

## **THE EMERGENCY JUDGE ASSIGNMENT**

The President Judge of the Court of Common Pleas is responsible for the assignment of judges to cover emergencies arising after normal court hours. See Phila. R. Civ. P. No. \*1531.

### **Court of Common Pleas**

The Emergency Judge is responsible for handling all Civil, Criminal, Orphans', and Family Court matters, which arise after normal court hours. The Emergency Judge is on duty during non-court hours commencing Friday at 5:00 p.m. through the following Friday at 9:00 a.m. A notice is published every Friday in The Legal Intelligencer identifying the designated judge for the week.

### **Municipal Court**

The President Judge of the Municipal Court similarly designates a weekly emergency judge who is available to cover all Municipal Court Civil and Criminal emergencies, including appeals from bail during the evening hours and weekends. See M.C. Crim. P. R. 21.

### **Weddings**

The Common Pleas Court emergency judge will also be available to perform weddings on Tuesday and Thursday at 3:00 p.m. in Room 410, City Hall. The Municipal Court emergency judge will perform weddings every fifth week.

### **General Instructions and Information**

The Emergency Judge will handle only those matters which require **immediate** judicial intervention arising after normal court hours, and which **could not** otherwise have been anticipated. Most "emergencies" can be handled during normal court hours utilizing existing procedure. For detailed information regarding this procedure, please refer to the Civil Motions Program section of this manual. Additionally, the Orphans' Court is able to expeditiously appoint an emergency guardian of a minor or a person alleged to be incapacitated when it appears that the person lacks capacity and may be in need of medical treatment. See 20 Pa. C.S. §5513. The Emergency Judge should not receive routine requests for medical authorization. Finally, most issues which arise in connection with criminal matters are handled by the Municipal Court bail commissioners and the Municipal Court Emergency Judge.

Counsel are cautioned only to seek Emergency Judge intervention in rare and extreme circumstances. The issuance of *ex parte* orders is discouraged. Furthermore, the

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Emergency Judge will not act on any case that has been assigned to another judge for disposition, or where a hearing has been previously scheduled by the court. Additionally, the Emergency Judge will not vacate or modify an order entered by another judge of the Court of Common Pleas.

**Contact with the Emergency Judge**

The Emergency Judge can be contacted after normal court hours and weekends by calling the City Hall Supervising Operator at 215-686-4515. When the operator patches you through to the Emergency Judge, you must identify yourself, provide an office address and an attorney identification number. Most importantly, you are required to advise the Emergency Judge whether the matter is presently pending before any tribunal. If so, you must inform the Emergency Judge what steps, if any, have been taken to notify counsel for all represented parties. **Under no circumstances should an Emergency Judge be contacted directly by the caller at his/her residence.**

**TYPES OF MATTERS WHICH MAY BE ENCOUNTERED BY THE EMERGENCY JUDGE**

**Civil Matters**

As previously discussed, a systemic procedure exists for handling most “emergency” civil matters. However, the Emergency Judge may be called upon to rule on:

1. **Request for an Injunction.** Pa. R.C.P. No. 1531 provides that if it appears to the satisfaction of the Court that immediate and irreparable injury will be sustained, a preliminary or special injunction may be issued without notice or without a hearing. However, an injunction granted without notice shall be deemed dissolved unless a hearing on the continuance of the injunction is held within five (5) days after the granting of the injunction. Thus, unless the Emergency Judge schedules a hearing or the caller otherwise obtains a hearing within that time period, the injunction will automatically dissolve, unless all parties otherwise agree. The Emergency Judge may request the caller to file a petition with the Emergency Judge, the scheduled emergency Clerk prior to issuing an order, or with the Office of Judicial Records on the next business day. Upon issuance, the order must be filed with the Office of Judicial Records so that it may be docketed.
2. **Temporary Restraining Order to Prevent Violence, Mass Picketing and Threats of Violence, and Labor Disputes.** See 43 P.S. §206(a), et seq. A Complaint in Equity and a Temporary Restraining Order must be prepared and filed as directed by the Emergency Judge.

3. **Emergency Medical Treatment.** As indicated above, such petitions should be filed with the Orphans' Court or, if appropriate, with the Civil Motions Program during normal court hours. In the event an emergency arises during non-court hours, medical authorization may be given provided the Emergency Judge holds an on-the-record hearing prior to ordering same.

### **Family Court Matters**

The Emergency Judge may handle the following matters:

1. **Petitions Pursuant to the Child Protective Services Law.** See 23 Pa. C.S. §6301, et seq. The Philadelphia Department of Human Services, usually through the City Solicitor, will contact the Emergency Judge to request a restraining order. The Emergency Judge usually issues an oral order and directs that a hearing be scheduled in Dependency Court within seventy-two (72) hours of the issuance of the order. The following business day, the Department of Human Services delivers a written petition and order to the Emergency Judge who signs the order and returns the petition and order to the Department of Human Services for filing with the Family Court.
2. **Protection from Abuse Orders.** See 23 Pa. C.S. §6101, et seq. Please note, that requests pursuant to the Protection From Abuse Act are processed after normal court hours at the Criminal Justice Center, Room B-03. The caller should be asked to call 215-683-7280 for further assistance.
3. **Miscellaneous and Sundry Domestic Relation Requests Such as Emergency Custody or Visitation Orders.** The caller should advise the Emergency Judge as to the status of the domestic relations matter and why such request was not made during court hours. Relevant case information should be provided to the Emergency Judge together with a written petition, if requested. Unless otherwise provided, the caller must file a petition the next business day with the Clerk of Family Court.
4. **Miscellaneous and Sundry Divorce Related Issues.** Pursuant to Pa.R.Civ.P. No. 1920.43. The caller should advise the Emergency Judge as to the status of the divorce proceedings and why such request was not made during court hours. Relevant case information should be provided to the Emergency Judge together with a written petition, if requested. Unless otherwise provided, the caller must file a petition the next business day with the Clerk of Family Court.

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**Criminal Matters**

The Emergency Judge may receive requests to modify a defendant's bail. However, once the initial determination of bail is made at the preliminary arraignment by a Municipal Court Bail Commissioner, any appeals therefrom are heard by the Emergency Municipal Court Judge or a specially assigned Municipal Court Judge. Modification of bail between the preliminary arraignment and the Common Pleas Court trial should be ordered only by the judge regularly assigned to the Common Pleas Court Criminal Motions Program, and during non court hours may be ordered by the Emergency Judge. Modification of bail by the Emergency Judge is discouraged. The caller should be directed to present any such application to the Common Pleas Court Criminal Motions Program.

**Conclusion**

The Court of Common Pleas Emergency Judge is authorized to handle emergencies which may arise during non-court hours. However, since the court has adopted procedures to promptly address recurring "emergency" issues, the Emergency Judge will only grant emergency relief when absolutely necessary.