

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IV]

Subsequent Remedial Measures

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania amend Rule of Evidence 407 and approve the revision of the Comment to Rule of Evidence 407. These changes are being proposed to update the Pennsylvania Rules of Evidence in view of the Opinion of the Supreme Court of Pennsylvania in *Duchess v. Langston Corp.* 769 A.2d 1131 (Pa. 2001).

The Committee proposes this amendment and Comment revision to Pa.R.E. 407 to provide that the rule applies to strict liability actions. Conflicting opinions over the years left open and unresolved the issue now covered by the proposed amended rule.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's 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 explanatory Report.

The text of the proposed rule changes precedes the Report. Additions are shown in bold, and deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road Suite 800
Mechanicsburg, PA 17055

no later than February 20, 2003.

By the Committee on Rules of Evidence

CHARLES B. GIBBONS,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 407. Subsequent Remedial Measures.

When, after an **injury or harm allegedly caused by** an event, measures are taken which, if taken previously, would have made the [event] **injury or harm** less likely to occur, evidence of the subsequent measures is not admissible to prove that the party who took the measures was negligent or engaged in culpable conduct [in connection with the event], or **produced, sold, designed, or manufactured a product with a defect or a need for a warning or instruction.** This rule does not require the exclusion of evidence of subsequent measures when offered for impeachment, or to prove

other [controverted] matters, if **controverted**, such as ownership, control, or feasibility of precautionary measures.

Comment—2002

Pa.R.E. 407 is [consistent with Pennsylvania law] substantially the same as F.R.E. 407. [It restates the traditional Pennsylvania doctrine that evidence of subsequent remedial measures is not admissible to prove fault or negligence. See *Baran v. Reading Iron Co.*, 202 Pa. 274, 51 A. 979 (1902).] The wording has been modified in order to clarify two ambiguities in the federal formulation.

[Pa.R.E. 407 differs from F.R.E. 407 in several ways. First, F.R.E. 407 provides that evidence of subsequent measures is not admissible to prove "a defect in a product, a defect in a product's design, or a need for a warning or instruction." Pa.R.E. 407 is silent on the issue whether it excludes subsequent remedial measures when offered to prove a defect in strict products liability. The Pennsylvania Superior Court has issued partially conflicting decisions on whether subsequent remedial measures are admissible to prove defect in strict products liability cases. Compare *Matsko v. Harley Davidson Motor Co., Inc.*, 325 Pa. Super. 452, 473 A.2d 155 (1984) (proof of recall admitted to prove defect) (2-1 split opinion), with *Connelly v. Roper Corp.*, 404 Pa. Super. 67, 590 A.2d 11 (1991) (post-sale design changes not admissible to prove design defect) (2-1 split opinion); *Dunkle v. West Penn Power Co.*, 400 Pa. Super. 334, 583 A.2d 814 (1990) (post-sale safety standard not admissible to prove defective design or inadequate warning where no recall required); and *Gottfried v. American Can Co.*, 339 Pa. Super. 403, 489 A.2d 222 (1985) (post-sale design changes not admissible to prove design defect). Pa.R.E. 407 allows the Pennsylvania courts to continue to develop the law in this area, leaving the Supreme Court of Pennsylvania free to decide this matter in the context of a case or controversy.

Pa.R.E. 407 makes clear in the first sentence that the rule of exclusion operates only in favor of a party who took the subsequent remedial measures. F.R.E. 407 is silent as to whether there is any restriction on the actor who must have taken the subsequent remedial measure for the rule to preclude admissibility of such evidence. The majority of federal courts have held that the rule does not apply when one other than the allegedly liable party takes the action because the reason for the rule (to encourage remedial measures) is not implicated. See, e.g., *TLT-Babcock, Inc. v. Emerson Electric Co.*, 33 F.3d 397 (4th Cir. 1994) (collecting cases). Pa.R.E. 407 does not, however, address whether measures taken by another party are admissible against a party that did not take the measures.

Regardless of Pa.R.E. 407, evidence of subsequent remedial measures is not admissible unless it satisfies the standards of Pa.R.E. 401, 402, and 403.

The last sentence of Pa.R.E. 407 differs from F.R.E. 407 to make clear that, when subsequent remedial measures are offered to prove issues such as ownership, control or feasibility of precautionary measures, those issues must be controverted.]

The first sentence of Pa.R.E. 407 makes clear that the rule of exclusion favors only the party who took the subsequent remedial measures. Though F.R.E. 407 is silent on the point, the courts have generally held that the federal rule does not apply when one other than the alleged tortfeasor takes the action because the reason for the rule (to encourage remedial measures) is not then implicated. See, e.g., *TLT-Babcock, Inc. v. Emerson Electric Co.*, 33 F.3d 397, 400 (4th Cir. 1994) (collecting cases).

The last sentence of Pa.R.E. 407 makes clear that the rule's exception for evidence that is offered to prove matters such as ownership, control, or feasibility of precautionary measures, applies only when those issues are controverted. Though the federal rule, as worded, can be construed to mean that only feasibility need be controverted, the cases have generally interpreted it to mean that any issue for which evidence is admitted under the rule's exception must be controverted. See, e.g., *Hall v. American Steamship Co.*, 688 F.2d 1062, 1066-67 (6th Cir. 1982); *Hull v. Chevron U.S.A., Inc.*, 812 F.2d 584, 586-87 (10th Cir. 1987).

Duchess v. Langston Corp., 564 Pa. 529, 769 A.2d 1131 (2001), is a case dealing with the admissibility of evidence of subsequent remedial measures in a strict product liability case, and, in particular, the applicability of exceptions to the rule of exclusion when the evidence is offered to prove feasibility of precautionary measures, or to impeach the credibility of a witness.

The original wording of Pa.R.E. 407 applied to negligence cases, but, like the original wording of F.R.E. 407, left open whether it applied to strict product liability cases. In *Duchess v. Langston Corp.*, 564 Pa. 529, 769 A.2d 1131 (2001), the Supreme Court held that it did. The rule was amended to make this clear.

Official Note: Adopted September 11, 1998, effective October 1, 1998; Comment revised _____, effective _____.

Committee Explanatory Reports:

Report explaining the proposed revision of the Comment published at 33 Pa.B. 198 (January 11, 2003).

REPORT

Proposed Amendment and Revision of the Comment to Pa.R.E. 407

SUBSEQUENT REMEDIAL ACTIONS

The Committee is proposing amendments to Rules of Evidence 407 (Subsequent Remedial Measures). These changes update the rule in view of the recent opinion of the Supreme Court of Pennsylvania in *Duchess v. Langston Corp.*, 769 A.2d 1131 (Pa. 2001).

At common law, evidence of subsequent remedial measures was not admissible to prove fault or negligence. Left open was the question whether or not Rule 407 applied to strict liability cases. The Supreme Court in *Duchess v. Langston Corp.*, 769 A.2d 1131 (Pa. 2001), held that it did, leading to the proposed amendment to Rule 407.

In this amendment, the Committee proposes some rewording. The rule of exclusion operates only in favor of the party who took the subsequent remedial measures.

This is done to make clear that there may be instances in which the rule of exclusion would not apply.

The rule, thus amended, reflects the holding of the Supreme Court in the *Duchess* case, and the Comment is being revised to emphasize that Pa.R.E. 407 is now substantially the same as F.R.E. 407.

[Pa.B. Doc. No. 03-53. Filed for public inspection January 10, 2003, 9:00 a.m.]

[225 PA. CODE ART. VII]

Bases of Opinion Testimony by Experts

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Rule of Evidence 703. This Comment revision is being proposed to alert the bench and bar that Pa.R.E. 703 no longer is identical to F.R.E. 703.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's 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 explanatory Report.

The text of the proposed Comment changes precedes the Report. Additions are shown in bold, and deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road Suite 800
Mechanicsburg, PA 17055

no later than February 20, 2003.

By the Committee on Rules of Evidence

CHARLES B. GIBBONS,
Chair

Annex A

**TITLE 225. RULES OF EVIDENCE
ARTICLE VII. OPINIONS AND EXPERT
TESTIMONY**

Rule 703. Bases of Opinion Testimony by Experts.

* * * * *

Comment

[Pa.R.E. 703 is identical to F.R.E. 703 and is consistent with Pennsylvania law.

Historically, Pennsylvania courts limited the facts or data upon which an expert could base an opinion to those obtained from firsthand knowledge or from the trial record. See *Collins v. Hand*, 431 Pa. 378, 246 A.2d 398 (1968). Beginning in 1971 with *Commonwealth v. Thomas*, 444 Pa. 436, 282 A.2d 693 (1971), Pennsylvania courts have endorsed and expanded the principle that experts may base their

opinions on evidence which is otherwise inadmissible if the evidence is of a type reasonably relied upon by experts in the particular field. See *Commonwealth v. Daniels*, 480 Pa. 340, 390 A.2d 172 (1978); *Commonwealth v. Bowser*, 425 Pa. Super. 24, 624 A.2d 125 (1993); *In Re Glosser Bros., Inc.*, 382 Pa. Super. 177, 555 A.2d 129 (1989); *Bolus v. United Penn Bank*, 363 Pa. Super. 247, 525 A.2d 1215 (1987). If it be feared that enlargement of permissible data may tend to break down the rules of exclusion unduly, notice should be taken that the rule requires that the facts or data be "of a type reasonably relied upon by experts in the particular field." See F.R.E. 702 advisory committee notes. Whether evidence is reasonably relied upon by the expert is a preliminary question for determination by the trial court under Pa.R.E. 104.

When an expert testifies about the underlying facts and data that support the expert's opinion and the testimony would be otherwise inadmissible, the trial court should instruct the jury to consider the testimony only to explain the basis for the expert's opinion, and not as substantive evidence. Compare Pa.R.E. 105.

An expert's testimony is inadmissible if the opinion is not the opinion of the expert testifying, but rather a recitation or reaction to an opinion given by an expert who does not testify. See *Primavera v. Celotex Corp.*, 415 Pa. Super. 41, 608 A.2d 515 (1992).]

Pa.R.E. 703 differs from F.R.E. 703 as discussed below. Pa.R.E. 703 is consistent with prior Pennsylvania case law.

F.R.E. 703 was amended on December 1, 2000, to add a balancing test that tilts against disclosure to a jury of otherwise inadmissible facts or data upon which an expert witness bases his or her opinion. In Pennsylvania, however, Pa.R.E. 705 requires an expert witness to testify as to the facts or data upon which the witness's opinion is based, whether or not the facts or data would otherwise be admissible in evidence.

Historically, Pennsylvania courts limited the facts or data upon which an expert could base an opinion to those obtained from firsthand knowledge, or from substantive evidence admitted at trial. See, e.g. *Collins v. Hand*, 431 Pa. 378, 246 A.2d 398 (1968); *Murray v. Siegal*, 413 Pa. 23, 195 A.2d 790 (1963). In the case of *Commonwealth v. Thomas*, 444 Pa. 436, 282 A.2d 693 (1971), the Pennsylvania Supreme Court adopted a rule that allows a medical expert witness to offer an opinion that is based, in part, on otherwise inadmissible hearsay, if it is of a type that is customarily relied on by the expert in the practice of the expert's profession.

Later case law expanded the evidential ruling in the *Thomas* case to various non-medical expert witnesses. See, e.g., *Steinhauer v. Wilson*, 336 Pa. Super. 155, 485 A.2d 477 (1984) (expert on construction costs); *Maravich v. Aetna Life & Casualty Co.*, 350 Pa. Super. 392, 504 A.2d 477 (1986) (fire marshal); *Kearns v. DeHaas*, 377 Pa. Super. 392, 546 A.2d 1226 (1988) (vocational expert); *In re Glosser Bros.*, 382 Pa. Super. 177, 555 A.2d 129 (1989) (tax accountant); *Commonwealth v. Bowser*, 425 Pa. Super. 24, 624 A.2d 125 (1993) (accident reconstruction expert).

Pa.R.E. 703 requires that the facts or data upon which an expert witness bases an opinion be "of a

type reasonably relied upon by experts in the particular field..." Whether the facts or data satisfy this requirement is a preliminary question to be determined by the trial court under Pa.R.E. 104(a). If an expert witness relies on novel scientific evidence, Pa. R.C.P. No. 207.1 sets forth the procedure for objecting, by pretrial motion, on the ground that the testimony is inadmissible under Pa.R.E. 702, or Pa.R.E. 703, or both.

When an expert testifies about the underlying facts and data that support the expert's opinion and the testimony would be otherwise inadmissible, the trial court should instruct the jury to consider the testimony only to explain the basis for the expert's opinion, and not as substantive evidence. Compare Pa.R.E. 105.

An expert witness cannot be a mere conduit for the opinion of another. Cases hold that it is error for an expert witness to relate the opinion of a non-testifying expert unless the witness has reasonably relied upon it, in part, in forming the witness's own opinion. See, e.g., *Foster v. McKeesport Hospital*, 260 Pa. Super. 485, 394 A.2d 1031 (1978); *Allen v. Kaplan*, 439 Pa. Super. 263, 653 A.2d 1249 (1995).

Official Note: Adopted September 11, 1998, effective October 1, 1998; Comment revised _____, effective _____.

Committee Explanatory Reports:

Report explaining the proposed revision of the Comment published at 33 Pa.B. 199 (January 11, 2003).

REPORT

Proposed Revision of the Comment to Pa.R.E. 703

COMMENT CHANGES CORRESPONDING TO THE RECENT AMENDMENTS TO THE FEDERAL RULES OF EVIDENCE

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Pa.R.E. 703. This Comment revision is being proposed to alert the bench and bar that Pa.R.E. 703 is no longer identical to F.R.E. 703.

Since December 1, 2000, when F.R.E. 703 was amended, Pa.R.E. 703 is no longer identical to F.R.E. 703 as currently stated in the Comment. The Committee is proposing the Comment be revised to correct this, and to point out that inadmissible facts and data upon which an expert relies are less likely to be disclosed to the jury under F.R.E. 703 than under Pa.R.E. 703 because the balancing test tilts against disclosure under the federal rule.

The Evidence Committee took this opportunity to call attention to Pa.R.C.P. No. 207.1 which covers procedure for pre-trial objection to expert opinion based on novel scientific evidence.

Case law is updated reflecting the pre-rule cases upon which Pa.R.E. 703 is based. The Comment revision as proposed substantially rewrites the original Comment to Pa.R.E. 703.

[Pa.B. Doc. No. 03-54. Filed for public inspection January 10, 2003, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Fee Bill for the Office of the Register of Wills and the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas; No. 67-2001-0007; 2002-MI-00442

Administrative Order

And Now, to wit, this 16th day of December, 2002, pursuant to the provisions of 42 P. S. § 21022.1 and 42 P. S. § 21032.1, the fee bill of the Register of Wills of York County, Pennsylvania, and the fee bill of the Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania, is amended to increase the fees as set forth in the Petition. The revised and amended fee bills shall be effective the 1st day of January, 2003.

By the Court

JOHN H. CHRONISTER,
President Judge

[Pa.B. Doc. No. 03-55. Filed for public inspection January 10, 2003, 9:00 a.m.]

Petition for Administrative Order to Adopt a Fee Bill for the Register of Wills and to Adopt a Fee Bill for the Clerk of the Orphans' Court Division of the Court of Common Pleas; No. 67-2001-0007

And Now, to wit, this 16th day of December, 2002, comes Bradley C. Jacobs, Register of Wills of York County, Pennsylvania, and Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania, by his Solicitor, John C. Herrold, Esquire, and files his Petition for an Administrative Order as follows:

1. Your Petitioner, Bradley C. Jacobs, is the duly elected Register of Wills of York County, Pennsylvania, and the Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania, with offices at the York County Court House, 28 East Market Street York, Pennsylvania.

2. This Petition is filed pursuant to 42 P. S. § 21022.1, which authorizes the President Judge and the Register of Wills to establish, increase, decrease, modify or eliminate fees for the Office of the Register of Wills.

3. This Petition is also filed pursuant to 42 P. S. § 21032.1, which authorizes the President Judge and the Clerk of the Orphans' Court Division to establish, increase, decrease, modify or eliminate fees for the Office of the Clerk of the Orphans' Court.

4. The proposed fee bill for the Register of Wills of York County and the Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania, which fee bill will become effective the 1st day of January, 2003, as incorporated herein follows.

5. The fees charged by the Register of Wills of York County, Pennsylvania, are being increased as follows:

A) Fees for filing, advertising and adjudication of accounts of personal representatives are increased from Forty (\$40.00) for each additional One Hundred Thousand

(\$100,000.00) Dollars to Seventy-five (\$75.00) for each additional One Hundred Thousand (\$100,000.00) Dollars or fraction thereof.

B) Fees for letters of administration or letters testamentary are increased from Forty (\$40.00) Dollars to Seventy-five (\$75.00) Dollars for each additional One Hundred Thousand (\$100,000.00) Dollars or fraction thereof over the initial One Hundred Thousand (\$100,000.00) Dollar value of the estate.

C) The fee for the certification under an Act of Congress is increased from Ten (\$10.00) Dollars to Twenty (\$20.00) Dollars.

D) The fee for the filing of a petition for a citation and issuing a citation for one (1) respondent is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

E) The fee for filing miscellaneous petitions is established at Thirty (\$30.00) Dollars.

6. The fees charged by the Clerk of the Orphans' Court of the Court of Common Pleas of York County, Pennsylvania, are being increased as follows:

A) Fees for filing, advertising and adjudication of accounts of personal representatives are increased from Forty (\$40.00) for each additional One Hundred Thousand (\$100,000.00) Dollars to Seventy-five (\$75.00) for each additional One Hundred Thousand (\$100,000.00) Dollars or fraction thereof.

B) The fee for the certification under an Act of Congress is increased from Ten (\$10.00) Dollars to Twenty (\$20.00) Dollars.

C) The fee for the filing of a petition for a citation and issuing a citation for one (1) respondent is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

D) The fee for filing miscellaneous petitions is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

E) The fee for the filing of a petition, issuing a citation and appointment of a guardian for an incapacitated person is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

F) The fee for the filing of a petition for appointment of guardian for a minor child is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars per child.

G) The fee for marriage license and affidavits (including tax and automation fee) is increased from Forty (\$40.00) Dollars to Forty-five (\$45.00) Dollars.

H) The fee for marriage waiver (military-free) fee is increased from Ten (\$10.00) Dollars to Twenty (\$20.00) Dollars.

I) The fee for marriage license consent of parents is increased from Two (\$2.00) Dollars to Five (\$5.00) Dollars.

J) The fee for real estate of decedents, sale or mortgage petition is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

K) The fee for a small estate petition (decedents or minors) is increased from Twenty-five (\$25.00) Dollars to Thirty (\$30.00) Dollars.

7. The increase in fees as outlined will bring York County into parity with adjoining counties regarding fees charged by the Register of Wills and the Clerk of the Orphans' Court Division of York County, Pennsylvania.

Wherefore, pursuant to 42 P. S. § 21022.1 and 42 P. S. § 21032.1, your Petitioner, Bradley C. Jacobs, Register of Wills of York County and Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, requests your Honorable Court to enter an Administrative Order adopting the proposed fee bill for the Register of Wills of York County, Pennsylvania and the proposed fee bill for the Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania.

Respectfully submitted,

Bradley C. Jacobs,
Register of Wills and
Clerk of the Orphans'
Court Division

Griest, Himes, Herrold, Schaumann
By John C. Herrold,
Esquire
Sup. Ct. I.D. No. 18014
129 East Market Street
York, Pennsylvania 17401
Telephone (717) 846-8856
Attorney for Petitioner

VERIFICATION

I, Bradley C. Jacobs, Register of Wills of York County, Pennsylvania, and Clerk of the Orphans' Court Division of the Court of Common Pleas of York County, Pennsylvania, do hereby certify that the facts contained in the foregoing Petition are correct to the best of my knowledge, information and belief and that I understand that false statements made herein are made subject to penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Bradley C. Jacobs,
Register of Wills and
Clerk of the Orphans' Court

FEE BILL

REGISTER OF WILLS OF YORK COUNTY,
PENNSYLVANIA

And now, by Order of Court this 16th day of December, 2002, the following bill of costs which includes any Commonwealth tax is established pursuant to 42 P. S. Section 21022.1. This Order is effective the 1st day of January, 2003.

ACCOUNTS

For the filing, advertising and adjudication of the accounts of personal representatives.
Total debits not over \$2,000 \$ 75.00
Over \$2,000 but not over \$5,000 80.00
Over \$5,000 but not over \$10,000 85.00
Over \$10,000 but not over \$25,000 110.00
Over \$25,000 but not over \$50,000 135.00
Over \$50,000 but not over \$100,000 165.00
Each additional \$100,000 or fraction thereof, an additional 75.00

LETTERS OF ADMINISTRATION and
LETTERS TESTAMENTARY

Total Assets not over \$2,000 \$ 10.00***
Over \$2,000 but not over \$5,000 30.00***
Over \$5,000 but not over \$10,000 40.00***
Over \$10,000 but not over \$25,000 60.00***
Over \$25,000 but not over \$50,000 75.00***
Over \$50,000 but not over \$100,000 100.00***

Each additional \$100,000 or fraction thereof, an additional 75.00
Pennsylvania Judicial Computer Project Fee 5.00
Renunciation per page 5.00
Waiver Fiduciary Bond 5.00

NOTE: Letters d.b.n. or d.b.n.c.t.a. minimum fee will be charged.

NOTE: Where inventory, tax return or account is of greater value than original estimated value for any letters the right is reserved to make an additional charge based upon such greater value.

PROBATE OF WILLS AND CODICILS

Probate and granting letters testamentary or administration c.t.a.—see schedule for letters above.
Probate without letters same as under each classification above less \$2.00
Probate of each codicil 10.00

AUTOMATION FEE

Register of Wills 5.00

BOND filing and entering 5.00

CAVEAT filing including bond 10.00

NO PROBATES ACCEPTED WITHOUT DEATH CERTIFICATE

**Pennsylvania Judicial Computer Project Fee
***Register of Wills Automation Fee

Attest:

John C. Uhler
Orphans' Court Judge

Attest:

Bradley C. Jacobs
Register of Wills

CERTIFICATION* 5.00
CERTIFICATION* under Act of Congress 20.00

*Plus \$1.00 per page if copy is not furnished

CERTIFYING RECORD to Orphans' Court upon appeal 10.00

CITATION

Petition and issuing, one respondent 30.00
Each Additional respondent 5.00

COMMISSION to taken testimony 10.00

COPY or FAX of any filed instrument per page of copy (certification extra) 1.00

EXECUTION OF COMMISSION from other Register of Pennsylvania or foreign jurisdiction 10.00

FOREIGN JURISDICTION'S CERTIFIED OR EXEMPLIFIED COPIES OF LETTERS AND PROCEEDINGS filing and entering

Non resident affidavit re debts 5.00

GENEOLOGICAL RESEARCH per hour or fraction thereof (on a time available basis) 10.00

INHERITANCE TAX RETURN	10.00
Supp Inheritance Tax Return	10.00
(No charge for filing with account)	
(No charge for insolvent Returns)	
Letter protesting tax appraisalment	5.00
Certificate of payment	10.00
INVENTORY	10.00
PA JUDICIAL COMPUTER PROJECT FEE	10.00
PETITION (MISCELLANEOUS)	30.00
PRAECIPE/JOINDER	5.00
SHORT CERTIFICATE	5.00
SUBPOENA	5.00
REGISTERS HEARING	50.00
RETURNED CHECK	20.00
MISC. FILINGS	10.00

NOTE: In cases not herein specifically provided for, the Register shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing fee bill for the Register of Wills of York County shall be revoked and superseded as of the effective date hereof.

By the Court:

Honorable John H. Chronister
President Judge in the Court of Common Pleas
of York County, Pennsylvania

FEE BILL

**CLERK OF ORPHANS' COURT DIVISION OF THE
COURT OF COMMON PLEAS OF YORK COUNTY,
PENNSYLVANIA**

And now, by Order of Court this 16th day of December, 2002, the following bill of costs is established pursuant to 42 P. S. Section 21032.1. This Order is effective the 1st day of January, 2003.

ACCOUNTS

For the filing, advertising and adjudication of accounts of guardians and trustees	
Total debits not over \$2,000	\$ 75.00
Over \$2,000 but not over \$5,000	80.00
Over \$5,000 but not over \$10,000	85.00
Over \$10,000 but not over \$25,000	110.00
Over \$25,000 but not over \$50,000	135.00
Over \$50,000 but not over \$100,000	165.00
Each additional \$100,000 or fraction thereof, an additional	75.00
ADOPTION	
Petition, Certificate and Report of Intermediary	30.00***
Voluntary or Involuntary Termination, Confirm Consent	10.00***
Costs of Investigation to be determined by the Court under the circumstance in each case.	
Pennsylvania Judicial Computer Project Fee	5.00
Report of intent	10.00
Act 34 Fund	75.00
Certificate of Adoption	5.00

AFFIDAVIT	2.00
ANSWER	10.00
APPEAL to Appellate Court filing fee	35.00
AUTOMATION FEE	
Clerk of Orphans' Court	5.00
SUPERIOR COURT/SUPREME COURT	
BIRTH/DEATH RECORD	
Certificate from original	4.00
Delayed registration	5.00
CERTIFICATION*	5.00
CERTIFICATION* under Act of Congress	20.00
*Plus \$1.00 per page if copy is not furnished	
Certificate of Authority	2.00
CITATION	
Petition and issuing, one respondent	30.00
Each additional respondent	5.00
File a claim	10.00
CLAIM	10.00
Satisfaction or withdrawal	5.00
COPY of any instrument, per page of copy (certification extra)	
DISCLAIMER	1.00
DISCLAIMER	10.00
ELECTION under or against Will	10.00
EXCEPTIONS/OBJECTIONS	10.00
FAMILY EXEMPTION	
Personalty	15.00
Realty (one purpart)	20.00
Each additional purpart	3.00
Advertising	50.00

**Pennsylvania Judicial Computer Project Fee
***Clerk of Orphans' Court Automation Fee

Attest:

John C. Uhler
Orphans' Court Judge

Attest:

Bradley C. Jacobs
Clerk of Orphans' Court

INCAPACITATED ESTATES

Petition, citation and appointment of guardian	\$30.00***
Entry of security	10.00
Inventory	10.00
Order of Allowance	10.00
Petition for Sale	25.00

MINOR'S ESTATE

Petition for appointment of guardian per child	30.00***
Entry of Security	10.00
Inventory	10.00
Petition for Order of Allowance	10.00
Report of guardian ad litem	5.00

MARRIAGE

WAIVER (Military-Free)	20.00
License & Affidavits (including tax & Automation fee)	45.00
Consent of parents	5.00
Certified copy of license and return of marriage	5.00
Certified copy of application	5.00

PA JUDICIAL COMPUTER PROJECT FEE ..	10.00
PETITION (MISCELLANEOUS)	30.00***
POWER OF ATTORNEY	15.00
PRAECIPE/JOINDER	5.00
PRESUMED DECEDENT	
Petition and final decree	20.00
REAL ESTATE OF DECEDENTS	

SALE OR MORTGAGE	30.00**
Execution of deed by Clerk	10.00
Approval of security and the entry thereof .	10.00
Excuse from security	10.00
Leave to bid at public sale	10.00
Decree of confirmation of title	10.00
RELEASE, first page	5.00
Each additional page	1.00
RETURNED CHECK	20.00
SHORT CERTIFICATE	5.00
SMALL ESTATE (DECEDENTS or MINORS)	30.00**
STIPULATION	10.00
SUBPOENA	5.00
TRUSTEE	
Petition for appointment	25.00**
Entry of security	10.00
Report of Trustee and litem	10.00
Resignation	10.00

NOTE: In cases not herein specifically provided for, the Clerk of Orphans' Court shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing fee bill for the Clerk of Orphans' Court of York County shall be revoked and superseded as of the effective date hereof.

By the Court:

Honorable John H. Chronister
*President Judge in the Court of Common Pleas
of York County, Pennsylvania*

[Pa.B. Doc. No. 03-56. Filed for public inspection January 10, 2003, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Mark Allan Kovler having been disbarred from the practice of law in the State of New York by Order dated July 8, 2002, the Supreme Court of Pennsylvania issued an Order on December 20, 2002, disbaring Mark Allan Kovler from the Bar of this Commonwealth, effective January 19, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-57. Filed for public inspection January 10, 2003, 9:00 a.m.]