UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA
RULES OF COURT

AS AMENDED 1983, 1985, January and November 1988, December 1993, May 1995, April 1997, August 1999, December 2001, March 2003, April 16, 2003 (See Standing Order 03-2, In re: Amendment to Local Rule 5.2), October 4, 2004 (See Standing Order 04-4, In re: Amendment to Local Rule 5.2), December 2005, December 2006, December 2007, December 2008, December 2009, December 2010, December 2012, December 2014.

Effective December 1, 2014

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: AMENDMENTS OF LOCAL RULES OF COURT	: :	**STANDING ORDER: 14-5**

STANDING ORDER

The judges of this court having approved and adopted amendments to the local rules, effective December 1, 2014, the Clerk is hereby directed to enter this order of adoption with a copy of the new and amended rules, as attached hereto, on the record of the court.

Christopher C. Conner
Chief Judge

September 29, 2014

TABLE OF CONTENTS

SECTION I

CHAPTER I
SCOPE OF RULES

CHAPTER II
COMMENCEMENT OF ACTION/PARTIES

CHAPTER III
SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

CHAPTER IV
PLEADINGS AND MOTIONS

TABLE OF CONTENTS

CHAPTER V
CASE MANAGEMENT AND PRETRIAL CONFERENCES

CHAPTER VI
ALTERNATIVE DISPUTE RESOLUTION

TABLE OF CONTENTS

CHAPTER VII
CLASS ACTIONS

CHAPTER VIII
DEPOSITIONS AND DISCOVERY

CHAPTER IX
TRIALS

TABLE OF CONTENTS

CHAPTER X
JUDGMENT

CHAPTER XI
PROVISIONAL AND FINAL REMEDIES

CHAPTER XII
SPECIAL PROCEEDINGS

TABLE OF CONTENTS

CHAPTER XIII
MAGISTRATE JUDGES

CHAPTER XIV
DISTRICT COURTS AND CLERKS

CHAPTER XV
GENERAL PROVISIONS

CHAPTER XVI
ATTORNEYS

CHAPTER XVII
ATTORNEY DISCIPLINARY ENFORCEMENT

CHAPTER XVIII
HABEAS CORPUS AND MOTIONS ATTACKING SENTENCE AND APPEALS WHERE PARTY IS INCARCERATED

CHAPTER XIX
PRO BONO ATTORNEYS FOR INDIGENT LITIGANTS

CHAPTER XX
SOCIAL SECURITY APPEALS

SECTION II
CRIMINAL RULES

CHAPTER I
INDICTMENT

CHAPTER II
PLEADINGS AND PRETRIAL MOTIONS

CHAPTER III
POST-CONVICTION PROCEDURES

CHAPTER IV
SERVING AND FILING OF PAPERS

CHAPTER V
GENERAL PROVISIONS

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

RULES OF COURT

SECTION I

CHAPTER I

SCOPE OF RULES

LR 1.1 Application of Rules.

These rules apply to all proceedings in this court whether criminal or civil unless specifically provided to the contrary or not applicable in the context.

LR 1.2 Standing Orders.

Unless revoked expressly or by necessary implication by these rules, all standing orders of court now in effect shall remain in effect.

LR 1.3 Suspension of Rules.

The court may suspend these rules in individual cases by written order. When a judge of this court issues any order in a specific case which is not consistent with these rules, such order shall constitute a suspension of these rules for such case only and only to the extent that it is inconsistent. By way of illustration, but not of limitation, a judge of this court may issue an order in a specific case governing the practice and procedure, in whole or in part, in that case.

LR 1.4 Definition of Term "Party" as Used in These Rules.

Wherever used in these rules, the term "party", whether in the singular or plural, shall mean the party or parties appearing in the action *pro se*, or the attorney or attorneys of record for such party or parties, where appropriate.

CHAPTER II

COMMENCEMENT OF ACTION/PARTIES

LR 4.1 Service of Process.

Plaintiff or plaintiff's attorney shall be responsible for prompt service of the summons and a copy of the complaint as provided in Fed.R.Civ.P.4. Service shall be made by anyone who is not a party and is not less than 18 years of age. In order that a scheduling conference as required by Fed.R.Civ.P.16(b) can be arranged promptly, immediate service of process should be effected and an affidavit of such service shall be filed within fourteen (14) days thereafter. Where the plaintiff is the United States, an agent or instrumentality thereof, service shall be pursuant to 28 U.S.C. § 566(c).

LR 4.2 Proof of Service of All Other Pleadings and Papers.

Proof of service of all other pleadings and papers required or permitted to be served, other than those for which a method of proof is prescribed in the Federal Rules of Civil Procedure, shall be by written acknowledgment of service, by affidavit of the person making service or by certification of counsel. A party who has been prejudiced by failure to receive due notice may apply to the court for appropriate relief. Proof of service of discovery material shall not be filed unless required in accordance with Local Rule 5.4.

LR 4.3 Payment of Fees in Advance.

The clerk shall not be required to enter any civil action, file any paper or issue any process therein, nor shall the marshal be required to serve any paper or perform any service unless the fees therefor shall first be paid by the party requesting the same. This rule shall not apply in actions properly instituted or defended *in forma pauperis* under applicable law.

LR 4.4 Collection of Clerk's and Marshal's Fees.

In all civil actions prosecuted to final judgment or settled by the parties, in which the costs have not been paid or provided for, the clerk or marshal to whom they are due shall be entitled to an order requiring the party against whom such judgment is entered or in favor of whom such settlement is made, or otherwise as directed by the court, to pay these costs, in default of which execution may issue in the name of the clerk or the marshal therefor as the case may be. Where no action of any kind has been taken by any party in any civil action for two (2) years or more, the clerk or marshal to whom any costs may be due may apply to the court, and the court may enter an appropriate order that such costs be taxed and require any party to pay such costs, and in default thereof that any claim or defense of such party be dismissed. This rule shall not apply in actions properly instituted or defended *in forma pauperis* under applicable law.

LR 4.5 Reserved.

LR 4.6 Reserved.

LR 4.7 *In Forma Pauperis* Proceedings Initiated by Prisoners under 28 U.S.C. § 1915.

(a) Civil complaints filed by prisoners seeking *in forma pauperis* status under 28 U.S.C. § 1915 are subject to the provisions of the Prison Litigation Reform Act ("PLRA"). In order to promote the speedy, just and efficient administration of civil rights complaints subject to the PLRA, the court has established forms to be used by prisoners for filing civil rights actions. The prisoner/plaintiff should complete and file the court-approved forms when initiating a civil complaint.

(b) The court-approved forms consist of (1) a cover sheet, (2) a complaint, (3) an application to proceed *in forma pauperis*, and (4) an authorization form. The authorization form, when completed by the plaintiff, directs the agency holding the plaintiff in custody to forward to the clerk of court a certified copy of the plaintiff's institutional trust fund account and to disburse from the plaintiff's account the full statutory filing fee in amounts specified by 28 U.S.C. § 1915(b). Forms may be obtained from the clerk of court.

(c) Properly completing and filing the authorization form satisfies the plaintiff's obligation under 28 U.S.C. § 1915(a)(2) to submit a certified copy of the plaintiff's trust fund account with the complaint.

LR 4.8 *In Forma Pauperis* Proceedings in Habeas Corpus Actions.

For local rule regarding filing *in forma pauperis* in a Habeas Corpus action, see LR 83.32.3.

CHAPTER III

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

LR 5.1 Size and Other Physical Characteristics of Papers and Other Documents.

Papers or other documents filed in this court, except original or true copies of exhibits, shall be on paper approximating eight and one-half (8½) inches by eleven (11) inches in size. Any paper or other document filed shall be sufficient as to format and other physical characteristics if it substantially complies with the following requirements:

(a) Prepared on white paper (except for covers, dividers, and similar sheets) of good quality with typed or printed matter six and one-half (6½) inches by nine and one-half (9½) inches.

(b) The first sheet of any paper or other document that is not filed electronically shall contain a three (3) inch space from the top of the paper for all court stampings, filing notices, etc.

(c) The lettering or typeface shall be clearly legible and shall not be smaller than 14 point word processing font or, if typewritten, shall not be smaller than pica. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font type and size used in footnotes shall be the same as that used in the body of the brief. Margins must be at least one inch on all four sides. Page numbers shall be placed in the margins, but no text may appear there.

(d) The lettering or typeface shall be on only one (1) side of a page.

(e) All papers and other documents filed in this court shall be securely fastened with a paper clip, binder clip or rubber band. The use of plastic strips, staples or other such fasteners is prohibited, with the exception that administrative and judicial records may be firmly bound.

(f) Exhibits to a brief or motion shall accompany the brief or motion, but shall not be attached to or bound with the brief or motion. Exhibits shall be secured separately, using either lettered or numbered separator pages to separate and identify each exhibit. Each exhibit also shall be identified by letter or number on the top right hand corner of the first page of the exhibit. Exhibits in support of a pleading or other paper shall accompany the pleading or other paper but shall not be physically bound thereto. In all instances where more than one exhibit is part of the same filing, there shall be a table of contents for the exhibits.

(g) A proposed order shall accompany each motion or other request for relief, but shall not be fastened together.

(h) Each motion and each brief shall be a separate document.

(i) Exceptions to the provisions of this rule may be made only upon motion and for good cause or in the case of papers filed by a pro se litigant.

LR 5.2 Documents to be Filed with the Clerk.

(a) As to any document required or permitted to be filed with the court in paper form, only the original shall be filed with the clerk except that parties shall file an original and one copy of any document in excess of 200 pages.

(b) Any document signed by an attorney for filing shall contain under the signature line the name, address, telephone number, fax number, e-mail address (if applicable) and Pennsylvania or other state bar identification number. When listing the bar identification number, the state's postal abbreviation shall be used as a prefix (e.g., PA 12345, NY 246810).

(c) Documents shall not be faxed to a judge without prior leave of court. Documents shall

not be faxed to the clerk's office, except in the event of a technical failure with the court's Electronic Case Filing ("ECF") system. Technical Failure is defined as a malfunction of court owned/leased hardware, software, and/or telecommunications facility which results in the inability of a Filing User to submit a filing electronically. Technical failure does not include malfunctioning of a Filing User's equipment.

(d) A filed document in a case (other than a social security case) shall not contain any of the personal data identifiers listed in this rule unless permitted by an order of the court or unless redacted in conformity with this rule. The personal data identifiers covered by this rule and the required redactions are as follows:

1. **Social Security Numbers**. If an individual's Social Security Number must be included in a document, only the last four digits of that number shall be used;

2. **Names of minor children**. If the involvement of a minor child must be mentioned, only that child's initials shall be used;

3. **Dates of birth.** If an individual's date of birth must be included, only the year shall be used;

4. **Financial account numbers**. If financial account numbers must be included, only the last four digits shall be used.

Additional personal data identifier in a criminal case document only:

5. **Home addresses**. If a home address must be included, only the city and state shall be listed.

(e) A party wishing to file a document containing the personal data identifiers listed above may file in addition to the required redacted document:

1. a sealed and otherwise identical document containing the unredacted personal data identifiers, or

2. a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The sealed unredacted version of the document or the sealed reference list shall be retained by the court as a part of the record.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The clerk will not review each document for redaction.

LR 5.3 Assigned Judge's Name on First Page of Documents.

After a case is assigned to a judge, all documents filed must include that judge's name in parenthesis directly below the case number.

LR 5.4 Service and Filing of Discovery Material.

(a) The parties in *pro se* cases, Health and Human Services cases (Social Security Appeals), and U.S. Government loan cases shall not be obligated to meet and confer prior to instituting discovery. Discovery shall commence no later than thirty (30) days from the date the complaint is served upon the defendant(s).

(b) Interrogatories, requests for disclosures, requests for documents, requests for admissions, and answers and responses thereto shall be served upon other counsel and parties but shall not be filed with the court except as authorized by a provision of the Federal Rules of Civil Procedure or upon an order of the court. The party responsible for serving a discovery request shall retain and become the custodian of the original response. Proof of service or certificates of service of discovery material shall not be filed separately with the clerk. The original transcript or recording of any deposition upon oral examination shall be retained by the party who arranged for the transcript or the recording.

(c) If relief is sought under any of the Federal Rules of Civil Procedure, a copy of the discovery matters in dispute shall be filed with the court contemporaneously with any motion filed under these rules by the party seeking to invoke the court's relief.

(d) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the court or by stipulation of counsel, the necessary discovery papers shall be filed with the clerk.

LR 5.5 Form of Service of Interrogatories.

For local rule on form of service of interrogatories, see LR 33.1.

LR 5.6 Filing of Documents by Electronic Means.

Any document required or permitted to be filed shall be filed electronically and shall be signed and verified by electronic means to the extent and in the manner authorized by the court’s Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual, except that a pro se litigant who is not a registered user of the court’s Electronic Case Filing system shall file in paper form rather than electronically. An attorney may be granted a reasonable exception from the mandatory electronic filing requirement by the Chief Judge only upon a showing of good cause. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR 5.7 Service of Documents by Electronic Means.

Documents may be served through the court’s transmission facilities by electronic means to the extent and in the manner authorized by the Standing Order regarding Electronic Case Filing Policies and Procedures and the ECF User Manual. Transmission of the Notice of Electronic Filing constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR 5.8 Filing of Documents under Seal.

Unless otherwise prescribed by federal statutes, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure or other provisions of these Rules, including LR 5.2(e), no document shall be filed under seal unless authorized by an order of court. The filing of documents under seal shall be in accordance with LCrR 49.

CHAPTER IV

PLEADINGS AND MOTIONS

LR 7.1 Motions to be Written.

A motion must be written, and shall contain a certification by counsel for the movant that he or she has sought concurrence in the motion from each party, and that it has been either given or denied. No concurrence need be sought in *pro se* prisoner cases. A certificate of nonconcurrence does not eliminate the need for counsel to comply with Local Rule 26.3 relating to conferences between counsel in all discovery motions directed toward a resolution of the motion. Every motion shall be accompanied by a form of order which, if entered by the court, would grant the relief sought in the motion.

LR 7.2 Reserved.

LR 7.3 Exhibits and Other Documents Substantiating Motions.

When allegations of fact are relied upon in support of a motion, all pertinent affidavits, transcripts, and other documents must be filed simultaneously with the motion and shall comply with Local Rule 5.1 (f).

LR 7.4 Motions for Summary Judgment.

For local rule regarding the filing of a motion for summary judgment, see LR 56.1. Briefing schedules under Local Rules 7.5, 7.6 and 7.7 are applicable to any brief filed in connection with a motion for summary judgment.

LR 7.5 Submission of Briefs Supporting Motions.

Within fourteen (14) days after the filing of any motion, the party filing the motion shall file a brief in support of the motion. If the motion seeks a protective order, a supporting brief shall be filed with the motion. If a supporting brief is not filed within the time provided in this rule the motion shall be deemed to be withdrawn. A brief shall not be required: (a) In support of a motion for enlargement of time if the reasons for the request are fully stated in the motion, (b) In support of any motion which has concurrence of all parties, and the reasons for the motion and the relief sought are fully stated therein, or (c) In support of a motion for appointment of counsel.

LR 7.6 Submission of Briefs Opposing Motions.

Any party opposing any motion, other than a motion for summary judgment, shall file a brief in opposition within fourteen (14) days after service of the movant's brief, or, if a brief in support of the motion is not required under these rules, within seven (7) days after service of the motion. Any party who fails to comply with this rule shall be deemed not to oppose such motion. Nothing in this rule shall be construed to limit the authority of the court to grant any motion before expiration of the prescribed period for filing a brief in opposition.

A brief in opposition to a motion for summary judgment and LR 56.1 responsive statement, together with any transcripts, affidavits or other relevant documentation, shall be filed within twenty-one (21) days after service of the movant’s brief.

LR 7.7 Reply Briefs.

A brief in reply to matters argued in a brief in opposition may be filed by the moving party within fourteen (14) days after service of the brief in opposition. No further briefs may be filed without leave of court.

LR 7.8 Contents and Length of Briefs.

(a) Contents of Briefs.

Briefs shall contain complete citations of all authorities relied upon, including whenever practicable, citations both to official and unofficial reports. No brief may incorporate by reference all or any portion of any other brief. A copy of any unpublished opinion which is cited must accompany the brief as an attachment. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and argument. The brief of the opposing party may contain a counter statement of the facts and of the questions involved and a counter history of the case. If counter statements of facts or questions involved are not filed, the statements of the moving party will be deemed adopted.

The brief of each party, if more than fifteen (15) pages in length, shall contain a table of contents, with page references, and table of citations of the cases, statutes and other authorities referred to therein, with references to the pages at which they are cited. A brief may address only one motion, except in the case of cross motions for summary judgment.

(b) Length of Briefs.

(1) Unless the requirements of Local Rule 7.8 (b)(2) and (3) are met, no brief shall exceed fifteen (15) pages in length.

(2) A brief may exceed fifteen (15) pages so long as it does not exceed 5,000 words. If a brief is filed in accordance with this subsection, counsel, or an unrepresented party, must include a certificate (subject to Fed. R. Civ. P. 11) that the brief complies with the word-count limit described in this subsection. The person preparing the certificate may rely on the word count feature of the word-processing system used to prepare the brief. The certificate must state the actual number of words in the brief.

(3) No brief exceeding the limits described in this rule may be filed without prior authorization. Any motion seeking such authorization shall specify the length of the brief requested and shall be filed at least two (2) working days before the brief is due.

(c) Length of Briefs in Appeals from Bankruptcy Court.

Unless otherwise ordered by the court, the provisions of subparagraph (b) of this rule relating to the length of briefs shall not apply to matters on appeal to the district court from the bankruptcy court.

LR 7.9 Oral Arguments on Motions.

Promptly upon the expiration of the time for filing of all briefs in support of or in opposition to a motion, the judge to whom the action has been assigned may order oral argument at such time and place as the judge shall direct, either in open court or in chambers. The judge, in his or her discretion, may grant oral argument *sua sponte* or at the request of either or both parties.

LR 7.10 Motions for Reconsideration.

Any motion for reconsideration or reargument must be accompanied by a supporting brief and filed within fourteen (14) days after the entry of the order concerned. This rule is not applicable to a motion to alter or amend a judgment under Fed. R. Civ. P. 59.

LR 7.34 After-discovered Evidence.

A motion for a new trial on the ground of after-discovered evidence shall, in addition to all other requirements, be accompanied by the affidavits of the witnesses relied upon, stating the substance of their testimony and the reasons why it could not have been introduced at trial.

LR 7.35 Notice of Appeal to Trial Judge.

Upon the filing of any appeal from any judgment, order or decree of this court, notice thereof shall be given promptly to the judge who entered the same.

LR 7.36 Citation of Supplemental Authorities.

If pertinent and significant cases are decided or authorities are enacted, relating to an issue raised in a motion pending before the court, after the party's final brief has been filed--or after oral argument but before decision--the party may file a notice of supplemental authority setting forth the supplemental citations. The notice of supplemental authority shall indicate the motion to which the supplemental authority may be relevant, but it must not include any argument. The body of the notice of supplemental authority may not exceed 100 words.

LR 8.1 Statement of Amount of Damages.

The demand for judgment required in any pleading in any civil action pursuant to Fed.R.Civ.P.8(a)(3) may set forth generally that the party claiming damages is entitled to monetary relief but shall not claim any specific sum where unliquidated damages are involved. The short plain statement of jurisdiction, required by Fed.R.Civ.P.8(a)(1), shall set forth any amounts needed to invoke the jurisdiction of the court but no other.

LR 8.2 Claims for Unliquidated Damages.

Whenever an amount or amounts claimed in an action has become relevant for any purpose in the action, the party making the demand shall file a statement with the court setting forth the amount or amounts of such demand or the maximum or minimum amount claimed.

LR 14.1 Motion to Join Third Parties Under Fed.R.Civ.P.14(a), Time for.

A motion by a defendant for leave to join a third-party defendant under Fed.R.Civ.P.14(a) shall be made within three (3) months after an order has been entered setting the case for trial, or within six (6) months after the date of service of the moving defendant's answer to the complaint, whichever shall first occur.

LR 14.2 Motion to Join Third Parties Under Fed.R.Civ.P.14(b), Time for.

A motion by a plaintiff for leave to join a third-party defendant under Fed.R.Civ.P.14(b) shall be made within three (3) months after an order has been entered setting the case for trial, or within six (6) months after the date of service of the moving plaintiff's answer to the counter-claim, whichever shall first occur.

LR 14.3 Motion to Join Third Parties, Time for, Suspension of Rules.

The provisions of this rule may be suspended upon a showing of good cause.

LR 15.1 Amended Pleadings.

(a) Proposed amendment to accompany the motion.

When a party files a motion requesting leave to file an amended pleading, the proposed amended pleading must be retyped or reprinted so that it will be complete in itself including exhibits and shall be filed on paper as a separate document or, in the Electronic Filing System, as an attachment to the motion. If the motion is granted, the clerk shall forthwith file the amended pleading. Unless otherwise ordered, an amended pleading that does not add a new defendant shall be deemed to have been served for the purpose of determining the time for response under Fed. R. Civ. P. 15(a), on the date the court grants leave for its filing. A party granted leave to amend its pleading, when the amended pleading would add a new defendant, shall file and effect service of the amended pleading within thirty (30) days after the date of the Order granting leave for its filing.

(b) Highlighting of amendments.

The party filing the motion requesting leave to file an amended pleading shall provide: (1) the proposed amended pleading as set forth in subsection (a) of this rule, and (2) a copy of the original pleading in which stricken material has been lined through and any new material has been inserted and underlined or set forth in bold-faced type.

CHAPTER V

CASE MANAGEMENT AND PRETRIAL CONFERENCES

LR 16.1 Requirement of Holding Court Conferences.

Unless otherwise ordered by the court, there shall be a minimum of two (2) court conferences in every civil action: an initial case management conference and a final pretrial conference. Health and Human Services cases (Social Security Appeals), prisoner, *pro se* parties and U.S. Government loan cases are exempted from the requirement of holding said conferences unless otherwise ordered by the court.

LR 16.2 Court Conferences, Participants at.

(a) At least one attorney for each of the parties shall be present to represent the interests of the party at the initial case management conference.

(b) Lead counsel for each party shall be present to represent the interests of the party at the final pretrial conference. Each party or a person with full settlement authority for the party shall attend the final pretrial conference, unless otherwise approved by the court. Upon approval of the court the party or person with full settlement authority may be available by telephone. Parties may be required to participate at any conference at the discretion of the court. If settlement requires approval of a committee of an insurance carrier, all of the members of such committee, or a majority thereof, if such majority is empowered to act, shall be reasonably available by telephone. Counsel must notify the person, or committee with settlement authority, of the requirements of this rule, as well as the dates of each conference and trial.

LR 16.3 Conferences of Attorneys.

(a) In each civil action, lead counsel for each party shall confer at least fourteen (14) days prior to the initial case management conference to consider the matters set forth on the court's case management form, as set forth in Appendix A to these rules, and shall thereafter file a concise joint case management statement consisting of the completed case management form. It shall be the duty of counsel for the plaintiff to take the initiative in holding such a conference and in assuring the completion and filing of the joint case management plan form. The filing of this form satisfies the requirement of a proposed discovery plan under Fed.R.Civ.P. 26(f). The joint case management form shall be filed seven (7) days prior to the case management conference. The information in the case management form will not be deemed an admission by any party.

(b) At least fourteen (14) calendar days prior to the final pretrial conference, lead counsel for each of the parties shall meet and confer for the purpose of attempting to enter into agreements with respect to the subjects referred to in Fed.R.Civ.P.16 and to discuss settlement of the action. It shall be the duty of counsel for the plaintiff to take the initiative in holding such a conference and initiating discussion concerning settlement and to report to the court at the final pretrial conference the results of efforts to arrive at settlement. At the conference all exhibits which any party intends to introduce at trial whether on the case in chief or in rebuttal shall be examined, numbered and listed. Only exhibits so listed shall be offered in evidence at the trial, except for good cause shown. Counsel shall attempt in good faith to agree as to the authenticity and admissibility of such exhibits insofar as possible and note an objection to any not so agreed upon. Counsel shall attempt in good faith to agree insofar as

possible upon a comprehensive written statement of all undisputed facts which statement shall be included in plaintiff's pretrial memorandum. Lists of potential witnesses with their addresses shall be exchanged.

LR 16.4 Scheduling Conferences.

The court shall issue a scheduling order within one hundred and twenty (120) days after service of the complaint after consulting with counsel and any *pro se* litigants by conference, telephone, mail, or any other suitable means. Inasmuch as no Health and Human Services cases (Social Security Appeals) ever reach the trial stage and relatively few prisoner and U.S. Government loan cases reach that stage, such cases are exempted from the mandatory case management conference and scheduling order requirements.

LR 16.5 Special Pretrial Orders.

The judge to whom any action is assigned may make special pretrial orders governing such action.

LR 16.6 Pretrial Memorandum.

Each party to a civil action shall file a pretrial memorandum and serve a copy on all other parties, at least **seven (7)** days prior to the final pretrial conference, containing the information requested, and in the form set forth in Appendix B to these rules. The instructions contained in said official form of pretrial memorandum are a part of these rules.

CHAPTER VI

ALTERNATIVE DISPUTE RESOLUTION

LR 16.7 Alternative Dispute Resolution.

Litigants in all civil cases shall consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. A judge may in his or her discretion set a civil case for an alternative method of dispute resolution approved by the court's Civil Justice Reform Act Expense and Delay Reduction Plan: the Mediation Program, the Settlement Officer Program, or the Summary Jury Trial Program; provided, however, that he or she gives consideration to any reasons advanced by the parties as to why such particular alternative method of dispute resolution would not be in the best interests of justice.

LR 16.8 Court-Annexed Mediation Program.

LR 16.8.1 General Rule.

The court adopts this rule for the purpose of implementing a court-annexed mediation program to provide litigants with an alternative method to dispose of their case. As hereinafter provided, commencing January 1, 1994 (and continuing until further action by the court) each judicial officer of this court may refer civil actions to mediation. Cases may be subject to mandatory mediation under the Mandatory Mediation Program of the court as set forth in the Standing Orders of Court, which can be found on the court's website @ www.pamd.uscourts.gov

LR 16.8.2 Certification of Mediators.

(a) The chief judge shall certify as many mediators as determined to be necessary under this rule.

(b) An individual may be certified at the discretion of the chief judge as a mediator if: (1) he or she has been a member of the bar of the highest court of a state or the District of Columbia for a minimum of ten (10) years; (2) he or she has been admitted to practice before this court; and (3) he or she has been determined by the chief judge to be competent to perform the duties of a mediator; and (4) he or she has successfully completed the mediation training program established by the Middle District. The training requirement may be waived by the chief judge when the qualifications and experience of the applicant are deemed sufficient.

(c) The court shall solicit qualified individuals to serve as mediators.

(d) Each individual certified as a mediator shall take the oath or affirmation prescribed by 28 U.S.C. § 453 before serving as a mediator.

(e) A list of all persons certified as mediators shall be maintained in the office of the clerk.

(f) A member of the bar certified as a mediator may be removed from the list of certified mediators by the chief judge.

LR 16.8.3 Compensation and Expenses of Mediators.

(a) The mediator's preparation time and the first six hours of mediation services shall be provided *pro bono*. After six hours of mediation, the parties and the mediator shall agree to one of the following courses of action:

(1) to terminate the mediation; (2) to continue the mediation with the mediator providing his or her services on a pro bono basis; or (3) to continue the mediation with the mediator providing his or her services at the mediator's regular hourly rate for professional services rendered to the mediator's typical clientele or, in the absence of a standard hourly rate, at the rate of $200.00 per hour.

If the parties and the mediator are unable to agree on a course of action, the mediation shall be terminated. If the parties and the mediator select option (3), all terms and conditions of the mediator's fee agreement must be set forth in writing. The parties shall pay the mediator directly. The court assumes no responsibility for the supervision or enforcement of the parties' agreement to pay for mediation services.

(b) An individual certified as a mediator shall not be called upon more than three times in a calendar year to serve as a mediator without prior approval of the mediator.

(c) Except as provided herein, a mediator shall not accept anything of value from any source for services provided under the court-annexed mediation program.

LR 16.8.4 Cases Eligible for Mediation.

Every civil action filed in the Middle District of Pennsylvania is eligible for mediation except any case which the assigned judge determines, after application by any party or by the mediator, is not suitable for mediation.

LR 16.8.5 Scheduling Mediation Conference.

(a) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator. The order will also direct the mediator to fix the date for the initial mediation session to be a date within sixty (60) days from the date of the order of referral unless otherwise extended by the court.

(b) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the chief judge.

(c) The clerk shall provide the mediator with a current docket sheet. The mediator shall advise the clerk as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies.

(d) Any continuance of the mediation session beyond the period prescribed in the referral order must be approved by the assigned judge.

(e) A person selected as a mediator shall be disqualified for bias or prejudice as provided by 28 U.S.C. § 144, and shall disqualify himself or herself in any action where disqualification would be required under 28 U.S.C. § 455 if he or she were a justice, judge, or magistrate judge. A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may in his or her discretion end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the original mediator or initiate another alternative dispute resolution mechanism.

LR 16.8.6 The Mediation Session and Confidentiality of Mediation Communications.

(a) The mediation session shall take place as directed by the court and the assigned

mediator. The mediation session shall take place in a neutral setting designated by the mediator. The parties shall not contact or forward documents to the mediator except as directed by the mediator or the court.

(b) If the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter file a report with the Clerk of Court stating that there has been compliance with the requirements of mediation in accordance with the local rules, but that no settlement has been reached. In the event that a settlement is achieved at the mediation session, the mediator shall file a report with the Clerk of Court stating that a settlement has been achieved. The order of referral may direct the mediator to file the report in a specific form.

(c) Unless stipulated in writing by all parties and the mediator or except as required by law or otherwise ordered by the court, all discussions which occur during mediation shall remain strictly confidential and no communication at any mediation session (including, without limitation, any verbal, nonverbal or written communication which refers to or relates to mediation of the pending litigation) shall be disclosed to any person not involved in the mediation process, and no aspect of the mediation session shall be used by anyone for any reason.

(d) No one shall have a recording or transcript made of the mediation session, including the mediator.

(e) The mediator shall not be called to testify as to what transpired in the mediation session.

LR 16.8.7 Duties of Participants at the Mediation Session.

(a) Parties. All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (1) and (2) below. Unless attendance is excused under paragraph (d), willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions.

(1) Corporation or Other Entity. A party other than a natural person (e.g. a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(2) Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(b) Counsel. Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(c) Insurers. Insurer representatives are required to attend in person unless excused under paragraph (d), below, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(d) Request to be Excused. A person who is required to attend a mediation session may

be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than fourteen (14) days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

LR 16.9 Settlement Officer Program.

LR 16.9.1 General Rule.

Any time after an action or proceeding has been filed, the action may be referred to another judicial officer, including a magistrate judge, or to a neutral evaluator for the purpose of conducting a settlement conference(s).

LR 16.9.2 Agreement of the Parties.

The parties may agree, with the approval of the court, upon the selection of the settlement officer.

LR 16.9.3 Discretion of the Court.

Notwithstanding any other provision of this rule, in all actions the court shall have the right to designate the settlement officer and make the referral.

LR 16.9.4 Participants and Settlement Authority.

(a) At least one attorney for each party who is a member of the bar of this court shall appear at the settlement conference, except in the case of attorneys admitted to practice in such cases under Local Rule 83.8.2.1, .2, .3, or .4. Any party appearing in a case *pro se* shall attend the settlement conference. At least one attorney for each party who is fully familiar with the case and has complete authority to settle the case shall appear for each party. If any attorney does not have complete settlement authority, the party or a person with full settlement authority shall accompany the attorney or shall be available by telephone. Parties may be required to attend and participate during the settlement session at the discretion of the settlement officer.

(b) No proceeding at any settlement conference authorized by this rule (including any statement made or written submissions provided by a party, attorney, or other participant) shall be disclosed to any person not involved in the settlement conference, unless otherwise stipulated in writing by all parties and the settlement officer. None of the proceedings shall be used by any adverse party for any reason in the litigation at issue.

LR 16.9.5 Fees.

No fees shall be assessed to any party for the costs of the settlement officer program. If a neutral evaluator is the settlement officer, the services of the neutral evaluator shall be provided *pro bono* to the court unless other arrangements have been approved by all parties and the assigned judge prior to appointing the neutral evaluator to the case.

CHAPTER VII

CLASS ACTIONS

LR 23.1 Class Actions, Form of Designation of Complaint.

The complaint shall bear next to its caption the legend, "Complaint--Class Action."

LR 23.2 Class Actions, Contents of Complaints.

The complaint shall contain under a separate heading, styled "Class Action Allegations":

(a) A reference to the portion or portions of Fed.R.Civ.P.23 under which it is claimed that the suit is properly maintainable as a class action.

(b) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(1) The size (or approximate size) and definition of the alleged class,

(2) The basis upon which the plaintiff (or plaintiffs) claims

(A) To be an adequate representative of the class, or

(B) If the class is comprised of defendants, that those named as parties are adequate representatives of the class,

(3) The alleged questions of law and fact claimed to be common to the class, and

(4) In actions claimed to be maintainable as class actions under subdivision (b)(3) of Fed.R.Civ.P.23, allegations thought to support the finding required by that subdivision.

LR 23.3 Class Action Determination.

Within ninety (90) days after filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under subdivision (c)(1) of Fed.R.Civ.P.23, as to whether the case is to be maintained as a class action. In ruling upon such a motion, the court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewal of the motion before the same judge.

CHAPTER VIII

DEPOSITIONS AND DISCOVERY

LR 26.1 Duty to Investigate and Disclose.

(a) Prior to the conference of attorneys required by Local Rule 16.3, counsel for the parties shall inquire into the computerized information-management systems used by their clients so that they are knowledgeable about the operation of those systems, including how information is stored and how it can be retrieved. At the same time, counsel shall inform their clients of the duty to preserve electronically stored information.

(b) In making the disclosures required by Fed. R. Civ. P. 26(a)(1), the parties must disclose electronically stored information to the same extent they would be required to disclose information, files or documents stored by any other means.

(c) During the conference of attorneys required by Local Rule 16.3(a), in addition to those matters described in that rule, counsel shall discuss and seek to reach agreement on the following:

(1) Electronically stored information in general. Counsel shall attempt to agree on steps the parties will take to segregate and preserve electronically stored information in order to avoid accusations of spoliation.

(2) E-mail information. Counsel shall attempt to agree on the scope of e-mail discovery and e-mail search protocol.

(3) Deleted information. Counsel shall attempt to agree on whether deleted information still exists, the extent to which restoration of deleted information is needed, and who will bear the costs of restoration.

(4) Back-up and archival data. Counsel shall attempt to agree on whether back-up and archival data exists, the extent to which back-up and archival data is needed, and who will bear the cost of obtaining such data.

(5) Costs. Counsel shall discuss the anticipated scope, cost, and time required for disclosure or production of data beyond what is reasonably available to the parties in the ordinary course of business, and shall attempt to agree on the allocation of costs.

(6) Format and media. Counsel shall discuss and attempt to agree on the format and media to be used in the production of electronically stored information.

(d) In the event the parties cannot agree on the matters described in subparagraph (c), counsel shall note the issue of disagreement in Section 10 (“Other Matters”) of the joint case management plan so that the court may, if appropriate, address the matter during the case-management conference.

LR 26.2 Service and Filing of Discovery Material.

For local rule on service and filing of discovery material, see LR 5.4.

LR 26.3 Discovery Motions, Statement of Conference to Resolve Objections.

Counsel for movant in a discovery motion shall file as part of the motion a statement certifying that counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the court, together with a detailed explanation why such agreement could not be reached. If part of the issues raised by the motion have been resolved by agreement, the statement shall specify the issues so resolved and the issues remaining unresolved.

LR 26.4 Discovery Proceedings, Closing of.

In the absence of a discovery deadline set forth in a court order, each party to a civil action shall complete all discovery proceedings within six (6) months of the date of the last pleading filed by that party. The word "pleading" shall have the same meaning in this rule as in Fed.R.Civ.P.7(a). After the expiration of the discovery deadline, the parties are deemed ready for trial.

LR 30.1 Reserved.

LR 30.2 Videotape Depositions, General Authority and Rules Governing.

Any deposition to be taken upon oral deposition may be recorded by videotape. Except as otherwise provided by this rule, all other rules governing the practice and procedure in depositions and discovery shall apply.

LR 30.3 Videotape Depositions, Subpoena and Notices of.

Every notice or subpoena for the taking of a videotape deposition shall state that it is to be videotaped, the name and address of the person whose deposition is to be taken, the name and address of the person before whom it is to be taken, and the name and address of the videotape operator and the operator's employer. The operator may be an employee of the attorney taking the deposition.

LR 30.4 Videotape Depositions, Transcript.

A stenographic transcript of the deposition shall not be required, unless, upon motion of any party, or *sua sponte*, the court so directs, and apportions the cost of same among the parties as appropriate. Any party may elect to provide a transcript at his or her expense, in which event copies shall be made available to all other counsel at cost.

LR 30.5 Videotape Depositions, Procedure.

The deposition shall begin by the operator stating on camera (1) the operator's name and address, (2) the name and address of the operator's employer, (3) the date, time and place of the deposition, (4) the caption of the case, (5) the name of the witness, and (6) the party on whose behalf the deposition is being taken. The officer before whom the deposition is taken shall then identify himself or herself and swear the witness on camera. At the conclusion of the deposition the operator shall state on camera that the deposition is concluded. When the length of the deposition requires the use of more than one tape, the end of each and thebeginning of each succeeding tape shall be announced on camera by the operator.

LR 30.6 Videotape Depositions, Timing.

The deposition shall be timed by a digital clock on camera which shall show continually each hour, minute and second of each tape of the deposition.

LR 30.7 Videotape Depositions, Signature.

No signature of the witness will be required, unless the transcript is prepared pursuant to Local Rule 30.4.

LR 30.8 Videotape Depositions, Custody and Copies.

The attorney for the party taking the deposition shall take custody and be responsible for the safeguarding of the videotape and shall permit the viewing of and shall provide a copy of the videotape or the audio portion thereof upon the request and at the cost of a party.

LR 30.9 Videotape Depositions, Use.

A videotape deposition may be used to the same extent and in the same manner as an oral deposition under Fed.R.Civ.P.32.

LR 30.10 Depositions, Certificate of Conference to Remove Objections.

If an oral or videotape deposition is to be used at trial, counsel for the party who intends to introduce such deposition shall file a certificate with the court at the final pretrial conference stipulating that the attorney has conferred with counsel for the opposing party in an effort to eliminate irrelevancies, side comments, resolved objections, and other matters not necessary for consideration by the trier of fact. It shall be the duty of counsel to make good faith efforts to remove such portions of such depositions prior to trial. If a videotape transcript is not available, counsel shall preview the videotape in order to comply with this rule. If the court finds that any counsel failed in good faith to seek to remove such portions, the court may make such order as is just, including an order that the entire deposition be read against a party, or that the entire deposition be excluded.

LR 30.11 Videotape Depositions, Transcription, Marking as Exhibit, Custody and Return.

At a trial or hearing that part of the audio portion of a videotape deposition which is offered in evidence and admitted, or which is excluded on objection, shall be transcribed in the same manner as the testimony of other witnesses, unless a transcript is prepared pursuant to Local Rule 30.4, in which event the transcript shall be received in evidence and shall constitute the record of the testimony. The videotape shall be marked as an exhibit and shall remain in the custody of the court, and shall be returned to the party filing it within six (6) months after the case has been terminated.

LR 30.12 Videotape Depositions, Expenses and Counsel Fees.

At any oral deposition taken outside this district, including a videotape deposition, a party may apply to the court for an order requiring the party requesting the deposition to pay the opposing party reasonable expenses and counsel fees incident thereto.

LR 33.1 Interrogatories and Answers or Objections, Form of Service.

When interrogatories are served upon another party pursuant to Fed.R.Civ.P.33, the original and two (2) copies thereof shall be served upon the party who is to answer such interrogatories. Interrogatories shall be prepared in such fashion that sufficient space is provided immediately after each interrogatory or subsection thereof for insertion of the answer or objection and supporting reasons for the objection. If there is insufficient space to answer or object to an interrogatory, the remainder of the answer or objection shall follow on a supplemental sheet. The answers shall be under oath.

LR 33.2 Interrogatories, Supplemental Answers to.

Upon discovery by any party of information which renders that party's prior answers to interrogatories substantially inaccurate, incomplete or untrue, such party shall serve appropriate supplemental answers with reasonable promptness on all counsel or parties.

LR 33.3 Interrogatories, Number of.

Interrogatories to a party, as a matter of right, shall not exceed twenty five (25) in number. Interrogatories inquiring as to the names and locations of witnesses, or the existence, location and custodian of documents or physical evidence each shall be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories. If counsel for a party believes that more than twenty five (25) interrogatories are necessary, counsel shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the party seeking to submit additional interrogatories shall file a motion with the court showing the necessity for relief.

LR 36.1 Requests for Admission, Number of.

Requests for admissions to a party, as a matter of right, shall not exceed twenty five (25) in number. All requests for admissions, including subdivisions of one numbered request for admission, shall be construed as separate requests for admissions. If counsel for a party believes that more than twenty five (25) requests for admissions are necessary, counsel shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional requests for admissions. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the party seeking to submit additional requests for admissions shall file a motion with the court showing the necessity for relief.

LR 36.2 Requests for Admissions, Form of Objections to.

Objections to requests for admissions pursuant to Fed.R.Civ.P.36 shall identify and quote verbatim each request for admission to which objection is made and the supporting reasons for the objection.

LR 37.1 Discovery Abuse, Sanctions for.

In addition to the application of those sanctions specified in Local Rule 83.3, the court may impose upon any party or counsel such sanctions as may be just, including the payment of reasonable expenses and attorney's fees, if any party or attorney abuses the discovery

process in seeking, making or resisting discovery. In an appropriate case, the court may, in addition to other remedies, notify the Attorney General of the United States in a public writing that the United States, through its officers or attorneys, has failed without good cause to cooperate in discovery or has otherwise abused the discovery process.

CHAPTER IX

TRIALS

LR 39.1 Civil Trials, One Attorney for Each Party.

Unless the trial judge shall otherwise grant leave, only one attorney may open or sum up for any party.

LR 39.2 Civil Trials, Order of Addresses.

Counsel for the party having the affirmative of the issue on the pleadings shall open the case and shall be immediately followed by opposing counsel, and by third parties, each of whom shall succinctly state without argument their various positions and contentions, and recite briefly the evidence intended to be introduced in support of the same.

LR 39.3 Civil Trials, General Order of Summation.

At the conclusion of the evidence, counsel who opened the case shall first address the jury and be followed by counsel for the opposite party, and by third parties. Counsel making the first address shall have the right to reply, restricting the reply to rebuttal without assertion of any new grounds or repetition of arguments previously made.

LR 39.4 Civil Trials, Order of Summation in Third-Party Action.

In actions which involve a third-party action and if evidence has been presented by each party, the plaintiff's attorney shall first sum up as in Local Rule 39.3. Defendant's attorney shall next sum up for defendant as in Local Rule 39.3 and, for defendant as third-party plaintiff, shall state explicitly upon what he or she relies against the third-party defendant. The attorney for the third-party defendant shall next sum up as the nature of his or her third-party defense may require. The attorney for third-party plaintiff may then reply in rebuttal and thereafter the attorney for the original plaintiff may reply in rebuttal only of original defendant.

LR 39.5 Civil Trials, Other Multi-Party Actions.

In other multi-party actions the order of summation shall be determined by the trial judge.

LR 39.6 Civil Trials, Order of Addresses in Co-Party Cases.

In actions involving more than one plaintiff, defendant, or third-party defendant, if the attorneys are unable to agree, the trial judge shall determine the order of speaking.

LR 39.7 Civil Trials, Trial Briefs.

No later than three (3) days before trial, counsel shall file a trial brief and serve copies on all opposing counsel. The trial brief shall contain a succinct statement of the evidence to be presented and the position of the party filing the same with respect to anticipated legal issues, and the legal authorities relied upon to support the same. A trial brief shall conform to the requirements of Local Rule 7.8 as to content and length.

LR 41.1 Dismissal of Action.

Any action may be dismissed by the court at any time no proceedings appear to have been taken for one full calendar year. At least twenty eight (28) days written notice of such intended dismissal shall be given to all parties by the judge to whom such action is assigned, or by the clerk, and the action shall thereafter be dismissed, unless for good cause it shall be shown that the action should not be dismissed. Dismissal under this rule shall be in addition to and not in lieu of action which may be taken under Fed.R.Civ.P.41.

LR 42.1 Civil Trials, Order of Proof and Bifurcation.

The court may compel the plaintiff in any action to produce all evidence upon the question of the defendant's liability before any witness is called to testify solely to the extent of the injury or damages. The defendant's attorney may then move for a judgment as a matter of law. If the motion is refused, the trial shall proceed. The court may, however, allow witnesses to be called out of order. The court may order that the issues of liability and damages be bifurcated and that separate trials be held on each issue. Separate issues of liability or damages may be further subdivided for separate trials.

LR 43.1 Civil Trials, Attorney as Witness.

If an attorney for any party becomes a witness on behalf of a client and gives evidence upon the merits of the case the attorney shall forthwith withdraw as trial counsel unless, upon motion, permitted to remain as trial counsel by the court.

LR 43.2 Civil Trials, Number of Attorneys to Examine Witness.

On the trial of an issue of fact, only one attorney on either side shall examine or cross-examine any witness, unless otherwise permitted by the court.

LR 43.3 Civil Trials, Offers of Proof.

The party calling a witness, when required by the court, shall state briefly what is proposed to be proved by the testimony and the legal purpose of it.

LR 43.10 Special Trial Orders--Witnesses, Attorneys, Public Attendance, Number and Length of Addresses.

Subject to the requirements of due process of law and of the constitutional rights of the parties, a trial judge may make an order in any case covering any of the following matters:

Limitation of Witnesses.

Limiting the number of witnesses whose testimony is similar or cumulative;

Limitation of Witness Interrogation.

Limiting the time to be spent on the direct examination or the cross examination of a witness or of a party’s overall examination and cross examination of witnesses;

Limitation of Attorneys.

Limiting the number of attorneys representing the same party or the same group of parties, who may actively participate in the trial of the case or the examination of witnesses;

Number and Length of Addresses.
Regulating the number and length of addresses to the jury or to the court;

Regulating and Excluding Public Attendance.
Regulating or excluding the public or persons having no interest in the proceedings, whenever the court deems such order of exclusion to be in the interest of the public good, order or morals.

LR 43.20 Civil Trials, View.
A party desiring to have the jury view any premises involved in the litigation, may make application therefor either prior to the listing of the case for trial, or at the bar during the actual trial of the case. In all such cases, the allowance of the application shall be within the discretion of the court, which may impose upon the applicant such reasonable costs or expenses as may be involved in connection with such view, or may direct that any costs thereby incurred shall follow the judgment entered in such action as in other cases.

LR 48.1 Civil Trials, Juries.
Juries in civil cases shall consist, initially, of at least eight (8) members. Trials in such cases shall continue so long as at least six (6) jurors remain in service. If the number of jurors falls below six (6), a mistrial shall be declared upon prompt application therefor by any party then on the record unless the parties stipulate that the number of jurors may fall below six (6).

LR 48.2 Civil Trials, Trial Without A Jury.
In a civil action tried without a jury, counsel shall file requests for findings of fact and conclusions of law with the pretrial memorandum. Additional requests may be made during the trial as to matters that could not have been reasonably anticipated before trial.

LR 51.1 Civil Trials, Requests to Instruct the Jury.
Requests to instruct the jury shall not exceed twelve (12) in number without leave of court. Each shall be a single request, on a separate numbered page, indicating the party making the request, and framed so that it can be either affirmed or denied. It shall cite the authority upon which it is based. When the authority relied upon is case law, the reference shall include the page(s) of the decision containing the point being proposed as well as the case citation. The requests shall be filed and served no later than three (3) days before trial. Such requests may be supplemented for matters arising during the trial that could not have been reasonably anticipated before trial.

CHAPTER X

JUDGMENT

LR 54.1 Judgment by Confession.

Judgment may be entered on a confession of judgment or a warrant of attorney to confess judgment, in accordance with the practice in effect in the courts of the Commonwealth of Pennsylvania, providing the requisites of federal jurisdiction are set forth in the papers filed in connection with the entry of judgment. The caption of all papers filed in connection with confession of judgment cases subsequent to the complaint shall include the phrase "Confession of Judgment" directly below the assigned judge's name.

LR 54.2 Security for Costs.

In any action in which the plaintiff was not a resident of the Middle District of Pennsylvania at the time suit was brought, or, having been so afterwards removed from this district, the court may enter an order for security for costs upon application and notice. If the party or parties fail to post security as fixed by the court, a judgment of dismissal may be entered upon motion.

LR 54.3 Bills of Costs.

Bills of costs, unless an extension is granted, shall be filed no later than thirty (30) days after entry of final judgment. All bills of costs requiring taxation shall be taxed by the clerk, subject to an appeal to the court. Any party appellant shall, within seven (7) days of such taxation, file a written specification of the items objected to and the grounds of objection. A copy of the specifications and objections shall be served on the opposite party or that party's attorney within seven (7) days. An appeal may be dismissed for non-compliance with the appeal requirements.

LR 54.4 Taxation of Costs.

Costs shall be taxed in conformity with the provisions of 28 U.S.C. §§ 1920 - 1923 and such other provisions of law as may be applicable and such directives as the court may from time to time issue. Taxable items include:

(1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920) and service fees are allowable by statute. Fees required to remove a case from the state court to federal court are allowed as follows: fees paid to clerk of state court; fees for services of process in state court; costs of documents attached as exhibits to documents necessarily filed in state court, and fees for witnesses attending depositions before removal.

(2) Trial Transcripts. The cost of an original of a trial transcript, a daily transcript and of a transcript of matters prior or subsequent to trial, furnished to the court is taxable at the rate authorized by the Judicial Conference when either requested by the court, or prepared pursuant to stipulation. Mere acceptance by the court does not constitute a request. Copies of transcripts for counsel's own use are not taxable in the absence of a special order of the court.

(3) Deposition Costs. The reporter's charge for the original deposition and/or a copy is taxable whether or not the same is actually received into evidence, and whether or not it is taken solely for discovery, regardless of which party took the deposition. Additional copies are not taxable. The reasonable expenses of the deposition reporter, and the notary, or other

official presiding at the taking of the depositions are taxable, including travel and subsistence. Expenses incurred in taking a deposition are not taxable. Fees for the witness at the taking of a deposition are taxable at the same rate as for attendance at trial. Fees for videotaped depositions may not be taxed without prior court approval. The witness need not be under subpoena. A reasonable fee for a necessary interpreter at the taking of a deposition is taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand provided the witness necessarily attends the court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is that which is traveled based on the most direct route. Mileage fees for travel outside the district shall not exceed 100 miles each way without prior court approval. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying in his or her own behalf but this shall not apply where a party is subpoenaed to attend court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance of fees for a witness on deposition shall not depend on whether or not the deposition is admitted into evidence.

(5) Exemplification and Copies of Papers. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or client are not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not taxable. The cost of reproducing the required number of copies of the clerk's record on appeal is allowable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of maps and charts are taxable if they are admitted into evidence. The cost of photographs 8" by 10" in size or less, are taxable if admitted into evidence, or attached to documents required to be filed and served on opposing counsel. Enlargements greater then 8" by 10" are not taxable except by order of the court. The cost of models is not taxable except by order of the court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

(7) Interpreter Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed, or admitted in evidence.

(8) Docket Fees. Docket fees and costs of briefs are taxable pursuant to 28 U.S.C. § 1923.

(9) Other items may be taxed with prior court approval.

(10) The certificate of counsel required by 28 U.S.C. § 1924 and the local rules shall be prima facie evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

LR 54.5 Notice of Taxation of Costs.

Any party requesting taxation of costs by the clerk shall give the clerk and all other parties seven (7) days written notice of such request. The clerk shall fix the time for taxation and notify the parties or their counsel.

LR 54.6 Payment of Clerk's or Marshal's Costs.

The clerk shall not enter an order of dismissal or of satisfaction of judgment until the clerk's and marshal's costs have been paid. The clerk, in cases settled by parties without payment of costs, may have an order on one or more of the parties to pay the costs. Upon failure to pay costs within fourteen (14) days, or at such time as the court may otherwise direct, the clerk may issue execution for recovery of costs.

LR 54.7 Witness Fees, Costs, Etc.

The fees and mileage of witnesses shall be paid by the party on whose behalf the witness was subpoenaed, and upon the filing of proof of such payment, by affidavit filed in the case, as required by 28 U.S.C. § 1924, such costs shall be taxed and form part of the judgment in the case.

LR 56.1 Motions for Summary Judgment.

A motion for summary judgment filed pursuant to Fed.R.Civ.P.56, shall be accompanied by a separate, short and concise statement of the material facts, in numbered paragraphs, as to which the moving party contends there is no genuine issue to be tried.

The papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement required in the foregoing paragraph, as to which it is contended that there exists a genuine issue to be tried.

Statements of material facts in support of, or in opposition to, a motion shall include references to the parts of the record that support the statements.

All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

LR 58.1 Marshal's Deeds.

Marshal's deeds for property sold in execution shall not be acknowledged or delivered until fourteen (14) days after the date of the execution sale, during which time any objections to any sale or to the right of the purchaser, as a lien creditor, to apply a lien in satisfaction of a bid shall be filed.

CHAPTER XI

PROVISIONAL AND FINAL REMEDIES

LR 65.1 Court Officers Not to Become Bail or Security.

No attorney, clerk, marshal, bailiff or other officer of the court shall furnish bail or security in any matter in or before the court.

LR 67.1 Investment of Registry Funds Pending Litigation.

(a) Investment of Funds by Clerk of Court. The Clerk of Court will invest funds under Fed. R. Civ. P. 67 as soon as the business of his or her office allows.

(b) Deposit in Court Pursuant to Fed. R. Civ. P. 67.

(1) Receipt of Funds

A. No money shall be sent to the Court or its officers for deposit in the Court's registry without a court order signed by the presiding judge in the case or proceeding.

B. The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the Clerk of Court, the Chief Deputy and the Financial Administrator.

C. Unless provided for elsewhere in the Order, all monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories by the Treasury to accept such deposit on its behalf.

(2) Investment of Registry Funds

A. Where, by order of the Court, funds on deposit with the Court are to be placed in some form of interest-bearing account, or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, shall be the only investment mechanism authorized.

B. Money from each case deposited in the CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of Administrative Office of the United States Courts, hereby designated as Custodian ("Custodian") for CRIS. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

C. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earnings has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel upon request.

(3) Deduction of Fees

A. The Custodian is authorized to deduct the investment services fee for the management of investments in the CRIS and the registry fee for maintaining accounts deposited with the Court.

B. The investment services fee is assessed from interest earnings according to the Court's Miscellaneous Fee Schedule.

C. The registry fee is assessed by the Custodian from each case's pro rata distribution of the earnings and is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference of the United States.

(4) Withdrawal of a Deposit Pursuant to Fed. R. Civ. P 67. The Court's order for disbursement of invested registry funds must include the name and address of the payee(s) in addition to the total amount of the principal and interest (if the interest is not known, the order may read "plus interest") which will be disbursed to each payee. In order for the Clerk of Court to comply with the Internal Revenue Code and the rules thereunder, payees receiving earned interest must provide a W-9 Taxpayer Identification and Certification form to the office of the Clerk of Court prior to disbursement from the invested account. The disbursement order should be reviewed by the Clerk of Court or the Financial Supervisor prior to being signed by the Judge in order to insure that the necessary information is provided.

(c) Funds regularly deposited in the registry of the court such as bail, removal bonds and civil garnishments are placed in the Treasury of the United States and accrue no interest.

CHAPTER XII

SPECIAL PROCEEDINGS

LR 71A.1 Condemnation Procedures.

LR 71A.1.1 Formal Filing Requirements.

In condemnation proceedings, all documents presented for filing shall contain in the caption a reference to the tract number or numbers, in numerical order, to which the document refers, and the name of the owner, owners, reputed owner, or reputed owners, as the case may be. All correspondence from counsel to the court or the clerk shall bear a similar notation immediately preceding the salutation.

LR 71A.1.2 Separate Files for Separate Tracts.

For each tract, economic unit or ownership for which the just compensation is required to be separately determined in a total lump sum, there shall be a separate civil action file opened by the clerk, which shall be given a serial number such as is given in all other civil actions. The condemnor's counsel shall make the initial determination of each tract, economic unit or ownership for which just compensation is required to be separately determined in a lump sum, subject to review by the court after filing.

LR 71A.1.3 Master File.

The file in the civil action containing the first complaint filed under a single declaration of taking shall be designated as the Master File for all the civil actions based upon the single declaration of taking. The numerical designation as the Master File shall be shown by adding as a suffix to the civil action serial number and the symbol MF_____. (In the blank shall be inserted a code number or numbers, selected by the condemnor, designating the project or projects and the number assigned the declaration of taking with which the property concerned is connected.) The single declaration of taking shall be filed in the Master File only. In all other civil actions for condemnation of property which is the subject of the declaration of taking, an appropriate reference to the Master File number in a standard form of complaint shall be deemed to incorporate in the cause the declaration of taking by reference, and shall be a sufficient filing of the declaration of taking referred to.

LR 71A.1.4 Separate Complaint in Master File.

For the civil action designated as the Master File there shall be a separate complaint. At the option of the condemnor this complaint and exhibits shall (1) describe all owners, and other parties affected and all properties that are the subject of the declaration of taking, or (2) describe only the owner or owners of the first property or properties in the declaration of taking for which the issue of just compensation is separately determinable.

LR 71A.1.5 Standard Form Complaint.

A standard form of complaint may be used for each civil action filed to condemn a tract, economic unit or ownership for which the issue of just compensation is required to be determined in a single lump sum. In the body of the complaint it shall not be necessary to designate the owner or owners of the property concerned, other parties affected by the civil

action, or to describe the property concerned in the civil action. The names of the owners, and other parties affected, and the description of the property concerned in the civil action, may be set forth in an exhibit or exhibits incorporated by reference in the standard form of complaint and filed with the complaint.

LR 71A.1.6 Combined Notice or Process.

In any notice or process required or permitted by law or by the Federal Rules of Civil Procedure (including but not limited to process under Fed.R.Civ.P.71A(d)) the condemnor, at its option, may combine in a single notice or process, notice or process in as many separate civil actions as it may choose in the interests of economy and efficiency.

LR 71A.1.7 Effect of Filing in Master File.

The filing of a declaration of taking in the Master File constitutes a filing of the same in each of the actions to which it relates.

CHAPTER XIII

MAGISTRATE JUDGES

LR 72.1 Authority of Magistrate Judges.

(a) In General.

Magistrate judges are judicial officers of the court. Any magistrate judge of this district may perform any duty authorized or allowed by law to be performed by a magistrate judge. Except as otherwise provided by law, rule, or order of this court, the performance of a duty by a magistrate judge shall be in accordance with such other provisions of these rules as would apply if that duty were performed by a district judge. A magistrate judge may determine any preliminary matters; require parties, attorneys, and witnesses to appear; require briefs, proofs, and argument; and conduct any hearing, conference, or other proceeding the magistrate judge deems appropriate in performing his or her duties.

(b) Special Designation to Exercise Civil Consent Authority.

Any magistrate judge of this district may, upon consent of the parties, conduct any or all proceedings in a civil matter and order entry of judgment in the matter. (See 28 U.S.C. § 636(c)(1))

(c) Special Designation to Conduct Misdemeanor Trials.

Any magistrate judge of this district may try persons accused of misdemeanor offenses and sentence persons convicted of misdemeanor offenses. (See 18 U.S.C. § 3401)

LR 72.2 Appeals from Non-Dispositive Orders of Magistrate Judges.

Any party may appeal from a magistrate judge's order determining a non-dispositive pretrial motion or matter in any civil or criminal case in which the magistrate judge is not the presiding judge of the case, within fourteen (14) days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. At the time the appeal is filed, the appellant shall also file a brief addressed to the issue raised by the objection to the order or part appealed from. Any party opposing the appeal shall file a responsive brief within fourteen (14) days after service of the appellant's brief. A brief in reply may be filed within seven (7) days after service of the opposing party's brief. A judge of the court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The judge may also reconsider *sua sponte* any matter determined by a magistrate judge under this rule.

LR 72.3 Review of Reports and Recommendations of Magistrate Judges Addressing Case Dispositive Motions.

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which

objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

LR 72.4 Magistrate Judges, Appeal from Judgments in Misdemeanor Cases - 18 U.S.C. § 3402.

For local rule of criminal procedure regarding Magistrate Judges, Appeal from Judgments in Misdemeanor Cases, see Section II, Chapter I, LCrR 58.1.

LR 72.5 Magistrate Judges, Authority for Forfeiture of Collateral.

For local rules on Magistrate Judges authority and general provisions for Forfeiture of Collateral, see Section II, Chapter I, LCrR 58.2 and LCrR 58.3.

LR 73.1 Magistrate Judges, Special Provisions for the Disposition of Civil Cases on Consent of the Parties--28 U.S.C. § 636(c).

(a) Notice.

The clerk of court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be handed or mailed to the plaintiff or his or her representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons, when served.

(b) Execution of Consent.

The clerk shall not accept a consent form unless it has been signed by all parties in a case. The plaintiff shall be responsible for securing the execution of a consent form by the parties and for filing such form with the clerk of court within sixty (60) days after the filing date of the case. No consent form will be made available, nor will its contents be made known to any judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge. No magistrate judge, judge, or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate judge. This rule, however, shall not preclude a judge or magistrate judge from informing the parties that they may have the option of referring a case to a magistrate judge.

(c) Reference.

After the consent form has been executed and filed, the clerk shall transmit it to the judge to whom the case has been assigned for approval and referral of the case to a magistrate judge. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the clerk of court to enter a final judgment in the same manner as if a judge had presided.

(d) Cases Referred to a Magistrate Judge By Rotational Assignment.

A civil case may be referred to a magistrate judge at the time of the filing of the complaint under the rotational assignment plan of the court and, at the same time, will be assigned to a district court judge. The magistrate judge, independent of the parties' consent, is authorized to exercise all the judicial authority that is provided for by law for a magistrate judge.

The magistrate judge may, despite the initial absence of consent to proceed before the magistrate judge, establish a deadline for a consent decision in the case management order. The parties shall be advised that they are free to withhold consent without adverse substantive consequences.

(e) Joint Case Management Plan.

The parties in completing the joint case management plan form before the case management conference, in all civil cases, shall state whether all parties consent to have a magistrate judge conduct all proceedings including trial and the entry of a final judgment. Upon the consent of all of the parties, the assigned district court judge may direct the clerk to reassign the case to a magistrate judge. In a case that has been referred to a magistrate judge on a rotational basis, upon a statement in the joint case management plan that the parties consent to proceed before the magistrate judge, the clerk shall reassign the case to that magistrate judge.

CHAPTER XIV

DISTRICT COURTS AND CLERKS

LR 77.1 Clerk's Offices.

The clerk's office shall be at Scranton, Pennsylvania, unless otherwise directed by the court. Auxiliary clerk's offices shall be maintained at such places as designated by the court and provided by law, staffed by deputy clerks, where actions may be commenced and process issued and permanent records of the court may be maintained, with the same force and effect as if done at Scranton, Pennsylvania.

LR 79.1 Entries in Clerk's Records.

No one other than the clerk or deputy clerks duly authorized shall make any entry in the clerk's records, unless specifically ordered to do so by the court.

LR 79.2 Removal of Court Records.

No papers or records or things filed, entered for record or admitted into evidence in any action shall be removed from the official records of the court officers or staff except upon order of the court.

LR 79.3 Deposits for Costs.

The clerk and the marshal may require reasonable deposits for anticipated cost from parties filing papers or requesting services.

LR 79.4 Removal or Disposition of Exhibits.

Except for those documentary exhibits required to remain permanently with case records, attorneys are responsible, after final judgment including appeal, for removing or authorizing the clerk to dispose of document exhibits which do not fit in the regular case file. Documents of unusual bulk or weight and physical exhibits other than documents are to be removed immediately after trial and, if necessary in an appeal, attorneys must make arrangements for transport to and receipt of such exhibits at the court of appeals. If not removed or disposition authorized, upon thirty (30) days notice from the clerk, such exhibits will be destroyed or otherwise disposed of by the court.

LR 79.5 Unsealing of Civil Cases/Documents.

Unless good cause is shown, all civil cases and/or documents in those cases which still remain under seal after the case is terminated will be unsealed by the court no later than two (2) years after the final judgment and/or the exhaustion of all appeals.

CHAPTER XV

GENERAL PROVISIONS

LR 83.1 Use of Photography, Radio and Television Equipment in the Courtroom and Its Environs.

LR 83.1.1 Judicial Proceedings.

The taking of photographs in the courtroom or its environs, or radio or television broadcasting from the courtroom or its environs, or taping or recording in the courtroom or its environs during the progress of and in connection with judicial proceedings, including proceedings before a United States Magistrate Judge, whether or not court is actually in session, is prohibited. Environs of the courtroom shall include the entire floor on which is located any courtroom, grand jury room, marshal's office, clerk's office, or office of the United States Attorney, or any lock-up, and the corridor or lobby on the main floor or street floor constituting an entrance area to the building in which is located any elevator door for elevators leading from such entrance areas of the building to any such floor. The court may make such orders as may be necessary in connection with any specific case to protect the rights of all parties and the public.

LR 83.1.2 Ceremonial Proceedings.

In the discretion of any judge of this court, broadcasting, photographing, televising, or recording of investigative, naturalization, or ceremonial proceedings in a courtroom may be permitted under such conditions as the judge may prescribe.

LR 83.2 Extrajudicial Statements in Civil Proceedings.

(a) A lawyer representing a party in a civil matter triable to a jury shall not make any extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer or other person knows or reasonably should know that it will have a substantial likelihood of causing material prejudice to an adjudicative proceeding.

(b) A statement referred to in LR 83.2(a) ordinarily is likely to have such an effect when it relates to:

(1) the character, credibility, reputation or criminal record of a party or witness, the identity of a witness, or the expected testimony of a party or witness;

(2) the performance or results of any examination or test, the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented; and

(3) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudice to an impartial trial.

(c) Notwithstanding LR 83.2(a) and (b), a lawyer involved in the litigation of a matter may state without elaboration:

(1) the general nature of a claim or defense;

(2) the information contained in a public record;

(3) the scheduling or result of any step in litigation; and

(4) a request for assistance in obtaining evidence and the information necessary thereto.

(d) Nothing in this Rule is intended to preclude either the formulation or application of more restrictive rules relating to the release of any information about parties or witnesses in an appropriate case.

(e) Nothing in this Rule is intended to apply to the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, nor to a reply by any attorney to charges of misconduct publicly made against that attorney.

(f) The court's supporting personnel including, among others, the marshal, deputy marshals, the clerk, deputy clerks, court reporters and employees or subcontractors retained by the court-appointed official reporters, probation officers and their staffs, and members of the Judges' staffs, are prohibited from disclosing to any person, without authorization by the court, information relating to a proceeding that is not part of the public record of the court. The disclosure of information concerning *in camera* arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

(g) The court, on motion of any party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of a party to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the court may deem appropriate for inclusion in such an order.

LR 83.3 Sanctions.

LR 83.3.1 Sanctions in the Discretion of Court.

In the sound discretion of any judge of this court, after notice and an opportunity to be heard, one or more of the following sanctions may be imposed for failure to comply with any rule or order of court:

(a) Dismissal, Default and Preclusion Orders.

Failure of counsel for any party to appear before the court at any case management conference or final pretrial conference or to complete the necessary preparations therefor in accordance with these rules or to be prepared for trial at the time of any scheduled date for trial, or otherwise to comply with any of the rules contained herein, or any order of court, may be considered an abandonment or failure to prosecute or defend diligently, and an order precluding counsel from offering specific evidence or raising certain issues, or judgment, may be entered against the defaulting party either with respect to a specific issue or on the entire case.

(b) Imposition of Costs on Attorneys.

If counsel acts in a dilatory manner or files motions for the purpose of delay, or fails to comply with any rule or order of court, and the judge finds that the sanctions in subsection 83.3.1(a) above are inadequate or unjust to the parties in light of the facts or circumstances, the judge may, in addition to, or in lieu of, such sanctions assess reasonable costs directly against counsel whose action has obstructed the effective administration of the court's business, or suspend counsel from practicing in this court for a specified period of time not exceeding six (6) months. Any such suspension shall not be subject to Chapter XVII, Attorney Disciplinary Enforcement.

LR 83.3.2 Failure to Exercise Reasonable Diligence In Effecting Settlement of a Case.

Whenever the court finds that any party or lawyer in any case before the court has acted in bad faith, or has failed to exercise reasonable diligence in effecting the settlement of such case at the earliest practicable time, the court may impose upon any such party or lawyer the jury costs, including mileage and per diem, resulting therefrom. The court may, in its discretion, hold a hearing to inquire into the facts with respect thereto.

LR 83.3.3 Additional Sanctions.

In addition to the sanctions set forth above, the court may impose sanctions in discovery matters as set forth in Local Rule 37.1.

LR 83.4 Juror Contact.

No attorney or party or anyone acting on behalf of such attorney or party shall, without express permission from the court, initiate any communication with any juror pertaining to any case in which that juror may be drawn, is participating, or has participated.

LR 83.5 Courthouse and Courtroom Security.

Matters of policy relating to courthouse and courtroom security and the use of electronic devices are addressed in Standing Orders of Court, which can be found on the court's website @ www.pamd.uscourts.gov

LR 83.6 Place of Trial.

LR 83.6.1 General Rule.

Every action shall be tried at the place in the district designated for the holding of court which is nearest to the residence or principal place of business of the defendant or the residence or principal place of business of the principal defendant of multiple defendants, provided that such defendant maintains a bona fide residence or place of business in this district, except that in civil actions arising out of the operation of motor vehicles or other civil actions sounding in tort, the place of trial of such cases shall be at the place for the holding of court which is nearest the scene of the principal event giving rise to the cause of action.

LR 83.6.2 Agreement of the Parties.

The parties may agree, with the approval of the court, upon the place of trial of any civil action in which they are interested.

LR 83.6.3 Discretion of the Court.

Notwithstanding any other provision of this rule, in all actions the court shall have the right to designate the place of trial for the convenience of the court or of all parties and witnesses.

LR 83.7 Judicial Misconduct and Disability.

Copies of the Rules of the Judicial Council of this Circuit implementing the Judicial Conduct and Disability Act, 28 U.S.C. § 372, are available from the clerk of court without charge.

CHAPTER XVI

ATTORNEYS

LR 83.8 Admission to Practice.

In order to practice in this court, an attorney must be admitted to practice under these rules, except as provided in Federal Rule of Civil Procedure 45(f).

LR 83.8.1 General Admission.

LR 83.8.1.2 Qualifications.

Any person of good, moral and professional character shall be entitled to admission as an attorney of this court, provided that the person is a member of the bar of the Supreme Court of Pennsylvania, and provided that the person is a member in good standing in every jurisdiction where the person has been admitted to practice and neither has been disbarred nor is subject to pending disciplinary proceedings.

LR 83.8 Admission to Practice.

In order to practice in this court, an attorney must be admitted to practice under these rules, except as provided in Federal Rule of Civil Procedure 45(f).

LR 83.8.1.3 Procedure.

A person seeking admission under this rule shall file a petition, on a form provided by the clerk, setting forth the basis for admission. The petitioner must have a sponsor who is a member in good standing of the Bar of this Court. A sponsor's certificate must be included with the petition for admission and the sponsor must be present at the swearing in ceremony to move for admission. The clerk of the court shall receive and maintain all papers submitted by persons seeking admission under this rule. The court may grant admission by oral or written order and by notifying the clerk of the court. A fee shall be charged for admission under this rule. Petition forms shall be available from the clerk.

LR 83.8.2 Special Admissions.

LR 83.8.2.1 *Pro Hac Vice* Admission.

An attorney who is admitted to practice in any United States District Court and the highest court of any state, and who is a member of the bar in good standing in every jurisdiction where admitted to practice, and who is not subject to pending disciplinary proceedings in any jurisdiction, may be admitted to practice by leave granted in the discretion of the court but only for the purpose of a particular case. The name, address telephone number and bar identification number of the associate counsel required by Local Rule 83.9 shall be provided on the application at the time of filing.

LR 83.8.2.2 Attorneys for the United States.

An attorney who is a member in good standing of the bar of the highest court of any state, territory, or the District of Columbia, and who is not subject to pending disciplinary proceedings in any jurisdiction may, represent in this court the United States, an agency of the United

States, or an officer of the United States when that officer is a party in the officer's official capacity.

LR 83.8.2.3 Attorneys for Federal Defender Organizations.

An attorney who is employed by a federal defender organization and is a member of the bar of any United States District Court, who is a member of the bar in good standing in every jurisdiction in which the attorney has been admitted to practice, and who is not subject to pending disciplinary proceedings in any jurisdiction, shall be permitted to represent in this court individuals provided representation pursuant to the Criminal Justice Act of 1964 as amended.

LR 83.8.2.4 Attorneys Employed by or Associated with Organized Legal Services Programs.

An attorney who is employed by or associated with an organized legal services program (which is sponsored, approved or recognized by the local county bar association or is duly authorized by Pennsylvania Legal Services Center, Inc., and which provides legal assistance to indigents in civil matters) and is a member of the bar of the highest court in any state (including territories and the District of Columbia) shall be admitted to practice before this court in all cases in which the attorney is associated with the organized legal services program. Admission to practice under this section shall cease to be effective whenever the attorney is no longer associated with such program. Within twenty one (21) days after termination of an attorney's association, a statement to that effect shall be filed with the clerk of the court by a representative of the legal services program. In no event shall admission to practice under this section remain in effect longer than two and one-half (2-1/2) years without being renewed in accordance with the applicable procedures.

LR 83.8.2.5 Procedure.

An attorney seeking special admission under Local Rule 83.8.2.1, .2, .3 or .4 of this chapter shall file a petition with the court, setting forth the basis for admission under that section. In cases where admission under Local Rule 83.8.2.2, .3 or .4 is sought, the attorney shall submit a statement from a superior stating that the attorney performs duties which qualify him or her for admission under that section. The clerk of the court shall record and maintain all legal papers submitted by attorneys seeking admission under this rule. The court may grant special admission under this rule by oral or written order and by notifying the clerk of the court. A fee, to be established by Standing Order, shall be charged by the clerk for each Special Admission under Local Rules 83.8.2.1, but no fee shall be charged for attorneys seeking special admission under Local Rule 83.8.2.2, .3, or .4. Petition forms shall be available from the clerk.

LR 83.9 Associate Counsel Required.

Any attorney specially admitted under Local Rule 83.8.2.1 shall, in each proceeding in which he or she appears, have associate counsel who is generally admitted under Local Rule 83.8.1 to practice in this court, whose appearance shall also be entered of record and upon whom all pleadings, motions, notices, and other papers may be served in accordance with any statute or applicable rule. The attendance of any such associate counsel upon the hearing of any motion or the taking of any testimony shall be sufficient appearance for the party or parties represented by such associate counsel. If a specially admitted attorney is unavailable for any hearings or motions, arguments, conferences and trials, associate counsel shall be fully

prepared to proceed therewith.

LR 83.10 Conflicts and Continuances.

LR 83.10.1 Observation of Dates and Times.

All members of the bar of this court and those permitted to practice in a particular action shall strictly observe the dates and times fixed for hearings on motions, conferences and trials.

LR 83.10.2 Reserved.

LR 83.10.3 Illness.

Illnesses of parties and material witnesses shall be substantiated by a current medical certificate.

LR 83.10.4 Subpoena Requirement.

No trial shall be continued on account of the absence of any witness unless a subpoena for the attendance of such witness has been served at least seven (7) days prior to the date set for trial. This rule shall not dispense with the obligation to take the depositions of any witness where the party or counsel requiring such attendance knows that such witness intends to be absent from the district at the time of trial, or where such witness is not subject to subpoena within this jurisdiction.

LR 83.10.5 Court Conflicts.

Conflicts with dates fixed for hearings on motions, conferences and trials will be recognized only in respect to the Supreme Court of the United States, the Court of Appeals for the Third Circuit, the Pennsylvania Supreme Court, the Pennsylvania Superior Court, and, when not sitting as a trial court, the Pennsylvania Commonwealth Court. In case of all other conflicts there shall be a member of the bar of this court or any attorney specially admitted for the purpose of the case fully prepared to proceed.

LR 83.11 Registered Addresses.

LR 83.11.1 Address on File.

An attorney admitted to the bar of this court under Local Rule 83.8 shall file with the clerk of this court an address in the state of Pennsylvania for the service or receipt of all pleadings, motions, notices, and other papers served or sent pursuant to any statute or applicable rule. Any changes of address shall be reported promptly. The clerk may maintain this registry, by card or other format, singularly or in conjunction with the roll of attorneys.

LR 83.11.2 Latest Address.

In cases of attorneys admitted for a particular case under Local Rules 83.8.2.1, .2, .3 and .4, the registered address of each such attorney shall be the latest address appearing in that case file.

LR 83.12 Roll of Attorneys.

An alphabetical roll of the attorneys admitted to practice in this court under Local Rule 83.8

shall be kept by the clerk in a format approved by the court. Said record shall contain the full name of each attorney, his or her residence, the date of admission and upon whose motion.

LR 83.13 Reserved.

LR 83.14 Appearance.

The signing of a pleading or motion shall be deemed an entry of appearance. Appearance by attorneys or parties not signing pleadings or motions shall be by praecipe filed with the clerk except as provided in Local Rule 83.9.

LR 83.15 Withdrawal of Appearance.

Appearance of counsel shall not be withdrawn except by leave of court. The court may refuse to approve withdrawal. If counsel is superseded by new counsel, such new counsel shall enter an appearance and counsel who is superseded shall comply with this rule and apply for leave to withdraw from the action. The court may refuse to grant a motion for leave to withdraw unless substitute counsel has entered an appearance.

LR 83.16 Warrant of Attorney.

The court may require any attorney to file his or her warrant of attorney.

LR 83.17 Agreements To Be In Writing.

All agreements of attorneys relating to the conduct of any business before the court not made in open court shall be in writing, or otherwise they will not be enforced.

LR 83.18 Appearance of Parties Not Represented by Counsel.

Whenever a party by whom or on whose behalf an initial paper is offered for filing is not represented in the action, such party shall maintain on file with the clerk a current address at which all notices and copies of pleadings, motions or papers in the action may be served upon such party. Service of any notices, copies of pleadings, motions or papers in the action at the address currently maintained on file in the clerk's office by a party shall be deemed to be effective service upon such party.

LR 83.19 Student Practice Rule.

(a) Purpose.

The following Student Practice Rule is designed to encourage law schools to provide clinical instruction in litigation of varying kinds, and thereby enhance the competence of lawyers in practice before the United States District Court.

(b) Student Requirements.

An eligible student must:

(1) be duly enrolled in a law school;

(2) have completed at least four (4) semesters of legal studies, or the equivalent;

(3) be enrolled for credit in a law school clinical program which has been certified by this court;

(4) be certified by the Dean of the law school, or the Dean's designee, as being of good character and sufficient legal ability, in accordance with Section 13 above, to fulfill the responsibilities as a legal intern to both the client and this court;

(5) be certified by this court to practice pursuant to this rule;
(6) not accept personal compensation for legal services from a client or other source;
(7) be introduced to the judge before whom the student is to practice by the supervising attorney.

(c) Program Requirements.

The program:

(1) must be a law school clinical practice program for credit, in which a law student obtains academic and practice advocacy training, utilizing law school faculty for practice supervision, including federal government attorneys, private practitioners, or attorneys working for public defender offices, district attorney offices, the Office of Attorney General, or legal services programs, providing all such attorneys utilized for this purpose have been admitted to practice in this court;
(2) must be certified by this court;
(3) must be conducted in such a manner as not to conflict with normal court schedules;
(4) may accept compensation other than from a client;
(5) must secure and maintain professional liability insurance for its activities and file a certificate of such insurance with the clerk of court.

(d) Supervisor Requirements.

A supervisor must:

(1) have faculty or adjunct faculty status at the responsible law school and be certified by the Dean of the law school as being of good character and sufficient legal ability and as being adequately trained to fulfill the responsibilities as a supervisor, or in the alternative must be approved by either the court or the Dean of the law school;
(2) be admitted to practice in this court;
(3) be present with the student at all times in court, and at other proceedings, including depositions, in which testimony is taken;
(4) co-sign all pleadings or other documents filed with this court;
(5) assume full personal professional responsibility for the student's guidance in any work undertaken and for the quality of a student's work, and be available for consultation with represented clients;
(6) assist and counsel the student in activities mentioned in this rule, and review such activities with the student, to the extent required for the proper practical training of the student and the protection of the client;
(7) be responsible to supplement oral or written work of the student as necessary to ensure proper representation of the client.

(e) Certification of Student, Program and Supervisor.

(1) Students.

a. Certification by the law school Dean and approval by this court shall be filed with the clerk of court, and unless it is sooner withdrawn, shall remain in effect until expiration of 18 months;
b. Certification to appear in a particular case may be withdrawn by this court at any time, in the discretion of the court, and without any showing of cause.

(2) Program.

a. Certification of a program by this court shall be filed with the clerk of court and shall remain in effect indefinitely unless withdrawn by the court;
b. Certification of a program may be withdrawn by this court at any time;

(3) Supervisor.

a. Certification of a supervisor must be filed with the clerk of court, and shall remain in effect indefinitely unless withdrawn by this court;

b. Certification of a supervisor may be withdrawn by this court at any time;

c. Certification of a supervisor may be withdrawn by the Dean by mailing the notice to that effect to the clerk of court.

(f) Activities.

A certified student, under the personal supervision of the supervisor, as set forth in Part (d) of this rule, may:

(1) represent any client including federal, state or local government bodies, in any civil or administrative matter, if the client on whose behalf the student is appearing has indicated in writing their consent to that appearance and the supervising lawyer has also indicated in writing, approval of that appearance;

(2) engage in all activities on behalf of the clients that a licensed attorney may engage in.

(g) Limitation of Activities.

The court retains the power to limit a student's participation in any particular case to such activities as the court deems consistent with the appropriate administration of justice.

CHAPTER XVII

ATTORNEY DISCIPLINARY ENFORCEMENT

LR 83.20 Attorneys Convicted of Crimes.

LR 83.20.1 Immediate Suspension.

Upon the filing with this court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before this court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, the court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice.

LR 83.20.2 Definition of Serious Crime.

The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

LR 83.20.3 Certified Copy of Conviction as Evidence.

A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

LR 83.20.4 Mandatory Reference for Disciplinary Proceeding.

Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the court shall in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

LR 83.20.5 Discretionary Reference for Disciplinary Proceedings.

Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no reference with respect to convictions for minor offenses.

LR 83.20.6 Reinstatement upon Reversal.

An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

LR 83.21 Discipline Imposed by Other Courts.

LR 83.21.1 Notice by Attorney of Public Discipline.

Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the clerk of this court of such action.

LR 83.21.2 Proceedings after Notice of Discipline.

Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court, this court shall forthwith issue a notice directed to the attorney containing:

(a) A copy of the judgment or order from the other court and

(b) An order to show cause directing that the attorney inform this court within thirty (30) days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in Local Rule 83.21.4 that the imposition of the identical discipline by the court would be unwarranted and the reasons therefor.

LR 83.21.3 Stay of Discipline in Other Jurisdiction.

In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

LR 83.21.4 Reciprocal Discipline.

Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of Local Rule 83.21.2(b) above, this court shall impose the identical discipline unless the respondent attorney demonstrates, or this court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

(a) That the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(b) That there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

(c) That the imposition of the same discipline by this court would result in grave injustice; or

(d) That the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

LR 83.21.5 Conclusive Evidence of Final Adjudication.

In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purposes of a disciplinary proceeding in this court.

LR 83.21.6 Appointment of Counsel.

This court may at any stage appoint counsel to prosecute the disciplinary proceedings.

LR 83.22 Disbarment on Consent or Resignation in Other Courts.

LR 83.22.1 Automatic Cessation of Right to Practice.

Any attorney admitted to practice before this court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, shall, upon the filing with this court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this court and be stricken from the roll of attorneys admitted to practice before this court.

LR 83.22.2 Attorney to Notify Clerk of Disbarment.

Any attorney admitted to practice before this court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia or from the bar of any state, territory, commonwealth or possession of the United States, while an investigation into allegations of misconduct is pending, promptly inform the clerk of this court of such disbarment on consent or resignation.

LR 83.23 Standards for Professional Conduct.

LR 83.23.1 Sanction for Misconduct.

For misconduct defined in these rules, and for good cause shown, and after notice and opportunity to be heard any attorney admitted to practice before this court may be disbarred, suspended from practice before this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

LR 83.23.2 Adoption of Rules of Professional Conduct.

Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this court, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this court are: (1) the Rules of Professional Conduct adopted by the Supreme Court of Pennsylvania, except Rule 3.10, as amended from time to time by that court, unless specifically excepted in this court's rules; and (2) the Code of Professional Conduct enacted in the Middle District of Pennsylvania's Civil Justice Reform Act Plan. See Appendix C.

LR 83.24 Disciplinary Proceedings.

LR 83.24.1 Reference to Counsel.

When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this court shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the judge shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

LR 83.24.2 Recommendation of Counsel.

Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent - attorney, the disposition of which in the judgment of the counsel should be awaited before further action by this court is considered or for any other valid reason, counsel shall file with this court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.

LR 83.24.3 Order to Show Cause.

To initiate formal disciplinary proceedings, counsel shall obtain an order of this court upon a showing of probable cause requiring the respondent - attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

LR 83.24.4 Hearings.

Upon the respondent - attorney's answer to the order to show cause, if any issue of fact is raised or the respondent - attorney wishes to be heard in mitigation, this court shall set the matter for prompt hearing before one or more judges of this court, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this court the hearing shall be conducted before a panel of three other judges of this court appointed by the chief judge, or if there are less than three judges eligible to serve or the chief judge is the complainant, by the chief judge of the court of appeals for this circuit. Where a judge merely refers a matter and is not involved in the proceeding, the judge shall not be considered a complainant.

LR 83.25 Disbarment on Consent While under Disciplinary Investigation or Prosecution.

LR 83.25.1 Consent to Disbarment.

Any attorney admitted to practice before this court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

(a) The attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

(b) The attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which

the attorney shall specifically set forth;

(c) The attorney acknowledges that the material facts so alleged are true; and

(d) The attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself or herself.

LR 83.25.2 Consent Order.

Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

LR 83.25.3 Public Record.

The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

LR 83.26 Reinstatement.

LR 83.26.1 After Disbarment or Suspension.

An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by order of this court.

LR 83.26.2 Time of Application Following Disbarment.

A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of this disbarment.

LR 83.26.3 Petitions for Reinstatement.

Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the chief judge of this court.

(a) Upon receipt of the petition, the chief judge shall determine whether the attorney is entitled to reinstatement without a hearing and issue an appropriate order.

(b) If the petitioner is not entitled to reinstatement without a hearing the chief judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more judges of this court, provided, however, that if the disciplinary proceeding was predicated upon the complaint of a judge of this court, the hearing shall be conducted before a panel of three (3) other judges of this court appointed by the chief judge, or, if there are less than three (3) judges eligible to serve or the chief judge was the complainant, by the chief judge of the court of appeals for this circuit. The judge or judges assigned to the matter shall within thirty (30) days after referral schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law before this court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest. Absent extraordinary circumstances, no such petition for reinstatement shall be granted unless the attorney seeking reinstatement meets the requirements for admission set forth in Local Rule 83.8.1.2. In the case where this court has imposed discipline or otherwise

taken adverse action identical to that imposed or taken by a state court or authority, any petition for reinstatement in this court shall be held in abeyance until a petition for reinstatement to practice in the state court has been filed and finally decided, unless otherwise ordered by this court.

LR 83.26.4 Duty of Counsel.

In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

LR 83.26.5 Fees and Costs of Proceeding.

Upon order of court at the conclusion of any reinstatement proceeding, costs may be assessed to the petitioner. The Clerk of Court shall account for these costs in the same manner as general attorney admissions.

LR 83.26.6 Conditions of Reinstatement.

If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditioned, in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

LR 83.26.7 Successive Petitions.

No petition for reinstatement under this rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

LR 83.27 Admission to Practice as Conferring Disciplinary Jurisdiction.

Whenever an attorney applies to be admitted or is admitted to this court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

LR 83.28 Service of Papers and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding or other papers or notices required by these rules shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address most recently registered by the attorney with the clerk. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the most recent registration statement filed pursuant to Local Rule 83.11.1; or to counsel or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any

proceeding under these rules.

LR 83.29 Appointment of Counsel.

Whenever counsel is to be appointed pursuant to these rules to investigate allegations of misconduct or to prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this court in its discretion and with prior agreement of the Disciplinary Board of the Supreme Court of Pennsylvania shall appoint as counsel attorneys serving in the Office of Disciplinary Counsel of the Disciplinary Board or one or more members of the bar of this court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules or in conjunction with such a reinstatement petition, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this court.

LR 83.30 Duties of the Clerk.

LR 83.30.1 Filing Certificate of Conviction.

Upon being informed that an attorney admitted to practice before this court has been convicted of any crime, the clerk of this court shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this court. If a certificate has not been so forwarded, the clerk of this court shall promptly obtain a certificate and file it with this court.

LR 83.30.2 Filing Disciplinary Judgment.

Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, the clerk of this court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this court, and, if not, the clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this court.

LR 83.30.3 Filing Consent Order.

Upon being informed that an attorney admitted to practice before this court has been disbarred on consent or resigned in another jurisdiction while an investigation into allegations of misconduct was pending, the clerk of this court shall determine whether a certified or exemplified copy of the disciplinary judgment or order striking the attorney's name from the rolls of those admitted to practice has been filed with the court, and, if not, shall promptly obtain a certified or exemplified copy of such judgment or order and file it with the court.

LR 83.30.4 Transmittal of Record to Other Courts.

Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk of this court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence

addresses of the defendant or respondent.

LR 83.30.5 National Discipline Data Bank.

The clerk of this court shall promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this court.

LR 83.31 Court Defined.

When in this Chapter reference is made to this court it shall mean the United States District Court for the Middle District of Pennsylvania. Administration of this Chapter shall be under the authority of the Chief Judge. Actions and proceedings under this Chapter shall be taken by the Chief Judge of this court or the designee(s) of the Chief Judge.

CHAPTER XVIII

HABEAS CORPUS AND MOTIONS ATTACKING SENTENCE AND APPEALS WHERE PARTY IS INCARCERATED

LR 83.32 Petitions for Writ of Habeas Corpus and Motions Pursuant to 28 U.S.C. § 2255.

LR 83.32.1 Form of Petitions and Motions.

A petition for a writ of habeas corpus by a person who is in custody or who faces future custody pursuant to the judgment or order of a federal or state court or agency, or a motion pursuant to 28 U.S.C. § 2255 attacking a sentence imposed by this court, shall be filed according to these Rules. The petition or motion, unless prepared by counsel, shall be on the standard form supplied by the clerk of court when the petition or motion is a § 2241 or a § 2254 habeas corpus petition or a § 2255 motion. When the petition or motion is filed by counsel, the standard form need not be used, but the petition or motion shall contain the same categories of information and shall address the same matters as provided for by the standard form, and the petition or motion shall be double spaced and shall be no more than twenty (20) pages in length. The *Rules Governing § 2254 Cases In The United States District Courts* and the *Rules Governing § 2255 Proceedings For The United States District Courts*, adopted by the Supreme Court of the United States, are a part of the Rules of this District applicable to § 2254 habeas corpus cases and § 2255 motions. A petition for a writ of habeas corpus in a death penalty case shall be governed by Local Rule 83.32.2.

LR 83.32.2 Petitions under 28 U.S.C. § 2254 and Motions to Vacate Sentence under 28 U.S.C. § 2255 in Death Penalty Cases.

In a death penalty case:

A. A petition for a writ of habeas corpus under 28 U.S.C. § 2254 or a motion to vacate sentence under 28 U.S.C. § 2255 must be accompanied by a cover sheet that lists:
    1. petitioner's full name and prisoner number; if prosecuted under a different name or alias that name must be indicated;
    2. name of person having custody of petitioner (warden, superintendent, etc.);
    3. petitioner's address;
    4. name of trial judge;
    5. court term and bill of information or indictment number;
    6. charges of which petitioner was convicted;
    7. sentence for each of the charges;
    8. plea entered;
    9. whether trial was by jury or to the bench;
    10. date of filing, docket numbers, dates of decision and results of direct appeal of the conviction;
    11. date of filing, docket numbers, dates of decision and results of any state collateral attack on a state conviction including appeals;
    12. date of filing, docket numbers, dates of decision of any prior federal habeas corpus or § 2255 proceedings, including appeals;
    13. name and address of each attorney who represented petitioner, identifying the stage

at which the attorney represented the litigant.

B. A petition for writ of habeas corpus under 28 U.S.C. § 2254 or motion to vacate sentence under 28 U.S.C. § 2255:
   1. must list every ground on which the petitioner claims to be entitled to relief under 28 U.S.C. § 2254 (or § 2255 for federal prisoners) followed by a concise statement of the material facts supporting the claims;
   2. must identify at what stage of the proceedings each claim was exhausted in state court if the petition seeks relief from a state court judgment;
   3. must contain a table of contents if the petition is more than 25 pages;
   4. may contain citation to legal authority that form the basis of the claim.

C. Petitioner must file and serve, not later than 60 days after the date of the filing of the petition under § 2254, or motion to vacate sentence under § 2255, a memorandum of law in support. The memorandum of law:
   1. must contain a statement of the case;
   2. must contain a table of contents if it is more than 25 pages.

D. The petition/motion and memorandum together must not exceed 100 pages.

E. All documents filed must be succinct and must avoid repetition.

F. Respondent need not file a response until the petitioner's supporting memorandum of law is served:
   1. The response must not exceed 100 pages.
   2. The response must contain a table of contents if it is more than 25 pages.
   3. The response must be filed and served within 60 days of service of the petitioner's supporting memorandum of law.

G. Any reply to the response must be filed and served within 21 days of service of the response and may not exceed 30 pages.

H. Upon motion and for good cause shown, the judge may extend the page limits for any document.

I. Upon motion and for good cause shown, the judge may extend the time for filing any document.

J. The petitioner must file with the Clerk of the District Court a copy of the "Certificate of Death Penalty Case' required by Third Circuit L.A.R. Misc. 111.2(a). Upon docketing, the clerk of the district court will transmit a copy of the certificate, together with a copy of the petition to the Clerk of the Court of Appeals as required by Third Circuit L.A.R. Misc. 111.2(a).

K. Upon the entry of a warrant or order setting an execution date in any case within the geographical boundaries of this district, and in aid of this court's potential jurisdiction, the clerk is directed to monitor the status of the execution and any pending litigation and to establish communications with all parties and relevant state and/or federal courts. Without further order of this court, the clerk may, prior to the filing of a petition, direct parties to lodge with this court (1) relevant portions of previous state and/or federal court records, or the entire record, and (2) pleadings, briefs, and transcripts of any ongoing proceedings. To prevent delay, the case may be assigned to a judge, by the same selection process as for other cases, prior to the execution date. The identity of the judge assigned shall not be disclosed until a petition is actually docketed.

L. In accordance with Third Circuit L.A.R. Misc. 111.3(b), at the time a final decision is entered, the court shall state whether a certificate of appealablity is granted or denied. If a certificate of appealability is granted, the court must state the issues that merit the

granting of a certificate and must also grant a stay pending disposition of the appeal, except as provided in 28 U.S.C. § 2262.

LR 83.32.3 *In Forma Pauperis* Proceedings.

(a) Affidavit Required.

A petitioner or movant seeking to proceed *in forma pauperis* must complete the *in forma pauperis* affidavit or declaration attached at the back of the petition for a writ of habeas corpus and shall set forth information which establishes, pursuant to 28 U.S.C. § 1915, that he or she is unable to pay the fees and costs, or give security therefor. In the absence of exceptional circumstances, leave to proceed *in forma pauperis* may be denied if the value of the money and securities in the petitioner's institutional account exceeds fifty dollars ($50.00).

(b) Warden's Certificate.

Under Rule 3 of the rules governing § 2254 cases a certificate of the warden or other appropriate officer of the institution in which the petitioner is confined is required in addition to the affidavit or declaration of poverty. Such a certificate is provided at the end of the standard form for filing § 2254 cases, and this certificate must be completed and returned with the forms. The certificate may be considered by the court in acting upon the request to proceed *in forma pauperis*.

LR 83.32.4 Addresses and Reference of Petitions and Motions.

Petitions and motions shall be addressed to the Clerk of the United States District Court for the Middle District of Pennsylvania. Petitioners or movants shall send to the clerk an original and a sufficient number of copies of the completed petition or motion for service on all named respondents. A petition or motion addressed to an individual judge shall be directed to the clerk of the court for processing. Whenever possible, successive petitions and motions by a person in custody shall be directed by the clerk to the judge who handled prior petitions and motions by such person.

LR 83.33 Time for Appeal Where Party is Incarcerated.

When it appears that a party who is incarcerated has delivered a notice of appeal within thirty (30) days after the entry of a civil judgment to the authorities in charge of that party's incarceration, the time for filing the notice of appeal is extended for a period not to exceed thirty (30) days in order to allow for the handling and transmission of the notice of appeal by the authorities to the clerk of the court.

CHAPTER XIX

PRO BONO ATTORNEYS FOR INDIGENT LITIGANTS

LR 83.34 Administration of *Pro Bono* Program.

LR 83.34.1 Indigent Litigant Application for a Volunteer Attorney.

A *pro se* indigent litigant may apply to the court to have a volunteer attorney appointed to represent the litigant in a civil case.

LR 83.34.2 Request for Volunteer Attorney.

A judge may request a member of the bar of this court to enter his or her appearance for an indigent civil litigant.

LR 83.34.3 Panel of Volunteer Attorneys.

The Middle District Chapter of the Federal Bar Association has assembled a panel of volunteer attorneys who will consider representing indigent civil litigants at the request of the court. The court may present a request for a volunteer attorney to the *pro bono* chair of the Middle District Chapter to the Federal Bar Association.

LR 83.34.4 Mechanism for Requesting Volunteer Attorney.

When the court makes a determination that a request for a volunteer attorney is appropriate, it shall conditionally grant the motion for the appointment of counsel. The court shall in its order direct that a copy of the order be sent to the *pro bono* chair of the Middle District Chapter of the Federal Bar Association and shall direct that the court be informed in due course by the *pro bono* chair whether a volunteer attorney will enter his or her appearance or, in the alternative, that no volunteer attorney accepts the appointment.

LR 83.34.5 Revocation of Conditional Appointment Order.

When the *pro bono* chair of the Middle District Chapter of the Federal Bar Association reports to the court that no volunteer attorney is willing to accept an appointment of counsel the court may revoke the conditional order for the appointment of counsel.

LR 83.34.6 Procedure for Requesting Reimbursement.

At the conclusion of a case, any court-appointed *pro bono* attorney may request reimbursement of costs necessarily incurred, not to exceed the maximum amount established by Standing Order, provided that the attorney has not received or will not receive funds sufficient to cover the costs incurred, whether by way of a monetary judgment for the client under a contingent fee arrangement, an award of attorney's fees made by the court, or other payment. A "Request for *Pro Bono* reimbursement," including an accounting of the expenses claimed, shall be submitted directly to the Chief Judge. The document shall not be filed with the Clerk. The form must be typewritten and include the caption of the case, case number, presiding judge and be entitled "Request for *Pro Bono* Reimbursement;" the document must be signed and verified by the *pro bono* attorney requesting reimbursement.

LR 83.34.7 Fund to Reimburse Volunteer Attorneys.

The court has established a non-appropriated fund for the purpose of reimbursing court-appointed *pro bono* attorneys for costs necessarily incurred while representing indigent litigants in civil cases. This fund shall be referred to as the court's "*Pro Bono* Fund." The special admission fee collected by the Clerk of Court pursuant to Local Rule 83.8.2.5 shall be deposited into the *Pro Bono* Fund, which shall be maintained by the Clerk of Court as trustee in a specially designated account. The Clerk of Court shall account for and disburse sums from the *Pro Bono* fund pursuant to guidelines established by the court through a Standing Order.

CHAPTER XX

SOCIAL SECURITY APPEALS

LR 83.40 Social Security Disability case procedures.

LR 83.40.1 Form of Review.

A civil action brought to review a decision of the Social Security Administration denying a claim for social security disability benefits shall be adjudicated as an appeal pursuant to this rule.

LR 83.40.2 Summons and Complaint.

The plaintiff shall cause the summons and complaint to be served upon the defendant in the manner specified by Fed.R.Civ.P.4(i) within fourteen (14) days of the date of filing the complaint with the Clerk of Court.

LR 83.40.3 Answer and Transcript.

Defendant shall serve and file an answer, together with a certified copy of the transcript of the administrative record, within sixty (60) days of service of the complaint.

LR 83.40.4 Plaintiff's Brief.

Plaintiff shall serve and file a brief within forty-five (45) days of service of defendant's answer that shall comply with the following requirements:

(a) Statement of the case.

This statement shall briefly outline the course of the proceedings and its disposition at the administrative level and shall set forth a brief statement of pertinent facts. This statement of facts shall include plaintiff's age, education and work experience, a summary of the physical and mental impairments alleged; and a brief outline of the pertinent factual, medical and/or vocational evidence of record. Each statement of fact shall be supported by reference to the page(s) in the record where the evidence may be located.

(b) Statement of errors.

This statement shall set forth in separate numbered paragraphs the specific errors committed at the administrative level which entitle plaintiff to relief. The court will consider only those errors specifically identified in the briefs. A general argument that the findings of the administrative law judge are not supported by substantial evidence is not sufficient.

(c) Argument.

The argument shall be divided into sections separately addressing each issue and shall set forth the contentions of plaintiff with respect to each issue and the reasons therefor. Each contention must be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations and cases supporting plaintiff's position.

(d) Conclusion.

The plaintiff's brief shall conclude with a short statement of the relief sought.

LR 83.40.5 Defendant's Brief.

Within thirty (30) days after service of plaintiff's brief, defendant shall file and serve upon opposing counsel a brief which responds specifically to each issue raised by the plaintiff. The response shall not address matters not put at issue by the plaintiff. Defendant shall not include a "statement of the case," described above, unless plaintiff's statement is inaccurate or incomplete. In that event, defendant need only address those limited areas.

LR 83.40.6 Reply Brief.

Plaintiff may file, and serve upon defendant, a brief in reply to the brief of defendant within fourteen (14) days of the filing of defendant's brief.

LR 83.40.7 Length of Briefs.

The brief for the plaintiff shall not exceed fifteen (15) pages. The brief for the defendant shall not exceed fifteen (15) pages. The reply brief shall not exceed ten (10) pages.

SECTION II

CRIMINAL RULES

CHAPTER I

INDICTMENT

LCrR 7.1 Superseding Indictments.

Upon the filing of a superseding indictment, the government shall file a statement indicating whether the United States has filed or will file a motion for a continuance of trial based upon the filing of the superseding indictment and indicating the changes that have been made in the superseding indictment in comparison to the preceding indictment.

CHAPTER II

PLEADINGS AND PRETRIAL MOTIONS

LCrR 12.1 Pretrial Motions: Duty To Address Speedy Trial Act Excludable Time Implications.

(a) A motion for a continuance of trial and any other pretrial motion filed after arraignment, whether by the government or the defendant, shall include:

(1) a statement of whether or not any delay occasioned by the making, hearing or granting of that motion will constitute, in whole or in part, excludable time as defined by 18 U.S.C. § 3161(h), and, if so, a statement or estimation of the number of days to be excluded or a statement describing how excludable time should be determined by reference to a specified future event; and

(2) a proposed form of order that, if adopted, will state fully and with particularity the reasons for granting the motion and that states with particularity the proposed findings of the court as to excludable time.

(b) A party opposing a motion shall file, with the responsive brief to the substance of the motion, its agreement with or opposition to the statements or estimations of the moving party made pursuant to subsection (a).

(c) Briefs in support of and in opposition to a motion for a continuance of trial shall be filed as follows:

(1) A party filing a motion for a continuance of trial shall file a supporting brief at the time the motion is filed. A brief shall not be required in support of a motion for a continuance trial if the reasons for the request, specifically the grounds in support of a finding that the ends of justice served by the granting of a continuance outweigh the best interests of the public and the defendant in a speedy trial, are fully stated in the motion.

(2) A party opposing a motion for a continuance of trial shall file a brief in opposition to the motion within seven (7) days after service of the motion. No further briefs may be filed without leave of court.

(3) A party who does not file a brief in opposition to a motion shall be deemed not to oppose the motion.

(d) This rule shall not apply to any motion to be heard *ex parte*.

LCrR 12.4 Organizational Victim Disclosure Statement.

In a case in which the government is aware that an organizational victim of the alleged criminal activity is a corporation and in which the corporation has not provided to the government the information required by Fed.R.Crim.P. 12.4(a)(1), the government shall so indicate in its Fed.R.Crim.P 12.4(a)(2) statement. In the absence of a statement from the government identifying Fed.R.Crim.P. 12.4(a)(1) parent corporation information and stock ownership information relating to a corporate victim, the court will proceed by presuming the absence of a parent corporation and the absence of an ownership of more than 10% of the corporate victim's stock by another corporation unless the court has actual knowledge of such information.

CHAPTER III

POST-CONVICTION PROCEDURES

LCrR 32.1 Presentence Procedure

(a) Upon a verdict of guilty or the entry of a plea of guilty or nolo contendere, the court shall set a date by which the probation officer shall disclose the presentence report to the defendant, the defendant's counsel, and the attorney for the government, and shall set a sentencing date. The presentence report disclosure date shall be no later than fifty-six (56) days after a verdict of guilty or the entry of a plea of guilty or nolo contendere. The sentencing date shall be no later than ninety-eight (98) days after the verdict of guilty, or the entry of a plea of guilty or nolo contendere.

(b) The probation officer shall provide defense counsel with notice and a reasonable opportunity to attend any interview of the defendant by a probation officer in the course of a presentence investigation. Unless an interview is declined on advice of counsel, the probation officer shall interview the defendant immediately after the verdict of guilty or the entry of a plea of guilty or nolo contendere. Upon request by defense counsel, or if the probation officer's schedule so requires, the probation officer shall postpone the interview. However, any postponement greater than seven (7) days shall require approval of the presiding judge.

(c) Within seven (7) days after a verdict of guilty or the entry of a plea of guilty or nolo contendere, the attorney for the government shall provide to the probation officer and to the defendant's counsel a comprehensive Statement of Offense Conduct and supporting documentation. If a defendant is responsible for restitution, the government must within twenty-eight (28) days submit sufficient information to enable the court to determine entitlement, the name of each victim, the amount of loss for each victim, and documentary support for each amount. If liability for restitution is joint and several, the government shall itemize the restitution amount for which each defendant is responsible. The Statement of Offense Conduct shall address all Chapter Two and Chapter Three adjustments of the United States Sentencing Commission Guidelines Manual which are necessary to calculate the sentencing guidelines.

(d) The government shall provide to the defendant's counsel a copy of any documentary information provided to the probation officer to be considered in the preparation of the presentence report at the same time as it is provided to the probation officer. The defendant or the defendant's counsel may submit documentary information to the probation officer and shall provide a copy to the attorney for the government at the same time as it is provided to the probation officer.

(e) At least thirty-five (35) days before the sentencing hearing, the probation officer shall provide a copy of the presentence report to the defendant, the defendant's counsel and the attorney for the government.

(f) Within fourteen (14) days after receiving the presentence report, the parties shall communicate in writing to the probation officer, and to each other, any objections to material

information, sentencing guideline ranges, and policy statements contained in or omitted from the report. The written communication shall contain detailed information regarding any disputed issues. After receiving any objections, the probation officer may require counsel for both parties as well as the defendant and/or case agent to meet with the probation officer to discuss unresolved factual and legal issues. The probation officer may also undertake further investigation and revise the presentence report as necessary.

(g) At least seven (7) days before the sentencing hearing, the probation officer shall submit the final presentence report to the court, together with an addendum setting forth any unresolved objections, the grounds for those objections, and the probation officer's comments on the objections. At the same time, the probation officer shall transmit the final presentence report and the Addendum to the defendant, the defendant's counsel, and the attorney for the government.

(h) Except for any unresolved objection under Fed.R.Crim.P. 32, the court may, at the hearing, accept the presentence report as its findings of fact. For good cause shown, the court may allow a new objection to be raised at any time before imposing sentence.

(i) The probation officer shall not disclose any sentencing recommendation unless so ordered by the court.

(j) The time limits set forth in this Rule may be modified by the court for good cause.

CHAPTER IV
SERVING AND FILING OF PAPERS

LCrR 49 Filing of Documents under Seal.

(a) Authorization required. Unless otherwise prescribed by federal statutes, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure or other provisions of these Rules, including LR 5.2(e), no document shall be filed under seal unless authorized by an order of court.

(b) Definitions.

(1) Document "filed under seal". A document filed under seal is a document that is filed and docketed in the case but held by the Clerk separate from other documents and not made available for inspection by any person except as permitted by order of the court.

(2) Document "pending sealing decision". A document pending sealing decision is a document that has been submitted to the Clerk with a motion to file the document under seal. Pending an order of the court deciding the motion to seal the document, the document is kept separate from other documents and is not made available for inspection by any person except as permitted by order of the court.

(c) Procedure.

(1) Motion to file a document under seal. A motion to file a document under seal shall be filed on paper. The motion to file a document under seal shall contain no description or identification of the document for which the sealing order is sought or statement of reasons why the filing of the document under seal should be authorized.

(2) The presentation to the Clerk of the document(s) pending sealing decision. When the motion is filed, the party filing the motion shall present to the Clerk's Office, on paper:

a. the document(s) for which the sealing order is sought,
b. a statement of the legal and factual justification for the sealing order that is being sought, and
c. a proposed form of order.

The document(s), statement and proposed order shall be presented to the Clerk in a sealed envelope marked with the case number, case caption and the descriptive label of "Documents pending sealing decision."

(3) Document authorized to be filed under seal by an existing court order. A document authorized to be filed under seal by an existing court order shall be filed on paper accompanied by the court order authorizing it to be filed under seal and submitted in a sealed envelope marked with the case number, case caption, and the words "sealed document."

(d) Exempt documents. The Clerk shall in all cases, without motion, seal the following documents:

(1) A defendant's *ex parte* request for a subpoena, a writ of habeas corpus ad testificandum, or authorization to obtain investigative, expert or other services in accordance with subsection (e) of the Criminal Justice Act, 18 U.S.C. § 3006A(e).

(2) An *ex parte* request by the government for issuance of a writ of habeas corpus ad testificandum.

(3) Any writ issued in response to a request under subparagraph (1) and (2).

(4) A request in a criminal case by the defendant for substitution of appointed counsel.

(e) Motion to unseal. It shall be the duty of the party who obtained an order to file under seal to move to unseal the document as soon as the basis for the sealing order has ended.

CHAPTER V

GENERAL PROVISIONS

LCrR 57 Extrajudicial Statements in Criminal Proceedings.

(a) A lawyer representing a party with respect to a criminal matter, or any other proceeding that could result in incarceration, shall not make any extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer or other person knows or reasonably should know that it will have a substantial likelihood of causing material prejudice to an adjudicative proceeding.

(b) A statement referred to in LCrR 57(a) ordinarily is likely to have such an effect when it relates to:

(1) the character, credibility, reputation or criminal record of a defendant, suspect in a criminal investigation or witness, the identity of a witness, or the expected testimony of a party or witness;

(2) the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission or statement given by a defendant or suspect, or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test, the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect; or

(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudice to an impartial trial.

(c) Notwithstanding LCrR 57(a) and (b), a lawyer involved in the investigation or prosecution of a matter may state without elaboration:

(1) the general nature of a charge or defense;

(2) the information contained in a public record;

(3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved and, except when prohibited by law, the identity of the persons involved;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and the information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest;

(7) the identity, residence, occupation and family status of the accused;

(8) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(9) the fact, time and place of arrest; and

(10) the identity of investigating and arresting officers or agencies and the length of the investigation.

(d) The prohibitions set forth in LCrR 57(a), (b) and (c) pertain to all stages of criminal proceedings, including investigation before a grand jury, the post-arrest pretrial period, jury selection, trial through verdict or disposition without trial and imposition of sentence.

(e) Nothing in this Rule is intended to preclude either the formulation or application of more restrictive rules relating to the release of any information about juvenile or other offenders.

(f) Nothing in this Rule is intended to apply to the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, nor to a reply by any attorney to charges of misconduct publicly made against that attorney.

(g) The court's supporting personnel including, among others, the marshal, deputy marshals, the clerk, deputy clerks, court reporters and employees or subcontractors retained by the court-appointed official reporters, probation officers and their staffs, and members of the Judges' staffs, are prohibited from disclosing to any person, without authorization by the court, information relating to a proceeding that is not part of the public record of the court. The disclosure of information concerning *in camera* arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

(h) The court, on motion of any party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of a party to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the court may deem appropriate for inclusion in such an order.

LCrR 58.1 Magistrate Judges, Appeal from Judgments in Misdemeanor Cases - 18 U.S.C. § 3402.

An appeal from a judgment of conviction by a United States Magistrate Judge may be taken to a judge of the district court in accordance with Rule 58 of the Federal Rules of Criminal Procedure. The appellant shall, within fourteen (14) days of the date of filing of the appeal, serve and submit a brief. The United States Attorney shall serve and submit a brief within fourteen (14) days after receipt of a copy of the appellant's brief. The appellant may serve and submit a reply brief within seven (7) days after receipt of the appellee's brief. The appeal shall be considered and disposed of on the briefs without hearing or oral argument unless the judge to whom the appeal is assigned specifically directs otherwise upon an application for such hearing or argument by one or both of the parties. Any appellant who fails to comply with this rule shall be deemed to have withdrawn the appeal. If the United States Attorney in any such appeal fails to comply with this rule, it shall be deemed that the United States Attorney does not oppose the appeal.

LCrR 58.2 Petty Offenses Brought by Violation Notice.

An authorized enforcement officer may initiate a petty offense charge by a violation notice. A separate violation notice shall be used for each separate offense charged. The violation notice form shall be completed by stating the date and time of the offense, the offense charged, the place of the offense, an offense description, the defendant's name and address and other appropriate identification information, and vehicle description information when appropriate. The violation notice shall inform the defendant of the court address and of the date and time of the defendant's court appearance. The date, time and place for the defendant to appear in court shall be inserted by the issuing officer, at the time of issuing the violation notice, on the basis of instructions from the assigned United States Magistrate Judge. The violation notice shall inform the defendant whether the defendant must appear in court or may elect instead to forfeit collateral. The violation notice shall include a statement of probable cause made under penalty of perjury. The original and one copy of the violation notice(s) shall

be promptly sent to the Central Violations Bureau by the issuing agency.

LCrR 58.3 Authority for Forfeiture of Collateral in Certain Petty Offenses; Forfeiture of Collateral Cases - Procedures.

(a) In the case of a petty offense listed in the court's **Standing Order Re: Forfeiture of Collateral Schedule**, the violation notice shall be completed by the issuing officer so as to contain the collateral forfeiture amount established by the **Forfeiture of Collateral Schedule**, except that if a mandatory appearance is an option under the **Forfeiture of Collateral Schedule** the issuing officer may elect not to insert a collateral forfeiture amount upon the violation notice and to therefore require the appearance of the defendant in court.

The **Forfeiture of Collateral Schedule** does not create or define any offense. Offenses are created and defined by federal statutes or regulations, or assimilated state statutes. A violation notice must refer by citation to the applicable statute(s) or regulation(s).

(b) The violation notice shall contain instructions for paying the collateral to the Central Violations Bureau. The defendant shall be given a mail-in envelope addressed to the Central Violations Bureau Lock Box by the issuing officer. The violation notice shall contain a check-off option for the defendant to state an election to forfeit collateral or to plead not guilty and to promise to appear in court. The notice shall instruct the defendant to mail the violation notice form stating the defendant's election to the Central Violations Bureau in no more than twenty-one (21) days.

(c) A collateral forfeiture amount shall not be inserted upon a violation notice for any offense not included in the **Forfeiture of Collateral Schedule**.

(d) When an "X" appears next to a listed violation in the **Forfeiture of Collateral Schedule**, the issuing officer may, in his or her discretion, elect not to insert a forfeiture of collateral amount upon the violation notice and therefore require the appearance of the defendant in court. A mandatory appearance may be chosen by the issuing officer when there is good cause for not permitting a collateral forfeiture.

(e) When the charged petty offense is not listed in the **Forfeiture of Collateral Schedule**, or when a mandatory appearance is chosen by the issuing officer for an "X" designated charged petty offense, forfeiture of collateral by the defendant will not be permitted. The appearance of the defendant in court, as provided under Rule 58 of the Federal Rules of Criminal Procedure, is required.

(f) For any petty offense in which the issuing officer does not insert a collateral amount as provided under these Rules and the **Forfeiture of Collateral Schedule**, the defendant shall be issued a violation notice containing the information required in these Rules, except that in the space provided for the amount of collateral there shall be inserted the letters "MA" (Mandatory Appearance). The violation notice shall contain a check-off box stating "You must appear in court." This box shall be checked by the issuing officer in the case of a mandatory appearance violation notice.

(g) Remittance of collateral by a defendant shall be deemed a forfeiture of collateral, unless otherwise ordered by the court. A forfeiture of collateral is taken by the court as an acknowledgment of no contest to the violation notice and as an acknowledgment of guilt. The defendant is deemed convicted of the offense for which collateral is forfeited.

(h) (1) In a case where the defendant does not forfeit collateral and does not appear in court on the date and at the time and place set forth on the violation notice, a Notice to Appear may be issued by the magistrate judge or an arrest warrant may be issued upon a showing of

probable cause and of actual notice to the defendant to appear. The court may, upon issuing a Notice to Appear, afford the defendant an additional opportunity to forfeit collateral or may convert the violation notice to a mandatory appearance.

(2) If the defendant does not appear as directed by a Notice to Appear, the magistrate judge may issue an arrest warrant upon a showing of probable cause. The amount of collateral may be increased up to the amount of the maximum fine provided for by law, or collateral forfeiture may be eliminated as an option.

Attorneys for Plaintiff

Attorneys for Defendant

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

) CASE NO.

)

)

)

)

) JUDGE_____

)

)

)

)

JOINT CASE MANAGEMENT PLAN

Instructions: In many cases there will be more parties in the action than there are spaces provided in this form. Each party shall provide all requested information. If the space on this form is not sufficient, the form should be retyped or additional pages attached.

No party may submit a separate Case Management Plan. Disagreements among

parties with respect to any of the matters below shall be set forth in the appropriate section.

Having complied with the meet and confer requirements set forth in the LOCAL RULES, or with any orders specifically modifying their application in the above-captioned matter, the parties hereby submit the following Joint Case Management Plan.

1. Principal Issues

1.1 Separately for each party, please give a statement summarizing this case:

By plaintiff(s):

By defendant(s):

1.2 The facts the parties dispute are as follows:

agree upon are as follows:

1.3 The legal issues the parties dispute are as follows:

agree upon are as follows:

1.4 Identify any unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue:

1.5 Identify any named parties that have not yet been served:

1.6 Identify any additional parties that:

plaintiff(s) intends to join:

defendant(s) intends to join:

1.7 Identify any additional claims that:

plaintiff(s) intends to add:

defendant(s) intends to add:

2.0 Disclosures

The undersigned counsel certify that they have made the initial disclosures required by

Federal Rule of Civil Procedure 26(a)(1) or that they will do so within the time provided by that rule.

2.1 Separately for each party, list by name and title/position each person whose identity has been disclosed.

Disclosed by _____:

Name	Title/Position
_____	_____
_____	_____
_____	_____
_____	_____

Disclosed by _____:

Name	Title/Position
_____	_____
_____	_____
_____	_____
_____	_____

3.0 Early Motions

Identify any motion(s) whose early resolution would likely have a significant effect either on the scope of discovery or other aspects of the litigation:

Nature of Motion	Moving Party	Anticipated Filing Date

4.0 Discovery

4.1 Briefly describe any discovery that has been completed or is in progress:

By plaintiff(s):

By defendant(s):

4.2 Describe any discovery that all parties agree should be conducted, indicating for each discovery undertaking its purpose or what kinds of information will be developed through it (e.g., "plaintiff will depose Mr. Jones, defendant's controller, to learn what defendant's revenue recognition policies were and how they were applied to the kinds of contracts in this case"):

4.3 Describe any discovery that one or more parties want(s) to conduct but to which another party objects, indicating for each such discovery undertaking its purpose or what kinds of information would be developed through it:

4.4 Identify any subject area limitations on discovery that one or more parties would like imposed, at the first stage of or throughout the litigation:

4.5 For each of the following discovery tools, recommend the per-party or per-side limitation (specify a number) that should be fixed, subject to later modification by stipulation or court order on an appropriate showing (where the parties cannot agree, set forth separately the limits recommended by plaintiff(s) and by defendant(s)):

4.5.1 depositions (excluding experts) to be taken by:

plaintiff(s):_____ defendant(s):_____

4.5.2 interrogatories to be served by:

plaintiff(s):_____ defendant(s):_____

4.5.3 document production requests to be served by:

plaintiff(s):_____ defendant(s):_____

4.5.4 requests for admission to be served by:

plaintiff(s):_____ defendant(s):_____

4.6 Discovery of Electronically Stored Information

□ Counsel certify that they have conferred about the matters addressed in M.D. Pa LR 26.1 and that they are in agreement about how those matters will be addressed in discovery.

□ Counsel certify that they have conferred about the matters addressed in M.D. Pa. LR 26.1 and that they are in agreement about how those matters will be addressed in discovery with the following exceptions:

5.0 Protective Order

5.1 If entry of a protective order is sought, attach to this statement a copy of the proposed order. Include a statement justifying the propriety of such a protective order under existing Third Circuit precedent.

5.2 If there is a dispute about whether a protective order should be entered, or about certain terms of the proposed order, briefly summarize each party's position below:

6.0 Scheduling

6.1 Final date for joining additional parties:

_____ Plaintiff(s)

_____ Defendants(s)

6.2 Final date for amending pleadings:

_____ Plaintiff(s)

_____ Defendants(s)

6.3 All fact discovery commenced in time to be completed by:

_____

6.4 All potentially dispositive motions should be filed by: _____

6.5 Reports from retained experts due:

from plaintiff(s) by _____

from defendant(s) by _____

6.6 Supplementations due _____

6.7 All expert discovery commenced in time to be completed by _____

6.8 This case may be appropriate for trial in approximately:

____ 240 Days from the filing of the action in this court

____ 365 Days from the filing of the action in this court

____ Days from the filing of the action in this court

6.9 Suggested Date for the final Pretrial Conference:

_____ (month/year)

6.10 Trial

6.10.1 Suggested Date for Trial:

_____ (month/year)

7.0 Certification of Settlement Authority (All Parties Shall Complete the Certification)

I hereby certify that the following individual(s) have settlement authority.

_____

Name

_____

Title

_____

_____

Address

( )____ - _____ Daytime Telephone

_____

Name

_____

Title

_____

_____

Address

( )____ - _____ Daytime Telephone

8.0 Alternative Dispute Resolution ("ADR")

8.1 Identify any ADR procedure to which this case already has been assigned or which the parties have agreed to use.

ADR procedure_____

Date ADR to be commenced_____

Date ADR to be completed_____

8.2 If the parties have been unable to agree on an ADR procedure, but one or more parties believe that the case is appropriate for such a procedure, identify the party or parties that recommend ADR and the specific ADR process recommended:

8.3 If all parties share the view that no ADR procedure should be used in this case, set forth the basis for that view:

9.0 Consent to Jurisdiction by a Magistrate Judge

Indicate whether all parties agree, pursuant to 28 U.S.C. § 636(c)(1), to have a magistrate judge preside as the judge of the case with appeal lying to the United States Court of Appeals for the Third Circuit:

All parties agree to jurisdiction by a magistrate judge of this court: ___ Y ___ N.

If parties agree to proceed before a magistrate judge, please indicate below which location is desired for the proceedings:

_____ Scranton/Wilkes-Barre
_____ Harrisburg
_____Williamsport

10.0 Other Matters

Make any other suggestions for the case development process, settlement, or trial that may be useful or necessary to the efficient and just resolution of the dispute.

11.0 Identification of Counsel

Counsel shall be registered users of the court's Electronic Case Files System (ECF) and shall file documents electronically in accordance with the Local Rules of Court and the Standing Order RE: Electronic Case Filing Policies and Procedures. Electronic filing is required unless good cause is shown to the Chief Judge why counsel cannot comply with this policy. Any request for waiver of electronic filing must be filed with the Clerk's Office prior to the case management conference. The Chief Judge may grant or deny such request.

Identify by name, address, and telephone number lead counsel for each party. Also please indicate ECF User status below.

Dated: _____

Attorney(s) for Plaintiff(s)

☐ ECF User(s)

☐ Waiver requested (as separate document)

☐ Fed.R.Civ.P.7.1 (statement filed if necessary)*

Dated: _____

Attorneys(s) for Defendant(s)

☐ ECF User(s)

☐ Waiver requested (as separate document)

☐ Fed.R.Civ.P.7.1 (statement filed if necessary)*

* Fed.R.Civ.P.7.1 requires a nongovernmental corporate party to file a statement with the initial pleading, first entry of appearance, etc., that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state there is no such corporation.

APPENDIX B

PRETRIAL MEMORANDUM FORMAT

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

	:	
	:	
	:	
v.	:	**CIVIL ACTION NO.**
	:	
	:	

PRETRIAL MEMORANDUM

Date conference was held by counsel:

A. A brief statement as to federal court jurisdiction.

B. A summary statement of facts and contentions as to liability.

C. A comprehensive statement of undisputed facts as agreed to by counsel at the conference of attorneys required by Local Rule 16.3. No facts should be denied unless opposing counsel expects to present contrary evidence or genuinely challenges the fact on credibility grounds. The parties must reach agreement on uncontested facts even though relevancy is disputed.

D. A brief description of damages, including, where applicable:

(1) Principal injuries sustained:

(2) Hospitalization and convalescence:

(3) Present disability:

(4) Special monetary damages, loss of past earnings, medical expenses, property damages, etc.:

(5) Estimated value of pain and suffering, etc.:

(6) Special damage claims:

E. Names and addresses of witnesses, along with the specialties and qualifications of experts to be called.

F. Summary of testimony of each expert witness.

G. Special comment about pleadings and discovery, including depositions and the exchange of medical reports.

H. A summary of legal issues involved and legal authorities relied upon.

I. Stipulations desired.

J. Estimated number of trial days.

K. Any other matter pertinent to the case to be tried.

L. Pursuant to Local Rule 16.3 append to this memorandum a prenumbered schedule of exhibits, with brief identification of each, on the clerk's Exhibit Form.

M. Append any special verdict questions which counsel desires to submit.

N. Defense counsel must file a statement that the person or committee with settlement authority has been notified of the requirements of and possible sanctions under Local Rule 16.2.

O. Certificate must be filed as required under Local Rule 30.10 that counsel have met and reviewed depositions and videotapes in an effort to eliminate irrelevancies, side comments, resolved objections, and other matters not necessary for consideration by the trier of fact.

P. In all trials without a jury, requests for findings of both fact and law shall be submitted with this Memorandum as required under Local Rule 48.2.

APPENDIX C
UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

CODE OF PROFESSIONAL CONDUCT

As a member of the Bar of the United States District Court for the Middle District of Pennsylvania, I will strive for the following professional ideal:

1. *The rule of law will govern my entire conduct. I will not violate the law or place myself above the law.*

2. *I will treat with civility and respect the lawyers, clients, opposing parties, the court and all the officials with whom I work. Professional courtesy is compatible with vigorous advocacy and zealous representation. Even though antagonism may be expected by my client, it is not part of my duty to my client.*

3. *I will respect other lawyers' schedules as my own, and will seek agreement on meetings, depositions, hearings, and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.*

4. *Communications are life lines. I will keep the lines open. Telephone calls and correspondence are a two-way channel; I will respond to them promptly.*

5. *I will be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and to the judicial system.*

6. *I will earnestly attempt to resolve differences through negotiation, expeditiously and without needless expense.*

7. *Procedural rules are necessary to judicial order and decorum. I will be mindful that pleadings, discovery processes and motions cost time and money. I will not use them heedlessly. If an adversary is entitled to something, I will provide it without unnecessary formalities.*

8. *I will not engage in conduct that brings disorder or disruption to the courtroom. I will advise my client and witnesses appearing in court of the proper conduct expected and required there and, to the best of my ability, prevent my client and witnesses from creating disorder or disruption.*

9. *Before dates for hearings or trials are set, or if that is not feasible immediately after such date has been set, I will attempt to verify the availability of necessary participants and witnesses so I can promptly notify the court of any likely problems.*

I agree to subscribe to the above
Code of Professional Conduct:

_____
Signature

INDEX

(References are to chapter, as indicated, or rule numbers)

RULE