

UPDATED 12/28/16

# Bedford County Local Rules

## Table of Rules

### Rules of Civil Procedure

206.4(c)	Issuance of Rule to Show Cause
208.3(a)	Motions Procedure
208.3(b)	Motions, Briefs, and Responses
211.1	Non-Appearance at Oral Argument
212.7	Motion Required for Placement on Civil Trial List
212.8	Pre-Trial Conference
216	Continuances
400.1	Service of Process
1028(c)	Preliminary Objections
1034(a)	Motion for Judgment on the Pleadings
1035.2(a)	Motions for Summary Judgment

### Compulsory Arbitration:

1301	Scope
1302	List of Arbitrators; Appointment of Board; Compensation
1303	Hearing; Notice
3116	[Untitled]

### Rules of Criminal Procedure

202.1	Approval of Search Warrant Applications by the Attorney for the Commonwealth
300.1	Summary Case ARD
507.1	Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth
571	Arraignment
4006	Types of Bail

### Rules of Judicial Administration

1901	Termination of Inactive Cases
4007.1	Requests for Transcripts
4008.1	Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof

## **RULES OF CIVIL PROCEDURE**

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

(1) The procedure of Pa.R.C.P. 206.6 is adopted and a rule shall issue as a matter of course pursuant to that Rule in all matters involving petitions as defined by the Pennsylvania Rules of Civil Procedure.

(2) All petitions and rules shall be filed with the Prothonotary's Office, which will then forward the petition and rule to the Court Administrator's Office. The Court Administrator will present the petition to the Scheduling Judge for disposition. The Scheduling Judge will then issue a rule in accordance with the requirements of Pa.R.C.P. No. 206.6. The Prothonotary's Office will provide notification of the issuance of the rule.

(3) A request for stay of execution pending disposition of a petition to open a default judgment shall be set forth in the petition and rule. The Scheduling Judge will determine whether to issue a stay, and whether a hearing is necessary on such request.

(Adopted February 1, 2005, effective February 17, 2005)

### **Rule 208.3(a). Motions Procedure**

(1) All motions as defined by the Pennsylvania Rules of Civil Procedure shall be in writing and shall include a scheduling order as well as a proposed order specifying the relief sought by the moving party.

(2) All motions shall be filed in the Prothonotary's Office, which will then forward the motion to the Court Administrator's Office. The Court Administrator will present the motion to the Scheduling Judge for scheduling. The Scheduling Judge will issue an Order setting a date for argument. Counsel or the moving party, if pro se, shall provide notice to all opposing counsel of record and pro se parties.

(3) Emergency motions shall be governed by the procedure set forth above. It is the duty of the moving party to bring to the attention of the Court Administrator's Office the emergency nature of the motion.

(Adopted February 1, 2005, effective February 17, 2005)

### **Rule 208.3(b). Motions, Briefs and Responses**

The Scheduling Judge in a motion under Local Rule 208.3(a) shall in the scheduling order set forth any requirement with respect to briefs and the filing of responses.

(Adopted February 1, 2005, effective February 17, 2005)

**Rule 211.1. Non-Appearance at Oral Argument**

If all parties fail to appear for oral argument scheduled upon a motion, and have not first obtained Court approval for their non-appearance, the motion at issue shall be dismissed without prejudice of being re-filed and re-scheduled for argument.

(Effective November 12, 2013)

**Rule 212.7. Motion Required for Placement on Civil Trial List**

It shall be the responsibility of the parties in every civil action to notify the court when the matter is ready to proceed to trial. The parties shall do so by filing a motion that requests the judge to schedule a pre-trial conference and place the case on the civil trial list.

(Effective November 12, 2013)

**Rule 212.8. Pre-Trial Conference**

When a pre-trial conference has been scheduled pursuant to Local Rule 212.7, the parties shall file a concise pre-trial statement no later than seven (7) days before the date of the pre-trial conference. The pre-trial statement shall be no longer than three (3) pages and contain

- (a) a brief summary of the facts of the case;
- (b) whether the case is to be tried by jury or without a jury;
- (c) an estimate of the number of days required for trial;
- (d) a list of any presently outstanding pre-trial motions awaiting decision.

(Effective November 12, 2013)

**Rule 216. Continuances**

Except as hereinafter set forth, all motions requesting the continuance of any matter pending in the Court of Common Pleas of Bedford County shall be in writing setting forth the reason for the continuance and whether the opposing party or parties consent to the request. All such continuance motions shall be presented to the Court Administrator who shall present them to the judge hearing the case for disposition.

No request for continuance presented to the Court Administrator less than 48 hours before the time scheduled for the hearing of the matter in question will be granted, unless for good cause shown. Except for extraordinary circumstances, continuances will not be granted because of previously scheduled depositions, district justice hearings, or other like matters. In the event the request for continuance

concerns a conflict with a matter scheduled in another court of common pleas, the request shall state which matter was scheduled first. Motions for continuance will be granted when a conflict arises with a state appellate or federal court.

(Adopted April 4, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*. Amended May 19, 2008, 30 days after publication in the *Pennsylvania Bulletin*.)

#### **Rule 400.1. Service of Process**

With respect to all actions filed in Bedford County, Pennsylvania, original process be served within the Commonwealth:

- (i) by the Sheriff or a competent adult in the actions in equity, partition, prevent waste and
- (ii) by the Sheriff in all other actions.

(Adopted Aug. 30, 1999, effective 30 days after the date of publication in the *Pennsylvania Bulletin*.)

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

All preliminary objections shall be filed in the Prothonotary's Office, which will then forward the preliminary objections to the Court Administrator's Office for scheduling. Argument for preliminary objections shall be scheduled for the next available Motions Court date. The Prothonotary's Office shall notify all counsel of record and/or unrepresented parties of the scheduling. Briefs shall be filed no later than seven (7) days prior to the date of argument. In the event there is an agreement amongst all parties to submit the matter on briefs, without oral argument, the request shall be made in writing to the Court Administrator.

(Adopted February 1, 2005, effective February 17, 2005; amended effective November 18, 2013.)

#### **Rule 1034(a). Motions for Judgment on the Pleadings**

The procedure for Motions for Judgment on the Pleadings shall be the same as that for Preliminary Objections.

(Adopted February 1, 2005, effective February 17, 2005; amended effective November 18, 2013.)

#### **Rule 1035.2(a). Motions for Summary Judgment**

The procedure for Motions for Summary Judgment shall be the same as that for Preliminary Objections.

(Adopted February 1, 2005, effective February 17, 2005; amended effective November 18, 2013.)

## **COMPULSORY ARBITRATION**

### **Rule 1301. Scope**

1. All cases which are at issue, where the amount in controversy is \$25,000.00 or less, exclusive of interest and costs, except those issues involving title to real estate, equity actions, actions upon penal statutes, and other actions which do not involve the recovery of money damages only shall be submitted to and heard and decided by a board of arbitrators which shall be composed of three (3) members of the Bar of the 57<sup>th</sup> Judicial District. The amount in controversy shall be determined solely from the pleadings or by an agreement of the parties.

2. Cases which are not at issue and whether or not suit has been filed may be placed on the arbitration list by agreement of reference in writing signed by counsel for all parties in the case. Said agreement shall define the issues involved for determination by the board and, when agreeable, shall also contain stipulations with respect to facts submitted or agreed or defenses waived. In such cases, the agreement of reference shall take the place of pleadings and shall be filed of record in the Office of the Prothonotary and shall be assigned a number.

(Adopted Dec. 15, 1988. Amended April 4, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.)

### **Rule 1302. List of Arbitrators; Appointment of Board; Compensation**

1. The Prothonotary of Bedford County shall maintain a list of available arbitrators in accordance with the applicable provisions of the Rules of Civil Procedure.

2. The Prothonotary of Bedford County shall make all appointments of arbitrators in cases being submitted to compulsory arbitration, subject to the applicable provisions of the Rules of Civil Procedure.

3. The chairman of the board of arbitration shall be paid the sum of \$200.00 for a hearing lasting one-half (1/2) day. Each other member shall be paid the sum of \$150.00 for a hearing lasting one-half (1/2) day. In the event a hearing lasts a full day, the chairman shall be paid \$325.00 and each member shall be paid the sum of \$250.00. In the event the matter is settled and no hearing is held, the chairman only shall be paid the sum of \$75.00 for work performed in preparation for the hearing. Payment shall be made by the County of Bedford.

(Adopted Dec. 15, 1988. Amended April 4, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*; Jan. 4, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*.)

### **Rule 1303. Hearing; Notice**

1. The person designated as the chairman of a board of arbitration shall fix the date, time and place of the hearing and shall provide notice of the hearing in accordance with the applicable provisions of the Rules of Civil Procedure.

(Adopted Dec. 15, 1988.)

**Rule 3116. [Untitled]**

The solicitor of the Sheriff's Office of Bedford County or in lieu thereof an attorney duly admitted to practice in the Commonwealth of Pennsylvania and engaged in the practice of law in Bedford County, Pennsylvania, as the Sheriff may from time to time designate are hereby designated as "proper officers" pursuant to Rule 3136(c) to conduct an examination of records pertaining to the Defendant(s) in the Prothonotary's office, the Recorder of Deeds' office and the Tax Assessment office and to certify to the Sheriff the liens upon the real estate of the Defendant(s) within the scope of Rule 3136 of Pennsylvania Rules of Civil Procedure.

(Adopted August 26, 1992.)

**RULES OF CRIMINAL PROCEDURE**

**Rule 202.1. Approval of Search Warrant Applications by the Attorney for the Commonwealth.**

Search Warrants shall not hereafter be accepted by any judicial officer unless the Search Warrant Application has the approval of an Attorney for the Commonwealth prior to filing. Approval by the Attorney for the Commonwealth may be provided by electronic communication with a copy attached to the warrant application.

(Adopted April 21, 2016; effective August 15, 2016)

**Rule 300.1. Summary Case ARD**

- (A) The District Attorney of Bedford County has filed a certification pursuant to Pa.R.Crim.P. 300, and:
  - (1) has elected that ARD in summary cases shall exclusively proceed in the Court of Common Pleas pursuant to the procedures in Pa.R.Crim.P. 302, and
  - (2) has designated the following classes of offenses and/or offenders, in addition to those which are statutorily excluded, as ineligible for summary case ARD:
    - (a) any violation of Title 18 (Crimes Code) where the alleged offender is over twenty-one (21) years of age,
    - (b) violations arising out of Title 24 (relating to Education),
    - (c) violations arising out of Title 75 (relating to Vehicles),
    - (d) any violation that results in serious bodily injury and/or death of any person.
- (B) Summary cases shall not be submitted for ARD consideration before the minor judiciary under Pa.R.Crim.P. 301.
- (C) Summary cases submitted for ARD consideration by the District Attorney shall proceed pursuant to Pa.R.Crim.P. 311 through Pa.R.Crim.P. 315.

- (1) Upon being notified that the District Attorney is moving a summary case for ARD consideration, a hearing under Pa.R.Crim.P. 312 *et seq.* shall be scheduled for the next available date reserved for Summary Appeal hearings.
- (D) If the judge finds that ARD is an appropriate disposition in the case, the following conditions may be imposed:
  - (1) court costs,
  - (2) a program fee of not less than \$100, nor more than \$500,
  - (3) payment of restitution,
  - (4) probation under the supervision of the Bedford County Office of Probation and Parole for a term not to exceed three (3) months,
  - (5) successful completion of a Youth Alcohol Awareness Program,
  - (6) successful completion of an Outpatient Drug and Alcohol Program,
  - (7) completion of community service hours,
  - (8) any conditions as may be agreed to by the parties, or
  - (9) any other conditions that the judge believes are reasonable and appropriate.
- (E) The procedures for refusal, violation, completion and/or termination of ARD programs in summary cases shall be in accordance with Pa.R.Crim.P. 317 through Pa.R.Crim.P. 320.

(Adopted September 12, 2013, effective November 12, 2013)

**Rule 507.1. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth.**

Criminal complaints and arrest warrant affidavits, by police officers, as defined in the Rules of Criminal Procedure, charging any of the following:

- 1) Any violation of 18 Pa. C.S.A. Chapter 25 (relating to Criminal Homicide);
- 2) Any violation of 18 Pa. C.S.A. 2702 (relating to Aggravated Assault);
- 3) Any violation of 18 Pa. C.S.A. Chapter 29 (relating to Kidnapping);
- 4) Any violation of 18 Pa. C.S.A. Chapter 31 (relating to Sexual Offenses);
- 5) Any violation of 18 Pa. C.S.A. 3301 (relating to Arson);
- 6) Any violation of 18 Pa. C.S.A. Chapter 37 (relating to Robbery);
- 7) Any violation of 35 Pa. C.S.A. §780-113, et. al., (relating to prohibited acts under the Controlled Substance Act) that is graded as a Felony;
- 8) Any violation of 75 Pa. C.S.A. §3732 (relating to Homicide by Vehicle), §3735 (relating Homicide by Vehicle while DUI), §3731.1 (relating to Aggravated Assault by vehicle while DUI).

- 9) Any charge of an Inchoate crime, under 18 Pa. C.S.A. Chapter 9 (relating to Criminal Attempt, Criminal Solicitation, and Criminal Conspiracy), where the underlying criminal offense is one those set forth above;
- 10) Any violation of Title 18 (Crimes Code) or Title 75 (Vehicle Code) that results in the death of any person, including summary offenses.

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an Attorney for the Commonwealth prior to filing. Approval by the Attorney for the Commonwealth may be provided by electronic communication with a copy attached to the complaint or arrest warrant affidavit.

(Adopted April 21, 2016; effective August 15, 2016)

### **Rule 571. Arraignment**

Arraignment in court cases as defined in Rule 103 of the Pennsylvania Rules of Criminal Procedure shall occur only on the dates and at the times appearing on the annual court calendar. Otherwise, arraignment shall proceed as set forth in Rule 571 of the Pennsylvania Rules of Criminal Procedure. This rule is adopted only for the purpose of establishing the times at which arraignment shall occur in the 57<sup>th</sup> Judicial District.

(Adopted April 21, 2006, effective 30 days after publication in the *Pennsylvania Bulletin*.)

### **Rule 4006. Types of Bail**

1. Provided a bond in the form required pursuant to Rule 5 of the Pennsylvania Rules of Criminal Procedure is executed, one of the types of bail to be accepted shall be percentage cash bail in the amount of ten (10%) percent of the amount of bail set, the same to be deposited with the Clerk of Courts.

2. To the extent applicable, percentage cash bail shall be governed by the relevant provisions of the Pennsylvania Rules of Criminal Procedure.

3. Poundage may be assessed by the Clerk of Court in accordance with the applicable fee schedule.

(Adopted Nov. 23, 1992)

## **RULES OF JUDICIAL ADMINISTRATION**

### **Rule 1901. Termination of Inactive Cases**

(A) The Prothonotary shall list for general call at the first Motions Court date held after September 1 of each year all civil matters in which no action or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel

of record, and to parties for whom no appearance has been entered, as provided by Pa.R.J.A. 1901(c). If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(B) The clerk of court shall list at the first Motions Court date held after September 1 of each year all criminal proceedings in which no action or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the District Attorney, any private prosecutor and the defendant, as provided by Pa.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

(Adopted Sept. 17, 1998; amended effective November 12, 2013.)

### **Rule 4007.1 Requests for Transcripts**

(A) All requests for transcripts shall be submitted on a form provided by the district court administrator which will include the current rates charged for transcripts.

(B) The request for transcript can be downloaded from the Bedford County website at [bedfordcountypa.org](http://bedfordcountypa.org) or a copy can be obtained at the district court administrator's office. For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the district court administrator. The requesting party shall also serve copies of the formal request to:

- (1) the judge presiding over the matter;
- (2) the court reporter or transcriptionist;
- (3) opposing counsel, but if not represented, the opposing party.

(C) Daily, expedited, same day or rough draft transcripts are not available except in extreme circumstances approved by the judge presiding over the matter.

(D) When a litigant requests a transcript,

(1) the litigant ordering a transcript shall make partial payment of 50% of the estimated transcript cost. Deposit payments are to be made payable to Bedford County and shall be delivered to the district court administrator. All payments shall be in the form of certified funds or directly from the office of counsel. Cash shall NOT be accepted by the district court administrator's office.

(2) the court reporter or transcriptionist shall prepare the transcript upon direction of the district court administrator after approval of the judge presiding over the matter.

(3) the court reporter or transcriptionist shall notify the ordering party and the district court administrator of the completion of the transcript and deliver the original to the judge presiding over the matter for approval of the transcript.

(4) upon payment of any balance owed, the court reporter or transcriptionist shall deliver the original transcript to the district court administrator for filing with copies for distribution to the requesting party and any other parties who may have requested copies. Payment for the final balance shall be made payable to Bedford County and shall be delivered to the district court administrator who will forward it to the Finance Department. Copies of the transcript and filing of the original will be made upon payment in full.

(E) When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the court shall determine economic hardship pursuant to the procedure set forth in Rule 4008(B). In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the court. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance the litigation, the requesting party must demonstrate reasonable need before the court shall waive or adjust the cost of obtaining the transcript.

(F) When a transcript is requested for which the court or county is responsible for the cost, the court or transcriptionist shall prepare the transcript at the direction of the district court administrator after approval by the judge presiding over the matter who will determine the priority of the request.

(Adopted November 2, 2016, effective January 1, 2017)

#### **Rule 4008.1 Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof**

##### (A) Costs

(1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in an electronic format shall be:

- (a) for an ordinary transcript, \$2.50 per page;
- (b) for an expedited transcript, \$3.50 per page, if the court reporter is able to accommodate;
- (c) for a daily transcript, \$4.50 per page, if the court reporter is able to accommodate; and
- (d) for same day delivery, \$6.50 per page, if the court reporter is able to accommodate.

(2) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

##### (B) Economic hardship – minimum standards

(1) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the court to proceed *in forma pauperis* or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

(3) Transcript costs for ordinary transcripts in matters that are not subject to an appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, rough draft or same day transcripts may be waived at the court's discretion for parties who qualify for economic hardship under subdivision (B)(1) or (B)(2) and upon good cause shown.

(4) The application to waive all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure. Such application should be prepared in the form of a Petition to Waive All or a Portion of the Transcript Costs and filed in the appropriate filing office.

(C) Assignment and allocation of transcripts costs

(1) *Assignment of costs.* The requesting party, or party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the court.

(2) *Allocation of costs.* When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

(D) Copies of transcript

A request for a copy of any transcript previously ordered, transcribed and filed of record shall be provided according to the following schedule:

- (1) \$0.75 per page bound, paper format; and,
- (2) \$0.50 per page electronic copy.

(E) Additional Costs

A trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for court reporters to significantly expand their dictionary. Such surcharges are at the discretion of the trial judge.

(Adopted November 2, 2016, effective January 1, 2017)