

JUDGE LEONARD G. BROWN, III  
JUDGE'S PROCEDURES (2020)

Judge Brown was elected to the Lancaster County Court of Common Pleas on November 8, 2011.

**I. Courtroom Expectations**

**A. Conduct**

I insist on punctuality and courtesy from counsel and self-represented parties to the court and to each other, both in the presence of the court and otherwise.

Unless permission is granted otherwise, the examination of witnesses should be conducted from the lectern or from counsel table either seated or standing.

Counsel and unrepresented parties should rise to address the court and should seek permission of the court before approaching witnesses or the bench.

Counsel and unrepresented parties will direct all comments to the court or to the witness under examination and not to other counsel or to the jury.

**B. Consultation with Opposing Counsel**

In general, I expect counsel to bring matters to my attention only after they have been discussed with opposing counsel. When communicating with the court, counsel shall be prepared to state the position of opposing counsel.

**II. Injunctions**

I require submission of proposed findings of fact and conclusions of law for TRO and injunction hearings. The court will set the time for submission of these items at a pre-hearing conference.

**III. Family Business Court**

Local Rule 1931 requires service on opposing counsel or self-represented parties of all Family Business Court matters five days prior to court. Pleadings intended to be presented in Family Business Court must be filed with the Prothonotary before presentation in Family Business Court. Forms for Family Business Court presentations are available at the Court's Self Help Center and on line at <http://www.court.co.lancaster.pa.us/35/Self-Help-Center>.

**Effective January 2<sup>nd</sup> 2020**, Family Business Court (FBC) paperwork will no longer be available for pick up in Court Administration prior to FBC. Please report directly to the appropriate courtroom as all filed FBC paperwork will be sent to the appropriate chambers to be held and taken to Court at the time of presentation. Reminder that per Lancaster County Local Rule 1931 D., all FBC paperwork **MUST** be filed in the Prothonotary's Office **PRIOR** to being presented, so please make sure all necessary documents are filed in a timely manner.

#### IV. Communication with the Court

I strongly discourage communication with my law clerk and secretary. Inquiries regarding civil cases should be directed to Court Administration (case scheduling) or the Prothonotary (filing or case file content). Many questions can be answered via the Prothonotary's website which can be found at <http://web.co.lancaster.pa.us/155/Prothonotary>

Please **do not write letters directly to the court**, or send or designate copies of correspondence among and between counsel to the court, except:

- (1) When letters of transmittal accompany documents **required by the court** to be sent to or filed with the court or with another official office in the courthouse;
- (2) When counsel are specifically **requested by the court** to communicate some information to the court by letter;
- (3) When counsel are filing a **joint request** of the court to schedule or resolve a matter;
- (4) When the participation of counsel in the case is expected to be affected by a personal matter concerning counsel, a party, a witness, or counsel's immediate family, such as medical problems, vacation plans, or other similar personal problems or questions; or
- (5) To confirm or advise the court that a case has been settled, dismissed, or otherwise finally disposed.

**All other written communications** with the court concerning any case assigned to my calendar should be done **by the filing of a pleading, motion, application, brief, legal memorandum, rule returnable, rule to show cause, or other similar filing provided for in the Pennsylvania Rules of Civil or Criminal Procedure or our Local Rules of Civil or Criminal Procedure.** Do not write letters to the court that are properly the subject of these filings. The Court will not respond to any correspondence that fails to comply with this policy and will merely forward such correspondence to the Prothonotary.

When a written communication concerning a case cannot timely address a problem, counsel may initiate necessary telephone communications with my chambers. Issues appropriately addressed by telephone contact include:

- (1) Scheduling of conferences or proceedings, including pretrial and trial conferences;
- (2) Attendance of witnesses;
- (3) Exhibit handling or arrangements for video replay;
- (4) Arrangements for telephone conferences regarding discovery disputes; and
- (5) Requests for absolutely necessary extensions of time to file any response, reply, brief, memorandum of law, or the like.

All parties counsel are encouraged to sign up for File & Serve used by the Lancaster County Prothonotary as an electronic filing system, and advise the Court if they have done so at the pretrial conference. The parties are not required to file any documents through File & Serve. However, by signing up they will receive orders from the Court via email. There is no cost for the parties to sign up for or receive notifications through File & Serve. Failure to sign up for File & Serve could likely result in a delay in the parties receiving court orders. For more information go to:

<http://www.fileandservexpress.com/#courinfo>

## **V. Requests for Continuance**

If a continuance is being requested with the agreement of both parties, the party seeking the continuance shall submit to chambers a motion and proposed order. The motion shall include the reason(s) for the continuance and should indicate that the opposing party is in agreement with the continuance.

For continuances in Family Court matters, if the opposing party is not in agreement with the continuance or if, after making reasonable efforts, the party seeking the continuance has been unable to reach the opposing party, the motion for continuance shall be presented in Family Business Court or by special presentation by contacting the judge's secretary. The motion should include the reason(s) for the continuance and the reason(s) for the opposing party's disagreement or a statement of the efforts made to contact the opposing party. Motions to be presented in Family Business Court shall follow all Family Business Court procedures noted above under Section III. Forms to request a continuance are available at the Court's Self Help Center and on line at <http://www.court.co.lancaster.pa.us/35/Self-Help-Center> (Form 10).

Continuances should be sought as soon as an issue arises affecting the party's or counsel's presence in court. Emergency motions for a continuance are those occurring within two business days before a trial or hearing. The court expects that emergency requests for continuances will be rare. Any emergency motion and proposed order may be submitted to chambers by facsimile (717-824-8509), email (Judge\_Brown\_Chambers@co.lancaster.pa.us), or hand delivery.

## **VI. Pretrial Procedure– Custody Trials**

Pretrial conferences will be held in all cases going to trial. It is a time to address outstanding motions, narrow the issues for trial, narrow witness lists to remove cumulative testimony, and for the court to be advised whether there is any likelihood of settlement regarding matters at issue in the case.

Counsel must submit pretrial memoranda in accordance with the Court's pretrial order, a sample of which is attached as Appendix 1. Also, attached as Appendix 2 is a sample pretrial memo covering each area required by the pretrial order.

## **VII. Pretrial Procedure – Civil Trials**

### **A. Required Form of Pretrial Memoranda (See Appendix 4)**

Unless otherwise ordered by the court, the pretrial memorandum in non-family law court cases should be prepared in accordance with the following items:

- (1) A brief statement of the nature of the action and the basis on which the jurisdiction of the court is invoked.
- (2) Plaintiff's pretrial memorandum shall contain a brief statement of the facts of the case. Defendant's pretrial memorandum shall contain such counter-statements of the facts as may be necessary to reflect any disagreement with plaintiff's statement. All parties shall omit pejorative characterizations, hyperbole, and conclusory generalizations.
- (3) A list of every item of monetary damages claimed, including (as appropriate) computations of lost earnings and loss of future earning capacity, medical expenses (itemized), property damages, etc. If relief other than monetary damages is sought, information adequate for framing an order granting the relief sought.
- (4) A list showing the names and addresses of all witnesses the party submitting the memorandum intends to call at trial. Liability and damages witnesses shall be designated separately.
- (5) A schedule of all exhibits to be offered at trial by the party submitting the memorandum.
- (6) An estimate of the number of days required for trial.
- (7) Special comments regarding legal issues, stipulations, amendments of pleadings, or other appropriate matters.
- (8) All stipulations of counsel.
- (9) A statement of objection to:
  - (1) the admissibility of any exhibit based on authenticity;
  - (2) the admissibility of any evidence expected to be offered for any reason (except relevancy);
  - (3) the adequacy of the qualifications of an expert witness expected to testify; and
  - (4) the admissibility of any opinion testimony from lay witnesses pursuant to Pennsylvania Rule of Evidence 701. Such objection shall describe with particularity the ground and the authority for the objection.

(10) Deposition testimony (including videotaped deposition testimony) that the party intends to offer during its case-in-chief. The statement should include citations to the page and line number and the opposing party's counter-designations.

(11) A list of all questions which counsel expects to ask in voir dire which are beyond the areas of inquiry set forth in Pa.R.C.P. No. 220.1.

**B. Final Preparation for Trial.** In every case, counsel shall, before the commencement of trial:

**1. Mark and exchange all exhibits to be offered in evidence during case in chief.** Authenticity of all exhibits will be deemed established unless written objection is filed (either in a pretrial memorandum or by motion only if an exhibit is received after the pretrial conference) at least seven (7) days before trial.

**2. Exchange lists of witnesses.** Only witnesses listed may be called during the case in chief. Requests during trial for offers of proof will not ordinarily be entertained with respect to listed witnesses; counsel are expected to clarify any uncertainties concerning the substance of proposed testimony in advance of trial, by conferring with opposing counsel.

**C. Final Pretrial Conference.** A final pretrial conference will ordinarily be held shortly before trial. It shall be attended by trial counsel, who must be either authorized or empowered to make binding decisions concerning settlement, or able to obtain such authority by telephone in the course of the conference. In addition to exploring the final positions of the parties regarding settlement, the court will consider at the conference some or all of the following:

The simplification of the issues, the necessity or desirability of amendments to the pleadings, the separation of issues, the desirability of an impartial medical examination, the limitation of the number of expert witnesses, the probable length of the trial, the desirability of trial briefs, evidentiary questions, the submission of points for charge, and such other matters as may aid in the trial or other disposition of the action.

**D. Miscellaneous Provisions Relating to Trial and Preparation for Trial.**

**1. Requests for Jury Instructions.** Requests for jury instructions are not required with respect to familiar points of law not in dispute between the parties. As to such matters, counsel should consider simply listing the subject desired to be covered in the charge (e.g., negligence, proximate cause, assumption of risk, burden of proof, credibility, etc.), unless specific phraseology is deemed important in the particular case. With respect to non-routine legal issues, requests for instructions should be accompanied by appropriate citations of legal authorities. All requests for instructions shall be submitted in writing, in duplicate, at chambers; unless the judge orders otherwise, such requests shall be filed ten (10) days before commencement of the trial in electronic form in MS Word format to Judge\_Brown\_Chambers@co.lancaster.pa.us, but amendments or supplements may be submitted at the close of the evidence.

**2. Special Interrogatories.** Proposals concerning the form of special interrogatories to the jury shall be submitted at such time as may be specified by the judge; in the absence of specific direction, such proposals shall be submitted at the earliest convenient time, and not later than the close of the evidence.

**3. Requests for Findings in Non-Jury Cases.** In non-jury cases, requests for findings of fact and conclusions of law shall be submitted in electronic form in MS Word format to Judge\_Brown\_Chambers@co.lancaster.pa.us.

**4. Special Arrangements.** Any counsel desiring special equipment, devices, personnel, or courtroom arrangements will be responsible for assuring that such items are available as needed. Court personnel should not be expected or depended upon to provide such service for any party or counsel, unless so ordered by the judge.

**5. Continuances.** Trial will not ordinarily be continued because of the unavailability of a witness, particularly an expert witness. If a witness's availability for trial is doubtful, counsel will be expected to arrange for a written or videotaped trial deposition.

## **VIII. Trial Procedure – Civil Cases**

### **A. Overview**

#### **1. Scheduling Cases.**

A date for trial will be determined at the scheduling conference or pretrial conference if not set at the scheduling conference. Questions relating to scheduling matters should be directed to Judge Brown's secretary or law clerk.

#### **2. Cases Involving Out-Of-Town Parties or Witnesses.**

Judge Brown schedules the trial of cases involving out-of-town counsel, parties, or witnesses in the same manner as all other cases. Counsel are responsible for the scheduling of witnesses.

#### **3. Conflicts of Counsel.**

Counsel should notify the court immediately upon hearing of any unavoidable and compelling professional or personal conflicts affecting the trial schedule.

#### **4. Note Taking by Jurors.**

Pursuant to Pa.R.C.P. No. 223.2, Judge Brown permits jurors to take notes in trials lasting multiple days.

#### **5. Voir Dire**

In most cases Judge Brown permits counsel to conduct limited *voir dire* in civil cases.

## **6. Trial Briefs.**

Parties should submit a trial brief only if a new or unique point of law is involved.

## **7. Motions *In Limine*.**

The time for filing motions *in limine* will be determined at the scheduling conference or at the latest, the pretrial conference.

## **8. Examination of Witnesses Out of Sequence.**

The court will permit counsel to examine his/her own witnesses out of turn for the convenience of a witness.

## **9. Opening Statements and Summations.**

In most cases, the court permits twenty to thirty minutes for an opening statement and thirty to forty-five minutes for a summation or closing argument.

## **10. Examination of Witnesses or Argument by More Than One Attorney.**

More than one attorney for a party may examine different witnesses or argue different points of law before the court. Only one attorney for each side may examine the same witness or address the jury during the opening statement or summation.

## **11. Examination of Witnesses Beyond Redirect and Recross.**

The court will permit limited re-direct and re-cross examination on matters not previously covered by cross examination or in special circumstances.

## **12. Videotaped Testimony.**

Videotaped testimony should begin with the witness being sworn. Counsel should bring objections to the court's attention at the time of the final pretrial conference or by motion at least a week before trial. After the court rules on any objections, counsel should edit the tapes before offering the videotaped testimony at trial.

## **13. Reading of Material into the Record.**

Judge Brown has no special practice or policy regarding reading stipulations, pleadings, or discovery material into the record at trial.

## **14. Preparation of Exhibits.**

Exhibits should be pre-marked and exchanged in accordance with the final pretrial order. On the day trial is scheduled to commence, counsel should provide two copies of each exhibit and a copy of a schedule of exhibits to the judge and his clerk. If a party has more than five (5) exhibits to introduce, the exhibits shall be presented to the court electronically on a thumb drive for the court and a thumb drive for his clerk. There is no need to provide binder exhibits as it is easier for the court to use the electronic set.

### **15. Offering Exhibits into Evidence.**

Unless the parties have an agreement as to the admissibility of a proposed exhibit, a witness may not testify as to its content until it has been admitted into evidence.

### **16. Motions for Nonsuit.**

Motions for nonsuit or judgment as a matter of law in jury trials and motions for an involuntary dismissal in non-jury trials is ordinarily permitted by oral motion.

### **17. Proposed Jury Instructions and Verdict Forms.**

Judge Brown typically uses standard jury instructions. In his scheduling order, Judge Brown typically requires that the parties submit proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories for the jury no later than ten days before the trial date. Counsel should submit a copy of the proposed jury instructions to chambers *via* electronic mail at Judge\_Brown\_Chambers@co.lancaster.pa.us in electronic form in MS Word format. Jury instructions need only be submitted with respect to substantive issues in the case. Proposed instructions on procedural matters such as the burden of proof, unanimity, and credibility are not necessary.

Each proposed instruction should be on a separate sheet of paper, double spaced, and should include citation to specific authority. The court will not consider proposed instructions without citation to specific legal authority. Cases and model jury instructions that are cited should be accurately quoted and a page reference should be provided.

Counsel will have the opportunity to file supplemental points for charge during trial as necessary. If a model jury instruction is submitted the submitting party shall state whether the proposed jury instruction is unchanged or modified. If a party modifies a model jury instruction, the additions should be underlined and deletions should be placed in brackets.

### **18. Proposed Findings of Fact and Conclusions of Law.**

Proposed findings of fact and conclusions of law in non-jury cases should be submitted at least twenty days after the trial transcript is available. They should be submitted to chambers on hard copy and *via* electronic mail in MS Word format at Judge\_Brown\_Chambers@co.lancaster.pa.us.

### **19. Unavailability of Witnesses.**

If a witness is unavailable at the time of trial, as defined in Pa.R.C.P. 4017 and 4020, the court expects an oral or videotaped deposition to be used at trial for that witness, whether the witness is a party, a non-party, or an expert. The unavailability of such witness will not be a ground to delay the commencement or progress of trial.

### **20. Lay Witness Opinion.**

Any party expecting to offer lay opinion testimony pursuant to Pennsylvania Rule of Evidence 701 regarding issues of liability or damages shall provide the opposing parties with information or documents supporting the testimony at the time required for

submission of expert reports.

## **B. Jury Deliberations**

### **1. Written Jury Instructions**

In the appropriate case, the court will give the jury a copy of the written jury instructions.

### **2. Exhibits in the Jury Room**

After the jury has been instructed and taken to the jury room to begin deliberations, the court and counsel will discuss which exhibits should go out with the jury for their consideration during deliberations if so requested.

### **3. Handling of Jury Requests to Read Back Testimony or Replay Tapes**

At the jury's request, the court may permit the Deputy Clerk to read portions of testimony back to the jury or to replay the audio or video-taped testimony.

### **4. Availability of Counsel During Jury Deliberation**

Unless excused by the court, counsel must remain in the courthouse during jury deliberations.

### **5. Taking the Verdict and Special Verdicts**

Ordinarily, the court will submit interrogatories to the jury. The Courtroom Deputy will take the verdict in the presence of the court, counsel, and the parties.

### **6. Polling the Jury**

If requested by counsel, the court will poll the jury.

### **7. Interviewing the Jury**

Judge Brown will allow counsel to interview jurors but will instruct the jury that they are not required to talk to the attorneys.

**APPENDIX 1**  
**SAMPLE PRETRIAL ORDER**  
**CUSTODY**

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA  
CIVIL ACTION – LAW

,	:	
Plaintiff,	:	
	:	
vs.	:	No. CI-
	:	
,	:	
Defendant.	:	

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2015, a Pre-trial Conference has been scheduled in this matter for the \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_ .m. in Chambers A of the Lancaster County Courthouse. (The \_\_\_\_\_ Hearing has been scheduled for the \_\_\_\_ day of \_\_\_\_\_ 2015.)

The purpose of the Pre-trial Conference is to consider: narrowing of issues; possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; limitation of the number of witnesses; and, any such other matters as may aid in the disposition of the case. The parties/parties' counsel are advised to have settlement authority at the time of the Pre-trial Conference. The parties/parties' counsel are also advised to comply with the custody pre-trial conference procedure provided for in Local Rule 1915.5(b)F. Counsel shall prepare in writing a pre-trial memorandum which includes the following:

- I. a concise statement of uncontested facts, unresolved issues, and proposed resolution;
- II. work schedule of the party filing the memorandum;
- III. brief statements addressing any contested factors listed in 23 Pa.C.S.A. § 5328(a) (for more information, see <http://www.co.lancaster.pa.us/courts/site/default.asp>);

- IV. a list of contempt issues;
- V. a list of fact and expert witnesses with their addresses and a concise statement of their proposed testimony. A report of each expert witness listed shall be attached to the pre-trial memorandum. The report shall describe the witness's qualifications and experience and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
- VI. a list of exhibits (all proposed exhibits which do not exceed three pages shall be attached to the pre-trial memorandum);
- VII. a list of deposition transcripts to be used in lieu of testimony and a statement of all known objections;
- VIII. a statement of stipulations sought;
- IX. a statement of requests such as a special time for a witness, courtroom needs, etc.; and,
- X. certification that the parties/parties' counsel have conferred and sought in good faith to resolve all outstanding issues related to exhibits, witnesses and stipulations.

At least two business days prior to the Pre-trial Conference, the original pre-trial memorandum shall be filed with the Prothonotary and a courtesy copy shall be submitted to chambers. The courtesy copy may be submitted to chambers by facsimile (717-824-8509), email (Judge\_Brown\_Chambers@co.lancaster.pa.us), or hand delivery.

Counsel trying the case shall be present for the pretrial conference. The Court expects counsel to have conferred prior to the Pre-trial Conference to address any evidentiary issues or

exhibit objections. Those outstanding objections shall be brought to the Court's attention at the Pre-trial Conference.

If a party fails to file a pre-trial memorandum, the Court may make an appropriate order under Rule 4019(c) governing sanctions. In addition, a party who fails to file a pre-trial memorandum shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence in support of or in opposition to claims for the matters not covered therein.

All parties counsel are encouraged to sign up for File & Serve used by the Lancaster County Prothonotary as an electronic filing system, and advise the Court if they have done so at the pretrial conference. The parties are not required to file any documents through File & Serve. However, by signing up they will receive orders from the Court via email. There is no cost for the parties to sign up for or receive notifications through File & Serve. Failure to sign up for File & Serve will result in a delay in the parties receiving court orders. For more information go to: [http://www.lexisnexis.com/fileandserve/rules/default.asp?court=pa\\_lancaster#courtinfo](http://www.lexisnexis.com/fileandserve/rules/default.asp?court=pa_lancaster#courtinfo).

**Prior to the Pretrial Conference both parties shall attend the custody education seminar, Focus on Children, file their certificate of attendance with the Prothonotary, and provide a courtesy copy to chambers. Failure to comply with this paragraph may, after a hearing, result in a finding of contempt and a fine.**

BY THE COURT:

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LEONARD G. BROWN, III, JUDGE

ATTEST:

COPIES TO:

**Factors for the Court to consider in custody determinations pursuant to  
23 Pa.C.S.A. § 5328:**

(a) Factors.--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:

- (1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.
- (2) The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.
- (3) The parental duties performed by each party on behalf of the child.
- (4) The need for stability and continuity in the child's education, family life and community life.
- (5) The availability of extended family.
- (6) The child's sibling relationships.
- (7) The well-reasoned preference of the child, based on the child's maturity and judgment.
- (8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.
- (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
- (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- (11) The proximity of the residences of the parties.
- (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- (14) The history of drug or alcohol abuse of a party or member of a party's household.
- (15) The mental and physical condition of a party or member of a party's household.
- (16) Any other relevant factor.

**APPENDIX 2**

**SAMPLE PRETRIAL MEMO FAMILY LAW CASES**

BOOKER T. WASHINGTON, ESQUIRE  
DU BOIS LAW FIRM  
I.D. NO. 12345  
999 EAST ORANGE STREET  
LANCASTER, PA 17602  
(717) 288-6769

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IN THE COURT OF COMMON PLEAS LANCASTER COUNTY, PENNSYLVANIA  
CIVIL ACTION – CUSTODY

JOHN B. GETTER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. CI-13-98765
	:	
LIBBY GETTER, N/B/M	:	
LIBBY AUPAIR,	:	
	:	
Defendant.	:	

**PLAINTIFF’S PRETRIAL CONFERENCE MEMORANDUM**

AND NOW comes Booker T. Washington, Esquire, and submits this Pre-Trial Statement on behalf of Plaintiff.

I. CONCISE STATEMENT AND PROPOSED RESOLUTION

On February 29, 2008, Mrs. Aupair gave birth to the child of the parties, Minnie. The parties separated in February of 2010, one month before Mr. Getter filed a custody complaint. Mrs. Aupair went on to remarry Jacques Aupair, a local farmer. Mrs. Aupair is unemployed and Mr. Getter works as an accountant for the Armstrong company. Mr. Getter lives alone in a one-bedroom apartment, and has always had primary custody of the child based on the agreement of the parties at a custody conference in December of 2010.

The parties agreed to participate in co-parenting counseling in January of 2011, but Mrs. Aupair continues to have difficulty communicating her availability to Mr. Getter, as indicated by Mrs. Aupair’s failure to attend any of the child’s medical appointments in 2012. In May of 2012, the Child began seeing a therapist for custody related issues.

As the child will be entering kindergarten this fall, and the parties live in separate school districts, Mrs. Aupair has filed a petition for modification to seek primary custody and have the child attend school at Donegal. Father is in the Hempfield School District and is seeking to maintain primary custody and have the child attend school in Hempfield.

II. WORK SCHEDULE

Mr. Getter works Monday through Friday 6:00 a.m. to 3:00 p.m.

III. 23 Pa.C.S.A. § 5328 FACTORS

1. Not at issue.
2. Not at issue.
3. Father is primarily responsible for performing the parental duties, such as arranging medical appointments.
4. Mother's inability to maintain a consistent residence evinces that she is unable to provide stability for the child's community life and education.
5. Father has many family members who live locally to care for the child, and Mother's family resides in France.
6. None.
7. The child is too young to form a well-reasoned preference.
8. Not at issue.
9. Not at issue.
10. Not at issue.
11. The distance between the parties' residences is approximately fifteen miles.
12. Although Mother's lack of employment allows her to be home to care for the child, Father's mother is available to care for the child while he is at work and the child also attends a daycare program on Fridays.
13. Not at issue.
14. Not at issue.

15. Not at issue.

16. None.

IV. CONTEMPT ISSUES

None.

V. WITNESSES

a. John B. Getter.

b. Minnie Getter, Father's mother, to testify regarding the care of the child, and instabilities in Mother's residence.

c. Tatyana Getter, Father's aunt, to testify regarding the availability of family locally to care for the child.

VI. EXHIBITS

a. Photographs of Father's home.

b. School comparison of Donegal and Hempfield.

VII. DEPOSITIONS & OBJECTIONS

None.

VIII. STIPULATIONS SOUGHT

None.

IX. SPECIAL REQUESTS

We request that Father's aunt, who lives in Irkutsk, be allowed to testify telephonically.

X. CERTIFICATION

Counsel have conferred and agree to the admission of all exhibits and that Father's aunt may testify telephonically. However, the parties have been unable to resolve their custody dispute.

Respectfully submitted,

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

**APPENDIX 3**

**SAMPLE PRETRIAL ORDER CIVIL CASES**

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

,	:	
Plaintiff,	:	
	:	
vs.	:	No. CI-
	:	
,	:	
Defendant.	:	

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_2015, a Pre-trial Conference has been scheduled in this matter for the \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_ .m. in Chambers A of the Lancaster County Courthouse.

The purpose of the Pre-trial Conference is to consider: narrowing of issues; possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; limitation of the number of witnesses; and, any such other matters as may aid in the disposition of the case.

The parties/parties’ counsel are advised to have settlement authority at the time of the Pre-trial Conference. The parties/parties’ counsel are also advised to comply with the court’s pre-trial conference procedure provided for in Local Rule 212.2A and Judge Brown’s procedures Sections VII-VIII located at: <http://pa-lancastercountycourts.civicplus.com/135/Local-Rules-of-Court>.

Counsel shall prepare in writing a pre-trial memorandum consistent with Judge Brown’s procedures Section VII.B., which includes the following:

- I. A brief statement of the nature of the action and the basis on which the jurisdiction of the court is invoked.
- II. Plaintiff's pretrial memorandum shall contain a brief statement of the facts of the case. Defendant's pretrial memorandum shall contain such counter-statements of

the facts as may be necessary to reflect any disagreement with plaintiff's statement. All parties omit pejorative characterizations, hyperbole, and conclusory generalizations.

- III. A list of every item of monetary damages claimed, including (as appropriate) computations of lost earnings and loss of future earning capacity, medical expenses (itemized), property damages, etc. If relief other than monetary damages is sought, information adequate for framing an order granting the relief sought shall be furnished.
- IV. A list showing the names and addresses of all witnesses the party submitting the memorandum intends to call at trial. Liability and damages witnesses shall be designated separately.
- V. A schedule of all exhibits to be offered at trial by the party submitting the memorandum.
- VI. An estimate of the number of days required for trial.
- VII. Special comments regarding legal issues, stipulations, amendments of pleadings, or other appropriate matters.
- VIII. All stipulations of counsel.
- IX. A statement of objection to: (1) the admissibility of any exhibit based on authenticity; (2) the admissibility of any evidence expected to be offered for any reason (except relevancy); (3) the adequacy of the qualifications of an expert witness expected to testify; and (4) the admissibility of any opinion testimony from lay witnesses pursuant

At least two weeks prior to the Pre-trial Conference, plaintiff's original pre-trial memorandum shall be filed with the Prothonotary and a courtesy copy shall be submitted to

chambers. At least one week prior to the pretrial conference, defendant's pre-trial memorandum shall be filed with the Prothonotary and a courtesy copy shall be submitted to chambers. Courtesy copy may be submitted to chambers by email (Judge\_Brown\_Chambers@co.lancaster.pa.us), or hand delivery.

Counsel trying the case shall be present for the pretrial conference. The Court expects counsel to have conferred prior to the Pre-trial Conference to address any evidentiary issues or exhibit objections in accordance with the court's procedures located on the Lancaster County Court of Common Pleas web site. Those outstanding objections shall be brought to the Court's attention at the Pre-trial Conference.

If a party fails to file a pre-trial memorandum, the Court may make an appropriate order under Rule 4019(c) governing sanctions. In addition, a party who fails to file a pre-trial memorandum shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence in support of or in opposition to claims for the matters not covered therein.

Both parties parties counsel are encouraged to sign up for File & Serve used by the Lancaster County Prothonotary as an electronic filing system, and advise the Court if they have done so at the pretrial conference. The parties are not required to file any documents through File & Serve. However, by signing up they will receive orders from the Court via email. There is no cost for the parties to sign up for or receive notifications through File & Serve. Failure to sign up for File & Serve will result in a delay in the parties receiving court orders. For more information go to:<http://www.fileandservexpress.com/#courtinfo>.

BY THE COURT:

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LEONARD G. BROWN, III, JUDGE

**APPENDIX 4**

**SAMPLE PRETRIAL MEMO CIVIL CASES**

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

Plaintiff,	:	
	:	
v.	:	Docket No: CI-xx-xxxxxxx
	:	
	:	
	:	
Defendant.	:	

**[DEFENDANT/PLAINTIFF] PRETRIAL MEMORANDUM**

- I. Jurisdiction.** A statement as to the nature of the action and the basis on which the jurisdiction of the court is invoked.
  
- II. Facts.** Plaintiff's pretrial memorandum shall contain a brief statement of the facts of the case. Defendant's pretrial memorandum shall contain such counter-statements of the facts as may be necessary to reflect any disagreement with plaintiff's statement. All parties shall omit pejorative characterizations, hyperbole, and conclusory generalizations.
  - A. No facts should be denied unless opposing counsel expects to present contrary evidence on the point of trial, or genuinely challenges the fact on credibility grounds.
  - B. The facts relating to liability and to damages are to be separately stated.
  
- III. Stipulations.** 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.
  
- IV. 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, survival, loss of profits, loss of wages,

deprivation of civil rights, false imprisonment, libel, slander, property damage, pain, suffering, past and future medical expense, balance due under a contract, performance due under a contract, interest, etc.), 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.

**V. Legal Issues.** In separate paragraphs, each disputed legal issue that must be decided and the principal constitutional, statutory, regulatory, and decisional authorities relied upon.

**VI. 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, during their respective case in chief.

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.

**VII. 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, and 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.

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

2. 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.

3. If of adequate size and clarity, this exhibit may be an existing drawing, plan or blueprint.

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. Counsels likewise are expected to agree upon the use of accurate extracts from or summaries of such records. Life expectancy tables, actuarial tables, and other similar statistical and tabular data routinely used in litigation in the Commonwealth should also normally be stipulated.

D. At trial, counsel shall furnish a binder containing a copy of each exhibit to the judge and his law clerk.

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

**IX. Trial Time.** An estimate of the number of trial days required separately stated for liability and damages.

**X. Discovery Evidence and Trial Depositions.** Each discovery item 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.

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

**XI. Voir Dire.** A list of all questions which counsel expects to ask in voir dire which are beyond the areas of inquiry set forth in Pa.R.C.P. No. 220.1.

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Signature of Counsel