

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE CH. ART. IV]

Inadmissibility of Pleas, Plea Discussions and Related Statements

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania amend Rule of Evidence 410 and approve the revision of the Comment to Rule of Evidence 410.

The Committee proposes this amendment and Comment revision to Rule 410 to provide that the rule applies only to criminal cases except for impeachment of credibility in any proceeding.

The proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report. Additions are shown in bold and deletions are in bold and brackets.

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

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road, Suite 800
Mechanicsburg, PA 17055

no later than June 30, 2003

By the Committee on Rules of Evidence

CHARLES B. GIBBONS,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 410. Inadmissibility of Pleas, Plea Discussions and Related Statements.

(a) *General rule.* Except as otherwise provided in this rule, evidence of the following is not, in any [**civil or**] criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

* * * * *

(3) any statement made in the course of any proceedings under Rules 409, 414, 424, 311, 313, or 590 of the Pennsylvania Rules of Criminal Procedure, Fed.R.Crim.P. 11, or any comparable rule or provision of law of Pennsylvania or any other jurisdiction regarding the pleas identified in subsections (a)(1) and (a)(2) of this rule; or

* * * * *

(b) [*Exception*] *Exceptions.* [A statement made in the course of a plea, proceedings or discussions] This rule does not require the exclusion of a statement identified in subsection (a) [of this rule is admissible]:

(1) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced [**by the defendant**] and the statement ought in fairness to be considered contemporaneously with it [,] ; or

(2) in a criminal proceeding for perjury, false swearing or unsworn falsification to authorities if the statement was made by the defendant, under oath [, **and in the presence of counsel.**] ; or

(3) **in any proceeding if offered for the purpose of impeaching credibility.**

Comment

[This rule is similar to F.R.E. 410. References to Rules 409, 414, 424, 311, 313, and 590 of the Pennsylvania Rules of Criminal Procedure and the comparable rules or other provisions of Pennsylvania or other jurisdictions have been added. Unlike the federal rule, subsection (b) of the Pennsylvania rule is set forth separately to indicate that it creates an exception applicable to all of subsection (a).]

Pa.R.E. 410 reflects present Pennsylvania law. See *Commonwealth v. Jones*, 544 A.2d 54 (1988); *Commonwealth ex rel. Warner v. Warner*, 40 A.2d 886 (Pa. Super. 1945); Pa.R.Crim.P. 311(B), 313(B).

Pa.R.E. 410 does not prohibit the use of a conviction that results from a plea of nolo contendere, as distinct from the plea itself, to impeach in a later proceeding (subject to Pa.R.E. 609) or to establish an element of a charge in a later administrative proceeding. See *Commonwealth v. Snyder*, 182 A.2d 495 (1962) (conviction based on nolo contendere plea could be used to impeach witness in later criminal proceeding); *Eisenberg v. Commonwealth, Dep't. of Public Welfare*, 516 A.2d 333 (Pa. 1986) (conviction based on nolo contendere plea permitted to establish element of charge in administrative proceeding).

In addition, Pa.R.E. 410 does not govern the admissibility of pleas in summary proceedings involving motor vehicle matters, which is addressed in 42 Pa.C.S. § 6142. § 6142 provides:

§ 6142. *Pleas in vehicle matters*]

This rule differs considerably from F.R.E. 410.

Pa.R.E. 410(a) sets forth the basic rule of exclusion. It is similar to the first sentence of F.R.E. 410, except that the Pennsylvania rule applies only in criminal cases. Citations of applicable Pennsylvania Rules of Criminal Procedure have been added.

The reason for making evidence of plea discussions and related statements inadmissible, despite its relevance, is to encourage plea bargaining in criminal cases. This is necessary to keep the criminal dockets manageable in many counties. Pa.R.E. 410 complements Pa.R.E. 408, which makes evidence of conduct or statements made in compro-

mise negotiations inadmissible, despite its relevance, in order to encourage the settlement of civil disputes.

Pa.R.E. 410(a) does not preclude introduction of evidence of a conviction, as distinguished from a plea. For example, a conviction that is based on a plea of *nolo contendere* may be introduced to impeach the credibility of the person convicted, if the crime involved dishonesty or false statement. See Pa.R.E. 609.

Pa.R.E. 410(b) sets forth three exceptions to the rule of inadmissibility. The first exception is contained in the federal rule. The second exception expands one that is contained in the federal rule. The third exception is not found in the federal rule.

Exception (1) is similar to the federal rule. It is based on concepts of equity and completeness. If a party opens the door by introducing one or more statements that were made during the course of plea bargaining, it is only fair to permit other statements to be introduced to rebut them, or place them in proper context. This exception is consistent with, but broader than, Pa.R.E. 106, which applies only to written and recorded statements.

Exception (2) is broader than the federal rule in that it does not require that a defendant's statement under oath be made in the presence of counsel in order to be admitted in a prosecution for perjury, false swearing, or unsworn falsification to authorities. Under Pennsylvania law, perjury is subject to punishment, whether or not a lawyer is present.

Exception (3) allows a defendant's statement, whether or not under oath, to be offered to impeach credibility, if the defendant testifies inconsistently in subsequent litigation, civil or criminal. The reason for this exception is to discourage the commission of perjury. Although this exception is not contained in the federal rule, the federal courts will enforce an agreement between the prosecution and the defendant to allow any statement that the defendant makes in the plea bargaining process to be used thereafter to impeach the defendant's credibility. See *U.S. v. Mezzanatto*, 513 U.S. 196, 115 S.Ct. 797, 130 L.Ed.2d 697 (1995).

A plea of guilty or *nolo contendere* to a summary offense under The Vehicle Code is made inadmissible in civil cases by statute. 42 Pa.C.S. § 6142 provides:

Pleas in vehicle matters

* * * * *

REPORT

Proposed Amendment to Rule 410 and revision of Comment

The Committee is proposing an amendment to Rule 410 and comment revision (Inadmissibility of Pleas, Plea Discussions, and Related Statements).

I. Introduction

As part of the continuous monitoring of the Rules of Evidence, the Committee became concerned that a party in any action could testify at odds with testimony in a plea bargain and could not be impeached. Addressing that concern, the Committee is proposing that Rule 410 be amended as follows:

1. The first sentence under (a) be changed to omit the words "civil or."

2. The first sentence in (b) is changed to make clear that the Rule deals with exclusion rather than admissibility of evidence.

3. The words "by the defendant" are deleted from (b)(1).

4. The words "and in the presence of counsel" are deleted from (b)(2).

5. A new paragraph (3) is added to 410(b) dealing with impeachment.

II. Discussion

The introductory language in (a) is changed to omit the reference to civil actions. Rule 410 thus applies to criminal cases only except as to impeachment under (b)(3).

The lead in language of Rule 410(b) is changed to be consistent with Rules 403 through 412, all rules of exclusion. Exception (i) has the words "by the defendant" deleted. It should make no difference whether the plea bargain statement is introduced by the defendant or some other party.

Exception (2) has the words "and in the presence of counsel" deleted. Perjury is punishable whether or not committed in front of a lawyer.

Exception (3) is added to discourage perjury so that the statement can be offered to impeach credibility in any proceeding, civil or criminal.

The Comment is completely revised so as to reflect the amendments and to describe the reasoning behind the amendments.

[Pa.B. Doc. No. 03-913. Filed for public inspection May 16, 2003, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 1000]

Amendment of Rules 205.1, 236, 1012 and 1025; No. 388 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 29th day of April, 2003, Rules 205.1, 236(a)(2) note, 1012 and 1025 of the Pennsylvania Rules of Civil Procedure are amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 1, 2003.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.1. Filing Legal Papers. Mailing. Personal Presentation by Attorney Not Necessary.

Any legal paper not requiring the signature of, or action by, a judge prior to filing may be delivered or

mailed to the prothonotary, sheriff or other appropriate officer accompanied by the filing fee, if any. Neither the party nor the party's attorney need appear personally and present such paper to the officer. The signature of an attorney on a paper constitutes a certification of authorization to file it. The endorsement of an address [**within the Commonwealth**] where papers may be served in the manner provided by Rule 440(a) shall constitute a sufficient registration of address. The notation on the paper of the attorney's current [**certificate**] **Supreme Court identification** number issued by the Court Administrator of Pennsylvania shall constitute proof of the right to practice in the [**county**] **Commonwealth**. A paper sent by mail shall not be deemed filed until received by the appropriate officer.

Official Note: The address endorsed on the legal paper must be one where the paper may be handed to or mailed to the attorney. See Rule 440(a)(1).

The filing of legal documents prepared on recycled paper of good quality is encouraged.

Rule 236. Notice by Prothonotary of Entry of Order, Decree or Judgment.

(a) The prothonotary shall immediately give written notice of the entry of

* * * * *

(2) any other order, decree or judgment to each party's attorney of record or, if unrepresented, to each party. The notice shall include a copy of the order, decree or judgment.

Official Note: See Rules 1012 and 1025 as to the requirement of an address [**within the Commonwealth**] on an appearance and a pleading.

* * * * *

CHAPTER 1000. ACTIONS AT LAW

Subchapter A. CIVIL ACTION

VENUE AND PROCESS

Rule 1012. Entry of Appearance. Withdrawal of Appearance. Notice.

(a) A party may enter a written appearance which shall state an address [**within the Commonwealth**] at which **pleadings and other legal papers** may be served in the manner provided by Rule 440(a)(1) and a telephone number. The appearance may also include a telephone facsimile number as provided in Rule 440(d). Such appearance shall not constitute a waiver of the right to raise any defense including questions of jurisdiction or venue. Written notice of entry of an appearance shall be given forthwith to all parties.

Official Note: Entry of a written appearance is not mandatory.

The address endorsed on the entry of appearance must be one where the paper may be handed to or mailed to the attorney. See Rule 440(a)(1).

The inclusion of a telephone number for facsimile transmission constitutes an agreement to accept service of pleadings or other legal papers by that means. See Rule 440(d).

[(b) An attorney's appearance for a party may not be withdrawn without leave of court unless another attorney has entered or simultaneously

enters an appearance for the party and the change of attorneys does not delay any stage of the litigation.]

(b)(1) Except as provided in paragraph (2), an attorney may not withdraw his or her appearance without leave of court.

(2) An attorney may withdraw his or her appearance without leave of court if another attorney (i) has previously entered or (ii) is simultaneously entering an appearance on behalf of the party, and the change of attorneys does not delay any stage of the litigation.

(c) Leave of court to withdraw an appearance shall be sought by petition pursuant to subdivision (d) or subdivision (e) as may be applicable.

Official Note: Copies of the petition shall be served upon all other parties to the action pursuant to Rule 440.

(d)(1) If the whereabouts of the party on whose behalf the appearance was entered are known, the attorney shall

(i) set forth the address of that party in the petition,

(ii) serve notice of the petition on the party in the manner provided by Rule 440,

(iii) file a certificate of service of the notice with the petition, and

(iv) immediately notify the party by ordinary mail of the entry of an order granting leave to withdraw. The notice shall include a copy of the order.

(2) Other parties may use the address of the party set forth in the petition for the purpose of further proceedings in the action.

(e)(1) If the whereabouts of the party on whose behalf the appearance was entered are unknown, the attorney shall

(i) set forth the last known address of that party in the petition,

(ii) serve notice of the petition on the party by mail to the last known address set forth in the petition,

(iii) file a certificate of service of the notice with the petition. The certificate shall set forth with particularity the efforts made to locate the party and to effect service of the notice, and

(iv) shall immediately notify the party by ordinary mail to the last known address or by such other means as the court may direct of the entry of an order granting leave to withdraw. The notice shall include a copy of the order.

(2) Other parties may use the last known address of the party for the purpose of further proceedings in the action.

(f)(1) The entry of appearance under subdivision (a) shall be substantially in the following form:

Caption
Praeceptum for Entry of Appearance
To the Prothonotary:

Enter my appearance on behalf of

(Plaintiff/Defendant/Additional Defendant)

Papers may be served at the address set forth below.

Attorney for Party Named Above and Identification Number

Firm

Address

City, State, Zip Code

Telephone Number

Fax Number for Service of Papers (Optional)

Date: Signature

(2) A praecipe for withdrawal of appearance without leave of court pursuant to subdivision (b)(2)(i) shall be substantially in the following form:

Praecipe for Withdrawal of Appearance Without Leave of Court (Rule 1012(b)(2)(i))

To the Prothonotary:

Withdraw my appearance on behalf of

(Plaintiff/Defendant/Additional Defendant)

has entered his/her appearance for the aforementioned party.

I hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Date: Signature

(3) The substitution of counsel under subdivision (b)(2)(ii) shall be substantially in the following form:

Caption

Substitution of Counsel Without Leave of Court (Rule 1012(b)(2)(ii))

Praecipe for Entry of Appearance

To the Prothonotary:

Enter my appearance on behalf of

(Plaintiff/Defendant/Additional Defendant)

I hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Papers may be served at the address set forth below.

Attorney for Party Named Above and Identification Number

Firm

Address

City, State, Zip Code

Telephone Number

Fax Number for Service of Papers (Optional)

Date: Signature

Praecipe for Withdrawal of Appearance To the Prothonotary:

Withdraw my appearance on behalf of

(Plaintiff/Defendant/Additional Defendant)

PLEADINGS

Rule 1025. Endorsement.

Every pleading or other legal paper of a party represented by an attorney shall be endorsed with the name of the attorney, and every pleading or other legal paper of a party not represented by an attorney shall be endorsed with the name of the party, together in each case with an address [within the Commonwealth] where pleadings and other legal papers may be served in the manner provided by Rule 440(a) and a telephone number. The appearance may state a telephone facsimile number.

Official Note: The address endorsed on the legal paper must be one where the paper may be handed to or mailed to the attorney or party. See Rule 440(a).

The inclusion of a telephone number for facsimile transmission on an appearance or prior legal paper is an agreement to accept service of pleadings or other legal papers by that means. See Rule 440(d)(1).

EXPLANATORY COMMENT

I. Address within the Commonwealth

Three rules previously required pleadings and other legal papers to include an address within the Commonwealth where papers may be served upon a party or the party's attorney: Rule 205.1 governing the filing of legal papers by mail, Rule 1012(a) governing the entry of appearance and Rule 1025 governing the endorsement of pleadings and other legal papers. In addition, the note to Rule 236(a)(2) contained a cross-reference to this requirement in Rules 1012 and 1025. The requirement of "an address within the Commonwealth" which dates from the promulgation of Rules 1012 and 1025 in 1946 has become obsolete in view of modern transportation and communication.

The former requirement is replaced by "an address where papers may be served in the manner provided by Rule 440(a)." This language establishes the requisites for the address where papers may be served upon the attorney or party entering his or her appearance or filing another legal paper. By cross-referencing Rule 440(a), the address must be one where legal papers may be handed to or mailed to the attorney or party. The new language

achieves a consistency between the rules governing the filing and service of legal papers. The amended rules require the inclusion of a telephone number; however, a facsimile transmission number is optional.

II. Entry of Appearance

Rule 1012 governs entry and withdrawal of appearance. The revisions to subdivision (a) were described above.

New subdivision (b) consisting of two paragraphs has been substituted in place of the former provision. The new subdivision represents a change in the format of the rule rather than a change in procedure. Subdivision (b)(1) states the general rule that, except as provided by subdivision (b)(2), an attorney may not withdraw his or her appearance without leave of court. New subdivision (b)(2) sets forth the two instances when leave of court is not required for an attorney to withdraw an appearance: (1) another attorney has previously entered an appearance for the party or (2) another attorney simultaneously enters an appearance for the party. The change of attorneys without leave of court in both of these instances is conditioned on the requirement that the change not delay the litigation.

New subdivisions (c), (d) and (e) contain the procedural requirements for withdrawal of appearance when leave of court must be obtained. Subdivision (c) requires that leave of court be sought by petition. The proceedings will then follow subdivision (d) if the whereabouts of the party are known and subdivision (e) if the whereabouts of the party are not known. These provisions emphasize the need to notify the represented party of the proposed withdrawal of appearance by the attorney. When leave has been granted an attorney to withdraw his or her appearance, subdivisions (d)(2) and (e)(2) authorize other parties to use the address of the party set forth in the petition or the last known address, as may be appropriate, for further proceedings in the action.

New subdivision (f) provides three forms. The first form set forth in Subdivision (f)(1) is an entry of appearance. The other two forms are withdrawals of appearance to be used when leave of court is not required. Subdivision (f)(2) contains the form for withdrawal of appearance when the new attorney has already entered an appearance on behalf of the party. Subdivision (f)(3) contains the form for substitution of counsel when appearances are being simultaneously withdrawn and entered.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 03-914. Filed for public inspection May 16, 2003, 9:00 a.m.]

[231 PA. CODE CH. 1300]

Promulgation of New Rule 1311.1 Governing Procedure on Appeal from Compulsory Arbitration; No. 389 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 30th day of April, 2003, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rule 1311 is amended to read as follows.
2. New Rule 1311.1 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 1, 2003.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1300. COMPULSORY ARBITRATION

Subchapter A. RULES

Rule 1311. Procedure on Appeal. **Generally.**

(a) The trial shall be de novo.

Official Note: [The] Except as otherwise provided by Rule 1311.1, the provisions of Rule 1305 governing conduct of hearing shall not apply on appeal.

* * * * *

Rule 1311.1. Procedure on Appeal. Admission of Documentary Evidence.

(a) The plaintiff may stipulate to \$15,000.00 as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators. The stipulation shall be filed and served upon every other party at least thirty days from the date the appeal is first listed for trial.

(b) If the plaintiff has filed and served a stipulation as provided in subdivision (a), any party may offer at trial the documents set forth in Rule 1305(b)(1). The documents offered shall be admitted if the party offering them has provided written notice to every other party of the intention to offer the documents at trial at least twenty days from the date the appeal is first listed for trial. The written notice shall be accompanied by a copy of each document to be offered.

Official Note: The deadline for providing notice of the intention to use the procedures of this subdivision may be altered by the court upon cause shown, provided that no party is prejudiced.

The term "plaintiff" includes a defendant who is the plaintiff in a counterclaim.

(c) A document which is received into evidence under subdivision (b) may be used for only those purposes which would be permissible if the person whose testimony is waived by this rule were present and testifying at the hearing. The court shall disregard any portion of a document so received that would be inadmissible if the person whose testimony is waived by this rule were testifying in person.

(d) Any other party may subpoena the person whose testimony is waived by this rule to appear at or serve upon a party a notice to attend the trial and any adverse party may cross-examine the person as to the document as if the person were a witness for the party offering the document. The party issuing the subpoena shall pay the reasonable fees and costs of the person subpoenaed to testify, including a reasonable expert witness fee if applicable.

(e) The stipulation required by subdivision (a) shall be substantially in the following form:

(Caption)

Stipulation to Limitation of Monetary Recovery Pursuant to Rule 1311.1

To: _____
(Name of Party/Parties)

_____, plaintiff, stipulates to \$15,000.00 as the maximum amount of damages recoverable upon the trial of the appeal from the award of arbitrators in the above captioned action.

(Name of Plaintiff)

(Attorney for Plaintiff)

Date

Official Note: The term "plaintiff" includes a defendant who is the plaintiff in a counterclaim.

A plaintiff may include in a single document the stipulation and the notice of intent to offer documents.

(f) The notice required by subdivision (b) shall be substantially in the following form:

(Caption)

**Notice of
Intent to Offer Documentary Evidence
Pursuant to Rule 1311.1**

To: _____
(Name of Party/Parties)

_____, (Plaintiff, Defendant, Additional Defendant), intends to offer the documents attached hereto at the trial of the appeal from the award of arbitrators, in the manner provided by Rule of Civil Procedure 1311.1. The following documents are attached (list all documents to be offered):

1. _____ .
2. _____ .

(Name of Party)

(Attorney for Party)

Date

EXPLANATORY COMMENT

New Rule 1311.1 introduces a new practice with respect to the admission of documentary evidence at the trial of an appeal from the award of arbitrators in compulsory arbitration. The new rule incorporates the concept of Rule 1305 which permits specified documents to be admitted into evidence at the arbitration hearing upon notice by the party offering the documents to every other party accompanied by a copy of the documents.

The new procedure is limited to cases in which the "plaintiff stipulates to \$15,000.00 as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators." Subdivision (a) authorizes this stipulation and subdivision (f) provides a form of "Stipulation to Limitation of Monetary Recovery Pursuant to Rule 1311.1."

Once the plaintiff has filed and served the stipulation, subdivision (b) of the new rule provides that "any party may offer at trial the documents set forth in Rule 1305(b)(1)." In so providing, subdivision (b) is substantially similar to the introductory language of Rule 1305(b)(1). The admission of the documentary evidence is conditioned upon notice to every other party accompanied by a copy of each document to be offered. Subdivision (g) contains a form of "Notice of Intent to Offer Documentary Evidence Pursuant to Rule 1311.1."

Rule 1311.1 draws upon Rule 1305 in two other respects as well. First, subdivision (c) of the new rule tracks Rule 1305(b)(3) stating the purposes for which the documents admitted into evidence may be used and directing the court to disregard "any portion of a document so received that would be inadmissible if the person whose testimony is waived by this rule were testifying in person." Second, subdivision (d) is substantially similar to Rule 1305(b)(4) governing the right of any other party to subpoena the person whose testimony is waived by the rule. Both subdivisions (c) and (d) vary from their counterparts in Rule 1305 only to accommodate the procedural posture of a trial rather than an arbitration hearing.

Rule 1311 governing the procedure on appeal from the award of arbitrators is amended to conform to the new rule by revising the title to read "Procedure on Appeal. Generally" and by adding to the note a cross-reference to the new rule.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 03-915. Filed for public inspection May 16, 2003, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Commerce Case Management Program; Administrative Doc. 02 of 2003

And Now, this 29th day of April, 2003, it is hereby *Ordered* and *Decreed* that the following protocols shall apply to all civil cases within the Commerce Case Management Program on or after January 1, 2000:

Commerce Case Management Program:

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

A Commerce Case Management Program ("Commerce Program") has previously been established within the Trial Division of the Court of Common Pleas (Administrative Docket 01 of 1999 and 01 of 2000).

A. Organization

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

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

B. Assignment of Cases Subject to Commerce Program

1. *Cases Subject to Commerce Program.* Notwithstanding anything to the contrary in General Court Regulation 95-2 (Day Forward Program) or any other General Court Regulation, Jury, Non-Jury & Equity, and Class Action cases filed on or after January 1, 2000, but not Arbitra-

tion cases, shall be assigned to the Commerce Program if they are among the following types of actions:

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

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

- (1) Uniform Commercial Code transactions;
- (2) Purchases or sales of businesses or the assets of businesses;
- (3) Sales of goods or services by or to business enterprises;
- (4) Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
- (5) Surety bonds;
- (6) Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
- (7) Franchisor/franchisee relationships.

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

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

5. Actions relating to intellectual property disputes;

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

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

8. Actions relating to corporate trust affairs;

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

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

All of the above types of actions may involve individuals named as parties, in addition to business enterprises, so long as all other criteria are met and the essential nature of the litigation is a business dispute. For example, a dispute over a commercial loan may include

individual guarantors as either plaintiffs or defendants, as the case may be, but such a lawsuit would still be a commercial dispute.

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

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

2. Personal injury, survival or wrongful death matters.

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

4. Matters involving occupational health or safety.

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

6. Matters in eminent domain.

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

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

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

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

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

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

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

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

15. Such other matters as the Court shall determine.

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

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

4. *Disputes Arising From the Civil Cover Sheet Designation.* If any party disagrees with the designation or lack of designation of a case into the Commerce Program, that party shall file with Civil Motions Clerk in the Prothonotary's Office, 278 City Hall, to be referred to the Administrative Judge, or the designee of the Administrative Judge, for decision (which shall not be subject to appeal), and serve on all parties a Notice of Management Program Dispute, in form as Exhibit "B" and not exceeding three pages, as soon as practical, and no later than the earliest of (a) the filing by that party of any pleading, motion or response to motion, (b) ten days in advance of a noticed case management conference or (c) thirty days after service of process. A copy of the complaint or filing commencing the litigation, shall be attached to the Notice of Management Program Dispute. Any party opposing the Notice of Management Program Dispute may, but need not, submit a response thereto not exceeding three pages (to Civil Motions Clerk, Room 278 City Hall) within seven days of service of the Notice.

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

C. *Commencement of Action*

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

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

A party seeking emergency relief immediately upon commencing an action subject to the Commerce Program shall follow the procedure set forth in part D.6. below (Rules to Show Cause and Emergency Motions and Petitions).

D. *Case Management Procedures*

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

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

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

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

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

(1) *Means for Early Disposition*

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

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

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

(2) *Schedules and Deadlines*

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

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

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

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

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

b. For mediation.

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

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

e. Use of a Pro Tempore Judge for purposes of discovery or mediation cannot affect the deadlines set forth in the CMO, unless the Commerce Program Judge allows an extension of affected dates.

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

4. *Case Management Order:*

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

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

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

A suggested form Case Management Order follows as Exhibit "C." A grid of time standards that will be employed depending upon the applicable track Case Management Order follows as Exhibit "D." Sample Commerce Program Class Action Case Management Order Forms follow as Exhibit "E."

5. *Commerce Court Motions.*

a. *Motion Practice and Discovery Motions.*

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

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

b. *Petitions for Extraordinary Relief.*

A Petition for Extraordinary Relief must be filed whenever a party seeks an extension of a deadline imposed by

a case management order. Any party may seek relief from the time requirements by filing the Petition for Extraordinary Relief. This Petition must be filed prior to the deadline that the party is seeking to change. Petitions for Extraordinary Relief are filed with the Motions Court Clerk in the Prothonotary's Office, Second Filing, Room 278, City Hall. Any adverse party has ten (10) days after the filing of the motion to file a response. The Motion Court will forward the pleading to the assigned team leader.

The Petition for Extraordinary Relief is ruled on by the individual team leaders. Counsel must include the name of the team leader for that given case (Sheppard, Cohen, Jones) on the Motion Court Cover Sheet. The party filing the petition must include a proposed order that sets forth the extension requested in months, as well as a copy of the current Case Management Order.

Counsels' agreement to extend deadlines within a Case Management Order is not a recognized basis for an extension. A movant must demonstrate extraordinary and nonforeseeable circumstances justifying the deadline extension request. Requests for extensions of Court ordered deadlines should be utilized only as a last resort and with compelling reasons offered in support thereof.

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

Unless there is a dispute as to Commerce Program applicability, emergency motions or petitions in a newly filed action presented in a matter appropriate for assignment to the Commerce Program shall be referred to a Commerce Program Judge for disposition. If there is any dispute regarding Commerce Program applicability, that dispute shall be referred to the Administrative Judge or the designee of the Administrative Judge. Parties are encouraged to give the Motion Court advance notice of an emergency motion or petition, including notice that the action is assigned to the Commerce Program or may be appropriate for such assignment. If the assigned Commerce Program Judge is unavailable, an emergency motion or petition in an action already assigned to Commerce Program shall be heard by the other Commerce Program Judge, if available, with any subsequent hearing referred back to the assigned Commerce Program Judge. If no Commerce Program Judge is available to hear an emergency motion or petition, such motion or petition shall be referred to a Judge assigned to Motion Court (or, if necessary, the Emergency Judge), with any subsequent hearing referred back to the appropriate Commerce Program Judge. An emergency motion heard by a Commerce Program Judge in a case which has not yet gone through the random assignment procedure shall be subject to that procedure prior to any subsequent hearing and the subsequent hearing shall be scheduled before the Commerce Program Judge assigned.

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

Except as otherwise provided in Local Civil Rule *212.3 (Settlement Conferences—Non Jury Cases), Commerce

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

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

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

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

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

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

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

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

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

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

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

E. Commerce Program Judges Pro Tempore And Alternative Dispute Resolution

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

1. *Panel of Commerce Program Judges Pro Tempore.* The Administrative Judge or designee shall designate a

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

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

2. Mediation.

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

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

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

c. *Confidentiality of Mediation.* The order referring an action to mediation shall require that the mediator report to the Court the disposition of the mediation in accordance with a schedule as determined by the Court, under the guidelines below. The order shall also provide that all information received by the mediator as to the merits of the matter, including the submitted memoranda, shall remain confidential and not be reported or submitted to the Court by the mediator or the parties, except as necessary in a stipulation of settlement agreed to by the parties.

d. *Mediation Procedure.* The first mediation session preferably shall be conducted within 30 days of the execution of the order of reference, unless the Court establishes a different schedule. At least ten days before the first session, each party shall deliver to the mediator

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

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

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

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

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

By the Court

JAMES J. FITZGERALD, III
Administrative Judge

This Administrative Docket is promulgated in accordance with the April 11, 1987 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. *51 and Pa. R.C.P. 239, and shall become effective immediately. As required by Pa. R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

EXHIBIT A

COMMERCE PROGRAM ADDENDUM TO CIVIL COVER SHEET

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

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

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

___ (1) Uniform Commercial Code transactions;

___ (2) Purchases or sales of business or the assets of businesses;

___ (3) Sales of goods or services by or to business enterprises;

___ (4) Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;

___ (5) Surety bonds;

___ (6) Purchases or sales or leases of, or security interests in, commercial, real or personal property; and

___ (7) Franchisor/franchisee relationships.

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

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

___ 5. Actions relating to intellectual property disputes;

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

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

___ 8. Actions relating to corporate trust affairs;

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

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

Instructions: Please see Commerce Case Management Program: Procedure for Disposition of Commerce Program

Cases Filed On and After January 1, 2000. Arbitration matters are not subject to the Commerce Program. Note that the following types of matters are not to be included in the Commerce Program:

1. Matters subject to Compulsory Arbitration in this Court or to the jurisdiction of the Municipal Court, including any appeals.
2. Personal injury, survival or wrongful death matters.
3. Individual (non-class) consumer claims against businesses or insurers, including products liability and personal injury cases.
4. Matters involving occupational health or safety.
5. Environmental claims not involved in the sale or disposition of a business and other than those addressed in Commerce Program types 9 or 10 above.
6. Matters in eminent domain.
7. Malpractice claims, other than those brought by business enterprises against attorneys, or accountants, architects or other professionals in connection with the rendering of professional services to the business enterprise.

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

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

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

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

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

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

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

15. Such other matters as the Court shall determine.

EXHIBIT B—NOTICE OF MANAGEMENT PROGRAM DISPUTE

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

Attorney for Defendant: XYZ, Inc.

PLAINTIFF

: PHILADELPHIA COUNTY
 : COURT OF COMMON PLEAS

v.

: _____ TERM, 20XX

DEFENDANT

: No: _____

NOTICE OF MANAGEMENT PROGRAM DISPUTE

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

[This action is not subject to the Commerce Program because _____.]

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

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

 Name of Attorney
 Attorney for Defendant, XYZ, Inc.

[Include a copy of the complaint or other filing commencing the action, along with a Certificate of Service identifying date and manner of service and names and addresses].

EXHIBIT C—CASE MANAGEMENT ORDER

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

caption : Court term and number

COMMERCE PROGRAM
 CASE MANAGEMENT ORDER

 TRACK

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

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

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

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

4. Defendant(s) and any additional defendant(s) shall identify and submit Curriculum Vitae and Expert Reports of all expert witnesses intended to testify at trial to all other parties not later than _____.

COMMERCE PROGRAM CLASS ACTION
STIPULATED CASE MANAGEMENT ORDER ON
PRELIMINARY OBJECTIONS

AND NOW, in consideration of the Parties' consent to the following case management schedule regarding preliminary objections, it is hereby ORDERED that:

- 1. Defendant shall file its preliminary objections on or before _____.
2. If Plaintiff amends a complaint in response to Defendant's preliminary objections, then the following deadlines shall apply:
a. Plaintiff shall file its amended complaint on or before _____.
b. Defendant shall file an answer or preliminary objections to such amended complaint on or before _____.
c. If Defendant filed preliminary objections in response to such amended complaint, then:
i. Defendant shall file a brief in support of those preliminary objections on or before _____.
ii. Plaintiff shall file a response to, and brief in opposition to, those preliminary objections on or before _____.
iii. Defendant shall file a reply brief in support of those preliminary objections on or before _____.
3. If Plaintiff does not amend the complaint in response to Defendant's preliminary objections, the following deadlines shall apply:
a. Defendant shall file a brief in support of those preliminary objections on or before _____.
b. Plaintiff shall file a response to, and brief in opposition to, those preliminary objections on or before _____.
c. Defendant shall file a reply brief in support of those preliminary objections on or before _____.
4. If any deadline set forth in this Order or any other case management order in this matter falls on a date on which the Court or the Office of the Prothonotary is not open, then the deadline shall be extended, without further Order, to the next day on which the Court and the Office of the Prothonotary are open.
5. The absence of any provision in this Order or any other case management order in this matter for surreply shall not prevent a Party from petitioning the Court for leave to file such surreply.

BY THE COURT,

, J.

DATED:

Agreed to as to form:

Attorneys for Plaintiff

Attorneys for Defendant

E-2 Order on Preliminary Objections—Class Action

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

Plaintiff(s)
v.
Defendant(s)
No. _____ - _____

ORDER

AND NOW, this day of 200__, upon consideration of the Defendant's Preliminary Objections to the Plaintiff's Complaint and the Plaintiff's response thereto, it is hereby ORDERED and DECREED as follows:

- 1. The Preliminary Objections are Overruled.
2. The Defendant is directed to file an answer to the Complaint within twenty (20) days of the date of entry of this Order.

3. The Parties shall jointly complete the attached case management order regarding class certification and return a completed copy within thirty (30) days of the date of entry of this Order. If the Parties are unable to arrive at an agreement as to all dates, they shall submit letters to the Court setting forth those dates agreed upon and dates in dispute.

BY THE COURT,

, J.

E-3 Stipulated Case Management Order on Class Certification—Class Action

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

Plaintiff(s)
v.

Defendant(s)
No. _____ - _____

COMMERCE PROGRAM CLASS ACTION
STIPULATED CASE MANAGEMENT ORDER ON
CLASS CERTIFICATION

AND NOW, this _____ day of _____ 200 __, upon consideration of the Parties consent to the following case management schedule regarding class certification, it is hereby ORDERED that:

- 1. Plaintiff shall file a motion for class certification on or before _____ .
- 2. The period for discovery relating to class certification shall close on _____. Deposition shall be noticed to occur, and written discovery requests shall be served, on or before the date referenced in this paragraph.
- 3. Defendant shall file a response to, and brief in opposition to, Plaintiff's motion for class certification on or before _____ .
- 4. Plaintiff shall file a reply brief in support of its motion for class certification on or before _____ .

BY THE COURT,

, J.

DATED:

Agreed to as to form:

Attorneys for Plaintiff

Attorneys for Defendant

E-4 Order on Class Certification

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

Plaintiff(s)
v.

Defendant(s)
No. _____ - _____

O R D E R

AND NOW, this _____ day of _____ 200 __, upon consideration of the Plaintiff's Motion for Class Certification, the Plaintiff's response thereto, oral argument before the Court and all matters of record, and in accord with the Opinion being filed contemporaneously with this Order, it is ORDERED and DECREED as follows:

- 1. The above captioned action is certified as a class action on the claims for _____ .

2. The cases shall consist of the following:

[DESCRIPTION]

3. Plaintiff _____ shall serve as class representative.

4. The Parties shall submit proposals for a notification procedure and proposed form of notice for class members within thirty (30) days from the date of entry of this Order.

5. The Parties shall jointly complete the attached case management order regarding dispositive motions and fact and expert discovery and return a completed copy within thirty (30) days of the date of entry of this Order. If the Parties are unable to arrive at an agreement as to all dates, they shall submit letters to the Court setting forth those dates agreed upon and dates in dispute.

BY THE COURT,

, J.

E-5 Stipulated Class Management Order on Dispositive Motions and Discovery

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

_____	:	
_____	:	
_____	:	
	:	Plaintiff(s)
	:	
	:	v.
	:	No. _____ - _____
_____	:	
_____	:	
_____	:	
	:	Defendant(s)

COMMERCE PROGRAM CLASS ACTION
STIPULATED CASE MANAGEMENT ORDER ON
DISPOSITIVE MOTIONS AND
FACT AND EXPERT DISCOVERY

AND NOW, this _____ day of _____ 200_, upon consideration of the Parties' consent to the following case management schedule regarding class certification, it is hereby ORDERED that:

1. Fact Discovery: The period for fact discovery shall close on _____. Depositions shall be noticed to occur, and written discovery requests shall be served on or before the date referenced in this paragraph.
2. Expert Discovery: The Parties shall meet on or before _____ to discuss the need for experts in this case. At this meeting, the Parties shall disclose whether they intend to present expert testimony at trial in this matter. In the event either or both of the Parties desire to present expert testimony at trial of this matter, the following deadlines shall apply:
 - a. If the Plaintiff desires to present expert testimony, then:
 - i. Plaintiff shall make its expert disclosures on or before _____.
 - ii. Defendant shall make its expert disclosures on or before _____.
 - iii. The Parties shall complete expert discovery on or before _____.
 - b. If Plaintiff advises at the meeting referenced above that it does not intend to present expert testimony:
 - i. Defendant shall make its expert disclosures on or before _____.
 - ii. Plaintiff shall make any responsive expert disclosures on or before _____.
 - iii. The Parties shall complete expert discovery on or before _____.
 - c. As used herein, the phrase "to make expert disclosures" means to provide, for each expert:
 - i. a Curriculum Vitae or equivalent document;
 - ii. a list of all publications authored by the expert within five (5) years prior to the date of identification;
 - iii. a description of the terms and amount of compensation to be paid to the expert;
 - iv. a list of all cases in which the expert has given sworn testimony at deposition or trial within five (5) years prior to the date of disclosure;
 - v. a report setting forth a complete description of all opinions to be offered by the expert, the basis for those opinions, a description of the materials considered in forming those opinions, and a list of exhibits to be used as a summary of or in support of those opinions.
3. Dispositive Motions: If either Party files any dispositive motions, then the following deadlines shall apply:
 - a. Any dispositive motions, including all supporting materials, shall be filed on or before _____.

- b. Any response to any such dispositive motion, including all supporting materials, shall be filed on or before _____ .
- c. Any reply brief in support of any such dispositive motion shall be filed on or before _____ .
- d. If neither Party files any dispositive motion by the deadline set forth in Paragraph 3a of this Order, the Parties shall contact the Court regarding a case management order for the pre-trial and trial stage of this action.

BY THE COURT,

, J.

DATED:

Agreed to as to form:

Attorneys for Plaintiff

Attorneys for Defendant

E-6 Order on Summary Judgment—Class Action

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

_____	:	
_____	:	
_____	:	
	:	Plaintiff(s)
	:	
	:	v.
	:	No. _____ - _____
	:	
_____	:	
_____	:	
_____	:	
	:	Defendant(s)

O R D E R

AND NOW, this _____ day of _____, 200_, upon consideration of the Defendant's Motion for Summary Judgment, the Plaintiff's response thereto and all other matters of record, and in accord with the Opinion being filed contemporaneously with this Order, it is hereby ORDERED and DECREED as follows:

1. The Motion is Denied.
2. The Parties shall contact the Court within thirty (30) days of the date of entry of this Order proposing dates for a settlement conference, a pre-trial conference and trial.

BY THE COURT,

, J.

E-7 Stipulated Case Management Order on Pre-Trial and Trial Events—Class Action

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

_____	:	
_____	:	
_____	:	
	:	Plaintiff(s)
	:	
	:	v.
	:	No. _____ - _____
	:	
_____	:	
_____	:	
_____	:	
	:	Defendant(s)

COMMERCE PROGRAM CLASS ACTION
STIPULATED CASE MANAGEMENT ORDER ON
PRE-TRIAL AND TRIAL EVENTS

AND NOW, this _____ day of _____, 200_, upon consideration of the Parties' consent to the following case management schedule regarding class certification, it is hereby ORDERED that:

1. Settlement Conference: A settlement conference shall be held on _____. On or before that date, all counsel shall serve all opposing counsel and file a settlement memorandum containing the following:
 - a. The Plaintiff shall provide a concise statement of the theory of the case. The Defendant shall provide a concise statement as to the nature of the defense;

- b. A statement by the Plaintiff itemizing all damages sought by categories and amount; and
 - c. Defendant shall identify all applicable insurance carriers, together with corresponding limits of liability.
2. Pre-Trial Conference: A pre-trial conference shall be held on _____. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following:
- a. The Plaintiff shall provide a concise statement of the theory of the case. The Defendant shall provide a concise statement as to the nature of the defense.
 - b. A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
 - c. A list of all exhibits the party intends to offer into evidence. All exhibits shall be numbered and exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial;
 - d. Plaintiff shall itemize all damages claimed by category and amount;
 - e. Defendant shall state a position regarding damages claimed and shall identify all applicable insurance carriers, together with applicable limits of liability; and
 - f. An estimate of the anticipated length of trial.
3. Trial: The trial in this matter is scheduled to begin on _____.

BY THE COURT,

 , J.

EXHIBIT F

COMMERCE PROGRAM TRACKING FORMULA

Initial criteria for cases to be tracked:

- Commencement of an action by Summons or Complaint over \$50,000.00 at time of initial filing.
- At least one attorney of record.
- Case status equal to Active or Deferred.
- Note that the Program embodies both Jury and Non-Jury cases.

Breakdown by track

EXPEDITED—litigant count is less than or equal to (4) four, and case type is one of the following:

1C	Contracts (Goods) Enforcement	3O	Real Property—Other
1D	Insurance, Declaratory Judgment	3P	Title to Real Property
1G	Subrogation Action	3R	Rent, Lease or Ejectment
1L	Mechanics Lien	E1	Equity—No Real Estate
1N	Negotiable Instruments	E2	Equity—Real Estate
1O	Contracts—Other	KF	Franchise Disputes
IV	Replevin	7C	Confession of Judgment
3F	Foreclosure	7F	Foreign Judgment
3G	Garnishment (Land)	8Q	Petition to Stay Arbitration
3L	Landlord/Tenant Complaint	8V	Petition to Vacate/Modify Arb Award
3M	Mechanics Lien Enforcement		

STANDARD—where the litigant count is greater than four (4) and the case type are the same as Expedited, or—where the case type (regardless of the number of litigants) is:

KA	Purchase or Sale of Business or the Assets of the Business	KS	Securities Law Actions
1J	Bad Faith	KB	Surety Bond Actions
1T	Construction Contract	KT	Business Torts
1S	Shareholder Suit	KC	Non Complete Agreements/ Trade Secrets
4F	Fraud	KU	Corporate Trust Affairs
		KP	Partnership Disputes

COMPLEX—following case types regardless of the number of litigants:

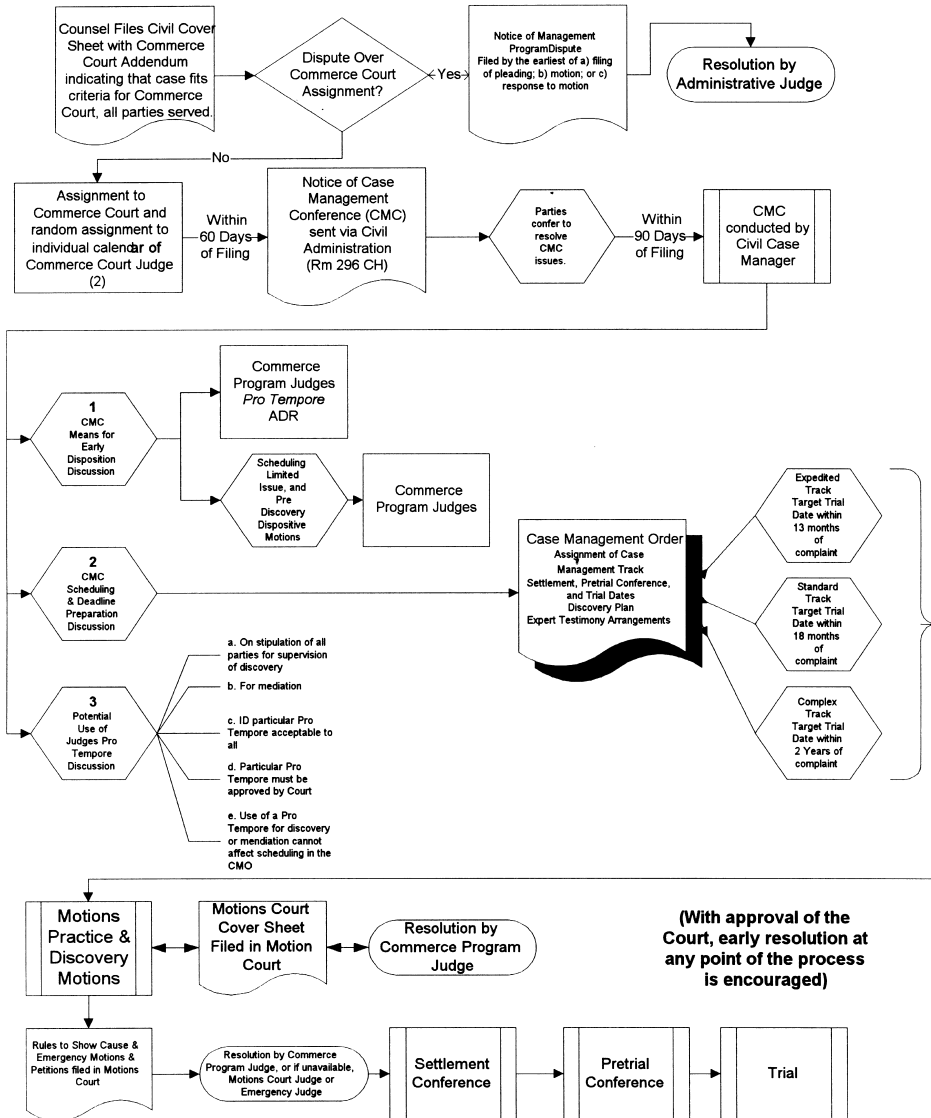
K1	Intellectual Property Disputes	4L	Malpractice—Legal
4A	Malpractice—Accounting	4Y	Malpractice—Miscellaneous

eff. July 3, 2001

EXHIBIT G

Trial Division Civil Section
Administrative Docket 01 of 2000

Commerce Case Management Program
D. Case Management Procedures



[Pa.B. Doc. No. 03-916. Filed for public inspection May 16, 2003, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Local Rules of Criminal Procedure; No. 88 of 2003 Misc.

Order

And Now, this 14th day of April, 2003, it is hereby Ordered and Directed that the following Local Rule of Criminal Procedure is hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall apply to all defendants charged with third degree misdemeanor criminal offenses and higher.

It is hereby Ordered and Directed that the Clerk of Courts of Beaver County, in accordance with Pa.R.Crim.P. 105, shall file seven certified copies with the Administrative Office of Pennsylvania Courts; distribute two certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and file one certified copy with the Criminal Procedural Rules Committee.

It is further Ordered that this Rule, along with all Local Rules of Criminal Procedure shall be kept available for public inspection and copying in the office of the Clerk of Courts of Beaver County. Upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Courts shall furnish to any person a copy of any Local Rule.

By the Court

ROBERT E. KUNSELMAN,
President Judge

Local Rule of Criminal Procedure No. 552

(A.) In all cases in which a defendant has been charged with an offense of a third degree misdemeanor or greater, the defendant shall be required to appear at the Beaver County Regional Booking Center (RBC) located in the Beaver County Jail, 6000 Woodlawn Boulevard, Aliquippa, PA, 15001, to be fingerprinted and photographed prior to the date of his or her preliminary hearing.

(B.) Pursuant to 18 Pa.C.S. 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense. The Regional Booking Center shall serve as the designated fingerprinting site for all arresting authorities in Beaver County.

(C.)(1) In cases in which a defendant has been arraigned at the District Justice office and fails to post bond, the defendant shall be fingerprinted and photographed at the RBC subsequent to his or her commitment at the Beaver County Jail.

(2) In cases in which a defendant has been arrested during night, weekend or holiday hours, unless the charges proceed by summons, the defendant shall be taken directly to the RBC for a video arraignment and booking procedure before being committed to the Beaver County Jail or being released on bond.

(3) In cases which proceed by summons, the defendant shall receive an order at the time of his or her preliminary arraignment from the District Justice to report to the RBC prior to the date of the preliminary hearing to be fingerprinted and photographed. The requirement to

appear at the RBC to be fingerprinted and photographed prior to the date of the preliminary hearing shall be made a condition of bond.

(4) In cases of private prosecutions, the defendant may only be fingerprinted and photographed after conviction of the alleged offense. An order shall issue from the Court of Common Pleas after such conviction directing the Defendant to report to the RBC to be fingerprinted and photographed.

(D.) A booking fee of fifty dollars (\$50.00) shall be assessed and collected by the Beaver County Clerk of Courts after sentencing upon conviction of or plea to a misdemeanor or felony offense or acceptance into the Accelerated Rehabilitation Program. This fee will not apply to those Defendants whose cases are dismissed by the District Justice, withdrawn or nolle prossed by the Commonwealth or who enter a guilty plea to a summary offense at the time of the preliminary hearing.

[Pa.B. Doc. No. 03-917. Filed for public inspection May 16, 2003, 9:00 a.m.]

CARBON COUNTY

DNA Detection of Sexual and Violent Offenders Act; No. 065 MI 03 and 100 JV 03

Administrative Order 11-2003

And Now, this 1st day of May, 2003, pursuant to Act 57 of 2002, provisions relating to DNA Data and Testing, it is hereby

Ordered and Decreed that, effective immediately, the Carbon County Correctional Facility be and is hereby *Appointed* as the facility to draw, handle, and submit DNA blood samples from offenders upon conviction, delinquency adjudication and certain ARD cases for a felony sex offense or an attempt, conspiracy or solicitation to commit a felony sex offense under Title 18, Pa.C.S., Chapter 31 (relating to sexual offenses), 18 Pa.C.S., § 4302 (relating to incest), 18 Pa.C.S., § 5902(c)(iii) and (iv) (relating to prostitution and related offenses), 18 Pa.C.S., § 5903(a) (relating to obscene and other sexual materials and performances) where the offense constitutes a felony, 18 Pa.C.S., § 6312 (relating to sexual abuse of children), 18 Pa.C.S., § 6318 (relating to unlawful contact or communication with minor) where the most serious underlying offense for which the defendant contacted or communicated with the minor is graded as a felony, 18 Pa.C.S., § 6320 (relating to sexual exploitation of children) and from offenders upon conviction, delinquency adjudication, and certain ARD cases for other specified offenses or an attempt, conspiracy, or solicitation to commit an offense under Title 18 Pa.C.S., § 2502 (relating to murder), 18 Pa.C.S., § 2709(c)(2)(ii) (relating to harassment and stalking), 18 Pa.C.S., § 2901 (relating to kidnapping), 18 Pa.C.S., § 2910 (relating to luring a child into a motor vehicle) 18 Pa.C.S., § 3126 (relating to indecent assault), 18 Pa.C.S., § 3502 (relating to burglary), and 18 Pa.C.S., § 3701 (relating to robbery).

It Is Further Ordered and Decreed that this Court's Administrative Order No. 11-1996 be and is hereby *Vacated*.

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

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

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. File one (1) certified copy with the Pennsylvania Juvenile Court Procedural Rules Committee.

5. Forward one (1) copy for publication in the *Carbon County Law Journal*.

6. Forward one (1) copy to the Carbon County Law Library.

7. Keep continuously available for public inspection copies of the Order and Rule in the Clerk of Court's Office and the Juvenile Court Office.

RICHARD W. WEBB,
President Judge

[Pa.B. Doc. No. 03-918. Filed for public inspection May 16, 2003, 9:00 a.m.]

CARBON COUNTY

List of Qualified Counselors and Counseling Services; No. 03-0864 and 03-9147

Administrative Order 12-2003

And Now, this 2nd day of May, 2003, pursuant to 23 Pa.C.S.A., § 3302(d) and § 2505(b) governing the Compi-

lation of a List of Qualified Counselors and Counseling Services, it is hereby

Ordered and Decreed that the Court of Common Pleas hereby *Adopts* the attached list of Qualified Counselors and Counseling Services for Carbon County actions in Divorce, Termination, and Adoption proceedings.

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

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

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.

4. File one (1) certified copy with the Pennsylvania Orphans' Court Procedural Rules Committee.

5. Forward one (1) copy for publication in the *Carbon County Law Journal*.

6. Forward one (1) copy to the Carbon County Law Library.

7. Keep continuously available for public inspection copies of the Order and Rule in the Clerk of Court's Office.

RICHARD W. WEBB,
President Judge

	<i>Name</i>	<i>Address</i>	<i>Phone</i>	<i>Counseling Services</i>
1	Adoptions for the Heart	2212 Union Blvd. Allentown, PA 18109	1-800-355-5500	Counseling for clients (birthparents, adoptive parents)
2	Adoption Services	C/o Dr. Vincent Berger 28 Central Blvd. Camp Hill, PA 17011	1-800-943-0400	Adoption
3	All Seasons Therapy Center	201 Academy Street Williamsport, PA 17701	(570) 323-6987	Divorce
4	Bridge Youth Services	81 South Church Street Hazelton, PA 18201	(570) 455-1521	Counsel teens on divorce, adoption and termination services
5	Catholic Social Agency	1720 West Market Street Pottsville, PA 17901	(570) 628-0466	Divorce, adoption & foster care
6	Concern Professional Services for Children, Youth & Families	1 West Main Street Fleetwood, PA 19522	(610) 944-0445	Divorce, adoption & termination services
7	Family Guidance Center	1235 Penn Avenue Wyomissing, PA 19610	(610) 374-4963	Adoption & divorce
8	Lutheran Home-Family Life Services	1 South Home Avenue Topton, PA 19562-1399	(610) 682-1337	Divorce (only deal with people that want to be counseled)
9	Family Treatment Associates	117 Broad Street Stroudsburg, PA 18360	(570) 424-6049	Adoption, termination services, divorce
10	Genesis of the Slate Belt	C/o Clay Holland 51 Market Street Bangor, PA 18013	(610) 588-9109	All types of counseling services for all age groups
11	Grace Bohr	749 Harrison Avenue Scranton, PA 18510	(570) 961-3948	Divorce, adoption & termination services
12	Judith Belmont	1259 South Cedar Crest Blvd. Allentown, PA 18103	(610) 807-0218	Divorce

	<i>Name</i>	<i>Address</i>	<i>Phone</i>	<i>Counseling Services</i>
13	Julie Corriere	433 East Broad Street Bethlehem, PA 18018	(610) 807-0218	Divorce & adoption
14	Kathy Juracek	101 Carriage Lane Clarks Summit, PA 18411	(570) 586-3660	Divorce
15	Kidspeace	C/o Jim Dunstan 5300 Kidspeace Drive Orefield, PA 18069	(610) 799-8005	Foster care & associated with the statewide adoption network
16	Kidspeace	C/o Dr. LaSorca 5300 Kidspeace Drive Orefield, PA 18069	(610) 799-8169	Divorce
17	Lisa Breitburg	242 Main Street Emmaus, PA 18049	(610) 965-2752	Family Therapy & Counseling
18	Louise Walsh-Sander	55 Robin Drive Palmerton, PA 18071	(610) 852-3888	Divorce
19	Nancy Dutt	146 West Broad Street Bethlehem, PA 18018	Work number (610) 865-2288 Home number (610) 770-1652	Counsel couples, child foster care & adoption. No family court.
20	Planned Parenthood of Northeast PA	2901 Hamilton Blvd. Suite 300 Allentown, PA 18104	(610) 439-1033	Adoption, termination services
21	Robert Gordon	1259 South Cedar Crest Blvd. Suite 325 Allentown, PA 18103	(610) 821-8015	Insight therapy & assessment
22	Mert at the Counseling Services of Shane Enterprises	P. O. Box 362 Analomink, PA 18320	(570) 476-1059	Counseling Services
23	Steve Farina	3117 Lehigh Street Suite 103 Allentown, PA 18101	(610) 791-9139	Divorce
24	Teen Counseling Concepts Inc.	4912 Shankweiler Road Orefield, PA 18069-2305	(610) 395-6322	Send professional (with Master or PhD degrees) into the home to deal with divorce
25	Tom Collins	19 South 6th Street Stroudsburg, PA 18360	(570) 424-5477	Divorce, foster children & adoption
26	United Charities	107 Madison Avenue West Hazelton, PA 18201	(570) 455-1529	Divorce, general counseling

[Pa.B. Doc. No. 03-919. Filed for public inspection May 16, 2003, 9:00 a.m.]

SCHUYLKILL COUNTY

Amended Criminal Rules of Procedure; Misc. 229-2003

Order of Court

And Now, this 5th day of May, 2003, at 9:00 a.m., Schuylkill County Criminal Rules of Procedure, Rule 106(a) and Rule 579 are amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Clerk of Courts of Schuylkill County is Ordered and Directed to do the following:

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

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

the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.

3) File one (1) certified copy of this Order and Rules with the Pennsylvania Criminal Procedural Rules.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

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

WILLIAM E. BALDWIN,
President Judge

Rule 106. Continuances.

(a) Motion by Defendant

Motions for Continuance by the Defendant shall be in writing, upon forms approved by the Court, executed by the defendant and his attorney. At least twenty-four (24)

hours advance notice of the presentation of said motions shall be given to the District Attorney. The motion shall be filed with the Clerk of Courts and contemporaneously a copy shall be served on the District Attorney by the defendant. The Clerk of Courts shall forward all motions for continuance to the Court Administrator, who shall list the motion for hearing on the date when continuance requests shall be heard in accordance with the published Court Calendar.

Upon a defendant's first application for continuance, the presence of the defendant and his or her counsel shall not be required at the hearing on said motion unless the District Attorney has notified the defendant that the continuance motion is opposed. When a motion seeks a second or subsequent continuance, the defendant will be obliged to appear in Court, with counsel, to waive the time requirements under Rule 600.

Rule 579. Time for Omnibus Pre-Trial Motions.

All omnibus pre-trial motions shall be filed within thirty (30) days after arraignment in accordance with Pa.R.Crim.P. No. 579. The defendant shall file the original with the Clerk of Courts and contemporaneously serve a copy on the District Attorney. The Clerk of Courts shall forward all motions to the Court Administrator for assignment to a judge.

[Pa.B. Doc. No. 03-920. Filed for public inspection May 16, 2003, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that on April 29, 2003, pursuant to Rule 214(d)(1) of the Pa.R.D.E., George E. Tillerson, III, 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 formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-921. Filed for public inspection May 16, 2003, 9:00 a.m.]
