

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART IV. ADMISSION TO PRACTICE OF LAW [204 PA. CODE CH. 71]

#### Adoption of Rules 341 and 342 of the Pennsylvania Bar Admission Rules; No. 361 Supreme Court Rules; Doc. No. 1

##### Order

*Per Curiam:*

And Now, this 17th day of March, 2005, Rules 341 and 342 of the Pennsylvania Bar Admission Rules are adopted to read as follows.

This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and the amendments adopted hereby shall be effective on September 1, 2005.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART IV. ADMISSION TO PRACTICE OF LAW CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

##### Subchapter C. RESTRICTED PRACTICE OF LAW FOREIGN LEGAL CONSULTANTS

#### Rule 341. Licensing of foreign legal consultants.

(a) *Required qualifications.* An applicant may be licensed to practice in this Commonwealth as a foreign legal consultant, without examination, if the applicant:

(1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

(2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession in the foreign country and has actually been engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

(3) possesses the good moral character and general fitness requisite for a member of the bar of this Commonwealth;

(4) is at least 26 years of age;

(5) intends to practice as a foreign legal consultant in this Commonwealth and to maintain an office in this Commonwealth for that purpose; and

(6) has passed the Multistate Professional Responsibility Exam with the score required by the Court to be achieved by successful applicants under Rule 203.

(b) *Application.* An applicant under this rule shall file with the Board an application in the form prescribed by the Board, which shall be accompanied by:

(1) a certificate from the professional body or public authority in the foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent;

(2) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of the foreign country;

(3) a duly authenticated English translation of the certificate and the letter if, in either case, it is not in English;

(4) a statement indicating his or her understanding of, and commitment to observe, the Rules of Professional Conduct and the Enforcement Rules to the extent applicable to the legal services authorized under Rule 342;

(5) appropriate evidence of professional liability insurance, in such amount as the Board may prescribe, to assure his or her proper professional conduct and responsibility;

(6) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of Subdivision (a) of this Rule as the Board may require;

(7) a written statement agreeing to notify the Secretary of the Disciplinary Board of the Supreme Court of Pennsylvania of any change in the applicant's good standing as a member of the foreign legal profession referred to in Subdivision (a)(1) of this Rule and of any final action of the professional body or public authority referred to in Subdivision (b)(1) of this Rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(8) a duly acknowledged instrument, in writing, setting forth his or her address in this Commonwealth and designating the Secretary of the Disciplinary Board of the Supreme Court as his or her agent upon whom process may be served, with like effect as if served personally upon him or her, in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of this Commonwealth, whenever after due diligence service cannot be made upon him or her at such address or at such new address in this Commonwealth as he or she shall have furnished in the last registration statement filed by him or her in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys), or which has been filed in the Administrative Office by means of a duly acknowledged supplemental instrument in writing.

(c) *Application fee.* An applicant for a license as a foreign legal consultant under this Rule shall pay an application fee fixed by the Board.

(d) *Action by the Board.* The Board may, in its discretion, issue to an applicant its certificate recommending his or her licensure as a foreign legal consultant if the applicant has met the requirements of this Rule. In

considering whether to issue a certificate recommending an applicant to practice as a foreign legal consultant under this Rule, the Board may in its discretion take into account whether a member of the bar of this Commonwealth would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission. Any member of the bar who is seeking or has sought to establish an office in that country may request the Board to consider whether applicants from that country should be denied the opportunity to be licensed as foreign legal consultants under this Rule, or the Board may do so sua sponte.

(e) *Motion for licensure.* An applicant shall file a motion for licensure as a foreign legal consultant with the Prothonotary of the Supreme Court, accompanied by the certificate from the Board recommending such licensure. If the motion is in proper order, the Prothonotary shall:

(1) Enter the name of the applicant upon the docket of persons licensed as foreign legal consultants in this Commonwealth.

(2) Notify the Administrative Office of the licensure of the foreign legal consultant.

(3) If the requisite fee has been paid therefor, issue an engrossed certificate of licensure under seal.

(f) *Subsequent admission to bar.* In the event that a person licensed as a foreign legal consultant under this Rule is subsequently admitted as a member of the bar of this Commonwealth under Subchapter B (relating to admission to the bar generally), the license granted to such person under this Rule shall be deemed superseded by the license granted to such person to practice law as a member of the bar of this Commonwealth.

**Rule 342. Practice by foreign legal consultants.**

(a) *Prohibited activities.* A person licensed to practice as a foreign legal consultant under Rule 341 (relating to licensing of foreign legal consultants) may render legal services in this Commonwealth with respect to the law of the foreign country where the foreign legal consultant is admitted to practice law, subject, however, to the limitations that he or she shall not:

(1) appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this Commonwealth (other than upon admission pro hac vice pursuant to Rule 301 (relating to admission pro hac vice));

(2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

(3) prepare:

(i) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(ii) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

(5) render professional legal advice on the law of this Commonwealth, of any other jurisdiction in which he or she is not authorized to practice law or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

(6) be, or in any way hold himself or herself out as, a member of the bar of the Supreme Court of Pennsylvania; or

(7) carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

(i) his or her own name;

(ii) the name of the law firm with which he or she is affiliated;

(iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country; and

(iv) the title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

(b) *Rights and obligations.* Subject to the limitations set forth in Subdivision (a) of this Rule, a person licensed as a foreign legal consultant under Rule 341 shall be considered a lawyer affiliated with the bar of this Commonwealth and shall be entitled and subject to:

(1) the rights and obligations set forth in the Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this Commonwealth under the Enforcement Rules; and

(2) the rights and obligations of a member of the bar of this Commonwealth with respect to:

(i) affiliation in the same law firm with one or more members of the bar of this Commonwealth, including by:

(A) employing one or more members of the bar of this Commonwealth;

(B) being employed by one or more members of the bar of this Commonwealth or by any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(C) being a partner in any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(ii) attorney-client privilege, work-product privilege and similar professional privileges.

(c) *Discipline.* A person licensed to practice as a foreign legal consultant under Rule 341 shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this Commonwealth. The license of a foreign legal consultant shall be revoked when he or she no longer meets the requirements and obligations for licensing set forth in Rule 341 (a)(1). A foreign legal consultant shall not be subject to the Pennsylvania Rules for Continuing Legal Education.

(d) *Service of process.* Service of process on the Secretary of the Disciplinary Board of the Supreme Court of Pennsylvania, pursuant to the designation filed under Rule 341(b)(8), shall be made by personally delivering to and leaving with the Secretary, or with a deputy or assistant authorized by him or her to receive such service, at his or her office, duplicate copies of such process together with a fee as set by the Disciplinary Board of the Supreme Court. Service of process shall be complete when the Secretary of the Disciplinary Board has been so served. The Secretary of the Disciplinary Board shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified

mail, return receipt requested, addressed to the foreign legal consultant at the address specified by him or her as provided in Rule 341(b)(8).

[Pa.B. Doc. No. 05-597. Filed for public inspection April 1, 2005, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT**  
**[204 PA. CODE CHS. 81 AND 83]**

**Amendments to the Pennsylvania Rules of Disciplinary Enforcement and Rule 5.5 of the Pennsylvania Rules of Professional Conduct; No. 39 Disciplinary Rules; Doc. No. 1**

**Order**

*Per Curiam:*

And Now, this 17th day of March, 2005, Rules 102, 201, 203, 204, 212, 216, 217, 219 and 512 of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as set forth in Annex A hereto and Rule 5.5 of the Pennsylvania Rules of Professional Conduct is amended to read as set forth in Annex B hereto.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect on September 1, 2005 and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

**Annex A**

**TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT**

**Subpart B. DISCIPLINARY ENFORCEMENT**

**CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT**

**Subchapter A. PRELIMINARY PROVISIONS**

**Rule 102. Definitions.**

(a) *General rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

**“Attorney.”** Includes any person subject to these rules.

\* \* \* \* \*

**“Foreign legal consultant.”** A person who holds a current license as a foreign legal consultant issued under Rule 341 of the Pennsylvania Bar Admission Rules.

\* \* \* \* \*

**“Military attorney.”** An attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

**“Practice of law.”** Includes the provision of legal services as a foreign legal consultant or military attorney, or pursuant to a Limited In-House Corporate Counsel License.

\* \* \* \* \*

**Subchapter B. MISCONDUCT**

**Rule 201. Jurisdiction.**

(a) The exclusive disciplinary jurisdiction of the Supreme Court and the Board under these rules extends to:

(1) Any attorney admitted to practice law in this Commonwealth.

**Official Note:** The jurisdiction of the Board under this paragraph includes jurisdiction over a foreign legal consultant, military attorney or a person holding a Limited In-House Corporate Counsel License. See the definitions of “attorney,” “practice of law” and “respondent-attorney” in Rule 102.

\* \* \* \* \*

**Rule 203. Grounds for discipline.**

\* \* \* \* \*

(b) The following shall also be grounds for discipline:

\* \* \* \* \*

**(5) Ceasing to meet the requirements for licensure as a foreign legal consultant set forth in Pennsylvania Bar Admission Rule 341(a)(1) or (3).**

\* \* \* \* \*

**Rule 204. Types of discipline.**

\* \* \* \* \*

(c) A reference in these rules to disbarment, suspension, temporary suspension, or transfer to or assumption of inactive status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of Rule 217 (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under Rule 218 (relating to reinstatement) or Rule 219(h) or (l) (relating to periodic assessment of attorneys; voluntary inactive status) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302.

**Rule 212. Substituted service.**

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) or, in the case of a foreign legal consultant, by serving them pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

**Rule 216. Reciprocal discipline.**

(a) Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension or disbarment in another jurisdiction, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

\* \* \* \* \*

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) **or, in the case of a foreign legal consultant, by serving it pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).**

\* \* \* \* \*

**Rule 217. Formerly admitted attorneys.**

\* \* \* \* \*

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Court Administrator of Pennsylvania under Rule 219(e) (relating to periodic assessment of attorneys; voluntary inactive status) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing) [ **or** ], certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), **certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).** The Board may destroy the annual certificate issued under Rule 219(e), but shall retain other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

\* \* \* \* \*

**Rule 219. Periodic assessment of attorneys; voluntary inactive status.**

(a) Every attorney admitted to practice law in [ **any court of** ] this Commonwealth, **other than a military attorney holding a limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys),** shall pay an annual fee of \$130.00 under this rule. The annual fee shall be collected under the supervision of the Administrative Office, which shall send and receive, or cause to be sent and received, the notices and statements provided for in this rule. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

\* \* \* \* \*

(d) On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office in accordance with the following procedures:

- (1) The statement shall set forth:
  - (i) The date on which the attorney was first admitted to practice [ **in this Commonwealth** ], **licensed as a foreign legal consultant, or issued a Limited In-**

**House Corporate Counsel License,** and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

\* \* \* \* \*

(iii) The name of each financial institution in this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The statement shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. **The statement provided to a person holding a Limited In-House Corporate Counsel License need not request the information required by this subparagraph.**

\* \* \* \* \*

(4) Upon original admission to the bar of this Commonwealth, **licensure as a foreign legal consultant, or issuance of a Limited In-House Corporate Counsel License,** a person shall concurrently file a statement under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted **or licensed.**

\* \* \* \* \*

**Subchapter E. CLIENT SECURITY FUND  
DISHONEST CONDUCT OF ATTORNEY**

**Rule 512. Covered attorney.**

This subchapter covers conduct of an active member of the bar of the Supreme Court, **an active foreign legal consultant, an active military attorney, or a person holding an active Limited In-House Corporate Counsel License,** which conduct forms the basis of the application to the Board. The conduct complained of need not have taken place in this Commonwealth for application to the Board to be considered by the Board and an award granted, **except that an award shall not be granted with respect to conduct outside of this Commonwealth of a foreign legal consultant, military attorney or person holding a Limited In-House Corporate Counsel License unless the conduct related to the provision of legal services to a resident of this Commonwealth.**

**Annex B**

**Subpart A. PROFESSIONAL RESPONSIBILITY  
CHAPTER 81. RULES OF PROFESSIONAL  
CONDUCT**

**Subchapter A. RULES OF PROFESSIONAL  
CONDUCT**

**§ 81.4. Rules of Professional Conduct.**

The following are the Rules of Professional Conduct:

**LAW FIRMS AND ASSOCIATIONS**

**Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law.**

\* \* \* \* \*

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

- (1) except as authorized by these Rules, **Pa.B.A.R. 302** or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

\* \* \* \* \*

(d) A lawyer admitted in another United States jurisdiction [ **or a foreign jurisdiction** ], and not disbarred or suspended from practice in any jurisdiction, may, **subject to the requirements of Pa.B.A.R. 302**, provide legal services in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission, **except that this paragraph (d) does not authorize a lawyer who is not admitted in this jurisdiction and who is employed by the Commonwealth, any of its political subdivisions or any of their organizational affiliates to provide legal services in this jurisdiction; or**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

16. Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work. **A lawyer employed by the Commonwealth or one of its organizational affiliates, however, is not entitled to the exemption provided by paragraph (d) with respect to legal services provided in this jurisdiction. In the relatively rare instance that a lawyer employed by the Commonwealth or an organizational affiliate only provides legal services outside of the Commonwealth, paragraph (d) will be applicable and the lawyer will not be required to be admitted in this jurisdiction. But in most instances, lawyers employed by the Commonwealth or one of its organizational affiliates must be admitted in this jurisdiction.**

\* \* \* \* \*

[Pa.B. Doc. No. 05-598. Filed for public inspection April 1, 2005, 9:00 a.m.]

**Title 246—MINOR COURT CIVIL RULES**

**PART I. GENERAL**

**[246 PA. CODE CH. 100]**

**Proposed Amendments to Rule 110 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges**

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 110 of the Rules of Conduct, Office Standards

and Civil Procedure for Magisterial District Judges<sup>1</sup> to increase the minimum amount of the bond that each magisterial district judge must file in accordance with the Rule. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

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

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

Michael F. Krimmel, Counsel  
 Supreme Court of Pennsylvania  
 Minor Court Rules Committee  
 5035 Ritter Road, Suite 700  
 Mechanicsburg, PA 17055  
 Fax 717-795-2175

or e-mail to: [minorrules@pacourts.us](mailto:minorrules@pacourts.us)

no later than Monday, May 9, 2005.

*By the Minor Court Rules Committee*

THOMAS E. MARTIN, Jr.,  
*Chair*

**Annex A**

**TITLE 246. MINOR COURT CIVIL RULES**

**PART I. GENERAL**

**CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF MAGISTERIAL DISTRICT JUDGES**

**Rule 110. Bonds of Magisterial District Judges.**

Each magisterial district judge is required to give bond in such sum, not less than [ **Two Thousand Five Hundred Dollars (\$2,500.00)** ] **\$25,000**, as shall be directed by the president judge of the court of common pleas of the judicial district in which is located the magisterial district of the magisterial district judge, with one or more sufficient sureties[ , **the** ]. **The** bond shall be lodged with the [ **Prothonotary** ] **prothonotary** of the court of common pleas, be conditioned on the faithful application of all moneys that come into the hands of the magisterial district judge as an officer, and be for the benefit of the Commonwealth and its political subdivisions and all persons who may sustain injury from the magisterial district judge in his **or her** official capacity.

**REPORT**

***Proposed Amendments to Rule 110 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges***

**Increase in Minimum Bond Amount**

*I. Background*

The Minor Court Rules Committee (the Committee) undertook a review of Rule 110 (Bonds of Magisterial District Judges) at the direction of the Supreme Court of

<sup>1</sup> The title "district justice" was replaced in these rules by "magisterial district judge" effective January 29, 2005, in accordance with Act 207 of 2004 and Supreme Court of Pennsylvania Order No. 269, Judicial Administration Docket No. 1 (January 6, 2005).

Pennsylvania and in response to a recommendation of the Special Courts Administration Subcommittee of the Supreme Court's Intergovernmental Task Force to Study the District Justice System (the Task Force Subcommittee).<sup>2</sup> In its report to the Supreme Court, the Task Force Subcommittee recommended that Rule 110 be amended to increase the minimum amount of the bond that each magisterial district judge must file in accordance with the Rule.<sup>3</sup> In response to this recommendation, the Supreme Court referred the matter to the Committee for its consideration, and the Committee is proposing that Rule 110 be amended as explained below.

## II. Discussion and Proposed Rule Changes

Rule 110 currently provides that

[e]ach magisterial district judge is required to give bond in such sum, *not less than Two Thousand Five Hundred Dollars (\$2,500.00)*, as shall be directed by the president judge of the court of common pleas of the judicial district in which is located the magisterial district of the magisterial district judge, with one or more sufficient sureties, the bond shall be lodged with the Prothonotary of the court of common pleas, be conditioned on the faithful application of all moneys that come into the hands of the magisterial district judge as an officer, and be for the benefit of the Commonwealth and its political subdivisions and all persons who may sustain injury from the magisterial district judge in his official capacity.<sup>4</sup>

As the Task Force Subcommittee noted in its report, "[g]iven the case loads of and the amount of money collected by most district courts, the [\$2,500] minimum bond amount required by this rule is likely insufficient to cover" any loss that may result from the malfeasance of a magisterial district judge with regard to the handling of funds that are paid into his or her court.<sup>5</sup> The Committee agreed, and believes that the minimum bond amount should be increased to a level that is more commensurate with the average bank account balances of the magisterial district courts. To assist the Committee in recommending an increased minimum bond amount, the Administrative Office of Pennsylvania Courts (the AOPC) was able to extract data from the Magisterial District Judge System (the MDJS)<sup>6</sup> regarding average bank account balances in the district courts. Based on the MDJS data, the Committee proposes that the minimum bond amount to be required under Rule 110 be increased to \$25,000.<sup>7</sup>

The Committee was mindful that the Task Force Subcommittee's recommendation included, in addition to an increase in the minimum bond amount, a proposal to tie an individual magisterial district judge's bond amount to his or her district court's bank account balance. Specifically, the Task Force Subcommittee recommended that the bond amounts be "based on the average balance of that [magisterial] district [judge's] district court bank account in the preceding twelve months" and that "local

court administrators would be responsible for reviewing annual audit reports or other data to determine the average account balance, and then make recommendations to the president judge as to the appropriate bond amount for each [magisterial district judge] in the judicial district."<sup>8</sup> While the Committee recognizes the merit in this proposal, the Committee chose an alternative to the Task Force Subcommittee's recommendation to avoid an unnecessary burden on court officials, whether on the president judges or on their designated agents, to monitor the more than 550 bank account balances annually and perhaps to change the bond amounts frequently. The Committee believes that a uniform minimum amount for all bonds for all courts will be more efficient and easier for compliance. As by this amendment, the minimum amount for the bond may be changed in the future if appropriate. In addition, the Committee notes that Rule 110 sets forth only the *minimum* bond amount, and a president judge is free to require higher bond amounts for some or all of the district courts in his or her judicial district.

Therefore, the Committee proposes that Rule 110 be amended to increase the minimum bond amount to \$25,000 while keeping the other essential provisions of the Rule as currently written. In addition to the substantive changes discussed here, the Committee proposes minor technical or "housekeeping" changes to enhance readability and address gender neutrality.

[Pa.B. Doc. No. 05-599. Filed for public inspection April 1, 2005, 9:00 a.m.]

# Title 249—PHILADELPHIA RULES

## PHILADELPHIA COUNTY

### Adoption of Philadelphia Orphans' Court Rule 3.7.A.; President Judge General Court Regulation No. 2005-02

#### Order

*And Now*, this 9th day of March, 2005, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on February 17, 2005 to adopt Philadelphia Orphans' Court Rule 3.7.A., *It Is Hereby Ordered* that Philadelphia Orphans' Court Rule 3.7.A. is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

This General Court Regulation is issued in accordance with Pa.O.C. Rule 1.2, and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Clerk of the Orphans' Court, the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Orphans' Court Procedural Rules Committee. Copies of the Order shall also be submitted to *American Lawyer Media*, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of

<sup>2</sup> The Intergovernmental Task Force to Study the District Justice System was convened on May 30, 2001 "to examine the current state of the district justice court system" and to "propose clear standards for the decennial magisterial district reestablishment, identify immediate and long-term system problems and needs, and formulate solutions to ensure the prudent and effective administration of the district justice courts." Report of the Intergovernmental Task Force to Study the District Justice System vii (October 2001) (available online at <http://www.courts.state.pa.us/>) (hereinafter Task Force Report).

<sup>3</sup> *Id.* at 51-52.

<sup>4</sup> 246 Pa. Code Rule 110 (emphasis added).

<sup>5</sup> Task Force Report at 51.

<sup>6</sup> The MDJS is the computer system that automates all case processing and accounting functions of the magisterial district courts.

<sup>7</sup> The AOPC staff used the MDJS data to examine the month-end bank account balances for 567 courts over an 18 month period (December 2002-August 2004) and found the average to be \$29,621.

<sup>8</sup> Task Force Report at 51-52. The Task Force Subcommittee recommended that this provision be added to the Rule in addition to the minimum bond amount.

Pennsylvania and posted on the website of the First Judicial District: <http://courts.phila.gov>.

*By the Court*

FREDERICA A. MASSIAH-JACKSON,  
*President Judge*

**Philadelphia Orphans' Court Rule 3.7.A. Electronic Filing and Service of Legal Papers**

(1) *Authorization for Electronic Filing.*

(a) Effective immediately, parties may file all legal papers with the Clerk by means of electronic filing in portable document format ("pdf").

(b) Commencing July 1, 2005, parties shall file all legal papers with the Clerk by means of electronic filing in pdf.

(c) Effective immediately, in the event any legal paper or exhibit is submitted in hard-copy format, the Clerk shall convert such legal paper or exhibit into pdf, without changing the content or format of the legal paper or exhibit, and shall accept the legal paper or exhibit for filing in pdf. The Clerk shall return the hard-copy legal paper or exhibit to the filing party for retention as required by Pa.O.C.R. 3.7(c)(3).

(2) *Website, Username and Password.*

(a) *Website.* The Orphans' Court Electronic Filing System shall be available at all times at the Court's website address, <http://courts.phila.gov>, or at such other website as the Court may designate from time to time.

(b) *Username and Password.* To obtain access to the Orphans' Court Electronic Filing System, counsel or a party not represented by counsel ("filing party") shall apply for a Username and Password at the Court's website.

(3) *Electronic Filing of Legal Paper.*

(a) A filing party shall file all legal papers and exhibits in pdf at the Court's website.

(b) In the event an exhibit is not available in pdf and the filing party is unable to convert the exhibit to pdf, the filing party shall submit the exhibit via facsimile utilizing the Electronic Filing Transmittal Form generated by the Electronic Filing System.

(c) The Clerk shall not maintain a hard copy of any legal paper or exhibit filed electronically under this rule.

(d) A hard copy of the legal paper shall be signed and, as required, verified prior to the electronic filing of the legal paper, and the filing party shall retain such hard copy as required by Pa.O.C.R. 3.7(b)(4) and 3.7(c)(3).

(4) *Redaction and Access.*

(a) All legal papers and exhibits filed electronically shall be available electronically to the filing parties, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(b) The Clerk shall provide public access to a redacted copy of electronically-filed legal papers and exhibits, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(c) The Clerk shall redact the following personal data identifiers from electronically-filed legal papers, including the Cover Sheet but excluding exhibits, for public access:

- i. The name of the minor in minors' estates.
- ii. Social Security numbers.

iii. Dates of birth.

iv. Financial account numbers.

v. Home addresses.

(d) A filing party shall redact the personal data identifiers listed in subsection (c) from all exhibits to a legal paper. The Clerk shall not review exhibits to determine whether personal data identifiers have been redacted.

(5) *Filing Date.*

(a) Immediately upon receipt of the legal paper, the Court shall provide the filing party with email notification that the legal paper has been received by the Court's Electronic Filing System.

(b) Within six (6) business hours of receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been accepted for filing or rejected.

(c) A legal paper accepted for filing shall be deemed to have been filed as of the date and time it was received by the Court's Electronic Filing System. If a legal paper is rejected, the Clerk shall specify the reason. Subject to the provisions of subsection (d), a rejected legal paper shall be deemed as not having been filed.

(d) Any filing party for whom the failure of the Court's website or the erroneous rejection of a legal paper resulted in an untimely filing may file a petition requesting that the legal paper be deemed filed as of the submission date. Such petition shall state the date and time of the alleged failure or rejection. A petition alleging failure of the Court's website shall state why the legal paper could not be timely filed in person in the Clerk's office. A petition alleging erroneous rejection of a legal paper shall state why the rejection was erroneous and why the legal paper could not be timely resubmitted.

(6) *Automation Fee. Payment of Filing Fees.*

(a) Effective immediately, the Clerk shall collect, in addition to all other applicable fees, an automation fee of \$10.00 for each legal paper for which a filing fee is now charged.

(b) Commencing July 1, 2005, the Clerk is authorized to charge the sum of \$1.00 per page for each page of a legal document or exhibit which is not filed in pdf.

(c) All fees collected pursuant to this rule shall be set aside by the Clerk and remitted monthly to the First Judicial District's Procurement Unit.

(d) The Clerk shall not accept a legal paper as filed prior to payment of the required filing fee.

(7) *Local Procedures.* The Court may develop further administrative procedures, as needed, to implement this rule and to provide for security of the electronic filing system, as required by changing technology. All such administrative procedures shall be posted on the Court's website.

**Probate Section Comment:**

The Clerk's staff has traditionally functioned as the Court's gatekeeper by reviewing legal papers presented for filing to insure conformity with applicable rules and procedures. Any legal paper which did not comply with the Rules of Court was returned to the filing party. No change in the gatekeeper function is intended by reason of implementation of electronic filing. Instead, communication between the Clerk's staff and the filing party may now occur electronically as set forth in Local Rule 3.7.A(5)(c) and (d). Filing parties are encouraged to allow

sufficient time to correct deficiencies in time-sensitive matters. The Clerk's staff will continue to be available to review the hard copy of any legal paper prior to electronic filing to assure conformity with applicable rules and procedures.

Adopted by the Board of Judges of the Court of Common Pleas on February 17, 2005, and effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 05-600. Filed for public inspection April 1, 2005, 9:00 a.m.]

PHILADELPHIA COUNTY

**Amendment of Philadelphia Civil Rules \*208.3(a) and \*208.3(b); President Judge General Court Regulation No. 2005-01**

**Order**

*And Now*, this 9th day of March, 2005, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on September 23, 2004 to amend Philadelphia Civil Rule \*208.3(a) and \*208.3(b), *It Is Hereby Ordered* that Philadelphia Civil Rule \*208.3(a) and \*208.3(b) are amended as follows.

This General Court Regulation is issued in accordance with Pa.R.Civil.P. No. 239 and, as required by Rule 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts for publication on its website, and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to *American Lawyer Media*, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District: <http://courts.phila.gov>.

*By the Court*

FREDERICA A. MASSIAH-JACKSON,  
*President Judge*

**Rule \*208.3(a). Motions Initially Considered Without Written Response or Briefs.**

\* \* \* \* \*

**[ 208.3(b)(2) ] (4) Discovery Motions.**

(A) *Scheduling Requirements.* All Discovery Motions, except in designated Mass Tort cases, shall be presented to, argued before and determined by the appropriate Judge of Discovery for the particular program involved. The moving party shall file or fax a Discovery Argument Request Form (substantially in the form attached hereto) with the Discovery Clerk (Room 287 City Hall) setting forth the following information: the program to which the case is assigned; the next event and the date of that event (if the case is in the Arbitration Program, the arbitration hearing date must be provided), the Court Term and Number, and Caption of the case. The requisite filing fee in the form of a check made payable to the Prothonotary or credit card information must be included. Upon receipt of the requisite filing fee and a fully completed Discovery Argument Request Form, the Discovery Clerk shall assign the Discovery Motion for argument.

The filing party retains the original Motion[, ] and proposed order [ **and brief** ] for submission to the Court on the argument date.

(B) *Service Requirements.* The moving party shall immediately serve a copy of the Discovery Motion[, ] and proposed order (which shall contain no reference to the attorney proposing same) [ **and brief or memorandum of law** ], together with a Notice of Presentation **and Certificate of Service** (substantially in the form attached hereto) on all counsel of record and unrepresented parties as required by Pa.R.C.P. 440. Except in cases of emergency or waiver by consent of all parties, at least [ **twenty (20)** ] **ten (10)** days' prior written notice shall be required.

(C) *Argument Date.* On the argument date, the filing party shall hand to the Discovery Judge the following items: the original Discovery Motion[, ] and proposed order (which shall contain no reference to the attorney proposing same), [ **brief or memorandum of law,** ] Notice of Presentation, and the Attorney Certification of Good Faith required by Phila.Civ.R. \*208.2(e). Should all parties fail to appear for the argument, the court will deem the Discovery Motion moot. The Motion may not be rescheduled but a new Motion may be scheduled for argument as provided herein. Should all parties other than the moving party fail to appear, the Court will deem the Motion uncontested and will enter an appropriate order. Should the moving party fail to appear but one or more responding party appears pursuant to a Notice of Presentation served by the moving party, the court shall dismiss the Motion and may, upon the later filing of a motion for sanctions, enter monetary sanctions against the moving party and in favor of the party who appeared.

(D) *Response Requirement.* Any party opposing the Discovery Motion must respond, **orally or in writing**, on the argument date. Any party not opposing a discovery motion need not respond or appear for the argument.

(E) *Disposition of Discovery Motion.* On the argument date, the Discovery Judge shall:

- (i) enter appropriate orders concerning uncontested motions;
- (ii) entertain argument on contested motions and, if no issues of fact are raised, enter an appropriate order; or
- (iii) enter an appropriate order providing the procedure the parties are to follow to develop the record concerning any fact issue raised by the Discovery Motion or Response.

(F) *Notice of Entry of Order.* If the decision of the Court is issued immediately after the argument the party presenting the motion shall send a copy of the order to each attorney of record and unrepresented party who was not present on the argument date. The court shall send to each attorney of record and unrepresented party a copy of any order entered on any Discovery Motion held under advisement at the conclusion of the argument.

**Rule \*208.3(b). Motions Considered After Response Period. Briefs.**

\* \* \* \* \*

**[ (2) Discovery Motions.**

(A) *Scheduling Requirements.* All Discovery Motions, except in designated Mass Tort cases, shall be presented to, argued before and determined by the appropriate Judge of Discovery for the particular



program involved. The moving party shall file or fax a Discovery Argument Request Form (substantially in the form attached hereto) with the Discovery Clerk (Room 287 City Hall) setting forth the following information: the program to which the case is assigned; the next event and the date of that event (if the case is in the Arbitration Program, the arbitration hearing date must be provided), the Court Term and Number, and Caption of the case. The requisite filing fee in the form of a check made payable to the Prothonotary or credit card information must be included. Upon receipt of the requisite filing fee and a fully completed Discovery Argument Request Form, the Discovery Clerk shall assign the Discovery Motion for argument. The filing party retains the original Motion, proposed order and brief for submission to the Court on the argument date.

(B) *Service Requirements.* The moving party shall immediately serve a copy of the Discovery Motion, proposed order (which shall contain no reference to the attorney proposing same) and brief or memorandum of law, together with a Notice of Presentation (substantially in the form attached hereto) on all counsel of record and unrepresented parties as required by Pa.R.C.P. 440. Except in cases of emergency or waiver by consent of all parties, at least twenty (20) days' prior written notice shall be required.

(C) *Argument Date.* On the argument date, the filing party shall hand to the Discovery Judge the following items: the original Discovery Motion, proposed order (which shall contain no reference to the attorney proposing same), brief or memorandum of law, Notice of Presentation, and the Attorney Certification of Good Faith required by Phila.Civ.R. \*208.2(e). Should all parties fail to appear for the argument, the court will deem the Discovery Motion moot. The Motion may not be rescheduled but a new Motion may be scheduled for argument as provided herein. Should all parties other than the moving party fail to appear, the Court will deem the Motion uncontested and will enter an appropriate order. Should the moving party fail to appear but one or more responding party appears pursuant to a Notice of Presentation served by the moving party, the court shall dismiss the Motion and may, upon the later filing of a motion for sanctions, enter monetary sanctions against the moving party and in favor of the party who appeared.

(D) *Response Requirement.* Any party opposing the Discovery Motion must respond on the argument date. Any party not opposing a discovery motion need not respond or appear for the argument.

(E) *Disposition of Discovery Motion.* On the argument date, the Discovery Judge shall:

- (i) enter appropriate orders concerning uncontested motions;
- (ii) entertain argument on contested motions and, if no issues of fact are raised, enter an appropriate order; or
- (iii) enter an appropriate order providing the procedure the parties are to follow to develop the record concerning any fact issue raised by the Discovery Motion or Response.

(F) *Notice of Entry of Order.* If the decision of the Court is issued immediately after the argument the party presenting the motion shall send a copy of the order to each attorney of record and unrepresented party who was not present on the argument date. The court shall send to each attorney of record and unrepresented party a copy of any order entered on any Discovery Motion held under advisement at the conclusion of the argument.

(3) ] (2) *Non-Discovery Motions*

\* \* \* \* \*

*Note:* Adopted by the Board of Judges at the September 23, 2004 Board of Judges' Meeting.

[Pa.B. Doc. No. 05-601. Filed for public inspection April 1, 2005, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### ERIE COUNTY

Adoption of Rule 1042.21 to Rules of Civil Procedure; No. 90009 Court Order 2005

#### Order

And Now, this 17th day of February, 2005, upon the recommendation of the committee of the Bar appointed by this Court, it is hereby *Ordered, Adjudged and Decreed* that proposed Rule 1042.21 relating to mediation in medical malpractice cases as more fully set forth as follows is adopted and shall hereafter be made a part of the Local Rules of the Court of Common Pleas of Erie County, Pennsylvania.

*By the Court*

ELIZABETH K. KELLY,  
*President Judge*

#### 1042.21 Pretrial Procedure in Medical Profession Liability Actions. Settlement Conference; Mediation

(a) Any motion by a healthcare provider requesting a court ordered mediation, shall set forth the following minimum information:

- (1) the date of the proposed mediation or the time frame during which the mediation will take place;
- (2) the identity of the proposed mediator;
- (3) the location of the proposed mediation; and
- (4) any other terms that has been consented to by the parties or which are being proposed by the moving health care provider.

(b) If the motion has been consented to, such consent shall be noted in the motion and, where possible, written consents from the parties shall be attached.

(c) Any party opposing a Motion for mediation shall file their objections within ten (10) days of service of the Motion.

[Pa.B. Doc. No. 05-602. Filed for public inspection April 1, 2005, 9:00 a.m.]

**MONTGOMERY COUNTY**

**Amendment to Local Rule of Civil Procedure 1041.1\* and Adoption of Local Rule of Civil Procedure 1041.2\*; No. 05-00001-0001**

**Order**

And Now, this 14th day of March, 2005, the Court approves and adopts the following Amendment to Montgomery County Local Rule of Civil Procedure 1041.1\*—Asbestos Litigation—Special Provisions, and adoption of Local Rule of Civil Procedure 1041.2\*—Diet Drug (Fen-Phen) Litigation—Special Provisions. The Rule and Amendment shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

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

By the Court

S. GERALD CORSO,  
*President Judge*

**Rule 1041.1\*—Asbestos Litigation—Special Provisions.**

Asbestos litigation in Montgomery County is governed by the Pennsylvania Rules of Civil Procedure and the Montgomery County Local Rules of Civil Procedure, except as follows:

(a) Local Rule \*262 (relating to trial lists) shall not apply. Settlement conferences are scheduled and cases are listed for trial by Order of Court.

(b) In addition to the requirements of the Pennsylvania Rules of Civil Procedure and Local Rules 205.2(b) through 208.3 inclusive, 1028(c), 1034(a) and 1035.2(a), copies of motions, petitions, responses thereto, and briefs, shall be served upon the appointed judicial officer assigned to asbestos litigation. The filing of an argument praecipe shall have the effect of commencing the briefing schedule but not of listing the case for argument, which shall be done by the Court with the assistance of the appointed judicial officer assigned to asbestos litigation.

(c) Local Rule 4019\* pertaining to discovery masters shall not apply. When a discovery motion is at issue as provided in Local Rule 4019\*, counsel shall notify the appointed judicial officer assigned to asbestos litigation, who shall arrange for disposition of the matter by the Court.

(d) Arguments, hearings, and trials are ordinarily listed only before the Judge assigned to the asbestos litigation.

(e) The following procedure shall be in effect with respect to cases subject, or alleged to be subject to *Simmons v. Pacor, Inc.*, 543 Pa. 664, 674 A.2d 232 (1996):

(1) Within four months of the effective date of this subsection with respect to asbestos cases pending on the effective date, and within four months after the filing of each asbestos case filed after the effective date of this Rule, plaintiff in each such case shall either elect to pursue a claim for medical monitoring, or transfer the case to inactive status.

(2) A plaintiff desiring to pursue a claim for medical monitoring shall, by letter, notify the appointed judicial officer assigned to asbestos litigation, with copies to all other counsel. The appointed judicial officer assigned to asbestos litigation shall consult with the Court, which will issue appropriate Orders scheduling a conference, and thereafter list the case for arbitration or trial, as appropriate.

(3) With respect to cases in which plaintiff does not presently wish to pursue a claim for medical monitoring plaintiff shall file with the Prothonotary, and serve on all other counsel and on the appointed judicial officer assigned to asbestos litigation, a praecipe to transfer to inactive status. The praecipe shall be in the following form:

[Caption]

PRAECIPE TO TRANSFER INACTIVE STATUS  
TO THE PROTHONOTARY:

Transfer the above-captioned matter to inactive status in accordance with Montgomery County Local Rule of Civil Procedure 1041.1\*(e).

\_\_\_\_\_  
Attorney for Plaintiff

[Certificate of Service]\*

(4) Anytime after the expiration of four months from the effective date of this subsection with respect to asbestos cases pending on that date, and anytime after four months from the commencement of any action commenced after the effective date of this subsection, any defendant who asserts that any case should be transferred to inactive status because it falls within the rule of *Simmons v. Pacor, Inc., supra.*, shall file with the Prothonotary, a Motion to Transfer to Inactive Status. The Motion shall be in accordance with Pa.R.C.P. 208.1, et seq., and Montgomery County Local Rules of Civil Procedure 208.1, et seq. and 1041.1\*(b). The argument court cover sheet shall request a rule return day in accordance with Montgomery County Local Rule of Civil Procedure 208.3(b)(1). Copies of the motion shall be served on all other counsel in accordance with Montgomery County local rules and practice, and shall also be served on the appointed judicial officer assigned to asbestos litigation. The moving party's proposed order shall be in the following form:

\_\_\_\_\_  
ORDER

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, IT IS ORDERED that the above-captioned matter is transferred to inactive status in accordance with Montgomery County Local Rule of Civil Procedure 1041.1\*(e).

BY THE COURT:

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

Responses shall be filed at or before the time the rule is returnable, and shall be served on all counsel and on the appointed judicial officer assigned to asbestos litigation.

(5) Upon receipt of any responses, the appointed judicial officer assigned to asbestos litigation shall refer the petition to the Court, which will schedule the matter for argument or hearing as appropriate. If no responses are filed the Court Administrator will forward the Petition to the Signing Judge.

(6) After a case has been transferred to inactive status, whether by praecipe or by petition and order, the Prothonotary will maintain the case as an inactive file, the appointed judicial officer assigned to asbestos litigation will remove the case from the list of pending cases eligible for trial listing, and no party may take any action with respect to the case, except for the taking of depositions of an aged or infirm witness for purposes of preservation of testimony unless and until the Court, by Order shall direct that the case be retransferred to active status, upon petition and rule filed in accordance with the procedure set forth in subparagraph (4) above.

**Comments:**

1. The Honorable William J. Furber, Jr., is the Administrative Judge for Asbestos Litigation.

2. By Orders dated April 12, 1982 and January 27, 2005, the appointed judicial officer assigned to asbestos litigation is: Donald J. Martin, Esq., 22 West Airy St., Norristown, PA 19401-4769, Telephone: (610) 277-6772, Fax: (610) 277-4993.

3. The Orders scheduling cases for trial and settlement conferences ordinarily contain deadlines, including deadlines for the completion of discovery and for filing certain motions. These are completion deadlines. It is not necessary for a scheduling order to issue for counsel to engage in earlier, appropriate, discovery and motion practice.

4. Except as stated in sub-paragraph D below, a discontinuance of an action as to less than all parties may not be entered without notice and an opportunity to respond to all other parties. This may be accomplished as follows:

A. If a stipulation is signed by counsel for all parties to the litigation, Pa.R.C.P. 229(b) does not require leave of court. The fully executed stipulation may be filed with the Prothonotary.

B. A motion for approval of discontinuance may be filed pursuant to Pa.R.C.P. 208.1 et seq., and Montgomery County Local Rules of Civil Procedure 208.2, et seq. A rule to show cause shall be requested on the cover sheet. The cover sheet should be followed by a form of order approving the discontinuance, by a petition, and by the original stipulation executed by counsel for plaintiff and counsel for the party against whom proceedings are being discontinued. Upon receipt of the return day from the Court Administrator counsel should serve all parties, and file with the Prothonotary a separate certification of service indicating service of the petition and the rule to show cause, noting the return day. If no answer is filed at or before the time the rule is made returnable, the petition will be forwarded by the Court Administrator to the Civil Signing Judge in accordance with the practice pertaining to any petition requiring a return day.

C. Stipulations for discontinuance signed by counsel for plaintiff and counsel for the party against whom proceedings are being discontinued may be presented to the Court at a scheduled settlement conference for the case in question. If no objection is raised at the conference, the

Court normally approves the stipulation and returns it to counsel for filing and for service on all parties.

D. If a case has been settled by all parties from whom plaintiff seeks a recovery, a discontinuance may be entered as to any other parties by stipulation signed by counsel for plaintiff, the original of which shall be transmitted to the appointed judicial officer assigned to asbestos litigation, with copies served on all other parties. The appointed judicial officer assigned to asbestos litigation shall transmit the stipulation to the appropriate judge for approval. Since parties who may have claims for contribution or indemnification have not been given the opportunity to object, such a stipulation is subject to being stricken on the petition of an interested party. Counsel may wish to proceed in accordance with subparagraph B, above, to minimize this risk.

5. Certificates of service shall indicate the name and address of counsel or the parties on which service has been made. A certificate of service "on all parties," or "on all counsel of record" without stating who they are, does not establish service on anyone.

6. At the time of the adoption of the addition of subparagraph (e) the Court was aware that litigation was pending in other jurisdictions relating to the manner in which claims for medical monitoring can be pursued, and if such claims can be pursued. The provisions of this subsection (e) creating a procedure to pursue medical monitoring claims does not express the Court's opinion on this issue. This Rule does not preclude any appropriate motion in any case.

**Rule 1041.2\*—Diet Drug (Fen-Phen) Litigation—Special Provisions**

(a) In accordance with Pennsylvania Rule of Civil Procedure 1042.1, Pennsylvania Rule of Civil Procedure 1041.1(a) and (c) through (f) are applicable to actions to recover damages for injuries alleged to have been caused by the diet drugs known as "Fen-Phen."

(b) The diet drug litigation in Montgomery County is governed by the Pennsylvania Rules of Civil Procedure and the Montgomery County Local Rules of Civil Procedure, except as follows:

(1) The Local Rules governing certification and listing of cases for trial shall not apply. Settlement conferences are scheduled and cases are listed for trial by Order of Court.

(2) In addition to the requirements of the Pennsylvania Rules of Civil Procedure, and Local Rules 205.2(b) through 208.3 inclusive, 1028(c), 1034(a) and 1035.2(a), copies of motions, petitions, responses thereto and briefs, shall be served upon the appointed judicial officer assigned to complex litigation. The filing of an argument praecipe shall have the effect of commencing the briefing schedule but not of listing the case for argument, which shall be done by the Court with the assistance of the appointed judicial officer assigned to complex litigation.

(3) Local Rule 4019 pertaining to discovery masters shall not apply. When a discovery motion is at issue as provided by Local Rule 4019, counsel shall notify the appointed judicial officer assigned to complex litigation, who shall arrange for disposition of the matter by the Court or hear the motion and make recommendations to the Court, as the Court shall determine.

(4) Arguments are ordinarily listed only before the judge assigned to the diet drug litigation.

(5) The Court has established a master docket for use in this litigation, No. 04-00007. This docket is for Orders

of general application to all the litigation or classes of cases within the litigation. It is not for the filing of motions of less than general application, and motions which have relevance to individual cases shall be filed under such individual case number, even if more than one case is involved. Upon the taking of an appeal by any party, if any Orders entered under the general number are relevant to the case on appeal, counsel shall, by praecipe, file a copy of the relevant document in the individual file.

**Comments:**

1. The Honorable Arthur R. Tilson is the judge assigned to the diet drug litigation.

2. The appointed judicial officer assigned to complex litigation is Donald J. Martin, Esquire, 22 West Airy Street, Norristown, Pennsylvania 19401-4769. Telephone: (610) 277-6772. Fax: (610) 277-4993.

3. Orders scheduling cases for trial and settlement conferences will ordinarily contain deadlines, including deadlines for the completion of discovery and for filing certain motions. These are completion deadlines. It is not necessary for a scheduling Order to issue for counsel to engage in earlier, appropriate, discovery and motion practice.

[Pa.B. Doc. No. 05-603. Filed for public inspection April 1, 2005, 9:00 a.m.]

---

## SUPREME COURT

### Reestablishment of the Magisterial Districts within the Thirty-Second Judicial District; No. 216 Magisterial Doc. No. 1

**Order**

*Per Curiam*

*And Now*, this 15th day of March, 2005, upon consideration of the Request to Revise the Descriptions of Magisterial Districts 32-1-33, 32-1-34, 32-1-35, 32-1-51, and

32-1-52 of the Thirty-Second Judicial District (Delaware County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Petition is hereby granted. This Order is effective immediately.

Said Magisterial Districts shall be as follows:

- |                               |  |
|-------------------------------|--|
| Magisterial District 32-1-33: | Millbourne Borough                                 |
| Magisterial District Judge    | Upper Darby Township                               |
| Harry J. Karapalides          | Ward 4, Precinct 1                                 |
|                               | Ward 5, Precinct 1                                 |
|                               | Ward 6, Precincts 1, 2, 3, 4, 10, & 12             |
|                               | Ward 7, Precincts 2, 3, 4, 5, 6, 8, & 10           |
| Magisterial District 32-1-34: | Upper Darby Township                               |
| Magisterial District Judge    | Ward 1, Precincts 1, 2, 3, & 8                     |
| Michael G. Cullen             | Ward 3, Precincts 2, 3, 4, 5, 6, 7, 8, 9, & 10     |
| Magisterial District 32-1-35: | Upper Darby Township                               |
| Magisterial District Judge    | Ward 1, Precinct 9                                 |
| Ann Berardocco                | Ward 3, Precinct 1 & 11                            |
|                               | Ward 4, Precincts 2, 3, 4, 5, 6, 7, 8, 9, 10, & 11 |
|                               | Ward 5, Precincts 3, 7, & 8                        |
| Magisterial District 32-2-51: | Upper Darby Township                               |
| Magisterial District Judge    | Ward 5, Precincts 2, 4, 5, 6, & 9                  |
| Christopher R. Mattox         | Ward 6, Precincts 5, 6, 7, 8, 9, & 11              |
|                               | Ward 7, Precincts 1, 7, 9, 11, & 12                |
| Magisterial District 32-1-52: | Upper Darby Township                               |
| Magisterial District Judge    | Ward 1, Precincts 4, 5, 6, & 7                     |
| Kelly A. Micozzie-Aguirre     | Ward 2, Precincts 1, 2, 3, 4, 5, 6, & 7            |

[Pa.B. Doc. No. 05-604. Filed for public inspection April 1, 2005, 9:00 a.m.]

---