

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 1]

**Amendment of Pennsylvania Rule of Judicial Administration 103—Procedure for Adoption, Filing and Publishing Rules; No. 227 Judicial Administration; Doc. No. 1**

### Order

*Per Curiam:*

*And Now*, this 20th day of February, 2001, Pennsylvania Rule of Judicial Administration 103 is amended to read as set forth in Annex A.

Whereas this amendment is perfunctory in nature, publication and comment prior to promulgation are not required pursuant to Pa.R.J.A. 103(a)(3).

This order shall be processed in accordance with Pa.R.J.A. 103(b). The amendment shall be effective April 1, 2001.

### Annex A

#### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

##### CHAPTER 1. GENERAL PROVISIONS

**Rule 103. Procedure for adoption, filing and publishing rules.**

\* \* \* \* \*

**Official Note:** The procedure for adopting, filing and publishing local rules of civil and criminal procedure is governed by Rule of Civil Procedure 239 and Rule of Criminal Procedure [ 6 ] 105. Whenever local rules are forwarded to the Administrative Office the adopting court should indicate whether the rules have been distributed to the Legislative Reference Bureau and filed with the Civil or Criminal Procedural Rules Committee under Civil Procedural Rule 239 or Criminal Procedural Rule [ 6 ] 105.

[Pa.B. Doc. No. 01-391. Filed for public inspection March 9, 2001, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

**PART V. PROFESSIONAL ETHICS AND CONDUCT**  
[204 PA. CODE CH. 82]

**Amendment of Rule 108 of the Pennsylvania Rules for Continuing Legal Education and Section 5 of the Pennsylvania Continuing Legal Education Board Regulations; No. 266 Supreme Court Rules; Doc. No. 1**

### Order

*Per Curiam:*

*And Now*, this 20th day of February, 2001, Rule 108 of the Pennsylvania Rules for Continuing Legal Education

and Section 5 of the Pennsylvania Continuing Legal Education Board Regulations are amended as set forth in Annex A.

To the extent that notice of proposed rulemaking would be required by Pa.R.J.A. No. 103, the amendment of the rule is hereby found to be required in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. No. 103 (b) and shall be effective March 1, 2001.

### Annex A

#### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

##### PART V. PROFESSIONAL ETHICS AND CONDUCT

###### Subpart A. PROFESSIONAL RESPONSIBILITY

##### CHAPTER 82. CONTINUING LEGAL EDUCATION

###### Subchapter A. PROFESSIONAL RESPONSIBILITY

**Rule 108. Credit for Continuing Legal Education Courses and Activity**

\* \* \* \* \*

(e) *Bridge-the-Gap Program.* CLE credit shall be given to faculty for teaching in the Supreme Court sponsored Bridge-the-Gap program. No credit shall be given for preparation for teaching in said program. CLE credits earned through teaching in the Bridge-the-Gap program may be carried forward for up to four (4) years.

###### Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS

**Section 5. Credit for CLE Activities.**

\* \* \* \* \*

(i) *Bridge-the-Gap Program.* Faculty for the Supreme Court sponsored Bridge-the-Gap program shall receive CLE credit for teaching in said program. No credit shall be given to such faculty for preparation for teaching in said program or for attending any required training sessions to be eligible to teach in said program. Faculty for the program shall receive six (6) hours of CLE credit for each Bridge-the-Gap day-long program in which they participate. CLE credit earned through teaching in the Bridge-the-Gap program shall be deemed to be ethics credits, and such credits may be carried forward for up to four (4) years.

[Pa.B. Doc. No. 01-392. Filed for public inspection March 9, 2001, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[246 PA. CODE CHS. 200—500 and 1000]

**Satisfaction of Money Judgments Rendered by District Justices**

### Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania

renumber Pa. R.C.P.D.J. 325, adopt entirely new Pa. Rs.C.P.D.J. 211, 341, and 342, and amend or revise the Notes to Pa. Rs.C.P.D.J. 306, 324, 402, 514, 518, 1001, and 1007 to provide a procedural mechanism for the entry of satisfaction of money judgments rendered by district justices, and to make other technical or "house-keeping" amendments to these rules. 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. The Committee's Report should not be confused with the official Committee Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel  
Supreme Court of Pennsylvania  
Minor Court Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

or e-mail to: mike.krimmel@supreme.court.state.pa.us no later than Thursday, March 29, 2001.

By the Minor Court Rules Committee

FRED A. PIERANTONI, III,  
Chair

**Annex A**

**TITLE 246. MINOR COURT CIVIL RULES**

**PART I. GENERAL**

**CHAPTER 200. RULES OF CONSTRUCTION;  
GENERAL PROVISIONS**

**Rule 211. Abolished, Consolidated, or Changed  
Magisterial Districts; Subsequent Filings.**

When these rules specify that a party is to file or serve an ancillary or supplementary action in the office of the district justice who rendered the judgment or issued other process, but that office no longer exists, the party may file or serve the ancillary or supplementary action only in the district justice office in which the original record of the proceedings containing the judgment is filed.

**Official Note:**

This rule provides a procedure for filing or serving an ancillary or supplementary action, when the action should be filed or served in the office of the district justice who rendered the judgment or issued other process, but that office has been abolished, consolidated or otherwise changed. Such actions may include a request for order of execution or a request for a certified copy of a judgment (see Rule 402), an objection to levy or other property claim (see Rule 413), a request for order of possession (see Rule 515), or a request for entry of satisfaction (see Rule 341), among others. The rule provides that, under these circumstances, the action may be filed or served only with the district justice who has become the official custodian of the original record, even if that district justice did not render the judgment.

Adopted \_\_\_\_\_, effective \_\_\_\_\_.

**CHAPTER 300. CIVIL ACTION**

**Rule 306. Numbering and Filing of Complaints**

\* \* \* \* \*

**Official Note:**

It was felt that this rule contained all the provisions concerning office procedures that should be required by rule. [ It is hoped, however, that close supervision by the State Court Administrator will bring about ] The state court administrator publishes the District Justice Automated Office Clerical Procedures Manual that prescribes uniform filing, record keeping and other office procedures.

**"Complaints filed in the case by a defendant" include cross-complaints filed pursuant to Rule 315 and supplementary actions filed pursuant to Rule 342.**

Amended June 30, 1982, effective 30 days after July 17, 1982; Note revised \_\_\_\_\_, effective \_\_\_\_\_.

**Rule 324. Notice of Judgment, Dismissal or Continuance, and the Right to Appeal.**

A. The district justice shall promptly give or mail to the parties written notice of judgment, dismissal or continuance. The written notice shall be given or mailed to all parties, but if any party has an attorney of record [ named in the complaint form ], the written notice shall be given or mailed to the attorney of record instead of to the party.

B. [ Notice ] The written notice of judgment shall contain:

(1) advice as to the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) a statement advising that if the judgment holder elects to enter the judgment in the court of common pleas all further process must come from the court of common pleas and no further process may be issued by the district justice, and

(3) a statement advising that the judgment debtor may file a request for entry of satisfaction if the judgment debtor pays in full, settles, or otherwise complies with the judgment.

**Official Note:**

As to subdivision B(2), see Rule 402(D) and Note. As to subdivision B(3), see Rule 341.

Amended effective Feb. 1, 1973; amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [ The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line." ]; amended and Note added \_\_\_\_\_, effective \_\_\_\_\_.

**Rule [ 325 ] 210. Practices Prohibited.**

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

[Amended] Rule 325 amended June 30, 1982, effective 30 days after July 17, 1982; renumbered Rule 210 \_\_\_\_\_, effective \_\_\_\_\_.

#### SATISFACTION OF MONEY JUDGMENTS

##### Rule 341. Request for Entry of Satisfaction; Service; Entry of Satisfaction

A. A judgment debtor who has paid in full, settled, or otherwise complied with a judgment rendered in a district justice court, or anyone interested in the judgment, may request the entry of satisfaction of the judgment by filing a written request, on a form which shall be prescribed by the state court administrator, in the office of the district justice who rendered the judgment.

B. The request for entry of satisfaction must be served upon the judgment creditor in accordance with the rules in the 300 Series regarding service of the complaint.

C. The judgment creditor shall, within 90 days from the date of service of the request for entry of satisfaction, enter satisfaction, on a form which shall be prescribed by the state court administrator, in the office of the district justice in which the request for entry of satisfaction was filed.

##### Official Note:

Subdivision A provides a mechanism for a judgment debtor, or anyone interested in the judgment, to file a written request for entry of satisfaction in the office of the district justice who rendered the judgment. See Section 8104(a) of the Judicial Code, 42 Pa.C.S. § 8104(a).

The party requesting the entry of satisfaction should pay any fee for the entry of satisfaction. See Section 8104(a) of the Judicial Code, 42 Pa.C.S. § 8104(a).

Subdivision B provides that the request for entry of satisfaction be served upon the judgment creditor in accordance with the rules in the 300 Series regarding service of the complaint. See Rules 307, 308, 309, 310, 311, 312 and 313. This is intended to provide a number of alternative methods of service. When permitted, service by mail should be at the option of the person filing the request for entry of satisfaction.

Upon the entry of satisfaction, the judgment debtor may file a true copy of the entry of satisfaction in any other district justice court in which the judgment may have been entered pursuant to Rule 402. Nothing in this rule is intended to suggest that it is the obligation of the judgment creditor to enter satisfaction in any court other than the court specified in subdivision C.

These procedures also apply to satisfaction of money judgments rendered in actions for the recovery of possession of real property (landlord/tenant actions). See Rules 514 and 518.

If the judgment creditor does not comply with the provisions of this rule, the judgment debtor may proceed under Rule 342.

A party may contend that satisfaction should not have been entered in a matter by filing a petition to strike entry of satisfaction with the court of common pleas.

Adopted \_\_\_\_\_, effective \_\_\_\_\_.

##### Rule 342. Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action.

A. If the judgment creditor does not enter satisfaction within the 90 day period after proper service of the request as specified in Rule 341(C), the judgment debtor may commence a supplementary action for damages by filing a civil complaint in the office of the district justice in which the request for entry of satisfaction was filed.

B. Upon the filing of a complaint as provided in subdivision A, the action should proceed as a civil action in accordance with the rules of the 300 Series.

##### Official Note:

The judgment creditor may seek damages pursuant to Section 8104(b) of the Judicial Code, 42 Pa.C.S. § 8104(b). The action commenced under subdivision A of this Rule is intended to be a supplementary proceeding in the matter in which the judgment was entered. As such, it must be filed in the office of the district justice in which the request for entry of satisfaction was filed. Also, it should be indexed to the same docket number as, and made a part of the record of, the underlying action. See Rule 306 and Note. There is no filing fee for a supplementary action filed pursuant to this rule, however there will be fees for service of the action.

Subdivision B provides that, once a supplementary action is filed under subdivision A, all proceedings in the action, including the form of the complaint, setting the hearing date, service, hearing, and all other aspects of the case, should proceed as if a regular civil action. See Rules 304 through 381.

When rendering judgment in an action filed pursuant to this rule, the district justice may determine if the judgment debtor is entitled to damages under Section 8104(b) of the Judicial Code, 42 Pa.C.S. § 8104(b), and whether satisfaction should be entered on the underlying judgment.

A party may appeal from a judgment rendered in an action filed pursuant to this rule, but the issues on appeal are limited to those raised in the action filed under this rule. See Rule 1007.

Adopted \_\_\_\_\_, effective \_\_\_\_\_.

#### CHAPTER 400. EXECUTION OF JUDGMENT FOR THE PAYMENT OF MONEY

##### Rule 402. Request for Order of Execution; Entry of Judgment in Court of Common Pleas.

\* \* \* \* \*

C. The plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a district justice other than that in which it was rendered only if [ ]:

(1) the office of the district justice in which the judgment is entered for execution is that of the district justice of the magisterial district within the boundaries of which the district justice who rendered the judgment conducted his magisterial business, or

(2) [ ] levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of a district justice whose magisterial district is situated in the county

in which levy is to be made. The plaintiff may enter the judgment in such other office by filing therein a copy of the record of the proceedings containing the judgment, certified to be a true copy by the district justice in whose existing office the judgment was rendered or by any other official custodian of the record.

\* \* \* \* \*

**Official Note:**

Under subdivision A of this rule, the execution proceedings are commenced by requesting an "order of execution" on a [new] form [or form to be] prescribed by the [State Court Administrator] state court administrator. This is in accordance with the purpose of simplifying district justice procedures sought to be achieved throughout these rules. [See the note to Rule 304.] See Rule 304, Note. The request may not be filed before the expiration of thirty (30) days after the date [of] the judgment is entered by the district justice. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five (5) years of the date [of] the judgment is entered by the district justice. No provision has been made for the revival of the judgment in district justice proceedings.

Subdivision C provides for entering the judgment, for the purpose of requesting an order of execution, in an office of a district justice other than that in which the judgment was rendered [, but imposes certain limitations upon the use of this procedure. The first instance in which this can be done, set forth in C(1), will provide a procedure for use in the case of abolished, consolidated or changed magisterial districts. The second instance, set forth in C(2), provides for a transfer of the judgment] when levy is to be made outside the county in which the judgment was rendered. Compare Pa.R.C.P. No. 3002.

As to Subdivision D, [see the Judicial Code, § 1516, 42 Pa.C.S. § 1516.] see Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The thirty day limitation in the rule appears to be required by this Section.

Certification by the district justice should not be done before the expiration of thirty (30) days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the Prothonotary's office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the [Revival of a Judgment, Rule 1521 and 3025 et seq.] revival of judgments. See Pa.R.C.P. No. 3025 et seq. Also, [Subdivision] subdivision D makes clear that when the judgment is entered in the court of common pleas, all further process shall come from the court of common pleas and that no further process shall be issued by the district justice.

Amended Jan. 29, 1976, effective in 30 days; amended effective March 24, 1977; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended December 15, 2000, effective January 1, 2001; amended \_\_\_\_\_, effective \_\_\_\_\_.

**CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY**

**Rule 514. Judgment.**

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

**For procedure for entry of satisfaction of money judgments, see Rule 341.**

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line."]; March 28, 1996, effective March 29, 1996; Note revised \_\_\_\_\_, effective \_\_\_\_\_; Note revised \_\_\_\_\_, effective \_\_\_\_\_.

**Rule 518. Satisfaction of Order by Payment of Rent and Costs.**

\* \* \* \* \*

**Official Note:**

Rent in arrears shall include only those sums set forth on the order for possession.

**For procedure for entry of satisfaction of money judgments, see Rule 341.**

Amended June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line."]; Note revised \_\_\_\_\_, effective \_\_\_\_\_.

**CHAPTER 1000. APPEALS**

**Rule 1001. Definitions**

As used in this chapter:

\* \* \* \* \*

(6) *Claimant*—Includes a defendant with respect to a defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the district justice.

(7) *Defendant*—Includes a plaintiff with respect to the defendant's cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the district justice.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended \_\_\_\_\_, effective \_\_\_\_\_.

**Rule 1007. Procedure on Appeal.**

\* \* \* \* \*

B. [The] Except as otherwise provided in subdivision C, the action upon appeal [shall] may not be limited with respect to amount in controversy, joinder of causes of action or parties, counter-claims, added or changed averments or otherwise because of the particulars of the action before the district justice.

**C. When an appeal is taken from a supplementary action filed pursuant to Rule 342, only those issues arising from the Rule 342 action are to be considered.**

**Official Note:**

As under earlier law, the proceeding on appeal is conducted de novo, but the former rule that the proceeding would be limited both as to jurisdiction and subject matter to the action before the district justice (*see Crowell Office Equipment v. Krug*, 213 Pa. Super. 261, 247 A.2d 657 (1968)) has not been retained. Under subdivision B, the court of common pleas on appeal can exercise its full jurisdiction and all parties will be free to treat the case as though it had never been before the district justice, subject of course to the Rules of Civil Procedure. **The only limitation on this is contained in subdivision C, which makes clear that an appeal from a supplementary action filed pursuant to Rule 342 is not intended to reopen other issues from the underlying action that were not properly preserved for appeal.**

Adopted June 1, 1971. Amended June 30, 1982, effective 30 days after July 17, 1982; amended \_\_\_\_\_, effective \_\_\_\_\_.

**REPORT**

*Proposed Renumbering of Pa. R.C.P.D.J. 325; Proposed New Pa. Rs.C.P.D.J. 211, 341, and 342; and Proposed Amendments to or Revisions to the Notes of Pa. Rs.C.P.D.J. 306, 324, 402, 514, 518, 1001, and 1007*

**Entry of Satisfaction of Money Judgments**

**I. Background**

The Committee undertook a review of the issue of the entry of satisfaction of money judgments in response to a request from the Administrative Office of Pennsylvania Courts (AOPC). AOPC advised the Committee that on several occasions, individuals against whom money judgments have been rendered reported that the judgments have appeared on their credit reports as outstanding when in fact the judgments were satisfied (paid in full). AOPC requested that the Committee review the need for some procedural mechanism for judgment debtors to request entry of satisfaction and for judgment creditors to enter satisfaction of judgments rendered by district justices. Currently, there is no such formal mechanism. This issue has come to the forefront because of the increased use by credit reporting agencies of data contained in the District Justice Automated System (DJS) to check for district justice judgments rendered against applicants for credit. Prior to automation, this was not a significant issue because there was no efficient way for credit reporting agencies to check for district justice judgments in the numerous district justice courts throughout this Commonwealth. The Committee learned, however, that since the 550-plus district justice courts have been fully automated via the DJS, several credit reporting agencies routinely request reports from AOPC to identify civil judgments that may have been entered against applicants for credit. The information requested by the credit reporting agencies is public record, and is provided in accordance with the AOPC's Access to District Justice Records Policy, 204 Pa. Code § 213.1 et seq.

The Committee was concerned that the information provided to credit reporting agencies may not be complete because satisfaction of judgment information is not entered in district justice civil cases. The Committee, there-

fore, wished to establish simplified procedures by which a judgment debtor may request an entry of satisfaction and a judgment creditor may enter a satisfaction in district justice court.

In conjunction with proposed new rules and amendments to, or revisions to the Notes of, existing rules regarding entry of satisfaction, the Committee also recognized the need to renumber Rule 325, and for several technical or "housekeeping" amendments to Rules 306, 324, 402, and 1007.

**II. Discussion of Rule Changes**

*A. Request for and Entry of Satisfaction—New Rules*

The Committee considered a number of options for incorporating into the rules a procedure for entry of satisfaction of money judgments. The Committee decided that, no matter the approach, any new rules or amendments should be based on Section 8104 of the Judicial Code, 42 Pa.C.S. § 8104, relating to duty of judgment creditor to enter satisfaction. It was suggested that one approach for dealing with satisfaction of judgments would be to simply notify the judgment creditor, via the Notice of Judgment form required by Rule 324 (Notice of Judgment, Dismissal or Continuance, and the Right to Appeal), that the judgment creditor has a duty to notify the court of satisfaction and that failure to do so could result in an action for damages under Section 8104. This approach would not necessarily have required a rule change, but only a request to AOPC to amend the Notice of Judgment form. The Committee, however, opted for a more formal and comprehensive rules-based approach.

There was also discussion about incorporating entry of satisfaction into an amendment to Rule 324 by requiring that the notice of judgment contain a notice that it is the obligation of the judgment creditor to timely notify the district court that a judgment has been satisfied.

Ultimately, however, the Committee decided that, in accordance with Section 8104, the burden should be on the judgment debtor to request an entry of satisfaction. Further, given the need for an entirely new procedure, the Committee decided that it was most appropriate to incorporate entry of satisfaction into the rules via entirely new rules dealing exclusively with this issue.

It was at first suggested that the Committee position the new rules immediately following the rules relating to civil judgments, perhaps as a new rule 326. Upon closer review of the existing rules, however, it seemed more appropriate to create an entirely new subset within the 300 series entitled "SATISFACTION OF MONEY JUDGMENTS." Also, in the course of this discussion, the Committee decided to renumber and move the existing Rule 325 because the subject matter of that rule more appropriately belongs in the 200 Series. (The renumbering of Rule 325 is addressed later in this Report.)

**1. New Rule 341**

The Committee is proposing an entirely new Rule 341, entitled "Request for Entry of Satisfaction; Service; Entry of Satisfaction." Subdivision A of the new rule would provide a mechanism for a judgment debtor, or anyone with an interest in the judgment, to request an entry of satisfaction by filing a written request with the district justice who rendered the judgment.

Subdivision B of the new rule would address service of the request for entry of satisfaction. The request would need to be served upon the judgment creditor in accordance with the existing rules regarding service of an

original complaint. The proposed Note would make reference to Rules 307, 308, 309, 310, 311, 312 and 313.

Subdivision C of the new rule would provide that a judgment creditor would have ninety days from the date of service of the request for entry of satisfaction to enter satisfaction with the district justice who rendered the judgment, which satisfaction would forever discharge the judgment. It is the Committee's intention that, once satisfaction is entered, the satisfaction would appear in the DJIS data as the final disposition of the case so that it is clear to inquiring credit agencies that the judgment has been paid. The proposed Note would also make clear that once the satisfaction is entered, the judgment debtor may file a true copy of the entry of satisfaction in any other district justice court in which the judgment may have been entered pursuant to Rule 402. It is not the Committee's intention that the judgment creditor be required to enter the satisfaction in any court other than the district court in which judgment was rendered.

The Committee incorporates a number of clarifying statements in the proposed Note to the new rule. First, the Committee makes clear that if there is to be a fee for the entry of satisfaction, the party requesting the entry of satisfaction would be responsible for payment of the fee. This is required by 42 Pa.C.S. § 8104(a). Also, the Note makes clear that the procedures set forth in the new rule also apply to satisfaction of money judgments rendered in actions for the recovery of possession of real property (landlord/tenant actions). Finally, the Note states that a party may contend that satisfaction should not have been entered in a matter by filing a petition to strike entry of satisfaction with the court of common pleas. Although all other procedures relating to satisfaction are handled at the DJ level under these proposed rules, the Committee felt that petitions to strike an entry of satisfaction would be more appropriately handled at the common pleas level since the decision to strike an entry of satisfaction is an exercise of the courts' general equitable powers.

## 2. New Rule 342

The Committee is proposing an entirely new Rule 342, entitled "Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action." Subdivision A of this new rule would provide a procedural mechanism for a judgment debtor to commence a supplementary action for liquidated damages under 42 Pa.C.S. § 8104(b) if the judgment creditor does not enter satisfaction as required by Rule 341. The supplementary action is to be filed in the office of the district justice in which the request for entry of satisfaction was filed. Further, the proposed Note makes clear that the action is to be indexed to, and made a part of the record of, the underlying action. Because the "Rule 342 action" is supplementary to the underlying judgment, there is no filing fee, however there will be fees for service of the action.

Subdivision B provides that the supplementary action is to proceed in accordance with the 300 Series rules as if a regular civil action. The Committee had considered an abbreviated hearing process similar to that provided for in Rules 420 and 421 when a party wishes to file an ancillary property claim in a case in which execution is underway. The Committee decided, however, that full due process (including notice, service and hearing requirements) should be afforded since the supplementary "Rule 342 action" could result in a judgment for liquidated damages being entered against the judgment creditor. After hearing in a "Rule 342 action" the district justice may determine if the judgment debtor is entitled to liquidated damages for the judgment creditor's failure to

enter satisfaction, and may direct that satisfaction be entered in the underlying judgment.

Either party may appeal from a district justice's judgment in a "Rule 342 action" in accordance with the regular appellate rules (that are discussed in greater detail below).

## B. Correlative Rule Changes

### 1. Correlative Revision to the Note to Rule 306

The Committee proposes a revision to the Note to Rule 306 to make clear that the phrase "[c]omplaints filed in the case by a defendant" includes cross complaints filed pursuant to Rule 315 and supplementary actions filed pursuant to the new Rule 342, and that both types of complaints should be indexed to the same docket number as the plaintiff's underlying complaint.

Also, the Committee recommends an unrelated "house-keeping" revision to the Note to make reference to the District Justice Automated Office Clerical Procedures Manual as the main source of uniform filing, record keeping and other district court office procedures.

### 2. Correlative Amendment to Rule 324

In addition to the new Rules 341 and 342, the Committee also proposes an amendment to Rule 324 to require that the Notice of Judgment form contain a statement advising that, upon satisfaction of a judgment, the judgment debtor may file a request for entry of satisfaction. The Committee recognized the need for this additional statement in the notice because most defendants in civil actions appear pro se and, absent a clear notice, may not know that they can request an entry of satisfaction that could effect the status of their personal credit history.

The Committee further proposes an amendment to the rule (unrelated to satisfaction of judgments) to require that the Notice of Judgment form contain a statement advising that if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the district justice. The Note to Rule 402 was revised effective January 1, 2001 to clarify this restriction, and the Committee concluded that it should also be clearly stated in the notice of judgment so that a judgment holder can make an informed decision about entering a judgment in the court of common pleas. This is important because there are advantages and disadvantages to entering a judgment in the court of common pleas. Many judgment holders opt to enter the judgment in the court of common pleas because, once entered, it can act as a lien against real property. However, judgment holders must be aware that execution of the judgment at the common pleas level can be much more costly and complicated than at the district justice level. By making this restriction clear in the notice of judgment, a judgment holder can consider all factors before deciding to enter a judgment in the court of common pleas.

Also, the Committee proposes a minor amendment to further clarify that the district justice must give or mail written notice of judgment to the parties or the parties' attorneys of record. Finally, the Committee proposes the addition of a Note to Rule 324 to make cross-references to Rules 402(D) and the new Rule 341.

### 3. Correlative Revisions to the Notes to Rules 514 and 518

Because the procedures for the entry of satisfaction set forth in the new Rules 341 and 342 also apply to the

satisfaction of money judgments rendered in actions for the recovery of possession of real property (landlord/tenant actions), the Committee proposes revisions to the Notes of Rules 514 (relating to judgment in landlord/tenant actions) and 518 (relating to satisfaction of order for possession by payment of rent and costs) to cross reference new Rule 341.

#### 4. Correlative Amendments to Rules 1001 and 1007

The Committee recognized the need for minor amendments to appellate Rules 1001 and 1007 to fully provide for appeals from judgments rendered in "Rule 342 actions." First, the Committee proposes an amendment to Rule 1001(6) to make clear that a claimant in an appeal can include a defendant with respect to a defendant's supplementary action brought pursuant to new Rule 342. Likewise, the Committee proposes an amendment to Rule 1001(7) to make clear that a defendant in an appeal can include a plaintiff with respect to a defendant's supplementary action filed pursuant to Rule 342.

The Committee further proposes that Rule 1007 be amended by the addition of a subdivision C to restrict appeals from "Rule 342 actions" to issues that arise from the Rule 342 action. This is intended to make clear that an appeal from a supplementary action filed pursuant to Rule 342 is not intended to reopen other issues from the underlying action that were not properly preserved for appeal.

#### C. Technical and "Housekeeping" Amendments

In conjunction with the substantive changes discussed above, the Committee is proposing that Rule 325 be renumbered and moved. The Committee also proposes a new Rule 211 to deal with subsequent filings in abolished, consolidated, or changed magisterial districts. Finally, the Committee identified a number of technical and "housekeeping" amendments needed in Rules 324 and 402.

##### 1. Renumbering and Moving Rule 325

In contemplating the new rules relating the entry of satisfaction, the Committee reviewed the entire 300 Series, particularly Rules 322, 323 and 324, all relating to judgments. Upon review of Rule 325, relating to practices prohibited, the Committee determined that the content of the rule relates not only to civil actions, but to actions for the recovery of possession of real property (landlord/tenant actions) as well. Accordingly, the Committee determined that Rule 325 should be moved out of the 300 Series (relating to Civil Action), and into the 200 series (relating to Rules of Construction; General Provisions), and further, that it be renumbered as new Rule 210.

##### 2. New Rule 211

In further contemplating the new rules, the Committee recognized that it needed to make provision for the filing of a request for entry of satisfaction when the office of the district justice who rendered the judgment has been abolished, consolidated or otherwise changed by redistricting of magisterial districts. This situation is currently provided for in Rule 402 as it relates to requesting an order of execution. The Committee determined that this situation could arise in a number of circumstances and decided to propose a general rule in the 200 Series to deal with the situation. Accordingly, the Committee proposes a new Rule 211 entitled "Abolished, Consolidated, or Changed Magisterial Districts; Subsequent Filings." This new rule is intended to cover all situations in which a party wishes to file or serve an ancillary or supplemental action, such as a request for order of execution or a request for a certified copy of a judgment (under Rule

402), an objection to levy or other property claim (under Rule 413), a request for order of possession (under Rule 515), or a request for entry of satisfaction (under Rule 341), among others, when the action should be filed or served in the office of the district justice who rendered the judgment or issued other process, but that office has been abolished, consolidated or otherwise changed. The proposed rule provides that, under these circumstances, the action may be filed or served only with the district justice who has become the official custodian of the original record, even if that district justice did not render the judgment, unless filing elsewhere is expressly authorized by the rules.

Of course, as a corollary to this proposal, the Committee proposes that Rule 402(C)(1) be deleted because it becomes unnecessary with the addition of new Rule 211.

#### 3. Other Technical or "Housekeeping" Changes

Also, in Rules 402 and 1007, the Committee proposes minor changes to correct citation form, to address gender neutrality issues in the rules, and to make other minor clarifications.

[Pa.B. Doc. No. 01-393. Filed for public inspection March 9, 2001, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Electronic Filing of Legal Papers Involving Proceedings Pursuant to the Mental Health Procedures Act; Adoption of Phila.R.Civ.P. No. 205.4; President Judge Administrative Order No. 2001-01

#### Order

*And Now*, this 2nd day of January, 2001, in order to facilitate the filing of applications and petitions pursuant to the Mental Health Procedures Act of 1976, as amended, and pursuant to Phila.R.C.P. No. 7109, in light of the time requirements for the filing, scheduling, and conclusion of the hearing, and in order to fully take advantage of Pa.R.C.P. No. 205.4 which authorizes the establishment of a rule for the electronic filing and service of legal papers, *It Is Hereby Ordered, Adjudged and Decreed* that the within Order adopts, on a temporary basis, Phila.R.Civ.P. No. 205.4 as follows:

(a) *General Rule.* (1) Except as otherwise provided by subsection (2) of this rule, parties shall file legal papers, including original process, with the Prothonotary by means of electronic filing in any civil mental health matter filed pursuant to the Mental Health Procedures Act of 1976, as amended, and Phila.R.Civ.P. No. 7109.

(2) Notwithstanding subsection (1), appeals to appellate courts filed from orders issued by the Court pursuant to Petitions for Review of certification orders issued by Mental Health Review Officers cannot be filed electronically, but must be filed with the Prothonotary in a hard copy format.

(3) The filing party shall maintain the original hard copy of any legal paper that is electronically filed and shall file the original with the Prothonotary if requested pursuant to Pa.R.C.P. No. 205.4(b)(2)(ii).

(4) The Prothonotary shall not maintain a hard copy file of any legal papers filed electronically pursuant to this rule.

(b) *File Date. Acceptance By Prothonotary.* The legal paper filed electronically shall be deemed "filed" when "verified" or "accepted" by the Prothonotary. Provided, however, that the Prothonotary may deem an Application filed or accepted pursuant to Section 303 of the Mental Health Procedures Act to be filed on a later, specifically stated date, for purposes of scheduling a hearing on the Application. Acceptance shall occur after the Prothonotary has reviewed the pleading and determined compliance with rules of court. The Prothonotary shall provide a filing status message to the filing party setting forth the date of and time of acceptance of the filing. If the filing party does not receive a filing status message within eight (8) business hours, the legal paper is not considered filed and the filing party must again submit the pleading to the Prothonotary's office.

*Note*

A filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the Prothonotary. See Pa.R.C.P. No. 205.4(e)(2). One of the risks is that the Prothonotary—either correctly or incorrectly—determines that the filing party has not met its obligation for payment of the necessary fees and costs.

(c) *Scheduling of Hearing.* Upon filing of the application or petition, a hearing shall be scheduled consistent with the dictates of the Mental Health Procedures Act.

(d) *Service of Pleading and Scheduling Order.* After the application or petition is verified and accepted and a hearing date scheduled, the Prothonotary shall notify all parties that the application was filed and is available, and further that a scheduling order was entered. This notification shall constitute service of the application or petition on all parties, and service of the scheduling order as required by Pa.R.C.P. No. 236.

(e) *Commitment Orders.* Upon conclusion of the hearing, the Mental Health Review Officer shall enter a commitment order electronically within the time period required by the Mental Health Procedures Act and Phila.R.C.P. No. 7109, and an electronic copy of the order shall be e-mailed to all parties. Service of the electronic order shall constitute compliance with Pa.R.C.P. No. 236.

(f) *Website.* The Prothonotary's website is at the following website address: <http://courts.phila.gov>, or at such other site as may from time to time be designated. The Prothonotary shall provide electronic access at all times. The time and date of the filing and receipt shall be as set forth above.

(g) *Authorized Users.* Access to the website shall be available to an attorney by use of a password and the attorney's Supreme Court identification number issued by the Court Administrator of Pennsylvania. Access is also available to any other user authorized by the Prothonotary or the Court.

(h) *Fees.* The Prothonotary shall impose an automation fee of \$5.00 per application or petition filed after the effective date of this Regulation, together with the first filing fees, unless the President Judge waives any and all portion of the filing fee and automation fee. Provided, however, that all petitions and applications not filed with the Prothonotary electronically after the implementation date of this Regulation shall be subject to both the automation fee and the first filing fee. The funds gener-

ated by the automation fee shall be set aside by the Prothonotary and remitted monthly to the First Judicial District's Procurement Unit, and shall be used for, but not limited to, the development, training, implementation and maintenance of the electronic filing system for the Philadelphia Court of Common Pleas. The procedure for payment of the fees and costs of the Prothonotary shall be set forth on the Prothonotary's website.

(i) *Effective Date.* This Regulation shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, and shall be implemented as provided by the Prothonotary and the Coordinator of the Civil Mental Health Program. This rule shall be automatically rescinded on December 31, 2001, as required by Pa.R.C.P. No. 205.4(h), unless Pa.R.C.P. No. 205.4(h) is extended by the Supreme Court and the within local rule is extended in writing by this Court.

This Administrative Order is promulgated in accordance with Pa.R.C.P. 205.4 and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The original Administrative Order shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the President Judge of the Court of Common Pleas, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Supreme Court's Civil Procedural Rules Committee. Copies of the Administrative Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Library and the Law Library for the First Judicial District.

ALEX BONAVIDACOLA,  
President Judge

[Pa.B. Doc. No. 01-394. Filed for public inspection March 9, 2001, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Adoption of New Local Rules of Criminal Procedure and Revocation of All Old Local Rules of Criminal Procedure; No. 103 MI 00

##### Amended Administrative Order No. 8-2000

*And Now*, this 20th day of February, 2001, it is hereby *Ordered and Decreed* that the following rules for Criminal Procedure in the 56th Judicial District composed of Carbon County be, and the same are, promulgated herewith, to become effective April 1, 2001, and that the present Carbon County Rules of Criminal Procedure are revoked, effective April 1, 2001.

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 Criminal 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 Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

### I. General Provisions

<i>Rule No.</i>	<i>Rule</i>
Rule 102.1	Citing the Criminal Procedural Rules
Rule 106.1	Continuances in misdemeanor, felony, and summary appeal cases
Rule 106.2	Reasons for continuances in felony, and summary appeal cases
Rule 106.3	Continuances of preliminary hearings before District Justices
Rule 120.1	Entry of appearance and withdrawal
Rule 122.1	Compensation rates for court-appointed conflict counsel
Rule 132.1	Continuous availability and temporary assignment of issuing authorities

### II. Investigations

<i>Rule No.</i>	<i>Rule</i>
Rule 202	Approval of search warrant application by attorney for Commonwealth—local option

### III. Accelerated Rehabilitative Disposition

<i>Rule No.</i>	<i>Rule</i>
Rule 311.1	A.R.D. Program
Rule 320.1	Automated Expungement under the Accelerated Rehabilitative Disposition Program

### V. Pretrial Procedures in Court Cases

<i>Rule No.</i>	<i>Rule</i>
Rule 507.1	Approval of police complaints and arrest warrant affidavits by attorney for the Commonwealth—local option
Rule 518.1	Arrest w/o warrant
Rule 528.1	Valuation of bail bonds
Rule 528.2	Ten percent (10%) cash bail
Rule 528.3	Realty as bail
Rule 528.4	Justification of personal surety
Rule 528.5	Qualification of Surety
Rule 528.6	Corporate Surety
Rule 529.1	Bail Reduction
Rule 535.1	Receipt
Rule 535.2	Disposition of Bail—Administrative Fee
Rule 535.3	Disposition of Bail Deposited by Defendant
Rule 535.4	Disposition of Bail Deposited by a Third Party
Rule 535.5	Authorization to Pay Attorney
Rule 535.6	Removal of Judgment Indexed Against Realty
Rule 535.7	Notice to Person Posting Bail
Rule 560.1	Information: Filing, contents, function
Rule 570.1	Pretrial Conference
Rule 571.1	Arraignment and waiver of arraignment in non-capital cases
Rule 573.1	Pre-Trial Discovery and Inspection
Rule 574.1	Motions & Petitions Procedure
Rule 574.2	Pro Se Filings
Rule 578.1	Omnibus Pre-Trial Motions
Rule 578.2	Pre-Trial Pro se Motions

<i>Rule No.</i>	<i>Rule</i>
Rule 578.3	Arguments
Rule 590.1	Guilty Plea Colloquy Form

### VI. Trial Procedures in Court Cases

<i>Rule No.</i>	<i>Rule</i>
Rule 600.1	Call of the List
Rule 602.1	Transportation Order
Rule 602.2	Interpreters
Rule 646.1	Admission and Custody of Exhibits

### VII. Post-Trial Procedures in Court Cases

<i>Rule No.</i>	<i>Rule</i>
Rule 702.1	Presentence Procedures
Rule 708.1	Petition for Parole
Rule 708.2	Violation of Probation, Parole, or ARD
Rule 708.3	Arrest and Processing of Probation/Parole Violators
Rule 720.1	Post-Sentence Motions
Rule 720.2	Appeals to Supreme, Superior and Commonwealth Court

### Addenda

<i>Form No.</i>	<i>Form</i>
Form I	Continuance Form
Form II	Criminal Division Motion Court Cover Sheet
Form III	Stipulation to the Revocation of ARD
Form IV	Appellate Rights of Defendant After Sentencing
Form V	Megan's Law Supplement to Guilty Plea Colloquy

### Administrative Criminal Case Management Plan

#### I. General Provisions

##### Rule 102.1. Citing the Criminal Procedural Rules.

All criminal procedural rules adopted by the Court of Common Pleas of Carbon County under the authority of Pa.R.Crim.100(B) shall be known as the Carbon County Rules of Criminal Procedure and shall be cited as "CARB.C.R.CRIM.P. \_\_\_\_\_."

##### Rule 106.1. Continuances in Misdemeanor, Felony, and Summary Appeal Cases.

(A) Continuances shall be submitted to the filing office in writing on the form approved by the Court attached hereto and made a part hereof and marked "Exhibit I", without the necessity of formal presentation to the Court.

(B) After the continuance is filed and time stamped, it shall be forwarded by the filing office to the Motions and Petitions Coordinator in the Office of Court Administration for Court action and/or scheduling. Following Court action, the Motions and Petitions Coordinator shall return the Application for Continuance to the filing office for filing, docketing, and mailing.

(C) Uncontested continuances will be accepted by mail or electronically provided they are received at least three (3) working days in advance of the scheduled event. If the continuance is filed less than three (3) working days before the scheduled event, the attorney will be required to personally present it to the Motions and Petitions Coordinator for processing. If the continuance is granted, applying counsel has the duty to timely notify all other counsel or pro se defendants.

(D) Contested continuances must be presented in the Court Administration Office. Notice of presentation of the

contested continuance must be given to opposing counsel at least three (3) days prior to presentation. The assigned Judge will conduct a telephone conference, which will be arranged by presenting counsel.

(E) In all cases where the effect of the continuance by the defendant would extend the time of trial beyond the time requirements of Pa.R.Crim.P. No. 600, the defendant shall appear in Court with Counsel to waive the time requirements under said rule and to agree that his case may be called at a specific time to be fixed by the Court.

**Rule 106.2. Reasons for Continuances in Felony and Misdemeanor Cases.**

(A) *No criminal trial shall be continued except for the following reasons:*

1) Prior commitment in the Supreme, Superior, or Commonwealth Court of Pennsylvania or any other appellate court.

2) Incapacitating illness of defense counsel, Commonwealth Attorney, the defendant or an essential witness for either the prosecution or the Defense.

3) Death in the immediate family of defense counsel, Commonwealth Attorney, the defendant or an essential witness for either the prosecution or the defense.

4) Recusal of the Trial Judge.

5) Defense counsel's prior attachment or actual engagement in a trial in a Court of record.

6) Counsel unprepared for trial because recently retained, but only at the first listing.

7) Proceedings are stayed by order of an Appellate Court.

8) Discovery incomplete or outstanding pretrial motions, provided the application for a continuance on these grounds is made at least two days prior to the date of trial.

9) Unavailability of defendant's Court-ordered mental health evaluation where insanity or competency to stand trial is in issue.

10) Unavailability of a ballistics, breathalyzer or drug analysis report prepared by the Police Department, but only at the first listing.

(B) *Definitions:*

1) Incapacitating illness—A physical or mental impairment so severe that it prevents a person from attending trial.

2) Essential Witness—One whose testimony at trial is indispensable in determining guilt or innocence.

3) Engaged in trial in a Court or record that is commenced, but not completed, prior to or on the date of the trial for which a continuance is requested.

**Rule 106.3. Continuances of Preliminary Hearings Before District Justices.**

(A) A District Justice may grant continuances of the preliminary hearing upon the request either of the defendant or the Commonwealth provided that the aggregate number of days included in such continuances be limited to the minimum period necessary and do not in any event exceed twenty-one (21) days from the date upon which the preliminary hearing was first scheduled.

(B) If a continuance is granted pursuant to (A) hereof, the Order of Court granting the same shall set a time at which the preliminary hearing shall be held.

**Rule 120.1. Entry of Appearance and Withdrawal.**

(A) After a case has been returned to court, any motion filed by counsel shall be deemed an entry of appearance.

(B) Where counsel has entered an appearance, counsel's representation of the defendant shall be effective until sentencing has been imposed.

**Rule 122.1. Compensation Rates for Court-Appointed Conflict Counsel.**

(A) *Non-Homicide Criminal Cases*

1) Counsel, not exceeding one, who has been assigned to represent:

(a) a defendant charged with a non-homicide criminal offense;

(b) an individual in any post-conviction proceedings or,

(c) a juvenile formally charged with delinquency, shall, at the conclusion of the representation, or any segment thereof, be compensated for his/her services in such representation and reimbursed for all reasonable expenses advanced by counsel which were necessarily incurred.

2) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial, otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

3) Counsel shall be compensated at a rate not exceeding forty dollars (\$40) per hour for time expended in a Court of record and at a rate of thirty dollars (\$30) per hour for time reasonably expended out of Court. For representation of a defendant in a case in which one or more felonies are charged or for proceedings under the Post Conviction Hearing Act, the compensation paid to an attorney shall not exceed fifteen hundred dollars (\$1,500). In a case in which only misdemeanors or juvenile delinquencies are charged, payment shall not exceed seven hundred and fifty dollars (\$750).

4) Payment in excess of the limits stated herein may only be made if the Judge to whom the application is made certifies that, because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation.

5)(a) Assigned counsel may also make a written request to obtain investigative, expert, or other services necessary to an adequate defense. Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant. The compensation paid to a person for such services rendered to a defendant shall not exceed five hundred dollars (\$500).

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court, at the conclusion of such expert services rendered on behalf of the defendant, counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses. Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and Order

for reimbursement, the appropriate Judge shall immediately review the Petition and order payment to counsel of such expert fees as are considered reasonable and necessary.

6) Counsel so assigned shall not, except with prior approval of the Court, receive or contract to receive directly or indirectly, any compensation for such services or reimbursement for expenses from any source other than herein provided.

7) Counsel shall be appointed under this Rule only when, because of conflict of interest or other sufficient reason, the individual cannot properly be represented by the Public Defender.

*(B) Homicide Cases*

1) Counsel appointed shall not exceed one, except that in cases of extreme complexity or where the Trial Judge may, after consultation with, and the consent of the President Judge, appoint co-counsel.

2)a) Assigned counsel may also petition the Court to obtain investigative, expert, or other services necessary to an adequate defense. Upon finding, after proper inquiry, that such services are necessary, the court, by written order, shall authorize counsel to obtain such services on behalf of a defendant.

3) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the court at the conclusion of such expert services rendered on behalf of the defendant, counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to the Trial Judge, and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses. Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary. The reviewing Judge will then forward the Petition and Order for reimbursement to the Court Administrator for payment.

4) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial, otherwise, the Judge presiding over the disposition of the matter, shall, after the filing of the claim and sworn statement, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

5) Counsel shall be compensated for services rendered at a rate not exceeding fifty dollars (\$50) per hour for time reasonably expended in Court, and forty dollars (\$40) per hour for time reasonable expended out of Court. Such compensation shall not exceed four thousand dollars (\$4,000) where one counsel has been assigned, and shall not exceed a total of six thousand (\$6,000) where two counsel have been assigned. Payment in excess of the limits stated herein may only be made if the Court, to whom the application is made, finds that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation.

6) Counsel so assigned must file with the Judge an affidavit that he has not, directly or indirectly, received, nor entered into a contract to receive, any compensation for such services from any source other than herein provided.

*(C) Duration of Appointments*

Appointments made pursuant to this rule shall continue through all stages of the proceedings.

*(D) Payment*

Such allowance of expenses and compensation under this Rule shall be a charge upon the County of Carbon, to be paid by the County upon Order of the appropriate Judge.

*Rule 132.1. Continuous Availability and Temporary Assignment of Issuing Authorities.*

The continuous availability of an issuing authority in Carbon County shall be arranged by the Court Administrator and all issuing authorities within the County. A rotating schedule of availability shall be maintained wherein each issuing authority will be available for duty on an equal time basis with every other issuing authority. A copy of the schedule of availability shall be provided to all law enforcement agencies within Carbon County, the District Attorney, and the Warden of the Carbon County Correctional Institution.

**II. Investigations**

**Rule 202. Approval of Search Warrant Application by Attorney for Commonwealth—Local Option.**

The District Attorney of Carbon County, having filed on January 22, 2001, a certification pursuant to Pa.R.Crim.P. 202(A), search warrants in all circumstances shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

**III. Accelerated Rehabilitative Disposition**

**Rule 311.1. A.R.D. Program.**

(A) When scheduling a Preliminary Hearing, the District Justice Office shall forward an application for the ARD program and Prior Criminal Record Statement to the defendant along with the Criminal Complaint, Arrest Warrant Affidavit, Notice of Hearing, Carbon County Public Defender Guidelines, Summons, Fingerprint Order Card, and for DUI Cases, Explanation of Accelerated Rehabilitation Program for Driving Under the Influence Offenders.

(B) The defendant shall complete and return the application for ARD and Prior Criminal Record Statement on the date of the Preliminary Hearing.

(C) If the District Attorney approves the application for ARD, defendant, defendant's counsel, and the Commonwealth attorney shall execute a Stipulation.

(D) If the defendant is charged with a violation of Section 3731 of the Vehicle Code, defendant, defendant's counsel, and the Commonwealth attorney shall execute an Explanation of Accelerated Rehabilitation Program for Driving Under the Influence Offenders (ARD) and Waiver of Rights Form.

(E) If a DUI/ARD has been negotiated, telephonic arrangements shall be made by the Secretary in the District Justice Office for scheduling of the CRN test, and the defendant shall be provided with a written notice of his CRN schedule date and shall acknowledge that date and time in writing.

(F) The District Justice shall schedule the case according to the annual criminal case scheduling grid.

(G) The Court shall assess the defendant an amount of money payable to the County of Carbon to help defray the

costs of the Program. The said amount shall be established by the Court from time to time by Administrative Order.

**Rule 320.1. Automated Expungement under the Accelerated Rehabilitative Disposition Program.**

*(A) Disposition*

The following procedure shall expedite the final disposition of cases in the Accelerated Rehabilitative Disposition (ARD) Program:

1) The Adult Probation Office shall maintain an alphabetically sequenced file which lists those persons presently under the Accelerated Rehabilitative Disposition (ARD) Program, or having ever participated in such a program.

2) Each month, the Adult Probation Office will create a list of all probationers whose ARD probation period has terminated the previous month. This list will be distributed to the District Attorney.

3) The District Attorney will be responsible for reviewing the list. If the District Attorney has an objection, he must note that objection on the list within thirty (30) days of creation of the list.

4) If a case is reinstated for cause prior to the completion of the stipulated ARD probation period, the District Attorney must notify the Court Calendar Officer so that the case will then be properly relisted for trial.

*(B) Expungement*

The following procedure shall be effective immediately to automatically expunge the criminal case record for those defendants who have completed the conditions of the ARD Program.

1) At the end of each month, the Adult Probation Office will prepare a list of all cases reaching final disposition under the ARD Program during the month. A copy of the list shall be provided to the District Attorney. The produced list will carry a date on which the cases will be presented to the sentencing judge.

2) The District Attorney will review the listing of potential expungements and present the complete list to the President Judge indicating any cases which he/she feels should not be expunged along with the reason why the expungement should not take place. For proper cause, the case will be deleted from the expungement list by the President Judge.

3) In those cases in which the item is deleted, a letter will be produced and forwarded to the last known address of the defendant and to his attorney-of-record informing each that the case will not be automatically expunged by the Court, but that a petition may be initiated.

The intent of an expungement will be to prevent the inquiry into a person's criminal history of the expunged case by reference to the criminal records of 1) the local police department, 2) the Pennsylvania State Police, 3) the Federal Bureau of Investigation, and 4) the file folders and computer files of the Carbon County Common Pleas Court and District Justice Courts.

4) The procedure to accomplish this will be as follows:

(a) The defendant computer record will be removed from the computer file maintained by the Clerk of Courts Office so that reference to an individual's computer criminal history may not be made from either the computer monitors or current criminal information data base.

(b) At the same time the Court's computer record is expunged as in 4(a) above, an Order will be automatically produced ordering the local police department to destroy all criminal records, fingerprints, photographs, and photographic plates and to update the criminal extract to totally eliminate reference to the expunged incident.

(c) The order in (b) above shall also order the Carbon County Bureau of Collections, the Adult Probation Office, the District Justice Offices, the Pennsylvania State Police and the Federal Bureau of Investigation to destroy all records pertaining to the same arrest.

(d) The order in (b) above shall also order the Court Data Processing Director to remove all references pertaining to the same arrest from the computer indices of the Court of Common Pleas of Carbon County and the District Justices of Carbon County.

(e) A letter shall be automatically produced by the District Attorney and mailed to the local police department and to the last known address of the defendant, informing him or her that the local police department, the Pennsylvania State Police, and the Federal Bureau of Investigation have been ordered to expunge the criminal record for that specific case, that this procedure will be allowed only once in a person's life and that expungement will take place within ninety (90) days of the date of the Expungement Order. A copy of this letter shall also be sent to the defendant's attorney-of-record.

(f) A certification, which states that the destruction of records has taken place as ordered, affixed to the Expungement Order shall be signed and returned by the District Justice and local police department to the Clerk of Courts. Said certification shall also be signed by the Court Data Processing Director. The Clerk of Courts shall then insert a copy of the certification with each appropriate case folder. The applicable case folder shall then be placed in a confidential status.

5) A monthly updated confidential list of completed expungements under this procedure shall be maintained by the Court.

**V. Pretrial Procedures in Court Cases**

**Rule 507.1. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option.**

(A) The District Attorney of Carbon County, having filed on January 22, 2001 a certification pursuant to Pa.R.Crim.P. 507, criminal complaints by police officers, as defined in the Rules of Criminal Procedures, charging one or more of the following offenses:

Any felony or misdemeanor of the first, second, or third degree.

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

(B) The District Attorney of Carbon County, having filed on January 22, 2001 a certification pursuant to Pa.R.Crim.P. 507(A), arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedures, charging one or more of the following offenses:

Any felony or misdemeanor of the first, second, or third degree

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

**Rule 518.1. Arrest Without Warrant.**

Pursuant to the authority set forth in Rule 502 of the Rules of Criminal Procedure, an arresting officer, when the officer deems it appropriate, may promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority, when the following conditions have been met:

- 1) The most serious offense charged is a misdemeanor of the second degree.
- 2) The defendant is a resident of the Commonwealth.
- 3) The defendant poses no threat of immediate physical harm to any other person or to himself or herself.
- 4) The arresting officer has reasonable grounds to believe that the defendant will appear as required; and
- 5) The defendant does not demand to be taken before an issuing authority.

**Rule 528.1. Valuation of Bail Bonds.**

The actual net value of Real Estate securing a bail bond shall be the assessed value of realty deducting therefrom all liens and encumbrances or meet the requirements of Carbon County Rule of Criminal Procedure 528.5.

**Rule 528.2. Ten Percent (10%) Cash Bail.**

(A) Any defendant who has been properly granted bail may obtain his release from custody as provided herein by (1) depositing with the District Justice or Clerk of Court a sum of money equal to ten percent (10%) of the full amount of bail, but in no event less than fifty dollars (\$50), (2) executing a bond in accordance with the requirements set forth in Pa.R.Crim.P.No.526, and (3) processing by the Bail Administrator. A private individual who is not a surety or fidelity company or professional bail bondsman or agent thereof may act as a third-party surety and execute the aforementioned bond on behalf of the defendant. Except as provided in this section, no other individual or business entity may act as a third-party surety.

(B) Upon compliance with all the provisions of this Rule, the defendant shall be released from custody imposed in the criminal charge on which he has made bail.

**Rule 528.3. Realty as Bail.**

(A) The defendant, or a third party surety as defined in Rule 528.2(A), may post realty as security for bail. In this event, the following must be provided:

- 1) A written appraisal by a licensed real estate broker in the County in which the property is located.
- 2) Proof of entry of the bail bond as a lien in favor of the County of Carbon in the Prothonotary's Office of the County in which the property is situated.
- 3) If the property is mortgaged, a letter from the mortgagee indicating any unpaid balance due.
- 4) A current lien and judgment search by an attorney or reputable Title Insurance Company.
- 5) Affidavit of justification of surety as provided in paragraph (d).

(B) Upon review of the above documents, a determination must be made that the actual net value of the property is equal to the amount of the bond. Only after the information requested above is supplied and a deter-

mination is made that the actual net value is at least equal to the amount of the bond, will realty be accepted as consideration for bail.

(C) A given piece of realty shall only be used as bail under this rule if it has not been posted or is not presently being used for bail for any other charges for defendants unless allowed by Court Order.

(D) If realty is offered as surety, the owner shall present justification for such by filing an affidavit containing the following information for such surety:

- 1) Owners name, address, age and occupation.
- 2) A general description of the real estate which is offered as surety.
- 3) A statement of the manner in which the title is obtained, including the deed or will book reference of the recording of such instrument of title.
- 4) A statement of all encumbrances, including taxes upon said real estate.
- 5) A statement of the assessed market value and any rental being paid.
- 6) A statement of the assessed market and rental value of the real estate.
- 7) A statement that the real estate is not being contemplated or actually negotiated for in any sale.

**Rule 528.4. Justification of Personal Surety.**

In justification of bail, personal surety shall be required to give the following information under oath:

- 1) Name, address, age, and occupation;
- 2) A general description of real estate in Carbon County of which the surety is a freeholder.
- 3) A statement of the manner in which the surety obtained title, and upon failure to produce the evidence of title, the Deed Book or Will Book reference of the recording of the instrument by which the surety obtained title;
- 4) A statement of all encumbrances, including taxes, upon said real estate.
- 5) A statement of all other surety undertakings;
- 6) A statement of the assessed, market, and rental value of the real estate; and
- 7) A statement that the surety is not contemplating or negotiating the sale of the real estate.

**Rule 528.5. Qualification of Surety.**

Residents or owners of realty in order to be qualified to act as sureties must own realty within the Commonwealth of Pennsylvania. In all cases of realty owned outside Carbon County, the surety must provide the following:

- 1) Affidavit of Justification of such surety;
- 2) Written appraisal by a reputable licensed real estate broker in the county in which the property is situated;
- 3) Proof of entry of the bond in favor of the Commonwealth in the Prothonotary's Office of the county in which the property is situated;
- 4) Letter from the mortgage company indicating the unpaid balance due on the mortgage covering the said property, if any;
- 5) A lien and judgment search by a reputable title insurance company.

**Rule 528.6. Corporate Surety.**

Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk and that no bond shall be executed by any surety company after May 1 of any year until such a certificate issued after March 31 of the same year shall have been filed with the Clerk, and further provided that, with the exception of bonds filed by insurance companies in motor vehicle misdemeanors, any surety company shall be required to post the sum of twenty-five thousand dollars (\$25,000) as security with the Clerk of Court.

**Rule 529.1. Bail Reduction.**

The Bail Administrator shall be given at least twenty-four (24) hours notice of presentation of a petition by defendant to reduce bail in court cases. Defense counsel and the District Attorney shall make an effort to agree on an appropriate amount of bail and any special conditions, the breach of which would result in revocation of bail. If an agreement can not be reached on petition, the Court shall set a time for hearing.

**Rule 535.1. Receipt.**

At the time of posting of any bail, including percentage bail, but excluding a surety bond, the office at which the bail is posted shall issue to the person posting the bail a receipt itemizing the bail and the fees and costs which will apply in the absence of a violation or forfeiture.

**Rule 535.2. Disposition of Bail—Administrative Fee.**

The Clerk of Courts shall, within twenty (20) days after full and final disposition of a case in which percentage bail has been posted, retain 20% of the amount deposited, but in no event less than \$50.00 as an administrative fee, and shall return the balance to the defendant or his assignee or the third party surety unless the balance is applied to pay a fine and costs of prosecution or to make restitution. This sum shall be considered earned at the time the bail undertaking is executed and money deposited.

**Rule 535.3. Disposition of Bail Deposited by Defendant.**

If the Court, upon sentence, orders the defendant to pay a fine and costs of prosecution or to make restitution, the Court may order that the amount deposited by the defendant, whether under the percentage cash bail program or otherwise, shall be first applied in the case of percentage bail to the administrative costs of the Clerk of Courts then to any restitution ordered by the Court, then to the fine, if any, and then to other costs ordered by the Court to be paid.

**Rule 535.4. Disposition of Bail Deposited by a Third Party.**

Where a third party surety has deposited money, under the percentage cash bail program or otherwise, the monies deposited shall be first applied to the administrative costs of the Clerk of Courts. With the voluntary written authorization of the person who deposited the bail, any balance shall then be applied to any restitution ordered by the Court, then to the fine, if any, and then to other costs ordered by the Court to be paid.

**Rule 535.5. Authorization to Pay Attorney.**

When authorized in writing by the defendant and any third party surety who posted the deposit, whatever

balance of such deposit is repayable to the defendant or the third party surety, may be paid to the defendant's attorney of record, upon filing such written authorization with the Clerk of Courts.

**Rule 535.6. Removal of Judgment Indexed Against Realty.**

The Clerk of Courts shall, within 20 days after the full and final disposition of a case on which realty has been posted as bail, notify the surety to present to the Clerk of Courts for execution by the Clerk of Courts a praecipe to remove the judgment previously entered by the Clerk of Courts.

**Rule 535.7. Notice to Person Posting Bail.**

Notice of full and final disposition of a case shall be sent by the Clerk of Courts to the person who originally posted money at his address of record. Any money not claimed within one hundred and eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Carbon.

**Rule 560.1. Information: Filing, Contents, Function.**

Promptly after receipt of transcripts in court cases, the Clerk of Courts shall forward the same to the District Attorney. The District Attorney shall make such investigation deemed appropriate and shall then prepare and file the information against the defendants with the Clerk of Courts. The number of each court case shall run in numerical sequence beginning with one (1) followed by CR and the last two digits of the year of filing, for example 1 CR 99.

**Rule 570.1. Pretrial Conference.**

(A) Pretrial conferences shall be conducted by the District Attorney, defense counsel, or the pro se defendant on all cases which have not resulted in plea agreements at the preliminary hearing level. A criminal case scheduling grid, prepared annually by Court Administration, shall establish the dates for pretrial conferences. All defendants must be present in person or through the video conferencing system except for good cause shown. This will be the last date on which negotiated pleas will be accepted. Pleas entered after this date will be "open" with respect to sentence.

(B) Prior to the Defendant's Pre-trial Conference, the District Attorney shall obtain data of the prior criminal convictions, if any, of the defendant. Within forty-five (45) days of receipt of the report, the District Attorney shall calculate the prior record score for guideline sentencing purposes.

(C) At the Pre-trial Conference, the District Attorney shall make the Sentencing Guideline Report available to defense counsel, and if unrepresented, the defendant.

(D) At the end of the pretrial conference, written stipulations for pleas, trials, or other dispositions shall be filled out and shall be signed by the District Attorney or Assistant District Attorneys, defense counsel, and defendant. The original stipulation shall be filed in the Clerk of Court's office and copies forwarded to the District Attorney's Office, defense counsel and defendant and to the Deputy Court Administrator/Case Manager for scheduling purposes.

(E) Upon failure of defendant to appear at a pretrial conference in accordance with this Rule, defendant's bail shall be forfeited and a bench warrant shall be issued.

**Rule 571.1. Arraignment and Waiver of Arraignment in Non-Capital Cases.**

(A) Arraignments in non-capital cases shall be conducted in accordance with the annual criminal case scheduling grid established by the Deputy Court Administrator/Case Manager.

(B) Every defendant who shall be held for Court by the District Justice at the conclusion of the preliminary hearing or at the time he waives his preliminary hearing shall be furnished with a Notice of Arraignment and Pretrial Conference form and, in appropriate cases, applications for ARD Program by District Justice.

(C) The Notice of Arraignment and Pre Trial Conference forms furnished by the District Justice shall advise the defendant when to appear before the District Attorney for the purpose of arraignment and pretrial conference. Defendant shall acknowledge receipt of the notice of arraignment and pretrial conference.

(D) When the defendant is held for Court the District Justice shall also transmit to the Clerk of Courts and to the District Attorney a copy of the notice of arraignment and pretrial conference.

(E) Every defendant against whom an information has been filed shall be arraigned before the District Attorney or, if the District Attorney deems it necessary, before the Court.

(F) All defendants who are unrepresented by counsel must appear personally at arraignment.

(G) Defendants who are represented by counsel must also appear personally at arraignment unless:

1) Counsel, on the form provided by the Clerk of Courts, has entered a written appearance, acknowledged receipt of copies of the information and instruction sheet and concurs in his/her client's waiver of formal arraignment; and

2) Defendant has acknowledged receipt of copies of the information and instruction sheet, waived explanation by the District Attorney and formal arraignment and represented that he/she understands:

(a) the nature and seriousness of the charges and possible consequences of conviction;

(b) rights explained in the sheet of written instructions;

(c) necessity of filing an omnibus pretrial motion to exercise pretrial rights;

(d) the requirement of notice to assert such defenses as alibi and insanity or diminished capacity and the consequences of failure to file proper notices; and

(e) the time limits in which defendant may commence discovery and file an omnibus pretrial motion: and

3) Defendant enters a plea of not guilty and requests a Jury trial

(H) Defendants and counsel shall be provided copies of the information and instruction sheet used and approved by the Court. This instruction sheet shall be read by the District Attorney or an Assistant District Attorney at the beginning of arraignment. Persons wanting explanation will be permitted to ask questions.

(I) Defendant will be individually called before the District Attorney or an Assistant District Attorney at which time the information will be read and the nature of the charges explained. Formal explanation may be waived if:

1) the charges are misdemeanors and no jail sentence is contemplated: or

2) counsel is present and waives a reading.

**Rule 573.1. Pre-Trial Discovery and Inspection.**

Defense counsel desiring pre-trial discovery and inspection under Pa.R.Crim.P. No.573 shall make an appointment with the District Attorney's Office for that purpose. At that conference, in addition to discussing discovery sought, the parties shall discuss possible plea negotiations.

**Rule 574.1. Motions & Petitions Procedure.**

(A) Motions and Petitions shall be submitted to the filing office, without the necessity of presentation to the Court.

(B) The Motion or Petition is filed, time stamped, docketed, and entered in the Court Computer System. It shall then be forwarded by the filing office to the Motions and Petitions Coordinator in the Office of Court Administration for Court action and/or scheduling. The Motions and Petitions Coordinator shall, after action by the Court, return the Motion or Petition to the filing office for mailing.

(C) All Motions and Petitions subject to this rule shall be accompanied by the following items in the following order:

1) A completed cover sheet in the Form of Exhibit "A";

2) A proposed order (and rule to show cause, if necessary);

3) Stamped, addressed envelopes for each attorney of record and unrepresented party; and

4) Sufficient copies of the Petition or Motion and proposed Order or Rules for each attorney of record and unrepresented party.

(D) All Motions and Petitions shall be in writing, signed by a party or counsel of record and shall contain the caption of the case, the name, address, telephone number and Supreme Court identification of counsel for the moving party and the names and addresses of adverse parties and their attorneys.

**Rule 574.2. Pro se Filings.**

(A) All pro se petitions and motions must be filed and docketed in the office of the Clerk of Courts. Petitions and motions sent to any other office shall be returned with a copy of this rule attached thereto.

(B) The Clerk of Courts shall forward a copy of all documents filed by individuals themselves to their attorney of record, if any.

(C) All pro se filings must be clocked in by the Clerk of Courts. Filings which are not in compliance with the law or rule of court shall be duly noted and forwarded immediately to the Motions and Petitions Coordinator. The Court Administrator, after consulting with the Court, shall notify the individual of the deficiency in the filing.

(D) Notice to any individual who has filed a deficient pleading shall be as follows:

NOTICE: YOU HAVE FILED A DOCUMENT WITH THE COURT OF COMMON PLEAS WHICH IS NOT IN COMPLIANCE WITH THE LAW OR RULE OF COURT. YOU ARE ADVISED THAT YOUR FAILURE TO COMPLY MAY RESULT IN PREJUDICE TO YOUR RIGHTS OR CLAIM. YOU SHOULD CONSULT A LAWYER IMMEDIATELY. IF YOU CANNOT AFFORD A LAWYER,

YOU MAY BE ENTITLED TO BE REPRESENTED FREE OF CHARGE BY THE PUBLIC DEFENDER'S OFFICE. IF YOU BELIEVE YOU QUALIFY, CONTACT THE FOLLOWING OFFICE:

Carbon County Public Defender  
Carbon County Courthouse  
Jim Thorpe, PA 18229

IF YOU ARE INCARCERATED, YOU MAY OBTAIN AN APPLICATION FOR THE PUBLIC DEFENDER'S OFFICE BY ASKING THE STAFF IN THE JAIL.

IF YOU ARE ALREADY REPRESENTED BY COUNSEL, A COPY OF YOUR FILING HAS BEEN SENT TO THEM BY THE CLERK OF COURTS.

IF YOU ARE NOT REPRESENTED BY COUNSEL AND DESIRE TO REPRESENT YOURSELF OR DO NOT QUALIFY FOR FREE COUNSEL, YOU ARE INSTRUCTED THAT YOU MUST BRING YOUR FILING INTO COMPLIANCE WITH THE LAW OR RULE OF COURT YOU HAVE VIOLATED, OR YOUR RIGHTS OR CLAIM MAY BE PREJUDICED.

**Rule 578.1. Omnibus Pre-Trial Motions.**

All Omnibus pre-trial motions shall be presented within thirty (30) days after arraignment date (even though waived) (in accordance with Pa.R.Crim.P.No.579) to the Court, which shall promptly set the hearing or argument dates.

**Rule 578.2. Pre-Trial Pro se Motions.**

Where a defendant is represented by counsel, no pre-trial motions shall be considered by the court unless prepared and presented by that counsel. Any pro se pre-trial motions filed by defendant represented by counsel shall be immediately referred by the court to counsel.

**Rule 578.3. Arguments.**

The practice and procedure with respect to all matters of listing of arguments, form of briefs, filing of briefs, sanctions for failure to timely file briefs, and oral arguments shall be governed by Pa.R.Crim.P.No. 720 and CARB.C.R.CRIM.P. 720.1.

**Rule 590.1. Guilty Plea Colloquy Form.**

(A) During the course of counseling a defendant relative to any plea of guilty or nolo contendere in the Court of Common Pleas, counsel shall review with the defendant the Carbon County Guilty Plea Colloquy Form available from the Office of the District Attorney, as attached hereto as EXHIBIT "C" in the Criminal Case Management Plan, and shall explain to the defendant the contents of that form. Additionally, if Defendant is charged and to be sentenced under Megan's Law, obtain and review the MEGAN'S LAW SUPPLEMENT TO GUILTY PLEA COLLOQUY form, which is attached hereto and marked FORM "V". Such forms shall be initialed and signed by the defendant where appropriate and counsel's signature thereon shall constitute a certification by the attorney that he/she has read, discussed and explained the plea form to the defendant, and that to the best of his/her knowledge, information and belief, his client understands what he is doing by entering his plea.

(B) Guilty plea colloquy forms shall be filed in open Court at the time of entry of any plea of guilty or nolo contendere.

(C) For pleas to a summary offense, the plea form need only consist of the disposition page, and need only state the offenses to which the defendant is pleading and the sentence which he is to receive.

**VI. Trial Procedures in Court Cases**

**Rule 600.1. Call of the List.**

(A) The call of the criminal list for a particular criminal trial session of Court shall be held by the Court at 9:30 A.M. on the Thursday morning prior to the first day of the Court's trial session as set forth on the annual Court calendar prepared by the Deputy Court Administrator/Case Manager.

(B) All unrepresented defendants and all attorneys representing defendants must attend the criminal calendar call of the list unless:

1) A date certain has been scheduled for the entry of a plea or;

2) A motion for a continuance has been previously properly presented and granted; or

3) The Court has excused a defendant and/or counsel based on good cause shown or defense counsel and the District Attorney's office have agreed that the defendant and/or counsel may be excused from the call of the list.

(C) Failure to comply with the requirements of this rule may result in the imposition of sanctions of the Court including the issuance of a bench warrant and revocation of bail bond. Additionally, the District Attorney's office may file a charge of default in required appearance.

(D) Counsel shall keep the assigned judge advised of any changes in the status of his case or the availability of the defendant for trial.

**Rule 602.1. Transport Orders.**

In any criminal proceeding in which a court appearance by an adult prisoner will be required, the attorney for the prisoner or for the party requesting the presence of the prisoner shall prepare a transport order and obtain the signature of the judge assigned to the case. It shall be the responsibility of the Motions and Petitions Coordinator to deliver necessary copies of the transport order to the Clerk of Courts and to the Sheriff. Absent genuine exigency or most unusual circumstances, a request for transport of prisoner shall be made to the Court not less than twenty-four (24) hours before the scheduled court appearance in cases where the prisoner is in Carbon County Prison and not less than three (3) days before such appearance where the prisoner is incarcerated outside Carbon County.

**Rule 602.2. Interpreters.**

In all criminal proceedings in Court or before District Justices, where either a defendant or a testifying witness so requests, an official interpreter or an alternate previously approved by the Court, shall be provided by the Court, through the Court Administrator's Office. It shall be the responsibility of counsel representing the defendant, or calling the witness, to notify the Court Administrator's Office, not less than twenty-four (24) hours in advance of the proceeding, when an interpreter will be needed.

**Rule 646.1. Admission and Custody of Exhibits.**

A) Counsel for the respective parties shall retain possession, and shall be responsible for the care and custody, of all tangible exhibits used at hearings and trials, whether or not they have been presented, marked, identified and used, until such time as they have been formally offered into evidence.

B) From and after an order of admission, or if admission is denied, if the Court should so order, the Court



Stenographer shall take possession, and shall be responsible for the care and custody of all such tangible exhibits during the remainder of the hearing or trial, and thereafter, until further order of the Court.

C) At any time after final disposition of the case, including the expiration of any applicable appeal period, the Court Stenographer may, after notice to counsel for all parties, petition the Court for an order authorizing the removal and disposition by destruction, or otherwise, of any tangible exhibit of a size or weight precluding its enclosure in a regular case file.

## VII. Post-Trial Procedures in Court Cases

### Rule 702.1. Presentence Procedures.

(A) Before the sentencing hearing, counsel for defendant, or if unrepresented, the pro se defendant shall obtain from the District Attorney's Office a form entitled "APPELLATE RIGHTS OF DEFENDANT AFTER SENTENCING." Counsel shall review with the Defendant said form and shall explain to the Defendant the contents of that form. Such form shall be initialed and signed by the defendant where indicated and counsel's signature thereon shall constitute a certification by counsel that he/she has read, discussed, and explained the form to the defendant, and to the best of his/her knowledge, information, or belief the defendant understands the form. (The form is marked FORM IV and is attached hereto in the ADDENDA to these Rules.)

(B) Prior to imposition of sentence, a completed Guideline Sentencing Form, as required by 204 Pa. Code § 303.1(d), shall be made available to the sentencing judge.

(C) If a pre-sentence investigation report is required by the sentencing Judge, the Guideline Sentencing Form shall be prepared by the report preparer.

(D) If a pre-sentence investigation report is not required, the Guideline Sentencing Form shall be prepared by the Carbon County Adult Probation Office.

(E) The Guideline Sentencing Form shall be reviewed by counsel for both the Commonwealth and the defendant prior to submission to the sentencing judge.

(F) The Chief Adult Probation Officer shall send a copy of the Guideline Sentencing Form to the Pennsylvania Commission on Sentencing.

Comment: 204 Pa. Code § 303.1(d) provides that a Pennsylvania Commission on Sentencing Guideline Sentence Form shall be completed at the Court's direction and shall be made a part of the record no later than twenty days after the date of each sentencing, and a copy shall be forwarded to the Pennsylvania Commission on Sentencing.

As used in Section (B), "imposition of sentence" includes imposition of probation.

### Rule 708.1. Petition for Parole.

Within thirty (30) days before a defendant becomes eligible for parole (except for DUI cases), the Adult Probation Office shall conduct an investigation to determine whether the defendant should be released at the expiration of his or her minimum sentence. Said investigation shall include whether District Attorney or victim have any opposition, the defendant's course of conduct while incarcerated, whether a suitable residence is available, defendant's potential for obtaining employment, and a payment plan for any outstanding, costs, fines, and restitution. Upon completion of said investigation, the Adult Probation Office shall make a recommendation for

approval or denial of parole and transmit said recommendation to the Sentencing Judge. If the Court denies parole, the defendant shall have the right to a hearing upon filing a Petition for Parole.

### Rule 708.2. Violation of Probation, Parole, or ARD.

(A) When it is alleged that a defendant is in violation of his or her probation/parole, a Gagnon I hearing shall be held before a member of the Adult Probation staff designated for that purpose by the President Judge. This hearing will be held within ten (10) Court business days if the defendant is incarcerated as a result of the violation(s). That designated hearing officer shall be responsible for advising the defendant of all information required at a Gagnon I hearing. Should the hearing officer, at the Gagnon I hearing, find that a prima facie case exists, the following procedure shall be followed.

1) A Gagnon II hearing, whether it be with regard to a contested violation, alleged violations or merely for the purpose of disposition or for both purposes, shall be scheduled promptly, but no later than 120 days after the officer files a motion with the Court requesting that a Gagnon II hearing be scheduled and advising in that motion as to when the Gagnon I hearing was completed.

2) That motion shall also indicate whether the allegations are contested or whether the Gagnon II hearing will be for disposition purposes only. The hearing officer shall serve a copy of the motion upon the District Attorney's office. The defendant shall be afforded the right to representation by an attorney of choice, or upon his/her application, the appointment of the Public Defender for the Gagnon II hearing.

3) Should a determination be made by the hearing officer at the Gagnon I hearing, that the defendant should be returned to continued supervision at liberty, the defendant shall be released from custody, if incarcerated, and continue on probation/parole.

(B) When a defendant is alleged to be in violation of ARD, a hearing shall be held before the Court. Defendant shall have the right to waive said hearing by signing the Stipulation to the REVOCATION OF ARD form. (Said form is marked FORM III and attached in the ADDENDA to these rules.)

### Rule 708.3. Arrest and Processing of Probation/Parole Violators.

When a duly appointed adult probation officer has conducted an investigation which reveals that a violation of supervision has been committed by the defendant, the officer shall request a supervisor to issue a "Supervisor's Warrant" for the arrest and detention of the defendant. The defendant shall be arrested upon issuance of the warrant, by any peace officer in the Commonwealth authorized to make arrests, or in the case of a defendant who has absconded the Commonwealth, the warrant shall be submitted to the Carbon County Sheriff's Office for processing as per normal procedure. Following arrest, the filing officer shall request a Gagnon I hearing before the Court designated hearing officer, which will be held within ten (10) Court business days. The above procedure relating to Pa.R.Crim.P.No. 708 shall then be followed.

Should the filing officer determine that a supervisor's warrant is not needed, a Gagnon I hearing will be scheduled as soon as possible following discovery of the violation(s), and the Pa.R.Crim.P.No. 708 procedure will continue as stated. Notice of the Gagnon I hearing, in this instance, shall be served upon the defendant by the filing

officer and a Gagnon I hearing would then be scheduled at the convenience of the hearing officer.

**Rule 720.1. Post-Sentence Motions.**

(A) Service of post-sentence motions—Post sentence motions shall be filed within 10 days from the date of the sentence with the Clerk of Courts and copies thereof delivered to the trial judge, the court reporter and the district attorney on the same day. Such motions shall include a separate page addressed to the court reporter setting forth specifically those portions of the record which are to be transcribed. Any changes in the request for transcription shall be in writing addressed to the court reporter.

(B) Any request for leave to file additional specific grounds shall be made by a motion and proposed order, and the motion shall contain specific reasons in support thereof. With prior notice to opposing counsel, the motion shall be presented to the trial judge within 10 days after the copy of the record is transmitted to defendant's counsel, if any, and otherwise to the defendant.

(C) Filing and delivery of transcript—Transcript of the trial shall be delivered by the court reporter to the Clerk of Courts within 60 days from service upon the court reporter of the request for transcript unless further extended by order of the trial judge upon cause shown. A copy of said transcript shall be delivered forthwith by the court reporter to counsel for any party ordering a copy or upon an unrepresented party ordering a copy. The court reporter shall execute and file with the Clerk of Courts and the Deputy Court Administrator/Case Manager a certification indicating the date when copies of the record were delivered to each of the above.

(D) Time for argument—Within ten (10) days of the filing of a post-sentence motion, the Deputy Court Administrator-Case Manager shall fix a date and time of argument and, if the judge decides briefs are required to

dispose of the motion, briefs shall be filed with the Clerk of Courts with copies to the judge and opposing counsel.

(E) Time for service of briefs—The defendant shall serve upon the Commonwealth and the Court one copy each of a brief not less than 20 days before the date fixed for argument. The Commonwealth shall serve upon counsel for the defendant, if any, or otherwise on the defendant, and the Court one copy of its brief not less than 3 days before the date fixed for argument.

(F) Failure to file briefs—When a case is listed for argument, if the moving party has filed no briefs, the motions or petitions shall be dismissed as of course. If the opposing party has filed no brief, the moving party shall proceed ex parte.

(G) Extension of briefing deadline—Any party, for good cause, may apply for an extension of time to file his brief. The application shall identify the moving party, state the reasons for the request of extension, and recite whether the request for extension is opposed or unopposed.

**Rule 720.2. Appeals to Supreme, Superior and Commonwealth Court.**

(A) In all direct appeals to the Supreme, Superior, and Commonwealth Courts of Pennsylvania from orders or decrees of this Court, appellant's counsel shall, immediately upon taking the appeal, serve upon the judge of this Court from whose order or decree the appeal was taken, a concise statement of the matters complained of and intended to be argued on appeal, so that an appropriate opinion may be prepared.

(B) Immediately upon filing a brief or paper book with any Appellate Court, a copy thereof shall be served upon the judge of this Court from whose order or decree the appeal was taken.

(C) Whenever an appeal is withdrawn by counsel, notice of such fact shall immediately be given to the judge from whose order or decree the appeal was taken.

**ADDENDA**

**CARBON COUNTY COURTS  
APPLICATION FOR CONTINUANCE  
CIVIL—CRIMINAL  
INSTRUCTIONS**

1. Applying counsel shall submit application for continuance to other counsel who will indicate in Sec. III, any opposition, or if none so indicate, and sign.
2. Make copies of form for Filing Office, all counsel, pro se parties, and Court Administration.
3. Application shall first be filed and then submitted to the Court, which will indicate action taken in Sec. V. Copies will be distributed as indicated in (2) above.

I. Application is hereby made to continue the      trial      hearing      argument      conference      plea      sentencing      arbitration scheduled in the following case:

VS

NO. \_\_\_\_\_  
DATE SCHEDULED \_\_\_\_\_  
NO. OF PREVIOUS  
CONTINUANCES      by Plaintiff      by Defendant

II. The application is made for the following reasons:

- |                               |                                    |                                |
|-------------------------------|------------------------------------|--------------------------------|
| <u>    </u> vacation          |                                    |                                |
| <u>    </u> illness of atty.  | <u>    </u> negotiating settlement | <u>    </u> record incomplete  |
| <u>    </u> illness of party  | <u>    </u> expert unavailable     | <u>    </u> counseling ordered |
| <u>    </u> late sub of atty. | <u>    </u> party unavailable      | <u>    </u> other—specify      |
| <u>    </u> conflict—atty.    | <u>    </u> atty. unavailable      | <u>    </u> _____              |

\_\_\_\_\_  
Signature of Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Representing

III. Application is (opposed / not opposed) for the following reason:

\_\_\_\_\_  
Signature of Counsel                      Date                      Representing

IV. (In criminal cases only) Attached hereto and made a part hereof is a duly executed waiver of defendant's right to a speedy trial under Pa.R. Crim.P. No. 600.

V. Action taken by the Court. AND NOW, \_\_\_\_\_,

Application is denied

No further continuances.

Application is granted and the case is continued to the date listed below. Counsel are hereby attached for this proceeding on the new date:

\_\_\_\_\_  
Judge

**FORM "I"**

**CARBON COURT OF COMMON PLEAS  
CRIMINAL DIVISION  
MOTION COURT COVER SHEET**

NO. \_\_\_\_\_

vs.

FILING OF: Commonwealth( )

Defendant ( )

TYPE OF FILING (check one):

- 1. Application for Continuance
- 2. Motion for Discovery & Inspection (113)
- 3. Motion to Dismiss (115)
- 4. Omnibus Pretrial Motion (160)
- 5. Motion to Suppress (124)
- 6. Petition for Counsel-Conflict Case (213)
- 7. Petition to Consolidate (217)
- 8. Petition to Discharge (RCP 314) (220)
- 9. Petition for Special Furlough (225)
- 10. Petition for Parole (228)
- 11. Petition to Reconsider Sentence (240)
- 12. Petition to Revoke Parole (243)
- 13. Petition to Revoke Probation (246)
- 14. Petition to Reduce Bail (249)
- 15. Petition for Writ of Habeas Corpus (267)
- 16. Post Trial Motions (274)
- 17. Petition for Forfeiture (356)
- 18. Petition for Destruction (219)
- 19. Petition for Attorney Fees (227)
- 20. Other Motion or Petition (specify):
- 21. Response to:

*OTHER ATTORNEY:*

Attorney's Name (Typed)

Attorney for: ( ) Commonwealth ( ) Defendant

N.B. The numbers after the Motion or Petition above are docket codes used in the Court Computer System. Please be precise when checking your Motion or Petition. When filing Motion or Petition, provide Clerk with sufficient copies for opposing Counsel and filing Counsel.

THIS FORM IS AVAILABLE IN THE CLERK OF COURTS OFFICE

**FORM "II"**

THE COURTS

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs.

No.

STIPULATION TO THE REVOCATION OF ARD

I, the Defendant in the above captioned case, hereby acknowledge receipt of a copy of the Petition for Revocation of ARD filed by the Carbon County Office of Adult Probation and Parole alleging that I have violated certain condition(s) of the ARD Program.

I understand that I have the absolute right under Pennsylvania Rule of Criminal Procedure 318 to challenge the allegations contained in the Petition and to have a hearing in front of a Judge to determine whether or not I violated the condition(s) of the ARD Program.

I voluntarily waive my right to challenge the allegations contained in the Petition and to have a hearing in front of a Judge to determine whether or not I violated the condition(s) of the ARD Program and I hereby consent to the Revocation of my placement in the ARD Program without the necessity of a hearing.

I fully understand that, as a result of my consent to the Revocation of my placement in the ARD Program without the necessity of a hearing, my placement in the ARD Program will be automatically revoked and that the charges for which I was placed in the ARD Program will be scheduled for a Pre-Trial Conference before the District Attorney's Office for further disposition.

Date: \_\_\_\_\_

Defendant

FORM "III"

TO THE DEFENDANT:  
  
PLEASE READ AND THEN REVIEW THE FOLLOWING INFORMATION WITH YOUR LAWYER. IT EXPLAINS THE RIGHTS YOU HAVE FOLLOWING SENTENCING. IF YOU DO NOT UNDERSTAND ANYTHING CONTAINED ON THIS DOCUMENT, ASK YOUR LAWYER OR THE SENTENCING JUDGE TO EXPLAIN IT TO YOU. DO NOT SIGN THIS DOCUMENT UNTIL YOU UNDERSTAND IT FULLY.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

VS.

NO(S).

\_\_\_\_\_  
DEFENDANT

APPELLATE RIGHTS OF DEFENDANT AFTER SENTENCING

1. After you are sentenced, you have the right to file either a post-sentence motion or an appeal to the Superior Court of Pennsylvania.

2. If you wish to file a post-sentence motion, it must be filed with the Criminal Clerk of Courts of Carbon County no later than 10 days after the imposition of sentence.

3. If you wish to file an appeal, a notice of appeal must be filed with the Criminal Clerk of Courts of Carbon County, within 30 days of imposition of sentence. This is a right of appeal which you may exercise without filing a post-sentence motion. If you file a post-sentence motion, you would also have a right to appeal from an order deciding that motion or denying the motion by operation of law.

4. If you file a post-sentence motion, all requests for relief must be stated with specificity and particularity, and consolidated in the motion, which may include:

(a) a motion challenging the validity of a plea of guilty or nolo contendere, or the denial of a motion to withdraw a plea of guilty or nolo contendere;

- (b) a motion of judgment of acquittal;
- (c) a motion in arrest of judgement;
- (d) a motion for a new trial; and/or
- (e) a motion to modify sentence.

5. If you file a post-sentence motion, it and any supplemental motion you may be permitted to file, must be decided by the judge within 120 days of the filing of the original motion. The judge may, at your request, grant one 30 day extension for deciding the motion, if good cause is shown. If the judge fails to decide the motion within the allowed time, the motion will be denied by operation of law, and the clerk will enter an order denying the motion.

6. If you file a post-sentence motion, and wish to appeal from the order deciding or denying the motion, a notice of appeal must be filed with the Criminal Clerk of Courts of Carbon County, within 30 days of that order.

7. Whether or not you file a post-sentence motion, all issues raised before or during trial are preserved for appeal.

8. You have the right to assistance of counsel in the preparation of a post-sentence motion or any appeal. If you are indigent, you have the right to proceed without payment of costs and with counsel appointed to represent you without charge. If you are now represented by the Public Defender's Office and continue to qualify for their services, that office would continue to represent you without cost.

9. If you qualify for bail and are released on bail after sentencing, a condition of release will be that you either file a post-sentence motion and perfect an appeal, or, when no post-sentence motion is filed, perfect an appeal with the time permitted by law.

I affirm that I have read the above information completely, that I understand its full meaning, and that I have been given a copy of this document for my records and review.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Defendant

I, \_\_\_\_\_, Attorney for the above captioned defendant, state that I have advised my client of the meaning of this document and of his/her post-sentence and appeal rights as required by Pa. R. Crim. P. 704; that it is my belief that the defendant comprehends and understand those rights and what is set forth herein, and that Defendant has received a copy of this form.

\_\_\_\_\_  
Attorney for the Defendant  
**Form "IV"**

COMMONWEALTH OF PENNSYLVANIA

-VS-

IN THE COURT OF COMMON PLEAS  
OF CARBON COUNTY, PENNSYLVANIA

NO. \_\_\_\_\_

**MEGAN'S LAW SUPPLEMENT TO GUILTY PLEA COLLOQUY**

One or more of the offenses to which you are pleading guilty will make you subject to the registration and notification provisions of Megan's Law relating to sexual offenders.

The purpose of the following questions is to make certain that you understand how these provisions will affect you. Please answer all questions "Yes" or "No." If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case so that they can explain it to you fully to make sure you understand all of your rights.

After you have read and filled out this form, you should sign it on the last page (on the line marked "Defendant"). You should also initial each page at the bottom where indicated, but only if you have read and have understood that page.

1. Do you understand that as a result of your conviction you will be required to register with the Pennsylvania State Police and inform them of your current address and any change of address within ten (10) days of such change? \_\_\_\_\_

2. Do you understand that failure to register or to update your registration is itself a crime, which may subject you to penalties, including imprisonment? \_\_\_\_\_

3. Do you understand that your registration information will be provided by the Pennsylvania State Police to the local police department of any community \_\_\_\_\_

4. Do you understand that the registration requirements will continue for the time period specified: \_\_\_ ten (10) years \_\_\_ for the rest of your life? \_\_\_\_\_

\_\_\_\_\_  
INITIALS

5. If this line \_\_\_\_\_ is checked, do you understand that the District Attorney has the right to request the Court to hold a hearing to determine whether you are a sexually violent predator, and if you are determined to be a sexually violent predator you will be subject to additional registration and notification requirements? These will include:

Notification to your victim of your current address.

Notification to your neighbors of your name and address, the offense of which you were convicted, the fact that you have been determined to be a sexually violent predator, which notification may be accompanied by your photograph.

The foregoing notification will also be sent to the local children and youth services agency, superintendent of schools, daycare centers, and colleges and universities; it is also available to any member of the public upon request.

Do you understand all of the above information relating to registration and notification requirements of persons determined to be sexually violent predators? \_\_\_\_\_

6. Do you understand that if you are determined to be a sexually violent predator, you will be required to attend and pay for monthly counseling sessions for the period you are required to register? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Attorney for the Defendant

**FORM "V"**

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**ADMINISTRATIVE CRIMINAL CASE MANAGEMENT PLAN**

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**Carbon County Court of Common Pleas  
 Criminal  
 Case Management Plan**

President Judge John P. Lavelle

**I. Introduction**

In order to have an effective criminal justice system, cases must move through the system in a timely and predictable manner. No one benefits from delays in the criminal process. To provide a prompt and certain disposition of cases, the Court of Common Pleas for the Fifty-Sixth Judicial District of Pennsylvania hereby adopts a case management plan for Criminal cases. This plan shall govern all misdemeanor and felony cases filed on or after May 6, 1992. The adoption of this plan signifies court recognition of such elements of effective case management as:

*A. Judicial Commitment to the Concept of Court Control.*

The Court must control the pace of litigation, because the Court is in a far better position than either the parties or their attorneys to assure that prompt and fair justice is done in all cases pending, and to assure effective and efficient use of Court resources paid for by taxpayers. The successful implementation of this plan depends upon the commitment of each District Justice and Judge of the 56th Judicial District to this principle.

*B. Explicit Case-Processing Goals.*

Goal setting provides a focus for planning a case-management system and a benchmark for measuring its success. A Court should be able to meet reasonable time standards for prompt disposition of those cases which are standard types of cases in terms of their nature and legal issues. "Exhibit A", attached hereto, shows the time standards for criminal cases adopted by the American Bar Association, the recommendations of the National Center for Courts and the Proposed Standards of the Pennsylvania Association of Court Managers. The 56th Judicial District Case Management Plan will attempt to adhere to the proposed time standards of PACM.

*C. Effective Communications with the Bar and Police.*

While attorneys should not control movement of the Court calendar, it is equally inappropriate for the Court to ignore the legitimate concerns of the trial bar. The Court should make reasonable accommodations to both prosecuting attorneys, defense attorneys and Borough and Township Police in the management of cases. The development and implementation of a case-management program should be done in coordination with the District Attorney's Office and the Public Defender's Office which handle the majority of cases which come through the Criminal Justice System.

*D. Early and Continuous Court Supervision of Case Progress.*

In order to make prompt and fair case dispositions, the Court must monitor and control the progress of cases from the time a summons or complaint is filed in each case. Early monitoring will prevent cases from languishing unnecessarily for months or years, and promote certainty about when and how many cases will have to be listed for trial.

*E. Trial-Date Certainty.*

Reasonable certainty about dates avoids aggravation, waste and unnecessary cost for parties and their attorneys. Moreover, national studies have found that nothing promotes pretrial dispositions more than the expectation that a trial is more likely than not to commence on or near the scheduled date. To assure reasonable trial-date certainty, a Court must use a reasonable "overset factor" in scheduling cases and must have a firm continuance policy.

*F. A Functional Case Management Information System.*

For the Court to manage its cases effectively, it is necessary for Court decision makers to have relevant, accurate, and timely case information. To schedule cases for trial, for example, the Court must not only know what cases are ready for trial and how many Judges and courtrooms are available, but it must also know how many cases are likely to be plea bargained or be continued in order to have a reasonable overset factor and preserve the reasonable certainty of trial dates. The Carbon County Court Computer System will be particularly helpful in providing case management information.

*G. A Plan for Attacking the Case Inventory.*

As an explicit expression of Court policy to promote Judge commitment and guide Court personnel and case participants, a case-management plan is an important tool for effective and efficient case management. The plan must address the manner in which cases already pending before the plan's effective date will be treated, in addition to describing how cases filed on or after the effective date will be handled.

## **II. General Case-Management Policy Provisions**

For the management of criminal cases, the following provisions shall be uniformly applied by the Court.

*A. Court Responsibility for Movement of its Calendar.*

It shall be the responsibility of the Court to assure the fair and prompt disposition of all cases. Since the Court is in a far better position than counsel to assure prompt and fair disposition of all the cases before it, the Court shall exercise exclusive control over the scheduling of all Court Criminal proceedings. Recognizing the responsibilities of counsel on behalf of their clients and as officers of the Court, the Court shall make reasonable accommodations for members of the bar.

*B. Firm Enforcement of Court Rules.*

Absent a showing for good cause, Rules of Court (including this case management plan) shall be strictly and uniformly followed and enforced by the Court.

*C. Time Standards and Case Management Criteria.*

The Court shall manage all criminal cases to assure case dispositions within time standards set forth below. Mere agreement by counsel for all parties that a continuance be allowed shall not alone be sufficient ground for the Court to grant a continuance. In any case for which a continuance is granted, the matter shall be continued to a specified date.

*D. Court Rulings on Motions.*

1. *Monitor and Review of Pending Rulings.* The Motions and Petitions Coordinator shall monitor the status of all outstanding rulings on motions and make a monthly report thereon to the President Judge. In a meeting of the Judges, the President Judge shall make a quarterly review of outstanding rulings and address any problems that may be presented. The President Judge shall send notification after 90 days to any Judge who has failed to rule on any outstanding motion, with copies of said notification to counsel of record.

2. *Semi Annual Reports under Pa.R.J.A. 703.* In keeping with Rule 703.B (2) of the Pennsylvania Rules of Judicial Administration, the primary responsibility to ascertain and report on matters submitted and remaining undisposed, as required in Rule 703.B(1), shall be on each Judge.

3. *Retroactive Application.* Except in the Court's discretion, the requirements of this section shall not be applicable to matters pending before the effective date of this plan.

*E. Continuous Calendar.*

Trial terms are discontinued. The Court shall schedule and hear trials after reasonable notice to parties and at such dates and times as shall assure fair and expeditious case dispositions.

## **III. Specific Case Management Plan**

The Criminal Caseload Management Plan which will be put into effect May 6, 1992 is based on the processing of standard types of criminal cases. Attached hereto and marked Exhibit "B" is a diagram of the Caseload Chart. We recognize that the plan may create some logistical problems for the parties involved in implementing the plan. The plan is not cast in cement and it is the intent of the Court to address implementation problems as they occur.

In setting up this plan, the Court has tried to follow the proposed time standards of the Pennsylvania Association of Court Managers and the National Center of the Courts' recommendations.

*Goals:*

The following time-disposition goals apply:

- (a) Preliminary hearing/waiver—98% within 30 days of complaint, if case initiated by arrest; 98% within 50 days of complaint if by summons;
- (b) Court arraignment—98% within 45 days of preliminary hearing/waiver;
- (c) Trials—90% within 150 days of complaint; 98% within 180 days;

(d) Sentences—90% within 30 days of guilt; 98% within 45 days.

Each year the Calendar Office will prepare a Criminal Case Tracking Schedule which will carry out these goals.

*Caseflow Master Plan:*

Carbon County will be divided into a Northern Division and Southern Division at the District Justice level. District Justice Lewis and District Justice Appleton will comprise the Southern Division and District Justice Kosciolk and District Justice Hadzick will comprise the Northern Division.

Each District Justice will handle the Misdemeanor and Felony cases which originate in his or her office. All Preliminary Hearings will be scheduled in clusters for Wednesday every week. One District Justice from the Southern Division will schedule his Preliminary Hearings for 9:00 a.m. and the other District Justice from the Southern Division will schedule his Preliminary Hearings for 1:15 p.m. The same procedure will be followed in the Northern Division.

Common Pleas Judges will be available and assigned for 10 weeks of criminal trials during the calendar year and any other time specifically set. The trial date given to defendants will be the first day of a trial week beginning between 4 and 5 months after filing of the complaint.

*Preliminary Arraignment Before District Justice:*

1. If a defendant is brought before the District Justice on an arrest warrant, he/she will receive, in addition to the other required papers, the following:

(a) Notice of Preliminary Hearing Date;

(b) Carbon County Guidelines for appointment of Public Defender;

(c) In cases deemed appropriate by the District Justice, an Application for ARD and a Criminal Record Information form. The District Justice will advise the Defendant to read the Guidelines carefully and contact the Public Defender's Office for an appointment if he/she believes he/she qualifies. The District Justice will also advise Defendant, if he is a first-time offender in a non violent crime, that he may qualify for the ARD program and should fill out the Application for ARD and the Prior Criminal Record Statement and send or bring both to the Preliminary Hearing at the District Justice's Office. If charged with a first-time DUI offense, the District Justice office will provide the defendant with information regarding Alternatives for Driving Under the Influence Offenders, attached hereto and referred to as "Addendum 1".

2. If the District Justice mails out a summons to the Defendant for his appearance before the District Justice, he will send a letter that will follow the form of Exhibit "C", attached hereto, and include the documents referred to therein and above.

*Preliminary Hearings Before District Justice:*

1. Appearances:

(a) An attorney representing a defendant at a preliminary hearing shall sign a praecipe for entrance of appearance and deliver the same to the District Justice before the beginning of the preliminary hearing.

(b) The District Justice shall transmit the praecipe for entrance of appearance with the docket transcript and the same shall be filed of record with the said docket transcript.

(c) This procedure for entry of appearance shall meet the requirements of Pa. R. Crim.P. 302(a).

(C) The District Attorney will assign, on or before the date the complaint is filed, an Assistant District Attorney to conduct the prosecution of all preliminary hearings and there will be a Public Defender at all preliminary hearings for all defendants who qualify for a public defender.

(D) The system will accommodate the desire of both the district attorney and public defender staffs that the same attorney will handle the case from preliminary hearing through trial. Cases from two District Justices are assigned to each Common Pleas Judge.

4. A significant percentage of cases can be expected to result eventually in ARD or guilty plea dispositions. In order to promote negotiation of a high percentage of those pleas and ARDs at the preliminary hearing (thereby accelerating the ultimate disposition of the case and avoiding needless motions and "churning" of the case), these events will occur at the preliminary hearing:

(a) The District Attorney will provide the defense attorney with a copy of all police reports, and will enlist the assistance of police departments in timely completion of such reports and supplemental reports;

(b) The defendant, as part of the negotiation process, will sign a form (Exhibit #1) listing his/her known prior record, acknowledge that the negotiations are contingent on the accuracy of the information, and acknowledge that an INTENTIONAL misstatement of the record can result in additional charges; and

(c) Where a Guilty Plea or ARD agreement is reached, a written Guilty Plea Agreement (Exhibit # 2) or ARD Agreement form (Exhibit # 3) will be completed. These cases will be scheduled utilizing the Criminal Case Tracking Schedule.

*Scheduling at Preliminary Hearing:*

1. A criminal case scheduling form (Exhibit #4) will be completed by the District Justice after each preliminary hearing/waiver. This form lists the Arraignment date, Pretrial Conference date, Last Date to Plea/Plea Day and Trial Date. A Criminal Case Tracking Schedule will be provided to the District Justices by the Court Calendar Officer. The original of the scheduling form shall be forwarded by the District Justice with the docket transcript to the Clerk of Court



and a copy will be provided to the Defendant and Defense Counsel. (The preliminary hearings will be scheduled in clusters before the District Justices each Wednesday. It is anticipated that we will have a significant decrease in the number of preliminary hearings held.)

2. Waiver of Common Pleas Arraignment Forms (Exhibit #5) will be available in the District Justice Office at the time of the preliminary hearing. (It is anticipated that this form will be used very frequently and should result in a significant decrease in the number of Common Pleas Arraignments.)

3. If a DUI ARD has been negotiated, telephonic arrangements will be made by the Secretary in the District Justice Office for scheduling of the CRN test, and the defendant will be provided with a written notice of his CRN schedule date and will acknowledge that date and time in writing. (Use Form Exhibit #6)

*Arraignment at Common Pleas Level:*

1. Local rule provides that arraignments, if not waived, will be conducted by the District Attorney within 45 days from preliminary hearing/waiver and within 20 days of filing the criminal information. Current arraignment forms, listing motion deadline information will be used. (Formal arraignments have been virtually eliminated in this case management system.)

*Pretrial Conferences:*

1. Pre-trial conferences will be held on all cases which have not been disposed at the Preliminary Hearing level. The scheduling grid provides that these Pretrial Conferences will be scheduled approximately 2—4 weeks before trial. They will be conducted by the District Attorney and his staff and a Judge will be available to participate if requested by both counsel for the Commonwealth and the Defense. All defendants must be present. THIS IS THE LAST DATE ON WHICH NEGOTIATED PLEAS WILL BE ACCEPTED. Pleas entered after this date will be "open" with respect to sentence.

*Sentencings:*

1. Most sentences are imposed at time of plea. If sentences are not imposed at the time of plea or verdict, cases will be scheduled for sentencing approximately 30 days thereafter.

**Alternatives for Driving Under the Influence Offenders**

CARBON COUNTY

Jim Thorpe, Pennsylvania

*Trial or Guilty Plea*

First time conviction for Drunk Driving requires a MINIMUM of 48 hours in jail plus a \$300.00 FINE.

First time penalties could go as high as TWO YEARS in JAIL and \$5,000.00 FINE.

Conviction for Drunk Driving will automatically SUSPEND the driver's license for ONE YEAR.

Conviction will require that the driver attend ALCOHOL SAFE DRIVING SCHOOL, AT THE DRIVER'S EXPENSE.

Compliance with such rules and regulations as may be set forth by the Carbon County Courts and Probation Department.

NOTICE: THERE ARE ALTERNATIVES TO TRIAL OR  
GUILTY PLEA IF YOU ARE A FIRST TIME OFFENDER

**Accelerated Rehabilitative Disposition**

*What is ARD?*

ARD is a ONE TIME alternative to trial, conviction, and the mandatory jail sentence.

Upon application and completion of a probation period, which is established at a minimum of one year by the Court, the criminal charges are dismissed.

*Who Qualifies for ARD?*

You may be eligible for ARD if you meet the following required standards for the program:

1. You have no prior DUI offenses.
2. NO serious injury, if an accident was involved.
3. Good Driving Record—An absence of excessive moving violations.
4. No extensive prior criminal history.
5. If applicant pleads guilty to any summary offense, he/she must sign a Waiver of Double Jeopardy Rights.

*How Do I Get Into the ARD Program?*

1. You must complete the application for the ARD program and send or bring it with you to the Preliminary Hearing at the District Justice's Office. Upon approval of the application, the matter is referred to the ARD Program Director for investigation. You will receive a notice to appear for an appointment with the ARD Director.
2. The District Justice's secretary will call and obtain an appointment for a CRN evaluation at the Carbon—Monroe—Pike Drug and Alcohol Office, First Street, Lehighton, Pennsylvania. If the ARD applicant is found to meet all of the criteria for qualification which have been established by the ARD/DUI Program, the applicant may then be recommended by the District Attorney to the Court for placement into the ARD Program and will receive notice to appear for an ARD Hearing.

*What Does Placement Into the Standard ARD Program Require You to Do?*

1. Serve ONE YEAR probationary period.
2. SIX MONTH SUSPENSION of driving privileges.
3. ATTENDANCE AND COMPLETION of an ALCOHOL SAFE DRIVING PROGRAM at the Carbon—Monroe—Pike Drug and Alcohol Office.
4. COMPLETE a counseling program, if deemed necessary, and pay for same.
5. PAY the following ARD Program costs:
 

Standard ARD Administrative Fee .....	\$300.00
Monthly Offender Supervision Fee .....	\$300.00
(If Court ordered: 12 months at \$25.00/month)	
CRN Report .....	\$ 35.00
(Rescheduling—Missed Appointments—CRN .....	\$ 15.00
Court Costs (Approximate) .....	\$400.00
Safe Driving School Costs (Nine week course) .....	\$300.00
Safe Driving School Costs (Five week course) .....	\$150.00
Total Costs (Approximate) .....	\$1,350.00
6. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts and DUI Program.  
 NO JAIL TERM, IF ACCEPTED FOR ACCELERATED REHABILITATIVE DISPOSITION AND IT IS COMPLETED SATISFACTORILY.

*Fast Track Accelerated Rehabilitative Disposition*

*What Is Fast Track ARD?*

Like ARD, FAST TRACK is a ONE TIME alternative to trial, conviction and mandatory jail sentencing.

Unlike Standard ARD, FAST TRACK ARD offers an incentive program for you to have your case handled in an accelerated manner.

*Are There Any Additional Requirements for Fast Track ARD?*

Yes. There are additional requirements for you to become a candidate for FAST TRACK ARD.

*You Must:*

1. Complete the enclosed application and have it notarized.
2. SIGN an ARD written Waiver of your Preliminary Hearing and Arraignment.  
 FAILURE TO ATTEND ANY APPOINTMENTS OR SCHEDULED COURT APPEARANCES WILL RESULT IN DENYING YOUR ACCEPTANCE IN FAST TRACK ARD!

*What Does Placement Into the ARD Fast Track Program Involve?*

1. ONE YEAR probationary period.
2. TWO MONTH SUSPENSION of your operating privileges on the day of placement on the FAST TRACK ARD PROGRAM if you have a valid Pennsylvania license.
3. ATTENDANCE AND COMPLETION of an ALCOHOL SAFE DRIVING PROGRAM at the Carbon—Monroe—Pike Drug and Alcohol Office.
4. COMPLETION of a counseling program, if deemed necessary, and payment for same.
5. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts and the DUI Program.
6. PAY the following FAST TRACK ARD program costs:
 

Fast Track ARD Administrative Fee .....	\$400.00
Monthly Offender Supervision Fee .....	\$300.00
(If Court ordered: 12 months at \$25.00/month)	
CRN Report .....	\$ 35.00
(Rescheduling—Missed Appointments—CRN .....	\$ 15.00
Court Costs (Approximate) .....	\$400.00
Safe Driving School Costs (Nine week course) .....	\$300.00
Safe Driving School Costs (Five week course) .....	\$150.00

Total Costs (Approximate) ..... \$1,450.00

NO JAIL TERM, IF ACCEPTED FOR THE FAST TRACK  
ACCELERATED REHABILITATIVE DISPOSITION AND  
THE PROGRAM IS COMPLETED SATISFACTORILY.

**ADDENDUM "1"**

**Comparative Time Standards**

<i>Criminal</i>	<i>ABA Standards</i>	<i>National Center Recommendations</i>	<i>Proposed Standards</i>	
<i>Overall:</i>	<i>From Arrest:</i>	<i>From Arrest:</i>	<i>From Complaint: Incarcerated</i>	<i>From Complaint Not Incarcerated</i>
Felony	90% within 120 days 98% within 180 days 100% within 1 year		90% within 150 days 98% within 180 days	90% within 180 days 98% within 240 days
Misdemeanors	90% within 30 days 100% within 90 days		90% within 150 days 98% within 180 days	90% within 180 days 98% within 240 days
Summaries	90% within 30 days 100% within 90 days		90% within 30 days 98% within 90 days	
	Priority for incarcerated defendants			
ARD		Application given at preliminary hearing or waiver thereof	Fast track system for first time DUI	
Summary Appeals			90% within 60 days 98% within 90 days	
Intermediate: Preliminary Arraignments		Within 24 hours of arrest	Within 24 hours of arrest	Within 24 hours of arrest
Preliminary Hearings		3 to 10 days except for good cause shown	98% within 30 days if initiated by arrest	98% within 45 days initiated by summons
Formal Arraignment		Within 3 weeks of preliminary hearing; not less than twice a week; conducted by a non-judge	Within 3 weeks of preliminary hearing; not less than twice a week; conducted by a non-judge	Within 5 weeks preliminary hearing; not less than twice a week; conducted by a non-judge
Information		Not later than 10 days prior to arraignment	Not later than 5 days prior to arraignment	Not later than 5 days prior to arraignment
Delivery of Discoverable Information		Not later than 10 days prior to arraignment	As received	As received
Trials		60-90 days from formal arraignment	Schedule for 60-90 days from formal arraignment	Schedule for 60-120 days from formal arraignment
Post-Verdict Actions:				
Post Verdict Motions		Motions taken orally immediately after trial; ruling within 5 days of argument	Eliminated in favor of optional post-sentence motions	
PSI Report		Use short form	Use short form	

THE COURTS

<i>Criminal</i>	<i>ABA Standards</i>	<i>National</i>	<i>Proposed Standards</i>
Sentencing		Not later than 30 days after verdict	90% within 30 days 98% within 60 days
Post-Sentence Motions			Optional; right to direct appeal on issues preserved at pre-trial and trial.

EXHIBIT "A"

**Criminal Caseflow Management System  
(Effective May 6, 1992)  
Carbon County Criminal Case Flow Chart\***

Arrest or Complaint Filed	Preliminary Hearing	Arraignment Fast Track ARD/DUI Guilty Plea	Pre-Trial Conference	ARDS & Other Pleas (Last Day To Plea)	Jury Selection	Sentencing
Within 30 days if initiated by arrest within 50 days if initiated by summons	Within 40 days from preliminary hearing	Within 30 days from arraignment	2—15 days from pretrial conference	4-32 days from last day to plea	Within 45 days after plea or verdict	
Every Wednesday	Every Wednesday				(If not sentenced at guilty plea or verdict)	
	+30	+70	+100	+110	+142	(182)

\*The County will be divided into a Northern Division and Southern Division for Preliminary Hearings in Misdemeanor and Felony Cases. Four District Justices will conduct Preliminary Hearings in clusters every Wednesday. One District Justice in each division will conduct their Preliminary Hearings commencing at 9:00 A.M. and one District Justice in each Division will conduct their Preliminary Hearings commencing at 1:15 p.m.

N.B. DELIVERY OF DISCOVERABLE INFORMATION—AS RECEIVED

(Rev. June 1, 1997)

EXHIBIT "B"

**CARBON COUNTY  
MAGISTERIAL DISTRICT No.**

Dear Sir:

You have been summoned to appear for a preliminary hearing at \_\_\_\_\_ on \_\_\_\_\_, in the Office of \_\_\_\_\_.

Enclosed please find the following forms:

1. Criminal Complaint and Arrest Warrant Affidavit
2. Notice of Hearing
3. Carbon County Public Defender Guidelines
4. Application for ARD Program (Accelerated Rehabilitation Program) if you are eligible
5. Prior Criminal Record Statement

Examine the enclosed Carbon County Public Defender Guidelines. If you feel you are eligible, call the Public Defender's Office immediately to set up an appointment to fill out an application. The Public Defender's Office is located in the Carbon County Courthouse, Jim Thorpe, Pennsylvania. The telephone number is 570-325-2343.

You should have either obtained an attorney or had a Public Defender assigned to you before your preliminary hearing. This attorney should be present with you at your preliminary hearing.

If this is your first criminal offense, you may be eligible for the ARD program. Enclosed are the ARD guidelines used in Carbon County. If you meet the guidelines, you should fill out the enclosed application for the ARD program and Prior Criminal Record Statement and forward or bring both to the Preliminary Hearing at the District Justice.

Very truly yours,

District Justice

**OFFICE OF THE DISTRICT ATTORNEY  
CARBON COUNTY COURTHOUSE  
P. O. BOX 36  
JIM THORPE, PENNSYLVANIA 18229**

NOTICE

Your case MAY be a proper one for handling under the Accelerated Rehabilitative Disposition Program (A.R.D.)

As you know, you were arrested and charged with a crime. You have the right to a trial and the Commonwealth must prove you are guilty beyond a reasonable doubt. However, you may be helped more by being placed on probation than by being convicted and sentenced to jail, so your case may be chosen for possible inclusion in the Accelerated Rehabilitative Disposition Program. Under this program, instead of being tried, you might be placed on probation immediately. If you stay out of trouble during the period of this program, these charges will be discharged. If you violate the conditions, you will be tried as if you never had been in this program.

If you desire to be considered for the A.R.D. Program, you must complete the enclosed questionnaire and have the same notarized. When completed, it should be returned to the Office of the District Justice at the time of your preliminary hearing.

Be advised that applying for admission into the A.R.D. Program does not relieve you of your obligation to appear before the District Attorney's Office or the Court for all scheduled appearances. Failure to so appear will result in a bench warrant being issued for your arrest.

**YOU SHOULD BE CERTAIN TO CONTACT YOUR LAWYER SO THAT YOU UNDERSTAND WHAT THIS PROGRAM IS AND HOW IT WORKS.**

Very truly yours,

GARY F. DOBIAS  
District Attorney

Enclosure

APPROVED: \_\_\_\_\_  
DISAPPROVED: \_\_\_\_\_  
DATE: \_\_\_\_\_

**OFFICE OF THE DISTRICT ATTORNEY  
CARBON COUNTY COURTHOUSE  
P. O. BOX 36  
JIM THORPE, PENNSYLVANIA 18229  
(570) 325-2718**

COMMONWEALTH OF PENNSYLVANIA

VS.

NO.

**QUESTIONNAIRE TO DETERMINE ELIGIBILITY  
FOR ACCELERATED REHABILITATIVE DISPOSITION**

TO THE DEFENDANT:

The following questions are to be answered truthfully and fully under oath or affirmation and returned to the District Justice's Office to enable the District Attorney to determine your eligibility for consideration for Accelerated Rehabilitative Disposition.

YOU ARE ADVISED THAT ANY FALSE STATEMENT GIVEN IN ANSWER TO ANY QUESTION MADE WITH INTENT TO MISLEAD THE DISTRICT ATTORNEY'S OFFICE IS PUNISHABLE AS A MISDEMEANOR OF THE SECOND DEGREE PUNISHABLE BY A FINE NOT EXCEEDING \$5,000.00 AND IMPRISONMENT NOT EXCEEDING TWO (2) YEARS, OR BOTH.

WRITE CLEARLY AND IN INK

1. State your full name, Social Security Number and Driver's Operating Number.  
\_\_\_\_\_
2. What is your date of birth and current age? \_\_\_\_\_
3. Give your place of birth (city, state, and country). \_\_\_\_\_
4. State any other names by which you are known or by which you have been known, including aliases. \_\_\_\_\_
5. State any nicknames by which you are known. \_\_\_\_\_
6. What is your present address and telephone number? \_\_\_\_\_  
\_\_\_\_\_
7. What is your marital status? \_\_\_\_\_
8. What is the name of your spouse? \_\_\_\_\_
9. Give the names and ages of any children. \_\_\_\_\_  
\_\_\_\_\_
10. Give the names of all persons with whom you live and your relationship with each.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. Give each and every address where you resided during the last five-year period.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. State your educational experience, giving the names of schools you attended and the date of attendance.  
Grade School: \_\_\_\_\_  
High School: \_\_\_\_\_  
College: \_\_\_\_\_  
Other: \_\_\_\_\_
13. State your military status. (Check One)  
 Veteran \_\_\_\_\_ Non-Veteran \_\_\_\_\_  
 If you have been in the military service of the United States, state which branch, the years of service and the type of discharge.  
 Branch: \_\_\_\_\_ Years: \_\_\_\_\_  
 Discharge: Honorable: \_\_\_\_\_ Dishonorable: \_\_\_\_\_  
 Other: \_\_\_\_\_ Explain: \_\_\_\_\_

14. State what occupations or jobs you have held in the last five (5) years:

Employer	Job Description	Years
----------	-----------------	-------

---



---



---

15. What is your present occupation or employment and how long employed?

---

Employer: \_\_\_\_\_

Describe Duties: \_\_\_\_\_

If unemployed, source of income: \_\_\_\_\_

16. What is your present average net income? \_\_\_\_\_

17. What is your ability to pay Court costs? AMT: \_\_\_\_\_

18. Have you been arrested for any Juvenile or Adult criminal offenses?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state the following, using additional sheet if necessary.

Date of Arrest (Month/Year): \_\_\_\_\_

Charge: \_\_\_\_\_

Jurisdiction (City & State): \_\_\_\_\_

Sentence or other Disposition: \_\_\_\_\_

19(a). Have you ever been convicted of DUI or been placed on an A.R.D. Program as a result of a DUI Charge? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state:

Date of Arrest: \_\_\_\_\_

Date of conviction or acceptance in the A.R.D. Program: \_\_\_\_\_

County where this occurred: \_\_\_\_\_

19(b). Have you ever been placed in an A.R.D. Program for a non-DUI offense?

Yes

\_\_\_\_\_ **No** \_\_\_\_\_

If so, state:

Date of Arrest: \_\_\_\_\_

Charge: \_\_\_\_\_

Date of conviction or acceptance in the A.R.D. Program: \_\_\_\_\_

County where this occurred: \_\_\_\_\_

20. Are you presently on parole or probation? \_\_\_\_\_

21. Have you ever been treated for mental illness or hospitalized for mental illness:

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state when, where and period of time.

\_\_\_\_\_

22. Do you have any disease or other disability at the present time?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state the nature thereof: \_\_\_\_\_

\_\_\_\_\_

23. Are you presently dependent upon or addicted to alcohol or drugs?

Yes \_\_\_\_\_ No \_\_\_\_\_

24. Are you presently enrolled in any treatment program for alcohol or drug addiction dependency?

Yes \_\_\_\_\_ No \_\_\_\_\_

THE FOLLOWING QUESTIONS ARE TO BE ANSWERED BY ANY PERSON CHARGED WITH DUI

25. Were you involved in an accident? Yes \_\_\_\_\_ No \_\_\_\_\_

If so:

(a) Do you have insurance? Provide the name of your insurance company.

\_\_\_\_\_

(b) Was any person, other than yourself injured? Yes \_\_\_\_\_ No \_\_\_\_\_

(c) If so, give the name and address of injured party or parties, along with a description of the injuries suffered.

\_\_\_\_\_

(d) Is there any restitution due? If any, approximately how much?

\_\_\_\_\_

26. State any other offenses you were charged with, either under the vehicle code or the crimes code, which arose from this incident.

\_\_\_\_\_

\_\_\_\_\_

27. What was your blood alcohol reading? \_\_\_\_\_

28. WHERE were you drinking? \_\_\_\_\_

How long? \_\_\_\_\_

TO BE COMPLETED BY ALL APPLICANTS

29. State the name, address and telephone number of three reputable citizens, not related to you, who are willing to support your consideration for the Accelerated Rehabilitative Disposition Program:

NAME ADDRESS TELEPHONE NUMBER

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

30. State briefly why you feel you should be given the benefit of placement in the Accelerated Rehabilitative Disposition Program.



I, hereby, swear to (or affirm) the truth of the facts set forth in this application for Accelerated Rehabilitative Disposition, and I fully realize that an intentionally falsification as to any answer or part thereof is a crime punishable by law.

\_\_\_\_\_  
Signature of Applicant

Acknowledgement:

Sworn to (affirm) and subscribe to  
before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2000, A.D.

\_\_\_\_\_  
NOTARY

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
: CARBON COUNTY, PENNSYLVANIA  
VS. :  
: NO.  
:

GUILTY PLEA COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead guilty to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any explanations given to you on this document, say so by putting the word "no" in the blank provided after the questions. If you do understand the questions, you should write in the word "yes". None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant". You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered "yes" or "no". Where general information is asked for, however, please answer fully.

1. What is your full name?

\_\_\_\_\_

2. Are you known by any other name or alias?

\_\_\_\_\_

3. If the answer to Number 2 is "yes" state the other name or aliases.

\_\_\_\_\_

4. What is your date of birth?

\_\_\_\_\_

5. What was the last grade completed in school?

\_\_\_\_\_

6. Can you read, write and understand the English language?

\_\_\_\_\_  
INITIAL

\_\_\_\_\_

7. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness?

\_\_\_\_\_

8. If the answer to Number 7 is "yes", please explain the details.

\_\_\_\_\_

9. Are you currently being treated for a mental illness?

10. If the answer to Number 9 is "yes", explain the details.

\_\_\_\_\_

\_\_\_\_\_

11. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly?  
\_\_\_\_\_
12. Do you understand that you are here today to enter a guilty plea to some or all of the charges against you?  
\_\_\_\_\_
13. Do you understand the nature of the offenses to which you are pleading guilty?  
\_\_\_\_\_
14. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? \_\_\_\_\_
15. Do you admit to committing the offenses to which you are pleading guilty and to the legal elements explained to you making up those offenses?  
\_\_\_\_\_
16. Do you understand that you have a right to a trial by jury?  
\_\_\_\_\_
17. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? \_\_\_\_\_ INITIAL
18. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? \_\_\_\_\_
19. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? \_\_\_\_\_
20. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt?  
\_\_\_\_\_
21. Do you understand that by pleading guilty you are waiving that right of confrontation and cross-examination?  
\_\_\_\_\_
22. Do you realize that by pleading guilty you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? \_\_\_\_\_
23. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading guilty you are giving up this right?  
\_\_\_\_\_
24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? \_\_\_\_\_
25. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? \_\_\_\_\_ INITIAL
26. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? \_\_\_\_\_
27. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading guilty?  
\_\_\_\_\_

- 28. Are you aware of the maximum sentence and/or fine which the Court could impose upon you for each of the offenses to which you are pleading guilty? \_\_\_\_\_
- 29. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading guilty can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading guilty in this case; or (b) any sentence imposed upon you in any other case? \_\_\_\_\_
- 30. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? \_\_\_\_\_
- 31. Do you understand that the aggregate maximum sentence you could receive if you are pleading guilty to multiple offenses is the total of all maximum sentences for all the offenses added together? \_\_\_\_\_
- 32. Do you understand that you have a right to have witnesses present at your guilty plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? \_\_\_\_\_

\_\_\_\_\_  
INITIAL

- 33. After you enter your guilty plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a guilty plea is limited, however, to four grounds. They are:
  - (a) that your guilty plea was not knowing, intelligent and voluntary;
  - (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading guilty did not occur in Carbon County);
  - (c) that the Court's sentence is beyond the maximum penalty authorized by law; and
  - (d) that your attorney was incompetent in representing you and advising you to enter a plea of guilty

Do you understand these four areas of appeal and what they mean? \_\_\_\_\_

In order to appeal your conviction by a plea of guilty, you must within ten (10) days file a written motion to withdraw your guilty plea and state any of the four above grounds as the basis for your petition to withdraw your guilty plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your guilty plea, was incompetent, you have the right to have other counsel appointed for you to raise those four claims. If your petition to withdraw your guilty plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your guilty plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

Do you understand the meaning of the various appeal rights that have just been explained to you? \_\_\_\_\_

- 34. Has anybody forced you to enter this plea of guilty? \_\_\_\_\_

\_\_\_\_\_  
INITIAL

- 35. Are you doing this of your own free will? \_\_\_\_\_

- 36. Have any threats been made to you to enter a plea of guilty? \_\_\_\_\_

- 37. Have any promises been made to you to enter a plea of guilty other than any plea agreement that has been negotiated for you by your attorney? \_\_\_\_\_

- 38. Do you understand that the decision to enter a guilty plea is yours and yours alone; that you do not have to enter a plea of guilty and give up all your rights, as previously explained to you and that no one can force you to enter a guilty plea? \_\_\_\_\_

- 39. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation?  
\_\_\_\_\_ (if applicable)
- 40. Are you presently on probation or parole? \_\_\_\_\_
- 41. If you are on probation or parole, do you realize that your plea of guilt will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your guilty plea today?  
\_\_\_\_\_
- 42. Are you satisfied with the representation of your attorney?  
\_\_\_\_\_
- 43. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of guilty?  
\_\_\_\_\_
- 44. Has your attorney gone over with you the meaning of the terms in this document? \_\_\_\_\_ INITIAL

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

\_\_\_\_\_  
Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands that is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

\_\_\_\_\_  
Attorney for the Defendant

\_\_\_\_\_  
INITIAL

**CARBON COUNTY PUBLIC DEFENDER GUIDELINES**

The following financial guidelines established by the Public Defender's Office of Carbon County is to be used in determining eligibility for free legal counsel.

An individual may apply for free legal counsel in the following situations:

- criminal charges; misdemeanor and felony.
- summary cases only when there is a likelihood that the court will impose imprisonment.
- parole/probation violation. (individual must reapply)

The following applicants are presumed to be indigent and eligible for free legal representation:

- any individual presently detained in a correctional and state hospital facility who do not have asset(s) and is unable to pay for private counsel.
- any individual whose GROSS income is below the maximum income level.
  - A. In determining the GROSS income of the applicant, criteria to be considered but not limited to the following will include:
    1. All income coming into the home: Unemployment, worker's compensation, social security, pensions, stocks, bonds, interest earned, inheritances, rents received, lawsuits, etc. Assets: house(s), property, car(s), etc. We will require proof.
    2. If the applicant is married and living with a spouse, both incomes will be considered. Dependant(s) are child(ren) 18 years and younger living with natural parents or are legally adopted. Proof is required. Single parents who claim child(ren) as dependant(s), must be paying support by Court Order or have child(ren) living with him/her. Proof of Court Ordered support is required.

<i>Family</i>	<i>Yearly</i>	<i>Monthly</i>	<i>Weekly</i>
1	\$ 8,275	\$ 690	\$172
2	11,100	925	230
3	13,925	1,160	290
4	16,750	1,396	349
5	19,575	1,631	407
6	22,400	1,867	466
7	25,225	2,102	525
8	28,050	2,338	584
each additional	2,825	235	54

If you feel you are eligible, call the Public Defender's Office to set up an appointment to fill out an application. This must be done in person. You must apply at least five (5) days BEFORE your hearing. Please bring with you all paperwork you have received to date and any copies of proof of any and all income as stated above. The phone number is (570) 325-2343. The Public Defender hours are Monday - Friday, 8:30 a.m. to 4:30 p.m. Except holidays. We do not accept applications after 4:00 p.m., since it takes approximately 20 minutes to fill out the application. WE DO NOT ACCEPT ANY COLLECT CALLS.

DO NOT have alcohol on your breath or look to be under the influence of any substances or you will be asked to return at another date to complete the application. We are not responsible for any delays if you do not call for an appointment or you are asked to come back because you appear to be under the influence of a substance, or have not brought the required copies of any and all proof mentioned above.

Remember: Statements made on the application for a Public Defender must be true and correct. Any false statements that are made are subject to penalties of 18 Pa.C.S., Section § 4904, relating to unsworn falsification to authorities.

**EXHIBIT "C"**

**Appendix for Exhibits**

<i>Exhibit:</i>	<i>Description:</i>
1.	Prior Record Form
2.	Written Guilty Plea Agreement Form
3.	ARD Agreement Form
4.	Criminal Case Scheduling Form
5.	Waiver of Common Pleas Arraignment Form
6.	CRN Notice Form

**56TH JUDICIAL DISTRICT—CARBON COUNTY  
PRIOR CRIMINAL RECORD STATEMENT**

DEFENDANT'S NAME: \_\_\_\_\_

OTN #: \_\_\_\_\_

DEFENSE COUNSEL: \_\_\_\_\_ DA: \_\_\_\_\_

Representations regarding prior record:

I, \_\_\_\_\_, defendant, represent that my prior criminal record, including prior ARDs, is set forth here in full, to the best of my memory. I understand that if this listing is in error, the parties will not be bound by the agreement. I also understand that an intentional false statement by me on this document could result in a separate criminal prosecution.

Charge (include all arrests)	Disposition	Approximate Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
(Defendant/Date)

\_\_\_\_\_  
(Defense Counsel/Date)

\_\_\_\_\_  
(DA assigned to case/date)

**EXHIBIT "1"**

THE COURTS

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs

:  
: CASE NO.  
:  
: 180 DAYS: \_\_\_\_\_

STIPULATION

CHARGES FOR TRIAL, GUILTY PLEA OR ARD

COUNT # 1 \_\_\_\_\_  
COUNT # 2 \_\_\_\_\_  
COUNT # 3 \_\_\_\_\_  
COUNT # 4 \_\_\_\_\_  
COUNT # 5 \_\_\_\_\_  
COUNT # 6 \_\_\_\_\_

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the following stipulation is entered into between the Commonwealth and the Defendant in connection with the above charges: (check one)

\_\_\_\_\_ TRIAL BY JURY \_\_\_\_\_ NON-JURY TRIAL \_\_\_\_\_ GUILTY PLEA \_\_\_\_\_ ARD

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for the Defendant

\_\_\_\_\_  
D. A. or Assistant D. A.

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2000, it is hereby ORDERED and DECREED that the Defendant shall appear in Court Room #1/2, Carbon County Courthouse, Jim Thorpe, Pennsylvania, on the \_\_\_\_\_ day of \_\_\_\_\_, 2000 at \_\_\_\_\_ .M. prevailing time or on further order of the Court, for \_\_\_\_\_ .

BY THE COURT

\_\_\_\_\_  
P.J.

EXHIBIT "2"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

:

CASE ID NO. \_\_\_\_\_

vs.

:

O.T.N. NO. \_\_\_\_\_

:

\_\_\_\_\_  
Defendant

EXPLANATION OF ACCELERATED REHABILITATION PROGRAM (A.R.D.)  
and  
WAIVER OF RIGHTS FORM

1. I understand that I have been charged with a crime and that I have a right to go to trial on that charge. I am presumed innocent of this charge and the prosecution must prove my guilty beyond a reasonable doubt.
2. Notwithstanding my right to go to trial, I ask to be placed in the Carbon County A.R.D. Program and I CERTIFY THAT I HAVE NOT PREVIOUSLY BEEN IN SUCH A PROGRAM IN THIS OR ANY OTHER JURISDICTION.
3. I understand the District Attorney will consider any prior criminal conviction I may have.
  - (a) I understand the District Attorney will consider a victim's input on my request for A.R.D.
4. I am aware that I will be in the A.R.D. program for up to a period of twelve (12) months, and that the special terms and condition of the program are as follows:
  - (a) I will pay the costs of the prosecution of the charges filed against me.
  - (b) I may have to receive an alcohol and/or drug evaluation or a mental health evaluation and follow through with any recommended treatment and pay the costs thereof.
  - (c) I will complete any community service hours as may be ordered by the Court.
  - (d) If I caused any property damage or personal injury to anyone and do not have insurance to pay for such damage or personal injury, I will make restitution to the victim of the amount of such damage or personal injury.
  - (e) I will abide by the general rules and regulations applicable to all persons on A.R.D.
  - (f) I understand that as a special incentive if all of the above special conditions are met and paid in full within six (6) months, that my participation in the A.R.D. Program can be concluded at that time.
5. I understand that the charges which have been filed against me will not be further prosecuted while I am in the A.R.D. Program, but if I fail to complete the program satisfactorily, I will be removed from the program and the charges filed against me will then be prosecuted according to law as if I had never been in the A.R.D. Program.
6. I understand that if I successfully complete the A.R.D. Program, the charges which have been filed against me will be dismissed.
7. I understand that I can reject this offer of A.R.D. and demand that my case be brought to trial instead and that neither rejection of A.R.D. nor any statement I make in these A.R.D. proceedings can be used against me at trial.
8. I understand that by participating in the A.R.D. Program I waive (give up) the following rights:
  - (a) My right to a preliminary hearing.
  - (b) My right to a formal Court arraignment.
  - (c) The right to have my case tried before a jury within three hundred and sixty-five (365) days from the date the charges were filed against me and dismissed if not tried within 365 days.
  - (d) The applicable statute of limitations within which prosecution must be commenced on the charges against me.
9. Time spent in processing the application for A.R.D. will be excluded in computing the 365 days under Rule 600.
10. I understand that if my case is removed from the A.R.D. program and sent back for trial, the District Attorney will then have one hundred and twenty (120) days within which to bring me to trial.  
I have read the above and fully understand it.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Defendant

As attorney for the above-named Defendant, I certify that I have fully discussed and reviewed the foregoing explanation and waiver of right to the Defendant and I believe he/she understand them.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
Attorney for Defendant

I agree that this case is suitable for inclusion in the A.R.D. Program, and I move that the Defendant be placed on A.R.D.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
(Assistant) District Attorney

EXHIBIT "3"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :  
 :  
 vs. : O.T.N. NO. \_\_\_\_\_  
 :  
 Defendant : S. D.No. \_\_\_\_\_, 20  
 :

CRIMINAL CASE SCHEDULING INFORMATION

Defense Counsel: \_\_\_\_\_ Asst. District Atty. \_\_\_\_\_  
Entry of Appearance Signed? \_\_\_\_\_ Master Charge: \_\_\_\_\_  
Is defendant in jail? \_\_\_\_\_ Date Complaint Filed: \_\_\_\_\_  
Waiver of Arraignment signed? \_\_\_\_\_ Date of Preliminary Hearing: \_\_\_\_\_

IMPORTANT NOTICE

You and your attorney are required to appear for the following proceedings. These dates may not be changed without Leave of Court.

- 1. Arraignment (if not waived): \_\_\_\_\_ 9:00 A.M.  
Prevailing time, Courtroom Two, Courthouse, Jim Thorpe, PA 18229
- 2. Pre-trial Conference: \_\_\_\_\_ 9:00 A.M.  
Prevailing time, District Atty. Office, Courthouse, Jim Thorpe, PA 18229
- 3. Last Day to Plea-Plea Day: \_\_\_\_\_ 1:00 P.M.  
Prevailing time, Courtroom One, Courthouse, Jim Thorpe, PA 18229
- 4. Jury Selection: \_\_\_\_\_ 9:00 A.M.  
Prevailing time, Courtroom One, Courthouse, Jim Thorpe, PA 18229

\*\*\*FAILURE TO APPEAR MAY RESULT IN A FORFEITURE OF YOUR BAIL BOND AND THE ISSUANCE OF A BENCH WARRANT FOR YOUR ARREST\*\*\*



The undersigned defendant and defense counsel hereby acknowledge receipt of a copy of this notice.

Date: \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Defendant's Counsel

\_\_\_\_\_  
District Justice

**EXHIBIT "4"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

VS.

D. J. ID # \_\_\_\_\_

O.T.N. # \_\_\_\_\_

C.P. ID # \_\_\_\_\_

**WAIVER OF ARRAIGNMENT**

I, the undersigned attorney for the Defendant, do hereby waive the arraignment provided for in PA. Rule of Criminal Procedure No. 571 which is scheduled to be held in this case on \_\_\_\_\_.

I, the undersigned Defendant, understand that:

1. The information containing the charges against me will be filed in the Office of the Clerk of Courts and a copy will be mailed to my attorney and to me.  
\_\_\_\_\_ (Defendant's initials)
2. Any discovery must be concluded 14 days after the scheduled arraignment date.  
\_\_\_\_\_ (Defendant's initials)
3. I must file a Bill of Particulars in writing within 7 days after the scheduled arraignment date. (Defendant's initials)
4. If I intend to offer the defense of alibi, insanity or mental infirmity, I must notify the attorney for the Commonwealth in writing within 30 days after the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
5. I must file all pre-trial motions for relief on or before 30 days from the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
6. If I fail to file any motions for discovery or pre-trial relief within the prescribed time limits, it shall be considered a waiver of the rights to file such motions.  
\_\_\_\_\_ (Defendant's initials)
7. I must give the Court notice prior to stated jury selection date if I desire to have my case tried before a Judge without a jury.  
\_\_\_\_\_ (Defendant's initials)

Date: \_\_\_\_\_

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Attorney for Defendant

**EXHIBIT "5"**

ALCOHOL HIGHWAY SAFETY PROGRAM  
CARBON MONROE PIKE  
DRUG & ALCOHOL COMMISSION, INC.

PROCEDURES FOR CRN EVALUATIONS

1. The CRN or Court Reporting Network evaluation is a computer-supported information system which provides the Courts with a detailed personality and alcohol intake profile of a person charged with Driving Under the Influence.
2. The Court must have in their possession, prior to your sentencing or acceptance into the ARD program, the completed CRN evaluation. It is important that you keep the scheduled appointment given to you to avoid any delays in your case.
3. Please have the following information with you at the time of your evaluation:
  - Time and date of arrest
  - Driver's license number
  - Blood Alcohol Concentration Level
4. The cost of the CRN evaluation is \$35. Payment in full is required at the time of the evaluation. Failure to appear, bringing the \$35 fee and/or the above-requested information, will result in the re-scheduling of your appointment. A \$15 rescheduling fee will be assessed for missed appointments.

PLEASE MAKE CHECK OR MONEY ORDER PAYABLE TO:  
Carbon-Monroe-Pike Drug & Alcohol Commission, Inc.

\_\_\_\_\_  
Date of Appointment

\_\_\_\_\_  
Time

\_\_\_\_\_  
AHSP Program Director

CARBON OFFICE  
128 S. First Street  
Lehighton, PA 18235  
(610) 377-5177  
Fax: (610) 377-5099

ADMN./MONROE OFFICES  
14 N. Sixth Street  
Stroudsburg, PA 18360  
(570) 421-1960  
Fax: (570) 421-3548

PIKE OFFICE  
SR # 1 Box 493  
Milford, PA  
(570) 296-7255  
Fax: (570) 296-6375

**EXHIBIT "6"**

[Pa.B. Doc. No. 01-395. Filed for public inspection March 9, 2001, 9:00 a.m.]

**MONTGOMERY COUNTY**

**Local Rule of Civil Procedure Rule 3129.2(b)(1)\*—  
Notice of Sale, Handbills, Written Notice, Publi-  
cation; No. 01-00001**

**Order**

*And Now*, this 12th day of February, 2001, the Court approves and adopts the following Montgomery County Local Rule of Civil Procedure, Rule 3129.2(b)(1)\*—Notice of Sale, Handbills, Written Notice, Publication. This Rule shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1)

certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

*By the Court*

JOSEPH A. SMYTH,  
*President Judge*

**Rule 3129.2(b)(1)\*—Notice of Sale, Handbills, Writ-  
ten Notice, Publication.**

With respect to handbills, and legal publication, the "brief description" of the property required by Pa.R.C.P. 3129.2(b)(1) shall consist of the street address, parcel identification number, and a copy of the legal description of the property.

[Pa.B. Doc. No. 01-396. Filed for public inspection March 9, 2001, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated February 26, 2001, Gerard Emmett Evans has been Disbarred on Consent from the Bar of this Commonwealth, to be effective March 28, 2001. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 01-397. Filed for public inspection March 9, 2001, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that Andrea Yvette Prince, having been indefinitely suspended from the practice of law before naval tribunals and also having been indefinitely suspended from providing individual legal assistance in the Department of the Navy by Order of the Judge Advocate General of the Navy, the Supreme Court of Pennsylvania issued an Order dated February 20,

2001, suspending Andrea Yvette Prince indefinitely from the practice of law in this Commonwealth. In accordance with Rule 217(f) of the Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 01-398. Filed for public inspection March 9, 2001, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that on February 26, 2001, pursuant to Rule 214(d)(1) of the Pa.R.D.E., Kevin Mark Sabo was placed on temporary suspension by the Supreme Court until further Order of the Court. In accordance with Rule 217(f), Pa.R.D.E., since this attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 01-399. Filed for public inspection March 9, 2001, 9:00 a.m.]