

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT

## CIVIL TRIAL DIVISION ADMINISTRATION



AT A GLANCE  
**2000**

# **T A B L E O F C O N T E N T S**

## **1. INTRODUCTION**

## **2. PERSONNEL AND TELEPHONE DIRECTORY CIVIL TRIAL DIVISION AND PROTHONOTARY**

## **3. CIVIL TRIAL DIVISION PROGRAM DESCRIPTIONS**

**COMMERCE PROGRAM**

**DAY FORWARD PROGRAM**

**DISPUTE RESOLUTION CENTER**

**COMPLEX LITIGATION CENTER PROGRAM**

**COMPULSORY ARBITRATION**

**ARBITRATION APPEAL PROGRAM**

**STATUTORY APPEALS**

**MOTIONS PROGRAM**

**DISCOVERY COURT**

**EMERGENCY JUDGE ASSIGNMENT**

## **4. JUDICIAL ASSIGNMENTS**

## **5. SPECIFIC MOTIONS: PROCEDURE AND FORMS**

**Petitions to Approve Minors' Compromise or  
Settlement of Wrongful Death\Survival Actions**

**Motions for Extraordinary Relief**

*To gain access to this Manual on our website, use the following:  
<http://courts.phila.gov>.*

## **6. FEES OF THE PROTHONOTARY**

## **7. JUDICIAL FACILITIES MAPS**

- . City Hall General Directional Floor Plan**
- . Parking Accessibility**
- . Restrooms**
- . Wheelchair Availability**

## **8. ADMINISTRATIVE ORDERS**

## *INTRODUCTION*

*By*

***The Honorable John W. Herron,  
Administrative Judge  
Trial Division  
Court of Common Pleas  
Philadelphia County***

As recently as 1994, the average litigant in Philadelphia had to wait five to six years for a trial and there was a 28,000 case backlog. Today, the average wait for trial in simple cases is a mere one year, two years for standard cases and three years for our most complex major jury cases. This is an astonishing transformation for any jurisdiction, but even more so for a major litigation venue. Moreover, these time frames comply exactly with the American Bar Association's recommended standards for Civil Delay Reduction. That 28,000 backlog of major jury cases in 1994 is now an absolutely current inventory of 6,000 major cases.

This dramatic change must be credited to a wonderful cooperative spirit between Bench and Bar and a commitment by the judiciary to case management principles of firm application of deadlines to the principal events in the life of a civil case.

The vitality of our civil programs--whether at the Complex Litigation Center, Arbitration Center or in Major Juries--demands constant monitoring and a commitment to revisit and alter procedures when necessary. This coming year, like those preceding, will witness many programmatic changes. This manual, along with constant dialogue with the Philadelphia Bar Association, PaTLA and Association of Defense Counsel, is intended to alert practitioners to important modifications, many of which are the result of continuing and healthy dialogue with the Bar and, in particular, the State Civil Committee of the Philadelphia Bar Association.

In the year 2000, look for the following:

- . Commencement of the Commerce Program
- . Injunction requests assigned on filing by the Administrative Judge to either the Commerce Program or the Motions Program Judge
- . Class Actions also assigned on filing to either the Commerce Program or the Motions Program Judge

- . Discovery separated into a morning and afternoon list in the programs with the most volume--Day Forward 1999 and Day Forward 2000--to provide less waiting time for counsel
- . A revised Petition for Extraordinary Relief protocol
- . Compulsory Arbitrations governed by new Pa.R.C.P. 1303
- . Adoption of a new Civil Cover Sheet for all first filings
- . Arbitration Appeals tried in pools and subject to case management deadlines
- . Downsizing the motion assignment from two to one judge

The following pages of this manual will give a short description of each program, practice tips and useful information designed to assist counsel and clients in accessing our civil justice system. We are proud that not one single fixed trial date in a major jury case--over 1,000 listings--was missed last year, a tribute to our judicial team leaders who work tirelessly to provide predictability and closure to litigation.

Instant docket information and detailed information on the Trial and other divisions within the First Judicial District can be found on the Court's web site (<http://courts.phila.gov>). This manual appears within the Trial Division of the FJD web site together with any recent changes that will be highlighted to catch the reader's eye.

The 35 judges in our Civil Trial Division and our Civil Administrative Staff join with me in celebrating an extraordinary transformation of our Civil Programs. We welcome your suggestions and your constructive criticism as we firmly believe that an innovative and responsive court system is a reflection of a Bench and Bar dedicated to the concepts of equal and timely justice for all.

*January 3, 2000*

## TELEPHONE DIRECTORY

### CIVIL TRIAL DIVISION

#### **Administration**

Honorable John W. Herron  
Administrative Judge  
Room 516, City Hall  
(215) 686-9536  
(215) 686-7049 (fax)

#### **Civil Administration**

Rooms 296 & 280, City Hall  
Philadelphia, Pa. 19107  
(215) 686 - 7401  
(215) 686 - 8397 (fax)

#### ***Administrative Staff***

686-7941	Fax Line	
686-7402	<b>Charles A. Mapp - Deputy Court Administrator</b>	Room 295

#### ***Operations Staff/Motions***

686-7401	<b>Deborah Dailey - Manager</b>	Room 296
686-8397	Fax Line	296
686-4253	Norma Erickson - Legal Clerk	296
686-4245	Karen S. Godwin - Legal Clerk	296
686-4254	Jerome Kelleher - Legal Clerk	296
686-4305	Claire Kelly - Court Administrative Officer	296
686-3730	Denise Listner - Legal Clerk	296
686-3730	Carla Martucci - Admin. Secretary	296
686-4252	Rachel Postell - Legal Clerk	296
686-4245	Eleanor Roberts - Legal Clerk	296
686-7401	Evelyn Thompson - Legal Clerk	296
686-2531	Steven Wulko, Jr. - Legal Clerk	296



**Day Forward - 1995**

686-7335	<b>Judge Mark I. Bernstein, Team Leader</b>	443 CH
686-4918	Liaison - Linda Kelly	530
686-9538(fax)		

**Cases Filed Prior to 1995**

686-7260	<b>Judge Arnold New</b>	602 CH
686-4305	Liaison - Claire Kelly	296

**Commerce Program**

Room 529, City Hall  
Philadelphia, Pa. 19107  
(215) 686-3704  
(215) 686-3717 (fax)

686-9536	<b>The Honorable John W. Herron, Team Leader</b>
686-7934	<b>The Honorable Albert W. Sheppard, Team Leader</b>
686-3704	Catherine Hart, Program Administrator
686-2257	Kathryn Gallagher, Program Secretary
686-7935	Bonnie Venturo, Court Administrative Officer
686-4917	Nancy G. Eshelman, Esq., Law Clerk
686-4916	Julie Master, Esq., Law Clerk
686-8396	Thomas Prettyman, Esq., Law Clerk

## **Case Management Conference Center**

Room 613, City Hall  
Philadelphia, Pa. 19107  
(215) 686-3710  
(215) 686-3709 (fax)

686-3710 List Room  
686-3778 Annette Ferrara, Esq. - Civil Case Manager  
686-3779 Charles Pelletreau, Esq. - Civil Case Manager  
686-3796 Stanley Thompson, Esq. - Civil Case Manager

## **Motions Program**

683-7032 **Judge Gary S. Glazer** Ste. 1205 CJC  
683-7033 Alex Cantor, Law Clerk  
683-7033 Lucille Canuso, Law Clerk  
686-4252 Rachel Postell, Legal Clerk

## **Arbitration Center**

1601 Market Street, 2nd Floor  
Philadelphia, Pa. 19103  
(215) 686-9590  
(215) 686-9594 (fax)

**686-9593 Joseph L. Hassett, Esquire - Manager**  
686-9598 **Lewis Hoye - Assistant Manager**  
686-9591 Juanita Cooper-Robinson - Legal Clerk  
686-9592 Joseph Ferraro - Court Administrative Officer  
686-9599 Margaret O'Connell - Legal Clerk  
686-9597 Dianne Williams - Legal Clerk

## **Complex Litigation Center**

Wanamaker Building  
100 Penn Square East - 12th Floor  
Philadelphia, Pa. 19107  
(215) 686-5100  
(215) 563-1623 (fax)

### **Judge Joseph D. O'Keefe, Supervising Judge**

686-5100 Carolyn Dombrowski - Judicial Secretary  
686-5100 Brett Wolfson - Law Clerk

### **686-5100 Mary McGovern - Manager**

686-5100 Howard Chambers - Court Admin. Officer  
686-5100 June Cipressi - Court Administrative Officer  
686-5100 Kristen M. Dorsey - Clerk Typist  
686-5100 Marlene Dorsey - Tipstaff  
686-5100 Seth Goren - Law Clerk  
686-5100 Thomas L. McGill, Jr. - Law Clerk  
686-5100 Lillian A. Ryant Davis - Admin. Sec.  
686-5100 Jennifer Stewart - CAO

## **Discovery Unit**

Room 287, City Hall  
Philadelphia, Pa. 19107  
(215) 686-4246  
(215) 686-3777 (fax)

### **686-3747 Dennis Brennan - Manager**

686-4247 Sharon Pressley, Clerk Typist  
686-4246 Melissa Graham, Legal Clerk

## **Dispute Resolution Center**

Room 691, City Hall  
Philadelphia, Pa. 19107  
686-7915 Fax Line  
**686-7914 Frank Checkovage - Manager**

## **PROTHONOTARY**

### **Prothonotary**

**Joseph H. Evers, Prothonotary of Philadelphia**

Room 284, City Hall

Philadelphia, Pa. 19107

(215) 686-6670\6652

### **Administrative Office**

Room 284

686-6670

Office Hours: 9:00 a.m. to 5:00 p.m.

Monday through Friday

### **Staff**

686-6651	Bonnie O'Kane, Deputy Prothonotary	Room 284
686-8326	Stanley Chmielewski, Deputy Prothonotary	Room 284

### **Adoption Unit**

686-6667 4259	Andrea Hoffman Jelin, Supervisor	Room 306 1801 Vine Street
------------------	----------------------------------	------------------------------

### **Appeals Unit**

686-6663	William Lanzelotti, Supervisor	Room 266
----------	--------------------------------	----------

### **Civil Commencement Unit**

686-6671 8863	James White, Supervisor	Room 278
------------------	-------------------------	----------

### **Current Records Unit**

686-6661	Kevin McKinney, Supervisor	Room 268
----------	----------------------------	----------

### **Family Court Filings**

686-3805	Mark Alleva, Clerk of Family Court	B-16 34 South 11th Street
----------	------------------------------------	---------------------------

### **Finance Unit**

686-6657	Marie Wodack, Supervisor	Room 267
----------	--------------------------	----------

***Judgment Index & Lien Unit***

686-6665      Nicholas Palmer, Supervisor      Room 262

***Older Records Unit***

686-6669      Robert Desipio, Supervisor      Room 975

***Public Information Unit***

686-6656      Philip Valone, Supervisor      Room 282  
8859

***Quality Control Unit***

686-6650      Kevin Daly, Supervisor      Room 271

***Second Filing Unit***

686-6667      Rocco Fantazzi, Supervisor      Room 280  
6645

***U.C.C. Filing Unit***

686-6664      Nicholas Palmer, Supervisor      Room 260-D

# **COMMERCE CASE PROGRAM**

This overview of the Commerce Program was prepared by Mitchell L. Bach, Esquire, Edward G. Biester, III, Esquire and Daryl J. May, Esquire.

## **COMMERCE CASE MANAGEMENT PROGRAM**

### **I. Introduction, Assignments & Staff**

Effective January 1, 2000, the Court established a Commerce Case Management Program ("Commerce Program"). The Commerce Program is an extension of the Day Forward Program, adopting additional features and alternative dispute resolution provisions that have helped to improve management of commercial and business litigation in other jurisdictions. Practitioners are directed to the detailed procedures contained in the Court's Order dated February 22, 2000 ("Administrative Docket 01 of 2000"), which follows this entry as a document. This overview is provided to guide practitioners in becoming familiar with the new Commerce Program, and is not intended to cover the detailed requirements of the Program, which should be examined carefully.

The Commerce Program applies only to cases filed after January 1, 2000. There will be no exceptions, and the new procedures will not be applicable to any pre-existing cases filed prior to that date. Initially, the two judges assigned to the Commerce Program are Judge Herron and Judge Sheppard. All actions designated into the Commerce Program will be assigned to the individual calendars of one of those judges.

**A. Commerce Program**

**Room 529 City Hall**

Honorable John W. Herron, Team Leader	686-9536
Honorable Albert W. Sheppard, Team Leader	686-7934
Catherine Hart, Program Administrator	686-3704
Kathryn Gallagher, Program Secretary	686-9536
Bonnie Venturo, Court Admin. Officer	686-7935
Nancy Eshelman, Esquire, Law Clerk	686-4917
Julie Master, Esquire, Law Clerk	686-4916
Thomas Prettyman, Esquire, Law Clerk	686-8396
FAX	686-3717

**B. Discovery Court 2000: Commerce Program Cases**

<u>Location</u>	<u>Hours of Operation</u>
Filings: Room 287 City Hall	9:00 a.m. - 5:00 p.m.
Hearings: Room 275 City Hall	

<u>Staff</u>	<u>Telephone Numbers</u>
Dennis J. Brennan, Manager	686-3747
Melissa Graham, Legal Clerk	686-4246
Sharon Pressley, Clerk Typist	686-4247
FAX	686-3777

**Schedule for Hearing**

<u>Day</u>	<u>Time</u>	<u>Program</u>	<u>Room</u>	<u>Judge</u>
Monday	9:00 a.m.	Commerce	275	Judge Sheppard
Monday	1:00 p.m.	Commerce	275	Judge Herron

**C. Courtroom Assignments (January through June Terms, 2000)**

Honorable John W. Herron (Team Leader) 453 City Hall  
Honorable Albert W. Sheppard (Team Leader) 513 City Hall

**D. Motions Program**

**Room 296 City Hall**

Deborah E. Dailey, Manager	686-7401
Rachel Postell, Motions Clerk	686-4252
FAX	686-8397

**E. Case Management Conference Center Room 613 City Hall**

Civil Case Managers:

Annette Ferrara, Esquire	686-3778
Charles Pelletreau, Esquire	686-3779
Stanley Thompson, Esquire	686-3796
FAX	686-3709

**F. Dispute Resolution Center Room 691 City Hall**

Frank E. Checkovage, Manager	686-7914
FAX	686-7915

**II. Cases Subject to Commerce Program and Filing Procedure**

Practitioners should review the detailed list of "Cases Subject to Commerce Program" at paragraph B.1 of Administrative Docket 01 of 2000, as well as the examples of cases that are not included in the Program at paragraph B.2. Effective January 1, 2000, the new Civil Cover Sheet requires the attorney signing the sheet to certify that the action is, or is not, within the Commerce Program and is not subject to arbitration. A new "Commerce Program Addendum to Civil Cover Sheet" must also be filed with all initial filings, denoting the applicable type or types of action which result in the matter being assigned to the Commerce Program. Copies of both the Civil Cover Sheet and the Commerce Program Addendum must be served with the original process on all parties. Disputes as to inclusion or exclusion of cases with respect to the Commerce Program are governed by new procedures set forth in paragraphs B.4 and D.1 of Administrative Docket 01 of 2000. There is no appeal from a program assignment.

### **III. Case Management Procedures**

A Case Management Conference will be scheduled approximately ninety days after filing. The Civil Case Manager or assigned Judge will consider means for early disposition, schedules and deadlines, assignment of a Case Management Track, the potential use of a Commerce Judge Pro Tempore and other issues relevant to the case. A suggested form of Commerce Program Case Management Order and a chart outlining schedules for various management tracks are attached to Administrative Docket 01 of 2000. The parties should confer and attempt to reach agreement concerning all such matters, prior to the Case Management Conference.

The Commerce Program Judge to whom the action is assigned will normally hear all pretrial motions, including discovery motions. All such motions must be filed in Motion Court, with a designation on the Motion Court Cover Sheet to the assigned Commerce Program Judge. Oral argument will be at the discretion of the Commerce Program Judge. Discovery matters and other motions normally will be heard on Mondays by Judge Sheppard and Judge Herron in Room 275 of City Hall, at 9:00 a.m. and 1:00 p.m., respectively. Procedures of the Discovery Court should generally be followed, and filings processed through Room 287. In some instances, the Commerce Program Judge may direct further briefing of complex discovery motions.

Emergency motions and petitions also will be filed with the Motion Court and forwarded to the assigned Commerce Program Judge for disposition. Practitioners should be familiar with, and governed by the new procedures set forth in paragraph D.7. of Administrative Docket 01 of 2000.

Settlement conferences are governed by paragraph D.8 of Administrative Docket 01 of

2000. If the parties concur that an expeditious settlement conference will be productive, such a request should be made by letter to the assigned Commerce Program Judge. Pretrial conferences are governed by paragraph D.9 of Administrative Docket 01 of 2000.

#### **IV. Alternate Dispute Resolution and Commerce Program Judges Pro Tempore**

Administrative Docket 01 of 2000 establishes an Alternative Dispute Resolution program for the Commerce Program. The use of mediation is encouraged, and a panel of experienced and highly qualified volunteers is being established to act as Judges Pro Tempore for the purpose of conducting settlement conferences and facilitating mediation efforts. A list of the Commerce Program Judges Pro Tempore will be posted on the Court's Online Manual when the list is established.

# **DOCUMENTS**

**IN THE COURT OF PHILADELPHIA  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION  
ADMINISTRATIVE DOCKET 01 OF 2000  
IN RE: COMMERCE CASE MANAGEMENT PROGRAM**

AND NOW, this 22nd day of February, 2000, it is hereby ORDERED and DECREED that the following protocols shall apply to all civil cases within the Commerce Case Management Program on or after January 1, 2000:<sup>1</sup>

**Commerce Case Management Program:  
Procedure for Disposition of Commerce Program Cases Filed on and after January 1,  
2000**

A Commerce Case Management Program ("Commerce Program") is hereby established within the Trial Division of the Court of Common Pleas.

**A. Organization**

**1. Judges.** Initially, two judges shall be assigned by the Administrative Judge to the Commerce Program. The number of Commerce Program Judges may thereafter be adjusted by the Administrative Judge consistent with the caseload of the Program.

**2. Filings & Listings.** Upon consultation with the Administrative Judge and the Commerce Program Judges, with the goal of ease of access by the Commerce Program Judges and their staff, the parties and the public, the Prothonotary shall establish procedures for maintenance of filings and listings in actions assigned to the Commerce Program.

**B. Assignment of Cases Subject to Commerce Program**

**1. Cases Subject to Commerce Program.** Notwithstanding anything to the contrary in General Court Regulation 95-2 (Day Forward Program) or

---

The original protocols contained in Administrative Docket 01 of 1999 (Order of 11/9/99) are hereby amended to clarify that discovery motions should be processed through Discovery Court rather than Motion Court (§D6) and further amended to state that a decision regarding whether a case shall be assigned to the Commerce Program is not appealable (§B4). Other minor language changes have also been made.

any other General Court Regulation, Jury, Non-Jury & Equity, and Class Action cases filed on or after January 1, 2000, but not Arbitration cases, shall be assigned to the Commerce Program if they are among the following types of actions:

1. **Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;**
2. **Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:**
  - a. **Uniform Commercial Code transactions;**
  - b. **Purchases or sales of businesses or the assets of businesses;**
  - c. **Sales of goods or services by or to business enterprises;**
  - d. **Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;**
  - e. **Surety bonds;**
  - f. **Purchases or sales or leases of, or security interests in, commercial, real or personal property; and**
  - g. **Franchisor/franchisee relationships.**
3. **Actions relating to trade secret or non-compete agreements;**
4. **"Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;**
5. **Actions relating to intellectual property disputes;**
6. **Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;**
7. **Derivative actions and class actions based on claims otherwise falling within these ten types, and consumer class actions other than personal injury and products liability claims;**
8. **Actions relating to corporate trust affairs;**

9. **Declaratory judgment actions brought by insurers, and coverage disputes and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Commercial General Liability policy, and;**
10. **Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be assigned to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.**

**All of the above types of actions may involve individuals named as parties, in addition to business enterprises, so long as all other criteria are met and the essential nature of the litigation is a business dispute. For example, a dispute over a commercial loan may include individual guarantors as either plaintiffs or defendants, as the case may be, but such a lawsuit would still be a commercial dispute.**

**2. Cases Not Subject to the Commerce Program. The following types of matters are not to be included in the Commerce Program:**

1. **Matters subject to Compulsory Arbitration in this Court or to the jurisdiction of the Municipal Court, including any appeals.**
2. **Personal injury, survival or wrongful death matters.**
3. **Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases.**
4. **Matters involving occupational health or safety.**
5. **Environmental claims not involved in the sale or disposition of a business and other than those addressed in Commerce Program types 9 or 10 above.**
6. **Matters in eminent domain.**
7. **Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise.**
8. **Employment law cases, other than those referenced in Commerce Program type 3 above.**
9. **Administrative agency, tax, zoning and other appeals.**

10. **Petition Actions in the nature of Change of Name, Mental Health Act Petitions, Petitions to Appoint an Arbitrator, Government Election Matters, Leave to Issue Subpoena, Compel Medical Examination.**
11. **Individual residential real estate and non-commercial landlord-tenant disputes.**
12. **Domestic relations matters, and actions relating to distribution of marital property, custody or support.**
13. **Any matter required by statute, including 20 Pa.C.S. Chapter 7, §§711 & 713, to be heard in the Orphans' Court or Family Court Division of the Philadelphia Court of Common Pleas, or other matter which has heretofore been within the jurisdiction of the Orphans' Court or Family Court Division of this Court.**
14. **Any criminal matter other than criminal contempt in connection with a Commerce Program action.**
15. **Such other matters as the Court shall determine.**

3. Assignments Based on the Civil Cover Sheet. **The Civil Cover Sheet, effective January 1, 2000, shall include a box in which the attorney signing the sheet must certify that the action is, or is not, subject to the Commerce Program. A "Commerce Program Addendum to Civil Cover Sheet," a sample of which is attached as Exhibit "A," is hereby required to be filed with all initial filings (i.e., all filings requiring a Civil Cover Sheet) subject to the Commerce Program, filed on or after January 1, 2000. The attorney shall indicate on the Commerce Program Addendum filed with any filing denoted as a Commerce Program matter, the applicable type or types of action which result in the matter being assigned to the Commerce Program. An attorney's signature on the Civil Cover Sheet shall constitute certification that the matter is or is not subject to the Commerce Program, as indicated on the Civil Cover Sheet and Addendum. A copy of the Civil Cover Sheet, including any Commerce Program Addendum, shall be served with the original process served on all parties.**

**All actions designated into the Commerce Program pursuant to the Commerce Program Addendum are hereby assigned to the Commerce Program and to the individual calendar of one of the Commerce Program Judges, who shall be assigned according to a random procedure established by the Administrative Judge. This assignment shall be noted on the Docket. All further filings in the matter shall state prominently in the caption and on any cover sheets that the matter is "ASSIGNED TO COMMERCE PROGRAM."**

**4. Disputes Arising From the Civil Cover Sheet**

**Designation.** If any party disagrees with the designation or lack of designation of a case into the Commerce Program, that party shall file with Civil Listings Room 296 City Hall, to be referred to the Administrative Judge for decision, (which shall not be subject to appeal) and serve on all parties a Notice of Management Program Dispute, in the Form attached as Exhibit "B" and not exceeding three pages, as soon as practical, and no later than the earliest of (a) the filing by that party of any pleading, motion, or response to motion, (b) ten days in advance of a noticed case management conference or (c) thirty days after service of process. Any party opposing the Notice of Management Program Dispute may, but need not, submit a response thereto not exceeding three pages (to Civil Listings Room 296 City Hall) within ten days of service of the Notice.

In the event of the service of a Notice of Management Program Dispute, a copy of that Notice shall be attached to and referenced in all motions and responses to motions filed by any party pending the resolution of the management program dispute.

**C. Commencement of Action**

All subject actions shall be commenced as provided in Pa.R.C.P. 1007. Philadelphia Civil Rule \*205.2 shall be followed. As noted above, in all cases, not just those designated into the Commerce Program, a copy of the Civil Cover Sheet, including any Commerce Program Addendum, shall be served with original process served on all parties.

All jury demands shall be perfected in accordance with Pa.R.C.P. 1007.1 and Phila.Civ. R. \*1007.1.

A party seeking emergency relief immediately upon commencing an action subject to the Commerce Program shall follow the procedure set forth in part D.7 below (Rules to Show Cause and Emergency Motions and Petitions).

**D. Case Management Procedures**

**1. Authority Over Commerce Program Status:** When there is a dispute whether the case is properly assigned to the Commerce Program, the decision will be made by the Administrative Judge. If the Civil Case Manager conducting a case management conference or any party objects to the Commerce Program assignment, the Case Manager will forward the dispute to the Administrative Judge.

**2. Alternative Procedures Available:** The Commerce Program Judge, in his/her discretion, may, upon application of any party or upon his/her own initiative, modify these procedures. Requests for changes in these procedures will be made by filing a Petition for Extraordinary Relief (which Petition calls for a ten-day response time).

**3. The Case Management Conference: Typically, notice of a Case Management Conference ("CMC") will be sent to counsel and unrepresented parties (sixty days after filing) scheduling the CMC for approximately ninety days after filing. In certain circumstances, the CMC may be scheduled through the Commerce Program Judge.**

**a. Presiding Officer: Unless otherwise ordered, the CMC shall be conducted by a Civil Case Manager designated by the Court, acting on behalf of the assigned Commerce Program Judge.**

**b. Issues to be Addressed: The following subjects, along with other appropriate topics, such as service of process, venue, pleadings, discovery, possible joinder of additional parties, theories of liability, damages claimed and applicable defenses (see also Pa.R.C.P. 213.3), will be discussed.**

**(1) Means for Early Disposition**

- a. Timing and potential forms of Alternative Dispute Resolution (ADR). The case manager will make available the list of Commerce Program Judges Pro Tempore (as provided by the Business Litigation Committee of the Philadelphia Bar Association).**
- b. Scheduling pre-discovery dispositive motions, only if oral argument is needed. (Whether to hear oral argument is up to the Commerce Program Judge). The Commerce Program Judge will likely have a half day set aside for hearing Motions and Rules.**
- c. Scheduling limited-issue discovery in aid of early dispositive motions. The Case Manager will advise counsel of the half day Discovery Program set up for that Commerce Program Judge.**

**(2) Schedules and Deadlines**

- a. Assignment to a Case Management Track and issuance of a Case Management Order ("CMO"), which will set forth a target trial date, deemed the earliest trial date pursuant to Pa.R.C.P. 212.1.**
- b. A discovery plan and schedule based on the CMO date for the completion of discovery.**
- c. Anticipated areas of expert testimony, timing for identification of experts, responses to expert discovery, exchange of expert reports (reference to the CMO).**

- (3) Potential Use of a Commerce Court Judge Pro Tempore**
  - a. On stipulation of all parties for supervision of discovery.**
  - b. For mediation.**
  - c. Identification of a particular Commerce Program Judge Pro Tempore acceptable to all parties.**
  - d. The choice of a particular Judge Pro Tempore for these purposes must be approved by the Court.**
  - e. Use of a Pro Tempore Judge for purposes of discovery of mediation cannot affect the deadlines set forth in the CMO.**

**The Commerce Program Judge may establish any informal procedures to achieve expeditious resolution of discovery disputes and other non-dispositive issues. Prior to the CMC, it shall be the obligation of the parties to confer concerning all of the above matters, for the purposes of reaching agreements.**

**5. Case Management Order: At the CMC, the case manager shall issue a Case Management Order ("CMO") setting forth dates for a Settlement Conference and for a Pretrial Conference (with Pretrial Statements typically to be filed in advance), and for Trial. The CMO will also address cut-off dates for completion of discovery, for the service of expert reports and for the filing of Motions.**

**Based upon the nature and complexity of the case, the case manager with input from the parties at the CMC shall assign the case to a track. The Commerce Program shall typically employ the following management tracks: Commerce Expedited (Target Trial Date within 13 months of Complaint) and Commerce Standard (Target Trial Date within 18 months of Complaint). Only exceptionally complicated cases should be designated Commerce Complex (Target Trial Date within Two Years of Complaint). In the latter instance, the Commerce Program Judge may schedule status conferences at six month intervals or at any other times upon application of the parties, if appropriate.**

**The Commerce Expedited Track shall consist of matters in which minimal discovery is needed and legal issues are anticipated to be routine. Examples of such actions, in the absence of complicating factors, are actions relating to commercial loans, and contract, UCC and foreclosure matters. Other matters should presumptively be designated Commerce Standard. Actions in which preliminary injunctive relief is sought may be appropriate for any of the tracks depending upon the circumstances.**

**A suggested form Case Management Order is attached as Exhibit "C." A grid of time standards that will be employed depending upon the applicable Track Case Management Order is attached as Exhibit "D."**

**6. Motion Practice and Discovery Motions.** The Commerce Program Judge to whom the action is assigned will hear all pretrial motions, including discovery motions, except that, to the extent that scheduling or other concerns so require, a Commerce Program Judge may make arrangements for certain discovery and other pretrial motions to be heard by another Commerce Program Judge. All motions (except discovery motions) shall be filed in Motion Court with a designation on the Motion Court Cover Sheet of the assigned Commerce Program Judge. Procedures of the Discovery Court should generally be followed, and filings processed through room 287. In some instances, the Commerce Program Judge may direct further briefing of complex discovery motions. Any Notice of Management Program Dispute that is pending or is being filed contemporaneously with the Motion filing, should be noted in the Motion Court Cover Sheet. Oral argument is at the discretion of the Commerce Program Judge.

A Commerce Program Discovery List for each Commerce Program Judge shall be established so that discovery matters ordinarily will be heard by that Judge on a particular day of the week. Each Judge may also schedule hearings on non-discovery motions on the discovery day, or at such other times as the Court deems appropriate.

**7. Rules to Show Cause and Emergency Motions and Petitions.**

Rules to show cause in cases assigned to the Commerce Program will be presented in the Motions Court, where they will be reviewed as to form, and forwarded to the assigned Commerce Program Judge for consideration.

Unless there is a dispute as to Commerce Program applicability, emergency motions or petitions in a newly filed action presented in a matter appropriate for assignment to the Commerce Program shall be referred to a Commerce Program Judge for disposition. If there is any dispute regarding Commerce Program applicability, that dispute shall be referred to the Administrative Judge or the designee of the Administrative Judge. Parties are encouraged to give the Motion Court advance notice of an emergency motion or petition, including notice that the action is assigned to the Commerce Program or may be appropriate for such assignment. If the assigned Commerce Program Judge is unavailable, an emergency motion or petition in an action already assigned to the Commerce Program shall be heard by the other Commerce Program Judge, if available, with any subsequent hearing referred back to the assigned Commerce Program Judge. If no Commerce Program Judge is available to hear an emergency motion or petition, such motion or petition shall be referred to a Judge assigned to Motion Court (or, if necessary, the Emergency Judge), with any subsequent hearing referred back to the appropriate Commerce Program Judge. An emergency motion heard by a Commerce Program Judge in a case which has not yet gone through the random assignment procedure shall be subject to that procedure prior to any subsequent hearing and the subsequent hearing shall be scheduled before the Commerce Program Judge assigned.

**8. Settlement Conferences.** A settlement conference may be expeditiously scheduled in any case in which counsel concur that such a conference may be productive. Such requests shall be made in writing by letter to the assigned Commerce Program Judge, and in all other respects Local Civ. R. \*212.1(B) should be applied.

Except as otherwise provided in Local Civil Rule \*212.3 (Settlement Conferences-- Non Jury Cases), Commerce Program Judges may assist the parties in reaching a fair and reasonable settlement or other resolution of the matter. To that end, the assigned Commerce Program Judge, in his or her discretion, may schedule one or more formal settlement conferences. The Commerce Program Judge may also encourage the parties to engage in settlement discussions and in any form of Alternative Dispute Resolution (ADR), including the assistance of a Commerce Program Judge Pro Tempore, that may result in settlement, avoidance of trial or expeditious resolution of the dispute. Except upon order of the Court, the pendency of any form of ADR shall not alter the date for commencement of trial.

**9. Pretrial Conference.** A Pretrial Conference shall be held in all Commerce Program actions. At the conclusion of the Pretrial Conference, a Pretrial Order controlling the conduct of trial may be entered. The Court shall exercise its best efforts to try the matter as soon after the target trial date as practicable.

Typically, the CMO will require the filing of Pretrial Statements (Pa.R.C.P. 212.2) in advance of the Pretrial Conference. Prior to the Pretrial Conference, principal trial counsel shall confer on the matters set forth in Pa.R.C.P. 212.3, and attempt to reach agreement on any such matters.

Following the Pretrial Conference, the Commerce Program Judge shall enter a Trial Scheduling Order, identifying the date by which the matter should be prepared for trial, and, if applicable, the date to be placed into a trial pool or the date of any special listings. The Trial Scheduling Order may further provide specific dates, to the extent not already addressed in the Case Management Order, for such matters as:

- A. Exchange of proposed stipulations and filing of stipulations in writing to facts about which there can be no reasonable dispute;**
- B. Pre-marking and exchanging copies of all documents or other exhibits to be offered in evidence at trial;**
- C. Service and filing of written objections to any documents or other exhibits as to which a party intends to object at trial, together with the legal basis for such objections;**
- D. Identification in writing of all deposition testimony, by page and line number, intended to be read into the record at trial, followed by counterdesignations and objections to deposition designations;**

- E. Exchange of trial briefs and proposed findings of fact and conclusions of law (nonjury) or requested points for jury charge (jury).

At such time prior to trial as may be fixed by the Court, it shall rule on all matters placed in issue under this procedure.

In addition, the Commerce Program Judge may establish procedures consistent with the requirements of each case to ensure close interaction with the parties in order to minimize trial time.

E. Commerce Program Judges Pro Tempore And Alternative Dispute Resolution

There shall be established in the Commerce Program, an Alternative Dispute Resolution program for Commerce Program actions, which may include, but is not limited to, mediation and the assistance of Commerce Program Judges Pro Tempore.

1. Panel of Commerce Program Judges Pro Tempore. The Administrative Judge or designee shall designate a panel of Commerce Program Judges Pro Tempore from among volunteers nominated and approved by the Philadelphia Bar Association Business Law Section, Business Litigation Committee, who shall be distinguished attorneys engaged in active practice of law with no less than fifteen (15) years trial experience including a practice focused on the type of litigation described in section B.1 above (Cases Subject to Commerce Program). Commerce Program Judges Pro Tempore shall serve without charge. Persons may be added to or removed from the panel as the Administrative Judge or designee may determine consistent with the qualifications above.

The Court may order a Commerce Program case to be assigned for Settlement Conference to a Commerce Program Judge Pro Tempore who shall, on a date certain, hold a Settlement Conference which must be attended by trial counsel representing the parties and any unrepresented parties. Counsel and unrepresented parties shall provide to the Commerce Program Judge Pro Tempore prior to the Settlement Conference a fully completed Settlement Memorandum, in a form to be established by the Commerce Program Judges. The Commerce Program Judge Pro Tempore on such a referral is not authorized to rule on any motions, but will attempt to facilitate a settlement between the parties.

2. Mediation. a. Referral to Mediation and Selection of Mediator. Commerce Program cases may be referred to nonbinding mediation at the discretion of the Commerce Program Judge, who may make such referrals at the time of the Case Management Conference, at a Pretrial Scheduling Conference referenced above, or at another time. Where appropriate and whether or not mediation is pursued at an early stage of the litigation, the Commerce Program Judge has the discretion to refer cases to nonbinding mediation at a later stage of the proceedings.

The Court may permit the parties to choose the mediator from among the panel of Commerce Program Judges Pro Tempore, or agree to pay for a mediator not on the panel. The order of reference to mediation shall not stay or delay any scheduling dates, unless the Court so orders.

b. Conflicts of Interest. A mediator to whom a case is assigned must disclose to the parties and to the Court any apparent conflict of interest. Unless the mediator determines consistent with any applicable ethical requirements and guidelines that he or she should preside notwithstanding any such apparent conflict interest and the parties and the Court agree that such mediator nevertheless shall preside, another mediator shall be selected.

c. Confidentiality of Mediation. The order referring an action to mediation shall require that the mediator report to the Court the disposition of the mediation in accordance with a schedule as determined by the Court, under the guidelines below. The order shall also provide that all information received by the mediator as to the merits of the matter, including the submitted memoranda, shall remain confidential and not be reported or submitted to the Court by the mediator or the parties, except as necessary in a stipulation of settlement agreed to by the parties.

d. Mediation Procedure. The first mediation session preferably shall be conducted within 30 days of the execution of the order of reference, unless the Court establishes a different schedule. At least ten days before the first session, each party shall deliver to the mediator a copy of its pleadings, any briefs filed in the action important to the mediation and a memorandum of not more than five pages (double-spaced), setting forth that party's contentions as to liability and damages. The memorandum shall be served on all parties, but shall be marked "Confidential, for Mediation Only," and may not be used, cited, quoted, marked as an exhibit or referenced in any proceedings. Attendance at the first mediation session shall be mandatory, and the mediator may require, in addition to the appearance of the attorneys, the presence of the parties or their representatives with authority to settle. If the first session is successful, the settlement shall be reduced to a stipulation, and the mediator shall submit forth with the stipulation, the notice of discontinuance and the report of disposition to the Court. The report of disposition shall be on a form prescribed by the Court Administrator.

e. Report; Extensions. If the action is not settled upon completion of the first session, the mediator may schedule additional sessions on consent of the parties. However, at the end of the first session, any party or the mediator may terminate the mediation effort, and in that case the mediator shall advise the Court forthwith that mediation has been terminated but shall not disclose the identity of any parties who terminated or did not terminate the mediation.

**Except as set forth below, subsequent sessions should be concluded within 15 days from the date by which the first session was to have been held according to the order of reference. The mediator shall report to the Court as to the outcome of the mediation session(s) no later than 20 days from the date by which the first session was to have been held according to the order of reference.**

**If mediation cannot be concluded within 15 days from the date by which the first session was to have been held according to the order of reference, upon consent of all parties a 30-day extension of time to conduct further sessions may be granted by the mediator. If such extension is granted, the mediator shall report to the Court as to the success or lack of success of the additional sessions as soon as practicable but in any event no later than 5 days after the final mediation session.**

**All deadlines and relevant procedures shall be set forth in a standard form order of reference.**

**BY THE COURT:**

---

**John W. Herron  
Administrative Judge  
Trial Division**

**This Administrative Docket is promulgated in accordance with the April 11, 1987 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. \*51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.**

EXHIBIT A

**COMMERCE PROGRAM ADDENDUM  
TO CIVIL COVER SHEET**

This case *is* subject to the Commerce Program because it is not an arbitration matter and it falls within one or more of the following types (check all applicable):

- 1. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;
  
- 2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:
  - (1) Uniform Commercial Code transactions;
  - (2) Purchases or sales of business or the assets of businesses;
  - (3) Sales of goods or services by or to business enterprises;
  - (4) Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
  - (5) Surety bonds;
  - (6) Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
  - (7) Franchisor/franchisee relationships.
  
- 3. Actions relating to trade secret or non-compete agreements;
  
- 4. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;
  
- 5. Actions relating to intellectual property disputes;
  
- 6. Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;
  
- 7. Derivative actions and class actions based on claims otherwise falling within these ten types, and consumer class actions other than personal injury and products liability claims;
  
- 8. Actions relating to corporate trust affairs;
  
- 9. Declaratory judgment actions brought by insurers, and coverage dispute and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Commercial General Liability policy;
  
- 10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be subject to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.

*Instructions:* Please see Commerce Case Management Program: Procedure for Disposition of Commerce Program Cases Filed On and After January 1, 2000. Arbitration matters are not subject to the Commerce Program. Note that the following types of matters are **not** to be included in the Commerce Program:

1. Matters subject to Compulsory Arbitration in this Court or to the jurisdiction of the Municipal Court, including any appeals.
2. Personal injury, survival or wrongful death matters.
3. Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases.
4. Matters involving occupational health or safety.
5. Environmental claims not involved in the sale or disposition of a business and other than those addressed in Commerce Program types 9 or 10 above.
6. Matters in eminent domain.
7. Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise.
8. Employment law cases, other than those referenced in Commerce Program type 3 above.
9. Administrative agency, tax, zoning and other appeals.
10. Petition Actions in the nature of Change of Name, Mental Health Act Petitions, Petitions to Appoint an Arbitrator, Government Election Matters, Leave to Issue Subpoena, Compel Medical Examination.
11. Individual residential real estate and non-commercial landlord-tenant disputes.
12. Domestic relations matters, and actions relating to distribution of marital property, custody or support.
13. Any matter required by statute, including 20 Pa. C.S. Chapter 7, §§ 711 & 713, to be heard in the Orphans' Court or Family Court Division of the Philadelphia Court of Common Pleas, or other matter which has heretofore been within the jurisdiction of the Orphans' Court or Family Court Division of this Court.
14. Any criminal matter other than criminal contempt in connection with a Commerce Program action.
15. Such other matters as the Court shall determine.

EXHIBIT B NOTICE OF MANAGEMENT PROGRAM DISPUTE

FIRM NAME

BY: ATTORNEY NAME

INDENTIFICATION NO.: XXXXX

Attorney for Defendant: XYZ, Inc.

STREET ADDRESS

PHILADELPHIA, PA 191XX

TELEPHONE NO.: XXX-XXX-XXXX

	:	PHILADELPHIA COUNTY
PLAINTIFF	:	COURT OF COMMON PLEAS
	:	
v.	:	_____ TERM, 20XX
	:	
DEFENDANT	:	No: _____

**NOTICE OF MANAGEMENT PROGRAM DISPUTE**

According to the Civil Cover Sheet and Commerce Program Addendum filed by Plaintiff on [date] and served on [date], Plaintiff designated this action as [not subject to the Commerce Program] [or] [subject to the Commerce Program, designating type[s] X [and X]].

[This action is not subject to the Commerce Program because \_\_\_\_\_.]

[or] [This action is subject to the Commerce Program. It is not an arbitration matter and falls within type[s] X [and X] in the Commerce Program types, as identified in the Commerce Program Addendum executed by the undersigned and attached as Exhibit A hereto.]

[Any additional comments, with total document (excluding cert. of service and Commerce Program Addendum) not to exceed three pages.]

\_\_\_\_\_  
Name of Attorney  
Attorney for Defendant, XYZ, Inc.

[Include Certificate of Service identifying date and manner of service and names and

EXHIBIT C CASE MANAGEMENT ORDER

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

*caption* : *court term and number*

**COMMERCE PROGRAM  
CASE MANAGEMENT ORDER**

TRACK

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, it is **ORDERED** that:

1. The case management and time standards adopted for the Commerce Program, " \_\_\_\_\_ track" cases shall apply and are incorporated.
2. All discovery shall be completed no later than \_\_\_\_\_.
3. Plaintiff(s) shall identify and submit Curriculum Vitae and Expert Reports for all expert witnesses intended to testify at trial to all other parties not later than \_\_\_\_\_.
4. Defendant(s) and any additional defendant(s) shall identify and submit Curriculum Vitae and Expert Reports of all expert witnesses intended to testify at trial to all other parties not later than \_\_\_\_\_.
5. All Pretrial Motions (other than Motions in Limine) shall be filed not later than \_\_\_\_\_.
6. A settlement conference may be scheduled at any time after \_\_\_\_\_. On or before that date all parties shall serve on all opposing counsel or pro se parties and file a Settlement Memorandum containing the following:
  - (a) The plaintiff(s) shall provide a concise statement of the theory of the case. The defendant(s) and additional defendant(s) shall provide a concise statement as to the nature of the defense.
  - (b) A statement by the plaintiff(s) itemizing all damages sought by categories and amounts.
  - (c) Defendant(s) and additional defendant(s) shall identify all applicable insurance carriers, together with corresponding limits of liability.

7. A Pretrial Conference may be scheduled at any time after \_\_\_\_\_. Fifteen days prior to the Pretrial Conference, all parties shall file and serve on all opposing counsel or pro se parties a Pretrial Statement containing the following:
- (a) The plaintiff(s) shall provide a concise statement of the theory of the case. The defendant(s) and additional defendant(s) shall provide a concise statement as to the nature of the defense;
  - (b) A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
  - (c) A list of all exhibits the party intends to offer into evidence. All exhibits shall be numbered and exchanged among counsel prior to the Conference. Counsel should expect any exhibit not listed to be precluded at trial;
  - (d) Plaintiff(s) shall itemize all damages claimed by category and amount;
  - (e) Defendant(s) and all additional defendant(s) shall state a position regarding the damages claimed and identify all applicable insurance carriers, together with applicable limits of liability; and
  - (f) An estimate of the anticipated length of trial.
8. It is expected that the case will be ready for trial \_\_\_\_\_, which is the earliest trial date pursuant to Pa. R.C.P. 212.1, and counsel should anticipate trial to begin expeditiously thereafter.
9. All counsel are under a continuing obligation, and hereby **ORDERED** to serve a copy of this Order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this Order.

BY THE COURT:

\_\_\_\_\_  
, J.

**Exhibit D: Commerce Program Management Tracks**

<b>Commerce Program Time Standards by Track</b>			
<b>Case Event</b>	<b>Commerce Expedited</b>	<b>Commerce Standard</b>	<b>Commerce Complex</b>
Case Management Conference	3 months	3 months	3 months
Status Conference	Discretionary	Discretionary	Discretionary <sup>1</sup>
Discovery Complete	6 months	11 months	17 months
Plaintiff Expert Reports	6 months	11 months	17 months
Defendant Expert Reports <sup>2</sup>	8 months	13 months	19 months
Motions Filed	8.5 months	13.5 months	19.5 months
Settlement Conference	11 months	16 months	22 months
Pretrial Conference	12 months	17 months	23 months
Trial	13 months	18 months	24 months

---

<sup>1</sup>A Status Conference may be scheduled at six month intervals if requested by counsel and approved by the Court.

<sup>2</sup> The Court will provide for rebuttal expert reports to the extent appropriate.

# **DAY FORWARD PROGRAM**

**DAY FORWARD PROGRAM  
(MAJOR JURY)**

The Day Forward Program encompasses Major Civil Jury Cases (except Mass Tort Cases). Day Forward Case Management is the system that has been created to coordinate and schedule these cases for trial. To manage these cases more effectively, Judges assigned to this Program are divided into Teams. Judge Tereshko is the Team Leader for the few remaining 1996 Major Jury cases. Judge Allen and Judge Moss are the Team Leaders for all 1997 Major Jury cases. Judge Bernstein and Judge New are the Team Leaders for the Major Jury Cases filed in 1998. Judge Tereshko is the Team Leader for the 1999 Major Jury Cases. Judge Quinones Alejandro is the Team Leader for all major jury cases filed in 2000.

To assure effective case management, every case in the Day Forward Program is scheduled for a Case Management Conference before a Case Manager approximately ninety days after its initial filing. Case Management conferences are held in Room 613, City Hall. **If there are any questions about the scheduling or rescheduling of a Case Management Conference, the Case Management Center (686-3710) should be contacted -- not the Judge's Chambers.**

The Civil Case Managers and their telephone numbers are as follows:

Annette Ferrara, Esquire	686-3778
Charles Pelletreau, Esquire	686-3779
Stanley Thompson, Esquire	686-3796

One of the main objectives of the Case Management Conference is obtaining early

disclosure of basic information about each case so that it can be managed more effectively. All counsel are therefore required to attend the Case Management Conference. Counsel attending the conference must be knowledgeable about the case. In preparation for this conference, all parties must complete and submit a Case Management Conference Memorandum. Based on this information, the Case Manager prepares a Case Management Order that establishes the schedule for each case. This Case Management Order sets deadlines for discovery, the exchange of expert reports and the filing of motions. A presumptive month is set for a Settlement Conference, a Pre-trial Conference and a trial. These deadlines may not be extended except by Motion for Extraordinary Relief directed to the appropriate Team Leader. The motion must be filed prior to the expiration of the deadline in question.

Another important task at the Case Management Conference is the assignment of all cases into an appropriate "track." All cases are classified at the Case Management Conference into one of three case management tracks: Expedited, Standard, and Complex. Expedited Track cases are brought to trial one year after filing; Standard Track cases are tried within eighteen months; Complex Track cases are tried within two years. Disputes regarding the placement of a case in a certain track or in a program other than Major Jury can be resolved by filing a Petition for Extraordinary Relief asking the Judge to reconsider the assignment. By and large, the Court has met these admittedly ambitious goals.

After discovery has been completed in a particular case, a Settlement Conference is held before a Special Judge Pro Tempore. The Judge Pro Tempore is an experienced attorney who will assist counsel in their good faith efforts to reach a voluntary and just resolution of the lawsuit. The Special Judges Pro Tempore work directly under the supervision of the Team Leader and the

results of each conference are reported to the Team Leader. Settlement Conferences are conducted in the Dispute Resolution Center, Room 691, City Hall.

If counsel fail to negotiate in good faith or are unprepared at the Settlement Conference, the Special Judge Pro Tempore may issue a Rule to Show Cause before the Team Leader who will address the failure to participate appropriately in the Settlement Conference. At the conclusion of the Settlement Conference, those cases that have not been resolved will be scheduled for a Pre-trial Conference.

Prior to this Pre-trial Conference, the parties are required to file a detailed Pre-trial Memorandum with the Team Leader. In this Pre-trial Memorandum, each party must identify by name and address every witness that will be called at trial; in addition, they must identify, exchange and pre-mark every exhibit for trial. Only those witnesses and exhibits identified in the Pre-trial Memorandum are permitted at trial. At the Pre-trial Conference, counsel are expected to discuss all aspects of settlement and trial. At the conclusion of the Pre-trial Conference, a trial date is given and an Order for Trial is entered. As a practical matter, it is obvious that the preparation of a complete, effective Pre-trial Memorandum effectively presupposes that counsel have prepared their cases for trial. The earlier settlement conference before the Special Judge Pro Tempore is thus the final opportunity to resolve a case and avoid the necessity of extensive trial preparation. Finally, to maintain consistent oversight of a case, each Team Leader and the team of Judges will rule upon all motions, including discovery motions, presented with respect to cases assigned to their respective Team.

A major goal of the Day Forward Program is to achieve the expeditious scheduling of trials. The court has therefore adopted a protocol for assigning certain cases to trial pools. This protocol

can be found at <http://courts.phila.gov/regs/1998/cptad981.htm>. All expedited and standard track cases are considered appropriate for pool assignment since the volume of major jury filings annually (approximately 5,000 major jury cases) precludes assigning fixed trial dates other than to complex cases.

## **DOCUMENTS**

2000

PRIORITY OF CASES

ALL CIVIL CASES

A. COMPLEX CASES (day certain trial date; 2 cases per team Judge listed weekly)

1. Complex Day Backward
2. Complex Day Forward 95
3. Complex Day Forward 96
4. Complex Day Forward 97
5. Complex Day Forward 98

B. POOL CASES (expedited or standard cases; subject to call on next day notice)

1. Pool Day Forward 98
2. Pool Day Forward 99
3. CLC - Major Non-Jury
4. CLC - Pool Arbitration Appeal

Administrative Docket No. 1 of 1998

Protocol for Trial Pools in the Day Backward and Day Forward Programs

See: <http://courts.phila.gov/regs/1998/cptad981.htm>

# **DISPUTE RESOLUTION CENTER**

This overview of the Dispute Resolution Center was prepared by the Honorable John W. Herron and Charles A. Mapp, Deputy Court Administrator of the Philadelphia Court of Common Pleas.

## **DISPUTE RESOLUTION CENTER**

The recently constructed Dispute Resolution Center of the Philadelphia Court of Common Pleas provides a centralized location for mandatory settlement conferences. In so doing, it encourages uniform procedures for these conferences while offering litigants elegantly modernized facilities for the disposition of civil cases within historic City Hall. The Dispute Resolution Center is located on the sixth floor of City Hall in room 691. Its hours of operation are Monday through Friday from 8:00 a.m. to 5:00 p.m.

### **MANDATORY SETTLEMENT CONFERENCE**

Mandatory Settlement Conferences are held in every major jury case in the Dispute Resolution Center before a Judge Pro Tempore. These conferences are scheduled by the Case Management Order that is issued in all cases approximately 90 days after the initial filing. Approximately 30 days before the Conference, the Court sends a notice to all counsel of record and unrepresented parties, notifying them of the date, time and place of their settlement conference. This information will also be displayed on the first page of the docket.

### **Presiding Officer**

Judges Pro Tempore (Judges Pro Tem) are recruited to preside over Settlement Conferences. In addition, Judicial Team Leaders are available to participate in the conference if necessary or useful.

The Judge Pro Tem reviews the case file prior to the conference and is thus prepared to

discuss all issues with counsel. The Dispute Resolution Center is fully equipped with computers to give the Judge Pro Tem access to the most recent docket information. If the case does not settle at the conference, the Judge Pro Tem is available by phone for follow-up conferences and to assist the parties further as requested. These follow-up conferences and calls, however, will not delay the court's schedule for this case. At the conclusion of the Settlement Conference, the Judge Pro Tem must complete a settlement conference report for each case, which should include the value of the case and references to salient issues. This report is forwarded on to the Judicial Team Leader along with the case file in preparation for the next event, the final Pre-trial Conference.

### **Responsibilities of Counsel and Parties**

Counsel and unrepresented parties must appear at the settlement conference, on time **and with full settlement authority** from their clients. The parties and claim representatives do not have to appear with counsel but they **must** be available by phone during the conference. Failure of counsel to appear and failure of a party or claim representative to be available by phone during the conference will result in the issuance of a Rule to Show Cause before the appropriate Judicial Team Leader.

Counsel and unrepresented parties shall appear at the conference with a self-addressed, stamped, envelope. The envelope will be used to forward either a Pre-trial Order (if the case does not settle), or a Settlement Order (if the case settles). If the case settles on or before or after the settlement conference, counsel shall notify the court immediately **in writing**. Any questions or scheduling inquiries must be directed to Frank E. Checkovage, Manager of the Dispute Resolution Center (686-7914).

# **COMPLEX LITIGATION CENTER**

This overview of the Complex Litigation Center was prepared by the Honorable Joseph D. O'Keefe and Mary McGovern, Manager of the Complex Litigation Center of the Philadelphia Court of Common Pleas.

## **COMPLEX LITIGATION CENTER PROGRAMS**

### **I. INTRODUCTION**

The Complex Litigation Center was the first courthouse in the United States designed exclusively for complex, multi-filed Mass Tort cases when it opened on February 10, 1992.<sup>2</sup> It is located on the 12th Floor of the Wanamaker Building (on the southeast side of City Hall). The Honorable Joseph D. O'Keefe supervises the administration of all Complex Litigation Center programs and is assisted by Manager Mary McGovern, whose telephone numbers are (215) 686-5100 (voice) and 563-1623 (fax).

The Mass Tort Program calendar includes litigation involving Asbestos, DES, L-tryptophan, Lead Paint, Breast Implants, Orthopedic Bone Screws, Repetitive Stress\Carpal Tunnel Syndrome, Norplant, Benzine, Tylenol, Pseudo-Psychiatric and Phen-Fen. Other calendars administered at the Center include the Major Non-Jury Docket and Appeals from Arbitration.

### **II. OVERVIEW OF PROGRAMS**

#### **A. Mass Tort Programs**

A Mass Tort action is commenced in the same way as other civil actions. Every complaint must have the Mass Tort type prominently displayed on the complaint, i.e., Asbestos, Lead Paint, to ensure that the case is assigned to the appropriate program. These actions, including asbestos, are currently on an 18-24 month track.

---

Commentators analyzing the explosion of mass tort litigation in the 1980's observed that "[r]eflecting the special treatment courts accord mass claims, at least one trial court (the Philadelphia Court of Common Pleas) has formally established a "mass torts" calendar, administered by a special cadre of judges operating out of a specially equipped facility." Hensler & Peterson, "Symposium: Reinventing Civil Litigation: Evaluating Proposals for Change: Understanding Mass Personal Injury Litigation: A Socio-Legal Analysis," 59 Brooklyn Law Review, 961, 964 n.16 (1993)(emphasis added).

In every Mass Tort program, there are regular monthly or bi-monthly meetings of counsel, the Supervising Judge and the Manager. These meetings are mandatory and are designed to encourage participation by counsel in creating case management procedures tailored to each program.

### **Case Management Orders**

Case Management Orders are issued in every Mass Tort program. The orders are created cooperatively by the Supervising Judge and counsel. Case Management Orders designate when and how actions can be filed, outline motion and discovery procedures, provide the names of liaison counsel and set forth trial schedules. Case Management Orders may be obtained from the Supervising Judge's chambers or by contacting Mary McGovern at the Center.

### **Standardized Procedures**

Standardized Procedures have been created for all Mass Tort programs as a result of Bench\Bar collaboration and cooperation on such issues as pleadings, discovery, depositions and document depositories. Any questions concerning standardized procedures may be directed to liaison counsel in each program and/or Mary McGovern, Deputy Manager, 686-5100.

### **Motions**

All Mass Tort motions are assigned to The Honorable Joseph D. O'Keefe, Supervising Judge, for disposition. The revised Mass Tort Motion Procedures are outlined at the end of this section.

## **Mass Tort and Asbestos Trial List**

Mass Tort cases with a trial date are published in The Legal Intelligencer for a four week period prior to trial under the heading "Mass Tort Trial List." Separately, there is a monthly "Asbestos Trial List" that appears in The Legal Intelligencer every Monday. The Asbestos list follows the case flow system created through the cooperative efforts of the Supervising Judge and counsel.

Cases are grouped by plaintiffs' firm, disease and worksite. Plaintiffs' counsel group cases pursuant to a list provided by the Supervising Judge. Defense counsel may review the groups and raise objections. The court coordinates the trial groupings and creates the Monthly Trial lists. Groups are identified by plaintiffs' firm and are consecutively numbered. Upon disposition, group numbers are retired. Accordingly, numbers may not be sequential.

### **B. Major Non-Jury Program**

All Major Non-Jury cases, including Equity cases, are listed in chronological order and scheduled for a Status\Trial Scheduling Conference every Monday at 2:00 p.m. in courtroom 12-G of the Complex Litigation Center. Non-Jury cases are on a 10-12 month track with a discovery deadline 8 months from commencement. Cases are listed weekly and each case is assigned a trial date as well as a mandatory settlement conference date. A Pre-Trial Order is issued in all non-personal injury cases and a Settlement Conference Memorandum is issued in all personal injury cases. Failure to comply with the terms and conditions set forth in the Order and Memorandum will result in the imposition of appropriate sanctions. Notice of this conference is published in The Legal Intelligencer beginning on Tuesday and ending on Monday, the day of the conference. All counsel are required to notify opposing counsel as well as pro se litigants of the conference in

writing via facsimile or regular mail. No continuances are granted. However, if trial counsel is unavailable, a representative may appear who is familiar with the procedural history of the case as well as with counsel's trial schedule. Failure to appear results in the scheduling of a Rule Returnable Hearing at which time appropriate sanctions are imposed by the Supervising Judge.

### **III. GENERAL PROCEDURES**

#### **Motions**

In both the Major Non-Jury and Arbitration Appeal Programs, the motion procedures are consistent with those set forth in the Pennsylvania Rules of Civil Procedure and the Philadelphia Local Rules.

#### **Complex Litigation Center Trial Lists**

All cases scheduled for trial at the Complex Litigation Center, other than Mass Tort Cases, are listed for trial by trial date on lists published in The Legal Intelligencer for a four week period. Cases are not tried in numerical order because every case listed will be assigned on its trial date. Therefore, all trials commence immediately. Non-Jury and jury cases are tried in a "piggy-back" fashion: while a jury is being selected, the Trial Judge presides over a Non-Jury case. Thus, two courtrooms operate simultaneously resulting in judicial efficiency and economy.

#### **Jury Selection**

Jury selection is conducted at the Complex Litigation Center under the direction of the Supervising Judge.

### **Applications for Continuance**

All applications for continuance in any program assigned to the Complex Litigation Center must be directed to the Supervising Judge, attention Mary McGovern, and must be submitted in writing. The request must set forth a sound reason for a continuance such as a medical or family emergency. Questions concerning any program assigned to the Complex Litigation Center may be directed to Mary McGovern at (215) 686-5100.

### **REVISED MASS TORT MOTION PROCEDURES**

The Mass Tort Motion Procedures were revised February 11, 1998. All prior motion procedures are obsolete.

1. The motion should be in letter-brief rather than motion package format. Its caption must specify the type of litigation and name opposing counsel. Facts, issues, and pertinent case law should be briefly outlined. Each motion must include a proposed order, a self-addressed stamped envelope, and a signed Attorney Certification of Good Faith.

2. This Certification shall attest that counsel making same has spoken with opposing counsel regarding the subject of the motion in an effort to resolve the specific dispute at issue, and that despite counsel's good faith efforts, counsel has been unable to do so.

3. The movant must present the original motion to the Prothonotary, Second Filing, room 280, City Hall, for time stamping. The proper fee must be paid for all motions. No formal filing with Motions Court is required.

4. Motions must be filed by 4:30 p.m. on a Monday, or they will be deemed filed the following Monday. The opponent must receive a copy that same day by facsimile or hand

delivery. The stamped, original motion should be sent or delivered to the attention of Motions Clerk, 1266 Wanamaker Building, 100 Penn Square East, Philadelphia, Pa. 19107.

5. If the motion is **opposed**, the opponent must answer in the format stated in Paragraph 1 by the following Monday at 4:30 p.m. This answer should be sent or delivered directly to Motions Clerk, 1266 Wanamaker Building, 100 Penn Square East, Philadelphia, Pa. 19107. No fee need be paid for a response. The movant and all other parties must receive a copy that same day by facsimile or hand delivery.

6. If the motion is **unopposed**, the Court must receive a letter stating this. 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.

7. The Court will docket the original signed order and mail a copy of the signed order via the self-addressed stamped envelope.

8. Oral argument on motions will be scheduled by the court as needed.

9. A brief call of the Asbestos List will be conducted every Monday at 9:30 a.m. at which time stipulations may be presented to the Court. Each stipulation must contain a self-addressed stamped envelope; a copy of the signed stipulation will be forwarded to counsel via this envelope, who are then charged with distributing copies to all other counsel.

**HON. JOHN W. HERRON**  
**Administrative Judge**

**HON. JOSEPH D. O'KEEFE**  
**Supervising Judge**

# **COMPULSORY ARBITRATION PROGRAM**

This overview of the Compulsory Arbitration Center was prepared by Dale G. Larrimore, Esquire, a partner in the firm of Deutsch, Larrimore, Farnish & Andersson, L.L.P. and by Joseph L. Hassett, Esquire, Director of the Arbitration Center.

## COMPULSORY ARBITRATION CENTER

### *Introduction*

All civil actions filed in the Court of Common Pleas of Philadelphia County with an amount in controversy of \$50,000 or less, excluding equitable actions and claims to real estate, must first proceed to a compulsory arbitration hearing before a panel of three attorneys who have been certified by this Court to serve as arbitrators.

With more than 25,000 cases a year concluded at the arbitrators' level, the Compulsory Arbitration Program in Philadelphia County is one of the most successful programs of its kind in the nation. In a continuing effort to improve the effectiveness and efficiency of the Arbitration Center, Administrative Judge John W. Herron appointed Joseph L. Hassett, Esquire, as Director of the Arbitration Center. Mr. Hassett, who replaced retired Donald A. Smith in July 1998, has become the first attorney to head the program. The Director is responsible for overseeing the day to day operations of the Center and is available to provide procedural and legal support to our arbitration panels if necessary. In addition, the Director, under the supervision of our Motion Program Judges, is charged with the critical function of ruling on continuance and rescheduling applications.

**Please note that all continuance requests are strictly governed by Phila. Civ. R. \*1303(c). Moreover, emergency continuance applications will only be granted when the basis for the request could not have been previously anticipated.**

It is strongly advised that all counsel who practice at the Arbitration Center become thoroughly familiar with our Arbitration practice and procedure so that the arbitration process will run smoothly. **Special attention should be given to Phila.Civ. R. \*1303(a), which was**

**amended by the Board of Judges on November 19, 1998, effective January 1, 1999. The dramatic effect that this amendment has had on Arbitration cases listed after September 1, 1999 when one or both parties fail to appear for arbitration is briefly discussed in this section.**

## **I. ARBITRATION PROCEDURE**

Compulsory Arbitration in the First Judicial District is controlled by the arbitration rules of the Pennsylvania Rules of Civil Procedure<sup>1</sup> and the Philadelphia Civil Rules.<sup>2</sup> Except as provided in those rules, the normal procedural and evidentiary rules control.

### **A.. Commencing Litigation in Compulsory Arbitration**

The date and time for the arbitration hearing are assigned by the Prothonotary at the time of filing of the complaint or writ of summons,<sup>3</sup> with hearing dates listed approximately 8 months thereafter. The initial filing in arbitration must include a 3 inch space on the cover page, for the Prothonotary's stamp which lists the date of the arbitration hearing. The cover sheet must also include, in upper case letters, in the upper, right hand corner, the phrase, "This is an Arbitration Case" and a notation of whether or not an "Assessment of Damages is/is not required."<sup>4</sup>

---

<sup>1</sup> Pa.R.C.P. 1301 - 1314.

<sup>2</sup> See Philadelphia Civil Rules \*1301-\*1305 and \*1308. These Arbitration Rules in Philadelphia County were substantially revised in 1995, effective July 17, 1995 and in July 1998, effective January 1, 1999.

<sup>3</sup> Philadelphia Civil Rule \*1303(a).

<sup>4</sup> Philadelphia Civil Rule \*1303(a).

Actions filed to preserve the subrogation rights of an uninsured motorist insurance carrier can be placed in deferred status, with no hearing date scheduled. The Writ of Summons or Civil Action Complaint should include the notation "Uninsured Motorist Savings Action" or "Deferred" on the cover page, immediately below the request for arbitration. The case will then be placed in deferred status and no actual hearing date will be scheduled.<sup>5</sup>

As of January 1, 1999, the prothonotary in Philadelphia will also stamp the initial summons or complaint with the following language:

"This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge." Philadelphia Civil Rule \*1303(a)(1), as amended November 19, 1998, effective January 1, 1999.

This procedure was adopted in response to the amendment of Pennsylvania Rule of Civil Procedure 1303 on July 30, 1998, effective January 1, 1999. The explanatory comments<sup>6</sup> to this amendment outline the rationale for its elimination of the right to a trial de novo on appeal from a decision entered by a Judge where the parties were so advised in their notice of hearing. The comments also suggest the options available to parties seeking relief from a decision entered by a Judge.

---

<sup>5</sup> Philadelphia Civil Rule \*1303(b)(1)(i).

<sup>6</sup> The explanatory comments were prepared by the Civil Procedural Rules Committee.

## **B. Service of Process**

Plaintiff must make a diligent effort to effectuate service of the complaint on the defendant. If initial service is unsuccessful, counsel must immediately begin a good faith search for the defendant and attempt a second actual service on any new address obtained. Thereafter, a Petition for Alternative Service can be filed, demonstrating counsel's diligent efforts to obtain service on the defendant and requesting permission for alternative service.<sup>7</sup> Before substituted service will be permitted, the plaintiff must have demonstrated "a good faith effort to locate the defendant through more direct means."<sup>8</sup> An application for a continuance due to service not being effected upon defendants must include facts establishing the plaintiff's contention that due diligence has been exercised, which shall include the dates of attempted service, a statement that substituted service could not have been obtained prior to the Arbitration Hearing date, and a certification that a Petition for Alternative Service has been filed.<sup>9</sup>

If service is not effectuated on the defendant prior to the scheduled arbitration hearing date, and no continuance has been obtained in accordance with Philadelphia Civil Rule 1303(c)(5)(i), an Award will be entered in favor of the defendant.<sup>10</sup>

---

<sup>7</sup> Pa.R.C.P. 430.

<sup>8</sup> Romeo v. Looks, 369 Pa.Super. 608, 535 A.2d 1101, 1106 (1987).

<sup>9</sup> Philadelphia Civil Rule \*1303(c)(5)(i), as amended 1995.

<sup>10</sup> Philadelphia Civil Rule \*1303(j), as amended 1996, effective 1\13\97.

### **C. Discovery**

All of the discovery tools allowed under the Pennsylvania Rules of Civil Procedure are also available for arbitration cases. Counsel can utilize interrogatories, requests for production, requests for admissions and depositions as appropriate for any case in arbitration.

Counsel must follow the discovery motion procedure in Philadelphia. In addition, the moving party must obtain Court approval to file a motion if it is within 45 days of the hearing.<sup>11</sup>

### **D. Pre-Hearing Procedure and Continuances**

The Philadelphia Arbitration Center is run on a day to day basis by the Director of the Arbitration Center. All requests for continuances, rescheduling or other relief must be submitted on the designated form, a **Continuance Arbitration Application**. A copy of the application **must** be mailed, delivered or faxed to opposing counsel and unrepresented parties contemporaneously with its filing with the Arbitration Center, and delivered to the other parties in the same manner as the original filing.<sup>12</sup> All continuance applications must include stamped envelopes pre-addressed to all counsel or unrepresented parties.<sup>13</sup> The Director of the Arbitration Program shall rule on the request for continuance. Oral argument is not authorized

---

<sup>11</sup> Philadelphia Civil Rule \*1303(h). Court approval is obtained by filing a Miscellaneous Arbitration Application form, accompanied by a copy of the Motion or Petition along with stamped envelopes addressed to all counsel and unrepresented parties.

<sup>12</sup> Philadelphia Civil Rule \*1303 (c)(3).

<sup>13</sup> Philadelphia Civil Rule \*1303(c)(2).

and the ruling is not subject to judicial review.<sup>14</sup> "Counsel are cautioned not to call or write the Arbitration Center for status of the Application, or to request 'reconsideration' in the event the Continuance Application is denied."<sup>15</sup>

Counsel are forewarned that there is no automatic right to obtain a continuance of an arbitration even if all counsel agree. Philadelphia Civil Rule \*1303(c) must be followed by attorneys requesting a continuance and the guidelines in this rule must be followed.<sup>16</sup> In general, there is a strict rule against continuances.

It should be noted, however, that the local rules now do provide for a right to **advance** or **reschedule** an arbitration date, on agreement of all parties.<sup>17</sup> As the explanatory note to Philadelphia Civil Rule 1303(d) notes, "a conflict with a scheduled Arbitration Hearing date may be resolved by agreeing to an earlier Arbitration Hearing."<sup>18</sup> Beginning January 25, 1996, an arbitration hearing may be **rescheduled** by agreement of all parties, to a new date within two weeks of the original scheduled hearing date.<sup>19</sup> A hearing can be rescheduled only one time and all counsel and unrepresented parties must agree on a specific date and sign the Compulsory Arbitration One-Time Only Rescheduling Agreement.

---

<sup>14</sup> Philadelphia Civil Rule \*1303(c)(3).

<sup>15</sup> Explanatory Note to Philadelphia Civil Rule \*1303 (c)(3).

<sup>16</sup> Philadelphia Civil Rule \*1303(c).

<sup>17</sup> Philadelphia Civil Rule \*1303(c)(7) and (d).

<sup>18</sup> Philadelphia Civil Rule \*1303(d).

<sup>19</sup> Philadelphia Civil Rule \*1303(c)(7).

### **E. Consolidation**

Generally, if two arbitration cases are consolidated prior to the hearing date of either, the actions shall be heard on the date assigned to the last filed consolidated case.<sup>20</sup> Cases can not be consolidated by stipulation and Petitions for Consolidation must be formally presented.<sup>21</sup> If a Petition for Consolidation is filed within 45 days of the arbitration hearing date, counsel must obtain consent of the Court for filing the Petition by also filing a Miscellaneous Arbitration Application.

### **F. Settlement**

Immediate written notification of settlement of an arbitration case should be sent to the Director of the Arbitration Program.<sup>22</sup> When a case is settled just prior to a hearing prompt notice is still required. This is important so that the Arbitration Center can plan properly and schedule an appropriate number of arbitrators for the Center for each day of its operation. If there is not time to send notification by mail, please fax a letter to the Arbitration Center (215-686-9594) informing them of the settlement of any case listed for a hearing.

## **II. THE ARBITRATION HEARING**

### **A. The Arbitration Center**

All Compulsory Arbitration hearings are held in the Court of Common Pleas Arbitration Center located on the 2nd Floor of 1601 Market Street, in Philadelphia. Counsel, clients and witnesses should be present in the Assembly Room prior to the assigned time for the

---

<sup>20</sup> Philadelphia Civil Rule \*1303(e).

<sup>21</sup> Order of Honorable John W. Herron, Administrative Docket No. 1996-03, first published in the *Legal Intelligencer* on August 27, 1996.

<sup>22</sup> Philadelphia Civil Rule \*1303(i).

hearing. On arrival at the Arbitration Center for a hearing, counsel should check in with the clerk at the front of the room. Have the Court Term and Number of the case ready to speed the process along for all concerned.

After all parties are present, a case is placed in ready status for a hearing. There is a call of the list of cases which have not been marked ready. If all parties fail to appear when called, the case will be submitted to an arbitration panel for entry of an award in favor of the defendant.<sup>23</sup> Cases that are ready will be assigned out by name to available arbitration panels in the sequence that they were ready.

**B. Assignment to a Hearing Room**

There are usually eight to twelve panels of arbitrators sitting simultaneously in the various hearing rooms available at the Arbitration Center. As cases are ready and hearing rooms are available, the cases will be assigned to a hearing room for disposition in the order that they were marked ready. One of the attorneys will be asked to carry the court file to the chair of the panel in the assigned room. When a panel of arbitrators concludes a case, notification is given to the clerk in the assembly room and another ready case is then assigned to that panel.

Arbitration panels consist of three attorneys engaged in the active practice of law, with principal offices in Philadelphia.<sup>24</sup> Arbitrators must have at least one year (five years for the chairperson) of legal experience in Pennsylvania, must have tried a case in any forum within

---

<sup>23</sup> See generally, Rieser v. Glukowsky, 435 Pa.Super. 530, 646 A.2d 1221 (1994). See also, Sections C & D, infra.

<sup>24</sup> Philadelphia Civil Rule \*1302(b).

Pennsylvania, and must have attended a court-approved arbitration training seminar.<sup>25</sup>

Arbitrators should identify themselves and the firms with whom they are employed on a board in the hearing room. If there is a potential ground for disqualification of a panel member from hearing that case, counsel should point this out to other counsel and the arbitration panel. Any arbitrator who would be disqualified for any reason that would disqualify a Judge under the Code of Judicial Conduct has an obligation to withdraw as an arbitrator.<sup>26</sup>

After delivery of the Court file to the chairperson of the panel in the assigned hearing room, the arbitrators will begin to review the pleadings. Each counsel should write his or her name and address on one of the envelopes provided in each hearing room. These envelopes will be used to mail the decision of the arbitrators to counsel.

The chairperson of the arbitration panel will administer the oath or affirmation to all witnesses.<sup>27</sup> Any party may elect to have a stenographic record made of the hearing at that party's expense, with any other party being given an opportunity to obtain a copy on payment of a proportionate share of the total cost.<sup>28</sup> The hearing itself should be conducted as a non-jury trial, in conformity with Rule 1038(a) of the Rules of Civil Procedure, except as otherwise provided in the arbitration rules.<sup>29</sup>

---

<sup>25</sup> Philadelphia Civil Rule \*1302(b). The court-approved seminar is run by the Philadelphia Bar Education Center.

<sup>26</sup> Pa.R.C.P. 1302.

<sup>27</sup> Pa.R.C.P. 1304(b).

<sup>28</sup> Pa.R.C.P. 1304(c).

<sup>29</sup> Pa.R.C.P. 1304(a).

### **C. Failure to Appear at Arbitration**

Under recent amendments to the Pennsylvania Rules of Civil Procedure a court, with the consent of the parties present, may take action not available to the arbitrators if a party fails to appear for an Arbitration Hearing and the Complaint, Writ of Summons or Scheduling Notice contains the following statement:

This matter will be heard by a Board of Arbitrators at the time, date and place specified but if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a Judge of the Court without the absent party or parties. There is no right to a trial de novo or appeal from a decision entered by a Judge.<sup>30</sup>

Specifically, the court may take action not available to the arbitrators including entry of a nonsuit if the plaintiff is not ready or a non pros if neither party is ready. If the defendant is not ready, the Court may hear the matter and enter a decision.<sup>31</sup>

Under the current procedure, the Arbitration Center shall certify the record when a party fails to appear and immediately assign the case for a non jury trial at the Complex Litigation Center the same day. If all parties fail to appear, the Arbitration Center will certify for the record that all parties failed to appear and the appropriate disposition with thereafter be entered by the Motions Program Judge.<sup>32</sup>

Relief from the decision of the Court will be by motion for post trial relief following the

---

<sup>30</sup> See Pa.R.C.P. 1303, amended July 30, 1998, effective Jan. 1, 1999, and Phila Civ. R. \*1303, amended Nov. 19, 1998, effective Jan. 1, 1999.

<sup>31</sup> If all parties present do not consent to being heard by a Judge, the case will be assigned to an arbitration panel for disposition.

<sup>32</sup> Pa.R.C.P. 1303 notes that a party is present if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.

entry of nonsuit or assessment or by petition to open a judgment of non pros.<sup>33</sup>

**D. Conduct of Hearing**

**(i) Opening Statements:** Each counsel has the right to present an opening statement, but they should be brief, to the point and non-argumentative.

**(ii) Witnesses:** Each party has the right to present whatever witnesses are necessary to prove the elements of the claim or defense. With the exception of specific arbitration rules on documentary evidence,<sup>34</sup> the rules of evidence shall be followed in all compulsory arbitration hearings.<sup>35</sup> All evidentiary rulings are made by the arbitration panel<sup>36</sup> with such rulings by majority decision.<sup>37</sup> The local rule in Philadelphia provides that the established rules of evidence shall be "liberally construed to promote justice."<sup>38</sup>

**(iii) Documentary Evidence:** The most significant procedural rule is the relaxation of normal rules of evidence with regard to certain types of documentary evidence, which may be introduced, without authentication, subject to objections as to relevance or to any other objection to admissibility other than authenticity. A copy of any such document must be provided to the adverse party twenty days before the hearing, together with written notice of

---

<sup>33</sup> See explanatory notes following Pa.R.C.P. 1303.

<sup>34</sup> Pa.R.C.P. 1305(b) and Philadelphia. Civil Rule \*1305(b).

<sup>35</sup> Pa.R.C.P. 1305(a).

<sup>36</sup> Philadelphia Civil Rule \*1305(a).

<sup>37</sup> Pa.R.C.P. 1305(a).

<sup>38</sup> Philadelphia Civil Rule \*1305(a).

the intention to offer such documents into evidence.<sup>39</sup>

Rule 1305 of the Pennsylvania Rules of Civil Procedure was recently amended, effective January 1, 1998. This amendment has blurred the distinctions that used to exist between the Philadelphia Civil Rules and the statewide rule on documentary evidence at arbitrations. The Philadelphia rule is still broader than the statewide rule, as Rule \*1305 provides that "attorney's certifications as to time and hourly rates in claims where counsel fees are involved" shall be received in evidence without further proof, provided at least 20 days written notice of the intention to offer the documents was given to the adverse party.<sup>40</sup>

**(iv) Official Records:** The rules also provide a party with the right to offer into evidence, without the certification normally required by Sections 5328 and 6103 of the Judicial Code, official weather reports, traffic signal reports, or United States Government life tables.<sup>41</sup> No advance notice to the adverse party is required prior to the introduction of these records. Other official records kept within the Commonwealth may also be "offered in evidence" if twenty days written notice is provided to every other party, accompanied by a copy of the record.<sup>42</sup>

**(v) Closing Argument:** At the conclusion of the testimony by all witnesses, and after the introduction of all documentary evidence, each party has the right to make a closing argument to the panel of arbitrators. Parties should be present in the hearing room to hear the

---

<sup>39</sup> Pa.R.C.P. 1305(b) and Philadelphia. Civil Rule \*1305(b). Please note that the Civil Procedural Rules Committee of the Supreme Court has proposed amendments to Pa.R.C.P. 1305(b). The proposal was published in *The Legal Intelligencer* on March 13, 1996. Watch for publication of an amended rule later this year.

<sup>40</sup> Philadelphia Civil Rule \*1305(b).

<sup>41</sup> Pa.R.C.P. 1305(d).

<sup>42</sup> Pa.R.C.P. 1305(d).

arguments and any questioning by the arbitrators.

**(vi) Delay Damages:** Any party seeking delay damages under Rule 238 should send a statement to opposing counsel prior to the hearing, setting forth the request for delay damages, and at the conclusion of the hearing the statement is submitted in a sealed envelope to the panel.<sup>43</sup> Because of the prompt hearing, eight months after the filing of the complaint, delay damages are rarely applicable in arbitration hearings.

### **III. THE REPORT AND AWARD OF ARBITRATORS**

At the conclusion of the hearing, the parties, attorneys and witnesses leave the hearing room, allowing the arbitrators to deliberate and reach a decision. The arbitrators shall make an award promptly upon termination of the hearing.<sup>44</sup> The arbitrators' award must dispose of all claims for relief and it must be entered on a Report and Award of Arbitrators form.<sup>45</sup>

When the Report and Award is completed and signed by all three arbitrators, the chairperson of the panel returns the file and Award form to the assignment desk. The chair is required to make a copy of the Report and Award to be left in a bin in front of the bench in the assembly room, where the parties or counsel will be able to review the award to learn the result of the arbitration on the day of the hearing. Obvious mathematical errors or other obvious errors in the Award can be brought to the attention of the panel for correction, while the panel is still assembled on the day of the hearing. It is also hoped that the immediate availability of the result will enable the parties to discuss possible settlement that day, while the

---

<sup>43</sup> Pa.R.C.P. 238.

<sup>44</sup> Pa.R.C.P. 1306.

<sup>45</sup> Pa.R.C.P. 1312.

pre-arbitration settlement discussions are still current and fresh. By use of this procedure, it is hoped that the appeal rate will decrease.

The Report and Award is docketed by the staff of the Arbitration Center. Copies of the award are then mailed to the parties (or their counsel) in the envelopes which were addressed by counsel on entry into the hearing room.

The Court may mold an award to correct "obvious and unambiguous errors in the award, in mathematics or language," on application of a party within the thirty day period allowed for appeal.<sup>46</sup> This applies only to obvious and unambiguous errors and not to any other type of attempted reformation of the award.<sup>47</sup> The Court's power to mold an award is specifically limited to correction of patent errors and is aimed at correcting formal errors that do not go to the substance and merits of the award.<sup>48</sup> After the thirty day period, the Court no longer has jurisdiction to mold an award and any such petition must be denied.<sup>49</sup>

---

<sup>46</sup> Pa.R.C.P. 1307(d). See, Maize v. Atlantic Refining Co., 352 Pa. 51, 41 A.d 850 (1945) for the standard by which a court may mold the verdict of a jury.

<sup>47</sup> Albert v. Denito, 336 Pa. Super. 284, 485 A.d 806 (1984).

<sup>48</sup> Lough v. Spring, 383 Pa. Super. 85, 556 A.d 441 (1989).

<sup>49</sup> Id.

## **DOCUMENTS**



# Questions to be Answered by the Arbitrators in Negligence Cases

## Instructions:

Taking the combined negligence that was a substantial factor in bringing about any or all of the plaintiff's injuries, damage or losses as 100%, answer the following questions and state in percentages the causal negligence attributed to each party you have found causally negligent.

Do you find that any defendant or additional defendant was negligent?

If so, state the name of the party and percentage of negligence attributable to that party.

_____	_____%
_____	_____%
_____	_____%
_____	_____%

Do you find that any plaintiff was negligent?

If so, state the name of the party and percentage of negligence attributable to that party.

_____	_____%
_____	_____%
_____	_____%
_____	_____%

**Total**

**100%**

---

## Notice of Entry of Award

**And Now**, this \_\_\_\_\_ day of \_\_\_\_\_, Year \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_ .m., the above award was entered upon the docket and notice thereof given by mail to the parties or their attorneys.

**(Arbitration compensation to be  
paid on appeal \$200.00)**

\_\_\_\_\_  
*Prothonotary*

By:  
\_\_\_\_\_

## MISCELLANEOUS ARBITRATION APPLICATION

FILE WITH THE ARBITRATION CENTER AFTER EXPIRATION OF RESPONSE PERIOD (SEE INSTRUCTIONS).  ENCLOSE STAMPED ADDRESSED ENVELOPES TO ALL COUNSEL. LIST ALL COURT TERMS AND NUMBERS OF CONSOLIDATED CASES IN SPACE DIRECTLY BELOW.	<b>FIRST JUDICIAL DISTRICT OF PENNSYLVANIA                  COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY                  ARBITRATION CENTER                  1601 MARKET STREET, 2ND FLOOR                  PHILADELPHIA, PA 19103</b>	
COURT TERM AND NUMBER	APPLICANT <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	DATE AND TIME OF LISTED HEARING
CAPTION		
PLAINTIFF'S COUNSEL AND PHONE NO.		
DEFENDANT'S COUNSEL AND PHONE NO.		
ADDITIONAL DEFENDANT'S COUNSEL AND PHONE NO.		
1. Set forth requested relief		
2. Set forth the specific basis for the request		
3. On or after _____, the within Application will be filed with the Arbitration Center.		
4. You must submit a Response to me by _____, for attachment to the Application (within ten (10) days of mailing of copy of Application).		
5. A copy of this Application was mailed/delivered/faxed to opposing counsel, _____, Esquire on _____. <input type="checkbox"/> A Response was received and is attached hereto <input type="checkbox"/> No Response was received.		
6. Other		

I hereby certify the above is true and correct.

\_\_\_\_\_  
*Signature of Counsel for Applicant*

\_\_\_\_\_  
*Filing Date*

### ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the within Application, it is hereby ORDERED and DECREED that:

- the Application is denied.
- the within case is transferred to the Non-Jury List;
- the within case may be transferred to the Jury List provided the jury fee is paid within 10 days;
- the Applicant is granted leave to file a Motion \_\_\_\_\_ no later than \_\_\_\_\_;
- the Applicant's request to mold the award of the Arbitrators is denied;
- the Applicant's request to mold the award of the Arbitrators is granted. See detailed order attached hereto;
- the case is deferred \_\_\_\_\_;
- Other

# Instructions

The Applicant shall forward a copy of the Miscellaneous Arbitration Application to all counsel of record and unrepresented parties at least ten (10) days prior to the filing date. Upon receipt of the Application, the adverse parties may file a Response, on the Court-approved form, by forwarding the original Response to the Applicant who will attach same to the Miscellaneous Arbitration Application which will be filed with the Arbitration Center.

Counsel are cautioned not to send the Response directly to the Arbitration Center which has been directed not to accept them.

If the Miscellaneous Arbitration Application filed with the Arbitration Center contains incorrect information concerning service of the Application, and Responses, the Order entered upon reliance of the representations in the Application may be vacated and appropriate sanctions may be imposed.

**RESPONSE TO MISCELLANEOUS ARBITRATION APPLICATION**

FORWARD TO APPLICANT FOR ATTACHMENT TO APPLICATION. DO NOT FILE WITH ARBITRATION CENTER (SEE INSTRUCTIONS). LIST <u>ALL</u> COURT TERMS AND NUMBERS OF CONSOLIDATED CASES IN SPACE DIRECTLY BELOW.		<b>FIRST JUDICIAL DISTRICT OF PENNSYLVANIA                  COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY                  ARBITRATION CENTER                  1601 MARKET STREET, 2ND FLOOR                  PHILADELPHIA, PA 19103</b>	
COURT TERM AND NUMBER	APPLICANT <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	DATE AND TIME OF LISTED HEARING	
CAPTION			
PLAINTIFF'S COUNSEL AND PHONE NO.			
DEFENDANT'S COUNSEL AND PHONE NO.			
ADDITIONAL DEFENDANT'S COUNSEL AND PHONE NO.			
DATE APPLICATION RECEIVED		DATE RESPONSE SENT TO APPLICANT	
SET FORTH YOUR POSITION CONCERNING THE MOVING PARTY'S REQUESTED RELIEF (ATTACH PROPOSED ORDER)			

I hereby certify the above is true and correct.

Respectfully submitted,

\_\_\_\_\_

*Date*

\_\_\_\_\_

, Esquire

*Filing Date*

**COMPULSORY ARBITRATION APPLICATION  
ONE-TIME ONLY RESCHEDULING AGREEMENT  
By Agreement of All Parties**

FILE WITH THE ARBITRATION CENTER NO LATER THAN TWO DAYS PRIOR TO SCHEDULED HEARING. ENCLOSE STAMPED ADDRESSED ENVELOPES TO ALL COUNSEL AND UNREPRESENTED PARTIES. LIST <u>ALL</u> COURT TERMS AND NUMBERS OF CONSOLIDATED CASES IN SPACE DIRECTLY BELOW.		FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS ARBITRATION CENTER 1601 MARKET STREET, 2ND FLOOR PHILADELPHIA, PA 19103	
COURT TERM AND NUMBER	APPLICANT <b>JOINT REQUEST</b>	LIST DATE OF ORIGINAL SCHEDULED HEARING	
CAPTION			
All parties and/or Counsel agree to reschedule hearing to the following new date and time ( <i>new date <b>must</b> be within 2 weeks before or after original scheduled hearing date</i> ):			
PRINT NAME OF COUNSEL FOR PLAINTIFF AND PHONE NO.	SIGNATURE OF PARTY OR COUNSEL ( <i>Fax Signature Acceptable</i> )	DATE	
Name of Defendant _____			
PRINT NAME OF COUNSEL FOR DEFENDANT AND PHONE NO.	SIGNATURE OF PARTY OR COUNSEL ( <i>Fax Signature Acceptable</i> )	DATE	
Name of Defendant _____			
PRINT NAME OF COUNSEL FOR DEFENDANT AND PHONE NO.	SIGNATURE OF PARTY OR COUNSEL ( <i>Fax Signature Acceptable</i> )	DATE	
Name of Defendant _____			
PRINT NAME OF COUNSEL FOR DEFENDANT AND PHONE NO.	SIGNATURE OF PARTY OR COUNSEL ( <i>Fax Signature Acceptable</i> )	DATE	
Name of Defendant _____			
PRINT NAME OF COUNSEL FOR ADDITIONAL DEFENDANT AND PHONE NO.	SIGNATURE OF COUNSEL FOR ADDITIONAL DEFENDANT ( <i>Fax Signature Acceptable</i> )	DATE	
Name of Additional Defendant _____			
<b>NOTE: AGREEMENT IS NOT VALID UNLESS THIS AGREEMENT IS SIGNED BY ALL COUNSEL OF RECORD OR BY UNREPRESENTED PARTIES AND DATE IS APPROVED IN ADVANCE BY THE ARBITRATION CENTER AS SET FORTH BELOW.</b>			

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the within Application for Rescheduling, the request is granted and the hearing is rescheduled for \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_ at the Arbitration Center. No further rescheduling shall be granted.

\_\_\_\_\_  
*Arbitration Center*

## CONTINUANCE ARBITRATION APPLICATION

FILE ORIGINAL ONLY WITH THE ARBITRATION CENTER ENCLOSE STAMPED ADDRESSED ENVELOPES TO ALL COUNSEL. LIST ALL COURT TERMS AND NUMBERS OF CONSOLIDATED CASES IN SPACE DIRECTLY BELOW. <input type="checkbox"/> Emergency Application <input type="checkbox"/> Non-Emergency Application	FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS ARBITRATION CENTER 1601 MARKET STREET, 2ND FLOOR PHILADELPHIA, PA 19103	
COURT TERM AND NUMBER	APPLICANT <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	DATE AND TIME OF LISTED HEARING
CAPTION		
PLAINTIFF'S COUNSEL AND PHONE NO.		
DEFENDANT'S COUNSEL AND PHONE NO.		
ADDITIONAL DEFENDANT'S COUNSEL AND PHONE NO.		
LIST PRIOR HEARING DATE(S), PARTY REQUESTING PREVIOUS CONTINUANCE(S), REASON FOR CONTINUANCE(S)		
1. THE CONTINUANCE IS NEEDED FOR THE FOLLOWING REASON(S):		
2. SET FORTH THE SPECIFIC BASIS FOR THE REQUEST AS PROVIDED IN PA. R.C.P. 216 AND PHILA. CIV. R. NO. *1303(c) AND STATE HOW COMPLIANCE WITH SAID RULES HAS BEEN ACCOMPLISHED.		
3. A COPY OF THIS APPLICATION WAS MAILED/DELIVERED/FAXED TO OPPOSING COUNSEL ON _____.		
4. Position of Opposing Counsel. (Will not be considered unless position stated.)		
5. Agreed upon continuance date, if any:		

I hereby certify the above is true and correct.

\_\_\_\_\_  
*Signature of Counsel for Applicant*

\_\_\_\_\_  
*Date*

### ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the within Application for Continuance, the request for a continuance is

- Denied  
 Granted and the hearing is rescheduled for \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_ at the Arbitration Center.

\_\_\_\_\_  
*Arbitration Center*

# **ARBITRATION APPEAL PROGRAM**

This description of the Arbitration Appeal Program was prepared by Mary McGovern, Deputy Manager of the Complex Litigation Center of the Philadelphia Court of Common Pleas.

## **ARBITRATION APPEAL PROGRAM**

The Arbitration Appeal Program is administered at the Complex Litigation Center, 12th Floor, Wanamaker Building, 100 Penn Square East, Philadelphia, under the direction of Supervising Judge, the Honorable Joseph D. O'Keefe. Questions concerning this program may be addressed to Mary McGovern, Deputy Manager, Complex Litigation Center, at (215) 686-5100 (voice) or (215) 563-1623 (facsimile).

All Appeals from Arbitration are scheduled for a Mandatory Status/Settlement Conference at the time the appeal is filed with the Prothonotary. The date, time and location of the conference is stamped on the Notice of the Appeal and forwarded by U.S. Mail, along with the Case Management Order, to all parties designating a conference approximately 30 days following the filing of an appeal. Requests, for good cause only, to extend the deadline set forth in the Case Management Order must be made via the filing of a Motion for Extraordinary Relief.

All counsel and non-represented parties must appear at the conference. All counsel are directed to communicate with each other and all non-represented parties to advise them of the conference by forwarding a notice of the conference via facsimile or U.S. Mail. At the conference, a date for trial in a designated "Pool Month" and a Pre-Trial conference date shall be assigned, attaching all parties for trial. All parties will be given a Pre-Trial Settlement Conference Memorandum, which must be completed and presented at the Pre-Trial Conference. No continuances will be granted. However, if trial counsel is unavailable, a representative, with knowledge of the case and settlement authority, may attend. Failure to appear for the Pre-Trial

Settlement Conference or trial will result in the imposition of appropriate sanctions.

### Trial Pool Procedures

#### NOTICE:

Cases will be assigned for trial on a "next day minimum" basis. Counsel shall be trial ready for the duration of the monthly pool.

#### PUBLICATION:

The trial pool list will not be published.

#### CONTINUANCES:

Requests for continuances may be submitted under exigent circumstances only. These requests must be made in writing, with a copy to opposing party, and directed to the Honorable Joseph D. O'Keefe, Supervising Judge, Attention Mary McGovern, via facsimile (215) 563-1623.

#### MOTION PRACTICE:

The Motion procedures are consistent with those set forth in the Pennsylvania Rules of Civil Procedure and the Philadelphia Local Rules.

# **DOCUMENT**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

**Standing Case Management Order  
Arbitration Appeal Program**

Pursuant to Administrative Docket 08 of 1998, an appeal from the Report and Award of Arbitrators having been filed in the above-captioned matter and a status hearing having been scheduled, the following Case Management Order is entered.

**1. Status Conference:** ALL counsel and non-represented parties must appear at the status conference and shall be prepared to discuss settlement of the case with clients available by telephone to authorize settlement. All counsel are required to communicate with each other and all non-represented parties to advise them of the status by forwarding a notice of same via facsimile or U.S. mail.

At the conference, a date for trial in the designated "Pool" month and a pretrial settlement conference date shall be assigned. Counsel will be attached for trial.

Also, at the status conference, a memorandum will be given to all parties with direction to complete and present the same at the time of the mandatory pretrial settlement conference. Failure to comply with the terms and conditions of said memorandum and/or failure to appear for either the pretrial settlement conference or trial will result in the imposition of appropriate sanctions.

**2. Discovery Deadline:** All discovery shall be completed no later than 90 days prior to the first Monday of the designated "Pool" month.

**3. Expert Deadline:** Plaintiff's expert report (if applicable), including any supplemental report, is to be served on opposing counsel and/or opposing party on or before 90 days prior to trial. Defendant's expert report is to be served on opposing counsel and/or opposing party on or before 60 days prior to the first Monday of the designated "Pool" month.

**4. Dispositive Motions:** All dispositive motions must be filed no later than 50 days prior to the first Monday of the designated "Pool" month. However, in all Limited Tort cases motions for summary judgment must be filed no later than 80 days prior to the first Monday of the designated "Pool" month.

**5. Extensions:** Requests to extend any case management deadline must be submitted by filing a Petition for Extraordinary Relief and filed prior to the expiration of the deadline in question.

**6. Continuances:** All requests for continuances must be submitted in writing, with a copy to opposing party, and directed to the Honorable Joseph D. O'Keefe, Supervising Judge, Attention: Mary McGovern, via facsimile (215-563-1623) or U.S. mail (12th Floor, Complex Litigation Center, Wanamaker Building, Philadelphia, PA 19107). However, said requests may be made only under exigent circumstances.

BY THE COURT:

---

Joseph D. O'Keefe, J.  
Supervising Judge  
Complex Litigation Center

# **STATUTORY APPEALS PROGRAM**

This discussion of the Statutory Appeals Program was prepared by the Honorable Stephen E. Levin of the Philadelphia Court of Common Pleas with the Assistance of David J. Cohen, Esquire

## **STATUTORY APPEALS PROGRAM**

### **I. Overview**

The Statutory Appeals Program of the Philadelphia Court of Common Pleas includes all appeals from adjudications of state and local administrative agencies, all class action suits filed in the Philadelphia Court of Common Pleas (except for those in the Commerce Program) and all business tax collection cases brought by the City of Philadelphia.

Judge Stephen Levin has been assigned to oversee the Statutory Appeals Program. Hearings in this program are conducted in Courtroom N, 12th Floor, Wanamaker Building, 100 Penn Square East, Philadelphia. Judge Levin's chambers are in Room 536 City Hall, Broad & Market Street. His telecopier number is (215) 686-7048.

### **II. Administrative Agency Appeals**

When an administrative agency adjudication is appealed, the Prothonotary issues a Standing Case Management Order to the filing party. This Order lists the appeal for a status conference before Judge Levin and provides other relevant information, including requirements for service and a description of Judge Levin's 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 end of this conference, the parties are also 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. Judge Levin is likely to enter a Scheduling Order at the status hearing. This Court's Scheduling Order sets dates for the agency to produce a transcript of its hearing, 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, Judge Levin will enter an Order setting discovery deadlines and a date for trial.

### **III. Class Actions**

The Pennsylvania Rules of Civil Procedure require that, upon the filing of a class action complaint, the case is assigned to a judge "who shall be in charge of it for all purposes." Pa.R.C.P. 1703(b). Judge Levin supervises all aspects of these cases from filing until trial, including discovery disputes, preliminary objections, motions for certification and summary judgment. If the matter proceeds to trial, it will be assigned to a separate judge in the Court of Common Pleas Day Forward Program. However, if the matter is settled without a trial, class notification and the settlement fairness hearing will take place under Judge Levin's supervision.

When a class action complaint is filed, the Prothonotary gives the plaintiff a Case Management Order. This Order sets the case for a status conference before Judge Levin and

explains certain nuances of class action practice and procedure. The conference is intended to educate the Court about a case and any unique considerations it may require; it also presents an opportunity for the parties to ask questions about Judge Levin's class action program.

At the end of the conference, a Scheduling Order will be entered. Depending on any number of factors, the specific order signed by the Judge could allow additional time to conduct informal discovery regarding the merits of plaintiff's assertions, set a schedule for briefing and argument on preliminary objections or set a date by which the defendant would answer the complaint.

#### **IV. City Business Tax Cases**

Judge Levin also presides 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 Judge Levin.

As soon as one of these cases is filed, the Prothonotary issues a Case Management Order listing the matter for a status conference before Judge Levin. At the conference, the 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.

#### **Petitions for Appointment of a Sequestrator**

The City's tax program also involves the collection of past-due real estate and use and

occupancy taxes through the appointment of a sequestrator. These Petitions are not scheduled by the Prothonotary, but are presented to the Court by the City Solicitor every Monday at 9:45 a.m.

Assuming all necessary requirements are satisfied (including adequate proof of the indebtedness and notice to the property owner), Judge Levin may sign an Order that would allow a sequestrator to begin collecting rent from tenants residing in properties owned by the delinquent individuals and applying those sums toward the owner's tax indebtedness.

## **V. Motion Practice**

The parties will schedule, "file," and argue almost all motions in the Statutory Appeals Program according to Philadelphia Civil Rule \*206.2(a). Under that procedure, motions are heard each Wednesday at 1:30 p.m. in Courtroom "N." All motions are scheduled for presentation through the Prothonotary by calling (215) 686-6671 and asking to be placed on Judge Levin's motion list. Ten days notice of presentation is required by Rule, but may be waived. Motions and briefs are NOT to be filed with Motions Court or the Prothonotary. Rather, a party must serve a copy of the motion on the opposing party and hold all originals for submission to the court on the date set for argument. The Judge's staff will file the originals (motions and responses) with the Prothonotary after the argument. However, if a party believes that a given motion involves novel or particularly complex issues, he\she should send a copy of the brief to Judge Levin's chambers for advance review on the Monday before the motion is scheduled for argument.

The three exceptions to the general motion practice described above, in class action suits only, are: Preliminary Objections, Motions for Class Certification and Motions for Summary Judgment. Since these motions may have a dramatic impact on the course of litigation, Judge Levin schedules them on separate days and asks for advance copies of all papers to ensure they

receive the necessary attention (as provided in the Class Action Scheduling Order).

# **MOTIONS PROGRAM**

This overview of the Motions Program was updated by the Honorable John W. Herron.

## **MOTIONS PROGRAM PROCEDURES**

### **Distribution of Motions in 2000**

#### Introduction

Effective January, 2000, the Motions Program assignment has been reduced from two to one judge, the Honorable Gary S. Glazer. This reduced assignment is possible due to the assignment of all major jury motions to the major jury teams. The Motions Program consists of all discovery and nondiscovery motions in compulsory arbitration cases, arbitration appeal cases and non-jury cases. An overview of how motions are assigned to judges is outlined in the attached Civil Motion Assignment Matrix.

#### Motions in Cases Other Than Major Jury

Judge Glazer will consider motions in Non Jury and Arbitration cases. He will also handle motions filed in Post Arbitration and Arbitration Appeals cases. Finally, he will consider Motions seeking Preliminary Injunctions which are not part of the Commerce Program.

#### Mass Tort Motions

Motions filed in Mass Tort cases will be assigned to Supervising Judge O'Keefe.

#### Wrongful Death\Survival Action Motions

Wrongful Death Settlement Motions involving a Minor or Incapacitated Person as well as Minors' Compromise Motions will be assigned to Orphans' Court. Those Wrongful Death and Survival motions involving only adults will be assigned to the Administrative Judge of the Trial Division.

#### Motions Assigned to the Administrative Judge of the Trial Division

The Administrative Judge will be assigned the following Motions regardless of any program

designation:

- . Any Wrongful Death\Survival Action cases NOT involving a Minor or Incapacitated Person;
- . All Petitions for Assignment to an Individual Judge;
- . All Motions for Advancement on the Trial List;
- . All Petitions to Appoint a Neutral Arbitrator;
- . All Petitions to Compel Arbitration; and
- . All Petitions for *In forma Pauperis*

#### Discovery Motions

Finally, the assignment of discovery motions is discussed in the Discovery Court section of this Manual.

### **General Considerations - Motions Practice**

When a Motion and responsive pleading(s) are filed with Second Filing, Prothonotary's Office, those items are the **only** items that the Judge and Motions Court staff have for their review. Other pleadings, orders and docket entries are not retrieved from the Prothonotary for the Court to read in evaluating the Motion. The Court will not obtain those items from the Prothonotary. It is **counsel's** responsibility to include in the Motion package a copy of anything the Judge might reasonably require in making a decision. Failure to do so will result in the Motion being returned to counsel for completion and refile with consequent delay and expense.

In the event that a Motion is presented for filing that is obviously incomplete, it will be accepted, assigned, and given a control number. However, it will be stamped "incomplete filing"

before being routed to the Judge and the motion will be returned to counsel by the Judge under Philadelphia Civil Rule \*206.1(G) for completion and refile at additional cost. After the Motions Judge signs an order, the Motion and response are immediately returned to Civil Administration for filing, docketing and distribution of the order(s). The Motions Judge does not keep any of the pleadings or copies of his\her orders.

Normally, a Motion is held by Civil Administration for 30 to 35 days after the initial filing in order for responses to be filed. After the Motion and Answer are received, they are sent within two days to the assigned Judge. Until the Motion package is assigned by Civil Administration personnel and delivered to the Judge, the Judge is unaware of the Motion. It is the policy of the Motions Court Judge to have each pleading personally reviewed by the Judge. It is the goal and practice, except in rare and complicated matters, for the review and order process to be completed within three working days.

### **Contact with the Motions Judge**

Because of the large volume of motions that the Motions Court Judge must consider, neither the Judge nor the staff have the resources to retain copies of the pleadings, parse the Judge's rulings, determine the status of any given Motion, tutor on the law or procedure, or locate any information by any method other than the Motions Court Control Number.

When counsel seek information about a case or about procedure, please take the following actions: Review your own file and that of the Prothonotary. Read the procedural rules. Contact opposing counsel and discuss the matter. As a last resort, call Civil Administration.

There are instances of counsel calling a Judge's chambers and arguing the merits of the case or the alleged errors of the Judge's rulings to the law clerks who field these calls.

Calling a Judge's chambers and arguing the merits of the case or inquiring into the status of a pending motion is improper. Be aware that this is considered an ex parte communication with the Court. Law clerks are under instruction not to convey these communications to the Judge.

It is also improper to send a letter to the Judge's chambers requesting reconsideration of a ruling or revision of an order or a change in scheduling. The Court is unable to act until a pleading has been filed and assigned a control number. Requests for relief must be presented in the form of a motion or petition. Changes in hearing dates must be directed to Civil Administration, Room 296, City Hall.

Do not send courtesy copies of the pleadings to the Judges. In addition to the sheer physical inability to maintain and organize this additional volume of paperwork, there are instances in which the Judge is inadvertently given a courtesy copy rather than an original copy of an Order to sign, leading to confusion and additional work for Judge and counsel. Similarly, do not send letters arguing further points of law or complaining about the conduct of opposing counsel. The latter tend to reflect as negatively on the author as on the subject of the complaint and usually are ignored. The former likewise do little to enhance the position of the author, with the sole exception of a citation to a controlling appellate decision issued subsequent to counsel's filing of the original Motion pleadings (with a copy simultaneously delivered to opposing counsel).

If a decision on your Motion has not been sent to you and more than sixty days has elapsed since the initial filing, please contact Civil Administration to request a search of the status of the matter.

### **Oral Argument**

It is rarely appropriate to seek oral argument. As described above, each Motion that is

received in the normal course of events is reviewed and researched. This is not true of oral argument cases. These motions are handed to the Judge for the first time on the bench as the case is called. 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. If there are disputes concerning the facts, the parties should utilize affidavits, relevant deposition testimony, responses to Requests for Admission and any stipulations reached in the case, to develop the factual predicate and thereby avoid or minimize the need for a hearing.

### **Motions for Reconsideration**

Motions for Reconsideration are discouraged. All Motions are ruled upon after careful review by the law clerks and Judge. Do not request Reconsideration unless there is a very good reason to believe that there has been a change in the law or facts that would warrant revisiting the original issues. In the rare instance where reconsideration is necessary, that Motion must be formally filed in accordance with Philadelphia Civil Rule \*206.1 (G) and given its own control number. Because of the appeal period, motions for reconsideration are transmitted promptly to the Judge who issued the original order and are not held for thirty days to await the filing of an Answer.

When the Reconsideration Motion is forwarded to the Judge, that Judge will no longer have the original Motion or any of the pertinent pleadings in Chambers. It is therefore necessary that counsel prepare a full Motion package, including the Complaint, other relevant pleadings as well as the original Motion and the Answer.

### **Format**

Because of the large volume of matters processed by the Motions Court Judge, the format

of the Motion should be clear and concise. Except in rare instances, include the Complaint and any Answer so that the assigned Judge can learn something about the nature of the matter. Position your proposed Order near the top of the motion packet so it can be easily located. Leave some room on the Proposed Order page so that explanations or additions can be inserted by the judge. Use tabs to mark items and exhibits, rather than scribbling "Exhibit A" on the page. It is both distracting and frustrating to waste time leafing through a Motion package in the hopes of finding the memorandum of law or the vital exhibit referred to by counsel as the cornerstone of his\her argument.

### **Amended Complaints**

If an amended complaint is filed pursuant to Pa.R.C.P. 1028(c)(1), preliminary objections to the initial complaint are considered moot. The Court, however, does not know that a party filed an amended complaint unless it is informed by that party. Counsel for plaintiff should therefore notify the Judge and opposing counsel immediately and provide the control number of any preliminary objections. Counsel for defendant should contact Civil Administration immediately to withdraw the preliminary objections.

### **Emergency Relief**

Before you disrupt your own work schedule and dedicate a substantial amount of your valuable time to seeking emergency relief, consider several things. Requests for emergency relief are disfavored. 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 you consider requesting emergency relief, be prepared to explain adequately the failure to act sooner and how truly irreparable harm will occur within the next few hours.

Bring the Petition to Civil Administration, Room 296 City Hall, not to the Judge. Be prepared with the filing fees and with the necessary bonding in the event that relief is granted. Do not request to see the Judge until the matter has been docketed and you are able to represent very specifically what efforts you have made to reach an agreement or at least a temporary solution with your opponent. Contact your opponent before filing, as you will otherwise spend considerable time waiting while you and the Court try to secure your opponent's presence.

Unfortunately, even where both counsel are able to appear, we cannot guarantee that there will be a court reporter and other necessary parties 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. Keep in mind also that the emergency relief will, in addition to bonding requirements, generally require a further hearing in a very few days.

# **DOCUMENT**

**CIVIL TRIAL DIVISION  
MOTION ASSIGNMENT MATRIX  
2000**

Upon filing with the Motions Clerk in Room 280, City Hall, all Motions shall be assigned in accordance with the following Matrix:

<b>FILING TYPE</b>	<b>JUDICIAL ASSIGNMENT</b>
Commerce Program	Judges Herron and Sheppard

**MAJOR JURY CASES**

Major Jury Cases Filed Prior to 1995	Judge New
Day Forward 1995	Judge Bernstein
Day Forward 1996	Judge Tereshko
Day Forward 1997	Judges Allen and Moss
Day Forward 1998	Judges Bernstein and New
Day Forward 1999	Judge Tereshko
Day Forward 2000	Judge Quinones Alejandro

**CASES OTHER THAN MAJOR JURY**

Non Jury*	Judge Glazer
Arbitration	Judge Glazer
Post Arbitration & Arbitration Appeals*	Judge Glazer
Mass Tort	Judge O'Keefe
Wrongful Death Involving a Minor or Incapacitated Person, and Minors' Compromise	Orphans' Court

*\*Motions in Limine, Consolidations, and Extraordinary Relief in Non Jury and Arbitration Appeal cases are assigned to Judge O'Keefe. All other motions filed under these programs are to be assigned to Judge Glazer.*

# CIVIL TRIAL DIVISION MOTION ASSIGNMENT MATRIX 2000

The following Motions shall be assigned to the Administrative Judge *regardless* of any program designation:

- Wrongful Death/Survival Action cases NOT involving a Minor or Incapacitated Person;
- All Petitions for Assignment to an Individual Judge;
- All Motions for Advancement on the Trial List;
- All Petitions to Appoint Neutral Arbitrator;
- All Petitions to Compel Arbitration;
- All Petitions for *In Forma Pauperis*; and
- All Petitions to Stay Arbitration

<b>Motions to Consolidate</b>	Assigned in accordance with Administrative Docket No. 3 of 1996, as amended 11/2/98.
<b>Preliminary Injunctions</b> ( <i>Non-Commerce</i> )	Assigned by Administrative Judge
<b>Discovery Motions</b>  <i>The only discovery motions we accept are Discovery Motions filed in Municipal Court Appeal cases. These motions are assigned to Municipal Court judges in the following manner: Landlord &amp; Tenant actions go to Judge Cosgrove, and Money Judgment actions go to Judge King.</i>	Assigned in accordance with Rule 206.2 and scheduled consistent with Judicial Team Leader assignments to Discovery Court.
<b>Motions to Enforce Settlement</b>	Assigned to the Judge who approved or was involved in effecting the settlement.
<b>Motions for Reconsideration</b>	Assigned to the Judge who entered the order to be reconsidered.

*Municipal Court Appeals from Denial to Open Default Judgment are assigned to Judge Glazer.*

# **DISCOVERY COURT**

This overview of Discovery Court was prepared by the Honorable John W. Herron, Administrative Judge of the Trial Division, and Charles Mapp, Sr., Deputy Court Administrator of the Civil Trial Division of the Philadelphia Court of Common Pleas.

## **DISCOVERY COURT**

There is no single discovery court judge. Rather, discovery motions are assigned to the Team Leaders of the various Civil Programs for resolution. All major jury case discovery motions will be resolved by the judicial Team Leaders on a particular day of the week reserved for each major jury program in accordance with the attached schedule. Discovery motions in compulsory arbitration cases (\$50,000 or under), arbitration appeals and nonjury cases are assigned to the Motion Program Judge and heard every Friday. Discovery motions in Commerce Program cases will be heard every Monday.

The assignment of discovery motions to judicial teams represents a critical and important transitional phase in this Court's Civil Case Reduction Strategy which recognizes the efficiency of judicial Team Leaders providing early and appropriate intervention in cases within their respective programs.

Whenever the parties in a case have a serious discovery dispute that they cannot resolve among themselves, a hearing before a Judge can be scheduled by submitting a Hearing Request Form and following the procedure set forth in the attached Philadelphia Civil Rule \*206.2. A Hearing Request Form is available in Room 287, City Hall, by fax request (686-3777) or by telephone request (686-4246). A completed request form should be returned to Room 287, along with a thirty (30) dollar fee that **must** be paid for each motion. A completed request form (and fee) can be submitted in person, by mail or by fax. When requests are submitted by fax, the fee **must** be paid by credit card.

Upon receipt of a Hearing Request Form, discovery clerks assign a date for the hearing.

To assure an expeditious hearing, the discovery clerk will fax to the party requesting a hearing a copy of the Hearing Request Form with an **assigned hearing date and time**. The hearing date entered on this form is the actual date for the hearing before the assigned Judge, whether the motion is contested or uncontested. No continuance requests will be accepted and no continuances will be granted by the discovery clerks. The volume of discovery court matters is so great that continuances and rescheduling requests cannot be accommodated.

The moving party thereafter has the obligation to provide written notification of the hearing to all parties **at least ten (10) days prior to the hearing date**. At the time of the actual hearing, the moving party presents the motion, which should consist of a Proposed Order, Motion, Certificate of Service, and Notice of Presentation. The Notice of Presentation is a statement notifying the opposing party of the date, time, location, and type of discovery motion. Copies of these various forms are attached as exhibits to this section.

Because the date and time assigned by the discovery clerks is the actual hearing date, all counsel must appear at the assigned time to present and argue contested motions. Before the Judge will hear argument on any contested matter, counsel must furnish a **Certificate of Good Faith** attempt to resolve the discovery dispute. A copy of this form is attached as an appendix to this section. See also Philadelphia Civil Rule \*206.2. Only the attorney for the movant is required to sign the Certificate of Good Faith.

Attorneys are encouraged to resolve all discovery disputes whenever possible among themselves. If the parties can agree and stipulate to an Order regarding a discovery issue, it may be presented by any attorney representing either side. The presiding Judge will review and sign these orders on the morning they are presented. It will be the obligation of moving counsel to

photocopy the executed Order, provide the original to the discovery clerk, and promptly forward copies to opposing counsel.

**Alternative Procedure Requiring No Physical Presence of Counsel**

There is also an alternative procedure for discovery motions that are uncontested or that can be resolved through agreement which is outlined in the attached Administrative Docket .04 of 1998. Under this procedure, attorneys are no longer required to appear personally when they have a discovery motion that is uncontested or that can be resolved by agreement. Instead, they can present these motions to the Discovery Unit (Room 287) on the day immediately prior to or the morning of their scheduled hearing date. They should attach a copy of the relevant case management order as well as the following letter:

To the Assigned Discovery Judge:

Please accept this letter as certification that my opponent in the attached motion has told me he/she will not contest and/or agrees to the relief sought in the proposed order.

Sincerely,

\_\_\_\_\_

The Discovery Court Manager will then screen these motions to make sure there are no conflicts with the appropriate Case Management Order. The assigned judge will review and sign the proposed Orders after the scheduled court session. The signed orders must be picked up from the Discovery Unit (Room 287) within the next five days, photocopied and served on other interested counsel or the Orders will not be docketed but will be deemed invalid.

**Schedule of Hearings in Courtroom 285 City Hall**

A schedule of all discovery hearings is attached. Court begins at 9 a.m., but as a special

accommodation to the Bar to reduce waiting time, both a morning and an afternoon schedule has been created in the program with the highest volume of discovery cases, Day Forward 1999. The hearing date for a discovery motion will correspond to the attached schedule. For example, discovery motions in Day Forward 1997 cases will be heard on Tuesdays; discovery motions in Arbitration cases will be heard on Fridays. As required by Philadelphia Civil Rule \*206.2, a hearing shall be listed no earlier than 10 days after the date that a request for a hearing is made, except in the case of an emergency.

### **EMERGENCY DISCOVERY HEARINGS**

To obtain an emergency discovery hearing, counsel must appear in person in room 287, City Hall, between the hours of 9:00 a.m. and noon, no later than the day before the designated hearing day for the specific program type.

For example, an attorney with an emergency discovery motion in a Day Forward 1997 case must appear in Room 287 on Monday, between the hours of 9:00 a.m. and noon, to schedule a hearing on the emergency motion by the Day Forward 1997 Team on Tuesday. Please see the discovery hearing schedule which follows.

### **RECONSIDERATION OF DISCOVERY MOTIONS**

Requests for reconsideration of Discovery Orders must be filed as motions in Motion Court (Second filing, Prothonotary's Office) and require payment of the filing fee.

Upon filing, the motion will be referred to the judge who issued the discovery order in question, since no other judge has legal authority to review the order. Counsel should not reappear in discovery court and expect a different judge to reconsider a colleague's order.

## **VOLUNTARY USE OF DISCOVERY MASTERS**

The Court is sensitive to the fact that some discovery motions involving complex issues may not lend themselves to motion procedures designed to process efficiently the large volume of more routine discovery matters. In complex commercial and tort cases, the expense and burdensomeness of certain discovery requests can be substantial, and parties may be concerned that discovery rulings may be issued without the parties or the Court having as much time for argument or deliberating as might be desired.

Just as parties may stipulate to a variety of discovery matters (see Pa.R.C.P. 4002), they may also, without the need for Court approval, agree to refer discovery disputes to a neutral attorney jointly and privately retained by them as a discovery master. Parties may prefer such an agreed-upon use of a member of the Bar to resolve discovery disputes rather than submitting a complex discovery matter for judicial determination.

The parties should understand, however, that they will have to stipulate that the master's determinations are binding and not subject to review or acceptance by the Court. The Court will not enforce discovery determinations made by a privately retained master. Nor can such determinations become the subject of an appeal, because they will take place entirely off the record. The extent to which such determinations are effective to resolve a discovery dispute therefore will be entirely a function of the parties' good faith in honoring the terms of their own stipulations. Furthermore, the Court will not likely permit delay or any of the time devoted to proceedings before a discovery master to constitute grounds for extension of deadlines or other extraordinary relief.

## **DOCUMENTS**

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS - CIVIL TRIAL DIVISION

**DISCOVERY COURT 2000**

**LOCATION**

*Filings:* Room 287 City Hall  
*Hearings:* Room 275 City Hall  
Room 285 City Hall

**HOURS OF OPERATION**

9:00 A.M. - 5:00 P.M.

**STAFF**

Dennis J. Brennan, *Manager*  
Melissa Graham, *Legal Clerk*  
Sharon Pressley, *Clerk Typist*

**TELEPHONE NUMBER**

686-3747  
686-4246  
686-4247  
FAX: 686-3777

*IMMEDIATELY upon receipt of the hearing date and time, the Discovery Motion(s) must be served upon all counsel and unrepresented parties.*

**SCHEDULE FOR HEARINGS**

<b>DAY</b>	<b>TIME</b>	<b>PROGRAM</b>	<b>ROOM</b>	<b>JUDGE</b>
Monday	9:00 A.M.	Commerce	275	Judge Sheppard
Monday	1:00 P.M.	Commerce	275	Judge Herron
Monday	9:00 A.M.	Day Forward 1998	285	Judge Bernstein
Tuesday	9:00 A.M.	Day Forward 1997	285	Judge Allen Judge Moss
Wednesday*	9:00 P.M.	Day Forward 1996/99	285	Judge Tereshko
	12:00 P.M.	Day Forward 1996/99	285	Judge Tereshko
Thursday	9:00 A.M.	Day Forward 2000	285	Judge Quinones
Friday	9:00 A.M.	Arbitration Arbitration Appeal Non-Jury	285	Judge Glazer

**\*The Wednesday Discovery Court conducted by Judge Tereshko will have two separate lists of nearly equal discovery matters scheduled for 9:00 a.m. and noon.**

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS - CIVIL TRIAL DIVISION

**DISCOVERY COURT 2000**

*IMMEDIATELY upon receipt of the hearing date and time, the Discovery Motion(s) must be served upon all counsel and unrepresented parties.*

**FEES:** \$30.00 per request

**APPLICABLE RULE:** 206.2

**HOW TO OBTAIN A HEARING**

1. **By Fax:** Fax a Hearing Request form with a credit card number and expiration date. Fax Number: 215-686-3777
2. **In Person:** File a Hearing Request form in Room 287 City Hall with a credit card number or a check made payable to the "Prothonotary" in the amount of \$30.00 for each request.
3. **By Mail:** Mail a Hearing Request form to Room 287 City Hall along with your credit card number or a check made payable to the "Prothonotary" in the amount of \$30.00 for each request.

**EMERGENCY HEARINGS**

In order to obtain an emergency discovery hearing, counsel must appear in person in Room 287 City Hall, between the hours of 9:00 a.m. and noon, the day before the designated hearing day for the specific program type. The emergency discovery motion will be placed on the hearing list for the next day.

For example, if you have an emergency discovery motion in a Day Forward 1997 case, you must appear in Room 287 on Monday, between the hours of 9:00 a.m. and noon, in order to have your emergency motion heard by the Day Forward 1997 team on Tuesday.

**COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
DISCOVERY HEARING REQUEST FORM**

TO: DISCOVERY CLERK  
ROOM 287 CITY HALL  
PHILADELPHIA, PA 19107  
215-686-4246 / 47  
FAX: 215-686-3777

Date: \_\_\_\_\_

From: \_\_\_\_\_

*(Moving Counsel)*

Credit Card/Check Info: \_\_\_\_\_

Card No. and Exp. Date or Check No. \_\_\_\_\_

\_\_\_\_\_  
*(Secretary's Name and Phone No.)*

**Hearings Requested**  
*(Please Type)*

<i>Program Type*</i> <i>(See Below)</i>	<i>Next Event and Date</i>	<i>Court Term and Number</i>	<i>Caption</i>	<i>Hearing Date</i>

**FAILURE TO ANSWER ALL QUESTIONS WILL RESULT IN NO HEARING BEING SCHEDULED**

Return FAX No: \_\_\_\_\_

**OFFICIAL USE ONLY — DO NOT WRITE BELOW THIS LINE**

**\*Program Types**  
Commerce  
Day Forward/Major Jury  
Arbitration  
Arbitration Appeal  
Major Non-Jury

NOTE: The above date is the actual hearing date.

Location of Hearing(s): Courtroom 285 and 275, City Hall

Make all checks payable to the Prothonotary

***Immediately upon receipt of the hearing date and time, the Discovery Motion(s) must be served upon all counsel and unrepresented parties.***

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

CAPTION OF CASE : \_\_\_\_\_ TERM, 19\_\_\_\_  
:  
:  
:  
: NO. \_\_\_\_\_

**Attorney Certification of Good Faith  
(Required Only in Contested Cases)**

The undersigned counsel for movant hereby certifies and attests that:

- a. He or she has had the contacts described below with opposing counsel regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite all counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

*Description:*

- b. He or she has made good faith but unsuccessful efforts described below to contact opposing counsel in an effort to resolve the discovery dispute.

*Description:*

CERTIFIED TO THE COURT BY:

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Movant (*name party*) \_\_\_\_\_  
(*Signature of Respondent's counsel is not required*)

# **A PRIMER ON THE EMERGENCY JUDGE ASSIGNMENT**

This Primer on the Emergency Judge Assignment was prepared by the Honorable Alex Bonavitacola, President Judge of the Philadelphia Court of Common Pleas, with the assistance of Dominic J. Rossi, Esquire and Joseph L. Hassett, Esquire.

## A PRIMER ON THE EMERGENCY JUDGE ASSIGNMENT

The President Judge of the Court of Common Pleas is responsible for the assignment of Judges to cover emergencies arising after Court hours. See Phila. R. Civ. P. No. \*1531.

The Emergency Judge is responsible for handling all Civil, Criminal, Orphans' Court and Family Court matters arising after normal court hours and is on duty **during non-court hours** from Friday at 5:00 p.m. through the following Friday at 9:00 a.m. Every Friday, the Legal Intelligencer publishes a notice identifying the Emergency Judge for the week.

The President Judge of the Municipal Court similarly designates a weekly Municipal Court Emergency Judge who is available for all Municipal Court civil and criminal emergency matters, including appeals from bail during the evening hours and on weekends. See M.C. Crim. P.R. No. 21.

The Emergency Judge will also be available to perform weddings on Tuesday and Thursday at 4:00 p.m. in Room 410, City Hall, although the Municipal Court Emergency Judge will perform weddings every fifth week. See attached Memorandum.

### **GENERAL INSTRUCTIONS AND INFORMATION**

Generally, only those matters which require **immediate** judicial intervention and which arise **after** normal court hours and which **could not** otherwise have been anticipated should be handled by the Emergency Judge. The vast majority of matters can be handled during normal court hours utilizing existing procedure. For instance, the Motions Court section of this Manual

describes "Emergency Relief" procedures utilized by the Motion Court Judges. Thus, systemic emergency procedures do exist for expedited disposition of civil issues without the need to involve the Emergency Judge. Moreover, the Orphans' Court is able to expeditiously appoint an emergency guardian of a person alleged to be incapacitated when it appears that the person lacks capacity and may be in need of medical treatment. See 20 Pa.C.S. §5513. The Emergency Judge should not receive routine requests for medical authorization. Finally, most, if not all, issues which arise in connection with criminal matters are handled by the Municipal Court bail commissioners and the Municipal Court Emergency Judge.

Accordingly, only rarely, and under extreme circumstances, should counsel request that a case be handled by the Emergency Judge. The issuance of ex parte orders is discouraged. Moreover, counsel should know that the Emergency Judge will not act on any case that has been assigned to another judge for disposition, or where a hearing has been previously scheduled by the Court. In addition, the Emergency Judge will not vacate or modify an Order entered by another Court of Common Pleas Judge.

### **CONTACT WITH THE EMERGENCY JUDGE**

The Emergency Judge can be contacted during **non-court hours** by calling the City Hall supervising operator at (215) 686-5665. When patched through to the Emergency Judge, the caller must identify himself\herself, provide an office address and an attorney identification number. Most importantly, the caller **must** advise the Emergency Judge whether the matter is presently pending before any tribunal, and if so, must inform the Emergency Judge as to the reasonable steps taken to notify counsel for all represented parties. **Under no circumstances should an Emergency Judge be contacted directly by the caller at his\her residence.**

## **TYPES OF MATTERS WHICH AN EMERGENCY JUDGE MAY ENCOUNTER**

### **CIVIL MATTERS**

As noted above, a systemic procedure exists for handling most "emergency" civil matters. However, the Emergency Judge may be called upon to rule on:

1. **Request for an Injunction.** Pa. R.C.P. No. 1531 provides that if it appears to the satisfaction of the Court that immediate and irreparable injury will be sustained, a preliminary or special injunction may be issued without notice or without a hearing. However, an injunction granted without notice shall be deemed dissolved unless a hearing on the continuance of the injunction is held within five (5) days after the granting of the injunction. Thus, unless the Emergency Judge schedules a hearing or the caller otherwise obtains a hearing within that time period, the injunction will automatically dissolve, unless all parties otherwise agree. The Emergency Judge may request the caller to file a petition with the Emergency Judge, the scheduled emergency Prothonotary clerk prior to issuing an Order, or with the Prothonotary on the next business day. Upon issuance, the Order must be filed with the Prothonotary so that it may be docketed.

2. **Temporary Restraining Order to Prevent Violence, Mass Picketing and Threats of Violence and Labor Disputes.** See 43 P.S. §206(a), et seq. A Complaint in Equity and a Temporary Restraining Order must be prepared and filed as directed by the Emergency Judge.

3. **Emergency Medical Treatment.** As noted above, such petitions should be filed with the Orphans' Court or, if appropriate, with the Motions Court during normal Court hours. In the event an emergency arises during non-court hours, medical authorization may be given provided the Emergency Judge holds an on-the-record hearing prior to ordering same.

## **FAMILY COURT MATTERS**

The Emergency Judge may handle the following matters:

1. **Petitions Pursuant to the Child Protective Services Law.** See 23 Pa.C.S. §6301, et seq. The Philadelphia Department of Human Services, usually through the City Solicitor, will contact the Emergency Judge to request a restraining Order. The Emergency Judge usually issues an oral Order and directs that a hearing be scheduled in Dependency Court within seventy-two (72) hours of the issuance of the Order. The following business day, the Department of Human Services delivers a written Petition and Order to the Emergency Judge who signs the Order and returns the Petition and Order to the Department of Human Services for filing with the Family Court.

2. **Protection from Abuse Orders.** See 23 Pa.C.S. §6101, et seq. Please note, however, that requests pursuant to the Protection from Abuse Act are processed, after normal court hours, at the Criminal Justice Center, Room B-03. The caller should be asked to call (215) 683-7281 for further assistance.

3. **Miscellaneous and Sundry Domestic Relation Requests Such as Emergency Custody or Visitation Orders.** The caller should advise the Emergency Judge as to the status of the domestic relations matter and also why such request was not made during court hours. Relevant case information should be provided to the Emergency Judge together with a written Petition, if requested. Unless otherwise provided, the caller must file a Petition the next business day with the Clerk of Family Court.

4. **Miscellaneous and Sundry Divorce Related Issues.** Pursuant to Pa.R.Civ.P. No. 1920.43. The caller should advise the Emergency Judge as to the status of the divorce

proceedings and also why such request was not made during court hours. Relevant case information should be provided to the Emergency Judge together with a written Petition, if requested. Unless otherwise provided, the caller must file a Petition the next business day with the Clerk of Family Court.

### **CRIMINAL MATTERS**

The Emergency Judge may receive requests to modify a defendant's bail. However, once the initial determination of bail is made at the preliminary arraignment by a Municipal Court Bail Commissioner, any appeals therefrom are heard by the Emergency Municipal Court Judge or specially assigned Municipal Court Judge. Modification of bail between the preliminary arraignment and the Common Pleas Court trial should be ordered only by the Judge regularly assigned to the Common Pleas Court Criminal Motion Court, and during **non-court hours** may be ordered by the Emergency Judge. However, modification of bail by the Emergency Judge is discouraged. Rather, the caller should be directed to present any such application to the Common Pleas Court Criminal Motion Court.

### **CONCLUSION**

The Court of Common Pleas Emergency Judge is authorized to handle emergencies which may arise during non-court hours. However, since the Court has adopted procedures to promptly address recurring "emergency" issues, the Emergency Judge will only grant emergency relief when **absolutely** necessary.

***Note: The Office of the President Judge is presently reviewing the existing Emergency Judge Manual and requests comments from the bench and bar regarding experience with the various issues discussed herein.***

# **DOCUMENT**

**MEMORANDUM**

DATE:

**To:** Vincent Costello, Director, Communications and Special Services

**From:** Alex Bonavitacola, President Judge

**Subject:** WEEKLY EMERGENCY JUDGE ASSIGNMENT

The Emergency Judge handles all emergencies (Civil, Criminal, Orphans' and Family Court matters) arising after Court hours. As part of this assignment, \_\_\_\_\_ will also be available to perform weddings on Tuesday and Thursday in Room 410, City Hall at 4:00 p.m. The assignment is as follows:

Friday, \_\_\_\_\_, 5:00 p.m. through Friday, \_\_\_\_\_, 9:00 a.m.:

Hon. \_\_\_\_\_ Beeper: 319-2708 Cellular Phone: 450-0913  
Chambers: \_\_\_\_\_

*The Beeper and Cellular Phone must be picked up from Room 386 City Hall Friday \_\_\_\_\_ after 2:00 p.m. and must be returned Friday \_\_\_\_\_ before 10:00 a.m.*

**Emergency Court Reporter:**

Name:  
Beeper: 984-9201  
Home:  
Office:

**Municipal Court Judge:** Hon. \_\_\_\_\_ Beeper: 984-9210

**Municipal Court Standby Bail Commissioners (On call for Emergency Hospital Preliminary Arraignments):**

Date: Commissioner Beeper: 984-9211 Home:  
Date: Commissioner Beeper: 984-9211 Home:

**Prothonotary Clerk**

\_\_\_\_\_ Beeper: 306-1015 Home:

**Assistant District Attorney:** Call 686-8000 **Defender:** \_\_\_\_\_  
Home:

(The Assistant District Attorney and the Defender are on call for Emergency Hospital Preliminary Arraignments.)

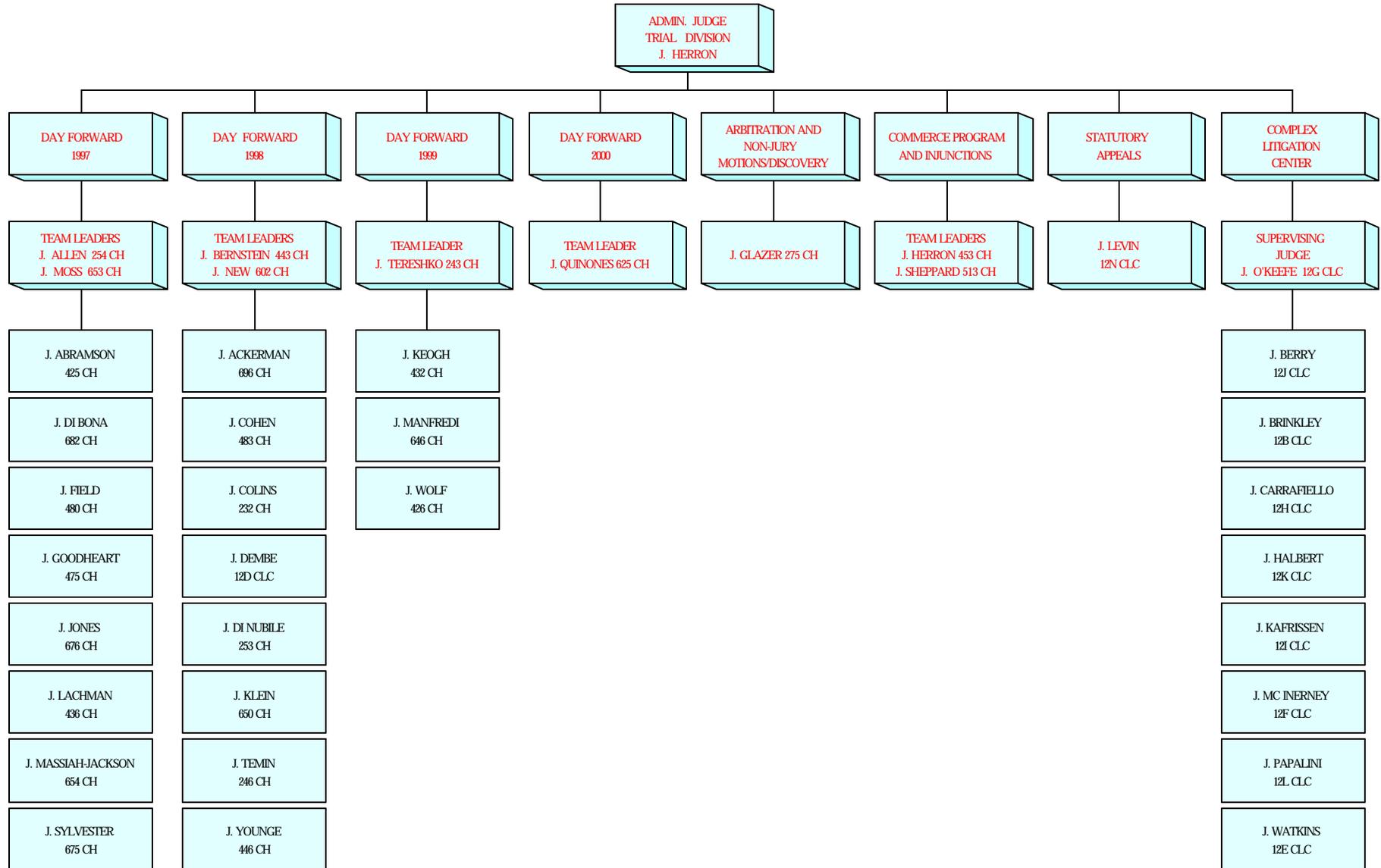
**IF ANY OF THE ABOVE NAMED INDIVIDUALS CANNOT BE REACHED THROUGH THE ABOVE LISTED TELEPHONE NUMBERS, THEY MUST ADVISE THE CITY HALL TELEPHONE OPERATOR AT 686-5665 AS TO HOW THEY MAY BE REACHED.**

cc: Emergency Judges Emergency Staff  
Court of Common Pleas Administrative Judges Prothonotary  
Municipal Court President Judge Bail Commissioners  
Municipal Court Administrative Judge District Attorney  
Common Pleas and Municipal Court Administration Defender Association

**2000 - JUDICIAL ASSIGNMENTS  
CIVIL TRIAL DIVISION**

**JUDICIAL ASSIGNMENTS  
JANUARY-JUNE, 2000  
COURT OF COMMON PLEAS  
CIVIL TRIAL DIVISION**

EFFECTIVE  
1/3/2000



CIV200.2

CH = City Hall

CLC = Complex Litigation Center, 12th Fl., Wanamaker Bldg.

**CIVIL TRIAL DIVISION  
MOTION ASSIGNMENT MATRIX  
2000**

Upon filing with the Motions Clerk in Room 280, City Hall, all Motions shall be assigned in accordance with the following Matrix:

<b>FILING TYPE</b>	<b>JUDICIAL ASSIGNMENT</b>
Commerce Program	Judges Herron and Sheppard

**MAJOR JURY CASES**

Major Jury Cases Filed Prior to 1995	Judge New
Day Forward 1995	Judge Bernstein
Day Forward 1996	Judge Tereshko
Day Forward 1997	Judges Allen and Moss
Day Forward 1998	Judges Bernstein and New
Day Forward 1999	Judge Tereshko
Day Forward 2000	Judge Quinones Alejandro

**CASES OTHER THAN MAJOR JURY**

Non Jury*	Judge Glazer
Arbitration	Judge Glazer
Post Arbitration & Arbitration Appeals*	Judge Glazer
Mass Tort	Judge O'Keefe
Wrongful Death Involving a Minor or Incapacitated Person, and Minors' Compromise	Orphans' Court

*\*Motions in Limine, Consolidations, and Extraordinary Relief in Non Jury and Arbitration Appeal cases are assigned to Judge O'Keefe. All other motions filed under these programs are to be assigned to Judge Glazer.*

# CIVIL TRIAL DIVISION MOTION ASSIGNMENT MATRIX 2000

The following Motions shall be assigned to the Administrative Judge *regardless* of any program designation:

- Wrongful Death/Survival Action cases NOT involving a Minor or Incapacitated Person;
- All Petitions for Assignment to an Individual Judge;
- All Motions for Advancement on the Trial List;
- All Petitions to Appoint Neutral Arbitrator;
- All Petitions to Compel Arbitration;
- All Petitions for *In Forma Pauperis*; and
- All Petitions to Stay Arbitration

<b>Motions to Consolidate</b>	Assigned in accordance with Administrative Docket No. 3 of 1996, as amended 11/2/98.
<b>Preliminary Injunctions</b> ( <i>Non-Commerce</i> )	Assigned by Administrative Judge
<b>Discovery Motions</b>  <i>The only discovery motions we accept are Discovery Motions filed in Municipal Court Appeal cases. These motions are assigned to Municipal Court judges in the following manner: Landlord &amp; Tenant actions go to Judge Cosgrove, and Money Judgment actions go to Judge King.</i>	Assigned in accordance with Rule 206.2 and scheduled consistent with Judicial Team Leader assignments to Discovery Court.
<b>Motions to Enforce Settlement</b>	Assigned to the Judge who approved or was involved in effecting the settlement.
<b>Motions for Reconsideration</b>	Assigned to the Judge who entered the order to be reconsidered.

*Municipal Court Appeals from Denial to Open Default Judgment are assigned to Judge Glazer.*

**SPECIFIC MOTIONS:  
PROCEDURE AND FORMS**

**PETITIONS TO APPROVE MINORS' COMPROMISES  
AND WRONGFUL DEATH\ SURVIVAL ACTION  
SETTLEMENTS**

## **Petitions to Approve Minors' Compromises and Wrongful Death\Survival Action Settlements**

Court approval is necessary whenever a lawsuit involving the interest of a minor or incapacitated person is settled or discontinued. See Pa.R.C.P. 2039; Pa.R.C.P. 2064; Phila. R.Civ.P. \*2039.1. The purpose of this rule is to protect the interests of the minor or incapacitated person by requiring court scrutiny of the manner in which settlement funds are allocated. Court approval is also necessary for the settlement of any wrongful death action involving the interests of a minor or incapacitated person. See Pa.R.C.P. 2206; Phila. R. Civ.P. \*2206. Finally, court approval is always required for the settlement of survival actions to protect the interests of an estate, its beneficiaries and creditors. Moore v. Gates, 398 Pa. Super. 211, 580 A.2d 1138, 1141 (1990), alloc. denied, 527 Pa. 617, 590 A.2d 758 (1991); Schuster v. Reeves, 403 Pa. Super. 518, 589 A.2d 731 (1991), alloc. denied, 528 Pa. 644, 600 A.2d 195 (1991).

To facilitate the approval of these petitions, the court has published forms and checklists as a Joint Court Regulation of the Trial Division and Orphans' Court Division No. 97-1. These forms are readily available in the appendix of the published local Orphans' Court rules and should be consulted whenever a petition to settle is filed. The procedure for the disposition of these motions has been set forth in the Joint General Court Regulation Trial Division and Orphans' Court Division No. 97-1.

## Procedure

Petitions to Settle Actions involving Minors or Incapacitated Persons - Petitions for approval of settlements in cases involving the interests of Minors or Incapacitated Persons should be filed with the Prothonotary. The petition is then forwarded to the office of Civil Administration (City Hall Room 296) where it is held until the expiration of the twenty day response period. Once the response period has elapsed, the petition is assigned to a judge in the Orphans' Court Division who will enter a final, dispositive order. The order is then returned to the office of Civil Administration where it is docketed and a copy sent to all interested parties.

Petitions to Settle Wrongful Death\Survival Actions - Petitions for Approval of Settlements in Wrongful Death or Survival Actions are filed with the Prothonotary. These petitions are then forwarded on to the Office of Civil Administration (City Hall Room 296) where they are held until the expiration of the twenty day response period. Once this response period has elapsed, those wrongful death\survival actions involving the interests of a minor or incapacitated person are assigned to a judge in the Orphans' Court Division for a final, dispositive order. Those wrongful death\survival actions that do not involve the interests of a minor or incapacitated person are assigned to the Administrative Judge of the Trial Division for a final, dispositive order. The order is then returned to the office of Civil Administration where it is docketed and a copy mailed to all interested parties.

## **DOCUMENTS**

**JOINT GENERAL COURT REGULATION NO. 97-1**

Procedure for Approval of Compromises Involving Minors, Incapacitated Persons,  
Wrongful Death and Survival Actions : **<http://courts.phila.gov/regs/igcr971.htm>**

***For sample forms for a Petition for Leave to Settle or Compromise A Minor's Action  
or a Petition to Settle Wrongful Death and Survival Actions, Consult the Orphans'  
Court Forms that are reproduced in the Philadelphia County Court Rules.***

# **MOTIONS FOR EXTRAORDINARY RELIEF**

## **Motions for Extraordinary Relief**

A Motion for Extraordinary Relief is the motion that should be filed whenever a party seeks an extension of a deadline imposed by a case management order. Approximately 90 days after a civil action is initiated, a case management conference is scheduled. At this conference, the case manager analyzes the case and assigns it to a "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: settlement conferences (before a Judge Pro Tem); pre-trial conferences (before 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 Motions Court Clerk in the Prothonotary's Office, Second Filing, room 280 City Hall. Any adverse party has ten (10) days after the filing of the petition to file a response.

In major jury cases, a Motion for Extraordinary Relief is ruled on by the individual team leaders. If the motion is granted, it could have an impact on all of the deadlines in a particular case. The party filing the motion should therefore include a proposed order that includes all of the deadline dates that would be affected by the order as well as a copy of the current case management order. Failure to comply with these requirements may result in denial of the motion, and the timeliness of a subsequent compliant motion will not be measured from the date of the defective filing.

A Motion for Extraordinary Relief may also be filed in Major Non-Jury and Mass Tort Cases. In Major Non-Jury cases, the discovery deadlines are set at the time of filing the Complaint when the Prothonotary stamps the discovery deadlines on the cover sheet of the complaint. These motions will be ruled on by the Honorable Joseph D.O'Keefe, Supervising Judge of the Complex Litigation Center.

Team leaders will rule upon Motions for Extraordinary Relief promptly, generally within 10 days following the filing of a response.

Each team will be directed by one or two judges. For the period beginning January 2000 the following assignments will be in effect:

<u>Program</u>	<u>Team Leaders</u>
Day Forward 2000	Judge Quinones Alejandro
Day Forward 1999	Judge Tereshko
Day Forward 1998	Judge Bernstein Judge New
Day Forward 1997	Judge Allen Judge Mazer Moss
Day Forward 1996	Judge Tereshko
Commerce Program	Judge Herron Judge Sheppard

Motions for Extraordinary Relief are fact and case track sensitive. Counsels' agreement to extend deadlines within a Case Management Order is not a recognized basis for an extension.

And, neither a sudden change in counsel nor counsel's hectic schedule and other commitments will merit an extension. Counsel who do little work on the case in timely fashion but nevertheless request extensions of court ordered deadlines are unlikely to receive them. Counsel 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.

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

1. 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).
2. Discovery time lost due to a stay of proceedings.
3. Illness or death of a party or material witness directly and significantly affecting an imminent deadline.
4. Short term disability or maternity leave of counsel where no other firm attorney is capable of assuming the representation.

5. Information timely discovered requiring unanticipated further discovery that cannot be completed within existing deadlines.
6. Late joinder of a party where the delay in joining the additional party is satisfactorily explained.

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.

We commend the practicing Bar for dramatically changing the culture of litigation practice in Philadelphia.

# **DOCUMENTS**



DESCRIBE RELIEF REQUESTED *(Attach proposed Order, setting forth the current deadlines and proposed deadlines)*

Set forth the efforts made to comply with the applicable deadlines; specify what needs to be done; set forth all relevant activity which has already been scheduled; and length and reason for the time requested.

A COPY OF THIS MOTION WAS SENT OR WILL BE SENT TO THE FOLLOWING PARTIES OR COUNSEL ON THE FOLLOWING DATES:

Response due: \_\_\_\_\_ *(within 10 days of filing of Motion)*

I certify the above to be true and correct.

Respectfully submitted,

Date: \_\_\_\_\_

\_\_\_\_\_  
, Esquire  
*Attorney for Plaintiff/Defendant*

In the Court of Common Pleas of Philadelphia County  
**RESPONSE TO MOTION FOR EXTRAORDINARY RELIEF**

(Check One Program)

- |   |                                    |
|---|------------------------------------|
| <input type="checkbox"/> Commerce               | <input type="checkbox"/> Mass Tort |
| <input type="checkbox"/> Day Forward/Major Jury | <input type="checkbox"/> Non-Jury  |
| <input type="checkbox"/> Arbitration Appeal     |                                    |

*Must be filed with the Motions Clerk in 280 City Hall.*

CONTROL NUMBER

CAPTION

COURT TERM AND NUMBER

NAME OF RESPONDING PARTY AND COUNSEL

NAME OF PLAINTIFF AND COUNSEL

NAME OF DEFENDANT AND COUNSEL

SET FORTH YOUR POSITION CONCERNING THE MOVING PARTY'S REQUESTED RELIEF (ATTACH PROPOSED ORDER)

A COPY OF THE RESPONSE WAS SENT OR WILL BE SENT TO THE FOLLOWING PARTIES AND/OR COUNSEL ON THE DATES SET FORTH BELOW

I certify the above to be true and correct.

Respectfully submitted,

Date: \_\_\_\_\_

\_\_\_\_\_, Esquire

*Attorney for Plaintiff/Defendant*

**FEES  
OF THE  
PROTHONOTARY**

## FEES OF THE PROTHONOTARY

Effective January 1, 2000

### A. COMMENCEMENT OF ACTION

- |   |           |
|---|-----------|
| 1) Arbitration, Non-Jury & Petition Actions | *\$203.50 |
| 2) Jury Demand                              | *\$383.50 |

\* Please Note: Pursuant to 71 P.S. Section 2108(b.1) the Prothonotary must collect \$11.00 for each defendant in the initial filing.

- |  |          |
|--|----------|
| 3) Appeals to Court of Common Pleas                        | \$89.00  |
| 4) Judgment by Confession/Judgment from Other Jurisdiction | \$71.50  |
| 5) Name Change Petition - Adult                            | \$203.50 |

### B. SUBSEQUENT PLEADINGS

- |  |           |
|--|-----------|
| 1) Defendant First Filing  | \$102.00  |
| 2) Jury Demand (if not paid previously)                              | \$180.00  |
| 3) Defendant First Filing, with Jury Demand (if not paid previously) | \$282.00  |
| 4) Petitions/Motions (Excluding "Petition Actions")                  | \$30.00   |
| 5) Certification or Certificate, Court of Common Pleas               | **\$30.00 |
| 6) Exemplification   | **\$60.00 |

\*\*Please Note: Pursuant to 42 Pa.C.S. Section 1725(c)(2)(ii) the Prothonotary must collect \$3.60 for each additional page.

- |             |            |
|-------------|------------|
| 7) Subpoena | ***\$48.00 |
|-------------|------------|

\*\*\*Please Note: Pursuant to 42 Pa.C.S. Section 1725(c)(2)(xv) the Prothonotary must collect \$10.00 per hour beyond four hour service or fraction thereof.

- |   |          |
|---|----------|
| 8) Mechanics/Waiver of Lien (Excluding Commencement of Action with Complaint)       | \$24.00  |
| 9) Name Search  | \$35.00  |
| 10) Non Party Docket Report   | \$5.00   |
| 11) Appeal from Arbitration (without Jury Demand)                                   | \$278.00 |
| 12) Appeal from Arbitration (with Jury Demand)<br>(if jury fee not previously paid) | \$458.00 |

13) Appeal to Supreme, Superior or Commonwealth Court \$180.00

C. UNIFORM COMMERCIAL CODE

1) UCC Financing Statements - Per Debtor Name \$60.40  
2) UCC Non Standard Form \$200.55  
3) UCC Search Fee - Per Debtor Name \*\$60.40

\* For Each Record Found in Search Add \$5.25.

**FAMILY COURT FILINGS+**

A. DIVORCE

1) Commencement of Action \$214.00  
2) Defendant First Filing \$102.00  
3) Jury Demand (if not paid at time of commencement) \$180.00  
4) Praecipe to Transmit \$48.00  
5) Motion for Appointment of Permanent Master \$330.00  
6) Name Change Petition - Minor (Petition to Amend Birth Certificate) \$203.50

B. CUSTODY

1) Petition for Custody, Partial Custody or Visitation \$52.00  
2) Respondent's First Filing \$24.00  
3) Custody Certification \$30.00  
4) Home Investigation - Family Court Admin. Reg. 91-2 \$200.00  
5) Psychological Evaluation - Family Court Admin. Reg. 91-2 \$200.00

C. SUPPORT

1) Initiation of Support Proceedings (Complaint\Petition) \$5.00  
2) Lien\Judgment Search or Certification \$20.00

D. ADOPTION

1) Petition of Adoption \$216.00  
2) Registration of Foreign Birth & Gestational Carrier Petition \$204.00  
3) Report of Intent to Adopt (Adoption with Counseling) \$291.00  
4) Certificate of Adoption (upon finalization of adoption) \$30.00  
Certification of Termination Decrees  
5) Request for Limited (Non-Identifying) Information, Sec. 23 Pa.C.S. section 2905

and Family Court Admin. Reg. 99-9, effective February 2000	\$50.00
6) Request for Identifying Information (which will only be disclosed upon consent of natural parents). See 23 Pa.C.S. §2905 and Family Court Admin. Reg. 99-9, effective February, 2000	\$150.00

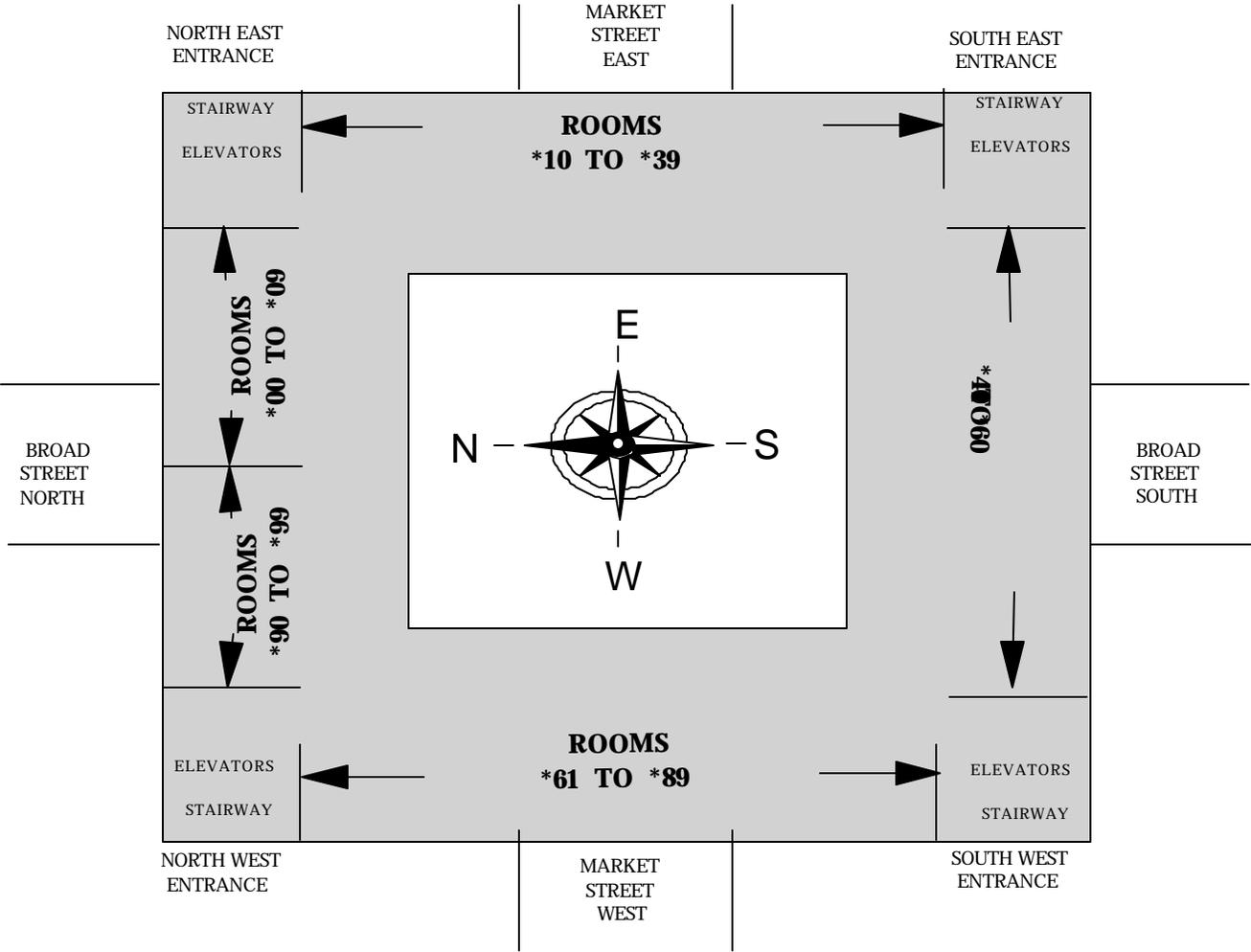
**+ The fees listed under the "Civil Fees" Category may be assessed for certain pleadings filed in the Family Court Division or for services rendered by the Prothonotary or Clerk of Court.**

**December, 1999**

**JOSEPH H. EVERS  
PROTHONOTARY OF PHILADELPHIA COUNTY**

# **JUDICIAL FACILITIES**

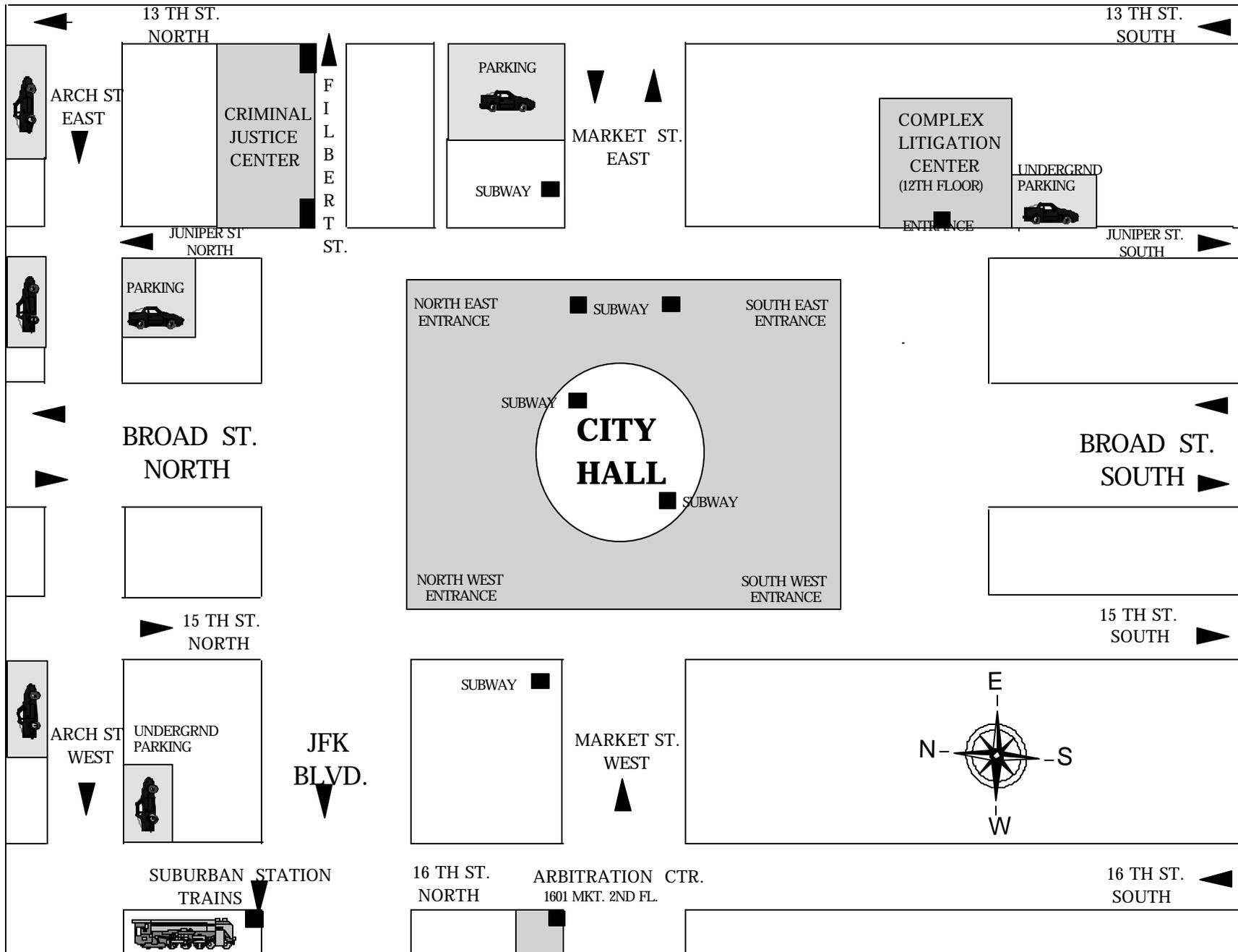
# CITY HALL GENERAL DIRECTIONAL FLOOR PLAN



\* THE FIRST NUMBER WOULD BE THE ACTUAL FLOOR LEVEL

NOTE : YOU CAN NOT GO FROM THE NORTHEAST SECTION TO THE NORTHWEST SECTION ON THE SECOND OR THIRD FLOORS.

# Parking Locations Near City Hall



City Hall Restroom Facilities  
as of 7\1\99

**FIRST FLOOR**

<u>Location</u>	<u>Room</u>
SE Corner	138D - WOMEN
SW Corner	160 - WOMEN
SW Corner	188D - MEN

**SECOND FLOOR**

<u>Location</u>	<u>Room</u>
NE Corner	210 (private) (City Hall personnel only)
SE Corner	238D - MEN
NW Corner	288D - MEN
North Corridor	291A - WOMEN (private) (City Hall personnel only)
North Corridor	293 - WOMEN

**THIRD FLOOR**

<u>Location</u>	<u>Room</u>
NE Corner	310D - MEN
SE Corner	338D - WOMEN
West Corridor	378 - MEN (private) (City Hall personnel only)
West Corridor	378 - WOMEN (private) (City Hall personnel only)
NW Corner	388D - WOMEN

**FOURTH FLOOR**

<u>Location</u>	<u>Room</u>
NE Corner	410D - WOMEN (private) (City Hall Personnel only)
SW Corner	460A - MEN
SE Corner	436D - WOMEN
NW Corner	488D - MEN (private) (City Hall personnel only)

## **FIFTH FLOOR**

<u>Location</u>	<u>Room</u>
NE Corner	508 - MEN (private) (City Hall personnel only)
SE Corner	538D - WOMEN
East Corner	531 - WOMEN (private) (City Hall personnel only)
NW Corner	588D - WOMEN (private) (City Hall personnel only)

## **SIXTH FLOOR**

<u>Location</u>	<u>Room</u>
NE Corner	610 - MEN
SE Corner	638D - MEN
SW Corner	660 - WOMEN
NW Corner	688D - WOMEN

## **SEVENTH FLOOR**

<u>Location</u>	<u>Room</u>
East Corner	721 - MEN
SE Corner	738D - WOMEN
West Corridor	777 - MEN
NW Corner	788D - WOMEN

Many courtrooms have unisex bathrooms in the contiguous robing room area. Upon request, presiding Judges may make such facilities available to counsel and parties.

Private restrooms - The combination number for these areas is 2,3,4. These combinations are changed periodically when security issues arise.

**WHEELCHAIR AVAILABILITY  
THROUGHOUT THE FIRST JUDICIAL DISTRICT**

**Wheelchairs are available at the following locations:**

<b><u>Location</u></b>	<b><u>Contact Person</u></b>
<b>Criminal Justice Center</b>	<b>Joseph Cairone 683-7500</b>
<b>City Hall - Human Resources</b>	<b>Matthew F. Lewandowski 686-8824</b>
<b>1801 Vine Street</b>	<b>Ervin Davis 686-7425</b>
<b>34 S. 11th Street - Domestic Relations</b>	<b>Joseph Harbson 686-9309</b>
<b>34 S. 11th Street - Municipal Court</b>	<b>Dorothy Dempsey 686-2910</b>
<b>Wanamaker Building</b>	<b>Mary McGovern 686-5100</b>
<b>121 N. Broad Street</b>	<b>Bernadette Casiello 686-9581</b>

**If a need arises for a wheelchair, please make arrangements with the appropriate contact person for your location.**

# **ADMINISTRATIVE ORDERS**

## **ADMINISTRATIVE ORDERS**

### ADMINISTRATIVE DOCKET NO 1 OF 1998

Protocol for Trial Pools in the Day Backward and Day Forward Programs

<http://courts.phila.gov/regs/1998/cptad981.htm>

### ADMINISTRATIVE DOCKET NO. 03 OF 1998

Protocol for Production of Expert Reports in Civil Case Programs

<http://courts.phila.gov/regs/1998/cptad983.htm>

### ADMINISTRATIVE DOCKET NO. 04 OF 1998

Alternative Procedure for Disposition of Uncontested or By Agreement Discovery Motions

<http://courts.phila.gov/regs/1998/cptad984.htm>

### ADMINISTRATIVE DOCKET NO. 05 OF 1998

Administrative Order Sur Petitions for Extraordinary Relief Seeking Leave to File A Motion to Amend New Matter and the Motions to Amend New Matter in All Cases Involving the PIGA

<http://courts.phila.gov/regs/1998/cptad985.htm>

### ADMINISTRATIVE DOCKET NO. 08 OF 1998

In Re: Adoption of Arbitration Appeal Program Case Management Order

<http://courts.phila.gov/regs/1998/cptad988.htm>