

# THE COURTS

## Title 255—LOCAL COURT RULES

### WESTMORELAND COUNTY

**Adoption of New Civil Rules W1910.12, W1920.33, W1920.50, W1920.51, W1920.51a, W1920.53, W1920.54, W1920.55-2, and W1920.55-2a; No. 3 of 2004**

#### Order

*And Now*, this 7th day of May, 2004, *It Is Hereby Ordered* that Westmoreland County Rules of Civil Procedure W1910.12, W1920.33, W1920.50, W1920.51, W1920.51(4), W1920.53, W1920.54, W1920.55-1, and W1920.55-2 are rescinded, and that new Rules W1910.12, W1920.33, W1920.50, W1920.51, W1920.51a, W1920.53, W1920.54, W1920.55-2, and W1920.55-2a are adopted. In addition, current forms WF1920.50(f), Notice of Presentation and Order of Court are rescinded. New forms WF1920.50, Motion to Schedule All Counts Conciliation Conference, Order, and Marital Asset Liability Summary are adopted. Finally, all current forms numbered WF1920.50(g) will retain their current titles but be renumbered WF1920.50. The effective date of this Order is June 1, 2004.

*By the Court*

DANIEL J. ACKERMAN,  
*President Judge*

#### **Rule W1910.12 Office Conference. Hearing. Record. Exception. Order.**

(a) Hearings

(1) Hearings before a hearing officer will not be scheduled unless demanded. No demand for a hearing officer will be accepted if an agreement is reached at the office conference.

(2) When demanding a hearing before a hearing officer, the demanding party must pay costs in the amount of \$50.00 to the domestic relations section. No hearing will be scheduled unless costs are paid within ten (10) days of the mailing of the interim order.

(3) The demanding party shall serve a copy of the demand for a hearing on the non-excepting counsel or party if not represented.

(4) The domestic relations section shall give each counsel or party if not represented notice of the date, time, and place of the hearing.

(b) Exceptions

(1) Upon filing exceptions to the hearing officer's report, the excepting party shall:

A. Serve on the domestic relations section a copy of the exceptions and deposit \$50.00 toward the cost of transcript preparation.

B. Serve a copy of the exceptions on the non-excepting counsel or party if not represented.

(2) The domestic relations section shall:

A. Notify the assigned judge, receive a time and date for the hearing on the exceptions, and notify all counsel of record, or parties, if not represented of the time and date of the hearing.

B. Bill the excepting party the balance of the transcription fee when the transcript is delivered.

(3) Oral arguments shall be restricted to issues addressed in written briefs filed as follows:

A. The excepting party must file a brief with a copy to the assigned judge and opposing counsel or party, if not represented, no later than 20 days before the hearing.

B. The non-excepting party must file a brief with a copy to the assigned judge and opposing counsel or party, if not represented, no later than 10 days before the hearing.

NOTE: The form of briefs is governed by W210.

#### **W1920.33 Joinder of Related Claims. Distribution of Property. Enforcement.**

(a) Each party in all cases in which a master has been appointed shall file a pre-trial statement, pursuant to Pa.R.C.1920.33(b). The original pretrial statement shall be filed with the prothonotary within 20 days of receipt of the order appointing the master. Each party shall serve copies of the pretrial statement on the master and opposing counsel, or on the unrepresented adverse party, by first class mail on the same day as filing.

(b) The exhibit list as set forth in [item 6 above] Pa.R.C.P. 1920.33(b)(4) shall be served in duplicate and shall be in substantially the following format:

Exhibit List			
Description	Stipulated Authentic	Stipulated Admissible	Objection
A.			
B.			
C.			
D.			
etc.			

(c) Each party shall have 10 days from the date of receipt of the exhibit list to complete the exhibit list and to return the list to the other party.

(d) Failure to comply with this rule may be enforced by sanctions, with attorney's fees costs and expenses to be determined by the master or court.

**Rule W1920.50 All Counts Conciliation Conference**

(a) After completion of discovery and prior to the appointment of a master to take testimony on remaining issues pursuant to W1920.51, and after filing "Addendum A" substantially in the form prescribed by WF1920.50, and any attachments; the court shall order, upon the request of either party, an all counts conciliation conference.

(b) Either party may request an all counts conciliation conference by presenting or mailing to the family court administrator a Motion to Schedule All-Counts Conciliation Conference, Order, and a copy of Addendum A and any attachments. Upon receipt of the Motion to Schedule All Counts Conciliation Conference and Order, the family court administrator shall note the day and time of the conference on the original order, forward the motion and order to the court for signature, and file the original motion and order with the prothonotary. After filing the original motion and order, the family court administrator shall mail a copy of the motion and order to the moving party. The moving party shall then serve the non-moving counsel or party, if not represented, with a copy of the motion and order, Addendum A, and any attachments. A copy of the forms and attachments shall be served on the opposing counsel or party, if not represented, and on the family court administrator.

(c) In the event a party opposes the scheduling of the all counts conciliation conference, the party that wants an all counts conciliation conference may file and present to the Court a motion to proceed.

(d) The non-moving party shall file their Addendum A and any attachments at least twenty (20) days prior to the scheduled conference, and serve a copy of Addendum A and any attachments on the moving counsel or party, if not represented, and on the family court administrator.

(e) Both parties shall submit a written proposal for settlement at the time of the conference.

(f) Failure to file the required forms, attachments and proposals may result in sanctions.

NOTE: This rule requires the completion of an All Counts Conciliation Conference worksheet for submission with the written proposal for settlement. A sample of the Motion to Schedule All Counts Conciliation Conference and Order and the forms included in "Addendum A," including the Income and Expense Statement, Inventory and Appraisal of Property and Marital Asset and Liability Summary forms are provided in the Forms section of the Westmoreland County Rules of Court.

**Rule W1920.51 Hearing by the Court; Appointment of Master; Notice of Hearing**

(a) Before any certificate of appointment shall be issued by the prothonotary to any master in those cases initiated by an uncontested complaint in annulment, or a section 3301 (a) or (b) divorce, or where an agreement has been reached by the parties on any such other claims that have been raised by the parties, the plaintiff shall deposit the sum of \$138.00 with the prothonotary; \$113.00 of the deposit shall be minimum fee for the master, and \$25.00 shall be minimum fee for the stenographer. In addition, the plaintiff shall pay the prothonotary's fee. The court may order additional compensation for the master their report is filed.

(b) In all other cases, before any certificate of appointment shall be issued by the prothonotary to any master, the party moving for the appointment shall deposit an initial sum of \$248.00 with the prothonotary; \$223.00

shall be a minimum fee for the master, and \$25.00 shall be a minimum fee for the stenographer. In addition, the moving party shall pay the prothonotary's fee. The initial deposit of \$248.00 shall be for one-half days' work. For each half day thereafter the master shall receive a minimum fee of \$150.00; and for each half day of transcribing, the stenographer shall receive a minimum fee of \$20.00. The mast shall certify the time expended to the court. The master may petition the court for additional compensation after the report is filed.

(c) No master shall be appointed if a complaint in divorce has been filed under section 3301 (c) or (d) and no issues other than divorce are raised.

Note: Subsection (c) expands the prohibitions found at Pa. R.C.P. 1920.51(2) (ii) to include all Section 3301(d) divorces when divorce is the only issue raised.

(d) The master shall give the attorneys for each party at least 10 days' written notice of the time and place of taking testimony and of the claims the master will hear. If there is no appearance entered on behalf of the defendant, the master shall give notice to the defendant by registered mail, return receipt requested at the last known address of the defendant.

NOTE: See Pa.R.C.P. 1920.33(b) and W1920.33 for requirements regarding the mandatory filing of a pre-trial statement.

**Rule W1920.51a. Hearing by the Court. All Counts Master. Notice of Hearing**

All interim issues in a divorce action including the claim of alimony pendente lite, counsel fees, costs and expenses, and injunctive relief, when appointed to a master, shall be heard by the permanent all counts master.

(a) The all counts divorce master may address the amount of child support if the amount is consented to by the parties. If the parties do not agree to the amount of child support, the all counts divorce officer shall only take testimony on the claim of child support at the direction of the court, or in the event the support-hearing officer certifies a conflict.

(b) The all counts divorce master shall take testimony on claims for child support, alimony pendente lite, or counsel fees and expenses prior to taking testimony on any other claims.

(c) In the event the master does not complete taking testimony on all issues, the master shall prepare a report and order for those issues resolved or consented to, and schedule the remaining issues for a date and time certain. Exceptions may be filed pursuant to Pa.R.C.P. 1920.55-2 and W1920.55-2a.

**Rule W1920.53. Hearing by Master. Report.**

Subject to the direction and control of the court, the court appointed master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceedings. The master shall rule on objections to the competency or relevancy of testimony. If the master sustains the objection the testimony shall not be heard or reported. Parties may file exceptions to the master's rulings.

**Rule W1920.54 Hearing by Master. Report. Related Claims.**

Subject to the direction and control of the court, the all counts divorce master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceed-

ings. The master shall rule on objections to the competency or relevancy of testimony. If the master sustains the objection the testimony shall not be heard or reported. Parties may file exceptions to the master's rulings.

**Rule W1920.55-2 Master's Report. Notice. Exceptions. Final Decree.**

(a) The excepting party shall serve a copy of exceptions on the family court administrator when filing the original exceptions to the report of a master appointed pursuant to W1920.51. Upon receiving exceptions pursuant to Pa.R.C.P. 1920.55-2(b) and (c), the family court administrator shall immediately schedule a hearing, mail notices of the hearing date to the parties by first class mail, and forward its copy of the exceptions to the assigned judge.

(b) The excepting party must file briefs with the assigned judge no later than 20 days before the hearing, and the non-excepting party must file its brief with the assigned judge no later than 10 days before the hearing.

(c) Oral argument shall be restricted to issues addressed in written briefs.

(d) If no party files Exceptions to the Master's Report within 10 days of the mailing of the report, the prothonotary shall immediately deliver the file to the court for entry of the decree.

(e) Unless otherwise directed by the Court, the prothonotary shall pay no master's fee until the master files the report and transcript of testimony. Failure of the master to file the report as required shall result in a forfeiture of the master's fee, and the prothonotary will refund the fee to the party who paid it.

**Rule W1920.55-2a All Counts Master's Report. Notice. Exceptions. Final Decree.**

(a) The all counts master's shall report pursuant to Pa.R.C.P.1920.55-2.

(b) When filing the original exceptions to an all counts master's report with the prothonotary, the excepting party shall also serve a copy on the family court administrator. The family court administrator shall immediately schedule the hearing on the exceptions upon receipt of the exceptions and the fifty (50) dollars deposit towards completion of the transcript required by subsection (c) below. The court administrator shall mail notices of the hearing date to the parties by first class mail before forwarding its copy of the exceptions to the assigned judge.

(c) The excepting party must request the transcript and make a deposit of fifty (50) dollars towards the preparation of the transcript pursuant to Pa.R.J.A. 5000.5 and 5000.6. The final cost of the transcript will be billed against the excepting party at a rate of \$2.00 per page less the fifty (50) dollars deposited. Failure to request or pay for the transcript may result in dismissal of the exceptions.

(d) The excepting party must file briefs with the assigned judge no later than 20 days before the hearing, and the non-excepting party must file its brief with the assigned judge no later than 10 days before the hearing.

(e) Oral argument shall be restricted to issues addressed in written briefs.

(f) If no party files exceptions within 10 days of the mailing of the report, the order shall be final.

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

Plaintiff, )  
 )  
v. ) NO: \_\_\_\_\_ of 20 \_\_ -D  
 )  
Defendant )

**MOTION TO SCHEDULE ALL COUNTS CONCILIATION CONFERENCE**

AND NOW, comes \_\_\_\_\_, (Counsel for) (Plaintiff/Defendant), in the above-captioned divorce matter, and requests that an All Counts Conciliation Conference be scheduled in accordance with Westmoreland County, PA Local Rule 1920.50 with respect to the following claims:

- \_\_\_\_\_ Equitable Distribution
- \_\_\_\_\_ Alimony/APL
- \_\_\_\_\_ Counsel fees, costs and expenses

Your Movant acknowledges that Plaintiffs/Defendant's All-Counts Conciliation Conference form is filed of record and has been served on the opposing counsel/party; that discovery in this matter is complete; and that the non-moving counsel/party consents to this request.

\_\_\_\_\_  
Date Counsel for Plaintiff/Defendant

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

\_\_\_\_\_, )  
Plaintiff, )  
v. ) NO: \_\_\_\_\_ of 20 \_\_ -D  
 )  
\_\_\_\_\_, )  
Defendant. )

**ORDER OF COURT**

AND NOW, to wit: this \_\_ day of \_\_\_\_\_ 200 \_\_, it appearing that the parties are prepared to proceed with the economic claims pending between them; and it further appearing that it is consistent with the efficient administration of justice that the parties exchange information and documents prior to the All Counts Conciliation Conference; and at the request of \_\_\_\_\_'s counsel, IT IS HEREBY ORDERED AND DECREED as follows:

1. that an All Counts Conciliation Conference is scheduled before the All-Counts Conciliation Master for \_\_\_\_\_, the \_\_ day of \_\_\_\_\_, 200 \_\_, at \_\_\_\_\_ o'clock \_\_.M. The parties and their counsel are directed to attend.

2. that within 10 days of the date of the Order, the parties shall enter into a stipulation as to the date of separation. To the extent they cannot so stipulate, set forth by both parties. The non-requesting party shall also file their Addendum A and any attachments at least 20 days prior to the conference. Counsel shall certify service of these documents. Each party shall provide the other with the date each believes separation occurred, as well as the rationale therefore.

3. that at least 20 days prior to the conference set forth above, the parties shall exchange complete (e.g. including all schedules) personal federal income tax returns for the previous three years; a pay stub subsequent to the date of this Order containing year to date information, retirement account(s) information (including, but not limited to,

ERISA, IRA, 401(d) and savings plan statements) and, to the extent applicable, summary plan descriptions for such accounts. Such retirement documents should be dated as close as is possible to the separation date. In the event the parties dispute the date of separation and such dispute may result in material and substantial difference in the valuation of retirement accounts, documents shall be exchanged for the dates of separation.

4. that the parties are not required to obtain expert valuations regarding any assets prior to the first conciliation. However, they shall discuss and attempt to reach agreement on all significant valuation issues, including, but not limited to, any disputes arising regarding retirement accounts; value of the marital residence and its contents; and the marital debt of the parties. To the extent that the parties are unable to reach agreement on any valuations issues, they are strongly encouraged to see an impartial appraiser to conduct a joint valuation to the disputed asset, and to stipulate to the results thereof.

5. that the parties are encouraged to jointly prepare a Marital Asset and Liability Summary substantially in the form of the attached example. If the parties are unable to do so, each party shall prepare his or her own Summary. Five (5) days prior to said conciliation, counsel shall serve on the family court administrator the summary and a written proposal for the resolution of the existing claims.

6. that absent compelling reasons, this case will not be continued within 30 days of the scheduled date.

Counsel and parties should note that failure to strictly comply with the terms of this Order may result in continuation of the conciliation, finds and/or counsel fees. Parties may not consent to waive any provision of this Order.

BY THE COURT: \_\_\_\_\_ J.

ATTEST: \_\_\_\_\_

cc: \_\_\_\_\_ (Counsel for) Plaintiff  
\_\_\_\_\_ (Counsel for) Defendant

**MARITAL ASSET AND LIABILITY SUMMARY**

Case Caption: \_\_\_\_\_  
Date of Marriage: \_\_\_\_\_  
Docket Number: \_\_\_\_\_  
Date of Separation: \_\_\_\_\_  
Plaintiff's Counsel: \_\_\_\_\_  
Date of Divorce: \_\_\_\_\_  
Defendant's Counsel: \_\_\_\_\_

	Description of Property		Husband's Value:	Wife's Value:
	Lien	Comments		
1.				
2.				
3.				
4.				

TOTAL:

[Pa.B. Doc. No. 04-939. Filed for public inspection May 28, 2004, 9:00 a.m.]

**WESTMORELAND COUNTY  
Civil Rules; No. 3 of 2004**

**Order**

And Now, this 10th day of May, 2004, It Is Hereby Ordered that the present Westmoreland County Rules of Civil Procedure W200, W200.2, W200.3, W200.4, W200.7, W205.1, W206, W210, W211, W212.1, W212.3, W227.1, W227.2, W229, W611, W1007, W1012, W1018, W1018.1, W1028, W1035, W1047, W1531, W2227, W2232, and W2253; the Praecepte for Trial; Cover Sheet; and Argument Court Form are rescinded. New Rules W205.2(a), W205.2(b), W206.1(a), W206.4(c), W208.2(c), W208.2(d), W208.2(e), W208.3(a), W210, W212.1, W212.3, W227.1, W229, W261, W1018, W1018.1, W1028(c), W1034(a), W1035.2(a), W1531, and W2232; Certification of Readiness; and Cover Sheet are adopted. The effective date of this Order is July 26, 2004.

By the Court

DANIEL J. ACKERMAN,  
President Judge

**Rule W205.2(a). Pleadings and Legal Papers**

(1) All pleadings and legal papers filed with the Prothonotary should be on white paper approximately 8-1/2 inches by 11 inches, [with printed matter 6-1/2 inches by 9 inches] with one inch margins on all four (4) sides. The lettering should be clear and legible and no smaller than point 11.

(2) Pleadings and legal papers, including the original documents, should be filed without "blue backs" or other covers, and should be bound in the upper left hand corner with a single binder clip or staple. No tape should be used to cover the top of the paper or document.

(3) The front page of the document should indicate the total number of pages, including exhibits, submitted for filing. (For example: Page 1 of 10).

**Rule W205.2(b). Pleadings and Legal Papers**

All parties initiating a civil action shall also file an original and one copy of a cover sheet, which shall be in the form set forth in the Forms section of the Westmoreland County Rules of Court. A civil action shall not be assigned to a judge until a cover sheet has been filed in accordance with this rule.

**Rule W206.1(a). Petitions—Rule to Show Cause**

No applications to the court other than those listed in Pa.R.C.P. 206.1(a) have been designated by local rule as "Petitions."

**Rule W206.4(c). Procedures for Issuance of a Rule to Show Cause**

(1) The petition for the rule to show cause and a proposed Order substantially in the form prescribed by Pa.R.C.P. 206.5(d) shall be presented in Motions Court. The petitioner shall serve a copy of the petition and proposed Order on the respondent or respondents, together with written notice of the time, date and location for presentation, at least four (4) days in advance of the date when presentation is to occur. Service shall be made in accordance with the Rules of Civil Procedure governing service of legal papers other than original process.

(2) A certificate that the petition and proposed Order, and written notice of the time, date and location of presentation have been served on the respondent or

respondents, shall be attached to the petition at the time of presentation.

(3) At the time of presentation, the court shall use the discretion granted by Pa.R.C.P. 206.4 to determine if a rule to show cause should be issued and whether any interim relief requested should be granted. The interim relief may include a stay of execution.

(4) In the event the court grants the rule to show cause:

(a) The court shall enter an Order in accordance with Pa.R.C.P. 206.5.

(b) The petitioner shall file the petition and Order with the Prothonotary, who shall issue the rule. Within three (3) days thereafter, the petitioner shall serve the rule as directed in the Order, together with a copy of the petition and Order upon which the rule was issued, which service shall be made in accordance with the Rules of Civil Procedure governing service of legal papers other than original process.

(c) Within three (3) days of such service, the petitioner shall file a certificate of service with the Prothonotary, and shall deliver or mail a copy of the rule, petition, Order and certificate of service filed to the chambers of the judge assigned to the case.

(5) Upon filing an Answer, a respondent shall deliver or mail a copy thereof to the chambers of the judge assigned to the case.

(6) If no answer is filed on or before the date Ordered, the petitioner may file a motion to make the rule absolute in accordance with Rule W208.3(a).

**Rule 208.2(c). Motions. Statement of Applicable Authority**

All motions shall contain a specific citation to relevant constitutional provisions, case law, statutes, regulations, Rules of Court or other applicable legal authority that permit the court to grant the relief requested.

**Rule W208.2(d). Motions with Consent or No Contest**

(1) All uncontested motions, or motions to which the consent of all parties has been obtained, must be accompanied by a certificate stating that

(a) a copy of the motion and any proposed Order has been served on every other party or attorney of record at least 4 days in advance of the date when the presentation is to occur,

(b) written notice of the time, date and location for presentation was given at the time the motion and any proposed Order was served, and

(c) the motion is in fact uncontested or has the consent of all parties.

(2) Failure to comply with the foregoing shall result in the refusal of the court to hear the motion.

**Rule W208.2(e). Motions. Discovery**

(1) All motions relating to discovery shall include a certificate signed by counsel for the moving party that counsel for that party has conferred or attempted to confer with all interested parties in order to resolve the matter without court action, and shall set forth the nature of the efforts made to resolve the matter.

(2) Failure to comply with the foregoing shall result in the refusal of the court to hear the motion.

**Rule W208.3(a). Motions Procedure**

(1) 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) Argument on contested motions will be heard in Motions Court. The moving party shall serve a copy of the motion and any proposed Order on every other party or attorney 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. The motion must be accompanied by a certificate stating that a copy of the motion, proposed Order and written notice has been so furnished. Failure to provide such certificate shall result in the court's refusal to hear the motion.

(3) Uncontested motions or motions to which the consent of all parties has been obtained shall be presented in accordance with Rule W208.2(d), and may be presented at Motions Court or in chambers at any time convenient to the court.

Note: Counsel are expected to appear for Motions Court promptly by 9:00 A.M. It is anticipated that all motions should be heard by 10:00 A.M. If, upon presentation of the motion, the Court determines that extended argument is required, the court shall specially set a time for argument.

(4) Emergency motions in civil matters may be presented at a time prearranged with the court. In emergency matters, the moving party must give telephone notice to every other party or attorney of record prior to presenting the motion, and shall, at the time of presentation of same, provide to the Court a certificate describing what notice was given. Failure to provide such certificate may result in the court's refusal to hear the motion.

**Rule W210. Form of Briefs**

(a) The Brief of the moving party shall contain a statement of the case, a statement of the issues involved, the argument, and a short conclusion stating the precise relief sought.

(b) The Brief of the responding party need only contain argument.

(c) A copy of a Brief shall be served on every other party or attorney of record on the same day it is filed. A copy of a Brief shall be delivered or mailed to the chambers of the judge assigned to the case.

**Rule W212.1. Certification of Readiness for Trial. Time for Completing Discovery and Filing Pre-Trial Statement**

(a) In civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration, any party may file a certification with the Prothonotary that the case is ready for trial. A copy of the certification found in the Forms section of these rules shall be served on the judge assigned to the case, on the Court Administrator and on all other parties or their counsel.

(b) The term "ready for trial" means that

(1) the pleadings are closed;

(2) witnesses are presently available to appear at trial; and

(3) discovery is complete, except for those depositions to be taken solely for the purpose of being presented at trial, such as the depositions of expert witnesses.

(c) Upon receipt of the certification of readiness, the judge assigned to the case shall issue an Order addressing the following matters:

(1) When Pre-Trial Statements shall be due pursuant to Pa.R.C.P. 212.1(c)2, which dates shall be set prior to the Pre-Trial Conference.

(2) The date of the Pre-Trial Conference pursuant to Pa.R.C.P. 212.3.

(3) Such other matters that may aid in the disposition of the case.

**Rule W212.3. Pre-Trial Conference.**

(a) In addition to those matters for consideration at the Pre-Trial Conference held pursuant to Pa.R.C.P. 212.3, the court shall place the case on a civil court Jury Trial List, or set the date for the trial of a case without a jury.

(b) An Order shall be entered following the pre-trial conference pursuant to Pa.R.C.P. 212.3(b). A copy of the Order shall be provided to the Court Administrator.

(c) The Court Administrator shall place each case to be tried by jury on a Jury Trial List for each civil court judge, and shall distribute the Jury Trial Lists to all named parties or their counsel.

(d) Each civil court judge shall call his Jury Trial List during the week preceding the first week of the civil jury trial period. All attorneys responsible for trial shall be represented at the call, and shall advise the court of the approximate length of the trial and disclose any other relevant matters.

(e) The cases placed on the Trial List shall be continued only on the grounds and under the procedures set forth in Pa.R.C.P. 216. Applications for continuance shall be presented at Motions Court at least ten (10) days prior to the call of the Trial List. At the call of the Trial List or at any time thereafter, continuances will be granted only for the most compelling reasons; the need to schedule depositions shall not in itself be a compelling reason.

Note: Rule W212.3 replaces the former rule of the same number entitled "Settlement Conference."

**Rule W227.1. Post-Trial Relief**

(a) Requirements for Filing and Service of Motion for Post-Trial Relief at the Office of the Prothonotary.

(1) The original Motion for Post-Trial Relief should be filed at the Office of the Prothonotary.

NOTE: Pursuant to Pa. R.C.P. 227.1(c), Motions for Post-Trial Relief must be filed within ten (10) days after verdict, etc.

NOTE: Post-Trial motions shall comply with Pa. R.C.P. 227.3 concerning the request for a transcript and objections thereto. See Pa.R.J.A. 5005.5, et seq., regarding the request for transcript and payment of the transcript fee.

(2) At the same time the Motion for Post-Trial Relief is being filed with or mailed to the Prothonotary, the moving party shall present or mail a copy of the Motion for Post-Trial Relief to the chambers of the judge assigned to the case. The judge assigned to the case shall prepare a Scheduling Order for oral argument, file the original Order, and give or mail a copy of that Order to the moving party. Within three (3) days of receipt of the

Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Scheduling Order on every other party or attorney of record, shall file with the Prothonotary a certificate of service of the Scheduling Order and shall mail or deliver a copy of the certificate of service to the judge assigned to the case.

NOTE: The oral argument should be scheduled on the date set for argument court in the second month following the month in which the verdict or decision was rendered.

(3) Within three (3) days of filing the Motion for Post-Trial Relief, the moving party shall serve every other party or attorney of record with a copy of the Motion for Post-Trial Relief, shall file with the Prothonotary a certificate of service of the Motion for Post-Trial Relief and shall mail or deliver a copy of the certificate of service to the judge assigned to the case.

(b) Filing and Service Requirements for Briefs in Support and in Opposition of the Motion for Post-Trial Relief

(1) The moving party shall file a Brief in Support with the Prothonotary within twenty (20) days of filing the Post-Trial Motion, unless the court shall otherwise establish the briefing schedule. Any other party may file a Brief in Opposition within twenty (20) days after service of the moving party's brief.

(2) Within three (3) days of filing the Brief, the writer shall serve a copy of the Brief on every other party or attorney of record and shall mail or deliver a copy of the Brief to the chambers of the judge assigned to the case. The writer shall file a certificate of service with the Prothonotary, and shall mail or deliver a copy of the certificate of service to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

(c) Sanctions

(1) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion.

(2) If a non-moving party shall fail to comply with the requirements of this rule, the party shall not be permitted to present any oral argument.

**Rule W229. Discontinuance**

(a) All costs of the Prothonotary and Sheriff shall be paid before a discontinuance is accepted by the Prothonotary.

(b) The Prothonotary shall promptly give notice of the case's final termination to the Westmoreland County Court Administrator and to the assigned Judge when the case is discontinued.

**Rule W261. Records**

(a) The Court Administrator and members of a judge's staff may remove records from the Prothonotary's office for official court business. In addition, referees, auditors, masters, attorneys and other similar officers appointed by the court shall have authority to remove records from the Prothonotary's office. All such records shall be returned within three months after their taking unless the court authorizes a longer retention.

(b) Except as provided in section (a), no record shall be removed from the Prothonotary's office except upon subpoena duces tecum or Order of court.

**Rule W1018. Caption**

The caption for all matters filed in Divorce, Support and Custody, Partial Custody, or Visitation 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

**Rule W1018.1. Notice to Defend**

The Lawyer Referral Service of the Westmoreland Bar Association is the agency to be named in the notice to defend from which legal help can be obtained. The address is:

Lawyer Referral Service  
Westmoreland Bar Association  
P. O. Box 565  
Greensburg, PA 15601  
(724) 834-8490

**Rule W1028(c). Preliminary Objections**

(1) Requirements for Filing and Service of Preliminary Objections at the Office of the Prothonotary

(a) At the same time the Preliminary Objections are being filed with or mailed to the Prothonotary, the filing party, i.e., the objecting party, shall present or mail a copy of the Preliminary Objections to the chambers of the judge assigned to the case.

Note: Preliminary Objections seeking relief pursuant to Pa.R.C.P. 1028(a)(1), (5), (6), (7) or (8) shall be endorsed with a Notice To Plead.

(b) Within three (3) days of filing the Preliminary Objections, the objecting party, shall serve that pleading on every other party or attorney of record and file a certificate of service.

(2) Filing and Service of Brief in support of Preliminary Objections

(a) The objecting party shall file a Brief with the Prothonotary within thirty (30) days of filing the pleading if the Preliminary Objections only set forth grounds under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028. Parties filing Preliminary Objections raising any ground other than under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028 shall file a Brief within sixty (60) days of filing the Preliminary Objections, unless the court, on motion of any party, sets a briefing schedule to accommodate depositions or a hearing pursuant to 1028(c)(2).

Note: Preliminary Objections setting forth grounds other than under subdivisions (2), (3) or (4) of Pa.R.C.P. 1028 must be endorsed with a Notice to Plead or no response will be required under Pa.R.C.P. 1029(d). See Rule W210 for the form of the Brief.

(b) The objecting party shall serve a copy of the Brief on every other party or attorney of record on the same day it is filed. A copy of the Brief, a certificate of service, together with a copy of any subsequent pleadings filed, shall be mailed or delivered to the chambers of the judge assigned to the case.

(3) Filing and Service of Brief in opposition to Preliminary Objections

(a) A party to whom Preliminary Objections are directed shall file a Brief in opposition with the Prothonotary within thirty (30) days of being served with the objecting party's Brief.

Note: See Rule W210 for the form of the Brief.

(b) Within three (3) days of filing the Brief in opposition, a party to whom Preliminary Objections are directed shall serve a copy of the Brief on every other party or attorney of record, and shall file a certificate of service with the Prothonotary.

(c) A party to whom the Preliminary Objections are directed shall deliver or mail a copy of the Brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed

(4) Oral argument

Oral argument will only be scheduled upon the presentation of a motion in accordance with the motions procedure in Rule W208.3(a).

(5) Sanctions

(a) Failure of the objecting party to comply with the requirements of this rule shall result in the dismissal of the Preliminary Objections.

(b) If a party to whom the Preliminary Objections are directed fails to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

Note: A party filing an amended complaint pursuant to Pa.R.C.P. 1028(c)(1) shall promptly notify the judge assigned to the case.

Rule W1028(c) shall not apply to family law actions governed by Pa.R.C.P. 1901 through 1940.9 or actions pursuant to the Eminent Domain Code of 1964.

**Rule W1034(a). Motion for Judgment on the Pleadings**

(1) Requirements for Filing and Service of a Motion for Judgment on the Pleadings and Supporting Brief at the Office of the Prothonotary

(a) The original Motion for Judgment on the Pleadings shall be filed with or mailed to the Prothonotary. A supporting Brief is required to be filed with a Motion for Judgment on the Pleadings.

Note: See Rule W210 for the form of the Brief.

(b) A copy of the Motion for Judgment on the Pleadings and a copy of the supporting Brief required shall, at the time the Motion is filed or mailed, be presented or mailed to the chambers of the judge assigned to the case by the party filing the Motion. The judge assigned to the case shall prepare a Scheduling Order for oral argument, direct the filing of the original Order, and give or mail a copy of that Order to the moving party.

(c) Within three (3) days of receipt of the Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Motion for Judgment on the Pleadings, the Scheduling Order and the Brief on every other party or attorney of record.

(d) The moving party shall file with the Prothonotary a certificate of service of the Motion, the Scheduling Order and the Brief. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.

(2) Filing and Service requirements for Briefs in opposition to the Motion for Judgment on the Pleadings

(a) A party to whom a Motion for Judgment on the Pleadings is directed shall file a Brief in opposition with the Prothonotary within thirty (30) days of service of the moving party's Motion and Brief.

Note: See Rule W210 for the form of the Brief.

(b) Within three (3) days of filing the Brief, the party to whom the Motion is directed shall serve a copy of the Brief on every other party or attorney of record, and shall file a certificate of service with the Prothonotary.

(c) The party to whom the Motion is directed shall deliver or mail a copy of the Brief, along with a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

(3) Sanctions

(a) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion for Judgment on the Pleadings.

(b) If a non-moving party fails to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

#### **Rule W1035.2(a). Motion for Summary Judgment**

(1) Requirements for Filing and Service of a Motion for Summary Judgment and Supporting Brief at the Office of the Prothonotary

(a) A party intending to file a Motion for Summary Judgment should note the requirements of Pa.R.C.P. 1035.2 that the Motion must be made after completion of discovery relevant to the motion, including the production of expert reports, as well as after the relevant pleadings are closed. See the Explanatory Comment to Pa.R.C.P. 1035.2.

(b) A supporting Brief is required to be filed with a Motion for Summary Judgment.

Note: See Rule W210 for the form of the Brief.

(c) A copy of the Motion for Summary Judgment and a copy of the supporting Brief required, shall, at the time the Motion is filed or mailed, be presented or mailed to the chambers of the judge assigned to the case by the party intending to file the Motion. The judge assigned to the case shall prepare a Scheduling Order for oral argument, file the original Order, and give or mail a copy of that Order to the moving party.

(d) Within three (3) days of receipt of the Scheduling Order from the judge assigned to the case, the moving party shall serve copies of the Motion for Summary Judgment, the Scheduling Order and the Brief on every other party or attorney of record.

(e) The moving party shall file with the Prothonotary a certificate of service of the Motion, Brief and Scheduling

Order. A copy of the certificate of service shall be mailed or delivered to the judge assigned to the case.

(2) Filing and Service requirements for Briefs in opposition to the Motion for Summary Judgment

(a) Within thirty (30) days of service of the moving party's Motion and Brief, a party to whom a Motion for Summary Judgment is directed shall file a Brief in opposition, unless that party has requested and obtained an Order of court granting leave to supplement the record pursuant to Pa.R.C.P. 1035.3, in which event the court shall set a briefing schedule. If an Order granting such leave is not obtained, there shall be no extension of the thirty (30) day period for filing the Brief or continuance of the argument to allow supplementation of the record.

Note: See Rule W210 for the form of the Brief.

(b) Within three (3) days of filing the Brief, a party to whom the Motion is directed shall serve a copy of the Brief on every other party or attorney of record and shall file a certificate of service with the Prothonotary.

(c) A party to whom the Motion is directed shall deliver or mail a copy of the Brief, the required, specific response filed by that party pursuant to Pa.R.C.P. 1035.3, and a copy of the certificate of service, to the chambers of the judge assigned to the case on the same day the certificate of service is filed.

(3) Sanctions

(a) Failure of the moving party to comply with the requirements of this rule shall result in the dismissal of the Motion.

(b) If a non-moving party shall fail to comply with the requirements of this rule, that party shall not be permitted to present any oral argument.

#### **Rule W1531. Special Relief. Injunctions**

Where a preliminary or special injunction (one needing immediate relief) is assigned to a judge who is unavailable, the Court Administrator (the civil division of the court administrator's office) shall reassign the case to a judge who is immediately available.

#### **Rule W2232. Defective Joinder. Change of Parties**

(a) Notice under Pa. R.C.P. No. 2232(a) to a person required to join in an action as a party plaintiff pursuant to Pa. R.C.P. No. 2228 shall be given within thirty (30) days of service of the complaint on the defendant.

(b) The notice shall be made using the following form:

#### NOTICE OF PENDING ACTION

To \_\_\_\_\_ (Name of spouse or parent)

You are hereby notified that \_\_\_\_\_ (Name of Plaintiff) has commenced this action against me to recover damages arising from personal injuries to \_\_\_\_\_ (Name of person injured) occurring on \_\_\_\_\_ (state date and sufficient facts to identify the occurrences causing the injuries).

You are hereby directed to join in this action as a party plaintiff within thirty (30) days if you desire to assert against me any claim for damages arising therefrom. IF YOU FAIL TO JOIN THIS ACTION, YOUR CLAIM WILL BE BARRED (LOST) AND THE CASE WILL PROCEED WITHOUT YOU.

\_\_\_\_\_ (Defendant)

(c) The defendant shall serve the notice in accordance with the procedures provided in Pa. R.C.P. No. 402.



IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY PENNSYLVANIA CIVIL

COVER SHEET

_____	Date Filed: _____
_____	Case No: _____
_____	Judge: _____
Plaintiff(s)	Counsel of Record: _____
vs.	Attorney For: _____
_____	PA I.D. No.: _____
_____	Firm: _____
_____	Address: _____
_____	_____
Defendant(s)	Phone No. _____

PLEASE ANSWER ALL OF THE FOLLOWING SECTIONS.

- I. IS THIS A MEDICAL MALPRACTICE CASE? \_\_\_\_\_ YES \_\_\_\_\_ NO
- II. IS THE AMOUNT IN CONTROVERSY LESS THAN \$30,000? \_\_\_\_\_ YES \_\_\_\_\_ NO
- III. DO YOU ANTICIPATE THAT A TRIAL IN THIS CASE WILL TAKE MORE THAN 5 DAYS? IF "YES," THE PLAINTIFF MUST INFORM THE ASSIGNED JUDGE WHEN ALL ANSWERS DUE HAVE BEEN FILED. \_\_\_\_\_ YES \_\_\_\_\_ NO
- IV. ARE THERE ANY RELATED CASES PENDING? IF YES, PROVIDE THE CASE No. \_\_\_\_\_ \_\_\_\_\_ YES \_\_\_\_\_ NO
- V. DOES THIS CASE INVOLVE A CONSTRUCTION CONTRACT? \_\_\_\_\_ YES \_\_\_\_\_ NO

VI. PLEASE INDICATE IF THE CAUSE OF ACTION IS ONE OF THE FOLLOWING:

- LAND USE APPEAL
- CONDEMNATION
- TAX CLAIM BUREAU CASE
- APPEAL BOARD OF ASSESSMENT
- PETITION TO GARNISH WAGES - LANDLORD/TENANT
- APPEAL OF DISTRICT JUSTICE CONTEMPT ORDER
- APPEAL SUSPENSION DRIVER'S LICENSE
- APPEAL SUSPENSION REGISTRATION
- APPEAL SUSPENSION TEMPORARY CARD/PLATE
- APPEAL SUSPENSION INSURANCE
- APPEAL SUSPENSION INSPECTION LICENSE
- WRIT OF SEIZURE/COMPLAINT REPLEVIN
- MOTION/PETITION CHANGE OF NAME
- APPLICATION FOR LICENSE INCLUDING APPOINTMENT OF HUMANE OFFICER
- STATEMENT OF OBJECTION

VII. To The Prothonotary: Please enter my appearance on behalf of Plaintiff/Petitioner/Appellant. Papers may be served at the address set forth above.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY PENNSYLVANIA CIVIL

_____	)
Plaintiff	)
v.	) No.
_____	)
Defendant	) Jury_____
	) Non Jury_____
	)
	) Judge_____

CERTIFICATION OF READINESS

I hereby certify pursuant to Westmoreland County Rule of Civil Procedure W212.1 that the above captioned case is Ready For Trial. All pleadings are closed; all witnesses are presently available to appear at trial; and discovery is complete, except for those depositions to be taken solely for the purpose of being presented at trial, such as the depositions of expert witnesses.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Counsel For \_\_\_\_\_

State the number of days you estimate are needed for trial \_\_\_\_\_ .

CHECK ALL OF THE FOLLOWING THAT APPLY TO THIS CASE.

This case can be classified as or involves the following:

- Wrongful death
- Professional negligence
- Products liability
- Construction contract
- Arbitration Appeal
- Equity
- Other

[Pa.B. Doc. No. 04-940. Filed for public inspection May 28, 2004, 9:00 a.m.]

\_\_\_\_\_  
**DISCIPLINARY BOARD OF THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that by Order of the Supreme Court of Pennsylvania issued May 11, 2004, Nicholas Panarella, Jr., is suspended from the practice of law for a period of four years, retroactive to July 10, 2001. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director and Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 04-941. Filed for public inspection May 28, 2004, 9:00 a.m.]