

**OFFICE OF CIVIL ADMINISTRATION
CIVIL MOTIONS PROGRAM
ROOM 296 CITY HALL
215-686-7401
215-686-8397 (FAX)**

The Office of Civil Administration/Civil Motions Program is primarily responsible for processing non-discovery motions and petitions filed in all civil actions within the Trial Division. The programs administered by this department include the Motion Court Argument List, Lead Court Program, Code Enforcement Injunctions, Municipal Court Appeals, the Statutory Appeals Program, Civil Tax Petitions, Tax Court Trials, and Preliminary Injunctions and Temporary Restraining Orders.

The assignment of motions and petitions is governed by our Civil Motion Assignment Matrix. The Motion Assignment Matrix provides for the assignment of motions and petitions to the Team Leaders and Coordinating Judges of the respective programs. Motions and petitions filed in the Compulsory Arbitration, Arbitration Appeal, and the Non Jury Program are assigned to the two presiding Motions Judges. The Motions Judges also review and dispose of motions and petitions which are filed in a variety of other miscellaneous actions. A copy of the Civil Motion Assignment Matrix is included at the end of this section. (Document 1)

Presently, the Honorable Matthew D. Carrafiello and the Honorable Joseph A. Dych preside over the Civil Motions Program. Effective August 1, 2005, Judge Carrafiello will transfer to the Complex Litigation Center and the Honorable Gary Glazer will return to the Civil Motions Program.

The following motions will be assigned to the Administrative Judge/Supervising Judge of the Trial Division **regardless** of any program designation:

- *Motions for Assignment to an Individual Judge;*
- *Motions for Advancement on the Trial List;*
- *Petitions to Appoint a Neutral Arbitrator;*
- *Petitions to Compel Arbitration;*
- *Motions to Proceed In Forma Pauperis.*

Philadelphia Rules of Civil Procedure

Pursuant to rule changes approved by the Board of Judges of the Philadelphia Court of Common Pleas, local rules concerning the filing of Petitions, Motions, Preliminary Objections, Motions for Judgment on the Pleadings, and Motions for Summary Judgment have been amended effective July 26, 2004. These local rules are available on the website of the Administrative Office of Pennsylvania Courts at <http://ujportal.pacourts.us>, and on the

First Judicial District's website at <http://courts.phila.gov>. A copy of the local rules adopted by the Board of Judges is included at the end of this section. (Document 2)

Hours of Operation

The Office of Civil Administration (including the Civil Motions Filing Clerk) hours of operation are Monday through Friday, 9:00 a.m. to 5:00 p.m. However, in order to ensure that your motion is accepted for filing, the motion MUST be paid for by 4:30 p.m.

Filing Fee

There is a \$30 filing fee for all motions, which shall be payable to the Prothonotary, Room 282, City Hall. The Prothonotary accepts as payment, business checks (no personal checks), money orders, and credit cards.

There is no fee with the Civil Motions Program for the following:

- *Motions to Determine Preliminary Objections*
- *Answers/Responses to Motions and/or Petitions*
- *Supplemental Briefs/Pleadings*
- *Post Trial Motions*
- *Petitions/Motions in Newly Filed Petition Actions*
- *Affidavits of Compliance with Minor's Compromise/Wrongful Death Orders*
- *Statutory Appeals Continuance Application*
- *Motions to Proceed In Forma Pauperis*

Civil Motion Cover Sheet

The Petition/Motion Cover Sheet is required pursuant to Phila. Civ. R. *205.2(b)(2). This form is provided by the Court and has been approved and modified from time to time by the Administrative Judge or his/her designee. This cover sheet must be attached to all petitions, motions, answers, responses, and replies, except Motions for Extraordinary Relief, and responses thereto. The Petition/Motion Cover Sheet was revised in April 2004 to include more specific language with regard to properly completing the cover sheet and ensuring proper service of the motion, petition, answer and/or response upon opposing counsel and unrepresented parties. Copies of the cover sheet may be obtained from the Office of Civil Administration, Room 296 City Hall. This form is also available on the Court's website at <http://courts.phila.gov>. A copy of the revised Petition/Motion Cover Sheet is included at the end of this section. (Document 3)

In order to ensure the proper docketing and processing of all paperwork filed with Civil Administration, it is extremely important that the filing party **properly** and **accurately** complete all of the information requested on the Petition/Motion Cover Sheet. The information necessary for the proper completion of the cover sheet may be obtained from the civil case docket report. All filing parties are strongly encouraged to use the current Petition/Motion Cover Sheet. Failure to use the correct cover sheet, properly complete the

cover sheet, and/or failure to sign the cover sheet will be grounds for dismissal of the motion/petition/answer, etc. Even if a motion is accepted by Civil Administration, it still may be dismissed by the assigned judge.

Content of Petition/Motion Package

The Petition/Motion Procedure is governed by Philadelphia Civil Rules *206.1 and *208.3. All pretrial motions subject to this rule and all motions to determine preliminary objections shall be in compliance with this rule. The motion package must contain (but is not limited to) the following:

- *A Completed Petition/Motion Cover Sheet as provided in Phila.Civ. R. *205.2(b)(2);*
- *Proposed Order, which shall contain no reference to the attorney proposing same;*
- *Proposed Rule (if appropriate);*
- *Memorandum of Law as provided in Phila.Civ.R. *208.2 (c) and *210;*
- *Stamped, addressed (9 1/2" x 4 1/4") envelopes for all counsel and unrepresented parties (these are required in order to serve a copy of the order on all parties upon disposition of the motion/petition);*
- *\$30 Filing Fee (payable to the Prothonotary in Room 282 City Hall) as provided in the Prothonotary's Fee Bill, 42 Pa.C.S. §1725(c) and related legislation;*
- *Checklist for Minors' Compromise or Wrongful Death/Survival Actions;*
- *Motion package must be properly assembled and then bound or stapled (the filing clerk is not responsible for assembling motion packages).*

Control Numbers

Every motion filed with the Civil Motions Program will be assigned a new Control Number at the time of filing, which will be stamped in the box located in the upper right corner of the Motion Cover Sheet. It is the filing party's responsibility to serve a copy of the stamped, filed Motion Cover Sheet containing the Control Number and response date upon all opposing counsel and unrepresented parties. Answers and any subsequent filing pertaining to a particular motion or petition and/or communications to the court must contain the control number of the corresponding motion.

GENERAL INFORMATION AND CONSIDERATIONS — MOTIONS PRACTICE

Format of Motion Package

Due to the high volume of matters processed by the Civil Motions Program, and in order to ensure the timely processing of motions, the motion package should be clear and concise. The filing party should include a copy of the complaint and any answer(s)/pleadings so that the assigned judge can learn something about the nature of the case. The proposed order should be located at the top of the motion behind the Petition/Motion Cover Sheet. Extra space should be provided on the proposed order to allow the judge to insert explanations or additional provisions. The use of tabs to identify items and exhibits is strongly encouraged. An incredible amount of time is lost when the judge is forced to leaf through a motion

package in search of the memorandum of law or the vital exhibit referred to by counsel as the cornerstone of his/her argument.

Counsel and unrepresented parties should take note that the motion package, and any response thereto, is all that is sent to the assigned judge for review and disposition at the time of assignment. Pursuant to the Philadelphia Rules of Civil Procedure, the filing party is responsible for attaching as an exhibit a copy of anything the judge might reasonably require in order to render a decision. Failure to do so may result in the motion being dismissed or returned to the filing party for completion and **re-filing** with consequent delay and expense.

In the event that a motion is stamped “**INCOMPLETE FILING,**” the filing party may, upon Praecepte, and prior to the response deadline, file the document(s) that were omitted from the original motion package, with the Civil Motions Program in 296 City Hall. Failure to do so may result in dismissal.

NOTE: If a motion is dismissed for failure to comply with the rules, a new compliant motion package must be filed with the Civil Motions Program, along with another \$30 filing fee, where it will be assigned a new control number and response date.

Upon filing, motions are held by Civil Administration for 20 days from the date of filing to allow for the filing of a response. Motions for Summary Judgment allow for a 30 day response and Motions for Extraordinary Relief and Motions to Proceed *In Forma Pauperis* have a ten (10) day response. Motions and any responses filed thereto are assigned within two business days of the response date to a judge. The Civil Motions Judges review each pleading. Except in rare and complicated matters, it is the goal and practice for the review and order process to be completed within three (3) working days.

As soon as the motion is ruled upon by the Motions Judge, the motion/petition (and any response thereto), is immediately returned to Civil Administration, Room 296, City Hall, for docketing and service of the order. The Motions Judges do not keep any of the pleadings or copies of the orders.

In the event you have not received a decision on your motion and more than 40 days has elapsed since the initial filing, please contact Civil Administration at 215-686-7401 to request a search of the status of the matter. Do not contact the assigned judge.

Contact with the Motions Judge

As a result of the high volume of motions that must be considered, the Civil Motions Judges do not have the resources to retain copies of the pleadings, or determine the status of any given motion. When seeking information about a motion, please take the following actions:

- *Review your own file;*
- *Review the Prothonotary file;*
- *Review the civil docket via our website at <http://courts.phila.gov>, or in person in the Office of the Prothonotary , Room 262, City Hall;*

- Obtain a copy of the civil docket from the Prothonotary , Room 262, City Hall;
- Refer to the state and local Rules of Civil Procedure;
- Refer to the **Civil Administration At A Glance** Manual
- Contact opposing party/counsel and discuss the matter.

As a last resort, contact Civil Administration at 215-686-7401. When contacting Civil Administration for any reason, **please be prepared with the Court Term and Number and the Control Number of the matter in question.**

Counsel and unrepresented parties are strongly discouraged from calling the judge's chambers and attempting to argue the merits of a case or alleged errors of the judge's rulings. This conduct is considered an *ex parte* communication with the Court. Judicial staff are instructed not to convey these communications to the judge.

Civil Administration staff are not law trained and, therefore, are not authorized to provide legal advice. Requests for relief or revision of an order, and clarification of an order, must be presented in the form of a motion or petition.

In order to avoid confusion and the possible entry of conflicting orders, counsel and unrepresented parties are strongly advised **NOT** to send courtesy copies of the pleadings to the judge, unless specifically requested. Furthermore, counsel and unrepresented parties are urged not to send letters arguing further points of law or complaining about the conduct of opposing counsel/party.

Motion Court Argument List

All Motion Court Argument List matters must be accompanied by a proposed rule to show cause. Upon filing, the Office of Civil Administration shall assign a date, time and place for the return of the rule. The moving party is responsible for immediately serving the rule on each attorney of record and unrepresented parties (including, in the case of a petition to withdraw appearance, the party affected by the withdrawal). A certificate of service evidencing such service shall be presented to court by the moving party at the time of argument.

The Motion Court Argument List consists of the following matters:

- *Motions to withdraw appearance of counsel in cases assigned to the Arbitration Program;*
- *Petitions for redemption of foreclosed property;*
- *Petitions for writ of seizure;*
- *Petitions to transfer title to vehicle;*
- *Other matters ordered on the Argument List by the Court.*

The Motion Court Argument List is titled as such because it is for argument only; do not expect the Court to take testimony except in cases specially listed for that purpose on emergency requests for relief.

Continuances

Requests for continuance of a motion hearing must be made in writing and addressed to either Deborah Dailey, Manager, Office of Civil Administration, or Jerome Kelleher, Legal Clerk, Room 296, City Hall, Philadelphia, PA, 19107. You may fax the letter to 215-686-8397. Additionally, please inform this office immediately in writing when a matter settles or is withdrawn prior to the scheduled hearing.

Oral Argument

In order to avoid, or minimize the need for oral argument, counsel and unrepresented parties should utilize affidavits, relevant deposition testimony, responses to Requests for Admission, and any stipulations reached in the case to develop the factual predicate. In the rare instance where oral argument is necessary, the filing party should include a Rule in their motion package. The Petition/Motion Cover Sheet should prominently display the words “**ORAL ARGUMENT REQUESTED.**” Counsel and/or unrepresented parties should be aware that, unlike regular motions, these motions are usually only seen by the judge for the first time on the bench at the time of the hearing. Therefore, in matters where the judge should in fairness consider any but the most basic points of law or consider facts of any complexity or volume, it is far better to avoid the oral argument procedure.

SPECIFIC MOTIONS PROCEDURES

Mass Tort Motions

The Mass Tort Motions Procedures were amended in 2005 to include the filing and processing of Mass Tort Motions with the Office of Civil Administration/Civil Motions Program. All Mass Tort motions are filed with the Civil Motions Clerk in Room 296 City Hall. Upon filing, they will be time-stamped and assigned individual control numbers. The filing party will then present the motions for payment to the Cashier in Room 282 City Hall. Thereafter, the motions are to be returned to the Civil Motions Clerk in Room 296, City Hall for processing. Upon expiration of the response period, the Mass Tort motions will be assigned to the Coordinating Judge of the Complex Litigation Center, Room 622, City Hall, for disposition and further processing.

Answers and responses to Mass Tort Motions must be filed with the Civil Motions Clerk in Room 296 City Hall. The answer/response must be filed by the following Monday before 4:30 p.m. There is no fee when filing an answer and/or response to a motion. The Answers and/or Responses **must contain the corresponding control number** that was assigned to the original motion. The movant and all other parties must receive a copy that same day by facsimile or hand delivery.

If the motion is unopposed, the court must receive a letter stating that there is no opposition. The letter must reference the control number that was assigned to the corresponding motion at the time of filing. The movant and all interested parties must receive a copy that same day

by facsimile or hand delivery. If no letter is received, the Court will assume the motion is uncontested.

Additional procedures regarding Mass Tort Motions Procedure are more fully discussed in the Complex Litigation Center section of this manual. A copy of the Mass Tort Motions Procedures is included at the end of this section. (Document 4)

Wrongful Death/Survival and Minor's Compromise Motions

Pursuant to *Joint General Court Regulation, Trial Division and Orphans' Court Division, 97-1*, Motions for Approval and Distribution of Wrongful Death & Survival Actions and Minors' Compromise Actions will be assigned to a judge of the Orphans' Court Division for disposition. Please refer to the Specific Motions section of this manual for a detailed explanation of the procedures for these motions.

Post Trial Motions Procedures

Post Trial Motions must be filed within ten (10) days after (1) verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial; or (2) notice of nonsuit or the filing of the decision in the case of a trial without jury. (See Pa.R.C.P. 227.1(c)).

Motions for post-trial relief are to be filed with the Office of Civil Administration, Civil Motions Clerk, Room 296 City Hall. All motions for post-trial relief must be accompanied by the following:

- *Proposed order;*
- *Motion signed by moving party;*
- *Notice to the Post Trial Motions Clerk regarding Notes of Testimony – must state what portions are to be transcribed;*
- *Certificate of service setting forth the name of the Trial Judge and the names, addresses and telephone numbers of all counsel and unrepresented parties, and the court reporter;*
- *Stamped, addressed envelopes for all counsel and unrepresented parties;*
- *No fee required;*
- *No Petition/Motion Cover Sheet required;*
- *No Control Number required.*

Answers/responses to post-trial motions are to be filed with the Civil Motions Clerk in 296 City Hall. They will be docketed and forwarded immediately upon filing to the Trial Judge.

Briefs in support of or in opposition to post-trial motions are to be filed directly with the Trial Judge. Civil Administration does not accept briefs for post-trial motions.

Discovery Motions

The discovery motions procedure is more fully discussed in the Discovery Program section of this manual.

The following motions are the **only** discovery motions that are accepted by the Civil Motions Program:

- *Discovery Motions in Municipal Court Appeals—Landlord Tenant Only;*
- *Post Judgment Motions for Discovery in Aid of Execution;*
- *Motions for Pre-Complaint Discovery;*
- *Discovery Motions in Tax Court Cases;*
- *Discovery Motions in Statutory Appeals;*
- *Motions to Quash Trial Subpoena;*
- *Motions to Quash Subpoena for Trial Depositions.*

Motions Initially Considered Without Written Response or Briefs

Pursuant to Philadelphia Civil Rule *208.3(a), the following motions will be initially considered without written response or briefs. These motions will be assigned immediately upon filing to the appropriate judge for review.

- ***Emergency Motions.*** *Upon filing, the Motions Clerk shall assign the Emergency Motion to the appropriate judge of the assigned trial program who, upon review of the motion, will issue an order providing any applicable relief, and shall further set forth how the motion will be answered, heard, and disposed;*
- ***Motions for Alternative Service.*** *The filing party must immediately serve a copy of the petition on all counsel of record and unrepresented parties;*
- ***Motions for Reconsideration.*** *Motions for Reconsideration shall be forwarded to the appropriate judge immediately upon filing, and the filing party must serve a copy of the motion as provided in subsection (b)(3)(C). In appropriate cases, the assigned judge may enter a preliminary order vacating the order in question pending receipt of the response to the motion.*

Motions for Reconsideration

Motions for Reconsideration should only be filed if there has been a change in the law or facts that would warrant revisiting the original issues. Motions for Reconsideration must be formally filed in compliance with the Philadelphia Rules of Civil Procedure. The motion is to be filed with the Civil Motions Clerk in Room 296, City Hall. There is a \$30 filing fee, which shall be payable to the Prothonotary in Room 282, City Hall. The Motions Clerk will assign a new control number to the motion and immediately assign the motion to the Judge who issued the order where reconsideration is requested. **Note:** if reconsideration is being sought on a final order of the court, in order to preserve the appeal process, **the motion must**

be filed, and ruled upon within thirty (30) days from the date of docketing of the final order where reconsideration is being sought.

The filing party is reminded that the judge will no longer have the original motion or any of the pertinent pleadings in chambers. Therefore, it is the filing party's responsibility to prepare a full and complete motion package.

Please keep in mind that the judge does not receive the entire court record when a motion/petition is assigned for disposition. Therefore, it is very important that you attach as exhibits any information that may be necessary in order for the judge to render a decision. Petitions for Reconsideration, in particular, should include, among other things, a signed copy of the order in question, along with copies of the motion and responses thereto. Failure to do so may result in dismissal of the motion for failure to comply with Phila. R. Civ. P. *208.3.

The motion for reconsideration should contain, but is not limited to, the following:

- *Copy of the Order upon which reconsideration is being sought;*
- *Copy of the original motion in question;*
- *Copy of any responses to the original motion;*
- *Other relevant pleadings/legal documents.*

Emergency Relief

Emergency petitions and motions for preliminary relief will be processed in accordance with Administrative Docket 04 of 2005, which was enacted on May 27, 2005, and a copy of which is included at the end of this section. (Document 5)

It is suggested that the following points be considered before dedicating a substantial amount of valuable time seeking emergency relief. Requests for emergency relief are disfavored and will be entered only under the most compelling of circumstances. There are very few instances in which irreparable harm, which cannot be remedied by damages, is so imminent that the court will even agree to hear a matter as an emergency. When requesting emergency relief, be prepared to adequately explain the failure to act sooner and how truly irreparable harm will occur within the next few hours.

You must first commence the action in the Prothonotary's Office, First Filing Unit, Room 280, City Hall. Thereafter, the motion/petition should be filed with the Civil Motions Clerk in Room 296, City Hall. There is an additional \$30 filing fee for the petition. It is the filing party's responsibility to notify all parties that the emergency relief is being sought and that they are required to appear in Civil Administration, Room 296, City Hall. **All parties must be present before Civil Administration staff will contact the judge.** The filing party must be prepared to represent to the Court, specifically, what efforts were made to reach an agreement or at least a temporary solution with opposing party. The filing party should be prepared with the necessary bonding in the event that relief is granted.

Unfortunately, even where all parties are able to appear, the Court cannot guarantee that there will be a Court Reporter and/or other necessary personnel immediately available. Moreover, the Emergency Judge may be involved in other matters. As with oral argument, realize that you will be asking the judge to master the facts and the pertinent law without an advance opportunity to read the petition. In addition to bonding requirements, the emergency relief will generally require a further hearing in a few days. It is recommended that, whenever possible, the parties plan to present their request for relief when the presiding judge is actually on the bench.

Expedited Eviction of Drug Traffickers Act

The Trial Division—Civil has established written procedures with regard to filing and processing motions for eviction pursuant to the Expedited Eviction of Drug Traffickers Act, 35 P.S. §780-176 (2004).

Introduction

In 1995, the General Assembly of the Commonwealth of Pennsylvania enacted the Expedited Eviction of Drug Traffickers Act, 35 P.S. §780-176. All citizens, regardless of their income or economic status, have the right to be safe and secure in their residences. All citizens further have the right to live and raise their children in apartment complexes, neighborhoods and communities, which are free from the destructive influence of drug dealers and drug-related crime and violence.

It is the policy of the Commonwealth of Pennsylvania to ensure the swift eviction and removal of persons who engage in certain drug related criminal activity on or in the immediate vicinity of leased residential premises or who permit or tolerate such offenses to be committed, violate the rights and jeopardize the health and safety of the other tenants, residents and onsite employees of the premises.

Pursuant to the Expedited Eviction of Drug Traffickers Act, landlords may seek immediate eviction of all persons who engage in drug-related criminal activity on or in the immediate vicinity of the leased residential premises or who allow such criminal activity to occur. The statute authorizes the court to hear these cases on an expedited and priority basis and requires that a hearing be held within 15 days following the filing of the complaint.

The following instructions have been established to accommodate the revised commencement, injunction assignment and disposition processes:

At the time of commencement the initial filing clerk will, by pre-established procedures, enter the case from start to finish identifying the action as a Common Pleas (CP) court type and Equity Drug Trafficking TRO (E-6) case type with a case status of Waiting to List Injunction Hearing (CLWIH). Upon completion of the initial filing process the Commencement Unit will forward the file and motion package to the Office of Civil Administration, Room 296 City Hall, for further processing.

The Civil Motions Clerk will assign the appropriate control number and forward the file and motion package to the Manager or her designee for pre-determination. After review, the motion will be docketed and immediately scheduled for a preliminary injunction hearing within fourteen (14) days of the original motion filing date.

A copy of the Court's Expedited Eviction of Drug Traffickers Act procedures is included at the end of this section. (Document 6)

Motions to Determine Preliminary Objections

All preliminary objections shall be filed with the Prothonotary, as provided in Pa.R.C.P. 1028, and must be served on all other parties. Pursuant to Pa.R.C.P. 1028(c)(1) a party may file an amended pleading as of course within twenty (20) days after service of the preliminary objections. After twenty (20) days an amended complaint may be filed only with leave of court.

Motions to Determine Preliminary Objections must include, but are not limited to, the following:

- *Petition/Motion Cover Sheet;*
- *Proposed Order (which shall contain no reference to the attorney proposing same);*
- *An attested copy of the preliminary objections;*
- *A brief or memorandum of law, as set forth in Phila.Civ.R. *210; and*
- *Copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the pleading to which preliminary objections are being raised, i.e., complaint, answer, new matter, counterclaim, etc. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items sufficient to enable the Court to determine the preliminary objections.*

Counsel who file preliminary objections to preliminary objections are cautioned that unless they respond to the motion to determine preliminary objections that motion may be granted as uncontested.

Praecepto to Overrule Preliminary Objections

In the event that the Motion to Determine the Preliminary Objections is not filed with the Civil Motions Program within thirty (30) days after filing with the Prothonotary, the party against whom the objections are asserted may file with the Civil Motions Program a Praecepto, and a proposed order, requesting that the objections be overruled.

The Praecepto to Overrule Preliminary Objections is to be filed with the Civil Motions Clerk in Room 296 City Hall. There is a \$30 filing fee. The Praecepto will be assigned a control number and will be docketed and assigned to the appropriate judge. The Praecepto shall consist of the following:

- \$30 filing fee;
- Praecipe;
- Proposed Order (containing no reference to the attorney proposing same);
- Stamped, addressed envelopes for all counsel and unrepresented parties.

Amended Pleadings

Pursuant to Pennsylvania Rule of Civil Procedure 1028(c)(1), if a party files an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot. Counsel for plaintiff should notify the judge and opposing counsel immediately. Counsel for defendant should notify Civil Administration immediately, by letter or Praecipe, to withdraw their Motion to Determine Preliminary Objections. Motions to Determine Preliminary Objections will be administratively marked moot at the time of assignment if an amended pleading has been filed.

Preliminary Objections to Preliminary Objections

Preliminary Objections to Preliminary Objections must first be filed with the Prothonotary, 2nd Filing Unit, Room 278 City Hall. Thereafter, within thirty (30) days after filing Preliminary Objections to Preliminary Objections with the Prothonotary, the objecting party shall file a Motion to Determine the Preliminary Objections to Preliminary Objections, with the Civil Motions Clerk in Room 296, City Hall. The Motion to Determine Preliminary Objections to Preliminary Objections will be treated as a new motion, i.e., it will be assigned a new control number, and a twenty (20) day response date.

All Motions to Determine Preliminary Objections will be assigned together to the appropriate judge upon the expiration of the response date of the latest filed motion.

Motions for Extraordinary Relief

Major Jury/Day Forward Program

A party seeking an extension of a deadline imposed by a case management order must file a Motion for Extraordinary Relief. A case management conference is scheduled approximately ninety (90) days after commencement of a civil action. At the case management conference the case manager analyzes the case and assigns it to a specified “track:” Expedited, Standard, or Complex. The case manager issues a case management order that imposes various deadlines on discovery requests, the filing of motions and submission of expert reports. The case management order also schedules key events, specifically, Settlement Conferences (presided over by a Judge Pro Tempore), Pretrial Conferences (presided over by the trial judge), and trial dates.

Any party may seek relief from the time requirements by filing the Motion for Extraordinary Relief. This petition must be filed prior to the deadline that the party is seeking to change. Motions for Extraordinary Relief are filed with the Civil Motions Clerk located in the Office of Civil Administration, Room 296 City Hall. There is a \$30 filing fee, which should be

made payable to the Prothonotary. Motions for Extraordinary Relief are held by the Office of Civil Administration for ten (10) days for the filing of a response. The Motion for Extraordinary Relief should contain the current “Motion for Extraordinary Relief Cover Sheet,” and should be accompanied by a proposed order setting forth the deadline dates that would be affected, as well as a copy of the current case management order. Copies of the form may be obtained from the Office of Civil Administration, Room 296 City Hall, and may also be downloaded from the Court’s website at <http://courts.phila.gov>. Copies of the required current Motion for Extraordinary Relief Cover Sheet and Response to Motion for Extraordinary relief are included in the documents at the end of this section. (Documents 7 and 8)

At the end of the response period, the Motion for Extraordinary Relief, along with any responses thereto, will be assigned to the individual Team Leader for disposition. Failure to comply with the above filing requirements may result in denial of the motion. Should the motion be denied for failure to comply, a subsequent motion may be filed in accordance with the above filing requirements. However, the timeliness of a subsequent compliant motion will be measured from the date the subsequent motion is actually filed, **not** from the date of the defective filing.

Motions for Extraordinary Relief are fact and case track sensitive. The agreement of counsel and unrepresented parties to extend the deadlines of a case management order is not a recognized basis for an extension. Furthermore, neither a sudden change in counsel nor counsel’s hectic schedule and other commitments will merit an extension. Counsel and unrepresented parties are expected to demonstrate regular and timely efforts to complete discovery and to make a record of requests and/or motions to compel production of answers to interrogatories, documents, depositions, etc.

The movant is expected to demonstrate extraordinary and nonforeseeable circumstances justifying the deadline extension request. The following sample scenarios may be considered by team leaders as warranting an extension of case management deadlines. However, counsel are cautioned against assuming that any one or more of the following scenarios will be deemed sufficient in an actual case or controversy:

- *Demonstrable delay caused by an opposing party’s abuse of the discovery process. (The movant would fill out an attached sheet detailing the history of motions necessitated and delay caused by opposing party’s abuse of discovery procedures).*
- *Discovery time lost due to a stay of proceedings.*
- *Illness or death of a party or material witness, which directly and significantly affects an imminent deadline.*
- *Short-term disability or maternity leave of counsel where no other firm attorney is capable of assuming the representation.*
- *Information timely discovered requiring unanticipated further discovery that cannot be completed within existing deadlines.*
- *Late joinder of a party where the delay in joining the additional party is satisfactorily explained.*

Complex Litigation Center Programs

Motions for Extraordinary Relief may also be filed in Non-Jury, Arbitration Appeal, and Mass Tort cases.

After assignment to the team leader/coordinating judge, a Motion for Extraordinary Relief is disposed of, generally, within ten (10) days.

Commencing March 7, 2005, the following judicial assignments will be in effect:

PROGRAM	TEAM LEADER/ COORDINATING JUDGE
Day Forward/Major Jury 2005	Judge Jacqueline Allen
Day Forward/Major Jury 2004	Judge Arnold L. New
Day Forward/Major Jury 2003	Judge Sandra Mazer Moss
Day Forward/Major Jury 2002	Judge Allan L. Tereshko
Day Forward/Major Jury 2001 and Back	Judge Sandra Mazer Moss
Commerce Program	Judges Sheppard/Jones/Abramson
Complex Litigation Center	Judge Norman Ackerman
Class Actions	Judge Mark I. Bernstein

The Philadelphia Court of Common Pleas has embraced the standards set forth in 1986 by the American Bar Association Lawyers' Conference Task Force on Reduction of Litigation Cost and Delay:

“A. General Civil—90% of all civil cases should be settled, tried, or otherwise concluded within twelve months of the date of case filing; 98% within 18 months of such filing; and the remainder within 24 months of such filing, except for individual cases in which the Court determined exceptional circumstances exist and for which a continuing review should occur.”

The Philadelphia Bar Association's State Civil Committee, Plaintiffs' Trial Lawyers Association and the Association of Defense Counsel assisted the Court in the evaluation and adoption of these standards. Strong judicial oversight of the discovery deadline and other significant event dates is viewed as critical to the continued success of the timely resolution of civil litigation in this Court. With these important principles in mind, requests for extensions of court ordered deadlines should be avoided and utilized only as a last resort and with compelling reasons offered in support thereof.

Motions to Proceed In Forma Pauperis

Whenever an action is instituted wherein the Plaintiff, in lieu of tendering the required fee files a Petition to Proceed *In Forma Pauperis*, the following procedures will be adhered to:

- *The Complaint, or other original pleading and a Petition to Proceed In Forma Pauperis shall be received and given a court term and number.*
- *The Complaint, or other original pleading will be identified I.F.P. and the original along with attested copies for service by the Plaintiff will be maintained in the file jacket.*
- *At the time of filing the party shall be provided a copy of a notice advising them that if the petition is denied, the filing fees must be paid within ten (10) days.*
- *The original and all copies of the I.F.P. petition shall be returned to the filing party who shall be directed to the Civil Motions Program, Room 296 City Hall, to complete the filing of the petition so that it may be acted upon by the Court.*
- *When the Court has ruled on the petition, the Court's order shall be docketed and a copy of the order mailed to the party in accordance with the current practice.*
 - ❖ *If the petition is granted, the petitioner must appear and obtain the attested copies for service. If more than thirty (30) days has expired, the pleading must be reinstated first.*
 - ❖ *If the Petition is denied, the petitioner is reminded that the filing fee must be paid within thirty (30) days or the action or appeal will be dismissed.*

The following notice will be provided to the Plaintiff at the time of commencement of the action:

<p><u>IMPORTANT NOTICE</u></p> <p><u>FOR PROCEEDING IN FORMA PAUPERIS</u></p> <p>YOUR ACTION HAS BEEN COMMENCED SUBJECT TO THE COURT ACTING UPON YOUR PETITION TO PROCEED WITHOUT THE REQUIRED FILING FEES.</p> <p>IF THE COURT DENIES YOUR PETITION TO PROCEED WITHOUT PAYMENT OF FEES, YOU MUST PAY THE REQUIRED FEE WITHIN TEN (10) DAYS AFTER NOTICE OF THE DENIAL OF THE PETITION. YOU WILL NOT BE PERMITTED TO PROCEED WITH YOUR ACTION UNTIL SUCH FEES ARE PAID.</p> <p>IF THE REQUIRED FEES ARE NOT PAID WITHIN TEN (10) DAYS AFTER NOTICE OF THE DENIAL OF YOUR PETITION, THE PROTHONOTARY MAY ENTER A JUDGMENT OF NON PROS OR STRIKE YOUR APPEAL PURSUANT TO PA. RULES OF CIVIL PROCEDURE, RULE 240.</p> <p>IF YOUR PETITION IS DENIED, THE TOTAL FEE FOR YOUR ACTION WILL BE \$_____.</p>
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Petitions to Proceed *In Forma Pauperis* must be filed with the Civil Motions Clerk in Room 296 City Hall, Philadelphia, Pa. These petitions will be assigned a control number and then

held for a period of ten (10) days in order to allow any opposing party to submit a response. At the end of the ten (10) day response time the petition, along with any responses thereto, will be assigned to the Supervising Judge of the Trial Division—Civil. Copies of the Motion to Proceed *In Forma Pauperis* are available in Room 296 City Hall, and may also be downloaded from the Court's website at <http://courts.phila.gov>. A copy of the Motion to Proceed *In Forma Pauperis* is included at the end of this section. (Document 9)

CITY OF PHILADELPHIA EQUITY CASES

Lead Court Program

The Lead Court Program was specially designed to manage the influx of lead contamination cases commenced by the City of Philadelphia pursuant to the Philadelphia Code of Ordinances: Health Code Title 6. These matters are commenced as Complaints in Civil Actions in Equity. The Lead Court Program is managed by the Office of Civil Administration and presided over by a Municipal Court judge presiding as a Common Pleas Court Judge. (*See Administrative Docket No. 05 of 1994*). A Rule for Injunction hearing is scheduled within forty-five (45) days from commencement, and these matters are generally disposed of within twelve (12) months.

Requests for continuance of a Lead Court Contamination hearing are to be made to the attention of Deborah Dailey, Manager, Office of Civil Administration, or Melissa Graham, Legal Clerk, Room 296, City Hall, Philadelphia PA 19107. You may fax a copy of the continuance request to 215-686-8397.

A copy of Administrative Docket No. 05 of 1994 is included at the end of this section. (Document 10)

Code Enforcement Cases

The Code Enforcement cases are commenced by the City of Philadelphia as Complaints in Civil Actions in Equity pursuant to the Philadelphia Code of Ordinances. These cases involve all code violations other than lead contamination. The Code Enforcement Cases are managed by the Office of Civil Administration and presided over by a Municipal Court judge presiding as a Common Pleas Court Judge. (*See Administrative Docket No. 05 of 1994*). A Rule for Injunction hearing is scheduled within forty-five (45) days from commencement. These matters are closely monitored by the City and the presiding judge until final resolution of all violations.

Requests for continuance of a Code Enforcement hearing are to be made to the attention of Deborah Dailey, Manager, Office of Civil Administration, or Melissa Graham, Legal Clerk, Room 296, City Hall, Philadelphia PA 19107. You may fax a copy of the continuance request to 215-686-8397.

MUNICIPAL COURT APPEALS

Motions

Denial to Open Default Judgment: Motions filed in Municipal Court Appeals from *Denial to Open Default Judgment* are assigned to the Civil Motions Judges for review and disposition pursuant to Phila. R.Civ.P. 313.

Landlord/Tenant: Discovery and Non-Discovery Motions which are filed in Municipal Court Appeals from *Landlord/Tenant* actions, will be assigned to a judge of the Municipal Court who has been assigned to preside as a judge of the Court of Common Pleas. (*See Administrative Docket No. 05 of 1994*).

Money Judgment: Non-Discovery Motions which are filed in Municipal Court Appeals from *Money Judgment* actions will be assigned to the Civil Motions Judges. Discovery motions in Money Judgment actions are to be filed through the Discovery Program.

Code Enforcement: Discovery and Non-Discovery Motions which are filed in Municipal Court Appeals from *Code Enforcement* actions, will be assigned to a judge of the Municipal Court who has been assigned to preside as a judge of the Court of Common Pleas. (*See Administrative Docket No. 05 of 1994*).

Municipal Court Appeal Process and Procedure:

In All Cases

In residential landlord-tenant cases, either party has ten (10) days to appeal the decision of the Municipal Court, and in nonresidential landlord-tenant cases and small claims cases, either party has thirty (30) days to appeal the decision of the Municipal Court to the Court of Common Pleas by filing a Notice of Appeal with the Prothonotary of the Court of Common Pleas, Room 278 City Hall. An attested copy of the Notice of Appeal must be served within twenty (20) days on all parties and their counsel, and a copy must be served on the Deputy Court Administrator of the Municipal Court, Room 580, 34 S. 11th Street, Philadelphia PA 19107 **at once**, or the appeal is not perfected.

If you were the Plaintiff in the Municipal Court and are served with a Notice of Appeal, you must file with the Prothonotary a copy of the Municipal Court Landlord-Tenant Complaint, or a new Complaint in conformity with the Rules of Civil Procedure of the Court of Common Pleas, endorsed with a Notice to Plead, within twenty (20) days and serve a copy on all parties and counsel. If the plaintiff in the Municipal Court is the appealing party, these documents should be filed with the Prothonotary at the time the appeal is taken or within twenty (20) days thereafter and a copy served as indicated.

If you were the Defendant in the Municipal Court and are served with a Notice of Appeal and a Complaint endorsed with a Notice to Plead, you **MUST** file an Answer or other responsive pleading in conformity with the Rules of Civil Procedure of the Court of Common Pleas with

the Prothonotary within twenty (20) days and serve a copy on all parties and counsel. See Phila. Rules of Civil Procedure, Rules 310-312.

At the time of filing of an Appeal from a Money Judgment the matter will be scheduled for an Arbitration Hearing.

In Landlord-Tenant Cases

If you are a tenant and you take an appeal, you must comply with this Court's escrow requirements in order to maintain the supersedeas (i.e., the right to remain in possession of the property until the appeal is decided). At the time you file the Notice of Appeal with the Prothonotary, ***you must pay an amount of money equal to three (3) months' rent or the amount of rent awarded to the landlord in the Municipal Court, whichever is less. This money must be placed in escrow with the Prothonotary, Room 282 City Hall, and thereafter, you must pay the rent for each successive month until the date of trial into that same escrow account with the Prothonotary, Room 282 City Hall. You must make these ongoing monthly payments in thirty (30) day intervals.*** For example, suppose your monthly rent is \$300 and the landlord won \$1,000 for back rent in Municipal Court. You file your Notice of Appeal on the fifteenth day of a month. When you file the Notice of Appeal, you will need to pay \$900 (three months' rent, since that amount is less than the \$1,000 judgment) into escrow with the Prothonotary. In addition, when the fifteenth of the next month arrives, you will need to pay another \$300 into that escrow account. You will then need to pay the \$300 on the fifteenth day of each successive month until your trial date.

You are required to serve an attested copy of your appeal upon the Municipal Court Administrator in order to preserve the supersedeas. Failure to comply with these rules may result in your eviction from the premises before your appeal is heard by the Court. See Phila. Rules of Civil Procedure, Rules 310-312.

Appeals from Landlord/Tenant judgments will be scheduled for trial before a Judge of the Municipal Court who has been assigned to preside as a Judge of the Court of Common Pleas. See Administrative Docket No. 05 of 1994. These matters will be heard on Mondays in Courtroom 446, City Hall, Philadelphia, Pa.

In Appeals from Denial to Open Default Judgment

Appeals from Municipal Court from Denial to Open Default Judgment are governed by Philadelphia Rule of Civil Procedure, Rule 313 and Administrative Docket 5 of 1994.

If you are filing a Notice of Appeal from Municipal Court from an order denying or granting a Petition to Open a Default Judgment, you **MUST** first file the appeal with the Prothonotary, Room 280, City Hall, AND you must also file a Petition to Open the Default Judgment with the Court of Common Pleas, Civil Administration/Civil Motions Program, Room 296 City Hall. The fee for filing a motion is \$30, made payable to the Prothonotary, Room 282 City Hall. The petition package should conform to Phila. Rule of Civil Procedure, Rule *208.3.

Upon filing, the petition will be held by the Civil Motions Program in Room 296 City Hall, for a period of twenty (20) days to allow the opposing party to file a response. Thereafter, the petition will be assigned to a Civil Motions Judge of the Civil Trial Division.

The filing of a Petition to Open the Default Judgment does **NOT** act as a supersedeas. If you are seeking a stay of a writ of execution or possession, you **MUST** file a separate motion package (Motion to Stay Writ of Execution/Possession pending the outcome of the Petition to Open Default Judgment) seeking this relief with the Civil Motions Clerk in Room 296, City Hall.

Each motion package shall be filed separately and is subject to a \$30 filing fee.

The motion filing fees will only be waived if you are also filing a Petition to Proceed *In Forma Pauperis*. There is a separate motion package for Petitions to Proceed *In Forma Pauperis* which is available in Room 296 City Hall, or online at <http://courts.phila.gov>.

The Appeal from a Municipal Court Denial to Open Default Judgment shall be limited to a determination by the Court as to whether the Municipal Court committed an error of law or abused its discretion in ruling upon the petition or motion which is the subject of the appeal.

Upon the filing of the order of the Court of Common Pleas, the action shall be remanded to the Municipal Court for further processing consistent with the order. See Phila. Rules of Civil Procedure, Rules 310, 313.

The Petition to Open Default Judgment (from Municipal Court Denial to Open Default Judgment) should include, but is not limited to, the following:

- *Petition/Motion Cover Sheet (completed and signed by filing party);*
- *Proposed Order (containing no reference to the attorney proposing same);*
- *Rule to Show Cause;*
- *Petition (numbered paragraphs and signed by filing party);*
- *Certificate of Service;*
- *Stamped, addressed envelopes for all counsel and unrepresented parties*

Exhibits should include, but are not limited to, the following:

- *Copy of Notice of Appeal from Municipal Court*
- *Copy of Petition and Order denying the Municipal Court Petition to Open Default Judgment;*
- *Copy of the Statement of Claim, the Landlord/Tenant Complaint, or Code Enforcement Complaint which was filed in the Municipal Court;*
- *Copy of Municipal Court Civil Docket report;*
- *Any stenographic record of the proceeding before the Municipal Court within thirty (30) days after it has been transcribed;*
- *Copy of any other document or item necessary or relevant to the disposition of the issues.*

All documents or items shall be included or attached and marked as exhibits separately.

The Court may decide any matter against a party who fails to attach to the filing those items sufficient to enable the Court to determine the matter.

A copy of Philadelphia Rules of Civil Procedure 310, 311, 312, and 313 are included at the end of this section. (Document 11)

STATUTORY APPEALS PROGRAM

The Statutory Appeals Program of the Philadelphia Court of Common Pleas includes all appeals from adjudications of state and local administrative agencies filed in the Philadelphia Court of Common Pleas, and all business tax collection cases brought by the City of Philadelphia.

The Statutory Appeals Program is presided over by the Civil Motions Judges. Statutory Appeals Program hearings are conducted in Courtroom 426, City Hall, Philadelphia, PA.

Upon the filing of an appeal from an administrative agency adjudication, the Prothonotary automatically issues a Standing Case Management Order. The Case Management Order sets forth the date, time, and place of the status conference, as well as other relevant information, including requirements for service of the appeal and a description of the motion practice. Agency-specific forms are used for appeals from the Board of Revision of Taxes, the Civil Service Commission, the Pennsylvania Department of Transportation, the Tax Review Board and the Zoning Board of Adjustment. A general "Other Agency" form is used in appeals from the large number of state and local agencies also included in this program. At the status conference, appellant and appellee are expected to make a brief presentation about the underlying factual basis for the appeal and the nature of any past hearings. At the conclusion of this conference, the parties are given an Order that sets dates for future events in the litigation and contains information about relevant practices, requirements, and procedures.

If a record exists of the proceeding at the agency level, the judge is likely to enter a Scheduling Order at the status conference. The Court's Scheduling Order sets dates for the agency to produce a transcript of its hearing and to file its record of the proceeding with the court, for appellant(s) to file a brief in support of the appeal, for the appellee(s) and intervenor(s) to file a brief opposing the appeal and a date on which legal argument shall take place.

If a full record has not been made of the proceedings below, and a *de novo* trial of the relevant issues is required, the judge will enter an order setting forth discovery deadlines and a date for trial.

Continuances of Statutory Appeals Hearings All requests for continuances of Statutory Appeals hearings are to be made by completing the Statutory Appeals Continuance

Application form, and filing same with the Civil Motions Clerk in Room 296 City Hall. Upon receipt, the request for a continuance will be docketed by the Civil Motions Program and forwarded to the appropriate motions judge for review and approval. Upon disposition of the continuance request, a copy of the judge's order will be forwarded to the party requesting the continuance. It is the requesting party's obligation to serve a copy of the continuance request and order upon opposing counsel/unrepresented party. The disposition of the Statutory Appeals Continuance Application is processed and docketed by the Civil Motions Program. A copy of the Statutory Appeals Continuance Application is included at the end of this section. (Document 12)

City Business Tax Cases

The Civil Motions Judges preside over civil suits instituted for the collection of outstanding business, wage or other taxes that are due and owing to the City of Philadelphia. While cases that involve less than \$50,000 are automatically diverted to arbitration, matters asserting greater tax indebtedness are listed directly before the judges.

When a City Business Tax case is commenced, the Prothonotary automatically lists the matter for a status conference. At the conference, the presiding motions judge will typically explore the possibility of settlement. In the event settlement seems unlikely, the court issues a Case Management Order that explains the procedures governing these actions, sets discovery deadlines, and lists the matter for trial.

Prepared by:

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