

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Judicial Salaries

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX AND JUDICIAL SALARIES

§ 211.1a. Consumer Price Index—judicial salaries.

The Court Administrator of Pennsylvania reports that the percentage change in the Philadelphia-Wilmington-Atlantic City, PA-DE-NJ-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the 12-month period ending October 2019, was 1.9 percent (1.9%). (See U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, Wednesday, November 13, 2019.)

§ 211.2. Judicial salaries effective January 1, 2020.

The annual judicial salaries for calendar year beginning January 1, 2020 will be adjusted by a cost-of-living factor.

(a) *Supreme Court.*

(1) The annual salary of a justice of the Supreme Court shall be \$215,037.

(2) The annual salary of the Chief Justice of the Supreme Court shall be \$221,295.

(b) *Superior Court.*

(1) The annual salary of a judge of the Superior Court shall be \$202,898.

(2) The annual salary of the President Judge of the Superior Court shall be \$209,153.

(c) *Commonwealth Court.*

(1) The annual salary of a judge of the Commonwealth Court shall be \$202,898.

(2) The annual salary of the President Judge of the Commonwealth Court shall be \$209,153.

(d) *Courts of common pleas.*

(1) The annual salary of a judge of the court of common pleas shall be \$186,665.

(2) The annual salaries of the president judges of the courts of common pleas shall be in accordance with the following schedule:

(i) Allegheny County, \$189,794.

(ii) Philadelphia County, \$190,420.

(iii) Judicial districts having six or more judges, \$188,292.

(iv) Judicial districts having five or fewer judges, \$187,480.

(v) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with six or more judges, \$188,292.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with five or fewer judges, \$187,480.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with six or more judges, \$188,292.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with five or fewer judges, \$187,480.

(e) *Philadelphia Municipal Court.*

(1) The annual salary of a judge of the Philadelphia Municipal Court shall be \$182,346.

(2) The annual salary of the President Judge of the Philadelphia Municipal Court shall be \$185,163.

(g) *Magisterial district judge.* The annual salary of a magisterial district judge shall be \$93,338.

(h) *Senior judges.* The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$578 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 19-1730. Filed for public inspection November 22, 2019, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IX]

Order Approving the Amendment of Pennsylvania Rules of Evidence 901(a), 902(4), 902(6) and 902(12); No. 810 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 4th day of November, 2019, upon the recommendation of the Committee on Rules of Evidence; the proposal having been published for public comment at 49 Pa.B. 1336 (March 23, 2019):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Evidence 901(a), 902(4), 902(6), and 902(12) are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2020.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Authenticating or Identifying Evidence.

(a) *In General.* [To] **Unless stipulated, 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.

Comment

Pa.R.E. 901(a) is **substantively** identical to F.R.E. 901(a) and consistent with Pennsylvania law. The authen-

tication 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). **The proponent may be relieved of this burden when all parties have stipulated the authenticity or identification of the evidence. See, e.g., Pa.R.C.P. No. 212.3(a)(3) (Pre-Trial Conference); Pa.R.C.P. No. 4014 (Request for Admission); Pa.R.Crim.P. 570(A)(2) and (3) (Pre-Trial Conference).**

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 authentication 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. Cmwth. 121**,] 447 A.2d 317 (**Pa. Cmwth.** 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.

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; **amended November 4, 2019, effective January 1, 2020.**

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 November 4, 2019 amendment of paragraph (1) published with the Court's Order at 49 Pa.B. 6946 (November 23, 2019).

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.

A certificate required by paragraph (4)(B) may include a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization. A seal may, but need not, be raised.

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

(6) *Newspapers and Periodicals.* **[Printed material]** **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]** **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).

(13) *Certificate of Non-Existence of a Public Record.* A certificate that a document was not recorded or filed in a public office as authorized by law if certified by the custodian or another person authorized to make the certificate.

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 **and does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents.** 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(4) differs from F.R.E. 902(4) insofar as the rule does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents.

Pa.R.E. 902(5) [, (6) and (7) are] is identical to F.R.E. 902(5) [, (6), and (7)]. There [are] is no corresponding statutory [provisions] provision 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(6) differs from F.R.E. 902(6) insofar as it does not contain “printed” in reference to newspapers or periodicals. Cf. F.R.E. 101(b)(6) (“[A] reference to any kind of written material or any other medium includes electronically stored information.”). A newspaper or periodical should be available to the public online, digitally, or in print, principally devoted to the dissemination of local or general news and other editorial content, adherent to journalistic ethics and standards, and updating its content on a regular basis. For online newspapers and periodicals, links to other web content may be included, but the core content must reside on a server or website.

Pa.R.E. 902(6) permits both printed and digital newspapers and periodicals to be self-authenticated. Evidence purported to be an article or item from a newspaper or periodical must contain sufficient indicia of its original publication, including, but not limited to, the publication's title; the date of publication; page or volume of the article or item, if the content appeared in print; and web address, if applicable, where the article or item was originally published.

Pa.R.E. 902(7) is identical to F.R.E. 902(7).

Pa.R.E. 902(8) is identical to F.R.E. 902(8). It is consistent with Pennsylvania law. *See Sheaffer v. Baeringer*, 29 A.2d 697 (Pa. 1943); *Williamson v. Barrett*, 24 A.2d 546 (Pa. Super. 1942); [21 P.S. §§ 291.1—291.13 (Uniform Acknowledgement Act);] 57 Pa.C.S. §§ 301—331 (Revised Uniform Law on Notarial Acts). 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.

Pa.R.E. 902(13) has no counterpart in the Federal Rules. This rule provides for the self-authentication of a certificate of the non-existence of a public record, as provided in Pa.R.E. 803(10)(A).

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 November 9, 2016, effective January 1, 2017; amended June 12, 2017, effective November 1, 2017; **amended November 4, 2019, effective January 1, 2020.**

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 November 9, 2016 addition of paragraph (13) published with the Court’s Order at 46 Pa.B. 7438 (November 26, 2016).

Final Report explaining the June 12, 2017 amendment of the Comment published with the Court’s Order at 47 Pa.B. 3491 (June 24, 2017).

Final Report explaining the November 4, 2019 amendment of paragraphs (4), (6), and (12) published with the Court’s Order at 49 Pa.B. 6946 (November 23, 2019).

FINAL REPORT¹

Amendment of Pa.R.E. 901(a), 902(4), 902(6), and 902(12)

On November 4, 2019, upon recommendation of the Committee on Rules of Evidence, the Court ordered the amendment of Pennsylvania Rules of Evidence 901(a), 902(4), 902(6), and 902(12) to facilitate the authentication

of evidence and to correct an error that occurred during the restyling of the Rules in 2013.

Pa.R.E. 901(a)

In the most general of descriptions, authentication is the requirement of proving what the evidence is purported to be. The purpose of this requirement is to reduce the risk of forgery or deception; yet, commentators have questioned whether this safeguard is justified by the time, expense, and inconvenience of authentication. *See* 2 McCormick on Evid. § 221 (7th ed.).

While authentication may serve a salutary purpose with evidence of questionable origin or dubious portrayal, the mechanical application of the requirements in every instance, especially when authentication is not reasonably contested, does not serve the purpose of the Rules in eliminating unjustifiable expense or delay. *See* Pa.R.E. 102. To that end, Rule 901(a) is amended to include the phrase, “unless stipulated,” to signal readers that authentication of evidence can be stipulated by the parties and, therefore, relieve the proponent of introducing authentication evidence.

Pa.R.E. 902(4)

The Committee undertook review of Rule 902(4) to consider whether copies of public records can be certified and transmitted electronically. This question tested whether a certificate pursuant to Rule 902(4)(B) must be contain a pen-and-ink (a.k.a. “wet”) signature and whether a seal, if required, must be raised.

Informed by Pa.R.Crim.P. 103 (defining “signature”), the Committee concluded that a signature on a certification need not be pen-and-ink to serve its function. Additionally, technology has progressed to where wet signatures are no longer required as evidence for commerce and transactions. *See, e.g.*, Electronic Transactions Act, Act of December 16, 1999, P.L. 971, 73 P.S. § 2260.309 (“In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.”).

Concerning the necessity of a raised seal, its absence is not a foreign concept. Under the Protection From Abuse Act, a “certified copy” is defined as “a paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court.” 23 Pa.C.S. § 6102. The definition goes further to state: “A raised seal on the copy of the order of the issuing court shall not be required.” *Id.* Further, Section 322 of the Judicial Code, insofar as it pertains to court seals, states: “A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.” 42 Pa.C.S. § 322.

The amendment of Rule 902(4) is intended to facilitate the use of electronic forms of certification for copies of public records; it is not intended to prohibit the use of pen-and-ink signatures and raised seals. The amendment is specifically limited to paragraph (B) and was drafted narrowly with the belief that copies of public records are being authenticated by certificate pursuant to 42 Pa.C.S. § 6103(a) rather than paragraph (A). Because the requirements of the certificate are governed by statute, the Committee believed that the certificate would fall under paragraph (B) (certificate that complies with a statute).

Pa.R.E. 902(6)

Upon reviewing Rule 902(6), the Committee proposed removing “printed” as a condition of material purporting to be a newspaper or periodical. The Committee believed

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

that such a term had become antiquated in an era when digital media has largely replaced print media.

Effective December 1, 2011, the Federal Rules of Evidence were restyled, adding F.R.E. 101(b)(6) as a definition to state “a reference to any kind of written material or any other medium includes electronically stored information.”

Under Rule 902(6) (*Newspapers and Periodicals*), “[p]rinted material purporting to be a newspaper or periodical” is self-authenticating. This includes online newspaper and periodicals, because Fed. R. Evid. 101(b)(6) provides that any reference in the Rules to printed material also includes comparable information in electronic form. Thus all newspaper and periodical material is self-authenticating whether or not it ever appeared in hard copy.

Hon. Paul W. Grimm *et al.*, *Authenticating Digital Evidence*, 69 *Baylor L. Rev.* 1, 28 (2017) (footnotes omitted). See also *White v. City of Birmingham, Ala.*, 96 F. Supp. 3d 1260, 1274 (N.D. Ala. 2015), *as amended* (website “news articles are analogous to traditional newspaper articles and could be found self-authenticating at trial.”). While Pennsylvania did not adopt an analog to F.R.E. 101(b)(6) during its restyling, the proposal seeks to accomplish the same effect as F.R.E. 101(b)(6) albeit limited to Pa.R.E. 902(6).

Regardless of whether the material exists in print or digitally, the proponent still has the burden of establishing that the material purports to be a “newspaper” or “periodical”—the proposal does not intend to alter that requirement. The first paragraph of additional commentary to Rule 902(6) is intended to serve as a guide in determining whether a source is a “newspaper” or “periodical.” The second paragraph describes the characteristics of the article or item from a newspaper or periodical.

Concerning the second paragraph, the Committee received a comment indicating that page and volume numbers are not typically attributed to digital-only media. The Committee revised the paragraph to clarify that page and volume are sufficient indicia if the content appeared in print. The same indicia were not associated with digital content.

Pa.R.E. 902(12)

On November 2, 2001, the Court adopted Rule 902(12) addressing the self-authentication of certified foreign records of regularly conducted activity in civil cases. See 31 Pa.B. 6381 (November 24, 2001). On February 23, 2004, the Court amended Rule 902(12) to eliminate its civil case-specific application. See 34 Pa.B. 1429 (March 13, 2004). On January 17, 2013, the Court rescinded and replaced, *inter alia*, Rule 902(12) as part of a larger restyling of the Rules of Evidence. See 43 Pa.B. 620 (February 2, 2013).

While no substantive changes to the Rules were intended as a part of the restyling, 43 Pa.B. at 652, the replacement of Rule 902(12) erroneously removed the substance of the 2004 amendment. Accordingly, the Committee recommended correction of the text to reflect the 2004 amendment.

These amendments become effective January 1, 2020.

[Pa.B. Doc. No. 19-1731. Filed for public inspection November 22, 2019, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IX]

Order Approving the Amendment of Pennsylvania Rule of Evidence 902; No. 809 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 4th day of November, 2019, upon the recommendation of the Committee on Rules of Evidence; the proposal having been published for public comment at 49 Pa.B. 165 (January 12, 2019):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Evidence 902 is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 2, 2020.

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.

A certificate required by paragraph (4)(B) may include a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization. A seal may, but need not, be raised.

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

(6) *Newspapers and Periodicals.* 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.* 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).

(13) **Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification require-**

ments of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

(14) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent also must meet the notice requirements of Rule 902(11).

(15) *Certificate of Non-Existence of a Public Record.* A certificate that a document was not recorded or filed in a public office as authorized by law if certified by the custodian or another person authorized to make the certificate.

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 and does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents. 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(4) differs from F.R.E. 902(4) insofar as the rule does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents.

Pa.R.E. 902(5) is identical to F.R.E. 902(5). There is no corresponding statutory provision 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(6) differs from F.R.E. 902(6) insofar as it does not contain “printed” in reference to newspapers or periodicals. *Cf.* F.R.E. 101(b)(6) (“[A] reference to any kind of written material or any other medium includes electronically stored information.”). A newspaper or periodical should be available to the public online, digitally, or in print, principally devoted to the dissemination of local or

general news and other editorial content, adherent to journalistic ethics and standards, and updating its content on a regular basis. For online newspapers and periodicals, links to other web content may be included, but the core content must reside on a server or website.

Pa.R.E. 902(6) permits both printed and digital newspapers and periodicals to be self-authenticated. Evidence purported to be an article or item from a newspaper or periodical must contain sufficient indicia of its original publication, including, but not limited to, the publication's title; the date of publication; page or volume of the article or item, if the content appeared in print; and web address, if applicable, where the article or item was originally published.

Pa.R.E. 902(7) is identical to F.R.E. 902(7).

Pa.R.E. 902(8) is identical to F.R.E. 902(8). It is consistent with Pennsylvania law. See *Sheaffer v. Baeringer*, 29 A.2d 697 (Pa. 1943); *Williamson v. Barrett*, 24 A.2d 546 (Pa. Super. 1942); 57 Pa.C.S. §§ 301–331 (Revised Uniform Law on Notarial Acts). 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.

Pa.R.E. 902(13) is identical to F.R.E. 902(13). This rule establishes a procedure by which parties can authenticate certain electronic evidence other than through the testimony of a foundation witness. The rule specifically allows the authenticity foundation that satisfies Rule 901(b)(9) to be established by a certification rather than the testimony of a live witness. A proponent establishing authenticity under this rule must present a certification containing information that would be sufficient to establish authenticity were that information provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record if the certifying person testified, then authenticity is not established under this rule.

A certification under this rule can establish only that the proffered item has satisfied the admissibility requirements for authenticity. The opponent remains free to object to admissibility of the proffered item on other grounds—including hearsay, relevance, or in criminal cases the right to confrontation. For example, a certification authenticating a computer output, such as a spreadsheet or a print-out of a webpage, does not preclude an objection

that the information produced is unreliable—the authentication establishes only that the output came from the computer.

The reference to the “certification requirements of Rule 902(11) or (12)” is only to the procedural requirements for a valid certification. There is no intent to require, or permit, a certification under this rule to prove the requirements of Rule 803(6). Rule 902(13) is solely limited to authentication of a record generated by an electronic process or system and any attempt to satisfy a hearsay exception must be made independently.

A challenge to the authenticity of electronic evidence may require technical information about the system or process at issue, including possibly retaining a forensic technical expert; such factors will affect whether the opponent has a fair opportunity to challenge the evidence given the notice provided.

Nothing in Rule 902(13) is intended to limit a party from establishing authenticity of electronic evidence on any ground provided in these Rules.

Pa.R.E. 902(14) is identical to F.R.E. 902(14). This rule establishes a procedure by which parties can authenticate data copied from an electronic device, storage medium, or an electronic file, using a certificate rather than through the testimony of a foundation witness. A proponent establishing authenticity under this rule must present a certification containing information that would be sufficient to establish authenticity were that information provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record if the certifying person testified, then authenticity is not established under this rule.

Today, data copied from electronic devices, storage media, and electronic files are ordinarily authenticated by “hash value.” A hash value is a number that is often represented as a sequence of characters and is produced by an algorithm based upon the digital contents of a drive, medium, or file. If the hash values for the original and copy are different, then the copy is not identical to the original. If the hash values for the original and copy are the same, it is highly improbable that the original and copy are not identical. Thus, identical hash values for the original and copy reliably attest to the fact that they are exact duplicates. This Rule allows self-authentication by a certification of a qualified person that she checked the hash value of the proffered item and that it was identical to the original. The Rule is flexible enough to allow certifications through processes other than comparison of hash value, including by other reliable means of identification provided by future technology.

A certification under this rule can only establish that the proffered item is authentic. The opponent remains free to object to admissibility of the proffered item on other grounds—including hearsay, relevance, or in criminal cases the right to confrontation. For example, in a criminal case in which data copied from a hard drive is proffered, the defendant can still challenge hearsay found in the hard drive, and can still challenge whether the information on the hard drive was placed there by the defendant.

The reference to the “certification requirements of Rule 902(11) or (12)” is only to the procedural requirements for a valid certification. There is no intent to require, or permit, a certification under this rule to prove the requirements of Rule 803(6). Rule 902(14) is solely limited to authentication, and any attempt to satisfy a hearsay exception must be made independently.

A challenge to the authenticity of electronic evidence may require technical information about the system or process at issue, including possibly retaining a forensic technical expert; such factors will affect whether the opponent has a fair opportunity to challenge the evidence given the notice provided.

Nothing in Rule 902(14) is intended to limit a party from establishing authenticity of electronic evidence on any ground provided in these Rules.

Pa.R.E. 902 [(13)] (15) has no counterpart in the Federal Rules. This rule provides for the self-authentication of a certificate of the non-existence of a public record, as provided in Pa.R.E. 803(10)(A).

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 November 9, 2016, effective January 1, 2017; amended June 12, 2017, effective November 1, 2017; amended October 22, 2019, effective January 1, 2020; **amended November 4, 2019, effective January 2, 2020.**

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 November 9, 2016 addition of paragraph (13) published with the Court's Order at 46 Pa.B. 7438 (November 26, 2016).

Final Report explaining the June 12, 2017 amendment of the Comment published with the Court's Order at 47 Pa.B. 3491 (June 24, 2017).

Final Report explaining the October 22, 2019 amendment of paragraphs (4), (6), and (12) published with the Court's Order at 49 Pa.B. 6946 (November 23, 2019).

Final Report explaining the November 4, 2019 adoption of paragraphs (13) and (14) published with the Court's Order at 49 Pa.B. 6950 (November 23, 2019).

FINAL REPORT¹

Amendment of Pa.R.E. 902

On November 4, 2019, upon recommendation of the Committee on Rules of Evidence, the Court ordered the amendment of Pennsylvania Rules of Evidence to renumber current paragraph (13) to paragraph (15) and to add

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

new paragraphs (13) and (14) concerning the self-authentication of certified records generated by an electronic process or system and certified data copied from an electronic device, storage medium, or file.

The Federal Advisory Committee on Evidence considered the expense and inconvenience of producing a witness to authenticate an item of electronic evidence given that the adversary often either stipulates authenticity before the witness is called or fails to challenge the authentication testimony once it is presented. As business records are able to be self-authenticated by certification, see F.R.E. 902(11) & (12), the Advisory Committee proposed rule amendments in 2015 that provided for a similar procedure when the parties can determine in advance of trial that a challenge to authenticity will be made to electronic evidence, and can then plan accordingly.

As approved by the Rules Committee of the Judicial Conference, F.R.E. 902(13) & (14) were adopted, effective December 1, 2017. Specifically, F.R.E. 902(13) states:

Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

To establish authenticity under this rule, the proponent must present a certification containing information that would be sufficient to establish authenticity if that information was provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record when the certifying person testified, then authenticity is not established under the rule. The rule specifically allows the authenticity foundation that satisfies F.R.E. 901(b)(9) to be established by a certification rather than the testimony of a live witness.

F.R.E. 902(14) states:

Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent also must meet the notice requirements of Rule 902(11).

This rule sets forth a procedure by which parties can authenticate data copied from an electronic device, storage medium, or an electronic file, other than through the testimony of a foundation witness. A proponent establishing authenticity under this rule must present a certification containing information that would be sufficient to establish authenticity if that information was provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record when the certifying person testified, then authenticity is not established under the rule.

A fuller discussion, together with examples, of the federal rule amendments can be found at: Hon. Paul W. Grimm *et. al.*, *Authenticating Digital Evidence*, 69 Baylor L. Rev. 1 (2017).

The Committee on Rules of Evidence believed that rules similar to the amended federal rules would be consistent with purpose of the Pennsylvania Rules of Evidence “to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the develop-

ment of evidence law, to the end of ascertaining the truth and securing a just determination.” Pa.R.E. 102. At the risk of oversimplification, the federal rules do not alter the requirement of authentication; they merely permit an out-of-court certification to replace in-court testimony.

As reliance on electronic processes and systems increases, so does a sense of familiarity and trustworthiness that records generated by same are done so without the potential bias or error inherent as when records are generated by human involvement. An accurate record generated by computation requires only an understanding of the computation process or system to be authenticated. Pa.R.E. 902(13) permits this task to be accomplished by certification rather than live testimony, which would eliminate unnecessary expense and time.

Similarly, a comparison of a unique identifier produced by an algorithm (*i.e.*, hashtag) in the source data with the copied data can be used to authenticate the copied data as being identical to the source data. Pa.R.E. 902(14) allows the authentication to be accomplished by certification and without the need for extrinsic evidence.

Broadly stated, the use of certifications in lieu of testimony is not a foreign concept in Pennsylvania. *See, e.g.*, Pa.R.Crim.P. 574 (permitting the admission of forensic lab reports by certification in lieu expert testimony). More specifically, the use of certifications in lieu of authentication testimony has long been acceptable by the Rules of Evidence and statute. *See* Pa.R.E. 902(4), (11), & (12); 42 Pa.C.S. § 6106 (self-authentication of documents filed in public offices).

The language of new paragraphs (13) and (14) does not vary from federal counterparts. Portions of the federal rule commentary were considered beneficial in understanding the operation and application of the rules. Therefore, much, but not all, of the federal commentary appears in the revised Comment to Rule 902. To maintain parallel numbering with the F.R.E. 902, current paragraph (13) of Pa.R.E. 902 was renumbered to (15).

This amendment becomes effective January 2, 2020. The rule text being amended reflects the amendments of paragraphs (4), (6), and (12) of Pa.R.E. 902, effective January 1, 2020.

[Pa.B. Doc. No. 19-1732. Filed for public inspection November 22, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Increase in Clerk of Courts’ Fees; 784 MD2019; No. 3 of 2019

Approval

And Now, This 31st day of October, 2019, pursuant to 42 Pa.C.S. § 1725.4(a)(2), the Westmoreland County Clerk of Courts’ request to increase fees and charges effective 30 days from the publication in the *Pennsylvania Bulletin* is approved at a level not to exceed 1.9%. The amount of this approval is the calculated percentage difference in the consumer price index for Urban Wage Earners and Clerical Workers for the U.S. city average, all items, not seasonally adjusted, for the benchmarks of 2013 through 2015, the immediate three years preceding the last increase.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

Fee Increase Notice

In accordance with Act 36 of 2000 that amends Title 42, Section 1725.4 the Westmoreland County Clerk of Courts Fee Schedule will increase 1.9% effective January 1, 2020.

The 1.9% increase is based upon the U.S. Department of Labor-Bureau of Labor Statistics-Consumer Price Index for Urban Workers (not seasonally adjusted), for the time period of January 2016 through December 2018.

The following are the Clerk of Courts fees adjusted December 1, 2019.

1. A fee of \$225.50 will be collected for all proceedings in all misdemeanor and felony cases disposed of at any time during or after trial.
2. A fee of \$169.05 will be collected for all proceedings in all misdemeanor and felony cases disposed of before trial.
3. A fee of \$33.73 for all proceedings in summary matters.
4. A fee of \$11.21 for all certifications.
5. A fee of \$22.42 for all other matters filed in the office and for all reports prepared by the clerk except that no fee shall be charged for filing township and borough audit reports or transcripts received which indicate a final disposition by the district justice.
6. A fee of \$56.25 for the filing of an appeal from a summary conviction before a district justice.
7. A fee of \$67.56 for an appeal from the court of common pleas to an appellate court.
8. A fee of \$0.066 per dollar for the first \$1,000 and \$0.025 per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court.

These fees are subject to change every three years based on Act 36 of 2000.

[Pa.B. Doc. No. 19-1733. Filed for public inspection November 22, 2019, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

List of Financial Institutions

Notice is hereby given that pursuant to Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E., which provides for trust account overdraft notification.

SUZANNE E. PRICE,
Attorney Registrar

Financial Institutions Approved as Depositories of Trust Accounts of Attorneys

Bank Code A.

595	Abacus Federal Savings Bank
2	ACNB Bank
613	Allegent Community Federal Credit Union
375	Altoona First Savings Bank
376	Ambler Savings Bank

532 **AMERICAN BANK (PA)**
 615 Americhoice Federal Credit Union
 116 **AMERISERV FINANCIAL**
 648 Andover Bank (The)
 377 Apollo Trust Company

Bank Code B.

558 Bancorp Bank (The)
 485 Bank of America, NA
 662 Bank of Bird in Hand
 415 Bank of Landisburg (The)
 664 **BANK UNITED, NA**
 642 BB & T Company
 501 BELCO Community Credit Union
 652 Berkshire Bank
 663 BHCU
 5 BNY Mellon, NA
 392 **BRENTWOOD BANK**
 495 Brown Brothers Harriman Trust Co., NA
 161 Bryn Mawr Trust Company (The)

Bank Code C.

654 CACL Federal Credit Union
 618 Capital Bank, NA
 16 CBT Bank, a division of Riverview Bank
 136 Centric Bank
 394 **CFS BANK**
 623 Chemung Canal Trust Company
 599 Citibank, NA
 238 Citizens & Northern Bank
 561 Citizens Bank, NA
 206 Citizens Savings Bank
 602 City National Bank of New Jersey
 576 Clarion County Community Bank
 660 Clarion FCU
 591 Clearview Federal Credit Union
 23 CNB Bank
 354 Coatesville Savings Bank
 223 Commercial Bank & Trust of PA
 21 Community Bank (PA)
 371 Community Bank, NA (NY)
 132 Community State Bank of Orbisonia
 647 **CONGRESSIONAL BANK**
 380 County Savings Bank
 617 Covenant Bank
 536 Customers Bank

Bank Code D.

339 Dime Bank (The)
 239 DNB First, NA
 27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
 567 Embassy Bank for the Lehigh Valley
 541 **ENTERPRISE BANK**
 28 Ephrata National Bank
 601 Esquire Bank, NA
 340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
 158 1st Summit Bank
 31 F & M Trust Company—Chambersburg
 658 Farmers National Bank of Canfield
 205 Farmers National Bank of Emlenton (The)
 34 Fidelity Deposit & Discount Bank (The)
 343 **FIDELITY SAVINGS & LOAN ASSOCIATION OF BUCKS COUNTY**
 583 Fifth Third Bank

661 First American Trust, FSB
 643 First Bank
 174 First Citizens Community Bank
 191 First Columbia Bank & Trust Company
 539 First Commonwealth Bank
 504 First Federal S & L Association of Greene County
 525 First Heritage Federal Credit Union
 42 First Keystone Community Bank
 51 First National Bank & Trust Company of Newtown (The)
 48 First National Bank of Pennsylvania
 426 First Northern Bank & Trust Company
 604 First Priority Bank, a division of Mid Penn Bank
 592 **FIRST RESOURCE BANK**
 657 First United Bank & Trust
 408 First United National Bank
 151 Firstrust Savings Bank
 416 Fleetwood Bank
 175 FNCB Bank
 291 Fox Chase Bank
 241 Franklin Mint Federal Credit Union
 639 Freedom Credit Union
 58 **FULTON BANK, NA**

Bank Code G.

499 Gratz Bank (The)
 498 Greenville Savings Bank

Bank Code H.

402 Halifax Branch, of Riverview Bank
 244 Hamlin Bank & Trust Company
 362 Harleysville Savings Bank
 363 Hatboro Federal Savings
 463 Haverford Trust Company (The)
 655 Home Savings Bank
 606 Hometown Bank of Pennsylvania
 68 Honesdale National Bank (The)
 350 HSBC Bank USA, NA
 364 **HUNTINGDON VALLEY BANK**
 605 Huntington National Bank (The)
 608 Hyperion Bank

Bank Code I.

365 InFirst Bank
 557 Investment Savings Bank
 526 Iron Workers Savings Bank

Bank Code J.

70 Jersey Shore State Bank
 127 Jim Thorpe Neighborhood Bank
 488 Jonestown Bank & Trust Company
 659 JPMorgan Chase Bank, NA
 72 **JUNIATA VALLEY BANK (THE)**

Bank Code K.

651 KeyBank NA
 414 Kish Bank

Bank Code L.

554 Landmark Community Bank
 542 Linkbank
 78 Luzerne Bank

Bank Code M.

361 M & T Bank
 386 Malvern Bank, NA
 510 Marion Center Bank
 387 Marquette Savings Bank

81	Mars Bank
43	Marysville Branch, of Riverview Bank
367	Mauch Chunk Trust Company
511	MCS (Mifflin County Savings) Bank
641	Members 1st Federal Credit Union
555	Mercer County State Bank
192	Merchants Bank of Bangor
610	Meridian Bank
420	Meyersdale Branch, of Riverview Bank
294	MID PENN BANK
276	MIFFLINBURG BANK & TRUST COMPANY
457	Milton Savings Bank
596	MOREBANK, A DIVISION OF BANK OF PRINCETON (THE)
484	MUNCY BANK & TRUST COMPANY (THE)

Bank Code N.

433	National Bank of Malvern
168	NBT Bank, NA
347	Neffs National Bank (The)
434	NEW TRIPOLI BANK
15	NexTier Bank, NA
636	Noah Bank
638	Norristown Bell Credit Union
666	Northern Trust Co.
439	Northumberland National Bank (The)
93	Northwest Bank

Bank Code O.

653	OceanFirst Bank
489	OMEGA Federal Credit Union
94	Orrstown Bank

Bank Code P.

598	PARKE BANK
584	Parkview Community Federal Credit Union
40	Penn Community Bank
540	PennCrest Bank
419	Pennian Bank
447	Peoples Security Bank & Trust Company
99	PeoplesBank, a Codorus Valley Company
556	Philadelphia Federal Credit Union
448	Phoenixville Federal Bank & Trust
665	Pinnacle Bank
79	PNC Bank, NA
449	Port Richmond Savings
451	Progressive-Home Federal Savings & Loan Association
637	Provident Bank
456	Prudential Savings Bank
491	PS Bank

Bank Code Q.

107	QNB Bank
560	Quaint Oak Bank

Bank Code R.

452	Reliance Savings Bank
220	Republic First Bank d/b/a Republic Bank
628	Riverview Bank

Bank Code S.

153	S & T Bank
316	Santander Bank, NA
460	Second Federal S & L Association of Philadelphia
646	Service 1st Federal Credit Union
458	Sharon Bank
462	Slovenian Savings & Loan Association of Franklin-Conemaugh

486	SOMERSET TRUST COMPANY
633	SSB Bank
518	STANDARD BANK, PASB
440	SunTrust Bank
122	SUSQUEHANNA COMMUNITY BANK

Bank Code T.

143	TD Bank, NA
656	TIOGA FRANKLIN SAVINGS BANK
182	TOMPKINS VIST BANK
609	Tristate Capital Bank
640	TruMark Financial Credit Union
467	Turbotville National Bank (The)

Bank Code U.

483	UNB Bank
481	Union Building and Loan Savings Bank
634	United Bank, Inc.
472	United Bank of Philadelphia
475	United Savings Bank
600	Unity Bank
232	Univest Bank & Trust Co.

Bank Code V.

611	Victory Bank (The)
-----	--------------------

Bank Code W.

119	WASHINGTON FINANCIAL BANK
121	Wayne Bank
631	Wells Fargo Bank, NA
553	WesBanco Bank, Inc.
494	West View Savings Bank
473	Westmoreland Federal S & L Association
476	William Penn Bank
272	Woodlands Bank
573	WOORI AMERICA BANK
630	WSFS (Wilmington Savings Fund Society), FSB

Bank Code X.**Bank Code Y.**

577	York Traditions Bank
-----	----------------------

Bank Code Z.**PLATINUM LEADER BANKS**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

FINANCIAL INSTITUTIONS WHO HAVE FILED AGREEMENTS TO BE APPROVED AS A DEPOSITORY OF TRUST ACCOUNTS AND TO PROVIDE DISHONORED CHECK REPORTS IN ACCORDANCE WITH RULE 221, Pa.R.D.E.

New

664	—Bank United, NA
665	—Pinnacle Bank
666	—Northern Trust Co.

Name Change

74	—Lafayette Bank—Change to 58—Fulton Bank
614	—Monument Bank—Change to 238—Citizens & Northern Bank
397	—Beneficial Bank—Change to 630 WSFS (Wilmington Savings Fund Society)

Platinum Leader Change

664—Bank United, NA—Add

*Correction**Removal*

[Pa.B. Doc. No. 19-1734. Filed for public inspection November 22, 2019, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated November 8, 2019, Mark T. Pilon a/k/a Mark Tanguay Raymond Pilon (# 202217) is Disbarred on Consent from the Bar of this Commonwealth effective December 8, 2019. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 19-1735. Filed for public inspection November 22, 2019, 9:00 a.m.]

SUPREME COURT

Financial Institutions Approved as Depositories for Fiduciary Accounts; No. 187 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 7th day of November, 2019, it is hereby Ordered that the financial institutions named on the following list are approved as depositories for fiduciary accounts in accordance with Pa.R.D.E. 221.

FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES OF TRUST ACCOUNTS OF ATTORNEYS

Bank Code A.

595 Abacus Federal Savings Bank
2 ACNB Bank
613 Allegent Community Federal Credit Union
375 Altoona First Savings Bank
376 Ambler Savings Bank
532 **AMERICAN BANK (PA)**
615 Americhoice Federal Credit Union
116 **AMERISERV FINANCIAL**
648 Andover Bank (The)
377 Apollo Trust Company

Bank Code B.

558 Bancorp Bank (The)
485 Bank of America, NA
662 Bank of Bird in Hand
415 Bank of Landisburg (The)
664 **BANK UNITED, NA**
642 BB & T Company

501 BELCO Community Credit Union
652 Berkshire Bank
663 BHCU
5 BNY Mellon, NA
392 **BRENTWOOD BANK**
495 Brown Brothers Harriman Trust Co., NA
161 Bryn Mawr Trust Company (The)

Bank Code C.

654 CACL Federal Credit Union
618 Capital Bank, NA
16 CBT Bank, a division of Riverview Bank
136 Centric Bank
394 **CFS BANK**
623 Chemung Canal Trust Company
599 Citibank, NA
238 Citizens & Northern Bank
561 Citizens Bank, NA
206 Citizens Savings Bank
602 City National Bank of New Jersey
576 Clarion County Community Bank
660 Clarion FCU
591 Clearview Federal Credit Union
23 CNB Bank
354 Coatesville Savings Bank
223 Commercial Bank & Trust of PA
21 Community Bank (PA)
371 Community Bank, NA (NY)
132 Community State Bank of Orbisonia
647 **CONGRESSIONAL BANK**
380 County Savings Bank
617 Covenant Bank
536 Customers Bank

Bank Code D.

339 Dime Bank (The)
239 DNB First, NA
27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
567 Embassy Bank for the Lehigh Valley
541 **ENTERPRISE BANK**
28 Ephrata National Bank
601 Esquire Bank, NA
340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
158 1st Summit Bank
31 F & M Trust Company—Chambersburg
658 Farmers National Bank of Canfield
205 Farmers National Bank of Emlenton (The)
34 Fidelity Deposit & Discount Bank (The)
343 **FIDELITY SAVINGS & LOAN
ASSOCIATION OF BUCKS COUNTY**
583 Fifth Third Bank
661 First American Trust, FSB
643 First Bank
174 First Citizens Community Bank
191 First Columbia Bank & Trust Company
539 First Commonwealth Bank
504 First Federal S & L Association of Greene
County
525 First Heritage Federal Credit Union
42 First Keystone Community Bank
51 First National Bank & Trust Company of
Newtown (The)
48 First National Bank of Pennsylvania

426 First Northern Bank & Trust Company
604 First Priority Bank, a division of Mid Penn Bank

592 FIRST RESOURCE BANK

657 First United Bank & Trust
408 First United National Bank
151 Firstrust Savings Bank
416 Fleetwood Bank
175 FNCB Bank
291 Fox Chase Bank
241 Franklin Mint Federal Credit Union
639 Freedom Credit Union
58 FULTON BANK, NA

Bank Code G.

499 Gratz Bank (The)
498 Greenville Savings Bank

Bank Code H.

402 Halifax Branch, of Riverview Bank
244 Hamlin Bank & Trust Company
362 Harleysville Savings Bank
363 Hatboro Federal Savings
463 Haverford Trust Company (The)
655 Home Savings Bank
606 Hometown Bank of Pennsylvania
68 Honesdale National Bank (The)
350 HSBC Bank USA, NA
364 HUNTINGDON VALLEY BANK
605 Huntington National Bank (The)
608 Hyperion Bank

Bank Code I.

365 InFirst Bank
557 Investment Savings Bank
526 Iron Workers Savings Bank

Bank Code J.

70 Jersey Shore State Bank
127 Jim Thorpe Neighborhood Bank
488 Jonestown Bank & Trust Company
659 JPMorgan Chase Bank, NA
72 JUNIATA VALLEY BANK (THE)

Bank Code K.

651 KeyBank NA
414 Kish Bank

Bank Code L.

554 Landmark Community Bank
542 Linkbank
78 Luzerne Bank

Bank Code M.

361 M & T Bank
386 Malvern Bank, NA
510 Marion Center Bank
387 Marquette Savings Bank
81 Mars Bank
43 Marysville Branch, of Riverview Bank
367 Mauch Chunk Trust Company
511 MCS (Mifflin County Savings) Bank
641 Members 1st Federal Credit Union
555 Mercer County State Bank
192 Merchants Bank of Bangor
610 Meridian Bank
420 Meyersdale Branch, of Riverview Bank
294 MID PENN BANK
276 MIFFLINBURG BANK & TRUST COMPANY
457 Milton Savings Bank

596 MOREBANK, A DIVISION OF BANK OF PRINCETON (THE)
484 MUNCY BANK & TRUST COMPANY (THE)

Bank Code N.

433 National Bank of Malvern
168 NBT Bank, NA
347 Neffs National Bank (The)
434 NEW TRIPOLI BANK
15 NextTier Bank, NA
636 Noah Bank
638 Norristown Bell Credit Union
666 Northern Trust Co.
439 Northumberland National Bank (The)
93 Northwest Bank

Bank Code O.

653 OceanFirst Bank
489 OMEGA Federal Credit Union
94 Orrstown Bank

Bank Code P.

598 PARKE BANK
584 Parkview Community Federal Credit Union
40 Penn Community Bank
540 PennCrest Bank
419 Pennian Bank
447 Peoples Security Bank & Trust Company
99 PeoplesBank, a Codorus Valley Company
556 Philadelphia Federal Credit Union
448 Phoenixville Federal Bank & Trust
665 Pinnacle Bank
79 PNC Bank, NA
449 Port Richmond Savings
451 Progressive-Home Federal Savings & Loan Association
637 Provident Bank
456 Prudential Savings Bank
491 PS Bank

Bank Code Q.

107 QNB Bank
560 Quaint Oak Bank

Bank Code R.

452 Reliance Savings Bank
220 Republic First Bank d/b/a Republic Bank
628 Riverview Bank

Bank Code S.

153 S & T Bank
316 Santander Bank, NA
460 Second Federal S & L Association of Philadelphia
646 Service 1st Federal Credit Union
458 Sharon Bank
462 Slovenian Savings & Loan Association of Franklin-Conemaugh
486 SOMERSET TRUST COMPANY
633 SSB Bank
518 STANDARD BANK, PASB
440 SunTrust Bank
122 SUSQUEHANNA COMMUNITY BANK

Bank Code T.

143 TD Bank, NA
656 TIOGA FRANKLIN SAVINGS BANK
182 TOMPKINS VIST BANK
609 Tristate Capital Bank
640 TruMark Financial Credit Union

467 Turbotville National Bank (The)

Bank Code U.

483 UNB Bank
 481 Union Building and Loan Savings Bank
 634 United Bank, Inc.
 472 United Bank of Philadelphia
 475 United Savings Bank
 600 Unity Bank
 232 Univest Bank & Trust Co.

Bank Code V.

611 Victory Bank (The)

Bank Code W.

119 **WASHINGTON FINANCIAL BANK**
 121 Wayne Bank
 631 Wells Fargo Bank, NA
 553 WesBanco Bank, Inc.
 494 West View Savings Bank
 473 Westmoreland Federal S & L Association
 476 William Penn Bank
 272 Woodlands Bank
 573 **WOORI AMERICA BANK**
 630 WSFS (Wilmington Savings Fund Society), FSB

Bank Code X.

Bank Code Y.

577 York Traditions Bank

Bank Code Z.

PLATINUM LEADER BANKS

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on

all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

IOLTA EXEMPTION

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or exemptions from IOLTA, please visit their website at www.paiolta.org or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

FINANCIAL INSTITUTIONS WHO HAVE FILED AGREEMENTS TO BE APPROVED AS A DEPOSITORY OF TRUST ACCOUNTS AND TO PROVIDE DISHONORED CHECK REPORTS IN ACCORDANCE WITH RULE 221, Pa.R.D.E.

New

664—Bank United, NA
 665—Pinnacle Bank
 666—Northern Trust Co.

Name Change

74—Lafayette Bank—Change to 58—Fulton Bank
 614—Monument Bank—Change to 238—Citizens & Northern Bank
 397—Beneficial Bank—Change to 630 WSFS (Wilmington Savings Fund Society)

Platinum Leader Change

664—Bank United, NA—Add

Correction

Removal

[Pa.B. Doc. No. 19-1736. Filed for public inspection November 22, 2019, 9:00 a.m.]