

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

#### Amendment of Rule 208(h) of the Pennsylvania Rules of Disciplinary Enforcement; No. 47 Disciplinary Rules; Doc. No. 1

##### Order

*Per Curiam:*

And Now, this 9th day of November, 2005, Rule 208(h) of the Pennsylvania Rules of Disciplinary Enforcement is amended to read as follows.

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 upon publication in the *Pennsylvania Bulletin* 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 B. MISCONDUCT

#### Rule 208. Procedure.

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(h) *Violation of probation.* Where it appears that a respondent-attorney who has been placed on probation [ pursuant to Enforcement Rule 204(a)(4) (relating to types of discipline) ] has violated the terms of the probation, the Office of Disciplinary Counsel may file a petition with the Board detailing the violation and suggesting appropriate modification of the order imposing the probation, including without limitation immediate suspension of the respondent-attorney. A hearing on the petition shall be held within ten **business** days before a member of the Board designated by the [ **Chairman of** ] the Board **Chair**. [ **The designated Board member shall hear the petition and, if** ] If the designated Board member finds that the order imposing probation should be modified, **the following procedures shall apply:**

**(1) If the order imposing probation was entered by the Supreme Court, the designated Board member** shall submit a transcript of the hearing and a recommendation to the Supreme Court within five **business** days after the conclusion of the hearing. A copy of the transcript and recommendation shall be personally served upon the respondent-attorney. The Court, or any justice thereof, may enter a rule directing the respondent-attorney to show cause why the order imposing probation should not be modified as set forth in the petition, which

rule shall be returnable within ten **business** days. If the period for response has passed without a response having been filed, or after consideration of any response, the Court may enter an order modifying as appropriate the order imposing probation.

**(2) If the order imposing probation was entered by the Board, the designated Board member shall submit a transcript of the hearing and a recommendation to the Board within five business days after the conclusion of the hearing. A copy of the transcript and recommendation shall be personally served upon the respondent-attorney along with a notice that the respondent-attorney may file a response to the recommendation with the Board within ten business days. If the period for response has passed without a response having been filed, or after consideration of any response, the Board may enter an order modifying as appropriate the probation previously ordered or directing the commencement of a formal proceeding under this Rule.**

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[Pa.B. Doc. No. 05-2164. Filed for public inspection November 23, 2005, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### SOMERSET COUNTY

#### Consolidated Rules of Court; No. 93 Misc. 2005

##### Adopting Order

Now, this 7th day of November, 2005, it is hereby Ordered:

1. Somerset County Rule of Criminal Procedure 117 (Som.R.Crim.P. 117) Continuous Coverage For Issuance Of Warrants, Preliminary Arraignments, Summary Trials, And Setting And Accepting Bail, copy of which follows, is hereby adopted as a Rule of this Court, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the following Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order and the following Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the following Rule with the Pennsylvania Criminal Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

*By the Court*

EUGENE E. FIKE, II,  
*President Judge*

## RULES OF COURT

### Continuous Coverage By Magisterial District Judges.

#### Som.R.Crim.P. 117. Continuous Coverage for Issuance of Warrants, Preliminary Arraignments, Summary Trials, and Setting and Accepting Bail.

A. Continuous coverage for issuance of warrants, holding of preliminary arraignments and summary trials, and setting and accepting bail shall be by traditional on-call system as presently established. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty.

B. Magisterial District Judges, the Clerk of Courts and Warden of the Somerset County Jail shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 05-2165. Filed for public inspection November 23, 2005, 9:00 a.m.]

## WESTMORELAND COUNTY Rule Changes; No. 65-96-214

### Administrative Order

And Now this 4th day of November, 2005 it is *Hereby Ordered* that Westmoreland Rules of Orphans' Court WO107(f), WO117(f), WO117(h), WO405(a)(19), WO(a)(20), WO407(a)(2)(G), WO407(a)(5), and the Cross References Section to WO602 are rescinded.

New Westmoreland Rules of Orphans' Court WO107(f) and Comment, WO117(f), WO117(h), WO405(a)(19), WO(a)(20), WO405(c), WO407(a)(2)(G), WO409, and the Cross References Section to WO602 are adopted.

*By the Court*

DANIEL J. ACKERMAN,  
*President Judge*

### Rule WO107 Pleadings

#### (f) Notice

(1) Argument on contested motions or petitions will be heard in Motions Court. The trial judge assigned to a specific case will hear all motions or petitions relating to that case. Motions Court shall be held each Friday at 9:00 a.m.

(2) The moving party shall serve a copy of the motion or petition and any proposed Order on every other person known to have an interest in the outcome or disposition of the matter and attorneys of record, and give written notice of the time, date and location for presentation, at least 4 days in advance of the date when the presentation is to occur.

(3) The original motion or petition must be accompanied by a certificate stating that a copy of the motion or petition, proposed Order and written notice has been so furnished. Failure to provide such certificate may result in the court's refusal to hear the motion or petition.

(4) In the case of an uncontested motion or petition, the certificate shall also state that the motion or petition is, in fact, uncontested or has the consent of all parties.

(5) Copies of complex motions or petitions may be provided to the Court in advance. If so, the certificate shall also reflect this.

**Explanatory Comment:** If the Order grants leave for action to be taken, the parties should refer to Pa.O.C. Rules 5.3 and 5.4.

### Rule WO117 Accounts

#### (f) Notice

Notice of the filing of the account, as well as a copy of the account, shall be sent to all interested parties at least 20 days prior to the date set for audit. If the court finds that notice and a copy of the account have not been timely given, the audit may be continued to the next audit date.

#### (h) Objections

Objections to an account must be filed with the clerk and submitted to the court in writing on or before the date and time set for audit. A copy of the objections shall be provided to counsel for the estate, or the personal representative where there is no counsel of record, and to every other party who has entered an appearance and who may be affected by the objection.

### Rule WO405 Petitions For Distribution

#### (a)

(19) The names and addresses of all persons having any interest as devisees, legatees or heirs, with the names of parents where necessary to show relationship. In the case of intestacy, it shall also include a statement as to whether a surviving parent is the natural parent of any surviving children.

(20) A statement of all changes in distribution under the will, resulting from the death of persons named as beneficiaries therein, ademption of specific gifts, election to take against the will or otherwise, together with the date of death of any such beneficiary.

(c) The filing of a Petition for Distribution and Decree shall be mandatory. Approved forms are available in the Register of Wills' office. They may be retyped on a word processor for convenience.

### Rule WO407 Small Estates

#### (a) Personalty

(2)(G) If the decedent attained age 55, a letter from the Department of Public Welfare disclosing the amount, if any, of its claim against the Estate.

### Rule WO409 Family Settlement Agreements

Before the register accepts a family settlement agreement for filing, the family settlement agreement must be accompanied by a certification from the filing party or their counsel that no minor or incapacitated person, whose interest is not represented by a court-appointed guardian, has an interest in the decedent's estate. In the absence of such certification, the estate must proceed to audit.

### Rule WO602 Petition to Compromise and Settle Minor's Claim

*Cross References:* All petitions must meet the basic requirements established by WO107.

Under Pa.R.C.P. Nos. 2039 and 2206, the following distribution procedures are used in the civil division.

1. Pursuant to Pa.R.C.P. No. 2039(b), the court shall order the proceeds paid to the guardian of the estate of the minor.

2. If there is no court-appointed guardian of the estate and the amount is not more than \$25,000, Pa.R.C.P. No. 2039(b)(1) provides that the court may (but is not obli-

gated to) release the proceeds directly to “the guardian of the person or to the natural guardian or to the person or agency by whom the minor is maintained or to the minor.”

3. If there is no court-appointed guardian of the estate and the amount is more than \$25,000, Pa.R.C.P. No. 2039(b)(2) requires that the proceeds be deposited in a federally insured savings account—in the minor’s name—with a stipulation that no withdrawals can be made until the child reaches the age of eighteen (18) except upon prior order of court.

4. The order must include a provision that proof of the sequestered account shall be promptly filed of record.

[Pa.B. Doc. No. 05-2166. Filed for public inspection November 23, 2005, 9:00 a.m.]

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