

ARBITRATION  
FORMS PACKET  
DEFENDANT

**WE STONGLY RECOMMEND THAT YOU CONTACT A LAWYER!**

If you choose to represent yourself, you must understand that you **must** follow the Pennsylvania Rules of Civil Procedure in order for your case to be processed and your rights preserved! Civil litigation is a very complex process, and all rules apply even if the dispute seems to be a simple matter or the case does not involve a lot of money. Failure to follow these rules can result in devastating consequences. Most individual seeking a medical remedy for a medical problem will consult a medical expert – a doctor. If you are seeking a legal remedy for a legal problem, we recommend that you consult a legal expert – a lawyer.

**INSTRUCTIONS**  
**Notice of Intention to Appear**

Everyone's handwriting is different. You may use a typewriter or computer to complete this form. If you do not have a typewriter or computer you must **print** legibly.

A copy of all documents (contracts, leases notes etc.) that are mentioned in your reply must be attached. If you wish to raise a defense, file a counterclaim or cross-claim go to Rules 1030, 1031 and 1031.1 of the Pennsylvania Rules of Civil Procedure for further information regarding these matters.

Attached to this notice shall be the Local Cover Sheet required by Rule 205.2. This form is available online and from the Prothonotary.

This notice shall be filed in the Office of the McKean County Prothonotary, Courthouse, Smethport, PA. with the appropriate filing fee, if any.

Make 2 copies of the completed notice. Keep 1 copy for yourself and mail the other copy to the plaintiff(s) by first class mail, postage prepaid.

You will find the Local Rules of Civil Procedure on the Court's website. The local arbitration rules begin with L1301.1. From the main menu you will also find forms by selecting "Forms and Applications".

Need to do research go to <http://www.duq.edu/academics/schools/law/law-library>. This is an excellent resource for conducting free legal research. Select "Primary Legal Research" from the menu. This site allows you to access the Unofficial Pennsylvania Statutes – Purdon's (these are the laws that govern legal actions in Pennsylvania) and the Pennsylvania Code along with many other options. Purdon's and selected sections of the Pennsylvania Code are also accessible from the Court's web site.

Need help with your case go to [www.palawhelp.org/PA/index.cfm](http://www.palawhelp.org/PA/index.cfm). This site is an online guide to legal information and legal services in Pennsylvania.

If you do not have a computer check with your local library who may have computer(s) and printer(s) available for public use.

\_\_\_\_\_, **IN THE COURT OF COMMON PLEAS**  
**Plaintiff** **OF McKEAN COUNTY, PENNSYLVANIA**  
**vs.** **CIVIL DIVISION**  
\_\_\_\_\_,  
**Defendant** **NO. CD 20\_\_**

**NOTICE OF INTENTION TO APPEAR**  
(Simplified Answer)

To the Plaintiff or the Plaintiff's attorney:

I intend to appear at the hearing scheduled for the above-captioned case and defend against the claim made against me. I do not owe this claim for the following reasons:

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NEW MATTER, COUNTER CLAIM OR CROSS-CLAIM

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

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_

Defendant

**NOTICE TO PLAINTIFF**

**IF THIS NOTICE OF INTENTION TO APPEAR CONTAINS NEW MATTER, COUNTERCLAIM OR CROSS-CLAIM YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE THERETO WITHIN (20) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU. THIS MATTER WILL BE HEARD BY A BOARD OF ARBITRATORS AT A TIME, DATE AND PLACE TO BE 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.**

**CERTIFICATION OF SERVICE AND VERIFICATION**

I state that on or about \_\_\_\_\_ (insert date), I did notify the plaintiff of my intention to appear and defend the complaint by mailing a true and correct copy of this Notice of Intention to the plaintiff at \_\_\_\_\_ (insert address) by first class mail, postage prepaid.

I verify that the statements made in this pleading are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Dated \_\_\_\_\_ Defendant \_\_\_\_\_

**DISCLAIMER**

**Court Staff cannot offer any legal advice or help you fill out this form.** The Court assumes no responsibility and accepts no liability for actions taken by users of this form, including reliance on its contents. If you want to obtain the services of an attorney but do not know who to contact, you may call Northwest Legal Services. The phone number is 814-362-6596 and its address is 100 Main Street, Bradford, PA 16701.

\_\_\_\_\_, IN THE COURT OF COMMON PLEAS  
Plaintiff OF McKEAN COUNTY, PENNSYLVANIA  
v. CIVIL DIVISION

\_\_\_\_\_, NO. C.D. 20\_\_  
Defendant

LOCAL COVER SHEET

Dated: \_\_\_\_\_, 20\_\_

1. Type of Pleading (e.g. Complaint in Divorce) \_\_\_\_\_

2. By whom filed: \_\_\_ Plaintiff \_\_\_ Defendant Are monetary damages requested? \_\_\_ Yes \_\_\_ No  
Jury trial demanded \_\_\_ Yes \_\_\_ No Complex\* \_\_\_ Yes \_\_\_ No To be listed for Arbitration? \_\_\_ Yes  
\_\_\_ No Note: A civil action is to be listed for Arbitration unless (1) the amount in controversy exceeds  
\$50,000 exclusive of interest and costs or (2) the case involves title to real property. \* For definition: See  
Note following L205.2(b)(2).

3. The plaintiff is represented by:

Attorney \_\_\_\_\_ Email \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. # \_\_\_\_\_ Fax # \_\_\_\_\_ Supreme Court ID No. \_\_\_\_\_

The plaintiff appears pro se:

Address \_\_\_\_\_  
Telephone number \_\_\_\_\_ Email \_\_\_\_\_

4. The defendant(s) is (are) represented by (attach a separate sheet of paper, if necessary):

Attorney \_\_\_\_\_ Email \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. # \_\_\_\_\_ Fax # \_\_\_\_\_ Supreme Court ID No. \_\_\_\_\_

The defendant(s) appear(s) pro se (attach a separate sheet of paper, if necessary):

Address \_\_\_\_\_  
Telephone number \_\_\_\_\_ Email \_\_\_\_\_

5. Name of the assigned Judge: \_\_\_\_\_

6. This action was commenced by:

\_\_\_ filing a writ of summons on \_\_\_\_\_ filing a complaint on \_\_\_\_\_  
\_\_\_ filing on \_\_\_\_\_ a notice of appeal from a judgment of the Magisterial District Judge  
\_\_\_ filing a notice of appeal from a decision of a Board of Arbitration on \_\_\_\_\_

\_\_\_\_\_  
Filer/Counsel for the Plaintiff/Defendant

# SELECTED EXCERPTS FROM McKEAN COUNTY LOCAL RULES OF CIVIL PROCEDURE

## ARBITRATION

### **Rule 1301.1. Scope**

(a) All cases which are at issue, where the amount in controversy (exclusive of interest and costs) shall be \$50,000 or less, except those involving title to real estate, equity actions, mortgage foreclosure, and other actions which do not involve the recovery of money damages, including divorce, mandamus and quo warranto, shall be submitted to and heard and decided by a Board of Arbitration.

(b) This rule shall apply to cases involving more than one claim, including counter claims, if none of such claims exceed \$50,000 exclusive of interest and costs.

### **Rule 1301.2. Pleading, Discovery and Dispositive Motions – Small Claims**

(a) This rule shall cover all arbitrable cases that:

(1) arise from an appeal to the decision of a Magisterial District Judge even if the Plaintiff's claim is for an amount in excess of \$12,000;

(2) are commenced with the filing of a simple complaint wherein the amount in controversy is \$12,000 or less; or

(3) are commenced with a complaint prepared in conformity with Pa.R.C.P. No. 204.1 and Pa.R.C.P. Nos. 1019 et seq. wherein the amount in controversy is \$12,000 or less.

(b) In all cases covered by this rule, a simplified complaint and a simplified answer shall be permitted and encouraged. The simplified complaint and the simplified answer shall be available from the prothonotary and online at [http://www.mckeancountypa.org/Departments/Court\\_Of\\_Common\\_Pleas/Index.aspx](http://www.mckeancountypa.org/Departments/Court_Of_Common_Pleas/Index.aspx).

(c) Discovery in cases covered by this rule, including a Request for Admission under Pa. R.C.P. No. 4014, is discouraged and shall be permitted only by order of court. A party wanting to conduct discovery shall file a motion pursuant to Rule L208.3(a). The requirement that a statement of applicable authority accompany the motion is waived. The motion shall, *inter alia*, contain the reason or reasons why discovery is needed and what information, documents etc. are being sought.

(d) Preliminary Objections may be filed to any pleading. No objection shall be made based on the failure of the pleading to conform to a rule of court.

(e) Motions for Judgment on the Pleadings and for Summary Judgment shall not be permitted in cases covered by this rule.

(f) The failure of a party to raise a defense or objection in his or her simplified answer or by preliminary objection shall not constitute a waiver of such defense or objection under Pa.R.C.P. No.1032 and may be heard at the time of the hearing at the discretion of the Board of Arbitration.

(g) A self represented litigant may file a simplified answer to a complaint nonetheless filed in conformity with the Pa.R.C.P. No. 204.1 and Pa.R.C.P. Nos. 1019 et seq. The self represented litigant when replying to such a complaint should reply using separate numbered paragraphs corresponding to the numbered paragraphs of the complaint. Any matter not covered in the self represented litigant's replies to the separate paragraphs of the complaint should be set forth in separately numbered paragraphs under the caption "New Matter, Counterclaim or Cross-Claim".

(h) Self represented litigants who appeal from a decision of a Magisterial District Judge in matters covered by this rule shall be furnished with a copy of the simplified complaint or simplified answer, ancillary forms and printed instructions for their use.

### **Explanatory Comment**

This rule is intended to afford represented and self represented litigants reasonable access to the court and to provide a timely and affordable means to resolve small claims not involving complex issues or needing extensive discovery. Certain rules of pleading and evidence have been established to enable fair and prompt resolution of claims.

### **Comment**

A party wanting to conduct discovery after an appeal is taken is required to obtain court approval pursuant to Rule L1308(b).

### **Rule 1303.1. Hearing**

(a)(1) After the pleadings have been closed for 30 days cases may be listed for arbitration by one or more of the parties in the case or their counsel filing a Praeceptum for Arbitration that shall include, to the extent possible, an estimate of the number of hours, or portion thereof, anticipated to be needed for the hearing, together with a listing fee in the amount of \$100. The praecipe shall substantially conform to the form shown below. The party or counsel filing the Praeceptum for Arbitration shall deliver a copy to the court administrator and shall forthwith serve a copy of the praecipe upon all other counsel of record and any unrepresented parties, who, if for any reason oppose such listing, shall within 10 days thereafter file their objection(s). Ten days after the case has been praeciped

onto the list, if no objections thereto have been filed, the prothonotary shall promptly appoint a panel of 3 arbitrators one of whom to be appointed chairperson to hear and decide the case, and shall forward copies of all pleadings and other documents filed in the case to all arbitrators. The chairperson so appointed shall forthwith establish the time, date and place of the hearing and notify all counsel of record, unrepresented parties, and members of the arbitration panel thereof at least 30 days in advance unless a shorter time is stipulated to. All hearings shall be held within 60 days of the date the chairperson is appointed by the prothonotary. In the event the case is settled prior to hearing but after the chairperson has scheduled a hearing, \$50 of the filing fee shall be paid to the chairperson as reimbursement for office expenses. In the event the case has been settled prior to hearing and before the chairperson has scheduled a hearing, \$50 of the filing fee shall be refunded to the party who paid it. In either event the remaining \$50 shall be retained by the prothonotary to reimburse expenses. The filing fee shall be charged to the party first listing the case for hearing, and only be assessed one time per case.

(a)(2)(i) The court may at any time, in its discretion, enter an order listing any case, arbitrable under this rule, for arbitration and may also set the time, date and place for the hearing. The court administrator shall forthwith notify all counsel of record and unrepresented parties that the case has been listed for arbitration and if a hearing date has been set, the time, date and place of the hearing. Counsel or any party who for any reason oppose such listing, shall within 10 days thereafter file their objection(s). Ten days after the case has been listed, if no objection thereto has been filed or no praecipe has been filed marking the case "settled and discontinued", the prothonotary shall promptly appoint a panel of 3 arbitrators one of whom to be appointed chairperson to hear and decide the case, and shall forward copies of all pleadings and other documents filed in the case to all arbitrators. In the event the case is settled before the Board of Arbitration is appointed no fee shall be assessed. In the event the case is settled after the Board of Arbitration has been appointed and before the hearing a fee in the amount of \$50 shall be collected by the prothonotary from the Plaintiff to reimburse the prothonotary for expenses. A party who demonstrates a financial inability to pay all or a part of the aforesaid fee may request the court waive all or part of the fee.

(a)(2)(ii) If the court has entered an order listing the case for arbitration and did not in its order set the time, date and place for the hearing of the case and the Board of Arbitration has been appointed by the prothonotary, the chairperson shall forthwith establish the time, date and place of the hearing and notify all counsel of record, unrepresented parties, and members of the arbitration panel thereof at least 30 days in advance unless a shorter time is stipulated to. All hearings shall be held within 60 days of the date the Board of Arbitration is appointed by the prothonotary. In the event the case is settled before the Board of Arbitration is appointed no filing fee shall be assessed. In the event the case is settled after the Board of Arbitration has been appointed and before the chairperson has scheduled the hearing a fee in the amount of \$50 shall be collected by the prothonotary from the Plaintiff as reimbursement to the prothonotary for expenses. In the event the case is settled after the chairperson has scheduled the hearing and before the hearing a fee in the amount of \$100 shall be collected by the prothonotary from the Plaintiff, \$50 of the fee shall be paid to the chairperson as reimbursement for his or her office expenses and the remaining \$50 shall be



retained by the prothonotary. A party who demonstrates a financial inability to pay all or a part of the aforesaid fee may request the court waive all or part of it.

#### **Comment**

In the event the matter is settled prior to hearing but after the Board of Arbitration has been appointed, counsel, or if there is no counsel involved, the parties, **shall** notify the chairperson of the Board of Arbitration of the terms of the settlement. *See* Rule L1306.

### **Rule 1303.3. Failure to Appear for Hearing**

If a party fails to appear for a scheduled arbitration hearing, the matter may, if all present parties agree, be transferred immediately to a Judge of the Court of Common Pleas for an *ex parte* hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial *de novo* on appeal.

#### **Comment**

This rule results in the loss of a right to a trial *de novo* on appeal. A dismissal or judgment which results from this rule will be treated as any other final judgment in a civil action subject to Pa.R.C.P. No. 227.1.

### **Rule 1304.2. Conduct of Hearing**

(a) The Board of Arbitration, or a majority of the members thereof, shall conduct the hearing before them with due regard to the law and according to the established rules of evidence, and shall have the general powers of a court including, but not limited to, the following powers:

(1) To issue subpoenas to witnesses to appear before the Board as in other civil actions, and to issue an attachment upon allowance by the court for failure to comply therewith.

(2) To compel the production of all books, papers and documents which they shall deem material to the case.

(3) To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and facts of the case submitted to them.

(4) To adjourn their meetings from time to time.

(i) If, after the appointment of a Board of Arbitration, but before hearing, one of the members thereof shall die or become incapable of acting, or shall refuse to attend the hearing, or shall remove or depart from the county, the remaining members of the

Board shall, upon agreement of the parties, proceed to hear the matter at issue.

(ii) If a member of the Board dies or becomes incapable of acting, or shall fail or refuse to perform his duties, after hearing but before an award shall be made, the case shall be decided and the award signed by the remaining members of the Board. If they cannot agree, the matters shall be heard *de novo* by a new Board, to consist of the remaining members plus a third to be appointed by the prothonotary.

(b)(1) The Board shall have the right to proceed *ex parte* in a proper case if, after due notice, one of the parties fails to appear at the hearing and does not request a continuance for good cause, or

(2) If a party fails to appear at the hearing the case may be transferred immediately to a Judge of the court of common pleas for an *ex parte* hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial *de novo* on appeal. A non-jury verdict entered at a hearing held pursuant to this rule shall not exceed \$50,000(exclusive of interest and costs) to any party.

(c) In all cases the filing of proposed findings of fact, conclusions of law and a memorandum of support shall be permitted and encouraged. The findings of fact, conclusions of law and memorandum shall be filed with the prothonotary in advance of the arbitration hearing and a copy served on each party and each arbitrator.

(d) At least 7 days before the date of the hearing, the case may be continued 1 time by agreement of all counsel and unrepresented parties. The counsel or party requesting the continuance shall give written notice of such continuance to the arbitrators. The chairperson of the Board of Arbitration shall reschedule the case to be heard within 30 days, with notice of hearing to be provided to all arbitrators, counsel and unrepresented parties. In the event that the parties cannot agree to a continuance more than 7 days prior to the scheduled hearing date a motion for continuance must be made to and ruled upon by the court. If the case is continued by the court, the chairperson shall reschedule the hearing following the procedure set forth above.

## **Rule 1306. Award**

(a) In the event the matter is settled prior to hearing but after the Board of Arbitration is appointed counsel or, if there is no counsel involved, the parties shall notify the chairperson of the Board of Arbitration of the terms of the settlement and the Board of Arbitration shall enter an award consistent with the terms of settlement and file the same with the prothonotary.

(b) The Board of Arbitration shall make their decision promptly and shall file their award with the prothonotary within 7 days after the making of their decision. The award shall be signed by all or a majority of the members of the Board. The award shall dispose of all claims for relief and shall comply with Pa.R.C.P. No.1312. The prothonotary shall file the award and enter the same in the proper dockets and transmit a

copy thereof by mail to the parties or their counsel. The prothonotary shall record any award in the judgment index as verdicts are now recorded.

### **Rule 1308. Appeal**

(a) The award, if any, unless appealed from as herein provided, shall be final and shall have all the attributes and legal effect of a judgment entered by a court of competent jurisdiction. If no appeal is taken within the time allotted therefore, execution process may be issued on the award as in the case of other judgments.

(b) An appeal from an award by the Board of Arbitration shall be taken pursuant to Pa.R.C.P. Nos. 1308 – 1311. Appellant shall furnish the prothonotary with a copy of the appeal from the award of the Board of Arbitration for the court administrator. Discovery shall be permitted only by order of court upon good cause shown.

(c) The appealing party shall pay to the prothonotary the sum of \$750.00 but not more than 50% of the amount in controversy, as compensation for the Arbitrators, which shall not be taxed as costs or be recoverable in any proceeding. A party who demonstrates a financial inability to pay all or a part of the aforesaid fee may request the court waive all or part of it.

(d) All appeals shall be *de novo* except when the case is transferred to and decided by a Judge of the Court of Common Pleas pursuant to Rule L1304.2(b)(2). Despite any costs which a successful appellant may recover from the adverse party, he shall nevertheless not be entitled to recover the arbitrators' fees paid by him as a condition of taking his appeal.

(e) Any party may file exceptions with the court from the decision of the Board of Arbitration within 20 days from the filing of the award for either or both of the following reasons and for no other:

(1) That the arbitrators misbehaved themselves in the conduct of the case;

(2) That the actions of the Board were procured by corruption or other undue means. If such exceptions shall be sustained, the award of the Board shall be vacated by the court.

### **Comment**

An appeal from an award of a Board of Arbitration is governed by Pa.R.C.P. Nos. 1308, et seq.