

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 21]

Order Adopting Pa.R.A.P. 2117; No. 149 Appellate Procedural Rules; Doc. No. 1

Amended Order

Per Curiam:

And Now, this 18th day of February, 2004, upon the recommendation of the Appellate Court Procedural Rules Committee, the proposal having been published before adoption at 33 Pa.B. 4552 (September 13, 2003),

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that the following amendment to Pa.R.A.P. 2117 is adopted.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall become effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2117. Statement of the Case.

* * * * *

(d) [*Appeals from case stated.*] **Appeals from cases submitted on stipulated facts.** When the appeal is from an order on a [*case stated, in the nature of a special verdict*] **case submitted on stipulated facts**, the statement of the case may consist of the facts as [*agreed upon*] **stipulated** by the parties.

Official Note:

* * * * *

Subdivision (c) is new. Rule 2119(e) (statement of place of raising or preservation of issues) requires that the argument contain a reference to the manner of raising or preservation of an issue in immediate connection with the argument relating thereto. See Rule 302 (requisites for reviewable issue), and Rule 1551(a) (review of quasijudicial orders).

The 2004 amendment replaces references in subdivision (d) to appeals from a “case stated” because this procedure was abolished pursuant to Pa.R.C.P. 1038.2. In its place, the Supreme Court adopted Pa.R.C.P. 1038.1 providing for a “case submitted on stipulated facts.” The statement of the case under subdivision (a)(4) of this rule may now only consist of those facts stipulated to by the parties.

[Pa.B. Doc. No. 04-895. Filed for public inspection May 21, 2004, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CHS. 31 AND 37]

Amendment to Pa.R.A.P. 3102 and Adoption to New Pa.R.A.P. 3761; No. 135 Appellate Court Rules; Doc. No. 1

Amended Order

Per Curiam:

Now, this 28th day of January, 2002, upon the recommendation of the Appellate Court Procedural Rules Committee, this Recommendation having been published before adoption at 31 Pa.B. 2470 (May 12, 2001);

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the proposed amendment to Pa.R.A.P. 3102 and new Pa.R.A.P. 3761 are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 28, 2002.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE III. MISCELLANEOUS PROVISIONS

**CHAPTER 31. BUSINESS OF THE COURTS
GENERALLY**

IN GENERAL

Rule 3102. Quorum and Action.

* * * * *

(c) *Commonwealth Court evidentiary hearing and election matters.* A single judge of the Commonwealth Court shall be a quorum of the Court for the purposes of hearing and determining:

* * * * *

(3) Any enforcement proceeding under Rule 3761 (relating to enforcement proceedings).

**CHAPTER 37. BUSINESS OF THE
COMMONWEALTH COURT**

ENFORCEMENT PROCEEDINGS

Rule 3761. Enforcement Proceedings.

(a) *Petition.* When a government unit seeks to enforce an order issued under a statute which it administers, it may initiate the proceedings by filing a petition to enforce.

(b) *Service.* The petitioner shall serve the petition and order in the manner prescribed by the Pennsylvania Rules of Civil Procedure for service of original process and shall file the return or certificate of service prescribed by the same rules.

(c) *Hearing and Notice.* Upon the filing of a petition to enforce, the court will issue an order setting a date for a hearing and a date by which the respondent must answer the petition. The petitioner shall serve the court's order upon the respondent in the manner prescribed by Rules 121 and 122.

(d) *Relief.* Following the hearing, the court will enter such orders as may be appropriate.

(e) *Discovery*. Discovery shall be allowed only upon leave of court.

Official Note: Rule 3761 (relating to enforcement proceedings) has been promulgated by the Commonwealth Court of Pennsylvania pursuant to authority granted to it by Pa.R.A.P. 104. The rule was made necessary by the opinion issued by the Supreme Court of Pennsylvania in *Pennsylvania Human Relations Commission v. School District of Philadelphia*, 732 A.2d 578 (Pa. 1999), in which the Court held that the rules of appellate procedure, rather than the rules of civil procedure, govern enforcement proceedings in Commonwealth Court.

Prior to the Supreme Court ruling in *PHRC*, Commonwealth Court had treated enforcement proceedings as matters resting within the Court's original jurisdiction and thereby governed in part by the rules of Appellate Procedure and in part by the Rules of Civil Procedure. In *PHRC*, the Supreme Court made clear that enforcement proceedings are within Commonwealth Court's appellate jurisdiction and that only the Rules of Appellate Procedure apply. The Supreme Court's ruling left a void, however, because the Rules of Appellate Procedure did not prescribe specific procedures governing enforcement proceedings.

Consistent with *PHRC*, therefore, Rule 3761 was adopted to establish a Rule of Appellate Procedure to codify the practice which the Commonwealth Court had theretofore followed in enforcement proceedings when those proceedings were regarded as matters within the Court's original jurisdiction. This special rule governing Commonwealth Court practice adheres to the Supreme Court's opinion in *PHRC* and should prove to be of benefit to both the bench and bar.

[Pa.B. Doc. No. 04-896. Filed for public inspection May 21, 2004, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. I]

Rule 104 Comment Changes

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Rule of Evidence 104. This Comment Revision is being proposed to alert the bench and bar to changes in the conduct of child competency hearings.

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

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report 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 Comment changes precedes the Report. Additions are 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 700
Mechanicsburg, PA 17055

no later than July 1, 2004

By the Committee on Rules of Evidence

CHARLES B. GIBBONS,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 104. Preliminary Questions.

* * * * *

Comment

* * * * *

The second sentence of paragraph 104(c) is identical to the second sentence of F.R.E. 104(c). Paragraph 104(c) [**indicates**] **says** that hearings on other preliminary matters, both criminal and civil, shall be conducted outside the jury's presence when required by the interests of justice. Certainly, the court should conduct [**the**] **a** hearing outside the presence of the jury when the court believes that it is necessary to prevent the jury from hearing prejudicial information. [**The right of an accused to have his or her testimony on a preliminary matter taken outside the presence of the jury does not appear to have been discussed in Pennsylvania law.**]

In *Commonwealth v. Washington*, 722 A.2d 643 (1998) a case involving child witnesses, the Supreme Court created a per se error rule requiring competency hearings to be conducted outside the presence of the jury. In *Commonwealth v. Delbridge*, _____ Pa. _____, _____ A.2d _____ (2003), the Supreme Court held that a competency hearing is the appropriate way to explore an allegation that the testimony of a child has been "impaired" or "tainted" by suggestive interview techniques, and that the burden is on a party alleging testimonial incompetency by reason of taint to prove it by clear and convincing evidence.

The right of an accused to have his or her testimony on a preliminary matter taken outside the presence of the jury, a right that the rule expressly recognizes, does not appear to have been discussed in prior Pennsylvania case law.

* * * * *

REPORT

Proposed Revision of the Comment to Pa.R.E. 104

Comment Changes

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Pa.R.E. 104. This Comment revision is being proposed to alert the bench and bar to some significant changes in the conduct of child competency hearings.

In *Commonwealth v. Washington*, 722 A.2d 643 (1998), the Supreme Court created a rule requiring that the

competency hearing of a child witness be conducted outside the presence of the jury.

In *Commonwealth v. Delbridge*, _____ A.2d (2003), the Supreme Court held that the testimony of a child witness may be so tainted or impaired by suggestive interview techniques as to render the child incompetent to testify. The Court also held that the burden is on the party alleging testimonial incompetence by reason of taint to prove it by clear and convincing evidence.

[Pa.B. Doc. No. 04-897. Filed for public inspection May 21, 2004, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BEAVER COUNTY

Local Procedural Rules; No. 537 of 2004

Rule 14 and Appendices which follow are adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The Clerk of the Orphans' Court shall submit certified copies of this order, Rule 14 and Appendices as follows: seven (7) to the Administrative Office of Pennsylvania Courts; two (2) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) with the Orphans' Court Procedural Rules Committee of the Pennsylvania Supreme Court; one (1) copy with the Law Library of Beaver County; and one (1) copy shall be kept continuously available for public inspection and copying in the office of the Clerk of the Orphans' Court.

By the Court

ROBERT E. KUNSELMAN
President Judge

ORPHANS' COURT DIVISION RULE 14

Rule 14. Incapacitated Persons; Guardians

L. R. 14.A. Local Rules.

The practice and procedure with respect to incapacitated persons' estates shall be as prescribed by local rules, which shall not be inconsistent with the Pennsylvania Supreme Court Orphans' Court Rules.

L. R. 14.B. Contents of Petition.

1. A petition for the appointment of a guardian of the estate or person of an alleged incapacitated person shall set forth:

- a) The name, age, residence and post office address of the alleged incapacitated person;
- b) the names and addresses of the spouse, parents and presumptive adult heirs of the alleged incapacitated person;
- c) the name and address of the person or institution providing residential services to the alleged incapacitated person;
- d) the names and addresses of other service providers;
- e) the name and address of the person or entity whom petitioner asks to be appointed guardian;
- f) an averment that the proposed guardian has no interest adverse to the alleged incapacitated person;
- g) the reasons why guardianship is sought;

h) a description of the functional limitations and physical and mental condition of the alleged incapacitated person;

- i) the steps taken to find less restrictive alternatives;
- j) the specific areas of incapacity over which it is requested that the guardian be assigned powers; and
- k) the qualifications of the proposed guardian.

2. If a limited or plenary guardian of the estate is sought, the petition shall also set forth:

- a) The gross value of the estate and the net income of the alleged incapacitated person from all sources to the extent known;
- b) the potential for conflict with regard to the issue of who will be appointed as guardian and with regard to the issue of capacity; and
- c) the current status of the alleged incapacitated person (i.e. unconscious, unable to communicate due to a stroke, combative, etc.).

3. If an emergency guardian is sought, the petition shall also include an indication as to whether or not the condition of the alleged incapacitated person is one that will or will not be remedied within the first 72 hours.

4. A consent, signed by the proposed guardian, shall be attached to the petition in which the proposed guardian shall agree to act as guardian of the person or the estate of the alleged incapacitated person if appointed by the Court and shall state that the proposed guardian has no interest adverse to that of the alleged incapacitated person and is not a fiduciary of any estate, trust or similar fund in which the alleged incapacitated person has an interest. The form of consent shall be substantially as set out in Appendices A-1 and A-2 to this Rule.

5. The petition shall conclude with a prayer for the appointment of a guardian of the estate or person or both of the alleged incapacitated person and for the award of a citation directed to the alleged incapacitated person to show cause why he should not be adjudged an incapacitated person and why a guardian should not be appointed.

L. R. 14.C. Preliminary Order; Notice; Service

1. Upon presentation of a petition for the appointment of a guardian, the Court will enter a preliminary order awarding the citation prayed for. The form of the preliminary order shall be substantially as set out in Appendix B to this Rule.

2. Written notice of the petition and hearing, to which shall be attached the citation and a copy of the petition and preliminary order, shall be provided to the alleged incapacitated person. The written notice shall be in large type and in simple language and shall indicate the purpose and seriousness of the proceeding, the rights that can be lost as a result thereof, the date, time and place of the hearing, and that the alleged incapacitated person has the right to request the appointment of counsel, to have counsel appointed if the Court deems it appropriate, and to have such counsel paid for if it cannot be afforded. The form of written notice shall be substantially as set out in Appendix C to this Rule.

3. Personal service of the written notice, petition, citation and preliminary order shall be made on the alleged incapacitated person and the contents and terms of the petition shall be explained to such person to the maximum extent possible in language and terms the individual is most likely to understand. Service shall be no

less than 20 days in advance of the hearing. In addition, notice of the petition and hearing shall be given in such manner as the Court shall direct to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he died intestate at that time, to the person or institution providing residential services to the alleged incapacitated person and to such other parties as the Court may direct, including other service providers. An Affidavit of Service shall be filed on or before the day of hearing.

L. R. 14.D. Notice of Retention of Counsel

1. Counsel retained by the person alleged to be incapacitated in a petition under 20 Pa.C.S.A. § 5511(a) shall enter an appearance and shall provide a copy thereof to the petitioner at least seven (7) days prior to the date set for hearing.

2. If petitioner does not receive notice under Rule 14.3(a) that counsel has entered an appearance on behalf of the alleged incapacitated person, petitioner shall notify the Court, in writing, at least seven (7) days prior to the date set for hearing that the alleged incapacitated person is not represented by counsel as set out in Appendix D to this Rule.

L. R. 14.E. Hearing

At the time fixed for the hearing on the petition, testimony shall be submitted in support of the petition (See 20 Pa.C.S.A. §§ 5512.1, 5518 and 5518.1). The alleged incapacitated person shall be present in court at such hearing unless (1) the Court is satisfied, upon the deposition or testimony of, or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence; or (2) it is impossible for him to be present because of his absence from the Commonwealth.

L. R. 14.F. Appointment of Guardian

1. *Findings.* In all cases, the Court, upon presentation of proper proof, shall consider and make specific findings of fact as required by 20 Pa.C.S.A. § 5512(a).

2. *Final Orders.* The Court shall determine whether a plenary or limited guardian of the person or estate of the alleged incapacitated person is required. The forms of final orders for the appointment of plenary and limited guardians are set out in Appendices E-1 and E-2 to this Rule.

3. There shall be attached to the final order as an exhibit the Statement of Rights, the form of which is set out in Appendix F to this Rule.

4. At the time of final hearing, the Petitioner shall submit to the Court the Pennsylvania Notification of Mental Health Commitment, the form of which is set out as Appendix G to this Rule.

L. R. 14.G. Emergency Guardians

1. *Petition.* A petition for the appointment of an emergency guardian of the person or estate of the alleged incapacitated person shall both set forth the information required in 20 Pa.C.S.A. § 5511(e) and Rule 14.1, and shall be subject to the provisions of 20 Pa.C.S.A. § 5511 (including those relating to notification concerning the right to counsel and the appointment of such counsel for the alleged incapacitated person), unless the Court directs in its order setting the time of the emergency hearing that the preparation and inclusion of such information is not feasible under the circumstances. Such emergency petitions must, however, contain facts and information

sufficient to enable the Court to determine that: (1) the person allegedly lacks capacity; (2) is in need of the appointment of an emergency guardian; and (3) the failure to make such appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

2. *Citation.* Upon presentation of an appropriate petition for the appointment of an emergency guardian of the person or estate of an alleged incapacitated person, the Court will enter an order awarding a citation, subject to the provisions of 20 Pa.C.S.A. § 5511(a), and will direct such notice as it shall determine to be feasible in the circumstances to persons appearing to be entitled to such notice. In addition to fixing a return day for the filing of a written answer to the petition (though such written answer shall not be mandatory), the order shall also fix a time and place for hearing on the petition. The citation, together with written notice of the petition, to which shall be attached a copy of the petition and the order, shall be served personally upon the alleged incapacitated person prior to the hearing. The forms of orders for the setting of a hearing upon a petition for appointment of an emergency guardian of the person or the estate of an alleged incapacitated person shall be substantially as provided in Appendix H to this Rule.

3. *Hearing.* At the time fixed for hearing on the petition for appointment of an emergency guardian, testimony shall be submitted in support of the petition (See 20 Pa.C.S.A. §§ 5513 and 5518). The alleged incapacitated person shall be present at the hearing unless: (1) the Court is satisfied, upon the deposition, testimony or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence, or (2) it is impossible for him to be present because of his absence from the Commonwealth.

4. *Appointment of Emergency Guardian.* Upon proper proof, the Court shall make a finding of incapacity and appoint an emergency guardian of the person or estate, or both, pursuant to 20 Pa.C.S.A. §§ 5512.1 and 5513 and, if the petition is for the appointment of an emergency guardian of the estate, will fix the amount of the surety bond, if any, to be filed by the guardian. The required bond must be submitted to the Court for approval and filed in the Clerk's Office before the order of appointment will be released by the Court. The emergency guardian of an alleged incapacitated person shall have only and be subject to such powers, duties and liabilities and serve for such time as the Court in its order of appointment shall direct. The forms of orders of appointment of an emergency guardian shall be substantially as provided in Appendices I-1 and I-2 to this Rule.

L. R. 14.H. Inventory

Within three (3) months after the real or personal property of the incapacitated person comes into his possession or as otherwise ordered by the Court, a guardian of the estate of an incapacitated person shall verify by oath and file with the Clerk an inventory and appraisal of personality and a statement of real estate, and a statement of any real or personal property which the guardian expects to acquire thereafter.

L. R. 14.I. Reports Required of Guardian

1. Each guardian of an incapacitated person shall file a report with the Court at least once within the first twelve (12) months of his appointment or such earlier time as may be set by the Court and at least annually thereafter.

2. The annual report of a guardian of the estate of an incapacitated person shall include:

a) Assets held by the guardian and the current value thereof.

b) All receipts and disbursements of principal and income since the date of appointment of the guardian, or, if later, since the date of the last annual report. The report shall identify expenditures which have been made since the date of appointment or, if later, the date of the last annual report, pursuant to any order for an allowance under 20 Pa.C.S.A. § 5536, or otherwise for the housing, maintenance, support, medical expenses, rehabilitation, education and other needs of the incapacitated person.

c) The estimated annual income from the assets held by the guardian and from other sources.

d) Notice of the filing of an annual report by the guardian of an estate shall be provided to the guardian's surety, the guardian of the person if someone other than the guardian of the estate, the incapacitated person and his or her counsel, if any, and such other interested parties as the Court may direct.

The form of the Report of a guardian of the estate shall be substantially as set out in Appendix J to this Rule.

3. Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the estate of such incapacitated person shall file a final report with the Court. The final report shall cover the period from the date of the appointment of the guardian of the estate to the date of death of the incapacitated person or the adjudication of capacity. Such final report shall be filed as an account of the guardian in the office of the Clerk as provided by 20 Pa.C.S.A. § 5532, and the practice and procedure concerning the filing and audit of such accounts, reviews, distribution and rights of distributees shall conform to the practice and procedure governing the administration as set forth in 20 Pa.C.S.A. § 5533 of a decedent's or minor's estate.

4. The annual report of guardian of the person of an incapacitated person shall include:

a) Current address, type of placement and living arrangements of the incapacitated person, e.g., private home, personal care facility, hospital, institution, etc.

b) Major medical or mental problems of the incapacitated person.

c) A brief description of the social, medical, psychological and other support services the incapacitated person is receiving.

d) The opinion of the guardian as to whether the guardianship should continue or be terminated or modified, and the reasons therefore.

e) The number and length of times the guardian visited the incapacitated person in the past year.

The form of the report of a guardian of the person shall be substantially as set out in Appendix K to this Rule.

5. Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the person shall file a final report with the Court, providing the address and type of placement of the incapacitated person as of the date of death or adjudication of capacity, number and length of times the guardian visited the incapacitated person since the last report, and the reason why the report is being filed. The form of the final report of the guardian of the person shall be substantially as set out in Appendix L to this Rule.

L. R. 14.J. Petition for Allowance

A petition under 20 Pa.C.S.A. § 5536 for an allowance from the incapacitated person's estate during incapacity, may be presented by the guardian or any interested party. The petition shall set forth:

1. The name of the guardian and the date of the guardian's appointment; if the petitioner is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest;

2. the nature and present value of the incapacitated person's estate and the net annual income therefrom;

3. the address of the incapacitated person;

4. the names and addresses of the incapacitated person's dependents, if any;

5. a statement of all claims of the incapacitated person's creditors known to the petitioner;

6. all previous allowances by decree; and

7. a prayer for the allowance requested.

No order for an allowance out of an incapacitated person's estate shall be made without prior notice to the incapacitated person's guardian, if any.

L. R. 14.K. Sales, Mortgages, Leases, Exchanges and Options

A petition for the sale, mortgage, lease, exchange or option of an incapacitated person's real or personal property shall comply with 20 Pa.C.S.A. §§ 3353, 5155 and 5521(b), and the applicable provisions of Rules 12.9, 12.10 and 12.11 of this Court.

Notice of a sale or other transaction under this section shall be given to all persons who are sui juris and would be entitled to share in the estate of the incapacitated person if the incapacitated person died intestate at the time the petition is presented.

L. R. 14.L. Small Estates

1. When the entire real and personal estate, wherever located, of a resident or non-resident alleged incapacitated person has a gross value of \$25,000 or less, a petition to have him adjudged incapacitated shall be filed in the form prescribed in Rule 14.1 of this Rule except that the appointment of a guardian of his estate shall not be requested. After the hearing on such a petition and upon presentation of the required evidence, the Court will make a finding of incapacity as to the alleged incapacitated person and may authorize the person or institution maintaining the person to receive and hold or dispose of the property of the person without the appointment of a guardian or the entry of security.

2. Without the appointment of a guardian, any amount in cash of a resident or non-resident incapacitated person may be ordered by the Court to be deposited in one or more savings accounts in the name of the person in banks, building and loan associations or savings and loan associations insured by a federal government agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured. Every such order shall contain a provision that no withdrawal can be made from any such account except as authorized by order of Court.

L. R. 14.M. Foreign or Successor Guardian

1. A foreign guardian shall file an exemplification of the record of the foreign guardianship in the office of the Register of Wills and thereafter a petition with the Court requesting full faith and credit to be given to the foreign

adjudication of incompetency. The Court will enter a preliminary order awarding a citation directed to the alleged incapacitated person and providing that at least twenty days' written notice of the proceeding be given to all persons appearing to be entitled to such notice. In addition to fixing a return date for the citation, the order shall also fix a time and place for a hearing on the petition. The citation, together with a copy of the petition and order, shall be served personally on the alleged incapacitated person. Notice to other persons shall be given personally or by registered or certified mail.

2. The Court, after such notice to parties in interest as it shall direct, may without a hearing appoint a succeeding guardian to fill a vacancy in the office of guardian or may appoint a co-guardian of the estate of an incapacitated person. Where the vacating guardian was a parent who is now deceased, any testamentary nominee of the parent shall be given preference by the Court.

L. R. 14.N. Distribution of Principal (Estate Plan)

In all petitions brought under 20 Pa.C.S.A. § 5536(b),

the Court will appoint a guardian ad litem to represent the interests of the incapacitated person at the hearing on the petition.

Alternate: In all petitions brought under 20 Pa.C.S.A. § 5536(b), petitioner shall (1) request the Court to appoint a guardian ad litem to represent the interests of the incapacitated person in the proceedings, or (2) assert facts and circumstances as to why such guardian need not be appointed.

L. R. 14.O. Testamentary Writings

All testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, shall, at the time of the filing of the inventory, be filed with the Clerk of the Orphans' Court and sealed, not to be opened without Order of Court.

L. R. 14.P. Accounts and Distribution

The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets comprising the estate, shall conform with the practice and procedure governing all other accounts.

APPENDIX A-1

Consent of Guardian of Person

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: _____ :
: No. _____ of _____
: _____
an Alleged Incapacitated Person :

CONSENT OF THE PROPOSED GUARDIAN OF THE PERSON

I, _____, do hereby consent to be appointed as the Guardian of the Person of _____, an alleged Incapacitated Person, if so appointed by the Court.

I understand that if I am appointed as Guardian, I will be serving for the benefit of _____, an alleged Incapacitated Person, and I affirm that I will act in the best interests at all times of the alleged Incapacitated Person.

I further understand that if I am appointed as Guardian, I will be required to report to the Orphans' Court Division on my ward's personal affairs on at least an annual basis.

Dated: _____
Proposed Guardian

APPENDIX A-2

Consent of Guardian of Estate

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: _____ :
: No. _____ of _____
: _____
an Alleged Incapacitated Person :

CONSENT OF THE PROPOSED GUARDIAN OF THE ESTATE

I, _____, do hereby consent to be appointed as the Guardian of the Estate of _____, an alleged Incapacitated Person, if so appointed by the Court.

I understand that if I am appointed as Guardian, I will be serving for the benefit of _____, an alleged Incapacitated Person, and I affirm that I will act in the best interests at all times of the alleged Incapacitated Person.

I further understand that if I am appointed as Guardian of the Estate, I am accepting fiduciary responsibility for the financial affairs of _____, an alleged Incapacitated Person, and will be required to report to the Orphans' Court Division with regard to these financial affairs at least on an annual basis.

Dated: _____
Proposed Guardian

THE COURTS

APPENDIX B

Preliminary Order Awarding a Citation for Permanent Guardianship Under Rule 14.2(a)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____ : an Alleged Incapacitated Person :

PRELIMINARY ORDER OF COURT (Non-Emergency Guardian)

AND NOW, this _____ day of _____, 20____, the foregoing Petition having been presented in Open Court, and upon consideration thereof, and upon motion of _____, Esquire, counsel for the Petitioner, IT IS ORDERED AND DECREED that a Citation be awarded directed to _____. This Petition seeks to have _____ adjudged an Incapacitated Person and to have a Plenary/Limited Guardian of his/her person and estate appointed, returnable the ____ day of _____, 20____, at _____ o'clock _____.M. prevailing time, at which time and place a hearing on the Petition for Appointment of a Plenary/Limited Guardian of the Person and of the Estate of the alleged Incapacitated Person will be held in Court Room No. _____, Beaver County Court House, Beaver, Pennsylvania.

At least twenty (20) days' written notice of the hearing shall be given to _____, the alleged Incapacitated Person, by serving him/her personally with a Citation and this Order of Court and a copy of the foregoing Petition, together with an explanation of the content and terms of the Petition. At least twenty (20) days' written notice of the Petition and hearing shall also be given to the next of kin and other parties in interest named in the Petition either personally or by registered or certified mail.

BY THE COURT: _____ J.

APPENDIX C

Important Notice to Alleged Incapacitated Person under Rule 14.2(b)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____ : an Alleged Incapacitated Person :

IMPORTANT NOTICE

TO: _____, an Alleged Incapacitated Person:

A PETITION HAS BEEN FILED BY _____ WITH THE ORPHANS' COURT DIVISION SEEKING TO HAVE YOU DECLARED AN INCAPACITATED PERSON AND A GUARDIAN APPOINTED FOR YOU. A HEARING ON THIS PETITION HAS BEEN SCHEDULED FOR THE _____ DAY OF _____, 20____, AT _____ O'CLOCK _____.M., PREVAILING TIME IN COURT ROOM NO. _____, BEAVER COUNTY COURT HOUSE, BEAVER, PENNSYLVANIA.

IF, AFTER THE HEARING, THE COURT GRANTS THIS PETITION, YOU MAY LOSE THE RIGHT TO MANAGE YOUR OWN FINANCIAL RESOURCES AND TO MAKE DECISIONS CONCERNING YOUR PHYSICAL HEALTH AND SAFETY, WHERE YOU LIVE OR OTHER RIGHTS IMPORTANT TO YOU.

YOU HAVE THE RIGHT TO ATTEND THE HEARING AND TO HAVE A LAWYER REPRESENT YOU. IF THE COURT DETERMINES THAT YOU CANNOT AFFORD A LAWYER, YOU HAVE THE RIGHT TO REQUEST THAT THE COURT APPOINT A LAWYER TO REPRESENT YOU AT NO COST TO YOU. YOU ALSO HAVE THE RIGHT TO REQUEST THAT THE COURT ORDER THAT AN INDEPENDENT EVALUATION BE CONDUCTED AS TO YOUR ALLEGED INCAPACITY. ADDITIONALLY, YOU HAVE ALL THE RIGHTS SET FORTH IN THE PROBATE, ESTATES AND FIDUCIARIES CODE AT 20 PENNSYLVANIA CONSOLIDATED STATUTES, SECTION 5101, WHICH GOVERNS GUARDIANSHIP PROCEEDINGS.

APPENDIX D

Notification of Retention or Lack of Counsel Under Rule 14.3(b)

(Date of Letter)

The Honorable _____
Court of Common Pleas of Beaver County
Orphans' Court Division
Beaver County Court House
Beaver, PA 15009

Re: _____
an Alleged Incapacitated Person
Docket No. _____ of _____
Date of Hearing: _____

Dear Judge _____ :

With regard to the above captioned matter and in accordance with Beaver County Local Orphans' Court Rule 14.3(b), this letter is to inform you that to the best of my knowledge, information and belief, _____ is not presently represented by counsel in his/her own right in regard to the above referenced proceedings.

OR

With regard to the above captioned matter and in accordance with Beaver County Local Orphans' Court Rule 14.3(b), this letter is to inform you that to the best of my knowledge, information and belief, _____ is presently represented by counsel in his/her own right in regard to the above referenced proceedings. An appearance has been entered on his/her behalf by _____ whose address is _____ and whose telephone number is _____ .

Very truly yours,

Attorney for Petitioner

APPENDIX E-1

Final Order Appointing Permanent Plenary Guardian Under Rule 14.5 (b)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: _____ :
_____ : No. _____ of _____
_____ :
an Alleged Incapacitated Person _____ :

ORDER OF COURT DETERMINING INCAPACITY
AND APPOINTING PERMANENT PLENARY
GUARDIAN OF PERSON AND/OR ESTATE

AND NOW, this _____ day of _____, 20 _____, a hearing in this case having been held on _____, 20 _____, and it appearing to the Court that _____ was served with a Notice of this hearing on _____, 20 _____, and was present at the hearing (or) the Court finds that the physical or mental condition of _____ would be harmed by his/her presence at the hearing, and further finds from the testimony as follows:

- 1. That _____ suffers from _____, a condition or disability which totally impairs his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning his/her management of financial affairs or to meet essential requirements for his/her physical health and safety.
2. That there are insufficient supports available to assist _____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of a Plenary Guardian.
3. That based on the total incapacity of _____ to receive and evaluate information effectively and to make or communicate decisions, a Plenary Guardian of the Person and a Plenary Guardian of the Estate are required on a permanent basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that _____ be and hereby is adjudged a totally incapacitated person.

_____ is appointed Permanent Plenary Guardian of the Person of _____ and _____ is appointed Permanent Plenary Guardian of the Estate of _____ .

The Permanent Plenary Guardian of the Person shall have authority to consent to the general care, maintenance and custody of _____ without exception.

The Permanent Plenary Guardian of the Person shall assure that _____ receives appropriate services and shall assist him/her in developing self-reliance and independence.

The Permanent Plenary Guardian of the Estate shall have the authority to marshal all of _____'s income and assets, pay his/her bills and manage his/her financial affairs as fully as _____ could do so himself/herself if he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the Incapacitated Person alone or in the names of the Incapacitated Person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the Incapacitated Person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the Incapacitated Person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days' notice of the proposed entry shall be given to the other owners by the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed within _____ days and annually thereafter in a form approved by the Orphans' Court Division.

Within sixty (60) days of the death of the Incapacitated Person or an adjudication of capacity and modification of existing orders, the Guardian of the Estate shall file a final report with the Court in the form prescribed for accounts and shall cover the period from the date of the appointment of the Guardian of the Estate to the date of death of the Incapacitated Person or the adjudication of capacity.

A surety bond in the amount of \$ _____ shall be presented for approval by the Guardian of the Estate within five (5) days of the date of this Order.

_____, an Incapacitated Person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within twenty (20) days of the date of this Order or by filing an appeal with the Prothonotary's Office of the Superior Court of Pennsylvania within thirty (30) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If _____ was not present at the hearing on the adjudication of his/her incapacity and the appointment of a Guardian, then Petitioner shall serve upon, and read to _____, the Statement of Rights attached to this Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

COURT:

J.

APPENDIX E-2

Final Order Appointing Permanent Limited Guardian Under Rule 14.5 (b)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: _____ :
: No. _____ of _____
: _____,
an Alleged Incapacitated Person :

**ORDER OF COURT DETERMINING PARTIAL
INCAPACITY AND APPOINTING LIMITED PERMANENT
GUARDIAN OF PERSON AND/OR ESTATE**

AND NOW, this _____ day of _____, 20____, a hearing in this case having been held on _____, 20____, and it appearing to the Court that _____ was served with a Citation and Notice of the hearing on _____, 20____, and was present at the hearing (or) the Court finds that the physical or mental condition of _____ would be harmed by his/her presence at the hearing, and further finds from the testimony as follows:

- 1. That _____ suffers from _____, a condition or disability which partially impairs his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning his/her health and safety.
- 2. That there are insufficient supports available to assist _____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of a Limited Guardian.
- 3. That based on the partial incapacity of _____, to receive and evaluate information effectively and to make or communicate decisions, a Limited Guardian of the Person and a Limited Guardian of the Estate are required on a permanent basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that _____ be and hereby is adjudged a partially Incapacitated Person.

_____ is appointed Limited Permanent Guardian of the Person of _____ and _____ is appointed Limited Permanent Guardian of the Estate of _____.

The Limited Permanent Guardian of the Person shall have authority to consent to the general care, maintenance and custody of _____ with the exception of: _____.

The Limited Guardian of the Person shall assure that _____ receives appropriate services and shall assist him/her in developing self-reliance and independence.

The Limited Guardian of the Estate shall have the authority to marshal all of _____'s income and assets except that _____, the Incapacitated Person, shall retain the following power and authority to act on his/her own behalf: _____.

If there is a safe deposit box in the name of the Incapacitated Person alone, or in the names of the Incapacitated Person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make, or cause to be made, a record of the Incapacitated Person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the Incapacitated Person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days' notice of the proposed entry shall be given to the other owners by the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed within _____ days and annually thereafter in a form approved by the Orphans' Court Division.

Within sixty (60) days of the death of the Incapacitated Person or an adjudication of capacity and modification of existing orders, the Guardian of the Estate shall file a final accounting.

A surety bond in the amount of \$ _____ shall be presented for approval by the Guardian of the Estate within five (5) days of the date of this Order.

_____, an Incapacitated Person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within twenty (20) days of the date of this Order or by filing an appeal with the Prothonotary's Office of the Superior Court of Pennsylvania within thirty (30) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If _____ was not present at the hearing on the adjudication of his/her incapacity and the appointment of a Guardian, then Petitioner shall serve upon, and read to _____, the Statement of Rights attached to this Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

J.

APPENDIX F

Statement of Rights

STATEMENT OF RIGHTS

AN ORDER HAS BEEN ENTERED BY A JUDGE OF THE COURT OF COMMON PLEAS OF BEAVER COUNTY, ORPHANS' COURT DIVISION, WHEREBY YOU HAVE BEEN ADJUDICATED AN INCAPACITATED PERSON AND UNABLE TO CARE FOR YOURSELF AND/OR MANAGE YOUR PERSONAL AFFAIRS. YOU HAVE THE RIGHT TO FILE EXCEPTIONS WITHIN TWENTY (20) DAYS OF THE DATE OF THE COURT'S ORDER WITH THE ORPHANS' COURT OR THE RIGHT TO FILE AN APPEAL WITHIN THIRTY (30) DAYS OF THE DATE OF THE COURT'S ORDER WITH THE SUPERIOR COURT OF PENNSYLVANIA. IN THE EVENT THAT YOU FILE EXCEPTIONS AND THEY ARE DENIED, YOU HAVE A RIGHT TO FILE AN APPEAL TO THE SUPERIOR COURT OF PENNSYLVANIA WITHIN THIRTY (30) DAYS OF THE DATE OF THE DENIAL OF THE EXCEPTIONS.

IN ADDITION, YOU MAY PETITION THE COURT AT ANY FUTURE TIME TO MODIFY OR TO TERMINATE THE GUARDIANSHIP IF THERE IS A CHANGE IN YOUR CAPACITY OR IF YOUR GUARDIAN FAILS TO PERFORM HIS/HER DUTIES IN ACCORDANCE WITH THE COURT'S ORDER.

IF YOU WISH TO APPEAL THE ORDER OR TO PETITION THE COURT TO MODIFY OR TERMINATE THE GUARDIANSHIP, YOU ARE ENTITLED TO BE REPRESENTED BY AN ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, THE COURT MAY APPOINT ONE TO REPRESENT YOU. IF YOU CANNOT AFFORD AN ATTORNEY, THE SERVICES OF AN ATTORNEY WHOM THE COURT MAY APPOINT FOR YOU WILL BE PROVIDED AT NO COST TO YOU.²

APPENDIX G

Notification of Mental Health Commitment

State Police Gun Control Notification: See Form "Notification of Mental Health Commitment" from the Commonwealth of Pennsylvania.

THE COURTS

APPENDIX H

Preliminary Order Awarding a Citation for Emergency and Permanent Guardian Under Rule 14.2(a) and 14.6(a)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____ an Alleged Incapacitated Person

PRELIMINARY ORDER OF COURT (Emergency and Permanent Guardian)

AND NOW, this _____ day of _____, 20____, the foregoing Petition having been presented in Open Court, upon consideration thereof and on motion of _____, counsel for Petitioner, IT IS HEREBY ORDERED AND DECREED that a Citation be awarded, directed to _____. This Petition seeks to have _____ adjudged an Incapacitated Person and to have a Plenary/Limited Guardian of his/her Person and Estate appointed. The Citation shall be returnable and an emergency and permanent hearing on the Petition, and any answer thereto, shall be held on the following dates and times:

Emergency Guardianship Permanent Guardianship Return Date: Return date: Hearing Date: Hearing Date: Hearing Time: Hearing Time: Courtroom No. Courtroom No.

The alleged Incapacitated Person shall be given notice of the hearing on appointment of an Emergency Guardian of his/her Person and Estate by serving him/her personally with the Citation, this Order of Court and a copy of the foregoing Petition prior to the time of such emergency hearing.

OR

The Court finds that service of notice of the hearing on appointment of an Emergency Guardian upon the alleged Incapacitated Person is not feasible under the circumstances and is, therefore, waived pursuant to 20 Pa.C.S.A. § 5513.

Any Answer or other response to the Petition shall be filed at the Office of the Register of Wills of Beaver County sitting as Clerk of the Orphans' Court, Beaver County Court House, Beaver, Pennsylvania 15009. Hearing shall be held in Court Room No. _____, Beaver County Court House, Beaver, Pennsylvania.

The Court finds that strict compliance with 20 Pa.C.S.A. § 5511(e) and Rule 14.1 of the Beaver County Orphans' Court Division Rules (both relating to contents of the Petition) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an Emergency Guardian of the alleged Incapacitated Person.

The Court further finds that strict compliance with 20 Pa.C.S.A. § 5511(a) (relating to notification concerning the right to counsel and the appointment of counsel for the alleged Incapacitated Person) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an Emergency Guardian of the alleged Incapacitated Person.

At least twenty (20) days' written notice of the hearing on appointment of a Permanent Guardian shall be given to _____, the alleged Incapacitated Person, by serving him/her personally with a copy of the Petition, the Citation and this Order of Court, together with an explanation of their contents. At least twenty (20) days' written notice of the petition and hearing on the appointment of a Permanent Guardian shall be given to the next of kin and other parties in interest in the petition, either personally or by registered or certified mail.

BY THE COURT:

_____ J.

APPENDIX I-1

Order Appointing Emergency Plenary Guardian Under Rule 14.6(d)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____ an Alleged Incapacitated Person

ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING EMERGENCY PLENARY GUARDIAN OF PERSON AND/OR ESTATE

AND NOW, this ____ day of ____, 20 ____, a hearing in this case having been held on ____, 20 ____, and it appearing to the Court that ____ was served with a Notice of this hearing on ____, 20 ____, and was present at the hearing (or) the Court finds that the physical or mental condition of ____ would be harmed by his/her presence at the hearing, and further finds from the testimony as follows:

- 1. That ____ suffers from ____, a condition or disability which totally impairs his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning his/her management of financial affairs or to meet essential requirements for his/her physical health and safety.
2. That there are insufficient supports available to assist ____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of an Emergency Plenary Guardian.
3. That based on the total incapacity of ____, to receive and evaluate information effectively and to make or communicate decisions, a Plenary Guardian of the Person and a Plenary Guardian of the Estate are required on an emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that ____ be and hereby is adjudged a totally Incapacitated Person.

____ is appointed Emergency Plenary Guardian of the Person of ____ and ____ is appointed Emergency Plenary Guardian of the Estate of ____.

The Emergency Plenary Guardian of the Person shall have authority to consent to the general care, maintenance and custody of ____ without exception.

The Emergency Plenary Guardian of the Person shall assure that ____ receives appropriate services and shall assist him/her in developing self-reliance and independence.

The Emergency Plenary Guardian of the Estate shall have the authority to marshal all of ____'s income and assets, pay his/her bills and manage his/her financial affairs as fully as ____ could do so himself/herself if he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the Incapacitated Person alone or in the names of the Incapacitated Person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the Incapacitated Person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the Incapacitated Person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days' notice of the proposed entry shall be given to the other owners by the Guardian.

The appointment of the Emergency Plenary Guardian of the Person and Estate shall remain in effect until further Order of Court.

NO BOND REQUIRED ON EMERGENCY PLENARY GUARDIAN APPOINTMENT.

____, an Incapacitated Person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within twenty (20) days of the date of this Order or by filing an appeal with the Prothonotary's Office of the Superior Court of Pennsylvania within thirty (30) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If ____ was not present at the hearing on the adjudication of his/her incapacity and the appointment of a Guardian, then Petitioner shall serve upon, and read to ____, the Statement of Rights attached to this Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

____ J.

APPENDIX I-2

Order Appointing Emergency Limited Guardian Under Rule 14.6(d)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: :
: No. ____ of ____
____, :
an Alleged Incapacitated Person :

ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING EMERGENCY LIMITED GUARDIAN OF PERSON AND/OR ESTATE

AND NOW, this ____ day of _____, 20____, a hearing in this case having been held on _____, 20____, and it appearing to the Court that _____ was served with a Notice of this hearing on _____, 20____, and was present at the hearing (or) the Court finds that the physical or mental condition of _____ would be harmed by his/her presence at the hearing and further finds from the testimony as follows:

- 1. That _____ suffers from _____, a condition or disability which partially impairs his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning his/her management of financial affairs or to meet essential requirements for his/her physical health and safety.
2. That there are insufficient supports available to assist _____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of a Limited Guardian.
3. That based on the partial incapacity of _____ to receive and evaluate information effectively and to make or communicate decisions, a Limited Guardian of the Person and Limited Guardian of the Estate are required on an emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that _____ be and hereby is adjudged a Partially Incapacitated Person.

_____ is appointed Emergency Limited Guardian of the Person of _____ and _____ is appointed Emergency Limited Guardian of the Estate of _____.

The Emergency Limited Guardian of the Person shall have authority to consent to the general care, maintenance and custody of _____ with the exception of: _____.

The Emergency Limited Guardian of the Person shall assure that _____ receives appropriate services and shall assist him/her in developing self-reliance and independence.

The Emergency Limited Guardian of the Estate shall have the authority to marshal all of _____'s income and assets except that _____, the Incapacitated Person, shall retain the following power and authority to act on his/her own behalf: _____.

If there is a safe deposit box in the name of the Incapacitated Person alone or in the names of the Incapacitated Person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the Incapacitated Person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the Incapacitated Person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days' notice of the proposed entry shall be given to the other owners by the Guardian.

NO BOND REQUIRED ON EMERGENCY LIMITED GUARDIAN APPOINTMENT.

_____, an Incapacitated Person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within twenty (20) days of the date of this Order or by filing an appeal with the Prothonotary's Office of the Superior Court of Pennsylvania within thirty (30) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If _____ was not represent at the hearing on the adjudication of his/her incapacity and the appointment of a Guardian, then Petitioner shall serve upon, and read to _____ the Statement of Rights attached to this Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

J.

APPENDIX J

Guardian of the Estate Annual Report

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: _____ :
: No. _____ of _____
:
:
:
an Incapacitated Person _____

GUARDIAN OF THE ESTATE ANNUAL REPORT

FROM _____, 20____, to _____, 20____.

1. I am the _____ Limited _____ Plenary Guardian of the Estate of my ward, named above. I was appointed Guardian by the Order of the Court dated _____, 20____, which was _____ was not _____ modified by Court Order(s) dated _____.

2. If the Incapacitated Person still living? _____

If no, answer the following:

- a. Date of Death: _____
- b. Place of Death: _____
- c. Name of Administrator or Executor: _____
- d. Date Guardian of the Estate filed the last Annual Report: _____

PLEASE ANSWER THE FOLLOWING QUESTIONS WHETHER THE INCAPACITATED PERSON IS LIVING OR DECEASED:

3. My initial inventory was filed on _____, 20____, and listed a total estate value of \$ _____. The inventory listed a total monthly income of \$ _____ comprised of the following:

4. At the beginning date of this reporting period, my initial balance on hand was \$ _____.

5. During this reporting period, the following reflects all sources of income (other than social security) received by me for my ward: (add additional pages, if needed)

	<i>Date Received</i>	<i>Source of Income</i>	<i>Amount</i>
(1)	_____	_____	\$ _____
(2)	_____	_____	\$ _____
(3)	_____	_____	\$ _____
(4)	_____	_____	\$ _____
(5)	_____	_____	\$ _____
(6)	_____	_____	\$ _____
		TOTAL:	\$ _____

6. During this reporting period, the following reflects all payments I have made for my ward: (add additional pages, if needed)

	<i>Date</i>	<i>To Whom Paid</i>	<i>Reason for Pmt.</i>	<i>Amount</i>
(1)	_____	_____	_____	\$ _____
(2)	_____	_____	_____	\$ _____
(3)	_____	_____	_____	\$ _____
(4)	_____	_____	_____	\$ _____
(5)	_____	_____	_____	\$ _____
(6)	_____	_____	_____	\$ _____
		TOTAL:		\$ _____

7. The present principal assets of my ward are:

	<i>Description of Asset</i>	<i>Present Value</i>
(1)	_____	\$ _____
(2)	_____	\$ _____
(3)	_____	\$ _____
(4)	_____	\$ _____
(5)	_____	\$ _____
(6)	_____	\$ _____
	TOTAL:	\$ _____

8. The present amount and sources of income for my ward are:

	<i>Sources of Income</i>	<i>Amount</i>
(1)	_____	\$ _____
(2)	_____	\$ _____
(3)	_____	\$ _____
(4)	_____	\$ _____
(5)	_____	\$ _____
(6)	_____	\$ _____
	TOTAL:	\$ _____

9. The regular monthly expenses of my ward which I pay are:

	<i>To Whom Paid</i>	<i>Amount</i>
(1)	_____	\$ _____
(2)	_____	\$ _____
(3)	_____	\$ _____
(4)	_____	\$ _____
(5)	_____	\$ _____
(6)	_____	\$ _____
	TOTAL:	\$ _____

10. I have/have not (circle one) petitioned the Court for permission to invade principal to meet the needs of my ward.

(If applicable) The following expenses of my ward have not been paid from principal:

	<i>To Whom Paid</i>	<i>Purpose</i>	<i>Amount</i>
(1)	_____	_____	\$ _____
(2)	_____	_____	\$ _____
(3)	_____	_____	\$ _____
(4)	_____	_____	\$ _____
(5)	_____	_____	\$ _____
(6)	_____	_____	\$ _____
		TOTAL:	\$ _____

11. I have/have not (circle one) paid myself compensation for services I rendered as guardian.

The amount I paid myself totaled \$ _____ and was calculated at the following rate: \$ _____ per week/month (circle one).

12. Circle the correct response and complete, if applicable.

There will be no need for extraordinary expenditures on behalf of my ward in the next twelve (12) months.

There will be a need for extraordinary expenditures on behalf of my ward in the next twelve (12) months because:

13. Circle the correct response and complete, if appropriate.

- a. My ward receives monthly social security benefits.
- b. I am the designated payee to receive my ward's social security benefits.
- c. The designated payee of my ward's social security benefits is: _____, whose address is _____ and is/is not (circle one) related to my ward as _____ (insert relationship).

14. Please note any concerns about the Incapacitated Person's physical or mental well being or the finances that the Court should know.

15. I am _____ /am not _____ Guardian of the Incapacitated Person's person. If yes, my report is attached.

I certify under penalties of perjury that the information contained in this report is true and correct to the best of my knowledge, information and belief.

Date: _____
Signature of Guardian of the Estate

Name: _____

Address: _____

Phone: Home— _____

Work— _____

APPENDIX K

Guardian of the Person Annual Report

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____
:
_____ , :
an Incapacitated Person :

GUARDIAN OF THE PERSON ANNUAL REPORT

1. Current address of the Incapacitated Person:

2. Describe the type of placement and living arrangements of the Incapacitated Person, e.g., private residence, personal care of nursing home, institution, hospital, etc.

3. Briefly describe the Incapacitated Person's medical care and any social, psychological or other support services he/she receives.

4. As Guardian of the Person, do you think the guardianship of the Person should continue, be terminated or modified? _____

Reason:

5. Number and length of times you have visited the Incapacitated Person since your appointment or last report.

Table with 2 columns: Date, Duration. Multiple rows for data entry.

Date: _____ Guardian's signature

Guardian's address: _____

Daytime Telephone No. _____

RECEIVED: _____

APPROVED: _____

SIGNATURE: _____

APPENDIX L

Final Report of the Guardian of the Person Under Rule 14, Section 8(e)

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: : No. _____ of _____
:
_____ , :
an Alleged Incapacitated Person :

FINAL REPORT OF THE GUARDIAN OF THE PERSON

- 1. Reason for this Final Report is: _____
 The Incapacitated Person died on _____ .
 The adjudication of capacity has been entered by Decree of this Court dated _____ .
- 2. If the Incapacitated Person died, the cause of death was: _____.
- 3. The address of the Incapacitated Person as of the date of death or adjudication of capacity: _____
- 4. Describe the type of facility and living arrangements that the Incapacitated Person was placed as of the date of death or adjudication of capacity:
 - A. Private home _____
 - B. Personal Care of Nursing Home _____
 - C. Hospital _____
 - D. Institution _____
- 5. Number and length of times you visited the Incapacitated Person from the date of the last report to the date of death or adjudication of capacity:

<i>Date</i>	<i>Duration</i>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date: _____

 Guardian's signature

Guardian's address: _____

Daytime Telephone No. _____

RECEIVED: _____

ACCEPTED: _____

SIGNATURE: _____

[Pa.B. Doc. No. 04-898. Filed for public inspection May 21, 2004, 9:00 a.m.]

BUCKS COUNTY

Information Collection on Initial Filings; Administrative Order No. 48

This order pertains to all actions and appeals commenced in the Office of the Prothonotary.

Every initial filing commencing an action, appeal or miscellaneous application in the civil division of the Bucks County Court of Common Pleas shall be accompanied by an informational cover sheet in such form as may be prescribed by the Prothonotary. This cover sheet may collect such information as the names of parties and counsel, the nature of the matter being filed, the amount in controversy and such other miscellaneous information as may assist the Court in the administration of its dockets.

The failure to file this form or the failure to file the form correctly or completely may result in an order imposing sanctions.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 04-899. Filed for public inspection May 21, 2004, 9:00 a.m.]

BUCKS COUNTY

Mediation Pilot Program; Administrative Order No. 47

The Court recognizes that the use of mediation may offer litigants a faster and less expensive alternative to litigation. Accordingly, in the interests of judicial economy and of those litigants who may benefit from the availability of mediation as a means of dispute resolution, the following program, which shall be known as the "Mediation Pilot Program," is hereby adopted:

- 1. For a period of six months from June 1, 2004, every fifth litigant who files a complaint in assumpsit, trespass, or equity, and every litigant filing a complaint alleging medical malpractice will receive a list of approved mediators and a "Mediation Notice" outlining the availability of mediation as an alternative to litigation. The Notice shall be in the following form:

MEDIATION NOTICE

You have been selected to participate in a pilot program that is intended to introduce litigants to mediation as an alternative to litigation.

Mediation requires the voluntary participation of all parties to submit this dispute to a mediator trained in resolving conflicts of this nature.

You may submit this matter to mediation at any time during the litigation process prior to arbitration or trial by contacting a mediator directly. A list of mediators approved by the Court is attached.

If your case is mediated and not resolved, you are entitled to proceed directly to trial without proceeding through mandatory arbitration.

The cost of the first two hours of mediation is \$300.00, split by the parties and paid directly to the mediator. Some cases may require additional time to resolve.

THIS NOTICE MUST ACCOMPANY ORIGINAL SERVICE OF PROCESS ON ALL PARTIES. IF YOU JOIN OTHER PARTIES TO THIS ACTION, YOU MUST ALSO SERVE A COPY OF THIS NOTICE ON EACH PARTY YOU JOIN.

If you have any questions or need any further information, please call the mediation pilot program coordinator at 215-340-7655.

2. The prothonotary shall keep a list of all cases receiving the Mediation Notice.

3. Plaintiff shall serve a copy of this notice upon all defendants with the complaint or writ of summons. The notice shall also be served on any party joined subsequently.

4. Parties electing mediation shall pay a mediation fee of \$300.00 directly to the mediator for a two-hour mediation.

5. If the mediation resolves the dispute, the parties shall file a Praecipe to Settle, Discontinue and End, and may also file an Agreed Order.

6. If the mediation does not resolve the dispute, any party may file an Omnibus Praecipe moving the case directly to trial. The mediator shall issue to the litigants a special form of Omnibus Praecipe stating that the parties participated in mediation without result, and now wish to proceed to trial. In the alternative, if all parties agree, the matter may be listed for arbitration. If the parties agree to arbitration following mediation and thereafter one party chooses to appeal the arbitration award, the normal arbitration appeal fee must be paid.

7. The Dispute Resolution Committee shall gather information by which the usefulness of a mediation program administered through the Court may be assessed.

8. One year from the implementation of this Pilot Program, the Dispute Resolution Committee shall submit a report to the President Judge describing the results of the Pilot Program.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 04-900. Filed for public inspection May 21, 2004, 9:00 a.m.]

WESTMORELAND COUNTY
Adoption of Juvenile Rule WJUV 1; No. 2 Civil of 2004

Order

And Now, this 3rd day of May, 2004, It Is Hereby Ordered that Westmoreland County Rule of Juvenile

Procedure WJUV1 and accompanying Petition And Order for Expungement of Juvenile Records are hereby adopted. The effective date of this Order is July 1, 2004.

By the Court

DANIEL J. ACKERMAN,
President Judge

WJUV 1 Expunging Juvenile Records

Expungement under "The Criminal History Record Information Act," 18 Pa.C.S.A. §§ 9101 et. seq.

(a) Petitions for Expungement of juvenile records pursuant to 18 Pa.C.S.A. § 9123, shall be initiated by the defendant's filing of a Petition and Order for Expungement of Juvenile Records found in the Forms section of these local rules, or by filing a petition containing the information required under Pa.R.Crim.P. 722.

(b) The Clerk of Courts shall provide the Westmoreland County District Attorney and the Westmoreland County Juvenile Probation and Parole Department with a copy of the Petition.

(c) The juvenile probation and parole department will forward the expungement petition and order to the court thirty (30) days after the defendant files the petition. The Court will direct that argument be scheduled on the Petition if the Commonwealth files an objection within thirty (30) days of the filing of the petition; otherwise, the court will Order expungement of the juvenile record.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA—JUVENILE

Commonwealth of Pennsylvania) No.
Vs.)

PETITION AND ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS

AND NOW this day of , 20

the Petitioner avers the following and requests that an expungement be granted for the following reason:

Governor's Pardon (Copy attached) _____

An unsubstantiated complaint was filed or the complaint was Dismissed by the court 18 Pa.C.S.A. § 9123(a)(1) _____

Six months have elapsed since the final discharge from supervision Pursuant to a consent degree 18 Pa.C.S.A. § 9123(a)(2) _____

Five years have elapsed since discharge from commitment, placement, Probation or other disposition under the terms in 18 Pa.C.S.A. § 9123(a)(3) _____

The individual is 18 years of age or older, the Commonwealth consents And the Court orders expungement after consideration of the Terms found at 18 Pa.C.S.A. § 9123(a)(4) _____

The petitioner is at least 21 years of age and wishes to have records of Dependency adjudication expunged pursuant to 18 Pa.C.S.A. § 9123(c). _____

Petitioner's Name Telephone Number _____

Petitioner's Date of Birth _____

Social Security Number _____

Petitioner's Address _____

 Petitioner's Telephone Number _____
 Petitioner's Juvenile Case Number _____
 Original Complaint Date _____

List ALL charges at Above Juvenile Case Number including Section, subsection and complaint number, and the disposition. Include a copy of the Court Order for disposition.

Charge:	Disposition:
_____	_____
_____	_____
_____	_____
_____	_____

Disposition Date of Above Charges _____

The expungement of the within juvenile record will not prejudice the position of the Commonwealth.

WHEREFORE, petitioner, respectfully requests this Honorable Court to order the expungement of all records pertaining to the aforementioned charges, wherever they may be located and by whom they may be retained.

Respectfully submitted,

 Petitioner's Signature

VERIFICATION

The undersigned, petitioner, avers that the statements of fact contained in the foregoing PETITION FOR EXPUNGEMENT, are true and correct to the best of the petitioner's knowledge, information and belief, and are made subject to the penalties of 18 PA. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Petitioner's Signature _____ Date _____

IN THE COURT OF COMMON PLEAS OF
 WESTMORELAND COUNTY PENNSYLVANIA
 JUVENILE DIVISION

COMMONWEALTH OF PENNSYLVANIA)
)
 VS) Number
)
)

ORDER OF COURT

AND NOW, this _____ day of _____, 20 __, the Commonwealth having filed objections to the Defendant's Petition for Expungement of Juvenile Records in the above captioned case it is HEREBY ORDERED that a hearing on the petition be held on the _____ day of _____, 20 __, at _____ m. in Courtroom # _____ of the Westmoreland County Courthouse.

BY THE COURT:
 _____ J.

ATTEST:

IN THE COURT OF COMMON PLEAS OF
 WESTMORELAND COUNTY PENNSYLVANIA
 JUVENILE DIVISION

COMMONWEALTH OF PENNSYLVANIA)
)
 VS) Number
)
)

ORDER OF COURT

AND NOW, this _____ day of _____, 20 __, the within petition having been presented and there being no objections by the Commonwealth, it is ORDERED that the Clerk of Courts shall serve a copy of this Order and attached Petition, hereby incorporated as a part of this Order, and a Certification of Expungement upon the following persons, keepers of records pertaining to the above-captioned proceedings:

Clerk of Courts of Westmoreland County
 Pennsylvania State Police Central Repository
 Federal Bureau of Investigation
 Magistrate _____
 Police Department _____
 Westmoreland County Juvenile Service Center
 Westmoreland County District Attorney
 Westmoreland County Juvenile Probation
 Westmoreland County Prothonotary

IT IS ALSO ORDERED, that the aforementioned keepers of juvenile records shall expunge and destroy the official and unofficial arrest and other criminal records, files, computer records, and other documents pertaining to the captioned proceedings, and that each shall request the return of such records which its agency made available to state or federal agencies, and immediately upon receipt thereof shall destroy such records.

IT IS FURTHER ORDERED, that said keepers of such records shall file with the Clerk of Court within 30 days an affidavit stating that the mandate of this order have been fulfilled. The Clerk of Court, upon receipt of an affidavit, shall seal and impound such affidavit together with the information complaint and the original and all copies of this order, and no person or agency shall be permitted to examine such documents without Order of the Court.

BY THE COURT:
 _____ J.

ATTEST:

[Pa.B. Doc. No. 04-901. Filed for public inspection May 21, 2004, 9:00 a.m.]

WESTMORELAND COUNTY
Adoption of Rules of Criminal Procedure WC119 and WC319; No. 2 Civil 2004

Order

And Now, this 4th day of May, 2004, It Is Hereby Ordered that Rules of Criminal Procedure WC119 and WC319 and associated Expungement Petitions and Or-

ders are adopted effective thirty days after publication of this Order in the *Pennsylvania Bulletin*.

By the Court

DANIEL J. ACKERMAN,
President Judge

WC119 Expunging Criminal Records

(a) Expungement under "The Controlled Substance, Drug, Device and Cosmetic Act," 35 P. S. §§ 780-1 et. seq.

(1) Pursuant to 35 P. S. § 780-119, the criminal records for any individual charged under The Controlled Substance, Drug, Device and Cosmetic Act who is subsequently found not guilty or for whom the charges are withdrawn or dismissed may apply for expungement of records by filing a Petition for Expungement of Criminal Records (Non ARD) found in the Forms section of these local rules.

(2) The Westmoreland County Adult Probation and Parole Department shall initiate a Petition to Expunge records associated with a Probation Without Verdict Order when the defendant completes the program. The form shall be routed to the Westmoreland County District Attorney for certification, and forwarded by the district attorney to the court for the purpose of signing an order.

(b) Expungement under "The Criminal History Record Information Act," 18 Pa.C.S.A. §§ 9101 et. seq.

(1) Petitions for Expungement of criminal history record information pursuant to 18 Pa.C.S.A. § 9122, shall be initiated when the defendant files a Petition and Order for Expungement of Criminal Records (Non ARD) found in the Forms section of these local rules, or by filing a petition containing the information required under Pa.R.Crim.P. 722.

(2) The clerk of courts shall provide the Westmoreland County District Attorney and the Westmoreland County Court Administrator with a copy of the Petition.

(3) The court administrator will forward the expungement petition and order to the trial judge thirty (30) days after the defendant files the petition. The court will direct the court administrator to schedule argument on the petition if the commonwealth files an objection within thirty (30) days of the filing of the petition; otherwise, the court will order expungement of the criminal history record.

WC319 Procedure for Obtaining Order for Dismissal Upon Successful Completion of the Program

(a) Petitions for dismissal of charges and expungement of records pursuant to successful completion of the ARD program are found in the Forms section of these local rules. The probation and parole officer shall notify the defendant when the conditions of the ARD have been satisfied, and shall advise the defendant of the opportunity to file for dismissal of charges and expungement of the record.

(b) All other petitions for expunging criminal records shall be pursuant to WC119.

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

Commonwealth of Pennsylvania Vs. No.

PETITION AND ORDER FOR EXPUNGEMENT OF CRIMINAL RECORDS (NON ARD)

AND NOW this day of , 20 the Petitioner avers the following and requests that an expungement be granted for the following reason:

- Governor's Pardon (Copy attached)
No disposition of charges within 18 months of arrest Pursuant to 18 Pa.C.S.A. § 9122(a)(1)
Nonconviction of charges Pursuant to 18 Pa.C.S.A. § 9122(a)(2)
Petitioner has reached 70 years of age and Qualifies pursuant to 18 Pa.C.S.A. § 9122(b)(1)
Petitioner has been found "not guilty" or charges have been withdrawn or dismissed pursuant to 35 P. S. § 780-119

Petitioner's Name Date of Birth

Address

Telephone Number

Social Security Number

OTN Common Pleas Case Number

Magisterial District No.

District Justice Case Number

Arresting Agency Date of Arrest

List ALL charges at the above Common Pleas Case Number including Section and Subsection, and the disposition. Include a copy of the Court Order for disposition.

Table with 2 columns: Charge, Disposition

The expungment of the within criminal record will not prejudice the position of the Commonwealth.

WHEREFORE, Petitioner, respectfully requests this Honorable Court to order the expungment of all records pertaining to the aforementioned charges, wherever they may be located and whoever may retain them.

VERIFICATION:

The undersigned Petitioner avers that the statements of fact combined in this Petition for Expungement are true and correct to the best of the petitioner's knowledge, information, and belief, and are made subject to the penalties of 18 PaC.S.A. § 4904 relating to unsworn falsification to authorities.

Petitioner's Signature Date

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

Commonwealth of Pennsylvania Vs. No.

ORDER

AND NOW this day of 20 , the attached Petition having been presented for expungement, and there being no objection filed by the Common-

wealth, it is ORDERED that the Clerk of Courts shall serve a certified copy of this Order and Petition, hereby incorporated as a part of this Order, and a Certification of Expungement upon the following persons, the keepers of records pertaining to the above captioned criminal proceedings: District Attorney's Office, Clerk of Courts, Westmoreland County Records and Identification Division, Adult Probation/Parole Office, Pennsylvania State Police, Court Administrator's Office, F.B.I., Prothonotary, the Issuing Authority, Arresting Agency, and all Court Reporters who may have taken proceedings in this case.

It is ORDERED that the aforementioned keepers of criminal records shall expunge and destroy the official and unofficial arrest and other criminal records, files and other documents pertaining to the captioned proceedings, and that each shall request the return of such records which its agency made available to state or federal agencies, and immediately upon receipt thereof shall destroy such records.

It is further ORDERED that said keepers of such records shall file with the Court within 30 days an affidavit stating that the mandates of this Order have been fulfilled. The Clerk of Courts, upon receipt of an affidavit, shall seal and impound such affidavit together with the information, the complaint, and the original and all copies of this Order. No person or agency shall be permitted to examine such documents without a Court Order.

BY THE COURT: _____ J

ATTEST:

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

Commonwealth of Pennsylvania) No. vs.)

PETITION TO EXPUNGE, CERTIFICATION OF SUCCESSFUL COMPLETION OF PWOV, AND ORDER OF COURT

PETITION AND CERTIFICATION

I, the undersigned, hereby petition the court to dismiss the charges against the above defendant and I certify that he/she has not previously had charges expunged, and that the defendant has successfully completed probation without verdict for the below period of probation, and qualifies for expungement as provided by 35 Pa.C.S.A. § 780-119.

Director, Adult Probation/Parole Office _____ Date _____

Notice of filing of this application has been served on the District Attorney of Westmoreland County. The District Attorney's Office [] has no objection, [] objects to the application for dismissal and expungement. (The district attorney shall forward a copy to the court administrator in all cases in which objections are raised.)

Attorney for the Commonwealth _____ Date _____

CASE/DEFENDANT INFORMATION

Defendant Name _____ Date of Birth _____ Social Security Number _____ OTN _____

CP Docket Nr _____ Court Reporter _____ Magisterial District Nr. 10 - - DJ Docket Number _____ Date of Arrest _____ Arresting Agency _____

The following charges are to be expunged for successful completion of PWOV:

Table with 2 columns: Charge, Disposition. Multiple rows for listing charges.

rev. 4/04

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA—CRIMINAL

Commonwealth of Pennsylvania) No. vs.)

ORDER

AND NOW this _____ day of _____ 20 _____, the within application having been presented pursuant to 35 Pa.C.S.A. § 780-119, and there being no objection filed by the Commonwealth, it is ORDERED that the defendant is discharged on the charges listed above and set forth at the above number(s). It is further ORDERED that the Clerk of Courts shall serve a Certified Copy of this Order and Petition, hereby incorporated as a part of this Order, and a Certification of Expungement upon the following persons, the keepers of records pertaining to the above captioned criminal proceedings: District Attorney's Office, Clerk of Courts, Westmoreland County Records and Identification Division, Adult Probation/Parole Office, Pennsylvania State Police, Court Administrator's Office, F.B.I., Prothonotary, the Issuing Authority, Arresting Agency, and all Court Reporters who may have taken proceedings in this case.

It is ORDERED that the aforementioned keepers of criminal records shall expunge and destroy the official and unofficial arrest and other criminal records, files and other documents pertaining to the captioned proceedings, and that each shall request the return of such records which its agency made available to state or federal agencies, and immediately upon receipt thereof shall destroy such records. It is further ORDERED that said keepers of such records shall file with the Court within 30 days an affidavit stating that the mandates of this Order have been fulfilled. The Clerk of Courts, upon receipt of an affidavit, shall seal and impound such affidavit together with the information, the complaint, and the original and all copies of this Order. No person or agency shall be permitted to examine such documents without a Court Order. Pursuant to 35 Pa.C.S.A. §§ 780-117, the Westmoreland County District Attorney may retain the name of this defendant on a list for the purpose of determining future eligibility.

BY THE COURT: _____ J

ATTEST: _____

APPLICATION FOR AN ORDER TO DISMISS AND EXPUNGE CHARGES UNDER 35 PA.C.S.A. § 780-119

Commonwealth of Pennsylvania)
vs.) No.

The following charges are to be expunged:

Table with 2 columns: Charge, Disposition. Includes blank lines for entry.

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

Commonwealth of Pennsylvania)
Vs.) No.

APPLICATION FOR AN ORDER TO DISMISS AND EXPUNGE CHARGES UNDER PA. RULES OF CRIMINAL PROCEDURE 319 AND 320

Defendant Name _____ Date of Birth _____

I, the above named defendant aver that I have satisfactorily completed the program prescribed, and request that the charges at the above numbered case be dismissed and expunged.

Defendant's Signature _____ Date _____ Social Security Number _____

Sworn to and subscribed

This _____ day or _____, 20 ____ . _____ Notary

This Section is to be completed by the Probation Department.

OTN _____ CP Docket Nr _____

Magisterial District Nr. _____ DJ Docket Nr _____

Court Reporter _____ Date of Arrest _____

Arresting Agency _____

The following charges are to be expunged for successful completion of ARD:

Table with 2 columns: Charge, Disposition. Includes blank lines for entry.

Rev. 4/19/04

CERTIFICATION

I hereby certify that the defendant has satisfactorily completed the A.R.D. program.

Director, Adult Probation/Parole Office _____ Date _____

Notice of filing of this application has been served on the District Attorney of Westmoreland County. The District Attorney's Office [] has no objection, [] objects to the application for dismissal and expungement. (The district attorney shall forward a copy to the court administrator in all cases in which objections are raised.)

Attorney for the Commonwealth _____ Date _____

ORDER

AND NOW this _____ day of _____ 20 _____, the within application having been presented pursuant to Pa Rules of Criminal Procedure 319 and 320, and there being no objection filed by the Commonwealth, it is ORDERED that the defendant is discharged on the charges set forth at the above number(s). It is further ORDERED that the Clerk of Courts shall serve a certified copy of this order and a Certification of Expungement upon the following persons, the keepers of records pertaining to the above captioned criminal proceedings: District Attorney's Office, Clerk of Courts, Westmoreland County Records and Identification Division, Adult Probation/Parole Office, Pennsylvania State Police, Court Administrator's Office, F.B.I., Prothonotary, the Issuing Authority, Arresting Agency, and all Court Reporters who may have taken proceedings in this case.

It is ORDERED that the aforementioned keepers of criminal records shall expunge and destroy the official and unofficial arrest and other criminal records, files and other documents pertaining to the captioned proceedings, and that each shall request the return of such records which its agency made available to state or federal agencies, and immediately upon receipt thereof shall destroy such records. It is further ORDERED that said keepers of such records shall file with the Court within 30 days an affidavit stating that the mandates of this Order have been fulfilled. The Clerk of Courts, upon receipt of an affidavit, shall seal and impound such affidavit together with the information, the complaint, and the original and all copies of this Order. No person or agency shall be permitted to examine such documents without a Court Order, however, the district attorney may retain such information as is necessary to document that the within defendant was granted ARD.

BY THE COURT:

_____ J

APPLICATION FOR AN ORDER TO DISMISS AND EXPUNGE CHARGES UNDER PA. RULES OF CRIMINAL PROCEDURE 319 AND 320

Commonwealth of Pennsylvania)
vs.) No.

The following charges are to be expunged for successful completion of ARD:

Table with 2 columns: Charge, Disposition. Includes blank lines for entry.

[Pa.B. Doc. No. 04-902. Filed for public inspection May 21, 2004, 9:00 a.m.]

WESTMORELAND COUNTY

**Promulgation of Rules of Criminal Procedure
WC114 and WC576; No. 2 Civil of 2004****Order**

And Now This 4th day of May, 2004, it is hereby *Ordered* that Westmoreland Rules of Criminal Procedure WC114 and WC576 are adopted effective July 1, 2004.

By the Court

DANIEL J. ACKERMAN,
President Judge

**WC114. Orders and Court Notices: Filing; Service;
and Docket Entries.**

Pursuant to Pa.R.Crim.P. 114(B), the Westmoreland County Court Administrator is designated to serve court notices.

WC576. Filing and Service by Parties

Pursuant to Pa.R.Crim.P. 576 (B)(3)(d) any document required to be served upon the court administrator may be served by facsimile transmission.

[Pa.B. Doc. No. 04-903. Filed for public inspection May 21, 2004, 9:00 a.m.]
