

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
President Judge General Court Regulation No. 2007-02

In Re: Rescission, Adoption and Amendment of Philadelphia Civil Rules
***201, *205.2(a), *205.4, *208.3(b), *210, *1018, *1021, *1028(c), *1303(g),**
***2039.1, *2039.2, and *2206**

ORDER

AND NOW, this 13th day of December, 2007, the Board of Judges of Philadelphia County, having voted at the Board of Judges' meeting held on November 15, 2007 to rescind, adopt or amend Philadelphia Civil Rules *201, *205.2(a), *205.4, *208.3(b), *210, *1018, *1021, *1028(c), *1303(g), *2039.1, *2039.2 and *2206 as attached, HEREBY ORDER that Philadelphia Civil Rules *201, *205.2(a), *205.4, *208.3(b), *210, *1018, *1021, *1028(c), *1303(g), *2039.1, *2039.2 and *2206 are rescinded, adopted or amended as attached: Deletions are in ~~striketrough text~~; additions are in **bold, underlined** text.

The effective date of the rescission, adoption or amendment of each rule is set forth in each rule.

This General Court Regulation is issued, and the attached rules are promulgated, as required by Pa.R.C.P. Nos. 239 and 239.8. The original General Court Regulation and rules shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, shall be published in the *Pennsylvania Bulletin*, and copies shall be submitted to the Administrative Office of Pennsylvania Courts and the Civil Procedural Rules Committee. As required by Pa.R.C.P. No. 239.8, Philadelphia Civil Rules *205.2(a), *208.3(b), *210, and *1028(c) shall be published on the Pennsylvania Judiciary's Web Application Portal:

<http://ujportal.pacourts.us/Rules/RulesSelection.aspx>. Copies of the General Court Regulation and rules shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov>.

BY THE COURT:

/s/ *Honorable C. Darnell Jones, II*

Honorable C. Darnell Jones, II
President Judge,
Court of Common Pleas of
Philadelphia County

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *201. STIPULATIONS.

(A) Judicial approval of stipulations of counsel is not required except for stipulations relating to the following matters:

- (1) The settlement, discontinuance and ending of an action as to less than all defendants;
- (2) The return of money deposited with the Court;
- (3) The transfer of an action to another Court or jurisdiction;
- (4) Late joinder of additional defendants; and
- (5) Waiver of the requirements of a local rule.

(B) Stipulations not requiring judicial approval shall be filed with the Prothonotary. Service shall be made by the filing party upon all counsel and unrepresented parties.

(C) Stipulations requiring Court approval in cases not assigned to the Non Jury Program, the Arbitration Program or the Arbitration Appeal Program shall be presented for approval to the Judicial Team Leader for that Program to which the case has been assigned. Stipulations requiring Court approval in the Non Jury, Arbitration or the Arbitration Appeal Programs shall be presented for approval to the Motion Court Judge. All Stipulations requiring Court approval shall be filed with the Prothonotary (~~Second Filing Unit~~), and it will be the responsibility of that Unit to forward the Stipulation **and will be assigned** to the appropriate Judge for approval. ~~All such Stipulations shall be accompanied by stamped addressed 9 1/2" X 4 1/2" size envelopes for each attorney of record and unrepresented party.~~

*Note: The amendments to this rule are made in contemplation of implementation of Electronic Filing as authorized by Pa.R.C.P. No. 205.4 and Philadelphia Civil Rule *205.4; the amendments will thus become effective on the implementation date announced by the Administrative Judge of the Trial Division as provided in Philadelphia Civil Rule *205.4(a)(1)(ii). Until that date, the parties must continue to include with their legal papers the required addressed stamped envelopes. The Court will not accept the pleadings or legal papers without the required envelopes.*

Adopted by the Board of Judges on November 15, 2007; effective on the date established in Philadelphia Civil Rule *205.4(a)(1)(ii).

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES

RULE *205.2(a). PLEADINGS

*Note: Rule rescinded. Subject matter contained in Philadelphia Civil Rule*205.2(a)(5) and (6) is adopted as Philadelphia Civil Rule *1018. Subject matter contained in Philadelphia Civil Rule*205.2(a)(8) is adopted as Philadelphia Civil Rule *1021. All other provisions contained in this rule are covered by Pennsylvania Rules of Civil Procedure and are thus unnecessary.*

~~— No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the Prothonotary. All papers filed with the Prothonotary shall conform to the following requirements:~~

~~— (1) Pleadings, opinions, briefs and other papers and records which are to be filed with the Prothonotary shall be prepared on letter size (approximately 8 1/2" X 11") paper of customary weight and quality.~~

~~— (2) The margin on all papers shall be not less than 3/4" on the left side of the page and 1/4" on the right side of the page and the material shall be double spaced.~~

~~— (3) The first paper filed by, or on behalf of, a party in a case shall have endorsed thereon an address in the Commonwealth and, as authorized by Pa.R.C.P. No. 205.4(g)(2), an electronic mail address at which all papers and notices thereafter may be served upon the party or counsel.~~

~~— (4) The first page shall contain a 3" space from the top of the page for all stampings, filing notices, waivers and demands for a jury trial and notations. Beginning at the left hand margin 3" from the top of the page, the attorney name, electronic mail address, attorney identification number, firm name, address, and telephone number shall appear in that order. To the right of the attorney's address, the client's name shall appear. The size of lettering shall not be less than ten points.~~

~~— (5) The case caption shall appear below the attorney address at the left hand margin of the page with the proper Court term and number appearing to the right hand margin.~~

~~— (6) The complaint or other original filing shall contain in the caption the addresses, including zip codes, of all parties.~~

~~— (7) Whenever any right, claim or defense is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation or rule of Court, the~~

~~first pleading in which such right, claim or defense is asserted shall cite, for the information of the Court, the statute, ordinance, regulation or rule to be relied upon.~~

~~———(8) Whenever money damages in a sum certain are claimed, the pleading shall state the precise amount, and the date or dates from which any interest thereon is claimed.~~

~~———(9) In actions in which book accounts may be offered in evidence, if a copy thereof is attached to any pleading, it shall not be necessary to produce the books at the trial, unless a responsive pleading shall allege that the account or copy is incorrect, stating particulars, or that the books are not books of original entry and shall demand the production of the books at the trial; otherwise, the copy shall be admitted as evidence without further proof.~~

~~———(10) Pleadings amended before trial shall be executed, verified and filed in their amended form. If amendments to pleadings are required to be attached to any brief or other document, they shall be set forth as amended to date.~~

Adopted June 24, 2004, effective July 26, 2004.

Rescinded by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

Rule * 205.4. ELECTRONIC FILING OF LEGAL PAPERS FILED IN THE CIVIL TRIAL DIVISION.

(a) (1) - Authorization for Electronic Filing.

(i) Commencing on a specific date as established by the Administrative Judge of the Trial Division by the issuance of an Administrative Order, parties may electronically file all legal papers and exhibits with the Prothonotary.

(ii) Commencing on a specific date as established by the Administrative Judge of the Trial Division by the issuance of an Administrative Order, parties shall electronically file all legal papers and exhibits with the Prothonotary.

Note: Electronic Filing will be implemented in 2008; however, the exact date is not known at this time. The Administrative Judge of the Trial Division will announce the implementation dates of discretionary and mandatory electronic filing by order issued as required by Pa.R.C.P. No. 239.

(b) (1) Authorized Electronic Format of Legal Papers Electronically Filed. All legal papers shall be filed in a *portable document format* (“pdf”). As authorized by Pa.R.C.P. No. 205.4 (b)(1), in the event any legal paper or exhibit is submitted to the Prothonotary in a hard-copy format, the Prothonotary shall convert and maintain such legal paper or exhibit to a *portable document format*, and the Prothonotary shall return the hard-copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(5).

(c) (2) Website. Access to the Website.

(i) Website. All legal papers shall be filed electronically through the Civil Trial Division’s Electronic Filing System (“Electronic Filing System”) which shall be accessible through the website of the First Judicial District of Pennsylvania, <http://courts.phila.gov>, or at such other website as may be designated from time to time.

(ii) Access to the Website. To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply for and receive a User Name, Password, and Personal Identification Number (“PIN”).

(d) Payment of Filing Fees.

(1) The Prothonotary will accept for payment of all filing fees cash, checks and the following credit and debit cards: American Express, Discover, MasterCard, and Visa.

(2) The Prothonotary will not accept advance deposit on account of future filing fees due to the difficulty in monitoring and accounting for such advance deposits.

(3) Electronic Filing Fees and Costs. As authorized by Act 81 of 2006, the Prothonotary shall collect an electronic filing fee for each legal paper or exhibit filed as established by the Prothonotary with the approval of the President Judge of the Court of Common Pleas. In addition to such electronic filing fee, commencing on date provided in subsection (a)(1)(ii), the Prothonotary is authorized to charge the sum of \$1.00 per page for each page of a legal paper or exhibit which is filed in a hard copy format and which must be converted by the Prothonotary to a *portable document format*. All fees collected pursuant to this rule shall be set aside by the Prothonotary and remitted monthly to the First Judicial District's Procurement Unit. All such fees and costs collected will be used for the implementation and maintenance of the electronic filing system and additional development, enhancements and training.

(f) Local Procedures. As authorized by Pa.R.C.P. No. 205.4 (f), the following administrative procedures are adopted:

(1) Signatures on Pleadings, Verifications, Documents and Other Legal Papers. The electronic filing of legal papers utilizing the issued User Name, Password and PIN issued as provided by this rule and Pa.R.C.P. No. 205.4, constitutes the party's signature on electronic documents as provided by Pa.R.C.P. No. 1023.1 and, if the filing party is an attorney, constitutes a certification of authorization to file it as provided in Pa.R.C.P. No. 205.1. Additionally, the following provisions apply:

(i) Filing Party. The legal paper must include a signature block, and the name of the filer under whose User Name, Password and PIN the legal paper is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.

(ii) Client Verifications and Documents Executed by Clients or Other Persons. The Verification required by Pa.R.C.P. Nos. 206.1 and 1024 and the signature page(s) of any document or legal paper executed by any party other than the filing party must be scanned and attached to the electronic filing in a *portable document format* at the time the legal paper is submitted.

(iii) Documents requiring signatures of more than one party must be scanned and attached to the electronic filing in a *portable document format* at the time the legal paper is submitted.

Note: This subsection is designed to address issues which may arise regarding signatures on legal papers and documents. A filer's use of the User Name, Password and PIN issued through the EFS is the filer's "electronic signature." However, often, legal papers require that verifications be executed by non-filers and deficiencies in content and execution could be subject to preliminary objections. Moreover, many legal papers or documents require multiple signatures. In order to avoid prejudicial delay, this section requires that the filing

party scan such legal papers, documents or signature pages and attach them to the electronic filing at the time of submission.

(2) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the Electronic Filing System.

(3) After review of the legal paper, the Prothonotary shall provide the filing party with e-mail notification, or notification on the Electronic Filing System, that the legal paper has been accepted for filing (“filed”) or not accepted or refused for filing.

(4) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Electronic Filing System; provided, however, that if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment was received. The Prothonotary is authorized to refuse for filing a legal paper submitted without the requisite payment. If the pleading or legal paper is accepted for filing, it will be electronically served as authorized by Pa.R.C.P. No. 205.4(g)(1)(ii) and service shall be effectuated as provided in Pa.R.C.P. No. 205.4(g)(2)(ii).

Note: As required by Pa.R.C.P. No. 205.4(c)(1), access to the Electronic Filing System shall be available at all times, except for required maintenance. However, legal papers can only be reviewed during normal court hours. Therefore, parties are cautioned to file required legal papers in advance of any filing deadline to enable timely correction and re-submission in the event a legal paper is not accepted or is refused for filing. The Prothonotary may refuse for filing any legal paper submitted without the required filing fees as provided by 42 Pa.C.S. § 1725(c)(2)(xix), or, at the Prothonotary’s discretion, may authorize the filer to submit the required filing fees within a stated time period after which the Prothonotary may refuse the legal paper for filing if payment is not received.

(5) If a legal paper is refused for filing, the Prothonotary shall specify the reason. Subject to the provisions of subsection Rule 205.4 (e)(1)(i), a legal paper refused for filing shall be deemed as not having been filed.

(6) Neither the Court nor the Prothonotary are required to maintain a hard copy of any legal paper or exhibit, notice, or order filed or maintained electronically under this rule.

Note: This rule is adopted as required by Pa.R.C.P. No. 239.9.

The provisions which govern the Electronic Filing of Mental Health Applications and Petitions are set forth in Philadelphia Civil Rule 7109.1, which was adopted on November 16, 2001 and which became effective on January 1, 2002.

Adopted by the Board of Judges on November 15, 2007; effective January 7, 2008.

Adopted by the Board of Judges on November 15, 2007; effective January 7, 2008.

PHILADELPHIA COUNTY

**COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *208.3(b). MOTIONS CONSIDERED AFTER RESPONSE PERIOD. BRIEFS.

(1) Applicability. This rule governs the filing of all motions except the following:

(A) All matters specifically excepted in Pa.R.C.P. 208.1(b).

(B) Assignment to an individual judge. (See Philadelphia Civil Rule *215).

(C) Advancement on the trial list. (See Philadelphia Civil Rule *215).

(D) Arbitration applications. (See Philadelphia Civil Rule 1303.1.)

(E) Motion for approval of settlements where a minor or incapacitated person have an interest. (See Philadelphia Civil Rule*2039.1.)

(F) Motion for allowance in minors' cases. (See Philadelphia Civil Rule *2039.2.)

(G) Motion for approval of settlements in wrongful death cases. (See Philadelphia Civil Rule *2206.)

(H) Motion for Extraordinary Relief (See Trial Division General Court Regulation No. 95-1).

(2) Non-Discovery Motions

(A) Filing Requirements. All motions other than discovery motions shall be filed with the Prothonotary and the requisite fee paid, and shall thereafter be immediately submitted to the Motion Clerk. All Motions shall be accompanied by the following items in the following order:

(i) A completed Petition/Motion Cover Sheet as provided in Phila.Civ.R. *205.2(b)(2);

(ii) A proposed order, which shall contain no reference to the attorney proposing same;

(iii) A brief or memorandum of law as required by Phila.Civ.R. *210;

~~(iv) Stamped, addressed 9 1/2" X 4 1/4" size envelopes for each attorney of record and unrepresented parties.~~

(B) Control Number. Response Date. Other than as provided in Phila.Civ.R. *208.3(a) and except for Summary Judgment Motions (which have a thirty (30) day response period, all Motions have a twenty (20) day response period. Upon filing, the Motion Clerk shall enter on

the Cover Sheet a unique Control Number which must be used on all Responses, and shall enter the 'Response Date' on or before which all Responses must be filed by any party.

(C) Service Requirements. The moving party shall immediately serve conformed copies of all documents filed with the Motion Clerk on all counsel of record and unrepresented parties, as required by Pa.R.C.P. 440.

(D) Response Requirements. Any party opposing the motion, shall file the following documents with the Motion Court on or before the Response Date:

- (i) A completed Cover Sheet as set forth in Phila.Civ.R. *205.2(b)(2);
- (ii) A proposed order, which shall contain no reference to the attorney proposing same;
- (iii) The Response to the motion; and
- (iv) A brief or memorandum of law as provided in Phila.Civ.R. *210.

(E) Attachments. All Motions shall include copies of all documents or items necessary or relevant to the disposition of the issues. This shall include the complaint, answer, and reply to new matter. All such documents or items shall be included or attached and marked as exhibits separately. The Court may decide any matter against a party who fails to attach to the filing those items sufficient to enable the Court to determine the matter.

(F) Disputed Issues of Fact. Disputed issues of fact shall be determined as the Court may provide pursuant to Pa.R.C.P. 208.4(b).

(G) Deadline for Filing Arbitration Motions. Motions shall not be accepted by the Motion Clerk in cases where an arbitration hearing is scheduled to be held within forty-five (45) days.

*Note: The amendments to this rule are made in contemplation of implementation of Electronic Filing as authorized by Pa.R.C.P. No. 205.4 and Philadelphia Civil Rule *205.4; the amendments will thus become effective on the implementation date announced by the Administrative Judge of the Trial Division as provided in Philadelphia Civil Rule *205.4(a)(1)(ii). Until that date, the parties must continue to include with their legal papers the required addressed stamped envelopes. The Court will not accept the pleadings or legal papers without the required envelopes.*

Adopted by the Board of Judges on November 15, 2007; effective on the date established in Philadelphia Civil Rule *205.4(a)(1)(ii).

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *210. BRIEF.

Except for Motions for Extraordinary Relief, all Petitions and Motions shall be accompanied by a brief or memorandum of law. Briefs or memoranda of law shall be typewritten, printed or otherwise duplicated ~~(the size of lettering shall not be less than ten points)~~, and endorsed with the name of the case, the court term and number, and the name, address, and electronic mail address of the attorney or the party if not represented by an attorney. Briefs and memoranda of law shall contain concise and summary statements, separately and distinctly titled, of the following items in the order listed:

1. Matter before the Court: State the particular pleading (motion, petition, objection, exception, application, etc.) before the court for disposition, and the particular relief requested therein.

2. Statement of question(s) involved: State the issue(s) in question form containing factual context sufficient to present the precise matter to be decided by the Court, each susceptible of a yes or no answer, each followed by the answer desired or advocated.

3. Facts: State the operative facts.

4. Argument: State the reason(s) why the court should answer the questions involved as proposed, including citation of the authorities relied on. An authority shall not be cited for general reference but in all cases shall be immediately preceded or followed by its relevant holding or particular proposition for which it stands.

5. Relief: State the specific action(s) requested of the court.

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *1018. CAPTION.

(a) The case caption shall appear below the attorney address at the left-hand margin of the page with the proper Court Term and Number appearing to the right-hand margin.

(b) The complaint or other original filing shall contain in the Caption the addresses, including the electronic mail address, and zip codes, of all parties.

Source: Former Philadelphia Civil Rule*205.2(a) (5) and (6). The reference to the inclusion of an electronic mail address has been added.

Adopted by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *1021. CLAIM FOR RELIEF. AMOUNT IN CONTROVERSY. SUM CERTAIN.

Whenever money damages in a sum certain are claimed, the pleading shall state the precise amount, and the date or dates from which any interest thereon is claimed.

Source: Former Philadelphia Civil Rule*205.2(a (8)).

Adopted by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *1028(c). PRELIMINARY OBJECTIONS

(1) All preliminary objections shall be filed with the Prothonotary, as provided in Pa.R.C.P. 1028, and ~~must be served on all other parties.~~ **together with:**

(a) a Brief or Memorandum of Law, as set forth in Phila.Civ.R. *210;

(b) copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the complaint, answer, and reply to new matter. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items necessary to enable the Court to determine the preliminary objections; and

(c) a proposed order, which shall contain no reference to the attorney proposing same.

(2) Pursuant to **As provided in** Pa.R.C.P. No. 1028(c)(1) a **, any** party may file an amended pleading as of course within twenty (20) days after service of the preliminary objections. Upon the timely filing of the **an** amended pleading, the preliminary objections ~~are deemed moot and the Prothonotary shall administratively mark the preliminary objections and the Motion to Determine the Preliminary Objections, if filed as required by subsection (c) hereunder,~~ **shall be administratively marked** “moot” on the docket of the case.

~~(3) Within thirty (30) days after filing Preliminary Objections with the Prothonotary, provided an amended pleading has not been filed, the objecting party shall file a Motion to Determine the Preliminary Objections, together with the following:~~

~~(a) a copy of the preliminary objections;~~

~~(b) a Brief or Memorandum of Law, as set forth in Phila.Civ.R. *210; and~~

~~(c) copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the complaint, answer, and reply to new matter. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items sufficient to enable the Court to determine the preliminary objections.~~

~~(4) In the event that the Motion to Determine the Preliminary Objections is not filed with Motion Court within thirty (30) days after filing with the Prothonotary, the party against whom~~

~~the objections are asserted may file with the Motion Court a praecipe, and a proposed order, requesting that the objections be overruled.~~

~~(5) (3)~~ An answer to preliminary objections ~~(as opposed to a Response to the Motion to Determine Preliminary Objections)~~ is required **(within twenty (20) days after service of the preliminary objections)** only to preliminary objections raising an issue under Pa.R.C.P. 1028 (a)(1), (5) ~~and~~, (6), **(7) or (8)**, provided a notice to plead is attached to the preliminary objections. An answer need not be filed to preliminary objections raising an issue under Pa.R.C.P. 1028(a)(2), (3) and (4).

(4) An answer to preliminary objections, if filed, shall be filed together with:

(a) a Brief or Memorandum of Law, as set forth in Phila.Civ.R. *210;

(b) copies of all items necessary or relevant to the disposition of the preliminary objections. This shall include the complaint, answer, and reply to new matter. All such items shall be included or attached and marked as exhibits separately. The Court may decide preliminary objections against a party who fails to attach to the filing those items necessary to enable the Court to determine the preliminary objections; and

(c) a proposed order, which shall contain no reference to the attorney proposing same.

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES

**RULE *1303. SCHEDULING OF ARBITRATION HEARINGS. RELISTINGS.
CONSOLIDATIONS.**

* * *

(g) Transfer from Arbitration to ~~Major List~~ to another Program. A case filed as an Arbitration case may only be transferred to another Program, and listed for trial in accordance with management procedures established pursuant to Philadelphia Civil Rule *215, as follows:

(1) upon the filing of a Counterclaim which seeks monetary damages in excess of the arbitration limits; or

Note: Robert Half International Inc. v. Marlton Technologies, Inc., 2006 Pa. Super 145; 902 A.2d 519 (2006) requires that upon the filing of a counterclaim seeking monetary damages in excess of the arbitration limits, the case be transferred from the Compulsory Arbitration Program.

The transfer will be made automatically upon the filing of a counterclaim which seeks monetary damages in excess of the arbitration limits.

It is suggested that the counterclaimant make the Prothonotary aware that the case previously assigned to the Arbitration Program must be transferred to another Program due to the amount of the monetary damages sought in the counterclaim. Upon implementation of electronic filing, the Electronic Filing System will contain the necessary functionality to effectuate the transfer.

(2) certified as a major case only with Court approval. A Motion for Approval upon the filing of a Motion to Transfer from the Compulsory Arbitration Program to another Program and the entry of an order transferring such case to another Program, subject to the payment of the applicable fee, if any. Day Forward must be filed with the Prothonotary. ~~The Motion for Approval to Transfer will not be granted if it is made immediately before the Arbitration Hearing date and it appears that the requisite pleadings have not been filed.~~

* * *

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *2039.1. MOTIONS FOR APPROVAL OF SETTLEMENTS WHERE A MINOR OR INCOMPETENT HAS AN INTEREST

(A) Filing of Record and Approval as to Form. Motions for settlement of a case in which a minor or incompetent has an interest shall be served on all parties of record **and** filed with the Prothonotary ~~and taken to the Clerk of the Motion Court for approval as to form~~. Said motions are not subject to any further filing requirements of the Motion Court under Philadelphia Civil Rule *208.3(b)(3).

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

(C) Appointment of Guardian Ad Litem. In any case where a minor or incompetent has an interest and whenever the Administrative Judge or his or her designee or the Settlement or Trial Judge believes it necessary that the minor or incompetent be represented separately, a guardian ad litem shall be appointed to represent the minor's or incompetent's interest, who shall be a member of the Bar. A guardian ad litem shall be appointed if required by the circumstances irrespective of whether a guardian of the estate has been appointed. The guardian may be the same for both purposes, but need not be.

(D) Contents of Motion. The motion shall:

(1) Set forth the factual circumstances of the case;

(2) State the reasons why the settlement is a reasonable one; and

(3) Be accompanied by the following:

(a) A proposed order of distribution;

(b) A written report of a physician setting forth the present condition of the minor or incompetent;

(c) A statement under oath by a parent or, if there is a guardian, the guardian certifying (1) the present physical or mental condition of the minor or incompetent, and (2) approval of the proposed settlement and distribution thereof;

(d) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;

(e) If there is to be an allocation between parents and children or among children, the amounts allocated to each party and specific reasons for such allocation;

(f) In the event that the minor is 16 years of age or over, his or her written approval of the proposed settlement and distribution thereof.

(g) In the event that a guardian ad litem has been appointed, a statement of the professional opinion of the guardian ad litem as to the reasonableness of the proposed allocation, and the basis for such opinion. The guardian ad litem shall give specific reasons for his or her approval or disapproval of any suggested allocation of the proceeds.

(E) Release of Defendant. After Court approval of the gross amount of the settlement, but before approval of the Motion for Distribution, the plaintiff may sign a release to discharge the settling defendant and may issue an Order to Settle, Discontinue and End to the settling party. If Plaintiff releases and discharges a defendant pursuant to this subsection, defendant's draft or check is to be made payable to all plaintiffs and to counsel for plaintiff(s), to be deposited into a separate insured, interest bearing escrow account pending an order of distribution from the Court. This subsection is intended to preclude issues regarding distribution from preventing timely and prompt tender of settlement proceeds.

(F) Counsel Fees. The Order of Distribution shall include an award of counsel fees. The standard for the award of counsel fees in the representation of minors is that such fees must be reasonable in accordance with the guidelines set forth in Rule 1.5 of the Rules of Professional Conduct. Under normal circumstances, a counsel fee in the amount of one-third of the net fund recovered shall be considered reasonable, subject to the approval of the Court. The attorney fee determined shall be reduced by the amount of collateral payments received as counsel fees for representation involving the same matter from third parties such as Blue Cross/Blue Shield.

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

(H) Appointment of Guardian of the Estate.

(1) Pursuant to Pa.R.C.P. 2039(b)(1), all amounts over \$10,000 may not be paid to the parents as natural guardian of the Estate.

(2) Amounts under \$350,000 may be placed in restricted accounts pursuant to Pa.R.C.P. 2039(b)(2).

(3) In all cases where the net proceeds, after costs and attorney's fees, to be paid on behalf of a minor under the age of 15 or on behalf of an incompetent is in excess of \$350,000 (exclusive of proceeds to be paid in the future under a structure), the Trial Division shall order that such proceeds be paid to a guardian of the minor's or incompetent's estate.

(a) It shall be the responsibility of counsel for the minor or incompetent to timely apply to the Orphans' Court Division for the appointment of such guardian.

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

(I) Notice to Court and Proof of Deposit. Within 30 days of distribution of the settlement proceeds for minor or incompetent, counsel shall provide a copy of any order requiring the deposit of funds into a restricted or blocked account to the Orphans' Court, if it approved the allocation; or otherwise to the Administrative Judge of the Trial Division, or his or her designee. Counsel for the minor or incompetent shall submit proof of such deposit in the form of an affidavit of counsel and a photocopy of the restricted certificate of deposit or bank book.

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.

**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES**

RULE *2039.2. MOTIONS FOR ALLOWANCE

(A) Motions for Allowance in those cases where a guardian has been appointed by the Orphans' Court Division shall be filed directly with such Division.

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

(C) The motion shall include:

- (1) The facts and circumstances surrounding the origination of the minor's fund;
- (2) A chronological statement of all prior requests for allowance, including the reasons therefor, the amounts thereof, and the disposition;
- (3) The age of the minor at the time the fund was created and the minor's present age;
- (4) The original amount of the minor's fund and the present balance of same; and
- (5) The circumstances and reasons supporting the request for allowance.

(D) All motions shall be accompanied by:

- (1) A proposed Order;
- (2) A copy of the Original Motion for Compromise and the Order of Distribution;
- (3) Copies of all prior requests for allowances and the Orders with respect to same;
- (4) Substantiating documentation to support the proposed request; and
- (5) A consent filed by the movant.

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL DIVISION RULES

RULE *2206. MOTIONS FOR APPROVAL OF SETTLEMENTS IN WRONGFUL DEATH OR SURVIVAL ACTIONS

(A) When Required. Court approval of settlements shall be required in all survival actions and in those wrongful death actions in which a minor or incompetent has an interest.

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

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

(D) Contents of Motion. The motion shall:

(1) Set forth the circumstances of the case;

(2) State the reasons as to why the settlement is a proper one; and

(3) Be accompanied by the following:

(a) A proposed order approving the settlement and allocation between wrongful death and survival;

(b) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;

(c) A statement setting forth the proposed allocation between wrongful death and survival actions and the amount proposed to be allocated to each beneficiary;

(d) A statement clearly identifying those parties believed to be beneficiaries under each of the actions, attaching a copy of the will of the decedent, if any.

(e) A statement setting forth the following:

(i) the time between the injury and death;

(ii) whether or not the decedent was conscious, and the circumstances prior to his or her death;

(iii) the amount of the medical and funeral bills;

(iv) the amount of the decedent's wage loss;

(v) the age, employment and any other circumstances of any potential beneficiaries under the Wrongful Death Act.

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

(E) Release of Defendant. After Court approval of the gross amount of the settlement, but before approval of the Motion for Distribution, the plaintiffs may sign a release to discharge the settling defendant and may issue an Order to Settle, Discontinue and End to the settling party. If Plaintiff releases and discharges a defendant pursuant to this subsection, defendant's draft or check is to be made payable to all plaintiffs and to counsel for plaintiff(s), to be deposited into a separate insured, interest-bearing escrow account pending an order of distribution from the Court. This subsection is intended to preclude issues regarding distribution from preventing timely and prompt tender of settlement proceeds.

Amended by the Board of Judges on November 15, 2007; effective January 7, 2008.