

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

President Judge General Court Regulation No. 2005-01

In Re: Amendment of Philadelphia Civil Rules
***208.3(a) and * 208.3(b)**

ORDER

AND NOW, this 9th day of March, 2005, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on September 23, 2004 to amend Philadelphia Civil Rule *208.3(a) and * 208.3(b), IT IS HEREBY ORDERED that Philadelphia Civil Rule *208.3(a) and * 208.3(b) are amended as attached hereto.

This General Court Regulation is issued in accordance with Pa.R.Civil.P.No. 239 and, as required by Rule 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts for publication on its website, and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District: <http://courts.phila.gov>.

BY THE COURT:

/s/ **Frederica A. Massiah-Jackson**

HON. FREDERICA A. MASSIAH-JACKSON
PRESIDENT JUDGE,
COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY

Key:
Strikethrough = Old Language
Underline, bold = New Language

Philadelphia Civil Rules

Rule * 208.3 (a). Motions Initially Considered Without Written Response or Briefs.

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208.3(b)(2) (4) Discovery Motions.

(A) Scheduling Requirements. All Discovery Motions, except in designated Mass Tort cases, shall be presented to, argued before and determined by the appropriate Judge of Discovery for the particular program involved. The moving party shall file or fax a Discovery Argument Request Form (substantially in the form attached hereto) with the Discovery Clerk (Room 287 City Hall) setting forth the following information: the program to which the case is assigned; the next event and the date of that event (if the case is in the Arbitration Program, the arbitration hearing date must be provided), the Court Term and Number, and Caption of the case. The requisite filing fee in the form of a check made payable to the Prothonotary or credit card information must be included. Upon receipt of the requisite filing fee and a fully completed Discovery Argument Request Form, the Discovery Clerk shall assign the Discovery Motion for argument. The filing party retains the original Motion, and proposed order ~~and brief~~ for submission to the Court on the argument date.

(B) Service Requirements. The moving party shall immediately serve a copy of the Discovery Motion, and proposed order (which shall contain no reference to the attorney proposing same) ~~and brief or memorandum of law~~, together with a Notice of Presentation **and Certificate of Service** (substantially in the form attached hereto) on all counsel of record and unrepresented parties as required by Pa.R.C.P. 440. Except in cases of emergency or waiver by consent of all parties, at least ~~twenty (20)~~ **ten (10)** days' prior written notice shall be required.

(C) Argument Date. On the argument date, the filing party shall hand to the Discovery Judge the following items: the original Discovery Motion, and proposed order (which shall contain no reference to the attorney proposing same), ~~brief or memorandum of law~~, Notice of Presentation, and the Attorney Certification of Good Faith required by Phila.Civ.R. * 208.2(e). Should all parties fail to appear for the argument, the court will deem the Discovery Motion moot. The Motion may not be rescheduled but a new Motion may be scheduled for argument as provided herein. Should all parties other than the moving party fail to appear, the Court will deem the Motion uncontested and will enter an appropriate order. Should the moving party fail to appear but one or more responding party appears pursuant to a Notice of

Presentation served by the moving party, the court shall dismiss the Motion and may, upon the later filing of a motion for sanctions, enter monetary sanctions against the moving party and in favor of the party who appeared.

(D) Response Requirement. Any party opposing the Discovery Motion must respond, orally or in writing, on the argument date. Any party not opposing a discovery motion need not respond or appear for the argument.

(E) Disposition of Discovery Motion. On the argument date, the Discovery Judge shall:

- (i) enter appropriate orders concerning uncontested motions;
- (ii) entertain argument on contested motions and, if no issues of fact are raised, enter an appropriate order; or
- (iii) enter an appropriate order providing the procedure the parties are to follow to develop the record concerning any fact issue raised by the Discovery Motion or Response.

(F) Notice of Entry of Order. If the decision of the Court is issued immediately after the argument the party presenting the motion shall send a copy of the order to each attorney of record and unrepresented party who was not present on the argument date. The court shall send to each attorney of record and unrepresented party a copy of any order entered on any Discovery Motion held under advisement at the conclusion of the argument.

Rule * 208.3 (b). Motions Considered After Response Period. Briefs.

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~~(2) Discovery Motions.~~

~~(A) Scheduling Requirements.~~ All Discovery Motions, except in designated Mass Tort cases, shall be presented to, argued before and determined by the appropriate Judge of Discovery for the particular program involved. The moving party shall file or fax a Discovery Argument Request Form (substantially in the form attached hereto) with the Discovery Clerk (Room 287 City Hall) setting forth the following information: the program to which the case is assigned; the next event and the date of that event (if the case is in the Arbitration Program, the arbitration hearing date must be provided), the Court Term and Number, and Caption of the case. The requisite filing fee in the form of a check made payable to the Prothonotary or credit card information must be included. Upon receipt of the requisite filing fee and a fully completed Discovery Argument Request Form, the Discovery Clerk shall assign the Discovery Motion for argument. The filing party retains the original Motion, proposed order and brief for submission to the Court on the argument date.

~~(B) Service Requirements.~~ The moving party shall immediately serve a copy of the Discovery Motion, proposed order (which shall contain no reference to the attorney

~~proposing same) and brief or memorandum of law, together with a Notice of Presentation (substantially in the form attached hereto) on all counsel of record and unrepresented parties as required by Pa.R.C.P. 440. Except in cases of emergency or waiver by consent of all parties, at least twenty (20) days' prior written notice shall be required.~~

~~**(C) Argument Date.** On the argument date, the filing party shall hand to the Discovery Judge the following items: the original Discovery Motion, proposed order (which shall contain no reference to the attorney proposing same), brief or memorandum of law, Notice of Presentation, and the Attorney Certification of Good Faith required by Phila.Civ.R. * * 208.2(e). Should all parties fail to appear for the argument, the court will deem the Discovery Motion moot. The Motion may not be rescheduled but a new Motion may be scheduled for argument as provided herein. Should all parties other than the moving party fail to appear, the Court will deem the Motion uncontested and will enter an appropriate order. Should the moving party fail to appear but one or more responding party appears pursuant to a Notice of Presentation served by the moving party, the court shall dismiss the Motion and may, upon the later filing of a motion for sanctions, enter monetary sanctions against the moving party and in favor of the party who appeared.~~

~~**(D) Response Requirement.** Any party opposing the Discovery Motion must respond on the argument date. Any party not opposing a discovery motion need not respond or appear for the argument.~~

~~**(E) Disposition of Discovery Motion.** On the argument date, the Discovery Judge shall:~~

- ~~—(i) enter appropriate orders concerning uncontested motions;~~
- ~~—(ii) entertain argument on contested motions and, if no issues of fact are raised, enter an appropriate order; or~~
- ~~—(iii) enter an appropriate order providing the procedure the parties are to follow to develop the record concerning any fact issue raised by the Discovery Motion or Response.~~

~~**(F) Notice of Entry of Order.** If the decision of the Court is issued immediately after the argument the party presenting the motion shall send a copy of the order to each attorney of record and unrepresented party who was not present on the argument date. The court shall send to each attorney of record and unrepresented party a copy of any order entered on any Discovery Motion held under advisement at the conclusion of the argument.~~

~~(3)~~ (2) Non-Discovery Motions

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Note: Adopted by the Board of Judges at the September 23, 2004 Board of Judges' Meeting.