

**COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA**

Re: Amendments of Local Rules of Civil Procedure

**Administrative Order #11
9956 CV 2004**

ORDER

And Now, this 7th day of December, 2004, the following amendments to the Monroe County Rules of Civil Procedure are hereby adopted, in accordance with Pa.R.C.P. No. 239.8. In conformity with Pa.R.C.P. 239.8, one (1) copy of said Local Rules shall be filed by the Court Administrator with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania and one (1) copy with the Administrative Office of Pennsylvania Courts for publication on the AOPC web site. One (1) copy shall be forwarded to the Monroe County Legal Reporter for publication. Copies shall be kept continuously available for public inspection in the Office of the Monroe County Prothonotary, the Office of the Court Administrator and the Monroe County Law Library. Said Rules shall become effective upon publication at <http://ujportal.pacourts.us/>, the webpage maintained by the Administrative Office of Pennsylvania Courts containing texts of local rules promulgated pursuant to Rules 239.1 through 239.7.

BY THE COURT:

RONALD E. VICAN, P.J.

Rule 205.2(a) Filing, Form and Removal of Documents

(1) Filing of Documents:

(i) All documents filed in any office of the Court shall be endorsed with the day and exact time of filing, which endorsement, in the absence of fraud, accident, or mistake shall be conclusive evidence of such date and time of filing.

(ii) A proposed order shall accompany all motions or other requests for relief.

(iii) No original documents shall be faxed to the prothonotary's office without prior leave of court.

(2) Form:

(i) No pleading, papers, affidavits, or other documents may be filed in any office of the Court on paper other than 8 1/2" x 11" in size.

(ii) No paper shall be filed in any office of the Court unless it is written in ink, clearly legible, printed or typewritten in print no smaller than typewriting with lines (except quotations) not closer than typewriting double spacing; contains the caption of the proceeding, including the name and division of the Court, identifying case number, the names of the parties, the title of the proceeding, and the name of the paper.

(iii) In medical malpractice actions, the designation "Medical Malpractice" shall appear beneath the case number.

(iv) All papers filed shall be endorsed with the name, address, telephone number, and I.D. number of the attorney filing it or the name, address and telephone number of the party if there is no attorney. The caption of any paper filed subsequent to a Complaint need only state the name of the first party on each side with an appropriate indication of the other parties.

(v) While the use of backers is not required, it is strongly encouraged as a means to assist the Court in readily identifying and reviewing filed documents.

(vi) All papers and other documents shall be securely affixed at the top.

(3) Removing Records and Documents:

(i) Except as hereinafter provided, no record or document shall be taken from the Office of the Prothonotary or staff without a written order signed by the President Judge requiring the return of such record or document within a specified time; provided, however, that under no circumstances shall a bond or recognizance be removed while the same continues in force and effect. In cases where the President Judge authorizes the removal of records or documents, the Prothonotary or staff, as the case may be, shall take a written receipt for the records or documents removed and shall cause the same to be noted in a book maintained for such purpose and filed with the record papers in the case, which receipt shall be cancelled upon return of the records or documents removed.

(ii) In cases pending in the Court or in proceedings held before duly appointed officers of the Court, the Prothonotary or staff may deliver record papers or dockets to the appointed officer of the Court, accepting in return such officer's written receipt which shall be noted and filed as hereinbefore set forth.

(iii) The delivery provisions of this rule do not apply to Judges, Judges' staff, Court Administrator and members of the Court Administrator's staff.

Rules 206.1 (a)- Petition Practice

A petition may be used to bring before the court any proper matter for which no other specific procedure is authorized or in which only a petition is prescribed as the authorized procedure for bringing such matter before the court for disposition.

(1) Content and Form

(i) All petitions shall contain a certification by counsel for the moving party that concurrence in the petition has been sought from all opposing counsel and that such concurrence has been granted or denied. Where concurrence has been granted, the written concurrence of opposing counsel shall be attached to the petition.

(ii) All petitions, except those made in the course of trial or hearing, shall be in writing. All written petitions shall be signed by counsel and may be filed at any time during regular business hours with the Prothonotary. Counsel's signature upon a petition shall constitute a certification that counsel has read the petition and that, to the best of counsel's knowledge, information and belief, it is supported by sufficient legal or factual grounds and that it is not interposed merely for delay. The Prothonotary shall deliver daily a petitions list with accompanying petitions to the Court Administrator to monitor and assign to a judge.

(iii) All petitions and answers thereto, shall comply with the provisions of Pa.R.C.P. 206.1 through 206.3.

(iv) A petition or an answer containing an allegation of facts which does not appear of record shall be verified.

(v) Failure to comply with any provision of this rule may constitute sufficient grounds for the Court to dismiss the petition and/or deny any requested relief.

Rule 206.4-Rule to show cause. Discretionary.

(1) A rule to show cause shall be issued at the discretion of a judge of the Court as contemplated by Pa.R.C.P. 206.5. The Court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its discretion, provide for disposition of the matter on briefs, without the necessity of oral argument. In such instances, the Court shall establish a briefing schedule in its initial order.

(2) The party obtaining the issuance of a rule to show cause shall forthwith serve a true and correct copy of the court order entering the rule and specifying a return date, along with a copy of the underlying petition, upon each attorney of record and unrepresented party in the matter prescribed by Pa.R.C.P. 440. An affidavit of service shall be filed within five (5) days from the date of the order setting the rule with the Prothonotary.

(3) If no answer is filed on or before the return date, the moving party may file a motion to make the rule absolute. A motion to make the rule absolute shall evidence compliance with the service requirements of Pa.R.C.P. 440 setting forth the time, place and nature of service. No rule shall be made absolute without certification that the petition and rule to show cause have been served in compliance with Pa.R.C.P. 440. Counsel or the moving party shall make such certification under oath or in conformance with Pennsylvania Rules of Civil Procedure.

(4) Failure to comply with any provision of this rule may constitute sufficient grounds for the Court to dismiss the petition and/or deny any requested relief.

Rule 208.2 (c)-Motions. Statement of Applicable Authority

All motions shall state with particularity the grounds on which they are based and shall precisely state the relief which is being sought and shall cite any statute or procedural rule authorizing the grant of such relief.

Rule 208.2 (d)-Motions. Concurrence

(1) Except for motions enumerated in Local Rule 208.3(a)(2), (3) and (4), all motions shall contain a certification by counsel for the moving party that concurrence in the motion has been sought from all opposing counsel and that such concurrence has been granted or denied.

(2) Where concurrence has been granted, the written concurrence of opposing counsel shall be attached to the motion.

(3) Failure to comply with this provision shall constitute sufficient grounds for the Court to deny the motion.

Rules 208.3 (a) –Motions Procedure

(1) All motions shall be in writing and shall be filed in the Office of the Prothonotary. The signing of a motion by the attorney of record shall constitute a certification that he or she has read the motion and that, to the best of their knowledge, information and belief there are good grounds to support it and that it is not interposed merely for delay.

(2) Motions for judgment on the pleadings shall be governed by Local Rule 1034(a).

(3) Motions for summary judgment shall be governed by Local Rule 1035.2(a).

(4) The procedure for disposition of preliminary objections shall be governed by Local Rule 1028(c).

(5) Oral Argument.

(i) Nature of Case. The Prothonotary shall prepare an argument list consisting of all cases ordered thereon either by the Court or by praecipe filed in accordance with the court calendar. The attorney who praecipes the case for argument shall give notice thereof upon filing to the opposing party or pro se litigant.

(ii) Oral Argument. Cases on the argument list must be submitted upon oral arguments and briefs unless the Court agrees to consider the case on briefs without argument. The Court encourages submission on briefs with respect to matters not raising substantial or novel issues.

(iii) Praecipe for Argument. All praecipes for argument shall be listed on the first argument date occurring more than thirty days following the filing of the motion, petition or exceptions to the recommendation of the master.

(iv) Notice. A copy of the praecipe and notice of argument date shall be forwarded by the moving party to opposing counsel or pro se litigant.

(v) Form of Praecipe. The Praecipe for Argument, Form A, set forth in sub-paragraph (7) herein, shall be used to place the matter on the argument list.

(vi) Praecipes requesting the scheduling of argument outside the parameters of this rule are prohibited.

(6) Expedited Disposition. For cause shown, any moving party may request expedited disposition of any motion filed with the Prothonotary. If expedited disposition is requested, a Praecipe for Expedited Disposition, Form B, set forth in sub-paragraph (7) herein, shall be filed with the motion explaining the grounds for requesting such expedited disposition.

(i) Upon receipt of a Praecipe for Expedited Disposition, the Court Administrator shall promptly notify the moving party of the judicial assignment.

(ii) It shall be the responsibility of the moving party to arrange a teleconference by phoning the Judge and all other counsel interested in the subject of the motion within three (3) business days of the time the motion is presented.

(7) Forms.

Form A - Praeipce for Argument

COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA

	: NO. _____
	:
Plaintiff	:
	:
vs.	:
	:
	:
Defendant	:

P R A E C I P E FOR ARGUMENT

Place the above captioned case on the Argument List for the _____ day of _____, 200_____.

Issue(s) to be argued _____

Rules 43 J.D.R.C.P. 206 (E), 207, 210 and 211 are applicable.

Signature of Moving Party

Printed Signature

Address of Moving Party

Telephone Number

A copy of this Praeipce has been provided to the following by the moving party.

Name:

Address:

Form B - Praecipe for Expedited Disposition

COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA

(*Plaintiff's Name*) : (NO. CIVIL)
Plaintiff :
vs. :
(*Defendant's Name*) :
Defendant : (SUBJECT)

P R A E C I P E

TO THE COURT ADMINISTRATOR:

Expedited Disposition of attached motion is requested for the following reasons:

ATTORNEY FOR (Plaintiff or Defendant)

FOR COURT ADMINISTRATOR ACTION ONLY

_____ MOTION OR PETITION ASSIGNED TO JUDGE_____

_____ COUNSEL FOR MOVING PARTY NOTIFIED OF JUDICIAL ASSIGNMENT

Rules 210- Briefs. Form. Content. Filing

(1) Form. Each brief shall be typewritten, printed or otherwise duplicated, endorsed with the name of the case, the Court, the term and number, and the name, address and telephone number of the attorney or the party if not represented by an attorney.

(2) Content. The brief shall include a statement of the facts, a statement of the question involved, and the argument.

(i) The *statement of the facts* shall, depending upon the nature of the case, consist of an abstract of the testimony or of the pleadings or both, and shall include a procedural history of the case showing how the issue is made up and how the case arises before the Court.

(ii) The *statement of questions* involved must be so drawn that the Court may quickly determine all the legal questions to be decided.

(iii) The *argument* shall be divided into as many parts as there are questions involved. Citations of authority shall be accurately designated, shall set forth the volume and page number where they appear, and shall set forth the exact citation of the principles for which they are cited. Whenever a Pennsylvania statute is cited, the pertinent title and section number of Purdon's Statutes shall also accompany said citation.

(iv) Whenever testimony is abstracted or referred to, it must contain reference to the pages of the transcript where the supporting evidence may be found.

(3) Filing. Fifteen (15) days before the date set for argument, the moving party shall deliver a copy of his brief to the adverse party and file a copy with the Prothonotary. The respondent shall deliver his brief to the moving party and file a copy with the Prothonotary five (5) days before the date for argument. No supplemental brief shall be filed except upon special allowance by the Court and within such time as the Court may direct.

(4) In all other proceedings scheduled for hearing before the Court, all counsel shall provide the Court with a brief or memorandum of law setting forth legal authorities relied upon. Such brief or memorandum of law shall be provided to the Court at the time of the hearing unless otherwise specified by these rules or by order of court.

(5) Penalty for Noncompliance. Failure to substantially comply with any requirement of this rule shall constitute a default for which the cause of action may be continued or stricken off the list or the application of the parties in default refused, as the Court may deem just and proper.

(6) Informal Letter Briefs. Notwithstanding this rule, the Court may in any case allow counsel to file an informal letter brief.

Rules 1028 (c)-Preliminary Objections

(1) Preliminary objections shall be filed with Prothonotary. At the time of filing preliminary objections with Prothonotary, the moving party shall also file a praecipe, pursuant to Local Rule 208.3(a)(5), to place the matter on the first Argument List occurring more than thirty (30) days following the date of filing the preliminary objections.

(2) Failure to comply with this provision may be sufficient basis for the Court to deny the preliminary objections.

Rules 1034 (a) –Motion for Judgment on the Pleadings

(1) A motion for judgment on the pleadings shall be filed with Prothonotary. At the time of filing such motion with Prothonotary, moving party shall also file a praecipe, pursuant to Local Rule 208.3(a)(5), to place the matter on the first Argument List occurring more than thirty (30) days following the date of filing the motion for judgment on the pleadings.

(2) Failure to comply with this provision may be sufficient basis for the Court to deny the motion for judgment on the pleadings.

Rules 1035.2 (a) –Motion for Summary Judgment

(1) A motion for summary judgment shall be filed with the Prothonotary. At the time of filing such motion with the Prothonotary, the moving party shall also file a praecipe, pursuant to Local Rule 208.3(a)(5), to place the matter on the first Argument List occurring more than thirty (30) days following the date of filing the motion for summary judgment.

(2) Failure to comply with this provision may be sufficient basis for the Court to deny the motion for summary judgment.