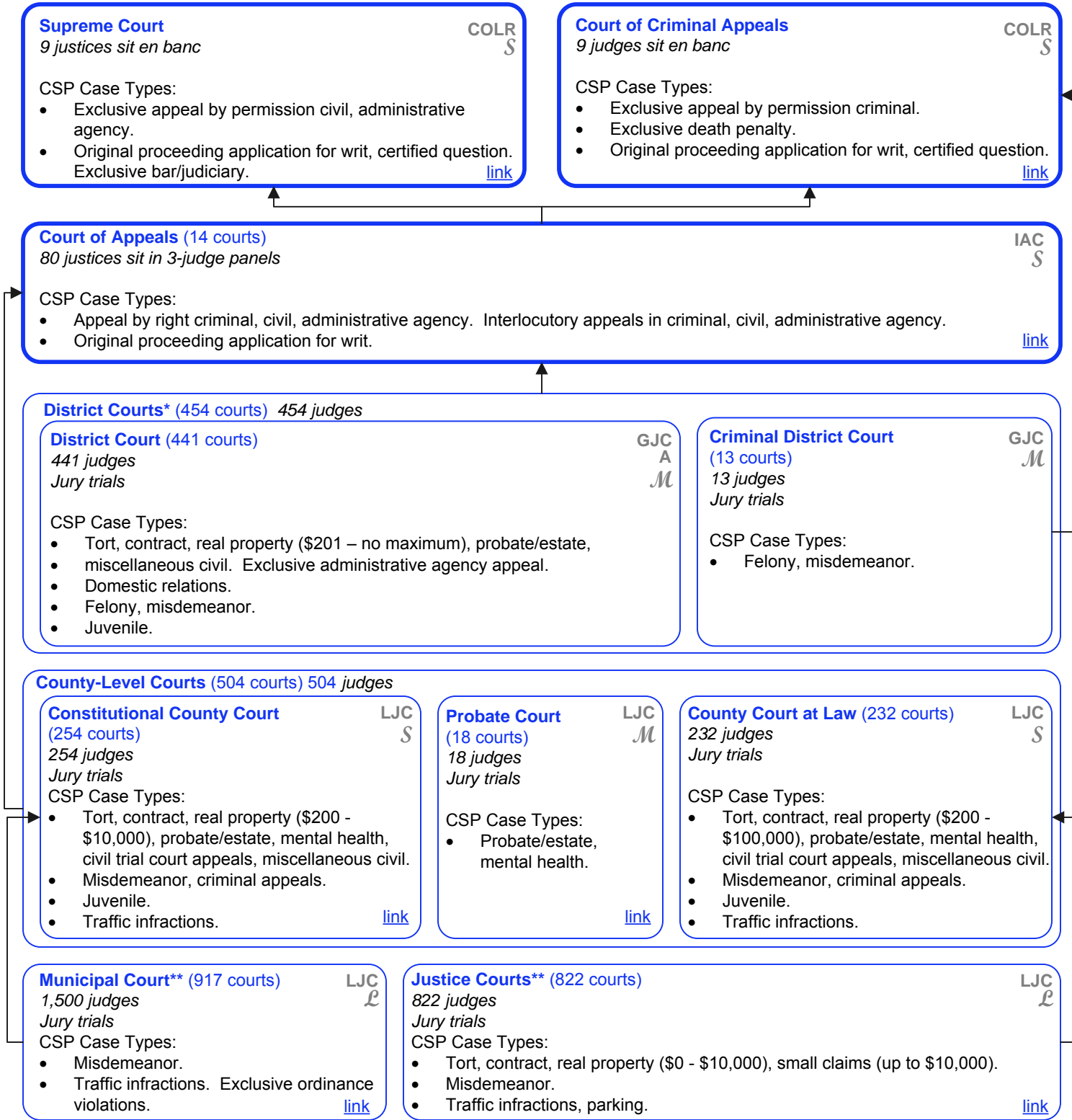
COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

AOC Web site:
www.tncourts.gov

Texas

(Court structure as of Fiscal Year 2010)



**Some Municipal and Justice of the Peace courts may appeal to the District court.

Legend

= Appellate level

= Trial level

COLR = Court of Last Resort

IAC = Intermediate Appellate Court

GJC = General Jurisdiction Court

LJC = Limited Jurisdiction Court

↑ = Route of appeal

A = Appeal from Admin. Agency

S = State funded

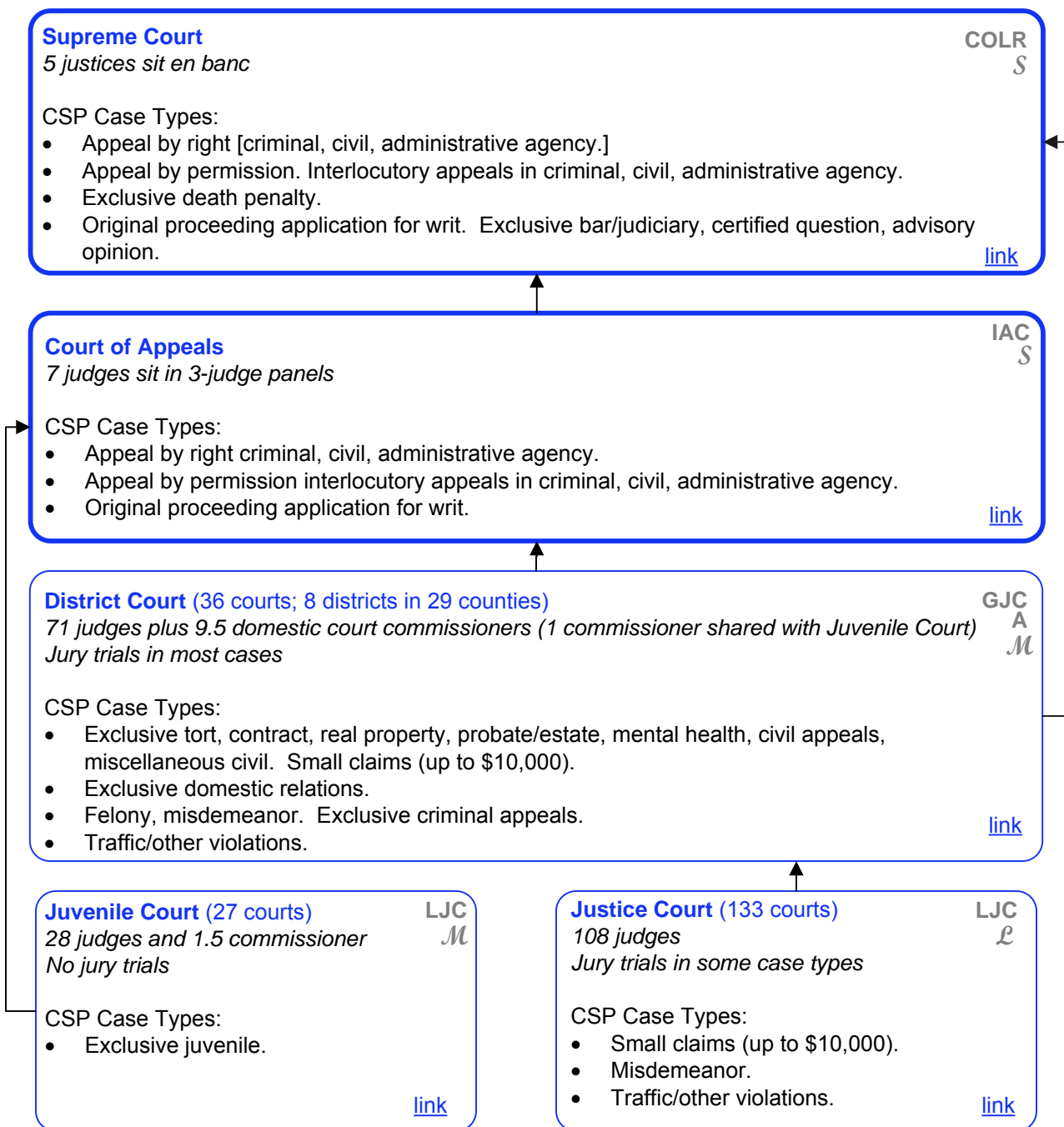
ℓ = Locally funded

M = Mixed: state and locally funded

AOC Web site:
www.courts.state.tx.us

Utah

(Court structure as of Fiscal Year 2010)



AOC Web site: www.utcourts.gov

Legend

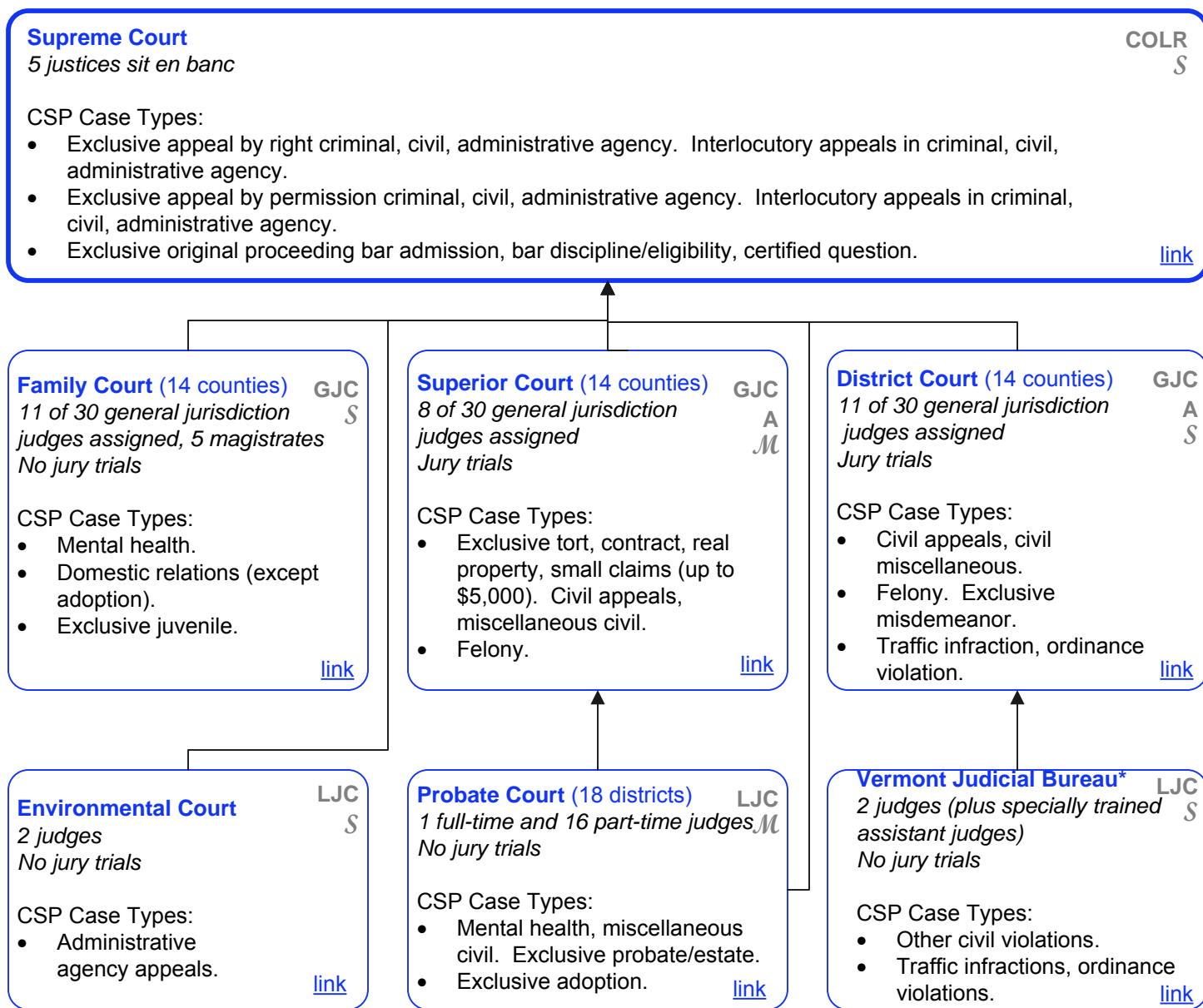
 = Appellate level
 = Trial level

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court
↑ = Route of appeal

A = Appeal from Admin. Agency
S = State funded
L = Locally funded
M = Mixed: state and locally funded

Vermont

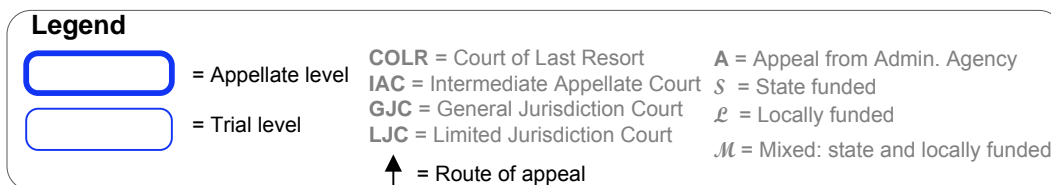
(Court structure as of Fiscal Year 2010)



*This court was formerly known as the Vermont Traffic and Municipal Ordinance Bureau.

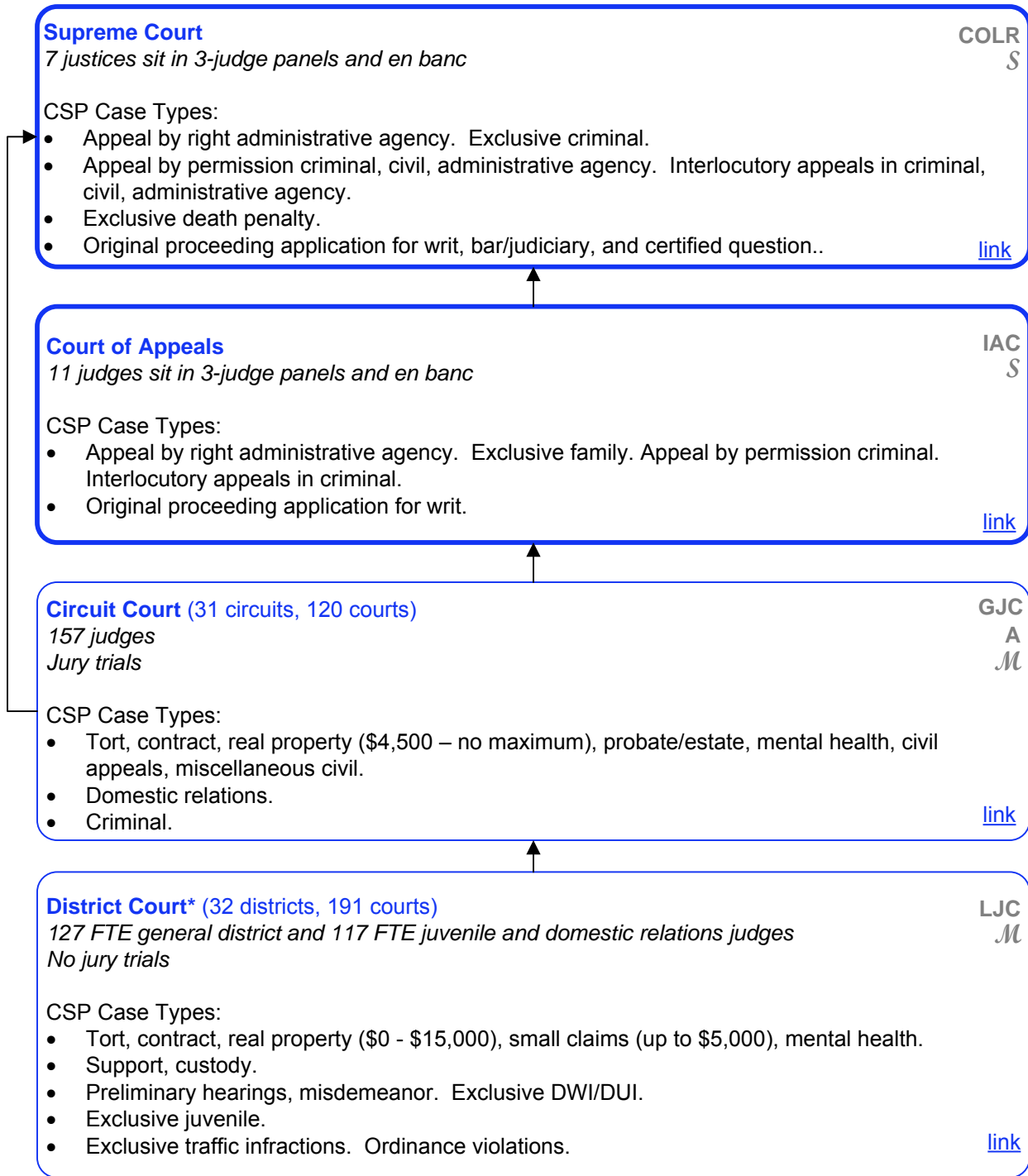
Note: An additional 28 assistant judges participate in findings of fact in the Superior and Family courts. Some assistant judges, after special training, may hear small claims cases and traffic complaints, conduct criminal arraignments, and decide child support, parentage, and uncontested divorce proceedings. These assistant judges (who need not be attorneys) are elected to four-year terms by voters in Vermont's 14 counties.

AOC Web site: www.vermontjudiciary.org



Virginia

(Court structure as of Calendar Year 2010)



*The District Court is referred to as the Juvenile and Domestic Relations Court when hearing juvenile and domestic relations cases and as the General District Court for the balance of the cases.

AOC Web site: www.courts.state.va.us

Legend

 = Appellate level

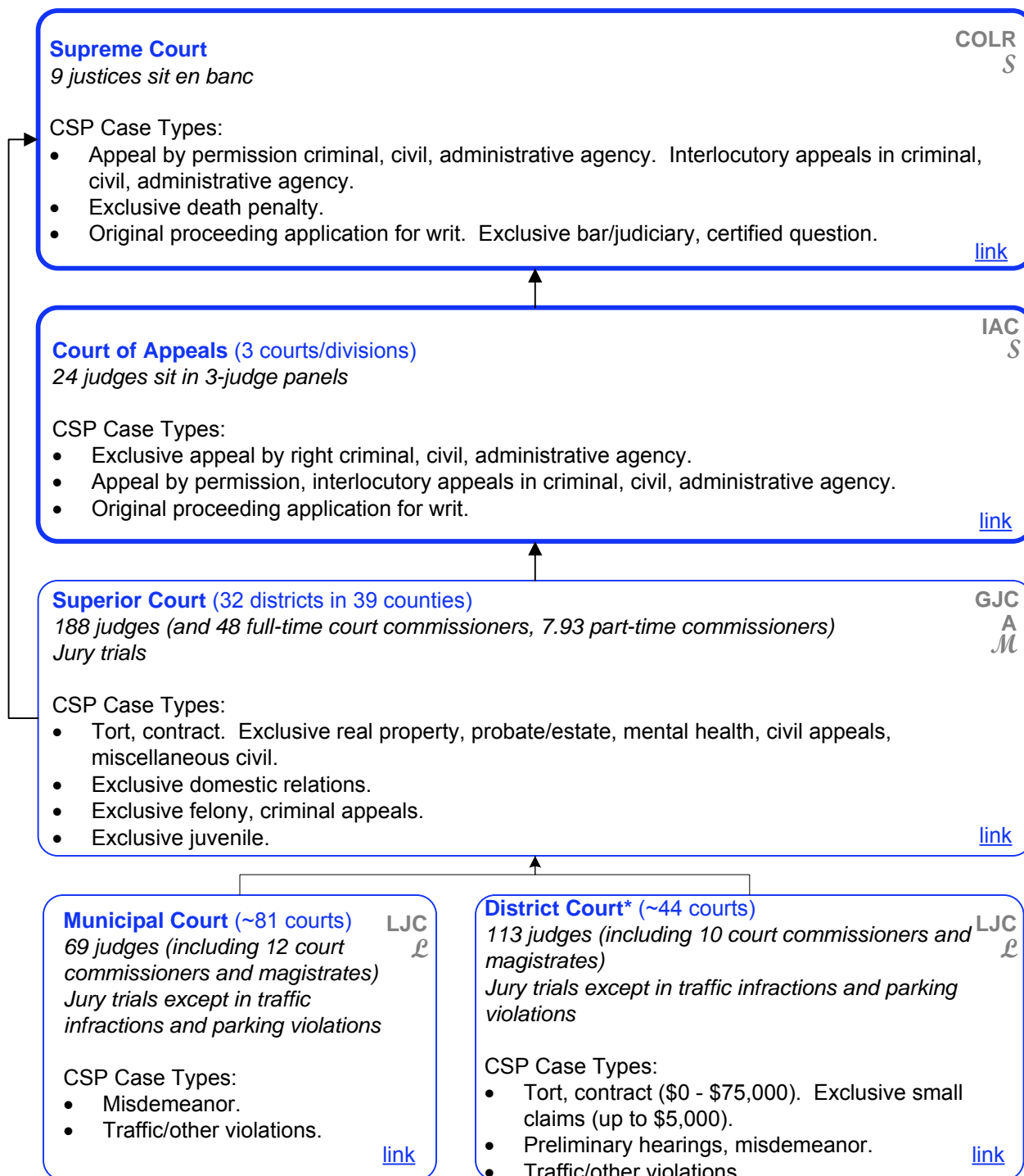
 = Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court
 ↑ = Route of appeal

A = Appeal from Admin. Agency
 S = State funded
 ℓ = Locally funded
 M = Mixed: state and locally funded

Washington

(Court structure as of Calendar Year 2010)



*District Court provides services to municipalities that do not have a Municipal Court.

AOC Web site: www.courts.wa.gov

Legend

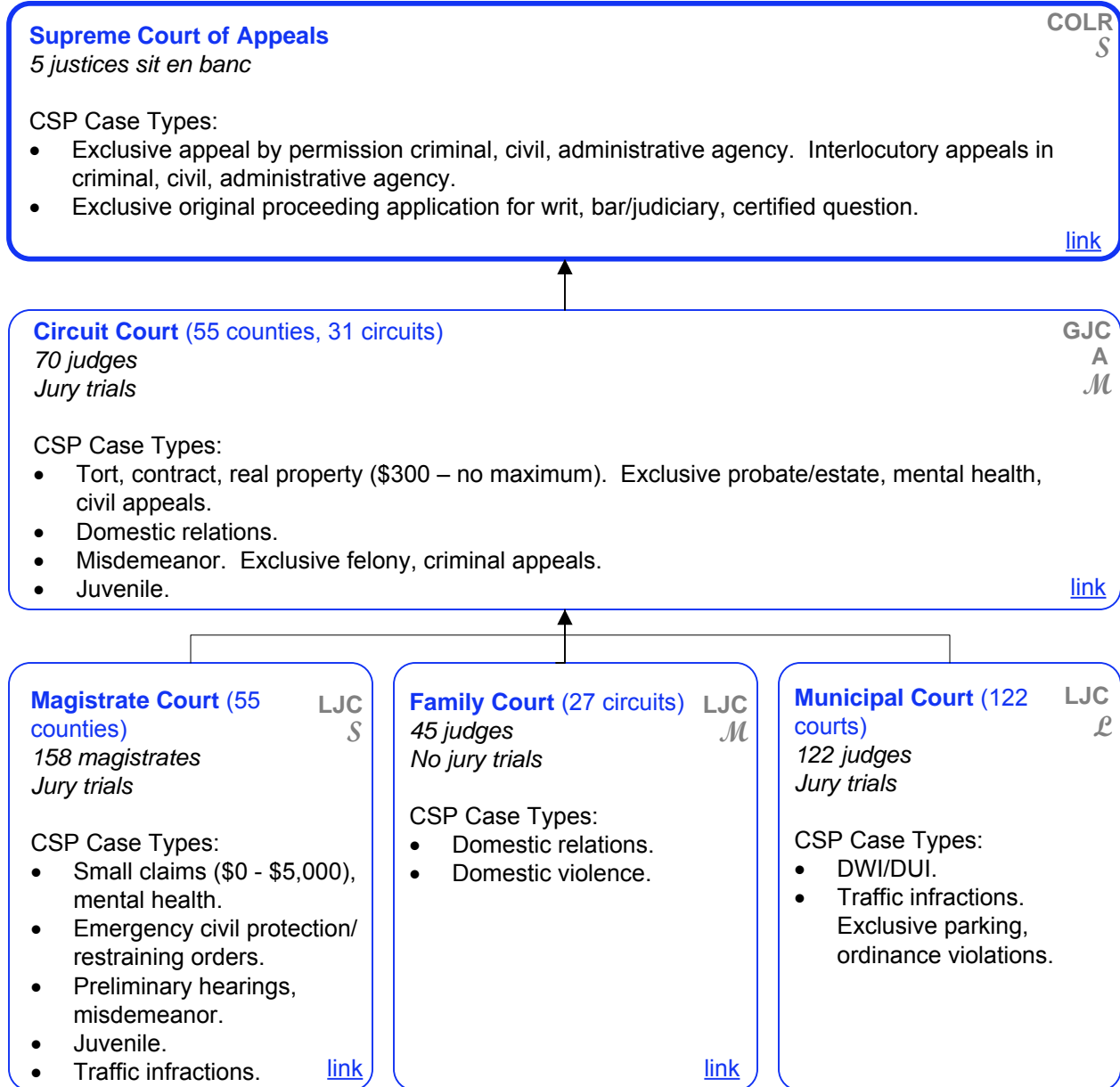
 = Appellate level
 = Trial level
 ↑ = Route of appeal

COLR = Court of Last Resort
IAC = Intermediate Appellate Court
GJC = General Jurisdiction Court
LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
S = State funded
ℓ = Locally funded
M = Mixed: state and locally funded

West Virginia

(Court structure as of Calendar Year 2010)



AOC Web site: www.courtswv.gov

Legend

= Appellate level

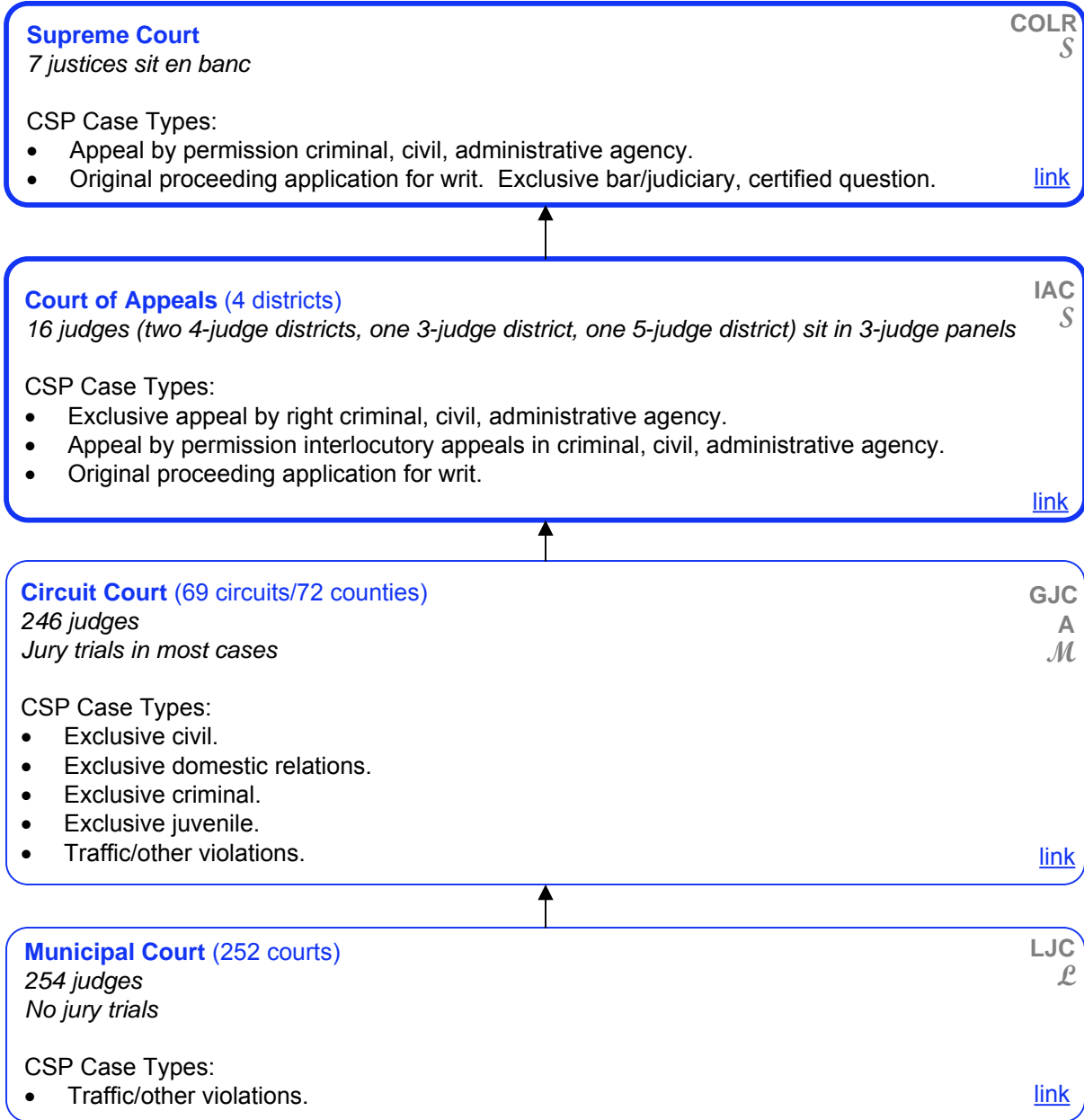
= Trial level

COLR = Court of Last Resort A = Appeal from Admin. Agency
 IAC = Intermediate Appellate Court S = State funded
 GJC = General Jurisdiction Court L = Locally funded
 LJC = Limited Jurisdiction Court M = Mixed: state and locally funded

↑ = Route of appeal

Wisconsin

(Court structure as of Calendar Year 2010)



AOC Web site: www.wicourts.gov

Legend

 = Appellate level

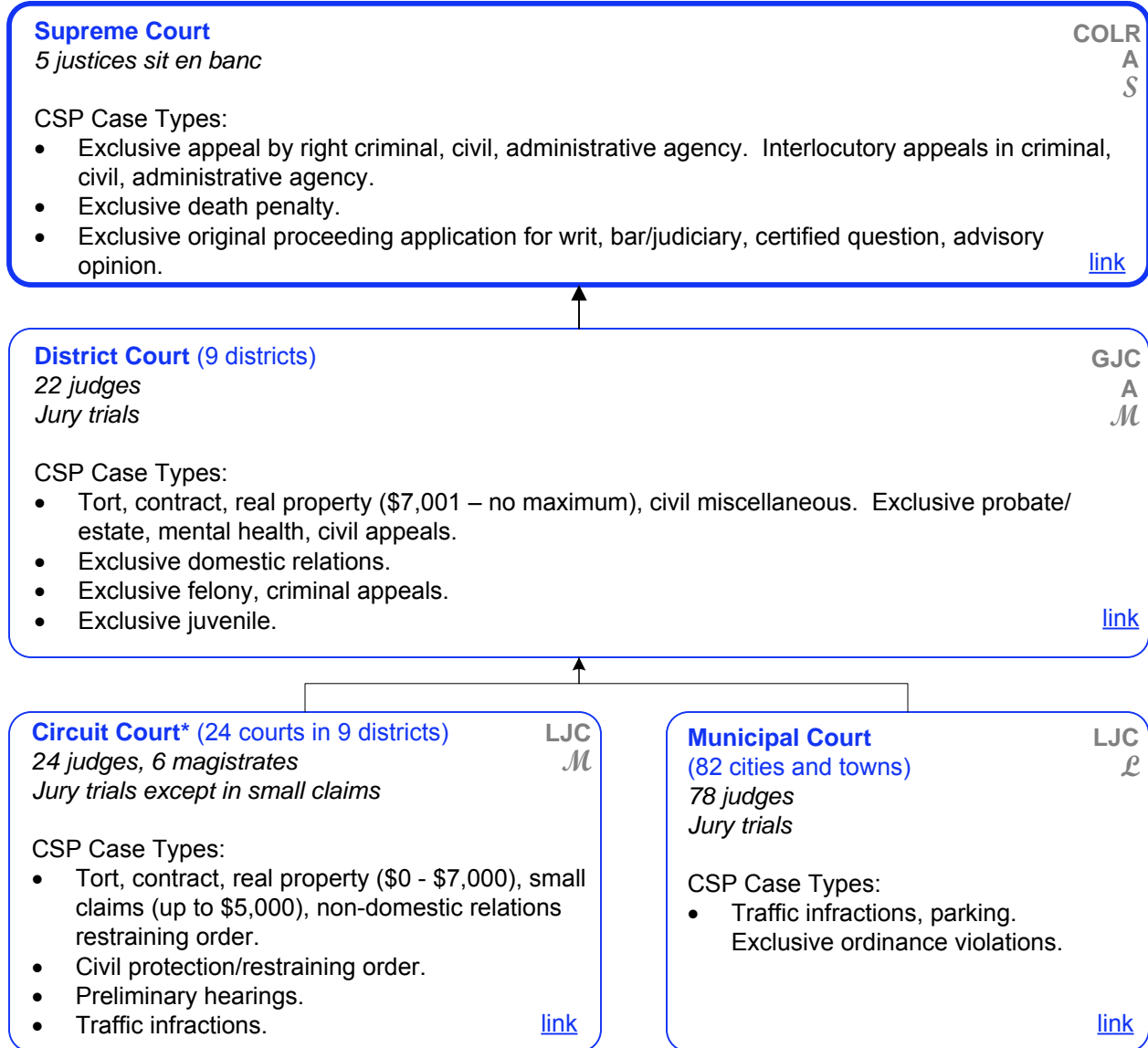
 = Trial level

COLR = Court of Last Resort A = Appeal from Admin. Agency
 IAC = Intermediate Appellate Court S = State funded
 GJC = General Jurisdiction Court ℓ = Locally funded
 LJC = Limited Jurisdiction Court M = Mixed: state and locally funded

↑ = Route of appeal

Wyoming

(Court structure as of Fiscal Year 2010)



*In January 2003, Justice of the Peace courts were combined with County courts, and County Court was renamed Circuit Court.

AOC Web site: www.courts.state.wy.us

Legend

= Appellate level

= Trial level

COLR = Court of Last Resort
 IAC = Intermediate Appellate Court
 GJC = General Jurisdiction Court
 LJC = Limited Jurisdiction Court

A = Appeal from Admin. Agency
 S = State funded
 L = Locally funded
 M = Mixed: state and locally funded

↑ = Route of appeal

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**United States Courthouse, Independence Mall West
601 Market St., Philadelphia, PA 19106**

Counties Under Jurisdiction: Berks, Bucks, Chester, Delaware, Lancaster, Lehigh,
Montgomery, Northampton and Philadelphia

Chief Judge

Hon. Petrese B. Tucker (267) 299-7610

United States District Judges

U.S. Courthouse, Philadelphia 19106

	Room	(215)
Hon. Nitza Quinones Alejandro	4000	(267) 299-7460
Hon. Harvey Bartle III (Sr.)	16614	597-2693
Hon. Michael M. Baylson (Sr.).....	3810	(267) 299-7520
Hon. Anita B. Brody (Sr.)	7613	597-3978
Hon. Ronald L. Buckwalter (Sr.)	14614	597-3084
Hon. Stewart Dalzell	15613	597-9773
Hon. Legrome D. Davis	6614	(267) 299-7650
Hon. Paul S. Diamond.....	6613	(267) 299-7730
Hon. J. William Ditter Jr. (Sr.)	3040	597-9640
Hon. Jan E. DuBois (Sr.)	12613	597-5579
Hon. James Knoll Gardner	(610) 434-3457	
504 W. Hamilton St., Ste. 4701, Allentown 18101		
Hon. Mitchell S. Goldberg.....	7614	(267) 299-7500
Hon. C. Darnell Jones II	5613	(267) 299-7750
Hon. J. Curtis Joyner (Sr.).....	17614	(215) 597-1537
Hon. Robert F. Kelly (Sr.).....	11613	597-0736
Hon. Edmund V. Ludwig (Sr.)	5118	580-2030
Hon. Mary A. McLaughlin	13614	(267) 299-7600
Hon. Thomas N. O'Neill Jr. (Sr.)	4007	597-2750
Hon. John R. Padova (Sr.).....	17613	597-1178
Hon. Gene E.K. Pratter	10613	(267) 299-7350
Hon. L. Felipe Restrepo.....	3038	(267) 299-7690
Hon. Eduardo C. Robreno.....	15614	597-4073
Hon. Cynthia M. Rufe.....	12614	(267) 299-7490
Hon. Juan R. Sanchez.....	8613	(267) 299-7780
Hon. Timothy J. Savage	9614	(267) 299-7480
Hon. Berle M. Schiller (Sr.).....	13613	(267) 299-7620
Hon. Jeffrey Schmehl	(610) 320-5099	
Hon. Norma L. Shapiro (Sr.).....	10614	597-9141
Hon. Joel H. Slomsky	5614	(267) 299-7340
Hon. Lawrence F. Stengel	3809	(267) 299-7760
Hon. R. Barclay Surrick (Sr.)	8614	(267) 299-7630
Hon. Donald W. VanArtsdalen (Sr.)	3040	597-9650
Hon. William H. Yohn Jr. (Sr.)	14613	597-4361

United States Magistrate Judges

U.S. Courthouse, Philadelphia 19106

Chief Judge

Hon. Carol Sandra Moore Wells..... 3016 (215) 597-7833

	Room	(215)
Hon. M. Faith Angell	211	597-6079
Robert N.C. Nix Federal Bldg., 900 Market St., Philadelphia 19107		
Hon. Linda K. Caracappa	3042	(267) 299-7640

Hon. Jacob P. Hart.....	3006	597-2733
Hon. Elizabeth T. Hey	(267) 322-6020	
Robert N.C. Nix Federal Bldg., 900 Market St., Ste. 219, Philadelphia 19107		
Hon. Henry S. Perkin.....	4401	(610) 434-3823
U.S. Courthouse and Federal Bldg., Ste. 4401, 504 W. Hamilton St., Allentown 18101		
Hon. Timothy R. Rice.....	3029	(267) 299-7660
Hon. Thomas J. Rueter	3000	597-0048
Hon. Lynne A. Sitarski	3015	(267) 299-7810
Hon. David R. Strawbridge.....	3030	(267) 299-7790

Personnel

U.S. Courthouse, Philadelphia 19106

<i>Clerk of Court –</i>	Room	(215)
Michael E. Kunz.....	2609	597-7704

Chief Probation Officer –

Ronald DeCastro	597-7950
Ste. 2400, William J. Green Federal Bldg., 600 Arch St., Philadelphia 19106	

U.S. Marshal –

David Webb	2110	597-7272
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BANKRUPTCY COURT

Bankruptcy Judges

U.S. Bankruptcy Court, ED of PA
900 Market St., Philadelphia 19107-4299

	Room	(215)
Hon. Stephen Raslavich (Chief Judge)	204	408-2982
Hon. Jean K. FitzSimon	203	408-2891
Hon. Bruce I. Fox	202	408-2974
Hon. Eric L. Frank	201	408-2970
Hon. Magdeline D. Coleman	214	408-2978
Hon. Richard E. Fehling	(610) 208-5093	
Ste. 301, The Madison Bldg., 400 Washington St., Reading 19601		

Personnel

<i>Clerk of Court –</i>	Room	(215)
Timothy B. McGrath.....	400	408-2800

U.S. Attorney's Office

U.S. Attorney –
Zane David Memeger..... 861-8200
615 Chestnut St., Ste. 1250, Philadelphia 19106-4476

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
U.S. Post Office and Courthouse, Scranton, PA 18501**

Counties Under Jurisdiction:

Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland,
Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon,
Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike,
Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York

Chief Judge

Hon. Christopher C. Conner.....(717) 221-3945
Federal Bldg. & U.S. Courthouse, Harrisburg 17108

United States District Judges

Hon. Matthew W. Brann.....(570) 323-9722
Federal Bldg., Scranton 18501

Hon. William W. Caldwell (Sr.).....(717) 221-3970
Federal Bldg., Harrisburg 17108

Hon. A. Richard Caputo (Sr.).....(570) 831-2556
197 S. Main St., Ste. 235, Wilkes-Barre 18701

Hon. Richard P. Conaboy (Sr.).....(570) 207-5710
Federal Bldg., Scranton 18501

Hon. John E. Jones III.....(717) 221-3986
Federal Bldg. & U.S. Courthouse, Harrisburg 17108

Hon. Yvette Kane.....(717) 221-3990
Federal Bldg., Harrisburg 17108

Hon. Edwin M. Kosik (Sr.).....(570) 207-5730
Federal Bldg., Scranton 18501

Hon. Malachy E. Mannion.....(570) 207-5760
Federal Bldg., Wilkes-Barre 18701

Hon. Robert D. Mariani.....(570) 207-5750
Federal Bldg., Scranton 18501

Hon. James M. Munley (Sr.).....(570) 207-5780
Federal Bldg., Scranton 18501

Hon. William J. Nealon (Sr.).....(570) 207-5700
Federal Bldg., Scranton 18501

Hon. Sylvia H. Rambo (Sr.).....(717) 221-3960
Federal Bldg., Harrisburg 17108

United States Magistrates

Hon. Martin C. Carlson (Chief Judge).....(717) 614-4120
Federal Bldg., Harrisburg 17108

Hon. William I. Arbuckle III (P/T).....(570) 323-9881
240 W. Third St., Ste. 218, Williamsport 17701

Hon. Thomas M. Blewitt.....(570) 207-5740
Federal Bldg., Scranton 18501

Hon. Karoline Mehalchick.....(570) 831-2570
Federal Bldg., Scranton 18501

Hon. Susan E. Schwab.....(717) 221-3980
Federal Bldg., Harrisburg 17108

Personnel

Clerk of Court –

Mary E. D'Andrea.....(570) 207-5680
Federal Bldg., Scranton 18501

Chief Deputy –

Catherine Dolinsh.....(570) 207-5683
Federal Bldg., Scranton 18501

Gary Hollinger.....(717) 221-3950
Federal Bldg., Harrisburg 17108

Deputy-In-Charge –

Rebecca A. Wither.....(570) 601-8515
Federal Bldg., Williamsport 17701

Peter Welsh.....(717) 221-3940
Federal Bldg., Harrisburg 17108

BANKRUPTCY COURT

Hon. John J. Thomas (Chief Judge).....(570) 826-6336
197 S. Main St., Wilkes-Barre 18701

Hon. Mary D. France.....(717) 901-2845
Federal Bldg., Harrisburg 17108

Hon. Robert N. Opel II.....(570) 826-6318
197 S. Main St., Ste. 144, Wilkes-Barre 18701

Personnel

Clerk –

Terrence S. Miller.....(717) 901-2816
P.O. Box 908, Federal Bldg., Harrisburg 17108

Chief Deputy Clerk –

Ellen Linskey.....(570) 821-4068
Federal Bldg., Wilkes-Barre 18701

U.S. Attorney's Office

U.S. Attorney (Acting) –

Peter Smith.....(717) 221-4482
Federal Bldg. & U.S. Courthouse,
228 Walnut St., Ste. 220, Harrisburg 17108

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

**U.S. Post Office and Courthouse
700 Grant St., Pittsburgh, PA 15219**

Website: pawd.uscourts.gov

Counties Under Jurisdiction:

Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield,
Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence,
McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland

Chief Judge

Hon. Sean J. McLaughlin(412) 208-7430
U.S. Courthouse, 700 Grant St., Pittsburgh 15219

United States District Judges

U.S. Courthouse, 700 Grant St., Pittsburgh 15219

(412)

Hon. Alan N. Bloch (Sr.).....208-7360
Hon. David S. Cercone.....208-7363
Hon. Maurice B. Cohill Jr.208-7380
Hon. Joy Flowers Conti208-7330
Hon. Gustave Diamond (Sr.)208-7390
Hon. Nora Barry Fisher.....208-7480
Hon. Kim R. Gibson.....(814) 533-4514
319 Washington St., Rm. 104, Johnstown 15901
Hon. Donetta W. Ambrose (Sr.)208-7350
Hon. Terrence F. McVerry208-7495
Hon. Arthur J. Schwab.....208-7423
Hon. Cathy Bissoon.....208-7460
Hon. Mark R. Hornak.....208-7433

Chief Magistrate Judge

Hon. Lisa Pupo Lenihan(412) 208-7370
U.S. Courthouse, 700 Grant St., Pittsburgh 15219

United States Magistrate Judges

Hon. Robert C. Mitchell(412) 208-7470
U.S. Courthouse, 700 Grant St., Pittsburgh 15219

Hon. Keith A. Pesto (P/T)(814) 536-4342
319 Washington St., Ste. 206, Johnstown 15901

Hon. Susan Paradise Baxter(814) 464-9630
17 S. Park Row, Room A280, Erie 16501

Hon. Maureen P. Kelly(412) 208-7450
U.S. Courthouse, 700 Grant St., Pittsburgh 15219

Hon. Cynthia Reed Eddy(412) 208-7490
U.S. Courthouse, 700 Grant St., Pittsburgh 15219

Personnel

Clerk –

Robert V. Barth Jr.(412) 208-7500
U.S. Courthouse, 700 Grant St., Ste. 3100, Pittsburgh 15219

U.S. Probation & Pretrial Services.....(412) 395-6907
U.S. Courthouse, 700 Grant St., Ste. 3330, Pittsburgh 15219

Public Defender(412) 644-6565
1450 Liberty Center, 1001 Liberty Ave., Pittsburgh 15222

BANKRUPTCY COURT

Bankruptcy Judges

Hon. Thomas P. Agresti (Chief Judge)(814) 464-9760
U.S. Courthouse, Rm. B250, 17 S. Park Row, Erie 16501

Hon. Jeffrey A. Deller.....(412) 644-4710
54th Fl., U.S. Steel Tower, 600 Grant St., Pittsburgh 15219

Hon. Judith K. Fitzgerald(412) 644-3541
5490 U.S. Steel Tower, 600 Grant St., Pittsburgh 15219

Hon. Carlota M. Bohm.....(412) 644-4328
5414 U.S. Steel Tower, 600 Grant St., Pittsburgh 15219

Personnel

Clerk –

John J. Horner(412) 644-2700
5414 U.S. Steel Tower, 600 Grant St., Pittsburgh 15219

U.S. Attorney's Office

U.S. Attorney –

David Hickton(412) 644-3500
U.S. Courthouse, 700 Grant St., Ste. 4000, Pittsburgh 15219

655 A.2d 666
(Cite as: 655 A.2d 666)

C

Commonwealth Court of Pennsylvania.
FRATERNAL ORDER OF POLICE, LODGE NO. 5,
Appellant,
v.
CITY OF PHILADELPHIA.

Argued Feb. 7, 1995.
Decided March 3, 1995.

Union filed petition to appeal nunc pro tunc following dismissal of its petition to vacate arbitrator's decision. The Common Pleas Court, Philadelphia County, No. 1944 September Term 1993, Nigro, J., denied petition, and union appealed. The Commonwealth Court, No. 1986 C.D. 1994, Pellegrini, J., held that notice of dismissal of petition was adequate.

Affirmed.

West Headnotes

[1] Appeal and Error 30  985


30 Appeal and Error
30XVI Review
30XVI(H) Discretion of Lower Court
30k985 k. Allowance and Perfecting of Appeal or Other Proceeding for Review. Most Cited Cases

Commonwealth Court's scope of review of trial court's decision permitting or refusing to permit nunc pro tunc appeal is limited to determining whether there has been error of law or manifest abuse of discretion.

[2] Appeal and Error 30  357(1)


30 Appeal and Error
30VII Transfer of Cause
30VII(A) Time of Taking Proceedings
30k357 Relief in Case of Failure to Proceed in Time
30k357(1) k. In General. Most Cited Cases

Nunc pro tunc appeal can be granted only if there has been fraud or breakdown in operation of court.

[3] Judgment 228  276

228 Judgment
228VII Entry, Record, and Docketing
228k276 k. Proceedings for Entry. Most Cited Cases

Rule of Civil Procedure regarding notice by prothonotary of entry of order, decree or judgment does not require notation on docket of attorneys to whom it was sent, but rather, requires only that docket reflect that notice was sent to either the party or the attorney of record. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

[4] Judgment 228  276

228 Judgment
228VII Entry, Record, and Docketing
228k276 k. Proceedings for Entry. Most Cited Cases

Notation on docket sheet that attorney was attorney for party, along with notation "Notice under Rule 236," was sufficient to establish that notice of entry of order, decree or judgment was sent to attorney, albeit in care of law firm attorney was associated

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(Cite as: 655 A.2d 666)

with at time he commenced his representation. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

[5] Attorney and Client 45 ↪ 75(1)

45 Attorney and Client

45II Retainer and Authority

45k75 Change and Substitution

45k75(1) k. In General. Most Cited Cases

Notice of change in counsel can only be given to prothonotary by filing entry of appearance.

[6] Judgment 228 ↪ 276

228 Judgment

228VII Entry, Record, and Docketing

228k276 k. Proceedings for Entry. Most Cited Cases

“Attorney of record” for purposes of notice of entry of order, decree or judgment rule, is attorney listed in docket. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

*666 Richard Kirschner, for appellant.

Mark J. Foley, Divisional Deputy City Sol., for appellee.

Before McGINLEY and PELLEGRINI, JJ., and LORD, Senior Judge.

PELLEGRINI, Judge.

The Fraternal Order of Police, Lodge No. 5 (FOP), appeal an order of the Court of Common Pleas of Philadelphia County (trial *667 court) denying its Petition to Appeal *Nunc Pro Tunc* contending that the proper party did not receive notice of the trial court's dismissal of its Petition to Vacate the Arbitrator's Award.

The FOP filed a grievance regarding a number of police officers (Grievants) who claimed that they were entitled to unused vacation time when they were terminated pursuant to Civil Service Regulation 32 ^{FN1} after they became disabled by a work-related injury. The Grievants were represented by Michael Kopac, Esquire (Attorney Kopac) of Sacks, Basch, Weston & Sacks (Sacks firm), general counsel for the FOP. After the grievance could not be settled at a hearing, an Arbitrator found that the City had no obligation to pay unused leave to any officers terminated pursuant to Civil Service Regulation 32 because of their disability.

FN1. Civil Service Regulation 32 provides:

32.061 *PERMANENTLY AND PARTIALLY DISABLED EMPLOYEES.*

32.061 PLACEMENT PROGRAM.

32.0611 Any permanently and partially disabled employee shall be referred to the Personnel Department for possible re-employment in a position compatible with his disability, skills, abilities or aptitude. (Such position will be referred to as a secondary position.)

* * * * *

32.0613 Any employee, who, in the opinion of the Director, refuses to cooperate in the placement program, or in a rehabilitation program, or to accept or continue in the employment offered, shall, as of the date of any such refusal, be separated from municipal employment, and his rights to disability benefits under this regulation shall be limited to a period of one year from the date of disability, provided however, that he may appeal to the Civil Service Commission, as herein provided.

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(Cite as: 655 A.2d 666)

Following the date of separation from municipal employment he shall, in consideration of the benefits hereby provided, forfeit the following rights and privileges:

- (a) accumulated sick leave;
- (b) *accumulated vacation leave;*
- (c) compensatory time to his credit.

* * * * *

(Emphasis added.)

In September of 1993, the FOP, through Attorney Kopac, filed a timely Petition to Vacate the Arbitrator's Award. However, shortly after the Petition was filed, there was a change in the FOP leadership. As a result, the firm of Sacks, Basch, Weston & Sacks was replaced as general counsel by Sagot, Jennings & Sigmond. Thomas W. Jennings, Esquire (Attorney Jennings), of Sagot was designated general counsel for the FOP and A. Martin Herring, Esquire (Attorney Herring), of A. Martin Herring and Associates, was designated special counsel. Attorney Kopac turned over the Grievants' file to Attorney Herring. Attorney Kopac did not file a motion to withdraw and neither Attorney Jennings nor Attorney Herring formally entered their appearance with the prothonotary's office. Informed of the change, the City, when it filed its Answer to the Petition to Vacate, listed the new attorneys' names and addresses on the motion court cover sheet and certificate of service.

On January 10, 1994, Attorney Kopac resigned from the Sacks firm. On January 21, 1994, the trial court dismissed the Petition to Vacate because the Arbitrator's decision was rationally derived from the collective bargaining agreement. The docket sheet on the case listed Attorney Kopac as the Grievants' counsel and contained the following: "Notice under Rule 236".^{FN2}

FN2. Pa.R.C.P. No. 236 provides:

(a) The prothonotary shall immediately give written notice by ordinary mail of the entry of any order, decree or judgment:

(1) When a judgment by confession is entered, to the defendant at the address stated in the certificate of residence filed by the plaintiff together with a copy of all documents filed with the prothonotary in support of the confession of judgment. The plaintiff shall provide the prothonotary with the required notice and documents for mailing and a properly stamped and addressed envelope; and

(2) In all other cases, to each party who has appeared in the action or to the party's attorney of record.

(b) The prothonotary shall note in the docket the giving of the notice and, when a judgment by confession is entered, the mailing of the required notice and documents.

* * * * *

[1] On May 19, 1994, Attorney Herring filed a Petition to Appeal *Nunc Pro Tunc* and entered his appearance on the record the following day. As part of the Petition, Attorneys Kopac, Jennings and Herring filed affidavits stating that they did not receive notice of the dismissal of the Petition to Vacate. In *668 its Answer, the City contended Attorney Herring's contention in the Petition to Appeal *Nunc Pro Tunc* that he did not receive notice of the order dismissing the Petition to Vacate was inconsistent with allegations contained in a federal civil complaint he filed on behalf of the Grievants on April 28, 1994, in which Attorney Herring alleged that Bernard Sacks, a partner

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(Cite as: 655 A.2d 666)

in the Sacks firm, received the notice of the dismissal, but in concert with the ousted FOP president, did not advise the Grievants. The trial court denied the FOP's Petition to Appeal *Nunc Pro Tunc*, finding that it failed to establish the requirements to justify a *nunc pro tunc* appeal. This appeal followed.^{FN3}

FN3. Our scope of review of a trial court's decision permitting or refusing to permit a *nunc pro tunc* appeal is limited to determining whether there has been an error of law or a manifest abuse of discretion. *Baker v. City of Philadelphia*, 145 Pa. Commonwealth Ct. 421, 603 A.2d 686 (1992).

[2][3][4] A *nunc pro tunc* appeal can be granted only if there has been fraud or a breakdown in the operation of the court. *Baker*, at 427, 603 A.2d at 689. The FOP contends that its Petition to Appeal *Nunc Pro Tunc* should be granted because it did not receive Rule 236 notice. Rule 236 requires that notice be given to either the party or his or her attorney of record, and that such be noted in the docket. The FOP contends that to show compliance with the Rule, along with the notation that notice was sent, the docket must also note the attorneys to whom it was sent. Contrary to the FOP's contention, Rule 236 does not require such a notation. It requires only that the docket reflect that notice was sent to either the party or the attorney of record. *See Hepler v. Urban*, 530 Pa. 375, 609 A.2d 152 (1992). Attorney Kopac was listed on the docket sheet as the attorney for the FOP, and the docket contained the following notation—"Notice Under Rule 236". This notation is sufficient to establish that notice was sent to Attorney Kopac, albeit, in care of the Sacks firm.

Even if notice of the dismissal of the Petition to Vacate was sent to the Sacks firm, the FOP maintains that notice was sent after the Sacks firm had been discharged from representing the FOP, and such information was concealed from it by the ousted FOP president and Attorney Sacks. Assuming that to be

true, the FOP's contention misstates the reason why notice was not received by those representing now the FOP. It was the result of the failure of Attorneys Jennings and Herring to enter their appearance for the FOP on the record, not any breakdown in the administration of the court.

However, the FOP contends Pennsylvania Rule of Civil Procedure 1012^{FN4} does not require a written entry of appearance, and because it did not receive notice, it is entitled to appeal *nunc pro tunc*. Subsection (a) of Rule 1012 does not require an attorney to enter a written appearance, but, when no appearance has been entered, notice would be sent to the captioned party. When an appearance has been entered, Subsection (b) of Rule 1012 then applies. Under that provision, an attorney remains of record until an order of court allows the attorney's withdrawal or another attorney simultaneously enters an appearance when the original attorney withdraws. Because Attorneys Jennings and Herring did not enter an appearance, they could not be deemed counsel of record, and Attorney Kopac, having originally entered his appearance and not withdrawing, remained the attorney of record. By not entering their appearance, Attorneys Jennings and Herring would not be entitled to notice under Rule 236. The prothonotary can only send notices to those individuals he or she has been informed are representing a party.

FN4. Rule 1012 provides:

(a) A party may enter a written appearance which shall state an address within the Commonwealth at which papers may be served ...

Note: Entry of a written appearance is not mandatory.

(b) An attorney's appearance for a party may not be withdrawn without leave of

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(Cite as: 655 A.2d 666)

court unless another attorney has entered or simultaneously enters an appearance for the party and the change of attorneys does not delay any stage of the litigation.

[5][6] The FOP contends, however, that the City's listing of Attorney Jennings and *669 Attorney Herring on the motion cover sheet put the prothonotary's office on notice that Attorney Jennings and Attorney Herring were now representing the FOP, and that not sending notice thereto was a breakdown in the administration of the court. Notice of a change in counsel can only be given to the prothonotary by filing an entry of appearance. Otherwise, clerks would be responsible for perusing every cover sheet to see if there has been a change. Moreover, such a holding would lead to the anomalous situation of opposing counsel changing the counsel of record for the other party. Rule 236 requires that notice be sent to each party or to the party's *attorney of record* and that the giving of notice be noted in the docket. *See Hepler*. The attorney of record is the attorney listed in the docket.

Accordingly, the order of the trial court is affirmed.

ORDER

AND NOW, this 3rd day of March, 1995, the order of the Court of Common Pleas of Philadelphia County, No. 1944, dated July 27, 1994, is affirmed.

Pa.Cmwlt.,1995.

Fraternal Order of Police, Lodge No. 5 v. City of Philadelphia

655 A.2d 666

END OF DOCUMENT

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

ROBERT BASSETT,	:	No. 43 M.D. Appeal Docket 1995
	:	
Appellee	:	Appeal from the order of the
	:	Superior Court, dated December
	:	1, 1994, at No. 690 Harrisburg
	:	1994, which quashed an appeal
	:	from the order entered on
v.	:	September 9, 1994 by the Court
	:	of Common Pleas of Perry County,
	:	at No. 89-118.
	:	
	:	Pa. Super. _____,
SUE ANN BASSETT,	:	_____ A.2d _____ (1994)
	:	
Appellant	:	SUBMITTED: October 5, 1995

OPINION OF THE COURT

MR. JUSTICE FLAHERTY

DECIDED: NOVEMBER 27, 1995

This is an appeal by allowance from a per curiam order of the Superior Court which quashed as untimely an appeal filed by Sue Ann Bassett, the appellant herein. Appellant sought review of an order of the Court of Common Pleas of Perry County which upheld a master's decision apportioning marital property pursuant to a divorce.

The order of the court of common pleas was issued on September 9, 1994. Appellant decided to take an appeal to the Superior Court. A notice of appeal was required to be filed with the prothonotary of Perry County within thirty days. The thirtieth day

fell on October 9, 1994, a Sunday. Monday, October 10, 1994, was Columbus Day. Appellant's counsel assumed that the prothonotary's office would be closed on that day. Accordingly, he filed the appeal on Tuesday, October 11, 1994. The prothonotary's office had, however, been open for business on Columbus Day, the employees having elected to remain open on that day and close instead on the day after Thanksgiving. Since it would have been possible to file the appeal on Columbus Day, Superior Court quashed the appeal as untimely.

In Pa.R.A.P. 903(a), it is provided that "[e]xcept as otherwise prescribed by this rule, the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken." The comment to this rule provides:

Rule of Appellate Procedure 107 incorporates by reference the rules of construction of the Statutory Construction Act of 1972, 1 Pa.C.S. §§ 1901 through 1991. See 1 Pa.C.S. § 1908 relating to computation of time for the rule of construction relating to (1) the exclusion of the first day and inclusion of the last day of a time period and (2) the omission of the last day of a time period which falls on Saturday, Sunday or legal holiday.

(Emphasis added.)

In pertinent part, 1 Pa.C.S. § 1908 ("Computation of time") provides:

When any period of time is referred to in any statute, such period in all cases . . . shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

(Emphasis added.)

It is well recognized that the courts of common pleas have authority to operate their individual court systems in a fashion not contrary to the general rules adopted by this Court. Clearly, however, courts of common pleas do not have the power to contravene, by administrative rule, directive, or practice, the duly enacted laws of this Commonwealth and of the United States as to what constitutes a legal holiday. Our legislature has designated the second Monday in October, known as Columbus Day, a legal holiday. 44 P.S. § 11. The same day has been designated by the laws of the United States as a legal holiday. 5 U.S.C. § 6103(a). The mere fact that employees of the prothonotary's office elected to work on that day does not alter the status of the day as a legal holiday. Appellant's counsel was entitled to rely on the fact that the day was a legal holiday without having to check with the prothonotary's office to determine whether someone might be there to receive a notice of appeal.

The Rules of Appellate Procedure were intended to promote

[J-149-95]-3

B-1R-8.3

(4/96)

uniformity in appellate practice. Uniformity would clearly be undermined by allowing deadlines for filing appeals to vary from county to county depending on whether at any given time the employees of a county choose to honor or ignore legal holidays. The practicing bar is entitled to rely on the fact that, under the Rules of Appellate Procedure, legal holidays falling on the last day of an appeal period will be excluded in determining whether an appeal is timely filed.

Hence, the order of the Superior Court quashing the appeal as untimely must be reversed.

Order reversed.

Mr. Justice Montemuro participates by designation as a senior judge as provided by Rule of Judicial Administration 701(f).

“(2) such employee's right under section 202(b)(1) to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 202(b)(2).

For the purpose of the preceding sentence, the term ‘intimidate, threaten, or coerce’ includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

“(b) Any employee who violates the provisions of subsection (a) shall, upon a final order of the Commission, be—

“(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Commission may prescribe;

“(2) suspended without pay from such employee's position for such period as the Commission may prescribe; or

“(3) disciplined in such other manner as the Commission shall deem appropriate.

The commission shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

“REPORTS

“SEC. 304. Not later than 2½ years after the effective date of titles I and II of this Act, the Commission shall—

“(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this Act [enacting section 5550a of this title and this note], and

“(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Commission shall prepare a final report with regard to experiments conducted under this Act [enacting section 5550a of this title and this note] and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

“REGULATIONS

“SEC. 305. The Commission shall prescribe regulations necessary for the administration of the foregoing provisions of this Act [enacting section 5550a of this title and this note].

“EFFECTIVE DATE

“SEC. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 180th day after—

“(1) the date of the enactment of this Act [Sept. 29, 1978], or

“(2) October 1, 1978, whichever date is later.”

SAVINGS PROVISIONS; 1982 AMENDMENT

Pub. L. 97-221, §4, July 23, 1982, 96 Stat. 234, provided that:

“(a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act [July 23, 1982] shall be continued by the agency concerned.

“(b)(1) During the 90-day period after the date of the enactment of this Act [July 23, 1982] any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

“(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

“(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

“(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement.”

[§ 6102. Repealed. Pub. L. 92-392, §7(a), Aug. 19, 1972, 86 Stat. 573]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515, provided for eight-hour day and 40-hour workweek for wage-board employees. See sections 5544(a) and 6101(a)(1) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

(1) Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal public holiday for—

(A) employees whose basic workweek is Monday through Friday; and

(B) the purpose of section 6309¹ of this title.

(2) Instead of a holiday that occurs on a regular weekly non-workday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly non-workday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly non-

¹ See References in Text note below.

workday is a legal public holiday for the employee.

(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.

(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by section 2105 of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

(d)(1) For purposes of this subsection—

(A) the term “compressed schedule” has the meaning given such term by section 6121(5); and

(B) the term “adverse agency impact” has the meaning given such term by section 6131(b).

(2) An agency may prescribe rules under which employees on a compressed schedule may, in the case of a holiday that occurs on a regularly scheduled non-workday for such employees, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, be required to observe such holiday on a workday other than as provided by subsection (b), if the agency head determines that it is necessary to do so in order to prevent an adverse agency impact.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515; Pub. L. 90-363, §1(a), June 28, 1968, 82 Stat. 250; Pub. L. 94-97, Sept. 18, 1975, 89 Stat. 479; Pub. L. 98-144, §1, Nov. 2, 1983, 97 Stat. 917; Pub. L. 104-201, div. A, title XVI, §1613, Sept. 23, 1996, 110 Stat. 2739; Pub. L. 105-261, div. A, title XI, §1107, Oct. 17, 1998, 112 Stat. 2142.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 87.	June 26, 1894, ch. 118, 28 Stat. 96.
	5 U.S.C. 87a.	May 13, 1938, ch. 210, 52 Stat. 351.
		June 1, 1964, ch. 250, 68 Stat. 168.
	5 U.S.C. 87b.	Dec. 26, 1941, ch. 681, 55 Stat. 862.
(b)	5 U.S.C. 87c.	Sept. 22, 1959, Pub. L. 86-362, §§1, 2, 73 Stat. 643, 644.
(c)	[Uncodified].	Jan. 11, 1967, Pub. L. 85-1, 71 Stat. 3.

In subsection (a), former sections 87, 87a, and 87b are combined and restated for clarity. The names of all holidays are inserted for ready reference in a like manner to that used in former section 87c.

In subsection (c), the year “1965” is substituted for “1967”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 6309 of this title, referred to in subsec. (b)(1)(B), was repealed by Pub. L. 94-183, §2(26), Dec. 31, 1975, 89 Stat. 1058.

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105-261 added par. (3).

1996—Subsec. (d). Pub. L. 104-201 added subsec. (d).

1983—Subsec. (a). Pub. L. 98-144 inserted item relating to birthday of Martin Luther King, Jr.

1975—Subsec. (a). Pub. L. 94-97 changed Veterans Day from fourth Monday in October to November 11.

1968—Subsec. (a). Pub. L. 90-363 added Columbus Day, the second Monday in October, to the enumerated legal public holidays, and substituted provisions that Washington’s Birthday, Memorial Day, and Veterans Day are to be celebrated on the third Monday in February, the last Monday in May, and the fourth Monday in October, respectively, for provisions that the above mentioned public holidays are to be celebrated on February 22, May 30, and November 11, respectively.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-144 provided that: “The amendment made by the first section of this Act [amending this section] shall take effect on the first January 1 that occurs after the two-year period following the date of the enactment of this Act [Nov. 2, 1983].”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-97 provided that the amendment made by Pub. L. 94-97 is effective Jan. 1, 1978.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-363 provided that: “The amendment made by subsection (a) of the first section of this Act [amending this section] shall take effect on January 1, 1971.”

REFERENCES IN LAWS OF THE UNITED STATES TO OBSERVANCES OF LEGAL PUBLIC HOLIDAYS

Section 1(b) of Pub. L. 90-363 provided that: “Any reference in a law of the United States (in effect on the effective date of the amendment made by subsection (a) of this section) [January 1, 1971] to the observance of a legal public holiday on a day other than the day prescribed for the observance of such holiday by section 6103(a) of title 5, United States Code, as amended by subsection (a), shall on and after such effective date be considered a reference to the day for the observance of such holiday prescribed in such amended section 6103(a).”

EXECUTIVE ORDER NO. 10368

Ex. Ord. No. 10368, June 9, 1962, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out below.

EX. ORD. NO. 11582. OBSERVANCE OF HOLIDAYS

Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, provided: By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

Sec. 2. As used in this order:

(a) *Holiday* means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) *Workday* means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

SEC. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his *regular* weekly nonworkday in lieu of Sunday.

SEC. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

SEC. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day.

SEC. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

SEC. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by the Postal Service in accordance with the Postal Reorganization Act.

SEC. 8. Executive Order No. 10358 of June 9, 1952, entitled *Observance of Holidays by Government Agencies* and amendatory Executive Orders No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966, are revoked.

SEC. 9. This order is effective as of January 1, 1971.

RICHARD NIXON,

§ 6104. Holidays; daily, hourly, and piece-work basis employees

When a regular employee as defined by section 2105 of this title or an individual employed regularly by the government of the District of Co-

lumbia, whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day—

(1) on which agencies are closed by Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Mayor;

(2) by administrative order under regulations issued by the President, or, for individuals employed by the government of the District of Columbia, by the Council of the District of Columbia; or

(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by Federal statute, Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Mayor;

he is entitled to the same pay for that day as for a day on which an ordinary day's work is performed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 516; Pub. L. 90-623, §1(15), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 96-54, §2(a)(38), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 86a.	June 29, 1938, ch. 818, §1, 52 Stat. 1246. June 11, 1964, ch. 283, 68 Stat. 249. July 18, 1958, Pub. L. 85-533, §2, 72 Stat. 377.

The enumeration of holidays is eliminated as unnecessary in view of section 6103.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Pub. L. 96-54 substituted "Mayor" for "Commissioner" in pars. (1) and (3), and "Council of the District of Columbia" for "District of Columbia Council" in par. (2).

1968—Pub. L. 90-623 substituted "Commissioner" for "Board of Commissioners" in pars. (1) and (3), and "District of Columbia Council" for "Board of Commissioners" in par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EX. ORD. NO. 10552. DELEGATION OF AUTHORITY TO PROMULGATE REGULATIONS

Ex. Ord. No. 10552, Aug. 10, 1954, 19 F.R. 5079, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, 65 Stat. 713, it is declared that the Office of Personnel Management be, and it is hereby, designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by the joint resolution of June 29, 1938, 52 Stat. 1246, as

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 237

Session of 2003

*Act 2004 - 96
- eff 12/7/04*

INTRODUCED BY STETLER, BAKER, BELFANTI, BROWNE, CAPPELLI, CORRIGAN, COY, CURRY, FAIRCHILD, FRANKEL, GORDNER, HARHAI, HENNESSEY, HESS, JAMES, LAUGHLIN, LEACH, LEWIS, McCALL, R. MILLER, MUNDY, NAILOR, PRESTON, READSHAW, SAYLOR, SHANER, B. SMITH, SOLOBAY, STABACK, CRUZ, THOMAS, TIGUE, TURZAI, VANCE, WALKO, YOUNGBLOOD AND YUDICHAK, FEBRUARY 11, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 11, 2003

AN ACT

1 Amending the act of August 24, 1963 (P.L.1175, No.497), entitled
2 "An act to codify, amend, revise and consolidate the laws
3 relating to mechanics' liens," further providing for waiver
4 by contractor.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 402 of the act of August 24, 1963
8 (P.L.1175, No.497), known as the Mechanics' Lien Law of 1963, is
9 amended to read:

10 Section 402. Waiver by Contractor; Effect on
11 Subcontractor.--

12 (a) General Rule. A written contract between the owner and
13 contractor, or a separate written instrument signed by the
14 contractor, which provides that no claim shall be filed by
15 anyone, shall be binding; but the only admissible evidence
16 thereof, as against a subcontractor, shall be proof of actual
17 notice thereof to him before any labor or materials were

1 furnished by him; or proof that such contract or separate
2 written instrument was filed in the office of the prothonotary
3 prior to the commencement of the work upon the ground or within
4 ten (10) days after the execution of the principal contract or
5 not less than ten (10) days prior to the contract with the
6 claimant subcontractor, indexed in the name of the contractor as
7 defendant and the owner as plaintiff and also in the name of the
8 contractor as plaintiff and the owner as defendant. The only
9 admissible evidence that such a provision has, notwithstanding
10 its filing, been waived in favor of any subcontractor, shall be
11 a written agreement to that effect signed by all those who,
12 under the contract, have an adverse interest to the
13 subcontractor's allegation.

14 (b) Electronic Indexing. Notwithstanding the indexing
15 requirements of subsection (a) in offices of the prothonotary in
16 which such a written contract between the owner and contractor
17 or separate written instrument is indexed electronically by
18 means of a computer system or similar system such that the names
19 of the contractor and owner are electronically retrievable
20 regardless of whether the parties are designated as plaintiff or
21 defendant, the contract or separate written instrument filed
22 with the office of the prothonotary under subsection (a) may be
23 indexed in the name of the contractor as defendant and the owner
24 as plaintiff or in the name of the contractor as plaintiff and
25 the owner as defendant.

26 Section 2. This act shall take effect in 60 days.

BAIL BOND

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:
Def Name/Address:		Next Court Action:
Associated Case(s):	<u>Docket No</u> <u>OTN</u>	<u>Lower Court Docket No</u>

LEAD OFFENSE

ADDITIONAL CHARGES MAY EXIST, PLEASE SEE ADDITIONAL CHARGES PAGE

TYPE(S) OF RELEASE:

ROR Unsecured Bail Nonmonetary Condition(s) (see additional page(s))

Nominal Bail Monetary Condition(s) in the amount of _____

THE CONDITIONS OF THIS BAIL BOND ARE AS FOLLOWS:

1. The defendant must appear at all times required until full and final disposition of the case(s).
2. The defendant must obey all further orders of the bail authority.
3. The defendant must provide a current address and must give written notice to the bail authority, the clerk of courts, the district attorney, and the court bail agency or other designated court bail officer, of any change of address within 48 hours of the date of the change.
4. The defendant must neither do, nor cause to be done, nor permit to be done on his or her behalf, any act as proscribed by Section 4952 of the Crimes Code (relating to intimidation of witnesses or victims) or by Section 4953 (relating to retaliation against witnesses or victims), 18 Pa.C.S. § 4952, 4953.
5. The defendant must refrain from criminal activity.
6. The defendant must comply with any fingerprint order, if any is issued by this court.
7. Other conditions of release are:

I verify that the above conditions of bail have been imposed.

_____ _____
Date (Signature of Issuing Authority)

TYPES OF SECURITY:

Cash/Equivalent Gov't Bearer Bond Realty within Commonwealth

_____% Cash Surety Bond Realty outside Commonwealth

TOTAL AMOUNT BAIL SET (IF ANY): (see sureties page)

BAIL DEPOSITOR(S)

Depositor Name _____	Amount _____
----------------------	--------------

This bond is valid for the entire proceedings and until full and final disposition of the case including all avenues of direct appeal to the Supreme Court of Pennsylvania.

I AGREE THAT I WILL APPEAR AT ALL SUBSEQUENT PROCEEDINGS AS REQUIRED AND COMPLY WITH ALL THE CONDITIONS OF THE BAIL BOND.

THIS BOND SIGNED ON _____,

at _____, Pennsylvania

Signature of Defendant

Signature of Witness

Defendant's Address:

_____ (Surety)

_____ (Surety)

PLEASE SEE ATTACHED PAGES FOR ADDITIONAL INFORMATION.



RELEASE OF PRISONER

COMMONWEALTH OF PENNSYLVANIA
v.

Court of Common Pleas - Adams County
Adams County Courthouse
117 Baltimore Street - Room 103
Gettysburg, PA 17325-2313

To the Warden/Director of : _____
(name of institution)

You are ordered/directed to release _____ on Docket No. _____ for the charges listed, for the following reasons:

Hearing to be held at:

Date:	Location:
Time:	

Acquitted/Found Not Guilty by (Jury/Court)

Case Dismissed

Charges withdrawn by Prosecution

When Bail is Posted

the Defendant has been placed on (Probation/Parole)

Other: _____

This release does not apply to any other commitment, hold order, or detainer against the Defendant.

BY THE COURT:

Date

(Signature of Issuing Authority)

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:	
Def Name/Address:	Next Court Action:		
Associated Case(s):	<u>Docket No</u>	<u>OTN</u>	<u>Lower Court Docket No</u>

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:
Def Name/Address:		Next Court Action:
Associated Case(s):	<u>Docket No</u> <u>OTN</u>	<u>Lower Court Docket No</u>

I, _____, the undersigned surety, have posted security in the amount of \$ _____.

TYPES OF SECURITY:		
<input type="checkbox"/> Cash/Equivalent	<input type="checkbox"/> Gov't Bearer Bonds	<input type="checkbox"/> Realty within Commonwealth
<input type="checkbox"/> _____% Cash	<input type="checkbox"/> Surety Bond	<input type="checkbox"/> Realty outside Commonwealth

Pursuant to Pa.R.Crim.P. 524(c)(4), I, _____, agree to act as nominal surety for the defendant in the above-captioned matter.

I have read this information, and I acknowledge that I, my personal representatives, successors, heirs and assigns are jointly and severally bound with the defendant and any other sureties to pay to the Commonwealth of Pennsylvania the sum of \$ _____, which is the full amount of the monetary condition of release in the event the bail bond is forfeited.

I understand that when a monetary condition of release is imposed, if the defendant appears at all times required by the court and satisfies all the other conditions set forth in the bail bond, then upon full and final disposition of the case, this bond shall be void. If the defendant fails to appear as required or to comply with the conditions of the bail bond, then this bond shall remain in full force, and the full sum of the monetary condition of release may be forfeited, the defendant release may be revoked, and a warrant for the defendant arrest may be issued.

WARRANT OF ATTORNEY: RECOGNIZING THAT I AM WAIVING CERTAIN IMPORTANT RIGHTS, INCLUDING THE RIGHT OF PREJUDGMENT NOTICE AND HEARING, in accordance with the law, I do hereby empower any attorney of any court of record within the Commonwealth of Pennsylvania or elsewhere to appear for me at any time, and with or without declarations filed, and whether or not the defendant be in default, to confess judgment against me, and in favor of the Commonwealth of Pennsylvania for use of the county, and its assigns, during any term or session of a court of record of the county for the full amount of the monetary condition of release set forth on the first page of this bail bond, and costs. I understand that any real estate which I have posted as security in this case may be levied upon to collect the amount confessed. I waive and release any right of inquisition on that real estate, voluntarily condemn it, and authorize the Prothonotary, upon a Writ of Execution, to enter my voluntary condemnation. I also agree that any real estate posted by me in this case may be sold on a Writ of Execution. I hereby forever waive and release any and all errors which may arise in any proceeding to confess judgment in this case, waive all rights of stay of execution, and waive all laws now in force or laws passed in the future which exempt real or personal property from execution.

Since a copy of the bail bond and warrant of attorney is being filed in the defendant's case, it shall not be necessary to file the original as a warrant of attorney, notwithstanding any law or rule of court to the contrary.

I, _____, verify that the facts set forth in this form are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. Section 4904) relating to unsworn falsification to authorities.

(Signature of Defendant or Surety)

(Address of Surety, Surety Company or Defendant)

(Witness / Bail Authority)

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:	
Def Name/Address:	Next Court Action:		
Associated Case(s):	<u>Docket No</u>	<u>OTN</u>	<u>Lower Court Docket No</u>

* Refund of all bail (less any bail-related fees or commissions allowed by law and reasonable costs, if any, of administering the percentage cash bail program) will be made within 20 days after full and final disposition (Pa.R.Crim.P. 535).
* Bring Cash Bail Receipt to Clerk of Courts or Issuing Authority.



AFFIDAVIT OF SURETY (OTHER THAN CASH BAIL)

Case Caption: _____	Docket No: _____
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Questions 1-3 are to be answered by all sureties.

The undersigned, above to become Surety in the case cited herein, being duly sworn (or affirmed) deposes and says:

1. I reside at _____, my phone no. is _____, my occupation is _____ and I work for _____
2. I have no undisposed criminal cases against me pending in the Courts of _____ County, except as follows _____
3. I am not Surety on any bond of any kind except as follows:

DATE	AMOUNT	DEFENDANT
_____	_____	_____

Questions 4-9 are to be answered only if real estate is posted as security.

4. I am /We are the sole owner(s) of
 I am /We are joint tenants in
 I am /We are tenant(s) by the entirety in _____ real estate situated
In the State of _____, in the said County of _____ as follows, viz: a parcel of
ground, in size _____, situated at _____
in the Ward, in the Boro. Twp. City of _____ which is improved with the
following buildings _____ (All other joint tenants or
tenants by the entirety must co-sign this affidavit and state their addresses at the bottom of this page or on an attachment hereto).

5. The said property was obtained by me by Deed Will from _____

6. The Deed Will is dated _____ and is recorded in the office of the Recorder of Deeds
 Register of Wills of _____ County, in the State of _____, Deed
 Will Book Vol. _____ Page _____, and the title is in my name and my spouse's name. Also a parcel of
ground, in size _____, situated at _____ in the _____
Ward, in the Boro Twp. City of _____, State of _____. The said
property was obtained by me by Deed Will from _____. The Deed Will is
dated _____ and is recorded in Deed Will Book Vol. _____ Page _____ of
_____ County, State of _____ and is in my name and my spouse's name.

7. There are no mortgages or other liens or encumbrances of any kind or description upon the said premises, and there are no judgments against me except as follows:

Mortgages as set forth in the Recorder of Deeds on first property: _____

Mortgages as set forth in the Recorder of Deeds on second property: _____

Judgments and Liens: _____

Real estate taxes have been paid except: _____

8. The assessed valuation of said premises is: _____

9. No judgment has been entered or action instituted against me upon a forfeited recognizance except _____

I/We agree to pay the fees and costs of the Prothonotary of the Common Pleas Court or the Court of general jurisdiction where in the real estate or property posted as security is located for recording the lien, notifying the Clerk of Courts of the entry of the lien, and for recording of the satisfaction after proceedings have been terminated or surety is otherwise exonerated by the Court.

To be signed by all Sureties:

10. I have read carefully the foregoing affidavit and know that it is true and correct.

_____	SEAL
(Witness / Bail Authority)	_____ (Principal)
_____	SEAL
_____	_____ (Surety)
_____	SEAL
_____	_____ (Co-Surety, if any, Co-joint tenant or Co-tenant by the entirety)
_____	SEAL



BAIL PAYMENT

COMMONWEALTH OF PENNSYLVANIA
v.

Court of Common Pleas - Adams County
Adams County Courthouse
117 Baltimore Street - Room 103
Gettysburg, PA 17325-2313

TYPES OF SECURITY:

- Cash Equivalent Gov't Bearer Bonds Realty w/in Commonwealth
 ____% Cash Surety Bond Realty outside Commonwealth

TOTAL AMOUNT BAIL SET (IF ANY): \$ _____

- If you agree to act as surety and sign the bail bond with the defendant, you will be liable for the full amount of bail if the defendant fails to appear or comply.
- If you do not wish to be liable for the full amount of bail, you will be permitted to deposit money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail.

Depositor's Name: _____
(Last) (First) (Middle)

Depositor's Signature: _____

Received By: _____

ROBERT A. WEINERT
ATTORNEY AT LAW
SUITE 205 COMMONWEALTH BLDG.
512 HAMILTON ST., P.O. BOX 5
ALLENTOWN, PA 18105-0005
(610) 433-5888
FAX (610) 437-3662

December 1, 1998

To: All Prothonotaries (except Philadelphia and Allegheny)
From: Robert A. Weinert, Esq. *RAW*
Subject: HB1715, PN4178, Act #98-164

Because of the great efforts of your Legislative Chair-Person and the Legislative Committee, as well as all of you who called and wrote to your Senators and Representatives, the above captioned matter was signed into law on December 21, 1998 and will take effect on January 21, 1999. This Act will finally give you authority to establish your own fees, but with some restrictions.

First of all, you should look to the 1982 Law (No. 203) that last established your fees. On January 1, 1983 about the time the act went into effect, the CPI was at 100%. On July 1, 1998 it stood at 159%. This means you may increase each or all of the fees stated in the Act by as much as 59%.

There is no time limit with respect to the establishing of the fees for the first time under this new Act, but once they are established they cannot be increased for another three years.

The fees must be established by a Court Order signed by the President Judge. If you wish to delay the implementation for a period of time so that you can notify the bar and the other clients of your office, I see nothing wrong with the Order being dated on one date to take effect on another date, but the three year future increase will run from the order date.

The three year future increase will depend upon the time of the Court Order for the first increase. If, for example, the Order is entered on January 30, 1999, you could not increase the fees again until January 30, 2002. At that time you would look to see where the CPI stood on January 30, 1996 and where it stood on January 30, 1999. The maximum increase allowable for

January 30, 2002 would be the difference between the 1996 and the 1999 figure. This same three year look back would be used for future increases.

The Act also authorizes in addition to the regular fees, an automation fee of not more than \$5.00. If you adopt this fee you do not need a Court Order nor is it tied in any way to the CPI. This fee may only be charged on the initiation of an action or a legal proceeding. In other words, you may charge it when a summons or a complaint is filed, but you cannot charge it on a satisfaction, an appeal, a certification or for the issuing of a subpoena. In my opinion, the filing of a judgment is a legal proceeding, so you can charge it when a judgement is filed, but not if there is an execution or a revival on that judgment. The filing of a Stipulation or a Lien is also a legal proceeding where the fee can be charged, but not for a search or on the collection of poundage.

The County Treasurer should establish a special Prothonotary Automation Fund, where these fees will be deposited. You will have the authorization to spend the monies in this fund to automate and maintain the automation in your office without the necessity of going through the budgeting process with the County Commissioners.

Before asking the Court to enter an Order increasing the fees, you certainly should review the Act and this memo with your Solicitor, since that person and you will be the ones who have to defend any complaints that I am sure will be forthcoming. Remember this is your first increase in your fees in 16 years; a good argument to counter the anticipated complaints.

In closing I think you should all give a vote of thanks to Steve Lukach for the work he put in in this Bill (and he is not even a Prothonotary). A note to your Senator and Representative would not hurt either (except for the two Representatives who voted no).

Finally, my thanks for everyone's efforts in achieving something that we started years ago when the Register of Wills and the Clerk of the Orphans' Court had their Act passed which allowed them to set their own fees.

Subchapter M. PROHIBITED POLITICAL ACTIVITY BY COURT- APPOINTED EMPLOYEES GUIDELINES REGARDING POLITICAL ACTIVITY BY COURT- APPOINTED EMPLOYEES

Sec.

- 29.471. Definitions.
- 29.472. Prohibition of Partisan Political Activity.
- 29.473. Termination of Employment.
- 29.474. President Judge.

Source

The provisions of this Subchapter M adopted November 24, 1998, effective immediately, 28 Pa.B. 6068, unless otherwise noted.

§ 29.471. Definitions.

(a) The term “partisan political activity” shall include, but is not limited to, running for public office, serving as a party committee-person, working at a polling place on Election Day, performing volunteer work in a political campaign, soliciting contributions for political campaigns, and soliciting contributions for a political action committee or organization, but shall not include involvement in non-partisan or public community organizations or professional groups.

(b) The term “court-appointed employees” shall include, but is not limited to, all employees appointed to and who are employed in the court system, statewide and at the county level, employees of the Administrative Office of Pennsylvania Courts, Court Administrators and their employees and assistants, court clerks, secretaries, data processors, probation officers, and such other persons serving the judiciary.

§ 29.472. Prohibition of Partisan Political Activity.

(a) Court-appointed employees shall not be involved in any form of partisan political activity.

(b) This prohibition shall not apply to court-appointed employees who are duly sworn Court-appointed full-time masters and members of Board of Viewers, who are attorneys in good standing admitted to the practice of law in this Commonwealth, who may become candidates for higher judicial office. Said employees shall, during such candidacy, be subject to the provisions of the Code of Judicial Conduct and, particularly, Canon 7, which governs judicial campaigns.

§ 29.473. Termination of Employment.

Except as provided in paragraph 2(b), above, henceforth, a court-appointed employee engaging in partisan political activity shall cease such partisan political activity at once or shall be terminated from his or her position. In the event an employee chooses to become a candidate for any office, such employee shall be terminated, effective the close of business on the first day of circulating petitions for said office.

§ 29.474. President Judge.

The President Judge of each appellate court or county court of common pleas shall be responsible for the implementation of these guidelines and shall be subject to the review of the Judicial Inquiry and Review Board for failure to enforce.

Note

Dissenting Statement by Mr. Justice Castille (joined by JJ. Nigro and Newman) filed with the Order of the Supreme Court, dated November 24, 1998, reaffirming the Guidelines Regarding Political Activity by Court-Appointed Employees. "I respectfully dissent to this amendment to the Guidelines regarding political activity by Court-appointed employees. I believe that allowing court-appointed employees to participate in elective partisan political activity presents, at a minimum, the appearance of impropriety. By not requiring court-appointed employees to resign their respective positions in order to campaign on a partisan basis, this amendment gives rise to the inescapable conclusion that the judicial system itself is involved in partisan electoral politics, thereby raising an appearance of bias. I believe that the better practice is to require the resignation of any court-appointed employee who wishes to seek elective office, as the Guidelines presently require."

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DEPARTMENT OF STATE
BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION

SUBJECT: Bonding Requirements for Public Officials

TO: All County Election Contacts
All County Recorders of Deeds

FROM: Jonathan Marks, Commissioner
Bureau of Commissions, Elections and Legislation

DATE: November 5, 2013, Municipal Election

I. INTRODUCTION

The purpose of this memorandum is to clarify the bonding requirements for county row offices. This memorandum sets forth the requirements for each of the county row offices as provided in the County Code, 16 P.S. § 101 *et seq.*, and the Administrative Code at 71 P.S. § 279 and 71 P.S. § 801, and summarizes the procedures necessary to ensure compliance with the statutory mandates. This memo does not apply to bonds required to be given to the Commonwealth by county officers acting as agents of the Commonwealth. The Department recommends that the counties consult with their solicitors to assist with compliance on all bonding requirements for elected and appointed county officials. It is the responsibility of the county to ensure that all of the legal requirements are met.

II. BONDING REQUIREMENTS BY COUNTY CLASS

A. First Class Counties

1. County Commissioners - 16 P.S. § 7303 and 71 P.S. § 801
(Bond form – Bond for the County Commissioner of Philadelphia County)
 - a. Bond to be taken “in the name of the Commonwealth.”
 - b. Bond must be acknowledged by the recorder of deeds.
 - c. Bond must be recorded by the recorder of deeds.
 - d. Original must be filed with the Clerk of Court of Quarter Sessions.
 - e. Amount is not less than \$2,000 per commissioner.
 - f. Sureties must be approved by the Court of Quarter Sessions or by one of the judges thereof.
 - g. Sureties must be approved by the Governor.
 - h. Copy of bond must be filed with the Secretary of the Commonwealth.

2. Chief Clerk of County Commissioners - 16 P.S. § 7325
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Amount to be determined by county commissioners.
 - c. Copy of bond must be filed with the Secretary of the Commonwealth.

3. Controller – 16 P.S. § 7353
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must have at least two sureties.
 - c. Amount is \$20,000
 - d. Sureties must be approved by the court of common pleas.
 - e. Bond must be recorded by the recorder of deeds.
 - f. Bond must be filed and kept in the commissioner’s office.
 - g. Copy of bond must be filed with the Secretary of the Commonwealth.

4. Treasurer – 16 P.S. § 7408 and § 3401 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond is subject to the approval of the court of common pleas.
 - c. County controller shall be the custodian of the bond.
 - d. Bond must be acknowledged before the recorder of deeds.
 - e. Amount is to be determined by the county salary board.
 - f. After the bond and surety is given and approved, the county commissioners must give the treasurer a certificate of appointment.
 - g. County commissioners must forward the certificate to the auditor general and such certificate shall be recorded as in said act is directed.

5. Sheriff
 - a. Bond - 16 P.S. § 7562 and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)
 - i. Statute does not specify whether bond is to be given “to the county” or “to the Commonwealth.” In this case, the Department has determined that the bond be given “to the county.”
 - ii. Surety must be approved by the court of common pleas or any two judges thereof.

- iii. Statute does not specify who shall set the amount of the bond.
 - iv. Governor is to affirm court of common pleas approval of the bond.
 - v. Bond is to be recorded in the county.
 - vi. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
- b. Recognizance - 16 P.S. § 7564 and 71 P.S. § 801
(Form – Recognizance of the Sheriff of Philadelphia County)
- i. Recognizance, without surety, is to be given to the Commonwealth.
 - ii. Form is to contain like provisions as the bond.
 - iii. Court of common pleas approves recognizance.
 - iv. Governor is to confirm court of common pleas approval of recognizance.
 - v. Recognizance to be recorded in the county.
 - vi. Copy of recognizance to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the recognizance was properly recorded and with reference to the place of the record.
 - vii. Statute is silent as to who determines the amount of the recognizance.
 - viii. Recognizance acts as a lien on the real estate of the official.

6. Coroner

- a. Bond - 16 P.S. § 7562 and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)
- i. Statute does not specify whether bond is to be given “to the county” or “to the Commonwealth.” In this case, the Department has determined that the bond be given “to the county.”
 - ii. Surety must be approved by the court of common pleas or any two judges thereof.
 - iii. Statute does not specify who shall set the amount of the bond.
 - iv. Governor is to affirm court of common pleas approval of the bond.
 - v. Bond is to be recorded in the county.
 - vi. Copy of bond to be transmitted to the Secretary of the

Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

- b. Recognizance - 16 P.S. § 7564 and 71 P.S. § 801
(Form – Recognizance of the Coroner of Philadelphia County)
 - i. Recognizance, without surety, is to be given to the Commonwealth.
 - ii. Form is to contain like provisions as the bond.
 - iii. Court of common pleas approves recognizance.
 - iv. Governor is to confirm court of common pleas approval of recognizance.
 - v. Recognizance to be recorded in the county.
 - vi. Copy of recognizance to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the recognizance was properly recorded and with reference to the place of the record.
 - vii. Statute is silent as to who determines the amount of the recognizance.
 - viii. Recognizance acts as a lien on the real estate of the official.

- 7. Clerk of Court – Not Specified in County Code.

- 8. Clerk of Orphan’s Court – Not Specified in County Code.

- 9. Prothonotary – Not Specified in County Code. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

- 10. Recorder of Deeds – Not Specified in County Code. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

- 11. Register of Wills – 16 P.S. § 7601 and 71 P.S. § 801
(Bond form – Public Official Bond for Register of Wills)
 - a. Bond is given to the Commonwealth.
 - b. Bond can be with one corporate or two individual sureties.
 - c. Amount is \$40,000.
 - d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
 - e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
 - f. Sureties must be approved by the Governor.

- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

B. Second Class Counties

- 1. County Commissioners – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$10,000 each.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.

- 2. Chief Clerk of County Commissioners – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is determined by the county salary board.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.

- 3. Controller – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$50,000.
 - d. County commissioner is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.

- 4. Treasurer – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801

(Bond form – Public Official Bond)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$200,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Copy of bond must be filed with the Secretary of the Commonwealth.
- g. Original bond must be forwarded to the Auditor General.

5. Sheriff – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$60,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Governor is to affirm court of common pleas approval of the bond.
- g. Bond is to be recorded in the county.
- h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

6. Coroner – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$15,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Governor is to affirm court of common pleas approval of the bond.
- g. Bond is to be recorded in the county.
- h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

7. Clerk of Court – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)

- a. Bond to be given to the county.

- b. Bond must be approved by the court of common pleas.
 - c. Amount is \$10,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
8. Clerk of Orphan's Court – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is determined by the county salary board.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
9. Prothonotary – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$40,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
10. Recorder of Deeds – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$20,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the prothonotary.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
11. Register of Wills – 16 P.S. § 3429 and 71 P.S. § 801

(Bond form – Public Official Bond for Register of Wills)

- a. Bond is given to the Commonwealth.
- b. Bond can be with one corporate or two individual sureties.
- c. Amount is \$30,000.
- d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
- e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
- f. Sureties must be approved by the Governor.
- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

C. Third through Eighth Class Counties - ** note that § 420 of the County Code, 16 P.S. § 420, permits the counties to purchase insurance in lieu of a fidelity bond, provided that the insurance covers the same events of loss. County officials are advised to ascertain whether your county is a member of the Pennsylvania Counties Risk Pool (PCoRP) of the County Commissioners Association of Pennsylvania Insurance Programs, prior to obtaining the required fidelity bond(s).

1. County Commissioners – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third Class - \$7,500 each
 - ii. Fourth Class - \$5,000 each
 - iii. Fifth Class - \$4,000 each
 - iv. Sixth Class - \$2,500 each
 - v. Seventh and Eighth Class - \$2,000 each
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
2. Chief Clerk of County Commissioners – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)

- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
3. Controller – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is \$20,000.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
4. Treasurer – 16 P.S. § 420 *et seq.* and 16 P.S. § 802
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Original bond shall be forwarded by the county to the Auditor General.
5. Sheriff – 16 P.S. § 420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third and Fourth Class - \$60,000
 - ii. Fifth Class - \$30,000
 - iii. Sixth Class - \$20,000
 - iv. Seventh Class - \$15,000
 - v. Eighth Class - \$10,000
 - e. Bond must be acknowledged before the recorder of deeds.

- f. Governor is to affirm court of common pleas approval of the bond.
 - g. Bond is to be recorded in the county.
 - h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
6. Coroner – 16 P.S. § 420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third and Fourth Class - \$15,000
 - ii. Fifth Class - \$7,500
 - iii. Sixth Class - \$5,000
 - iv. Seventh Class - \$3,750
 - v. Eighth Class - \$2,500
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Governor is to affirm court of common pleas approval of the bond.
 - g. Bond is to be recorded in the county.
 - h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
7. Clerk of Court – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
8. Clerk of Orphan’s Court – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.

- e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
9. Prothonotary – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
10. Recorder of Deeds – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third Class - \$15,000
 - ii. Fourth and Fifth Class - \$10,000
 - iii. Sixth, Seventh and Eighth Class - \$5,000
 - e. Bond must be acknowledged before the prothonotary
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
11. Register of Wills – 16 P.S. § 432 and 71 P.S. § 801
(Bond form – Public Official Bond for Register of Wills)
- a. Bond is given to the Commonwealth.
 - b. Bond can be with one corporate or two individual sureties.
 - c. Amount:
 - i. Third Class - \$25,000
 - ii. Fourth Class - \$20,000
 - iii. Fifth Class - \$15,000
 - iv. Sixth Class - \$10,000
 - v. Seventh Class - \$7,500
 - vi. Eighth Class - \$5,000

- d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
- e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
- f. Sureties must be approved by the Governor.
- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

III. General Requirements, Procedures, Forms and Deadlines

A. General Requirements and Procedures

- 1. Copies of all completed bonds of county officers must be filed with the Department of State. 71 P.S. § 279. The originals of the bonds must be filed in accordance with the County Code section applicable to the relevant county classification.
- 2. “All bonds of county officers” as used by the County Code includes bonds for the offices of recorder of deeds, register of wills, prothonotary, sheriff, coroner, treasurer, controller, county commissioners and chief clerk of county commissioners.
- 3. All counties should have the bonds executed prior to the date on which the public official takes office.
- 4. In counties of the 3rd to 8th class, where offices are combined, a single bond covering all such offices may suffice, with the approval of the Court of Common Pleas. 16 P.S. § 420.
- 5. Only bonds required to be taken out “in the name of the Commonwealth” or “to be given to the Commonwealth” are required to name a surety to be approved by the Governor (i.e. be signed by the Governor). These bonds are for the:
 - a. County Commissioner of First Class Counties - 16 P.S. § 7303
 - b. Register of Wills for all counties - 16 P.S. §§ 7601, 3429, 432
 - c. Sheriff for all counties - 71 P.S. § 801
 - d. Coroner for all counties - 71 P.S. § 801

6. The Governor is also required to confirm the court of common pleas' approval of recognizances for sheriffs and coroners for first class counties. After the bonds and recognizances are sent to the Governor for confirmation, the Secretary will return them to the county for recording and the county will, thereafter, return the original to the Department for filing.
7. Most bond amounts are set forth in the statute. If the bond amount is not specifically set forth, the statute will generally note who is to determine the bond amount. Please refer to the attached chart entitled "Bond Amounts for County Row Offices" for a listing of the statutory amounts and corresponding offices. In addition to the County Code, Title 72 (Taxation and Fiscal Affairs) requires additional bonding for the register of wills, recorder of deeds and prothonotary due to the fact that these offices collect state tax dollars. A chart with those amounts is also attached. Where the bond amounts are not specified by the statute, the county shall determine the amount.
8. In all cases where a city contains over 300,000 residents and is co-extensive in boundaries with the county, the city treasurer, controller, and commissioners shall be known as "county officers" and are subject to the provisions of the County Code. 16 P.S. § 9201. This section does not specify which county class shall govern these individuals for the purpose of bonding requirements. Based on the population of the city, it seems logical to require those city officers to post the same bond amounts as the corresponding officer of a third through eighth class county.
9. Per the County Code, the Secretary will only approve the surety for the bonds of the county commissioners for first class counties and the register of wills for all counties.
10. The statutes do not provide details for all bonds. For instance:
 - a. The statutes do not specify whether the bond is to be in the name of the county or the Commonwealth for the following offices in first class counties: coroner, sheriff, clerk of orphan's court, prothonotary and recorder of deeds. In this instance, the Department has determined that the bond shall be in the name of the county.
 - b. The statutes do not specify the amount of the sheriff's or coroner bond for first class counties. In these cases, the county shall determine the required bond amount.
11. The Department recognizes that some county officers hold dual offices and that this may affect the acknowledgment requirements (for instance,

where the recorder of deeds and the register of wills are held by the same person, the recorder cannot acknowledge his or her own signature on the register of wills bond.) The Department, however, does not track which counties operate as such. Therefore, where a county officer holds two offices and the officer required by statute to acknowledge a bond cannot do so, the county should note this either on the bond or in a cover letter to the Department.

B. Form of Bond

1. The only bond required to be on a form prepared by Department of State is the bond for the register of wills.
2. The form for the bond of the sheriff is specifically set forth in the statute. 16 P.S. § 433 and § 3430.
3. The Department has developed forms for all bonds and recognizances that the Secretary and/or Governor is required to approve. It is strongly recommended that county officials use the Department's forms in order to ensure that all of the legal requirements for the bonds are met. No bonds will be forwarded to the Governor by the Department unless all of the statutory requirements are met. Where the statutes do not require the approval of the Secretary or Governor, county officials are encouraged to use the sample "Public Official Bond."
4. The bonds are not required to be on any special size or type of paper.

C. Deadlines

1. The Department will determine deadlines for submitting the bonds in the years that they are required and the counties will be notified as soon as possible.
2. The County Code requires that county row officers give and acknowledge a bond and be sworn in prior to beginning their official duties. Failure to submit bonds in a timely manner may lead to personal liability on behalf of the county officer in the event that action is taken against the county officer.

**Additional BOND AMOUNTS for COUNTY ROW OFFICES
as specified by Title 72 (Taxation and Fiscal Affairs) – Rev. 2009**

72 P.S. §3213

County	Recorder of Deeds	Prothonotary	Register of Wills
First Class	\$20,000	\$20,000	\$20,000
Second class	\$20,000	\$20,000	\$20,000
Third class	\$20,000	\$20,000	\$20,000
Fourth class	\$20,000	\$20,000	\$20,000
Fifth class	\$10,000	\$10,000	\$10,000
Sixth class	\$6,666	\$6,666	\$6,666
Seventh class	\$5,000	\$5,000	\$5,000
Eighth class	\$3,333	\$3,333	\$3,333

CHAPTER C

SUBPOENA

SUBPOENA TO ATTEND AND TESTIFY (Pa.R.C.P. Nos. 234.1 through 234.9).
SUBPOENA UPON A PERSON NOT A PARTY FOR PRODUCTION OF DOCUMENTS AND THINGS (Pa.R.C.P. Nos. 4009.21 through 4009.27).

1. SUBPOENA TO ATTEND AND TESTIFY.

a. Purpose.

(1). A subpoena is an order of the court commanding a person to attend and testify at a particular time and place. It may also require the person to produce documents or things which are under the possession, custody or control of that person.

(2). A subpoena may be used to command a person to attend and to produce documents or things only at

(a). a trial or hearing in an action or proceeding in the court,
or

(b). the taking of a deposition in an action or proceeding pending in the court.

(3). A subpoena may not be used to compel a person to appear or to produce documents or things ex parte before an attorney, a party or a representative of the party. (Note: See Rule 234.1 NOTE.)

(NOTE: The twenty-day notice requirement of Rule 4009.21(a) is not applicable to a subpoena issued under Rule 234.1 in connection with a deposition.)

(4). Rules for issuance of a subpoena duces tecum for medical records are set forth in 42 Pa.C.S.A. §§ 6151 through 6159.

b. Service.

(1). A copy of the subpoena may be served upon a person within the Commonwealth by a competent adult or mailed pursuant to Pa.R.C.P. No. 234.2(b). For matters outside the Commonwealth, see 42 Pa.C.S.A. §§ 5322 through 5326 (Letters Rogatory), especially 5325 which pertains to depositions.

(a). A subpoena served by ordinary mail is not enforceable unless the witness acknowledges having received it. See Pa.R.C.P. No. 234.5(a) and 42 Pa.C.S.A. § 5904(d).

c. Witness fee.

(1). The fee for one day's attendance and round trip mileage shall be tendered upon "demand" at the time the person is served with a subpoena. If a subpoena is served by mail, a check in the amount of one day's attendance and round trip mileage shall be enclosed with the subpoena. (Note: Failure of the server to meet the witness "demand" or provide the requisite check if by mail, may constitute legal refusal of the subpoena.)

(2). As used in this section, a witness is a person served by a subpoena to testify before any government unit (except the minor judiciary), and as such only subpoenaed witnesses are entitled to compensation.

(3). An "expert", as respects recovery of additional compensation for testifying, is one who qualifies as such by reason of special knowledge and experience, and an individual may possess knowledge and experience as an expert whether or not he is authorized to practice in a special field by virtue of any restriction or licensing requirement imposed by law (42 Pa.C.S.A. § 5903, Notes of Decisions No. 13 and Purdons General Index "Opinion and expert testimony").

(4). The rate of compensation, travel, lodging, etc. is set forth in 42 Pa.C.S.A. 5903.

d. Confined or Jailed Person. Upon motion, the court may order the custodian of the person so confined to release the person to the custody of a sheriff or other appropriate agent. (Note: Court order replaces subpoena.)

(1). Court order may direct transfer of confined or jailed person.

(2). Court order may direct Prothonotary to issue a Writ of Habeas Corpus to transfer the confined or jailed person.

e. Forms. The form of the Subpoena; and the Notice and Acknowledgment of Receipt of Subpoena by Mail, shall substantially be in the form set forth in Pa.R.C.P. Nos. 234.6 and 234.9, respectively.

f. Notice to Attend. Notice to Produce (Pa.R.C.P. No. 234.3).

(1). A party may compel the attendance and/or production of documents/things of/by another party, officer, or managing agent for trial or hearing.

(2). Notices shall be served pursuant to Pa.R.C.P. No. 440 for service of legal papers other than original process.

(3). The notices may be issued only to "parties" and may be served within or outside the Commonwealth.

g. Relief from Compliance/Motion to Quash Subpoena or Notices (Pa.R.C.P. No. 234.4).

(1) The serving party may excuse compliance therewith.

(2). A motion to the court to quash may be made in order to protect a party, witness or other person from unreasonable annoyance, embarrassment, oppression, burden or expense.

h. Failure to Comply with Subpoena and Notices (Pa.R.C.P. No. 234.5).

(1). Subpoena. If a witness fails to comply with a subpoena, the court may issue a bench warrant, and if adjudged wilful, the witness may be held in contempt.

(a). If service was made by mail, the witness did not appear and did not return a signed form of acknowledgment, no bench warrant may be issued and no adjudication of contempt may be made.

(2). Subpoena and Notices. If a party fails to comply, the court may enter an order imposing sanctions authorized by Pa.R.C.P. No. 4019(c) (under depositions and discovery) and, if failure to comply is for the purpose of delay or in bad faith, the court may impose on the party the reasonable expenses actually incurred by the opposing party by reason of such delay or bad faith, including attorney's fees. If the failure is wilful the court, after hearing, may adjudge the party to be in contempt.

2. SUBPOENA UPON A PERSON NOT A PARTY FOR PRODUCTION OF DOCUMENTS AND THINGS.

a. Prior Notice. Objections. (Pa.R.C.P. No. 4009.21)

(1). Written notice shall be given to every other party of the intent to serve a subpoena upon a person not a party at least 20 days before date of service with a copy of the proposed subpoena attached to the notice.

(2). Any party may object to the subpoena by filing written objections with the Prothonotary and serving a copy of the objections upon every other party to the action.

(3). If objections are received prior to its service, the subpoena shall not be served. The court upon motion shall rule upon the objections and enter an appropriate order.

(4). If no objections are received, the subpoena may be served.

b. Service of Subpoena. (Pa.R.C.P. No. 4009.22)

(1). The filing of a certificate with the Prothonotary by the party seeking production is a prerequisite to service of the subpoena. The subpoena served must be identical to the subpoena attached to the notice of intent to serve the subpoena. (Note: See Rule 4009.25 for form.)

(2). The subpoena shall be issued as provided by Rule 234.2(a) and served in the manner provided by Rule 234.2(b).

c. Certificate of Compliance by a Person Not a Party. (Pa.R.C.P. No. 4009.23)

(1). In complying with the subpoena, a certificate of compliance shall be executed by the person not a party upon whom the subpoena has been served. This certificate shall be filed with the Prothonotary. (Note: See Rule 4009.27 for form.)

3. PROCEDURE.

a. Subpoena To Attend And Testify. Upon the request of a party and payment of fee, the Prothonotary shall issue a subpoena signed and under the seal of the court, but otherwise in blank, substantially in the form prescribed by Pa.R.C.P. No. 234.6, which is shown in this manual.

(1). Party. Black's Law Dictionary: "Party" is a technical word having a precise meaning in legal parlance; it refers to those by or against whom a legal suit is brought, whether in law or in equity, the party plaintiff or defendant, whether composed of one or more individuals and whether natural or legal persons; all others who may be affected by the suit, indirectly or consequently, are persons interested but not parties. *Golatte v. Mathews*, D.C. Ala, 394 F. Supp. 1203, 1207. 42 Pa.C.S.A. § 102: Party is a person who commences or against whom relief is sought in a matter. The term includes counsel for such a person who is represented by counsel.

b. Subpoena To Produce Documents Or Things For Discovery Pursuant To Rule 4009.22. Upon the request of a party and payment of fee, the Prothonotary shall issue a subpoena signed and under the seal of the court substantially in the form prescribed by Pa.R.C.P. No. 4009.26, which is shown in this manual.

c. Filing.

(1). Subpoenas To Attend And Testify. These subpoenas are not normally filed, docketed or retained as part of a case record. If a Bill of Costs is filed, a subpoena may be attached as an exhibit to support the taxation of a witness fee (See paragraph l.c.(2). of this section).

(2). Subpoenas To Produce Documents Or Things. Rules 4009.22 and 4009.23 require the filing of record a Certificate Prerequisite to Service of Subpoena and a Certificate of Compliance.

4. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

5. Forms:

Subpoena To Attend and Testify
Civil Contempt Order/Bench Warrant
Writ of Habeas Corpus
Subpoena To Produce Documents Or Things

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

File No. _____

SUBPOENA TO ATTEND AND TESTIFY

TO: _____

1. You are ordered by the court to come to _____

(Specify courtroom or other place)

at _____, _____ County, Pennsylvania, on _____

at _____ o'clock, _____ M., to testify on behalf of _____

in the above case, and to remain until excused.

2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY A PARTY/ATTORNEY IN COMPLIANCE WITH Pa.R.C.P. No. 234.2(a):

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SUPREME COURT ID # _____

BY THE COURT:

Prothonotary/Clerk, Civil Division

Deputy

Date: _____

Seal of the Court

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators; masters, commissioners, etc. in compliance with Pa.R.C.P. No. 234.1. If a subpoena for production of documents, records or things is desired, complete paragraph 2.

RETURN OF SERVICE:

On the _____ day of

_____, _____,

I, _____

served _____

(name of person served)

with the foregoing subpoena by:

(Describe method of service)

I verify that the statements in this
return of service are true and correct.

I understand that false statements
herein are made subject to the penalties
of 18 Pa.C.S.A. § 4904 relating to
unsworn falsification to authorities.

DATE: _____

(signature)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

vs. Plaintiff : File No. _____
: :
: :
: :
: :
: :
: :
: :
: :
Defendant :

CIVIL CONTEMPT

ORDER

NOW, _____, _____, following a hearing in the above-captioned matter at which the Plaintiff / Defendant / Subpoenaed Witness, _____ residing at _____

_____ having been given notice did not appear, the Prothonotary/Clerk is directed to issue a Civil Bench Warrant to the Sheriff of _____ County who is to take said person into custody for appearance before this Court forthwith.

BY THE COURT:

Judge

COMMONWEALTH OF PENNSYLVANIA
_____ COUNTY, SS:

CIVIL BENCH WARRANT

TO THE SHERIFF OF SAID COUNTY:

You are hereby commanded by the Court of Common Pleas of _____ County, Civil Division, to take _____ who stands charged in said Court for FAILURE TO APPEAR IN COURT, and forthwith bring the said person before the Court, or one of the Judges thereof, to be dealt with according to Law.

Witness this _____ day of _____, A.D., _____.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

CIVIL DIVISION

:
: File No. _____
:

vs.

:
:
:
:
:
:

WRIT OF HABEAS CORPUS

TO:

WE COMMAND YOU, that the body of _____
under your custody, as it is said detained, by whatsoever name the said _____
_____ may be detained, together with the day and cause of his
being taken and detained, you have before the Honorable _____
_____ Judge of our Court of Common Pleas of
_____ County, at the Courthouse, in the City of
_____, Pennsylvania, _____
_____ then
and there to do and be subject to whatsoever our said Judges shall consider in that
behalf; and have you then and there this writ.

WITNESS, the Honorable _____, Judge of our said
Court, at _____ this _____ day of _____
A.D. _____.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

ATTORNEY:

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

:
:
:
:
:
:
:
:
:
:

File No. _____

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: _____
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: _____

at _____
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SUPREME COURT ID # _____

ATTORNEY FOR: _____

BY THE COURT:

Prothonotary/Clerk, Civil Division

Deputy

Date: _____
Seal of the Court

CHAPTER C

SUBPOENA

Foreign Depositions and Subpoenas (42 Pa.C.S.A. §§ 5331 – 5336)

1. FOREIGN SUBPOENA (Uniform Interstate Depositions and Discovery Act)

a. Purpose.

(1). This subchapter shall apply to any civil action or proceeding in a foreign jurisdiction where discovery is sought in this Commonwealth.

(2). A subpoena is defined as, a document, however denominated, issued under authority of a court of record requiring a person to:

(a). attend and give testimony at a deposition, hearing or trial;

(b). produce and permit inspection and copy of designated books, documents, records, electronically stored information or tangible thing in the possession, custody or control of the person; or

(c). permit inspection of premises under the control of the person.

b. Issuance

(1). To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a prothonotary in the jurisdiction in which the person who is the subject of the order resides, is employed or regularly transacts a business in person. A request for the issuance of a subpoena under this subchapter does not constitute an appearance in the courts of this Commonwealth.

(2). A prothonotary in receipt of a request for a foreign subpoena shall, in accordance **with that court's procedure**, promptly issue a subpoena for service upon the person to whom the foreign subpoena is directed.

(3). A subpoena under this subsection must:

(a). Incorporate the terms used in the foreign subpoena.

(b). Contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(4). A person within the Commonwealth not served with a subpoena under this section may voluntarily give his testimony or statement or produce documents or other things for use in a matter before a tribunal outside the Commonwealth.

c. Service

(1). The Pennsylvania Rules of Civil Procedure and any statutes relating to the service of subpoenas and compliance with subpoenas shall apply to all subpoenas issued under this subchapter. (Pa R.C.P. No. 4009.21 through Pa. R.C.P. 4009.27)

2. PROCEDURE.

(a). Upon presentation of a request for issuance of a foreign subpoena, the Prothonotary shall collect the filing fee, file and process in accordance with that court's procedure.

CHAPTER D

IN FORMA PAUPERIS

IN FORMA PAUPERIS (IFP) (Pa.R.C.P. No. 240).

1. GENERAL.

a. This Rule applies to all civil actions except protection from abuse (see PROTECTION FROM ABUSE Section of this manual), and appeals to appellate court (see APPELLATE COURTS Section of this manual).

b. Parties without financial resources to pay costs are entitled to proceed in forma pauperis (to proceed without liability for court fees, costs or post bonds/security).

c. Pro Bono. In special circumstances, the court may appoint a pro bono counsel to represent a party. The counsel may serve free of charge or be paid as directed by the court.

2. PROCEDURE.

a. IFP proceeding is commenced by filing a petition and affidavit (Form pursuant to Pa. R.C.P. No. 240(h) with or after commencement of the action **or proceeding** or with the taking of the appeal, the prothonotary shall file and docket without payment. If the Court denies the petition, no further action may be taken without leave of court until the fees are paid. **If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed in forma pauperis until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).**

(1). Upon presentation of documents without an IFP petition, Prothonotary shall collect filing fee, file and docket documents. If the IFP petition is presented after filing and granted, the fees paid shall not be refunded.

b. The court has 20 days from filing to enter its order in whole or in part stating its reasons to deny.

c. If the court denies the petition, the petitioner shall pay the filing fee. A party required to pay such fee may not, without leave of court, take any further steps in the action, **proceeding** or appeal so long as such fee remain unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the Prothonotary shall enter a judgment of non pros in the action or strike the appeal if the fee remains unpaid. The action, **proceeding** or appeal shall be reinstated only by the court for good cause shown.

unpaid. The action or appeal shall be reinstated only by the court for good cause shown.

d. If the party is represented by an attorney, the Prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs.

(NOTE: This amended Rule eliminates the necessity of filing the Affidavit from the client.)

e. If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed IFP, the exonerated fees and costs shall be taxed as costs and paid to the Prothonotary by the party paying the monetary recovery. In no event shall the exonerated fees and costs be paid to the indigent party.

(1). Prothonotary shall monitor cases with IFP approvals. If there is a monetary recovery, Prothonotary should contact parties for recovery of fees. In addition to the authority contained in Pa.R.C.P. No. 240(g), 42 Pa.C.S.A. § 21163(b) provides that the Prothonotary shall not provide any service until requisite fees have been paid, including the entry of any order.

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER E

CIVIL ACTION

APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT

(Pa.R.C.P.D.J.No. 1002).

1. Determine if appeal is from a civil judgment, not a summary criminal conviction.

2. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of entry of judgment without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002)

(NOTE: For 30-day period computation of time, see Pa.R.C.P. No. 106.)

3. Notice of Appeal should be filed in the Court of Common Pleas where M.D.J. is located (Pa.R.C.P.D.J. No. 1001(5)).

4. If plaintiff is appellant, then praecipe for rule is not applicable.

5. If defendant is appellant, then praecipe for rule shall be signed by defendant and Prothonotary shall issue rule.

6. Appeal forms shall contain addresses of all parties, attorney's Supreme Court I.D. number, if applicable, and original signature of appellant or attorney. If in proper order, Prothonotary shall file and assign court of common pleas number upon payment of the filing fee. Original appeal form is retained and copies returned to filing party for service.

7. Appeals involving "cross-complaints" (Pa.R.C.P.D.J. No. 1004(c)). Suggested procedure: If there are two different M.D.J. FILE NUMBERS on the same appeal/action, there should be two separate appeals and two separate common pleas numbers assigned.

a. If the appellant appeals only from the judgment on his/her complaint, the appellee may appeal from the judgment on his/her complaint at any time within thirty (30) days after the date on which the appellant served a copy of the notice of appeal upon the appellee.

b. The amendment to the Note clarifies that in a case where there is a complaint and cross complaint, an appeal of judgment from either one is not an appeal of judgments from both. Rather, in order to preserve all issues, an appeal must be taken from both the judgment for the complaint and the judgment for the cross complaint.

8. Proof of service with sender's postal receipts attached, to be filed within ten (10) days (Pa.R.C.P.D.J. No. 1005).

9. Striking of Appeal by the Prothonotary is set forth in Pa.R.C.P.D.J. No. 1006. Suggested procedure is for Prothonotary to give notice of action taken on praecipe to all parties.

10. Judgment of "non pros" may be entered by Prothonotary upon praecipe by appellant pursuant to Pa.R.C.P.D.J. No. 1004B.

a. Written notice of intention to file the praecipe shall be given in accordance with Pa.R.C.P. No. 237.1.

b. Notice of the entry of judgment of non pros shall be given in accordance with Pa.R.C.P. No. 236.

11. If complaint is filed, the action proceeds under the "Pennsylvania Rules of Civil Procedure".

12. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). #13, Judgment and Liens

b. If item is not in this schedule, contact State Archives for retention information.

13. Form:

Notice of Praecipe to Enter Judgment of Non Pros

14. References:

30-Day Deadline Schedule

(Note: May be referenced for any 30-day appeal deadline)

McKeown v. Bailey, 731 A.2d 626 (Pa.Super. 1999)

CIVIL DIVISION

vs.

:
:
:
:
:
:
:
:
:

File No. _____

To: _____
Plaintiff

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Defendant or Atty.

Attorney for _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

(NOTE: SERVE ON UNREPRESENTED PLAINTIFF OR ON PLAINTIFF'S ATTORNEY)

7. Appeal and Error §=357(1)

Appellants should have been allowed to appeal *nunc pro tunc*, where their notice of appeal was received by prothonotary within 30 days of judgment, but prothonotary's office did not file and docket appeal when received because it did not include copy of notice of judgment, or immediately notify appellants that filing was rejected as incomplete so as to give them time to complete it before appeal period expired; delay resulted from breakdown in court operations and appellants had made honest effort to perfect their appeal and were in substantial compliance with relevant procedural rules. Pa.R.C.P.D.J. No. 1002, subd. A, 42 Pa.C.S.A.

8. Appeal and Error §=357(1)

An appeal *nunc pro tunc* may be permitted where the delay in filing has been caused by fraud or a breakdown in the court's operation through default of its officers.

9. Clerks of Courts §=65

Whether notice of judgment was required before an appeal from a judgment of a district justice could be docketed was question for the trial court, not the prothonotary. Pa.R.C.P.D.J. Nos. 514, subd. A, 1002, subd. A, 42 Pa.C.S.A.

Michael N. Corr, West Chester, for appellants.

Holly B. Conway, Stroudsburg, for appellee.

Before MUSMANNO, J., CERCONI, J.,
President Judge Emeritus, and BECK, J.

PER CURIAM:

¶1 This is a consolidated direct appeal from two orders entered by the Trial Court, one denying Appellants' petition to appeal from a decision by a District Justice, and the other denying a motion for reconsideration, a motion to strike judgment

Technically, the thirtieth day of the appeal period was November 8, 1997. Because this

and a petition to open the judgment. We reverse and remand for further proceedings.

¶2 Appellee, Michael J. McKeown, filed a suit before a District Justice seeking damages against Defendants/Appellants, G. Thomas Bailey and his wife, Evelyn H. Bailey, on a breach of a contract claim. Appellee averred that he procured a buyer for a parcel of real property owned by Appellants and alleged that the Appellants therefore owed him five percent (5%) of the sales price. District Justice Thomas R. Shiffer, Jr. conducted a hearing on October 9, 1997 at which Appellants appeared *pro se*. See Appellants' Brief at 10. On that same day, the District Justice entered judgment in favor of Appellee in the amount of two thousand three hundred nineteen dollars and fifty cents (\$2,319.50). As the Honorable Jerome P. Cheslock has noted correctly, the Appellants had thirty (30) days in which to appeal the judgment of the District Justice. See Trial Court Opinion dated March 11, 1998 at 1-2 (hereinafter "Trial Court Opinion"). Thus, the Appellants had until November 10, 1997 in which to file their appeal. *Id.* at 1.¹

¶3 Appellants allege that they filed a timely Notice of Appeal form on October 23, 1997, although they concede that they failed to send the Notice of Judgment at that time. See Appellants' Brief at 8-9. On November 7, 1997, the Prothonotary's Office of Monroe County telephoned Appellants' counsel to inform him that the Notice of Judgment had not been received. *Id.* Appellants' counsel promptly sent a copy of the Notice of Judgment to the Prothonotary via United States Mail. *Id.* However, on November 13, 1997, Appellants' counsel telephoned the Prothonotary and learned that the Notice of Appeal had been neither time-stamped nor docketed because the Prothonotary did not receive the Notice of Judgment within the thirty day period established by the pertinent

date fell on a Saturday, the appeal period expired on Monday, November 10, 1997.

Rules. *Id.* Accord Trial Court Opinion at 1-2 (discussing the facts underlying the present appeal).

¶4 Appellants subsequently requested the Trial Court to either declare the appeal timely, or, in the alternative, to permit them to file an appeal *nunc pro tunc*. The Trial Court heard argument on the matter on February 2, 1998. Judge Cheslock thereafter denied relief via an order and opinion filed March 11, 1998. Judgment was entered in favor of Appellee on March 19, 1998. On March 30, 1998, Appellants lodged a timely notice of appeal with the Superior Court from the final judgment. On April 20, 1998, Appellants filed a motion to open and/or strike the judgment entered in the Trial Court. Three days later, on April 23, 1998, Judge Cheslock denied Appellants' motion for reconsideration, the motion to strike judgment and their motion to open judgment. Appellants filed a timely appeal from this order also.

¶5 The instant consolidated appeal presents two issues for our consideration:

1. Whether the Trial Court abused its discretion and/or committed an error of law by failing to grant an appeal *nunc pro tunc* from the District Court where a notice of appeal was timely filed, [Appellants] showed good cause, and there exist extraordinary circumstances involving a breakdown in the court's operation through a default of its officers?

2. Whether the Trial Court abused its discretion and/or committed an error of law by denying defendants' Petition to Open the Judgment where the [Appellants] demonstrated a meritorious defense of the claim and the record contained sufficient evidence.

Appellants' Brief at 6.

[1-5] ¶6 Appellants first contend that the Trial Court should have permitted them to file an appeal *nunc pro tunc* from the judgment of the District Justice. Allowance of an appeal *nunc pro tunc* lies at the sound discretion of the Trial Judge.

Perin v. Gochnauer, 173 Pa.Super. 609, 98 A.2d 755, 756 (1953); *Baker v. City of Philadelphia*, 145 Pa.Cmwith. 421, 608 A.2d 686, 689 (1992). More is required before such an appeal will be permitted than the mere hardship imposed upon the appellant if the request is denied. *Perin*, 98 A.2d at 756-757. As a general matter, a Trial Court may grant an appeal *nunc pro tunc* when a delay in filing is caused by "extraordinary circumstances involving fraud or some breakdown in the court's operation through a default of its officers." *Cook v. Unemployment Compensation Board of Review*, 543 Pa. 381, 383-84, 671 A.2d 1130, 1131 (1996).

[W]here an appeal is not timely because of non-negligent circumstances, either as they relate to appellant or his counsel, and the appeal is filed within a short time after the appellant or his counsel learns of and has an opportunity to address the untimeliness, and the time period which elapses is of very short duration, and appellee is not prejudiced by the delay, the court may allow an appeal *nunc pro tunc*.

Id. at 384-85, 671 A.2d at 1131. Tardy filings of notices of appeal implicate the jurisdiction of the appellate tribunal to entertain a cause of action. *McKean County Animal Hospital v. Burdick*, 700 A.2d 541, 542 (Pa.Super.1997). Furthermore, although most other court paperwork is considered to be filed at the time of its postmark, notices of appeal are unique in that they are not filed until received by the Prothonotary. *Id.*

¶7 In the present case, the timing for the filing of the appeal is controlled by Rule 1002 A of the Rules of Civil Procedure Governing Actions and Proceedings Before District Justices:

Time and Method of Appeal

A. A party aggrieved by a judgment for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, may appeal therefrom within thirty (30)

days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the district justice. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of judgment without leave of court and upon good cause shown.

Rule 1002 A. Pa.R.C.P.D.J.

[6] ¶ 8 The phrase "good cause shown" has not been precisely defined by the Rules. However, Pennsylvania case law has interpreted this phrase as requiring an appealing party to proffer some "legally sufficient reason" for requesting relief. See, e.g., *Slaughter v Allied Heating*, 431 Pa.Super. 348, 636 A.2d 1121, 1123 (1993), *appeal denied*, 539 Pa. 669, 652 A.2d 839 (1994) (explicating Rule 1006 Pa. R.C.P.D.J.). "The determination of whether good cause has been demonstrated is trusted to the trial court's sound discretion." *Id.*

[7] ¶ 9 As previously stated, notices of appeal are not filed until received by the Prothonotary. *McKean County Animal Hospital*, 700 A.2d at 543. In the instant case, the District Justice's judgment was entered on October 9, 1997. The Notice of Appeal was "received by the Prothonotary" well within thirty days, by October 23, 1997. However, the Prothonotary's Office did not file and docket the Notice of Appeal at the time it was received, nor did it immediately notify Appellants that the filing was rejected as incomplete. Instead the Prothonotary waited until November 7, 1997 to notify the Appellants. Upon being notified, Appellants mailed the Notice of Judgment. Because the Notice of Judgment was not received before November 10, 1997, the date on which the appeal period expired, the Prothonotary refused to docket the appeal. We find that, under this specific set of circumstances, the Trial

Court abused its discretion in not granting Appellants' petition to appeal *nunc pro tunc*.

[8] ¶ 10 An appeal *nunc pro tunc* may be permitted where the delay in filing has been caused by fraud or a breakdown in the court's operation through default of its officers. *Cook, supra*. In the present case, the Prothonotary neither timely docketed the Notice of Appeal, nor immediately informed Appellants that their filing was incomplete. We deem this as a breakdown in the court's operation.

A Prothonotary may have the power, and even the duty, to inspect documents tendered for filing and to reject them if they are not on their face in the proper form ... but this power is limited. He is not in the position of an administrative officer who has discretion to interpret or implement rules and statutes.... Any question of construction must be resolved by the courts, not by the Prothonotary nor the parties. The Prothonotary must accept papers and file them.

Warner v. Cortese, 5 Pa.Cmwith. 51, 288 A.2d 550, 552 (1972) (citations and quotations omitted).

¶ 11 Our conclusion that a "breakdown in court operations" occurred in this case is also supported by the following excerpt from the Prothonotary's Procedures Manual, which specifically deals with appeals from a District Justice's order:

Appeal forms shall contain addresses of all parties, attorneys' Supreme Court I.D. number, if applicable, and original signature of appellant or attorney. If in proper order, *Prothonotary shall file and assign Court of Common Pleas number upon payment of the filing fee. Original appeal form is retained and copies returned to filing attorney for service.*

Prothonotary's Procedures Manual at E-1-1, ¶ 6 (emphasis added). In this case, there is no allegation that the Notice of Appeal form did not contain the required

information or that the filing fee was not paid. Therefore, it was the duty of the Prothonotary to file the Notice of Appeal and assign it a court number, and to send a time-stamped copy to the filing attorney.

[9] ¶ 12 Moreover, close analysis of Rule 1002 A leaves open the question of whether the Notice of Judgment is required in the instant matter. The comment to Rule 1002 A provides that a "copy of the Notice of Judgment must be filed since it will contain separate entries required by Pa.R.C.P.D.J. No. 514 A and will be needed by the Prothonotary." Rule 514 A describes entries that the District Justice must make when rendering a judgment in an action for Recovery of Real Property in landlord/tenant disputes. Since the instant case does not implicate a landlord-tenant matter, it is for the Court, not the Prothonotary, to decide whether the Notice of Judgment is required before an appeal may be docketed. Moreover, the mandate contained in Rule 1002 A regarding the filing of a Notice of Judgment does not suggest that the Prothonotary may decline to docket an otherwise timely filed Notice of Appeal on the grounds that the Notice of Judgment is not attached.

¶ 13 We note that although statutory requirements for perfecting an appeal are jurisdictional in nature, appeals *nunc pro tunc* have been allowed where the petitioning party has made an "honest effort" and where the petitioning party has been in "substantial compliance" with the rules. See *Pulliam v. Laurel School District*, 316 Pa.Super. 339, 462 A.2d 1380 (1983) (appeal from arbitration not quashed where notice of appeal was timely filed although proper costs were not timely paid); *Armstrong v. Travelers Insurance Co.*, 310 Pa.Super. 263, 456 A.2d 602 (1983) (late payment of costs on appeal from arbitration did not invalidate appeal where

2. We see no need to address the issue concerning Appellants' Petition to Open/Strike Judgment, which was filed in the Court of Common Pleas on April 20, 1998, and which the Trial Court denied three days later. The

there was "honest effort" to comply, and "substantial compliance" with statutory requirements). See also *Cook, supra* (*nunc pro tunc* appeal should be allowed where Appellants addressed their oversight promptly and there was no prejudice to opposing party). The record supports the conclusion that Appellants made an honest effort and were in substantial compliance with the relevant procedural rules. For the foregoing reasons, we reverse the Trial Court and allow an appeal *nunc pro tunc*.³

¶ 14 The orders of March 11, 1998 and April 23, 1998 are reversed. The case is remanded for proceedings consistent with this opinion. Superior Court jurisdiction relinquished.



Amy L. WAGNER, Appellant,

v.

Michael F. WAGNER, Appellee.

Superior Court of Pennsylvania.

Argued Feb. 25, 1999.

Filed June 4, 1999.

Reargument Denied Aug. 12, 1999.

Wife filed complaint for divorce. Husband filed preliminary objection, contending that state court could not equitably distribute his military pension. The Court of Common Pleas, Butler County, Family Division, No. 94-90006, Hancher, J., granted objection to court's jurisdiction. Wife filed interlocutory appeal. The Superior Court, No. 1223 Pittsburgh 1998, Hudock, J., held that husband had consented to

Petition was not filed until after Appellants lodged their appeal with this Court on March 30, 1998. The Trial Court therefore was divested of jurisdiction to act in the matter. See Pa.R.A.P. 1701.

CHAPTER E

CIVIL ACTION

WRIT OF CERTIORARI TO MAGISTERIAL DISTRICT JUDGE (Pa.R.C.P.D.J. No. 1009 et seq.).

1. To be submitted on prescribed form for praecipe and writ, which shall be completed and filed in accordance with Pa.R.C.P.D.J. No. 1009B.

2. When writ of certiorari involves a judgment for possession of real property, see Pa.R.C.P.D.J. No. 1013, for supersedeas conditions.

(NOTE: For poverty guidelines go to www.pacourts.us Home Page. In “Search” type in Poverty Guidelines, connect on yearly guidelines. Download/print to attach to writs.)

Reminder to Prothonotaries – Guidelines change on calendar year basis – get new guidelines yearly on AOPC website.

a. When appropriate bond is posted, Prothonotary shall make a notation upon the writ and its copies that the writ will operate as a supersedeas.

b. See Rule 1013(c) for Indigent Tenants. Reference Rule 1008 (c) for forms or go to E-9F-3.1, 3.2, 3.3, 3.4.

3. Forms shall contain addresses of all parties, attorney's Supreme Court ID number, if applicable, and original signature of appellant or attorney. If in proper order, Prothonotary shall file, assign court of common pleas number upon payment of the filing fee, and issue writ.

4. Striking of Writ of Certiorari by Prothonotary is contained in Pa.R.C.P.D.J. No.1011C. Suggested procedure is for Prothonotary to give notice of action taken on praecipe to all parties. Writ shall NOT be reinstated or new writ issued.

5. Pa.R.C.P.D.J. No. 1013B also provides for

a. the release of funds to the landlord upon application to the court, and

b. the consequences if the appellant/tenant fails to pay the additional monthly deposits within thirty (30) days following the date of the filing of the praecipe, and each successive thirty (30) day period thereafter.

6. If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented to the party's last known address of record.

7. If writ is stricken, dismissed, or discontinued, Prothonotary shall pay the deposits of rent to the party who sought possession of the real property in accordance with Pa.R.C.P.D.J. No. 1013C.

8. If writ is granted, disposition of monthly rental deposits will be made by the court of common pleas following its de novo hearing.

9. Note: A judgment may NOT be the subject of both certiorari and appeal pursuant to Pa.R.C.P.D.J. No. 1015.

10. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

11. Form:

Praecipe to Terminate Supersedeas and Notice
Writ of Certiorari to Magisterial District Judge

12. Reference:

Pa.R.C.P.D.J. No. 1013

CIVIL DIVISION

:
:
:
:
:
: File No. _____
:
:
:
:
:

PRAECIPE FOR TERMINATION OF SUPERSEDEAS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.D.J. No. 1013 for a period in excess of thirty (30) days.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOTICE

TO THE MAGISTERIAL DISTRICT JUDGE:

UPON CONFIRMATION OF FAILURE OF THE APPELLANT TO DEPOSIT THE MONTHLY RENTAL FOR MORE THAN THIRTY (30) DAYS, THE SUPERSEDEAS IS TERMINATED.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County of

WRIT OF CERTIORARI

TO

MAGISTERIAL DISTRICT JUDGE

COMMON PLEAS No.

PRAECIPE FOR A WRIT OF CERTIORARI

NAME OF PARTY FILING THIS PRAECIPE AND OBTAINING THIS WRIT		DOCKET No.
DATE JUDGMENT RENDERED	IN THE CASE OF (Plaintiff)	(Defendant)
	vs.	

The party named above claim that with respect to the above proceedings there was: (Check applicable box or boxes)

- lack of jurisdiction over the subject matter
- lack of jurisdiction over _____ (Name of party)
- improper venue
- such gross irregularity of procedure as to make the judgment void

PRAECIPE: To the Prothonotary

Issue a Writ of Certiorari directing _____, Magisterial District Judge, to transmit to you a certified true copy of the record of the proceedings named above.

(Signature of party filing praecipe or attorney or agent)

WRIT OF CERTIORARI

TO: _____, Magisterial District Judge

1. You are hereby directed by this writ to transmit to the Prothonotary of this Court of Common Pleas, within ten (10) days after you receive this writ, a certified true copy of the record of the proceedings named above.

2. This writ, when received by you, will operate as a SUPERSEDEAS to the judgment for possession in this case.
This block will be checked ONLY when this notation is required under Pa.R.C.P.D.J. No. 1013B.

Date delivered for service _____, 20____. (Signature of Prothonotary or Deputy)

COURT FILE

PROOF OF SERVICE OF WRIT OF CERTIORARI

(This proof of service MUST BE FILED WITHIN FIVE (5) DAYS AFTER delivery of the writ for service)

COMMONWEALTH OF PENNSYLVANIA (Check applicable boxes)
COUNTY OF _____; ss

AFFADIVIT: I hereby (swear) (affirm) that I served the Writ of Certiorari, Common Pleas No. _____, upon the Magisterial District Judge to whom it was directed on _____, 20____, by personal service, by (certified) (registered) mail, sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____.

(Signature of affiant)

(Signature of official before whom affidavit was made)

(Title of official)

My commission expires on _____, 20____.

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges (Refs & Annos)

⌘ Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges

⌘ Appellate Proceedings with Respect to Judgments and Other Decisions of Magisterial District Judges in Civil Matters (Refs & Annos)

→ → **Rule 1013. Writ of Certiorari as Supersedeas**

A. Receipt of the writ of certiorari by the magisterial district judge to whom it was directed shall operate as a supersedeas, except as provided in subdivisions B and C of this rule.

B. When the writ of certiorari involves a judgment for the possession of real property, receipt of the writ by the magisterial district judge shall operate as a supersedeas only if the party obtaining the writ at the time of filing the writ, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the praecipe for writ of certiorari ("praecipe"), as determined by the magisterial district judge, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon writ are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the filing of the praecipe, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

In the event that the party filing the praecipe fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the praecipe for writ of certiorari, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented to the party's last known address of record.

Where the deposit of money or bond is made pursuant to this Rule at the time of the filing of the praecipe, the prothonotary shall make upon the writ and its copies a notation that the writ will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to file a praecipe involving a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court

judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the Instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and

belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the praecipe is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in thirty (30) day intervals from the date the praecipe was filed; or

(b) If the rent has not been paid at the time of filing the praecipe, the tenant shall pay:

(i) at the time of filing the praecipe, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the praecipe; and

(iii) additional deposits of one month's rent in full each thirty days after filing the praecipe. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the praecipe is filed shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If a writ of certiorari is stricken, dismissed or discontinued, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Note: As in appeals (*see* Pa.R.C.P.M.D.J. No. 1008), certiorari operates as an automatic supersedeas in civil actions when the writ is received by the magisterial district judge. If the writ involves a judgment for the possession of real property, however, it will operate as a supersedeas upon receipt by the magisterial district judge only if money is paid or a bond is filed conditioned as stated in the rule. This Rule has been amended to require a payment equal to the lesser of three months' rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a supersedeas to ensure consistency between this Rule and Pa.R.C.P. M.D.J. No. 1008 (Appeal as Supersedeas). A new subdivision (C) was created in 2008 to provide a praecipe for writ of certiorari process for indigent residential tenants who are unable to meet the bond requirements of subdivision (B).

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the party filing the writ to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 when it became due" and will be signed by landlord. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the party filing the writ to deposit the monthly rent when it became due the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The money judgment portion of a landlord and tenant judgment (*see* Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.

CREDIT(S)

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; Jan. 6, 2005, effective Jan. 29, 2005; April 15, 2008, effective May 15, 2008; July 16, 2012, imd. effective; Aug. 16, 2013, effective Sept. 15, 2013.

HISTORICAL NOTES

Order of Jan. 6, 2005

By Order of Jan. 6, 2005, eff. Jan. 29, 2005, the Pennsylvania Supreme Court ordered “that all references in any court rule, court order, court form (including citation), automated statewide court case management system (i.e. PACMS, CPCMS and DJS) or any other legal authority, except as provided for in Act 207 [2004, Nov. 30, P.L. 1618], to ‘district justice’ shall be deemed a reference to ‘magisterial district judge.’ ”

Order of April 15, 2008

The Order of April 15, 2008, in subd. A, substituted “subdivisions B and C” for “subdivision B”; and in subd. B, in the first paragraph, substituted “the praecipe for writ of certiorari (‘praecipe’)” for “appeal” and “filing of the praecipe” for “filing of the writ”, and rewrote the third paragraph, which prior thereto read:

“In the event that the party filing the writ fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the writ, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party who or which does not have an attorney of record is sufficient if mailed to the party’s last known address of record.”

, and in the fourth paragraph, substituted “filing of the praecipe” for “filing of the writ”; inserted a new subd. C, and redesignated former subd. C as subd. D; in the subd. D note, in the first paragraph, substituted “civil actions” for “trespass and assumpsit matters” and added the fourth sentence, and in the second paragraph, substituted “Pa.R.C.P.M.D.J. No. 1013 when it became due” for “Pa.R.C.P.M.D.J. No. 1013 for a period in excess of thirty (30) days” and “deposit the monthly rent when it became due” for “deposit the monthly rent for more than thirty (30) days,”; and made other nonsubstantive changes.


Order of July 16, 2012

The Order of July 16, 2012, in the Note to subrule (C)(4), substituted “www.pacourts.us” for “www.aopc.org”.

Order of Aug. 16, 2013

The Order of Aug. 16, 2013, in subd. C(3)(a), substituted “in in thirty (30) day intervals from the date the praecipe was filed” for “as it becomes due under the lease for the months subsequent to the filing of the praecipe”.

LIBRARY REFERENCES

Justices of the Peace  204.
Westlaw Topic No. 231.
C.J.S. Justices of the Peace § 434.

Pa.R.C.P.M.D.J. No. 1013, 42 Pa.C.S.A., PA ST RCP MAG DIST J RULE 1013

Current with amendments received through 12/15/13

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END OF DOCUMENT

CHAPTER E

CIVIL ACTION

STATEMENT OF OBJECTION TO RULE 420 ORDERS AND DETERMINATIONS OF
MAGISTERIAL DISTRICT JUDGE (Pa.R.C.P.D.J. No. 1016) AOPC Form 340-05

1 The statement of objection to Rule 402 orders and determinations of Magisterial District Judge must be filed with the Prothonotary AND the Magisterial District Judge WITHIN TEN (10) DAYS from the date of the order or determination to which objection is made. This is in connection with execution proceedings on the judgment rendered by the Magisterial District Judge regarding the following orders or determinations:

1. An appeal taken from appraisal and/or designation of property made by the executing office.

2. An appeal from setting aside of property by the executing officer.

3. A claim to all property levied upon.

4. A claim to specific property levied upon.

5. An exception to distribution filed.

6. A request to set aside the sale of certain described property.

2. It shall be completed on the prescribed AOPC form for filing pursuant to Pa.R.C.P.D.J. No.1017 known as AOPC 340-05. The Prothonotary, upon payment of the filing fee, shall file and assign court of common pleas number, retain the original and return copies for service.

3. The Magisterial District Judge upon receipt of the statement of objection shall mail a copy to all interested parties and within 10 days file a certified copy of the record with the Prothonotary pursuant to Pa.R.C.P.D.J. No. 1018.

4. The matter shall then proceed in the court of common pleas according to local rule.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

6. Form:

Statement of Objection to Rule 420 Orders and Determinations of
Magisterial District Judge

COMMON PLEAS No.

STATEMENT OF OBJECTION

1. ON: _____, 20____, _____
(date) (name of Magisterial District Judge)

Magisterial District Judge, in connection with execution proceedings on the judgment rendered in the case of

_____ vs _____ Docket Number _____, made

(an order) (a determination) concerning:

Check applicable
box or boxes

an appeal taken by _____, from an
(appraisal) (designation) of property made by the executing office.

an appeal taken by _____, from a
setting aside of property by the executing officer.

a claim to all property levied upon filed by _____

a claim to the following property levied upon filed by _____

(brief description of property)

an exception to distribution filed by _____

a request made by _____ to set aside the sale of

(brief description of property)

2. The (order) or (determination) referred to above was _____
(brief description of order or determination)

3. _____, an aggrieved party in interest,
(name of objecting party)

objects to this (order) (determination) of the Magisterial District Judge.

(Signature of objecting party or attorney or agent)

(This form must be filed with the Prothonotary AND the
Magisterial District Judge WITHIN TEN (10) DAYS from
the date of the order or determination to which objection is
made.)

CHAPTER E

CIVIL ACTION

CIVIL ACTION - LAW

1. Commenced by Summons.

a. Action is commenced by filing a Praecipe for Writ of Summons substantially in the form shown (see exhibit attached).

b. Filing shall consist of original document plus sufficient copies required for service.

c. Upon payment of the filing fee, Prothonotary shall file and assign a court of common pleas number.

d. The Writ of Summons shall then be signed, dated and court seal affixed by Prothonotary or deputy.

e. Writ may be REISSUED pursuant to Pa.R.C.P. No. 401.

2. Commenced by Complaint.

a. Contents of pleading shall be pursuant to Pa.R.C.P. Nos. 1018 through 1025.

b. Upon payment of filing fee, Prothonotary shall assign a court of common pleas number.

c. Complaint may be REINSTATED upon praecipe pursuant to Pa.R.C.P. No. 401.

3. Commenced by Petition per statutory provisions.

a. Involuntary Transfer of Ownership of a Vehicle by Court Order (75 Pa.C.S.A. § 1116(b)).

b. Denial of Charter School Application (24 P.S. § 17-1717-A).

(1). The court shall hold a hearing only on the sufficiency of the petition.

(2). If the petition is sufficient, the court's decree shall be transmitted to the State Charter School Appeal Board.

(3). Notification of the decree shall be given to the applicant and the local board of directors.

c. Structured Settlement Protection Act (40 P.S. §§ 4001 et seq.).

d. Upon payment of filing fee, Prothonotary shall assign a court of common pleas number.

4. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

5. Forms:

Praecipe for/Summons in Civil Action
Praecipe and Rule to File a Complaint
Praecipe for Entry of Appearance—Without Leave of Court
Praecipe for Entry of Appearance—Substitution of Counsel
Praecipe for Summons in Civil Action
Writ of Summons

6. Reference:

42 Pa.C.S.A. § 8309 (Act 1990-216). Civil Rights Redress.
Department of Transportation, Bureau of Motor Vehicle, Fact Sheet.

Pa. RCP 1012.1 Admission Pro Hac Vice
IOLTA Board Website – www.paiolta.org

CIVIL DIVISION

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File No. _____

Civil Action - _____

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue summons in the above case.

Writ of Summons shall be issued and forwarded to Attorney / Sheriff. (Please circle choice)

Date: _____

Signature of Attorney

Print Name: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

* * * * *

WRIT OF SUMMONS

TO: _____

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFF(S) HAS/HAVE COMMENCED AN ACTION AGAINST YOU.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____

Deputy

CIVIL DIVISION

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File No. _____

PRAECIPE AND RULE TO FILE

_____ **A COMPLAINT**

_____ **A BILL OF PARTICULARS**

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue rule on _____ to file a _____
in the above case within twenty (20) days after service of the rule or the Prothonotary/Clerk, upon
praecipe, shall enter a judgment of non pros.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOW, _____, _____, RULE ISSUED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

CIVIL DIVISION

vs.

:
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File No. _____

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Enter my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

Papers may be served at the address set forth below.

Attorney for Party Named Above
Supreme Court ID No.: _____
Firm: _____
Address: _____

Telephone Number: _____

Fax Number for Service of Papers

Date: _____

Signature: _____

PRAECIPE FOR WITHDRAWAL OF APPEARANCE WITHOUT LEAVE OF COURT
(Rule 1012(b)(2)(i))

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Withdraw my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

_____ has entered his/her appearance for the aforementioned party.

I hereby certify that this change of attorneys is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Date: _____

Signature _____

Print Name: _____

CIVIL DIVISION

vs.

:
:
:
: File No. _____
:
: **SUBSTITUTION OF COUNSEL WITHOUT LEAVE**
: **OF COURT (Rule 1012(b)(2)(ii))**
:

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Enter my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

I hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Papers may be served at the address set forth below.

Attorney for Party Named Above
Supreme Court ID No.: _____
Firm: _____
Address: _____

Telephone Number: _____

Fax Number for Service of Papers

Date: _____

Signature: _____

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Withdraw my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

Date: _____

Signature _____

Print Name: _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

File No. _____

Civil Action - _____

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue summons in the above case.

Writ of Summons shall be issued and forwarded to Attorney / Sheriff. (Please circle choice)

Date: _____

Signature of Attorney

Print Name: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

§ 8309. Civil rights violations

(a) **Redress for personal injury.**—A person who incurs injury to his person or damage or loss to his property as a result of conduct described in 18 Pa.C.S. § 2710 (relating to ethnic intimidation) or 3307 (relating to institutional vandalism) shall have a right of action against the actor for injunction, damages or other appropriate civil or equitable relief. In the action, the issue of whether the defendant engaged in the conduct alleged shall be determined according to the burden of proof used in other civil actions for similar relief. The plaintiff may seek recovery for any of the following:

(1) General and special damages, including damages for emotional distress. Damages under this paragraph shall be actual damages or \$500, whichever is greater.

(2) Punitive damages.

(3) Reasonable attorney fees and costs.

(4) Injunctive and other equitable relief.

(5) Such other relief which the court deems necessary and proper.

(b) **Redress sought by public official on behalf of others.**—When conduct which would constitute a violation of 18 Pa.C.S. § 2710 or 3307 has occurred, the district attorney of the county in which the violation took place or the Attorney General, after consulting with the district attorney, may institute a civil action for injunctive or other equitable relief if needed to protect any person or property. The civil action shall be brought in the name of the Commonwealth of Pennsylvania in the county where the violation occurred.

(c) **Filing of court orders.**—The prothonotary of the court in which a civil action is brought under subsection (a) or (b) shall transmit two certified copies of any order issued in the action to each appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act and where the defendant resides or has his principal place of business. The sheriff of the county in which the defendant resides shall serve a copy of the order on the defendant. Unless otherwise ordered by the court, service shall be by delivering a copy in hand to the defendant. Law enforcement agencies shall establish procedures adequate to ensure that all officers responsible for the enforcement of the order are informed of its existence and terms. When a law enforcement officer has probable cause to believe that a defendant has violated the provisions of an order, the officer may arrest him.

(d) **Contempt notice required to be part of order.**—In actions brought under this section, when a court issues a temporary restraining order or a preliminary or permanent injunction ordering a defendant to refrain from certain conduct or activities, the order issued shall contain the following statement: **VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

(e) **Penalties.**—A violation of an order issued and served as set forth in this section shall be a misdemeanor of the second degree. If bodily injury results from the violation, the violation shall be a misdemeanor of the first degree.

(f) **Vacated orders.**—When the court vacates a temporary restraining order or a preliminary or permanent injunction issued under this section, the prothonotary shall promptly notify in writing each appropriate law enforcement agency which had been notified of the issuance of the order and shall direct each such agency to destroy all

records of the order, and the agency shall comply with the directive upon receipt of the notification.

1990, Dec. 19, P.L. 1394, No. 216, § 1, effective in 60 days.

Law Review and Journal Commentaries

Annual survey of significant developments in the law—Civil practice and procedure. Harold K. Don, Jr., 63 Pa. B.A.Q. 55 (1992).

United States Supreme Court

Civil rights actions, attorney fees, prevailing party, nominal damages, see *Farar v. Hobby*, U.S.Tex.1992, 113 S.Ct. 566, 506 U.S. 103, 121 L.Ed.2d 494.

Civil rights liability, prosecutors, false statements and fabrication of evidence,

qualified v. absolute immunity, administrative and investigatory v. prosecutorial functions, see *Buckley v. Fitzsimmons*, U.S.111993, 113 S.Ct. 2606, 509 U.S. 259, 125 L.Ed.2d 209, on remand 20 F.3d 789, rehearing and suggestion for rehearing en banc denied.

FACT SHEET

Involuntary Transfer of Ownership of a Vehicle by Court Order

PURPOSE

This Fact Sheet outlines the procedures that must be followed when applying for a Certificate of Title involving the involuntary transfer of a vehicle's ownership. This procedure involves obtaining a court order and should be used only in those circumstances where it is impossible to transfer ownership of a vehicle by the use of a Certificate of Title or Vehicle Manufacturer's Certificate of Origin. Since every set of facts and surrounding circumstances will be unique, a person attempting to be declared owner of a vehicle where proper ownership documents are not available should seek the advice of a private attorney. **PennDOT WILL NOT OFFER LEGAL ADVICE REGARDING THE INVOLUNTARY TRANSFER OF OWNERSHIP OF A VEHICLE.**

PROCEDURES

1. A person attempting to obtain ownership of a vehicle must commence a proceeding with a court of competent jurisdiction setting forth the facts and circumstances of the case. The ownership of the vehicle will be determined by the court. Please note that a sample court order is provided on the reverse side of this fact sheet. **UNLESS THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION IS THE OWNER OF THE VEHICLE IN QUESTION, THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION IS NOT AN INTERESTED PARTY TO THIS COURT PROCEEDING. THEREFORE, THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION SHOULD NOT BE A NAMED PARTY IN THE PROCEEDING.**
2. A person attempting to be declared owner of a vehicle by court order must notify all persons with an interest in the vehicle of the pendency of the court proceeding. The notification must be sent by certified mail, return receipt requested, and must include the following:
 - (1) A specific description of the vehicle (i.e., year, make, model and VIN);
 - (2) The court of competent jurisdiction where an action will be or has been filed; and
 - (3) The time, date and place of any court proceeding.

AT A MINIMUM, THE NOTICE MUST BE SENT TO THE PERSON(S) TO WHOM THE VEHICLE IS PRESENTLY TITLED AND REGISTERED AND EVERY LIENHOLDER THAT IS LISTED ON THE TITLE RECORD. PLEASE NOTE THAT IF A PERSON ATTEMPTING TO BE DECLARED OWNER OF A VEHICLE IS UNAWARE OF ANY PERSON WITH AN INTEREST IN THE VEHICLE, THE PERSON ATTEMPTING TO OBTAIN OWNERSHIP OF THE VEHICLE MAY OBTAIN A CERTIFIED COPY OF THE VEHICLE'S COMPUTER RECORD BY COMPLETING FORM DL-135 (REQUEST FOR VEHICLE INFORMATION), AND SUBMITTING TO PENNDOT ALONG WITH THE APPROPRIATE FEES.

July 2010

- over -



3. In the event the notice sent to a person with an interest in the vehicle is returned as “Unclaimed,” the person attempting to be declared owner of the vehicle must advertise a legal notice at least once in the county legal journal(s) and at least once per week for three consecutive weeks in the newspaper(s) of general circulation where any person known to claim an interest in the vehicle may be located and where the vehicle is located, if these two locations are different. Please refer to the *Pennsylvania Bar Association Lawyers Directory & Product Guide* to determine the appropriate legal journal. The advertisement should include the following:
 - (1) A specific description of the vehicle (i.e., year, make, model and VIN);
 - (2) The court of competent jurisdiction where an action will be or has been filed; and
 - (3) The time, date and place of any court proceeding.

4. When the above procedure is followed and the court of competent jurisdiction enters an order declaring an individual the rightful owner of the vehicle, PennDOT may issue a Certificate of Title to the person named in the court order upon receipt of the following:
 - (1) A certified copy of the court order entered declaring the individual owner of the vehicle;
 - (2) Form MV-1, “Application for Certificate of Title,” and check or money order payable to the Commonwealth of Pennsylvania.
 - (3) Appropriate sales tax, title and registration fees.

Unless the petitioner is eligible to claim a Sales Tax Exemption, sales tax must be paid on the Fair Market Value of the vehicle as listed in a current edition of a PennDOT-approved publication. Approved PennDOT publications include the following: *N.A.D.A.*, *The Automobile Red Book*, *The Black Book Official Used Car Guide*, *American Used Car Guide*, and *The Kelley Blue Book Used Car Guide*.

SAMPLE COURT ORDER

AND NOW, this _____ day of _____, 20____, after reasonable notice and an opportunity for hearing having been provided to all interested parties, the Court hereby awards ownership of one [year], [make], [model], bearing vehicle identification number _____ to [name of applicant], and the right, title and interest of any other person to said vehicle is hereby extinguished. The Commonwealth of Pennsylvania, Department of Transportation may accept this order as evidence of ownership in lieu of a Certificate of Title. The Petitioner shall submit the appropriate forms, taxes and fees and comply with any other procedures of the Commonwealth of Pennsylvania, Department of Transportation in order to receive the appropriate Certificate of Title for said vehicle.

BY THE COURT:

Judge

Rule 1012.1. Admission Pro Hac Vice. Motion. Content.

(a) As used in this rule,

“candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

Official Note

Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b)(1) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The motion shall: (i) aver that the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, include as an attachment a copy of a fee payment certification from the IOLTA Board, or aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations.

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission pro hac vice is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party whom the candidate seeks to represent. Upon the motion being granted, the sponsor shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by the court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and

(iii) stating that the proceeds from the settlement of a cause of action in which the candidate is granted admission *pro hac vice* shall be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, including the IOLTA provisions thereof, if applicable.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

Official Note

Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,

(3) the client whom the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

Source

The provisions of this Rule 1012.1 adopted June 29, 2007, effective September 4, 2007, 37 Pa.B. 3225; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7544. Immediately preceding text appears at serial pages (338885) to (338887).

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CHAPTER E

CIVIL ACTION

QUIET TITLE (Pa.R.C.P. No. 1061 - 1067).

1. Action commenced by filing of a complaint or an agreement for amicable action.
2. Refer to filing a Complaint in CIVIL ACTION - LAW Section of this manual.
3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:
 - a. Chapter 3 - Office of the Prothonotary, Subsection:
 - (1). Civil Dockets, Books and Indices.
 - (2). Civil Papers/Files.
 - (a). Quiet Title Papers.

CHAPTER E

CIVIL ACTION

MORTGAGE FORECLOSURE (Pa.R.C.P. Nos. 1141 - 1150).

1. Action, as defined, commenced by filing a complaint. In addition to the complaint R.C.P. for this action, refer to the section of this manual for filing a complaint in CIVIL ACTION - LAW.

2. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). Foreclosure Papers.

CHAPTER E

CIVIL ACTION

ASBESTOS (Pa.R.C.P. Nos. 1041.1 - 1041.2).

1. Action commenced by filing of a complaint or summons.
2. The caption of all legal papers filed in the action shall contain the designation "Civil Action - Asbestos".
3. The Prothonotary shall maintain a record of all asbestos actions filed by a separate docket, docketing code or other appropriate means to allow the administrative monitoring of such actions.
4. Refer to filing a Complaint in CIVIL ACTION - LAW Section of this manual.
5. RETENTION AND DISPOSITION SCHEDULE pending.

CHAPTER E

CIVIL ACTION

ELECTIONS

1. JUDICIAL REVIEW BY COURT OF COMMON PLEAS (25 P.S. § 1301)

a. The following have standing to appeal an action of a registration commission:

(1). An individual whose claim for registration has been denied.

(2). An individual whose registration has been canceled by the commission.

(3). A qualified elector of a municipality whose rights are impaired by any general order made by the commission.

b. An appeal must be made by the seventh day preceding an election.

c. Upon timely receipt of an appeal, the court shall conduct a hearing.

d. If the court finds that an injustice has been done, it shall reverse or modify the ruling of the commission and issue appropriate injunctive relief.

e. The court may award costs for the appeal to the prevailing party. Costs may not be assessed against a commission or a county.

2. OBJECTIONS TO NOMINATION PETITIONS AND PAPERS (25 P.S. § 2937).

a. Objections to be filed within seven days from day of filing nominating petitions.

b. The office of the Prothonotary shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to file objections to nomination petitions.

3. APPEALS TO COURT FROM DECISIONS OF THE COUNTY BOARD (25 P.S. § 3157(a)).

a. Any person aggrieved by any order or decision of any county board regarding the computation or canvassing of the returns of any primary or election, or regarding any recount or recanvass, may appeal to the court of common pleas within two days after such order or decision shall have been made.

b. Upon the payment to the Prothonotary of the filing fee, the court shall fix a time and place for hearing the matter within three days.

(NOTE: Prothonotary shall NOT determine if timely filed.)

4. OPENING BALLOT BOXES UPON PETITION OF ELECTORS ALLEGING FRAUD OR ERROR; DEPOSIT OR BOND (25 P.S. § 3261).

RECANVASSING VOTING MACHINES UPON PETITION OF ELECTORS ALLEGING FRAUD OR ERROR (25 P.S. § 3262).

a. Petition to be by three qualified electors of the election district.

b. Petitioners to post, per ballot box or machine, either \$50.00 cash deposit, or \$100 surety bond conditioned upon the payment to the county treasurer the sum of \$50.00 in the event that it shall not appear that fraud or substantial error was committed in the computation of the votes cast or fraud in the marking of the ballots.

c. Court to certify results of opening ballot box or machine to Prothonotary.

(1). If fraud or substantial error was certified as a fact, Prothonotary shall return cash deposit to petitioners or mark surety bond cancelled with notification of same to petitioners.

(2). If fraud or substantial error was not found, the Prothonotary shall pay the cash deposit to the county treasurer; if surety bond filed, it is the duty of the county treasurer to collect the monies.

(NOTE: It is strongly suggested that the cash monies be retained by the Prothonotary until the appeal period has expired.)

5. PROCEDURES

a. Action commenced by filing:

(1). Objections under 25 P.S. § 2937

(2). An Appeal under 25 P.S. § 3157

(3). A Petition under 25 P.S. § 3261 or 3262

b. Upon payment of the filing fee, and the required cash or surety bond (if applicable), Prothonotary shall file and assign a court of common pleas number.

6. RETENTION AND DISPOSITION SCHEDULE pending.

CHAPTER E

CIVIL ACTION

APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING (Pa.R.C.P.D.J. No. 1002 et seq.).

1. Determine if appeal is from a landlord/tenant proceeding.
2. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing
 - a. Nonresidential Lease - more than thirty (30) days after the date of entry of judgment for money, or judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002(a))
 - b. Residential Lease - more than ten (10) days after the date of entry of judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002(b))

(NOTE: The two subdivisions of rule are intended to clarify that where right of possession of residential real estate is at issue, the shorter, ten (10) day period for appeal applies; where the judgment from which the appeal is taken is a judgment only for money, or a judgment affecting a nonresidential lease, under these rules, the thirty (30) day period of time for appeal applies. CHERRY RIDGE vs. CHONOGA, 379 PGH 97, 703 A.2d 1061 (decided 12/31/97).

(NOTE: For computation of time, see Pa.R.C.P. No. 106.)

3. Notice of Appeal should be filed in the Court of Common Pleas where M.D.J. is located (Pa.R.C.P.D.J. No. 1001(5)), and shall be accompanied by a copy of the Notice of Judgment issued by the M.D.J. (Pa.R.C.P.D.J. No. 1002).
4. When appeal is from a judgment for possession of real property, see Pa.R.C.P.D.J. No. 1008 for supersedeas conditions.
 - a. When appropriate bond is posted, Prothonotary shall sign supersedeas section on appeal form.

- b. For Indigent Tenants see Rule 1008 (c)
Reminder to Prothonotaries –
Poverty Guidelines change on a calendar year basis,
get new guidelines yearly on the Unified Judicial System of
Pennsylvania's website, <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee/>
Download/Print to attach to Appeals.

(NOTE: In the instance of a Landlord/Tenant Appeal on a nonresidential lease, where no rent is in arrears, no bond would be collected, but the supersedeas would be in effect and the rent would be due in thirty (30) days. It is strongly suggested that the Prothonotary make a notation on the appeal form that no bond was filed.)

5. If plaintiff is appellant, then praecipe for rule is not applicable.
6. If defendant is appellant, then praecipe for rule shall be signed by defendant and Prothonotary shall issue rule.
7. Appeal forms shall contain addresses of all parties, attorney's Supreme Court I.D. number, if applicable, and original signature of appellant or attorney. If in proper order, Prothonotary shall file and assign court of common pleas number upon payment of the filing fee. Original appeal form is retained and copies returned to filing party for service.
8. Proof of service with sender's postal receipts attached, to be filed within ten (10) days (Pa.R.C.P.D.J. No. 1005).
9. Striking of Appeal by the Prothonotary is set forth in Pa.R.C.P.D.J. No. 1006. Suggested procedure is for Prothonotary to give notice of action taken on praecipe to all parties.
10. Pa.R.C.P.D.J. No. 1008B also provides for
 - a. the release of funds to the landlord upon application to the court, and
 - b. the consequences if the appellant/tenant fails to pay the monthly rental in thirty (30) day intervals from the date the notice of appeal or praecipe was filed and each successive thirty (30) days thereafter.
11. If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas.

12. If appeal is stricken or voluntarily terminated, Prothonotary shall pay the deposits of rent to the party who sought possession of the real property in accordance with Pa.R.C.P.D.J. No. 1008C.

13. Disposition of monthly rental deposits will be made by the court of common pleas following its de novo hearing.

14. Judgment of "non pros" may be entered by Prothonotary upon praecipe by appellant pursuant to Pa.R.C.P.D.J. No. 1004B.

a. Written notice of intention to file the praecipe shall be given in accordance with Pa.R.C.P. No. 237.1.

b. Notice of the entry of judgment of non pros shall be given in accordance with Pa.R.C.P. No. 236.

15. If complaint is filed, the action proceeds under the "Pennsylvania Rules of Civil Procedure".

16. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

To Real Estate.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title

(b). #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

17. Forms:

Important Notice of Praecipe to Enter Judgment of Non Pros

Praecipe for Termination of Supersedeas and Notice

Section 8 Tenant's Supersedeas Affidavit Filed Pursuant to Pa.R.C.P.

M.D.J. No. 1008C(2)

Tenant's Supersedeas Affidavit (Non-Section 8) Filed Pursuant to

Pa.R.C.P.M.D.J. No. 1008C(2)

Section 8 Tenant's Supersedeas Affidavit Filed Pursuant to Pa.R.C.P.

M.D.J. No. 1013C(2)

Tenant's Supersedeas Affidavit (Non-Section 8) Filed Pursuant to

Pa.R.C.P.M.D.J. No. 1013C(2)

18. References:

Pa.R.C.P.D.J. No. 1008

Magisterial District Judge Deadline Computation Schedule

CIVIL DIVISION

vs.

File No. _____

To: _____
Plaintiff

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Defendant or Atty.

Address: _____

Attorney for _____

Telephone No.: _____

Supreme Court ID No.: _____

(NOTE: SERVE ON UNREPRESENTED PLAINTIFF OR ON PLAINTIFF'S ATTORNEY)

C

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges (Refs & Annos)

▣ Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges

▣ Appellate Proceedings with Respect to Judgments and Other Decisions of Magisterial District Judges in Civil Matters (Refs & Annos)

→→ **Rule 1008. Appeal as Supersedeas**

A. Receipt by the magisterial district judge of the copy of the notice of appeal from the judgment shall operate as supersedeas, except as provided in subdivisions B and C of this rule.

B. When an appeal is from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the notice of appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

In the event the appellant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the appellee, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

When the deposit of money or bond is made pursuant to the rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the notice of appeal is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in thirty (30) day intervals from the date the notice of appeal was filed; or

(b) If the rent has not been paid at the time of filing the notice of appeal, the tenant shall pay:

(i) at the time of filing the notice of appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the notice of appeal; and

(iii) additional deposits of one month's rent in full each thirty (30) days after filing the notice of appeal. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing

basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Note: Subdivision A provides for an automatic supersedeas in appeals from civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal.

Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas when the appeal is from a judgment for the possession of real property. A new subdivision (C) was created in 2008 to provide for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision (B).

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 when it became due" and will be signed by appellee. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.A.P.M.D.J. No. 515 may be made.

The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its de novo hearing of the matter on appeal.

The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.

CREDIT(S)

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; April 15, 2008, effective May 15, 2008; July 16, 2012, imd. effective; Aug. 16, 2013, effective Sept. 15, 2013.

HISTORICAL NOTES

Order of Jan. 6, 2005

By Order of Jan. 6, 2005, eff. Jan. 29, 2005, the Pennsylvania Supreme Court ordered “that all references in any court rule, court order, court form (including citation), automated statewide court case management system (i.e. PACMS, CPCMS and DJS) or any other legal authority, except as provided for in Act 207 [2004, Nov. 30, P.L. 1618], to ‘district justice’ shall be deemed a reference to ‘magisterial district judge.’ ”

Order of April 15, 2008

The Order of April 15, 2008, in subd. A, substituted “subdivisions B and C” for “subdivision B”; in subd. B, in the first paragraph, substituted “time of filing the notice of appeal,” for “time of filing the appeal” and “date of the filing of the notice of appeal” for “date of the filing of the notice of appeal”, and in the third paragraph, substituted “by first class mail to attorneys of record, or, if a party is unrepresented,” for “via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party that does not have an attorney of record is sufficient if mailed”; added a new subd. C and redesignated former subd. C as subd. D; rewrote the subd. D note, which prior thereto read:

Note: Subdivision A provides for an automatic supersedeas in appeals from trespass and assumpsit actions upon receipt by the magisterial district judge of a copy of the notice of appeal. It did not seem worthwhile to require bond or other security for costs as a condition for supersedeas in trespass and assumpsit appeals.

“ Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. This provision substantially incorporates the purpose and intent of the Legislative provision contained in Act No. 1995-33, approved July 6, 1995. The 1996 amendment provides a uniform, statewide procedure (except Philadelphia County: See: Philadelphia Municipal Court Rules of Civil Procedure), and establishes a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.

“The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: “Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 for a period in excess of thirty (30) days” and will be signed by appellee. The prothonotary will then note upon the praecipe: “Upon confirmation of failure of the appellant to deposit the monthly rent for more than thirty (30) days, the supersedeas is terminated,” and the prothonotary will sign and clock the

praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.A.P.M.D.J. No. 515 may be made.

“The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its *de novo* hearing of the matter on appeal.

“The money judgment portion of a landlord and tenant judgment (*See* Pa. R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.”

; and made other nonsubstantive changes.

Order of July 16, 2012

The Order of July 16, 2012, in the Note to subrule (C)(4), substituted “www.pacourts.us” for “www.aopc.org”.

Order of Aug. 16, 2013

The Order of Aug. 16, 2013, in subd. C(3)(a), substituted “in thirty (30) day intervals from the date the notice of appeal was filed” for “as it becomes due under the lease for the months subsequent to the filing of the notice of appeal”.

NOTES OF DECISIONS

In general 1
Appeal bonds 2

1. In general

A supersedeas merely stays execution on judgment during pendency of appeal; it does not open, strike off, or vacate the judgment, or otherwise remove the judgment from the record or render it invalid. *Wilkes-Barre Clay Products, Co. v. Koroneos*, 493 A.2d 744, 342 Pa.Super. 582, Super.1985. Appeal And Error ¶485(2)

Under this rule, plaintiffs could have a writ of possession following proceeding before the district justice to secure the possession of real estate occupied by defendants if during defendants' appeal to the court of common pleas a bond with surety was not filed with the prothonotary. *Sweitzer v. Nonemaker*, 14 Pa. D. & C.3d 714 (1980). *Justices Of The Peace* ¶162(1)

2. Appeal bonds

Valid judgment of possession which required former owner of property, who continued to possess property as lessee

of property, to vacate premises, existed, and thus former owner/lessee was not entitled to have writ of possession set aside, even though docket entries indicated that former owner/lessee initially perfected supersedeas on judgment of possession, where supersedeas was terminated upon praecipe that confirmed that former owner/lessee failed to deposit into court bond or sum of money in amount of monthly rent due for period in excess of 30 days, former owner/lessee failed to make deposits into court after bond in amount of rent for two months and did not deposit any money into court for almost year, and over 10 months had passed since expiration original agreement that also required that former owner/lessee vacate property. Johnson v. Martofel, 797 A.2d 943, Super.2002, reargument denied , appeal denied 813 A.2d 842, 572 Pa. 706. Landlord And Tenant ↪313

An appeal from a judgment of possession rendered by a district justice will not act as a supersedeas where the appeal bond required by subd. B of this rule has not been filed by defendant because of in forma pauperis status. Ruggiero v. Reid, 36 Pa. D. & C.3d 241 (1985). Criminal Law ↪1084

Pa.R.C.P.M.D.J. No. 1008, 42 Pa.C.S.A., PA ST RCP MAG DIST J RULE 1008

Current with amendments received through 12/15/13

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END OF DOCUMENT

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS — SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

Supreme Court of Pennsylvania
Civil Procedural Rules Committee

Poverty Income Guidelines

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the prothonotary to attach to the Notice of Intent to Attach Wages “the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.” The guidelines for 2014 are set forth in the following chart:

**2014 HHS Poverty Income Guidelines
Expressed in Monthly Amounts**

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$972.50
2	1,310.83
3	1,649.16
4	1,987.50
5	2,325.83
6	2,664.16
7	3,002.50
8	3,340.83
For each additional person, add	338.33

DEADLINE SCHEDULE BY DATE -- M.D.J APPEAL -- POSSESSION & MONEY

<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>	<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>
1-Aug-14	11-Aug-14	31-Aug-14	1-Sep-14	11-Sep-14	1-Oct-14
2-Aug-14	12-Aug-14	1-Sep-14	2-Sep-14	12-Sep-14	2-Oct-14
3-Aug-14	13-Aug-14	2-Sep-14	3-Sep-14	13-Sep-14	3-Oct-14
4-Aug-14	14-Aug-14	3-Sep-14	4-Sep-14	14-Sep-14	4-Oct-14
5-Aug-14	15-Aug-14	4-Sep-14	5-Sep-14	15-Sep-14	5-Oct-14
6-Aug-14	16-Aug-14	5-Sep-14	6-Sep-14	16-Sep-14	6-Oct-14
7-Aug-14	17-Aug-14	6-Sep-14	7-Sep-14	17-Sep-14	7-Oct-14
8-Aug-14	18-Aug-14	7-Sep-14	8-Sep-14	18-Sep-14	8-Oct-14
9-Aug-14	19-Aug-14	8-Sep-14	9-Sep-14	19-Sep-14	9-Oct-14
10-Aug-14	20-Aug-14	9-Sep-14	10-Sep-14	20-Sep-14	10-Oct-14
11-Aug-14	21-Aug-14	10-Sep-14	11-Sep-14	21-Sep-14	11-Oct-14
12-Aug-14	22-Aug-14	11-Sep-14	12-Sep-14	22-Sep-14	12-Oct-14
13-Aug-14	23-Aug-14	12-Sep-14	13-Sep-14	23-Sep-14	13-Oct-14
14-Aug-14	24-Aug-14	13-Sep-14	14-Sep-14	24-Sep-14	14-Oct-14
15-Aug-14	25-Aug-14	14-Sep-14	15-Sep-14	25-Sep-14	15-Oct-14
16-Aug-14	26-Aug-14	15-Sep-14	16-Sep-14	26-Sep-14	16-Oct-14
17-Aug-14	27-Aug-14	16-Sep-14	17-Sep-14	27-Sep-14	17-Oct-14
18-Aug-14	28-Aug-14	17-Sep-14	18-Sep-14	28-Sep-14	18-Oct-14
19-Aug-14	29-Aug-14	18-Sep-14	19-Sep-14	29-Sep-14	19-Oct-14
20-Aug-14	30-Aug-14	19-Sep-14	20-Sep-14	30-Sep-14	20-Oct-14
21-Aug-14	31-Aug-14	20-Sep-14	21-Sep-14	1-Oct-14	21-Oct-14
22-Aug-14	1-Sep-14	21-Sep-14	22-Sep-14	2-Oct-14	22-Oct-14
23-Aug-14	2-Sep-14	22-Sep-14	23-Sep-14	3-Oct-14	23-Oct-14
24-Aug-14	3-Sep-14	23-Sep-14	24-Sep-14	4-Oct-14	24-Oct-14
25-Aug-14	4-Sep-14	24-Sep-14	25-Sep-14	5-Oct-14	25-Oct-14
26-Aug-14	5-Sep-14	25-Sep-14	26-Sep-14	6-Oct-14	26-Oct-14
27-Aug-14	6-Sep-14	26-Sep-14	27-Sep-14	7-Oct-14	27-Oct-14
28-Aug-14	7-Sep-14	27-Sep-14	28-Sep-14	8-Oct-14	28-Oct-14
29-Aug-14	8-Sep-14	28-Sep-14	29-Sep-14	9-Oct-14	29-Oct-14
30-Aug-14	9-Sep-14	29-Sep-14	30-Sep-14	10-Oct-14	30-Oct-14
31-Aug-14	10-Sep-14	30-Sep-14			
1-Oct-14	11-Oct-14	31-Oct-14	1-Nov-14	11-Nov-14	1-Dec-14
2-Oct-14	12-Oct-14	1-Nov-14	2-Nov-14	12-Nov-14	2-Dec-14
3-Oct-14	13-Oct-14	2-Nov-14	3-Nov-14	13-Nov-14	3-Dec-14
4-Oct-14	14-Oct-14	3-Nov-14	4-Nov-14	14-Nov-14	4-Dec-14
5-Oct-14	15-Oct-14	4-Nov-14	5-Nov-14	15-Nov-14	5-Dec-14
6-Oct-14	16-Oct-14	5-Nov-14	6-Nov-14	16-Nov-14	6-Dec-14
7-Oct-14	17-Oct-14	6-Nov-14	7-Nov-14	17-Nov-14	7-Dec-14
8-Oct-14	18-Oct-14	7-Nov-14	8-Nov-14	18-Nov-14	8-Dec-14
9-Oct-14	19-Oct-14	8-Nov-14	9-Nov-14	19-Nov-14	9-Dec-14
10-Oct-14	20-Oct-14	9-Nov-14	10-Nov-14	20-Nov-14	10-Dec-14
11-Oct-14	21-Oct-14	10-Nov-14	11-Nov-14	21-Nov-14	11-Dec-14
12-Oct-14	22-Oct-14	11-Nov-14	12-Nov-14	22-Nov-14	12-Dec-14
13-Oct-14	23-Oct-14	12-Nov-14	13-Nov-14	23-Nov-14	13-Dec-14
14-Oct-14	24-Oct-14	13-Nov-14	14-Nov-14	24-Nov-14	14-Dec-14
15-Oct-14	25-Oct-14	14-Nov-14	15-Nov-14	25-Nov-14	15-Dec-14
16-Oct-14	26-Oct-14	15-Nov-14	16-Nov-14	26-Nov-14	16-Dec-14
17-Oct-14	27-Oct-14	16-Nov-14	17-Nov-14	27-Nov-14	17-Dec-14
18-Oct-14	28-Oct-14	17-Nov-14	18-Nov-14	28-Nov-14	18-Dec-14
19-Oct-14	29-Oct-14	18-Nov-14	19-Nov-14	29-Nov-14	19-Dec-14
20-Oct-14	30-Oct-14	19-Nov-14	20-Nov-14	30-Nov-14	20-Dec-14
21-Oct-14	31-Oct-14	20-Nov-14	21-Nov-14	1-Dec-14	21-Dec-14
22-Oct-14	1-Nov-14	21-Nov-14	22-Nov-14	2-Dec-14	22-Dec-14
23-Oct-14	2-Nov-14	22-Nov-14	23-Nov-14	3-Dec-14	23-Dec-14
24-Oct-14	3-Nov-14	23-Nov-14	24-Nov-14	4-Dec-14	24-Dec-14
25-Oct-14	4-Nov-14	24-Nov-14	25-Nov-14	5-Dec-14	25-Dec-14
26-Oct-14	5-Nov-14	25-Nov-14	26-Nov-14	6-Dec-14	26-Dec-14
27-Oct-14	6-Nov-14	26-Nov-14	27-Nov-14	7-Dec-14	27-Dec-14
28-Oct-14	7-Nov-14	27-Nov-14	28-Nov-14	8-Dec-14	28-Dec-14
29-Oct-14	8-Nov-14	28-Nov-14	29-Nov-14	9-Dec-14	29-Dec-14
30-Oct-14	9-Nov-14	29-Nov-14	30-Nov-14	10-Dec-14	30-Dec-14
31-Oct-14	10-Nov-14	30-Nov-14			

DEADLINE SCHEDULE BY DATE -- M.D.J APPEAL -- POSSESSION & MONEY

<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>	<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>
1-Dec-14	11-Dec-14	31-Dec-14	1-Jan-15	11-Jan-15	31-Jan-15
2-Dec-14	12-Dec-14	1-Jan-15	2-Jan-15	12-Jan-15	1-Feb-15
3-Dec-14	13-Dec-14	2-Jan-15	3-Jan-15	13-Jan-15	2-Feb-15
4-Dec-14	14-Dec-14	3-Jan-15	4-Jan-15	14-Jan-15	3-Feb-15
5-Dec-14	15-Dec-14	4-Jan-15	5-Jan-15	15-Jan-15	4-Feb-15
6-Dec-14	16-Dec-14	5-Jan-15	6-Jan-15	16-Jan-15	5-Feb-15
7-Dec-14	17-Dec-14	6-Jan-15	7-Jan-15	17-Jan-15	6-Feb-15
8-Dec-14	18-Dec-14	7-Jan-15	8-Jan-15	18-Jan-15	7-Feb-15
9-Dec-14	19-Dec-14	8-Jan-15	9-Jan-15	19-Jan-15	8-Feb-15
10-Dec-14	20-Dec-14	9-Jan-15	10-Jan-15	20-Jan-15	9-Feb-15
11-Dec-14	21-Dec-14	10-Jan-15	11-Jan-15	21-Jan-15	10-Feb-15
12-Dec-14	22-Dec-14	11-Jan-15	12-Jan-15	22-Jan-15	11-Feb-15
13-Dec-14	23-Dec-14	12-Jan-15	13-Jan-15	23-Jan-15	12-Feb-15
14-Dec-14	24-Dec-14	13-Jan-15	14-Jan-15	24-Jan-15	13-Feb-15
15-Dec-14	25-Dec-14	14-Jan-15	15-Jan-15	25-Jan-15	14-Feb-15
16-Dec-14	26-Dec-14	15-Jan-15	16-Jan-15	26-Jan-15	15-Feb-15
17-Dec-14	27-Dec-14	16-Jan-15	17-Jan-15	27-Jan-15	16-Feb-15
18-Dec-14	28-Dec-14	17-Jan-15	18-Jan-15	28-Jan-15	17-Feb-15
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30-Dec-14	9-Jan-15	29-Jan-15	30-Jan-15	9-Feb-15	1-Mar-15
31-Dec-14	10-Jan-15	30-Jan-15	31-Jan-15	10-Feb-15	2-Mar-15
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2-Feb-15	12-Feb-15	4-Mar-15	2-Mar-15	12-Mar-15	1-Apr-15
3-Feb-15	13-Feb-15	5-Mar-15	3-Mar-15	13-Mar-15	2-Apr-15
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6-Feb-15	16-Feb-15	8-Mar-15	6-Mar-15	16-Mar-15	5-Apr-15
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9-Feb-15	19-Feb-15	11-Mar-15	9-Mar-15	19-Mar-15	8-Apr-15
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13-Feb-15	23-Feb-15	15-Mar-15	13-Mar-15	23-Mar-15	12-Apr-15
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15-Feb-15	25-Feb-15	17-Mar-15	15-Mar-15	25-Mar-15	14-Apr-15
16-Feb-15	26-Feb-15	18-Mar-15	16-Mar-15	26-Mar-15	15-Apr-15
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21-Feb-15	3-Mar-15	23-Mar-15	21-Mar-15	31-Mar-15	20-Apr-15
22-Feb-15	4-Mar-15	24-Mar-15	22-Mar-15	1-Apr-15	21-Apr-15
23-Feb-15	5-Mar-15	25-Mar-15	23-Mar-15	2-Apr-15	22-Apr-15
24-Feb-15	6-Mar-15	26-Mar-15	24-Mar-15	3-Apr-15	23-Apr-15
25-Feb-15	7-Mar-15	27-Mar-15	25-Mar-15	4-Apr-15	24-Apr-15
26-Feb-15	8-Mar-15	28-Mar-15	26-Mar-15	5-Apr-15	25-Apr-15
27-Feb-15	9-Mar-15	29-Mar-15	27-Mar-15	6-Apr-15	26-Apr-15
28-Feb-15	10-Mar-15	30-Mar-15	28-Mar-15	7-Apr-15	27-Apr-15
			29-Mar-15	8-Apr-15	28-Apr-15
			30-Mar-15	9-Apr-15	29-Apr-15
			31-Mar-15	10-Apr-15	30-Apr-15

DEADLINE SCHEDULE BY DATE -- M.D.J APPEAL -- POSSESSION & MONEY

<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>		<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>
1-Apr-15	11-Apr-15	1-May-15		1-May-15	11-May-15	31-May-15
2-Apr-15	12-Apr-15	2-May-15		2-May-15	12-May-15	1-Jun-15
3-Apr-15	13-Apr-15	3-May-15		3-May-15	13-May-15	2-Jun-15
4-Apr-15	14-Apr-15	4-May-15		4-May-15	14-May-15	3-Jun-15
5-Apr-15	15-Apr-15	5-May-15		5-May-15	15-May-15	4-Jun-15
6-Apr-15	16-Apr-15	6-May-15		6-May-15	16-May-15	5-Jun-15
7-Apr-15	17-Apr-15	7-May-15		7-May-15	17-May-15	6-Jun-15
8-Apr-15	18-Apr-15	8-May-15		8-May-15	18-May-15	7-Jun-15
9-Apr-15	19-Apr-15	9-May-15		9-May-15	19-May-15	8-Jun-15
10-Apr-15	20-Apr-15	10-May-15		10-May-15	20-May-15	9-Jun-15
11-Apr-15	21-Apr-15	11-May-15		11-May-15	21-May-15	10-Jun-15
12-Apr-15	22-Apr-15	12-May-15		12-May-15	22-May-15	11-Jun-15
13-Apr-15	23-Apr-15	13-May-15		13-May-15	23-May-15	12-Jun-15
14-Apr-15	24-Apr-15	14-May-15		14-May-15	24-May-15	13-Jun-15
15-Apr-15	25-Apr-15	15-May-15		15-May-15	25-May-15	14-Jun-15
16-Apr-15	26-Apr-15	16-May-15		16-May-15	26-May-15	15-Jun-15
17-Apr-15	27-Apr-15	17-May-15		17-May-15	27-May-15	16-Jun-15
18-Apr-15	28-Apr-15	18-May-15		18-May-15	28-May-15	17-Jun-15
19-Apr-15	29-Apr-15	19-May-15		19-May-15	29-May-15	18-Jun-15
20-Apr-15	30-Apr-15	20-May-15		20-May-15	30-May-15	19-Jun-15
21-Apr-15	1-May-15	21-May-15		21-May-15	31-May-15	20-Jun-15
22-Apr-15	2-May-15	22-May-15		22-May-15	1-Jun-15	21-Jun-15
23-Apr-15	3-May-15	23-May-15		23-May-15	2-Jun-15	22-Jun-15
24-Apr-15	4-May-15	24-May-15		24-May-15	3-Jun-15	23-Jun-15
25-Apr-15	5-May-15	25-May-15		25-May-15	4-Jun-15	24-Jun-15
26-Apr-15	6-May-15	26-May-15		26-May-15	5-Jun-15	25-Jun-15
27-Apr-15	7-May-15	27-May-15		27-May-15	6-Jun-15	26-Jun-15
28-Apr-15	8-May-15	28-May-15		28-May-15	7-Jun-15	27-Jun-15
29-Apr-15	9-May-15	29-May-15		29-May-15	8-Jun-15	28-Jun-15
30-Apr-15	10-May-15	30-May-15		30-May-15	9-Jun-15	29-Jun-15
				31-May-15	10-Jun-15	30-Jun-15
1-Jun-15	11-Jun-15	1-Jul-15		1-Jul-15	11-Jul-15	31-Jul-15
2-Jun-15	12-Jun-15	2-Jul-15		2-Jul-15	12-Jul-15	1-Aug-15
3-Jun-15	13-Jun-15	3-Jul-15		3-Jul-15	13-Jul-15	2-Aug-15
4-Jun-15	14-Jun-15	4-Jul-15		4-Jul-15	14-Jul-15	3-Aug-15
5-Jun-15	15-Jun-15	5-Jul-15		5-Jul-15	15-Jul-15	4-Aug-15
6-Jun-15	16-Jun-15	6-Jul-15		6-Jul-15	16-Jul-15	5-Aug-15
7-Jun-15	17-Jun-15	7-Jul-15		7-Jul-15	17-Jul-15	6-Aug-15
8-Jun-15	18-Jun-15	8-Jul-15		8-Jul-15	18-Jul-15	7-Aug-15
9-Jun-15	19-Jun-15	9-Jul-15		9-Jul-15	19-Jul-15	8-Aug-15
10-Jun-15	20-Jun-15	10-Jul-15		10-Jul-15	20-Jul-15	9-Aug-15
11-Jun-15	21-Jun-15	11-Jul-15		11-Jul-15	21-Jul-15	10-Aug-15
12-Jun-15	22-Jun-15	12-Jul-15		12-Jul-15	22-Jul-15	11-Aug-15
13-Jun-15	23-Jun-15	13-Jul-15		13-Jul-15	23-Jul-15	12-Aug-15
14-Jun-15	24-Jun-15	14-Jul-15		14-Jul-15	24-Jul-15	13-Aug-15
15-Jun-15	25-Jun-15	15-Jul-15		15-Jul-15	25-Jul-15	14-Aug-15
16-Jun-15	26-Jun-15	16-Jul-15		16-Jul-15	26-Jul-15	15-Aug-15
17-Jun-15	27-Jun-15	17-Jul-15		17-Jul-15	27-Jul-15	16-Aug-15
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20-Jun-15	30-Jun-15	20-Jul-15		20-Jul-15	30-Jul-15	19-Aug-15
21-Jun-15	1-Jul-15	21-Jul-15		21-Jul-15	31-Jul-15	20-Aug-15
22-Jun-15	2-Jul-15	22-Jul-15		22-Jul-15	1-Aug-15	21-Aug-15
23-Jun-15	3-Jul-15	23-Jul-15		23-Jul-15	2-Aug-15	22-Aug-15
24-Jun-15	4-Jul-15	24-Jul-15		24-Jul-15	3-Aug-15	23-Aug-15
25-Jun-15	5-Jul-15	25-Jul-15		25-Jul-15	4-Aug-15	24-Aug-15
26-Jun-15	6-Jul-15	26-Jul-15		26-Jul-15	5-Aug-15	25-Aug-15
27-Jun-15	7-Jul-15	27-Jul-15		27-Jul-15	6-Aug-15	26-Aug-15
28-Jun-15	8-Jul-15	28-Jul-15		28-Jul-15	7-Aug-15	27-Aug-15
29-Jun-15	9-Jul-15	29-Jul-15		29-Jul-15	8-Aug-15	28-Aug-15
30-Jun-15	10-Jul-15	30-Jul-15		30-Jul-15	9-Aug-15	29-Aug-15
				31-Jul-15	10-Aug-15	30-Aug-15

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	------------------------------------

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
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Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)**

I, _____ (print name and address here),

have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)

I, _____ (print name and address here),
have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession
of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my
monthly rent or the judgment for rent awarded by the magisterial district court. My total household income
does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending
appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the
one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge,
information and belief. I understand that false statements herein are made subject to the penalties of 18
Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
 FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS — SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

Supreme Court of Pennsylvania
Civil Procedural Rules Committee

Poverty Income Guidelines

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the prothonotary to attach to the Notice of Intent to Attach Wages “the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.” The guidelines for 2014 are set forth in the following chart:

**2014 HHS Poverty Income Guidelines
Expressed in Monthly Amounts**

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$972.50
2	1,310.83
3	1,649.16
4	1,987.50
5	2,325.83
6	2,664.16
7	3,002.50
8	3,340.83
For each additional person, add	338.33

CHAPTER E

CIVIL ACTION

EMINENT DOMAIN (CONDEMNATION) (26 P.S. §§ 1-401 et seq).

1. A "condemnation proceeding" is a special proceeding at law to determine in a single action the damages done by a taking.
2. The declaration of taking shall be in writing and shall be captioned as a proceeding in rem.
3. The Prothonotary shall charge one fee for filing each declaration of taking regardless of the number of properties or condemnees included.
4. The condemnor, upon filing its declaration of taking, shall on the same day lodge for record a notice thereof in the office of the recorder of deeds of the county in which the property is located. If the property is located in two or more counties, the notice shall be recorded in all such counties. Upon the notice being assigned a book and page number by the recorder of deeds the condemnor shall file with the prothonotary under the caption of the declaration of taking a memorandum of the book and page number in which the notice is recorded.
5. If a condemnee refuses to deliver possession or permit right of entry, the Prothonotary upon praecipe of the condemnor shall issue a rule, returnable in five days after service upon the condemnee, to show cause why a writ of possession should not issue.
6. Upon the filing of a petition for the appointment of viewers, the court, shall promptly appoint three viewers. The Prothonotary shall promptly notify the viewers of their appointment unless a local rule provides another method of notification.
7. Any party aggrieved by the decision of the viewers may appeal to the court of common pleas. Any award of damages or assessment of benefits, as the case may be, as to which no appeal is taken, shall become final as of course and shall constitute a final judgment.
8. The court upon petition of the condemnor which shall include a schedule of proposed distribution, may direct payment thereof and costs into court or as the court may direct in full satisfaction thereof. The court thereafter upon petition of any party in interest shall distribute such funds or any funds deposited in court under section 407 to the persons entitled thereto in accordance with the procedure in section 521, but if

no petition is presented within a period of five years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

9. NO fee shall be charged against these funds by the Prothonotary.

10. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

11. Form:

Praeipie and Rule to Show Cause

CIVIL DIVISION

:
:
: File No. _____
:
:
:
:
:
:

EMINENT DOMAIN (CONDEMNATION)

PRAECIPE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a Rule to Show Cause in the above case pursuant to 26 P.S. § 1-407(a) addressed to

to show cause, if any there be, why Condemnor and Petitioner, _____

_____ should not be entitled to possession of the subject property.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

RULE TO SHOW CAUSE

NOW, _____, _____, upon consideration of the foregoing Praecipe, it is hereby ordered that:

1. A Rule is issued upon Respondents to show cause why Petitioner is not entitled to possession of the subject property; and
2. Respondents shall file an Answer to the Petition within five (5) days of the date of service of this Order.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

CHAPTER E

CIVIL ACTION

CONTROLLED SUBSTANCE FORFEITURE ACT (42 Pa.C.S.A. §§ 6801 et seq.)

1. Owner of property subject to forfeiture under this act is entitled to jury trial under Pennsylvania Constitution.

2. PROCEEDINGS

a. Original petition for forfeiture of property filed with Clerk of Courts.

b. Upon demand by claimant for jury trial, order of court directing transfer of file to Prothonotary for purpose of civil trial filed.

c. Upon receipt of transferred file, Prothonotary shall assign a court of common pleas number and bill claimant for filing fee.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

4. References:

Commonwealth v. One (1) Z-28 Camaro Coupe, 610 A.2d 36 (Pa. 1992)

Commonwealth v. One Thousand Four Hundred Dollars (\$1,400) in United States Currency, 667 A.2d 452 (Pa.Cmwlt. 1995)

paper, but was intricately constructed of multiple layers and foil portions. The trial court decision suppressing the opinion of the Commonwealth expert specifically permitted the Commonwealth to use photocopies, yet the Commonwealth declined to proceed to trial on that basis, certifying that the order substantially handicapped the prosecution. In our judgment, expert analysis of a photocopy cannot suffice to determine the authenticity of the original missing ticket, so the Commonwealth's offer to permit defense experts to examine photocopies is of questionable value.³

For these reasons, we hold that the trial court was correct in ruling that admission of the prosecution expert's report and testimony would violate appellant's due process rights under the federal Constitution. The judgment of the Superior Court must be reversed.

Judgment reversed.

McDERMOTT, J., files a concurring opinion in which LARSEN, J., joins.

CAPPY, J., files a concurring opinion.

McDERMOTT, Justice, concurring.

I join in the result reached by the majority without subscribing to any more than is necessary for decision. The appellant was charged three years after he presented an alleged forged lottery ticket. The Commonwealth, for whatever reason, could not produce the ticket he allegedly presented. The proof of forgery was not apparent on its face, and a photocopy did not disclose all the intricacies required for an expert opinion. The appellant was entitled to examine and test those intricacies and he could not without the original ticket: more need not be said.

LARSEN, J., joins in this Concurring Opinion.

3. There is no photocopy included in the record. Nevertheless, testimony indicates that an enlarged photocopy was entered in evidence at the preliminary hearing. We question the utility of such a document; needless to say, there are no foil portions to be examined, the ink cannot be

CAPPY, Justice, concurring.

I concur in the result reached by the Majority that the Commonwealth is prohibited from presenting expert opinion testimony as to the alleged forgery of a lottery ticket which the Commonwealth lost prior to trial. However, I disagree with the Majority that the Commonwealth should be permitted an absolute right of appeal from an adverse ruling on a motion *in limine* upon the bare allegation of the District Attorney that the prosecution is substantially handicapped by that ruling. I do so for the same reasons I expressed in my concurring opinion in *Commonwealth v. Cohen*, 529 Pa. 552, 605 A.2d 1212 (1992).



COMMONWEALTH of Pennsylvania,
Appellee.

v.

ONE (1) 1984 Z-28 CAMARO COUPE
and Cheryl Stuck and Kenneth
A. Stuck, Jr., Appellants.

Supreme Court of Pennsylvania.

Argued Dec. 5, 1991.

Decided May 20, 1992.

In forfeiture proceeding pursuant to the Controlled Substances Forfeitures Act, request for jury trial was granted by the Court of Common Pleas of Northumberland County, Misc. No. 89-12, and interlocutory appeal was certified. Order was reversed by the Commonwealth Court, No. 1693 C.D. 1989, 134 Pa.Cmwth. 49, 577 A.2d 964. Allocatur was granted and the Supreme Court, No. 20 E.D. Appeal Docket 1991, Flaherty, J., held that owner of property subject to forfeiture was entitled to jury trial.

analyzed, no comparisons of paper quality, color, texture, shading, or size can be made, there are no tears or cuts in the paper, the photocopy does not replicate the multiple layers of the original, etc.

Reversed and remanded.

McDermott, J., filed concurring opinion.

Peter T. Campana, Williamsport, David M. McGlaughlin, Philadelphia, for amicus, Pa. Assoc. of Crim. Defense Lawyers.

Robert B. Sacavage, Dist. Atty., Guy L. Ciarrocchi, Deputy Atty. Gen., Mary Benefield Seiverling, Harrisburg, for amicus, Atty. Gen.

Ronald Eisenberg, Deputy Dist. Atty., George S. Leone, Philadelphia, for amicus, Pa. D.A. Assoc.

1. Jury ⇨19(15)

Owner of property subject to forfeiture under Controlled Substances Forfeitures Act is entitled to jury trial under Pennsylvania Constitution. 42 Pa.C.S.A. §§ 6801 et seq., 6802; Const. Art. 1, § 6; Act Sept. 24, 1789, § 1 et seq., 1 Stat. 73.

2. Jury ⇨12(1.1)

"Common law basis" of action, for purposes of determining whether right to jury trial applies to particular cause of action, does not mean that action originated in common law, as opposed to having statutory origin; rather, term refers to the nature of the proceeding in common-law courts, but not courts of Admiralty or Chancery. Const. Art. 1, § 6.

See publication Words and Phrases for other judicial constructions and definitions.

1. Section 6802 of the Controlled Substances Forfeitures Act, concerning procedure with respect to property subject to forfeiture, 42 Pa.C.S. § 6802, provides, in pertinent part:

(a) **General procedure.** The proceedings for the forfeiture or condemnation of property, the sale of which is provided for in this chapter, shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A petition shall be filed in the court of common pleas of the judicial district where the property is located, verified by oath or affirmation of an officer or citizen, containing the following:

(1) A description of the property seized.

(2) A statement of the time and place where seized.

(3) The owner, if known.

(4) The person or persons in possession, if known.

(5) An allegation that the property is subject to forfeiture pursuant to section 6801(a) (relating to loss of property rights to Commonwealth) and an averment of material facts upon which the forfeiture action is based.

(6) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth and condemned and be ordered sold according to law, unless cause be shown to the contrary.

(h) **Hearing regarding property: rules of evidence.** The court may receive and consider, at a hearing held pursuant to subsection (f) or

Before NIX, C.J., and LARSEN, FLAHERTY, McDERMOTT, ZAPPALA, PAPADAKOS, and CAPPY, JJ.

OPINION OF THE COURT

FLAHERTY, Justice.

[1] The issue raised by this case is whether the owner of property subject to forfeiture under the Controlled Substances Forfeitures Act¹ is entitled to a jury trial

(g), evidence and information that would be inadmissible under the rules of evidence.

(l) **Hearing time set.** Upon the filing of a claim for the property setting forth a right of possession, the case shall be deemed at issue and a time shall be fixed for the hearing.

(j) **Owner's burden of proof.** At the time of the hearing, if the Commonwealth produces evidence that the property in question was unlawfully used, possessed or otherwise subject to forfeiture under section 6801(a), the burden shall be upon the claimant to show:

(1) That the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale thereon.

(2) That the claimant lawfully acquired the property.

(3) That it was not unlawfully used or possessed by him. In the event that it shall appear that the property was unlawfully used or possessed by a person other than the claimant, then the claimant shall show that the unlawful use or possession was without his knowledge or consent. Such absence of knowledge or consent must be reasonable under the circumstances presented.

pursuant to Article 1, § 6 of the Pennsylvania Constitution.² For the reasons that follow, we hold that jury trials are required when demanded by claimants in forfeiture actions brought pursuant to the Controlled Substances Forfeitures Act.

The property at issue in this case is a 1984 Z-28 Camaro automobile, which was allegedly purchased using proceeds from the illegal sale of drugs and which was allegedly used to store illegal drugs. On January 12, 1989, the Commonwealth filed a petition for forfeiture and condemnation in the Court of Common Pleas of Northumberland County seeking forfeiture of the 1984 Camaro pursuant to the Controlled Substances Forfeiture Act. The Stucks, appellants herein, then filed a claim to the vehicle and demanded a jury trial. The trial court granted the request for a jury trial, but subsequently granted the Commonwealth's motion for certification of the case as appropriate for interlocutory appeal on the question of whether a jury trial was required. Commonwealth Court granted the Commonwealth's petition for permission to appeal, and after argument reversed the trial court's order requiring a jury trial. The Stucks petitioned for allowance of appeal and this Court granted allocatur.

Commonwealth Court held that the right to a jury trial in a controlled substance forfeiture proceeding is not required by the statute, is not suggested in legislative history or by legislative treatment of other forfeiture acts, and is not expressly guaranteed by the constitution or based in common law. It concluded, therefore, that there is no right to a jury trial in this case.

Commonwealth Court observed that this court has interpreted Pennsylvania's constitutional requirement that "trial by jury shall be as heretofore, and the right there-

of remain inviolate," Art. 1, § 6, Pa.Const., to mean that jury trial rights existing when the constitution was adopted were preserved, *Byers v. Commonwealth*, 42 Pa. 89 (1862), and that jury trials are required in every case where one would have been required in 1790, when the Pennsylvania Constitution was adopted. *William Goldman Theatres v. Dana*, 405 Pa. 83, 173 A.2d 59 (1961).³

The Commonwealth argues that Article 1, § 6 of the Pennsylvania Constitution requires a jury trial only where the common law provided for a jury trial in 1790. This case, according to the Commonwealth, involves proceedings created by statute subsequent to 1790, not by the common law, and in such proceedings, jury trials are required only if the legislature has expressly provided for them. The legislature has not provided for a jury trial in this case. Since there is, according to the Commonwealth, a statutory basis but no common law basis for the action, there is no requirement of a jury trial. This would be true even if forfeiture actions were tried before juries in 1790, for statutory actions are not part of the common law, and only common law actions involving jury trials are implicated by Article 1, § 6 of the Pennsylvania Constitution. See *Murphy v. Cartex Corp.*:

[I]t has long been recognized that the Pennsylvania Constitution [Article 1, § 6] 'only preserves the right to trial by jury in those cases where it existed at the time the Constitution was adopted.' *W.J. Dillner Co. v. Pa. Public Utilities Comm.*, 191 Pa.Superior Ct. 136, 149, 155 A.2d 429, 435 (1959). Jury trials are not available in proceedings created by statute unless the proceeding has a common law basis or unless the statute expressly or impliedly so provides. See, *appeal of Watson*, 377 Pa. 495, 105 A.2d 576 (1954).

2. Article 1, § 6 of the Pennsylvania Constitution provides:

Trial by Jury

Section 6. Trial by jury shall be as heretofore and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case.

3. In *Wm. Goldman Theatres* this court stated: "[T]he individual is entitled to a public trial by an impartial jury of the vicinage in every situation in which he would have been entitled to such a trial at the time of the adoption of our State Constitution of 1790 and ever since under our succeeding constitutions." 405 Pa. at 93, 173 A.2d 59.

377 Pa.Super. 181, 192, 546 A.2d 1217, 1222 (1988).

Stucks argue that in proceedings created by statute, a jury trial is available when the proceeding has a common law basis, *Appeal of Watson*, 377 Pa. 495, 105 A.2d 576 (1954); that in *rem* forfeiture proceedings existed at common law, and that the owner of property was entitled to a jury trial in these proceedings, *United States v. One 1976 Mercedes Benz 280 S*, 618 F.2d 453 (7th Cir.1980); and that the exigencies of the current war on drugs should not be utilized to deny constitutional rights.

We agree with the Commonwealth that there is no statutory requirement for a jury trial in this case. The question, then, becomes whether jury trials were required in forfeiture proceedings in 1790, and if so, whether there is a common law basis for the proceeding.

As to the first question, whether jury trials were required in forfeiture actions in 1790, our research indicates that in 1782, the case of *Wilcox v. Henry*, 1 Dall. 68, 1 L.Ed. 41 (Pa., 1782), a forfeiture case, was before the Supreme Court of Pennsylvania. The case involved the question of whether salt which had been brought to Philadelphia during the British occupation of that city, but then sold to an American citizen, should be forfeited to the United States

4. Mr. Justice Stone, in *Hendry v. Moore*, 318 U.S. 133, 137, 63 S.Ct. 499, 501-02, 87 L.Ed. 663, 666 (1943), wrote:

Forfeiture to the Crown of the offending object, because it had been used in violation of law, by a procedure in *rem* was a practice familiar not only to the English admiralty courts but to the Court of Exchequer. The exchequer gave such a remedy for the forfeiture of articles seized on land for the violation of law. And, concurrently with the admiralty, it entertained true proceedings in *rem* for the forfeiture of vessels for violation on navigable waters.

5. We note that there is a difference in Pennsylvania law as to the treatment of property which is, *per se*, illegal to possess, and property which is not, in itself, illegal to possess. See, e.g., Pennsylvania statutes allowing seized liquor which does not bear the appropriate tax stamp to be forfeited in an *in rem* proceeding without a jury. See Act of December 12, 1723, 3 Pa. Statutes at Large 408, 412-13; Act of May 26, 1744, 4 Pa. Statutes at Large 395, 402-03; Act of

after the American army recaptured Philadelphia. The government's theory was that the salt was the property of an enemy (the original owner) and not an American because the contract of sale provided that the salt was to be paid for only after the American army arrived in Philadelphia, and then only on the condition that the salt was not destroyed. This meant, according to the government, that the salt was still the property of a British national when American troops arrived and that it was, therefore, forfeit. The Supreme Court of Pennsylvania tried the case to a jury, which held for the owner of the salt. We conclude from this that a property owner was entitled to a jury trial in forfeiture actions in 1790, at least as to goods seized on land⁴ where there is an issue as to whether the seized goods are contraband.⁵

[2] The next question is whether the forfeiture action in this case has a common law basis. The term "common law basis" does not, in the context of this case, mean that the action originated at common law, for even prior to 1790, forfeiture actions were of statutory origin. See, e.g., The Judiciary Act of 1789, 1 Stat. 73. Rather, "common law basis" refers to the nature of the proceeding in common law courts such as the Court of Exchequer, but not courts of Admiralty or Chancery.⁶ Long before

September 21, 1756, 5 Pa. Statutes at Large 243, 252, 258; Act of March 12, 1772, 8 Pa. Statutes at Large 204, 218-19.

6. The Supreme Court of California, addressing the same question as is raised in this case, except under the California Constitution, writes as follows about the common law:

Long before the adoption of the California Constitution there were numerous statutes in England providing for the seizure and forfeiture of property used in violation of law.

At common law the trial of actions for forfeiture to the Crown of property used in violation of law was in the Court of Exchequer. "The term 'Common Law' often refers to those principles of English Law which were evolved in the Common Law Courts, as opposed to the principles which were applied in the Courts of Chancery and Admiralty and the Ecclesiastical Courts. The Courts of Common Law before the passing of the Judicature Acts, 1873-5, were the three Royal Courts of Kings's Bench, Common Pleas or Common

the American Revolution, English Admiralty courts, for example, heard forfeiture cases without a jury, but where common law courts (Courts of Exchequer) had jurisdiction to hear forfeiture cases, as in cases involving forfeitures on land, where there is an issue as to whether the seized goods are contraband, the cases were, according to common law tradition heard by the court sitting with a jury. *See C.J. Hendry Co. v. Moore*, 318 U.S. 133, 63 S.Ct. 499, 87 L.Ed. 663 (1943).⁷

Mr. Justice Stone in *C.J. Hendry Co. v. Moore* described forfeiture practice in colonial America:

The common law as it was received in the United States at the time of the adoption of the Constitution did not afford a remedy in rem in suits between private persons. . . . *But to the generalization that a judgment in rem was not a common law remedy there is an important exception.* Forfeiture to the Crown of the offending object, because it had been used in violation of law, by a procedure in rem was a practice familiar not only to the English admiralty courts but to the Court of Exchequer. The Exchequer gave such a remedy for the forfeiture of articles seized on land for the violation of law. . . . Such suits in the Exchequer were begun on information and were against the vessel or article to be condemned.

Separate courts exercising the jurisdiction of the Court of Exchequer were never established in the American Colonies. *Instead, that jurisdiction was ab-*

Bench, and Exchequer, which had emerged from the King's Council (Curia Regis) as separate Courts by the end of the thirteenth century." Phillips, *The Principles of English Law and the Constitution*, 70. The Court of Exchequer was not a criminal court; and all suits for penalties, though of the King, were considered as civil. Burns, *Justice of the Peace* (23d ed.) vol. I, p. 806.

People v. One 1941 Chevrolet Coupe, 37 Cal.2d 283, 231 P.2d 832, 835-36 (1951).

7. As the United States Court of Appeals for the Seventh Circuit points out, the distinction between the practice in courts of Admiralty, which heard forfeiture actions without a jury, and the

sorbed by the common law courts which entertained suits for the forfeiture of property under English or local statutes authorizing its condemnation. Long before the adoption of the Constitution the common law courts in the Colonies—and later in the states during the period of Confederation—were exercising jurisdiction in rem in the enforcement of forfeiture statutes. Like the Exchequer, in cases of seizure on navigable waters they exercised a jurisdiction concurrently with the courts of admiralty. But the vice-admiralty courts in the Colonies did not begin to function with any real continuity until about 1700 or shortly afterward. . . . By that time, the jurisdiction of common law courts to condemn ships and cargoes for violation of the Navigation Acts had been firmly established, apparently without question, and was regularly exercised throughout the colonies. In general the suits were brought against the vessel or article to be condemned, were tried by jury, closely followed the procedure in Exchequer, and if successful resulted in judgments of forfeiture or condemnation with a provision for sale.

The Court has never held or said that the admiralty jurisdiction in a forfeiture case is exclusive, and it has repeatedly declared that, in cases of forfeiture of articles seized on land for violation of federal statutes, *the district courts proceed as courts of common law according to the course of the Exchequer on informations in rem with trial by jury.*

common law courts of Exchequer, in which forfeiture actions were heard with a jury, was well-known. Equally well-known was Parliament's attempt to extend Admiralty's jurisdiction in the colonies so as to reduce the number of jury trials in forfeitures. The reason for this statutory extension of jurisdiction of the Admiralty courts was that American juries were reluctant to find in favor of the crown in forfeiture cases. The American response is in part reflected in Declaration of Independence, where the King and Parliament are denounced "For depriving us, in many cases, of the Benefits of Trial by Jury." *United States v. One 1976 Mercedes Benz 280 S*, 618 F.2d 453, 464, 464 n. 49 (7th Cir.1980).

[Citations omitted.] . . . Justice Story defined such an action as a libel or information in rem on the Exchequer side of the court. And see Chief Justice Marshall's reference, in *The Hoppet v. United States*, 7 Cranch (U.S.) 389, 393, 3 L.Ed. 380, 382, to "proceedings in courts of common law, either against the person or the thing, for penalties or forfeitures." *In all this we perceive a common understanding of judges, lawyers and text writers, both before and after the adoption of the Constitution, of the common law nature of the procedure and judgment in rem in forfeiture cases and of its use in such proceedings in the exchequer and in the American common law courts.*

318 U.S. at 137-40, 153, 63 S.Ct. at 501-03, 510, 87 L.Ed. at 666-68, 675 (emphasis added). Thus, in England, forfeiture actions in the Courts of Exchequer were tried before a jury,⁸ and in the United States, forfeiture actions were heard before juries in cases where Courts of Exchequer would have had jurisdiction. We conclude that the forfeiture action in this case has a common law basis, for it is the type of case—seizure on land of goods which the owner claims are not contraband—which would have been within the jurisdiction of the Court of Exchequer, and later, American common law courts.

Relying in part on *Hendry*, the United States Court of Appeals for the Seventh Circuit has arrived at a similar conclusion:

both English and American practice prior to 1791 definitely recognized jury trial of in rem actions at common law as the established mode of determining the propriety of statutory forfeitures on land for breach of statutory prohibitions.

8. In *People v. One 1941 Chevrolet*, the California Supreme Court stated:

There are reports of many cases in the Court of Exchequer in which articles used in violation of law were forfeited to the Crown pursuant to statute, in all of which the cause was tried by a jury.

37 Cal.2d 283, 231 P.2d 832, 839 (1951). The court goes on to cite thirty-eight cases, the oldest of which dates back to the year 1459.

United States v. One 1976 Mercedes Benz 280 S, 618 F.2d 453, 466 (7th Cir.1980).⁹ The court also noted "the time-honored tradition of American commitment to jury trial, extending back to the Continental Congress (and as was then believed, to the *legale judicium parium* in Magna Carta.)," and Blackstone's view that the English dedication to trial by jury was even more pronounced in the new world than in the old. *Id.* at 468.

For the foregoing reasons, we hold that the Stucks are entitled to a jury trial pursuant to Article 1, § 6 of the Pennsylvania Constitution. In rem forfeiture actions involving questions of whether the goods seized are contraband were heard in common law courts before juries in 1790, and this right to jury trial is preserved by the Pennsylvania Constitution.

Reversed and remanded for jury trial.

McDERMOTT, J., files a concurring opinion.

McDERMOTT, Justice, concurring.

The majority's historical analysis in this case is doubtful on two grounds. First, this Court, in a case of relatively recent vintage, held that a jury trial is *not* required in all forfeiture proceedings. See *Commonwealth v. Bowers*, 304 Pa. 253, 155 A. 605 (1931).

The Court in *Bowers* was addressing the issue of forfeiture used in illegal alcohol distribution. The case is analogous to the case at bar in that the statute there was also directed towards the seizure of non-contraband items based on their alleged relationship to the contraband itself. Under the then extant forfeiture statute no jury trial was prescribed. The Court in addressing the question ruled thusly:

9. Even the dissenting judge in *United States v. One 1976 Mercedes Benz 280 S* agreed that the majority's conclusion "that both English and American Practice prior to 1791 definitely recognized jury trial of in rem actions at common law as the established mode of determining the propriety of statutory forfeitures on land for breach of statutory prohibitions" "is undoubtedly correct." 618 F.2d at 470. The dissenter's quarrel was with the manner in which the conclusion was applied to the facts of that case.

"A jury trial can only be demanded where there is a disputed question of fact. The court is *not required* to award a jury trial in cases where there is no dispute of fact and it would be obliged to decide the case against the claimant, as a matter of law, on his petition."

Id. at 259, 155 A. at 608 (emphasis added). Thus, this Court has already ruled that a forfeiture proceeding can go forward without a jury, and the majority's historical analysis is not sufficiently compelling to convince me that a jury trial is constitutionally required in all cases, especially since such a conclusion necessarily requires an overruling of longstanding precedent in this area.

The effect of the Court's decision in *Bowers* is that in those cases where there has been prior adjudication of facts, as would be the case where there has been a conviction, no forfeiture jury need be impaneled. Thus, if the majority means by its decision today that one *convicted* of using a thing or place to make, sell, transport, or store illegal drugs, is nonetheless entitled to a jury trial on whether that thing or place stands forfeit, I vigorously dissent. In such a case the verdict of the jury (or judge sitting as fact finder) in the criminal trial leaves no facts in dispute.

Second, the majority has taken a romantic leap from the case of *Wilcox v. Henry*, 1 Dall. 69, 1 L.Ed. 41 (1782), arguing that because a jury trial was held there, that a jury trial was *in fact required* to be so held. The majority cites no historical evidence in support of this conclusion and I am unwilling to accept the majority's assumption that merely because a jury trial was once held it must follow that a jury trial was mandated in all forfeiture proceedings.

If the majority confined their ruling to those cases where third persons claimed a lack of knowledge that property owned by them was illegally used by one convicted while using the thing or place, I would agree. Likewise, I would agree when the prosecution seeks to pursue property beyond those instruments actually used to facilitate the crime upon which the conviction

was founded: for it does not always follow that all that one owns has been obtained by illegal activity, and such facts not in evidence in the criminal trial are not therefore resolved. Thus, a jury trial would be appropriate.

I note that in this case the appellants were not previously convicted of a crime. Therefore, there has not been a prior adjudication of facts. As such I concur in the result in the present case to award the appellants a jury trial.



Kathryn POTTS, Appellant,

v.

Secretary Arthur A. DAVIS, Pennsylvania Department of Environmental Resources, and Executive Director Peter S. Duncan, Pennsylvania Game Commission.

Supreme Court of Pennsylvania.

Argued May 4, 1992.

Decided June 11, 1992.

Appeal No. 100 M.D. Appeal Dkt. 1990 from Order of Commonwealth Court entered June 7, 1990, at No. 76 Misc.Dkt. 1990, — Pa.Cmwth. —, 610 A.2d 74.

Anthony Potts, Jr., for appellant.

Sandra W. Stoner, Dep. Atty. Gen., for appellee.

Before NIX, C.J., and LARSEN, FLAHERTY, McDERMOTT, ZAPPALA, PAPADAKOS and CAPPY, JJ.

ORDER

PER CURIAM:

Order affirmed. See 42 Pa.C.S.A. § 8522(b)(6), and *Bradley v. Pennsylvania Turnpike Comm'n*, 121 Pa.Comm. 51,

COMMONWEALTH of Pennsylvania

v.

ONE THOUSAND FOUR HUNDRED
DOLLARS (\$1,400) IN UNITED
STATES CURRENCY, Appellant.

Commonwealth Court of Pennsylvania.

Argued Oct. 17, 1995.

Decided Nov. 13, 1995.

Claimant demanded a jury trial in civil forfeiture proceeding under Controlled Substances Forfeitures Act. The Court of Common Pleas, Chester County, No. 266 Misc. 1995, Ott, J., denied motion and authorized intermediate interlocutory appeal. Claimant appealed. The Commonwealth Court, No. 1683 C.D. 1995, Pellegrini, J., held that claimant was entitled to jury trial in civil forfeiture action.

Reversed and remanded.

Jury ⇨19(15)

Claimant was entitled to jury trial in civil forfeiture action commenced under the Controlled Substances Forfeiture Act (CSFA); claimant's guilty plea to crime of attempt to possess marijuana and corresponding colloquy in underlying prosecution did not mention the \$1,400 which was subject of forfeiture action and, thus, question of fact existed as to whether claimant intended to use the money to purchase marijuana. 42 Pa.C.S.A. § 6802; Rules App.Proc., Rule 1925(a), 42 Pa.C.S.A.

S. Lee Ruslander II, for appellant.

Nicholas J. Casenta, Jr., Deputy District Attorney, for appellee.

Before PELLEGRINI and KELLEY, JJ., and KELTON, Senior Judge.

PELLEGRINI, Judge.

Joseph DiJoseph (DiJoseph) appeals a decision of the Court of Common Pleas of Chester County (trial court) denying his request for a jury trial in a forfeiture action commenced by the Commonwealth of Pennsylvania (Commonwealth) under the Controlled Substances Forfeiture Act.¹

On January 11, 1994, DiJoseph was arrested and charged with the crimes of possession² and possession with intent to deliver³ five pounds of marijuana that he allegedly had purchased from a police informant. At the time of DiJoseph's arrest, the police seized his vehicle and \$1,400.00 in cash.

During two pre-trial hearings on the criminal charges, the police informant testified as to the events that occurred on January 11, 1994. He stated that he and DiJoseph had agreed to meet in a parking lot so that DiJoseph could purchase five pounds of marijuana from him. The informant stated that, after inspecting the marijuana, DiJoseph gave him the \$1,400.00 and said that he would have the remainder of the money later that afternoon. The informant testified that both he and DiJoseph were arrested immediately after that exchange.

The criminal charges brought against DiJoseph were disposed of via a plea bargain on November 18, 1994. As part of the bargain, DiJoseph pleaded guilty to the amended charge of criminal attempt to possess less than one pound of marijuana.⁴ In the colloquy preceding his guilty plea, DiJoseph admitted that, with the specific intent, he attempted to possess the marijuana with the

intent of giving it to other persons. The \$1,400.00 was not mentioned in the colloquy or the guilty plea.

Subsequently, the Commonwealth brought the present petition, seeking the forfeiture of the \$1,400.00. In its petition, the Commonwealth alleged that, after the police informant had entered DiJoseph's vehicle for the purpose of selling him the marijuana, DiJoseph had indicated to the informant that he had the money in his possession and intended to use it to purchase the marijuana. Based upon this allegation, the Commonwealth requested forfeiture of the money. In his answer and new matter to the forfeiture petition, DiJoseph denied that he had intended to use the money to purchase the marijuana. DiJoseph then demanded a jury trial on the matter.⁵

In a statement of the court issued on May 8, 1995, the trial court, citing to *Commonwealth v. One 1986 Ford Mustang*, 397 Pa.Superior Ct. 116, 579 A.2d 958 (1990), denied DiJoseph's request for a jury trial. On May 10, 1995, DiJoseph objected to the denial of his request for a jury trial via a letter to the trial judge. In it, DiJoseph cited to *Commonwealth v. One 1984 Z-28 Camaro Coupe*, 530 Pa. 523, 610 A.2d 36 (1992), contending that, pursuant to the holding of that case, he has a constitutional right to a jury trial on the forfeiture action. The trial court then authorized an immediate interlocutory appeal on the issue of the right to a jury trial in forfeiture actions. DiJoseph's petition for permission to appeal was subsequently granted by this Court.

In its Rule 1925(a)⁶ opinion in support of its denial of a jury trial, the trial court stated that *1984 Z-28 Camaro Coupe* is factually distinct from the present case, and therefore, does not require that DiJoseph be afforded a jury trial. Citing to Justice McDermott's concurring opinion in *1984 Z-28 Camaro*

1. 42 Pa.C.S. §§ 6801, 6802.

2. Act of April 14, 1972, P.L. § 13(a)(16), as amended, 35 P.S. § 780-113(a)(16).

3. Act of April 14, 1972, P.L. 233, § 13(a)(30), as amended, 35 P.S. § 780-113(a)(30).

4. 18 Pa.C.S. § 901(a).

5. DiJoseph had raised other challenges to the forfeiture petition that were denied by the trial court. They are not presently at issue before this Court.

6. Pa.R.A.P.1925(a).

Coupe, the trial court reasoned that a jury trial is constitutionally required in forfeiture actions only where the property of a third party is involved or where there has been no finding of fact on the issue of whether or not the property is contraband. Referring to the testimony of the informant during the two pre-trial hearings on the criminal charges filed against DiJoseph, as well as DiJoseph's guilty plea to criminal attempt to possess a controlled substance with the intent to deliver, the trial court found that there was no issue of whether the money was contraband. Consequently, the trial court held that no jury trial was warranted in the case before it.

Before this Court, DiJoseph contends that the trial court erroneously disregarded the Supreme Court's holding of *1984 Z-28 Camaro Coupe* when it denied his request for a jury trial. Arguing that the issue in the present case is identical to that decided by the Supreme Court in *1984 Z-28 Camaro Coupe*, DiJoseph contends that the trial court is bound by the holding of that case, and therefore, must honor his request for a jury trial. We agree.

In *1984 Z-28 Camaro Coupe*, the Commonwealth had filed a petition for forfeiture and condemnation of a vehicle pursuant to the Controlled Substances Forfeiture Act. The owners of the vehicle then filed a claim thereto and demanded a jury trial. Overruling this Court's opinion that a jury trial was neither statutorily nor constitutionally required in forfeiture actions, the Supreme Court held that property owners are entitled to a jury trial in forfeiture actions, pursuant to Article 1, Section 6 of the Pennsylvania Constitution, where there is an issue as to whether the seized goods are contraband. The Supreme Court reasoned that there was a right to a jury trial in 1790 for forfeiture actions involving the seizure on land of goods which the owner claims are not contraband, and that such actions do have a common law basis.⁷

7. It should also be noted that, while there have been no cases subsequent to *1984 Z-28 Camaro Coupe* which directly address the issue of whether the owner of seized property is entitled to a jury in a forfeiture action, such a right has been

In the present case, DiJoseph's guilty plea to the crime of attempt to possess marijuana and corresponding colloquy did not mention the \$1,400.00. Furthermore, in his answer to the forfeiture petition, DiJoseph denied that he intended to use the money to purchase the marijuana. During oral argument, the Commonwealth agreed that this creates an issue of fact as to whether the \$1,400.00 seized at the time of DiJoseph's arrest is subject to forfeiture. Because this issue of fact exists, DiJoseph is entitled to a jury trial.

Accordingly, the trial court's denial of DiJoseph's request for a jury trial is reversed.

ORDER

AND NOW, this 13th day of November, 1995, the order of the Court of Common Pleas of Chester County, at No. 266 MISC. 1995, dated May 10, 1995, is reversed. The matter is remanded, and the trial court is directed to provide a jury trial in this matter.

Jurisdiction relinquished.



**BLACK LICK TRUCKING,
INC., Petitioner,**

v.

**UNEMPLOYMENT COMPENSATION
BOARD OF REVIEW,
Respondent.**

Commonwealth Court of Pennsylvania.

Argued March 14, 1995.

Decided Nov. 14, 1995.

Employer appealed order of Unemployment Compensation Board of Review, Nos. B-329154; B-329163; B-329166; B-329167;

impliedly recognized by several decisions of this Court. See *Commonwealth v. Fidelity Bank Accounts*, 158 Pa.Cmwlth. 109, 631 A.2d 710 (1993).

CHAPTER E

CIVIL ACTION

A. EQUITABLE RELIEF

1. CONFORMITY TO CIVIL ACTION (Pa.R.C.P. No. 1501). (Rescinded)
2. COURT OPEN (Pa.R.C.P. No. 1502). (Rescinded)
3. VENUE (Pa.R.C.P. No. 1503). (Rescinded)
4. JUDGMENT UPON DEFAULT OR ADMISSION (Pa.R.C.P. No. 1511). (Rescinded)
5. JUDGMENT NON-PROS
See Pa.R.C.P. No. 1037(a)and(d).
6. THE ADJUDICATION. NOTICE. (Pa.R.C.P. No. 1517). (Rescinded)
7. INDEXING AND REVIVAL OF DECREE (Pa.R.C.P. No. 1521).
 - a. Orders, interlocutory or final, shall be entered on the judgment index.
 - b. Orders for the payment of money shall be a lien on the real estate of the defendant named in the order in the manner, for the period and with the same effect as the lien of judgments for the payment of money.
 - c. Orders for the payment of money or costs and not satisfied may be revived from time to time in the manner provided by law for the revival of judgments.
 - d. Upon receipt of the order from the court, or revivals of decrees issued prior to July 1, 2004, Prothonotary shall mail copies to all interested parties, enter in judgment index and docket.
8. TAXATION OF COSTS (Pa.R.C.P. No. 1527). (Rescinded)
9. ENFORCEMENT OF ORDERS. EXECUTION PROCESS (Pa.R.C.P. No. 1529). (Rescinded)

10. SPECIAL RELIEF. ACCOUNTING (Pa.R.C.P. No. 1530). (Rescinded)

11. SPECIAL RELIEF. INJUNCTIONS (Pa.R.C.P. No. 1531).

a. The court shall issue a preliminary or special injunction only after written notice and hearing unless it appears to the satisfaction of the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held, in which case the court may issue a preliminary or special injunction without hearing or notice.

b. Unless the plaintiff is the Commonwealth or a political subdivision, an injunction shall only be granted upon the plaintiff filing a bond in an amount fixed and with security approved by the court, naming the Commonwealth as obligee and with the conditions set forth in Pa.R.C.P. No. 1531(b)(1), or the plaintiff deposits with the Prothonotary legal tender of the U.S. in the amount fixed by the court to be held by the Prothonotary upon the same condition as provided for the injunction bond as set forth in Pa.R.C.P. No. 1531(b)(2).

(1). Upon receipt of the bond, Prothonotary shall:

(a). If court-approved bond, clock, docket and file.

(b). If bond is obtained through a surety company, verify surety company is registered with Prothonotary, bond meets all requirements and conditions; clock, docket and file.

(c). If cash bond, ensure conditions of above rule are complied with, file, give receipt, and deposit in escrow account. (NOTE: Prothonotary should advise depositor the cash bond is subject to poundage under the fee bill.)

(d). If Prothonotary refuses bond, Prothonotary shall inform the depositor of the reason.

(e). Approval of the bond is to be noted on the court order and docket.

(f). Pursuant to 72 P.S. § 4862, bonds are to be filed separate and apart from the case file.

(g). Prothonotary shall ensure Preliminary Injunction is in the proper form.

(NOTE: The court is “always open for the transaction of judicial business”. See Section 324 of the Judicial Code, 42 Pa.C.S. § 324.)

12. SPECIAL RELIEF. RECEIVERS (Pa.R.C.P. No. 1533).

a. A temporary receiver may be appointed without notice if

(1). The plaintiff files a bond in an amount fixed and with security approved by the court with conditions as set forth in Pa.R.C.P. No. 1533(a)(1), or the plaintiff deposits with the Prothonotary legal tender of the U.S. in an amount fixed by the court to be held by the Prothonotary as set forth in Pa.R.C.P. No. 1533(a)(2).

(a). Upon receipt of court order and bond, Prothonotary shall file same and make docket entry.

(b). Prothonotary shall process cash bond as set forth in paragraph 11.b.(1).(c).

13. ACCOUNTING BY FIDUCIARIES (Pa.R.C.P. No. 1534).

a. When a fiduciary files an accounting, a notice of applying for confirmation on a date fixed by the court shall be given which shall also set forth that any exceptions shall be filed with the Prothonotary before that date.

b. Upon receipt of the exceptions and/or accounting, Prothonotary shall file same and make docket entry.

B. PARTITION OF REAL PROPERTY.

1. FORM OF ACTION (Pa.R.C.P. No. 1551). Except as otherwise provided in this chapter, the procedure in an action for the partition of real estate shall be in accordance with the rules relating to the civil action.

2. ORDER DIRECTING PARTITION. POST-TRIAL RELIEF (Pa.R.C.P. No. 1557).

a. The court shall enter an order directing partition because of a default or admission or after a hearing or trial.

(1). Upon receipt of court order, Prothonotary shall file and make docket entry.

b. No exceptions may be filed to the order of partition.

c. An appeal to the appellate court may be taken as of right from the order (Pa.R.A.P. No. 311(a)(6)).

3. PROPERTY NOT CAPABLE OF DIVISION WITHOUT PREJUDICE. SALE. OBJECTIONS (Pa.R.C.P. No. 1563).

a. Parties defendant owning a majority of the property may object in writing to any sale, requesting that the property be awarded to them under certain conditions.

b. The court shall issue an order awarding property to the parties as tenants in common subject to certain conditions.

c. The amounts due the parties shall be charged as liens upon the property.

d. Upon receipt of court order, Prothonotary shall file and make docket entry; and enter liens as directed by the court.

4. TRUSTEES TO SATISFY LIENS AND CHARGES (Pa.R.C.P. No. 1571).

a. The court may appoint a trustee upon motion of any party, interested party or on recommendation of master to receive payment under certain circumstances as set forth in the rule.

(1). Upon receipt of petition and/or order of court, Prothonotary shall file and make docket entry. (Trustee has authority to satisfy any lien of record.)

5. RETURN OF SALE AND SCHEDULE OF DISTRIBUTION (Pa.R.C.P. No. 1573).

a. A master who conducts a sale shall promptly file with the Prothonotary a return of sale together with a proposed order as set forth in the rule.

(1). Upon receipt of the return, Prothonotary shall file same and make docket entry.

b. The court shall enter an order approving the return of sale in whole or part.

(1). Upon receipt of the order, Prothonotary shall file and make docket entry.

(2). Any part of the order as to which a Motion for Post-Trial Relief is not filed within ten days shall become final.

C. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Paper/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

D. References:

United States National Bank in Johnstown v. Johnson, 487 A.2d 809

Psaki v. Ferrari, 546 A.2d 1127

UNITED STATES NATIONAL BANK IN
JOHNSTOWN, Appellant,

v.

Charles P. JOHNSON, Jr., Martha Jane Johnson,
Pennsylvania Energy Company,
Linda Strich, CPJ, Inc., Haws Refractories, Inc.,
Bantam Four Cinemas, Inc.,
Sheridan Trucking Company, Sheridan Trucking
Company, Inc., Charjim
Corporation, Pennsylvania Energy Corporation, G.
Gray Garland, and Sheridan
Coal Company, Inc., Appellees.

Supreme Court of Pennsylvania.

Submitted Sept. 10, 1984.

Decided Feb. 13, 1985.

Complaint in equity was filed against various corporations, partnerships, and individuals, alleging violations of Uniform Fraudulent Conveyance Act. The Court of Common Pleas, Cambria County, No. 1982-72, Eugene A. Creany, J., sustained one defendant's preliminary objection in nature of demurrer and dismissed him as party. Following plaintiff's "exceptions," the court en banc upheld such ruling and entered judgment in favor of such defendant, and plaintiff appealed. The Superior Court, No. 1222 Pittsburgh, 1982, 321 Pa.Super. 352, 468 A.2d 515, held that appeal was untimely, and plaintiff appealed. The Supreme Court, No. 41 W.D. Appeal Docket 1984, Papadakos, J., held that order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order which became res judicata upon expiration of 30-day appeal period.

Affirmed.

Nix, C.J., Larsen and Zappala, JJ., concurred in result.

[1] APPEAL AND ERROR ⇨134(1)

30k134(1)

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A.

(1977).

[1] APPEAL AND ERROR ⇨248

30k248

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A. (1977).

[1] APPEAL AND ERROR ⇨257

30k257

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A. (1977).

[2] LIS PENDENS ⇨1

242k1

"Lis pendens" is jurisdiction, power, or control which courts acquire over property involved in suit, pending continuance of action, and until its final judgment thereon.

See publication Words and Phrases for other judicial constructions and definitions.

[3] LIS PENDENS ⇨22(1)

242k22(1)

Existence of lis pendens merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on property.

[4] LIS PENDENS ⇨20

242k20

Order lifting a lis pendens during course of equity action fixes neither rights, duties, nor liabilities between parties, puts no one out of court, and does not terminate underlying litigation by prohibiting parties from proceeding with the action; accordingly, the requisite finality is not present when lis pendens is lifted and the order, therefore, is interlocutory.

[5] APPEAL AND ERROR ⇨78(1)

30k78(1)

Order striking lis pendens is not "adjudication" for purposes of rule governing adjudications; disapproving *Houston-Starr Co. v. Virginia Mansions*, 295 Pa.Super. 480, 441 A.2d 1334. Rules

Civ.Proc., Rule 1517, 42 Pa.C.S.A. (1977).
See publication Words and Phrases for other judicial constructions and definitions.

[6] JUDGMENT ⇨217

228k217

"Adjudication" referred to in rule governing adjudications is chancellor's proposed final disposition of complaint after trial which reaches the very merits of action, and not interlocutory orders nondispositive of the case sub judice. Rules Civ.Proc., Rule 1517, 42 Pa. C.S.A. (1977).

[7] APPEAL AND ERROR ⇨77(1)

30k77(1)

From filing of adjudication and decree nisi, which is final to all parties and to the whole of the subject matter, a party could take exceptions to chancellor's order striking lis pendens or any other interlocutory ruling.

[8] APPEAL AND ERROR ⇨78(3)

30k78(3)

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order even though it was not reduced to judgment.

[8] APPEAL AND ERROR ⇨123

30k123

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order even though it was not reduced to judgment.

[9] APPEAL AND ERROR ⇨78(3)

30k78(3)

Dismissal of complaint as to one defendant upon its preliminary objections is final appealable order, which becomes res judicata if not appealed within prescribed appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[9] JUDGMENT ⇨654

228k654

Dismissal of complaint as to one defendant upon its preliminary objections is final appealable order, which

becomes res judicata if not appealed within prescribed appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[10] JUDGMENT ⇨656

228k656

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action became res judicata upon expiration of 30-day appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[11] PLEADING ⇨228.14

302k228.14

Exceptions to disposition of preliminary objections are not permitted.

[12] APPEAL AND ERROR ⇨358

30k358

Orders sustaining preliminary objections, which are final, may be appealed as of right without resort to filing exceptions or reducing any order to judgment. Rules App.Proc., Rule 341(a), 42 Pa. C.S.A.

[13] APPEAL AND ERROR ⇨343.1

30k343.1

Formerly 30k343

Where exceptions are properly before court en banc, and are dismissed, filing of final decree determines start of appeal period, not the date the judgment is entered. 42 Pa.C.S.A. §§ 5571, 5572; Rules App.Proc., Rule 903, 42 Pa. C.S.A.

[14] APPEAL AND ERROR ⇨356

30k356

Appellant's failure to appeal within 30 days of entry of court's dismissal of its exceptions foreclosed Supreme Court from giving consideration to appellant's arguments even on equitable grounds. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

**811 *625 Gilbert E. Caroff, Johnstown, for appellant.

Gary L. Costlow, Johnstown, for Linda Strich and Charjim Co.

James Gordon, Wymard & Dunn, Pittsburgh, for G. Gray Garland, Jr.

Lawrence Davis, Edensburg, for Charles Johnson, Jr., et al.

Before NIX, C.J., and LARSEN, FLAHERTY,

McDERMOTT, HUTCHINSON, ZAPPALA and
PAPADAKOS, JJ.

OPINION OF THE COURT

PAPADAKOS, Justice.

This is the appeal of the United States National Bank in Johnstown (Appellant) from the Superior Court's Order, 321 Pa.Super. 352, 468 A.2d 515, quashing Appellant's appeal of an order of the Cambria County Court of Common Pleas entered on May 5, 1982, by the Honorable Eugene A. Creany, sustaining G. Gray Garland's (Appellee) preliminary objections in the nature of a demurrer and dismissing him as a defendant.

On January 11, 1982, Appellant filed its Complaint in Equity against various corporations, partnerships, and individuals, *626 alleging violations of the Uniform Fraudulent Conveyance Act. [FN1] Preliminary Objections in the nature of a demurrer to the Complaint were filed on February 2, 1982, by the Pennsylvania Energy Company, Pennsylvania Energy Corporation, and Appellee. Appellee argued that the complaint failed to allege any material facts sufficient to support a cause of action against him, and requested the trial court to dismiss him as a defendant.

FN1. Act of May 21, 1921, P.L. 1045, 39 P.S. §§ 351, et seq.

The Chancellor sustained Appellee's Preliminary Objections by order of May 5, 1982, and dismissed Appellee as a party defendant to this action. For some unexplained reason, an unwarranted procedure was followed and exceptions to that Order were filed on May 12, 1982. Curiously, a court en banc permitted these exceptions to be argued and on August 2, 1982, by an unanimous Opinion and Order, the Chancellor's order dismissing Appellee as a party defendant was affirmed. Nothing happened further until Appellee reduced the **812 court en banc's order to judgment in his favor on October 5, 1982 by filing a Praecipe with the Prothonotary of Cambria County.

On October 28, 1982, Appellant filed a notice of appeal from the judgment to Superior Court. This appeal was quashed as untimely. We granted allocatur because of the confusion regarding the appealability of equity orders generated by Houston-Starr Co. v. Virginia Mansions, 295 Pa.Superior Ct.

480, 441 A.2d 1334 (1982).

[1] In Houston-Starr Co., Superior Court quashed the appeal taken directly from a Chancellor's order striking a *lis pendens*. Superior Court characterized the Chancellor's action as an "adjudication" triggering the Pa.R.C.P. 1518 exceptions requirements [FN2], and held an appeal would not lie, *627 unless exceptions were filed and a final decree was entered on the order pursuant to Pa.R.C.P. 1519 [FN3]. These rules were clearly intended to become operative after trial and by no stretch of the imagination were they to be applied to pre-trial orders. Appellant argues that Houston-Starr similarly requires exceptions to the sustaining of preliminary objections before they can be appealed. We disagree.

FN2. Pa.R.C.P. 1518 (now rescinded) provided as follows:

Within twenty (20) days after notice of the filing of the adjudication, exceptions may be filed by any party to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, to the decree nisi or in cases where requests for findings of fact or conclusions of law have been submitted by leave of court to a failure or refusal to find any matter of fact or law substantially as requested. Each exception shall set forth a separate objection precisely and with discussion. Matters not covered by exceptions are deemed waived, unless, prior to final decree, leave is granted to file exceptions raising these matters.

FN3. Pa.R.C.P. 1519 provided in pertinent part:

(a) If no exceptions are filed within a twenty (20) day period, the decree nisi shall be entered by the prothonotary on praecipe as the final decree...

(c) The prothonotary shall immediately give written notice by ordinary mail to each party who has appeared in the action or to his attorney of record of the entry of the final decree or of any other order of the court.

Superior Court correctly quashed the appeal in Houston-Starr, albeit for an incorrect reason. The order striking *lis pendens* is interlocutory, and therefore, the appeal should have been quashed. *R.M. Shoemaker Co. v. Blumenfeld*, 443 Pa. 566, 278 A.2d 488 (1971).

[2][3][4] A *lis pendens* is the jurisdiction, power, or control which courts acquire over property involved in a suit, pending the continuance of the action, and until its final judgment thereon. *Bungar v. St. Michael's Greek Catholic Church*, 272 Pa. 402, 116 A. 389

(1922). The existence of a *lis pendens* merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on the property. *Dice v. Bender*, 383 Pa. 94, 117 A.2d 725 (1955). An order lifting a *lis pendens* during the course of an equity action fixes neither rights, duties, nor liabilities between the parties, puts no one out of court, and does not terminate the underlying litigation by prohibiting parties from proceeding with the action. Accordingly, the requisite "finality" is not present *628 when a *lis pendens* is lifted and the order, therefore, is interlocutory.

[5][6][7] Superior Court's acceptance in *Houston-Starr* of the opinion accompanying the order striking *lis pendens* as an "adjudication" for purposes of Pa.C.P.R. 1517 [FN4] was unfounded. The adjudication **813 referred to in Rule 1517 is the chancellor's proposed final disposition of a complaint after trial which reaches the very merits of the action; not interlocutory orders nondispositive of the case sub *judice*. From the filing of such an adjudication and decree nisi, which is final to all parties and to the whole of the subject matter, a party could, of course, take exceptions to a chancellor's order striking *lis pendens* or any other interlocutory ruling. *Houston-Starr* can permit no more. Appellant's arguments to the contrary are meritless and dismissed.

FN4. Pa.R.C.P. 1517 provides:

(a) The court shall make an adjudication and may do so before the testimony has been transcribed. The adjudication shall consist of (1) a statement of the issues; (2) a closely condensed chronological statement, in narrative form or in separate findings, of all the facts which are necessary to be known in order to determine the issues; (3) a discussion of the questions of law involved and the court's conclusions of law; and (4) a decree nisi.

(b) The adjudication may be made orally in open court at the end of the trial, and in that event shall be forthwith transcribed and filed in the office of the prothonotary, or it may be made thereafter in writing and filed forthwith. In either event the prothonotary shall notify all parties or their attorneys of the date of filing.

[8] Appellant also argues that the May 5, 1982, and August 2, 1982, orders cannot be the basis of an appeal, but become appealable only when they have been reduced to judgment. Since Appellant appealed to Superior Court within thirty (30) days of the entry of judgment, Appellant argues that its appeal was timely. We reject this argument.

The May 5, 1982 order sustained the preliminary objections in the nature of a demurrer of Appellee, and dismissed Appellee as a defendant to Appellant's action. This order terminated the litigation as far as Appellant was concerned *629 by prohibiting it from proceeding with the action against Appellee, and was therefore a final appealable order. While the Chancellor did not dismiss the complaint, its dismissal of Appellee as a defendant had the same effect. We can find no authority or rule of procedure which requires or permits such an order to be reduced to judgment.

We have long held that the sustaining of preliminary objections in the nature of a demurrer and dismissal of the equity complaint is a final appealable order. *Otto v. American Mutual Insurance Company*, 482 Pa. 202, 393 A.2d 450 (1978); *J.A. and W.A. Hess, Inc. v. Hazle Township*, 465 Pa. 465, 350 A.2d 858 (1976); *Hudock v. Donegal Mutual Insurance Company*, 438 Pa. 272, 264 A.2d 668 (1970); *Unger v. Hampton Township*, 437 Pa. 399, 263 A.2d 385 (1970); *Local No. 163 International Union, etc. v. Watkins*, 417 Pa. 120, 207 A.2d 776 (1965); *Sullivan v. Philadelphia*, 378 Pa. 648, 107 A.2d 854 (1954); *Ahrens v. Goldstein*, 376 Pa. 114, 102 A.2d 164 (1954); *Smith v. Philadelphia v. Reading Railroad*, 286 Pa. 55, 132 A. 804 (1926); *Armstrong, et al. v. Espy, et al.*, 220 Pa. 48, 69 A. 69 (1908).

[9] Moreover, the dismissal of a complaint as to one defendant upon its preliminary objections is a final appealable order, *Alessandro v. State Farm Mutual Automobile Ins. Co.*, 487 Pa. 274, 409 A.2d 347 (1979), *J.A. & W.A. Hess Inc. v. Hazle Township*, 465 Pa. 465, 350 A.2d 858 (1976); *Love Administrators v. Temple University*, 422 Pa. 30, 220 A.2d 838 (1966), which becomes *res judicata* if not appealed within the prescribed appeal period. [FN5] *In Re: Estate of Litostansky*, 499 Pa. 321, 453 A.2d 329 (1982); *Estate of Gasbarini v. Medical Center*, 487 Pa. 266, 409 A.2d 343 (1979); *Love, id.*

FN5. Pa.R.A.P. 903(a) provides:

(a) General rule. Except as otherwise prescribed by this rule, the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken. (Emphasis added).

*630 [10][11] Accordingly, the May 5, 1982 order was final and appealable, becoming *res judicata* upon

the expiration of the thirty (30) day appeal period. Rather than pursue appellate review, Appellant took the novel approach of filing exceptions to the May 5, 1982 order which more surprisingly were considered and disposed of by a court en banc. It would appear that Superior Court in its Houston-Starr opinion confused and misled them. Nowhere in our Rules are exceptions permitted from the disposition of preliminary objections and such practice is expressly disapproved.

**814 [12] Preliminary objections are permitted in equity actions by Pa.R.C.P. 1509 which incorporates the entire preliminary objection practice of actions in assumpsit. Orders sustaining preliminary objections, which are final, may be appealed as of right pursuant to Pa.R.A.P. 341(a), without resort to filing exceptions or reducing any order to judgment. "Our rules and case law require litigants to file exceptions to nisi determinations of trial courts ..." (Emphasis added) Commonwealth, ex rel. Waltman v. Graczyk, 501 Pa. 244, 460 A.2d 1098 (1983).

[13] While we find little excuse for Appellant's strategy in taking exceptions to preliminary objections, we are more concerned that the court en banc even considered the exceptions. Whether such exceptions are permitted by local rule or custom does not appear in the record, but in any event the practice is directed to end. It can be argued that the court en banc's acceptance and disposition of these exceptions may have misled Appellant into believing it was proceeding properly and that fairness would require us to forgive Appellant for not appealing directly from the May 5, 1982 order and to consider the court en banc's August 2, 1982, disposition as triggering the

appeal period. However, even if we were to do so, it becomes painfully obvious that Appellant did not appeal the August 2, 1982 en banc order within 30 days but waited until Appellee reduced the en banc order to judgment. The dismissal of the exceptions, it is argued, was not a final appealable order, but had to be reduced to judgment to make it appealable. This is plainly *631 incorrect. Where exceptions are properly before a court en banc, and are dismissed, the filing of the final decree determines the start of the appeal period, not the date the judgment is entered. Stotsenburg v. Frost, 465 Pa. 187, 348 A.2d 418 (1975). See, 42 Pa.C.S.A. §§ 5571, and 5572 for current rules governing timely filing of appeals. Also, see Pa.R.A.P. § 903, supra.

[14] Appellant's failure to appeal within 30 days of the entry of the Court en banc's dismissal of its exceptions forecloses our giving consideration to Appellant's arguments even on equitable grounds.

In short, the court en banc's disposition of the exceptions was a nullity. Resorting to such unauthorized redress under these facts permitted the appeal time to expire on the May 5, 1982 order to Appellant's detriment. Superior Court was justified in quashing the appeal, especially since Appellant permitted the thirty day appeal period beyond the August 2, 1982 order to lapse.

Affirmed.

NIX, C.J., and LARSEN and ZAPPALA, JJ., concurred in the result.

END OF DOCUMENT

Martin PSAKI, Appellant,
v.
Darlene FERRARI and Joseph Grosso, Appellees.

Superior Court of Pennsylvania.

Argued April 7, 1988.

Filed July 25, 1988.

Reargument Denied Sept. 16, 1988.

Judgment creditor filed lis pendens against property previously owned by judgment debtor. The Court of Common Pleas, Chester County, Civil Division, No. 84-07877, Wood, J., cancelled lis pendens, and appeal was taken. The Superior Court, No. 3194 Philadelphia 1987, Wieand, J., held that attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation.

Affirmed.

[1] LIS PENDENS ⇨1

242k1

Judgment for money damages will not support lis pendens filed against real estate which is owned by stranger to judgment and which is not subject to any pending litigation.

[2] LIS PENDENS ⇨15

242k15

Lis pendens has no application except in cases involving adjudication of rights in specific property.

[3] LIS PENDENS ⇨15

242k15

Party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation.

[4] LIS PENDENS ⇨1

242k1

Lis pendens may not be predicated upon action seeking to recover personal demand.

[5] LIS PENDENS ⇨1

242k1

Lis pendens cannot be used to assert claim that conveyance of real estate has been made in fraud of grantor's creditors; rather, such claim must first be made in equity action to set aside conveyance.

[6] LIS PENDENS ⇨15

242k15

Attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation, where grantee was not judgment debtor or party to proceedings in which default judgment had been entered against grantor.

[6] LIS PENDENS ⇨20

242k20

Attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation, where grantee was not judgment debtor or party to proceedings in which default judgment had been entered against grantor.

**1128 *2 James Cunilio, Bryn Mawr, for appellant.

Before WIEAND, McEWEN and BECK, JJ.

WIEAND, Judge:

[1] The issue in this appeal is whether a judgment for money damages will support a lis pendens filed against real estate which is owned by a stranger to the judgment and which is not the subject of any pending litigation. The trial court held that a lis pendens filed under such circumstances was improper. We agree and affirm.

Martin Psaki commenced a civil action against Darlene Ferrari and Joseph Grosso to recover unpaid loans in the amount of \$99,408. When Ferrari and Grosso failed to file an answer to the complaint, Psaki, on July 25, 1985, caused a default judgment to be entered against them. Thereafter, on October 30, 1985, Psaki caused a lis pendens notice to be indexed against real estate owned by William A. Koepke at 680 Wetherly Lane, Devon, Chester County. Title to this *3 real estate had been acquired by Koepke from Ferrari by deed dated March 5, 1985 and thereafter recorded in the Office of the Recorder of Deeds in and for Chester County. When Koepke, in turn, agreed to sell the real estate to a third person, he was compelled to place in escrow the sum of \$110,000 in order to obtain a release of the lis pendens. This sum was deposited with the Prothonotary pending final determination of the validity of the lis pendens. The court thereupon, by order dated July 8, 1986, cancelled the lis pendens. After further proceedings, the trial court held that the lis pendens had been improperly indexed against Koepke's real estate and

ordered a return of the \$110,000 to him. Psaki appealed.

[2][3][4] Strictly speaking, the effect of a lis pendens is not to establish an actual lien upon the property affected. Its purpose is merely to give notice to third persons that the real estate is subject to litigation and that any interest which they may acquire in the real estate will be subject to the result of the action. *Dice v. Bender*, 383 Pa. 94, 97, 117 A.2d 725, 726-727 (1955). Lis pendens has no application except in cases involving the adjudication of rights in specific property. *Shannon v. Barrett*, 65 Pa.D & C.2d 446, 448-449 (Del.Co.1974). Thus, a party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation. Lis pendens may not be predicated upon an action seeking to recover a personal demand. 54 C.J.S. Lis Pendens § 11. See: *Fesler v. Bran-Kel, Inc.*, 62 Del.Co.R. 422, 424 (1974). When a personal demand is reduced to judgment, of course, it becomes a lien, without more, on real estate which is owned by the judgment debtor. *In re Upset Sale, Tax Claim Bureau of Berks County*, 505 Pa. 327, 334, 479 A.2d 940, 943 (1984). See also: 42 Pa.C.S. § 4303(a). In such event, the filing of a lis pendens is unnecessary.

[5][6] The judgment recovered by appellant against Ferrari was not a lien against the real estate which Koepke had earlier acquired from Ferrari. This real estate, moreover, was not at any relevant time the subject of an action to *4 adjudicate rights of ownership therein. [FN1] Therefore, the attempt to index a lis pendens against the real estate owned by William Koepke was a nullity and subject to cancellation. Koepke was not appellant's judgment debtor and was never a party to the proceedings in which the default judgment had been entered. To permit a lis pendens under these circumstances would be to permit a person holding a judgment to place a cloud against the title to real estate owned by any other person, whether or not a party to the judgment, merely by filing a praecipe. This is not the law.

FN1. Lis pendens cannot be used to assert a claim that a conveyance of real estate has been made in fraud of the grantor's creditors. Such a claim must first be made in an equity action to set aside the conveyance.

The order of the trial court is affirmed.

END OF DOCUMENT

CHAPTER E

CIVIL ACTION

VOLUNTARY COMPLIANCE AGREEMENT (Consumer Protection Law -- 73 P.S. §§ 201-1 et seq.)

1. This Voluntary Compliance Agreement is filed by the Attorney General under the Consumer Protection Law without the necessity of a court order.

2. Upon payment of filing fee, Prothonotary shall assign a court of common pleas number, docket and index accordingly.

3. **RETENTION AND DISPOSITION SCHEDULE.** In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files

(a). #13, Judgments and Liens

(NOTE: Since there is no closure for this type of agreement, it shall be retained permanently for administrative and legal purposes.)

4. Reference:
Voluntary Compliance Agreement.

COMMONWEALTH OF PENNSYLVANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER,
Plaintiff

IN THE COURT OF COMMON
PLEAS OF YORK COUNTY,
PENNSYLVANIA

v.

CIVIL ACTION - EQUITY

STEVE NAYLOR and SCOTT NAYLOR d/b/a
NAYLOR AUTOMOTIVE,
Respondents

NO. QB-SU-04070 - OB

ASSURANCE OF VOLUNTARY COMPLIANCE

WHEREAS, the Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection ("Commonwealth"), has caused an investigation to be made into the business practices of Steve Naylor and Scott Naylor, doing business as Naylor Automotive, ("Respondents"), pursuant to the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §201-1 — §201-9.3 ("Consumer Protection Law") and the Automotive Industry Trade Practices Regulations, 37 Pa. Code §301.1 — §301.6 ("Automotive Industry Trade Practices Regs"), and the Vehicle Code, 75 Pa. C.S. §101 et seq.; and

WHEREAS, the Respondents, Steve Naylor and Scott Naylor, are adult individuals engaged in trade or commerce within the Commonwealth through the sale of motor vehicles and motor vehicle parts, with a principle place of business located at R.R. #2, Box 228, Windsör, York County, PA 17366; and

WHEREAS, based upon its investigation, the Commonwealth asserts that Respondents Steve Naylor and Scott Naylor engaged in conduct violative of the Consumer Protection Law,

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73 P.S. §201-1 — §201-9.3, the Auto Regs, 37 Pa. Code §301.1 — §301.6, and the Vehicle Code, 75 Pa. C.S. §101 et seq, as more fully set forth herein:

1. On August 30, 1996, Respondents sold a 1993 Toyota Calica to consumer Marlo De Gurreri. A salvage certificate was issued for this vehicle, however the Respondents failed to apply for a Pennsylvania "reconstructed" title before the time of sale, which practice the Commonwealth asserts to be in violation of §1103.1(g) of the Vehicle Code.

2. The Respondents' violation of the Vehicle Code constitutes a per se violation of the Consumer Protection Law.

3. The Commonwealth alleges that the Respondents knew that the vehicle had a salvage certificate and was a reconstructed vehicle, and failed to clearly and conspicuously disclose those facts when they sold it on August 30, 1996, in violation of §301.2(19) of the Auto Regs and §201-2(4)(v) and (vii) of the Consumer Protection Law.

4. The Auto Regs, 37 Pa. Code §301.1, define a "dealer or motor vehicle dealer" as a person who negotiates the sale of five or more vehicles within the same calendar year or who sells a vehicle for another. The Board of Vehicles Act, 63 P.S. §818.5, requires that motor vehicle dealers be licensed by the Department of State.

5. In 1996, the Respondents sold at least fifteen vehicles without having a license from the Department of State to act as a motor vehicle dealer, which practice the Commonwealth asserts to be in violation of §201-2(4)(iii) and (v) of the Consumer Protection Law.

6. Respondents held themselves out to be dealers based on the sales of the fifteen vehicles in 1996, and thus § 301.4 of the Auto Regs applies to this case.

7. The Respondents failed to use a printed form agreement in connection with the sale of the Toyota Celica which clearly identified and described its prior usage as "reconstructed," which practices the Commonwealth asserts to be in violation of § 301.4(a)(2)(iii) of the Auto Regs.

8. The Respondents failed to use or provide to consumers a written sales contracts when selling vehicles, which practices the Commonwealth asserts to be in violation of § 301.4(a)(1) of the Auto Regs.

9. From January 1996 to May 1997, the Respondents advertised at least eight automobiles in the *Auto Locator* which were salvaged vehicles without disclosing in the advertisement that the vehicles were salvaged, which practice the Commonwealth asserts to be in violation of § 301.2(19) of the Auto Regs and § 201-2(4)(v) and (vii) of the Consumer Protection Law.

WHEREAS, the Respondents have agreed to cease and desist from the aforementioned conduct, and desire to comply with these civil laws of the Commonwealth; and

WHEREAS, the Commonwealth is agreeable in this matter to accept this Assurance of Voluntary Compliance, pursuant to § 201-5 of the Consumer Protection Law, in lieu of commencing proceedings pursuant to § 201-4 of the Consumer Protection Law; and

WHEREAS, under the Consumer Protection Law, this Assurance of Voluntary Compliance shall not be considered an admission of a violation for any purpose.

NOW THEREFORE, while engaging in trade or commerce within the Commonwealth of Pennsylvania, Respondents Scott Naylor and Steve Naylor, agree for themselves, their

officers, partners, representatives, employees, future corporations and all other persons acting on their behalf, jointly or individually, directly or through any corporate or business devise, as follows:

I. The Respondents shall comply with any and all provisions of the Consumer Protection Law, Auto Regs, and the Vehicle Code, and are permanently enjoined from any violation thereof.

II. Specifically, the Respondents are permanently enjoined from acting as a motor vehicle dealer unless and until they obtain the required license in accordance with 63 P.S. § 818.5.

III. The Respondents shall pay \$2,295.00 to the Commonwealth to be distributed as consumer restitution to Marlo De Gurreri.

IV. The Respondents shall pay \$2,000.00 to the Commonwealth as a civil penalty.

V. The Respondents shall pay \$3,000.00 to the Commonwealth as costs of investigation and/or for future public protection purposes.

VI. The Respondents agree that judgment shall be entered against them, jointly and severally, and in favor of the Commonwealth in the total amount of seven thousand two hundred and ninety-five dollars (\$7,295.00), and consent to the judgment being indexed in any state or any other county of this Commonwealth. The Respondents shall pay the total sum of seven thousand two hundred and ninety-five dollars (\$7,295.00) according to the following payment plan, any violation of which shall be deemed a violation of this Consent Petition:

- a. Upon signing this Assurance, the Respondents shall pay \$2,295.00 to the Commonwealth; and

b. On August 1, 1998, and on the first day of each month for nine months thereafter, the Defendants shall pay \$500.00 to the Commonwealth.

VII. In the event that the Respondents fail to make any one payment within thirty (30) days after the due date of the payment, or if the Respondents are late by five (5) or more days in making any two payments, regardless of whether they are consecutive or non-consecutive, the Commonwealth, at its sole option, may accelerate the debt and declare the entire unpaid balance immediately due and owing. Upon written demand, the Respondents immediately shall make full payment of the accelerated amount. Failure to so pay the accelerated amount shall be deemed a violation of this Assurance and shall subject the Respondents to all of the sanctions and penalties provided for by this Assurance and otherwise by law.

VIII. The Respondents stipulate that, in the event any one of them files for protection under the United States Bankruptcy Code, the debts incurred herein shall be considered nondischargeable pursuant to 11 U.S.C. § 523(a)(2) and (7).

IX. All monies owed by the Respondents under this Assurance shall be paid by certified check, cashier's check or money order, made payable to the Commonwealth of Pennsylvania, and delivered to the Bureau of Consumer Protection, 132 Kline Plaza, Harrisburg, PA 17104.

X. This Court shall maintain jurisdiction over the subject matter of this Assurance of Voluntary Compliance and over the Respondents for the purpose of enforcing this Assurance.

XI. Provided that nothing contained herein shall be construed to waive any individual right of action by a consumer or a local, state, federal, or other governmental entity.

NOW THEREFORE, the Commonwealth and the Respondents hereby stipulate that this Assurance of Voluntary Compliance shall have the same force and effect as a permanent injunction issued under § 201-4 of the Consumer Protection Law, so that any violation of this Assurance of Voluntary Compliance shall be sufficient cause for the Attorney General of this Commonwealth to seek penalties as provided in §§ 201-8, 201-9, and 201-9.1 of the Consumer Protection Law and any other equitable relief which the Court deems necessary or proper.

Witness the following signatures this 6TH day of AUGUST 1998.

FOR THE PLAINTIFF:

BY: D. MICHAEL FISHER
D. MICHAEL FISHER
ATTORNEY GENERAL

BY: JOSEPH K. GOLDBERG
JOSEPH K. GOLDBERG
CHIEF DEPUTY ATTORNEY GENERAL

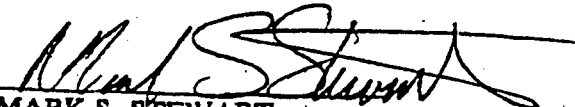
BY: Jodi L. Flitton
JODI L. FLITTON
DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 58131

FOR THE RESPONDENTS:


BY: Scott Naylor
SCOTT NAYLOR, OWNER
NAYLOR AUTOMOTIVE
R.R. #2, BOX 228
WINDSOR, PA 17366

BY: Steve Naylor
STEVE NAYLOR, OWNER
NAYLOR AUTOMOTIVE
R.R. #2, BOX 228
WINDSOR, PA 17366

BY:


MARK S. STEWART
DEPUTY ATTORNEY GENERAL
ATTORNEY LD. No. 75958
OFFICE OF ATTORNEY GENERAL
132 KLINE PLAZA
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(717) 787-7109

BY:


THOMAS GREGORY, JR., ESQ.
ATTORNEY FOR RESPONDENTS
LAUCKS & LAUCKS
105 WEST BROADWAY
RED LION, PA 17356-2103
(717) 854-0697

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CHAPTER E

CIVIL ACTION

MEDICAL PROFESSIONAL LIABILITY ACTION (Pa.R.C.P. No. 1904)

1. General Notes

a. The Prothonotary shall maintain a docket of all medical professional liability actions by separate docketing code or other appropriate means. When the docket is established by docketing code, the code shall be “Civil Action—Medical Professional Liability Action.”

b. The Prothonotary shall record on the medical professional liability action docket:

(1). the separate findings of the trier of fact, including, where applicable:

(i). Past damages in lump sums for “medical and other related expenses”, “loss of earnings”, and “noneconomic loss”,

(ii). Future damages in lump sums for “loss of earnings or earning capacity” and noneconomic loss” and

(iii). Future damages by year for “medical and other related expenses”, and

(2). all orders of the court affecting the amount of damages determined by the trier of fact. The orders shall be set forth on the docket verbatim or with specificity sufficient to determine the effect of the orders upon the damages awarded to each plaintiff.

c. Where a jury has made the separate findings that are recorded pursuant to subdivision b, the jury’s verdict sheet and interrogatories shall be made part of the official record and shall be maintained in the custody of the Prothonotary.

d. A judgment may not be entered pursuant to Rule 227.4 if a motion for post-trial relief is pending with respect to the ground that the damage award for noneconomic loss is excessive.

2. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files

Title to Real Estate. (a). #1, All Civil Matters, Not Otherwise Listed, Involving

(b). #13, Judgments and Liens

CHAPTER F

REPLEVIN

ACTION IN REPLEVIN.

1. GENERAL (Goodrich Amram 2d).

a. 1071:1 CONFORMITY TO A CIVIL ACTION. Generally. The historic writ of replevin with bond was abolished. Replevin without bond remains in full force and is a civil action in the nature of a declaratory judgment proceeding to determine the right to possession of the property (not ownership).... All actions are commenced by complaint (summons or amicable agreement are not authorized for replevin 1073:1) and seizure of property is by a supplementary procedure to obtain a writ of seizure.... If seizure is desirable, two prejudgment procedures are available (1) seizure after notice and hearing or (2) seizure ex parte on hearing.... A hearing must be held whether or not the defendant appears and his/her failure to appear does not bar his/her right to file a counterbond or subsequently to defend on the merits.... if in the post seizure hearing the plaintiff fails to sustain the grounds for an ex parte writ, damages, including attorney's fees, may be awarded.

b. 1072:1 VENUE. Generally. Replevin is dual in character, it is partly in rem (against the thing) to regain possession of goods, and partly an action in personam (against the person) to recover damages for their detention.... The character justifies alternative venue, action may be brought either in the county in which "the property to be replevied is found" or in any county in which "a civil action may be brought."... Adjudicating judgment may be entered in one county although the property is in another county. Replevin judgment can be transferred by the simple procedure of Pa.R.C.P. No. 3002.

c. 1075:1. SEIZURE OF PROPERTY BEFORE JUDGMENT. Generally. The property may be seized by the sheriff before judgment pursuant to a writ of seizure and the issuance of such writ only upon a court order entered upon notice and hearing.... Prejudgment seizure of property will be of value to the plaintiff if he/she becomes suspicious that the defendant intends to dispose of the property, and is not certain of the financial ability of the defendant to pay a judgment for the value of the goods.

d. 1075.1(a):1 MOTION FOR WRIT OF SEIZURE. After the plaintiff files a complaint, the plaintiff may move for a writ of seizure, whether or not the complaint has been served.

e. 1075.1(a):2 FIXING DATE AND TIME OF HEARING. The court is required to fix the date and time of hearing the motion for the writ not less than 48 hours after the filing of the motion.... The court may set a shorter time for the hearing where perishable property is to be seized or other cause shown.

f. 1075.1(c):2 TIME OF SERVICE OF NOTICE. Hearing notice must be served not less than 24 hours before the hearing.

g. 1075.1(d):1 MANNER OF SERVICE OF MOTION AND NOTICE. The manner of service is very liberal.... The Rule permits service by any means reasonably calculated to give notice, if service cannot be made by a competent adult's leaving a copy at the address endorsed on an appearance or prior pleading, or, in the absence of such, in the manner prescribed for a writ of summons in a civil action.

h. 1075.1(g):1 PETITION TO VACATE WRIT. A petition to vacate a writ is authorized if the notice of the hearing on the motion for such a writ was not actually received notwithstanding a reasonable attempt to give notice. The petition may be filed by the defendant or any other person claiming the right to possession of the property within 72 hours after seizure thereof.

i. 1075.2(a):1 GROUNDS FOR EX PARTE SEIZURE. To obtain an ex parte writ, the plaintiff must have filed a complaint and motion, and must satisfy the court of the probable validity of the claim to possession of the property and that there is probable cause to believe that before the notice can be given or hearing held the value of the property and plaintiff's interest therein will be adversely affected by the continued possession and use by the defendant, or the defendant/other person will conceal, dispose of, encumber, waste the property or revenues therefrom or remove the property from the county.

j. 1075.2(b):1 SERVICE OF COPY OF COMPLAINT AND MOTION WITH WRIT. A copy of the complaint and motion are to be served with the ex parte writ.

k. 1075.2(c):1 NECESSITY AND TIME OF HEARING. A hearing is to be held within 72 hours after seizure of the property, whether or not the defendant or person in possession of the property is served or appears.

l. 1075.2(d):4 EXPENSES. Where the plaintiff does not prevail at the hearing, the court, at its discretion, may award reasonable expenses, including attorney's fees, to the defending party. The plaintiff may not proceed without leave of court until the awarded expenses have been paid.

m. 1075.3(b):1 PLAINTIFF'S BOND. Where a writ of seizure is ordered, it is to be issued only upon the filing of a bond.... The bond shall be double the value of the property alleged in the complaint with security approved by the Prothonotary, naming the Commonwealth as obligee, conditioned that if the plaintiff fails to maintain his/her right to possession of the property he/she shall pay to the party entitled thereto the value of the property and all legal costs, fees and damages sustained by issuance of writ.... The statute of limitations of a "year and a day" for suits on the plaintiff's bond, fixed by section 10 of the Replevin Act of 1901 is continued unchanged (No action shall be brought upon any bond given in accordance with the provisions of this act unless commenced within a year and a day after the final determination of the suit in which the bond was given. At the expiration of such period, if no action has been brought thereon, the said bond shall be discharged).... The Prothonotary's acceptance or refusal of the bond is subject to the review of the court in the procedures set forth in Pa.R.C.P. No. 1080.

n. 1075.4(a):1 GENERALLY. SERVICE. TAKING POSSESSION OF PROPERTY. Service is to be made by the sheriff in the manner provided for service of a writ of summons in civil action.... and since time is of essence service should be effected as soon as possible.... The sheriff shall "take possession" of the goods, BUT, the sheriff SHALL leave the goods if so authorized in writing by the plaintiff, pursuant Pa.R.C.P. No. 1077.... If the action is brought in the county where the property is located and the defendant resides in another county, he/she is to litigate the matter in the county where the property is located.

o. 1075.4(b):2 SHERIFF'S RETURN. ADDING DEFENDANTS. If a third person is found in possession of the goods, he/she is to be added as a defendant and the sheriff shall "so state in his return." It is clear that there can be no "additional defendant" in a replevin action since the defendant is the party

in possession of the goods and the issue is the right to possession... there can be no possibility that the defendant in possession could bring in a third party on that issue within the coverage of the additional defendant rules.

p. 1075.5:1 DURATION OF VALIDITY OF WRIT OF SEIZURE. A writ of seizure is valid until served and need not be reissued.... meaning that the writ may be served by the sheriff at any time before judgment without reissuance of the writ.... This departs from the 30-day rule applicable to the complaint in replevin, which must be reinstated after 30 days.

q. 1076(a):1 COUNTERBOND. WHO MAY FILE. INTERVENTION. Bond may be filed by (1) defendant in the action or (2) an intervenor (a person not a party to the action who claims the right to possession may intervene as a defendant, by allowance of the court).... A mere lienor may not file a counterbond and retain the goods.... rights are protected through the device of the conditional verdict.... this rule may be in conflict with the Uniform Commercial Code, but there appears to be considerable doubt as to the soundness of the holding.

r. 1076(2):2 TIME FOR FILING COUNTERBOND. The time for filing a counterbond is 72 hours from the moment the goods are seized by the sheriff, or in event they are not seized at the direction of the plaintiff, 72 hours after service of the writ upon the defendant.... the limit may be extended by the court upon cause shown.

s. 1076(a):3 EFFECT OF FILING COUNTERBOND. The plaintiff loses possession of the goods for which the action was brought, but obtains instead the security of the counterbond for their value and any other moneys which the plaintiff is entitled to recover in the action.... In filing the counterbond, the defendant waives defects in the plaintiff's bond (including the amount).... If the plaintiff had deposited a cash bond with the Prothonotary's office, the money remains in custodia legis (in the custody of the law, e.g. Prothonotary), since the filing of the defendant's counterbond does not extinguish the plaintiff's bond or liability under it.

t. 1076(b):1 TERMS OF COUNTERBOND. The amount of the bond is the same as the plaintiff's bond.

u. 1077(a):1 DISPOSITION OF SEIZED PROPERTY. SHERIFF'S RETURN. In strict compliance with the terms of the writ, the sheriff is obligated to take the goods into physical

custody and hold them until further disposition is indicated and at least until the defendant or intervenor have time to file a counterbond, being at least 72 hours. Since this may be financially burdensome to the plaintiff, the plaintiff may give the sheriff a waiver of responsibility or authorize the sheriff in writing to leave the goods (preceding paragraph 1.n.).

v. 1077(b):1 DELIVERY OF PROPERTY TO PLAINTIFF. The plaintiff will receive possession of the replevied goods at the end of the counterbond filing period, unless (1) a counterbond is filed; or (2) the goods are impounded; or (3) the goods, if perishable, are disposed of; or (4) the goods, being left with the defendant or a third person with the plaintiff's written consent, have disappeared; or (5) proceedings are pending and undecided on the writs of seizure.

w. 1077(c):1 DELIVERY TO PARTY FILING COUNTERBOND. The goods are to be delivered to the party having possession if they file a counterbond; if the party in possession does not file a counterbond, the goods are delivered to the first party filing a counterbond, unless the property is impounded or perishable.

x. 1077(c):2 PROCEDURES WHERE SEVERAL PARTIES FILE COUNTERBOND. The person in possession, if he has filed a counterbond, has the first right to the goods as against any other persons filing a counterbond, and their priority right to the goods is based on the chronological order of the filing of the counterbonds.

y. 1077(d):1 DISPOSITION OF PERISHABLE PROPERTY. This is usually done by the plaintiff who may request the sheriff to make an immediate sale of the goods, or place them in special storage to prevent them against depreciation.

z. 1078:1 EXEMPTION OF PROPERTY. PRELIMINARY OBJECTION. An objection of immunity or exemption (by statute, in legal custody, contraband property, etc.) of property shall be raised by preliminary objection, if the property is in the custody of the law, such as goods taken in execution by a sheriff or constable. A statute (Act of April 3, 1779, 1 Sm L 470 Sec. 2, 12 P.S. 1845, suspended only insofar as relating to procedure for raising exemption question by Pa.R.C.P. No. 1456(3)) declares that all writs of replevin issued for any one of any goods or chattels levied, seized, or taken in execution.... acting under authority of the state, are irregular, erroneous, and void. This statute has been given a broad construction; it applies not only

in cases where the sheriff or constable is the defendant in the replevin suit, but also in cases where any person who is custodian of the goods is made defendant. If a writ is issued in violation of this statute, the court may and shall award treble costs to defendant therein, and also may and shall, according to its discretion, order an attachment against any Prothonotary or Clerk who made out such writ, knowing it to be for goods or chattels in the custody of the law (Act of April 3, 1779, 1 Sm L 470, Sec 3, 12 P.S. 1846, saved from suspension by Pa.R.C.P. No.1406(1)).

aa. 1079(a):1 IMPOUNDING PROPERTY. WHO MAY APPLY. Any party may petition the court to impound the property. The theory is that the mere security of the bond, and the payment of money in lieu of the return of the property, will not be sufficient in certain situations, e.g. the article may be unique or have sentimental value.

bb. 1079(a):2 - 1079(c)1 TIME TO APPLY FOR IMPOUNDING, METHOD, GROUNDS, STORAGE SECURITY, AND FINAL DETERMINATION. A petition to the court, with copies to the parties, may be made by any party at any time, so long as it is prior to the delivery of the property by the sheriff to someone. This requires prompt action by the parties.... The court shall fix a figure for the security to cover the cost of storage for the impounding (1079(b):2). Impounding costs, special damages and costs are recoverable from the losing party by execution, or by action upon a bond, if filed (1079(c):1).

cc. 1079.1 SPECIAL EQUITABLE RELIEF. This rule was adopted to emphasize that the rules governing replevin do not bar a separate action in equity where equitable relief, such as injunctive relief, is available.... it is a cardinal principle of equity that it will not take jurisdiction of a case where there is an adequate legal remedy.... an equitable action cannot be substituted for the action of replevin to recover personal property.... the view has been taken that the constitutional right of a defendant to have a replevin case tried by a jury (law) prevents the plaintiff from securing a return of the property in equity, e.g. law takes precedence over equity.

dd. 1080:1 OBJECTIONS TO BOND. Objections may be made to the amount of the bond, the adequacy of security and the propriety of the filing of the bond. The action shall be by petition. The court may increase or decrease the amount of the bond, substitute a new bond in place of an existing bond, and exonerate the surety on an old bond. If the plaintiff's bond is defective, the court may allow him to file a new bond.

ee. 1080:2 APPROVAL OF SECURITY BY PROTHONOTARY. It has always been the practice in Pennsylvania for judicial bonds to be filed with the Prothonotary or Clerk, and for him/her to approve the corporate or other security offered with the bond. His/her action in so doing is subject to review by the court on the petition of any party in interest, either because the Prothonotary has accepted inadequate security, or because he/she has arbitrarily refused to accept sufficient security.

ff. 1081:1 CONCEALMENT OF PROPERTY. EXAMINATION OF DEFENDANT. If the sheriff cannot find the goods sought by the plaintiff, but is able to serve the defendant personally, the action will not abate, but will continue as an action in replevin "without bond," i.e. an action purely in personam. Pa.R.C.P. No. 1081 provides for an ancillary proceeding whereby upon plaintiff's petition alleging that the goods cannot be found, the court may conduct an oral examination of the defendant and enter an appropriate order for delivery of the goods.

gg. 1082(a):1 COUNTERCLAIM. If the defendant (lienor) pleads his/her claim as a "counterclaim" instead of "new matter," he/she may pursue his/her claim even though the plaintiff discontinues his/her replevin action. The proper way for the plaintiff to attack the counterclaim is by preliminary objections.

hh. 1082(b):1 CONDITIONAL VERDICT. It is a necessary corollary to the "counterclaim". If the lienor has no right to give a counterbond and retain possession, but must surrender possession to the plaintiff and save his/her rights by asserting his/her lien, the verdict in his/her favor can never be general, but must be conditional....The plaintiff recovers the possession of the goods, but subject to his/her duty to pay the lien to the defendant lienor, whose right thereto has been adjudicated.

ii. 1083:1 JUDGMENT IN REM FOR PROPERTY WHEN DEFENDANT IS NOT SERVED AND DOES NOT APPEAR. If defendant has been served or appeared in the action, a default judgment may be entered for want of answer; however, if the defendant cannot be served, and does not voluntarily appear, the possibility of an in personam (against the person) judgment against the defendant disappears; and only an in rem (against a thing) remedy may validly be granted to the plaintiff.... The judgment (in rem) is not, like a judgment for want of an answer, an "office judgment" to be entered by the Prothonotary. The judgment is a judicial default. The Prothonotary cannot enter it; it is to be entered only after a "motion," and a motion can be ruled upon by the court only.

jj. 1086:1 JUDGMENT. ENFORCEMENT. A judgment in replevin for the party in possession of the property is in reality only a money judgment, while a judgment for a party not in possession is a money judgment with an alternative provision for recovery of the property (writ of possession). Recovery can be made on a bond if the judgment is for a party, whether they do or do not have possession. Recovery may be by execution pursuant to Pa.R.C.P. No. 3170 - 3173.

kk. 1087:1 TRIAL WITHOUT JURY. Although it is specially provided by statute that in actions in replevin the question of the title to, or right of possession of, the subject property as between all the parties shall be determined by a jury, as in other cases the parties in replevin may waive a jury trial, in which event the case is heard by the court sitting without a jury.... The decision must be rendered within 7 days after conclusion of the trial except in complex cases; however, it may be made orally in open court at the end of the trial, in which event it must be transcribed forthwith and filed in the Prothonotary's office, or it may be made later in writing and filed forthwith. In either event, the Prothonotary must notify all parties or their attorneys of the date of filing..... Exceptions are to be filed within 20 days after notice of the filing of the decision.... If no exceptions are filed within the 20-day period, or if a waiver in writing of the right to file exceptions signed by all parties has been filed, the Prothonotary must, on praecipe, enter final judgment on the decision. If exceptions are filed, after hearing by the court, the Prothonotary must give immediate written notice by ordinary mail to each party who has appeared in the action, or to his attorney of record, of the entry of the final judgment or any other order of the court.

2. PROCEDURE. (Pa.R.C.P. Nos. 1071 through 1087).

a. Commencement of Action (Pa.R.C.P. Nos. 1071 and 1073).

(1). Action is commenced by the filing of a complaint and except as provided in Pa.R.C.P. No. 1072 - 1087, shall be pursuant to the rules relating to civil actions.

(2). Prothonotary shall file, collect fee, assign a court of common pleas number, index and docket pursuant to the GENERAL PROVISIONS Section of this manual.

(a). Prothonotary shall review complaint to ensure complaint includes (1) a description of the property to be replevied, (2) its value and (3) its location if known to provide the data necessary for approving the bond and issuing a writ.

b. Writ of Seizure upon Notice and Hearing (Pa.R.C.P. No. 1075.1). Plaintiff may move for the issuance of a writ of seizure whether or not the complaint has been served. The court shall fix the time and date of hearing, not less than 48 hours after the filing of the motion. Notice of the hearing shall be substantially in the form provided by Pa.R.C.P. No. 1353. Service of the notice may be by any means reasonably calculated to give notice (Note: The manner of service is the responsibility of the plaintiff). The court may order a writ of seizure to be issued upon the filing of a bond.

c. Writ of Seizure Ex Parte (Pa.R.C.P. No. 1075.2). After the complaint has been filed, a writ of seizure may be issued by the court ex parte at any time upon motion of the plaintiff, upon the filing of a bond.

d. Writ of Seizure. Bond (Pa.R.C.P. No. 1075.3).

(1). Upon receiving a bond, Prothonotary shall review it to ensure it is double the value averred in the complaint, the Commonwealth is named as obligee, and the security used for the bond is sufficient to meet the required monetary value, and conditioned that if the plaintiff fails to maintain his/her right to possession, he/she shall pay to the party entitled thereto the value of the property and all legal costs, fees and damages sustained by reason of the issuance of the writ.

(2). If Prothonotary refuses the bond tendered, he/she should inform the party the reason and that they have the right to submit the bond to the court for approval.

(3). If the Prothonotary accepts the bond, approval should be so noted on the court order, and/or bond document, file and docket.

(4). Upon approval of bond, Prothonotary shall issue writ of seizure substantially in the form provided by Pa.R.C.P. No. 1354 and deliver the writ (if ex parte attach complaint and motion) to the sheriff for service.

e. Duration of Validity of Writ of Seizure. (Pa.R.C.P. No. 1705.5). The writ of seizure shall remain valid until served and need not be reissued (see paragraph 1.p.).

f. Counterbond (Pa.R.C.P. No. 1076).

(1). A counterbond can be filed by a defendant and/or intervenor (approved by the court) claiming a right to possession of the property.

(2). The counterbond shall meet the same criterion as that bond set forth in paragraph 2.d.; and Prothonotary shall follow acceptance procedures of that section.

(3). Upon acceptance, Prothonotary shall file and docket. It is important to accurately record the time and date of the filing of the counterbond, because if the plaintiff does not prevail, the priority of possession may be determined by the chronologically filing of the counterbond.

g. Disposition of Seized Property. Sheriff's Return.

(1). The sheriff is to return the writ stating the disposition of the property made by him/her.

(2). The Prothonotary shall file and docket the sheriff's return on the writ.

h. Objections to Bond.

(1). The court may, upon petition filed by any party, and after notice and hearing, review and change the bond or counterbond filed.

(2). The Prothonotary shall file, distribute copies, and make docket entry of the court order.

i. General Notes.

(1). The numerous documents and court orders that may be filed in a replevin action should be administratively processed as in a civil action.

(2). Bonds are to be kept separate and apart from all other records (e.g. bonds are to be retained in a special file apart from the case record) pursuant to 72 P.S. § 4862. A properly certified true and correct copy of a bond shall be competent evidence thereof in any judicial proceeding -- 16 P.S. § 426.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

4. Form:
Writ of Seizure

COMMONWEALTH OF PENNSYLVANIA)
) ss:
COUNTY OF _____)

:
:
:
:
:
:
:
:
:
:
:

File No. _____

WRIT OF SEIZURE

TO THE SHERIFF OF _____ COUNTY:

You are directed to seize the following property:

If the property is found in the possession of a person not already a defendant, you are directed to add the person as a defendant, and notify the person that he or she has been added as a defendant and is required to defend the action.

Date of Writ: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

REQUESTING PARTY:

Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No: _____

CHAPTER F

REPLEVIN

ENFORCEMENT OF A JUDGMENT IN REPLEVIN (Pa.R.C.P. Nos. 3170 - 3173).

1. GENERAL.

a. This section deals with a judgment entered by the court after a hearing or trial -- it does not deal with PREJUDGMENT procedures where a writ of seizure is the vehicle for gaining possession of property.

b. Goodrich Amram 2d.

(1). 3170(a):1 It might appear superfluous to provide a rule for enforcement of a judgment in a replevin action by a party who, at the time of entry of judgment, already has possession of the property which was the subject of the action....the primary object of the proceeding, the prevailing party may be entitled to more -- he may still properly seek damages and costs.

(2). 3170(b):2 JUDGMENT BY CONFESSION IN REPLEVIN. The basic "statutory" authority for confession of judgment by a Prothonotary speaks only of money due and does not in terms support confession by a Prothonotary of a judgment for possession. It has been long recognized that a Prothonotary might be empowered to confess judgment in the instrument in which case he would obtain his authority from the instrument and not from his office.... In this event the Superior Court has upheld judgment for possession, even when confessed by the Prothonotary since the Prothonotary acts for the defendants by virtue of the latter's specific mandate.... The governing instrument may also authorize an attorney to confess judgment by possession and it is essential that he enter his appearance for the "defendant"..... There are no procedural rules for confession of judgment in replevin. (Note: If this situation arises, it is strongly suggested that the Prothonotary consult his solicitor.)

2. PROCEDURE.

a. Judgment Enforcement (Pa.R.C.P. No. 3170).

(1). If judgment entered is for the party in possession, damages and costs may be recovered by execution or recovery on the bond.

(2). If judgment entered is for a party not in possession, possession of the property may be obtained by a writ of possession. In the alternative the value of property may be obtained by execution or recovery on the bond along with damages and costs.

b. Conformity to Rules Governing Enforcement of Judgments for Payment of Money (Pa.R.C.P. No. 3171). The procedures for enforcement of a judgment for possession shall be pursuant to the rules governing enforcement of money judgments with respect to the specific areas designated in Pa. R.C.P. No. 3171.

c. Stay of Execution. Setting Aside Execution (Pa.R.C.P. No. 3172). Upon receipt of a motion and/or order of court in the above matter, the Prothonotary shall file same, and make appropriate docket entry.

d. Sheriff's Return (Pa.R.C.P. No. 3173). Upon receipt of a sheriff's return upon completion or abandonment of the execution proceedings, the Prothonotary shall file same, and make appropriate docket entry.

e. Writ of Possession.

(1). Upon receipt of a praecipe for a writ of possession and fee, the Prothonotary shall file same after verification of the caption, case number, court orders, stay orders, and judgment.

(2). Prothonotary shall then issue writ (which may have been prepared and submitted by plaintiff or counsel), and upon completion shall forward same to the sheriff to whom it is directed or return to the plaintiff or counsel for transmittal, and make docket entry.

(3). Writ and sheriff's return will be given to Prothonotary by sheriff, which Prothonotary shall docket.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

b. If item is not in this schedule, contact State Archives for retention information.

4. Form:
Praecipe for/Writ of Possession

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

: File No. _____
:
: COSTS (to be completed by Prothonotary)
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____

PRAECIPE FOR WRIT OF POSSESSION
(Pa.R.C.P. No. 3254)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ of possession in the above matter.

Date: _____

Signature: _____

Print Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.
COUNTY OF _____)

TO THE SHERIFF OF SAID COUNTY:

- (1) To satisfy the judgment for possession in the above matter, you are directed to deliver possession of the following described property to _____:

(Specifically describe property)

(Note: Description of property must be included in, or attached to, the writ.)

- (2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____

Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

:
:
:
:
:
:
:
:
:
:
:

File No. _____

PRAECIPE FOR WRIT OF POSSESSION
(Pa.R.C.P. No. 3254)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ of possession in the above matter.

Date: _____

Signature: _____

Print Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

:
:
: File No. _____
:
: COSTS (to be completed by Prothonotary).
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____
:

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.
COUNTY OF _____)

TO THE SHERIFF OF SAID COUNTY:

(1) To satisfy the judgment for possession in the above matter, you are directed to deliver possession of the following described property to _____:

(Specifically describe property)

(Note: Description of property must be included in, or attached to, the writ.)

(2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

CHAPTER G

ARBITRATION

COMPULSORY ARBITRATION (42 Pa.C.S.A. § 7361 and Pa.R.C.P. Nos. 1301 - 1314).

1. Responsibility. Local rule will determine who is responsible for specific phases of the arbitration procedure, e.g., court administrator may be responsible for appointing the board and notification; and the Prothonotary for the record keeping and post-hearing functions.

2. Pre-hearing Procedure. Upon receipt of praecipe for arbitration (local form), the Prothonotary shall collect the fee (if applicable), file, docket, and proceed according to local rule.

3. Post-hearing Procedure (Pa.R.C.P. Nos. 1306 - 1307).

a. Upon receipt of the arbitrator's award, review the award for clarity in order that accurate information can be readily obtained from it to enter in the appropriate dockets. Ensure the majority of the arbitrators have signed it (Pa.R.C.P. No. 1306). Arbitrators are to be paid pursuant to local rule.

b. File the award. Award filed, but not indexed, shall be readily available to the public.

c. Enter the award of record upon the proper docket, (Pa.R.C.P. No. 1307).

d. Immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the docket and the amount of arbitrators' compensation to be paid upon appeal, to each party's attorney of record or to the party if there is no attorney of record. Note in the docket the date of the mailing of the notices.

e. If no appeal is taken within thirty days after the entry of the award on the docket, the Prothonotary on praecipe shall enter judgment on the award.

f. If the record and the award disclose an obvious and unambiguous error, a party may make application to the court within the thirty-day appeal period for corrective action. The application stays the appeal and all proceedings until final disposition by the court.

4. Appeal from an Award (Pa.R.C.P. No. 1308).

a. The appeal should be substantially in the form set forth in Pa.R.C.P. No. 1313, which is shown in this manual. The appellant shall provide the Prothonotary, in order to give notice, with the required notice for mailing and properly stamped and addressed envelopes.

b. The appeal is to be filed not later thirty (30) days after the day on which the Prothonotary makes the notation on the docket that notice of entry of the arbitration award has been provided as required by Pa.R.C.P. No. 1307(a)(3). (Prothonotary not to determine this period.)

c. Arbitrators' Compensation (Pa.R.C.P. No. 1308(a)(2)). The appellant, unless authorized to proceed in forma pauperis, is to pay for the compensation of the arbitrators not exceeding 50% of the amount in controversy, which shall not be taxed as costs or recoverable in ANY proceeding.

d. The Prothonotary shall file the appeal, mail the notices in the envelopes provided, and docket it.

5. Parties to Appeal (Pa.R.C.P. No. 1309). An appeal by any party shall be deemed an appeal by all parties as to all issues unless otherwise stipulated in writing by all parties.

6. Discontinuance of Appeal (Pa.R.C.P. No. 1310). An appeal may be discontinued upon the filing of the written consent of all parties or by leave of court after notice to all parties. It should be noted that the terms withdrawn and discontinued have the same meaning as used in the rule; therefore, in event the term withdrawn would be used, the rule for discontinuance would apply to it.

7. Procedure on Appeal (Pa.R.C.P. No. 1311). The trial shall be de novo and scheduled pursuant to local rules.

8. RETENTION AND DISPOSITION SCHEDULE.

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices

(2). PY-7, Civil Papers/Files

Title to Real Estate

(a). #1, All Civil Matters, Not Otherwise Listed, Involving

(b). #13, Judgments and Liens

CHAPTER G

ARBITRATION

COMMON LAW (INDEPENDENT) ARBITRATION (42 P.S. 7341 and 7342).

1. Upon receipt of Petition for Entry of Judgment on award of independent arbitration (Ex: American Arbitration Association) and proposed order for court for confirmation of award for clarity in order that accurate information can be readily obtained from it to enter in the appropriate dockets.

2. Prothonotary shall collect the fee, file, assign a court of common pleas number, docket and follow the local rule for motions and petitions.

3. Upon receipt of confirming order, file order and enter order/award in the appropriate docket(s).

a. A confirming court order may direct Prothonotary to immediately enter monetary award as money judgment.

4. Upon receipt of court order denying motion/petition, file order and enter in appropriate docket.

5. Immediately send by ordinary mail a copy of the confirming order to each party's attorney of record or to the party if there is no attorney of record. Note in the docket the date of the mailing of the order.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 – Office of the Prothonotary, Subsection:

(1) Civil Dockets, Books and Indices.

(2) Civil Papers/Files.

(a) All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

(b) Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

(Note: This Chapter is not to be confused with Statutory Arbitration (Uniform Arbitration Act), e.g. collective bargaining agreements, government contracts, or written agreements that refer to 42 Pa.C.S.A. 7301 - 7320. This type of arbitration is also confirmed pursuant to 42 Pa.C.S.A. 7313.)



Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness
Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)
Part VII. Civil Actions and Proceedings
 ↗ Chapter 73. Arbitration (Refs & Annos)
 ↗ Subchapter B. Common Law Arbitration (Refs & Annos)
 →→ § 7341. Common law arbitration

The award of an arbitrator in a nonjudicial arbitration which is not subject to Subchapter A (relating to statutory arbitration) or a similar statute regulating nonjudicial arbitration proceedings is binding and may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1980, Oct. 5, P.L. 693, No. 142, § 501(a), effective in 60 days.

BAR ASSOCIATION COMMENT

Source Note: Intended as a restatement of existing law. See, e.g. *Great American Insurance Co. v. American Arbitration Assn.*, 436 Pa. 370, 260 A.2d 769 (1970).

HISTORICAL AND STATUTORY NOTES

The 1980 amendment substituted "subchapter A" for "The Act of April 25, 1927 (P.L. 381, No. 248)".

CROSS REFERENCES

Vacation of arbitration award by court, see 42 Pa.C.S.A. § 7314.

LIBRARY REFERENCES

Alternative Dispute Resolution ↗ 326, 331, 362, 381.
Westlaw Topic No. 25T.

RESEARCH REFERENCES



Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness
Title 42 Pa.C.S.A: Judiciary and Judicial Procedure (Refs & Annos)
Part VII. Civil Actions and Proceedings
 ▣ Chapter 73. Arbitration (Refs & Annos)
 ▣ Subchapter B. Common Law Arbitration (Refs & Annos)
 →→ § 7342. Procedure

(a) General rule.--The following provisions of Subchapter A (relating to statutory arbitration) shall be applicable to arbitration conducted pursuant to this subchapter:

Section 7303 (relating to validity of agreement to arbitrate).

Section 7304 (relating to court proceedings to compel or stay arbitration).

Section 7305 (relating to appointment of arbitrators by court).

Section 7309 (relating to witnesses, subpoenas, oaths and depositions).

Section 7317 (relating to form and service of applications to court).

Section 7318 (relating to court and jurisdiction).

Section 7319 (relating to venue of court proceedings).

Section 7320 (relating to appeals from court orders), except subsection (a)(4).

(b) Confirmation and judgment.--On application of a party made more than 30 days after an award is made by an arbitrator under section 7341 (relating to common law arbitration) the court shall enter an order confirming the award and shall enter a judgment or decree in conformity with the order. Section 7302(d)(2) (relating to special application) shall not be applicable to proceedings under this subchapter.

CREDIT(S)

CHAPTER H

EJECTMENT - LAW

ACTION IN EJECTMENT (Pa.R.C.P. Nos. 1051 - 1058).

1. Action is commenced by the filing of a complaint, and except as provided in Pa.R.C.P. No. 1051 - 1058, shall be pursuant to the rules relating to civil actions.
2. The action need not be indexed "Lis Pendens" unless specifically requested.
3. Prothonotary shall file, assign court of common pleas number and collect fee.
4. Index and docket action pursuant to the GENERAL PROVISIONS Section of this manual.
5. See POSSESSION Section of this manual for entry of judgment and writ.
6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:
 - a. Chapter 3 - Office of the Prothonotary, Subsection:
 - (1). Civil Dockets, Books and Indices.
 - (2). Civil Papers/Files.
 - (a). Ejectment Papers.
 - b. If item is not in this schedule, contact State Archives for retention information.

CHAPTER I

RESERVED FOR FUTURE USE

Entire Chapter I, Equity, transferred to Chapter E-12 and E-13

CHAPTER J

JURY

CIVIL JURY PROCESS (42 P.S. § 501 - 4584; Pa.R.Cr.P. No. 1100 et seq).

(NOTE: THE FOLLOWING MAY NOT PERTAIN TO ALL PROTHONOTARY OFFICES. PROCEDURES AND OATHS MAY VARY.)

1. Names are selected by jury commissioners and given to the court administrator who notifies the jurors.
2. The list is given to the Prothonotary, minus excused jurors.
3. On trial day, Prothonotary takes juror attendance, and designated personnel are told to contact absent jurors.
4. The total number of jurors to be selected is based on the number of parties to the suit, with each party receiving four peremptory challenges (Pa.R.C.P. No. 221).
5. Perspective jurors are seated in the courtroom in the order selected.
6. Prothonotary administers Voir Dire Oath. Inquiry administered by Prothonotary/Judge.
 - a. OATH: Ladies and gentlemen of the Jury, the plaintiff(s) in this case is (are) ... and the Defendant(s) in this case is (are) ... Are any of you related to the plaintiff(s) or defendant(s) by blood or marriage? Are any of you an officer, stockholder or employee? Have any of you been written to or spoken to by either the plaintiff(s) or defendant(s) or anyone on their behalf upon the merits of this case?
7. Voir dire by counsel for each party.
 - a. Challenges for cause may result in a juror not being selected and a replacement required, to whom the oath and inquiry must be administered.
8. Prothonotary receives and reads the list of jurors selected. Those not selected are excused and directed to return to the jury room.
9. Jurors are seated in the order of which they were selected and must retain that position during the trial.

10. Oath of Traverse Jurors is administered at commencement of trial.

a. OATH: Do each of you solemnly swear that you will well and truly try the issue joined between ... plaintiff(s) and ... defendant(s) and a true verdict give according to the evidence, unless dismissed by the Court or the cause be withdrawn by the parties?

11. Opening remarks by attorneys. Defense may reserve opening.

12. Oath administered to witnesses by Prothonotary.

a. OATH: Do you solemnly swear or affirm the testimony you are about to give in this cause on trial shall be the truth, the whole truth and nothing but the truth so help you God?

13. Exhibits. In some jurisdictions exhibits are retained by the court reporter and in others, by the Prothonotary once they are admitted.

14. Court Minutes may be kept by the Prothonotary. They include time of trial, events, witnesses names, exhibits entered and their description, direct cross examination, when parties rest, side bar conferences -- especially on a motion for a compulsory nonsuit.

15. Counsels' closing remarks.

16. Court charges jury.

17. Oath is administered to the tipstaff by Prothonotary.

a. OATH: You do swear or affirm, that you will keep this jury in some private and convenient place until they agree upon their verdict and that you will not permit any person to speak to them, nor speak to them yourself without leave of the court, except to ask them if they have agreed upon their verdict, so help you God?

18. Jury retires for deliberation.

19. Prothonotary must remain in courthouse until verdict is rendered.

20. Jury returns with verdict and Court directs Prothonotary to take the verdict.

21. Verdict is basically taken in the following manner:
 - a. Prothonotary asks if they have agreed upon the verdict.
 - b. Prothonotary asks who the foreperson is.
 - c. Prothonotary reads the entire verdict slip. In a comparative negligence suit, jurors may be asked to respond to the questions.
 - d. Verdict is then repeated for the record and the Prothonotary asks the jurors if this is a verdict of at least 10 of them.
 - e. Jury may be polled at the request of the parties -- Juror No. 1, what is your verdict? and so on.
22. The verdict is then taken to the Prothonotary's office where it is clocked, indexed, and docketed.
23. Jurors are paid by the county fiscal office upon verified statement of their attendance and mileage. For the state reimbursement on jurors serving three or more days on a trial, the local policy for recording their names should be followed.
24. RETENTION AND DISPOSITION SCHEDULE. Ministerial Procedure. If item is not in schedule, contact State Archives for retention information.

CHAPTER K

COMMONWEALTH/LOCAL AGENCY APPEALS

APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGE/DENIAL OF DRIVER'S LICENSE (75 Pa.C.S.A. § 1550 et seq).

APPEAL FROM A SUSPENSION OF MOTOR VEHICLE REGISTRATION (75 Pa.C.S.A. § 1377)

1. Upon filing a petition for appeal with the Prothonotary, substantially in the format shown in this manual, the Prothonotary shall file, assign a court of common pleas number and collect fee.

2. Index and docket action pursuant to the GENERAL PROVISIONS Section of this manual.

3. This is a civil action, and should be given a civil court of common pleas number. (Note: This comment is for dual office holders.)

4. The Prothonotary is not responsible for serving a copy of the petition on the Pennsylvania Department of Transportation (PennDOT), and petitioners should be directed to send a copy to PennDOT. Certified/registered mail is suggested.

5. Subsequent filings should be filed and docketed pursuant to the GENERAL PROVISIONS Section of this manual.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

b. If item is not in this schedule, contact State Archives for retention information.

7. Form:

Petition for Appeal From a Suspension of Operating Privilege/Denial of Driver's License/ Suspension of Motor Vehicle Registration

8. References:

75 Pa.C.S.A. 1550

75 Pa.C.S.A. 1377

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Appellant

vs.

File No. _____

Commonwealth of Pennsylvania
Department of Transportation

Appellee

**PETITION FOR APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGE /
DENIAL OF DRIVER'S LICENSE / SUSPENSION OF MOTOR VEHICLE REGISTRATION**

1. Appellant herein is _____,
residing at and having a mailing address of: _____

2. Appellee herein is the Department of Transportation of the Commonwealth of
Pennsylvania, having a mailing address of:

____ Department of Transportation, Bureau of Driver Licensing, Harrisburg,
Pennsylvania 17123.

____ Department of Transportation, Bureau of Motor Vehicles, Harrisburg,
Pennsylvania 17123.

3. By letter or notice dated _____, a copy of which is attached
hereto as Exhibit A, the Department of Transportation

____ ordered Appellant to surrender his / her operating license / motor vehicle
registration for a period of _____.

____ denied the issuance / renewal of a driver's license.

4. Supersedeas:

___ Pursuant to 75 Pa.C.S.A. § 1550(b)(1)(i), Appellant is retaining driver's license until final determination of the suspension of operating privilege.

___ Pursuant to 75 Pa.C.S.A. § 1550(b)(1)(ii), a hearing attended by the Appellant must be held before the Court of Common Pleas before an order of supersedeas can be issued.

___ Pursuant to 75 Pa.C.S.A. § 1377(a), Appellant is retaining motor vehicle registration until final determination of the suspension of registration.

5. The said suspension of Appellant's operating privileges / registration is improper or unlawful for the following reasons:

Appellant respectfully requests that this matter be set down for a hearing and that the order of suspension / order of denial be set aside.

Respectfully submitted by,

Appellant

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: _____

_____ Appellant

burden on officer than reasonable grounds to believe driver had been driving under influence of alcohol. *Com. v. Aiello*, 675 A.2d 1278, 450 Pa.Super. 302, Super.1996.

138. Suspension of license—In general

Department of Transportation (DOT) must present evidence showing that licensee was arrested for driving under the influence of alcohol, was asked to submit to chemical test, refused to do so, and was warned that consequences of refusing chemical test would be suspension of licensee's operating privilege, in order to satisfy burden of proof and establish prima facie case on licensee's appeal from one-year suspension imposed by DOT under implied consent law as consequence of reported chemical test refusal. *Ponce v. Com., Dept. of Transp., Bureau of Driver Licensing*, 685 A.2d 607, Cmwith.1996.

141. Burden of proof—In general

Where licensee has filed statutory appeal from one-year suspension imposed by Department of Transportation (DOT) under implied consent law, as consequence of reported chemical test refusal, DOT bears initial burden of proof at statutory appeal hearing. *Ponce v. Com., Dept. of Transp., Bureau of Driver Licensing*, 685 A.2d 607, Cmwith.1996.

Department of Transportation's (DOT) burden in driver's license suspension case is met once it is established that motorist was arrested for driving under the influence of alcohol, that motorist was asked to submit to chemical testing for blood alcohol, that motorist refused to submit to chemical testing, and that motorist was specifically warned that refusal would result in revocation of his or her operating privileges. *Com., Dept. of Transp., Bureau of Driver Licensing v. Scott*, 684 A.2d 539, Sup.1996.

142. — Refusal to submit to test, burden of proof

Once Department of Transportation (DOT) has made out prima facie case of refusal to submit to chemical testing under implied consent law, burden on appeal from license suspension then shifts to licensee to establish that refusal was not knowing and conscious or that licensee was physically incapable of successfully performing requested chemical test. *Ponce v. Com., Dept. of Transp., Bureau of Driver Licensing*, 685 A.2d 607, Cmwith.1996.

143. — Inability to make knowing and conscious refusal or to take test, burden of proof

To sustain license suspension for failure to submit to chemical testing, Department of Transportation (DOT) has burden of establishing that

motorist was arrested for drunken driving by police officer who had reasonable grounds to believe that motorist was operating, or actually controlling or operating movement of motor vehicle, while under influence of alcohol, that motorist was requested to submit to chemical test, that motorist refused to do so, and that motorist was warned that refusal might result in license suspension; once DOT establishes these four elements, burden shifts to motorist to prove, by competent evidence, that he or she was unable to knowingly and consciously refuse chemical testing. *Gombar v. Com., Dept. of Transp., Bureau of Driver Licensing*, 678 A.2d 843, Cmwith.1996.

149. — Preliminary breath test, admissibility of evidence

Preliminary breath test (PBT) is reliable to discern presence or absence of alcohol in suspect's blood, so that results are admissible to support charge of underage drinking, and they create rebuttable presumption that defendant has engaged in the prohibited activity. *Com. v. Allen*, 684 A.2d 633, Super.1996.

While it is sufficient to establish probable cause to believe that driver has consumed alcohol, preliminary breath test (PBT) result does not measure with certainty the amount of alcohol consumed so that, because Commonwealth has burden of proving a specific blood-alcohol level in a driving under the influence (DUI) prosecution, PBT result is not probative to establish requisite elements of the crime and is therefore inadmissible. *Com. v. Allen*, 684 A.2d 633, Super.1996.

160. — Expert testimony, admissibility of evidence

Where driver has not sustained injuries creating obvious inability to comply with request for chemical testing, burden of establishing incapacity to comply must be shown by competent medical testimony or other testimony as to specialized knowledge on a particular subject under investigation, where experts do not exceed scope of experience in respective fields. *Gombar v. Com., Dept. of Transp., Bureau of Driver Licensing*, 678 A.2d 843, Cmwith.1996.

178. Review—In general

In reviewing decision of trial court in driver's license suspension case, standard of review of appellate court is to determine if factual findings of trial court are supported by competent evidence, and whether trial court committed error of law or abuse of discretion; questions of credibility are for trial court. *Com., Dept. of Transp., Bureau of Driver Licensing v. Scott*, 684 A.2d 539, Sup.1996.

§ 1550. Judicial review

(a) **General rule.**—Any person who has been denied a driver's license, whose driver's license has been canceled or whose operating privilege has been recalled, suspended, revoked or disqualified by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The appellant shall serve a copy of the petition for appeal, together with a copy of the notice of the action from which the appeal has been taken, upon the department's legal office.

(b) Supersedeas.—

(1) (i) Except as provided in subparagraphs (ii) and (iii), filing and service of a petition for appeal from a suspension or revocation shall operate as a supersedeas until final determination of the matter by the court vested with the jurisdiction of such appeals.

(ii) The filing and service of a petition for appeal from denial, recall, suspension or cancellation of a driver's license under section 1503 (relating to persons ineligible for licensing), 1504 (relating to classes of licensees), 1509 (relating to qualifications for school bus driver endorsement), 1514 (relating to expiration and renewal of drivers' licenses), 1519 (relating to determination of incompetency) or 1572 (relating to cancellation of driver's license) shall not act as a supersedeas unless ordered by the court after a hearing attended by the petitioner.

(iii) Further review by another court shall not operate as a supersedeas unless a court of competent jurisdiction determines otherwise.

(2) In the case of a disqualification of the commercial operating privilege, the driver may petition to the court of common pleas of his county of residence, which court may grant a supersedeas ex parte upon a showing of reasonable likelihood of successful prosecution of the appeal.

(c) **Proceedings of court.**—The court shall set the matter for hearing upon 60 days' written notice to the department and determine whether the petitioner's driver's license should be denied or canceled, the petitioner's operating privilege should be suspended, revoked or recalled or the petitioner's endorsement should be removed.

(See main volume for (d))

Amended 1996, Oct. 7, P.L. 688, No. 118, § 1, effective in 60 days.

Historical and Statutory Notes

1996 Legislation

The 1996 amendment rewrote the section.

Notes of Decisions

7. Supersedeas

Department of Transportation (DOT) was not required to grant supersedeas to driver whose license was suspended, as driver's appeal from notification of suspension was untimely and proposed order for supersedeas from trial court was unsigned. *Fisher v. Com., Dept. of Transp., Bureau of Driver Licensing*, 682 A.2d 1353, Cmwith.1996.

30. — Admissibility of evidence

Under statute governing judicial review of license suspension and revocation matters, subsection dealing with admission of out-of-state documentation effectively excused Department's compliance with evidentiary standards of Uniform Interstate and International Procedure Act when it proffered photocopies of uniform traffic citation and complaint and abstract of judgment from another state on appeal from license revocation; instead, Department could now treat documents received from other state as documents of Department, which could be reproduced and, under seal of Department, submitted to adjudicatory body to support Department's case. *Mackall v. Com., Dept. of Transp., Bureau of Driver Licensing*, 680 A.2d 31, Cmwith.1996.

Photocopies of uniform traffic citation and complaint and abstract of judgment from another state, indicating that driver pleaded nolo contendere to driving under influence, were admissible

in judicial review proceeding in which driver challenged license revocation, where Director of Bureau of Driver Licensing certified that abstract of judgment had seal attached to original, and Director's certification was under seal. *Mackall v. Com., Dept. of Transp., Bureau of Driver Licensing*, 680 A.2d 31, Cmwith.1996.

Subsection of license revocation review statute providing for admissibility of out-of-state documentation in judicial review proceeding created only prima facie case of admissibility, such that licensee would have burden of rebutting correctness of documentation. *Mackall v. Com., Dept. of Transp., Bureau of Driver Licensing*, 680 A.2d 31, Cmwith.1996.

38. Reversal of suspension

Drivers licensee, who appealed suspension of license for failure to submit to chemical testing, was not entitled, on grounds of lack of docket activity on appeal, to have suspension overturned, even though hearing was continued and not rescheduled until two years after last docket activity; Department of Transportation, as non-moving party, was not responsible for moving the appeal forward. *Koller v. Com., Dept. of Transp., Bureau of Driver Licensing*, 682 A.2d 82, Cmwith.1996.

39. Scope of review

Commonwealth Court's scope of review of trial court's determination of appeal from drivers' license suspension is limited to a determination of

75 Pa.C.S.A. § 1374

Note 6

dealer registration privileges. *Com., Dept. of Transp., Bureau of Traffic Safety v. Foxwood R.V. Center and Campground*, 547 A.2d 504, 119 Pa.Cmwlth. 381, 1988.

7. Penalty

Letter sent to automobile dealership by Department of Transportation, warning dealership that they were in violation of 75 Pa.C.S.A. § 1103 requiring submission of application for certificate of title on vehicles within ten days of purchase, constituted first offense for purposes of determining sanctions connected with subsequent offense, even though there was no provision for notice or hearing in connection with warning letter. *Com., Dept. of Transp. v. Pacifico Ford, Inc.*, 556 A.2d 468, 124 Pa.Cmwlth. 340, 1989, appeal granted 567 A.2d 654, 523 Pa. 650.

Trial court, after hearing de novo, could not modify penalty imposed by Department of Transportation suspending automobile dealership's dealer registration privileges and authorization to issue temporary registration plates following second offense of issuing uncollectible checks to the agency notwithstanding absence of fraud, inadvertence or financial loss to the agency or any other party, where court found in fact that dealership had committed violations alleged by DOT.

§ 1376. Surrender of registration plates and cards upon suspension or revocation

(a) **General rule.**—The department, upon suspending or revoking any registration, shall require the registration plate or plates and registration card or cards to be surrendered immediately to the department.

(b) **Delegation of authority.**—If within 35 days the registration plates and cards are not surrendered under subsection (a), the department may delegate authority to the following persons to seize a registration plate and registration card which are required to be surrendered under subsection (a):

- (1) A designated department employee.
- (2) Members of the Pennsylvania State Police.
- (3) Local police officers.
- (4) Sheriffs or deputy sheriffs.

(5) **Constables or deputy constables.** If constables and deputy constables are delegated authority to seize registration plates and registration cards under this section, they shall be compensated by the department at the rate of \$16 for each registration plate and card jointly seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request for payment is submitted to it.

(c) **Regulations.**—The department shall, by regulation, prescribe the manner of selecting those persons who are delegated authority under this section to seize the registration plates and registration cards.

(d) **Penalty.**—Any person failing or refusing to surrender to the department or its authorized delegate, upon demand, any registration plate or card which has been suspended or revoked is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300, plus costs. Costs shall include a reasonable fee for official seizure of the unsurrendered items.

As amended 1985, June 19, P.L. 49, No. 20, § 2, effective in 60 days; 1990, Feb. 7, P.L. 11, No. 6, § 6, effective in 60 days.

VEHICLES

Com., Dept. of Transp., Bureau of Traffic Safety v. Foxwood R.V. Center and Campground, 547 A.2d 504, 119 Pa.Cmwlth. 381, 1988.

8. Review

Scope of review of Commonwealth Court for decision to suspend dealer registration plates and authorization to issue temporary registration plates is limited to determining whether trial court's findings are supported by substantial evidence or whether trial court committed error of law. *Sala's Used Cars v. Com.*, 596 A.2d 1212, 142 Pa.Cmwlth. 27, 1991.

Trial court may not reverse or modify Department of Transportation suspension simply because it believes that result is harsh; trial court abuses its discretion if it finds punishable violation yet modifies suspension merely because it disagrees with penalty imposed. *Sala's Used Cars v. Com.*, 596 A.2d 1212, 142 Pa.Cmwlth. 27, 1991.

Trial court, in reviewing Department of Transportation license suspension, is limited to de novo determination of whether or not person charged has indeed committed violation for which sanction was imposed. *Sala's Used Cars v. Com.*, 596 A.2d 1212, 142 Pa.Cmwlth. 27, 1991.

VEHICLES

75 Pa.C.S.A. § 1377

Historical and Statutory Notes

1985 Amendment: In the first sentence of subsec. (a), substituted "member of the Pennsylvania State Police or local" for "or" and added the second sentence.

1990 Legislation

The 1990 amendment rewrote the section, which formerly read:

"(a) **General rule.**—The department, upon suspending any registration, shall require the registration plate or plates and registration card to be surrendered immediately to the department and may delegate authority to any authorized department employee, member of the Pennsylvania State Police or local police officer to seize the registration plate or plates and registration card or cards. The department shall, by regulation, prescribe the manner of selecting the employees

and State and local police officers to seize the registration plates and registration cards.

"(b) **Penalty.**—Any person failing or refusing to surrender to the department, upon demand, any registration plate or card which has been suspended is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100."

Section 28 of Act 1990, Feb. 7, P.L. 11, No. 6, provides that the Insurance Department and the Department of Transportation shall promulgate regulations to the extent necessary to carry out the provisions of this act.

Section 31 of Act 1990, Feb. 7, P.L. 11, No. 6, repealed all other acts and parts of acts insofar as they are inconsistent with this act.

Pennsylvania Code References

Persons authorized to conduct seizures of registration plates and cards and drivers' licenses, see 67 Pa. Code § 227.2.

§ 1377. Judicial review

(a) **General rule.**—Any person who has been sanctioned by the department under this chapter or whose registration or authority to issue registration cards or plates has been denied, suspended or otherwise sanctioned by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The filing of the appeal shall act as a supersedeas, except for a warning or a revocation, and the suspension or monetary penalty shall not be imposed until determination of the matter as provided in this section. Upon application of the registrant and prior notice to the department, the court may grant a supersedeas from a revocation of registration or authority to issue registration. The court shall schedule the appeal for hearing upon 30 days' written notice to the department, and thereupon take testimony and examine into the facts of the case and determine whether the petitioner is entitled to registration, subject to suspension of registration or other sanction under the provisions of this title or departmental regulations.

(b) **Documentation.**—In any proceeding under this section, documents received by the department from a court or from an insurance company shall be admissible into evidence to support the department's case. In addition, if the department receives information from a court by means of electronic transmission or from an insurance company which is complying with its obligation under Subchapter H of Chapter 171 (relating to proof of financial responsibility) by means of electronic transmission, it may certify that it has received the information by means of electronic transmission, and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.

As amended 1978, April 28, P.L. 202, No. 53, § 13(3), effective June 27, 1978; 1993, June 28, P.L. 137, No. 33, § 2.

175 Pa.C.S.A. § 1781 et seq.

Historical and Statutory Notes

1978 Amendment: In first sentence, substituted "to the court vested . . . judiciary and judicial procedure)" for "by filing a petition . . . in which the individual resides"; in second sentence, substituted "appeal" for "petition"; in third sentence, deleted "is hereby vested with jurisdiction, and it", "be the duty of the court to", "forthwith", and "to" before "take testimony

and" and before "determine whether the petitioner".

1993 Legislation

The 1993 amendment rewrote the section, which formerly read:

"Any person whose registration has been denied or suspended by the department shall have the right to appeal to the court vested with

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CHAPTER K

COMMONWEALTH/LOCAL AGENCY APPEALS

APPEAL FROM A SUSPENSION OF AN INSPECTION MECHANIC CERTIFICATE

(75 Pa.C.S.A. § 4726)

APPEAL FROM A SUSPENSION OF AN INSPECTION STATION CERTIFICATE

(75 Pa.C.S.A. §§ 4721 et seq.)

1. Upon filing a petition for appeal with the Prothonotary, substantially in the format shown in this manual, the Prothonotary shall file, assign a court of common pleas number and collect fee.

a. A separate petition for appeal must be filed for each certificate suspension.

2. Index and docket action pursuant to the GENERAL PROVISIONS Section of this manual.

3. This is a civil action, and should be given a civil court of common pleas number. (NOTE: This comment is for dual office holders.)

4. The Prothonotary is not responsible for serving a copy of the petition on the Pennsylvania Department of Transportation (PennDOT), and petitioners should be directed to send a copy to PennDOT. Certified/registered mail is suggested.

5. Subsequent filings should be filed and docketed pursuant to the GENERAL PROVISIONS Section of this manual.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

b. If item is not in this schedule, contact State Archives for retention information.

7. Form:

Petition for Appeal From a Suspension of an Inspection Mechanic Certificate/Inspection Station Certificate.

(NOTE: A separate petition for appeal form must be filed for each suspension.)

8. References:

75 Pa.C.S.A. §§ 4721 et seq

75 Pa.C.S.A. § 4726

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Appellant :
vs. : File No. _____
Commonwealth of Pennsylvania :
Department of Transportation :
Appellee :

**PETITION FOR APPEAL FROM A SUSPENSION OF AN INSPECTION
MECHANIC / STATION CERTIFICATE**

1. Appellant herein is _____,
residing at and having a mailing address of: _____

2. Appellee herein is the Department of Transportation of the Commonwealth of Pennsylvania, having a mailing address of: Department of Transportation, Bureau of Driver Licensing, Harrisburg, Pennsylvania 17123.

3. By letter or notice dated _____, a copy of which is attached hereto as Exhibit A, the Department of Transportation suspended the Appellant's inspection mechanic / station certificate and ordered Appellant to return the certificate of appointment immediately.

4. Appellant has / has not surrendered the certificate of appointment as directed by the Department of Transportation.

5. The said suspension of Appellant's certificate of appointment is improper or unlawful for the following reasons:

Appellant respectfully requests that the order of suspension / order of denial

be set down for a hearing and that

respectfully submitted by,

Appellant

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: _____

_____ Appellant

75 Pa.C.S.A. § 4708

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- (3) Motorcycles whose registrations expire in the months of March and September shall be inspected in the months of July, August or September.
 - (4) Motorcycles whose registrations expire in the months of April and October shall be inspected in the months of August, September or October.
 - (5) Motorcycles whose registrations expire in the months of May and November shall be inspected in the months of March, April or May.
 - (6) Motorcycles whose registrations expire in the months of June and December shall be inspected in the months of April, May or June.
- 1984, March 29, P.L. 159, No. 31, § 2, effective in 90 days.

SUBCHAPTER B. OFFICIAL INSPECTION STATIONS

Pennsylvania Code References

Vehicle equipment and inspections, see 67 Pa. Code § 175.1 et seq.

§ 4721. Appointment of official inspection stations

For the purpose of establishing a system of official inspection stations, the department shall issue certificates of appointment to privately owned facilities within this Commonwealth that comply with the requirements of this chapter and regulations adopted by the department. The department shall issue instructions and all necessary forms to such facilities. Official inspection stations are authorized to inspect vehicles and mass transit vehicles and issue official certificates of inspection. As amended 1980, June 18, P.L. 223, No. 67, § 2, incl. effective.

Historical and Statutory Notes

1980 Amendments inserted "and mass transit vehicles" in last sentence following "authorized to inspect vehicles".

Traffic Safety v. Sencer, 413 A.2d 1157, 50 Pa. Cmwlth. 468, 1980.

Secretary of auto center corporation, whose name appeared on its certificate of appointment as an official public inspection station, barring any unusual circumstances, had to be treated the same as corporate president and manager for purposes of 75 P.S. § 819 (repealed) governing issuance of automobile inspection certificates. Com., Dept. of Transp., Bureau of Traffic Safety v. Michael Moraiti, Upper Darby Auto Center, Inc., 382 A.2d 997, 34 Pa.Cmwlth. 27, 1978.

Notes of Decisions

I. Construction and application
Authorization to make official inspections of motor vehicles in Pennsylvania is a privilege and not a right. Com., Dept. of Transp., Bureau of

§ 4723. Certificate of appointment for inspecting fleet vehicles

The department may issue a certificate of appointment under the provisions of this chapter to any person who owns or leases 16 or more vehicles or mass transit vehicles and who meets the requirements of this chapter and regulations adopted by the department. The certificate of appointment may authorize inspection of only those vehicles or mass transit vehicles owned or leased by such person. As amended 1980, June 18, P.L. 223, No. 67, § 2, incl. effective.

Historical and Statutory Notes

1980 Amendment: Inserted "or mass transit vehicles" in first and second sentences.

§ 4724. Suspension of certificates of appointment

(a) General rule.—The department shall supervise and inspect official inspection stations and may suspend the certificate of appointment issued to a station which it finds is not properly equipped or conducted or which has violated or failed to comply with any of the provisions of this chapter or regulations adopted by the department. The department shall maintain a list of all stations holding certificates of appointment and of those whose certificates of appointment have been suspended. Any suspended certificate of appointment and all unused certificates of inspection shall be returned immediately to the department.

75 Pa.C.S.A. § 4724

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(b) Judicial review.—Any person whose certificate of appointment has been denied or suspended under this chapter shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The court shall set the matter for hearing upon 60 days' written notice to the department and take testimony and examine into the facts of the case and determine whether the petitioner is entitled to a certificate of appointment or is subject to suspension of the certificate of appointment under the provisions of this chapter.

As amended 1978, April 28, P.L. 202, No. 53, § 13(10), effective June 27, 1978; 1980, June 18, P.L. 229, No. 68, § 5, effective in 60 days.

Historical and Statutory Notes

1978 Amendments: In subsec. (b), substituted "appeal to the court . . . and judicial procedure" for "file a petition . . . inspection station is located" in first sentence and, in second sentence, deleted "is hereby vested with jurisdiction and it," "be its duty to" and "to" before "take testimony and examine" and before "determine whether the petitioner".

1980 Amendments: In subsec. (a), substituted "may" for "shall" preceding "suspend the certificate" and in subsec. (b) substituted "60 days" for "30 days".

Official Source Note—Act 1978-53:

To give effect to 42 Pa.C.S. § 933, as amended by this act [Act 1978, April 28, P.L. 202, No. 53], and § 5571(b).

Notes of Decisions

- Discretion of department 3.8
- Due process, suspension of certificate 3.5
- Notice 7.5
- Penalties 7.6
- Sufficiency of evidence 8.5

2. In general

This section granting Pennsylvania Department of Transportation discretion in suspending official inspection station license for misconduct of license holder's employees, would not be applied retroactively. Stayton v. Com., Dept. of Transp. Bureau of Traffic Safety, 450 A.2d 262, 69 Pa.Cmwlth. 45, 1982.

Where at time of trial de novo in suspension of inspection station privileges of accused, trading as bus company, facts which supported suspension had previously been developed at licensing on criminal charges which were based on same violations of the Vehicle Code for faulty inspection, and where at trial de novo below, when Commonwealth presented evidence that section of rules was violated, counsel for accused did not object, plead surprise, or request a continuance to prepare a defense, accused was not prejudiced by failure to note specifically that charges were based upon violation of section 5.16 of department of transportation rules. Com., Dept. of Transp. Bureau of Traffic Safety v. Snyder, 391 A.2d 3, 37 Pa. Cmwlth. 359, 1978.

Where act of improperly issuing an automobile inspection certificate was committed by the secretary of auto center corporation, bare stipulation that president of corporation had no knowledge of

it was insufficient to relieve employer corporation of its imputed knowledge. Com., Dept. of Transp., Bureau of Traffic Safety v. Michael Moraiti, Upper Darby Auto Center, Inc., 382 A.2d 997, 34 Pa.Cmwlth. 27, 1978.

3. Suspension of certificate—Grounds in general

Official automobile emission inspection station's use and recording of its emission control stickers in books of adjacent station did not constitute "careless recordkeeping" as would warrant suspension of its certificate of appointment, insofar as error that occurred was in a record that department regulations did not require. Com., Dept. of Transp., Bureau of Motor Vehicles v. Wright Oldsmobile Honda, 569 A.2d 411, 131 Pa. Cmwlth. 55, 1990.

Inspection station operator's privileges could not be suspended on ground that his commission of fraudulent record keeping constituted faulty inspection and thus was sufficient cause for suspension of privileges where fraudulent record keeping and faulty inspection were two separate violations of vehicle code. Com., Dept. of Transp. v. Soritino, 462 A.2d 925, 75 Pa.Cmwlth. 541, 1983.

Failure of mechanic to meet any requirements of departmental regulations concerning inspection of vehicles constitutes faulty inspection. Gula v. Com., Dept. of Transp., 451 A.2d 807, 69 Pa. Cmwlth. 481, 1982.

Issuance of vehicle inspection stickers and placing them on vehicles at times other than when inspections were made constituted violation of Vehicle Code that warranted six-month suspension of certificate to operate official vehicle inspection station and certificate as official inspection mechanic. Brown v. Com., 450 A.2d 313, 69 Pa.Cmwlth. 155, 1982.

Failure of authorized inspection station and official inspection mechanic to affix inspection sticker to vehicle's windshield was not a mere breach of certificate of inspection security, for which a warning was appropriate penalty, but, rather, such constituted a faulty inspection, for which a three-month suspension of inspection privileges was mandated. Kenworth Trucks Philadelphia, Inc. v. Com., Dept. of Transp., Bureau of Traffic Safety, 425 A.2d 49, 56 Pa.Cmwlth. 352, 1981.

Because one of partners operating official state inspection station was found to have made an improper inspection of automobile, the station's certificate of appointment was subject to suspension. Com., Dept. of Transp., Bureau of Traffic Safety v. Hagen, 423 A.2d 779, 55 Pa.Cmwlth. 374, 1980.

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75 Pa.C.S.A. § 4724

Note 12

on his lack of knowledge, authorization or consent to faulty inspection by his son at hearing on holder's appeal of certificate suspension, appeal was properly dismissed for lack of evidence in that hearing on appeal was de novo and evidence presented at prior hearing had not been offered into evidence. *Stainbrook v. Com., Dept. of Transp.*, 426 A.2d 177, 56 Pa.Cmwlt. 591, 1981, certiorari denied 102 S.Ct. 1009, 454 U.S. 1146, 71 L.Ed.2d 299, rehearing denied 102 S.Ct. 1647, 455 U.S. 1008, 71 L.Ed.2d 877.

§ 4726. Certification of mechanics

(a) General rule.—No mechanic shall conduct motor vehicle inspections or mass transit vehicle inspections at an official inspection station unless certified as to training, qualifications and competence by the department or the department's designate according to department regulations. The regulations relating to mass transit vehicle inspections shall require that any mechanic conducting such inspections shall possess proven competence in the area of mass transit vehicle operation and maintenance. The provisions of this title or regulations adopted thereunder shall not be construed or applied in a manner which would preclude or impair the right of a person who is a resident of another state, and who is in possession of a valid driver's license issued by such state, to be certified to conduct motor vehicle inspections or mass transit vehicle inspections at an official inspection station in this Commonwealth. No official inspection station appointment shall be issued or renewed unless a certified official inspection mechanic is employed there.

(b) Supervision and suspension.—The department shall supervise mechanics certified under this section and may suspend the certification issued to a mechanic if it finds that the mechanic has improperly conducted inspections or has violated or failed to comply with any of the provisions of this chapter or regulations adopted by the department. The department shall maintain a list of all certified mechanics and of those whose certification has been suspended. Any suspended certificate shall be returned immediately to the department.

(c) Judicial review.—Any mechanic whose certificate has been denied or suspended under this chapter shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The court shall set the matter for hearing upon 60 days' written notice to the department and take testimony and examine into the facts of the case and determine whether the petitioner is entitled to certification or is subject to suspension of the certification under the provisions of this chapter.

As amended 1980, June 18, P.L. 223, No. 67, § 2, imd. effective; 1980, June 18, P.L. 229, No. 68, § 5, effective in 60 days; 1982, May 26, P.L. 435, No. 129, § 7, imd. effective.

Historical and Statutory Notes

1980 Amendments: Act 67 added second sentence and inserted "or mass transit vehicle inspections" in first and third sentences. Act 68 added subsecs. (b) and (c).

The amendments by Acts 67 and 68 overlooked each other but do not conflict in substance and have been given effect in setting forth the text of the section.

1982 Amendment: In first sentence of subsec. (a), following "by the department" inserted "or the department's designate" and in the last sentence of subsec. (a), substituted "there employed" for "employed there".

For text of §§ 10 to 12 of Act 1982, May 26, P.L. 435, No. 129, see note following § 4702 of this title.

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75 Pa.C.S.A. § 4727

2. Sufficiency of evidence

Evidence that inspected vehicle was passed, even though it had some 15 rust holes, the smallest of which was one and one-half inches wide, and that such holes could not have occurred in elapsed time between inspection and state trooper's first observation of the vehicle, warranted finding that official inspection mechanic had conducted a faulty inspection, warranting three-

month suspension. *Szot v. Com.*, 456 A.2d 734, 72 Pa.Cmwlt. 408, 1983.

Evidence that official inspection mechanic had put current inspection registration sticker on deteriorated vehicle, even though he had not inspected the vehicle, and that he thereafter signed and completed a TS-431 form, even though he had not witnessed the inspection, was sufficient to warrant suspension of mechanic's certification as official inspection mechanic for one year. *Id.*

§ 4727. Issuance of certificate of inspection

(a) Requirements prior to inspection.—No vehicle, except a vehicle held by a dealer or manufacturer for which titling is not required or a mass transit vehicle for which titling is not required, shall be inspected unless it is duly registered or titled in this Commonwealth or in any other jurisdiction. The certified inspection mechanic shall examine the registration card, title or other document as specified in department regulations in order to ascertain that the vehicle is registered or titled or that an application for title has been submitted by the vehicle owner.

(b) Requirements for issuance of certificate.—An official certificate of inspection shall not be issued unless the vehicle or mass transit vehicle is inspected and found to be in compliance with the provisions of this chapter including any regulations promulgated by the department. Notation of the odometer reading shall be included on any certificate of inspection or other document as specified in department regulations.

(c) Unsafe school buses.—School buses found to be unsafe and placed out of service by an enforcement agency shall be reported by the enforcement agency to the school authorities.

(d) Proof of insurance.—

(1) No certificate of inspection shall be issued unless proof of financial responsibility is submitted to the inspection official, who shall, on the official State Inspection record provided by the department, record the name of the insured, the vehicle tag number, the issuing company, the policy number and the expiration date. The requirement that the inspection official record financial responsibility information shall not be construed to require the inspection official to verify the information submitted.

(2) In those cases where the insured fails to present proof of financial responsibility to the inspection official, the inspection official, in addition to denying a certificate of inspection, may provide notification to the department, on the form provided by the department, within 30 days of the insured's failure to present proof of financial responsibility. Failure of the inspection official to make notification under this subsection shall not impose any duty or liability on the mechanic or station owner.

(3) Financial responsibility may be proven by showing one of the following documents:

- (i) An identification card as required by regulations promulgated by the Insurance Department.
- (ii) The declaration page of an insurance policy.
- (iii) A certificate of financial responsibility.
- (iv) A valid binder of insurance issued by an insurance company licensed to sell motor vehicle liability insurance in Pennsylvania.

(e) Penalty.—An inspection official who fails to complete the official State Inspection record under subsection (d) or who issues a certificate of inspection with reason to know that there has been a violation of section 7122(4) (relating to altered, forged or counterfeit documents and plates) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100. This subsection does not impose vicarious liability upon the station owner. The criminal liability of the station owner

Any procedural defect in hearing examiner's failure to provide licensee opportunity to be heard in ex parte department of transportation hearing regarding suspension of his privileges under certificate of appointment of official inspection station was cured when licensee availed himself of his right to, and did in fact participate in, de novo judicial review of his suspension by the court of common pleas. *Walker Pontiac, Inc. v. Com., Dept. of Transp.*, 391 A.2d 53, 37 Pa.Cmwlt. 614, 1978.

Notes of Decisions

Sufficiency of evidence 2

1. In general

In regard to inspection mechanic's alleged failure to inspect three specific vehicles which later proved to have been inspected, mechanic's admittedly incomplete inspections did not substantiate failure-to-inspect violation. *Com., Dept. of Transp., Bureau of Driver Licensing v. Altier*, 357 A.2d 1167, 125 Pa.Cmwlt. 493, 1989.

Failure of one of two mechanics in shop to complete necessary records incident to inspection of oil tanker truck, which was in a deteriorated state, warranted six-month suspension of his certificates as official inspection mechanic and of his appointment to inspect motor vehicles. *Szot v. Com.*, 456 A.2d 734, 72 Pa.Cmwlt. 408, 1983.

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CHAPTER K

COMMONWEALTH/LOCAL AGENCY APPEALS

APPEALS FROM GOVERNMENT AGENCIES (42 Pa.C.S.A. § 933)

1. GENERAL RULE -- Except as otherwise prescribed by any general rule adopted pursuant to 42 Pa.C.S.A. § 503, each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

a. Appeals from Commonwealth agencies for the following:

(1). Determinations of the Department of Health in connection with any matters concerning birth records.

(2). Determinations of the Department of Transportation appealable under certain provisions of Title 75.

(3). Determinations of the Secretary of the Commonwealth appealable under the Pennsylvania Election Code.

(4). Determinations of the Workmen's Compensation Appeal Board appealable under the Pennsylvania Occupational Disease Act.

(5). Determinations of the Pennsylvania Liquor Control Board appealable under the Liquor Code act.

(6). Determinations of the Department of Revenue reviewable under the Inheritance and Estate Tax Act.

(7). Determinations of the Pennsylvania Labor Relations Board under the Public Employee Relations Act except where an employee of the Commonwealth is involved.

(8). Determinations of an arbitration panel established under the Health Care Services Malpractice Act.

(9). Determinations of the Department of Labor and Industry or the Department of Commerce reviewable under the Building Energy Conservation Act.

b. Appeals from government agencies under subchapter relating to judicial review of local agency action.

c. Appeals jurisdiction vested in the courts of common pleas by any other statute.

(1). Upon receipt of an appeal from a municipal zoning decision, the Prothonotary shall serve a notice on the municipality to forward the record to the Prothonotary for filing with the court of common pleas.

d. Appeals from Awards of Arbitrators, see Chapter G, ARBITRATION.

2. Refer to within statute as well as individual statutes for exceptions and proper venue in each of these appeals.

3. PROCEDURES

a. Action commenced by filing an appeal.

b. Upon payment of the filing fee, Prothonotary shall file and assign a court of common pleas number.

4. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

5. Reference:
42 Pa.C.S.A. § 933

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until after the expiration of the appeal period, rule to show cause why an appeal from the judgment may not be taken nunc pro tunc will be discharged. Knotts v. Roberts, 10 Chest. 120, 1962.

Mere neglect of a party or his counsel is not a valid reason for allowing an appeal nunc pro tunc. Id.

Where judgment is rendered by justice after hearing and, owing to mistake of defendant or his attorney appeal is not taken in time, court cannot allow appeal nunc pro tunc. Pine Tree M. M. Co. v. Barnett, 16 Del. 234, 1922.

The fact that counsel erroneously construed the statute relating to filing an appeal, is not of itself sufficient cause for permitting an appeal to be filed nunc pro tunc, without showing a meritorious defense. Anderson v. Mergelkamp, 8 Del. 586, 1903.

Negligence of counsel is not cause that would move court to exercise its discretionary powers, in allowing appeal nunc pro tunc. Butz v. Marucci, 10 Leh. 299, 1923.

Appeal will not be allowed nunc pro tunc where failure to appeal in time was due to neglect of defendant's attorney. Hanna v. Fry, 15 Del. 425, 1921; contra, Shelman v. Barezofsky, 21 Luz. 236, 1921.

Neglect of counsel to file appeal is not sufficient ground to allow it to be filed nunc pro tunc. Shear v. Tullin, 20 Sch. 365, 1924.

130. Appeal in wrong court, certification nunc pro tunc

The record of an appeal erroneously brought in the Court of Quarter Sessions may be certified to the Court of Common Pleas nunc pro tunc. Lower Southampton Tp. v. Dessalet, 12 Bucks 615, 1964.

Where appeal was erroneously filed in County Court in accordance with decision of Common Pleas, subsequently reversed on appeal, and has been stricken off, appellant would be allowed to file it in Common Pleas nunc pro tunc. Holmgren v. McAtee, 70 Pitts. 906, 1922.

131. Bond, appeal nunc pro tunc

Where a defective recognizance or bond is filed on appeal from a judgment of a magistrate the proper practice is to permit the appellant to file an amended bond nunc pro tunc, and not to dismiss the appeal until such opportunity has been given the appellant. Hoole v. Kelly, 44 Lack. Jur. 71, 1943.

Where there was considerable confusion over amount of bond to be filed, appeal nunc pro tunc was allowed. Brenninger Motors, Inc. v. Priest, 79 Montg. 161, 1963.

§ 933. Appeals from government agencies

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

(i) Determinations of the Department of Health in connection with any matters concerning birth records. Except as prescribed by general rules, the venue of such matters shall be as provided in 20 Pa.C.S. § 711(9) (relating to birth records) and 20 Pa.C.S. § 713 (relating to special provisions for Philadelphia County).

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

Section 1377 (relating to judicial review of denial or suspension of registration).

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Section 1550 (relating to judicial review).

Section 4724(b) (relating to judicial review).

Section 7303(b) (relating to judicial review).

Section 7503(b) (relating to judicial review).

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved or the residence of any individual appellant where the venue is not otherwise fixed by this sentence. In the case of a nonresident individual venue, except as otherwise prescribed by general rules, shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

(iii) Determinations of the Secretary of the Commonwealth appealable under the act of June 3, 1937 (P.L. 1333, No. 320), known as the "Pennsylvania Election Code,"¹ except matters involving Statewide office. Except as otherwise prescribed by general rules, the venue of such matters shall be as provided in the act.

(iv) Determinations of the Workmen's Compensation Appeal Board appealable under the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act."² Except as otherwise prescribed by general rules, the venue of such matters shall be as provided in section 427 of the act.

(v) Determinations of the Pennsylvania Liquor Control Board appealable under the act of April 12, 1951 (P.L. 90, No. 21), known as the "Liquor Code,"³ except matters appealable under sections 433, 444 or 710 of the act. Except as otherwise prescribed by general rules, the venue of such matters shall be as provided in the act.

(vi) Determinations of the Department of Revenue reviewable under the act of June 15, 1961 (P.L. 373, No. 207), known as the "Inheritance and Estate Tax Act of 1961,"⁴ or under any predecessor statute, in connection with the administration of the estate of a decedent. Except as otherwise prescribed by general rules, the venue of such matters shall be in the court having jurisdiction over the administration of the related estate.

(vii) Except where an employee of the Commonwealth is involved, determinations of the Pennsylvania Labor Relations Board under the act of July 23, 1970 (P.L. 563, No. 195), known as the "Public Employee Relations Act."⁵ Except as

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otherwise prescribed by general rules, venue shall be in any county where the unfair labor practice in question was alleged to have been engaged in, or wherein the appellant or employer in a representation case resides or transacts business.

(viii) Determinations of an arbitration panel established under the act of October 15, 1975 (P.L. 390, No. 111), known as the "Health Care Services Malpractice Act." ⁶ Except as otherwise prescribed by general rules, venue shall be in the county where the cause of action arose.

(2) Appeals from government agencies, except Commonwealth agencies, under Subchapter B of Chapter 7 of Title 2 (relating to judicial review of local agency action) or otherwise.

(3) Appeals jurisdiction of which is vested in the courts of common pleas by any statute hereafter enacted.

(b) Awards of arbitrators.—Except as otherwise prescribed by any general rule adopted pursuant to section 503, each court of common pleas shall have jurisdiction of petitions for review of an award of arbitrators appointed in conformity with statute to arbitrate a dispute between a government agency, except a Commonwealth agency, and an employee of such agency. The application shall be deemed an appeal from a government agency for the purposes of section 762(4) (relating to appeals from courts of common pleas) and Chapter 55 (relating to limitation of time).

(c) Concurrent and exclusive jurisdiction.—Except as otherwise provided by statute or prescribed by general rule adopted pursuant to section 503:

(1) The jurisdiction of a court of common pleas of a judicial district under this section shall be exclusive as to a government agency which has jurisdiction only within such judicial district, and shall be concurrent with the courts of common pleas of all judicial districts in which the government agency has jurisdiction where such agency has jurisdiction in more than one judicial district.

(2) Whenever proceedings are commenced in two or more courts with respect to the same determination of a government agency, exclusive jurisdiction shall be vested in the court having jurisdiction in which such proceedings are first commenced.

1978, April 28, P.L. 202, No. 53, § 10(12), effective June 27, 1978. As amended 1980, Dec. 5, No. 189, § 2, imd. effective.

¹ 25 P.S. § 2601 et seq.
² 77 P.S. § 1201 et seq.
³ 47 P.S. § 1-101 et seq.
⁴ 72 P.S. § 2485-101 et seq.
⁵ 43 P.S. § 1101.101 et seq.
⁶ 40 P.S. § 1301.101 et seq.

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Pending Actions and Proceedings—Effect of Jurisdictional Changes

Section 8 of Act 1976, July 9, P.L. 586, No. 142, generally effective June 27, 1978, provides as follows:

"(a) Except as otherwise provided in this section, no appeal or other matter pending in any court on the effective date of this act shall be affected by the provisions of this act changing the jurisdiction of courts, and all such matters shall proceed to a final determination in such court, which court shall have continuing jurisdiction over such matter, including jurisdiction on remand following any appellate review of any order entered in such matter, whether such appellate review was had before or after the effective date of this act.

"(b) A court vested with continuing jurisdiction over a pending matter under subsection (a) may at any time, with the consent of the transferee court, transfer jurisdiction of such matter to the court which would have been vested with jurisdiction of such matter if the action or proceeding had been commenced in or the appeal had been taken to such transferee court after the effective date of this act. Such transfers shall be effected with due regard for the interests of justice and the convenience of the parties. In every such case the clerk of the transferor court shall transfer to the custody of the clerk of the transferee court all dockets, records, pleadings and other papers, or certified copies thereof, relating to the matter so transferred."

Historical Note

Former § 933, enacted by Act 1976, July 9, P.L. 586, No. 142, § 2, relating to the same subject matter, was repealed by Act 1978, April 28, P.L. 202, No. 53, § 10(11), generally effective June 27, 1978.

The 1980 amendment, in subpar. (v) of subsec. (a)(1), deleted "section 516 of" preceding "the act" in two places, and inserted the exception clause at the end of the first sentence.

Sections 6 and 7 of Act 1980, Dec. 5, No. 189 provide:

"Section 6. The prothonotary of the Commonwealth Court shall, except as otherwise ordered by the court in the interest of justice, transferred to the appropriate office of the clerk of the court of common pleas all dockets, records, pleadings and other papers, or certified copies thereof, relating to all pending matters jurisdiction of which is vested in another tribunal by reason of 42 Pa.C.S. § 761(a)(1)(iv) or 933

(a)(1)(v), as added or amended by this act.

"Section 7. This act shall take effect immediately and the amendments to 42 Pa.C.S. §§ 761(a)(1)(iv), 933(a)(1)(v), 5527(2) (as to instruments under seal) and 5529 effected by this act shall be retroactive to June 27, 1978."

Official Source Note:

Derived in part from act of December 2, 1968 (No. 353), § 7 (63 P.S. § 11307).

1978 Amendment: Clarification. Subsection (a)(1)(vii) derived from the act of October 15, 1975 (P.L. 390, No. 111), § 609 (40 P.S. § 1301.609). Subsection (c)(2) generalization of act of August 14, 1963 (P.L. 984, No. 450), § 4(d)(9) (66 P.S. § 2004(d)(9)).

Prior Laws:

1974, July 21, P.L. 587, No. 204, § 1, 1972, Oct. 11, No. 214, § 1.

nia violated the plaintiffs civil rights under the Act by obtaining information via wiretaps regarding certain of the plaintiffs illegal business dealings and turning that information over to the Internal Revenue Service and state taxing authorities was an action as to which the Commonwealth formerly enjoyed sovereign immunity and, hence, was an action excepted from the original jurisdiction of the Commonwealth Court and was subject to being transferred to the court of common pleas. *Boettger v. Miklich*, 481 A.2d 972, 85 Pa. Cmwlth. 5, 1984.

§ 932. Appeals from minor judiciary

I. IN GENERAL

3. Decisions reviewable

Common pleas court has jurisdiction to review order of municipal court under statutes concerning appeals from minor judiciary and right to de novo jury trial after trial in municipal court without right to jury trial. *Com. v. Rosario*, 615 A.2d 740, 419 Pa.Super. 481, 1992, appeal granted 629 A.2d 1379.

7. Notice of appeal

Failure to comply with local rule in perfecting appeal does not deprive court of subject-matter jurisdiction; declining to follow *Grossman v. Mitchell*, 291 Pa.Super. 385, 435 A.2d 1280. *City of Philadelphia v. Silverman*, 497 A.2d 689, 91 Pa.Cmwlth. 451, 1985.

Lessor's failure to comply with local notice of appeal rule, which provided that notice of appeal had to be served upon lessee within 48 hours after lessor took his appeal from order denying his claim for back rent, was a fatal defect to perfection of appeal, and thus common pleas

§ 933. Appeals from government agencies

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

[See main volume for (i) to (viii)]

(ix) Determinations of the Department of Labor and Industry or the Department of Commerce reviewable under the act of December 15, 1980 (P.L. 1203, No. 222), known as the "Building Energy Conservation Act."¹ Except as otherwise prescribed by general rules, venue shall be in the county where the building is located.

Added 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days.

[See main volume for (2) and (3); (b) and (c)]

135 P.S. § 7201.101 et seq.

Historical and Statutory Notes

1982 Amendment: Added subpar. (a)(1)(ix).

Notes of Decisions

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VI. DIVORCE

469. Custody of children, divorce

Jurisdiction in Pennsylvania court of common pleas, under § 5344 of this title, of child custody dispute was proper notwithstanding fact that at the time father filed the action in Pennsylvania, an action had already been filed in West Virginia, because the parties agreed to its exercise in lieu of the West Virginia jurisdiction. *Melzer v. Witsberger*, 445 A.2d 499, 299 Pa.Super. 153, 1982.

Notes of Decisions

court did not have jurisdiction to entertain lessor's appeal. *Grossman v. Mitchell*, 435 A.2d 1280, 291 Pa.Super. 385, 1981.

26. Time for appeal—In general

The court of common pleas has no jurisdiction to hear a defendant's petition to dismiss summary charges pending before a district justice until a disposition of the charges has been made by the justice, even if the Commonwealth consents to the court's hearing the matter. *Com. v. Myers*, 14 D. & C.3d 408, 1980.

40. Opening or striking off judgments

Court of common pleas did not abuse its discretion in refusing to open default judgment where neither petition to open, nor brief filed on appeal, addressed issue of due diligence in filing petition to open, and the failure to file timely answer was not reasonably explained nor shown to be due to excusable neglect. *Penn Clair Const. Co. v. Eden Roc Country Club*, 440 A.2d 514, 294 Pa.Super. 377, 1981.

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Service Commission, 422 A.2d 225, 54 Pa. Cmwlth. 488, 1980, appeal after remand 458 A.2d 1035, 73 Pa.Cmwlth. 628.

The courts of common pleas had jurisdiction under this rule to review an award of arbitrators in a dispute between a public employer and its employees; the matter could not be brought before the Pennsylvania labor relations board as an unfair practice charge. *Fire Fighters Assoc. of Philadelphia v. City of Philadelphia*, 12 D. & C.3d 499, 1979.

2. Labor relations cases—In general

Private-sector federal labor law has only limited application to Public Employee Relations Act (PERA) cases and should be looked to for guidance only where it has no meaningful difference in policy from PERA. *Philadelphia Housing Authority v. Pennsylvania Labor Relations Bd.*, 620 A.2d 594, 153 Pa.Cmwlth. 20, 1993.

Policy considerations are within expertise of Pennsylvania Labor Relations Board and deference to that expertise is required on review. *Philadelphia Housing Authority v. Pennsylvania Labor Relations Bd.*, 620 A.2d 594, 153 Pa. Cmwlth. 20, 1993.

Commonwealth Court, not Court of Common Pleas, had jurisdiction over union's appeals of Labor Relations Board orders regarding unfair labor practice charges filed by union against court of common pleas as employer. *Teamsters Local 115 v. Pennsylvania Labor Relations Bd.*, 619 A.2d 382, 152 Pa.Cmwlth. 394, 1992.

When deciding who may appeal from decision of Relations Board when that appeal must be taken to court of common pleas, traditional concepts of standing apply and analysis of facts of case is necessary under *William Penn*, which held that standing requires showing of substantial, direct, and immediate interest in subject matter of litigation. *Donatucci v. Com.*, Pennsylvania Labor Relations Bd., 547 A.2d 857, 119 Pa. Cmwlth. 542, 1988.

Appeal from order of the Labor Relations Board upholding refusal of the Board's Secretary to issue a complaint on unfair labor practice charges brought by a police union was properly taken to the Commonwealth Court, rather than to court of common pleas. *Delaware County Lodge No. 27 v. Com.*, Labor Relations Bd., 440 A.2d 512, 497 Pa. 319, 1982.

5. — Scope of review, labor relations cases

Commonwealth Court's general scope of review in Pennsylvania Labor Relations Board cases where case goes first to common pleas court is to determine whether Board's findings are supported by substantial evidence and whether conclusions drawn from those findings are reasonable and not illegal, arbitrary or capricious. *Philadelphia Housing Authority v. Pennsylvania Labor Relations Bd.*, 620 A.2d 594, 153 Pa.Cmwlth. 20, 1993.

Because of lack of transcript proceedings of city Board of Pensions and Retirement and questionable validity of Board's decision denying disability benefits to attorney who suffered heart attack while representing city in court, court of common pleas properly conducted a hearing de

1. In general

On review of a local agency action, court of common pleas is limited to considering whether there has been a violation of constitutional rights or statutory provisions and, where the party with the burden of proof has not prevailed before the local agency, whether the findings of fact are consistent with the conclusions of law and can be sustained without a capricious disregard of competent evidence; but where a hearing de novo has been granted, court of common pleas must act as a nisi prius court, weighing the evidence and making its own findings of fact and conclusions of law which Commonwealth Court can then review. *Board of Pensions and Retirement of City of Philadelphia v. Einhorn*, 442 A.2d 21, 65 Pa.Cmwlth. 144, 1982, appeal after remand 465 A.2d 139, 77 Pa.Cmwlth. 228.

County Housing Authority was a local agency from whose action an appeal could be taken to court of common pleas. *Allegheny County Housing Authority v. Cooley*, 439 A.2d 1315, 64 Pa.Cmwlth. 252, 1982.

Professional school employee who was demoted from position as principal to that of classroom teacher as result of enrollment decline, and who complained that school district had realigned its professional staff otherwise than so as to insure that more senior employees were provided with opportunity to fill positions for which they were certificated and which were being filled by less senior employees, had right to hearing on that issue to be conducted by school directors and thence by appeal pursuant to 2 Pa.C.S.A. § 752 to the court of common pleas, despite contention that 24 P.S. § 11-1125.1 could not be invoked by employee who was not suspended and that employee's challenge was governed by 24 P.S. §§ 11-1131, 11-1151 which concern demotions and place initial appellate jurisdiction in the Department of Education. *Shestack v. General Braddock Area School Dist.*, 437 A.2d 1059, 63 Pa.Cmwlth. 204, 1981.

Where plaintiffs in count of complaint against telephone company asked for damages for breach of contract, and where Public Utilities Commission would have no power to award damages, common pleas court erred in dismissing such count. *Nagy v. Bell Tel. Co. of Pennsylvania*, 436 A.2d 701, 292 Pa.Super. 24, 1981.

Commonwealth Court must defer to an arbitrator's decision when it is rationally derived from the collective bargaining agreement. In re *Portage Area Ed. Ass'n*, 432 A.2d 1170, 61 Pa. Cmwlth. 321, 1981.

Trial court, to which appeal was made by county detectives from local agency decision transferring them to new positions without having been given an agency hearing, had choice of alternatives: it could hear appeal de novo or remand proceedings to one of agencies involved for full and complete record or other court ordered disposition. *Ambron v. Philadelphia Civil*

CHAPTER L

APPELLATE COURTS

APPEALS TO THE APPELLATE COURTS.

1. Upon receipt of the Notice of Appeal including a copy and requisite fees (one check payable to the Prothonotary and another payable to the appellate Prothonotary), Prothonotary shall file the appeal.

a. The Notice of Appeal should be substantially in the format set forth in the manual and pursuant to Pa.R.A.P. Nos. 904 and 905(a). The appeal should include a request to transcribe, affidavit of service, copy of docket entries, if applicable, a copy of the order being appealed (Commonwealth Court desires a copy of all orders being appealed) and IFP statement. (NOTE: Prothonotary shall NOT determine if timely filed).

b. If a Notice of Appeal is filed directly to the Supreme Court, the notice is to be accompanied also by an original and eight (8) copies of a jurisdictional statement which is then forwarded by Prothonotary to the Supreme Court (Pa.R.A.P. No. 909).

2. Prothonotary shall transmit immediately to the appellate court the copy of the Notice of Appeal and all documents filed with it.

3. Prothonotary shall docket the original Notice of Appeal and all documents filed with it.

4. Prothonotary shall file and docket the appellate court's acknowledgment (docket sheet) together with the assigned appellate court number.

5. Stay or injunction in civil matters.

a. Automatic Supersedeas of Orders for the Payment of Money (Pa.R.A.P. No. 1731).

(1). An appeal from an order involving solely the payment of money shall operate as a supersedeas upon the filing with the Prothonotary of appropriate security in the amount of 120% of amount found due by the lower court and remaining unpaid.

(2). An appeal from orders in matters as identified in Rule 1731(b) shall operate as a supersedeas only upon application to and order of the trial court.

b. Appropriate Security (Pa.R.A.P. No. 1734). For definition, terms, and liabilities of appropriate security, see Rule.

c. Effect of Supersedeas on Execution or Distribution (Pa.R.A.P. No. 1735).

(1). General Rule. See Pa.R.A.P. No. 1735(a).

(a). If writ of execution has already been issued, Prothonotary shall notify Sheriff of posting of appropriate security to stay proceedings.

(2). Notation in Judgment Index (Pa.R.A.P. No. 1735(b)). Upon the filing of appropriate security in the amount required by and pursuant to this chapter, Prothonotary shall note in the docket and in any separate index: "Appeal perfected; lien discharged". Upon return of the record by the appellate court to the lower court, in a matter where the order appealed from was affirmed in whole or in part, Prothonotary shall thereupon enter an order, as of the date of receipt of the remanded record, against the appellant for the amount due upon the order as affirmed, with interest and costs as provided by law.

d. Prothonotary shall refer to the following rules which may have some effect on the Prothonotary:

- (1). Rule 1736. EXEMPTION FROM SECURITY
- Rule 1737. OBJECTIONS TO SECURITY
- Rule 1738. SUBSTITUTION OF SECURITY
- Rule 1739. ORDER FOR SALE OF PERISHABLE
PROPERTY
- Rule 1740. ORDERING FOR AN ACCOUNTING
- Rule 1751. FORM OF BOND

6. Prothonotary is to transmit to the appellate court the complete record within 60 days after filing of the Notice of Appeal pursuant to Pa.R.A.P. No. 1931.

a. The record shall be compiled as follows:

- (1). Copy of appellate court docket sheet.

- (2). Transmittal letter.
- (3). Certified copy of the docket.
- (4). Table of contents/index.

(a). At the time of transmitting the record to the appellate court, Prothonotary shall mail a copy of the list/index of record documents to all counsel of record, or to the parties at the address they have provided if unrepresented by counsel. Prothonotary shall note on the docket when such notice was mailed. (NOTE: Certified copy of the docket may be used for the index if entries are in printed/typed form and document numbers are recorded beside each entry. The retention of a document should be noted in the index.)

(5). Documents compiled in chronological order, the oldest being on the bottom, numbered in lower right corner with large numbers (NOTE: Number each document -- not page). Documents should match those recorded in the docket. If a document is not sent, i.e. a bulky exhibit, so state in margin of docket entry.

b. Documents of unusual bulk or weight should not be transmitted -- see Pa.R.A.P. No. 1931(c) for responsibility to transmit.

c. Partial retention of record is permitted pursuant to Pa.R.A.P. 1932.

d. Record or designated parts may be forwarded in advance of due dates at the request of a party pursuant to Pa.R.A.P. No. 1933.

e. Appeals being filed without the payment of costs shall proceed under Pa.R.A.P. Nos. 551 - 561.

7. Eligibility for Children's Fast Track Appeal –

Children's Fast Track Appeal – Any appeal from an order involving dependency, termination of parental rights, adoptions, custody of paternity. See 42 Pa.C.S. 6301 et seq.; 23 Pa.C.S. 2511 et seq.; 23 Pa.C.S. 2101 et seq.; 23 Pa.C.S. 5301 et seq.; 23 Pa.C.S. 5102 et seq.. (Rule 102)

Contents in Children's Fast Track Appeals – In a children's fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a children's fast track appeal. (Rule 904(f)).

If the appeal is a children's fast track appeal, the concise statement of errors complained of on appeal as described in Rule 1925(a)(2) shall be filed with the notice of appeal and served in accordance with Rule 1925(b)(1). (Rule 905(2)).

If the appeal is a children's fast track appeal, the clerk shall stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal and shall transmit to the Prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by Subdivision (a)(2) of this rule.

ALL Fast Track Appeal records are due in **30** days.

8. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

9. Form:
Notice of Appeal/Order for Transcript

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

vs. :
: File No. _____
:

NOTICE OF APPEAL

Notice is hereby given that _____
Plaintiff (s)/Defendant(s), above named, hereby appeals to the Supreme/Superior/Commonwealth Court of
Pennsylvania from the order entered in this matter on the _____ day of _____,
_____. This order has been entered in the docket on the _____ day of _____,
_____, as evidenced by the attached copy of the docket entry.

Signature: _____

Address: _____

Telephone No. _____

Supreme Court ID No. _____

Attorney for: _____

_____ No testimony was taken.

_____ All testimony has already been transcribed and filed by _____
Court Reporter

REQUEST FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, _____, the official court
reporter, is hereby requested to produce, certify and file the OUSTANDING transcript for the hearing held on
_____ in this matter in conformity with Pa. R.A.P. No. 1922. Pursuant to Pa.R.A.P. 1191 (a) and
Pa.R.J.A. No. 5000.6 and 7, the reporter is requested to notify the Appellant of the required deposit for transcription was taken
the reporter is requested to notify Appellant, Court and Clerk forthwith so the appeal may be immediately processed.

Signature: _____

Check # _____ in the amount of \$73.50 attached herewith and this Notice mailed to the above appellate court on
_____ by _____

JUDGMENTS

GENERAL NOTES.

1. Prothonotary's Powers and Duties on Judgments.

a. Enter all civil judgments, including judgments by confession.

(1). No praecipe for entry of judgment upon a nonsuit by the court, a verdict of a jury or a decision of a judge following a trial without a jury shall be accepted by the prothonotary unless it includes a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action or to the attorney of record for each other party.

b. Enter all satisfactions of civil judgments.

c. Notation in Judgment Index. (Pa.R.A.P. No. 1735(b)). Upon the filing of appropriate security in the amount required by and pursuant to the Rules of Appellate Procedure, the Prothonotary shall note in the docket and in any separate index: "Appeal perfected; lien discharged". Upon return of the record by the appellate court to the lower court, in a matter where the order appealed from was affirmed in whole or in part, the Prothonotary shall thereupon enter an order, as of the date of receipt of the remanded record, against the appellant for the amount due upon the order as affirmed, with interest and costs as provided by law.

2. Notes of Decisions.

a. Payment of judgments, collection.

(1). The Prothonotary has no power to receive payment of a judgment; and such payment will not discharge the judgment debtor.

(2). Exception. 75 P.S. § 1774 - see MOTOR VEHICLE JUDGMENT Section of this manual.

b. Entry of Judgments - in general. The object of the judgment docket is to afford notice to subsequent purchasers and encumbrancers.

c. Amendment and correction of judgments.

(1). The proper practice when errors, clerical or otherwise, are discovered in the judgment docket or index, is not to deface the record with erasures or blots or inter-lineations, but to put on it an explanation, showing the error, how it was made, and how and when and by whom corrected.

(2). Errors in the entry of the amount may be amended. An improper entry of the name of the judgment debtor cannot be amended to the prejudice of subsequent lien creditors, but when the clerk has corrected an erroneous entry, the court may ratify the correction and direct that the judgment as corrected stand as of the date of the entry.

d. Erasures and interlineations in record of entry of judgments. The fact there are apparent erasures and interlineations in the record of a judgment does not destroy its validity, the presumption being that they were attributable to clerical mistake of the officer or clerk, which was corrected as soon as made.

e. Names of parties generally, entry of judgments.

(1). Docketing and indexing of judgment is sufficient to operate as lien and to give prospective purchasers of land constructive notice thereof if judgment debtor is individuated with degree of accuracy sufficient either to lead a reasonable careful searcher to conclude that he is the person named, or to suggest to the searcher the wisdom of the inquiry to ascertain such fact.

(2). Judgment shall be indexed against all defendants in accordance with the signature as it appears on the face of the instrument.

(3). It is the duty of the plaintiff to see that his judgment be rightly entered.

f. (Paraphrased for clarity) - Priority, entry of judgments. As a general rule, the date and time a judgment is filed determines the priority of a lien, and a judgment regularly filed and indexed cannot be deprived of its priority by giving an earlier date or time to a judgment entered afterward.

g. Liability or negligence, entry for judgments. It is the creditor's duty to see that his judgment is properly entered on the judgment docket; and if there is any mistake, the remedy of the party aggrieved is against the Prothonotary.

h. Errors, effect of. A party who has complied with the law will not be prejudiced by an error of the Prothonotary in the performance of his official duties, but a failure to comply with the law will not be excused because the Prothonotary's clerk informed the party that he had fully complied therewith.

i. Hours. A Prothonotary may receive a paper after closing hours and file and enter it on his records the following day as of the day received.

j. Judgments by confession--in general.

(1). Power of Pennsylvania Prothonotary to enter judgments at instance of plaintiffs upon confessions of defendants is derived from the instrument under which he acts and not from his office and his entry of judgment is a ministerial act. (Note: See Pa.R.C.P. No. 2951 et seq.)

(2). Prothonotary has duty to record all judgments entered by court or confessed by parties before court, and he may be authorized to act for another in same manner that any other person may be but then his powers are derived from instrument under which he acts and not from his office.

3. Effect of judgments and orders as liens (42 Pa.C.S.A. 4303). Real property - Any judgment or other order of court of common pleas for the payment of money shall be a lien upon real property on the conditions, to the extent and with the priority provided by statute or prescribed by general rule adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process) when it is entered of record in the Office of the Clerk of Courts (Prothonotary) of the county where the real property is situated.

4. Notes of Decisions.

a. Index - in general. The law merely requires an index that will naturally lead the investigator to a discovery of the judgment and an identity of the defendant, and, if the index meets such requirement, it has served its legal purpose.

b. Purpose of Index. Judgment docket contains the record evidence of liens which is constructive notice to all interested. The index to this docket has not the same force and effect. Its purpose is to point the way to the docket, but not to take its place.

c. Recording and Indexing. A judgment must be indexed in Office of Prothonotary in county where the real property is located in order to become a lien.

d. Transfer of Judgments - in general. A verdict though docketed as a lien is not transferable to another county, before judgment thereon.

e. Ceasing of lien, necessity and failure to revive lien.

(1). A judgment not revived within five years from its entry ceases to be a lien.....subsequent judgment creditors of the defendant, as well as against purchasers, whether the deed be recorded or not.

(2). Time for proceedings to review (revive) lien - in general. Since the Pennsylvania Supreme Court has not promulgated any general rules governing matters relating to judgments previously governed by the Judgment Lien Law, the practice of this Commonwealth of permitting revival of judgment liens after the expiration of five years remains viable and a writ of revival may properly be issued more than five years after entry of judgment.

5. Interest on judgments.

a. Except as otherwise provided by another statute, a judgment for a specific sum of money shall bear interest at the lawful rate from the date of the verdict or award, or from the date of the judgment, if the judgment is not entered upon a verdict or award.

b. Legal rate of interest. Reference in any law or document enacted or executed heretofore or hereafter to "legal rate of interest" and reference in any document to an obligation to pay a sum of money "with interest" without specification of the applicable rate shall be construed to refer to the rate of interest of six per cent per annum.

6. Notes of Decisions. Appeals, computation of interest. Interest runs on a money judgment from the date of the entry of the judgment in the trial court and not from the date of an order of an appellate court affirming the judgment; the appeal does not suspend the running of interest. A party is entitled to interest on a judgment as finally approved from the date of the original verdict, even though the appellate court reduced the original verdict.

7. Endorsement of time. Docket entries. The office of the Clerk of the Court (Prothonotary) of common pleas shall note on the dockets in such office where each verdict, judgment, order, instrument or writ creating a lien against real property is entered, the time it was recorded, rendered, left for filing, or issued.

8. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title
To Real Estate.

(b). #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

CHAPTER M

JUDGMENTS

JUDGMENT BY DEFAULT.

1. GOVERNING RULES.

a. JUDGMENT UPON DEFAULT OR ADMISSION. ASSESSMENT OF DAMAGES (Pa.R.C.P. No. 1037(b)). "...The Prothonotary, on praecipe of the plaintiff, shall enter judgment against the defendant for failure to file within the required time a pleading to a complaint which contains a notice to defend or for any relief admitted to be due by the defendant's pleadings.

(1). The Prothonotary shall assess damages for the amount to which the plaintiff is entitled if it is a sum certain or which can be made certain by computation; but if it is not, the damages shall be assessed at a trial at which the issues shall be limited to the amount of the damages.

(2). In all actions in which the only damages to be assessed are the cost of repairs made to property

(a). the Prothonotary on praecipe of the plaintiff, waiving any other damages under the judgment, and the filing of the affidavits provided by subparagraphs (ii) and (iii) shall assess damages for the cost of the repairs;

(b). the praecipe shall be accompanied by an affidavit of the repairman; the affidavit of the repairman shall contain an itemized repair bill setting forth the charges for labor and material used in the repair of the property; it shall also state the qualifications of the person who made or supervised the repairs, that the repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged;

(c). the plaintiff shall send a copy of the affidavit and repair bill to the defendant by registered mail directed to his/her last known address, together with a notice setting forth the date of the intended assessment of damages, which shall not be less than ten (10) days from the mailing of the notice and a statement that damages will be assessed in the amount of the repair bill unless prior to the date of assessment

the defendant by written praecipe files with the Prothonotary a request for trial on the issue of such damages; an affidavit of mailing of notice shall be filed...."

b. ENTRY OF JUDGMENT UPON PRAECIPE OF A PARTY (Pa.R.C.P. No. 227.4). This rule provides for the entry of judgment upon praecipe of a party

(1). following trial when no timely post-trial motions are filed, or the court does not enter an order disposing of all post-trial motions within 120 days after the filing of the first motion

(2). when the court grants or denies relief but does not enter judgment or order the Prothonotary to do so.

(NOTE: If a motion for delay damages has been filed, judgment may not be entered until that motion is decided or otherwise resolved. See Pa.R.C.P. No. 238(c)(3)(i))

(3). In Medical Professional Liability Actions, see Chapter E-14

c. JUDGMENT UPON DEFAULT OR ADMISSION IN "EQUITY" ACTIONS (Pa.R.C.P. No. 1511) provides for the entry of judgment by default by the Prothonotary, but the court shall enter an appropriate final decree upon the judgment of default or admission (Goodrich Amram 2d 1511(b):1).

d. COMPELLING COMMENCEMENT OF ACTION. JUDGMENT UPON DEFAULT (Mechanics Lien Action) (Pa.R.C.P. No. 1659). If a claimant has filed a claim and does not file a complaint, the Prothonotary, upon praecipe of an owner, shall enter a rule as of course upon the claimant to file a complaint within twenty days after service of the rule, or be forever barred from so doing. If the claimant fails to do so, the Prothonotary, upon praecipe of the owner and proof of service, shall enter judgment for the defendant.

e. JUDGMENT UPON DEFAULT OR ADMISSION. ASSESSMENT OF DAMAGES IN ADVERSE REVIVAL PROCEEDING (Pa.R.C.P. No. 3031) (See REVIVAL OF JUDGMENT/LIENS, Section M-9 of this Chapter).

f. JUDGMENT AGAINST GARNISHEE UPON DEFAULT OR ADMISSION IN ANSWER TO INTERROGATORIES (Pa.R.C.P. No. 3146) -- See rule.

g. NOTICE OF PRAECIPE FOR ENTRY OF DEFAULT JUDGMENT (Pa.R.C.P. No. 237.1).

(1). This rule does not apply to a judgment entered by an order of court, upon praecipe pursuant to an order of court, or pursuant to a rule to show cause.

(2). This rule continues the present practice of entering judgment by the filing of a praecipe with the Prothonotary. Two additional requirements are imposed. First, the praecipe must contain a certification that notice was given in accordance with the rule. Second, a copy of the notice or the agreement for extension of time must be attached to the praecipe.

h. JUDGMENT AGAINST GARNISHEE UPON DEFAULT OR ADMISSION IN ANSWER TO INTERROGATORIES (Pa.R.C.P. No. 1277). (NOTE: THIS RULE AND ALL RULES OF CIVIL PROCEDURE GOVERNING FOREIGN ATTACHMENT AND FRAUDULENT DEBTOR'S ATTACHMENT WERE RESCINDED OCTOBER 1, 1989, BY SUPREME COURT ORDER OF 29 SEP. 1989, NO. 141 CIVIL PROCEDURE RULES DOCKET, DOCKET NO. 5.)

2. GENERAL NOTES (Handbook Civil Practice, State and Federal of Pennsylvania).

a. No judgment may be entered by default or on the pleadings in divorce actions.

b. Generally, when the judgment will include something more than an assessment of damages, the moving party must apply to the court for an appropriate order for judgment and cannot merely file a praecipe with the Prothonotary.

c. If an individual defendant does not appear, an Affidavit of Non-Military Service, pursuant to 50 U.S.C. § 501 et seq, must be filed before judgment is entered. A District Court decision (508 F Supp. 552) has held that an affidavit of non-military service may not be made upon information or belief; it is essential that it contain all the facts showing that the defendant is not in the service.

d. The requisites for opening a default judgment are more stringent than the requisites for opening a confessed judgment.

e. Prothonotary, in entering a default judgment, acts in a ministerial and not a judicial capacity, and unless a default judgment is clearly authorized by rules of civil procedure, default judgment is a nullity and will be stricken from the record.

f. Prothonotary, may have the power, and even the duty, to inspect documents tendered for filing and to reject them if they are not on their face in proper form specifically required by rules, but such power is limited; Prothonotary is not in position of an administrative officer who has discretion to interpret or implement rules and statutes.

3. CASE CITES (Goodrich Amram 2d).

a. Rule 1037(b) -- The provision in Pa.R.C.P. No. 1037(b) that the Prothonotary may enter judgment on praecipe of plaintiff against a defendant who has failed to timely file an answer to a complaint containing notice to defend authorized entry of judgment against a defendant who had failed to timely answer an amended complaint in order to avail itself of the remedy under Pa.R.C.P. No. 1037(b), where the original complaint had been properly endorsed with the notice to defend.

b. Rule 1037(b) -- Pa.R.C.P. No. 1037(b) provides that a Prothonotary may only enter a default judgment if no answer has been filed, and the rule does not empower the Prothonotary to take any action because of a defendant's failure to serve the answer upon the plaintiff; accordingly, the Prothonotary lacked authority to enter a default judgment against defendant, where defendant filed an answer but failed to serve plaintiffs.

c. Rule 1511 (Equity). Pa.R.C.P. No. 1511 -- The Prothonotary, in the event of default, may enter a judgment (no amount) against defendant; he/she may not assess damages or enter a money judgment in favor of plaintiff. The court will thereafter frame the proper decree.

d. Rule 3031. Pa.R.C.P. No. 3031 -- If a defendant or terre-tenant fails to plead to the writ of revival, or files a pleading containing an admission, the rules of civil procedure provide for a judgment in favor of the plaintiff to be entered by the Prothonotary on praecipe. In such a case, the plaintiff will include, in his/her praecipe for judgment, an assessment of his/her damages and the Prothonotary is required to assess the damages in accordance therewith. It is not the Prothonotary's duty or responsibility to police this assessment and decline to follow it if he/she believes it is incorrect. He/she "shall" assess the damages as requested by the plaintiff; it is the duty of the defendant or terre-tenant to attack the assessment if he/she believes it to be inaccurate.

e. Rule 3146. Pa.R.C.P. No. 3146 -- ...Failure of the sheriff's return to document service of the interrogatories with notice to plead (and, even more clearly, service of the writ itself) will, if not corrected at the time the default judgment is entered, warrant striking off the judgment. This is true even though the garnishee, in the proceeding to strike, is deemed to admit the execution plaintiff's allegations of actual service, for it is the state of the record at the time of judgment against the garnishee which determines the validity of that judgment.....

f. Rule 3146. If the garnishee fails to file an answer to interrogatories within the time allowed, but does file them prior to plaintiff's praecipe for judgment, there is no reason for entry of a default against him/her and just as in the case of assumpsit and foreign attachment, the Prothonotary should take no action.....

g. Rule 3146. The amount of the judgment to be entered in the event of default by the garnishee is fixed explicitly by Rule 3146(a), which provides that it shall be in the amount of plaintiff's judgment against the defendant together with interest and costs.

h. Rule 3146. Where there are multiple garnishees, it is clear that the mandatory language of the rule must be obeyed by the Prothonotary....., he/she must enter default judgment in the full amount of plaintiff's judgment against the defendant without regard to any other judgments which plaintiff may have obtained against other garnishees and even without regard to any partial satisfaction which he/she may have obtained from the garnishee, from the defendant, or from any other garnishee.....

4. PROCEDURE.

a. Prothonotary should determine if service of the document was made as required by Pa.R.C.P. No. 400 et seq. If not served within the time frame, the complaint must be reinstated and judgment cannot be entered.

b. Upon presentation of the praecipe for entry of default judgment, with copy of "IMPORTANT NOTICE" and certificate of service attached, if applicable under Pa.R.C.P. No. 237.1, and payment of filing fee, the Prothonotary shall file, docket and index pursuant to the GENERAL PROVISIONS Section of this manual.

NOTE: ACTIONS UNDER ACT NO. 6 OF 1974, THE LOAN INTEREST AND PROTECTION LAW, 41 P.S. 101 ET SEQ., ARE NOT EXEMPTED FROM THE REQUIREMENT OF THIS NOTICE (SEE EXPLANATORY COMMENT OF RULE).

c. Notice must be given pursuant to Pa.R.C.P. No. 236 to the defendant or his counsel of record and noted in the docket.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

6. Forms:

Praeipce for Judgment

Notice of Filing Judgment

Praeipce to Assess Damages

Notice of Praeipce to Enter Judgment by Default

7. References:

24 P.S. § 5104.3. Administrative loan collection process.

Hines v. Pettit, 638 F.Supp. 1269

Helms v. Boyle, 637 A.2d 630

CIVIL DIVISION

:
:
:
:
:
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:
:
:
:
:

File No. _____

PRAECIPE FOR JUDGMENT

Enter Judgment in favor of Plaintiff / Defendant and against:

_____ for want of _____.

() Assess damages as follows:

Debt-----	\$ _____
Interest from _____ ----	_____
Attorney's Commission -----	_____
TOTAL -----	\$ _____

() I certify that the foregoing assessment of damages is for specified amounts alleged to be due in the complaint and is calculable as a sum certain from the complaint.

() Pursuant to Pa.R.C.P. No. 237 (notice of praecipe for final judgment or decree), I certify that a copy of this praecipe has been mailed to each other party who has appeared in the action or to his or her Attorney of Record.

() Pursuant to Pa.R.C.P. No. 237.1, I certify that written notice of the intention to file this praecipe was mailed or delivered to the party against whom judgment is to be entered and to his or her Attorney of Record, if any, after the default occurred and at least ten (10) days prior to the date of the filing of this praecipe and a copy of the notice is attached.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOW, _____, _____, JUDGMENT IS ENTERED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Plaintiff(s)

vs.

Defendant(s)

File No. _____

NOTICE OF FILING JUDGMENT

() Notice is hereby given that a _____
in the above-captioned matter has been entered against you in the amount of
_____ on _____.

() A copy of all documents filed with the Prothonotary in support of the within
judgment is / are enclosed.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

If you have any questions regarding this Notice, please contact the filing party:

Name: _____

Attorney for Party: _____

Supreme Court ID No.: _____

Address: _____

Telephone No. _____

(This Notice is given in accordance with Pa.R.C.P. No. 236.)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

:
:
:
: File No. _____
:
:
:

PRAECIPE TO ASSESS DAMAGES

(Pa.R.C.P. No. 1037(b)(1)(2))

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Assess damages in favor of the Plaintiff(s) and against the Defendant(s) above-named, in the amount of \$ _____ in accordance with the affidavit of repairman and itemized repair bill filed herewith. Plaintiff(s) hereby waive(s) any other damages under the judgment heretofore entered in this matter.

Date: _____

Signature: _____

Print Name: _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

NOW, _____, _____, DAMAGES ASSESSED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

CIVIL DIVISION

vs.

File No. _____

To: _____
Defendant

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Plaintiff or Atty.

Attorney for: _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

EDUCATION

24 P.S. § 5104.3

within sixty days after service of a notice of default by the agency to the employing agency establish, a loan repayment schedule which is agreed to by the agency with the salary-status employe making such payments through payroll deductions and employes other than salary-status making payment in accordance with a repayment plan approved by the agency. Under no circumstances may an amount in excess of ten per cent of the pay of such employe be required by the agency as part of a repayment schedule or plan. If such employe fails to establish a repayment schedule within the specified period of time or fails to meet the terms and conditions of the agreed-to or approved repayment schedule as authorized by this section, such employe shall be deemed to have breached an essential condition of employment and shall be deemed to have consented to the involuntary withholding of his wages and salary for the repayment of the loan. Under no circumstances may an amount in excess of ten per cent of the pay of such employe be withheld.

1963, Aug. 7, P.L. 549, § 4.2. As amended 1978, Nov. 26, P.L. 1291, No. 398, § 1, effective in 60 days; 1982, Dec. 29, P.L. 1450, No. 330, § 3, imd. effective.

Historical and Statutory Notes

1982 Amendment: In first sentence inserted "made or", "or from funds which include State-appropriated funds provided to an institution receiving State aid" and ", and shall be deemed to have consented to voluntary or involuntary withholding of their wages,"; in second sentence substituted "has defaulted or does default" for "defaults" and substituted "within sixty days after service . . . authorized by this section" for "make immediate arrangements with the employing agency or loan guarantor to set up a revised

loan repayment schedule with the employe either making direct payments to the lending institution, guarantor or its agent or making such payments through payroll deductions. Such employe shall thereupon be notified that if such employe thereafter defaults on the revised loan repayment schedule"; and at end of section substituted "be deemed to have consented . . . pay of such employe be withheld" for "be dismissed from Commonwealth service".

Library References

Officers §66.
C.J.S. Officers §§ 91, 119 to 126.

§ 5104.3. Administrative loan collection process

(a) The agency is hereby authorized and directed to maintain a record of administrative and legal actions and proceedings which it undertakes in regard to the collection of student loans. All such records shall be kept in the administrative offices of the agency and at reasonable times the record of a person against whom a statement of claim has been filed as provided herein shall be available for inspection by that person. The agency shall furnish, under seal of the agency when required for evidence in court, any accounts or records of accounts, papers or documents filed in the agency, relative to the granting of financial assistance to any appropriate borrower when required as evidence in any court and such certification shall be competent evidence thereof. The agency shall adopt and renew from time to time a seal of office, an impression of which shall be filed in the office of the Secretary of the Commonwealth.

(b) In addition to the remedies and procedures provided by law for the collection and enforcement of contractual rights, the agency may initiate action against borrowers whom it deems to be indebted to it by filing a statement of claim in the records maintained by the agency.

(c) The agency shall serve a summary of the statement of claim upon the borrower by first-class mail addressed to the most recent address as provided to the agency by the borrower, pursuant to the terms of the written obligation executed by the borrower, or otherwise acquired by the agency. The summary of the statement of claim shall contain such information as the agency deems necessary but in all instances shall contain the following:

- (1) Identification of the agency as the body corporate and politic constituting a public corporation and government instrumentality, together with its address to which the borrower may respond.

For Title 24, Consolidated Statutes, see Appendix following this Title

24 P.S. § 5104.3

EDUCATION

- (2) Name and last known address of the borrower.

- (3) Principal amount of money which the agency claims is due and owing to it including interest and late or other charges thereon and the material facts on which the claim is based.

- (4) The following notice which shall be prominently displayed on the first page of the claim:

NOTICE

Legal action has been taken against you. If you do not file in writing your response to this action within thirty days of this notice, an order of default may be entered against you. You may lose money or property or other rights important to you by garnishment of your wages, salary or commission or other compensation or by levy of execution against your property or assets. You should take this paper to your lawyer immediately. If you do not have a lawyer or cannot afford one, you should call or write the office set forth below. You may qualify for free legal assistance.

- (5) The name and address of a lawyer referral service operated by the Pennsylvania Bar Association or one operating in the county in which the borrower was last known to reside.

- (6) A statement that an order of default may be entered against the borrower without further notice.

(d) If the borrower does not file a response within thirty days from the date of service by first-class mail, the executive director of the agency may recommend to the board of directors of the agency that an order be entered by default and the board, in its discretion, may enter such an order of default to be lodged in the agency records.

(e) The borrower shall file a response to the statement of claim within the prescribed time after service by first-class mail. The response shall admit or deny all averments contained in the statement of claim. An averment in the statement of claim shall be deemed to be denied only if proof thereof is demanded and the borrower states either:

- (1) that after reasonable investigation the borrower is without knowledge or information sufficient to form a belief as to the truth of the averment; or

- (2) that the borrower is without such knowledge or information because the means of proof are within the exclusive control of an adverse party or hostile person. The response shall set forth all defenses and objections which the borrower has to the statement of claim and any objections or defenses not so presented shall be deemed to have been waived. The pleadings in any action pursuant to this act shall be limited to a statement of claim and a response thereto.

(f) The rules relating to discovery as promulgated by the Pennsylvania Supreme Court, and as amended from time to time, shall be applicable to all proceedings initiated pursuant to this act.

(g) If the borrower files a response the agency shall accord the borrower such administrative review as provided for in regulations and procedures to be promulgated by the board of directors including but not limited to the right of appeal to the board of directors. Upon a final determination of debt by the agency and the board of directors, the executive director may recommend that an order of default be entered by the board of directors which may, in its discretion, enter such order of default in the agency records.

(h)(1) The executive director may transfer the record and an order of default to the court of common pleas of the district in which the borrower resides or when residence within the Commonwealth cannot be ascertained, to the Court of Common Pleas of Dauphin County, to be entered as a judgment. Thereafter it shall be the duty of the prothonotary, at the request of the executive director, to issue execution, or such other process as may be necessary and proper, to carry into effect the judgment entered upon such order of the board, subject to the applicable provisions of law or rules or procedure concerning stay of execution upon judgment.

For Title 24, Consolidated Statutes, see Appendix following this Title

M-2R-1.1

(4/94)

(2) Within twenty days after entry of an order of default, the borrower may apply to the board of directors of the agency to vacate such order.

(3) Within twenty days after entry of judgment, the borrower may apply to the court in which the judgment is entered to set aside such judgment. Such relief shall be granted by a judge of such court if the borrower proves by a preponderance of the evidence that notice of the action was not made in proper manner or the borrower has a good faith defense to the statement of claim.

(4) Any person aggrieved by an order of default entered by the board of directors may appeal such order to the court of common pleas of the district in which the borrower resides or the Court of Common Pleas of Dauphin County. All such appeals shall be governed by the provisions of 2 Pa.C.S. § 701, et seq. and Chapter 15 of the Pennsylvania Rules of Appellate Procedure¹ as heretofore adopted and subsequently amended by the Pennsylvania Supreme Court. Notwithstanding any of the foregoing, if the court determines that the petition for review and the answer thereto, if any, allege facts which would require a trial by jury, the court may schedule a hearing de novo. Any party to the action shall thereupon be entitled to a trial by jury. Such trial by jury shall be governed by the Rules of Civil Procedure as heretofore adopted and subsequently amended by the Pennsylvania Supreme Court.

(i) After an order of default has been entered by the board of directors or the court and the time for appeal has expired, the agency may execute upon the wages, salaries or commissions in the hands of an employer or any other person including the debtor when self-employed in order to effect the repayment of any sums due to the agency as determined by the provisions of this act. An employer shall include any person, partnership, association, corporation, institution, governmental body, unit or agency, school district or municipality, or any other entity employing one or more persons for a salary, wage, commission or other compensation. Execution shall comply with the following:

(1) The agency shall initiate such action by sending to the debtor's last known address notice of its intent and to the employer a notice of execution upon wages and upon receipt of such notice, the employer shall certify to the agency the amount of wages, salary, commissions or other compensation earned by the debtor. The employer shall pay to the agency such percentage of that amount as the agency demands, not to exceed ten per cent of the wages, salary, commissions or other compensation paid to the debtor during a given pay period, on a timely basis, but not less than once a month or over an extended period if agreed to by the agency. If the agency has instituted a notice of execution upon wages to recover money owed the agency, the agency may assess a civil penalty, not to exceed the amount of the notice of execution, against an employer if the employer does any of the following:

(i) Fails to pay the agency the amount due within the prescribed amount and limits of time.

(ii) Dismisses the responsible debtor from its employment because of the filing of the notice of execution.

(iii) Takes disciplinary action against the responsible debtor because of the filing of the notice of execution.

(2) The agency may execute upon assets or property of a borrower by writ of execution or such other process as may be necessary or proper to carry into effect the judgment entered upon any order of the board. In the case of a writ of execution upon wages to recover moneys owed the agency, failure of an employer to pay to the agency the amount due within the prescribed amount and limits of time shall place the employer in contempt of the court issuing such writ of execution.

(3) Nothing in this subsection shall deny to any debtor the rights afforded debtors under Federal and State exemption laws.

(j) There shall be no limitation of time restricting the filing of a statement of claim in the records of the agency or the entering of a judgment pursuant to this act, and no statute of limitations heretofore enacted shall apply to any causes of actions,

For Title 24, Consolidated Statutes, see Appendix following this Title

claims or demands of the agency to recover any defaulted student loans or any moneys owed to the agency.

(k) The board of directors of the agency shall have the power and its duty shall be to adopt rules and regulations pursuant to the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law² and not inconsistent with law governing matters relating to this section.

1963, Aug. 7, P.L. 549, § 4.3, added 1982, April 29, P.L. 365, No. 102, § 1, imd. effective; 1988, July 14, P.L. 544, No. 96, § 1, effective in 60 days.

¹ Pa.R.A.P., Rule 1501 et seq., 42 Pa.C.S.A.

² 45 P.S. § 1102 et seq.

Historical and Statutory Notes

1988 Legislation

The 1988 amendment, in subsec. (i), in the first paragraph, added "Execution shall comply with the following"; designated the second paragraph as cl. (1) and added the final sentence thereto;

designated the third paragraph as cl. (2), and designated the third paragraph as cl. (3) and, in that paragraph, substituted "in this subsection" for "herein".

Library References

Colleges and Universities ⇨9.

C.J.S. Colleges and Universities § 24 et seq.

§ 5105. Capacity of minors

Any person otherwise qualifying for a loan made, guaranteed, serviced or otherwise provided for by the agency, shall not be disqualified by reason of being under the age of eighteen years and any such person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges and obligations of a person of full age with respect thereto.

1963, Aug. 7, P.L. 549, § 5. As amended 1968, Jan. 18, P.L. (1967) 952, § 5; 1982, Dec. 29, P.L. 1450, No. 330, § 4, imd. effective.

Historical and Statutory Notes

1982 Amendment: Inserted "made," and ", serviced or otherwise provided for"; deleted "his" after "by reason of"; substituted "eighteen" for

"twenty-one" and deleted ", for the purpose of applying for, and receiving such guarantee," before "any such person".

Library References

Colleges and Universities ⇨9.

Infants ⇨53.

C.J.S. Colleges and Universities § 24 et seq.

C.J.S. Infants § 78.

P.L.E. Minors §§ 3, 53 et seq.

§ 5105.1. Bonds, notes and other indebtedness

(a) Subject to the limitations contained in this section, the board may from time to time by resolution and with the approval of the Governor, authorize issuance of negotiable bonds, notes and other evidences of indebtedness, including certificates of participation, in such amounts, bearing such interest rates and terms and maturing in such amounts and at such times as the board of directors may prescribe by resolution.

(a.1) The proceeds realized from the sale of notes, bonds or similar indebtedness shall be used for the purpose of purchasing, making or guaranteeing loans to students or parents, or to lending institutions or postsecondary institutions for the purpose of student loans and the cost of issuance of the indebtedness, the establishment of reserve funds from the proceeds of the indebtedness, administration of the loans purchased, made or guaranteed and other costs associated with loans purchased, made or guaranteed with funds from the proceeds of the indebtedness. The aggregate principal amount of bonds, notes and similar evidences of indebtedness of

For Title 24, Consolidated Statutes, see Appendix following this Title

e.g., *Edenton v. Heckler*, supra, 611 F.Supp. at 265; *Taylor v. Heckler*, supra, 608 F.Supp. at 1258; *Allen v. Heckler*, supra, 588 F.Supp. at 1249; *Snizaski v. Heckler*, supra, 602 F.Supp. at 1122. Even among those opinions by courts that have considered contingency fee arrangements, however, counsel will search in vain for even *dicta* to support the inflated fee he seeks here.

[5] Counsel makes no arguments on any of the factors, other than contingency, that apply in determining an appropriate fee. The Court would note, however, that under no weighing of the applicable factors could counsel justify the application he has made. Although the award of past due benefits eventually obtained in this case undoubtedly benefited claimant substantially, that benefit alone could not justify the fee requested here. As described above, the Court remanded this case so that the Secretary might evaluate properly the credibility of plaintiff's subjective testimony concerning his back pain, consider fully the cumulative effects of plaintiff's several impairments on his functional capacity, and finally provide plaintiff the fair and adequate hearing that he had been denied when he appeared originally before the Administration. Both here and before the Administration, the case involved only straightforward legal propositions amply supported by precedent in this Circuit. Counsel himself does not contend that his representation demanded any original legal arguments or that the case presented a subtle or difficult factual situation. Under the standards set forth above—and consistent with the results obtained in similar disability cases—counsel would be entitled to a fee award in the range of no more than \$50 to \$100 per hour. See supra at 1264-65.

Counsel's unsupported fee application is particularly inappropriate in light of his lapsed opportunity to petition the Secretary for fees under the EAJA rather than seeking them from his client. The Court's original opinion should have apprised counsel that the Court considered the Secretary's

position in this case weak and, most likely, lacking in substantial justification. Indeed, the section of the opinion concerning the procedural irregularities before the ALJ alone warranted such a conclusion. Having foregone an opportunity to seek fees from the Secretary under the EAJA, counsel will not be permitted to obtain a bonus for that shortcoming in the form of a premium fee deducted from his client's past-due benefits.

[6] The United States Attorney does not oppose any award of fees at less than \$100 per hour. That position notwithstanding, the Court is indisposed to award fees in excess of \$75 per hour because this case involved no novel or extraordinary legal issues that might justify a large fee, and because in addition counsel failed to make a timely application for fees under the EAJA. Accordingly, the Court conditionally grants counsel's request for fees to the extent of seventeen and three-quarters hours, which the Court finds to be a reasonable expenditure of time, at \$75 per hour, for a fee totaling \$1,331.25. Counsel may request that the Court reconsider its determination, however, by submitting by August 1, 1986 an affidavit justifying a higher award. Such affidavit should contain 1) a brief resume including counsel's experience in representing disability claimants; 2) a table of typical fees charged and collected by counsel over the past two years, including a breakdown of fees awarded in cases involving claimants, and 3) an explanation of why the issues argued or decided before the Court in this case merit a higher fee.

CONCLUSION

The Court conditionally grants counsel's petition for fees to the extent of seventeen and three-quarters hours at \$75 per hour for a total of \$1,331.25.

It is so ordered.



MEMORANDUM AND ORDER

KATZ, District Judge.

This class action attacks the Prothonotary's practice of entering default judgments for amounts greater than those claimed in complaints, through a blind reliance on written instructions of creditors' lawyers. As a result, debtors' properties are encumbered by liens and sold by the Sheriff on judgments exceeding sums claimed to be due in complaints. Defendants Prothonotary and Sheriff claim that the Pennsylvania procedural rules mandate this absurdity. I find that due process of law affords debtors protection against erroneous and arbitrary seizures.

Due process balances competing interests:

The principles established in the controlling Supreme Court decisions, to summarize, are that notice and an opportunity to be heard before an attachment are not absolutely necessary. However, the available procedures must afford the debtor adequate protection against erroneous or arbitrary seizures. The procedural protection is adequate if it represents a fair accommodation of the respective interests of creditor and debtor.

Finberg v. Sullivan, 634 F.2d 50, 58 (3rd Cir.1980).

Here, the debtors' interest is to be assessed no more than what is admitted due by failure to respond to the complaint. The creditors' interest is to collect what is due. Pennsylvania law imposes a neutral clerk, the Prothonotary, between the debtor and creditor to enter judgment for sums certain or ascertainable claimed in the defaulted complaint. The Philadelphia Prothonotary's practice is to abdicate his role to the creditors' lawyers. The Prothonotary enters judgment for whatever sums are claimed due in the creditors' Praecipis, even though the complaints claimed less.

The complaint gives notice of the claim, notice to plead and an opportunity to be heard. By failing to respond, the debtors admit they owe what is claimed. After default, the creditors' Praecipis do not af-

James W. HINES,

v.

John J. PETTIT, Jr. and Ralph
C. Passio, III.

Civ. A. No. 85-6707.

United States District Court,
E.D. Pennsylvania.

July 18, 1986.

As Corrected July 22, 1986.

Action was brought challenging prothonotary's practice of entering default judgments for amounts greater than those claimed in complaints. The District Court, Katz, J., held that it was a denial of due process to enter default judgments on basis of praecipis supplied by creditors' lawyers which might show greater amount due than that claimed in the complaint.

Ordered accordingly.

Constitutional Law ¶315

It was a denial of due process for prothonotary to adopt practice of entering default judgments in blind reliance on written instructions of creditors' lawyers through praecipis which might claim a greater amount due than that stated in the complaint upon which default judgment was entered; due process required practical system of internal procedures in prothonotary's office for reasonable review of complaints before entry of default judgments.

Henry J. Sommer, Community Legal Services, Inc., Philadelphia, Pa., for plaintiff.

Andrew P. Bralow, Deputy City Sol., Counsel, Philadelphia, Pa., for Defending Sheriff.

Howland W. Abramson, Deputy Legal Counsel to the Court Admin. of Penna. Counsel, Philadelphia, Pa., for Def. John Pettit, Jr., Prothonotary.

ford debtors an orderly procedure to defend against unjust claims. Debtors are entitled to rely on the clerks of court in the Prothonotary's office to review the complaints before entering judgment. The Prothonotary's practice to enter judgment for whatever creditors order in their Praecipis produces erroneous and arbitrary judgments for more than the complaints claim.

Due process requires that court clerks do not flatly refuse reasonable efforts to review complaints before entering judgment. Judgments must reflect "sums certain," or sums that "can be made certain by computation" from the complaints. Due process does not require perfection; however, the present system institutionalizes error. Error is inherent in a practice which denies the clerks' obligation to review complaints before entering judgment. The Prothonotary's practice is tantamount to letting creditors' lawyers enter judgments by their unreviewed Praecipis. Praecipis are not a substitute for complaints. Allowing judgments by praecipis after default is no more defensible than would be a system allowing judgments by praecipis in lieu of complaints. Complaints have a notice to plead; praecipis do not initiate an orderly procedure to respond.

What due process requires is a practicable system of internal procedures in the Prothonotary's office to make reasonable review of complaints before entering default judgments. Such procedures must recognize not only the rights of debtors, but the "probable value" of such procedures in preventing erroneous judgments and the "fiscal and administrative burdens that the additional or substitute requirement would entail." *Ibid* I have afforded the parties additional time to consider such procedures. At present, the procedure in place is to do nothing by way of reviewing the Complaints and to rely blindly on the creditors' praecipis. This policy of non-action does not satisfy due process of law.¹

1. An assessment of judgment on the basis of an unreviewed praecipis for a sum in excess of the amount claimed in the complaint is indistinguishable from a reassessment of damages

See Luskey v. Steffron, Inc., 461 Pa. 305, 309, 396 A.2d 298, 299 (1975).

What due process mandates in the circumstances of this case is some reasonable safeguard against the mistaken taking of the debtors' property by a neutral clerk's review. The state of the law is: "[w]e infer from the current crop of Supreme Court decisions that the prevailing rule of procedural due process is that official seizures can be constitutionally accomplished only with either 'notice and . . . opportunity for a hearing or other safeguard against mistaken taking.'" *Jonnet v. Dollar Savings Bank*, 530 F.2d 1123, 1129 (3rd Cir. 1976).

The Prothonotary has a policy and practice to default in his obligation to exercise professional competence in checking that judgments do not exceed sums claimed in the complaints. The Prothonotary baldly contends that he has no duty to compute the correct sum: "[w]ere it otherwise, there would be no need to file an assessment; the Prothonotary would simply compute the amount from the Complaint." *See Pettit Memorandum* at 16. This is an abdication of the Prothonotary's function to review the Praecipis so that judgment is entered for the sums "certain" or that "can be made certain by computation" from the complaint. Were it otherwise, creditors could enter judgments directly and there would be no need for a Prothonotary.

The problem is that the Prothonotary's mechanical application of the creditors' praecipis deprives debtors of meaningful consideration by a neutral court clerk that the judgment meets the minimal requirement of not exceeding what the Complaint claims. As the Court held in an analogous context:

There are no provisions for the exercise of judgment by an official of professional competence to ascertain whether conditions for attachment have been met or whether a valid claim has been pleaded.

against judgment debtors without notice and an opportunity for a hearing. *See Consent Orders in Hammock v. Prothonotary and Sheriff of Philadelphia*, Civil Action No. 83-6080, (E.D.Pa.)

The affidavit requirement has little utility if it is not given meaningful consideration. Due process requires at a minimum that the sworn statement be presented to an official with sufficient legal competence to make those determinations; the issuance of the writ should be conditional on approval by such official.

Id. at p. 1130.

The stipulated facts are that judgment was entered against class member Hines for \$7756.22 claimed in the Praecipis to Assess Damages when the complaint sought damages of \$7264.97. The parties have stipulated:

13. Defendant Pettit's actions set forth above including the entering of this higher assessment of damages and the issuance of a writ of execution in that amount were pursuant to the normal practice of his office, of which he was aware and decided not to change, of entering default judgment in whatever amount is sought by a plaintiff regardless of whether that amount has been demanded in the complaint without prior notice to the defendant of any change from the amount sought in the complaint or opportunity for the defendant to contest any such change.

This practice is constitutionally unacceptable. There is simply no way that the \$7756.22 claimed in the Praecipis could be computed as a sum certain from the information in the complaint.² A reasonable neutral clerk would know that much. A reasonable neutral clerk would not make such an assessment. A reasonable neutral clerk would not assess a \$491.25 charge claimed in the Praecipis, when the com-

² Under Pa.R.Civ.P. 1037(b)(1) defendant Pettit is charged with assessing damages only for the amount to which the plaintiff is entitled if it is a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed at a trial at which issues shall be limited to the amount of the damages.

³ *See* Pa.R.Civ.P. 1037(b)(1).

⁴ At this stage of the case, it is unnecessary to adjudicate damage questions. Within thirty

plaint does not identify a basis for the computation, like a rate, or a *per diem* figure for the period between the date of filing the complaint and the entry of judgment. The Prothonotary has even entered judgments including interest for a period beyond the date of the judgment, in blind reliance on an erroneous praecipis. *See Plaintiffs' Motion for Partial Summary Judgment*, Appendix II (Praecipis filed in *Fidelity Consumer Discount Company v. Boyd*, Civil Action No. 83-308 (Philadelphia County Court of Common Pleas)). The recent amendment to Philadelphia's local rule, requiring that the praecipis be filed with a certification of service, does not address the violation of the constitutional safeguard by a clerk who performs the function of reviewing the complaints blindly relying on the creditors' instructions. In view of the practice and intentions of the Prothonotary set forth in Paragraph 13 of the Stipulation, plaintiffs have demonstrated a reasonable expectation that they will be subject to a recurrence of the activity they challenge.³

ORDER

AND NOW, this 18th day of July, 1986, Plaintiff's Motion for Partial Summary Judgment is Granted as explained in the accompanying Memorandum.

The parties shall submit a form of Order to effectuate the accompanying Memorandum on September 2, 1986, together with the other materials specified in my Order of July 1, 1986.



days, plaintiff may make a prima facie showing, by affidavits or depositions, of whether members of the class have sustained damages. Defendants may respond to this showing within thirty days thereafter. Within ten days thereafter, both sides may renew by appropriate motions their contentions regarding immunity and the applicability of the Pennsylvania Consumer Protection Law. It is not necessary to decide those issues now.

[5] One of the incidents involved the issuance of a misconduct for being present in the prison gymnasium while on Loss of Privilege (LOP) status. At the hearing on this misconduct, appellant was apparently absolved of the charge because although on LOP, prison rules required that he still report to his prison job. In his request for admissions, appellant asked that appellees admit they knew appellant worked in the prison gymnasium. Appellees admitted this fact. Appellant insists that this admission presents a genuine issue of material fact. We disagree. Surely, by the time appellees were served with requests for admissions, they were aware that appellant worked in the gym and further, that appellant was permitted, under prison regulations, to report to the gym while on LOP status. Appellees would have known these facts at the time appellant was exonerated for the misconduct. Their knowledge of these facts at the time admissions were served does not establish that the misconduct itself was bogus. Indeed in the same request for admissions, all appellees denied they "caused" the misconduct to issue and instead asserted that appellant was wholly responsible for the issuance of the misconduct.

[6] In his answer to the summary judgment motion, appellant also asserted that because he had alleged conspiracy, and the existence of a conspiracy is a question for the jury, summary judgment was improper. Again we disagree. Appellant made only vague and general claims that appellees agreed to retaliate against appellant. The law is clear that "bare allegations of certain statements by a defendant without any other proof of conspiracy, are insufficient to sustain a conspiracy claim." *Gometz v. Culwell*, 850 F.2d 461, 464 (1988) (citations omitted). Here, appellant did not even purport to know what was actually said by appellees and instead made general, conclusory assertions that certain appellees "agreed to help" other appellees and that certain appellees requested others to find appellant guilty and those others "agreed to comply with the request." See e.g. Amended Complaint at ¶¶ 19, 24. Appellant cannot rely on his unsupported claims of conspiracy:

It is not enough, however, for a plaintiff to make merely broad or conclusory allegations concerning the existence of such a conspiracy or to show only that a state official took some action which was, in some way, unfavorable to him. . . . Rather, plaintiffs must allege with sufficient particularity and show with specific material facts that the [parties] reached some understanding or agreement, or plotted, planned and conspired together, to deprive plaintiffs of a federal right.

Chicarelli v. Plymouth Garden Apartments, 551 F.Supp. 532, 539 (E.D.Pa.1982). We agree with the trial court that, without more than the averments made in the complaint, appellant's conspiracy claim amounts to "mere conjecture" and "speculation." Trial Court Op. at 3.

This is not a case in which appellant successfully responded to the motion for summary judgment by setting forth specific facts that contradict the facts asserted in the affidavits of appellees. See *Valandingham v. Bojorquez*, 866 F.2d 1135, 1139 (9th Cir.1989) (appellant's response precluded summary judgment by setting forth specific facts showing that there was a genuine issue for trial). Appellant's opposition to the motion for summary judgment could not be sustained on the basis of his complaint and his response simply did not raise a genuine issue of material fact.

Order granting summary judgment and dismissing case affirmed.



Donald HELMS

v.

Gregory M. BOYLE, Appellant.

Superior Court of Pennsylvania.

Argued Sept. 22, 1993.

Filed Feb. 15, 1994.

Appeal was taken from order of the Court of Common Pleas, Berks County, Civil

Division, No. 6311-90, Eshelman, J., which refused to either open or strike default judgment entered against defendant. The Superior Court, No. 724 Philadelphia 1993, Hoffman, J., held that prothonotary was without power to enter default judgment upon failure to comply with discovery order and such default judgment was therefore nullity.

Vacated and remanded.

1. Appeal and Error ⇐619, 632, 784

Appellant's alleged failure to comply with several rules of appellate procedure did not require dismissal of appeal, where there was no evidence that appellee was prejudiced by appellant's failure to timely file or serve designation or reproduce record and certified record was available for review.

2. Judgment ⇐386(1, 3)

Absent fraud or extraordinary cause, petition to open, vacate, or for reconsideration of judgment must be brought within 30 days of entry of judgment in contested proceeding, however, motion to strike judgment as void may be brought at any time.

3. Clerks of Courts ⇐67

Judgment ⇐131

Prothonotary was without power to enter default judgment upon defendant's failure to comply with discovery order and such default judgment was therefore nullity, notwithstanding fact that Superior Court's order authorized entry of default judgment upon filing of plaintiff's praecipe if defendant failed to comply with discovery order for production of documents. Rules Civ.Proc., Rules 227.4, 4009, 4019, 42 Pa.C.S.A.

4. Clerks of Courts ⇐67

Judgment ⇐276

Plain reading of rule regarding entry of judgment on praecipe of party permits entry of judgment by prothonotary upon praecipe

1. Appellee asserts that appellant's failure to comply with several rules of appellate procedure authorize dismissal of this appeal. However, there is no evidence that appellee has been prejudiced by appellant's failure to timely file or serve a designation or a reproduced record and a certified record is available for review. Additionally, we are unable to proceed upon appel-

lee's mere allegations, in light of appellant's certification of service, our receipt of appellee's brief and appellee's failure to raise the issue in his subsequently filed brief. Therefore, we will address the merits of this appeal. *Downey v. Downey*, 399 Pa.Super. 437, 582 A.2d 674 (1990), *allocatur denied*.

Matthew D. Dupree, Blue Bell, for appellant.

Lee E. Sapira, Wyomissing, for appellee.

Before McEWEN, DEL SOLE and HOFFMAN, JJ.

HOFFMAN, Judge:

[1] This is an appeal from an order entered January 28, 1993, denying appellant Gregory Boyle's, petition to strike a default judgment entered by the prothonotary for appellant's failure to comply with a discovery order.¹ Appellant presents the following issue for our review:

1. Does the Prothonotary have authority to impose the sanction of Default Judgment against a Defendant for an alleged failure to comply with a Discovery Order without hearing by the Court?

Appellant's Brief at 2. For the following reasons we reverse and remand.

On December 13, 1990, appellee, Donald Helms, instituted action against appellant, Gregory Boyle, for breach of a partnership sales agreement entered into on September 26, 1989. Following the filing of pleadings, appellee propounded a request for production of documents pursuant of Pa.R.C.P. 4009, on September 5, 1991. Having received no response, appellee sent a letter, dated November 1, 1991, reminding appellant's counsel of his obligation to comply with Pennsylvania Rules of Civil Procedure regarding discovery. On December 2, 1991, appellee's counsel had a telephone conversation with appellant's counsel, Matthew D. Dupree, Esq., who stated that appellant would produce the documents by December 9, 1991. Appellee uni-

tee's mere allegations, in light of appellant's certification of service, our receipt of appellee's brief and appellee's failure to raise the issue in his subsequently filed brief. Therefore, we will address the merits of this appeal. *Downey v. Downey*, 399 Pa.Super. 437, 582 A.2d 674 (1990), *allocatur denied*.

laterally extended the deadline to December 16, 1991. No documents were received. See Trial Court Opinion, at 1-2.

On January 9, 1992, appellee filed a motion to compel production and impose sanctions. A rule was issued on January 10, 1992, directing appellant to show cause within thirty (30) days, why the relief, requested by appellee, should not be granted. Appellant failed to respond to the rule. On March 13, 1992, following appellee's petition to make the rule absolute, the trial court entered an order requiring appellant to produce the documents within fifteen (15) days. The order also stated that failure to comply would result in a default judgment upon praecipe and certification by appellee that the documents had not been produced. On March 31, 1992, appellee filed a certification of no response and praecipe for entry of default with the prothonotary. On the same date, the prothonotary entered judgment against appellant in the amount of \$75,000.00 plus interest and costs. Notice of entry of judgment was issued.

On April 9, 1992, appellant filed a petition to open judgment. Appellant argued that he had been conducting settlement negotiations with an attorney whom he had believed to be appellee's counsel. Appellant further stated that they had agreed not to enforce the March 13, 1992 order. On August 4, 1992, the court denied appellant's petition to open judgment. A writ of execution was entered August 13, 1992.

Appellant filed a motion to strike on August 18, 1992, arguing that the prothonotary lacked authority to enter the default judgment. The court entered a rule to show cause why the judgment should not be stricken on August 21, 1992 and all proceedings were stayed pending the decision on the motion to strike. On November 27, 1992, in response to appellee's petition, the trial court

ordered appellant to take depositions or order cause for argument. On January 28, 1993, the trial court denied appellant's motion to strike. This timely appeal followed.

[2] Appellant contends that the trial court erred in denying the motion to strike default judgment entered by the prothonotary. Essentially, appellant argues that the prothonotary does not have the authority to enter a default judgment under Pa.R.C.P. 4019, upon praecipe of a party, where the court has not made a final determination of default.²

[3, 4] This court addressed the issue now before us, in *Newsome v. Braswell*, 267 Pa.Super. 83, 406 A.2d 347 (1979). In *Newsome*, appellee filed a motion to compel production of documents, following appellant's failure to comply with discovery requests. The trial court granted appellee's motions and ordered appellant to comply within thirty (30) days. The order further stated that failure to comply would result in default judgment upon praecipe of appellee. Appellee, as in the instant case, obtained default judgment by filing a praecipe with the prothonotary. This court struck the default judgment, holding:

the fact that the court, by its ... order, itself authorized a default upon appellee's praecipe, does not validate the judgment. The court was without power to expand the prothonotary's ministerial duties beyond that granted by statute or rule.

Id., 267 Pa.Super. at 88, 406 A.2d at 350.³ The result in *Newsome* commands that the default judgment be stricken.

Further, this court reiterated in *Gotwall v. Dellinger*, 395 Pa.Super. 439, 577 A.2d 623 (1990), that where the prothonotary takes an action beyond his authority, such as the entry of judgment where he is not empowered

2. Absent fraud or extraordinary cause, a petition to open, vacate or for reconsideration must be brought within thirty (30) days of the entry of judgment in a contested proceeding, however, a motion to strike a judgment as void, may be brought at any time. See *Simpson v. Allstate Ins. Co.*, 350 Pa.Super. 239, 504 A.2d 335 (1986); *Graham v. Kutler*, 275 Pa.Super. 188, 418 A.2d 676 (1980).

3. Appellee contends that Pa.R.C.P. 227.4, effective January 1, 1984, following the *Newsome* decision, invalidates the holding in *Newsome*. However, a plain reading of Pa.R.C.P. 227.4 and its explanatory comment indicates that the rule permits entry of judgment by the prothonotary upon praecipe of a party only where the factfinder or the trial court has rendered a final determination, not a prospective order.

to do so, his action is considered void and the judgment entered is a nullity and lacks legal effect. Thus because the prothonotary was not authorized to enter a judgment of default without a determination of default by the trial court, the judgment is void and without effect. Accordingly, the default judgment must be stricken.

Order vacated and case remanded for proceedings consistent with this opinion. Jurisdiction relinquished.



COMMONWEALTH of Pennsylvania,

v.

William MELSON, Appellant.

Superior Court of Pennsylvania.

Argued Dec. 15, 1993.

Filed Feb. 16, 1994.

Commonwealth appealed order of the Court of Common Pleas, Bucks County, Nos. 3878-84, 3878-01-84, Rufe, J., granting new trial following verdict of first-degree murder. The Superior Court, 383 Pa.Super. 139, 556 A.2d 836, affirmed. Defendant was tried again and found guilty, and he appealed. The Superior Court, No. 827 Philadelphia 1993, Olszewski, J., held that: (1) prior testimony of unavailable witness could be admitted without violating confrontation clause; (2) potential prejudice from attorney's failure to prior trial to cross-examine witness about defendant's affair with witness' wife was effectively remedied; and (3) evidence that witness promised to manufacture methamphetamine for defendant in exchange for defendant's murder of witness' business partner was admissible to establish motive.

Affirmed.

1. Criminal Law \S 662.1, 662.7

Right of confrontation entitles defendant to physically face and cross-examine those who testify against him at trial. U.S.C.A. Const.Amend. 6; Const. Art. 1, \S 9.

2. Criminal Law \S 662.8

Where prosecution establishes that witness is unavailable, hearsay evidence is admissible without violating confrontation clause if evidence is marked with such trustworthiness that there is no material departure from reason for general hearsay rule. U.S.C.A. Const.Amend. 6; Const. Art. 1, \S 9.

3. Criminal Law \S 662.8

In general, evidence is sufficiently reliable to be admissible without violating confrontation clause if the evidence falls within firmly rooted hearsay exception. U.S.C.A. Const.Amend. 6; Const. Art. 1, \S 9.

4. Criminal Law \S 662.9

Witness was "unavailable" when he refused to testify after receiving immunity and being ordered to do so, even though court deferred question of sanctions, and even though Commonwealth did not accommodate witness' demands; thus, admitting witness' prior testimony would not violate confrontation clause if the testimony was sufficiently reliable. U.S.C.A. Const.Amend. 6; Const. Art. 1, \S 9.

See publication Words and Phrases for other judicial constructions and definitions.

5. Criminal Law \S 662.9

Under confrontation clause witness is unavailable if prosecution has made good faith effort to introduce live testimony of witness and, through no fault of its own, is prevented from doing so. U.S.C.A. Const. Amend. 6; Const. Art. 1, \S 9.

6. Criminal Law \S 662.8, 662.9

Whether trial court has imposed sanctions on recalcitrant witness is irrelevant to witness' availability and admissibility of witness' hearsay statement without violating confrontation clause. U.S.C.A. Const. Amend. 6; Const. Art. 1, \S 9.

CHAPTER M

JUDGMENTS

JUDGMENT OF NON PROS.

1. GENERAL NOTES.

a. Non pros does not bar another action for the same cause if still within the statute of limitation and provided the plaintiff pays all costs of prior proceedings (Goodrich Amram 2d 1037(a):1).

b. Entry of non pros is confined to the pretrial stage of an action (Goodrich Amram 2d 231(b):2).

c. Pa.R.C.P. No. 236 applies to all orders, decrees and judgments, including the entry of non pros. Any local rule which does not provide for Notice is null and void and non pros set aside (Goodrich Amram 2d 236:1).

d. The right to non pros is lost if plaintiff files a late complaint before defendant files his/her praecipe. Non pros is not automatic at end of twenty-day period (Goodrich Amram 2d 1037(a):1).

e. Where one of two defendants rules the plaintiff to file a complaint and non pros is entered, this judgment does not ensure to the benefit of other defendant who never entered a rule on the plaintiff (Goodrich Amram 2d 1037(a):1).

(1) Hattle, etal v. McGinley, etal, Superior Court No. 1273 PHL 93.

f. The explicit language of Pa.R.C.P. No. 1037(a) prohibits a Prothonotary from entering a judgment of non pros until twenty days after a rule to file a complaint is actually served (Goodrich Amram 2d 1037(a):1).

g. Pa.R.C.P. No. 1037(a) provides for the entry of a judgment of non pros, if a plaintiff is ruled to file a complaint by the defendant and the complaint is not filed within twenty days after service of rule.

h. COMPELLING COMMENCEMENT OF ACTION. JUDGMENT UPON DEFAULT. (Mechanics Lien Action)(Pa.R.C.P. No. 1659). If a claimant has filed a claim and does not file a complaint, the Prothonotary, upon praecipe of an owner, shall enter a rule as of course upon the claimant to file a complaint within twenty (20) days after service of the rule, or be forever barred from so doing. If the claimant fails to do so, the Prothonotary, upon praecipe of the owner and proof of service, shall enter judgment for the defendant.

i. ENTRY OF JUDGMENT OF NON PROS FOR FAILURE TO FILE CERTIFICATION (Professional Liability Actions)(Pa.R.C.P. No. 1042.7). The Prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a certificate of merit within the required time provided that there is no timely-filed motion seeking to extend the time to file the certificate. The certificate of merit and praecipe for entry of judgment non pros shall be substantially in the forms provided by the rules.

(NOTE: The Prothonotary may not enter judgment if the certificate of merit has been filed prior to the filing of the Praecipe. Rule 237.1 does not apply to a judgment of non pros entered under this rule.)

j. Pa.R.C.P. No. 1920.21(b) (Divorce Action) provides for the entry of non pros when a Bill of Particulars has been ruled to be filed and twenty days has passed since service. If no Bill of Particulars is filed, the Prothonotary on praecipe can enter judgment non pros.

k. Pa.R.C.P. No. 4019(c)(3) provides for entry of non pros but by the Court for failure of a plaintiff to comply with an order or subpoena during pretrial discovery and deposition.

l. Pa.R.C.P. No. 2252(b)(1) provides for non pros if a joinder of an additional defendant is by writ, and has been ruled to file a complaint within twenty days of service, the plaintiff or additional defendant joined may praecipe for non pros in the manner provided by 1037(a).

2. PROCEDURE.

a. No Judgment of Non Pros for failure to file a complaint shall be entered by the Prothonotary unless the praecipe for entry includes a certification that a written Notice of Intention (also known as "Important Notice" or "10 - Days' Notice") was mailed or delivered pursuant to Pa.R.C.P. No. 237.1.

b. Upon presentation of a praecipe and upon payment of filing fee, the Prothonotary should first determine that proper service of rule was made and proof submitted. This is needed to determine when the twenty days begins to run. If no complaint has been filed, the Prothonotary shall file, docket and index in accordance with the GENERAL PROVISIONS Section of this manual.

c. Prothonotary shall give notice of the entry of the judgment of non pros pursuant to Pa.R.C.P. No. 236.

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

4. Forms:

Praecipe for Judgment of Non Pros

Notice of Praecipe to Enter Judgment of Non Pros

5. References:

Homemakers Loan & Discount Company v. Rowe, 4 D. & C.3d 167

Haftle, etal v. McGinley, Esquire, etal, Superior Court No. 1273 PHL 93

CIVIL DIVISION

:
:
:
:
: File No. _____
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PRAECIPE FOR JUDGMENT OF NON PROS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Enter Judgment of Non Pros against the above-named Plaintiff(s): _____

Pursuant to Pa.R.C.P. No. 237.1, I certify that written notice of the intention to file this praecipe was mailed or delivered to the party against whom judgment is to be entered and to his or her Attorney of Record, if any, after the default occurred and at least ten (10) days prior to the date of the filing of this praecipe and a copy of the notice is attached.

I verify that I have researched the records in this matter, and a complaint has not been filed within twenty (20) days following the service of the Rule in this matter. I further verify that the statements made in this Praecipe are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to Unsworn Falsification to Authorities.

DATE: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

maining for the court. These records are equally available, if not more so, to Sheetz because of his position as president as they are to plaintiff. While in some cases a more specific itemization may be desirable, paragraph 25 is specific enough to require that defendant's objection be overruled. Of course, defendant may still avail himself of discovery procedures to augment the information contained in the complaint, if needed.

For the above stated reasons, the court issues the following

ORDER

And now, November 7, 1977, it is hereby ordered that:

(1) Preliminary objections, numbered 1 and 11, of Jane S. Aaron, in the nature of a petition raising a question of jurisdiction are granted, and cause of action labelled first and that part of plaintiff's second cause of action relating to Jane S. Aaron only are dismissed.

(2) Preliminary objection of M. Aaron Company, alleging that, as to plaintiff's third cause of action, an adequate remedy at law is available so that equity is without jurisdiction, which objection is number 8 in the pleading, is sustained and plaintiff's third cause of action is certified to the law side of this court, as required by Rule 1509(c).

(3) All other objections, filed by the three named defendants, are overruled, either because they are unnecessary to our decision or because they are denied on the merits as discussed in the opinion to which this order is attached.

Homemakers Loan & Discount Company v. Rowe

Practice — Rule to file complaint — Filing after 20-day period but before praecipe for non pros — Justice of the Peace Rule 1004B — Pa. R.C.P. 1037(a).

Under Justice of the Peace Rule 1004B and Pa. R.C.P. 1037(a), where plaintiff does not file a complaint within 20 days after entry of a rule upon it to do so or suffer entry of a judgment of non pros, the prothonotary is to enter a judgment of non pros but only upon praecipe of the defendant, so that where the complaint is filed more than 20 days after the rule but before the filing of a praecipe, it will not be stricken off.

Preliminary objections. C. P. of Lawrence County, no. 591 of 1977.

Thomas J. Lyons, for plaintiff.
S. Sanford Kantz, for defendants.

HENDERSON, P.J., November 23, 1977—The question presented by defendant's preliminary objections is, what is the effect of plaintiff's filing of a complaint more than 20 days after a rule was entered upon it to file a complaint within 20 days or suffer entry of judgment of non pros, but before defendants filed a praecipe for non pros?

Defendants had filed a timely notice of appeal from a magistrate's judgment rendered against them and in favor of plaintiff. A praecipe to enter a rule upon plaintiff to file a complaint was filed along with the notice of appeal, as required by Justice of the Peace Rule 1004B. The notice and the rule were sent by certified mail to plaintiff's Sharon, Pa., office on July 28, 1977. Plaintiff did not file a complaint until 29 days later on August 26, 1977. Two weeks thereafter, on September 9th, the prothonotary, upon praecipe of defendant, en-

tered a judgment of non pros against plaintiff for its failure to file a complaint within 20 days of the issuance of the rule. On the same day, defendant also filed preliminary objections to strike off the complaint for lack of conformity to law or rule of court or to dismiss the complaint for lack of jurisdiction or lack of capacity to sue. The sole basis averred for these objections was plaintiff's tardiness in filing his complaint.

According to the comments to Justice of the Peace Rule 1004, Pa. R.C.P. 1037(a) governs the procedure to be followed upon failure to file a complaint after a rule to do so is entered pursuant to Justice of the Peace Rule 1004B. Rule 1037(a) states:

"If a complaint is not filed within 20 days after service of the rule, the prothonotary, upon praecipe of the defendant, shall enter a judgment of non pros."

The entry of the non pros is not automatic upon the running of the 20-day time period. The filing of a praecipe by defendant is a condition precedent to any entry of non pros under this rule.

Here, the complaint was filed before the praecipe. A close reading of Rule 1037(a) would indicate that the praecipe must be filed and judgment of non pros entered before the filing of the complaint: 2 Goodrich-Amram 2d §1037(a):1; Sikorski v. Beschak, 41 Luz. 305 (1950); Cochran v. Nolan, 23 Dist. 458 (1914), 12 Del. Co. 375 (1913). If the purpose of the rule was to allow a judgment of non pros to be granted for every failure to file a complaint within 20 days, the rule would not contain the requirements of a praecipe by defendant. The prothonotary's entry of a non pros

against plaintiff was mistaken. If a motion to strike the non pros is made, it will be granted.

Defendant's preliminary objections must also fall. Plaintiff's minor tardiness should only penalize him when defendant acts in a timely fashion under Rule 1037. No reason now exists for dismissing or striking the complaint. Even if the judgment of non pros were to stand, plaintiff could file another suit on the same cause of action, after paying defendant's costs in this action, as long as the subsequent action is within the statute of limitations, since a judgment of non pros is not a judgment on the merits and, therefore, is not res judicata: Gordon-Stuart, Ltd. v. Allen Shops, Inc., 239 Pa. Superior Ct. 35, 361 A.2d 770 (1976); Homemakers Loan and Consumer Discount Co. v. McLaughlin, No. 517 of 1977 C.A. (C.P. Lawrence Co., 1977).

Plaintiff's delay in filing its complaint does not affect its capacity to bring suit or the court's jurisdiction over the parties and subject matter. Since the filing of the complaint has cured any violations of the rules of court, the complaint need not be stricken. Defendant's preliminary objections are denied.

ORDER

Now, November 23, 1977, in conjunction with the opinion filed herewith, it is hereby ordered, adjudged and decreed that defendant's preliminary objections are overruled and defendants are granted 20 days from the date hereof within which to file responsive pleading.

LARRY HAFTLE, GARY DONCHESS
T/A CANINE CREATIONS,

Appellants

v.

PAUL A. MCGINLEY, ESQUIRE,
PATRICK J. REILLY, ESQUIRE
CHARLES R. OSINSKI, ESQUIRE

IN THE SUPERIOR COURT OF
PENNSYLVANIA

NO. 01273 PHL 93

Appeal from the Order entered March 16, 1993 in the
Court of Common Pleas of Lehigh County, Civil Division,
at No. 91-C-2335.

BEFORE: McEWEN, DEL SOLE, AND HOFFMAN, JJ.

MEMORANDUM:

FILED MAR 24 1994

This is an appeal from the March 12, 1993 order denying appellants', Larry Haftle and Gary Donchess t/a Canine Creations, petition to open judgment non pros. Appellants present the following issue for our review:

Should the Judgment of Non Pros in favor of the Appellees be stricken where the only matter claimed by the Appellants to be a defect on the face of the record is the absence of a separately titled and filed Proof of Service of the Rule to File Complaint?

Appellants' Brief at 1. For the reasons set forth below, we vacate the order of the trial court and strike the judgment entered against appellants.

On August 21, 1991, appellants filed a praecipe for writ of summons at case number 91-C-2335 against appellees, Paul A. McGinley, Patrick J. Reilly, and Charles R. Osinski. The writ of summons was issued and served upon appellees. On August 27, 1991, appellee Reilly filed a praecipe for rule to file a complaint and

the prothonotary issued that rule. Thereafter, on September 20, 1991, appellee McGinley filed a praecipe for judgment non pros against appellants. The prothonotary subsequently entered judgment non pros against appellants and in favor of appellees McGinley and Reilly.

On September 24, 1991, appellants filed a complaint at a new and different case number, No. 91-C-2662. Appellants' attorney mistakenly had the prothonotary give the complaint a different case number rather than filing it at the original case number, No. 91-C-2335. On October 4, 1991, appellants filed a motion to correct caption at case number 91-C-2662. Subsequently, the trial court entered an order on November 12, 1991 granting appellants' motion and directing the prothonotary to change the caption on the complaint filed at No. 91-C-2662 to No. 91-C-2335. On September 22, 1992, appellants filed a petition to open judgment non pros which was treated as a motion to strike by the trial court. In addition, on September 24, 1992, appellants filed default notices against appellees McGinley and Reilly for failure to respond to appellants' September 24, 1991 complaint. Thereafter, on September 28, 1992, appellees McGinley and Reilly filed a motion to strike the default notices. On March 12, 1993, the trial court denied appellants' petition to open judgment non pros as to appellees McGinley and Reilly. Regarding the default notices, the trial court held that as judgment non pros had been properly entered, they were a nullity and should be stricken.

This timely appeal followed.¹

As the trial court has correctly pointed out, appellants' petition to open alleges a fatal irregularity appearing on the face of the record and, therefore, their petition to open should be treated as a petition to strike.² See, cf., In Re Estate of McCauley, 478 Pa. 83, 87-88, 385 A.2d 1324, 1326 (1978) (citations omitted). Hence, appellants' petition should be granted "only for defects appearing on the face of the record." Pennwest Farm Credit, ACA v. Hare, 410 Pa. Super. 422, 427, 600 A.2d 213, 215 (1991) (citations omitted).

In the instant action, appellants contend that the September 20, 1991 entry of judgment non pros against appellants is void. As the face of the record discloses an error of law on the part of the prothonotary in entering judgment non pros in favor of appellees McGinley and Reilly, we agree.³

¹ We also point out that appellee Osinski was granted judgment non pros on September 26, 1991 pursuant to his praecipe for rule to file a complaint which was issued on September 4, 1991. However, as Osinski's praecipe to enter judgment non pros was filed after appellants had filed their complaint, the trial court granted appellants' petition to open judgment non pros as entered in favor of Osinski. Accordingly, the instant appeal deals only with judgment entered in favor of appellees McGinley and Reilly.

² In its opinion, the trial court notes that as appellants' petition to open was filed more than one year after entry of judgment non pros, it should be denied. We disagree. This court has long held that a judgment entered by default may be stricken at any time. See Simson v. Allstate Ins. Co., 350 Pa. Super. 239, 243-44, 504 A.2d 335, 337 (1986) (citation omitted). Hence, appellants may attack the entry of judgment non pros regardless of when it was entered.

³ We point out that our resolution of this appeal is not based upon the explicit argument made by appellants, i.e., that appellees erred in failing to show proof of service of their rule to show cause. Nonetheless, as we decide this appeal on the issue

In order to properly enter judgment non pros for failure to file a complaint, the prothonotary must follow Pa.R.Civ.P. 1037(a) which provides as follows:

If an action is not commenced by a complaint, the prothonotary, upon praecipe of the defendant, shall enter a rule upon the plaintiff to file a complaint. If a complaint is not filed within twenty (20) days after service of the rule, the prothonotary, upon praecipe of the defendant, shall enter judgment of non pros.

Id.

As mentioned above, appellee McGinley filed a praecipe to enter judgment non pros on September 20, 1991. However, McGinley never filed a praecipe to issue a rule to file a complaint. The only praecipes to issue a rule to file a complaint were filed by appellee Reilly on August 27, 1991 and appellee Osinski on September 4, 1991. As this court held in Hershev v. Segro, 252 Pa. Super. 240, 381 A.2d 478 (1977), the power of the prothonotary to enter judgment non pros upon praecipe of a defendant can only be exercised where that defendant has first served a rule to file a complaint. Id. at 243, 381 A.2d 479. Hence, a praecipe to issue a rule to file a complaint by one defendant will not inure to the benefit of another defendant. As appellee McGinley never filed a praecipe to issue a rule to file a complaint, any entry of judgment in his favor was in violation of Pa.R.Civ.P. 1037(a).

Moreover, although appellee Reilly did file a praecipe

raised by appellants, i.e., that judgment non pros is void, our resolution of this appeal is proper. See Martin v. Poole, 232 Pa. Super. 263, 268 n.2, 336 A.2d 363, 368 n.2 (1975).

to issue a rule to file a complaint, Reilly never filed a praecipe to enter judgment non pros in his favor. Hence, any entry of judgment in his favor would also be in violation of Rule 1037(a). As the prothonotary exceeded the authority extended to him pursuant to Rule 1037(a) by entering judgment non pros, his action is considered void and the judgment entered therefore lacks legal effect. Gowalt v. Dellinger, 395 Pa. Super. 439, 442, 577 A.2d 623, 624 (1990). Accordingly, we must vacate the trial court's order and strike the September 20, 1991 non pros judgment.⁴

We must point out, however, that there remains outstanding a complaint which was filed on September 24, 1991, as well as the default notices against McGinley and Reilly which were filed on September 24, 1992. In order to prevent any possible prejudice resulting from McGinley and Reilly's reliance on the prothonotary's erroneous entry of judgment, we must return this case to the point just prior to the prothonotary's error. See, e.g., Chamberlain v. Altoona Hospital, 389 Pa. Super. 600, 567 A.2d 1067 (1987), allocatur denied, 525 Pa. 662, 583 A.2d 792

⁴ In their petition to open judgment non pros, appellants state that both McGinley and Reilly filed a rule to file a complaint and a praecipe for entry of judgment non pros against appellants. On its face, this admission would appear to preclude our particular resolution of this appeal. However, in making this "admission," appellants, by way of incorporating the documents evidencing these filings, also assert that only Reilly filed the rule to file a complaint and only McGinley filed a praecipe for judgment non pros. Clearly, appellants' statement regarding McGinley and Reilly's filing of these documents is inconsistent with itself and, therefore, will not be considered an admission against appellants for the purposes of this appeal. See Lehner v. Montcomery, 180 Pa. Super. 493, 119 A.2d 626 (1956) (where the nature of an alleged admission is uncertain, it should not be used to prejudice the "admitting" party).

(1990). Hence, we strike the complaint, as filed against McGinley and Reilly, without prejudice. In addition, we strike the September 24, 1992 default notices filed against McGinley and Reilly. This is done with the directive that the rights and obligations of the parties shall remain as they stood on September 20, 1991 prior to the prothonotary's entry of judgment non pros.

Order vacated; judgment, complaint and default notices stricken.

DEL SOLE, J. files a Dissenting Memorandum Statement.

LARRY HAFTLE, GARY DONCHESS
T/A CANINE CREATIONS,

Appellants

v.

PAUL A. MCGINLEY, ESQUIRE,
PATRICK J. REILLY, ESQUIRE
CHARLES R. OSINSKI, ESQUIRE

IN THE SUPERIOR COURT OF
PENNSYLVANIA

NO. 01273 PHL 93

Appeal from the Order entered March 16, 1993 in the
Court of Common Pleas of Lehigh County, Civil Division,
at No. 91-C-2335.

BEFORE: MCEWEN, DEL SOLE, AND HOFFMAN, JJ.

DISSENTING MEMORANDUM STATEMENT BY DEL SOLE, J.: **FILED MAR 24 1994**

I must dissent from the decision of the Majority to reverse the trial court.

First, the Majority Memorandum in footnote 3, admits that its decision is not based on any argument advanced by appellant before the trial court. It is a fundamental principle of appellate jurisprudence that issues not raised in the trial court are waived. Further, in all pleadings filed by Appellants, they acknowledge that Appellees, McGinley and Reilly, ruled them to file a complaint. Given this state of the record, the issue raised and decided by the Majority should not be considered.

Further, had the appellant raised the issue decided by the Majority, I do not agree with their analysis. Clearly, Attorneys McGinley and Reilly are partners in the same law firm and the claims against them arose out of their representation of appellant. The filing of a rule to file complaint by Mr. Reilly operated to require the appellant to file a rule against both Mr.

McGinley and Mr. Reilly. The praecipe for non pros filed by Mr. McGinley is as a result of the appellant's failure to file the complaint.

I do not agree that there is a procedural irregularity. Certainly none that requires reversing the trial court. Further, I do not agree that we, as an appellate court, are permitted to decide a case on issues not raised before the trial court. The issues in this case are not jurisdictional but procedural. Had the appellants wished relief for the reasons granted by the Majority, they should have initially presented these matters to the trial court. Therefore, I dissent.

CHAPTER M

JUDGMENTS

DECLARATORY JUDGMENT (Pa.R.C.P. Nos. 1601 through 1604).

1. Action commenced by filing a complaint captioned "Action for Declaratory Judgment."
2. Upon receipt of the complaint along with payment of filing fee, Prothonotary shall file and assign a court of common pleas number. Indexing to be the same as commencement of a civil action.
3. Docket the case pursuant to the GENERAL PROVISIONS Section of the manual.
4. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:
 - a. Chapter 3 - Office of the Prothonotary, Subsection:
 - (1). Civil Dockets, Books and Indices.
 - (2). Civil Papers/Files.
 - (a). Declaratory Judgment Papers.

CHAPTER M

JUDGMENTS

JUDGMENT FOR SUPPORT ARREARAGES.

1. GENERAL NOTES.

a. Providing for support arrearages as judgments -- "By operation of law," a judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations sections' records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

b. 23 Pa.C.S.A. 4352(c), as amended: Arrears as judgments -- On and after the date it is due each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state. Overdue support obligations of this or any other state which are on record at the domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the judicial district. The obligation for payment of arrears or overdue support shall terminate by operation of law when all arrears or overdue support has been paid.

(NOTE: Lien information is available on the Internet at website address: pachildsupport.com or by calling 1-877-676-9580).

2. PROCEDURE (Pa.R.C.P. No. 1910.24).

a. On and after the date it is due, a support obligation shall constitute a judgment against the obligor as provided by law. (NOTE: See 23 Pa.C.S. § 4352(d) relating to arrears as judgments.)

b. At the direction of the court, or upon praecipe of a party or of the domestic relations section, accompanied by a current certificate of the domestic relations section showing arrears are more than thirty (30) days, the amount owing, by whom

and to whom, together with the filing fee, stamped pre-addressed envelopes and notice under Pa.R.C.P. No. 236, the Prothonotary shall assign a court of common pleas number and file the judgment.

c. The Prothonotary shall promptly mail the notices of filing to the debtor and attorney of record. The notices shall contain the name and address of the creditor and attorney (if any).

d. Information filed but not indexed, shall be readily available to the public.

e. Index and docket the case pursuant to the GENERAL PROVISIONS Section of the manual.

f. A petition to correct the judgment shall be limited to the following grounds:

- (1) no overdue support exists under the support order or
- (2) there is a mistake in the amount of overdue support.

The filing of a petition to correct a judgment shall not stay the proceedings.

g. The judgment will be enforced as provided by Rules 3001 to 3011, inclusive, governing transfer of judgments; Rules 3101 to 3149, inclusive, governing enforcement of judgments for the payment of money; and Rule 1910.21 governing attachment of income.

(NOTE: 42 Pa.C.S.A. § 8104, which imposes a duty upon a judgment creditor who has received payment in full of a judgment, upon written request and tender of the fee, to enter satisfaction in the office of the Prothonotary in which the judgment is outstanding.)

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

- (1). Civil Dockets, Books and Indices.
- (2). Civil Papers/Files.

- To Real Estate.
- (a). All Civil Matters, Not Otherwise Listed, Involving Title
 - (b). Judgment and Lien Papers.
- b. If item is not in this schedule, contact State Archives for retention information.

CHAPTER M

JUDGMENTS

CONFESSION OF JUDGMENT FOR MONEY (Pa.R.C.P. No. 2950 et seq.).
CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY
(Pa.R.C.P. No. 2970 et seq.).

1. CONFESSION OF JUDGMENT FOR MONEY

1a. An action shall be commenced by filing with the Prothonotary a **COMPLAINT** substantially in the form provided by Rule 2952. (Rule 2951(a))

The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2962. (Rule 2955)

The Prothonotary shall enter judgment in conformity with the confession. (Rule 2956)

b. If the instrument is more than twenty years old, judgment may be entered only by leave of court after notice and the filing of a complaint.

c. When the original or a photo static copy or like reproduction of the instrument showing the defendant's signature is not attached to the complaint, judgment may be entered only by leave of court after notice.

2. Complaint should be accompanied by (Pa.R.C.P. No. 236):

- (a). Copy of all documents filed for each debtor.
- (b). Stamped envelope addressed to each debtor.
- (c). Notice of entry of judgment to each debtor.
- (d). Plaintiff's Affidavit/Averment

3. The action shall be commenced by the filing of a complaint pursuant to Pa.R.C.P. No. 2951(a). The complaint shall contain the information required by Pa.R.C.P. No. 2952 and substantially in the form provided by Pa.R.C.P. No. 2962. (Note: Pa.R.C.P. No. 2952(b) - A complaint in this type of action shall neither contain a notice to defend nor be endorsed

with a notice to plead, and no responsive pleading shall be required whether or not the complaint contains a notice to defend or is endorsed with a notice to plead.)

2. CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY

a. An action to enter a judgment in ejectment for possession of real property by confession pursuant to an instrument, other than a residential lease executed by a natural person, authorizing such confession.

b. An action shall be commenced by filing with the Prothonotary a complaint which includes an Affidavit/Averment that the judgment is not being entered against a natural person in connection with a residential lease and a Confession of Judgment substantially in the form provided by Rule 2974.

c. Instrument should be accompanied by:

- (1). Copy of all documents filed for each debtor
- (2). Stamped envelope addressed to each debtor
- (3). Notice of entry of judgment to each debtor

3. PROCEDURE: Upon receipt of the above documents and along with payment of filing fee, Prothonotary shall:

a. File and assign a court of common pleas number.

b. Information on judgments filed, but not yet indexed, shall be readily available to the public.

c. Index case by entry of full names of parties, amount of judgment (if any), date of filing, case number and nature of lien.

d. Docket case pursuant to the GENERAL PROVISIONS Section of this manual. An entry shall be made in the docket of the mailing of the notice of the entry of judgment.

e. For certifications under this category, see the PROOF OF OFFICIAL RECORDS (Certification/Exemplification) Section of this manual.

f. For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

4. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division:

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

To Real Estate.

(a.) #1, All Civil Matters, Not Otherwise Listed, Involving Title

(b.) #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

3. Forms:

Monthly Report to Personal Property Tax Bureau with Opinion
Plaintiff's Affidavit/Averment

CLERK OF COURTS - CIVIL DIVISION, LEHIGH COUNTY, PA

_____ Entered _____ Satisfied _____ Month of _____, 19____

Date	Plaintiff and Residence	Defendant	Instrument	File Number	Amount	Date Entered

To the Personal Property Tax Bureau of Lehigh County:

I hereby certify that the attached is a true record or report of all Single Bills, Bonds, Judgments or other Instruments securing debts ENTERED or SATISFIED of Record in my office from _____, 19____ to _____, 19____ both inclusive.

DORIS A. GLAESSMANN, Clerk of Courts

per: _____

REDUCED FROM 8 1/2 X 14"

_____ Entered _____ Satisfied _____ Month of _____, 19____

Date	Plaintiff and Residence	Defendant	Instrument	File Number	Amount	Date Entered



COUNTY OF LEHIGH
DEPARTMENT OF LAW
P. O. BOX 1548, ALLENTOWN, PENNSYLVANIA 18105

JOHN E. ROBERTS
COUNTY SOLICITOR

REPLY TO:

ASSISTANT COUNTY SOLICITOR

TO: John Brown, Director of Personal Property
FROM: Alfred K. Hettinger, Esq., Assistant County Solicitor
DATE: May 19, 1982
SUBJECT: Taxability of "Judgment"

I. Question Presented:

If a verdict is reduced to judgment, is that judgment taxable for personal property tax purposes?

II. Discussion:

You and Dick Dornblaser have jointly raised the question presented above. As outlined to me, the question is whether or not a judgment entered as a result of a verdict would be subject to the personal property tax.

My conclusion now, contrary to the "off the top" opinion that I gave you last week is no.

72 P.S. §4821, in the second full paragraph thereof, states the following as an item subject to tax ". . . all moneys owing by solvent debtors, whether by promissory note, or penal or single bill, bond, or judgment; . . .".

While it would appear from a casual reading of the above the kind of judgment that we are talking about. I must admit that when the question was first presented to me, I analogized this to the Federal Law which, in my opinion, would have income tax ramifications.

Pennsylvania law however, is to the contrary. The specific case in point is Estate of Mary J. Frederick, 333 Pa. 327, 5 A.2d 91; affirming 130 Pa. Super. 373, 197 Atlantic 642 (1939); affirming 23 D & C 475 (1935). In this case a judgment was recovered against the City of Philadelphia which

Memo
John Brown
May 19, 1982
Page Two

arose out of a condemnation of land for public purposes. The Court held that there was no legislative intent to impose taxes upon judgments unless they are obtained upon mortgages, promissory notes, penal or single bills, or other obligations voluntarily incurred. (Emphasis supplied).

In interpreting the statute, the court used a rule of construction called Eusdem Generis which means that general expressions used in a statute are restricted to things and persons similar to those specifically enumerated in the language preceding the general expressions.

The court went on to state that in the Frederick Estate case, the word "judgment" in the first section and the words "evidences of indebtedness" used in the other section are not to be given the meaning that these words would ordinarily import if used in a statute alone. They are preceded by language specifically enumerating the various items of personal property made taxable, and must be read in connection with those specific expressions. When this is done, it is clear that the words "evidences of indebtedness," refer only to obligations voluntarily incurred, such as on a bond or certificate of indebtedness, and that the word "judgment" refers to judgments entered on such an obligation, such as on a bond or promissory note.

Therefore, in the specific instance and question you have raised, it appears to me that the verdict having been entered and a judgment having been entered thereon (or any other kind of "involuntary" judgment) other than those covered by the term promissory note, bond, penal or single bill, would not be subject to Pennsylvania personal property tax.

At the writing of this memo we are obtaining copies of the Frederick Estate case which we will forward to you to retain in your file. Should you require anything further from me please let me know.

Respectfully submitted,

cc: Richard Dornblaser

CIVIL DIVISION

:
:
:
:
:
:
:
:

File No. _____

PLAINTIFF'S AFFIDAVIT / AVERMENT

CONFESSION OF JUDGMENT FOR MONEY --

(____) Pursuant to Pa.R.C.P. No. 2951(a)(2)(ii), I certify that this judgment is not being entered by confession against a natural person in connection with a consumer credit transaction.

(a) A consumer credit transaction means a credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY --

(____) Pursuant to Pa.R.C.P. No. 2971(a)(1), I certify that this judgment is not being entered against a natural person in connection with a residential lease.

Date: _____

Signature: _____
Signature of Plaintiff or Attorney

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

* * * * *

The above certification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

DATE: _____

Signature of Plaintiff or Attorney

CHAPTER M

JUDGMENTS

OPENING OR STRIKING A JUDGMENT (Pa.R.C.P. Nos. 2959 and 2960).

1. STRIKING OFF OR OPENING JUDGMENT (Pa.R.C.P. No. 2959).

a. All grounds for relief, whether to strike or open, must be asserted (claimed) in a single petition and may be filed in the county originally entered, in the county where the judgment was transferred or the county in which the sheriff received a writ of execution.

b. If prima facie grounds stated, the court shall issue a rule to show cause and grant a stay of proceedings. After being served with a copy of the petition, plaintiff shall file an answer on or before the return day of the rule. The return day of the rule shall be fixed by the court by local rule or special order. The matter may then proceed under Pa.R.C.P. No. 209.

c. Party waives all defenses and objections which it does not include in the petition or answer.

d. The rule and answer are to be served pursuant to Pa.R.C.P. No. 400 et seq.

e. The court shall dispose of the rule on petition and answer, on testimony, depositions, admissions and other evidence.... If evidence is produced which in a jury trial would require the issues to be submitted to the jury the court shall open the judgment.

f. The lien of the judgment or levy or attachment shall be preserved while the proceedings to strike off or open the judgment are pending.

g. The mere filing of a petition to open or strike judgment does not affect the lien of judgment or execution, subject of course to the power of the court to stay execution pending decision on the petition.

2. PROCEEDINGS UPON OPENING OF JUDGMENT (Pa.R.C.P. No. 2960).

a. If a judgment is opened in whole or in part (one of two parties) the issues to be tried shall be defined by the complaint, if filed, and by the petition, answer and the order of court opening the judgment. There shall be no further pleadings. The right to a jury trial on the opened judgment shall be deemed waived unless a party files and serves a written demand for a jury trial within twenty days after the order opening judgment. If referred to compulsory arbitration Pa.R.C.P. No. 1007 applies.

b. Where an appeal is taken from an award in compulsory arbitration and a jury trial not demanded, the right to a trial shall be waived unless the appellant (plaintiff) files and serves a written demand for a trial.

3. PROCEDURE -- Upon the receipt of a petition and fee, the Prothonotary shall file, assign court of common pleas number, if applicable, index and docket pursuant to the GENERAL PROVISIONS Section of this manual. Court schedules hearing or depositions taken and briefs filed. Order of court rendered. If judgment opened or stricken, so note on index.

4. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER M

JUDGMENTS

TRANSFER OF JUDGMENTS (Pa.R.C.P. Nos. 3001 through 3011).

1. Judgment as used in this section means judgment, order or decree requiring the payment of money or adjudicating the right to possession in an action of replevin, including a final or interlocutory order for the payment of costs entered in any court which is subject to these rules, either originally or upon transcript or certification from another court within the same county.

2. TRANSFER TO ANOTHER COUNTY (Pa.R.C.P. No. 3002(a)).

a. Upon request and payment of fee, Prothonotary shall verify the name and address of the plaintiff and defendant, case number, receiving county and requesting party.

b. Prothonotary shall prepare a certification of judgment index and docket entries, including a certification of the amount of the judgment stating precisely the name and address the judgment is in favor of and against whom.

c. Prothonotary shall sign documents, affix seal and return to requesting party.

d. Number of transfers. Although the Rules of Civil Procedure governing the transfer of judgments speak in terms of transfer "to another county", this should be regarded as meaning transfer to any number of other counties, without limitation upon the number of transfers from the county in which the judgment was originally entered. (Goodrich-Amram 2d 3002:2)

e. Retransfer of judgment. A judgment transferred to a court of common pleas of a county other than that in which it was originally entered does not become a judgment of the court to which it is transferred, and hence may not be transferred from there to a third county. (Goodrich-Amram 2d 3002:2)

3. RECEIPT OF JUDGMENT TRANSFER (Pa.R.C.P. No. 3002(b)). Upon receipt of the appropriate documents for a transferred judgment, the Prothonotary shall follow procedure established in JUDGMENTS, GENERAL NOTES, Section of this manual.

4. TRANSFER TO ANOTHER STATE (42 P.S. § 4306 - UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT).

a. Upon request and payment of fee, Prothonotary shall verify the name and address of plaintiff and defendant, case number, receiving county and requesting party.

b. Prothonotary shall prepare a certification of judgment index and docket entries including a certification of the amount of the judgment stating precisely the name and address the judgment is in favor of and against whom.

c. In addition to the above, Prothonotary shall prepare a certified copy of the judgment.

d. Prothonotary shall sign documents, affix seal and return to requesting party.

e. See OPENING OR STRIKING A JUDGMENT Section of this manual.

(NOTE: A recent opinion has stated that an exemplification form wherein the judge certifies the Prothonotary is the Prothonotary and the Prothonotary certifies the Judge is the Judge is not necessary for the above, but upon request may be issued. If an "APOSTILLE" is requested, refer party to PA Department of State as noted in document reference M-8R-1.

5. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

6. Reference:

PA Department of State letter and FAQs sheet



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF STATE
OFFICE OF CHIEF COUNSEL
302 NORTH OFFICE BUILDING
HARRISBURG, PA 17120

ENTERED AND FILED
2002 SEP -6 PM 2:21
PROTHONOTARY'S OFFICE
LANCASTER, PA

Christal Pike-Nase
Assistant Counsel

Telephone: (717) 787-6802
FAX: (717) 787-1734
E-Mail: cpikenase@state.pa.us
Department's Website: www.dos.state.pa.us

September 4, 2002

Dorothy M. Holt
Chief Deputy
Office of the Prothonotary
Lancaster County Courthouse
50 North Duke Street, P.O. Box 83480
Lancaster, PA 17608-8282

Dear Ms. Holt:

It recently came to the attention of the Department of State's Office of Chief Counsel that the Lancaster County Office of the Prothonotary issued the attached Apostille on August 16, 2002 certifying a notarization performed by Jennifer A. Toomey.


Under the Hague Convention of 1961, only the Secretary of the Commonwealth or if he so chooses, one of his designated deputy secretaries, or the Director of the Bureau of Commissions, Elections and Legislation can act as an authority to issue an Apostille. Please see page 15 of an informational piece entitled the *Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents* (copy enclosed) available on the U.S. Department of State's website at http://travel.state.gov/hague_foreign_docs.html.

Our Office would very much appreciate it if you would refer any applications for Apostilles to the Department of State, Bureau of Commissions, Elections and Legislation. The Bureau can be contacted by calling (717) 787-5280, by email: bccl@pados.dos.state.pa.us or by writing:

Department of State
Bureau of Commissions, Elections & Legislation
210 North Office Building
Harrisburg, PA 17120

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Christal Pike-Nase".

Christal Pike-Nase
Assistant Counsel
Department of State

cc: John T. Henderson, Jr., Chief Counsel

Enclosure

HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS

DISCLAIMER: THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

Frequently Asked Questions

Q. What countries follow the Hague Legalization Convention?

Q. Who is the foreign central authority for a particular country?

Q. In the United States, who can put the Hague Legalization Convention "apostille" certificate on a document?

Learn About the Hague Legalization Convention

Q. I have a document which has the seal of a notary, state or federal official in the United States. What do I need to do to be able to use this document overseas?

A. The document must be authenticated for use abroad. This is also called legalization of the document. Authentication means that a seal is placed on the document which will be recognized in the foreign country where the document will be used.

Q. How do I get the document authenticated or legalized?

A. That depends on whether the country where the document will be used in a party to a treaty on this subject called the "Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents".

Q. What procedures should be followed if the Hague Legalization Convention does not apply?

A. If the country is not a party to the Hague Convention, see our general information on Authentication of Documents for Use Abroad available via our home page, or obtain a copy of that document via our autofax service (document #1046) or by mail.

Q. What is a Public Document under the Hague Legalization Convention?

A. For the purposes of the Convention, public documents include:

- a. documents issued by a state court;
- b. administrative documents;
- c. documents executed before a notary public;
- d. official certificates which are placed on documents signed by persons in their private

capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

Q. Where does the Hague Legalization Convention apply?

A. The Hague Legalization Convention is in force in the following countries. But see the next question regarding how the change of status of a country affects treaty obligations. Click on the name of the country for specific information about the competent authority to issue apostille certificates and other details on how the Hague Legalization Convention works in that country.

ANDORRA

ANGOLA

ANGUILLA

ANTIGUA AND BARBUDA

ARGENTINA

ARMENIA

ARUBA

AUSTRALIA

AUSTRIA

BAHAMAS

BARBADOS

BELARUS

BELGIUM

BELIZE

BERMUDA

BOSNIA-HERZEGOVINA

BOTSWANA

BRITISH VIRGIN ISLANDS

BRUNEI

BULGARIA

Designated Authority: Secretary of State; Executive Deputy Secretary of State; any Deputy Secretary of State; any Special Deputy Secretary of State.

2. Down State Counties: New York authorities in Albany advise that documents issued in the nine down state counties are authenticated under the Convention by the New York City office. The nine down state counties are New York, Kings, Queens, Bronx, Westchester, Nassau, Suffolk, Rockland and Richmond. The address of the New York Department of State, Certification Unit is 6th Floor, 270 Broadway, New York, New York 10007, tel: 212-417-5684. Fee: \$10.00.

North Carolina: Office of Secretary of State, Authentication Division, 300 N. Salisbury Street, N.C. 27603-5909, 919-733-4129. Fee: \$6.25. Designated Authority: Secretary of State; Deputy Secretary of State

North Dakota: Office of Secretary of State, Capitol Building, Bismarck, ND 58505, 701-328-2900. Fee: \$10.00. Designated Authority: Secretary of State; Deputy Secretary of State.

Ohio: Office of the Secretary of State, 30 East Broad St., 14th Fl., Columbus, OH 43266-0418, 614-466-2585. Fee: \$5.00. Designated Authority: Secretary of State; Assistant Secretary of State.

Oklahoma: Office of Secretary of State, 2300 N. Lincoln, Room 101, Oklahoma City, OK 73105, 405-521-4211. Fee: \$25.00 (cashiers check or money order). Designated Authority: Secretary of State; Assistant Secretary of State; Budget Officer of the Secretary of State.

Oregon: Office of Secretary of State, 255 Capitol St., Suite 151, Salem OR 97310, 503-986-2200. Fee: \$10.00. Designated Authority: Secretary of State; Deputy Secretary of State; Acting Secretary of State; Assistant to the Secretary of State.

→ **Pennsylvania:** Department of State, Bureau of Commissions, Elections and Legislation, North Office Building, Room 304, Harrisburg, PA 17120, 717-787-5280. Fee: \$15.00. Designated Authority: Secretary of the Commonwealth; Any Deputy Secretary of the Commonwealth, Commissioner of the Bureau of Commissions, Elections and Legislation.

Rhode Island: Office of Secretary of State, Notary Division, 100 N. Main St., Providence, RI 02903, 401-277-1487. Fee: \$5.00. Designated Authority: Secretary of State; First Deputy Secretary of State; Second Deputy Secretary of State

South Carolina: Office of Secretary of State, P.O. Box 11350, Columbia, SC 29211, 803-734-2119. Fee: \$2.00. Designated Authority: Secretary of State

South Dakota: Office of Secretary of State, 500 East Capitol, Pierre, SD 57501-5077, 605-773-5004. Fee: \$2.00. Designated Authority: Secretary of State; Deputy Secretary of State

Tennessee: Office of Secretary of State, James K. Polk Building, 18th Floor, Nashville, TN 37243-0306, 615-741-3699. Fee: \$2.00. Designated Authority: Secretary of State.

Texas: Office of Secretary of State, P.O. Box 12079, Austin, TX 78711, 512-463-5705. Fee: \$10.00. Designated Authority: Secretary of State; Assistant Secretary of State

Utah: Office of the Lieutenant Governor, State Capitol, Room 203, Salt Lake City, UT 84145-8414, 801-538-1040. Fee: Certifying Notary's Seal: \$10.00. Apostille: \$5.00. Designated Authority: Lieutenant

CHAPTER M

JUDGMENTS

REVIVAL OF JUDGMENTS/LIENS. (Pa.R.C.P. Nos. 3025 et seq.)

1. GENERAL NOTES (Standard Pennsylvania Practice 2d).

a. GENERALLY (70:114).

(1). The procedure for the revival of judgment liens is governed by the Pa.C.S.A. Nos. 3025 - 3034. The earlier practice and procedure of revival of judgments by writ of scire facias is abolished.

(2). The writ of revival is the equivalent of a complaint in assumpsit, and the rules relating to the action of assumpsit govern proceedings to revive the lien of a judgment so far as they are applicable. (Note: On 7/1/84 the term assumpsit was discontinued in R.C.P. and included in the definition of the term "Civil Action.")

b. METHODS OF REVIVAL (70:115).

(1). A proceeding to revive and continue the lien of a judgment may be commenced by the filing, with the Prothonotary of the county in which the judgment has been entered, (1) a praecipe for a writ of revival (Note: for adverse proceedings) in substantially the form provided by Pa.R.C.P. No. 3032 or (2) an agreement to revive (Note: for amicable proceedings) substantially in the form provided by Pa.R.C.P. No. 3034.

(2). A revival of a judgment lien may not be obtained by a petition for a rule to show cause why a judgment should not be revived and a judgment entered.

c. AGREEMENTS TO REVIVE JUDGMENTS (Amicable Procedure) (70:116).

(1). An agreement to revive a judgment is a written agreement, signed by the judgment debtor or person to be bound, no judicial action on the part of the court, but has all the force and effect of a judgment entered in an adverse writ of revival proceeding; and such an agreement includes a confession of judgment. A written acknowledgment by the defendant that the judgment was in full force, duly entered on the docket, may constitute an effectual revival of the lien.

(2). The lien of the judgment cannot be continued against a terre-tenant by an agreement to revive judgment unless the agreement is in writing.

d. REQUIREMENT OF IDENTIFICATION OF JUDGMENT (70:117). An agreement to revive a judgment lien must correctly recite the judgment to be revived, and must substantially identify it as to parties, date, and amount. (See Pa.R.C.P. No. 3034).

e. SIGNATURE (70:118).

(1). It is not necessary that an agreement to revive a judgment lien be signed by the plaintiff as well as the defendant; only the signature of the latter (defendant) is requisite.

(2). The revival of a judgment lien against a decedent by agreement is effective, although a personal representative fails to sign it as such, where the record shows that he is the personal representative.

(3). The lien of a judgment cannot be continued as against a terre-tenant by an amicable agreement to revive unless he signs it. However, the failure of a terre-tenant who signs an amicable agreement for the revival of a judgment to designate himself as terre-tenant is not fatal where he is so designated in the appearance docket and in the caption to the agreement for the revival of judgment, which describes exactly the names of the parties, the term and number of the case, and the date and amount of the judgment as revived.

f. NECESSITY OF INDEXING AGREEMENT (70:120). On the filing of an agreement to revive a judgment, the Prothonotary must index it in the judgment index against each defendant and terre-tenant named in it. (Note: Indexing must be done in order to be effective).

g. PRAECIPE FOR WRIT OF REVIVAL (Adverse Procedure) (70:121).

(1). The praecipe should correctly identify the judgment sought to be revived, because the writ must conform to the praecipe and if the praecipe is defective in this regard, the writ is also defective, even though the writ as issued correctly identifies the judgment.

(2). The praecipe is of some importance, in that for many purposes it marks the time of commencement of the revival proceeding (See Pa.R.C.P. No. 3032).

h. NATURE OF WRIT OF REVIVAL (70:123). A proceeding to revive and continue the lien of a judgment is a substitute for an action of debt on the judgment. It is however, regarded not as an original action, but as a suit on the judgment. This writ is not an original writ, but merely process to continue or revive the lien of a judgment obtained in an original action. The purpose of a writ of revival of a judgment is to serve notice on the defendant of the plaintiff's action in order that the defendant may enter its defense.

i. FORMAL REQUIREMENTS WRIT OF REVIVAL (70:124). A writ of revival to revive a judgment lien should not issue until the record is in proper shape, because the writ must correspond to the record. The writ of revival issues on the judgment and must follow it and conform to it. Also a writ of revival should be dated, signed by the Prothonotary and have the seal of the court annexed to it, all of which requirements are matters going to the validity of the writ, and not to mere formalities. A writ of revival may be signed by the deputy Prothonotary.

j. REQUIREMENT OF IDENTIFICATION OF JUDGMENT (70:125).

(1). The writ of revival must identify the judgment properly in all substantial matters, including the amount, date, and names of the parties (See Pa.R.C.P. No. 3033).

(2). The lien of a judgment is not continued unless the writ of revival properly recites and identifies the original judgment and a defect in this regard is fatal on a defense of nonexistence of the record. However, if a defense of nonexistence of the record is not raised, the judgment entered in the writ of revival proceeding becomes effective if the record shows the identity of the judgment involved. For indexing in the record, see Pa.R.C.P. No. 3027.

2. GENERAL NOTES (Pennsylvania Rules of Civil Procedure).

a. WRIT OF REVIVAL. INDEXING. LIEN. (Pa.R.C.P. No. 3027).

(1). The Prothonotary shall index the writ of revival or agreement for judgment of revival in the judgment index against each defendant and terre tenant named.

(2). The writ when indexed shall be a lien upon all real property within the county.

NOTE: The lien attaches whether or not the real property was owned by the defendant at the time the judgment was indexed or

previously revived and whether or not the lien of the judgment had been lost as to the property.

(3). The lien shall continue for a period of five years from date of indexing.

b. SERVICE OF WRIT (Pa.R.C.P. No. 3028). The writ shall be served in the manner provided by Pa.R.C.P. No. 400 et seq. for service of original process. A return of no service shall be equivalent to personal service.

c. REISSUANCE (Pa.R.C.P. No. 3029). The writ may be reissued or substituted as a civil action.

d. PLEADINGS. FURTHER PROCEEDINGS. (Pa.R.C.P. No. 3030).

(1). The writ shall be the equivalent of a complaint in a civil action. The rules relating to a civil action so far as applicable shall govern further proceedings. No counterclaim may be asserted.

(2). The lien of the writ shall continue during the further proceedings.

(3). If judgment cannot be entered on the writ because of further proceedings, the court may enter an order continuing the lien for a period not exceeding five years. The order becomes effective when indexed.

e. JUDGMENT UPON DEFAULT OR ADMISSION. ASSESSMENT OF DAMAGES (Pa.R.C.P. No. 3031).

(1). The Prothonotary, on praecipe of the plaintiff, shall enter judgment against a defendant or terre-tenant for failure within the required time to plead to the writ or for any relief admitted to be due by the defendant's or terre-tenant's pleading. The Prothonotary shall assess damages as directed in the praecipe for judgment.

(2). In all cases the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.

3. AGREEMENTS TO REVIVE (Amicable procedure) (Pa.R.C.P. No. 3025 through 3034).

a. Upon presentation of an agreement to revive, it should be examined for the following:

(1). Recital of the judgment to be revived, parties, date, amount and original judgment/subsequent revival judgment numbers.

(2). Defendant's signature and, if any, terre-tenant's signature (for legibility, print or type the name of signatory under the signature).

(3). Agreement should be accompanied by either a certificate of residence of plaintiff and defendant/ terre-tenant or included on the agreement to revive form.

(4). Upon receipt of the agreement to revive and along with the payment of filing fee, Prothonotary shall:

(a). File and assign a court of common pleas number. Reference the previous judgment number with the assigned revival number. (Local practice dictates whether the caption will have the number of the original judgment or bear a new one. If assigning a new court of common pleas number, cite the previous revival number.)

(b). Agreements to revive filed, but not yet indexed, shall be readily available to the public.

(c). Index agreement to revive by entry of full names of parties, amount of judgment of revival, date of filing, case number and type of revival, i.e. by agreement.

(d). Docket case pursuant to the GENERAL PROVISIONS Section of this manual. An entry shall be made in the docket of the mailing of the notice of the entry of revival of judgment.

(e). For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

(f). For certifications under this category, see the PROOF OF OFFICIAL RECORDS (Certification/ Exemplification) Section of the manual.

4. WRIT OF REVIVAL (Adverse Procedure) (Pa.R.C.P. No. 3032 (Form)).

a. PRAECIPE: Upon presentation of a praecipe for writ of revival and payment of fee, it should be examined for the following:

(1). Directed to Prothonotary of correct county.

(2). Recital of the previously numbered judgment(s), parties, date, amount and interest date.

(3). Parties' addresses.

(4). Signature of counsel for plaintiff or if pro se signature of plaintiff (print or type name of signatory under written signature).

(5). Upon receipt of the praecipe for writ of revival and along with the payment of filing fee, Prothonotary shall:

(a). File and assign a court of common pleas number. Reference the previous judgment number with the assigned revival number.

(b). Proceed to issuance of writ of revival.

b. ISSUANCE OF WRIT OF REVIVAL. Issue writ pursuant to Pa.R.C.P. No. 3033 (Form) and return to filing party or as directed for service.

(1). Index writ of revival by entry of full names of parties, not amount claimed to be due (optional), date of filing praecipe and issuance of writ of revival, case number and type of revival, i.e. writ of revival.

(2). Docket case pursuant to the GENERAL PROVISIONS Section of this manual.

(3). Show method of service on docket, when proof of service is filed (Pa.R.C.P. No. 3028).

c. If pleadings, or further proceedings filed, continue on docket as in any other civil proceeding. (Pa.R.C.P. No. 3030).

d. Upon receipt of praecipe for judgment upon default or admission and assessment of damages, Prothonotary shall proceed to index and docket as in any other civil proceeding where judgment is entered. (Pa.R.C.P. No. 3031).

(1). For certifications under this category, see the PROOF OF OFFICIAL RECORDS (Certification/Exemplification) Section of this manual.

(2). For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of this manual.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

6. Form:

Praecipe for Writ of Revival

Writ of Revival

Agreement to Revive

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Pltf's Name & Address:

Deft(s) Name(s) & Address(es):

Terre-Tenant(s) Name(s) & Address(es):

File No. _____

PRAECIPE FOR WRIT OF REVIVAL

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue Writ of Revival of Lien of Judgment entered at _____ (Court, Number)
and enter it in the Judgment Index against _____

_____ (Name of Defendant(s))

and _____
_____ (Name of Terre-Tenant(s))

in the amount of \$ _____ with interest from _____

Signature: _____

Print Name: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

CIVIL DIVISION

.....

File No. _____

WRIT OF REVIVAL

TO: _____ DEFENDANT(S)
and _____ TERRE-TENANT(S)

- (1) You are notified that the plaintiff has commenced a proceeding to revive the lien of the judgment entered at _____ (Court, Number)
- (2) The plaintiff claims that the amount due and unpaid is \$ _____ with interest from _____
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the plaintiff may be entered without a hearing and you may lose your property or other important rights.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name of Office)

(Address of Office)

Telephone Number: _____

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

CHAPTER M

JUDGMENTS

CERTIFICATION OF MOTOR VEHICLE JUDGMENT.

1. GENERAL NOTES.

a. NONPAYMENT OF JUDGMENTS. COURT REPORTS ON NONPAYMENT OF JUDGMENTS (75 Pa.C.S.A. § 1771).

(1). General rule - Whenever any person fails within sixty days to satisfy any judgment arising from a motor vehicle accident, the judgment creditor may forward to the department (Bureau of Traffic Safety) a certified copy of the judgment. (Form TS-201 Certification of Motor Vehicle Judgment signed and sealed by Prothonotary. Form attached as an exhibit to this manual).

(2). Notice to state of nonresident defendant - If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

b. SUSPENSION FOR NONPAYMENT OF JUDGMENTS (75 Pa.C.S.A. § 1772).

(1). General rule - The department, upon receipt of a certified copy of a judgment, shall suspend the operating privileges of each person against whom the judgment was rendered except as otherwise provided in this section and in section 75 Pa.C.S.A. § 1775 (relating to installment payment of judgments).

(a). Certification of a judgment resulting from a traffic accident, where that judgment was obtained by a confession of judgment clause in a judgment note, did not constitute sufficient evidence of negligent driving by the judgment debtor so as to permit the application.... which related to nonpayment of a judgment and mandated suspension of the motorist's operating license (75 Pa.C.S.A. § 1742, Notes of Decisions No. 5. Evidence (Repealed - superseded by 1772)).

(2). Nonsuspension with consent of judgment creditor - If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor's operating privilege be retained or restored, the department shall not suspend or shall restore until the consent is revoked in writing, notwithstanding default in the payment of

the judgment, or of any installment thereof prescribed in 75 Pa.C.S.A. § 1775, provided the judgment debtor furnishes proof of financial responsibility. (Prothonotary does not get involved in this process.)

(3). Financial responsibility in effect at time of accident - Any person whose operating privilege has been suspended, or is about to be suspended or become subject to suspension, under this chapter shall be relieved from the effect of the judgment as prescribed in this chapter if the person files evidence satisfactory to the department that financial responsibility was in force and effect at the time of the accident resulting in the judgment and is or should be available for the satisfaction of the judgment. If insurance already obtained is not available because the insurance company has gone into receivership or bankruptcy, the person shall only be required to present to or file with the department proper evidence that an insurance policy was in force and effect at the time of the accident.

c. CONTINUATION OF SUSPENSION UNTIL JUDGMENTS PAID AND PROOF GIVEN (75 Pa.C.S.A. § 1773). A person's operating privilege shall remain suspended and shall not be renewed in the name of the person unless and until every judgment is stayed, satisfied in full or to the extent provided in this subchapter, and until the person furnishes proof of financial responsibility as required.

d. PAYMENTS SUFFICIENT TO SATISFY JUDGMENTS (75 Pa.C.S.A. § 1774(c)). Escrow deposit by judgment debtor - When the judgment creditor cannot be found, the judgment debtor may deposit in escrow with the Prothonotary of the court where the judgment was entered an amount equal to the amount of the judgment, subject to the limits set forth in subsection (a), legal rate of interest (41 P.S. § 202) to date and record costs, whereupon the Prothonotary shall notify the department and the judgment shall be deemed satisfied. The amount deposited shall be retained by the Prothonotary for a period of five years from the date of the deposit, after which, if it has not been claimed by the judgment creditor, it shall be returned to the judgment debtor. When the deposit is made, the Prothonotary shall notify the judgment creditor and his counsel, if any, by certified or registered mail at his last known address. No interest shall run on any judgment with respect to the amount deposited with the Prothonotary under the terms of this subsection.

EXAMPLE: Judgment for \$1,000.00 was entered on July 1, 1986, and under said cite, debtor elects to make payment to Prothonotary. Legal rate of interest per annum is 6%; costs are \$14.25; and date of payment is October 2, 1989. Calculations are as follows:

7/1/86	Judgt. Entered		\$1,000.00
	Interest	X	.06
	1st Yr. Int.		60.00
	Judgt.	+	\$1,000.00
7/1/87	Total Judgt/Int.		\$1,060.00
	Interest	X	.06
	2nd Yr. Int		63.60
	1st Yr. Total J/I	+	\$1,060.00
7/1/88	Total Judgt/Int.		\$1,123.60
	Interest	X	.06
	3rd Yr. Int.		67.42
	2nd Yr. Total J/I	+	\$1,123.60
7/1/89	Total Judgt/Int.		\$1,191.02
10/2/89	3 mos. Int.	X	.015*
	Final Int.		17.87
	3rd Yr. Judgt/Int.	+	\$1,191.02
	TOTAL JUDGT/INT.		\$1,208.89
	COSTS	+	14.25
	TOTAL AMOUNT DUE		\$1,223.14

*.06 (6%) per annum divided by 12 Mos. = .005 (½%) per month.
3 months X .005 = .015 (1½%)

e. INSTALLMENT PAYMENT OF JUDGMENTS (75 Pa.C.S.A. § 1775).

(1). Order authorizing installment payment - A judgment debtor, upon due notice to the judgment creditor, may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments. (See subsection 1.b.(1).(a). regarding agreements with confession of judgment clause.)

(2). Suspension prohibited during compliance with order - The department shall not suspend a driver's operating privilege and shall restore any operating privilege suspended following nonpayment of a judgment when the judgment debtor obtains an order permitting payment of the judgment in installments and while the payment of any installment is not in default, provided that the judgment debtor furnishes proof of financial responsibility.

(3). Suspension for default in payment - In the event the judgment debtor fails to pay installment as specified by the order, then, upon notice of the default, the department shall suspend the operating privilege of the judgment debtor until the judgment is satisfied as provided in this chapter.

f. PROOF OF FINANCIAL RESPONSIBILITY (75 Pa.C.S.A. § 1781). Notice of sanction for not evidencing financial responsibility - An applicant for registration of a vehicle shall acknowledge on a form developed by the Department of Transportation that the applicant knows he may lose his operating privilege or vehicle registrations if he fails to evidence financial responsibility for the purposes described in 75 Pa.C.S.A. § 1772 (relating to suspension for nonpayment of judgments); 1783 (relating to proof of financial responsibility before restoring operating privilege or registration); 1784 (relating to proof of financial responsibility following violation); or 1785 (relating to proof of financial responsibility following accident). (Prothonotary does not become involved in this proceeding - information only.)

2. PROCEDURES FOR CERTIFICATION.

a. Obtain information from judgment creditor to the extent needed to complete TS-201 (Certification to Bureau of Traffic Safety).

b. Upon notification from the judgment creditor that judgment was not satisfied and after sixty days from the entry of the judgment, the Prothonotary shall, if instructed by the creditor and the judgment is valid, certify the motor vehicle judgment to the Bureau of Traffic Safety on the form prescribed by the Department of Transportation (TS-201).

c. Retain a copy of the Certification of Motor Vehicle Judgment (TS-201) form in the case file and note issuance in docket.

d. Upon request and payment of fee, Prothonotary shall issue a signed and sealed proof of satisfaction.

3. RETENTION AND DISPOSITION SCHEDULE. Ministerial Procedure. If item is not in this schedule, contact State Archives for retention information.

CHAPTER M

JUDGMENTS

JUDGMENT FOR COLLECTION OF RESTITUTION, REPARATIONS, FEES, COSTS, FINES AND PENALTIES IN CRIMINAL PROCEEDINGS (42 Pa.C.S.A. § 9728).

1. GENERAL NOTES (Act No. 1990-181, as amended by Act No. 1996-3)

a. Providing for the collection of all restitution, reparation, fees, costs, fines and penalties which are part of a criminal action or proceeding, and which shall not be deemed debts. A sentence or pretrial disposition order for the previous listed items shall, together with interest and any additional costs that may accrue, be a judgment in favor of the probation department upon the person or the property of the person sentenced or subject to the pretrial disposition order.

b. Any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

2. PROCEDURES

a. Upon receipt of a praecipe to enter judgment for collection of restitution, reparations, fees, costs, fines and penalties together with a stamped, pre-addressed envelope and notice under Pa.R.C.P. No. 236, Prothonotary shall assign a court of common pleas number and file the judgment.

b. Prothonotary must accept and enter the judgment without requiring the payment of costs as a condition precedent to the entry thereof. However, any filing fee shall be borne by the defendant and shall be collected by the county probation department and remitted to the Prothonotary at time of satisfaction of judgment.

c. The Prothonotary shall promptly mail the notice of filing to the debtor which notice shall contain the name and address of the creditor.

d. Index and docket the case pursuant to the GENERAL PROVISIONS Section of the manual.

3. RETENTION AND DISPOSITION SCHEDULE pending.

CHAPTER M

JUDGMENTS

WORKMEN'S COMPENSATION AWARD. (77 P.S. § 921 et seq.)

1. GENERAL NOTES.

a. Whenever the employer, who has accepted and complied with the provisions of 77 P.S. § 501, shall be in default in compensation payments for 30 days or more, the employee or dependents entitled to compensation thereunder, may file a certified copy of the agreement and order of the department approving same, or a certified copy of an award or order with the Prothonotary of any county.

(1). The Prothonotary shall enter the entire balance payable under the agreement, award or order as a judgment against the employer or insurer liable under such agreement or award.

b. Whenever any employee or his dependents shall have entered into a compensation agreement with an employer who has not accepted or complied with the provisions of 77 P.S. § 501, or shall file a claim petition against such employer, he may file a certified copy thereof with the Prothonotary of any county.

(1). The Prothonotary shall enter the amount stipulated in any such agreement or claim petition as judgment against the employer. Where the amount so stipulated or claimed is for total and permanent disability, such judgment shall be in the sum of \$30,000.

c. If the agreement is disapproved, or after hearing, compensation is disallowed, the employer may file with the Prothonotary of any county in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of agreement or disallowance of compensation.

(1). It shall be the duty of the Prothonotary to then strike the judgment.

d. If the amount of compensation awarded is different from that originally claimed, the compensation judgment shall be a lien to the extent of the award, as of the date of filing the claim petition with the Prothonotary.

(1). In such cases, the Prothonotary shall make such modification of the record as appropriate, upon receipt of the certification.

e. Execution may issue by first filing with the Prothonotary an affidavit that there has been a default in payments due on any judgment for compensation.

f. Upon the presentation of a certificate from the department stating the extent to which the judgment on agreement or award has been reduced to the Prothonotary of any county in which the agreement or award is filed, it shall be the Prothonotary's duty to mark such judgment satisfied to the extent of payments so certified. Upon presentation to the Prothonotary of a certificate issued under 77 P.S. § 317, it shall be the duty of the Prothonotary to mark judgment fully satisfied.

g. The cost of the Prothonotary for entering the amount of compensation, or making a modification of the record, or marking judgment satisfied, shall be allowed, taxed and collected as upon a confession of judgment on a judgment note.

2. PROCEDURE.

a. Upon presentation of a certified copy of the appropriate documents, along with payment of filing fee, the Prothonotary shall file and assign a court of common pleas number.

b. Index case by entry of names of parties, amount of claim, date of filing, case number and nature of lien.

c. Information filed, but not yet indexed, shall be readily available to the public.

d. Docket case pursuant to the GENERAL PROVISIONS Section of the manual.

e. For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

CHAPTER N

LIENS

MAGISTERIAL DISTRICT JUDGE JUDGMENT LIEN (Pa.R.C.P.M.D.J. Nos. 205.B. and 402.D.).

1. Upon presentation of a copy of the record of the proceedings containing the judgment, certified by the magisterial district judge in whose office the judgment was rendered (a/k/a M.D.J. transcript) and along with payment of filing fee, Prothonotary shall file and assign a court of common pleas number.

(NOTE: The judgment may not be entered in the court of common pleas after five (5) years from the date the judgment is entered by the district justice.)

2. A completed notice of entry of judgment pursuant to Pa.R.C.P. No. 236, together with a stamped and addressed envelope shall be provided at time of filing. An entry shall be made in the docket of the mailing of the notice of the entry of judgment.

3. Information on judgments filed, but not yet indexed, shall be readily available to the public.

4. Index case by entry of full names of parties, amount of judgment (if any), date of filing, case number and nature of lien.

5. Docket the case pursuant to the GENERAL PROVISIONS Section of the manual.

6. For certifications under this category, see the PROOF OF OFFICIAL RECORDS (Certification/Exemplification) Section of this manual.

7. For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

8. See Pa.R.C.P.M.D.J. Nos. 807 on minors, 809 on incompetents; and 42 Pa.C.S.A. § 1516 regarding Lien of Judgment.

9. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

(b). #13, Judgments and Liens

10. Reference:

Act 1996-5

11. Forms:

Notice of Judgment/Transcript--Civil Case

Notice of Judgment/Transcript--Residential Lease

Notice of Judgment/Transcript--Nonresidential Lease

Notice of Judgment/Transcript--Supplementary Action



Effective: January 31, 2005

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)

Part VII. Civil Actions and Proceedings

▣ Chapter 81. Judgments and Other Liens (Refs & Annos)

▣ Subchapter B. Exemptions from Execution (Refs & Annos)

→ → § 8127. Personal earnings exempt from process

(a) General rule and exceptions.--The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

(1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

(2) For support.

(3) For board for four weeks or less.

(3.1) For amounts awarded to a judgment creditor- landlord arising out of a residential lease upon which the court has rendered judgment which is final. However, the amount subject to attachment shall have deducted from it any security deposit held by the judgment creditor-landlord and forfeited by the judgment debtor-tenant under section 511.1 of the act of April 6, 1951 (P.L. 69, No. 20), [FN1] known as The Landlord and Tenant Act of 1951, unless the security deposit has been applied to payment of rent due on the same premises for which the judgment for attachment has been entered. The judgment creditor-landlord shall have the burden of proving that such security deposit has been applied to payment of rent due on the premises herein described. The sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less. For the purposes of this paragraph, "net wages" shall mean all wages paid less only the following items:

(i) Federal, State and local income taxes.

(ii) F.I.C.A. payments and nonvoluntary retirement payments.

(iii) Union dues.

(iv) Health insurance premiums.

(3.2) In the case of wage attachment arising out of a residential lease, to implement the wage attachment, the judgment creditor-landlord shall comply with the Pennsylvania Rules of Civil Procedure and any applicable local rules. The judgment of the magisterial district judge, magistrate or any other court having jurisdiction over landlord and tenant matters or a judgment before the court of common pleas shall reflect that portion of the judgment which is for physical damages arising out of a residential lease.

(4) Under the act of August 7, 1963 (P.L. 549, No. 290), [FN2] referred to as the Pennsylvania Higher Education Assistance Agency Act.

(5) For restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.

(b) Priority.--An order of attachment for support shall have priority over any other attachment, execution, garnishment or wage assignment.

(c) Duty of employer.--

(1) For any wage attachment arising out of a residential lease, the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding \$5 of the amount of money so collected. If an employer is served with more than one attachment arising out of a residential lease against the same judgment debtor, then the attachments shall be satisfied in the order in which they were served. Each prior attachment shall be satisfied before any effect is given to a subsequent attachment, subject to subsection (a)(3.2). Upon receipt of the wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

(2) For any wage attachment not arising out of a residential lease, the employer shall send the attached withheld wages to the prothonotary of the court of common pleas to be recorded, and upon receipt, the wages shall be sent to the creditor.

(d) Duty of judgment creditor-landlord.--

(1) Any judgment creditor-landlord who has received satisfaction of any judgment pursuant to this section shall enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(2) A judgment creditor-landlord who shall fail or refuse for more than 30 days after receiving satisfaction to

comply with paragraph (1) shall pay to the judgment debtor-tenant as liquidated damages 1% of the original amount of the judgment for each day of delinquency beyond such 30 days but not more than 50% of the original amount of the judgment. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.

(e) Prohibition against discharge.--The employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.

(f) Victim of abuse.--This section shall not apply and no wage attachment shall be issued against an abused person or victim, as defined in 23 Pa.C.S. § 6102 (relating to definitions), for physical damages related to residential leases when said person has obtained a civil protection order pursuant to 23 Pa.C.S. § 6101 et seq. (relating to protection from abuse), or has obtained a protective order pursuant to 18 Pa.C.S. § 4954 (relating to protective orders), or is a victim-witness as defined by 18 Pa.C.S. § 4951 (relating to definitions), in a criminal proceeding against a family or household member, as defined in 23 Pa.C.S. § 6102, and it is determined by the court that the physical damages were caused by the family or household member.

(g) Application of section.--This section shall apply to all judgments which remain unsatisfied or arise on or after the effective date of this subsection.

(h) Definition.--For purposes of this section, "physical damages" shall mean the abuse of the physical makeup of the leasehold premises. The term shall include, but not be limited to, the abuse of walls, floors, ceilings or any other physical makeup of the leasehold premises.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(95), effective June 27, 1978; 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days; 1990, Dec. 19, P.L. 1240, No. 206, § 4, effective in 90 days; 1996, Feb. 23, P.L. 13, No. 5, § 1, imd. effective; 1998, June 18, P.L. 640, No. 84, § 4, effective in 120 days; 2002, Dec. 9, P.L. 1705, No. 215, § 4.1, imd. effective; 2004, Nov. 30, P.L. 1618, No. 207, § 18, effective in 60 days [Jan. 31, 2005].

[FN1] 68 P.S. § 250.511a.

[FN2] 24 P.S. § 5101 et seq.

BAR ASSOCIATION COMMENT--1976

Source Note: Derived from act of May 23, 1887 (P.L. 164), § 1 (12 P.S. § 2175) and act of June 7, 1915 (P.L. 866), § 1 (12 P.S. § 2176).

BAR ASSOCIATION COMMENT--1978

Derived from act of April 15, 1845 (P.L. 459, No. 303), § 5 (42 P.S. § 886), act of June 7, 1907 (P.L. 429, No. 293), § 3 (12 P.S. § 1005), and act of July 13, 1953 (P.L. 431, No. 95), § 9 (62 P.S. § 2043.39).

HISTORICAL AND STATUTORY NOTES

Act 1998-84 legislation

Act 1998-84 added subsec. (a)(5).

Act 2002-215 legislation

Act 2002-215, § 4.1, in subsec. (a)(3.1), substituted “For amounts awarded” for “For damages awarded”; in subsec. (a)(3.2), substituted “attachment arising” for “attachment for damages arising” and “for physical damages” for “for damages”; in subsec. (c)(1), substituted “attachment arising” for “attachment for damages arising” and “attachment arising out of a residential lease” for “attachment for damages arising out of a residential lease”; in subsec. (c)(2), substituted “attachment not arising” for “attachment other than for damages arising”; in subsec. (f), inserted “physical” preceding “damages” in two places; and in subsec. (h), substituted “ ‘physical damages’ shall mean” for “ ‘damages’ shall mean” and substituted “The term” for “Damages”.

Act 2004-207 legislation

Act 2004-207, § 18, amended the section to reflect the redesignation of district justices as magisterial district judges.

Prior Laws:

1810, March 20, P.L. 208, 5 Sm.L. 161, § 9 (42 P.S. § 861).

1845, April 15, P.L. 459, § 5 (42 P.S. § 886).

1876, May 8, P.L. 139, § 1 (42 P.S. § 621).

1885, June 24, P.L. 158, § 1.

1887, May 23, P.L. 164, § 1 (12 P.S. § 2175).

1905, April 10, P.L. 134, § 1.

1907, June 7, P.L. 429, § 3 (12 P.S. § 1005).

1913, May 1, P.L. 132, §§ 1, 2 (42 P.S. §§ 621, 622).

1915, June 7, P.L. 866, § 1 (12 P.S. § 2176).

1956, May 29, P.L. (1955) 1852, § 1.


CROSS REFERENCES

Attachment of wages to satisfy judgment under this section, see Pa.R.C.P. No. 3301 et seq.
Medical education loans, garnishment of wages on default, see 24 P.S. § 22-2213-A.

LAW REVIEW AND JOURNAL COMMENTARIES

Garnishment of wages. (1966) 70 Dick.L.Rev. 199.

LIBRARY REFERENCES

Exemptions 48.
Westlaw Topic No. 163.
C.J.S. Exemptions §§ 39, 131 to 133, 135, 137 to 149.

RESEARCH REFERENCES

ALR Library

52 ALR 5th 221, Enforcement of Claim for Alimony or Support, or for Attorneys' Fees and Costs Incurred in Connection Therewith, Against Exemptions.

67 ALR 1203, Deposit of Exempt Funds as Affecting Debtor's Exemption.

58 ALR 777, Who is 'employee' Within Debt Exemption.

Encyclopedias

Summary Pa. Jur. 2d Employment and Labor Relations § 1:83, Wage Attachments.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:69, Generally; Wages Exempt from Attachment.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:71, Applicability to State and Political Subdivisions.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:73, Duty of Employer.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:74, Prohibition of Discharge.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:76, Attachment of Wages in Action for Divorce or Annulment; Equitable Distribution.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:77, Attachment of Income in Action for Support.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:78, Attachment of Income in Action for Support--Priority.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:79, Attachment of Wages in Action for Board.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:80, Attachment of Wages for Amounts Arising from Residential Lease.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:81, Attachment of Wages in Action Under Pennsylvania Higher Education Assistance Agency Act.

Summary Pa. Jur. 2d Property § 26:109, Attachment of Wages for Damages Arising from Residential Lease.

Forms

3 West's Pennsylvania Forms § 65:55, Claim for Exemption.

10 West's Pennsylvania Forms § 16.0, Introduction.

Treatises and Practice Aids

Goodrich-Amram 2d § 3301:1, Scope.

Goodrich-Amram 2d § 3303:3, Challenges to Claims of Exemptions.

Goodrich-Amram 2d § 3304:3, Form of Writ.

Goodrich-Amram 2d Rule 3101, Definitions. Garnishee. Scope.

Goodrich-Amram 2d Rule 3140, Notice by Garnishee.

Goodrich-Amram 2d Rule 3159, Acts of Assembly Not Suspended.

Goodrich-Amram 2d Rule 3301, Scope. Definitions.

Goodrich-Amram 2d Rule 3303, Exemption from Attachment. Procedure.

Goodrich-Amram 2d Rule 3304, Writ for the Attachment of Wages. Issuance. Service.

Goodrich-Amram 2d Rule 3312, Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.

Goodrich-Amram 2d § 3146(A):6, Hearing to Assess Amount of Judgment.

Goodrich-Amram 2d Rule 3123.1, Claim for Exemption or Immunity of Property. Prompt Hearing.

Standard Pennsylvania Practice § 74:2, Exemptions, Generally.

Standard Pennsylvania Practice § 74:7, Maintenance or Loss of Exemption Upon Transfer of Funds.

Standard Pennsylvania Practice § 77:1, Scope of Proceedings and Involvement of Parties.

Standard Pennsylvania Practice § 74:10, Judgments and Support Orders in Domestic Relations Actions.

Standard Pennsylvania Practice § 74:27, Exemption and Exceptions, Generally.

Standard Pennsylvania Practice § 74:28, What Constitutes Exempt Personal Earnings.

Standard Pennsylvania Practice § 74:30, Limitations on Exception for Amounts Arising Out of Residential Lease.

Standard Pennsylvania Practice § 74:38, Notice--Attachment of Wages for Judgment Arising Out of Residential Lease.

Standard Pennsylvania Practice § 74:49, Landlord-Creditor's Motion Challenging Claim of Exemption; Setting of Hearing Date.

Standard Pennsylvania Practice § 77:92, Exemption.

Standard Pennsylvania Practice § 77:93, Writ of Attachment; Issuance and Service.

Standard Pennsylvania Practice § 77:95, Form--Notice of Intent to Attach Wages, Salary or Commissions.

17 West's Pennsylvania Practice § 5:21, Enforcement.

16B West's Pennsylvania Practice § 31:15, Fine.

16B West's Pennsylvania Practice § 31:16, Restitution.


16B West's Pennsylvania Practice § 31:35, Imposition of Costs; Criminal Laboratory User Fee.


16B West's Pennsylvania Practice § 31:36, Failure to Pay Fine and Costs.


NOTES OF DECISIONS

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1. Construction and application

This section does not operate against the state and thus does not operate against the United States when it seeks to collect on a judgment. *U.S. v. Chiolo*, M.D.Pa.1983, 560 F.Supp. 279. Exemptions 77

Provision of this section barring garnishment of wages was not applicable to United States because it was not applicable to Commonwealth of Pennsylvania. *U. S. v. Kurtz*, E.D.Pa.1982, 547 F.Supp. 17. Exemptions 77

Attachment of obligor's wages is a remedy which is extremely circumscribed. *Sorace v. Sorace*, 655 A.2d 125, 440 Pa.Super. 75, Super.1995, appeal denied 668 A.2d 1135, 542 Pa. 673. Exemptions 48(1)

42 P.S. § 886 (repealed) relating to proceedings before justices of the peace and which exempted wages or salary from attachment in hands of an employer applied to all judgments in whatever court entered. *Hollander v. Kressman*, 17

A.2d 669, 143 Pa.Super. 32, Super.1941. Garnishment ⚙️33

2. Purpose

Garnishee is precluded from raising defense of exemption of wages following entry of default judgment, as purpose of defense is to protect judgment debtor from garnishment of wages. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Garnishment ⚙️131

Defense of exemption of wages from attachment is designed to protect wage earner. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Exemptions ⚙️48(1)


3. Wages


Pennsylvania exemption for “wages, salaries and commissions” of individuals while in the hands of their employer was not broad enough to apply to undistributed draws of Chapter 7 debtor, in his capacity as partner in law partnership, which represented profits of partnership that were distributed to debtor and other partners in accordance with formula set forth in partnership agreement, and that debtor had not reported as wages or salary on his federal income tax returns; while debtor asserted that these draws were on account of work that he performed for partnership, they were not “wages,” “salaries,” or “commissions,” within meaning of Pennsylvania exemption statute. *In re Oberdick, Bkrcty.W.D.Pa.2013*, 490 B.R. 687. Exemptions ⚙️48(2)


Money earned by Chapter 7 debtor while he was still partner in law firm could not constitute wages or salary under Pennsylvania law, and therefore funds being held for debtor in capital account at firm had to be something other than wages or salary and could not be claimed as exempt by debtor under Pennsylvania statute exempting wages, salaries, and commissions that were in employer's hands on ground that, at the time his bankruptcy case commenced, debtor was employee of, rather than partner with, firm; funds more likely than not represented either contribution made by debtor to law firm while he was partner or retained earnings from work performed by debtor while he was partner. *In re Titus, Bkrcty.W.D.Pa.2012*, 467 B.R. 592, motion to amend denied 479 B.R. 362. Exemptions ⚙️48(2)


Under Pennsylvania's version of Uniform Fraudulent Transfer Act (UFTA), which defined “transfer” to include both direct and indirect dispositions of assets, but did not treat property generally exempt under nonbankruptcy law as “asset,” indirect transfers of his wages accomplished by debtor through his employer's direct deposits of his compensation into checking account held as entireties property were properly recast as two discrete transfers, the first being employer's transfer of wages into debtor's hands and second being debtor's transfer of those wages into account, such that wages, which were exempt while being held by employer but nonexempt in debtor's hands, became non-exempt assets that were subject of “transfers” made by debtor for fraudulent transfer purposes. *In re Titus, Bkrcty.W.D.Pa.2012*, 467 B.R. 592, motion to amend denied 479 B.R. 362. Fraudulent Conveyances ⚙️24(1); Fraudulent Conveyances ⚙️51(2); Fraudulent Conveyances ⚙️95(2)


Government agency may not garnish wages to satisfy judgment in any type of proceeding other than to recover

Pennsylvania Higher Education Assistance Agency Act (PHEAA) loan. *Chester Upland School Dist. v. Mathews*, 705 A.2d 473, Cmwlth.1997. Exemptions 77


Even if Commonwealth, as sovereign, was not subject to statutory exemption of personal earnings from garnishment, municipal corporations, which are not themselves sovereign but only creations of Commonwealth, would not be exempt by statute. *Chester Upland School Dist. v. Mathews*, 705 A.2d 473, Cmwlth.1997. Exemptions 77



Remuneration inmate received for prison labor did not constitute “wages” within meaning of this section making personal earnings exempt from process; thus, this section did not prohibit withholding portion of inmate's remuneration to satisfy restitution penalty imposed as result of prison disciplinary hearing. *Mays v. Fulcomer*, 552 A.2d 750, 122 Pa.Cmwlth. 555, Cmwlth.1989. Exemptions 48(2)


In the absence of performance of services, funds payable in installments pursuant to an agreement not to compete that is part of a contract for the sale of an interest in a business do not constitute wages that are exempt from attachment under this section. *Peoples Bank of Western Pennsylvania v. Quicquaro*, 49 Pa. D. & C.3d 48 (1988). Exemptions 48(2)


Fees held by Blue Shield for participating physicians for services already rendered to patients constitute exempt wages in the hands of an employer under this section. *Continental Bank v. Abrams*, 47 Pa. D. & C.3d 582 (1987). Exemptions 48(2)

4. Support

Wages were not exempt from attachment to enforce foreign judgment for arrearages of unallocated alimony and support payments. *Goodstein v. Goodstein*, 563 A.2d 522, 386 Pa.Super. 556, Super.1989, on remand 11 Pa. D. & C.4th 294. Exemptions 62

Only monetary judgments for child or spousal support, and not judgments for equitable distribution of property, may be enforced through wage attachment. *Laughlin v. Laughlin*, 538 A.2d 927, 372 Pa.Super. 24, Super.1988, appeal granted 557 A.2d 725, 521 Pa. 622, affirmed in part , reversed in part 578 A.2d 922, 525 Pa. 141. Child Support 442; Divorce 1034

Employer could not collect by means of wage attachment judgment obtained by it against employee as restitution for employer's satisfaction of judgment against employee in favor of employer's former wife for debts unrelated to employee's support obligations. *Ankrom v. Ankrom*, 531 A.2d 509, 366 Pa.Super. 461, Super.1987. Exemptions 48(1)

An alimony obligation could be enforced by wage attachment by virtue of the exception to the exemption provision of this section. *Brown v. Brown*, 20 Pa. D. & C.3d 371 (1981). Divorce 1032

5. Board for four weeks or less

42 P.S. § 621 (repealed), applied only to board owed by the defendant himself; and when the record showed that the judgment covered board for both the defendant and his wife, and there was nothing to show how much was owed for each, the proceedings were set aside on certiorari. *Wilhelm v. Mumma*, 33 C.C. 169, 10 Del. 218, 16 Dist. 463, 5 Just. 154, 24 Lanc. 91, 2 Leh. 147, 20 York 157, 1907; *Walker v. Kennedy*, 20 C.C. 433, 7 Dist. 516, 2 Docket 67, 1 Docket 163, 1898.

Judgment could not be collected by issuing successive attachments, so as to collect the entire claim in instalments of four weeks' board each. *Hawk v. Rock*, 14 C.C. 490, 3 Dist. 374, 1894; *Coyne v. Slane*, 6 Lack.L.N. 217, 1900.

Alderman properly refused defendant's claim for exemption where judgment was for board and lodging, although 42 P.S. § 621 (repealed) denied exemption only where claim was for board. *Mason v. Hughes*, 20 Luz. 81, 1918.

Board means meals with or without lodging. *Mason v. Hughes*, 20 Luz. 81, 1918.

6. Foreign jurisdictions

Where a creditor sent a claim against his debtor to West Virginia and collected it out of wages due the debtor from a railroad company, and the debtor then brought suit against the creditor in this state, and recovered a judgment against the creditor for the amount of his wages collected in West Virginia, and the creditor then transferred to his wife a judgment note he held against the debtor, under which the wife attached the judgment which had been recovered against the husband; it was held that the laborer could not be deprived in such manner of the protection afforded by 12 P.S. § 2175 (repealed), and that the attachment should be quashed. *Steele v. McKerrihan*, 33 A. 570, 172 Pa. 280, Sup.1896. Exemptions ↪56

When a person carries his claim into a foreign state and there sues thereon, he transfers his claim. *Zeiders v. Lewis Apparel Stores, Inc.*, 82 Pa. D. & C. 488 (1953). Exemptions ↪48(1)

Where Pennsylvania citizen has entered into obligation with a creditor in a jurisdiction wherein wages may legally be attached, the attachment of the wages of the citizen may not be challenged. 1975 Op.Atty.Gen. No. 75-32.

Pennsylvania employees may not have their wages garnished by nonresident creditors who obtain judgments in foreign jurisdictions and then attempt to enforce such judgments by serving the employer of the debtor with a foreign garnishment notice where such employer maintains an office in the foreign jurisdiction as well as in Pennsylvania. 1973 Op.Atty.Gen. No. 67.

7. Equitable distribution of property

Trial court had authority to issue wage attachments to enforce equitable distribution order. *Laughlin v. Laughlin*, 578 A.2d 922, 525 Pa. 141, Sup.1990. Divorce ↪1034

Equitable distribution of property is not a form of support and may not be enforced by garnishment of wages. Goodstein v. Goodstein, 563 A.2d 522, 386 Pa.Super. 556, Super.1989, on remand 11 Pa. D. & C.4th 294. Exemptions ⚡62

Trial court erred when it attached husband's wages in order to fulfill his obligation under trial court's order of equitable distribution of property. Laughlin v. Laughlin, 538 A.2d 927, 372 Pa.Super. 24, Super.1988, appeal granted 557 A.2d 725, 521 Pa. 622, affirmed in part, reversed in part 578 A.2d 922, 525 Pa. 141. Divorce ⚡1034

8. Taxes

Local taxing district may not garnish wages of property owner for delinquent real estates taxes which have been reduced to judgment. Chester Upland School Dist. v. Mathews, 705 A.2d 473, Cmwlt.1997. Exemptions ⚡48(1)

Although statute specifically granted taxing districts power to personally sue taxpayer to collect taxes and disallowed taxpayer benefit of any exemption, it did not specifically give taxing districts power to attach wages and, therefore, statute was not "special provision" that prevailed over general statutory exemption of personal earnings from garnishment. Chester Upland School Dist. v. Mathews, 705 A.2d 473, Cmwlt.1997. Exemptions ⚡48(1)

An employee's wages, while in the hands of an employer; are exempt from attachment under this section, to collect judgments arising from unpaid sales taxes due the commonwealth. Pennsylvania Dept. of Revenue v. Bookser, 3 Pa. D. & C.4th 566 (1989). Exemptions ⚡48(1)


This section did not exempt an individual's salary from attachment for the satisfaction of unpaid sales taxes owing to the commonwealth. Pennsylvania Dept. of Revenue v. Verna, 27 Pa. D. & C.3d 428 (1983). Exemptions ⚡48(1)


9. Remedies

Where automobile buyer, in county in which he was employed, bought automobile and executed bailment lease which provided that it was executed where automobile would be kept, and when buyer became delinquent, automobile was sold, deficiency judgment was entered against buyer, and a foreign corporation as assignee of bailment lease instituted attachment proceeding in adjoining state, garnishing buyer's employer by service on its sales office, so that buyer's wages were withheld, buyer's cause of action to enjoin attachment arose in county of purchase and venue in that county was proper as against foreign corporation. Urey v. Horchler, 119 A.2d 859, 180 Pa.Super. 482, Super.1956. Corporations And Business Organizations ⚡3258


A court of equity had jurisdiction to enjoin prosecution of an action to evade the exemption of wages from execution provided by 42 P.S. § 886 (repealed), and evasion of 12 P.S. § 2175 (repealed), relating to assignments to defeat exemption. Zeiders v. Lewis Apparel Stores, Inc., 82 Pa. D. & C. 488 (1953). Exemptions ⚡140

An injunction against a judgment creditor, restraining him from proceeding with an attachment against plaintiff's wages in the courts of another state, to which the judgment obtained in Pennsylvania was transferred for the sole


purpose of depriving plaintiff of his right to exemption of such wages from attachment under Pennsylvania law, did not constitute an interference with the courts of the other state, where the bill made no request for an order restraining any action on the part of those courts or their officers. *Prazich v. Alwine*, 49 Pa. D. & C. 353 (1944). Injunction 27



Equity had jurisdiction to enjoin a judgment creditor from proceeding with an attachment in the courts of another state, in violation of 12 P.S. § 2175 (repealed), for the purpose of circumventing the provisions of 42 P.S. § 886 (repealed), against attachment of wages in the hands of the employer, but no such jurisdiction existed as to the employer, against whom the employee had an adequate remedy at law. *Prazich v. Alwine*, 49 Pa. D. & C. 353 (1944). Injunction 27

10. Direct deposits


First wife's garnishment of fund in joint bank account of second wife and husband did not constitute garnishment of husband's wages in violation of subsec. (a) of this section, even though husband's paychecks and bonuses were directly deposited to the account. *Stinner v. Stinner*, 446 A.2d 651, 300 Pa.Super. 351, Super.1982. Exemptions 48(1)

11. Employers

To determine whether exemption of wages from attachment is defense which garnishee may raise against judgment debtor, court must consider whether sums in hands of garnishee constitute monies exempt from attachment and whether garnishee is employer of judgment debtor. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Garnishment 131

Clear, specific statutory declaration that wages were exempt from attachment and execution precluded county from attaching or withholding a portion of salary of employee to apply towards payment of judgment county obtained against employee as result of transaction that did not arise from employer-employee relationship. *Com. v. Saunders*, 463 A.2d 1146, 317 Pa.Super. 184, Super.1983. Exemptions 48(1); Exemptions 77

12. Court costs

Trial court was required to make a determination of the inmate's ability to pay court costs, prior to ordering a twenty percent deduction from the inmate's prison account to satisfy those costs; a hearing was necessary to determine whether the inmate's earnings had already been attached for purposes of alimony, child support, or other debts, and the clerk of courts had no statutory authority to request twenty percent or any other amount as an installment payment. *Boofer v. Lotz*, 797 A.2d 1047, Cmwlth.2002, reargument denied, appeal granted in part 817 A.2d 1079, 572 Pa. 567, reversed 842 A.2d 333, 577 Pa. 12. Costs 320

13. Public interest

Grant of preliminary injunction prohibiting judgment debtor from making any monthly expenditures in excess of \$6,710 and ordering him to make monthly payments of \$3,700 to judgment creditor, toward satisfaction of award was

in the public's interest, and thus, factor supported issuance of preliminary injunction in favor of creditor; public had general interest in enforcement of judgments, and order did not conflict with state statute governing attachment of wages. *State Farm Mut. Auto. Ins. Co. v. American Rehab And Physical Therapy, Inc.*, C.A.3 (Pa.)2010, 376 Fed.Appx. 182, 2010 WL 1499662, Unreported. Injunction ↪1173; Injunction ↪1231

14. Commissions

Pennsylvania statute exempting from any attachment, execution, or other process the “wages, salaries and commissions of individuals...while in the hands of the employer” could not be used to exempt commissions that Chapter 7 debtor earned not as employee, but as independent contractor convincing customers to purchase their electricity from utility; statute was enacted for protection only of employees, not independent contractors. *In re Bosack, Bkrcty.W.D.Pa.2011*, 454 B.R. 625. Exemptions ↪48(2)

42 Pa.C.S.A. § 8127, PA ST 42 Pa.C.S.A. § 8127

Current through Regular Session Act 2014-5

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END OF DOCUMENT



**Notice of Judgment/Transcript Civil
 Case**

Jane Doe
 v.
 John Doe

Mag. Dist. No: MDJ-
MDJ Name: Honorable
Address:
Telephone:

Jane Doe
 321 Any St.
 Any City, PA 99999-1211

Docket No: MJ-
 Case Filed: 11/3/2008

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	Jane Doe	John Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
John Doe	\$0.00	\$1,291.00	\$1,291.00

Judgment Detail (*Post Judgment)

In the matter of Jane Doe vs. John Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Civil Judgment	\$0.00	\$1,200.00		\$1,200.00
Filing Fees	\$0.00	\$79.00		\$79.00
Server Fees	\$0.00	\$12.00		\$12.00
Grand Total:				\$1,291.00

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.



 Date Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.	
_____	_____
Date	Magisterial District Judge

Jane Doe
v.
John Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211

Defendant(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313



**Notice of Judgment/Transcript
 Residential Lease**

John Doe
 v.
 Jane Doe

Mag. Dist. No:
MDJ Name: Honorable
Address:
Telephone:

John Doe
 123 Any Lane
 Anytown, PA 11114-1313

Docket No: MJ-
 Case Filed: 11/28/2008

Disposition Details

Grant possession.	Yes
Grant possession if money judgment is not satisfied by the time of eviction.	No
Jane Doe	
Wage attachment is prohibited due to lack of personal service.	No
Wage attachment is prohibited under Title 42 Section 8127.	No

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	John Doe	Jane Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
Jane Doe	\$0.00	\$1,116.50	\$1,116.50

Judgment Detail (*Post Judgment)

In the matter of John Doe vs. Jane Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

The amount of rent per month, as established by the Magisterial District Judge, is \$500.00

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Rent in Arrears	\$0.00	\$1,000.00		\$1,000.00
Filing Fees	\$0.00	\$89.00		\$89.00
Server Fees	\$0.00	\$27.50		\$27.50
		Grand Total:		\$1,116.50

Portion of judgment for physical damages arising out of residential lease:	\$0.00
Amount of judgment subject to attachment 42 PA C.S. 8127:	\$0.00

John Doe
v.
Jane Doe

Docket No.: MJ-

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED. HOWEVER, LOW-INCOME AND/OR SECTION 8 TENANTS SHOULD REFER TO Pa.R.C.P.M.D.J. NO. 1008 OR 1013 FOR DIFFERENT PROCEDURES REGARDING THIS DEPOSIT.

IF A PARTY WISHES ONLY TO APPEAL THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE NOTICE OF APPEAL. EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.



Date

Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

Magisterial District Judge

John Doe
v.
Jane Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313

Defendant(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211



**Notice of Judgment/Transcript
 Residential Lease**

Mag. Dist. No:
MDJ Name: Honorable
Address:
Telephone:

John Doe
 v.
 Jane Doe

John Doe
 123 Any Lane
 Anytown, PA 11114-1313

Docket No: MJ-
 Case Filed: 11/28/2008

Disposition Details

Grant possession.	Yes
Grant possession if money judgment is not satisfied by the time of eviction.	No
Jane Doe	
Wage attachment is prohibited due to lack of personal service.	No
Wage attachment is prohibited under Title 42 Section 8127.	No

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	John Doe	Jane Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
Jane Doe	\$0.00	\$1,116.50	\$1,116.50

Judgment Detail (*Post Judgment)

In the matter of John Doe vs. Jane Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

The amount of rent per month, as established by the Magisterial District Judge, is \$500.00

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Rent in Arrears	\$0.00	\$1,000.00		\$1,000.00
Filing Fees	\$0.00	\$89.00		\$89.00
Server Fees	\$0.00	\$27.50		\$27.50
Grand Total:				\$1,116.50

Portion of judgment for physical damages arising out of residential lease:	\$0.00
Amount of judgment subject to attachment 42 PA C.S. 8127:	\$0.00

John Doe
v.
Jane Doe

Docket No.: MJ-

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED. HOWEVER, LOW-INCOME AND/OR SECTION 8 TENANTS SHOULD REFER TO Pa.R.C.P.M.D.J. NO. 1008 OR 1013 FOR DIFFERENT PROCEDURES REGARDING THIS DEPOSIT.

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Date

Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

Magisterial District Judge

John Doe
v.
Jane Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313

Defendant(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211

**NOTICE OF JUDGMENT/TRANSCRIPT
 SUPPLEMENTARY ACTION**

Mag. Dist. No.:
MDJ Name: Hon.
Address:
Telephone: ()

PLAINTIFF:	NAME and ADDRESS
DEFENDANT:	VS. NAME and ADDRESS

Docket No.:
Date Filed:



THIS IS TO NOTIFY YOU THAT:

- Judgment: _____ (Date of Judgment) _____
- Judgment was entered for: (Name) _____
- Judgment was entered against: (Name) _____
 in the amount of \$ _____ on: _____ (Date & Time) _____
- Defendants are jointly and severally liable.
- This case dismissed without prejudice.
- Satisfaction was entered for
 _____ on _____.

Amount of Judgment	\$ _____
Judgment Costs	\$ _____
Interest on Judgment	\$ _____
Attorney Fees	\$ _____
Total	\$ _____
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

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UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

_____ Date _____, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
_____ Date _____, Magisterial District Judge

My commission expires first Monday of January,

SEAL

CHAPTER N

LIENS

JUDGMENT LIENS - GENERAL NOTES.

1. 42 Pa.C.S.A. § 707 (LIEN OF JUDGMENTS FOR MONEY): No lien is created until a judgment has been filed with the Prothonotary.

2. 42 Pa.C.S.A. § 4303 (EFFECT OF JUDGMENTS AND ORDERS AS LIENS): Judgment on Court Order for payment of money becomes a lien when it is entered of record in the Office of the Clerk of Courts of Common Pleas (in some recent statutes the Prothonotary is referred to as the Clerk of Courts).

a. Notes of Decisions #21: The object of judgment dockets and indices is the furnishing of notice to purchasers and others in interest. The docket contains the record and is constructive notice -- index points the way to the docket.

3. 68 Pa.C.S.A. § 3315 (LIEN FOR CONDOMINIUM ASSESSMENTS):

a. The declaration is filed with the Recorder of Deeds, and constitutes the lien. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

4. 43 P.S. § 788.1 (UNEMPLOYMENT COMPENSATION LIENS):

a. A writ of execution may directly issue upon the lien WITHOUT the issuance and prosecution to judgment of a writ of scire facias. Not less than ten (10) days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered or certified mail to the employer at his/her last known post office address.

b. No Prothonotary shall require as a condition precedent to the entry of such liens the payment of the costs incident thereto.

(1). If fees not paid at time of filing, bill department.

c. The liens shall continue for five (5) years from date of entry and may be revived.

5. 42 Pa.C.S.A. § 4305 (FEDERAL JUDGMENTS AS LIENS): A judgment of a U.S. Court in the Commonwealth becomes a lien when a certified transcript of the same is filed with the Clerk of Courts (Prothonotary) in the county where the property is located.

a. 18 U.S.C.S. § 3613. Civil Remedies for Satisfaction of an Unpaid Fine.

(1). A judgment imposing a fine may be enforced in accordance with the practice and procedures for the enforcement of a civil judgment.

(2). The liability to pay a fine shall terminate the later of twenty (20) years from the entry of judgment or twenty (20) years after the release from imprisonment of the person fined, or upon the death of the individual fined.

6. 35 P.S. § 6029.111.1. (WASTE TIRE RECYCLING REMEDIATION LIEN)

a. If the person or municipality liable to pay the amount of grant moneys expended on remediation of a site neglects or refuses to pay the same after demand, the amount, together with interest, shall be a judgment in favor of the Commonwealth upon the property of such person or municipality, but only after the same has been entered and docketed of record by the Prothonotary where such property is situated. The Commonwealth may, at any time, transmit to the Prothonotaries of the respective counties certified copies of all such judgments, and it shall be the duty of each Prothonotary to enter and docket the same of record in the Prothonotary's office, and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

7. 42 Pa.C.S.A. § 5526(1) (FIVE YEAR LIMITATION): An action for revival of a judgment lien must be commenced within five (5) years.

a. Note of Decisions #35 (Pocket Part), paragraph 2 & 3: Since the Pa. Supreme Court has not promulgated any general rules governing matters relating to judgments previously governed by the Judgment Lien Law, the practice of this Commonwealth of permitting revival of judgment liens after the expiration of five

years remains viable, and a writ of revival may properly be issued more than five years after entry of judgment; defendant's reliance on this section is misplaced. A writ of revival of a judgment lien filed more than five years after entry of the original judgment note is not barred by this section.

8. 42 Pa.C.S.A. § 8104 (DUTY OF JUDGMENT CREDITOR TO ENTER SATISFACTION): A judgment creditor shall, upon receipt of payment in full of any judgment lien, enter a satisfaction in the Office of the Clerk of Court (Prothonotary). A judgment creditor who shall willfully or unreasonably fail without good cause or refuse for more than ninety (90) days after written notice in the manner prescribed by general rules to comply with a request shall pay to the judgment debtor as liquidated damages 1% of the original amount of the judgment for each month of delinquency beyond such ninety (90) days, but not less than \$250 nor more than \$2,500. Such liquidated damages shall be recoverable by the debtor filing a petition with the court for relief.

9. 42 Pa.C.S.A. § 8142 (ENDORSEMENT OF TIME): The Clerk of Courts (Prothonotary) shall note on the dockets in each office where each verdict, judgment, order, instrument or writ creating a lien against real estate, the time it was recorded, rendered, left for filing or issued.

10. 16 P.S. § 9871 (Pocket Part) (JUDGMENT DOCKET; CONTENTS): The Prothonotary shall keep a judgment docket, which includes all cases upon which a judgment or award of arbitrators has been entered. Judgments and awards of arbitrators shall be entered so that one follows the other in the order of time filed or entered. Entries shall state names or parties, term and number of case, date, amount, revival (if any) and execution (if any). *

11. 16 P.S. § 9873 (Pocket Part) (INDEXES OF RECORDS TO BE PREPARED): Direct (where the name of the plaintiff is entered first) and Ad Sectum (where name of the defendant is entered first) shall be maintained, for ease of locating liens.*

*NOTE 1: These sections were repealed; however, later opinions by various courts indicate that in the event the Pennsylvania Supreme Court has not promulgated new rules governing matters relating to judgments previously governed by the judgment lien law, prior practices remain viable. See 42 Pa.C.S.A. 20003(b).

NOTE 2: 16 P.S. §§ 9871 through 9877 (Pocket Part), COUNTIES, list requirements for court records.

12. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title
To Real Estate.

(b). #13, Judgments and Liens.

12. References:

42 Pa.C.S.A. § 4305. Federal Judgments as liens.

42 U.S.C. § 9607(l). Federal lien.

§ 4303

ADMINISTRATION OF JUSTICE

42 Pa.C.S.A.

Note 155

by such judgment the lien was continued for a further period of five years, and hence such lien was entitled to priority over another judgment against same defendant entered in 1939 and revived in 1944. *Id.*

When a fieri facias and a scire facias are issued on a judgment more than five years old the fieri facias will not create a new lien or continue the old lien from the date of the levy as between the plaintiff and lien creditors, or purchasers from the defendant; but the plaintiff's lien will date from the day of the verdict on the scire facias, as against a mortgage entered on that day, and on distribution will take pro rata with the mortgage. *Ramsey v. Ramsey*, 29 C.C. 417, 13 Dist. 641, 1904.

156. Laches, revival of lien

Plaintiff's failure to file his petition to amend the writ of scire facias for a pe-

riod in excess of eight months after he had notice of the defect, did not bar him under the doctrine of laches where delay was attributable to his counsel and rights of terre-tenant were not impaired. *Warner v. Warner*, 8 D. & C. 2d 762, 1958, affirmed 134 A.2d 212, 184 Pa. Super. 327.

Where affidavit of defense has been filed to sci. fa., plaintiff cannot be charged with laches where he did not enter rule for want of sufficient affidavit until three months later. If delay did defendant no harm. *Wilcox v. Du Bree*, 8 D. & C. 591, 1926.

On second sci. fa. to revive judgment almost ten years old entered on notes, defendant denied liability on notes and asserted he had never been served personally, but admitted having been served with first sci. fa. to revive, he was guilty of laches. *Diamond Nat. Bank v. Goehring*, 73 Pitts. 935, 1925.

§ 4304. Notice of Federal pending actions ✓

(a) **General rule.**—An action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth shall be effective to give constructive notice of the action as it relates to the real property in the same manner, and to the same extent and under the same conditions as an action pending in a court of common pleas of this Commonwealth.

(b) **Authorization for filing of notice of Federal actions.**—Notice of an action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth may be registered, recorded, docketed or indexed in the same manner or in the same place as notices of actions concerning real property pending in a court of common pleas of this Commonwealth are registered, recorded, docketed or indexed.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(54.1), effective June 27, 1978.

§ 4305. Federal judgments as liens

(a) **General rule.**—Except as provided in subsection (b), every judgment of a United States court within this Commonwealth shall, as provided by 28 United States Code § 1962 (relating to lien) or otherwise, be a lien on property located within this Commonwealth in the same manner, to the same extent and under the same conditions as a judgment of a court of common pleas of this Commonwealth and shall cease to be a lien in the same manner and time.

monitoring and maintenance, compliance monitoring, corrective action, natural resource damages, and liability for damages to third parties; and

(iii) the availability of mechanisms by which owners and operators of such facilities can assure that current and future costs, including post-closure costs, will be financed.

(D) Procedures

In carrying out the responsibilities of this paragraph, the Comptroller General shall consult with the Administrator, the Secretary of Commerce, the Secretary of the Treasury, and the heads of other appropriate Federal agencies.

(E) Consideration of options

In conducting the study under this paragraph, the Comptroller General shall consider various mechanisms and combinations of mechanisms to complement the policies set forth in the Hazardous and Solid Waste Amendments of 1984 [42 U.S.C. 6901 note] to serve the purposes set forth in subparagraph (B) and to assure that the current and future costs associated with hazardous waste facilities, including post-closure costs, will be adequately financed and, to the greatest extent possible, borne by the owners and operators of such facilities. Mechanisms to be considered include, but are not limited to—

(i) revisions to closure, post-closure, and financial responsibility requirements under subtitles C and I of the Solid Waste Disposal Act [42 U.S.C. 6921 et seq. and § 6991 et seq.];

(ii) voluntary risk pooling by owners and operators;

(iii) legislation to require risk pooling by owners and operators;

(iv) modification of the Post-Closure Liability Trust Fund previously established by section 9641 of this title, and the conditions for transfer of liability under this subsection, including limiting the transfer of some or all liability under this subsection only in the case of insolvency of owners and operators;

(v) private insurance;

(vi) insurance provided by the Federal Government;

(vii) coinsurance, reinsurance, or pooled-risk insurance, whether provided by the private sector or provided or assisted by the Federal Government; and

(viii) creation of a new program to be administered by a new or existing Federal agency or by a federally chartered corporation.

(F) Recommendations

The Comptroller General shall consider options for funding any program under this section and shall, to the extent necessary, make recommendations to the appropriate committees of Congress for additional authority to implement such program.

(1) Federal lien

(1) In general

All costs and damages for which a person is liable to the United States under subsection (a) of this section (other than the owner or operator of a vessel under paragraph (1) of subsection (a) of this section) shall constitute a lien in favor of the United States upon all real property and rights to such property which—

(A) belong to such person; and

(B) are subject to or affected by a removal or remedial action.

(2) Duration

The lien imposed by this subsection shall arise at the later of the following:

(A) The time costs are first incurred by the United States with respect to a response action under this chapter.

(B) The time that the person referred to in paragraph (1) is provided (by certified or registered mail) written notice of potential liability.

Such lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 9613 of this title.

(3) Notice and validity

The lien imposed by this subsection shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected under applicable State law before notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is located. Any such purchaser, holder of a security interest, or judgment lien creditor shall be afforded the same protections against the lien imposed by this subsection as are afforded under State law against a judgment lien which arises out of an unsecured obligation and which arises as of the time of the filing of the notice of the lien

imposed by this subsection. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is located. For purposes of this subsection, the terms "purchaser" and "security interest" shall have the definitions provided under section 6323(h) of Title 26.

(4) Action in rem

The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.

(m) Maritime lien

All costs and damages for which the owner or operator of a vessel is liable under subsection (a)(1) of this section with respect to a release or threatened release from such vessel shall constitute a maritime lien in favor of the United States on such vessel. Such costs may be recovered in an action in rem in the district court of the United States for the district in which the vessel may be found. Nothing in this subsection shall affect the right of the United States to bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(Dec. 11, 1980, Pub.L. 96-510, Title I, § 107, 94 Stat. 2781, as amended Oct. 17, 1986, Pub.L. 99-499, Title I, §§ 107(a)-(d)(2), (e), (f), 127(b), (e), Title II, §§ 201, 207(c), 100 Stat. 1628-1630, 1692, 1693, 1705, 1706.)

Cross References

Solid Waste Disposal Act, financial responsibility provisions under as not diminishing liabilities of persons under this section, see sections 6924(t)(3), 6991b(d)(3), and 6991c(c)(4) of this title.

Library References

Health and Environment ⇐25.7(23).
C.J.S. Health and Environment § 113 et seq.

§ 9608. Financial responsibility

(a) Establishment and maintenance by owner or operator of vessel; amount; failure to obtain certification of compliance

(1) The owner or operator of each vessel (except a nonself-propelled barge that does not carry hazardous substances as cargo) over three hundred gross tons that uses any port or place in the United States or the navigable waters or any offshore

facility, shall establish and maintain with regulations promulgated by the Secretary of the Department of the Interior (or for a vessel carrying hazardous cargo, or \$5,000,000, whichever cover the liability prescribed under paragraph (1) of section 9607 of this title). Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, or qualification as a self-insurer. Such financial responsibility shall be issued by a bonding company that does business in the United States. In addition, the owner or operator owns, operates, or controls more than one vessel subject to this subsection, the owner or operator shall be liable for financial responsibility need be to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury may issue, suspend, or revoke the clearance required by paragraph (1) of section 9607 of Title 46 of any vessel subject to this subsection if the vessel does not have certification furnished by the owner or operator that the financial responsibility required by paragraph (1) of this subsection has been established.

(3) The Secretary of Transportation may deny entry to any port or place in the United States navigable waters to, and (B) detain any vessel subject to this subsection if the vessel does not produce certification upon request, does not produce certification, or the President determines that the financial responsibility provisions of paragraph (1) of this subsection have not been complied with.

(4) In addition to the financial responsibility provisions of paragraph (1) of this subsection, the Secretary of the Interior shall require additional evidence of financial responsibility for incineration vessels, and to cover such liabilities as the President deems appropriate, account the potential risks posed by incineration, and any other deemed relevant.

(b) Establishment and maintenance by owner or operator of production, etc., facilities; amount; consolidated form of responsibility for motor carriers

(1) Beginning not earlier than February 11, 1980, the President shall require the Secretary of the Interior to issue regulations (for facilities in addition to those covered by subtitle C of the Solid Waste Disposal Act, U.S.C. 6921 et seq.) and other Federal classes of facilities establish and maintain financial responsibility consistent with the nature and duration of risk associated with transportation, treatment, storage,

CHAPTER N

LIENS

MECHANICS LIENS (Pa.R.C.P. Nos. 1651 through 1661 and 49 P.S. §§ 1301, 1303, 1401, 1502, 1503, 1506, 1507, 1701, and 1705).

1. Filing of a Claim.

a. Upon receipt of a mechanics' lien claim and filing fee, Prothonotary shall file and assign a court of common pleas number.

b. Index case by entry of names of parties, amount of claim, date of filing, case number and nature of lien.

c. Information filed, but not yet indexed, shall be readily available to the public.

d. Docket case pursuant to the GENERAL PROVISIONS Section of the manual.

2. Filing of a complaint or an agreement for an amicable action (Pa.R.C.P. No. 1653).

a. Refer to filing of a Complaint in CIVIL ACTION - LAW and Pa.R.C.P. Nos. 1653, 1654, and 1656.

3. Upon the filing of a praecipe to compel commencement of an action/judgment by default, the Prothonotary shall proceed as stated in Pa.R.C.P. No. 1659.

4. A discharge of lien on payment into court or entry of security may be made by petition and court order (49 P.S. § 1510).

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

(b). #13, Judgments and Liens

6. Reference:
49 P.S. § 1510. Discharge of lien on payment into court or entry of security

§ 1510. Discharge of lien on payment into court or entry of security

(a) Cash Deposit. Any claim filed hereunder shall, upon petition of the owner or any party in interest, be discharged as a lien against the property whenever a sum equal to the amount of the claim shall have been deposited with the court in said proceedings for application to the payment of the amount finally determined to be due.

(b) Pro-rata Allocation. In any case where the claim or claims are limited in the manner and to the extent provided in section 405,¹ the owner may deposit with the court in separate proceedings a sum equal to the total allowable amount of said claims determined in accordance with said section, whereupon the court, on petition of such owner, shall order all of said claims discharged as liens against the property, and the sum so deposited applied pro rata to the payment thereof in the amounts finally determined to be due.

(c) Refund of Excess. Any excess of funds paid into court as aforesaid, over the amount of the claim or claims determined and paid therefrom, shall be refunded to the owner or party depositing same upon application for the same.

(d) Security in Lieu of Cash. In lieu of the deposit of any such sum or sums, approved security may be entered in such proceedings in double the amount of the required deposit, or in such lesser amount as the court shall approve, which, however, shall in no event be less than the full amount of such required deposit; and the entry of such security shall entitle the owner to have such liens discharged to the same effect as though the required sums had been deposited in court as aforesaid.

(e) Authority of Court. The court, upon petition filed by any party, and after notice and hearing, may upon cause shown:

- (1) require the increase or decrease of any deposit or security;
- (2) strike off security improperly filed;
- (3) permit the substitution of security and enter an exoneration of security already given. 1963, Aug. 24, P.L. 1175, No. 497, art. V, § 510.

¹ Section 1405 of this title.

CHAPTER N

LIENS

FOREIGN JUDGMENT LIENS.

UNIFORM ENFORCEMENT OF FOREIGN JUDGMENT ACT

(42 Pa.C.S.A. § 4306 covers U.S. and possessions).

UNIFORM FOREIGN MONEY JUDGMENT RECOGNITION ACT

(42 Pa.C.S.A. § 22001 covers other countries).

1. Upon receipt of (a) a copy of the foreign judgment, (b) certified copy of docket entries relating thereto, (c) an affidavit showing the name and last known address of the debtor/creditor, including a statement that the foreign judgment is valid, enforceable and unsatisfied, and (d) the filing fee, the Prothonotary shall file and assign court of common pleas number.

2. Promptly, the Prothonotary shall mail notice of the filing to the debtor, including the name and address of the creditor.

Note: For reciprocal states to the Uniform Enforcement of Foreign Judgments Act see 42 Pa.C.S.A. § 4306, Note 1.

3. Information filed, but not yet indexed, shall be readily available to the public.

4. Index case by entry of names of parties, amount of judgment, date of filing, time of filing, case number and nature of lien.

5. Docket the case pursuant to the GENERAL PROVISIONS Section of the manual.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

(b). #13, Judgments and Liens

7. Reference:
Act 1990-139

UNIFORM FOREIGN MONEY JUDGMENT RECOGNITION ACT

ACT NO. 1990-139

H.B.No. 1186

AN ACT Providing for the recognition and enforcement of money judgments obtained in another country.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title¹

This act shall be known and may be cited as the Uniform Foreign Money Judgment Recognition Act.

Section 2. Definitions²

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Foreign government." Any governmental unit other than the United States, or any state, district, Commonwealth, territory or insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands or the Ryukyu Islands.

"Foreign judgment." Any judgment of a foreign government granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment in matrimonial or family matters.

Section 3. Recognition and enforcement³

Except as provided in sections 4 and 5⁴, a foreign judgment meeting the requirements of section 9⁵ is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of another state which is entitled to full faith and credit.

Section 4. Grounds for nonrecognition⁶

A foreign judgment need not be recognized if:

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) the judgment was obtained by fraud;

(3) the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this Commonwealth;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

¹ 42 P.S. § 22001.² 42 P.S. § 22002.³ 42 P.S. § 22003.⁴ 42 P.S. §§ 22004, 22005.⁵ 42 P.S. § 22009.⁶ 42 P.S. § 22004.**Section 5. Nonconclusive judgments⁷**

A foreign judgment is not conclusive if:

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter.

Section 6. Personal jurisdiction⁸

The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(1) the defendant was served personally in the foreign state;

(2) the defendant voluntarily appeared in the proceedings other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(3) the defendant, prior to the commencement of the proceedings, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate, had its principal place of business, was incorporated or had otherwise acquired corporate status in the foreign state;

(5) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action or claim for relief arising out of business done by the defendant through that office in the foreign state;

(6) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action or claim for relief arising out of such operation; or

(7) the courts of this Commonwealth recognize other bases of jurisdiction.

Section 7. Stay in case of appeal⁹

If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

Section 8. Savings clause¹⁰

This act does not prevent the recognition of a foreign judgment in situations not covered by this act.

Section 9. Applicability¹¹

This act shall apply to any foreign judgment that is final and conclusive and enforceable where rendered, even though an appeal therefrom is pending or it is subject to appeal.

Section 10. Effective date

This act shall take effect in 60 days.

Approved November 21, 1990.

⁷ 42 P.S. § 22005.⁸ 42 P.S. § 22006.⁹ 42 P.S. § 22007.¹⁰ 42 P.S. § 22008.¹¹ 42 P.S. § 22009.

CHAPTER N

LIENS

FEDERAL TAX LIENS (74 P.S. § 157).

1. Upon receipt of a Notice of Federal Tax Lien, Prothonotary shall file and assign court of common pleas number.

2. After filing, the Prothonotary shall:

a. Enter same in an alphabetical Federal Tax Lien Index/Docket, showing on one line, the name, address, file number, date and hour of filing, amount of the lien and certifying IRS entity; and in the General Judgment Index.

b. File all original notices in a file number order.

(Note: Procedures may vary in automated counties and may not be in compliance with this section.)

3. Information filed, but not yet indexed, shall be readily available to the public.

4. A Certificate of Nonattachment may be issued to reconcile the identity of the party and/or to release attachment on a property. (28 U.S.C.S. § 6325(e)).

5. If a refiling notice or a certificate of release, nonattachment, discharge or subordination of any lien is presented for filing, the Prothonotary shall permanently attach the refiled notice or the certificate to the original notice of lien. Enter same with the date of filing in the Federal Tax Lien Index/Docket and the General Judgment Index on the line where the original notice of lien is entered. If not possible to enter on same line, a cross reference shall be noted on the original entries.

a. A Notice of Refiling is for a specific tax year. There may be multiple notices of refiling on a party or parties from the time of the filing of the original lien.

6. When the release or withdrawal is filed, Prothonotary shall note same in index/docket where entered and file with original notice. Prothonotary shall also return duplicate copy, file stamped, to the IRS.

a. It is IMPORTANT to note, a release or withdrawal may be filed for a specific refiling without affecting the entire lien.

7. A Revocation of Certificate of Release of Federal Tax Lien may be filed if a release of lien is revoked and lien is reinstated pursuant to Internal Revenue Code § 6325(f)(2).

8. Bill the IRS on a monthly basis for new filings, refilings, releases, withdrawals, and revocations.

9. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division:

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving
Title To Real Estate.

(b). #13, Judgment and Lien Papers.

CHAPTER N

LIENS

STATE TAX LIENS (72 P.S. §§ 1404 and 8112-C).

1. Upon receipt of a certified copy of lien and payment of fee, Prothonotary shall file and assign court of common pleas number.

2. Index case by entry of names of parties, amount of lien, date of filing, case number and nature of lien.

3. Information filed, but not yet indexed, shall be readily available to the public.

4. Motorbus Road Tax Writ. A writ of execution may directly issue upon the lien WITHOUT the issuance and prosecution to judgment of a writ of scire facias. Not less than ten days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at his last known post office address.

5. When the release is filed, Prothonotary shall note same in index/docket where entered and file with original notice.

6. The Commonwealth may revive for a period of five (5) years via the filing of a Suggestion of Non Payment and Averment of Default, which the Prothonotary shall docket and index.

a. All tax liens required to be filed by the Department of Revenue shall continue and shall retain their priority without the necessity of refiling or revival, pursuant to 72 P.S. § 1404.1 (Act 1994-138).

7. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

(b). #13, Judgments and Liens

8. Reference:

Letter dated July 18, 1995, from Jeffery S. Snaveley, Chief Counsel,
Department of Revenue



CHIEF COUNSEL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
STRAWBERRY SQUARE
HARRISBURG, PA 17128-1100

July 18, 1995

Stacia N. Gates
Prothonotary
York County Courthouse
28 East Market Street
York, PA 17401

Re: Act 138-1994
Automatic Revival and
Priority of Tax Liens

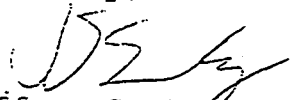
Dear Ms. Gates:

Subsequent to my prior letter regarding the above-referenced matter, there have been requests for further guidance concerning which liens are effected by Act 138-1994. In particular, guidance has been requested concerning the priority and revival status of liens filed before and after the effective date of the law, December 12, 1994.

Prior to Act 138, this Department needed to file a Writ of Revival within five (5) years after the date its tax lien was entered and indexed in the appropriate county in order to retain its priority. A Writ of Revival filed within five (5) years after the expiration of the Department's tax lien merely resulted in the lien's loss of priority (or a complete loss of the lien against property conveyed to innocent purchasers for value). However, a Writ of Revival filed five (5) years after the expiration of the Department's lien was barred by the statute of limitations.

Under Act 138, all tax liens required to be filed by the Department continue and retain their priority without the necessity of refileing or revival. Therefore, all tax liens filed, refiled or revived on or after December 12, 1984, shall retain their respective priority status without the need for further refileing or revival.

Sincerely,


Jeffery S. Snavely
Chief Counsel

cc: Robert Weinert, Esq.

CHAPTER N

LIENS

COMMERCIAL REAL ESTATE BROKER LIEN (Act 1998-34).

1. **RIGHT TO LIEN.** Each broker, unless employed by another broker, shall have a lien in the amount of compensation agreed upon by and between the broker and client upon commercial real estate or any interest in that commercial real estate.

2. **ATTACHMENT OF LIEN.** The broker may record a notice of lien in the office of the prothonotary in the county in which the real property or any interest in the real property is located.

3. **NOTICE OF LIEN.** The notice of lien shall state

- a. the name of the claimant
- b. the name of the owner
- c. a description of the property upon which the lien is being claimed
- d. the amount for which the lien is claimed
- e. the real estate license number of broker.

The notice shall be signed and verified by the broker or by a person who is authorized to sign on behalf of the broker.

4. **ENFORCEMENT OF LIEN.**

a. A broker may bring suit to enforce the lien by filing a complaint in the court of common pleas in the county where the lien is filed.

b. Where a claim has been filed in more than one county, judgment may be transferred to such other county by filing a certified copy of the docket entries and a certification of the judgment and amount, if any.

(1). Upon receipt of the transferred judgment, the Prothonotary shall forthwith index it upon the judgment index.

c. The broker claiming a lien shall, within two years after recording lien, commence enforcement proceedings. Failure to do so shall extinguish the lien.

d. The broker claiming a lien based on an option to purchase shall, within six months after transfer or conveyance of real estate, commence enforcement proceedings. Failure to do so shall extinguish the lien.

e. Upon praecipe of owner, the Prothonotary shall enter a rule upon the person claiming the lien to file a complaint. If complaint is not filed within 20 days after service of rule, upon praecipe of owner of property, the lien shall be extinguished.

f. Judgment upon a claim shall be revived within each recurring five-year period.

(1). See REVIVAL OF JUDGMENTS/LIENS Section of the manual.

5. PROCEDURE.

a. Upon receipt of a notice of lien and filing fee, the Prothonotary shall file and assign a court of common pleas number.

b. Index case by entry of names of parties, amount of claim, date of filing, case number and nature of lien.

c. Information filed, but not yet indexed, shall be readily available to the public.

d. Docket case pursuant to the GENERAL PROVISIONS Section of the manual.

e. For certifications under this category, see the PROOF OF OFFICIAL RECORDS (Certification/Exemplification) Section of the manual.

f. For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

To Real Estate. (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title

(b). #13, Judgments and Liens.

7. Reference:
Act 1998-34

No. 1998-34

AN ACT

SB 492

Providing for real estate broker liens in the amount of compensation due for services rendered by the broker in connection with certain real estate transactions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Commercial Real Estate Broker Lien Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Broker." A person who is licensed under the laws of this Commonwealth to act as a real estate broker.

"Commercial real estate." Any real estate other than:

(1) Real estate containing one to four residential units.

(2) Real estate that is zoned for agricultural purposes and that is not subject to an agreement of sale contingent upon the rezoning of all or any portion of the real estate to provide for nonagricultural uses.

The term does not include single-family residential units or building lots such as condominiums, townhouses or homes in a subdivision when sold, leased or otherwise conveyed on a unit-by-unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

Section 3. Right to lien.

Each broker, unless employed by another broker, shall have a lien in the amount of the compensation agreed upon by and between the broker and the broker's client upon commercial real estate or any interest in that commercial real estate:

(1) listed with the broker under the terms of a written agreement for the purposes of selling, leasing or otherwise conveying any interest in the commercial real estate that is signed by the owner or the owner's agent and as to which the broker or broker's employees or independent contractors have provided licensed services that result during the term of the written agreement in the procurement of a person or entity that is ready, willing and able to purchase, lease or otherwise accept a conveyance of the commercial real estate or any interest in the commercial real estate upon terms that are provided in a written agreement that is

signed by the owner or the owner's agent or which are otherwise acceptable to the owner or the owner's agent as evidenced by a written agreement that is signed by the owner or the owner's agent; or

(2) when a broker, pursuant to a written agreement with a prospective buyer to represent the buyer as to the purchase or other conveyance to the buyer of commercial real estate, becomes entitled to compensation. In the case of a tenant represented by a broker or other representative where the fee or commission is to be paid by the current owner, the right to file a lien shall be conditioned upon the owner agreeing in writing to pay the fee or commission of the broker or other representative of the tenant.

Section 4. Excessive curtilage.

Where a party objects that a lien has been claimed against more commercial real estate than should justly be included therein, the court upon petition may, after hearing by deposition or otherwise, limit the boundaries of commercial real estate subject to the lien. Failure to raise this objection shall not be a waiver of the right to plead the same as a defense thereafter.

Section 5. Lien not allowed in certain cases.

No lien shall be allowed in favor of any person other than a broker as defined herein even though such person furnishes labor or materials which result in the procurement of a person or entity who is ready, willing and able to purchase, lease or accept a conveyance of the commercial real estate or any interest in the commercial real estate.

Section 6. Attachment of lien.

(a) Time and manner of attachment.—A lien under section 3 shall attach to the commercial real estate or any interest in the commercial real estate upon:

(1) the broker procuring a person or entity that is ready, willing and able to purchase, lease or otherwise accept a conveyance of the commercial real estate upon the terms set forth in the written agreement with the owner or that is otherwise acceptable to the owner or the owner's agent or the broker being otherwise entitled to a fee or commission under a written agreement that is signed by the owner or the owner's agent; and

(2) except as provided in subsection (b), (c) or (d), the broker recording a notice of lien in the office of the prothonotary in the county in which the real property or any interest in the real property is located prior to the actual conveyance or transfer of the commercial real estate against which the broker is claiming a lien.

(b) Leases.—In the case of a lease, the notice of lien shall be recorded within 90 days of a default by the owner or successors in interest under the terms of the compensation agreement.

(c) Written agreements.—If a broker has a written agreement with a prospective buyer as provided in section 3(2), the lien shall attach upon the recording of a notice of lien by the broker in the office of the prothonotary of the county in which the real property or any interest in the real property

is located within 90 days after the purchase or other conveyance or transfer to the buyer.

(d) Commercial real estate in more than one county.—Where the commercial real estate is located in more than one county, the lien may be filed in any one or more of the said counties but shall be effective only as to the part of the commercial real estate in the county in which it has been filed.

(e) Owner notification.—The broker shall mail a copy of the notice of lien to the owner of the commercial real estate by certified mail.

(f) Recording.—A broker shall not be entitled to record a notice of or claim for lien unless, not later than three days prior to the date of conveyance, he gives written notice of the claim for lien to the owner and the prospective buyer that he is entitled to compensation under the terms set forth in the written contract and intends to claim a lien on the commercial real property. The notice shall be served upon the owner and prospective buyer by registered or certified mail. When there are two or more owners or two or more prospective buyers, the notice shall be served upon each owner and each prospective buyer. The notice shall include a statement of the buyer's right to deposit funds in escrow under section 10.

(g) Lien unenforceable.—The broker's lien shall be void and unenforceable if recording does not occur at the time and in the manner required by this section.

(h) Satisfaction of the lien.—In the event a lien is recorded upon the procurement of a person or entity that is ready, willing and able to purchase, lease or otherwise accept a conveyance of commercial property and the conveyance fails to occur through no fault or condition of the owner, the lien recorded by the broker pursuant to this section shall be satisfied of record by the broker, whereupon the property shall be freed and discharged from such lien. If the broker does not voluntarily satisfy the lien, the owner may demand the filing of a complaint pursuant to section 8(f) or commence an action against the broker seeking as relief the satisfaction or striking of the lien. Upon finding that the lien was recorded in bad faith or the refusal to satisfy the lien was in bad faith, a court shall award the owner the amount of the reasonable expenses, including attorney fees and court costs, incurred by the owner as a result of the recording of the lien or refusal to satisfy the lien.

Section 7. Notice of lien.

The notice of lien shall state the name of the claimant, the name of the owner, a description of the property upon which the lien is being claimed, the amount for which the lien is claimed and the real estate license number of the broker and shall be signed and verified by the broker or by a person who is authorized to sign on behalf of the broker and shall be verified.

Section 8. Enforcement of lien.

(a) Commencement of proceedings.—A broker may bring suit to enforce the lien in the court of common pleas in the county where the lien is filed by filing a complaint as set forth under subsection (e).

(b) Commercial real estate in more than one county.—Where a claim has been filed in more than one county as provided by section 6(d), proceedings to obtain judgment upon all the claims may be commenced in any of the counties, and the judgment shall be res adjudicata as to the merits of the claims properly filed in other counties. The judgment may be transferred to such other county by filing of record a certified copy of the docket entries in the action and a certification of the judgment and amount, if any. The prothonotary of the court to which the judgment has been transferred shall forthwith index it upon the judgment index.

(c) Time limitations.—The broker claiming a lien shall, except as set forth under subsection (d), within two years after recording the lien, commence proceedings to enforce the lien. Failure to commence proceedings within two years after recording the lien shall extinguish the lien.

(d) Lien based on option to purchase.—A broker claiming a lien based upon an option to purchase shall, within six months after the transfer or conveyance of the commercial real estate pursuant to the exercise of the option to purchase, commence proceedings to enforce the lien. Failure to commence proceedings within this time shall extinguish the lien.

(e) Complaint and defendants to the action.—A complaint under this section shall contain a brief statement of the contract or agreement on which the lien is founded, the date when the contract or agreement was made, a description of the services performed, the amount due and unpaid and a description of the property that is subject to the lien. The plaintiff shall make all interested parties, of whose interest he is notified or has knowledge, defendants to the action. The practice and procedure shall be governed by the Pennsylvania Rules of Civil Procedure and all other rules and procedures relating to civil actions except to the extent inconsistent with the provisions of this section.

(f) Praecept of the owner.—The prothonotary, upon praecipe of the owner, shall enter a rule upon the person claiming the lien to file a complaint. If a complaint is not filed within 20 days after service of the rule, upon praecipe of the owner of the property the lien shall be extinguished.

(g) Satisfaction or release.—Whenever a claim for lien which has been filed with the prothonotary is paid, the claimant shall mark the docket satisfied within 30 days of receipt of payment.

(h) Costs.—The cost of proceedings, including reasonable attorney fees and prejudgment interest due to the prevailing party, shall be borne by the nonprevailing party or parties. If more than one party is responsible for the costs, fees and prejudgment interest, the costs, fees and prejudgment interest shall be equitably apportioned by the court among the responsible parties.

Section 9. Priority.

The priority of a broker's lien shall be as set forth under 42 Pa.C.S. § 8141 (relating to time from which liens have priority), except that mortgages, mechanics liens and defeasible deeds in the nature of a mortgage shall have priority over a broker's lien, regardless of the date recorded.

Section 10. Escrow of disputed amounts.

Except as otherwise provided in this section, whenever a claim for lien has been filed with the prothonotary that would prevent the closing of a transaction or conveyance, an escrow account shall be established from the proceeds from the transaction or conveyance in an amount that is sufficient to release the claim for lien. The requirement to establish an escrow account shall not be cause for any party to refuse to close the transaction. These moneys shall be held in escrow until the parties' rights to the escrowed moneys have been determined by written agreement of the parties, a court of law or other process as may be agreed to by the parties. Upon funds in the amount of the claimed lien being escrowed, a release of the claim for lien shall be provided by the broker who is claiming the lien. The parties are not required to follow this escrow procedure if alternative procedures which would allow the transaction to close are available and are acceptable to the broker in the transaction.

Section 11. Waiver prohibited.

(a) General rule.—Except as provided in subsection (b), an agreement to waive the right to a lien under this act made contemporaneously with the signing of the listing agreement, whether dated on the date of the listing agreement or thereafter, shall be void and unenforceable.

(b) Discharge of lien.—Any lien filed hereunder shall, upon petition of the party subject to the broker's lien or any party in interest, be discharged as a lien against the commercial real estate whenever a sum equal to the amount of the putative lien against the commercial real estate shall have been deposited with the court in said proceedings for application to the payment of the amount finally determined to be due.

(c) Refund of access.—Any excess of funds paid into court as aforesaid over the amount of the claim determined to be paid therefrom shall be refunded to the party depositing same upon application for a refund.

(d) Security in lieu of cash.—In lieu of the deposit of any sum or sums, approved security may be entered in such proceedings in double the amount of the required deposit or in such lesser amount as the court shall approve which, however, shall in no event be less than the full amount of such required deposit, and the entry of such security shall entitle a party to have the broker's lien discharged to the same effect as though the required sums had been deposited in the court aforesaid.

(e) Authority of court.—The court, upon petition filed by any party and after notice and hearing, may upon cause shown:

- (1) require the increase or decrease of any deposit or security;
- (2) strike off security improperly filed; and
- (3) permit the substitution of security and enter an exoneration of security already given.

Section 12. Revival of judgment.

Judgment upon a claim shall be revived within each recurring five-year period. The practice and procedures to revive judgment shall be governed by

42 Pa.C.S. § 5526 (relating to five year limitation) and the Pennsylvania Rules of Civil Procedure.

Section 13. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 14. Effective date.

This act shall take effect in 60 days.

APPROVED—The 20th day of March, A.D. 1998.

THOMAS J. RIDGE

eff 5/19/98

CHAPTER N

LIENS

ATTACHMENT OF WAGES, SALARY AND COMMISSIONS (Judgment Creditor-Landlord, Residential Lease). 42 Pa.C.S.A. §§ (A) et seq.
Pa. R.C.P. Nos. 3301 et seq.

1. Commencement. Notice.

a. The plaintiff shall commence an execution to attach wages by filing a praecipe with the Prothonotary of the county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located.

b. Upon the filing of the praecipe and collection of the filing fee, the Prothonotary shall issue a Notice of Intent to Attach Wages. The Prothonotary shall attach to the notice a copy of:

(1). the praecipe filed with the Prothonotary for issuance of the Notice of Intent to Attach Wages,

(2). the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee/>, and

(3). a Claim for Exemption from Wage Attachment Notice.

c. The Notice of Intent to Attach Wages with attachments shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

2. Exemption from Attachment. Procedure.

a. If the defendant files a claim for exemption of wages from attachment either within thirty (30) days or prior to the issuance of the writ of attachment, the Prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from attachment to the plaintiff or, if represented, to the plaintiff's attorney. The Prothonotary shall attach a copy of the claim to the notice.

3. Writ for the Attachment of Wages. Issuance. Service.
 - a. The Prothonotary shall issue a writ for the attachment of wages upon
 - (1). Praecept of the plaintiff where the defendant has not timely filed a claim for exemption of wages from attachment, or
 - (2). order of the court entered upon motion of plaintiff challenging claim of exemption.
 - b. The Prothonotary shall be ordinary mail send the writ to the garnishee and to the defendant.
 - c. The employer shall send the attached wages via a check made payable to the Prothonotary within 15 days from the close of the last pay period in each month. Upon receipt of the attached wages, the Prothonotary shall record, deposit, and issue a check for said wages to the judgment creditor-landlord.
4. Docket the case pursuant to the GENERAL PROVISIONS Section of the manual.
5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:
 - a. Section 2 - Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #1(b), All Civil Matters, Not Otherwise Listed, Not Involving Title to Real Estate.
 - (b). #13, Judgments and Liens
6. Forms:
 - Praecept for Notice of Intent to Attach Wages
 - Notice of Intent to Attach Wages, Salary or Commission
 - Claim for Exemption From Wage Attachment
 - Notice of Claim of Exemption of Wages From Attachment
 - Writ of Attachment of Wages

CIVIL DIVISION

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File No. _____

PRAECIPE FOR NOTICE OF INTENT TO ATTACH WAGES

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a Notice of Intent to Attach Wages in the above matter

(1) against _____, defendant,

(2) against _____, employer of the defendant.

Date: _____

Signature of Attorney for Judgment Creditor-Landlord
Print Name: _____

OR

Signature of Judgment Creditor-Landlord if unrepresented
Print Name: _____
Address: _____

Telephone: _____

* * * * *

CERTIFICATION BY JUDGMENT CREDITOR-LANDLORD

I certify that

1. The Plaintiff Judgment-creditor is _____

Name and Address

2. The defendant judgment-debtor is _____

Name and Address

3. The employer garnishee is _____

Name and Address

4. The judgment arises out of a residential lease for the premises at _____
_____ (address).

5. (a). The amount of the judgment is \$ _____.

(b). A security deposit in the amount of \$ _____ is being held by the judgment creditor-landlord. This security deposit
_____ has been applied
_____ has not been applied

to payment of rent due on the same premises for which the judgment has been entered. (Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)

(c). The amount of \$ _____ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)

6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.

7. The judgment was entered (check one):

_____ in a civil action commenced in the court of common pleas.

_____ in an action brought before a magisterial district judge.

_____ in an action commenced in the Philadelphia Municipal Court.

8. Check the appropriate paragraph and attach the required documents:

_____ (a). If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.

_____ (b). If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.

_____ (c). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.

_____ (d). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Judgment Creditor-Landlord

CIVIL DIVISION

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File No. _____

NOTICE OF INTENT TO ATTACH WAGES, SALARY OR COMMISSIONS

Date of service of this Notice: _____ (Date to be inserted by the Sheriff)

A judgment has been entered against you in court for nonpayment of rent for, or damage to, residential property that you rented. The judgment creditor-landlord has begun proceedings to attach 10% of your net wages, salary or commissions for each pay period until the judgment is satisfied.

The following exception will prevent your wages from being attached:

Poverty Guidelines -- Your wages may not be attached if your net income is below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services or if the amount of the attachment would cause your net income to fall below the poverty income guidelines. A copy of the guidelines is attached to this notice.

If this exemption is applicable to you, you must return the claim for exemption of wages which is attached to the Prothonotary within 30 days of the date of service of this notice upon you. The date of service of this notice is set forth above. If you return the form claiming this exemption within 30 days, your wages will not be attached without subsequent court proceedings.

There may be other legal grounds for opposing the wage attachment that you may be able to raise by filing a motion with the court. For example, your wages may not be attached if you are an abused person or victim as set forth in Section 8127(f) of the Judicial Code when the attachment is to satisfy a judgment for physical damages to the leased premises.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

CIVIL DIVISION

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File No. _____

CLAIM FOR EXEMPTION FROM WAGE ATTACHMENT

NOTICE

(This Claim for Exemption must be filed with the Prothonotary of the Court within 30 days of service upon you of the Notice of Intent to Attach Wages.)

To the Prothonotary/Clerk of Said Court:

I, the above-named defendant, claim exemption of my wages, salary or commissions from attachment on the following ground:

_____ My net monthly income is below the poverty income guidelines as provided by the Federal Department of Health and Human Services.

OR

_____ The amount of wages to be attached would place my net income below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services.

I have _____ (number) dependents.

My net monthly income is \$ _____.

(Net monthly income is your total monthly wages less (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.)

I certify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Defendant

This claim shall be delivered or mailed to: Office of the Prothonotary/Clerk, Civil Division
Court of Common Pleas

Telephone: _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

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File No. _____

WRIT OF ATTACHMENT OF WAGES, SALARY OR COMMISSIONS

Commonwealth of Pennsylvania :

County of _____ :

To _____

Employer of Defendant _____ (Name)

You have been identified as the employer of the above-named defendant.

You are directed to withhold the wages, salary and commissions of the defendant in your possession to satisfy the judgment against the defendant.

You are notified that

- 1. an attachment of wages, salary and commissions has been issued;
- 2. you are ordered to withhold from the wages, salary and commissions of the defendant an amount per pay period which does not exceed ten (10) percent of the defendant's net wages, salary and commissions;
(Net wages are all wages paid less only the following items: (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.)
- 3. the total amount attached is \$ _____ and the withholding must continue until the amount of the attachment is satisfied;
- 4. the attached wages shall be sent to the Prothonotary of the Court of Common Pleas within 15 days from the close of the last pay period in each month. The check must
 - a. contain the name of the employee whose wages are being withheld,
 - b. be made payable to the **Prothonotary/Clerk, Civil Division,** and
 - c. be sent to: Prothonotary/Clerk, Civil Division
Court of Common Pleas
Wage Attachment Remittance

Telephone: _____

5. you are entitled to deduct each pay period from the money collected from the defendant employee the costs incurred from the extra bookkeeping necessary to record the transaction, not exceeding \$5.00 of the amount of money so collected.

6. by law, you may not take any adverse action against the defendant because his or her wages, salary or commissions have been attached.

7. you shall send the following notice to the Prothonotary if the defendant has never been or is no longer an employee:

I have received a Writ of Attachment in the following case:

Plaintiff _____ v. Defendant _____

No. _____ of Year _____

The following person, _____, has never been (____) or is no longer and employee (____)

Date: _____
_____ Employer

Date: _____

Prothonotary/Clerk, Civil Division

Seal of the Court

by: _____
Deputy

CHAPTER O

UNIFORM COMMERCIAL CODE (UCC)

ACT 2001-18

(Approved by Governor on June 8, 2001.)

1. 13 Pa.C.S. § 9710. Operations of Prothonotaries' offices after effective date.

a. Definitions – “Former Division 9 records”

(1) Financing statements and other records that have been filed in a Prothonotary's office pursuant to Former Division 9 before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of June 30, 2001, by the Prothonotary's office for financing statements and other records filed in the Prothonotary's office before July 1, 2001.

(2) The index as of June 30, 2001

The term does not include records presented to a Prothonotary's office for filing after June 30, 2001, whether or not the records relate to financing statements filed in the Prothonotary's office before July 1, 2001.

b. No records to be accepted after June 30, 2001 – A Prothonotary's office must not accept for filing a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the Prothonotary's office before July 1, 2001.

c. Maintenance of Former Division 9 records – Until July 1, 2008, each Prothonotary's office must maintain all Former Division 9 records in accordance with Former Division 9. A Former Division 9 record that is not reflected on the index maintained at June 30, 2001, by the Prothonotary's office must be processed and indexed, and reflected on the index as of June 30, 2001, as soon as practicable but in any event no later than July 30, 2001.

d. Response to information requests – Until June 30, 2008, each Prothonotary's office shall respond to requests for information with respect to Former Division 9 records relating to a debtor and issue certificates, in accordance with Former Division 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to Former Division 9 records must be the fees in effect under Former Division 9 on June 30, 2001, unless a different fee is established by regulation issued by the Department of State pursuant to section 9525 of Revised Division 9 (relating to fees). The fees in effect as of June 30, 2001, are as follows:

- (1) Search, per debtor name - \$59
- (2) Each page of photocopy furnished - \$2
- (3) Certifying copies of any document or paper on file - \$28

Full fees remain with county.

e. Removal and destruction of Former Division 9 records – After June 30, 2008, each Prothonotary's office may remove and destroy, in accordance with any then applicable record retention law of this Commonwealth, all Former Division 9 records, including the related index.

2. There is no change in UCC filings in the Recorders of Deeds' offices.
3. 15 Pa.C.S. § 153. Fee schedule.

a. Restriction – UCC Revenue received by a county recorder of deeds under 13 Pa.C.S. § 9525 (relating to fees) after June 30, 2001, shall be restricted for use by the county recorder of deeds and the county prothonotary. The revenue shall be credited to the offices of the county recorder of deeds and the county prothonotary on the basis of the amount collected in each office in calendar year 2000, excluding any amounts paid to the Commonwealth. Revenue received in excess of the total amount received by each office during the year 2000, excluding amounts paid to the Commonwealth, shall be distributed pro rata to the county recorder of deeds and the county prothonotary. In a county without a recorder of deeds or a prothonotary, the provisions of this subsection shall apply to the equivalent county officials.

b. The Prothonotary and Recorder of Deeds shall certify the year 2000 collected monies to the county controller, or the county clerk in the absence of a county controller, who shall compute and record the credit to the appropriate office.

4. Information for PA Department of State, Corporation Bureau:

Address: 308 North Office Building
Harrisburg, PA 17120

Telephone: (717) 787-1057

Fax: (717) 783-2244

E-mail: www.dos.state.pa.us

UCC and Certification Division Telephone: (717) 772-2149

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division:

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-13, Financing Statements and Change Forms.

6. Form:
Form UCC-11 Request for Information or Copies

Uniform Commercial Code - REQUEST FOR INFORMATION OR COPIES - Form UCC-11(3-71)

IMPORTANT - Read instructions on back before filling out form. M. BURR KEIM CO. PHILA. PA.

REQUEST FOR COPIES OR INFORMATION. Present in DUPLICATE to Filing Officer.

1. Debtor (Last Name First) and Address	Party requesting information or copies: (Name and Address)	For Filing Officer, Date, Time, No.-Filing Office
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INFORMATION REQUEST:

COPY REQUEST:

Filing officer please furnish certificate showing if there is on file under the code as of _____, 19____ at _____ M., any presently effective financing statement filed pursuant to the UCC naming the above named debtor and any statement of assignment thereof, and if there is, giving the date and hour of filing of each such statement and the name(s) and address(es) of each secured party(ies) therein. Enclosed is uniform fee of \$5.00, plus \$1.00 for each Financing Statement and Assignment reported therein. Filing officer please furnish exact copies of each page of financing statements and statements of assignment listed below, at the rate of \$1.00 each, which are on

file with your office. Enclosed is \$ _____ fee for copies requested. In case any of said statements contain more than one page the undersigned agrees to pay the sum of \$1.00 for each additional page payable in advance.

Date _____ (Signature of Requesting Party) _____

File No.	Date and Hour of Filing	Name(s) and Address(es) of Secured Party(ies) and Assignees, if any

CERTIFICATE: The undersigned filing officer hereby certifies that:

- the above listing is a record of all presently effective financing statements and statements of assignment which name the above debtor and which are on file in my office as of _____, 19____ at _____ M.
- the attached _____ pages are true and exact copies of all available financing statements or statements of assignment listed in above request.

COPY 1

Date

Signature of Filing Officer

STANDARD FORM - FORM UCC-11 (3-71)

Approved by Secretary of The Commonwealth of Pa.

CHAPTER P

PROOF OF OFFICIAL RECORDS

CERTIFICATIONS.

1. GENERAL.

a. Proof of official records (42 Pa.C.S.A. § 5328).

(1). DOMESTIC RECORD (within the United States). An official record kept within the U.S. or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by a judge of a court of record having jurisdiction in the governmental unit in which the record is kept, authenticated by the seal of the court, or by any public officer having a seal of office and having official duties in the governmental unit in which the record is kept, authenticated by the seal of his office.

(2). FOREIGN RECORD. A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication or copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position:

(a). of the attesting person; or

(b). of any foreign official whose certificate of genuineness of signature and official position either:

(i). relates to the attestation; or

(ii). is in a chain of certificates of genuineness of signature and official position relating to the attestation.

(3). LACK OF RECORD. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in this section for a summary in the

case of record in a foreign country, is admissible as evidence that the records contain no such record or entry. (Note: This would be applicable to a request for a statement as to a decree in divorce, entry of judgment, etc. by a person to comply with certain requirement of a foreign country and no record exists.)

(4). Apostille (an addition) (The Hague Convention of October 5, 1961), is required for certain records. See TRANSFER OF JUDGMENTS to foreign countries Section of this manual.

b. Proof of Judgment Records.

(1). Foreign judgments (other than the state in which brought, e.g. sister state or foreign country). A copy of any foreign judgment including the docket entries incidental thereto authenticated pursuant to an act of Congress or this title may be filed in the office of the clerk of any court of common pleas in this Commonwealth (42 Pa.C.S.A. § 4306 - Uniform Enforcement of Foreign Judgments Act). Proof of records for foreign judgments, for either transfer or receipt, should be pursuant to the following applicable section:

(a). An act of Congress requires compliance with 28 U.S.C. § 1738, namely:

- (i). the attestation of the clerk,
- (ii). the seal of the court and
- (iii). a certificate from a judge that the authentication is in proper form.
- (iv). Apostille (for foreign countries) - see paragraph 1.a.(4).

(b). Commonwealth. Pa.R.C.P. No. 3002(a) -- a judgment may be transferred to another "county" by filing of record:

- (i). a certified copy of the judgment index and docket entries in the action;
- (ii). and a certification of the amount of the judgment.

(c). Statute vs. Rule. Goodrich Amram 2d 3002:1 and 42 Pa.C.S.A. § 4306 (Notes of Decisions 2 and 3) state that under the Uniform Foreign Judgments Act, the foreign judgment must be certified either under the Act of Congress or the statutes of this State. There is no such Pennsylvania statute and Pa.R.C.P. No. 3002(a) is not a statute, but a rule; and as such, is only applicable to transfers within the Commonwealth. In *Medina & Medina, Inc. v. Gurrentz v. International Corp.*, 304 Pa.Super. 76, 450 A.2d 108 (1982), the applicable Pennsylvania law was determined to be 42 Pa.C.S.A. § 5328(a) (see aforementioned paragraph I.b.) as the alternative means to the Uniform Enforcement Foreign Judgments Act (42 Pa.C.S.A. § 4306).

(i). Statutes 42 Pa.C.S.A. §§ 4306 and 5328(a) apply to preparing proof of documents for outside the Commonwealth.

(ii). Rule Pa.R.C.P. No. 3002 applies to preparing proof of judgment documents for counties within the Commonwealth.

(iii). Goodrich Amram 2d 3002:2 Number of transfers; transfer of judgment. Although the R.C.P. governing the transfer of judgments speak in terms of transfer "to another county", this should be regarded as meaning transfer to any number of other counties, without limitation upon the number of transfers from the county in which the judgment was originally entered.... A judgment transferred to a Court of Common Pleas of a county other than that in which it was originally entered does not become a judgment of the court to which it is transferred, and hence may not be transferred from there to the third county.... The definition of "judgment" includes a judgment entered upon transcript of certification from another court within the same county (Note: Certification of a District Justice Judgment). Thus, such a judgment may thereafter be transferred to another county under Rule 3002(a).

2. PROCEDURES.

a. Prothonotary should have a certification stamp made substantially in the following form:

I, L. M. GOOD, Prothonotary of the Court of Common Pleas of BLANK County, OURVILLE, Pa., do certify that this is a true and correct copy of the original record filed in said court.

L. M. GOOD, Prothonotary

SEAL

Date:

Deputy

b. Document Certification. Upon the receipt of a request for a certified copy of a filed document and payment of the requisite fee, the Prothonotary shall stamp, sign, and seal a copy of the record.

(1). If the request is for an exemplification of the complete case record, a certified copy of the judgment index, if applicable, and docket entries is to be included.

(2). If the request is for outside the Commonwealth, a certificate from a judge that the authentication is in proper form may be included. Local practice may dictate that this is also applicable within the Commonwealth.

(a). If for a foreign country, an "Apostille" may be required. See TRANSFER OF JUDGMENTS to foreign countries Section of this manual.

(3). Upon the receipt of a request for a certified copy of a judgment and payment of requisite fee, follow the procedures set forth in TRANSFER OF JUDGMENT Section of this manual. Ensure the Proof of Official Records requirements, for within or outside the Commonwealth and foreign countries, are complied with.

c. Sealing documents for presentation to foreign governments. It is suggested that the raised seal be impressed on a gold notarial seal and attached to the document with two red ribbons protruding from beneath the seal.

d. Lack of record certification. Upon payment of fee and a request for a specific record, and after a diligent search, none was found to exist; upon request, issue a lack of record certification to the none existence of the record,

including identifying the item searched for, time period searched and Prothonotary's area of jurisdiction, pursuant to paragraph l.a.(3). This action is usually necessary to meet certain legal requirements of other jurisdictions.

e. Notary Registration and Certification.

(1). Registration. Upon presentation of an appointment certificate and endorsement by the Recorder of Deeds that the requisite bond has been posted, and payment of fee, Prothonotary shall have Notary complete card providing name, address, telephone number, expiration of appointment and sign card. Prothonotary shall file and enter in Notary Register. A county may permit notaries to register their electronic signatures.

(2). Certification. Upon request, presentation of a document and payment of fee, Prothonotary shall consult Notary Register and/or card to verify the registration, period of appointment, and signature of the notary shown on the document. If all items are in proper form, issue, sign and seal a notary's certificate, attaching it to the document presented for the certification.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-17, Notary Registers.

4. Forms:
Attestation
Certification of Judgment
Notary Certificate

ATTESTATION

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF _____)

I, _____, PRESIDENT JUDGE OF THE COURT OF COMMON PLEAS OF THE COUNTY AFORESAID, IN THE SAID COMMONWEALTH, DO HEREBY CERTIFY THAT THE SAID _____, BY WHOM THE ATTACHED _____ WAS MADE, WAS, AT THE TIME OF SO MAKING THE SAME, AND IS NOW THE PROTHONOTARY/CLERK OF SAID COURT, DULY COMMISSIONED AND QUALIFIED; TO ALL WHOSE ACTS AS SUCH, FULL FAITH AND CREDIT ARE AND OUGHT TO BE GIVEN, AS WELL IN COURTS OF JUDICATURE AS ELSEWHERE; THAT THE SEAL THERETO ANNEXED IS THE SEAL OF THE SAID COURT; AND THAT THE SAID _____ IS IN DUE FORM OF LAW, AND MADE BY THE PROPER OFFICER.

DATED THIS _____ DAY OF _____, A.D. _____

PRESIDENT JUDGE

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF _____)

I, _____, PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, IN AND FOR THE SAID COURT, DO CERTIFY THAT THE HONORABLE _____, BY WHOM THE FOREGOING ATTESTATION WAS MADE, AND WHO HAS THEREUNTO SUBSCRIBED HIS NAME WAS, AT THE TIME OF MAKING THEREOF, AND STILL IS, PRESIDENT JUDGE OF THE COURT OF COMMON PLEAS, IN AND FOR SAID COUNTY, DULY COMMISSIONED AND QUALIFIED; TO ALL WHOSE ACTS AS SUCH, FULL FAITH AND CREDIT ARE AND OUGHT TO BE GIVEN, AS WELL IN COURTS OF JUDICATURE AS ELSEWHERE.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF SAID COURT, THIS _____ DAY OF _____, A.D. _____.

PROTHONOTARY/CLERK, CIVIL DIVISION

vs.

:
:
:
:
:
:
:
:
:
:
:

File No. _____

CERTIFICATION OF JUDGMENT

Pursuant to applicable judgment acts*, I, the undersigned Prothonotary/Clerk of Courts
of _____ County, State of _____ do
hereby certify that the judgment in the above case was entered in favor of

(name/address)

and against _____
(name/address)

on the _____ day of _____, A.D. _____, in said case in the
amount of \$ _____.

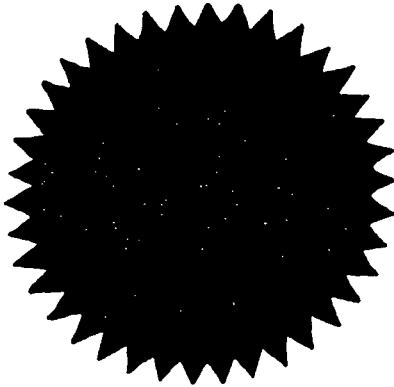
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the
Court, on the _____ day of _____, A.D. _____.

Prothonotary/Clerk of Courts

*Uniform Enforcement of Foreign Judgments Act
Pa.R.C.P. No. 3002(a)
42 Pa.C.S.A. § 4306

Commonwealth of Pennsylvania }
County of Lehigh } ss.

I, Doris A. Glaessmann, Clerk of Courts—Civil Division of the Court of Common Pleas of said County, do hereby certify, that said Court is a Court of Record;



that..... was at the time of taking the foregoing ACKNOWLEDGEMENT - AFFIDAVIT a notary public, District Justice in and for said County and Commonwealth, duly commissioned and qualified, and as such authorized by the laws of the Commonwealth to take affidavits, acknowledgements and proofs of deeds or conveyances of lands, tenements and hereditaments situate, lying and being in said Commonwealth of Pennsylvania, and that I am well acquainted

with the handwriting of the said.....

and that h..... signature to said ACKNOWLEDGEMENT - AFFIDAVIT is genuine. IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of the said Court, at the City of Allentown, in said County and Commonwealth, this..... day of..... A. D. 19....

.....
Doris A. Glaessmann, Clerk of Courts—Civil Division

CHAPTER Q

ENFORCEMENT ACTIONS

MONEY JUDGMENTS.

1. WRIT OF EXECUTION (Pa.R.C.P. No. 3102). A Judgment shall be enforced by a writ of execution.

2. COMMENCEMENT. ISSUANCE. (Pa.R.C.P. No. 3103).

a. General Notes (Goodrich Amram 2d).

(1). 3103(a):1 Generally; commencement of execution process -- Rules contemplate only one method for the commencement of execution process: A writ of execution will be issued only upon the filing of a praecipe, in substantially the form set forth in Pa.R.C.P. No. 3252, with the Prothonotary of the county in which judgment has been entered.

(2). 3103(a):1.1 Qualifications on execution; time -- With exception to the limited number of instances set forth in the note to Pa.R.C.P. No. 3103, execution may commence upon the filing of the praecipe immediately upon the entry of judgment, regardless of post-trial motions and even of the filing of an appeal. A supersedeas will stay the mandate.

(3). 3103(a):1.2 Furnishing blank forms; preparation of writ -- It is accepted practice for the Prothonotary to make available blank forms of the praecipe and writ and for counsel for the execution plaintiff (rather than the Prothonotary himself) to prepare the writ and submit same to the Prothonotary for his issuance. However, it is not mandatory.

(4). 3103(a):1.3 Issuance of writ upon proper praecipe -- The Prothonotary is to issue the writ as a ministerial act, provided the form of praecipe is correct and the data substantially conforms to that set forth in the judgment index/docket.

(5). 3103(b):1 Issuance of writ in the county in which judgment originally entered; to sheriff of any county in state -- This Rule empowers the Prothonotary of the county in which the judgment was originally entered to direct his writ to the sheriff of any county within the Commonwealth. But it is only the Prothonotary of this original county who has this statewide power.

(6). 3103(c):1 Issuance of the writ in the transferee county; to sheriff of such county only --In the event that a judgment originally entered in one county has been transferred to another, a writ of execution issued by the Prothonotary of the transferee county may be directed only to the sheriff of the transferee county.

(7). 3103(d):1 Time of issuance of writs of execution; multiple writs -- The execution plaintiff is entitled to have several writs issued at once or at different times. In filing for more than a single writ of execution, the execution plaintiff should be prepared to file a separate praecipe for each writ desired.

(8). 3103(e):1 Transmittal of the writ of execution to the sheriff by Prothonotary or plaintiff -- This subsection gives to the executing plaintiff the option either to have the writ of execution transmitted to the sheriff by the Prothonotary or to transmit the writ personally.

(9). 42 Pa.C.S.A. § 5529. Twenty year limitation -- An execution against personal property must be issued within 20 years after the entry of the judgment upon which the execution is to be issued. (See 42 Pa.C.S.A. § 5525(7) for exception.)

b. Procedure.

(1). Upon receipt of a praecipe for a writ of execution and payment of the appropriate fee, the Prothonotary shall file same after verification of information. If praecipe is in error and does not conform to data, Prothonotary should return praecipe to plaintiff or counsel for correction (sample form attached).

(a). Information to be verified: caption, case number, court orders, stay orders, judgment entered and judgment amount.

(b). It is IMPORTANT TO CHECK THE JUDGMENT FIRST when preparing a writ of execution.

(2). Prothonotary shall then issue writ (which may have been prepared and submitted by plaintiff or counsel), and upon completion shall forward same to the sheriff to whom it is directed or return to the plaintiff or counsel for transmittal, and make appropriate entry on the docket (sample form attached).

- (a). Documents should consist of the following:
- (i). Writ of Execution and/or Attachment.
 - (ii). Writ of Execution Notice (not needed on Mortgage Foreclosure).
 - (iii). Claim for Exemption.
- (b). The original writ will be returned to Prothonotary along with the sheriff's return.

(3). The Prothonotary of the county in which judgment was entered originally may issue a writ to the sheriff of any county within the Commonwealth.

(4). When judgment is transferred to another county, the Prothonotary of the transferee county may issue a writ directed only to the sheriff of the transferee county.

(5). Writs may be issued at the same or different times or to the sheriffs of different counties without prior return of any outstanding writ.

3. INDEXING. (Pa.R.C.P. No. 3104).

a. General Notes (Goodrich Amram 2d).

(1). 3104(a):1 Generally; indexing of the writ of execution -- The Prothonotary is required by statute (17 P.S. § 1903) to keep what is usually termed the judgment index docket, and to make an appropriate notation therein when a writ of execution has been issued. Such indexing shall be upon praecipe of the plaintiff.

(2). 3104(b):1.1 Indexing writ same effect as indexing judgment -- Indexing of the writ by the Prothonotary of the transferee county "shall have the same effect as the indexing of a judgment against the defendant." It would appear to be the purpose of the above-quoted provision to give to the indexing of a transferred writ the same effect in creating a lien as would the indexing of a transferred judgment, at least for the 90-day life of the writ. Also indexing gives to the court of common pleas of the transferee county jurisdiction to pass upon a petition to open a judgment originally entered elsewhere.

(3). 3104(c):1.1 Purpose and effect of indexing -- The writ will constitute a lis pendens only with regard to the real property described in the writ and not any other real property held by the named garnishee. The indexing of the lis pendens is limited in its effect as legal notice only within the county of indexing. (The writ of attachment must contain a description of the property.)

b. Procedure.

(1). Upon receipt of a separate praecipe of plaintiff, Prothonotary shall file praecipe and index the writ against the defendant in the Judgment Index at time of issuance.

(2). If a writ from another county is received by the sheriff, it shall be delivered to the Prothonotary of that county, who shall index the writ and return it to the sheriff for execution. (See Pa.R.C.P. No. 3104(b))

(a). An alternate procedure would be for the sheriff to deliver a photocopy of the writ from the other county to the Prothonotary for filing. The Prothonotary would then be able to retain the photocopy for the files and not be concerned about returning the writ to the sheriff for execution.

(3). When the writ directs attachment of real property of the defendant in the name of the garnishee, the plaintiff may praecipe the Prothonotary of the county where execution is to occur to index the writ. Upon receipt of such a praecipe from the plaintiff, wherein the real property in that county is fully described, the Prothonotary shall file, and index the writ against the garnishee as a lis pendens. This indexing only constitutes a lis pendens against the described property in that county and not against any property of the garnishee (Pa.R.C.P. No. 3104(c)).

4. SUBSTITUTION, REISSUANCE AND EXPIRATION OF WRIT. (Pa.R.C.P. No. 3106)

a. General Notes (Goodrich Amram 2d).

(1). 3106(a):1 Generally; substitution of writ on loss or destruction -
- A substituted writ is a substitute or replacement for the prior writ. A new 90-day period begins to run with the "reissuance" of any writ, whether original or substituted.

(2). 3106(b):1 Reissuance of writ; time and number of reissuances
-- The reissued writ serves the function of a newly issued writ; reissuance will recommence the running of the 90-day period in which attachment or levy may be made.

b. Procedure.

(1). Upon receipt of a praecipe stating that a writ has been lost or destroyed the Prothonotary shall file same and issue a substituted writ (Pa.R.C.P. No. 3106(a)).

(2). A writ may be reissued at any time, any number of times by the endorsement of the word "Reissued" and signing same; and may name a garnishee not originally named or additional property (Pa.R.C.P. No. 3106(b) and (c)).

(3). A levy or attachment made under the writ, original or reissued, within the 90-day period remains valid without further reissuance. If sheriff's return states that levy was abandoned, a new praecipe to execute should be filed (Pa.R.C.P. No. 3106(d)).

5. DISCOVERY IN AID OF EXECUTION. (Pa.R.C.P. No. 3117).

a. General Notes (Goodrich Amram 2d).

(1). 3117(b):1 Costs of discovery, preconditions to recovery -- If a judgment creditor takes depositions to discover assets of his debtor and does discover such assets, the reasonable expenses of the deposition are taxable against the defendant as costs.

(2). 3117(b):1.1 Against whom recoverable -- The costs may be taxed only against the judgment debtor.

(3). 3117(b):1.2 Extent of recovery; attorney fees and travel expenses -- Attorney fees and travel expenses are two items of expense which are within the definition of reasonable expenses, and may be recoverable.

b. Procedure.

(1). All reasonable expenses incurred in the discovery may be taxed as costs against the defendant upon filing a Bill of Costs (42 Pa.C.S.A. § 1726, Pa.R.C.P. No. 1527 and local rules of court).

6. STAY OF EXECUTION, VENUE, AND OTHER PROCEEDINGS (Pa.R.C.P. No. 3121 and 3122).

a. Procedure.

(1). Stay of execution as to all or any part of the property of the defendant can be effected by several methods of which the following is one involving the Prothonotary:

(a). The entry of a bond with the Prothonotary, with security approved by the Prothonotary, by any person or party in interest. The bond shall be in the amount of the plaintiff's judgment including probable interest and costs, or in a lesser amount if the court so directs. The bond shall name the Commonwealth of Pennsylvania as obligee, and be conditioned to pay the amount due within 90 days of the entry of bond. This time for payment may be further extended by the court.

(2). Upon receipt of document moving for a stay of execution, Prothonotary shall file and make docket entry.

(3). After the termination of a stay, sale may be had without reissuance of the writ, if no more than 90 days have passed from date of issuance or reissuance.

7. SALE OF REAL PROPERTY LOCATED IN MORE THAN ONE COUNTY (Pa.R.C.P. No. 3131).

a. General Notes (Goodrich Amram 2d).

(1). 3131:1 Generally; limitation of rule to single tract -- The rule is explicit in limiting only to cases in which the real property "consists of an interest in a single tract of land" lying in more than one county. It is not to be invoked when separate parcels of real property of the defendant are subject to execution in different counties.

(2). 3131(d):1 Court order of sale in another county; notice -- If court directs sale of land in another county, the plaintiff is to file with the Prothonotary there a copy of the pleadings and order of the court. The rule makes this requirement mandatory and imposes the burden upon the plaintiff. Section (d) requires that these be indexed by the Prothonotary and such indexing will bind the property located there as though a judgment had been entered.

b. Procedure.

(1). Upon receipt of a certified copy of an order of court directing a sale which includes land in an adjoining county, and a copy of the pleadings, the Prothonotary shall file, collect the requisite judgment filing fee, assign a court of common pleas number and record it in the judgment index/docket.

8. SHERIFF'S DEED TO REAL PROPERTY (Pa.R.C.P. No. 3135).

a. Procedure.

(1). When sheriff sells real property in execution, the sheriff shall execute a deed to the property sold and acknowledge same before the Prothonotary who shall sign deed and affix court seal.

9. DISTRIBUTION OF PROCEEDS (Pa.R.C.P. No. 3136).

a. Procedure.

(1). If sheriff receives written exceptions to the distribution of the proceeds of a sale, same shall be immediately filed with the Prothonotary together with a copy of the proposed distribution schedule. Prothonotary shall file same and make appropriate docket entry.

(2). Upon petition by the sheriff or any interested party, the court may order the proceeds to be paid into the court pending final disposition or appeal. Upon receipt of said docket entry. Prothonotary shall record monies received, issue a petition and order, Prothonotary shall file and make appropriate receipt, and deposit into escrow account unless court order directs monies to be invested into an individual interest-bearing account.

10. SHERIFF'S RETURN (Pa.R.C.P. No. 3139).

a. Procedure. Upon receipt of the sheriff's return and distribution schedule, the Prothonotary shall file and make docket entry.

11. GARNISHEE'S DUTY TO DEFEND. VENUE OF PROCEEDINGS (Pa.R.C.P. No. 3141).

a. Procedure.

(1). When writ is issued to another county, the garnishee has the option of filing any documents relating to the attachment (e.g. preliminary objections) in the county to which the writ was directed or to the issuing county. If filed in the county to which the writ is directed, copies of the documents and any order of court shall also be forwarded to the Prothonotary of the issuing county, along with an election of optional venue in the garnishee county.

(2). Upon receipt of the documents, the Prothonotary shall file and make docket entry.

12. DISSOLUTION OF ATTACHMENT. RELEASE OF PROPERTY. BOND.
(Pa.R.C.P. No. 3143).

a. General Notes (Goodrich Amram 2d). 3143(b):1.1 Automatic dissolution; no notice required -- Dissolution of attachment under Rule 3143(b) is automatic.....

b. Procedure.

(1). An attachment is not dissolved by the death or dissolution of a defendant or garnishee.

(2). An attachment is dissolved when any person or party

(a). files a bond with the Prothonotary with surety approved by Prothonotary in amount of plaintiff's judgment, probable interest and costs, or in a lesser amount if the court so directs. The Commonwealth of Pennsylvania shall be named as obligee in the bond and be conditioned to pay plaintiff the amount finally determined to be due by the garnishee, or value of property, whichever is less.

(b). deposits cash security with the Prothonotary, or with the sheriff for Prothonotary, to be held by Prothonotary upon same conditions as a bond. Cash security shall be in an amount equal to plaintiff's judgment, probable interest and costs, or a lesser amount if the court so directs.

(3). Upon praecipe of garnishee or defendant, the Prothonotary shall enter a rule on the plaintiff to file interrogatories.

(a). If plaintiff fails to comply, upon praecipe of garnishee, the Prothonotary shall enter judgment of non pros against plaintiff and in favor of garnishee. This dissolves the attachment as to that garnishee.

(4). At any time after answers to the interrogatories are filed and copy served upon plaintiff, upon praecipe of garnishee, the Prothonotary shall enter a rule on the plaintiff to seek judgment against the garnishee under Pa.R.C.P. No. 3146(b) or place the issue on the trial list.

(a). If plaintiff fails to comply within 20 days after service of rule, upon praecipe of garnishee, the Prothonotary shall enter judgment of non pros against the plaintiff and in favor of garnishee. This dissolves the attachment as to that garnishee.

(5). For entry of judgment non pros, the Prothonotary shall follow procedure established in JUDGMENTS Section of this manual.

13. INTERROGATORIES TO GARNISHEE (Pa.R.C.P. No. 3144).

a. Procedure.

(1). The plaintiff may file and serve interrogatories on the garnishee at the time of issuance of writ or thereafter, which shall contain a notice to answer within 20 days after service.

(a). Prothonotary shall file original document and make docket entry.

14. INTERROGATORIES. PROCEDURE. (Pa.R.C.P. No. 3145). The interrogatories of the plaintiff should be treated as though it were a complaint, and the answer of garnishee as though an answer in a civil action, with that procedure to be followed accordingly.

15. JUDGMENT AGAINST GARNISHEE UPON DEFAULT OR ADMISSION IN ANSWER TO INTERROGATORIES (Pa.R.C.P. No. 3146).

a. General Notes (Goodrich Amram 2d).

(1). 3146(a):3 Where answer filed but not served -- If an answer has in fact been filed, but not served on opposing counsel, a default judgment may not be entered. Praeceptum may issue to the Prothonotary, but on checking the docket and finding garnishee's answer on file the Prothonotary becomes powerless to enter the judgment.

(2). 3146(a):3.2 Where answer not filed in time but is filed before praecipe for judgment -- The Prothonotary is governed by the state of the docket at the time the praecipe is actually filed.

(3). 3146(b):1.1 Clarity of admissions; where doubtful or ambiguous -- If there is any doubt regarding the garnishee's admission, the Prothonotary cannot and should not enter judgment on the plaintiff's praecipe. The Prothonotary can enter judgment only if the answers are clear and unequivocal. If the Prothonotary has any doubt whether judgment should be entered against the garnishee on the plaintiff's praecipe, that doubt is to be resolved in the garnishee's favor.

(4). 3146(b):2 Nature and effect of judgment on admissions -- No money judgment against the garnishee shall

exceed the amount of the plaintiff's judgment against the defendant with interest and costs.

b. Procedure.

(1). Default -- Upon presentation of the praecipe for entry of default judgment in an unliquidated amount (in no amount), with copy of Important Notice and certificate of service attached, and payment of filing fee, the Prothonotary shall file, docket and index pursuant to the GENERAL PROVISIONS Section of this manual.

(a). Notice must be given pursuant to Pa.R.C.P. No. 236 to the garnishee or the counsel of record and noted in the docket.

(b). The amount of judgment shall then be assessed by the court after a hearing requested on motion of the plaintiff after 10-day notice to garnishee and defendant.

(2). Admission -- Upon praecipe of plaintiff, the Prothonotary shall enter judgment against garnishee for the property of defendant which garnishee has admitted being in his/her possession. No money judgment against garnishee shall exceed amount of judgment against defendant together with interest and costs.

(a). Upon receipt of the above praecipe, payment of filing fee, the Prothonotary shall file, docket and index pursuant to the GENERAL PROVISIONS Section of this manual.

(b). Notice must be given pursuant to Pa.R.C.P. No. 236 to the garnishee or his counsel of record and noted in the docket.

(3). If the garnishee is a bank or other financial institution, the Prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of Rule 3146(b) as to funds of any account of the defendant that is identified in the garnishee's answer to interrogatory no. 7 or 8.

(a). See Rule 3111.1 providing that service of the writ does not attach the defendant's funds on deposit in a bank or other financial institution in an account in which funds are deposited electronically on a recurring basis and are identified as funds which upon deposit are exempt from attachment.

16. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

b. If item is not in this schedule, contact State Archives for retention information.

17. Forms:

Certification

Interrogatories to the Above-Named Garnishee

Praecipe for Writ of Execution--Money Judgement

Writ of Execution and/or Attachment

Writ of Execution Notice

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

.....

File No. _____

CERTIFICATION

The undersigned hereby certifies that the attached Praecipe for Execution does not arise out of a retail installment sale, contract, or account based on a confession of judgment, but if it does, it is based on the appropriate original proceeding filed pursuant to Act 7 of 1966 as amended.

Date: _____

Signature: _____

Print Name: _____

Attorney for Plaintiff

Address: _____

Telephone: _____

Supreme Court ID No.: _____

CIVIL DIVISION

.....

File No. _____

EXECUTION

INTERROGATORIES TO GARNISHEE

TO: _____ Garnishee):

You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you.

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reasons?

2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant(s)?

3. At the time your were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefor?

6. At any time after you were served did you pay, transfer or deliver any money or property to the defendant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state the reason for the exemption, the amount being withheld under each exemption and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

9.

Date: _____

Signature: _____

Print Name: _____

Attorney for Plaintiff

Supreme Court ID No.: _____

:
:
: File No. _____
:
:
:

PRAECIPE FOR WRIT OF EXECUTION -- MONEY JUDGMENT
(Pa.R.C.P. No. 3251)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a writ of execution in the above matter,

- (1) directed to the Sheriff of _____ County;
- (2) against _____, defendant; and
(Name of Defendant)
- (3) against _____, garnishee;
(Name of Garnishee)
- (4) and enter this writ in the judgment index
 - (a) against _____, defendant and
(Name of Defendant)
 - (b) against _____, as garnishee
(Name of Garnishee)

as a lis pendens against real property of the defendant in name of garnishee as follows:

(Specifically describe property) / (See attached)

(5) Amount due	\$ _____
Interest from _____	\$ _____
(Costs to be added)	\$ _____

Date: _____

Signature: _____
 Print Name: _____
 Address: _____

 Attorney for: _____
 Telephone: _____
 Supreme Court ID No.: _____

WRIT OF EXECUTION

Commonwealth of Pennsylvania

County of _____

To the Sheriff of _____ County:

To satisfy the judgment, interest and costs against _____, defendant
(Name of Defendant)

(1) you are directed to levy upon the property of the defendant and to sell the defendant's interest therein;

(2) you are also directed to attach the property of the defendant not levied upon in the possession of _____,
(Name of Garnishee)

as garnishee, _____, and to notify the garnishee that (Specifically describe property)

(a) an attachment has been issued;

(b) except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;

(c) the attachment shall not include

(i) the first \$10,000 of each account of the defendant with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.

(ii) each account of the defendant with a bank or other financial institution in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.

(iii) any funds in an account of the defendant with a bank or other financial institution that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

(3) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.

Amount due \$ _____

Interest from _____ \$ _____

Costs to be added \$ _____

(Name of Prothonotary (Clerk))

Seal of the Court

By _____
(Deputy)

Explanatory Comment—2010

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

CIVIL DIVISION

File No. _____

WRIT OF EXECUTION NOTICE

THIS PAPER IS A WRIT OF EXECUTION. IT HAS BEEN ISSUED BECAUSE THERE IS A JUDGMENT AGAINST YOU. IT MAY CAUSE YOUR PROPERTY TO BE HELD OR TAKEN TO PAY THE JUDGMENT. YOU MAY HAVE LEGAL RIGHTS TO PREVENT YOUR PROPERTY FROM BEING TAKEN. A LAWYER CAN ADVISE YOU MORE SPECIFICALLY OF THESE RIGHTS. IF YOU WISH TO EXERCISE YOUR RIGHTS, YOU MUST ACT PROMPTLY.

THE LAW PROVIDES THAT CERTAIN PROPERTY CANNOT BE TAKEN. SUCH PROPERTY IS SAID TO BE EXEMPT. THERE IS A DEBTOR'S EXEMPTION OF \$300.00. THERE ARE OTHER EXEMPTIONS WHICH MAY BE APPLICABLE TO YOU. A SUMMARY OF SOME OF THE MAJOR EXEMPTIONS ARE LISTED ON THE REVERSE SIDE. YOU MAY HAVE OTHER EXEMPTIONS OR OTHER RIGHTS.

IF YOU HAVE AN EXEMPTION, YOU SHOULD DO THE FOLLOWING PROMPTLY: (1) FILL OUT THE ATTACHED CLAIM FORM AND DEMAND FOR A PROMPT HEARING; (2) DELIVER THE FORM OR MAIL IT TO THE SHERIFF'S OFFICE AT THE ADDRESS NOTED.

YOU SHOULD COME TO COURT READY TO EXPLAIN YOUR EXEMPTION. IF YOU DO NOT COME TO COURT AND PROVE YOUR EXEMPTION, YOU MAY LOSE SOME OF YOUR PROPERTY.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE: _____

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 STATUTORY EXEMPTION
2. BIBLES, SCHOOL BOOKS, SEWING MACHINES, UNIFORMS, AND EQUIPMENT
3. MOST WAGES AND UNEMPLOYMENT COMPENSATION
4. SOCIAL SECURITY BENEFITS
5. CERTAIN RETIREMENT FUNDS AND ACCOUNTS
6. CERTAIN VETERAN AND ARMED FORCES BENEFITS
7. CERTAIN INSURANCE PROCEEDS
8. SUCH OTHER EXEMPTIONS AS MAY BE PROVIDED BY LAW

CHAPTER Q

ENFORCEMENT ACTIONS

ACTION IN EJECTMENT (Pa.R.C.P. Nos. 3160 through 3165).

1. JUDGMENT. EXECUTION. (Pa.R.C.P. No. 3160). A judgment for possession shall be enforced by a writ of possession (Form-Pa.R.C.P. No. 3255). Execution for profits or damages included in such judgment shall be pursuant to rules governing enforcement of money judgments (see MONEY JUDGMENTS Section of this manual).

2. CONFORMITY TO RULES GOVERNING ENFORCEMENT OF JUDGMENTS FOR PAYMENT OF MONEY (Pa.R.C.P. No. 3161). The procedure for enforcement of judgment for possession shall be pursuant to rules governing enforcement of money judgments with respect to the specific areas designated in Pa.R.C.P. No. 3161.

3. COMMENCEMENT (Pa.R.C.P. No. 3161.1). Execution shall be commenced by filing a praecipe for a writ of execution with the Prothonotary of any county in which judgment has been entered. Except as otherwise prescribed by Rule 2974.1 governing a judgment entered by confession, the praecipe shall be in the form prescribed by Rule 3254.

4. STAY OF EXECUTION. SETTING ASIDE EXECUTION (Pa.R.C.P. No. 3162). Upon receipt of a motion and/or order of court in the above matter, the Prothonotary shall file same, and make docket entry.

5. SHERIFF'S RETURN (Pa.R.C.P. No. 3164). Upon receipt of a sheriff's return upon completion or abandonment of the execution proceedings, the Prothonotary shall file same, and make docket entry.

6. REENTRY BY DEFENDANT. NEW WRIT OF POSSESSION. (Pa.R.C.P. No. 3165).

a. General Notes (Goodrich Amram 2d).

(1). 3165:1 Generally -- After execution and return of the writ, if the defendant should reenter into possession, the plaintiff need file only a praecipe and affidavit setting forth the facts, and the Prothonotary is thereupon directed to issue a new writ of possession.

(2). 3165:2 Time of filing for new writ; successive writs -- The filing of the praecipe and affidavit for a new writ of possession has to be accomplished within 3 years

after the return of the writ on which execution was completed. Presumably, if several successive writs were to issue, the 3-year period would apply to each in turn. After a lapse of 3 years from the time of the return of the last writ, a new action of ejectment would have to be commenced.

b. Procedure.

(1). Upon receipt of a praecipe for writ of possession, affidavit (if for reentry by defendant and new writ required - Pa.R.C.P. No. 3165), and the requisite fee, the Prothonotary shall file same after verification of information.

(a). Information to be verified: caption, case number, court orders, stay orders, and judgment.

(2). Prothonotary shall then issue writ (which may have been prepared and submitted by plaintiff or counsel), and upon completion shall forward same to the sheriff to whom it is directed or return to the plaintiff or counsel for transmittal, and make docket entry. Writ and sheriff's return will be given to Prothonotary by sheriff.

7. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). Ejectment Papers.

b. If item is not in this schedule, contact State Archives for retention information.

CHAPTER Q

ENFORCEMENT ACTIONS

MORTGAGE FORECLOSURE.

1. JUDGMENT. EXECUTION. (Pa.R.C.P. No. 3180). Judgment shall be enforced by a writ of execution substantially in the forms prescribed by Pa.R.C.P. Nos. 3256 and 3257.

2. CONFORMITY TO RULES GOVERNING ENFORCEMENT OF JUDGMENTS FOR PAYMENT OF MONEY (Pa.R.C.P. No. 3181). The procedure for enforcement of a judgment shall be pursuant to the rules governing the enforcement of money judgments in specific areas as designated in Pa.R.C.P. No. 3181 (see MONEY JUDGMENTS Section of this manual).

3. STAY OF EXECUTION. SETTING ASIDE EXECUTION (Pa.R.C.P. No. 3183). Upon receipt of a motion and/or order of court in the above matter, the Prothonotary shall file same and make docket entry.

4. PROCEDURE.

a. Upon receipt of a praecipe for a writ of execution, payment of fee, the Prothonotary shall file same after verification of the information.

(1). Information to be verified: caption, case number, court orders, stay orders, judgment entered and judgment amount -- it is important to check the judgment first when preparing the writ of execution.

b. Prothonotary shall then issue writ (which may have been prepared and submitted by plaintiff or counsel), and upon completion shall forward the original to the sheriff to who it is directed or return to the plaintiff or counsel for transmittal, and make docket entry.

c. The original writ will be returned to Prothonotary along with the sheriff's return.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- PY-6 Civil Dockets, Books and Indices.
- PY-7 Civil Papers/Files.
 - (a) #15 Mortgage Foreclosure

6. Form:
Praecipe for Writ of Execution - Mortgage
Foreclosure
Writ of Execution – Mortgage Foreclosure

[Caption]

PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)

To the Prothonotary:

Issue writ of execution in the above matter:

Amount due \$ _____

Interest from _____ \$ _____

[Costs to be added] \$ _____

Attorney for Plaintiff

Official Note: Adopted March 30, 1960, effective November 1, 1960.
Local practice may require that a description of the property be
included in the praecipe.

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF _____
CIVIL ACTION - LAW

:
:
: File No. _____
:
:

WRIT OF EXECUTION - MORTGAGE FORECLOSURE

TO THE SHERIFF OF _____ COUNTY:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:

(1) _____ (Specifically describe real property)

(2) _____ (Specifically describe personal property when judgment results from a mortgage covering both personal and real property pursuant to Section 9604(a) of the Uniform Commercial Code)

NOTE: Description of property may be included in, or attached to, the writ.

Amount Due \$ _____
Interest from _____ \$ _____
(Costs to be added) \$ _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

Seal of the Court

Date _____

REQUESTING PARTY:

Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No. _____

CHAPTER Q

ENFORCEMENT ACTIONS

ACTIONS UPON MECHANICS LIENS. MUNICIPAL AND TAX CLAIMS AND CHARGES ON LAND. (Pa.R.C.P. No. 3190).

1. JUDGMENT. EXECUTION. (Pa.R.C.P. No. 3190). A judgment in rem in the above-captioned actions shall be enforced against the real property subject to the lien, claim or charge pursuant to Pa.R.C.P. Nos. 3180 to 3183 governing enforcement of judgments in mortgage foreclosure (see MORTGAGE FORECLOSURE Section of this manual).

2. MECHANICS LIENS (49 P.S. §§ 1701 through 1706; Pa.R.C.P. Nos. 1651 through 1661).

a. General.

(1). To execute, a mechanics' lien claim must be reduced to judgment by filing an amicable agreement or a complaint and following the rules of civil procedure pursuant to Pa.R.C.P. Nos. 1651 through 1661. Judgment may be by agreement, default, verdict or court order.

(2). Writ of Execution must be issued within 5 years of the date of judgment or a revival thereof, or he will thereafter lose his rights (49 P.S. § 1706(a); Goodrich Amram 2d 3190:2.2).

(3). Writ of Execution shall be issued pursuant to "Action in Mortgage Foreclosure " (Pa.R.C.P. Nos. 3180 through 3183).

b. Procedure.

(1). Upon receipt of a complaint, amicable agreement, verdict judgment or praecipe for a writ of execution, the Prothonotary shall collect the applicable filing fee, assign the file number of the original action, file, and index/docket to the original action.

(2). Writ of Execution is to be issued pursuant to the procedures set forth in MORTGAGE FORECLOSURE Section of this manual.

3. MUNICIPAL CLAIM (A/K/A MUNICIPAL LIEN).

a. General.

(1). Definition: Comprehends a whole host of matters dealing with work done and services supplied, including

a claim filed to recover taxes..... (Goodrich Amram 2d 3190:2.4). A municipal claim is regarded as an action in rem (against the thing) or against the property and not in personam.

(2). The claim to be filed shall contain the items set forth in 53 P.S. § 7144.

(3). Time of the lien shall be 20 years from date of filing in the Prothonotary office, effective in 1978. The time period prior to 1978 was five years. To extend the lien's time period a "suggestion and averment of nonpayment and default" is filed pursuant to 53 P.S. § 7183.

(4). Defendant, as of course, may serve upon the claimant a "notice" to issue a scire facias within 15 days after service. If no scire facias is filed of record, the claim shall be stricken off by the court, upon motion. If it is filed, claimant cannot discontinue the same..... and only a compulsory nonsuit may be entered by the court if the claimant does not appear, withdraws, or for reason fails to maintain his claim (53 P.S. § 7184).

(5). The writ of scire facias form shall be substantially as set forth in 53 P.S. § 7185. The claimant may add and insert the names of any persons who the claimant may know to have an interest in the premises to the writ.

(6). Judgment on the scire facias may be entered on its pleadings or after due process by the court.

(7). A writ of execution may be issued on the judgment pursuant to this section and Pa.R.C.P. Nos. 3180 through 3183.

(8). Dockets shall be maintained pursuant to 53 P.S. §§ 7194 through 7196 and 7276.

b. Procedure.

(1). Upon receipt of a notice to file a scire facias, scire facias as a new action, suggestion and averment of nonpayment and default, judgment, writ of execution, etc., assign the file number of the original action, file, and index/docket to the original action.

(2). Writ of Execution is to be issued pursuant to the procedures set forth in MORTGAGE FORECLOSURE Section of this manual.

4. TAX CLAIM (72 P.S. § 5860.101 et. seq.).

a. 72 P.S. § 5860.201 provides for the creation of a "Tax Claim Bureau" in each county in the office of the county commissioners to collect taxes including those of the political subdivisions within the county.

b. Two methods of collecting delinquent taxes by the bureau are by an "Upset Tax Sale" and "Judicial Tax Sale."

(1). Upset Tax Sale. For each piece of property the bureau determines an upset price (all reported taxes due plus costs) and a sale is held (72 P.S. § 5860.605).

(a). 72 P.S. § 5860.607 provides for the bureau's consolidated return to court; notice; confirmation; appeal. Section (c) directs that "In case no objections or exceptions are filed to any such sale within thirty days after the court has made a confirmation nisi, a decree of absolute confirmation shall be entered as of course by the Prothonotary.

(Note: Buyer does not receive an absolute title since it may be subject to certain liens and mortgages.)

(b). Each deed in the name of the bureau as trustee grantor shall be executed and duly acknowledged before the Prothonotary by the director and such notation made upon the proper records.

(2). Judicial Tax Sale. The tax claim bureau may petition the court of common pleas to sell the properties that were not sold at the "Upset Tax Sale" pursuant to the conditions set forth in 72 P.S. § 5860.610 - 612.

(a). Upon hearing, the court may issue an order for a Judicial Tax Sale, at which sale the purchaser shall take and thereafter have an absolute title to the property sold free and clear of all tax liens, except for separately taxed ground rents (rent paid to owner of land for use of property) (72 P.S. § 5860.607).

c. Procedures.

(1). Upset Tax Sale.

(a). Upon presentation of the bureau's consolidated return or other initial document, and payment of fee, the Prothonotary shall assign a court of common pleas number, file and docket.

(b). If no objections or exceptions are filed within 30 days of the filing of the nisi, the Prothonotary shall, on his own, prepare a decree of absolute confirmation, sign, file and docket it.

(c). Upon presentation of a deed by the Director of the Tax Claim Bureau, the Prothonotary shall sign and seal the acknowledgment.

(2). Judicial Tax Sale.

(a). Upon presentation of the petition and order of court, and payment of fee, the Prothonotary shall assign a court of common pleas number, file and docket.

(b). Upon the acceptance and approval by the court of a bid the Director of the Tax Claim Bureau will submit a deed, on which the Prothonotary shall sign and seal the acknowledgment.

d. Discharge of Tax Claims (72 P.S. § 58609.501(b)). When any property is discharge from tax claim by payment by a lien creditor, or heirs, assigns or legal representatives, or by any person interested for the benefit of the owners, the certificate shall be issued to the person making the payment and shall state the fact of the discharge, a brief description of the property discharge and the amount of the discharge payment. This certificate may be entered in the office of the Prothonotary as a judgment against the owner of the property for the amount stated therein. The lien of any such judgment shall have priority over all other liens against such property in the same manner and to the same extent as the taxes involved in the discharge.

5. CHARGES ON LAND. It is a term that is not precisely defined in scope or application. It seems rather, to be a general category encompassing various and sundry claims* to which real estate may be subject and as to which a judgment in rem might be entered in a given case. It is used in this general sense in various Acts of Assembly.** (Goodrich Amram 2d 3190:4)

* Past examples: Annual charge on lands held by state and federal government as forest reserves; discharge of land from charge for support of minister, church or burial lot; releasing land from right to mine iron ore after abandonment for 21 years.

** The Acts refer to other charges upon real estate and ground rent. Procedures for actions upon ground rent (Pa.R.C.P. No. 1161 - 1164) are indicated but not specifically mentioned since the ground rent rules were written prior to actions in this rule (Pa.R.C.P. No. 3190).

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

b. If item is not in this schedule, contact State Archives for retention information.

7. Form:
Confirmation of Decree Nisi

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: TAX CLAIM BUREAU OF

File No. _____

_____ COUNTY

_____ UPSET TAX SALE

CONFIRMATION OF DECREE NISI

NOW, _____, _____, PURSUANT TO THE COURT'S
DECREE NISI OF _____, _____, ON THE CONSOLIDATED RETURN
FOR THE _____ UPSET TAX SALE, THE PROTHONOTARY / CLERK OF
_____ COUNTY HEREBY ENTERS A DECREE OF ABSOLUTE
CONFIRMATION TO THE SALES OF PROPERTIES LISTED IN EXHIBIT _____ TO THE
DECREE NISI, EXCEPT THOSE IDENTIFIED ON THE ATTACHED SCHEDULE OF TIMELY
FILED OBJECTIONS OR EXCEPTIONS.

PROTHONOTARY/CLERK, CIVIL DIVISION

CHAPTER Q

ENFORCEMENT ACTIONS

SHERIFF'S INTERPLEADER.

1. SCOPE (Pa.R.C.P. Nos. 3201 and 3258). These rules govern the procedure in sheriff's interpleader when tangible personal property levied upon pursuant to a writ of execution is claimed to be the property of a person other than the defendant.

2. SHERIFF'S DETERMINATION AGAINST CLAIMANT. OBJECTION. AMOUNT OF BOND. DELIVERY OF PROPERTY. INTERPLEADER. (Pa.R.C.P. Nos. 3207 and 3259).

a. If the sheriff determines that the claimant is not the owner of the property in whole or in part, the sheriff shall file the claim and his determination of ownership including the valuation of the property in the Prothonotary's office and mail copies of the documents to all interested parties.

(1). Upon receipt of the above, the Prothonotary shall file same and make docket entry.

b. Within 10 days after mailing of the documents, the claimant may file an objection substantially in the form provided by Pa.R.C.P. No. 3260 with the Prothonotary and with the sheriff.

(1). Upon receipt of the above, the Prothonotary shall file same and make appropriate docket entry.

c. The claimant may file objection with bond in a sum double the valuation of the property as determined by the sheriff or double the amount due under all writs of execution against the defendant on which the sheriff has levied, whichever is smaller (Pa.R.C.P. No. 3208).

3. BOND. MORE THAN ONE EXECUTION (Pa.R.C.P. No. 3208).

a. The bond shall name the Commonwealth of Pennsylvania as obligee with security approved by the Prothonotary, and be conditioned that claimant shall maintain her claim to the property or pay its value to the persons entitled thereto with costs.

b. The claimant may file his/her own bond without security and without order of court as to household goods and furnishings.

c. Upon petition and after notice and hearing, the court may permit the filing of the claimant's own bond without security as to any other property levied on by the sheriff.

d. The Prothonotary shall file bond and make docket entry.

4. OBJECTIONS TO BOND (Pa.R.C.P. No. 3209).

a. On petition of any person or party, after notice and hearing the court may review any security offered, including the action of the Prothonotary in approving or rejecting same.

b. The Prothonotary shall file bond and make docket entry.

5. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER Q

ENFORCEMENT ACTIONS

EXECUTION ON CONFESSION OF JUDGMENT--MONEY
EXECUTION ON CONFESSION OF JUDGMENT--REAL PROPERTY.

1. Procedure.

a. Upon receipt of a praecipe for a writ of execution and payment of the appropriate fee, the Prothonotary shall file same after verification of information. If praecipe is in error and does not conform to data, Prothonotary should return praecipe to plaintiff or counsel for correction.

(1). Information to be verified: caption, case number, court orders, stay orders, judgment entered and judgment amount.

(2). It is IMPORTANT TO CHECK THE JUDGMENT FIRST when preparing a writ of execution.

b. Prothonotary shall then issue writ (which may have been prepared and submitted by plaintiff or counsel), and upon completion shall forward same to the sheriff to whom it is directed or return to the plaintiff or counsel for transmittal, and make appropriate entry on the docket.

c. Additional procedures for Execution on Confession of Judgment--Money:

(1). The Prothonotary of the county in which judgment was entered originally may issue a writ to the sheriff of any county within the Commonwealth.

(2). When judgment is transferred to another county, the Prothonotary of the transferee county may issue a writ directed only to the sheriff of the transferee county.

(3). Writs may be issued at the same or different times or to the sheriffs of different counties without prior return of any outstanding writ.

d. If the plaintiff or a representative of the plaintiff is not present at the sale, "the real property shall

not be sold.” In such a case, the sheriff is directed to “return the writ of execution to the Prothonotary and file a return pursuant to Rule 3139.” The plaintiff may again seek to have the property sold but must recommence the proceedings by having the writ of execution reissued pursuant to Rule 3106 and giving new notice under Rule 3129.2.

2. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices

(2). PY-7, Civil Papers/Files

(a). #8, Ejectment Papers.

b. If item is not in this schedule, contact State Archives for retention information.

3. Forms:

Praeipce for Writ of Execution Upon a Confessed Judgment--Money
and Certification

Praeipce for Writ of Possession Upon a Confessed Judgment--Real
Property and Writ of Possession

Writ of Execution and/or Attachment

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

:
:
: File No. _____
:
:

PRAECIPE FOR WRIT OF EXECUTION UPON A CONFESSED JUDGMENT - MONEY
(Pa.R.C.P. No. 2963)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a writ of execution upon a judgment entered by confession in the above matter,

- (1) directed to the Sheriff of _____ County;
 - (2) against _____, defendant; and
(Name of Defendant)
 - (3) against _____, garnishee;
(Name of Garnishee)
 - (4) and enter this writ in the judgment index
 - (a) against _____, defendant and
 - (b) against _____, as garnishee
(Name of Garnishee)
- as a lis pendens against real property of the defendant in name of garnishee as follows:

(Specifically describe property) / (See attached)

(5) Amount due	\$ _____
Interest from _____	\$ _____
Attorney's Fees **	\$ _____
(Costs to be added)	\$ _____

** Where judgment has been entered under Rule No. 2951(a), attorney's fees may be included if they are authorized in the instrument and there has been a record appearance of counsel at any stage of the proceedings.

CERTIFICATION

I certify that

- a) This praecipe is based upon a judgment entered by confession, and
(Delete four of the following paragraphs which are inapplicable.)
- (b) Notice has been served pursuant to Rule No. 2958.1 at least thirty (30) days prior to the filing of this praecipe as evidenced by a return of service filed of record.
- (c) Notice will be served with the writ of execution pursuant to Rule No. 2958.2.
- (d) Notice will be served at least thirty (30) days prior to the date of the sheriff's sale of real property pursuant to Rule No. 2958.3.
- (e) Notice was served in connection with a prior execution on this judgment and, pursuant to Rule No. 2958.4(b), no further notice is required.
- (f) Notice is not required under Rule No. 2956.1(c) because a petition to open or strike the judgment was previously filed.

(Attorney for Plaintiff)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

: File No. _____
:
: COSTS (to be completed by Proth/Clerk)
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____

PRAECIPE FOR WRIT OF POSSESSION UPON A CONFESSED JUDGMENT - REAL PROPERTY
(Pa.R.C.P. No. 2974.1)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ of possession upon the judgment in ejectment entered by confession in the above matter.

CERTIFICATION

I certify that

- (1) This praecipe is based upon a judgment entered by confession, and
(Delete three of the following paragraphs which are inapplicable.)
- (2) Notice pursuant to Rule No. 2973.2 has been served at least thirty (30) days prior to the filing of this praecipe as evidenced by a return of service filed of record.
- (3) Notice pursuant to Rule No. 2973.3 will be served with the writ of possession.
- (4) Notice was served in connection with a prior execution on this judgment and, pursuant to Rule No. 2973.4(b), no further notice is required.
- (5) Notice is not required under Rule No. 2973.1(c) because a petition to open or strike the judgment was previously filed.

Date: _____

Signature: _____
Print Name: _____
Address: _____

Attorney for: _____
Telephone: _____
Supreme Court ID No.: _____

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.
COUNTY OF _____)

TO THE SHERIFF OF SAID COUNTY:

- (1) To satisfy the judgment for possession in the above captioned case, you are directed to deliver to the plaintiff(s) possession of the above described property.
- (2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

WRIT OF EXECUTION and / or ATTACHMENT

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF _____)
CIVIL, ACTION - LAW

TO THE SHERIFF OF _____ COUNTY:

To satisfy the debt, interest and costs due _____

_____ PLAINTIFF(S)

from _____

_____ DEFENDANT(S)

(1) You are directed to levy upon the property of the defendant(s) and to sell _____
interest(s) therein: _____

(2) You are also directed to attach the property of the defendant(s) not levied upon in the
possession of _____

_____ GARNISHEE(S) as follows:

and to notify the garnishee(s) that: (a) an attachment has been issued; (b) the garnishee(s) is / are
enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property
of the defendant(s) or otherwise disposing thereof;

(3) If property of the defendant(s) not levied upon and subject to attachment is found in the
possession of anyone other than a named garnishee, you are directed to notify him or her that he or she
has been added as a garnishee and is enjoined as above stated.

Amount Due _____

Plaintiff Paid _____

Interest _____

Defendant Paid _____

Due Proth/Clerk _____

Atty's Comm. _____ % _____

Other Costs _____

Date: _____

Prothonotary/Clerk, Civil Division
by: _____
Deputy

REQUESTING PARTY:

Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No. _____

CHAPTER R

PROTECTION FROM ABUSE

PROTECTION FROM ABUSE (PFA) (Pa.R.C.P. Nos. 1901 et seq; 23 Pa.C.S.A. §§ 6101 et seq).

1. Action is commenced by filing a petition setting forth the alleged abuses by the defendant or by filing with the Prothonotary a certified copy of the order by the district justice.

a. Original process may be served by any competent adult or by any means authorized by Pa.R.C.P. No. 1930.4.

b. Upon receipt of a petition the Prothonotary shall assign a court of common pleas number and file without prepayment of any fee.

c. The court will assess costs upon appropriate party at time of hearing.

d. When a protection order is granted under Section 6017(a) (relating to hearings), other than pursuant to an agreement of the parties, a surcharge of \$100 shall be assessed against the defendant, and be distributed in the following order of priority:

(1). \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police.

(2). \$50 shall be retained by the county and distributed as follows:

(a). \$25 shall be used by the sheriff.

(b). \$25 shall be used by the court.

(3). \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Department of Public Welfare.

2. Case shall be indexed and docketed pursuant to the GENERAL PROVISIONS Section of this manual.

3. Subsequent filings shall be filed and docketed to the original case number.

4. Protection from Abuse Registry, 23 Pa.C.S.A. § 6105 (Act 1994-85 as amended), requires:

a. Pennsylvania State Police to establish a statewide registry of protection orders and to maintain a complete and systematic record of all valid temporary and final court orders and court-approved consent agreements. (Statewide registry became operational April 1, 1998.)

(1). Pennsylvania State Police shall enter orders, amendments and revocations in the registry within eight hours of receipt.

b. Prothonotary to send a copy of the protection orders, court-approved consent agreements, continuances, amendments or revocations to the statewide registry and local police so that it is received within 24 hours of entry of order.

(1). Each copy of the court order shall be accompanied by a completed Protection From Abuse Data sheet (SP4-401) approved by the Pennsylvania State Police.

(a). The Protection From Abuse Data sheet is a Pennsylvania State Police form and as such is not a public document. This form MUST be filed separate from the public file.

5. In accordance with 23 Pa.C.S.A. § 6108(7), if a court order is entered requiring the defendant to relinquish weapons and/or firearm license, or for the return of said items to the defendant, a copy of the court's order shall be transmitted to the chief or head of the police force or police department of the municipality and to the sheriff of the county where the defendant resides.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #20, Protection from Abuse Papers.

7. Forms:

Protection From Abuse Data Sheet

(NOTE: See Pa.R.C.P. No. 1905 for following forms:

- (a) Notice of Hearing and Order
- (b) Petition for Protection From Abuse
- (c) Temporary Protection From Abuse Order
- (d) Affidavit of Service
- (e) Final Order of Court)

8. Reference:

Pennsylvania State Police letter dated April 7, 1999

PENNSYLVANIA STATE POLICE
PROTECTION FROM ABUSE DATA SHEET

Incident Number: (State Police Use Only)

UPDATE
 VACATED
 CANCELLED

ORI:	Defendant's Name:(Last, First Middle)				Sex:	Race:	Date of Birth:	
Order Expiration Date:	Protection Order Conditions:	Brady Record Indicator:	Date Order Issued:		Court Originating Routing Indicator:			
Protection Order Number:				Originating Agency Case Number: (State Police Use Only)				
Defendant's FBI Number:			Defendant's Miscellaneous Number:			Defendant's Social Security Number:		
Defendant's Operator's License Number:			Operator's License State:			Operator's License Year:		
Defendant's Vehicle Registration Number:			Vehicle Registration State:		Vehicle Registration Year:		Vehicle Registration Type:	
Vehicle Identification Number:			Vehicle Year:	Vehicle Make:	Vehicle Model:	Vehicle Style:	Vehicle Color:	
Defendant's Address:					City:		State:	Zip Code:
Miscellaneous Information:								
Defendant's Place of Birth:		Defendant's Skin Tone:	Defendant's Height:	Defendant's Weight:	Defendant's Eye Color:	Defendant's Hair Color:	Def. Finger-print Class:	
Defendant's Scars, Marks, Tattoos:				Notifying Orig. Agency:		Relationship of PPN/Def:		Order to Relinq. Weapons:
Protected Person's Name: (Last, First Middle):			Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:		
Protected Person's Address:				Protected Person's City:		Protected Person's State:	Protected Person's Zip Code:	
Plaintiff's Name: (Last, First Middle):			Plaintiff's Sex:	Plaintiff's Race:		Plaintiff's Date of Birth:		
Plaintiff's Address:				Plaintiff's City:		Plaintiff's State:	Plaintiff's Zip Code:	

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PENNSYLVANIA STATE POLICE
PROTECTION FROM ABUSE DATA SHEET - SUPPLEMENTAL

ORI:	Defendant's Name:(Last, First Middle)	Originating Agency Case Number: (State Police Use Only)			
NIC:	CID:	Relationship of PPN/Def:		Protection Order Number:	
AKA:	AKA:	AKA:	AKA:	AKA:	AKA:
Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:
Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:
Social Security Number:	Social Security Number:	Social Security Number:	Social Security Number:	Social Security Number:	Social Security Number:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle:)		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:

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CHAPTER R

PROTECTION FROM ABUSE

INDIVIDUAL NOT REPRESENTED BY LEGAL COUNSEL (PRO SE)
(23 Pa.C.S.A. § 6106).

1. Since the passage of 1988, April 20, P.L. 355, No. 56, effective June 20, 1988, the courts in each county have generally set their own procedures on handling the distribution of forms and providing clerical assistance for those not represented by counsel pursuant to 35 P.S. § 10184(f)(1); but generally, the Prothonotary is responsible for filing, indexing, assigning a court of common pleas number, and docketing the petition and subsequent orders of court.

2. Local rules or policies will apply until uniform guidelines are adopted.

3. This section will be revised as procedures are standardized.

4. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). Protection from Abuse Papers.

CHAPTER R

PROTECTION FROM ABUSE

REGISTRATION OF ORDER (23 Pa.C.S.A. § 6104)

1. The Prothonotary of each court of common pleas shall maintain a register/docket in which it shall record certified copies of orders entered by courts from other jurisdictions.

2. Upon receipt of a certified order, Prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

3. The order shall be indexed and docketed pursuant to the GENERAL PROVISIONS Section of this manual.

4. Collect registration fee applicable to the local fee bill. No fee shall be collected from the plaintiff but shall be assessed against the defendant.

5. Protection From Abuse Registry -- A copy of the order shall be sent to the statewide registry and local police following procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 4.

6. With regard to any order involving weapons and/or firearm license, follow procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 5.

7. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). Protection from Abuse Papers.

CHAPTER R

PROTECTION FROM ABUSE

CONTEMPT FOR VIOLATION OF ORDER OR AGREEMENT

1. INDIRECT CRIMINAL CONTEMPT (23 Pa.C.S.A. § 6114)

(NOTE: INDIRECT CRIMINAL CONTEMPT MAY BE HANDLED BY THE PROTHONOTARY OR THE CLERK OF COURTS ACCORDING TO LOCAL PRACTICE.)

a. If handled by the Prothonotary, Indirect Criminal Contempt may be commenced by the filing of a complaint with the District Justice or a petition directly with the court of common pleas.

(1) The District Justice will forward complaint to the court of common pleas for disposition.

(2) Upon receipt of a complaint or petition, the Prothonotary shall assign the original PFA number, file, docket, and proceed according to local practice.

b. At time of disposition, the court may assess a fine which shall be distributed in the following order of priority:

(1). \$100 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police.

(2). \$100 shall be retained by the county and distributed as follows:

(a). \$50 shall be used by the sheriff.

(b). \$50 shall be used by the court.

(3). \$100 shall be forwarded to the Commonwealth and shall be appropriated to the Department of Public Welfare.

(4). Any additional money shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police.

2. CIVIL CONTEMPT (23 Pa.C.S.A. § 6114.1)

a. The plaintiff may file a petition for civil contempt with the court alleging the defendant has violated any provision of an order or agreement.

b. Pursuant to a petition or on its own, after hearing, the court may hold the defendant in civil contempt and sentence accordingly.

c. The Prothonotary shall file and docket the petition and order pursuant to local practice.

3. Protection From Abuse Registry -- A copy of the order shall be sent to the statewide registry and local police following procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 4.

4. With regard to any order involving weapons and/or firearm license, follow procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 5.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #20, Protection from Abuse Papers.

CHAPTER S

CHILD CUSTODY AND VISITATION

ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

1. GENERAL (23 Pa.C.S.A. §§ 5301 through 5311 and 4349; Pa.R.C.P. Nos. 1915.1 through 1915.25, 1920.32, and 1930.4).

2. PERTINENT RULE REFERENCES.

a. Definitions - Pa.R.C.P. No. 1915.1.

b. Venue - Pa.R.C.P. No. 1915.2.

c. Action is commenced by filing a verified complaint substantially in the form provided by Pa.R.C.P. No. 1915.15(a) with an order attached directing the defendant to appear at a hearing. (In some counties this may be a pre-hearing conference as established by local administrative order or local rule of court.) Pursuant to Pa.R.C.P. No. 1915.3-2, the petitioner must file and serve with the complaint, or any petition for modification, a verification regarding any criminal abuse history of the petitioner and anyone living in the petitioner's household. See forms section for Criminal Record/Abuse History Verification.

(1). A claim for custody, partial custody or visitation which is joined with a divorce action (Pa.R.C.P. No. 1920.32) shall be asserted in the complaint or a subsequent petition.

(2). In order to facilitate frequent and unimpeded contact between children and parents, a judge may consolidate subject matter with a support action (23 Pa.C.S.A. 4349).

(3). The awarding of temporary relief in subject matter under Protection From Abuse is set forth in 23 Pa.C.S.A. § 6107, which does not bar any action relating to custody pursuant to 23 Pa.C.S.A. Ch. 53.

d. Service of complaints in subject matter is set forth in Pa.R.C.P. No. 1930.4.

e. Voluntary Mediation in Custody Actions, Pa.R.C.P. Rule No. 1940.1 et seq.

f. Objections to jurisdiction and venue on the pleadings and discovery are set forth in Pa.R.C.P. No. 1915.5.

g. Joinder of Parties. Pa.R.C.P. No. 1915.6 requires that when the court learns from any source of persons who are not a party to a custody suit and have physical custody of the child, visitations rights, or parental interest, such parties shall be appropriately notified of the action and sets forth the procedures to intervene.

h. The court on its own motion or that of a party may order an evaluation of the child or a party (Pa.R.C.P. No. 1915.8).

i. No judgment may be entered by default or on the pleadings in subject matter (Pa.R.C.P. No. 1915.9).

j. No Motion for Post-Trial Relief may be filed to a court decision on subject matter (Pa.R.C.P. No. 1915.10).

k. Appointment of an attorney for a child and interrogation by the court or attorneys, in open court or chambers, shall be pursuant to Pa.R.C.P. No. 1915.11.

l. Contempt procedures in subject matter are set forth in Pa.R.C.P. No. 1915.12, which provides the form, method of service, and hearing. If a bench warrant is issued the respondent is to be brought before the court and cannot be imprisoned until a hearing is held. After hearing, an order committing a respondent to jail for contempt shall specify the condition which must be fulfilled to obtain release of the respondent. (For disobedience of an order/contempt, other than subject matter, see Pa.R.C.P. No. 1915.14.)

m. At any time after commencement of the action, the court may on application or its own motion grant interim or special relief. The court may require a person who has physical custody of a child that is to be brought before the court to post security to ensure their appearance. This rule, Pa.R.C.P. No. 1915.13 supplies relief formerly available by habeas corpus for production of the child.

n. A custody action may be discontinued by praecipe only upon a verified statement by the moving party that the complaint has not been served. After the complaint has been served, it may not be discontinued without leave of court after notice to the non-moving party or by written agreement of the parties. See Pa.R.C.P. No. 1915.3-1.

3. PROCEDURE.

a. Upon receipt of a complaint or petition for custody, partial custody, visitation, etc. the Prothonotary shall file, assign a court of common pleas number and collect the required filing fee.

(1). All complaints or petitions for modification must include the AMERICANS WITH DISABILITIES ACT OF 1990 notification if parties are required to attend a hearing/conference (Pa.R.C.P. No. 1915.15(c)).

b. Prothonotary shall docket and index case pursuant to the GENERAL PROVISIONS Section of this manual.

(1). As additional parties intervene or join an action, it may be necessary for Prothonotary to do additional indexing.

c. All subsequent filings shall be docketed and notice under Pa.R.C.P. No. 236 shall be given whenever the court files an order in the case.

4. CRIMINAL CHARGE INFORMATION SYSTEM (42 Pa.C.S.A. § 1904 (Act 1996-119)).

a. Establishment purpose -- To enable a parent who is a party to a custody proceeding or order to have access to information about the criminal charges filed against the other parent.

b. A party who has been awarded custody, partial custody or visitation or who is a party to custody proceeding may access criminal information by visiting the Jen & Dave website at www.jendaveprogram.us or through the UJS Web Portal <http://ujportal.pacourts.us>. Individuals may also call 866-JEN-DAVE for any questions regarding the Jen and Dave Program.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). Divorce and Annulment Papers.

(b). Habeas Corpus Custody Papers.

(c). Protection from Abuse Papers.

b. If item is not in this schedule, contact State Archives for retention information.

6. Reference:

Jen & Dave web page info (S-1R-1.1)



IMPORTANT NOTICE:

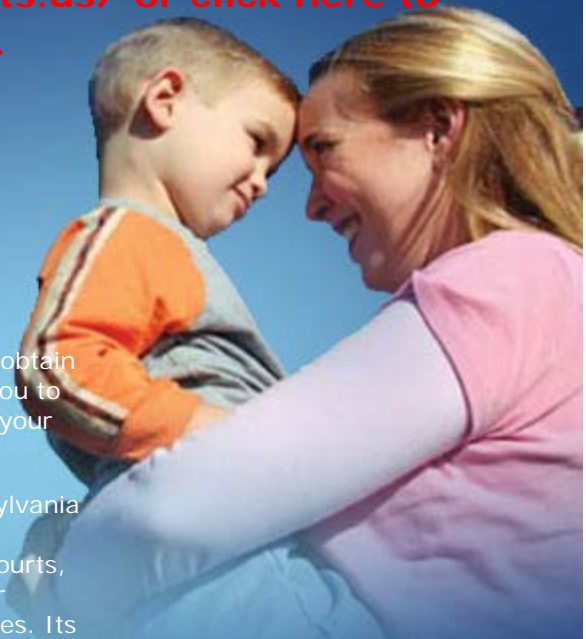
The 1-900-226-3120 line will no longer be in service as of 2/1/2013. For criminal charge information please go to <http://ujportal.pacourts.us/> or click here to view the Docket Sheets.

Information is power.

The Jen & Dave Program allows you to obtain important information that empowers you to make decisions regarding the safety of your children.

The program, established by the Pennsylvania Legislature and offered through the Administrative Office of Pennsylvania Courts, provides criminal charge information for individuals involved in child custody cases. Its goal is to protect children by granting parents access to valuable information about offenses perpetrated by other parents. This enables parents to make necessary decisions regarding their children's safety in custody situations.

Charge information is available through an online search of Pennsylvania's Criminal Case Databases and by calling the Jen & Dave Program's telephone line.



- Jen and Dave's Story
- About the Program
- Who Can Use the Program?
- What Information Can be Obtained?
- How to Access Criminal Charge Information
- Other Resources
- Contact Us

Quick Online Access to



Pennsylvania's Criminal Case Databases

AOPC

ADMINISTRATIVE OFFICE
of PENNSYLVANIA COURTS

CHAPTER S

CHILD CUSTODY AND VISITATION

REGISTRY OF OUT-OF-STATE CUSTODY DECREES (42 Pa.C.S.A. §§ 5357 - 5365)

1. The Prothonotary shall maintain a registry in which shall be entered the following:

- a. Certified copies of custody decrees of other states received for filing.
- b. Communications as to the pendency of custody proceedings in other states.
- c. Communications concerning a finding of inconvenient forum by a court of another state.
- d. Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this Commonwealth or the disposition to be made by it in a custody proceeding.

2. Procedures (42 Pa.C.S.A. § 5445).

a. Upon receipt of a certified copy of the child custody determination and sufficient copies for service, together with envelopes and adequate postage (certified mail) for service, Prothonotary shall collect appropriate foreign judgment filing fee and assign a court of common pleas number.

b. Prothonotary shall forward copies by certified mail and note same in docket. If returned, time stamp envelope and make notation in docket.

c. If not contested within twenty (20) days, or service not effectuated, forward original filing to court for confirmation of registration. Service of confirmation shall be in accordance with local procedure.

d. Documents shall be given a court of common pleas number, may be indexed in an OUT-OF-STATE CHILD CUSTODY REGISTRY index, and filed in the same manner as local child custody actions.

(NOTE: Enter child's 18th birthday on document for retention purposes.)

3. International application. The general policies of 42 Pa.C.S.A. §§ 5341 - 5366 (Subchapter C) extend to the international area. The provisions of this subchapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions rendered by appropriate authorities of other nations, if reasonable notice and opportunity to be heard were given to all affected persons.

4. RETENTION AND DISPOSITION SCHEDULE (42 Pa.C.S.A. § 5362)
Retain until the child reaches 18 years of age.

5. Forms:
Registration of Child Custody Determination and Important Notice
Criminal Record/Abuse History Verification

CIVIL DIVISION

vs.

File No. _____

To: _____
Defendant

Date of Notice: _____

REGISTRATION OF CHILD CUSTODY DETERMINATION

IMPORTANT NOTICE

Pursuant to 23 P.C.S. § 5445(c)

A CHILD CUSTODY DETERMINATION ISSUED BY A COURT OF ANOTHER STATE HAS BEEN REGISTERED IN THIS COMMONWEALTH AND COUNTY AND FILED AS A FOREIGN JUDGMENT.

A REGISTERED DETERMINATION IS ENFORCEABLE AS OF THE DATE OF THE REGISTRATION IN THE SAME MANNER AS A DETERMINATION ISSUED BY A COURT OF THIS COMMONWEALTH.

A HEARING TO CONTEST THE VALIDITY OF THE REGISTERED DETERMINATION MUST BE REQUESTED WITHIN 20 DAYS AFTER SERVICE OF NOTICE.

FAILURE TO CONTEST THE REGISTRATION WILL RESULT IN CONFIRMATION OF THE CHILD CUSTODY DETERMINATION AND PRECLUDE FURTHER CONTEST OF THAT DETERMINATION WITH RESPECT TO ANY MATTER THAT COULD HAVE BEEN ASSERTED.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

**IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
FAMILY DIVISION**

Plaintiff	:	
	:	
vs.	:	
	:	
Defendant	:	NO. _____

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. §4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. §6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §2901 (relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2902 (relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2903 (relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3121 (relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3122.1 (relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3124.1 (relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3125 (relating to aggravated indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3126 (relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3127 (relating to indecent exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S §3129 (relating to sexual intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S §3130 (relating to conduct relating to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3301 (relating to arson and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|--|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §4302 (relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4303 (relating to concealing the death of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4304 (relating to endangering welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4305 (relating to dealing in infant children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5902(b) (relating to prostitution and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5903(c) or (d) (relating to obscene and other sexual materials and performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6301 (relating to corruption of minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6312 (relating to sexual abuse of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6318 (relating to unlawful contact with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6320 (relating to sexual exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 23 Pa.C.S. §6114 (relating to contempt for violation of protection order or agreement) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the influence of drugs or alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device _____ _____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct including the following:

Check all that apply	Self	Other household member	Date
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child(ren):

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Signature

Printed Name

CHAPTER T

DIVORCE/ANNULMENT

ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE. (Pa.R.C.P. Nos. 1920.1 et seq.)

1. "Action" defined: An action in divorce or annulment may include any other claim which may under the divorce code be joined with the action for divorce or annulment.

2. Venue: An action for divorce or annulment, except for a claim for custody, may be brought only in the county in which the plaintiff or defendant resides or upon which the parties have agreed

- (i) in writing which shall be attached to the complaint, or
- (ii) by participating in the proceeding.

The amendment also provides for the court on its motion to transfer the action to the appropriate court.

3. An action is commenced by filing:

a. A complaint pursuant to Pa.R.C.P. No. 1920.3 in the form set forth in Pa.R.C.P. No. 1920.72, and

b. A Notice to Defend and Claim Rights pursuant to Pa.R.C.P. No. 1920.12(c) and set forth in Pa.R.C.P. No. 1920.71; and if under

c. Section 3301(c) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(1) and set forth in Pa.R.C.P. No. 1920.72(b), or

d. Section 3301(d) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(2) and set forth in Pa.R.C.P. No. 1920.72(d).

4. Upon receipt of the complaint (including appropriate documents), filing fee and Children's Trust Fund surcharge, the Prothonotary shall file, assign a court of common pleas number, index and docket pursuant to the GENERAL PROVISIONS Section of this manual.

a. In accordance with 23 Pa.C.S.A. § 4304.1(a)(3), effective January 1, 1998, the Social Security number of both parties shall be filed with the Prothonotary prior to the entry of the decree.

(1). Collection of the Social Security number SHALL be kept confidential.

(NOTE: Since a penalty for wilful failure to obtain Social Security number may be imposed upon Prothonotary, it is strongly suggested that Prothonotary indicate on the record if an unsuccessful attempt has been made.)

5. Original service of complaint commencing the action may be made by handing a copy to the defendant, by mail, or the sheriff pursuant to Pa.R.C.P. No. 1920.4.

6. Bill of Particulars (Pa.R.C.P. No. 1920.21).

a. The Prothonotary on praecipe shall enter a Rule to File a Bill of Particulars only in actions brought under Sections 3301(a) or (b) of the Divorce or an annulment.

b. If a Bill of Particulars is not filed within twenty days after service, the Prothonotary on praecipe shall enter a judgment non pros against the defaulting party and give notice of the judgment to all interested parties pursuant to Pa.R.C.P. No. 236.

7. Procedure to Transmit Record to the Court.

a. Under Section 3301(c) of the Divorce Code in which it has been stated the marriage is irretrievably broken, upon the filing of all required documents (complaints, affidavits*, notices, etc.), complying with the local rules of court, and praecipe to transmit the record, the Prothonotary shall transmit the record to the court for entry of an appropriate decree. Parties may execute and file with the Prothonotary a "Waiver of Notice of Intention to Request Entry of a Divorce Decree" (Pa.R.C.P. Nos. 1920.42, 1920.72, and 1920.73).

(NOTE: The affidavit required by Section 3301(c) of the Divorce Code must have been executed ninety days or more after both filing and service of the complaint, and within thirty days of the date the affidavit was filed. An affidavit of consent may be withdrawn only with leave of court.)

b. Under Section 3301(d) of the Divorce Code in which the plaintiff has stated in the complaint and affidavit, that the marriage is irretrievably broken; the averments of which the defendant has admitted or failed to deny; and at least twenty days prior to the date of filing the praecipe to transmit, the plaintiff mailed or delivered a Notice of Intention to Request Entry of a Divorce Decree to counsel of record for the party against whom the decree is to be entered; or if no counsel, a Notice and Defendant's Counter-Affidavit to the unrepresented party; Prothonotary on praecipe, with copy of notice attached stating date and manner of service, shall transmit the record to the court for entry of appropriate decree (Pa.R.C.P. Nos. 1920.42, 1920.72, 1920.73).

8. Counseling (Pa.R.C.P. No. 1920.45). The Prothonotary shall keep list, which is maintained by the court, of qualified professionals who provide counseling services.

9. Vital Statistics Law. Act 2001-82 replaced the requirement of sending individual transcripts with the requirement of a statistical summary of divorces and annulments.

10. If the defendant fails to appear in an action, the plaintiff shall file an Affidavit of Non-Military Service, pursuant to 50 U.S.C. § 520, with the Motion for Appointment of a Master prior to a trial by the court, or with the plaintiff's affidavit for Section 3301(d) of the Divorce Code pursuant to Pa.R.C.P. No. 1920.42(a)2) (Pa.R.C.P. No. 1920.46).

11. Divorce Masters (Pa.R.C.P. No. 1920.51).

a. The court or either party may move for the appointment of a Master to hear testimony in an action under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, annulment and to hear claims for alimony, alimony pendente lite, equitable distribution, child support or counsel fees, costs and expenses or any aspect thereof.

b. Form of motion for appointment of master and appointing order is set forth in Pa.R.C.P. No. 1920.74. This format may be modified by individual counties. Fees for the payment of the master and court reporter are based on local administrative orders, collected by the Prothonotary and held in escrow until payment is made pursuant to local rules of court.

c. Notice of Hearings (Pa.R.C.P. No. 1920.51(b), (c), and (d)). The master shall give written notice of the hearings. In counties where masters are not appointed, the Prothonotary, or Clerk or other officer designated by the court, shall give

notice. Notice shall be given to attorneys of record; or to an unrepresented party at the last known address, by ordinary mail. If service of the complaint was made pursuant to special order of court, (a) by sending a copy of the notice by ordinary mail to the persons, if any, named in the investigation affidavit, likely to know the present whereabouts of the defendant; and (b) by sending a copy by certified/registered mail to the defendant's last known address. All proofs notice shall be filed of record. Advertising of notice of the hearing shall not be required.

12. Hearing by the Court (Pa.R.C.P. No. 1920.52)

a. In claims on marital property, enforcement of marital agreements, custody, alimony, paternity, contested action of divorce or annulment the trial judge shall enter a decision and the reasons therefor. Post-trial relief shall be pursuant to Pa.R.C.P. No. 227.1 to 227.3; however, Pa.R.C.P. No. 1915.10(b) prohibits post-trial relief in an order of custody, partial custody and visitation.

b. In claims on child support, alimony pendente lite, counsel fees, costs and expenses; and an uncontested action of divorce or annulment, the decision of the trial judge may consist only of general findings. Post-trial relief, except for child support, shall be pursuant to Pa.R.C.P. No. 227.1 to 227.4. Pa.R.C.P. No. 1910.11(k) and 1910.12(g) prohibit the filing of post-trial relief to a final order of support.

13. Hearing by Master (Pa.R.C.P. No. 1920.53).

a. A master appointed by the court (procedure usually set by local rules of court) may hold hearings on the action of divorce or annulment and any claim which may be joined under the Divorce Code, except for custody or paternity.

b. The master shall file the record and a transcript of the testimony together with the report and recommendation within twenty days after the hearing in uncontested actions and, in contested actions, within thirty days after the receipt of the transcript by the master.

c. The master shall immediately send notice of the filing of the report to each party and, in a contested action, shall accompany the notice with a copy of the report and recommendation.

d. The master shall state whether the divorce or annulment should be granted or denied. If the divorce or annulment is recommended, the master shall attach a proposed

decree, substantially in the form shown in Pa.R.C.P. No. 1920.76 or local rule of court. The court may add any other provisions which it deems necessary; therefore, to incorporate any recommended provisions into the decree, the master, or counsel as appropriate, may submit a proposed decree, or attached exhibit/agreement.

14. Bifurcation (23 Pa.C.S.A. § 3323, Pa.R.C.P. No. 1920.52(c)). The court need not determine all claims at one time but may enter a decree adjudicating a specific claim or claims -- a bifurcated proceeding whereby divorce decree is entered and ancillary matters are subsequently disposed of. (Note: The procedure is by motion to the court.)

15. Exceptions to Master's Report (Pa.R.C.P. Nos. 1920.55-2 and 1920.55-3).

a. Within twenty days of the mailing of the master's report and recommendation, any party may file exceptions to the report or any part thereof.

(1). The 20-day period begins on the date the notice is mailed, not when the notice is received. (Goodrich Amram 2d, 1920.55:1 (Supplement)).

b. If no exceptions are filed within the twenty-day period, the court shall review the report, and if approved, shall enter a final decree.

c. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.

d. No motion for post-trial relief may be filed to the final decree.

16. Proceedings by indigent parties -- Pa.R.C.P. No. 1920.62 in actions of divorce or annulment of marriage incorporates procedures set forth in Pa.R.C.P. No. 240, In Forma Pauperis.

17. Resumption of Prior Surname (54 Pa.C.S.A. § 704).

a. General rule -- Any person who is a party in a divorce action may, at any time prior to or subsequent to the entry of the divorce decree, resume any prior surname used by him or her by filing a written notice to such effect in the office of the prothonotary in which the divorce action was filed or the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

b. Foreign decrees -- Where a divorced person has been the subject of a decree of divorce granted in a foreign jurisdiction, a certified copy of such foreign divorce decree may be filed with the prothonotary of the county where the person resides and, thereafter, the notice (to resume any prior surname) specified in subsection (a) may be filed with reference to such decree.

18. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division:

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #6, Divorce and Annulment Papers.

19. Forms:

Praecipe and Rule to File a Bill of Particulars

Notices to Resume Prior Surname

Summary Counts of Marriage and Divorce Occurrences Monthly

Report of PA Department of Health

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

:
:
:
: File No. _____
:
: PRAECIPE AND RULE TO FILE
: _____ A COMPLAINT
: _____ A BILL OF PARTICULARS
:

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue rule on _____ to file a _____
in the above case within twenty (20) days after service of the rule or the
Prothonotary/Clerk, upon praecipe, shall enter a judgment of non pros.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOW, _____, _____, RULE ISSUED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

_____	:	
Plaintiff	:	
	:	File No. _____
vs.	:	
	:	IN DIVORCE
_____	:	
Defendant	:	

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that the Plaintiff / Defendant in the above matter,
 [select one by marking "x"]
 _____ prior to the entry of a Final Decree in Divorce,
 or _____ after the entry of a Final Decree in Divorce dated _____,
 hereby elects to resume the prior surname of _____, and gives this
 written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.

Date: _____

Signature

Signature of name being resumed

COMMONWEALTH OF PENNSYLVANIA)

) SS.

COUNTY OF _____)

On the _____ day of _____, _____, before me, the
 Prothonotary or a Notary Public, personally appeared the above affiant known to me to
 be the person whose name is subscribed to the within document and acknowledged that
 he / she executed the foregoing for the purpose therein contained.

In Witness Whereof, I have hereunto set my hand and official seal.

Prothonotary or Notary Public

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Plaintiff	:	
vs.	:	File No. _____
Defendant	:	IN DIVORCE

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that the Plaintiff / Defendant in the above matter,
[select one by marking "x"]

_____ prior to the entry of a Final Decree in Divorce,
or _____ after the entry of a Final Decree in Divorce dated _____,
hereby elects to resume the prior surname of _____, and gives this
written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.

Date: _____

Signature

Signature of name being resumed

**Commonwealth of Pennsylvania
Department of Health
Division of Statistical Registries**

Summary Counts of Marriage and Divorce Occurrences

Complete all items contained on this form and return it by mail to the Division of Statistical Registries, Pennsylvania Department of Health, 555 Walnut Street, 6th floor, Harrisburg, PA 17101; by fax to the attention of Amy Farrell at 717-772-3258; or email to afarrell@pa.gov. Please refer to *Instructions for Completing Summary Counts of Marriage and Divorce Occurrences* for detailed information on how to complete each data item. Questions should be directed to Amy Farrell, Division of Statistical Registries, at 717-547-3679.

Completed forms are to be returned to the Division of Statistical Registries on or before the 15th day of each calendar month for records filed in the preceding month. For example, information from marriage and divorce records for the month of January 2002 is to be returned to the Division of Statistical Registries no later than February 15, 2002.

County: _____

Primary Month and Year of Issuance: _____
(month and year)

**Marriage Licenses Issued
by Age of Bride and Groom**

<i>Age in Years</i>	<i>Bride</i>	<i>Groom</i>
<20		
20-24		
25-29		
30-34		
35-39		
40-44		
45-49		
50+		
unknown		
Total		

**Divorces and Annulments of Marriage
by Duration of Marriages**

<i>Years Married</i>	<i>Number of Divorces and Annulments</i>
<5	
5-9	
10-14	
15-19	
20-24	
25-29	
30+	
unknown	
Total	

Name: _____

Telephone: _____ Date Filed: _____

CHAPTER U

PARTIES OF AN ACTION

MINORS AS PARTIES (Pa.R.C.P. Nos. 2026 through 2050).

1. ACTION BY AND AGAINST MINORS, AVERMENTS IN PLAINTIFF'S PLEADING (Pa.R.C.P. No. 2028).

a. An action in which a minor is the plaintiff shall be captioned: " (NAME), a Minor by (NAME), Guardian against the party defendant."

b. An action in which a minor is the defendant shall be commenced against the minor by name in like manner as an adult.

2. JUDGMENT AND COSTS (Pa.R.C.P. No. 2038).

a. A judgment entered shall be the obligation of only the minor and the guardian shall not be individually liable for payment of the judgment or for any of the costs except for the following:

(1). Costs taxed against a minor plaintiff.

(2). Costs taxed against minor defendant asserting a set off or counterclaim.

3. COMPROMISE, SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION (Pa.R.C.P. No. 2039).

a. No action involving a minor as a party, shall be compromised, settled or discontinued except with court approval, pursuant to a petition presented by the guardian.

(1). Upon receipt of petition and court order, Prothonotary shall file and make docket entry.

b. The court shall enter an order directing the distribution of any monies held in a fund for the minor.

(1). Upon receipt of a petition and/or court order, Prothonotary shall file and make docket entry.

(2). If monies in fund are held in escrow account by Prothonotary, Prothonotary shall then distribute monies pursuant to an order of court and so note on docket.

(3). Prothonotary shall review all court orders to ascertain if they contain provisions for withdrawal of monies by court order, by minor upon attaining his majority, accountability, and proof of deposit. Prothonotary shall file and docket each order, proof of deposit, and accounting as presented. (Note: In some jurisdictions, the final order is transferred to the Orphan's Court Division for compliance and final disposition; thus, permitting the Prothonotary to dispose of the record as in any other civil action.)

5. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER U

PARTIES OF AN ACTION

INCAPACITATED PERSONS AS PARTIES.

1. GENERAL (Goodrich Amram 2d).

a. 2051:1 GENERALLY. The incapacity of persons has long been recognized as requiring special safeguards for the protection of their persons and property on the one hand and the protection of society from them on the other. At common law, the King, acting as *parens patriae* (father of his country), was the protector and guardian.... In Pennsylvania, this power has been vested in the Supreme Court and the Courts of Common Pleas. The modern Probate, Estates, and Fiduciaries Code confers jurisdiction upon the Orphans' Court Division of the Courts of Common Pleas to find a person incapacitated and to appoint a guardian.

b. 2051:3/2053(a):1 GUARDIAN/GUARDIAN AD LITEM. (Paraphrased). As used in this section, the guardian is a person appointed by the court to take care and have control of an incapacitated person and his estate. The guardian is usually required to give a bond and accounting to the court of his performance. A guardian ad litem (usually an attorney) is appointed by the court to represent an incapacitated person or estate in a specific suit. He need not give any bond or account for his performance to the court.

c. 2051:6 INCAPACITATED PERSON is defined as an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that the person is partially or totally unable to manage financial resources or to meet the essential requirements for physical health and safety.

d. 2053(a):3 NONREPRESENTED INCAPACITATED PERSON. The incapacitated person must be represented. He cannot waive compliance with the rules, nor may it be waived by anyone on his behalf. If he is not represented this is not fatal to the action; however, an adverse judgment or verdict entered against a nonrepresented incapacitated person may be set aside if justice so requires.

e. 2054(a):3 CAPTION FORM BY INCAPACITATED PLAINTIFF. (NAME OF INCAPACITATED PERSON), an Incapacitated person by (NAME OF GUARDIAN), Guardian v. (NAME OF DEFENDANT).

f. 2054(b):1/2 DESIGNATION OF GUARDIAN. The initial pleading is to contain the guardian's name and address, the nature of his guardianship, a reference to the record of his appointment. The basic formats are: 1. (NAME OF PLAINTIFF) is plaintiff in this action. He is an incapacitated person (STATE NATURE OF INCAPACITY). 2. I, (NAME OF GUARDIAN), am the guardian of (person or estate) of (NAME OF INCAPACITATED PERSON) appointed by (COURT ORDER ETC.). I am not related to any party to this action and have no interest in the subject matter hereof except as such guardian.... I, (NAME OF GUARDIAN AD LITEM), am the guardian ad litem of (NAME OF INCAPACITATED PERSON) appointed by your honorable court on (DATE). I am not related to any party to this action and etc.

g. 2054(c):1 ACTION AGAINST INCAPACITATED PERSON. The rules permit the plaintiff to bring his action as though the defendant were not incapacitated. Thereafter, the incapacitated person must be properly represented and, if not represented, adverse findings and judgments may be set aside. (For service of original process when the defendant is an incapacitated person, refer to Pa.R.C.P. No. 421; and 441(b) for other legal papers.)

h. 2056(a):1 PROCEDURE WHEN INCAPACITY OF A PARTY IS ASCERTAINED. Pa.R.C.P. No. 2053 requires an incapacitated party whether plaintiff or defendant to be represented by a guardian or guardian ad litem; failure to be represented is a procedural defect or error; and Pa.R.C.P. No. 2056 prescribes the effect of such defect and the method of curing it, whether it be before, during or after trial.

i. 2060(a):1 GUARDIAN AD LITEM REMOVAL. The guardian ad litem is a fiduciary selected to represent the interest of the incapacitated party. When for any reason he fails to do so, the court has the power to remove him and select another person to represent the incapacitated party, upon its own motion or on the petition of any party in interest. (A guardian does not automatically supersede a guardian ad litem appointed by the court. The court may find it undesirable to transfer the control of the litigation.)

j. 2063:1 JUDGMENT AND COSTS. A judgment entered against an incapacitated person is the obligation of the incapacitated person. Neither the guardian nor guardian ad litem has any personal liability for its payment -- the incapacitated person is the party to the action.

k. 2064(a):1/2 COMPROMISE, SETTLEMENT, DISCONTINUANCE, AND DISTRIBUTION. (1) The action may only be discontinued, settled or compromised with the approval of the court. This rule only applies to "actions" and does not apply to compromise of "causes of action" upon which no action has been brought. A cause of action which suit has not yet begun may be compromised without obtaining court leave. The rule,

however, does prohibit the discontinuance of an action without court approval. This prevents the parties from discontinuing a pending action in order to compromise without court approval the cause of action upon which the discontinued suit has been brought.... A petition for leave to discontinue, settle by any party in interest. The petition is to contain the pertinent information of the action and request.... The court will seek to protect the interests of the incapacitated person so far as possible and is given wide discretion to accomplish this.

2. PROCEDURE.

a. Upon receipt of a complaint, review to ensure the caption is substantially in the form shown in preceding paragraph 1.e.; guardian's name, address, and telephone number and a statement similar to paragraph 1.f. Collect fee, file, assign a court of common pleas number and docket (index in name or estate of the incapacitated person).

b. If the incapacitated person is a defendant and a guardian ad litem is appointed during the litigation by a court order, Prothonotary in processing the court order shall make the necessary changes to the caption to reflect the appointment.

c. Prothonotary shall be alert to a litigation that involves an incapacitated person since it is subject to special filings, which may require additional changes in the docket and other records, e. g. caption, etc.

d. Prothonotary should only accept the withdrawal of a guardian/guardian ad litem by order of court.

e. Prothonotary shall index the name of the incapacitated person, not the guardian/guardian ad litem, in judgment, verdicts, etc. (See paragraph 1.j.).

f. Prothonotary shall only accept a termination by order of court (See paragraph 1.k.).

g. Upon receipt of a court order for distribution of funds held in escrow, Prothonotary shall file and docket. After distributing the funds as directed; Prothonotary shall make appropriate entries in the docket and fiscal records; and file any documentation in the case file.

h. Prothonotary shall review all court orders to ascertain if they contain provisions for withdrawal of monies by court order, when incapacitated party is judicially determined to have capacity, proof of deposit, withdrawal as presented. Prothonotary shall file and docket each order, proof of deposit, and accounting as presented.

(NOTE: In some jurisdictions, the final order may be transferred to the Orphan's Court Division for compliance and final disposition; thus, permitting the Prothonotary to dispose of the record as in any other civil action.)

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER U

PARTIES OF AN ACTION

PARTNERSHIPS AS PARTIES (Pa.R.C.P. Nos. 2126 through 2150).

1. ACTIONS BY PARTNERSHIPS AND LIQUIDATORS (Pa.R.C.P. No. 2127).

a. A partnership shall prosecute an action in the names of the partners trading in the firm name such as: (NAME), (NAME), (NAME), trading as (NAME OF FIRM)."

b. An action prosecuted against a liquidator of a dissolved partnership shall be entitled: "(LIQUIDATOR'S NAME), Liquidator of (NAME) and (NAME), late trading as (NAME OF COMPANY)."

2. ACTIONS AGAINST PARTNERSHIPS AND LIQUIDATORS (Pa.R.C.P. No. 2128(d)).

a. This section provides for the filing of a statement of membership with the Prothonotary in the county or counties in which the partnership business is conducted.

3. EFFECT OF JUDGMENTS (Pa.R.C.P. No. 2132).

a. A judgment entered against a partnership sued in its firm name shall only be executed upon partnership property.

b. A judgment entered against a partnership sued in the names of the partners as individuals trading in the firm name may be executed upon partnership property and upon the individual property of a named partner.

4. INDEXING OF JUDGMENTS (Pa.R.C.P. No. 2133).

a. Against a partnership -- index in the firm's name.

b. Against the liquidator of a dissolved partnership -- index in name of liquidator as liquidator of partnership and also in the firm's name.

c. Against individual partner -- index in name of partner as an individual.

5. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER U

PARTIES OF AN ACTION

UNINCORPORATED ASSOCIATIONS AS PARTIES (Pa. R.C.P. Nos. 2151 through 2175).

1. ACTIONS BY/AGAINST ASSOCIATIONS (Pa.R.C.P. Nos. 2152 and 2153).

a. An action prosecuted by an association shall be prosecuted in the name of a member or members thereof as trustees ad litem for such association. An action so prosecuted shall be entitled "(ASSOCIATION'S NAME), by (NAME) and (NAME), Trustees ad Litem" against the party defendant. As defendant, it may be in the name of the association or any officer as a trustee ad litem, as previously prescribed.

2. EFFECT OF JUDGMENT AGAINST ASSOCIATION (Pa.R.C.P. No. 2158).

a. A judgment entered against an association sued in the name of the association or in the name of a trustee ad litem, or sued alone or together with a member of the association or other person, shall support execution upon the property of the association.

3. GENERALLY. REGISTRATION OF FICTITIOUS NAMES. The Fictitious Names Act (54 Pa.C.S.A. § 303(b)(2)(iv), enacted in 1982, excludes an unincorporated association from the mandatory fictitious name registration requirement of such Act; however, they may choose to voluntarily register under section 303(a).

4. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER U

PARTIES OF AN ACTION

CORPORATIONS AND SIMILAR ENTITIES AS PARTIES (Pa.R.C.P. Nos. 2176 through 2199).

1. GENERAL (Goodrich Amram 2d).

a. 2176:1 DEFINITIONS PROCEDURAL NOTE. The term "corporation or similar entity" as defined in Pa.R.C.P. No. 2176 includes all associations and business entities which are regarded as separate and distinct from their members....

b. 2177 ACTIONS BY AND AGAINST A CORPORATION OR SIMILAR ENTITY GENERALLY.

(1). Actions to be prosecuted by or against a corporation or similar entity are to be in the corporate name.

(2). There is no requirement that the names of stockholders or members of the corporation be included in the complaint.

(3). It has been held that where a corporation is dissolved, a suit upon a cause of action owned by it must be brought by a surviving member of the board of directors; it may not be brought in the name of the corporation.

(4). By statute (15 P.S. § 2111), however, a dissolved corporation continues to exist for 2 years for the purpose of suit against it by claimants whose rights accrued prior to dissolution. (2179(a):7, Note 21.... suits should be prosecuted in the corporation name and process is to be served on the person appearing of record as the president of the company.)

(5). The statutory right to appear pro se is confined to individual defendants. A corporation may appear only by an attorney at law.

2. PROCEDURE.

a. Prothonotary shall process all actions by corporations as set forth in the provisions of this manual; however, if the corporate action is brought by a person other than a member of the Bar of the Supreme Court of Pennsylvania and requests the Prothonotary to perform a specific task of responsibility, such as issuing a writ, Prothonotary should consult with his solicitor first, since only an attorney at law can represent a corporation.

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

4. References:

Walacavage v. Excell 2000, Inc., 480 A.2d 281

full context, including the defense closing. *Commonwealth v. Brown*, 490 Pa. 560, 417 A.2d 181 (1980).

[7] The first set of remarks containing the "Gentlemen's Quarterly" comment regarding Frazier's attire is not responsive to the defense summation and so is not covered by the foregoing reasoning. We find, though, that it is comparable to the kind of sarcastic remark which we found not to be prejudicial in *Commonwealth v. Ashmore*, 266 Pa.Super. 181, 403 A.2d 603 (1979) (prosecutor commented "He wasn't raped either" during defense cross-examination of a Commonwealth witness and later pointedly withdrew the word "Gentlemen" when reformulating a question which referred to the defendant). In addition, immediately following the remark, the trial court gave cautionary instruction to the effect that the attorneys in closing may suggest inferences to be drawn from the evidence, but the jury is not required to accept the suggested inferences (emphasis added). See *Ashmore*, supra at 189, 403 A.2d at 607 ("The nature of the reference coupled with the curative instructions of the court were such as to dissipate the harm.").

The relatively mild comments in the instant case did not prejudice the jury by stigmatizing the defendant. Compare *Commonwealth v. Baranyai*, 296 Pa.Super. 342, 442 A.2d 800 (1982) (improper to characterize police officer defendant as "a punk behind a badge," a "Buford Pusser," and a "Clint Eastwood" who used "Gestapo tactics").

The prosecutor did not express a personal opinion as to appellees' guilt of the crimes charged. Neither did he make any direct reference to other criminal conduct of appellees, i.e., involvement in the illegal narcotics trade. Notwithstanding appellees' arguments to the contrary, even the implications of the remarks in question do

This opinion discusses the issues primarily with reference to appellee Frazier because the comments in question referred only to Frazier. The prosecutor did not characterize or even

not amount to a characterization of Frazier as a drug dealer unless one engages in the most tenuous of reasoning. Even viewed in the light most favorable to appellees, this single comment does not approach in quality the egregious course of conduct held improper in *Commonwealth v. Starks*, 479 Pa. 51, 387 A.2d 829 (1978), where the prosecutor repeatedly described the defendant as a "cocaine pusher" and "cocaine distributor" and hypothesized that "there is some child whose body is being polluted right now by those drugs." We also note *Commonwealth v. Rivera*, 470 Pa. 131, 367 A.2d 719 (1976), in which the prosecutor's reference to the defendant as a "junkie" was held not to require a mis-

[8, 9] Even if we were to find that the "Gentlemen's Quarterly" comment was improper, we do not agree that a new trial is indicated. Not every improper or intemperate remark by the prosecutor mandates a new trial; rather, a new trial is necessary only if "the unavoidable effect [of the comments] would be to prejudice the jury, forming in their minds fixed bias and hostility towards the defendant, so that they could not weigh the evidence and render a true verdict." *Commonwealth v. Dreitelbis*, 493 Pa. 466, 477-78, 426 A.2d 1111, 1117 (1981), quoting *Commonwealth v. Stoltzfus*, 462 Pa. 43, 61, 337 A.2d 873, 882 (1975); *Commonwealth v. Van Cliff*, 483 Pa. 576, 397 A.2d 1173 (1979). We hold that the prosecutor's closing remarks in this case did not deprive appellees of a fair trial.

It is therefore clear that the trial court misapplied the law when it granted a new trial. The closing remarks of the prosecutor could not and did not create in the minds of the jury a fixed prejudice or bias against either appellee which deprived them of a fair trial.⁴

name Beckman in these remarks. Hence, it follows from our conclusion that Frazier was not prejudiced that Beckman also was not denied a fair trial. Frazier properly raised the

Cite as 480 A.2d 281 (Pa.Super. 1984)

The order granting a new trial is reversed and the case remanded for sentencing. Jurisdiction is relinquished.

ORDER

And Now, this 11th day of September, 1984 Appellee's "Motion to Amend Judgment", which this court shall treat as a petition for reconsideration, is denied because the time period for reconsideration has expired. It is the understanding of this Court, however, that neither this Order nor our Order of July 13, 1984, which remains in force, precludes the trial court from entertaining and disposing of any post-verdict motions properly before the court prior to sentencing.



Joseph WALACAVAGE,

v.

EXCELL 2000, INC., Appellant.
(Two Cases)

Superior Court of Pennsylvania.

Submitted Feb. 3, 1984.

Filed July 27, 1984.

Plaintiff sought in one action to recover on a loan to a corporate defendant and sought in a second action to recover for an alleged breach of a partnership agreement. The Court of Common Pleas of Schuylkill County, Civil Division, Nos. S-1849-82 and S-1283-81, McCloskey, J., entered judgment in favor of plaintiff in first action and entered order dismissing corporate defendant's preliminary objection in second action, and defendant appealed. The Superior

issue of prosecutorial misconduct upon which the post-verdict court granted relief. Beckman raised only boilerplate motions before the post-verdict court. In light of the fact that the lower

Court, Nos. 3416 Philadelphia 1982 and 590 Philadelphia 1983, Beck, J., held that: (1) no issues for appellate review were presented in first action when defendant failed to file exceptions to decision; (2) dismissal order in second action was interlocutory in nature and was not appealable; (3) corporate defendant could appear and be represented in courts of state only by an attorney-at-law duly admitted to practice; and (4) dismissal of corporate defendant's preliminary objections on ground that a corporate officer and shareholder could not act on its behalf when he was not an attorney did not amount to a violation of corporate defendant's rights to due process and equal protection and did not amount to discrimination in violation of civil rights statute.

Judgment at No. 3416 affirmed, and appeal at No. 590 quashed.

Johnson, J., concurred and filed statement.

1. Appeal and Error ⇐265(1)

Judgment in favor of a plaintiff in suit on loan agreement was subject to being affirmed when corporate defendant filed no exception to decision of trial court and, hence, failed to preserve issues for appellate review. Rules Civ.Proc., Rules 227.1, 1038(d), 42 Pa.C.S.A.

2. Appeal and Error ⇐78(3)

Order dismissing corporate defendant's preliminary objections to complaint alleging breach of a partnership agreement with plaintiff was interlocutory in nature and, since it did not raise a question of jurisdiction, was not appealable.

3. Corporations ⇐508

A corporation may not appear in court and be represented by a corporate officer and shareholder who is not an attorney.

court granted relief to both Frazier and Beckman on the same issue, we have reviewed the issue as to both appellees and deny them both relief.

4. Civil Rights ⇐3

Constitutional Law ⇐249(4), 309(1)

Dismissal of corporate defendant's preliminary objections on ground that a corporate officer and shareholder could not act on its behalf when he was not an attorney did not amount to a violation of corporate defendant's rights to due process and equal protection and did not amount to discrimination in violation of civil rights statute. 28 U.S.C.A. § 1343; U.S.C.A. Const. Amends. 5, 14.

5. Corporations ⇐397, 508

Rule that a corporation can do no act except through its agents and that such agents representing the corporation in court must be attorneys-at-law who have been admitted to practice, or officers of the court, and subject to its control is applicable even if the corporation has only one shareholder.

6. Corporations ⇐508

A person who accepts the advantages of incorporation for his or her business must also bear the burdens, including the need to hire counsel to sue or defend in court.

7. Corporations ⇐508

An exception to rule that a corporation may appear in court only through an attorney-at-law admitted to practice before the court exists only in stockholder's derivative actions and in situations such as small claims where there is a need for informal rules of procedure in which corporate as well as individual litigants are permitted or even required to appear without an attorney.

8. Corporations ⇐508

Corporation named as defendant in action for alleged breach of partnership agreement with plaintiff could appear and be represented in courts of state only by an attorney-at-law duly admitted to practice.

1. Rule 1038(d) was rescinded October 19, 1983, effective January 1, 1984, and replaced by new

Richard Wagner, Schuylkill Haven, for appellant.

Joseph H. Jones, Jr., Pottsville, for appellee.

Before CIRILLO, BECK and JOHNSON, JJ.

BECK, Judge:

This case requires us to consider whether a corporation may appear in court and be represented by a corporate officer and shareholder who is not an attorney. We hold that a corporation may not be represented by a person who is not an attorney in our courts.

We have before us consolidated appeals stemming from two separate actions involving two different transactions between the parties. In No. 3416 Philadelphia 1982 ("No. 3416"), appellee Joseph Walacavage ("Walacavage") sued appellant Excell 2000, Inc. ("Excell") on a loan from Walacavage to Excell, alleging that Excell had failed to make any payments. The case proceeded to trial without a jury; the court found for Walacavage in the amount of \$17,605.47. Excell appeals from the judgment entered on the verdict. In No. 590 Philadelphia 1983 ("No. 590"), Walacavage brought an action against Excell, claiming that Excell had breached a partnership agreement between it and Walacavage regarding the purchase of a parcel of land. Excell appeals from an order of the lower court granting Walacavage's preliminary objections in the nature of a motion to strike the preliminary objections of Excell and accordingly dismissing Excell's preliminary objections to Walacavage's complaint. We affirm the court below at No. 3416 and quash the appeal at No. 590.

[1] Both of Excell's appeals present serious procedural defects. In No. 3416, appellant Excell filed no exceptions to the decision of the trial judge. Under Pa.R. C.P. 1038(d),¹ "matters not covered by ex-

Rule 227.1. The procedure in the instant case is

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ceptions are deemed waived." Therefore, appellant has preserved no issues for appellate review, and we must affirm the judgment. *Knisely v. Knisely*, 295 Pa.Super. 240, 441 A.2d 438 (1982).

[2] In No. 590, Excell has attempted to take an appeal from an interlocutory order. The court's order is in effect no more than an order dismissing Excell's preliminary objections. Such an order is not final; neither party is put out of court. We have consistently held that an appeal does not lie from an order dismissing preliminary objections which do not raise a question of jurisdiction. *See, e.g., Balter v. Balter*, 284 Pa.Super. 350, 425 A.2d 1138 (1981); *2401 Pennsylvania Avenue Corp. v. Southland Corp.*, 236 Pa.Super. 102, 344 A.2d 582 (1975).² Therefore, the appeal at No. 590 is interlocutory and must be quashed.

The underlying issue, one of first impression in Pennsylvania, is whether the trial court erred in denying Excell, a corporation, the right to be represented in court by a non-lawyer who in this case was a corporate officer.

All of Excell's pleadings, motions, and briefs filed with both the lower court and this Court are signed by Richard J. Wagner, who describes himself as the "President and Stockholder" of Excell. Wagner is not a member of the bar of this or any other jurisdiction. In No. 3416, the court corresponded with Wagner before trial regarding Excell's need for counsel. At trial, the court neither granted Wagner permission to conduct Excell's defense nor prevented him from doing so; rather, the court informed Wagner that he would ex-

governed by Rule 1038(d) because the trial took place in 1982.

2. Although Excell characterizes one of its exceptions as a "petition raising question of jurisdiction," the objection actually consists only of a frivolous claim that the complaint is fatally defective because the docket number of the case was omitted from the caption. Such a claim is not jurisdictional in nature.

3. In *Phoenix Mutual Life Insurance Co. v. Radcliffe on the Delaware Inc.*, 439 Pa. 159, 266 A.2d 698 (1970), the Supreme Court held that the

pose himself to the risk of criminal prosecution for the unauthorized practice of law if he cross-examined witnesses or called any witnesses on Excell's behalf. Wagner responded that he had no intention of practicing law without a license and he remained silent at the trial except for making a few generalized objections to the proceedings.

In No. 590, appellee Walacavage objected to Excell's preliminary objections on the ground that Wagner as a layman was without authority to plead on Excell's behalf. The court agreed that Excell's preliminary objections were not properly presented for this reason and dismissed them.

Excell argues that it has the right to appear "pro se" through Wagner. Excell therefore contends that its failure to file exceptions to the trial judge's decision in No. 3416 resulted from the court's improper threats of criminal prosecution and should be disregarded by this Court. In No. 590, Excell argues that the court erred in dismissing its preliminary objections on the grounds that Wagner could not act for Excell. Excell maintains that the trial court's actions violated Excell's rights to due process and equal protection of the laws secured by the Fifth and Fourteenth Amendments to the United States Constitution, and that the court practiced "invidious discriminatory animus" against Excell in violation of the federal civil rights statutes, specifically 28 U.S.C. § 1343.

[3, 4] Excell's claims are meritless. Although the question has never been directly addressed by our appellate courts,³ we

corporate defendant/appellant would not be heard to complain on appeal that the trial court erred in allowing the trial to proceed when the corporate defendant was "represented" only by a non-lawyer officer who had clearly been authorized to act by the two other stockholders of the corporation. This holding was based on the principle that the trial court could have allowed the case to proceed to judgment if the defendant had failed to appear at all rather than on any belief that the lay representation was an adequate or proper appearance. The court also expressed approval in dictum of the rule that

find that the law is clear. The federal courts and the courts of our sister states have consistently held that a corporation may appear in court only through an attorney at law admitted to practice before the court. See, e.g., *Simbraw, Inc. v. United States*, 367 F.2d 373 (3rd Cir.1966); *MOVE Organization v. Department of Justice*, 555 F.Supp. 684 (E.D.Pa.1983); *MacNeil v. Hearst Corp.*, 160 F.Supp. 157 (D.Del. 1958); *Merco Construction Engineers, Inc. v. Municipal Court*, 21 Cal.3d 724, 581 P.2d 636, 147 Cal.Rptr. 631 (1978); *Oahu Plumbing & Sheet Metal, Ltd. v. Kona Construction, Inc.*, 60 Haw. 372, 590 P.2d 570 (1979).

[5] The reasoning behind the rule is that "a corporation can do no act except through its agents and that such agents representing the corporation in Court must be attorneys at law who have been admitted to practice, are officers of the court and subject to its control." *MacNeil, supra*; 160 F.Supp. at 159. This rule holds even if the corporation has only one shareholder. *Shamey v. Hickey*, 433 A.2d 1111 (D.C. App.1981).

[6] The *Shamey* court further explained that the purpose of the rule was "not the protection of stockholders but the protection of the courts and the administration of justice," and that a person who accepts the advantages of incorporation for his or her business must also bear the burdens, including the need to hire counsel to sue or defend in court. *Id.* at 1113, quoting from *Mercu-Ray Industries, Inc. v. Bristol-Myers Co.*, 392 F.Supp. 16, 17 (S.D.N.Y.), *aff'd.*, 508 F.2d 837 (2d Cir. 1974).

The policy underlying the rule was best summarized by the Third Circuit in *Simbraw*, quoting from the opinion of the District Court: "The confusion that has re-

corporations may not appear in court except by counsel. Nevertheless, *Phoenix Mutual* is not a holding on the precise issues raised by Excell in the instant case.

4. A narrowly defined exception exists for certain small claims in the Philadelphia Municipal

sulted in this case from pleadings awkwardly drafted and motions inarticulately presented likewise demonstrates the wisdom of such a policy." 367 F.2d at 375. We agree with this statement, and we note that it accurately describes the instant case. Excell's pleadings and briefs are rambling, and their averments and arguments are often improperly framed or simply irrelevant. Wagner's inept handling of Excell's case has resulted in the failure to present an effective defense at the trial level, and premature and otherwise defective appeals at this level—all problems which a skilled attorney could have avoided.

[7] The two exceptions to this rule are inapposite. First, some states have established special small claims courts with informal rules of procedure in which corporate as well as individual litigants are permitted or even required to appear without an attorney. See, e.g., *Merco Construction Engineers v. Municipal Court, supra*; *Oahu Plumbing & Sheet Metal v. Kona Construction, Inc., supra*. No such special statutes or rules are involved in the instant case.⁴

Secondly, an exception exists for stockholder's derivative actions. In *Willheim v. Murchison*, 206 F.Supp. 733 (S.D.N.Y. 1962), *appeal dismissed*, 312 F.2d 399 (2d Cir.1963), the federal court held that a non-lawyer individual stockholder plaintiff may proceed pro se on the theory that it is the stockholder's own action even though brought for the corporation's benefit. The instant appeals are not stockholder's derivative actions. Nor has Walacavage attempted to "pierce the corporate veil" and assert claims against Wagner individually. Wagner himself has consistently purported to act solely as Excell's representative.

Court. Rule 113(d) of the Rules of the Philadelphia Municipal Court provides that "A corporation must be represented by an attorney, except where the corporation is a defendant and damages are not in excess of \$300.00."

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Therefore, *Willheim* is irrelevant to this case.

Excell's constitutional claims have also been considered and disposed of by other courts. In *Oahu Plumbing, supra.*, the Hawaii Supreme Court rejected due process and equal protection claims. In *Turner v. American Bar Association*, 407 F.Supp. 451 (S.D.Ala., N.D.Ind., D.Minn., W.D.Pa., N.D.Tex., W.D.Wis.1975), a consolidation of many similar actions across the nation, the district court rejected the non-lawyer plaintiffs' claims that denying them the right to represent others in court violated federal civil rights and antitrust statutes, as well as numerous constitutional provisions. Several plaintiffs had also alleged jurisdiction under the Magna Carta, the United Nations Charter, "the Common Law," and the like; the court found these claims frivolous.

[8] Finding the above-cited federal and state decisions persuasive, we hold that it is likewise the law of Pennsylvania that a corporation may appear and be represented in our courts only by an attorney duly admitted to practice.⁵ We further hold that this requirement does not deny corporations due process or the equal protection of the laws. Neither does it deprive corporations or their officers and shareholders of any other constitutional or statutory rights they enjoy as corporate and natural persons, respectively. Accordingly, Excell is entitled to no special or additional relief on these grounds.

The judgment at No. 3416 Philadelphia 1982 is affirmed. The appeal at No. 590 Philadelphia 1983 is quashed.

JOHNSON, J. files a concurring statement.

JOHNSON, Judge, concurring.

I agree with the majority that the order from which the appeal is taken at No. 3416 Philadelphia, 1982 should be affirmed in

5. This holding, of course, does not affect the validity of any exception provided for by statute

that failure to file exceptions to the decision of the trial judge results in a waiver. I also agree that the appeal at 590 Philadelphia, 1983 involves an interlocutory order and must be quashed. Therefore, I see no need to address and take no position regarding any further issues as to whether a corporation can be represented in either the trial court or this court by a corporate officer and shareholder who is not an attorney.



Richard V. SIRIANNI, Individually and as Administrator of the Estates of Nancy Landis Sirianni, a/k/a Nancy L. Sirianni and Baby Boy Sirianni, a/k/a Luca Landis Sirianni

v.

NUGENT BROTHERS, INC. and City of Philadelphia and Paul Rimmeir and Carmen Fichera.

Appeal of Paul RIMMEIR.

Richard V. SIRIANNI, Individually and as Administrator of the Estates of Nancy Landis Sirianni, a/k/a Nancy L. Sirianni and Baby Boy Sirianni, a/k/a Luca Landis Sirianni

v.

NUGENT BROTHERS, INC. and City of Philadelphia and Paul Rimmeir and Carmen Fichera.

Appeal of CITY OF PHILADELPHIA.

Superior Court of Pennsylvania.

Argued March 7, 1984.

Filed July 27, 1984.

Widower brought wrongful death action against demolition contractor, land-

or rule. See *supra* note 4.

CHAPTER U

PARTIES OF AN ACTION

JOINDER OF ADDITIONAL DEFENDANTS.

1. RIGHT TO JOIN ADDITIONAL DEFENDANT (Pa.R.C.P. No. 2252).

a. In any action the defendant or any additional defendant may join as an additional defendant any person whether or not a party to the action under certain conditions set forth in the rule.

b. The plaintiff may join an additional defendant if the original defendant pleads a counterclaim against him. Plaintiff becomes a defendant in a counterclaim (Goodrich Amram 2d 2256(c):1).

c. A person may be joined as an additional defendant by:

(1). Filing as of course a praecipe for a writ with the Prothonotary. Prothonotary shall file and issue the writ substantially in the form shown in Pa.R.C.P. No. 2252(c), make docket entry, and add the additional defendant to the caption....

(2). Filing a complaint and notice to defend (Pa.R.C.P. No. 1018.1) with the Prothonotary. Prothonotary shall file, make docket entry, and add the additional defendant to the caption.

(3). Original process shall be served upon an additional defendant who is not already a part to the action in the same manner as if he were an original defendant. Copies of all pleadings filed in the action shall be served with the complaint against the additional defendant (Pa.R.C.P. No. 425).

(4). A party to the action may join a co-plaintiff or codefendant as an additional defendant by asserting material facts under new matter in his answer, and the caption of the action remains unchanged. This procedure eliminates the need for a writ or complaint (Pa.R.C.P. No. 2252(d) and Goodrich Amram 2d 2252(d):1).

d. If joinder is by writ, the joining party shall file his complaint within 20 days from the filing of the praecipe for the writ. If the joining party fails to file his complaint, the plaintiff or the additional defendant joined may

seek a rule to file the complaint and an eventual judgment of non pros in the manner provided by Pa.R.C.P. No. 1037(a) for failure to file a complaint.

(1). Upon receipt of a "Praecipe and Rule to File a Complaint," Prothonotary shall issue rule by signing and sealing form, return copies, file original and make docket entry.

(2). If a "Praecipe to enter a Judgment Non Pros" is received pursuant to the provisions of Pa.R.C.P. No. 1037(a) and this rule, Prothonotary shall accept praecipe and fee; file, mail notices and make docket entry.

2. TIME FOR FILING PRAECIPE OR COMPLAINT (Pa.R.C.P. No 2253).

a. Neither a complaint or praecipe to join an additional defendant shall be filed by the original defendant or an additional defendant later than 60 days after the service upon original defendant of the initial pleading of the plaintiff or any amendment thereof unless such filing is allowed by the court upon cause shown.

b. The time limit for joining a party already of record by "new matter" procedure is not the normal 60 days. The joining may be effected at any time when the pleading is timely. The 60-day time limit of Pa.R.C.P. No. 2253, *infra*, does not apply to the joinder of a co-party as an additional defendant under the streamlined procedure by new matter; the time limit only applies to a new party not already of record (Goodrich Amram 2d 2252(d):1.1).

c. No additional defendant may be joined.... after a default judgment was entered, unless judgment is opened.... (Goodrich Amram 2d 2253:1).

d. Upon receipt of a praecipe to join an additional defendant, Prothonotary should ensure the request is in compliance within the above limitations.

3. PROCEDURE (Pa.R.C.P. No. 2255).

a. The procedure between the defendant and additional defendant shall be the same as between a plaintiff in the action and a defendant; however, no judgment by default can be entered against the additional defendant for failing to file a sufficient answer but, instead, he is deemed to have admitted the averments of the defendant's complaint which he has not sufficiently answered (Goodrich Amram 2d 225(a):1).

b. No party other than the defendant may file a pleading against the additional defendant; but, the additional defendant can only file a counterclaim against the joining defendant and plaintiff (Goodrich Amram 2d 2255(a):1).

c. The plaintiff may recover directly from the additional defendant if the facts proven at the trial warrant such recovery (Goodrich Amram 2d 2255(d):8 and 11).

4. COUNTERCLAIM (Pa.R.C.P. No. 2256). A party (including a plaintiff) against whom a counterclaim is asserted shall have the same right to join any one as an additional party that is given to a defendant in Pa.R.C.P. No. 2252 (Goodrich Amram 2d 2256(c):1).

5. VERDICT, SPECIFIC FINDINGS AND JUDGMENT. (Pa.R.C.P. No. 2257). Where there may be three or four issues, and at least three parties adverse to one another, a general verdict may be ambiguous. Therefore, there should also be specific findings which will determine the liabilities of all parties by the submission of court-approved questions. If the verdict is inconsistent with the specific findings, but the findings are consistent with one another, the verdict may be molded to accord with the findings. Prothonotary shall file all verdicts, questions and answers, and court orders; then index and make docket entry (Goodrich Amram 2d 2257:1).

6. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

7. Form:

Praeipce for/Writ to Join Additional Defendant(s)

CIVIL DIVISION

:
:
:
:
:
:
:
:

File No. _____

**PRAECIPE FOR WRIT and WRIT TO
JOIN ADDITIONAL DEFENDANT(S)**

PRAECIPE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ to join the following as additional defendant(s) in the above-captioned case:

Counsel for the Plaintiff is: _____

Counsel for the Additional Defendant (if known and verified) is: _____

Date: _____

Signature: _____

Print Name: _____

Address: _____

Telephone No. _____

Supreme Court ID No. _____

WRIT

TO: _____

YOU ARE NOTIFIED THAT _____

_____ HAS JOINED YOU AS AN ADDITIONAL DEFENDANT IN THIS ACTION, WHICH YOU ARE
REQUIRED TO DEFEND.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____

Deputy

(File Original and sufficient copies for all parties.)

CHAPTER U

PARTIES OF AN ACTION

INTERPLEADER BY DEFENDANTS (Pa.R.C.P. Nos. 2301 through 2325).

1. NATURE OF INTERPLEADER.

a. When two or more persons, including those not parties to an action, claim the same thing from the defendant, in which he has no claim to it himself and is ignorant which of them has the right to it, he may require that they litigate against themselves which of them has right to it, in order to protect himself from double or multiple liability/litigation. The procedural device by which this is done is called interpleader. Example of a common interpleader -- rival beneficiaries adversely claim the proceeds of an insurance policy. The insurance company interpleads and pays the money into court. The court order granting the interpleader enjoins the claimants from enforcing their claim against the defendant in any action other than the pending action being interpleaded (Goodrich Amram 2d 2301:1, 2302:4, 2304:3).

b. Interpleader is available to actions in equity and at law.

c. A claimant may be interpleaded although he has not asserted his adverse claim if it is honestly believed by the defendant that he will do so. It is not necessary for the adverse claimant to have brought suit against the defendant before he may be compelled to interplead, but it is also immaterial that he has commenced such an action. He can still be compelled to litigate his right in the interpleader granted in another action (Goodrich Amram 2302:3).

d. Interpleader distinguished from intervention. In an interpleader, a person is made a party to an action against his will, by adverse process, and is forced to litigate such of his demands against the defendants as are so related to the claims made by the plaintiff in the pending action that double liability of the defendant may result. In intervention, a person is permitted to become a party to an action when he voluntarily seeks to do so (Goodrich Amram 2301:6).

e. Interpleader distinguished from sheriff's interpleader. Both serve the same purpose of protecting the petitioner multiple liability because of adverse claim. In this section the word interpleader is used for the petitioner who is a defendant in a suit; the sheriff's interpleader is used to protect him in the process when he has seized property by execution.

2. PROCEDURE.

a. COMMENCEMENT BY PETITION AND STAY (Pa.R.C.P. No. 2303). Action is commenced by petition accompanied by an order of court (Form--Pa.R.C.P. No. 2304) or the court on its own motion. The filing of the petition shall stay all proceedings in the action until the court has disposed of the petition. Prothonotary shall file and make docket entry.

b. SERVICE ON AND ANSWER OF PLAINTIFF (Pa.R.C.P. No. 2305).

(1). A copy of the petition shall be served upon the plaintiff or his attorney. The plaintiff's answer, if any, shall be filed within 20 days of such service and a copy thereof shall be served upon the defendant or his attorney. Upon receipt, Prothonotary shall file and make docket entry.

(2). If plaintiff files an answer challenging the averments of the petition, an issue of fact is raised and it is then the duty of the petitioner to proceed and take depositions, unless local rule provides otherwise. If petitioner fails to proceed, plaintiff may obtain a rule as of course upon him to proceed.

(a). Prothonotary shall accept, file and docket plaintiff's answer. If no answer is filed, and plaintiff submits a rule to proceed, Prothonotary shall issue the rule by signing and sealing all copies. Prothonotary returns copies to plaintiff for service and files and docket the original.

c. ACTION OF COURT ON PETITION (Pa.R.C.P. No. 2306).

(1). If the court refuses to grant the interpleader, the defendant petitioner may appeal therefrom.

(2). If the court grants the interpleader, it is generally interlocutory and not appealable, unless pleading disclosed the claimant has assumed double liability to both the alleged creditors.

(3). In the above actions, Prothonotary shall file and docket as any similar action.

d. ORDER FOR PAYMENT, DELIVERY, OR SALE OF PROPERTY. EFFECT OF COMPLIANCE THEREWITH. (Pa.R.C.P. No. 2307).

(1). Upon granting a petition for interpleader, the court shall issue an order relating to the payment or delivery into court, or to such person as the court shall direct, of any money or property in controversy disclaimed by the defendant.

(a). Upon receipt of the court order Prothonotary shall distribute copies to all parties, file and make docket entry. The Prothonotary, upon receipt of any monies from the defendant pursuant to the court order, shall give the defendant a receipt, and deposit monies in the escrow account or as directed by the order.

(b). If the defendant has disclaimed all interest in the action and the court has discharged him of all liability and awarded the defendant costs incurred to be paid from the deposited monies, the Prothonotary shall file the order, issue a check to the defendant as directed by the court, collect poundage, and make docket entry.

e. LITIGATION AND DISPOSING OF PROPERTY. (Pa.R.C.P. No. 2308 - 2317).

(1). If there was only a partial disclaimer by the defendant or the property was deposited or entrusted by the court the matter will be litigated pursuant to the above noted rules. If an interpleaded party fails to plead as required, the defendant may move the court to enter a judgment forever barring such party from asserting any claim against the defendant set forth in the petition.

(2). Upon the conclusion of the interpleader proceedings, the court shall enter an order or judgment disposing of money or property which has been paid or delivered into the court by the defendant. Prothonotary shall file, dispose of escrowed monies as directed, collect poundage, index any judgment, and make docket entry.

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

a. If interpleader is a suit in itself (Bill in Equity), see:

(1). Chapter 3 - Office of the Prothonotary, Subsection:

(a). Civil Dockets, Books and Indices.

(b). Civil Papers/Files.

CHAPTER U

PARTIES OF AN ACTION

INTERVENTION (Pa.R.C.P. Nos. 2326 through 2350).

1. WHO MAY INTERVENE (Pa.R.C.P. No. 2327). At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to the provisions of Pa.R.C.P. No. 2327.

2. INTERVENTION AS OF COURSE (53 P.S. § 11004-A).

a. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

3. PETITION TO INTERVENE (Pa.R.C.P. No. 2328).

a. Application to the court for leave to intervene shall be made by petition setting forth the information required by Pa.R.C.P. No. 2328(a). The petitioner shall attach to his petition a copy of any pleading which he will file in the action if permitted to intervene or what pleadings he adopts in the action that have already been filed. The petitioner may request a stay of proceedings until final disposition is made on his action to intervene.

b. A copy of the petition shall be served upon each party to the action.

4. ACTION OF COURT ON PETITION (Pa.R.C.P. No. 2329).

a. The court shall hold a hearing after notice is given to all parties of the action.

b. Opposing parties need not file a written response, but may raise any objection at the hearing. The discretion of the court at the hearing is limited, the rules only provide instances where the court may properly refuse the application — not where intervention may be granted.... An order permitting intervention is interlocutory and not appealable; however, it has been held that an order denying a petition for intervention is a final and appealable order if the applicant for intervention has no other adequate means of asserting his rights (Goodrich Amram 2329:1).

5. PRACTICE (Pa.R.C.P. No. 2330).

a. Upon approval of the court, the intervener shall have all the rights and liabilities of a party (either plaintiff or defendant pursuant with his pleadings) to the action.

(1). No stranger may be permitted to file an answer to a complaint unless he first intervened in the action and became a party.... A mere stipulation of counsel does not effectuate an intervention. An order of court is always required (Goodrich Amram 2d, 2330(a):1, Note 50.). A court order, matters adjudicated, and the subordination rule may limit the intervenors actions.... At the trial, the intervener will have the same rights as an original party.... Correlative with his rights, this rule imposes upon the intervener the liabilities of a party to the action, including costs (Goodrich Amram 2d 2330(a):1).

b. Any party to the action may amend any pleading filed by him to include any claim or defense available against an intervening party.

c. Prothonotary should not accept any attempt for a party to intervene, including stipulation of counsel, unless authorized by court order. In support of his action Prothonotary should cite this rule.

d. Upon receipt of a court order granting intervention, Prothonotary shall file and make a docket entry, including adding the intervening party to the caption as any other party, and identifying the party as "intervenor."

6. ACTS OF ASSEMBLY NOT SUSPENDED (Pa.R.C.P. No. 2348).

a. Pa.R.C.P. No. 2348 declares that seven enumerated statutes are not suspended by these rules relating to intervention. In general, these statutes which are thus preserved confer mandatory right of intervention, as distinguished from the permissive intervention authorized by these rules, or authorized by the joinder of parties by the procedural device of authorizing the "joining" parties to intervene. Whenever the designated statutes permit intervention, intervention will still be permitted, irrespective of Pa.R.C.P. No. 2327 and subdivisions (1) to (3) of Pa.R.C.P. No. 2329 (Goodrich Amram 2d 2348:1).

(1). Prothonotary should consult Pa.R.C.P. No. 2348 in unusual situations.

7. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER U

PARTIES OF AN ACTION

SUBSTITUTION OF PARTIES (Pa.R.C.P. Nos. 2351 through 2375).

1. SCOPE.

a. The Rules for this section are not all-inclusive, but do regulate the procedure for every kind of substitution of a party in every action, at law or in equity, including actions to obtain judgment upon a mechanics' lien claim, brought in or appealed to any court of record subject to such Rules (Goodrich Amram 2d 2351:1).

(1). Other Rules: Pa.R.C.P. No. 2004 governs the substitution of a person to whom a voluntary transfer is made. Pa.R.C.P. No. 2033, Minors as Parties, and 2060, Incompetents as Parties, govern the removal of an ad litem fiduciary and the substitution of a successor, and Pa.R.C.P. No. 2203 governs the removal and substitution of plaintiffs in an action for wrongful death (Pa.R.C.P. No. 2351 Note).

b. Divorce. An action of divorce, however, is not the type of personal action contemplated in the Act. The death of the plaintiff ends the cause of action, EXCEPT in cases in which a decree has already been entered, property rights are involved, and the case is on appeal (Goodrich Amram 2d 2351:2).

c. Successor is the one who succeeds the party to an action, being the interest (e.g. administrator of an estate) or office (e.g. elected official), by operation of law, election, or appointment.

d. Substitution is subordinate to the pending action and does not determine when a pending cause of action abates or survives, or in whose favor it may survive. These are matters of substantive law (Goodrich Amram 2351:1/2).

e. Substitution on appeal. For a matter that is pending in the appellate court, the personal representative of the deceased party may be substituted as a party on application filed by the representative or any party with the Prothonotary of the appellate court (Goodrich Amram 2d 2351:18).

2. SUBSTITUTION OF SUCCESSOR (Pa.R.C.P. No. 2352).

a. The successor may become a party to a pending action by filing of record a statement of the material facts on which the right to substitution is based.

(1). The procedure is extremely simple. The successor prepares a "statement of the material facts on which the right of substitution is based." He files it of record. This makes him a party, without more. No writ is issued; no rule to show cause is issued; no hearing is held; no order or decree is signed by the court (Goodrich Amram 2d 2352(a):2).

(2). Form of statement filed by voluntary successor (Goodrich Amram 2d 2352(a):2).

(Caption)

VOLUNTARY SUBSTITUTION OF (NAME OF SUCCESSOR) AS A PARTY (PLAINTIFF OR DEFENDANT)

1. I, (NAME OF SUCCESSOR) am the successor (IN INTEREST OR IN OFFICE) of (NAME OF PARTY), who is a (PLAINTIFF OR DEFENDANT) herein, and desire to substitute myself for (NAME OF PARTY) as (PLAINTIFF OR DEFENDANT) herein.

2. The material facts on which right of succession and substitution is based are as follows: (State in full the material facts relating to succession and the right to be substituted, such as death, incompetency, bankruptcy, receivership, change in fiduciary, replacement in public office, liquidation, merger, etc.)

3. I do hereby voluntarily substitute myself as a (PLAINTIFF OR DEFENDANT) herein in the place and stead of (NAME OF PARTY).

Date:

Signature of Successor
Address

(If successor is represented by an attorney, his entry of appearance may be appended to the form.

To the Prothonotary:

Enter my appearance for (NAME OF SUCCESSOR) as a party (PLAINTIFF OR DEFENDANT) herein.

Signature of Attorney
Address

(3). Upon receipt of a voluntary statement, Prothonotary shall file and make docket entry, including adding the successor to the caption.

(4). If an adverse party objects, the objection will be made to the court by petition to strike from the record the statement filed and to set aside the substitution (Goodrich Amram 2d 2352(a):1).

b. If the successor does not voluntarily become a party, the Prothonotary upon praecipe of adverse party setting forth the material facts shall enter a rule upon the successor to show cause why he should not be substituted as a party (Pa.R.C.P. No. 2353(b)).

(1). Form for compulsory substitution (Goodrich Amram 2d 2352(b):2).

(Caption)

PRAECIPE FOR RULE UPON (NAME OF SUCCESSOR) TO
SHOW CAUSE WHY HE SHOULD NOT BE SUBSTITUTED AS A
(PLAINTIFF OR DEFENDANT) IN PLACE OF (NAME OF PRESENT PARTY)

To the Prothonotary:

Enter rule on (NAME OF SUCCESSOR) to show cause why he should not be substituted as a party (PLAINTIFF OR DEFENDANT) in the above-captioned action in place and stead of (NAME OF PRESENT PARTY).

The material facts in support of such substitution are: (State in full the material facts relating to succession and the right to compel substitution, such as death, incompetency, replacement in public office, etc.)

Signature of Attorney

R U L E

And now (DATE) a rule is entered upon the (NAME OF SUCCESSOR) as above, returnable (DATE/TIME) at (PLACE).

Signature of Prothonotary

(Rule shall be served in a manner in which the original process in the action could have been served (Pa.R.C.P. No. 2353)).

(a). This Rule does not stay the proceeding and a stay would require an order of court.

(b). Prothonotary shall sign and seal all copies of the rule. Return the copies of the rule to the filer for service; file the original and make docket entry. No change in caption is made at this time.

(c). It is suggested that the successor is not really a "party" until the rule is made absolute. The rule contains a return day, which fixes the time and place at which the court will be asked to make the rule absolute and validate the joinder (Goodrich Amram 2d 2352(b):5).

(d). If an order is issued making the rule absolute, the Prothonotary shall file, distribute the copies, and make docket entry, including adding the successor to the caption.

3. STATUS OF SUCCESSOR. CONTINUANCE (Pa.R.C.P. No. 2354). If the successor voluntarily becomes a party to the action or the rule is made absolute, he shall have all the rights and liabilities of a party to the action. The court may order such continuances and extensions as may be necessary to afford him a reasonable opportunity to appear and prosecute or defend the action.

4. NOTICE OF DEATH OF A PARTY. SUBSTITUTION OF PERSONAL REPRESENTATIVE (Pa.R.C.P. No. 2355). If a named party dies after the commencement of an action, the attorney of record for the deceased party shall file a notice of death with the Prothonotary. The procedure to substitute the personal representative of the deceased party shall be in accordance with Rule 2352.

5. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

CHAPTER V

PROTHONOTARY AS A PASSPORT AGENT

GENERAL NOTES (Passport Agent's Manual, Passport Services).

1. Section 51.21 of Title 22 of the Code of Federal Regulations lists the categories of persons who may accept passport applications, and includes "a clerk of any State court of record" and "any other person specifically designated by the Secretary of State".

a. A Prothonotary automatically obtains its authority as an agent by being "a clerk of any State court of record." It should be noted that if the Clerk of Courts (Criminal), Clerk of Orphan's Court, etc. desires to be an agent, they would also qualify. If the office of a clerk of any State court of record is established, e.g. Prothonotary, no special authorization is required for change of personnel; however, if the office is not established and desires to commence being a passport agent, then a formal request would have to be submitted to the United States Department of State.

2. The most important function of the Passport Agent is to establish the identity of the passport applicant. In addition, the Agent, when accepting a passport application must:

a. examine the application and insure that the applicable sections have been properly completed;

b. screen the citizenship evidence and photographs, and collect the required fees;

c. record on the application the identification submitted by the applicant;

d. ensure the applicant executes the application by swearing or affirming the truth of the statements given therein and signs the application; and

e. apply his/her own signature and affix the authorized seal of the accepting office.

3. The fees to be collected for passports are set by Congress; and therefore, subject to change.

4. The Passport Agent's Manual and periodic Newsletters issued with updated information are detailed, contain complete instructions for use by the Agent and need not be reprinted here. Sample forms with step-by-step instructions for their use are included in the Manual as well. Each Prothonotary should ensure that the office has the most current information.

5. The Philadelphia Passport Agency serves Pennsylvania, New Jersey and Delaware. It is located in the Old Custom House, 2nd and Chestnut Streets, Philadelphia, PA 19106. Its telephone numbers are:

- a. (215)418-5937 - Recorded message with passport application data.
- b. 1-877-487-2778 - Public information and inquiries.
- c. (215) 931-4536 - Acceptance Agents information and inquiries regarding the status of individual passport applications.
- d. CONSULT MANUAL - Acceptance Agents inquiries to the Acceptance Agents' coordinator about policy, procedural, or technical matters. (FOR PROTHONOTARIES USE ONLY - SHOULD NOT BE GIVEN TO THE PUBLIC.)

6. IN LIFE-OR-DEATH EMERGENCIES ONLY which necessitate immediate departure, Passport Services duty office in Washington may be reached AFTER HOURS by telephoning (202) 647-4000.

7. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 - Prothonotary/Clerk of Civil Division
 - (1). PY20, Passport Application Transmittals.

8. Reference:
U. S. Department of State Passport Fees Schedule
Website – www.travel.state.gov



UNITED STATES PASSPORT FEES

ADULT APPLICANTS (Age 16 Years and Older) *Please see [Special Requirements for Adult Applicants.](#)*

What are you applying for?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
First-time Adult Passport Book	<u>DS-11</u>	\$110	+	\$25 = \$135
First-time Adult Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-11</u>	\$30	+	\$25 = \$55
First-time Adult Passport Book & Card	<u>DS-11</u>	\$140	+	\$25 = \$165
Adult Passport Card For applicants who currently have a valid passport book.	<u>DS-82</u>	\$30		Not Required = \$30

ADULT RENEWALS (Age 16 Years and Older) *Please see [Special Requirements for Adult Renewals.](#)*

What are you renewing?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
Adult Passport Book	<u>DS-82</u>	\$110		Not Required = \$110
Adult Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-82</u>	\$30		Not Required = \$30
Adult Passport Book & Card	<u>DS-82</u>	\$140		Not Required = \$140

ALL MINOR APPLICANTS (Under Age 16) *Please see [Special Requirements for Children Under Age 16.](#)*

What are you applying for?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
Minor Passport Book	<u>DS-11</u>	\$80	+	\$25 = \$105
Minor Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-11</u>	\$15	+	\$25 = \$40
Minor Passport Book & Card	<u>DS-11</u>	\$95	+	\$25 = \$120

OTHER FEES

Expedite Fee	Paid per application, in addition to required fees. Provides faster processing than routine service. Click here for current processing times.	\$60
Overnight Delivery	Paid per application for overnight delivery of an issued passport book from the Department of State to the customer. Only applies to mailing addresses within the United States. Not valid for passport cards.	\$14.85
Visa Pages	Additional pages added to a valid passport book using Form DS-4085 .	\$82
File Search Fee	A file search is necessary when an applicant is unable to present evidence of U.S. citizenship or verification of a previously issued U.S. Passport or Consular Report of Birth Abroad. Applicant must submit Form DS-11 and a written request for a file search.	\$150

Submitting incorrect passport fees could delay the processing of your application. For further information regarding passport application fees, please contact the National Passport Information Center by dialing 1-877-487-2778, TDD/TTY: 1-888-874-7793.

CHAPTER V

VETERANS

VETERANS (51 Pa. C.S.A. § 9201)

1. GENERAL NOTES:

a. General Rule: Whenever application shall be made to the proper public officer by or on behalf of any disabled war veteran, or member of the armed forces or their reserve components or the National Guard, of any war or armed conflict in which the United States has been, is now or shall hereafter be engaged, or by or on behalf of any dependent of any such veteran, or member of the armed forces or their reserve components or the National Guard, for a certified copy of any **death certificate, birth certificate, marriage certificate or decree of divorce**, for use in connection with any claim for death benefits, compensation allowance, family or dependency allotment, it shall be the duty of such public officer to **furnish such certified copy free of any charge** therefore provided for by any law of this Commonwealth. **No divorce certificate shall be issued under this section unless said divorce action record shows all costs fully paid.** As used in this section, the term "public officer" means an authorized official in the Department of Health as to any of the foregoing records in the possession of the Department of Health and the **proper county officer** as to any other records within this subsection.

CHAPTER W

NATURALIZATION

NATURALIZATION PROCEDURES, AS PERTAINING TO RESPONSIBILITIES OF PROTHONOTARIES OF PENNSYLVANIA, HAVE BEEN GREATLY REDUCED AS OF OCTOBER, 1991.

1. Exclusive Jurisdiction

a. A federal or state court may elect to have exclusive jurisdiction to administer the oath of allegiance to applicants for the first 45 days after a case is approved.

b. If a court elects exclusive jurisdiction to administer the oath of allegiance, the court must provide oath ceremony schedules to INS in advance of the approval of cases.

c. Within 10 days of approving an application, the Immigration and Naturalization Service (INS) must certify to the court that an applicant is eligible for naturalization. At the time a case is "certified", if there is a ceremony slot available to the applicant within 45 days, it falls into that exclusive jurisdiction.

d. INS prepares and forwards the certificate of naturalization to the court "promptly". That forwarding may take place by personal delivery to the Prothonotary at the time of the hearing, or by any other locally agreed upon method.

e. Both federal and state courts are included in this provision. If a federal court and a state court have both elected exclusive jurisdiction, the applicant is given the choice of which of the two courts will administer the oath. When a federal court elects exclusive jurisdiction, the election encompasses all divisions of that particular district court.

2. Procedures

a. A court must notify the district director in writing of its desire to have exclusive jurisdiction. Such notification is valid until rescinded by the court. Along with the notification, a court should provide an initial court calendar to cover the first ninety (90) days. Thereafter, the court must give INS sixty (60) days advance notice on all dates. Although not specified in the statute, the courts have already agreed that any court that desires to fully implement exclusive jurisdiction must be prepared to hold a minimum of one hearing a month in order to meet the 45-day limitation.

b. The certification of eligibility from INS to the court will be via a form which will have a preprinted statement as to the applicant's eligibility and allow for the notification of eligibility of multiple applicants and the date for which they have been scheduled.

c. At the time of the hearing, or shortly before, the certificates of naturalization will be forwarded to the court with a complete list of the applicants. The duplicate of this form will be used by the court to notify INS of the oath administration and to account for the certificates.

3. Non-exclusive Jurisdiction

a. If the court does not elect the exclusive jurisdiction, the applicant may elect the INS or court ceremony.

b. If the applicant elects a court ceremony, the certificate still must be prepared and forwarded to the court for delivery at the end of the ceremony.

c. All other monthly reporting requirements by the courts are in effect.

4. Universal Changes

a. Courts are relieved, in all circumstances, of the issuance of the document evidencing the administration of the oath of allegiance.

b. The Act also provides certain remuneration to the courts based upon their costs and numbers of persons administered the oath. This remuneration includes both federal and state courts.

5. Name Change

a. When a candidate for naturalization desires to have a change of name, it is suggested that they have their final hearing before a court of common pleas having jurisdiction.

b. At the time of the INS examination hearing, a petition for name change is completed and signed.

c. After the court hearing, the presiding judge of the court of common pleas signs the appropriate order, which is filed in the Prothonotary's Office.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Naturalization Dockets, Books, Indices and Papers.

(2). Fiscal Records.

b. If item is not in this schedule, contact State Archives for retention information.

7. Forms:

Petition for Change of Name and Order of Court

Monthly Report Naturalization Papers (Form N-4, Rev. 01/22/13)

8. Reference:

INS letter of March 17, 1994

CIVIL DIVISION

INSTRUCTIONS TO THE PETITIONER: Under the Immigration and Nationality Act of 1952, as amended by the Immigration Act of 1990 (section 336), an applicant who chooses to have the oath of allegiance administered by a State Court also can change his or her name by decree of that court. The decree of name change will be issued at the same time as the administration of the oath of allegiance, and the certificate of naturalization shall be issued in accordance therewith. If you elect the State Court ceremony, and wish to change your name, please clearly print or type the information requested.

I hereby petition this Court to change my name. In support of my petition, subject to the penalties of 18 Pa.C.S.A. § 4904 (Unsworn falsification to authorities), I truthfully state the following:

My full, correct, current name is _____

My present address is _____

I have resided at this address since _____

My country of birth is _____

Birthdate _____ My Alien Registration No. is A _____

I wish to change my name to _____

Subject to the penalties of 18 Pa.C.S.A. § 4904 (Unsworn falsification to authorities), I certify that I have never been convicted of a felony or misdemeanor and that there are no civil judgments for money presently outstanding against me.

Date: _____

(Signature of Petitioner or
of Petitioner's Parent)

* * * * *

ORDER OF COURT

AND NOW, this _____ day of _____, _____, pursuant to 8 U.S.C. § 1447(e), it is hereby ORDERED that the above Petitioner's name be and the same is hereby changed to: _____.

BY THE COURT:

Judge

Department of Homeland Security
 U.S. Citizenship and Immigration Services

N-4, Monthly Report on Naturalization Papers

Date: _____ **Office of the Clerk of the** _____ **Court**

 (County or District)

 (City, State, and Zip Code)

U.S. Citizenship and Immigration Services:

In compliance with the naturalization laws and regulations, listed below are each oath administration ceremony conducted under the jurisdiction of the above named court during the month and _____ year.

I have also enclosed the duplicate court list endorsed by me as clerk of the above named court during the same month, except for those that have already been delivered personally to your representative. Those so delivered are indicated by an (*) next to the court list number.

Also enclosed are (_____) voided Certificates of Naturalization. A specific listing of the voided certificates may be found on each endorsed court list.

 (Clerk of Court)

By _____
 (Deputy Clerk)

Date of Ceremony	Court List Number	Place of Ceremony	Number of Persons Administered Oath	Number of Voided Certificates

Instructions

This form is to be submitted monthly by the clerk of any court conducting naturalization activities in conformity with Section 339 of the Immigration and Nationality Act (8 USC 1450), and Title 8, Code of Federal Regulations, Part 339. The completed form, with a copy and all attachments, should be submitted to the District Office of U.S. Citizenship and Immigration Services (USCIS) having jurisdiction over the location of the court.

The USCIS office receiving the form shall retain the duplicate and all attachments, and forward the original to:

**U. S. Citizenship and Immigration Services
Headquarters Office of Field Operations
111 Massachusetts Avenue, N.W., 2nd Floor
Washington, D.C. 20529**

Authority to Collect Information

Our authority for collecting the information reported on Form N-4 is contained in Section 339 of the Immigration and Nationality Act (INA) (8 USC 145D). The information contained in this form will be used by USCIS to finalize the record process regarding persons naturalized and to determine payments to the courts as provided in Section 344(f) of the INA (8 USC 1455).

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2140. OMB No. 1615-0051. **Do not mail your completed Form N-4 to this address.**



U.S. Department of Justice

Immigration and Naturalization Service
Philadelphia District

Doris A. Glaessmann,
Clerk of Court/Civil Division
Lehigh County Courthouse, Room 100
455 Hamilton Street, P.O. Box 1548
Allentown, PA 18105

1600 Callowhill Street
Philadelphia, PA 19130

MAR 17 1994

Dear Ms. Glaessmann:

This letter is written to notify you of the revised Form N-4, Monthly Report - Naturalization Papers, which is to be printed and distributed in the near future. This form replaces the previous Form N-4, which your court completed monthly and forwarded to this office to report the number of filed petitions and fees collected by your court under the naturalization laws prior to October 1, 1991. The enactment of IMMACT-90, and the changes to administrative naturalization, still required a monthly report from the courts under Title 8, Code of Federal Regulations, Part 339.2(a). However, the amended Form N-4 was not available. This office compensated for this by making the attendance list cover all information needed for the monthly report.

Based on a notice from USINS, Headquarters, the first N-4 report (in duplicate) is requested for the month of March 1994, due as soon as possible. A copy of the proposed Form N-4 is attached. Please have duplicates made of this copy until the printed form becomes available. We request that a summary report for October, November and December 1993 and January and February 1994 be included in this report. The attendance list for each ceremony does not need to be attached, because the duplicate list for INS has been signed and returned to the Service employee immediately after each ceremony. A certified copy of any court orders granting name changes should be attached, also in duplicate. These reports should be sent to USINS, Examinations, Room 650, 1600 Callowhill Street, Philadelphia, PA 19130 - Attention: Greta Goszinski.

For further information, please contact Ms. Goszinski at (215) 656 7176 or 7178. Thank you for your cooperation in this matter.

Very truly yours,

J. Scott Blacman
District Director

MAR 17 1994

FISCAL

PROTHONOTARIES' ACCOUNTING AND AGENT RESPONSIBILITIES.

1. GENERAL NOTES.

a. The Prothonotary as an agent of the Court of Common Pleas may be ordered in a case to accept and receive monies to be placed in an escrow account -- either a general savings account or an interest-bearing account for a specific case. For an interest-bearing account, a W-9 form must be completed and filed with the financial institution. If the monies exceed \$100,000, which is the maximum insured by FDIC, a court order is strongly recommended to be filed allowing the Prothonotary to place the full amount in one financial institution. The financial institution shall provide the Prothonotary with a letter stating how the excess funds (over \$100,000) are protected and what collateral is designated for this purpose.

(See 42 Pa.C.S.A § 3561 and Pa.R.A.P. No. 1734.)

b. The Prothonotary as agent of the Commonwealth for collection of writ tax (72 P.S. § 611)...shall continue to be the agent of the Commonwealth for the collection of the tax on original writs, on entries of amicable actions, on writs of certiorari, on entries of judgment by confession or otherwise, and on transcript of judgments of justices of the peace or aldermen, and shall be the agents of the Commonwealth for the collection of the tax on the filing of complaints by which an action is started as provided by law, but they shall make their returns to the Department of Revenue, and pay the amounts collected to the State Treasurer, through the Department of Revenue, as provided in this act.

c. Records (72 P.S. § 210). All agents shall furnish the Department of Revenue with detailed statements of all monies received, collected, and transmitted, and shall keep records of the amounts owing to or due the Commonwealth and such other records as shall be required by the Department of Revenue. The form of all such statements and records shall be prescribed by the Department of Revenue.

d. Returns (72 P.S. 901). On the fifth day of each month, or at such times and with such frequency as may be

prescribed by the Secretary of Revenue, it shall be the duty of each.... county officer to render to the Department of Revenue, under oath of affirmation, returns of all moneys or as much as may be prescribed by the Secretary of Revenue, received during the applicable period for the use of the Commonwealth, designating, under proper headings, the sources from which such moneys were received, and to pay the same into the State Treasury, through the Department of Revenue, less any compensation and reimbursement for expenses allowable by law for having made the collections. (Note: The mailing envelope containing the report must be postmarked no later than the due date.)

e. Prothonotary's Personal Liability (72 P.S. § 1710). Any.... county officer who shall refuse or neglect to make the return and payment required by Section 901 of this article, shall be personally liable for a penalty of ten per centum of the amount of money collected during the period to which return and payment apply, and which shall be added to the total amount found due.

f. Collection on Checks Returned for Insufficient Funds (18 Pa.C.S. § 4105). A service charge not to exceed \$50.00 is to be collected by the Prothonotary if notice is conspicuously displayed when the check was issued.

(1). It is suggested that a 10-day notice be given to the issuer by certified mail, restricted delivery, return receipt requested. If after that the issuer fails to make good the check, a criminal complaint can be filed with a District Justice for the face amount of the check, interest at legal rate from date of dishonor, service charge and D.J. costs.

(2). There is a provision in 42 Pa.C.S.A. § 8304 on damages in civil actions, which provides for recovery of damages and costs following conviction for passing a bad check pursuant to 18 Pa.C.S. § 4105. This statute permits a civil claim, in addition to the recovery made in a criminal matter before the District Justice, for purposes of recovering damages in an amount equal to \$100.00 or triple the amount for which the check was drawn, whichever is greater. A conviction pursuant to the criminal statute is a prerequisite to this civil claim.

(3). The court should be notified of the bad check as it then becomes a failure to comply with a court order, so that contempt proceedings can be commenced by the court.

2. ACCOUNTING PROCEDURES.

a. Upon receipt of filing fees, the Prothonotary shall account for monies collected on a daily and monthly basis. This should entail the use of pre-numbered receipts.

b. The Prothonotary shall transmit fees to the county treasurer monthly pursuant to the County Code (16 P.S. § 1602).

(1). The counties' accounting systems will vary; therefore, it is of particular importance that several persons in the Prothonotary's employ have knowledge of the accounting system (including related returns, reports, audits, etc.), in the event of the absence or departure of the account clerk or Prothonotary.

c. The Prothonotary collects the following revenues:

(1). For the county: filing fees, including poundage as set forth in the Prothonotary's fee schedule (42 Pa.C.S.A. §§ 21001 et seq), collection commissions, and interest earned on certain investments made pursuant to 16 P.S. § 1706.

(2). For the Commonwealth:

(a). Tax on writs pursuant to 72 P.S. § 3172 is submitted to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), lines 1 through 5 and by the required date. For this action there is a 3% commission, which the Prothonotary deducts from the monthly return and forwards to the county treasurer.

(b). Children's Trust Fund \$10.00 Surcharge (11 P.S. § 2238) on all divorce decrees entered on or after March 16, 1989 or divorce complaints filed on or after June 1, 1990. Submit monthly to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), line 6, pursuant to their instructions. The fee is only waived when the court recognizes the indigency of the parties in a divorce action. There is no collection commission.

(c). Judicial Computer System Augmentation Account \$23.50 Surcharge (42 Pa.C.S.A. § 3733(a)(1) as amended) on all initial civil actions or legal proceedings filed on or after June 29, 1990. For further clarification, contact AOPC, (717) 795-2000, ext. 2007. Submit monthly to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), line 7, pursuant to their instructions. There is no collection commission.

(d). Unclaimed Property (Escheats), 72 P.S. §§ 1301.1 et seq. Any money held and unaccountable or unclaimed shall be reported and forwarded after five years to the Pennsylvania Treasury Department, Bureau of Unclaimed Property, on their form. The report is to be filed no later than April 15 if property or monies are held. (See www.pa.treasury.org for additional reporting information and on line reporting.)

(e). PFA Surcharge \$100.00 (23 Pa.C.S.A. § 6106(d)) and Indirect Criminal Contempt Fine (23 Pa.C.S.A. § 6114(b)). Any monies collected are submitted to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), line 12, pursuant to their instructions. There is no collection commission.

(3). For the Administrative Office of Pennsylvania Courts:

(a). Criminal Charge Information System Fee of \$7.50 (42 Pa.C.S.A. § 1725.1(a)(1)) on all child custody case filings as of February 4, 1997.

(b). Eighty percent (\$6.00) of the fee is to be transmitted to the Administrative Office of Pennsylvania Courts (AOPC) for the operation of the information system. The fee is to be remitted monthly to the AOPC's Mechanicsburg office. The money will be due no later than the 15th day after the close of the month. When the 15th falls on a Saturday, the money will be due the day before (Friday); when the 15th falls on a Sunday, the money will be due on the following day (Monday). Form AOPC 119-3 should be used for transmittal of the filing fees.

e. Audits. The Prothonotary's collection and accounting procedures will be audited by county and commonwealth auditors on the respective funds collected for them. There also may be an audit by an outside/independent auditing firm.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division:

(1). PY-14, Fiscal Records.

(2). PY-21, Prothonotary's Monthly Returns.

b. If item is not in this schedule, contact State Archives for retention information.

4. Forms:

Prothonotary Monthly Report to Department of Revenue
Abandoned and Unclaimed Property Report to Treasury Department
Act 119 of 1996 Transmittal of Filing Fees

5. References:

Criminal Complaint Form
AOPC letter dated January 31, 1997, from Judy K. Souleret,
Administrative Coordinator
Department of Revenue letter dated June 30, 2006, from Warren G.
Klunk, Chief, regarding Change to Monthly Report Filing and Remittance Due Date.



pennsylvania
DEPARTMENT OF REVENUE

BUREAU OF INDIVIDUAL TAXES
REPORTS RECONCILIATION DIVISION
PO BOX 280603
HARRISBURG PA 17128-0603

PROTHONOTARY MONTHLY REPORT

INSTRUCTIONS ON REVERSE

COUNTY	
COUNTY NUMBER	
MONTH	20
NAME	

POSTMARK DATE

BATCH NO. (BIDM)

- (1) D.P.A. Satisfactions, Judgments & Other Writs x 0.50 = \$ _____
- (2) Transcripts and Appeals x 0.25 = \$ _____
- (3) Gross Writ Tax Collections (Add Lines 1 and 2) \$ _____
- (4) Commission (Line 3 x 3%) (0.03) (-) \$ _____
- (5) Net Tax Collections \$ _____
- (6) Divorce Complaint Surcharges x 10.00 = \$ _____
- (7) Judicial Computer System (JCS)/Access to Justice (ATJ)/
Criminal Justice Enhancement Account (CJEA) Fees . . . x 23.50 = \$ _____
 Line (7) Includes Domestic Relations JCS/ATJ/CJEA Fee Collections:
- (8) Protection From Abuse -- PSP Surcharges \$ _____ + Contempt Fines \$ _____ = \$ _____
- (9) Protection From Abuse -- DPW Surcharges \$ _____ + Contempt Fines \$ _____ = \$ _____
- (10) Total Net Collections (Add lines 5, 6, 7, 8 and 9) \$ _____
- (11) Prothonotary (Subtract) (-) \$ _____
- (12) Commonwealth (Add) + \$ _____
- (13) Prothonotary (Subtract) (-) \$ _____
- (14) Commonwealth (Add) + \$ _____
- (15) Earned Interest for the Period From _____ To _____ + \$ _____
- (16) Remittance \$ _____

BALANCE DUE FROM PRIOR REPORT FOR	
MONTH	
BALANCE DUE AUDIT	
FROM _____ TO _____	

CERTIFICATION

I certify the information contained in this report is true and correct.

(PROTHONOTARY'S SIGNATURE)

DO NOT WRITE BELOW THIS LINE

OFFICIAL SETTLEMENT	AMOUNT DUE
Gross Tax Collections	
Commission at 3 percent	
Net Tax Collections	
Divorce Complaint Surcharges	
Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account Fees	
Protection From Abuse Collections	
Total Net Collections	
Earned Interest From _____ To _____	
Balance Due or Credit for Month of: _____	
Audit Settlement From _____ To _____	
Amount Due this Report	
Remittance	
BALANCE DUE () Prothonotary () Commonwealth	

DEPARTMENT OF REVENUE

OFFICE OF THE AUDITOR GENERAL

SETTLED AND DELIVERED _____

AUDITED AND APPROVED _____

FOR: SECRETARY OF REVENUE

FOR: AUDITOR GENERAL

INSTRUCTIONS

Lines 1-2: Report number for the month.

Line 6: Report number for the month. See (Act 151 of 1988 and Act 43 of 1990) for more information.

Line 7: Report number for the month. NOTE: JCS/ATJ/CJEA fees collected in the Domestic Relations Office may be included on this report. Therefore, a separate Prothonotary Monthly Report (REV-711), is not required. On Line 7, report the combined number of instrument filings handled by both offices on which the JCS/ATJ/CJEA fee was collected. Also, place a checkmark in the block shown below Line 7.

Line 8: Report the total monthly collections of the surcharge imposed under 23 Pa. C. S. §6106 (d) and distributable to the Pennsylvania State Police (PSP). Also, report the total monthly collections of criminal contempt fines imposed for violation of a protection order under 23 Pa. C. S. §6114 and distributable to PSP. Report all collections of surcharges and criminal contempt fines, both partial and full payments. Enter the combined total of PSP surcharges and PSP criminal contempt fines on the corresponding line on the right side of the report. See (Act 66 of 2005) for more information.

Line 9: Report the total monthly collections of the surcharge imposed under 23 Pa. C. S. §6106 (d) and distributable to the PA Department of Public Welfare (DPW). Also, report the total monthly collections of criminal contempt fines imposed for violation of a protection order under 23 Pa. C. S. §6114 and distributable to DPW. Report all collections of surcharges and criminal contempt fines, both partial and full payments. Enter the combined total of DPW surcharges and DPW criminal contempt fines on the corresponding line on the right side of the report. See (Act 66 of 2005) for more information.

NOTE: Surcharges, fines and fees are not subject to a commission. Commission is only applicable to gross writ tax collections (Line 3).

The original signed copy of the Prothonotary Monthly Report (REV-711) must be postmarked to the PA Department of Revenue no later than the 10th calendar day of the following month. However, if the 10th of the month falls on a weekend or business holiday, the filing due date is extended to the next following business day.

Make check payable to the **PA DEPARTMENT OF REVENUE.**

The check and monthly report must be mailed to:

**PA Department of Revenue
Bureau of Imaging and Document Management (C. C.)
PO BOX 280407
Harrisburg PA 17128-0407**

Inquiries concerning the preparation of this report should be directed to the Bureau of Individual Taxes at 717-787-2382.



Commonwealth of Pennsylvania
Treasury Department
Harrisburg, Pennsylvania 17120

March 14, 2008

Wyoming County Courthouse
1 Courthouse Square
Tunkhannock, PA 18657

Dear Clerk of Courts:

The Pennsylvania Treasury Department wants to inform county government officials about unclaimed property reporting as required by the Abandoned and Unclaimed Property Act (DAUPA), 72 P.S. Section 1301.1 et seq.

According to DAUPA, unclaimed property is any financial asset that has become dormant, meaning no contact has been made with the owner after a given time period. After this time, holders of unclaimed property, such as banks, insurance companies, county governments, and any other businesses or organizations, must file an unclaimed property report with the Pennsylvania Treasury Department. Similar to your tax return, unclaimed property reports are filed for the previous calendar year and are due no later than April 15th.

Some examples of unclaimed property that county agencies may be holding include patient or inmate accounts, bail deposits, sheriff sales proceeds, escrow accounts, uncashed tax refund checks, payroll checks, and accounts payable or receivable checks. Sheriff departments, domestic relations offices, health care facilities, work release centers, tax claim offices, district magistrate offices, register of wills, prothonotary offices, and other county offices may all be holding unclaimed property.

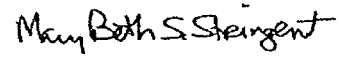
We encourage you to file your unclaimed property report by April 15, 2008. Any holder of unclaimed property that does not file a report by the reporting deadline may be subject to penalties and interest. Please note, the Treasury Department requires a compliance report to be filed, even for holders that are not in possession of unclaimed property. However, the Treasury Department exempts estates, trusts, sole proprietorships, and 501 C3 status non-profit organizations from filing annual negative reports if they have **no reportable unclaimed property**.

The Treasury Department has developed a Holder Education Program to educate holders on their reporting obligations. Treasury offers guest speakers who can provide an overview of unclaimed property reporting, tailored to industry type, as well as address any other issues that are relevant to organizations. Treasury also has a team of compliance professionals who are available to help holders meet their reporting obligations. They may be reached on the holder hotline at 1-800-379-3999, Monday through Friday, 8:00 a.m. – 5:00 p.m. or via E-mail at unclaimedpropertyreporting@patreasury.org. Holders will find helpful reporting resources by visiting the Treasury Department's Web site at www.patreasury.org including a copy of the

DAUPA, reporting instructions and forms, a free link to electronic reporting software, a dormancy matrix, recent legislative changes and a list of holder reporting frequently asked questions.

We look forward to the opportunity to educate your staff about Pennsylvania's Unclaimed Property Reporting Program.

Sincerely,

A handwritten signature in black ink that reads "Mary Beth Stringent". The signature is written in a cursive style with some capital letters.

Mary Beth Stringent
Director
Bureau of Unclaimed Property

AP- 1 REPORT OF ABANDONED AND UNCLAIMED PROPERTY VERIFICATION AND CHECKLIST

Robert M. McCord
Treasurer



TREASURY USE ONLY

Receipt Number _____
Receipt Date _____
Amount _____
Number Shares _____

Holder's Name _____

Federal EIN Number _____

Contact Person _____

Telephone (_____) _____ E-mail _____

Business Address _____

City _____ State _____ Zip Code _____ County _____

Date Incorporated _____, In the State of _____

Industry Type (scroll down in box and click on type) Agriculture, Forestry, Fishing

Is this the first time your organization has filed an abandoned and unclaimed property report to the Commonwealth of Pennsylvania? YES _ _ NO _ _

Have you ever reported under another company name? YES _ _ NO _ _

If so, under what company name? _____ Federal EIN # _____

Please fill in the blanks below for a positive report. Report should be signed by Company President, Chief Executive Officer or Chief Financial Officer. (For negative reports, please use the new 'AP-1 Neg' form.)

I have prepared and examined this AP-1 report consisting of _____ pages totaling \$ _____ as to property presumed abandoned under the Pennsylvania Disposition of Abandoned and Unclaimed Property Act (DAUPA) for the year ended as stated. I verify this report is accurate and complete to the best of my knowledge and belief as of said date, excepting for such property as has since ceased to be abandoned.

Please check if your payment is a Wire Transfer

HOLDER VERIFICATION: The undersigned hereby verifies that the statements set forth in this holder report are true, and acknowledges that any false statements contained therein are subject to the penalties of 18 Pa. C.S.A. § 4904 (relating to unsworn falsification to authorities).

Signature _____ Date _____

Print Name _____

Title _____

Report for Period Ended December 31, _____

Please complete the checklist below by indicating with a "✓" all types of property you are reporting. Each description marked must correspond with individual property descriptions you list on Form AP-2.

- | | | | | | |
|--------------------------|--|--------------------------|-----------------------------------|--------------------------|--------------------------------|
| <input type="checkbox"/> | Accounts Payable Check | <input type="checkbox"/> | Estate Funds | <input type="checkbox"/> | Passbook Savings |
| <input type="checkbox"/> | Accrued Dividends | <input type="checkbox"/> | Expense Check | <input type="checkbox"/> | Patient Accounts |
| <input type="checkbox"/> | Accrued Interest on Bond | <input type="checkbox"/> | Fiduciary Funds | <input type="checkbox"/> | Paying Agent Accounts |
| <input type="checkbox"/> | Bail Bond Deposit | <input type="checkbox"/> | Foreign Exchange Check | <input type="checkbox"/> | Pension & Profit Sharings |
| <input type="checkbox"/> | Bank Draft | <input type="checkbox"/> | General Obligation Bonds | <input type="checkbox"/> | Premium Refunds |
| <input type="checkbox"/> | Bearer Bond/Principal | <input type="checkbox"/> | Gift Certificate/Gift Card | <input type="checkbox"/> | Property Sales |
| <input type="checkbox"/> | Bond Interest/Coupon Money | <input type="checkbox"/> | Health & Welfare Funds | <input type="checkbox"/> | Redemption |
| <input type="checkbox"/> | Bond Redemption | <input type="checkbox"/> | Inmate Accounts | <input type="checkbox"/> | Refund/Rebates |
| <input type="checkbox"/> | Cash Distribution | <input type="checkbox"/> | IRA Account | <input type="checkbox"/> | Registered Bond Proceeds |
| <input type="checkbox"/> | Cash Exchange | <input type="checkbox"/> | Jewelry - Safe Deposit Box | <input type="checkbox"/> | Registered Checks |
| <input type="checkbox"/> | Cashier's Checks | <input type="checkbox"/> | Keough Account | <input type="checkbox"/> | Restitution Award |
| <input type="checkbox"/> | CD Interest Check | <input type="checkbox"/> | Layaway | <input type="checkbox"/> | Rights Redemption/Lease |
| <input type="checkbox"/> | Certificate of Deposit/Savings Certificate | <input type="checkbox"/> | Liquidated Debenture | <input type="checkbox"/> | Rental |
| <input type="checkbox"/> | Certified Check | <input type="checkbox"/> | Liquidated Dividend Reinvestment | <input type="checkbox"/> | Safekeeping - Miscellaneous |
| <input type="checkbox"/> | Checking Account | <input type="checkbox"/> | Liquidated DRP Termination Shares | <input type="checkbox"/> | Safety Deposit Boxes |
| <input type="checkbox"/> | Checks Written Off Into Income | <input type="checkbox"/> | Liquidated Stock Distribution | <input type="checkbox"/> | Security Deposit |
| <input type="checkbox"/> | Christmas Club Account | <input type="checkbox"/> | Liquidated Mutual Funds | <input type="checkbox"/> | Share Deposit |
| <input type="checkbox"/> | Claims Payment Check | <input type="checkbox"/> | Liquidated Rights | <input type="checkbox"/> | Statement Savings |
| <input type="checkbox"/> | Coins - Safe Deposit Box | <input type="checkbox"/> | Liquidated Stock - Undeliverable | <input type="checkbox"/> | Stock - Cash-in-Lieu |
| <input type="checkbox"/> | Collectable - Safe Deposit Box | <input type="checkbox"/> | Liquidated Stock - Underlying | <input type="checkbox"/> | Support Payments |
| <input type="checkbox"/> | Commissions | <input type="checkbox"/> | Liquidated Stock Unexchanged | <input type="checkbox"/> | Suspense Accounts |
| <input type="checkbox"/> | Condemnation Awards | <input type="checkbox"/> | Liquidated Stock Distribution | <input type="checkbox"/> | Tax Sales Excess |
| <input type="checkbox"/> | Confiscated Funds | <input type="checkbox"/> | Liquidated Stock Dividend | <input type="checkbox"/> | Travelers Checks |
| <input type="checkbox"/> | Credit Balances | <input type="checkbox"/> | Liquidated Stock Split | <input type="checkbox"/> | Treasurer's Checks |
| <input type="checkbox"/> | Currency - Safe Deposit Box | <input type="checkbox"/> | Liquidated Warrants | <input type="checkbox"/> | Trust Accounts |
| <input type="checkbox"/> | Customer Deposit | <input type="checkbox"/> | Liquid Cash Distribution | <input type="checkbox"/> | U S Government Securities |
| <input type="checkbox"/> | Death Benefit Check | <input type="checkbox"/> | Master Fees | <input type="checkbox"/> | Uncashed Checks |
| <input type="checkbox"/> | Debenture Interest | <input type="checkbox"/> | Matured Life Policy | <input type="checkbox"/> | Unclaimed Check/Official Check |
| <input type="checkbox"/> | Dividends | <input type="checkbox"/> | Membership Fees | <input type="checkbox"/> | Utility Refund/Deposit |
| <input type="checkbox"/> | Endowment Funds | <input type="checkbox"/> | Mineral & Royalty Proceeds | <input type="checkbox"/> | Vacation Club Account |
| <input type="checkbox"/> | Escrow Account | <input type="checkbox"/> | Misc. Papers - Safe Deposit Box | <input type="checkbox"/> | Wages, Payroll Unclaimed |
| | | <input type="checkbox"/> | Miscellaneous Equipment | <input type="checkbox"/> | Witness Fees |
| | | <input type="checkbox"/> | Money Order | <input type="checkbox"/> | Written Instrument |
| | | <input type="checkbox"/> | Nontransferable Security | | |

**INSTRUCTIONS FOR COMPLETING FORM AP-1
REPORT OF ABANDONED AND UNCLAIMED PROPERTY
VERIFICATION AND CHECKLIST**
(All information must be typed)

AP-1 is required for all reporting methods of unclaimed property.

- 1 Holder's Name:**
The name of your business entity.
- 2 Federal Employer ID Number (EIN):**
Company's Federal Employer Identification Number (tax ID Number) **This line must be completed.**
- 3 Contact Person:**
The name of the person responsible for preparing this report for your company.
- 4 Telephone Number & E-Mail Address:**
The business phone number and e-mail address of the person completing the report. This is the person the Bureau of Unclaimed Property will contact if there are questions or problems with your report.
- 5 Holder's Address:**
Your company's mailing address. Include department names if they are an important part of your address.
- 6 Date of Incorporation/Charter Date:**
Corporations should enter the date on which they were incorporated or licensed to do business. Savings and loan associations, banks and credit unions should enter the date their organization was chartered.
- 7 State of Incorporation:**
Corporations should enter the state in which they are incorporated. Savings and loan associations, banks and credit unions should enter the state in which they are chartered.
- 8 Industry Type:**
Description of business type.
- 9 Section Two:**
 - (a) Place a check mark next to the appropriate answer.
 - (b) Place a check mark next to the appropriate answer.
 - (c) If 9b is yes, please enter the company name and EIN# as requested.
- 10 Section Three:**
 - (a) If you are sending a completed report, be sure to enter the number of pages and the total dollar value you are reporting.
 - (b) Sign and date the bottom of the form. Please print your name and title below your signature.
NOTE: A corporate officer must sign the AP-1. e.g. CEO; CFO; President.
- 11 Verification for Period Ending:**
This is the cutoff date for reviewing your records. Enter December 31 of the previous year.

AP- 2

REPORT OF ABANDONED AND UNCLAIMED PROPERTY

Robert M. McCord
Treasurer



TREASURY USE ONLY

Receipt Number _____

Receipt Date _____

Amount _____

Number Shares _____

HOLDER NAME

EIN #

REPORTING YEAR

PROPERTY DESCRIPTION

ACCOUNT NUMBER

OWNER EIN NUMBER

OR

OWNER SOCIAL SECURITY NUMBER (Optional)

BUSINESS NAME/OWNER NAME
(FIRST NAME, MI, LAST NAME)

STREET ADDRESS

CITY STATE ZIP CODE

AMOUNT REPORTED AS DUE OWNER

NUMBER OF SHARES

ISSUE DATE

CHECK NUMBER

CERTIFICATE NUMBER

LAST ACTIVITY DATE

CUSIP NUMBER

ORIGINAL ISSUE NAME

INSTRUCTIONS FOR COMPLETING FORM AP-2 REPORT OF ABANDONED AND UNCLAIMED PROPERTY

(All information must be typed)

- 1 Holder Information:**
The name of the company filing the report.
- 2 EIN Number:**
Company's Federal Employer Identification Number (Tax ID Number).
- 3 Reporting Year(s):**
The year(s) for which this report is being filed.

COLUMN ENTRIES

Individual items of unclaimed property must be listed in groups according to the property type descriptions indicated on the checklist on the following page. Please use one page per property type description and list each item in either alphabetical order or numerical sequence by account number.

- 4 Property Description:**
Description of property to be itemized on the AP-2 form. **Please make copies of this page so that each page represents only one description of property.**
- 5 Property Identifier:**
The property number of each item in the appropriate column:
(a) - account number
(b) - check number
(c) - certificate number
- 6 EIN or Social Security Number:**
The company's Federal Employer Identification Number (Tax ID Number) if the owner is a business or Social Security number if the owner is an individual.
- 7 Owner's Information:**
The full name and last known address for each owner.
 - List full first name, middle initial, if available, and last name. List all information which would help with identification such as Jr., Sr.
 - Corporate titles should be entered exactly as adopted, except the word "the" should be deleted when it is the first word of the title.
 - List the complete address, including zip code. If the address is unknown, insert "address unknown" under the name.
 - If a single item has two or more owners, the names and addresses of both must be shown, along with the relationship (e.g. "Trustee", "Or", "And", etc.). If the owners have the same address, the address may be entered once beneath the names.
- 8 Amount Reported As Due Owner:**
The amount due the owner.
- 9 Number of Shares:**
The total number of shares due the owner prior to your liquidation of the shares.
- 10 Issue Date / Last Activity Date:**
The issue date and/or last activity date. The issue date is the date a check or draft was issued, the date a gift certificate was purchased, etc. The last activity date is the date of the last deposit or withdrawal made by the owner.
- 11 CUSIP Number:**
The cusip of securities reported.
- 12 Original Issue Name:**
The original issue name of security, if known.
- 13 Multiple Forms:**
For multiple pages, list the page number in this space.

INSTRUCTIONS FOR COMPLETING FORM AP-3 SUMMARY SHEET OF REPORTED ITEMS

(All information must be typed)

The Summary Sheet **must** be filed with your unclaimed property report. This information should be listed by property type description. If you are reporting owner accounts under \$50.00, please list them by dollar amount in aggregate by description of property.

- 1 PROPERTY DESCRIPTION:**
The property type description of each category of items as listed on the corresponding individual property pages (see AP-2 forms).
- 2 NUMBERS OF OWNERS:**
The number of owners per property description.
- 3 PAGES:**
The inclusive page numbers on the AP-2 forms where each type of property is listed.
- 4 AMOUNT REMITTED:**
The exact dollar amount remitted along with these reporting forms for **each** category of property. Dollars and cents must be included. Special considerations:
 - Accounts under \$50 listed in the aggregateThe above should be listed separately under the appropriate property description in the same sequence as above.
- 5 TOTAL OWNERS:**
The total number of owners on the holder report.
- 6 TOTAL DOLLAR AMOUNT OF AGGREGATES:**
The total dollar amount of Aggregates from your AP-4 form.
- 7 TOTAL AMOUNT REMITTED:**
The total amount of money actually paid with your reporting forms.
- 8 HOLDER:**
The name of the holder of unclaimed property. Also provide the county name of the holder's principal place of business, the Federal Employer Identification Number (EIN) and the reporting year.
- 9 REPORTING YEAR**
The reporting year.



Robert M. McCord
Treasurer

UNCLAIMED PROPERTY ~ TANGIBLE ASSETS INVENTORY LIST ~ (MUST BE TYPED)

REPORT OF _____ (Name of Reporting Organization) Holder _____ (Address) _____ (Branch) _____ (Reporting Year)

NAME OF INDIVIDUAL PREPARING REPORT _____ (Signature) _____ PHONE NUMBER (____) _____

EMAIL ADDRESS _____ EIN _____

TYPE OF PROPERTY

REFERENCE NUMBER SOCIAL SECURITY NO. (optional)	OWNER NAME PROPERTY DESCRIPTION	STREET ADDRESS	CITY	STATE	ZIP CODE	LAST ACTIVITY DATE	QUANTITY
1							
2							
3							
4							
5							
6							
7							
8							

INSTRUCTIONS FOR COMPLETING FORM TUP-40

TANGIBLE ASSETS INVENTORY LIST

(All information must be typed)

- 1 NAME OF REPORTING ORGANIZATION (HOLDER):**
The name of the organization or holder of the unclaimed tangible property. Include the address, report year, name of individual preparing report, phone number, EIN number, and email address.
- 2 REFERENCE NUMBER:**
The reference number assigned to the owner of the abandoned or unclaimed property. Usually this number refers to the safe deposit box or account number.
- 3 SOCIAL SECURITY NUMBER (Optional):**
The social security number of the owner of the abandoned or unclaimed property.
- 4 OWNER NAME AND ADDRESS:**
The name, address, city, state, and zip code.
- 5 PROPERTY DESCRIPTION:**
The description of each individual piece of property or item. This area is **very important** and must be completed **in detail**, especially if you are reporting several items of one type of property. The more detailed the description, the easier it will be to identify the individual piece of property when the owner comes forward to claim it. Note any specific identifying marks or characteristics for each piece of property.
- 6 LAST ACTIVITY DATE:**
The date the property became abandoned or unclaimed. This could be the date of the expiration of a safe deposit box agreement or when a police department receives notification that evidence is deemed abandoned or unclaimed.
- 7 QUANTITY:**
The quantity of each item described.
- 8 PAGE NUMBER:**
Type on the space provided.

NOTE: Upon receipt of the tangible property and tangible assets list, Treasury will inventory and review each submission. When this review is completed, Treasury will issue a receipt to each holder along with a report of actual property received as well as a discrepancy report documenting any missing or additional property.

INSTRUCTIONS FOR COMPLETING FORM AP-4 SUMMARY SHEET OF AGGREGATES

(All information must be typed)

Aggregate Reporting of Property Less Than \$50

Individual owner accounts of less than \$50 may be reported in the aggregate. You are not required to list each owner individually on your report. You may combine any amounts under \$50 by property type and provide a single total of each type.

If an owner files a claim for an account under \$50 which you reported in the aggregate, the Bureau of Unclaimed Property will contact you for verification that the owner's property was included in your aggregate total. To reduce the need for this verification, you should provide a separate list of aggregated accounts with your report. The list should include the names of the owners and the amounts due each owner. This information should then be summarized by property code on the Aggregate Summary Form (AP-4).

- ① **PROPERTY DESCRIPTION:**
List type of property per each aggregate of owners under \$50.
- ② **NUMBER OF OWNERS:**
List total number of owners per each individual property type.
- ③ **TOTAL AGGREGATE DOLLAR AMOUNT:**
List total dollars, under \$50, per property type.
- ④ **SUBTOTAL NUMBER OF OWNERS:**
Add the total number of owners in aggregate for property under \$50.
- ⑤ **GRAND TOTAL AGGREGATE DOLLAR AMOUNT:**
Add the total dollars in aggregate per property type description and list the grand total.
- ⑥ **HOLDER'S NAME:**
The name of the holder of unclaimed property.
- ⑦ **COUNTY:**
The name of the county where the holder is located.
- ⑧ **FEDERAL EMPLOYER IDENTIFICATION NUMBER:**
Your Federal Employer Identification Numbers (Tax ID Number).
- ⑨ **REPORTING YEAR**
The reporting year.



**ACT 119 OF 1996
TRANSMITTAL OF FILING FEES**

COUNTY: _____

MONTH/YR COLLECTED: _____

AMOUNT: _____ NO. OF NEW FILINGS: _____

COUNTY CONTACT PERSON/ TITLE: _____

TELEPHONE NUMBER: _____

Please remit checks to the following address:

Administrative Office of Pennsylvania Courts
Financial System Unit
P.O. Box 61260
Harrisburg, PA 17106-1260

If you have questions, please call 717-231-3307.

****Checks are due no later than the 15th day following the end of the month.**

CRIMINAL COMPLAINT (PRIVATE)

DISTRICT JUSTICE
MAGISTERIAL DISTRICT NO.



Q 20636

COMPLAINT NUMBER	YEAR	TYPE	NUMBER
Complaint Numbers if Other Participants			
INCIDENT NUMBER	UCR NO.	OTN	

District Attorney's Office Approved Disapproved because:

COMMONWEALTH OF PENNSYLVANIA
DEFENDANT: VS.

(Issue Date) _____ (Signature)
I, _____
(Name of Affiant)
of _____
(Identify department or agency represented and political subdivision)
residing at _____
do hereby state:

NAME _____
AND _____
ADDRESS _____
R.S.A. _____
A K A _____

- (1) I accuse the above named defendant, who lives at the address set forth above or,
 I accuse an individual whose name is unknown to me but who is described as _____
 his nickname or popular designation is unknown to me and, therefore, I have designated him herein as John Doe,
with violating the penal laws of the Commonwealth of Pennsylvania at _____ (Place Political Subdivision)
_____ in _____ County on or about _____
Participants were (if there were participants, place their names here, repeating the name of above defendant):

(2) The acts committed by the accused were: A
that (he) (she) issued or passed a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

The amount of check was \$

Name of drawee (bank):

Date check issued:

Check No.

Date of 10 day notice of refusal:

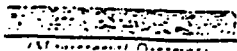
Order made payable to:

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, CRIMES CODE, Section 4105 (a) of December 6, 1972, No. 334, as amended July 6, 1984, No. 134.

- (3) I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made.
- (4) I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa. C. S. § 4904) relating to unsworn falsification to authorities.

_____, 19_____
(Signature of Complainant)

AND NOW, on this date _____, 19_____, I certify the complaint has been properly completed and verified, and that there is probable cause for the issuance of process.





ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
5035 RITTER ROAD, SUITE 700
MECHANICSBURG, PENNSYLVANIA 17055
(717) 795-2000

NANCY M. SOBOLEVITCH
COURT ADMINISTRATOR
OF
PENNSYLVANIA

January 31, 1997

Stacia N. Gates
Prothonotary of York County
York County Courthouse
28 East Market Street
York, PA 17401

Dear Ms. Gates:

Last week, Nancy M. Sobolevitch, Court Administrator of Pennsylvania, sent a letter to each prothonotary pertaining to Act 119 of 1996 (the "Jen and Dave Law") and the \$5 fee that is to be collected in child custody cases as of February 4, 1997. In response to the Court Administrator's letter, the Administrative Office of the Pennsylvania Courts (AOPC) has received several inquiries regarding Act 119 and its practical implementation within your offices. As the newly-appointed coordinator for this project, I would like to take the opportunity to respond to your inquiries, notably those pertaining to the collection of the \$5 fee.

Although we have also received questions regarding registration and application procedures to be followed in implementing Act 119, information with respect to these issues will only be forthcoming after further procedures are developed in consultation with your association and finalized by the AOPC. In the meantime, only collection of the \$5 fee established to help fund the statute's implementation is to begin on February 4. No registrations or applications for participation in the program are to be taken in any form until final procedures are announced.

In answer to questions regarding collection of the fees:

1. *When is the \$5 fee to be collected by the prothonotary?*

The \$5 fee is to be collected at the time of filing whenever a child custody matter, such as a request for an award of custody, partial custody or visitation is raised as a count in an action of divorce. If no counts are alleged at the time that the action of divorce is filed and subsequent custody, partial custody or visitation actions are filed, the fee shall be collected at that time.

2. *Should the \$5 fee be collected when a custody complaint is filed after February 4, 1997 where there may be a divorce action filed prior to February 4, 1997?*

Yes, the \$5 fee should be collected when the custody complaint is filed.

3. *Should the \$5 fee be collected by the prothonotary when both the action of divorce and the custody issues were filed prior to February 4, 1997?*

No, the fee should not be collected in these cases.

4. *Should the \$5 fee be collected when a motion, petition or other filing pertaining to a custody matter is filed based upon an action of divorce filed prior to February 4, 1997?*

No, the fee should not be collected in these cases.

5. *Should the \$5 fee be collected from a party who proceeds in forma pauperis?*

The prothonotary should proceed as directed by Pa. R.C.P. 240.

6. *How should the prothonotary disburse the portion of the fee that is not payable to the AOPC?*

The portion of the fee that is not payable to the AOPC must be disbursed to the county pursuant to 42 Pa.C.S. 3572, pertaining to the county portion of fines, etc.

7. *Should the \$5 fee be collected when actions for visitation rights are filed?*

The fee should be collected for new filings by new parties to the case after February 4, 1997.

8. *What advice should be offered to those who are eligible and would like to register to participate in this program when it is finally implemented?*

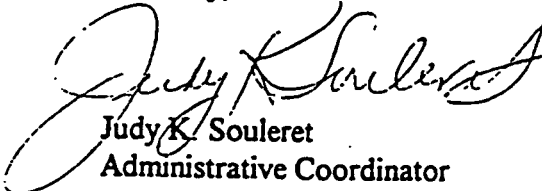
Your Association President, Joyce Reese, has already offered valuable guidance on many procedural and implementation issues. She has invited us to meet with the Manual Update Committee in March to get additional feedback regarding implementation, as well as to attend your annual conference in July to further describe implementation. With those events and other planning in mind, it is fair to say that further implementation of the Act 119 system is unlikely before April at the earliest. Prior to full implementation, we would expect statewide publicity in one or more forms. Until then, you may want to suggest that interested participants check back with your office no earlier than April to see if registration has begun.

As indicated, additional information pertaining to the implementation of Act 119 of 1996 will be forthcoming as plans for full implementation of the statute are developed and finalized. As the newly-appointed coordinator for implementation of Act 119, I look forward to being in contact with many of you in the future and continued contact with Joyce in the near term.

In the meantime, it is important to emphasize again that the only step for prothonotaries to take in the process of implementing Act 119 is to begin collecting the statutory fee. Further implementation steps, including registrations of interested parties, will not take place until additional procedures are defined, public information activities are developed, and until we have had an opportunity to more fully share these plans and procedures with each of you.

Should additional questions arise which you would like to discuss, please feel free to contact me at (717) 795-2000. While I may not immediately know the answer, I promise to work hard to assist each of you where I can. I look forward to working with you!

Sincerely,



Judy K. Souleret
Administrative Coordinator



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REPORTS RECONCILIATION DIVISION**

DATE: June 30, 2006

SUBJECT: Change to Monthly Report Filing and
Remittance Due Date

TO: Clerks of Orphans' Court
Directors of Domestic Relations
Recorders of Deeds
Registers of Wills
Prothonotaries

FROM: Warren C. [Signature], Chief
Reports Reconciliation Division
PA Department of Revenue

I am pleased to announce that the Revenue Department has extended the monthly collections report filing and remittance due date from the fifth to the tenth of the month following collection, effective immediately.

Attached is a copy of the new reporting and payment requirements for all county and judicial officers. This information is also available on the Department's website: www.revenue.state.pa.us; click on Tax Professionals (upper left corner), scroll down to Laws & Policies (center section) and click on Tax Bulletins; scroll down to bottom of page and click on Miscellaneous Tax Bulletin; click on Attached File.

If you have any questions regarding your collections reporting responsibilities, please contact Raquel Lyter, Supervisor, Report Examination Unit at (717) 783-6999 or me at (717) 787-1240.

As always, we appreciate your continued cooperation and assistance with our county collections program.

**PENNSYLVANIA DEPARTMENT OF REVENUE
MISCELLANEOUS TAX BULLETIN 2006 – 01**

**COLLECTIONS REPORTING AND PAYMENT REQUIREMENTS
FOR COUNTY AND JUDICIAL OFFICERS**

**ISSUED JUNE 26, 2006, EFFECTIVE IMMEDIATELY.
REVISED JULY 27, 2006.**

In accordance with 72 P. S. § 901, Reports to the Secretary of Revenue, the following due dates are established for the filing of monthly collections reports and for the remittance of payments of moneys due the Commonwealth when collected by county and judicial officers:

County or Judicial Officer	<u>Due Date</u> <u>Monthly Report</u> †	<u>Due Date</u> <u>Payment</u> †
Clerk of the Court of Common Pleas ††	Fifteenth day of the month following collection.	Fifteenth day of the month following collection.
Clerk of the Orphans' Court	Tenth day of the month following collection.	Tenth day of the month following collection.
Director of Domestic Relations	Tenth day of the month following collection.	Tenth day of the month following collection.
Magisterial District Judge	Fifteenth day of the month following collection.	Weekly; Subject to the payment requirements shown below*.
Philadelphia Traffic Court, Administrative Judge	Fifteenth day of the month following collection.	Weekly; Subject to the payment requirements shown below*.
Pittsburgh Magistrates Court, Court Administrator	Fifteenth day of the month following collection.	Weekly; Subject to the payment requirements shown below*.
Prothonotary	Tenth day of the month following collection.	Tenth day of the month following collection.
Recorder of Deeds (All Commonwealth moneys except realty transfer tax)	Tenth day of the month following collection.	Tenth day of the month following collection.
Recorder of Deeds (Realty transfer tax collections)	Tenth day of the month following collection.	All collections in excess of \$200 must be deposited daily to a Commonwealth-approved bank account.
Register of Wills (All Commonwealth moneys except inheritance and estate tax)	Tenth day of the month following collection.	Tenth day of the month following collection.
Register of Wills (Inheritance and estate tax collections)	Tenth day of the month following collection.	All collections in excess of \$200 must be deposited daily to a Commonwealth-approved bank account.

**PENNSYLVANIA DEPARTMENT OF REVENUE
MISCELLANEOUS TAX BULLETIN 2006 – 01**

**COLLECTIONS REPORTING AND PAYMENT REQUIREMENTS
FOR COUNTY AND JUDICIAL OFFICERS**

**ISSUED JUNE 26, 2006, EFFECTIVE IMMEDIATELY.
REVISED JULY 27, 2006.**

- * **Weekly Payment Requirements For Magisterial District Judge, Administrative Judge of the Philadelphia Traffic Court and Court Administrator of the Pittsburgh Magistrates Court (hereinafter referred to as "Judge").**
1. **General Requirements** -- The Commonwealth's share of fines, costs, etc. must be paid weekly (every five (5) business days), except during the first and last weeks of the month as provided in #3 below.
 2. **Selecting Payment Time Schedule** -- The Judge has the discretion to establish his/her own primary time schedule for making weekly payments to the Department of Revenue, subject to the requirements provided herein. The Judge must select a day of the week to close the collection transactions for the week and determine the amount of collections owed to the Commonwealth. The day selected, hereafter referred to as the weekly "closeout day" should be best suitable with the court office's overall work schedule. The weekly closeout day must be the basis for a time payment schedule, which ensures consistency in making timely, weekly payments to the Department of Revenue.
 3. **Weekly Closeout Day Schedule; Exception** -- A closeout must be performed on each regularly scheduled weekly closeout day, except as follows:
 - a.) A closeout must always be performed on the last business day of the month so that payments coincide with the amounts reflected on the monthly collections report filed with the Department of Revenue.
 - b.) If the month ends within one or two business days after a regularly scheduled weekly closeout day, the closeout should be postponed and subsequently performed on the last business day of the month. For example, assume the Judge's weekly closeout day is Wednesday. August 31, 2006 is a Thursday; the Judge would hold all of the Commonwealth's collections for the preceding week of August 24, 2006 through August 30, 2006 and would closeout on August 31, 2006. The Judge would submit a check for the period August 24, 2006 through and including August 31, 2006.
 - c.) If the month begins one business day before or on a regularly scheduled weekly closeout day, the first weekly closeout would be postponed and subsequently performed on the next regularly scheduled weekly closeout day. For example, assume the Judge's weekly closeout day is Monday. September 1, 2006 is a Friday; the Judge would perform the first weekly closeout on September 11, 2006. The Judge would submit a check for the period September 1, 2006 through and including September 11, 2006.

**PENNSYLVANIA DEPARTMENT OF REVENUE
MISCELLANEOUS TAX BULLETIN 2006 - 01**

**COLLECTIONS REPORTING AND PAYMENT REQUIREMENTS
FOR COUNTY AND JUDICIAL OFFICERS**

**ISSUED JUNE 26, 2006, EFFECTIVE IMMEDIATELY.
REVISED JULY 27, 2006.**

4. **Changing The Payment Time Schedule** - - If significant changes occur in the court office's work schedule which necessitate a permanent change to the previously established weekly closeout day, the Judge must notify the Department of Revenue thirty (30) days before implementing the new payment time schedule.
 5. **Performing The Weekly Closeout** - - The court office must close collection transactions in the early afternoon of the closeout day in order to total the collections made since the last closeout, determine the amount due the Commonwealth and prepare the check for payment. Any collection transactions taking place after the closeout time should be processed as collections for the following business day.
 6. **Payment Due Dates** - - A payment must be mailed (postmarked) to the Department of Revenue not later than the next business day after each closeout day.
 7. **Payment Method.** - - Payment shall be sent using the method of payment prescribed by the Department of Revenue.
- † If the Due Date falls on a weekend or business holiday, the Due Date is extended to the next following business day.
- †† Includes any other county court-related employee responsible for court collections as designated by the County's President Judge.

CHAPTER Y

MISCELLANEOUS

LIS PENDENS

1. GENERAL NOTES.

a. Lis pendens (a pending suit). A notice filed for the purpose of warning all persons that the title to certain property is in litigation, and that they are in danger of being bound by an adverse judgment. The notice is for the purpose of preserving rights of pending litigation.

b. The legal action must pertain to a specific piece of real estate and contain a description of it.

c. If the litigation and real estate is not within the Commonwealth, the filing of a notice of lis pendens should be as established by local practice.

d. The request to file a notice of lis pendens may be contained in the pleadings, by praecipe, or order of court.

(1). New filings must contain complete information as to parties' names, addresses, court of jurisdiction and case number (minor courts excluded).

e. For any new filings from another court of jurisdiction, it is strongly suggested that it be processed as a new civil action.

f. A praecipe to file a lis pendens may be filed in either equity or law suit without the approval of the court (*Goldman v. McShain*, 247 A.2d 455, 432 Pa. 61, 1968).

g. Upon praecipe, an action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth shall be indexed as a lis pendens (42 Pa.C.S.A. § 4304).

h. Under the provision empowering the court to provide special relief, the court may direct a lis pendens be entered against a party's real estate to insure compliance with the court's custody order (*Goodrich Amram* 2d 1915.13:1).

i. When a writ of attachment directs attachment of real property of the defendant in the name of the garnishee, the plaintiff may praecipe the Prothonotary of the county where execution is to occur to index writ. Upon receipt of such a praecipe from the plaintiff, wherein the real property in that county is fully described, the Prothonotary shall file, and index the writ against the garnishee as a lis pendens. This

indexing only constitutes a lis pendens against the described property in that county and not against any property of the garnishee (Pa.R.C.P. No. 3104(c)).

j. "Lis pendens" is jurisdiction, power, or control which courts acquire over property involved in suit, pending continuance of action, and until its final judgment thereon. Existence of lis pendens merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on property. *United States National Bank in Johnstown v. Johnson*, 487 A.2d 809.

k. Lis pendens has no application except in cases involving adjudication of rights in specific property. Party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation. Lis pendens may not be predicated upon action seeking to recover personal demand. *Psaki v. Ferrari*, 546 A.2d 1127.

2. PROCEDURE.

a. Upon receipt of a document requiring the entry of a lis pendens and payment of the applicable fee, the Prothonotary shall verify the information, and then file. If from another jurisdiction, assign a court of common pleas number.

b. Notice to be given as applicable.

c. Record in the judgment index, ejectment and miscellaneous docket, and other applicable docket. Recordings may vary due to different county docketing systems.

d. Upon praecipe, make the appropriate termination entry in the index and dockets.

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Civil Dockets, Books and Indices.

(2). Civil Papers/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

b. If item is not in this schedule, contact State Archives for retention information.

4. References:

42 Pa.C.S.A. 4301, Note 10

42 Pa.C.S.A. 4304

Goodrich Amram 2d 1915.13:1

Pa.R.C.P. No. 3104(c)

Goodrich Amram 2d 3104(b) and (c)

Goodrich Amram 2d 1032:9

Goodrich Amram 2d 2255(a):2

Goodrich Amram 2d 3031:4

United States National Bank in Johnstown v. Johnson, 487 A. 2d 809

Psaki v. Ferrari, 546 A. 2d 1127

Note 7

vide notice to other party. *McClelland v. West Penn Appliance Co.*, 1 A.2d 491, 132 Pa.Super. 471, 1938.

Rule that contested judgment cannot be disturbed, except on appeal, after expiration of term at which entered, did not control, where court did not directly enter judgment and prothonotary's entries of purported judgment failed to meet requirements of 17 P.S. § 1929 (repealed). *Trestrail v. Johnson*, 146 A. 150, 297 Pa. 49, 1929.

Order directing prothonotary to enter judgment for defendant, noted on judgment scratcher and judgment index, but not in appearance docket or elsewhere on record, was held not a final judgment from which appeal lies. *Id.*

While, in ad sectam form of index, authorized by 17 P.S. § 1927 (repealed) parties need not have been designated as plaintiff and defendant, when such course was pursued, designations in entry of judgment, not entered in appearance docket, must have coincided with order for judgment, though name of party against whom it was entered may have been placed in first column and that of successful party in second column, but judgment properly entered in appearance docket was not invalidated by such transposition and designation in index, particularly where indexing was part of system understood in particular county. *Id.*

It is not the purchaser's duty to see that they are transcribed, and his title is not dependent upon the entry of the proceedings on the docket. *Cummisky v. Cummisky*, 109 Pa. 1, 1885.

8. Actions and proceedings

There was nothing in 17 P.S. § 1955 (repealed) which suggested the necessity or propriety of the institution of proceedings by interested parties and the formation of issues for the settlement of disputes between them. It was obviously a duty which could be performed by inspection. A petition for the performance of it was not required, nor a suggestion of inaccuracy in the record. The judge was required to ascertain by an inspection of the records, books and papers of the office whether they were kept as the law contemplated. *Coleman's Petition (Coleman's Appeal)*, 30 A. 161, 163 Pa. 334, 1894.

9. Judgment index

Prothonotary did not have authority under 17 P.S. § 1908 (repealed) to index in judgment index action to restrain use

of name adopted in development of tract of land, and such indexing would be stricken off. *Borough of Rose Valley v. Rose Valley Acres*, 31 D. & C. 261, 27 Del. 105, 1938.

Proper practice to have action indexed in judgment index, is by praecipe to the prothonotary. *Id.*

In order that the names of the defendants in a bill of discovery in aid of an execution should be entered on the judgment index, under 17 P.S. § 1908 (repealed), it was not necessary that any real estate should be described in the pleadings. It was enough if it appeared by inference that the title to real estate was in dispute; and if it so appeared from the bill and interrogatories, an application to strike the names from the index would not be entertained before the answers were filed. But if the bill alleged a transfer of property in fraud of creditors, and prayed for discovery merely, without asking for any affirmative relief, the names of the parties other than the defendant in the execution, if placed on the judgment index, would be stricken off, on answer filed denying that the defendant had any interest in the property alleged to have been transferred by him in fraud of creditors. *Thurlow v. Rightley*, 44 L.L. 112, 155, 19 Phila. 326, 1887.

10. Indexing as lis pendens

Court approval is not required for filing with the prothonotary a praecipe to index lis pendens. *Goldman v. McShain*, 247 A.2d 455, 432 Pa. 61, 1968.

Registry statutes limit the application of lis pendens as it existed prior to enactment of the statutes by making it effective only if the actions are indexed in accordance with statutory requirements. *Dice v. Bender*, 117 A.2d 725, 383 Pa. 94, 1956.

A district court of the United States was a "court of this Commonwealth" within the meaning of 17 P.S. § 1908 (repealed), and where a complaint to set aside a conveyance of real estate was filed in such court, the plaintiff had a right to file a lis pendens in the office of the prothonotary of the county wherein the real estate in question was situated. *Frankel v. Leisure Technology Corp.*, 71 D. & C.2d 140, 1975.

Where plaintiffs filed a complaint in equity against defendant to enforce the provisions of a contract by defendant to construct and maintain a drainage ditch to prevent the flow of water on to

plaintiffs' land and where plaintiffs directed that the proceeding be indexed as *lis pendens*, defendant's petition to remove the plaintiffs' complaint from the ejection and miscellaneous index was refused, however, plaintiffs were ordered to amend entry in the index so as to include only those plots of land within the scope of plaintiffs' complaint. *Fletcher v. Thurner Corp.*, 36 D. & C.2d 84, 112 P.L.J. 488, 1966.

In action by a real estate broker for commissions allegedly earned, court refused to allow plaintiff to index the complaint as a *lis pendens* against real estate. *McGill v. Roggio*, 32 D. & C.2d 81, 1964.

Where action in assumpsit "relates to real estate," being a suit for damages on an alleged breach of contract for the sale of real estate, neither the title to the property nor the premises itself were in any manner concerned in the litigation, and the *lis pendens* filed by the defendant was stricken from the record. *Slavitz v. Feinberg*, 28 D. & C.2d 427, 10 Chest. 464, 1963.

The right of indexing a *lis pendens* as applied to actions affecting real estate is limited to suits in equity, and as to all other actions otherwise relating to real estate indexing may be obtained only upon approval by the court. Id.

ONLY APPLICABLE IN COUNTY WHERE ENTERED

In an action in assumpsit alleging damages as a result of defendant's breach of agreement to purchase real property from plaintiff, where defendant filed an answer and a counterclaim for damages as a result of an alleged breach by plaintiff, and where the prothonotary upon defendant's praecipe indexed the action as *lis pendens* against plaintiff, the indexing was stricken off on plaintiff's motion, since in the absence of an application to the court and its approval thereof the indexing was unauthorized, and especially since the action being one for money damages not involving title to real property, no equitable principles exist to move the court to approve the indexing. Id.

A bill in equity instituted by a borough to enjoin the use of its name in connection with a real estate development outside its borough limits was in personam and did not in any manner affect title to real estate; it could not, therefore, properly be indexed against the defendants as *lis pendens* under 17 P.S. § 1908 (repealed). *Borough of Rose Valley v. Rose Valley Acres*, 31 D. & C. 261, 27 Del. 105, 1938.

A real estate broker is not entitled to have his action for commissions on a sale indexed as *lis pendens*. *Hambleton & Ezekiel v. Selden*, 34 Del.Co. 126, 1947.

A plaintiff was entitled to have his case indexed as *lis pendens* under 17 P.S. §§ 1908 and 1910 (both repealed) if the title to real estate was involved and not otherwise. Id.

11. Appealable judgments and orders

Order, which directed prothonotary to enter judgment for defendant, noted on judgment scratcher and judgment index, but not in appearance docket or elsewhere on record, was not a final judgment from which appeal lay, in view of 17 P.S. § 1921 (repealed) and other sections. *Trestrial v. Johnson*, 146 A. 150, 297 Pa. 49, 1929.

12. Erroneous remission

Error of prothonotary of Supreme Court, in remitting to court below an order which Supreme Court did not make, can give no validity to order. *Reeder v. Traction Co.*, 31 Dauph. 139 (1927).

13. Trial transcript and record—In general

While it was claimed in murder prosecution that the official transcript, in indicating that prosecutor erroneously told defendant during the colloquy that voluntary manslaughter was the "only" crime he could be convicted of, simply contained a typographical error and that "only" should have been "other," defendant's specific denial of an error compelled the Commonwealth to produce positive evidence that an error was made; but since no affidavit from the stenographer or replication of the record was produced, and since the only indication of an error was the Commonwealth's bald assertion, there was no reason to decide whether the prima facie validity of a certified transcript imposed by 12 P.S. § 1199 (repealed) should be dispelled. *Com. v. Jasper*, 372 A.2d 395, 472 Pa. 226, 1976.

In determining whether record supported summary posttrial contempt convictions the Supreme Court could consider only the official record of the proceedings and would not consider trial court's opinion, as written some three months after trial, stating that court reporter was unable to report one of the courtroom outbursts and that during such outburst defendants, in abusive language, demanded that the court bind and gag them. (Per Roberts, J., with

§ 4303

ADMINISTRATION OF JUSTICE

42 Pa.C.S.A.

Note 155

by such judgment the lien was continued for a further period of five years, and hence such lien was entitled to priority over another judgment against same defendant entered in 1939 and revived in 1944. *Id.*

When a fieri facias and a scire facias are issued on a judgment more than five years old the fieri facias will not create a new lien or continue the old lien from the date of the levy as between the plaintiff and lien creditors, or purchasers from the defendant; but the plaintiff's lien will date from the day of the verdict on the scire facias, as against a mortgage entered on that day, and on distribution will take pro rata with the mortgage. *Ramsey v. Ramsey*, 29 C.C. 417, 13 Dist. 641, 1904.

156. Laches, revival of lien

Plaintiff's failure to file his petition to amend the writ of scire facias for a pe-

riod in excess of eight months after he had notice of the defect, did not bar him under the doctrine of laches where delay was attributable to his counsel and rights of terre-tenant were not impaired. *Warner v. Warner*, 8 D. & C.2d 762, 1958, affirmed 134 A.2d 242, 184 Pa. Super. 327.

Where affidavit of defense has been filed to sci. fa., plaintiff cannot be charged with laches where he did not enter rule for want of sufficient affidavit until three months later, if delay did defendant no harm. *Wilcox v. Du Bree*, 8 D. & C. 591, 1926.

On second sci. fa. to revive judgment almost ten years old entered on notes, defendant denied liability on notes and asserted he had never been served personally, but admitted having been served with first sci. fa. to revive, he was guilty of laches. *Diamond Nat. Bank v. Goehring*, 73 Pitts. 935, 1925.

§ 4304. Notice of Federal pending actions (*lis pendens*)

(a) General rule.—An action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth shall be effective to give constructive notice of the action as it relates to the real property in the same manner, and to the same extent and under the same conditions as an action pending in a court of common pleas of this Commonwealth.

(b) Authorization for filing of notice of Federal actions.—Notice of an action pending in a United States court within this Commonwealth concerning real property located within this Commonwealth may be registered, recorded, docketed or indexed in the same manner or in the same place as notices of actions concerning real property pending in a court of common pleas of this Commonwealth are registered, recorded, docketed or indexed.

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. As amended 1978, April 28, P.L. 202, No. 53, § 10(54.1), effective June 27, 1978.

§ 4305. Federal judgments as liens

(a) General rule.—Except as provided in subsection (b), every judgment of a United States court within this Commonwealth shall, as provided by 28 United States Code § 1962 (relating to lien) or otherwise, be a lien on property located within this Commonwealth in the same manner, to the same extent and under the same conditions as a judgment of a court of common pleas of this Commonwealth and shall cease to be a lien in the same manner and time.

COMMENTARY TO RULE 1915.13

§ 1915.13:1 Generally Actions for Custody and Visitation

§ 1915.13:1 Generally (Lis pendens + Writ of Ne Exeat)

Rule 1915.13, which became effective January 1, 1983,¹⁹ contains a broad provision empowering the court to provide special relief where appropriate.²⁰ The relief may include, but is not limited to, the award of temporary custody, partial custody or visitation; the issuance of appropriate process directing that a child or a party or person having physical custody of a child be brought before a court; and a direction that a person post security to appear with the child when directed by the court or to comply with any order of the court.²¹ Such special relief might also include relief in the nature of a writ of ne exeat, directing parties not to leave a particular jurisdiction and not to remove a child from the jurisdiction.²² The relief previously available by habeas corpus is now supplied by a motion for special relief.²³

The provision empowering the court to provide special relief is broad.²⁴ In a contempt proceeding against a father for violating a custody order, a trial court's order pursuant to Rule 1915.13 that a lis pendens be placed against a father's home as security to insure compliance with the court's custody orders was appropriate under the circumstances, despite the father's absence; the father's claim that the court had no authority to proceed without giving him an opportunity to be heard was meritless, where he had been given an opportunity to appear but had made himself unavailable and had disregarded the court's order to appear.²⁵

While a court may not act to modify a visitation order permanently without a petition to modify such an order, a trial court has the authority under Rule 1915.13 to suspend a visitation order under appropriate circumstances.²⁶ Thus, the only error which a court in a contempt proceeding committed in modifying a visitation order was in making it permanent, as under Rule 1915.13, it should have been a temporary order, in effect, suspending the prior order until a program specified by the court was satisfactorily completed and/or a new permanent custody order was entered, pursuant to a petition for modification.²⁷

Rule 1915.13 (1981).

401, 513 ALR2d 406.

23. *Heisel v Blair County Child*

24. Civil Procedural Rules Com-

RULE 3104. INDEXING ^(JUDGMENTS)

(a) When the prothonotary issues the writ he shall, upon praecipe of the plaintiff, index it against the defendant in the judgment index.

The provisions of the Allegheny County Court Act of May 5, 1911, P.L. 198 as amended providing that county court judgments shall not constitute liens on real property and providing for transfer to the common pleas remain unsuspending by these rules.

(b) When a writ is received by the sheriff of another county, it shall be his duty to deliver it to the prothonotary of his county who shall thereupon index it and return it to the sheriff for execution. Such indexing shall have the same effect as the indexing of a judgment against the defendant. If the plaintiff so directs, the sheriff may levy or attach under the writ before he delivers it to the prothonotary for indexing.

(c) When the writ directs attachment of real property of the defendant in the name of a garnishee, the prothonotary of the county in which the writ is to be executed, upon praecipe of the plaintiff so directing and describing the real property in that county shall index the writ against the garnishee as a lis pendens. Indexing against the garnishee shall constitute a lis pendens against the described property only in the county where the writ is indexed and not against any other property of the garnishee.

Adopted March 30, 1960, effective Nov. 1, 1960.

in so providing.¹¹

Any such initial levy by the sheriff may not end matters. The writ is yet to be indexed, a matter of potential significance with respect to priority of liens. Furthermore, the writ is to be redelivered to the sheriff who may thereafter execute upon additional property of the debtor. Here, too, the judgment creditor might prefer to expedite the process by himself delivering and redelivering the writ. He may do neither. Rule 3104(b) speaks only of the sheriff delivering the writ to the prothonotary and of redelivery by the prothonotary to the sheriff. The resultant delay may be of some moment to the plaintiff who has transferred his writ to another county.

Under Rule 3106(d), levy¹² must be made within 90 days from the date of "issuance" of the writ. It may be inferred that levy upon a transferred writ of execution must be made within 90 days from the time the prothonotary of the county of original judgment issues the writ. For unlike Rule 3103, which provides for issuance of the writ in the county of original judgment, Rule 3104(b) does not refer to the "issuance" of the writ by the prothonotary of the transferee county. Nonetheless, the lien on personal property in the transferee county becomes effective upon delivery of the writ to the sheriff, so long as the levy is actually made within 90 days from the original issuance; for, under Rule 3137(a), it is the delivery of the writ to the sheriff which creates the defeasible lien on the defendant's personal property within the sheriff's county.¹³

§ 3104(b):1.1 —Indexing writ same effect as indexing judgment

Rule 3104(b) provides that indexing of the writ by the prothonotary of the transferee county "shall have the same

11. See Rule 3104(b), supra.

12. § 3106(d):1, infra.

The time limit of Rule 3106(d) also applies to attachment execution. However, the significance of the time of delivery of the writ to

the sheriff is limited to the case of levy, for which reason this paragraph of the Commentary is similarly limited.

13. § 3137(a):1, infra.

effect as the indexing of a judgment against the defendant." This provision raises the question whether such indexing of the writ of execution in a transferee county, without transfer of the judgment itself, will create a lien on the defendant's real estate within the county. Such a lien is created under the Judgment Lien Law upon the entry and indexing of a judgment.¹⁴ It would appear to be the purpose of the above-quoted provision in Rule 3104(b) to give to the indexing of a transferred writ the same effect in creating a lien as would the indexing of a transferred judgment, at least for the 90-day life of the writ. Similarly, the indexing of the writ by the prothonotary of a transferee county gives to the Court of Common Pleas of that county jurisdiction to pass upon a petition to open a judgment originally entered elsewhere.¹⁵

§ 3104(c):1 Where real estate in name of garnishee attached

Attachment execution is appropriate when the legal title to real property is in the hands of one other than the judgment debtor himself. Prior practice severely restricted the right to attachment execution in such cases, and indeed it was limited by statute¹⁶ to land which the debtor was claiming as a distributee of the estate of a decedent but legal title to which was not yet his. Modern procedures under the Rules dealing with foreign attachment and the instant Rules dealing with execution on money judgments have rendered such attachment available in a far wider range of cases in which legal title is held by one other than the judgment debtor.

Both foreign attachment Rule 1253(4) and Rule 3101(4) define as a garnishee one who ^{Rescinded 10/1/97} "holds the legal title to property of the defendant." But, for this defined class of

14. Act of July 3, 1947, PL 1234 § 2, 12 PS § 878.

15. R. D. Schultz Co. v Kalata, 33 Dist & Co Rep 2d 209, 46 Westmore LJ 45 (1964).

16. Act of April 13, 1843, PL 233

§ 10, 12 PS § 2269, suspended as to practice and procedure by Rule 3241(43); Act of April 10, 1849, PL 619 § 11, 12 PS § 2270, suspended as to practice and procedure by Rule 3124(7).

garnishee, the consequences of attachment of real property under these two sets of Rules may differ substantially. In foreign attachment procedure, once the sheriff attaches such real property, the prothonotary must upon praecipe of the plaintiff index the attachment generally against the garnishee. To have such an attachment on record against the garnishee may often have an unduly prejudicial effect; and should the garnishee suffer damages for indexing which is in some way unwarranted or improper, he may hold the plaintiff responsible for wrongful use of legal process.¹⁷

Rule 3104(c) affords far greater protection against injury to the garnishee. The plaintiff who has had the holder of legal title to the defendant's real property served as garnishee¹⁸ may not have the writ of attachment indexed against that garnishee generally, but only indexed as *lis pendens* against a particular parcel of real estate. This procedure will necessitate an extra degree of investigation and effort on the part of the plaintiff. The writ of attachment must describe the property as to which the application of *lis pendens* is sought (presumably a short legal description will suffice). The plaintiff must request the indexing of the writ by praecipe submitted to the prothonotary; the prothonotary is required, as in foreign ^{RESPONDENT} attachment procedure, to so index the plaintiff's writ. Should the plaintiff suffer injury because of the prothonotary's failure properly to index the writ as *lis pendens*, an action may lie against the prothonotary for his default,¹⁹ but the plaintiff will be required in the normal case convincingly to prove personal malfeasance, a requirement to which the courts will strictly adhere in view of the enormous potential burden which would otherwise be imposed upon the prothonotary.²⁰ A petition and rule bearing the caption of the plaintiff's judgment, naming the prothonotary as respondent, can be used to mandate indexing; the

17. § 1255(c):1, supra.

18. As under Rule 3112(a), infra.

RESCINDED
10-1-189 19. § 1255(b):1, supra.

20. See Com. use of *Orris v Rob-*

erts, 392 Pa 572, 141 A2d 393, 71 ALR2d 1124 (1958) (outright refusal to index the writ should be a dereliction of duty unlike the mere negligence which was the basis for the decision).

requested rule can probably be so drafted as to put third parties on notice during its pendency.²¹

§ 3104(c):1.1 — Purpose and effect of indexing

The purpose and the effect of the writ being indexed as lis pendens is to give to prospective purchasers and lienors of the described real estate notice that there is pending a litigation whose result may ultimately affect any rights or interests they may acquire.²² A purchaser or later encumbrancer takes his interest subject to the outcome of the execution proceedings on the judgment which gave rise to the lis pendens. As to such third parties, the effect is very like notice of a judgment against the holder of legal title.

Once indexed, however, the writ will constitute a lis pendens only with regard to the real property described in the writ, and not with regard to any other real property, legal title to which is held by the named garnishee. Moreover, as with judgments which are liens on the real property of the defendant in the county where recorded and indexed, the indexing of the lis pendens is limited in its effect as legal notice only within the county of indexing.²³

Because there is no constructive notice to third parties until the writ is indexed as lis pendens, its priority as against purchasers and other lienors will commence from the time the praecipe is submitted to the prothonotary.²⁴ It would be improper to deem the indexing immediately to "relate back" to the date of the judgment, since there is no means of notice in that intervening period that the judgment against the defendant might result in a lien against real estate "owned" by another, the garnishee.

21. Although the prothonotary would be the respondent, better practice would be to serve copies on the defendant and the garnishee as well.

22. *Dice v Bender*, 383 Pa 94, 117 A2d 725 (1955); *Fletcher v Thurner Corp.* 36 Dist & Co Rep 2d 84, 112

Pittsb Leg J 488 (1964).

23. See Rule 3104(c), supra.

24. See the Lien Priority Law of June 28, 1951, PL 927 §§ 2, 3, as amended Jan. 18, 1968, PL 950, § 1, 68 PS §§ 602, 603; Act of June 19, 1913, PL 532 §§ 2, 3, 17 PS §§ 1911, 1912.

§ 1032:9 Defenses or objections which may be raised either in preliminary objections or answer

The raising of defenses or objections which are not among those which may only be presented by preliminary objections,⁹⁵ may be postponed until the time of filing the answer; however, failure to raise such defenses either in preliminary objections, the answer, or the reply results in a waiver thereof under Rule 1032,⁹⁶ with the exception of those nonwaivable defenses that are specifically enumerated in subdivisions (1) and (2) of Rule 1032.⁹⁷

■■■■ Observation: The waivable defenses which the defendant foregoes by failing to raise them either in preliminary objections or in the answer include lis pendens,⁹⁸ and lack of capacity to sue.⁹⁹

98. Virginia Mansions Condominium Asso. v Lampl (1988) 380 Super Ct 452, 552 A2d 275, holding that while the pendency of a prior action, or lis pendens, may be pleaded either as a preliminary objection, or in the answer, where the defense is asserted as a ground for abatement by staying the action pending the outcome of the prior litigation, or that the actions be consolidated, failure to raise the lis pendens defense in preliminary objections results in a waiver.

§ 2255(a):2 Objections to jurisdiction; other objections

The proceedings to join the additional defendant are, as to him, the commencement of a separate action and he may therefore raise the same objections to the jurisdiction of the court as though he were being separately sued as an original defendant. He does this by means of a preliminary objection.⁶²

Where a late joinder is permitted by the court "without prejudice to the rights of the additional defendants," preliminary objections by the latter are proper and may be sustained if no good cause for the delay is shown. The original defendant cannot claim to have been lulled into a sense of security by the court's initial order, since he was warned that the additional defendant might later attack the joinder and that the original order was without prejudice.⁶³

As in the case of a separate action brought against a defendant, the additional defendant may join jurisdictional objections with other objections without fear that he thereby prejudices his right to object to the jurisdiction of the court over his person.⁶⁴ Jurisdiction over the subject matter may, of course, be raised at any stage of the litigation.

Other objections may, similarly, be raised by the additional defendant in the same manner and with the same effect as if the defendant were the plaintiff and the additional defendant a defendant in the action.⁶⁵ In addition, the addi-

tional defendant may object to any attempt to assert he is solely liable to the plaintiff on the ground of lis pendens if the plaintiff has already brought an action against him.

Revival of Judgments

§ 3031:4 Lis pendens to protect lien during proceedings

Where, in a revival proceeding, issues are presented by the pleadings which require a trial, the prothonotary will be directed to enter a lis pendens against the defendants in the judgment index in order to protect the plaintiff by a continuation of its lien until the issue is decided.⁴¹

41. United States v Roberti, 55 Dist & Co Rep 2d 688 (1971).

**UNITED STATES NATIONAL BANK IN
JOHNSTOWN, Appellant,**

v.

**Charles P. JOHNSON, Jr., Martha Jane Johnson,
Pennsylvania Energy Company,
Linda Strich, CPJ, Inc., Haws Refractories, Inc.,
Bantam Four Cinemas, Inc.,
Sheridan Trucking Company, Sheridan Trucking
Company, Inc., Charjim
Corporation, Pennsylvania Energy Corporation, G.
Gray Garland, and Sheridan
Coal Company, Inc., Appellees.**

Supreme Court of Pennsylvania.

Submitted Sept. 10, 1984.

Decided Feb. 13, 1985.

Complaint in equity was filed against various corporations, partnerships, and individuals, alleging violations of Uniform Fraudulent Conveyance Act. The Court of Common Pleas, Cambria County, No. 1982-72, Eugene A. Creany, J., sustained one defendant's preliminary objection in nature of demurrer and dismissed him as party. Following plaintiff's "exceptions," the court en banc upheld such ruling and entered judgment in favor of such defendant, and plaintiff appealed. The Superior Court, No. 1222 Pittsburgh, 1982, 321 Pa.Super. 352, 468 A.2d 515, held that appeal was untimely, and plaintiff appealed. The Supreme Court, No. 41 W.D. Appeal Docket 1984, Papadakos, J., held that order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order which became res judicata upon expiration of 30-day appeal period.

Affirmed.

Nix, C.J., Larsen and Zappala, JJ., concurred in result.

**[1] APPEAL AND ERROR ⇨134(1)
30k134(1)**

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A.

(1977).

**[1] APPEAL AND ERROR ⇨248
30k248**

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A. (1977).

**[1] APPEAL AND ERROR ⇨257
30k257**

Rule requiring exceptions to be filed, and rule requiring final decree to be entered on order, in order for appeal to lie were intended to become operative after trial and were not applicable to pretrial orders. Rules Civ.Proc., Rules 1518, 1519, 42 Pa. C.S.A. (1977).

**[2] LIS PENDENS ⇨1
242k1**

"Lis pendens" is jurisdiction, power, or control which courts acquire over property involved in suit, pending continuance of action, and until its final judgment thereon.

See publication Words and Phrases for other judicial constructions and definitions.

**[3] LIS PENDENS ⇨22(1)
242k22(1)**

Existence of lis pendens merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on property.

**[4] LIS PENDENS ⇨20
242k20**

Order lifting a lis pendens during course of equity action fixes neither rights, duties, nor liabilities between parties, puts no one out of court, and does not terminate underlying litigation by prohibiting parties from proceeding with the action; accordingly, the requisite finality is not present when lis pendens is lifted and the order, therefore, is interlocutory.

**[5] APPEAL AND ERROR ⇨78(1)
30k78(1)**

Order striking lis pendens is not "adjudication" for purposes of rule governing adjudications; disapproving *Houston-Starr Co. v. Virginia Mansions*, 295 Pa.Super. 480, 441 A.2d 1334. Rules

Civ.Proc., Rule 1517, 42 Pa.C.S.A. (1977).
See publication Words and Phrases for other judicial constructions and definitions.

[6] JUDGMENT ⇨217
228k217

"Adjudication" referred to in rule governing adjudications is chancellor's proposed final disposition of complaint after trial which reaches the very merits of action, and not interlocutory orders nondispositive of the case sub judice. Rules Civ.Proc., Rule 1517, 42 Pa. C.S.A. (1977).

[7] APPEAL AND ERROR ⇨77(1)
30k77(1)

From filing of adjudication and decree nisi, which is final to all parties and to the whole of the subject matter, a party could take exceptions to chancellor's order striking lis pendens or any other interlocutory ruling.

[8] APPEAL AND ERROR ⇨78(3)
30k78(3)

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order even though it was not reduced to judgment.

[8] APPEAL AND ERROR ⇨123
30k123

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action terminated litigation as far as plaintiff was concerned by prohibiting it from proceeding with action against party defendant, and was therefore final appealable order even though it was not reduced to judgment.

[9] APPEAL AND ERROR ⇨78(3)
30k78(3)

Dismissal of complaint as to one defendant upon its preliminary objections is final appealable order, which becomes res judicata if not appealed within prescribed appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[9] JUDGMENT ⇨654
228k654

Dismissal of complaint as to one defendant upon its preliminary objections is final appealable order, which

becomes res judicata if not appealed within prescribed appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[10] JUDGMENT ⇨656
228k656

Order sustaining preliminary objections in nature of demurrer of party defendant and dismissing party as defendant to action became res judicata upon expiration of 30-day appeal period. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

[11] PLEADING ⇨228.14
302k228.14

Exceptions to disposition of preliminary objections are not permitted.

[12] APPEAL AND ERROR ⇨358
30k358

Orders sustaining preliminary objections, which are final, may be appealed as of right without resort to filing exceptions or reducing any order to judgment. Rules App.Proc., Rule 341(a), 42 Pa. C.S.A.

[13] APPEAL AND ERROR ⇨343.1
30k343.1

Formerly 30k343
Where exceptions are properly before court en banc, and are dismissed, filing of final decree determines start of appeal period, not the date the judgment is entered. 42 Pa.C.S.A. §§ 5571, 5572; Rules App.Proc., Rule 903, 42 Pa. C.S.A.

[14] APPEAL AND ERROR ⇨356
30k356

Appellant's failure to appeal within 30 days of entry of court's dismissal of its exceptions foreclosed Supreme Court from giving consideration to appellant's arguments even on equitable grounds. Rules App.Proc., Rule 903(a), 42 Pa. C.S.A.

**811 *625 Gilbert E. Caroff, Johnstown, for appellant.

Gary L. Costlow, Johnstown, for Linda Strich and Charjim Co.

James Gordon, Wymard & Dunn, Pittsburgh, for G. Gray Garland, Jr.

Lawrence Davis, Edensburg, for Charles Johnson, Jr., et al.

Before NIX, C.J., and LARSEN, FLAHERTY,

McDERMOTT, HUTCHINSON, ZAPPALA and
PAPADAKOS, JJ.

OPINION OF THE COURT

PAPADAKOS, Justice.

This is the appeal of the United States National Bank in Johnstown (Appellant) from the Superior Court's Order, 321 Pa.Super. 352, 468 A.2d 515, quashing Appellant's appeal of an order of the Cambria County Court of Common Pleas entered on May 5, 1982, by the Honorable Eugene A. Creany, sustaining G. Gray Garland's (Appellee) preliminary objections in the nature of a demurrer and dismissing him as a defendant.

On January 11, 1982, Appellant filed its Complaint in Equity against various corporations, partnerships, and individuals, *626 alleging violations of the Uniform Fraudulent Conveyance Act. [FN1] Preliminary Objections in the nature of a demurrer to the Complaint were filed on February 2, 1982, by the Pennsylvania Energy Company, Pennsylvania Energy Corporation, and Appellee. Appellee argued that the complaint failed to allege any material facts sufficient to support a cause of action against him, and requested the trial court to dismiss him as a defendant.

FN1. Act of May 21, 1921, P.L. 1045, 39 P.S. §§ 351, et seq.

The Chancellor sustained Appellee's Preliminary Objections by order of May 5, 1982, and dismissed Appellee as a party defendant to this action. For some unexplained reason, an unwarranted procedure was followed and exceptions to that Order were filed on May 12, 1982. Curiously, a court en banc permitted these exceptions to be argued and on August 2, 1982, by an unanimous Opinion and Order, the Chancellor's order dismissing Appellee as a party defendant was affirmed. Nothing happened further until Appellee reduced the **812 court en banc's order to judgment in his favor on October 5, 1982 by filing a Praecipe with the Prothonotary of Cambria County.

On October 28, 1982, Appellant filed a notice of appeal from the judgment to Superior Court. This appeal was quashed as untimely. We granted allocatur because of the confusion regarding the appealability of equity orders generated by *Houston-Starr Co. v. Virginia Mansions*, 295 Pa.Superior Ct.

480, 441 A.2d 1334 (1982).

[1] In *Houston-Starr Co.*, Superior Court quashed the appeal taken directly from a Chancellor's order striking a *lis pendens*. Superior Court characterized the Chancellor's action as an "adjudication" triggering the Pa.R.C.P. 1518 exceptions requirements [FN2], and held an appeal would not lie, *627 unless exceptions were filed and a final decree was entered on the order pursuant to Pa.R.C.P. 1519 [FN3]. These rules were clearly intended to become operative after trial and by no stretch of the imagination were they to be applied to pre-trial orders. Appellant argues that *Houston-Starr* similarly requires exceptions to the sustaining of preliminary objections before they can be appealed. We disagree.

FN2. Pa.R.C.P. 1518 (now rescinded) provided as follows:

Within twenty (20) days after notice of the filing of the adjudication, exceptions may be filed by any party to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, to the decree nisi or in cases where requests for findings of fact or conclusions of law have been submitted by leave of court to a failure or refusal to find any matter of fact or law substantially as requested. Each exception shall set forth a separate objection precisely and with discussion. Matters not covered by exceptions are deemed waived, unless, prior to final decree, leave is granted to file exceptions raising these matters.

FN3. Pa.R.C.P. 1519 provided in pertinent part:

(a) If no exceptions are filed within a twenty (20) day period, the decree nisi shall be entered by the prothonotary on praecipe as the final decree...

(c) The prothonotary shall immediately give written notice by ordinary mail to each party who has appeared in the action or to his attorney of record of the entry of the final decree or of any other order of the court.

Superior Court correctly quashed the appeal in *Houston-Starr*, albeit for an incorrect reason. The order striking *lis pendens* is interlocutory, and therefore, the appeal should have been quashed. *R.M. Shoemaker Co. v. Blumenfeld*, 443 Pa. 566, 278 A.2d 488 (1971).

[2][3][4] A *lis pendens* is the jurisdiction, power, or control which courts acquire over property involved in a suit, pending the continuance of the action, and until its final judgment thereon. *Bungar v. St. Michael's Greek Catholic Church*, 272 Pa. 402, 116 A. 389

(1922). The existence of a *lis pendens* merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on the property. *Dice v. Bender*, 383 Pa. 94, 117 A.2d 725 (1955). An order lifting a *lis pendens* during the course of an equity action fixes neither rights, duties, nor liabilities between the parties, puts no one out of court, and does not terminate the underlying litigation by prohibiting parties from proceeding with the action. Accordingly, the requisite "finality" is not present *628 when a *lis pendens* is lifted and the order, therefore, is interlocutory.

[5][6][7] Superior Court's acceptance in *Houston-Starr* of the opinion accompanying the order striking *lis pendens* as an "adjudication" for purposes of Pa.C.P.R. 1517 [FN4] was unfounded. The adjudication **813 referred to in Rule 1517 is the chancellor's proposed final disposition of a complaint after trial which reaches the very merits of the action; not interlocutory orders nondispositive of the case sub *judice*. From the filing of such an adjudication and decree *nisi*, which is final to all parties and to the whole of the subject matter, a party could, of course, take exceptions to a chancellor's order striking *lis pendens* or any other interlocutory ruling. *Houston-Starr* can permit no more. Appellant's arguments to the contrary are meritless and dismissed.

FN4. Pa.R.C.P. 1517 provides:

(a) The court shall make an adjudication and may do so before the testimony has been transcribed. The adjudication shall consist of (1) a statement of the issues; (2) a closely condensed chronological statement, in narrative form or in separate findings, of all the facts which are necessary to be known in order to determine the issues; (3) a discussion of the questions of law involved and the court's conclusions of law; and (4) a decree *nisi*.

(b) The adjudication may be made orally in open court at the end of the trial, and in that event shall be forthwith transcribed and filed in the office of the prothonotary, or it may be made thereafter in writing and filed forthwith. In either event the prothonotary shall notify all parties or their attorneys of the date of filing.

[8] Appellant also argues that the May 5, 1982, and August 2, 1982, orders cannot be the basis of an appeal, but become appealable only when they have been reduced to judgment. Since Appellant appealed to Superior Court within thirty (30) days of the entry of judgment, Appellant argues that its appeal was timely. We reject this argument.

The May 5, 1982 order sustained the preliminary objections in the nature of a demurrer of Appellee, and dismissed Appellee as a defendant to Appellant's action. This order terminated the litigation as far as Appellant was concerned *629 by prohibiting it from proceeding with the action against Appellee, and was therefore a final appealable order. While the Chancellor did not dismiss the complaint, its dismissal of Appellee as a defendant had the same effect. We can find no authority or rule of procedure which requires or permits such an order to be reduced to judgment.

We have long held that the sustaining of preliminary objections in the nature of a demurrer and dismissal of the equity complaint is a final appealable order. *Otto v. American Mutual Insurance Company*, 482 Pa. 202, 393 A.2d 450 (1978); *J.A. and W.A. Hess, Inc. v. Hazle Township*, 465 Pa. 465, 350 A.2d 858 (1976); *Hudock v. Donegal Mutual Insurance Company*, 438 Pa. 272, 264 A.2d 668 (1970); *Unger v. Hampton Township*, 437 Pa. 399, 263 A.2d 385 (1970); *Local No. 163 International Union, etc. v. Watkins*, 417 Pa. 120, 207 A.2d 776 (1965); *Sullivan v. Philadelphia*, 378 Pa. 648, 107 A.2d 854 (1954); *Ahrens v. Goldstein*, 376 Pa. 114, 102 A.2d 164 (1954); *Smith v. Philadelphia v. Reading Railroad*, 286 Pa. 55, 132 A. 804 (1926); *Armstrong, et al. v. Espy, et al.*, 220 Pa. 48, 69 A. 69 (1908).

[9] Moreover, the dismissal of a complaint as to one defendant upon its preliminary objections is a final appealable order, *Alessandro v. State Farm Mutual Automobile Ins. Co.*, 487 Pa. 274, 409 A.2d 347 (1979), *J.A. & W.A. Hess Inc. v. Hazle Township*, 465 Pa. 465, 350 A.2d 858 (1976); *Love Administrators v. Temple University*, 422 Pa. 30, 220 A.2d 838 (1966), which becomes *res judicata* if not appealed within the prescribed appeal period. [FN5] *In Re: Estate of Litostansky*, 499 Pa. 321, 453 A.2d 329 (1982); *Estate of Gasbarini v. Medical Center*, 487 Pa. 266, 409 A.2d 343 (1979); *Love, id.*

FN5. Pa.R.A.P. 903(a) provides:

(a) General rule. Except as otherwise prescribed by this rule, the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken. (Emphasis added).

*630 [10][11] Accordingly, the May 5, 1982 order was final and appealable, becoming *res judicata* upon

the expiration of the thirty (30) day appeal period. Rather than pursue appellate review, Appellant took the novel approach of filing exceptions to the May 5, 1982 order which more surprisingly were considered and disposed of by a court en banc. It would appear that Superior Court in its Houston-Starr opinion confused and misled them. Nowhere in our Rules are exceptions permitted from the disposition of preliminary objections and such practice is expressly disapproved.

****814** [12] Preliminary objections are permitted in equity actions by Pa.R.C.P. 1509 which incorporates the entire preliminary objection practice of actions in assumpsit. Orders sustaining preliminary objections, which are final, may be appealed as of right pursuant to Pa.R.A.P. 341(a), without resort to filing exceptions or reducing any order to judgment. "Our rules and case law require litigants to file exceptions to nisi determinations of trial courts ..." (Emphasis added) Commonwealth, ex rel. Waltman v. Graczyk, 501 Pa. 244, 460 A.2d 1098 (1983).

[13] While we find little excuse for Appellant's strategy in taking exceptions to preliminary objections, we are more concerned that the court en banc even considered the exceptions. Whether such exceptions are permitted by local rule or custom does not appear in the record, but in any event the practice is directed to end. It can be argued that the court en banc's acceptance and disposition of these exceptions may have misled Appellant into believing it was proceeding properly and that fairness would require us to forgive Appellant for not appealing directly from the May 5, 1982 order and to consider the court en banc's August 2, 1982, disposition as triggering the

appeal period. However, even if we were to do so, it becomes painfully obvious that Appellant did not appeal the August 2, 1982 en banc order within 30 days but waited until Appellee reduced the en banc order to judgment. The dismissal of the exceptions, it is argued, was not a final appealable order, but had to be reduced to judgment to make it appealable. This is plainly *631 incorrect. Where exceptions are properly before a court en banc, and are dismissed, the filing of the final decree determines the start of the appeal period, not the date the judgment is entered. *Stotsenburg v. Frost*, 465 Pa. 187, 348 A.2d 418 (1975). See, 42 Pa.C.S.A. §§ 5571, and 5572 for current rules governing timely filing of appeals. Also, see Pa.R.A.P. § 903, supra.

[14] Appellant's failure to appeal within 30 days of the entry of the Court en banc's dismissal of its exceptions forecloses our giving consideration to Appellant's arguments even on equitable grounds.

In short, the court en banc's disposition of the exceptions was a nullity. Resorting to such unauthorized redress under these facts permitted the appeal time to expire on the May 5, 1982 order to Appellant's detriment. Superior Court was justified in quashing the appeal, especially since Appellant permitted the thirty day appeal period beyond the August 2, 1982 order to lapse.

Affirmed.

NIX, C.J., and LARSEN and ZAPPALA, JJ., concurred in the result.

END OF DOCUMENT

Martin PSAKI, Appellant,
v.
Darlene FERRARI and Joseph Grosso, Appellees.

Superior Court of Pennsylvania.

Argued April 7, 1988.

Filed July 25, 1988.

Reargument Denied Sept. 16, 1988.

Judgment creditor filed lis pendens against property previously owned by judgment debtor. The Court of Common Pleas, Chester County, Civil Division, No. 84-07877, Wood, J., cancelled lis pendens, and appeal was taken. The Superior Court, No. 3194 Philadelphia 1987, Wieand, J., held that attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation.

Affirmed.

[1] LIS PENDENS ⇨1
242k1

Judgment for money damages will not support lis pendens filed against real estate which is owned by stranger to judgment and which is not subject to any pending litigation.

[2] LIS PENDENS ⇨15
242k15

Lis pendens has no application except in cases involving adjudication of rights in specific property.

[3] LIS PENDENS ⇨15
242k15

Party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation.

[4] LIS PENDENS ⇨1
242k1

Lis pendens may not be predicated upon action seeking to recover personal demand.

[5] LIS PENDENS ⇨1
242k1

Lis pendens cannot be used to assert claim that conveyance of real estate has been made in fraud of grantor's creditors; rather, such claim must first be made in equity action to set aside conveyance.

[6] LIS PENDENS ⇨15
242k15

Attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation, where grantee was not judgment debtor or party to proceedings in which default judgment had been entered against grantor.

[6] LIS PENDENS ⇨20
242k20

Attempt to index lis pendens against real estate owned by third party who had obtained property from judgment debtor was nullity and subject to cancellation, where grantee was not judgment debtor or party to proceedings in which default judgment had been entered against grantor.

**1128 *2 James Cunilio, Bryn Mawr, for appellant.

Before WIEAND, McEWEN and BECK, JJ.

WIEAND, Judge:

[1] The issue in this appeal is whether a judgment for money damages will support a lis pendens filed against real estate which is owned by a stranger to the judgment and which is not the subject of any pending litigation. The trial court held that a lis pendens filed under such circumstances was improper. We agree and affirm.

Martin Psaki commenced a civil action against Darlene Ferrari and Joseph Grosso to recover unpaid loans in the amount of \$99,408. When Ferrari and Grosso failed to file an answer to the complaint, Psaki, on July 25, 1985, caused a default judgment to be entered against them. Thereafter, on October 30, 1985, Psaki caused a lis pendens notice to be indexed against real estate owned by William A. Koepke at 680 Wetherly Lane, Devon, Chester County. Title to this *3 real estate had been acquired by Koepke from Ferrari by deed dated March 5, 1985 and thereafter recorded in the Office of the Recorder of Deeds in and for Chester County. When Koepke, in turn, agreed to sell the real estate to a third person, he was compelled to place in escrow the sum of \$110,000 in order to obtain a release of the lis pendens. This sum was deposited with the Prothonotary pending final determination of the validity of the lis pendens. The court thereupon, by order dated July 8, 1986, cancelled the lis pendens. After further proceedings, the trial court held that the lis pendens had been improperly indexed against Koepke's real estate and

ordered a return of the \$110,000 to him. Psaki appealed.

[2][3][4] Strictly speaking, the effect of a lis pendens is not to establish an actual lien upon the property affected. Its purpose is merely to give notice to third persons that the real estate is subject to litigation and that any interest which they may acquire in the real estate will be subject to the result of the action. *Dice v. Bender*, 383 Pa. 94, 97, 117 A.2d 725, 726-727 (1955). Lis pendens has no application except in cases involving the adjudication of rights in specific property. *Shannon v. Barrett*, 65 Pa.D & C.2d 446, 448-449 (Del.Co.1974). Thus, a party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation. Lis pendens may not be predicated upon an action seeking to recover a personal demand. 54 C.J.S. Lis Pendens § 11. See: *Fesler v. Bran-Kel, Inc.*, 62 Del.Co.R. 422, 424 (1974). When a personal demand is reduced to judgment, of course, it becomes a lien, without more, on real estate which is owned by the judgment debtor. *In re Upset Sale, Tax Claim Bureau of Berks County*, 505 Pa. 327, 334, 479 A.2d 940, 943 (1984). See also: 42 Pa.C.S. § 4303(a). In such event, the filing of a lis pendens is unnecessary.

[5][6] The judgment recovered by appellant against Ferrari was not a lien against the real estate which Koepke had earlier acquired from Ferrari. This real estate, moreover, was not at any relevant time the subject of an action to *4 adjudicate rights of ownership therein. [FN1] Therefore, the attempt to index a lis pendens against the real estate owned by William Koepke was a nullity and subject to cancellation. Koepke was not appellant's judgment debtor and was never a party to the proceedings in which the default judgment had been entered. To permit a lis pendens under these circumstances would be to permit a person holding a judgment to place a cloud against the title to real estate owned by any other person, whether or not a party to the judgment, merely by filing a praecipe. This is not the law.

FN1. Lis pendens cannot be used to assert a claim that a conveyance of real estate has been made in fraud of the grantor's creditors. Such a claim must first be made in an equity action to set aside the conveyance.

The order of the trial court is affirmed.

END OF DOCUMENT

CHAPTER Y

MISCELLANEOUS

WRIT OF NE EXEAT

1. GENERAL NOTES.

a. Definition: A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court. Available in some cases to keep a defendant within the reach of the court's process, where the ends of justice would be frustrated if he should escape from the jurisdiction. Sometimes a ne exeat writ is issued only to restrain a person from leaving the jurisdiction, and sometimes it is issued against a person who is removing or attempting to remove property beyond the jurisdiction. (August v. August, 65 GaApp. 883, 16 S.E.2d 1784, 785 (Black's Law Dictionary)).

b. Child Custody: In a custody proceeding, special relief might include relief in the nature of a writ of ne exeat, directing the parties not to leave the jurisdiction and not to remove the child from the jurisdiction (Goodrich Amram 2d 1915.13 and 1915:13:1). (NOTE: This rule supplies relief formerly available by habeas corpus for production of child.)

c. Property Rights Divorce: The court may grant preliminary relief where it appears to the court that a party is about to leave the jurisdiction of the court or is about to remove property of that party from the jurisdiction of the court..... by issuing a writ of ne exeat to preclude the removal (23 Pa.C.S.A. § 3505(a)).

2. PROCEDURE.

a. Upon receipt of an order of court and prepared writ of ne exeat, Prothonotary shall sign, seal writ, and return to the moving party.

b. Prothonotary shall retain a copy of writ with court order.

c. Prothonotary shall docket pursuant to the GENERAL PROVISIONS Section of this manual.

3. RETENTION AND DISPOSITION SCHEDULE. Subject matter is part of an action; therefore, retention is covered under the action to which it is filed.

4. References:

Goodrich Amram 2d 1915.13 and 1915.13:1
23 Pa.C.S.A. 3505
Sample of Order of Court
Sample of Writ of Ne Exeat

Rule 1915.13. Special Relief

At any time after commencement of the action, the court may on application or its own motion grant appropriate interim or special relief. The relief may include but is not limited to the award of temporary custody, partial custody or visitation; the issuance of appropriate process directing that a child or a party or

person having physical custody of a child be brought before the court; and a direction that a person post security to appear with the child when directed by the court or to comply with any order of the court.

Note of the Civil Procedural Rules Committee:
This Rule supplies relief formerly available by habeas corpus for production of the child.

[Adopted November 8, 1982, effective January 1, 1983, and applicable to actions pending at that time.]

**Civil Procedural Rules Committee
Explanatory Comment to Rule 1915.13 (1981):**

Rule 1915.13 contains a broad provision empowering the court to provide special relief where appropriate. In a custody proceeding, such special relief might include relief in the nature of a writ of ne exeat, directing the parties not to leave the jurisdiction and not to remove the child from the jurisdiction.

The rule catalogs several types of relief which might be granted, including the entry of a temporary order of custody, partial custody or visitation. The rule specifically provides that the power of the court to grant special relief shall not be limited to the types of relief cataloged.

COMMENTARY TO RULE 1915.13

§ 1915.13:1 Generally Actions for Custody and Visitation

§ 1915.13:1 Generally (Lis pendens + writ of ne exeat)

Rule 1915.13, which became effective January 1, 1983,¹⁹ contains a broad provision empowering the court to provide special relief where appropriate.²⁰ The relief may include, but is not limited to, the award of temporary custody, partial custody or visitation; the issuance of appropriate process directing that a child or a party or person having physical custody of a child be brought before a court; and a direction that a person post security to appear with the child when directed by the court or to comply with any order of the court.²¹ Such special relief might also include relief in the nature of a writ of ne exeat, directing parties not to leave a particular jurisdiction and not to remove a child from the jurisdiction.²² The relief previously available by habeas corpus is now supplied by a motion for special relief.²³

The provision empowering the court to provide special relief is broad.²⁴ In a contempt proceeding against a father for violating a custody order, a trial court's order pursuant to Rule 1915.13 that a lis pendens be placed against a father's home as security to insure compliance with the court's custody orders was appropriate under the circumstances, despite the father's absence; the father's claim that the court had no authority to proceed without giving him an opportunity to be heard was meritless, where he had been given an opportunity to appear but had made himself unavailable and had disregarded the court's order to appear.²⁵

While a court may not act to modify a visitation order permanently without a petition to modify such an order, a trial court has the authority under Rule 1915.13 to suspend a visitation order under appropriate circumstances.²⁶ Thus, the only error which a court in a contempt proceeding committed in modifying a visitation order was in making it permanent, as under Rule 1915.13, it should have been a temporary order, in effect, suspending the prior order until a program specified by the court was satisfactorily completed and/or a new permanent custody order was entered, pursuant to a petition for modification.²⁷

Rule 1915.13 (1981).

401, 615 ALR 455.

23 *Hales v Blair County Chj*

24. Civil Procedural Rules Com-

PROPERTY RIGHTS DIVORCE : 23 Pa.C.S.A. § 3505

have complete freedom of disposition as to their separate real and personal property and may mortgage, sell, grant, convey or otherwise encumber or dispose of their separate property, whether the property was acquired before, during or after coverture, and neither need join in, consent to or acknowledge a deed, mortgage or instrument of the other.

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days.

Historical and Statutory Notes

Prior Laws: 1927, April 11, P.L. 181, No. 151, § 1
1980, April 2, P.L. 63, No. 26, § 402 (48 P.S. § 117a).
(23 P.S. § 402).

§ 3505. Disposition of property to defeat obligations

(a) **Preliminary relief.**—Where it appears to the court that a party is about to leave the jurisdiction of the court or is about to remove property of that party from the jurisdiction of the court or is about to dispose of, alienate or encumber property in order to defeat equitable distribution, alimony pendente lite, alimony, child and spousal support or a similar award, an injunction may issue to prevent the removal or disposition and the property may be attached as prescribed by general rules. The court may also issue a writ of ne exeat to preclude the removal.

(b) **Inventory of property.**—Both parties shall submit to the court an inventory and appraisal, which shall contain all of the following:

(1) A list of the property owned or possessed by either or both of them as of:

(i) the date of separation; and

(ii) thirty days prior to the date of hearing on equitable distribution.

(2) A list of the value of the property owned or possessed by either or both of them as of:

(i) the date of acquisition;

(ii) the date of separation; and

(iii) thirty days prior to the date of hearing on equitable distribution.

(3) A list of the liabilities of either or both of them as of 30 days prior to the date of hearing on equitable distribution, whether or not the liabilities are related to the property set forth in the inventory and appraisal.

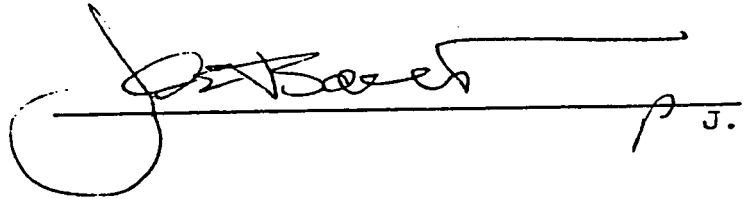
IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

Plaintiff :
vs. : No. 90-FC-899
Defendant : CIVIL ACTION -- DIVORCE

ORDER

AND NOW, this 16 day of July, 1991, upon consideration of the averments in the attached Petition filed on behalf of Plaintiff, the Prothonotary of the Court of Common Pleas of Lehigh County, Pennsylvania is ORDERED AND DIRECTED to issue a Writ of Ne Exeat against Defendant, Defendant's bail is herewith set in the sum of \$ 50,000. *Surety.*

BY THE COURT:


J. J.

LEHIGH COUNTY, PA.
CIVIL
CLERK OF COURTS
91 JUL 16 PM 12 36
FILED

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

Plaintiff :
vs. : No. 90-FC-899
Defendant :
: CIVIL ACTION -- DIVORCE

WRIT OF NE EXEAT

COMMONWEALTH OF PENNSYLVANIA)
: ss.:
COUNTY OF LEHIGH)

TO THE SHERIFF OR OTHER LAW ENFORCEMENT OFFICER OF LEHIGH COUNTY:

We hereby command you that you do, without delay, cause the Defendant, , personally, to come before you and give sufficient bail or security in the sum of \$ 50,000 , lawful money of the United States, or bond in the sum of \$ 50,000 , with sufficient sureties, that he will not go, or attempt to go, into parts without the Commonwealth of Pennsylvania without leave of our Court and in case said Defendant shall refuse to give such bail or security, then you are to commit him to the common jail of your county, there to be kept until he shall do it of his own accord; and when you have taken such security or bond, forthwith to make and return a certificate thereof to our Court together with this writ.

Witness, the Honorable John E. Backenstoe, President Judge of our Court of Common Pleas of Lehigh County, this 16th day of July, 1991.

DORIS A. GLAESSMANN
CLERK OF COURTS-CIVIL DIVISION

CHAPTER Y

MISCELLANEOUS

CHANGE OF NAME (54 Pa.C.S. §§ 701 et seq.)

1. GENERAL NOTES.

a. It shall be unlawful for any person to assume a name different from the name by which such person is and has been known, unless such change in name is made pursuant to proceedings in court.

(1). For exception, see 54 Pa.C.S. § 701(b).

b. Prior to entry of an order of approval of change of name, the court must forward to the Pennsylvania State Police a duplicate copy of the application for change of name and a set of the person's fingerprints. The person applying for the change of name is responsible for costs under this paragraph.

(1). Pursuant to 23 Pa.C.S.A. § 5105, a child who is 12 years of age or younger shall not be required to submit a set of fingerprints for purpose of a name change.

(2). The Pennsylvania State Police requests that the Prothonotary provide a fingerprint card to the individual requesting a name change. The individual should be advised to go to their local police department or nearest State Police station to be fingerprinted. "Name Change" should be written in red at the top of the card. No fee will be assessed for criminal background check. When completed, the fingerprint card should then be forwarded with a copy of the application for name change to the following address:

Pennsylvania State Police
Central Repository
1800 Elmerton Avenue
Harrisburg, PA 17110

2. PROCEDURE.

a. Upon receipt of petition and appropriate filing fee, the Prothonotary shall file and assign a court of common pleas number.

b. Docket case pursuant to the GENERAL PROVISIONS Section of the manual.

3. SURVIVING SPOUSE MAY RESUME PRIOR NAME

a. A surviving spouse may, at any time, resume any prior surname used by him or her by filing a written notice to such effect in the office of the Prothonotary of the common pleas court of the county where the surviving spouse resides, accompanied by a certificate of death for the decedent.

(1). The person applying for the change of name is responsible for filing costs.

4. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

5. Form:
Notice to Resume Prior Surname

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE:

NAME CHANGE OF
SURVIVING SPOUSE

:
:
:
:
:
:

File No. _____

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that _____,
(Name)

a surviving spouse of _____ elects to resume
(Decedent)

the prior surname of _____, and gives this

written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.1.

Date: _____

Signature

Signature of name being resumed

(Note: This notice must be accompanied by an original certificate of death for the decedent.)

CHAPTER Y

MISCELLANEOUS

ESTABLISHMENT OF A NEW LIQUOR STORE LOCATION

1. Pursuant to Act 1951-90, Liquor Code, PA Liquor Control Board advertises its intention to establish a liquor store at a specific location, with notification to taxpayers, if there is an objection, to file same with the Court of Common Pleas within five days.

2. Upon receipt of letter from PA Liquor Control Board, Prothonotary shall certify under hand and seal of the Court stating whether or not any objection has been filed with the Court within the five-day period.

3. If objections are filed, the filing party shall pay the appropriate filing fee.

4. For further proceedings, refer to filing a Complaint in CIVIL ACTION – LAW section of the manual.

5. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Paper/Files.

(a). All Civil Matters, Not Otherwise Listed, Involving Title to

Real Estate

FORMS

(Rev. 07/14)

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Abandoned and Unclaimed Property Report AP-2 to Treasury Dept. with instructions (see Fiscal).....	X-1F-2.4-1 & 2.4-2
Abandoned and Unclaimed Property Report AP-3 - Summary Sheet of Reported Items with instructions (see Fiscal).....	X-1F-2.5-1 & 2.5-2
Abandoned and Unclaimed Property Report TUP 40 – Unclaimed Property Tangible Assets Inventory List with instructions (see Fiscal).....	X-1F-2.6-1 & X-1F-2.6-2
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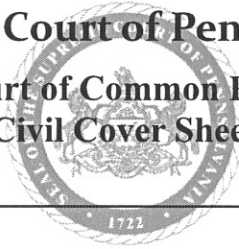
Important Notice of Praecepto to Enter Judgment of Non Pros (see Civil Action).....	E-1F-1
Important Notice of Praecepto to Enter Judgment of Non Pros (see Civil Action).....	E-9F-1
Important Notice of Praecepto to Enter Judgment of Non Pros (see Judgments).....	M-3F-2
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Notice of Praecepto to Enter Judgment of Non Pros (see Judgments).....	M-3F-2
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Notice to Resume Prior Surname (see Divorce/Annulment).....	T-1F-3
Notice to Resume Prior Surname, Surviving Spouse (see Change of Name).....	Y-3F-1
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Petition for Appeal from a Suspension of an Inspection Mechanic/Station Certificate and Order of Court.....	K-2F-1
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Praecepto for Writ of Execution Upon a Confessed Judgment-Money and Certification (see Enforcement Actions).....	Q-6F-1
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Praeipce for Writ of Execution – Mortgage Foreclosure (see Enforcement Actions).....	Q-3F-1
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Summary Counts of Marriage and Divorce Occurrences Monthly Report of PA Department of Health.....	T-1F-4
Summons, Praeipce for/Summons in Civil Action (see Civil Action).....	E-4F-1
Supplemental Instructions for Obtaining a Stay of Eviction.....	E-9F-3.5, 3.6, 3.7 & 3.8
Tenant’s Supersedeas Affidavit(Non-Section 8)-1008C(2).....	E-9F-3.2
Tenant’s Supersedeas Affidavit(Non-Section 8)-1013C(2).....	E-9F-3.4
Termination of Supersedeas, Praeipce for/Notice (see Civil Action).....	E-2F-1
Termination of Supersedeas, Praeipce for/Notice (see Civil Action).....	E-9F-2
Transmittal of Filing Fees, Act 119 of 1996 (see Fiscal).....	X-1F-3
UCC-11 Request for Information or Copies (see UCC).....	O-1F-1
Writ of Attachment of Wages (see Liens).....	N-8F-5
Writ of Certiorari.....	E-2F-2

Writ of Execution/Attachment Execution, Praecipe for (see Enforcement Actions).....	Q-1F-3
Writ of Execution and/or Attachment (see Enforcement Actions).....	Q-1F-4
Writ of Execution and/or Attachment (see Enforcement Actions).....	Q-6F-3
Writ of Execution - Mortgage Foreclosure, Praecipe for (see Enforcement Actions).....	Q-3F-1
Writ of Execution – Mortgage Foreclosure.....	Q-3F-2
Writ of Execution Notice (see Enforcement Actions).....	Q-1F-5
<i>Writ of Habeas Corpus</i> (see Subpoena).....	C-1F-3
Writ of Possession (see Replevin).....	F-2F-3
Writ of Revival (see Judgments).....	M-9F-2
Writ of Seizure (see Replevin).....	F-1F-1
Writ of Summons (see Civil Action).....	E-4F-6

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet



County _____

For Prothonotary Use Only:

Docket No: _____

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint Writ of Summons Petition
 Transfer from Another Jurisdiction Declaration of Taking

Lead Plaintiff's Name: _____

Lead Defendant's Name: _____

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
(check one) outside arbitration limits

Is this a *Class Action Suit*? Yes No

Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: _____

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute: Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
- Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other: _____

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations
 Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional:

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.

(ii) actions for support, Rules 1910.1 et seq.

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.

(iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.

(vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

:
:
:
:
:
:
:
:

File No. _____

SUBPOENA TO ATTEND AND TESTIFY

TO: _____

1. You are ordered by the court to come to _____

(Specify courtroom or other place)

at _____, _____ County, Pennsylvania, on _____

at _____ o'clock, ____ M., to testify on behalf of _____

in the above case, and to remain until excused.

2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY A PARTY/ATTORNEY IN COMPLIANCE WITH Pa.R.C.P. No. 234.2(a):

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SUPREME COURT ID # _____

BY THE COURT:

Prothonotary/Clerk, Civil Division

Deputy

Date: _____
Seal of the Court

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with Pa.R.C.P. No. 234.1. If a subpoena for production of documents, records or things is desired, complete paragraph 2.

RETURN OF SERVICE:

On the _____ day of

_____, _____,

I, _____

served _____

(name of person served)

with the foregoing subpoena by:

(Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

DATE: _____

(signature)

CIVIL DIVISION

	:	
	:	
	:	
Plaintiff	:	File No. _____
vs.	:	
	:	
	:	CIVIL CONTEMPT
	:	
	:	
Defendant	:	

ORDER

NOW, _____, _____, following a hearing in the above-captioned matter at which the Plaintiff / Defendant / Subpoenaed Witness, _____ residing at _____

_____ having been given notice did not appear, the Prothonotary/Clerk is directed to issue a Civil Bench Warrant to the Sheriff of _____ County who is to take said person into custody for appearance before this Court forthwith.

BY THE COURT:

_____ Judge

COMMONWEALTH OF PENNSYLVANIA
_____ COUNTY, SS:

CIVIL BENCH WARRANT

TO THE SHERIFF OF SAID COUNTY:

You are hereby commanded by the Court of Common Pleas of _____ County, Civil Division, to take _____ who stands charged in said Court for FAILURE TO APPEAR IN COURT, and forthwith bring the said person before the Court, or one of the Judges thereof, to be dealt with according to Law.

Witness this _____ day of _____, A.D., _____.

_____ Prothonotary/Clerk, Civil Division

by: _____ Deputy

CIVIL DIVISION

:
: File No. _____
:

vs.

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:

WRIT OF HABEAS CORPUS

TO:

WE COMMAND YOU, that the body of _____
under your custody, as it is said detained, by whatsoever name the said _____
_____ may be detained, together with the day and cause of his
being taken and detained, you have before the Honorable _____

_____ Judge of our Court of Common Pleas of
_____ County, at the Courthouse, in the City of
_____, Pennsylvania, _____

_____ then
and there to do and be subject to whatsoever our said Judges shall consider in that
behalf; and have you then and there this writ.

WITNESS, the Honorable _____, Judge of our said
Court, at _____ this _____ day of _____
A.D. _____.

Prothonotary/Clerk, Civil Division

by: _____
Deputy

ATTORNEY:

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

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File No. _____

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: _____
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: _____

at _____

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SUPREME COURT ID # _____

ATTORNEY FOR: _____

BY THE COURT:

Prothonotary/Clerk, Civil Division

Deputy

Date: _____
Seal of the Court

CIVIL DIVISION

vs.

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File No. _____

To: _____
Plaintiff

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Defendant or Atty.

Attorney for _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

(NOTE: SERVE ON UNREPRESENTED PLAINTIFF OR ON PLAINTIFF'S ATTORNEY)

CIVIL DIVISION

:
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: File No. _____
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PRAECIPE FOR TERMINATION OF SUPERSEDEAS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.D.J. No. 1013 for a period in excess of thirty (30) days.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOTICE

TO THE MAGISTERIAL DISTRICT JUDGE:

UPON CONFIRMATION OF FAILURE OF THE APPELLANT TO DEPOSIT THE MONTHLY RENTAL FOR MORE THAN THIRTY (30) DAYS, THE SUPERSEDEAS IS TERMINATED.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County of

WRIT OF CERTIORARI

TO

MAGISTERIAL DISTRICT JUDGE

COMMON PLEAS No.

PRAECIPE FOR A WRIT OF CERTIORARI

NAME OF PARTY FILING THIS PRAECIPE AND OBTAINING THIS WRIT		DOCKET No.
DATE JUDGMENT RENDERED	IN THE CASE OF (Plaintiff)	(Defendant)
	vs.	

The party named above claim that with respect to the above proceedings there was: (Check applicable box or boxes)

- lack of jurisdiction over the subject matter
- lack of jurisdiction over _____ (Name of party)
- improper venue
- such gross irregularity of procedure as to make the judgment void

PRAECIPE: To the Prothonotary

Issue a Writ of Certiorari directing _____, Magisterial District Judge, to transmit to you a certified true copy of the record of the proceedings named above.

(Signature of party filing praecipe or attorney or agent)

WRIT OF CERTIORARI

TO: _____, Magisterial District Judge

1. You are hereby directed by this writ to transmit to the Prothonotary of this Court of Common Pleas, within ten (10) days after you receive this writ, a certified true copy of the record of the proceedings named above.

- 2. This writ, when received by you, will operate as a SUPERSEDEAS to the judgment for possession in this case.
This block will be checked ONLY when this notation is required under Pa.R.C.P.D.J. No. 1013B.

Date delivered for service _____, 20_____.

(Signature of Prothonotary or Deputy)

COURT FILE

PROOF OF SERVICE OF WRIT OF CERTIORARI

(This proof of service MUST BE FILED WITHIN FIVE (5) DAYS AFTER delivery of the writ for service)

COMMONWEALTH OF PENNSYLVANIA (Check applicable boxes)
COUNTY OF _____; ss

AFFADIVIT: I hereby (swear) (affirm) that I served the Writ of Certiorari, Common Pleas No. _____, upon the Magisterial District Judge to whom it was directed on _____, 20_____, by personal service, by (certified) (registered) mail, sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20_____.

(Signature of affiant)

(Signature of official before whom affidavit was made)

(Title of official)

My commission expires on _____, 20_____.

COMMON PLEAS No.

STATEMENT OF OBJECTION

1. ON: _____, 20____, _____
(date) (name of Magisterial District Judge)

Magisterial District Judge, in connection with execution proceedings on the judgment rendered in the case of

_____ vs _____ Docket Number _____, made

(an order) (a determination) concerning:

Check applicable
box or boxes

an appeal taken by _____, from an
(appraisal) (designation) of property made by the executing office.

an appeal taken by _____, from a
setting aside of property by the executing officer.

a claim to all property levied upon filed by _____

a claim to the following property levied upon filed by _____

(brief description of property)

an exception to distribution filed by _____

a request made by _____ to set aside the sale of

(brief description of property)

2. The (order) or (determination) referred to above was _____
(brief description of order or determination)

3. _____, an aggrieved party in interest,
(name of objecting party)

objects to this (order) (determination) of the Magisterial District Judge.

(Signature of objecting party or attorney or agent)

(This form must be filed with the Prothonotary AND the
Magisterial District Judge WITHIN TEN (10) DAYS from
the date of the order or determination to which objection is
made.)

CIVIL DIVISION

vs.

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File No. _____

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Enter my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

Papers may be served at the address set forth below.

Attorney for Party Named Above

Supreme Court ID No.: _____

Firm: _____

Address: _____

Telephone Number: _____

Fax Number for Service of Papers

Date: _____

Signature: _____

PRAECIPE FOR WITHDRAWAL OF APPEARANCE WITHOUT LEAVE OF COURT
(Rule 1012(b)(2)(i))

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Withdraw my appearance on behalf of _____
(Plaintiff / Defendant / Additional Defendant)

_____ has entered his/her appearance for the aforementioned party.

I hereby certify that this change of attorneys is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Date: _____

Signature _____

Print Name: _____

CIVIL DIVISION

vs.

File No. _____

:
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:

To: _____
Plaintiff

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Defendant or Atty.

Address: _____

Attorney for _____

Telephone No.: _____

Supreme Court ID No.: _____

(NOTE: SERVE ON UNREPRESENTED PLAINTIFF OR ON PLAINTIFF'S ATTORNEY)

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	------------------------------------

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	------------------------------------

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)**

I, _____ (print name and address here),

have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)

I, _____ (print name and address here),
have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession
of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my
monthly rent or the judgment for rent awarded by the magisterial district court. My total household income
does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending
appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the
one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge,
information and belief. I understand that false statements herein are made subject to the penalties of 18
Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.

DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.

DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS — SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

Supreme Court of Pennsylvania
Civil Procedural Rules Committee

Poverty Income Guidelines

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the prothonotary to attach to the Notice of Intent to Attach Wages “the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.” The guidelines for 2014 are set forth in the following chart:

**2014 HHS Poverty Income Guidelines
Expressed in Monthly Amounts**

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$972.50
2	1,310.83
3	1,649.16
4	1,987.50
5	2,325.83
6	2,664.16
7	3,002.50
8	3,340.83
For each additional person, add	338.33

CIVIL DIVISION

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File No. _____

EMINENT DOMAIN (CONDEMNATION)

PRAECIPE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a Rule to Show Cause in the above case pursuant to 26 P.S. § 1-407(a) addressed to

to show cause, if any there be, why Condemnor and Petitioner, _____

_____ should not be entitled to possession of the subject property.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

RULE TO SHOW CAUSE

NOW, _____, _____, upon consideration of the foregoing Praecipe, it is hereby ordered that:

1. A Rule is issued upon Respondents to show cause why Petitioner is not entitled to possession of the subject property; and
2. Respondents shall file an Answer to the Petition within five (5) days of the date of service of this Order.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

COMMONWEALTH OF PENNSYLVANIA)
) ss:
COUNTY OF _____)

:
:
:
: File No. _____
:
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:

WRIT OF SEIZURE

TO THE SHERIFF OF _____ COUNTY:

You are directed to seize the following property:

If the property is found in the possession of a person not already a defendant, you are directed to add the person as a defendant, and notify the person that he or she has been added as a defendant and is required to defend the action.

Date of Writ: _____

Prothonotary/Clerk, Civil Division
by: _____
Deputy

REQUESTING PARTY:

Name: _____
Address: _____

Attorney for: _____
Telephone: _____
Supreme Court ID No: _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

: File No. _____
:
: COSTS (to be completed by Prothonotary)
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____

PRAECIPE FOR WRIT OF POSSESSION
(Pa.R.C.P. No. 3254)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ of possession in the above matter.

Date: _____

Signature: _____

Print Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.
COUNTY OF _____)

TO THE SHERIFF OF SAID COUNTY:

- (1) To satisfy the judgment for possession in the above matter, you are directed to deliver possession of the following described property to _____:

(Specifically describe property)

(Note: Description of property must be included in, or attached to, the writ.)

- (2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

:
:
: File No. _____
:
: COSTS (to be completed by Prothonotary)
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____
:

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.

COUNTY OF _____ }

TO THE SHERIFF OF SAID COUNTY:

- (1) To satisfy the judgment for possession in the above matter, you are directed to deliver possession of the following described property to _____:

(Specifically describe property)

(Note: Description of property must be included in, or attached to, the writ.)

- (2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

	Appellant	:	
		:	
vs.		:	File No. _____
		:	
		:	
Commonwealth of Pennsylvania		:	
Department of Transportation		:	
	Appellee	:	

PETITION FOR APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGE / DENIAL OF DRIVER'S LICENSE / SUSPENSION OF MOTOR VEHICLE REGISTRATION

1. Appellant herein is _____, residing at and having a mailing address of: _____

2. Appellee herein is the Department of Transportation of the Commonwealth of Pennsylvania, having a mailing address of:

___ Department of Transportation, Bureau of Driver Licensing, Harrisburg, Pennsylvania 17123.

___ Department of Transportation, Bureau of Motor Vehicles, Harrisburg, Pennsylvania 17123.

3. By letter or notice dated _____, a copy of which is attached hereto as Exhibit A, the Department of Transportation

___ ordered Appellant to surrender his / her operating license / motor vehicle registration for a period of _____.

___ denied the issuance / renewal of a driver's license.

4. Supersedeas:

___ Pursuant to 75 Pa.C.S.A. § 1550(b)(1)(i), Appellant is retaining driver's license until final determination of the suspension of operating privilege.

___ Pursuant to 75 Pa.C.S.A. § 1550(b)(1)(ii), a hearing attended by the Appellant must be held before the Court of Common Pleas before an order of supersedeas can be issued.

___ Pursuant to 75 Pa.C.S.A. § 1377(a), Appellant is retaining motor vehicle registration until final determination of the suspension of registration.

5. The said suspension of Appellant's operating privileges / registration is improper or unlawful for the following reasons:

Appellant respectfully requests that this matter be set down for a hearing and that the order of suspension / order of denial be set aside.

Respectfully submitted by,

Appellant

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: _____

Appellant

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

	:	
Appellant	:	
	:	
vs.	:	File No. _____
	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Appellee	:	

**PETITION FOR APPEAL FROM A SUSPENSION OF AN INSPECTION
MECHANIC / STATION CERTIFICATE**

1. Appellant herein is _____,
residing at and having a mailing address of: _____
_____.

2. Appellee herein is the Department of Transportation of the Commonwealth of Pennsylvania, having a mailing address of: Department of Transportation, Bureau of Driver Licensing, Harrisburg, Pennsylvania 17123.

3. By letter or notice dated _____, a copy of which is attached hereto as Exhibit A, the Department of Transportation suspended the Appellant's inspection mechanic / station certificate and ordered Appellant to return the certificate of appointment immediately.

4. Appellant has / has not surrendered the certificate of appointment as directed by the Department of Transportation.

5. The said suspension of Appellant's certificate of appointment is improper or unlawful for the following reasons:

Appellant respectfully requests that this matter be set down for a hearing and that the order of suspension / order of denial be set aside.

Respectfully submitted by,

Appellant

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: _____

_____ Appellant

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

vs. :
: File No. _____
:

NOTICE OF APPEAL

Notice is hereby given that _____
Plaintiff (s)/Defendant(s), above named, hereby appeals to the Supreme/Superior/Commonwealth Court of
Pennsylvania from the order entered in this matter on the _____ day of _____,
_____. This order has been entered in the docket on the _____ day of _____,
_____, as evidenced by the attached copy of the docket entry.

Signature: _____

Address: _____

Telephone No. _____

Supreme Court ID No. _____

Attorney for: _____

_____ No testimony was taken.

_____ All testimony has already been transcribed and filed by _____
Court Reporter

REQUEST FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, _____, the official court
reporter, is hereby requested to produce, certify and file the OUSTANDING transcript for the hearing held on
_____ in this matter in conformity with Pa. R.A.P. No. 1922. Pursuant to Pa.R.A.P. 1191 (a) and
Pa.R.J.A. No. 5000.6 and 7, the reporter is requested to notify the Appellant of the required deposit for transcription was taken
the reporter is requested to notify Appellant, Court and Clerk forthwith so the appeal may be immediately processed.

Signature: _____

Check # _____ in the amount of \$73.50 attached herewith and this Notice mailed to the above appellate court on
_____ by _____

CIVIL DIVISION

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File No. _____

PRAECIPE FOR JUDGMENT

Enter Judgment in favor of Plaintiff / Defendant and against:

_____ for want of _____.

() Assess damages as follows:

Debt-----	\$ _____
Interest from _____	_____
Attorney's Commission -----	_____
TOTAL -----	\$ _____

() I certify that the foregoing assessment of damages is for specified amounts alleged to be due in the complaint and is calculable as a sum certain from the complaint.

() Pursuant to Pa.R.C.P. No. 237 (notice of praecipe for final judgment or decree), I certify that a copy of this praecipe has been mailed to each other party who has appeared in the action or to his or her Attorney of Record.

() Pursuant to Pa.R.C.P. No. 237.1, I certify that written notice of the intention to file this praecipe was mailed or delivered to the party against whom judgment is to be entered and to his or her Attorney of Record, if any, after the default occurred and at least ten (10) days prior to the date of the filing of this praecipe and a copy of the notice is attached.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOW, _____, _____, JUDGMENT IS ENTERED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Plaintiff(s) _____
vs. _____
Defendant(s) _____

File No. _____

NOTICE OF FILING JUDGMENT

(____) Notice is hereby given that a _____
in the above-captioned matter has been entered against you in the amount of
_____ on _____.

(____) A copy of all documents filed with the Prothonotary in support of the within
judgment is / are enclosed.

Prothonotary/Clerk, Civil Division
by: _____
Deputy

If you have any questions regarding this Notice, please contact the filing party:

Name: _____
Attorney for Party: _____
Supreme Court ID No.: _____
Address: _____

Telephone No. _____

(This Notice is given in accordance with Pa.R.C.P. No. 236.)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

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File No. _____

PRAECIPE TO ASSESS DAMAGES

(Pa.R.C.P. No. 1037(b)(1)(2))

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Assess damages in favor of the Plaintiff(s) and against the Defendant(s) above-named, in the amount of \$ _____ in accordance with the affidavit of repairman and itemized repair bill filed herewith. Plaintiff(s) hereby waive(s) any other damages under the judgment heretofore entered in this matter.

Date: _____

Signature: _____

Print Name: _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

NOW, _____, _____, DAMAGES ASSESSED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

CIVIL DIVISION

vs.

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File No. _____

To: _____
Defendant

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Plaintiff or Atty.

Attorney for: _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

CIVIL DIVISION

vs.

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:
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:
:

File No. _____

To: _____
Plaintiff

Date of Notice: _____

IMPORTANT NOTICE

Pursuant to Pa.R.C.P. No. 237.1(a)(2)

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

Signature: _____
Signature of Defendant or Atty.

Attorney for: _____

Supreme Court ID No.: _____

Address: _____

Telephone No.: _____

(NOTE: SERVE ON UNREPRESENTED PLAINTIFF OR ON PLAINTIFF'S ATTORNEY)

CLERK OF COURTS - CIVIL DIVISION, LEHIGH COUNTY, PA

Page _____ of _____

		Entered	Satisfied	Month of _____, 19____			
Date	Plaintiff and Residence	Defendant	Instrument	File Number	Amount	Date Entered	

To the Personal Property Tax Bureau of Lehigh County:

I hereby certify that the attached is a true record or report of all Single Bills, Bonds, Judgments or other Instruments securing debts ENTERED or SATISFIED of Record in my office from _____, 19____ to _____, 19____ both inclusive.

DORIS A. GLAESSMANN, Clerk of Courts

per: _____

REDUCED FROM 8 1/2 X 14"



COUNTY OF LEHIGH
DEPARTMENT OF LAW
P. O. BOX 1548, ALLENTOWN, PENNSYLVANIA 18105

JOHN E. ROBERTS
COUNTY SOLICITOR

REPLY TO:

ASSISTANT COUNTY SOLICITOR

TO: John Brown, Director of Personal Property
FROM: Alfred K. Hettinger, Esq., Assistant County Solicitor
DATE: May 19, 1982
SUBJECT: Taxability of "Judgment"

I. Question Presented:

If a verdict is reduced to judgment, is that judgment taxable for personal property tax purposes?

II. Discussion:

You and Dick Dornblaser have jointly raised the question presented above. As outlined to me, the question is whether or not a judgment entered as a result of a verdict would be subject to the personal property tax.

My conclusion now, contrary to the "off the top" opinion that I gave you last week is no.

72 P.S. §4821, in the second full paragraph thereof, states the following as an item subject to tax ". . . all moneys owing by solvent debtors, whether by promissory note, or penal or single bill, bond, or judgment; . . .".

While it would appear from a casual reading of the above the kind of judgment that we are talking about. I must admit that when the question was first presented to me, I analogized this to the Federal Law which, in my opinion, would have income tax ramifications.

Pennsylvania law however, is to the contrary. The specific case in point is Estate of Mary J. Frederick, 333 Pa. 327, 5 A.2d 91; affirming 130 Pa. Super. 373, 197 Atlantic 642 (1939); affirming 23 D & C 475 (1935). In this case a judgment was recovered against the City of Philadelphia which

Memo

John Brown

May 19, 1982

Page Two

arose out of a condemnation of land for public purposes. The Court held that there was no legislative intent to impose taxes upon judgments unless they are obtained upon mortgages, promissory notes, penal or single bills, or other obligations voluntarily incurred. (Emphasis supplied).

In interpreting the statute, the court used a rule of construction called Eusdem Generis which means that general expressions used in a statute are restricted to things and persons similar to those specifically enumerated in the language preceding the general expressions.

The court went on to state that in the Frederick Estate case, the word "judgment" in the first section and the words "evidences of indebtedness" used in the other section are not to be given the meaning that these words would ordinarily import if used in a statute alone. They are preceded by language specifically enumerating the various items of personal property made taxable, and must be read in connection with those specific expressions. When this is done, it is clear that the words "evidences of indebtedness," refer only to obligations voluntarily incurred, such as on a bond or certificate of indebtedness, and that the word "judgment" refers to judgments entered on such an obligation, such as on a bond or promissory note.

Therefore, in the specific instance and question you have raised, it appears to me that the verdict having been entered and a judgment having been entered thereon (or any other kind of "involuntary" judgment) other than those covered by the term promissory note, bond, penal or single bill, would not be subject to Pennsylvania personal property tax.

At the writing of this memo we are obtaining copies of the Frederick Estate case which we will forward to you to retain in your file. Should you require anything further from me please let me know.

Respectfully submitted,

cc: Richard Dornblaser

CIVIL DIVISION

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File No. _____

PLAINTIFF'S AFFIDAVIT / AVERMENT

CONFESSION OF JUDGMENT FOR MONEY --

(____) Pursuant to Pa.R.C.P. No. 2951(a)(2)(ii), I certify that this judgment is not being entered by confession against a natural person in connection with a consumer credit transaction.

(a) A consumer credit transaction means a credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY --

(____) Pursuant to Pa.R.C.P. No. 2971(a)(1), I certify that this judgment is not being entered against a natural person in connection with a residential lease.

Date: _____

Signature: _____
Signature of Plaintiff or Attorney

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

* * * * *

The above certification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

DATE: _____

Signature of Plaintiff or Attorney

ROBERT A. WEINERT

ATTORNEY AT LAW

SUITE 205 COMMONWEALTH BLDG
512 HAMILTON ST., P. O. BOX 5
ALLENTOWN, PA 18105
(215) 433-8988

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

362

1. Country: United States of America
This public document
2. has been signed by Charles J. Kistler
3. acting in the capacity of Register of Wills
4. bears the seal/stamp of Register of Wills

Certified

5. at Lehigh County, Pa. USA
 6. the 12th day of Jan. 1989
 7. by George D. Black, Recorder
 8. N^o _____
 9. Seal/stamp: _____
 10. Signature: _____
-

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

Pltf's Name & Address:

Deft(s) Name(s) & Address(es):

Terre-Tenant(s) Name(s) & Address(es):

File No. _____

PRAECIPE FOR WRIT OF REVIVAL

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue Writ of Revival of Lien of Judgment entered at _____ (Court, Number)
and enter it in the Judgment Index against _____

_____ (Name of Defendant(s))

and _____
_____ (Name of Terre-Tenant(s))

in the amount of \$ _____ with interest from _____

Signature: _____

Print Name: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

CIVIL DIVISION

.....

File No. _____

WRIT OF REVIVAL

TO: _____ DEFENDANT(S)
and _____ TERRE-TENANT(S)

- (1) You are notified that the plaintiff has commenced a proceeding to revive the lien of the judgment entered at _____ (Court, Number)
- (2) The plaintiff claims that the amount due and unpaid is \$ _____ with interest from _____
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the plaintiff may be entered without a hearing and you may lose your property or other important rights.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name of Office)

(Address of Office)

Telephone Number: _____

Date: _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

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File No. _____

AGREEMENT TO REVIVE

The undersigned hereby agree(s) that the lien of the judgment entered on _____ (Date)
at _____ (Court, Number)
be revived and authorize(s) the Prothonotary to enter in the judgment index a judgment of revival in the amount
of \$ _____ plus costs.

Date: _____

Signature: _____

(Defendant(s))

(Terre-Tenant(s))



**Notice of Judgment/Transcript Civil
 Case**

Jane Doe
 v.
 John Doe

Mag. Dist. No: MDJ-
MDJ Name: Honorable
Address:
Telephone:

Jane Doe
 321 Any St.
 Any City, PA 99999-1211

Docket No: MJ-
 Case Filed: 11/3/2008

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	Jane Doe	John Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
John Doe	\$0.00	\$1,291.00	\$1,291.00

Judgment Detail (*Post Judgment)

In the matter of Jane Doe vs. John Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Civil Judgment	\$0.00	\$1,200.00		\$1,200.00
Filing Fees	\$0.00	\$79.00		\$79.00
Server Fees	\$0.00	\$12.00		\$12.00
Grand Total:				\$1,291.00

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.



 Date Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.	
_____	_____
Date	Magisterial District Judge

Jane Doe
v.
John Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211

Defendant(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313



**Notice of Judgment/Transcript
 Residential Lease**

John Doe
 v.
 Jane Doe

Mag. Dist. No:
MDJ Name: Honorable
Address:
Telephone:

John Doe
 123 Any Lane
 Anytown, PA 11114-1313

Docket No: MJ-
 Case Filed: 11/28/2008

Disposition Details

Grant possession.	Yes
Grant possession if money judgment is not satisfied by the time of eviction.	No
Jane Doe	
Wage attachment is prohibited due to lack of personal service.	No
Wage attachment is prohibited under Title 42 Section 8127.	No

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	John Doe	Jane Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
Jane Doe	\$0.00	\$1,116.50	\$1,116.50

Judgment Detail (*Post Judgment)

In the matter of John Doe vs. Jane Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

The amount of rent per month, as established by the Magisterial District Judge, is \$500.00

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Rent in Arrears	\$0.00	\$1,000.00		\$1,000.00
Filing Fees	\$0.00	\$89.00		\$89.00
Server Fees	\$0.00	\$27.50		\$27.50
		Grand Total:		\$1,116.50

Portion of judgment for physical damages arising out of residential lease:	\$0.00
Amount of judgment subject to attachment 42 PA C.S. 8127:	\$0.00

John Doe
v.
Jane Doe

Docket No.: MJ-

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED. HOWEVER, LOW-INCOME AND/OR SECTION 8 TENANTS SHOULD REFER TO Pa.R.C.P.M.D.J. NO. 1008 OR 1013 FOR DIFFERENT PROCEDURES REGARDING THIS DEPOSIT.

IF A PARTY WISHES ONLY TO APPEAL THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE NOTICE OF APPEAL. EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.



Date

Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

Magisterial District Judge

John Doe
v.
Jane Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313

Defendant(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211



**Notice of Judgment/Transcript
 Residential Lease**

John Doe
 v.
 Jane Doe

Mag. Dist. No:
MDJ Name: Honorable
Address:
Telephone:

John Doe
 123 Any Lane
 Anytown, PA 11114-1313

Docket No: MJ-
 Case Filed: 11/28/2008

Disposition Details

Grant possession.	Yes
Grant possession if money judgment is not satisfied by the time of eviction.	No
Jane Doe	
Wage attachment is prohibited due to lack of personal service.	No
Wage attachment is prohibited under Title 42 Section 8127.	No

Disposition Summary

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-	John Doe	Jane Doe	Judgment for Plaintiff	12/05/2008

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
Jane Doe	\$0.00	\$1,116.50	\$1,116.50

Judgment Detail (*Post Judgment)

In the matter of John Doe vs. Jane Doe on 12/05/2008 the disposition is Judgment for Plaintiff and judgment was awarded as follows:

The amount of rent per month, as established by the Magisterial District Judge, is \$500.00

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Rent in Arrears	\$0.00	\$1,000.00		\$1,000.00
Filing Fees	\$0.00	\$89.00		\$89.00
Server Fees	\$0.00	\$27.50		\$27.50
		Grand Total:		\$1,116.50

Portion of judgment for physical damages arising out of residential lease:	\$0.00
Amount of judgment subject to attachment 42 PA C.S. 8127:	\$0.00

John Doe
v.
Jane Doe

Docket No.: MJ-

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED. HOWEVER, LOW-INCOME AND/OR SECTION 8 TENANTS SHOULD REFER TO Pa.R.C.P.M.D.J. NO. 1008 OR 1013 FOR DIFFERENT PROCEDURES REGARDING THIS DEPOSIT.

IF A PARTY WISHES ONLY TO APPEAL THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE NOTICE OF APPEAL. EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.



Date

Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

Magisterial District Judge

John Doe
v.
Jane Doe

Docket No.: MJ-

Participant List

Plaintiff(s)

John Doe
123 Any Lane
Anytown, PA 11114-1313

Defendant(s)

Jane Doe
321 Any St.
Any City, PA 99999-1211

3. The employer garnishee is _____

Name and Address

4. The judgment arises out of a residential lease for the premises at _____
_____ (address).

5. (a). The amount of the judgment is \$ _____.

(b). A security deposit in the amount of \$ _____ is being held by the judgment creditor-landlord. This security deposit
_____ has been applied
_____ has not been applied

to payment of rent due on the same premises for which the judgment has been entered. (Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)

(c). The amount of \$ _____ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)

6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.

7. The judgment was entered (check one):

_____ in a civil action commenced in the court of common pleas.

_____ in an action brought before a magisterial district judge.

_____ in an action commenced in the Philadelphia Municipal Court.

8. Check the appropriate paragraph and attach the required documents:

_____ (a). If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.

_____ (b). If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.

_____ (c). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.

_____ (d). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Judgment Creditor-Landlord

CIVIL DIVISION

File No. _____

NOTICE OF CLAIM OF EXEMPTION OF WAGES FROM ATTACHMENT

To the above-named Plaintiff:

The defendant in the above-captioned matter has filed a claim for exemption from attachment of his or her wages, salary or commissions. A copy of the claim is attached. If you wish to challenge the claim for exemption, you should file with the court a motion setting forth facts which show that the defendant's net income is not below the Federal Department of Health and Human Services poverty income guidelines or that the attachment will not cause the defendant's net income to fall below those poverty income guidelines.

Date: _____

Prothonotary/Clerk, Civil Division

5. you are entitled to deduct each pay period from the money collected from the defendant employee the costs incurred from the extra bookkeeping necessary to record the transaction, not exceeding \$5.00 of the amount of money so collected.

6. by law, you may not take any adverse action against the defendant because his or her wages, salary or commissions have been attached.

7. you shall send the following notice to the Prothonotary if the defendant has never been or is no longer an employee:

I have received a Writ of Attachment in the following case:

Plaintiff _____ v. Defendant _____

No. _____ of Year _____

The following person, _____, has never been (____) or is no longer and employee (____)

Date: _____
_____ Employer

Date: _____

Prothonotary/Clerk, Civil Division

Seal of the Court

by: _____
Deputy

Uniform Commercial Code - REQUEST FOR INFORMATION OR COPIES - Form UCC-11(3-71)

IMPORTANT - Read instructions on back before filling out form. M BURR KEIM CO. PHILA. PA.

REQUEST FOR COPIES OR INFORMATION. Present in DUPLICATE to Filing Officer.

1. Debtor (Last Name First) and Address	Party requesting information or copies: (Name and Address)	For Filing Officer, Date, Time, No.-Filing Office
---	---	---

INFORMATION REQUEST:

COPY REQUEST:

Filing officer please furnish certificate showing if there is on file under the code as of _____, 19____ at _____ M., any presently effective financing statement filed pursuant to the UCC naming the above named debtor and any statement of assignment thereof, and if there is, giving the date and hour of filing of each such statement and the name(s) and address(es) of each secured party(ies) therein. Enclosed is uniform fee of \$5.00, plus \$1.00 for each Financing Statement and Assignment reported therein. Filing officer please furnish exact copies of each page of financing statements and statements of assignment listed below, at the rate of \$1.00 each, which are on

file with your office. Enclosed is \$_____ fee for copies requested. In case any of said statements contain more than one page the undersigned agrees to pay the sum of \$1.00 for each additional page payable in advance.

Date _____ (Signature of Requesting Party) _____

File No.	Date and Hour of Filing	Name(s) and Address(es) of Secured Party(ies) and Assignees, if any

CERTIFICATE: The undersigned filing officer hereby certifies that:

- the above listing is a record of all presently effective financing statements and statements of assignment which name the above debtor and which are on file in my office as of _____, 19____ at _____ M.
- the attached _____ pages are true and exact copies of all available financing statements or statements of assignment listed in above request.

COPY 1

Date

Signature of Filing Officer

STANDARD FORM - FORM UCC-11 (3-71)

Approved by Secretary of The Commonwealth of Pa.

vs.

:
:
:
:
:
:
:
:
:
:
:
:

File No. _____

CERTIFICATION OF JUDGMENT

Pursuant to applicable judgment acts*, I, the undersigned Prothonotary/Clerk of Courts of _____ County, State of _____ do hereby certify that the judgment in the above case was entered in favor of

(name/address)

and against _____
(name/address)

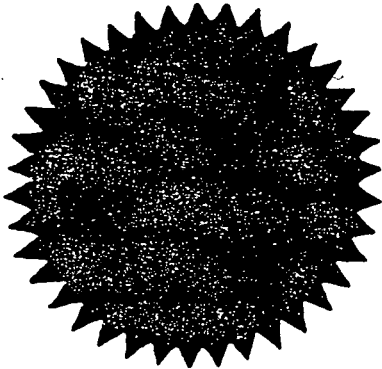
on the _____ day of _____, A.D. _____, in said case in the amount of \$ _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Court, on the _____ day of _____, A.D. _____.

Prothonotary/Clerk of Courts

*Uniform Enforcement of Foreign Judgments Act
Pa.R.C.P. No. 3002(a)
42 Pa.C.S.A. § 4306

Commonwealth of Pennsylvania }
County of Lehigh } RR.



I, Doris A. Glaessmann, Clerk of Courts—Civil Division of the Court of Common Pleas of said County, do hereby certify, that said Court is a Court of Record;

that..... was at the time of taking the foregoing ACKNOWLEDGEMENT - AFFIDAVIT a notary public, District Justice in and for said County and Commonwealth, duly commissioned and qualified, and as such authorized by the laws of the Commonwealth to take affidavits, acknowledgements and proofs of deeds or conveyances of lands, tenements and hereditaments situate, lying and being in said Commonwealth of Pennsylvania, and that I am well acquainted

with the handwriting of the said.....

and that h..... signature to said ACKNOWLEDGEMENT - AFFIDAVIT is genuine. IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of the said Court, at the City of Allentown, in said County and Commonwealth, this..... day of..... A. D. 19....

.....
Doris A. Glaessmann, Clerk of Courts—Civil Division

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮

File No. _____

CERTIFICATION

The undersigned hereby certifies that the attached Praecipe for Execution does not arise out of a retail installment sale, contract, or account based on a confession of judgment, but if it does, it is based on the appropriate original proceeding filed pursuant to Act 7 of 1966 as amended.

Date: _____

Signature: _____

Print Name: _____

Attorney for Plaintiff.

Address: _____

Telephone: _____

Supreme Court ID No.: _____

CIVIL DIVISION

.....

File No. _____

EXECUTION

INTERROGATORIES TO GARNISHEE

TO: _____ Garnishee):

You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you.

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reasons?

2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant(s)?

3. At the time your were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefor?

6. At any time after you were served did you pay, transfer or deliver any money or property to the defendant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state the reason for the exemption, the amount being withheld under each exemption and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

9.

Date: _____

Signature: _____

Print Name: _____

Attorney for Plaintiff

Supreme Court ID No.: _____

File No. _____

PRAECIPE FOR WRIT OF EXECUTION -- MONEY JUDGMENT
(Pa.R.C.P. No. 3251)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a writ of execution in the above matter,

(1) directed to the Sheriff of _____ County;

(2) against _____, defendant; and
(Name of Defendant)

(3) against _____, garnishee;
(Name of Garnishee)

(4) and enter this writ in the judgment index

(a) against _____, defendant and
(Name of Defendant)

(b) against _____, as garnishee
(Name of Garnishee)

as a lis pendens against real property of the defendant in name of garnishee as follows:

(Specifically describe property) / (See attached)

(5) Amount due	\$ _____
Interest from _____	\$ _____
(Costs to be added)	\$ _____

Date: _____

Signature: _____

Print Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

WRIT OF EXECUTION

Commonwealth of Pennsylvania

County of _____

To the Sheriff of _____ County:

To satisfy the judgment, interest and costs against _____, defendant
(Name of Defendant)

(1) you are directed to levy upon the property of the defendant and to sell the defendant's interest therein;

(2) you are also directed to attach the property of the defendant not levied upon in the possession of _____,
(Name of Garnishee)

as garnishee, _____, and to notify the garnishee that (Specifically describe property)

(a) an attachment has been issued;

(b) except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;

(c) the attachment shall not include

(i) the first \$10,000 of each account of the defendant with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.

(ii) each account of the defendant with a bank or other financial institution in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.

(iii) any funds in an account of the defendant with a bank or other financial institution that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

(3) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.

Amount due \$ _____

Interest from _____ \$ _____

Costs to be added \$ _____

(Name of Prothonotary (Clerk))

Seal of the Court

By _____
(Deputy)

Explanatory Comment—2010

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

CIVIL DIVISION

File No. _____

WRIT OF EXECUTION NOTICE

THIS PAPER IS A WRIT OF EXECUTION. IT HAS BEEN ISSUED BECAUSE THERE IS A JUDGMENT AGAINST YOU. IT MAY CAUSE YOUR PROPERTY TO BE HELD OR TAKEN TO PAY THE JUDGMENT. YOU MAY HAVE LEGAL RIGHTS TO PREVENT YOUR PROPERTY FROM BEING TAKEN. A LAWYER CAN ADVISE YOU MORE SPECIFICALLY OF THESE RIGHTS. IF YOU WISH TO EXERCISE YOUR RIGHTS, YOU MUST ACT PROMPTLY.

THE LAW PROVIDES THAT CERTAIN PROPERTY CANNOT BE TAKEN. SUCH PROPERTY IS SAID TO BE EXEMPT. THERE IS A DEBTOR'S EXEMPTION OF \$300.00. THERE ARE OTHER EXEMPTIONS WHICH MAY BE APPLICABLE TO YOU. A SUMMARY OF SOME OF THE MAJOR EXEMPTIONS ARE LISTED ON THE REVERSE SIDE. YOU MAY HAVE OTHER EXEMPTIONS OR OTHER RIGHTS.

IF YOU HAVE AN EXEMPTION, YOU SHOULD DO THE FOLLOWING PROMPTLY: (1) FILL OUT THE ATTACHED CLAIM FORM AND DEMAND FOR A PROMPT HEARING; (2) DELIVER THE FORM OR MAIL IT TO THE SHERIFF'S OFFICE AT THE ADDRESS NOTED.

YOU SHOULD COME TO COURT READY TO EXPLAIN YOUR EXEMPTION. IF YOU DO NOT COME TO COURT AND PROVE YOUR EXEMPTION, YOU MAY LOSE SOME OF YOUR PROPERTY.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE: _____

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 STATUTORY EXEMPTION
2. BIBLES, SCHOOL BOOKS, SEWING MACHINES, UNIFORMS, AND EQUIPMENT
3. MOST WAGES AND UNEMPLOYMENT COMPENSATION
4. SOCIAL SECURITY BENEFITS
5. CERTAIN RETIREMENT FUNDS AND ACCOUNTS
6. CERTAIN VETERAN AND ARMED FORCES BENEFITS
7. CERTAIN INSURANCE PROCEEDS
8. SUCH OTHER EXEMPTIONS AS MAY BE PROVIDED BY LAW

[Caption]

PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)

To the Prothonotary:

Issue writ of execution in the above matter:

Amount due \$ _____

Interest from _____ \$ _____

[Costs to be added] \$ _____

Attorney for Plaintiff

Official Note: Adopted March 30, 1960, effective November 1, 1960.
Local practice may require that a description of the property be
included in the praecipe.

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF _____
CIVIL ACTION - LAW

:
:
: File No. _____
:
:

WRIT OF EXECUTION - MORTGAGE FORECLOSURE

TO THE SHERIFF OF _____ COUNTY:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:

(1) _____ (Specifically describe real property)

(2) _____ (Specifically describe personal property when judgment results from a mortgage covering both personal and real property pursuant to Section 9604(a) of the Uniform Commercial Code)

NOTE: Description of property may be included in, or attached to, the writ.

Amount Due \$ _____
Interest from _____ \$ _____
(Costs to be added) \$ _____

Prothonotary/Clerk, Civil Division

by: _____
Deputy

Seal of the Court

Date _____

REQUESTING PARTY:

Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No. _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: TAX CLAIM BUREAU OF

File No. _____

_____ COUNTY

_____ UPSET TAX SALE

CONFIRMATION OF DECREE NISI

NOW, _____, _____, PURSUANT TO THE COURT'S
DECREE NISI OF _____, _____, ON THE CONSOLIDATED RETURN
FOR THE _____ UPSET TAX SALE, THE PROTHONOTARY / CLERK OF
_____ COUNTY HEREBY ENTERS A DECREE OF ABSOLUTE
CONFIRMATION TO THE SALES OF PROPERTIES LISTED IN EXHIBIT ____ TO THE
DECREE NISI, EXCEPT THOSE IDENTIFIED ON THE ATTACHED SCHEDULE OF TIMELY
FILED OBJECTIONS OR EXCEPTIONS.

PROTHONOTARY/CLERK, CIVIL DIVISION

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

:
:
: File No. _____
:
:

PRAECIPE FOR WRIT OF EXECUTION UPON A CONFESSED JUDGMENT - MONEY
(Pa.R.C.P. No. 2963)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a writ of execution upon a judgment entered by confession in the above matter,

- (1) directed to the Sheriff of _____ County;
- (2) against _____, defendant; and
(Name of Defendant)
- (3) against _____, garnishee;
(Name of Garnishee)
- (4) and enter this writ in the judgment index
 - (a) against _____, defendant and
 - (b) against _____, as garnishee
(Name of Garnishee)

as a lis pendens against real property of the defendant in name of garnishee as follows:

(Specifically describe property) / (See attached)

(5) Amount due	\$ _____
Interest from _____	\$ _____
Attorney's Fees **	\$ _____
(Costs to be added)	\$ _____

** Where judgment has been entered under Rule No. 2951(a), attorney's fees may be included if they are authorized in the instrument and there has been a record appearance of counsel at any stage of the proceedings.

CERTIFICATION

I certify that

- a) This praecipe is based upon a judgment entered by confession, and
(Delete four of the following paragraphs which are inapplicable.)
- (b) Notice has been served pursuant to Rule No. 2958.1 at least thirty (30) days prior to the filing of this praecipe as evidenced by a return of service filed of record.
- (c) Notice will be served with the writ of execution pursuant to Rule No. 2958.2.
- (d) Notice will be served at least thirty (30) days prior to the date of the sheriff's sale of real property pursuant to Rule No. 2958.3.
- (e) Notice was served in connection with a prior execution on this judgment and, pursuant to Rule No. 2958.4(b), no further notice is required.
- (f) Notice is not required under Rule No. 2956.1(c) because a petition to open or strike the judgment was previously filed.

(Attorney for Plaintiff)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL DIVISION

: File No. _____
:
: COSTS (to be completed by Proth/Clerk)
:
: Pltf. Paid _____
: Deft. Paid _____
: Due Proth/Clerk _____
: Other Costs _____

PRAECIPE FOR WRIT OF POSSESSION UPON A CONFESSED JUDGMENT - REAL PROPERTY
(Pa.R.C.P. No. 2974.1)

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ of possession upon the judgment in ejectment entered by confession in the above matter.

CERTIFICATION

I certify that

(1) This praecipe is based upon a judgment entered by confession, and

(Delete three of the following paragraphs which are inapplicable.)

- (2) Notice pursuant to Rule No. 2973.2 has been served at least thirty (30) days prior to the filing of this praecipe as evidenced by a return of service filed of record.
- (3) Notice pursuant to Rule No. 2973.3 will be served with the writ of possession.
- (4) Notice was served in connection with a prior execution on this judgment and, pursuant to Rule No. 2973.4(b), no further notice is required.
- (5) Notice is not required under Rule No. 2973.1(c) because a petition to open or strike the judgment was previously filed.

Date: _____

Signature: _____

Print Name: _____

Address: _____

Attorney for: _____

Telephone: _____

Supreme Court ID No.: _____

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA) ss.
COUNTY OF _____)

TO THE SHERIFF OF SAID COUNTY:

(1) To satisfy the judgment for possession in the above captioned case, you are directed to deliver to the plaintiff(s) possession of the above described property.

(2) To satisfy the costs against _____, you are directed to levy upon any property of _____ and sell his or her interest therein.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____

Deputy

WRIT OF EXECUTION and / or ATTACHMENT

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF _____)
CIVIL, ACTION - LAW

TO THE SHERIFF OF _____ COUNTY:

To satisfy the debt, interest and costs due _____
_____ PLAINTIFF(S)

from _____
_____ DEFENDANT(S)

(1) You are directed to levy upon the property of the defendant(s) and to sell _____
interest(s) therein: _____

(2) You are also directed to attach the property of the defendant(s) not levied upon in the
possession of _____
_____ GARNISHEE(S) as follows:

and to notify the garnishee(s) that: (a) an attachment has been issued; (b) the garnishee(s) is / are
enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property
of the defendant(s) or otherwise disposing thereof;

(3) If property of the defendant(s) not levied upon and subject to attachment is found in the
possession of anyone other than a named garnishee, you are directed to notify him or her that he or she
has been added as a garnishee and is enjoined as above stated.

Amount Due _____
Interest _____

Atty's Comm. _____ % _____

Plaintiff Paid _____
Defendant Paid _____
Due Proth/Clerk _____
Other Costs _____

Date: _____

Prothonotary/Clerk, Civil Division
by: _____
Deputy

REQUESTING PARTY:

Name: _____
Address: _____

Attorney for: _____
Telephone: _____
Supreme Court ID No. _____

PENNSYLVANIA STATE POLICE
PROTECTION FROM ABUSE DATA SHEET

Incident Number: (State Police Use Only)

UPDATE VACATED CANCELLED

ORI:	Defendant's Name:(Last, First Middle)	Sex:	Race:	Date of Birth:
Order Expiration Date:	Protection Order Conditions:	Brady Record Indicator:	Date Order Issued:	Court Originating Routing Indicator:
Protection Order Number:		Originating Agency Case Number: (State Police Use Only)		
Defendant's FBI Number:	Defendant's Miscellaneous Number:	Defendant's Social Security Number:		
Defendant's Operator's License Number:	Operator's License State:	Operator's License Year:		
Defendant's Vehicle Registration Number:	Vehicle Registration State:	Vehicle Registration Year:	Vehicle Registration Type:	
Vehicle Identification Number:	Vehicle Year:	Vehicle Make:	Vehicle Model:	Vehicle Style: Vehicle Color:
Defendant's Address:			City:	State: Zip Code:
Miscellaneous Information:				
Defendant's Place of Birth:	Defendant's Skin Tone:	Defendant's Height:	Defendant's Weight:	Defendant's Eye Color: Defendant's Hair Color: Def. Fingerprint Class:
Defendant's Scars, Marks, Tattoos:		Notifying Orig. Agency:	Relationship of PPN/Def:	Order to Relinq. Weapons:
Protected Person's Name: (Last, First Middle):	Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth: -	Prot Person Phone No:
Protected Person's Address:		Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Plaintiff's Name: (Last, First Middle):	Plaintiff's Sex:	Plaintiff's Race:	Plaintiff's Date of Birth:	
Plaintiff's Address:		Plaintiff's City:	Plaintiff's State:	Plaintiff's Zip Code:

PENNSYLVANIA STATE POLICE
PROTECTION FROM ABUSE DATA SHEET - SUPPLEMENTAL

ORI:	Defendant's Name:(Last, First Middle)	Originating Agency Case Number: (State Police Use Only)			
NIC:	CID:	Relationship of PPN/Def:		Protection Order Number:	
AKA:	AKA:	AKA:	AKA:	AKA:	AKA:
Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:	Date of Birth:
Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:	Scars, Marks, Tattoos:
Social Security Number:	Social Security Number:	Social Security Number:	Social Security Number:	Social Security Number:	
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:
Protected Person's Name: (Last, First Middle):		Protected Person's Sex:	Protected Person's Race:	Protected Person's Date of Birth:	Prot Person Phone No:
Protected Person's Address:			Protected Person's City:	Protected Person's State:	Protected Person's Zip Code:

CIVIL DIVISION

vs.

File No. _____

:
:
:
:
:
:
:
:

To: _____
Defendant

Date of Notice: _____

REGISTRATION OF CHILD CUSTODY DETERMINATION

IMPORTANT NOTICE

Pursuant to 23 P.C.S. § 5445(c)

A CHILD CUSTODY DETERMINATION ISSUED BY A COURT OF ANOTHER STATE HAS BEEN REGISTERED IN THIS COMMONWEALTH AND COUNTY AND FILED AS A FOREIGN JUDGMENT.

A REGISTERED DETERMINATION IS ENFORCEABLE AS OF THE DATE OF THE REGISTRATION IN THE SAME MANNER AS A DETERMINATION ISSUED BY A COURT OF THIS COMMONWEALTH.

A HEARING TO CONTEST THE VALIDITY OF THE REGISTERED DETERMINATION MUST BE REQUESTED WITHIN 20 DAYS AFTER SERVICE OF NOTICE.

FAILURE TO CONTEST THE REGISTRATION WILL RESULT IN CONFIRMATION OF THE CHILD CUSTODY DETERMINATION AND PRECLUDE FURTHER CONTEST OF THAT DETERMINATION WITH RESPECT TO ANY MATTER THAT COULD HAVE BEEN ASSERTED.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

TELEPHONE NO. _____

**IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
FAMILY DIVISION**

Plaintiff	:	
	:	
vs.	:	
	:	
Defendant	:	NO. _____

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. §4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. §6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §2901 (relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2902 (relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2903 (relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3121 (relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3122.1 (relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3124.1 (relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3125 (relating to aggravated indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3126 (relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3127 (relating to indecent exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3129 (relating to sexual intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3130 (relating to conduct relating to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3301 (relating to arson and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|--|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §4302 (relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4303 (relating to concealing the death of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4304 (relating to endangering welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4305 (relating to dealing in infant children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5902(b) (relating to prostitution and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5903(c) or (d) (relating to obscene and other sexual materials and performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6301 (relating to corruption of minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6312 (relating to sexual abuse of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6318 (relating to unlawful contact with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6320 (relating to sexual exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 23 Pa.C.S. §6114 (relating to contempt for violation of protection order or agreement) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the influence of drugs or alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device _____ _____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct including the following:

Check all that apply	Self	Other household member	Date
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child(ren):

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Signature

Printed Name

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

:
:
:
:
: File No. _____
:
: **PRAECIPE AND RULE TO FILE**
: **_____ A COMPLAINT**
: **_____ A BILL OF PARTICULARS**
:
:

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue rule on _____ to file a _____
in the above case within twenty (20) days after service of the rule or the
Prothonotary/Clerk, upon praecipe, shall enter a judgment of non pros.

Date: _____

Signature: _____

Print Name: _____

Attorney for: _____

Address: _____

Telephone: _____

Supreme Court ID No.: _____

NOW, _____, _____, RULE ISSUED AS ABOVE.

Prothonotary/Clerk, Civil Division

by: _____

Deputy

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

_____	:	
Plaintiff	:	
vs.	:	File No. _____
_____	:	
Defendant	:	IN DIVORCE

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that the Plaintiff / Defendant in the above matter,
[select one by marking "x"]

_____ prior to the entry of a Final Decree in Divorce,
or _____ after the entry of a Final Decree in Divorce dated _____,
hereby elects to resume the prior surname of _____, and gives this
written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.

Date: _____

Signature

Signature of name being resumed

COMMONWEALTH OF PENNSYLVANIA)

) SS.

COUNTY OF _____)

On the _____ day of _____, _____, before me, the
Prothonotary or a Notary Public, personally appeared the above affiant known to me to
be the person whose name is subscribed to the within document and acknowledged that
he / she executed the foregoing for the purpose therein contained.

In Witness Whereof, I have hereunto set my hand and official seal.

Prothonotary or Notary Public

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

	Plaintiff		:		
vs.			:		File No. _____
	Defendant		:		IN DIVORCE

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that the Plaintiff / Defendant in the above matter,
[select one by marking "x"]

_____ prior to the entry of a Final Decree in Divorce,
or _____ after the entry of a Final Decree in Divorce dated _____,
hereby elects to resume the prior surname of _____, and gives this
written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.

Date: _____

Signature

Signature of name being resumed

**Commonwealth of Pennsylvania
Department of Health
Division of Statistical Registries**

Summary Counts of Marriage and Divorce Occurrences

Complete all items contained on this form and return it by mail to the Division of Statistical Registries, Pennsylvania Department of Health, 555 Walnut Street, 6th floor, Harrisburg, PA 17101; by fax to the attention of Amy Farrell at 717-772-3258; or email to afarrell@pa.gov. Please refer to *Instructions for Completing Summary Counts of Marriage and Divorce Occurrences* for detailed information on how to complete each data item. Questions should be directed to Amy Farrell, Division of Statistical Registries, at 717-547-3679.

Completed forms are to be returned to the Division of Statistical Registries on or before the 15th day of each calendar month for records filed in the preceding month. For example, information from marriage and divorce records for the month of January 2002 is to be returned to the Division of Statistical Registries no later than February 15, 2002.

County: _____

Primary Month and Year of Issuance: _____
(month and year)

**Marriage Licenses Issued
by Age of Bride and Groom**

<i>Age in Years</i>	<i>Bride</i>	<i>Groom</i>
<20		
20-24		
25-29		
30-34		
35-39		
40-44		
45-49		
50+		
unknown		
Total		

**Divorces and Annulments of Marriage
by Duration of Marriages**

<i>Years Married</i>	<i>Number of Divorces and Annulments</i>
<5	
5-9	
10-14	
15-19	
20-24	
25-29	
30+	
unknown	
Total	

Name: _____

Telephone: _____ Date Filed: _____

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

:
:
:
:
:
:
:
:
:

File No. _____

**PRAECIPE FOR WRIT and WRIT TO
JOIN ADDITIONAL DEFENDANT(S)**

PRAECIPE

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue writ to join the following as additional defendant(s) in the above-captioned case:

Counsel for the Plaintiff is: _____

Counsel for the Additional Defendant (if known and verified) is: _____

Date: _____

Signature: _____

Print Name: _____

Address: _____

Telephone No. _____

Supreme Court ID No. _____

WRIT

TO: _____

YOU ARE NOTIFIED THAT _____

HAS JOINED YOU AS AN ADDITIONAL DEFENDANT IN THIS ACTION, WHICH YOU ARE
REQUIRED TO DEFEND.

Date: _____

Prothonotary/Clerk, Civil Division

by: _____

Deputy

(File Original and sufficient copies for all parties.)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

INSTRUCTIONS TO THE PETITIONER: Under the Immigration and Nationality Act of 1952, as amended by the Immigration Act of 1990 (section 336), an applicant who chooses to have the oath of allegiance administered by a State Court also can change his or her name by decree of that court. The decree of name change will be issued at the same time as the administration of the oath of allegiance, and the certificate of naturalization shall be issued in accordance therewith. If you elect the State Court ceremony, and wish to change your name, please clearly print or type the information requested.

I hereby petition this Court to change my name. In support of my petition, subject to the penalties of 18 Pa.C.S.A. § 4904 (Unsworn falsification to authorities), I truthfully state the following:

My full, correct, current name is _____

My present address is _____

I have resided at this address since _____

My country of birth is _____

Birthdate _____ My Alien Registration No. is A _____

I wish to change my name to _____

Subject to the penalties of 18 Pa.C.S.A. § 4904 (Unsworn falsification to authorities), I certify that I have never been convicted of a felony or misdemeanor and that there are no civil judgments for money presently outstanding against me.

Date: _____

(Signature of Petitioner or
of Petitioner's Parent)

* * * * *

ORDER OF COURT

AND NOW, this _____ day of _____, _____, pursuant to 8 U.S.C. § 1447(e), it is hereby ORDERED that the above Petitioner's name be and the same is hereby changed to: _____.

BY THE COURT:

Judge

Instructions

This form is to be submitted monthly by the clerk of any court conducting naturalization activities in conformity with Section 339 of the Immigration and Nationality Act (8 USC 1450), and Title 8, Code of Federal Regulations, Part 339. The completed form, with a copy and all attachments, should be submitted to the District Office of U.S. Citizenship and Immigration Services (USCIS) having jurisdiction over the location of the court.

The USCIS office receiving the form shall retain the duplicate and all attachments, and forward the original to:

**U. S. Citizenship and Immigration Services
Headquarters Office of Field Operations
111 Massachusetts Avenue, N.W., 2nd Floor
Washington, D.C. 20529**

Authority to Collect Information

Our authority for collecting the information reported on Form N-4 is contained in Section 339 of the Immigration and Nationality Act (INA) (8 USC 145D). The information contained in this form will be used by USCIS to finalize the record process regarding persons naturalized and to determine payments to the courts as provided in Section 344(f) of the INA (8 USC 1455).

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2140. OMB No. 1615-0051. **Do not mail your completed Form N-4 to this address.**



pennsylvania

DEPARTMENT OF REVENUE

BUREAU OF INDIVIDUAL TAXES
REPORTS RECONCILIATION DIVISION
PO BOX 280603
HARRISBURG PA 17128-0603

PROTHONOTARY MONTHLY REPORT

INSTRUCTIONS ON REVERSE

COUNTY	
COUNTY NUMBER	
MONTH	20
NAME	

POSTMARK DATE

BATCH NO. (BIDM)

- (1) D.P.A. Satisfactions, Judgments & Other Writs x 0.50 = \$ _____
 - (2) Transcripts and Appeals x 0.25 = \$ _____
 - (3) Gross Writ Tax Collections (Add Lines 1 and 2) \$ _____
 - (4) Commission (Line 3 x 3%) (0.03) (-) \$ _____
 - (5) Net Tax Collections \$ _____
 - (6) Divorce Complaint Surcharges x 10.00 = \$ _____
 - (7) Judicial Computer System (JCS)/Access to Justice (ATJ)/
Criminal Justice Enhancement Account (CJEA) Fees . . . x 23.50 = \$ _____
 Line (7) Includes Domestic Relations JCS/ATJ/CJEA Fee Collections:
 - (8) Protection From Abuse -- PSP Surcharges \$ _____ + Contempt Fines \$ _____ = \$ _____
 - (9) Protection From Abuse -- DPW Surcharges \$ _____ + Contempt Fines \$ _____ = \$ _____
 - (10) Total Net Collections (Add lines 5, 6, 7, 8 and 9) \$ _____
- | | |
|-----------------------------------|--|
| BALANCE DUE FROM PRIOR REPORT FOR | (11) Prothonotary (Subtract) (-) \$ _____ |
| MONTH | (12) Commonwealth (Add) + \$ _____ |
| BALANCE DUE AUDIT | (13) Prothonotary (Subtract) (-) \$ _____ |
| FROM _____ TO _____ | (14) Commonwealth (Add) + \$ _____ |
| | (15) Earned Interest for the Period From _____ To _____ + \$ _____ |
- (16) Remittance \$ _____

CERTIFICATION

I certify the information contained in this report is true and correct.

(PROTHONOTARY'S SIGNATURE)

DO NOT WRITE BELOW THIS LINE

OFFICIAL SETTLEMENT	AMOUNT DUE
Gross Tax Collections	
Commission at 3 percent	
Net Tax Collections	
Divorce Complaint Surcharges	
Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account Fees	
Protection From Abuse Collections	
Total Net Collections	
Earned Interest From _____ To _____	
Balance Due or Credit for Month of: _____	
Audit Settlement From _____ To _____	
Amount Due this Report	
Remittance	
BALANCE DUE () Prothonotary () Commonwealth	

DEPARTMENT OF REVENUE

OFFICE OF THE AUDITOR GENERAL

SETTLED AND DELIVERED _____

AUDITED AND APPROVED _____

FOR: SECRETARY OF REVENUE

FOR: AUDITOR GENERAL

INSTRUCTIONS

Lines 1-2: Report number for the month.

Line 6: Report number for the month. See (Act 151 of 1988 and Act 43 of 1990) for more information.

Line 7: Report number for the month. NOTE: JCS/ATJ/CJEA fees collected in the Domestic Relations Office may be included on this report. Therefore, a separate Prothonotary Monthly Report (REV-711), is not required. On Line 7, report the combined number of instrument filings handled by both offices on which the JCS/ATJ/CJEA fee was collected. Also, place a checkmark in the block shown below Line 7.

Line 8: Report the total monthly collections of the surcharge imposed under 23 Pa. C. S. §6106 (d) and distributable to the Pennsylvania State Police (PSP). Also, report the total monthly collections of criminal contempt fines imposed for violation of a protection order under 23 Pa. C. S. §6114 and distributable to PSP. Report all collections of surcharges and criminal contempt fines, both partial and full payments. Enter the combined total of PSP surcharges and PSP criminal contempt fines on the corresponding line on the right side of the report. See (Act 66 of 2005) for more information.

Line 9: Report the total monthly collections of the surcharge imposed under 23 Pa. C. S. §6106 (d) and distributable to the PA Department of Public Welfare (DPW). Also, report the total monthly collections of criminal contempt fines imposed for violation of a protection order under 23 Pa. C. S. §6114 and distributable to DPW. Report all collections of surcharges and criminal contempt fines, both partial and full payments. Enter the combined total of DPW surcharges and DPW criminal contempt fines on the corresponding line on the right side of the report. See (Act 66 of 2005) for more information.

NOTE: Surcharges, fines and fees are not subject to a commission. Commission is only applicable to gross writ tax collections (Line 3).

The original signed copy of the Prothonotary Monthly Report (REV-711) must be postmarked to the PA Department of Revenue no later than the 10th calendar day of the following month. However, if the 10th of the month falls on a weekend or business holiday, the filing due date is extended to the next following business day.

Make check payable to the **PA DEPARTMENT OF REVENUE.**

The check and monthly report must be mailed to:

**PA Department of Revenue
Bureau of Imaging and Document Management (C. C.)
PO BOX 280407
Harrisburg PA 17128-0407**

Inquiries concerning the preparation of this report should be directed to the Bureau of Individual Taxes at 717-787-2382.

AP- 1 REPORT OF ABANDONED AND UNCLAIMED PROPERTY VERIFICATION AND CHECKLIST

Robert M. McCord
Treasurer



TREASURY USE ONLY

Receipt Number _____
Receipt Date _____
Amount _____
Number Shares _____

Holder's Name _____

Federal EIN Number _____

Contact Person _____

Telephone (_____) _____ E-mail _____

Business Address _____

City _____ State _____ Zip Code _____ County _____

Date Incorporated _____, In the State of _____

Industry Type (scroll down in box and click on type) Agriculture, Forestry, Fishing

Is this the first time your organization has filed an abandoned and unclaimed property report to the Commonwealth of Pennsylvania? YES _ _ NO _ _

Have you ever reported under another company name? YES _ _ NO _ _

If so, under what company name? _____ Federal EIN # _____

Please fill in the blanks below for a positive report. Report should be signed by Company President, Chief Executive Officer or Chief Financial Officer. (For negative reports, please use the new 'AP-1 Neg' form.)

I have prepared and examined this AP-1 report consisting of _____ pages totaling \$ _____ as to property presumed abandoned under the Pennsylvania Disposition of Abandoned and Unclaimed Property Act (DAUPA) for the year ended as stated. I verify this report is accurate and complete to the best of my knowledge and belief as of said date, excepting for such property as has since ceased to be abandoned.

Please check if your payment is a Wire Transfer

HOLDER VERIFICATION: The undersigned hereby verifies that the statements set forth in this holder report are true, and acknowledges that any false statements contained therein are subject to the penalties of 18 Pa. C.S.A. § 4904 (relating to unsworn falsification to authorities).

Signature _____ Date _____

Print Name _____

Title _____

Report for Period Ended December 31, _____

Please complete the checklist below by indicating with a "✓" all types of property you are reporting. Each description marked must correspond with individual property descriptions you list on Form AP-2.

- | | | | | | |
|--------------------------|--|--------------------------|-----------------------------------|--------------------------|--------------------------------|
| <input type="checkbox"/> | Accounts Payable Check | <input type="checkbox"/> | Estate Funds | <input type="checkbox"/> | Passbook Savings |
| <input type="checkbox"/> | Accrued Dividends | <input type="checkbox"/> | Expense Check | <input type="checkbox"/> | Patient Accounts |
| <input type="checkbox"/> | Accrued Interest on Bond | <input type="checkbox"/> | Fiduciary Funds | <input type="checkbox"/> | Paying Agent Accounts |
| <input type="checkbox"/> | Bail Bond Deposit | <input type="checkbox"/> | Foreign Exchange Check | <input type="checkbox"/> | Pension & Profit Sharings |
| <input type="checkbox"/> | Bank Draft | <input type="checkbox"/> | General Obligation Bonds | <input type="checkbox"/> | Premium Refunds |
| <input type="checkbox"/> | Bearer Bond/Principal | <input type="checkbox"/> | Gift Certificate/Gift Card | <input type="checkbox"/> | Property Sales |
| <input type="checkbox"/> | Bond Interest/Coupon Money | <input type="checkbox"/> | Health & Welfare Funds | <input type="checkbox"/> | Redemption |
| <input type="checkbox"/> | Bond Redemption | <input type="checkbox"/> | Inmate Accounts | <input type="checkbox"/> | Refund/Rebates |
| <input type="checkbox"/> | Cash Distribution | <input type="checkbox"/> | IRA Account | <input type="checkbox"/> | Registered Bond Proceeds |
| <input type="checkbox"/> | Cash Exchange | <input type="checkbox"/> | Jewelry - Safe Deposit Box | <input type="checkbox"/> | Registered Checks |
| <input type="checkbox"/> | Cashier's Checks | <input type="checkbox"/> | Keough Account | <input type="checkbox"/> | Restitution Award |
| <input type="checkbox"/> | CD Interest Check | <input type="checkbox"/> | Layaway | <input type="checkbox"/> | Rights Redemption/Lease |
| <input type="checkbox"/> | Certificate of Deposit/Savings Certificate | <input type="checkbox"/> | Liquidated Debenture | <input type="checkbox"/> | Rental |
| <input type="checkbox"/> | Certified Check | <input type="checkbox"/> | Liquidated Dividend Reinvestment | <input type="checkbox"/> | Safekeeping - Miscellaneous |
| <input type="checkbox"/> | Checking Account | <input type="checkbox"/> | Liquidated DRP Termination Shares | <input type="checkbox"/> | Safety Deposit Boxes |
| <input type="checkbox"/> | Checks Written Off Into Income | <input type="checkbox"/> | Liquidated Stock Distribution | <input type="checkbox"/> | Security Deposit |
| <input type="checkbox"/> | Christmas Club Account | <input type="checkbox"/> | Liquidated Mutual Funds | <input type="checkbox"/> | Share Deposit |
| <input type="checkbox"/> | Claims Payment Check | <input type="checkbox"/> | Liquidated Rights | <input type="checkbox"/> | Statement Savings |
| <input type="checkbox"/> | Coins - Safe Deposit Box | <input type="checkbox"/> | Liquidated Stock - Undeliverable | <input type="checkbox"/> | Stock - Cash-in-Lieu |
| <input type="checkbox"/> | Collectable - Safe Deposit Box | <input type="checkbox"/> | Liquidated Stock - Underlying | <input type="checkbox"/> | Support Payments |
| <input type="checkbox"/> | Commissions | <input type="checkbox"/> | Liquidated Stock Unexchanged | <input type="checkbox"/> | Suspense Accounts |
| <input type="checkbox"/> | Condemnation Awards | <input type="checkbox"/> | Liquidated Stock Distribution | <input type="checkbox"/> | Tax Sales Excess |
| <input type="checkbox"/> | Confiscated Funds | <input type="checkbox"/> | Liquidated Stock Dividend | <input type="checkbox"/> | Travelers Checks |
| <input type="checkbox"/> | Credit Balances | <input type="checkbox"/> | Liquidated Stock Split | <input type="checkbox"/> | Treasurer's Checks |
| <input type="checkbox"/> | Currency - Safe Deposit Box | <input type="checkbox"/> | Liquidated Warrants | <input type="checkbox"/> | Trust Accounts |
| <input type="checkbox"/> | Customer Deposit | <input type="checkbox"/> | Liquid Cash Distribution | <input type="checkbox"/> | U S Government Securities |
| <input type="checkbox"/> | Death Benefit Check | <input type="checkbox"/> | Master Fees | <input type="checkbox"/> | Uncashed Checks |
| <input type="checkbox"/> | Debenture Interest | <input type="checkbox"/> | Matured Life Policy | <input type="checkbox"/> | Unclaimed Check/Official Check |
| <input type="checkbox"/> | Dividends | <input type="checkbox"/> | Membership Fees | <input type="checkbox"/> | Utility Refund/Deposit |
| <input type="checkbox"/> | Endowment Funds | <input type="checkbox"/> | Mineral & Royalty Proceeds | <input type="checkbox"/> | Vacation Club Account |
| <input type="checkbox"/> | Escrow Account | <input type="checkbox"/> | Misc. Papers - Safe Deposit Box | <input type="checkbox"/> | Wages, Payroll Unclaimed |
| | | <input type="checkbox"/> | Miscellaneous Equipment | <input type="checkbox"/> | Witness Fees |
| | | <input type="checkbox"/> | Money Order | <input type="checkbox"/> | Written Instrument |
| | | <input type="checkbox"/> | Nontransferable Security | | |

**INSTRUCTIONS FOR COMPLETING FORM AP-1
REPORT OF ABANDONED AND UNCLAIMED PROPERTY
VERIFICATION AND CHECKLIST**
(All information must be typed)

AP-1 is required for all reporting methods of unclaimed property.

- 1 Holder's Name:**
The name of your business entity.
- 2 Federal Employer ID Number (EIN):**
Company's Federal Employer Identification Number (tax ID Number) **This line must be completed.**
- 3 Contact Person:**
The name of the person responsible for preparing this report for your company.
- 4 Telephone Number & E-Mail Address:**
The business phone number and e-mail address of the person completing the report. This is the person the Bureau of Unclaimed Property will contact if there are questions or problems with your report.
- 5 Holder's Address:**
Your company's mailing address. Include department names if they are an important part of your address.
- 6 Date of Incorporation/Charter Date:**
Corporations should enter the date on which they were incorporated or licensed to do business. Savings and loan associations, banks and credit unions should enter the date their organization was chartered.
- 7 State of Incorporation:**
Corporations should enter the state in which they are incorporated. Savings and loan associations, banks and credit unions should enter the state in which they are chartered.
- 8 Industry Type:**
Description of business type.
- 9 Section Two:**
 - (a) Place a check mark next to the appropriate answer.
 - (b) Place a check mark next to the appropriate answer.
 - (c) If 9b is yes, please enter the company name and EIN# as requested.
- 10 Section Three:**
 - (a) If you are sending a completed report, be sure to enter the number of pages and the total dollar value you are reporting.
 - (b) Sign and date the bottom of the form. Please print your name and title below your signature.
NOTE: A corporate officer must sign the AP-1. e.g. CEO; CFO; President.
- 11 Verification for Period Ending:**
This is the cutoff date for reviewing your records. Enter December 31 of the previous year.

AP- 2

REPORT OF ABANDONED AND UNCLAIMED PROPERTY

Robert M. McCord
Treasurer



PENNSYLVANIA
TREASURY
UNCLAIMED PROPERTY

TREASURY USE ONLY

Receipt Number _____

Receipt Date _____

Amount _____

Number Shares _____

HOLDER NAME

EIN #

REPORTING YEAR

PROPERTY DESCRIPTION

ACCOUNT NUMBER

OWNER EIN NUMBER

OR

OWNER SOCIAL SECURITY NUMBER (Optional)

BUSINESS NAME/OWNER NAME
(FIRST NAME, MI, LAST NAME)

STREET ADDRESS

CITY STATE ZIP CODE

AMOUNT REPORTED AS DUE OWNER

NUMBER OF SHARES

ISSUE DATE

CHECK NUMBER

CERTIFICATE NUMBER

LAST ACTIVITY DATE

CUSIP NUMBER

ORIGINAL ISSUE NAME

INSTRUCTIONS FOR COMPLETING FORM AP-2 REPORT OF ABANDONED AND UNCLAIMED PROPERTY

(All information must be typed)

- 1 Holder Information:**
The name of the company filing the report.
- 2 EIN Number:**
Company's Federal Employer Identification Number (Tax ID Number).
- 3 Reporting Year(s):**
The year(s) for which this report is being filed.

COLUMN ENTRIES

Individual items of unclaimed property must be listed in groups according to the property type descriptions indicated on the checklist on the following page. Please use one page per property type description and list each item in either alphabetical order or numerical sequence by account number.

- 4 Property Description:**
Description of property to be itemized on the AP-2 form. **Please make copies of this page so that each page represents only one description of property.**
- 5 Property Identifier:**
The property number of each item in the appropriate column:
(a) - account number
(b) - check number
(c) - certificate number
- 6 EIN or Social Security Number:**
The company's Federal Employer Identification Number (Tax ID Number) if the owner is a business or Social Security number if the owner is an individual.
- 7 Owner's Information:**
The full name and last known address for each owner.
 - List full first name, middle initial, if available, and last name. List all information which would help with identification such as Jr., Sr.
 - Corporate titles should be entered exactly as adopted, except the word "the" should be deleted when it is the first word of the title.
 - List the complete address, including zip code. If the address is unknown, insert "address unknown" under the name.
 - If a single item has two or more owners, the names and addresses of both must be shown, along with the relationship (e.g. "Trustee", "Or", "And", etc.). If the owners have the same address, the address may be entered once beneath the names.
- 8 Amount Reported As Due Owner:**
The amount due the owner.
- 9 Number of Shares:**
The total number of shares due the owner prior to your liquidation of the shares.
- 10 Issue Date / Last Activity Date:**
The issue date and/or last activity date. The issue date is the date a check or draft was issued, the date a gift certificate was purchased, etc. The last activity date is the date of the last deposit or withdrawal made by the owner.
- 11 CUSIP Number:**
The cusip of securities reported.
- 12 Original Issue Name:**
The original issue name of security, if known.
- 13 Multiple Forms:**
For multiple pages, list the page number in this space.

INSTRUCTIONS FOR COMPLETING FORM AP-3 SUMMARY SHEET OF REPORTED ITEMS

(All information must be typed)

The Summary Sheet **must** be filed with your unclaimed property report. This information should be listed by property type description. If you are reporting owner accounts under \$50.00, please list them by dollar amount in aggregate by description of property.

- 1 PROPERTY DESCRIPTION:**
The property type description of each category of items as listed on the corresponding individual property pages (see AP-2 forms).
- 2 NUMBERS OF OWNERS:**
The number of owners per property description.
- 3 PAGES:**
The inclusive page numbers on the AP-2 forms where each type of property is listed.
- 4 AMOUNT REMITTED:**
The exact dollar amount remitted along with these reporting forms for **each** category of property. Dollars and cents must be included. Special considerations:
 - Accounts under \$50 listed in the aggregateThe above should be listed separately under the appropriate property description in the same sequence as above.
- 5 TOTAL OWNERS:**
The total number of owners on the holder report.
- 6 TOTAL DOLLAR AMOUNT OF AGGREGATES:**
The total dollar amount of Aggregates from your AP-4 form.
- 7 TOTAL AMOUNT REMITTED:**
The total amount of money actually paid with your reporting forms.
- 8 HOLDER:**
The name of the holder of unclaimed property. Also provide the county name of the holder's principal place of business, the Federal Employer Identification Number (EIN) and the reporting year.
- 9 REPORTING YEAR**
The reporting year.



PENNSYLVANIA
TREASURY
UNCLAIMED PROPERTY

Robert M. McCord
Treasurer

UNCLAIMED PROPERTY ~ TANGIBLE ASSETS INVENTORY LIST ~ (MUST BE TYPED)

REPORT OF _____ (Name of Reporting Organization) Holder (Address) _____ (Branch) _____ (Reporting Year)

NAME OF INDIVIDUAL PREPARING REPORT _____ PHONE NUMBER (____) _____

EMAIL ADDRESS _____ EIN _____

TYPE OF PROPERTY

REFERENCE NUMBER SOCIAL SECURITY NO. (optional)	OWNER NAME PROPERTY DESCRIPTION	STREET ADDRESS	CITY	STATE	ZIP CODE	LAST ACTIVITY DATE	QUANTITY
1							
2							
3							
4							
5							
6							
7							
8							

INSTRUCTIONS FOR COMPLETING FORM TUP-40

TANGIBLE ASSETS INVENTORY LIST

(All information must be typed)

- 1 NAME OF REPORTING ORGANIZATION (HOLDER):**
The name of the organization or holder of the unclaimed tangible property. Include the address, report year, name of individual preparing report, phone number, EIN number, and email address.
- 2 REFERENCE NUMBER:**
The reference number assigned to the owner of the abandoned or unclaimed property. Usually this number refers to the safe deposit box or account number.
- 3 SOCIAL SECURITY NUMBER (Optional):**
The social security number of the owner of the abandoned or unclaimed property.
- 4 OWNER NAME AND ADDRESS:**
The name, address, city, state, and zip code.
- 5 PROPERTY DESCRIPTION:**
The description of each individual piece of property or item. This area is **very important** and must be completed **in detail**, especially if you are reporting several items of one type of property. The more detailed the description, the easier it will be to identify the individual piece of property when the owner comes forward to claim it. Note any specific identifying marks or characteristics for each piece of property.
- 6 LAST ACTIVITY DATE:**
The date the property became abandoned or unclaimed. This could be the date of the expiration of a safe deposit box agreement or when a police department receives notification that evidence is deemed abandoned or unclaimed.
- 7 QUANTITY:**
The quantity of each item described.
- 8 PAGE NUMBER:**
Type on the space provided.

NOTE: Upon receipt of the tangible property and tangible assets list, Treasury will inventory and review each submission. When this review is completed, Treasury will issue a receipt to each holder along with a report of actual property received as well as a discrepancy report documenting any missing or additional property.

INSTRUCTIONS FOR COMPLETING FORM AP-4 SUMMARY SHEET OF AGGREGATES

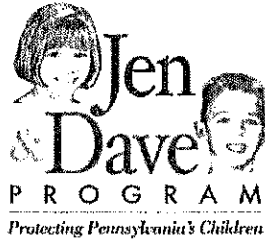
(All information must be typed)

Aggregate Reporting of Property Less Than \$50

Individual owner accounts of less than \$50 may be reported in the aggregate. You are not required to list each owner individually on your report. You may combine any amounts under \$50 by property type and provide a single total of each type.

If an owner files a claim for an account under \$50 which you reported in the aggregate, the Bureau of Unclaimed Property will contact you for verification that the owner's property was included in your aggregate total. To reduce the need for this verification, you should provide a separate list of aggregated accounts with your report. The list should include the names of the owners and the amounts due each owner. This information should then be summarized by property code on the Aggregate Summary Form (AP-4).

- ① **PROPERTY DESCRIPTION:**
List type of property per each aggregate of owners under \$50.
- ② **NUMBER OF OWNERS:**
List total number of owners per each individual property type.
- ③ **TOTAL AGGREGATE DOLLAR AMOUNT:**
List total dollars, under \$50, per property type.
- ④ **SUBTOTAL NUMBER OF OWNERS:**
Add the total number of owners in aggregate for property under \$50.
- ⑤ **GRAND TOTAL AGGREGATE DOLLAR AMOUNT:**
Add the total dollars in aggregate per property type description and list the grand total.
- ⑥ **HOLDER'S NAME:**
The name of the holder of unclaimed property.
- ⑦ **COUNTY:**
The name of the county where the holder is located.
- ⑧ **FEDERAL EMPLOYER IDENTIFICATION NUMBER:**
Your Federal Employer Identification Numbers (Tax ID Number).
- ⑨ **REPORTING YEAR**
The reporting year.



**ACT 119 OF 1996
TRANSMITTAL OF FILING FEES**

COUNTY: _____

MONTH/YR COLLECTED: _____

AMOUNT: _____ NO. OF NEW FILINGS: _____

COUNTY CONTACT PERSON/ TITLE: _____

TELEPHONE NUMBER: _____

Please remit checks to the following address:

Administrative Office of Pennsylvania Courts
Financial System Unit
P.O. Box 61260
Harrisburg, PA 17106-1260

If you have questions, please call 717-231-3307.

****Checks are due no later than the 15th day following the end of the month.**

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE:

NAME CHANGE OF
SURVIVING SPOUSE

:
:
:
:
:
:

File No. _____

NOTICE TO RESUME PRIOR SURNAME

Notice is hereby given that _____,
(Name)

a surviving spouse of _____ elects to resume
(Decedent)

the prior surname of _____, and gives this

written notice avowing his / her intention pursuant to the provisions of 54 P.S. § 704.1.

Date: _____

Signature

Signature of name being resumed

(Note: This notice must be accompanied by an original certificate of death for the decedent.)

FORMS REFERRED TO BUT NOT INCLUDED IN MANUAL

MAY BE FOUND AS LISTED

FORM NAME

CITATION

GLOSSARY

NOTE: See Black's Law Dictionary or equivalent for more specific definitions. Refer to REFERENCES and GLOSSARY paragraphs in GUIDELINES FOR PROTHONOTARY Section, Chapter A.

ADDITIONAL DEFENDANT

A party joined to an action by a defendant or an additional defendant, who may be liable to the cause of action.

ADJUDICATE

To settle or to determine final by the exercise of judicial authority.

ADJUDICATION

The formal giving, pronouncing of a judgment or decree by the court in a case.

ADMINISTRATIVE JUDGMENT

A judgment that does not include statutes pertaining to law and is strictly administrative in its execution, and may not require further action by either party. In this sense administrative judgments are acts distinguished from such as are judicial. i.e. One who administrates the estate of a deceased person.

AD SECTAM INDEX - (Commonly abbreviated to "Ads")

An index used in entering and indexing the names of cases, where it is desired that the name of the defendant should come first. Thus, "B ads A" indicates that B is defendant in an action brought by A, and the title so written would be an inversion of the more usual form "A v. B."

AFFIANT

One who makes an affidavit or takes an oath (signs, swears to or affirms).

AFFIDAVIT

A voluntary oath, or declaration on oath, in writing sworn to before a person who has authority to administer oaths.

AFFIRM

To declare that the judgment, decree or order is valid, right, and must stand as rendered, as in appellate court decisions.

ALIMONY

Support, provisions, allowances made to a wife upon a decree in divorce for necessities or maintenance.

ALIMONY PENDENTE LITE

Allowance at the institution of a suit to pay the expenses of the suit.

ALLEGATION

The assertion of a claim, or a statement of what can be proved, averred in a pleading.

AMICABLE

Agreed to, or prosecuted with the agreement of all parties, such as Amicable Revival of Judgment.

ANSWER

The response, reply, or defense to a pleading in writing.

APPEAL

The removal of a cause to a higher court for review and retrial.

APPELLANT

One who takes or files an appeal.

APPELLEE

The opposing party in an appealed case.

APPEARANCE

The coming into a court action as a party to a suit, in person or by attorney.

ARBITRATION

The deciding of a civil issue, including all matters in dispute, by a board of three arbitrators.

ARBITRATOR

One member of a board of arbitration deciding civil issues placed before it.

ARGUMENT LIST

A calendar of causes for discussion and determination before a court, upon questions of law.

ARREARS

Money unpaid after it is due.

ASSIGNABLE

Subject to lawful transfer of interest or property to another person.

ASSIGNEE

To whom the property or interest is assigned.

ASSIGNMENT

The transfer, as evidenced in writing, of property or interest from one party to another.

ASSIGNOR

The party who assigns property or interest to another.

ATTACHMENT

The act or process of taking, apprehending, or seizing persons or property, by virtue of writ, summons, or other judicial order, and bringing the same into the custody of the law. A remedy ancillary to an action by which plaintiff is enabled to acquire a lien upon property or effects of defendant for satisfaction of judgment which plaintiff may obtain; nonetheless it is in all essential respects, a suit.

ATTORNEY AT LAW

One whose profession is to represent litigants in their causes before the courts.

ATTORNEY IN FACT

One who serves another as an agent in the doing of a particular act or thing, as specified in an instrument called a letter or power of attorney.

AVER

To assert a statement as true.

AVERMENT

A positive statement of truth or formal allegation in a pleading.

AWARD

To allow; to adjudge as due; to find; a judgment of the arbitrators upon the matters submitted.

BILL OF PARTICULARS

A statement of particulars, in writing, and formal in arrangement, usually in a divorce action.

BOND

Any instrument in writing that legally binds a party to do a certain thing; an obligation.

BOND FORFEITURE

The object of bond in civil cases is either directly or indirectly to secure payment of debt or performance of other civil duties. Forfeiture of that object is the deprivation or destruction of a right as the consequence of the nonperformance of some obligation or condition.

BENCH WARRANT

Process issued by the court itself, for the attachment or arrest of a person; either in the case of contempt, or to bring in a witness who does not obey the subpoena.

BIFURCATION

To divide into two parts or categories; i.e. Bifurcation separates the termination of the marriage from the distribution of property so that the marriage and each party's personal life are not restricted or disadvantaged.

BRIEF

A concise statement of facts.

CALL OF A LIST

The inquiry in open court as to what causes of action on a list are ready for trial, argument or other fixed action.

CAPIAS

"That you take," The general name for several species of writs, the common characteristic of which is that they require the officer to take their defendant into custody. They are writs of attachment or arrest; i.e. a judicial writ, a writ of execution, a writ in all respects an execution for collection of a fine. (Now known as Civil Bench Warrant)

CAPTION

The heading of a legal document, indicating the parties, the court and the case number of the action or cause.

CASE

An action, suit or cause, which includes a statement of facts which furnishes occasion for the exercise of the jurisdiction of a court, in law or equity.

CERTIFICATION

A certification is a declaration by the prothonotary or responsible authority required to perform an act, that the act has been accomplished according to law or that a document is authentic or a record, index or docket is accurate and/or complete.

CERTIFIED COPY

A copy made and attested to by the officer entrusted with the custody of the original; that it is a true copy of that original.

CERTIORARI

A writ by which the record of a proceeding in a lower court is removed into a higher court for review or inquiry.

CHATTEL MORTGAGE

A mortgage of personal property.

CIVIL ACTION

An action where an issue for trial in a new matter and formed by the facts of the complaint, as an adversary proceeding for declaration, enforcement, or protection of a right, or redress, or prevention of a wrong.

CIVIL LAW

A personal action which is instituted to compel payment, or the doing of some other thing which is purely civil. That rule of action which every particular nation, commonwealth, or city has established peculiarly for itself.

CLAIMANT

One who demands a thing as a matter of right, or who files a claim as the law requires.

COGNOVIT ACTIONEM

Confession of judgment after service of process; instead of entering a plea, acknowledging and confessing that the plaintiff's cause of action is just and right. (AJ)

COGNOVIT NOTE

A promissory note which contains a provision authorizing an attorney, agent, or other representative to confess judgment on the instrument and direct entry of such judgment. (AJ)

COMPLAINT

In civil action, the complaint is the first or initiatory pleading on the part of the plaintiff. A cross-complaint may be filed by the defendant named in the complaint.

CONDEMNATION

Process of taking private property for public use through the power of eminent domain.

CONDEMNEE

Owner of property taken by condemnation

CONDEMNOR

Party taking property by condemnation

CONFESSION OF JUDGMENT

A voluntary submission to the jurisdiction of the court, giving by consent, and without the service of process, what could otherwise be obtained by complaint or other formal proceeding.

CONSOLIDATION OF ACTIONS

A direction that one of several pending actions, involving the same facts and issues, shall be tried, the result of the trial to be an adjudication of all the causes; or else that all the actions proceed to trial and judgment as one suit.

CONSUMER CREDIT TRANSACTION

A credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

CONTINUANCE

Adjournment, postponement to another term of court.

COSTS

The expenses of an action recoverable from the losing party; the sums prescribed by law as charges for services enumerated in the fee bill.

COUNTER-CLAIM

A cross-demand, existing in favor of the defendant.

CUSTODY

In the care or possession of, such as a child, a lunatic or money, property.

DAMAGES

The compensation which the law will award for an injury done.

DEBTOR

One who owes another anything, or is under obligation to pay a sum of money to another.

DECLARATORY JUDGMENT

A judgment which simply declares the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done. Its distinctive characteristics are that no executory process follows as of course, nor is it necessary that an actual wrong, giving rise to action for damages should have been done, or be immediately threatened.

DECREE

The decision, judgment, or sentence of a court of equity.

DECREE NISI

A provisional decree; interlocutory judgment; may be made absolute on motion.

DEFAULT

An omission, neglect or failure to do something required by law, or by a court administering the law.

DEFAULT JUDGMENT

A judgment rendered upon an omission by the defendant to take a necessary step in the action within the proper time, for example, a failure to plead, such omission being a default entitling a party to have judgment rendered in his favor, usually, but not invariably, without proof of his claim except as evidence is required to establish damages. (AJ/JJ)

DEFICIENCY JUDGMENTS

A personal judgment rendered against any person liable for the mortgage debt, in the event of a deficiency on foreclosure for the amount of such deficiency. (Real Estate Only) (JJ)

DEFENDANT

One who is called upon in a court to make satisfaction for an injury done or complained of; a person sued or prosecuted; a respondent.

DEPOSITION

Written testimony of a witness given in the course of a judicial proceeding, at law or in equity.

DIRECTED VERDICT

A verdict which a jury returns as directed by the court. (JJ)

DIRECT INDEX

An index, in the usual or natural course or line, immediately upwards or downwards, that contains references, alphabetically arranged, to the contents of a series or collection of volumes; or an addition to a single volume or set of volumes containing such references to its contents.

DISCONTINUANCE

The cessation of an action.

DISMISS

To send out of court for defect or insufficiency in law.

DIVORCE

The dissolution by law of a marital relation.

DOCKET

A book containing a brief writing or statement of the progress of a case. A Judgment Index or Indices may also be considered a docket.

DOCKETING

The practice of maintaining a formal record, by entering in brief all the important acts done in the conduct of each case, from its inception to its conclusion.

EJECTMENT

An action to recover possession of realty, with damages for the wrongful detention.

EMINENT DOMAIN

The power to take private property for public use.

EQUITY

An action requiring jurisdiction in cases of right, where a plain, adequate and complete remedy cannot be had in the courts of law.

ELECTION DISTRICT

A district, division or precinct, established in accordance with the provisions of the Pennsylvania Election Code, within which all qualified electors vote at one polling place.

ET UX

And wife.

ET AL

And others

EX PARTE

On behalf of one side.

EXCEPTION

Objection made, usually to an order of court.

EXEMPLIFICATION

An official transcript of a record, for use as evidence, or to be used in place of the original.

EXHIBIT

A document or thing to be produced and identified for use as evidence, before a jury, referee, master, or in the course of pleading.

EXPUNGE

To obliterate, deface, efface; to do away with, strike out of existence.

FACSIMILE COPY

A copy of a document transmitted and received by facsimile equipment.

FILING

In general, "File" or "the Files" is used loosely to denote official custody of the court or the place in the offices of a court where the records and papers are kept.

In practice, to put upon the files, or deposit in the custody or among the records of a court; to deliver an instrument or other paper to the proper officer for the purpose of being kept on file by the officer in the proper place.

FILING FEE

As used in this manual includes Prothonotary's fee as well as all applicable state taxes and surcharges.

FOREIGN JUDGMENT LIEN

A lien may be obtained on the basis of a judgment gained in another jurisdiction. This lien would bind the real estate of a Pennsylvania judgment debtor, in favor of the holder of a foreign judgment, giving the right to levy on the land for the satisfaction of the foreign judgment to the exclusion of other adverse interests subsequent to the foreign judgment.

GARNISH

To attach property or a debt due or belonging to a defendant.

GARNISHEE

One in whose hands money or goods have been attached.

GUARDIAN

A person who legally has the general care and management of a minor/incapacitated person.

GUARDIAN AD LITEM

A person appointed by a court to represent a minor/ incapacitated person in a specific suit.

HABEAS CORPUS

The name given to a variety of writs, having for their object to bring a party before a court or judge.

IN FORMA PAUPERIS

Describes permission given to an indigent person to sue without liability for costs.

IN PERSONAM

Against a person.

IN RE

In regard to, or in the matter of.

IN REM

Against a thing.

INCAPACITATED PERSON

An adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that the person is partially or totally unable to manage financial resources or to meet the essential requirements for physical health and safety.

INDIGENT

Poor, without sufficient means.

INJUNCTION

A writ issued to prohibit a person or make a person refrain from doing some particular thing.

INTERPLEADER

A third person is made a party to an action against his will by adverse action.

INTERROGATORY

A series of written questions prepared by counsel for the examination of a party to a suit.

INTERVENTION

A person is permitted to become a party to an action when he voluntarily seeks to do so.

ISSUE

The act of issuing, sending forth, emitting or promulgating; the giving a thing its first inception; as the issue of an order or a writ. Issues also may arise from matters of fact or conclusion of law during a pleading by the parties.

JUDGMENT

The final consideration and determination by the court of the rights of the parties, as those rights presently exist, upon matters submitted to it in an action or proceeding. The judicial determination or sentence of the court upon a matter within its jurisdiction. The conclusion of the law upon the matters contained in the record or the application of the law to the pleadings and to the facts as they appear from the evidence in the case, and as found by the court or jury, admitted by the parties, or as deemed to exist upon their default in the course of judicial proceedings.

JUDGMENT BY CONFESSION

Judgment entered where the defendant, instead of entering plea, confessed action, or withdrew plea and confessed action. Judgment where the defendant gives the plaintiff a written confession of action by virtue of which the plaintiff enters judgment. The act of a debtor in permitting judgment to be entered against him/her by his/her creditor for a stipulated sum, by warranty of an attorney.

JUDGMENT BY CONSENT

A judgment entered by consent of the parties for the purpose of executing a compromise and settlement of an action; in effect, an agreement or contract of the parties acknowledged in court, and ordered to be filed, with the sanction of the court. A consent judgment is a determination by the parties rather than by the court. (AJ)

JUDGMENT BY DEFAULT

See Default Judgment

JUDGMENT BY OPERATION OF LAW

A judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations section's records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

JUDGMENT CREDITOR

A creditor who has secured a judgment against a debtor for the amount of the debt; a person in whose favor a judgment has been entered which has not been satisfied.

JUDGMENT DEBTOR

A person against whom a judgment has been entered and which has not been satisfied.

JUDGMENT DOCKET

The public record containing reliable information in regard to the existence or lien of judgments.

JUDGMENT FOR MONEY

A judgment which directs the payment of a sum of money, as distinguished from directing an act to be done or property to be restored or transferred. A judgment for money merely determines the amount due.

JUDGMENT LIEN

Security for the judgment debt. A lien predicted upon the rendition or entry of judgment, the same being the right given the judgment creditor to subject by levy or seizure the property of the judgment debtor to the satisfaction of the judgment. (AJ)

JUDGMENT NOTE

A promissory note with a power of attorney authorizing entry of judgment by confession, in default of payment.

JUDGMENT OF NON PROS

A judgment entered when the plaintiff at any stage of the proceedings fails to prosecute the action, or any part of it, for example, a failure to file a complaint, in due time. (AJ)

JUDGMENT ON THE PLEADINGS

A judgment rendered on motion in favor of the defendant for failure of the plaintiff to state a good cause of action in the complaint, declaration or petition; in favor of the plaintiff where the defendant fails to state in the answer a defense sufficient in law to the cause of action alleged by the plaintiff or fails to tender any real issue of facts in the case. (JJ)

JUDGMENT ON THE VERDICT

A judgment rendered on a verdict of a jury as distinguished from a judgment rendered on a decision by the court in a trial without a jury. (AJ)

JUDICIAL JUDGMENT

The official and authentic decision and/or adjudication of a court of law upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. The term "judgment" is also used to denote the reason which a court gives for its decision; however, the latter is usually referred to as an "opinion."

JURISDICTION

The power of the court over the parties and subject matter in contest and the authority of the court to render the judgment or decree which it makes.

JURY

A body of persons sworn to decide a matter of fact in controversy in a court of justice.

LAWSUIT

An action between adversary parties.

LETTER OF ATTORNEY

The instrument conferring power of attorney upon an agent.

LETTERS ROGATORY

A request by one court of another court in an independent jurisdiction, that a witness be examined upon interrogatories sent with the request.

This process is used between countries as well as states.

LIEN

The tie that binds property to a debt or claim for its satisfaction.

LIS PENDENS

A notice filed for the purpose of warning all persons that the title to certain property is in litigation, and that they are in danger of being bound by an adverse judgment. The notice is for the purpose of preserving rights of pending litigation.

LITIGANT

A party of a lawsuit.

LITIGATION

A judicial proceeding.

MANDAMUS

A proceeding to compel officers and others to act in the discharge of the duties and trusts imposed upon them.

MASTER

Any person having the charge of acting as assistant to the court and reporting to the court his/her findings and recommendations.

MECHANICS LIEN

A lien allowed to the person who furnishes materials or labor toward the construction or improvement of property.

MISTRIAL

An erroneous or fatally irregular trial, due to disqualification of a juror or jurors or in the judge, or to an incurable defect or deficiency in the pleadings.

MOTION

An application to the court by a party or his/her counsel, to obtain some rule or order which may become necessary in the progress of a case.

MUNICIPAL

Pertaining to a city, borough, township or county; a community within a state possessing rights of self-government.

MUNICIPAL LIEN

A claim filed by the proper officer of a city, borough or township against property specially benefiting by a public work or improvement.

NE EXEAT

A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court. Available in some cases to keep a defendant within the reach of the court's process, where the ends of justice would be frustrated if he should escape from the jurisdiction. Sometimes a ne exeat writ is issued only to restrain a person from leaving the jurisdiction, and sometimes it is issued against a person who is removing or attempting to remove property beyond the jurisdiction.

NEW MATTER

In a pleading, matter not previously alleged.

NISI

A rule or order which is to become absolute unless cause to the contrary be shown.

NON PROS JUDGMENT

See Judgment of Non Pros

NOTICE OF LIS PENDENS

A notice filed for the purpose of warning all persons that the title to certain property is in litigation and that if they purchase the defendant's claim to the same, they are in danger of being bound by an adverse judgment. The notice is for the purpose of preserving rights of pending litigation.

NUNC PRO TUNC

Now for then. Said of a thing done in the present time which is to have the same effect as if it had been done at a time gone by, when it should have been done.

OPINION

The statement of reasons advanced by a judge or court in support of a decision rendered.

ORDER

The judgment or conclusion of the court upon any motion or proceeding.

PER ANNUM

By the year; yearly.

PER CAPITA

By the head; individually.

PER CURIAM

By the court.

PER DIEM

By the day; daily.

PER SE

By itself.

PEREMPTORY CHALLENGE

An absolute challenge to members of a jury based on alleged facts from which, if proven to be true, incapacity to serve is conclusively presumed.

PERSONALTY

Personal property, as opposed to realty.

PETIT JURY

A petit jury consists of twelve persons impaneled and sworn, in courts having trial jurisdiction, to try and determine by a true and unanimous verdict, any question or issue of fact, in any civil action or proceeding according to law and the evidence as given them in the court. Petit is used to distinguish it from grand jury.

PETITION

A written application to bring before the court a matter in regard to which judicial action is necessary, a suit being inappropriate.

PETITIONER

The person presenting a petition.

PLAINTIFF

The party in whose favor the suit purports, on the record, to have been instituted.

PLEAD

To carry on a suit or plea; to litigate; to make an allegation of fact in a cause.

PLEADING

The statement, in logical and legal form, of the facts which constitute the cause of action or the ground of defense.

POUNDAGE

A percentage or allowance of a portion of money paid into court, held by the officer for payment to the municipality.

PRAECIPE

A paper containing the particulars for a writ with an instruction to the officer who is to issue it.

PRAYER

A petition or request that the court grant the relief desired.

PRIMA FACIE

A fact presumed to be true unless disproved by some evidence to the contrary. A prima facie case, then, is one which is established by sufficient evidence and can be overthrown only by rebutting evidence presented on the other side. A commonly used term is prima facie evidence.

PRO HAC VICE

For this turn.

PRO SE

Representing oneself.

PROCEEDING

Any step taken by a party in the progress of an action.

PROCESS

Specifically it means the writ, summons mandate, or other process which is used to inform the defendant of the institution of proceedings against him/her and to compel his/her appearance in a civil case.

PROMISSORY NOTE

A plain and direct engagement in writing, to pay a sum certain at the time specified to the person therein named, or to the bearer at large.

PROTECTION FROM ABUSE - (PFA)

The Protection From Abuse Act is a vanguard civil measure, dealing with problems of wife and child abuse and is designed to protect against abuse not only between family or household members who reside together, but also between unmarried persons living together.

PROTHONOTARY

The head clerk, whose principal DUTY is to make and preserve accurate records of proceedings as prescribed by law; the chief scribe in court.

REAL PROPERTY

Consists of such things as are permanent, fixed, immovable and cannot be moved from the place in which they subsist.

RECORD

To write or enter in official books for authentic evidence or for reference.

REINSTATE

To restore to former position with reference to other persons or things.

REMAND

To return from whence it came; when an order sends a cause back to the original court of jurisdiction.

REPLEVIN

Legal remedy for any unlawful detention of personalty.

RESPONDENT

One who makes or files an answer in a cause.

SCIRE FACIAS

A judicial writ, founded upon some matter of record, such as a judgment or recognizance, and requiring the person against whom it is brought to show cause why the party bringing it should not have advantage of such record or why the record should not be annulled and vacated.

SERVICE

The delivery or communication of a pleading, notice or other paper in a suit to the opposite party, so as to charge that party with the receipt of it, and subject him/her to its legal effect.

SPECIFIC PERFORMANCE

The branch of equity jurisprudence that compels a party to perform a contract, specifically.

STATEMENT OF OBJECTION

The act of a party who categorically objects to some matter or proceeding in the course of a trial, or an argument or reason argued by a party in support of a contention that the matter or proceeding objected to is improper or illegal.

STRUCTURED SETTLEMENT

An arrangement for periodic payment of damages established by settlement, judgment or decree in resolution of a settled claim.

SUBPOENA

A writ requiring a person to appear at a certain time and place, or pay a penalty or undergo punishment.

SUBPOENA DUCES TECUM

A subpoena that directs the person to bring something.

SUMMARY JUDGMENT

A summary judgment is any proceeding where a controversy is settled. A case disposed of, or trial conducted in a prompt and simple manner, without the aid of a jury, or in other respects out of the regular course of the common law.

SUMMONS

A notice to a defendant that an action has been commenced against him/her, and that he/she is required to answer the complaint, which is either attached to the summons, or will be filed in the proper clerk's office.

SUPERSEDEAS

The name of a writ containing a command to stay the proceedings at law. A suspension of the power of a trial court to issue an execution of judgment appealed from, or, if writ of execution has issued, it is a prohibition emanating from court of appeal against execution of writ.

SUPPORT ARREARS JUDGMENT

On and after the date it is due, each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state.

SURETY

A person bound with a principal for the payment of a sum of money or for the performance of some duty or promise, and who is entitled to be indemnified by someone who ought to have paid or performed if payment or performance is to be enforced against him/her.

SWEAR

To take an oath before an officer employed to administer oaths.

TERRE-TENANT

The person who is in actual possession of a piece of land, as distinguished from the owner, real or alleged; also the owner of the legal, as distinguished from the equitable, estate.

TIPSTAFF

An officer who waits upon a court in session, preserving order, caring for jurors and juries. (Plural - Tipstaves)

TRANSCRIPT

An official copy.

TRAVERSE JURY

A petit jury; a trial jury; a jury impaneled to try an action or prosecution, as distinguished from a grand jury.

TRIAL

The examination of the matter of facts in an issue.

VENIRE

To come or appear in court.

VENUE

The proper county for a cause to be tried.

VERDICT

The findings of a jury.

VERSUS

Against.

VOIR DIRE

To speak the truth. Referring to the examination of a prospective juror or witness, to ascertain whether the person possesses the required qualifications, the person having been sworn to make true answers to the questions about to be asked concerning the matter.

WAIVER

The voluntary relinquishment of some right.

WITH PREJUDICE

The term as applied to judgment of dismissal is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

WITHOUT PREJUDICE

A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

WITNESS

One who gives evidence in a cause before a court.

WRIT

Process in a civil suit.

WRIT OF NE EXEAT

A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court. Available in some cases to keep a defendant within the reach of the court's process, where the ends of justice would be frustrated if he should escape from the jurisdiction. Sometimes a ne exeat writ is issued only to restrain a person from leaving the jurisdiction, and sometimes it is issued against a person who is removing or attempting to remove property beyond the jurisdiction.

(NOTE: See "Note" at beginning of GLOSSARY)

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PROCEDURES MANUAL 2013 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

NOTE: New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to the County Records Manual

**Replace title page to read 2013 and Foreword to read 22nd edition.
Replace advisory committee page.**

1. GENERAL PROVISIONS (CHAPTER B)

References:

a. B-1-3 (Child Custody – Criminal Charge Information System Fee)

Revise Paragraph 3 to reflect Current Act 1996-119 fee as of January 1, **2013**, is \$7.50, with \$6.00 being remitted monthly to the AOPC and \$1.50 being remitted to the county. (Add page revision date 07/13)

Substitute pages B-1R-5.1 through B-1R-5.55
Substitute pages B-1R-6.1 through B-1R-6.3
(Add page revision date 07/13)

2. SUBPOENAS (CHAPTER C)

a. C-2-1, C-2-2 (Foreign Depositions and Subpoenas)

New Subchapter adding Foreign Depositions and Subpoenas, statute reference and procedure. (Add page revision date 07/13)

3. CIVIL ACTION – M.D.J. APPEALS (CHAPTER E)

**Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE
JUDGMENT:**

Reference: Substitute revised Deadline Schedule (E-1R-1.1. and 1.2)

a. E-2-1 (Writ of Certiorari to Magisterial District Judge)

Substitute revised Page **E-2-1**, paragraph 2 (**NOTE**), re: poverty income guideline instruction link (Add page revision date 07/13)

Substitute revised Page **E-9R 1.20 – 2013 Poverty Income Guidelines**

(Add page revision date 07/13)

Substitute revised Page **E-9R-2.1, 2.2, 2.3 – Deadline Schedule**

(Add page revision date 07/13)

Substitute revised Page **E-9F-3.8 – 2013 Poverty Income Guidelines**

(Add page revision date 07/13)

4. CHILD CUSTODY AND VISITATION (CHAPTER S)

a. S-1-3 (Criminal Charge Information System)

Revise Paragraph 4 (b) to read: A party who has been awarded custody, partial custody or visitation or who is a party to custody proceeding may access criminal information by visiting the Jen & Dave website at www.jendaveprogram.us or through the UJS Web Portal <http://ujportal.pacourts.us>. Individuals may also call 866-JEN-DAVE for any questions regarding the Jen and Dave Program.

Delete sub-paragraphs (c) through (e)

Change paragraph 6 to Reference

Add Jen & Dave web page info (Page **S-1R-1.1**)

Omit page **S-1-4, S-1F-1.1, S-1F-1.2, S-1F-1.3, S-1F-2, S-1R-1.1, S-1R-1.2, S-1R-1.3**

(Add page revision date 07/13)

5. FORMS SECTION

Substitutions/Additions/Deletions as indicated:

E-9F-3.8

S-1F-1.1

S-1F-1.2

S-1F-1.3

S-1F-2

(Add page revision date 07/13)

6. INDEX

Revisions as indicated:

Page 8: Add Foreign Depositions and Subpoenas.....C-2-1
Page 21: Subpoena (Foreign).....C-2-1
Substitute revised pages 8, 12 and 21 to omit Jen & Dave References
(Add page revision date 07/13)

PROCEDURES MANUAL 2012 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

NOTE: New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to the County Records Manual

Replace title page to read 2012 and Foreword to read 21st edition.

1. GENERAL PROVISIONS (CHAPTER B)

References:

a. **B-1-3 (Child Custody – Criminal Charge Information System Fee)**

Revise Paragraph 3 to reflect Current Act 1996-119 fee as of January 1, **2012** is \$7.50, with \$6.00 being remitted monthly to the AOPC and \$1.50 being remitted to the county. (Add page revision date 07/12)

b. **B-1-8 (Judicial Computer System Augmentation Account)**

Revise Paragraph 1 to reflect – The Prothonotary shall collect the \$23.50 surcharge on all initial civil actions or legal proceedings filed as of December 8, 2009. The fee shall remain \$23.50 until December 31, 2014. Specifically, the \$11.25 temporary surcharge created by Act 49 of 2009 which was set to expire on January 7, 2012 has been extended to December 31, 2014. (Add page revision date 07/12)

c. **B-1-9 (Oaths, Affidavits and Acknowledgements)**

Add under Paragraph 2 (a):

NOTE: An oath or affirmation of a member of a borough council may only be taken before any judge or justice of the peace of the county, or before the mayor of the borough when he has qualified, and shall be filed with the borough secretary and be preserved among the records of the borough for a period of six years. (**53 P.S. § 46002**) (Add page revision date 07/12)

Substitute pages B-1R-5.1 through B-1R-5.55

Substitute pages B-1R-6.1 through B-1R-6.3

2. IN FORMA PAUPERIS (CHAPTER D)

Revise Procedure Paragraph 2 (a) to read: IFP proceeding is commenced by filing a petition and affidavit (Form pursuant to Pa. R.C.P. No. 240(h) with or after commencement of the action **or proceeding** or with the taking of the appeal, the prothonotary shall file and docket without payment. If the Court denies the petition, no further action may be taken without leave of court until the fees are paid. **If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed in forma pauperis until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).** (Add page revision date 07/12)

Revise Procedure Paragraph 2 (c) to read: If the court denies the petition, the petitioner shall pay the filing fee. A party required to pay such fee may not, without leave of court, take any further steps in the action, **proceeding** or appeal so long as such fee remain unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the Prothonotary shall enter a judgment of non pros in the action or strike the appeal if the fee remains unpaid. The action, **proceeding** or appeal shall be reinstated only by the court for good cause shown. (Add page revision date 07/12)

3. CIVIL ACTION – M.D.J. APPEALS (CHAPTER E)

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

Reference: Substitute revised Deadline Schedule (E-1R-1.1. and 1.2)

a. E-2-1 (Writ of Certiorari to Magisterial District Judge)

Substitute revised Page **E-2-1**, paragraph 2 (**NOTE**), re: poverty income guideline instruction link (Add page revision date 07/12)

Substitute revised Page **E-9R 1.20 – 2012 Poverty Income Guidelines**

(Add page revision date 07/12)

Substitute revised Page **E-9R-2.1, 2.2, 2.3 – Deadline Schedule**

(Add page revision date 07/12)

Substitute revised Page **E-9F-3.8 – Poverty Income Guidelines**

(Add page revision date 07/12)

4. APPELLATE COURTS (CHAPTER L)

Substitute revised form L-1F-1 (Revised Appellate Filing Fee) (Add page revision date 07/12)

5. MAGISTERIAL DISTRICT JUSTICE LIEN (CHAPTER N)

Substitute revised form N-1F-2, N-1F-3, N-1F-4 (Add page revision date 07/12)

6. PROTECTION FROM ABUSE (CHAPTER R)

Substitute revised form R-1F-1.1 (Add page revision date 07/12)

Substitute revised from R-1F-1.2 (Add page revision date 07/12)

7. CHILD CUSTODY AND VISITATION (CHAPTER S)

Substitute pages S-1F-1.1 through S-1F-1.3 (Add page revision date 07/12)

Substitute pages S-1R-1.1 through S-1R-1.3 (Add page revision date 07/12)

8. PROTHONOTARY AS PASSPORT AGENT (CHAPTER V)

Substitute pages V-1R-1.1 through V-1R-1.3 (Add page revision date 07/12)

9. FISCAL (CHAPTER X)

Reference:

X-1-1(Prothonotaries' Accounting and Agent Responsibilities)

- 1. General Notes:** Revise paragraph (f): Collection on Checks Returned for Insufficient Funds (18 Pa C.S. § 4105). A service charge not to exceed **\$50.00** is to be collected by the Prothonotary if notice is conspicuously displayed when the check was issued. (Add page X-1-2 revision date 07/12)

- 2. Accounting Procedures:** Revise paragraph (c): Judicial Computer System Augmentation Account **\$23.50** Surcharge.....
(Add page X-1-3 revision date 07/12)

10. FORMS SECTION

Substitutions/Additions as indicated:

E-9F-3.8
L-1F-1
N-1F-2
N-1F-3
N-1F-4
R-1F-1.1
R-1F-1.2
S-1F-1.1
S-1F-1.2
S-1F-1.3

PROCEDURES MANUAL 2011 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

NOTE: The County Records Manual has been revised as of July 2011. New cites for **RETENTION AND DISPOSITION SCHEDULE** will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to new County Records Manual.

NOTE: Act 2004-207 changed the title of “district justice” to “magisterial district judge”. Changes of title will be included in the Prothonotary Manual as sections are revised.

1.
 - a. 2011 PROTHONOTARIES’ PROCEDURES MANUAL COVER
 - b. Prothonotary Manual Update Committee 2010-2011
 - c. Special Recognition page
 - d. Original AOPC Prothonotaries and Clerks of Courts Advisory Committee
2. Table of Contents revisions pages: i, ii, xii, & xxii
3. **GUIDELINES FOR PROTHONOTARY (CHAPTER A)**

REFERENCES:

- a. **A-1R-1.1 thru A-1R-1.2 (Cross Reference and Interpretation)**

Substitute current version of 42 P.S. 20003

- b. **A-1R-2.1 thru A-1R-2.5 (Chapter 27 – General Provisions)**

Substitute current version of Chapter 27 Sections 2701-2705

- c. **A-1R-3.1 thru A-1R-3.23 (Chapter 27 - Prothonotaries)**

Substitute current version of Chapter 27 Sections 2731-2738

NOTE: Section 2731.1 is new.

- d. **A-1R-4.1 thru A-1R-4.2 (Chapter 27 – Prothonotaries)**

Substitute current version of Title 42 Sections 7361-7362

4. **GENERAL PROVISIONS**

Section B-1, GENERAL PROVISIONS

- a. **Page B-1-1 – Civil Cover Sheet and instruction**

Under Accepting or Refusing Filings by the Prothonotary - Add new paragraph 5 the **New Civil Cover Sheet** – Per PRCP 205.5 effective May 26, 2010, and thereafter the cover sheet will be required on most civil filings in Pennsylvania's Courts of Common Pleas. Exceptions are noted in the Notice below the form.

The latest version of this form will be published on the website of the AOPC at www.pacourts.us

Note: The Prothonotary shall not accept a filing commencing an action without a completed cover sheet as required by Pa.R.C.P. 205.5 subject to the exceptions listed at Pa.R.C.P.205.5(a)(1).

b. Page B-1-3 – CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE

Revise Paragraph 1 to reflect Custody Act 1996-119 fee to be \$7.50.

c. Page B-1-8 - JUDICIAL COMPUTER SYSTEM AUGMENTATION ACCOUNT

Revise Paragraph 1 to reflect Judicial Computer System Augmentation Account fee changed from \$10.00 to \$23.50.

d. Pages B-1R-5.1 thru B-1R-5.52 - Court Structures in Other States

Replaced B-1R-5.1 thru B-1R-5.52 with updated diagrams of court structures

e. Pages B-1R-6.1 thru B-1R-6.3 & B-1-11- US District Courts in Pennsylvania

B-1R-6.1 thru B-1R-6.3 & B-1-11 updated (Note: Schuylkill changed (moved) from Eastern District to Middle District

3. CIVIL ACTION

Section C-1, witness fees

Update of page C-1-2

4. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (**E-1R-1**).

Substitute Revised page **E-2-1**, paragraph 2, re: poverty guideline instruction link

5. CIVIL ACTION – WRIT OF CERTIORARI TO M.D.J.

Pages E-2R-1.1, 1.2, 1.3 & 1.4 Writ of Certiorari as Supersedeas

Substitute revised Rule 1013 effective May 15, 2008

6. CIVIL ACTION – RULE 420 ORDERS

Substitute revised page E-3-1 - Add AOPC form 340-05 E-3F-1

7. **CIVIL ACTION – LAW** - Dept. of Transportation, Bureau of Motor Vehicles, Fact Sheet

Replace E-4R-2.1 thru 2.2 – Re: Involuntary Transfer of Ownership of a Vehicle by Court Order.

8. **CIVIL ACTION – M.D.J. APPEALS**

Section E-9, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING:

6a. **REFERENCE:** Substitute revised Deadline Schedule (E-9R-2)

Page E-9-2, revise paragraph 4b as follows:

6b. For Indigent Tenants see Rule 1008(c)

Substitute new E-9R-1.20, new E-9R-2.1, 2.2 & 2.3 and new E-9F-3.8 Poverty Income Guidelines for current year.

REMINDER TO PROTHYS – Guidelines change on calendar year basis – get new Guidelines yearly on AOPC website. For poverty guidelines go to www.aopc.org Home Page. In “Search” type in Poverty Guidelines, connect on yearly guidelines, i.e. Povertyincomeguidelines2011.doc Download/print to attach to writs.)

9. **REVIVAL OF JUDGMENTS/LIENS**

Substitute revised page **M-9-7**

10. **LIENS**

Section N-1 – Liens: Magisterial District Judge Judgment Liens

Substitute revised page N-1-2

N-1F-2, 3, 4 & 5 – Magisterial District Judge Judgment Liens:

Replaced N-1F-2 Notice of Judgment/Transcript Civil Case
Replaced N-1F-3 Notice of Judgment/Transcript Residential Lease
Replaced N-1F-4 Notice of Judgment/Transcript Nonresidential Lease
Replaced N-1F-5 Notice of Judgment/Transcript Nonresidential Lease – Supplemental Action (updated forms)

11. **ENFORCEMENT ACTIONS**

Section Q-1, Money Judgments – Writ of Execution

Substitute revised page **Q-1-11**

Page Q-1F-4 & 4.1, Substitute new form for Writ of Execution on Money Judgment Effective May 17, 2010 <http://www.pabulletin.com> see Volume 40 Number 18

Section Q-3, Mortgage Foreclosure

Page Q-3-1, Amendments to Rules Governing Foreclosure to Mortgage Upon Both Personal Property and Real Property

RETENTION AND DISPOSITION SCHEDULE, revise as follows:

- (1) PY-6, Civil Dockets, Books & Indices
- (2). PY-7, Civil Papers/Files
 - (a). #15, Mortgage Foreclosure

Page Q-3-2, FORM: Substitute revised Certification (Form Q-3F-1)

Substitute revised Praecipe for Writ of Execution – Mortgage Foreclosure (Form Q-3F-1)

Add Writ of Execution (Form Q-3F-1) (Rule 3257)

12. CHILD CUSTODY AND VISITATION

Section S-1, Child Custody

FORM: Substitute most recent version of Jen and Dave pamphlet (2 pgs) (This replaces S-1F-1.1, 1.2, 1.3 & S-1F-2)

REFERENCE: add UJSPortal for additional statewide criminal registry:

<http://ujportal.pacourts.us>

and add/substitute Jen & Dave Program flyers S-1R-1.1 & 1.2

13. PROTHONOTARY AS A PASSPORT AGENT

Section V-1, GENERAL NOTES

Page V-1-2 - Replace all of the telephone numbers with the current passport agency numbers

FORM V-1R-1- Replace V-1R-1 Passport Fee Schedule with 2011 fees

REFERENCE: Add website – www.travel.state.gov

14. NATURALIZATION

Section W-1R-1

Substitute Revised Form N-4, W-1F-2.1 & 2.2 Monthly report on Naturalization Form with instructions was revised (11/09/09) and expires (11/30/12)

Paragraph 7 – change revision date to 11/09/09

Omit Paragraph 8.

15. FISCAL

- a. Substitute revised page **X-1-4** re: Paragraph 3 (a) & 3 (b).
- b. **Section X-1F-1.1 & 1.2** - Prothonotary Monthly Report form with instruction page
- c. **Section X-1F-2.3** - Abandoned and Unclaimed Property Report to Treasury Department

FORM: Substitute revised Abandoned and Unclaimed Property Report to Treasury Department with instructions (Form X-1F2.3-1 thru X-1F2.7-2)

- d. **Section X-1F-3** - Act 119-1996 Transmittal of Filing Fees

Substitute Revised Act 119-1996 Transmittal of Filing Fees Form (X-1F-3) revised (06/10)

16. FORMS SECTION

Substitute the revised Forms index

Substitutions / Additions as indicated:

- B-1F-2 & 2a
- E-9F-3.8
- N-1F-2
- N-1F-3
- N-1F-4
- N-1F-5
- Q-1F-4 & 4.1
- Q-3F-1
- S-1F-1.1, 1.2 & 1.3
- S-1F-2
- W-1F-2.1 & 2.2
- X-1F-1.1 & 1.2
- X-1F-2.3-1, 2.3-2 & 2.3-3
- X-1F-2.4-1
- X-1F-2.5-1
- X-1F-2.6-1
- X-1F-2.7-1
- X-1F-3

17. INDEX

Substitute revised pages 8, 9, 10, 12 & 13

Special thanks are due to Maria A. Ilgenfritz of the Judicial Programs Department of the Administrative Office of Pennsylvania Courts for her labors in reviewing the existing manual with the goals of updating and refining it. She has been exceptionally dedicated to this task and I am exceedingly grateful to her for all her labors on our behalf.

Respectfully submitted, Amy Moshier, Prothonotary Manual Secretary

PROCEDURES MANUAL 2009 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

(NOTE: The County Records Manual has been revised as of February, 2002. New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to new County Records Manual.)

(NOTE: Act 2004-207 changed the title of “district justice” to “magisterial district judge”. Changes of title will be included in the Prothonotary Manual as sections are revised.)

1. TABLE OF CONTENTS.

No revisions

2. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

3. CIVIL ACTION – M.D.J. APPEALS

Section E-2, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

Page E-2-1, add new note as follows:

(NOTE: For poverty guidelines go to www.aopc.org Home Page. In “Search” type in Poverty Guidelines, connect on yearly guidelines, i.e. Povertyincomeguidelines2009.doc. Download/print to attach to writs.)

REMINDER TO PROTHYS – Guidelines change on calendar year basis – get new guidelines yearly on AOPC website.

add new Paragraph 2b. as follows:

b. See Rule 1013(c) for Indigent Tenants. Reference Rule 1008(c) for forms OR go to E-9F-3.1, 3.2, 3.3, 3.4.

REFERENCE: Substitute new Rule 1013 and make reference to Rule 1008C/Forms E-9F3.1, 3.2, 3.3, 3.4 for E-2R-1.1

3. CIVIL ACTION -- M.D.J. APPEALS

Section E-9, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING:

Page E-9-2, add new paragraph 4b. as follows:

4b. For Indigent Tenants see Rule 1008(c)
Reminder to Prothys -
Poverty Guidelines change on calendar year basis,
get new guidelines yearly on AOPC website,
www.aopc.org, home page, in "Search" type in
Poverty Guidelines. Click on yearly guidelines i.e.
povertyincomeguidelines2009.doc. Download/Print to
attach to Appeals.

REFERENCE: Substitute revised Rule 1008 (E-9R1-1)
Substitute revised Deadline Schedule (E-9R-2)

FORMS: Add new E-9F-3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8

4. APPELLATE COURTS

Section L-1, APPEALS TO THE APPELLATE COURTS

Pages L-1-3 and L-1-4, Add new paragraph 7 to outline new Children's Fast Track Appeals as follows:

7. Eligibility for Children's Fast Track Appeal -
Children's Fast Track Appeal—Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. 6301 et seq.; 23 Pa.C.S. 2511 et seq.; 23 Pa.C.S. 2101 et seq.; 23 Pa.C.S. 5301 et seq.; 23 Pa.C.S. 5102 et seq. (Rule 102).
Contents in Children's Fast Track Appeals—In a children's fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a children's fast track appeal. (Rule 904(f)).
If the appeal is a children's fast track appeal, the concise statement of errors complained of on appeal as described in Rule 1925(a)(2) shall be filed with the notice of appeal and served in accordance with Rule 1925(b)(1). (Rule 905(2))
If the appeal is a children's fast track appeal, the clerk shall stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal and shall transmit to the Prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by Subdivision (a)(2) of this rule.

ALL Fast Track Appeal records are due in 30 days.

Renumber old paragraph 7 to 8 and old paragraph 8 to 9

Add page number L-1-4 and revision date to new page

INDEX: Children's Fast Track Appeal

5. JUDGMENTS

Section M-3, JUDGMENTS OF NON PROS

Pages M-3-2, correct Rule number to 1042.7 in paragraph i

6. JUDGMENTS

Section M-6, CONFESSION OF JUDGMENT FOR MONEY

Page M-6-1, M-6-2, Omit all paragraphs up to #7 and replace as follows:

1. CONFESSION OF JUDGMENT FOR MONEY
 - 1a. An action shall be commenced by filing with the Prothonotary a **COMPLAINT** substantially in the form provided by Rule 2952. (Rule 2951(a))

The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2962. (Rule 2955)

The Prothonotary shall enter judgment in conformity with the confession. (Rule 2956)
 - b. If the instrument is more than twenty years old, judgment may be entered only by leave of court after notice and the filing of a complaint.
 - c. When the original or a photostatic copy or like reproduction of the instrument showing the defendant's signature is not attached to the complaint, judgment may be entered only by leave of court after notice.
2. Complaint should be accompanied by (Pa.R.C.P. No. 236):
 - (a). Copy of all documents filed for each debtor.
 - (b). Stamped envelope addressed to each debtor.
 - (c). Notice of entry of judgment to each debtor.
 - (d). Plaintiff's Affidavit/Averment
3. The action shall be commenced by the filing of a complaint pursuant to Pa.R.C.P. No. 2951(a). The complaint shall contain the information required by Pa.R.C.P. No. 2952 and substantially in the form provided by Pa.R.C.P. No. 2962. (Note: Pa.R.C.P. No. 2952(b) - A complaint in this type of action shall neither contain a notice to defend nor be endorsed with a notice to plead, and no responsive pleading shall be required whether or not the complaint contains a notice to defend or is endorsed with a notice to plead.)

Old paragraph 7 becomes paragraph 2

Old paragraph 8 becomes paragraph 3

In new paragraph 2 change the word Instrument to Complaint

In new paragraph 2 eliminate (d) and make (e) be (d)

In new paragraph 3 eliminate all wording to first comma (If the instrument – to – 2951(a)) and start new paragraph with (The action shall be commenced – to – 2951(a))

Correct the Rule # in note to 2952(b).

Page M-6-2, RETENTION AND DISPOSITION SCHEDULE, revise to read as follows:

- a. Section 2 – Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.
 - (b). #13, Judgment and Lien Papers.
- b. remains the same

7. PROTHONOTARY AS A PASSPORT AGENT

Section V, PASSPORT FEES

Page V-1R-1, replace Reference pages with 2009 fee

10. FISCAL

Page X-1F-2.3 – Abandoned and Unclaimed Property Report to Treasury Department

FORM: Substitute revised Abandoned and Unclaimed Property Report to Treasury Department with instructions (Form X-1F2.3-1 thru X-1F2.7-2)

Note: Please delete form number X-1F-2.8 as that form is now X-1F-2.3-2 as it is part of the Report AP-1 form grouping.

11. FORMS SECTION

Substitutions / Additions as stated.

Note: as per Frank J. Antonucci, Management Assistant at AOPC the manual will be adjusted to reflect the correct Writ of Execution – Mortgage Foreclosure in the forms sections. He explained that the correct form Q-3F-2 (Rev. 4/08) was used on page 669 in the Chapter section. However in the forms section on both pages 893 and 917 a slightly different set up of the same form and revision date was used.

12. INDEX

Revised -- pages 4 through 6

PROCEDURES MANUAL 2008 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

(NOTE: The County Records Manual has been revised as of February, 2002. New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to new County Records Manual.)

(NOTE: Act 2004-207 changed the title of "district justice" to "magisterial district judge". Changes of title will be included in the Prothonotary Manual as sections are revised.)

1. TABLE OF CONTENTS.

Revised -- Pages iv, v, ix, xvi

2. GENERAL PROVISIONS --

Section B-1, GENERAL PROVISIONS

Page B-1-3 – CRIMINAL CHARGE INFORMATION SYSTEM FEE

Revise Paragraph 1 to reflect Custody Act 1996-119 fee to be \$7.00.

3. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

4. CIVIL ACTION -- M.D.J. APPEALS

Section E-2, WRIT OF CERTIORARI TO MAGISTERIAL DISTRICT JUDGE

FORM: Add Writ of Certiorari to Magisterial District Judge (E-2F-2) (AOPC 25-05)

5. CIVIL ACTION -- M.D.J. APPEALS

Section E-9, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING:

REFERENCE: Substitute revised Deadline Schedule (E-9R-2)

6. APPEARANCE

Section E-4, PRO HAC VICE

REFERENCE: Add Pro Hac Vice Rule 1012.1 and website for IOLTA Board

7. ARBITRATION

Section G-1, COMPULSORY ARBITRATION

Substitute revised pages due to changes in paragraphs C, D, and relettering of paragraphs E, and F

Add new paragraphs C and D as follows:

c. Enter the award of record upon the proper docket, (Pa.R.C.P. No. 1307).

d. Immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the docket and the amount of arbitrators' compensation to be paid upon appeal, to each party's attorney of record or to the party if there is no attorney of record. Note in the docket the date of the mailing of the notices.

e. Remove entire wording of Paragraph E and reletter Paragraph F to E

f. Reletter Paragraph G to F

8. APPELLATE COURTS

Section L-1, APPEALS TO THE APPELLATE COURTS

Page L-1-2, Revise Paragraph 6 to reflect 60 days to transmit the complete record.

9. JUDGMENTS

Section M-1, GENERAL NOTES

Page M-1-1, add new paragraph #1.a.(1) as follows:

(1). No praecipe for entry of judgment upon a nonsuit by the court, a verdict of a jury or a decision of a judge following a trial without a jury shall be accepted by the prothonotary unless it includes a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action or to the attorney of record for each other party.

INDEX: Certiorari, Writ of, to Magisterial District Judge
Writ of Certiorari to Magisterial District Judge
Judgment – Non-suit
Execution, Praeceptum for Writ of, Mortgage Foreclosure
Execution, Writ of, Mortgage Foreclosure
Praeceptum for Writ of Execution – Mortgage Foreclosure
Writ of Execution – Mortgage Foreclosure

10. ENFORCEMENT ACTIONS

Section Q-3, MORTGAGE FORECLOSURE

Page Q-3-1, Amendments to Rules Governing Foreclosure to Mortgage Upon Both Personal Property and Real Property.

RETENTION AND DISPOSITION SCHEDULE, revise as follows:

- (1) PY-6, Civil Dockets, Books & Indices
- (2) PY-7, Civil Papers/Files
 - (a) #15, Mortgage Foreclosure

PAGE Q-3-2,

FORM: Substitute revised Certification (Form Q-3F-1)

Substitute revised Praeceptum for Writ of Execution – Mortgage Foreclosure (Form Q-3F-1)

Add Writ of Execution (Form Q-3F-2) (Rule 3257)

11. CHILD CUSTODY AND VISITATION

Section S-1,

FORM: Substitute 2007 version of Jen and Dave pamphlet (2 pgs)

REFERENCE: add UJS Portal for additional statewide criminal registry: ujportal.pacourts.us

12. PROTHONOTARY AS A PASSPORT AGENT

Section V-1, GENERAL NOTES

Page V-1-2, replace all of the telephone numbers with the current passport agency numbers

FORM: Replace V-1R-1 Passport Fee Schedule with 2008 fees

REFERENCE: Add website – www.travel.state.gov

13. FISCAL

Page X-1-4, revise paragraph #3 as follows:

subsection (a) – Revise Criminal Charge Information System Fee to \$7.00
subsection (b) - Revise fee paid to the AOPC to \$5.60

FORM: Substitute revised Abandoned and Unclaimed Property Report to Treasury Department (Form X-1F-2)

14. FORMS SECTION

Substitutions / Additions

15. INDEX

Revised

PROCEDURES MANUAL 2007 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

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(NOTE: Act 2004-207 changed the title of "district justice" to "magisterial district judge". Changes of title will be included in the Prothonotary Manual as sections are revised.)

1. TABLE OF CONTENTS.

Revised -- Pages xxi, xxii

2. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

3. CIVIL ACTION -- M.D.J. APPEALS

Section E-9, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING:

REFERENCE: Substitute revised Deadline Schedule (E-9R-2)

4. ARBITRATION

Section G-1, COMPULSORY ARBITRATION

Substitute revised pages due to paragraph set-up error

5. JUDGMENTS

Section M-1, GENERAL NOTES

Pages M-1-1 through M-1-4, edit changes

Page M-1-1, add new paragraph #1.a.(1) as follows:

(1). No praecipe for judgment on a verdict or for judgment on a decision in a trial without a jury shall be accepted by the Prothonotary unless it includes a certificate that a copy of the Praecipe has been mailed to each other party who has appeared in the action or to the attorney of record for each other party.

Page M-1-5, RETENTION AND DISPOSITION SCHEDULE, revise to read as follows:

- a. Section 2 – Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.
 - (b). #13, Judgment and Lien Papers.

INDEX: Rule 237 (Judgments)
Judgment – Verdict
Judgment – Court Decision
Notice of Praecipe for Judgment – Verdict
Notice of Praecipe for Judgment – Court Decision
Praecipe for Judgment, Notice – Verdict
Praecipe for Judgment, Notice – Court Decision

6. JUDGMENTS

Section M-9, REVIVAL OF JUDGMENTS/LIENS

Page M-9-1, add the following to the title:

(Pa.R.C.P. No. 3025 et seq.)

Page M-9-7, RETENTION AND DISPOSITION SCHEDULE, revise to read as follows:

- a. Section 2 – Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.
 - (b). #13, Judgment and Lien Papers.

FORM: Substitute revised Praecipe for Writ of Revival (M-9F-1)
Substitute revised Writ of Revival (M-9F-2)

7. ENFORCEMENT ACTIONS

Section Q-1, MONEY JUDGMENTS

Page Q-1-10, add new paragraphs #15.b.(3) and #15.b.(3).(a). to read as follows:

(3). If the garnishee is a bank or other financial institution, the Prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of Rule 3146(b) as to funds of any account of the defendant that is identified in the garnishee's answer to interrogatory no. 7 or 8.

(a). See Rule 3111.1 providing that service of the writ does not attach the defendant's funds on deposit in a bank or other financial institution in an account in which funds are deposited electronically on a recurring basis and are identified as funds which upon deposit are exempt from attachment.

(NOTE: see Rule 3253 for Interrogatory questions #7 & #8.)

Page Q-1-11, RETENTION AND DISPOSITION SCHEDULE, revise as follows:

- a. Section 2 – Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices
 - (2). PY-7, Civil Papers/Files
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

FORM: Substitute revised Certification (Form Q-1F-1)
Substitute revised Interrogatories to Garnishee (Form Q-1F-2)
Substitute revised Praecipe for Writ of Execution – Money Judgment and renumber (Form Q-1F-3)
Substitute revised Writ of Execution (Form Q-1F-4)
Substitute revised Writ of Execution Notice (Form Q-1F-5)
(Form Q-1F-6 changed to number to Q-1F-3 -- eliminate current Form Q-1F-3, from this chapter and from FORMS Section)

8. ENFORCEMENT ACTIONS

Section, Q-6, Execution on Confession of Judgment – Money/Real Property

Page Q-6-1, add paragraph #1.d. to read as follows:

d. If the plaintiff or a representative of the plaintiff is not present at the sale, “the real property shall not be sold.” In such a case, the sheriff is directed to “return the writ of execution to the Prothonotary and file a return pursuant to Rule 3139.” The plaintiff may again seek to have the property sold but must recommence the proceedings by having the writ of execution reissued pursuant to Rule 3106 and giving new notice under Rule 3129.2

Page Q-6-2, RETENTION AND DISPOSITION SCHEDULE, revise to read as follows:

- a. Section 2 – Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices
 - (2). PY-7, Civil Papers/Files
 - (a). #8, Ejectment Papers

9. DIVORCE / ANNULMENT

Section T-1, ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE

Page T-1-1, add the following to the title:

(Pa.R.C.P. 1920.1 et seq.)

Page T-1-3, revise paragraph #10 to read as follows:

10. If the defendant fails to appear in an action, the plaintiff shall file an Affidavit of Non-Military Service, pursuant to 50 U.S.C. 520, with the Motion for Appointment of a Master prior to a trial by the court, or with the plaintiff's affidavit for

Page T-1-3, revise paragraph #9 as follows:

Eliminate paragraph #9.a.

Combine remaining paragraph with heading to read as follows:

14. Vital Statistics Law – Act 2001-82 replaced the requirement of sending individual transcripts with the requirement of a statistical summary of divorces and annulments.

Page T-1-5, paragraph #15 – change 10 days to 20 days in all paragraphs

10. **FISCAL**

Page X-1-5, add new Reference listing

FORM: Substitute revised Prothonotary Monthly Report to Department of Revenue (Form X-1F-1)

Substitute revised Abandoned and Unclaimed Property Report to Treasury Department (Form X-1F-2)

REFERENCE: Department of Revenue letter dated June 30, 2006, from Warren G. Klunk, Chief, regarding Change to Monthly Report Filing and Remittance Due Date (X-1R-3)

11. **FORMS SECTION**

Substitutions / Additions

12. **INDEX**

Revised -- pages 9 through 23

PROCEDURES MANUAL 2006 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

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(NOTE: Act 2004-207 changed the title of "district justice" to "magisterial district judge". Changes of title will be included in the Prothonotary Manual as sections are revised.)

1. TABLE OF CONTENTS.

Revised -- Pages iv, v, vii, xi, xiii, xiv, xv, xvi, xvii, xviii, xix, xx, xxi, xxii

2. GENERAL PROVISIONS.

Page B-1-3, CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE

Amend fee amount to \$6.50

Page B-1-10, PROTECTION FROM ABUSE CHARGES, amend to read as follows:

1. Protection From Abuse Surcharge (23 Pa.C.S.A. § 6106(d))

3. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

4. CIVIL ACTION.

Section E-4, CIVIL ACTION--LAW:

FORM: Substitute revised Praeceptum for Summons & Writ of Summons (E-4F-1)

Form E-4F-1 divided into two forms to give Prothonotaries a choice as to which format they wish to use:

FORM: Praeceptum for Summons (E-4F-5)
Writ of Summons (E-4F-6)

5. CIVIL ACTION -- M.D.J. APPEALS

Section E-9, APPEAL FROM A MAGISTERIAL DISTRICT JUDGE DECISION ON A LANDLORD AND TENANT PROCEEDING:

REFERENCE: Substitute revised Deadline Schedule (E-9R-2)

6. REPLEVIN

Section F-2, ENFORCEMENT OF A JUDGMENT IN REPLEVIN

FORM: Substitute revised Praecipe for Possession & Writ of Possession (F-2F-1)

Form F-2F-1 divided into two forms to give Prothonotaries a choice as to which format they wish to use:

FORM: Praecipe for Possession (F-2F-2)
Writ of Possession (F-2F-3)

7. JUDGMENTS

Section M-9, REVIVAL OF JUDGMENTS/LIENS

FORM: Substitute revised Praecipe for Writ of Revival (M-9F-1)
Substitute revised Writ of Revival (M-9F-2)

NEW FORM: Agreement to Revive (M-9F-3)

8. LIENS

Section N-1, MAGISTERIAL DISTRICT JUDGE JUDGMENT LIEN

Page N-1-1, eliminate paragraph 8; renumber remaining paragraphs

Page N-1-2, RETENTION AND DISPOSITION SCHEDULE, add the following to a.(2):

(b). #13, Judgments and Liens

Amend RETENTION AND DISPOSITION SCHEDULE in all Chapter N sections to correspond to wording in Chapter N-1.

9. LIENS

Section N-2, JUDGMENT LIENS

Page N-2-2, add new paragraph 6 to read as follows & renumber remaining paragraphs:

6. 35 P.S. § 6029.111.1. (WASTE TIRE RECYCLING REMEDIATION LIEN)

a. If the person or municipality liable to pay the amount of grant moneys expended on remediation of a site neglects or refuses to pay the same after demand, the amount, together with interest, shall be a judgment in favor of the Commonwealth upon the property of such person or municipality, but only after the same has been entered and docketed of record by the Prothonotary where such property is situated. The Commonwealth may, at any time, transmit to the Prothonotaries of the respective counties certified copies of all such judgments, and it shall be the duty of each Prothonotary to enter and docket the same of record in the Prothonotary's office, and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

INDEX: Lien, Waste Tire Recycling
Remediation Lien
Waste Tire Recycling

10. **LIENS**

NEW SECTION N-8, ATTACHMENT OF WAGES, SALARY AND COMMISSIONS (Judgment Creditor-Landlord, Residential Lease). 42 Pa.C.S.A. §§ 8127(A) et seq. Pa. R.C.P. Nos. 3301 et seq.

FORMS: Praecipe for Notice of Intent to Attach Wages (Form N-8F-1)
Notice of Intent to Attach Wages, Salary or Commission (Form N-8F-2)
Claim for Exemption From Wage Attachment (Form N-8F-3)
Notice of Claim of Exemption of Wages From Attachment (Form N-8F-4)
Writ of Attachment of Wages (Form N-8F-5)

INDEX: Attachment of Wages, Landlord and Tenant
Landlord and Tenant Wage Attachment
Wage Attachment

11. **PROTECTION FROM ABUSE**

Page R-1-1, amend paragraph 1.d. to read as follows:

d. When a protection order is granted under section 6017(a) (relating to hearings), other than pursuant to an agreement of the parties, a surcharge of \$100 shall be assessed against the defendant, and be distributed in the following order of priority:

- (1). \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police.
- (2). \$50 shall be retained by the county and distributed as follows:
 - (a). \$25 shall be used by the sheriff.
 - (b). \$25 shall be used by the court.
- (3). \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Department of Public Welfare.

Page R-1-2, amend RETENTION and DISPOSITION SCHEDULE as follows:

In County Records Manual, refer to:

- a. Chapter 2 -- Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #20, Protection from Abuse Papers

12. PROTECTION FROM ABUSE

Page R-4-1, amend paragraph 1.b. to read as follows:

- b. At time of disposition, the court may assess a fine which shall be distributed in the following order of priority:
 - (1). \$100 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police.
 - (2). \$100 shall be retained by the county and distributed as follows:
 - (a). \$50 shall be used by the sheriff.
 - (b). \$50 shall be used by the court.
 - (3). \$100 shall be forwarded to the Commonwealth and shall be appropriated to the Department of Public Welfare.
 - (4). Any additional money shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police.

Page R-4-2, amend RETENTION and DISPOSITION SCHEDULE as follows:

In County Records Manual, refer to:

- a. Chapter 2 -- Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #20, Protection from Abuse Papers

13. CHILD CUSTODY AND VISITATION

Page S-2-1, amend paragraph 2. to read as follows:

- 2. Procedures (42 Pa.C.S.A. § 5445)
 - a. Upon receipt of a certified copy of the child custody determination and sufficient copies for service together with envelopes and adequate postage (certified mail) for service, Prothonotary shall collect appropriate foreign judgment filing fee and assign a court of common pleas number.
 - b. Prothonotary shall forward copies by certified mail and note same in docket. If returned, time stamp envelope and make notation in docket.
 - c. If not contested within twenty (20) days, or service not effectuated, forward original filing to Court for confirmation of registration. Service of confirmation shall be in accordance with local procedure.
 - d. Documents shall be given a court of common pleas number, may be indexed in a separate OUT-OF-STATE CHILD CUSTODY REGISTRY index, and filed in the same manner as local child custody actions.
 - (NOTE: Enter child's 18th birthday on document for retention purposes.)

FORM: Registration of Child Custody Determination and Important Notice
(Form S-2F-1)

INDEX: Child Custody, Out-of-State Determination
Custody, Out-of-State Registration
Out-of-State Custody Decree
Registration, Out-of-State Custody Decrees
Registry of Out-of-State Custody Decree

14. DIVORCE/ANNULMENT

Page T-1-6, amend paragraphs 17.a. & 17.b. by substituting "Prothonotary" for "Clerk of the Court".

15. FISCAL

Page X-1-1, amend paragraph 1.d. to read as follows:

d. Returns (72 P.S. § 901). On the fifth day of each month, or at such times and with such frequency as may be prescribed by the Secretary of Revenue,
(Note: The mailing envelope containing the report must be postmarked no later than the due date.)

Page X-1-4, amend paragraph 2.c.(2).(d). to read as follows:

(d). Unclaimed Property (Escheats), 72 P.S. §§ 1301.1 et seq. Any money held and unaccountable or unclaimed shall be reported and forwarded after five years to the Pennsylvania Treasury Department, Bureau of Unclaimed Property, on their form. The report is to be filed no later than April 15 if property or monies are held.
(See www.pa.treasury.org for additional reporting information and on line reporting.)

Page X-1-4, amend paragraphs 2.c.(2).(e). to read as follows:

(e). PFA Surcharge \$100.00 (23 Pa.C.S.A. § 6106(d)).....

Page X-1-4, amend paragraphs 2.c.(3).(a). & (b). to read as follows:

(a). Criminal Charge Information System Fee of \$6.50.....
(b). Eighty percent (\$5.20) of the fee is to be transmitted to.....

16. INDEX

Revised

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1. TABLE OF CONTENTS.

Revised -- Pages iii, iv, v, vi, xii, xxii

2. GENERAL PROVISIONS.

Page B-1-3, CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE

Amend fee amount to \$6.00

Page B-1-11, STIPULATIONS AGAINST LIENS, amend wording by including second sentence as follows:

For electronic indexing, see 49 Pa.C.S.A. § 1402(b)

REFERENCE: Substitute Act 2004-96 (HB 237, PN 266) as new reference B-1R-10

INDEX: Stipulations Against Liens, Electronic Indexing
Electronic Indexing (see Stipulations Against Liens)

3. CIVIL ACTION -- M.D.J. APPEALS

Section E-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT:

Change title on Page E-1 to read as follows:

Appeal from a Magisterial District Judge Judgment

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

INDEX: Magisterial District Judge Judgment

4. **CIVIL ACTION.**

Section E-2, WRIT OF CERTIORARI TO DISTRICT JUSTICE:

Change title on Page E-2, to read as follows:

Writ of Certiorari to Magisterial District Judge

FORM: Substitute revised Praecipe for Termination of Supersedeas (E-2F-1)

5. **CIVIL ACTION.**

Section E-3, STATEMENT OF OBJECTION TO RULE 420 ORDERS AND DETERMINATIONS OF DISTRICT JUSTICE:

Change title on Page E-3, to read as follows:

Statement of Objection to Rule 420 Orders and Determinations of Magisterial District Judge

6. **CIVIL ACTION -- M.D.J. APPEALS**

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING:

Change title on Page E-1 to read as follows:

Appeal from a Magisterial District Judge Decision on a Landlord and Tenant Proceeding

REFERENCE: Substitute revised Deadline Schedule (E-9R-2)

7. **CIVIL ACTION**

NEW SECTION E-14, MEDICAL PROFESSIONAL LIABILITY ACTION (Pa.R.C.P. No. 1904)

INDEX: Medical Professional Liability Action

8. **ARBITRATION**

Page G-1-3, COMPULSORY ARBITRATION, add the following:

Retention & Disposition Schedule

9. COMMONWEALTH / LOCAL AGENCY APPEALS

Page K-3-1, APPEALS FROM GOVERNMENT AGENCIES, add new paragraph to 1.c. as follows:

(1). Upon receipt of an appeal from a municipal zoning decision, the Prothonotary shall serve a notice of the municipality to forward the record to the Prothonotary for filing with the Court of Common Pleas

INDEX: Appeal from zoning decision
Municipal zoning appeal
Zoning Appeal

10. JUDGMENTS

Page M-2-2, JUDGMENT BY DEFAULT, add new paragraph 1.b. after Note to read as follows:

(3). In Medical Professional Liability Actions, see Chapter E-14.

Page M-2-6, amend Retention & Disposition Schedule

INDEX: Judgment, Medical Professional Liability Actions

11. LIENS

Section N-1, DISTRICT JUSTICE JUDGMENT LIEN:

Change title on Page N-1, to read as follows:

Magisterial District Judge Judgment Lien

12. PROTHONOTARY AS A PASSPORT AGENT

REFERENCE: Substitute revised Passport Fees Schedule (V-1R-1)

13. FISCAL

Page X-1-4, FOR THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, amend Criminal Charge Information System Fee in paragraph 2.c.(3).(a). to:

\$6.00

Page X-1-4, FOR THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, amend Criminal Charge Information System Fee in paragraph 2.c.(3).(b). to:

\$4.80

14. MISCELLANEOUS

Page Y-3-2, CHANGE OF NAME, add new paragraph 3. as follows:

3. SURVIVING SPOUSE MAY RESUME PRIOR NAME

a. A surviving spouse may, at any time, resume any prior surname used by him or her by filing a written notice to such effect in the office of the Prothonotary of the common pleas court of the county where the surviving spouse resides, accompanied by a certificate of death for the decedent.

(1). The person applying for the change of name is responsible for filing costs.

FORM: Notice to Resume Prior Surname (Y-3F-1)

INDEX: Resumption of Prior Surname, Surviving Spouse (see Change of Name)

(Note: Committee members agreed that the Notice form does not require a notarized statement since it is accompanied by an official Certificate of Death.)

15. MISCELLANEOUS

NEW SECTION Y-4, ESTABLISHMENT OF A NEW LIQUOR STORE LOCATION

INDEX: Certification to Pennsylvania Liquor Control Board
Objections to Liquor Store Location
Pennsylvania Liquor Control Board

16. INDEX

Revised

PROCEDURES MANUAL 2004 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

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1. TABLE OF CONTENTS.

Revised -- Pages iv, v, vi, vii, xv

2. D.J. APPEALS.

Section E-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT:

Change title on Page E-1R to read as follows:

DEADLINE SCHEDULE BY DATE -- 30-DAY DEADLINE

Page E-1R, add following note:

(Note: May be referenced for any 30-day appeal deadline)

Page E-1-3 & Table of Contents: add above Note to the schedule reference

FORM: E-1F-1 amended to correspond to Pa.R.C.P. No. 237.4.

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

INDEX: Appeal Deadline (30-day)

3. CIVIL ACTION -- LAW

FORM: new Praeipce for Appearance forms (E-4F-3 and E-4F-4).

INDEX: Appearance, Praeipce for Entry of
Praeipce for Entry of Appearance
Substitution of Counsel (Praeipce for Entry of Appearance)
Withdrawal of Appearance

4. **D.J. APPEALS**

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING:

FORM: E-9F-1 amended to correspond to Pa.R.C.P. No. 237.4

REFERENCE: Substitute revised Deadline Schedule (E-9R-2)

5. **CONSOLIDATION OF ACTION IN EQUITY WITH CIVIL ACTION -- LAW**

Chapter I-1 and I-2 combined into new Section E-12.

Chapter I-3 changed into new Section E-13.

Rule Titles and Numbers retained and indicated as rescinded.

Remaining Rules amended

REFERENCES: Transferred to new Sections and renumbered

INDEX: Chapter title and pages revised

TABLE OF CONTENTS: Transferred to Chapter E category

6. **APPELLATE COURTS**

Page L-1-2, amend paragraph 6.a.(4). to read as follows:

(4). Table of list of documents/index

(a). At the time of transmitting the record to the appellate court, Prothonotary shall mail a copy of the list/index of record documents to all counsel of record, or to the parties at the address they have provided if unrepresented by counsel. Prothonotary shall note on the docket when such notice was mailed.

INDEX: List of record documents/index

7. **JUDGMENTS -- BY DEFAULT**

FORM: M-2F-2 and M-2F-3 amended to correspond to Pa.R.C.P. No. 205.1

M-2F-4 amended to correspond to Pa.R.C.P. No. 237.5.

8. **JUDGMENTS -- NON PROS**

FORM: M-3F-2 amended to correspond to Pa.R.C.P. No. 237.4.

9. **LIENS -- JUDGMENTS**

Page N-2-3, update Retention and Disposition Schedule wording to read as follows:

RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 - Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.
 - (b). #13, Judgments and Liens

10. **ENFORCEMENT ACTIONS – MONEY JUDGMENTS**

FORM: Q-1F-5 amended to correspond to Pa.R.C.P. No. 4009.33.

FORM: new Praecept for Writ of Execution -- Money Judgment form (Q-1F-6)

INDEX: Praecept for Writ of Execution -- Money Judgment

11. **ENFORCEMENT ACTIONS -- BY CONFESSION**

FORM: Q-6F-1 amended to correspond to Pa.R.C.P. No. 2963.

12. **PROTECTION FROM ABUSE**

Page R-3-1, amend paragraph 4. to read as follows:

- 4. Collect registration fee applicable to the local fee bill. No fee shall be collected from the plaintiff but shall be assessed against the defendant.

Page R-3-1, update Retention and Disposition Schedule wording to read as follows:

RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 -- Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #20, Protection from Abuse

13. **INDEX**

Revised

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Administrative Office of Pennsylvania Courts

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1. TABLE OF CONTENTS.

Revised -- Pages xi/xii, xix/xx, xxi/xxii

2. ACT 2002-122, JUDICIAL COMPUTER SYSTEM NEW FILING FEE

Page B-1-8, change paragraph to read as follows:

JUDICIAL COMPUTER SYSTEM AUGMENTATION ACCOUNT (42 Pa.C.S.A. § 3733(a)(1))
(Act 2002-122)

1. The Prothonotary shall collect the \$10.00 surcharge on all initial civil actions or legal proceedings filed as outlined in the AOPC regulations memo dated October 29, 2002.

INDEX: Change to new title

3. FEE SCHEDULE

Page B-1-8, eliminate paragraph #2 completely.

4. NEW RULE 230.2 AND AMENDMENT OF RULE 1901 GOVERNING TERMINATION OF INACTIVE CASES.

Page B-1-11, amend paragraph to read as follows:

TERMINATION OF INACTIVE CASES. (Pa.R.C.P. No. 230.2 and Pa. R.J.A. No. 1901)

This rule provides an administrative method for the termination of inactive cases. Each Court of Common Pleas may make local rules of court for such a purpose. The court is responsible for serving notice on counsel or unrepresented parties. A Notice form is provided in the rule and shall contain the date of the proposed termination. Parties shall have 60 days to respond to the notice. Unserved notices must be advertised in the legal journal for the county or a newspaper of general circulation if there is no journal. It is the Prothonotary's responsibility to obtain an address for an attorney when the notice is returned by checking a legal directory or

contacting the AOPC. If parties fail to file a Statement of Intention to Proceed (form provided in the rule), the Prothonotary shall terminate the case with prejudice for failure to prosecute. Remedy for termination is by filing a petition to the court to reinstate the action.

5. D.J. APPEALS.

Section E-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT:

REFERENCE: Substitute revised Deadline Schedule (E-1R-1).

6. Act 2002-172

Page E-4-2, add new paragraph 3.d. to read as follows:

d. Restoration of Firearm Rights for Offenses Under Prior Laws of this Commonwealth (18 P.S. § 6105.1)

(1). If the court grants restoration of firearms rights to an applicant, a copy of the order shall be sent by the Prothonotary within ten days of the entry of the order to the district attorney and the Pennsylvania State Police, Firearms Division, and shall include the name, date of birth and Social Security number of the applicant.

Renumber remaining paragraphs

INDEX: Firearm Rights

7. D.J. APPEALS.

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING:

REFERENCE: Substitute revised Deadline Schedule (E-9R-2).

8. PROFESSIONAL LIABILITY ACTIONS

Page M-3-2, add new paragraph I. to read as follows:

I. Entry of Judgment of Non Pros for Failure to File Certification (Professional Liability Actions) (Pa.R.C.P. No. 1042.6) The Prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a certificate of merit within the required time provided that there is no pending timely filed motion seeking to extend the time to file the certificate. The certificate of merit and praecipe for entry of judgment non pros shall be substantially in the forms provided by the rules.

(NOTE: The Prothonotary may not enter judgment if the certificate of merit has been filed prior to the filing of the praecipe. Rule 237.1 does not apply to a judgment of non pros entered under this rule.)

INDEX: Judgment of Non Pros (Professional Liability Actions)

9. APOSTILLE

Page M-8-2, change NOTE to read as follows:

(NOTE: A recent opinion has stated that an exemplification form wherein the judge certifies the Prothonotary is the Prothonotary and the Prothonotary certifies the Judge is the Judge is not necessary for the above, but upon request may be issued. If an Apostille is requested, refer party to PA Department of State as noted in document reference M-8R-1.)

Eliminate Form M-8F-1 from Chapter, Forms section, and Index.

REFERENCE: PA Department of State letter and FAQs sheet (new reference M-8R-1; eliminate Opinion of Solicitor Robert Weinert, Esq.)

10. ACT 2002-215

Page N-1-1, amend paragraph 8. to read as follows:

8. For wage attachments allowable to a Judgment Creditor-Landlord, see 42 Pa.C.S.A. §§ 8127(A) et seq.

Page N-1-2, amend paragraph 10. to read as follows:

10. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 - Prothonotary/Clerk of Civil Division
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-7, Civil Papers/Files.
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title to Real Estate.

11. ACT 2002-151, NOTARY PUBLIC LAW AMENDMENTS

Page P-1-5, amend paragraph e.(1) to add the following to the end of the paragraph:

(1)..... A county may permit notaries to register their electronic signatures.

Page P-1-5, amend paragraph 3. to read as follows:

3. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-17, Notary Registers

12. AMENDMENT TO RULE 2355 -- NOTICE OF DEATH OF A PARTY; SUBSTITUTION OF PERSONAL REPRESENTATIVE.

Page U-9-4, add new paragraph 4. to read as follows:

4. NOTICE OF DEATH OF A PARTY. SUBSTITUTION OF PERSONAL REPRESENTATIVE (Pa.R.C.P. No. 2355). If a named party dies after the commencement of an action, the attorney of record for the deceased party shall file a notice of death with the Prothonotary. The procedure to substitute the personal representative of the deceased party shall be in accordance with Rule 2352.

Renumber remaining paragraphs

INDEX: Notice of Death of a Party

13. CHANGE IN PASSPORT FEES EFFECTIVE 8/19/02

Page V-1-1, amend paragraph 3. to read as follows:

3. The fees to be collected for passports are set by Congress; and therefore, subject to change.

Page V-1-2, amend paragraph 7. to read as follows:

7. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

- a. Section 2 - Prothonotary/Clerk of Civil Division
 - (1). PY-20, Passport Application Transmittals

REFERENCE: Substitute new fee schedule (V-1R-1)

14. F.D.I.C. INSURANCE LIMIT ON DEPOSITED ESCROW MONIES.

Page X-1-1, add new paragraph 1.a. to read as follows:

a. The Prothonotary as an agent of the Court of Common Pleas may be ordered in a case to accept and receive monies to be placed in an escrow account – either a general savings account or an interest-bearing account for a specific case. For an interest-bearing account, a W-9 form must be completed and filed with the financial institution. If the monies exceed \$100,000, which is the maximum insured by FDIC, a court order is strongly recommended to be filed allowing the Prothonotary to place the full amount in one financial institution. The financial institution shall provide the Prothonotary with a letter stating how the excess funds (over \$100,000) are protected and what collateral is designated for this purpose. (See 42 Pa.C.S.A § 3561 and Pa.R.A.P. No. 1734.)

Renumber remaining paragraphs under General Notes section

INDEX: Escrow of Monies
F.D.I.C. Insurance

15. ACT 2002-122, JUDICIAL COMPUTER SYSTEM NEW FILING FEE

Page X-1-3, change paragraph c.(2)(c) to read as follows:

(c). Judicial Computer System Augmentation Account \$10.00 Surcharge (42 Pa.C.S.A. § 3733(a)(1) as amended) on all initial civil actions or legal proceedings filed on or after June 29, 1990. For further clarification, contact AOPC, (717) 795-2000, ext. 2007. Submit monthly to the PA Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX), line 7, pursuant to their instructions. There is no collection commission.

INDEX: Change to new title

FORM: Substitute new Revenue Monthly Report form (X-1F-1)

16. ABANDONED AND UNCLAIMED PROPERTY REPORT FROM STATE TREASURER'S OFFICE.

Page X-1-3, change to read as follows:

(d). Unclaimed Property (Escheats), 72 P.S. §§ 1301.1 et seq. Any money, held and unaccountable or unclaimed shall be reported and forwarded after five years to the Pennsylvania Treasury Department, Bureau of Unclaimed Property, on their form. The report is to be filed no later than April 15, whether or not property or monies are held. (See www.pa.treasury.org for additional reporting information.)

INDEX: Unclaimed Property

FORMS: Substitute revised (08/02) form (X-1F-2)

17. INDEX.

Revised -- Pages 5/6, 7/8, 13/14, 15/16, 19/20

PROCEDURES MANUAL 2002 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

(NOTE: The County Records Manual has been revised as of February, 2002. New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to new County Records Manual.)

1. TABLE OF CONTENTS.

Revised

2. COUNTY RECORDS IMPROVEMENT FUND.

Page B-1-5, GENERAL PROVISIONS, add information from Act 2002-32

3. UCC.

Page B-1-6, GENERAL PROVISIONS, amend NOTE to read as follows:

(NOTE: Rule 205.4 is intended as a further step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents.)

Page B-1-11, GENERAL PROVISIONS:

Eliminate all UCC paragraphs

4. IN FORMA PAUPERIS.

Page D-1-1, amend subparagraph d. to read as follows:

d. If the party is represented by an attorney, the Prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs.

(NOTE: This amended Rule eliminates the necessity of filing the Affidavit from the client.)

5. D.J. APPEALS.

Section E-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT:

Substitute revised Deadline Schedule as reference (E-1R-1).

6. D.J. APPEALS.

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING:

Substitute revised Deadline Schedule as reference (E-9R-2).

7. ASSURANCE OF VOLUNTARY COMPLIANCE ORDER

New Section I-3, VOLUNTARY COMPLIANCE AGREEMENT

REFERENCE:

Voluntary Compliance Agreement.

INDEX:

Voluntary Compliance Agreement
Equity -- Voluntary Compliance Agreement
Consumer Protection Law

8. REVOCAION OF CERTIFICATE OF RELEASE OF FEDERAL TAX LIEN.

Page N-5-2, FEDERAL TAX LIENS, add new paragraph #7 as follows:

7. A Revocation of Certificate of Release of Federal Tax Lien may be filed if a release of lien is revoked and lien is reinstated pursuant to Internal Revenue Code § 6325(f)(2).

Page N-5-2, FEDERAL TAX LIENS, renumber and amend previous paragraph #7 as follows:

8. Bill the IRS on a monthly basis for new filings, refilings, released, withdrawals, and revocations.

Renumber remaining paragraphs

Page N-5-2, FEDERAL TAX LIENS, amend RETENTION AND DISPOSITION SCHEDULE as follows:

- a. Section 2 -- Prothonotary/Clerk of Civil Division
- (1). PY-6, Civil Dockets, Books and Indices
 - (2). PY-7, Civil Papers/Files
 - (a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.
 - (b). #13, Judgment and Lien Papers.

9. UCC.

Chapter O, UNIFORM COMMERCIAL CODE:

Renumber pages O-1.1 through O-1.3 dated 06/01

Amend title to **ACT 2001-18** in place of Senate Bill number

Page O-1-2, add the following to end of subparagraph (d):

The fees in effect as of June 30, 2001, are as follows:

- (1) Search, per debtor name -- \$59
- (2) Each page of photocopy furnished -- \$2
- (3) Certifying copies of any document or paper on file -- \$28

Full fees remain with county.

Page O-1-3, transfer RETENTION AND DISPOSITION SCHEDULE to this page and amend as follows:

- a. Section 2 - Prothonotary/Clerk of Civil Division:
 - (1). PY-6, Civil Dockets, Books and Indices.
 - (2). PY-13, Financing Statements and Change Forms.

Page O-1-3, transfer and renumber Form #O-1F-3 to this page

Eliminate other forms from this chapter and also from FORMS chapter

Eliminate remaining pages and references from chapter.

10. ACT 2001 – 82, AMENDMENT OF VITAL STATISTICS LAW.

Page T-1-3, DIVORCE/ANNULMENT, amend paragraph #9 to read as follows:

VITAL STATISTICS LAW

a. Vital Statistics Record of Divorce or Annulment (Form H 105.157) required by the Commonwealth of Pennsylvania, Department of Health, Vital Statistics Division, shall be given to the Prothonotary with the Praeceptum to Transmit Record or Motion for Appointment of Master (Pa.R.C.P. No. 1920.46(a)).

b. Act 2001-82 replaced the requirement of sending individual transcripts with the requirement of a statistical summary of divorces and annulments.

Page T-1-6, amend RETENTION AND DISPOSITION SCHEDULE to read as follows:

- a. (1). PY-6, Civil Dockets, Books and Indices
- (2). PY-7, Civil Papers/Files.
 - (a). #6, Divorce and Annulment Papers.

FORM:

Summary Counts of Marriage and Divorce Occurrences Monthly Report to PA
Department of Health

INDEX: Correct page number

11. UCC.

Page X-1-3, PROTHONOTARIES' ACCOUNTING AND AGENT RESPONSIBILITIES:

Eliminate entire subparagraph (d)

12. ABANDONED AND UNCLAIMED PROPERTY REPORT FROM STATE
TREASURER'S OFFICE.

Chapter X, PROTHONOTARIES' ACCOUNTING AND AGENT RESPONSIBILITIES:

FORMS: Substitute revised (08/01) form (X-1F-2)

13. GLOSSARY.

Revised

14. INDEX.

Revised

PROCEDURES MANUAL 2001 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS).

Revised

2. (TRANSFER FROM STATE COURT TO FEDERAL COURT)

Page B-1-7, **GENERAL PROVISIONS:** Add new paragraph to read as follows:

FEDERAL DISTRICT COURT

NOTICE OF REMOVAL (U.S.C.A. 28 §§ 1446(a) and (d))

a. A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant(s) in such action.

b. Promptly after the filing of such notice of removal of a civil action the defendant(s) shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such state court, which shall effect the removal and the state court shall proceed no further unless and until the case is remanded.

INDEX: Notice of Removal to Federal District Court

3. (D.J. APPEALS).

Section E-1, **APPEAL FROM A DISTRICT JUSTICE JUDGMENT:** Substitute revised Deadline Schedule as reference (E-1R-1).

4. (MINOR COURT CIVIL RULES -- REQUESTS FOR ORDER OF EXECUTION and ENTRY OF JUDGMENT IN COURT OF COMMON PLEAS)

Page E-1-1, **APPEAL FROM A DISTRICT JUSTICE JUDGMENT:** Amend paragraph #2 to read as follows:

2. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of entry of judgment without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002)

Page E-1-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT: Add new subsection 7.b. to paragraph #7 to read as follows:

7. b. The amendment to the Note clarifies that in a case where there is a complaint and cross complaint, an appeal of judgment from either one is not an appeal of judgments from both. Rather, in order to preserve all issues, an appeal must be taken from both the judgment for the complaint and the judgment for the cross complaint.

5. **(Act 2000 – 1 (STRUCTURED SETTLEMENT PROTECTION ACT))**

Page E-4-2, CIVIL ACTION-LAW: Add new subsection to paragraph #3 to read as follows:

3. c. Structured Settlement Protection Act (40 P.S. §§ 4001 et seq.)

Change present paragraph 3.c. to paragraph 3.d.

GLOSSARY:

Structured Settlement

An arrangement for periodic payment of damages established by settlement, judgment or decree in resolution of a settled claim.

INDEX: Structured Settlement
Structured Settlement Protection Act.

6. **(D.J. APPEALS).**

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING: Substitute revised Deadline Schedule as reference (E-9R-2).

7. **(MINOR COURT CIVIL RULES -- REQUESTS FOR ORDER OF EXECUTION and ENTRY OF JUDGMENT IN COURT OF COMMON PLEAS)**

Page E-9-1, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING: Amend paragraphs #2.a. and #2.b. to read as follows:

2. a. Nonresidential Lease – more than thirty (30) days after the date of entry of judgment for money, or judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002(a))

b. Residential Lease – more than ten (10) days after the date of entry of judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P.D.J. No. 1002(b))

8. (FORFEITURE (42 Pa.C.S.A. §§ 6801, 6802))

New Section E-11, CONTROLLED SUBSTANCE FORFEITURE ACT

REFERENCES:

Commonwealth v. One (1) Z-28 Camaro Coupe, 610 A.2d 36 (Pa.1992)
(E-11R-1)

Commonwealth v. One Thousand Four Hundred Dollars (\$1,400) in United States Currency, 667 A.2d 452 (Pa.Cmwth. 1995) (E-11R-2)

INDEX: Controlled Substance Forfeiture Act

9. (COMPULSORY ARBITRATION APPEAL)

Page G-1-2, COMPULSORY ARBITRATION: Eliminate paragraph #4.b. and add new paragraph to read as follows:

4. b. The appeal is to be filed not later than thirty (30) days after the day on which the prothonotary makes the notation on the docket that notice of entry of the arbitration award has been provided as required by Pa.R.C.P. No. 1307(a)(3). (Prothonotary not to determine this period.)

10. (ENFORCEMENT OF SUPPORT ORDER)

Page M-5-1, JUDGMENT FOR SUPPORT ARREARAGES: Eliminate paragraph #1.b.(1) and add new paragraph to read as follows:

(NOTE: Lien information is available on the Internet at website address: pachildsupport.com or by calling 1-877-676-9580.)

Amend Rule number in paragraph #2 to: Pa.R.C.P. No. 1910.24

Page M-5-2, JUDGMENT FOR SUPPORT ARREARAGES: Add new paragraph #2.f. to read as follows:

2. f. A petition to correct the judgment shall be limited to the following grounds:
- (1) no overdue support exists under the support order of
 - (2) there is a mistake in the amount of overdue support.

The filing of a petition to correct a judgment shall not stay the proceedings.

Change present paragraph 2.f. to paragraph 2.g.

Amend Rule number in new paragraph 2.g. to: Rule Pa.R.C.P. No. 1910.21

11. (MINOR COURT CIVIL RULES -- REQUESTS FOR ORDER OF EXECUTION and ENTRY OF JUDGMENT IN COURT OF COMMON PLEAS)

Page N-1-1, DISTRICT JUSTICE JUDGMENT LIEN: Add new Note to paragraph #1 to read as follows:

(NOTE: The judgment may not be entered in the court of common pleas after five (5) years from the date the judgment is entered by the district justice.)

12. (REFILING OF FEDERAL TAX LIENS)

Page N-5-1, FEDERAL TAX LIENS: Add subsection to paragraph #5 to read as follows:

5. a. A Notice of Refiling is for a specific tax year. There may be multiple notices of refiling on a party or parties from the time of the filing of the original lien.

Page N-5-1, FEDERAL TAX LIENS: Add subsection to paragraph #6 to read as follows:

6. a. It is IMPORTANT to note, a release or withdrawal may be filed for a specific refiling without affecting the entire lien.

INDEX: Federal Tax Liens, Notice of Refiling

13. (SENATE BILL 330)

Explanatory Page (O-1) explains this bill in event it is signed into law & becomes effective July 1, 2001.

14. (NEW UCC FEES EFFECTIVE JANUARY 1, 2001).

Section O-1, SECURED TRANSACTIONS: Substitute revised fee summary as reference (O-1R-2).

15. (PROTECTION FROM ABUSE)

Substitute revised PA State Police PFA Data Sheet, R-1F-1.

16. (RESUMPTION OF SURNAME FOR A PARTY IN A DIVORCE ACTION)

Page T-1-5, ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE: Amend paragraph #17 to read as follows:

17. a. General Rule – Any person who is a party in a divorce action may, at any time prior to or subsequent to the entry of the divorce decree, resume any prior surname used by him or her by filing a written notice to such effect in the office of the clerk of the court in which the divorce action was filed or the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

FORMS: Substitute revised forms, T-1F-2 and T-1F-3

17. **(NEW UCC FEES EFFECTIVE JANUARY 1, 2001).**

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES:

Substitute revised fee summary as reference (X-1R-1).

Substitute AOPC / Department of Revenue Memo of June 28, 2000, as revised reference (X-1R-2).

18. **(ABANDONED AND UNCLAIMED PROPERTY REPORT FROM STATE TREASURER'S OFFICE)**

Substitute revised forms, X-1F-2

19. **(GLOSSARY).**

Revised

20. **(INDEX).**

Revised

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS).

Revised

2. (AMOUNT OF OFFICIAL BONDS FOR OFFICEHOLDERS).

Page B-1-1, GENERAL PROVISIONS: Add new paragraph to read as follows:

BOND REQUIREMENTS FOR OFFICEHOLDERS and STAFF

1. Prothonotary shall give and acknowledge a bond to the county prior to taking oath of office. (16 P.S. § 420)

2. The bond shall be conditioned upon the faithful discharge by the Prothonotary and his/her staff. (16 P.S. § 421)

3. The bond shall be in the name of the county for the use of the county, the Commonwealth and such person(s) for whom money shall be collected or received. (16 P.S. § 422)

4. The bond shall be approved by the court of common pleas. (16 P.S. § 423)

5. The controller shall be the custodian of the bond and in the absence of a controller, the commissioners. (16 P.S. § 425)

(NOTE: If there is no controller in the county, the Prothonotary shall hold the bond for the commissioners and chief clerk.)

6. The bond shall be acknowledged before the Recorder of Deeds. (16 P.S. § 426)

(NOTE: The Recorder of Deeds shall acknowledge his/her bond before the Prothonotary.)

7. The amount of the county bond shall be set by the commissioners. (16 P.S. § 427)

(NOTE: The Commonwealth sets the amount for the bond required to be given the state.)

8. The staff handling monies shall give and acknowledge a single bond covering them payable to the Prothonotary. The salary board shall determine each position requiring a bond and shall designate the amount. (16 P.S. §§ 429 and 430)

(NOTE: Not all counties follow the above procedures for the county bond; the commissioners may arrange for a blanket bond to cover all officeholders and staff.)

INDEX: Bond Requirements for Officeholders and Staff
Officeholders and Staff, Bond Requirements
Staff and Officeholders, Bond Requirements

3. (ELECTRONIC FILING OF LEGAL PAPERS).

Page B-1-4, GENERAL PROVISIONS: Add new paragraph to read as follows:

ELECTRONIC FILING and SERVICE OF LEGAL PAPERS

Pa.R.C.P. Rule No. 205.4

(NOTE: Rule 205.4 is a temporary rule and is intended as a further step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents. A termination date of December 31, 2001 has been set for this rule.)

INDEX: Electronic Filing and Service

4. (RULE 102. NUMBER [GENDER] TENSE).

Page B-1-6, GENERAL PROVISIONS: Amend paragraph to read as follows:

NUMBER. TENSE.

The singular shall include the plural, and the plural, the singular. Words used in the past or present tense shall include the future.

INDEX: Eliminate "GENDER"

5. (CHAPTER B-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

6. (CHAPTER C-1 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

7. (TIMELINESS; NOTICE OF APPEAL; NOTICE OF JUDGMENT ; APPEAL NUNC PRO TUNC).

Page E-1-2, APPEAL FROM A DISTRICT JUSTICE JUDGMENT: Add following:

REFERENCE: McKeown v. Bailey, 731 A.2d 628 (Pa.Super. 1999) (E-1R-2)

8. (CHAPTER E-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

9. (D.J. APPEALS).

Section E-1, APPEAL FROM A DISTRICT JUSTICE JUDGMENT: Substitute revised Deadline Schedule as reference (E-1R-1).

10. (CHAPTER E-2 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

11. (DISPOSAL OF ABANDONED VEHICLES FROM PRIVATE PROPERTY).
(DENIAL OF CHARTER SCHOOL APPLICATION).

Page E-4-1, CIVIL ACTION - LAW: Add new paragraph #3 to read as follows and renumber remaining paragraphs:

3. Commenced by petition per statutory provisions.

a. Involuntary Transfer of Ownership of a Vehicle by Court Order (75 Pa.C.S.A. § 1116(b)).

b. Denial of Charter School Application (24 P.S. § 17-1717-A).

(1). The court shall hold a hearing only on the sufficiency of the petition.

(2). If the petition is sufficient, the court's decree shall be transmitted to the State Charter School Appeal Board.

(3). Notification of the decree shall be given to the applicant and the local board of directors.

c. Upon payment of filing fee, Prothonotary shall assign a court of common pleas number.

INDEX: Abandoned Vehicle
Involuntary Transfer of Ownership of Vehicle
Motor Vehicle, Abandoned
Title of Motor Vehicle, Involuntary Transfer
Transfer of Ownership of Vehicle, Involuntary

Charter School Application, Denial of
Denial of Charter School Application

REFERENCE: Department of Transportation, Bureau of Motor Vehicle, Fact Sheet (E-4R-2)

12. (CHAPTER E-4 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

13. (LANDLORD-TENANT COMMERCIAL LEASE APPEALS).

Page E-9-1, LANDLORD/TENANT APPEALS: Change paragraph #2 to read as follows:

2. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing

a. Nonresidential Lease - more than thirty (30) days after the date of judgment for money, or judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P. No. 1002(a))

b. Residential Lease - more than ten (10) days after the date of judgment for possession without leave of court and upon good cause shown. (Pa.R.C.P. No. 1002(b))

Page E-9-1, LANDLORD/TENANT APPEALS: Amend paragraph 4.a. by adding the following:

(NOTE: In the instance of a Landlord/Tenant Appeal on a nonresidential lease, where no rent is in arrears, no bond would be collected, but the supersedeas would be in effect and the rent would be due in thirty (30) days. It is strongly suggested that the Prothonotary make a notation on the appeal form that no bond was filed.)

INDEX: Bond, Landlord/Tenant Nonresidential Lease Appeal

14. (CHAPTER E-9 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

15. (D.J. APPEALS).

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING: Substitute revised Deadline Schedule as reference (E-9R-2).

16. (CHAPTER E-10 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

17. (REPLEVIN).

Page F-1-1, ACTION IN REPLEVIN: Amend paragraphs c. and d. to read as follows:

c. 1075:1. SEIZURE OF PROPERTY BEFORE JUDGMENT. Generally. The property may be seized by the sheriff before judgment pursuant to a writ of seizure and the issuance of such writ only upon a court order entered upon notice and hearing.... Prejudgment seizure of property will be of value to the plaintiff if he/she becomes suspicious that the defendant intends to dispose of the property, and is not certain of the financial ability of the defendant to pay a judgment for the value of the goods.

d. 1075.1(a):1 MOTION FOR WRIT OF SEIZURE. After the plaintiff files a complaint, the plaintiff may move for a writ of seizure, whether or not the complaint has been served.

18. (CHAPTER F-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

19. (CHAPTER F-2 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

20. (CHAPTER K-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

21. (CHAPTER K-2 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

22. (CHAPTER L-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

23. (AMENDMENT OF ENTRY OF JUDGMENT UPON PRAECIPE OF A PARTY).

Page M-2-2, JUDGMENT BY DEFAULT: Amend paragraph b. to read as follows:

b. ENTRY OF JUDGMENT UPON PRAECIPE OF A PARTY (Pa.R.C.P. Rule No. 227.4). This rule provides for the entry of judgment upon praecipe of a party

(1).following trial when no timely post-trial motions are filed, or the court does not enter an order disposing of all post-trial motions within 120 days after the filing of the first motion,

(2).when the court grants or denies relief but does not enter judgment or order the Prothonotary to do so.

(NOTE: If a motion for delay damages has been filed, judgment may not be entered until that motion is decided or otherwise resolved. See Pa.R.C.P. Rule No. 238(c)(3)(i))

INDEX: Judgment, Post-Trial Motions
Post-Trial Motions

24. (COMPELLING COMMENCEMENT OF ACTION. JUDGMENT BY DEFAULT).

Page M-2-2, JUDGMENT BY DEFAULT: Amend paragraph d. to read as follows:

d. COMPELLING COMMENCEMENT OF ACTION. JUDGMENT UPON DEFAULT. (Mechanics Lien Action) (Pa.R.C.P. Rule No. 1659).....

Page M-3-1, JUDGMENT OF NON PROS: Add new paragraph h. to read as follows and renumber remaining paragraphs:

h. COMPELLING COMMENCEMENT OF ACTION. JUDGMENT UPON DEFAULT. (Mechanics Lien Action) (Pa.R.C.P. Rule No. 1659). If a claimant has filed a claim and does not file a complaint, the Prothonotary, upon praecipe of an owner, shall enter a rule as of course upon the claimant to file a complaint within twenty (20)

days after service of the rule, or be forever barred from so doing. If the claimant fails to do so, the Prothonotary, upon praecipe of the owner and proof of service, shall enter judgment for the defendant.

25. (CHAPTER M-2 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

26. (CHAPTER M-3 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

27. (CHAPTER M-6 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

28. (CHAPTER M-9 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

29. (CONDOMINIUMS).

Page N-2-1, JUDGMENT LIENS - GENERAL NOTES: Add new paragraph #3 to read as follows and renumber remaining paragraphs:

3. 68 Pa.C.S.A. § 3315 (LIEN FOR CONDOMINIUM ASSESSMENTS):

a. The declaration is filed with the Recorder of Deeds, and constitutes the lien. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

INDEX: Assessment Liens, Condominiums
Condominium Assessment Liens
Liens, Condominium Assessment

30. (UNEMPLOYMENT COMPENSATION LIENS).

Page N-2-1, JUDGMENT LIENS - GENERAL NOTES: Add new paragraph #4 (before Federal Judgment) to read as follows and renumber remaining paragraphs:

4. 43 P.S. § 788.1 (UNEMPLOYMENT COMPENSATION LIENS):

a. A writ of execution may directly issue upon the lien WITHOUT the issuance and prosecution to judgment of a writ of scire facias. Not less than ten (10) days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered or certified mail to the employer at his/her last known post office address.

b. No Prothonotary shall require as a condition precedent to the entry of such liens the payment of the costs incident thereto.

(1). If fees not paid at time of filing, bill department.

c. The liens shall continue for five (5) years from date of entry and may be revived.

INDEX: Liens, Unemployment Compensation
Unemployment Compensation Liens

31. (CIVIL REMEDIES FOR SATISFACTION OF AN UNPAID FINE).

Page N-2-1, JUDGMENT LIENS - GENERAL NOTES: Add as subsection of renumbered paragraph #5 (Federal Judgment as Liens) to read as follows:

5. 42 Pa.C.S.A. § 4305 (FEDERAL JUDGMENTS AS LIENS): A judgment of a U.S. Court in the Commonwealth becomes a lien when a certified transcript of the same is filed with the Clerk of Courts (Prothonotary) in the county where the property is located.

a. 18 U.S.C.S. § 3613. Civil Remedies for Satisfaction of an Unpaid Fine.

(1). A judgment imposing a fine may be enforced in accordance with the practice and procedures for the enforcement of a civil judgment.

(2). The liability to pay a fine shall terminate the later of twenty (20) years from the entry of judgment or twenty (20) years after the release from imprisonment of the person fined, or upon the death of the individual fined.

INDEX: Civil Remedies for Satisfaction of Unpaid Fine
Enforcement of Judgment for Federal Liens for Unpaid
Fine
Federal Liens, Unpaid Fine
Unpaid Fine, Federal Liens

32. (CERTIFICATE OF NONATTACHMENT OF FEDERAL TAX LIEN).

Page N-5-1, FEDERAL TAX LIENS: Add new paragraph #4 and amend new paragraph #5 to read as follows and renumber remaining paragraphs:

4. A certificate of Nonattachment may be issued to reconcile the identity of the party and/or to release attachment on a property. (28 U.S.C.S. § 6325(e))

5. If a refiling notice or a certificate of release, nonattachment, discharge or subordination of any lien is presented for filing, the Prothonotary shall permanently attach the refiled notice or the certificate to the original notice of lien. Enter same with the date of filing in the Federal Tax Lien Index/Docket and the General Judgment Index on the line where the original notice of lien is entered. If not possible to enter on same line, a cross reference shall be noted on the original entries.

INDEX: Certificate of Nonattachment
Federal Tax Lien, Certificate of Nonattachment
Lien, Federal Certificate of Nonattachment

33. (NEW UCC FEES EFFECTIVE JANUARY 1, 2000).

Section O-1, SECURED TRANSACTIONS: Substitute revised fee summary as reference (O-1R-2).

34. (CHAPTER P-1 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

35. (CHAPTER Q-1 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

36. (CHAPTER Q-3 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

37. (CHAPTER Q-4 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

38. (CHAPTER Q-6 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

39. (VOLUNTARY MEDIATION IN DIVORCE AND CUSTODY ACTIONS).

Page S-1-1, CHILD CUSTODY: Add as reference, new paragraph #2(e) to read as follows and renumber remaining paragraphs:

2. e. Voluntary Mediation in Custody Actions, Pa.R.C.P. No. 1940.1 et seq.

INDEX: Voluntary Mediation in Custody Actions

40. (CHAPTER T-1 FORMS).

Revised to correspond to technical amendments as regards "Gender" and "Date".

41. (CHAPTER U-6 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

42. (CHAPTER W-1 FORM).

Revised to correspond to technical amendments as regards "Gender" and "Date".

43. (NEW UCC FEES EFFECTIVE JANUARY 1, 2000).

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES: Substitute revised fee summary as reference (X-1R-1).

Substitute AOPC / Department of Revenue Memo of July 12, 1999, as revised reference (X-1R-2).

44. (PROTECTION FROM ABUSE CHARGES).

Page X-1-3, PROTHONOTARIES' ACCOUNTING AND AGENT RESPONSIBILITIES: Amend paragraph 2.c.(2).(f) to read as follows:

(f). PFA Surcharge \$25.00 (23 Pa.C.S.A. § 6106(d)) and Indirect Criminal Contempt Fine (23 Pa.C.S.A. § 6114(b)).....

45. (FORMS).

All forms revised to correspond to technical amendments as regards "Gender" and "Date".

46. (GLOSSARY).

No change.

47. (INDEX).

Revised

(NOTE: All revised sections include revisions to correspond to technical amendment as regards "Gender".)

PROCEDURES MANUAL 1999 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS).

Revised

2. (FILING OF COPIES AND FOR SERVICE BY FACSIMILE TRANSMISSION).

Page B-1-1, **GENERAL PROVISIONS:** Amend title of first section to include new rule citation to read as follows:

ACCEPTING OR REFUSING FILING BY THE PROTHONOTARY (Pa.R.C.P. Nos. 205.2, 205.3, and 42 P.S. § 21073(b)).

Page B-1-1, **GENERAL PROVISIONS:** Amend first section by adding the following:

4. For filing pleadings and other legal papers with the Prothonotary, including limitations on facsimile filings, see Pa.R.C.P. No. 205.3 and Explanatory Comment.

GLOSSARY: Facsimile copy -- A copy of a document transmitted and received by facsimile equipment.

INDEX: Facsimile copy

3. (EXPUNGEMENT OF PFA CASES).

Page B-1-4, **GENERAL PROVISIONS:** Add new section as follows:

EXPUNGEMENT

PROCEDURE -- Upon receipt of petition, court order and the appropriate fee, the Prothonotary shall:

1. Obliterate all identifiers for defendant and plaintiff from all media including but not limited to paper, electronic, optical and microform (security and office copies).

2. Certify and serve copies of expungement order as directed by the court.

3. Place under seal or destroy case file as directed by the court.

4. Place petition, court order and affidavits of other agencies served, if any, under seal in accordance with local practice

INDEX: Expungement

4. (ACT 1998-164, PROTHONOTARY FEES (effective 1/21/99)).

Page B-1-4, FEE SCHEDULE: Amend paragraph 1 by adding the following:

1. a. Pursuant to Act 1998-164 (effective 1/21/99), the Prothonotary may increase any fee or charge that exists as of the effective date of this section with the approval of the President Judge. The amount of any increase may not be greater than the aggregate of the Consumer Price Index from the month in which the fee was last established through June, 1998.

b. The amount of any fee or charge may be increased every three years, provided that the amount of the increase may not be greater than the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three years preceding the last increase in the fee or charge.

c. In addition to any other fee, an automation fee of not more than \$5 may be charged and collected by the Prothonotary for the initiation of any action or legal proceeding. The automation fee shall be deposited into a special prothonotary automation fund established in each county. Moneys in the special fund shall be used solely for the purpose of automation and continued automation update of the office of the prothonotary.

REFERENCE: Opinion of Robert A. Weinert, Esq., Solicitor (B-1R-12)

INDEX: Automation Fee
Consumer Price Index

5. (DATE ORDER ENTERED - DATE FILED WITH PROTHONOTARY).

Page B-1-6, GENERAL PROVISIONS: Add new section as follows:

ORDERS

1. For an order to be effective, it must be "entered".

2. Date that an order is entered is the date that the order is filed with the prothonotary.

See NOTICE BY PROTHONOTARY OF ENTRY OF ORDER, DECREE, OR JUDGEMENT, Pa.R.C.P. No. 236.

INDEX: Orders
Entry of Orders

6. (PROHIBITED POLITICAL ACTIVITY BY COURT-APPOINTED EMPLOYEES).

Page B-1-6, GENERAL PROVISIONS: Add new section as follows:

POLITICAL ACTIVITY

The prohibition against political activity by court-appointed employees does not apply to Prothonotaries and their staff.

REFERENCE: Pennsylvania Supreme Court Guidelines, as amended 11/24/98 (B-1R-13)

INDEX: Political Activity

7. (SUBPOENA TO ATTEND AND TESTIFY).

Page C-1-1, SUBPOENA TO ATTEND AND TESTIFY: Amend paragraph 1.a.(3). by adding the following:

(NOTE: The twenty-day notice requirement of Rule 4009.21(a) is not applicable to a subpoena issued under Rule 234.1 in connection with a deposition.)

8. (D.J. APPEALS).

Section E-1, Appeal From a District Justice Judgment: Substitute revised Deadline Schedule as reference (E-1R-1).

9. (D.J. APPEALS).

Section E-9, Appeal From a District Justice Decision on a Landlord and Tenant Proceeding: Substitute revised Deadline Schedule as reference (E-9R-2).

10. (ACT 1998-127, DOMESTIC RELATIONS (effective 12/15/98)).

Page M-5-1, JUDGMENT FOR SUPPORT ARREARAGES: Amend paragraph 1.b. by adding new paragraph (1) as follows:

1. b. (1). Pursuant to 23 Pa.C.S.A. § 4352(D.1), the Domestic Relations Section shall provide to the Prothonotary of the county the identity of obligors and amount of overdue support to be used to make the information available to the public. The information shall be updated at least monthly and shall be provided by a paper list, diskette or by any other electronic means until the statewide system is implemented.

INDEX: Overdue support

11. (WORKMEN'S COMPENSATION AWARD).

SECTION M-12, WORKMEN'S COMPENSATION AWARD

New section added to Chapter M, Judgments

INDEX: Award, Workmen's Compensation
Judgment, Workmen's Compensation Award
Judgment in Default, Workmen's Compensation Award
Workmen's Compensation Award

12. MECHANICS LIEN

Section N-3: Include the following:

REFERENCE: 49 P.S. 1510. Discharge of lien on payment into court or entry of security (N-3R-1).

13. (ACT 1998-34, COMMERCIAL REAL ESTATE BROKER LIEN ACT (effective 5/19/98)).

SECTION N-7, COMMERCIAL REAL ESTATE BROKER LIEN (ACT 1998-34)

New section added to Chapter N, Liens.

REFERENCE: Act 1998-34 (N-7R-1)

INDEX: Commercial Real Estate Broker Lien
Lien, Commercial Real Estate Broker
Real Estate Broker Lien, Commercial

14. (NEW UCC FEES EFFECTIVE JANUARY 1, 1999).

Section O-1, Secured Transactions: Substitute revised fee summary as reference (O-1R-2).

15. (ACT 1998-77, EXECUTION AGAINST PERSONAL PROPERTY (effective 6/18/98)).

Page Q-1-2, ENFORCEMENT ACTIONS: Amend paragraph 2.a. by adding new paragraph (9) as follows:

2. a. (9). 42 Pa.C.S.A. § 5529. Twenty year limitation -- An execution against personal property must be issued within 20 years after the entry of the judgment upon which the execution is to be issued. (See 42 Pa.C.S.A. § 5525(7) for exception.)

INDEX: Execution Against Personal Property

16. (PFA, STATE POLICE REGISTRY).

Page R-1-1, PROTECTION FROM ABUSE (PFA): Amend paragraph 4.b.(1) by adding new paragraph (a) as follows:

4. b. (1). (a). The Protection From Abuse Data sheet is a PA State Police form and as such is not a public document. This form **MUST** be filed separate from the public file.

REFERENCE: PA State Police letter dated April 7, 1999 (R-1R-1).

17. (CHILD CUSTODY AND VISITATION).

Page S-1-2, ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN: Correct citations in following paragraphs to read as follows:

h. No judgment may be entered by default or on the pleadings in subject matter (Pa.R.C.P. No. 1915.9).

k. Contempt procedures in subject matter are set forth in Pa.R.C.P. No. 1915.12, which provides the form, method of service, and hearing.....
(For disobedience of an order/contempt, other than subject matter, see Pa.R.C.P. No. 1915.14.)

18. (ACT 1998-127, DOMESTIC RELATIONS (effective 12/15/98)).

Page T-1-1, ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE: Amend paragraph 4.a. by adding new paragraph (1) as follows:

4. a. (1). Collection of the Social Security number SHALL be kept confidential.

INDEX: Confidentiality, Social Security number

19. (NEW UCC FEES EFFECTIVE JANUARY 1, 1999).

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES: Substitute revised fee summary as reference (X-1R-1).

Substitute AOPC/Department of Revenue Memo of June 25, 1998, as revised reference (X-1R-2).

20. (ACT 1998-83, NAME CHANGES (effective 8/17/98)).

SECTION Y-3, CHANGE OF NAME

New section added to Chapter Y, MISCELLANEOUS.

INDEX: Change of Name
Fingerprints
Name Change

21. (GLOSSARY).

Revised

22. (INDEX).

Revised

PROCEDURES MANUAL 1998 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS).

Revised

2. (CIVIL BAIL BONDS).

PAGE B-1-3, GENERAL PROVISIONS: Add new section as follows:

CIVIL BAIL BONDS

If court enters an order of bail directing release on a monetary condition, one or a combination of the following forms of security may be accepted to satisfy full amount of bail:

1. U. S. currency
2. Bearer bonds of U. S. Government, of Commonwealth of Pennsylvania, or of any political subdivision of the Commonwealth
 - a. Defendant or surety must file a sworn schedule verifying value and marketability of the bonds which shall be approved by Prothonotary.
 3. Realty located within Commonwealth of Pennsylvania with actual net value at least equal to amount of bail.
 - a. Persons desiring to post property as bail must present documentation, certified by an attorney or other approved party (e.g. title company) listing all encumbrances relating to said property (judgments, liens, mortgages, delinquent taxes, etc.) as well as the assessed valuation of the property.
 - b. All joint tenants or tenants by the entirety must execute the bail bond on both sides of bond form.
 - c. After bond is approved and completed, the original bail bond and certification may be filed as a judgment. A copy of these documents may be substituted in the case file.
 - d. If property is located in another county, Prothonotary may certify judgment to that county.
 - e. The filing and transfer fees should be the responsibility of the surety posting bail.
 4. Realty located outside the Commonwealth but within the United States, under same conditions as above.
 5. Surety bond of a licensed professional bondsman or of a surety company authorized to do business in Pennsylvania.

(NOTE: Certification of Bail and Discharge Bond, Form AOPC 414, as utilized in the Clerk of Courts' Office, may be used by Prothonotary.)

REFERENCE: Certification of Bail and Discharge Bond (B-1R-11)

INDEX: Civil Bail Bond
Bail Bond, Civil
Bond, Civil Bail

3. (ACT 1998-8, ESTABLISHING COUNTY RECORDS IMPROVEMENT FUND).

Page B-1-3, GENERAL PROVISIONS: Add new section as follows:

COUNTY RECORDS IMPROVEMENT FUND.

Act 1998-8, effective March 30, 1998, created a County Records Improvement Fund in counties of classes 2A through 8. \$1.00 of a fee collected by the Recorder of Deeds shall be deposited in this fund and shall be expended in accordance with a comprehensive records management plan developed by a County Records Improvement Committee comprised of the County Commissioners, Sheriff, Prothonotary, Clerk of Courts, Register of Wills and Treasurer or their equivalent in a home rule county.

INDEX: County Records Improvement Committee
County Records Improvement Fund

4. (ACT 1998-29, AUTHORIZING DISPOSITION OF CERTAIN COUNTY RECORDS BY COUNTY OFFICERS IN COUNTIES OF 2ND TO 8TH CLASS (EFFECTIVE 8/18/98)).

Page B-1-5, GENERAL PROVISIONS: Amend RETENTION AND DISPOSITION SCHEDULE paragraph by adding the following:

For regulations regarding records retention and disposition, refer to new procedures established by Act 1998-29, 16 P.S. § 13001 et seq, effective August 18, 1998. (See County Records Manual)

5. (D.J. APPEALS).

Section E-1, Appeal From District Justice Judgment: Substitute following new form:

Reference: Deadline Schedule

6. (LANDLORD AND TENANT APPEAL).

Page E-9-1, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING: Add following abstract from Superior Court decision as NOTE after paragraph 2.b.:

(NOTE: The two subdivisions of rule are intended to clarify that where right of possession of residential real estate is at issue, the shorter, ten day period for appeal applies; where the judgment from which the appeal is taken is a judgment only for money, or a judgment affecting a nonresidential lease, under these rules, the thirty day period of time for appeal applies. CHERRY RIDGE vs. CHONOGA, 379 PGH 97, 703 A.2d 1061 (decided 12/31/97).

Substitute following new form:

Reference: Deadline Schedule

7. (EQUITY).

Section I-1, ACTION IN EQUITY:

Amend citation to read as follows:

(Pa.R.C.P. No. 1501 et seq)

Amend paragraph 1.b.(1). to read as follows:

1. b. (1). Lis Pendens is indexed, including listing the real estate, in the judgment index and also entered in any applicable docket.

(a). "Lis pendens" is jurisdiction, power, or control which courts acquire over property involved in suit, pending continuance of action, and until its final judgment thereon. Existence of lis pendens merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on property. United States National Bank in Johnstown v. Johnson, 487 A.2d 809.

(b). Lis pendens has no application except in cases involving adjudication of rights in specific property. Party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation. Lis pendens may not be predicated upon action seeking to recover personal demand. Psaki v. Ferrari, 546 A.2d 1127.

Add new paragraph 3 to read as follows:

3. VENUE. If part of the property is within the Commonwealth and part outside the Commonwealth, the decree cannot affect that portion of land outside the Commonwealth. (Goodrich Amram 2d, cautionary remarks.)

Renumber paragraph 3 to 4 and amend to read as follows:

a. Upon receipt of a praecipe from the plaintiff to enter judgment against the defendant for failure to plead as required and payment of filing fee, the Prothonotary shall file same and enter judgment against the defendant.

(1). After the Prothonotary enters a judgment upon default or admission, the court must enter an appropriate final decree (Pa.R.C.P. No. 1511(b)).

b. The court shall enter judgment in all other cases of default or admission.

c. In all cases, the court shall enter a final decree upon the judgment of default or admission.

(1). Upon receipt of the final decree, Prothonotary shall file same, enter in the judgment index and docket.

(2). The final decree in judgment by default is not subject to "exceptions" like a decree nisi. Rather, it could be reviewed only by appeal or by a motion to open the judgment.

Renumber paragraph 4 to 5 and amend paragraphs b. & c. to read as follows:

b. Upon receipt of a rule to file a complaint, Prothonotary shall issue the rule by signing it, return copies to defendant for service, file and docket it.

c. Upon receipt of an affidavit of service of the rule, praecipe for judgment for failure to file a complaint 20 days after service, proof of compliance with Pa.R.C.P. 237.1, Rule 236 notices, and payment of fee, Prothonotary shall file, enter a judgment non-pros and docket it.

Renumber paragraph 5 to 6 and amend paragraph b. to read as follows:

b. The adjudication may be made orally in open court at the end of the trial, shall be immediately transcribed and filed in the office of the Prothonotary, or it may be made thereafter in writing and filed immediately. Where a court erroneously files an opinion and order, it will be treated as an adjudication and decree nisi.

Renumber paragraph 6 to 7 and amend paragraph a. to read as follows:

a. Decrees, nisi or final, shall be entered on the judgment index of the law side of the court. If for the payment of money or costs and not satisfied, may be revived in the manner provided by law for the revival of judgments (see JUDGMENTS Section of this manual). Upon request, a judgment for costs is entered in the judgment index like any other money judgment (Goodrich Amram 2d 1527:1).

Renumber paragraph 7 to 8.

Renumber paragraph 8 to 9.

Add new paragraph 10 to read as follows:

10. SPECIAL RELIEF. ACCOUNTING (Pa.R.C.P. No. 1530). Provides for entry of judgment, absent exceptions to the accounting, for the amount shown by the accounting to be due. This judgment may only be entered by the court.

Renumber paragraph 9 to 11 and amend paragraph b. to read as follows:

b. Unless the plaintiff is the Commonwealth or a political subdivision, an injunction shall only be granted upon the plaintiff filing a bond in an amount fixed and with security approved by the court, naming the Commonwealth as obligee and with the conditions set forth in Pa.R.C.P. No. 1531(b) (1), or the plaintiff deposits with the Prothonotary legal tender of the U.S. in the amount fixed by the court to be held by Prothonotary upon the same condition as provided for the injunction bond as set forth in Pa.R.C.P. No. 1531(b) (2).

Renumber paragraph 10 to 12 and amend to read as follows:

a. A temporary receiver may be appointed without notice if

(1). the plaintiff files a bond in an amount fixed and with security approved by the court with conditions as set forth in Pa.R.C.P. No. 1533(a) (1), or the plaintiff deposits with the Prothonotary legal tender of the U.S. in an amount fixed by the court to be held by the Prothonotary as set forth in Pa.R.C.P. No. 1533(a) (2).

(a). Upon receipt of court order and bond, Prothonotary shall file same and make docket entry.

(b). Prothonotary shall process cash bond as set forth in paragraph 11.b. (1). (c).

Renumber paragraph 11 to 13.

Renumber paragraph 12 to 14.

REFERENCES: United States National Bank in Johnstown
v. Johnson, 487 A.2d, 809 (I-1R-1)
Psaki v. Ferrari, 546 A.2d 1127 (I-1R-2)

8. (APPELLATE PROCEDURES).

Page L-1-1, **APPEALS TO THE APPELLATE COURTS:** Amend paragraph 1.a. to read as follows:

1. a. The Notice of Appeal should be substantially in the format set forth in the manual and pursuant to Pa.R.A.P. No. 904 and 905(a). The appeal should include a request to transcribe, affidavit of service, copy of docket entries, if applicable, a copy of the order being appealed (Commonwealth Court desires a copy of all orders being appealed) and IFP statement. (NOTE: Prothonotary shall NOT determine if timely filed.)

Substitute following new form:

FORM: Notice of Appeal form (L-1F-1)

9. (AFFIDAVIT OF NON-MILITARY SERVICE).

Page M-2-3, **JUDGMENT BY DEFAULT:** Amend paragraph 2.c. to read as follows:

2. c. If an individual defendant does not appear, an Affidavit of Non-Military Service, pursuant to 50 U.S.C. § 501 et seq, must be filed before judgment is entered. A District Court decision (508 F Supp. 552) has held that an affidavit of non-military service may not be made upon information or belief; it is essential that it contain all the facts showing that the defendant is not in the service.

INDEX: Affidavit of Non-Military Service (see Judgments)
Non-Military Service (see Judgments)

10. (CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY).

Page M-5-1, **JUDGMENT FOR SUPPORT ARREARAGES:** Amend paragraph 1.b. to read as follows:

1. b. 23 Pa.C.S.A. § 4352, as amended: Arrears as judgments -- On and after the date it is due each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state. Overdue support obligations of this or any other state which are on record at the domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the judicial district. The obligation for payment of arrears or overdue support shall terminate by operation of law when all arrears or overdue support has been paid.

11. (ACT 1997-32, JUDGMENTS (EFFECTIVE 6/25/97)).

Page N-2-1, JUDGMENT LIENS: Amend paragraph 5 to read as follows:

5. 42 Pa.C.S.A. § 8104 (DUTY OF JUDGMENT CREDITOR TO ENTER SATISFACTION): A judgment creditor shall, upon receipt of payment in full of any judgment lien, enter a satisfaction in the Office of the Clerk of Court (Prothonotary). A judgment creditor who shall willfully or unreasonably fail without good cause or refuse for more than 90 days after written notice in the manner prescribed by general rules to comply with a request shall pay to the judgment debtor as liquidated damages 1% of the original amount of the judgment for each month of delinquency beyond such 90 days, but not less than \$250 nor more than \$2,500. Such liquidated damages shall be recoverable by the debtor filing a petition with the Court for relief.

12. (FEDERAL TAX LIEN).

Page N-5-1, FEDERAL TAX LIENS: Amend paragraphs 5 & 6 to read as follows:

5. When the release or withdrawal is filed, Prothonotary shall note same in the index/docket where entered and file with original notice. Prothonotary shall also return duplicate copy, file stamped, to the IRS.

6. Bill the IRS on a monthly basis for new filings, re-filings, releases, and withdrawals.

Index: Withdrawal of Federal Tax Lien

13. (NEW UCC FEES EFFECTIVE JANUARY 1, 1998).

Section O-1, SECURED TRANSACTIONS: Substitute following new form:

Reference: UCC Fee Summary (O-1R-2)

14. (PROTECTION FROM ABUSE).

Page R-1-1, PROTECTION FROM ABUSE: Add new paragraph 4 as follows:

4. Protection from Abuse Registry, 23 Pa.C.S.A. § 6105 (Act 1994-85 as amended), requires:

a. PA State Police to establish a statewide registry of protection orders and to maintain a complete and systematic record of all valid temporary and final court orders and court-approved consent agreements. (Statewide registry became operational April 1, 1998.)

(1). PA State Police shall enter orders, amendments and revocations in the registry within eight hours of receipt.

b. Prothonotary to send a copy of the protection orders, court-approved consent agreements, continuances, amendments or revocations to the statewide registry and local police so that it is received within 24 hours of entry of order.

(1). Each copy of the court order shall be accompanied by a completed Protection From Abuse Data sheet (SP4-401) approved by the PA State Police.

5. In accordance with 23 Pa.C.S.A. § 6108(7), if a court order is entered requiring the defendant to relinquish weapons and/or firearm license, or for the return of said items to the defendant, a copy of the court's order shall be transmitted to the chief or head of the police force or police department of the municipality and to the sheriff of the county where the defendant resides.

Renumber remaining paragraph.

Delete **NOTE** at bottom.

FORM: Protection From Abuse Data Sheet (R-1F-1)

(NOTE: See Pa.R.C.P. No. 1905 for following forms:

- (a) Notice of Hearing and Order
- (b) Petition for Protection From Abuse
- (c) Temporary Protection From Abuse Order
- (d) Affidavit of Service
- (e) Final Order of Court)

INDEX: Protection From Abuse Registry
Firearm License and/or Weapons (see Protection From Abuse)
Weapons and/or Firearm License (see Protection From Abuse)

Page R-1-2, INDIVIDUAL NOT REPRESENTED BY LEGAL COUNSEL (PRO SE):
Renumber page.

Page R-1-3, REGISTRATION OF ORDER: Amend as follows and renumber page:

1. The Prothonotary of each court of common pleas shall maintain a register/docket in which it shall record certified copies of orders entered by courts from other jurisdictions.

Page R-1-3, REGISTRATION OF ORDER: Add new paragraphs 5 & 6 as follows:

5. Protection From Abuse Registry -- A copy of the order shall be sent to the statewide registry and local police following procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 4.

6. With regard to any order involving weapons and/or firearm license, follow procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 5.

Renumber remaining paragraph.

INDEX: Protection From Abuse Registry
Firearm License and/or Weapons (see Protection From Abuse)
Weapons and/or Firearm License (see Protection from Abuse)

Page R-1-4, CONTEMPT FOR VIOLATION OF ORDER OR AGREEMENT: Add new paragraphs 3 & 4 as follows and renumber page:

3. Protection From Abuse Registry -- A copy of the order shall be sent to the statewide registry and local police following procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 4.

4. With regard to any order involving weapons and/or firearm license, follow procedures outlined in the PROTECTION FROM ABUSE Section, paragraph 5.

Renumber remaining paragraph.

INDEX: Protection From Abuse Registry
Firearm License and/or Weapons (see Protection From Abuse)
Weapons and/or Firearm License (see Protection from Abuse)

15. (JEN & DAVE LAW, ACT 1996-119).

Page S-1-4, **ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN:** Add/substitute the following new forms & brochure:

FORMS: Application for Access to Criminal Charge Information for Individuals Involved in Child Custody Cases with Instructions (S-1F-1)
Request to Delete Registrant from Jen & Dave Line (S-1F-2)

(NOTE: For additional forms and information, refer to "AOPC INFORMATION AND PROCEDURES MANUAL".

Reference: Jen & Dave Line Brochure (S-1R-1)

16. (ACT 1997-58, DIVORCE (EFFECTIVE 1/1/98)).

Page T-1-1, **ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE:** Amend paragraph 4 by adding the following:

4. a. In accordance with 23 Pa.C.S.A. § 4304.1(a)(3), effective January 1, 1998, the Social Security number of both parties shall be filed with the Prothonotary prior to the entry of the decree.

(NOTE: Since a penalty for wilful failure to obtain Social Security number may be imposed upon Prothonotary, it is strongly suggested that Prothonotary indicate on the record if an unsuccessful attempt has been made.)

INDEX: Social Security number (see Divorce/Annulment)

17. (AFFIDAVIT OF NON-MILITARY SERVICE).

Page T-1-3, **ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE:** Amend paragraph 10 to read as follows:

10. If the defendant fails to appear in an action, the plaintiff shall file an Affidavit of Non-Military Service, pursuant to 50 U.S.C. § 501 et seq, with the Motion for Appointment of a Master prior to a trial by the court, or with the plaintiff's affidavit for Section 3301(d) of the Divorce Code pursuant to Pa.R.C.P. No. 1920.42(a)(2) (Pa.R.C.P. No. 1920.46(b)).

INDEX: Affidavit of Non-Military Service (see Divorce/Annulment)
Non-Military Service (see Divorce/Annulment)

18. (NEW PASSPORT FEES AND CHANGE OF AGE).

Page V-1-1, **GENERAL NOTES:** Amend paragraph 3 to read as follows:

3. The fees to be collected for passports are set by Congress; and therefore, subject to change. Effective February 1, 1998, the fees to be collected at the time of processing the application are:

a. A passport fee of \$45.00 for applicants age 16 and over, plus an execution fee of \$15.00.

b. A passport fee of \$25.00 for applicants age 15 and under, plus an execution fee of \$15.00.

REFERENCE: U. S. Department of State Passport Fees Schedule and New Passport Fee Table (V-1R-1)

19. (NEW UCC FEES EFFECTIVE JANUARY 1, 1997).

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES:
Substitute following new form and references:

FORM: Abandoned and Unclaimed Property Report to Treasury Department (X-1F-2)

REFERENCE: UCC Fee Summary (X-1R-1)
AOPC/Department of Revenue memo dated July 18, 1997, setting 1998 fees (X-1R-2)

20. (JEN & DAVE LAW, ACT 1996-119).

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES:
Substitute following new form:

FORM: Act 119 of 1996 Transmittal of Filing Fees (X-1F-3)

21. (LIS PENDENS).

Section Y-1, LIS PENDENS:

Add new paragraphs j. and k. to read as follows:

j. "Lis pendens" is jurisdiction, power, or control which courts acquire over property involved in suit, pending continuance of action, and until its final judgment thereon. Existence of lis pendens merely notifies third parties that any interest that may be acquired in the res pending the litigation will be subject to the result of the action and is not therefore an actual lien on property. United States National Bank in Johnstown v. Johnson, 487 A.2d 809.

k. Lis pendens has no application except in cases involving adjudication of rights in specific property. Party is not entitled to have his case indexed as lis pendens unless title to real estate is involved in litigation. Lis pendens may not be predicated upon action seeking to recover personal demand. Psaki v. Ferrari, 546 A.2d 1127.

REFERENCES: United States National Bank in Johnstown
v. Johnson, 487 A.2d 809 (Y-1R-9)
Psaki v. Ferrari, 546 A.2d 1127 (Y-1R-10)

21. (INDEX).

Revised

PROCEDURES MANUAL 1997 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS).

Revised

2. (ACT 1996-119, JEN & DAVE LAW).

PAGE B-1-2, GENERAL PROVISIONS: Add as follows:

CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE (42 Pa.C.S.A. § 1725.1(a)(1) (Act 1996-119))

1. The Prothonotary shall collect a \$5.00 fee on all child custody case filings as of February 4, 1997. The fee is to be charged on all initial custody cases after February 4, 1997 regardless of whether custody is sought in a custody complaint, a count in a divorce action or a count in a divorce counterclaim. The fee should be considered a one-time charge on all child custody case filings. The fee is not charged on petitions to modify an existing custody order.

2. Eighty percent of the fee is to be remitted monthly to the Administrative Office of Pennsylvania Courts, Mechanicsburg Office, for the operation of the information system.

Index: Child Custody--Criminal Charge Information System Fee

3. (LETTERS ROGATORY).

Page B-1-4, GENERAL PROVISIONS: Add as follows:

LETTERS ROGATORY.

See 42 Pa.C.S.A. §§ 5324, 5325, 5326

Glossary: Add definition as follows:

LETTERS ROGATORY

A request by one court of another court in an independent jurisdiction, that a witness be examined upon interrogatories sent with the request.

This process is used between countries as well as states.

Index: Letters Rogatory

4. (AMENDMENT OF RULES OF CIVIL PROCEDURE GOVERNING SUBPOENAS AND DISCOVERY).

PAGE C-1-1, SUBPOENA: Amend title to read as follows:

SUBPOENA TO ATTEND AND TESTIFY (Pa.R.C.P. Nos. 234.1 through 234.9.)
SUBPOENA UPON A PERSON NOT A PARTY FOR PRODUCTION OF DOCUMENTS AND THINGS (Pa.R.C.P. Nos. 4009.21 through 4009.27).

Amend paragraph 1 as follows:

1. SUBPOENA TO ATTEND AND TESTIFY

Amend paragraph 1.a.(3). to read as follows:

(3). A subpoena may not be used to compel a person to appear or to produce documents or things ex parte before an attorney, a party or a representative of the party. (Note: See Rule 234.1 NOTE.)

Amend paragraph 1.b.(1). to read as follows:

(1). A copy of the subpoena may be served upon a person within the Commonwealth by a competent adult or mailed pursuant to Pa.R.C.P. No. 234.2(b). For matters outside the Commonwealth, see 42 Pa.C.S.A. §§ 5322 through 5326 (Letters Rogatory), especially § 5325 which pertains to depositions.

Amend paragraph 1.g.(2). to read as follows:

(2). A motion to the court to quash may be made in order to protect a party, witness or other person from unreasonable annoyance, embarrassment, oppression, burden or expense.

Add new paragraph 2 as follows:

2. SUBPOENA UPON A PERSON NOT A PARTY FOR PRODUCTION OF DOCUMENTS AND THINGS.

a. Prior Notice. Objections. (Pa.R.C.P. No. 4009.21)

(1). Written notice shall be given to every other party of the intent to serve a subpoena upon a person not a party at least 20 days before date of service with a copy of the proposed subpoena attached to the notice.

(2). Any party may object to the subpoena by filing written objections with the Prothonotary and serving a copy of the objections upon every other party to the action.

(3). If objections are received prior to its service, the subpoena shall not be served. The court upon motion shall rule upon the objections and enter an appropriate order.

(4). If no objections are received, the subpoena may be served.

b. Service of Subpoena. (Pa.R.C.P. No. 4009.22)

(1). The filing of a certificate with the Prothonotary by the party seeking production is a prerequisite to service of the subpoena. The subpoena served must be identical to the subpoena attached to the notice of intent to serve the subpoena. (Note: See Rule 4009.25 for form.)

(2). The subpoena shall be issued as provided by Rule 234.2(a) and served in the manner provided by Rule 234.2(b).

c. Certificate of Compliance by a Person Not a Party. (Pa.R.C.P. No. 4009.23)

(1). In complying with the subpoena, a certificate of compliance shall be executed by the person not a party upon whom the subpoena has been served. This certificate shall be filed with the Prothonotary. (Note: See Rule 4009.27 for form.)

Renumber paragraph 2 to paragraph 3 and amend paragraph a. to read as follows:

a. Subpoena To Attend And Testify. Upon the request of a party and payment of fee, the Prothonotary shall issue a subpoena signed and under the seal of the court, but otherwise in blank, substantially in the form prescribed by Pa.R.C.P. No. 234.6, which is shown in this manual.

Add new paragraph 3.b. as follows:

b. Subpoena To Produce Documents Or Things For Discovery Pursuant To Rule 4009.22. Upon the request of a party and payment of fee, the Prothonotary shall issue a subpoena signed and under the seal of the court substantially in the form prescribed by Pa.R.C.P. No. 4009.26, which is shown in this manual.

Renumber paragraph b. to paragraph c. and amend to read as follows:

c. Filing.

(1). Subpoenas To Attend And Testify. These subpoenas are not normally filed, docketed or retained as part of a case record. If a Bill of Costs is filed, a subpoena may be attached as an exhibit to support the taxation of a witness fee (See paragraph 1.c.(2). of this section).

(2). Subpoenas To Produce Documents Or Things. Rules 4009.22 and 4009.23 require the filing of record a Certificate Prerequisite to Service of Subpoena and a Certificate of Compliance.

Renumber paragraphs 3 and 4 to paragraphs 4 and 5.

Forms: Substitute amended Subpoena To Attend And Testify, Form C-1F-1.
Subpoena To Produce Documents Or Things For Discovery Pursuant To Rule 4009.22

Index: Subpoena to Attend and Testify
Subpoena Upon a Person Not a Party for Production of Documents and Things.

5. (D.J. APPEALS).

Section E-1, Appeal From District Justice Judgment:

Reference: Include revised Deadline Schedule

Section E-9, Appeal from a District Justice Decision on a Landlord and Tenant Proceeding:

Reference: Include revised Deadline Schedule

6. (EMINENT DOMAIN (CONDEMNATION)).

SECTION E-10, EMINENT DOMAIN (CONDEMNATION)

New section added to Chapter E, CIVIL ACTION

Form: Praecipe and Rule to Show Cause

Glossary: Change definition for Condemnation to read as follows:

CONDEMNATION

Process of taking private property for public use through the power of eminent domain.

Glossary: Add definitions for following:

CONDEMNEE

Owner of property taken by condemnation

CONDEMNOR

Party taking property by condemnation

Index: CONDEMNATION
EMINENT DOMAIN

7. (DRIVER'S LICENSE SUSPENSION APPEAL, ACT 1996-118).

Section K-1, COMMONWEALTH/LOCAL AGENCY APPEALS:

Form: Include revised Petition for Appeal, Form K-1F-1 through K-1F-3

Reference: Include amended 75 Pa.C.S.A. § 1550 as Reference K-1R-1

8. (CONFESSION OF JUDGMENT FOR MONEY).

Page M-6-1, JUDGMENTS: Amend title to read as follows:

CONFESSION OF JUDGMENT FOR MONEY (Pa.R.C.P. No. 2950 et seq.)
CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY (Pa.R.C.P. No. 2970 et seq.)

Add new paragraph 1 as follows:

1. CONFESSION OF JUDGMENT FOR MONEY

a. An "action" under this rule no longer includes a confession of judgment in connection with a consumer credit transaction.

Renumber paragraph 1 to paragraph 1.b.; renumber all subsections through paragraph 1.h.

Add additional item to original paragraph 1.g. as follows:

(e). Plaintiff's Affidavit/Averment

Form: Plaintiff's Affidavit/Averment

Glossary: Add definition as follows:

CONSUMER CREDIT TRANSACTION

A credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

Index: Consumer Credit Transaction

9. (CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY).

PAGE M-6-2, JUDGMENTS: Add new paragraph 2 as follows:

2. CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY

(a). An action to enter a judgment in ejectment for possession of real property by confession pursuant to an instrument, other than a residential lease executed by a natural person, authorizing such confession.

(b). An action shall be commenced by filing with the Prothonotary a complaint which includes an Affidavit/Averment that the judgment is not being entered against a natural person in connection with a residential lease and a Confession of Judgment substantially in the form provided by Rule 2974.

(c). Instrument should be accompanied by:

- (1). Copy of all documents filed for each debtor
- (2). Stamped envelope addressed to each debtor
- (3). Notice of entry of judgment to each debtor

Renumber original paragraph 1.i. to paragraph 3 as follows:

3. PROCEDURE: Upon receipt of the documents and along with payment of filing fee, Prothonotary shall:

(a). File and assign a court of common pleas number.

(b). Information on judgments filed, but not yet indexed, shall be readily available to the public.

(c). Index case by entry of full names of parties, amount of judgment (if any), date of filing, case number and nature of lien.

(d). Docket case pursuant to the GENERAL PROVISIONS Section of this manual. An entry shall be made in the docket of the mailing of the notice of the entry of judgment.

(e). For certifications under this category, see the PROOF OF OFFICIAL RECORDS (certification/Exemplification) Section of the manual.

(f). For satisfactions under this category, see the GENERAL PROVISIONS (Satisfactions) Section of the manual.

Renumber RETENTION AND DISPOSITION SCHEDULE to paragraph 4

Form: Plaintiff's Affidavit/Averment

Index: Confession of Judgment for Possession of Real Property

10. (DISTRICT JUSTICE FORMS).

PAGE N-1-1, DISTRICT JUSTICE JUDGMENT LIENS: Add following:

References: Notice of Judgment/Transcript--Civil Case
Notice of Judgment/Transcript--Residential Lease
Notice of Judgment/Transcript--Nonresidential Lease

11. (NEW UCC FEES EFFECTIVE JANUARY 1, 1996).

Section O-1, SECURED TRANSACTIONS:

Reference: Include revised summary of fees

12. (CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY).

PAGE Q-2, ENFORCEMENT ACTIONS, ACTION IN EJECTMENT: Amend citations to read as follows: (Pa.R.C.P. Nos. 3160 et seq.)

Add new paragraph 3 to read as follows:

3. COMMENCEMENT. (Pa.R.C.P. No. 3161.1) Execution shall be commenced by filing a praecipe for a writ of execution with the Prothonotary of any county in which judgment has been entered. Except as otherwise prescribed by Rule 2974.1 governing a judgment entered by confession, the praecipe shall be in the form prescribed by Rule 3254.

Renumber remainder of paragraphs.

13. (CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY).

Section Q-6, EXECUTION ON CONFESSION OF JUDGMENT--MONEY
EXECUTION ON CONFESSION OF JUDGMENT--REAL PROPERTY

New section added to Chapter Q, ENFORCEMENT ACTIONS

Form: Praecipe for Writ of Execution Upon a Confessed Judgment--Money and Certification
Praecipe for Writ of Possession Upon a Confessed Judgment--Real Property and Writ of Possession
Writ of Execution and/or Attachment

Index: Execution on Confession of Judgment--Money
Execution on Confession of Judgment--Real Property

14. (JEN & DAVE LAW, ACT 1996-119).

PAGE S-1-3, CHILD CUSTODY AND VISITATION: Add new paragraph 4 as follows:

4. CRIMINAL CHARGE INFORMATION SYSTEM (42 Pa.C.S.A. § 1904 (Act 1996-119))

(a). Establishment purpose -- To enable a parent who is a party to a custody proceeding or order to have access to information

about the criminal charges filing against the other parent.

(b). A parent who has been awarded custody, partial custody or visitation or who is a party to a custody proceeding must file an application for access to the information with the office of the Prothonotary in the county where the proceeding or order was filed.

(c). The application must be filed with the Prothonotary by one of the following methods:

(1). In person with a valid form of photoidentification

(2). By mailing a notarized application

(3). By including the application with the original complaint, initial response or any other pleading or motion filed with the prothonotary.

(d). The Prothonotary shall verify and transmit the application to the Administrative Office of the Pennsylvania Courts within six business days. Verification consists of checking court records to determine whether there exists an active custody proceeding or valid custody order remaining in effect.

(e). The contents of all applications and the inquiries made by all parents shall be confidential and shall only be disclosed as authorized in this section.

Renumber RETENTION AND DISPOSITION SCHEDULE to paragraph 5

Form: Application for Access to Criminal Charge Information for Parties in Child Custody Matters with Instructions

Reference: Jen & Dave Line Brochure

Index: Jen & Dave Law (Act 1996-119)
Criminal Charge Information System
Child Custody--Criminal Charge Information System

15. (PASSPORTS).

PAGE V-1-2, PROTHONOTARY AS A PASSPORT AGENT, General Notes: Change following in Paragraph 5:

New address: Old Custom House, 2nd and Chestnut Streets, Philadelphia, PA 19106

New public telephone number: 1-900-225-5674

16. (NEW UCC FEES EFFECTIVE JANUARY 1, 1997).

Section X-1, PROTHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES:

Reference: Include revised summary

Reference: Substitute AOPC/Department of Revenue letter dated 9/20/96

17. (BAD CHECKS).

PAGE X-1-2, FISCAL, General Notes: Add the following to Paragraph 1:

e. Collection on Checks Returned for Insufficient Funds (18 Pa.C.S. § 4105). A service charge not to exceed \$20.00 to be collected by the Prothonotary if notice is conspicuously displayed when the check was issued.

(1). It is suggested that a 10-day notice be given to the issuer by certified mail, restricted delivery, return receipt requested. If after that the issuer fails to make good the check, a criminal complaint can be filed with a District Justice for the face amount of the check, interest at legal rate from date of dishonor, service charge and D.J. costs.

(2). There is a provision in 42 Pa.C.S.A. § 8304 on damages in civil actions, which provides for recovery of damages and costs following conviction for passing a bad check pursuant to 18 Pa.C.S. § 4105. This statute permits a civil claim, in addition to the recovery made in a criminal matter before the District Justice, for purposes of recovering damages in an amount equal to \$100.00 or triple the amount for which the check was drawn, whichever is greater. A conviction pursuant to the criminal statute is a prerequisite to this civil claim.

(3). The court should be notified of the bad check as it then becomes a failure to comply with a court order, so that contempt proceedings can be commenced by the court.

Reference: District Justice Private Criminal Complaint Form

Index: Bad Checks

18. (JEN & DAVE LAW, ACT 1996-119).

PAGE X-1-3, FISCAL, Accounting Procedures: Add new paragraph 2.c.(3) as follows:

(3). For the Administrative Office of Pennsylvania Courts:

(a). Criminal Charge Information System Fee of \$5.00 (42 Pa.C.S.A. § 1725.1(a)(1) on all child custody case filings as of February 4, 1997.

(b). Eighty percent (\$4.00) of the fee is to be transmitted to the Administrative Office of Pennsylvania Courts (AOPC) for the operation of the information system. The fee is to be remitted monthly to the AOPC's Mechanicsburg office. The money will be due no later than the 15th day after the close of the month. When the 15th falls on a Saturday, the money will be due the day before (Friday); when the 15th falls on a Sunday, the money will be due on the following day (Monday). Form AOPC 119-3 should be used for transmittal of the filing fees.

Form: Transmittal of Filing Fees to AOPC

Reference: AOPC letter dated January 31, 1997, from Judy K. Souleret, Administrative Coordinator

19. (GLOSSARY) (INDEX)

Revised

PROCEDURES MANUAL 1996 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS)

Revised

2. (CALCULATION OF APPEAL PERIODS WHEN COUNTIES EXCHANGE A LEGAL HOLIDAY FOR ANOTHER).

Page B-1-2, **COMPUTATION OF TIME:** Add Note as follows;

(NOTE: See HOLIDAYS in this chapter.)

Page B-1-3, **GENERAL PROVISIONS:** Add new paragraph to read as follows:

HOLIDAYS.

Effect on calculation of appeal periods when counties exchange a federal legal holiday for another day.

Reference:

Bassett v. Bassett, U.S. District Court of Pennsylvania, Middle District, 43 M.D. Appeal Docket 1995
List of federal legal holidays

Index: Holidays, Federal Legal
Legal Holidays, Federal

3. (REFERENCE -- FRATERNAL ORDER OF POLICE v. PHILADELPHIA, 655 A.2d 666).

Page B-1-3, **DOCKETS/DOCKET ENTRIES:** Add following as additional reference:

Reference: Fraternal Order of Police v. Philadelphia, 655 A.2d 666

4. (STIPULATIONS AGAINST LIENS).

Page B-1-5, **GENERAL PROVISIONS:** Add new paragraph to read as follows:

STIPULATIONS AGAINST LIENS.

For indexing information, see 49 Pa.C.S.A. § 1402.

Reference:

49 Pa.C.S.A. § 1402

Index: MECHANICS AGREEMENTS
NON-LIEN AGREEMENTS
STIPULATIONS AGAINST LIENS
WAIVER OF LIENS

5. (AMENDMENT OF RULE 240 -- IN FORMA PAUPERIS).

Page D-1-1, **GENERAL**: Delete wording in paragraph 1.a. referring to Divorce/Annulment.

6. (DISTRICT JUSTICE CROSS APPEALS).

Page E-1-1, **APPEAL FROM DISTRICT JUSTICE JUDGMENT**: Add to paragraph 8 as follows:

- a. If the appellant appeals only from the judgment on his complaint, the appellee may appeal from the judgment on his complaint at any time within thirty days after the date on which the appellant served a copy of his notice of appeal upon the appellee.

Index: CROSS COMPLAINTS, DISTRICT JUSTICE APPEAL

7. (LANDLORD/TENANT ACTS): Acts 1995-33 and 36.

Page E-1-1, **APPEAL FROM A DISTRICT JUSTICE JUDGMENT**: Eliminate paragraph 4 completely; renumber remainder of paragraphs.

Page E-2-1, **WRIT OF CERTIORARI TO DISTRICT JUSTICE**: Amend paragraphs 1, 2 and 3 to read as follows:

1. To be submitted on prescribed form for praecipe and writ, which shall be completed and filed in accordance with Pa.R.C.P.D.J. No. 1009B.
2. When writ of certiorari involves a judgment for possession of real property, see Pa.R.C.P.D.J. No. 1013, for supersedeas conditions.
 - a. When appropriate bond is posted, Prothonotary shall make a notation upon the writ and its copies that the writ will operate as a supersedeas.
3. Forms shall contain addresses of all parties, attorney's Supreme Court ID number, if applicable, and original signature of appellant or attorney. If in proper order, Prothonotary shall file and assign court of common pleas number upon payment of the filing fee and issue writ.

Add new paragraphs 5 through 8 to read as follows:

5. Pa.R.C.P.D.J. No. 1013B also provides for
 - a. the release of funds to the landlord upon application to the court, and
 - b. the consequences if the appellant/tenant fails to pay the monthly rental within thirty (30) days following the filing of the writ and each successive thirty (30) day period thereafter.

6. If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas.

7. If writ is stricken, dismissed, or discontinued, Prothonotary shall pay the deposits of rent to the party who sought possession of the real property in accordance with Pa.R.C.P.D.J. No. 1013C.

8. If writ is granted, disposition of monthly rental deposits will be made by the court of common pleas following its de novo hearing.

Renumber paragraphs 5 and 6 to 9 and 10.

Form: Praecipe to Terminate Supersedeas and Notice

Reference: Pa.R.C.P.D.J. No. 1013

Index: SUPERSEDEAS BOND
TERMINATION OF SUPERSEDEAS AND NOTICE

Section E-9, APPEAL FROM A DISTRICT JUSTICE DECISION ON A LANDLORD AND TENANT PROCEEDING:

New section added to Chapter E incorporating new laws and rules after Supreme Court lifted suspension on Acts 1995-33 and 36, effective March 29, 1996.

Form: Notice of Praecipe to Enter Judgment of Non Pros
Praecipe to Terminate Supersedeas and Notice

Reference: District Justice Deadline Computation Schedule

Index: APPEAL FROM DISTRICT JUSTICE JUDGMENT FOR MONEY, LANDLORD & TENANT
APPEAL FROM DISTRICT JUSTICE JUDGMENT FOR POSSESSION, LANDLORD &
TENANT
APPEAL FROM LANDLORD & TENANT PROCEEDING
DISTRICT JUSTICE APPEAL, LANDLORD & TENANT PROCEEDING
LANDLORD & TENANT APPEAL
RESIDENTIAL LEASE JUDGMENT
SUPERSEDEAS BOND
TERMINATION OF SUPERSEDEAS AND NOTICE

8. (ACT 1995-25 -- VOTERS REGISTRATION ACT).

Page E-8-1, **ELECTIONS**: Add new paragraph 1 to read as follows:

1. JUDICIAL REVIEW BY COURT OF COMMON PLEAS (25 P.S. § 1301)

a. The following have standing to appeal an action of a registration commission:

(1). An individual whose claim for registration has been denied.

(2). An individual whose registration has been canceled by the commission.

(3). A qualified elector of a municipality whose rights are impaired by any general order made by the commission.

b. An appeal must be made by the seventh day preceding an election.

c. Upon timely receipt of an appeal, the court shall conduct a hearing.

d. If the court finds that an injustice has been done, it shall reverse or modify the ruling of the commission and issue appropriate injunctive relief.

e. The court may award costs for the appeal to the prevailing party. Costs may not be assessed against a commission or a county.

Renumber present paragraphs 1 through 5 to 2 through 6.

Index: VOTERS REGISTRATION ACT

9. (CONFORMING CHANGES -- COMMONWEALTH/LOCAL AGENCY APPEALS).

Page K-1 and K-2, PA DEPARTMENT OF TRANSPORTATION APPEALS: Amend title of chapter to read: COMMONWEALTH/LOCAL AGENCY APPEALS.

10. (CONFORMING CHANGES -- JUDGMENT).

Page M-2-5, JUDGMENT BY DEFAULT: Amend title of form to read: Notice of Praecept to Enter Judgment by Default.

Form: Include amended Notice

11. (CONFORMING CHANGES -- JUDGMENT).

Page M-3-1, JUDGMENT NON PROS: Amend title of chapter to read: JUDGMENT OF NON PROS.

Page M-3-2, REFERENCE: Include missing reference citation

12. (REVIVAL OF JUDGMENTS/LIENS).

Page M-9-4, JUDGMENT UPON DEFAULT OR ADMISSION: Delete paragraph e. (3).

Page M-9-6, PRAECIPE FOR JUDGMENT: Delete NOTE from paragraph d.

13. (JUDGMENT FOR COLLECTION OF RESTITUTION, REPARATIONS, FEES, COSTS, FILES AND PENALTIES IN CRIMINAL PROCEEDINGS) .

Page M-11-1, GENERAL NOTES: Amend paragraph 1 to read as follows:

1. GENERAL NOTES (Act No. 1990-181, as amended by Act No. 1996-3)

14. (LIENS): Act 1996-5

Page N-1-1, DISTRICT JUSTICE JUDGMENT LIEN: Add new paragraph 8 to read as follows:

8. For wage attachments allowable to a Judgment Creditor-Landlord, see Act 1996-5.

(NOTE: There are no current Supreme Court rules addressing this matter.)

Reference: Act 1996-5

Renumber present paragraphs 8 and 9 to 9 and 10.

15. (FEDERAL TAX LIENS CITATION) .

Page N-5-1, FEDERAL TAX LIENS: Correct citation to read: 74 P.S. 157.

16. (ACT 1994-138, AUTOMATIC REVIVAL AND PRIORITY OF TAX LIENS) .

PAGE N-6-1, STATE TAX LIENS: At end of paragraph 6.a., add as follows:

".....to 72 P.S. § 1404.1 (Act 1994-138)."

Reference: Letter dated July 18, 1995, from Jeffery S. Snaveley, Chief Counsel, Department of Revenue

Index: LIEN, COMMONWEALTH TAX

17. (NEW UCC FEES EFFECTIVE JANUARY 1, 1996) .

Section O-1, SECURED TRANSACTIONS:

Reference: Include revised summary

18. (ADOPTION OF RULE 1930.4 GOVERNING SERVICE REQUIREMENTS IN ALL DOMESTIC RELATIONS CASES) .

Page R-1-1, PROTECTION FROM ABUSE: Include new paragraph 1.a. as follows:

- a. Original process may be served by any competent adult (Pa.R.C.P. No. 1930.4(b)).

Renumber present paragraphs a, b, and c to b, c, and d.

Indicate inclusive rule numbers by use of word "through".

Page S-1-1, **ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN:** Amend paragraph 2.d. to indicate new rule citation, Pa.R.C.P. No. 1930.4.

Indicate inclusive rule numbers by use of word "through".

Page T-1-1, **ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE:** Amend paragraph 5 to indicate new rule citation, Pa.R.C.P. No. 1930.4.

19. (AMENDMENT OF RULE 1915.15 -- ADDITION OF AMERICANS WITH DISABILITIES ACT OF 1990 NOTICE).

Page S-1-1, **GENERAL:** Indicate inclusive rule numbers by use of word "through"

Page S-1-2, **PROCEDURE:** Add new paragraph 3.a.(1) as follows:

(1). All complaints or petitions for modification must include the AMERICANS WITH DISABILITIES ACT OF 1990 notification if parties are required to attend a hearing/conference (Pa.R.C.P. No. 1915.15(c)).

Index: CUSTODY AND VISITATION, CHILD
VISITATION AND CUSTODY, CHILD
AMERICANS WITH DISABILITIES ACT OF 1990
DISABILITIES, AMERICANS WITH, ACT OF 1990

20. (ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE).

A. **Amendment of Rule 1920:**

Page T-1-2, **Procedure to Transmit Record to the Court.** Revise (NOTE) as follows:

*(NOTE: The affidavit required by Section 3301(c) of the Divorce Code must have been executed ninety days or more after both filing and service of the complaint, and within thirty days of the date the affidavit was filed. An affidavit of consent may be withdrawn only with leave of court.)

B. **Amendment of Rule 1920.42 & 1920.72:**

Page T-1-2, **Procedure to Transmit Record to the Court.** Amend paragraph 7.a. to read as follows:

a. Under Section 3301(c) of the Divorce Code in which it has been stated the marriage is irretrievably broken, upon the filing of all required documents (complaints, affidavits*, notices, etc.), complying

with the local rules of court, and praecipe to transmit the record, the Prothonotary shall transmit the record to the court for entry of an appropriate decree. Parties may execute and file with the Prothonotary a "Waiver of Notice of Intention to Request Entry of a Divorce Decree" (Pa.R.C.P. Nos. 1920.42, 1920.72, and 1920.73).

Page T-1-2, Procedure to Transmit Record to the Court. Amend paragraph 7.b. to read as follows:

b. Under Section 3301(d) of the Divorce Code.....; Prothonotary on praecipe, with copy of notice attached stating date and manner of service, shall transmit the record to the court for entry of appropriate decree (Pa.R.C.P. Nos. 1920.42, 1920.72, and 1920.73).

C. Adoption of Rules 1920.55-1 & 1920.55-2:

Page T-1-4, Exceptions to Master's Report (Pa.R.C.P. No. 1920.55-2): Substitute new paragraph 15.a. to read as follows:

a. Within ten days of the mailing of the master's report and recommendation, any party may file exceptions to the report or any part thereof.

Page T-1-4, Exceptions to Master's Report (Pa.R.C.P. No. 1920.55-2): Substitute new paragraph 15.c. to read as follows:

c. If exceptions are filed, any other party may file exceptions within ten day of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.

21. (AMENDMENT OF RULE 240 -- IN FORMA PAUPERIS).

Page T-1-5, PROCEEDINGS BY INDIGENT PARTIES: Amend paragraph 16 to read as follows:

16. Proceedings by indigent parties -- Pa.R.C.P. No. 1920.62 in actions of divorce or annulment of marriage incorporates procedures set forth in Pa.R.C.P. No. 240, In Forma Pauperis.

Eliminate paragraphs a. through d.

22. (RULE 2128(d) -- PARTNERSHIP FILINGS WITH PROTHONOTARY).

Page U-3-1, PARTNERSHIPS AS PARTIES: Include new paragraph 2 to read as follows:

2. ACTIONS AGAINST PARTNERSHIPS AND LIQUIDATORS (Pa.R.C.P. No. 2128(d))

a. This section provides for the filing of a statement of membership with the Prothonotary in the county or counties in which the partnership business is conducted.

Renumber present paragraphs 2, 3, and 4 to 3, 4, and 5.

Indicate inclusive rule numbers by use of word "through".

Index: PARTNERSHIPS' STATEMENT OF MEMBERSHIP
STATEMENT OF MEMBERSHIP, PARTNERSHIPS

23. (NEW UCC FEES EFFECTIVE JANUARY 1, 1996).

Section X-1, PROHONOTARY ACCOUNTING AND AGENT RESPONSIBILITIES:

Reference: Include revised summary.

Reference: Remove AOPC/Department of Revenue letter dated 10/04/94

Reference: Substitute AOPC/Department of Revenue letter dated 10/02/95

24. (INDEX).

Revised

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (TABLE OF CONTENTS)

Revised

2. (AMENDING CAPTION TO SUBSTITUTE A MONETARY AMOUNT IN FORMER DEFENDANT'S PLACE).

Page B-1-1, CAPTION: Amend this section as follows:

1. Common Oversights:

Change paragraph #1 to a., paragraph #2 to b., paragraph #3 to c.

Add the following:

2. Amending Caption:

a. Where the original defendant has disclaimed any interest in the fund paid into court and been discharged of all liability, the claim is then against the fund. A court order may then be entered amending the caption to substitute a monetary amount in the former defendant's place.

b. At the time of trial, the jury should be sworn with the party plaintiffs designated as the plaintiffs on the one side, against the fund or the property which stands in place of the original defendant, ex: Andrew P. Slavin and Edward K. Slavin, plaintiffs, v. \$12,992.93, defendant. (Slavin v. Slavin, 84 A.2d 313)

Index: AMENDING CAPTION

3. (ADMINISTERING OATHS). This is in response to the question raised of whether the Prothonotary can notarize documents that do not pertain to the work in the office.

PAGE B-1-3, GENERAL PROVISIONS: Add as follows:

OATHS, AFFIDAVITS AND ACKNOWLEDGMENTS.

1. The Prothonotary may, if so desired, administer oaths in the form of affidavits and take acknowledgments on any document that requires an Affidavit or an Acknowledgment, even though it does not pertain to the work of the office. Authority for this is found in 42 Pa.C.S.A. § 2737, which gives the Prothonotary these rights, but the Prothonotary cannot be forced to exercise these rights if the Prothonotary elects not to do so.

a. The Prothonotary is authorized to administer oaths in accordance with general practice in the county.

2. Oaths and appointments may be filed in the office in accordance with general practice in the county, or as prescribed by law.

a. Prothonotary shall file stamp, number and record in appropriate docket.

Index: Oaths, Affidavits and Acknowledgments
Index: Affidavits, Oaths and Acknowledgments
Index: Acknowledgments, Oaths and Affidavits

Add to Table of Contents

4. (AMENDMENT OF Pa.R.C.P. NO. 236, NOTICE BY PROTHONOTARY OF ENTRY OF ORDER, DECREE OR JUDGMENT).

Page B-1-3, GENERAL PROVISIONS: Add as follows:

NOTICE BY PROTHONOTARY OF ENTRY OF ORDER, DECREE OR JUDGMENT.

See Pa.R.C.P. No. 236

Index: NOTICE BY PROTHONOTARY.
Index: SERVICE BY PROTHONOTARY.

Add to Table of Contents

5. (U.S. DISTRICT COURTS IN PENNSYLVANIA)

Page B-1-5, GENERAL PROVISIONS: Add new section as follows:

UNITED STATES DISTRICT COURTS IN PENNSYLVANIA

1. Eastern District Jurisdiction:

Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia and Schuylkill Counties

2. Middle District Jurisdiction:

Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York Counties

3. Western District Jurisdiction:

Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland Counties

Reference: List which includes addresses of federal district court clerks (B-1R-6).

Index: UNITED STATES DISTRICT COURTS IN PENNSYLVANIA

Add to Table of Contents

6. (AMENDMENT OF Pa.R.C.P. NO. 240, IN FORMA PAUPERIS). Amend chapter as follows:

Page D-1-1: Change paragraph 2.c. to read:

c. If the court denies the petition, the petitioner shall pay the filing fee. A party required to pay such fee may not, without leave of court,

take any further steps in the action or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the Prothonotary shall enter a judgment of non pros in the action or strike the appeal if the fee remains unpaid. The action or appeal shall be reinstated only by the court for good cause shown.

Renumber/reletter remaining portions of Section 2.

7. Page E-1-2, APPEAL FROM A DISTRICT JUSTICE JUDGMENT: Change paragraph 11 to reads as follows:

11. Judgment of "non pros" may be entered by Prothonotary upon praecipe by appellant pursuant to Pa.R.C.P.D.J. No. 1004B.

a. Written notice of intention to file the praecipe shall be given in accordance with Pa.R.C.P. No. 237.1.

b. Notice of the entry of judgment of non pros shall be given in accordance with Pa.R.C.P. No. 236.

Add new Form: Notice of Praecipe to Enter Judgment of Non Pros (E-1F-1)

Add to Table of Contents

8. (D.J. APPEALS).

Reference: Substitute revised Deadline Schedule by Date for period 01-Aug-95 through 31-Jul-96 (Page E-1R-1).

9. (APPEALS FROM GOVERNMENT AGENCIES)

Page K-3-1: New section to be added.

Reference: Add 42 Pa.C.S.A. § 933 (K-3R-1)

Index: APPEAL FROM GOVERNMENT AGENCIES

Index: APPEAL FROM COMMONWEALTH AGENCIES

Index: APPEAL FROM LOCAL AGENCIES

Index: COMMONWEALTH/LOCAL AGENCY APPEALS

Index: GOVERNMENT AGENCY APPEALS

Index: COMMONWEALTH AGENCY APPEALS

Index: LOCAL AGENCY APPEALS

Add to Table of Contents

10. (NOTICE OF APPEAL)

Form L-1F-1 revised

11. (RULE 1735, EFFECT OF SUPERSEDEAS ON EXECUTION OR DISTRIBUTION).

Page M-1-1, GENERAL NOTES: Add the following to paragraph 1:

c. Notation in Judgment Index. (Pa.R.C.P. No. 1735(b)). Upon the filing of appropriate security in the amount required by and pursuant to the

Rules of Appellate Procedure, the Prothonotary shall note in the docket and in any separate index: "Appeal perfected; lien discharged". Upon return of the record by the appellate court to the lower court, in a matter where the order appealed from was affirmed in whole or in part, the Prothonotary shall thereupon enter an order, as of the date of receipt of the remanded record, against the appellant for the amount due upon the order as affirmed, with interest and costs as provided by law.

12. (AMENDMENT OF RULE 1037. JUDGMENT UPON DEFAULT OR ADMISSION. ASSESSMENT OF DAMAGES).

Page M-2-1, JUDGMENT BY DEFAULT: Change paragraph 1.a. to substitute wording "pleading" for wording "answer" to correspond to new rule.

13. (AMENDMENT OF RULES GOVERNING JUDGMENTS BY DEFAULT).

Page M-2-2, JUDGMENT BY DEFAULT: Change paragraph 1.g.(1). to read as follows:

(1). This rule does not apply to a judgment entered by an order of court, upon praecipe pursuant to an order of court, or pursuant to a rule to show cause.

Glossary: Amend definition of Default Judgment by removing words [a failure to appear or].

Glossary: Cross reference Judgment by Default

Page M-2-5, JUDGMENT BY DEFAULT: Change 4.b. to read as follows:

b. Upon presentation of the praecipe for entry of default judgment, with copy of "IMPORTANT NOTICE" and certificate of service attached, if applicable under Pa.R.C.P. No. 237.1, and payment of filing fee, the Prothonotary shall file, docket and index pursuant to the GENERAL PROVISIONS Section of this manual.

NOTE: ACTIONS UNDER ACT NO. 6 OF 1974, THE LOAN INTEREST AND PROTECTION LAW, 41 P.S. § 101 ET SEQ., ARE NOT EXEMPTED FROM THE REQUIREMENT OF THIS NOTICE (SEE EXPLANATORY COMMENT OF RULE).

Add new Form: Notice of Praecipe to Enter Judgment by Default (M-2F-4).

Add to Table of Contents

Page M-2-5, JUDGMENT BY DEFAULT:

Reference: Administrative Loan Collection Pross. 24 P.S. § 5104.3

Reference: Helms v. Boyle, 637 A.2d 630

Add to Table of Contents

14. (SUPERIOR COURT DECISION INVOLVING JUDGMENT OF NON PROS WITH LAW FIRM PARTNERS AS DEFENDANTS):

Page M-3-1, GENERAL NOTES: Add court case, Haftle, etal v. McGinley, Esquire, etal, to paragraph 1.e. as a reference.

Reference: Haftle, etal v. McGinley, Esquire, etal, Superior Court No. 1273 PHL 93.

Reference: Homemakers Loan & Discount v. Rowe, 4 D.& C.3d 167.

Add to Table of Contents

15. (AMENDMENT OF RULES GOVERNING JUDGMENTS OF NON PROS).

Page M-3-2, JUDGMENT OF NON PROS: Add new paragraph 2.a. as follows:

a. No judgment of Non Pros for failure to file a complaint shall be entered by the Prothonotary unless the praecipe for entry includes a certification that a written Notice of Intention (also known as "Important Notice" or "10-Days' Notice") was mailed or delivered pursuant to Pa.R.C.P. No. 237.1.

Change present paragraph 2.a. to 2.b.

Eliminate present paragraph 2.b. completely.

Index: NOTICE OF INTENTION.

Index: IMPORTANT NOTICE.

Index: 10-DAYS' NOTICE.

Index: NOTICE OF PRAECIPE FOR ENTRY OF JUDGMENT OF NON PROS

Glossary: Amend definition of Judgment of Non Pros

Glossary: Cross Reference Non Pros Judgment

Change Praecipe for Judgment of Non Pros form by adding paragraph 237.1 from Form M-2F-1 to Form M-3F-1. Amend the signature section of Form M-3F-1 to correspond to Form M-2F-1.

Add new Form: Notice of Praecipe to Enter Judgment of Non Pros (M-3F-2).

Add to Table of Contents

16. (AMENDMENT OF RULES GOVERNING REVIVAL OF JUDGMENTS).

Page M-9-3, REVIVAL OF JUDGMENTS/LIENS: Substitute new paragraph 2.a., General Notes, as follows:

a. WRIT OF REVIVAL. INDEXING. LIEN. (Pa.R.C.P. No. 3027).

(1). The Prothonotary shall index the writ of revival or agreement for judgment of revival in the judgment index against each defendant and terre tenant named.

(2). The writ when indexed shall be a lien upon all real property within the county.

NOTE: The lien attaches whether or not the real property was owned by the defendant at the time the judgment was indexed or previously revived and whether or not the lien of the judgment had been lost as to the property.

(3). The lien shall continue for a period of five years from date of indexing.

Reletter paragraph a. and b. to b. and c.

Reletter paragraph c. to d. and amend as follows:

d. PLEADINGS. FURTHER PROCEEDINGS. (Pa.R.C.P. No. 3030).

(1). The writ shall be the equivalent of a complaint in a civil action. The rules relating to a civil action so far as applicable shall govern further proceedings. No counterclaim may be asserted.

(2). The lien of the writ shall continue during the further proceedings.

(3). If judgment cannot be entered on the writ because of further proceedings, the court may enter an order continuing the lien for a period not exceeding five years. The order becomes effective when indexed.

Reletter paragraph d. to e.

Add to Table of Contents

17. (STATE TAX LIENS). Act 1994-138, Automatic Revival and Priority of Tax Liens.

Page N-6-1, STATE TAX LIENS: Add new paragraph 6.a. as follows:

a. All tax liens required to be filed by the Department of Revenue shall continue and shall retain their priority without the necessity of refileing or revival, pursuant to 72 P.S. § 1404.1.

Index: REVIVAL AND PRIORITY OF STATE TAX LIENS

Index: AUTOMATIC REVIVAL OF STATE TAX LIENS

Add to Table of Contents

18. (NEW UCC FEES)

Reference: Include revised summary (Page 0-1R-2)

19. (DISCHARGE OF TAX CLAIM)

Page Q-4-3, TAX CLAIM: Add new subsection to paragraph 4 as follows:

d. Discharge of Tax Claims (72 P.S. § 58609.501(b)). When any property is discharged from tax claim by payment by a lien creditor, or heirs, assigns or legal representatives, or by any person interested for the benefit of the owners, the certificate shall be issued to the person making the payment and

shall state the fact of the discharge, a brief description of the property discharged and the amount of the discharge payment. This certificate may be entered in the office of the Prothonotary as a judgment against the owner of the property for the amount state therein. The lien of any such judgment shall have priority over all other liens against such property in the same manner and to the same extent as the taxes involved in the discharge.

Index: DISCHARGE OF TAX CLAIMS
Index: TAX CLAIM DISCHARGE

Add to Table of Contents

20. (PFA). Act 1994-85, PFA Surcharge and Contempt Fine.

Page R-1-1, PROTECTION FROM ABUSE: Amend as follows:

1. a. Upon receipt of a petition, the Prothonotary shall assign a court of common pleas number and file without prepayment of any fee.
- b. The court will assess costs upon appropriate party at time of hearing.
- c. If applicable, the court shall assess a surcharge of \$25.00 against the defendant which shall be forwarded monthly to the Pa. Department of Revenue by the Prothonotary.

Page R-1-1: At bottom of page, add the following:

NOTE: THE REQUIREMENT OF FORWARDING ALL ORDERS TO THE PENNSYLVANIA STATE POLICE FOR ENTRY INTO THE STATEWIDE REGISTRY, PURSUANT TO ACT 1994-85, IS IN ABEYANCE PENDING THE ESTABLISHMENT OF A COMPUTERIZED SYSTEM.

21. (PFA). Indirect Criminal Contempt.

Page R-1-4: New section to be added.

Index: INDIRECT CRIMINAL CONTEMPT
Index: CIVIL CONTEMPT

Add to Table of Contents

22. (AMENDMENT OF RULES RELATING TO CUSTODY, PARTIAL CUSTODY AND VISITATION).

Page S-1-2, ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN: Change paragraph 2.g. to read as follows:

- g. The court on its own motion or that of a party may order an evaluation of the child or a party (Pa.R.C.P. No. 1915.8).

23. (REGISTRY OF OUT-OF-STATE CUSTODY DECREES)

Page S-2-1: Add new section.

Index: REGISTRY OF OUT-OF-STATE CUSTODY DECREES
Index: OUT-OF-STATE CUSTODY DECREES, REGISTRY OF

Add to Table of Contents

24. (AMENDMENT OF RULES GOVERNING INCOMPETENTS AS PARTIES). Amend chapter as follows:

Page U-2: Change all wording: "Incompetents" to "Incapacitated Persons" throughout chapter.

Glossary: Eliminate "Incompetent" and substitute "Incapacitated Person" as contained in Rule 2051 Definitions.

Glossary: Amend "Guardian" definition

Glossary: Amend "Guardian Ad Litem" definition

Index: INCAPACITATED PERSONS

Index: Refer INCOMPETENTS to INCAPACITATED PERSONS

Amend Table of Contents

25. (REPRESENTATION OF CORPORATION IN COURT).

Page U-5-2, CORPORATIONS AND SIMILAR ENTITIES AS PARTIES: Add case law, Walacavage v. Excell 2000, Inc., as reference in manual.

Reference: Walacavage v. Excell 2000, Inc., 480 A.2d 281.

Add to Table of Contents

26. (NATURALIZATION)

Corrected Form W-1F-1

27. (FISCAL). PFA Surcharge and Contempt Fine

Page X-1-3, PROTHONOTARIES' ACCOUNTING AND AGENT RESPONSIBILITIES: Add new 2.c.(2).(f). as follows:

(f). PFA Surcharge and Indirect Criminal Contempt Fine. Any monies collected are submitted to the Pa. Department of Revenue on the Prothonotary Monthly Report (Form Rev. 711 EX (11-94)), line 12, pursuant to their instructions. There is no collection commission.

Renumber present (f) Audits to (d) Audits.

Change revision date of Revenue report form to 11-94 throughout section.

Form: Include revised Revenue monthly report form (X-1F-1).

Amend Table of Contents

28. (ESCHEATS) Page X-1F-2. Include revised Instructions and Forms for Abandoned and Unclaimed Property Report from State Treasurer's Office.

29. (NEW UCC FEES)

Reference: Include revised summary (Page X-1R-1).

Reference: Remove Department of Revenue letter dated 12/13/93

Reference: Substitute AOPC/Department of Revenue letter dated 10/04/94
(Page X-1R-2)

30. (GLOSSARY)

Revised

31. (INDEX)

Revised

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (WRIT TAX). In response to the question: Must PHEAA (a state agency) pay the writ tax upon filing of a judgment? Solicitor Robert A. Weinert, Esq., advised that there are no exceptions in 72 P.S. 3172 (the enabling statute).

a. PAGE B-1-5: Add subparagraph 1.a. as follows:

"a. No exception for collection of writ tax, including government agencies or political subdivisions."

2. (SUSPENSION OF MOTOR VEHICLE REGISTRATION BY PENNDOT). In response to the questions: Is an appeal process from the suspension of a motor vehicle registration by PENNDOT similar to a license suspension and does the petition act as a supersedeas as in a license suspension appeal? Solicitor Robert A. Weinert, Esq., replied "yes, pursuant to 75 P.S. 1377" to both questions.

a. PAGE K-1-1: Add to title APPEAL FROM A SUSPENSION OF MOTOR VEHICLE REGISTRATION (75 Pa.C.S.A. 1377).

b. PAGE K-1F-1.1: Add to paragraph 3 of form: _____ ordered Appellant to surrender his/her operating license/motor vehicle registration for a period of ____.

Add to paragraph 4 of form: Pursuant to 75 Pa.C.S.A. 1550(b)/1377. . . . retaining driver's license/motor vehicle registration. . . . operating privilege/registration.

c. PAGE K-1F-1.2: Add to paragraph 5 of form: The said suspension. . . operating/registration. . .

d. REFERENCE: Insert copy of 75 Pa.C.S.A. 1377.

e. CONTENTS TABLE and INDEX: List new matter.

3. (WAGE PAYMENT AND COLLECTION LAW, 43 P.S. 260.9a(e)). The Commonwealth Dept. of Labor and Industry advised that in a case where they had represented a claimant in which a default judgment is entered in favor of the claimant, they assign the judgment to the claimant for the filing of the judgment in the prothonotary's office; thereafter, they no longer represent the claimant.

4. (UCC FEES).

a. PAGE X-1F-1.1: Substitute new Department of Revenue Prothonotary Monthly Report form.

b. PAGE X-1R-1: Substitute new summary of fees sheet for 1994 fees.

c. REFERENCE: Insert AOPC 1994 Memo of December 13, 1993 setting 1994 fees and Dept. of Revenue ltr of December 15, 1993 setting the state and county distribution schedule.

5. (ESCHEATS).

a. PAGE X-1F-2.1: Substitute new form.

b. PAGE X-1-3: Change wording of Paragraph (e) to Treasury Department replacing Department of Revenue.

6. (DISTRICT JUSTICE 30-DAY DEADLINE COMPUTATION SCHEDULE).

a. REFERENCE: Add as a reference to Section E-1.

b. CONTENTS TABLE: List subject schedule.

7. (COMMON LAW ARBITRATION 42 Pa.C.S.A. 7341/7342).

a. NEW SECTION: Add new page G-2-1.

b. CONTENTS TABLE: Add new matter under Chapter G.

c. INDEX: Add: American Arbitration Association
Binding Arbitration
Common Law Arbitration
Confirmation of (Independent) Arbitration
Independent Arbitration
Judgment, Confirmation of Arbitration
Statutory Arbitration (See Note)
Uniform Arbitration Act (See Note)

8. (NATURALIZATION).

a. FORMS: Add to Chapter W, MONTHLY REPORT NATURALIZATION PAPERS (Form N-4 (Rev. 12/14/93) and INS ltr of March 17, 1994.

9. (DEFAULT BY JUDGMENT).

a. REFERENCE: Add case law Hines vs. Pettit to Section M-2 and Contents Table. Case refers to prothonotary's obligation to check that default judgements do not exceed sums claimed in the complaints.

10. (GENERAL PROVISIONS - VERIFICATION).

a. VERIFICATION PARAGRAPH: Add to Chapter B:

"VERIFIED. (Pa.R.C.P. Nos. 76 and 1024).

When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities. (Note: This may be used instead of a notarization)."

b. **CONTENTS TABLE.** Add subject matter.

11. **(GENERAL CORRECTIONS).**

a. Corrections to following pages:

CONTENTS TABLE, Page vi

JUDGMENT NON PROS, Page M-3-1

UCC, Page O-1-5

NATURALIZATION, Form W-1F-1 (also in Form Section)

12. **(GENERAL PROVISIONS - COURT STRUCTURES).**

a. Add the diagrams of all court structures in the United States from the Bureau of National Affairs' Directory of State and Federal Courts, Judges and Clerks, Fourth Edition.

b. **CONTENTS TABLE AND INDEX:** List subject matter.

13. **(RETENTION AND DISPOSITION SCHEDULE FOR RECORDS).** All present were in agreement for Diane Wallace, PHMC, to confer with Solicitor Robert A. Weinert, Esq., to determine the legal requirements for PHMC to promulgate a rule to provide options for the disposition of records prior to 1900. Richard E. Dornblaser, Secretary, would attend the meeting.

14. **(DISCONTINUANCE OF A DIVORCE PROCEEDING).** In light of the information contained in Goodrich-Amram and the provisions of Common Law, a letter will be written to the Supreme Court's Domestic Relations Rules Committee suggesting that rules be promulgated for the termination of a divorce proceeding.

15. **(GENERAL DISCUSSION).** A discussion was held on reissuance of writs, garnishees, disposition of monies deposited for opening of election boxes, divorces, IFP policies, proposed rules, subpoenas, etc. with the conclusion that these matters were subject to local policy and should not be included in the manual.

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY (PHEAA) JUDGMENT FILINGS).

a. **INDEX:** Add:

Pennsylvania Higher Education Assistance Agency (PHEAA) judgment filing
(see Judgment by Default) M-2-1.

Student loan default judgment (PHEAA) (SEE Judgment by Default) M-2-1.

b. **CONTENTS TABLE:** Add reference of cite on page vi under Judgment by Default (24 P.S. 5104.3) (2 pages), M-2-5.

2. (CIVIL RIGHTS REDRESS).

a. **INDEX:** Add:

Civil Rights Redress for Violations (Act 1990-216) (see Civil Action -
Law), E-4-1.

Ethnic Intimidation and Institutional Vandalism, Civil Rights violation
(see Civil Action - Law), E-4-1.

Institutional Vandalism and Ethnic Intimidation, Civil Rights
Violation, (See Civil Action - Law), E-4-1.

b. **CONTENTS TABLE:** Add reference of law on page ii under Civil Action - Law (42 Pa.C.S.A. 8309).

c. **REFERENCE:** Add Act 1990-216 and place arrow indicators at (c) Filing of court orders-- and (f) Vacated orders-

3. (UCC SURCHARGES (ACT 1992-167)).

a. **CONTENTS TABLE:** Add to Chapter B, page i - UCC surcharge.

b. **PAGE B-1-4:** Add:

"UCC Surcharge (15 Pa.C.S. 153(a)(8)).

1. Effective December 18, 1992, Act 1992-167 was enacted increasing the UCC county fees by 75% and directing the Prothonotary to pay the entire increase to the Commonwealth.

2. Beginning on January 1, 1994, and each January 1 thereafter, the costs under paragraph (8) of the Act shall be increased by the percentage of increase in the consumer price index for urban workers for the immediate preceding calendar year which shall be published in the "Pennsylvania Bulletin" annually by the Supreme Court on or before the preceding November 30. This subparagraph shall expire January 1, 2001."

c. **CONTENTS TABLE:** Chapter O, Add reference of summary sheet and add reference of Department of Revenue UCC Fee Question & Answer letter.

d. **PAGE O-1-2:** Add above 5.b. two paragraphs under "h. Fees:"

e. **PAGE O-1-5 c.(3):** Change to read: "If sole proprietorship - signature of owner and index against business name, and owner if so listed as debtor."

Add new (4):

"(4). If partnership and form signed by owners, index against business name and one or more of the partners' names if requested by filing party."

Renumber present (4) to (5) and (5) to (6).

f. **PAGE X-1-2/3:** Add new (d):

"(d) UCC surcharge (15 P.S. 153(a)(8)): Copy paragraph 1 from Chapter B adding the following: Submit monthly to Department of Revenue (Items 8 thru 10, Form Rev. 711 Ex (12-92)) pursuant to their instruction. There is no collection commission."

Renumber present (d) to (e).

g. **INDEX:** UCC/Uniform Commercial Code Surcharge B-1-4, O-1-2, X-1-2.

h. **REFERENCE:** UCC Fee Summary O-1R-2.
UCC Questions & Answers O-1R-3.

i. **SUMMARY OF NEW UCC FEES CHART.** Add chart, as Reference X-1R-1 and to Contents.

4. **(DIVORCE - RESUMPTION OF PRIOR SURNAME).**

a. **PAGE T-1-5.** Add new paragraph 17 as follows:

"17. RESUMPTION OF PRIOR SURNAME (54 Pa.C.S.A. 704).

a. General rule.--Any person who is divorced from the bonds of matrimony may resume ANY PRIOR SURNAME used by him or her by filing a written notice to such effect in the office of the Clerk of the Court in which the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

b. Foreign decrees.--Where a divorced person has been the subject of a decree of divorce granted in a foreign jurisdiction, a certified copy of such foreign divorce decree may be filed with the clerk of the court of common pleas of the county where the person resides and, thereafter, the notice (to resume any prior surname) specified in subsection (a) may be filed with reference to such decree."

b. **RENUMBER** paragraph 17 to 18 and 18 to 19.

c. **NEW FORM.** Add to Forms Section, T-1F-2.

d. **INDEX:** Resumption of Prior Surname (see Divorce), T-1-5.
Name change in Divorce (see Divorce), T-1-5.
Add new form under Form.

e. **CONTENTS TABLE:** Add new section title and form.

5. **(MOTORBUS ROAD TAX (75 Pa.C.S. 9815)).**

a. **STATE TAX LIENS (Chapter N-6-1).** Add:

"4. Motorbus Road Tax Writ. A writ of execution may directly issue upon the lien WITHOUT the issuance and prosecution to judgment of a writ of scire facias. Not less than ten days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at his last know post office address."

b. **RENUMBER** paragraphs 4, 5, and 6 to 5, 6, and 7 respectively.

c. **INDEX:** Motorbus Road Tax Liens; Tax, Motorbus; and Bus, Motorbus Tax (see Liens), N-6-1.

d. **CONTENTS TABLE:** Add Motorbus Road Tax Liens under Liens.

6. **(JUDGMENTS, REVIVAL OF JUDGMENTS/LIENS (PAGE M-9-1)).**

a. **PAGE M-9-4.** Add:

"(3). FAILURE TO ENTER JUDGMENT. Rule 3031. Judgment upon Default or Admission. Assessment of Damages. Notes of Decisions. Lienors attempt to revive judgment lien was ineffective by virtue of its failure to file praecipe to enter default judgment after debtors neglected to respond to lienor's praecipe for writ of revival. Allied Material Handling Systems v. Agostini, 606 A.2d 923, Super.1992."

b. **PAGE M-2-2.** Change "e" to read: (see Revival of Judgment/Liens Section of this Chapter, Section M-9).

7. **(TRANSFER OF JUDGMENTS TO ANOTHER COUNTY).**

a. **PAGE M-8-1.** Add subparagraphs to paragraph 2:

"d. Number of transfers. Although the Rules of Civil Procedure governing the transfer of judgments speak in terms of transfer "to another county," this should be regarded as meaning transfer to any number of other counties, without limitation upon the number of transfers from the county in which the judgment was originally entered. (Goodrich-Amram 2d 3002:2)

e. Retransfer of judgment. A judgment transferred to a Court of Common Pleas of a county other than that in which it was originally entered does not become a judgment of the court to which it is transferred, and hence may not be transferred from there to a third county. (Goodrich-Amram 2d 3002:2)"

b. **INDEX:** Apostille (see Transfer of Judgment), M-8-2.

8. **(MECHANICS LIEN (PAGE N-3-1). DISCHARGE OF MECHANIC'S LIEN ON PAYMENT INTO THE COURT OR ENTRY OF SECURITY).**

a. **ADD** new paragraph 3:

"3. A discharge of lien on payment into court or entry of security may be made by petition and court order (see 49 P.S. 1510)."

b. **CONTENTS TABLE:** Add reference to page viii.

c. **RENUMBER** previous paragraph 3 to 4.

9. **(WRIT OF HABEAS CORPUS).**

a. **PAGE C-1-2.** Add subparagraphs to paragraph 1.d.:

"(1). Court order may direct transfer of confined or jailed person.

(2). Court order may direct Prothonotary to issue a Writ of Habeas Corpus to transfer the confined or jailed person."

b. **FORM.** Add to Subpoena Chapter, Form Section and list in Contents.

c. **INDEX:** Writ of Habeas Corpus, C-1-2.
Habeas Corpus, Writ of, C-1-2.
Forms. Habeas Corpus, Writ of C-1F-3.

10. **(PARTIES OF AN ACTION. MUNICIPALITY, OWNER OR TENANT INTERVENTION AS OF COURSE).**

a. **PAGE U-8-1.** Add new paragraph 2:

"2. INTERVENTION AS OF COURSE (53 P.S. 11004-A).

a. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure."

b. **RENUMBER** paragraphs 2, 3, 4, 5, and 6 to 3, 4, 5, 6, and 7 respectively.

c. **CONTENTS TABLE.** Add: Intervention of Municipality, Owner or Tenant as of course.

11. **(NATURALIZATION).** Delete present contents and add new inserts. In FORMS SECTION remove page W-3F-1 and ADD new page W-1F-1.

12. **(ESCHEATS).** **INDEX:** X-1-3.

13. (TIME, COMPUTATION OF).

a. PAGE B-1-2. Add:

"TIME, COMPUTATION OF.

1. Computation of time by days, weeks, or months is found in Pa.R.C.P. Nos. 106, 107 and 108 respectively."

b. INDEX: Time, Computation of, B-1-2.
Computation of time, B-1-2.

c. CONTENTS TABLE: Add to Chapter B, Page i.

14. (16 P.S. 408) - DEPUTIES TO ACT IN CERTAIN CASES).

PAGE A-1-3. Add new paragraph 4, as follows:

"4. DEPUTIES TO ACT IN CERTAIN CASES. Whenever any county officer is authorized or required to appoint a deputy or deputies, such deputy or principal deputy, where there are more than one, shall, during the necessary or temporary absence of his principal, perform all duties of such principal, and also, in case of a vacancy or as provided in 16 P.S. 401(b), until a successor is qualified. While fulfilling these duties, in the case of a vacancy, the deputy shall receive the salary provided by law for the principal OR the salary provided for the deputy, which ever is greater. (16 P.S. 408(a))"

RENUMBER paragraphs 4 to 5 and 5 to 6.

ADD: Purdons 16 P.S. 408 as Reference A-1R-5.

INDEX: Deputies to Act in Certain Cases, A-1-3.
Vacancy in Prothonotary positions (see Deputies to Act in Certain Cases, A-1-3.
Salary of Deputy filling vacancy (see Deputies to Act in Certain Cases), A-1-3.

CONTENTS TABLE: Page i: Add: Deputies to Act in Certain Cases

15. (DISTRICT JUSTICE JUDGMENT APPEAL 30 DAY RULE COMPUTATION BY PROTHONOTARY).

PAGE E-1-1. Change paragraph 2 and 9 to read:

"2. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of judgment without leave of Court and upon good cause shown. (Pa R.C.P.D.J. No. 1002) (Note. For 30 day period computation of time see Pa.R.C.P. No. 106.)

"9. Proof of service with sender's postal receipts attached, to be filed within ten days (Pa.R.C.P.D.J. No. 1005).

PROCEDURES MANUAL: 1992 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

(NOTE: All changes in this summary have been made to the applicable manual pages which are enclosed for insertion; thus, eliminating any pen and ink changes. The revision date is shown at the bottom of each page.)

1. (MANUAL CHAPTER CHANGES).

- a. Changed Chapter "Y" from Glossary to Miscellaneous.
- b. Deleted Index from Chapter "Z" and reserve Chapter "Z" for future use.
- c. Inserted new units for Glossary, Index and Forms; labeled respectively.

2. (NEW MISCELLANEOUS CHAPTER "Y" SECTIONS FOR LIS PENDENS AND WRIT OF NE EXEAT)

- a. Inserted new pages for Lis Pendens and Writ of Ne Exeat sections.

3. (APPEALS TO THE APPELLATE COURTS - CHAPTER "L"). Added sub-paragraph 1.b.

"b. If a Notice of Appeal is filed directly to the Supreme Court, the notice is to be accompanied also by an original and 8 copies of a jurisdictional statement which is then forwarded by the Prothonotary to the Supreme Court (Pa.R.A.P. No. 909)."

4. (APPELLATE COURTS (SUPERSEDEAS) CHAPTER "L").

- a. Added new paragraph 5. Stay or injunction in civil matters (This addresses the posting of the 120% security).
- b. Renumbered present paragraphs 5, 6, and 7 to 6, 7, and 8 respectively.

5. (JUDGMENT FOR SUPPORT OF ARREARAGES, CHAPTER "M"). Modified Section 2 (Manual Page M-5-1) to reflect changes under Pa.R.C.P. No. 1923-1).

6. (LICENSE SUSPENSION, CHAPTER "K").

- a. Changed "APPEAL FROM A LICENSE SUSPENSION" to APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGES/DENIAL OF DRIVER'S LICENSE. Change made to conform to the terminology in the statute.
- b. Inserted new form reflecting changes in wording and generics.
- c. Reference section added to include Purdon's sections on automobile supersedeas.

7. (NEW SECTION TO CHAPTER "K" - SUSPENSION BY PENNSYLVANIA DEPARTMENT OF TRANSPORTATION).

a. Inserted new section for APPEAL FROM A SUSPENSION OF AN INSPECTION MECHANIC CERTIFICATE (75 Pa.C.S.A. 4726) and APPEAL FROM A SUSPENSION OF AN INSPECTION STATION CERTIFICATE (75 Pa.C.S.A. 4721 et seq.). References included.

8. (NEW FORMS SECTION). A new page titled FORMS REFERRED TO BUT NOT INCLUDED IN MANUAL MAY BE FOUND AS LISTED is added. This is to assist in finding forms that are not included in the manual. This has been inserted for your present use and future manual use.

8. (MANUAL INDEX). To make the manual more effective, the index has been greatly expanded; however, since everyone doesn't necessarily look up a subject in the same manner, more input is needed. It is strongly requested that anyone having suggestions to add to the index send their suggestion to the Committee's Chairperson Doris A. Glaessmann, Clerk of Courts of Lehigh County, P. O. Box 1548, Allentown, Pa. 18105. Thank you.

9. (NATURALIZATION). Inserted notice page warning that procedures are no longer applicable under the new federal law and that the matter will be addressed in the future when new procedures have been firmly established.

10. (TABLE OF CONTENTS AND GLOSSARY). Appropriate changes have been made to these sections to reflect the 1992 updates.

11. (SPECIAL REQUEST). It is requested that anyone having a suggestion for the inclusion of a subject in the manual, change, or improvement to the manual submit it prior to February 1st to the Committee's Chairperson Doris A. Glaessmann, Clerk of Courts, P. O. Box 1548, Allentown, Pa. 18105. It should be noted that this should not be the work of a few members, but of all since it appears it may become the basis for the new state wide computer system.

PROCEDURES MANUAL 1991 UPDATE SUMMARY

Prothonotaries Advisory Committee
Administrative Office of Pennsylvania Courts

1. (OUT OF STATE JUDGMENTS, CERTIFICATIONS, AND EXEMPLIFICATIONS).

a. PAGE M-8-1 Changes:

(1). Change 2.b. to read: Prothonotary shall prepare a certification of judgment index and docket entries,...

(2). Change 3. to read: Receipt of judgment transfer...the Prothonotary shall follow procedure established in Judgment, General Note, Section of this manual.

(3). Change 4.b. to read: Prothonotary shall prepare a certification of judgment index and docket entries...

b. PAGE M-8-2 Change NOTE to read: (NOTE:...the Prothonotary certifies the judge is the judge is not necessary for the above, but upon request may be issued. Add opinion from Attorney Weinert dated August 22, 1989.

c. PAGE P-1-2 Change:

(1). Change b.(1).(b).(i). to read: a certified copy of all judgment index and docket entries in the action;

d. PAGE P-1-3 Changes:

(1). Change 2.b.(1). to read: ...a certified copy of the judgment index, if applicable, and docket entries is to be included.

(2). Change 2.b.(2). to read: ..authentication is in proper form may be included.

e. PAGE Y-1-1 Change:

(1). Add NOTE to read: (NOTE: See Black's Law Dictionary or equivalent for more specific definitions. Refer to References and Glossary paragraphs in Guidelines for Prothonotary Section, Chapter A).

f. PAGE Y-1-9 Change:

(1). DOCKET definition, add sentence to read: A judgment index or indices may also be considered a docket.

g. PAGE Y-1-23 Change:

(1). Add a reference NOTE at the end to read: (NOTE: See "Note" at beginning of Glossary).

h. PAGE A-1-1 Change:

(1). Add to GLOSSARY paragraph: See the Note at the beginning of Page Y-1-1.

i. PAGE Y-1-23 Changes:

(1). Add to GLOSSARY: WITHOUT PREJUDICE. A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

(2). Add to GLOSSARY: WITH PREJUDICE. The term as applied to judgment of dismissal is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

2. (ELECTION-OFFICE HOURS-NEW SECTION).

a. PAGE A-1-3 Addition: Add to #27. " Exception: The Office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions."

3. (PROTHONOTARY IS PARTY TO SUIT).

a. PAGE A-1-2 Addition: 2. ...In all suits or actions subject to compulsory arbitration.

4. (JUDICIAL COMPUTER PROJECT FUND).

a. PAGE X-1-2 Addition: Add new 2.c.(2).(c). Judicial Computer Project Fund \$5.00 Surcharge (42 Pa.C.S.A. 3733(a)(1)) on all initial civil actions or legal proceeding filed on or after June 29, 1990. For further clarification contact AOPC at (215) 560-6300. Add wording per revised page. Move Escheats to 2.c.(2)(d).

b. PAGE X-1F-1 substitute new form Rev.711 Ex (6-90) PROTHONOTARY MONTHLY REPORT. Note on form that it is printed on yellow paper.

c. PAGE B-1-3 Addition: Add paragraph similar to Children's Trust Fund \$10.00 Surcharge for the Judicial Computer Project Fund \$5.00 Surcharge.

d. PAGE Z-1-4 Addition: Add to index Judicial Computer Project Fund.

e. In cover letter to the prothonotaries with the amendments and updates suggest the prothonotaries include AOPC MEMO Of July 2, 1990, as an exhibit in the manual.

5. (FOREIGN JUDGMENT LIENS).

a. PAGE N-4-1 Change: Under underlined title add on new line Uniform Enforcement of Foreign Judgment Act 42 Pa.C.S.A. 4306 covers the United States and possessions. Next line add: Uniform Foreign Money Judgment Recognition Act 42 Pa.C.S.A. 22001 covers other countries

b. PAGE N-4R-1 Addition: Add copy of Uniform Foreign Money Judgment Recognition Act No. 1990-139.

6. (CRIMINAL RESTITUTION, REPARATION, FEES, COSTS, FINES AND PENALTIES JUDGMENT - NEW SECTION).

a. PAGE M-11-1 New: Add new page with the above title. New section to be similar to section on Judgment for Support Arrearages commencing on page M-5-1 to include:

- (1). 1. GENERAL NOTES amended appropriately to conform to the Act.
- (2). 1.a. as amended.
- (3). 1.b. not to be used, but new 1.b. to be substituted with wording shown on new page.
- (4). 2. PROCEDURES. as amended.
- (5). 2.a. Modified to read "Upon receipt of a praecipe to enter judgment for restitution, reparation, fees, costs, fines, and penalties together with a stamped pre-addressed envelope and notice under Pa.R.C.P. No. 236 Prothonotary shall assign a court of common pleas number and file the judgment
- (6). New 2.b. Prothonotary must accept and enter the judgment without requiring the payment of costs as a condition precedent to the entry thereof. However, any filing fee shall be borne by the defendant and shall be collected by the county probation department and remitted to the prothonotary at the time of satisfaction of judgment.
- (7). Present 2.b. change to 2.c. and eliminate "and attorney of record."
- (8). Present 2.c. change to 2.d.

7. (ASBESTOS-NEW SECTION).

a. PAGE E-7-1 New. Add new page TITLED CIVIL ACTION. ASBESTOS (Pa.R.C.P. No. 1041.1 - 1041.2). Similar to Chapter E on page E-5-1.

- (1). 1. Action commenced by filing of a complaint or summons
- (2). 2. See new page.
- (3). 3. The Prothonotary shall maintain a record of all asbestos actions filed by a separate docket, docking code or other appropriate means to allow the administrative monitoring of such actions.
- (4). 4. Refer to filing a Complaint in CIVIL ACTION - LAW Section of this manual.
- (5). 5. RETENTION AND DISPOSITION SCHEDULE pending.

8. (READING PENNSYLVANIA RULES OF CIVIL PROCEDURE-NEW PARAGRAPH).

A. PAGE A-1-1 Addition. Add below "READING PURDONS" as follows:

- (1). READING PENNSYLVANIA RULES OF CIVIL PROCEDURE. A note to a rule or explanatory comment is not a part of the rule but may be used in construing the rule (Pa.R.C.P. No. 129(e).

9. (COMPULSORY ARBITRATION AWARD ENTRIES).

a. PAGE G-1-1 Change.

(1). 3.c. change to read "Enter awards for the payment of money in the judgment index and enter all awards in the proper docket noting on the docket and award, date and time of its entry on the docket and the amount of the arbitrators' compensation to be paid upon appeal. (Pa.R.C.P. 1307)."

(2). 3.e. change to read "Upon entry, a monetary award.....".

10. (ELECTIONS).

- a. PAGE Y-1-10 Addition. Glossary, add ELECTION DISTRICT as defined in 25 P.S. 2602.
- b. PAGE E-8-1 Addition. Add new section CIVIL ACTION. ELECTIONS.

11 (FILING FEE DEFINITION).

a. PAGE Y-1-11 Addition. Glossary, add FILING FEE. As used in this Manual includes Prothonotary's fee as well as all applicable state taxes and surcharges.

ADDENDUM:

Amend Page B-1-2, Children's Trust Fund to reflect new law passed to change collection to time of filing Complaint.

PROCEDURES MANUAL 2014 UPDATE SUMMARY

Prothonotaries Advisory Committee Administrative Office of Pennsylvania Courts

NOTE: New cites for RETENTION AND DISPOSITION SCHEDULE will be included in the Prothonotary Manual as sections are revised. In all other cases, refer to the County Records Manual

**Replace title page to read 2014 and Foreword to read 23rd edition.
Replace advisory committee page.**

TABLE OF CONTENTS:

Chapter B – page i

Add to **Civil Bail Bond**

Reference:

Bond Requirements – Public Officials B-1R-14
(Add page revision date 07/14)

Dockets/Docket Entries – page ii

References:

Replace 17 P.S. 1903 with 16 P.S. 9871 B-1R-1
Remove 17 P.S. 1910 (Repealed)

Holidays

Substitute List of federal legal holidays B-1R-9

Political Activity

Substitute Pennsylvania Supreme Court Guidelines B-1R-13
(Add page revision date 07/14)

Chapter C – page iii

Add **Foreign Depositions and Subpoenas** C-2-1

Foreign Subpoena

Purpose

Issuance

Service

Procedure

(Add page revision date 07/14)

Chapter E – page iv

Add to **Determinations of Magisterial District Judge**

General Notes

Forms:

Statement of Objection E-3F-1

(Add page revision date 07/14)

Chapter E - Residential Lease – page v

Forms:

Add:

Section 8 Tenants Supersedeas Affidavit – Rule 1008	E-9F-3.1
Non-Section 8 Tenants Supersedeas Affidavit – Rule 1008	E-9F-3.2
Section 8 Tenants Supersedeas Affidavit – Rule 1013	E-9F-3.3
Non-Section 8 Tenants Supersedeas Affidavit – Rule 1013	E-9F-3.4
Supplemental Instructions for Obtaining a Stay	E-9F-3.5
Poverty Income Guidelines	E-9F-3.8

(Add page revision date 07/14)

Chapter M – page ix

Remove from **General Notes:**

Judgment of non-suit

Add Notes of Decisions

(Add page revision date 07/14)

Chapter N – page xii

Add to **Judgment Liens – General Notes:**

Waste Tire Recycling Remediation Lien

(Add page revision date 07/14)

Chapter N - Enforcement Actions – page xv

Remove from forms:

Praeipce for Writ of Execution – Money Judgment Q-1F-6

(Add page revision date 07/14)

Chapter S – Child Custody and Visitation - page xvii

Remove from Forms:

Application for Access to Criminal Charge Information

Revise Reference to Read:

Jen & Dave **Web Page Info** S-1R-1

Chapter S - Child Custody and Visitation – page xviii

Add to Forms: Criminal Record/Abuse History Verification S-2F-2

(Add page revision date 07/14)

Chapter U – Parties of an Action – page xix

Remove from General Notes:

Minor

(Add page revision date 07/14)

Chapter V – Veterans – page xx

Veterans

(Add page revision date 07/14)

V-2-1

GUIDELINES FOR PROTHONOTARY (CHAPTER A)

A-1-3 (paragraph 6 – references)

Revise 42 P.S. § 20003. Cross Reference and Interpretation

Revise 42 Pa C.S.A. §2731 – **2738**. Prothonotaries

Remove 5 P.S. § 34 and 16 P.S. § 408.

Add 42 Pa. C.S.A. § 7362 Voluntary Arbitration of Pending Judicial Matters

(Add page revision date 07/14)

GENERAL PROVISIONS (CHAPTER B)

B-1-1 (Accepting or Refusing Filing by the Prothonotary)

Add to paragraph 5 – Note: The latest version of this form will be published on the website of the AOPC AT www.pacourts.us.)

(Add page revision date 07/14)

B-1-2 (Bond requirements for Officeholders and Staff)

Add to Note under paragraph 7: See Reference **B-1R-14.1 – B1R-14.15**.

(Add page revision date 07/14)

B-1-3 (Child Custody – Criminal Charge Information System Fee)

Revise paragraph 3 to reflect Current Act 1996-119 fee as of January 1, **2014**, is \$7.50, with \$6.00 being remitted monthly to the AOPC and \$1.50 being remitted to the county.

(Add page revision date 07/14)

B-1-5 (Civil Bail Bonds)

Add under References:

Bail Bond

Release of Prisoner

Surety Information Page

Affidavit of Surety

Bail Payment

(Add page revision date 07/14)

B-1-5 (Court Structures)

Revise reference to read: Diagrams from the National Center for State Courts.

(Add page revision date 07/14)

B-1-6 (Dockets/Docket Entries)

References: Remove 17 P.S. § 1903; Replace with 16 P.S. § 9871

Remove 17 P.S. § 1910 (Repealed)

(Add page revision date 07/14)

B-1-11 (Termination of Inactive Cases)

Revise reference (Pa R.C.P. No. 230.2 temporarily suspended by Supreme Court on 4-23-2014)

This rule provides an administrative method for the termination of inactive cases. The court is primarily responsible for the implementation of the policy and is directed to make local rules of court for such purposes applicable to the Court of Common Pleas. The court is responsible for serving notice on counsel or unrepresented parties. Parties shall have 30 days to respond to the notice. Unserved notices must be advertised in the legal journal for the county or a newspaper of general circulation if there is no journal. It is the Prothonotary's responsibility to obtain an address for the attorney when the notice is returned by checking a legal directory or contacting the AOPC. If parties fail to file an objection, the Prothonotary shall terminate the case with prejudice for failure to prosecute. Remedy for termination is by filing a petition to the court to reinstate the action for good cause shown. **(NOTE: The Statement of Intention to Proceed is no longer applicable.)**

(Add page revision date 07/14)

B-1-12 (United States District Courts in Pennsylvania)

Revise reference to read: List including addresses and telephone numbers of federal district court clerks.

(Add page revision date 07/14)

Replace B-1R-1.1 and B-1R-1.2

Omit page B-1R-2

Replace B-1R-3.1 and B-1R-3.2 with B-1R-3

Replace B-1R-4.1 and B-1R-4.2 with B-1R-4.1 thru B-1R-4.3

Replace B-1R-6.1 thru B-1R-6.3

Replace B-1R-7.1 and B-1R-7.2 with B-1R-7.1 thru B1-R-7.5

Replace B-1R-9 with B-1R-9.1 thru B-1-9.3

Replace B-1R-11.1 and B-1R-11.2 with B-1R-11.1 thru B-1R-11.7

Replace B-1R-13.1 and B-1R-13.2 with B-1R-13.1 and B-1R-13.2

Add B-1R-14.1 thru B-1R-14.15

(Add page revision date 07/14)

CIVIL ACTION – M.D.J. APPEALS (CHAPTER E)

E-1-1 (Appeal from a Magisterial District Justice Judgment)

Substitute revised deadline schedule **E-1R-1.1. and E-1R-1.2**

(Add page revision date: 07/14)

E-2-2 (Writ of Certiorari)

Revise paragraph 5(b) to read: the consequences if the appellant/tenant fails to pay the additional monthly deposits within thirty (30) days following the date of the filing of the praecipe, and each successive thirty (30) day period thereafter.

Revise paragraph 6 to read: If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented to the party's last known address of record.

(Add page revision date 07/14)

Substitute pages **E-2R-1.1 thru E-2R-1.6**

(Add page revision date 07/14)

E-4-1 (Civil Action)

Add pages **E-4R-3.1 thru E-4R-3.3** (previously omitted)

(Add page revision date 07/14)

E-9-2 (Appeal from MDJ Decision)

Revise paragraph 4 (b) to correct Unified Judicial System of Pennsylvania website and paragraph 10 (b) to read: the consequences if the appellant/tenant fails to pay the monthly rental in thirty (30) day intervals from the date the notice of appeal or praecipe was filed and each successive thirty (30) days thereafter.

(Add page revision date 07/14)

E-9-3 (Appeal from MDJ Decision)

Add to forms under paragraph 17:

Important Notice of Praecipe to Enter Judgment of Non Pros	E-9F-1
Praecipe for Termination of Supersedeas and Notice	E-9F-2
Section 8 Tenants Supersedeas Affidavit – Rule 1008	E-9F-3.1
Non-Section 8 Tenants Supersedeas Affidavit – Rule 1008	E-9F-3.2
Section 8 Tenants Supersedeas Affidavit – Rule 1013	E-9F-3.3
Non-Section 8 Tenants Supersedeas Affidavit – Rule 1013	E-9F-3.4

(Add page revision date 07/14)

Substitute pages **E-9R-1.1 thru E-9R-1.20** with revised pages **E-9R-1.1 thru E-9R-1.11**

(Add page revision date 07/14)

Substitute revised pages **E-9R-2.1 thru E-2R-2.3**

(Add page revision date 07/14)

Substitute revised pages **E-9F-3.1 thru E-9F-3.8**

(Add page revision date 07/14)

ARBITRATION (CHAPTER G)

Add pages **G-2R-1.1** and **G-2R-1.2** (previously omitted)

(Add page revision date 07/14)

LIENS – MAGISTERIAL DISTRICT JUDGE JUDGMENT LIEN (CHAPTER N)

Substitute pages **N-1R-1.1 thru N-1R-1.14**

(Add page revision date 07/14)

Revise page **N-8-1**, paragraph 1 (b) (2) to correct website address for Civil Procedural Rules Committee.

(Add page revision date 07/14)

ENFORCEMENT ACTIONS (CHAPTER Q)

Revise page **Q-1-11** by removing from paragraph 17 - Forms Praeipie for Execution/Attachment Execution

(Add page revision date 07/14)

CHILD CUSTODY AND VISITATION (CHAPTER S)

Revise page **S-1-1**, paragraph 2(c) to read: Action is commenced by filing a verified complaint substantially in the form provided by Pa.R.C.P. No. 1915.15(a) with an order attached directing the defendant to appear at a hearing. (In some counties this may be a pre-hearing conference as established by local administrative order or local rule of court.) Pursuant to Pa.R.C.P. No. 1915.3-2, the petitioner must file and serve with the complaint, or any petition for modification, a verification regarding any criminal abuse history of the petitioner and anyone living in the petitioner's household. See forms section for Criminal Record/Abuse History Verification.

(Add page revision date 07/14)

Revise page **S-1-2** by adding sub-paragraph 2(n): A custody action may be discontinued by praecipe only upon a verified statement by the moving party that the complaint has not been served. After the complaint has been served, it may not be discontinued without leave of court after notice to the non-moving party or by written agreement of the parties. See Pa.R.C.P. No. 1915.3-1.

(Add page revision date 07/14)

Revise page **S-2-2**

Add to Forms:

Registration of Child Custody Determination and Important Notice
Criminal Record/Abuse History Verification

(Add page revision date 07/14)

Add pages **S-2F-2.1 thru S-2F-2.5**

(Add page revision date 07/14)

ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE (CHAPTER T)

Revise page **T-1-1**, paragraph 3 to read:

a. A complaint pursuant to Pa.R.C.P. No. 1920.3 in the form set forth in Pa.R.C.P. No. 1920.72, and

c. Section 3301 (c) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(1) and set forth in Pa.R.C.P. No. 1920.72(b), or

d. Section 3301 (d) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(2) and set forth in Pa.R.C.P. No.1920.72(d).

(Add page revision date 07/14) ***Changes highlighted**

Revise page **T-1-2**, paragraph 5 to read:

Original service of complaint commencing the action may be made by handing a copy to the defendant, by mail, or the sheriff pursuant to Pa.R.C.P. No. 1920.4.

(Add page revision date 07/14)

Replace page **T-1F-4**.

(Add page revision date 07/14)

PROTHONOTARY AS PASSPORT AGENT (CHAPTER V)

Replace page **V-1R-1.1** and omit pages **V-1R-1.2** and **V1R-1.3**

(Add page revision date 07/14)

Add subchapter **V-2-1** (Veterans)

(Add page revision date 07/14)

NATURALIZATION (CHAPTER W)

Revise page **W-1-3** – paragraph 7

Forms:

Modify Monthly Report Naturalization Papers (Form N-4, **Rev. 01/22/13**)

Replace pages **W-1F-2.1** and **W-1F-2.2**.

(Add page revision date 07/14)

MISCELLANEOUS (CHAPTER Y)

Revise page **Y-3-1**, paragraph b (2) to read: The Pennsylvania State Police requests the Prothonotary provide a fingerprint card to the individual requesting a name change. The individual should be advised to go to their local police department or nearest State Police station to be fingerprinted. **“Name Change” should be written in red at the top of the card.** No fee will be assessed for criminal background check. When completed, the fingerprint card should then be forwarded with a copy of the application for name change to the following address:

Pennsylvania State Police
Central Repository
1800 Elmerton Avenue
Harrisburg, PA 17110

(Add page revision date 07/14)

FORMS SECTION

Add to **forms index**:

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Remove from forms index:

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(Add page revision date 07/14)

INDEX SECTION

Change reference on page 4 to “Children’s Trust Fund \$10.00 Surcharge - Divorce/Annulment”	T-1-1
Revise page 8 by removing “Apostille” from Forms	
Add to page 9 by adding to forms “Criminal Record/Abuse History Verification”	S-2F-2
Change reference on page 9 to “Exemplification”	P-1F-1
Add to page 11 by adding to forms “Praeceptum for Writ of Execution-Mortgage Foreclosure”	Q-3F-1
Add to page 12 by adding to forms “Statement of Objection”	E-3F-1
Add to page 22 “Veterans”	V-2-1

(Add page revision date 07/14)

Substitutions/Additions/Deletions as indicated:

E-9F-3.1 thru E-9F-3.8

Q-1F-6

S-2F-2.1 thru S-2F-2.5

T-1F-4

W-1F-2.1

W-1F-2.2

(Add page revision date 07/14)

**SUPREME COURT OF PENNSYLVANIA
ADMINISTRATIVE OFFICE
OF PENNSYLVANIA COURTS**

2014

**PROTHONOTARIES'
PROCEDURES MANUAL**



PREPARED BY PROTHONOTARIES' ADVISORY COMMITTEE

**ZYGMONT A. PINES
COURT ADMINISTRATOR OF PENNSYLVANIA**

**1515 MARKET STREET
SUITE 1414
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ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

ZYGMONT A. PINES, ESQUIRE
COURT ADMINISTRATOR OF PENNSYLVANIA

July 2014

**FOREWORD FROM THE COURT ADMINISTRATOR
OF PENNSYLVANIA**

TO

PROTHONOTARIES

It is with pleasure that I provide you with the 23rd edition of the Prothonotaries' Procedures Manual, an invaluable tool and resource for prothonotaries. The uniformity of procedures used in prothonotary offices across the state are promoted by the manual, which sets forth rules, statutes, definitions, forms, references and procedures with regard to court records.

This valuable resource tool results from the dedicated efforts of the Prothonotaries' Procedures Manual Committee. Their work and significant contributions are greatly appreciated, and the Committee has my thanks.

Sincerely,

A handwritten signature in black ink, appearing to read "Z. A. Pines", written in a cursive style.

Zygmunt A. Pines
Court Administrator of Pennsylvania

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 Suffix "F" = Form
 Suffix "R" = Reference
Second Number = Page)

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#12. Amendment and correction of judgments. Fourth paragraph on proper method to correct errors in docket and indexes.

#15. Names of parties generally, entry of judgments. Third paragraph, Wood v Reynolds, it is the duty of the plaintiff to see that his judgment be rightly entered (Also see the Fifth paragraph and Note #20).

#27. Hours. Prothonotary may set own hours, receive documents after closing and enter the following day as of the day received. EXCEPTION: The Office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions (25 P.S. § 2937).

#29. Due process, judgments by confession. Requirement of a disclosure statement by Swarb v Lennox presently only applies to counties under the jurisdiction of the U. S. District for the Eastern District.

#41. Seal. Buehler v Paxson stated in essence where a document in conformity with the statutes should have borne the judicial seal, which could have been affixed by the Prothonotary, the absence of such seal was a defect and not a mere informality.

4. DEPUTIES TO ACT IN CERTAIN CASES. Whenever any county officer is authorized or required to appoint a deputy or deputies, such deputy or principal deputy, where there are more than one, shall, during the necessary or temporary absence of his principal, perform all duties of such principal, and also, in case of a vacancy or as provided in 16 P.S. 401(b), until a successor is qualified. While fulfilling these duties, in the case of a vacancy, the deputy shall receive the salary provided by law for the principal OR the salary provided for the deputy, whichever is greater. (16 P.S. § 408(a))

5. IMMIGRATION. This is a non-judicial function which the Prothonotary need not perform.

6. References:

42 P.S. § 20003. Cross Reference and Interpretation.

42 Pa.C.S.A. §§ 2701-2705. General Provisions.

42 Pa.C.S.A. §§ 2731 - 2738. Prothonotaries.

42 Pa.C.S.A. § 7362. Voluntary Arbitration of Pending
Judicial Matters

CHAPTER B

GENERAL PROVISIONS

ACCEPTING OR REFUSING FILING BY THE PROTHONOTARY

(Pa.R.C.P. Nos. 205.2, 205.3, and 42 P.S. § 21073(b)).

1. Documents that comply with R.C.P. may not be refused based on a requirement of a local rule of civil procedure or judicial administration.

2. Refusal may be made to accepting a document or performing a service to any person, political subdivision or the Commonwealth UNTIL THE REQUISITE FEE IS PAID.

3. Prothonotary should accept any document for filing except as specifically indicated in certain rules.

4. For filing pleadings and other legal papers with the Prothonotary, including limitations on facsimile filings, see Pa.R.C.P. No. 205.3 and Explanatory Comment.

5. The Prothonotary shall not accept a filing commencing an action without a completed cover sheet as required by Pa.R.C.P. 205.5 subject to exceptions listed at Pa.R.C.P. 205.5(a)(1)

(Note: The latest version of this form will be published on the website of the AOPC at www.pacourts.us)

ADDRESSES (Pa.R.C.P. Nos. 1012 and 1025).

One of the basic reasons that addresses are included in pleadings is for administrative purposes, e.g., where to contact or correspond with the party.

1. Parties. The address of the plaintiff should be listed in the caption or text of the initial pleading. The address of the defendant/respondent may not be known at the time of filing, but may be obtained after service.

2. Attorney/Pro Se. The initial pleading, reply, or appearance should contain the complete address, telephone number, and for attorney - the Supreme Court I.D. number.

BOND REQUIREMENTS FOR OFFICEHOLDERS and STAFF

1. Prothonotary shall give and acknowledge a bond to the county prior to taking oath of office (16 P.S. § 420)

2. The bond shall be conditioned upon the faithful discharge by the Prothonotary and his/her staff. (16 P.S. § 421)

3. The bond shall be in the name of the county for the use of the county, the Commonwealth and such person(s) for whom money shall be collected or received. (16 P.S. § 422)

4. The bond shall be approved by the court of common pleas. (16 P.S. § 423)

5. The controller shall be the custodian of the bond and in the absence of a controller, the commissioners. (16 P.S. § 425)

(NOTE: If there is no controller in the county, the Prothonotary shall hold the bond for the commissioners and chief clerk.)

6. The bond shall be acknowledged before the Recorder of Deeds. (16 P.S. § 426)

(NOTE: The Recorder of Deeds shall acknowledge his/her bond before the Prothonotary.)

7. The amount of the county bond shall be set by the commissioners. (16 P.S. § 427)

(NOTE: The Commonwealth sets the amount for the bond required to be given by the state. See Reference B-1R-14.1 – B1R-14.15.)

8. The staff handling monies shall give and acknowledge a single bond covering them payable to the Prothonotary. The salary board shall determine each position requiring a bond and shall designate the amount. (16 P.S. §§ 429 and 430)

(NOTE: Not all counties follow the above procedures for the county bond; the commissioners may arrange for a blanket bond to cover all officeholders and staff.)

CAPTION (Pa.R.C.P. Nos. 1018 (Pleadings) and 1704 (Class Action)).

1. Common oversights:

a. In the first line ensure the correct county is shown and the appropriate designation of Civil Action - LAW or EQUITY.

b. Parties in the action are to be listed in the caption of the initial pleading; in subsequent filings, only the first party need be named followed by an appropriate indication of the other parties, e.g., et al.

c. Type of Pleading. Under the file number of the caption, list the type of pleading. If the pleading is trespass/assumpsit, only the term "Civil Action" is to appear; for all others, the term Civil Action - TYPE, e.g., "Civil Action - Ejectment", "Civil Action - Asbestos", etc.

2. Amending caption:

a. Where the original defendant has disclaimed any interest in the fund paid into court and been discharged of all liability, the claim is then against the fund. A court order may then be entered amending the caption to substitute a monetary amount in the former defendant's place.

b. At the time of trial, the jury should be sworn with the party plaintiffs designated as the plaintiffs on the one side, against the fund or the property which stands in place of the original defendant, ex: Andrew P. Slavin and Edward K. Slavin, plaintiffs, v. \$12,992.93, defendant. (Slavin v. Slavin, 84 A.2d 313)

CHILD CUSTODY -- CRIMINAL CHARGE INFORMATION SYSTEM FEE
(42 Pa.C.S.A. § 1725.1(a)(1) (Act 1996-119)).

1. The Prothonotary shall collect an Act 1996-119 fee on all child custody case filings as of February 4, 1997. The fee is to be charged on all initial custody cases after February 4, 1997 regardless of whether custody is sought in a custody complaint, a count in a divorce action or a count in a divorce counterclaim. The fee should be considered a one-time charge on all child custody case filings. The fee is not charged on petitions to modify an existing custody order.

2. Eighty percent of the fee is to be remitted monthly to the Administrative Office of Pennsylvania Courts, for the operation of the information system.

3. Current Act 1996-119 fee as of January 1, 2014 is \$7.50, with \$6.00 being remitted monthly to the AOPC and \$1.50 being remitted monthly to the county.

CHILDREN'S TRUST FUND \$10.00 SURCHARGE (11 P.S. § 2238 (Act 1988-151) as amended).

1. The Prothonotary shall collect the \$10.00 surcharge on all DIVORCE COMPLAINTS filed as of June 1, 1990.

e. The filing and transfer fees should be the responsibility of the surety posting bail.

4. Realty located outside the Commonwealth but within the United States, under same conditions as above.

5. Surety bond of a licensed professional bondsman or of a surety company authorized to do business in Pennsylvania.

(NOTE: Certification of Bail and Discharge Bond, Form AOPC 414, as utilized in the Clerk of Courts' Office, may be used by Prothonotary.)

References:

Bail Bond
Release of Prisoner
Surety Information Page
Affidavit of Surety
Bail Payment

COMPUTATION OF TIME.

Computation of time by days, weeks, or months is found in Pa.R.C.P. Nos. 106, 107 and 108 respectively.

(NOTE: See HOLIDAYS in this chapter.)

COUNTY RECORDS IMPROVEMENT FUND.

Act 1998-8, effective March 30, 1998, created a County Records Improvement Fund in counties of classes 2A through 8, and established a County Records Improvement Committee comprised of the County Commissioners, Sheriff, Prothonotary, Clerk of Courts, Register of Wills and Treasurer or their equivalent in a home rule county. Act 2002-32, effective June 16, 2002, increased the amount to \$2.00 of the fee collected by the Recorder of Deeds which shall be deposited in this fund and shall be expended in accordance with a comprehensive records management plan developed by the Committee.

COURT STRUCTURES.

Structures of all courts in the United States.

Reference:

Diagrams from the National Center for State Courts.

DOCKETS/DOCKET ENTRIES.

Shall contain date of filing and a brief, concise description of document filed.
An appealable order entry shall include the date the order is docketed.

References:

- 16 P.S. § 9871. Judgment docket; contents; fees for entries.
- 42 Pa.C.S.A. § 4301. Establishment and maintenance of judicial records.
- 204 Pa. Code 173.1. Minimum standards for prothonotary records.
- Fraternal Order of Police v. Philadelphia, 655 A.2d 666

ELECTRONIC FILING and SERVICE OF LEGAL PAPERS

Pa.R.C.P. No. 205.4

(NOTE: Rule 205.4 is intended as a further step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents.)

EXPUNGEMENT.

PROCEDURE -- Upon receipt of petition, court order and the appropriate fee, the Prothonotary shall:

1. Obliterate all identifiers for defendant and plaintiff from all media including but not limited to paper, electronic, optical and microform (security and office copies).
2. Certify and serve copies of expungement order as directed by the court.
3. Place under seal or destroy case file as directed by the court.
4. Place petition, court order and affidavits of other agencies served, if any, under seal in accordance with local practice.

SIZE/FORM OF PAPERS. (Pa.R.A.P. No. 124).

The size and forms of papers filed in the court of common pleas is set by the Rules of Appellate Procedure. The size of paper shall be 8½" x 11", etc.

STIPULATIONS AGAINST LIENS.

For indexing information, see 49 Pa.C.S.A. § 1402.
For electronic indexing, see 49 Pa.C.S.A. § 1402(b).

Reference:
Act 2004-96 (HB 237, PN 266)

TERMINATION OF INACTIVE CASES. (Pa. R.J.A. No. 1901) (Pa. R.C.P. No. 230.2 suspended by Supreme Court on 4-23-2014)

This rule provides an administrative method for the termination of inactive cases. The court is primarily responsible for the implementation of the policy and is directed to make local rules of court for such purposes applicable to the Court of Common Pleas. The court is responsible for serving notice on counsel or unrepresented parties. Parties shall have 30 days to respond to the notice. Unserved notices must be advertised in the legal journal for the county or a newspaper of general circulation if there is no journal. It is the Prothonotary's responsibility to obtain an address for the attorney when the notice is returned by checking a legal directory or contacting the AOPC. If parties fail to file an objection, the Prothonotary shall terminate the case with prejudice for failure to prosecute. Remedy for termination is by filing a petition to the court to reinstate the action for good cause shown. **(NOTE: The Statement of Intention to Proceed is no longer applicable.)**

UNITED STATES DISTRICT COURTS IN PENNSYLVANIA.

1. Eastern District Jurisdiction:
Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, and Philadelphia counties.
2. Middle District Jurisdiction:
Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York counties.

3. Western District Jurisdiction:
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland counties

Reference:

List including addresses and telephone numbers of federal district court clerks.

VERIFIED. (Pa.R.C.P. Nos. 76 and 1024)

When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities. (Note: This may be used instead of a notarization.)

WHAT COPY TO ACCEPT.

1. Under normal conditions, the Prothonotary should accept only the original of a pleading or filing; the document should contain original signatures. The only exceptions should be by cited statutes or where there are conflicting statutes, e.g. filing of a copy of bail bond for judgment.

2. It is suggested that if any "copies", e.g., other than original, are submitted for duplicate clocking to verify the filing, that these copies be stamped or marked "COPY" -- this eliminates the possibility of anyone trying to submit a copy for an original.

WRIT TAX. (72 P.S. § 3172)

1. The 25¢ and 50¢ taxes described in this statute are in addition to the items listed in the Prothonotary's fee schedule.

a. No exception for collection of writ tax, including government agencies or political subdivisions.

2. The proceeds are to be transmitted monthly to the Pa. Department of Revenue and reported on the Prothonotary Monthly Report (Rev. 711 EX), lines 1 through 5. The Department of Revenue requests that the Writ Tax and Surcharges be combined in the same check for payment.

C

Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 16 P.S. Counties (Refs & Annos)

Chapter 4. Other Provisions Concerning Counties (Refs & Annos)

Article XIA. Court Records

→→ § 9871. Judgment docket; contents; fee for entries

It shall be the duty of each of the prothonotaries of the several courts of common pleas district courts and circuit courts [FN1] in this commonwealth, to make, prepare and keep a docket, to be called the judgment docket, in which said docket no case shall be entered until after there shall have been a judgment or award of arbitrators in such case, and into which shall be copied the entry of every judgment and every award of arbitrators, immediately after the same shall have been entered; which entries, so to be made in the said judgment docket, shall be so made that one shall follow the other in the order of time in which the said judgments and awards shall have been rendered, entered or filed, as aforesaid; and the entries in each case in said judgment docket shall particularly state and set forth the names of the parties, the term and number of the case, and the date, and in case the judgment shall be for a sum certain, the amount of the judgment or award; and when any judgment shall be revived by scire facias or otherwise, or when any execution shall issue in any case, a note thereof shall be made in the proper judgment docket, at the place where the other entries in such case may have been made; and whenever any transcript of any testatum execution, or any transcript showing the balance appearing to be due from any executor, administrator or guardian, or from any collector of any township, ward or district, shall be delivered to any of the said prothonotaries, the docket entries made in such case shall be copied into the said judgment docket, in like manner as judgments and awards are herein directed to be copied; and the fee for all the entries made in each case, in the judgment docket, shall be twelve and a half cents, and no more.

CREDIT(S)

1827, March 29, P.L. 154, § 3.

[FN1] District courts and circuit courts are now nonexistent, see Const. Art. 5.

REPEALED IN PART

<This section is repealed, except insofar as relates to recorders of deeds, by § 2(a)[108] of Act 1978, April 28, P.L. 202, No. 53 [42 P.S. § 20002(a)[108]].>

RULES OF CIVIL PROCEDURE

<This section is not deemed to be suspended or affected by Pa.R.C.P. Nos. 2950 to 2962 and 2970 to 1974, 42 Pa.C.S.A. governing confession of judgment for money or for possession of real property. See Pa.R.C.P. No. 2975, 42 Pa.C.S.A.>

HISTORICAL AND STATUTORY NOTES


Transferred from 17 P.S. § 1903 in 1981.

In Philadelphia, executions must be docketed in order to constitute a lien upon after-acquired real estate, by act of 1853, April 20, P.L. 610, § 9.

CROSS REFERENCES

Partnerships, indexing of judgments against, see Pa.R.C.P. No. 2133, 42 Pa.C.S.A.

LIBRARY REFERENCES

Judgment  277, 284, 766.
Westlaw Topic No. 228.
C.J.S. Judgments §§ 116, 130, 132, 559 to 560, 562.

RESEARCH REFERENCES

Treatises and Practice Aids

Goodrich-Amram 2d Rule 3020, Definition.

NOTES OF DECISIONS

In general 1

Amendment and correction, entry of judgment 15

Amount of judgment or award, entry of judgment 12

Appearance or continuance docket, entry of judgment 4

Docket as notice, generally 16

Entry of judgment 3-15

Entry of judgment - Amendment and correction 15

Entry of judgment - Amount of judgment or award 12

Entry of judgment - Appearance or continuance docket 4

Entry of judgment - Erasures and interlineations in record 13

C

Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)

Part V. Administration of Justice Generally

Chapter 43. Dockets, Indices and Other Records

Subchapter A. Establishment, Maintenance and Effect of Judicial Records (Refs & Annos)

→ → § 4301. Establishment and maintenance of judicial records

(a) **General rule.**--All system and related personnel shall establish and maintain such records as shall be required by law.

(b) **Supervision by Administrative Office.**--All system and related personnel engaged in clerical functions shall establish and maintain all dockets, indices and other records and make and file such entries and reports, at such times, in such manner and pursuant to such procedures and standards as may be prescribed by the Administrative Office of Pennsylvania Courts with the approval of the governing authority. All such procedures and standards shall be uniform to the maximum extent practicable so as to facilitate the temporary assignment of personnel of the system, other than county staff, within the unified judicial system.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978.

BAR ASSOCIATION COMMENT

Source Note: New.

HISTORICAL AND STATUTORY NOTES

Prior Laws:

1978, April 28, P.L. 124, No. 52, § 67.

1972, July 12, No. 185, § 1305 (53 P.S. § 6780-605).

C

West's Pennsylvania Administrative Code Currentness

Title 204. Judicial System General Provisions

Part VI. Judicial Council of Pennsylvania

Subpart E. Administration of Justice Generally

Chapter 173. Uniform Procedures, Indexes and Dockets

→→ § 173.1. Minimum standards for prothonotary records.

(a) *General rule.* The minimum standards for maintenance of records in the Office of the Prothonotary shall be as follows:

(1) An annual numbering system referring to the year and case number shall be adopted, to wit, 73-485.

(2) One General Docket shall be employed in which all actions, Judgments, Liens or matters (Federal Liens, Secured Transactions, Fictitious Names, Notary Docket and Power of Attorney Register shall be maintained as heretofore) shall be recorded in chronological order, regardless of type or description, and which shall be recorded as briefly as possible:

(i) Caption.

(ii) Attorneys.

(iii) Number of case.

(iv) Type of action or matter and, if trespass, whether motor vehicle or not.

(v) Jury trial, trial by judge without jury, arbitration or other.

(vi) The date of filing each paper and brief description of that paper, e.g., Summons, Complaint, Interrogatories, Notice of Depositions, Preliminary Order, Final Order, Judgment and amount, Award and amount, Verdict and amount, Settle, Discontinue and End, or Termination or Termination with Prejudice.

(vii)(A) In rem matters or those actions requiring identification by a real estate description shall be identified by either recording the name of the record owner or the tax map unit and parcel number or indicator as established by modern tax identification system.

(B) Prothonotaries employing manual systems shall maintain a separate Locality Index which shall contain the name of either the record title owner or a tax map unit and parcel number or indicator as established by modern tax identification system.

(viii) All satisfactions, terminations by parties or entries of Settle, Discontinue and End shall be accomplished by satisfaction piece and not by entry of signature on docket.

(3) The General Docket shall have the following index system:

(i) A judgement Index in which all Judgments, Liens and Lis Pendens shall be recorded in chronological order of their filing. Said index shall contain the following information:

(A) Name of defendant.

Name of plaintiff.

(B) Number of case.

(C) Docket and page.

(D) Date of filing.

(E) Nature of Proceedings.

(ii) A Miscellaneous Index in which all other actions or matters shall be recorded. Said index shall contain the following information:

(A) Names of plaintiff and defendants.

(B) Number of case.

(C) Docket and page.

(D) Date of filing.

(E) Nature of proceedings.

(b) *Scope.* The minimum standards set forth in subsection (a) of this section shall apply to all offices adopting computer or other electro-data processing systems. The same minimum standards may also be adopted by any Prothonotary's Office employing manual procedures. Any Prothonotary may include additional information if local

practice or custom dictates.

Adopted Jan. 25, 1974.

204 Pa. Code § 173.1, 204 PA ADC § 173.1

Current through Pennsylvania Bulletin, Vol. 44, Num. 12, dated March 22, 2014.

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END OF DOCUMENT

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**United States Courthouse, Independence Mall West
601 Market St., Philadelphia, PA 19106**

Counties Under Jurisdiction: Berks, Bucks, Chester, Delaware, Lancaster, Lehigh,
Montgomery, Northampton and Philadelphia

Chief Judge

Hon. Petrese B. Tucker (267) 299-7610

United States District Judges

U.S. Courthouse, Philadelphia 19106

	Room	(215)
Hon. Nitza Quinones Alejandro	4000	(267) 299-7460
Hon. Harvey Bartle III (Sr.)	16614	597-2693
Hon. Michael M. Baylson (Sr.).....	3810	(267) 299-7520
Hon. Anita B. Brody (Sr.)	7613	597-3978
Hon. Ronald L. Buckwalter (Sr.)	14614	597-3084
Hon. Stewart Dalzell	15613	597-9773
Hon. Legrome D. Davis	6614	(267) 299-7650
Hon. Paul S. Diamond.....	6613	(267) 299-7730
Hon. J. William Ditter Jr. (Sr.)	3040	597-9640
Hon. Jan E. DuBois (Sr.)	12613	597-5579
Hon. James Knoll Gardner	(610)	434-3457
504 W. Hamilton St., Ste. 4701, Allentown 18101		
Hon. Mitchell S. Goldberg.....	7614	(267) 299-7500
Hon. C. Darnell Jones II	5613	(267) 299-7750
Hon. J. Curtis Joyner (Sr.).....	17614	(215) 597-1537
Hon. Robert F. Kelly (Sr.).....	11613	597-0736
Hon. Edmund V. Ludwig (Sr.)	5118	580-2030
Hon. Mary A. McLaughlin	13614	(267) 299-7600
Hon. Thomas N. O'Neill Jr. (Sr.)	4007	597-2750
Hon. John R. Padova (Sr.).....	17613	597-1178
Hon. Gene E.K. Pratter	10613	(267) 299-7350
Hon. L. Felipe Restrepo.....	3038	(267) 299-7690
Hon. Eduardo C. Robreno.....	15614	597-4073
Hon. Cynthia M. Rufe.....	12614	(267) 299-7490
Hon. Juan R. Sanchez.....	8613	(267) 299-7780
Hon. Timothy J. Savage	9614	(267) 299-7480
Hon. Berle M. Schiller (Sr.).....	13613	(267) 299-7620
Hon. Jeffrey Schmehl	(610)	320-5099
Hon. Norma L. Shapiro (Sr.).....	10614	597-9141
Hon. Joel H. Slomsky	5614	(267) 299-7340
Hon. Lawrence F. Stengel	3809	(267) 299-7760
Hon. R. Barclay Surrick (Sr.)	8614	(267) 299-7630
Hon. Donald W. VanArtsdalen (Sr.)	3040	597-9650
Hon. William H. Yohn Jr. (Sr.)	14613	597-4361

United States Magistrate Judges

U.S. Courthouse, Philadelphia 19106

Chief Judge

Hon. Carol Sandra Moore Wells..... 3016 (215) 597-7833

	Room	(215)
Hon. M. Faith Angell	211	597-6079
Robert N.C. Nix Federal Bldg., 900 Market St., Philadelphia 19107		
Hon. Linda K. Caracappa	3042	(267) 299-7640

Hon. Jacob P. Hart.....	3006	597-2733
Hon. Elizabeth T. Hey	(267)	322-6020
Robert N.C. Nix Federal Bldg., 900 Market St., Ste. 219, Philadelphia 19107		
Hon. Henry S. Perkin.....	4401	(610) 434-3823
U.S. Courthouse and Federal Bldg., Ste. 4401, 504 W. Hamilton St., Allentown 18101		
Hon. Timothy R. Rice.....	3029	(267) 299-7660
Hon. Thomas J. Rueter	3000	597-0048
Hon. Lynne A. Sitarski	3015	(267) 299-7810
Hon. David R. Strawbridge.....	3030	(267) 299-7790

Personnel

U.S. Courthouse, Philadelphia 19106

<i>Clerk of Court –</i>	Room	(215)
Michael E. Kunz.....	2609	597-7704

Chief Probation Officer –

Ronald DeCastro	597-7950
Ste. 2400, William J. Green Federal Bldg., 600 Arch St., Philadelphia 19106	

U.S. Marshal –

David Webb	2110	597-7272
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BANKRUPTCY COURT

Bankruptcy Judges

U.S. Bankruptcy Court, ED of PA
900 Market St., Philadelphia 19107-4299

	Room	(215)
Hon. Stephen Raslavich (Chief Judge)	204	408-2982
Hon. Jean K. FitzSimon	203	408-2891
Hon. Bruce I. Fox	202	408-2974
Hon. Eric L. Frank	201	408-2970
Hon. Magdeline D. Coleman	214	408-2978
Hon. Richard E. Fehling	(610)	208-5093
Ste. 301, The Madison Bldg., 400 Washington St., Reading 19601		

Personnel

<i>Clerk of Court –</i>	Room	(215)
Timothy B. McGrath.....	400	408-2800

U.S. Attorney's Office

U.S. Attorney –
Zane David Memeger..... 861-8200
615 Chestnut St., Ste. 1250, Philadelphia 19106-4476

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
U.S. Post Office and Courthouse, Scranton, PA 18501**

Counties Under Jurisdiction:

Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland,
Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon,
Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike,
Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York

Chief Judge

Hon. Christopher C. Conner.....(717) 221-3945
Federal Bldg. & U.S. Courthouse, Harrisburg 17108

United States District Judges

Hon. Matthew W. Brann.....(570) 323-9722
Federal Bldg., Scranton 18501

Hon. William W. Caldwell (Sr.).....(717) 221-3970
Federal Bldg., Harrisburg 17108

Hon. A. Richard Caputo (Sr.).....(570) 831-2556
197 S. Main St., Ste. 235, Wilkes-Barre 18701

Hon. Richard P. Conaboy (Sr.).....(570) 207-5710
Federal Bldg., Scranton 18501

Hon. John E. Jones III.....(717) 221-3986
Federal Bldg. & U.S. Courthouse, Harrisburg 17108

Hon. Yvette Kane.....(717) 221-3990
Federal Bldg., Harrisburg 17108

Hon. Edwin M. Kosik (Sr.).....(570) 207-5730
Federal Bldg., Scranton 18501

Hon. Malachy E. Mannion.....(570) 207-5760
Federal Bldg., Wilkes-Barre 18701

Hon. Robert D. Mariani.....(570) 207-5750
Federal Bldg., Scranton 18501

Hon. James M. Munley (Sr.).....(570) 207-5780
Federal Bldg., Scranton 18501

Hon. William J. Nealon (Sr.).....(570) 207-5700
Federal Bldg., Scranton 18501

Hon. Sylvia H. Rambo (Sr.).....(717) 221-3960
Federal Bldg., Harrisburg 17108

United States Magistrates

Hon. Martin C. Carlson (Chief Judge).....(717) 614-4120
Federal Bldg., Harrisburg 17108

Hon. William I. Arbuckle III (P/T).....(570) 323-9881
240 W. Third St., Ste. 218, Williamsport 17701

Hon. Thomas M. Blewitt.....(570) 207-5740
Federal Bldg., Scranton 18501

Hon. Karoline Mehalchick.....(570) 831-2570
Federal Bldg., Scranton 18501

Hon. Susan E. Schwab.....(717) 221-3980
Federal Bldg., Harrisburg 17108

Personnel

Clerk of Court –

Mary E. D'Andrea.....(570) 207-5680
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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

**U.S. Post Office and Courthouse
700 Grant St., Pittsburgh, PA 15219**

Website: pawd.uscourts.gov

Counties Under Jurisdiction:

Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield,
Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence,
McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland

Chief Judge

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U.S. Courthouse, 700 Grant St., Pittsburgh 15219

United States District Judges

U.S. Courthouse, 700 Grant St., Pittsburgh 15219

(412)

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Hon. Joy Flowers Conti208-7330
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(Cite as: 655 A.2d 666)

C

Commonwealth Court of Pennsylvania.
FRATERNAL ORDER OF POLICE, LODGE NO. 5,
Appellant,
v.
CITY OF PHILADELPHIA.

Argued Feb. 7, 1995.
Decided March 3, 1995.

Union filed petition to appeal nunc pro tunc following dismissal of its petition to vacate arbitrator's decision. The Common Pleas Court, Philadelphia County, No. 1944 September Term 1993, Nigro, J., denied petition, and union appealed. The Commonwealth Court, No. 1986 C.D. 1994, Pellegrini, J., held that notice of dismissal of petition was adequate.

Affirmed.

West Headnotes

[1] Appeal and Error 30  985


30 Appeal and Error
30XVI Review
30XVI(H) Discretion of Lower Court
30k985 k. Allowance and Perfecting of Appeal or Other Proceeding for Review. Most Cited Cases

Commonwealth Court's scope of review of trial court's decision permitting or refusing to permit nunc pro tunc appeal is limited to determining whether there has been error of law or manifest abuse of discretion.

[2] Appeal and Error 30  357(1)


30 Appeal and Error
30VII Transfer of Cause
30VII(A) Time of Taking Proceedings
30k357 Relief in Case of Failure to Proceed in Time
30k357(1) k. In General. Most Cited Cases

Nunc pro tunc appeal can be granted only if there has been fraud or breakdown in operation of court.

[3] Judgment 228  276

228 Judgment
228VII Entry, Record, and Docketing
228k276 k. Proceedings for Entry. Most Cited Cases

Rule of Civil Procedure regarding notice by prothonotary of entry of order, decree or judgment does not require notation on docket of attorneys to whom it was sent, but rather, requires only that docket reflect that notice was sent to either the party or the attorney of record. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

[4] Judgment 228  276

228 Judgment
228VII Entry, Record, and Docketing
228k276 k. Proceedings for Entry. Most Cited Cases

Notation on docket sheet that attorney was attorney for party, along with notation "Notice under Rule 236," was sufficient to establish that notice of entry of order, decree or judgment was sent to attorney, albeit in care of law firm attorney was associated

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with at time he commenced his representation. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

[5] Attorney and Client 45 ↪ 75(1)

45 Attorney and Client

45II Retainer and Authority

45k75 Change and Substitution

45k75(1) k. In General. Most Cited Cases

Notice of change in counsel can only be given to prothonotary by filing entry of appearance.

[6] Judgment 228 ↪ 276

228 Judgment

228VII Entry, Record, and Docketing

228k276 k. Proceedings for Entry. Most Cited Cases

“Attorney of record” for purposes of notice of entry of order, decree or judgment rule, is attorney listed in docket. Rules Civ.Proc., Rule 236, 42 Pa.C.S.A.

*666 Richard Kirschner, for appellant.

Mark J. Foley, Divisional Deputy City Sol., for appellee.

Before McGINLEY and PELLEGRINI, JJ., and LORD, Senior Judge.

PELLEGRINI, Judge.

The Fraternal Order of Police, Lodge No. 5 (FOP), appeal an order of the Court of Common Pleas of Philadelphia County (trial *667 court) denying its Petition to Appeal *Nunc Pro Tunc* contending that the proper party did not receive notice of the trial court's dismissal of its Petition to Vacate the Arbitrator's Award.

The FOP filed a grievance regarding a number of police officers (Grievants) who claimed that they were entitled to unused vacation time when they were terminated pursuant to Civil Service Regulation 32 ^{FN1} after they became disabled by a work-related injury. The Grievants were represented by Michael Kopac, Esquire (Attorney Kopac) of Sacks, Basch, Weston & Sacks (Sacks firm), general counsel for the FOP. After the grievance could not be settled at a hearing, an Arbitrator found that the City had no obligation to pay unused leave to any officers terminated pursuant to Civil Service Regulation 32 because of their disability.

FN1. Civil Service Regulation 32 provides:

32.061 *PERMANENTLY AND PARTIALLY DISABLED EMPLOYEES.*

32.061 PLACEMENT PROGRAM.

32.0611 Any permanently and partially disabled employee shall be referred to the Personnel Department for possible re-employment in a position compatible with his disability, skills, abilities or aptitude. (Such position will be referred to as a secondary position.)

* * * * *

32.0613 Any employee, who, in the opinion of the Director, refuses to cooperate in the placement program, or in a rehabilitation program, or to accept or continue in the employment offered, shall, as of the date of any such refusal, be separated from municipal employment, and his rights to disability benefits under this regulation shall be limited to a period of one year from the date of disability, provided however, that he may appeal to the Civil Service Commission, as herein provided.

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Following the date of separation from municipal employment he shall, in consideration of the benefits hereby provided, forfeit the following rights and privileges:

- (a) accumulated sick leave;
- (b) *accumulated vacation leave;*
- (c) compensatory time to his credit.

* * * * *

(Emphasis added.)

In September of 1993, the FOP, through Attorney Kopac, filed a timely Petition to Vacate the Arbitrator's Award. However, shortly after the Petition was filed, there was a change in the FOP leadership. As a result, the firm of Sacks, Basch, Weston & Sacks was replaced as general counsel by Sagot, Jennings & Sigmond. Thomas W. Jennings, Esquire (Attorney Jennings), of Sagot was designated general counsel for the FOP and A. Martin Herring, Esquire (Attorney Herring), of A. Martin Herring and Associates, was designated special counsel. Attorney Kopac turned over the Grievants' file to Attorney Herring. Attorney Kopac did not file a motion to withdraw and neither Attorney Jennings nor Attorney Herring formally entered their appearance with the prothonotary's office. Informed of the change, the City, when it filed its Answer to the Petition to Vacate, listed the new attorneys' names and addresses on the motion court cover sheet and certificate of service.

On January 10, 1994, Attorney Kopac resigned from the Sacks firm. On January 21, 1994, the trial court dismissed the Petition to Vacate because the Arbitrator's decision was rationally derived from the collective bargaining agreement. The docket sheet on the case listed Attorney Kopac as the Grievants' counsel and contained the following: "Notice under Rule 236".^{FN2}

FN2. Pa.R.C.P. No. 236 provides:

(a) The prothonotary shall immediately give written notice by ordinary mail of the entry of any order, decree or judgment:

(1) When a judgment by confession is entered, to the defendant at the address stated in the certificate of residence filed by the plaintiff together with a copy of all documents filed with the prothonotary in support of the confession of judgment. The plaintiff shall provide the prothonotary with the required notice and documents for mailing and a properly stamped and addressed envelope; and

(2) In all other cases, to each party who has appeared in the action or to the party's attorney of record.

(b) The prothonotary shall note in the docket the giving of the notice and, when a judgment by confession is entered, the mailing of the required notice and documents.

* * * * *

[1] On May 19, 1994, Attorney Herring filed a Petition to Appeal *Nunc Pro Tunc* and entered his appearance on the record the following day. As part of the Petition, Attorneys Kopac, Jennings and Herring filed affidavits stating that they did not receive notice of the dismissal of the Petition to Vacate. In *668 its Answer, the City contended Attorney Herring's contention in the Petition to Appeal *Nunc Pro Tunc* that he did not receive notice of the order dismissing the Petition to Vacate was inconsistent with allegations contained in a federal civil complaint he filed on behalf of the Grievants on April 28, 1994, in which Attorney Herring alleged that Bernard Sacks, a partner

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in the Sacks firm, received the notice of the dismissal, but in concert with the ousted FOP president, did not advise the Grievants. The trial court denied the FOP's Petition to Appeal *Nunc Pro Tunc*, finding that it failed to establish the requirements to justify a *nunc pro tunc* appeal. This appeal followed.^{FN3}

FN3. Our scope of review of a trial court's decision permitting or refusing to permit a *nunc pro tunc* appeal is limited to determining whether there has been an error of law or a manifest abuse of discretion. *Baker v. City of Philadelphia*, 145 Pa. Commonwealth Ct. 421, 603 A.2d 686 (1992).

[2][3][4] A *nunc pro tunc* appeal can be granted only if there has been fraud or a breakdown in the operation of the court. *Baker*, at 427, 603 A.2d at 689. The FOP contends that its Petition to Appeal *Nunc Pro Tunc* should be granted because it did not receive Rule 236 notice. Rule 236 requires that notice be given to either the party or his or her attorney of record, and that such be noted in the docket. The FOP contends that to show compliance with the Rule, along with the notation that notice was sent, the docket must also note the attorneys to whom it was sent. Contrary to the FOP's contention, Rule 236 does not require such a notation. It requires only that the docket reflect that notice was sent to either the party or the attorney of record. *See Hepler v. Urban*, 530 Pa. 375, 609 A.2d 152 (1992). Attorney Kopac was listed on the docket sheet as the attorney for the FOP, and the docket contained the following notation—"Notice Under Rule 236". This notation is sufficient to establish that notice was sent to Attorney Kopac, albeit, in care of the Sacks firm.

Even if notice of the dismissal of the Petition to Vacate was sent to the Sacks firm, the FOP maintains that notice was sent after the Sacks firm had been discharged from representing the FOP, and such information was concealed from it by the ousted FOP president and Attorney Sacks. Assuming that to be

true, the FOP's contention misstates the reason why notice was not received by those representing now the FOP. It was the result of the failure of Attorneys Jennings and Herring to enter their appearance for the FOP on the record, not any breakdown in the administration of the court.

However, the FOP contends Pennsylvania Rule of Civil Procedure 1012^{FN4} does not require a written entry of appearance, and because it did not receive notice, it is entitled to appeal *nunc pro tunc*. Subsection (a) of Rule 1012 does not require an attorney to enter a written appearance, but, when no appearance has been entered, notice would be sent to the captioned party. When an appearance has been entered, Subsection (b) of Rule 1012 then applies. Under that provision, an attorney remains of record until an order of court allows the attorney's withdrawal or another attorney simultaneously enters an appearance when the original attorney withdraws. Because Attorneys Jennings and Herring did not enter an appearance, they could not be deemed counsel of record, and Attorney Kopac, having originally entered his appearance and not withdrawing, remained the attorney of record. By not entering their appearance, Attorneys Jennings and Herring would not be entitled to notice under Rule 236. The prothonotary can only send notices to those individuals he or she has been informed are representing a party.

FN4. Rule 1012 provides:

(a) A party may enter a written appearance which shall state an address within the Commonwealth at which papers may be served ...

Note: Entry of a written appearance is not mandatory.

(b) An attorney's appearance for a party may not be withdrawn without leave of

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court unless another attorney has entered or simultaneously enters an appearance for the party and the change of attorneys does not delay any stage of the litigation.

[5][6] The FOP contends, however, that the City's listing of Attorney Jennings and *669 Attorney Herring on the motion cover sheet put the prothonotary's office on notice that Attorney Jennings and Attorney Herring were now representing the FOP, and that not sending notice thereto was a breakdown in the administration of the court. Notice of a change in counsel can only be given to the prothonotary by filing an entry of appearance. Otherwise, clerks would be responsible for perusing every cover sheet to see if there has been a change. Moreover, such a holding would lead to the anomalous situation of opposing counsel changing the counsel of record for the other party. Rule 236 requires that notice be sent to each party or to the party's *attorney of record* and that the giving of notice be noted in the docket. *See Hepler*. The attorney of record is the attorney listed in the docket.

Accordingly, the order of the trial court is affirmed.

ORDER

AND NOW, this 3rd day of March, 1995, the order of the Court of Common Pleas of Philadelphia County, No. 1944, dated July 27, 1994, is affirmed.

Pa.Cmwlth.,1995.

Fraternal Order of Police, Lodge No. 5 v. City of Philadelphia

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END OF DOCUMENT

“(2) such employee's right under section 202(b)(1) to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 202(b)(2).

For the purpose of the preceding sentence, the term ‘intimidate, threaten, or coerce’ includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

“(b) Any employee who violates the provisions of subsection (a) shall, upon a final order of the Commission, be—

“(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Commission may prescribe;

“(2) suspended without pay from such employee's position for such period as the Commission may prescribe; or

“(3) disciplined in such other manner as the Commission shall deem appropriate.

The commission shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

“REPORTS

“SEC. 304. Not later than 2½ years after the effective date of titles I and II of this Act, the Commission shall—

“(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this Act [enacting section 5550a of this title and this note], and

“(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate.

The Commission shall prepare a final report with regard to experiments conducted under this Act [enacting section 5550a of this title and this note] and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

“REGULATIONS

“SEC. 305. The Commission shall prescribe regulations necessary for the administration of the foregoing provisions of this Act [enacting section 5550a of this title and this note].

“EFFECTIVE DATE

“SEC. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 180th day after—

“(1) the date of the enactment of this Act [Sept. 29, 1978], or

“(2) October 1, 1978, whichever date is later.”

SAVINGS PROVISIONS; 1982 AMENDMENT

Pub. L. 97-221, §4, July 23, 1982, 96 Stat. 234, provided that:

“(a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act [July 23, 1982] shall be continued by the agency concerned.

“(b)(1) During the 90-day period after the date of the enactment of this Act [July 23, 1982] any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

“(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

“(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

“(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement.”

[§ 6102. Repealed. Pub. L. 92-392, §7(a), Aug. 19, 1972, 86 Stat. 573]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515, provided for eight-hour day and 40-hour workweek for wage-board employees. See sections 5544(a) and 6101(a)(1) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

(1) Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal public holiday for—

(A) employees whose basic workweek is Monday through Friday; and

(B) the purpose of section 6309¹ of this title.

(2) Instead of a holiday that occurs on a regular weekly non-workday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly non-workday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly non-

¹ See References in Text note below.

workday is a legal public holiday for the employee.

(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.

(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by section 2105 of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

(d)(1) For purposes of this subsection—

(A) the term “compressed schedule” has the meaning given such term by section 6121(5); and

(B) the term “adverse agency impact” has the meaning given such term by section 6131(b).

(2) An agency may prescribe rules under which employees on a compressed schedule may, in the case of a holiday that occurs on a regularly scheduled non-workday for such employees, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, be required to observe such holiday on a workday other than as provided by subsection (b), if the agency head determines that it is necessary to do so in order to prevent an adverse agency impact.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515; Pub. L. 90-363, §1(a), June 28, 1968, 82 Stat. 250; Pub. L. 94-97, Sept. 18, 1975, 89 Stat. 479; Pub. L. 98-144, §1, Nov. 2, 1983, 97 Stat. 917; Pub. L. 104-201, div. A, title XVI, §1613, Sept. 23, 1996, 110 Stat. 2739; Pub. L. 105-261, div. A, title XI, §1107, Oct. 17, 1998, 112 Stat. 2142.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 87.	June 26, 1894, ch. 118, 28 Stat. 96.
	5 U.S.C. 87a.	May 13, 1938, ch. 210, 52 Stat. 351. June 1, 1964, ch. 250, 68 Stat. 168.
	5 U.S.C. 87b.	Dec. 26, 1941, ch. 681, 55 Stat. 862.
(b)	5 U.S.C. 87c.	Sept. 22, 1959, Pub. L. 86-362, §§1, 2, 73 Stat. 643, 644.
(c)	[Uncodified].	Jan. 11, 1967, Pub. L. 85-1, 71 Stat. 3.

In subsection (a), former sections 87, 87a, and 87b are combined and restated for clarity. The names of all holidays are inserted for ready reference in a like manner to that used in former section 87c.

In subsection (c), the year “1965” is substituted for “1967”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 6309 of this title, referred to in subsec. (b)(1)(B), was repealed by Pub. L. 94-183, §2(26), Dec. 31, 1975, 89 Stat. 1058.

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105-261 added par. (3).

1996—Subsec. (d). Pub. L. 104-201 added subsec. (d).

1983—Subsec. (a). Pub. L. 98-144 inserted item relating to birthday of Martin Luther King, Jr.

1975—Subsec. (a). Pub. L. 94-97 changed Veterans Day from fourth Monday in October to November 11.

1968—Subsec. (a). Pub. L. 90-363 added Columbus Day, the second Monday in October, to the enumerated legal public holidays, and substituted provisions that Washington’s Birthday, Memorial Day, and Veterans Day are to be celebrated on the third Monday in February, the last Monday in May, and the fourth Monday in October, respectively, for provisions that the above mentioned public holidays are to be celebrated on February 22, May 30, and November 11, respectively.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-144 provided that: “The amendment made by the first section of this Act [amending this section] shall take effect on the first January 1 that occurs after the two-year period following the date of the enactment of this Act [Nov. 2, 1983].”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-97 provided that the amendment made by Pub. L. 94-97 is effective Jan. 1, 1978.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-363 provided that: “The amendment made by subsection (a) of the first section of this Act [amending this section] shall take effect on January 1, 1971.”

REFERENCES IN LAWS OF THE UNITED STATES TO OBSERVANCES OF LEGAL PUBLIC HOLIDAYS

Section 1(b) of Pub. L. 90-363 provided that: “Any reference in a law of the United States (in effect on the effective date of the amendment made by subsection (a) of this section) [January 1, 1971] to the observance of a legal public holiday on a day other than the day prescribed for the observance of such holiday by section 6103(a) of title 5, United States Code, as amended by subsection (a), shall on and after such effective date be considered a reference to the day for the observance of such holiday prescribed in such amended section 6103(a).”

EXECUTIVE ORDER NO. 10368

Ex. Ord. No. 10368, June 9, 1962, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out below.

EX. ORD. NO. 11582. OBSERVANCE OF HOLIDAYS

Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, provided: By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

Sec. 2. As used in this order:

(a) *Holiday* means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) *Workday* means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

SEC. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his *regular* weekly nonworkday in lieu of Sunday.

SEC. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

SEC. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day.

SEC. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

SEC. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by the Postal Service in accordance with the Postal Reorganization Act.

SEC. 8. Executive Order No. 10358 of June 9, 1952, entitled *Observance of Holidays by Government Agencies* and amendatory Executive Orders No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966, are revoked.

SEC. 9. This order is effective as of January 1, 1971.

RICHARD NIXON,

§ 6104. Holidays; daily, hourly, and piece-work basis employees

When a regular employee as defined by section 2105 of this title or an individual employed regularly by the government of the District of Co-

lumbia, whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day—

(1) on which agencies are closed by Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Mayor;

(2) by administrative order under regulations issued by the President, or, for individuals employed by the government of the District of Columbia, by the Council of the District of Columbia; or

(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by Federal statute, Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Mayor;

he is entitled to the same pay for that day as for a day on which an ordinary day's work is performed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 516; Pub. L. 90-623, §1(15), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 96-54, §2(a)(38), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 86a.	June 29, 1938, ch. 818, §1, 52 Stat. 1246. June 11, 1964, ch. 283, 68 Stat. 249. July 18, 1958, Pub. L. 85-533, §2, 72 Stat. 377.

The enumeration of holidays is eliminated as unnecessary in view of section 6103.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Pub. L. 96-54 substituted "Mayor" for "Commissioner" in pars. (1) and (3), and "Council of the District of Columbia" for "District of Columbia Council" in par. (2).

1968—Pub. L. 90-623 substituted "Commissioner" for "Board of Commissioners" in pars. (1) and (3), and "District of Columbia Council" for "Board of Commissioners" in par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EX. ORD. NO. 10552. DELEGATION OF AUTHORITY TO PROMULGATE REGULATIONS

Ex. Ord. No. 10552, Aug. 10, 1954, 19 F.R. 5079, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, 65 Stat. 713, it is declared that the Office of Personnel Management be, and it is hereby, designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by the joint resolution of June 29, 1938, 52 Stat. 1246, as

BAIL BOND

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:
Def Name/Address:		Next Court Action:
Associated Case(s):	<u>Docket No</u> <u>OTN</u>	<u>Lower Court Docket No</u>

LEAD OFFENSE

ADDITIONAL CHARGES MAY EXIST, PLEASE SEE ADDITIONAL CHARGES PAGE

TYPE(S) OF RELEASE:

<input type="checkbox"/> ROR	<input type="checkbox"/> Unsecured Bail	<input type="checkbox"/> Nonmonetary Condition(s) (see additional page(s))
<input type="checkbox"/> Nominal Bail	<input type="checkbox"/> Monetary Condition(s) in the amount of _____	

THE CONDITIONS OF THIS BAIL BOND ARE AS FOLLOWS:

1. The defendant must appear at all times required until full and final disposition of the case(s).
2. The defendant must obey all further orders of the bail authority.
3. The defendant must provide a current address and must give written notice to the bail authority, the clerk of courts, the district attorney, and the court bail agency or other designated court bail officer, of any change of address within 48 hours of the date of the change.
4. The defendant must neither do, nor cause to be done, nor permit to be done on his or her behalf, any act as proscribed by Section 4952 of the Crimes Code (relating to intimidation of witnesses or victims) or by Section 4953 (relating to retaliation against witnesses or victims), 18 Pa.C.S. § 4952, 4953.
5. The defendant must refrain from criminal activity.
6. The defendant must comply with any fingerprint order, if any is issued by this court.
7. Other conditions of release are:

I verify that the above conditions of bail have been imposed.

_____ _____
Date (Signature of Issuing Authority)

TYPES OF SECURITY:		
<input type="checkbox"/> Cash/Equivalent	<input type="checkbox"/> Gov't Bearer Bond	<input type="checkbox"/> Realty within Commonwealth
<input type="checkbox"/> _____% Cash	<input type="checkbox"/> Surety Bond	<input type="checkbox"/> Realty outside Commonwealth
TOTAL AMOUNT BAIL SET (IF ANY): (see sureties page)		
BAIL DEPOSITOR(S)		
Depositor Name _____	Amount _____	

This bond is valid for the entire proceedings and until full and final disposition of the case including all avenues of direct appeal to the Supreme Court of Pennsylvania.

I AGREE THAT I WILL APPEAR AT ALL SUBSEQUENT PROCEEDINGS AS REQUIRED AND COMPLY WITH ALL THE CONDITIONS OF THE BAIL BOND.

THIS BOND SIGNED ON _____, _____

at _____, Pennsylvania

Signature of Defendant

Defendant's Address:

Signature of Witness

_____ (Surety)

_____ (Surety)

PLEASE SEE ATTACHED PAGES FOR ADDITIONAL INFORMATION.



RELEASE OF PRISONER

COMMONWEALTH OF PENNSYLVANIA
v.

Court of Common Pleas - Adams County
Adams County Courthouse
117 Baltimore Street - Room 103
Gettysburg, PA 17325-2313

To the Warden/Director of : _____
(name of institution)

You are ordered/directed to release _____ on Docket No. _____ for the charges listed, for the following reasons:

Hearing to be held at:

Date:	Location:
Time:	

Acquitted/Found Not Guilty by (Jury/Court)

Case Dismissed

Charges withdrawn by Prosecution

When Bail is Posted

the Defendant has been placed on (Probation/Parole)

Other: _____

This release does not apply to any other commitment, hold order, or detainer against the Defendant.

BY THE COURT:

Date

(Signature of Issuing Authority)

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:	
Def Name/Address:	Next Court Action:		
Associated Case(s):	<u>Docket No</u>	<u>OTN</u>	<u>Lower Court Docket No</u>

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:
Def Name/Address:		Next Court Action:
Associated Case(s):	<u>Docket No</u> <u>OTN</u>	<u>Lower Court Docket No</u>

I, _____, the undersigned surety, have posted security in the amount of \$ _____.

TYPES OF SECURITY:		
<input type="checkbox"/> Cash/Equivalent	<input type="checkbox"/> Gov't Bearer Bonds	<input type="checkbox"/> Realty within Commonwealth
<input type="checkbox"/> _____% Cash	<input type="checkbox"/> Surety Bond	<input type="checkbox"/> Realty outside Commonwealth

Pursuant to Pa.R.Crim.P. 524(c)(4), I, _____, agree to act as nominal surety for the defendant in the above-captioned matter.

I have read this information, and I acknowledge that I, my personal representatives, successors, heirs and assigns are jointly and severally bound with the defendant and any other sureties to pay to the Commonwealth of Pennsylvania the sum of \$ _____, which is the full amount of the monetary condition of release in the event the bail bond is forfeited.

I understand that when a monetary condition of release is imposed, if the defendant appears at all times required by the court and satisfies all the other conditions set forth in the bail bond, then upon full and final disposition of the case, this bond shall be void. If the defendant fails to appear as required or to comply with the conditions of the bail bond, then this bond shall remain in full force, and the full sum of the monetary condition of release may be forfeited, the defendant release may be revoked, and a warrant for the defendant arrest may be issued.

WARRANT OF ATTORNEY: RECOGNIZING THAT I AM WAIVING CERTAIN IMPORTANT RIGHTS, INCLUDING THE RIGHT OF PREJUDGMENT NOTICE AND HEARING, in accordance with the law, I do hereby empower any attorney of any court of record within the Commonwealth of Pennsylvania or elsewhere to appear for me at any time, and with or without declarations filed, and whether or not the defendant be in default, to confess judgment against me, and in favor of the Commonwealth of Pennsylvania for use of the county, and its assigns, during any term or session of a court of record of the county for the full amount of the monetary condition of release set forth on the first page of this bail bond, and costs. I understand that any real estate which I have posted as security in this case may be levied upon to collect the amount confessed. I waive and release any right of inquisition on that real estate, voluntarily condemn it, and authorize the Prothonotary, upon a Writ of Execution, to enter my voluntary condemnation. I also agree that any real estate posted by me in this case may be sold on a Writ of Execution. I hereby forever waive and release any and all errors which may arise in any proceeding to confess judgment in this case, waive all rights of stay of execution, and waive all laws now in force or laws passed in the future which exempt real or personal property from execution.

Since a copy of the bail bond and warrant of attorney is being filed in the defendant's case, it shall not be necessary to file the original as a warrant of attorney, notwithstanding any law or rule of court to the contrary.

I, _____, verify that the facts set forth in this form are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. Section 4904) relating to unsworn falsification to authorities.

(Signature of Defendant or Surety)

(Address of Surety, Surety Company or Defendant)

(Witness / Bail Authority)

SURETY INFORMATION PAGE

OTN:	Docket No: Lower Court No:	Date of Charges: Lower Court Docket No:	
Def Name/Address:	Next Court Action:		
Associated Case(s):	<u>Docket No</u>	<u>OTN</u>	<u>Lower Court Docket No</u>

* Refund of all bail (less any bail-related fees or commissions allowed by law and reasonable costs, if any, of administering the percentage cash bail program) will be made within 20 days after full and final disposition (Pa.R.Crim.P. 535).
* Bring Cash Bail Receipt to Clerk of Courts or Issuing Authority.



AFFIDAVIT OF SURETY
(OTHER THAN CASH BAIL)

Case Caption:
Docket No:

Questions 1-3 are to be answered by all sureties.

The undersigned, above to become Surety in the case cited herein, being duly sworn (or affirmed) deposes and says:

- 1. I reside at ..., my phone no. is ..., my occupation is ... and I work for ...
2. I have no undisposed criminal cases against me pending in the Courts of ... County, except as follows ...
3. I am not Surety on any bond of any kind except as follows:
DATE AMOUNT DEFENDANT

Questions 4-9 are to be answered only if real estate is posted as security.

- 4. I am /We are the sole owner(s) of ... }
I am /We are joint tenants in ... }
I am /We are tenant(s) by the entirety in ... } real estate situated
In the State of ..., in the said County of ... as follows, viz: a parcel of
ground, in size ..., situated at ...
in the Ward, in the Boro. Twp. City of ... which is improved with the
following buildings ... (All other joint tenants or
tenants by the entirety must co-sign this affidavit and state their addresses at the bottom of this page or on an attachment hereto).
5. The said property was obtained by me by Deed Will from ...
6. The Deed Will is dated ... and is recorded in the office of the Recorder of Deeds
Register of Wills of ... County, in the State of ..., Deed
Will Book Vol. Page ..., and the title is in my name and my spouse's name. Also a parcel of
ground, in size ..., situated at ... in the
Ward, in the Boro Twp. City of ..., State of ... The said
property was obtained by me by Deed Will from ... The Deed Will is
dated ... and is recorded in Deed Will Book Vol. Page ... of
... County, State of ... and is in my name and my spouse's name.
7. There are no mortgages or other liens or encumbrances of any kind or description upon the said premises, and there are no judgments
against me except as follows:
Mortgages as set forth in the Recorder of Deeds on first property:
Mortgages as set forth in the Recorder of Deeds on second property:
Judgments and Liens:
Real estate taxes have been paid except:
8. The assessed valuation of said premises is:
9. No judgment has been entered or action instituted against me upon a forfeited recognizance except

I/We agree to pay the fees and costs of the Prothonotary of the Common Pleas Court or the Court of general jurisdiction where in the real estate or property posted as security is located for recording the lien, notifying the Clerk of Courts of the entry of the lien, and for recording of the satisfaction after proceedings have been terminated or surety is otherwise exonerated by the Court.

To be signed by all Sureties:

10. I have read carefully the foregoing affidavit and know that it is true and correct.

Signature lines for Principal, Surety, Witness/Bail Authority, and Co-Surety, each with a SEAL.



BAIL PAYMENT

COMMONWEALTH OF PENNSYLVANIA
v.

Court of Common Pleas - Adams County
Adams County Courthouse
117 Baltimore Street - Room 103
Gettysburg, PA 17325-2313

TYPES OF SECURITY:

- Cash Equivalent Gov't Bearer Bonds Realty w/in Commonwealth
 ____% Cash Surety Bond Realty outside Commonwealth

TOTAL AMOUNT BAIL SET (IF ANY): \$ _____

- If you agree to act as surety and sign the bail bond with the defendant, you will be liable for the full amount of bail if the defendant fails to appear or comply.
- If you do not wish to be liable for the full amount of bail, you will be permitted to deposit money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail.

Depositor's Name: _____
(Last) (First) (Middle)

Depositor's Signature: _____

Received By: _____

Subchapter M. PROHIBITED POLITICAL ACTIVITY BY COURT- APPOINTED EMPLOYEES GUIDELINES REGARDING POLITICAL ACTIVITY BY COURT- APPOINTED EMPLOYEES

Sec.

- 29.471. Definitions.
- 29.472. Prohibition of Partisan Political Activity.
- 29.473. Termination of Employment.
- 29.474. President Judge.

Source

The provisions of this Subchapter M adopted November 24, 1998, effective immediately, 28 Pa.B. 6068, unless otherwise noted.

§ 29.471. Definitions.

(a) The term “partisan political activity” shall include, but is not limited to, running for public office, serving as a party committee-person, working at a polling place on Election Day, performing volunteer work in a political campaign, soliciting contributions for political campaigns, and soliciting contributions for a political action committee or organization, but shall not include involvement in non-partisan or public community organizations or professional groups.

(b) The term “court-appointed employees” shall include, but is not limited to, all employees appointed to and who are employed in the court system, statewide and at the county level, employees of the Administrative Office of Pennsylvania Courts, Court Administrators and their employees and assistants, court clerks, secretaries, data processors, probation officers, and such other persons serving the judiciary.

§ 29.472. Prohibition of Partisan Political Activity.

(a) Court-appointed employees shall not be involved in any form of partisan political activity.

(b) This prohibition shall not apply to court-appointed employees who are duly sworn Court-appointed full-time masters and members of Board of Viewers, who are attorneys in good standing admitted to the practice of law in this Commonwealth, who may become candidates for higher judicial office. Said employees shall, during such candidacy, be subject to the provisions of the Code of Judicial Conduct and, particularly, Canon 7, which governs judicial campaigns.

§ 29.473. Termination of Employment.

Except as provided in paragraph 2(b), above, henceforth, a court-appointed employee engaging in partisan political activity shall cease such partisan political activity at once or shall be terminated from his or her position. In the event an employee chooses to become a candidate for any office, such employee shall be terminated, effective the close of business on the first day of circulating petitions for said office.

§ 29.474. President Judge.

The President Judge of each appellate court or county court of common pleas shall be responsible for the implementation of these guidelines and shall be subject to the review of the Judicial Inquiry and Review Board for failure to enforce.

Note

Dissenting Statement by Mr. Justice Castille (joined by JJ. Nigro and Newman) filed with the Order of the Supreme Court, dated November 24, 1998, reaffirming the Guidelines Regarding Political Activity by Court-Appointed Employees. "I respectfully dissent to this amendment to the Guidelines regarding political activity by Court-appointed employees. I believe that allowing court-appointed employees to participate in elective partisan political activity presents, at a minimum, the appearance of impropriety. By not requiring court-appointed employees to resign their respective positions in order to campaign on a partisan basis, this amendment gives rise to the inescapable conclusion that the judicial system itself is involved in partisan electoral politics, thereby raising an appearance of bias. I believe that the better practice is to require the resignation of any court-appointed employee who wishes to seek elective office, as the Guidelines presently require."

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DEPARTMENT OF STATE
BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION

SUBJECT: Bonding Requirements for Public Officials

TO: All County Election Contacts
All County Recorders of Deeds

FROM: Jonathan Marks, Commissioner
Bureau of Commissions, Elections and Legislation

DATE: November 5, 2013, Municipal Election

I. INTRODUCTION

The purpose of this memorandum is to clarify the bonding requirements for county row offices. This memorandum sets forth the requirements for each of the county row offices as provided in the County Code, 16 P.S. § 101 *et seq.*, and the Administrative Code at 71 P.S. § 279 and 71 P.S. § 801, and summarizes the procedures necessary to ensure compliance with the statutory mandates. This memo does not apply to bonds required to be given to the Commonwealth by county officers acting as agents of the Commonwealth. The Department recommends that the counties consult with their solicitors to assist with compliance on all bonding requirements for elected and appointed county officials. It is the responsibility of the county to ensure that all of the legal requirements are met.

II. BONDING REQUIREMENTS BY COUNTY CLASS

A. First Class Counties

1. County Commissioners - 16 P.S. § 7303 and 71 P.S. § 801
(Bond form – Bond for the County Commissioner of Philadelphia County)
 - a. Bond to be taken “in the name of the Commonwealth.”
 - b. Bond must be acknowledged by the recorder of deeds.
 - c. Bond must be recorded by the recorder of deeds.
 - d. Original must be filed with the Clerk of Court of Quarter Sessions.
 - e. Amount is not less than \$2,000 per commissioner.
 - f. Sureties must be approved by the Court of Quarter Sessions or by one of the judges thereof.
 - g. Sureties must be approved by the Governor.
 - h. Copy of bond must be filed with the Secretary of the Commonwealth.

2. Chief Clerk of County Commissioners - 16 P.S. § 7325
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Amount to be determined by county commissioners.
 - c. Copy of bond must be filed with the Secretary of the Commonwealth.

3. Controller – 16 P.S. § 7353
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must have at least two sureties.
 - c. Amount is \$20,000
 - d. Sureties must be approved by the court of common pleas.
 - e. Bond must be recorded by the recorder of deeds.
 - f. Bond must be filed and kept in the commissioner’s office.
 - g. Copy of bond must be filed with the Secretary of the Commonwealth.

4. Treasurer – 16 P.S. § 7408 and § 3401 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond is subject to the approval of the court of common pleas.
 - c. County controller shall be the custodian of the bond.
 - d. Bond must be acknowledged before the recorder of deeds.
 - e. Amount is to be determined by the county salary board.
 - f. After the bond and surety is given and approved, the county commissioners must give the treasurer a certificate of appointment.
 - g. County commissioners must forward the certificate to the auditor general and such certificate shall be recorded as in said act is directed.

5. Sheriff
 - a. Bond - 16 P.S. § 7562 and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)
 - i. Statute does not specify whether bond is to be given “to the county” or “to the Commonwealth.” In this case, the Department has determined that the bond be given “to the county.”
 - ii. Surety must be approved by the court of common pleas or any two judges thereof.

- iii. Statute does not specify who shall set the amount of the bond.
 - iv. Governor is to affirm court of common pleas approval of the bond.
 - v. Bond is to be recorded in the county.
 - vi. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
- b. Recognizance - 16 P.S. § 7564 and 71 P.S. § 801
(Form – Recognizance of the Sheriff of Philadelphia County)
- i. Recognizance, without surety, is to be given to the Commonwealth.
 - ii. Form is to contain like provisions as the bond.
 - iii. Court of common pleas approves recognizance.
 - iv. Governor is to confirm court of common pleas approval of recognizance.
 - v. Recognizance to be recorded in the county.
 - vi. Copy of recognizance to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the recognizance was properly recorded and with reference to the place of the record.
 - vii. Statute is silent as to who determines the amount of the recognizance.
 - viii. Recognizance acts as a lien on the real estate of the official.

6. Coroner

- a. Bond - 16 P.S. § 7562 and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)
- i. Statute does not specify whether bond is to be given “to the county” or “to the Commonwealth.” In this case, the Department has determined that the bond be given “to the county.”
 - ii. Surety must be approved by the court of common pleas or any two judges thereof.
 - iii. Statute does not specify who shall set the amount of the bond.
 - iv. Governor is to affirm court of common pleas approval of the bond.
 - v. Bond is to be recorded in the county.
 - vi. Copy of bond to be transmitted to the Secretary of the

Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

- b. Recognizance - 16 P.S. § 7564 and 71 P.S. § 801
(Form – Recognizance of the Coroner of Philadelphia County)
 - i. Recognizance, without surety, is to be given to the Commonwealth.
 - ii. Form is to contain like provisions as the bond.
 - iii. Court of common pleas approves recognizance.
 - iv. Governor is to confirm court of common pleas approval of recognizance.
 - v. Recognizance to be recorded in the county.
 - vi. Copy of recognizance to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the recognizance was properly recorded and with reference to the place of the record.
 - vii. Statute is silent as to who determines the amount of the recognizance.
 - viii. Recognizance acts as a lien on the real estate of the official.

- 7. Clerk of Court – Not Specified in County Code.

- 8. Clerk of Orphan’s Court – Not Specified in County Code.

- 9. Prothonotary – Not Specified in County Code. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

- 10. Recorder of Deeds – Not Specified in County Code. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

- 11. Register of Wills – 16 P.S. § 7601 and 71 P.S. § 801
(Bond form – Public Official Bond for Register of Wills)
 - a. Bond is given to the Commonwealth.
 - b. Bond can be with one corporate or two individual sureties.
 - c. Amount is \$40,000.
 - d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
 - e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
 - f. Sureties must be approved by the Governor.

- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

B. Second Class Counties

- 1. County Commissioners – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$10,000 each.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
- 2. Chief Clerk of County Commissioners – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is determined by the county salary board.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
- 3. Controller – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$50,000.
 - d. County commissioner is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
- 4. Treasurer – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801

(Bond form – Public Official Bond)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$200,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Copy of bond must be filed with the Secretary of the Commonwealth.
- g. Original bond must be forwarded to the Auditor General.

5. Sheriff – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$60,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Governor is to affirm court of common pleas approval of the bond.
- g. Bond is to be recorded in the county.
- h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

6. Coroner – 16 P.S. § 3420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)

- a. Bond to be given to the county.
- b. Bond must be approved by the court of common pleas.
- c. Amount is \$15,000.
- d. Controller is the custodian of the bond.
- e. Bond must be acknowledged before the recorder of deeds.
- f. Governor is to affirm court of common pleas approval of the bond.
- g. Bond is to be recorded in the county.
- h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.

7. Clerk of Court – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)

- a. Bond to be given to the county.

- b. Bond must be approved by the court of common pleas.
 - c. Amount is \$10,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
8. Clerk of Orphan's Court – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is determined by the county salary board.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
9. Prothonotary – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$40,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
10. Recorder of Deeds – 16 P.S. § 3420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond to be given to the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Amount is \$20,000.
 - d. Controller is the custodian of the bond.
 - e. Bond must be acknowledged before the prothonotary.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
11. Register of Wills – 16 P.S. § 3429 and 71 P.S. § 801

(Bond form – Public Official Bond for Register of Wills)

- a. Bond is given to the Commonwealth.
- b. Bond can be with one corporate or two individual sureties.
- c. Amount is \$30,000.
- d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
- e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
- f. Sureties must be approved by the Governor.
- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

C. Third through Eighth Class Counties - ** note that § 420 of the County Code, 16 P.S. § 420, permits the counties to purchase insurance in lieu of a fidelity bond, provided that the insurance covers the same events of loss. County officials are advised to ascertain whether your county is a member of the Pennsylvania Counties Risk Pool (PCoRP) of the County Commissioners Association of Pennsylvania Insurance Programs, prior to obtaining the required fidelity bond(s).

1. County Commissioners – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
 - a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third Class - \$7,500 each
 - ii. Fourth Class - \$5,000 each
 - iii. Fifth Class - \$4,000 each
 - iv. Sixth Class - \$2,500 each
 - v. Seventh and Eighth Class - \$2,000 each
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
2. Chief Clerk of County Commissioners – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)

- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
3. Controller – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is \$20,000.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
4. Treasurer – 16 P.S. § 420 *et seq.* and 16 P.S. § 802
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Original bond shall be forwarded by the county to the Auditor General.
5. Sheriff – 16 P.S. § 420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Sheriff)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third and Fourth Class - \$60,000
 - ii. Fifth Class - \$30,000
 - iii. Sixth Class - \$20,000
 - iv. Seventh Class - \$15,000
 - v. Eighth Class - \$10,000
 - e. Bond must be acknowledged before the recorder of deeds.

- f. Governor is to affirm court of common pleas approval of the bond.
 - g. Bond is to be recorded in the county.
 - h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
6. Coroner – 16 P.S. § 420 *et seq.* and 71 P.S. § 801
(Bond form – Public Official Bond for Coroner)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third and Fourth Class - \$15,000
 - ii. Fifth Class - \$7,500
 - iii. Sixth Class - \$5,000
 - iv. Seventh Class - \$3,750
 - v. Eighth Class - \$2,500
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Governor is to affirm court of common pleas approval of the bond.
 - g. Bond is to be recorded in the county.
 - h. Copy of bond to be transmitted to the Secretary of the Commonwealth with endorsement from recorder indicating that the bond was properly recorded and with reference to the place of the record.
7. Clerk of Court – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
8. Clerk of Orphan’s Court – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.

- e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
9. Prothonotary – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount is to be determined by the county commissioners.
 - e. Bond must be acknowledged before the recorder of deeds.
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
10. Recorder of Deeds – 16 P.S. § 420 *et seq.*
(Bond form – Public Official Bond)
- a. Bond given in the name of the county.
 - b. Bond must be approved by the court of common pleas.
 - c. Controller is the custodian of the bond.
 - d. Amount:
 - i. Third Class - \$15,000
 - ii. Fourth and Fifth Class - \$10,000
 - iii. Sixth, Seventh and Eighth Class - \$5,000
 - e. Bond must be acknowledged before the prothonotary
 - f. Copy of bond must be filed with the Secretary of the Commonwealth.
 - g. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.
11. Register of Wills – 16 P.S. § 432 and 71 P.S. § 801
(Bond form – Public Official Bond for Register of Wills)
- a. Bond is given to the Commonwealth.
 - b. Bond can be with one corporate or two individual sureties.
 - c. Amount:
 - i. Third Class - \$25,000
 - ii. Fourth Class - \$20,000
 - iii. Fifth Class - \$15,000
 - iv. Sixth Class - \$10,000
 - v. Seventh Class - \$7,500
 - vi. Eighth Class - \$5,000

- d. Bond is to be on a form prepared by the Secretary of the Commonwealth.
- e. Bond shall be submitted to the Secretary of the Commonwealth for approval.
- f. Sureties must be approved by the Governor.
- g. Secretary shall forward the bond, together with the commission of the register, to the recorder of deeds and cause such bond to be recorded.
- h. Recorder of deeds shall thereafter forward a copy of the recorded bond to the Secretary for filing.
- i. Additional amount specified by Title 72 (Taxation and Fiscal Affairs) at 72 P.S. §3213 to secure payment of taxes.

III. General Requirements, Procedures, Forms and Deadlines

A. General Requirements and Procedures

- 1. Copies of all completed bonds of county officers must be filed with the Department of State. 71 P.S. § 279. The originals of the bonds must be filed in accordance with the County Code section applicable to the relevant county classification.
- 2. “All bonds of county officers” as used by the County Code includes bonds for the offices of recorder of deeds, register of wills, prothonotary, sheriff, coroner, treasurer, controller, county commissioners and chief clerk of county commissioners.
- 3. All counties should have the bonds executed prior to the date on which the public official takes office.
- 4. In counties of the 3rd to 8th class, where offices are combined, a single bond covering all such offices may suffice, with the approval of the Court of Common Pleas. 16 P.S. § 420.
- 5. Only bonds required to be taken out “in the name of the Commonwealth” or “to be given to the Commonwealth” are required to name a surety to be approved by the Governor (i.e. be signed by the Governor). These bonds are for the:
 - a. County Commissioner of First Class Counties - 16 P.S. § 7303
 - b. Register of Wills for all counties - 16 P.S. §§ 7601, 3429, 432
 - c. Sheriff for all counties - 71 P.S. § 801
 - d. Coroner for all counties - 71 P.S. § 801

6. The Governor is also required to confirm the court of common pleas' approval of recognizances for sheriffs and coroners for first class counties. After the bonds and recognizances are sent to the Governor for confirmation, the Secretary will return them to the county for recording and the county will, thereafter, return the original to the Department for filing.
7. Most bond amounts are set forth in the statute. If the bond amount is not specifically set forth, the statute will generally note who is to determine the bond amount. Please refer to the attached chart entitled "Bond Amounts for County Row Offices" for a listing of the statutory amounts and corresponding offices. In addition to the County Code, Title 72 (Taxation and Fiscal Affairs) requires additional bonding for the register of wills, recorder of deeds and prothonotary due to the fact that these offices collect state tax dollars. A chart with those amounts is also attached. Where the bond amounts are not specified by the statute, the county shall determine the amount.
8. In all cases where a city contains over 300,000 residents and is co-extensive in boundaries with the county, the city treasurer, controller, and commissioners shall be known as "county officers" and are subject to the provisions of the County Code. 16 P.S. § 9201. This section does not specify which county class shall govern these individuals for the purpose of bonding requirements. Based on the population of the city, it seems logical to require those city officers to post the same bond amounts as the corresponding officer of a third through eighth class county.
9. Per the County Code, the Secretary will only approve the surety for the bonds of the county commissioners for first class counties and the register of wills for all counties.
10. The statutes do not provide details for all bonds. For instance:
 - a. The statutes do not specify whether the bond is to be in the name of the county or the Commonwealth for the following offices in first class counties: coroner, sheriff, clerk of orphan's court, prothonotary and recorder of deeds. In this instance, the Department has determined that the bond shall be in the name of the county.
 - b. The statutes do not specify the amount of the sheriff's or coroner bond for first class counties. In these cases, the county shall determine the required bond amount.
11. The Department recognizes that some county officers hold dual offices and that this may affect the acknowledgment requirements (for instance,

where the recorder of deeds and the register of wills are held by the same person, the recorder cannot acknowledge his or her own signature on the register of wills bond.) The Department, however, does not track which counties operate as such. Therefore, where a county officer holds two offices and the officer required by statute to acknowledge a bond cannot do so, the county should note this either on the bond or in a cover letter to the Department.

B. Form of Bond

1. The only bond required to be on a form prepared by Department of State is the bond for the register of wills.
2. The form for the bond of the sheriff is specifically set forth in the statute, 16 P.S. § 433 and § 3430.
3. The Department has developed forms for all bonds and recognizances that the Secretary and/or Governor is required to approve. It is strongly recommended that county officials use the Department's forms in order to ensure that all of the legal requirements for the bonds are met. No bonds will be forwarded to the Governor by the Department unless all of the statutory requirements are met. Where the statutes do not require the approval of the Secretary or Governor, county officials are encouraged to use the sample "Public Official Bond."
4. The bonds are not required to be on any special size or type of paper.

C. Deadlines

1. The Department will determine deadlines for submitting the bonds in the years that they are required and the counties will be notified as soon as possible.
2. The County Code requires that county row officers give and acknowledge a bond and be sworn in prior to beginning their official duties. Failure to submit bonds in a timely manner may lead to personal liability on behalf of the county officer in the event that action is taken against the county officer.

**Additional BOND AMOUNTS for COUNTY ROW OFFICES
as specified by Title 72 (Taxation and Fiscal Affairs) – Rev. 2009**

72 P.S. §3213

County	Recorder of Deeds	Prothonotary	Register of Wills
First Class	\$20,000	\$20,000	\$20,000
Second class	\$20,000	\$20,000	\$20,000
Third class	\$20,000	\$20,000	\$20,000
Fourth class	\$20,000	\$20,000	\$20,000
Fifth class	\$10,000	\$10,000	\$10,000
Sixth class	\$6,666	\$6,666	\$6,666
Seventh class	\$5,000	\$5,000	\$5,000
Eighth class	\$3,333	\$3,333	\$3,333

DEADLINE SCHEDULE BY DATE -- 30DAY DEADLINE
 (Note: May be referenced for any 30-day appeal deadline)

<u>MDJ DECISION</u>	<u>DAY 30</u>	<u>MDJ DECISION</u>	<u>DAY 30</u>	<u>MDJ DECISION</u>	<u>DAY 30</u>
1-Aug-14	31-Aug-14	1-Sep-14	1-Oct-14	1-Oct-14	31-Oct-14
2-Aug-14	1-Sep-14	2-Sep-14	2-Oct-14	2-Oct-14	1-Nov-14
3-Aug-14	2-Sep-14	3-Sep-14	3-Oct-14	3-Oct-14	2-Nov-14
4-Aug-14	3-Sep-14	4-Sep-14	4-Oct-14	4-Oct-14	3-Nov-14
5-Aug-14	4-Sep-14	5-Sep-14	5-Oct-14	5-Oct-14	4-Nov-14
6-Aug-14	5-Sep-14	6-Sep-14	6-Oct-14	6-Oct-14	5-Nov-14
7-Aug-14	6-Sep-14	7-Sep-14	7-Oct-14	7-Oct-14	6-Nov-14
8-Aug-14	7-Sep-14	8-Sep-14	8-Oct-14	8-Oct-14	7-Nov-14
9-Aug-14	8-Sep-14	9-Sep-14	9-Oct-14	9-Oct-14	8-Nov-14
10-Aug-14	9-Sep-14	10-Sep-14	10-Oct-14	10-Oct-14	9-Nov-14
11-Aug-14	10-Sep-14	11-Sep-14	11-Oct-14	11-Oct-14	10-Nov-14
12-Aug-14	11-Sep-14	12-Sep-14	12-Oct-14	12-Oct-14	11-Nov-14
13-Aug-14	12-Sep-14	13-Sep-14	13-Oct-14	13-Oct-14	12-Nov-14
14-Aug-14	13-Sep-14	14-Sep-14	14-Oct-14	14-Oct-14	13-Nov-14
15-Aug-14	14-Sep-14	15-Sep-14	15-Oct-14	15-Oct-14	14-Nov-14
16-Aug-14	15-Sep-14	16-Sep-14	16-Oct-14	16-Oct-14	15-Nov-14
17-Aug-14	16-Sep-14	17-Sep-14	17-Oct-14	17-Oct-14	16-Nov-14
18-Aug-14	17-Sep-14	18-Sep-14	18-Oct-14	18-Oct-14	17-Nov-14
19-Aug-14	18-Sep-14	19-Sep-14	19-Oct-14	19-Oct-14	18-Nov-14
20-Aug-14	19-Sep-14	20-Sep-14	20-Oct-14	20-Oct-14	19-Nov-14
21-Aug-14	20-Sep-14	21-Sep-14	21-Oct-14	21-Oct-14	20-Nov-14
22-Aug-14	21-Sep-14	22-Sep-14	22-Oct-14	22-Oct-14	21-Nov-14
23-Aug-14	22-Sep-14	23-Sep-14	23-Oct-14	23-Oct-14	22-Nov-14
24-Aug-14	23-Sep-14	24-Sep-14	24-Oct-14	24-Oct-14	23-Nov-14
25-Aug-14	24-Sep-14	25-Sep-14	25-Oct-14	25-Oct-14	24-Nov-14
26-Aug-14	25-Sep-14	26-Sep-14	26-Oct-14	26-Oct-14	25-Nov-14
27-Aug-14	26-Sep-14	27-Sep-14	27-Oct-14	27-Oct-14	26-Nov-14
28-Aug-14	27-Sep-14	28-Sep-14	28-Oct-14	28-Oct-14	27-Nov-14
29-Aug-14	28-Sep-14	29-Sep-14	29-Oct-14	29-Oct-14	28-Nov-14
30-Aug-14	29-Sep-14	30-Sep-14	30-Oct-14	30-Oct-14	29-Nov-14
31-Aug-14	30-Sep-14			31-Oct-14	30-Nov-14
1-Nov-14	1-Dec-14	1-Dec-14	31-Dec-14	1-Jan-15	31-Jan-15
2-Nov-14	2-Dec-14	2-Dec-14	1-Jan-15	2-Jan-15	1-Feb-15
3-Nov-14	3-Dec-14	3-Dec-14	2-Jan-15	3-Jan-15	2-Feb-15
4-Nov-14	4-Dec-14	4-Dec-14	3-Jan-15	4-Jan-15	3-Feb-15
5-Nov-14	5-Dec-14	5-Dec-14	4-Jan-15	5-Jan-15	4-Feb-15
6-Nov-14	6-Dec-14	6-Dec-14	5-Jan-15	6-Jan-15	5-Feb-15
7-Nov-14	7-Dec-14	7-Dec-14	6-Jan-15	7-Jan-15	6-Feb-15
8-Nov-14	8-Dec-14	8-Dec-14	7-Jan-15	8-Jan-15	7-Feb-15
9-Nov-14	9-Dec-14	9-Dec-14	8-Jan-15	9-Jan-15	8-Feb-15
10-Nov-14	10-Dec-14	10-Dec-14	9-Jan-15	10-Jan-15	9-Feb-15
11-Nov-14	11-Dec-14	11-Dec-14	10-Jan-15	11-Jan-15	10-Feb-15
12-Nov-14	12-Dec-14	12-Dec-14	11-Jan-15	12-Jan-15	11-Feb-15
13-Nov-14	13-Dec-14	13-Dec-14	12-Jan-15	13-Jan-15	12-Feb-15
14-Nov-14	14-Dec-14	14-Dec-14	13-Jan-15	14-Jan-15	13-Feb-15
15-Nov-14	15-Dec-14	15-Dec-14	14-Jan-15	15-Jan-15	14-Feb-15
16-Nov-14	16-Dec-14	16-Dec-14	15-Jan-15	16-Jan-15	15-Feb-15
17-Nov-14	17-Dec-14	17-Dec-14	16-Jan-15	17-Jan-15	16-Feb-15
18-Nov-14	18-Dec-14	18-Dec-14	17-Jan-15	18-Jan-15	17-Feb-15
19-Nov-14	19-Dec-14	19-Dec-14	18-Jan-15	19-Jan-15	18-Feb-15
20-Nov-14	20-Dec-14	20-Dec-14	19-Jan-15	20-Jan-15	19-Feb-15
21-Nov-14	21-Dec-14	21-Dec-14	20-Jan-15	21-Jan-15	20-Feb-15
22-Nov-14	22-Dec-14	22-Dec-14	21-Jan-15	22-Jan-15	21-Feb-15
23-Nov-14	23-Dec-14	23-Dec-14	22-Jan-15	23-Jan-15	22-Feb-15
24-Nov-14	24-Dec-14	24-Dec-14	23-Jan-15	24-Jan-15	23-Feb-15
25-Nov-14	25-Dec-14	25-Dec-14	24-Jan-15	25-Jan-15	24-Feb-15
26-Nov-14	26-Dec-14	26-Dec-14	25-Jan-15	26-Jan-15	25-Feb-15
27-Nov-14	27-Dec-14	27-Dec-14	26-Jan-15	27-Jan-15	26-Feb-15
28-Nov-14	28-Dec-14	28-Dec-14	27-Jan-15	28-Jan-15	27-Feb-15
29-Nov-14	29-Dec-14	29-Dec-14	28-Jan-15	29-Jan-15	28-Feb-15
30-Nov-14	30-Dec-14	30-Dec-14	29-Jan-15	30-Jan-15	1-Mar-15
		31-Dec-14	30-Jan-15	31-Jan-15	2-Mar-15

b. the consequences if the appellant/tenant fails to pay the additional monthly deposits within thirty (30) days following the date of the filing of the praecipe, and each successive thirty (30) day period thereafter.

6. If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented to the party's last known address of record.

7. If writ is stricken, dismissed, or discontinued, Prothonotary shall pay the deposits of rent to the party who sought possession of the real property in accordance with Pa.R.C.P.D.J. No. 1013C.

8. If writ is granted, disposition of monthly rental deposits will be made by the court of common pleas following its de novo hearing.

9. Note: A judgment may NOT be the subject of both certiorari and appeal pursuant to Pa.R.C.P.D.J. No. 1015.

10. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

11. Form:

Praecipe to Terminate Supersedeas and Notice
Writ of Certiorari to Magisterial District Judge

12. Reference:

Pa.R.C.P.D.J. No. 1013

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges (Refs & Annos)

▣ Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges

▣ Appellate Proceedings with Respect to Judgments and Other Decisions of Magisterial District Judges in Civil Matters (Refs & Annos)

→→ **Rule 1013. Writ of Certiorari as Supersedeas**

A. Receipt of the writ of certiorari by the magisterial district judge to whom it was directed shall operate as a supersedeas, except as provided in subdivisions B and C of this rule.

B. When the writ of certiorari involves a judgment for the possession of real property, receipt of the writ by the magisterial district judge shall operate as a supersedeas only if the party obtaining the writ at the time of filing the writ, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the praecipe for writ of certiorari ("praecipe"), as determined by the magisterial district judge, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon writ are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the filing of the praecipe, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

In the event that the party filing the praecipe fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the praecipe for writ of certiorari, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented to the party's last known address of record.

Where the deposit of money or bond is made pursuant to this Rule at the time of the filing of the praecipe, the prothonotary shall make upon the writ and its copies a notation that the writ will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to file a praecipe involving a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court

judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the Instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and

belief, I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the praecipe is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in thirty (30) day intervals from the date the praecipe was filed; or

(b) If the rent has not been paid at the time of filing the praecipe, the tenant shall pay:

(i) at the time of filing the praecipe, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the praecipe; and

(iii) additional deposits of one month's rent in full each thirty days after filing the praecipe. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the praecipe is filed shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If a writ of certiorari is stricken, dismissed or discontinued, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Note: As in appeals (*see* Pa.R.C.P.M.D.J. No. 1008), certiorari operates as an automatic supersedeas in civil actions when the writ is received by the magisterial district judge. If the writ involves a judgment for the possession of real property, however, it will operate as a supersedeas upon receipt by the magisterial district judge only if money is paid or a bond is filed conditioned as stated in the rule. This Rule has been amended to require a payment equal to the lesser of three months' rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a supersedeas to ensure consistency between this Rule and Pa.R.C.P. M.D.J. No. 1008 (Appeal as Supersedeas). A new subdivision (C) was created in 2008 to provide a praecipe for writ of certiorari process for indigent residential tenants who are unable to meet the bond requirements of subdivision (B).

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the party filing the writ to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 when it became due" and will be signed by landlord. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the party filing the writ to deposit the monthly rent when it became due the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The money judgment portion of a landlord and tenant judgment (*see* Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.

CREDIT(S)

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; Jan. 6, 2005, effective Jan. 29, 2005; April 15, 2008, effective May 15, 2008; July 16, 2012, imd. effective; Aug. 16, 2013, effective Sept. 15, 2013.

HISTORICAL NOTES

Order of Jan. 6, 2005

By Order of Jan. 6, 2005, eff. Jan. 29, 2005, the Pennsylvania Supreme Court ordered “that all references in any court rule, court order, court form (including citation), automated statewide court case management system (i.e. PACMS, CPCMS and DJS) or any other legal authority, except as provided for in Act 207 [2004, Nov. 30, P.L. 1618], to ‘district justice’ shall be deemed a reference to ‘magisterial district judge.’ ”

Order of April 15, 2008

The Order of April 15, 2008, in subd. A, substituted “subdivisions B and C” for “subdivision B”; and in subd. B, in the first paragraph, substituted “the praecipe for writ of certiorari (‘praecipe’)” for “appeal” and “filing of the praecipe” for “filing of the writ”, and rewrote the third paragraph, which prior thereto read:

“In the event that the party filing the writ fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the writ, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party who or which does not have an attorney of record is sufficient if mailed to the party's last known address of record.”

, and in the fourth paragraph, substituted “filing of the praecipe” for “filing of the writ”; inserted a new subd. C, and redesignated former subd. C as subd. D; in the subd. D note, in the first paragraph, substituted “civil actions” for “trespass and assumpsit matters” and added the fourth sentence, and in the second paragraph, substituted “Pa.R.C.P.M.D.J. No. 1013 when it became due” for “Pa.R.C.P.M.D.J. No. 1013 for a period in excess of thirty (30) days” and “deposit the monthly rent when it became due” for “deposit the monthly rent for more than thirty (30) days,”; and made other nonsubstantive changes.


Order of July 16, 2012

The Order of July 16, 2012, in the Note to subrule (C)(4), substituted “www.pacourts.us” for “www.aopc.org”.

Order of Aug. 16, 2013

The Order of Aug. 16, 2013, in subd. C(3)(a), substituted “in in thirty (30) day intervals from the date the praecipe was filed” for “as it becomes due under the lease for the months subsequent to the filing of the praecipe”.

LIBRARY REFERENCES

Justices of the Peace  204.
Westlaw Topic No. 231.
C.J.S. Justices of the Peace § 434.

Pa.R.C.P.M.D.J. No. 1013, 42 Pa.C.S.A., PA ST RCP MAG DIST J RULE 1013

Current with amendments received through 12/15/13

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Rule 1012.1. Admission Pro Hac Vice. Motion. Content.

(a) As used in this rule,

“candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

Official Note

Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b)(1) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The motion shall: (i) aver that the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, include as an attachment a copy of a fee payment certification from the IOLTA Board, or aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations.

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission pro hac vice is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party whom the candidate seeks to represent. Upon the motion being granted, the sponsor shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by the court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and

(iii) stating that the proceeds from the settlement of a cause of action in which the candidate is granted admission *pro hac vice* shall be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, including the IOLTA provisions thereof, if applicable.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

Official Note

Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,

(3) the client whom the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

Source

The provisions of this Rule 1012.1 adopted June 29, 2007, effective September 4, 2007, 37 Pa.B. 3225; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7544. Immediately preceding text appears at serial pages (338885) to (338887).

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- b. For Indigent Tenants see Rule 1008 (c)
Reminder to Prothonotaries –
Poverty Guidelines change on a calendar year basis,
get new guidelines yearly on the Unified Judicial System of
Pennsylvania's website, [http://www.pacourts.us/courts/supreme-
court/committees/rules-committees/civil-procedural-rules-committee/](http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee/)
Download/Print to attach to Appeals.

(NOTE: In the instance of a Landlord/Tenant Appeal on a nonresidential lease, where no rent is in arrears, no bond would be collected, but the supersedeas would be in effect and the rent would be due in thirty (30) days. It is strongly suggested that the Prothonotary make a notation on the appeal form that no bond was filed.)

5. If plaintiff is appellant, then praecipe for rule is not applicable.
6. If defendant is appellant, then praecipe for rule shall be signed by defendant and Prothonotary shall issue rule.
7. Appeal forms shall contain addresses of all parties, attorney's Supreme Court I.D. number, if applicable, and original signature of appellant or attorney. If in proper order, Prothonotary shall file and assign court of common pleas number upon payment of the filing fee. Original appeal form is retained and copies returned to filing party for service.
8. Proof of service with sender's postal receipts attached, to be filed within ten (10) days (Pa.R.C.P.D.J. No. 1005).
9. Striking of Appeal by the Prothonotary is set forth in Pa.R.C.P.D.J. No. 1006. Suggested procedure is for Prothonotary to give notice of action taken on praecipe to all parties.
10. Pa.R.C.P.D.J. No. 1008B also provides for
 - a. the release of funds to the landlord upon application to the court, and
 - b. the consequences if the appellant/tenant fails to pay the monthly rental in thirty (30) day intervals from the date the notice of appeal or praecipe was filed and each successive thirty (30) days thereafter.
11. If appellant/tenant defaults on the rental payments, Prothonotary, upon praecipe, shall terminate the supersedeas.

12. If appeal is stricken or voluntarily terminated, Prothonotary shall pay the deposits of rent to the party who sought possession of the real property in accordance with Pa.R.C.P.D.J. No. 1008C.

13. Disposition of monthly rental deposits will be made by the court of common pleas following its de novo hearing.

14. Judgment of "non pros" may be entered by Prothonotary upon praecipe by appellant pursuant to Pa.R.C.P.D.J. No. 1004B.

a. Written notice of intention to file the praecipe shall be given in accordance with Pa.R.C.P. No. 237.1.

b. Notice of the entry of judgment of non pros shall be given in accordance with Pa.R.C.P. No. 236.

15. If complaint is filed, the action proceeds under the "Pennsylvania Rules of Civil Procedure".

16. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Section 2 - Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

To Real Estate.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title

(b). #13, Judgment and Lien Papers.

b. If item is not in this schedule, contact State Archives for retention information.

17. Forms:

Important Notice of Praecipe to Enter Judgment of Non Pros

Praecipe for Termination of Supersedeas and Notice

Section 8 Tenant's Supersedeas Affidavit Filed Pursuant to Pa.R.C.P.

M.D.J. No. 1008C(2)

Tenant's Supersedeas Affidavit (Non-Section 8) Filed Pursuant to

Pa.R.C.P.M.D.J. No. 1008C(2)

Section 8 Tenant's Supersedeas Affidavit Filed Pursuant to Pa.R.C.P.

M.D.J. No. 1013C(2)

Tenant's Supersedeas Affidavit (Non-Section 8) Filed Pursuant to

Pa.R.C.P.M.D.J. No. 1013C(2)

18. References:

Pa.R.C.P.D.J. No. 1008

Magisterial District Judge Deadline Computation Schedule

C

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges (Refs & Annos)

▣ Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges

▣ Appellate Proceedings with Respect to Judgments and Other Decisions of Magisterial District Judges in Civil Matters (Refs & Annos)

→→ **Rule 1008. Appeal as Supersedeas**

A. Receipt by the magisterial district judge of the copy of the notice of appeal from the judgment shall operate as supersedeas, except as provided in subdivisions B and C of this rule.

B. When an appeal is from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the notice of appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

In the event the appellant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the appellee, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

When the deposit of money or bond is made pursuant to the rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the notice of appeal is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in thirty (30) day intervals from the date the notice of appeal was filed; or

(b) If the rent has not been paid at the time of filing the notice of appeal, the tenant shall pay:

(i) at the time of filing the notice of appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the notice of appeal; and

(iii) additional deposits of one month's rent in full each thirty (30) days after filing the notice of appeal. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing

basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Note: Subdivision A provides for an automatic supersedeas in appeals from civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal.

Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas when the appeal is from a judgment for the possession of real property. A new subdivision (C) was created in 2008 to provide for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision (B).

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 when it became due" and will be signed by appellee. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.A.P.M.D.J. No. 515 may be made.

The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its de novo hearing of the matter on appeal.

The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.

CREDIT(S)

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; April 15, 2008, effective May 15, 2008; July 16, 2012, imd. effective; Aug. 16, 2013, effective Sept. 15, 2013.

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Order of April 15, 2008

The Order of April 15, 2008, in subd. A, substituted “subdivisions B and C” for “subdivision B”; in subd. B, in the first paragraph, substituted “time of filing the notice of appeal,” for “time of filing the appeal” and “date of the filing of the notice of appeal” for “date of the filing of the notice of appeal”, and in the third paragraph, substituted “by first class mail to attorneys of record, or, if a party is unrepresented,” for “via first class mail to all parties, but if any party has an attorney of record named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party that does not have an attorney of record is sufficient if mailed”; added a new subd. C and redesignated former subd. C as subd. D; rewrote the subd. D note, which prior thereto read:

“Note: Subdivision A provides for an automatic supersedeas in appeals from trespass and assumpsit actions upon receipt by the magisterial district judge of a copy of the notice of appeal. It did not seem worthwhile to require bond or other security for costs as a condition for supersedeas in trespass and assumpsit appeals.

“ Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. This provision substantially incorporates the purpose and intent of the Legislative provision contained in Act No. 1995-33, approved July 6, 1995. The 1996 amendment provides a uniform, statewide procedure (except Philadelphia County: See: Philadelphia Municipal Court Rules of Civil Procedure), and establishes a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.

“The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: “Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 for a period in excess of thirty (30) days” and will be signed by appellee. The prothonotary will then note upon the praecipe: “Upon confirmation of failure of the appellant to deposit the monthly rent for more than thirty (30) days, the supersedeas is terminated,” and the prothonotary will sign and clock the

praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.A.P.M.D.J. No. 515 may be made.

“The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its *de novo* hearing of the matter on appeal.

“The money judgment portion of a landlord and tenant judgment (*See* Pa. R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.”

; and made other nonsubstantive changes.

Order of July 16, 2012

The Order of July 16, 2012, in the Note to subrule (C)(4), substituted “www.pacourts.us” for “www.aopc.org”.

Order of Aug. 16, 2013

The Order of Aug. 16, 2013, in subd. C(3)(a), substituted “in thirty (30) day intervals from the date the notice of appeal was filed” for “as it becomes due under the lease for the months subsequent to the filing of the notice of appeal”.

NOTES OF DECISIONS

In general 1
Appeal bonds 2

1. In general

A supersedeas merely stays execution on judgment during pendency of appeal; it does not open, strike off, or vacate the judgment, or otherwise remove the judgment from the record or render it invalid. *Wilkes-Barre Clay Products, Co. v. Koroneos*, 493 A.2d 744, 342 Pa.Super. 582, Super.1985. Appeal And Error ¶485(2)

Under this rule, plaintiffs could have a writ of possession following proceeding before the district justice to secure the possession of real estate occupied by defendants if during defendants' appeal to the court of common pleas a bond with surety was not filed with the prothonotary. *Sweitzer v. Nonemaker*, 14 Pa. D. & C.3d 714 (1980). Justices Of The Peace ¶162(1)

2. Appeal bonds

Valid judgment of possession which required former owner of property, who continued to possess property as lessee

of property, to vacate premises, existed, and thus former owner/lessee was not entitled to have writ of possession set aside, even though docket entries indicated that former owner/lessee initially perfected supersedeas on judgment of possession, where supersedeas was terminated upon praecipe that confirmed that former owner/lessee failed to deposit into court bond or sum of money in amount of monthly rent due for period in excess of 30 days, former owner/lessee failed to make deposits into court after bond in amount of rent for two months and did not deposit any money into court for almost year, and over 10 months had passed since expiration original agreement that also required that former owner/lessee vacate property. Johnson v. Martofel, 797 A.2d 943, Super.2002, reargument denied , appeal denied 813 A.2d 842, 572 Pa. 706. Landlord And Tenant ↪313

An appeal from a judgment of possession rendered by a district justice will not act as a supersedeas where the appeal bond required by subd. B of this rule has not been filed by defendant because of in forma pauperis status. Ruggiero v. Reid, 36 Pa. D. & C.3d 241 (1985). Criminal Law ↪1084

Pa.R.C.P.M.D.J. No. 1008, 42 Pa.C.S.A., PA ST RCP MAG DIST J RULE 1008

Current with amendments received through 12/15/13

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END OF DOCUMENT

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS — SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Administrative Office of Pennsylvania Courts (www.aopc.org). Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A,B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you **HAVE NOT** paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you **HAVE** paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

**Supreme Court of Pennsylvania
Civil Procedural Rules Committee**

Poverty Income Guidelines

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the prothonotary to attach to the Notice of Intent to Attach Wages "the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee." The guidelines for 2014 are set forth in the following chart:

**2014 HHS Poverty Income Guidelines
Expressed in Monthly Amounts**

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$972.50
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3	1,649.16
4	1,987.50
5	2,325.83
6	2,664.16
7	3,002.50
8	3,340.83
For each additional person, add	338.33

DEADLINE SCHEDULE BY DATE -- M.D.J APPEAL -- POSSESSION & MONEY

<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>	<u>MDJ DECISION</u>	<u>DAY 10</u>	<u>DAY 30</u>
1-Dec-14	11-Dec-14	31-Dec-14	1-Jan-15	11-Jan-15	31-Jan-15
2-Dec-14	12-Dec-14	1-Jan-15	2-Jan-15	12-Jan-15	1-Feb-15
3-Dec-14	13-Dec-14	2-Jan-15	3-Jan-15	13-Jan-15	2-Feb-15
4-Dec-14	14-Dec-14	3-Jan-15	4-Jan-15	14-Jan-15	3-Feb-15
5-Dec-14	15-Dec-14	4-Jan-15	5-Jan-15	15-Jan-15	4-Feb-15
6-Dec-14	16-Dec-14	5-Jan-15	6-Jan-15	16-Jan-15	5-Feb-15
7-Dec-14	17-Dec-14	6-Jan-15	7-Jan-15	17-Jan-15	6-Feb-15
8-Dec-14	18-Dec-14	7-Jan-15	8-Jan-15	18-Jan-15	7-Feb-15
9-Dec-14	19-Dec-14	8-Jan-15	9-Jan-15	19-Jan-15	8-Feb-15
10-Dec-14	20-Dec-14	9-Jan-15	10-Jan-15	20-Jan-15	9-Feb-15
11-Dec-14	21-Dec-14	10-Jan-15	11-Jan-15	21-Jan-15	10-Feb-15
12-Dec-14	22-Dec-14	11-Jan-15	12-Jan-15	22-Jan-15	11-Feb-15
13-Dec-14	23-Dec-14	12-Jan-15	13-Jan-15	23-Jan-15	12-Feb-15
14-Dec-14	24-Dec-14	13-Jan-15	14-Jan-15	24-Jan-15	13-Feb-15
15-Dec-14	25-Dec-14	14-Jan-15	15-Jan-15	25-Jan-15	14-Feb-15
16-Dec-14	26-Dec-14	15-Jan-15	16-Jan-15	26-Jan-15	15-Feb-15
17-Dec-14	27-Dec-14	16-Jan-15	17-Jan-15	27-Jan-15	16-Feb-15
18-Dec-14	28-Dec-14	17-Jan-15	18-Jan-15	28-Jan-15	17-Feb-15
19-Dec-14	29-Dec-14	18-Jan-15	19-Jan-15	29-Jan-15	18-Feb-15
20-Dec-14	30-Dec-14	19-Jan-15	20-Jan-15	30-Jan-15	19-Feb-15
21-Dec-14	31-Dec-14	20-Jan-15	21-Jan-15	31-Jan-15	20-Feb-15
22-Dec-14	1-Jan-15	21-Jan-15	22-Jan-15	1-Feb-15	21-Feb-15
23-Dec-14	2-Jan-15	22-Jan-15	23-Jan-15	2-Feb-15	22-Feb-15
24-Dec-14	3-Jan-15	23-Jan-15	24-Jan-15	3-Feb-15	23-Feb-15
25-Dec-14	4-Jan-15	24-Jan-15	25-Jan-15	4-Feb-15	24-Feb-15
26-Dec-14	5-Jan-15	25-Jan-15	26-Jan-15	5-Feb-15	25-Feb-15
27-Dec-14	6-Jan-15	26-Jan-15	27-Jan-15	6-Feb-15	26-Feb-15
28-Dec-14	7-Jan-15	27-Jan-15	28-Jan-15	7-Feb-15	27-Feb-15
29-Dec-14	8-Jan-15	28-Jan-15	29-Jan-15	8-Feb-15	28-Feb-15
30-Dec-14	9-Jan-15	29-Jan-15	30-Jan-15	9-Feb-15	1-Mar-15
31-Dec-14	10-Jan-15	30-Jan-15	31-Jan-15	10-Feb-15	2-Mar-15
1-Feb-15	11-Feb-15	3-Mar-15	1-Mar-15	11-Mar-15	31-Mar-15
2-Feb-15	12-Feb-15	4-Mar-15	2-Mar-15	12-Mar-15	1-Apr-15
3-Feb-15	13-Feb-15	5-Mar-15	3-Mar-15	13-Mar-15	2-Apr-15
4-Feb-15	14-Feb-15	6-Mar-15	4-Mar-15	14-Mar-15	3-Apr-15
5-Feb-15	15-Feb-15	7-Mar-15	5-Mar-15	15-Mar-15	4-Apr-15
6-Feb-15	16-Feb-15	8-Mar-15	6-Mar-15	16-Mar-15	5-Apr-15
7-Feb-15	17-Feb-15	9-Mar-15	7-Mar-15	17-Mar-15	6-Apr-15
8-Feb-15	18-Feb-15	10-Mar-15	8-Mar-15	18-Mar-15	7-Apr-15
9-Feb-15	19-Feb-15	11-Mar-15	9-Mar-15	19-Mar-15	8-Apr-15
10-Feb-15	20-Feb-15	12-Mar-15	10-Mar-15	20-Mar-15	9-Apr-15
11-Feb-15	21-Feb-15	13-Mar-15	11-Mar-15	21-Mar-15	10-Apr-15
12-Feb-15	22-Feb-15	14-Mar-15	12-Mar-15	22-Mar-15	11-Apr-15
13-Feb-15	23-Feb-15	15-Mar-15	13-Mar-15	23-Mar-15	12-Apr-15
14-Feb-15	24-Feb-15	16-Mar-15	14-Mar-15	24-Mar-15	13-Apr-15
15-Feb-15	25-Feb-15	17-Mar-15	15-Mar-15	25-Mar-15	14-Apr-15
16-Feb-15	26-Feb-15	18-Mar-15	16-Mar-15	26-Mar-15	15-Apr-15
17-Feb-15	27-Feb-15	19-Mar-15	17-Mar-15	27-Mar-15	16-Apr-15
18-Feb-15	28-Feb-15	20-Mar-15	18-Mar-15	28-Mar-15	17-Apr-15
19-Feb-15	1-Mar-15	21-Mar-15	19-Mar-15	29-Mar-15	18-Apr-15
20-Feb-15	2-Mar-15	22-Mar-15	20-Mar-15	30-Mar-15	19-Apr-15
21-Feb-15	3-Mar-15	23-Mar-15	21-Mar-15	31-Mar-15	20-Apr-15
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23-Feb-15	5-Mar-15	25-Mar-15	23-Mar-15	2-Apr-15	22-Apr-15
24-Feb-15	6-Mar-15	26-Mar-15	24-Mar-15	3-Apr-15	23-Apr-15
25-Feb-15	7-Mar-15	27-Mar-15	25-Mar-15	4-Apr-15	24-Apr-15
26-Feb-15	8-Mar-15	28-Mar-15	26-Mar-15	5-Apr-15	25-Apr-15
27-Feb-15	9-Mar-15	29-Mar-15	27-Mar-15	6-Apr-15	26-Apr-15
28-Feb-15	10-Mar-15	30-Mar-15	28-Mar-15	7-Apr-15	27-Apr-15
			29-Mar-15	8-Apr-15	28-Apr-15
			30-Mar-15	9-Apr-15	29-Apr-15
			31-Mar-15	10-Apr-15	30-Apr-15

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)

I, _____ (print name and address here),

have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)

I, _____ (print name and address here),
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monthly rent or the judgment for rent awarded by the magisterial district court. My total household income
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SIGNATURE OF TENANT

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

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Date

SIGNATURE OF TENANT

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

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Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
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D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

Supreme Court of Pennsylvania
Civil Procedural Rules Committee

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8	3,340.83
For each additional person, add	338.33



Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness
Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)
Part VII. Civil Actions and Proceedings
 ↗ Chapter 73. Arbitration (Refs & Annos)
 ↗ Subchapter B. Common Law Arbitration (Refs & Annos)
 →→ § 7341. Common law arbitration

The award of an arbitrator in a nonjudicial arbitration which is not subject to Subchapter A (relating to statutory arbitration) or a similar statute regulating nonjudicial arbitration proceedings is binding and may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1980, Oct. 5, P.L. 693, No. 142, § 501(a), effective in 60 days.

BAR ASSOCIATION COMMENT

Source Note: Intended as a restatement of existing law. See, e.g. *Great American Insurance Co. v. American Arbitration Assn.*, 436 Pa. 370, 260 A.2d 769 (1970).

HISTORICAL AND STATUTORY NOTES

The 1980 amendment substituted "subchapter A" for "The Act of April 25, 1927 (P.L. 381, No. 248)".

CROSS REFERENCES

Vacation of arbitration award by court, see 42 Pa.C.S.A. § 7314.

LIBRARY REFERENCES

Alternative Dispute Resolution ↗ 326, 331, 362, 381.
Westlaw Topic No. 25T.

RESEARCH REFERENCES



Effective:[See Text Amendments]

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness
Title 42 Pa.C.S.A: Judiciary and Judicial Procedure (Refs & Annos)
Part VII. Civil Actions and Proceedings
 ▣ Chapter 73. Arbitration (Refs & Annos)
 ▣ Subchapter B. Common Law Arbitration (Refs & Annos)
 →→ § 7342. Procedure

(a) **General rule.**--The following provisions of Subchapter A (relating to statutory arbitration) shall be applicable to arbitration conducted pursuant to this subchapter:

Section 7303 (relating to validity of agreement to arbitrate).

Section 7304 (relating to court proceedings to compel or stay arbitration).

Section 7305 (relating to appointment of arbitrators by court).

Section 7309 (relating to witnesses, subpoenas, oaths and depositions).

Section 7317 (relating to form and service of applications to court).

Section 7318 (relating to court and jurisdiction).

Section 7319 (relating to venue of court proceedings).

Section 7320 (relating to appeals from court orders), except subsection (a)(4).

(b) **Confirmation and judgment.**--On application of a party made more than 30 days after an award is made by an arbitrator under section 7341 (relating to common law arbitration) the court shall enter an order confirming the award and shall enter a judgment or decree in conformity with the order. Section 7302(d)(2) (relating to special application) shall not be applicable to proceedings under this subchapter.

CREDIT(S)



Effective: January 31, 2005

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 42 Pa.C.S.A. Judiciary and Judicial Procedure (Refs & Annos)

Part VII. Civil Actions and Proceedings

▣ Chapter 81. Judgments and Other Liens (Refs & Annos)

▣ Subchapter B. Exemptions from Execution (Refs & Annos)

→ → § 8127. Personal earnings exempt from process

(a) General rule and exceptions.--The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

(1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

(2) For support.

(3) For board for four weeks or less.

(3.1) For amounts awarded to a judgment creditor- landlord arising out of a residential lease upon which the court has rendered judgment which is final. However, the amount subject to attachment shall have deducted from it any security deposit held by the judgment creditor-landlord and forfeited by the judgment debtor-tenant under section 511.1 of the act of April 6, 1951 (P.L. 69, No. 20), [FN1] known as The Landlord and Tenant Act of 1951, unless the security deposit has been applied to payment of rent due on the same premises for which the judgment for attachment has been entered. The judgment creditor-landlord shall have the burden of proving that such security deposit has been applied to payment of rent due on the premises herein described. The sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less. For the purposes of this paragraph, "net wages" shall mean all wages paid less only the following items:

(i) Federal, State and local income taxes.

(ii) F.I.C.A. payments and nonvoluntary retirement payments.

(iii) Union dues.

(iv) Health insurance premiums.

(3.2) In the case of wage attachment arising out of a residential lease, to implement the wage attachment, the judgment creditor-landlord shall comply with the Pennsylvania Rules of Civil Procedure and any applicable local rules. The judgment of the magisterial district judge, magistrate or any other court having jurisdiction over landlord and tenant matters or a judgment before the court of common pleas shall reflect that portion of the judgment which is for physical damages arising out of a residential lease.

(4) Under the act of August 7, 1963 (P.L. 549, No. 290), [FN2] referred to as the Pennsylvania Higher Education Assistance Agency Act.

(5) For restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.

(b) Priority.--An order of attachment for support shall have priority over any other attachment, execution, garnishment or wage assignment.

(c) Duty of employer.--

(1) For any wage attachment arising out of a residential lease, the employer shall send the attached wages to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding \$5 of the amount of money so collected. If an employer is served with more than one attachment arising out of a residential lease against the same judgment debtor, then the attachments shall be satisfied in the order in which they were served. Each prior attachment shall be satisfied before any effect is given to a subsequent attachment, subject to subsection (a)(3.2). Upon receipt of the wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

(2) For any wage attachment not arising out of a residential lease, the employer shall send the attached withheld wages to the prothonotary of the court of common pleas to be recorded, and upon receipt, the wages shall be sent to the creditor.

(d) Duty of judgment creditor-landlord.--

(1) Any judgment creditor-landlord who has received satisfaction of any judgment pursuant to this section shall enter satisfaction in the office of the clerk of the court where such judgment is outstanding, which satisfaction shall forever discharge the judgment.

(2) A judgment creditor-landlord who shall fail or refuse for more than 30 days after receiving satisfaction to

comply with paragraph (1) shall pay to the judgment debtor-tenant as liquidated damages 1% of the original amount of the judgment for each day of delinquency beyond such 30 days but not more than 50% of the original amount of the judgment. Such liquidated damages shall be recoverable pursuant to general rules, by supplementary proceedings in the matter in which the judgment was entered.

(e) Prohibition against discharge.--The employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.

(f) Victim of abuse.--This section shall not apply and no wage attachment shall be issued against an abused person or victim, as defined in 23 Pa.C.S. § 6102 (relating to definitions), for physical damages related to residential leases when said person has obtained a civil protection order pursuant to 23 Pa.C.S. § 6101 et seq. (relating to protection from abuse), or has obtained a protective order pursuant to 18 Pa.C.S. § 4954 (relating to protective orders), or is a victim-witness as defined by 18 Pa.C.S. § 4951 (relating to definitions), in a criminal proceeding against a family or household member, as defined in 23 Pa.C.S. § 6102, and it is determined by the court that the physical damages were caused by the family or household member.

(g) Application of section.--This section shall apply to all judgments which remain unsatisfied or arise on or after the effective date of this subsection.

(h) Definition.--For purposes of this section, "physical damages" shall mean the abuse of the physical makeup of the leasehold premises. The term shall include, but not be limited to, the abuse of walls, floors, ceilings or any other physical makeup of the leasehold premises.

CREDIT(S)

1976, July 9, P.L. 586, No. 142, § 2, effective June 27, 1978. Amended 1978, April 28, P.L. 202, No. 53, § 10(95), effective June 27, 1978; 1982, Dec. 20, P.L. 1409, No. 326, art. II, § 201, effective in 60 days; 1990, Dec. 19, P.L. 1240, No. 206, § 4, effective in 90 days; 1996, Feb. 23, P.L. 13, No. 5, § 1, imd. effective; 1998, June 18, P.L. 640, No. 84, § 4, effective in 120 days; 2002, Dec. 9, P.L. 1705, No. 215, § 4.1, imd. effective; 2004, Nov. 30, P.L. 1618, No. 207, § 18, effective in 60 days [Jan. 31, 2005].

[FN1] 68 P.S. § 250.511a.

[FN2] 24 P.S. § 5101 et seq.

BAR ASSOCIATION COMMENT--1976

Source Note: Derived from act of May 23, 1887 (P.L. 164), § 1 (12 P.S. § 2175) and act of June 7, 1915 (P.L. 866), § 1 (12 P.S. § 2176).

BAR ASSOCIATION COMMENT--1978

Derived from act of April 15, 1845 (P.L. 459, No. 303), § 5 (42 P.S. § 886), act of June 7, 1907 (P.L. 429, No. 293), § 3 (12 P.S. § 1005), and act of July 13, 1953 (P.L. 431, No. 95), § 9 (62 P.S. § 2043.39).

HISTORICAL AND STATUTORY NOTES

Act 1998-84 legislation

Act 1998-84 added subsec. (a)(5).

Act 2002-215 legislation

Act 2002-215, § 4.1, in subsec. (a)(3.1), substituted “For amounts awarded” for “For damages awarded”; in subsec. (a)(3.2), substituted “attachment arising” for “attachment for damages arising” and “for physical damages” for “for damages”; in subsec. (c)(1), substituted “attachment arising” for “attachment for damages arising” and “attachment arising out of a residential lease” for “attachment for damages arising out of a residential lease”; in subsec. (c)(2), substituted “attachment not arising” for “attachment other than for damages arising”; in subsec. (f), inserted “physical” preceding “damages” in two places; and in subsec. (h), substituted “ ‘physical damages’ shall mean” for “ ‘damages’ shall mean” and substituted “The term” for “Damages”.

Act 2004-207 legislation

Act 2004-207, § 18, amended the section to reflect the redesignation of district justices as magisterial district judges.

Prior Laws:

1810, March 20, P.L. 208, 5 Sm.L. 161, § 9 (42 P.S. § 861).

1845, April 15, P.L. 459, § 5 (42 P.S. § 886).

1876, May 8, P.L. 139, § 1 (42 P.S. § 621).

1885, June 24, P.L. 158, § 1.

1887, May 23, P.L. 164, § 1 (12 P.S. § 2175).

1905, April 10, P.L. 134, § 1.

1907, June 7, P.L. 429, § 3 (12 P.S. § 1005).

1913, May 1, P.L. 132, §§ 1, 2 (42 P.S. §§ 621, 622).

1915, June 7, P.L. 866, § 1 (12 P.S. § 2176).

1956, May 29, P.L. (1955) 1852, § 1.


CROSS REFERENCES

Attachment of wages to satisfy judgment under this section, see Pa.R.C.P. No. 3301 et seq.
 Medical education loans, garnishment of wages on default, see 24 P.S. § 22-2213-A.

LAW REVIEW AND JOURNAL COMMENTARIES

Garnishment of wages. (1966) 70 Dick.L.Rev. 199.

LIBRARY REFERENCES

Exemptions  48.
 Westlaw Topic No. 163.
 C.J.S. Exemptions §§ 39, 131 to 133, 135, 137 to 149.

RESEARCH REFERENCES

ALR Library

52 ALR 5th 221, Enforcement of Claim for Alimony or Support, or for Attorneys' Fees and Costs Incurred in Connection Therewith, Against Exemptions.

67 ALR 1203, Deposit of Exempt Funds as Affecting Debtor's Exemption.

58 ALR 777, Who is 'employee' Within Debt Exemption.

Encyclopedias

Summary Pa. Jur. 2d Employment and Labor Relations § 1:83, Wage Attachments.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:69, Generally; Wages Exempt from Attachment.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:71, Applicability to State and Political Subdivisions.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:73, Duty of Employer.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:74, Prohibition of Discharge.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:76, Attachment of Wages in Action for Divorce or Annulment; Equitable Distribution.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:77, Attachment of Income in Action for Support.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:78, Attachment of Income in Action for Support--Priority.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:79, Attachment of Wages in Action for Board.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:80, Attachment of Wages for Amounts Arising from Residential Lease.

Summary Pa. Jur. 2d Employment and Labor Relations § 3:81, Attachment of Wages in Action Under Pennsylvania Higher Education Assistance Agency Act.

Summary Pa. Jur. 2d Property § 26:109, Attachment of Wages for Damages Arising from Residential Lease.

Forms

3 West's Pennsylvania Forms § 65:55, Claim for Exemption.

10 West's Pennsylvania Forms § 16.0, Introduction.

Treatises and Practice Aids

Goodrich-Amram 2d § 3301:1, Scope.

Goodrich-Amram 2d § 3303:3, Challenges to Claims of Exemptions.

Goodrich-Amram 2d § 3304:3, Form of Writ.

Goodrich-Amram 2d Rule 3101, Definitions. Garnishee. Scope.

Goodrich-Amram 2d Rule 3140, Notice by Garnishee.

Goodrich-Amram 2d Rule 3159, Acts of Assembly Not Suspended.

Goodrich-Amram 2d Rule 3301, Scope. Definitions.

Goodrich-Amram 2d Rule 3303, Exemption from Attachment. Procedure.

Goodrich-Amram 2d Rule 3304, Writ for the Attachment of Wages. Issuance. Service.

Goodrich-Amram 2d Rule 3312, Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.

Goodrich-Amram 2d § 3146(A):6, Hearing to Assess Amount of Judgment.

Goodrich-Amram 2d Rule 3123.1, Claim for Exemption or Immunity of Property. Prompt Hearing.

Standard Pennsylvania Practice § 74:2, Exemptions, Generally.

Standard Pennsylvania Practice § 74:7, Maintenance or Loss of Exemption Upon Transfer of Funds.

Standard Pennsylvania Practice § 77:1, Scope of Proceedings and Involvement of Parties.

Standard Pennsylvania Practice § 74:10, Judgments and Support Orders in Domestic Relations Actions.

Standard Pennsylvania Practice § 74:27, Exemption and Exceptions, Generally.

Standard Pennsylvania Practice § 74:28, What Constitutes Exempt Personal Earnings.

Standard Pennsylvania Practice § 74:30, Limitations on Exception for Amounts Arising Out of Residential Lease.

Standard Pennsylvania Practice § 74:38, Notice--Attachment of Wages for Judgment Arising Out of Residential Lease.

Standard Pennsylvania Practice § 74:49, Landlord-Creditor's Motion Challenging Claim of Exemption; Setting of Hearing Date.

Standard Pennsylvania Practice § 77:92, Exemption.

Standard Pennsylvania Practice § 77:93, Writ of Attachment; Issuance and Service.

Standard Pennsylvania Practice § 77:95, Form--Notice of Intent to Attach Wages, Salary or Commissions.

17 West's Pennsylvania Practice § 5:21, Enforcement.

16B West's Pennsylvania Practice § 31:15, Fine.

16B West's Pennsylvania Practice § 31:16, Restitution.


16B West's Pennsylvania Practice § 31:35, Imposition of Costs; Criminal Laboratory User Fee.


16B West's Pennsylvania Practice § 31:36, Failure to Pay Fine and Costs.


NOTES OF DECISIONS

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1. Construction and application

This section does not operate against the state and thus does not operate against the United States when it seeks to collect on a judgment. *U.S. v. Chiolo*, M.D.Pa.1983, 560 F.Supp. 279. Exemptions 77

Provision of this section barring garnishment of wages was not applicable to United States because it was not applicable to Commonwealth of Pennsylvania. *U. S. v. Kurtz*, E.D.Pa.1982, 547 F.Supp. 17. Exemptions 77

Attachment of obligor's wages is a remedy which is extremely circumscribed. *Sorace v. Sorace*, 655 A.2d 125, 440 Pa.Super. 75, Super.1995, appeal denied 668 A.2d 1135, 542 Pa. 673. Exemptions 48(1)

42 P.S. § 886 (repealed) relating to proceedings before justices of the peace and which exempted wages or salary from attachment in hands of an employer applied to all judgments in whatever court entered. *Hollander v. Kressman*, 17

A.2d 669, 143 Pa.Super. 32, Super.1941. Garnishment ⚙️33

2. Purpose

Garnishee is precluded from raising defense of exemption of wages following entry of default judgment, as purpose of defense is to protect judgment debtor from garnishment of wages. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Garnishment ⚙️131

Defense of exemption of wages from attachment is designed to protect wage earner. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Exemptions ⚙️48(1)


3. Wages


Pennsylvania exemption for “wages, salaries and commissions” of individuals while in the hands of their employer was not broad enough to apply to undistributed draws of Chapter 7 debtor, in his capacity as partner in law partnership, which represented profits of partnership that were distributed to debtor and other partners in accordance with formula set forth in partnership agreement, and that debtor had not reported as wages or salary on his federal income tax returns; while debtor asserted that these draws were on account of work that he performed for partnership, they were not “wages,” “salaries,” or “commissions,” within meaning of Pennsylvania exemption statute. *In re Oberdick, Bkrcty.W.D.Pa.2013*, 490 B.R. 687. Exemptions ⚙️48(2)


Money earned by Chapter 7 debtor while he was still partner in law firm could not constitute wages or salary under Pennsylvania law, and therefore funds being held for debtor in capital account at firm had to be something other than wages or salary and could not be claimed as exempt by debtor under Pennsylvania statute exempting wages, salaries, and commissions that were in employer's hands on ground that, at the time his bankruptcy case commenced, debtor was employee of, rather than partner with, firm; funds more likely than not represented either contribution made by debtor to law firm while he was partner or retained earnings from work performed by debtor while he was partner. *In re Titus, Bkrcty.W.D.Pa.2012*, 467 B.R. 592, motion to amend denied 479 B.R. 362. Exemptions ⚙️48(2)


Under Pennsylvania's version of Uniform Fraudulent Transfer Act (UFTA), which defined “transfer” to include both direct and indirect dispositions of assets, but did not treat property generally exempt under nonbankruptcy law as “asset,” indirect transfers of his wages accomplished by debtor through his employer's direct deposits of his compensation into checking account held as entireties property were properly recast as two discrete transfers, the first being employer's transfer of wages into debtor's hands and second being debtor's transfer of those wages into account, such that wages, which were exempt while being held by employer but nonexempt in debtor's hands, became non-exempt assets that were subject of “transfers” made by debtor for fraudulent transfer purposes. *In re Titus, Bkrcty.W.D.Pa.2012*, 467 B.R. 592, motion to amend denied 479 B.R. 362. Fraudulent Conveyances ⚙️24(1); Fraudulent Conveyances ⚙️51(2); Fraudulent Conveyances ⚙️95(2)


Government agency may not garnish wages to satisfy judgment in any type of proceeding other than to recover

Pennsylvania Higher Education Assistance Agency Act (PHEAA) loan. *Chester Upland School Dist. v. Mathews*, 705 A.2d 473, Cmwlth.1997. Exemptions 77


Even if Commonwealth, as sovereign, was not subject to statutory exemption of personal earnings from garnishment, municipal corporations, which are not themselves sovereign but only creations of Commonwealth, would not be exempt by statute. *Chester Upland School Dist. v. Mathews*, 705 A.2d 473, Cmwlth.1997. Exemptions 77



Remuneration inmate received for prison labor did not constitute “wages” within meaning of this section making personal earnings exempt from process; thus, this section did not prohibit withholding portion of inmate's remuneration to satisfy restitution penalty imposed as result of prison disciplinary hearing. *Mays v. Fulcomer*, 552 A.2d 750, 122 Pa.Cmwlth. 555, Cmwlth.1989. Exemptions 48(2)


In the absence of performance of services, funds payable in installments pursuant to an agreement not to compete that is part of a contract for the sale of an interest in a business do not constitute wages that are exempt from attachment under this section. *Peoples Bank of Western Pennsylvania v. Quicquaro*, 49 Pa. D. & C.3d 48 (1988). Exemptions 48(2)


Fees held by Blue Shield for participating physicians for services already rendered to patients constitute exempt wages in the hands of an employer under this section. *Continental Bank v. Abrams*, 47 Pa. D. & C.3d 582 (1987). Exemptions 48(2)

4. Support

Wages were not exempt from attachment to enforce foreign judgment for arrearages of unallocated alimony and support payments. *Goodstein v. Goodstein*, 563 A.2d 522, 386 Pa.Super. 556, Super.1989, on remand 11 Pa. D. & C.4th 294. Exemptions 62

Only monetary judgments for child or spousal support, and not judgments for equitable distribution of property, may be enforced through wage attachment. *Laughlin v. Laughlin*, 538 A.2d 927, 372 Pa.Super. 24, Super.1988, appeal granted 557 A.2d 725, 521 Pa. 622, affirmed in part , reversed in part 578 A.2d 922, 525 Pa. 141. Child Support 442; Divorce 1034

Employer could not collect by means of wage attachment judgment obtained by it against employee as restitution for employer's satisfaction of judgment against employee in favor of employer's former wife for debts unrelated to employee's support obligations. *Ankrom v. Ankrom*, 531 A.2d 509, 366 Pa.Super. 461, Super.1987. Exemptions 48(1)

An alimony obligation could be enforced by wage attachment by virtue of the exception to the exemption provision of this section. *Brown v. Brown*, 20 Pa. D. & C.3d 371 (1981). Divorce 1032

5. Board for four weeks or less

42 P.S. § 621 (repealed), applied only to board owed by the defendant himself; and when the record showed that the judgment covered board for both the defendant and his wife, and there was nothing to show how much was owed for each, the proceedings were set aside on certiorari. *Wilhelm v. Mumma*, 33 C.C. 169, 10 Del. 218, 16 Dist. 463, 5 Just. 154, 24 Lanc. 91, 2 Leh. 147, 20 York 157, 1907; *Walker v. Kennedy*, 20 C.C. 433, 7 Dist. 516, 2 Docket 67, 1 Docket 163, 1898.

Judgment could not be collected by issuing successive attachments, so as to collect the entire claim in instalments of four weeks' board each. *Hawk v. Rock*, 14 C.C. 490, 3 Dist. 374, 1894; *Coyne v. Slane*, 6 Lack.L.N. 217, 1900.

Alderman properly refused defendant's claim for exemption where judgment was for board and lodging, although 42 P.S. § 621 (repealed) denied exemption only where claim was for board. *Mason v. Hughes*, 20 Luz. 81, 1918.

Board means meals with or without lodging. *Mason v. Hughes*, 20 Luz. 81, 1918.

6. Foreign jurisdictions

Where a creditor sent a claim against his debtor to West Virginia and collected it out of wages due the debtor from a railroad company, and the debtor then brought suit against the creditor in this state, and recovered a judgment against the creditor for the amount of his wages collected in West Virginia, and the creditor then transferred to his wife a judgment note he held against the debtor, under which the wife attached the judgment which had been recovered against the husband; it was held that the laborer could not be deprived in such manner of the protection afforded by 12 P.S. § 2175 (repealed), and that the attachment should be quashed. *Steele v. McKerrihan*, 33 A. 570, 172 Pa. 280, Sup.1896. Exemptions ↪56

When a person carries his claim into a foreign state and there sues thereon, he transfers his claim. *Zeiders v. Lewis Apparel Stores, Inc.*, 82 Pa. D. & C. 488 (1953). Exemptions ↪48(1)

Where Pennsylvania citizen has entered into obligation with a creditor in a jurisdiction wherein wages may legally be attached, the attachment of the wages of the citizen may not be challenged. 1975 Op.Atty.Gen. No. 75-32.

Pennsylvania employees may not have their wages garnished by nonresident creditors who obtain judgments in foreign jurisdictions and then attempt to enforce such judgments by serving the employer of the debtor with a foreign garnishment notice where such employer maintains an office in the foreign jurisdiction as well as in Pennsylvania. 1973 Op.Atty.Gen. No. 67.

7. Equitable distribution of property

Trial court had authority to issue wage attachments to enforce equitable distribution order. *Laughlin v. Laughlin*, 578 A.2d 922, 525 Pa. 141, Sup.1990. Divorce ↪1034

Equitable distribution of property is not a form of support and may not be enforced by garnishment of wages. Goodstein v. Goodstein, 563 A.2d 522, 386 Pa.Super. 556, Super.1989, on remand 11 Pa. D. & C.4th 294. Exemptions ⚡62

Trial court erred when it attached husband's wages in order to fulfill his obligation under trial court's order of equitable distribution of property. Laughlin v. Laughlin, 538 A.2d 927, 372 Pa.Super. 24, Super.1988, appeal granted 557 A.2d 725, 521 Pa. 622, affirmed in part, reversed in part 578 A.2d 922, 525 Pa. 141. Divorce ⚡1034

8. Taxes

Local taxing district may not garnish wages of property owner for delinquent real estates taxes which have been reduced to judgment. Chester Upland School Dist. v. Mathews, 705 A.2d 473, Cmwlt.1997. Exemptions ⚡48(1)

Although statute specifically granted taxing districts power to personally sue taxpayer to collect taxes and disallowed taxpayer benefit of any exemption, it did not specifically give taxing districts power to attach wages and, therefore, statute was not "special provision" that prevailed over general statutory exemption of personal earnings from garnishment. Chester Upland School Dist. v. Mathews, 705 A.2d 473, Cmwlt.1997. Exemptions ⚡48(1)

An employee's wages, while in the hands of an employer; are exempt from attachment under this section, to collect judgments arising from unpaid sales taxes due the commonwealth. Pennsylvania Dept. of Revenue v. Bookser, 3 Pa. D. & C.4th 566 (1989). Exemptions ⚡48(1)


This section did not exempt an individual's salary from attachment for the satisfaction of unpaid sales taxes owing to the commonwealth. Pennsylvania Dept. of Revenue v. Verna, 27 Pa. D. & C.3d 428 (1983). Exemptions ⚡48(1)


9. Remedies

Where automobile buyer, in county in which he was employed, bought automobile and executed bailment lease which provided that it was executed where automobile would be kept, and when buyer became delinquent, automobile was sold, deficiency judgment was entered against buyer, and a foreign corporation as assignee of bailment lease instituted attachment proceeding in adjoining state, garnishing buyer's employer by service on its sales office, so that buyer's wages were withheld, buyer's cause of action to enjoin attachment arose in county of purchase and venue in that county was proper as against foreign corporation. Urey v. Horchler, 119 A.2d 859, 180 Pa.Super. 482, Super.1956. Corporations And Business Organizations ⚡3258


A court of equity had jurisdiction to enjoin prosecution of an action to evade the exemption of wages from execution provided by 42 P.S. § 886 (repealed), and evasion of 12 P.S. § 2175 (repealed), relating to assignments to defeat exemption. Zeiders v. Lewis Apparel Stores, Inc., 82 Pa. D. & C. 488 (1953). Exemptions ⚡140

An injunction against a judgment creditor, restraining him from proceeding with an attachment against plaintiff's wages in the courts of another state, to which the judgment obtained in Pennsylvania was transferred for the sole


purpose of depriving plaintiff of his right to exemption of such wages from attachment under Pennsylvania law, did not constitute an interference with the courts of the other state, where the bill made no request for an order restraining any action on the part of those courts or their officers. *Prazich v. Alwine*, 49 Pa. D. & C. 353 (1944). Injunction 27



Equity had jurisdiction to enjoin a judgment creditor from proceeding with an attachment in the courts of another state, in violation of 12 P.S. § 2175 (repealed), for the purpose of circumventing the provisions of 42 P.S. § 886 (repealed), against attachment of wages in the hands of the employer, but no such jurisdiction existed as to the employer, against whom the employee had an adequate remedy at law. *Prazich v. Alwine*, 49 Pa. D. & C. 353 (1944). Injunction 27

10. Direct deposits


First wife's garnishment of fund in joint bank account of second wife and husband did not constitute garnishment of husband's wages in violation of subsec. (a) of this section, even though husband's paychecks and bonuses were directly deposited to the account. *Stinner v. Stinner*, 446 A.2d 651, 300 Pa.Super. 351, Super.1982. Exemptions 48(1)

11. Employers

To determine whether exemption of wages from attachment is defense which garnishee may raise against judgment debtor, court must consider whether sums in hands of garnishee constitute monies exempt from attachment and whether garnishee is employer of judgment debtor. *Jefferson Bank v. J. Roy Morris and Scanforms, Inc.*, 639 A.2d 474, 432 Pa.Super. 546, Super.1994, appeal denied 648 A.2d 789, 538 Pa. 658. Garnishment 131

Clear, specific statutory declaration that wages were exempt from attachment and execution precluded county from attaching or withholding a portion of salary of employee to apply towards payment of judgment county obtained against employee as result of transaction that did not arise from employer-employee relationship. *Com. v. Saunders*, 463 A.2d 1146, 317 Pa.Super. 184, Super.1983. Exemptions 48(1); Exemptions 77

12. Court costs

Trial court was required to make a determination of the inmate's ability to pay court costs, prior to ordering a twenty percent deduction from the inmate's prison account to satisfy those costs; a hearing was necessary to determine whether the inmate's earnings had already been attached for purposes of alimony, child support, or other debts, and the clerk of courts had no statutory authority to request twenty percent or any other amount as an installment payment. *Boofer v. Lotz*, 797 A.2d 1047, Cmwlth.2002, reargument denied, appeal granted in part 817 A.2d 1079, 572 Pa. 567, reversed 842 A.2d 333, 577 Pa. 12. Costs 320

13. Public interest

Grant of preliminary injunction prohibiting judgment debtor from making any monthly expenditures in excess of \$6,710 and ordering him to make monthly payments of \$3,700 to judgment creditor, toward satisfaction of award was

in the public's interest, and thus, factor supported issuance of preliminary injunction in favor of creditor; public had general interest in enforcement of judgments, and order did not conflict with state statute governing attachment of wages. *State Farm Mut. Auto. Ins. Co. v. American Rehab And Physical Therapy, Inc.*, C.A.3 (Pa.)2010, 376 Fed.Appx. 182, 2010 WL 1499662, Unreported. Injunction ↪1173; Injunction ↪1231

14. Commissions

Pennsylvania statute exempting from any attachment, execution, or other process the “wages, salaries and commissions of individuals...while in the hands of the employer” could not be used to exempt commissions that Chapter 7 debtor earned not as employee, but as independent contractor convincing customers to purchase their electricity from utility; statute was enacted for protection only of employees, not independent contractors. *In re Bosack, Bkrcty.W.D.Pa.2011*, 454 B.R. 625. Exemptions ↪48(2)

42 Pa.C.S.A. § 8127, PA ST 42 Pa.C.S.A. § 8127

Current through Regular Session Act 2014-5

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END OF DOCUMENT

CHAPTER N

LIENS

ATTACHMENT OF WAGES, SALARY AND COMMISSIONS (Judgment Creditor-Landlord, Residential Lease). 42 Pa.C.S.A. §§ (A) et seq.
Pa. R.C.P. Nos. 3301 et seq.

1. Commencement. Notice.

a. The plaintiff shall commence an execution to attach wages by filing a praecipe with the Prothonotary of the county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located.

b. Upon the filing of the praecipe and collection of the filing fee, the Prothonotary shall issue a Notice of Intent to Attach Wages. The Prothonotary shall attach to the notice a copy of:

(1). the praecipe filed with the Prothonotary for issuance of the Notice of Intent to Attach Wages,

(2). the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee/>, and

(3). a Claim for Exemption from Wage Attachment Notice.

c. The Notice of Intent to Attach Wages with attachments shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

2. Exemption from Attachment. Procedure.

a. If the defendant files a claim for exemption of wages from attachment either within thirty (30) days or prior to the issuance of the writ of attachment, the Prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from attachment to the plaintiff or, if represented, to the plaintiff's attorney. The Prothonotary shall attach a copy of the claim to the notice.

16. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to

a. Section 2 – Prothonotary/Clerk of Civil Division

(1). PY-6, Civil Dockets, Books and Indices.

(2). PY-7, Civil Papers/Files.

(a). #1, All Civil Matters, Not Otherwise Listed, Involving Title To Real Estate.

b. If item is not in this schedule, contact State Archives for retention information.

17. Forms:

Certification

Interrogatories to the Above-Named Garnishee

Praecipe for Writ of Execution--Money Judgement

Writ of Execution and/or Attachment

Writ of Execution Notice

CHAPTER S

CHILD CUSTODY AND VISITATION

ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

1. GENERAL (23 Pa.C.S.A. §§ 5301 through 5311 and 4349; Pa.R.C.P. Nos. 1915.1 through 1915.25, 1920.32, and 1930.4).

2. PERTINENT RULE REFERENCES.

a. Definitions - Pa.R.C.P. No. 1915.1.

b. Venue - Pa.R.C.P. No. 1915.2.

c. Action is commenced by filing a verified complaint substantially in the form provided by Pa.R.C.P. No. 1915.15(a) with an order attached directing the defendant to appear at a hearing. (In some counties this may be a pre-hearing conference as established by local administrative order or local rule of court.) Pursuant to Pa.R.C.P. No. 1915.3-2, the petitioner must file and serve with the complaint, or any petition for modification, a verification regarding any criminal abuse history of the petitioner and anyone living in the petitioner's household. See forms section for Criminal Record/Abuse History Verification.

(1). A claim for custody, partial custody or visitation which is joined with a divorce action (Pa.R.C.P. No. 1920.32) shall be asserted in the complaint or a subsequent petition.

(2). In order to facilitate frequent and unimpeded contact between children and parents, a judge may consolidate subject matter with a support action (23 Pa.C.S.A. 4349).

(3). The awarding of temporary relief in subject matter under Protection From Abuse is set forth in 23 Pa.C.S.A. § 6107, which does not bar any action relating to custody pursuant to 23 Pa.C.S.A. Ch. 53.

d. Service of complaints in subject matter is set forth in Pa.R.C.P. No. 1930.4.

e. Voluntary Mediation in Custody Actions, Pa.R.C.P. Rule No. 1940.1 et seq.

f. Objections to jurisdiction and venue on the pleadings and discovery are set forth in Pa.R.C.P. No. 1915.5.

g. Joinder of Parties. Pa.R.C.P. No. 1915.6 requires that when the court learns from any source of persons who are not a party to a custody suit and have physical custody of the child, visitations rights, or parental interest, such parties shall be appropriately notified of the action and sets forth the procedures to intervene.

h. The court on its own motion or that of a party may order an evaluation of the child or a party (Pa.R.C.P. No. 1915.8).

i. No judgment may be entered by default or on the pleadings in subject matter (Pa.R.C.P. No. 1915.9).

j. No Motion for Post-Trial Relief may be filed to a court decision on subject matter (Pa.R.C.P. No. 1915.10).

k. Appointment of an attorney for a child and interrogation by the court or attorneys, in open court or chambers, shall be pursuant to Pa.R.C.P. No. 1915.11.

l. Contempt procedures in subject matter are set forth in Pa.R.C.P. No. 1915.12, which provides the form, method of service, and hearing. If a bench warrant is issued the respondent is to be brought before the court and cannot be imprisoned until a hearing is held. After hearing, an order committing a respondent to jail for contempt shall specify the condition which must be fulfilled to obtain release of the respondent. (For disobedience of an order/contempt, other than subject matter, see Pa.R.C.P. No. 1915.14.)

m. At any time after commencement of the action, the court may on application or its own motion grant interim or special relief. The court may require a person who has physical custody of a child that is to be brought before the court to post security to ensure their appearance. This rule, Pa.R.C.P. No. 1915.13 supplies relief formerly available by habeas corpus for production of the child.

n. A custody action may be discontinued by praecipe only upon a verified statement by the moving party that the complaint has not been served. After the complaint has been served, it may not be discontinued without leave of court after notice to the non-moving party or by written agreement of the parties. See Pa.R.C.P. No. 1915.3-1.

3. PROCEDURE.

a. Upon receipt of a complaint or petition for custody, partial custody, visitation, etc. the Prothonotary shall file, assign a court of common pleas number and collect the required filing fee.

3. International application. The general policies of 42 Pa.C.S.A. §§ 5341 - 5366 (Subchapter C) extend to the international area. The provisions of this subchapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions rendered by appropriate authorities of other nations, if reasonable notice and opportunity to be heard were given to all affected persons.

4. RETENTION AND DISPOSITION SCHEDULE (42 Pa.C.S.A. § 5362)
Retain until the child reaches 18 years of age.

5. Forms:
Registration of Child Custody Determination and Important Notice
Criminal Record/Abuse History Verification

**IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA
FAMILY DIVISION**

<div style="text-align: right; padding-right: 20px;">Plaintiff</div>	:	
	:	
vs.	:	
	:	
<div style="text-align: right; padding-right: 20px;">Defendant</div>	:	NO. _____

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. §4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. §6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §2901 (relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2902 (relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2903 (relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3121 (relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3122.1 (relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3124.1 (relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3125 (relating to aggravated indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3126 (relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3127 (relating to indecent exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3129 (relating to sexual intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3130 (relating to conduct relating to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3301 (relating to arson and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

<input type="checkbox"/>	18 Pa.C.S. §4302 (relating to incest)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §4303 (relating to concealing the death of child)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §4304 (relating to endangering welfare of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §4305 (relating to dealing in infant children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §5902(b) (relating to prostitution and related offenses)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §5903(c) or (d) (relating to obscene and other sexual materials and performances)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §6301 (relating to corruption of minors)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §6312 (relating to sexual abuse of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §6318 (relating to unlawful contact with minor)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §6320 (relating to sexual exploitation of children)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	23 Pa.C.S. §6114 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device _____ _____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

Check all that apply	Self	Other household member	Date
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
Where? _____			
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child(ren):

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Signature

Printed Name

CHAPTER T

DIVORCE/ANNULMENT

ACTIONS IN DIVORCE OR ANNULMENT OF MARRIAGE. (Pa.R.C.P. Nos. 1920.1 et seq.)

1. "Action" defined: An action in divorce or annulment may include any other claim which may under the divorce code be joined with the action for divorce or annulment.

2. Venue: An action for divorce or annulment, except for a claim for custody, may be brought only in the county in which the plaintiff or defendant resides or upon which the parties have agreed

- (i) in writing which shall be attached to the complaint, or
- (ii) by participating in the proceeding.

The amendment also provides for the court on its motion to transfer the action to the appropriate court.

3. An action is commenced by filing:

a. A complaint pursuant to Pa.R.C.P. No. 1920.3 in the form set forth in Pa.R.C.P. No. 1920.72, and

b. A Notice to Defend and Claim Rights pursuant to Pa.R.C.P. No. 1920.12(c) and set forth in Pa.R.C.P. No. 1920.71; and if under

c. Section 3301(c) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(1) and set forth in Pa.R.C.P. No. 1920.72(b), or

d. Section 3301(d) of the Divorce Code, a plaintiff's affidavit pursuant to Pa.R.C.P. No. 1920.42(a)(2) and set forth in Pa.R.C.P. No. 1920.72(d).

4. Upon receipt of the complaint (including appropriate documents), filing fee and Children's Trust Fund surcharge, the Prothonotary shall file, assign a court of common pleas number, index and docket pursuant to the GENERAL PROVISIONS Section of this manual.

a. In accordance with 23 Pa.C.S.A. § 4304.1(a)(3), effective January 1, 1998, the Social Security number of both parties shall be filed with the Prothonotary prior to the entry of the decree.

(1). Collection of the Social Security number SHALL be kept confidential.

(NOTE: Since a penalty for wilful failure to obtain Social Security number may be imposed upon Prothonotary, it is strongly suggested that Prothonotary indicate on the record if an unsuccessful attempt has been made.)

5. Original service of complaint commencing the action may be made by handing a copy to the defendant, by mail, or the sheriff pursuant to Pa.R.C.P. No. 1920.4.

6. Bill of Particulars (Pa.R.C.P. No. 1920.21).

a. The Prothonotary on praecipe shall enter a Rule to File a Bill of Particulars only in actions brought under Sections 3301(a) or (b) of the Divorce or an annulment.

b. If a Bill of Particulars is not filed within twenty days after service, the Prothonotary on praecipe shall enter a judgment non pros against the defaulting party and give notice of the judgment to all interested parties pursuant to Pa.R.C.P. No. 236.

7. Procedure to Transmit Record to the Court.

a. Under Section 3301(c) of the Divorce Code in which it has been stated the marriage is irretrievably broken, upon the filing of all required documents (complaints, affidavits*, notices, etc.), complying with the local rules of court, and praecipe to transmit the record, the Prothonotary shall transmit the record to the court for entry of an appropriate decree. Parties may execute and file with the Prothonotary a "Waiver of Notice of Intention to Request Entry of a Divorce Decree" (Pa.R.C.P. Nos. 1920.42, 1920.72, and 1920.73).

(NOTE: The affidavit required by Section 3301(c) of the Divorce Code must have been executed ninety days or more after both filing and service of the complaint, and within thirty days of the date the affidavit was filed. An affidavit of consent may be withdrawn only with leave of court.)

**Commonwealth of Pennsylvania
Department of Health
Division of Statistical Registries**

Summary Counts of Marriage and Divorce Occurrences

Complete all items contained on this form and return it by mail to the Division of Statistical Registries, Pennsylvania Department of Health, 555 Walnut Street, 6th floor, Harrisburg, PA 17101; by fax to the attention of Amy Farrell at 717-772-3258; or email to afarrell@pa.gov. Please refer to *Instructions for Completing Summary Counts of Marriage and Divorce Occurrences* for detailed information on how to complete each data item. Questions should be directed to Amy Farrell, Division of Statistical Registries, at 717-547-3679.

Completed forms are to be returned to the Division of Statistical Registries on or before the 15th day of each calendar month for records filed in the preceding month. For example, information from marriage and divorce records for the month of January 2002 is to be returned to the Division of Statistical Registries no later than February 15, 2002.

County: _____

Primary Month and Year of Issuance: _____
(month and year)

**Marriage Licenses Issued
by Age of Bride and Groom**

<i>Age in Years</i>	<i>Bride</i>	<i>Groom</i>
<20		
20-24		
25-29		
30-34		
35-39		
40-44		
45-49		
50+		
unknown		
Total		

**Divorces and Annulments of Marriage
by Duration of Marriages**

<i>Years Married</i>	<i>Number of Divorces and Annulments</i>
<5	
5-9	
10-14	
15-19	
20-24	
25-29	
30+	
unknown	
Total	

Name: _____

Telephone: _____ Date Filed: _____



UNITED STATES PASSPORT FEES

ADULT APPLICANTS (Age 16 Years and Older) *Please see [Special Requirements for Adult Applicants.](#)*

What are you applying for?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
First-time Adult Passport Book	<u>DS-11</u>	\$110	+	\$25 = \$135
First-time Adult Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-11</u>	\$30	+	\$25 = \$55
First-time Adult Passport Book & Card	<u>DS-11</u>	\$140	+	\$25 = \$165
Adult Passport Card For applicants who currently have a valid passport book.	<u>DS-82</u>	\$30		Not Required = \$30

ADULT RENEWALS (Age 16 Years and Older) *Please see [Special Requirements for Adult Renewals.](#)*

What are you renewing?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
Adult Passport Book	<u>DS-82</u>	\$110		Not Required = \$110
Adult Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-82</u>	\$30		Not Required = \$30
Adult Passport Book & Card	<u>DS-82</u>	\$140		Not Required = \$140

ALL MINOR APPLICANTS (Under Age 16) *Please see [Special Requirements for Children Under Age 16.](#)*

What are you applying for?	Use Form	Application Fee	Acceptance Fee (Execution Fee)	Total
Minor Passport Book	<u>DS-11</u>	\$80	+	\$25 = \$105
Minor Passport Card A passport card is valid only for travel by land and by sea to the following locations: Canada, Mexico, Bermuda, and the Caribbean.	<u>DS-11</u>	\$15	+	\$25 = \$40
Minor Passport Book & Card	<u>DS-11</u>	\$95	+	\$25 = \$120

OTHER FEES

Expedite Fee	Paid per application, in addition to required fees. Provides faster processing than routine service. Click here for current processing times.	\$60
Overnight Delivery	Paid per application for overnight delivery of an issued passport book from the Department of State to the customer. Only applies to mailing addresses within the United States. Not valid for passport cards.	\$14.85
Visa Pages	Additional pages added to a valid passport book using Form DS-4085 .	\$82
File Search Fee	A file search is necessary when an applicant is unable to present evidence of U.S. citizenship or verification of a previously issued U.S. Passport or Consular Report of Birth Abroad. Applicant must submit Form DS-11 and a written request for a file search.	\$150

Submitting incorrect passport fees could delay the processing of your application. For further information regarding passport application fees, please contact the National Passport Information Center by dialing 1-877-487-2778, TDD/TTY: 1-888-874-7793.

CHAPTER V

VETERANS

VETERANS (51 Pa. C.S.A. § 9201)

1. GENERAL NOTES:

a. General Rule: Whenever application shall be made to the proper public officer by or on behalf of any disabled war veteran, or member of the armed forces or their reserve components or the National Guard, of any war or armed conflict in which the United States has been, is now or shall hereafter be engaged, or by or on behalf of any dependent of any such veteran, or member of the armed forces or their reserve components or the National Guard, for a certified copy of any **death certificate, birth certificate, marriage certificate or decree of divorce**, for use in connection with any claim for death benefits, compensation allowance, family or dependency allotment, it shall be the duty of such public officer to **furnish such certified copy free of any charge** therefore provided for by any law of this Commonwealth. **No divorce certificate shall be issued under this section unless said divorce action record shows all costs fully paid.** As used in this section, the term "public officer" means an authorized official in the Department of Health as to any of the foregoing records in the possession of the Department of Health and the **proper county officer** as to any other records within this subsection.

6. RETENTION AND DISPOSITION SCHEDULE. In County Records Manual, refer to:

a. Chapter 3 - Office of the Prothonotary, Subsection:

(1). Naturalization Dockets, Books, Indices and Papers.

(2). Fiscal Records.

b. If item is not in this schedule, contact State Archives for retention information.

7. Forms:

Petition for Change of Name and Order of Court

Monthly Report Naturalization Papers (Form N-4, Rev. 01/22/13)

8. Reference:

INS letter of March 17, 1994

Instructions

This form is to be submitted monthly by the clerk of any court conducting naturalization activities in conformity with Section 339 of the Immigration and Nationality Act (8 USC 1450), and Title 8, Code of Federal Regulations, Part 339. The completed form, with a copy and all attachments, should be submitted to the District Office of U.S. Citizenship and Immigration Services (USCIS) having jurisdiction over the location of the court.

The USCIS office receiving the form shall retain the duplicate and all attachments, and forward the original to:

**U. S. Citizenship and Immigration Services
Headquarters Office of Field Operations
111 Massachusetts Avenue, N.W., 2nd Floor
Washington, D.C. 20529**

Authority to Collect Information

Our authority for collecting the information reported on Form N-4 is contained in Section 339 of the Immigration and Nationality Act (INA) (8 USC 145D). The information contained in this form will be used by USCIS to finalize the record process regarding persons naturalized and to determine payments to the courts as provided in Section 344(f) of the INA (8 USC 1455).

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2140. OMB No. 1615-0051. **Do not mail your completed Form N-4 to this address.**

CHAPTER Y

MISCELLANEOUS

CHANGE OF NAME (54 Pa.C.S. §§ 701 et seq.)

1. GENERAL NOTES.

a. It shall be unlawful for any person to assume a name different from the name by which such person is and has been known, unless such change in name is made pursuant to proceedings in court.

(1). For exception, see 54 Pa.C.S. § 701(b).

b. Prior to entry of an order of approval of change of name, the court must forward to the Pennsylvania State Police a duplicate copy of the application for change of name and a set of the person's fingerprints. The person applying for the change of name is responsible for costs under this paragraph.

(1). Pursuant to 23 Pa.C.S.A. § 5105, a child who is 12 years of age or younger shall not be required to submit a set of fingerprints for purpose of a name change.

(2). The Pennsylvania State Police requests that the Prothonotary provide a fingerprint card to the individual requesting a name change. The individual should be advised to go to their local police department or nearest State Police station to be fingerprinted. "Name Change" should be written in red at the top of the card. No fee will be assessed for criminal background check. When completed, the fingerprint card should then be forwarded with a copy of the application for name change to the following address:

Pennsylvania State Police
Central Repository
1800 Elmerton Avenue
Harrisburg, PA 17110

2. PROCEDURE.

a. Upon receipt of petition and appropriate filing fee, the Prothonotary shall file and assign a court of common pleas number.

b. Docket case pursuant to the GENERAL PROVISIONS Section of the manual.

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(Rev. 07/14)

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COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)**

I, _____ (print name and address here),

have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1008C(2)

I, _____ (print name and address here),
have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession
of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my
monthly rent or the judgment for rent awarded by the magisterial district court. My total household income
does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending
appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the
one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge,
information and belief. I understand that false statements herein are made subject to the penalties of 18
Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS County Of

PLAINTIFF: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

VS.

DEFENDANT: _____ _____	NAME and ADDRESS _____ _____
-------------------------------------	---

Common Pleas Docket No.

**SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT
 FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)**

I, _____ (print name and address here),

have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

COURT OF COMMON PLEAS
County Of

PLAINTIFF: NAME and ADDRESS

VS.
DEFENDANT: NAME and ADDRESS

Common Pleas Docket No.

TENANT’S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)
FILED PURSUANT TO Pa.R.C.P.M.D.J. No. 1013C(2)

I, _____ (print name and address here),
have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my
landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of
three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total
household income does not exceed the income limits set forth in the instructions for obtaining a stay pending
issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I
have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge,
information and belief. I understand that false statements herein are made subject to the penalties of
18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

******IMPORTANT****PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS — SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Unified Judicial System of Pennsylvania at <http://www.pacourts.us/forms/for-the-public>. Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you HAVE NOT paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary's office at the time the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari ("praecipe") is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly

because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

Supreme Court of Pennsylvania
Civil Procedural Rules Committee

Poverty Income Guidelines

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the prothonotary to attach to the Notice of Intent to Attach Wages “the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.” The guidelines for 2014 are set forth in the following chart:

**2014 HHS Poverty Income Guidelines
Expressed in Monthly Amounts**

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$972.50
2	1,310.83
3	1,649.16
4	1,987.50
5	2,325.83
6	2,664.16
7	3,002.50
8	3,340.83
For each additional person, add	338.33

**IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA
FAMILY DIVISION**

_____	:	
Plaintiff	:	
	:	
vs.	:	
	:	
_____	:	
Defendant	:	NO. _____

CRIMINAL RECORD / ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. §4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. §6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

Check all that apply	Crime	Self	Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (relating to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §2901 (relating to kidnapping) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2902 (relating to unlawful restraint) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2903 (relating to false imprisonment) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3121 (relating to rape) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3122.1 (relating to statutory sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3124.1 (relating to sexual assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3125 (relating to aggravated indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3126 (relating to indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3127 (relating to indecent exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3129 (relating to sexual intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3130 (relating to conduct relating to sex offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3301 (relating to arson and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|--|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §4302 (relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4303 (relating to concealing the death of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4304 (relating to endangering welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4305 (relating to dealing in infant children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5902(b) (relating to prostitution and related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5903(c) or (d) (relating to obscene and other sexual materials and performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6301 (relating to corruption of minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6312 (relating to sexual abuse of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6318 (relating to unlawful contact with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6320 (relating to sexual exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 23 Pa.C.S. §6114 (relating to contempt for violation of protection order or agreement) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the influence of drugs or alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device _____ _____

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

Check all that apply	Self	Other household member	Date
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction.	<input type="checkbox"/>	<input type="checkbox"/>	_____
Where? _____			
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child(ren):

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Signature

Printed Name

**Commonwealth of Pennsylvania
Department of Health
Division of Statistical Registries**

Summary Counts of Marriage and Divorce Occurrences

Complete all items contained on this form and return it by mail to the Division of Statistical Registries, Pennsylvania Department of Health, 555 Walnut Street, 6th floor, Harrisburg, PA 17101; by fax to the attention of Amy Farrell at 717-772-3258; or email to afarrell@pa.gov. Please refer to *Instructions for Completing Summary Counts of Marriage and Divorce Occurrences* for detailed information on how to complete each data item. Questions should be directed to Amy Farrell, Division of Statistical Registries, at 717-547-3679.

Completed forms are to be returned to the Division of Statistical Registries on or before the 15th day of each calendar month for records filed in the preceding month. For example, information from marriage and divorce records for the month of January 2002 is to be returned to the Division of Statistical Registries no later than February 15, 2002.

County: _____

Primary Month and Year of Issuance: _____
(month and year)

**Marriage Licenses Issued
by Age of Bride and Groom**

<i>Age in Years</i>	<i>Bride</i>	<i>Groom</i>
<20		
20-24		
25-29		
30-34		
35-39		
40-44		
45-49		
50+		
unknown		
Total		

**Divorces and Annulments of Marriage
by Duration of Marriages**

<i>Years Married</i>	<i>Number of Divorces and Annulments</i>
<5	
5-9	
10-14	
15-19	
20-24	
25-29	
30+	
unknown	
Total	

Name: _____

Telephone: _____ Date Filed: _____

Instructions

This form is to be submitted monthly by the clerk of any court conducting naturalization activities in conformity with Section 339 of the Immigration and Nationality Act (8 USC 1450), and Title 8, Code of Federal Regulations, Part 339. The completed form, with a copy and all attachments, should be submitted to the District Office of U.S. Citizenship and Immigration Services (USCIS) having jurisdiction over the location of the court.

The USCIS office receiving the form shall retain the duplicate and all attachments, and forward the original to:

**U. S. Citizenship and Immigration Services
Headquarters Office of Field Operations
111 Massachusetts Avenue, N.W., 2nd Floor
Washington, D.C. 20529**

Authority to Collect Information

Our authority for collecting the information reported on Form N-4 is contained in Section 339 of the Immigration and Nationality Act (INA) (8 USC 145D). The information contained in this form will be used by USCIS to finalize the record process regarding persons naturalized and to determine payments to the courts as provided in Section 344(f) of the INA (8 USC 1455).

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2140. OMB No. 1615-0051. **Do not mail your completed Form N-4 to this address.**