

THE COURTS

Title 255—LOCAL COURT RULES

CARBON COUNTY

Adoption of Civil Case Management Plan; 04-1823

Administrative Order No. 16-2004

And Now, this 24th day of June, 2004, it is hereby

Ordered and Decreed that, effective July 26, 2004, Carbon County *Adopts* the Civil Case Management Plan.

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

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

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

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

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

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

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

By the Court

RICHARD W. WEBB,
President Judge

Carbon County Court of Common Pleas

Civil Case Management Plan

I. Judicial Commitment to Caseflow Management.

Since January 3, 1995, the Court has assumed the responsibility of ensuring the fair and prompt disposition of all cases, as well as, assuring effective and efficient use of Court resources paid for by taxpayers. Our success is attributable to the commitment of this principle by each Judge, Court and County staff of the 56th Judicial District.

Goal setting provides the objectives and a benchmark for measuring its success. The Court must meet reasonable time standards for the processing and prompt disposition of standard types of cases in terms of their nature and legal issues. "Exhibit "1," attached hereto, shows the timelines and time standards by track for civil cases adopted by this Court.

II. Effective Communications with the Bar.

The Court coordinates scheduling of cases and makes reasonable accommodations to attorneys and parties in the management of cases. Operative scheduling allows efficient case processing.

III. Early and Continuous Court Supervision of Case Progress.

The Court monitors the progress of cases from the time a writ of summons or complaint is filed to ensure movement of cases to disposition, eliminating unneces-

sary delay and additional costs of litigation. Mere agreement of counsel/parties is not sufficient grounds for the Court to grant continuances. When a continuance is granted, the matter is continued to a specified date.

IV. Event-Date Certainty.

Reasonable certainty about filing deadlines and event dates avoids aggravation, waste and unnecessary cost to the parties and their attorneys. Moreover, national studies have found that nothing promotes pretrial dispositions more than the expectation that a trial is more likely than not to occur on or near the scheduled date. Approximately one hundred twenty days (120) after initial filing of the action, deadlines and events are scheduled with notice given to attorneys/parties of all deadlines and projected event dates, assuring case flow and expeditious case dispositions.

V. A Functional Case Management Information System.

The fully automated court computer system provides relevant, accurate, and timely case information, supporting an efficient case management plan by tracking and maintaining cases and events. Monthly reports identify specific cases that have been pending longer than the time standards so appropriate steps can be taken.

VI. Time Standards and Case Management Criteria.

A. Court Ruling on Motions.

1. Motions are decided pursuant to Pa.R.C.P.208.4.

2. Each Judge monitors the status of all outstanding motions.

3. Semi Annual Reports—Pursuant to Pennsylvania Rule of Judicial Administration 703(B)(2), each Judge is responsible to report on matters submitted and undisposed for 90 days or more.

B. Differentiated case Management by Case Tracks.

Upon the filing of an action, the court computer database assigns a track and timelines based on the case type, number of parties, and the timeframes established by this Court. These provisions govern each case unless changed at an attorney's request or upon the Court's own directive. If the amount in controversy is less than \$25,000.00, the case proceeds on the fast track directly to arbitration.

C. One Hundred Twenty-Day Reviews.

Approximately one hundred twenty (120) days after initial filing of the case, a review of the docket activity is performed to check the status of the case. If the complaint, answer, and service are in order, a management review order is produced confirming the timelines established for the case. A management conference is scheduled for cases where the proper pleadings have not been initiated.

D. Fast Track.

A case is assigned to the fast track when it appears that it can be promptly tried with little pre-trial discovery and other pre-trial proceedings. All cases having four or less parties as shown in Exhibit "2" are fast track cases. Except in extraordinary circumstances, the Court strives to dispose all fast track cases within ten (10) months after initial filing. Upon completion of the discovery period or in any case where an appeal for an arbitration award is filed, the case is given a date certain for a

pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial.

E. *Standard Case Track.*

All cases not designated fast track or complex are standard civil cases. Except in extraordinary circumstances, the Court strives to dispose all standard cases within 18 months after initial filing. Upon completion of the discovery period, the case is given a date certain for a pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial.

F. *Complex Case Track.*

A case is assigned to the complex track when additional time and resources are needed to bring the case to disposition. Civil cases involving construction contracts, three or more parties, or claims of asbestos, medical malpractice or products liability are complex cases. Upon completion of the discovery period, the case is given a date certain for a pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial. Except in extraordinary circumstances, the Court strives to dispose all complex cases within 24 months after initial filing.

Exhibit "1"

<i>Case Event/Timelines</i>	<i>Fast Track</i>	<i>Standard Track</i>	<i>Complex Track</i>
Management Review Order or Management Conference	4 months	4 months	4 months
Discovery Complete	6 months	13 months	18 months
Plaintiff Expert Reports	6 months	13 months	19 months
Defendant Expert Reports	8 months	14 months	20 months
Motions Filing Deadline	8 months	14 months	20 months
Pretrial Memorandum Due		Approx. 15 months	Approx. 21 months
Pretrial Settlement Conference		16 months	22 months
Trial	10 months	18 months	24 months

Exhibit "2"

CASE MANAGEMENT TRACK CRITERIA			
<i>Case Type</i>	<i>Number of Parties</i>	<i>Management Track</i>	<i>Disposition Within</i>
Assault, Battery Premises Liability, Slip & Fall Other Personal Injury Torts to Land Motor Vehicle Property Damage Other Personal Property Damage Motor Vehicle Accident (under \$25,000) Insurance, Declaratory Judgment Negotiable Instruments Recovery of Overpayment Contracts for Goods Other Contract Foreclosure Rent, Lease, Ejectment Title to Real Property Replevin Appeals from District Justice Mechanic's Lien Other: Consumer or Credit	<4	Fast	10 months

CASE MANAGEMENT TRACK CRITERIA			
<i>Case Type</i>	<i>Number of Parties</i>	<i>Management Track</i>	<i>Disposition Within</i>
Employment/Wrongful Discharge Assault Battery Premises Liability, Slip & Fall Other Personal Injury Torts to Land Motor Vehicle Property Damage Other Personal Property Damage Motor Vehicle Accident (under \$25,000) Insurance, Declaratory Judgment Negotiable Instruments Recovery of Overpayment Contracts for Goods Other Contract Foreclosure Partition Right to Know Rent, Lease, Ejectment Title to Real Property Other: Consumer or Credit	>4	Standard	<18 months
Fraud Truth in Lending	Any Numbers	Standard	<18 months
Class Action Construction Contracts Medical Malpractice Toxic Waste, Contamination & Environmental Professional Malpractice Toxic Tort Personal Injury Stockholders Suits Defamation, Discrimination, Malicious Prosecution Motor Vehicle Accident (over \$25,000.00) Motor Vehicle Product Liability Product Liability Product Liability Property Damage Contract Product Liability	Any Number	Complex	<24 months

[Pa.B. Doc. No. 04-1233. Filed for public inspection July 9, 2004, 9:00 a.m.]

CARBON COUNTY

Amendment of Local Rule of Criminal Procedure CARB.R.CRIM.P 590 Plea and Plea Agreements; 103 MI 00

Administrative Order No. 18-2004

And Now, this 25th day of June, 2004, in order to correct an error on the form titled Nolo Contendere Colloquy, it is hereby

Ordered and *Decreed* that, effective July 1, 2004, Carbon County *Amends* the form titled Nolo Contendere Colloquy following this Local Rule of Criminal Procedure.

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

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

By the Court

RICHARD W. WEBB,
President Judge

Rule 590 Plea and Plea Agreements

When counseling a defendant relative to the entry of a plea of guilty or nolo contendere, counsel shall review and explain to the defendant the contents of the Guilty Plea Colloquy form or Nolo Contendere Colloquy form, which are attached hereto. If the Defendant is charged and to be sentenced under Megan's Law, counsel shall review the attached Megan's Law Supplement To Guilty Plea Colloquy form as required by 42 Pa.C.S.A. § 9795.3 (6). Such forms shall be initialed and signed by the defendant. Defendant counsel's signature thereon shall constitute a certification by the attorney that he/she has read, discussed, and explained the plea form and, if required, the Megan Law form to the defendant, and that to the best of his/her knowledge, information, or belief, his/her client understands what he/she is doing by entering his/her plea.

Guilty Plea Colloquy and Megan Law Supplement forms shall be filed in open Court at the time of entry of any plea of guilty or nolo contendere.

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

COMMONWEALTH OF PENNSYLVANIA :
 :
 :
 -vs.- : NO.
 :
 _____ :
 Defendant :

GUILTY PLEA COLLOQUY

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

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

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

1. What is your full name? _____
 2. Are you known by any other name or alias? _____
 3. If the answer to Number 2 is "yes" state the other name or aliases. _____
 4. What is your date of birth? _____
 5. What was the last grade completed in school? _____
 6. Can you read, write and understand the English language? _____
 7. As you appear before the Court today to enter a guilty plea, are you under the influence of alcohol or any kind of drugs? _____
 8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? _____
 9. If the answer to Number 8 is "yes," please explain the details. _____
 10. Are you currently being treated for a mental illness? _____
 11. If the answer to Number 10 is "yes," explain the details. _____
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12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? _____
 13. Do you understand that you are here today to enter a guilty plea to some or all of the charges against you? _____
 14. Do you understand the nature of the offenses to which you are pleading guilty? _____
 15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? _____
 16. Do you admit to committing the offenses to which you are pleading guilty and to the legal elements explained to you making up those offenses? _____
 17. Do you understand that you have a right to a trial by jury? _____
 18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? _____
 19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? _____
 20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? _____
 21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? _____
 22. Do you understand that by pleading guilty you are waiving that right of confrontation and cross-examination? _____
 23. Do you realize that by pleading guilty you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? _____

24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading guilty you are giving up this right? _____

25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____

26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? _____

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? _____

28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading guilty? _____

29. Are you aware of the maximum sentence and/or fine, which the Court could impose upon you for each of the offenses to which you are pleading guilty? _____

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading guilty can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading guilty in this case; or (b) any sentence imposed upon you in any other case? _____

31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? _____

32. Do you understand that the aggregate maximum sentence you could receive if you are pleading guilty to multiple offenses is the total of all maximum sentences for all the offenses added together? _____

33. Do you understand that you have a right to have witnesses present at your guilty plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? _____

34. After you enter your guilty plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a guilty plea is limited, however, to four grounds. They are:

- (a) that your guilty plea was not knowing, intelligent and voluntary;
- (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading guilty did not occur in Carbon County);
- (c) that the Court's sentence is beyond the maximum penalty authorized by law; and
- (d) that your attorney was incompetent in representing you and advising you to enter a plea of guilty

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

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

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

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

35. Has anybody forced you to enter this plea of guilty? _____

36. Are you doing this of your own free will? _____

37. Have any threats been made to you to enter a plea of guilty? _____

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

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

40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? _____ (if applicable)

41. Are you presently on probation or parole? _____

42. If you are on probation or parole, do you realize that your plea of guilty will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your guilty plea today? _____

43. Are you satisfied with the representation of your attorney? _____

44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of guilty? _____

45. Has your attorney gone over with you the meaning of the terms in this document? _____

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

Date: _____

Defendant

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

Date: _____

Attorney for the Defendant

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

COMMONWEALTH OF PENNSYLVANIA

-vs.-

Defendant

:
:
:
:
:
:

NO.

NOLO CONTENDERE COLLOQUY

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

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

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

1. What is your full name? _____
2. Are you known by any other name or alias? _____
3. If the answer to Number 2 is "yes," state the other names or aliases. _____
4. What is your date of birth? _____
5. What was the last grade completed in school? _____
6. Can you read, write and understand the English language? _____
7. As you appear before the Court today to enter a plea of Nolo Contendere, are you under the influence of alcohol or any kind of drugs? _____
8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? _____
9. If the answer to Number 8 is "yes," please explain the details. _____
10. Are you currently being treated for a mental illness? _____
11. If the answer to Number 10 is "yes," explain the details. _____
12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? _____
13. Do you understand that you are here today to enter a plea of Nolo Contendere to some or all of the charges against you? _____
14. Do you understand the nature of the offenses to which you are pleading Nolo Contendere? _____
15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? _____
16. Do you understand that by entering a plea of nolo contendere the Court will accept the facts concerning this case as presented by the Commonwealth during the nolo contendere proceeding as being the facts of this case? _____

17. Do you understand that you have a right to a trial by jury? _____

18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? _____

19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? _____

20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? _____

21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? _____

22. Do you understand that by pleading Nolo Contendere you are waiving that right of confrontation and cross-examination? _____

23. Do you realize that by pleading Nolo Contendere you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? _____

24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading Nolo Contendere you are giving up this right? _____

25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____

26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? _____

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? _____

28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading Nolo Contendere? _____

29. Are you aware of the maximum sentence and/or fine which the Court could impose upon you for each of the offenses to which you are pleading Nolo Contendere? _____

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading Nolo Contendere can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading Nolo Contendere in this case; or (b) any sentence imposed upon you in any other case? _____

31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? _____

32. Do you understand that the aggregate maximum sentence you could receive if you are pleading Nolo Contendere to multiple offenses is the total of all maximum sentences for all the offenses added together? _____

33. Do you understand that you have a right to have witnesses present at your Nolo Contendere plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? _____

34. After you enter your Nolo Contendere plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a Nolo Contendere plea is limited, however, to four grounds. They are:

- (a) that your Nolo Contendere plea was not knowing, intelligent and voluntary;
- (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading Nolo Contendere did not occur in Carbon County);
- (c) that the Court's sentence is beyond the maximum penalty authorized by law; and
- (d) that your attorney was incompetent in representing you and advising you to enter a plea of Nolo Contendere

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

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

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

- Do you understand the meaning of the various appeal rights that have just been explained to you? _____
35. Has anybody forced you to enter this plea of Nolo Contendere? _____
36. Are you doing this of your own free will? _____
37. Have any threats been made to you to enter a plea of Nolo Contendere? _____
38. Have any promises been made to you to enter a plea of Nolo Contendere other than any plea agreement that has been negotiated for you by your attorney? _____
39. Do you understand that the decision to enter a plea of Nolo Contendere is yours and yours alone; that you do not have to enter a plea of Nolo Contendere and give up all your rights, as previously explained to you and that no one can force you to enter a Nolo Contendere plea? _____
40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? _____ (if applicable)
41. Are you presently on probation or parole? _____
42. If you are on probation or parole, do you realize that your plea of Nolo Contendere will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your Nolo Contendere plea today? _____
43. Are you satisfied with the representation of your attorney? _____
44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of Nolo Contendere? _____
45. Has your attorney gone over with you the meaning of the terms in this document? _____
- I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of Nolo Contendere to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Date: _____ Defendant

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

Date: _____ Attorney for the Defendant

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

COMMONWEALTH OF PENNSYLVANIA :
:
-vs.- : NO.
:

Defendant :

MEGAN'S LAW SUPPLEMENT TO GUILTY PLEA COLLOQUY

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

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

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

1. Do you understand that as a result of your conviction you will be required to register with the Pennsylvania State Police and inform them of your current address and any change of address within ten (10) days of such change? _____
2. Do you understand that failure to register or to update your registration is itself a crime, which may subject you to penalties, including imprisonment? _____

3. Do you understand that your registration information will be provided by the Pennsylvania State Police to the local police department of any community in which you may live? _____

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

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

Notification to your victim of your current address.

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

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

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

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

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

Date: _____

Defendant

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

Date: _____

Attorney for the Defendant

[Pa.B. Doc. No. 04-1234. Filed for public inspection July 9, 2004, 9:00 a.m.]

NORTHAMPTON COUNTY

Administrative Order 2004-1 Amendments to Rules of Civil Procedure to Comply with Pennsylvania Rules of Civil Procedure Governing Motion Practice Adopted October 24, 2003, No. 401 Civil Procedure Rule Doc. No. 5; C-48-CV-2004-4650

Administrative Order

And Now, this 17th day of June, 2004, it is hereby ordered:

1. Rules N206, N209, N210, N211, N1034, N1035, and N2039 are amended as follows; and

2. Rules N208.3(a) and N1028(c) are adopted.

3. The effective date of these rules is July 26, 2004.

By the Court

ROBERT A. FREEDBERG,
President Judge

N206.4(c) Procedure for Issuance of Rule to Show Cause

(i) A rule to show cause shall be issued as of course pursuant to Pennsylvania Rule of Civil Procedure 206.6 (a), (b), and local Rule N206.6 (c)—form of order.

(ii) Rules to show cause shall be presented in Motions Court, exempt from the notice requirements contained in N208.3(a), and may be presented ex parte. However, the notice requirement of N208.3(a) shall be met if a stay of proceedings is sought.

(iii) The court may grant a stay of proceedings upon a showing of good cause.

(iv) Upon the issuance of a rule to show cause, the moving party shall list the matter for disposition in accordance with N209 or N211, unless the order of court provides otherwise.

(v) Upon the presentation of a rule to show cause for a petition to open a default judgment, a request for a stay of execution pending disposition shall be granted upon a showing of good cause.

(vi) The petitioner shall attach to the Petition a proposed Order substantially in the following form:

(CAPTION)

ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the foregoing petition, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within twenty days of service upon the respondent;

(3) the petition shall be decided under Pa.R.C.P. No. 206.7;

(4) an evidentiary hearing on disputed issues of material fact shall be held on _____, _____, at _____ a.m./p.m., in courtroom No. _____ of the Northampton County Government Center, 669 Washington Street, Easton, Pennsylvania;

(5) notice of the entry of this order shall be provided to all parties by the petitioner and proof of service filed of record.

BY THE COURT:

_____ J.

EXPLANATORY COMMENT—2004: Counsel for the moving party should be mindful of local rule N209 relating to the anticipated time required to complete an evidentiary hearing and whether the matter should be scheduled for a miscellaneous hearing list or non-jury trial list. In certain cases, such as guardianship proceedings, the evidentiary hearing can be held in Motions Court. Counsel should be prepared to advise the court of the suggested forum for the evidentiary hearing and the proposed date and time for the hearing.

All Northampton County Local Rules are available at the Northampton County Court Web Site (www.nccpa.org).

N208.3(a) Procedure Governing Motions

1. Motions Court is held each day at 9:00 a.m. Motions which do not require the taking of testimony may be presented to the motions judge only after a copy of the motion and the proposed order of court have been served on all counsel of record and any unrepresented party at least three (3) business days prior to the intended date of presentation.

2. Notice of the date, time, and place of presentation must accompany the copy of the motion and proposed order of court. Service may be made in any manner, including facsimile transmission, which results in the service of the required documents at least three (3) business days before the day of presentation.

3. The presenting party must attach to the motion a certification of compliance with this rule setting forth the date on which the motion was served on counsel and unrepresented parties, and the manner of service.

4. Compliance with the time requirements may be excused by the motions judge if it appears that reasonable notice has been attempted or given, and immediate and irreparable injury will be sustained if relief is denied.

EXPLANATORY COMMENT: The purpose of this rule is to foster the use of Motion Court practice for all matters which are not likely to require lengthy evidentiary hearings or involve argument on complex legal issues. Nevertheless, sufficient notice and receipt of the motion or petition and proposed order of court is required by law and fundamental fairness. Counsel desiring to take advantage of Motions Court practice must be diligent in complying with the notice requirement. For purposes of this rule, the use of the term "business day" and the computation of the required three (3) day notice period shall be governed by and construed consistent with Pa.R.C.P. 106 (Computation of Time).

N209 Miscellaneous Hearing and Non-Jury Trial Lists.

(a) Time Limits

1. Matters reasonably anticipated to require less than (30) minutes may be placed onto a miscellaneous list.

2. Matters anticipated to require more than (30) minutes shall be placed onto a non-jury trial list.

(b) Procedure-Miscellaneous Hearings.

1. Proceedings may be listed for miscellaneous hearing either by filing with the clerk of court an original and one

copy of a praecipe or by order of court. The court administrator shall prepare a hearing list of such cases.

2. When proceedings are placed on a hearing list by praecipe, notice thereof shall be given to opposing counsel or unrepresented parties at least seven (7) days before the date of hearing.

(c) Procedure-Non-Jury Trials.

1. Proceedings may be listed for a non-jury trial list either by filing with the clerk of court an original and one copy of a praecipe or by order of court. The court administrator shall prepare a non-jury trial list of such cases.

2. When proceedings are placed on a non-jury trial list by praecipe of counsel, notice thereof shall be given to opposing counsel or unrepresented parties at least (30) days before the date of trial.

N210 Content of Briefs

(a) *Form.* Each brief shall be typewritten, printed or otherwise duplicated, endorsed with the name of the case, the court, the number, and the name, address and telephone number of the attorney or unrepresented party.

(b) *Content.* The brief shall include a statement of the facts, a statement of the questions involved, and the argument.

(1) The statement of the facts shall, depending upon the nature of the case, consist of an abstract of the testimony or of the pleadings or both, and shall include a procedural history of the case.

(2) The statement of questions involved must be so drawn that the court may quickly determine all the legal questions to be decided.

(3) The argument shall be divided into as many parts as there are questions involved. Citations of authority shall be accurately designated, shall set forth the volume and page number where they appear, and shall set forth the exact citation of the principles for which they are cited. Whenever a Pennsylvania statute is cited, the pertinent title and section number of *Purdon's Statutes* shall also accompany said citation.

(4) Whenever testimony is abstracted or referred to, it must contain reference to the pages of the transcript where the supporting evidence may be found.

(c) *Penalty for Noncompliance.* Failure to conform to any requirement of this rule shall constitute a default for which the cause may be continued or stricken off the list or the application of the party in default refused, as the court may deem just and proper.

N211 Argument Lists

(a) *Nature of Case.* The argument list shall consist only of cases in which a question of law is to be determined.

(b) *Procedure.* Proceedings may be listed for argument by order of court or by the filing with the Clerk of Court an original and one copy of a praecipe by counsel not later than twenty (20) days before the argument court. The Court Administrator shall prepare an argument list consisting of all cases ordered thereon either by the court or by counsel.

Counsel ordering a case on the list by praecipe (or the Court Administrator in cases ordered on by the court) shall give notice thereof to the adverse party at least twenty (20) days before the date set for argument.

(c) *Time for Filing Praecipe and Briefs.* Counsel ordering the case on the argument list shall file a brief

simultaneously with the filing of the praecipe for argument, and shall serve a copy on the adverse party at least twenty (20) days before the date set for argument. The clerk shall not accept a praecipe for argument without the moving party's brief. The respondent shall deliver a brief to the moving party and file a copy with the clerk at least five (5) days before the date set for argument.

In cases ordered on the argument list by the court, the time for filing briefs shall be in accordance with the schedule established by the court in that particular case. Where no such schedule has been established, the moving party shall file and serve a brief at least twenty (20) days before the date set for argument. The respondent shall deliver a brief to the moving party and file a copy with the clerk at least five (5) days before the date set for argument.

In all cases, the clerk shall promptly forward all briefs to the Court Administrator. No supplemental brief shall be filed except upon special allowance by the court and within such time as the court may direct.

In cases involving preliminary objections, motion for judgment on the pleadings, and motions for summary judgment, see rules N1028, N1034, or N1035 for additional requirements. If a party fails to file a praecipe for argument and a brief within a reasonable period of time following the filing of a motion or petition and the closing of the record, the adverse party may seek dismissal of the motion or petition.

Comment: See N210 Content of Briefs.

(d) *Record for Argument.* No case shall be placed on the argument list unless the record made either by depositions or at a hearing or trial shall be actually on file at the time the case is placed on the list, unless (1) counsel files a stipulation of the material facts, or (2) the court specifically directed that the case be placed on the list.

(e) *Continuance.* Continuances of the case on the list may be granted for cause shown or upon agreement of counsel with approval of the court. The continuances shall be a continuance to the next argument court unless a specific date for further argument is specified by the court at the time the continuance is granted, in which case the Court Administrator shall so list the case without further praecipe.

(f) *Oral Argument.* When each case is called, the parties shall state to the court (1) whether briefs are filed and (2) whether any party requests oral argument on the matter before the court. Cases on the argument list may be submitted on briefs, if all parties agree to waive oral argument. If all parties agree to submission on briefs, counsel need not appear for the call of the argument list; rather, counsel for the moving party shall provide written notice to the Court Administrator that all parties agree that the case may be submitted on the briefs.

(g) *Non-Jury Cases.* When required by the court in cases tried without a jury, the parties shall furnish to the court proposed findings of fact and conclusions of law.

(h) *Land Use Appeals.* Whenever a zoning hearing board or other applicable governing body of a municipality is required under the Pennsylvania Municipalities Planning Code to certify its record to the court in response to a writ of certiorari in a land use appeal, the record shall contain a copy of the entire zoning ordinance,

building code or other ordinance, with the relevant portions indicated therein, and a copy of the zoning map of the municipality.

N1028(c) Procedure for Disposition of Preliminary Objections

Preliminary objections shall be resolved on an argument list, and shall be filed and briefed in conformity with Rule N211.

(1) When the preliminary objections can be resolved from facts of record and no evidentiary hearing is required, within twenty (20) days after the filing of preliminary objections, the objecting party shall file a praecipe and accompanying brief in support of the objections with the Clerk of Courts-Civil in conformity with Rule N211.

(2) When the preliminary objections are endorsed with a notice to plead because the objections involve issues that cannot be determined from facts of record, the preliminary objections shall be filed and appropriate time shall be allowed for the responding party to file a response before the objecting party shall praecipe the objections for an evidentiary hearing in compliance with Rule N209; once the evidentiary record has been made, the objecting party shall file a praecipe and accompanying brief in support of the objections in conformity with Rule N211.

(3) If a brief is not filed in accordance with this rule, the preliminary objections shall be dismissed by the court as of course, unless the time for filing has been extended by the court.

N1034(a.) Procedure for Disposition of a Motion for Judgment on Pleadings

A motion for judgment on pleadings shall be resolved on an argument list. It shall set forth specifically the reasons upon which it is based, and it shall be filed and briefed in conformity with Rule N211.

N1035.2(a.) Procedure for Disposition of a Motion for Summary Judgment

1. When a motion for summary judgment is filed it shall be accompanied by the necessary record. The motion shall be resolved on an argument list unless otherwise ordered by the judge to whom a case has been pre-assigned.

2. Thirty (30) days shall be allowed for the responding party to file a response and supplemental record in conformity with Pa.R.Civ. P. 1035.3.

3. The moving party shall then file a brief and accompanying praecipe in conformity with Rule N211.

4. A motion for summary judgment shall be submitted for decision no later than ninety (90) days prior to the date scheduled for commencement of trial, unless otherwise allowed by order of court.

N2039 Compromise Settlement and Physician's Statement of Extent of Injury

A petition for minor's compromise shall be presented at motions court. In cases involving personal injury, the necessary medical documentation establishing the nature and extent of the minor's injuries, the present condition, and the prognosis shall be annexed to said petition.

Comment: See N208.3.

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