

STANDARD OPERATING PROCEDURES

HUGH FITZPATRICK McGOUGH, JUDGE

440 ROSS STREET, SUITE 5069
PITTSBURGH, PA 15219
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JUNE 1, 2016

A. CONTACTS WITH CHAMBERS

1. GENERAL CONTACT: Unless specifically requested by the Court, the Court will not entertain e-mails, faxes, letters, or telephone calls requesting action of any kind. All matters shall be presented to the Court by way of the filing of a Motion or Petition. Unsolicited letters will be returned, unread. This is true even if opposing counsel or party has been carbon copied on the correspondence. Such communication is prohibited as *ex parte*, meaning the communication is from one side to the decision maker, outside the record and where the other party does not have notice and the opportunity to respond.

2. ELECTRONIC CORRESPONDENCE: Counsel should not correspond with the Court by e-mail or fax unless specifically invited to do so.

3. EX PARTE COMMUNICATION: Counsel and/or the parties shall not engage in *ex parte* communication concerning a pending case with the Court or staff. Such communication may be deemed a cause for referral to the disciplinary authorities, or other appropriate sanctions.

4. INQUIRIES: Inquiries concerning Court procedures should be directed to the Secretary, Tipstaff, or Law Clerk. Judicial staff will not answer inquiries regarding substantive and legal matters.

5. HOURS OF OPERATION: The Judge's Chambers is staffed from 8:30 AM to 4:30 PM. Self-represented parties are prohibited from making personal visits to the Judge's Chambers. All questions from self-represented parties shall be by telephone or in Motions Court.

6. SCHEDULING CHANGES: From time to time, Judge McGough will change the date of a scheduled proceeding to accommodate emergencies and other matters. In such a case, phone calls or letters requesting such a change will be considered.

B. MOTIONS

1. The Motions Court schedule is published in the Pittsburgh Legal Journal and is also available on the Court website which is <http://www.alleghenycourts.us>. **Monday through Thursday**, Motions Court is usually scheduled at **1:00 PM** for self-represented persons, and at **2:00 PM** for Attorneys. On **Fridays**, Motions by self-represented persons are at **9:30 AM**, and by Attorneys at **10:30 AM**. In addition, on rare occasions, Motions may be moved to another day

and/or may be scheduled at a different time. This change will be reflected in the PLJ and the Court website. The change will always be made at least seven (7) days in advance, except in the case of an extreme emergency. In the event this occurs, the Court will also attempt to post any changes around the Family Division Courthouse and at the elevators. Accordingly, counsel should check the schedule prior to notifying opposing counsel of presentation.

2. ACCEPTANCE OF MOTIONS: The Court will not accept contested motions after **9:30 AM** on days that Motions Court is on **Monday through Thursday (or 12:00 PM (Noon) on days prior to the date when Motions are scheduled at 10:00AM)**. The Court also requires any responses and/or answers to motions to be filed by that time. Uncontested and consent motions will be accepted any time.

3. DELIVERY OF MOTIONS: Along with the original, a courtesy copy of every motion must be provided to the Court at the time motions are signed up or mailed. Motions in an envelope clearly marked "Motion Enclosed" may be mailed or delivered to the Court prior to the time scheduled for motions. The Court **will not** accept motions delivered by fax. The motion or cover letter should **clearly** indicate the date of presentation. Failure to indicate the date of presentation may result in the motion being placed at the end of the list or not being placed on the list at all. The motion will be placed on the list when received. If the motion is withdrawn or consented to after sign-up, please notify the Tipstaff immediately so that the Court does not waste time reviewing those motions prior to the Motions start time. If a motion is withdrawn, the motion should be removed and the name deleted from the list. If a motion is not removed and no one appears in Court, the motion will be denied with prejudice.

4. SIGN-UP SHEETS: New sign-up sheets are placed outside Chambers on the day after Motions are heard. New motions may be signed up at any time after that. Motions that are "dropped off" without an appropriate cover letter or without being listed on the sign-up sheet, or which are mailed without an appropriate cover letter listing the date and time of presentation, **will not be scheduled.**

5. ACCOMPANYING CORRESPONDENCE: The cover letter transmitting the motion should contain no substantive information. Any and all-pertinent matters should be contained in the motion itself. Substantive information contained in cover letters will not be considered and is considered to be prohibited *ex parte* communication.

6. MOTIONS AT CONCILIATIONS: Motions may be presented at a scheduled conciliation, but only upon proper seven (7) days' notice to opposing counsel, or with the consent of opposing counsel.

7. SUFFIX: All motions should be clearly marked with the appropriate numerical suffix indicating which Judge the case has been assigned to, or should contain some explanation (by post-it note, etc.) as to why no suffix has been added). Failure to follow this procedure may result in the motion being placed at the end of the list. The numerical suffix assigned to Judge McGough is 005.

8. DOCKET NUMBERS: This Court will not entertain motions without a docket number. Counsel or parties should **ALWAYS** acquire a docket number prior to presentation.

9. OTHER JUDGES' CASES: The Court will not entertain motions or matters assigned to another Judge unless that matter is a consent motion **and** does not involve enforcement or calendar control issues. The Court may, at its discretion, hear emergency matters involving cases assigned to another Judge; however, counsel is forewarned that the matter must be a true emergency **and** it will be this Court's policy to enter only a temporary order until such time as the matter can be heard by the Judge assigned to the case. The assigned Judge must also be served with a copy of the emergency motion so that that matter can be discussed between the Judges. It is **not** an emergency if counsel simply is not available when the assigned Judge is scheduled.

10. CONSENT ORDERS: The Court, if time permits, will sign Consent Orders prior to the beginning of Motions Court. In the event there is any problem with the consent motion or proposed order, it will be dealt with in Motions. Counsel should not assume that the order will be signed and should be available in the event the Court has questions.

11. FILING CONSENT ORDER: From time to time, the Court will permit Consent Orders to be dropped off for the Court's signature. Counsel is responsible for retrieving and filing the signed Consent Order. Under **no circumstances** will the Court be responsible for filing the order or for mailing back a signed Consent Order.

12. ORDER WITH SCHEDULING: Proposed orders scheduling a conference or hearing of any kind should include proper notification language, such as, "If party fails to appear at a conference and/or hearing as directed by Order of Court, the Court may issue a bench warrant for the arrest of said party."

13. DISCOVERY MOTIONS: The Court will not entertain discovery motions that do not comply with the requirements of the Court Manual. This includes a completed chart of the questions and responses (commonly called "discovery matrix"). Failure to comply may result in the Court's refusal to hear the matter.

14. MEET AND CONFER: Litigants are to confer prior to the filing and/or presentation of any motion before the Court and are to attempt, in good faith, to reach amicable resolution of the issues involved. (Litigants include Counsel representing a party and parties who are self-represented.) Each Motion filed shall contain a certificate of compliance setting forth a brief statement of the extrajudicial means employed to resolve the dispute. (See Appendix A, attached.) Failure to comply with this rule may result in sanctions. Good faith efforts toward amicable resolution shall be considered as a factor in determining whether or not the requested relief is appropriate, the propriety of sanctions, or in determining the exigency of circumstances, if relevant.

15. EXCEPTION FOR PFAs/DOMESTIC VIOLENCE: In the event that any party is self-represented in a matter where any party involved in the matter is either a protected party in a PFA or has been the subject of domestic violence allegedly perpetrated by the opposing party at

any time within the past 24 months, the Party must state so in their certificate and said reason shall be sufficient for purposes of this rule in excusing the requirement to confer in advance.

16. SENSITIVE MATTERS: When presenting motions, counsel should be cognizant that once the motion is filed, all pages of the motion, including the attachments and exhibits, will be scanned and published on the website of the Department of Court Records. Accordingly, counsel should be particularly careful about attaching documents of a sensitive nature and/or documents with social security numbers or financial information. In the event such information is pertinent to the matters contained in the motion, but counsel does not want this information on the Department of Court Records website, counsel should submit this information separately, but simultaneously, to Chambers with the motion. In no circumstances should counsel or the party wait until the motion is being argued to submit pertinent documents.

17. PRESENCE OF SHERIFF: The Court does not routinely request to have a deputy sheriff present during Exceptions or regular Motions Court. If you feel that a sheriff's presence might be advisable, please notify the Tipstaff in advance. Err on the side of caution.

18. ADMINISTRATIVE ORDERS: Counsel should be familiar with all Administrative Orders and local rules, including, but not limited to, the rule concerning continuance within 30 days of a scheduled date. Continuances, even if consented to, will not be granted within the 30-day period, except for good cause, appropriately pled in the motion for continuance.

19. COURTESY COPIES: Counsel should immediately provide the Court's secretary with a courtesy copy of any orders scheduling or changing a date, which has been scheduled directly before the Court. This rule is particularly true with regard to emergency matters, but it covers all scheduling matters before the Court – conciliations, hearings, and trials.

C. COURT SCHEDULE

1. COMPLIANCE WITH ORDERS: It is the Court's expectation that counsel shall comply with all Orders of Court prior to attendance at conciliation. Failure to timely file appropriate documents, such as stipulations, offers, pre-trials etc., may result in a continuance of the conciliation and/or the imposition of fines and counsel fees. In situations where a second (or third) conciliation has been scheduled and amended marital asset summaries are ordered, an **amended** marital asset summary should be filed. Counsel may not simply inform the Court that "nothing has changed" and such actions may be fined or sanctioned. Additionally, failure to file may result in a continuance.

2. COURT'S STANDARD ORDERS: Counsel should be familiar with the Court's standard orders for conciliations, pre-trials, and trials, which are different from the orders utilized by other Family Division Judges. Standard orders accompany the Court's scheduling orders, but such orders are also available by calling the Tipstaff or Secretary.

3. TIMELINESS: Court, including conciliations and arguments, shall begin at the appointed time. Lateness may result in proceedings beginning without counsel, and in extreme cases, imposition of fines and/or counsel fees. Promptness is also expected of parties and witnesses.

4. TIME CONFLICT WITH ANOTHER PROCEEDING: Except in very rare circumstances, attendance in another hearing or courtroom, which delays counsel, will not be considered a valid excuse. Counsel should schedule his or her day accordingly.

5. EXCEPTIONS: The Court will hear Exceptions arguments in the order listed in the PLJ. From time to time, the Court may move an argument to the beginning of the list, for good cause. However, such a procedure will be the exception and will be dealt with on a case-by-case basis. Counsel should note that Exceptions are often withdrawn or continued, so the list in the PLJ may not be accurate. Failure to appear at the scheduled time because a case is later on the list is done at counsel's or the party's peril. Exceptions may be submitted on briefs alone by mutual consent.

6. SETTLEMENT PRIOR TO PROCEEDING: In the event a matter is settled prior to a proceeding, including trial, hearing or conciliation, counsel shall be responsible for notifying the Docket Clerk and the Court so that the matter can be removed from the Court's calendar. An appropriate order should be presented to the Court for entry.

7. COURT REPORTERS: If counsel believes that a Court Reporter is necessary for a particular proceeding, notify the Tipstaff so that arrangements may be made, subject to the Court's approval.

8. MEETING WITH COURT PRIOR TO TRIAL: Judge McGough encourages settlement. If counsel for all parties believe that a meeting with the Court on the day of the proceeding, prior to a trial or hearing, may help resolve the dispute, counsel should inform the Tipstaff as early as possible. Any such meeting will be scheduled so as not to delay the trial or hearing. For example, if trial is to start at 9:30 AM, counsel should endeavor to schedule at or before 9:00 AM.

9. SETTLEMENT: In the event a matter is settled prior to trial, counsel shall be responsible for notifying the Docket Clerk and the Court so that the matter can be removed from the Court's calendar.

D. MISCELLANEOUS PROCEDURES

1. COUNSELING/THERAPY: The Court's orders requiring counseling and/or therapy in custody cases shall be enforced unless a party seeks appropriate relief. In the event either party fails to comply, counsel fees and/or sanctions will be imposed.

2. PROPOSED ORDERS: Counsel and/or Parties are required to submit a Proposed Order of Court at either the time of or prior to any trial or hearing. The proposed order shall also be sent via email to McGoughProposedOrder@alleghenycourts.us. In the event a matter is settled prior to a proceeding, including a conciliation, the litigants are to submit to the Court an appropriate draft order.

3. TELEPHONE TESTIMONY: Testimony via telephone is only allowed by permission of the Court. Such permission should be obtained prior to trial or hearing by Court order.

4. MULTIMEDIA EQUIPMENT: In the event any equipment (audio, visual, recording, etc.) is necessary for a trial or hearing, counsel must make appropriate arrangements through the Bar Association or a third party.

5. EXHIBITS: The Court will retain exhibits until 40 days after a final decision or order is entered if no appeal to the order is taken. If an appeal is filed, the Court will retain documents until five (5) days after the Court's Opinion to the Appellate Court is filed. After those time periods, if counsel or the parties have not requested return of the documents, they may be destroyed.

6. PFA PROCEDURES: Final PFA's with the 005 suffix are usually scheduled for conciliation before the Court. A hearing may or may not be scheduled on the same day as the conciliation. If a final hearing is necessary, the Court will attempt to schedule the hearing as expeditiously as possible.

7. PRO-SE (SELF-REPRESENTED) MOTIONS

A. The Court will hear *Pro-Se*, or self-represented, motions one (1) hour prior to regular motions (1:00 PM Monday through Thursday and 9:30 AM Fridays). The Court will hear pro-se motions in the following order:

1. Motions to amend or vacate PFA's
2. Motions with private counsel opposing the motion.
3. Motions involving the County Solicitor.
4. All other motions.

B. The Court will only entertain self-represented motions or cases which are assigned to this Court.

C. All parties are forewarned that the Court starts pro-se motions court promptly at the scheduled time. Failure to appear at the time scheduled may result in the motions being denied or granted without a party being present. In the event both parties fail to timely attend, the Court may refuse to hear a motion until the next motions court.

D. Self-represented parties are expected to follow all rules of court and also shall comply with this Court's Standard Judicial Operating Procedures.

E. Motions from self-represented persons shall not be provided directly to the Judge's chambers, but must be submitted through the Self Help Center program.

F. Self-represented litigants are not permitted to call and discuss substantive matters with the Court's staff. Further, staff is not permitted to give legal advice of any kind. Repeated violations of this rule will result in fines and/or sanctions.

E. COURTROOM DECORUM

1. FOOD AND DRINK: No food or drink (except water) is permitted in the Courtroom.

2. CELL PHONES: No ringing cell phones or audible pagers are permitted in the Courtroom.

3. MANNER OF PROCEEDING: Any proceeding in the Courtroom whether motions, arguments, or trial shall be conducted in a dignified and formal manner.

4. INCIVILITY: This Court forbids rudeness or incivility. Argument between counsel is strictly prohibited. All remarks should be addressed to the Court. Counsel should never act or speak disrespectfully to the Court, the Court's staff, opposing counsel or others in the courtroom.

5. COUNSEL TABLE: Represented Parties may not sit at counsel table at Motions Court except by permission. Only counsel and parties may sit at counsel table during trial or hearings, unless the Court permits otherwise.

6. APPEARANCE AND BEHAVIOR: At trial or at hearings, witnesses and parties should be instructed to wear clean, neat, and appropriate attire. In addition, witnesses and parties should be instructed as to proper behavior when Court is in session.

7. CHILDREN: Children who are the subject of the litigation, or who are in anyway involved in the litigation, are **under no circumstances** to be present in the Courtroom during a proceeding unless requested by the Court. Counsel shall advise clients to make appropriate childcare arrangements. Counsel and parties should be familiar with the location of the Children's Room and its hours of operation.

8. PRESENCE OF PARTIES: Counsel should advise clients that while they are certainly welcome to attend Motions or arguments on Exceptions, they are not permitted to address the Court unless requested by the Court to do so. Counsel shall advise the Court that their clients are present in the Courtroom.

F. TRIAL PROCEDURE

1. TIME ALLOTMENT: In all cases, but particularly in custody cases, counsel should be mindful of the time allotted for trial and should plan his or her presentation accordingly. Additional trial time may not be available for several months.

2. START AND END TIME: Court procedures shall begin promptly at the scheduled times. Trial shall end at approximately 4:30 PM.

3. EXPERT TESTIMONY: Counsel should cooperate in the scheduling an expert's testimony. The Court will always consider taking expert testimony out of order.

4. DIFFICULT LEGAL ISSUES: If difficult questions of law or evidence are anticipated during the trial, counsel should alert his or her opponent and the Court should be supplied with a memorandum of law, in duplicate, at least one (1) day prior to the time it is anticipated that the question will arise.

5. EXHIBITS: When documents are to be entered into evidence and/or presented to the Court, counsel should provide copies to opposing counsel and to the Court. Multiple requests for copies because counsel did not anticipate use of the document will be frowned upon.

6. WITNESSES: Witnesses, including the opposing party, should be treated with fairness and consideration. Witnesses should not be shouted at, ridiculed, or abused in any manner.

7. BEHAVIOR OF COUNSEL: Although most proceedings are of an emotional nature, counsel is expected to allow opposing counsel to finish his or her statements without interfering (other than objections) or talking at the same time.

8. SUBMISSION OF DOCUMENTS: In all documents submitted to the Court, use of terms such as Husband/Father and Wife/Mother are preferred over plaintiff/defendant, petitioner/respondent, etc. Original pleadings and submissions should be filed with the Department of Court Records, with a courtesy copy provided to the Court.

These procedures may be amended from time to time.

COURT PERSONNEL

Secretary - Ms. Mickie Anderson, 412-350-6556

Tipstaff - Mr. Jeff King, 412-350-6558

Law Clerk - Mr. Joe Kennedy, 412-350-6557