

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

#### Amendment of Rule 402 of the Pennsylvania Bar Admission Rules; No. 274, Supreme Court Rules; Doc. No. 1

##### Order

*Per Curiam:*

*And Now*, this 18th day of May, 2001, Rule 402 of the Pennsylvania Bar Admission Rules is amended to read as follows.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate amendment of Pa. B.A.R. 402 is hereby found to be required in the interest of justice and efficient administration.

This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

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

##### Subpart D. MISCELLANEOUS PROVISIONS

#### Rule 402. Confidentiality.

Except as otherwise prescribed in these rules, the actions and records of the Board shall not be open to inspection by the public. The Board may, however, publish a list of the names of applicants who successfully completed the bar examination administered by the Board and may, upon request from the dean of a law school, furnish the law school with the names of applicants from the law school who did not successfully complete the bar examination, provided the law school has agreed to only use such information internally within the law school and not to disclose the names of students who failed the bar examination to any person or organization outside of the law school.

[Pa.B. Doc. No. 01-934. Filed for public inspection June 1, 2001, 9:00 a.m.]

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

#### Amendment of Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement; No. 12 Disciplinary Rule; Doc. No. 1

##### Order

*Per Curiam:*

*And Now*, this 15th day of May, 2001, upon recommendation of the Lawyers' Assessment Committee, Rule

219(a) of the Pennsylvania Rules of Disciplinary Enforcement is amended.

On or before June 18, 2001, the Administrative Office shall transmit by ordinary mail to all persons required by Rule 219 to pay an annual fee a form for completing the statement required by Rule 219(d). On or before August 6, 2001, all persons required by Rule 219 to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office in accordance with the procedures set forth in Rule 219(d).

To the extent that notice of proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of Rule 219 is hereby found to be required in the interest of justice and efficient administration.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

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

##### Subchapter B. MISCONDUCT

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

(a) Every attorney admitted to practice in any court of this Commonwealth shall pay an annual fee of [ \$105.00 ] \$130.00 under this rule. The annual fee shall be collected under the supervision of the Administrative Office, which shall send and receive, or cause to be sent and received, the notices and statements provided for in this rule. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

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[Pa.B. Doc. No. 01-935. Filed for public inspection June 1, 2001, 9:00 a.m.]

## Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VIII]

#### Order Approving Revision of Comment to Pennsylvania Rules of Evidence 803(18); No. 273, Supreme Court Rules; Doc. No. 1

The Committee on Rules of Evidence has prepared a Final Report explaining the revision of the Comment to Pa.R.E. 803 (Hearsay Exceptions; Availability of Declarant Immaterial) Section (18), that was adopted

May 16, 2001, effective July 1, 2001. This revision addresses the use of learned treatises by the addition of a citation to *Aldridge v. Edmunds*, 750 A.2d 292 (Pa. 2000). The Final Report follows the Court's Order.

**Order**

*Per Curiam:*

Now, this 16th day of May, 2001, upon the recommendation of the Committee on Rules of Evidence; this Recommendation having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3), and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revision of the Comment to Rules of Evidence 803(18) is hereby approved.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2001.

**Annex A**

**TITLE 225. RULES OF EVIDENCE**

**ARTICLE VIII. HEARSAY**

**Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial.**

\* \* \* \* \*

(6) *Records of Regularly Conducted Activity.* A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the sources of information or other circumstances indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

**Comment**

If offered against a defendant in a criminal case, an entry in a business record may be excluded if its admission would violate the defendant's constitutional right to confront the witnesses against him **or her**. See *Commonwealth v. McCloud*, 457 Pa. 310, 322 A.2d 653 (1974).

\* \* \* \* \*

(18) *Learned Treatises [Not Adopted]*

**Comment**

\* \* \* \* \*

**Regarding the permissible uses of learned treatises under Pennsylvania law, see *Aldridge v. Edmunds*, 750 A.2d 292 (Pa. 2000).**

\* \* \* \* \*

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the May 16, 2001 revision of the Comment for paragraph 18 published with the Court's Order at 31 Pa.B. 2789 (June 2, 2001).**

**FINAL REPORT**

*Revision of the Comment to Pa.R.E. 803(18)*

*Revision of Comment Concerning Learned Treatises*

On May 16, 2001, upon the recommendation of the Committee on Rules of Evidence, the Supreme Court approved the revision of the Comment to Pa.R.E. 803(18), effective July 1, 2001.

As part of the Committee's ongoing monitoring of the Rules of Evidence, and in response to some inquiries, we reviewed the provisions in F.R.E. 803(18) concerning the admissibility of learned treatises in connection with the Court's decision in *Aldridge v. Edmunds*. The Committee agreed that adding a cross-reference to *Aldridge* to the Comment to Rule 803(18) would aid the bench and bar concerning the permissible uses of learned treatises under Pennsylvania law. Accordingly, the following paragraph has been added to the Comment to Section (18) of Rule 803:

Regarding the permissible uses of learned treatises under Pennsylvania law, see *Aldridge v. Edmunds*, 750 A.2d 292 (Pa. 2000).

[Pa.B. Doc. No. 01-936. Filed for public inspection June 1, 2001. 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**WESTMORELAND COUNTY**

**Conversion of Local Rules of Criminal Procedure to Conform to New Supreme Court Numbering**

**Order**

*And Now* this 10th day of May, 2001 it is *Ordered* that the numbers and titles of Westmoreland County Rules of Criminal Procedure are changed in accordance with the following table to conform to the new numbers adopted by the Supreme Court of Pennsylvania.

It is further *Ordered* that current Rules WC310 and WC1100 are repealed, and that new Rules WC113, WC576, WC600, and WC601 are adopted.

*By the Court*

CHARLES H. LOUGHRAN,  
*President Judge*

| OLD    | NEW   | TITLE                                                                 |
|--------|-------|-----------------------------------------------------------------------|
| WC112  | WC511 | NOTICE CONCERNING THE RIGHTS TO COUNSEL IN CASES INITIATED BY SUMMONS |
| WC130  | WC518 | PROCEDURE IN COURT CASES INITIATED BY ARREST WITHOUT WARRANT          |
| WC140A | WC541 | WAIVER OF PRELIMINARY HEARING                                         |
| WC141  | WC542 | PRELIMINARY HEARINGS                                                  |
| WC145  | WC546 | DISMISSAL UPON SATISFACTION OR AGREEMENT                              |
| WC151  | WC551 | WITHDRAWAL OF PROSECUTION                                             |
| WC160  | WC300 | SUMMARY ACCELERATED REHABILITATIVE DISPOSITION                        |

| <i>OLD</i> | <i>NEW</i> | <i>TITLE</i>                                                                                                      |
|------------|------------|-------------------------------------------------------------------------------------------------------------------|
| WC302      | WC120      | ATTORNEYS-APPEARANCES AND WITHDRAWALS                                                                             |
| WC303      | WC571      | ARRAIGNMENT                                                                                                       |
| WC307      | WC579      | TIME FOR OMNIBUS PRETRIAL MOTION AND SERVICE                                                                      |
| WC310      |            | REPEALED                                                                                                          |
|            | WC576      | FILING                                                                                                            |
| WC328      | WC112      | PUBLICITY, BROADCASTING, AND RECORDING OF PROCEEDINGS                                                             |
| WC330      | WC568      | BENCH WARRANTS                                                                                                    |
| WC331      | WC569      | TRANSPORT ORDERS                                                                                                  |
| WC1100     |            | REPEALED                                                                                                          |
|            | WC113      | ADOPTED                                                                                                           |
|            | WC600      | ADOPTED                                                                                                           |
|            | WC601      | ADOPTED                                                                                                           |
| WC4005     | WC529      | MODIFICATION OF BAIL ORDER PRIOR TO TRIAL                                                                         |
| WC4006     | WC531      | QUALIFICATIONS OF SURETY                                                                                          |
| WC4016     | WC536      | PROCEDURES UPON VIOLATION OF CONDITIONS: REVOCATION OF RELEASE AND FORFEITURE; BAIL PIECES; EXONERATION OF SURETY |
| WC4010     | WC530      | DUTIES AND POWERS OF A BAIL AGENCY; PRETRIAL SERVICES UNIT                                                        |
| WC9023     | WC576(b)   | FILING                                                                                                            |

**Rule WC113. Notices.**

(a) The court administrator is responsible for preparing and mailing all required notices of court proceedings to counsel for the defendant or to the unrepresented defendant. The notice shall be mailed first class or delivered through another means to the counsel of record or unrepresented defendant at the address then-listed in the Westmoreland Criminal Justice Information System.

(b) The defendant or counsel of record is responsible for informing the clerk of courts of any known change of address for the defendant. Any department or agency who has been informed of a change of address by the defendant or counsel, shall inform the clerk of courts on a Change of Information Form. The clerk of Courts shall enter any change of address into the Westmoreland Criminal Justice Information System within 24 hours of receipt of the Change of Information Form.

**WC576. Filing.**

(a) A copy of all motions, notices of expedited ARD's or pleas, guilty plea agreements/petitions, opposed petitions for bond reduction, and ARD agreements must be served on the court administrator for scheduling purposes.

(b) Whenever the Pennsylvania Rules of Criminal Procedure require service of a copy of a document on the

opposing party, the party having the responsibility of making service shall also serve a copy of the same on the court administrator.

**Rule WC600. Prompt Trial.**

(a) The court administrator shall compile the list for the upcoming trial term, listing cases by run date order as provided by the district attorney. The earliest run date shall be listed first and the latest run date shall be listed last.

(b) The court administrator shall provide notice of trial pursuant to Pa.R.Crim.P. 113, and WC113. Notice of each attorney's cases on the trial list shall be given to the attorney of record as soon as possible after the list is compiled. The court administrator will mail a notice by first class mail to all pro se defendants.

(c) The parties shall indicate to the court administrator, or to the court during a trial readiness conference, whether the case is ready to proceed to trial; whether the case can be disposed through a negotiated plea, ARD, nolle pros, or other disposition; and whether the case should be passed to a later date during the term, or continued to the next trial term.

(d) Requests for continuances will be presented to the calendar control judge prior to the term. Continuances will be granted by Order. The court will indicate on the Order whether the continuance is to be charged to the Commonwealth or to the defendant, or whether the continuance is due to the unavailability of the court. Continued cases shall be rescheduled for the next available trial term.

(e) Passed cases shall be deferred to a later date during the term

(f) All cases not reached during the term shall be continued to the next trial term due to the unavailability of the court.

**Comment**

The district attorney is responsible for calculating the most recent Rule 600 run date and entering the current run date into the Westmoreland Criminal Justice Information System. Cases without a run date entered into the Westmoreland Criminal Justice Information System shall be given the lowest priority.

**Rule WC601. Presence of Judge.**

(a) The court administrator will assign homicide and other specially designated cases to a judge who will handle all pretrial, trial, and post adjudication matters. For all other court cases the court administrator will assign a pretrial judge to handle all pretrial matters.

(b) During the trial term, either the calendar control judge or the court administrator assigns the trial judge for all cases not specifically assigned pursuant to subsection (a).

(c) The court administrator assigns judges for summary trials as cases and judges become available.

[Pa.B. Doc. No. 01-937. Filed for public inspection June 1, 2001, 9:00 a.m.]