

STANDARD JUDICIAL OPERATING PROCEDURES

Honorable Michael E. McCarthy
Court of Common Pleas
Allegheny County, Pennsylvania

1700 Frick Building
437 Grant Street
Pittsburgh, PA 15219

Tipstaff: (412) 350-5546

Secretary: (412) 350-5545

The practice and procedure in the division is governed by the Probate, Estates, and Fiduciaries Code, 20 Pa. C.S.A. Section 101, *et. seq.*, the Pennsylvania Supreme Court Orphans' Court Rules, and the Rules of the Orphans' Court Division of the Court of Common Pleas of Allegheny County, as amended September 2016.

The local and state court rules should be consulted before preparing petitions, motions, and other court filings.

No agreement between parties, whether represented or *pro se*, to vary procedure shall be considered valid or binding unless such agreement has been either made in writing or made part of the record in open court.¹

Contacts with the Court

1. All matters requesting action by the Court shall be presented in the form of a motion or petition to the Court. The Court will not accept unsolicited letters. The Court will not entertain requests for action that are submitted by unsolicited mail, fax, telephone or unsolicited electronic mail.
2. No counsel or party shall engage in *ex parte* communication with the Court or its staff regarding any matter pending before the Court
3. No counsel or party shall correspond with the Court by electronic mail unless specifically requested to do so. Any such request made by the Court shall be in written form.
4. Inquiries concerning court procedures and scheduling should be directed to the Orphans Court at 412-350-5550.

¹ See, Allegheny County Orphans' Court Division Rule 1.7

Conferences and Conciliations

The Court will allow reasonable time before the start of any trial or adversarial proceeding for earnest efforts at conciliation.

Exhibit Books

In advance of trial, each party *shall* prepare a tabbed exhibit book containing each exhibit that the party plans to show to a witness, to introduce through a witness or to otherwise proffer as evidence². At the commencement of the trial, in advance of opening arguments, copies of the exhibit book shall be provided to all opposing counsel/unrepresented parties. A copy shall also be provided to the Court. Additionally, a copy shall be provided for use by witnesses, and may be placed on and remain on the witness stand during the trial.

The inclusion of an exhibit in the exhibit book does not impose any obligation to introduce the exhibit and the failure to do so shall not be commented on by other counsel.

Witness List

Each party shall provide to the Court Reporter and the Court at the commencement of trial a complete list of potential witnesses, together with a list of any unusual names of other individuals, places or things likely to be referenced during testimony.

The list should additionally note:

1. Any witness whose testimony will be received by deposition or videotape; and
2. The particular area of expertise of any expert witness.

² Do not include the portions of medical records or other voluminous records that will not be specifically referenced through testimony.

Joint Exhibits and Stipulations

The parties are strongly encouraged to identify exhibits that may be jointly entered into the record and to arrive at stipulations of fact, pertinent dates or appropriate measures of damages. The parties may propose stipulations as to testimony in order to abbreviate, for example, corroborative testimony or recitation of background facts or witness qualification.

Trial Memoranda

The Court welcomes memoranda on points of law pertinent to the matter before the Court.

Parties are encouraged to submit Trial Memoranda of reasonable length in advance of the commencement of trial or at the earliest moment that a party discerns a need for such memorandum. Parties who wish to submit post-hearing memoranda, should expressly reserve the right to do so.

All opposing counsel/parties shall be provided with copies of any Trial Memorandum at or before the time of presentation to the Court.

Opening/Closing Statements

Parties may present an opening statement, which shall be brief. Absent consent of all parties or prior permission from the Court, exhibits shall not be used or offered during an opening statement.

Parties are encouraged to present a closing statement. Such statements generally should not exceed ten (10) minutes.

Examining Witnesses

Examination of witnesses should be civil, disciplined and focused. The Court may intervene whenever interrogation or presentation seems to be repetitive, strays into areas of marginal relevance, subjects witnesses to harassment or undue embarrassment, constitutes argument or “testimony” by the attorney or otherwise fails to move the case forward.

The Court may request an offer of proof before allowing any re-direct examination of a witness.

Presenting Documentary or Demonstrative Evidence

Any party who intends to present documents or exhibits, including photographs, as part of a case, shall have sufficient copies for all parties and for the Court. Easels, dry-erase boards and chalkboards are available for use as necessary by the parties. Requests for such equipment should be made to the tipstaff at the outset of the trial. Equipment should be set up before the commencement of the morning or afternoon trial session during which the equipment will be used.

A copy of any exhibits shall be marked and shall be presented to opposing parties before being offered to the Court. Plaintiff/Petitioner exhibits should be marked by **number**. Defense/Respondent exhibits should be marked by **letter**.

At the conclusion of a party's case, any exhibits that are intended to form part of the record should be specifically identified and formally offered into evidence.

Joint Exhibits and Stipulations

The parties are strongly encouraged to identify exhibits that may be jointly entered into the record and to arrive at stipulations of fact, pertinent dates or appropriate measures of damages. The parties may propose stipulations as to testimony in order to abbreviate background or corroborative testimony.

Extended Proceedings

In the event of a trial extending beyond a single day, a meeting may be convened at such time as the proceedings conclude for the day. At the meeting, parties shall raise and address any issues likely to arise during the next day of trial. Parties must be prepared to stay until all matters are resolved.

Opening and Closing Statements by Counsel/Parties

An opening statement shall not exceed ten (10) minutes absent prior permission from the Court obtained during a preliminary conference. Upon violation of any this guideline or any guideline established during the preliminary conference, the Court, *sua sponte*, may interrupt an opening statement.

Closing arguments should be as concise as practicable and should not exceed ten (10) minutes. The Court must be alerted in advance of any closing likely to exceed ten (10) minutes.

Examination of Witnesses

Maintain a disciplined, focused examination of witnesses. The Court will intervene whenever interrogation or presentation seems to be repetitive, strays into areas of marginal relevance, subjects witnesses to harassment or undue embarrassment, or

otherwise fails to move the case forward. The Court will intervene in the least intrusive manner necessary, but will intervene, as appropriate, to ensure an efficient, fair trial.

The Court may request an offer of proof before allowing re-direct examination.

Objections During Trial

Any objection shall be briefly described by counsel.

If counsel disagrees with a ruling, believes that the objection or the issue was not correctly understood, or wishes to place an explanation on the record to preserve the issue, counsel may do so. In the event of a jury trial, such comment shall be made by requesting a sidebar, and placing the matter on the record outside of the hearing of the jury.

Examination of a witness shall be suspended whenever an objection is stated and shall not continue until the objection is resolved or counsel is directed to go forward.

Use of Depositions

A party using depositions at trial must have all objections resolved in advance. The party using the deposition shall furnish a copy of the full transcript of the deposition to the Court not later than the time that the deposition is used at trial.

Use of Videotaped Depositions

It is solely the responsibility of the party using a videotaped deposition to obtain equipment, provide an operator and to ensure in advance of the presentation that all necessary equipment is in place at such time so as not to interfere with the trial schedule.

Equipment should be in place before the commencement of the morning or afternoon trial session during which the videotape will be played.

Exhibit Aids

Easels, dry-erase boards and chalkboards are available for use as necessary by the parties. Requests for such equipment should be made to the tipstaff as far in advance as possible and, preferably, before the start of the trial. Equipment should be set up before the commencement of the morning or afternoon trial session during which the equipment will be used.

Preliminary Conferences

Before commencement of the trial, any party may request a preliminary conference with the court and all counsel in order to address any difficult question of law evidence or procedure that is anticipated to arise during the course of the trial.

Courtroom Seating and Decorum

Counsel and, at counsel's discretion, counsel's party, shall sit at counsel table. Parties who are not represented by counsel, shall sit at counsel table. Non-party witnesses shall sit in the spectator section. Plaintiffs sit at the table closest to the windows.

The presentation of a case shall be courteous and concise. Counsel shall comply with the Code of Civility adopted by Order of the Pennsylvania Supreme Court, *per curiam*, December 6, 2000.

Special Concerns

Any special needs, concerns or any questions regarding standard procedure should be addressed to the tipstaff at the earliest possible moment and, to the extent possible, in advance of the commencement of the morning or afternoon session.

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