

**LUZERNE COUNTY**  
**RULES OF CIVIL PROCEDURE**

\*\*NOTE: ALL RULES GOVERNING FAMILY LAW PROCEEDINGS HAVE  
BEEN SEPARATED FROM THIS DOCUMENT AND CAN BE FOUND IN THE  
“LUZERNE COUNTY FAMILY COURT RULES.”

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## **RULES OF CONSTRUCTION**

### **Rule 51. Title and Citation of Rules**

All rules adopted by the 11<sup>th</sup> Judicial District - Court of Common Pleas of Luzerne County pertaining to civil procedures shall be known as the Luzerne County Court of Common Pleas Rules of Civil Procedure and may be cited as “Luz. Co. R.C.P. No. \_\_\_\_.”

### **Rule 52. Effective Date of Rules**

Each rule adopted by the Court of Common Pleas of Luzerne County, whether civil, family, judicial administration, criminal, orphans, or governing district justices, shall become effective thirty (30) days after publication in the Pennsylvania Bulletin; but, no rule shall be effective until notice of its promulgation is published in the “Luzerne Legal Register.” The content of each rule promulgated shall be made available through the Wilkes-Barre Law and Library Association and the Luzerne County Court website at [www.luzernecountycourts.com](http://www.luzernecountycourts.com), and as mandated by law or rule of the Supreme Court of Pennsylvania.

### **Rule 76. Definitions**

Unless the context clearly indicates otherwise, each word or phrase when used in any rule promulgated by the Court of Common Pleas of Luzerne County shall have the same meaning as that word or phrase is given in the Pennsylvania Rules of Civil Procedure, with the exception of the following:

“court” or “the court” shall mean the Court of Common Pleas of Luzerne County;

“rule” shall mean any rule of civil procedure promulgated by the Court of Common Pleas of Luzerne County;

“party” or “parties” shall mean the party or parties appearing in a civil action pro se, or the attorney or attorneys of record for such party or parties, where appropriate; and,

“Clerk of Judicial Records” shall mean the Luzerne County Division of Judicial Services & Records (Civil Division) and, interchangeably, may be designated as the Prothonotary.

### **Rule 101. Principles of Interpretation**

In the construction of any rule, the principles set forth in the chapter of the Pennsylvania Rules of Civil Procedure designated “Rules of Construction” shall be observed unless the application of such principles would result in a construction inconsistent with the manifest intent of the court.

### **Rule 127. Construction of Rules**

(a) The object of all interpretation and construction of these rules is to ascertain and effectuate the intent of the court.

(b) Each rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of the rule is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of a rule are not explicit, the intent of the court may be ascertained by considering, among other matters: (1) the occasion and necessity for the rule; (2) the circumstances under which the rule was promulgated; (3) the purpose for which the rule was promulgated and the object to be attained; (4) the prior practice, if any, upon the same or similar subjects; (5) the consequences of a particular interpretation; (6) the history of the rule; and, (7) the practice followed under the rule.

### **Rule 128. Presumptions and Ascertaining the Intent of the Court**

In ascertaining the intention of the court in the promulgation of a rule of civil procedure, all seeking to interpret the rule should be guided by the following presumptions:

(a) that the court does not intend a result that is absurd, impossible of execution, or unreasonable;

(b) that the court intends that the entire rule or chapter of rules is to be effective and certain;

(c) that the court does not intend to violate the Constitutions of the United States or of this Commonwealth, or any rule promulgated by the Supreme Court of Pennsylvania;

(d) that the court intends to favor the public interest as against any private interest; and,

(e) that no rule shall be construed to confer a right to trial by jury where such right does not otherwise exist.

### **Rule 130. Construction of Rules and Derogation of the Common Law**

The principle that laws in derogation of the common law are to be strictly construed shall have no application to any rule promulgated by the court.

### **Rule 151. Effective Date of Amendments**

An amendment to a rule of procedure, whether civil, family, judicial administration, criminal, orphans', or governing district justices, shall be effective thirty (30) days after publication in the Pennsylvania Bulletin; but, no amendment shall be effective until notice of its promulgation is published in the "Luzerne Legal Register." The content of each amendment promulgated shall be made available through the Wilkes-Barre Law and Library Association and the court's website at [www.luzernecountycourts.com](http://www.luzernecountycourts.com), and as mandated by law or rule of the Supreme Court of Pennsylvania.

## **THE BUSINESS OF THE COURT**

### **Rule 171. Sessions of Court**

The President Judge shall annually, by order, prescribe the official Judicial Calendar of the court for the calendar year following said annual order. Such order shall be published in the "Luzerne Legal Register" and on the court's website, [www.luzernecountycourts.com](http://www.luzernecountycourts.com).

## **Rule 172. Holidays**

The court shall not be in session on any day designated by the laws of Pennsylvania or by any proper authority as a legal holiday within the Commonwealth of Pennsylvania. Whenever the initial day of any session of court or any return day shall fall on any legal holiday, the next succeeding weekday shall be considered the initial day of said session or the return day, as the case may be. Motions Court due to be held on a legal holiday shall be postponed to the next regular day of hearing motions.

## **PRACTICE AND PROCEDURE GENERALLY**

### **Rule 205.2(a). Required Redaction of Pleadings and Other Papers Filed With the Court**

Unless required by an applicable law or rule of court, or otherwise ordered by the court, any party or non-party making a paper or electronic filing of a legal paper, as defined in Pa. R.C.P. No. 205.4(a)(2), with the Clerk of Judicial Records must redact identifying information appearing in the filing, including any attachments thereto, as follows:

(a) An individual's social security number or business entity's identification number must be redacted, provided that the filing may include the last four digits of the social security number or employer identification number;

(b) An individual's date of birth must be redacted, provided that the filing may include the year of an individual's birth;

(c) With respect to any financial account number, including, but not limited to, any bank account, investment account, or credit card account, the account number must be redacted, as well as any PIN, password or other number used to secure such account, provided that the filing may include the last four digits of the account number;

(d) The court may order, for good cause shown in a specific case, that additional information must be redacted from any filing, including, but not limited to, the home street address or driver's license number of a specified individual, medical records, treatment, diagnosis, individual financial information and proprietary or trade secret information;

(e) The court may order the person making a redacted filing to file, in addition, an unredacted copy under seal; and,

(f) Where the court has permitted a filing to be made under seal, the court may later unseal the filing and may order the filing party to redact the filing at that time.

The responsibility for redacting the identifying information rests with the party or non-party making the filing. Legal papers will not be reviewed by the Clerk of Judicial Records for compliance with this Rule.

## **Rule 205.4. Electronic Filing and Service of Legal Papers**

(a)(1)(i) This Rule governs the permissive electronic filing of all legal papers with the Clerk of Judicial Records through its electronic filing system as well as the electronic service of papers under terms more specifically provided by the Pa. R.C.P. No. 205.4 .

(ii) In the context of this rule, “legal papers” which may be filed electronically shall be those in all civil cases, not including those matters filed exclusively with the Domestic Relations Section of the Court, and Orphans’ Court matters.

(2) As used in this rule, the following words shall have the following meanings:

“electronic filing,” shall mean the electronic transmission of legal papers by means other than facsimile transmission,

“filing party,” shall mean an attorney, party or other person who files a legal paper by means of electronic filing, and

“legal paper,” shall mean a pleading or other paper filed in an action, including exhibits and attachments.

(b)(1) Legal papers shall be presented for filing in portable document format (“PDF”). A paper presented for filing in format other than a portable document format shall be converted to portable document format and maintained by the Clerk of Judicial Records in that format.) In the event any legal paper or exhibit is presented in hard copy, in person, for filing, to the Clerk of Judicial Records, the Clerk of Judicial Records shall convert such legal paper to, and maintain such legal paper as, a PDF and shall return the hard copy to the filing party for retention in accordance with Pa. R.C.P. No. 205.4(b)(4).

### **(c)(2) Website. Access to the Website.**

(i) **Website.** All legal papers filed electronically shall be filed through the Clerk of Judicial Records’ electronic filing system (“Electronic Filing System”) that may be accessed through the Luzerne County website at [www.luzernecounty.org](http://www.luzernecounty.org).

(ii) **Website Access.** To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply for and receive a user name and password.

### **(d)(1) Payment of Filing Fees.**

(i) The Clerk of Judicial Records will accept electronic payment of all filing fees with the following credit and debit cards: Mastercard, VISA, and Discover.

(ii) The credit or debit card will be charged with a convenience fee dictated by the credit card vendor.

(iii) The Clerk of Judicial Records will not accept payment by depositing, in advance, sufficient funds with it.

### **(f) Local Procedures.**

(i) The required signature on an electronic filing of legal papers is established by submission of a filing and the application of a digitized signature or the name of the filer

preceded by /s/ accompanied by the filer's printed name or a scanned document with an original signature. Verification will be achieved through use of an email address and a password obtained from the Electronic Filing System. The Electronic Filing System will verify the user ID. Such signature shall be subject to the certification provided for in Pa. R.C.P. No. 1023.1(c), and, if the filing party is an attorney, shall constitute a certification of authorization to file it as provided in Pa. R.C.P. No. 205.1.

(ii) Any legal paper filed through the Electronic Filing System, or in person at the Clerk of Judicial Records as set forth in subsection (b)(1) of this Rule, must include a signature block, the name of the filer, and a valid email address for the filer. In the event the filer's email address changes, the filer shall provide an updated email address to the Clerk of Judicial Records within one (1) business day.

(iii) The Electronic Filing System shall display an official notification, which includes the time and date, indicating the filing was received. Within one (1) business day of the receipt of the legal paper, the Clerk of Judicial Records shall provide the filer with an email notification through the Electronic Filing System that the legal paper has either been accepted or rejected.

(iv) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Electronic Filing System; however, if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment is received pursuant to 42 P.S. Section 21073(b).

(v) If a legal document is refused for filing, the Clerk of Judicial Records shall specify the reason

(vi) Neither the Court, nor Clerk of Judicial Records shall be required to maintain a hard copy of any legal paper, notice, or order filed with the Clerk of Judicial Records, whether such filing is completed through the Electronic Filing System, or, in person at the Clerk of Judicial Records as set forth in subsection (b)(1) of this Rule.

(vii) Any other party may serve upon the filing party a notice to produce for inspection the signed hard copy required to be maintained by a party pursuant to Pa. R.C.P. No. 205.4, within fourteen (14) days of the service of the notice, for good cause shown. The court, upon motion, may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

**(g) Service of Electronically Filed Legal Papers.**

(1) Once an electronic filing has been accepted by the Clerk of Judicial Records, it shall be the responsibility of the filing party to properly serve the other party and the Court in accordance these Rules, and Pa. R.C.P. Nos. 400, et. seq. (service of original process) or Pa. R.C.P. No. 440 (Service of Legal Papers other than Original Process), as appropriate.

(2) Copies of all legal papers other than original process filed in an action or served upon any party to an action, whether such filing was completed through the Electronic Filing System, or, in person at the Clerk of Judicial Records as set forth in subsection (b)(1) of this Rule, may be served



(i) as provided by Pa. R.C.P. No. 440 or

(ii) by electronic transmission, other than facsimile transmission.

As provided for in subsection (f)(ii) of this Rule, an electronic mail address shall be included on any entry of appearance or other legal paper filed with the Court, whether such filing was completed through the Electronic Filing System, or, in person at the Clerk of Judicial Records as set forth in subsection (b)(1) of this Rule. A paper served electronically is subject to the certifications set forth in Pa. R.C.P. No. 205.4(b)(3). Pursuant to Pa. R.C.P. No. 205.4(g)(2), service by electronic transmission is complete when a legal paper is sent to the recipient's electronic mail address, or to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

### **Rule 206.4(c). Procedure for Issuance of Rule to Show Cause**

#### **A. Procedure for Issuance of Rule to Show Cause - Issuance as of Course.**

(a) With the exception of those matters governed by subsections (B) and (D) of this Local Rule, a party seeking a rule to show cause shall present the same along with the underlying motion/petition, a comprehensive brief in support, and a proposed order, to the Office of Court Administration. All proceedings concerning the appointment of an arbitrator for claims arising under the underinsured or uninsured motorist provisions of an automobile insurance policy are subject to this Rule.

(b) There is no requirement to present a rule to show cause under this subsection to Motions Court, except matters governed by subsection (B) of this Rule.

(c) The District Court Administrator shall assign a return date for the rule to show cause, no less than twenty (20) days thereafter, in accordance with internal operating procedures of the court and issue the rule to show cause. However, a rule to show cause issued upon a petition for appointment of an arbitrator shall be returnable in no less than thirty (30) days.

(d) Upon issuance of the rule to show cause, the moving party shall follow the procedures outlined in subsection (C) of this Local Rule.

(e) The Office of Court Administration, by and through the District Court Administrator, is hereby authorized to sign and schedule rules to show cause subject to this subsection as part of its administrative duties and this action shall carry the same force and effect as if it were directly ordered by the court.

#### **B. Procedure for Issuance of Rule to Show Cause - Discretionary Issuance. (Immediate Relief/Stay)**

(a) Where the moving party is seeking immediate relief in addition to the issuance of the rule to show cause and/or where the relief requested has the effect of a stay of proceedings pending the resolution of the matter subject to the rule to show cause, a party seeking the same shall present the rule to show cause along with the underlying motion/petition, a comprehensive brief in support, and a proposed order, to Motions Court for consideration. When appropriate in the context of the proceedings, notice shall be given to the other party.

Motions Court is held Monday through Friday 8:30 to 9:15 A.M., with the exception of legal holidays.

(b) If the Motions Court Judge issues the rule to show cause, the moving party shall:

Present a time-stamped copy of the executed rule to show cause, underlying motion/petition, a comprehensive brief in support, and a proposed order to the District Court Administrator, who shall assign a return date for the rule to show cause no less than twenty (20) days thereafter in accordance with internal operating procedures of the court.

(c) Upon issuance of the rule to show cause, the moving party shall follow the procedures outlined in subsection C of this Local Rule.

**C. Procedure Upon the Issuance of a Rule to Show Cause – Miscellaneous Court**

(a) Once a rule to show cause has been issued and a return date has been assigned, the moving party shall file the executed rule to show cause indicating the assigned return date, the underlying motion/petition, a comprehensive brief in support, a proposed order, and certificate of service with the Clerk of Judicial Records and shall, within three (3) days, serve a time-stamped copy of the aforementioned upon all opposing parties, and deliver a copy to the Office of Court Administration.

(b) Within fifteen (15) days of service of the rule to show cause, the underlying motion/petition, a comprehensive brief in support, and a proposed order, the opposing party must file an answer, comprehensive brief, and certificate of service with the Clerk of Judicial Records and, within three (3) days, serve the same upon all parties and the Office of Court Administration.

(c)(1) If the moving party fails to file a comprehensive brief in support, as required by this Rule, the opposing party may present a motion to dismiss to Motions Court for dismissal of the matter.

(2) Service shall be made immediately after filing by delivering, mailing, or emailing to all parties.

(d) Proof of service shall be filed and shall be by written acknowledgement of service, by affidavit of the person making service, or by certification of counsel.

**D. Procedure Upon the Issuance of a Rule to Show Cause - Individually Assigned Cases**

(a) From the point at which a case has been individually assigned, any rule to show cause, together with the underlying motion/petition, a comprehensive brief in support, and a proposed order should be directed to the assigned Judge for scheduling a hearing date.

(b) Once the court signs the rule to show cause, the movant shall, within three (3) days, serve a time-stamped copy and certificate of service on all parties.

(c) Within fifteen (15) days of service of the rule to show cause, the underlying motion/petition, a comprehensive brief in support, a proposed order, and certificate of service, the opposing party must file an answer and comprehensive brief with the Clerk of Judicial Records, and, within three (3) days, serve all parties and the assigned Judge.

(d) If the moving party fails to file a comprehensive brief in support, as required by this Rule, the opposing attorney may present a motion to dismiss on that basis, either prior to, or at the time and place set for hearing for dismissal, of the particular matter.

**Rule 208.2(d). Certificate of Concurrence/Non-concurrence**

All motions shall contain a certification by the moving party that the moving party has sought concurrence in the motion from all interested parties and, where appropriate, that the motion is presented as uncontested.

**Rule 208.2(e). Certification Relating to Discovery**

All motions relating to discovery shall include a certification that the moving party has conferred or attempted to confer with all interested parties concerning the subject matter of the motion to resolve the matter without court action prior to the presentment of the motion.

**Rule 208.3(a). Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents**

A Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents, where no objections have been filed, shall be presented to the Motions Judge along with a proposed order requiring the opposing party to provide full and complete answers and/or responses within thirty (30) days or suffer such sanctions as the court deems necessary. Once a case has been individually assigned to a Judge, any such “motions” under this Rule shall be presented to the assigned Judge.

Notice of Intention to Present any such Motions to Compel must be provided to all parties of record not less than three (3) business days prior to the date of presentation and must be attached to the Motion. A brief in support of the Motion shall not be required.

**Rule 208.3(b). Argument Court and Argument Lists**

(a) All matters previously assigned to Argument Court, except post-trial motions governed by Pa. R.C.P. No. 227.2, shall be governed by sub-paragraphs (a)(1) through (a)(6) of this Rule.

(1) Any moving party filing such matters shall contemporaneously file a comprehensive brief and certificate of service in support thereof and serve a copy upon all parties and the District Court Administrator.

(2) The moving party shall additionally file a civil argument sheet available at the Office of Court Administration and attached to the Appendix to these Rules as Form 1.

(3) Within twenty-five (25) days of service of the matter and supporting brief, any party wishing to oppose it shall file and serve a comprehensive responsive brief and certificate of service upon all parties. The District Court Administrator shall then assign it to a Judge and shall so notify all parties. The assignment by the District Court Administrator shall be on a rotating basis, except that motions for summary judgment shall be assigned separately but also on a rotating basis.

(4) The matter shall be ruled upon without oral argument unless requested by any party pursuant to Pa. R.C.P. No. 211 or so ordered by the Judge to whom the assignment has been made. The request shall be made contemporaneously with the filing of the brief.

(5) If the party filing the matter fails to file a brief as provided in Subsection (a)(1), the District Court Administrator may present an order to the Motions Judge who may dismiss the matter. Additionally, respondent may file a motion to dismiss if no brief is filed with the presenting motion. If any opposing party fails to file its responsive brief within the time provided in Subsection (a)(3), that party shall be deemed not to oppose the matter and the assigned Judge shall dispose of it in accordance with the law as a matter of course.

(6) Service shall be made within three (3) days after filing by delivering, mailing, or emailing a copy to all parties. Service by mail is complete three (3) days after mailing.

(b) All other “motions” as defined by Pa. R.C.P. No. 208.1 are governed by, and disposed of in accordance with, the procedures set forth in Luz. Co. R.C.P. No. 206.4 (c) or 208.3 (b).

### **Rule 210. Form and Briefs**

(a) Each brief shall contain (1) a procedural history of the case, (2) a statement of the pertinent facts, (3) a statement of the questions involved, and (4) the argument.

(b) The argument shall be divided into as many parts as there are questions involved. Citations to opinions of an appellate court of this or another jurisdiction shall be to the official reporter of that court.

### **Rule 211. Oral Argument**

Any party who has failed to file a brief in accordance with the applicable rules of court may be denied oral argument.

### **Rule 212.2. Pre-Trial Conference – Pre-Trial Memoranda**

Each party to an action shall file a Pre-Trial Memorandum with the assigned Judge, and, thereafter, shall serve a copy on all other parties at least two (2) days prior to the pre-trial conference.

### **Rule 212.3. Pre-Trial Procedures, Scheduling Conference, Settlement Conference, and Trial Procedures**

(a) In all civil actions, a pre-trial proceeding may be requested by motion at various stages prior to the filing of a certificate of trial readiness for the purpose of holding a scheduling conference or settlement conference before the court.

(b) Upon the filing of a certificate of trial readiness, the District Court Administrator shall assign a case to an individual judge who will schedule a pre-trial conference and establish a date for trial.

(c) Miscellaneous instructions pertaining to civil practice in Luzerne County with regard to jury trial procedures, non-jury trial procedures, and general and pre-trial procedures are published, and may be found at [www.luzernecountycourts.com](http://www.luzernecountycourts.com).

### **Rule 214. Listing Cases for Hearing or Trial**

(a) The District Court Administrator shall assign a case for hearing or trial upon the filing of a certificate of trial readiness, substantially in the form of Form 2 attached to the Appendix to these Rules. The certificate of trial readiness shall identify the Judge who has decided any case dispositive motion under Luz. Co. R.C.P. No. 1028(c), 1034(a), or 1035.2(a).

(b) No certificate of trial readiness may be filed until all discovery in the case has been complete and all depositions for use at trial have been scheduled or completed, nor may a certificate of trial readiness be filed if any case dispositive motion is pending for disposition by the court, or unless so ordered by the court. The filing of a certificate of trial readiness shall constitute a verification that no case dispositive motions are pending nor does any party contemplate filing such a case dispositive motion.

(c) At least fifteen (15) days prior to the filing of a certificate of trial readiness, the party seeking to certify the case for trial must advise all of parties of his/her/its intention to file a certificate of trial readiness. If no party objects to the filing of a certificate of trial readiness within that fifteen (15) day period, the certificate of trial readiness may be filed in accordance with paragraph (b) above. In the event that a party objects to the filing of a certificate of trial readiness, and the party seeking to certify the case for trial believes that the objection is frivolous or being asserted for an improper purpose such as to unnecessarily delay the disposition of the litigation, the party seeking to certify the case for trial shall present a motion to the Motions Court Judge (or to the assigned Judge, as the case may be) pursuant to Luz. Co. R.C.P. No. 208.3(a), requesting leave of court to file a certificate of trial readiness over the objection of the opposing party.

### **Rule 229.3. Discontinuance Upon Settlement**

When a case is settled, it is mandatory that the Plaintiff file a Praecipe for Discontinuance with the Clerk of Judicial Records. A copy of the Discontinuance must also be provided to the assigned Judge, if any, within 10 days after effectuation of settlement.

### **Rule 270. Writ of Certiorari/Appeals From Zoning Hearing Boards**

#### **(a) Form of Caption**

The caption of an appeal from a decision of a zoning hearing board shall make reference to the name of the municipality and shall be in the following form:

John Doe, Appellant,

Vs.

Zoning Hearing Board (Insert full name of municipality.)

#### **(b) Additional Testimony**

In the event that a party desires to present additional evidence, a motion indicating the reason therefor shall be presented to the court within twenty (20) days after the filing of the appeal, along with a rule to show cause, a comprehensive brief, and proposed order.

#### **(c) Supersedeas**

An appeal from the decision of a zoning hearing board shall not act as a supersedeas without special order of court. An application for a supersedeas shall be in motion or petition form, as may be appropriate, and due notice of its presentation shall be given in accordance with these rules to the municipality or its solicitor and to the parties adversely interested in the case who have entered an appearance.

### **Rule 275. Land Use Appeals**

The procedure for hearing and deciding appeals from decisions of municipal governing bodies with respect to land use matters shall be the same as for zoning hearing board appeals, except that the case may be placed on a Miscellaneous Court list if there are disputed questions of fact pertaining to the appeal.

### **Rule 290. Eminent Domain**

(a) Petition for the appointment of viewers.

(1) The petition shall be filed with the Clerk of Judicial Records.

(2) Three copies of the petition and one proposed order to appoint viewers shall be delivered to the Office of Court Administration for transmittal to the court and to the appointed viewers.

(3) The initial petition presented to the court in any eminent domain proceeding shall cite the statute under which the petition is filed.

(b) Viewers shall be sworn to discharge the duties of their appointment as viewers with impartiality and fidelity according to the best of their learning and ability, upon their initial appointment to the board of view, and, thereafter, need not be sworn in any proceeding referred to them.

(c) A hearing shall be held at the time fixed by the viewers, and witnesses shall be directed by the viewers or by the parties to appear at a time certain.

(d) Stenographic records of hearings will not be made except in unusual cases where, for good cause shown, the court has ordered the testimony to be taken stenographically or electronically or a party has arranged for a stenographer with notice to all parties.

(e) Payment of the viewers shall be assessed by the court against the parties with each party paying an equal share of the costs, unless otherwise determined by the court by separate motion.

## **SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS**

### **Rule 430(a). Official Periodical**

The "Luzerne Legal Register" is designated as the county legal periodical for the publication of legal notices.

## **ACTIONS AT LAW**

### **Rule 1018.1. Notice to Defend**

(a) In accordance with Pa. R.C.P. No. 1018.1, every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a Notice to Defend.

(b) The Notice to Defend shall be in both English and Spanish.

(c) The required Notice to Defend shall be in substantially the following form:

### **(Caption)**

#### **NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claim set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED RATE OR NO FEE.

#### **AVISO**

A USTED SE LE HA DEMANDADO EN LA CORTE. Si usted quiere defenderse contra la demanda expuesta en las siguientes páginas, tiene que tomar acción en un plazo de veinte (20) días después que reciba esta demanda y aviso, por presentar una notificación de comparecencia escrita personalmente o por un abogado y radicar por escrito en la Corte sus defensas u objeciones a las demandas presentadas en su contra. Se le advierte que si falla en hacerlo, el caso podría seguir adelante sin usted y un fallo podría ser dictado en su contra por la Corte sin previo aviso por cualquier dinero reclamado en la demanda o por cualquier otro reclamo o desagravio pedido por el/la demandante. Puede que usted pierda dinero o propiedad u otros derechos importantes para usted. USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO, DIRÍJASE O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA PUEDE PROVEERLE CON INFORMACIÓN SOBRE COMO CONTRATAR UN ABOGADO. SI NO TIENE LOS FONDOS SUFICIENTES PARA CONTRATAR UN ABOGADO, ESTA OFICINA PODRÍA PROPORCIONARLE INFORMACIÓN ACERCA DE AGENCIAS QUE PUEDAN OFRECERLES SERVICIOS LEGALES A PERSONAS QUE REÚNAN LOS REQUISITOS A UN HONORARIO REDUCIDO O GRATIS.

North Penn Legal Services, Inc.  
33 N. Main Street,  
Suite 200  
Pittston, PA 18640  
(570) 299-4100  
(877) 953-4250 Toll free  
(570) 824-0001 Fax

Servicios Legales de North Penn, Inc.  
33 la Calle Main del Norte, Oficina 200  
Pittston, PA 18640  
(570) 299-4100  
(877) 953-4250 Llamada gratuita  
(570) 824-0001 Fax

101 West Broad Street  
Suite 513  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Toll free  
(570) 455-3625 Fax

101 la Calle Broad del Oeste  
Oficina 513  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Llamada gratuita  
(570) 455-3625 Fax

### **Rule 1028(c). Procedure for Filing of Preliminary Objections**

(a) A party filing preliminary objections shall file the same, along with a comprehensive brief in support, and proposed order, with the Clerk of Judicial Records. A rule to show cause shall not be presented or filed with preliminary objections.

(b) After filing, as provided in subsection (a), the moving party shall immediately:

(1) Serve a copy of the preliminary objections, the comprehensive brief, and proposed order upon the District Court Administrator;

(2) File with the District Court Administrator a Civil Argument Sheet, which is available at the Office of Court Administration; and,

(3) Serve a copy of the aforementioned upon all opposing parties.

(c) Within twenty (20) days after service of the preliminary objections, supporting brief and proposed order, any party wishing to contest the same shall file a comprehensive brief in opposition with the Clerk of Judicial Records and serve the same upon all parties and the District Court Administrator who shall then assign it to a Judge and shall so notify all parties.

(d) The preliminary objections shall be ruled upon without oral argument unless requested by any party, or ordered by the court. The request must be filed with the District Court Administrator contemporaneously with the filing of the party's brief or, thereafter, with the Judge to whom the preliminary objections have been assigned.

(e) If the party filing the preliminary objections fails to file a comprehensive brief, as required by this Rule, the preliminary objections may be dismissed by presenting a proposed order to the Motions Judge. If any opposing party fails to file its brief in opposition within the time provided in this Rule, that party shall be deemed not to oppose the preliminary objections and the Judge to whom the preliminary objections have been assigned shall dispose of the preliminary objections in accordance with the law as a matter of course.



(f) Service shall be made within three (3) days of filing by delivering, mailing, or emailing a copy to all parties.

(g) Proof of service shall be filed and shall be by written acknowledgment of service by affidavit of the person making service, or by certification of counsel.

(h) If a case is individually assigned before preliminary objections are filed, the party or parties filing the preliminary objections shall comply with all of the preceding subsections of this Rule and serve the assigned Judge with a copy of the preliminary objections, brief, and proposed order.

#### **Rule 1034(a). Procedure for Filing of Motion for Judgment on the Pleadings**

(a) A party filing a motion for judgment on the pleadings shall file the same, along with a comprehensive brief in support and proposed order, with the Clerk of Judicial Records. A rule to show cause shall not be presented or filed with a motion for judgment on the pleadings.

(b) After filing as provided in subsection (a), the moving party shall immediately:

(1) serve a copy of the motion for judgment on the pleadings, the comprehensive brief and proposed order upon the District Court Administrator;

(2) file with the District Court Administrator a Civil Argument Sheet, which is available at the Office of Court Administration; and,

(3) serve a copy of the aforementioned upon all opposing parties.

(c) Within thirty (30) days of service of the motion, supporting brief, and proposed order, any party wishing to contest the same shall file a comprehensive brief in opposition with the Clerk of Judicial Records and serve the same upon all parties and the District Court Administrator who shall then assign it to a Judge and shall so notify all parties.

(d) The motion for judgment on the pleadings shall be ruled upon without oral argument unless requested by any party, or ordered by the court. The request must be filed with the District Court Administrator contemporaneously with the filing of the party's brief or, thereafter, to the Judge to whom the motion for judgment on the pleadings has been assigned.

(e) If the party filing the motion for judgment on the pleadings fails to file a comprehensive brief as required by this Rule, the motion for judgment on the pleadings may be dismissed by the District Court Administrator or by a responding party presenting a proposed order to the Motions Judge. If any opposing party fails to file its brief in opposition within the time provided in this rule, that party shall be deemed not to oppose the motion for judgment on the pleadings and the Judge to whom the motion for judgment on the pleadings has been assigned shall dispose of it in accordance with the law as a matter of course.

(f) Service shall be made within three (3) days of filing by delivering, mailing, or emailing a copy to all parties.

(g) Proof of service shall be filed and shall be by written acknowledgment of service by affidavit of the person making service or by certification of counsel.

(h) If a case is individually assigned before the motion for judgment on the pleadings is filed, the party or parties filing the motion for judgment on the pleadings shall comply with all of the preceding subsections of this Rule and serve the assigned Judge with a copy of the motion for judgment on the pleadings, brief, and proposed order.

### **Rule 1035.2(a). Procedure for Filing of Motion for Summary Judgment**

(a) A party filing a motion for summary judgment shall file the same, along with a comprehensive brief in support, supporting documents, and proposed order, with the Clerk of Judicial Records. A rule to show cause shall not be presented to a Judge or filed with a motion for summary judgment.

(b) After filing as provided in subsection (a), the moving party shall immediately:

(1) serve a copy of the motion for summary judgment, the comprehensive brief, supporting documents and proposed order upon the District Court Administrator;

(2) file with the District Court Administrator a Civil Argument Sheet, which is available at the Office of Court Administration; and,

(3) serve a copy of the aforementioned upon all opposing parties.

(c) Within thirty (30) days after service of the motion for summary judgment, supporting brief, and proposed order, any party wishing to contest the same shall file a comprehensive brief in opposition with the Clerk of Judicial Records and serve the same upon all parties and the District Court Administrator who shall then assign it to a Judge and shall so notify all parties.

(d) The motion for summary judgment shall be ruled upon without oral argument unless requested by any party, or ordered by the court. The request must be filed with the District Court Administrator contemporaneously with the filing of the party's brief, or, thereafter, to the Judge to whom the motion for summary judgment has been assigned.

(e) If the party filing the motion for summary judgment fails to file a comprehensive brief, as required by this Rule, the motion for summary judgment shall be dismissed by any opposing party presenting a proposed order to the Motions Judge. If any opposing party fails to file its brief in opposition within the time provided in this rule, that party shall be deemed not to oppose the motion for summary judgment and the Judge to whom the assignment has been made shall dispose of it in accordance with the law as a matter of course.

(f) Service shall be made within three (3) days of filing by delivering, mailing, or emailing a copy to all parties.

(g) Proof of service shall be filed and shall be by written acknowledgment of service, by affidavit of the person making service, or by certification of counsel.

(h) If a case is individually assigned before the motion for summary judgment is filed, the party or parties filing the motion for summary judgment shall comply with all of the preceding subsections of this Rule and serve the assigned Judge with a copy of the motion for summary judgment, brief, and proposed order.

### **Rule 1037.1. Liability for Costs**

Liability to the Clerk of Judicial Records, Sheriff, or other official for costs shall rest primarily on the party incurring such costs, and such primary liability shall continue until the costs are paid, notwithstanding any award of costs allowed by rule of law or order of court.

### **Rule 1037.2. Bill of Costs; Taxation**

(a) A bill of costs for attendance of witnesses, service of subpoenas, and other expenses recoverable by rule of law or order of court, must be filed with the Clerk of Judicial Records, as may be appropriate, within ten (10) days after the trial, continuance, or failure to reach the case, and a copy thereof shall be served upon all adverse parties. In trials without jury where an adjudication or decision is delayed by the court, a bill of costs will be deemed timely if filed within ten (10) days after entry of the adjudication or decision on the docket.

(b) A bill of costs shall bear the correct caption of the action and must contain the names of witnesses, the days of attendance, the number of miles traveled by each witness, and any other information necessary to support all items of expense for which recovery is sought. A bill of costs shall be verified by the party or counsel of record, who shall state, under oath, that the expenses listed are accurate and correct and that the witnesses listed were actually present in court on the days alleged and that, in the opinion of the deponent, the witness's testimony was material.

(c) A party upon whom a bill of costs has been served may, within ten (10) days, file exceptions thereto and demand that the same be taxed by the Clerk of Judicial Records. Other items of cost may be taxed in the same manner. The Clerk of Judicial Records shall thereupon fix a time and place for hearing, which hearing shall be not later than thirty (30) days after demand therefor. Each party shall be given at least ten (10) days notice of the hearing. Prior payment of costs shall not constitute a waiver of the rights conferred by this Rule.

(d) Either party may appeal from the decision of the Clerk of Judicial Records to the court within ten (10) days after notice of the decision. The appeal shall contain a specification of the items to which exception is taken and the reasons in support thereof, and shall be accompanied by a praecipe placing the matter on the next available argument list. Copies of the appeal papers shall be served upon the adverse parties or their attorneys.

(e) Execution on a judgment will not be stayed pending proceedings to tax the costs or during an appeal therefrom unless the court shall so order, but any sum or sums collected on execution which represent items of costs which are then in dispute shall be paid to the Clerk of Judicial Records, as may be appropriate, to be held pending the final outcome of the proceedings to tax such costs.

### **Rule 1081. Concealment of Property; Examination of Defendant – Action in Replevin**

Where a petition is presented to the court for examination of a defendant pursuant to Pa. R.C.P. No. 1081, the court may order the taking of testimony by oral examination or written interrogatories, as prescribed by the rules relating to Depositions and Discovery, Pa. R.C.P. No. 4001, et seq. The Clerk of Judicial Records shall issue as of course a subpoena to testify.

### **Rule 1098. Peremptory Judgment in an Action in Mandamus**

(a) A plaintiff in an action in mandamus seeking a peremptory judgment shall do so by motion and in compliance with notice, unless the urgency of the case is such as to require action before notice can reasonably be given.

(b) The court, at the time such motion is presented, shall determine whether the motion can be acted upon forthwith or whether it requires additional consideration. If additional consideration is required, the court shall schedule presentation of any documentary or testimonial evidence which it desires as soon as practicable, and shall thereafter rule on said motion and either grant or deny peremptory judgment.

(c) The pendency of a motion for peremptory judgment in a mandamus action does not excuse or relax a defendant's responsibility to timely file a responsive pleading to the plaintiff's complaint.

### **Rule 1143. Commencement of Mortgage Foreclosure Action**

(a) In all residential mortgage foreclosure actions involving a residential property which serves as the primary residence of the defendant/borrower, the complaint shall be titled "Mortgage Foreclosure Action." The complaint shall include a Notice of Residential Mortgage Foreclosure Diversionary Program in substantially the format set forth in Form 3 of the Appendix to these Rules. Service of the complaint in such a residential mortgage foreclosure action shall include the Notice of Residential Mortgage Foreclosure Diversionary Program, advising the defendant/borrower of the action to be taken by the defendant/borrower within sixty (60) days of service of the complaint in order to participate in a court-supervised conciliation conference pursuant to Luz. Co. R.C.P. No. 1143.1.

(b) If the defendant/borrower in a residential mortgage foreclosure action has taken the affirmative steps identified in the Notice of Residential Mortgage Foreclosure Diversionary Program to be eligible to participate in a court-supervised conciliation conference pursuant to Luz. Co. R.C.P. No. 1143.1, the defendant/borrower shall file a Request for Conciliation Conference in substantially the format set forth in Form 4 of the Appendix to these Rules. The Request for Conciliation Conference shall be filed with the Clerk of Judicial Records within sixty (60) days of service of the complaint and Notice of Residential Mortgage Foreclosure Diversionary Program, and shall be served upon the plaintiff/lender. A time-stamped copy of the Request for Conciliation Conference shall also be delivered to the Office of Court Administration.

(c) Upon receipt of the Request for Conciliation Conference, the Judge assigned to the Mortgage Foreclosure Diversionary Program shall issue a Practice Order in substantially the format set forth in Form 5 of the Appendix to these Rules, as required by Luz. Co. R.C.P. No. 1143.1(c). Conciliation Conferences shall be scheduled and conducted in conformity with Luz. Co. R.C.P. No. 1143.1(c)—(f).

(d) Following the service of the Notice of Residential Mortgage Foreclosure Diversionary Program in a residential mortgage foreclosure action, all proceedings shall be stayed for a period of sixty (60) days to afford the defendant/borrower an opportunity to qualify for participation in a court-supervised conciliation conference.

### **Rule 1143.1. Conciliation Conference in Residential Mortgage Foreclosure Actions**

(a) The defendant/borrower shall be entitled to participate in a court-supervised conciliation conference with the plaintiff/lender in all residential mortgage foreclosure actions in which the defendant/borrower: (i) has been served with a Notice of Residential Mortgage Foreclosure Diversionary Program pursuant to Luz. Co. R.C.P. No. 1143(a) or 3129.1(c), and (ii) has filed and served a Request for Conciliation Conference.

(b) To be eligible to participate in a Conciliation Conference, a pro se defendant/borrower who has been served with a Notice of Residential Mortgage Foreclosure Diversionary Program pursuant to Luz Co. R.C.P. No. 1143(a) or 3129.1(c), must contact and meet with one of the housing counselors identified in the Notice, and file the Request for Conciliation Conference form within the timelines set forth in the applicable Notice. In the event that the defendant/borrower has not been served with a Notice of Residential Mortgage Foreclosure Diversionary Program pursuant to Luz. Co. R.C.P. No. 1143(a) or 3129.1(c), the defendant/borrower in a residential mortgage foreclosure action shall have the right to participate in a court-supervised conciliation upon filing a Request for Conciliation Conference form with the Clerk of Judicial Records and delivering a time-stamped copy to the Office of Court Administration.

(c) Upon receipt of a duly-filed Request for Conciliation Conference form, the Judge assigned to the Mortgage Foreclosure Diversionary Program shall issue a Practice Order in substantially the format set forth in Form 5 of the Appendix to these Rules, scheduling the matter for the next available Conciliation Conference list. The Practice Order shall specify the date and place of the Conciliation Conference and shall be forwarded by the Program Administrator via ordinary mail to the parties.

(d) The schedule for the year shall be set by the Program Administrator 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).

(e) Conciliation Conferences will first be conducted by the Program Administrator. 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 attend or 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.

(f) At the Conciliation Conference, the parties shall be prepared to discuss and explore all available resolution options, including, but not limited to, bringing the mortgage current through a reinstatement, paying off the mortgage, entering into a forbearance agreement or repayment plan to bring the account current over time, agreeing to vacate in the near future in exchange for not contesting the matter and a monetary payment, offering the lender a deed in lieu of foreclosure, entering into a loan modification or a reverse mortgage, paying the mortgage default over sixty months, and instituting bankruptcy proceedings.

(g) If a defendant/borrower should be removed from the program for any reason, to re-enter the program, the defendant/borrower must file a Petition for Re-Entry to the Luzerne County Mortgage Foreclosure Diversionary Program in substantially the format set forth in Form 8 of the Appendix to these Rules.

(h) If the Program Administrator cannot bring resolution between the parties, the Judge assigned to the Mortgage Foreclosure Diversionary Program shall make all final determinations.

## **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.

## **ARBITRATION**

### **Rule 1301. Cases Subject to Arbitration**

(a) All civil actions, actions in replevin, and actions upon mechanics' liens where the amount in controversy is \$50,000.00 or less shall first be submitted to and heard by a Board of Arbitrators pursuant to Pa. R.C.P. No. 1301, et seq.

(b) For purposes of determining the amount in controversy, every complaint or counterclaim in such civil actions, in replevin, or upon a mechanics' lien, shall set forth a statement that the total amount of damages claimed in such pleading, exclusive of interest and costs, is "\$50,000.00 or less" or is "more than \$50,000.00," or, in replevin, that the value of the property claimed is "\$50,000.00 or less" or is "more than \$50,000.00."

(c) The amount in controversy shall be determined from the complaint and/or counterclaim, as required by subsection (b) of this Rule, or by a stipulated agreement filed by the attorneys. The term "amount in controversy" shall be exclusive of interest and costs. The amount in controversy when determined from the pleadings shall be the largest amount claimed by any one party.

(d) The following types of actions shall not be subject to arbitration under this rule: mandamus, quo warranto, quiet title actions involving title to real estate, ejectment, municipal claims, tax claims, mortgage foreclosure, and actions upon ground rents.

### **Rule 1302. Certification for Arbitration**

(a) When a case is ready in all respects, a party may file a Certification for Arbitration with a time-stamped copy delivered to the Office of Court Administration. The form of the Certification for Arbitration is set forth as Form 9 of the Appendix to these Rules. At least 30 days prior to the filing of a Certification for Arbitration, a party must notify all other parties of one's intention to file the Certification for Arbitration. All required information must be completed on the Certification for Arbitration. Failure to provide the required information will result in the Certification for Arbitration being rejected. All arbitration hearings shall be conducted at the Luzerne County Court House.

(b) In the event that there is a dispute between or amongst the parties as to whether or not a case is ripe for the filing of a Certification for Arbitration, any party may file a Petition and Rule Returnable for hearing on said issue which shall be made returnable for hearing in Miscellaneous Court in accordance with these Rules. The court shall then determine suitability for arbitration.

### **Rule 1303. Administration**

(a) Proceedings under this rule shall be administered by the Office of Court Administration as directed by the District Court Administrator. The Office of Court Administration shall have the power to interpret these rules and prescribe forms subject to review by the court.



(b) In order to be considered for appointment to the Board of Arbitrators, an attorney must:

(1) be admitted to practice within the Commonwealth of Pennsylvania and be in good standing before the Supreme Court of Pennsylvania;

(2) be actively engaged in the practice of law within Luzerne County;

(3) maintain an office in Luzerne County; and,

(4) file the required Arbitrator Registration Form with the Office of Court Administration.

(c) The Office of Court Administration shall promulgate an Arbitrator Registration Form to be completed in full by attorneys seeking appointment to Boards of Arbitration. The Arbitration Registration Form is set forth as Form 10 of the Appendix to these Rules. In addition to general and contact information, the Arbitrator Registration Form shall state whether the attorney is practicing alone, is a member of a firm, or is associated in some way with one or more other attorneys, either in private practice, as an employee of a public office (such as District Attorney or Public Defender), non-profit employment/pro bono work, in-house legal counsel, etc. Any change in status must be promptly reported to the Office of Court Administration.

(d) Upon receipt of a fully completed certified Arbitrator Registration Form, the District Court Administrator will add the name of the person submitting the form to the list of those eligible to serve as a member of an arbitration board. Boards of Arbitration will be appointed from the list of members of the bar who have filed such information. The District Court Administrator shall have sole authority to determine whether an arbitrator is qualified under these rules.

#### **Rule 1304. Selection of Arbitrators**

Boards shall consist of three (3) members, one of whom shall serve as the Chair. The Chair shall be a member of the bar admitted to practice of law for at least three years. The Chair of the Board of Arbitrators shall be appointed by the District Court Administrator and shall be responsible for the preparation and filing of the Board's report and award. All other members of the Board of Arbitrators shall also be appointed by the District Court Administrator. No more than one member of a family, firm association, or other entity shall serve on an arbitration panel. The District Court Administrator shall maintain a list of attorneys eligible to serve as arbitrators which shall be available for public inspection in the Office of Court Administration.

An attorney may resign by letter addressed to the District Court Administrator, whereupon the District Court Administrator shall note the resignation and date thereof on the appropriate list or lists.

The District Court Administrator shall also note all deletions from the aforementioned list or lists, whether by death, removal of principal office from Luzerne County, cessation of active practice before this court, suspension from practice, or disbarment and the date thereof.

It is the professional obligation of all members of the bar who qualify under these Rules to serve on Boards of Arbitrators when scheduled, unless absent or excused for good cause and compelling reason. If an arbitrator fails to appear, or appears late for a scheduled arbitration

hearing without compelling reasons, his or her name will be stricken from the list of eligible arbitrators, and he or she will be so notified by the District Court Administrator. He or she may be reinstated by application to the court, upon cause shown.

The President Judge may strike from the list of eligible arbitrators the name of any attorney who has consistently demonstrated an inability to serve with civility.

In the event that an arbitrator is unavailable to attend a scheduled hearing, he or she shall give prompt notice to the Office of Court Administration, so that a substitute may be appointed. Repeated unavailability after appointment may result in the removal of the attorney from the list of eligible arbitrators.

A member of a Board who would be disqualified from serving on the Board for any reason that would disqualify a judge under the Code of Judicial Conduct from hearing a case shall immediately withdraw from the Board.

#### **Rule 1305. Striking of Case from Arbitration List or Trial List**

The court may, on its own motion or upon the motion of any party, strike any case from the trial list which should have first been arbitrated, or, strike any case from the arbitration list which the court determines should be tried by a jury or by a judge without a jury. If a case is stricken from the trial list by the court, any party shall file a Certification for Arbitration on the form approved by the court, together with the appropriate filing fee.

If a case is stricken from the arbitration list, any party shall file a Certificate of Readiness for Trial immediately with the Clerk of Judicial Records, in accordance with Luz. Co. R.C.P. No. 214, and serve copies of same upon all parties and the Office of Court Administration.

#### **Rule 1306. Notice of Hearing**

The Clerk of Judicial Records, under the direction of the Office of Court Administration, shall mail a copy of the Order scheduling the hearing date, time, and place to each attorney of record and, in the event a party is not represented of record by an attorney, to such party at his or her last known address by first-class mail and file of record proof of service in each case. E-mail notice shall be allowed whenever permitted by these Rules.

(a) The hearing shall be scheduled within 45 days of the filing of the Certificate for Arbitration.

(b) The written notice of hearing shall contain the following statement:

##### **“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.”

### **Rule 1307. Continuances**

(a) More than seven (7) days prior to the hearing date, a case may be continued one (1) time by agreement of all parties. The request for continuance must be in writing and presented to the Office of Court Administration. The Office of Court Administration shall reschedule the arbitration hearing to the next available date, but not more than sixty (60) days after the original date.

(b) Requests for continuance made less than seven (7) days before the scheduled hearing, or, in instances when all parties do not concur in the request for continuance, shall, after notice to all parties, be presented to the Motions Judge for adjudication.

### **Rule 1308. Hearing**

(a) All hearings shall commence promptly at the time scheduled.

(b) Hearings shall be conducted by the Chair with decorum in full compliance with judicial proceedings. Witnesses shall be sworn in the customary manner. Testimony shall be taken through the same procedures and decorum as used before the court. Testimony before a Board of Arbitrators is not transcribed unless by special request and at the expense of the requestor.

(c) Boards of Arbitrators shall conduct hearings with due regard to the law and rules of evidence. Boards of Arbitrators shall have the general powers of the court, including administering oaths or affirmations, determining admissibility of evidence, permitting testimony to be offered by deposition, and deciding the law and the facts of the case submitted.

### **Rule 1309. Award**

(a) The Board of Arbitrators shall file its findings and award, if any, as well as any written opinion (as in its discretion it may choose to submit), within three (3) business days from the conclusion of the hearing, in each case. If a member of the panel dissents from the majority's findings or award, that arbitrator shall so state on the award form and may, in his or her discretion, submit an opinion indicating the reason(s) for such dissent.

(b) The Report and Award shall be in the form set forth in Pa. R.C.P. No. 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 \$50,000.00, exclusive of interest and costs.

(h) Arbitrators may award delay damages when that issue is properly pending in the action.

### **Rule 1310. Delay Damages**

(a) In all cases subject to the provisions of this rule where damages for delay are claimed, the plaintiff shall, no later than the commencement of the hearing, present to the Chair of the Board of Arbitrators in a sealed envelope a statement containing the required information, which shall be substantially in the form of Form 11 of the Appendix to these Rules. Each question on the form shall be answered and the form shall be executed by all parties to the action.

Those parties not concurring in the information contained on the form to be submitted by Plaintiff shall state thereon a brief explanation as to the reasons for their non-concurrence. Parties failing to state the reasons for non-concurrence shall be deemed to be in concurrence.

Plaintiff shall serve a copy of the executed form upon all other parties at or before the time the same is presented to the arbitrators. Failure of Plaintiff to comply with this Rule shall be deemed to be a waiver of any delay damages.

(b) No arbitrator shall open the aforesaid envelope, or, in any other manner, attempt to ascertain the contents thereof, until the Board of Arbitrators has reached a decision on the merits of the case, and then, only if delay damages are applicable. If, after deciding the merits of the case, delay damages are not applicable, the Chair of the Board of Arbitrators shall return the unopened envelope to the Clerk of Judicial Records, together with the report of the Board.

### **Rule 1311. Award Docketing, Notice, Lien and Judgment**

Upon the filing of the award, if any, said award shall have full force and effect as would any decision of the court, subject to right of appeal. Notice of the report and award, if any, shall be served by the Clerk of Judicial Records upon all parties.

### **Rule 1312. Appeal**

(a) Any party may appeal from the findings or award of the Board of Arbitrators to the court. Appeals shall result in de novo proceedings before the trial court, except where one or more parties failed to appear and the matter was initially heard before the trial court, as stated in the written notice required by Luz. Co. R.C.P. No. 1306(b).

(b) The cost of appeal shall be set by court order and shall include a sum to compensate the fees of the Arbitration Board.

(c) Simultaneously with the filing of the appeal, appellant shall file a Certificate of Readiness for Trial with the Clerk of Judicial Records, serve all parties and shall deliver a time-stamped copy to the Office of Court Administration which shall assign the case to a Judge for trial in the ordinary course.

### **Rule 1313. Compensation**

Each arbitrator shall receive a fee of \$200.00 as compensation for each half day of hearing required (a half-day shall be no more than three hours regardless of the number of cases heard within a half-day period). Members of the Board shall not be entitled to compensation until after the filing of the original report and/or award with the Clerk of Judicial Records with a time-stamped copy delivered to the Office of Court Administration.

## **ACTIONS FOR WRONGFUL DEATH**

### **Rule 2205. Notice of Pendency of Wrongful Death Action**

(a) The notice prescribed in Pa. R.C.P. No. 2205 shall name the decedent and state the court, term, and number of the action, and, if the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such person may petition the court to remove the plaintiff and to substitute as a new plaintiff any person entitled by law to recover damages in the action or personal representative of the decedent.

(b) An Affidavit of Service by registered mail of such notice shall be filed with the Clerk of Judicial Records within five (5) days after service or as soon thereafter as the registered return receipt, signed by the person to whom it is addressed, is returned to the plaintiff.

### **Rule 2206. Court Approval of Distribution of Proceeds**

Whenever any sum of money is to be paid to the plaintiff in settlement of claims or satisfaction of a verdict or judgment in an action for damages under the Wrongful Death Act, 42 Pa.C.S. § 8301 et seq, and the Survival Act, 42 Pa.C.S. § 8302 et seq., the plaintiff shall present a motion for approval of the proposed distribution of proceeds pursuant to the procedure set forth in Luz. Co. R.C.P. No. 208.3. The motion shall include, inter alia, the proposed allocation of the proceeds between the wrongful death and survival claims and shall attach correspondence or some other form of documented communication from the Pennsylvania Department of Revenue confirming that it does not object to the proposed apportionment of the proceeds between the wrongful death claim and the survival claim, or any other satisfactory documentation.

## **EXECUTION AND ENFORCEMENT OF JUDGMENTS**

### **Rule 2959. Return Day for Rules Pertaining to Judgment by Confession**

The return day for a rule to show cause as to why relief from a judgment by confession should not be granted shall be determined in accordance with Luz. Co. R.C.P. No. 206.4(c), unless the court directs a different return day at the time the petition is first presented.

### **Rule 3128. Notice of Resale of Personal Property by Sheriff**

In addition to the Notice Requirements of Pa. R.C.P. No. 3128(a), Notice of Sale of Personal Property shall be given by the Sheriff sending a copy of the handbill to the defendant by regular mail addressed to the last known address of the defendant, at least six (6) days prior to the sale.

No resale shall be scheduled without first giving notice to all bidders who appeared at the originally scheduled sale. The resale date cannot be sooner than seventy-two (72) hours from the original sale date.

### **Rule 3129.1. Notice of Sale - Real Property**

(a) Whenever a sale of real property is governed by Pa. R.C.P. No. 3129.1, all handbills, written notices, and publications shall include, as part of the location of the property, a street address.

(b) Street address is defined as the street number and street name where a number exists. Where no street number exists, the street address is defined as the land and/or portion of land between the nearest two street numbers and/or intersecting streets which do exist and the street name.

(c) If the real property sought to be sold pursuant to Pa. R.C.P. No. 3129.1 is a residential property which serves as the primary residence of the defendant/borrower, and, unless the defendant/borrower has already been served with the required “Notice of Residential Mortgage Foreclosure Diversionary Program” pursuant to Luz. Co. R.C.P. No. 1143(a), the plaintiff/lender must serve a “Notice of Residential Mortgage Foreclosure Diversionary Program” upon the defendant/borrower in substantially the format set forth in Form 6 of the Appendix to these Rules and file an “Affidavit Pursuant to Luz. Co. R.C.P. No. 3129.1” in substantially the format set forth in Form 7 of the Appendix to these Rules, attesting either that: (1) the defendant/borrower has not opted to participate in the Residential Mortgage Foreclosure Diversionary Program; or, (2) the defendant/borrower, has participated in a court-supervised conciliation conference, but the residential mortgage foreclosure claim has not been resolved and no further conciliation conferences are scheduled.

(d) The affidavit required by Luz. Co. R.C.P. No. 3129.1(c) shall be filed with the Clerk of Judicial Records and a copy shall be delivered to the Sheriff before any residential property may be listed for Sheriff’s Sale. The affidavit required by this Rule shall be in substantially the format set forth in Form 7 of the Appendix to these Rules.

(e) If the defendant/borrower in a residential mortgage foreclosure action has taken the affirmative steps identified in the “Notice of Residential Mortgage Foreclosure Diversionary Program” to be eligible to participate in a court-supervised conciliation conference, the defendant/borrower shall file a Request for Conciliation Conference in substantially the format set forth in Form 4 of the Appendix. The Request for Conciliation Conference shall be filed with the Clerk of Judicial Records within sixty (60) days after service of the “Notice of Residential Mortgage Foreclosure Diversionary Program” and shall be served upon counsel for the plaintiff/lender. A copy of the Request for Conciliation Conference shall also be served upon the District Court Administrator. Upon receipt of the Request for Conciliation Conference, the Judge assigned to the Luzerne County Mortgage Foreclosure Diversionary Program shall issue a Practice Order (Form No. 5) as required by Luz. Co. R.C.P. No. 1143.1(c)—(f).

### **Rule 3130. Notice of Sale of Securities**

When notice to a defendant of the sale of securities is required by Pa. R.C.P. No. 3130, such notice may be given by the Sheriff by ordinary mail, first class postage prepaid, addressed to the defendant at the defendant’s last known residence and by the posting of handbills in the Sheriff’s office, which mailing and which handbills shall contain a description of the securities to be sold, the name and place of the business of the broker through whom such sale will be made,

and the date when the securities will be offered for sale.

## **DEPOSITIONS AND DISCOVERY**

### **Rule 4001. Rule to Show Cause Under Discovery Proceedings**

(a) Any motion seeking any relief under Pa. R.C.P. Nos. 4001 to 4020 inclusive, shall be disposed of on a rule to show cause returnable to the Miscellaneous Court Judge who may hold a hearing and issue an appropriate order pursuant to Luz. Co. R.C.P. Nos. 206.4(c) and 208.3(b).

(b) For any case that has been individually assigned, any such motion seeking relief under Pa. R.C.P. Nos. 4001 to 4020 must be made returnable to the Judge to whom the case has been assigned for his/her chambers to schedule a hearing, if necessary, and issue any and all appropriate orders.

### **Rule 4017.1. Objections at Videotape Depositions**

The following shall govern the procedure for making objections during videotape depositions:

(a) When counsel makes an objection, counsel shall merely state the word "objection" and request that the video operator stop the videotape. Any arguments on objection shall be made on the written transcript but off camera.

(b) During a discussion or argument, the witness shall be excused from the room at the request of any party.

(c) Once the video is stopped, counsel shall first summarize the reasons for the objection in a word or phrase. Counsel may then proceed with argument on the transcript and off camera or may merely state the summary grounds for the objections. Arguments should be brief, and should consist of no more than the reason for the objection, an answer to the reason for the objection, and brief rebuttal.

(d) Counsel shall review the transcript together before presentation to the trial Judge to resolve whatever objections can be resolved. They should present to the trial Judge a list by page and line of the objections that need rulings.

(e) Prior to the playing of the videotape, the court shall advise the jurors of the procedure dealing with objections and instruct them to disregard the word "objection" when it is made. The videotape may then be played without interruption, except for segments stricken by the judge.

### **Rule 4021. Assignment of Judge for Complex Cases or Discovery Proceedings**

In an appropriate case, the court, upon its own motion, or, upon motion of any party, may elect to designate one judge to direct all discovery proceedings in that case, or assign the entire case to one judge through trial, to hear and rule upon all motions and petitions relating to that case. Any motion for the assignment of a Judge to a complex case should be presented to the Administrative Judge for the Civil Division. In the event that the motion is granted, the Office of Court Administration shall select the Judge to be assigned according to its procedures.

## TAX ASSESSMENT APPEALS

### **Rule 5000. Real Estate Tax Assessment Appeal**

(a) A real estate tax assessment appeal from a decision of the Luzerne County Board of Tax Assessment Appeals as to the amount of assessment for real estate tax purposes or as to exemption of real estate from payment of real estate taxes shall be titled “Real Estate Tax Assessment Appeal” and shall be filed with the Clerk of Judicial Records within the time required by law.

(b) A Real Estate Tax Assessment Appeal shall contain the following:

(1) Caption designating the named party taking the appeal as Appellant, the Luzerne County Board of Assessment Appeal as Appellee, and, if Appellant is a taxing authority, it shall join the owner of the real estate involved as of course as a party in the assessment appeal by designating such named owner in the caption as Respondent.

(2) Brief description of the subject real estate, its location, name and address of the owner, and municipality and school district wherein the real estate is located. It should also include the Property Identification Number (PIN) and Parcel Number.

(3) Nature of and reasons for the appeal.

(4) Reference to the decision of the Luzerne County Board of Assessment Appeals from which the appeal is taken. A copy of the notice of decision of the Luzerne County Board of Assessment Appeals shall be attached as an exhibit.

(5) A verification (as “verified” is defined in Pa. R.C.P. No. 76).

(c) Appellant shall serve copies of the appeal by certified or registered mail upon the Luzerne County Board of Assessment Appeals at its official office, and, unless named as the appellant, upon all taxing authorities affected by the appeal, which may include Luzerne County, the municipality in which the property is located, and the school district in which the property is located, at their respective official offices, or, in the absence of an official office, at the last known address of the secretary of each body and upon the respondent owner of the real estate at the owner’s last known address. A copy should concurrently be sent by regular mail to the Luzerne County Solicitor.

(d) Appellant shall file with the Clerk of Judicial Records, within ten (10) days after the filing of the Real Estate Tax Assessment Appeal, proof of service of copies thereof consisting of a verified statement (as “verified” is defined in Pa. R.C.P. No. 76) that service was made by certified or registered mail, with the sender’s receipt for certified or registered mail attached thereto.

(e) No response is required to be made by Appellee or by the county, municipality, school district, or Respondent owner of real estate served with a copy of the Real Estate Tax Assessment Appeal.



### **Rule 5001. Intervention**

(a) The county, municipality, or school district not named as Appellant may intervene as of course during pendency of the appeal by filing a Notice of Intervention with the Clerk of Judicial Records.

(b) The Notice of Intervention shall contain the name of the intervening party designated as intervenor in the caption, and shall set forth that such identified party is intervening.

(c) Intervenor shall serve copies of the Notice of Intervention by certified or registered mail upon Appellant, Appellee, any Respondent owner, and any other intervening parties of record.

(d) Intervenor shall file with the Clerk of Judicial Records, within ten (10) days of the filing of the Notice of Intervention, proof of service of copies thereof consisting of a verified statement (as “verified” is defined in Pa. R.C.P. No. 76) that service was made by certified or registered mail, with the sender’s receipt for certified or registered mail attached thereto.

(e) No response is required to be made by any party served with a copy of the Notice of Intervention.

### **Rule 5002. Discovery**

Depositions and discovery will only be applicable to real estate tax assessment appeals by order of the court.

### **Rule 5003. Pretrial Status Conference**

(a) The court, sua sponte, or, upon application of a party, shall schedule a pretrial status conference. Notification of the pretrial status conference need be given by the court only to Appellant, Appellee, Respondent owner, if any, and such other parties who have intervened of record.

(b) Each party of record shall file, with the Clerk of Judicial Records, a Pretrial Status Conference Memorandum and serve a copy thereof on the assigned judge at least seven (7) days prior to the date of the scheduled conference along with proof of service of copies thereof upon all parties of record by personal service or by regular mail. Proof of service shall consist of a verified statement, as “verified” is defined in Pa. R.C.P. No. 76.

(c) A Pretrial Status Conference Memorandum shall contain a summary statement of facts, appraisal (if done), stipulations desired, witnesses expected to be called, exhibits expected to be offered, legal issues, and special problems presented, if any.

**FORM 1**

**SCHEDULE SHEET**

**IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY**

\_\_\_\_\_

\_\_\_\_\_  
**(PLAINTIFF)**  
\_\_\_\_\_

\_\_\_\_\_  
**(DEFENDANT)**

**NO.                      OF                      \_\_\_\_\_**

**TYPE OF MATTER:** (SEE BELOW)

PRELIMINARY OBJECTIONS \_\_\_\_\_

SUMMARY JUDGMENT \_\_\_\_\_

OTHER \_\_\_\_\_

**DATE MOTION FILED:** \_\_\_\_\_

**DATE BRIEF FILED:** \_\_\_\_\_

**OPPOSITION BRIEF FILED:** \_\_\_\_\_

**MOVING PARTY:** \_\_\_\_\_

**ORAL ARGUMENT:** YES \_\_\_\_\_ NO \_\_\_\_\_

**\*\*\*ORAL ARGUMENT IS WAIVED UNLESS A REQUEST IS SUBMITTED.**

**REASON FOR ORAL ARGUMENT:** \_\_\_\_\_

\_\_\_\_\_

**ATTORNEY FOR PLAINTIFF (OR PRO SE) (NAME, ADDRESS, PHONE & FAX #, EMAIL)**

\_\_\_\_\_

\_\_\_\_\_

**ATTORNEY FOR DEFENDANT (OR PRO SE) (SAME INFORMATION AS ABOVE)**

\_\_\_\_\_

\_\_\_\_\_

**COURT ADMINISTRATION PURPOSES ONLY:**

JUDGE ASSIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

**JUDGES:** PLEASE RETURN THIS SHEET WITH THE FOLLOWING INFORMATION:

DATE ARGUMENT MATTER DISPOSED \_\_\_\_\_

SUMMARY JUDGMENT: DENIED \_\_\_\_\_ GRANTED \_\_\_\_\_ DENIED/GRANTED IN PART \_\_\_\_\_

**COMMENTS:** \_\_\_\_\_

**FORM 2**

**Certificate of Readiness  
Civil Trial Listing**

**COURT OF COMMON PLEAS**

Number \_\_\_\_\_

**COUNTY OF LUZERNE**

Action \_\_\_\_\_

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ALL CIVIL CASES SHALL BE LISTED FOR TRIAL UPON FILING OF A CERTIFICATE OF  
READINESS IN THE FOLLOWING FORM:

---

TRIAL REQUESTED BY  
AGREEMENT OF COUNSEL:

ESTIMATED TIME \_\_\_\_\_ (DAY(S))

\_\_\_\_\_ 6 PERSON JURY

DATE FILED \_\_\_\_\_

\_\_\_\_\_ 12 PERSON JURY

\_\_\_\_\_ NON JURY

---

NATURE OF CLAIM:

\_\_\_\_\_ Personal Injury – Auto Accident  
\_\_\_\_\_ Personal Injury – other than auto accident  
\_\_\_\_\_ Damage to property – No personal injury  
\_\_\_\_\_ Medical Malpractice

\_\_\_\_\_ Professional malpractice – non medical  
\_\_\_\_\_ Commercial  
\_\_\_\_\_ Contractual  
\_\_\_\_\_ Other, describe \_\_\_\_\_

---

DATE OF SUMMONS/COMPLAINT INSTITUTING ACTION: \_\_\_\_\_

DATE/NATURE OF LAST PLEADING: \_\_\_\_\_

---

PLAINTIFF(S)

ATTORNEY – ADDRESS

---

DEFENDANT(S)

ATTORNEY – ADDRESS

---

ADDITIONAL DEFENDANT(S)

ATTORNEY - ADDRESS

---

I CERTIFY THAT ALL DISCOVERY HAS BEEN COMPLETED; ALL NECESSARY PARTIES AND WITNESSES WILL BE AVAILABLE; SERIOUS SETTLEMENT NEGOTIATIONS HAVE BEEN CONDUCTED; THE CASE IS READY IN ALL ASPECTS FOR TRIAL; A COPY OF THIS CERTIFICATE OF READINESS HAS BEEN SERVED ON ALL COUNSEL HAVING AN INTEREST IN THIS CASE NO LESS THAN 15 DAYS PRIOR TO THE FILING, AT WHICH TIME THE TRIAL REQUEST WAS DISCUSSED.

DATE SERVED \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF TRIAL COUNSEL

**FORM 3**

**FORMULARIO 3**

(Caption)

(Rubro)

**NOTICE OF RESIDENTIAL MORTGAGE FORECLOSURE  
DIVERSIONARY PROGRAM  
PURSUANT TO LUZ. CO. R.C.P. NO. 1143(a) and 3129.1(c)  
AVISO DE EJECUCION HIPOTECARIA RESIDENCIAL  
PROGRAMA DE CONCILIACION  
CONFORME A R.C.P. NUM. 1143(a) y 3129.1 (c) DEL CONDADO DE LUZERNE**

You have been served with a foreclosure complaint that could cause you to lose your home.

**Usted ha sido notificado/a de una demanda de ejecución hipotecaria que podría causarle perder su casa.**

If you own and live in the residential property which is the subject of this foreclosure action, you may be able to participate in a court-supervised conciliation conference in an effort to resolve this matter with your lender.

**Si usted es dueño/a de y vive en la propiedad residencial que es el sujeto de esta acción de ejecución hipotecaria, puede ser que pueda participar en una conferencia de conciliación supervisada por el tribunal en un esfuerzo para resolver este asunto con su prestamista.**

If you do not have an attorney, you must take the following steps to be eligible for a conciliation conference. First, within sixty (60) days of your receipt of this notice, you must contact a housing counselor at either the Commission on Economic Opportunity, Attention David Ritter, at 570-826-0510, Ext. 216 or 1-800-822-0359, or Advantage Credit Counseling Service at 1-888-511-2227, to schedule an appointment. Second, once you have contacted one of the housing counselors, you must promptly meet with that housing counselor within sixty (60) days of your telephone contact with him/her. During that meeting, you must provide the housing counselor with all requested financial information so that a loan resolution proposal can be prepared on your behalf. If you take these steps, the housing counselor will help you prepare and file a Request for Conciliation Conference with the Court. If you do so and a conciliation conference is scheduled, you will have an opportunity to meet with a representative of your lender in an attempt to work out reasonable arrangements with your lender before the mortgage foreclosure suit proceeds forward.

**Si usted no tiene un abogado, tiene que tomar los siguientes pasos para tener derecho a una conferencia de conciliación. Primero, en un plazo de sesenta (60) días de haber recibido este aviso, tiene que ponerse en contacto con un consejero de vivienda a una de las dos agencias siguientes – la Comisión sobre Oportunidades Económicas, Atención a David Ritter, al 570-826-0510, Extensión 216 o al 1-800-822-0359, o el Servicio de Asesoramiento de Crédito Advantage al 1-888-511-2227, para programar una cita. Segundo, una vez que haya contactado a uno de los consejeros de vivienda, tiene que reunirse sin demora con ese asesor de vivienda en un plazo de sesenta (60) días a partir de su contacto telefónico con él/ella. Durante esa reunión, tiene que proporcionarle al consejero de vivienda toda la información financiera solicitada para que una propuesta de resolución del préstamo pueda prepararse en su nombre. Si usted toma estos pasos, el consejero de vivienda le ayudará a preparar e interponer una Petición para una Conferencia de Conciliación ante el Tribunal. Si usted lo hace y está programada una**

conferencia de conciliación, tendrá la oportunidad de reunirse con un representante de su prestamista para intentar establecer arreglos razonables con su prestamista antes de que la demanda de ejecución hipotecaria siga adelante.

If you are represented by a lawyer, it is not required for you to contact one of the housing counseling agencies, although it is recommended. Your lawyer will be required to file a Request for Conciliation Conference on your behalf so that a conciliation conference can be scheduled. At that time, you and your lawyer will meet with a representative of your lender in an effort to work out reasonable arrangements with your lender.

Si usted es representado por un abogado, no tendrá que ponerse en contacto con una de las agencias de asesoramiento de vivienda, aunque se recomienda. Su abogado tendrá que interponer una Petición para una Conferencia de Conciliación en su nombre para que se pueda programar una conferencia de conciliación. En ese momento, usted y su abogado se reunirán con un representante de su prestamista en un esfuerzo para establecer arreglos razonables con su prestamista.

**IF YOU WISH TO SAVE YOUR HOME, YOU MUST ACT QUICKLY AND TAKE THE STEPS REQUIRED BY THIS NOTICE. THIS PROGRAM IS FREE.**

**SI USTED QUIERE CONSERVAR SU CASA, TIENE QUE ACTUAR CON RAPIDEZ Y TOMAR LOS PASOS REQUERIDOS POR ESTE AVISO. ESTE PROGRAMA ES GRATUITO.**

Respectfully submitted:  
**Presentado respetuosamente:**

\_\_\_\_\_  
Date  
Fecha

\_\_\_\_\_  
[Plaintiff/Plaintiff's Counsel]  
(Demandante/ Abogado del Demandante)

**FORM 4**

(Caption)

**REQUEST FOR CONCILIATION CONFERENCE**

Pursuant to the local rules governing the Luzerne County Residential Mortgage Foreclosure Diversionary Program, the undersigned hereby certifies as follows:

1. Defendant is the owner of the property which is the subject of this mortgage foreclosure action;
2. Defendant lives in the subject property which is defendant's primary residence; and,
3. Defendant has been served with a "Notice of Residential Mortgage Foreclosure Diversion Program" and has taken all of the steps required in that Notice to be eligible to participate in a court-supervised conciliation conference pursuant to Luz. Co. R.C.P. No. 1143.1.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
Defendant/Defendant's Counsel

\_\_\_\_\_  
Date

**FORM 5**

(Caption)

**PRACTICE ORDER**

The Defendant in the above-captioned action is a participant in the Luzerne County Court Mortgage Foreclosure Diversionary Program, and therefore, this matter is **STAYED** until Defendant is removed from the Program. Accordingly, mediation is scheduled on \_\_\_\_\_ at the Luzerne County Courthouse, 200 N. River Street, Third Floor, Wilkes-Barre, PA. (Notice of exact time will be provided approximately two weeks prior.)

As part of the program, the lender is required to immediately identify the person and contact information for the person who will remain responsible for the negotiation and effort to mediate this mortgage delinquency. This person must be authorized to negotiate the claim and be present in person or by telephone for the mediation conference. If Plaintiff has local counsel, identify same to my chambers at least one week prior to the mediation conference. This information should be provided to this Court by notice to:

The Honorable \_\_\_\_\_  
Luzerne County Court House  
200 N. River Street  
Wilkes-Barre, PA 18711  
Fax: (570) 820-6356

The contact person will thereafter be contacted by the credit counseling agency in an effort to determine the financial information required by the lender to evaluate possible resolution or compromise of this matter. This information will be provided by the credit counselor at least three (3) weeks prior to the scheduled mediation.

No default judgments will be permitted until mediation has occurred. Failure to cooperate in the mediation process by the lender may lead to delay in this litigation.

BY THE COURT:

Dated: \_\_\_\_\_

\_\_\_\_\_  
J.

**Copies:**

(Defendant)  
(Plaintiff/Counsel for Plaintiff)  
(Credit Counseling Agency and/or  
Private Attorney for Defendant)

**FORM 6**

**FORMULARIO 6**

(Caption)

(Rubro)

**NOTICE OF RESIDENTIAL MORTGAGE FORECLOSURE  
DIVERSIONARY PROGRAM  
PURSUANT TO LUZ. CO. R.C.P. NO. 3129.1  
AVISO DE EJECUCION HIPOTECARIA RESIDENCIAL  
PROGRAMA DE CONCILIACION  
CONFORME A R.C.P. NUM. 3129.1 DEL CONDADO DE LUZERNE**

A judgment has been entered against you in this mortgage foreclosure action and your property is about to be listed for Sheriff's Sale.

**Se ha dictado un fallo en su contra sobre esta acción de ejecución hipotecaria y su propiedad está a punto de aparecer en la lista para la Subasta Judicial.**

If you own and live in the residential property which is the subject of this foreclosure action, you may be able to have the sale of your residence postponed so that you can participate in a court-supervised conciliation conference in an effort to resolve this matter with your lender, if you have not already done so.

**Si usted es dueño/a de y vive en la propiedad residencial que es el sujeto de esta acción de ejecución hipotecaria, es posible que pueda tener la venta de su residencia pospuesta para que pueda participar en una conferencia de conciliación supervisada por el tribunal en un esfuerzo para resolver este asunto con su prestamista, si todavía no lo ha hecho.**

If you do not have an attorney, you must take the following steps to be eligible for a conciliation conference. First, within twenty (20) days of your receipt of this notice, you must contact a housing counselor at either the Commission on Economic Opportunity, Attention David Ritter, at 570-826-0510, Ext. 216 or 1-800-822-0359, or Advantage Credit Counseling Service at 1-888-511-2227, to schedule an appointment. Second, once you have contacted one of the housing counselors, you must promptly meet with that housing counselor within twenty (20) days of your telephone contact with them. During that meeting, you must provide the housing counselor with all requested financial information so that a loan resolution proposal can be prepared on your behalf. If you take these steps, the housing counselor will help you prepare and file a Request for Conciliation Conference with the Court. If you do so and a conciliation conference is scheduled, you will have an opportunity to meet with a representative of your lender in an attempt to work out reasonable arrangements with your lender before your house is listed for Sheriff's Sale.

**Si usted no tiene un abogado, tiene que tomar los siguientes pasos para tener el derecho a una conferencia de conciliación. Primero, en un plazo de veinte (20) días de haber recibido este aviso, tiene que ponerse en contacto con un consejero de vivienda a una de las dos agencias siguientes - la Comisión sobre Oportunidades Económicas, Atención a David Ritter, al 570-826-0510, Extensión 216 o al 1-800-822-0359 o el Servicio de Asesoramiento de Crédito Advantage al 1-888-511-2227, para programar una cita. Segundo, una vez que haya contactado a uno de los consejeros de vivienda, tiene que reunirse sin demora con ese asesor de vivienda en un plazo de veinte (20) días a partir de su contacto telefónico con ellos. Durante esa reunión, tiene que proporcionarle al consejero de vivienda toda la información financiera solicitada para que una propuesta de resolución del préstamo se pueda preparar en su nombre. Si usted toma estos pasos, el consejero de vivienda le ayudará a preparar e interponer una**



**Petición para una Conferencia de Conciliación ante el Tribunal. Si usted lo hace y está programada una conferencia de conciliación, tendrá la oportunidad de reunirse con un representante de su prestamista para intentar establecer arreglos razonables con su prestamista antes de que se coloque su casa en la lista de Subasta Judicial.**

If you are represented by a lawyer, it is not required for you to contact one of the housing counseling agencies, although it is recommended. Your lawyer will be able to file a Request for Conciliation Conference on your behalf so that a conciliation conference can be scheduled. At that time, you and your lawyer will meet with a representative of your lender in an effort to work out reasonable arrangements with your lender.

**Si usted es representado por un abogado, no tiene que ponerse en contacto con una de las agencias de asesoramiento de vivienda, aunque se recomienda. Su abogado podrá presentar una Petición para una Conferencia de Conciliación en su nombre para que se pueda programar una conferencia de conciliación. En ese momento, usted y su abogado se reunirán con un representante de su prestamista en un esfuerzo para establecer arreglos razonables con su prestamista.**

**IF YOU WISH TO SAVE YOUR HOME, YOU MUST ACT QUICKLY AND TAKE THE STEPS REQUIRED BY THIS NOTICE. THIS PROGRAM IS FREE.**

**SI USTED QUIERE CONSERVAR SU CASA, TIENE QUE ACTUAR CON RAPIDEZ Y TOMAR LOS PASOS REQUERIDOS POR ESTE AVISO. ESTE PROGRAMA ES GRATUITO.**

\_\_\_\_\_  
Date  
Fecha

\_\_\_\_\_  
Plaintiff/Counsel for Plaintiff  
Demandante/Abogado del Demandante

**FORM 7**

(Caption)

**AFFIDAVIT PURSUANT TO LUZ. CO. R.C.P. NO. 3129.1**

I, \_\_\_\_\_, plaintiff/counsel for plaintiff in the above action, do hereby certify that on \_\_\_\_\_, I served the "Notice of Residential Mortgage Foreclosure Diversionary Program" upon defendant(s) or defendant's counsel and that:

- More than 60 days have elapsed since the service of the Notice and, to the best of my knowledge, information and belief, defendant has not opted to participate in the diversionary program by taking the affirmative steps required by the Notice.
- Plaintiff(s) and defendant(s) have participated in a court-supervised conciliation conference, but the parties have been unable to resolve this matter and no further conciliation conferences have been scheduled.

Respectfully submitted

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff/Plaintiff's Counsel

**FORM 8**

(Caption)

**PETITION FOR RE-ENTRY INTO THE LUZERNE COUNTY  
MORTGAGE FORECLOSURE DIVERSIONARY PROGRAM**

1. Plaintiff filed a mortgage foreclosure cause of action against the Defendant(s) on \_\_\_\_\_.
2. Defendant(s) participated in the Luzerne County Mortgage Foreclosure Diversionary Program and was/were removed from the program on \_\_\_\_\_.
3. Defendant's(s') credit counseling agency/private attorney is \_\_\_\_\_.
4. Defendant(s) desire/s to be remitted into the Luzerne County Mortgage Foreclosure Diversionary Program.
5. Defendant's(s') residence has not been sold at a Sheriff's Sale as of the date of this petition.
6. Defendant(s) is/are requesting re-entry into the program due to: (Select all that apply)
  - \_\_\_\_\_ Change in economic circumstance
  - \_\_\_\_\_ Change of employment status
  - \_\_\_\_\_ Finalization of divorce or divorce settlement
  - \_\_\_\_\_ Other (explain):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
7. Defendant(s) was/were not removed from the program as a result of failure to participate in the program.
8. Defendant(s) reside in the residential property that is subject to the foreclosure action as of the date of the filing of this petition and resided at said property as of the date of the filing of the mortgage foreclosure action as set forth in Paragraph 1.
9. Defendant(s) agree/s that if the Court permits him/her/them to re-enter the Luzerne County Mortgage Foreclosure Diversionary Program, he/she/they will continue to work with a credit counseling agency or a private attorney.

Respectfully Submitted:

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CERTIFICATE OF SERVICE

AND NOW , this \_\_ \_\_ day of \_\_\_\_\_, 20\_\_, I/we, the named Defendant(s), certify that I/we have served on this date a true and correct copy of the Petition to Re-Enter the Luzerne County Mortgage Foreclosure Diversionary Program filed by the Defendant(s) upon Plaintiff or Plaintiff's Legal Counsel listed below, by depositing the same with United States Mail.

Plaintiff/Counsel for the Plaintiff:

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Respectfully Submitted:

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**FORM 9**

(Caption)

**CERTIFICATION FOR ARBITRATION**

TO THE CLERK OF JUDICIAL RECORDS OF THE COURT OF COMMON PLEAS OF LUZERNE COUNTY:

The undersigned hereby certifies pursuant to Luzerne County Local Rule 1302 as follows:

1. The amount in controversy is \$50,000.00 or less;
2. The case is ripe in all respects to be heard by a Board of Arbitration;
3. At least thirty (30) days prior notice was given of the intention to file this Certification for Arbitration to all counsel who have entered their appearance and to all unrepresented parties; and,
4. No objection has been made to the appointment of a Board of Arbitration by any party.

The following information is submitted:

Plaintiff:	_____	Defendant:	_____
Attorney:	_____	Attorney:	_____
Address:	_____	Address:	_____
	_____		_____
Telephone:	_____	Telephone:	_____
Facsimile:	_____	Facsimile:	_____
Email:	_____	Email:	_____

For any party unrepresented by legal counsel, or additional parties represented by legal counsel, the following is submitted:

Party: \_\_\_\_\_  
 Status: \_\_\_\_\_  
 (Plaintiff, Defendant, Add'l Defendant, etc.)  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_  
 Email: \_\_\_\_\_

RESPECTFULLY SUBMITTED:

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Name

**FORM 10**

**REGISTRATION TO SERVE AS ARBITRATOR**

By completing and filing this Arbitrator's Registration form with the Office of Court Administration, I hereby certify my eligibility and request that I be placed upon the list of attorneys for appointment to a Board of Arbitrators. I certify that I am familiar with the Rules of Procedure governing Arbitration and Boards of Arbitrators and will at all times act in compliance with those rules.

The following information is submitted:

Name: \_\_\_\_\_

Atty. I.D. No: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

I further hereby certify as follows:

1. I am admitted to the practice of law in the Commonwealth of Pennsylvania and am currently on active status with the Supreme Court of Pennsylvania;
2. I am actively engaged in the practice of law in Luzerne County and maintain a professional office within Luzerne County.
3. I maintain a solo legal practice, or maintain the following association with other attorneys:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I verify that the foregoing statements are true and correct.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_

Signature

\_\_\_\_\_

Name

**FORM 11**

(Caption)

**DELAY DAMAGES**

This Court finds that Plaintiff(s) has/have not established the probable validity of its claim for the property described in its Complaint.

1. On what date did the cause of action accrue?
2. On what date was the Complaint filed?
3. Was a written offer of settlement made by any Defendant, or additional Defendant? If so state:
  - a. The date of the written offer.
  - b. Whether it was in effect at the time of commencement of the hearing;
  - c. The amount of the offer of settlement; and,
  - d. Attach a copy of the written offer of settlement.

\_\_\_\_\_ Attorney for Plaintiff(s)  
 \_\_\_\_\_ Attorney for Defendant(s)

I do not concur for the following reasons:

\_\_\_\_\_ Attorney for Defendant(s)  
 \_\_\_\_\_ Atty. for Add'l Def.(s)

Where opposing counsel refuses to execute the document, the following shall be attached:

**ATTORNEY'S CERTIFICATE**

I hereby certify that I served a copy of the foregoing document on opposing counsel on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and sought concurrence.

\_\_\_\_\_ Attorney for Plaintiff(s)

**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:

\_\_\_\_\_.J.



**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.