

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rule 514(b) of the Pennsylvania Rules of Disciplinary Enforcement; No. 7 Disciplinary Rules Doc. No. 1

Order

Per Curiam:

And Now, this 24th day of February, 2000, Rule 514(b) of the Pennsylvania Rules of Disciplinary Enforcement is hereby amended as follows.

To the extent that notice of proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration, the amendment of such rule is hereby found to be required in the interest of justice and efficient administration.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration and the amendment shall be effective July 1, 2000.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter E. CLIENT SECURITY FUND DISHONEST CONDUCT OF ATTORNEY

Rule 514. Reimbursable losses.

* * * * *

(b) *Maximum Recovery.* The maximum amount which may be disbursed from the fund to any one claimant with respect to the dishonest conduct of any one covered attorney shall be [\$50,000] \$75,000.

[Pa.B. Doc. No. 00-416. Filed for public inspection March 10, 2000, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910 AND 1930]

Amendments to the Rules of Civil Procedure Relating to Protection from Abuse Actions, Support and Custody Mediation

Recommendation 51

The Domestic Relations Procedural Rules Committee proposes the following amendments to Rules of Civil

Procedure 1905, 1910.10, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-4 and 1910.16-6 and new Rule 1940.9. The Committee solicits comments and suggestions from all interested persons prior to submission of these proposed amendments to the Supreme Court of Pennsylvania.

Written comments relating to the proposed amendments must be received no later than Friday May 5, 2000 and must be directed to: Patricia A. Miles, Counsel, Domestic Relations Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055, FAX (717) 795-2116, E-mail: patricia.miles@supreme.court.state.pa.us.

The notes and explanatory comments which appear in connection with the proposed amendments have been inserted by the Committee for the convenience of those using the rules. They will not constitute part of the rules and will not officially be adopted or promulgated by the Supreme Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1905. Forms for use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:

* * * * *

2. Defendant is evicted and excluded from the residence at (NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED) or any other permanent or temporary residence where Plaintiff or any other person protected under this Order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this Order.

* * * * *

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

* * * * *

2. Defendant is completely evicted and excluded from the residence at [NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other residence where Plaintiff or any other person protected under this Order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this Order.

* * * * *

Rule 1910.16-1. Amount of Support. Support Guidelines.

* * * * *

(b) The amount of support (child support, spousal support or alimony pendente lite) to be awarded pursuant to the procedures under Rules 1910.11 and 1910.12 shall be determined in accordance with the support guidelines which consist of the guidelines expressed as the child support schedule [and the chart of proportional expenditures] set forth in Rule 1910.16-3, the formula set forth in Rule 1910.16-4 and the operation of the guidelines as set forth in these rules.

* * * * *

Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

* * * * *

(b) *Treatment of Public Assistance, [and] SSI Benefits and Social Security Payments to a Child Due to a Parent's Disability or Retirement.*

(1) Neither public assistance nor Supplemental Security Income (SSI) benefits shall be counted as income for purposes of determining support.

(2) If a child for whom support is sought is receiving social security retirement or disability derivative benefits as a result of a parent's age or disability, the benefits the child receives shall be added to the monthly net incomes of the obligor and obligee to calculate the combined income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the schedule at the combined income of obligee, obligor and child's benefits shall then be reduced by the amount of the child's social security or disability derivative benefits before apportioning the remaining support obligation between the parties pursuant to Rule 1910.16-4.

Example. If the obligor has net monthly income of \$1200 per month; and the obligee has net monthly income of \$800; and the child receives social security derivative benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is \$539 per month. From that amount, subtract the amount the child is receiving in social security derivative benefits (\$539 minus \$300 equals \$239). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of \$239 between the obligor and the obligee in proportion to their respective incomes. Obligor's \$1200 net income per month is 60% of the total of obligor's and obligee's combined net monthly income. Thus, obligor's support obligation would be 60% of \$239, or \$143.40, per month.

* * * * *

(c) *Monthly Net Income.*

(1) Unless otherwise provided in [this Rule] these rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

* * * * *

(e) *Net Income Affecting Application of the Child Support Guidelines.*

* * * * *

(2) *High Income Child Support Cases.*

When the parties' combined net income exceeds \$15,000 per month, child support shall be calculated pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). The presumptive minimum amount of child support shall be obligor's percentage share of the highest amount of support which can be derived from the schedule [or the chart] for the appropriate number of children and using the parties' actual combined income to determine obligor's percentage share of this amount. The court may award an additional amount of child support based on the [remaining] parties' combined income and the factors set forth in *Melzer*. **The Melzer analysis in high income child support cases shall be applied to all of the parties' income, not just to the amount of income exceeding \$15,000 per month. In a Melzer analysis case, the presumptive minimum remains applicable.**

For example, where obligor and obligee have monthly net incomes of \$17,000 and \$4,000 respectively, the presumptive minimum amount of child support for three children is calculated as follows: using the formula in Rule 1910.16-4, determine the parties' percentage shares of income based on their actual combined income—81% and 19% respectively of \$21,000. Using the schedule [or chart] in Rule 1910.16-3, find the highest possible combined child support obligation for three children — \$3,480. Obligor's percentage share of the combined obligation is 81% of \$3,480, or \$2,818. This is the presumptive minimum amount of child support that he or she must pay for three children. Since this amount is derived from the schedule [or chart] in Rule 1910.16-3, [both of] which [are] is limited to combined household income of \$15,000, the court may award an additional amount of support based on [the parties' remaining income of \$6,000 and] the factors set forth in *Melzer*.

* * * * *

Rule 1910.16-3. Support Guidelines. Basic Child Support Schedule. [and Chart of Proportional Expenditures]

[(a) *Basic Child Support Schedule.*] The following schedule sets forth the amounts spent on children in intact families by combined income and number of children. Combined income is on the vertical axis of the schedule and number of children is on the horizontal axis of the schedule. This schedule is used to find the basic child support obligation. Unless otherwise provided in these Rules, the obligor's share of the basic support obligation shall be computed using the formula set forth in Part I of Rule 1910.16-4.

* * * * *

[(b) *Chart of Proportional Expenditures.* The following chart sets forth the proportion of combined monthly net income spent on children by income level. It is used to find the parties' basic child support obligation. Unless otherwise provided in these Rules, the obligor's share of the basic support obligation shall be computed using the formula set forth in Part I of Rule 1910.16-4.

**PROPORTION OF NET INCOME SPENT
ON CHILDREN BY COMBINED INCOME LEVEL**

<i>Children</i>	<i>\$423-\$1,058</i>	<i>\$1,059-\$1,481</i>	<i>\$1,482-\$1,905</i>	<i>\$1,906-\$2,328</i>	<i>\$2,329-\$2,751</i>	<i>\$2,752-\$3,174</i>
1	\$104, plus 24.32% above \$423	\$258, plus 22.67% above \$1,059	\$354, plus 22.72% above \$1,482	\$451, plus 22.32% above \$1,906	\$545, plus 21.39% above \$2,329	\$636, plus 11.47% above \$2,752
2	\$152, plus 35.44% above \$423	\$377, plus 32.68% above \$1,059	\$515, plus 32.77% above \$1,482	\$654, plus 31.70% above \$1,906	\$788, plus 31.41% above \$2,329	\$921, plus 16.16% above \$2,752
3	\$180, plus 41.93% above \$423	\$446, plus 38.34% above \$1,059	\$609, plus 38.47% above \$1,482	\$772, plus 36.69% above \$1,906	\$927, plus 37.49% above \$2,329	\$1,085, plus 18.62% above \$2,752
4	\$199, plus 46.33% above \$423	\$493, plus 42.37% above \$1,059	\$673, plus 42.50% above \$1,482	\$853, plus 40.54% above \$1,906	\$1,024, plus 41.42% above \$2,329	\$1,199, plus 20.58% above \$2,752
5	\$216, plus 50.22% above \$423	\$535, plus 45.92% above \$1,059	\$729, plus 46.08% above \$1,482	\$924, plus 43.94% above \$1,906	\$1,110, plus 44.90% above \$2,329	\$1,300, plus 22.30% above \$2,752
6	\$231, plus 53.74% above \$423	\$572, plus 49.14% above \$1,059	\$780, plus 49.30% above \$1,482	\$989, plus 47.02% above \$1,906	\$1,188, plus 48.04% above \$2,329	\$1,391, plus 23.87% above \$2,752
<i>Children</i>	<i>\$3,175-\$3,598</i>	<i>\$3,599-\$4,021</i>	<i>\$4,022-\$4,656</i>	<i>\$4,657-\$5,502</i>	<i>\$5,503-\$6,349</i>	
1	\$684, plus 7.20% above \$3,175	\$715, plus 17.74% above \$3,599	\$790, plus 14.14% above \$4,022	\$879, plus 13.79% above \$4,657	\$996, plus 13.75% above \$5,503	
2	\$989, plus 11.89% above \$3,175	\$1,040, plus 22.97% above \$3,599	\$1,137, plus 20.44% above \$4,022	\$1,267, plus 19.70% above \$4,657	\$1,434, plus 19.74% above \$5,503	
3	\$1,164, plus 10.21% above \$3,175	\$1,207, plus 29.49% above \$3,599	\$1,332, plus 23.99% above \$4,022	\$1,485, plus 22.92% above \$4,657	\$1,679, plus 23.11% above \$5,503	
4	\$1,286, plus 11.28% above \$3,175	\$1,334, plus 32.59% above \$3,599	\$1,472, plus 26.51% above \$4,022	\$1,640, plus 25.32% above \$4,657	\$1,855, plus 25.54% above \$5,503	
5	\$1,395, plus 12.22% above \$3,175	\$1,446, plus 35.33% above \$3,599	\$1,596, plus 28.74% above \$4,022	\$1,778, plus 27.45% above \$4,657	\$2,011, plus 27.68% above \$5,503	
6	\$1,492, plus 13.08% above \$3,175	\$1,548, plus 37.80% above \$3,599	\$1,708, plus 30.75% above \$4,022	\$1,903, plus 29.37% above \$4,657	\$2,151, plus 29.62% above \$5,503	
<i>Children</i>	<i>\$6,350-\$7,195</i>	<i>\$7,196-\$8,042</i>	<i>\$8,043-\$10,581</i>	<i>\$10,582-\$12,697</i>	<i>\$12,698-\$15,000</i>	
1	\$1,113, plus 13.57% above \$6,350	\$1,227, plus 7.05% above \$7,196	\$1,287, plus 15.99% above \$8,043	\$1,693, plus 7.51% above \$10,582	\$1,852, plus 7.97% above \$12,698	
2	\$1,601, plus 20.37% above \$6,350	\$1,773, plus 10.65% above \$7,196	\$1,863, plus 22.93% above \$8,043	\$2,446, plus 10.95% above \$10,582	\$2,677, plus 11.60% above \$12,698	
3	\$1,874, plus 24.79% above \$6,350	\$2,084, plus 13.13% above \$7,196	\$2,195, plus 26.83% above \$8,043	\$2,877, plus 13.01% above \$10,582	\$3,152, plus 14.26% above \$12,698	
4	\$2,071, plus 27.39% above \$6,350	\$2,303, plus 14.51% above \$7,196	\$2,426, plus 29.65% above \$8,043	\$3,179, plus 14.37% above \$10,582	\$3,483, plus 15.76% above \$12,698	
5	\$2,245, plus 29.69% above \$6,350	\$2,496, plus 15.73% above \$7,196	\$2,629, plus 32.14% above \$8,043	\$3,446, plus 15.58% above \$10,582	\$3,775, plus 17.08% above \$12,698	
6	\$2,402, plus 31.77% above \$6,350	\$2,671, plus 16.83% above \$7,196	\$2,813, plus 34.39% above \$8,043	\$3,687, plus 16.67% above \$10,582	\$4,039, plus 18.28% above \$12,698]	

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

(a) The following formula shall be used to calculate the obligor's share of the basic guideline child support, spousal support and/or alimony pendente lite obligation:

PART I. BASIC CHILD SUPPORT.

* * * * *

6. BASIC CHILD SUPPORT OBLIGATION (Determine [**either**] from Schedule based on number of children and line 5 combined monthly net income) [**OR from Chart by finding proportion of combined income spent on the children**]

* * * * *

(c) *Substantial or Shared Physical Custody.*

* * * * *

(3) This subdivision shall not apply when the obligor's income falls within the shaded area of the schedule in Rule 1910.16-3[(a)] or when the obligee's income is 10% or less of the parties' combined income.

(d) *Divided or Split Physical Custody.*

(1) When calculating a child support obligation, and one or more children reside with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Husband and two of whom reside with Wife, and their net monthly incomes are \$1,500 and \$800 respectively, Husband's child support obligation is calculated as follows. Using the formula with [**either**] the schedule [**or the chart**] in Rule 1910.16-3 for two children, Husband's support obligation for the two children living with Wife is \$508. Using the formula with the schedule [**or chart**] in Rule 1910.16-3 for one child, Wife's support obligation for the child living with Husband is \$188. Subtracting \$188 from \$508 produces a net support amount of \$320 payable to Wife as child support.

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Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.

* * * * *

(b) *Health Insurance Premiums.*

* * * * *

(4) **In cases in which the obligor is paying the cost of health care coverage and the obligee has no income or minimal income such that the obligor will bear 90% or more of the proportional share of the cost of the health insurance premiums, the trier of fact may, as fairness requires, either deduct part or all of the cost of the premium so paid from the obligor's gross income to determine net income or, in the alternative, reduce the obligor's basic support obligation under the guidelines by part or all of the amount of the health insurance premium the obligor actually pays on behalf of the other party or the children. If either of these alternatives is used, then the allocation of premium costs as set forth in (b)(1) above shall not be applied.**

Official Note: Subdivision (b) of this Rule does not apply to Medical Assistance. See 23 Pa.C.S. § 4326(l).

* * * * *

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, APL and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. For purposes of this subdivision, the term "mortgage" shall include[s] first [**and subsequent**] mortgages, **real estate taxes and homeowners' insurance** and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

Rule 1940.9.

These rules shall not affect any existing mediation program established in any judicial district pursuant to local rule prior to October 29, 1999. However, any changes or amendments to any existing program shall be consistent with these rules.

[Pa.B. Doc. No. 00-417. Filed for public inspection March 10, 2000, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CH. 20]

Proposed Amendment to Rule 22: Location of Proceedings before Issuing Authorities

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt changes to Rule 22 (Location of Proceedings Before Issuing Authority). This proposal would allow the president judge of a judicial district to establish procedures for conducting summary trials at a centralized location within the judicial district. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note the Committee's Reports should not be confused with official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning central courts for summary trials to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, April 5, 2000.

By the Criminal Procedural Rules Committee:

J. MICHAEL EAKIN,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 20. ISSUING AUTHORITIES: VENUE, LOCATIONS, AND RECORDING OF PROCEEDINGS

Rule 22. Location of Proceedings Before Issuing Authority.¹

[(a)] (A) An issuing authority within the magisterial district for which he or she is elected or appointed shall have jurisdiction and authority at **[ANY TIME OTHER THAN DURING HIS OR HER ESTABLISHED OFFICE HOURS]** ALL TIMES to receive complaints, issue warrants, hold preliminary arraignments, fix and take bail, **[and]** issue commitments to jail, AND HOLD HEARINGS AND summary TRIALS. **[AT HIS RESIDENCE WITHIN THE MAGISTERIAL DISTRICT, BUT ALL HEARINGS AND TRIALS BEFORE SUCH ISSUING AUTHORITY SHALL BE HELD PUBLICLY AT HIS ESTABLISHED OFFICE, OR AT ANOTHER LOCATION, WITHIN OR WITHOUT THE MAGISTERIAL DISTRICT, DESIGNATED BY THE PRESIDENT JUDGE, UNLESS AN EMERGENCY EXISTS OR THE NUMBER OF PERSONS LAWFULLY ASSEMBLED AND ENTITLED TO BE PRESENT IS TOO GREAT TO BE ACCOMMODATED IN SUCH PLACE, IN WHICH EVENT THE HEARING OR TRIAL MAY BE ADJOURNED AS QUICKLY AS MAY BE, TO A SUITABLE PLACE, WITHIN THE MAGISTERIAL DISTRICT.]**

(1) EXCEPT AS PROVIDED IN PARAGRAPH **(A)(2)**, ALL PRELIMINARY ARRAIGNMENTS SHALL BE HELD IN THE ISSUING AUTHORITY'S ESTABLISHED OFFICE, A NIGHT COURT, OR SOME OTHER FACILITY WITHIN THE COMMONWEALTH DESIGNATED BY THE PRESIDENT JUDGE, OR THE PRESIDENT JUDGE'S DESIGNEE.

(2) PRELIMINARY ARRAIGNMENTS MAY BE CONDUCTED USING ADVANCED COMMUNICATION TECHNOLOGY PURSUANT TO RULE 140. THE PRELIMINARY ARRAIGNMENT IN THESE CASES MAY BE CONDUCTED FROM ANY SITE WITHIN THE COMMONWEALTH DESIGNATED BY THE PRESIDENT JUDGE, OR THE PRESIDENT JUDGE'S DESIGNEE.²

(3) ALL HEARINGS AND summary TRIALS BEFORE THE ISSUING AUTHORITY SHALL BE HELD PUBLICLY AT THE ISSUING AUTHORITY'S ESTABLISHED OFFICE, UNLESS, FOR REASONS OF EMERGENCY, SECURITY, SIZE, OR SOME OTHER JUSTIFICATION, THE PRESIDENT JUDGE, OR THE PRESIDENT JUDGE'S DESIGNEE, DIRECTS THAT THE HEARING OR summary TRIAL BE HELD IN ANOTHER MORE SUITABLE LOCATION WITHIN THE JUDICIAL DISTRICT.

(4) THE ISSUING AUTHORITY MAY RECEIVE COMPLAINTS, ISSUE WARRANTS, FIX AND TAKE BAIL, AND ISSUE COMMITMENTS TO JAIL FROM ANY LOCATION WITHIN THE JUDICIAL

¹For the convenience of the bench and bar, the Committee has shown all the proposed Rule 22 changes, both the changes that were published previously concerning the location from which an issuing authority may conduct business and hold hearings and trials, see 29 Pa.B. 2664 (May 22, 1999), which are indicated in SMALL CAPITAL LETTERS, and the changes in the present proposal concerning central courts for summary trials. Since the Committee has received comments on the previously published proposal, we are seeking input only concerning the addition of summary trials and central courts.

²The changes here and elsewhere in the rule concerning advanced communication technology are part of a separate proposal. This language has not been adopted by the Court; it is provided as a convenience for the bench and bar.

DISTRICT, OR AN ADVANCED COMMUNICATION TECHNOLOGY SITE WITHIN THE COMMONWEALTH.

[(b)] (B) WHEN LOCAL CONDITIONS REQUIRE, **[The]** **[The]** **[President]** president **[Judge]** Judge shall **[,** WHERE LOCAL CONDITIONS REQUIRE, **]** establish procedures **[WHEREBY, IN ALL OR CERTAIN CLASSES OF CASES,]** FOR preliminary hearings or summary trials IN ALL CASES, OR IN CERTAIN CLASSES OF CASES, **[MAY]** TO be held at a central place or places within the **[Judicial]** **[Judicial]** **[District]** district at certain specified times. The procedures established shall provide either for the transfer of the case or the transfer of the issuing authority to the designated central place as the needs of justice and efficient administration require. **[WHEN THE DEFENDANT OR HIS COUNSEL AND THE ATTORNEY FOR THE COMMONWEALTH AGREE, THE PRELIMINARY HEARING SHALL BE HELD AT THE ESTABLISHED OFFICE OF THE ISSUING AUTHORITY WHO RECEIVED THE COMPLAINT.]**

Official Note: Formerly Rule 156, paragraph **[(a)] (A)** adopted January 16, 1970, effective immediately; **[Paragraph]** Paragraph **[(a)] (A)** amended and paragraph **[(b)] (B)** adopted November 22, 1971, effective immediately; renumbered September 18, 1973, effective January 1, 1974; amended _____, 2000, effective _____, 2000.

Comment

THE 2000 AMENDMENTS TO PARAGRAPH **(A)** DIVIDED THE PARAGRAPH INTO SUBPARAGRAPHS TO MORE CLEARLY DISTINGUISH BETWEEN THE LOCATIONS FOR THE DIFFERENT TYPES OF PROCEEDINGS AND BUSINESS THAT AN ISSUING AUTHORITY CONDUCTS.

SEE RULE 140 AND COMMENT FOR THE PROCEDURES GOVERNING THE USE OF ADVANCED COMMUNICATION TECHNOLOGY IN PRELIMINARY ARRAIGNMENTS.

SEE RULE 21 CONCERNING THE VENUE WHEN THE PROCEEDINGS ARE CONDUCTED BY USING ADVANCED COMMUNICATION TECHNOLOGY.

Paragraph **[(b)] (B)** of this rule is intended to facilitate compliance with the requirement that defendants be represented by counsel at the preliminary hearing. *Coleman v. Alabama*, 399 US 1, 90 S.Ct. 1999 (1970).

[THIS RULE] PARAGRAPH **(A)(4)** PERMITS ISSUING AUTHORITIES TO PERFORM THEIR OFFICIAL DUTIES FROM AN ADVANCED COMMUNICATION TECHNOLOGY SITE. THE SITE MAY BE LOCATED OUTSIDE THE MAGISTERIAL DISTRICT OR JUDICIAL DISTRICT WHERE THE ISSUING AUTHORITY PRESIDES. SEE RULE 3 FOR THE DEFINITION OF "ADVANCED COMMUNICATION TECHNOLOGY."

This rule allows the **[President Judge]** president judge of a **[Judicial District]** Judicial District the discretion to determine what classes of cases require centralized preliminary hearings or summary trials, and requires **[HIM]** THE PRESIDENT JUDGE, OR THE PRESIDENT JUDGE'S DESIGNEE, to establish a schedule of central places WITHIN THE COMMONWEALTH to conduct such hearings or summary trials and the hours **[THEREOF]** FOR THE HEARINGS or trials AT THE CENTRAL LOCATIONS.

Ideally, this rule should minimize the inconvenience to defense counsel and the attorney for the Commonwealth by eliminating the necessity of travel at various unpredictable times to many different locations throughout the

[**Judicial District**] **Judicial district** for the purpose of attending preliminary hearings **or summary trials**. [**HOWEVER, WHERE IT IS CONVENIENT TO HOLD THE PRELIMINARY HEARING IN THE MAGISTERIAL DISTRICT WHERE THE CASE AROSE, THE RULE ALLOWS THE PARTY TO SO STIPULATE.**] Finally, this rule allows preliminary hearings **or summary trials** for jailed defendants to be held at a location close to the place of detention.

COMMITTEE EXPLANATORY REPORTS:

Report explaining the proposed amendments published at 29 Pa.B. 2665 (May 22, 1999).

Report explaining the proposed amendments published at 30 Pa.B. 1362 (March 11, 2000).

Report

Proposed Amendment of Pa.R.Crim.P. 22

Centralized Courts for Summary Trials

The Committee is proposing that Rule 22 (Location of Proceedings Before Issuing Authority) be amended to clarify that the president judge of a judicial district may establish procedures for summary trials to be held at a centralized location within the judicial district.

Over the past several months, the Committee has been reviewing the provisions of Rule 22. As part of this review, we have proposed changes about the locations from which an issuing authority may conduct business within a judicial district. See 29 Pa.B. 2664 (May 22, 1999). As we evaluated the comments in response to our publication of this proposal, some members pointed out that the language in paragraphs (A) and (B) may be perceived as inconsistent—if the district justice has jurisdiction to conduct hearings and trials in their regular business office, paragraph (A), why wouldn't the same be true if the president judge has established a central court pursuant to paragraph (B). During our discussions, the Committee believed the same reasons for establishing a central court for preliminary hearings apply to summary trials, including 1) minimizing the inconvenience to counsel by eliminating travel to many locations throughout the judicial district; and 2) allowing summary trials for jailed defendants to be held at a location close to the place of detention. Accordingly, the Committee agreed to propose amendments to Rule 22 to specifically permit the president judge to establish central courts for summary trials when there is a need in the judicial district. The proposed changes to Rule 22 would not mandate that central courts be established for summary trials, but are discretionary, providing each president judge with the option to establish a central court for summary trials. Accordingly, the Committee is proposing that Rule 22 be amended as follows:

- paragraph (A) would be amended by adding “summary” after “hold hearings and”

- paragraph (A)(3) would be modified from the version of Rule 22 published in May 1999 by the insertion of “summary” before “trials” in the first line, and “trial” in the last line

- paragraph (B) would be amended by adding the language “and summary trials” after “preliminary hearings”

- the Comment would be revised so that the language would conform to the language in the rule.

[Pa.B. Doc. No. 00-418. Filed for public inspection March 10, 2000, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Commerce Case Management Program; Administrative Doc. 01 of 2000

And Now, this 22nd day of February, 2000, it is hereby *Ordered and Decreed* that the following protocols shall apply to all civil cases within the Commerce Case Management Program on or after January 1, 2000:¹

*Commerce Case Management Program:
Procedure for Disposition of Commerce Program Cases
Filed on and after January 1, 2000*

A Commerce Case Management Program (“Commerce Program”) is hereby established within the Trial Division of the Court of Common Pleas.

A. *Organization*

1. *Judges*. Initially, two judges shall be assigned by the Administrative Judge to the Commerce Program. The number of Commerce Program Judges may thereafter be adjusted by the Administrative Judge consistent with the caseload of the Program.

2. *Filings & Listings*. Upon consultation with the Administrative Judge and the Commerce Program Judges, with the goal of ease of access by the Commerce Program Judges and their staff, the parties and the public, the Prothonotary shall establish procedures for maintenance of filings and listings in actions assigned to the Commerce Program.

B. *Assignment of Cases Subject to Commerce Program*

1. *Cases Subject to Commerce Program*. Notwithstanding anything to the contrary in General Court Regulation 95-2 (Day Forward Program) or any other General Court Regulation, Jury, Non-Jury & Equity, and Class Action cases filed on or after January 1, 2000, but not Arbitration cases, shall be assigned to the Commerce Program if they are among the following types of actions:

1. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;

¹The original protocols contained in Administrative Docket 01 of 1999 (Order of 11/9/99) are hereby amended to clarify that discovery motions should be processed through Discovery Court rather than Motion Court (¶ D6) and further amended to state that a decision regarding whether a case shall be assigned to the Commerce Program is not appealable (¶ B4). Other minor language changes have also been made.

2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:

- a. Uniform Commercial Code transactions;
- b. Purchases or sales of businesses or the assets of businesses;
- c. Sales of goods or services by or to business enterprises;
- d. Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
- e. Surety bonds;
- f. Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
- g. Franchisor/franchisee relationships.

3. Actions relating to trade secret or non-compete agreements;

4. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;

5. Actions relating to intellectual property disputes;

6. Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;

7. Derivative actions and class actions based on claims otherwise falling within these ten types, and consumer class actions other than personal injury and products liability claims;

8. Actions relating to corporate trust affairs;

9. Declaratory judgment actions brought by insurers, and coverage dispute and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Comprehensive General Liability policy, and;

10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be assigned to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.

All of the above types of actions may involve individuals named as parties, in addition to business enterprises, so long as all other criteria are met and the essential nature of the litigation is a business dispute. For example, a dispute over a commercial loan may include individual guarantors as either plaintiffs or defendants, as the case may be, but such a lawsuit would still be a commercial dispute.

2. *Cases Not Subject to the Commerce Program.* The following types of matters are not to be included in the Commerce Program:

1. Matters subject to Compulsory Arbitration in this Court or to the jurisdiction of the Municipal Court, including any appeals.

2. Personal injury, survival or wrongful death matters.

3. Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases.

4. Matters involving occupational health or safety.

5. Environmental claims not involved in the sale or disposition of a business and other than those addressed in Commerce Program types 9 or 10 above.

6. Matters in eminent domain.

7. Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise.

8. Employment law cases, other than those referenced in Commerce Program type 3 above.

9. Administrative agency, tax, zoning and other appeals.

10. Petition Actions in the nature of Change of Name, Mental Health Act Petitions, Petitions to Appoint an Arbitrator, Government Election Matters, Leave to Issue Subpoena, Compel Medical Examination.

11. Individual residential real estate and non-commercial landlord-tenant disputes.

12. Domestic relations matters, and actions relating to distribution of marital property, custody or support.

13. Any matter required by statute, including 20 Pa.C.S. Chapter 7, §§ 711 & 713, to be heard in the Orphans' Court or Family Court Division of the Philadelphia Court of Common Pleas, or other matter which has heretofore been within the jurisdiction of the Orphans' Court or Family Court Division of this Court.

14. Any criminal matter other than criminal contempt in connection with a Commerce Program action.

15. Such other matters as the Court shall determine.

3. *Assignments Based on the Civil Cover Sheet.* The Civil Cover Sheet, effective January 1, 2000, shall include a box in which the attorney signing the sheet must certify that the action is, or is not, subject to the Commerce Program. A "Commerce Program Addendum to Civil Cover Sheet," a sample of which is attached as Exhibit "A," is hereby required to be filed with all initial filings (i.e., all filings requiring a Civil Cover Sheet) subject to the Commerce Program, filed on or after January 1, 2000. The attorney shall indicate on the Commerce Program Addendum filed with any filing denoted as a Commerce Program matter, the applicable type or types of action which result in the matter being assigned to the Commerce Program. An attorney's signature on the Civil Cover Sheet shall constitute certification that the matter is or is not subject to the Commerce Program, as indicated on the Civil Cover Sheet and Addendum. A copy of the Civil Cover Sheet, including any Commerce Program Addendum, shall be served with the original process served on all parties.

All actions designated into the Commerce Program pursuant to the Commerce Program Addendum are hereby assigned to the Commerce Program and to the individual calendar of one of the Commerce Program Judges, who shall be assigned according to a random procedure established by the Administrative Judge. This assignment shall be noted on the Docket. All further filings in the matter shall state prominently in the caption and on any cover sheets that the matter is "ASSIGNED TO COMMERCE PROGRAM."

4. *Disputes Arising From the Civil Cover Sheet Designation.* If any party disagrees with the designation or lack of designation of a case into the Commerce Program, that party shall file with Civil Listings Room 296 City Hall, to be referred to the Administrative Judge for

decision (which shall not be subject to appeal), and serve on all parties a Notice of Management Program Dispute, in the Form attached as Exhibit "B" and not exceeding three pages, as soon as practical, and no later than the earliest of (a) the filing by that party of any pleading, motion or response to motion, (b) ten days in advance of a noticed case management conference or (c) thirty days after service of process. Any party opposing the Notice of Management Program Dispute may, but need not, submit a response thereto not exceeding three pages (to Civil Listings Room 296 City Hall) within ten days of service of the Notice.

In the event of the service of a Notice of Management Program Dispute, a copy of that Notice shall be attached to and referenced in all motions and responses to motions filed by any party pending the resolution of the management program dispute.

C. Commencement of Action

All subject actions shall be commenced as provided in Pa.R.C.P. 1007. Philadelphia Civil Rule *205.2 shall be followed. As noted above, in all cases, not just those designated into the Commerce Program, a copy of the Civil Cover Sheet, including any Commerce Program Addendum, shall be served with original process served on all parties.

All jury demands shall be perfected in accordance with Pa.R.C.P. 1007.1 and Phila. Civ. R. *1007.1.

A party seeking emergency relief immediately upon commencing an action subject to the Commerce Program shall follow the procedure set forth in part D.7. below (Rules to Show Cause and Emergency Motions and Petitions).

D. Case Management Procedures

1. *Authority Over Commerce Program Status:* When there is a dispute whether the case is properly assigned to the Commerce Program, the decision will be made by the Administrative Judge. If the Civil Case Manager conducting a case management conference or any party objects as to the Commerce Program assignment, the Case Manager will forward the dispute to the Administrative Judge.

2. *Alternative Procedures Available:* The Commerce Program Judge, in his/her discretion, may, upon application of any party or upon his/her own initiative, modify these procedures. Requests for changes in these procedures will be made by filing a Petition for Extraordinary Relief (which Petition calls for a ten-day response time).

3. *The Case Management Conference:* Typically, notice of a Case Management Conference ("CMC") will be sent to counsel and unrepresented parties (sixty days after filing) scheduling the CMC for approximately ninety days after filing. In certain circumstances, the CMC may be scheduled through the Commerce Program Judge.

a. *Presiding Officer:* Unless otherwise ordered, the CMC shall be conducted by a Civil Case Manager designated by the Court, acting on behalf of the assigned Commerce Program Judge.

b. *Issues to be Addressed:* The following subjects, along with other appropriate topics, such as service of process, venue, pleadings, discovery, possible joinder of additional parties, theories of liability, damages claimed and applicable defenses (see also Pa.R.C.P. 213.3), will be discussed.

(1) Means for Early Disposition

a. Timing and potential forms of Alternative Dispute Resolution (ADR). The case manager will make available the list of Commerce Program Judges Pro Tempore (as provided by the Business Litigation Committee of the Philadelphia Bar Association).

b. Scheduling pre-discovery dispositive motions, only if oral argument is needed. (Whether to hear oral argument is up to the Commerce Program Judge). The Commerce Program Judge will likely have a half day set aside for hearing Motions and Rules.

c. Scheduling limited-issue discovery in aid of early dispositive motions. The Case Manager will advise counsel of the half day Discovery Program set up for that Commerce Program Judge.

(2) Schedules and Deadlines

a. Assignment to a Case Management Track and issuance of a Case Management Order ("CMO"), which will set forth a target trial date, deemed the earliest trial date pursuant to Pa.R.C.P. 212.1.

b. A discovery plan and schedule based on the CMO date for the completion of discovery.

c. Anticipated areas of expert testimony, timing for identification of experts, responses to expert discovery, exchange of expert reports (reference to the CMO).

(3) Potential Use of a Commerce Court Judge Pro Tempore

a. On stipulation of all parties for supervision of discovery.

b. For mediation.

c. Identification of a particular Commerce Program Judge Pro Tempore acceptable to all parties.

d. The choice of a particular Judge Pro Tempore for these purposes must be approved by the Court.

e. Use of a Pro Tempore Judge for purposes of discovery or mediation cannot affect the deadlines set forth in the CMO.

The Commerce Program Judge may establish any informal procedures to achieve expeditious resolution of discovery disputes and other non-dispositive issues. Prior to the CMC, it shall be the obligation of the parties to confer concerning all of the above matters, for the purposes of reaching agreements.

5. *Case Management Order:* At the CMC, the case manager shall issue a Case Management Order ("CMO") setting forth dates for a Settlement Conference and for a Pretrial Conference (with Pretrial Statements typically to be filed in advance), and for Trial. The CMO will also address cut-off dates for completion of discovery, for the service of expert reports and for the filing of Motions.

Based upon the nature and complexity of the case, the case manager with input from the parties at the CMC shall assign the case to a track. The Commerce Program shall typically employ the following management tracks: Commerce Expedited (Target Trial Date within 13 months of Complaint) and Commerce Standard (Target Trial Date within 18 months of Complaint). Only exceptionally complicated cases should be designated Commerce Complex (Target Trial Date within two years of Complaint). In the latter instance, the Commerce Program Judge may schedule status conferences at six month intervals or at other times upon application of the parties, if appropriate.

The Commerce Expedited Track shall consist of matters in which minimal discovery is needed and legal issues are anticipated to be routine. Examples of such actions, in the absence of complicating factors, are actions relating to commercial loans, and contract, UCC and foreclosure matters. Other matters should presumptively be designated Commerce Standard. Actions in which preliminary injunctive relief is sought may be appropriate for any of the tracks depending upon the circumstances.

A suggested form Case Management Order is attached as Exhibit "C." A grid of time standards that will be employed depending upon the applicable Track Case Management Order is attached as Exhibit "D."

6. *Motion Practice and Discovery Motions.* The Commerce Program Judge to whom the action is assigned will hear all pretrial motions, including discovery motions, except that, to the extent that scheduling or other concerns so require, a Commerce Program Judge may make arrangements for certain discovery and other pretrial motions to be heard by another Commerce Program Judge. All motions (except discovery motions) shall be filed in Motion Court with a designation on the Motion Court Cover Sheet of the assigned Commerce Program Judge. Procedures of the Discovery Court should generally be followed, and filings processed through Room 287. In some instances, the Commerce Program Judge may direct further briefing of complex discovery motions. Any Notice of Management Program Dispute that is pending or is being filed contemporaneously with the Motion filing, should be noted in the Motion Court Cover Sheet. Oral argument is at the discretion of the Commerce Program Judge.

A Commerce Program Discovery List for each Commerce Program Judge shall be established so that discovery matters ordinarily will be heard by that Judge on a particular day of the week. Each Judge may also scheduling hearings on non-discovery motions on the discovery day, or at such other times as the Court deems appropriate.

7. *Rules to Show Cause and Emergency Motions and Petitions.* Rules to show cause in cases assigned to the Commerce Program will be presented in the Motions Court, where they will be reviewed as to form, and forwarded to the assigned Commerce Program Judge for consideration.

Unless there is a dispute as to Commerce Program applicability, emergency motions or petitions in a newly filed action presented in a matter appropriate for assignment to the Commerce Program shall be referred to a Commerce Program Judge for disposition. If there is any dispute regarding Commerce Program applicability, that dispute shall be referred to the Administrative Judge or the designee of the Administrative Judge. Parties are encouraged to give the Motion Court advance notice of an emergency motion or petition, including notice that the action is assigned to the Commerce Program or may be appropriate for such assignment. If the assigned Commerce Program Judge is unavailable, an emergency motion or petition in an action already assigned to Commerce Program shall be heard by the other Commerce Program Judge, if available, with any subsequent hearing referred back to the assigned Commerce Program Judge. If no Commerce Program Judge is available to hear an emergency motion or petition, such motion or petition shall be referred to a Judge assigned to Motion Court (or, if necessary, the Emergency Judge), with any subsequent hearing referred back to the appropriate Commerce Program Judge. An emergency motion heard by a Commerce

Program Judge in a case which has not yet gone through the random assignment procedure shall be subject to that procedure prior to any subsequent hearing and the subsequent hearing shall be scheduled before the Commerce Program Judge assigned.

8. *Settlement Conferences.* A settlement conference may be expeditiously scheduled in any case in which counsel concur that such a conference may be productive. Such requests shall be made in writing by letter to the assigned Commerce Program Judge, and in all other respects Local Civ. R. *212.1(B) should be applied.

Except as otherwise provided in Local Civil Rule *212.3 (Settlement Conferences—Non Jury Cases), Commerce Program Judges may assist the parties in reaching a fair and reasonable settlement or other resolution of the matter. To that end, the assigned Commerce Program Judge, in his or her discretion, may schedule one or more formal settlement conferences. The Commerce Program Judge may also encourage the parties to engage in settlement discussions and in any form of Alternative Dispute Resolution (ADR), including the assistance of a Commerce Program Judge Pro Tempore, that may result in settlement, avoidance of trial or expeditious resolution of the dispute. Except upon order of the Court, the pendency of any form of ADR shall not alter the date for commencement of trial.

9. *Pretrial Conference.* A Pretrial Conference shall be held in all Commerce Program actions. At the conclusion of the Pretrial Conference, a Pretrial Order controlling the conduct of trial may be entered. The Court shall exercise its best efforts to try the matter as soon after the target trial date as practicable.

Typically, the CMO will require the filing of Pretrial Statements (Pa.R.C.P. 212.2) in advance of the Pretrial Conference. Prior to the Pretrial Conference, principal trial counsel shall confer on the matters set forth in Pa.R.C.P. 212.3, and attempt to reach agreement on any such matters.

Following the Pretrial Conference, the Commerce Program Judge shall enter a Trial Scheduling Order, identifying the date by which the matter should be prepared for trial, and, if applicable, the date to be placed into a trial pool or the date of any special listings. The Trial Scheduling Order may further provide specific dates, to the extent not already addressed in the Case Management Order, for such matters as:

A. Exchange of proposed stipulations and filing of stipulations in writing to facts about which there can be no reasonable dispute;

B. Pre-marking and exchanging copies of all documents or other exhibits to be offered in evidence at trial;

C. Service and filing of written objections to any documents or other exhibits as to which a party intends to object at trial, together with the legal basis for such objections;

D. Identification in writing of all deposition testimony, by page and line number, intended to be read into the record at trial, followed by counterdesignations and objections to deposition designations;

E. Exchange of trial briefs and proposed findings of fact and conclusions of law (nonjury) or requested points for jury charge (jury).

At such time prior to trial as may be fixed by the Court, it shall rule on all matters placed in issue under this procedure.

In addition, the Commerce Program Judge may establish procedures consistent with the requirements of each case to ensure close interaction with the parties in order to minimize trial time.

E. Commerce Program Judges Pro Tempore And Alternative Dispute Resolution

There shall be established in the Commerce Program, an Alternative Dispute Resolution program for Commerce Program actions, which may include, but is not limited to, mediation and the assistance of Commerce Program Judges Pro Tempore.

1. *Panel of Commerce Program Judges Pro Tempore.* The Administrative Judge or designee shall designate a panel of Commerce Program Judges Pro Tempore from among volunteers nominated and approved by the Philadelphia Bar Association Business Law Section, Business Litigation Committee, who shall be distinguished attorneys engaged in active practice of law with no less than fifteen (15) years trial experience including a practice focused on the type of litigation described in section B.1. above (Cases Subject to Commerce Program). Commerce Program Judges Pro Tempore shall serve without charge. Persons may be added to or removed from the panel as the Administrative Judge or designee may determine consistent with the qualifications above.

The Court may order a Commerce Program case to be assigned for Settlement Conference to a Commerce Program Judge Pro Tempore who shall, on a date certain, hold a Settlement Conference which must be attended by trial counsel representing the parties and any unrepresented parties. Counsel and unrepresented parties shall provide to the Commerce Program Judge Pro Tempore prior to the Settlement Conference a fully completed Settlement Memorandum, in a form to be established by the Commerce Program Judges. The Commerce Program Judge Pro Tempore on such a referral is not authorized to rule on any motions, but will attempt to facilitate a settlement between the parties.

2. *Mediation. a. Referral to Mediation and Selection of Mediator.* Commerce Program cases may be referred to nonbinding mediation at the discretion of the Commerce Program Judge, who may make such referrals at the time of the Case Management Conference, at a Pretrial Conference referenced above, or at another time. Where appropriate and whether or not mediation is pursued at an early stage of the litigation, the Commerce Program Judge has the discretion to refer cases to nonbinding mediation at a later stage of the proceedings.

The Court may permit the parties to choose the mediator from among the panel of Commerce Program Judges Pro Tempore, or agree to pay for a mediator not on the panel. The order of reference to mediation shall not stay or delay any scheduling dates, unless the Court so orders.

b. *Conflicts of Interest.* A mediator to whom a case is assigned must disclose to the parties and to the Court any apparent conflict of interest. Unless the mediator determines consistent with any applicable ethical requirements and guidelines that he or she should preside notwithstanding any such apparent conflict of interest and the parties and the Court agree that such mediator nevertheless shall preside, another mediator shall be selected.

c. *Confidentiality of Mediation.* The order referring an action to mediation shall require that the mediator report to the Court the disposition of the mediation in accordance with a schedule as determined by the Court, under the guidelines below. The order shall also provide that all

information received by the mediator as to the merits of the matter, including the submitted memoranda, shall remain confidential and not be reported or submitted to the Court by the mediator or the parties, except as necessary in a stipulation of settlement agreed to by the parties.

d. *Mediation Procedure.* The first mediation session preferably shall be conducted within 30 days of the execution of the order of reference, unless the Court establishes a different schedule. At least ten days before the first session, each party shall deliver to the mediator a copy of its pleadings, any briefs filed in the action important to the mediation and a memorandum of not more than five pages (double-spaced), setting forth that party's contentions as to liability and damages. The memorandum shall be served on all parties, but shall be marked "Confidential, for Mediation Only," and may not be used, cited, quoted, marked as an exhibit or referenced in any proceedings. Attendance at the first mediation session shall be mandatory, and the mediator may require, in addition to the appearance of the attorneys, the presence of the parties or their representatives with authority to settle. If the first session is successful, the settlement shall be reduced to a stipulation, and the mediator shall submit forthwith the stipulation, the notice of discontinuance and the report of disposition to the Court. The report of disposition shall be on a form prescribed by the Court Administrator.

e. *Report; Extensions.* If the action is not settled upon completion of the first session, the mediator may schedule additional sessions on consent of the parties. However, at the end of the first session, any party or the mediator may terminate the mediation effort, and in that case the mediator shall advise the Court forthwith that mediation has been terminated but shall not disclose the identity of any parties who terminated or did not terminate the mediation.

Except as set forth below, subsequent sessions should be concluded within 15 days from the date by which the first session was to have been held according to the order of reference. The mediator shall report to the Court as to the outcome of the mediation session(s) no later than 20 days from the date by which the first session was to have been held according to the order of reference.

If mediation cannot be concluded within 15 days from the date by which the first session was to have been held according to the order of reference, upon consent of all parties a 30-day extension of time to conduct further sessions may be granted by the mediator. If such extension is granted, the mediator shall report to the Court as to the success or lack of success of the additional sessions as soon as practicable but in any event no later than 5 days after the final mediation session.

All deadlines and relevant procedures shall be set forth in a standard form order of reference.

By the Court

JOHN W. HERRON,
Administrative Judge, Trial Division

This Administrative Docket is promulgated in accordance with the April 11, 1987 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. *51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted

to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

Exhibit A

COMMERCE PROGRAM ADDENDUM TO CIVIL COVER SHEET

This case is subject to the Commerce Program because it is not an arbitration matter and it falls within one or more of the following types (check all applicable):

- 1. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;
- 2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:
 - a. Uniform Commercial Code transactions;
 - b. Purchases or sales of business or the assets of businesses;
 - c. Sales of goods or services by or to business enterprises;
 - d. Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
 - e. Surety bonds;
 - f. Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
 - g. Franchisor/franchisee relationships.
- 3. Actions relating to trade secret or non-compete agreements;
- 4. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;
- 5. Actions relating to intellectual property disputes;
- 6. Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;
- 7. Derivative actions and class actions based on claims otherwise falling within these ten types, and consumer class actions other than personal injury and products liability claims;
- 8. Actions relating to corporate trust affairs;
- 9. Declaratory judgment actions brought by insurers, and coverage dispute and bad faith claims brought by insureds, where the dispute arises

from a business or commercial insurance policy, such as a Comprehensive General Liability policy;

- 10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be subject to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.

Instructions: Please see Commerce Case Management Program: Procedure for Disposition of Commerce Program Cases Filed On and After January 1, 2000. Arbitration matters are not subject to the Commerce Program. Note that the following types of matters are not to be included in the Commerce Program:

- 1. Matters subject to Compulsory Arbitration in this Court or to the jurisdiction of the Municipal Court, including any appeals.
- 2. Personal injury, survival or wrongful death matters.
- 3. Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases.
- 4. Matters involving occupational health or safety.
- 5. Environmental claims not involved in the sale or disposition of a business and other than those addressed in Commerce Program types 9 or 10 above.
- 6. Matters in eminent domain.
- 7. Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise.
- 8. Employment law cases, other than those referenced in Commerce Program type 3 above.
- 9. Administrative agency, tax, zoning and other appeals.
- 10. Petition Actions in the nature of Change of Name, Mental Health Act Petitions, Petitions to Appoint an Arbitrator, Government Election Matters, Leave to Issue Subpoena, Compel Medical Examination.
- 11. Individual residential real estate and non-commercial landlord-tenant disputes.
- 12. Domestic relations matters, and actions relating to distribution of marital property, custody or support.
- 13. Any matter required by statute, including 20 Pa.C.S. Chapter 7, §§ 711 & 713, to be heard in the Orphans' Court or Family Court Division of the Philadelphia Court of Common Pleas, or other matter which has heretofore been within the jurisdiction of the Orphans' Court or Family Court Division of this Court.
- 14. Any criminal matter other than criminal contempt in connection with a Commerce Program action.
- 15. Such other matters as the Court shall determine.

Exhibit B

NOTICE OF MANAGEMENT PROGRAM DISPUTE

FIRM NAME
BY: ATTORNEY NAME
IDENTIFICATION NO.: XXXXX Attorney for
STREET ADDRESS Defendant: XYZ, Inc.
PHILADELPHIA, PA 191XX
TELEPHONE
NO.: XXX-XXX-XXXX

: PHILADELPHIA COUNTY
PLAINTIFF : COURT OF COMMON PLEAS
:
v. : _____ TERM, 20XX
:
DEFENDANT : No: _____

NOTICE OF MANAGEMENT PROGRAM DISPUTE

According to the Civil Cover Sheet and Commerce Program Addendum filed by Plaintiff on [date] and served on [date], Plaintiff designated this action as [not subject to the Commerce Program] [or] [subject to the Commerce Program, designating type[s] X [and X]].

[This action is not subject to the Commerce Program because _____.] [or] [This action is subject to the Commerce Program. It is not an arbitration matter and falls within type[s] X [and X] in the Commerce Program types, as identified in the Commerce Program Addendum executed by the undersigned and attached as Exhibit A hereto.]

[Any additional comments, with total document (excluding cert. of service and Commerce Program Addendum) not to exceed three pages.]

Name of Attorney
Attorney for Defendant, XYZ, Inc.

[Include Certificate of Service identifying date and manner of service and names and addresses].

Exhibit C

CASE MANAGEMENT ORDER

**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

caption : court term and number

**COMMERCE PROGRAM
CASE MANAGEMENT ORDER**

TRACK

AND NOW, this _____ day of _____, 200 __, it is ORDERED that:

1. The case management and time standards adopted for the Commerce Program, "_____ track" cases shall apply and are incorporated.

2. All discovery shall be completed no later than _____.

3. Plaintiff(s) shall identify and submit Curriculum Vitae and Expert Reports for all expert witnesses intended to testify at trial to all other parties not later than _____.

4. Defendant(s) and any additional defendant(s) shall identify and submit Curriculum Vitae and Expert Reports

of all expert witnesses intended to testify at trial to all other parties not later than _____.

5. All Pretrial Motions (other than Motions in Limine) shall be filed not later than _____.

6. A settlement conference may be scheduled at any time after _____. On or before that date all parties shall serve on all opposing counsel or *pro se* parties and file a Settlement Memorandum containing the following:

(a) The plaintiff(s) shall provide a concise statement of the theory of the case. The defendant(s) and additional defendant(s) shall provide a concise statement as to the nature of the defense.

(b) A statement by the plaintiff(s) itemizing all damages sought by categories and amounts.

(c) Defendant(s) and additional defendant(s) shall identify all applicable insurance carriers, together with corresponding limits of liability.

7. A Pretrial Conference may be scheduled at any time after _____. Fifteen days prior to the Pretrial Conference, all parties shall file and serve on all opposing counsel or *pro se* parties a Pretrial Statement containing the following:

(a) The plaintiff(s) shall provide a concise statement of the theory of the case. The defendant(s) and additional defendant(s) shall provide a concise statement as to the nature of the defense;

(b) A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;

(c) A list of all exhibits the party intends to offer into evidence. All exhibits shall be numbered and exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial;

(d) Plaintiff(s) shall itemize all damages claimed by category and amount;

(e) Defendant(s) and all additional defendant(s) shall state a position regarding the damages claimed and identify all applicable insurance carriers, together with applicable limits of liability; and

(f) An estimate of the anticipated length of trial.

8. It is expected that the case will be ready for trial _____, which is the earliest trial date pursuant to Pa.R.C.P. 212.1, and counsel should anticipate trial to begin expeditiously thereafter.

9. All counsel are under a continuing obligation, and hereby ORDERED to serve a copy of this Order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this Order.

BY THE COURT:

_____, J.

**Exhibit D
COMMERCE PROGRAM MANAGEMENT TRACKS**

<i>Case Event</i>	<i>Commerce Program Time Standards by Track</i>		<i>Commerce Complex</i>
	<i>Commerce Expedited</i>	<i>Commerce Standard</i>	
Case Management Conference	3 months	3 months	3 months
Status Conference	Discretionary	Discretionary	Discretionary ²
Discovery Complete	6 months	11 months	17 months
Plaintiff Expert Reports	6 months	11 months	17 months
Defendant Expert Reports ³	8 months	13 months	19 months
Motions Filed	8.5 months	13.5 months	19.5 months
Settlement Conference	11 months	16 months	22 months
Pretrial Conference	12 months	17 months	23 months
Trial	13 months	18 months	24 months

[Pa.B. Doc. No. 00-419. Filed for public inspection March 10, 2000, 9:00 a.m.]

²A Status Conference may be scheduled at six month intervals if requested by counsel and approved by the Court.
³The Court will provide for rebuttal expert reports to the extent appropriate.

Title 25—LOCAL COURT RULES

CARBON COUNTY

Magisterial District 56-3-01 and Magisterial District 56-3-03; No. 00-035

Administrative Order No. 5-2000

And Now, this 22nd day of February, 2000, in order to promote the efficiency of case dispositions in Magisterial District 56-3-01 and equitably distribute the caseload in the Magisterial Districts 56-3-01 and 56-3-03 and pursuant to Rule 21(d) of the Pennsylvania Rules of Criminal Procedure, it is hereby

Ordered and Decreed, that effective March 1, 2000, all criminal and civil matters arising within the District Justice jurisdiction of Mahoning Township, as shown on the attached Exhibit A and Exhibit B in green, shall be filed and proceedings heard in Magisterial District 56-3-03 until further Order of this Court, but only on condition that the District Justice of Magisterial District 56-3-03 waive any right to additional compensation under 42 Pa.C.S.A., Section 4122, or otherwise.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office.

(Editor's Note: Copies of exhibits may be seen in the District Court Administrator's office or the Carbon County Law Library.)

By the Court:

JOHN P. LAVELLE,
President Judge

[Pa.B. Doc. No. 00-420. Filed for public inspection March 10, 2000, 9:00 a.m.]