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NEWS RELEASE

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Court Announces Civil Rules Amendment To Clarify Med-Mal Litigation Procedure

HARRISBURG, December 1, 2004 — Chief Justice of Pennsylvania Ralph J. Cappy today announced a change to the statewide Rules of Civil Procedure regarding jury instructions in medical malpractice cases involving noneconomic damages for bodily injury or death.

Civil Procedure Rule 223.3 was revised in an order issued today by the Supreme Court of Pennsylvania to add language that says a plaintiff's claim for so-called pain and suffering, or noneconomic damages, must be "viable under applicable substantive law" before a court can issue jury instructions. Civil Procedure Rule 223.3, which mandates a judge's instructions to jurors, was one of a series of medical malpractice litigation rules promulgated by the court last August.

The order issued today provides greater clarity to the fact that the rule adopted last summer regarding a presiding judge's specific charge to a jury should not be construed as a departure from Pennsylvania precedent, which holds that damages for loss of enjoyment of life are not recoverable in death cases. The change also effectively confirms existing limitations on the availability of non-economic damages in wrongful death actions.

"The court is committed to assessing public perspectives and facilitating a better understanding of the complexities involving medical malpractice litigation," the chief justice said. "This amended rule promotes more effective communication with jurists and jurors about their respective roles in providing the consistent disposition of these often complex cases."

(The new rule can be found on the Pennsylvania Judiciary Web site: www.courts.state.pa.us)

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