

WESTMORELAND COUNTY RULES OF CIVIL PROCEDURE

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	Rescinded March 23, 2013; New Rule W1915.4-3 adopted March 13, 2013, effective May 27, 2013.
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Rule W1920.6	Motions; Notice Adopted December 16, 1993, effective April 1, 1994.
Rule W1920.31	Joinder of Related Claims Adopted December 16, 1993, effective April 1, 1994.
Rule W1920.32	Joinder of Related Claims; Custody; Hearing by the Court Rescinded February 3, 2000; New Rule W1920.32 adopted February 3, 2000, effective April 3, 2000.
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Rule W1920.51	Hearing by the Court; Appointment of Master; Notice of Hearing Rescinded May 7, 2004; New Rule W1920.51 adopted May 7, 2004, effective June 1, 2004.

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Rule W1920.51a	Hearing by the Court. All Counts Master. Notice of Hearing Adopted May 7, 2004, effective June 1, 2004.
Rule W1920.53	Hearing by Master. Report. Rescinded May 7, 2004; New Rule W1920.53 adopted May 7, 2004, effective June 1, 2004.
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Rule W1920.55-2	Master’s Report. Notice. Exceptions. Final Decree. Rescinded May 7, 2004; New Rule W1920.55-2 adopted May 7, 2004, effective June 1, 2004. Rule W1920.55-2(d) rescinded April 16, 2009; New Rule W1920.55-2(d) adopted April 16, 2009, effective June 1, 2009.
Rule W1920.55-2a	All Counts Master’s Report. Notice. Exceptions. Final Decree. Adopted May 7, 2004, effective June 1, 2004. Rule W1920.55-2a(f) rescinded April 16, 2009; New Rule W1920.55-2a(f) adopted April 16, 2009, effective June 1, 2009.
Rule W1940.1	Voluntary Mediation Amended and renumbered September 30, 2016, adopted November 20, 2016.
Rule W1940.4	Minimum Qualifications of the Mediator Adopted February 3, 2000, effective April 3, 2000.

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Rule W2205	Notice to Persons Entitled to Damages Adopted December 16, 1993, effective April 1, 1994.
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Rule W2232	Defective Joinder. Change of Parties Rescinded May 10, 2004; New Rule W2232 adopted May 10, 2004, effective July 26, 2004.
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ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule W3129	Notice of Sale; Real Property Adopted December 16, 1993, effective April 1, 1994.
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DEPOSITIONS AND DISCOVERY

Rule W4002	Place of Depositions Revised August 22, 1994, effective October 10, 1994.
Rule W4005	Written Interrogatories Adopted December 16, 1993, effective April 1, 1994.

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Rule W6001	Rules Governing Appeals from Real Estate Tax Assessments
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Adopted March 1, 2002, effective April 22, 2002, revised and adopted August 3, 2016.

Rule W6007	Approval of Sureties
	Adopted December 16, 1993, effective April 1, 1994.
Rule W6017	Depositories
	Adopted December 16, 1993, effective April 1, 1994.
Rule W6027	Statutory or License Suspension Appeals
	Adopted April 11, 1996, effective June 3, 1996.

BUSINESS OF COURTS

- Note: Rule W200 was rescinded effective July 26, 2004.
- Note: Rule W200.1 was rescinded effective March 27, 1995.
- Note: Rules W200.2, W200.3, W200.4 were rescinded effective July 26, 2004.
- Note: Rules W200.5, W200.6 were rescinded effective March 27, 1995.
- Note: Rule W200.7 was rescinded effective July 26, 2004.
- Note: Rule W200.8 was rescinded effective December 16, 1997.
- Note: Rule W200.9 was rescinded effective March 18, 1996.
- Note: Rule W205 was rescinded effective March 27, 1995.
- Note: Rule W205.1 was rescinded effective July 26, 2004.

RULE W205.2(a) PLEADINGS AND LEGAL PAPERS

- (1) All pleadings and legal papers filed with the Prothonotary should be on white paper approximately 8-1/2 inches by 11 inches, [with printed matter 6-1/2 inches by 9 inches] with one inch margins on all four (4) sides. The lettering should be clear and legible and no smaller than point 11.
- (2) Pleadings and legal papers, including the original documents, should be filed without “blue backs” or other covers, and should be bound in the upper left hand corner with a single binder clip or staple. No tape should be used to cover the top of the paper or document.
- (3) The front page of the document should indicate the total number of pages, including exhibits, submitted for filing. (For example: Page 1 of 10).

Adopted May 10, 2004, effective July 26, 2004.

RULE W205.2(b) COVER SHEET

All parties required to file a cover sheet pursuant to Pa.R.C.P. 205.5 shall also file a Westmoreland County Civil Cover Sheet. The Westmoreland County Civil Cover Sheet shall be in the form set forth in the Forms Section of the Westmoreland County Rules of Court.

Rescinded April 22, 2010; New Rule W205.2(b) adopted April 22, 2010, effective May 26, 2010.

- Note: Rule W206 was rescinded effective July 26, 2004.

RULE W206.1(a) PETITIONS – RULE TO SHOW CAUSE

No applications to the court other than those listed in Pa.R.C.P. 206.1(a) have been designated by local rule as “Petitions.”

Adopted May 10, 2004, effective July 26, 2004.

RULE W206.4(c) PROCEDURES FOR ISSUANCE OF A RULE TO SHOW CAUSE

- (1) The petition for the rule to show cause and a proposed Order substantially in the form prescribed by Pa.R.C.P. 206.5(d) shall be presented in Motions Court. The petitioner shall serve a copy of the petition and proposed Order on the respondent or respondents, together with written notice of the time, date and location for presentation, at least four (4) days in advance of the date when presentation is to occur. Service shall be made in accordance with the Rules of Civil Procedure governing service of legal papers other than original process.
- (2) A certificate that the petition and proposed Order, and written notice of the time, date and location of presentation have been served on the respondent or respondents, shall be attached to the petition at the time of presentation.
- (3) At the time of presentation, the court shall use the discretion granted by Pa.R.C.P. 206.4 to determine if a rule to show cause should be issued and whether any interim relief requested should be granted. The interim relief may include a stay of execution.
- (4) In the event the court grants the rule to show cause:
 - (a) The court shall enter an Order in accordance with Pa.R.C.P. 206.5.
 - (b) The petitioner shall file the petition and Order with the Prothonotary, who shall issue the rule. Within three (3) days thereafter, the petitioner shall serve the rule as directed in the Order, together with a copy of the petition and Order upon which the rule was issued, which service shall be made in accordance with the Rules of Civil Procedure governing service of legal papers other than original process.
 - (c) Within three (3) days of such service, the petitioner shall file a certificate of service with the Prothonotary, and shall deliver or mail a copy of the rule, petition, Order and certificate of service filed to the chambers of the judge assigned to the case.
- (5) Upon filing an Answer, a respondent shall deliver or mail a copy thereof to the chambers of the judge assigned to the case.
- (6) If no answer is filed on or before the date Ordered, the petitioner may file a motion to make the rule absolute in accordance with Rule W208.3(a).

Adopted May 10, 2004, effective July 26, 2004.

RULE W208.2(c) MOTIONS. STATEMENT OF APPLICABLE AUTHORITY

All motions shall contain a specific citation to relevant constitutional provisions, case law, statutes, regulations, Rules of Court or other applicable legal authority that permit the court to grant the relief requested.

Adopted May 10, 2004, effective July 26, 2004.

RULE W208.2(d) MOTIONS WITH CONSENT OR NO CONTEST

- (1) All uncontested motions, or motions to which the consent of all parties has been obtained, must be accompanied by a certificate stating that
 - (a) a copy of the motion and any proposed Order has been served on every other party or attorney of record at least 4 days in advance of the date when the presentation is to occur,
 - (b) written notice of the time, date and location for presentation was given at the time the motion and any proposed Order was served, and
 - (c) the motion is in fact uncontested or has the consent of all parties.
- (2) Failure to comply with the foregoing shall result in the refusal of the court to hear the motion.

Adopted May 10, 2004, effective July 26, 2004.

RULE W208.2(e) MOTIONS. DISCOVERY

- (1) All motions relating to discovery shall include a certificate signed by counsel for the moving party that counsel for that party has conferred or attempted to confer with all interested parties in order to resolve the matter without court action, and shall set forth the nature of the efforts made to resolve the matter.
- (2) Failure to comply with the foregoing shall result in the refusal of the court to hear the motion.

Adopted May 10, 2004, effective July 26, 2004.

RULE W208.3(a) MOTIONS PROCEDURE

- (1) The trial judge assigned to a specific case will hear all motions or petitions relating to that case. Motions Court shall be held each Friday at 9:00 A.M.
- (2) Argument on contested motions will be heard in Motions Court. The moving party shall serve a copy of the motion and any proposed Order on every other party or attorney of record and give written notice of the time, date and location for presentation, at least 4 days in advance of the date when the presentation is to

occur. The motion must be accompanied by a certificate stating that a copy of the motion, proposed Order and written notice has been so furnished. Failure to provide such certificate shall result in the court's refusal to hear the motion.

- (3) Uncontested motions or motions to which the consent of all parties has been obtained shall be presented in accordance with Rule W208.2(d), and may be presented at Motions Court or in chambers at any time convenient to the court.

Note: Counsel are expected to appear for Motions Court promptly by 9:00 A.M. It is anticipated that all motions should be heard by 10:00 A.M. If, upon presentation of the motion, the Court determines that extended argument is required, the court shall specially set a time for argument.

- (4) Emergency motions in civil matters may be presented at a time prearranged with the court. In emergency matters, the moving party must give telephone notice to every other party or attorney of record prior to presenting the motion, and shall, at the time of presentation of same, provide to the Court a certificate describing what notice was given. Failure to provide such certificate may result in the court's refusal to hear the motion.

Adopted May 10, 2004, effective July 26, 2004.

RULE W210 FORM OF BRIEFS

- (a) The Brief of the moving party shall contain a statement of the case, a statement of the issues involved, the argument, and a short conclusion stating the precise relief sought.
- (b) The Brief of the responding party need only contain argument.
- (c) A copy of a Brief shall be served on every other party or attorney of record on the same day it is filed. A copy of a Brief shall be delivered or mailed to the chambers of the judge assigned to the case.

Rescinded May 10, 2004; New Rule W210 adopted May 10, 2004, effective July 26, 2004.

Note: Rule W211 was rescinded effective July 26, 2004.

**RULE W212.1 CERTIFICATION OF READINESS FOR TRIAL. TIME FOR
COMPLETING DISCOVERY AND FILING PRE-TRIAL STATEMENT**

- (a) Any party may file a certificate with the Prothonotary that the case is ready for trial. A copy of the certification found in the Forms section of these rules shall be served on the judge assigned to the case, on the Court Administrator and on all other parties or their counsel. Service shall be made at least twenty (20) days prior to the filing of the certificate.

- (b) Any party objecting to a Certificate of Readiness shall do so by filing and serving Objections within ten (10) days of service of the Certificate of Readiness. Objections shall be presented at Motions Court after four days' notice to all other parties or their counsel, and after providing a courtesy copy to the Court.
- (c) The term “ready for trial” means that:
 - (1) The pleadings are closed;
 - (2) Witnesses are presently available to appear at trial; and
 - (3) Discovery is complete, except for those depositions to be taken solely for the purpose of being presented at trial, such as the depositions of expert witnesses.
- (d) Upon receipt of the certification of readiness, the judge assigned to the case shall issue an Order addressing the following matters:
 - (1) When Pre-Trial Statements shall be due pursuant to Pa.R.C.P. 212.1(c)(2), which dates shall be set prior to the Pre-Trial Conference.
 - (2) The date of the Pre-Trial Conference pursuant to Pa.R.C.P. 212.3.
 - (3) Such other matters that may aid in the disposition of the case.

Rescinded November 2, 2006; New Rule W212.1 adopted November 2, 2006, effective January 1, 2007. Rescinded August 12, 2015, New Rule W212.1 adopted August 12, 2015 effective November 1, 2015.

RULE W212.3 PRE-TRIAL CONFERENCE.

- (a) In addition to those matters for consideration at the Pre-Trial Conference held pursuant to Pa.R.C.P. 212.3, the court shall place the case on a civil court Jury Trial List, or set the date for the trial of a case without a jury.
- (b) An Order shall be entered following the pre-trial conference pursuant to Pa.R.C.P. 212.3(b). A copy of the Order shall be provided to the Court Administrator.
- (c) The Court Administrator shall place each case to be tried by a jury on a Jury Trial List for each civil court judge. The Jury Trial Lists will be posted on the Westmoreland County Web Site at www.co.westmoreland.pa.us.

Note: Beginning with the January, 2015 Jury Trial List, copies will no longer be mailed to litigants and attorneys.

- (d) Each civil court judge shall call his Jury Trial List during the week preceding the first week of the civil jury trial period. All attorneys responsible for trial shall be represented at the call, and shall advise the court of the approximate length of the trial and disclose any other relevant matters.

- (e) The cases placed on the Trial List shall be continued only on the grounds and under the procedures set forth in Pa.R.C.P. 216. Applications for continuance shall be presented at Motions Court at least ten (10) days prior to the call of the Trial List. At the call of the Trial List or at any time thereafter, continuances will be granted only for the most compelling reasons; the need to schedule depositions shall not in itself be a compelling reason.

Note: Rule W212.3 replaces the former rule of the same number entitled "Settlement Conference."

Rescinded May 10, 2004; New Rule W212.3 adopted May 10, 2004, effective July 26, 2004. Rule W212.3(c) rescinded September 18, 2014; New Rule W212.3(c) and its associated Note adopted September 18, 2014, effective November 3, 2014.

Note: Rule W214 was rescinded effective December 16, 1997.

RULE W227.1 POST-TRIAL RELIEF

- (a) Requirements for Filing and Service of Motion for Post-Trial Relief at the Office of the Prothonotary.

- (1) The original Motion for Post-Trial Relief should be filed at the Office of the Prothonotary.

NOTE: Pursuant to Pa.R.C.P. 227.1(c), Motions for Post-Trial Relief must be filed within ten (10) days after verdict, etc.

NOTE: Post-Trial motions shall comply with Pa.R.C.P. 227.3 concerning the request for a transcript and objections thereto. See Pa.R.J.A. 5005.5, et seq., regarding the request for transcript and payment of the transcript fee.

- (2) At the same time the Motion for Post-Trial Relief is being filed with or mailed to the Prothonotary, the moving party shall present or mail a copy of the Motion for Post-Trial Relief to the chambers of the judge assigned to the case. The judge assigned to the case shall prepare a Scheduling Order for oral argument, file the original Order, and give or mail a copy of that Order to the moving party. Within three (3) days of receipt of the Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Scheduling Order on every other party or attorney of record, shall file with the Prothonotary a certificate of service of the Scheduling Order and shall mail or deliver a copy of the certificate of service to the judge assigned to the case.

NOTE: The oral argument should be scheduled on the date set for argument court in the second month following the month in which the verdict or decision was rendered.

- (3) Within three (3) days of filing the Motion for Post-Trial Relief, the moving party shall serve every other party or attorney of record with a copy of the Motion for Post-Trial Relief, shall file with the Prothonotary a certificate of service of the Motion for Post-Trial Relief and shall mail or deliver a copy of the certificate of service to the judge assigned to the case.

- (b) Filing and Service Requirements for Briefs in Support and in Opposition of the Motion for Post-Trial Relief
 - (1) The moving party shall file a Brief in Support with the Prothonotary within twenty (20) days of filing the Post-Trial Motion, unless the court shall otherwise establish the briefing schedule. Any other party may file a Brief in Opposition within twenty (20) days after service of the moving party's brief.
 - (2) Within three (3) days of filing the Brief, the writer shall serve a copy of the Brief on every other party or attorney of record and shall mail or deliver a copy of the Brief to the chambers of the judge assigned to the case. The writer shall file a certificate of service with the Prothonotary, and shall mail or deliver a copy of the certificate of service to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

- (c) Sanctions
 - (1) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion.
 - (2) If a non-moving party shall fail to comply with the requirements of this rule, the party shall not be permitted to present any oral argument.

Rescinded May 10, 2004; New Rule W227.1 adopted May 10, 2004, effective July 26, 2004.

Note: Rule W227.2 was rescinded effective July 26, 2004.

Note: Rule W227.3 was rescinded effective March 27, 1995.

RULE W229 DISCONTINUANCE

- (a) All costs of the Prothonotary and Sheriff shall be paid before a discontinuance is accepted by the Prothonotary.

- (b) The Prothonotary shall promptly give notice of the case's final termination to the Westmoreland County Court Administrator and to the assigned Judge when the case is discontinued.

Rescinded May 10, 2004; New Rule W229 adopted May 10, 2004, effective July 26, 2004.

RULE W260 IMPOUNDING MENTAL HEALTH FILES

The prothonotary shall docket each action filed under the Mental Health Procedure Act of 1966, and impound the file and all papers contained therein. The prothonotary shall permit an inspection of the case file only pursuant to an order of court or upon request of the counsel for the party involved.

Adopted December 16, 1993, effective April 1, 1994.

RULE W261 RECORDS

- (a) The Court Administrator and members of a judge's staff may remove records from the Prothonotary's office for official court business. In addition, referees, auditors, masters, attorneys and other similar officers appointed by the court shall have authority to remove records from the Prothonotary's office. All such records shall be returned within three months after their taking unless the court authorizes a longer retention.
- (b) Except as provided in section (a), no record shall be removed from the Prothonotary's office except upon subpoena *duces tecum* or Order of court.

Adopted May 10, 2004, effective July 26, 2004.

Note: Rule W270 was renumbered W1270 August 31, 2000.

RULE W300 BROADCASTING, TELEVISIONING, PHOTOGRAPHS

There shall be no broadcasting, televising, recording or the taking of photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that the court may authorize:

- (a) The use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
- (b) The broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings;
- (c) The photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
 - (1) The means of recording will not distract participants or impair the dignity of the proceedings; and
 - (2) The parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproductions; and
 - (3) The reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and
 - (4) The reproduction will be exhibited only for instructional purposes in educational institutions.

Adopted December 16, 1993, effective April 1, 1994.

RULE W405 SHERIFF'S RETURN

- (a) After successful service, the sheriff shall mail to the attorney requesting service a notification upon which the sheriff shall indicate the date, place and time of service and the person upon whom service was made, and in a case of service upon a corporation, the capacity of the person upon whom service was made.
- (b) After an unsuccessful attempt at service, the sheriff shall mail to the attorney requesting service a notification upon which the sheriff shall indicate the means by which service was attempted and the date on which the attempt was made.

Adopted December 16, 1993, effective April 1, 1994.

RULE W430 LEGAL PERIODICAL

The *Westmoreland Law Journal* shall be the legal periodical for the publication of all notices.

Adopted December 16, 1993, effective April 1, 1994.

RULE W609 BILL OF COSTS

- (a) A bill of costs listing those items sought to be recovered as record costs must be filed with the Prothonotary, within ten days of:
 - (1) the entry of a jury verdict;
 - (2) a final order, decree, or verdict of a judge sitting without a jury; or
 - (3) the day on which the Prothonotary makes the notation on the docket, pursuant to Pa.R.C.P. 1307(a)(3), that Notice of any Award including record costs has been mailed.
- (b) A certificate that a copy of the bill of costs has been served on the opposing party or that party's counsel of record shall be filed with the bill of costs.
- (c) Objections to items or amounts listed in the bill of costs must be filed by the opposing party or that party's counsel of record within 10 days of receipt of a copy of the bill of costs, in which event the trial judge, or judge assigned by the court administrator, shall enter an order specifying which costs are allowable.

COMMENT: See: *Zelenak v. Mikula*, 911 A. 2d. 542 (Pa. Super. 2006) as to what is included in record costs.

Absent an agreement between counsel regarding the payment of record costs, the court has no authority to award costs to either party upon settlement. *Mancine v. Bilesimo, Jr.*, 69 W.L.J. 145, 146 n.1 (1987).

With regard to recovery of cost in an arbitration case, see *Sillings v. Protected Home Mutual Life Ins. Co.*, 84 W.L.J. 7 (2001).

Rescinded December 3, 2007; New Rule W609 adopted December 3, 2007, effective January 21, 2008.

Note: Rule W611 was rescinded effective July 26, 2004.

ACTIONS AT LAW

Note: Rule W1007 was rescinded effective July 26, 2004.

RULE W1007.1 JURY TRIAL; DEMAND; WAIVER

- (a) The party demanding a jury trial shall place on the pleading or other paper in which the demand is made, the words "JURY TRIAL DEMANDED," immediately below the docket number in the caption of the pleading or other paper.
- (b) The appellant in an arbitration appeal must indicate on the notice of appeal whether any party has previously demanded a jury trial or whether the appellant demands a jury trial through the appeal process. A copy of any written demand for a jury trial by the appellee must be served on the court administrator and the assigned judge.

Adopted December 16, 1993, effective April 1, 1994.

Note: Rule W1012 was rescinded effective July 26, 2004.

Note: Rule W1017.1 was repealed effective April 3, 1995.

RULE W1018 CAPTION

The caption for all matters filed in Divorce, Support, Custody, Partial Custody, Visitation, Asbestos and Medical Professional Liability shall be as follows:

- (a) The caption in Divorce matters shall be:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA

CIVIL ACTION – DIVORCE

- (b) The caption in Support matters shall be:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION – SUPPORT

- (c) The caption in Custody, Partial Custody or Visitation matters shall be:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION – CUSTODY

- (d) The caption in Asbestos matters shall be:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION – ASBESTOS

- (e) The caption in Medical Professional Liability matters shall be:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY ACTION

Rescinded November 14, 2005; New Rule W1018 adopted November 14, 2005, effective January 2, 2006.

RULE W1018.1 NOTICE TO DEFEND

The Lawyer Referral Service of the Westmoreland Bar Association is the agency to be named in the notice to defend from which legal help can be obtained. The contact information is:

Lawyer Referral Service
Westmoreland Bar Association
P.O. Box 565
Greensburg, PA 15601
(724) 834-8490
<http://lrs.westbar.org>

Rescinded June 23, 2009; New Rule W1018.1 adopted June 23, 2009, effective August 17, 2009.

RULE W1021 AD DAMNUM CLAUSE

The ad damnum clause in any pleading shall state whether the damages are less than the maximum amount for compulsory arbitration (see Westmoreland County Rule of Civil Procedure W1301) set by this court.

Adopted December 16, 1993, effective April 1, 1994.

Note: Rule W1028 was rescinded effective July 26, 2004.

RULE W1028(c) PRELIMINARY OBJECTIONS

(1) Requirements for Filing and Service of Preliminary Objections at the Office of the Prothonotary

- (a) At the same time the Preliminary Objections are being filed with or mailed to the Prothonotary, the filing party, i.e., the objecting party, shall present or mail a **copy** of the Preliminary Objections to the chambers of the judge assigned to the case.

Note: Preliminary Objections seeking relief pursuant to Pa.R.C.P. 1028(a)(1), (5), (6), (7) or (8) shall be endorsed with a Notice To Plead.

- (b) Within three (3) days of filing the Preliminary Objections, the objecting party, shall serve that pleading on every other party or attorney of record and file a certificate of service.

(2) Filing and Service of Brief in support of Preliminary Objections

- (a) The objecting party shall file a Brief with the Prothonotary within thirty (30) days of filing the pleading if the Preliminary Objections only set forth grounds under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028. Parties filing Preliminary Objections raising any ground other than under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028 shall file a Brief within sixty (60) days of filing the Preliminary Objections, unless the court, on motion of any party, sets a briefing schedule to accommodate depositions or a hearing pursuant to 1028(c)(2).

Note: Preliminary Objections setting forth grounds other than under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028 must be endorsed with a Notice to Plead or no response will be required under Pa.R.C.P. 1029(d). See Rule W210 for the form of the Brief.

- (b) The objecting party shall serve a copy of the Brief on every other party or attorney of record on the same day it is filed. A **copy** of the Brief, a certificate of service, together with a copy of any subsequent pleadings filed, shall be mailed or delivered to the chambers of the judge assigned to the case.

(3) Filing and Service of Brief in opposition to Preliminary Objections

- (a) A party to whom Preliminary Objections are directed shall file a Brief in opposition with the Prothonotary within thirty (30) days of being served with the objecting party's Brief.

Note: See Rule W210 for the form of the Brief.

- (b) Within three (3) days of filing the Brief in opposition, a party to whom Preliminary Objections are directed shall serve a copy of the Brief on every other party or attorney of record, and shall file a certificate of service with the Prothonotary.
- (c) A party to whom the Preliminary Objections are directed shall deliver or mail a **copy** of the Brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

(4) Oral argument

Oral argument will only be scheduled upon the presentation of a motion in accordance with the motions procedure in Rule W208.3(a).

(5) Sanctions

- (a) Failure of the objecting party to comply with the requirements of this rule shall result in the dismissal of the Preliminary Objections.
- (b) If a party to whom the Preliminary Objections are directed fails to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

Note: A party filing an amended complaint pursuant to Pa.R.C.P. 1028(c)(1) shall promptly notify the judge assigned to the case.

Rule W1028(c) shall not apply to family law actions governed by Pa.R.C.P. 1901 through 1940.9 or actions pursuant to the Eminent Domain Code of 1964.

Adopted May 10, 2004, effective July 26, 2004.

Note: Rule W1034 was rescinded effective March 27, 1995.

RULE W1034(a) MOTION FOR JUDGMENT ON THE PLEADINGS

- (1) Requirements for Filing and Service of a Motion for Judgment on the Pleadings and Supporting Brief at the Office of the Prothonotary
 - (a) The original Motion for Judgment on the Pleadings shall be filed with or mailed to the Prothonotary. A supporting Brief is required to be filed with a Motion for Judgment on the Pleadings.

Note: See Rule W210 for the form of the Brief.

- (b) A **copy** of the Motion for Judgment on the Pleadings and a **copy** of the supporting Brief required shall, at the time the Motion is filed or mailed, be presented or mailed to the chambers of the judge assigned to the case by the party filing the Motion. The judge assigned to the case shall prepare a Scheduling Order for oral argument, direct the filing of the original Order, and give or mail a copy of that Order to the moving party.
 - (c) Within three (3) days of receipt of the Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Motion for Judgment on the Pleadings, the Scheduling Order and the Brief on every other party or attorney of record.
 - (d) The moving party shall file with the Prothonotary a certificate of service of the Motion, the Scheduling Order and the Brief. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.
- (2) Filing and Service requirements for Briefs in opposition to the Motion for Judgment on the Pleadings
- (a) A party to whom a Motion for Judgment on the Pleadings is directed shall file a Brief in opposition with the Prothonotary within thirty (30) days of service of the moving party's Motion and Brief.
- Note: See Rule W210 for the form of the Brief.
- (b) Within three (3) days of filing the Brief, the party to whom the Motion is directed shall serve a copy of the Brief on every other party or attorney of record, and shall file a certificate of service with the Prothonotary.
 - (c) The party to whom the Motion is directed shall deliver or mail a **copy** of the Brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.
- (3) Sanctions
- (a) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion for Judgment on the Pleadings.
 - (b) If a non-moving party fails to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

Adopted May 10, 2004, effective July 26, 2004.

Note: Rule W1035 was rescinded effective July 26, 2004.

RULE W1035.2(a) MOTION FOR SUMMARY JUDGMENT

- (1) Requirements for Filing and Service of a Motion for Summary Judgment and Supporting Brief at the Office of the Prothonotary
 - (a) A party intending to file a Motion for Summary Judgment should note the requirements of Pa.R.C.P. 1035.2 that the Motion must be made after

completion of discovery relevant to the motion, including the production of expert reports, as well as after the relevant pleadings are closed. See the Explanatory Comment to Pa.R.C.P. 1035.2.

- (b) A supporting Brief is required to be filed with a Motion for Summary Judgment.

Note: See Rule W210 for the form of the Brief.

- (c) A **copy** of the Motion for Summary Judgment and a **copy** of the supporting Brief required, shall, at the time the Motion is filed or mailed, be presented or mailed to the chambers of the judge assigned to the case by the party intending to file the Motion. The judge assigned to the case shall prepare a Scheduling Order for oral argument, file the original Order, and give or mail a copy of that Order to the moving party.
- (d) Within three (3) days of receipt of the Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Motion for Summary Judgment, the Scheduling Order and the Brief on every other party or attorney of record.
- (e) The moving party shall file with the Prothonotary a certificate of service of the Motion, Brief and Scheduling Order. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.

(2) Filing and Service requirements for Briefs in opposition to the Motion for Summary Judgment

- (a) Within thirty (30) days of service of the moving party's Motion and Brief, a party to whom a Motion for Summary Judgment is directed shall file a Brief in opposition, unless that party has requested and obtained an Order of court granting leave to supplement the record pursuant to Pa.R.C.P. 1035.3, in which event the court shall set a briefing schedule. If an Order granting such leave is not obtained, there shall be no extension of the thirty (30) day period for filing the Brief or continuance of the argument to allow supplementation of the record.

Note: See Rule W210 for the form of the Brief.

- (b) Within three (3) days of filing the Brief, a party to whom the Motion is directed shall serve a copy of the Brief on every other party or attorney of record and shall file a certificate of service with the Prothonotary.
- (c) A party to whom the Motion is directed shall deliver or mail a **copy** of the Brief, the required, specific response filed by that party pursuant to Pa.R.C.P. 1035.3, and a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

(3) Sanctions

- (a) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion.
- (b) If a non-moving party shall fail to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

Adopted May 10, 2004, effective July 26, 2004.

Note: Rule W1047 was rescinded effective July 26, 2004.

RULE W1041.1 ASBESTOS LITIGATION. SPECIAL PROVISIONS.

- (1) Assignments. Upon the filing of a case in asbestos, the Prothonotary shall assign the case to one of the civil court judges, who will preside over all proceedings relating to the case, including, but not limited to, discovery motions, argument court and trial.
- (2) Captions. All pleadings, motions, briefs, memoranda and proposed orders shall include a caption conforming to Westmoreland County Rule of Civil Procedure W1018(d).
- (3) Case Management Orders. In all asbestos cases, the course of the litigation shall be governed by the terms of a case management order (CMO).
 - (a) Any party may, by motion, present a CMO to the Court for approval within sixty (60) days of the filing of the complaint. The proposed CMO shall set forth the actual dates on which each stage of the litigation must be completed.
 - (b) If no CMO is approved by the Court and filed of record at the expiration of sixty (60) days from the filing of the complaint, the Court will enter the following CMO:

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION – ASBESTOS

Plaintiff(s))	
vs.)	No. ____ of 2____
Defendants)	

CASE MANAGEMENT ORDER NO. ____

AND NOW, this ____ day of _____, 200__, it is hereby ORDERED that:

1. This Case Management Order (CMO) is entered and is applicable to the above-captioned case pending in the Court of Common Pleas of Westmoreland County, Pennsylvania.
2. Plaintiff's Answers to Standard Short Form Interrogatories shall be served on all defense counsel within eight (8) months of the date of filing of the above action, specifically on _____, 200__.
3. Discovery shall be completed within eighteen (18) months of the date of filing of the above action, i.e., on _____, 200__.

4. All Motions for Summary Judgment shall be filed within twenty (20) months of the date of filing of the above action, i.e., on _____, 200__, in accordance with Westmoreland County Rule of Civil Procedure W1035.2(a)(1).
5. Plaintiff's Responses to Motions for Summary Judgment shall be filed within twenty-one (21) months of the date of filing of the above action, i.e., on _____, 200__, in accordance with Rule W1035.2(a)(2).
6. Plaintiff may thereafter file a Certification of Readiness for Trial pursuant to Rule W212.1.
7. Pursuant to Rule W212.1(c), upon the Court's receipt of the Certification of Readiness for Trial, the Court shall issue an Order addressing the deadlines for filing Pre-Trial Statements and Case-Specific Expert Reports, the date of the Pre-Trial Conference, and such other matters as may aid in the disposition of the case.
8. Following entry of such Order, the case shall proceed in accordance with Rule W212.3.
9. This Case Management Order may be modified by agreement of all parties (subject to Court approval) or by Court approval upon motion of any party for good cause shown.

BY THE COURT:

ASSIGNED JUDGE

- (4) Selection of Lead Defense Counsel.
 - (a) Within sixty (60) days of the filing of the complaint, defendants shall select one of their number to act as lead counsel for all defendants. Lead defense counsel shall notify the Court in writing of their selection to act as lead defense counsel within sixty (60) days of the filing of the complaint.
 - (b) In the event lead defense counsel ceases to act in that capacity, for any reason, during the course of litigation, the defendants shall select replacement lead counsel within thirty (30) days. Replacement lead defense counsel shall notify the court in writing of their selection to act as replacement lead defense counsel within thirty (30) days.
- (5) Filing of All Orders of Court. It is the responsibility of the moving party to file all original Orders in the Office of the Prothonotary unless a moving party receives notice from the Court that the Court has filed an original Order.
- (6) Service of All Orders of Court. It is the responsibility of the moving party to serve copies of all Orders upon all counsel of record in each case. If the Court serves copies of any Order, such service shall be made to counsel for the moving party, counsel for the plaintiff(s) and lead counsel for the defendants.

Note: Motions procedure is governed by Westmoreland County Rules of Civil Procedure W208.2(e) and W208.3(a).

Note: Argument court matters, such as preliminary objections, judgment on the pleadings, motions for summary judgment and motions for post-trial relief, are governed by Westmoreland County Rules of Civil Procedure W1028(c), W1034(a), W1035.2(a) and W227.1, respectively.

Adopted November 14, 2005, effective January 2, 2006.

**RULE W1270 SPECIAL PROCEDURES RELATING TO BOARD OF VIEW
PETITIONS**

All Petitions for the Appointment of a Board of View shall adhere to the following:

- (a) A designated judge shall hear all Petitions for the Appointment of Boards of View, whether or not a judge has been previously assigned to the case.
- (b) Any counsel who has entered an appearance for any condemnee shall be given four (4) days' advance notice of the date and time of submission of the Petition to the designated judge.
- (c) Upon filing of the Petition with Order Appointing Viewers attached, a new case number shall be assigned in the event that either the petition with order attached represents the initial filing in the proceeding or the Declaration of Taking initiating the proceeding condemned multiple properties.
- (d) It is intended that the same Board of View shall be appointed for all cases involving multiple properties in the same project (whether or not more than one Declaration of Taking has been filed) if the assessment of special benefits is applicable to the project.
- (e) After appointment of the Board of View, the original and one copy of the petition with order attached shall be filed with the prothonotary, who shall forward the copy to the chairperson of the Board of View appointed.

Adopted February 9, 1995, effective March 27, 1995. Renumbered from W270 August 31, 2000, effective October 23, 2000.

**RULE W1272 APPEALS OF PROCEEDINGS UNDER THE EMINENT DOMAIN
CODE**

Upon the filing of an appeal to the Court under 26 Pa.C.S.A. §517 where there are objections raised by the appeal other than to the amount of the award, the court upon motion of any party shall set a date for a hearing, briefing schedule, and a date for oral argument for preliminary disposition of the appeal in accordance with 26 Pa.C.S.A. §518. This provision shall pertain to all proceedings under the Eminent Domain Code and to proceedings in which the procedure provided under the Eminent Domain Code applies.

Rescinded August 24, 2011; New Rule W1272 adopted August 24, 2011, effective October 10, 2011.

RULE W1274 LAND USE APPEALS

- (a) Upon the filing of a land use appeal, the Prothonotary shall send to the governing body, zoning hearing board or agency whose decision has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, zoning hearing board, or agency, within twenty (20) days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken or a true and complete copy thereof, including but not limited to:
 - (1) transcripts of all testimony received at the hearing;
 - (2) all exhibits received at the hearing;
 - (3) the finding of fact and conclusions of law;
 - (4) notice of the decision.
- (b) In addition to the foregoing, the solicitor of the governing body, zoning hearing board, or agency whose decision has been appealed shall provide the court with a certified copy of the zoning or land development ordinance pertaining to the appeal.
- (c) Upon filing of the complete record, the solicitor of the governing body, zoning hearing board or agency whose decision has been appealed shall provide a written notice to the assigned judge, the parties or the counsel for the parties, and shall file a certificate with the prothonotary that the complete record had been filed.
- (d) Since in most cases the court will decide the appeal on the existing record, any party after the record has been filed may present to the assigned judge, with notice to all other parties, a proposed order setting a briefing schedule and a date for oral argument.

Adopted August 31, 2000, effective October 23, 2000.

COMPULSORY ARBITRATION

RULE W1301 CASES FOR SUBMISSION TO ARBITRATION

- (a) All civil cases including Landlord/Tenant and Replevin actions wherein the amount in controversy at issue (exclusive of interest and costs) is \$30,000 or less, shall be heard and decided by a board of arbitration consisting of three members of the bar. Cases involving title to real estate or actions in equity are excluded from arbitration.
- (b) The prothonotary shall, at the time the complaint is filed, assign a trial judge.
- (c) Complaint

- 1) Every complaint filed in Compulsory Arbitration, whether filed by a plaintiff against a defendant or by a defendant against an additional defendant, shall contain, in addition to the Notice to Defend required by Pa.R.C.P. 1018.1, a Notice of Duty to Appear at Arbitration Hearing immediately following the Notice to Defend which shall be in the form provided in Westmoreland County Rule of civil Procedure 1303(b).
 - 2) The plaintiff shall, at the time of filing a case subject to arbitration, provide the court administrator a copy of the State Cover Sheet Complaint. The party who files an appeal of a magisterial district judge's decision shall, at the time of filing the Notice of Appeal, provide the court administrator a copy of the Notice of Appeal. Any party filing a reinstatement of any case subject to arbitration as provided in subsection (a), shall, at the time of filing the Reinstatement, serve a copy of the Reinstatement on the court administrator.
- (d) Landlord/Tenant appeals shall be automatically scheduled by the court administrator upon receipt of the Cover Sheet. Parties to all other arbitration-eligible cases must file a Certificate of readiness.
- (e) The court, on its own motion or on motion of either party, may by depositions, settlement conference, hearing or otherwise, determine that the amount actually in controversy does not exceed \$30,000 (exclusive of interest and costs) and enter an order referring the case to arbitration.

Note: See W1312 for form, amount, and subject matter of awards.

Rescinded September 18, 2014; New Rule W1301 adopted September 18, 2014, effective January 1, 2015.

RULE W1301.1 DISCOVERY IN ARBITRATION PROCEEDINGS

- (a) A party to compulsory arbitration proceedings shall be limited, prior to the arbitration hearing, to the discovery hereinafter set forth, unless additional discovery is deemed necessary by counsel and is permitted by the court upon cause shown.
- (b) Depositions may be taken only in the following instances:
 - (1) Where the party or person to be examined is
 - (i) aged or infirm, or
 - (ii) about to leave this county for a place outside the Commonwealth or a place more than one hundred miles from the Westmoreland County Courthouse, or
 - (2) Upon other good cause shown.
- (c) Discovery must be completed no later than 10 days prior to the arbitration hearing. Failure to complete discovery within this period shall be deemed a waiver of

discovery prior to the hearing. Responses shall be made within the periods prescribed by the Pennsylvania Rules of Civil Procedure.

- (d) Discovery to any party shall be limited to the following, applicable fourteen interrogatories and requests for production of documents.

Discovery Directed To Any Party

TO THE [PLAINTIFF (s) _____]
[DEFENDANT (s) _____]
[ADDITIONAL DEFENDANT (s)] _____:

- (1) State your full name and address.
- (2) State the full names, present addresses and telephone numbers of witnesses to the incident described in the complaint and the names, present addresses and telephone numbers of witnesses who will be called to testify at the hearing.
- (3) It is requested that you produce any written statements, not subject to the attorney-client privilege, signed, adopted or approved by any witness; a written summary of any other statements (including oral statements), and identify any witness who has given a stenographic, mechanical, electrical or other recording that has not yet been transcribed.
- (4) It is requested that you produce all photographs, maps, drawings, diagrams, or other demonstrative evidence that may be introduced at the hearing or that may otherwise pertain to the lawsuit.
- (5) If this action arises from an accident involving your operation of a motor vehicle, state whether you were in any way impaired in the operation of the vehicle and produce a copy of your driver's license and the police accident report.

Discovery Directed To A Party-Defendant

- (6) State whether there is any insurance covering any defendant for the incident or matter described in the complaint. If so, list the name of each company providing coverage, together with the amount of coverage provided, and produce a copy of each declaration page.

Discovery Directed To A Party-Plaintiff Claiming Personal Injuries

- (7) Produce all medical documents, including hospital records, treating physician and chiropractic records, or authorizations concerning your injuries.

- (8) Disclose the name and address of each physician who treated you during the period from five (5) years prior to the incident to the present date.
- (9) Did you sustain injuries that resulted in work loss during the period from five (5) years prior to the incident to the present date? Answer “Yes” or “No”.
- (10) If the answer to Interrogatory 9 is “Yes,” state the date of the injury, the nature of the injury, and the dates of lost work.
- (11) If a claim is being made for lost income, state the name and address of your employer at the time of the incident, the name and address of your immediate supervisor at the time of the incident, your rate of pay, the dates of work loss due to the injuries from this accident, and the total amount of your work loss claim.

Interrogatories That Apply Only To Personal Injury Claims Arising Out Of A Motor Vehicle Accident

- (12) If you are making a claim for medical benefits or lost income, have you received or are you eligible to receive benefits from Workers’ Compensation or any program, group contract, or other arrangement for payment of benefits as defined by Title 75 P.S. §1719(b)? Answer “Yes” or “No”.
- (13) If the answer to Interrogatory 12 is “Yes”, set forth the type and amount of these benefits.
- (14) Are you subject to the “Limited Tort Option” or the “Full Tort Option” of automobile insurance coverage, as defined in Title 75 P.S. § 1705(a) and (b)?
 - ___ Limited Tort Option (no claim can be made for non-monetary damages)
 - ___ Limited Tort Option (claim can be made for non-monetary damages because the injuries fall within the definition of serious injury or because one of the exceptions set forth in 75 P.S. § 1705(d)(1) – (3) applies)
 - ___ Full Tort Option

Note: This rule does not affect the provisions or requirements of Pa.R.Civ.P. 1305.

Note: This rule does not preclude additional discovery under the Pennsylvania Rules of Civil Procedure in cases appealed pursuant to Pa.R.C.P. § 1308.

Adopted November 2, 2006, effective January 1, 2007.

RULE W1302 SELECTION OF ARBITRATORS

- (a) The court administrator shall maintain a master list of arbitrators consisting of attorneys actively engaged in the practice of law primarily in Westmoreland County. The master list shall consist of names submitted by the Westmoreland Bar Association together with names of qualified attorneys who individually apply to the court administrator. The master list shall be maintained in alphabetical order, except for those submitted at a later date in which case they shall be added chronologically based upon the date of application. The master list shall indicate the attorney's name, bar admission date, identification number, and firm or association name.
- (b) The court administrator shall assign each case on the arbitration list to a board consisting of three members chosen from the master list. At least one arbitrator shall have practiced law for at least three years. No two members shall be appointed from the same firm or association of attorneys, nor shall an attorney be appointed to a board who shall be related by blood or marriage or who shall be a law partner or an associate of any arbitrator or attorney of record in the case. Any attorney who shall be disqualified for appointment to a board for any foregoing reasons, shall be appointed to another board for which he/she shall not be disqualified.
- (c) The court administrator shall not release the case assignments until the time of hearing, at which time it shall be assigned and the appropriate room in which it is to be heard shall be designated. The assigned judge or his designee may direct that a case be listed specially with appropriate notice to both parties.
- (d) The court will establish the amount and method of compensation for arbitrators. The members of the board shall not be entitled to receive their fees until after filing a report and award with the court administrator.

Adopted December 16, 1993, effective April 1, 1994.

RULE W1303 HEARING

- (a) With the exception of Landlord/Tenant appeals, which will be scheduled on the first available date following 60 days from filing of the Complaint, the court administrator shall schedule the case for arbitration upon receipt of a Certificate of Readiness.
- (b) The court administrator shall, 30 days prior to the arbitration date, provide notice of the hearing date to the parties. The Notice shall, pursuant to Pa.R.C.P. 1303(a)(2), contain the following:

Notice of Duty to Appear at Arbitration Hearing

This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.

Note: This local rule results in the loss of the right to a trial de novo on appeal. A dismissal or judgment which results from this local rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

- (c) A party must notify the court administrator in advance of scheduling in the event that party believes it will need more than forty-five minutes to present its case.
- (d) The court shall promulgate rules of procedure and rules of conduct to be followed by various boards of arbitration. These rules shall be available through the court administrator.
- (e) All requests for continuance shall be submitted on a form available through the court administrator. The court administrator may grant a maximum of two continuances provided there is no objection. Any additional continuances must be approved by the assigned judge.

Rescinded September 18, 2014; New Rule W1303 adopted September 18, 2014, effective January 1, 2015.

RULE W1304 CONDUCT OF HEARING – GENERALLY

The board of arbitrators or a majority of the members thereof shall conduct the hearing with due regard to the law and according to the established rules of evidence. The board shall have the general powers of a court including administering oaths or affirmations, determining admissibility of evidence, permitting testimony to be offered by depositions, and deciding the law and the facts of the case submitted to them.

Adopted December 16, 1993, effective April 1, 1994.

RULE W1305 CONDUCT OF HEARING – EVIDENCE

Each document submitted pursuant to Pa.R.C.P. 1305(b) shall state the name and present address of the individual or entity who provided the information contained in the document.

Adopted December 16, 1993, effective April 1, 1994.

Note: Rule W1308 was rescinded effective January 1, 2007.

RULE W1312 AWARD

- (a) The oath or affirmation shall be administered by the court administrator.
- (b) The Report and Award shall be in the form set forth in Pa.R.C.P. 1312.
- (c) Arbitrators may not award punitive damages.

- (d) Arbitrators may award costs.
- (e) Arbitrators may award possession in Landlord/Tenant matters.
- (f) Arbitrators may award possession and monetary value of the property or special damages sustained in a replevin action.
- (g) Monetary awards shall not exceed the jurisdictional limit of \$30,000 exclusive of interest and costs.

Note: A copy of the Form of Oath, Award and Notice of Entry of Award form is provided in the Forms section of the Westmoreland County Rules of Court.

Note: With regard to recovery of costs, see *Mancini v. Southwestern Pennsylvania Transportation Authority*, 756 A.2d 108, 110 (Pa. Cmwlth. 2000) and *Sillings v. Protected Home Mutual Life Ins. Co.* 84 W.L.J. 7 (2001).

Note: See: *Zelenak v. Mikula*, 911 A.2d 542 (Pa. Super. 2006) as to what is included in record costs.

Note: See: Comment to Pa.R.C.P. 1301 for awarding possession and damages in replevin cases.

Rescinded September 18, 2014; New Rule W1312 adopted September 18, 2014, effective January 1, 2015.

ACTION IN EQUITY

RULE W1531 SPECIAL RELIEF. INJUNCTIONS

Where a preliminary or special injunction (one needing immediate relief) is assigned to a judge who is unavailable, the Court Administrator (the civil division of the court administrator's office) shall reassign the case to a judge who is immediately available.

Rescinded May 10, 2004; New Rule W1531 adopted May 10, 2004, effective July 26, 2004.

ACTIONS FOR SUPPORT

Note: Rules W1910.4 and 1910.5 were rescinded effective November 21, 2000.

RULE W1910.10 ALTERNATIVE HEARING PROCEDURES

Actions in support shall proceed under Rule W1910.12.

Adopted October 7, 1996, effective December 2, 1996.

RULE W1910.11 OFFICE CONFERENCE

- (a) The noncustodial parent should be prepared to pay the accumulated support due (arrearages) at the time of the conference.
 - (1) All accumulated support due from the entry of the complaint is due immediately upon entry of the temporary or consent support order.
 - (2) Upon verification, credit towards accumulated support due may be given to the defendant for direct payments to the plaintiff made prior to or at the conference.
 - (3) If an order is not entered at the time of the conference, payment of accumulated support due up to the date the order is received is due immediately upon receipt of the order.
- (b) The filing of a Petition for a de novo proceeding before a hearing officer shall not stop payment of accumulated support due or payments pursuant to the temporary order.
- (c) When a wage withholding order is issued, the defendant shall make payments to the State Collection and Disbursement Unit (SCDU) until payroll deductions begin.

Adopted June 29, 2005, effective August 15, 2005.

RULE W1910.12 OFFICE CONFERENCE. HEARING. RECORD. EXCEPTION. ORDER.

- (a) Hearings
 - (1) Hearings before a hearing officer will not be scheduled unless demanded. No demand for a hearing officer will be accepted if an agreement is reached at the office conference.
 - (2) When demanding a hearing before a hearing officer, the demanding party must pay costs in the amount of \$50.00 to the domestic relations section. No hearing will be scheduled unless costs are paid within ten (10) days of the mailing of the interim order.
 - (3) The demanding party shall serve a copy of the demand for a hearing on the non-excepting counsel or party if not represented.
 - (4) The domestic relations section shall give each counsel or party if not represented notice of the date, time, and place of the hearing.
- (b) Exceptions
 - (1) Upon filing exceptions to the hearing officer's report, the excepting party shall:

- A. Serve on the domestic relations section a copy of the exceptions and deposit \$50.00 toward the cost of transcript preparation.
 - B. Serve a copy of the exceptions on the non-excepting counsel or party if not represented.
- (2) The domestic relations section shall:
- A. Notify the assigned judge, receive a time and date for the hearing on the exceptions, and notify all counsel of record, or parties, if not represented of the time and date of the hearing.
 - B. Bill the excepting party the balance of the transcription fee when the transcript is delivered.
- (3) Oral arguments shall be restricted to issues addressed in written briefs filed as follows:
- A. The excepting party must file a brief with a copy to the assigned judge and opposing counsel or party, if not represented, no later than 20 days before the hearing.
 - B. The non-excepting party must file a brief with a copy to the assigned judge and opposing counsel or party, if not represented, no later than 10 days before the hearing.

NOTE: The form of briefs is governed by W210.

Rescinded May 7, 2004; New Rule W1910.12 adopted May 7, 2004, effective June 1, 2004.

RULE W1910.19 PETITION FOR MODIFICATION

- (a) The domestic relations office will not accept for filing a petition which seeks any of the following without leave of court:
 - (1) To decrease a minimum order of \$50.00 or less; or
 - (2) To modify an order that is on appeal to the court pursuant to a recommended order; or
 - (3) To modify a support order because the petitioner has voluntarily left a job; or
 - (4) To modify an order which has been entered within the past six months.
- (b) The domestic relations office will provide notice of the refusal to the party seeking the modification.
- (c) Petitions filed for leave of court shall be presented to the court in accordance with Westmoreland County Rule of Civil Procedure W1920.6.
- (d) If leave of court is granted to file the petition for modification, the date of the first attempted filing shall be used as the filing date.

- (e) The petitioner shall pay a fee of \$25.00 to the domestic relations office with the filing of each petition for modification.

Adopted December 16, 1993, effective April 1, 1994.

RULE W1910.21 SUPPORT ORDER. ENFORCEMENT. WITHHOLDING OF INCOME.

Pursuant to Pa.R.C.P. 1910.21(f), upon review of the Domestic Relations Section and without the need of a hearing, the DRS may administratively assess a payment of no more than 15% of the obligation toward any arrearages, current or future.

Adopted June 29, 2005, effective August 15, 2005.

Note: Rule W1910.26 was rescinded effective November 21, 2000.

Note: Rule W1910.27 was rescinded effective December 3, 2000.

Note: Rule W1910.39 was rescinded effective November 21, 2000.

**ACTIONS FOR CUSTODY, PARTIAL CUSTODY
AND VISITATION OF MINOR CHILDREN**

Note: Rule W1915.1 was rescinded effective April 3, 2000.

RULE W1915.3 COMMENCEMENT OF ACTION, COMPLAINT, ORDER.

- (a) All actions raising issues of custody, partial custody, or visitation of minor children shall be commenced by the filing of a verified complaint or petition and a separate scheduling order as set forth in W1915.15. Forms are available at the Westmoreland Pro Bono Office on the fourth floor of the Westmoreland County Courthouse or on-line at www.co.westmoreland.pa.us.
- (b) The petitioner shall, at the time of filing, proceed to the Westmoreland County Family Court Administrator (Custody Office) for an assignment of a date and time for the custody conciliation conference. The custody conciliation conference shall be scheduled for a date and time not later than 45 days after filing of the complaint or count.
- (c) The moving party shall file proof of service of the action with the Westmoreland County Prothonotary prior to the custody conciliation conference.

Rescinded March 25, 2013; New Rule W1915.3 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.3-5 PARTICIPATION IN PROCEEDINGS BY INCARCERATED PARTY.

Any party to a custody action who is incarcerated and wishes to participate in any proceeding shall make a formal request to the Court for transportation to the proceeding or for participation by electronic means.

Adopted January 31, 2014, effective March 24, 2014.

RULE W1915.4 CHILD PROGRAM.

All parties shall be given an ORDER pursuant to this Rule to attend the Children Hurt in Loss Through Divorce/Separation (CHILD) Program prior to the Pretrial Conference, Modification Hearing, or Contempt Hearing, and to provide proof of attendance to the Court at the conference or hearing.

Rescinded January 31, 2014; New Rule W1915.4 adopted January 31, 2014, effective March 24, 2014.

Note: Rule W1915.4-1 was rescinded effective May 27, 2013.

Note: Rule W1915.4-2 was rescinded effective May 27, 2013.

RULE W1915.4-3 CUSTODY CONCILIATION CONFERENCE

- (a) Each party shall submit to the Westmoreland County Family Court Administrator (Custody Office) at the time of the conference a completed Westmoreland County Parent Information Form and proof of his or her most recent earnings. The Parent Information Form is available from the Westmoreland County Custody Office or on-line at www.co.westmoreland.pa.us.
- (b) The parties may file with the family court administrator (custody office), an Election to Proceed Through Mediation. The party filing the Election to Proceed Through Mediation must Certify that all parties agree to mediation. Upon receipt of the Election and Certification, the family court administrator shall continue the scheduled Conciliation Conference, and inform the mediator to schedule the Mediation.
- (c) The parties may also at any time file a Consent Custody Agreement with the family court administrator (custody office). Forms are available from the Westmoreland Pro Bono Office on the fourth floor of the Westmoreland County Courthouse Annex or on-line at www.co.westmoreland.pa.us.

- (d) If neither an Election to Proceed Through Mediation pursuant to subsection (b), nor a Custody Agreement pursuant to subsection (c) are filed with the family court administrator (custody office), the Conciliation Conference shall proceed as follows:
- (1) All parties, and any child, for whom custody or visitation is sought, shall be present at the Custody Conciliation Conference, unless otherwise ordered by the court. Failure of a party to appear at the Custody Conciliation Conference may result in the entry of a custody order by the Court on the recommendation of the custody conference officer in the absence of that party. The absent party may also be subject to contempt proceedings.
 - (2) The custody conference officer, who is an attorney, shall conduct the non-record, informal Conciliation Conference actively engaging the parties in order to reach an agreement. The parties are given the opportunity to present the issues or problems and to explore all available options for resolution.
 - (3) A Custody Agreement form is completed and signed when an agreement is reached.
 - (4) If the parties cannot agree, the custody conference officer will forward a report and recommended Order to the court.
 - A. The report shall contain the following:
 1. An indication that the parties consent to an evaluation including requirements such as physical or mental evaluations or home studies be undertaken pursuant to Rule W1915.8;
 2. Findings of fact on jurisdiction or venue issues; and
 3. Recommendations for custody.
 - B. The order will include all areas of prior agreement.
 - C. Except as provided in subsection D., the order shall become a final order unless a Request For Custody Pretrial Conference is filed within 30 days of the date of service of the order. A copy of the order shall be served in accordance with Pa.R.C.P. 236, with a copy to the family court administrator (custody office).
 - D. When the court orders an evaluation, the order will also direct that a Pretrial Conference be scheduled. The Request requirement of subsection C. does not apply when the Pretrial Conference is ordered.
 - E. The Request For Custody Pretrial Conference is available at the family court administrator (custody office) on the fourth floor of the Westmoreland County Courthouse Annex or on-line at www.co.westmoreland.pa.us.

Rescinded March 25, 2013; New Rule W1915.4-3 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.4-4 JUDICIAL CUSTODY (PRETRIAL) CONFERENCE

- (a) The Pretrial Narrative Form, which may be obtained from the custody office or on-line at www.co.westmoreland.pa.us, shall list all witnesses, including experts. It shall be completed by the parties or counsel and must be filed, submitted to the court, and served on the opposing party at least ten days prior to the Pretrial Conference.
- (b) All parties and any child for whom custody or visitation is sought shall be present at the Judicial Custody Conference unless either waived by the parties or their counsel, or permitted to be absent by court order. Failure of a party to appear at the Judicial Custody Conference may result in the entry of a custody/visitation order by the court.
- (c) The court shall attempt to obtain a Consent Custody Agreement on any pending custody issues. Any Agreement shall be reduced to writing and entered as an Order of Court.
- (d) If no agreement is reached, the court may enter a new Order pending the Custody Hearing and shall issue an Order listing the matter for trial.

Rescinded March 25, 2013; New Rule W1915.17 adopted March 25, 2013, effective May 27, 2013. Amended and renumbered September 20, 2016, effective 11/20/16.

Note: Rule W1915.7 was rescinded effective April 3, 2000.

RULE W1915.8 PHYSICAL AND MENTAL EXAMINATION OF PERSONS

- (a) The court may order Evaluations in accordance with Pa.R.C.P. 1915.8 on its own motion, if consented by the parties and indicated in the report of the custody conciliation officer, or in ruling on a motion or petition of either party. In the event an evaluation is ordered, a Pretrial Conference will be automatically scheduled.
- (b) Failure to pay for the examination as ordered may result in contempt proceedings and appropriate penalties as provided in Pa.R.C.P. 1915, et seq.

Rescinded March 25, 2013; New Rule W1915.8 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.10 REQUEST FOR CUSTODY PRETRIAL CONFERENCE. PRETRIAL CONFERENCE. DECISION.

- (a) A party may file a Request for a Custody Pretrial Conference in the Westmoreland County Prothonotary's office anytime within 30 days from the date of service of a Custody Order issued as a result of a Conciliation Conference. Prior to filing the Request, the moving party shall deliver the Request to the chambers of the assigned judge for the scheduling of a Pretrial Conference. When Custody Evaluations have

been ordered, a Pretrial Conference is automatically scheduled and a Request need not be filed. (See: W1915.8(a).)

- (b) The moving party must serve a copy of the Request and signed Scheduling Order on the other counsel/parties, and on the family court administrator (custody office) within 3 days of receiving the signed Order. The Request For Custody Pretrial Conference and Scheduling Order are available at the Westmoreland County Custody Office on the fourth floor of the Westmoreland County Annex or on-line at www.co.westmoreland.pa.us.

Rescinded March 25, 2013; New Rule W1915.10 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.12 ENFORCEMENT.CONTEMPT

- (a) Upon filing of any motion or petition alleging violation of a custody or partial custody order, and seeking enforcement of the order, whether or not sanctions are requested, the Court shall direct the parties to appear before the Court for a 15 minute conference to conciliate the disagreement. All parties and their counsel shall appear for this conference.
- (b) If the enforcement request is not disposed of at the conciliation conference, the Court shall schedule an additional hearing before the Court to address the alleged violation.

New Rule 1915.12 adopted November 4, 2016, effective December 26, 2016.

RULE W1915.13 SPECIAL RELIEF

Motions for Special Relief will be screened before any hearing is scheduled. Special Relief may be denied without a hearing.

Rescinded March 25, 2013; New Rule W1915.13 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.15 FORM OF COMPLAINT. CAPTION. ORDER. PETITION TO MODIFY A PARTIAL CUSTODY OR VISITATION ORDER.

Custody forms are available at the Westmoreland Pro Bono Office on the fourth floor of the Courthouse Annex or on-line at www.co.westmoreland.pa.us.

Rescinded March 25, 2013; New Rule W1915.15 adopted March 25, 2013, effective May 27, 2013.

RULE W1915.17 RELOCATION

- (a) A Complaint for Custody shall be filed prior to or simultaneously with the filing of any Notice of proposed relocation.
- (b) Any Notice proposing relocation shall comply with 23 Pa. C.S.A. §5337(c) and shall be filed with the Prothonotary prior to being served on all other parties. A copy shall also be served on the chambers of the assigned judge.

- (c) Any Objection to proposed relocation shall comply with 23 Pa. C.S.A. §5337(d) and shall be filed with the Prothonotary, served on all other parties, and together with a scheduling order for a relocation hearing, served upon the chambers of the assigned Judge.

Adopted February 10, 2012, effective April 2, 2012. Amended and renumbered September 30, 2016, adopted 11/20/2016.

Note: Rule W1915.19 that was adopted February 10, 2012, effective April 2, 2012 was renumbered to W1915.17 11/20/16. Rule W1915.19 no longer exists.

ACTIONS OF DIVORCE OR ANNULMENT OF MARRIAGE

RULE W1920.4 SERVICE; NOTICE

- (a) When service is made within the Commonwealth by registered or certified mail, restricted delivery, return receipt requested, service shall not be valid if the return receipt is not signed by the defendant personally. The return receipt card shall be attached to the affidavit of service.
- (b) When a special order for service is sought, a motion, or petition shall be presented to the court, setting forth what attempts have been made to serve the defendant, as well as the nature and extent of the good faith investigation to locate the defendant.
- (c) The affidavit of service required under section 3301(d) of the Divorce Code may be served with the complaint.
- (d) The affidavit of service must set forth with particularity the pleadings, attachments and documents so served.

Adopted December 16, 1993, effective April 1, 1994.

RULE W1920.6 MOTIONS; NOTICE

- (a) Written notice of presentation of a petition or motion which requires action by a judge or master, other than the scheduling of a hearing date, shall be mailed to the other party's counsel, or to the other party if unrepresented, at least 4 days prior to presentment of the petition or motion. Notice shall be substantially in the form prescribed by WF1920.6.
- (b) Reasonable notice is required when the relief sought is a preliminary injunction.

Note: A copy of the Notice of Presentation form is provided in the Forms section of the Westmoreland County Rules of Court.

Adopted December 16, 1993, effective April 1, 1994.

Note: Rule W1920.12 was rescinded effective August 17, 2004.

RULE W1920.31 JOINDER OF RELATED CLAIMS

All financial data and statements required by Pa.R.C.P. 1920.31 shall be filed and served in accordance with Westmoreland County Rule of Civil Procedure W1920.50 concerning the "All Counts Conference."

Adopted December 16, 1993, effective April 1, 1994.

RULE W1920.32 JOINDER OF RELATED CLAIMS. CUSTODY. HEARING BY COURT.

- (a) All Complaints containing a Custody Count and all Counts of Custody filed separately must be accompanied with a scheduling order found at W1915.15. The order shall be processed in accordance with W1915.3.
- (b) The Custody Count shall follow the practice and procedures governing Custody.

Rescinded February 3, 2000; New Rule W1920.32 adopted February 3, 2000, effective April 3, 2000.

RULE W1920.33 JOINDER OF RELATED CLAIMS. DISTRIBUTION OF PROPERTY. ENFORCEMENT.

- (a) Each party in all cases in which a master has been appointed shall file a pre-trial statement, pursuant to Pa.R.C.P. 1920.33(b). The original pretrial statement shall be filed with the prothonotary within 20 days of receipt of the order appointing the master. Each party shall serve copies of the pretrial statement on the master and opposing counsel, or on the unrepresented adverse party, by first class mail on the same day as filing.
- (b) The exhibit list as set forth in [item 6 above] Pa.R.C.P. 1920.33(b)(4) shall be served in duplicate and shall be in substantially the following format:

Exhibit List			
Description	Stipulated Authentic	Stipulated Admissible	Objection
A.			
B.			
C.			
D.			
etc. ...			

- (c) Each party shall have 10 days from the date of receipt of the exhibit list to complete the exhibit list and to return the list to the other party.

- (d) Failure to comply with this rule may be enforced by sanctions, with attorney's fees costs and expenses to be determined by the master or court.

Rescinded May 7, 2004; New Rule W1920.33 adopted May 7, 2004, effective June 1, 2004.

RULE W1920.42 AFFIDAVIT AND DECREE UNDER SECTION 3301(c) OR SECTION 3301(d) OF THE DIVORCE CODE

- (a) Affidavits required by Sections 3301(c) and 3301(d) of the Divorce Code shall be notarized.
- (b) The court may require a hearing before the entry of a decree in divorce under sections 3301(c) or 3301(d) of the Divorce Code.
- (c) Where both parties have filed affidavits under section 3301(c) of the Divorce Code evidencing consent to the entry of a final decree, the plaintiff shall file at the prothonotary a Pennsylvania vital statistics form, an affidavit of non-military service of defendant, and a proposed decree in divorce. Upon receipt of a praecipe to transmit the record, the prothonotary shall deliver all of the papers filed at that number and term to the court for entry of the decree in divorce. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims that have been joined, and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.
- (d) If a complaint has been filed requesting a divorce on the grounds of irretrievable breakdown and the plaintiff has filed an affidavit under section 3301(d) of the Divorce Code, the averments of which the defendant has either admitted or not denied; the plaintiff shall send written notice to the court and to the defendant at his/her last known address. The notice shall be sent at least 10 days in advance of the time and date the plaintiff intends to file the praecipe to transmit the record required by Pa.R.C.P. 1920.42.
 - (1) The plaintiff shall also file the Pennsylvania vital statistics form, an affidavit of non-military service of defendant, a proposed decree in divorce, and an affidavit that notice was sent to the defendant as required above. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims which have been joined and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.
 - (2) If the defendant does not object within the time allotted, the court may either enter a decree in divorce, or schedule a hearing.
- (e) If the defendant objects and raises new legal or factual issues, a hearing shall be held before the court or a master, as the court may direct.

Adopted December 16, 1993, effective April 1, 1994. Rule W1920.42(a) rescinded October 28, 2015; new rule adopted October 28, 2015, effective December 21, 2015.

RULE W1920.50 ALL COUNTS CONCILIATION CONFERENCE

- (a) After completion of discovery and prior to the appointment of a master to take testimony on remaining issues pursuant to W1920.51, and after filing "Addendum A" substantially in the form prescribed by WF1920.50, and any attachments; the court shall order, upon the request of either party, an all counts conciliation conference.
- (b) Either party may request an all counts conciliation conference by presenting or mailing to the family court administrator a Motion to Schedule All-Counts Conciliation Conference, Order, and a copy of Addendum A and any attachments. Upon receipt of the Motion to Schedule All Counts Conciliation Conference and Order, the family court administrator shall note the day and time of the conference on the original order, forward the motion and order to the court for signature, and file the original motion and order with the prothonotary. After filing the original motion and order, the family court administrator shall mail a copy of the motion and order to the moving party. The moving party shall then serve the non-moving counsel or party, if not represented, with a copy of the motion and order, Addendum A, and any attachments. A copy of the forms and attachments shall be served on the opposing counsel or party, if not represented, and on the family court administrator.
- (c) In the event a party opposes the scheduling of the all counts conciliation conference, the party that wants an all counts conciliation conference may file and present to the Court a motion to proceed.
- (d) The non-moving party shall file their Addendum A and any attachments at least twenty (20) days prior to the scheduled conference, and serve a copy of Addendum A and any attachments on the moving counsel or party, if not represented, and on the family court administrator.
- (e) Both parties shall submit a written proposal for settlement at the time of the conference.
- (f) Failure to file the required forms, attachments and proposals may result in sanctions.

Note: This rule requires the completion of an All Counts Conciliation Conference worksheet for submission with the written proposal for settlement. A sample of the Motion to Schedule All Counts Conciliation Conference and Order and the forms included in "Addendum A", including the Income and Expense Statement, Inventory and Appraisal of Property and Marital Asset and Liability Summary forms are provided in the Forms section of the Westmoreland County Rules of Court.

Rescinded May 7, 2004; New Rule W1920.50 adopted May 7, 2004, effective June 1, 2004.

RULE W1920.51 HEARING BY THE COURT; APPOINTMENT OF MASTER; NOTICE OF HEARING

- (a) Before any certificate of appointment shall be issued by the prothonotary to any master in those cases initiated by an uncontested complaint in annulment, or a section 3301(a) or (b) divorce, or where an agreement has been reached by the parties on any such other claims that have been raised by the parties, the plaintiff shall deposit the sum of \$138.00 with the prothonotary; \$113.00 of the deposit shall be minimum fee for the master, and \$25.00 shall be minimum fee for the stenographer. In addition, the plaintiff shall pay the prothonotary's fee. The court may order additional compensation for the master their report is filed.
- (b) In all other cases, before any certificate of appointment shall be issued by the prothonotary to any master, the party moving for the appointment shall deposit an initial sum of \$248.00 with the prothonotary; \$223.00 shall be a minimum fee for the master, and \$25.00 shall be a minimum fee for the stenographer. In addition, the moving party shall pay the prothonotary's fee. The initial deposit of \$248.00 shall be for one-half days' work. For each half day thereafter the master shall receive a minimum fee of \$150.00; and for each half day of transcribing, the stenographer shall receive a minimum fee of \$20.00. The master shall certify the time expended to the court. The master may petition the court for additional compensation after the report is filed.
- (c) No master shall be appointed if a complaint in divorce has been filed under section 3301(c) or (d) and no issues other than divorce are raised.

Note: Subsection (c) expands the prohibitions found at Pa.R.C.P. 1920.51(2)(ii) to include all Section 3301(d) divorces when divorce is the only issue raised.

- (d) The master shall give the attorneys for each party at least 10 days' written notice of the time and place of taking testimony and of the claims the master will hear. If there is no appearance entered on behalf of the defendant, the master shall give notice to the defendant by registered mail, return receipt requested at the last known address of the defendant.

Note: See Pa.R.C.P. 1920.33(b) and W1920.33 for requirements regarding the mandatory filing of a pre-trial statement.

Rescinded May 7, 2004; New Rule W1920.51 adopted May 7, 2004, effective June 1, 2004.

Note: Rule W1920.51(4) was rescinded effective June 1, 2004.

RULE W1920.51a HEARING BY THE COURT. ALL COUNTS MASTER. NOTICE OF HEARING

All interim issues in a divorce action including the claim of alimony *pendente lite*, counsel fees, costs and expenses, and injunctive relief, when appointed to a master, shall be heard by the permanent all counts master.

- (a) The all counts divorce master may address the amount of child support if the amount is consented to by the parties. If the parties do not agree to the amount of

child support, the all counts divorce officer shall only take testimony on the claim of child support at the direction of the court, or in the event the support-hearing officer certifies a conflict.

- (b) The all counts divorce master shall take testimony on claims for child support, alimony *pendente lite*, or counsel fees and expenses prior to taking testimony on any other claims.
- (c) In the event the master does not complete taking testimony on all issues, the master shall prepare a report and order for those issues resolved or consented to, and schedule the remaining issues for a date and time certain. Exceptions may be filed pursuant to Pa.R.C.P. 1920.55-2 and W1920.55-2a.

Adopted May 7, 2004, effective June 1, 2004.

RULE W1920.53 HEARING BY MASTER. REPORT.

Subject to the direction and control of the court, the court appointed master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceedings. The master shall rule on objections to the competency or relevancy of testimony. If the master sustains the objection the testimony shall not be heard or reported. Parties may file exceptions to the master's rulings.

Rescinded May 7, 2004; New Rule W1920.53 adopted May 7, 2004, effective June 1, 2004.

RULE W1920.54 HEARING BY MASTER. REPORT. RELATED CLAIMS.

Subject to the direction and control of the court, the all counts divorce master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceedings. The master shall rule on objections to the competency or relevancy of testimony. If the master sustains the objection the testimony shall not be heard or reported. Parties may file exceptions to the master's rulings.

Rescinded May 7, 2004; New Rule W1920.54 adopted May 7, 2004, effective June 1, 2004.

Note: Rule W1920.55-1 was rescinded effective June 1, 2004.

RULE W1920.55-2 MASTER'S REPORT. NOTICE. EXCEPTIONS. FINAL DECREE.

- (a) The excepting party shall serve a copy of exceptions on the family court administrator when filing the original exceptions to the report of a master appointed pursuant to W1920.51. Upon receiving exceptions pursuant to Pa.R.C.P. 1920.55-2(b) and (c), the family court administrator shall immediately schedule a hearing, mail notices of the hearing date to the parties by first class mail, and forward its copy of the exceptions to the assigned judge.

- (b) The excepting party must file briefs with the assigned judge no later than 20 days before the hearing, and the non-excepting party must file its brief with the assigned judge no later than 10 days before the hearing.
- (c) Oral argument shall be restricted to issues addressed in written briefs.
- (d) If no party files Exceptions to the Master's Report within 20 days of the date of receipt or the date of mailing of the report, whichever occurs first, the prothonotary shall immediately deliver the file to the court for entry of the decree.
- (e) Unless otherwise directed by the Court, the prothonotary shall pay no master's fee until the master files the report and transcript of testimony. Failure of the master to file the report as required shall result in a forfeiture of the master's fee, and the prothonotary will refund the fee to the party who paid it.

Rescinded May 7, 2004; New Rule W1920.55-2 adopted May 7, 2004, effective June 1, 2004. Rule W1920.55-2(d) rescinded April 16, 2009. New Rule W1920.55-2(d) adopted April 16, 2009, effective June 1, 2009.

RULE W1920.55-2a ALL COUNTS MASTER'S REPORT. NOTICE. EXCEPTIONS. FINAL DECREE.

- (a) The all counts master's shall report pursuant to Pa.R.C.P. 1920.55-2.
- (b) When filing the original exceptions to an all counts master's report with the prothonotary, the excepting party shall also serve a copy on the family court administrator. The family court administrator shall immediately schedule the hearing on the exceptions upon receipt of the exceptions and the fifty (50) dollars deposit towards completion of the transcript required by subsection (c) below. The court administrator shall mail notices of the hearing date to the parties by first class mail before forwarding its copy of the exceptions to the assigned judge.
- (c) The excepting party must request the transcript and make a deposit of fifty (50) dollars towards the preparation of the transcript pursuant to Pa.R.J.A. 5000.5 and 5000.6. The final cost of the transcript will be billed against the excepting party at a rate of \$2.00 per page less the fifty (50) dollars deposited. Failure to request or pay for the transcript may result in dismissal of the exceptions.
- (d) The excepting party must file briefs with the assigned judge no later than 20 days before the hearing, and the non-excepting party must file its brief with the assigned judge no later than 10 days before the hearing.
- (e) Oral arguments shall be restricted to issues addressed in written briefs.
- (f) If no party files exceptions within 20 days of the date of receipt or the date of mailing of the report, whichever occurs first, the order shall be final.

Adopted May 7, 2004, effective June 1, 2004. Rule W1920.55-2a(f) rescinded April 16, 2009. New Rule W1920.55-2a(f) adopted April 16, 2009, effective June 1, 2009.

Note: Rule W1920.63 was rescinded effective April 16, 2001.

RULE W1940.1 VOLUNTARY MEDIATION

- (a) The parties may agree to mediate custody and visitation matters before a neutral mediator. The parties are responsible to pay for mediation services. Mediation shall be conducted in accordance with Pa.R.C.P. 1940-1 et. seq.
- (b) All matters before the mediator shall remain confidential except as provided at 42 Pa.C.S.A. § 5949(b). Confidentiality may be waived in writing by the parties.
- (c) All agreements shall be reduced to writing and submitted to the court.
- (d) The Westmoreland County Family Court Administrator (Custody Office) shall provide the mediators with dates and times for which to schedule a Conciliation Conference for those who have not succeeded through mediation. The mediator shall immediately schedule by Notice those who have not settled through Mediation. The date and time scheduled for the conciliation conference shall forthwith be reported by phone or facsimile to the family court administrator (custody office).

Rescinded March 25, 2013; New Rule W1915.4-4 adopted March 25, 2013, effective May 27, 2013. Amended and renumbered September 20, 2016, effective 11/20/16.

RULE W1940.4 MINIMUM QUALIFICATIONS OF THE MEDIATOR

Mediators shall certify, on a form supplied by the Family Court Administrator, compliance with the minimum qualifications specified in Pa.R.C.P. 1940.4.

Adopted February 3, 2000, effective April 3, 2000.

Note: Rule W1960 was rescinded effective May 25, 2010.
Rule W1940.1 that was adopted February 3, 2000, effective April 3, 2000 was amended September 30, 2016.

ACTIONS FOR WRONGFUL DEATH

RULE W2205 NOTICE TO PERSONS ENTITLED TO DAMAGES

Whenever notices are sent pursuant to Pa.R.C.P. 2205, a certificate of service of such notices shall be promptly filed in the prothonotary's office, setting forth the names and addresses of the persons to whom the notices were sent.

Adopted December 16, 1993, effective April 1, 1994.

JOINDER OF PARTIES

Note: Rule W2227 was rescinded effective July 26, 2004.

RULE W2232 DEFECTIVE JOINDER. CHANGE OF PARTIES

- (a) Notice under Pa.R.C.P. No. 2232(a) to a person required to join in an action as a party plaintiff pursuant to Pa.R.C.P. No. 2228 shall be given within thirty (30) days of service of the complaint on the defendant.
- (b) The notice shall be made using the following form:

NOTICE OF PENDING ACTION

To _____ (*Name of spouse or parent*)

You are hereby notified that _____ (*Name of Plaintiff*) has commenced this action against me to recover damages arising from personal injuries to _____ (*Name of person injured*) occurring on _____ (*state date and sufficient facts to identify the occurrences causing the injuries*).

You are hereby directed to join in this action as a party plaintiff within thirty (30) days if you desire to assert against me any claim for damages arising therefrom. **IF YOU FAIL TO JOIN THIS ACTION, YOUR CLAIM WILL BE BARRED (LOST) AND THE CASE WILL PROCEED WITHOUT YOU.**

_____ (*Defendant*)

- (c) The defendant shall serve the notice in accordance with the procedures provided in Pa.R.C.P. No. 402.

Rescinded May 10, 2004; New Rule W2232 adopted May 10, 2004, effective July 26, 2004.

Note: Rule W2253 was rescinded effective July 26, 2004.

ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

RULE W3129 NOTICE OF SALE; REAL PROPERTY

- (a) All writs and certified copies of orders certified from the record by the prothonotary directing judicial sales of real estate shall be filed with the sheriff not less than 60 days before the date of sale and shall be accompanied by:
 - (1) Four typewritten copies of a notice containing the information required in Pa.R.C.P. 3129.2 on a form which shall be provided by the sheriff for the purpose of preparing handbills and for publication pursuant to Pa.R.C.P. 3129.2(d); and

- (2) One typewritten copy of the full legal description of the property on a format which shall be provided by the sheriff for the purpose of preparing a deed.
 - (3) The Writ of Execution shall contain the full legal description of the property.
- (b) In all judicial sales of real estate, the following conditions shall apply:

CONDITIONS OF SALE

Successful bidders shall pay ten percent of the bid in either cash, certified check, or cashier's check at the time of the sale, and the balance prior to 11:00 a.m. of the due date supplied by the sheriff. The property will be resold if the balance is not paid by the due date. All money paid in at the original sale shall be applied to any deficiency in the price at which property is resold. If the sale has been previously adjourned to this date, the successful bidder shall pay the full amount of the bid at the time of sale. If the successful bidder is the plaintiff in the writ of execution, the entire amount of the bid shall be paid in 10 days. If plaintiff fails to pay the purchase money, the sheriff may return the writ "Real Estate Unsold" stating in the return that the sale was held pursuant to the writ, that the plaintiff was the successful bidder at the sale, that the plaintiff failed to pay the bid and complete the sale, and that the plaintiff shall thereupon forfeit all moneys advanced. Such forfeited advanced money shall be applied by the sheriff first to costs on the writ and second to liens in order of their priority. A bid of \$1.00 shall constitute a bid of costs and the amount of any municipal claims due.

In addition to price, all successful bidders are bound and required to pay the county realty transfer tax which is required for the purpose of recording the deeds. Pursuant to 72 P.S. 8100-C, et seq., the 1% Pennsylvania realty transfer tax will be paid by the sheriff from the proceeds of the sale. Purchasers must record their own deeds and pay the necessary recording fees.

Pursuant to Pa.R.C.P. 3136, notice is hereby given that a schedule of distribution will be made in accordance with the schedule unless exceptions are filed thereto, within 10 days thereafter. No further notice of the filing of the schedule of distribution is required.

- (c) Judicial sales of real estate shall be held on the first Monday of the following months: January, March, May, July, September, and November. If any of those days fall on a legal holiday, the sale shall be held on the Tuesday immediately following.
- (d) Persons other than the sheriff serving the notice of sale pursuant to Pa.R.C.P. 3129.2, shall file their original affidavits of service with the prothonotary and a copy with the sheriff not less than 15 days prior to the sale date.

Adopted December 16, 1993, effective April 1, 1994.

DEPOSITIONS AND DISCOVERY

Note: Rule W4001 was rescinded effective August 3, 2016.

RULE W4002 PLACE OF DEPOSITIONS

If the parties do not agree, the place of the taking of any deposition of a non expert shall be in the Westmoreland County Courthouse or the Westmoreland Bar Association Headquarters in Greensburg, Pennsylvania, unless the court otherwise directs.

Revised August 22, 1994, effective October 10, 1994.

RULE W4005 WRITTEN INTERROGATORIES

Any party filing written interrogatories on any other party shall forthwith serve a notice thereof with the prothonotary and each party or attorney of record. The moving party shall also serve copies of the interrogatories on any other party if requested.

Adopted December 16, 1993, effective April 1, 1994.

GENERAL RULES

RULE W6001 Rules Governing Appeals from Real Estate Tax Assessments.

The following provisions shall govern all tax assessment appeals from decisions of the Board of Assessment Appeals:

(a) Parties.

(1) The following parties must be listed in the caption of the appeal:

- (i) owner(s) of the real estate and/or taxable property;
- (ii) the Westmoreland County Board of Assessment Appeals;
- (iii) the municipality in which the property is located;
- (iv) the school district in which the property is located; and
- (v) the County of Westmoreland.

(2) Any entity that has an interest in the appeal in addition to those set forth in subsection (a) (1) of this Rule may enter an appearance, subject to the objection of any party listed in aforesaid subsection. Such entity must provide notice of its appearance to all other parties within five (5) days of its entry.

(b) Caption.

(1) The party filing the appeal to court shall be designated as the appellant. The Board of Assessment Appeals shall be designated as the appellee. All other parties set forth

above at (a) shall be designated as interested parties. The Tax Map Number assigned to the parcel that is the subject of the appeal shall be listed below the appellant/appellee/interested parties. The Tax Map Number shall be listed in the format shown on the forms appended to this Rule and contain 15 digits and include dashes. The Prothonotary shall index each appeal by each party and the Tax Map Number. The caption shall be in a form substantially similar to the example appended to this Rule.

(c) Time For and Content of Appeals.

(1) An appeal from the decision of the Board of Assessment Appeals must be verified by the owner or other appropriate party and filed with the Prothonotary within thirty (30) days of the date of mailing of the notice of decision by the Board.

(2) An appeal shall contain the following:

- (i) names of the parties;
- (ii) identification of the property by address;
- (iii) a reference to the source of ownership for, or interest in, the parcel designated by the Tax Map Number;
- (iv) a concise statement of the reasons for the appeal; and
- (v) a copy of the decision of the Board of Assessment Appeals.

(3) No Order of Court is required to file an appeal.

(d) Notice.

Within five (5) days from the date of filing a tax assessment appeal, the appellant shall serve a copy of the appeal upon all other parties including the Board, the County, the municipality, and the school district in which the real estate is situate; and upon the property owner, if the owner is not the appellant. Service shall be by certified mail, return receipt requested and by first class mail, postage pre-paid or personal service by hand delivery and acceptance by the served party. A certificate of service shall be filed by the serving party within ten (10) days of said service.

(e) Withdrawal of Appeals.

No appeal may be withdrawn without the consent of all other parties or by leave of court.

(f) Motions.

(1) All motions in real estate tax assessment appeals shall be presented to the Judge assigned to the case by the Court Administrator.

(2) The Appellant shall provide to the Court a proposed order for a status conference within forty-five (45) days from the date of service of the appeal upon the Board of Assessment Appeals. The Appellant shall provide the Court with a self-addressed, envelope, postage

pre-paid, in which the Court will return the executed original order to said Appellant. Upon receipt of the order scheduling the status conference, the Appellant shall promptly file the original order with the Prothonotary and serve a copy of the order on all parties and/or each attorney of record by first class mail. A Certificate of Service showing the same shall be filed with the Prothonotary within ten (10) days of said service. All parties must appear personally or through counsel at the status conference. At that time the Court may issue a scheduling order that includes, but is not limited to, a time for the exchange of any expert reports and a time for the completion of discovery. The Court will schedule a settlement conference or set a trial date for the appeal. The proposed order shall be in a form substantially similar to the example appended to this Rule.

(g) Discovery.

- (1) Discovery pursuant to the Pennsylvania Rules of Civil Procedure is specifically authorized during an appeal from an assessment fixed by the Board of Assessment Appeals.

Explanatory Note

The Pennsylvania Rules of Civil Procedure are not applicable to tax assessment appeals except as specifically authorized by the county Local Rules of Court. See Appeal of Borough of Churchill, 575 A.2d 550, 525 Pa.80 (1990)]

(h) Trial.

- (1) When discovery is completed, the appellant shall request the assigned judge to schedule the appeal for trial.
- (2) Upon the request of the appellant, the Court shall schedule the trial for a date certain.
- (3) In the event the appellant fails to request a date certain for trial of the appeal, upon the motion of any party or upon the judge's own motion, the Court may enter an order setting the date for trial.
- (4) A motion to continue the trial shall be presented to the Court at least two weeks prior to the date scheduled for trial. In deciding such a motion for continuance, the Court will consider the grounds set forth in Pa. R.C.P. No. 216.

IN CASES THAT HAVE BEEN INACTIVE FOR AN UNREASONABLE PERIOD OF TIME, ON MOTION OF ANY PARTY THE COURT MAY ISSUE A RULE TO SHOW CAUSE WHY THE APPEAL SHOULD NOT BE TERMINATED. THE COURT UPON RETURN OF SAID RULE MAY TERMINATE INACTIVE CASES PURSUANT TO THE STANDARDS AND PROCEDURES ARTICULATED IN PA. R.C.P. NO. 230.2.

Adopted March 1, 2002, effective April 22, 2002, revised and adopted August 3, 2016.

Note: Rule W6001.1 was rescinded effective March 1, 2002.

Note: Rule W6001.2 was rescinded effective March 1, 2002.

RULE W6007 APPROVAL OF SURETIES

No lawyer, court employee, deputy, clerk or other such officer shall execute any bond as security in any action or matter pending in court, except by written leave of the court.

Adopted December 16, 1993, effective April 1, 1994.

RULE W6017 DEPOSITORIES

On the payment of money into court for any purpose, the same shall be deposited at interest in such bank as the court may designate, to the credit of the court in the particular case, and shall be drawn out only upon an order of the court attested by the prothonotary.

Adopted December 16, 1993, effective April 1, 1994.

RULE W6027 STATUTORY OR LICENSE SUSPENSION APPEALS

- (a) All statutory or license suspension appeals shall be commenced by the filing of a petition.
- (b) If a supersedeas or stay is not automatically granted by the filing of the petition, the petitioner shall present the assigned judge an unsigned order of court granting the supersedeas or stay and setting a date and time of the hearing.
- (c) If a supersedeas or stay is automatically granted by the filing of the petition, the petitioner shall, within thirty (30) days of the filing of the petition for appeal, file a signed order setting a date and time of the hearing. Failure to file the signed order may, upon motion of the opposing party, result in the dismissal of the petition.

Adopted April 11, 1996, effective June 3, 1996.

Note: Rule W6082 was rescinded effective October 10, 1994.