

Philadelphia Civil Rules

*The following Philadelphia Civil Rules were amended as set forth below by the Court of Common Pleas Board of Judges on May 20, 2004, effective as of July 26, 2004 (Deleted text: ~~strikeout~~; added text: **bold**):*

Rule *105 Approval of Sureties.

(A) Sureties required at the commencement of actions shall be approved by the Prothonotary subject to review by the Court. Two auditors shall be appointed each year, who at least once a year and more often, if in the opinion of the auditors the same be necessary, shall make a separate written report concerning the advisability of accepting each corporation as surety. This report of the auditors shall be based upon a thorough accounting study and analysis of the financial statements which the corporation shall furnish to the auditors. If in the opinion of the auditors an examination of any company at its home office is required, the auditors shall file a ~~petition~~ **motion** with the Court in which the application of the corporation was filed setting forth the reasons for the making of such examination, and requesting the Court's approval. A copy of such ~~petition~~ **motion** shall be served upon the corporation, which shall have the right to file an answer to the ~~petition~~ **motion** of the auditors, and otherwise to be heard. No examination shall be made by the auditors at the home office of the applicant surety company without approval of the Court in which the application for approval was filed.

Rule 227.5 Bill of Costs.

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(F) *Appeal.* An affected party may appeal from the Prothonotary's decision within ten (10) days from the date of written notice thereof by filing a notice of appeal of taxation of costs in accordance with the procedure for filing a motion as set forth in Philadelphia Civil Rule ~~*206.4~~ **208.3(b)(3)**. . . .

Rule *430.1 Alternative Service.

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(D) *Motion Court Procedure.* Filings made in accord with this procedure are exempt from Philadelphia Civil Rule ~~*206.4~~ **208.3(b)(3)**.

Rule 1012. Entry and Withdrawal of Appearance.

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(c) ~~Petition~~ **Motion to Withdraw.** Leave of Court, obtained through the filing ~~Petition~~

Motion to Withdraw Appearance, is required if another attorney is not entering an appearance simultaneously with the withdrawal of current counsel. The ~~Petition~~ **Motion** shall set forth with specificity the reasons the attorney seeks to withdraw. The attorney seeking to withdraw must attach to the ~~Petition~~ **Motion** to Withdraw a certification setting forth the following:

- (1) that there is not outstanding motion to compel discovery, or for sanctions for failure to provide discovery; and
- (2) that the attorney has met every deadline date set forth in the pertinent Case Management Order, if applicable.

Rule *1303 *Scheduling of Arbitration Hearings. Relistings. Consolidations.*

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(c) **Continuances.** All requests for continuances shall be made as provided herein.

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(5) **Non-Emergency Applications.** All other requests for continuance. An Arbitration Application for continuance of an Arbitration Hearing for non-emergency reasons must be filed at least 30 days prior to the scheduled Arbitration hearing date. Arbitration Hearings may be continued, inter alia, for the following non-emergency reasons:

- (i) Service not effected upon original defendant(s)/additional defendant(s). The Applicant shall set forth with particularity facts supportive of contention that due diligence has been exercised in attempting service, shall set forth the specific dates of the attempted service, shall attach a statement that substituted service could not have been obtained prior to the date of the Arbitration Hearing, and shall certify that a ~~Petition~~ **Motion** for Alternative Service has been filed pursuant to Pa.R.C.P. 430 and Phila. Civ. R. *430.1.

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(g) ***Transfer from Arbitration to Major List.*** A case filed as an Arbitration case may be certified as a major case only with court approval. A ~~Petition~~ **Motion** for Approval to Transfer from Arbitration to Day Forward must be filed with the Prothonotary. The ~~Petition~~ **Motion** for Approval to Transfer will not be granted if it is made immediately before the Arbitration hearing date and it appears that the requisite pleadings have not been filed.

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Rule *2039.1 ~~Petitions~~ Motions for Approval of Settlements Where a Minor or Incompetent Has an Interest.

(A) ***Filing of Record and Approval As to Form.*** ~~Petitions~~ **Motions** for settlement of a case in which a minor or incompetent has an interest shall be served on all parties of record,

filed with the Prothonotary and taken to the Clerk of the Motion Court for approval as to form. Said ~~petitions motions~~ are not subject to any further filing requirements of the Motion Court under Philadelphia Civil Rule ~~*206.4~~ **208.3(b)(3)**.

(B) *Which Judge to Rule on ~~Petition Motion~~*. When a minor's or incompetent's settlement has been obtained before a Settlement Conference or a Trial Judge, that Judge shall have exclusive jurisdiction to approve the reasonableness of the amount of such settlement. The Trial or Settlement Judge shall also make an initial determination of the distribution of the settlement proceeds within 30 days after the filing of a formal ~~Petition Motion~~. After such determination, the ~~Petition Motion~~ shall be forwarded to the Orphans' Court Division for final approval and signature, and the same shall be ruled on within 30 days. In all other cases, the reasonableness of the amount of settlement and ~~Petition Motion~~ for Distribution will be adjudicated by the Administrative Judge of the Trial Division or his or her designee within 30 days of the date the same is filed.

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(D) *Contents of ~~Petition Motion~~*. The ~~petition motion~~ shall:

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(E) *Release of Defendant*. After Court approval of the gross amount of the settlement, but before approval of the ~~Petition Motion~~ for Distribution, the plaintiff may sign a release to discharge the settling defendant and may issue an Order to Settle, Discontinue and End to the settling party. . . .

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(G) *Personal Appearances*. The approving Judge, to whom the ~~Petition Motion~~ is submitted, may, at his or her discretion, require the personal appearance of the minor or incompetent, guardians, the guardian ad litem, physicians, or any other relevant party, as well as the production of any other evidence deemed necessary for adjudication of the ~~Petition Motion~~.

(H) *Appointment of Guardian of the Estate*.

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(3) . . .

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(b) The Administrative Judge of the Trial Division or his or her designee may, upon ~~petition motion~~, allow net proceeds in excess of \$350,000 to be placed in restricted or blocked accounts.

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Rule *2039.2 ~~Petitions Motions for Allowance~~.

(A) ~~Petitions Motions~~ for Allowance in those cases where a guardian has been appointed

by the Orphans' Court Division shall be filed directly with such Division.

(B) All other ~~Petitions~~ **Motions** for Allowance, irrespective of which Judge approved the original settlement, shall initially be filed with the Prothonotary and taken to the Clerk of the Motion Court. All such ~~petitions~~ **motions** shall be decided by the Motion Court Judge, except where the original Judge has retained jurisdiction of the case. Said ~~petitions~~ **motions** are not subject to any further filing requirements of the Motion Court under Philadelphia Civil Rule ~~*206.1~~ **208.3(b)(3)**.

(C) The ~~petition~~ **motion** shall include:

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(D) All ~~petitions~~ **motions** shall be accompanied by:

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(2) A copy of the Original ~~Petition~~ **Motion** for Compromise and the Order of Distribution;

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(5) A consent filed by the ~~petitioner~~ **movant**.

Rule *2206 ~~Petitions~~ Motions for Approval of Settlements in Wrongful Death or Survival Actions.

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(B) *Filing of Record and Approval as to Form.* ~~Petitions~~ **Motions** for Approval of Settlement shall be served on all heirs of the estate, wrongful death beneficiaries, and any others having a possible interest and filed with the Prothonotary and taken to the Clerk of the Motion Court for approval as to form. Said ~~petitions~~ **motions** are not subject to any further filing requirements of the Motion Court under Philadelphia Civil Rule ~~*206.1~~ **208.3(b)(3)**.

(C) *Which Judge to Rule on Motion.* When a settlement has been obtained before a Settlement Conference or a Trial Judge, that Judge shall make an initial determination of the allocation of the settlement proceeds within 30 days after the filing of a formal ~~Petition~~ **Motion**. After such determination, the ~~Petition~~ **Motion** shall be forwarded to the Orphans' Court Division for final approval and signature within 30 days. In all other cases, such ~~Petition~~ **Motion** will be determined by the Administrative Judge of the Trial Division or his or her designee within 30 days.

(D) *Contents of ~~Petition~~ **Motion.*** The ~~petition~~ **motion** shall:

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(3) Be accompanied by the following:

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(f) A certification of service of notice and a copy of the ~~petition~~ **motion** to all parties with a possible interest, together with a list of those persons notified.

(E) *Release of Defendant.* After Court approval of the gross amount of the settlement, but before approval of the ~~Petition~~ **Motion** for Distribution, the plaintiffs may sign a release to discharge the settling defendant and may issue an Order to Settle, Discontinue and End to the settling party. ...

Rule *4003.6 *Discovery and Pre-Trial Procedures in Asbestos Cases.*

In asbestos cases, the following procedures shall apply:

(F) *Motions.* Any motion in limine or other ~~petition~~ **motion** or motion which may affect the conduct or the substance of the trial, including any question concerning the admissibility of any anticipated evidence or testimony, shall be filed in Motion Court under Philadelphia Civil Rule ~~*206.1~~ **208.3(b)(3)** for assignment to the Asbestos Motion Judge. However, motions in cases appearing in the top ten cases on the trial list, other than motions for summary judgment, shall be submitted to the Asbestos Calendar