

# THE COURTS

## Title 225—RULES OF EVIDENCE

[225 PA. CODE ARTS. I, IV, VI, VIII AND X]

### Order Amending Rule 410; and Approving the Revisions of the Comments to Rules 104, 408, 604, 609, 802 and 1003; No. 268, Supreme Court Rules; Doc. No. 1

The Committee on Rules of Evidence has prepared a Final Report explaining the amendments to Rule 410 and the revisions of the Comments to Rules 104, 408, 604, 609, 802 and 1003 that were adopted on March 29, 2001, effective April 1, 2001. The changes renumber the cross-references to the Rules of Criminal Procedure, make other editorial changes, and conform the Rule 802 Comment with the recent changes to 42 Pa.C.S. § 5985.1. The Final Report follows the Court's Order.

#### Order

*Per Curiam*

Now, this 29th day of March, 2001, upon the recommendation of the Committee on Rules of Evidence; this Recommendation for technical and clerical changes 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 Rule of Evidence 410 is hereby amended, and the revisions of the Comments to Rules of Evidence 104, 408, 604, 609, 802 and 1003 are approved, all in the following form.

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

#### Annex A

### TITLE 225. RULES OF EVIDENCE

#### ARTICLE I. GENERAL PROVISIONS

##### Rule 104. Preliminary Questions.

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##### Comment

Paragraph 104(a) is identical to F.R.E. 104(a). The first sentence is consistent with **prior Pennsylvania case law**. See *Commonwealth v. Chester*, 526 Pa. 578, 587 A.2d 1367 (1991).

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Paragraph 104(b) is identical to F.R.E. 104(b) and appears to be consistent with **prior Pennsylvania case law**. See *Commonwealth v. Carpenter*, 472 Pa. 510, 372 A.2d 806 (1977).

The first sentence of paragraph 104(c) differs from the first sentence of F.R.E. 104(c) in that the Federal Rule says "Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury." The first sentence of Pa.R.E. 104(c) has been changed to be consistent with Pa.R.Crim.P. [ **323(f)** ] **581(F)**, which requires hearings outside the presence of the jury in all cases in which it is alleged that the evidence was obtained in violation of the defendant's rights.

The second sentence of paragraph 104(c) is identical to the second sentence of F.R.E. 104(c). Paragraph 1049(c) indicates that hearings on other preliminary matters, both criminal and civil, shall be conducted outside the jury's presence when required by the interests of justice. Certainly, the court should conduct the hearing outside the presence of the jury when the court believes that it is necessary to prevent the jury from hearing prejudicial information. The right of an accused to have his **or her** testimony on a preliminary matter taken outside the presence of the jury does not appear to have been discussed in Pennsylvania law.

Paragraph 104(d) is identical to F.R.E. 104(d). In general, when a party offers himself **or herself** as a witness, the party may be questioned on all relevant matters in the case. See *Agate v. Dunleavy*, 398 Pa. 26, 156 A.2d 530 (1959). Under Pa.R.E. 104(d), however, when the accused in a criminal case testifies only with regard to a preliminary matter, he or she may not be cross-examined as to other matters. Although there is no Pennsylvania authority on this point, it appears that this rule is consistent with Pennsylvania practice. This approach is consistent with paragraph 104(c) in that it is designed to preserve the defendant's right not to testify generally in the case.

Paragraph 104(e) differs from F.R.E. 104(e) to clarify the meaning of this paragraph. See 21 Wright and Graham, *Federal Practice and Procedure* § 5058 (1977). This paragraph is consistent with **prior Pennsylvania case law**.

**Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001.**

#### Committee Explanatory Reports:

**Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).**

#### ARTICLE IV. RELEVANCY AND ITS LIMITS

##### Rule 408. Compromise and Offers to Compromise.

\* \* \* \* \*

##### Comment

\* \* \* \* \*

Pa.R.E. 408 is consistent with 42 Pa.C.S. § 6141 which provides, in pertinent part, as follows:

§ 6141. *Effect of certain settlements*

\* \* \* \* \*

(c) *Admissibility in evidence*.—Except in an action in which final settlement and release has been pleaded as a complete defense, any settlement or payment referred to in subsections (a) and (b) shall not be admissible in evidence on the trial of any matter.

\* \* \* \* \*

Under Pa.R.E. 408, as under F.R.E. 408, evidence of offers to compromise or completed compromises is admissible when used to prove an effort to obstruct a criminal investigation or prosecution. This is consistent with prior Pennsylvania case law. See *Commonwealth v. Pettinato*, 520 A.2d 437 (Pa. Super. 1987). Pa.R.E. 408 does not permit, however, the use of evidence relating to good faith compromises or offers to compromise when made for the

purpose of reaching an agreement such as those sanctioned by Pa.R.Crim.P. [ 314 ]586 (relating to dismissal of criminal charges not committed by force or violence upon payment of restitution) or Pa.R.Crim.P. [ 145 ]546 (relating to dismissal upon satisfaction or agreement). The court may need to conduct, out of the hearing of the jury, a preliminary inquiry into the circumstances surrounding compromises in criminal matters to determine whether to permit such evidence.

*Official Note:* Adopted May 8, 1998, effective October 1, 1998; amended March 10, 2000; effective July 1, 2000; **Comment March 29, 2001, effective April 1, 2001.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).**

**Rule 410. Inadmissibility of Pleas, Plea Discussions and Related Statements.**

(a) *General rule.* Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

\* \* \* \* \*

(3) any statement made in the course of any proceedings under Rules [ 59, 64, 69, 177, 179 or 319 ]409, 414, 424, 311, 313, or 590 of the Pennsylvania Rules of Criminal Procedure, Fed. R. Crim. P. 11, or any comparable rule or provision of law of Pennsylvania or any other jurisdiction regarding the pleas identified in subsections (1) and (2) of this rule; or

\* \* \* \* \*

**Comment**

This rule is similar to F.R.E. 410. References to Rules [ 59, 64, 69, 177, 179, and 319 ]409, 414, 424, 311, 313, and 590 of the Pennsylvania Rules of Criminal Procedure and the comparable rules or other provisions of Pennsylvania or other jurisdictions have been added. Unlike the federal rule, subsection (b) of the Pennsylvania rule is set forth separately to indicate that it creates an exception applicable to all of subsection (a).

Pa.R.E. 410 reflects present Pennsylvania law. See *Commonwealth v. Jones*, 544 A.2d 54 (1988); *Commonwealth ex rel. Warner v. Warner*, 40 A.2d 886 (Pa. Super. 1945); Pa.R.Crim.P. [ 177(b), 179(b) ]311(B), 313(B).

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**Official Note:** Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; amended March 10, 2000, effective immediately; **amended March 29, 2001, effective April 1, 2001.**

*Committee Explanatory Reports:*

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**Final Report explaining the March 29, 2001 amendments published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).**

**ARTICLE VI. WITNESSES**

**Rule 604. Interpreters.**

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**Comment**

This [ **Rule** ] rule adopts the substance of F.R.E. 604; the only change is the explicit reference to Pa.Rs.E. 702 and 603, rather than the general reference to "the provisions of these rules" in F.R.E. 604.

\* \* \* \* \*

Pa.R.E. 604 is consistent with those Pennsylvania statutes providing for the appointment of interpreters for the deaf. See 42 Pa.C.S.A. § 7103 (deaf party in a civil case); 2 Pa.C.S.A. § 505.1 (deaf party in hearing before Commonwealth agency); 42 Pa.C.S.A. § 8701 (deaf defendant in criminal case); see also *Commonwealth v. Wallace*, 433 Pa. Super. 518, 641 A.2d 321 (1994) (applying § 8701). Under each of these statutes, an interpreter must be "qualified and trained to translate for or communicate with deaf persons" and must "swear or affirm that he will make a true interpretation to the deaf person and that he will repeat the statements of the deaf person to the best of his ability."

There is little statutory authority for the appointment of interpreters, but the practice is well established. See Pa.R.Crim.P. [ 264(b) ]231(B) (authorizing presence of interpreter while investigating grand jury is in session if supervising judge determines necessary for presentation of evidence); 51 Pa.C.S.A. § 5507 (under regulations prescribed by governor, convening authority of military court may appoint interpreters). The decision whether to appoint an interpreter is within the discretion of the trial court. See *Commonwealth v. Pana*, 469 Pa. 43, 364 A.2d 895 (1976) (holding that it was an abuse of discretion to fail to appoint an interpreter for a criminal defendant who had difficulty in understanding and expressing himself in English).

**Official Note:** Adopted May 8, 1998, effective October 1, 1998; **Comment revised March 29, 2001, effective April 1, 2001.**

*Committee Explanatory Reports:*

**Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).**

**Rule 609. Impeachment by Evidence of Conviction of Crime.**

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**Comment**

Pa.R.E. 609(a) differs from F.R.E. 609(a). Pa.R.E. 609(a), subject to the time limitations in Pa.R.E. 609(b), is similar to F.R.E. 609(a)(2) because it permits impeachment of any witness by evidence of conviction of a crime involving dishonesty or false statement, regardless of what the punishment for that crime may be. However, Pa.R.E. 609(a) does not permit use of evidence of conviction of a crime punishable by death or imprisonment for more than one year, which is allowed under F.R.E. 609(a)(1), subject to certain balancing tests. This limitation on the type of crime evidence admissible is consistent with **prior Pennsylvania case law**. See *Commonwealth v. Randall*, 515 Pa. 410, 528 A.2d 1326 (1987); *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973). Moreover, Pa.R.E. 609(a), unlike F.R.E. 609(a)(2), specifically provides that a conviction based upon a plea of nolo contendere may be used to impeach; this, too, is consistent with **prior Pennsylvania case law**. See *Commonwealth v. Snyder*, 408 Pa. 253, 182 A.2d 495 (1962).

As a general rule, evidence of a jury verdict of guilty or a plea of guilty or nolo contendere may not be used to

impeach before the court has pronounced sentence. See *Commonwealth v. Zapata*, 455 Pa. 205, 314 A.2d 299 (1974). In addition, evidence of admission to an Accelerated Rehabilitative Disposition program under Pa.Rs.Crim.P. [ 176-186 ] 310-320 may not be used to impeach credibility. See *Commonwealth v. Krall*, 290 Pa. Super. 1, 434 A.2d 99 (1981).

Where the target of impeachment is the accused in a criminal case, 42 Pa.C.S.A. § 5918 again comes into play. See Comment to Pa.Rs.E. 607, 608 pointing out that § 5918's prohibition against questioning defendant who takes stand about conviction of any offense other than the one for which he is on trial applies only to cross-examination. Hence, evidence of conviction of a crime may be introduced in rebuttal after the defendant has testified. See *Commonwealth v. Bigham*, 452 Pa. 554, 307 A.2d 255 (1973).

\* \* \* \* \*

Pa.R.E. 609(d) differs from F.R.E. 609(d). Under the latter, evidence of juvenile adjudications is generally inadmissible to impeach credibility, except in criminal cases against a witness other than the accused where the court finds that the evidence is necessary for a fair determination of guilt or innocence. Pa.R.E. 609(d), to be consistent with 42 Pa.C.S.A. § 6354(b)(4), permits a broader use; a juvenile adjudication of an offense may be used to impeach in a criminal case if conviction of the offense would be admissible if committed by an adult. Juvenile adjudications may also be admissible for other purposes. See 42 Pa.C.S.A. § 6354(b)(1), (2), and (3).

\* \* \* \* \*

**Official Note:** Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001.

**Committee Explanatory Reports:**

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

**ARTICLE VIII. HEARSAY**

**Rule 802. Hearsay Rule.**

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**Comment**

Pa.R.E. 802 is similar to F.R.E. 802. It differs by referring to other rules prescribed by the Pennsylvania Supreme Court, rather than the United States Supreme Court, and by referring to statutes in general, rather than Acts of Congress. This rule is consistent with prior Pennsylvania case law.

\* \* \* \* \*

6. In a criminal or civil case, an out-of-court statement of a witness [ under 13 ]12 years of age or younger, describing certain kinds of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5985.1.

\* \* \* \* \*

**Official Note:** Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; Comment revised March 10, 2000, effective immediately; **Comment revised March 29, 2001, effective April 1, 2001.**

**Committee Explanatory Reports:**

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**Final Report explaining the March 29, 2001 revision of the Comment published iwth the Court's Order at 31 Pa.B. 1995 (April 14, 2001).**

**ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS**

**Rule 1003. Admissibility of Duplicates.**

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**Comment**

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In addition, various Pennsylvania statutes have treated some accurate copies as admissible. See 42 Pa.C.S.A. § 6104 (governmental records in the Commonwealth); 42 Pa.C.S.A. § 5328 (domestic records outside the Commonwealth and foreign records); 42 Pa.C.S.A. § 6106 (documents recorded or filed in a public office); 42 Pa.C.S.A. § 6109 (photographic copies of business and public records); 42 Pa.C.S.A. §§ 6151-59 (certified copies of medical records).

The extension of similar treatment to all accurate copies seems justified in light of modern practice. Pleading and discovery rules such as Pa.R.C.P. 4009.1 (requiring production of originals of documents and photographs etc.) and Pa.R.Crim.P. [ 305(B)(1)(f) and (g) ] 573 (B)(1)(f) and (g) (requiring disclosure of originals of documents, photographs and recordings of electronic surveillance) will usually provide an adequate opportunity to discover fraudulent copies. As a result, Pa.R.E. 1003 should tend to eliminate purely technical objections and unnecessary delay. In those cases where the opposing party raises a genuine question as to authenticity or the fairness of using a duplicate, the trial court may require the production of the original under this rule.

**Official Note:** Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001.

**Committee Explanatory Reports:**

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

**FINAL REPORT<sup>1</sup>**

**Amendment to Pa.R.E. 410; and Revision of the Comments to Pa.Rs.E. 104, 408, 604, 609, 802 and 1003**

**Editorial Changes and Technical Corrections Correlative to the Renumbering of the Rules of Criminal Procedure and to Recent Statutory Changes**

On March 29, 2001, upon the recommendation of the Committee on Rules of Evidence, the Supreme Court adopted an amendment to Pa.R.E. 410 and approved the revision of the Comments to Pa.Rs.E. 104, 408, 604, 609, 802 and 1003, effective April 1, 2001.

On March 1, 2000, the Court adopted the reorganization and renumbering of the Rules of Criminal Procedure, effective April 1, 2000. Because there are several cross-references to the Criminal Rules in the Rules of Evidence, the Court approved the renumbering of the cross-references to the Criminal Rules to reflect the changes.

<sup>1</sup> The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

The Court also approved stylistic and editorial corrections in order to make the rules consistent with the Court's other rules.

In addition to the renumbering changes, the Court approved the revision of the Comment to Pa.R.E. 802 that updates the reference to 42 Pa.C.S. § 5985.1 that was amended on October 18, 2000. The Comment to Rule 802 references § 5985.1 as an example of when hearsay may be admitted pursuant to statute. Paragraph 6 of the Comment reads:

In a criminal case, an out-of-court statement of a witness under 13 years of age, describing certain kinds of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5985.1.

The statute provides, *inter alia*, that an out-of-court statement made by a child victim or witness who at the time of the statement was made was 12 years of age or younger, . . . , is admissible in evidence in any criminal or civil proceedings.

To conform the Rule 802 Comment with the changes to 42 Pa.C.S. § 5985.1, the Comment has been revised by adding "or civil" after "criminal" and changing "under 13 years of age or younger" to "12 years of age or younger."

[Pa.B. Doc. No. 01-630. Filed for public inspection April 13, 2001, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Procedure for Terminating Inactive Traffic Court Citations Pursuant to P.R.J.A. No. 1901; Administrative Doc. No. 1 of 2001

Pennsylvania Rule of Judicial Administration No. 1901(a) provides that "(i)t is the policy of the unified judicial system to bring each pending matter to a final conclusion as promptly as possible consistently with the character of the matter and the resources of the system. Where a matter has been inactive for an unreasonable period of time, the tribunal, on its own motion, shall enter an appropriate order terminating the matter."

Pennsylvania Rule 1901(b)(2) directs the Traffic Court of Philadelphia to "make rules of court for such purposes . . ."

The within procedure is adopted pursuant to the above directive.

#### *Citations Eligible for Termination*

Citations issued two (2) years or more before the date of termination, and which have not resulted in a guilty plea, an adjudication or a judgment are eligible for termination pursuant to the procedure adopted herein.

#### *Notice of Termination*

The court shall periodically publish in *The Legal Intel-ligencer* a general notice of all parties that a specific group of citations that have been inactive for five (5) years or more shall be terminated by court order thirty (30) days after the publication date, and that the full list of citations shall be available for public inspection during the court's normal business hours. The notice shall fur-

ther provide that any interested party may petition the court and show good cause as to why any citation should not be terminated.

#### *Reinstatement*

Pursuant to Pa.R.J.A. 1901(c)(2) and (d), "(a)ny matter terminated after notice by publication . . . may be reinstated by the court after dismissal upon written application for good cause shown . . . (A) court shall not entertain any application for reinstatement of a matter terminated pursuant to this rule if such application for reinstatement is filed after the documents relating to the matter have been disposed of pursuant to the applicable record retention schedule established by or pursuant to law."

This Order is issued in accordance with Pa.R.J.A. No. 1901. The original Order shall be filed with the Prothonotary for the First Judicial District of Pennsylvania in an Administrative Docket maintained for Orders or Directives issued by the Administrative Judge of the Traffic Court of Philadelphia County, and copies submitted to the Minor Court Rules Committee, the Administrative Office of Pennsylvania Courts, and the Legislative Reference Bureau. Copies of the Order shall be submitted to American Lawyer Media, Jenkins Memorial Library, and the Law Library of the First Judicial District.

This Order becomes effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

FORTUNATO PERRI,  
*Administrative Judge,  
Philadelphia Traffic Court*

[Pa.B. Doc. No. 01-631. Filed for public inspection April 13, 2001, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LUZERNE COUNTY

#### Adoption of Rules of Judicial Administration; Clerk of Courts MISC #119/2001; Register of Wills MISC #115/2001; No. 2086c/2001

Now This 27th day of March, 2001, the Court hereby adopts Luzerne County Rules of Judicial Administration Nos. 101, 507, 1901, 5000.5 and 5000.7 to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*. Luzerne County Court Rules 283 and 506 and Administrative Order 1999-001, May 26, 1999 are hereby repealed, effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of these Rules with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue.

It is further ordered that these local rules shall be kept continuously available for public inspection and copying

in the Offices of the Prothonotary, Clerk of Courts and Register of Wills.

*By the Court*

JOSEPH M. AUGELLO,  
*President Judge*

**Rule 101. Title and Citation of Rules.**

These rules shall be known as the Luzerne County Rules of Judicial Administration and may be cited as "Luz.Co.R.J.A. No . . ."

**Rule 507. Court Records.**

A. The prothonotary, clerk of court and register of wills shall be responsible for the safekeeping of records in their respective offices. No person other than an office employee, judge, an attorney admitted to practice in Pennsylvania, or persons designated by a judge may have unsupervised access to records. All records, except records under seal or impounded by order of court or operation of law, shall be available for public inspection during regular business hours. Unless otherwise directed by the court, copies of notes of testimony shall be procured from the court reporter as authorized by the Rules of Judicial Administration. The term copy includes any form of reproduction including the use of data disks, electronic transmittal or facsimile. Unless prohibited by order or rule of court or operation of law copies of papers other than notes of testimony shall be available to the public for a reasonable fee.

B. Documents bearing original signature such as wills, deeds, judgment notes, bonds, mortgages, leases, etc., and notes of testimony taken in any proceeding shall not be removed from the office of the prothonotary, clerk of court or register of wills, except for use in any judicial proceeding, without special allowance by the court upon cause shown. No other documents, pleadings or papers, except those removed for the use of the court shall be taken from any of the said offices without permission of the prothonotary, clerk of court or register of wills or any deputy and without the giving of a written receipt therefore. All papers, pleadings and documents, other than those which may be removed for the use of the court, court appointed master or pursuant to a special allowance by the court shall be returned to the office within a period of forty-eight (48) hours from the time of the removal. Special allowance by the court is required in all instances where the applicant is not an attorney of record in the case.

C. In all cases of removal of any papers, pleadings and documents, with or without an order of court, the person removing the same shall give a receipt therefor, in such form as is required by the prothonotary, clerk of court or register of wills or any deputy, which receipt shall indicate the caption of the action to which the papers, pleadings and documents pertain, the names of the parties and the date of removal.

D. If a person fails to return the documents within the aforesaid forty-eight (48) hour period after removal, the person removing the same shall be considered in default and shall not be permitted to remove any other papers from any office while such default continues, without a special order of court. The prothonotary, clerk of court or register of wills or deputy in cases of default shall forthwith report the matter to the District Court Administrator for appropriate action by the court.

E. All electronic, computer or imaging systems used for the filing, storage or retrieval or court records shall be approved by the district court administrator and shall comply with the requirements of the Administrative

Office of Pennsylvania Courts, if any. The prothonotary, register of wills or clerk of courts shall not permit electronic or other access to court records from locations outside their offices nor post court records on the Internet, the Worldwide Web or other such services, such as the use of a Webmaster or Internet service provider, without the approval of the district court administrator. The approval of the district court administrator shall be subject to the provisions of law, rules of court and the directives of the Administrative Office of Pennsylvania Courts. Except as required by law or rule of court, documents bearing original signatures such as wills, deeds, judgment notes, bonds, mortgages, leases, etc. and notes of testimony in any proceeding shall not be posted by the prothonotary, register of wills or clerk of courts on the Internet, the Worldwide Web or other such services, such as the use of a webmaster or Internet service provider, without special allowance by the court.

F. Nothing contained in this rule pertaining to the removal of papers, pleadings and documents shall prevent the issuance of a subpoena duces tecum for any document, pleading or paper filed in said office. Further, this rule does not authorize the release of any record or document impounded or sealed by order of the court or by operation of law.

**Rule 1901. Termination of Inactive Cases.**

(a) The prothonotary shall list for general call after October 1st of each year all civil matters in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered, as provided by Pa.R.J.A. No. 1901(c). If no action is taken or no written objection docketed in such a matter prior to the commencement of the general call, the prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(b) The clerk of courts shall list for general call after October 1st of each year all criminal proceedings in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the district attorney, any private prosecutor and the defendant, as provided by Pa.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

(c) The dates and times of the general calls shall be approved by the president judge.

(d) Each district justice on or before April 1st of each year after thirty (30) days' written notice to parties and counsel shall dismiss without prejudice any civil or criminal proceeding in which no action has been taken for a continuous period of two (2) full years or more as of January 1st of each year. On or before May 1st of each year each district justice shall transmit to the district court administrator a written report of all inactive matters together with the reason for nontermination or the date of dismissal.

**Rule 5000.5. Requests for Transcripts.**

1. Court reporters shall prepare transcripts for all completed trials and hearings in chronological order

based upon the date of the receipt of the transcription order or request, or the date of the deposit of the partial transcription fee, whichever date is later. Only the presiding judge may direct the court reporter to complete a given transcript or transcripts out of chronological sequence.

2. Should a court reporter be unable to comply with the deadlines set by the applicable state rules or specific orders of the court in a given case, the court reporter shall immediately advise his or her immediate supervisor and the judge or judges involved of that fact.

3. All court reporters shall file with the chief court reporter a monthly report of ordered or requested transcripts in chronological order indicating the date of each order/request/deposit, the approximate length of the record ordered to be transcribed, the status of the transcription, and the expected date of lodging.

4. Where a court reporter is unable to meet applicable deadlines for transcription, the chief court reporter, after consultation with the judge or judges involved, and with the approval of the district court administrator, may temporarily remove a court reporter from courtroom duties or direct that alternative means for completing the transcription be used. Any reprioritizing of the chronological preparation of transcripts, except as provided in paragraph 1 of this Rule, will require the advance approval of all judges affected thereby.

**Rule 5000.7. Fees for Transcripts.**

(a)(1) When a person or entity other than the Commonwealth or one of its political subdivisions requests a transcript, such person or entity shall be liable for the costs of the original transcript at the rate of \$2.50 for each page thereof and shall pay the court reporter one-half (1/2) the estimated cost for the transcript at the time such person or entity requests the transcript, and the balance upon completion of the transcript. The court reporter shall not be required to start the transcription until such advance payment is made in full, but when such advance has been paid, the court reporter shall begin the transcription of his or her notes as requested pursuant to Luz. R.J.A. 5000.5.

(i) upon completion of the transcript and full payment received, and with the approval of the presiding judge, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy thereof

a. to the person or entity who ordered the transcript, if, but only if, such person or entity has paid the balance due for the transcript to the court reporter in full, calculated at the rate of \$2.50 for each page of original transcript.

(ii) Where the Commonwealth, or any political subdivision, requests a copy of the transcript, the court reporter shall provide the Commonwealth, or political subdivision thereof, with a complete and legible copy thereof without charge;

(iii) Where any person or entity, other than the Commonwealth, or a political subdivision thereof, requests a copy of the transcript, such person or entity shall purchase the same by paying the court reporter \$1.10 for each page of complete and legible copy.

(2) When the Commonwealth or one of its political subdivisions requests a transcript, the Commonwealth or

such political subdivisions, shall be liable for the cost of the original transcript at the rate of \$2.00 for each page thereof, and

(i) the court reporter, upon receipt of the transcript request, shall begin the transcription of his or her notes as directed by the transcript order pursuant to Luz. R.J.A. 5000.5.

(ii) upon completion of the transcript, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy thereof

a. to the Commonwealth or political subdivision requesting the transcript.

(iii) upon completion of the transcript, the court reporter shall promptly prepare a voucher to the County of Luzerne to be approved by signature of the presiding judge for payment to the court reporter for said transcript.

(iv) where the Commonwealth or a political subdivision thereof requests a copy of the transcript, but is not liable for the costs of the original transcript, the court reporter shall provide the entity with a complete and legible copy thereof without charge.

(3) Where the County of Luzerne is liable for the cost,

(i) the court reporter, upon receipt of the transcript order, shall begin the transcription of his or her notes as directed by the transcript order pursuant to Luz. R.J.A. 5000.5

(ii) upon completion of the transcript, and with the approval of the presiding judge, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy to each of the following without charge:

a. to any party proceeding in forma pauperis; and

b. to any person or entity, including but not limited to the Commonwealth, or any of its political subdivisions, county solicitor, and/or judge.

(iii) upon completion of the transcript, the court reporter shall promptly prepare a voucher to the County of Luzerne to be approved by signature of the presiding judge for payment to the court reporter for said transcript.

(c) Accelerated schedule: the court reporter shall be compensated at two times the standard rate for an expedited copy and three times the standard rate for a daily copy.

(d) Any judge of the court, the district attorney, and county solicitor shall each be entitled to a copy of the transcript in any proceeding upon request without charge. In such case, the county shall be liable for the costs of preparing the original transcript whenever no other person or entity is otherwise liable for the cost thereof pursuant to paragraph (3) (iii) above.

(e) Nothing in this rule shall authorize delivery of a transcript, or copy thereof, in a proceeding where the record is impounded, to any person or entity not otherwise entitled to the same.

[Pa.B. Doc. No. 01-632. Filed for public inspection April 13, 2001, 9:00 a.m.]

**SCHUYLKILL COUNTY**  
**Rules of Civil Procedure; S-662-01**

*And Now*, this 29th day of March, 2001, at 1:10 p.m., the Court hereby adopts Schuylkill County Rules of Civil Procedure 1910.12(e)(1) and (2) for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). This rule shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

**Rule 1910.12.**

(e)(1) In complex contested matters which require the hearing to be continued in progress, the Master may assess additional Master's fees of \$100.00 per each additional hearing day. Each additional conference, beyond the first, shall be considered for these purposes as a hearing.

(2) Where additional Master's fees are assessed, the moving party shall deposit the fee with the Prothonotary and concurrently file a Praeceptum substantially in the following form:

**(CAPTION)**  
**PRAECEPTUM FOR DEPOSIT OF ADDITIONAL**  
**MASTER'S FEE**

To the Prothonotary:

As directed by the Master in the above captioned case, deposit the sum of \$\_\_\_\_.00 for \_\_\_\_\_ additional Master's Hearing days in compliance with Sch.R.C.P.1910.12(e).

\_\_\_\_\_  
 Attorney for (Plaintiff/Defendant)

Received this day the sum of \$\_\_\_\_.00, additional Master's fee in the above captioned case.

\_\_\_\_\_  
 Prothonotary

[Pa.B. Doc. No. 01-633. Filed for public inspection April 13, 2001, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Laura Ann Campanella having been suspended from the practice of law in the State of Florida for a period of ninety-one days, the Supreme Court of Pennsylvania issued an Order dated April 2, 2001, suspending Laura Ann Campanella from the practice of law in this Commonwealth, for period of ninety-one days, effective May 2, 2001. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 01-634. Filed for public inspection April 13, 2001, 9:00 a.m.]