

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Addendum to Explanatory Comment to Rule 238

#### Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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#### ADDENDUM

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

Date of Publication	Prime Rate Percentage	Date of Publication	Prime Rate Percentage
January 2, 1980	15 to 15 1/2	January 2, 1990	10 1/2
January 2, 1981	20 1/2 to 21 1/2	January 2, 1991	9 1/2 to 10 1/2
January 4, 1982	15 3/4	January 2, 1992	6 1/2
January 3, 1983	11 to 11 1/2	January 4, 1993	6
January 3, 1984	11	January 3, 1994	6
January 2, 1985	10 3/4	January 3, 1995	8 1/2
January 2, 1986	9 1/2	January 2, 1996	8 1/2
January 2, 1987	7 1/2	January 2, 1997	8 1/4
January 4, 1988	8 3/4	January 2, 1998	8 1/2
January 3, 1989	10 1/2	January 4, 1999	7 3/4

By the Civil Procedural Rules Committee

EDWIN L. KLETT,  
Chairperson

[Pa.B. Doc. No. 99-111. Filed for public inspection January 22, 1999, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LYCOMING COUNTY

#### Amendments to Rules of Civil Procedure

##### Order

And Now, this 6th day of January, 1999, it is hereby Ordered and Directed as follows:

1. Lycoming County Rules of Civil Procedure L206 and L1007 are hereby rescinded.

2. New Lycoming County Rules of Civil Procedure L206 and L1007 are hereby promulgated.

3. The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Pennsylvania Civil Procedural Rules Committee.

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

f. Keep continuously available for public inspection copies of this order.

4. The rules revisions approved by this order shall become effective 30 days after their publication in the *Pennsylvania Bulletin*.

By the Court

CLINTON W. SMITH,  
President Judge

#### L206. Motion Procedure.

A. *Application.* The procedure set forth in this rule shall apply to every request for relief, whether by petition, motion, preliminary objection, exception, or stipulation, that the filing party desires to bring before the court or family court hearing officer.

##### B. Cover Sheet.

1. A cover sheet substantially in the form set forth in section G of this rule shall be attached to the front of every request for relief to which this rule applies, with the exception of any request for relief on the front of which an applicable Pennsylvania Rule of Civil Procedure requires a specific order or notice to be attached. (See, e.g. Pa.R.C.P. nos. 1910.5, 1910.26, 1915.3.)

2. The cover sheet shall be so attached whether or not a rule to show cause is required by Lyc.Co.R.C.P. L206.5. If a cover sheet is not attached as required by this rule, the court will not act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party.

3. The cover sheet should be formatted so as to consist of only one page. Captions may be abbreviated. If additional space is necessary to list counsel and unrepresented parties, a separate sheet may be attached.

NOTE: The use of this cover sheet is also required in orphans' court and criminal court filings; see, Lyc. Co. O.C.R. L3.4 and Lyc. Co. R.Crim.P. L300.

C. *Filing.* Every request for relief to which the rule applies shall be in writing and shall set forth the statute or rule of court relied upon to justify the relief requested. Any such request for relief shall be filed in duplicate with the prothonotary and shall include a certificate of service which shall state the date and manner of service upon the parties or their counsel.

D. *Proposed Orders.* A proposed order granting the relief requested shall be attached to the cover sheet. If required, a proposed rule to show cause shall also be attached.

E. *Expedited Consideration.* If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet. Such consideration may be requested if the date of the pretrial conference has been

set or if the case has already been pre-tried. The statute or rule under which expedited consideration is required shall be cited.

F. *Scheduling.* The court shall schedule argument, hearing or briefing as required, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The due dates of briefs, if ordered, shall also be noted on the cover sheet. The prothonotary shall forward the completed cover sheet to the filing party or counsel. The filing party or counsel

shall be responsible for identifying all parties or their counsel on the cover sheet and for serving the completed cover sheet upon all parties or their counsel. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.

G. *Form.* The form of the cover sheet shall be substantially as follows:

**LYCOMING COUNTY COURT OF COMMON PLEAS  
LOCAL RULE L206 COVER SHEET**

Caption (may be abbreviated)

Docket No. \_\_\_\_\_

vs.

Case assigned to Judge \_\_\_\_\_  
 none

- 1. Name of filing party \_\_\_\_\_
- 2. Filing party's attorney \_\_\_\_\_
- 3. Type of filing \_\_\_\_\_

<p>4. The following is/are required:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Issuance of a rule to show cause - See Pa.R.C.P. No. 206.5 for form)</li> <li><input type="checkbox"/> Argument</li> <li><input type="checkbox"/> Evidentiary Hearing</li> <li><input type="checkbox"/> Court conference</li> <li><input type="checkbox"/> Entry of order in an uncontested matter or upon agreement of the parties (attach order and all supporting documentation)</li> <li><input type="checkbox"/> Expedited consideration. State the basis: _____ _____</li> </ul>	<p>6. Name and addresses of all counsel of record and unrepresented parties (Continue on separate sheet.)</p>          
<p>5. Time required: _____</p>	

**ORDER**

- 1. An \_\_\_ argument \_\_\_ factual hearing \_\_\_ court conference is scheduled for \_\_\_\_\_ at \_\_\_\_\_ m in courtroom no. \_\_\_\_\_, Lycoming County Courthouse, Williamsport, PA.
- 2. \_\_\_ Briefs are to be filed by the following dates:  
Filing party \_\_\_\_\_ .  
Responding party(ies) \_\_\_\_\_ .
- 3. \_\_\_ A rule to show cause or other order is issued as attached.
- 4. THE FILING PARTY SHALL SERVE A COPY OF THIS EXECUTED SCHEDULING ORDER ON ALL COUNSEL OR UNREPRESENTED PARTIES AND ALSO ON \_\_\_\_\_ .

\_\_\_\_\_  
Judge Date

cc: All parties  
Court Scheduling Technician

**L1007. Commencement of Action. Case Scheduling.**

A. This rule applies to all civil actions, except domestic relations cases, whether commenced by complaint, writ of summons, appeal from the decision of a local administrative agency, municipality or board of viewers, or other appropriate filing initiating an action.

1. When filed, every complaint, writ of summons, appeal or, any other matter requiring a trial or arbitration hearing, shall be accompanied by two copies of the initial case monitoring notice which shall be substantially in the form set forth under section D of this rule.

2. The initial case monitoring notice shall not exceed one page. If necessary, the caption may be abbreviated to accommodate this requirement.

3. After the initial case monitoring notice is filed, the prothonotary shall note the docket number thereon and immediately forward one copy to the court administrator who shall, within thirty (30) days:

a. assign a judge;

b. set a case scheduling conference for no sooner than ninety (90) days after the filing of the action; except that no case scheduling conference will be scheduled for those cases being processed on an administrative track, which shall be scheduled for trial pursuant to section B of this rule;

c. have the judge execute the order;

d. attach a list of the assigned judge's future trial terms; and

e. return the executed scheduling order to the prothonotary.

4. The prothonotary shall transmit a copy of the order and attached trial term list to plaintiff's/appellant's lawyer (or plaintiff/appellant if unrepresented).

5. Upon receiving the executed order, plaintiff's/appellant's attorney (or plaintiff/appellant if unrepresented) shall immediately serve a copy of the order upon all counsel or unrepresented parties.

6. In a case where all parties are represented by counsel, counsel shall make every effort to agree to a case scheduling order prior to the date of the case scheduling conference. Any such agreed-upon proposed order shall be filed prior to the date scheduled for the case scheduling conference. The attorney for plaintiff/appellant shall be responsible to initiate the effort to secure agreement on an order and to see that it is filed at the earliest possible date. The proposed order, when filed, shall be accompanied by a Rule L206 cover sheet with a request for the entry of an uncontested order.

7. If a case scheduling order is agreed upon, it shall establish a proposed trial term and pre-trial conference dates, as well as deadlines for discovery, dispositive motions and for the exchange of expert reports. The dates shall be based upon the assigned judge's trial term list and the guidelines set forth in subsection A.8 of this rule. The scheduling order shall be substantially in the form provided by section E of this rule.

8. The agreed upon trial term or arbitration listing shall ordinarily comply with the following guidelines:

a. Arbitration limits case - the arbitration to occur within six (6) to twelve (12) months after the first defendant is served.

b. Normal track - the trial to occur between twelve (12) and eighteen (18) months after the first defendant is served. Most cases will be considered normal.

c. Complex track - the trial to occur between eighteen (18) and twenty-four (24) months after the first defendant is served.

9. Case Scheduling Conference.

a. The case scheduling conference will occur as scheduled if:

1. the parties cannot agree to a case scheduling order;

2. the court does not accept the parties' proposed case scheduling order; or

3. the proposed order is not filed in a timely manner.

b. After the case scheduling conference, the court shall issue a case scheduling order.

c. Any party may, at any time, file a written request for a case scheduling conference if it appears that a revision of the case scheduling order is required.

B. Administrative Track Exceptions. The procedures set forth in section A of this rule that relate to a scheduling conference (e.g. sections 3b, 6, 7, 8 and 10) shall not apply to mortgage foreclosure cases, landlord/tenant cases appealed from a decision of a district justice, appeals from administrative agencies, municipal code appeals, appeals of decisions of board of viewers, or other cases assigned to the administrative track by the trial judge. Actions of this type shall be governed by the procedures set forth in this section.

1. In all actions governed by this section, the initial case monitoring notice shall include a request for the court to list the action for trial and shall include a proposed scheduling order directing the court administrator to list the case in accordance with this section.

2. When an action is listed for trial under the administrative track as provided by this section, the action shall either be placed on the trial list for the first trial term occurring more than ninety (90) days after the order is executed, or by direction of the court, be scheduled for a prompt conference. A case scheduling order will be issued in compliance with the time limits of this section.

3. All discovery in cases processed under this track must be completed not less than fourteen (14) days prior to the pre-trial conference.

4. In actions involving requests for declaratory relief under Pa.R.C.P. 1601 et seq., which do not involve a jury trial, the court may, upon the joint request of all parties, assign the action to the administrative track.

C. Injunction Exception. The initial case monitoring notice is not required to be filed with an initial filing of an action in equity which seeks special relief under Pa.R.C.P. nos. 1530-33 (such as a request for an ex parte injunction, special injunction or preliminary injunction hearing after notice to the other party). In such cases the initial filing shall be accompanied by a Rule L206 cover sheet and, if appropriate, a rule to show cause. Upon completion of the initial proceedings, the court may issue an appropriate scheduling order or set a scheduling conference date as may be appropriate under section A of this rule.

D. The form of the initial case monitoring notice shall be substantially as follows:

Plaintiff		: IN THE COURT OF COMMON PLEAS
		: LYCOMING COUNTY, PENNSYLVANIA
vs.		: DOCKET NO:
Defendant		: CIVIL ACTION - [LAW] [EQUITY]

**INITIAL CASE MONITORING NOTICE AND ORDER**

1. Plaintiff(s) by \_\_\_\_\_ hereby gives notice that this matter was commenced on the date of \_\_\_\_\_ by \_\_\_\_\_ (Attorney) complaint \_\_\_\_\_ writ of summons \_\_\_\_\_ other (specify):
2. Plaintiff requests the case be processed under the Court's civil case management rules as follows (check one):
  - \_\_\_\_\_ ARBITRATION (Damages of \$25,000 or less; hearing in 6-12 months)
  - \_\_\_\_\_ NORMAL TRACK (Trial in 12-18 months)
  - \_\_\_\_\_ COMPLEX TRACK (Trial in 18-24 months)
  - \_\_\_\_\_ ADMINISTRATIVE TRACK - (List for first trial term after 90 days; qualifying under Rule L1007B.)

**ORDER**

1. (a) \_\_\_\_\_ A case scheduling conference is scheduled for \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_ M., in courtroom no. \_\_\_\_\_; the parties or their counsel shall attend. Plaintiff shall initiate discussions on a case scheduling order, in compliance with Lyc. Co. R.C.P. L1007A. (Please see attached listing of trial term dates.) An agreed-upon proposed case scheduling order may be filed as soon as possible, but must be filed before the date of the scheduled conference.
 

(b) \_\_\_\_\_ The court administrator is directed to place this case on the next trial list occurring more than 90 days after the date of this order pursuant to Lyc. Co. R.C.P. L1007B.

2. PLAINTIFF SHALL IMMEDIATELY SERVE A COPY OF THIS ORDER UPON ALL OTHER PARTIES OR THEIR ATTORNEYS AND FILE PROOF OF TIMELY SERVICE.

	_____	_____
	Judge	Date

cc: Eileen A. Grimes, CST  
 \_\_\_\_\_, Esquire  
 \_\_\_\_\_, Esquire

E. The form of the scheduling order shall be substantially as follows:

Plaintiff;		: IN THE COURT OF COMMON PLEAS
		: LYCOMING COUNTY, PENNSYLVANIA
		:
vs.		: NO.
		:
Defendant;		: CIVIL ACTION - LAW

**SCHEDULING ORDER**

AND NOW, upon agreement of the parties, it is ORDERED AND DIRECTED as follows:

1. This is a \_\_\_\_\_ JURY \_\_\_\_\_ NON-JURY \_\_\_\_\_ ARBITRATION LIMITS case.
2. Case monitoring tracks: \_\_\_\_\_ NORMAL, \_\_\_\_\_ COMPLEX, \_\_\_\_\_ ADMINISTRATIVE
3. (a) Trial for this case will be in the term of \_\_\_\_\_ .  
 (b) Pre-trial conference dates are: \_\_\_\_\_ .  
 The court scheduling technician will schedule the exact date and time by future notice.

4. The case will be listed for arbitration on or after \_\_\_\_\_ .
5. The cut-off date for discovery will be \_\_\_\_\_ .
6. Expert reports shall be furnished as follows:
  - (a) By plaintiff(s) \_\_\_\_\_ .
  - (b) By defendant(s) \_\_\_\_\_ .
7. The cut-off date for filing dispositive motions will be \_\_\_\_\_ .
8. (a) The parties agree to use an alternative dispute resolution \_\_\_\_ YES \_\_\_\_ NO.  
 (b) If yes, ADR will be completed by \_\_\_\_\_ .
9. This order cancels the case scheduling conference which had previously been scheduled for the date of \_\_\_\_\_ .
10. Other \_\_\_\_\_ .

\_\_\_\_\_, \_\_\_\_\_  
 Judge Date

cc: Eileen A. Grimes, Court Scheduling Technician  
 \_\_\_\_\_, Esquire  
 \_\_\_\_\_, Esquire  
 Pro se party's name and address

[Pa.B. Doc. No. 99-112. Filed for public inspection January 22, 1999, 9:00 a.m.]

**WESTMORELAND COUNTY  
 Criminal Rules WC112, WC302 and WC1100**

**Order**

*And Now This* 1st day of October, 1998, it is *Hereby Ordered Adjudged and Decreed* that Westmoreland County Rules of Criminal Procedure WC112, WC302, and WC1100 are repealed. New Rules WC112, WC302, and WC1100 are adopted.

*By the Court*

CHARLES H. LOUGHRAN,  
*President Judge*

**Rule WC112. Notice concerning the right to counsel in cases initiated by summons.**

Pursuant to Pa.R.Crim.P. 110(1), in all cases where a criminal action is initiated by a summons, the district justice shall mail the following notice to the defendant with the summons:

"You have an absolute right to be represented by a lawyer. A lawyer should represent you at the preliminary hearing. It is, therefore, suggested that you do one of the following:

1. Hire your own lawyer.
2. If you are financially unable to hire your own lawyer, you should apply to the Westmoreland County Public Defender's Office, Westmoreland County Courthouse, Greensburg, Pennsylvania 15601, (724) 830-3535, where a lawyer may be appointed to represent you free of charge.
3. If you are financially able to hire a lawyer but do not know one, you should contact the Lawyer Referral Service at the Westmoreland Bar Association, 129 N. Pennsylvania Ave., Greensburg, Pennsylvania 15601, (724) 834-8490."

**Rule WC302. Attorneys—appearances and withdrawals.**

(a) An entry of appearance may only be filed on either a Waiver of Arraignment or on a Praecipe for Appearance. An attorney will not be noticed regarding motions, court hearings, or trials unless the attorney enters an appearance.

(b) Once an appearance is entered, the attorney will remain counsel of record until removed from the case by court order.

(1) In the event of a guilty plea or acceptance into the ARD program, the court will entertain private counsel's motion to withdraw at the time of sentencing or at the time of acceptance into the ARD Program. If the motion is granted, the private counsel and the defendant shall sign a Certificate of Withdrawal which shall be forwarded to the clerk of courts as a part of the official record.

(2) In order for the court to consider a petition for withdrawal of privately retained counsel subsequent to the imposition of sentence and pending appeal, counsel seeking to withdraw must provide the court with the defendant's completed application for a public defender, an executed Certificate of Withdrawal, and a summary of the bases for appeal. The court may direct the appointment of trial counsel to pursue the intended appeal at the applicable court-appointed counsel rate.

**Rule WC1100. Prompt trial.**

(a) *Hybrid Calendars*

The clerk of courts shall immediately enter a case when the docket transcript arrives from the district justice, and forward this information to the court administrator. The court administrator shall assign a judge for all court cases. The assigned judge shall be responsible for handling all pretrial phases of the case. Court cases are assigned for trial from a master list administered by the

calendar control judge. Summary appeals are assigned for trial from a master list administered by the court administrator.

(b) *Call of the List*

(1) Cases shall be listed by run dates provided in the Integrated Criminal Information System by the district attorney. The earliest run date shall be listed first and the latest or no run date shall be listed last.

Comment: The district attorney is responsible for calculating the most recent Rule 1100 run date and entering the run date into the computer. Cases without a run date shall be given the lowest priority. Cases shall be listed in accordance with the most recent information.

(A) The court administrator shall compile the list for the upcoming trial term.

(B) The court administrator shall provide copies of each attorney's cases on the trial list to the attorney of record as soon as possible after the list is compiled. The court administrator will send a notice by first class mail to all defendants who proceed pro se.

(2) The parties shall indicate to the court administrator whether the case is ready to proceed to trial; whether the case can be disposed through a negotiated plea, ARD, nolle pros, or other disposition; or whether the case should be passed or continued.

(A) Requests for continuances may be presented to the calendar control judge prior to the term. The court shall sign a continuance order, and note thereon whether the continuance is to be charged to the Commonwealth or the defendant, or is made at the court's convenience. Continued cases shall be rescheduled for the next available trial term.

(B) Cases which are passed shall be deferred to a later date during the term. If the case is not again reached during that trial term as a result of the court's schedule, the case shall be continued to the next available trial term.

(3) Parties may respond as to disposition in accordance with instructions promulgated by the court.

(c) *Notices*

The court administrator is responsible for preparing and mailing all required notices to counsel for the defendant or to the unrepresented defendant. The notice shall be sent to the address of the counsel or unrepresented defendant then-listed on the Integrated Criminal Justice Information System. The defendant or counsel is responsible for informing the clerk of courts of any known changes of address for the defendant. Any department or agency who has been informed of a change

of address by the defendant or counsel, shall inform the clerk of courts on a Change of Information Form. The clerk of courts shall enter any change of address into the Integrated Criminal Justice Information System within 24 hours of receipt of the Change of Information Form.

[Pa.B. Doc. No. 99-113. Filed for public inspection January 22, 1999, 9:00 a.m.]

**WESTMORELAND COUNTY**

**Issuance of Short Certificate After an Estate is Closed; Rule WO-408**

**Administrative Order**

*And Now* this 7th day of January, 1999, *It Is Hereby Ordered* that Westmoreland County Orphans' Court Rule WO-408 is adopted.

*By the Court*

CHARLES H. LOUGHRAN,  
*President Judge*

**Rule WO-408. Issuance of a Short Certificate after an Estate is Closed.**

(a) For a period of six months after the date of a decree of final distribution, small estates petition or family settlement agreement, the register shall issue short certificates to the personal representative or attorney of record for the estate, upon request.

(b) When more than six months have expired from the date of a decree of final distribution, small estates petition or family settlement agreement, the register shall issue short certificates to the personal representative or attorney of record for the estate only after the filing of a praecipe. The praecipe shall be signed by the attorney of record or signed and verified by the personal representative and shall set forth:

- (1) the caption;
- (2) the reason for obtaining the short certificates;
- (3) that all unpaid creditors and heirs or beneficiaries who would be affected by newly discovered assets have been notified;
- (4) if there are any newly discovered assets, that a supplemental Inheritance Tax Return will be filed.

[Pa.B. Doc. No. 99-114. Filed for public inspection January 22, 1999, 9:00 a.m.]