

STANDARD OPERATING PROCEDURES

**KIM D. EATON, ADMINISTRATIVE JUDGE
440 ROSS STREET, SUITE 501
PITTSBURGH, PA 15219**

COURT PERSONNEL

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I. CONTACTING CHAMBERS

1. GENERAL CONTACT

Unless specifically requested by the Court or as permitted in these Standard Operating Procedures, the Court will not entertain e-mails, letters, or telephone calls requesting action of any kind. All matters shall be presented to the Court by way of the filing of an appropriate motion or petition. Unsolicited letters will be returned, unread. This is true even if opposing counsel or party has been cc'd on the correspondence. Such communication is still ex parte and prohibited unless requested by the Court.

2. EMAIL CORRESPONDENCE

Counsel should not correspond with the Court by e-mail unless specifically invited to do so or as permitted by these Standard Operating Procedures.

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 are prohibited from answering 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. If staff is not in chambers, telephone calls are monitored and returned in a timely manner.

6. UNREPRESENTED PARTIES

Unrepresented parties are strictly 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 on other matters and counsel and parties will be notified as quickly as possible. In such a case, phone calls or letters requesting a change from the newly scheduled change will be considered.

8. CONFERENCE CALLS

Counsel should never attempt to set up conference calls with the court without prior approval.

II. MOTIONS

1. SCHEDULING

The motions court schedule is available on the Court website at <http://www.alleghenycourts.us>.

BEGINNING APRIL 1, JUDGE EATON'S MOTIONS WILL BE IN PERSON UNLESS COUNSEL HAS BEEN NOTIFIED OTHERWISE. THIS MEANS ARGUMENTS WILL BE IN PERSON, WHETHER OR NOT AN ANSWER HAS BEEN FILED. FAILURE TO APPEAR BY THE RESPONDING PARTY WILL RESULT IN THE MOTION BEING GRANTED WITHOUT OBJECTION.

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 carefully check the schedule prior to notifying opposing counsel of presentation.

Counsel may mutually agree to waive oral argument and request resolution on the motion and any response only. Counsel should send correspondence with the motion indicating that both parties agree and that no argument is necessary.

2. DELIVERY OF MOTIONS

Motions may be mailed, delivered or emailed to the court prior to the time scheduled for motions. All motions must have the required Motions Admission Form which is available on the Fifth Judicial website. Emailed motions should be sent to motionseaton@alleghencourts.us. 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 becomes a consent 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 the motion has been submitted electronically, notice should be sent to the motionseaton email address. 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 in hard copy via motions for resolution. A copy of the electronically filed motion should be presented at court.

**ALL MOTIONS MUST HAVE THE EMAIL ADDRESS OF ALL COUNSEL/
PARTIES ON THE COVER SHEET.**

Once a Motion and Response (if appropriate) are submitted, further replies/responses are not permitted absent leave of court. Any additional emails beyond the original submission email may lead to the Motion being postponed – to be re-presented at a later date and time.

3. ACCEPTANCE OF MOTIONS

The court will not accept contested motions after **12 noon on the day of motions (or 4:00 PM on days prior to the date when Motions are scheduled at 10:00 AM)**. The court also requires any responses and/or answers to motions to be filed by that time. Responses will not be accepted at the time of the argument except in rare circumstances, and even then, there is no guarantee that the Court will review the response prior to ruling.

Uncontested and consent motions will be accepted any time and may also be sent to “motionseaton”.

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 or emailed 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 CONCILIATIONS

Motions may be presented at a scheduled conciliation, but only upon proper seven (7) days' notice to opposing counsel. Motions may be accepted with less than seven (7) days-notice, but only with consent of all counsel.

8. SUFFIX

All motions should be clearly marked with the 006 or should contain some explanation (by post-it note, etc.) as to why no suffix has been added. Counsel should be aware that from time to time the DCR mistakenly lists Judge Eaton as the "assigned" judge because personnel in the DCR has seen Judge Eaton's stamped AJ signature on an order and they believe it is assigned to her. The listed suffix controls the assignment, not the listed "assigned" judge. Failure to include any suffix will result in the motion being returned to you and will delay presentation of motion.

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.

III. SELF REPRESENTED PARTY MOTIONS (PRO SE MOTIONS)

1. **Self-Represented Parties.** A self-represented party who has an existing case in the Family Division and is seeking to file a motion with the Court should appear at the Information Desk in the Family Law Center at 440 Ross Street between 8:00 AM and 12:00 PM to meet with staff in the Client Service Center. In addition, self-represented parties may call (412) 350-5442 or email 1stFOP@pacses.com with questions about court procedures. No legal advice will be given.

- a) Self-represented parties must follow the above instructions to submit motions to the court. The Judge cannot accept motions submitted directly from self-represented parties. Self-represented parties who submit motions directly to the Judge will be referred to the Client Service Center for assistance.
- b) Self-represented parties responding to a non-emergency motion may submit a response to Client Service center within **5 days** of when the motion is received. However, a response is not necessary as the party will be required to appear at motion presentation. Responses can be emailed to 1stFOP@pacses.com or sent through U.S. mail to **Client Services Center, 440 Ross Street, Pittsburgh, PA 15219**. Parties should ensure that appropriate time is given for mail.
 - i. Self-represented parties responding to an **emergency motion** should submit a response to the Client Service Center. Responses must be emailed to 1stFOP@pacses.com. Responses to motions submitted *before* 12:00 PM are due by **12:00 PM** on the next business day.
- c) Non-Emergency Motions will be heard during the Court's pro se motions court. The parties are expected to appear at the Family Law Center in the scheduled courtroom and be prepared to explain their motion or response to the Judge and to answer any questions that the Judge may have.

2. The court will hear pro se motions one (1) hour prior to regular motions (1:00 p.m. and 9:30 a.m. Fridays). The court will hear pro se motions in the following order:
 - a. Motions to amend or vacate PFA's
 - b. Motions with private counsel opposing the motion
 - c. Motions involving the county solicitor
 - d. Fee Waiver Request
 - e. All other motions.
3. The court will only entertain pro se motions or cases with the suffix 006.

4. 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 the opposing 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.
5. Pro se litigants are expected to follow all rules of court and also shall comply with this court's Standard Judicial Operating Procedures.
6. Pro se motions shall never be provided directly to the Judge's chambers, but rather pursuant to the above rules.
7. **Pro se litigants are NOT permitted to come directly to chambers to drop off motions, responses, and/or other documents.**
8. Pro se litigants are not permitted to call and discuss substantive matters with the court's staff. This would include questions about "interpretation" of an order or asking the staff to explain orders. The staff is strictly prohibited by law from providing legal advice. Repeated violations of this rule will result in fines and/or sanctions.

IV. GENERAL MOTION RULES

1. 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 of another judge's order or scheduling for another judge's calendar. 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 a temporary order until such time as the matter can be heard by the Judge assigned to the case. The assigned Judge **must** be served with a copy of the motion so that the matter can be discussed between the Judges. Failure to follow this procedure will result in the motion being denied. It is **not** an emergency if counsel simply is not available when the assigned Judge is scheduled.

2. CONSENT ORDERS

- a. 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. Additionally, someone should be available to pick up and to file the order.

- b. Counsel may also send consent orders through the motionseaton email. If a motion is requesting a hearing or another date, the court will return the signed order to presenting counsel who is then responsible for getting the date, serving all parties, and filing the order with the DCR.
- c. 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 the signed Consent Order.

3. DISCOVERY MOTIONS

The court will not entertain discovery motions that do not comply with the requirements of 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.

Counsel should note that the court does not automatically send all discovery matters to a discovery master unless the issues are complicated or voluminous. As such, if counsel does not want to have a delay in resolution or incur the cost of the discovery hearing officer, efforts should be made to simplify and narrow the issues prior to presentation of the motion.

4. MEET AND CONFER

a. Pursuant to Local Rule, litigants and counsel **MUST** 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. Every contested motion filed **MUST** contain a standard 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 including refusal to entertain the motion. 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.

d. 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.

5. 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 DCR. 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.

6. PRESENCE OF A SHERIFF

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.

7. 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.

8. COURTESY COPIES

Counsel should immediately provide the court's secretary with a courtesy copy of any orders scheduling a matter before the judge or changing any 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. Failure to do so will result in the matter

not being placed on the judicial schedule and the possibility that counsel may arrive for a matter that has not been scheduled.

9. DIVORCE HEARING OFFICER CONCILIATIONS

Parties may bypass an initial equitable distribution conciliation and proceed directly to a hearing officer conciliation by consent. The standard consent order which contains payment requirements can be presented in any way other “consented to” orders are presented, including by email to motionseaton, or in open court, or by dropping off in chambers. The form can be found on the court website.

10. ORDERS ESTABLISHING GROUNDS FOR DIVORCE

A. Parties must obtain an Order of Court approving grounds for divorce as set forth in Pennsylvania Rule of Civil Procedure 1920.42 before scheduling a hearing with the Divorce Hearing Officer or the Court. The statutory requirements for grounds to be established are set forth in 23 Pa. C.S.A. §3323(9).

1. For reference, a blank Praecipe for Order approving Grounds for Divorce is available at www.alleghenycourts.us/family. It can be submitted along with a proposed Order Approving Grounds for Divorce to chambers by emailing it to motionseaton@alleghenycourts.us.

V. COURT SCHEDULE

1. CONCILIATIONS

Any conciliations (custody, equitable distribution, and special matters) will continue to be conducted remotely via Microsoft TEAMS unless an order expressly provides otherwise. Chambers will send a TEAMS invitation for participation to counsel/ parties.

2. 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.

3. 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.

4. 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.

Counsel should be aware of time constraints. Scheduling conciliations too close together could result in counsel or parties being late for another judge’s proceeding or for a scheduled court matter such as a custody department conciliation. If this becomes a repetitive problem, sanctions will be imposed.

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. SETTLEMENT PRIOR TO PROCEEDING

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

6. MEETING WITH COURT PRIOR TO TRIAL

If counsel believes that a meeting with the court on the day of the proceeding or prior to a trial or hearing may be helpful or necessary, both counsel 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 a.m., counsel should endeavor to schedule the meeting at 9:00 a.m. or before.

7. SETTLEMENT

In the event the 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, and the court's docket opened for that day.

VI. EXCEPTIONS

The court will hear exceptions arguments in the order listed in the PLJ and on the court website. The court will hear all arguments in person, unless the court directs otherwise. 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 published list may not be accurate. Failure to appear at the scheduled time because a case is later on the list is done at counsels' or the parties' peril. Exceptions may be submitted on briefs alone by mutual consent. Counsel should notify the court's tipstaff if argument is waived

VII. 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. Depending on the proceeding, the Court may request proposed findings of fact.

3. EXHIBITS AFTER TRIAL

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, the documents will be destroyed.

4. FINAL 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.

VIII. COURTROOM DECORUM

1. FOOD AND DRINK

No food or drink (except water) is permitted in the courtroom.

2. CELL PHONES

No ringing cell phones are permitted in the courtroom. In addition, under no circumstances shall any court proceeding be recorded, or any photographs taken without the express approval of the court. Failure to adhere to this can result in criminal prosecution.

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 counsel 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

Counsel should be appropriately dressed for court appearances. 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. Children should not be brought to conciliations without acquiring permission from the court. Counsel and parties should be familiar with the location of the Children's Playroom and its hours of operation.

The court's procedure for scheduling child testimony can be found in the order scheduling the proceeding.

8. PRESENCE OF PARTIES

Counsel should advise clients that while they are welcome to attend motions or arguments on exceptions, they are not permitted to address the court unless requested by the court to do so. This includes third parties who are present on behalf of a party. Counsel shall advise the court that their clients are present in the courtroom.

IX. TRIAL PROCEDURE

1. HYBRID HEARINGS

Beginning immediately, the court will conduct all trials and hearings in person with the ability to have certain witnesses available through TEAMS. The specifics of the proceeding, including who can and cannot appear remotely will be dealt with on a case-by-case basis. Counsel and parties are expected to attend in person unless specifically excused by the court, a request that will rarely be granted.

TEAMS Hearing Protocols for Witnesses

- Download and be familiar with Microsoft TEAMS technology, and please practice using the TEAMS application prior to any scheduled matters.

- All TEAMS appearances for witnesses shall be via VIDEO unless excused by the judge in advance.
- ALL PARTICIPANTS appearing via TEAMS must be in a quiet place with a stable internet connection.
- Counsel should be aware that if they intend to call witnesses and/or have their clients participate in the proceedings, it is their responsibility to forward the Microsoft TEAMS invite.
- If you have not received a TEAMS link by 3 pm on the business day before you were expecting one, please email detzi@alleghencycourts.us for the link.

2. 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.

3. START AND END TIME

Court procedures shall begin promptly at the scheduled times. Trial shall end at approximately 4:30 p.m. After 4:30 pm, there are no sheriffs available, and the court will not risk the safety of participants because counsel could not finish on time.

4. EXPERT TESTIMONY

Counsel should cooperate in scheduling an expert's testimony. The court will always consider taking expert testimony out of order. Unless a party has a reasonable objection, experts may testify remotely.

5. 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.

6. 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. The Court will not tolerate repeated requests for the court to make copies. Counsel should prepare accordingly. Multiple requests for making copies because counsel did not anticipate use of the document will be frowned upon.

For extended or complicated trials, counsel is encouraged to prepare a trial book of exhibits for the court.

7. 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.

8. 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.