PRACTICES AND PROCEDURES OF
JUDGE GARY L. LANCASTER

I. GENERAL MATTERS

A. Communications with Court

Judge Lancaster does not wish to receive correspondence from attorneys, except where he specifically requests or approves a letter brief. He specifically does not want to be copied on correspondence between counsel.

B. Communications with Law Clerks

Judge Lancaster encourages attorneys to call his courtroom deputy, not his law clerks, to consult on the status of maters or appropriate procedure.

C. Telephone Conferences

Judge Lancaster routinely conducts telephone conferences with counsel, typically on non-dispositive matters, such as discovery issues. He does not permit ex parte telephone conferences.

D. Pro Hac Vice Admissions

Judge Lancaster routinely grants pro hac vice admissions.

E. Comment to the Media

Judge Lancaster thinks it is improper for attorneys to comment on pending cases to the media.

II. MOTIONS PRACTICE

A. Oral Argument

Judge Lancaster schedules arguments for dispositive motions as he sees fit. Argument is held with respect to all dispositive motions, except for some pro se motions and prisoner petitions. Judge Lancaster does not set aside a specific day for oral arguments and does not allow such arguments to interrupt trial.

B. Briefs

Briefs are required in all instances for dispositive motions, but not necessarily for non-dispositive motions. Judge Lancaster does not have any page limitation. He generally grants permission to file a reply brief, but may not grant permission to file a surreply. At some point, he may say that there is enough paper in a case.

C. Chambers Copies of Motion Papers

Judge Lancaster does not want courtesy copies of motions papers to be sent to chambers.

D. **Scheduling**

Briefs are to be filed with all dispositive motions. Under Judge Lancaster's standard discovery order, a responding party is typically granted 11 working days to respond, and the moving party is granted 10 days to submit a reply brief

E. **Evidentiary Hearings**

Judge Lancaster holds hearings on evidentiary matters immediately before trial.

F. **In Limine Motions**

Judge Lancaster's standard pretrial order provides a filing date for motions in limine and responses thereto before the date of the pretrial conference.

III. CIVIL CASES

A. Pretrial Procedures

1. **Local Rule 16.1**

Judge Lancaster has a standard pretrial order. (Exhibit III.A.1.). It tracks Rule 16.1, except that it has a briefing requirement for certain motions.

2. **Pretrial Conferences**

In addition to the Rule 16.1 conference, Judge Lancaster conducts scheduling conferences as necessary, but does not grant them routinely every 90 days. He may schedule a status conference in a complicated, active case to see that the parties are proceeding.

3. **Settlement**

Judge Lancaster actively participates in the settlement process and recently has begun to conduct mediations as well. He believes that he has had some success with mediation, particularly in complicated monetary damages cases. Typically, he conducts the mediation from 10:00 a.m. until 12:00 noon and then from 1:30 p.m. until 4:00 p.m. He expects individuals with settlement authority to attend, although if that individual lives far away, it may be sufficient to be in telephone contact. Judge Lancaster's practice is to discuss settlement separately with each party. Sometimes Judge Lancaster initiates settlement conferences after the pleadings have closed.

Judge Lancaster tries to settle cases even where he will be trying the case and there is no jury, unless the parties are uncomfortable with his active involvement under these circumstances. He commented that parties do have to grant the court some deference.

4. **Extensions and Continuances**

Judge Lancaster is fairly liberal in granting extensions and continuances except when a trial date has been set.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

Judge Lancaster normally provides 90 days for discovery and is willing to grant some extensions. At some point, however, he will announce that there will be no more extensions, and after that time he is fairly adamant about not granting further extensions. He commented that discovery is very expensive and can be streamlined.

2. **Expert Witnesses**

Judge Lancaster normally permits the depositions of adverse expert witnesses The examining party normally has to pay the witness's fee.

3. **Deposition Disputes**

Judge Lancaster will listen to deposition disputes and will entertain discovery motions over the telephone.

4. **Stay of Discovery**

Judge Lancaster does not routinely stay discovery during the pendency of a motion to dismiss or other dispositive motion, however, he will entertain requests for such stays.

5. **Limitations on Discovery**

Judge Lancaster does not have any standing order limiting discovery.

6. **Rule 11 Motions - Rule 37 Sanctions**

Judge Lancaster has not granted any Rule 11 motions. He has granted attorneys' fees under Rule 37.

C. **Injunctions and TROs**

Judge Lancaster tries to schedule injunction hearings within 30 days.

D. **Trial Procedures**

1. **Scheduling of Cases**

Judge Lancaster has his clerk set a definite trial date in the case management order. He does not keep trials on a trailing docket-type trial list. Trials are generally scheduled within 60 to 90 days after determining that a case cannot settle.

2. **Trial Hours/Days**

Judge Lancaster normally conducts trial between approximately 9:30 a.m. to 4:30 p.m.- 4:45 p.m., with a morning and afternoon break and a break for lunch from approximately 12:15 p.m. to 1:30 p.m.

3. **Trial Briefs**
Judge Lancaster does not require trial briefs and believes that matters which require the Court's attention should be referenced in the pretrial statement.

4. **Voir Dire**
Judge Lancaster does not take part in civil voir dire; his courtroom deputy performs this task outside Judge Lancaster's presence. Counsel's suggestions for questions to be asked of potential jurors must be submitted to the Judge at the same time as Motions in Limine.

5. **Notetaking by Jurors**
Judge Lancaster does permit jurors to take notes.

6. **Side Bars**
Judge Lancaster permits side bars, however, he does not permit side bars to delay the trial. He does meet with attorneys each trial date at 9:00 a.m. to resolve any outstanding evidentiary issues and legal argument.

7. **Examination of Witnesses Out of Sequence**
It is permissible to examine witnesses out of sequence for logistic purposes.

8. **Opening Statements and Summations**
Judge Lancaster leaves decisions as to opening statements and summations up to individual attorneys. He sets no limits or requirements.

9. **Examination of Witnesses or Argument by More Than One Attorney**
Judge Lancaster permits only one attorney for each party to examine a given witness, i.e., if there are five defendants, each with his or her own counsel, each of the five defendants may have one attorney examine a particular witness. Alternatively, if one party has more than one attorney, only one of that party's attorneys may examine a particular witness.

10. **Examination of Witnesses Beyond Direct and Cross**
Judge Lancaster permits some redirect and recross examination, so long as it is truly redirect or recross and does not open additional areas. Rebuttal testimony is also permitted so long as it is clearly rebuttal testimony.

11. **Videotaped Testimony**
Judge Lancaster permits videotaped testimony.

12. **Reading of Material into the Record**
Judge Lancaster routinely allows the reading of materials into the record. It is permissible to use a law clerk to do the reading.

13. **Exhibits**

All exhibits shall be listed in the Pretrial Statement. Plaintiff's exhibits should be listed first, identified by number. Defendant's exhibits should then be listed, identified by letter. After each exhibit, the opposing party should indicate (1) whether the authenticity of the exhibit is agreed upon or objected to and (2) whether the exhibit is agreed to be admissible or whether there is an objection to the exhibit.

Exhibits must be marked and exchanged prior to trial. It is permissible to introduce exhibits out of sequence. Visual aids are also permissible, but they must be marked and introduced into evidence if they are to be given to a jury. Judge Lancaster does not admit exhibits until a foundation has been established. Opposing counsel is permitted to cross-examine with respect to the admissibility of exhibits.

14. **Directed Verdict Motions**

Directed verdict motions or motions to dismiss in non-jury trials may be made on oral motion.

15. **Jury Instructions and Verdict Forms**

Judge Lancaster has standard language that he uses in jury instructions and requires counsel's suggested instructions to be submitted on the Friday prior to the beginning of trial. Judge Lancaster prepares a written charge which is given to counsel approximately 24 hours before the charging conference is held. The charging conference is held shortly prior to the end of trial. The jury is permitted to have a copy of the charge during their deliberations.

16. **Proposed Findings of Fact and Conclusions of Law**

Judge Lancaster may order the filing of proposed findings of fact and conclusions of law in complicated cases.

17. **Offers of Proof**

Offers of proof are conducted at side bar or at his daily conference with trial counsel in jury trials and can be done in open court in non-jury trials.

18. **General Courtroom Rules**

Judge Lancaster does not have other specific courtroom rules; however he prefers that attorneys use the lectern. An attorney is free to approach the witness to show them a document with the Court's permission. Judge Lancaster avoids courtroom conduct rules that may interrupt the flow or dynamics of a trial.

E. **Jury Deliberations**

1. **Written Jury Instructions**

The jury receives a copy of his instructions.

2. **Exhibits in the Jury Room**

Exhibits generally go into the jury room if they are part of the record, so long as they are not too cumbersome.

3. **Jury Requests to Read Back Testimony or Replay Tapes During Deliberations**

In his opening statement to the jury, Judge Lancaster states that it is very difficult for the court reporter to repeat testimony so that the jury should rely on their recollection. If necessary, however, the court reporter will be permitted to read back testimony.

4. **Jury Questions**

Jury questions must be in writing.

5. **Availability of Counsel During Jury Deliberations**

Counsel need not remain in the courtroom during jury deliberations; however, they should be available by phone.

6. **Interviewing the Jury**

After the verdict, Judge Lancaster instructs jurors that they may answer attorney questions if they wish, but that they are not obligated to do so.

F. **General**

1. **Special Types of Cases**

Judge Lancaster has no special procedures with respect to particular types of cases.

2. **Other Individual Practices/Procedures**

Judge Lancaster does not have any individual practices or procedures that have not been discussed above.

IV. CRIMINAL CASES

A. **Motions**

Judge Lancaster does not have a particular practice or position with regard to granting extensions of time to file pretrial motions; however, he noted that the Speedy Trial Act does limit flexibility in this regard.

Judge Lancaster requests proposed orders contain language excluding such extension under the Speedy Trial Act.

B. **Pretrial Conferences**

Judge Lancaster holds a single pretrial conference in criminal cases.

C. **Guilty Pleas**

Judge Lancaster sets no limit on when guilty pleas are accepted. They are permissible on the day of trial, whether the defendant pleads guilty to all counts or to less than all counts. Judge Lancaster has an extensive plea colloquy. A copy of his colloquy follows this summary. (Exhibit IV.C.).

D. **Voir Dire**

Judge Lancaster presides during criminal voir dire while his courtroom deputy conducts the questioning of the venirpersons.

E. **Trial**

Where there are multiple defendants, each defendant's attorney may question a given witness.

If witness sequestration is requested, Judge Lancaster generally grants the request.

Judge Lancaster does not limit the number of government agents that may sit at counsel table.

Counsel may make their own determinations as to how they wish to conduct opening statements.

Judge Lancaster prepares his own special interrogatories and has no particular policy with respect to the waiver of defendant's rights.

F. **Sentencing Memoranda**

Defense counsel may submit sentencing memoranda, but they are not required to do so.

G. **Sentencing Conference**

Judge Lancaster does not generally hold sentencing conferences under the Sentencing Guidelines.

H. **Over General Practices and Procedure**

Judge Lancaster does not recommend specific prisons.

Jencks material should be provided before cross examination and preferably before jury selection.

Defendants must file a motion for leave to travel unless the initial conditions of bond provide for travel outside the Western District of Pennsylvania.

Judge Lancaster does not have a particular policy when there are conflicts between defense counsel and the defendant. He has allowed defense counsel to withdraw from representation in certain cases. Where there are financial problems, he has permitted the retroactive appointment of counsel.

V. BANKRUPTCY CASES

N/A.

VI. BANKRUPTCY APPEALS (TO THE DISTRICT COURT)

A. Filing and Scheduling

See Exhibit VI, Procedural Order for Bankruptcy Appeals.

B. Oral Argument

See Exhibit VI, Procedural Order for Bankruptcy Appeals.

C. Other General Practices/procedures

See Exhibit VI, Procedural Order for Bankruptcy Appeals.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

_____, Plaintiff,	)	
v.	)	Civil Action No.
_____, Defendant.	)	

CASE MANAGEMENT ORDER

AND NOW, this _____ day of _____, 199___,
IT IS HEREBY ORDERED that the above captioned civil action is placed under Rule 16.1 of the Local Rules of the United States District Court for the Western District of Pennsylvania for pretrial proceedings and all provisions of the Rule will be strictly enforced.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to all case management, status or pretrial conferences in order to obtain authority for the purpose of participating in settlement negotiations to be conducted by the court. Counsel are encouraged to appear with their principals at all such conferences, or instruct the principals to be available by telephone to facilitate the amicable resolution of all litigation.

IT IS FURTHER ORDERED that compliance with the provisions of Local Rule 16.1.2.A. shall be completed as follows:

I. Case Management Plan

1) This case is designated as a Track One action as that term is defined in Local Rule 16.1.3.

2) The parties shall move to amend the pleadings or add new parties by_____, 199___.

3) The parties shall complete all discovery by _____, 199___. All interrogatories, depositions, requests for admissions and requests for production shall be served within sufficient time to allow responses to be completed and filed prior to the close of discovery.

4) Plaintiff's pretrial narrative statement shall comply with Local Rule 16.1.4.A. and shall be filed by _____, 199___. Defendant's pretrial narrative statement shall comply with Local Rule 16.1.4.B. and shall be filed by _____, 199___. Counsel shall specify the material facts to be proved at trial. Proof of material facts not specified, may be excluded at trial upon objection or by the court *sua sponte*. ANY EXHIBIT WHICH HAS NOT BEEN IDENTIFIED BY COUNSEL IN THE PRETRIAL NARRATIVE STATEMENT, EXCEPT AN EXHIBIT TO BE USED SOLELY FOR IMPEACHMENT PURPOSES, SHALL NOT BE ADMITTED AS EVIDENCE, UNLESS THE PARTIES OTHERWISE AGREE OR THE COURT ORDERS OTHERWISE.

The parties shall not amend or supplement their pretrial statements without leave of court.

5) The parties shall file motions for summary judgment, if appropriate, on or before _____, 199___. The nonmoving party's response to the motion for summary judgment is due on _____, 199___.

6) The parties shall file any motions *in limine* no later than _____, 199___. The nonmoving party's response to any motion *in limine* shall be due no later than _____, 199___. NO MOTIONS *IN LIMINE* WILL BE ENTERTAINED BY THE COURT PRIOR TO _____, 199___.

7) The court will conduct a pretrial conference on _____, 199___, at _____ ( ).m. IMPORTANT INFORMATION REGARDING ATTORNEYS' RESPONSIBILITIES AT THE PRETRIAL CONFERENCE APPEARS IN SECTION IV OF THIS ORDER.

8) Subsequent to the pretrial conference, counsel for all parties may be ordered by the court to meet at a mutually convenient place to complete a pretrial stipulation to further delineate the legal and factual issues involved.

9) The case shall presumptively be called for trial on _____, 199___. THE ABSENCE OF ANY WITNESS SHALL NOT BE SUFFICIENT CAUSE TO DELAY THE TRIAL.

II. Motion Practice
A. Motions Not Requiring Briefs

No brief is required by either movant or respondent unless otherwise directed by the court with respect to the following motions:

1) For extension of time for the performance of an act required or allowed to be done;

2) To continue a pretrial conference, hearing, or motion or the trial of an action;

3) To amend pleadings;

4) To file supplemental pleadings;

5) To appoint next friend or guardian ad litem;

6) For a substitution of parties; and

7) To compel discovery.

Any of the above motions not requiring briefs shall be accompanied by a proposed order stating the relief requested by said motion. All other motions and responses thereto, must be accompanied by a brief. The Clerk shall not accept for filing any motion, application or objection requiring a brief not accompanied by such brief without permission of the court.

B. Summary Judgment Motions

The brief in support of a motion for summary judgment shall begin with a section entitled "Movant's Statement of Undisputed Material Facts." The statement shall contain a concise itemization of material facts over which the movant contends that no dispute exists. The facts shall be numbered and appear in a form similar to a plaintiff's complaint. At the conclusion of each fact, movant shall refer, with particularity, to those portions of the record upon which movant relies.

The brief in opposition to a motion for summary judgment shall begin with a section entitled "Response to Movant's Statement of Undisputed Material Facts." The Response shall answer each of the numbered averments of fact set forth in the movant's statement and shall state whether the movant's averment of fact is "admitted" or "disputed." If disputed, the respondent shall state a concise counter statement of the matter disputed. At the conclusion of each counter statement, respondent shall refer, with particularity, to those portions of the record upon which respondent relies. For example,

"5) Admitted.

6) Disputed. On the contrary...(See plaintiff's deposition of November 1, 1992, at Page 7, lines 1214)"

All material facts set forth in the Movant's Statement of Undisputed Material Facts shall be deemed admitted for the purpose of summary judgment unless specifically controverted as set forth herein.

All parties shall attach to their Statements of Undisputed Material Fact and Response thereto, copies of the documents or portions of the record which support their respective positions.

III. Procedure Governing Discovery Disputes

The Federal Rules of Civil Procedure allow for liberal discovery. In the absence of a privilege, relevancy is the test for determining whether material is discoverable. Fed.R.Civ.P. 26(b)(1). This rule is construed broadly and includes "any matter that bears on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

Discovery is not limited to the issues raised only in the pleadings, but rather is designed to define and clarify the issues. *Id.* at 351. Nor is discovery objectionable on the ground that the information sought would be inadmissible at trial, so long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Additionally, should it be determined that, given the needs of the case, compliance with a discovery request would be burdensome or expensive, this will not necessarily be grounds for nonproduction, but it will impact on the court's decision as to who must bear the cost of production.

In accordance with Local Rule 7.1.C., in the event a dispute arises over a discovery request, all counsel are required to confer in good faith in an effort to resolve the issue without court intervention. It shall be the obligation of the attorney for the party seeking court intervention to initiate such conferences and to do so promptly. Refusal to confer in good faith may subject counsel to sanctions, such as the imposition of costs, including the attorney's fees of opposing counsel, under Fed.R.Civ.P. 37(a)(4).

In the event, however, that the parties to this action are unable to informally resolve a discovery dispute and court intervention is sought, the movant shall file a Motion to Compel Discovery (or Protective Order if such is the case). Attached to the Motion shall be a proposed Order of Court in which the moving party shall set forth, in specific detail, its proposal for completely resolving the discovery dispute. Within five (5) working days after receipt of the motion, the respondent, either singularly or in conjunction, shall file a written response. Attached to the response shall be respondent's proposed Order of Court.

The court will sign, without modification, the one proposed Order of Court which, in the judgment of the court, is most reasonable under the circumstances.

IV. Pretrial Conference

At the pretrial conference, ATTORNEYS MUST BE PREPARED TO DO EACH OF THE FOLLOWING:

1. INDICATE on the record whether the exhibits of any other party are agreed to or objected to, and offer the reason(s) for any such objection.

2. If any legal issues remain undecided, PRESENT the proper motions, along with a brief.

3. ESTIMATE the number of days required for trial.

4. IDENTIFY the witnesses that are to testify at trial.

5. IDENTIFY any depositions or any portion thereof to be read into evidence. A party intending to use a discovery deposition in its case-in-chief shall: (a) identify the deposition by the name of the deponent and date of his or her deposition; and (b) designate to the court and to the opposing party the pages and lines that will be offered at trial. Opposing counsel shall counter-designate those lines and pages of the same deposition that will be offered at trial. Objections to the admissibility of any portion thereof to be read into evidence shall be identified at the pretrial conference. Objections to the admissibility of any portion shall be submitted to the court at the conference. This order does not include video taped qualifications of experts.

6. IDENTIFY known or anticipated evidentiary issues.

7. INQUIRE of their authority to settle and have their clients present or available by telephone. The judge shall inquire whether counsel have discussed settlement.

Such record shall be made of the conference as the court orders. Failure to fully disclose in the pretrial narrative statement, or at the pretrial conference, the substance of evidence proposed to be offered at trial, will result in the exclusion of that evidence at trial, unless the parties otherwise agree or the court orders otherwise. The only exception shall be evidence used for impeachment purposes.

BY THE COURT:

_____, J.

cc: All Counsel of Record

COLLOQUY FOR WAIVER OF
JURY TRIAL AND ENTRY OF GUILTY PLEA
(Pre-Guideline)

(Judge: Ask counsel and defendant to come forward.)

1. ^C, the court is informed that you wish to change the plea you have previously entered at Count^C of Indictment No. ^ to a plea of guilty. Is that correct?

2. Before accepting your guilty plea, there are a number of questions I will ask you to assure that it is a valid plea. If you do not understand any question, tell me so, and I will explain the question to you; or if at any time you wish to consult with your attorney, tell me so, and I will provide you time to consult with your attorney. I give you these instructions because it is essential to a valid plea that you understand each question before you answer. The clerk will please administer the oath to defendant.

3. Do you understand that having been sworn, your answers to my questions are subject to the penalties of perjury or of making a false statement, if you do not answer truthfully?

4. Please state your full name.

5. ^C, how old are you?

6. How far did you go in school?

7. Are you able to communicate in English?

(Judge to defense counsel):

8. Have you been able to communicate with the defendant in English?

9. ^C, have you taken any drugs or medication or drunk any alcoholic beverages in the past 24 hours?

10. Are you now, or have you recently been, under the care of a physician or a psychiatrist?

11. Are you now, or have you recently been, hospitalized or treated for narcotic addiction?

12. Do you understand what is happening today?

(Judge to defense counsel and prosecutor) :

13. Do either of you have any doubt as to the defendant's competence to plead at this time?

    (JUDGE) I FIND THE DEFENDANT COMPETENT TO PLEAD.

14. ^C, do you have an attorney here with you today?

15. What is your attorney's name?

16. Have you had ample opportunity to discuss your case with your attorney?

17. Are you satisfied with the job he/she^C has done for you?

18. Do you understand that if you continue to plead not guilty and do not change your plea, you have a right to be assisted by an attorney at the trial of these charges?

19. Do you understand that if you qualify financially, you are entitled to be assisted by an attorney at no cost to you at all phases of the processing of these charges against you?

20. Do you understand that under the Constitution and the laws of the United States, you are entitled to a speedy trial by a judge and jury on the charges contained in Indictment No. ^C?

21. Do you understand that at the trial, you would be presumed to be innocent?

22. Do you understand that at the trial, the government would be require to prove your guilt by competent evidence and beyond a reasonable doubt before you could be found guilty?

23. Do you understand that at the trial, you would not have to prove that you were innocent?

24. Do you understand that at the trial, the jury must be unanimous in order to find you guilty of the charges against you?

25. Do you understand that you would have the right to participate in the selection of the jury and that you would have the right to strike or eliminate any prospective juror if it was demonstrated that that juror was unable to render a fair and impartial verdict and that, in addition, you would have the right to strike ten jurors, and one alternate juror, without assigning any reason at all?

26. Do you understand that in the course of the trial, the witnesses for the government would have to come to court and testify in your presence?

27. Do you understand that in the course of the trial, your counsel could cross-examine the witnesses for the government, object to evidence offered by the government and offer evidence on your behalf?

28. Do you understand that in the course of the trial, if you qualify as being financially unable to pay witness fees to witnesses you wish to call on your behalf, the government would pay those witness fees?

29. Do you understand also that at a trial, you would have the right to testify if you chose to do so?

30. Do you understand that at a trial, you also would have the right not to testify and no inference or suggestion of guilt could be drawn from the fact that you did not testify?

31. If you plead guilty and I accept your plea, do you understand that you will waive your right to a trial and the other rights I have just discussed, there will be no trial, and I will enter a judgment of guilt and sentence you on the basis of your guilty plea after considering a pre-sentence report?

32. If you plead guilty, do you understand that you will also have to waive your right not to incriminate yourself, since I may ask you questions about what you did in order to satisfy myself that you are guilty as charged and you will have to acknowledge your guilt?

33. Having discussed your rights with you, do you still want to plead guilty?

34. Have you received a copy of the indictment naming you? Have you discussed with your counsel the charge in the indictment to which you intend to plead guilty?

35. Do you understand that you are charged in Count ^C as follows:
    ^C

In violation of Title ^C, United States Code, Section ^C.

36. Do you understand the charge?

37. To prove a violation of Title ^C, United States Code, Section C, do you understand that the government must prove beyond a reasonable doubt the following elements of the crime:
    1. ;
    2. ; and
    3. .

38. Do you understand that the maximum penalty for Count ^C is a term of imprisonment of not more than ^C years; a fine not more than the greater of $^C, or an alternative fine in an amount not more than the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than you, unless the imposition of this alternative fine would unduly complicate or prolong the sentencing process; a term of supervised release of not more than ^C years; any or all of the above? Further, do you understand that you will be assessed a mandatory special assessment of $50.00, pursuant to 18 U.S.C. § 3013 (a) (2) (A), for the Crime Victims' Fund?

39. Has anyone made a threat to you or to anyone else that has forced you in any way to plead guilty?

40. You should understand that this court may approve a plea agreement. You have a duty to disclose any such agreement. If you do not disclose the agreement now, you may not later assert the existence of any plea negotiation or agreement.

41. Has there been any plea agreement entered into between you and your counsel and counsel for the government? (If no, skip to Question No. 47.)

(If yes):

42. ^C, what is the substance of that plea agreement?

43. Do the prosecution and defense counsel agree that the substance of the plea agreement has been correctly stated?

44. ^C, has anyone made any promise other than the plea agreement that induced you to plead guilty?

(If yes):

45. What was that promise?

46. ^C, do you understand that the court is not required to accept the plea agreement which you have entered into and may reject it? If the court rejects the plea agreement, you will be advised in open court and will have the opportunity to withdraw your guilty plea. If the plea agreement is rejected, you may nevertheless continue your plea of guilty, and if you persist in your guilty plea after the plea agreement is rejected, your sentence or the disposition of this case may be less favorable to you than that proposed in the plea agreement. Do you understand?

47. Do you understand that the offense to which you are pleading guilty is a felony offense, that if your plea is accepted you will be adjudged guilty of that offense; and that such adjudication may deprive you of valuable civil rights such as the right to vote, the right to hold public office, the right to serve on a jury, and the right to possess any kind of firearm?

48. Has anyone made any prediction or promise to you as to what your sentence will be?

(If yes):

49. What was it and who made it?

50. Has anything I have said here today suggested to you what your actual sentence will be?

51. Have you been instructed by your counsel, government counsel or anyone else to respond untruthfully to any question concerning a promised sentence?

52. ^C, did you, as charged in Count ^C, ^C ?

(Judge to prosecutor):

53. What in summary would be the government's evidence as to Count ^C?

54. ^C, do you agree with the prosecution's summary of what you did?

(If no):

55. With what do you disagree?

56. Do you still wish to plead guilty?

(Judge to defense counsel):

57. Is this consistent with your advice?

(Judge): ^C, since you acknowledge that you are in fact guilty as charged in Count ^C, since you know your right to a trial, since you know what the maximum possible penalty is and since you are voluntarily pleading guilty, I will accept your guilty plea and enter a judgment of guilty on your plea to Count ^C.

It is the finding of the court in the case of *United States v. ^C*, that the defendant is fully competent and capable of entering an informed plea, and that his/her ^C plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. This plea is, therefore, accepted and he/she ^C is now adjudged guilty of Count ^C.

(Have the defendant and defense counsel sign the chance of plea which is on the backside of the indictment.)

(For offenses committed *prior* to the adoption of the Sentencing Reform Act of 1984)

58. I will order a pre-sentence investigation report. ^C, it is in your best interest to cooperate with the probation officer in furnishing information for that report since the report will be important in my decision as to what your sentence will be. You and your counsel have a right, and will have an opportunity, to examine the report and comment on it at the time of sentencing.

It is my procedure to forward a copy of the presentence investigation report to defense counsel to review with his client prior to sentencing. Included with the pre-sentence report will be a certificate that defense counsel must sign stating that he/she ^C has reviewed the pre-sentence report with his/her ^C client; that he/she ^C has advised his/her ^C client of the parole guidelines; and that he/she ^C has not duplicated, nor allowed his/her ^C client to duplicate, the presentence report in any manner. The copy of the pre-sentence report and the certificate signed by defense counsel must be returned to the court at the time of sentencing. A copy of the pre-sentence report and a certificate regarding duplication will also be favored to the Assistant United States Attorney, who must also return the presentence report and certificate to the court at the time of sentencing. The disposition of sentencing is set for ^C, at ^C.m.

59. The court is required to detain the defendant after conviction, unless the court finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to the safety of any other person or the community. The defendant has the burden of proof. Mr./Ms. ^C, I now allow you the opportunity on behalf of the defendant to present evidence to meet that burden.

(Give the Assistant United States Attorney an opportunity to respond.)

What is the present bond in this matter?

^C, do you understand that you must be in this courtroom for sentencing at ^C.m. on ^C, or you will be guilty of a violation of the Bail Reform Act, 18 U.S.C. § 3146, for which there is a maximum penalty of five (5) years incarceration or a fine of $250,000.00, or both.

(Judge to prosecutor and defense counsel) :

60. Are counsel aware of any other matter to be brought to the attention of the court?

AND NOW, the defendant in the above-entitled case hereby withdraws his/her plea of not guilty entered _____ 19___ and now pleads guilty in open court to _____ this ____ day of _____ 19___

_____

Defendant

_____

Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

_____ Appellant,	)	
	)	Civil Action No. _____
_____ v.	)	Procedural Order for Bankruptcy Appeals
_____ Appellee(s)	)	

ORDER

The above action seeks review of a decision by the United States Bankruptcy Court for the Western District of Pennsylvania. In accordance with Bankruptcy Rule 8009, IT IS HEREBY ORDERED that the parties shall proceed as follows:

(1) The appellant shall serve and file his brief within 15 days, or by _____.

(2) The appellees, either singularly or jointly, shall file and serve their brief(s) within 15 days thereafter, or by _____.

(3) The appellant may serve and file a reply brief within 10 days after the filing of the appellees brief(s), or by _____.

(4) The court will entertain oral argument on the appeal on _____ at ____ .m. in Courtroom #8, 9th floor, United States Post Office and Courthouse, Pittsburgh, Pennsylvania.

(5) No extensions of time will be permitted without order of the Court.

BY THE COURT:

_____, J.

EXHIBIT VI