

THE COURTS

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Amendments to Rules of Criminal Procedure: 97-80793

Order

And Now, this 12th day of December, 1997, the following amendment to the Delaware County Local Rules of Criminal Procedure is hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin* and the *Delaware County Legal Journal*, in accordance with Pa.R.Crim.P. 6(d).

A. LEO SERENI,
President Judge

Amended Rule 4006(c)(2)

* (i) When the conditions for the bail bond have been performed and the defendant is discharged from all obligations in the case for which bail was set, the Office of Judicial Support shall return to the defendant or surety [**eighty-percent (80%)**] **70 percent** of the amount deposited. The balance to be retained by the Court shall be applied as an administrative cost for this program and the sum retained shall not in any case be less than [**twenty-five dollars (\$25.00)**] **fifty dollars (\$50.00)**. The monies retained shall be considered as earned at the time the bail is set and a sum equal to ten percent (10%) posted by the defendant or third party surety.

[Pa.B. Doc. No. 98-1. Filed for public inspection January 2, 1998, 9:00 a.m.]

FAYETTE COUNTY

Amended Rule; Local Rule 211: Motions Court; No. 2476 of 1997, G. D.

Order

And Now, this 11th day of December, 1997, it is hereby *Ordered* that the above-stated Local Rule be as hereafter set forth. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered* and *Directed* to do the following:

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) copy to the Fayette County Law Library, one (1) copy to the Clerk of Courts and one (1) copy to the Clerk of the Orphans' Court.

(6) Keep continuously available for public inspection copies of this Order and Amended Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM J. FRANKS,
President Judge

Rule 211. Motions Court.

(a) Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the assigned Judge.

(b) The purpose of Motions Court is to afford all parties an opportunity to present to the Court matters which require action by the court, including Orphans' Court and Criminal Court matters.

(c) As used herein, the term "motion" shall include every type of motion, petition, preliminary objection or other request for action by the Court.

(d) A motion shall be considered by the Court only as provided by these rules, except under exigent circumstances.

(e) The court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof. The moving party SHALL FILE THE ORIGINAL motion, certificate, and any attachments in the appropriate office before presentment in Motions Court. An original proposed order, a copy of the certificate and motion, ASSEMBLED IN THAT ORDER, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(f) The Court Administrator shall assign each motion to a Judge for disposition. The Judge will conduct such hearing, allow such argument, and enter such order as is appropriate. The Judge may continue the consideration of any motion to a later date to allow other parties of record to be heard.

(g) All motions shall be accompanied by a certificate in the form attached hereto, completed and signed by the presenter setting forth the following:

(1) The name of the person presenting the motion and the party represented;

(2) The date and manner of service of all other parties;

Pennsylvania Lawyer Referral Service
 Pennsylvania Bar Association
 100 South Street
 P. O. Box 186
 Harrisburg, PA 17108
 Telephone: 800-932-0311"

The Prothonotary is directed to transmit copies of this Order in compliance with Pennsylvania Rule of Civil Procedure 239 forthwith.

By the Court

WILLIAM J. FRANKS,
President Judge

[Pa.B. Doc. No. 98-4. Filed for public inspection January 2, 1998, 9:00 a.m.]

WESTMORELAND COUNTY

Administrative Order: Civil Rules; No. 3 of 1997

Order of Court

And Now, to wit, this 16th day of December, 1997, it is *Ordered* that Westmoreland County Rules of Civil Procedure W200.7, W200.8, W214, W609, and W1301 be rescinded, and that new Westmoreland County Rules of Civil Procedure W200.3, W200.4, W200.7, W212.1, W212.3, W609, and W1301 are hereby adopted.

By the Court

BERNARD F. SCHERER,
President Judge

BUSINESS OF COURTS

Rule W200.3. Placing Civil Litigation at Issue.

(a) All civil actions which are to be tried by jury, non-jury or by compulsory arbitration shall be placed at issue by the Court Administrator, either upon

(1) the filing of a praecipe in accordance with Rules W200.4 and W1301, or

(2) by court order, or

(3) as provided in sections (b) and (c) below, for actions commenced subsequent to August 1, 1996.

(b) During the eighteenth (18th) month after the commencement of an action, the Court Administrator shall send a request for information concerning the status of the case to the plaintiff. Plaintiff shall respond to that request in writing to the Court Administrator within thirty (30) days, with copies to all parties or their counsel of record.

(c) Upon receipt of a praecipe, a court order, or the information requested under section (b) above, the Court Administrator shall place the case at issue as follows:

(1) in civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which are to be tried by a jury, the Court Administrator shall notify counsel of record or pro se parties, as follows:

A. the earliest trial date, which shall be the first day of the trial term which commences after the ninetieth (90th) day following the date the case was placed at issue.

B. that pre-trial statements of the parties shall be filed in accordance with Pa.R.C.P. 212.1(b).

(2) in civil actions which the damages sought do not exceed the jurisdictional limit for compulsory arbitration,

the Court Administrator shall list the case for an arbitration hearing on the next available date.

(3) in civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which are to be tried non-jury, the Court Administrator shall forward the case to the assigned Judge for scheduling.

(d) If no response is received within thirty (30) days of the request for information sent in accordance with section (b) above, the Court Administrator shall place the case at issue by forwarding the case to the assigned Judge for appropriate action.

Rule W200.4. Praecipe for Trial.

(a) Prior to the Court Administrator placing a case at issue pursuant to Rule W200.3(c), any unrepresented party or counsel of record may file a praecipe for trial to place the case at issue. At least twenty (20) days written notice of the intention to file a praecipe for trial shall be served on all unrepresented parties and counsel of record, and a copy of the proposed praecipe shall be included.

(b) Any unrepresented party or counsel of record who is of the opinion that the case is not ready for trial shall attempt to amicably resolve that issue with the party or counsel who gave notice of the intention to file the praecipe. If the matter cannot amicably be resolved, the disputing party or counsel shall present written objections to the trial judge prior to the proposed date for filing the praecipe for trial. The written objections shall set forth, in reasonable detail, the reasons the case should not be listed for trial and shall have attached thereto a copy of the proposed praecipe for trial. After hearing the objections, the judge shall issue an appropriate order regarding the listing of the case for trial.

(c) The notice shall be served on all counsel and unrepresented parties within five (5) days of filing same. A certification of service shall be filed within three (3) days of actual service. A copy of the Praecipe for Trial or order of court issued pursuant to section (b) above shall be served at the time of filing on the Court Administrator.

Rule W200.7. Jury Trials.

(a) The court administrator shall maintain a jury trial list of each judge's trial-ready jury cases. Cases are trial-ready when placed at issue pursuant to Rule W200.3.

(b) The trial judge may direct the position of any case on the trial list.

(c) Cases on each judge's trial list shall be called at a call of the list scheduled by the Court Administrator prior to each trial term. All attorneys responsible for trial will be represented at the call and shall designate the approximate length of trial and any other matter relevant to its listing for trial.

Rule W212.1. Earliest Trial Date.

The earliest trial date required by Pa.R.C.P. 212.1 shall be established by the Court Administrator pursuant to Rule W200.3.

Rule W212.3. Settlement Conference.

(a) After a case has been placed at issue pursuant to Rule W200.3(c)1, the court administrator will schedule a settlement conference and notify counsel of record of the date and time of such conference.

(b) All plaintiffs, persons, and entities having the authority to settle the case and their counsel will be available in court.

(c) At the conference, the Court and counsel for the parties may consider those matters set forth in Pa.R.C.P. 212.3, and any other matter which should be addressed to assure an expeditious trial.

(d) The following additional procedures will be followed in medical malpractice cases:

(1) All trial counsel and clients (including doctors) shall be present during the conference.

(2) Insurance and CAT representatives shall be available by telephone to answer questions and respond to settlement proposals, and

(3) At least fifteen (15) days prior to the settlement conference, all parties shall exchange any expert reports not contained in the pre-trial statements filed in accordance with Pa.R.C.P. 212.1(b).

Rule W609. Bill of Costs.

(a) The following items shall be considered as record costs in a case:

- (1) Fees paid for filing pleadings;
- (2) Fees paid for service of pleadings;
- (3) Fees paid to court reporters for the cost of original and/or no more than one copy of depositions;
- (4) Any other costs specifically permitted by statute or supreme court rules; and
- (5) If the case has been tried, fees statutorily permitted to witnesses for per diem attendance and mileage.

(b) A bill of costs must be filed with the prothonotary, along with an affidavit of service on the opposing party or his counsel of record, within 10 days of the entry of a verdict by a jury, or a final order or decree by a nonjury or equity trial judge. The bill of costs may include the items listed in paragraph (a) of this rule.

(c) Exceptions specifying those items or amounts of costs to which a party has objections must be filed within 10 days of receipt of the bill of costs.

(d) The trial judge will enter an order specifying allowable costs.

Comment: Although it is the custom in this County that the defendant pay record costs as part of a settlement, case law holds that absent an agreement between counsel regarding the payment of record costs, the Court has no authority to award costs to either party upon settlement. *Mancine v. Balesimo*, 69 W.L.J. 145 (1897).

Rule W1301. Cases for Submission to Arbitration.

(a) All civil cases except those involving title to real estate or actions in equity, wherein the amount in controversy at issue (exclusive of interest and costs) is \$30,000 or less, shall be heard and decided by a board of arbitration consisting of three members of the bar.

(b) Cases Submitted By the Parties

Any civil case with an amount in controversy exceeding \$30,000 may be referred to a board of arbitration by agreement signed by all parties or their counsel.

(c) Cases Submitted By the Court

The court, on its own motion or on motion of either party, may by depositions, settlement conference, hearing or otherwise, determine that the amount actually controversy does not exceed \$30,000, (exclusive of interest and costs) and enter an order referring the case to arbitration.

(d) Arbitration Praecipe

Prior to the Court Administrator placing a case at issue pursuant to Rule W200.3(c), a party or counsel of record may file with the prothonotary an arbitration praecipe in order to place the case at issue. A copy of the arbitration praecipe shall immediately be delivered to the court administrator and all other counsel of record or pro se parties.

Note: A copy of the Praecipe for Arbitration form is provided in the Forms section of the Westmoreland County Rules of Court.

[Pa.B. Doc. No. 98-5. Filed for public inspection January 2, 1998, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Jay Stuart Nedell, who resides outside the Commonwealth of Pennsylvania, having been disbarred from the practice of law in the State of Texas, the Supreme Court of Pennsylvania issued an Order dated December 16, 1997, disbaring Jay Stuart Nedell from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney has never practiced in Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 98-6. Filed for public inspection January 2, 1998, 9:00 a.m.]

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 14, 1997, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 14, 1997 for Compliance Group 1 due April 30, 1997.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ERIC MARK ALDERMAN
Syracuse, NY

GLENN B. ALLYN
New City, NY

RALPH J. ARGEN III
Amherst, NY

ROBIN ARONSON
Cherry Hill, NJ

BRUNO BELLUCCI III
Northfield, NJ

WILLIAM R. BOSTIC
Camden, NJ

BARBARA JAN BOYD
Trenton, NJ

R. CHAD BRENNER
Cleveland, OH

JOANNA S. BURRIS
Morrestown, NJ

ROBERT GLENN BYRER
Arlington, VA

LEANN R. CANTER
Orlando, FL

STEPHANIE S. CHILDS
Washington, DC

GARY CLIFTON CHRISTIAN
Washington, DC

KEVIN NICHOLAS CHRISTO
Southbridge, MA

ANDREW CONSTANTINE II
Jersey City, NJ

LINDA M. CUNICELLI
Blackwood, NJ

JAMES CURCIO
Hammonton, NJ

EDWARD D'ALESSANDRO, JR.
Florham Park, NJ

ROBERT K. DANZINGER
Cleveland, OH

FRANK A. DIGIACOMO
Cherry Hill, NJ

JOSEPH A. DOVIDIO
Trenton, NJ

MICHELLE MAUREEN ELBERT
Collingswood, NJ

GARY F.C. ELLISON
Los Angeles, CA

MARK GERARD ESPOSITO
Cherry Hill, NJ

SHARON FARRELL
Fairview, NJ

BARRY R. FELDMAN
Hoboken, NJ

CRAIG HARRISON FELDMAN
Roseland, NJ

JAMES FRANCIS FERGUSON
Absecon, NJ

MARK WILLIAM FORD
Gloucester City, NJ

RONALD WELTON FREEMAN
Fredericksburg, VA

THOMAS PATRICK GALLAGHER
Ventnor, NJ

ALEJANDRO GIL
New York, NY

ALICIA F. GREENAWAY
Mt. Laurel, NJ

VANESSA JEANETTE HALL
Mitchellville, MD

PETER JAMES HOBSON
Tampa, FL

SIDNEY L. HOFING
Trenton, NJ

WILLIAM M. HONAN
Atlantic City, NJ

STEPHEN ANTHONY JACKSON
Washington, DC

JAIME KAIGH
Cherry Hill, NJ

MICHAEL ALAN KATZ
Cherry Hill, NJ

MARK JOHN KENNEDY
Upper Montclair, NJ

ROBERT JOHN KENNEY
Falls Church, VA

MARK EDWARD KHALIL
San Jose, CA

YOUNG KIM
Seoul, Korea

JOHN ANDREW KLAMO
Cherry Hill, NJ

FIELDING E. LAMASON, JR.
Washington, DC

HELEN FRAZER LESKOVAC
Silver Spring, MD

DAVID LEROY LIESER
Minnetonka, MN

MICHAEL JAY LIPSKY
Princeton, NJ

JOSEPH J. LONGOBARDI III
Wilmington, DE

CHERAE M. MAHDI
Stone Mountain, GA

JOHN R. MARQUEZ
Pawling, NY

LEON MARTELLI
Tabernacle, NJ

CALIXTO MARTIN
Fanwood, NJ

ROBERT J. MAY, JR.
Saratoga Springs, NY

CARLEEN D. MCELROY
Denver, CO

JAMES MICHAEL MCGINTY
Washington, DC

THOMAS F. MCGUIRE III
Pensacola, FL

DANIEL PAUL MCINTYRE
Miami Beach, FL

EDWARD BISSAU MENDY
New Orleans, LA

JOHN P. MOHNACS
Woodbury, NJ

DONALD D. MORGAN, JR.
Lambertville, NJ

SEAN PATRICK MURPHY
Edison, NJ

ALBERT AGHA NGWANA
Silver Spring, MD

EDWARD E. PARSON, JR.
St. Thomas, VI

MARK F. PARTRIDGE-MOLL
Miami, FL

BRIAN J. PENDLETON, JR.
Newark, NJ

KENNETH J. PHELAN
Westport, CT

JEFFREY KENT PHILLIPS
Charlestown, WV

RODNEY DARNELL RAY
Mt. Laurel, NJ

ROBERT T. RICHARDS
Washington, DC

WILLIAM STAYTON ROEMER
Hedgesville, WV

SARAH KATHLEEN ROSE
London, England

EDWIN R. RUBIN
Newark, NJ

VIRGINIA A. SKILANG SABLAN
Saipan

M. AHMED-BAGHOUT SAID
Colora, MD

ERIC ADAM SAIONTZ
Baltimore, MD

EDWARD STRINGER SAMSON
Atlanta, GA

ARTHUR LARRY SHANKER
Margate, NJ

NATHANIEL SIMS
Washington, DC

MICHAEL JOHN SMOYER
Hoboken, NJ

RAYMOND M. SPEER
Hightstown, NJ

MARC W. SUFFERN II
Slate Hill, NY

EDWARD J. SULLIVAN
Long Beach, NY

PHILIP TABAS
Boston, MA

JOSEPH R. TALARICO II
East Syracuse, NY

CAROL ANN TERRY
Darnestown, MD

GIL C. TILY
Princeton, NJ

LOUISE PORTERFIELD TUCKER
Alexandria, VA

HANDSOME L. WEARING
Trenton, NJ

MATTHEW S. WOLF
Mt. Laurel, NJ

CAROLINE JOO YUN
Singapore

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 98-7. Filed for public inspection January 2, 1998, 9:00 a.m.]