

LUZERNE COUNTY

Adoption of Luzerne County Rule of Civil Procedure 1144

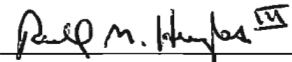
No. 00581 of 2018\*

ORDER

And now, this 16<sup>th</sup> day of January, 2018, it is hereby ORDERED and DECREED as follows:

1. The Luzerne County Court of Common Pleas hereby adopts Luzerne County Rule of Civil Procedure 1144, a true and correct copy of which is attached.
2. Pursuant to Pa.R.J.A. 103(d) and Pa.R.C.P. 239(c), the attached Luzerne County Rule of Civil Procedure shall be disseminated and published in the following matter:
  - a. One copy via email to the Administrative Office of Pennsylvania Courts;
  - b. Two paper copies and one electronic copy in Microsoft Word format on a CD-ROM to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin;
  - c. One copy for publication on the Courts Page of the Luzerne County website, located at [www.luzernecounty.org](http://www.luzernecounty.org); and,
  - d. One copy each to the Luzerne County Office of Court Administration, the Luzerne County Law Library, and the Luzerne County Clerk of Judicial Records for public inspection and copying.

By the Court



Richard M. Hughes III  
President Judge

- Filed of record with the Luzerne County Clerk of Judicial Records on Jan. \_\_\_\_\_, 2018 at \_\_\_\_\_.

Luzerne County Rules of Civil Procedure  
Consumer Credit Card/Debt Collection Actions

**Rule 1144. Commencement of Consumer Credit Card/Debt Collection Actions**

- (a) *Filing.* In all consumer credit card/debt collection actions, the caption of the complaint shall include the words “Consumer Credit Card/Debt Collection Action.” Plaintiff/lender in all consumer credit card/debt collection actions shall, simultaneously with the filing of the complaint (whether filing was completed in person to the Clerk of Judicial Records, or electronically in accordance with Luz. Co. R.C.P. No. 205.4.), email a copy of the filed complaint to the court at [consumerdebtactions@luzernecounty.org](mailto:consumerdebtactions@luzernecounty.org).
- (b) *Service.* If at least one attempt at service of the complaint is made, and service is not perfected, the plaintiff shall petition the court for alternative service within thirty (30) days after the first failed attempt at service, or the action shall be dismissed. This rule shall not apply where the plaintiff is able to perfect service within fifteen days after the first failed attempt at service. Upon completion of service, plaintiff/lender shall, simultaneously with the filing of the certificate of service (whether filing was completed in person to the Clerk of Judicial Records, or electronically in accordance with Luz. Co. R.C.P. No. 205.4), email a copy of the filed certificate of service to the court at [consumerdebtactions@luzernecounty.org](mailto:consumerdebtactions@luzernecounty.org),
- (c) Following the filing and service of the complaint, the court shall issue a practice order in substantially the format set forth in Form 12 of the Appendix to these Rules, scheduling the matter for the next available conciliation conference list and staying any pleading deadlines in the matter pending the outcome of the conciliation conference.

**Rule 1144.1. Conciliation Conference in Consumer Credit Card/Debt Collection Actions**

- (a) The practice order shall specify the date and place of the conciliation conference and shall be forwarded by the program administrator and/or the Judge assigned to the consumer credit card/debt collection actions via ordinary mail to the parties.
- (b) The schedule for the year shall be set by the program administrator and/or the Judge assigned to the consumer credit card/debt collection actions no later than September of the year prior and will be published in the Luzerne Legal Register and on the Luzerne County Court website at [www.luzernecountycourts.com](http://www.luzernecountycourts.com) and/or [www.luzernecounty.org](http://www.luzernecounty.org). For the inaugural year of the case management protocol for consumer credit card/debt collection actions, the program administrator and/or the Judge assigned to the consumer credit card/debt collection actions shall set the schedule for the current calendar year at least one month prior to the start of the

case management protocol and shall publish the schedule in the Luzerne Legal Register and on the Luzerne County Court website at [www.luzernecountycourts.com](http://www.luzernecountycourts.com) and/or [www.luzernecounty.org](http://www.luzernecounty.org).

- (c) Conciliation conferences will be conducted by the program administrator and/or Judge assigned to the consumer credit card/debt collection actions. Counsel for the plaintiff/lender and the defendant/borrower, including private counsel, if any, must attend the conciliation conference in person and an authorized representative of the plaintiff/lender must be available by phone at the conciliation conference. The representative of the plaintiff/lender who participates in the conciliation conference must possess the actual authority to reach a mutually acceptable resolution, and counsel for the plaintiff/lender must discuss resolution proposals with that authorized representative in advance of the conciliation conference. Counsel for the plaintiff/lender shall bring to the conciliation conference the contract signed by the defendant/borrower, proof of damages, the last billing statement sent to the defendant/borrower, and written proof of any assignments of the contract.
- (d) If the defendant/borrower has been served and does not appear at the conciliation conference, absent good cause shown, judgment shall be entered in favor of the plaintiff/lender. If the plaintiff/lender fails to appear and/or have an authorized representative available with the required documentation at the conciliation conference, absent good cause shown, the court shall dismiss the case with prejudice. Any request for continuance on the day of the conciliation conference by either party is strongly discouraged.
- (e) At the conciliation conference, the parties shall be prepared to discuss and explore all available resolution options, including, but not limited to, a mutually agreed upon payment plan. In the event that the parties reach an agreement, the court will issue a consent judgment/order substantially in the format set forth in Form 13 of the Appendix to these Rules, setting forth the agreement.
- (f) If an agreement is not reached by the parties at the conciliation conference, the stay of pleading deadlines will be immediately lifted and the court shall issue a scheduling order substantially in the format set forth in Form 14 of the Appendix to these Rules.

**FORM 12**

**PRACTICE ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a Consumer Credit Card/Debt Collection having been filed and served in this matter, it is hereby ORDERED, DIRECTED, and DECREED as follows:

1. A conciliation conference is set for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ .m. on the third floor of the Luzerne County Courthouse, 200 North River Street, Wilkes-Barre.
2. Effective immediately, pleading deadlines are stayed pending the outcome of the conciliation conference.
3. Plaintiff's counsel shall attend the conciliation conference in person and an authorized representative of Plaintiff must be available by phone at the conciliation conference. Counsel for Plaintiff shall bring to the conciliation conference the contract signed by Defendant, proof of damages, the last billing statement sent to defendant, and written proof of any assignments of the contract.
4. If **DEFENDANT FAILS TO APPEAR** at the conciliation conference, absent good cause shown, Plaintiff will be granted a **judgment in its favor**.
5. If **PLAINTIFF FAILS TO APPEAR and/or have an authorized representative and/or counsel available with the required documentation** at the conciliation conference, absent good cause shown, the case will be dismissed with prejudice.
6. If the parties reach an agreement at the conciliation conference, the court will issue a consent judgment/order setting forth the agreement. Plaintiff shall be responsible for filing the consent judgment/order with the Clerk of Judicial Records (Prothonotary). The filing fee for a consent judgment/order is \_\_\_\_\_, as set forth in the current Clerk of Judicial Records Fee Schedule.
7. If an agreement is not reached at the conciliation conference, the court shall enter a scheduling order setting forth deadlines for the timely disposition of the case.
8. Defendant may contact North Penn Legal Services for possible representation at the conciliation conference by calling 877-953-4250 to determine eligibility. If interested, Defendant is encouraged to do so as soon as possible.

BY THE COURT:

\_\_\_\_\_].

**FORM 13**

**CONSENT JUDGMENT/ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, based upon agreement of the parties, it is hereby **ORDERED AND DECREED** as follows:

1. Judgment is entered in favor of Plaintiff and against Defendant(s),

\_\_\_\_\_ in the amount of \$\_\_\_\_\_.

2. The Defendant/s shall satisfy the judgment amount as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. Plaintiff shall not execute on the full amount of the judgment, provided Defendant/s make/s the agreed-to payments in a timely fashion. If Defendant/s is/are more than \_\_\_\_\_ days delinquent in payment, then Plaintiff shall have the right to execute on the full amount of the judgment. Upon payment in full of the judgment, Plaintiff shall file a praecipe to mark judgment satisfied with the Luzerne County Prothonotary, and provide a copy of the praecipe to the Defendant/s, his/her/their legal counsel, and the judge assigned to consumer credit card/debt collection actions.
4. Plaintiff shall be responsible for filing this consent judgment/order with the Clerk of Judicial Records (Prothonotary) and paying the associated filing fee.

BY THE COURT:

\_\_\_\_\_J.

**FORM 14**

**SCHEDULING ORDER FOR CREDIT CARD CASE**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, following the parties' participation in a conciliation conference, it is hereby ORDERED, DIRECTED, and DECREED:

1. This case is no longer in conciliation and the stay for pleading deadlines is lifted.
2. Defendant shall file a responsive pleading to the complaint within twenty (20) days of the date of this Order.
3. Additional discovery shall be completed within sixty (60) days of the date of this Order.
4. Any dispositive motions shall be filed within ninety (90) days of the date of this Order.
5. Responses to dispositive motions are due within thirty (30) days of the filing of the dispositive motion.
6. A copy of any preliminary objections, motions, and/or responses shall be served on the undersigned simultaneously with filing.
7. If no dispositive motions are filed, Plaintiff shall file a praecipe for arbitration within one hundred and twenty (120) days of the date of this Order.
8. If dispositive motions are denied, Plaintiff shall file a praecipe for arbitration within thirty (30) days of the order/s denying the dispositive motion/s.
9. Failure by Plaintiff to praecipe for arbitration within the time set forth above shall result in dismissal of this action with prejudice.

BY THE COURT:

\_\_\_\_\_J.