

Indiana County
Local Rules of Civil Procedure

Local Rule 51. Title and Citation of Rules.

These rules shall be known as Local Rules of the Court of Common Pleas of Indiana County. (and) They shall be cited as "Local Rule ____."

Local Rule 52. Effective Date.

These rules, and any amendments, unless otherwise specified, shall become effective in the manner proscribed by Pa. R..C.P. No. 239.

Local Rule 76. Definitions.

All definitions set forth in Pa. R. C. P. No. 76 are incorporated by reference into these rules. In addition:

"Deposition for use at Trial" means any non-party deposition which a party is permitted to offer at trial in lieu of live testimony pursuant to statute, general rule, or rule of evidence.

"Brief" means a short written memorandum setting forth the pertinent facts and legal authorities in support of the position being taken on issues before the court for adjudication.

Local Rule 101. Interpretation.

In the construction of any Local Rule, the principles set forth in Pa. R.C.P. No. 101, et. seq., shall be observed, unless the application of such principles would result in a construction contrary to law or statute or result in manifest injustice.

Local Rule 205.2 (a). Filing Legal Papers With the Prothonotary.

Legal papers submitted to the Prothonotary shall comply with the following requirements:

- (1) The first page shall set forth the case caption, case number, and the name, identification number, address and telephone number of the attorney and law firm or pro se party submitting the legal papers. This page also shall identify the moving party.
- (2) All originals shall be marked "Original." Copies shall be marked "Copy." Where a party seeks a court order, the party shall file an Original and Copy with the Prothonotary.

- (3) Tabs shall be placed at the bottom of all exhibits and appendices.
- (4) The name of each person signing a legal paper shall be typed beneath the person's signature.
- (5) Any legal papers not original process shall include a Certificate of Service setting forth the date, manner, and person served with a copy of the legal papers.

Local Rule 206.1(a). Petition. Definition. Stipulation.

(1) Petition Defined.

A petition is a request which seeks relief ancillary to a given cause of action and which avers facts not of record. Petitions include, but are not limited to:

- (a) Petitions to open judgment;
- (b) Petitions to transfer venue;
- (c) Preliminary objections filed pursuant to Pa. R.C.P. No. 1028(a)(1), (5), or (6);
- (d) Petitions for special injunctive relief;
- (e) Petitions to withdraw as counsel.

(2) Stipulated Matters.

If the parties agree to the relief sought, the petition shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties and a proposed order.

(3) Proposed Orders.

All petitions shall include a proposed order.

Local Rule 206.4(c). Rule to Show Cause. Alternate Procedure.

The procedure of Pa. R.C.P. No. 206.6 is adopted. Indiana County generally fixes a hearing date upon the filing of a petition; therefore, petitioners shall file proposed orders as described in Pa. R.C.P. No. 206.6 but as modified by the explanatory note to Pa. R.C.P. No. 206.6. The Court reserves the right, in cases it deems appropriate, to amend any proposed petition rule to show cause to provide for discovery prior to hearing.

Local Rule 208.1. Motion. Definition. Scope.

- (a) Motions for summary judgment, judgment on the pleadings, and for discovery shall be praeciped to the argument list and shall be subject to those local rules applicable to all motions on the argument list.

- (b) If the parties agree to the relief sought, a motion shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties and a proposed order.

Local Rule 208.2(c). Motion. Form. Content. Motions to Continue.

- (1) Motions shall identify the applicable procedural rule, statute or other authority.
- (2) Motions to continue shall substantially comply with Form F1, attached to and made a part of these local rules.

Local Rule 208.2(e). Motion. Form. Content.

Every motion relating to discovery shall contain a certification with the following language:
“The movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action.”

Local Rule 208.3(a). Alternate Procedures.

Contested motions not requiring an evidentiary hearing shall be scheduled for oral argument by praecipe of any party filed with the Prothonotary requesting that the matter be placed on the next available argument list. Oral arguments shall be set at such time as may be fixed by the Court. Contested motions requiring an evidentiary hearing shall proceed per L-208.4.

Local Rule 208.3(b). Alternate Procedures.

(1) Motion and Brief

The moving party shall file a motion, proposed order and supporting brief concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

(2) Response Brief

Within twenty days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief, together with any opposing affidavits, depositions, transcripts or other documents. Any party who fails to file a responsive brief shall be deemed not to oppose the motion. A moving party, upon failure of the responding party to file a timely responsive brief, may by praecipe, with attached proposed order, request court relief without argument.

(3) Reply Brief

The moving party may file a brief in reply to the responsive brief with five business days after service of a responsive brief.

Local Rule 208.4. Motions. Issues of Disputed Fact.

Since the Indiana County Court of Common Pleas routinely conducts evidentiary hearings on contested motions, movants shall attach to contested motions the form of Order required by Pa. R.C.P. No. 208.4, as modified by the Note to the Rule. Briefing shall occur in the manner required by Local Rule 208.3(b).

Local Rule 210. Form of Briefs.

- A. Briefs shall contain complete and accurate citations of all authorities.
- B. The brief of the moving party shall contain: all relevant facts; a procedural history; the questions involved; the argument; and a conclusion.
- C. The brief of the opposition need contain only an argument and a conclusion. If a counter statement of the case or the questions involved is not filed, the statement of the moving party shall be deemed adopted.
- D. Briefs shall be submitted on 8 1/2 x 11 inch paper and shall be double-spaced.
- E. Any brief more than fifteen pages shall contain a table of contents and a table of citations.
- F. A party shall file a brief with the Prothonotary and shall serve copies pursuant to Pa. R.C.P. No. 440.

Local Rule 212. Pre-Trial Conference.

- (a) Pre-trial conference required.

The pretrial requirements of Pa. R.C.P. No. 212 shall apply to all civil cases where a jury or nonjury trial is requested, except for family law matters and compulsory arbitration cases governed by Pa. R.C.P. No. 1301 where an arbitration hearing has not been held. The Court may in appropriate cases, and in the exercise of its discretion, waive the pretrial requirement.

- (b) Certificate of Readiness.

Any party may declare a case ready for trial by filing a Certificate of Readiness with the Prothonotary. The Certificate of Readiness shall substantially comply with Form F2, attached to and made a part of these local rules.

(c) Objection to Certificate of Readiness.

Any party objecting to a Certificate of Readiness shall do so by filing and serving objections within twenty (20) days of service of the Certificate of Readiness. The objecting party shall attach to objections a praecipe to place objections on the next available argument list. Objections shall be stated with particularity. If the objecting party claims that discovery is incomplete, the objecting party shall specify any discovery remaining to be completed. Upon resolution of any objections, or by automatic court scheduling if no objections are filed, the case will be placed on a pretrial list and assigned a pretrial conference date and judge.

(d) Pretrial Statements: filing deadlines.

Not less than ten (10) days prior to the scheduled time of the pre-trial conference, the plaintiff shall file with the Prothonotary (and simultaneously send a copy directly to the judge presiding over the pretrial conference), and serve on opposing counsel, a pretrial statement. Three (3) days prior to the scheduled time of the pre-trial conference, all remaining parties shall file in like manner their pretrial statements. Supplemental pretrial statements filed without leave of court are not binding on the Court or parties and will not operate to prevent the imposition of any nondisclosure sanctions authorized by Pa.R.C.P. No.212.2.

(e) Persons attending pretrial conference; trial and settlement authority.

Counsel attending the pre-trial conference must have complete authority to stipulate to any trial issues. Counsel shall know the extent of their settlement authority and be able to commit the principal to that extent. The principal or someone in authority to commit the principal shall be available at the time of the pre-trial conference, either by telephone or in person.

Local Rule 1028(c). Preliminary Objections.

Preliminary objections shall be praeciped to the argument list. Preliminary objections shall be scheduled, argued, and decided, and shall be subject to the same Local Rules as, other motions not requiring an evidentiary hearing. Preliminary objections requiring an evidentiary hearing shall be subject to Pa. R.C.P. Nos. 1026 and 1029, and also, to the extent not inconsistent with these rules, to those Local Rules which govern petition practice.

Local Rule 1034(a). Motions for Judgment on the Pleadings.

All motions for judgment on the pleadings shall be praeciped to the argument list. These motions shall be scheduled, argued, and decided, and shall be subject to the same Local Rules as, other motions not requiring an evidentiary hearing.

Local Rule 1035.2(a). Motions for Summary Judgment.

All motions for summary judgment shall be praeciped to the argument list. These motions shall be scheduled, argued, and decided, and shall be subject to the same Local Rules as, other motions not requiring an evidentiary hearing.

FORM F1
(Caption)
MOTION FOR CONTINUANCE

1. This action was instituted on _____.
2. This matter is presently scheduled for a _____ which is scheduled for _____ at _____ m. before Judge _____.
3. This matter has previously been continued for the following reasons:
DATE _____ REASON _____ ON MOTION OF _____
4. Counsel for _____ requests the above-captioned matter be continued.
5. The reasons for this requested continuance are as follows

6. All parties or their attorneys have been made aware of the presentation of this motion and have responded as follows:

Attorney for

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, upon consideration of the within Motion, it is hereby ORDERED and DIRECTED that the above matter be continued to the _____ day of _____, 20____, at _____ o'clock _____ m. in Courtroom number _____.

BY THE COURT,

Judge

FORM F2
(CAPTION)
CERTIFICATE OF READINESS

I hereby certify that:

1. All pleadings have been completed;
2. All pretrial discovery procedure have been completed;
3. All expert witness reports (medical, damage, liability, or otherwise) have been completed and exchanged between or among the parties; and,
4. This case is ready for trial.

Type of Trial: Jury _____ Nonjury _____ Arbitration _____

Estimated Trial Time: _____ (days)

Signature

Date

Plaintiff's Attorney

Name: _____

Address: _____

Additional Counsel

Name: _____

Address: _____

Defendant's Attorney

Name: _____

Address: _____

Additional Counsel

Name: _____

Address: _____

ACTION FOR CUSTODY, PARTIAL CUSTODY
AND VISITATION OF MINOR CHILDREN

RULE L-1915.1. INITIAL CUSTODY CONFERENCE

(a) In all cases in which a party seeks an Order of Court, or modification of an existing Order of Court, regarding custody, partial custody and/or visitation of minor children, including proceedings commenced under the Domestic Relations Code of 1990 (23 Pa.C.S. §§ 5301 et. seq.), unless both parties by certification verify that an Initial Custody Conference would be fruitless, the moving party shall proceed by moving the Court to schedule an Initial Custody Conference. This motion shall be submitted in a form in substantial compliance with that found in L-1915.3(a). The Initial Custody Conference shall be scheduled by the Court Administrator within forty-five (45) days of the date the motion is filed. The Initial Custody Conference shall be attended by the parties and their respective counsel, if any, and they shall attempt to reach amicable settlement of the matter.

(b) The parties shall be notified of the scheduled Initial Custody Conference by Order of Court per L-1915.3(b). It shall be the responsibility of the moving party to see that copies of the Order of Court scheduling the Initial Custody Conference are served on all parties and their respective counsel.

(c) Should the parties reach full agreement at the Initial Custody Conference, unless the parties agree otherwise, the moving party shall have such agreement reduced to the form of a Consent Order of Court. The Consent Order shall indicate that the agreement was reached at an Initial Custody Conference and include the date of the Initial Custody Conference. Upon preparation and execution thereof, either party may submit this Consent Order to the Court for approval and signature. A copy of the Consent Order shall be transmitted to the Court Administrator.

(d) Initial Custody Conferences shall be held at the Indiana County Courthouse unless otherwise agreed upon by the parties.

RULE L-1915.2. CUSTODY MEDIATION

(a) Either party may seek Mediation under any one of the following circumstances:

(1) An Initial Custody Conference has been held and the parties were not able to reach an agreement;

(2) An Initial Custody Conference was held and one party, while served notice of same, failed to appear; or

(3) Counsel for both parties have agreed that an Initial Custody Conference would be fruitless. (In this circumstance, counsel for both parties must sign the Motion for Mediation).

(b) The Motion for Child Custody Mediation shall be submitted on a form in substantial compliance with that found in L-1915.3(c). The Court shall then order Mediation per form L-1915.3(d). It shall be the responsibility of the moving party to see that copies of the Order of Court scheduling the Child Custody Mediation are served on all parties and their respective counsel.

(c) Not later than seven (7) days prior to a scheduled Mediation, each attorney/party shall forward to the Child Custody Mediator the following:

(1) Proof of attendance or registration for the Parent Education Course also known as the Children-in-the-Middle Parent Education Course. (Out of county/state litigants may attach proof of equivalent services in their jurisdiction);

(2) Proof of payment of his or her Mediation Fee to the Prothonotary of Indiana County or copy of an approved IFP Petition; and,

(3) A completed Child Custody Questionnaire or a form in substantial compliance with that found at L-1915.3(e).

(d) Failure to provide any part of the information set forth in L-1915.2(c), above, shall be deemed a contemptible act under Pennsylvania Rule of Civil Procedure 1915.12 and shall be included in any recommendation by the Child Custody Mediator to the Court. Mediation shall not be canceled or continued for noncompliance with the requirements of L-1915.2(c), above.

(e) Any motion for continuance of Mediation must be directed to the Court and made on a form in substantial compliance with Form F.3 of these Local Rules.

(f) The Mediator shall ascertain the issues in the action through discussion with counsel and/or the parties. The Mediator shall not take testimony, and the conference shall not be of record; rather, the Mediator shall attempt to determine the relevant facts through discussion and shall suggest or recommend a proposed settlement. The Mediator may discuss the action with the parties or children concerned in the presence of, or without, counsel; for this purpose, children seven (7) years of age or older must be present for the Mediation. Mediation Procedure shall at all times be in the sole discretion of the Mediator.

(g) Following proper notice and conference, the Mediator shall take one of the following actions:

(1) If the Mediator determines that the parties have reached full agreement, the Mediator shall reduce the agreement to the form of a Consent Order of Court, which shall be submitted to the Court for approval and signature.

(2) If the parties cannot reach full agreement, the Mediator shall refer the entire action to the Court. The Mediator may recommend a Temporary Order of Court, which shall immediately be submitted to the Court, and, upon its entry, shall remain in effect until further Order of Court.

(3) If one of the parties, without just cause, fails to appear at Mediation, the Mediator may recommend a Temporary Order of Court, which shall immediately be submitted to the Court, and, upon its entry, shall remain in effect until further Order of Court.

(4) If, without just cause, neither party appears for Mediation, the Mediator may recommend an Order dismissing the action, in which event costs shall be assessed and collected.

(5) Should further Court action be required, the Mediator shall include a Scheduling Order with his/her Report. The Report also shall indicate whether psychological evaluations, home studies, or other pre-hearing reports are to be ordered.

(h) The Mediation Fee shall be refunded only if, by a writing signed by both parties or counsel and submitted to the Court not less than seven (7) days before the scheduled date of Mediation, the parties agree that the Mediation should be canceled.