

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CHS. 1 AND 19]

Order Amending Rules 103 and 1952 of the Rules of Judicial Administration; No. 465 Judicial Administration Doc.

Order

Per Curiam

And Now, this 28th day of June, 2016, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(b):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rules 103 and 1952 of the Pennsylvania Rules of Judicial Administration are amended in the following form.

2) Local rules of judicial administration effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(c)(7), as amended, no later than September 1, 2016 to remain effective.

3) All local rules of judicial administration that have been published in the *Pennsylvania Bulletin* but are not yet effective shall become effective in accordance with Pa.R.J.A. No. 103(c)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 1. GENERAL PROVISIONS

Rule 103. Procedure for adoption, filing and publishing rules.

(a) *Notice of proposed rulemaking.*

(1) Except as provided in subdivision [(3)] (a)(3), the initial recommendation of a proposed [Rule,] rule or proposed [Rule] amendment [(), including the explanatory note that is to accompany the [Rule] rule, shall be distributed by the proposing Rules Committee to the *Pennsylvania Bulletin* for publication therein. The publication notification shall contain a statement to the effect that comments regarding the proposed [Rule] rule or amendment are invited and should be sent directly to the proposing Rules Committee within a specified period of time.

(2) Written comments, suggestions or objections relating to the proposed [Rule] rule or amendment shall be sent directly to the proposing Rules Committee within a specified number of days after the [Rules'] publication of the rule or amendment in the *Pennsylvania Bulletin*, and any such commentary shall be reviewed by the said Committee prior to action on the proposal by the Supreme Court. Any further proposals which are based

upon the commentary so received need not be, but may be, published in the manner prescribed [herein] in subdivision (a)(1).

(3) A proposed rule or amendment may be promulgated even though it has not been previously distributed and published in the manner required by subdivisions [(1) and (2)] (a)(1) and (a)(2), where exigent circumstances require the immediate adoption of the proposal; or where the proposed amendment is of a typographical or perfunctory nature; or where in the discretion of the Supreme Court such action is otherwise required in the interests of justice or efficient administration.

(b) *Rules adopted by the Supreme Court.*

(1) Rules adopted by the Supreme Court shall be filed in the office of the Prothonotary of the Supreme Court [and in the Administrative Office].

(2) After an order adopting a rule or amendment has been filed with the Prothonotary of the Supreme Court, the Prothonotary shall forward a certified copy of the order and rule or amendment to:

(i) The publisher of the official version of Supreme Court decisions and opinions who shall cause it to be printed in the first available volume of the State Reports.

(ii) The prothonotaries or clerks of all courts, which may be affected thereby, and thereupon the order and rule or amendment shall be published by such prothonotaries or clerks in the same manner as local rules adopted by such courts.

(iii) The Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(iv) The Administrative Office.

(c) *Rules of judicial administration adopted by other courts and by agencies of the [system] System.*

(1) As used in this subdivision, "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by a court, council, committee, board, commission or other agency of the unified judicial system to govern [practice or procedure but shall not include a rule of civil, domestic relations, criminal, or juvenile procedure] judicial administration. This subdivision shall also apply to any amendment of a local rule.

(2) [Rules] Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(3) When a local rule under this subdivision corresponds to a [statewide] general rule, the local rule shall be given a number that is keyed to the number of the [statewide] general rule.

(4) **Reserved.**

[(4)] (5) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(i) **Reserved.**

[(i)] (ii) The adopting court or agency shall distribute two [certified] paper copies of the [rule and a copy of the] local rule to the Legislative Reference

Bureau for publication in the *Pennsylvania Bulletin*. The adopting court or agency also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette [or on a], CD-ROM, or other agreed upon alternate format that complies with the requirements of 1 Pa. Code § 13.11(b) [to the Legislative Reference Bureau, or agreed upon alternate format, for publication in the *Pennsylvania Bulletin*].

[(ii)] (iii) The effective date of the local rule shall not be less than 30 days after the date of publication of the local rule in the *Pennsylvania Bulletin*.

[(5)] (6) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court or agency shall [file one certified copy of the rule with the Administrative Office of Pennsylvania Courts. The Administrative Office shall assign a serial number to the rule, and shall note on the rule the serial number and the date of filing. A copy of the rule shall be available for public inspection and copying immediately upon filing.]:

[(6) The rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts of the adopting court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any rule.]

(i) file one copy of the local rule with the Administrative Office;

(ii) publish a copy of the local rule on the website of the court or county in which the adopting court has jurisdiction; and

(iii) thereafter compile the local rule within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

(7) A compilation of local rules shall be kept continuously available for public inspection and copying in the respective filing office and on the website of the adopting court or county in which the adopting court has jurisdiction. Upon request and payment of reasonable costs of reproduction and mailing, the respective court office shall furnish a person with a copy of any local rule.

[(7)] (8) No pleading or other legal paper shall be refused for filing by the prothonotary or clerk of courts based on a requirement of a local rule unrelated to the payment of filing fees. No case shall be dismissed nor request for relief granted or denied because of failure to initially comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

(d) *Rules of procedure adopted by other courts of the System.*

(1) For the purpose of this subdivision, the term "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted by a court of common pleas, the Philadelphia Municipal Court—Criminal Division, and the Philadelphia Municipal Court—Traffic Division, to govern practice

and procedure. This subdivision shall also apply to any amendment of a local rule.

(2) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly. A Rules Committee, at any time, may recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

(3) Local rules shall be given numbers that are either keyed to the number of the general rules to which the local rules correspond or assigned by the general rules.

(4) All proposed local rules shall be submitted in writing to the appropriate Rules Committee for review. The adopting court shall not proceed with the proposed local rule until it receives written notification from the appropriate Rules Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

(5) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(i) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the written notification pursuant to subdivision (d)(4).

(ii) The adopting court shall distribute two paper copies of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette, CD-ROM, or other agreed upon alternate format that complies with the requirements of 1 Pa. Code § 13.11(b).

(iii) The effective date of the local rule shall not be less than 30 days after the date of publication of the local rule in the *Pennsylvania Bulletin*.

(6) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

(i) file one copy of the local rule with the Administrative Office;

(ii) publish a copy of the local rule on the website of the court or county in which the adopting court has jurisdiction; and

(iii) incorporate the local rule in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

(7) A compilation of local rules shall be kept continuously available for public inspection and copying in the respective filing office and on the website of the adopting court or county in which the adopting court has jurisdiction. Upon request and payment of reasonable costs of reproduction and mailing, the respective court office shall furnish a person with a copy of any local rule.

(8) No pleading or other legal paper shall be refused for filing based upon a requirement of a local rule. No case shall be dismissed nor request for relief granted or denied because of failure to initially comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

Official Note: The purpose of subdivisions (c) and (d) is to further the policy of the Supreme Court to implement the Unified Judicial System under the Constitution of 1968 and to facilitate the statewide practice of law under the Court's general rules. Local rules of judicial administration and local rules of procedure should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties. The provisions of subdivision (d) apply to local rules of procedure, but not to case-specific orders.

The caption or other words used as a label or designation shall not determine whether something is or establishes a rule; if the definition in [paragraph (c)(1) of this rule] subdivisions (c)(1) or (d)(1) is satisfied, the matter is a rule regardless of what it may be called. [The provisions of this rule also are intended to apply to any amendments to a rule. Nothing in this rule is intended to apply to case-specific orders.] Local rules "adopted by a court of common pleas" in subdivision (d)(1) is intended to include those local rules of procedure for proceedings before a magisterial district judge.

[Pursuant to paragraph (c)(1), local rules of civil, domestic relations, criminal, and juvenile procedure are not included within the scope of this rule. The procedures for adopting, filing, and publishing local rules of criminal, juvenile, domestic relations and civil procedure are governed by Rule of Criminal Procedure 105, Rules of Juvenile Court Procedure 121 and 1121, and Rules of Civil Procedure 239, 239.8 and 239.9.]

To simplify the use of rules, [paragraph (c)(3) requires rules] local rules are to be given numbers that are keyed to the number of the general rules to which the rules correspond unless numbers are specifically assigned. See, e.g., Pa.R.C.P. No. 239.1—239.7. This requirement is not intended to apply to local rules that govern general business of the court or agency and which do not correspond to a statewide rule.

[To further facilitate the statewide practice of law and accessibility by the public, the adopting court or agency should post and update its rules on its website.]

Subdivision (d)(4) requires that, before publishing a local rule of procedure or proceeding with any of the other requirements, the adopting court must submit all proposed local rules of procedure to the appropriate Rules Committee. For administrative convenience, proposed local rules of procedure may be sent to one email address (rulescommittees@pacourts.us) where the proposal will be distributed to the appropriate Rules Committee. Subdivision (d)(4) emphasizes that the adopting court must comply with all the provisions of this subdivision before any local rule will be effective and enforceable.

[Paragraph (c)(4) requires the rule to] To be effective, all local rules shall be published in the *Pennsylvania Bulletin* [to be effective]. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled

with the court's or agency's name and address and the rule's computer file name. Section 13.11(e) provides that documents may be accepted in an alternate format if it is requested by the court or agency and agreed upon by the Legislative Reference Bureau.

Although [under paragraph (c)(4)(ii)] a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the court or agency may act by specific orders governing particular matters in the interim before an applicable local rule becomes effective.

[Paragraph (c)(5) requires one] One copy of the local rule [to] must also be filed with the Administrative Office [of Pennsylvania Courts]. When rules are forwarded to the Administrative Office, the adopting court or agency should indicate whether the rules have been distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* [and, if appropriate, submitted to the Criminal, Juvenile, Domestic Relations or Civil Procedural Rules Committees pursuant to their respective rules]. For administrative convenience, local rules of procedure and judicial administration may be sent to adminrules@pacourts.us for filing.

[The Administrative Office of the Pennsylvania Courts maintains a website containing local court rules at: <http://www.pacourts.us/courts/supremecourt/committees/rules-committees/local-rules-for-common-pleas-and-magisterial-district-courts/>

The Administrative Office of the Pennsylvania Courts also maintains a website containing all local criminal rules adopted or amended after February 1, 2009, local juvenile rules, and local civil rules adopted pursuant to Pa.R.C.P. 239.8 and 239.9 at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>]

New or amended local rules shall be timely compiled into the set of local rules to further facilitate the statewide practice of law, increase accessibility by the public, and maintain the currency of the requirement set forth in subdivisions (c)(7) and (d)(7).

Subdivisions (c)(7) and (d)(7) require that a separate consolidated set of local rules be maintained in the filing office, which may be the prothonotary, clerk of courts, clerk of orphans' court, or domestic relations section depending on the type of proceeding, and on the website of the adopting court or the county in which the adopting court has jurisdiction. It is intended that a complete and up-to-date set of local rules will be maintained on the website of the adopting court or the county in which the adopting court has jurisdiction.

The Administrative Office maintains a web page linking to the websites of the courts of common pleas. That web page is located at <http://www.pacourts.us/courts/courts-of-common-pleas/individual-county-courts>.

Under subdivision (c)(8) a filing may be rejected if it is not accompanied by the necessary filing fee unless a fee waiver request is pending or granted. See, e.g., Pa.R.C.P. No. 240.

CHAPTER 19. MISCELLANEOUS
ADMINISTRATIVE PROVISIONS

CONTINUITY OF OPERATIONS, EMERGENCY
ACTIONS, EMERGENCY UNITS AND JUDICIAL
SECURITY

Rule 1952. Emergency actions, duties and authorities.

* * * * *

(b) Role of the President Judge

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(5) During an emergency, the provisions of any statewide procedural rules that require submission of local rules, including administrative orders, to the Supreme Court, the Administrative Office of Pennsylvania Courts, a statewide procedural rules committee, or the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, shall not apply to any local rules or administrative orders issued in response to the emergency. The president judge of the affected judicial district shall inform the Supreme Court of any local rule or administrative order issued under this paragraph as soon as practicable.

Official Note: See [Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, and Pa.R.J.C.P. 121] Pa.R.J.A. No. 103(c) and (d) for local rule adoption procedures.

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[Pa.B. Doc. No. 16-1197. Filed for public inspection July 15, 2016, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IX]

Proposed Amendment of Comment to Pa.R.E. 902

Proposed amendment of the Comment to Pa.R.E. 902 governing self-authentication is being published for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Counsel
Committee on Rules of Evidence
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717.231.9536
evidencerules@pacourts.us

All communications in reference to the proposal should be received by September 1, 2016. E-mail is the preferred

method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Committee on
Rules of Evidence*

THOMAS W. DOLGENOS, Esq.,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 902. Evidence That is Self-Authenticating.

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) *Domestic Public Documents That Are Sealed and Signed.* A document that bears:

(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) a signature purporting to be an execution or attestation.

(2) *Domestic Public Documents That Are Not Sealed But Are Signed and Certified.* A document that bears no seal if:

(A) it bears the signature of an officer or employee of an entity named in Rule 902(1)(A); and

(B) another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine.

(3) *Foreign Public Documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester—or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may for good cause, either:

(A) order that it be treated as presumptively authentic without final certification; or

(B) allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified Copies of Public Records.* A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) the custodian or another person authorized to make the certification; or

(B) a certificate that complies with Rule 902(1), (2), or (3), a statute or a rule prescribed by the Supreme Court.

(5) *Official Publications*. A book, pamphlet, or other publication purporting to be issued by a public authority.

(6) *Newspapers and Periodicals*. Printed material purporting to be a newspaper or periodical.

(7) *Trade Inscriptions and the Like*. An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged Documents*. A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.

(9) *Commercial Paper and Related Documents*. Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions Authorized by Statute*. A signature, document, or anything else that a statute declares to be presumptively or prima facie genuine or authentic.

(11) *Certified Domestic Records of a Regularly Conducted Activity*. The original or a copy of a domestic record that meets the requirements of Rule 803(6)(A)—(C), as shown by a certification of the custodian or another qualified person that complies with Pa.R.C.P. No. 76. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

(12) *Certified Foreign Records of a Regularly Conducted Activity*. In a civil case, the original or a copy of a foreign record that meets the requirements of Rule 902(11), modified as follows: the certification rather than complying with a statute or Supreme Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of Rule 902(11).

Comment

This rule permits some evidence to be authenticated without extrinsic evidence of authentication or identification. In other words, the requirement that a proponent must present authentication or identification evidence as a condition precedent to admissibility, as provided by Pa.R.E. 901(a), is inapplicable to the evidence discussed in Pa.R.E. 902. The rationale for the rule is that, for the types of evidence covered by Pa.R.E. 902, the risk of forgery or deception is so small, and the likelihood of discovery of forgery or deception is so great, that the cost of presenting extrinsic evidence and the waste of court time is not justified. Of course, this rule does not preclude the opposing party from contesting the authenticity of the evidence. In that situation, authenticity is to be resolved by the finder of fact.

Pa.R.E. 902(1), (2), (3) and (4) deal with self-authentication of various kinds of public documents and records. They are identical to F.R.E. 902(1), (2), (3) and (4), except that Pa.R.E. 901(4) eliminates the reference to Federal law. These paragraphs are consistent with Pennsylvania statutory law. *See, e.g.* 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P.S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office).

The admission of a self-authenticating record of a prior conviction also requires sufficient evidence, either direct or circumstantial, to prove that the subject of the record is the same person for whom the record is offered in a proceeding. *See, e.g., Commonwealth v. Boyd*, 344 A.2d 864 (Pa. 1975).

Pa.R.E. 902(5), (6) and (7) are identical to F.R.E. 902(5), (6) and (7). There are no corresponding statutory provisions in Pennsylvania; however, 45 Pa.C.S. § 506 (judicial notice of the contents of the *Pennsylvania Code* and the *Pennsylvania Bulletin*) is similar to Pa.R.E. 902(5).

Pa.R.E. 902(8) is identical to F.R.E. 902(8). It is consistent with Pennsylvania law. *See Sheaffer v. Baeringer*, [346 Pa. 32,] 29 A.2d 697 (Pa. 1943); *Williamson v. Barrett*, [147 Pa. Super. 460,] 24 A.2d 546 (Pa. Super. 1942); 21 P.S. §§ 291.1—291.13 (Uniform Acknowledgment Act); 57 P.S. §§ 147—169 (Notary Public Law). An acknowledged document is a type of official record and the treatment of acknowledged documents is consistent with Pa.R.E. 902(1), (2), (3), and (4).

Pa.R.E. 902(9) is identical to F.R.E. 902(9). Pennsylvania law treats various kinds of commercial paper and documents as self-authenticating. *See, e.g.*, 13 Pa.C.S. § 3505 (evidence of dishonor of negotiable instruments).

Pa.R.E. 902(10) differs from F.R.E. 902(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law. In some Pennsylvania statutes, the self-authenticating nature of a document is expressed by language creating a “presumption” of authenticity. *See, e.g.*, 13 Pa.C.S. § 3505.

Pa.R.E. 902(11) and (12) permit the authentication of domestic and foreign records of regularly conducted activity by verification or certification. Pa.R.E. 902(11) is similar to F.R.E. 902(11). The language of Pa.R.E. 902(11) differs from F.R.E. 902(11) in that it refers to Pa.R.C.P. No. 76 rather than to Federal law. Pa.R.E. 902(12) differs from F.R.E. 902(12) in that it requires compliance with a Pennsylvania statute rather than a Federal statute.

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 1, 2002; amended February 23, 2004, effective May 1, 2004; rescinded and replaced January 17, 2013, effective March 18, 2013; **amended** , **2016, effective** , **2016**.

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments adding paragraphs (11) and (12) published with Court’s Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the February 23, 2004 amendment of paragraph (12) published with Court’s Order at 34 Pa.B. 1429 (March 13, 2004).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the , **2016 amendment published with the Court’s Order at 46 Pa.B.** (, **2016**).

REPORT

Proposed Amendment of Comment to Pa.R.E. 902

The Committee on Rules of Evidence is considering amendment of the Comment to Rule 902 to provide notice that certain self-authenticating records also require proof of identification. Under the Rules of Evidence, certificates evidencing a prior criminal record are self-authenticating

under Pa.R.E. 902(4). *See also* 42 Pa.C.S. § 5328, 42 Pa.C.S. § 6103, and 75 Pa.C.S. § 6501. However, self-authenticating certificates fulfill only part of the requirement for proving a prior criminal conviction.

Under case law, the proponent has the burden of proving: 1) a prior conviction is authentic (*i.e.*, with a self-authenticating certificate); and 2) the person against whom it is sought to be admitted is the same person reflected on the certificate. *Commonwealth v. Boyd*, 344 A.2d 864 (Pa. 1975). Concerning the second aspect of this burden, a criminal record cannot be authenticated solely on the basis of the similarity of names between the record and the in-court witness. *Id.* For example, in *Commonwealth v. Young*, 211 A.2d 440 (Pa. 1965), name, age, race, and gender were deemed to be insufficient to establish identity. Rather, the Court focused on the name, “Thomas Young,” as being “not uncommon” in Philadelphia. Of course, a stipulation would obviate the need for corroborative evidence of identity. *See Commonwealth v. Connolly*, 269 A.2d 390, 392 (Pa. Super. 1970).

One method of proving identity is to produce a witness from the previous trial. *Boyd*, 344 A.2d at 869. Similar nicknames and addresses have been deemed sufficient. *See Commonwealth v. Chandler*, 346 A.2d 579, 582 (Pa. Super. 1975). Likewise, the same first name, middle initial, and last name, together with an exact address, has been deemed sufficient. *Commonwealth v. Moyer*, 2014 WL 10896803 (Pa. Super. 2014) (unreported). The identity of a person convicted by court-martial has been considered duly shown by the person in question having the same social security number as that of the person named in a self-authenticating certificate. *See Commonwealth v. Smith*, 563 A.2d 905, 909 n. 5 (Pa. Super. 1989), *order affirmed*, 598 A.2d 268 (Pa. 1991). Whether sufficient evidence of identity has been proffered as a matter of law is initially to be determined by the judge outside the presence of the jury. *Commonwealth v. Brabham*, 407 A.2d 424, 430 (Pa. Super. 1979).

The Committee recognizes that evidence of a prior conviction may be used in multiple circumstances, including as an element of a crime, 18 Pa.C.S. § 6105(a)(1) (prohibition against possessing a firearm as a result of a prior felony), to determine custody, 23 Pa.C.S. § 5329, to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, lack of accident, Pa.R.E. 404(b)(2), and for impeachment purposes, Pa.R.E. 609. However, a universal requirement for this evidence, absent a stipulation, is authentication. Therefore, the Committee favors adding a statement regarding identification to the Comment to Rule 902.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 16-1198. Filed for public inspection July 15, 2016, 9:00 a.m.]

[225 PA. CODE ART. IX]
Proposed Amendment of Pa.R.E. 901

Proposed amendment of Pa.R.E. 901 governing authentication is being published for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Counsel
 Committee on Rules of Evidence
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 PO Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717.231.9536
 evidencerules@pacourts.us

All communications in reference to the proposal should be received by September 1, 2016. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Committee on
 Rules of Evidence*

THOMAS W. DOLGENOS, Esq.,
Chair

Annex A
TITLE 225. RULES OF EVIDENCE
ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Authenticating or Identifying Evidence.

(a) *In General.* To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

(b) *Examples.* The following are examples only—not a complete list—of evidence that satisfies the requirement:

(1) *Testimony of a Witness with Knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert Opinion about Handwriting.* A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an Expert Witness or the Trier of Fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion About a Voice.* An opinion identifying a person's voice—whether heard firsthand or through mechanical or electronic transmission or recording—based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence About a Telephone Conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) a particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence About Public Records.* Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence About Ancient Documents or Data Compilations.* For a document or data compilation, evidence that it:

(A) is in a condition that creates no suspicion about its authenticity;

(B) was in a place where, if authentic, it would likely be; and

(C) is at least 30 years old when offered.

(9) *Evidence About a Process or System.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods Provided by a Statute or a Rule.* Any method of authentication or identification allowed by a statute or a rule prescribed by the Supreme Court.

(11) Evidence About A Writing, Posting, Communication, or Image on an Electronic Device or Medium. A writing, posting, communication, or image on or sent from an electronic device may be attributed to a person by:

(A) the testimony of a person with knowledge; or

(B) circumstantial evidence such as content or exclusivity of ownership, access, or possession of the device or account at the relevant time.

Comment

Pa.R.E. 901(a) is identical to F.R.E. 901(a) and consistent with Pennsylvania law. The authentication or identification requirement may be expressed as follows: When a party offers evidence contending either expressly or impliedly that the evidence is connected with a person, place, thing, or event, the party must provide evidence sufficient to support a finding of the contended connection. See *Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980); *Commonwealth v. Pollock*, [414 Pa. Super. 66,] 606 A.2d 500 (Pa. Super. 1992).

In some cases, real evidence may not be relevant unless its condition at the time of trial is similar to its condition at the time of the incident in question. In such cases, the party offering the evidence must also introduce evidence sufficient to support a finding that the condition is similar. Pennsylvania law treats this requirement as an aspect of authentication. See *Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980).

Demonstrative evidence such as photographs, motion pictures, diagrams and models must be authenticated by evidence sufficient to support a finding that the demonstrative evidence fairly and accurately represents that which it purports to depict. See *Nyce v. Muffley*, [384 Pa. 107,] 119 A.2d 530 (Pa. 1956).

Pa.R.E. 901(b) is identical to F.R.E. 901(b).

Pa.R.E. 901(b)(1) is identical to F.R.E. 901(b)(1). It is consistent with Pennsylvania law in that the testimony of a witness with personal knowledge may be sufficient to

authenticate or identify the evidence. See *Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980).

Pa.R.E. 901(b)(2) is identical to F.R.E. 901(b)(2). It is consistent with 42 Pa.C.S. § 6111, which also deals with the admissibility of handwriting.

Pa.R.E. 901(b)(3) is identical to F.R.E. 901(b)(3). It is consistent with Pennsylvania law. When there is a question as to the authenticity of an exhibit, the trier of fact will have to resolve the issue. This may be done by comparing the exhibit to authenticated specimens. See *Commonwealth v. Gipe*, [169 Pa. Super. 623,] 84 A.2d 366 (Pa. Super. 1951) (comparison of typewritten document with authenticated specimen). Under this rule, the court must decide whether the specimen used for comparison to the exhibit is authentic. If the court determines that there is sufficient evidence to support a finding that the specimen is authentic, the trier of fact is then permitted to compare the exhibit to the authenticated specimen. Under Pennsylvania law, lay or expert testimony is admissible to assist the jury in resolving the question. See, e.g., 42 Pa.C.S. § 6111.

Pa.R.E. 901(b)(4) is identical to F.R.E. 901(b)(4). Pennsylvania law has permitted evidence to be authenticated by circumstantial evidence similar to that discussed in this illustration. The evidence may take a variety of forms including: evidence establishing chain of custody, see *Commonwealth v. Melendez*, [326 Pa. Super. 531,] 474 A.2d 617 (Pa. Super. 1984); evidence that a letter is in reply to an earlier communication, see *Roe v. Dwelling House Ins. Co. of Boston*, [149 Pa. 94,] 23 A.718 (Pa. 1892); testimony that an item of evidence was found in a place connected to a party, see *Commonwealth v. Bassi*, [284 Pa. 81,] 130 A. 311 (Pa. 1925); a phone call authenticated by evidence of party's conduct after the call, see *Commonwealth v. Gold*, [123 Pa. Super. 128,] 186 A. 208 (Pa. Super. 1936); and the identity of a speaker established by the content and circumstances of a conversation, see *Bonavitacola v. Cluver*, [422 Pa. Super. 556,] 619 A.2d 1363 (Pa. Super. 1993).

Pa.R.E. 901(b)(5) is identical to F.R.E. 901(b)(5). Pennsylvania law has permitted the identification of a voice to be made by a person familiar with the alleged speaker's voice. See *Commonwealth v. Carpenter*, [472 Pa. 510,] 372 A.2d 806 (Pa. 1977).

Pa.R.E. 901(b)(6) is identical to F.R.E. 901(b)(6). This paragraph appears to be consistent with Pennsylvania law. See *Smithers v. Light*, [305 Pa. 141,] 157 A. 489 (Pa. 1931); *Wahl v. State Workmen's Ins. Fund*, [139 Pa. Super. 53,] 11 A.2d 496 (Pa. Super. 1940).

Pa.R.E. 901(b)(7) is identical to F.R.E. 901(b)(7). This paragraph illustrates that public records and reports may be authenticated in the same manner as other writings. In addition, public records and reports may be self-authenticating as provided in Pa.R.E. 902. Public records and reports may also be authenticated as otherwise provided by statute. See Pa.R.E. 901(b)(10) and its Comment.

Pa.R.E. 901(b)(8) differs from F.R.E. 901(b)(8), in that the Pennsylvania Rule requires thirty years, while the Federal Rule requires twenty years. This change makes the rule consistent with Pennsylvania law. See *Commonwealth ex rel. Ferguson v. Ball*, [277 Pa. 301,] 121 A. 191 (Pa. 1923).

Pa.R.E. 901(b)(9) is identical to F.R.E. 901(b)(9). There is very little authority in Pennsylvania discussing authen-

tication of evidence as provided in this illustration. The paragraph is consistent with the authority that exists. For example, in *Commonwealth v. Visconto*, [301 Pa. Super. 543,] 448 A.2d 41 (Pa. Super. 1982), a computer print-out was held to be admissible. In *Appeal of Chartiers Valley School District*, [67 Pa. Cmwlth. 121,] 447 A.2d 317 (Pa. Cmwlth. 1982), computer studies were not admitted as business records, in part, because it was not established that the mode of preparing the evidence was reliable. The court used a similar approach in *Commonwealth v. Westwood*, [324 Pa. 289,] 188 A. 304 (Pa. 1936) (test for gun powder residue) and in other cases to admit various kinds of scientific evidence. See *Commonwealth v. Middleton*, [379 Pa. Super. 502,] 550 A.2d 561 (Pa. Super. 1988) (electrophoretic analysis of dried blood); *Commonwealth v. Rodgers*, [413 Pa. Super. 498,] 605 A.2d 1228 (Pa. Super. 1992) (results of DNA/RFLP testing).

Pa.R.E. 901(b)(10) differs from F.R.E. 901(b)(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law.

Pa.R.E. 901(b)(11) has no counterpart in the Federal Rules of Evidence. Circumstantial evidence may include self-identification, the appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, including a display of knowledge only possessed by the author, or the exclusivity of ownership, possession, control, or access of the device or account attributed to the item.

There are a number of statutes that provide for authentication or identification of various types of evidence. See, e.g., 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P.S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office); 42 Pa.C.S. § 6110 (certain registers of marriages, births and burials records); 75 Pa.C.S. § 1547(c) (chemical tests for alcohol and controlled substances); 75 Pa.C.S. § 3368 (speed timing devices); 75 Pa.C.S. § 1106(c) (certificates of title); 42 Pa.C.S. § 6151 (certified copies of medical records); 23 Pa.C.S. § 5104 (blood tests to determine paternity); 23 Pa.C.S. § 4343 (genetic tests to determine paternity).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013; adopted , 2016, effective , 2016.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the , 2016 amendment published with the Court's Order at 46 Pa.B. (, 2016).

REPORT

Proposed Amendment of Pa.R.E. 901

The Committee on Rules of Evidence is considering amendment of Rule 901 to add a new paragraph (b)(11) to provide an example of evidence for the authentication of a writing, posting, communication, or image on an electronic device or medium. The Committee's consideration of this issue arose from its review of *Commonwealth v. Koch*, 106 A.3d 705 (Pa. 2014) and the lack of rules-based guidance for resolving authentication questions involving electronic communications.

The Committee acknowledges that there is often a lack of direct evidence of authentication absent an admission or eyewitness. Rather, authentication is frequently proven by circumstantial evidence. The Committee found that the same circumstantial evidence used to establish the authenticity of writings, see *Commonwealth v. Brooks*, 508 A.2d 316 (Pa. Super. 1985), have been used to authenticate electronic communications, see, e.g., *U.S. v. Siddiqui*, 235 F.3d 1318 (11th Cir. 2000) and *Massimo v. State*, 144 S.W.3d 210 (Tex. App. 2004).

The Committee deliberated whether ownership, access, or possession of a device or to an account should be considered for authenticating whether an electronic communication was sent from or received by the person having ownership, access, or possession of the device or access to the account. Members expressed concern that mere possession of or access to a device or account does not equate to exclusive possession or access to support the inference that the person sent or received the communication.

Therefore, the Committee has included ownership, access, or possession of a device or to an account as a factor to be considered, but qualifies it by reference to exclusivity. Therefore, to permit ownership, access, or possession to be the sole means of authentication of an electronic communication, the proponent should demonstrate by *prima facie* evidence that ownership, access, or possession was exclusive.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 16-1199. Filed for public inspection July 15, 2016, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 1000]

Order Amending Rules 205.2, 205.5, 206.1, 206.4, 208.2, 208.3, 210, 239, 239.8, 239.9, 1028, 1034 and 1035.2 of the Rules of Civil Procedure; No. 647 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 28th day of June, 2016, upon the recommendation of the Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee, the proposal having been published for public comment at 45 Pa.B. 5384 (August 29, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rules 205.2, 205.5, 206.1, 206.4, 208.2, 208.3, 210, 239, 239.8, 239.9, 1028, 1034, and 1035.2 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

2) Local rules of civil procedure effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket

(June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

3) Local rules of civil procedure that have been adopted before, but not yet published in the *Pennsylvania Bulletin* as of August 1, 2016 pursuant to Pa.R.C.P. No. 239 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

4) Local rules of civil procedure that have been published in the *Pennsylvania Bulletin* as of August 1, 2016 but are not yet effective pursuant to Pa.R.C.P. 239 shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

5) Local rules of civil procedure that have been approved by the Civil Procedural Rules Committee pursuant to Pa.R.C.P. No. 239.8, but have not yet been published and made effective as of August 1, 2016 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.2. Filing Legal Papers with the Prothonotary.

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including local Rules 205.2(a) and 205.2(b).

Official Note: Rule 239.1(a) authorizes each court of common pleas to impose requirements governing the physical characteristics of pleadings and other legal papers. Rule 239.1(a) requires each court which has imposed requirements to promulgate a local rule, numbered Local Rule 205.2(a), listing the requirements.

Similarly, Rule 239.1(b) also authorizes each court to require pleadings and other legal papers to be accompanied by a cover sheet. Rule 239.1(b) requires each court which has imposed the requirement to promulgate a local rule, numbered Local Rule 205.2(b), stating the requirement and setting forth the form of the cover sheet.

[Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]

Rule 205.5. Cover Sheet.

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 *et seq.*

(ii) actions for support, Rules 1910.1 *et seq.*

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 *et seq.*

(iv) actions for divorce or annulment of marriage, Rules 1920.1 *et seq.*

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 *et seq.*

(vi) voluntary mediation in custody actions, Rules 1940.1 *et seq.*

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

Official Note: When a defendant in an action before a magisterial district court appeals the decision to the court of common pleas, the plaintiff in the action before the magisterial district court shall complete the cover sheet when filing the complaint with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

Official Note: Pa.R.C.P. No. 205.4 provides for electronic filing and service of legal papers. Rule 205.4(h) permits a judicial district which has implemented an electronic filing system to be exempt from the requirements of this rule provided that the information to be gathered by the cover sheet can be captured and transmitted to the Administrative Office of Pennsylvania Courts by the electronic filing system.

Pa.R.C.P. No. 239.9 provides for the promulgation of a local rule, numbered Local Rule 205.4, governing procedures for electronic filing specific to a judicial district.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the web site of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

Official Note: Cover sheets developed by a judicial district may be used in addition to the cover sheet required by this rule. See Rule 239.1, which requires a court that uses local cover sheets to promulgate a local rule, numbered Local Rule 205.2(b), setting forth the form of cover sheet[, and Rule 239.8 for the requirements for adopting Local Rule 205.2(b)].

Rule 206.1. Petition. Definition. Content. Form.

(a) As used in this chapter, "petition" means

(1) an application to strike and/or open a default judgment or a judgment of non pros, and

(2) any other application which is designated by local rule, numbered Local Rule 206.1(a), to be governed by Rule 206.1 *et seq.*

Official Note: A petition for relief from a judgment by confession is governed by Rule 2959.

Motions are governed by Rule 208.1 *et seq.*

Rule 206.1(a)(2) authorizes each court of common pleas to designate applications which are to proceed in the manner of a petition under Rule 206.1 *et seq.* Rule 239.2(a) requires each court which has made that designation to promulgate a local rule, numbered Local Rule 206.1(a), listing the applications to be determined pursuant to Rule 206.1 *et seq.* **[Any local rule which has**

been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]

(b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor. All grounds for relief, whether to strike or open a default judgment, shall be asserted in a single petition.

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Official Note: Petitions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a petition and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

Rule 206.4. Rule to Show Cause. Alternative Procedures. Exception.

(a)(1) Except as provided by subparagraph (2), a petition shall proceed upon a rule to show cause, the issuance of which shall be discretionary with the court as provided by Rule 206.5 unless the court by local rule adopts the procedure of Rule 206.6 providing for issuance as of course.

Official Note: See Rule 440 requiring service of the petition upon every other party to the action.

(2) A judgment shall be stricken without the issuance of a rule to show cause when there is a defect on the face of the record that constitutes a ground for striking a default judgment.

(b) The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

Official Note: Subdivisions (b) through (e) of Rule 239.2 require every court to promulgate Local Rule 206.4(c) describing the court's procedures for the issuance of a rule to show cause. [**Local Rule 206.4(c) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**]

Rule 208.2. Motion. Form. Content.

(a) A motion shall

(1) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party,

(2) be divided into paragraphs numbered consecutively,

(3) set forth material facts constituting grounds for the relief sought, specify the relief sought and include a proposed order,

(4) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a "pro se" designation for each party that is unrepresented, and the address at which service was made, and

(5) be signed and endorsed.

Official Note: Motions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a motion and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

(b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of court.

Official Note: Rule 239.3(a) authorizes a court to require that a motion include a brief statement of the applicable authority. Rule 239.3(a) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

Rule 239.3(b) also authorizes each court to provide a certification requirement for a motion as uncontested. Rule 239.3(b) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

Similarly, Rule 239.3(c) authorizes each court of common pleas to require the moving party in any motion relating to discovery to certify that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. Rule 239.3(c) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

[**Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**]

Rule 208.3. Alternative Procedures.

(a) Except as otherwise provided by subdivision (b), the court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties to the proceeding are given an opportunity for an argument.

Official Note: Rule 208.3(a) does not prevent a court from denying the moving party's request for relief without the opportunity for an argument where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

Parties may choose to submit responses and briefs at the time of the presentation, provided that copies have been served on every other party. However, parties are not required to do so.

Rule 239.3(d) requires every court to promulgate Local Rule 208.3(a) describing the local court procedure governing motions under this rule. [**Local Rule 208.3(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**]

(b) A court, by local rule, numbered Local Rule 208.3(b), may impose requirements with respect to motions listed in the rule for the filing of a response, a brief or both. Where a response is required, any party opposing a motion governed by Local Rule 208.3(b) shall file the response within twenty days after service of the motion, unless the time for filing the response is modified by court order or enlarged by local rule.

Official Note: Motions are governed by the procedure in subdivision (a) unless the court by local rule designates particular types of motions to be governed by the procedure in subdivision (b).

The twenty-day response period may be extended or reduced by special order of court. A local rule may only extend the time period.

A response shall be filed by any party opposing a motion governed by subdivision (b) even if there are no contested issues of fact because the response is the opposing party's method of indicating its opposition.

Rule 208.3(b) authorizes each court of common pleas to impose requirements of responses and briefs with respect to designated motions. Rule 239.3(e) requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 208.3(b), listing the motions and the requirements.

Rule 239.3(e) also provides that Local Rule 208.3(b) must describe the local court procedure governing motions under subdivision (b) and may allow the court to treat the motion as uncontested if a response is not filed.

[Any local rule promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]

Rule 210. Form of Briefs.

Briefs shall be typewritten, printed, or otherwise duplicated, and endorsed with the name of the case, the court and number and the name, address, and telephone number of the attorney or the party if not represented by an attorney.

Official Note: Rule 239.4 authorizes each court of common pleas to impose additional requirements governing the form and content of a brief. Rule 239.4 requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 210, listing the requirements. [Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]

Rule 239. Local Rules.

[(a) For the purpose of this rule, the term "local rule" shall include every rule, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted and enforced by a court of common pleas to govern civil practice and procedure.

Official Note: The caption or other words used as a label or designation shall not determine whether something is or establishes a local rule; if the definition in subdivision (a) of this rule is satisfied the matter is a local rule regardless of what it may be called. The provisions of this rule are also intended to apply to any amendments to a "local rule."

(b)(1) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

Official Note: The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of civil procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

(2) Except as otherwise provided by Rule 239.8, local rules which implement general rules shall be given numbers that are keyed to the numbers of the general rules to which the local rules correspond.

(c) Except as otherwise provided by Rule 239.8, to be effective and enforceable:

(1) A local rule shall be in writing.

(2) One certified copy of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

(3) Two certified copies of the local rule and a computer diskette containing the text of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

Official Note: The diskette must (1) be formatted in one of the following formats: MS-DOS, ASCII, Microsoft Word, or WordPerfect, (2) contain the local rule text as reflected in the "hard copy" version of the rule, and (3) be labeled with court's name and address and computer file name. See 1 Pa. Code § 13.11(b).

(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Civil Procedural Rules Committee, unless the rule relates to domestic relations matters, in which case it shall be filed with the Domestic Relations Procedural Rules Committee.

(5) The local rule shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

Official Note: It is contemplated under subdivision (c)(5) that a separate consolidated set of local rules shall be maintained in the prothonotary's or clerk's office.

The Administrative Office of the Pennsylvania Courts maintains a webpage containing the texts of local rules. That webpage is located at: <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>

(6) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of court and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in subdivision (c)(5).

(d) Except as otherwise provided by Rule 239.8, a local rule shall become effective not less than thirty days after the date of publication of the rule in the *Pennsylvania Bulletin*.

Official Note: Although under subdivision (d) a local rule shall not be effective until at least thirty days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

(e) The Civil Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule

and may suspend that local rule pending action by the Court on that recommendation.

(f) No civil action or proceeding shall be dismissed for failure to comply with a local rule.

Official Note: See Rule of Judicial Administration 1952 governing the duties and authorities of the trial court in emergency actions. Rule 1952(B)(5) suspends the provisions of this rule during an emergency.]

The requirements for the promulgation and amendment of local rules of civil procedure are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Official Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rule-making requirements. Accordingly, the requirements under Rule 239 for the promulgation and amendment of local rules of civil procedure were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of this rule prior to rescission remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Rule 239.8. Local Rules. Promulgation. Publication. Effective Date.

[(a) Local rules required by Rules 239.2, 239.3, 239.5, 239.6 and 239.7 shall be promulgated not later than nine months following the date of the Order of the Supreme Court promulgating this rule.

Official Note: The date of the Order promulgating Rule 239.8 was October 24, 2003.

Local requirements under Rules 239.1 through 239.7 are not effective and enforceable unless local rules are published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>). See subdivision (c) of this rule.

(b) The court promulgating a local rule or an amendment to a local rule pursuant to Rules 239.1 through 239.7 shall transmit a copy to the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of Pennsylvania Courts (AOPC) for publication on the Pennsylvania Judiciary's Web Application Portal.

Official Note: The preferable method of transmission to the Civil Procedural Rules Committee is by attachment to e-mail addressed to civil.rules@pacourts.us.

The Committee may, of necessity arising from judicial automation, direct the court promulgating a local rule or amendment to transmit it to the AOPC or take other action to effect publication on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).

(c) To be effective and enforceable, a local rule or an amendment to a local rule promulgated pursuant to Rules 239.1 through 239.7 shall be

(1) numbered in accordance with the requirements of those rules,

(2) published on the Pennsylvania Judiciary's Web Application Portal, and

Official Note: The Pennsylvania Judiciary maintains a web page at <http://ujportal.pacourts.us>

containing the texts of local rules promulgated pursuant to Rules 239.1 through 239.7.

(3) kept continuously available for public inspection and copying in the office of the prothonotary or clerk of the court promulgating the rule or amendment. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

Official Note: It is contemplated under subdivision (c)(3) that a separate consolidated set of local rules shall be maintained in the prothonotary or clerk's office. The set of local rules may be in book or electronic form.

(d) A local rule or amendment promulgated pursuant to Rules 239.1 through 239.7 shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

Official Note: See Rule of Judicial Administration 1952 governing the duties and authorities of the trial court in emergency actions. Rule 1952(B)(5) suspends local rule-making procedures during an emergency.]

The requirements for the promulgation and amendment of local rules of civil procedure are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Official Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rule-making requirements. Accordingly, the requirements under Rule 239.8 for the promulgation and amendment of local rules of civil procedure were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of this rule prior to rescission remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Rule 239.9. Electronic Filing. Local Rule 205.4.

* * * * *

(c) Local Rule 205.4 may contain such additional subdivisions as the court deems necessary to provide a full and complete description of the electronic filing system.

[(d) Local Rule 205.4 shall be promulgated in accordance with the provisions of Rule 239.8(b) through (d).]

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

PLEADINGS

Rule 1028. Preliminary Objections.

(a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

(1) lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue or improper form or service of a writ of summons or a complaint[:];

Official Note: Of the three grounds available to challenge venue, only improper venue may be raised by preliminary objection as provided by Rule 1006(e). *Forum non conveniens* and inability to hold a fair and impartial trial are raised by petition as provided by Rule 1006(d)(1) and (2).

See Rule of Appellate Procedure 311(b) for interlocutory appeals as of right from orders sustaining jurisdiction and venue.

- (2) failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter;
- (3) insufficient specificity in a pleading;
- (4) legal insufficiency of a pleading (demurrer);

Official Note: The defense of the bar of a statute of frauds or statute of limitations can be asserted only in a responsive pleading as new matter under Rule 1030.

- (5) lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;
- (6) pendency of a prior action or agreement for alternative dispute resolution;

Official Note: An agreement to arbitrate may be asserted by preliminary objection or by petition to compel arbitration pursuant to the Uniform Arbitration Act, 42 Pa.C.S. § 7304, or the common law, 42 Pa.C.S. § 7342(a).

- (7) failure to exercise or exhaust a statutory remedy[,]; and
- (8) full, complete and adequate non-statutory remedy at law.

(b) All preliminary objections shall be raised at one time. They shall state specifically the grounds relied upon and may be inconsistent. Two or more preliminary objections may be raised in one pleading.

(c)(1) A party may file an amended pleading as of course within twenty days after service of a copy of preliminary objections. If a party has filed an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot.

(2) The court shall determine promptly all preliminary objections. If an issue of fact is raised, the court shall consider evidence by depositions or otherwise.

Official Note: Preliminary objections raising an issue under subdivision (a)(1), (5), (6), (7) or (8) cannot be determined from facts of record. In such a case, the preliminary objections must be endorsed with a notice to plead or no response will be required under Rule 1029(d).

However, preliminary objections raising an issue under subdivision (a)(2), (3) or (4) may be determined from facts of record so that further evidence is not required.

Rule 239.5 requires every court to promulgate Local Rule 1028(c) describing the local court procedure governing preliminary objections. [**Local Rule 1028(c) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**]

(d) If the preliminary objections are overruled, the objecting party shall have the right to plead over within twenty days after notice of the order or within such other time as the court shall fix.

(e) If the filing of an amendment, an amended pleading or a new pleading is allowed or required, it shall be filed within twenty days after notice of the order or within such other time as the court shall fix.

(f) Objections to any amended pleading shall be made by filing new preliminary objections.

Rule 1034. Motion for Judgment on the Pleadings.

(a) After the relevant pleadings are closed, but within such time as not to unreasonably delay the trial, any party may move for judgment on the pleadings.

Official Note: Only the pleadings between the parties to the motion for judgment on the pleadings must be closed prior to filing the motion.

Rule 239.6 requires every court to promulgate Local Rule 1034(a) describing the local court procedure governing motions for judgment on the pleadings. [**Local Rule 1034(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**]

(b) The court shall enter such judgment or order as shall be proper on the pleadings.

Rule 1035.2. Motion.

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Official Note: Rule 1035.2 sets forth the general principle that a motion for summary judgment is based on an evidentiary record which entitles the moving party to judgment as a matter of law.

The evidentiary record may be one of two types. Under [**subparagraph**] **subdivision** (1), the record shows that the material facts are undisputed and, therefore, there is no issue to be submitted to a jury.

An example of a motion under [**subparagraph**] **subdivision** (1) is a motion supported by a record containing an admission. By virtue of the admission, no issue of fact could be established by further discovery or expert report.

Under [**subparagraph**] **subdivision** (2), the record contains insufficient evidence of facts to make out a *prima facie* cause of action or defense and, therefore, there is no issue to be submitted to a jury. The motion in this instance is made by a party who does not have the burden of proof at trial and who does not have access to the evidence to make a record which affirmatively supports the motion. To defeat this motion, the adverse party must come forth with evidence showing the existence of the facts essential to the cause of action or defense.

Oral testimony alone, either through testimonial affidavits or depositions, of the moving party or the moving party's witnesses, even if uncontradicted, is generally insufficient to establish the absence of a genuine issue of

material fact. *See Nanty-Glo v. American Surety Co.*, [309 Pa. 236,] 163 A.523 (Pa. 1932); *Penn Center House, Inc. v. Hoffman*, [520 Pa. 171,] 553 A.2d 900 (Pa. 1989).

Only the pleadings between the parties to the motion for summary judgment must be closed prior to filing the motion.

In asbestos litigation, a motion for summary judgment filed by one defendant alleging a ground common to one or more other defendants is deemed filed on behalf of all such defendants. *See* Rule 1041.1(f).

Partial summary judgment, interlocutory in character, may be rendered on one or more issues of liability, defense or damages.

Rule 239.7 requires every court to promulgate Local Rule 1035.2(a) describing the local court procedure governing motions for summary judgment. [**Local Rule 1035.2(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujsportal.pacourts.us>).**]

**SUREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE
CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE
MINOR COURT RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹

On August 29, 2015, the Rules Committees published a joint proposal at 45 Pa.B. 5384 to modify the local rulemaking procedure to require courts to publish their local rules on their court or county's website, which the majority are presently doing, and to effectively require the AOPC to add a link on the UJS website back to each court or county website where local rules are maintained. Each county already has a webpage on the UJS website (<http://www.pacourts.us/courts/courts-of-common-pleas/>). In addition, the Civil Procedural Rules Committee would prospectively expand its review to all local rules of civil procedure while the Domestic Relations Procedural Rules Committee would begin to review all new and amended "family court" rules. Please note that the scope of review is limited to whether the local rule is inconsistent with a statewide rule; the Rules Committees do not review the merits or wisdom of the local rule.

After addressing comments, some of which prompted further revisions, the Rules Committees proceeded to recommend multiple rule changes to effectuate this proposal. During this process, the need to maintain five individual procedures for the promulgation of local rules was reconsidered. Historically, the different procedures accrued as each body adopted a review process over the

span of decades. However, the process is at a point where the review requirement is nearly uniform across all bodies of rules; therefore, the continued need for separate rules no longer appears substantiated.

Accordingly, the prior proposal was revised to include:

1) Consolidation of all local procedural rulemaking requirements, currently existing in various statewide procedural rules, into one Rule of Judicial Administration.

2) Compilation and publication of all local rules of judicial administration on the website of the respective court or county.

3) Expansion of the review requirement to encompass local rules governing magisterial district courts, which rules are promulgated infrequently, but included for the purpose of uniformity.

Pennsylvania Rule of Judicial Administration 103, which governs rulemaking generally in the Unified Judicial System, appeared as the appropriate vehicle for the consolidated procedure. Current subdivision (c) of Pa.R.J.A. No. 103 provides a procedure for adoption of local rules other than local procedural rules, such as local rules of judicial administration, which are outside the purview of the procedural rules. In consultation with the Administrative Office of Pennsylvania Courts, separate procedures for local rules of judicial administration and local rules of procedure were developed. Subdivision (c) governs the adoption of local rules of judicial administration, while new subdivision (d) governs the adoption of local procedural rules.

Subdivision (c)

Current subdivision (c) functions as a "residuary" procedure. Local rules that do not come under the purview of the Procedural Rules are promulgated in accordance with subdivision (c). Revisions were made to subdivision (c) to change it from serving as a "residuary" function to a distinct category by labeling it "local rules of judicial administration."

To the greatest extent possible, the procedure in amended subdivision (c) is the same as the procedure in new subdivision (d), which will be described below. Of particular note, the numbering and format of the two subdivisions were mirrored to maintain uniformity. For example, Pa.R.J.A. No. 103(c)(4) was "reserved" so that subsequent requirements would align with those in subdivision (d).

Amended subdivision (c) differs from the procedure in new subdivision (d) in two respects. First, there is no requirement that local rules of judicial administration be reviewed to determine if they are inconsistent with the general rules of judicial administration.

Second, subdivision (c)(8) addresses several other matters outside the purview of the Procedural Rules. It has been the view of the Rules Committees that fee schedules are not procedural in nature; rather, setting fees is a matter of judicial administration. To reflect this practice, subdivision (c)(8) was revised to: (1) associate filing fees with local rules of judicial administration; and (2) create an exception to the "no local rule bar" for filing fees. This provision permits a filing to be rejected if the filing fee is not included or otherwise waived.

¹ This recommendation also contains an amendment to the Note to Pa.R.J.A. No. 1952(B)(5) to make a corollary revision to the reference to local rule adoption procedures.

Subdivision (d)

Subdivision (d) will require all local rules of procedure to be submitted to the appropriate Rules Committee for review and approval before adoption to ensure that a local rule is not inconsistent with any general rule of the Supreme Court.² For the convenience of users, subdivision (d) will allow proposed local rules to be submitted via email. Upon written notification from the appropriate Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, the adopting court will then need to publish the local rule in the *Pennsylvania Bulletin* for that local rule to become effective and enforceable. All local rules become effective not less than 30 days after publication in the *Pennsylvania Bulletin*. This allows the adopting court to set a specific date in an order to implement a local rule so long as that date is not less than 30 days after publication. Subdivision (d) also requires the adopting court to file a copy of the local rule with the AOPC, publish a copy of the local rule on the local court website, and then compile the local rule into the set of local rules on the local court website no later than 30 days after publication in the *Pennsylvania Bulletin*.

Subdivision (d) also contains some changes from current practice. For example, Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121 and Pa.R.J.C.P. 1121 all contained provisions that allowed for those Rules Committees to unilaterally suspend local rules. There is no recollection of this authority being exercised in modern rulemaking and it is believed to be an anachronism. This authority has not been included in new subdivision (d). However, subdivision (d)(2) does retain a Rules Committee's authority to recommend, at any time, that the Supreme Court suspend, vacate, or require amendment of a local rule.

New subdivision (d) provides much needed consolidation and uniformity for publication and effective dates of local rules. It also eliminates the requirement to submit certified copies of local rules to the Rules Committees, AOPC, and the Legislative Reference Bureau pursuant to Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5. Under new subdivision (d), the Rules Committees, AOPC, and the Legislative Reference Bureau will not need a certified copy of a local rule because they will be reviewing the local rule prior to publication and issuing a written notification that the local rule is approved. As a result, the requirement to submit certified copies has been eliminated from the proposal.

Procedural Rules

With the consolidation of local rulemaking procedure into Pa.R.J.A. No. 103, the Procedural Rules have been amended to eliminate the specific requirements for local rulemaking within each body of rules. Each of the Procedural Rules provides a cross-reference to Pa.R.J.A. No. 103 indicating where local rulemaking procedure can be found.³ As noted above, this proposal also includes a

² The definition of "local rule" in subdivision (d)(1) does not extend to procedural rules adopted by the appellate courts. While much of the practice and procedure in the Commonwealth Court's original jurisdiction would be governed by the Rules of Civil Procedure, see Pa.R.A.P. 1517, there are some proceedings subject to the Commonwealth Court's exclusive procedural rules, see, e.g., Pa.R.A.P. 3771—3784.

This definition also does not include rules of civil procedure adopted by the Philadelphia Municipal Court. Pa.R.C.P. No. 239(a) defines the term "local rule" to include local rules "which are adopted and enforced by a court of common pleas to govern civil practice and procedure." Unlike Pa.R.Crim.P. 105, the Philadelphia Municipal Court was specifically excluded as a court that is subject to Pa.R.C.P. No. 239. See also the definition of "Court" in Phila. M.C.R.Civ. No. 101.

³ Pa.O.C. Rule 1.5 also retains a provision that local rules applicable to practice in the Civil or Trial Division of the Court of Common Pleas are inapplicable to practice in the Orphans' Court Division unless so directed by the statewide rules or specifically by local orphans' court rules.

recommendation for new Pa.R.C.P.M.D.J. No. 216, which provides the same cross-reference to Pa.R.J.A. No. 103. This new rule was added to the proposal to provide consistency across all bodies of rules.

[Pa.B. Doc. No. 16-1200. Filed for public inspection July 15, 2016, 9:00 a.m.]

PART II. ORPHANS' COURT RULES**[231 PA. CODE PART II]****Order Rescinding and Replacing Rule 1.5 of the Orphans' Court Rules; No. 699 Supreme Court Rules Doc.****Order***Per Curiam*

And Now, this 28th day of June, 2016, upon the recommendation of the Orphans' Court Procedural Rules Committee, the proposal having been published for public comment at 45 Pa.B. 5384 (August 29, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rule 1.5 of the Pennsylvania Orphans' Court Rules is rescinded and replaced in the following form.

2) Local rules of orphans' court procedure approved and effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket (June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

3) Local rules of orphans' court procedure approved by the Orphans' Court Procedural Rules Committee as of August 1, 2016 that have not yet been published pursuant to Pa.O.C. Rule 1.5 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

4) Local rules of orphans' court procedure approved by the Orphans' Court Procedural Rules Committee that have been published in the *Pennsylvania Bulletin* as August 1, 2016 but are not yet effective pursuant to Pa.O.C. Rule 1.5 shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A**TITLE 231. RULES OF CIVIL PROCEDURE****PART II. ORPHANS' COURT RULES****CHAPTER I. PRELIMINARY RULES**

(Editor's Note: The following rule replaces Rule 1.5 as published at 45 Pa.B. 7098 (December 19, 2015).)

Rule 1.5. Local Rules.

(a) All previously promulgated local rules are hereby vacated, effective September 1, 2016, except for those local rules promulgated under Chapter 14 regarding guardianship of incapacitated persons, Chapter 15 regarding adoptions, and Chapter 16 regarding proceedings pursuant to section 3206 of the Abortion Control Act.

(b) The requirements for the promulgation and amendment of local procedural rules for orphans' court proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

(c) The local rules applicable to practice in the Civil or Trial Division of the local Court of Common Pleas shall not be applicable in the Orphans' Court Division unless so directed by these Rules or by local rule adopted by the court of the particular judicial district in accordance with Pa.R.J.A. No. 103.

Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa.O.C. Rule 1.5 for the promulgation and amendment of local procedural rules for orphans' court proceedings were rescinded and replaced.

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE
CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE
MINOR COURT RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹

On August 29, 2015, the Rules Committees published a joint proposal at 45 Pa.B. 5384 to modify the local rulemaking procedure to require courts to publish their local rules on their court or county's website, which the majority are presently doing, and to effectively require the AOPC to add a link on the UJS website back to each court or county website where local rules are maintained. Each county already has a webpage on the UJS website (<http://www.pacourts.us/courts/courts-of-common-pleas/>). In addition, the Civil Procedural Rules Committee would prospectively expand its review to all local rules of civil procedure while the Domestic Relations Procedural Rules Committee would begin to review all new and amended "family court" rules. Please note that the scope of review is limited to whether the local rule is inconsistent with a statewide rule; the Rules Committees do not review the merits or wisdom of the local rule.

After addressing comments, some of which prompted further revisions, the Rules Committees proceeded to recommend multiple rule changes to effectuate this proposal. During this process, the need to maintain five individual procedures for the promulgation of local rules was reconsidered. Historically, the different procedures accrued as each body adopted a review process over the span of decades. However, the process is at a point where the review requirement is nearly uniform across all bodies of rules; therefore, the continued need for separate rules no longer appears substantiated.

¹ This recommendation also contains an amendment to the Note to Pa.R.J.A. No. 1952(B)(5) to make a corollary revision to the reference to local rule adoption procedures.

Accordingly, the prior proposal was revised to include:

1) Consolidation of all local procedural rulemaking requirements, currently existing in various statewide procedural rules, into one Rule of Judicial Administration.

2) Compilation and publication of all local rules of judicial administration on the website of the respective court or county.

3) Expansion of the review requirement to encompass local rules governing magisterial district courts, which rules are promulgated infrequently, but included for the purpose of uniformity.

Pennsylvania Rule of Judicial Administration 103, which governs rulemaking generally in the Unified Judicial System, appeared as the appropriate vehicle for the consolidated procedure. Current subdivision (c) of Pa.R.J.A. No. 103 provides a procedure for adoption of local rules other than local procedural rules, such as local rules of judicial administration, which are outside the purview of the procedural rules. In consultation with the Administrative Office of Pennsylvania Courts, separate procedures for local rules of judicial administration and local rules of procedure were developed. Subdivision (c) governs the adoption of local rules of judicial administration, while new subdivision (d) governs the adoption of local procedural rules.

Subdivision (c)

Current subdivision (c) functions as a "residuary" procedure. Local rules that do not come under the purview of the Procedural Rules are promulgated in accordance with subdivision (c). Revisions were made to subdivision (c) to change it from serving as a "residuary" function to a distinct category by labeling it "local rules of judicial administration."

To the greatest extent possible, the procedure in amended subdivision (c) is the same as the procedure in new subdivision (d), which will be described below. Of particular note, the numbering and format of the two subdivisions were mirrored to maintain uniformity. For example, Pa.R.J.A. No. 103(c)(4) was "reserved" so that subsequent requirements would align with those in subdivision (d).

Amended subdivision (c) differs from the procedure in new subdivision (d) in two respects. First, there is no requirement that local rules of judicial administration be reviewed to determine if they are inconsistent with the general rules of judicial administration.

Second, subdivision (c)(8) addresses several other matters outside the purview of the Procedural Rules. It has been the view of the Rules Committees that fee schedules are not procedural in nature; rather, setting fees is a matter of judicial administration. To reflect this practice, subdivision (c)(8) was revised to: (1) associate filing fees with local rules of judicial administration; and (2) create an exception to the "no local rule bar" for filing fees. This provision permits a filing to be rejected if the filing fee is not included or otherwise waived.

Subdivision (d)

Subdivision (d) will require all local rules of procedure to be submitted to the appropriate Rules Committee for review and approval before adoption to ensure that a local rule is not inconsistent with any general rule of the Supreme Court.² For the convenience of users, subdivi-

² The definition of "local rule" in subdivision (d)(1) does not extend to procedural rules adopted by the appellate courts. While much of the practice and procedure in the Commonwealth Court's original jurisdiction would be governed by the Rules of Civil

sion (d) will allow proposed local rules to be submitted via email. Upon written notification from the appropriate Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, the adopting court will then need to publish the local rule in the *Pennsylvania Bulletin* for that local rule to become effective and enforceable. All local rules become effective not less than 30 days after publication in the *Pennsylvania Bulletin*. This allows the adopting court to set a specific date in an order to implement a local rule so long as that date is not less than 30 days after publication. Subdivision (d) also requires the adopting court to file a copy of the local rule with the AOPC, publish a copy of the local rule on the local court website, and then compile the local rule into the set of local rules on the local court website no later than 30 days after publication in the *Pennsylvania Bulletin*.

Subdivision (d) also contains some changes from current practice. For example, Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121 and Pa.R.J.C.P. 1121 all contained provisions that allowed for those Rules Committees to unilaterally suspend local rules. There is no recollection of this authority being exercised in modern rulemaking and it is believed to be an anachronism. This authority has not been included in new subdivision (d). However, subdivision (d)(2) does retain a Rules Committee's authority to recommend, at any time, that the Supreme Court suspend, vacate, or require amendment of a local rule.

New subdivision (d) provides much needed consolidation and uniformity for publication and effective dates of local rules. It also eliminates the requirement to submit certified copies of local rules to the Rules Committees, AOPC, and the Legislative Reference Bureau pursuant to Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5. Under new subdivision (d), the Rules Committees, AOPC, and the Legislative Reference Bureau will not need a certified copy of a local rule because they will be reviewing the local rule prior to publication and issuing a written notification that the local rule is approved. As a result, the requirement to submit certified copies has been eliminated from the proposal.

Procedural Rules

With the consolidation of local rulemaking procedure into Pa.R.J.A. No. 103, the Procedural Rules have been amended to eliminate the specific requirements for local rulemaking within each body of rules. Each of the Procedural Rules provides a cross-reference to Pa.R.J.A. No. 103 indicating where local rulemaking procedure can be found.³ As noted above, this proposal also includes a recommendation for new Pa.R.C.P.M.D.J. No. 216, which provides the same cross-reference to Pa.R.J.A. No. 103. This new rule was added to the proposal to provide consistency across all bodies of rules.

[Pa.B. Doc. No. 16-1201. Filed for public inspection July 15, 2016, 9:00 a.m.]

Procedure, see Pa.R.A.P. 1517, there are some proceedings subject to the Commonwealth Court's exclusive procedural rules, see, e.g., Pa.R.A.P. 3771—3784.

This definition also does not include rules of civil procedure adopted by the Philadelphia Municipal Court. Pa.R.C.P. No. 239(a) defines the term "local rule" to include local rules "which are adopted and enforced by a court of common pleas to govern civil practice and procedure." Unlike Pa.R.Crim.P. 105, the Philadelphia Municipal Court was specifically excluded as a court that is subject to Pa.R.C.P. No. 239. See also the definition of "Court" in Phila. M.C.R.Civ. No. 101.

³ Pa.O.C. Rule 1.5 also retains a provision that local rules applicable to practice in the Civil or Trial Division of the Court of Common Pleas are inapplicable to practice in the Orphans' Court Division unless so directed by the statewide rules or specifically by local orphans' court rules.

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Rescinding and Replacing Rule 105 of the Rules of Criminal Procedure; No. 477 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 28th day of June, 2016, upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been published for public comment at 45 Pa.B. 5384 (August 29, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rule 105 of the Pennsylvania Rules of Criminal Procedure is rescinded and replaced in the following form.

2) Local rules of criminal procedure effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket (June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

3) Local rules of criminal procedure approved by the Criminal Procedural Rules Committee as of August 1, 2016 that have not yet been published pursuant to Pa.R.Crim.P. 105 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

4) Local rules of criminal procedure approved by the Criminal Procedural Rules Committee that have been published in the *Pennsylvania Bulletin* as August 1, 2016 but are not yet effective pursuant to Pa.R.Crim.P. 105 shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

(Editor's Note: The following rule replaces Rule 105 which appears in 234 Pa. Code pages 1-11—1-12.2, serial pages (372099) to (372102).)

Rule 105. Local Rules.

Procedures for the promulgation and amendment of local criminal procedural rules are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Comment

In 2016, the Supreme Court of Pennsylvania unified and consolidated the requirements and procedures for the promulgation and amendment of all local procedural rules, including local criminal procedural rules, into Pennsylvania Rule of Judicial Administration 103(d). All

local rules previously promulgated in accordance with the requirements of Pa.R.Crim.P. 105 prior to this amendment remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; amended January 25, 2008, effective February 1, 2009; amended January 30, 2009, effective February 1, 2009; amended May 7, 2014, effective immediately; rescinded June 28, 2016, effective August 1, 2016. New Rule 105 adopted June 28, 2016, effective August 1, 2016.

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the October 24, 2000 amendments published with the Court's Order at 30 Pa.B. 5742 (November 11, 2000).

Final Report explaining the June 8, 2001 Comment revision citing to the AOPC's webpage published with the Court's Order at 31 Pa.B. 3310 (June 23, 2001).

Final Report explaining the October 15, 2004 amendment to paragraph (A), and to paragraph (C)(3) concerning the Legislative Reference Bureau publication requirements, published with the Court's Order at 34 Pa.B. 5893 (October 30, 2004).

Final Report explaining the September 9, 2005 amendments to paragraph (A) published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

Final Report explaining the January 25, 2008 changes to Rule 105 concerning submission of local rules for review prior to adoption published with the Court's Order at 38 Pa.B. 746 (February 9, 2008).

Final Report explaining the January 30, 2009 changes to Rule 105 concerning publication of local rules on the UJS Portal published with the Court's Order at 39 Pa.B. 829 (February 14, 2009).

Final Report explaining the May 7, 2014 amendments concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3056 (May 24, 2014).

Final Report explaining the June 28, 2016 rescission of Rule 105, adoption of new Rule 105, and the consolidation of the local rulemaking approval and adoption procedures in Pa.R.J.A.103(d) published with the Court's Order at 46 Pa.B. 3807 (July 16, 2016).

SUPREME COURT OF PENNSYLVANIA

**CIVIL PROCEDURAL RULES COMMITTEE
CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE
MINOR COURT RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements

currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹

On August 29, 2015, the Rules Committees published a joint proposal at 45 Pa.B. 5384 to modify the local rulemaking procedure to require courts to publish their local rules on their court or county's website, which the majority are presently doing, and to effectively require the AOPC to add a link on the UJS website back to each court or county website where local rules are maintained. Each county already has a webpage on the UJS website (<http://www.pacourts.us/courts/courts-of-common-pleas/>). In addition, the Civil Procedural Rules Committee would prospectively expand its review to all local rules of civil procedure while the Domestic Relations Procedural Rules Committee would begin to review all new and amended "family court" rules. Please note that the scope of review is limited to whether the local rule is inconsistent with a statewide rule; the Rules Committees do not review the merits or wisdom of the local rule.

After addressing comments, some of which prompted further revisions, the Rules Committees proceeded to recommend multiple rule changes to effectuate this proposal. During this process, the need to maintain five individual procedures for the promulgation of local rules was reconsidered. Historically, the different procedures accrued as each body adopted a review process over the span of decades. However, the process is at a point where the review requirement is nearly uniform across all bodies of rules; therefore, the continued need for separate rules no longer appears substantiated.

Accordingly, the prior proposal was revised to include:

- 1) Consolidation of all local procedural rulemaking requirements, currently existing in various statewide procedural rules, into one Rule of Judicial Administration.
- 2) Compilation and publication of all local rules of judicial administration on the website of the respective court or county.
- 3) Expansion of the review requirement to encompass local rules governing magisterial district courts, which rules are promulgated infrequently, but included for the purpose of uniformity.

Pennsylvania Rule of Judicial Administration 103, which governs rulemaking generally in the Unified Judicial System, appeared as the appropriate vehicle for the consolidated procedure. Current subdivision (c) of Pa.R.J.A. No. 103 provides a procedure for adoption of local rules other than local procedural rules, such as local rules of judicial administration, which are outside the purview of the procedural rules. In consultation with the Administrative Office of Pennsylvania Courts, separate procedures for local rules of judicial administration and local rules of procedure were developed. Subdivision (c) governs the adoption of local rules of judicial administration, while new subdivision (d) governs the adoption of local procedural rules.

Subdivision (c)

Current subdivision (c) functions as a "residuary" procedure. Local rules that do not come under the purview of the Procedural Rules are promulgated in accordance with

¹ This recommendation also contains an amendment to the Note to Pa.R.J.A. No. 1952(B)(5) to make a corollary revision to the reference to local rule adoption procedures.

subdivision (c). Revisions were made to subdivision (c) to change it from serving as a “residuary” function to a distinct category by labeling it “local rules of judicial administration.”

To the greatest extent possible, the procedure in amended subdivision (c) is the same as the procedure in new subdivision (d), which will be described below. Of particular note, the numbering and format of the two subdivisions were mirrored to maintain uniformity. For example, Pa.R.J.A. No. 103(c)(4) was “reserved” so that subsequent requirements would align with those in subdivision (d).

Amended subdivision (c) differs from the procedure in new subdivision (d) in two respects. First, there is no requirement that local rules of judicial administration be reviewed to determine if they are inconsistent with the general rules of judicial administration.

Second, subdivision (c)(8) addresses several other matters outside the purview of the Procedural Rules. It has been the view of the Rules Committees that fee schedules are not procedural in nature; rather, setting fees is a matter of judicial administration. To reflect this practice, subdivision (c)(8) was revised to: (1) associate filing fees with local rules of judicial administration; and (2) create an exception to the “no local rule bar” for filing fees. This provision permits a filing to be rejected if the filing fee is not included or otherwise waived.

Subdivision (d)

Subdivision (d) will require all local rules of procedure to be submitted to the appropriate Rules Committee for review and approval before adoption to ensure that a local rule is not inconsistent with any general rule of the Supreme Court.² For the convenience of users, subdivision (d) will allow proposed local rules to be submitted via email. Upon written notification from the appropriate Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, the adopting court will then need to publish the local rule in the *Pennsylvania Bulletin* for that local rule to become effective and enforceable. All local rules become effective not less than 30 days after publication in the *Pennsylvania Bulletin*. This allows the adopting court to set a specific date in an order to implement a local rule so long as that date is not less than 30 days after publication. Subdivision (d) also requires the adopting court to file a copy of the local rule with the AOPC, publish a copy of the local rule on the local court website, and then compile the local rule into the set of local rules on the local court website no later than 30 days after publication in the *Pennsylvania Bulletin*.

Subdivision (d) also contains some changes from current practice. For example, Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121 and Pa.R.J.C.P. 1121 all contained provisions that allowed for those Rules Committees to unilaterally suspend local rules. There is no recollection of this authority being exercised in modern rulemaking and it is believed to be an anachronism. This authority has not been included in new subdivision (d). However, subdivision (d)(2) does retain a Rules Commit-

² The definition of “local rule” in subdivision (d)(1) does not extend to procedural rules adopted by the appellate courts. While much of the practice and procedure in the Commonwealth Court’s original jurisdiction would be governed by the Rules of Civil Procedure, see Pa.R.A.P. 1517, there are some proceedings subject to the Commonwealth Court’s exclusive procedural rules, see, e.g., Pa.R.A.P. 3771–3784.

This definition also does not include rules of civil procedure adopted by the Philadelphia Municipal Court. Pa.R.C.P. No. 239(a) defines the term “local rule” to include local rules “which are adopted and enforced by a court of common pleas to govern civil practice and procedure.” Unlike Pa.R.Crim.P. 105, the Philadelphia Municipal Court was specifically excluded as a court that is subject to Pa.R.C.P. No. 239. See also the definition of “Court” in Phila. M.C.R.Civ. No. 101.

tee’s authority to recommend, at any time, that the Supreme Court suspend, vacate, or require amendment of a local rule.

New subdivision (d) provides much needed consolidation and uniformity for publication and effective dates of local rules. It also eliminates the requirement to submit certified copies of local rules to the Rules Committees, AOPC, and the Legislative Reference Bureau pursuant to Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5. Under new subdivision (d), the Rules Committees, AOPC, and the Legislative Reference Bureau will not need a certified copy of a local rule because they will be reviewing the local rule prior to publication and issuing a written notification that the local rule is approved. As a result, the requirement to submit certified copies has been eliminated from the proposal.

Procedural Rules

With the consolidation of local rulemaking procedure into Pa.R.J.A. No. 103, the Procedural Rules have been amended to eliminate the specific requirements for local rulemaking within each body of rules. Each of the Procedural Rules provides a cross-reference to Pa.R.J.A. No. 103 indicating where local rulemaking procedure can be found.³ As noted above, this proposal also includes a recommendation for new Pa.R.C.P.M.D.J. No. 216, which provides the same cross-reference to Pa.R.J.A. No. 103. This new rule was added to the proposal to provide consistency across all bodies of rules.

[Pa.B. Doc. No. 16-1202. Filed for public inspection July 15, 2016, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Rescinding and Replacing Rule 121 and Rule 1121 of the Rules of Juvenile Court Procedure; No. 700 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 28th day of June, 2016, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 45 Pa.B. 5384 (August 29, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rule 121 and Rule 1121 of the Pennsylvania Rules of Juvenile Court Procedure are rescinded and replaced in the following form.

2) Local rules of juvenile court procedure effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket (June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

³ Pa.O.C. Rule 1.5 also retains a provision that local rules applicable to practice in the Civil or Trial Division of the Court of Common Pleas are inapplicable to practice in the Orphans’ Court Division unless so directed by the statewide rules or specifically by local orphans’ court rules.

3) Local rules of juvenile court procedure approved by the Juvenile Court Procedural Rules Committee as of August 1, 2016 that have not yet been published pursuant to Pa.R.J.C.P. 121 or Pa.R.J.C.P. 1121 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

4) Local rules of juvenile court procedure approved by the Juvenile Court Procedural Rules Committee that have been published in the *Pennsylvania Bulletin* as of August 1, 2016 but are not yet effective pursuant to Pa.R.J.C.P. 121 or Pa.R.J.C.P. 1121 shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

(Editor's Note: The following rule replaces Rule 121 which appears in 237 Pa. Code pages 1-7—1-10, serial pages (347937)—(347940).)

Rule 121. Local Rules.

The requirements for the promulgation and amendment of local procedural rules for delinquency proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Comment

Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa.R.J.C.P. 121 for the promulgation and amendment of local procedural rules for delinquency proceedings were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of Pa.R.J.C.P. 121 prior to rescission of this rule remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Official Note: Rule 121 adopted April 1, 2005, effective October 1, 2005. Amended December 12, 2008, effective immediately. Amended January 11, 2010, effective March 1, 2010. Rescinded and replaced June 28, 2016, effective August 1, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 121 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 38 Pa.B. 7080 (December 27, 2008).

Final Report explaining the amendments to Rule 121 published with the Court's Order at 40 Pa.B. 518 (January 23, 2010).

Final Report explaining the rescission and replacement of Rule 121 published with the Court's Order at 46 Pa.B. 3808 (July 16, 2016).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

(Editor's Note: The following rule replaces Rule 1121 which appears in 237 Pa. Code pages 11-6.3—11-8.1, serial pages (379797) and (347951)—(347953).)

Rule 1121. Local Rules.

The requirements for the promulgation and amendment of local procedural rules for dependency proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Comment

Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa.R.J.C.P. 1121 for the promulgation and amendment of local procedural rules for dependency proceedings were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of Pa.R.J.C.P. 1121 prior to rescission of this rule remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Official Note: Rule 1121 adopted August 21, 2006, effective February 1, 2007. Amended December 12, 2008, effective immediately. Amended January 11, 2010, effective March 1, 2010. Rescinded and replaced June 28, 2016, effective August 1, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1121 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1121 published with the Court's Order at 38 Pa.B. 7080 (December 27, 2008).

Final Report explaining the amendments to Rule 1121 published with the Courts Order at 40 Pa.B. 518 (January 23, 2010).

Final Report explaining the rescission and replacement of Rule 1121 published with the Court's Order at 46 Pa.B. 3808 (July 16, 2016).

SUPREME COURT OF PENNSYLVANIA

CIVIL PROCEDURAL RULES COMMITTEE CRIMINAL PROCEDURAL RULES COMMITTEE JUVENILE COURT PROCEDURAL RULES COMMITTEE MINOR COURT RULES COMMITTEE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹

¹This recommendation also contains an amendment to the Note to Pa.R.J.A. No. 1952(B)(5) to make a corollary revision to the reference to local rule adoption procedures.

On August 29, 2015, the Rules Committees published a joint proposal at 45 Pa.B. 5384 to modify the local rulemaking procedure to require courts to publish their local rules on their court or county's website, which the majority are presently doing, and to effectively require the AOPC to add a link on the UJS website back to each court or county website where local rules are maintained. Each county already has a webpage on the UJS website (<http://www.pacourts.us/courts/courts-of-common-pleas/>). In addition, the Civil Procedural Rules Committee would prospectively expand its review to all local rules of civil procedure while the Domestic Relations Procedural Rules Committee would begin to review all new and amended "family court" rules. Please note that the scope of review is limited to whether the local rule is inconsistent with a statewide rule; the Rules Committees do not review the merits or wisdom of the local rule.

After addressing comments, some of which prompted further revisions, the Rules Committees proceeded to recommend multiple rule changes to effectuate this proposal. During this process, the need to maintain five individual procedures for the promulgation of local rules was reconsidered. Historically, the different procedures accrued as each body adopted a review process over the span of decades. However, the process is at a point where the review requirement is nearly uniform across all bodies of rules; therefore, the continued need for separate rules no longer appears substantiated.

Accordingly, the prior proposal was revised to include:

1) Consolidation of all local procedural rulemaking requirements, currently existing in various statewide procedural rules, into one Rule of Judicial Administration.

2) Compilation and publication of all local rules of judicial administration on the website of the respective court or county.

3) Expansion of the review requirement to encompass local rules governing magisterial district courts, which rules are promulgated infrequently, but included for the purpose of uniformity.

Pennsylvania Rule of Judicial Administration 103, which governs rulemaking generally in the Unified Judicial System, appeared as the appropriate vehicle for the consolidated procedure. Current subdivision (c) of Pa.R.J.A. No. 103 provides a procedure for adoption of local rules other than local procedural rules, such as local rules of judicial administration, which are outside the purview of the procedural rules. In consultation with the Administrative Office of Pennsylvania Courts, separate procedures for local rules of judicial administration and local rules of procedure were developed. Subdivision (c) governs the adoption of local rules of judicial administration, while new subdivision (d) governs the adoption of local procedural rules.

Subdivision (c)

Current subdivision (c) functions as a "residuary" procedure. Local rules that do not come under the purview of the Procedural Rules are promulgated in accordance with subdivision (c). Revisions were made to subdivision (c) to change it from serving as a "residuary" function to a distinct category by labeling it "local rules of judicial administration."

To the greatest extent possible, the procedure in amended subdivision (c) is the same as the procedure in new subdivision (d), which will be described below. Of particular note, the numbering and format of the two subdivisions were mirrored to maintain uniformity. For

example, Pa.R.J.A. No. 103(c)(4) was "reserved" so that subsequent requirements would align with those in subdivision (d).

Amended subdivision (c) differs from the procedure in new subdivision (d) in two respects. First, there is no requirement that local rules of judicial administration be reviewed to determine if they are inconsistent with the general rules of judicial administration.

Second, subdivision (c)(8) addresses several other matters outside the purview of the Procedural Rules. It has been the view of the Rules Committees that fee schedules are not procedural in nature; rather, setting fees is a matter of judicial administration. To reflect this practice, subdivision (c)(8) was revised to: (1) associate filing fees with local rules of judicial administration; and (2) create an exception to the "no local rule bar" for filing fees. This provision permits a filing to be rejected if the filing fee is not included or otherwise waived.

Subdivision (d)

Subdivision (d) will require all local rules of procedure to be submitted to the appropriate Rules Committee for review and approval before adoption to ensure that a local rule is not inconsistent with any general rule of the Supreme Court.² For the convenience of users, subdivision (d) will allow proposed local rules to be submitted via email. Upon written notification from the appropriate Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, the adopting court will then need to publish the local rule in the *Pennsylvania Bulletin* for that local rule to become effective and enforceable. All local rules become effective not less than 30 days after publication in the *Pennsylvania Bulletin*. This allows the adopting court to set a specific date in an order to implement a local rule so long as that date is not less than 30 days after publication. Subdivision (d) also requires the adopting court to file a copy of the local rule with the AOPC, publish a copy of the local rule on the local court website, and then compile the local rule into the set of local rules on the local court website no later than 30 days after publication in the *Pennsylvania Bulletin*.

Subdivision (d) also contains some changes from current practice. For example, Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121 and Pa.R.J.C.P. 1121 all contained provisions that allowed for those Rules Committees to unilaterally suspend local rules. There is no recollection of this authority being exercised in modern rulemaking and it is believed to be an anachronism. This authority has not been included in new subdivision (d). However, subdivision (d)(2) does retain a Rules Committee's authority to recommend, at any time, that the Supreme Court suspend, vacate, or require amendment of a local rule.

New subdivision (d) provides much needed consolidation and uniformity for publication and effective dates of local rules. It also eliminates the requirement to submit certified copies of local rules to the Rules Committees, AOPC, and the Legislative Reference Bureau pursuant to Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121,

²The definition of "local rule" in subdivision (d)(1) does not extend to procedural rules adopted by the appellate courts. While much of the practice and procedure in the Commonwealth Court's original jurisdiction would be governed by the Rules of Civil Procedure, see Pa.R.A.P. 1517, there are some proceedings subject to the Commonwealth Court's exclusive procedural rules, see, e.g., Pa.R.A.P. 3771—3784.

This definition also does not include rules of civil procedure adopted by the Philadelphia Municipal Court. Pa.R.C.P. No. 239(a) defines the term "local rule" to include local rules "which are adopted and enforced by a court of common pleas to govern civil practice and procedure." Unlike Pa.R.Crim.P. 105, the Philadelphia Municipal Court was specifically excluded as a court that is subject to Pa.R.C.P. No. 239. See also the definition of "Court" in Phila. M.C.R.Civ. No. 101.

Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5. Under new subdivision (d), the Rules Committees, AOPC, and the Legislative Reference Bureau will not need a certified copy of a local rule because they will be reviewing the local rule prior to publication and issuing a written notification that the local rule is approved. As a result, the requirement to submit certified copies has been eliminated from the proposal.

Procedural Rules

With the consolidation of local rulemaking procedure into Pa.R.J.A. No. 103, the Procedural Rules have been amended to eliminate the specific requirements for local rulemaking within each body of rules. Each of the Procedural Rules provides a cross-reference to Pa.R.J.A. No. 103 indicating where local rulemaking procedure can be found.³ As noted above, this proposal also includes a recommendation for new Pa.R.C.P.M.D.J. No. 216, which provides the same cross-reference to Pa.R.J.A. No. 103. This new rule was added to the proposal to provide consistency across all bodies of rules.

[Pa.B. Doc. No. 16-1203. Filed for public inspection July 15, 2016, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Adopting Rule 216 of the Rules of Civil Procedure before Magisterial District Judges; No. 399 Magisterial Doc.

Order

Per Curiam

And Now, this 28th day of June, 2016, upon the recommendation of the Minor Court Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(b):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rule 216 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges is adopted in the following form.

2) Local rules of civil procedure before magisterial district judges effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket (June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

3) Local rules of civil procedure before magisterial district judges that have been adopted before, but not yet published in the *Pennsylvania Bulletin* as of August 1, 2016 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

³ Pa.O.C. Rule 1.5 also retains a provision that local rules applicable to practice in the Civil or Trial Division of the Court of Common Pleas are inapplicable to practice in the Orphans' Court Division unless so directed by the statewide rules or specifically by local orphans' court rules.

4) Local rules of civil procedure before magisterial district judges that have been published in the *Pennsylvania Bulletin* as of August 1, 2016 but are not yet effective shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 216. Local Rules.

The requirements for the promulgation and amendment of local procedural rules for proceedings in magisterial district courts subject to these rules are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Official Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements, including local rules applying to proceedings under the Rules of Civil Procedure before Magisterial District Judges. All local rules previously promulgated remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

SUPREME COURT OF PENNSYLVANIA

CIVIL PROCEDURAL RULES COMMITTEE CRIMINAL PROCEDURAL RULES COMMITTEE JUVENILE COURT PROCEDURAL RULES COMMITTEE MINOR COURT RULES COMMITTEE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹

On August 29, 2015, the Rules Committees published a joint proposal at 45 Pa.B. 5384 to modify the local rulemaking procedure to require courts to publish their local rules on their court or county's website, which the majority are presently doing, and to effectively require the AOPC to add a link on the UJS website back to each court or county website where local rules are maintained. Each county already has a webpage on the UJS website (<http://www.pacourts.us/courts/courts-of-common-pleas/>).

¹ This recommendation also contains an amendment to the Note to Pa.R.J.A. No. 1952(B)(5) to make a corollary revision to the reference to local rule adoption procedures.

In addition, the Civil Procedural Rules Committee would prospectively expand its review to all local rules of civil procedure while the Domestic Relations Procedural Rules Committee would begin to review all new and amended “family court” rules. Please note that the scope of review is limited to whether the local rule is inconsistent with a statewide rule; the Rules Committees do not review the merits or wisdom of the local rule.

After addressing comments, some of which prompted further revisions, the Rules Committees proceeded to recommend multiple rule changes to effectuate this proposal. During this process, the need to maintain five individual procedures for the promulgation of local rules was reconsidered. Historically, the different procedures accrued as each body adopted a review process over the span of decades. However, the process is at a point where the review requirement is nearly uniform across all bodies of rules; therefore, the continued need for separate rules no longer appears substantiated.

Accordingly, the prior proposal was revised to include:

1) Consolidation of all local procedural rulemaking requirements, currently existing in various statewide procedural rules, into one Rule of Judicial Administration.

2) Compilation and publication of all local rules of judicial administration on the website of the respective court or county.

3) Expansion of the review requirement to encompass local rules governing magisterial district courts, which rules are promulgated infrequently, but included for the purpose of uniformity.

Pennsylvania Rule of Judicial Administration 103, which governs rulemaking generally in the Unified Judicial System, appeared as the appropriate vehicle for the consolidated procedure. Current subdivision (c) of Pa.R.J.A. No. 103 provides a procedure for adoption of local rules other than local procedural rules, such as local rules of judicial administration, which are outside the purview of the procedural rules. In consultation with the Administrative Office of Pennsylvania Courts, separate procedures for local rules of judicial administration and local rules of procedure were developed. Subdivision (c) governs the adoption of local rules of judicial administration, while new subdivision (d) governs the adoption of local procedural rules.

Subdivision (c)

Current subdivision (c) functions as a “residuary” procedure. Local rules that do not come under the purview of the Procedural Rules are promulgated in accordance with subdivision (c). Revisions were made to subdivision (c) to change it from serving as a “residuary” function to a distinct category by labeling it “local rules of judicial administration.”

To the greatest extent possible, the procedure in amended subdivision (c) is the same as the procedure in new subdivision (d), which will be described below. Of particular note, the numbering and format of the two subdivisions were mirrored to maintain uniformity. For example, Pa.R.J.A. No. 103(c)(4) was “reserved” so that subsequent requirements would align with those in subdivision (d).

Amended subdivision (c) differs from the procedure in new subdivision (d) in two respects. First, there is no requirement that local rules of judicial administration be reviewed to determine if they are inconsistent with the general rules of judicial administration.

Second, subdivision (c)(8) addresses several other matters outside the purview of the Procedural Rules. It has been the view of the Rules Committees that fee schedules are not procedural in nature; rather, setting fees is a matter of judicial administration. To reflect this practice, subdivision (c)(8) was revised to: (1) associate filing fees with local rules of judicial administration; and (2) create an exception to the “no local rule bar” for filing fees. This provision permits a filing to be rejected if the filing fee is not included or otherwise waived.

Subdivision (d)

Subdivision (d) will require all local rules of procedure to be submitted to the appropriate Rules Committee for review and approval before adoption to ensure that a local rule is not inconsistent with any general rule of the Supreme Court.² For the convenience of users, subdivision (d) will allow proposed local rules to be submitted via email. Upon written notification from the appropriate Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, the adopting court will then need to publish the local rule in the *Pennsylvania Bulletin* for that local rule to become effective and enforceable. All local rules become effective not less than 30 days after publication in the *Pennsylvania Bulletin*. This allows the adopting court to set a specific date in an order to implement a local rule so long as that date is not less than 30 days after publication. Subdivision (d) also requires the adopting court to file a copy of the local rule with the AOPC, publish a copy of the local rule on the local court website, and then compile the local rule into the set of local rules on the local court website no later than 30 days after publication in the *Pennsylvania Bulletin*.

Subdivision (d) also contains some changes from current practice. For example, Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121 and Pa.R.J.C.P. 1121 all contained provisions that allowed for those Rules Committees to unilaterally suspend local rules. There is no recollection of this authority being exercised in modern rulemaking and it is believed to be an anachronism. This authority has not been included in new subdivision (d). However, subdivision (d)(2) does retain a Rules Committee’s authority to recommend, at any time, that the Supreme Court suspend, vacate, or require amendment of a local rule.

New subdivision (d) provides much needed consolidation and uniformity for publication and effective dates of local rules. It also eliminates the requirement to submit certified copies of local rules to the Rules Committees,

²The definition of “local rule” in subdivision (d)(1) does not extend to procedural rules adopted by the appellate courts. While much of the practice and procedure in the Commonwealth Court’s original jurisdiction would be governed by the Rules of Civil Procedure, *see* Pa.R.A.P. 1517, there are some proceedings subject to the Commonwealth Court’s exclusive procedural rules, *see, e.g.*, Pa.R.A.P. 3771—3784.

This definition also does not include rules of civil procedure adopted by the Philadelphia Municipal Court. Pa.R.C.P. No. 239(a) defines the term “local rule” to include local rules “which are adopted and enforced by a court of common pleas to govern civil practice and procedure.” Unlike Pa.R.Crim.P. 105, the Philadelphia Municipal Court was specifically excluded as a court that is subject to Pa.R.C.P. No. 239. *See also* the definition of “Court” in Phila. M.C.R.Civ. No. 101.

AOPC, and the Legislative Reference Bureau pursuant to Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5. Under new subdivision (d), the Rules Committees, AOPC, and the Legislative Reference Bureau will not need a certified copy of a local rule because they will be reviewing the local rule prior to publication and issuing a written notification that the local rule is approved. As a result, the requirement to submit certified copies has been eliminated from the proposal.

Procedural Rules

With the consolidation of local rulemaking procedure into Pa.R.J.A. No. 103, the Procedural Rules have been amended to eliminate the specific requirements for local rulemaking within each body of rules. Each of the Procedural Rules provides a cross-reference to Pa.R.J.A. No. 103 indicating where local rulemaking procedure can be found.³ As noted above, this proposal also includes a recommendation for new Pa.R.C.P.M.D.J. No. 216, which provides the same cross-reference to Pa.R.J.A. No. 103. This new rule was added to the proposal to provide consistency across all bodies of rules.

[Pa.B. Doc. No. 16-1204. Filed for public inspection July 15, 2016, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BEDFORD COUNTY Local Rule 202.1; AD No. 1-2016

Order of Court

And now, this 21st day of April, 2016, the District Attorney of Bedford County, William J. Higgins, Jr., having filed a certification pursuant to Rule 202 of the Pennsylvania Rules of Criminal Procedure, the Court hereby adopts the following new Local Rule:

Rule 202.1. Approval of Search Warrant Applications by the Attorney for the Commonwealth.

Search Warrants shall not hereafter be accepted by any judicial officer unless the Search Warrant Application has the approval of an Attorney for the Commonwealth prior to filing. Approval by the Attorney for the Commonwealth may be provided by electronic communication with a copy attached to the warrant application. Said Local Rule shall be effective in the 57th Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin* and upon publication on the Unified Judicial System of Pennsylvania Web Portal.

By the Court

THOMAS S. LING,
President Judge

[Pa.B. Doc. No. 16-1205. Filed for public inspection July 15, 2016, 9:00 a.m.]

BEDFORD COUNTY Local Rule 507.1; AD No. 2-2016

Order of Court

And now, this 21st day of April, 2016, the District Attorney of Bedford County, William J. Higgins, Jr., having filed a certification pursuant to Rule 507 of the Pennsylvania Rules of Criminal Procedure, the Court hereby adopts the following new Local Rule:

Rule 507.1. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth.

Criminal complaints and arrest warrant affidavits, by police officers, as defined in the Rules of Criminal Procedure, charging any of the following:

- 1) Any violation of 18 Pa.C.S.A. Chapter 25 (relating to Criminal Homicide);
- 2) Any violation of 18 Pa.C.S.A. 2702 (relating to Aggravated Assault);
- 3) Any violation of 18 Pa.C.S.A. Chapter 29 (relating to Kidnapping);
- 4) Any violation of 18 Pa.C.S.A. Chapter 31 (relating to Sexual Offenses);
- 5) Any violation of 18 Pa.C.S.A. 3301 (relating to Arson);
- 6) Any violation of 18 Pa.C.S.A. Chapter 37 (relating to Robbery);
- 7) Any violation of 35 Pa.C.S.A. § 780-113, et. al., (relating to prohibited acts under the Controlled Substance Act) that is graded as a Felony;
- 8) Any violation of 75 Pa.C.S.A. § 3732 (relating to Homicide by Vehicle), § 3735 (relating Homicide by Vehicle while DUI), § 3731.1 (relating to Aggravated Assault by vehicle while DUI).
- 9) Any charge of an Inchoate crime, under 18 Pa.C.S.A. Chapter 9 (relating to Criminal Attempt, Criminal Solicitation, and Criminal Conspiracy), where the underlying criminal offense is one those set forth above;
- 10) Any violation of Title 18 (Crimes Code) or Title 75 (Vehicle Code) that results in the death of any person, including summary offenses.

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an Attorney for the Commonwealth prior to filing. Approval by the Attorney for the Commonwealth may be provided by electronic communication with a copy attached to the complaint or arrest warrant affidavit. Said Local Rule shall be effective in the 57th Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin* and upon publication on the Unified Judicial System of Pennsylvania Web Portal.

By the Court

THOMAS S. LING,
President Judge

[Pa.B. Doc. No. 16-1206. Filed for public inspection July 15, 2016, 9:00 a.m.]

³ Pa.O.C. Rule 1.5 also retains a provision that local rules applicable to practice in the Civil or Trial Division of the Court of Common Pleas are inapplicable to practice in the Orphans' Court Division unless so directed by the statewide rules or specifically by local orphans' court rules.

SUPREME COURT

**Order for Establishment of Local Rules Website;
No. 464 Judicial Administration Doc.**

Order

Per Curiam

And Now, this 28th day of June, 2016, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that each judicial district shall no later than August 1, 2016 establish and transmit to the Rules Committees (rulescommittees@pacourts.us) the address of a free and publically accessible website of the court or county in which the court has jurisdiction where all local rules are to be published.

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

[Pa.B. Doc. No. 16-1207. Filed for public inspection July 15, 2016, 9:00 a.m.]

Reaccreditation of the Pennsylvania Bar Association Workers' Compensation Law Section; No. 141 Disciplinary Rules Doc.

Order

Per Curiam:

And Now, this 1st day of July, 2016, upon consideration of the recommendation of the Pennsylvania Bar Association Review and Certifying Board, the Pennsylvania Bar Association Workers' Compensation Law Section is hereby reaccredited as a certifying organization in the area of Workers' Compensation Law for a period of five years commencing January 12, 2017.

[Pa.B. Doc. No. 16-1208. Filed for public inspection July 15, 2016, 9:00 a.m.]
