

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 1]

Order Adopting Rules 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, and 115 of the Pennsylvania Rules of Judicial Administration; No. 600 Judicial Administration Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Civil Procedural Rules Committee, the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, and 115 of the Pennsylvania Rules of Judicial Administration are adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on January 1, 2024.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 1. GENERAL PROVISIONS

(*Editor's Note:* The following rules are new and are printed in regular type to enhance readability.)

Rule 104. Principles of Construction.

In the construction of procedural or evidentiary rules adopted by the Supreme Court, the principles set forth in Rules 105 to 115 shall be observed, unless the application of such principles would result in a construction inconsistent with the manifest intent of the Supreme Court.

Rule 105. Number. Tense.

The singular shall include the plural, and the plural, the singular. Words used in the past or present tense shall include the future.

Rule 106. Words and Phrases.

(a) Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or as are expressly defined by rule shall be construed according to such peculiar and appropriate or express meaning or definition.

(b) General words shall be construed to take their meanings and be restricted by preceding particular words.

Comment:

A word or phrase's common meaning may be discerned through examination of its dictionary definition and its legal meaning may be gleaned from its use in the *corpus juris*. See *Commonwealth v. Wardlaw*, 249 A.3d 937, 946-47 (Pa. 2021).

Rule 107. Computation of Time.

(a) *Days.* When any period of time is referred to in any rule, such period, except as otherwise provided in subdivisions (c) and (d), shall be computed to exclude the first and include the last day of such period.

(b) *Omitted Days.* Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

(c) *Successive Weeks.* Whenever in any rule providing for the publishing of notices, the phrase "successive weeks" is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

(d) *Months.* Whenever in any rule the lapse of a number of months after or before a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.

Rule 108. Construction of Rules. Intent of Supreme Court Controls.

(a) The object of all interpretation and construction of rules is to ascertain and effectuate the intention of the Supreme Court.

(b) Every rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of a rule are not explicit, the intention of the Supreme Court may be ascertained by considering, among other matters:

- (1) precedent of the Supreme Court interpreting the current rule;
- (2) the commentary accompanying the rule;
- (3) the rulemaking history;
- (4) other procedures governing the same or similar subjects;
- (5) the practice followed under the rule;
- (6) the consequences of a particular interpretation; and
- (7) the prior practice, if any, including other rules and Acts of Assembly, upon the same or similar subjects.

Comment:

For "commentary accompanying the rule," see Pa.R.J.A. 103, Comment. Concerning subdivision (c)(3), consideration of the rulemaking history may include the occasion and necessity for a rule, circumstances under which it was promulgated, prior practice, and the objective to be attained. Such information may be found in Rules Com-

mittees' reports. See Pa.R.J.A. 103, cmt. Statements contained in these reports have not been adopted by the Supreme Court and should only be consulted for the limited purpose of understanding the history of a rule. For subdivision (c)(6), see Pa.R.J.A. 109 (Presumptions in Ascertaining the Intent of the Supreme Court).

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.

Ascertaining the Supreme Court's intention in the adoption or amendment of a rule may be guided by the following presumptions among others:

- (a) The Supreme Court does not intend a result that is absurd, impossible of execution, or unreasonable;
- (b) The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable;
- (c) The Supreme Court intends the entire rule or chapter of rules to be effective and certain;
- (d) The Supreme Court does not intend to violate the Constitution of the United States or of this Commonwealth;
- (e) If the Supreme Court has construed the language used in a rule or statute, the Supreme Court in promulgating a rule on the same subject matter which employs the same language intends the same construction to be placed upon such language;
- (f) The Supreme Court intends to favor the public interest as against any private interest; and
- (g) No rule shall be construed to confer a right to trial by jury where such right does not otherwise exist.

Rule 110. Titles, Conditions, Exceptions, and Headings.

- (a) The title or heading of a rule may be considered in construing the rule.
- (b) Conditions shall be construed to limit rather than to extend the operation of the clauses to which they refer.
- (c) Exceptions expressed in a rule shall be construed to exclude all others.
- (d) The title or heading prefixed to a chapter of rules shall not be considered to control but may be used in construing the rules.

Rule 111. Rules in Derogation of the Common Law.

The principle that laws in derogation of the common law are to be strictly construed shall have no application to the rules promulgated by the Supreme Court.

Rule 112. Rules *In Pari Materia*.

Rules or parts of rules within a particular body of rules are *in pari materia* when they relate to the same proceedings or class of proceedings. Rules *in pari materia* in the same body of rules shall be construed together, if possible, as one rule or one chapter of rules.

Rule 113. Particular Controls General.

Whenever a general provision in a rule shall be in conflict with a particular provision in the same or another rule, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the particular provisions shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be promulgated later and it shall be the manifest intention of the Supreme Court that such general provision shall prevail.

Rule 114. Construction of Rule Amendments.

(a) *Textual Indicators.* Amended text indicated by the text in bold font within brackets shall be omitted, and the text in bold font and underscored shall be read as part of the rule.

(b) *Amendments.* Whenever a rule or part of a rule is amended, the amendment shall be construed to merge into the original rule, become a part thereof, and replace the part amended. The remainder of the original rule and amendment shall be read together and viewed as one rule promulgated at one time; but the portions of the rule which were not altered by the amendment shall be construed as effective from the time of their original promulgation and the new provisions shall be construed as effective only from the date when the amendment became effective.

(c) *Merger of Subsequent Amendments.* Whenever a rule has been more than once amended, the latest amendment shall be read into the original rule as previously amended and not into such rule as originally promulgated.

Rule 115. Procedures Inconsistent with Rules.

All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968. Procedures set forth in statute or local rule shall be inapplicable to the extent that they are inconsistent with rules prescribed by the Supreme Court governing proceedings on the same subject matter.

Comment:

See Pa. Const. art. V, § 10(c); 42 Pa.C.S. § 1722(a)(1); see also Pa.R.J.A. 103(d)(2); *Appeal of Gibbons*, 104 Pa. 587, 591 (1884) (court of common pleas cannot adopt rules inconsistent with Supreme Court rules).

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES
COMMITTEE**

**COMMITTEE ON RULES OF EVIDENCE
CIVIL PROCEDURAL RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

**CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and

600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. See, e.g., *Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Proce-

dural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. See 1 Pa.C.S. §§ 1901—1957; see also, e.g., *Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—	—	—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. See, e.g., *Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102—153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of

ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.*, 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g.*, Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.*, “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be

an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.*, “No.,” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. *See* Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision

¹ Similar provisions exist in the federal rules. *See, e.g.*, Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

(b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” *See also Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine whether “near misses” may result in procedural default. *See, e.g., Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. *See also Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.

- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”

- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).

- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can

understand the Supreme Court's intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, "rulemaking history"; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court's precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment ("Effective October 1, 2021, "rule" includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.").

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider "why" the rule exists, which is subsumed within the "rulemaking history" and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing "why" a rule exists may be indicative of the Supreme Court's intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to "the rulemaking history" within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules Committees' reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports "indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted").

Post-publication, the current factor of "the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects" was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term "provisos" has been replaced with "conditions" to reflect current rulemaking terminology. Additionally, reference to "use of notes and explanatory comments" has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as "commentary."

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references "procedures," which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court's authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be "inconsistent" with the rules; rather, they are "saved" by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 ("All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.") was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1579. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to Act 22 of 2023; No. 601 Judicial Administration Docket

Order

Per Curiam

And Now, this 6th day of November, 2023, it is ordered, pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and 42 Pa.C.S. § 3502(a), that the attached amendments to the Financial Regulations are hereby adopted.

To the extent that notice of proposed rulemaking may be required by Pa.R.J.A. 103(a), the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration. *See* Pa.R.J.A. 103(a)(3).

This Order is to be processed in accordance with Pa.R.J.A. 103(b), and the amendments shall be effective immediately.

Additions are shown in bold and are underlined.

Deletions are shown in bold and are bracketed.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter I. BUDGET AND FINANCE

§ 29.351. Definitions.

(a) *Pennsylvania Supreme, Superior and Commonwealth Courts. Initial Filing.*

Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed on all items enumerated in the fee schedules of the Appellate Courts for which a filing and service fee is collected, excluding the following:

- i. Second and Subsequent Filings for Extension of Time.
- ii. Reargument/Reconsideration.
- iii. Services in Connection with Appeals to or Writs of Certiorari from the United States Supreme Court.
- iv. Miscellaneous Fees.
- v. Subpoenas.

(b) *Court of Common Pleas. Prothonotary. Civil Actions and Legal Proceedings.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed on a civil action or legal proceeding in a Court of Common Pleas whenever it is initiated upon the filing of the first legal paper therein of record with the prothonotary. The first legal paper may be any of the following:

- i. Praecept for a Writ of Summons.
- ii. Complaint.
- iii. Deleted.
- iv. Petition.
- v. Notice of Appeal from a court of limited jurisdiction.
- vi. Petition or grant of any other legal paper commencing an action or proceeding authorized by Act of Assembly or rule of court.

2. For purposes of these regulations, the initiation of a civil action or legal proceeding shall include, but is not limited to:

- i. Actions governed by or authorized under the Pennsylvania Rules of Civil Procedure, such as Civil Action Ejectment, Equity, Ground Rent, Mandamus, Mortgage Foreclosure, Partition of Real Property, Quiet Title, Quo Warranto, Replevin, and the Prevention of Waste.

- ii. Actions pertaining to Dependency, Annulments, Divorce, Custody, Partial Custody, Alimony Pendente Lite, Support, and Paternity. With respect to Divorce actions, a separate statutory fee shall be imposed for each count in the complaint in addition to the count requesting divorce.

- iii. Statutory actions such as Confirmation of Arbitration Awards, Conformation of Confessed Judgment, Declaratory Judgment, Opening or Striking Off a Judgment, Eminent Domain, Habeas Corpus, Proceedings on Liens (other than revival), Name Changes, Partition of Property Held by Husband and Wife as Tenants By the Entireties, Tax Sales of Real Property.

- iv. Other actions not included in subsections (i), (ii) or (iii), such as: Appeals from Board of Elections, Appeals from Board of Viewers, Appeals from Zoning Boards, and Certiorari to Magisterial District Judges.

(c) *Court of Common Pleas. Orphans' Court Clerk, Register of Wills.*

Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incapacitated persons' estates, minors' estates, and inter vivos trusts.

(d) *Court of Common Pleas. Clerk of Court.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed upon conviction, guilty plea, or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or other pretrial diversionary program based upon the initiation of any criminal proceeding. The initiation of a criminal proceeding shall include the following:

- i. Cases commenced at the magisterial district judge level resulting in the issuance of a numbered docket transcript form (OTN), and subsequently waived or held to court.

- ii. The appeal of a summary conviction to the Court of Common Pleas.

- iii. Cases involving juvenile defendants where a petition alleging delinquency has been filed in the Court of Common Pleas.

- iv. Cases involving juvenile defendants certified to the Court of Common Pleas, resulting in the issuance of a numbered docket transcript form (OTN).

- v. Cases involving the severance of charges into separate cases resulting in the issuance of one or more additional numbered docket transcripts (OTNs).

2. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive; other filings for which a fee is imposed and that can be considered a property transfer are included, and the fee shall be imposed. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form.
- ii. Mortgages.
- iii. Mortgage assignments.
- iv. Mortgage releases.
- v. Mortgage satisfaction pieces.
- vi. Installment sales agreements.
- vii. Leases for a term of thirty (30) years or longer.
- viii. Easements.
- ix. Rights of Way.

(e) *Minor Judiciary. Civil and Criminal Proceedings.*

For purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed on the initiation of a legal proceeding except as provided in subsection (iii). The initiation of a legal proceeding, in the following courts of the Minor Judiciary, shall include, but is not limited to, the following:

i. *Magisterial District Judge. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed in connection with the filing of a complaint in Trespass and Assumpsit or for the Recovery of Possession of Real Property (Landlord and Tenant Proceeding) or for any other Civil Action as provided in the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges.

ii. *Magisterial District Judge. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iii. *Magisterial District Judge, Pittsburgh Municipal Court, and Philadelphia Municipal Court. Title 75 Summary Offenses Initiated by Traffic Citation.* Except for the provisions of subsection (g)(2) below, a statutory fee of twelve dollars (\$12.00) shall be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a violation of Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iv. *Pittsburgh Municipal Court. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed in connection with the filing of a civil complaint seeking recovery of fines and penalties imposed by an ordinance of the City of Pittsburgh or by any ordinance or regulation relating to housing and health administered and enforced by the county health department where the violation occurs within the City of Pittsburgh.

v. *Pittsburgh Municipal Court. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition

(ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

vi. *Philadelphia Municipal Court. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed in connection with the filing of a complaint for a Civil Action, as defined in the Philadelphia Municipal Court Rules of Civil Procedure.

vii. *Philadelphia Municipal Court. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of nineteen dollars (\$19.00) shall be imposed upon conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

(f) *Recorders of Deeds.*

Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E), a statutory fee of nineteen dollars (\$19.00) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive; other filings for which a fee is imposed and that can be considered a property transfer are included, and the fee shall be imposed. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form.
- ii. Mortgages.
- iii. Mortgage assignments.
- iv. Mortgage releases.
- v. Mortgage satisfaction pieces.
- vi. Installment sales agreements.
- vii. Leases for a term of thirty (30) years or longer.
- viii. Easements.
- ix. Rights of Way.

(g) *Temporary Surcharge.*

1. Beginning [**July 11, 2022**] **November 1, 2023**, and until July 31, [**2023**] **2025**, for purposes of section [**1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E)**] **2802-E of the Administrative Code of 1929 (71 P.S. § 720.102)**, a temporary surcharge of twenty-one dollars and twenty-five cents (\$21.25) shall be collected by all collectors of the JCS/ATJ/CJEA fee to supplement the nineteen dollars (\$19.00) statutory fee described above. This temporary surcharge may not be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

2. *Magisterial District Judge, Pittsburgh Municipal Court, and Philadelphia Municipal Court. Title 75 Summary Offenses Initiated by Traffic Citation.* Beginning [July 11, 2022] **November 1, 2023**, and until July 31, [2023] **2025**, for purposes of section [**1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E)**] **2802-E of the Administrative Code of 1929 (71 P.S. § 720.102)**, a temporary surcharge of [**ten dollars (\$10.00)**] **twenty one dollars and twenty-five cents (\$21.25)** shall be collected to supplement the twelve dollars (\$12.00) statutory fee imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a violation of Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 23-1580. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1 AND 9]

Order Amending Rules 105, 107, and 903 of the Pennsylvania Rules of Appellate Procedure; No. 309 Appellate Procedural Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Appellate Court Procedural Rules Committee, the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 105, 107, and 903 of the Pennsylvania Rules of Appellate Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 105. [**Waiver and Modification of Rules**] **Application of Rules and Enlargement of Time.**

(a) [**Liberal construction and modification of rules**] **Application.** [—] These rules shall be liberally [**construed**] **applied** to secure the just, speedy, and inexpensive determination of every matter to which they are applicable. In the interest of expediting decision, or for other good cause shown, an appellate court may,

except as otherwise provided in [**paragraph**] **subdivision** (b) [**of this rule**], disregard the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

(b) *Enlargement of [time] Time.* [—] An appellate court for good cause shown may upon application enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time, but the court may not enlarge the time for filing a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, a petition for review, or a petition for specialized review.

[**Official Note**] **Comment:**

42 Pa.C.S. § 5504 provides that the time limited by, *inter alia*, Chapter 55D of the Judicial Code shall not be extended by order, rule, or otherwise, except that the time limited may be extended to relieve fraud or its equivalent, but there will be no extension of time as a matter of indulgence or with respect to any criminal proceeding. However, under 42 Pa.C.S. § 5571(a), statutory time limits under Chapter 55D do not apply to appeals to or other judicial review by the Supreme, Superior, or Commonwealth Courts.

[**Paragraph**] **Subdivision** (b) of this rule is not intended to affect the power of a court to grant relief in the case of fraud or breakdown in the processes of a court.

Rule 107. [**Rules of**] **Construction of Rules.**

[**Chapter 19 of Title 1 of the Pennsylvania Consolidated Statutes (rules of construction)** so far as **not inconsistent with any express provision of these rules, shall be applicable to the interpretation of these rules and all amendments hereto to the same extent as if these rules were enactments of the General Assembly.**] **In the construction of the Pennsylvania Rules of Appellate Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.**

[**Official Note:** The effect of this rule is substantially the same as Pa.R.Civ.P. 76 to 153, which were in turn patterned after the Statutory Construction Act. See also former Commonwealth Court Rules 120 and 121.]

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 903. **Time for Appeal.**

* * * * *

[**Official Note**] **Comment:**

* * * * *

Rule of Appellate Procedure 107 incorporates by reference the rules of construction [**of the Statutory Construction Act of 1972, 1 Pa.C.S. §§ 1901—1991**] **in the Pennsylvania Rules of Judicial Administration, Pa.R.J.A. 104—115.** See [**1 Pa.C.S. § 1908**] **Pa.R.J.A. 107(a)-(b)** relating to computation of time for the rule of construction relating to (1) the exclusion of the first day and inclusion of the last day of a time period and (2) the omission of the last day of a time period which falls on Saturday, Sunday or legal holiday.

* * * * *

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES
COMMITTEE**

**COMMITTEE ON RULES OF EVIDENCE
CIVIL PROCEDURAL RULES COMMITTEE**

**ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

CRIMINAL PROCEDURAL RULES COMMITTEE

**JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101

and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. See, e.g., *Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. See 1 Pa.C.S. §§ 1901—1957; see also, e.g., *Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102—153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.,* 42 Pa.C.S. §§ 6101—6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of

rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g.,* Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.,* “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.,* “No.,” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. See Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” See also *Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine

¹ Similar provisions exist in the federal rules. See, e.g., Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

whether “near misses” may result in procedural default. See, e.g., *Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. See also *Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.
- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”
- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).
- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”
- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court's prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court's order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court's intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, "rulemaking history"; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court's precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment ("Effective October 1, 2021, "rule" includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.").

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider "why" the rule exists, which is subsumed within the "rulemaking history" and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing "why" a rule exists may be indicative of the Supreme Court's intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to "the rulemaking history" within Pa.R.J.A. 108

with the Comment referencing Pa.R.J.A. 103 and Rules Committees' reports. *See also Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports "indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted").

Post-publication, the current factor of "the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects" was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term "provisos" has been replaced with "conditions" to reflect current rulemaking terminology. Additionally, reference to "use of notes and explanatory comments" has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as "commentary."

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amending Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references "procedures," which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court's authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.,* Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be "inconsistent" with the rules; rather, they are "saved" by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 ("All laws shall be suspended to the extent that they are

inconsistent with rules prescribed under the Constitution of 1968.”) was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.
[Pa.B. Doc. No. 23-1581. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 15]

Order Amending Rule 1512 of the Pennsylvania Rules of Appellate Procedure; No. 310 Appellate Procedural Rules Docket

Order

Per Curiam

And Now, this 6th day of November, 2023, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1512 of the Pennsylvania Rules of Appellate Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE II. APPELLATE PROCEDURE CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS PETITION FOR REVIEW

(*Editor’s Note:* Rule 1512 as printed in 210 Pa. Code reads “Official Note” rather than “Note” and the explanatory comments are not currently codified in the *Pennsylvania Code*.)

Rule 1512. Time for Petitioning for Review.

(a) *Appeals* [**authorized by law.—**] **Authorized by Law.** Except as otherwise prescribed by [**paragraph**] **subdivision** (b) [**of this rule**]:

(1) A petition for review of a quasijudicial order, or an order appealable under 42 Pa.C.S. § 763(b) (awards of arbitrators) or under any other provision of law, shall be filed with the prothonotary of the appellate court within 30 days after the entry of the order.

(2) If a timely petition for review of such an order is filed by a party, any other party may file a cross-petition for review within 14 days of the date on which the first petition for review was served, or within the time other-

wise prescribed by [**subparagraph**] **subdivision** (a)(1) [**of this rule**], whichever period last expires.

(b) *Special* [**appellate provisions.—**] **Appellate Provisions.** A petition for review of **a determination by:**

(1) [**A determination of**] the Department of Community and Economic Development in any matter arising under 53 Pa.C.S. §§ 8001—8285 shall be filed within 15 days after entry of the order or the date the determination is deemed to have been made, when no order has been entered [**.**];

(2) [**A determination governed by Pa.R.A.P. 1571 (determinations of the Board of Finance and Revenue)**] **the Board of Finance and Revenue pursuant to Pa.R.A.P. 1571** shall be filed within the appropriate period therein specified [**.**];

(3) [**A determination of**] a Commonwealth agency under 62 Pa.C.S. § 1711.1(g) shall be filed within 15 days of the mailing date of a final determination denying a protest [**.**];

(4) **a criminal justice agency with statewide jurisdiction denying a request for dissemination of criminal history investigative information, in accordance with 18 Pa.C.S. § 9158.4, shall be filed within 45 days after service of the denial.**

(c) *Original* [**jurisdiction actions.—**] **Jurisdiction Actions.** A petition for review of a determination of a government unit within the scope of Chapter 15 but not within the scope of [**paragraphs**] **subdivisions** (a) or (b) [**of this rule**] may be filed with the prothonotary of the appellate court within the time, if any, limited by law.

[**Note:**] **Comment:**

The note to Pa.R.A.P. 903 (time for appeal) addresses the development of the standard 30-day appeal period. Pa.R.A.P. 102 defines a “quasijudicial order” as “an order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.”

Subdivision (b)(4) is limited to review of certain grounds for a denial. See 18 Pa.C.S. § 9158.3(a)(2). Section 9158.4(a) of the Criminal History Record Information Act sets forth certain content requirements for a petition for review. Those requirements are satisfied by Pa.R.A.P. 1513(d) and Pa.R.A.P. 1951.

[**Paragraph**] **Subdivision** (c) relates to matters addressed to the original jurisdiction of an appellate court. For example, equitable matters are governed by existing principles of laches, etc. Other matters, such as petitions for review raising issues formerly cognizable by action in mandamus or *quo warranto*, etc., are governed by the time limits, if any, applicable under the prior procedure. See generally 42 Pa.C.S. §§ 1702 (regarding the Supreme Court’s rulemaking procedures), 1722(c) (Time limitations), 5501—5574 (Limitations of time).

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1976

The right to file a cross appeal from a quasi-judicial order of a government unit (*e.g.* an order of the Public Utility Commission approving a rate increase) is granted, to conform to Rules 901(b) and 1113(b).

EXPLANATORY COMMENT—2002

See Comment following Pa.R.A.P., Rule 511.

APPELLATE COURT PROCEDURAL RULES
COMMITTEE ADOPTION REPORT

Amendment of Pa.R.A.P. 1512

On November 6, 2023, the Supreme Court of Pennsylvania adopted amendments to Pennsylvania Rule of Appellate Procedure 1512. The Appellate Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Criminal History Record Information Act, 18 Pa.C.S. § 9101 *et seq.*, was recently amended to allow a requesting party or their legal representative to “obtain criminal history investigative information for use in or investigation of an actual or potential civil action in this Commonwealth relating to that criminal history investigative information.” 18 Pa.C.S. § 9158.1. Prior to the amendment, the Act contained strict confidentiality provisions that did not permit the disclosure of investigative information to the crime victim.

The Act contains provisions for the request to the criminal justice agency, service of the request, dissemination of the information, receipt of the information, grounds for the denial of the request, and judicial review of denials. *See* 18 Pa.C.S. §§ 9158.2—9158.4. To initiate judicial review, within 45 days after service of a denial, a requesting party must file a petition for review in the court of common pleas in any judicial district in which the criminal justice agency that issued the denial is located. However, if the criminal justice agency has statewide jurisdiction, the petition for review must be filed in Commonwealth Court. 18 Pa.C.S. § 9158.4(a)—(c). Notably, only specific grounds for a denial can be appealed. *See id.* §§ 9158.3(a), 9158.4(a). Section 9158.7(b) of the Act directs the Supreme Court to promulgate rules necessary to implement the Act.

To implement the new provisions of the Act, Pa.R.A.P. 1512(b) has been amended to include the Act’s 45-day appellate window as an exception to the default 30-day window set forth in subdivision (a). The Comment has been revised to include a reference to 18 Pa.C.S. § 9158.3(a)(2) to remind readers that appellate review is limited to certain grounds for a denial. Stylistic revisions to the rule text have also been made.

The Committee did not previously publish the amendments for comment because the amendments codify the current requirements of the Act into the Rules of Appellate Procedure.

The amendments become effective on January 1, 2024.

[Pa.B. Doc. No. 23-1582. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. I]

Order Amending Rules 101, 102, and 103 of the
Pennsylvania Rules of Evidence; No. 964 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Committee on the Rules of Evidence; the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 101, 102, and 103 of the Pennsylvania Rules of Evidence are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope[;], Adoption and Citation, **and Construction of Rules.**

(a) *Scope.* These rules of evidence govern proceedings in all courts of the Commonwealth of Pennsylvania’s [u]Unified [j]Judicial [s]System, except as otherwise provided by law.

(b) *Adoption and Citation.* These rules of evidence are adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968. They shall be known as the Pennsylvania Rules of Evidence and shall be cited as “Pa.R.E.”

(c) Construction. In the construction of the Pennsylvania Rules of Evidence, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.

Comment:

* * * * *

Rule 102. [Purpose] **Application of Rules.**

These rules should be [**construed**] **applied** so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Comment:

This rule is [**identical**] **similar** to F.R.E. 102.

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

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).]

Rule 103. Rulings on Evidence.

* * * * *

Comment:

Pa.R.E. 103(a) differs from F.R.E. 103(a). The Federal Rule says, “A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party. . . .” In Pennsylvania criminal cases, the accused is entitled to relief for an erroneous ruling unless the court finds beyond a reasonable doubt that the error is harmless. *See Commonwealth v. Story*, [476 Pa. 391,] 383 A.2d 155 (Pa. 1978). Civil cases are governed by Pa.R.Civ.P. [No. 126] 126(a) which permits the court to disregard an erroneous ruling “which does not affect the substantial rights of the parties.” Pa.R.E. 103(a) is consistent with Pennsylvania law.

* * * * *

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

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments to paragraph (a) published with the Court’s Order at 31 Pa.B. 6384 (November 24, 2001).

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

SUPREME COURT OF PENNSYLVANIA

APPELLATE COURT PROCEDURAL RULES COMMITTEE

COMMITTEE ON RULES OF EVIDENCE

CIVIL PROCEDURAL RULES COMMITTEE

ORPHANS’ COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans’ Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court’s procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. *See, e.g., Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. *See* 1 Pa.C.S. §§ 1901—1957; *see also, e.g., Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102–153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.*, 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a

rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g., Pa.R.Crim.P. 525* (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules.

There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.*, “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.*, “No.,” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining

the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. See Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” See also *Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine whether “near misses” may result in procedural default. See, *e.g.*, *Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. See also *Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the

¹ Similar provisions exist in the federal rules. See, *e.g.*, Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.

- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”

- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).

- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court’s intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, “rulemaking history”; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court’s precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment (“Effective October 1, 2021, “rule” includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.”).

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider “why” the rule exists, which is subsumed within the “rulemaking history” and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing “why” a rule exists may be indicative of the Supreme Court’s intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to “the rulemaking history” within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules Committees’ reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports “indicate the spirit and motivation behind the drafting of the rule, and

they serve as guidelines for understanding the purpose for which the rule was drafted”).

Post-publication, the current factor of “the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects” was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term “provisos” has been replaced with “conditions” to reflect current rulemaking terminology. Additionally, reference to “use of notes and explanatory comments” has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as “commentary.”

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references “procedures,” which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court’s authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be “inconsistent” with the rules; rather, they are “saved” by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 (“All laws shall be suspended to the extent that they are

inconsistent with rules prescribed under the Constitution of 1968.”) was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1583. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 100, 200, 1000, 1600 AND 2200]

Order Rescinding Rules 101, 102, 103, 104, 106, 107, 108, 127, 128, 129, 130, 131, 132, 133, 152, and 153, and Amending Rules 126, 237.1, 1007.1, 1020, 1601, and 2225 of the Pennsylvania Rules of Civil Procedure; No. 747 Civil Procedural Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Civil Procedural Rules Committee, the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 101, 102, 103, 104, 106, 107, 108, 127, 128, 129, 130, 131, 132, 133, 152, and 153 of the Pennsylvania Rules of Civil Procedure are rescinded, and Rules 126, 237.1, 1007.1, 1020, 1601, and 2225 of the Pennsylvania Rules of Civil Procedure are amended, in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 100. RULES OF CONSTRUCTION

Rule 101. [**Principles of Interpretation**] [**Rescinded**].

[**In the construction of any rule, the principles set forth in Rules 102 to 108 shall be observed, unless the application of such principles would result in a construction inconsistent with the manifest intent of the Supreme Court.**]

Rule 102. [**Number. Tense**] [**Rescinded**].

[**The singular shall include the plural, and the plural, the singular. Words used in the past or present tense shall include the future.**]

Rule 103. [**Words and Phrases**] [**Rescinded**].

[**(a) Words and phrases shall be construed according to rules of grammar and according to their**

common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or as are expressly defined by rule shall be construed according to such peculiar and appropriate or express meaning or definition.

(b) General words shall be construed to take their meanings and be restricted by preceding particular words.]

Rule 104. [Numerals] [Rescinded].

[The Roman numerals and Arabic numerals shall be deemed parts of the English language.]

Rule 106. [Computation of Time] [Rescinded].

[(a) When any period of time is referred to in any rule, such period in all cases, except as otherwise provided in Rules 107 and 108, shall be so computed as to exclude the first and include the last day of such period.

(b) Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.]

* * * * *

Rule 107. [Time. Publication for Successive Weeks] [Rescinded].

[Whenever in any rule providing for the publishing of notices, the phrase “successive weeks” is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in “successive

weeks” shall elapse between the first publication and the day for the happening of the event for which publication shall be made.]

* * * * *

Rule 108. [Time. Computation of Months] [Rescinded].

[Whenever in any rule the lapse of a number of months after or before a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.]

* * * * *

Rule 126. [Liberal Construction and Application of Rules] Application and Construction of Rules.

(a) Application. The rules shall be liberally [construed] applied to secure the just, speedy, and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the [substantial] substantive rights of the parties.

(b) Construction. In the construction of the Pennsylvania Rules of Civil Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.

Comment:

Former Pa.R.Civ.P. 101—104, 106—108, and 127—153 were rescinded and replaced as follows:

<u>Subject</u>	<u>Former Rule</u>	<u>Current Rule</u>
<u>Principles</u>	<u>Pa.R.Civ.P. 101</u>	<u>Pa.R.J.A. 104</u>
<u>Number/Tense</u>	<u>Pa.R.Civ.P. 102</u>	<u>Pa.R.J.A. 105</u>
<u>Words/Phrases</u>	<u>Pa.R.Civ.P. 103</u>	<u>Pa.R.J.A. 106</u>
<u>Numerals</u>	<u>Pa.R.Civ.P. 104</u>	—
<u>Computation of Time</u>	<u>Pa.R.Civ.P. 106</u>	<u>Pa.R.J.A. 107(a)-(b)</u>
<u>Time—Weeks</u>	<u>Pa.R.Civ.P. 107</u>	<u>Pa.R.J.A. 107(c)</u>
<u>Time—Months</u>	<u>Pa.R.Civ.P. 108</u>	<u>Pa.R.J.A. 107(d)</u>
<u>Liberal Construction</u>	<u>Pa.R.Civ.P. 126</u>	<u>Pa.R.J.A. 109(b)</u>
<u>Court Intent</u>	<u>Pa.R.Civ.P. 127</u>	<u>Pa.R.J.A. 108</u>
<u>Presumptions</u>	<u>Pa.R.Civ.P. 128</u>	<u>Pa.R.J.A. 109</u>
<u>Titles</u>	<u>Pa.R.Civ.P. 129</u>	<u>Pa.R.J.A. 110</u>
<u>Common Law</u>	<u>Pa.R.Civ.P. 130</u>	<u>Pa.R.J.A. 111</u>
<u>In Pari Materia</u>	<u>Pa.R.Civ.P. 131</u>	<u>Pa.R.J.A. 112</u>
<u>Inconsistent</u>	<u>Pa.R.Civ.P. 133</u>	<u>Pa.R.J.A. 115</u>
<u>Controls</u>	<u>Pa.R.Civ.P. 132</u>	<u>Pa.R.J.A. 113</u>
<u>Amendatory</u>	<u>Pa.R.Civ.P. 152</u>	<u>Pa.R.J.A. 114(b)</u>
<u>Merger</u>	<u>Pa.R.Civ.P. 153</u>	<u>Pa.R.J.A. 114(c)</u>

* * * * *

Rule 127. [Construction of Rules. Intent of Supreme Court Controls] [Rescinded].

[(a) The object of all interpretation and construction of rules is to ascertain and effectuate the intention of the Supreme Court.

(b) Every rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of a rule are not explicit, the intention of the Supreme Court may be ascertained by considering, among other matters:

- (1) the occasion and necessity for the rule;
- (2) the circumstances under which it was promulgated;
- (3) the mischief to be remedied;
- (4) the object to be attained;
- (5) the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects;
- (6) the consequences of a particular interpretation;
- (7) the contemporaneous history of the rule; and
- (8) the practice followed under the rule.]

Rule 128. [Presumptions in Ascertaining the Intent of the Supreme Court] [Rescinded].

[In ascertaining the intention of the Supreme Court in the promulgation of a rule, the courts may be guided by the following presumptions among others:

- (a) That the Supreme Court does not intend a result that is absurd, impossible of execution or unreasonable;
- (b) That the Supreme Court intends the entire rule or chapter of rules to be effective and certain;
- (c) That the Supreme Court does not intend to violate the Constitution of the United States or of this Commonwealth;
- (d) That if the Supreme Court has construed the language used in a rule or statute, the Supreme Court in promulgating a rule on the same subject matter which employs the same language intends the same construction to be placed upon such language;
- (e) That the Supreme Court intends to favor the public interest as against any private interest;
- (f) That no rule shall be construed to confer a right to trial by jury where such right does not otherwise exist.]

* * * * *

Rule 129. [Construction of Rules. Titles, Provisos, Exceptions and Headings. Use of Notes and Comments] [Rescinded].

[(a) The title or heading of a rule may be considered in construing the rule.

(b) Provisos shall be construed to limit rather than to extend the operation of the clauses to which they refer.

(c) Exceptions expressed in a rule shall be construed to exclude all others.

(d) The title or heading prefixed to a chapter of rules shall not be considered to control but may be used in construing the rules.

(e) Commentary is not a part of the rule text but may be used in construing the rule text.

Comment:

Any statements contained in a publication or adoption report by the Civil Procedural Rules Committee and the Domestic Relations Procedural Rules Committee are for the benefit of those using the rules, but neither constitute part of the rule nor are adopted by the Supreme Court. See Pa.R.J.A. 103, Comment.]

* * * * *

Rule 130. [Rules in Derogation of the Common Law] [Rescinded].

[The principle that laws in derogation of the common law are to be strictly construed, shall have no application to the rules promulgated by the Supreme Court.]

* * * * *

Rule 131. [Rules in Pari Materia] [Rescinded].

[Rules or parts of rules are in pari materia when they relate to the same proceedings or class of proceedings. Rules in pari materia shall be construed together, if possible, as one rule or one chapter of rules.]

* * * * *

Rule 132. [Particular Controls General] [Rescinded].

[Whenever a general provision in a rule shall be in conflict with a particular provision in the same or another rule, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the particular provisions shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be promulgated later and it shall be the manifest intention of the Supreme Court that such general provision shall prevail.]

* * * * *

(Editor's Note: Rule 133 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 133. [Rules Inconsistent with Laws] [Rescinded].

[All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.

Note: See Article V, Section 10(c) of the Constitution of 1968 and Section 1722(a)(1) of the Judicial Code, 42 Pa.C.S. § 1722(a)(1).]

Rule 152. [Construction of Amendatory Rules] [Rescinded].

[Whenever a rule or part of a rule is amended, the amendment shall be construed to merge into

the original rule, become a part thereof, and replace the part amended. The remainder of the original rule and amendment shall be read together and viewed as one rule promulgated at one time; but the portions of the rule which were not altered by the amendment shall be construed as effective from the time of their original promulgation and the new provisions shall be construed as effective only from the date when the amendment became effective.]

* * * * *

Rule 153. [Merger of Subsequent Amendments]
[Rescinded].

[Whenever a rule has been more than once amended, the latest amendment shall be read into the original rule as previously amended and not into such rule as originally promulgated.]

* * * * *

CHAPTER 200. BUSINESS OF COURTS

Rule 237.1. Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a) As used in this rule,

* * * * *

(2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered:

(i) in the case of a judgment of non pros, after the failure to file a complaint and at least ten days prior to the date of the filing of the praecipe to the party's attorney of record or to the party if unrepresented, or

(ii) in the case of a judgment by default, after the failure to plead to a complaint and at least ten days prior to the date of the filing of the praecipe to the party against whom judgment is to be entered and to the party's attorney of record, if any.

The ten-day notice period in subdivision (a)(2)(i) and (a)(2)(ii) shall be calculated forward from the date of the mailing or delivery, in accordance with [**Rule 106**] Pa.R.J.A. 107.

* * * * *

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION VENUE AND PROCESS

(*Editor's Note:* Rule 1007.1 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1007.1. Jury Trial. Demand. Waiver.

(a) ***Demand.*** In any action in which the right to jury trial exists, that right shall be deemed waived unless a party files and serves a written demand for a jury trial not later than twenty days after service of the last permissible pleading. The demand shall be made by endorsement on a pleading or by a separate writing.

[*Note:* Rule 1007.1(a) gives no specific guidance on the existence of a right to jury trial. It could not, in the face of Rule 128(f).]

(b) ***Arbitration Appeal.*** Where an appeal is taken from an award in compulsory arbitration and a jury trial has not theretofore been demanded, the right to a jury

trial shall be deemed waived unless the appellant endorses a demand for a jury trial on the appeal, or unless the appellee files and serves a written demand for a jury trial not later than ten days after being served with the notice of appeal.

[*Note:* Trial without jury shall be conducted in accordance with Rule 1038.]

(c) ***Withdraw of Demand.***

(1) A demand for trial by jury may not be withdrawn without the consent of all parties who have appeared in the action.

(2) A demand for a trial by jury on behalf of a party shall be deemed withdrawn if at the time a case is called for trial that party, without satisfactory excuse, fails to appear or appears but is not ready. Any other party appearing and ready who has not already demanded a trial by jury shall forthwith demand a trial by jury or shall be deemed to have waived the same.

Comment:

This rule provides no specific guidance on the existence of a right to jury trial. See Pa.R.J.A. 109(g). A trial without jury shall be conducted in accordance with Pa.R.Civ.P. 1038.

PLEADINGS

(*Editor's Note:* Rule 1020 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1020. Pleading More Than One Cause of Action. Alternative Pleading. Failure to Join. Bar.

(a) ***Pleading More Than One Cause of Action.*** The plaintiff may state in the complaint more than one cause of action cognizable in a civil action against the same defendant. Each cause of action and any special damage related thereto shall be stated in a separate count containing a demand for relief.

[*Note:* Rule 102 provides that the singular includes the plural and the plural includes the singular.]

(b) ***Joinder.*** If persons join as plaintiffs under Rules 2228, 2229(a) or (e), the complaint shall state the cause of action, any special damage, and the demand for relief of each plaintiff in a separate count, preceded by a heading naming the parties to the cause of action therein set forth.

(c) ***Alternative Pleading.*** Causes of action and defenses may be pleaded in the alternative.

(d) ***Failure to Join—Waiver.*** If a transaction or occurrence gives rise to more than one cause of action heretofore asserted in assumpsit and trespass, against the same person, including causes of action in the alternative, they shall be joined in separate counts in the action against any such person. Failure to join a cause of action as required by this subdivision shall be deemed a waiver of that cause of action as against all parties to the action.

[*Note:*] **Comment:**

Regarding subdivision (a), the singular includes the plural, and the plural, the singular. See Pa.R.J.A. 105.

[**Mandatory**] **Regarding subdivision (b), mandatory joinder is limited to related causes of action heretofore asserted in assumpsit and trespass. There is no mandatory joinder of related causes of action in equity. See [Rule 2226 et seq.] Pa.R.Civ.P. 2226—2248 gov-**

erning joinder. See [**Rule 213(a) and (b)**] **Pa.R.Civ.P. 213(a)-(b)** governing the consolidation and severance of causes of action.

CHAPTER 1600. ACTION FOR DECLARATORY JUDGMENTS

(*Editor's Note:* Rule 1601 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 1601. Action for Declaratory Relief Alone. Jury Trial. Waiver.

(a) **Caption.** A plaintiff seeking only declaratory relief shall commence an action by filing a complaint captioned "Action for Declaratory Judgment." The practice and procedure shall follow, as nearly as may be, the rules governing the civil action.

(b) **Jury Trial Demand and Waiver.** If the right to trial by jury of disputed issues of fact exists in such an action, it shall be deemed waived unless demanded in the time and manner provided by Rule 1007.1.

[**Note:** Rule 1601(b) gives no specific guidance on the existence of a right to jury trial. It could not, in the face of Rule 128(f).]

Comment:

This rule provides no specific guidance on the existence of a right to jury trial. See Pa.R.J.A. 109(g).

Section 7539(b) of the Judicial Code provides:

(b) Jury trial.—When a proceeding under this subchapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

42 Pa.C.S. § 7539(b).

The existence of a right to jury trial on disputed issues of fact will be a matter of determination in each action where only declaratory relief is sought. If the right is claimed and disputed, the court must determine the question on the basis of the nature of the cause of action, the right to be enforced and the "other civil action" which would be brought to enforce it if declaratory judgment did not exist. The flexible Federal practice under Fed.R.Civ.P. 38, 39, and 57, including the procedure for the jury trial of selected issues, may be helpful. Pa.R.Civ.P. 1038.3 may also be applicable.

CHAPTER 2200. ACTIONS FOR WRONGFUL DEATH

(*Editor's Note:* Rule 2225 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 2225. [Rescinded].

[**Note**] **Comment:**

See [**Rule 133**] **Pa.R.J.A. 115** governing the suspension of inconsistent Acts of Assembly.

SUPREME COURT OF PENNSYLVANIA APPELLATE COURT PROCEDURAL RULES COMMITTEE

COMMITTEE ON RULES OF EVIDENCE CIVIL PROCEDURAL RULES COMMITTEE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. See, e.g., *Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. See 1 Pa.C.S. §§ 1901—1957; see also, e.g., *Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102–153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules

contained in statutes. *See, e.g.*, 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the

rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g.*, Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.*, “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.*, “No.” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

¹ Similar provisions exist in the federal rules. *See, e.g.*, Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determina-

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. *See* Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” *See also Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine whether “near misses” may result in procedural default. *See, e.g., Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

tion of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. *See also Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.

- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”

- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).

- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision

regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court’s intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, “rulemaking history”; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court’s precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment (“Effective October 1, 2021, “rule” includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.”).

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider “why” the rule exists, which is subsumed within the “rulemaking history” and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing “why” a rule exists may be indicative of the Supreme Court’s intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to “the rulemaking history” within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules

Committees' reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports "indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted").

Post-publication, the current factor of "the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects" was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term "provisos" has been replaced with "conditions" to reflect current rulemaking terminology. Additionally, reference to "use of notes and explanatory comments" has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as "commentary."

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules In Pari Materia.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references "procedures," which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court's authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be "inconsistent" with the rules; rather, they are "saved" by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 ("All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.") was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.
[Pa.B. Doc. No. 23-1584. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Amending Rule 1.2 of the Pennsylvania Rules of Orphans' Court Procedure; No. 966 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1.2 of the Pennsylvania Rules of Orphans' Court Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on January 1, 2024.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.2. [Construction and Application of Rules] Purpose, Application, and Construction of Rules.

(a) [**The**] **Purpose.** **These** Rules adopted by the Supreme Court [**regulating**] **regulate** the practice and procedure of the Orphans' Court Divisions of this Commonwealth and the local rules adopted by such courts [**shall be liberally construed to secure the just, timely and efficient determination of every action or proceeding to which they are applicable**].

(b) **Application.** **These Rules shall be liberally applied to secure the just, timely, and efficient determination of every action or proceeding to which they are applicable.** The court at every stage of any action or proceeding may disregard any error or defect of procedure that does not affect the substantive rights of the parties in interest.

(c) [**The principles of interpretation and related matters set forth in Pa.R.C.P. Nos. 102 through 153 inclusive, with the exception of Pa.R.C.P. No. 126, shall apply to these Rules.**] **Construction.** **In the construction of the Pennsylvania Rules of Orphans' Court Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.**

[**Note:** Rule 1.2(a) is identical to former Rule 2.1. Rule 1.2(b) is new.

Explanatory] Comment:

The Orphans' Court Division exercises equitable powers and applies equitable principles. *Estate of Hahn*, 369 A.2d 1290, 1291-92 (Pa. 1977); *Estate of Freihofer*, 174 A.2d 282, 284 (Pa. 1961).

[The question frequently arises as to the effect and use of the notes and explanatory comments which are issued with the Orphans' Court Rules. Notes and explanatory comments are not part of the Rules but they may be used in construing the Rules. The Supreme Court of Pennsylvania has stated in *Laudenberger v. Port Authority of Allegheny County*, 436 A.2d 147, 151 (Pa. 1981):

These explanatory notes have not been officially adopted or promulgated by this Court, nor do they constitute part of the rule. However, they indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted.]

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES
COMMITTEE**

**COMMITTEE ON RULES OF EVIDENCE
CIVIL PROCEDURAL RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

**CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

**MINOR COURT RULES COMMITTEE
ADOPTION REPORT**

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania

Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. See, e.g., *Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. See 1 Pa.C.S. §§ 1901—1957; see also, e.g., *Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—	—	—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102–153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.*, 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of

Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g., Pa.R.Crim.P. 525* (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g., “VII” v. “7” v. “seven.”* While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e., “No.”* in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construc-

tion to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. See Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction.

¹ Similar provisions exist in the federal rules. See, e.g., Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” See also *Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine whether “near misses” may result in procedural default. See, e.g., *Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. See also *Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.
- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”
- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).
- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

• Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court’s intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, “rulemaking history”; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court’s precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment (“Effective October 1, 2021, “rule” includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.”).

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider “why” the rule exists, which is subsumed within the “rulemaking history” and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing “why” a rule exists may be indicative of the Supreme Court’s intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to “the rulemaking history” within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules Committees’ reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports “indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted”).

Post-publication, the current factor of “the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects” was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term “provisos” has been replaced with “conditions” to reflect current rulemaking terminology. Additionally, reference to “use of notes and explanatory comments” has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as “commentary.”

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

**Rule 115. Procedures Inconsistent with Rules.—
Formerly Pa.R.Civ.P. 133**

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references “procedures,” which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court’s authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be “inconsistent” with the rules; rather, they are “saved” by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 (“All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.”) was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1585. Filed for public inspection November 17, 2023, 9:00 a.m.]

**Title 231—RULES OF
CIVIL PROCEDURE**

PART II. ORPHANS’ COURT RULES

[231 PA. CODE PART II]

**Proposed Rescission and Replacement of Register
of Wills Forms RW-02 and RW-07**

The Orphans’ Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the rescission and replacement of Register of Wills Forms RW-02 (Petition for Grant of Letters) and RW-07 (Notice of Estate Administration). Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

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

Pamela S. Walker, Counsel
Orphans’ Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by January 18, 2024. 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 Orphans’ Court
Procedural Rules Committee*

JULIAN E. GRAY, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS’ COURT RULES

INDEX TO APPENDIX

ORPHANS’ COURT AND REGISTER OF WILLS
FORMS ADOPTED BY SUPREME COURT PURSUANT
TO Pa. O.C. Rule 1.8

Available as Fill-in Forms on Website of Administrative
Office of Pennsylvania Courts

[http://www.pacourts.us/forms/for-the-public/
orphans-court-forms](http://www.pacourts.us/forms/for-the-public/orphans-court-forms)

Orphans’ Court and Administration Forms

* * * * *

D. Register of Wills Forms

* * * * *

7. Notice of Estate Administration Pursuant to
[Pa. O.C. Rule] Pa.R.O.C.P. 10.5. RW-07

* * * * *

PETITION FOR GRANT OF LETTERS
REGISTER OF WILLS OF

Petitioner(s) named below, who is/are 18 years of age or older, apply(ies) for Letters as specified below, and in support thereof aver(s) the following and respectfully request(s) the grant of Letters in the appropriate form:

Decedent's Information

Name: File No: (Assigned by Register)
a/k/a:
a/k/a:
a/k/a:
Date of Death: Social Security No:
Age at death:

Decedent was domiciled at death in County, (State) with his/her last principal residence at
Street address, Post Office and Zip Code City, Township or Borough County

Decedent died at
Street address, Post Office and Zip Code City, Township or Borough County State

Estimate of value of decedent's property at death:
If domiciled in Pennsylvania... All personal property \$
If not domiciled in Pennsylvania... Personal property in Pennsylvania \$
If not domiciled in Pennsylvania... Personal property in County \$
Value of real estate in Pennsylvania... \$
TOTAL ESTIMATED VALUE... \$ 0.00

Real estate in Pennsylvania situated at:
(Attach additional sheets, if necessary.) Street address, Post Office and Zip Code City, Township or Borough County

Filed for litigation purposes only. No assets or assets unknown.
A. Petition for Probate and Grant of Letters Testamentary
Petitioner(s) aver(s) he/she/they is/are the Executor(s) named in the last Will of the Decedent, dated and Codicil(s) thereto dated
State relevant circumstances (e.g. renunciation, death of executor, etc.)

Except as follows: Decedent was neither the victim of a killing nor ever adjudicated to an incapacitated person; or after the execution of the instruments(s) offered for probate, Decedent did not marry, was not divorced, was not a party to a pending divorce proceeding wherein the grounds for divorce had been established as defined in 23 Pa. C.S. 3323(g), and did not have a child born or adopted.

NO EXCEPTIONS EXCEPTIONS

B. Petition for Grant of Letters of Administration (If applicable)
c.t.a., d.b.n., d.b.n.c.t.a., pendente lite, durante absentia, durante minoritate

If Administration, c.t.a. or d.b.n.c.t.a., enter date of Will in Section A above and complete list of heirs.

Except as follows: Decedent was not a party to a pending divorce proceeding wherein the grounds for divorce had been established as defined in 23 Pa. C.S. § 3323(g) and was neither the victim of a killing nor ever adjudicated an incapacitated person.

NO EXCEPTIONS EXCEPTIONS

Petitioner(s), after a proper search has/have ascertained that Decedent left no Will and was survived by the following spouse (if any) and heirs (attach additional sheets, if necessary):

Table with 3 columns: Name, Relationship, Address. Multiple empty rows for listing heirs.

Oath of Personal Representative

Official Use Only

COMMONWEALTH OF PENNSYLVANIA }
} SS:
COUNTY OF _____ }

Table with 2 columns: Petitioner(s) Printed Name, Petitioner(s) Printed Address

The Petitioner(s) above-named swear(s) or affirm(s) the statements in the foregoing Petition are true and correct to the best of the knowledge and belief of Petitioner(s) and that, as Personal Representative(s) of the Decedent, the Petitioner(s) will well and truly administer the estate according to law.

Sworn to or affirmed and subscribed before _____ Date _____
me this ____ day of _____, _____ Date _____
By: _____ Date _____
For the Register _____ Date _____

BOND Required: [] YES [] NO
FEES:

Letters \$ _____
() Short Certificate(s)..... _____
() Renunciation(s)..... _____
() Codicil(s)..... _____
() Affidavit(s)..... _____
Bond..... _____
Commission..... _____
Other _____
Automation Fee..... _____
JCS Fee..... _____
TOTAL..... \$ 0.00

To the Register of Wills:
Please enter my appearance by my signature below:

Attorney Signature:
Printed Name:
Supreme Court
ID Number:
Firm Name:
Address:
Phone:
Fax:
Email:

DECREE OF THE REGISTER

Estate of _____ File No: _____
a/k/a: _____

AND NOW, _____, _____, in consideration of the foregoing Petition,
satisfactory proof having been presented before me, IT IS DECREED that Letters _____
are hereby granted to _____
in the above estate and (if applicable) that
the instrument(s) dated _____
described in the Petition be admitted to probate and filed of record as the last Will (and Codicil(s)) of Decedent.

Register of Wills

IMPORTANT NOTICE

**NOTICE OF ESTATE ADMINISTRATION
PURSUANT TO Pa.R.O.C.P.10.5**

THIS NOTICE DOES NOT MEAN THAT YOU WILL RECEIVE ANY
MONEY OR PROPERTY FROM THIS ESTATE OR OTHERWISE

*Whether you will receive any money or property will be determined wholly or partly
by the decedent's will. If the decedent died without a will, whether you will receive
any money or property will be determined by the intestacy laws of Pennsylvania.*

BEFORE THE REGISTER OF WILLS.

IN RE: ESTATE OF _____, Deceased
File Number _____

TO: _____ (Addressee)
_____ (Address)

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named
below. The Decedent died on _____, a resident of _____.

The Decedent died: testate (with a Will) or intestate (without a Will).

You are receiving this notice because you may have a beneficial interest in the estate.

The name(s), address(es), and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
_____	_____	_____
_____	_____	_____

If the Decedent died testate, the Will has been filed with the Office of the Register of Wills of _____
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register
of Wills of _____.

The Register of Wills address is _____,
and telephone number is _____.

A copy of the Will or Petition may be obtained by contacting the Register of Wills and paying the charges for duplication.
Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Person

Name of Representative and Title

Address

Address

Telephone

Telephone

Email

Email

Signature of Person

Signature of Officer/Representative

Form RW-07 rev. xx/xx/xxxx

PUBLICATION REPORT

Proposed Rescission and Replacement of Register of Wills Forms RW-02 and RW-07

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the rescission and replacement of Register of Wills Forms RW-02 (Petition for Grant of Letters) and RW-07 (Notice of Estate Administration). This proposal would update the two forms to better reflect underlying statutory requirements, enhance clarity, and achieve consistent formatting.

Form RW-02 (Petition for Grant of Letters)

The Committee received correspondence suggesting the revision of form RW-02. The correspondent perceived that paragraph A of the form pertaining to exceptions reflected an inaccurate interpretation of the law. Paragraph A currently provides:

Except as follows: after the execution of the instrument(s) offered for probate Decedent did not marry, was not divorced, was not a party to a pending divorce proceeding wherein the grounds for divorce had been established as defined in 23 Pa.C.S. § 3323(g), and did not have a child born or adopted; and Decedent was neither the victim of a killing nor ever adjudicated an incapacitated person.

This language was added to the form in 2011 in response to Act 85 of 2010, which, among other things, amended 20 Pa.C.S. §§ 2106 and 2507 to add pending divorce actions as exclusionary circumstances from taking the spousal share or inheriting under a will absent clear language in the will that the decedent intended the bequest to survive the divorce. The Committee found that, as drafted, current paragraph A suggests that incapacity of the decedent need only be reported if it was adjudicated after the execution of the will. Therefore, the Committee drafted revisions to paragraph A intended to clarify the need to report incapacity or murder of the decedent regardless of temporal relation to execution of the will.

During its discussions, the Committee also discussed whether it would be helpful to include a checkbox on the Petition for Grant of Letters to indicate that the estate is being opened for litigation purposes only, particularly when the estate has no assets or the assets are unknown. A similar checkbox currently appears on the Pennsylvania Department of Revenue Estate Information Sheet, Form REV-346. The Committee believed adding the checkbox would have the benefit of making the Register of Wills aware that an inventory is not likely to be filed in the case of an estate without assets.

Form RW-07 (Notice of Estate Administration)

The Committee also received a request to examine Form RW-07, specifically the requirement for the person completing the form to identify the recipient's potential beneficial interest in the estate. Currently, the form provides "You [*i.e.*, the recipient] may have a beneficial interest in the estate as follows: _____." The correspondent found the language potentially confusing to recipients of the form in light of the disclaimer that "This Notice does not mean that you will receive money or property from the estate or otherwise". Further, while the writer did not find completing the form problematic when the relationship between the decedent and the beneficiary is readily apparent, there are occasional circumstances when relationships and, thus, the beneficial interests, are more difficult to discern. There is also a concern that beneficial interests could change during the period of

estate administration, *e.g.*, when a beneficiary disclaims. Finally, the correspondent queried whether identifying a potential beneficial interest could be considered legal advice to a non-client or invite a conflict with a client's interests.

The Committee believes the intent of Form RW-07 is to advise every person who could have an interest in the estate that one has been opened, who is the personal representative, and how to obtain a copy of the will or petition for grant of letters. This information enables the notice recipient to take steps to identify and secure his or her potential beneficial interest. The Committee agreed that the recipient of the notice should decide if he or she wants to investigate the potential beneficial interest, rather than being informed what the sender thinks the interest is. The Committee agreed it would be helpful to change the wording on the Notice to: "You are receiving this notice because you may have a beneficial interest in the estate." This change means that the recipient will learn an estate has been opened and not the exact nature of the potential interest.

The Committee proposes other stylistic changes to the notice, such as updating a citation, adding blank lines so the form has a consistent appearance, and changing a reference from "beneficiary" to "addressee."

* * * * *

The Committee invites all comments, concerns, and suggestions regarding this proposal.

[Pa.B. Doc. No. 23-1586. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 6]

Order Amending Rules 101 and 600 of the Pennsylvania Rules of Criminal Procedure; No. 549 Criminal Procedural Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 101 and 600 of the Pennsylvania Rules of Criminal Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

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

Rule 101. Purpose, **Application**, and Construction **of Rules**.

[(A)] **(a) Purpose.** These rules are intended to provide for the just determination of every criminal proceeding.

[(B)] **(b) Application.** These rules shall be [construed] **applied** to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

[(C)] **(c) Construction.** [To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.] **In the construction of the Pennsylvania Rules of Criminal Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.**

Comment:

These rules were adopted under the Act of July 11, 1957, P.L. 819, 17 P.S. § 2084 (Supp.), which was repealed by JARA, 42 P.S. § 20002(a), and replaced by 42 Pa.C.S. § 1722(a)(1).

[**Official Note:** Rule 2 adopted June 30, 1964, effective January 1, 1965; renumbered Rule 101 and amended March 1, 2000, effective April 1, 2001.

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).]

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART A. General Provisions

Rule 600. Prompt Trial.

* * * * *

Comment:

* * * * *

When calculating the number of days set forth herein, see [the Statutory Construction Act, 1 Pa.C.S. § 1908] **Pa.R.J.A. 107.**

* * * * *

[**Official Note:** Rule 1100 adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; Comment revised September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 600 and amended March 1, 2000, effective April 1, 2001; Comment revised April 20, 2000, effective July 1, 2000; rescinded October 1, 2012, effective July 1, 2013. New Rule 600 adopted October 1, 2012, effective July 1, 2013.

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the September 13, 1995 Comment revision published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

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 April 20, 2000 Comment revision concerning Commonwealth v. Hill and Commonwealth v. Cornell published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the October 1, 2012 rescission of current Rule 600 and the provisions of new Rule 600 published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).]

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES
COMMITTEE**

**COMMITTEE ON RULES OF EVIDENCE
CIVIL PROCEDURAL RULES COMMITTEE
ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

**CRIMINAL PROCEDURAL RULES COMMITTEE
JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. *See, e.g., Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. *See* 1 Pa.C.S. §§ 1901—1957; *see also, e.g., Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v.*

Wardlaw, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102—153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the

possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.,* 42 Pa.C.S. §§ 6101—6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consis-

tent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. See *Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. See, e.g., Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, e.g., “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, i.e., “No.” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of

construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. See Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

¹ Similar provisions exist in the federal rules. See, e.g., Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” *See also Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine whether “near misses” may result in procedural default. *See, e.g., Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. *See also Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.

- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”

- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).

- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court’s intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, “rulemaking history”; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court’s precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment (“Effective October 1, 2021, “rule” includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.”).

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider “why” the rule exists, which is subsumed within the “rulemaking history” and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing “why” a rule exists may be indicative of the Supreme Court’s intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to “the rulemaking history” within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules Committees’ reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports “indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted”).

Post-publication, the current factor of “the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects” was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term “provisos” has been replaced with “conditions” to reflect current rulemaking terminology. Additionally, reference to “use of notes and explanatory comments” has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as “commentary.”

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references “procedures,” which is intended to exclude substantive rules of evidence that may be enacted by statute. *See* *Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court’s authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be “inconsistent” with the rules; rather, they are “saved” by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 (“All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.”) was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1587. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Amending Rules 101 and 1101 of the Pennsylvania Rules of Juvenile Court Procedure; No. 965 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Juvenile Court Procedure 101 and 1101 are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

Rule 101. Purpose, **Application**, and Construction of **Rules**.

[(A)] (a) **Purpose**. These rules are intended to provide for the just determination of every delinquency

proceeding **and effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).**

[(B)] (b) **Application.** These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, and shall be [**construed**] **applied** to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

[(C)] These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

(D) To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.]

(c) **Construction.** In the construction of the Pennsylvania Rules of Juvenile Court Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.

[*Official Note:* Rule 101 adopted April 1, 2005, effective October 1, 2005.]

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

Rule 1101. Purpose, **Application**, and Construction of **Rules.**

[(A)] (a) **Purpose.** These rules are intended to provide for the just determination of every dependency proceeding **and effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).**

[(B)] (b) **Application.** These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, and shall be [**construed**] **applied** to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

[(C)] These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

(D) To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.]

(c) **Construction.** In the construction of Pennsylvania Rules of Juvenile Court Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.

[*Official Note:* Rule 1101 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1101 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).]

SUPREME COURT OF PENNSYLVANIA APPELLATE COURT PROCEDURAL RULES COMMITTEE

COMMITTEE ON RULES OF EVIDENCE CIVIL PROCEDURAL RULES COMMITTEE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE ADOPTION REPORT

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and 600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. *See, e.g., Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. *See* 1 Pa.C.S. §§ 1901—1957; *see also, e.g., Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102–153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.,* 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of

Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g.*, Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.*, “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.*, “No.,” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. *See* Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” *See also Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine

¹ Similar provisions exist in the federal rules. *See, e.g.*, Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

whether “near misses” may result in procedural default. *See, e.g., Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. *See also Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.

- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”

- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).

- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).

- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”

- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.—Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court’s prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court’s order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court’s intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, “rulemaking history”; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court’s precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment (“Effective October 1, 2021, “rule” includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.”).

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider “why” the rule exists, which is subsumed within the “rulemaking history” and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing “why” a rule exists may be indicative of the Supreme Court’s intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to “the rulemaking history” within Pa.R.J.A. 108

with the Comment referencing Pa.R.J.A. 103 and Rules Committees' reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports "indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted").

Post-publication, the current factor of "the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects" was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term "provisos" has been replaced with "conditions" to reflect current rulemaking terminology. Additionally, reference to "use of notes and explanatory comments" has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as "commentary."

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendatory Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references "procedures," which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court's authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.*, Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be "inconsistent" with the rules; rather, they are "saved" by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 ("All laws shall be suspended to the extent that they are

inconsistent with rules prescribed under the Constitution of 1968.") was retained and incorporated into this rule.

* * * * *

This rulemaking becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1588. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Amending Rule 204 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges; No. 537 Magisterial Rules Docket

Order

Per Curiam

And Now, this 3rd day of November, 2023, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 51 Pa.B. 5532 (September 4, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204 is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 204. Purpose and [**Intent**] **Construction** of Rules.

(a) Purpose. The purpose and intent of these rules is to provide a complete and exclusive procedure for every action or proceeding to which they are applicable.

(b) Construction. In the construction of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.

[**Official Note**] **Comment:**

This rule sets forth the general purpose and intent to make mandatory the use of the procedures prescribed in these rules.

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES
COMMITTEE**

**COMMITTEE ON RULES OF EVIDENCE
CIVIL PROCEDURAL RULES COMMITTEE**

**ORPHANS' COURT PROCEDURAL RULES
COMMITTEE**

CRIMINAL PROCEDURAL RULES COMMITTEE

**JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

**MINOR COURT RULES COMMITTEE
ADOPTION REPORT**

Adoption of Pa.R.J.A. 104—115; Rescission of Pa.R.Civ.P. 101—104, 106—108, and 127—153; Amendment of Pa.R.Civ.P. 126, 237.1, 1007.1, 1020, 1601, and 2225, Pa.R.O.C.P. 1.2, Pa.R.Crim.P. 101 and 600, Pa.R.J.C.P. 101 and 1101, Pa.R.A.P. 105, 107, and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101, 102, and 103

On November 3, 2023, the Supreme Court approved the extraction of rules of construction from the Pennsylvania Rules of Civil Procedure and their placement in the Pennsylvania Rules of Judicial Administration through the rescission of Pennsylvania Rules of Civil Procedure 101—104, 106—108, and 127—153, amendment of Pennsylvania Rules of Civil Procedure 126, 237.1, 1007.1, 1020, 1601, and 2225, and the adoption of Pennsylvania Rules of Judicial Administration 104—115. The Court also amended Pennsylvania Rule of Orphans' Court Procedure 1.2, Pennsylvania Rules of Criminal Procedure 101 and

600, Pennsylvania Rules of Juvenile Court Procedure 101 and 1101, Pennsylvania Rules of Appellate Procedure 105, 107, and 903, Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 204, and Pennsylvania Rules of Evidence 101, 102, and 103 to establish and reference the rules of construction for the Court's procedural and evidentiary bodies of rules. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

Background

Procedural rules adopted by the Supreme Court have the force of statute. *See, e.g., Dombrowski v. City of Philadelphia*, 245 A.2d 238, 241 n.4 (Pa. 1968). Procedural rules, like statutes, may be subject to interpretation based upon their language and the circumstances in which they apply. To guide the interpretation of rules, courts have relied upon rules of construction used for the interpretation of statutes. *See* 1 Pa.C.S. §§ 1901—1957; *see also, e.g., Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) (interpreting Pa.R.Crim.P.); *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021) (interpreting Pa.R.A.P.).

In 1939, rules of construction were added to the Pennsylvania Rules of Civil Procedure based largely on language contained in sections of the Statutory Construction Act of May 28, 1937, P.L. 1019, with modification to reflect their intended application to rules of court. Over time, the Statutory Construction Act, as well as the procedural rules of construction, have been amended to their present form:

Subject	1937 Statute	1939 Rule	Present Statute	Present Rule
Title/Citation	—		—	Pa.R.Civ.P. 51
Effective Date	—	Pa.R.Civ.P. 51	—	Pa.R.Civ.P. 52
Definitions	46 P.S. § 601	Pa.R.Civ.P. 76	1 Pa.C.S. § 1991	Pa.R.Civ.P. 76
Principles	46 P.S. § 531	Pa.R.Civ.P. 101	1 Pa.C.S. § 1901	Pa.R.Civ.P. 101
Number/Tense	46 P.S. § 532	Pa.R.Civ.P. 102	1 Pa.C.S. § 1902	Pa.R.Civ.P. 102
Words/Phrases	46 P.S. § 533	Pa.R.Civ.P. 103	1 Pa.C.S. § 1903	Pa.R.Civ.P. 103
Numerals	46 P.S. § 534	Pa.R.Civ.P. 104	1 Pa.C.S. § 1904	Pa.R.Civ.P. 104
Bonds	46 P.S. § 536	Pa.R.Civ.P. 105	1 Pa.C.S. § 1906	Pa.R.Civ.P. 105
Comp Time	46 P.S. § 538	Pa.R.Civ.P. 106	1 Pa.C.S. § 1908	Pa.R.Civ.P. 106
Time—Weeks	46 P.S. § 539	Pa.R.Civ.P. 107	1 Pa.C.S. § 1909	Pa.R.Civ.P. 107
Time—Months	46 P.S. § 540	Pa.R.Civ.P. 108	1 Pa.C.S. § 1910	Pa.R.Civ.P. 108
Liberal Con	—	Pa.R.Civ.P. 126	—	Pa.R.Civ.P. 126
Court Intent	46 P.S. § 551	Pa.R.Civ.P. 127	1 Pa.C.S. § 1921	Pa.R.Civ.P. 127
Presumptions	46 P.S. § 552	Pa.R.Civ.P. 128	1 Pa.C.S. § 1922	Pa.R.Civ.P. 128
Grammar	46 P.S. § 553	Pa.R.Civ.P. 129	1 Pa.C.S. § 1923	—
Titles	46 P.S. § 554	Pa.R.Civ.P. 130	1 Pa.C.S. § 1924	Pa.R.Civ.P. 129
Common Law	46 P.S. § 558	Pa.R.Civ.P. 131	1 Pa.C.S. § 1928	Pa.R.Civ.P. 130
Pari Materia	46 P.S. § 562	Pa.R.Civ.P. 132	1 Pa.C.S. § 1932	Pa.R.Civ.P. 131
Inconsistent	—	—	—	Pa.R.Civ.P. 133
Controls	46 P.S. § 563	Pa.R.Civ.P. 133	1 Pa.C.S. § 1933	Pa.R.Civ.P. 132
Eff Date Amd	—	Pa.R.Civ.P. 151	—	Pa.R.Civ.P. 52
Amendatory	46 P.S. § 573	Pa.R.Civ.P. 152	1 Pa.C.S. § 1953	Pa.R.Civ.P. 152
Merger	46 P.S. § 574	Pa.R.Civ.P. 153	1 Pa.C.S. § 1954	Pa.R.Civ.P. 153

These rules of construction have guided the interpretation of the Rules of Civil Procedure. *See, e.g., Bruno v. Erie Ins. Co.*, 106 A.3d 48 (Pa. 2014); *Terra Technical Services, LLC v. River Station Land, L.P.*, 124 A.3d 289 (Pa. 2015).

Many of the other bodies of rules have rules of construction of varying degree. The Rules of Criminal Procedure, Rules of Juvenile Court Procedure, and Rules of Appellate Procedure simply reference the “rules of statutory construction” and address the consequence of procedural defect. The Rules of Orphans’ Court Procedure incorporate by reference Pa.R.Civ.P. 102–153 but exclude Pa.R.Civ.P. 126.

The Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges do not reference rules of construction but do contain rules based upon Pa.R.Civ.P. 106 and 108 for the computation of time. While users in this non-record forum may infrequently consult rules of construction, that does not eliminate the possibility of ambiguity arising from the application of procedural rules in ever-changing circumstances.

The Rules of Evidence do not reference rules of construction, relying instead on Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”) to guide the construction of the rules. Thus, the incorporation of rules of construction within the Rules of Evidence would be a new concept that does not appear in the Federal Rules of Evidence.

Evidentiary rules are not limited to the Rules of Evidence; there is a rich source of evidentiary rules contained in statutes. *See, e.g.*, 42 Pa.C.S. §§ 6101–6160; 42 Pa.C.S. § 5985.1, § 5986, and § 5993. Those statutory-based evidentiary rules are subject to the rules of statutory construction set forth in Title 1 of Pennsylvania’s Consolidated Statutes. Therefore, it would be consistent that rule-based evidentiary rules be subject to similar rules of construction. Additionally, the Court has previously applied the rules of statutory construction to a rule of evidence found in the Pennsylvania Rules of Criminal Procedure. *See Commonwealth v. McClelland*, 233 A.3d 717, 734 (Pa. 2020) (discussing Pa.R.Crim.P. 542(E) and the admissibility of hearsay evidence at a preliminary hearing). This application is informative insofar as the Court has used rules of construction to guide the interpretation of a rule of evidence notwithstanding that the rule was not located in the Rules of Evidence.

To provide for uniform rules of construction for all procedural and evidentiary bodies of rules, the detailed rules of construction were removed from the Rules of Civil Procedure, revised if merited, and relocated to the Rules of Judicial Administration to immediately follow the rules governing the rulemaking process. Having one set of rules of construction for all bodies of rules will permit readers to understand their application across all rules rather than a particular body of rules. Further, replicating the same rules of construction within each body of rules seemed unnecessarily duplicative and may invite inconsistency in the application of identically worded rules. Therefore, any rules of construction organic to a body of rules have been removed with each body of rules thereafter containing a reference to the Rules of Judicial Administration concerning the rules of construction. Additionally, insofar as practicable, the title to the

rule within each body of rules referencing the Rules of Judicial Administration includes the term “Construction” as a common signal.

However, not every rule of construction found in the Rules of Civil Procedure has been relocated to the Rules of Judicial Administration. Pa.R.Civ.P. 105 concerning bonds would remain in the Pennsylvania Rules of Civil Procedure because that rule is specific to civil proceedings. Application of that guidance to other bodies of rules may unintentionally conflict with existing provisions. *See, e.g.*, Pa.R.Crim.P. 525 (bail bond).

Pa.R.Civ.P. 104 concerning Roman numerals and Arabic numerals being deemed parts of the English language has been omitted from the newly established rules of construction. Such an anachronistic provision appeared unnecessary for the modern construction of judicial rules. There is a dearth of Pennsylvania cases litigating the meaning of numerals within the rules based simply on the fact that they are expressed as numbers rather than stated in English, *e.g.*, “VII” v. “7” v. “seven.” While that may owe to the existence of Pa.R.Civ.P. 104 and 1 Pa.C.S. § 1904, it is submitted that any ambiguity may be resolved by the context in which the numerals are used and not whether numerals are or are not part of the English language. For example, “1/2” can be an expression of a mathematical operation or a date, which may be an ambiguity resolved by examining its context, but its existence cannot be ignored because Arabic numbers were used. The rejected need for such a rule is exemplified by the discontinued use of the *numero* sign, *i.e.*, “No.,” in the citation of the rules.

Consideration was given to whether the rules of construction should be further modified to improve readability and applicability to rules, as opposed to statutes. As observed, the Rules of Civil Procedure’s rules of construction were largely based on the rules of statutory construction. Therefore, there was merit in preserving the operative text to the extent it was feasible. This approach allows the application of the statutory rules of construction to inform the application of the judicial rules of construction given that both are similarly worded. Further, this maintains consistency with prior Court interpretations of rules citing the statutory rules of construction. Additionally, this consistency reduces the complexity for the reader to understand and employ two different rules of construction. Notwithstanding the goal of maintaining existing language, there were some aspects of the rules of construction that were revised to clarify their application.

A proposal was published for comment, see 51 Pa.B. 5532 (September 4, 2021). A commenter supporting the proposal suggested that a provision similar to Pa.R.Civ.P. 126 be added to the proposed rules of construction. That rule states:

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Pa.R.Civ.P. 126. A similar provision is contained in Pa.R.O.C.P. 1.2(a).¹

The Pennsylvania Rules of Juvenile Court Procedure contain a provision similar to the first sentence of Pa.R.Civ.P. 126, see Pa.R.J.C.P. 101(A)-(B); 1101(A)-(B), as do the Pennsylvania Rules of Criminal Procedure, see Pa.R.Crim.P. 101(A)-(B), as do the Pennsylvania Rules of Evidence, see Pa.R.E. 102 (“These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.”). Similarly, the Pennsylvania Rules of Appellate Procedure contain a “just, speedy, and inexpensive” provision. See Pa.R.A.P. 105(a). There is no analogue to Pa.R.Civ.P. 126 in the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges.²

The first sentence of Pa.R.Civ.P. 126, and similar provisions in the other bodies of rules, will aid the construction of the rules. Pa.R.J.A. 109 sets forth the presumptions in ascertaining the Supreme Court’s intention in the adoption or amendment of a rule. That rule has been revised to set forth the following in subdivision (b): “The Supreme Court intends a rule to be construed to secure the just, speedy, and inexpensive determination of every action or proceeding to which it is applicable.” This presumption is only one of several presumptions in ascertaining intent. For example, the presumption of a “just, speedy, and inexpensive determination” must be balanced by the presumptions that the Court did not intend to violate the United States or Pennsylvania Constitutions.

Omitted from this presumption is any mention of “strict” or “liberal” because using those adjectives to describe the manner of construction may displace the very purpose of the other rules of construction or create an internal inconsistency within the rules of construction. Those adjectives are more appropriate for application of the rules, not their construction.

Concomitantly with the post-publication revision of Pa.R.J.A. 109 to add the language similar to the first sentence of Pa.R.Civ.P. 126 for the construction of rules, the existing “just, speedy, and inexpensive” provisions within the Rules of Civil Procedure, Rules of Orphans’ Court Procedure, Rules of Criminal Procedure, Rules of Juvenile Court Procedure, Rules of Appellate Procedure, and Rules of Evidence have been retained with clarification that those provisions are to be used when *applying* the rules.

The second sentence of Pa.R.Civ.P. 126 informs the reader how the rules should be *applied* in light of procedural non-compliance: “The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” See also *Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) (“[W]e incorporated equitable considerations in the form of a doctrine of substantial compliance into Rule 126, giving the trial courts the latitude to overlook any ‘procedural defect’ that does not prejudice a party’s rights.”). This authority can be used to determine

¹ Similar provisions exist in the federal rules. See, e.g., Fed.R.Civ.P. 1 (“They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.”); Fed.R.Crim.P. 2 (“These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.”).

² The absence of such a provision is likely due to factors including court-driven scheduling, court-directed service, jurisdictional limits, lack of discovery, non-record proceedings, and ability for a *de novo* appeal, which contribute to timely and efficient proceedings notwithstanding a provision.

whether “near misses” may result in procedural default. See, e.g., *Deek Investment, L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017).

A rule governing the application of the rules was not included as part of the rules of construction. The rules of construction are intended for the interpretation of ambiguous rules. See also *Bruno v. Erie Ins. Co.*, 106 A.3d 48, 74 n.21 (Pa. 2014) (noting there is no need to resort to rules of construction when the language of rule is unambiguous). Rules like the second sentence of Pa.R.Civ.P. 126 guide the *application* of the rules regardless of the presence of ambiguity. Further, there is a varied practice based upon rule and case law concerning what type of error may be disregarded or result in procedural default. Hence, the authority of certain courts to disregard procedural errors and defects remains within the individual bodies of rules where those provisions currently exist.

Further revisions to the procedural and evidentiary bodies of rules include:

- Retitling Pa.R.Civ.P. 126 as “Application and Construction of Rules”; adding titles to the subdivisions; replacing “construed” with “applied” in subdivision (a); changing “substantial” to “substantive”; and updating the disposition table in the Comment.
- Retitling Pa.R.O.C.P. 1.2 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and moving the operative language from subdivision (a) to subdivision (b), including the replacement of “construed” with “applied.”
- Retitling Pa.R.Crim.P. 101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.J.C.P. 101 and 1101 as “Purpose, Application, and Construction of Rules”; adding titles to the subdivisions; merging subdivision (c) into subdivision (a); renumbering subdivision (D) as subdivision (c); and replacing “construed” with “applied” in subdivision (b).
- Retitling Pa.R.A.P. 105 as “Application of Rules and Enlargement of Time”; retitling subdivision (a); and replacing “construed” with “applied” in subdivision (a).
- Retitling Pa.R.E. 102 as “Application of Rules”; and replacing “construed” with “applied.”
- Corollary revisions have been made to Pa.R.Civ.P. 237.1(a)(2), 1007.1, 1020, 1601, and 2225, Pa.R.Crim.P. 600, cmt., Pa.R.A.P. 107 and 903, Pa.R.Civ.P.M.D.J. 204, and Pa.R.E. 101 and 103.

The current rules of construction have been removed from Pa.R.Civ.P. 101—104, 106—108, and 127—153, and are now located in Pa.R.J.A. 104—115. Differences between the two bodies of rules as they relate to this rulemaking include:

Pa.R.J.A. 104. Principles of Interpretation.— Formerly Pa.R.Civ.P. 101

The title has been revised from “Principles of Interpretation” to “Principles of Construction” to reflect existing rule text. Additionally, “any rule” has been revised to specify that the rules of construction are only intended to apply to procedural or evidentiary rules adopted by the Court. Other rules adopted by the Court and rules adopted by other authorities may be subject to construction, but these rules are not mandated in their construction.

Pa.R.J.A. 105. Number. Tense.—Formerly Pa.R.Civ.P. 102

No revisions were made to the existing language. This rule differs from 1 Pa.C.S. § 1902 insofar as the provision regarding gender was removed from Pa.R.Civ.P. 102 in rulemaking dated April 12, 1999.

Pa.R.J.A. 106. Words and Phrases.—Formerly Pa.R.Civ.P. 103

A Comment has been added to the rule.

Pa.R.J.A. 107. Computation of Time.—Formerly Pa.R.Civ.P. 106, 107, and 108

This rule is a consolidation of Pa.R.Civ.P. 106—108 and reflects the Court's prior use of 1 Pa.C.S. § 1908 for the computation of time. *See, e.g., City of Philadelphia v. F.A. Realty Investors Corp.*, 256 A.3d 429 (Pa. 2021) (granting petition for allowance of appeal, vacating the intermediate appellate court's order, and remanding for further proceedings after concluding petitioners filed a timely Pa.R.A.P. 1925(b) statement, citing 1 Pa.C.S. § 1908). The text of Pa.R.Civ.P.M.D.J. 203, which is largely reiterative of Pa.R.J.A. 107(a)-(b), (d), was retained in that body of rules so that unrepresented parties are not required to consult another body of rules for the computation of time.

Pa.R.J.A. 108. Construction of Rules. Intent of Supreme Court Controls.—Formerly Pa.R.Civ.P. 127

Some of the factors that may be considered in determining the intention of the Supreme Court have been replaced to include specific sources of information germane to rulemaking. From these sources, the reader can understand the Supreme Court's intent. A Comment has also been added to assist the reader and reference limits placed on certain sources.

The factors contained in Pa.R.Civ.P. 127 that were retained include: 1) the contemporaneous history of the rule, *i.e.*, "rulemaking history"; 2) the practice followed under the rule; and 3) the consequences of a particular interpretation. Factors added are: 1) the Court's precedent; and 2) commentary accompanying the rule. These new factors are based upon *Touloumes v. E.S.C.*, 899 A.2d 343, 348 (Pa. 2006) (relying upon prior Court opinions involving same rule for purposes of construction), and Pa.R.J.A. 103, Comment ("Effective October 1, 2021, "rule" includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text.").

The factors removed were: 1) the occasion and necessity for the rule; 2) the circumstances under which it was promulgated; 3) the mischief to be remedied; and 4) the object to be attained. These factors require the reader to consider "why" the rule exists, which is subsumed within the "rulemaking history" and discussed within the Comment to Pa.R.J.A. 108. *See also* Pa.R.J.A. 103(a)(1) (requiring Rules Committees to include a publication report containing the rationale for proposed rulemaking); *Touloumes, supra* (relying upon Committee reports for purposes of construction).

To retain these specific factors suggests to the reader that any source describing "why" a rule exists may be indicative of the Supreme Court's intent. This raises a concern that sources outside of the rulemaking process may be relied upon, including periodicals, journals, trade publications, interviews, and newspapers. There is no

assurance that these other sources are trustworthy, reliable, accurate, and not self-serving. Instead, the reader is directed to "the rulemaking history" within Pa.R.J.A. 108 with the Comment referencing Pa.R.J.A. 103 and Rules Committees' reports. *See also* *Laudenberger v. Port Auth. of Allegheny Cty.*, 436 A.2d 147, 151 (Pa. 1981) (the Supreme Court stating that such reports "indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted").

Post-publication, the current factor of "the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects" was retained as subdivision (c)(7). The prior practice, especially if giving rise to subsequent rulemaking, may inform the construction of the present rule.

Rule 109. Presumptions in Ascertaining the Intent of the Supreme Court.—Formerly Pa.R.Civ.P. 128

Stylistic revisions have been made, but the substance of Pa.R.Civ.P. 128 is preserved.

Rule 110. Titles, Conditions, Exceptions, and Headings.—Formerly Pa.R.Civ.P. 129

The term "provisos" has been replaced with "conditions" to reflect current rulemaking terminology. Additionally, reference to "use of notes and explanatory comments" has been removed from the title and rule. That reference can now be found at Pa.R.J.A. 108(c)(2) as "commentary."

Rule 111. Rules in Derogation of the Common Law.—Formerly Pa.R.Civ.P. 130

No revisions were made to the existing language.

Rule 112. Rules *In Pari Materia*.—Formerly Pa.R.Civ.P. 131

Post-publication, language was inserted into the rule to limit the application of the *in pari materia* concept to the single body of rules being interpreted.

Rule 113. Particular Controls General.—Formerly Pa.R.Civ.P. 132

No revisions were made to the existing language.

Rule 114. Construction of Rule Amendments.—Formerly Pa.R.Civ.P. 152 & 153

This rule consolidates former Pa.R.Civ.P. 152 (Construction of Amendmentary Rules) and 153 (Merger of Subsequent Amendments) as separate subdivisions. Subdivision (a) was added to describe the significance of textual indicators when reading amended rule text.

Rule 115. Procedures Inconsistent with Rules.—Formerly Pa.R.Civ.P. 133

Pa.R.J.A. 115 is intended to assist the reader in the construction of statewide procedural rules when there may be conflicting statutory procedures or local rules of procedure. Notably, the rule references "procedures," which is intended to exclude substantive rules of evidence that may be enacted by statute. *See Commonwealth v. Olivo*, 127 A.3d 769, 780 (Pa. 2015) (concluding the statutory rule of evidence does not violate the Supreme Court's authority over procedural rules). It should also be noted that some bodies of rules have savings clauses for statutory procedures. *See, e.g.,* Pa.R.Civ.P. 1910.45; Pa.R.A.P. 5102. This rule would not displace the operation of those statutory procedures because they would not be "inconsistent" with the rules; rather, they are "saved" by the rules.

Post-publication, the original text from Pa.R.Civ.P. 133 (“All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.”) was retained and incorporated into this rule.

This rulemaking becomes effective January 1, 2024. [Pa.B. Doc. No. 23-1589. Filed for public inspection November 17, 2023, 9:00 a.m.]

* * * * *

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Rules of Criminal Procedure; Administrative Order No. 21 of 2023

Order of Court

And Now, this 23rd day of October, 2023, it is hereby Ordered that Adams County Rule of Criminal Procedure 542.1 is amended as follows:

Rule 542.1. Form of Written Notice.

The written notice shall substantially be in the following form:

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

MJ-513 ____-

VS.

CR-

CHARGES:

NOTICE OF COURT DATES

1. You must appear for formal arraignment at [8:30 a.m.] a time to be determined by separate notice on _____, 20__ in a Courtroom to be designated, fourth floor, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, unless you are represented by counsel and your attorney has filed a written waiver of arraignment with the Adams County Clerk of Court’s Office prior to the above specified date and time. If you do not appear or do not file a written waiver of arraignment as directed, a bench warrant will be issued for your arrest and bail will be forfeited.

2. You must appear for a non-trial disposition conference in the Adams County District Attorney’s Office, Room 301, Adams County Courthouse, on _____, 20__ at 10:00 a.m. Your failure to appear on said date and time will result in your bail being revoked and a bench warrant being issued for your arrest. If you are represented by counsel, your appearance may be waived upon consent of the Commonwealth.

3. You must appear at [8:30 a.m.] a time to be determined by separate notice on _____, 20__ in a Courtroom to be designated, fourth floor, Adams County Courthouse, for purpose of entering a plea or requesting a continuance in the above-captioned case. If you fail to appear on said date, your bail will be revoked and a warrant will be issued for arrest.

4. You are scheduled for trial during the trial term beginning _____, 20__ at 8:30 a.m. in Courtroom No. 2, fourth floor, Adams County Courthouse. Jury selection will take place on the first day of the trial term and trials will be held throughout the length of the trial term. Your failure to appear will result in forfeiture of your bail and issuance of a warrant for your arrest. If you fail to appear without cause for jury selection or trial, your absence may be deemed waiver of your right to be present and the proceeding, including trial, may be conducted in your absence. If trial occurs in your absence, you may be found guilty of all charges against you and subject to all penalties provided by law including imprisonment.

FOR YOUR ASSISTANCE, IF YOU DO NOT HAVE AN ATTORNEY OR CANNOT AFFORD ONE, YOU MAY BE ELIGIBLE FOR COUNSEL UPON COMPLETION OF AN APPLICATION FOR COURT APPOINTED COUNSEL AVAILABLE AT THE ADAMS COUNTY PUBLIC DEFENDER’S OFFICE AT 717-337-9842.

I, the undersigned defendant, acknowledge that I have received a copy of the above Notice of Court Dates and understand that should I fail to appear on the dates set forth hereinabove, a bench warrant may be issued for my arrest. I further understand that a trial may be held in my absence if I fail to appear on the trial dates set forth hereinabove.

Date

Defendant’s signature

Defense Attorney’s signature

[THIS WILL BE YOUR ONLY NOTICE!]

These rule amendments shall become effective after all the provisions of the Pennsylvania Rules of Judicial Administration 103 are met, to include the following:

1. A certified copy of this Order shall be submitted to the Criminal Procedural Rules Committee for review.

2. Upon receipt of a statement from the Criminal Procedural Rules Committee that the local rules are not inconsistent with any general rule of the Supreme Court, two (2) certified copies of this Order together with a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b), or other compliant format, containing the text of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. One (1) certified copy of this Order shall be forwarded to the Administrative Office of the Pennsylvania Courts.

4. A copy of the proposed local rules shall be published on the 51st Judicial District website.

5. This Order shall be filed in the Office of the Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying.

6. The effective date of the local rules shall be thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

MICHAEL A. GEORGE,
President Judge

[Pa.B. Doc. No. 23-1590. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 2023-19 Local Rule N205.4 Concerning Electronic Filing; No.: C-48-CV-2023- 09145

Administrative Order

And Now, this 7th day of November, 2023, it is *Ordered* and *Decreed* that Northampton County Local Rule N205.4, as follows hereto, is hereby *Adopted*.

It is further *Directed* that the Court Administrator of Northampton County shall comply with all publishing requirements set forth in Pa.R.J.A. 103(d)(5)-(6), such as: filing two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; filing one (1) certified copy of the Order with the Administrative Office of Pennsylvania Courts; publishing a copy of this Order on the Court's website; and incorporating these procedures into the complete set of Northampton County Local Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

This local rule shall become effective on January 2, 2024, after no less than thirty (30) days of publication in the *Pennsylvania Bulletin*.

By the Court

CRAIG A. DALLY,
President Judge

Rule N205.4. Electronic Filing and Service of Legal Papers.

A. Electronic Filing

1. *Permissive Electronic Filing*. All "legal papers" as defined by Pa.R.C.P. No. 205.4(a)(2) associated with the civil case types listed in A(2)(a)—(o) below are permitted to be filed electronically beginning January 2, 2024.

2. *Case Types*. Electronic filing applies exclusively to the following case types:

(a). Tort (intentional, malicious prosecution, motor vehicle, nuisance, premises liability, product liability, slander/libel defamation, and other);

(b). Mass Tort (asbestos, tobacco, toxic tort—DES, toxic tort—implant, toxic waste, and other);

(c). Professional Liability (dental, legal, medical, and other);

(d). Contract (buyer protection, debt collection—credit card; employment dispute, employment dispute—discrimination, and other);

(e). Real Property (buyer protection, ejectment, eminent domain/condemnation, ground rent, landlord/tenant dispute (excluding MDJ appeals), mortgage foreclosure—residential, foreclosure—commercial, partition, quiet title, and other);

(f). Civil Appeal (board of assessment, board of elections, statutory appeal, zoning board, and other);

(g). Miscellaneous (common law/statutory arbitration, declaratory judgment, mandamus, quo warranto, replevin, and other).

(h). Municipal and Tax Claims/Liens;

(i). Liens (Commonwealth, broker's, federal, mechanics, municipal);

(j). Judgments (amended, by transcript (Magisterial District Judge), confession, default, deficiency, enforcement, revival, satisfaction, and transfer);

(k). Arbitration Appeals;

(l). Writ of Scire Facias;

(m). Writ of Revival;

(n). Civil Subpoenas; and

(o). Civil Appeals to Commonwealth and Superior Court.

3. *Registration*. Electronic filers must register with CountySuite Portal. All use of the CountySuite Portal shall be in accordance with the CountySuite Portal user manual. All registered users shall be individuals, not law firms, agencies, corporations or other groups.

4. *Original document*. A legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes.

5. Neither the Clerk of Court, Civil Division (also referred to as prothonotary) nor court administrator shall be obligated to print documents that are filed electronically.

B. Form of Documents Electronically Filed.

1. *Format*. To the extent practicable, documents shall be formatted in accordance with the applicable rules governing formatting of paper documents, and in such other and further format as the court may require from time to time. All electronic filings shall be in PDF format.

A document may exceed page limitation rules to a maximum of two additional pages when the additional pages are attributed to the electronic conversion of the filing process.

2. *Title of Documents.* The title of each electronically filed document shall include:

- (a). Descriptive title of the document;
- (b). Party or parties filing the document;
- (c). Party or parties against whom relief, if any, is sought; and
- (d). Nature of the relief sought (e.g. Motion for Summary Judgment of Defendant ABC Corporation Against Plaintiff Jones).

3. *Signature.*

a. Each electronically filed document shall be deemed to have been signed by the attorney or party represented by an attorney authorizing such filing and shall bear a facsimile or typographical signature of such person, e.g. “/s/ Adam Attorney”. Each document electronically filed by an attorney shall also include the typed name, address, and telephone number of the attorney or unrepresented party filing such document. Attorneys shall include their Pennsylvania bar number. Each electronically filed declaration and affidavit shall be deemed to have been signed by the declarant or affiant if an attorney or party not represented by an attorney has authorized such filing. Documents containing signatures of third-parties (i.e., unopposed motions, affidavits, stipulations, etc.) may also be filed electronically by indicating in the original that signatures are maintained by the filing party in paper format.

b. The electronic filing of a legal paper constitutes a certification by the filing party that the original hard copy was properly signed and, where applicable, verified, and a certification as provided by the signature to a legal paper under Pa.R.Civ.P. 1023.1(c), violation of which shall be subject to the sanction provided in Pa.R.Civ.P. 1023.1(d). The filing party shall maintain the original hard copy of the filed document, in its native format, for two years after the later of: the disposition of the case; the entry of an order resolving the issue raised by the legal paper; or, the disposition by an appellate court of the issue raised by the legal paper. Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen days of the service of the notice. The court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

C. *Public Access to the Docket.*

1. Public access to the docket is available on the Internet at <https://web.northamptoncounty.org/CountySuite.EServices>, or its successor website address. A link to the prothonotary's docket shall be maintained on the County-owned website at <https://www.northamptoncounty.org/CRTSRVCS/CIVIL/Pages/default.aspx>, or its successor website address.

2. The prothonotary shall also make a public access terminal available to the general public to allow access to the court's electronic case record in all electronically filed cases in the prothonotary's office.

D. *Filing Fees.*

1. All filing fees and payments shall be made at the time of filing with an authorized credit card through the CountySuite Portal. Filing fees and payments may not be deposited in advance with the prothonotary.

2. Filing fees billed by CountySuite Portal shall include the prothonotary's statutory filing fees.

3. The prothonotary is authorized to charge a convenience fee as set from time to time for each page of a legal paper or exhibit which is filed in hard copy format and which must be converted to the required format. The convenience fee shall be set by the prothonotary with the approval of the president judge.

E. *Sealed Documents.*

1. Documents intended to be filed under seal shall be designated by the filing party as “sealed” in the CountySuite Portal. However, designation of documents as “sealed” does not seal the documents. The filing party must submit a proper request for sealing documents in addition to making the designation in the CountySuite Portal.

2. The filing details and document title will appear in the electronic filing system. The documents can be viewed only by the court, prothonotary staff, and case participants.

F. *Time of electronic filing.*

1. The CountySuite Portal shall provide to the filer, using the email address registered by the filer, a courtesy email acknowledging that the filing was received. An official notification will be displayed in the CountySuite Portal, which includes the time and date, as a pending filing awaiting approval by the prothonotary. The prothonotary shall provide the filer with notification through the CountySuite Portal that the legal paper has been either accepted or rejected.

2. If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the CountySuite Portal; however, if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment is received pursuant to 42 P.S. § 21073(b). The prothonotary will maintain an electronic file only in all matters where electronic filing is permitted by this Court. (Comment: As required by Pa.R.Civ.P. 205.4(c)(1) access to the CountySuite Portal shall be available at all times, except for routine maintenance; however, legal documents can only be reviewed by prothonotary staff during normal office hours. Therefore, filers are cautioned to file required legal papers well in advance of any filing deadlines to enable timely correction and re-submission in the event a legal paper is not acceptable for filing.)

G. *Service of Legal Papers.*

1. Once an electronic filing has been accepted by the prothonotary which requires service by the sheriff, it shall be the responsibility of the filing party to provide to the sheriff the proper service fee and documents for original service and writs.

2. Once an electronic filing has been accepted by the prothonotary, it shall be the responsibility of the filing party to serve a copy of the electronic filing upon every other party to the action in accordance with Pa.R.C.P. No. 440.

H. *Entry of Appearance and Consent to Electronic Service of Legal Papers Other Than Original Process.*

1. Any attorney who is a registered electronic filing user must file a separate entry of appearance with the initial pleading or legal paper file in a matter in accordance with Rule N1012 which contains the attorney's name, identification number, address, phone number, fax number (if applicable), and email address.

2. Every legal paper submitted for electronic filing must include the attorney's or party's email address in addition to the information required by Pa.R.C.P. No. 1025.

3. Any party who is a registered electronic filing user is deemed to consent to receive service of legal papers other than original process by email pursuant to Pa.R.C.P. No. 205.4(g)(1)(ii).

I. Obligation of Registered Electronic Filing Users to Maintain Proper Delivery Information.

1. Parties or attorneys who register to use the CountySuite Portal system shall notify CountySuite Portal and the prothonotary within ten days of any change in firm name, delivery address, fax number, or email address.

[Pa.B. Doc. No. 23-1591. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Offender Supervision Fees; No. 3 of 2023

Administrative Order of Court

And Now, to wit, this 19th day of October, 2023, *It Is Hereby Ordered And Decreed* that offender supervision fees charged by the Westmoreland County Adult Probation and Parole Department and assessed by the Westmoreland County Clerk of Courts to each offender under supervision, shall increase to \$51.00 per month effective 30 days from the date of publication in the *Pennsylvania Bulletin*. This increase shall not be assessed against any offender to the extent that the offender has pre-paid supervision fees at the time the increase is effective.

By the Court

CHRISTOPHER A. FELICIANI,
President Judge

[Pa.B. Doc. No. 23-1592. Filed for public inspection November 17, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Rule of Civil Procedure W6027, “Statutory or License Suspension Appeals” and Accompanying Forms; No. 3 of 2023

Order of Court

And Now, this 8th day of September, 2023, it is hereby *Ordered* that the revised forms that correspond to Westmoreland County Rule of Civil Procedure W6027, “Statutory or License Suspension Appeals,” are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

[Pa.B. Doc. No. 23-1593. Filed for public inspection November 17, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated November 3, 2023, Benjamin Manuel Soto (# 74652), whose registered address is in Washington, DC, is suspended from the practice of law in this Commonwealth for a period of six months, effective December 3, 2023. 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,
Prothonotary

[Pa.B. Doc. No. 23-1594. Filed for public inspection November 17, 2023, 9:00 a.m.]