

## **CIVIL MOTIONS PROGRAM**

### **GENERAL INFORMATION AND CONSIDERATIONS**

**Format of Motion Package** - Due to the high volume of matters processed by the Civil Motions Program, and in order to ensure the timely processing of motions, the motion package should be clear and concise. The filing party should include a copy of the complaint and any answers/pleadings so that the assigned judge can learn something about the nature of the case. The proposed order should be the first document, followed by the motion/petition, the memorandum of law, a certificate of service and any exhibits.

Upon filing, motions are held by the Civil Motions Program for twenty (20) days from the date of acceptance of the filing to allow for the filing of a response. Motions for Summary Judgment allow for a thirty (30) day response period while Motions for Extraordinary Relief and Motions to Proceed In Forma Pauperis have a ten (10) day response period. Motions and any responses filed thereto are assigned approximately two (2) business days after the response date to the appropriate judge. Once a motion is decided, the signed order is returned to the clerks in Room 280, City Hall for docketing and service of the order. The judges do not keep any of the pleadings or copies of the orders. **DO NOT** contact judicial chambers requesting status of a filed motion. Questions concerning the status of motions should be directed to the Civil Motions Program at (215)686-6671, 8863.

When contacting the office for any reason, please be prepared with the Court Term and Number and the Control Number assigned to the motion at hand.

Counsel and unrepresented parties are strongly discouraged from calling judicial chambers and attempting to argue the merits of a case or alleged errors of the judge's rulings. This conduct is considered an ex parte communication with the Court. Judicial staff is instructed not to convey these communications to the judge.

The Civil Motions Program staff is not law trained and, therefore, is not authorized to provide legal advice. Requests for relief or revision of an order, and clarification of an order, must be presented in the form of a motion or petition.

#### **Motion Court Argument List**

The Motion Court Argument List consists of the following matters:

Motions to withdraw appearance of counsel in cases assigned to the Arbitration Program; Petitions for redemption of foreclosed property; Petitions for writ of seizure; Petitions to transfer title to vehicle; other matters ordered on the Argument List by the Court. The Motion Court Argument List is titled as such because it is for argument only; do not expect the Court to take testimony except in cases specially listed for that purpose on emergency requests for relief. These motions should be accompanied by a rule to show cause at the time of filing.

## **Oral Argument**

In order to avoid, or minimize the need for oral argument, counsel and unrepresented parties should utilize affidavits, relevant deposition testimony, responses to Requests for Admission, and any stipulations reached in the case to develop the factual predicate. In the rare instance where oral argument is necessary, the filing party should include a Rule in their motion package. Counsel and/or unrepresented parties should be aware that, unlike regular motions, these motions are usually only seen by the judge for the first time on the bench at the time of the hearing. Therefore, in matters where the judge should in fairness consider any but the most basic points of law or consider facts of any complexity or volume, it is far better to avoid the oral argument procedure.

## **Post Trial Motions Procedures**

Post Trial Motions must be filed within ten (10) days after (1) verdict, discharge of the jury because of inability to agree, or non-suit in the case of a jury trial; or (2) notice of non-suit or the filing of the decision in the case of a trial without jury. (See Pa.R.C.P. 227.1(c)).

All motions for post-trial relief must be accompanied by the following: Proposed order; Motion signed by moving party; Notice to the Post Trial Motions Clerk regarding Notes of Testimony - must state what portions are to be transcribed; Certificate of service setting forth the name of the Trial Judge and the names, addresses and telephone numbers of all counsel and unrepresented parties, and the court reporter. A Control Number will be issued at the time of filing.

Answers/responses to post-trial motions will be processed and electronically forwarded immediately to the Trial Judge.

Briefs in support of or in opposition to post-trial motions are to be filed directly with the Trial Judge. The Office of Judicial Records does not accept briefs relating to post-trial motions.

## **Discovery Motions**

Discovery Motions accepted by Motions Court in the following programs include: Mass Tort - except Nursing Home and Firefighters litigation; Statutory Appeals; Municipal Court Appeals.

The following are discovery motions that are accepted where appropriate in all civil programs: Pre complaint; Post verdict/judgment in aid of execution; Quash trial depositions and trial subpoenas.

## **Motions Initially Considered Without Written Response or Briefs**

Pursuant to Philadelphia Civil Rule \*208.3(a), the following motions will be initially considered without written response or briefs. These motions will be assigned immediately upon filing to the appropriate judge for review:

Emergency Motions - Upon filing, the Motions Clerk shall assign the Emergency Motion to the appropriate judge of the assigned trial program who, upon review of the motion, will issue an order providing any applicable relief, and shall further set forth how the motion will be answered, heard, and disposed.

Motions for Reconsideration - Upon filing, the Motions Clerk shall assign to the appropriate judge immediately upon filing, in appropriate cases; the assigned judge may enter a preliminary order vacating the order in question pending receipt of the response to the motion. These motions should only be filed if there has been a change in the law or facts that would warrant revisiting the original issues. Note: if reconsideration is being sought on a final order of the court, in order to preserve the appeal process, the motion must be filed, and ruled upon within thirty (30) days from the date of docketing of the final order where reconsideration is being sought. Please keep in mind that it is very important that you attach as exhibits any information that may be necessary in order for the judge to render a decision, in particular, the motion should include, a signed copy of the order in question, along with copies of the motion and responses thereto.

### **Emergency Relief**

Emergency petitions and motions for preliminary relief will be processed in accordance with Administrative Docket 04 of 2005. It is suggested that the following points be considered before dedicating a substantial amount of valuable time seeking emergency relief. Requests for emergency relief are disfavored and will be entered only under the most compelling of circumstances. There are very few instances in which irreparable harm, which cannot be remedied by damages, is so imminent that the court will even agree to hear a matter as an emergency. When requesting emergency relief, be prepared to adequately explain the failure to act sooner and how truly irreparable harm will occur within the next few hours. A complaint in equity must be commenced with, or prior to, the emergency motion. The filing party must be prepared to represent to the Court, specifically, what efforts were made to reach an agreement or at least a temporary solution with opposing party. The filing party should be prepared with the necessary bonding in the event that relief is granted.

### **Preliminary Objections**

All Preliminary Objections are filed as provided in Pa.R.C.P. 1028 and Phila.Civ.R. \*1028.1 & \*1028(c). Upon filing, the Preliminary Objection will receive a control number and response date and are then processed through Civil Motions Program.

### **Motions for Extraordinary Relief**

A party seeking an extension of a deadline issued on a case management order or scheduling order in all programs must file a Motion for Extraordinary Relief. These motions will only be accepted for filing on the approved Motion for Extraordinary Relief Form pursuant to General Court Regulation 95-01. Answers to motions for extraordinary relief must be filed on the approved Answer Form in accordance with the same court regulation. A ten (10) day hold will be placed on the motion unless it is filed jointly or unopposed. The motion must include a new proposed order and a copy of the current case management or scheduling order. Motions for

Extraordinary Relief are fact and case track sensitive. The agreement of counsel and unrepresented parties to extend the deadlines of a case management or scheduling order is not a recognized basis for an extension.

### **Motions to Proceed In Forma Pauperis**

Whenever an action is instituted wherein the Plaintiff, in lieu of tendering the required fee is required to file a Motion to Proceed In Forma Pauperis. Once accepted for filing the motion is held for ten (10) days to allow any opposing party to submit a response before assignment. At the time of filing the party is provided a copy of a notice advising them that if the petition is denied, the filing fees must be paid within ten (10) days or the action non prossed or appeal may be stricken.

### **City of Philadelphia Equity Cases**

#### **Lead Court Program**

The Lead Court Program was specially designed to manage the influx of lead contamination cases commenced by the City of Philadelphia pursuant to the Philadelphia Code of Ordinances: Health Code Title 6. These matters are commenced as Complaints in Civil Actions in Equity. The Lead Court Program is managed by the Civil Motions Program and presided over by a Common Pleas Court Judge. A Rule for Injunction hearing is scheduled within forty-five (45) days from commencement, and these matters are generally disposed of within twelve (12) months.

#### **Code Enforcement Cases**

The Code Enforcement cases are commenced by the City of Philadelphia as Complaints in Civil Actions in Equity pursuant to the Philadelphia Code of Ordinances. These cases involve all code violations other than lead contamination. The Code Enforcement Cases are managed by the Civil Motions Program and presided over by a Common Pleas Court Judge. A Rule for Injunction hearing is scheduled within forty-five (45) days from commencement. These matters are closely monitored by the City and the presiding judge until final resolution of all violations.