

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

President Judge Administrative Order
No. 2009-01

IN RE: **CLERK OF QUARTER SESSIONS -**
Duties and Responsibilities with Regard To Financial Process

ORDER

AND NOW, on this 23rd day of January, 2009, upon review and consideration of 42 Pa.C.S. § 9728 (which requires the county probation department to collect all restitution, reparation, fees, costs and fines) and upon consideration of the various goals of the statewide Common Pleas Criminal Court Case Management System (“CPCMS”) (which, *inter alia*, was designed to uniformly account for the collection of all fees, fines, costs, costs, reparations, restitution and any other remittances and, most importantly, to provide an orderly and uniform distribution process); and upon consideration of the attached *Memorandum of Understanding* executed on February 27, 2007 by the Clerk of Quarter Sessions and the President Judge of the Court of Common Pleas (which attempted to minimize and resolve the numerous issues which had arisen in the collection and disbursement of the above-stated remittances); and, finally, upon consideration of the collection and distribution problems which have continued even after execution of the afore-mentioned *Memorandum of Understanding* and which have not been able to be resolved, this Court finds that in order to alleviate the continuing collection and disbursement problems and in order to streamline and more efficiently and effectively collect and disburse the above-recited remittances the process now in place in Philadelphia County must be changed.

Accordingly, pursuant to this Court’s general supervisory powers as well as the provisions of 42 Pa.C.S. § 9728, the statewide Common Pleas Criminal Court Case Management System, and the terms of the February 27, 2007 *Memorandum of Understanding*, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that effective as of 5:00 PM, Friday, January 30, 2009:

1. The Clerk of Quarter Sessions shall have no further responsibility with regard to CPCMS accounts receivable, accounts payable, bail, and maintenance of the corresponding bank accounts;
2. The Clerk of Quarter Sessions shall vacate the Criminal Justice Payment center and shall relinquish and turn over any offices, cubicles, or other areas therein now in its possession as provided below; and

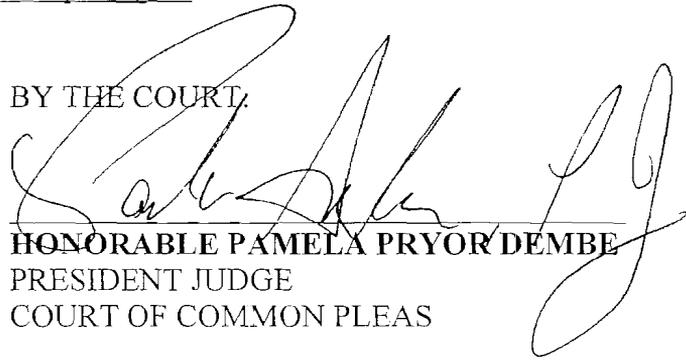
3. The Clerk of Quarter Sessions shall relinquish and turn over ownership of the Court Assessments and Cash Bail bank accounts, including any such legacy accounts still existing and in its possession as provided below; and

4. the Philadelphia Probation Department, through designated employees of the First Judicial District, shall assume all responsibilities, offices and bank accounts relinquished by the Clerk of Quarter Sessions as provided in this Order. The said representatives of the First Judicial District are ordered to execute any necessary documentation to effectuate the re-titling or re-establishment of any necessary bank accounts.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of Quarter Sessions shall continue to be responsible for disposed records, docketing, preparation of Orders and other documents as directed by the presiding judge and as otherwise required by rules of court, unless otherwise ordered by this Court or determined by the Council of the City of Philadelphia.

This Administrative Order is issued as authorized by Pa.R.Crim.P. No. 116, and in accordance with Pa.R.Crim.P. No. 105 and will become effective January 30, 2009. The original Administrative Order will be filed with the Clerk of Quarter Sessions, Active Criminal Records and the Prothonotary of Philadelphia as an Administrative Order issued by the President Judge of the Court of Common Pleas of Philadelphia County and copies will be submitted to the Supreme Court Criminal Procedural Rules Committee, the Administrative Office of Pennsylvania Courts and the Legislative Reference Bureau. Copies of the Administrative Order will also be submitted to *American Lawyer Media*, *The Legal Intelligencer*, *Jenkins Memorial Law Library*, and the law library for the First Judicial District. The Administrative Order will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

BY THE COURT:


HONORABLE PAMELA PRYOR DEMBE
PRESIDENT JUDGE
COURT OF COMMON PLEAS

CERTIFIED FROM THE RECORD ON January 23 2009
PROTHONOTARY OF PHILADELPHIA COUNTY
BY: [Signature]

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is entered into this 27th day of Feb, 2007 by and between the PHILADELPHIA COUNTY CLERK OF QUARTER SESSIONS ("CQS") and THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA ("FJD").

RECITALS

WHEREAS, on September 18, 2006, the Philadelphia County Court of Common Pleas commenced use of the new statewide Common Pleas Criminal Court Case Management System ("CPCMS"), in accordance with Orders of the Supreme Court of Pennsylvania;

WHEREAS, CPCMS is designed to, among other things, uniformly account for the collection of fines, fees, costs, reparations, restitution, penalties and other remittances pursuant to 42 Pa.C.S. §9728, correlate them to records of outstanding judgments and allocate and disburse them pursuant to applicable law, including that Order of the Supreme Court of Pennsylvania, dated June 14, 2005, entitled "In Re Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. §3502(A): No. 273 Judicial Administration No. 1," attached hereto as Exhibit "A" (the "Supreme Court Collection and Disbursement Order");

WHEREAS, 42 Pa.C.S. §9728 requires that "all restitution, reparation, fees, costs, fines and penalties shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county for that purpose in any manner provided by law."

WHEREAS, the duties of the CQS are set forth in the Pennsylvania Constitution, and applicable statutes and ordinances, including that 1973 Ordinance of Philadelphia City Council, No. 275, attached hereto as Exhibit "B", which vests the CQS with "full power and authority to act as the Clerk of the Court" for the Philadelphia Court of Common Pleas and Municipal Court in all criminal matters, and authorizes the CQS to, among other things, "receive, collect, and deposit to the use of the City all court costs, fees and fines required by law and assessed by the court";

WHEREAS, the CQS, in performing its authorized functions and responsibilities in connection with the collection of fines, costs and fees, has historically owned and controlled the fines, costs and fees bank account, including processing and issuing checks, and performing accounting and reconciliation functions in connection with that account; and the FJD has owned and controlled the restitution and supervision fee account;

WHEREAS, an issue has arisen between the CQS and FJD concerning the parties' respective accounting roles in connection with the receipt, collection, deposit and disbursement of fines, costs and fees, in light of CPCMS; and

WHEREAS, the CQS and FJD desire to enter into this Memorandum of Understanding for the purpose of setting forth the agreement of the parties in connection with the receipt, collection, deposit and disbursement of all restitution, reparation, fees, costs, fines and penalties.

NOW THEREFORE, the parties hereby agree as follows:

1. The term of this Memorandum of Understanding shall commence on February 13, 2007 and end on August 12, 2007.
2. Throughout the term of this Memorandum of Understanding, CQS and FJD shall continue to perform the same respective in person payment window cashiering functions as each was performing as of September 17, 2006.

3. Court Assessments Account:

- A. CQS shall own the master account for the administration of the Court Assessments Account, currently owned by the FJD and held at Wachovia bank and shall be responsible for account adjustments, reconciliations and the preparation and issuance of checks. FJD shall forthwith sign the necessary documents transferring title to the CQS.
 - B. FJD shall have read access to the Court Assessments Account via the Internet.
 - C. With respect to restitution, CQS and FJD shall have the following responsibilities:
 - 1.) FJD shall continue throughout the term to perform the same functions as it was performing on February 4, 2007 with regard to the participant accounts.
 - 2.) CQS shall queue up and print all restitution checks on CQS check stock.
 - 3.) CQS shall deliver all restitution checks in a timely manner to FJD Probation Department which shall process the mailing of the checks.
 - 4.) If, after mailing, any restitution checks are returned to CQS due to a bad address, CQS shall promptly deliver such checks to FJD, which will be responsible for attempting to find good addresses for payees.
 - D. CQS shall process, print checks (on CQS stock) for, and mail all other monies held in the Court Assessments Account, including fines, costs and fees.
 - E. CQS, as soon as is reasonably possible, but before the expiration of the term shall transfer to the Court Assessments Account all monies currently in the possession of CQS that are contained in legacy accounts and/or consist of mail-in payments, and shall make the appropriate receipt entry into CPCMS.
 - F. CQS shall deposit on a daily basis into the Court Assessments Account lockbox to be established by FJD at Wachovia Bank all future mail-in payments received by CQS. FJD shall be responsible for performing data entry (receipting) transactions to ensure that all mail-in payments deposited into the lockbox are properly credited to the Court Assessments Account.
 - G. FJD shall be responsible for applying all escrow to the appropriate participant account.
 - H. CQS shall continue with the special merchant services that the FJD has set up with Wachovia with regard to the Court Assessments Account in order to improve on the accounts receivable process. These services include but are not limited to credit card processing, lockbox, and participant monthly statement generation. Payment of any fees associated with these services shall be applied against the interest earned on said account as is currently the practice, or, if such interest is not sufficient to cover the cost, fees shall be invoiced separately by Wachovia and processed in the manner negotiated with the City of Philadelphia.
 - I. FJD shall be responsible for all dunning of past due participants' accounts.
 - J. FJD shall reconcile the Court Assessments Account up through and including the January 2007 statement within ten (10) days of the signing of this Memorandum of Understanding.
 - K. Use of the Court Assessments Account, including deposits, disbursements, reconciliation, and auditing in connection therewith, shall be in accordance with all applicable laws, rules, regulations and orders, including the Supreme Court Collection and Disbursement Order.
4. FJD and CQS shall arrange with the Administrative Office of Pennsylvania Courts ("AOPC") for AOPC to provide appropriate training (including training on the queuing up of restitution checks) to applicable CQS staff (estimated at this time to be approximately 3-4 persons) as soon as reasonably

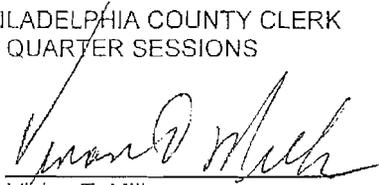
practicable, and before the commencement of these new procedures, to enable CQS to perform its functions under this Memorandum of Understanding.

5. CQS shall provide sufficient staff power to perform its obligations under this Memorandum of Understanding, including provision of three (3) full time employees.
6. CQS shall permit FJD to use the two (2) CQS collection windows located in the basement of the Criminal Justice Center and operated by CQS during business hours for collections after regular hours.
7. CQS and FJD shall make all reasonable and good faith efforts to cooperate with one another in performing their respective obligations under this Memorandum of Understanding, and by June 20, 2007, shall commence good faith discussions with one another on whether to extend, modify or replace this Memorandum of Understanding. If a dispute arises during the term of this Memorandum of Understanding, the FJD and CQS shall submit a concise statement of the issue to the President Judge of the Court of Common Pleas for resolution. Such resolution shall be binding on the parties.

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Understanding as of the date first written above.

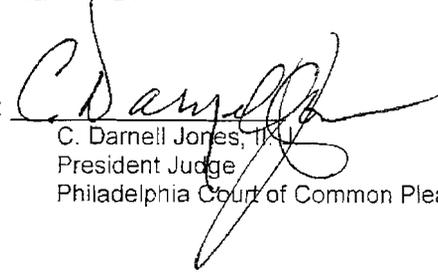
PHILADELPHIA COUNTY CLERK
OF QUARTER SESSIONS

By:


Vivian T. Miller
Clerk of Quarter Sessions

FIRST JUDICIAL DISTRICT
OF PENNSYLVANIA

By:


C. Darnell Jones, III
President Judge
Philadelphia Court of Common Pleas