

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CHS. 83, 89 AND 93]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement and to the Rules of the Board

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to The Supreme Court of Pennsylvania that it amend Pennsylvania Rule of Disciplinary Enforcement 208(g) as set forth in Annex A to provide that the Board may impose an administrative fee to be paid by the respondent-attorney in cases that result in the imposition of any form of discipline more serious than an informal admonition.

The amount of the administrative fee would be set by the rules of the Board. The Board is proposing that 204 Pa. Code § 93.111 be amended as set forth in Annex B to set the administrative fee initially at \$250.

The administrative fee would be part of the expenses of the proceeding that may be taxed against the respondent-attorney. To assist in the collection of expenses that are taxed in formal proceedings that result in public discipline, the Board is also proposing that Pa.R.D.E. 208(g) be amended to make clear that an order of the Supreme Court taxing expenses is a judgment for the amount of the expenses. A similar provision is not required in cases that result in private discipline because those proceedings are not completed and the discipline is not imposed until all taxed expenses have been paid.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 13, 2006.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary of the Board

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.

* * * * *

(g) *Costs.*

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposi-

tion of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. **An order of the Supreme Court taxing expenses is a judgment for the amount of the expenses.**

(2) In the event a proceeding is concluded by informal admonition or private reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel or the Board for informal admonition or private reprimand. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

(3) The expenses taxable under paragraph (1) or (2) may include an administrative fee prescribed by Board rules except that an administrative fee shall not be included where the discipline imposed is an informal admonition.

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Annex B

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.209. Expenses of formal proceedings.

Enforcement Rule 208(g)(1) provides that the Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney, [and] that all expenses so taxed shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney, **and that an order of the Supreme Court taxing expenses is a judgment for the amount of the expenses.**

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(c) *Administrative fee.* Enforcement Rule 208(g)(3) provides that the expenses taxable under § 89.209 or § 89.205(b) may include an administrative fee prescribed by Board rules except that an administrative fee shall not be included where the discipline imposed is an informal admonition. **The administrative fee shall be \$250.**

[Pa.B. Doc. No. 05-2192. Filed for public inspection December 2, 2005, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CHS. 91 AND 93]**

Amendments to the Rules of Organization and Procedure of the Board Relating to the Procedure for Challenging Subpoenas

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering amending its Rules of Organization and Procedure as set forth in Annex A to specify the time periods within which challenges to subpoenas are to be handled.

Section 91.3 of the rules of the Board designates the person who is to hear a challenge to a subpoena, but does not provide any time limits for the filing or service of motions and answers, or the scheduling of a hearing. The Board believes that its procedures could be improved if those issues were addressed in its rules as set forth in Annex A.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 13, 2006.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary of the Board

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 91. MISCELLANEOUS MATTERS

**Subchapter A. SERVICE, SUBPOENAS, DEPOSITIONS AND RELATED MATTERS
IN GENERAL**

§ 91.3. Determination of validity of subpoena.

(a) *In general.* Enforcement Rule 213(d) provides that any attack on the validity of a subpoena issued under these rules shall be handled as follows:

* * * * *

(b) *Procedure.*

(1) **A motion attacking a subpoena must be filed with the Office of the Secretary within ten business days after service of the subpoena. A copy of the motion must be served on the other party to the investigation or proceeding.**

(2) **Any answer to the motion must be filed with the Office of the Secretary within ten business days after service of the motion on the other party under paragraph (1).**

(3) **The Office of the Secretary must transmit the motion and any answer to the person designated in subsection (a)(1) or (2) to hear the motion, who must schedule a hearing on the motion within ten business days after the date by which an answer must be filed. A report with findings of fact and conclusions of law must be filed with the Office of the Secretary within ten business days after the conclusion of the hearing.**

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter B. THE DISCIPLINARY BOARD

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

* * * * *

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

* * * * *

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to § 91.2 (relating to subpoenas and investigations), as provided in § [**91.3(2)**] **91.3(a)(2)** (relating to determination of validity of subpoena); or

* * * * *

[Pa.B. Doc. No. 05-2193. Filed for public inspection December 2, 2005, 9:00 a.m.]

**Title 255—LOCAL
COURT RULES**

BERKS COUNTY

Administrative Order Relative to Amendment of Berks County Rules of Criminal Procedure; No. 98-8009 Prothonotary; No. 1-MD-2005 Clerk of Courts

Order

And Now, this 7th day of November 2005, the undersigned Judges of the Berks County Court of Common Pleas hereby adopts the amended Berks County Rules of Criminal Procedure last revised October 7, 2005, as the Rules of this Court. All prior Berks County Rules of Criminal Procedure are rescinded as of the effective date of the new Rules. It is further ordered that these Rules shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator of Berks County is further *Ordered* and *Directed* to provide copies to the appropriate offices and departments as stated in the Rules:

1. File ten (10) certified copies of this Order with the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c);
2. File two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. File one (1) certified copy of this Order to the Criminal Procedural Rules Committee.
4. File one (1) certified copy of this Order with the Berks County Law Library;
5. File one (1) certified copy of this Order with the Clerk of Courts.

By the Court

ARTHUR E. GRIM,
President Judge

**BERKS COUNTY
RULES OF CRIMINAL PROCEDURE
TITLE AND CITATION OF RULES**

Rule 10

These rules shall be known as Berks County Rules of Criminal Procedure and shall be cited as "B.C.R.Crim.P."

**ADDRESS AND TELEPHONE NUMBER CHANGES
OF DEFENDANTS**

Rule 15 Duty to Notify of Change in Address and/or Telephone Number

(A) Before arraignment pursuant to Pa.R.Crim.P. 571, as a condition of bail, or his or her release without bail, a Defendant shall notify in writing the issuing authority, the District Attorney and the County bail agency of any change in said Defendant's address and/or telephone number, if any, within forty-eight (48) hours after the change of address and/or telephone number first occurs.

(B) After arraignment pursuant to Pa.R.Crim.P. 571, as a condition of bail, or his or her release without bail, a Defendant shall notify in writing the Clerk of Courts, the District Attorney and the county bail agency of any change in said Defendant's address and/or telephone number within forty-eight (48) hours after the change of address and/or telephone number first occurs.

Rule 16 Filing of Change of Address and/or Telephone Number

Upon receipt of notice from the Pennsylvania Board of Probation and Parole, the Berks County Probation Office, the District Attorney, the county bail agency, or a Defendant himself or herself that the Defendant has changed his or her address and/or telephone number, the Clerk of Courts shall immediately file said change of address and/or telephone number notice in the Defendant's file, if not already filed therein, and promptly notify the criminal court computer office with court administration of said change of address and/or telephone number.

Rule 20 Witness Fees

A witness for the Commonwealth in a criminal case shall be entitled to only one (1) witness fee per day and to mileage for only one (1) round trip per session, regardless of the number of cases for which he has been subpoenaed and regardless of the number of days he appears in court. Where the witness has been subpoenaed for more than one (1) case, his fee and mileage shall be prorated among the cases for which he has appeared during such session. It shall be the duty of the Clerk of Courts to keep a list of the witnesses and of the cases for which a witness has appeared. The Clerk of Courts shall charge and prorate the witness fee and mileage in accordance with this Rule.

Rule 30 Computation of Time

In computing the time within which anything is to be done under these Rules or any special order, where such time does not exceed five (5) days, Saturdays, Sundays and legal holidays shall be excluded, otherwise they shall be included.

Rule 40 Priority of Criminal and Juvenile Proceedings

Whenever an attorney is scheduled to appear before more than one Judge during the same time period, the procedure as set forth by Berks County Rule of Judicial Administration (B.R.J.A.) 102 shall be followed.

Rule 50 Presence of Prosecuting Officer

Except for good cause shown, the prosecuting police officer shall not be subject to a sequestration order at any

stage of criminal proceedings. The prosecuting police officer shall be permitted to sit at counsel table and fully assist in preparation and presentation of the Commonwealth's case. Where multiple criminal dockets have been joined or where there are multiple prosecuting police officers on a single criminal docket, all prosecuting police officers shall be permitted to sit in front of the bar of the court and, to the extent space allows, at counsel table.

TRIAL LIST

Rule 60 Assignment of Case to Judge

Each criminal case shall be assigned to a particular Judge of the Court of Common Pleas at arraignment. The Court of Common Pleas Judge to whom it is assigned shall handle the case throughout all its proceedings, unless reassigned by Order of the Court.

Rule 61 Preparation of Trial List

Absent specific order of the assigned judge, the District Attorney of Berks County is solely responsible for determining when cases are brought to trial in each courtroom.

Rule 62 Deadline for Continuances

Each Judge of the Court of Common Pleas shall from time to time designate the last day on which he or she will entertain motions for routine continuances of matters set for trial. No continuance requested after that date will be granted, unless required by law or unless the reason for the continuance first arose after the date designated.

Rule 63 Unavailability of Counsel

If counsel in a case listed for trial expects to be unavailable on a particular day or days on which the case could be called for trial, he shall make application to the assigned Judge of the Court of Common Pleas, after advance reasonable written or oral notice of intention so to do to opposing counsel, to excuse him for that day or days. The Common Pleas Judge shall determine whether or not counsel has valid reason for being unavailable and shall either refuse or grant the request to be excused.

Rule 113 Notice and Docketing of Orders, Decrees and Opinions

In addition to the requirements of Pa.R.Crim.P. 113 applicable to the Clerk of Courts, the Clerk of Courts shall serve written notice of every order, decree, appointment and copy of every opinion entered by the court to affected counsel of record and parties without counsel, and shall note the name of the individual who made the service, the date, time and method of service, the party served, the name of the individual who was handed the document, and the place at which service was made, or the address to which mailed, on the subject document and shall note on the docket the date, time and method of service and the name of the party served.

ACCELERATED REHABILITATIVE DISPOSITION

Rule 310 Application

All applications for consideration for Accelerated Rehabilitative Disposition shall be filed, upon order of the court, with the Clerk of Courts not later than seven (7) days after arraignment. The application shall be on the form prescribed by the court and shall set forth, inter alia, the name and address of the Defendant, date complaint filed, if arraigned on information the date of arraignment, criminal charges set forth in the information, or if not yet filed the criminal charges for which Defendant was held for court by the issuing authority, criminal court number, or if not yet available the OTN number, and shall be signed by the applicant, i.e., the

District Attorney, or by Defendant and defense counsel who has entered a written appearance.

Rule 310.1 Action by District Attorney

If the application is filed by other than the District Attorney, within seven (7) days after such filing, the District Attorney shall determine whether or not the application merits consideration. During that time period, the District Attorney may request the Adult Probation Officer to furnish any additional information concerning Defendant, and within thirty-five (35) days after the original filing date of the application the District Attorney shall either (1) reject the application, or (2) approve the application. The application form indicating either rejection or approval and the reason(s) therefore shall be filed with the Clerk of Courts.

Rule 310.2 Expedited Procedure

(A) The District Attorney shall supply to the issuing authorities of Berks County, and the Court, a list of the types of offenses approved for the expedited procedure authorized by this rule.

(B) The application for consideration for the Accelerated Rehabilitative Disposition Program on the form prescribed by the Court in B.C.R.Crim.P. 310 shall be filed by the Defendant or his counsel with the issuing authority immediately after the charges are either waived into Court or after hearing held, bound over to Court. The issuing authority shall establish a hearing date and subpoena the Defendant for an Accelerated Rehabilitative Disposition Hearing in accordance with the Court of Common Pleas calendar and written instruction from the Court Administrator.

(C) If the District Attorney, after review of the application and information supplied by the Probation Office decides to reject the application, the District Attorney shall submit an Order to the Court striking the case from the Accelerated Rehabilitative Disposition Hearing List and fixing a date for Arraignment of the Defendant.

Rule 320 Experiment of the Arrest Record upon Successful Completion of the A.R.D. Program

(A) A Defendant presenting a motion for dismissal of the charges against him/her upon successful completion of the A.R.D. Program pursuant to Pa.R.Crim.P. 319 shall file with the motion a proposed order for expungement of his/her arrest record substantially in the form set forth in B.C.R.Crim.P. 320.2 The moving party shall also file an adequate number of copies of the proposed order for distribution.

(B) The moving party shall list in the proposed order all criminal justice agencies that will be served with a certified copy of the order for expungement.

Rule 320.1 Service of the Order for Expungement

The Clerk of Court shall serve certified copies of the order for expungement upon the District Attorney, the Magisterial District Judge and Defendant's attorney or unrepresented Defendant, and expunge his own record. The moving party shall serve certified copies of the order upon all other criminal agencies listed in the order.

Rule 320.2 Form of Proposed Order for Expungement

ORDER OF DISMISSAL AND EXPUNGEMENT

AND NOW, this _____ day of _____, 20____, pursuant to Pa.R.Crim.P. 320, it is hereby ORDERED AND DECREED that:

1. The specific charge(s) as appearing on the (Complaint/Information), of:

arising from the Defendant's arrest on _____, made by _____ the Police Department, (is/are) hereby DISMISSED by the virtue of the Defendant's successful completion of the ARD program.

2. FURTHERMORE, in light of the Defendant's successful completion of the ARD Program and the above dismissal of the charges, it is ordered that all information collected by criminal justice agencies concerning the individual, and arising from the initiation of this criminal proceeding, consisting of identifiable descriptions, dates and notations of the arrest, in indictments, informations or other formal criminal charges and any dispositions arising therefrom be RETRIEVED AND EXPUNGED in regard to:

| | |
|--------------------------------|------------------------|
| Defendant Name: | |
| Date of Birth: | Social Security # |
| Court of Common Pleas Docket # | OTN |
| Magisterial District Judge | Magisterial District # |
| Docket # | |

3. In the event the Defendant was arrested for an offense enumerated in 75 Pa. C.S.A. § 3802 (relating to the offense of Driving under the Influence of Alcohol or Controlled Substance) this Order does not apply to the Department of Transportation pursuant to 75 Pa.C.S.A. § 1534(b).

4. The Berks County District Attorney's Office shall, and the Berks County Adult Probation Office may, maintain a list of the persons whose records are required by this court to be expunged upon the successful completion of any partial or post-trial diversion or probation program. Such information shall be used solely for the purpose of determining subsequent eligibility for such programs. 18 Pa.C.S.A. § 9122(c).

5. The Clerk of Courts shall seal the entire record and Court Information Management shall seal the electronic records to prohibit public access to them.

6. This order shall be served on and applies to the following:

(1) The Pennsylvania State Police Department; (2) _____ Police Department; (3) Berks County Adult Probation; (4) Berks County Central Warrant Agency; (5) Berks County Sheriff; (6) Berks County Bail Agency; (7) Berks County District Attorney's Office; (8) _____, Attorney for the Defendant; (9) Defendant's last known address of _____.

BY THE COURT:

RULE 507. APPROVAL OF POLICE COMPLAINTS AND ARREST WARRANT AFFIDAVITS BY ATTORNEY FOR THE COMMONWEALTH

The District Attorney of Berks County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging:

- A. Murder (all types)—18 Pa.C.S.A. § 2502,
- B. Voluntary Manslaughter—18 Pa.C.S.A. § 2503,
- C. Involuntary Manslaughter—18 Pa.C.S.A. § 2504,
- D. Causing or Aiding Suicide—18 Pa.C.S.A. § 2505,
- E. Drug Delivery Resulting in Death—18 Pa.C.S.A. § 2506,
- F. Murder of an Unborn Child (all types)—18 Pa.C.S.A. § 2604,
- G. Voluntary Manslaughter of Unborn Child—18 Pa.C.S.A. § 2605,

- H. Homicide by Vehicle—75 Pa.C.S.A. § 3732,
- I. Homicide by Vehicle while DUI—75 Pa.C.S.A. § 3735,
- J. Homicide by Watercraft while Operating Under Influence—30 Pa.C.S.A. § 5502.1,
- K. Homicide by Watercraft—30 Pa.C.S.A. § 5502.2; or
- L. Any inchoate form of the foregoing—Criminal Attempt—18 Pa.C.S.A. § 901, Criminal Solicitation—18 Pa.C.S.A. § 902, Criminal Conspiracy—18 Pa.C.S.A. § 903

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an Attorney for the Commonwealth prior to filing.

BAIL

Rule 530 County Bail Agency

(A) BCPS Pretrial Services, is hereby designated as the county bail agency. Its duties and powers shall be as follows:

(1) To investigate and evaluate the bail risk of Defendants accused of crimes for purposes of nominal bail or percentage cash bail programs.

(2) To be surety on certain nominal bail bonds or percentage cash bail bonds.

(3) To furnish the results of such investigations to a Defendant applying for percentage cash bail or nominal bail, to the Magisterial District Judge and to the court, as may be appropriate, for release of said Defendant on nominal or percentage cash bail, such recommendation to include any special conditions for release that should be imposed in connection with such release.

(4) To keep account of the whereabouts and supervise the activities of the Defendants released on such nominal bail or percentage cash bail programs.

(5) To make reasonable rules and regulations to enable it to carry out its functions as bail agency, such rules and regulations being subject to review by the court.

(6) The sum of money furnished as percentage cash bail shall be retained by the County of Berks and applied to the cost of operating the percentage cash bail program, including, but not limited to, the cost incurred by the county bail agency in supervising and monitoring Defendants in the percentage cash bail program.

(7) Each Defendant who posts percentage cash bail shall accept, as a condition of said bail, monitoring and supervision by the county bail agency and shall report in person to the county bail agency not later than 11:00 A.M. on the first working day after his or her release on percentage cash bail and shall follow all of the supervisory and monitoring regulations of the county bail agency, so long as such Defendant remains free on percentage cash bail.

(B) Any information obtained by the county bail agency in carrying out its duties as bail agency which was obtained from, or concerns, a Defendant shall not be disclosed to any person or entity other than the Defendant, counsel for the Defendant, the Magisterial District Judge or the Court, and then only to the extent necessary or helpful in determining whether bail should be allowed, and if so, the amount and type of bail.

(C) A Magisterial District Judge or the Court may impose such special conditions for release of Defendant as deemed necessary with special conditions shall be set forth in the bail bond and may include supervision of Defendant by BCPS Pretrial Services as bail agency in accordance with bail agency rules and regulations. The

county bail agency shall inform the Magisterial District Judge or the Court, as appropriate, of any violation by a Defendant of any of the terms or conditions of his or her release and such Defendant shall be brought before the Magisterial District Judge or the Court by the bail agency to determine if bail should be revoked or forfeited or additional bail should be required. If a Defendant cannot be produced or otherwise fails to appear when wanted, the Magisterial District Judge or the Court may take appropriate action for requiring compliance by Defendant, including the revocation or forfeiture of bail.

Rule 531 (A) (6)—(9) Qualifications of Surety

(6) Corporate Surety.

(a) Every corporate surety company duly authorized to do business in Pennsylvania may become surety on any bail bond required to be filed in the Court provided that a current Certificate of Authority issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, along with the current financial statement, shall be filed with the Clerk of Courts. No bond shall be executed by any corporate surety after May 15 of any year until such a certificate is issued after March 31 of the same year and the financial statement shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by any corporate surety where the aggregated maximum amount of unsettled and outstanding bail forfeitures, as determined by the Berks County Solicitor, is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County, of any corporate surety having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the corporate surety. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the corporate surety may resume.

(7) Surety Agents.

(a) Every agent, acting on behalf of a corporate surety, may execute a bail bond required to be filed in this Court provided that a Power of Attorney issued by the corporate surety setting forth the maximum limit of liability per bail along with proof of licensing by the Insurance Department of the Commonwealth of Pennsylvania, shall be filed with the Clerk of Courts. No bond shall be executed by any surety agent after the expiration of such Power of Attorney until a new Power of Attorney shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by a surety agent of any corporate surety authorized to do business in Berks County where the aggregate maximum amount of unsettled and outstanding bail forfeitures for all corporate sureties for which the surety agent is writing bonds, as determined by the Berks County Solicitor, is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County, of any surety agent having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the surety agent. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the surety agent may resume.

(8) Professional Bail Bondsman.

(a) Every professional bail bondsman, duly authorized to do business in Pennsylvania, may become surety on any bail bond required to be filed in this Court, provided that a currently valid registration and license from the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. § 5742, evidencing such right shall be filed with the Clerk of Courts. Every professional bail bondsman must present proof that he or she maintains an office in Berks County from which his or her business is conducted pursuant to 42 Pa.C.S. § 5744, and he or she must post and maintain as security with the Clerk the sum of Fifty Thousand (\$50,000.00) Dollars in United States currency or securities of the United States Government.

(b) No bond shall be executed by any professional bail bondsman where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Berks County Solicitor is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County of any professional bail bondsman having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the professional bail bondsman. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the professional bail bondsman may resume.

Rule 531(C) Spouse of Issuing Authority Ineligible

In addition to the limitations of Pa.R.Crim.P. 531(C), the husband or wife of any issuing authority shall not be permitted in any proceeding to become surety in an individual capacity or as a professional bondsman under 42 Pa.C.S.A. § 5741, or to execute as an officer, agent, attorney or employee of a surety company, any bail entered before any issuing authority of Berks County or entered before the court.

Rule 537 Professional Bondsmen

(A) A professional bondsman, licensed under Chapter 57, Subchapter B, of the Judicial Code, 42 Pa.C.S. §§ 5741—49, before acting as a surety in any proceeding pending before this court, shall post cash and/or own real estate in the amounts herein set forth and shall comply with the following procedures:

(1) Cash

(a) A professional bondsman may post cash with the Clerk of Courts as security for bail to be written, and the clerk shall receive said cash and give the professional bondsman a receipt therefor.

(b) The Clerk of Courts shall deposit all sums that a professional bondsman has posted with said clerk into a federally insured interest bearing account with any federally insured financial institution. The clerk shall deposit said funds, subject to withdrawal upon thirty (30) days written notice to the financial institution, or subject to such longer period of notice, not exceeding one (1) year, as the professional bondsman may direct.

(c) The clerk shall pay the interest from time to time received on such deposit to the professional bondsman, who deposited the same, less any amount which the clerk is by law authorized to retain.

(d) A professional bondsman may, at any time, upon ten (10) days notice to the clerk, and upon presentation

and surrender of the clerk's receipt for the sum deposited, withdraw the whole or any part of the cash deposited, not required for bail then written and outstanding on the security thereof, less any penalty for early withdrawal charged by the financial institution in which the clerk has deposited said sum, and less any amount which the clerk is, by law, authorized to retain. If the professional bondsman does not withdraw the entire sum, which he or she deposited, the clerk shall issue to the professional bondsman a new receipt for the remaining balance of the deposit.

(e) A professional bondsman, may, at any time, increase the cash on deposit with the clerk. Whenever the professional bondsman increases his or her cash on deposit, he or she shall surrender the clerk's receipt for the sum therefore deposited and the clerk shall issue to the professional bondsman a new receipt for the new total balance on deposit.

(f) If a professional bondsman loses or is otherwise unable to produce the clerk's receipt for cash deposited, he or she shall petition the court and the court, upon being satisfied that the receipt cannot be produced, may direct the clerk to issue to the professional bondsman a duplicate receipt for the amount deposited. The clerk shall clearly and legibly mark or stamp the duplicate receipt "DUPLICATE" and shall note thereon the date on which the original receipt was issued, the date on which the duplicate was delivered, and the date of the court order authorizing said duplicate.

(g) Whenever a professional bondsman desires to write bail on the security of cash deposited with the clerk and thereby act as surety in any case pending before the Magisterial District Judge, he or she shall file with the Magisterial District Judge a copy of the clerk's current receipt for said cash, and in addition, an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of cash then on deposit with the clerk, the total amount of bail offered and accepted on the security of said cash and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail about to be written.

(h) Whenever a professional bondsman desires to write bail on the security of cash deposited with the clerk and thereby act as surety in any cash pending in the Court of Common Pleas, he or she shall file with the clerk an affidavit sworn before any official authorized to administer oaths, setting forth the then total amount of cash then on deposit with the clerk, the total amount of bail offered and accepted on the security of said cash, and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail about to be written.

(i) No bail shall be accepted from any professional bondsman at any time when the total amount of bail then written on the security of cash deposited with the clerk is, or when added to the bail about to be written, will exceed ten times the cash then on deposit.

(2) Real Estate

(a) A professional bondsman who desires to write bail against real estate shall record the deed or deeds for such real estate in the county or counties where the same is situated and shall file with the Clerk of Courts a statement, under oath, approved by the court, listing the real estate owned by him or her and situated in Pennsylvania. Such statement shall also set forth:

i. The description of each tract of real estate, its location by county, municipality and post office address, if any, the deed book volume and page where a copy of the deed is recorded and the acreage or square footage contained in each tract;

ii. An averment that the professional bondsman filing the statement is the sole equitable and legal owner of said real estate and the exact name in which said bondsman holds title;

iii. The fair market value of each tract of real estate as of the date of said statement as determined by an experienced real estate broker and appraiser. The professional bondsman shall attach a copy of said appraisal to the statement;

iv. The cost of each tract of real estate when first acquired, the latest assessed valuation for county tax purposes, the mortgages, liens and encumbrances against the real estate, and the balance unpaid on each encumbrance as of the date of the statement;

v. The net value of said real estate. (The total fair market value of all tracts of real estate less the total of all encumbrances against the same.)

(b) The professional bondsman shall file the statement required by subsection (a) hereof before writing any bail on the basis of said real estate, and thereafter on or before January 31st of each year. If the ownership of any tract or tracts of real estate set forth on said statement changes after the statement has been filed, or if the mortgages, liens and encumbrances increase in principal amount after the statement has been filed, the professional bondsman shall file a revised statement setting forth each such change not later than ten (10) days after such change first occur.

(c) Whenever a professional bondsman desires to write bail on the security of said real estate and thereby act as surety in any case pending before a Magisterial District Judge, he or she shall file with the Magisterial District Judge a copy of his or her latest statement filed with the Clerk of Courts pursuant to subsection (a) hereof, and in addition an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of bail offered and accepted against said real estate and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail then about to be written.

(d) Whenever a professional bondsman desires to write bail on the security of said real estate and thereby act as surety in any case pending in the Court of Common Pleas, he or she shall file, in addition to the statement required to be filed with the Clerk of Courts pursuant to subsection (a) hereof, an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of bail offered and accepted against said real estate, and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail then about to be written.

(e) No bail shall be accepted from any professional bondsman whenever the total amount of bail written on the security of the professional bondsman's real estate is, or when added to the bail then about to be written will, exceed five (5) times the net value of said real estate as the net value has been determined pursuant to subparagraph (A)(2)(a) hereof.

(B) Neither the Clerk of Courts nor any Magisterial District Judge shall accept bail from any professional

bondsman if the fee, premium and/or charge received, or to be received, by said professional bondsman for writing said bail exceeds the amount from time to time authorized by the Judicial Code.

Comment to (B):

The Judicial Code presently limits the fees which can be charged by a professional bondsman to ten (10%) percent of the first one hundred (\$100.00) dollars of bail written in any case and five (5%) percent of any amount in excess of one hundred (\$100.00) dollars. Section 5748(a).

(C) The Magisterial District Judge shall make the copy of the receipt and the affidavit filed by a professional bondsman pursuant to subsection (A)(1)(g) hereof, or the statement and affidavit filed with him by a professional bondsman pursuant to subsection (A)(2)(c) hereof, a part of the proceedings in the case in which the same was filed and shall forward said receipt copy and affidavit, or said statement and affidavit with the other papers in said case to this court at the same time as the transcript of the proceedings in said case are returned to this court, and the same shall become a part of the record of the case.

(D) Whenever any bail written by a professional bondsman has been forfeited, the professional bondsman shall not write any additional bail until he or she had made settlement for the forfeiture obligation and paid the same or the forfeiture has been remitted by the court.

(E) A professional bondsman shall not accept or receive, in addition to the fee permitted by law, any cash, securities, assets and/or property of any kind, whether to secure compliance with the terms of the bail or for any other reason relating to his or her writing bail.

(F) No bail shall be accepted from any professional bondsman at any time when such bondsman is not in full compliance with the provisions of this rule.

Rule 543 Evidence of Summary Offenses at Preliminary Hearings

(A) The Commonwealth shall have no duty to present evidence to establish a prima facie case for summary offenses at a preliminary hearing. As long as at least one Felony or Misdemeanor charge is bound over to the Court of Common Pleas, all summary charges shall also be bound over to the Court of Common Pleas.

(B) Should all Felony and Misdemeanor charges be dismissed at a preliminary hearing, the issuing authority shall schedule a separate hearing for evidence on the summary offenses to be heard.

Rule 560 Initiation of Proceedings

Initiation of criminal proceedings in the court shall be by Information filed by the District Attorney instead of grand jury indictment, in accordance with 42 Pa.C.S.A. § 8931 and the Pennsylvania Rules of Criminal Procedure.

ARRAIGNMENT

Rule 571 Arraignment

Each Defendant in a criminal case shall be arraigned before a Judge of the Court of Common Pleas or before the court administrator or a deputy court administrator or a criminal court master when such court administrator or deputy is designated and authorized by an order of the president judge.

Rule 571.1 Time for Arraignment

Arraignment shall take place within ten (10) days after the filing of the Information at a time fixed from time to time by the court calendar or by special order of the court.

Rule 571.2 Waiver of Arraignment

The provisions of B.C.R.Crim.P. 571 notwithstanding, in all cases in which a Defendant is charged with crime, other than murder, the Defendant, if represented by counsel who has entered his appearance in writing, may enter a plea of "not guilty", or by notation on the Information stands mute in the presence of counsel without appearing at arraignment court. Where a notation is made that the Defendant stands mute, the Clerk of Courts shall enter a plea of "not guilty" on behalf of the Defendant. Such plea or notation that the Defendant stands mute may be entered in the District Attorney's office at any time prior to 5:00 P.M. of a day preceding arraignment court, providing the Defendant enters the plea of "not guilty" in writing upon the face of the information, or in the case where the Defendant stands mute enters such notation in writing upon the face of the information, and that the attorney who has appeared for the Defendant approves such action by likewise endorsing his name upon the information; and providing further that the Defendant and his counsel sign a waiver of the right to arraignment; further, Defendant shall be furnished documents required by the applicable Pennsylvania Rules of Criminal Procedure and Defendant and his counsel shall execute a receipt therefore.

Rule 571.3 Arraignment Before Court Administrator, Deputy Court Administrator or a Criminal Court Master

(A) Whenever arraignments are held before the court administrator or a deputy court administrator, or a criminal court master, designated and authorized by order of the president judge, and the Defendant stands mute, the clerk is authorized and directed to enter a plea of not guilty for the Defendant.

(B) Whenever arraignments are held before the court administrator or a deputy court administrator, or a criminal court master, designated and authorized by order of the president judge, and the Defendant fails to appear, the court administrator, or deputy court administrator, or criminal court master, shall report such fact in writing to a Judge of the Court of Common Pleas, and the court may authorize that a bench warrant be issued for the apprehension and arrest of the Defendant so that he or she may be brought before the court.

Rule 571.4 Appearance of Defendant at Arraignment Without Counsel

(A) Whenever a Defendant appears for arraignment without counsel, such Defendant shall be advised of his or her right to counsel of his or her own choice, and that if he or she cannot afford counsel of his or her own choice, that counsel will be provided free without charge to such Defendant.

(B) Whenever a Defendant appears for arraignment without counsel, he or she shall be considered to have stood mute, and the clerk is authorized and directed to enter a plea of not guilty on such Defendant's behalf.

Rule 571.5 Place and Manner of Arraignment

Arraignment shall take place at the Berks County Courthouse, at the Berks County Prison in Bern Township, Berks County, Pennsylvania, or at such other places

in the County of Berks as may from time to time be designated by a Judge of the Court of Common Pleas and may be conducted by means of video conferencing.

Rule 571.6 Change of Address and Telephone Number Noted

At arraignment the Defendant shall be asked on the record if his or her address and telephone number has been changed from the last address and/or telephone number as shown in the record, and if so, shall be asked to give his or her then current address and telephone number, if any. Such information shall be noted in the Defendant's court file.

Rule 571.7 Requirement to Notify of Change in Address and/or Telephone Number

At arraignment the District Attorney shall advise the Defendant in writing that, as a condition of bail, the Defendant is required to notify in writing the Clerk of Courts, the District Attorney and the county bail agency of each change in Defendant's address and/or telephone number within forty-eight (48) hours after the change of address and/or telephone number first occurs.

MOTIONS**Rule 575 Form**

Except for motions made orally during a trial or hearing, all motions, petitions and applications shall be written, shall contain a caption setting forth the name of the court, the number of the action, nature of the proceeding and names of the parties, and the motion, petition or application shall contain the name of counsel presenting the motion, petition or application, and if there is no counsel of record, the name of the party making the pro se motion, petition or application, with the name of such counsel or party without counsel endorsed thereon together with an address within the Commonwealth at which papers may be served. Only the proposed order then being sought shall be presented with the motion. These requirements are in addition to the requirements of Pa. R.Crim.P. 575(A).

Rule 575.1 Presentation of Motions, Petitions and Applications

(A) All motions, petitions and applications, including omnibus pretrial motions for relief, petitions for writ of habeas corpus, motions for change of venue or change in venue motion for new trial, motion in arrest of judgment, and all other motions which can be filed as a matter of right, except emergency motions, petitions and applications and except motions for continuance, shall be filed in the office of the Clerk of Courts for transmission to the assigned Judge of the Court of Common Pleas for disposition.

(B) All emergency motions, petitions and applications and motions for a continuance shall be made in the courtroom of the Common Pleas Judge assigned to the case either at 9:30 A.M. or 1:30 P.M. on a day he is scheduled to sit. If the motion, petition or application is of such nature that the opposing party has a right to be heard, the moving party shall give such opposing party at least forty-eight (48) hours notice of the time when the moving party will appear and present such motion, petition or application, unless the emergency nature of the motion prevents such notice. In the latter situation the moving party shall give as much notice as is reasonably possible.

(C) If a case has not been assigned to a particular Common Pleas Judge, the emergency motion, petition or

application shall be made in the courtroom of the emergency motions judge either at 9:30 A.M. or 1:30 P.M.

(D) No emergency motion, petition or application shall be made or presented to the judge assigned to the case in chambers without pre-arrangement with that judge. No request for appointment in chambers shall be granted except for compelling reasons.

(E) All emergency motions, petitions or applications which require immediate action in cases where the assigned judge is unavailable or in cases where no Common Pleas Judge has been assigned to the case, shall be presented to the emergency motions judge in his courtroom at 9:30 A.M. or 1:30 P.M., or by pre-arrangement with the emergency motions judge in his chambers.

(F) A party filing or presenting a motion, petition or application for an order shall file with the motion, petition or application a proposed form of the order sought, together with one copy of such proposed order for the moving party and one copy for each other party and one copy for the criminal court computer office as well as a certification directed to the Clerk of Courts setting forth the names and addresses of those to be served.

(G) If a party presents a motion, petition or application without the required number of copies, the clerk shall file and docket said motion, petition or application, but the court need not act upon the same until the required number of copies is provided.

Rule 576 Papers Presented by Persons Unauthorized by State Rules

Any papers or documents that are submitted on behalf of a Defendant by someone other than the Defendant's attorney of record as defined by Pa.R.Crim.P. 120 or by the Defendant pro se where the Defendant is represented by counsel, shall be accepted by the Clerk of Courts as a communication only and no further action shall be taken. Such papers will not be forwarded to the assigned Common Pleas Judge for further consideration. A copy of the papers accepted will be sent to the Defendant's attorney of record or the Defendant if no attorney has entered an appearance for the Defendant. The following notice shall be attached to the returned copies:

NOTICE:

The attached papers were accepted on (date). These papers were not forwarded to the assigned judge due to failure to the failure to comply with B.R.J.A. 401.1, Pa. R.Crim.P. 576 and B.C.R.Crim. P. 576.

Comment: This rule serves to clarify B.R.J.A. 401.1 for criminal cases. The rule is written to be consistent with Pa.R.Crim.P. 576(A)(4) and (C), its main purpose is to add the requirement of the written notice to be included on returned documents.

Rule 580 Evidence of Summary Offenses at Omnibus Pretrial Hearings

(A) Unless specifically ordered by a Judge of the Court of Common Pleas after a motion by a Defendant, the Commonwealth shall have no duty to present evidence to establish a prima facie case for summary offenses at a hearing on an Omnibus Pretrial Motion. As long as at least one Felony or Misdemeanor charge remains pending after the hearing, all summary charges shall remain pending and be scheduled for trial or other disposition.

(B) Should all Felony and Misdemeanor charges be dismissed after an Omnibus Pretrial Hearing, the Court shall either schedule a disposition hearing on the sum-

mary charges or remand the summary charges to the appropriate Magisterial District Judge for disposition.

COSTS

Rule 706 Costs to be Paid by Defendant

In all criminal cases where the Defendant shall have been sentenced to pay the costs of the proceeding, or where by order the court has directed the Defendant to pay certain costs, the Clerk of Courts shall deliver a copy of the bill of costs as stated to the adult probation and parole office of the court. The amount of the bill of costs as rendered shall be the amount to be collected from the Defendant, subject, however, to the right by any party to have the costs retaxed in accordance with the rules of court.

Rule 706.1 Taxation of Costs

Exceptions Decision Appeal Collection

(A) A bill of costs drawn, certified and filed in accordance with these rules, shall be taxed in the first instance by the Clerk of Courts.

(B) Exceptions to such bill of costs must be filed with the Clerk of Courts, accompanied by an affidavit of the truth of the allegations made therein within five (5) days after such bill of costs is filed with the Clerk of Courts. Within five (5) days after the exceptions are filed, the Clerk of Courts shall issue a rule for retaxation and shall forthwith notify the parties of the time and date for hearing on such retaxation. The hearing shall be held not less than five (5) days after notice is served on the parties.

(C) The Clerk of Courts shall serve a copy of his decision on the parties within five (5) days of the hearing. Any party may file an appeal to the court from such decision or retaxation within ten (10) days after receipt thereof by filing a specification of items to which objection is taken along with the grounds for such objection in the office of the Clerk of Courts. Upon filing of such appeal, the Clerk of Courts shall file a written report in which he shall set forth the facts upon which he based his decision. Objections not raised before the Clerk of Courts shall be deemed abandoned.

(D) Neither a rule for retaxation nor an appeal therefrom shall prevent the collection of the costs, but upon application, the court may direct that the costs to which objections have been taken are not to be paid without order of court.

(E) At any time prior to payment, either party may file exceptions to any costs taxed by the Clerk of Courts other than those shown on a party's bill of costs. such exceptions shall be accompanied by an affidavit of the truth of the allegations contained therein. Thereafter, the proceedings for retaxation shall be in accordance with the rules pertaining to the retaxation of items listed on a party's bill of costs.

[Pa.B. Doc. No. 05-2194. Filed for public inspection December 2, 2005, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 1301: Compulsory Arbitration: Cases Covered; Civil Division No. 2754 of 2005 GD

Order

And Now, this 8th day of November, 2005, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that the previously stated Local Rule is amended as set forth as follows.

The Prothonotary is directed as follows:

- (1) Seven certified copies of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.
(2) Two certified copies and diskette of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.
(3) One certified copy of the Local Rule shall be sent to the State Civil Procedural Rules Committee.
(4) One certified copy shall be sent to the Fayette County Law Library.
(5) One certified copy shall be sent to the Editor of the Fayette Legal Journal.

This Local Rule shall be continuously available for public inspection and copying in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

This Local Rule shall be effective January 1, 2006.

By the Court

CONRAD B. CAPUZZI,
President Judge

Rule 1301. Compulsory Arbitration: Cases Covered

(a) Any civil action where the amount in controversy is Thirty-five Thousand (\$35,000) Dollars or less and title to real estate is not involved, shall be submitted to compulsory arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S. Section 7361, and Rules 1301 to 1314 of the Pennsylvania Rules of Civil Procedure, as well as these rules.

(b) The amount in controversy in any action shall be deemed to exceed Thirty-five Thousand (\$35,000) Dollars if any count in the complaint or counterclaim demands an amount in excess of Thirty-five Thousand (\$35,000) Dollars.

(c) Notwithstanding the amount demanded, if the Court determines that the amount in controversy does not exceed Thirty-five Thousand (\$35,000) Dollars for the purposes of these rules; the Court shall order the matter to arbitration.

(d) If separate actions are consolidated for trial and the amount in controversy in any of these actions exceeds Thirty-five Thousand (\$35,000) Dollars, arbitration shall not apply.

(e) If the same transaction or occurrence, or series of transactions or occurrences, give rise to more than one cause of action and separate actions have been commenced, all such actions shall be consolidated for arbitration and heard together. Before proceeding with any

hearing, the board of arbitration shall inquire of the parties whether any other action has been commenced.

[Pa.B. Doc. No. 05-2195. Filed for public inspection December 2, 2005, 9:00 a.m.]

WESTMORELAND COUNTY

Rules W1041.1 and W1018; No. 3 of 2005

Order

And Now this 14th day of November, 2005 it is hereby Ordered that new Westmoreland Rule of Civil Procedure W1014.1 is adopted. Current Westmoreland Rule of Civil Procedure W1018 is rescinded and new Rule 1018 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

W1041.1 Asbestos Litigation. Special Provisions.

(1) Assignments. Upon the filing of a case in asbestos, the Prothonotary shall assign the case to one of the civil court judges, who will preside over all proceedings relating to the case, including, but not limited to, discovery motions, argument court and trial.

(2) Captions. All pleadings, motions, briefs, memoranda and proposed orders shall include a caption conforming to Westmoreland County Rule of Civil Procedure W1018(d).

(3) Case Management Orders. In all asbestos cases, the course of the litigation shall be governed by the terms of a case management order (CMO).

(a) Any party may, by motion, present a CMO to the Court for approval within sixty (60) days of the filing of the complaint. The proposed CMO shall set forth the actual dates on which each stage of the litigation must be completed.

(b) If no CMO is approved by the Court and filed of record at the expiration of sixty (60) days from the filing of the complaint, the Court will enter the following CMO:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL DIVISION—ASBESTOS

Plaintiff(s))
vs. No. _____ of 2 _____
Defendants)

CASE MANAGEMENT ORDER NO. _____

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

1. This Case Management Order (CMO) is entered and is applicable to the above-captioned case pending in the Court of Common Pleas of Westmoreland County, Pennsylvania.

2. Plaintiff's Answers to Standard Short Form Interrogatories shall be served on all defense counsel within eight (8) months of the date of filing of the above action, specifically on _____, 200 _____.

3. Discovery shall be completed within eighteen (18) months of the date of filing of the above action, i.e., on _____, 200 _____.

4. All Motions for Summary Judgment shall be filed within twenty (20) months of the date of filing of the above action, i.e., on _____, 200____, in accordance with Westmoreland County Rule of Civil Procedure W1035.2(a)(1).

5. Plaintiff's Responses to Motions for Summary Judgment shall be filed within twenty-one (21) months of the date of filing of the above action, i.e., on _____, 200____, in accordance with Rule W1035.2(a)(2).

6. Plaintiff may thereafter file a Certification of Readiness for Trial pursuant to Rule W212.1.

7. Pursuant to Rule W212.1(c), upon the Court's receipt of the Certification of Readiness for Trial, the Court shall issue an Order addressing the deadlines for filing Pre-Trial Statements and Case-Specific Expert Reports, the date of the Pre-Trial Conference, and such other matters as may aid in the disposition of the case.

8. Following entry of such Order, the case shall proceed in accordance with Rule W212.3.

9. This Case Management Order may be modified by agreement of all parties (subject to Court approval) or by Court approval upon motion of any party for good cause shown.

BY THE COURT:

ASSIGNED JUDGE

(4) *Selection of Lead Defense Counsel.*

(a) Within sixty (60) days of the filing of the complaint, defendants shall select one of their number to act as lead counsel for all defendants. Lead defense counsel shall notify the Court in writing of their selection to act as lead defense counsel within sixty (60) days of the filing of the complaint.

(b) In the event lead defense counsel ceases to act in that capacity, for any reason, during the course of litigation, the defendants shall select replacement lead counsel within thirty (30) days. Replacement lead defense counsel shall notify the court in writing of their selection to act as replacement lead defense counsel within thirty (30) days.

(5) *Filing of All Orders of Court.* It is the responsibility of the moving party to file all original Orders in the Office of the Prothonotary unless a moving party receives notice from the Court that the Court has filed an original Order,

(6) *Service of All Orders of Court.* It is the responsibility of the moving party to serve copies of all Orders upon all counsel of record in each case. If the Court serves copies of any Order, such service shall be made to counsel for the moving party, counsel for the plaintiff(s) and lead counsel for the defendants.

Note: Motions procedure is governed by Westmoreland County Rules of Civil Procedure W208.2(e) and W208.3(a).

Note: Argument court matters, such as preliminary objections, judgment on the pleadings, motions for summary judgment and motions for post-trial relief, are governed by Westmoreland County Rules of Civil Procedure W1028(c), W1034(a), W1035.2(a) and W227.1, respectively.

W1018 Caption.

The caption for all matters filed in Divorce, Support, Custody, Partial Custody, Visitation, Asbestos and Medical Professional Liability shall be as follows:

(a) The caption in Divorce matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—DIVORCE

(b) The caption in Support matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—SUPPORT

(c) The caption in Custody, Partial Custody or Visitation matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—CUSTODY

(d) The caption in Asbestos matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—ASBESTOS

(e) The caption in Medical Professional Liability matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—MEDICAL PROFESSIONAL
LIABILITY ACTION

[Pa.B. Doc. No. 05-2196. Filed for public inspection December 2, 2005, 9:00 a.m.]