

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 257 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 11th day of September, 2003 it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The fees outlined in the Financial Regulations are effective as of January 1, 2004.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter I. BUDGET AND FINANCE

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including district justices, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 17. GOVERNANCE OF THE SYSTEM

CHAPTER 35. BUDGET AND FINANCE

Subchapter A. GENERAL PROVISIONS

42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2004, the costs to be charged by district justices in every civil case, except as otherwise provided in this section, shall be as follows:

- | | |
|---|---------|
| (1) Actions involving \$500 or less | \$39.50 |
| (2) Actions involving more than \$500 but not more than \$2,000 | \$52.50 |
| (3) Actions involving more than \$2,000 but not more than \$4,000 | \$66.00 |
| (4) Actions involving more than \$4,000 but not more than \$8,000 | \$98.50 |
| (5) Landlord-tenant actions involving less than \$2,000 | \$59.50 |
| (6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 | \$72.50 |
| (7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000 | \$98.50 |
| (8) Order of execution | \$30.00 |
| (9) Objection to levy | \$13.50 |
| (10) Reinstatement of complaint | \$7.00 |
| (11) Entering Transcript on Appeal or Certiorari | \$3.50 |

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(b) *Criminal cases.*—In calendar year 2004, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- | | |
|---|---------|
| (1) Summary conviction, except motor vehicle cases | \$37.50 |
| (2) Summary conviction, motor vehicle cases, other than paragraph (3) | \$30.00 |
| (3) Summary conviction, motor vehicle cases, hearing demanded | \$36.00 |
| (4) Misdemeanor | \$43.00 |
| (5) Felony | \$49.50 |

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2004, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- | | |
|---|---------|
| (1) Entering transcript of judgment from another member of the minor judiciary | \$7.00 |
| (2) Marrying each couple, making record thereof, and certificate to the parties | \$33.00 |

- | | |
|---|---------|
| (1) Entering transcript of judgment from another member of the minor judiciary | \$7.00 |
| (3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) | \$13.50 |
| (4) Issuing a search warrant (except as provided in subsection (d)) | \$13.50 |
| (5) Any other issuance not otherwise provided in this subsection | \$13.50 |
- 42 Pa.C.S. § 3571. In calendar year 2004, Commonwealth portion of fines, etc.

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| (2) Amounts payable to the Commonwealth: | |
| (i) Summary conviction, except motor vehicle cases | \$13.16 |
| (ii) Summary conviction, motor vehicle cases other than subparagraph (iii) | \$13.34 |
| (iii) Summary conviction, motor vehicle cases, hearing demanded | \$13.34 |
| (iv) Misdemeanor | \$17.20 |
| (v) Felony | \$26.40 |
| (vi) Assumpsit or trespass involving: | |
| (A) \$500 or less | \$16.46 |
| (B) More than \$500 but not more than \$2,000 | \$26.26 |
| (C) More than \$2,000 but not more than \$4,000 | \$39.60 |
| (D) More than \$4,000 but not more than \$8,000 | \$65.66 |
| (vii) Landlord-tenant proceeding involving: | |
| (A) \$2,000 or less | \$26.44 |
| (B) More than \$2,000 but not more than \$4,000 | \$32.95 |
| (C) More than \$4,000 but not more than \$8,000 | \$45.97 |
| (viii) Objection to levy | \$6.75 |
| (ix) Order of execution | \$20.00 |
| (x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)) | \$9.45 |

[Pa.B. Doc. No. 03-1889. Filed for public inspection September 26, 2003, 9:00 a.m.]

**PART VII. ADMINISTRATIVE OFFICE OF
PENNSYLVANIA COURTS
[204 PA. CODE CH. 211]**

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 256 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 11th day of September, 2003, it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year

2002 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2002 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 256 Judicial Administrative Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2002 was 2.4% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, April 16, 2003.)

[Pa.B. Doc. No. 03-1890. Filed for public inspection September 26, 2003, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VII]

Order Adopting Revision of Comment to Pa.R.E. 703; No. 316 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 11th day of September 2003, upon the recommendation of the Committee on Rules of Evidence, this proposal having been published before adoption at 33 Pa.B. 197 (January 11, 2003) 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 the Comment to Pa.R.E. 703 is hereby revised in the following form.

This *Order* shall be processed immediately in accordance with Pa.R.J.A. 103(b), and shall be effective September 30, 2003.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 703. Bases of Opinion Testimony by Experts.

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in

the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

Comment

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 evidence would be otherwise inadmissible, the trial judge, upon request shall or on his own initiative may instruct the jury to consider the facts and data only to explain the basis for the expert's opinion, and not as substantive evidence.

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; September 11, 2003 Comment revised effective September 30, 2003.

FINAL REPORT

Revision of Comment to Pa.R.E. 703

On September 11, 2003, upon the recommendation of the Committee on Rules of Evidence, the Supreme Court approved the changes to the Comment to Pa.R.E. 703 effective September 15, 2003. The Comment Revision points out that Pa.R.E. 703 is no longer identical to F.R.E. 703. F.R.E. 703 was amended on December 1, 2000 to require that the probative value of the data relied upon by the expert substantially outweigh the prejudicial effect in order for the data to be disclosed to the jury. Pa.R.E. 703 is silent on a balancing test which is already covered by Pa.R.E. 403.

At the same time, the Comment Revision points out a significant change in the Pennsylvania Rules of Civil Procedure relative to expert testimony based on novel scientific evidence namely Pa.R.C.P. 207.1.

To update case authority, the entire Comment has been rewritten.

[Pa.B. Doc. No. 03-1891. Filed for public inspection September 26, 2003, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CUMBERLAND COUNTY

Termination of Inactive Cases; Civil Term; Civil 03-4248

Order of Court

And Now, this 4th day of September, 2003, in light of the March 20, 2003 amendment to Pa. R.C.P. 230.2 and effective September 4, 2003, or thirty (30) days after publication in the *Pennsylvania Bulletin*, Cumberland County Local Rule of Court 228 regarding Inactive Cases Not At Issue is rescinded.

Pursuant to Pa. R.C.P. 239, the Court Administrator is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau, for publication in the *Pennsylvania Bulletin* together with a diskette, formatted in Microsoft Word for Windows reflecting the text in hard copy version, one (1) copy to the Supreme Court Civil Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the Cumberland Law Journal.

By the Court

GEORGE E. HOFFER,
President Judge

[Pa.B. Doc. No. 03-1892. Filed for public inspection September 26, 2003, 9:00 a.m.]