

STANDARD OPERATING PROCEDURES

KIM D. EATON, JUDGE

**440 ROSS STREET, SUITE 5039
PITTSBURGH, PA 15219
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JANUARY 2016

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 still ex parte and prohibited unless requested by the Court.

2.) EMAIL/FAX 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 9:00 AM to 4:30 PM. On most days, staff goes to lunch from Noon to 1:00 PM. The Court discourages deliveries and/or visits except during the times staff is available.

6.) UNREPRESENTED PARTIES

Unrepresented parties are prohibited from making personal visits to the Judge's Chambers.

7.) SCHEDULING CHANGES

From time to time, Judge Eaton will change the date of a scheduled proceeding to accommodate emergencies and other matters. In such a case, phone calls or letters requesting a change from the newly scheduled change will be considered.

MOTIONS

1.) SCHEDULING

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>

Regular Motions Court is usually scheduled at **2:00 PM** Monday through Thursday and is scheduled at **10:00 AM** on Fridays.

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 **12 noon (or 3:00PM 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

Motions may be mailed or delivered to the Court prior to the time scheduled for motion. 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. In the event a motion is filed electronically, the motion **must still** be presented to the Court via motions for resolution. Counsel should follow the same procedure as regular motions. A copy of the electronically filed motion should be presented to the Court.

4.) SIGN UP SHEETS

Although the sign-up sheets are usually placed outside chambers 1-2 days prior to scheduled Motions Court, motions may be dropped off prior to that time; however, they must be accompanied by a cover letter, which clearly indicates the time and date of presentation. Motions that are “dropped off” without an appropriate cover letter or without being listed on the sign-up sheet **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. Any information contained in cover letters will not be considered.

6.) ONGOING CASES

If a motion is being presented on a case with which the Court is familiar, counsel should notify the Tipstaff so that the Judge's file may be brought to Motions Court.

7.) MOTIONS AT CONCILATIONS

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.

8.) 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.

9.) DOCKET NUMBERS

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

10.) 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 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.

11.) 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.

12.) 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 Courts be responsible for filing the order or for mailing back a signed Consent Order.

13.) ORDER WITH SCHEDULING

Proposed orders scheduling a conference 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."

14.) 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.

15.) MEET AND CONFER

a.) 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.)

b.) Each Motion filed shall contain a certificate of compliance setting forth a brief statement of the extrajudicial means employed to resolve the dispute.

c.) 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.

4.) 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 Prothonotary's website. 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, 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 SHERIFFS

The Court does not routinely request to have a 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.

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., **will** 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 will 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.) TIMELINES

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.

5.) SETTLEMENT PRIOR TO PROCEEDING

In the event a matter is settled prior to a proceeding, including conciliation, the Court will expect an appropriate order.

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

If counsel believes that a meeting with the Court, on the day of the proceeding, prior to a trial or hearing, may be helpful or necessary, both counsels should inform the Tipstaff as early as possible. If the meeting is to be protracted, every effort should be made to schedule it prior to the time set for the trial to commence. For example, if trial is to start at 9:30 AM, counsel should endeavor to schedule the meeting at 9:00 AM or before.

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.

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 ORDER

Counsel and/or Parties will be required to submit a proposed Order of Court at either the time of or prior to any trial or hearing.

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. Except in rare circumstances, the Court does not have the capability to provide these services.

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 do not request return of the documents, they will be destroyed.

6.) PFA PROCEDURES

Final PFA's with the 006 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 MOTIONS

A.) The Court will hear pro-se motions one (1) hour prior to regular motions 1:00 PM M-T 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 pro-se motions or cases with the suffix 006.

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 will refuse to hear a motion until the next motions court.

D.) Pro-Se litigants are expected to follow all rules of court and also shall comply with this Court's Standard Judicial Operating Procedures.

E.) Pro-Se motions shall not be provided directly to the Judge's chambers, but rather must be submitted through the pro-se litigant program, even if the party has not used an attorney through the program.

F.) Pro-Se 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.

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 maintains a zero tolerance policy toward incivility. Colloquy between counsels is only permitted to expedite matters. 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 or opposing counsel in any manner.

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.

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 their statements without interfering (other than objections) or talking at the same time.

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.

AMENDMENT

It is anticipated that these procedures will be amended from time to time.

COURT PERSONNEL

Secretary-	Michele Mihaly	412-350-5442
Tipstaff-	Debra Cody	412-350-6331
Law Clerk-	Megan Malone	412-350-1381

