

THE COURTS

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Amendments to Civil Procedure

Order

And Now, this 22nd day of June, 1999, the following amendments to the Chester County Rules of Civil Procedure are hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d). Wording which is crossed out is deleted from the rules and wording which is underlined is added thereto. Comments which accompany the rules were prepared for the convenience of the bench and bar but are not part of the rules and are not officially adopted.

THOMAS G. GAVIN,
President Judge

I. Amend Rule 200.B by amending the second sentence thereof to read as follows:

If it is later discovered that two or more matters are related, the judge to whom the latter case has been assigned may refer the case to the [**President Judge**] Court Administrator for reassignment to the judge to whom the earlier related case was assigned.

II. Amend Rule 249.3 as follows:

Rule 249.3. Trial Readiness.

(a) A Category A matter shall be presumptively deemed ready for trial twelve months from the date of the initiation of the suit, **which is the earliest date on which the case may be tried for purposes of Pa.R.C.P. No. 212.1(a)**. A Category C matter. . .

III. Post-trial Motions

Amend C.C.R.C.P. No. 227.2 as follows:

(g) Post-trial motions will be brought before the Court by filing a praecipe for determination under C.C.R.C.P. No. 206.2. **The praecipe for determination shall be filed at the time of the filing of the post-trial motion. Upon the filing of the praecipe for determination accompanying a post-trial motion, oral argument shall be scheduled forthwith by the Court.**

Comment: In view of Pa.R.C.P. No. 227.4(1)(b), which permits entry of judgment if an order disposing of all post-trial motions is not entered within one hundred and twenty (120) days after the filing of the first such motion, oral argument will be scheduled for approximately ninety (90) days following the date of the filing of the first such motion.

...

(i) [**Where oral argument of post-trial motions will not be held, the assigned judge shall determine the briefing schedule and notify the parties accordingly.] Oral argument may be waived by agreement of all parties but, even if oral argument is waived, briefs shall nevertheless be due pursuant to paragraph (h) above, based upon the date originally set for oral argument.**

Add the following as a comment following subparagraph (c):

Comment: It is the responsibility of the party or parties requiring a transcript of the notes of testimony to obtain such transcript in a timely fashion. Counsel and parties are warned that, in light of Pa.R.C.P. No. 227.4(1)(b), the schedule for the filing of briefs cannot be extended.

IV. Delay Damages

Amend Rule 238.1 by deletion of entire current rule. See Pa.R.C.P. No. 238.

Amend Rule 206.2 by adding the words "motion requesting damages for delay to which an answer has been filed," after the words "post-trial motion".

V. Amend Rule 1302.1(f) by adding the following at the end of the existing rule:

The notice of the date, time and place of arbitration hearing on the cover sheet shall include the following statement:

"This matter will be heard by a board of arbitrators at the time, date and place 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."

VI. Amend Rule 206.1.A.(1)(a) by adding the following sentence at the end of the existing paragraph:

No motion, petition or preliminary objection shall be dismissed for failure to be accompanied by a form of proposed order or for failure to refer to the procedural rule, statute, or other authority relied upon or for failure to display counsel's name, address, I.D. number or telephone number.

[Pa.B. Doc. No. 99-1085. Filed for public inspection July 9, 1999, 9:00 a.m.]

YORK COUNTY

Administrative Order Establishing Duty District Justice Office, Operating Procedures for Duty Office, and Procedures for Disposing of Warrants and Other Matters After Established Court Business Hours; No. 99 MI 00225

Administrative Order

And Now, this 24th day of June, 1999, pursuant to the authority and responsibility of the President Judge to exercise general supervision and administrative control over District Justices within the 19th Judicial District, (Pa.R.C.P.D.J. 17), to insure that the Courts of this District remain always open for the transaction of judicial business (42 Pa.C.S.A. Sec. 324), and to insure that there shall be available at all times within this Judicial District, at least one issuing authority, (Pa.R.Crim. P. Sec. 23(a)), and for the purpose of consolidating and clarifying prior orders and procedures concerning the establishment and operation of a "Duty District Justice Office," it is hereby Ordered as follows:

I. Duty District Justice Office:*(A) Establishment, Location and Hours of Operation:*

There shall be established an office for the transaction of court business, which office shall be known as the "Duty District Justice Office," and which shall be open for business twenty-four hours per day, seven days per week, every day of the year. The office shall be staffed by a District Justice, who shall be assigned, from time to time, to duty in the Duty District Justice Office, upon such scheduled dates and times as shall be established by the President Judge and published by the District Court Administrator.

The District Justice on duty need not be present in the Duty District Justice Office the entire time the District Justice is on duty. The times throughout the day during which a Duty District Justice may be required to be physically present at the Duty District Justice Office may be published, from time to time, by the District Court Administrator.

However, consistent with the obligation of District Justices to "devote the time necessary for the prompt and proper disposition of the business of [the] office, which shall be given priority over any other . . . activity" (Pa.R.S.C.D.J. 3) the District Justice on duty shall be physically present in the office within a reasonably prompt time after his or her services are requested. Any delay for longer than one hour after one's presence is requested at the Duty District Justice Office is generally not considered to be a reasonably prompt time.

The Duty District Justice Office shall be located at 118 Pleasant Acres Road, York, Pennsylvania, 17402, and/or at such other address as may be established from time to time.

(B) Staffing of the Office:

The District Justice on duty shall be assisted by such staff as is approved from time to time by the District Court Administrator and the President Judge of this Judicial District.

II. Duties of Duty District Justice:

The Duty District Justice shall have the authority to exercise the powers and duties of the office of District Justice to the same extent that he or she would if otherwise situated in the office in the judicial district in which that District Justice normally sits.

The Duty District Justice shall not be expected to do the following while serving duty at the Duty District Justice Office:

(a) Issue new citations, summonses or warrants on new summary charges which can be issued during normal business hours unless:

1) The facts giving rise to the new summary charge allege danger to a person or a serious breach of the peace; or

2) The individual sought to be charged with a new summary offense has outstanding, from any source, two (2) or more summary warrants; or

3) The individual sought to be charged with a new summary offense has unpaid fines, from any source, in a total amount of at least \$500; or

4) The individual sought to be charged with a new summary offense has been arrested on a misdemeanor or felony warrant, or is to be charged with a misdemeanor or felony, whether or not the misdemeanor or felony warrant or charge is related to the new summary offense.

Law enforcement officers are requested to observe the provisions of Pa.R.Crim.P. 71(b) providing for the release of defendants arrested on summary matters if the defendant is a resident of the Commonwealth, the defendant poses no threat of immediate harm to anyone, the officer believes the defendant will appear when required, and the defendant has not demanded to be brought before the District Justice.

(b) Issue new complaints, summonses or warrants on new misdemeanor or felony charges which can be issued during normal business hours, unless

1) The facts giving rise to the new charge allege danger to a person or a serious breach of the peace; or

2) The individual to be charged is presently in the custody of a law enforcement officer or agency; or

3) The criminal activity alleged to be the basis for the new charge has recently occurred at such a time as to reasonably preclude obtaining a complaint, summons or warrant from a Judge or District Justice during normal business hours; or

4) There is prompt necessity to obtain a complaint, summons or warrant to insure the prompt apprehension of the individual to be charged.

Law enforcement officers are requested to observe the provisions of Pa.R.Crim.P. 102(b) providing for the release of defendants arrested on misdemeanor matters without a warrant if the most serious matter charged is a misdemeanor of the second degree, the defendant is a resident of the Commonwealth, the defendant poses no threat of immediate harm to anyone, the officer believes the defendant will appear when required, and the defendant has not demanded to be brought before the District Justice.

(c) Respond to the Duty Office, if not otherwise present, to dispose of existing summary warrants, unless the existing summary warrants, or any one of them, meet the conditions noted in (a) (1) through (4) above, or, the individual is being brought to the Duty Office pursuant to Pa.R.Crim.P. 76(B)(4) (providing that in lieu of issuing a "field receipt" the arresting officer elects to bring the individual "without unnecessary delay" before the proper issuing authority.)

III. Disposition of Warrants:*(A) Summary Warrants:*

When a District Justice determines to issue a warrant for the arrest of an individual pursuant to Pa.R.Crim.P. 75, or otherwise pursuant to law, whether for a new charge, an unresolved pending charge, a failure of the individual to appear, or a failure of the individual to pay fines and costs, the District Justice shall, to the extent possible, note on the warrant the reason for issuance of the warrant, such as "failure to respond", "failure to appear" or "failure to make payment".

(B) Disposition of Summary Warrant/Bench Warrant on Arrest:

If an individual is arrested after regular court hours, and it appears that, in addition to any outstanding summary warrants, there is one or more outstanding bench warrants, warrants of arrest, or attachments issued by a Judge of the Court of Common Pleas, the individual shall be served with all warrants outstanding, but shall not be taken before the Duty District Justice. The individual shall be taken directly to prison, to be returned the next business day, to the Court of Common Pleas pursuant to the bench warrant. The District Justice or Justices who issued the outstanding summary war-

rants also lodged against the individual shall be notified by facsimile or other reasonably prompt means, as provided herein, and the individual shall be transported to the office of the respective District Justice who issued the warrant or warrants, during normal business hours, or to the nearest appropriate District Justice with authority to dispose of some or all of the outstanding warrants pursuant to previous Administrative Orders.

(C) *Disposition of Summary Warrants Generally:*

When a warrant of arrest is executed by a police officer, the officer may, in any circumstance permitted by law, either:

(1) accept from the defendant a signed guilty plea and the full amount of the fine and costs, if stated on the warrant;

(2) accept from the defendant a signed not guilty plea and the full amount of collateral if stated on the warrant;

(3) accept from the defendant the amount of fine and costs due as specified in the warrant if the warrant is for collection of fine and costs after a guilty plea or conviction; or

(4) cause the defendant to be taken without unnecessary delay before the proper issuing authority.

When the police officer accepts the fine and costs or collateral as provided above, the officer shall issue a receipt to the defendant setting forth the amount of fine and costs or collateral received and shall promptly, and in any event, within forty-eight (48) hours of the issuance, return a copy of the receipt, signed by the defendant and the police officer, to the proper issuing authority. (See Pa.R.Crim.P. 76.)

Prior to the police officer electing to take the defendant forthwith before the proper issuing authority, the officer shall consider the factors set forth above with respect to the duties of the Duty District Justice. Should the officer elect to take the individual, forthwith, before the Duty District Justice, or should the individual arrested request to be taken before the Duty District Justice (and provided the individual has no outstanding bench warrants issued by a Court of Common Pleas) the individual arrested shall be processed pursuant to Pa.R.Crim.P. 76, et seq., and if appropriate, shall be given the opportunity to post bail or other collateral. The Duty District Justice shall not, however, conduct a hearing pursuant to Pa.R.Crim.P. 85. Any hearing which must be conducted pursuant to that Rule shall be conducted by the proper issuing authority during the next business day.

(D) *Misdemeanor & Felony Warrants, Arrests Without Warrants:*

When an individual is arrested in a "court case" without a warrant, and the arresting officer deems it appropriate to detain the individual, the Duty District Justice shall afford the individual detained a preliminary arraignment, without unnecessary delay, pursuant to Pa.R.Crim.P. 102.

In court cases in which an individual has been arrested and detained upon a warrant issued within this judicial district or upon a warrant issued outside of this district, the Duty District Justice shall afford the individual detained a preliminary arraignment, or the opportunity to post bail, as appropriate, pursuant to Pa.R.Crim.P. 123 and 124, and Rule 4001(b) (permitting a defendant to be admitted to bail on any day at any time).

IV. "Missile" System:

A system for the filing, storage and retrieval of warrants issued in matters by Judges or District Justices in this Judicial District shall be maintained by the York County E911 Center. The system currently known as the "Magisterial Information System to Support Improved Law Enforcement" ("MISSILE") shall continue to be maintained for this purpose. The system shall be updated and upgraded from time to time to maintain efficiency and to purge outdated, invalid, erroneous, or useless warrants from the system.

(A) *Entry of Warrants into MISSILE System:*

Previous Orders and memoranda have been distributed setting forth procedures for the entry of warrants into the MISSILE system. To the extent that those Orders and memoranda are not in conflict with any provisions of this Order, they remain in full force and effect. Notwithstanding those memoranda, a District Justice is not required to enter a warrant issued in a summary matter into the MISSILE system until that District Justice determines that the warrant remains unserved and should remain active. Warrants issued in misdemeanor or felony cases shall be immediately forwarded by the District Justice to the MISSILE system for entry into that system.

District Justices are directed to institute a system within their offices to review recently issued warrants which remain unexecuted for a period of sixty days after their issuance. The review shall include a determination of whether due diligence has been exercised to execute the warrant, and whether the warrant should be recalled or remain issued. If a determination is made to recall a warrant, and the warrant has been entered in the MISSILE system, the administrator of the York County E911 Center, Records Division, or the administrator's designee, shall be notified and the warrant shall be removed from the MISSILE system.

(B) *Cancellation of Warrants in MISSILE:*

Previous Orders and memoranda have been issued concerning procedures for canceling warrants in the MISSILE System. To the extent that they do not conflict with any provisions of this Order, they remain in full force and effect.

In addition to the procedures set forth therein, it is hereby directed that the administrator of the York County E911 Center, Records Division, or the administrator's designee, shall send, by facsimile or other reasonably prompt means, a copy of every warrant canceled or released to a law enforcement officer or constable between the hours of 4:00 p.m. and 8:30 a.m. the following day, together with the warrant's assigned cancellation number, to the Judge or District Justice who issued the warrant.

V. Directives from District Court Administrator:

The District Court Administrator and Deputy District Court Administrator have been delegated supervisory and administrative authority by the President Judge of this Judicial District.

Any memorandum, directive, or instruction received by a District Justice from the District Court Administrator of York County shall have the same force and effect as if the memorandum, directive, or instruction was sent by the President Judge of York County.

This Order shall supercede and take precedence over any previous order or memorandum previously issued which may be in conflict with the provisions herein.

Further Ordered that in accordance with Pa.R.C.P.230, the District Court Administrator shall:

(a) File seven certified copies hereof with the Administrative Office of the Pennsylvania Courts.

(b) Distribute two certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File one certified copy hereof with the Criminal Rules Committee.

(d) Cause a copy hereof to be published in the *York Legal Record* at the expense of the County of York.

(e) Supervise the distribution hereof to all Judges, District Justices, Municipal and State Police Agencies of the 19th Judicial District, and all members of the Bar of this Court.

By the Court

JOHN C. UHLER,
President Judge

[Pa.B. Doc. No. 99-1086. Filed for public inspection July 9, 1999, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Joseph F. Manson, III, having had his license to practice law in the Commonwealth of Virginia revoked by Order of the Virginia State Bar Disciplinary Board on March 21, 1997, the Supreme Court of Pennsylvania issued an Order dated June 24, 1999, disbarring Joseph F. Manson, III from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 99-1087. Filed for public inspection July 9, 1999, 9:00 a.m.]