

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 1300]

#### Proposed Amendment of Rule 1305—Governing Compulsory Arbitration; Recommendation No. 134

The Civil Procedural Rules Committee proposes to amend Rule of Civil Procedure 1305 governing compulsory arbitration. The recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than April 19, 1996 to Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1300. COMPULSORY ARBITRATION

#### Subchapter A. RULES

#### Rule 1305. Conduct of Hearing. Evidence.

(a) Except as prescribed by this rule, the rules of evidence shall be followed in all hearings before arbitrators. Rulings on objections to evidence or on other issues which arise during the hearing shall be made by a majority of the board.

(b)(1) [If at least twenty days' written notice of the intention to offer the following documents in evidence was given to every other party accompanied by a copy of the document, a party may offer in evidence, without further proof,] The following documents shall be admitted into evidence if at least twenty days' notice of the intention to offer them was given to every other party accompanied by a copy of each document to be offered:

[ (1) (i) bills [, records and reports of hospitals, doctors, dentists, registered nurses, licensed practical nurses and physical therapists, or other licensed health care providers, ] or other documents evidencing charges incurred;

**Official Note:** The board of arbitrators may find a bill authentic, necessary and reasonable without extrinsic evidence but is not required to do so.

[ (2) (ii) [ bills for drugs, medical appliances and prostheses, ] records of businesses, government departments, agencies or offices, subject to statutory restrictions, provided that these are records which would otherwise be admissible if authenticated by a custodian of records;

**Official Note:** The restrictions on the admissibility of evidence under this subparagraph are unique to the records specified and are not found elsewhere in subdivision (b).

(iii) records and reports of hospitals and licensed health care providers;

(iv) expert reports and descriptions of expert qualifications;

[ (3) ] (v) [ bills for or ] written estimates of value, damage to, cost of repair of or loss of property; and

[ (4) ] (vi) [ a report ] reports of rate of earnings and time lost from work or lost compensation prepared by an employer.

(2) If twenty days' advance notice of intention to offer documents in evidence was not given but copies of the documents were provided to the other parties at least twenty days in advance of the hearing or during discovery, the admissibility of the documents without authentication shall be in the discretion of the arbitrators upon a finding of the absence of prejudice.

(3) A document which is received into evidence under subparagraphs (1) or (2) may be used for only those purposes which would be permissible if the person whose testimony is waived by this rule were present and testifying at the hearing. The arbitrators shall disregard any portion of a document so received that would be inadmissible if the person whose testimony is waived by this rule were testifying in person.

(4) Any other party may subpoena the person whose testimony is waived by this rule to appear at or serve upon a party a notice to attend the hearing and any adverse party may cross-examine [ him ] the person as to the document as if [ he ] the person were a witness for the party offering the document. The party issuing the subpoena shall pay the reasonable fees and costs of the person subpoenaed to testify, including a reasonable expert witness fee if applicable.

(c) A written estimate of value, damage to, cost of repair of or loss of property shall be accompanied by a statement of the party offering it whether the property was repaired and, if it was, whether the repairs were made in full or in part and by whom, together with the bill therefor.

(d) A party may offer in evidence, without the certification required by Sections 5328 and 6103 of the Judicial Code, an official weather or traffic signal report or a standard United States Government life expectancy table. A party may also offer any other official record kept within the Commonwealth without such certification if the provisions of subdivision (b) are followed.

#### Explanatory Note

The 1981 Explanatory Note to Rule 1305 will be deleted.

#### Explanatory Comment

Recommendation No. 134 proposes the amendment of Rule 1305(b) which relaxes the rules of evidence as to the introduction of certain types of written evidence at a hearing before a board of arbitrators in compulsory arbitration. First, the proposed amendment clarifies the

rule by providing that, if twenty days' notice of the intention to offer certain types of documents into evidence is given to every other party and if the notice is accompanied by copies of the documents, the documents "shall be admitted into evidence." Second, the recommendation broadens the categories of such evidence to include business and governmental records (subdivision (b)(1)(ii)) and expert reports and qualifications (subdivision (b)(1)(iv)). Third, new subdivision (b)(2) provides for the instance in which the required notice was not given but the other parties had received copies of the documents at least twenty days prior to the hearing or during discovery. Finally, new subdivision (b)(3) directs the board of arbitrators in its consideration and use of the documents admitted into evidence.

*By the Civil Procedural Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-440. Filed for public inspection March 22, 1996, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LUZERNE COUNTY

#### Order Designating the Pre-Trial Service Program, as the County Bail Agency; No. 793 of 1996

##### Order

*And Now* this 7th day of March, 1996, the following Rule is adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

##### **Luz. Cr. 4010 Bail Agency:**

In accordance with and pursuant to the Pennsylvania Rules of Criminal Procedure, the Luzerne County Court designates the Luzerne County Pre-Trial Service Program as the County Bail Agency with all the duties and powers now or hereafter provided for by said Rules including the following:

- a. To interview every person detained in lieu of or in default of bail as soon as possible after the commitment to determine whether such person qualifies for release on some supervised or unsupervised form of bail.
- b. To secure such information as may be necessary and relevant to any bail decisions.
- c. To make recommendations as to the bail risks of any defendant as well as concerning the types of release and the conditions of release on bail for individual defendants.
- d. To investigate and evaluate the reliability and solvency of any surety and report the same to the Court and/or issuing authority.
- e. Supervising defendants when so designated by the bail authority.
- f. To be surety on any bail permitted by law.
- g. Administering percentage cash bail when authorized by a bail authority pursuant to the Rules of Criminal Procedure.
- h. To keep account of the whereabouts of defendants released on bail for whom it is surety or defendants who are released under their supervisory powers and author-

ity or any bail authorized by the agency and to inform the Court or issuing authority of any violation by such defendant of terms or conditions of their release.

i. To make reasonable rules and regulations necessary to implement the Bail Agency's functions and to make the same known to each person placed under the supervision of the Agency.

j. With the approval of the Court to set, collect and retain as a fee an amount reasonably related to the cost of administering the particular bail program.

k. Nothing in this rule shall prohibit the designation of other private surety in appropriate bail cases without the designation of the County Bail Agency of supervisory surety.

l. Nothing in this rule shall prohibit the posting of any appropriate type of bail allowed under the Rules of Criminal Procedure by other private or licensed sureties.

m. Any representative of the Bail Agency who seeks and obtains information from a defendant shall both orally and in writing advise a defendant that anything said to a Bail Agency representative may be used against said defendant.

n. Information obtained from or concerning any defendant shall be disclosed only to persons authorized by law to receive such information and use of the same shall be as now or hereafter restricted or limited by the Rules of Criminal Procedure.

*By the Court*

PATRICK J. TOOLE, Jr.,  
*President Judge*

[Pa.B. Doc. No. 96-441. Filed for public inspection March 22, 1996, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated February 6, 1996, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective March 7, 1996 for Compliance Group 1 due April 30, 1995.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

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