

**LACKAWANNA COUNTY**  
**RULES OF CIVIL PROCEDURE**

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

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## **RULES OF CONSTRUCTION**

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

All rules adopted by the Court of Common Pleas of Lackawanna County pertaining to Civil Procedures shall be known as the Lackawanna County Court of Common Pleas Rules of Civil Procedure and may be cited as “Lacka. Co. R.C. P. \_\_\_\_\_.”

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

Each rule adopted by the Court of Common Pleas of Lackawanna County, whether civil, criminal, orphans’, or governing district justices, shall become effective upon the date specified by the court in promulgating the rule; but, no rule shall be effective until notice of its promulgation is published in the “Lackawanna Jurist.” The content of each rule promulgated shall be made available through the Lackawanna County Bar Association and as mandated by law or rule of the Pennsylvania Supreme Court.

### **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 Lackawanna 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:

- (a) “court” or “the court” shall mean the Court of Common Pleas of Lackawanna County;
- (b) “rule” shall mean any rule of civil procedure promulgated by the Court of Common Pleas of Lackawanna County
- (c) “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.

### **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 court.

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

- (a) The object of all interpretation and construction of the Rules of Civil Procedure of the Court of Common Pleas of Lackawanna County is to ascertain and effectuate the intention of this 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 intention of the Court of Common Pleas of Lackawanna County may be ascertained by considering, among other matters:
  - (1) the occasion and necessity for rule;
  - (2) the circumstances under which the rule was promulgated;
  - (3) the purpose for 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 of Common Pleas of Lackawanna County.**

In ascertaining the intention of the Court of Common Pleas of Lackawanna County 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 of Common Pleas of Lackawanna County does not intend a result that is absurd, impossible of execution, or unreasonable;
- (b) that the Court of Common Pleas of Lackawanna County intends that the entire rule or chapter of rules is to be effective and certain;
- (c) that the Court of Common Pleas of Lackawanna County does not intend to violate the Constitution of the United States or of this Commonwealth or any rule promulgated by the Supreme Court of Pennsylvania;
- (d) that the Court of Common Pleas of Lackawanna County 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 of civil procedure promulgated by the Court of Common Pleas of Lackawanna County.

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

An amendment to a rule of procedure, whether civil, criminal, orphans', or governing district justices, shall be effective upon the date specified by the court in promulgating the amendment; but, no amendment shall be effective until notice of its promulgation is published in the "Lackawanna Jurist." The content of each amendment promulgated shall be made available through the Lackawanna County Bar Association and as mandated by law or rule of the Pennsylvania Supreme Court.

**THE BUSINESS OF THE COURT**

**Rule 171. Sessions of Court.**

The court shall annually, by order, prescribe the official Judicial Calendar of the Court of Common Pleas of Lackawanna County for the next calendar year following said annual order, and shall in said order prescribe the sessions of court to be held during the year and designate the time for each. Such order shall be published in the "Lackawanna Jurist."

**Rule 172. Holidays.**

The Court of Common Pleas of Lackawanna County 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 sessions of court or any return day shall fall on any legal holiday, the next succeeding secular weekday shall be considered the initial day of said session or the return day as the case may be. Motion court due to be held on a legal holiday will be postponed to the next regular day of hearing motions.

**Rule 188. Professional Conduct.**

The Code of Professional Responsibility, as adopted by the Supreme Court of Pennsylvania, is hereby adopted as the standard of conduct for members of the bar of this court.

Any attorney of this court who shall be found to have violated any of the standards of conduct established for attorneys of this court or to have been disbarred from practice or disciplined in any court of record of this Commonwealth, of the United States, or of any other state, territory or insular possession of the United States may be suspended or disbarred from practice in this court or otherwise disciplined as the court shall determine.

## PRACTICE AND PROCEDURE GENERALLY

### **Rule 200. Attorneys Practicing Before This Court.**

(a) Any person of good moral and professional character who is learned in the law and has been formally admitted to the bar of this court or of the bar of the Supreme Court of Pennsylvania may practice law in this court.

(b) Attorneys of record of other counties of Pennsylvania, who have yet to be admitted to the bar of the Supreme Court of Pennsylvania but who are eligible for admission on motion to said bar, and attorneys of record from other states, who have been admitted to the general practice of law in such other states, may be admitted to practice pro hac vice in this court for a particular case or proceeding on oral motion of an associate attorney of record appearing in the case or proceeding who is a member of the bar of this court.

(c) Any attorney admitted to the bar of this court under this rule shall file with the Clerk of Judicial Records of Lackawanna County an address for the service or receipt of all pleadings, motions, notices and other papers served or sent in pursuance of the rules of this court. Any changes of address shall be reported promptly to the Clerk of Judicial Records.

### **Rule 200.1. Appearances and Withdrawals.**

(a) The signing of a pleading or motion by an attorney shall be deemed an entry of appearance. Appearance by an attorney or a party not signing pleadings or motions shall be by praecipe filed with the Clerk of Judicial Records.

(b) Appearance of counsel shall not be withdrawn except by leave of court or by written consent of the party. If at the time that withdrawal is sought, the case has been assigned to a judge for trial or has been tried, a motion to withdraw shall be presented to the trial judge for determination. Otherwise, such motion shall be presented at motion court and a rule to show cause shall issue to the client represented by the movant and to all other parties in the litigation.

### **Rule 201. Agreements of Attorneys.**

All agreements of attorneys pertaining to the business of the Court of Common Pleas of Lackawanna County shall be in writing signed by all parties to the agreement or shall be entered on the record made in the course of a court proceeding; otherwise, such agreements shall have no validity if disputed by any party to the alleged agreement.

### **Rule 205.2(a). Pleading Requirements.**

All new civil actions are to be filed on 8 ½" x 11" paper in the Office of the Clerk of Judicial Records, Lackawanna County Courthouse, 200 N. Washington Avenue, Scranton, PA 18503.

### **Rule 205.2(b). Civil Cover Sheet.**

No summons, complaint, pleading or other document used to commence a new civil action will be accepted for filing by the Clerk of Judicial Records unless it is accompanied by a duly completed Civil Cover Sheet in the format set forth in Form 1 of the Appendix. In all residential mortgage foreclosure actions bearing the case code designation "RP/MF/RES" on the Civil Cover Sheet, no summons, complaint, pleading or other document used to commence a new residential mortgage foreclosure civil action will be accepted for filing by the Clerk of Judicial Records unless it is accompanied by a Notice of Residential Mortgage Foreclosure Diversion Program form in the format set forth in Form 8 of the Appendix.

### **Rule 206.1(a). Definition of Petition.**

In addition to an application to strike and/or open a default judgment or a judgment of non pros, a party seeking relief from the court shall proceed by petition and rule when the party is seeking an order



which is not otherwise covered by any statute or rule of civil procedure governing motions, including an order:

- (1) imposing sanctions for failure to obey a discovery order;
- (2) holding a party or witness in contempt;
- (3) granting relief from any other judgment, including judgments entered by confession;  
or
- (4) granting a preliminary injunction.

Any party presenting a petition seeking the issuance of a rule to show cause must follow the procedures set forth in Lacka. Co. R.C.P. 206.4(c).

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

Any petition presented pursuant to Lacka. Co. R.C.P. 206.1(a) shall proceed upon a rule to show cause. The procedure following the issuance of the rule to show cause shall be in accordance with Pa. R.Civ.P. 206.7. In conformity with Pa. R.Civ.P. 206.6, a rule to show cause shall be issued as of course upon the filing and presentment of the petition. To secure a rule to show cause, the petition shall be presented to the Motions Court judge under Lacka. Co. R.C.P. 208.3(a) and shall be accompanied by a proposed order in the format prescribed by Pa. R.Civ.P. 206.6(c) and the Official Note thereto. The court may grant a stay of execution or stay of the proceedings only upon request by the petitioner and for cause shown. Following presentment of the petition to the Motions Court judge, the petitioner shall proceed pursuant to Lacka. Co. R.C.P. 211 and secure a rule returnable date and a hearing date, if necessary, from the Court Administrator and shall thereafter file the original petition and rule to show cause with the Clerk of Judicial Records, with copies of the same being served upon all counsel and unrepresented parties in accordance with the Pennsylvania Rules of Civil Procedure and Lacka. Co. R.C.P. 440. The petitioner shall file a certificate of service with the Clerk of Judicial Records verifying that the petition and rule have been duly served upon all counsel and unrepresented parties.

**Rule 208.2(c). Motion Content.**

In addition to the form and content requirements set forth in Pa. R.Civ. P. 208.2, a motion shall include a brief statement of the applicable authority with citations to the official reporters. If a moving party relied upon an unpublished opinion as authority, a copy of the unpublished opinion must accompany the motion as an attachment.

**Rule 208.2(d). Certificate of Concurrence.**

All motions shall contain a certification by counsel for the movant that counsel has sought concurrence in the motion from each party and, when appropriate, that the motion being presented is uncontested.

**Rule 208.2(e). Discovery Motion Certification.**

Any Motion relating to discovery shall include a certification signed by counsel for the moving party certifying that counsel has conferred or attempted to confer with all interested parties in a good faith effort to resolve by agreement the issues raised by the motion without court intervention together with a detailed explanation why such agreement could not be reached. If part of the issues raised by the motion have been resolved by agreement, the statement shall specify the issue(s) so resolved and the issue(s) remaining unresolved.

**Rule 208.3(a). Motion Procedure.**

A party seeking relief from the court by way of motion shall serve all counsel and unrepresented parties with a copy of the motion, together with notice that the motion will be presented to the court on a date certain, at least (3) business days (excluding Saturdays, Sundays and holidays) prior to the date of presentation. Except for discovery motions which are governed by Lacka. Co. R.C.P. 4000, 4000.1, 4012, 4013 and 4019, any motion as defined by Pa. R.Civ.P. 208.1 shall be presented in Motion Court

which shall be held daily by the designated Motions Court judge on Monday through Friday at 9:00 a.m. and by the Court en banc on the last Friday of the month at 9:30 a.m. Counsel and pro se litigants who desire to make motions or to present petitions at Motion Court shall write their names legibly in the motion book maintained for such purposes. Unless otherwise directed by the Motions Court judge, all motions shall be heard in order in which the names appear in the motion book. Motion court involving domestic relations and orphans' court matters shall be held by judges assigned to the family court division and the orphans' court division at the times and on the days designated by the Court Administrator. Whenever practicable, emergency motions shall likewise be presented in Motion Court pursuant to Lacka. Co. R.C.P. 208.3(a). In the event that an emergency motion cannot be presented in Motion Court, the party or counsel presenting an emergency motion shall submit the motion to the Court Administrator who will assign the emergency motion to an available judge under Pa. R.Civ.P. 249 for disposition. The Motions Court judge may dispose of the motion at the time of initial consideration or may defer any ruling and, in the interim, either (i) set forth procedures for disposition of the motion pursuant to Pa. R.Civ.P. 208.4(a)(2) or (b)(1), or (ii) direct the parties to proceed under Lacka. Co. R.C.P. 211.

**Rule 210. Submission and Form of Briefs.**

(a) A copy of any brief which is submitted to the court or to any judge of the court shall be filed to the docket number of the case to which the brief pertains in the office of the Clerk of Judicial Records.

(b) All briefs shall be typewritten and printed or otherwise duplicated on 8 ½ by 11 paper and shall be endorsed with the name of the case, the court, the docket number of the case, and the name and address of the attorney filing same. Briefs shall contain an accurate citation to all official authorities relied upon, and shall contain a photo copy of any unofficial authority or any authority not found within the Lackawanna County Law Library. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and an argument. The brief of each party, if more than fifteen pages in length, shall contain an index and table of citations of the cases, statutes and other authorities referred to within the brief, with references to the pages at which they are cited.

**Rule 210.1 Transcription Required for Argument.**

(a) If in the opinion of counsel for any party a transcription of the testimony or of a prior court proceeding is necessary for the just disposition of a matter to be argued to the court or to an individual judge of the court, that counsel shall serve upon the office of the court reporters and upon all other parties to the action a written notification that such transcription shall be required. Such notice shall be provided as soon as practicable and, in any event, not later than five (5) days after the filing of motion or petition which is to be argued. Said notice shall contain:

- (1) the full caption of the case;
- (2) the date(s) of the proceeding(s) for which a transcription is deemed necessary;
- (3) the type of proceeding for which the transcription is deemed necessary; and
- (4) the date on which the transcription is required, which date should be no later than seven (7) days prior to the scheduled date of argument.

(b) As soon as can be determined after receipt of the notice required by paragraph (a), the office of the court reporters shall advise all parties and the court of the approximate date on which said transcription shall be available, so that the parties and the court can consider alternative argument dates if such appears necessary or desirable.

**Rule 211. Disposition of Motions and Petitions.**

(a) To assign a motion or petition to a judge for disposition or to schedule a motion or petition for argument where a rule returnable does not set a schedule, a party shall file with the Clerk of Judicial Records and the Court Administrator a Praeceptum for Assignment. See Appendix, Form 2.

(b) Prior to filing a Praeceptum of Assignment, the moving or petitioning party shall contact counsel

for all other parties of record to determine whether an opposing party or lawyer wishes to present oral argument. The moving or petitioning party shall indicate on the Praeceptum for Assignment whether the matter is being submitted on briefs and without the necessity of oral argument or is to be scheduled for argument by the Court Administrator. No Praeceptum for Assignment will be accepted by the Clerk of Judicial Records or the Court Administrator unless the moving or petitioning party has indicated in writing whether the matter is to be submitted on briefs or scheduled for oral argument.

(c) The Court Administrator shall assign motions and petitions to the judges of the court on a rotating basis and shall establish a briefing schedule for the parties.

(d) The original of a party's brief shall be filed with the Clerk of Judicial Records and copies shall be provided to the assigned judge and all opposing counsel in accordance with the schedule set by the Court Administrator.

(e) If the moving or petitioning party fails to timely file and serve a brief, or fails to appear at oral argument, if requested, the matter may be dismissed by the court as of course. The judge to whom the matter has been assigned may grant additional time for the filing of briefs or may require supplemental briefing by the parties.

(f) If any party other than the moving or petitioning party fails to timely file and serve a brief, that party may be deemed not to oppose the motion or petition and may not be allowed to present oral argument.

(g) No case listed for argument will be continued except for good cause shown to the satisfaction of the court.

#### **Rule 212. Pre-Trial Procedure and Settlement Conference.**

It is the intent of this rule that, in all civil actions, a pre-trial proceeding may be instituted at various states for specific purposes.

(a) Prior to Filing of Certificate of Readiness.

After a complaint alone has been filed or after a complaint and answer have been filed all parties may request a preliminary pre-trial settlement conference if it is the consensus of the parties that the case may be settled as a result of such a conference, and it is the intention of the parties to avoid ordinary pre-trial procedures leading to the filing of a certificate of readiness. The parties may request such a settlement conference by submitting a written request to the Court Administrator who shall assign it to the Settlement Master for a settlement conference. In addition, any judge may direct the Court Administrator to assign a particular case to the Settlement Master for a pre-trial settlement conference, or may issue an order directing the parties in a case to participate in a pre-trial settlement conference before the Settlement Master. The Settlement Master may require the parties to submit pre-trial settlement conference statements in advance of the pre-trial settlement conference. See Appendix, Form 3.

(b) After filing Certificate of Readiness.

Upon the filing of a Certificate of Readiness, the Court Administrator shall assign a case to an individual judge to conduct a status conference, schedule a pre-trial conference and establish a date for trial.

(c) If the court determines at the time of the status conference that a party has not fully complied with Lacka. Co. R.C.P. 214(b), the court may strike the original certificate of readiness and remove the case from the judge's individual calendar or may take such other action as it deems appropriate under the circumstances. At the status conference, the court will schedule the pre-trial conference and trial date. In addition, the court may direct the parties to participate in a settlement conference before the Settlement Master. The Settlement Master may require the parties to submit pre-trial settlement conference statements in advance of the settlement conference.

(d) For the pre-trial conference, each party shall submit to the court and serve on all other parties at least seven (7) days prior to the scheduled time of the conference, a pre-trial statement substantially in the form set forth in Plaintiff/Defendant Pre-Trial Conference Statement or such other form as shall be required by the assigned judge. See Appendix, Form 4. The court may in its discretion require the parties

to submit a pre-trial order in the format contained in former Lacka. Co. R.C.P. 212.1. See Appendix, Form 5.

(e) Except for good cause shown, trial counsel with complete settlement authority must attend the pre-trial conference in person. The designated representative for the plaintiff and defendant, including duly authorized representatives of the primary and excess liability insurers and statutorily created funds, must be available by telephone during the entire course of the pre-trial conference. The court may in its discretion order the designated representatives for the plaintiff and the defendant and the duly authorized representatives of the primary and excess liability insurers and statutorily created funds to attend the pre-trial conference in person. To ensure that full settlement authority has been secured by the date of the pre-trial conference, the primary and excess liability insurers and statutorily created funds are required to have the matter at issue investigated, evaluated and reviewed by all necessary representatives and committees prior to the date of the pre-trial conference.

(f) At some time prior to the filing of Plaintiff/Defendant Pre-Trial Statement, all parties shall confer to discuss settlement. It shall be the responsibility of the plaintiff to schedule the conference required by this subparagraph. The parties shall certify in writing in their pre-trial statements that such a settlement conference was held and shall identify the date of the conference, the individuals who participated and the results of the conference.

(g) If a party or counsel fails to attend the pre-trial conference or fails to participate in a settlement conference pursuant to Lacka. Co. R.C.P. 212 (f), the court may make such order or impose such sanctions as it deems proper under the circumstances.

#### **Rule 212.2. Miscellaneous Instructions Pertaining to Trial.**

(a) In all non-jury trials, the appropriate waiver of a jury trial shall be executed and filed no later than the day trial commences.

(b) In all jury trials, requests for instructions to the jury, together with citations to legal authorities in support thereof, proposed voir dire questions, and jury interrogatories shall be submitted in duplicate at chambers. Such materials shall be filed when the judge may direct but in the absence of any specific direction, not later than the day when trial commences.

(c) Except upon stipulation of affected counsel or by order of the judge, no statement contained in preliminary pre-trial memoranda or the pre-trial order shall be made the subject of comment to the jury by any party at the trial of the case.

(d) Any counsel needing special equipment, device, personnel, or courtroom arrangements shall be responsible for assuring that such items are available at the time they are needed. Personnel assigned to the judge shall not be expected or depended upon to provide service for any party or counsel in the absence of a notation contained in the final pre-trial order.

#### **Rule 212.6. Special Trial Masters.**

##### **A. Appointment and Authority of Special Trial Masters.**

1. The Civil Rules Committee of the Lackawanna County Bar Association shall recommend to the President Judge five (5) members of the Association with substantial trial experience to serve as a Screening Committee to review the qualifications and experience of volunteers from the Association to serve, *pro bono*, as Special Trial Masters.
2. The Screening Committee, upon approval by the President Judge, shall review submission of applications, resumes and other documentation from volunteers willing to serve, *pro bono*, as Special Trial Masters and make recommendations to the President Judge of persons to serve as Special Trial Masters. Persons recommended shall have been admitted to the practice of law for no less than (10) years.
3. The President Judge shall, from the recommendations, appoint persons to be Special Trial Masters. A list of appointees shall be maintained in computerized form by the Court Administrator from which one, as needed, shall be randomly selected by computer to serve in a case.

- B. Consent to Proceed by and Procedure to Finalize Special Trial Master.
1. Where all parties agree to submit a case to a Special Trial Master, each party shall consent to doing so in writing which shall be filed of record and a copy provided to the Court Administrator.
  2. When all parties have consented to proceeding with a Special Trial Master and have submitted the consent form to the Court Administrator, the Administrator shall, by computerized random selection, select a Special Trial Master for that case.
  3. The plaintiffs, collectively, and the defendants, collectively, shall each have one (1) peremptory challenge to a selected Trial Master which they may or may not choose to exercise.
  4. On notice of selection and being provided with the identity of all parties and counsel in the case, the selected Trial Master shall, within five (5) days, notify the Court Administrator of his/her acceptance of the case or his/her recusal from it. If recusal occurs, the Administrator shall select a different Trial Master until acceptance occurs.
  5. Prior to the expiration of the period for the exercise of peremptory challenges, any selected Trial Master and all parties and their counsel shall have a duty to disclose to the Trial Master and all parties and all counsel the facts and circumstances which give rise to any potential conflict.
  6. Once a Trial Master accepts a case, the plaintiffs collectively and the defendants collectively shall, within five (5) days of notification of the selection of the Master, notify the Court Administrator of the exercise of a peremptory challenge. After five (5) days and not prior to the expiration of the five (5) day period, the Court Administrator shall notify the parties if any challenge has been made and, if so, the identity of a different randomly selected Trial Master. If both plaintiffs and the defendants have exercised their peremptory challenge, no further challenge is permitted and the next selected Trial Master shall try the case. Once a Trial Master is finally determined, the case shall proceed before that Trial Master.
  7. Special Trial Masters shall conduct all pre-trial and trial proceedings in accordance with the Pennsylvania Rules of Civil Procedure and the Practice and Procedure Rules of Lackawanna County.
  8. Post-trial Motions. In the event that a trial is conducted before a Special Trial Master, any and all post-trial motions timely filed following such a proceeding shall be ruled upon by the Special Trial Master in the form of a Report and Recommendation to the assigned Trial Judge. The assigned Trial Judge will approve or reject the Report and Recommendation. Rulings on Post-trial Motions shall not be deemed final until acted upon by the assigned Trial Judge.

**Rule 213. Motions for Consolidation or Severance of Actions and Issues.**

A motion to consolidate or sever actions or issues pursuant to Pa. R.Civ.P. 213 shall be made in accordance with Lacka. Co. R.C.P. 208.3.

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

(a) The Court Administrator shall assign a case for hearing or trial upon the filing of a Certificate of Readiness in the form attached to the Appendix of these Local Rules as Form 7. The Certificate of Readiness should identify the judge who has decided any case dispositive motion under Lacka. Co. R.C.P. 1028, 1034, or 1035.2, and whenever practicable, the Court Administrator shall assign the case for hearing or trial to the judge who has decided that case dispositive motion.

(b) No Certificate of Readiness may be filed until all discovery in the case has been completed and all depositions for use at trial have been scheduled or completed, nor may a Certificate of Readiness be filed if any case dispositive motion is pending for disposition by the court. The filing of a Certificate

of Readiness shall constitute a verification that no case dispositive motions are pending nor does any party or attorney contemplate filing such a case dispositive motion.

(c) No Party or lawyer may file more than one Certificate of Readiness on any single day.

(d) At least fifteen (15) days prior to the filing of a Certificate of Readiness, the party or lawyer seeking to certify the case for trial must advise all counsel of record and self-represented parties of the intention to file a Certificate of Readiness. If no counsel or party objects to the filing of a Certificate of Readiness within that fifteen (15) day period, the Certificate of Readiness may be filed as provided by paragraphs (b) and (c) above. In the event that an attorney or party objects to the filing of a Certificate of Readiness, and the attorney or 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 attorney or party seeking to certify the case for trial shall present a motion to the Motion Court judge pursuant to Lacka. Co. R.C.P. 208.3(a) requesting leave of court to file a Certificate of Readiness over the objection of the opposing party or counsel.

#### **Rule 214.1. Hearing and Trial Terms.**

(a) The judicial calendar of the court shall establish hearing and trial terms each year for the conducting of arbitration hearings, equity and non-jury trials, jury trials, and protracted case trials.

(b) While the composition of the judicial calendar may vary and should therefore be consulted, generally the court schedules terms as follows:

- (1) arbitration hearings—to be scheduled by the Court Administrator’s office;
- (2) equity and non-jury trials—one week each month every month, except July and August;
- (3) jury trials—three weeks each month every month, except July and August.

#### **Rule 214.3. Notice of Hearing or Trial.**

(a) Notice of trial in a jury case will be provided by the judge to whom the case has been assigned for trial.

(b) Notice of hearing in arbitration cases will be provided by the Court Administrator by mail to all counsel of record and pro se parties.

#### **Rule 216. Application for Continuance.**

(a) An application for continuance of a hearing or trial must be submitted to the assigned judge at least seven (7) days before the first day of the hearing or trial term for which the case is listed.

(b) The grounds for continuance shall be those set forth in Pa. R.Civ.P. 216.

(c) The grant or denial of an application for continuance shall be in the discretion of the judge giving due consideration to the timeliness of the application, any prejudice to the opposing party or counsel, the reasons offered for the continuance, and any other factors deemed relevant by the judge.

#### **Rule 223. Civil Trials.**

(a) Schedule of Commencement of Trial.

During a trial session, cases shall be called for trial in the order in which they were scheduled for trial by the assigned judge.

(b) Openings and Closings.

The opening addresses and closing arguments of counsel engaged in trial shall be in accordance with the following principles:

(1) Unless the trial judge shall otherwise direct, only one attorney may present an opening address or a closing argument for any party;

(2) Opening remarks shall consist only of a succinct statement, without argument of the positions and contentions of the party represented by the speaker and a brief recital of the evidence intended to be introduced in support of the same;

(3) Counsel for the party having the affirmative of the issue on the pleadings shall open the case and shall be followed by opposing counsel, and by third parties, in order in which each appears in the caption of the action;

(4) Counsel for the defendant or any third party defendant may elect to make the opening address prior to the taking of any testimony or immediately prior to the presentation of evidence by the defense, unless the trial judge in a particular case required such opening addresses by the defense counsel to be made at a particular time;

(5) At the conclusion of the evidence, closing arguments shall be presented by counsel in the reverse order in which counsel was entitled to open under subparagraph (3), so that counsel for the party having the affirmative of the issue shall close last;

(6) In actions involving more than one plaintiff, defendant, or third party defendant, not covered under subparagraph (3), if the attorneys are unable to agree, the trial judge shall determine the order of presentation of the opening addresses and closing arguments.

(c) Conduct of Trial.

The party calling a witness shall, upon motion of another party or when required to do so by the court, state briefly the matter proposed to be established by the testimony of that witness and the legal purpose for presenting such evidence. The entire examination of a witness shall be conducted by only one attorney for each party unless otherwise permitted by the trial judge.

**Rule 223.1. Trial Briefs.**

Prior to the commencement of trial, counsel shall furnish the court a trial brief which shall contain a succinct statement of evidence to be presented, the position of the party filing the same with respect to anticipated legal issues to be encountered, and citation of legal authorities relied upon to support the legal positions of the party and to support any requests for rulings which the party anticipates seeking from the court.

**Rule 223.2. Additional Submission for Non-Jury Trials.**

In all civil actions tried by a judge without a jury, counsel for the respective parties shall each present to the trial judge requests for findings of fact and conclusions of law. These requests shall be filed with the Clerk of Judicial Records and shall thereby become part of the record of the court in the case.

**Rule 226. Points for Charge and Jury Interrogatories.**

Points upon which the trial judge is requested to charge the jury in civil litigation shall not exceed twelve (12) in number without leave of court. Points to be requested shall be framed so that each constitutes a single request which may be completely answered by a single affirmation or negation. Counsel for each party shall furnish that party's requested points for charge to the judge and to opposing counsel at the beginning of the trial unless otherwise allowed or directed by the court. Such requests may be supplemented for matters arising during the trial or directed by the court. Such requests may be supplemented for matters arising during the trial that could not have been reasonably anticipated at the beginning of the party's case in chief.

For each requested point for charge, counsel shall cite the legal authority as the basis for which that particular point is requested which citation shall be made immediately following the particular request to which it applies.

Any special interrogatories which are to be requested shall also be framed so that each constitutes a single request which may be answered by simple affirmation or negation.

**Rule 227.1. Post-Trial Motions in Jury Trials.**

(a) All post-trial motions after trial pursuant to Pa. R.Civ.P. 227.1 shall be filed within ten days after nonsuit or verdict or disagreement of the jury.

(b) All post-trial motions must be written and the movant and respondent of each post-trial motion shall serve copies of each document which they file with reference to any such motion upon the

trial judge and all other parties. Such service shall be made prior to or immediately after the time the document is filed in the office of the Clerk of Judicial Records.

(c) All motions of the type set forth in paragraph (a) above shall contain specific references to the alleged errors which form the basis of the motion. A post-trial motion will be dismissed as of course as dilatory and in needless expense to the county and to the litigants if the reason set forth are mere conclusions, are captious, or are not supported by the record.

(d) Whenever a post-trial motion is based upon matters not appearing of record, it shall be made in the form of a petition for rule to show cause and shall be supported by affidavits or depositions upon argument thereof.

(e) A motion for a new trial on the ground of after-discovered evidence must be made on petition, verified by affidavit, setting forth the names of the witnesses or sources of evidence which have been discovered, a reasonable expectation as to what is to be proved by such evidence, and an assertion that the movant did not know of the evidence before or during the trial. In the event that the rule to show cause is granted, all of the foregoing matters shall be established by deposition or by testimony presented in court at the time that the motion is considered.

(f) Unless for good cause shown the court orders otherwise, post-trial motions may be decided without the transcript of testimony having been prepared.

(g) Where it is determined that a transcript or portion thereof is necessary, counsel shall have as a matter of right ten additional days to submit additional allegations of error following receipt of the transcript.

**Rule 229. Discontinuance.**

Leave of court is required for a plaintiff to discontinue an action as to less than all defendants. Such leave of court shall be sought by petition and rule to show cause.

**Rule 230.2 Termination of Inactive Cases.**

The termination of inactive cases in which there has been no activity of record for two years or more shall be governed by the procedure set forth in Pa. R.Civ.P. 230.2 (effective July 1, 2003).

**Rule 238. Notice of Settlement Offer.**

Each settlement offer made pursuant to Pa. R.Civ.P. 238(b) and each response given to such offer shall be in writing and dated.

**Rule 240. Proceeding in Forma Pauperis in Civil Cases.**

(a) Any party who is represented by counsel who certifies on the application or by separate document that the plaintiff is indigent, or any party who is represented by court-appointed counsel or by counsel furnished from the non-profit legal services organizations providing free legal services to the indigent, may apply to the court for leave to proceed *in forma pauperis*.

(b) If the party is represented by an attorney, The Clerk of Judicial Records shall allow the party to proceed *in forma pauperis* upon the filing of a praecipe in the form prescribed by Pa. R.Civ.P. 240(d)(1) and (i). In all other cases, the parties seeking to proceed in forma pauperis shall file a petition and an affidavit in the form prescribed by Pa. R.Civ.P.240(c) and (h).

(c) Parties eligible to apply for leave to proceed *in forma pauperis*, as set forth in subsection (a) above, may also apply to the court for relief from payment of special or unusual expenses, i.e., those costs not related to filing and service of process.

(d) The right to apply for leave to proceed *in forma pauperis* shall likewise be available to parties in any civil action commenced before the minor judiciary. Applications in such cases shall be brought to the presiding District Justice for disposition in the manner set forth in subparagraph (a) above.



**Rule 248. Modification of Time.**

The time prescribed by any rule herein for the doing of any act may be extended or shortened by written agreement of the parties or by order of court.

**Rule 250. Scope of Chapter.**

(a) The rules contained within this chapter entitled “Practice and Procedure Generally” shall apply to all civil actions and proceedings unless otherwise designated in a particular rule and as limited by subsection (b) below.

(b) The rules contained within this chapter shall apply to class actions only to the extent that they do not conflict with Pa. R.Civ.P. 1701-1716, Lacka. Co. R.C.P. 1703-1713, and such other rules as may be promulgated by the court with respect to class actions.

**Rule 250.1 Suspension of Rules.**

The court may suspend one or more of these rules in individual cases by written order. When a judge of this court issues any order in specific case which is not consistent with these rules, such order shall constitute a suspension of these rules for such case only and only to the extent that it is inconsistent.

**Rule 261. Court Records.**

(a) The Clerk of Judicial Records shall endorse upon all papers filed the date and time of filing the same. No parol evidence shall be received to contradict such endorsement, unless upon an allegation, verified by affidavit, of fraud or mistake.

(b) No person other than the Clerk of Judicial Records or his or her deputy or designee shall make any entry upon the docket or records of the court.

(c) The Clerk of Judicial Records shall allow no papers to be taken from his or her office, except when specially allowed by the court or one of the judges thereof, unless the same be called for trial or a hearing before a referee, board of arbitrators, auditor, or master, and then only upon receipt of the person or persons authorized to take such records.

(d) In cases where tax or municipal liens shall be divested without having been paid in full, by reasons of any order of this court or of the United States Court in Bankruptcy, either by compromising said liens or directing the sale of the liened premises free and clear of such liens which filed the lien, enter upon the records of each lien thus divested in the municipal lien docket and judgment index an annotation to the effect that the lien has been divested under order of court, making specific reference to the number of term of this court or to the number and bankruptcy court under which the lien was divested.

**Rule 262. Court Records (Transcripts).**

In order to implement Supreme Court Order No. 35 and subject to Lacka. Co. R.C.P. 261, counsel shall not be permitted to take any court records out of the office of the Clerk of Judicial Records, by order of court or otherwise, for the purpose of photocopying transcripts.

Only in an emergency situation may counsel be permitted to photocopy a transcript, but the court reporter still must be paid the copy rate since counsel is not entitled to a free transcript indirectly off the court reporter’s services and since counsel cannot receive a free transcript directly from the reporter.

**Rule 263. Ordering of Transcripts.**

Counsel for the moving party shall serve a formal request for transcript on the court stenographer. The court stenographer will then provide counsel for the moving party with an estimate of the transcript fee for an original and one copy. Upon receipt of at least one half of said transcript fee, transcription will commence. However, filing of the original transcript deliver of a copy to counsel shall not be made until full payment is made.

Delivery of copies ordered by opposing counsel will be made only after the moving party has made full payment for the original and one copy and payment in full is made by opposing counsel for any copies so ordered.

**Rule 275. Costs.**

(a) Taxation of Bill of Costs.

A bill of costs, accompanied by an affidavit of their correctness and the necessity for the number of witnesses in attendance, shall be taxed by the Clerk of Judicial Records.

(b) Notice.

Any party requesting taxation of costs by the Clerk of Judicial Records shall give the Clerk and all other parties ten (10) days written notice of such request. The Clerk shall fix the time for taxation and notify the parties or their counsel.

(c) Exceptions.

Any party desiring to challenge the correctness of a bill of costs may do so by filing with the Clerk of Judicial Records within ten (10) days after service of the bill of costs written exceptions thereto, accompanied by an affidavit attesting to the truth of the facts asserted within the exceptions. Exceptions to a bill of costs shall particularize the items objected to in detail unless the exceptions are to the whole bill for any particular reason.

(d) Clerk’s taxation.

The clerk of Judicial Records shall tax the costs upon consideration of the bill of costs and any exceptions presented thereto, which taxation shall be subject to appeal to the court.

(e) Appeal.

An appeal taken to the court from the Clerk of Judicial Records’ taxation of a bill of costs must be taken within thirty (30) days from the date of filing of the Clerk’s taxation.

(f) Security for Costs.

The defendant in any case, upon entering an appearance or upon filing a responsive pleading, may petition for a rule on plaintiff to give security for costs. Such petition and rule shall be in accordance with Lacka. Co. R.C.P. 206.1(a) and/or Lacka. Co. R.C.P. 206.4(c).

**Rule 290. Appellate Court Filing Fees.**

When an appeal is brought by filing a notice of appeal in the office of the Clerk of Judicial Records and for which a filing fee is required by the Court of Common Pleas of Lackawanna County and an additional filing fee is required by the appellate court to be collected by the Clerk of Judicial Records of Lackawanna County, such appellate court filing fee shall be paid a separate check or money order made payable to the prothonotary of the appellate court involved. It shall be the obligation of the Clerk of Judicial Records to forward said filing fee to the appellate court, consistent with the Pennsylvania Rules of Appellate Procedure.

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

**Rule 400.1. Notice to Serve.**

(a) Any document or process issued out of the office of the Clerk of Judicial Records, other than a complaint, shall contain a notice to serve directed to the sheriff of the appropriate county to serve the process on or before a day certain, which shall be not less than five days in advance of any return date set with respect to the process, or to otherwise return the process marked “Not Found.”

(b) The form of such notice to serve will read:

TO THE SHERIFF of \_\_\_\_\_ COUNTY:

You are hereby authorized and directed to effect service of the within process on or before

\_\_\_\_\_.

If you are unable to do so, return said process marked “Not Found” with reasons therefore.

\_\_\_\_\_  
Attorney for

**Rule 430. Service by Publication in Actions in Ejectment.**

Service upon a defendant by publication in an action in ejectment shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County, a notice which shall be substantially in the following form:

Commonwealth of Pennsylvania  
County of Lackawanna

(CASE CAPTION)

To \_\_\_\_\_  
(Name of defendant)

You are notified that \_\_\_\_\_  
(Name of Plaintiff)

the plaintiff, has commenced an action in ejectment against you, which you are required to defend, to recover possession of land described as follows:

NOTICE

If you wish to defend you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

(Offices to be listed are set forth in Lacka. Co. R.C.P. 1018.1)

\_\_\_\_\_  
(Attorney for plaintiff)

\_\_\_\_\_  
(Address of Attorney for plaintiff)

(b) When service is to be made by the publication in accordance with subsection (a) above, if an affidavit is filed that the heirs and assigns of the named former owner of the property are unknown, the publication shall be directed for the former owner and his heirs and assigns generally.

**Rule 430.2 Service by Publication in Actions in Replevin.**

(a) Service upon a defendant by publication in an action in replevin shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation in Lackawanna County a notice which shall be substantial in the following form:

Commonwealth of Pennsylvania  
County of Lackawanna

(CASE CAPTION)

To: \_\_\_\_\_  
(Name of defendant)

You are notified that \_\_\_\_\_ has  
(Name of plaintiff)  
commenced an action in replevin, which you are required to defend, and in which the following property  
may be seized:

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your  
defenses or objections in writing with the court. You are warned that if you fail to do so the case may  
proceed without you and a judgment may be entered against you without further notice of the relief  
requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT  
HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET  
FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in Lacka. Co. R.C.P. 1018.1)

\_\_\_\_\_  
(Attorney for plaintiff)

\_\_\_\_\_  
(Address of Attorney for plaintiff)

(b) When service is to be made by publication in accordance with subsection (a) above, if an  
affidavit is filed that the heirs and assigns of a named former owner of the property are unknown, the  
publication shall be directed to the former owner and his heirs and assigns generally.

**Rule 430.3. Service by Publication in Action Requesting Equitable Relief.**

(a) Service upon a defendant by publication in an action seeking equitable relief shall be made by  
publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within  
Lackawanna County a notice which shall be substantially in the following form.

Commonwealth of Pennsylvania  
County of Lackawanna

(CASE CAPTION)

To: \_\_\_\_\_  
(Name of defendant)

You are notified that \_\_\_\_\_ has  
(Name of plaintiff)  
commenced an action in equity against you which you are required to defend.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your  
defenses or objections in writing with the court. You are warned that if you fail to do so the case may  
proceed without you and a judgment may be entered against you without further notice of the relief  
requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

(Offices to be listed are set forth in Lacka. Co. R.C.P. 1018.1)

\_\_\_\_\_  
(Attorney for plaintiff)

\_\_\_\_\_  
(Address of Attorney for plaintiff)

(b) When service is made by publication upon the heirs and assigns of a named former owner or party in interest and said heirs and assigns are unknown, the publication shall be directed to the heirs and assigns generally if within the complaint or by separate affidavit it is stated that the heirs and assigns are unknown.

**Rule 430.4. Service by Publication for the Enforcement of Judgments for Payment of Money.**

When service by publication may be had under Pa. R.Civ.P. 3112(c), the plaintiff may cause service to be made by publication once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation in Lackawanna County a notice which shall be in substantially the following form:

Commonwealth of Pennsylvania  
County of Lackawanna

(CASE CAPTION)

NOTICE IS HEREBY GIVEN TO \_\_\_\_\_ that on \_\_\_\_\_  
\_\_\_\_\_ a writ of execution issued against real property of  
(date)

\_\_\_\_\_ held in your name and described as follows:

(In addition to the description, see Lacka. R.C.P. 3129.1)

Said writ issued on judgment No. \_\_\_\_\_, 20\_\_.

You are directed to notify \_\_\_\_\_ that the plaintiff issued an attachment execution against you which \_\_\_\_\_ is/are required to defend.

**Rule 430.5. Service by Publication of Actions Pursuant to 41 P.S. Section 407.**

Service upon a defendant by publication of actions commenced in accordance with the requirements of Section 407 of Act. No. 6 of 1974, 41 P.S. Section 407, when authorized pursuant to Pa. R.Civ.P. 430, shall be made by publishing once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County a notice which shall be substantially in the following form:

Commonwealth of Pennsylvania  
County of Lackawanna

(CASE CAPTION)

To \_\_\_\_\_  
(Name of defendant)

You are notified that \_\_\_\_\_  
(Name of plaintiff)

has commenced an action to execute on residential real property pursuant to a judgment entered by confession in the Court of Common Pleas of Lackawanna County, which judgment is entered by docket number \_\_\_\_\_20\_\_.

You are required to defend this action, which seeks to obtain possession of real estate which you own or in which you reside, which real estate is located at

---

(Street Address)

---

(City and State)

as is described as follows:

(In addition to the description, see Lacka. Co. R.C.P. 3129.1)

#### NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file our defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

(Offices to be listed are set forth in Lacka. Co. R.C.P. 1018.1)

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(Attorney for plaintiff)

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(Address of Attorney for plaintiff)

#### **Rule 440. Service of Legal Papers Other Than Original Process.**

(a) Service.

Unless otherwise provided by statute or by rule of the Supreme Court of Pennsylvania or of this court, a copy of all pleadings, petitions, motions, rules, answers to rules to show cause, notices, or other papers required to be serviced on another party shall be served in the manner provided by Pa. R.Civ.P. 440 or 441 or as otherwise directed by order of this court within five (5) days from the filing thereof. If timely service is not effective in accordance with this rule, the legal paper shall be considered void and of no effect. Upon affidavit filed setting forth such failure of timely service, the party upon whom the paper should have been served may proceed as though said legal paper had never been filed.

(b) Certificate of Service.

The party serving the paper(s) shall file in the office of the Clerk of Judicial Records a certificate or affidavit of showing the date, manner of service, and person upon whom service was made. Such certificate or affidavit of service shall be filed immediately upon effecting service, and a copy of same shall be served on all parties.

(c) Service by Publication.

Unless otherwise specifically provided by statute, court rule, or order of court, whenever service by publication may be made pursuant to Pa. R.Civ.P. 430, said service shall be accomplished by publication once in the "Lackawanna Jurist" and once in a daily newspaper of general circulation within Lackawanna County. Such publication is to be made in such a manner that the person so served thereby shall have at least five (5) days after publication to answer the legal paper which is served in that fashion.

## **ACTIONS AT LAW**

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

The agencies to be designated on the notice to defendant which is required by Pa. R.Civ.P. 1018.1 to appear in every complaint filed in the Court of Common Pleas of Lackawanna County by a plaintiff or by a defendant against an additional defendant shall be as follows:

Northeastern Pennsylvania Legal Services  
33 N. Main Street, Suite 200  
Pittston, PA 18640  
Telephone (570) 299-4100

### **Rule 1019. Contents of Pleadings, General and Specific Averments.**

Whenever any right, claim, or defense is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation, Pennsylvania Rule of Civil Procedure, or rule herein, the first pleading in which such right, claim, or defense is asserted shall cite for the information of the court the statute, ordinance, regulations, or rule so relied upon.

### **Rule 1021. Claims for Relief-Accounting.**

#### (a) Time for filing Account.

When a judgment has been entered directing the defendant to account to the plaintiff, the defendant shall, within thirty (30) days, unless the court shall for cause shown allow a longer time, state the account and file the statement thereof in the office of the Clerk of Judicial Records, and shall at the same time serve a copy of said account upon all adverse parties to whom the defendant has been ordered to account.

#### (b) Exceptions.

Within thirty (30) days after such notification, any adverse party who has received the accounting, if dissatisfied with the statement of account filed by the defendant, shall file exceptions thereto and move for the appointment of an auditor to hear and report upon the questions of fact and law raised by the exceptions.

#### (c) Failure to File Account.

If the defendant shall for any reason fail to file a statement of account within (30) days or such longer period as the court may fix, the court shall, on motion of an adverse party to whom the defendant has been ordered to account, appoint an auditor to state the account between the parties upon the basis of such evidence as may be submitted to the auditor.

#### (d) Auditor's Report Exceptions.

The auditor shall give two weeks notice in writing to the parties on their attorneys of record of the time and place fixed for the hearing on the matter. When the auditor has prepared his report, notice that it is ready for filing shall be given to the parties or their attorneys. Exceptions thereto must be filed with the auditor within ten (10) days after such notice has been received. If exceptions are filed, the auditor shall, with his report as originally prepared, report supplementally on the exceptions. When the auditor's report has been filed, the court, after hearing argument on the exceptions thereto, will enter such order for judgment as the case may require.

### **Rule 1021.1. Claim for Relief.**

In actions for injury to persons or property where some or all of the damages are not liquidated, the claims for relief in the complaint, in specifying the amounts of damages to which the party deems himself entitled, shall state only that said damages are in excess of, or not in excess of the amount below which cases are required to be presented to arbitration.

**Rule 1028(c). Preliminary Objections.**

A party filing preliminary objections shall file the original preliminary objections with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co. R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co. R.C.P. 211(b) prior to filing the praecipe for assignment. The filing of briefs, assignment of preliminary objections, and scheduling of oral argument, if necessary, shall be governed by Lacka. Co. R.C.P. 211(c)-(g).

**Rule 1033. Amendments to Pleadings.**

When an amendment to a pleading is allowed or is made prior to trial, the whole pleadings, as amended, shall be executed, verified, and filed, provided that, exhibits attached to prior pleadings need not be recopied into the amended pleadings.

Amendments to pleadings allowed at the trial need not be executed, verified, and filed if the amendment is made a part of the trial record.

**Rule 1034. Motion for Judgment on the Pleadings.**

(a) A party filing a motion for judgment on the pleadings shall file the original motion for judgment on the pleadings with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co. R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co. R.C.P. 211(b) prior to filing the praecipe for assignment. The filing of briefs, assignment of motion for judgment on the pleadings, and scheduling of oral argument, if necessary, shall be governed by Lacka. Co. R.C.P. 211 (c)-(g).

(b) As a condition precedent to the filing of a motion for judgment on the pleadings in a residential mortgage foreclosure action involving a residential property which serves as the primary residence of the defendant/borrower, the plaintiff/lender must serve upon the defendant/borrower a “Notice of Residential Mortgage Foreclosure Diversion Program” in the format set forth in Form 11 of the Appendix, unless such a Notice has already been served pursuant to Lacka. Co. R.C.P. 1143. Following the service of the “Notice of Residential Mortgage Foreclosure Diversion Program” in the format prescribed in Form 11 of the Appendix, all proceedings shall be stayed for a period of sixty (60) days in order to afford the defendant/borrower an opportunity to qualify for participation in a court-supervised conciliation conference under Lacka. Co. R.C.P. 1143.1. Upon the expiration of that stay period, the plaintiff/lender in such a residential mortgage foreclosure action may proceed to file a motion for judgment on the pleadings in compliance with Lacka. Co. R.C.P. 1034(a).

(c) If the defendant/borrower in a residential mortgage foreclosure action has taken the affirmative steps identified in the “Notice of Residential Mortgage Foreclosure Diversion Program” to be eligible to participate in a court-supervised conciliation conference under this Rule, the defendant/borrower shall file a Request for Conciliation Conference in the format set forth in Form 9 of the Appendix. The Request for Conciliation Conference shall be filed with the Clerk of Judicial Records within sixty (60) days of service of the Notice of Residential Mortgage Foreclosure Diversion 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 Court Administrator.

(d) Upon receipt of the Request for Conciliation Conference, the Court Administrator shall issue a Case Management Order (Form 10) as required by Lacka. Co. R.C.P. 1143.1(c). Conciliation conferences shall be scheduled and conducted in conformity with Lacka. Co. R.C.P. 1143.1(c)—(f).

**Rule 1035.2. Motion for Summary Judgment.**

(a) A party filing a motion for summary judgment shall file the original motion for summary judgment with the Clerk of Judicial Records and shall deliver a copy of the same to the Court Administrator together with a praecipe for assignment in accordance with Lacka. Co. R.C.P. 211. The party filing a praecipe for assignment shall comply with the requirements of Lacka. Co. R.C.P. 211(b)



prior to filing the praecipe for assignment. The filing of briefs, assignment of motion for summary judgment, and scheduling of oral argument, if necessary, shall be governed by Lacka. Co. R.C.P. 211 (c)-(g).

(b) As a condition precedent to the filing of a motion for summary judgment in a residential mortgage foreclosure action involving a residential property which serves as the primary residence of the defendant/borrower, the plaintiff/lender must serve upon the defendant/borrower a “Notice of Residential Mortgage Foreclosure Diversion Program” in the format set forth in Form 11 of the Appendix, unless such a Notice has already been served pursuant to Lacka. Co. R.C.P. 1143. Following the service of the “Notice of Residential Mortgage Foreclosure Diversion Program” in the format prescribed in Form 11 of the Appendix, all proceedings shall be stayed for a period of sixty (60) days in order to afford the defendant/borrower an opportunity to qualify for participation in a court-supervised conciliation conference under Lacka. Co. R.C.P. 1143.1. Upon the expiration of that stay period, the plaintiff/lender in such a residential mortgage foreclosure action may proceed to file a motion for summary judgment in compliance with Lacka. Co. R.C.P. 1035.2(a).

(c) If the defendant/borrower in a residential mortgage foreclosure action has taken the affirmative steps identified in the “Notice of Residential Mortgage Foreclosure Diversion Program” to be eligible to participate in a court-supervised conciliation conference under this Rule, the defendant/borrower shall file a Request for Conciliation Conference in the format set forth in Form 9 of the Appendix. The Request for Conciliation Conference shall be filed with the Clerk of Judicial Records within sixty (60) days of service of the Notice of Residential Mortgage Foreclosure Diversion 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 Court Administrator.

(d) Upon receipt of the Request for Conciliation Conference, the Court Administrator shall issue a Case Management Order (Form 10) as required by Lacka. Co. R.C.P. 1143.1(c). Conciliation conferences shall be scheduled and conducted in conformity with Lacka. Co. R.C.P. 1143.1 (c)—(f).

### **Rule 1037. Judgment Upon Default for Repair of Property.**

(a) In all actions in which the only damages to be assessed are the cost of repairs heretofore made to property, the plaintiff may seek judgment upon default assessing damages for the cost of repairs by filing, with a praecipe waiving any other damages under such judgment, the affidavits required by subsection (b) of this rule and, by sending to the defendant by registered mail directed to his or her last known address, a copy of the repair bill and the affidavit of the person who performed the repairs required by subsection (b) of this rule, together with a notice setting forth the date of the intended assessment of damages, which date shall be not less than ten (10) days from the date of mailing of the notice. Said notice shall contain a statement that damages will be assessed in the amount of the repair bill unless, prior to the date of intended assessment, the defendant files a written praecipe with the Clerk of Judicial Records requesting trial on the issue of such damages.

(b) Together with the praecipe waiving any damages other than the cost of repairs, the plaintiff shall file an affidavit indicating the date of the mailing to defendant of the notice of the intended assessment of damages and an affidavit of the person who performed the repairs containing an itemized repair bill setting forth the charges for labor and material used in the repair of the property and a statement indicating the qualifications of the person who made or supervised the repairs, that the repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged.

(c) If the defendant fails to file with the Clerk of Judicial Records prior to the date of intended assessment of damages a praecipe requesting a trial on the issue of such damages, the plaintiff on or after the date of intended assessment of damages may file a praecipe directing the Clerk of Judicial Records to enter judgment in plaintiff’s favor in the amount of the repair bill which the Clerk of Judicial Records shall promptly do.

(d) In the event that the defendant does file a praecipe requesting a trial on the issue of such damages, the case shall proceed as any civil action and shall be subject to arbitration if the amount in controversy is an amount requiring arbitration.

**Rule 1054. Abstracts of Title.**

Abstracts of title shall contain a specification of all facts or equitable matter on which the party relies, a reference to all records, an abstract thereof, and, as to deeds, mortgages, or contracts, shall give their date, the date of acknowledgement, and if recorded, when and where recorded.

**Rule 1075. Seizure of Property Before Judgment in Actions in Replevin.**

(a) A return of service required by Pa. R.Civ.P. 1075.1(d) or Pa. R.Civ.P. 1075.2(c), pertaining to service of motions for writ of seizure and notice of hearings made by one other than the sheriff, shall indicate the manner in which service was made and, if service was accomplished in a manner other than those provided in Pa. R.Civ.P. 402, the affidavit shall indicate why service could not be made in a manner indicated in that rule.

(b) A petition to vacate a writ of seizure as provided in Pa. R.Civ.P. 1075.1(g) shall be accompanied by a rule to show cause and shall follow the procedure set out in Lacka. Co. R.C.P. 206.

**Rule 1098. Peremptory Judgment in Actions in Mandamus.**

(a) A plaintiff in an action in mandamus seeking a peremptory judgment shall do so by motion and in compliance with the notice provision of Lacka. Co. R.C.P. 206.1(c), 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 the 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 must include a Civil Cover Sheet bearing the case code designation "RP/MF/RES" as required by Lacka. Co. R.C.P. 205.2(b). In addition to the Civil Cover Sheet bearing the case code designation "RP/MF/RES," the complaint shall include a "Notice of Residential Mortgage Foreclosure Diversion Program" in the format set forth in Form 8 of the Appendix. Service of the complaint in such a residential mortgage foreclosure action shall include the "Notice of Residential Mortgage Foreclosure Diversion 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 Lacka. Co. R.C.P. 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 Diversion Program" to be eligible to participate in a court-supervised conciliation conference under Lacka. Co. R.C.P. 1143.1, the defendant/borrower shall file a Request for Conciliation Conference in the format set forth in Form 9 of the Appendix. 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 Diversion 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 Court Administrator.

(c) Upon receipt of the Request for Conciliation Conference, the Court Administrator shall issue a Case Management Order (Form 10) as required by Lacka. Co. R.C.P. 1143.1(c). Conciliation Conferences shall be scheduled and conducted in conformity with Lacka. Co. R.C.P. 1143.1(c)—(f).

(d) Following the service of the “Notice of Residential Mortgage Foreclosure Diversion Program” (Form 8) in a residential mortgage foreclosure action bearing the case code designation “RP/MF/RES,” all proceedings shall be stayed for a period of sixty (60) days in order 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/borrower in all residential mortgage foreclosure actions in which the defendant/borrower: (i) has been served with a Notice of Residential Mortgage Foreclosure Diversion Program pursuant to Lacka. Co. R.C.P. 205.2(b), 1034(b), 1035.2(b), 1143(a) or 3129.1(c); (ii) has completed a financial worksheet in the format set forth in Form 14 of the Appendix in advance of the Conciliation Conference; and (iii) has filed and served a Request for Conciliation Conference. If the defendant/borrower in a residential mortgage foreclosure action has already participated in a conciliation conference, the plaintiff/lender or the defendant/borrower may request an additional conciliation conference for good cause shown by presenting a motion seeking the scheduling of a conciliation conference in accordance with Lacka. Co. R.C.P. 208.3(a).

(b) To be eligible to participate in a Conciliation Conference, a self-represented defendant/borrower who has been served with a Notice of Residential Mortgage Foreclosure Diversion Program under Lacka Co. R.C.P. 205.2(b), 1034(b), 1035.2(b), 1143(a) or 3129.1(c) must contact and meet with one of the housing counselors identified in the Notice, complete a financial worksheet (Form 14), and file the Request for Conciliation Conference form within the time deadlines set forth in the applicable Notice. If the defendant/borrower is represented by counsel, the defendant/borrower need not contact and meet with one of the identified housing counselors as a condition precedent to requesting a Conciliation Conference, provided that counsel for the defendant/borrower completes the prescribed financial worksheet (Form 14), and files the Request for Conciliation Conference form within the time deadlines set forth in the applicable Notice. In the event that the defendant/borrower has not been served with a Notice of Residential Mortgage Foreclosure Diversion Program pursuant to Lacka. Co. R.C.P. 205.2(b), 1034(b), 1035.2(b), 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 conference provided that the defendant/borrower completes a financial worksheet (Form 14), files a Request for Conciliation Conference form with the Clerk of Judicial Records and delivers a time-stamped copy to the Court Administrator.

(c) Upon receipt of a duly-filed Request for Conciliation Conference form, the Court Administrator shall issue a Case Management Order (Form 10) scheduling the matter for the next available Conciliation Conference list. The Case Management Order shall specify the date, time and place of the Conciliation Conference and shall be forwarded by the Court Administrator via ordinary mail to counsel for the parties and to any self-represented parties. At least fourteen (14) days prior to the date of the Conciliation Conference, the defendant/borrower must serve upon the plaintiff/lender or its counsel a copy of the “Lackawanna County Residential Mortgage Foreclosure Diversion Program Financial Worksheet” (Form 14) which has been completed by the defendant/borrower in compliance with Lacka. Co. R.C.P. 1143.1. The failure to do so will result in the removal of the case from the Conciliation Conference schedule and the termination of the temporary stay of proceedings under Lacka. Co. R.C.P. 1034(b), 1035.2(b), 1143(d) or 3129.1(e).

(d) Conciliation Conferences in residential mortgage foreclosure actions will be conducted in the Jury Orientation Lounge, 1<sup>st</sup> Floor, Lackawanna County Court House at 10:00 AM on the last Friday of each month. In the event that the last Friday of a month falls on a holiday, the Conciliation Conference will be conducted on the preceding Friday unless another date is fixed by the Case Management Order.

(e) Conciliation Conferences will be conducted by the presiding judge unless a Special Master or Judge Pro Tempore is appointed by the Court to conduct the Conciliation Conference. The defendant/borrower and counsel for the parties must attend the Conciliation Conference in person and an

authorized representative of the plaintiff/lender must either attend the Conciliation Conference in person or be available by telephone during the course of 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. The Court in its discretion may require the personal attendance of the authorized representative of the plaintiff/lender at the Conciliation Conference.

(f) At the Conciliation Conference, the parties and their counsel shall be prepared to discuss and explore all available resolution options which include: bringing the mortgage current through a reinstatement; paying off the mortgage; proposing 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 the institution of bankruptcy proceedings.

**Rule 1301. Arbitration.**

(a) All civil actions brought in the Court of Common Pleas of Lackawanna County in which the amount in controversy is \$50,000.00 or less shall first be submitted to arbitration and heard by a panel of three arbitrators selected from members of the bar of this court in accordance with the provisions of this rule, with the exception of:

- (1) cases involving title to real estate; and
- (2) cases which have been consolidated for trial with cases in which the amount in controversy exceeds \$50,000.00.

Once a case has been certified for Compulsory Arbitration or otherwise directed by the court for same, the Court Administrator shall notify the Parties or their Legal Representatives of the date and time of the Arbitration. 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 Trial De Novo on appeal from a decision entered by a Judge.

(b) The list of available arbitrators shall consist of all members of the bar of this court unless excused by the court. Each attorney engaged in active practice in this court shall file with the court Administrator information indicating whether he or she is practicing alone, is associated with one or more attorneys, or is a member of a firm, and further indicating the length of time he or she has actively engaged in the practice of law. Upon any change in his or her status of practicing or being associated with any other lawyer, he or she shall immediately notify the Court Administrator of such change.

(c) The Court Administrator shall appoint arbitration panels consisting of three attorneys each, taken from the list of eligible attorneys which the Court Administrator shall maintain on the basis of the information provided pursuant to subsection (b) of this rule. No more than one member of a family, firm, or association shall serve on an arbitration panel. The members of each arbitration panel shall have a cumulative experience of, at least, ten (10) years, dating from their admission to practice in Pennsylvania.

(e) Each arbitration panel shall sit in session one day during the calendar year and on that day shall hear as many arbitration cases as the Court Administrator has scheduled for that panel. More than one action or controversy may be scheduled for a single arbitration panel if, in the judgment of the Court Administrator, such panel can conveniently dispose of more than one case during its day of arbitration. In the event that a scheduled case cannot be heard, it shall be reassigned to the next available arbitration panel by the Court Administrator.

(f) The Court Administrator shall notify all arbitrators of the day on which they serve, which notification shall be made as soon as the arbitration panel is selected. For each arbitration panel, the member with the earliest admission to practice in Pennsylvania shall serve as chairperson. Arbitrators so appointed to a specific panel may be excused or transferred to another panel by the Court Administrator,

but only for good cause shown, in which instance the Court Administrator shall designate a successor to that arbitrator as soon as practical.

(g) The arbitration panel shall file its findings and award, if any, as well as any written opinion as in its discretion it may choose to submit, within seven 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.

(h) Except as provided in Sub-Section (a), any party may appeal from the findings or award of the arbitration panel to the Court of Common Pleas of Lackawanna County in the same manner as appeals de novo are commenced before the court.

(i) In any instance where all parties in an arbitration case agree to a settlement prior to the taking of any testimony at the arbitration hearing the parties shall sign a stipulation stating the exact form of any desired arbitration award, which stipulation shall be furnished to the Court Administrator or to the arbitration panel.

(j) If a stenographic record of an arbitration hearing is desired by any party, such party shall provide the Court Administrator with a written request for same no later than five (5) days prior to date fixed for the hearing and shall at the time of submission of such request pay a fee in the amount set by the court, which fee shall be considered the stenographer's appearance fee. The Court Administrator shall arrange for stenographic service and shall forward aforesaid appearance fee to the stenographer. All parties requesting a transcript of the record shall compensate the stenographer at the rate prescribed by the court.

(k) Each member of an arbitration panel who actually hear testimony in one or more arbitration cases on the day of the panel's service shall receive a fee in an amount set by the court. Arbitrators may petition the court for additional compensation in protracted or complex arbitration cases. The court in its discretion shall determine the amount of additional compensation, if any, that the arbitrators shall receive.

The Court Administrator's Notice of the Arbitration forwarded to the Parties or their Legal Representatives shall contain the following language:

**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. (PA. R.CIV.P. 1303(A)(2); LACKA. CO. R.C.P. 1301(A)).**

## INJUNCTIONS

### **Rule 1531. Injunctions.**

No application for an injunction will be considered by the court unless the factual reasons are set forth specifically and in detail. The pleading of conclusions will not be sufficient. If an application for an injunction is considered, the court will issue an order for a hearing to be scheduled by the court administrator pursuant to Pa. R.Civ.P. 1531. Request for immediate hearings will be granted upon approval of the court if it finds that extraordinary and urgent circumstances exist which requires an immediate hearing.

### **Rule 1531.1. Contempt Proceedings on Injunctions.**

Unless the President Judge directs otherwise for reasons of manifest necessity, contempt proceedings on injunction matters shall be heard and decided by the judge whose order is involved.

## CLASS ACTION RULES

### **Rule 1703. Commencement of Action; Assignment of Judge.**

(a) Upon the proper filing of a class action in the office of the Clerk of Judicial Records, counsel for the plaintiff(s) shall notify the Court Administrator and the President Judge that a class action complaint has been filed and shall forward to the President Judge a copy of said complaint.

(b) Upon notification that a class action complaint has been filed and upon receipt of said complaint, the President Judge shall assign a judge of the Court of Common Pleas of Lackawanna County to preside over the case for all purposes of conformity with Pa. R.Civ.P.1703.

### **Rule 1707. Discovery Pertaining to Class Action Issues.**

In any case in which the judge assigned to a class action permits discovery with respect to the class action issues, the order granting such limited discovery shall also indicate the period of time during which discovery with respect to the class action issues shall be permitted. All parties are required to complete such discovery within that time period.

### **Rule 1710. Determination of Class Action Certification Hearing.**

The judge to whom a class action is assigned may request the parties to submit proposed findings of fact and conclusions of law pertaining to the question of whether or not the case should be certified as a class action. In a case in which proposed findings of fact and conclusions of law are requested, the judge shall determine the time when they are to be submitted.

### **Rule 1712. Order and Notice of Certification as Class Action.**

(a) After the entry of an order of certification of a class action, the judge to whom the case has been assigned shall in the usual course conduct a class action notice conference at which all parties shall be represented for the purpose of considering the matters set forth in Pa. R.Civ.P. 1712.

(b) If at the time of the class action notice conference the court determines that individual notice is to be given, a uniform statement shall be drafted by which each individual who is to receive notice may opt for inclusion or exclusion for the class.

(c) The proposed form of notice required by Pa. R.Civ.P. 1712(c) must be submitted for approval by the plaintiff to the court and to all named defendants no later than fifteen (15) days prior to the class action notice conference.

### **Rule 1713. Pre-Trial of Class Actions.**

In addition to the normal matters to be considered at pre-trial conferences, as set forth within these rules, a pre-trial conference conducted in a class action case shall consider the matters set forth in Pa. R.Civ.P. 1713.

## MINORS AND INCOMPETENT PARTIES

### **Rule 2032. Filing Affidavit as to Age.**

(a) A party, who files and serves on another party a rule to file of record an affidavit indicating whether that party is an adult or a minor, shall at the time of filing such rule also file a certificate of service indicating the manner of serve of said rule and the date on which such service was made.

(b) The rule filed and served by the party shall advise the recipient party who is directed to file the affidavit of the date of filing of rule in the Office of the Clerk of Judicial Records.

(c) The party who is to file the affidavit shall do so within ten (10) days from the date of service of the rule.

**Rule 2039. Compromise, Settlement, Discontinuance or Distribution in Action Involving a Minor.**

Notwithstanding the provisions of any rule of this court to the contrary, if a petition is presented to the court pursuant to Pa. R.Civ.P. 2039 for the compromise, settlement, or discontinuance of, or distribution of a fund resulting from an action to which a minor is a party, the court, if it so chooses, may act upon said petition immediately upon its presentation.

**Rule 2056. Notice of Guardian of Incompetent.**

In a case in which a defendant is incompetent, the notice required by Pa. R.Civ.P. 2056(b) may be given by personal service or by registered mail. If registered mail is utilized for this purpose, the plaintiff, the plaintiff's attorney, or any competent adult acting on behalf of the plaintiff shall send a registered letter to the last known address of the guardian of the incompetent defendant requiring a receipt signed by the guardian. If the letter is returned by the post office without a receipt signed by the guardian but with the notation by the postal authorities that the guardian refused to accept the letter, the plaintiffs shall have the right of service by ordinary mail addressed to the guardian of the incompetent at the same address with the return address of the sender appearing thereon.

**Rule 2059. Notice of Incompetent of Application for Guardian Ad Litem.**

In every case in which a petition is filed for the appointment or removal of a guardian ad litem for an incompetent party, a copy of the petition and the rule to show cause or stay order issued thereon shall be served personally on the incompetent immediately upon the filing of the petition.

**Rule 2064. Compromise, Settlement, Discontinuance and Distribution in Action involving an Incompetent.**

The practice upon the presentation of a petition pursuant to Pa. R.Civ.P. 2064 shall be the same as that prescribed under Lacka. Co. R.C.P. 2039.

**ACTIONS FOR WRONGFUL DEATH**

**Rule 2205. Notice of Persons Entitled to Damages.**

(a) The notice prescribed in Pa. R.Civ.P. 2005 shall name the decedent and state the court, term and number of the action. If the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such persons 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 the personal representative of the decedent.

(b) An affidavit of service by registered mail of such notice shall be filed in the office of 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, and the Survival Act, 42 Pa.C.S. § 8302, the plaintiff shall present a motion for approval of the proposed distribution of proceeds pursuant to the procedure set forth in Lacka. Co. R.C.P. 208.3(a). 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.

## JOINDER AND SUBSTITUTION OF PARTIES

### **Rule 2227. Compulsory Joinder.**

Application under Pa. R.Civ.P. 2227(b) to join an unwilling co-owner of a solely joint cause of action as a defendant or an involuntary plaintiff in an action shall be by petition and rule to show cause; the petition shall set forth the substantive grounds for such joinder.

### **Rule 2232. Defective Joinder, Change of Parties.**

(a) In any case in which the defendant is required by Pa. R.Civ.P. 2232(a) to give notice of the pendency of an action to recover damages for any injury, not resulting in death, inflicted upon the person of a husband or wife or a minor, such notice shall be given by registered mail within twenty (20) days after service upon the defendant of the complaint.

(b) The notice shall state the court, term, and number of the action, the parties thereto, and its nature, and that the person to whom it is addressed is required to join therein within twenty (20) days after the receipt of such notice or his or her cause of action will be barred and the action will proceed without him or her.

(c) Application under Pa. R.Civ.P. 2232 (b) to drop from the record a party who has been misjoined or against whom no claim for relief is asserted in the action shall be by petition and rule to show cause directed to all other parties. Alternatively, a defendant in an action against whom no claim for relief is asserted by seek dismissal of the action as it pertains to him by demurrer.

(d) An application under Pa. R.C.P. 2232(c) to join as a party any other person who could have joined or have been joined as such in the action shall be by petition and rule to show cause.

### **Rule 2253. Extension of Time Limits to Join Additional Defendants.**

Application to the court for an extension of time in which to file a praecipe or complaint to join an additional defendant shall be by motion, duly verified, if facts not appearing of record are averred. The court, if it so chooses, may act upon said motion immediately upon its presentation.

### **Rule 2352. Praecipe of Rule for Substitution of Successor.**

The praecipe filed with the Clerk of Judicial Records pursuant to Pa. R.C.P. 2352(b) to show cause why the successor should not be substituted as a party shall set forth the last known address of the successor. Said address shall then be set forth in the rule.

### **Rule 2353. Service by Publication of Rule Concerning Substitution of Parties.**

Service by publication of the rule to show cause why the successor should not be substituted as a party shall be made by publishing said rule, together with a notation of the nature and number of the action in which the rule is issued and the relief demanded, and that, if said successor does not appear in this court within twenty (20) days after the last publication, said rule may be made absolute in his absence. Said publication shall be made as prescribed by Lacka. Co. R.C.P. 440(c).

## 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 why relief from a judgment by confession should not be granted shall be determined in accordance with Lacka. Co. R.C.P. 206.1(a) and/or Lacka. Co. R.C.P. 206.4(c) unless the court directs a different return day at the time the petition is presented.

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

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.Civ.P. 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.Civ.P. 3129.1 is a residential property which serves as the primary residence of the defendant(s)/borrower(s), and unless the defendant(s)/borrower(s) has already been served with the required “Notice of Residential Mortgage Foreclosure Diversion Program” pursuant to Lacka. Co. R.C.P. 205.2(b), 1034(b), 1035.2(b) or 1143(a), the plaintiff/lender must serve a “Notice of Residential Mortgage Foreclosure Diversion Program” upon the defendant(s)/borrower(s) in the format set forth in Form 12 of the Appendix and file an “Affidavit Pursuant to Lacka. Co. R.C.P. 3129.1” in the format set forth in Form 13 attesting either that : (1) the defendant(s)/borrower(s) has not opted to participate in the “Residential Mortgage Foreclosure Diversion Program;” or (2) the defendant(s)/borrower(s), 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 Lacka. Co. R.C.P. 3129.1(c) shall be filed with the Clerk of Judicial Records and a copy shall be delivered to the Sheriff’s Office before any residential property may be listed for Sheriff’s Sale. The affidavit required by this Rule shall be in the format set forth in Form 13 of the Appendix.

(e) If the defendant/borrower in a residential mortgage foreclosure action has taken the affirmative steps identified in the “Notice of Residential Mortgage Foreclosure Diversion Program” to be eligible to participate in a court-supervised conciliation conference, the defendant/borrower shall file a Request for Conciliation Conference in the format set forth in Form 9 of the Appendix. The Request for Conciliation Conference shall be filed with the Clerk of Judicial Records within sixty (60) days of service of the “Notice of Residential Mortgage Foreclosure Diversion 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 Court Administrator. Upon receipt of the Request for Conciliation Conference, the Court Administrator shall issue a Case Management Order (Form No. 10) as required by Lacka. Co. R.C.P. 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.Civ.P. 3130, such notice may be given by the sheriff by ordinary mail, first class postage prepaid, addressed to the defendant at his or her 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.

**Rule 3190. Real Estate Tax Assessment Appeal.**

(a) A real estate tax assessment appeal from a decision of the Lackawanna County Board of 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 captioned “Real Estate Tax Assessment Appeal” and shall be filed with the Clerk of Judicial Records within the time prescribed by statute.

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

(1) Caption designating the named party taking the appeal as Appellant, the Lackawanna 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.

(3) Nature of and reasons for the appeal.

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

(5) Verification consisting of a certified statement as "verified" is defined in Pa. R.Civ.P. 76.

(c) Appellant shall serve copies of the appeal by certified or registered mail upon the Board at its official office and, unless named as the appellant, upon the Board of County Commissioners of Lackawanna County and upon the legislative governing body of the municipality and the board of school directors of the school district wherein the real estate is located at their respective official offices, or in the absence of an official office, at the last known address of the secretary of said body and upon the respondent owner of the real estate at said owner's last known address.

(d) Appellant shall file with the Clerk of Judicial Records within ten (10) days of 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.Civ.P. 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 copy of Real Estate Tax Assessment Appeal.

#### **Rule 3191. 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) 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 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 Notice of Intervention, proof of service of copies thereof consisting of a verified statement (as "verified" is defined in Pa. R.Civ.P. 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 copy of Notice of Intervention.

#### **Rule 3192. Discovery.**

(a) Depositions and Discovery shall be applicable to real estate tax assessment appeals, unless otherwise ordered by the court.

#### **Rule 3193. Pretrial Status Conference.**

(a) The court *sua sponte* or upon application of a party shall schedule a pretrial status conference. Notification of 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 trial judge at least seven (7) days prior to the date of scheduled conference along with proof of service of copies thereof upon 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.Civ.P. 76.

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

## **DISCOVERY**

### **Rule 4000. Motion Practice for Discovery and Scheduling Matters.**

(a) Any court order regarding discovery, including orders involving sanctions and pre-trial deadlines for the completion of discovery, the exchange of expert reports, the filing of case dispositive motions, and other scheduling matters prior to the filing of a Certificate of Readiness, which a party seeks pursuant to any provisions of Pa. R.Civ.P. 4001 through 4020 or any provisions of the Rules of Civil Procedure of the Court of Common Pleas of Lackawanna County pertaining to discovery or scheduling orders shall be sought by the presentation of a motion in compliance with the provisions of Lacka. Co. R.C.P. 206.1, 4000.1 and 4019.

### **Rule 4000.1. Motion for Presentation before a Special Trial Master.**

(a) Presentation to the court of a motion pursuant to Lacka. Co. R.C.P. 4000 shall in all circumstances be initially presented to and decided by a Special Trial Master appointed by the Court who shall follow the same procedures set forth in Lacka. Co. R.C.P. 4000.

(b) An order of the Special Trial Master may be appealed *de novo* by presentation of an appeal motion to the designated Motions Court Judge in accordance with Lacka. Co. R.C.P. 206.4(c), together with proof of payment to the Clerk of Judicial Records of an appeal cost in an amount to be set by the court from time to time. The appeal motion shall be filed within ten days of the order of the Special Trial Master and shall be considered by the court pursuant to Lacka. Co. R.C.P. 4000.

(c) Motions practice before the Special Trial Master shall be conducted in compliance with Lacka. Co. R.C.P. 206.1 and the Master shall hear motions in the Lackawanna County courthouse on Monday and Thursday at 9:30 a.m., unless otherwise agreed by counsel and the Master or by order of the Master.

(d) Presentation of a motion in any case in which the Special Trial Master is involved shall be presented to the court rather than through the procedure set forth in this Rule.

### **Rule 4000.2. Case Management Proposal.**

With the exception of medical malpractice cases, and upon closure of the pleadings, the Plaintiff(s) shall complete and forward to all parties a Case Management Proposal in substantial compliance with Form 15 in the attached Appendix. The Case Management Proposal shall set forth proposed deadlines for the completion of discovery, exchange of expert reports, and the filing of dispositive motions.

If the Plaintiff(s) has not received any objections to the Case Management Proposal within fifteen (15) days of mailing, the Plaintiff(s) shall submit the Proposal to the Lackawanna County Discovery Master for approval. If a party objects to the Proposal, and the Parties are otherwise unable to agree, and upon appropriate notice as outlined in Lacka. Co. R.C.P. 208.2(f), the Proposal shall be submitted to the Discovery Master for resolution.

If the Plaintiff(s) shall fail to complete and forward a Case Management Proposal within thirty (30) days of the closure of the pleadings, nothing in this Rule shall preclude an Opposing Party from submitting a Case Management Proposal in compliance with this Rule.

## **Explanatory Comment**

“Closure of the Pleadings” shall mean when all of the Parties have filed a Responsive Pleading in the form of an Answer, and a Reply to New Matter, if any.

Nothing in this Rule shall preclude a Party from seeking an Amendment to the Case Management Schedule upon good cause shown. Nothing shall preclude the Trial Court to Amend the Case Management Schedule upon request of a Party and upon good cause shown.

**Rule 4007.1. Objections During Oral Depositions; Speaking Objections.**

(a) Counsel making an objection during an oral deposition shall state the word “objection,” and briefly state the legal basis for the objection without argument.

(b) If there is to be any discussion, amplification or argument on the objection, the witness shall be excused from the room at the request of any party. Such discussion, amplification or argument shall be made on the record unless all parties agree otherwise.

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

**Rule 4012. Protective Orders.**

(a) If a deposition is being taken within the Lackawanna County courthouse and demand is made for its suspension, a motion for a protective order under Pa. R.Civ.P. 4012(b) shall be made immediately to the Special Trial Master for Discovery, if available, in which event the motion may be oral and heard. If the Special Trial Master for Discovery is not available, the motion for a protective order may be oral and shall be presented to the Special Trial Master for Discovery within forty-eight hours of the suspension of the taking of deposition. Otherwise, the objecting party or deponent will be deemed to have waived the objection and the taking of the deposition shall be immediately resumed on notice to all interested parties and the deponent.

(b) In all other cases, the motion must be in writing and presented to the Special Trial Master for Discovery as provided in Lacka. Co. R.C.P. 4000 herein except that, upon failure to present such motion within fifteen (15) days of the suspension of the taking of the deposition, the objecting party or deponent will be deemed to have waived the objection whereupon the taking of the deposition shall be resumed on reasonable notice to all interested parties and deponent.

**Rule 4013. Stay of Proceedings by Discovery.**

(a) If a party seeks a stay of discovery pending disposition of a motion for a protective order, the basis for such a request shall be stated with particularity in the motion and shall be called to the attention of the Special Trial Master for Discovery at the time of presentation of the motion.

(b) If during the pendency of an action a party desires a general stay of the proceedings for purposes of deposition and discovery, the court upon motion and for cause shown may enter an appropriate order staying the proceedings.

**Rule 4017.1. Objections During Videotape Depositions.**

(a) Counsel making an objection during a videotape deposition shall simply state “objection,” upon which the video operator shall stop the videotape. Further argument or discussion shall be made off camera but on the written transcript.

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

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

**Rule 4019. Petitions for Sanctions before a Special Trial Master.**

(a) Any party seeking sanctions pursuant to Pa. R.Civ.P. 4019 for violation of an order of the Special Trial Master pursuant to Lacka. Co. R.C.P. 4000.1, of an order of the court pursuant to Lacka. Co. R.C.P. 4000, or otherwise pursuant to Pa. R.Civ.P. 4019, shall in all circumstances initially do so by motion to the Special Trial Master pursuant to Lacka. Co. R.C.P. 4000.1.

(b) Any order of the Special Trial Master granting or denying a sanction may be appealed *de novo* by presentation of an appeal motion to the court, together with proof of payment to the Clerk of Judicial Records of an appeal cost of an amount to be set by the court from time to time, and said appeal motion shall be considered by the court pursuant to Lacka. Co. R.C.P. 4000.

**Rule 4020. Use of Deposition at Trial.**

(a) If all or part of a deposition is offered in evidence as substantive evidence of its contents because of the unavailability of the witness, whether or not a party, the counsel offering said deposition shall first submit to the court such evidence as will enable the court to find that the appropriate facts under Pa. R.Civ.P. 4020(a)(3) exist.

(b) An application to the court to use all or part of a deposition of a witness, whether or not a party, as substantive evidence pursuant to Pa. R.Civ.P. 4020(a)(3) shall be made upon reasonable notice to all parties.

**Rule 4021. Assignment of Judge for 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 and to hear and rule upon all motions and petitions relating to discovery. Such designation shall be made by the President Judge.

**FORM 1**

Court of Common Pleas of Lackawanna County

FOR CLERK OF JUDICIAL RECORDS USE ONLY

**Civil Cover Sheet**

**Docket Number:**

Plaintiff's Name

Defendant's Name

Plaintiff's Address

Defendant's Address

Plaintiff's Name

Defendant's Name

Plaintiff's Address

Defendant's Address

Plaintiff's Name

Defendant's Name

Plaintiff's Address

Defendant's Address

Total Number of Plaintiffs

Total No. of Defendants

Commencement of Action

Complaint  Petition Action  Notice of Appeal  
 Writ of Summons  Transfer from other  
Jurisdiction

Amount of Controversy

Court Programs

In Excess of Jurisdictional Amount?  
Yes \_\_\_ No \_\_\_

Arbitration  Jury  Non-Jury  Petition  Minor Court Appeal  Statutory  
Appeals  
 Other

Case Type and Code (See Instructions)

Statutory Basis for Cause of Action (See Instructions)

Remarks:

**TO THE CLERK OF JUDICIAL RECORDS:**

Please enter my appearance on behalf of Plaintiff:  
Papers may be served at the address set forth below:

NAME OF PLAINTIFF'S ATTORNEY OR PRO SE PLAINTIFF

ADDRESS

PHONE NUMBER

FAX NUMBER

SUPREME COURT IDENTIFICATION NO.

E-MAIL ADDRESS

SIGNATURE

DATE

LACKAWANNA COUNTY COURT OF COMMON PLEAS  
CIVIL COVER SHEET INSTRUCTIONS

An attorney or pro se party filing a document commencing any type of civil action shall file a properly completed Civil Cover Sheet. Copies of the Civil Cover Sheet shall be attached to service copies of the document commencing the action.

**PARTIES**

Regardless of the type of action, the initiating party or parties shall be designated as Plaintiff or Plaintiffs and the responding party or parties shall be designated as Defendant or Defendants. Names of individuals shall be listed as last name, first name, middle initial. Full names of agencies and corporations shall be provided. Spouses shall be listed as separate parties unless the claim of one spouse is limited to a claim for consortium in which case the designation, et ux, or et vir shall be used. Where there are more than three plaintiffs or defendants, a supplemental form listing the additional parties shall be attached to the Cover Sheet.

The section labeled "Remarks" is for procedural matters only. These may include such matters as related cases where consolidation might be advisable. Matters such as expected difficulty with service of process or status of settlement discussions do not belong in the section.

**CASE TYPE AND CODE DESIGNATION**

FAM	Family Court	TORT/BF	Tort Bad Faith
FAM/CUST	Custody	TORT/WCP	Wrongful Use of Civil Process
FAM/DIV	Divorce	TORT/O	Other Torts
MCT	Minor Court Appeal	NGL/MVA	Motor Vehicle Accident
LAG	Local Agency Appeal	NGL/NF	No-Fault Benefits
LAG/MVS	Motor Vehicle Suspension	NGL/PI	Personal Injury
LAG/ZB	Zoning Board Appeal	NGL/PREM	Premises Liability
LAG/O	Other Agency Appeals	NGL/PROD	Product Liability
PCP/VAL	Validation of Tax Title	NGL/TT	Toxic Tort
PCP/TS	Tax Sale	NGL/O	Other Negligence Action
PCP/OBJ	Objection to Tax Sale	MLP/D	Dental Malpractice
PCP/PRIV	Petition to set aside private sale	MLP/L	Legal Malpractice
PCP/O	Other Proceedings commenced by Petition	MLP/M	Medical Malpractice
		MLP/O	Other Malpractice
CJ	Confession of Judgment	EQ	Equity
CLASS	Class Action	REPL	Replevin
CNT	Contract cases	RP	Real Property
DECL	Declaratory Judgment	RP/EJ	Ejectment
COND/DT	Condemnation/Declaration of Taking	RP/QT	Quiet Title
TORT/AB	Assault & Battery	RP/MF	Mortgage Foreclosure
TORT/LS	Libel & Slander	RP/ML	Mechanic's Lien
TORT/FR	Fraud	RP/PRT	Partition
		PP	Personal Property Actions

**STATUTORY CAUSE OF ACTION**

If the action is commenced pursuant to statutory authority, the specific statute must be identified with full citation.

**PENDING CASES**

Previously filed related cases must be identified by caption and docket number whether or not consolidated.

**FORM 2**

Plaintiff (s) : IN THE COURT OF COMMON PLEAS  
vs. : OF LACKAWANNA COUNTY  
Defendant(s) : NO. \_\_\_\_ CIV \_\_\_\_

**PRAECIPE FOR ASSIGNMENT**

TO: Lackawanna County Court Administrator

Please be advised that the Plaintiff/Defendant has filed \_\_\_\_\_  
(Identify motion, petition, or preliminary objection)  
in the above-captioned case.

\_\_\_ All parties have agreed to submit this matter on briefs  
Without the necessity of oral argument.

\_\_\_ Please schedule this matter for oral argument.

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

\_\_\_\_\_  
(Attorney for Defendant)

\_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

Respectfully submitted:

Date: \_\_\_\_\_

By: \_\_\_\_\_



**FORM 3**

**PLAINTIFF/DEFENDANT PRE-TRIAL  
SETTLEMENT STATEMENT**

**Case Caption**

**Court Term & No.**

- I. Facts in brief detail:
- II. Contentions of the parties as to liability and pertinent legal issues:
- III. A statement of settlement negotiations to date, including plaintiff's most recent demand and the defendant's most recent offer.
- IV. Plaintiff's contentions as to injuries and special damages:
  - (a) Injuries sustained:
  - (b) Special damages:
    - (1) Medical:
    - (2) Loss of earnings:
    - (3) Out of pocket expenses (type and amount):
    - (4) Other:
- V. Nature and extent of loss suffered by plaintiff, or the right sought to be enforced (non-personal injury cases):
- VI. Any other factor which should aid in disposing of the action:

**FORM 4**

**PLAINTIFF/DEFENDANT PRE-TRIAL CONFERENCE STATEMENT**

**Case Caption**

**Court Term & No.**

- I. Version of the facts in brief detail:
- II. Contentions as to liability and/or legal issues pertinent:
- III. List of requested stipulations of fact or authenticity (admissibility of documents):
- IV. Estimated trial time:
- V. A list of all documents or exhibits other than those a party expects to use for impeachment or rebuttal purposes. The list should be specific enough to enable the judge and opposing counsel of all documents or exhibits at the pretrial conference in lieu of listing them in the pretrial addresses.
- VI. A list by name and address of all witnesses the party intends to call at trial, except those who may be used for rebuttal or impeachment purposes. If the parties learn the names of any additional witnesses after the pretrial conference, they will promptly exchange names and addresses.
- VII. A statement of settlement negotiations to date, including the plaintiff's most recent demand and the defendant's most recent offer:
- VIII. All legal issues or other questions which counsel reasonably anticipate will arise during selection of the jury or during trial.
- IX. Plaintiff's contentions as to injuries and special damages:
  - (a) The injuries sustained are as follows:
  - (b) The special damages are as follows:
    - (1) Medical-(here set forth names of doctors, hospitals, etc., and amount of bills for same)
    - (2) Loss of earnings-including amount of time lost, occupation and employer rate of pay:
    - (3) Any other out-of-pocket expenses (type and amount):
    - (4) Other:
  - (c) Nature and extent of loss suffered by plaintiff (primary or counterclaim) or the right sought to be enforced (non-personal injury cases):
- X. Any additional issues you feel should be considered as an aid in disposing of this action:

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Attorney

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Party Represented

## FORM 5

### Pre-Trial Order

**(1) Jurisdiction.** A statement as to the nature of the action and the authority under which the jurisdiction of the court is invoked.

**(2) Facts.** A comprehensive written stipulation of all uncontested facts in such form that it can be read to the jury as the first evidence at trial.

(a) These facts should include all matters capable of ascertainment, such as ownership, agency, dimensions, physical characteristics, weather conditions, road surfaces, etc. Approximations and estimates which are satisfactory to counsel will be accepted by the Judge.

(b) No facts should be denied unless opposing counsel expects to present contrary evidence on the point at trial, or genuinely challenges the fact on credible grounds.

(c) The facts relating to liability and to damages are to be separately stated.

(d) The parties shall reach agreement on uncontested facts even though relevancy is disputed; if such facts are ruled admissible, they need to be proved.

(e) The parties shall also set forth their respective statements of facts which are in dispute, separating those referring to liability from those referring to damages.

**(3) Damages or Other Relief.** A statement of damages claimed or relief sought.

(a) A party seeking damages shall list each item claimed under a separate descriptive heading (personal injury, wrongful death, loss of profits, survival, loss of wages, deprivation of civil rights, punitive damages, false imprisonment, libel, slander, property damage, pain, suffering, past and future medical expense, balance due under contract, performance due under contract, interest, etc.) and shall provide a detailed description of each item, and state the amount of damages claimed.

(b) A party seeking relief other than damages shall list under separate paragraphs the exact form of relief sought with precise designations of the persons, parties, places, and things expected to

be included in any order providing relief.

**(4) Legal Issues.** Under separate paragraphs, each legal issue that must be decided and the principal constitutional, statutory, regulatory, and decisional authorities relied upon.

**(5) Witnesses.** Under separate headings, and under separate headings for liability and damages, the names and addresses of all witnesses whom the plaintiff, defendant, and third-parties actually intend to call at trial.

(a) Witnesses shall be listed in the order they will be called. Each witness shall be identified and there shall be a brief statement of the evidence which the witness will give.

(b) A detailed summary of the qualifications of each expert witness shall be submitted. This summary shall be in such form that it can be read to the jury when the expert takes the stand to testify.

(c) Only those witnesses listed will be permitted to testify at trial, except to prevent manifest injustice.

(d) Failure to call at trial any listed witness shall not be a proper subject of jury argument unless justified by the record of the case exclusive of pre-trial conference statements or the pre-trial order.

(e) Whenever practicable, a hypothetical question to be propounded to any expert witness shall be prepared in advance for submission to the court and parties in sufficient time as not to delay the trial. If impracticable at this stage, counsel shall arrange for its submission at a later time during trial.

**(6) Exhibits.** A schedule of all exhibits to be offered in evidence at trial, together with a statement of those agreed to be admissible and the grounds for objection to any not so agreed upon.

(a) The exhibits shall be serially numbered without any designation as to whether they are being offered by plaintiff or defendant. The exhibits shall be physically marked before trial in accordance with the schedule.

(b) Where testimony is expected to be offered as to geographical location, building,

structure, waterway, highway, road, walkway, or parcel of real estate, plaintiff shall furnish an exhibit in such form that it can be used in the courtroom as an aid to oral testimony.

(i) Except in those cases where the issues require the use of exact scale, the exhibit may be a simple single-line, hand-drawn sketch.

(ii) In most instances, it will not be necessary that the exhibit be to scale or contain other than reasonably accurate features of the geographical characteristics involved.

(iii) If of adequate size and clarity, this exhibit may be an existing drawing, plan, or blue print.

(c) Except for unusual circumstances, it is expected that the authenticity or genuineness of all exhibits, including non-documentary items, documents, photographs, and data from business records from sources other than parties to the litigation will routinely be stipulated to and will be received in evidence if relevant. Counsel likewise are expected to agree upon the use of accurate extracts from or summaries of such records. Life expectancy tables, actuary tables, and other similar statistical tabular data routinely and regularly used in litigation in the Commonwealth's courts should also normally be stipulated to.

(d) At trial, counsel shall furnish a copy of each exhibit to the judge.

**(7) Legal Issues and Pleadings.** Special comments regarding the legal issues or any amendments to the pleadings not otherwise set forth.

**(8) Trial Time.** An estimate of the number of trial days required. Separately stated for liability and damages.

**(9) Discovery Evidence and Trial Depositions.** Each discovery items and trial deposition to be offered into evidence.

(a) Where the videotape or deposition of a witness is to be offered in evidence, counsel shall review it so that there can be eliminated irrelevancies, side comments, resolved objections and other matters not necessary for consideration by the trier of fact. Counsel shall designate by page the specific portions of deposition testimony and by number the interrogatories which shall be offered in evidence at

the trial. To serve this end all videotape depositions will be accompanied by a typewritten deposition of the same testimony.

(b) Depositions and interrogatories to be used for cross-examination or impeachment need not be listed or purged.

**FORM 6**

Plaintiff (s) : IN THE COURT OF COMMON PLEAS  
: OF LACKAWANNA COUNTY  
:  
:  
vs. :  
:  
:  
Defendant(s) : NO. \_\_\_\_ CIV \_\_\_\_

**CONFIDENTIAL MEDIATION MEMORANDUM**

1. Identification of Counsel:
  - a. Attorney for Plaintiff:
  - b. Attorney for Defendant:
2. Lacka. Co. R.C.P. 238 Confirmation of Settlement Offer and Response:
  - a. Date and amount of settlement offer(s):
  - b. Date and substance of response to settlement offer(s):
3. Insurance information:
  - a. Identity of insurance carrier:
  - b. Identity of insurance adjuster:
  - c. Policy limits:
  - d. Coverage issues (if any):
4. Statement of Facts and Legal Issues:
5. Injuries:
6. Calculation of Special Damages:
  - a. Wage loss (if any):
  - b. Medical bills (if any):
  - c. Other (explain):

7. Liens (if a lien has been asserted against all or part of any potential settlement, indicate the amount and entity making the claim, i.e. Worker's Compensation carrier, Department of Public Welfare, Health Insurance carrier, etc.):
8. Identification of Expert Witnesses:
  - a. For Plaintiff:
  - b. For Defendant:
9. Estimated Number of Trial Days:
10. Any additional issues which should be considered to facilitate the settlement of this matter:



**FORM 7**

**FORM 7**

Court of Common Pleas County of Lackawanna	CERTIFICATE OF READINESS CIVIL TRIAL LISTING ACTION	NUMBER
		ACTION
ALL CIVIL CASES SHALL BE ASSIGNED TO A JUDGE FOR TRIAL BY THE COURT ADMINSTRATOR UPON THE FILING OF A CERTIFICATE OF READINESS IN THE FOLLOWING FORM:		
TYPE OF TRIAL REQUESTED	ESTIMATED TIME	DATE PREPARED
<input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Arbitration	DAYS	
PLAINTIFF(S)		
DEFENDANT(S)		
ADDITIONAL DEFENDANTS(S)		
I CERTIFY THAT ALL DISCOVERY IN THE CASE HAS BEEN COMPLETED; ALL NECESSARY PARTIES AND WITNESSES WILL BE AVAILABLE; SERIOUS SETTLEMENT NEGOTIATIONS HAVE BEEN CONDUCTED; ALL DEPOSITIONS FOR USE AT TRIAL HAVE BEEN COMPLETED OR SCHEDULED; NO CASE DISPOSITIVE MOTIONS ARE PENDING NOR DOES ANY PARTY CONTEMPLATE THE FILING OF SAME; NO CERTIFICATE OF READINESS HAS BEEN FILED WITHIN THE PAST 24 HOURS BY ANY PARTY OR LAWYER OF RECORD IN THIS CASE; THE CASE IS READY IN ALL RESPECTS FOR TRIAL; THAT A COPY OF THIS CERTIFICATE OF READINESS HAS BEEN SERVED ON ALL COUNSEL HAVING AN INTEREST IN THE CASE NO LESS THAN 15 DAYS PRIOR TO THE FILING; NO PARTY OR COUNSEL OBJECTS TO THE FILING OF THIS CERTIFICATE OF READINESS.		
DATE SERVED _____	SIGNATURE OF TRIAL COUNSEL _____	
COUNSEL WHO WILL ACTUALLY TRY THE CASE		
FOR THE PLAINTIFF(S) ADDRESS	TEL. NUMBER	
FOR THE DEFENDANT(S) ADDRESS	TEL. NUMBER	
FOR THE ADDITIONAL DEFENDANT(S)	TEL. NUMBER	
IDENTIFY ANY JUDGE WHO HAS DECIDED A CASE DISPOSITIVE MOTION IN THIS CASE PURSUANT TO LACKA. CO. R.C.P. 1028, 1034 OR 1035.2: _____		
CASE ASSIGNED TO JUDGE _____		
STATUS CONFERENCE SCHEDULED FOR _____ AT _____ .M.		
IMPORTANT NOTICE: FILE CERTIFICATE WITH THE CLERK OF JUDICIAL RECORDS, LACKAWANNA COUNTY COURTHOUSE, SCRANTON, PA		
CJR-CV-2		

**FORM 8**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
vs.	:	
	:	
Defendant(s)	:	NO. ____CIV____

**NOTICE OF RESIDENTIAL MORTGAGE FORECLOSURE  
DIVERSION PROGRAM PURSUANT TO  
LACKA. CO. R.C.P. 205.2(b) and 1143(a)**

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

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.

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 Neighborhood Housing Services of Lackawanna County (570) 558-2490 or the United Neighborhood Centers of Northeastern Pennsylvania (570) 343-8835 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 the mortgage foreclosure suit proceeds forward.

If you are represented by a lawyer, it is not necessary for you to contact one of the housing counseling agencies. However, you and your attorney must complete a financial worksheet in the format attached hereto so that you will be able to submit a loan resolution proposal to your lender. If you and your lawyer complete a financial worksheet within forty (40) days of your receipt of this Notice, 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.

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

Respectfully submitted:

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Signature of Counsel for Plaintiff]

**FORM 9**

Plaintiff (s) : IN THE COURT OF COMMON PLEAS  
: OF LACKAWANNA COUNTY  
:  
:  
vs. :  
:  
:  
Defendant(s) : NO. \_\_\_\_ CIV \_\_\_\_

**REQUEST FOR CONCILIATION CONFERENCE**

Pursuant to the local rules governing the Lackawanna County Residential Mortgage Foreclosure Diversion 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;
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 under Lacka. Co. R.C.P. 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.

\_\_\_\_\_  
Signature of Defendant/Defendant's Counsel

\_\_\_\_\_  
Date

**FORM 10**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
vs.	:	
	:	
	:	
Defendant(s)	:	NO. ____ CIV ____

**CASE MANAGEMENT ORDER  
PURSUANT TO LACKA. CO. R.C.P. 1143.1(c)**

AND NOW, the defendant/borrower in the above-captioned residential mortgage foreclosure action having filed a Request for Conciliation Conference form verifying that the defendant/borrower has complied with the local rule requirements for the scheduling of a Conciliation Conference under Lacka. Co. R.C.P. 1143.1, it is hereby ORDERED and DECREED that

1. The parties and their counsel are directed to participate in a court-supervised Conciliation Conference on \_\_\_\_\_ at 9:30 AM in the Jury Orientation Lounge, 1<sup>st</sup> Floor, Lackawanna County Court House;

2. At least fourteen (14) days prior to the date of the Conciliation Conference, the defendant/borrower must serve upon the plaintiff/lender or its counsel a copy of the "Lackawanna County Residential Mortgage Foreclosure Diversion Program Financial Worksheet" (Form No. 14) which has been completed by the defendant/borrower in compliance with Lacka. Co. R.C.P. 1143.1. The failure to do so will result in the removal of this case from the Conciliation Conference schedule and the termination of the temporary stay of proceedings under Lacka. Co. R.C.P. 1034(b), 1035.2(b), 1143(d) or 3129.1(e);

3. The defendant/borrower and counsel for the parties must attend the Conciliation Conference in person and an authorized representative of the plaintiff/lender must either attend the Conciliation Conference in person or be available by telephone during the course of the Conciliation

Conference. The representative of the plaintiff/lender who participated 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. If the duly authorized representative of the plaintiff/lender is not available by telephone during the Conciliation Conference, the Court will schedule another Conciliation Conference and require the personal attendance of the authorized representation of the plaintiff/lender at the rescheduled Conciliation Conference;

4. At the Conciliation Conference, the parties and their counsel shall be prepared to discuss and explore all available resolution options which shall include: bringing the mortgage current through a reinstatement; paying off the mortgage; proposing a forbearance agreement or repayment plan to bring the account current over time; agreeing to tender a monetary payment and to vacate in the near future in exchange for not contesting the matter; 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 the institution of bankruptcy proceedings.

5. All proceedings in this matter are stayed pending the completion of the scheduled conciliation conference.

BY THE COURT:

---

**FORM 11**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
vs.	:	
	:	
	:	
Defendant(s)	:	NO. ____CIV____

**NOTICE OF RESIDENTIAL MORTGAGE FORECLOSURE  
 DIVERSION PROGRAM  
 PURSUANT TO LACKA. CO. R.C.P. 1034 OR 1035.2**

You have been sued in this mortgage foreclosure action and your lender intends to promptly ask the court to enter judgment against you. The entry of judgment against you could cause you to lose your property in the near future.

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.

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 Neighborhood Housing Services of Lackawanna County (570) 558-2490 or the United Neighborhood Centers of Northeastern Pennsylvania (570) 343-8835 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 a judgment is entered against you.

If you are represented by a lawyer, it is not necessary for you to contact one of the housing counseling agencies. However, you and your attorney must complete a financial worksheet in the format attached hereto so that you will be able to submit a loan resolution proposal to your lender. If you and your lawyer complete a financial worksheet within forty (40) days of your receipt of this Notice, 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.

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

\_\_\_\_\_  
 [Signature of Counsel for Plaintiff]

\_\_\_\_\_  
 Date

**FORM 12**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
vs.	:	
	:	
	:	
Defendant(s)	:	NO. ____CIV____

**NOTICE OF RESIDENTIAL MORTGAGE FORECLOSURE  
 DIVERSION PROGRAM  
 PURSUANT TO LACKA. CO. R.C.P. 3129.1**

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

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 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 Neighborhood Housing Services of Lackawanna County (570) 558-2490 or the United Neighborhood Centers of Northeastern Pennsylvania (570) 343-8835 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.

If you are represented by a lawyer, it is not necessary for you to contact one of the housing counseling agencies. However, you and your attorney must complete a financial worksheet in the format attached hereto so that you will be able to submit a loan resolution proposal to your lender. If you and your lawyer complete a financial worksheet within forty (40) days of your receipt of this Notice, 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.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Signature of Counsel for Plaintiff]

**FORM 13**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
vs.	:	
	:	
	:	
Defendant(s)	:	NO. ____ CIV ____

**AFFIDAVIT PURSUANT TO LACKA. CO. R.C.P. 3129.1**

I, \_\_\_\_\_, counsel for plaintiff in the above action, do hereby certify that on \_\_\_\_\_, I served the “Notice of Residential Mortgage Foreclosure Diversion 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 diversion 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’s Counsel]



**FORM 14**

**THE COURTS**

**Lackawanna County Residential Mortgage Foreclosure Diversion Program  
Financial Worksheet**

Date \_\_\_\_\_

Tracking # \_\_\_\_\_

**BORROWER REQUEST FOR HARDSHIP ASSISTANCE**

To complete your request for hardship assistance, your lender must consider your Circumstances to determine possible options while working with your counseling agency. Please provide the following information to the best of your knowledge:

**CUSTOMER/PRIMARY APPLICANT**

Borrower name(s): \_\_\_\_\_

Loan Number: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Is the property for sale? Yes \_\_\_ No \_\_\_ Listing date: \_\_\_\_\_ Price: \$ \_\_\_\_\_

Realtor Name: \_\_\_\_\_ Realtor Phone \_\_\_\_\_

Borrower Occupied: Yes \_\_\_ No \_\_\_

Mailing Address (if different): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Office: \_\_\_\_\_

Cell: \_\_\_\_\_ Other: \_\_\_\_\_

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

# of people in household: \_\_\_\_\_ How long? \_\_\_\_\_

**CO-BORROWER**

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Office: \_\_\_\_\_

Cell: \_\_\_\_\_ Other: \_\_\_\_\_

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

# of people in household: \_\_\_\_\_ How long? \_\_\_\_\_

**COUNSELOR INFORMATION**

Counseling Agency: \_\_\_\_\_

Counselor: \_\_\_\_\_

Phone (Office): \_\_\_\_\_ Fax: \_\_\_\_\_

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

First Mortgage Lender: \_\_\_\_\_

Type of Loan: \_\_\_\_\_

Loan Number: \_\_\_\_\_ Date You Closed Your Loan: \_\_\_\_\_

Second Mortgage Lender: \_\_\_\_\_

Type of Loan: \_\_\_\_\_

Loan Number: \_\_\_\_\_ Date You Closed Your Loan: \_\_\_\_\_

Total Mortgage Payments Amount: \$ \_\_\_\_\_ Included Taxes & Insurance: \_\_\_\_\_

Date of Last Payment: \_\_\_\_\_

## THE COURTS

Primary Reason for Default:

---

Is the loan in Bankruptcy? Yes \_\_\_\_ No \_\_\_\_

If yes, provide name, location of court, case number & attorney: \_\_\_\_\_

---

<u>Assets</u>	<u>Amount Owed:</u>	<u>Value:</u>
Home:	\$ _____	\$ _____
Other Real Estate:	\$ _____	\$ _____
Retirement Funds:	\$ _____	\$ _____
Investments:	\$ _____	\$ _____
Checking:	\$ _____	\$ _____
Savings:	\$ _____	\$ _____
Other:	\$ _____	\$ _____

Automobile #1: Model: \_\_\_\_\_ Year: \_\_\_\_\_

Amount owed: \_\_\_\_\_ Value: \_\_\_\_\_

Automobile #2: Model: \_\_\_\_\_ Year: \_\_\_\_\_

Amount owed: \_\_\_\_\_ Value: \_\_\_\_\_

Other transportation (automobiles, boats, motorcycles): Model: \_\_\_\_\_

Year: \_\_\_\_\_ Amount owed: \_\_\_\_\_ Value: \_\_\_\_\_

### **Monthly Income**

Name of Employers:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Additional Income Description (not wages):

1. \_\_\_\_\_ monthly amount: \_\_\_\_\_
2. \_\_\_\_\_ monthly amount: \_\_\_\_\_

Borrower Pay Days: \_\_\_\_\_ Co-Borrower Pay Days: \_\_\_\_\_

**Monthly Expenses:** (Please only include expenses you are currently paying)

EXPENSE	AMOUNT	EXPENSE	AMOUNT
Mortgage		Food	
2 <sup>nd</sup> Mortgage		Utilities	
Car Payment(s)		Condo/Neigh. Fees	
Auto Insurance		Med. (not covered)	
Auto fuel/repairs		Other prop. Payment	
Install. Loan Payments		Cable TV	
Child Support/Alim.		Spending Money	
Day/Child Care/Tuit.		Other Expenses	

Amount Available for Monthly Mortgage Payments Based on Income & Expenses: \_\_\_\_\_

**THE COURTS**

**AUTHORIZATION**

I/We, \_\_\_\_\_, authorize the above-named agency to use/refer this information to my lender/servicer for the sole purpose of evaluating my financial situation for possible mortgage options. I/We understand that I/we am/are under no obligation to use the counseling services provided by the above-named agency.

\_\_\_\_\_  
Borrower Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Borrower Signature

\_\_\_\_\_  
Date

**Please forward this page along with the following information to lender:**

- ✓ **Proof of income**
- ✓ **Past 2 bank statements**
- ✓ **Proof of any expected income for the last 45 days**
- ✓ **Copy of a current utility bill**
- ✓ **Letter explaining reason for delinquency and any supporting documentation (hardship letter)**
- ✓ **Listing agreement (if property is currently on the market)**

In an effort to evaluate all of the workout options available to you, a counselor staff will work with your lender(s) and servicing company to determine eligibility.

Lender's Contact (Name): \_\_\_\_\_ Phone: \_\_\_\_\_

Non Profit Counselor Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

**HOUSING AFFORDABILITY WORKSHEET**

Borrower Name: \_\_\_\_\_  
Property Address: \_\_\_\_\_  
Lender: \_\_\_\_\_ Loan #: \_\_\_\_\_  
Arrears (principal, interest, escrows, no late fees): \_\_\_\_\_  
Unpaid Loan Balance: \_\_\_\_\_  
Interest Rate Now: \_\_\_\_\_ Type of Loan: \_\_\_\_\_

**Current Financials:**

Current P & I:       \$ \_\_\_\_\_  
Property Taxes:     \$ \_\_\_\_\_  
HO Insurance:       \$ \_\_\_\_\_  
PMI:                 \$ \_\_\_\_\_  
Total Housing Debt: \$ \_\_\_\_\_  
Total Monthly Debt: \$ \_\_\_\_\_  
                          (from credit report)  
Total Debt:           \$ \_\_\_\_\_

**Current Back End Ratio**

Total Gross Income: \$ \_\_\_\_\_  
  
Back End Ratio =     \$ \_\_\_\_\_  
(total monthly debt/gross income)

**Proposed Resolution:**

Future debt to income ratio: \_\_\_\_\_ %  
Total allowable debt: \$ \_\_\_\_\_  
                                  (.45 x gross income)  
Total allow. housing debt: \$ \_\_\_\_\_  
                                  (subtract other debt on credit report)  
Total allowable P&I: \$ \_\_\_\_\_  
                                  (subtract taxes, HOI, PMI)  
Proposed Interest Rate = \_\_\_\_\_ %  
Fixed Rate for remaining term of loan.  
Other proposed terms: \_\_\_\_\_

**FORM 15**

	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff (s)	:	
	:	
Vs	:	
	:	
	:	
Defendant(s)	:	NO. ____ CIV ____

**CASE MANAGEMENT PROPOSAL**

Now comes, \_\_\_\_\_, for and on behalf of \_\_\_\_\_, and hereby submits for approval the following case management deadlines, pursuant to Lacka. Co. R.C.P. \_\_\_\_:

- A. All Discovery shall conclude on or before \_\_\_\_\_:
- B. Plaintiff(s) shall exchange with the Defendant(s) all Expert Reports on or before \_\_\_\_\_;
- C. Defendant(s) shall exchange with Plaintiff(s) all Expert Reports on or before \_\_\_\_\_:
- D. Plaintiff(s) shall exchange with Defendant(s) all Rebuttal Reports on or before \_\_\_\_\_;
- E. Dispositive Motions shall be filed on or before \_\_\_\_\_.

**CERTIFICATION**

I hereby certify that the aforementioned Proposal has been forwarded to all Parties on \_\_\_\_\_, at least fifteen (15) days have elapsed, and no Party has objected to the Case Management Proposal.

\_\_\_\_\_  
(MOVING PARTY)

**Order**

*And Now*, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it is hereby *Ordered* and *Decreed* that the aforementioned Proposal is hereby **Adopted** as an Order of Court.

\_\_\_\_\_  
JUDGE/DISCOVERY MASTER