

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

[204 PA. CODE CH. 71]

Proposed Amendment to Pennsylvania Bar Admission Rule 213

Notice is hereby given that the Pennsylvania Board of Law Examiners (Board) is considering recommending to the Pennsylvania Supreme Court that it amend Rule 213 of the Pennsylvania Bar Admission Rules concerning the hearing process for those who seek a hearing before the Board. The amendment is set forth in Annex A. Additions to the text of the rule are shown in bold and underlined, there are no deletions.

The proposed amendment would clarify Rule 213 by explicitly providing that the Board can limit cumulative witness testimony. Pa.R.E. 403 provides that a court may exclude cumulative evidence, but similar to other administrative agency rules, Rule 213(b) provides that the “Board shall not be bound by the formal rules of evidence.” Additionally, and unlike other administrative hearing rules, Rule 213(b) is silent on whether the Board may limit cumulative evidence. The General rules of Administrative Practice and Procedure and the Disciplinary Rules explicitly provide the hearing officer with the authority to limit cumulative evidence. 1 Pa. Code § 135.27 provides “[t]he agency head or the presiding officer may limit appropriately the number of witnesses who may be heard upon an issue.” Pennsylvania Disciplinary Board Rule 89.94 provides “[t]he hearing committee or special master may limit appropriately the number of witnesses who may be heard upon any issue to eliminate unduly repetitious of cumulative evidence.”

Given the above, the Board seeks to amend Rule 213 to provide that it can limit the presentation of cumulative evidence. Specifically, the Board seeks to add the following language to Rule 213: “The Board may in its discretion limit the number of witnesses who may be heard upon any issue to eliminate repetitious or cumulative evidence.”

Interested persons are invited to submit written comments regarding the proposed amendments to the Counsel to the Board, Pennsylvania Board of Law Examiners, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 3600, P.O. Box 62535, Harrisburg, PA 17106-2535, no later than April 5, 2024.

*By the Pennsylvania Board of Law Examiners
Supreme Court of Pennsylvania*

GICINE P. BRIGNOLA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter B. ADMISSION TO THE BAR GENERALLY

PROCEEDINGS BEFORE BOARD

Rule 213. Hearings before the Board.

* * * * *

(b) *Hearing.* Within 30 days after receipt of the request of an applicant for a hearing under this Rule the Board shall hold a hearing at which the applicant shall be present. The applicant may be represented by counsel at the hearing. The Board shall not be bound by the formal rules of evidence and such relevant evidence may be introduced at the hearing as may be necessary for the Board to make a final determination upon the application. The burden of proof shall be on the applicant to establish that he or she possesses the character, fitness and general qualifications that are compatible with the standards expected to be observed by a member of the Bar of this Commonwealth. The applicant may call and examine witnesses, cross-examine adverse witnesses and present such evidence as is relevant to the issue before the Board. **The Board may in its discretion limit the number of witnesses who may be heard upon any issue to eliminate repetitious or cumulative evidence.** At any such hearing the applicant and his or her counsel shall be permitted to inspect such portion of the record of the applicant bearing upon the issues before the Board as does not constitute confidential information. A stenographic or other verbatim record shall be made of any such hearing, but hearings before the Board shall not be open to the public. The Board shall have the power to issue subpoenas for the attendance of witnesses and for the production of documentary evidence at the hearing.

* * * * *

[Pa.B. Doc. No. 24-176. Filed for public inspection February 16, 2024, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 300 AND 500]

Proposed Amendment of Pa.R.Civ.P.M.D.J. 321 and 512

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 321 and 512, pertaining to hearings and evidence for the reasons set forth in the accompanying Publication Report. 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 include the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

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

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

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

All communications in reference to the proposal should be received by April 22, 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 Minor Court Rules Committee

HONORABLE DANIEL E. BUTLER,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 321. Hearings and Evidence.

The **parties in a hearing before a magisterial district judge** shall be bound by the **[rules of evidence] Rules of Evidence**, except that a bill, estimate, receipt, or statement of account that appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

Comment:

The exception to the **[rules of evidence] Rules of Evidence** provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence **[apparently]** do not apply to bills, receipts, and the like that are made in the regular course of business but are not made as “records.” See 42 Pa.C.S. § 6108. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. **However, all other testimony and documents sought to be admitted or excluded shall be subject to the Rules of Evidence upon proper objection. Objections to evidence must be made by the parties.**

See **[Rules 350D(2) and 351(d)] Pa.R.Civ.P. 350D(2) and 351(d)** for additional exceptions applicable to appeals from automated work zone speed enforcement violations and actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 512. Hearings and Evidence.

[A.](a) The landlord shall appear at the hearing and present testimony in an action for the recovery of possession of real property.

[B.](b) The **[magisterial district judge] parties** shall be bound by the **[rules of evidence] Rules of Evidence**, except that a bill, estimate, receipt, or statement of account that appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

[Official Note: Subdivision A of this rule] Comment: Subdivision (a) is intended to make clear that the magisterial district judge shall not enter a default judgment in a possessory action, including a judgment for money only. The landlord shall appear and give testimony to prove the complaint even when the tenant fails to appear for the hearing. **[See Rule 514A and Note. See also Section 503(a) of the Landlord and Tenant Act of 1951, 68 P.S. § 250.503(a).] See Pa.R.Civ.P.M.D.J. 514A, cmt.; see also 68 P.S. § 250.503(a).** When the landlord fails to appear at the hearing, the magisterial district judge may continue the hearing for cause or dismiss the complaint without prejudice.

[Subdivision B of this rule is the same as Rule 321 of the civil action rules.] The exception to the Rules of Evidence provided by subdivision (b) was inserted because the Pennsylvania statutes making certain business entries admissible in evidence do not apply to bills, receipts, and the like that are made in the regular course of business but are not made as “records.” See 42 Pa.C.S. § 6108. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. However, all other testimony and documents sought to be admitted or excluded shall be subject to the Rules of Evidence upon proper objection. Objections to evidence must be made by the parties.

SUPREME COURT OF PENNSYLVANIA Minor Court Rules Committee

PUBLICATION REPORT

Proposed Amendment of Pa.R.Civ.P.M.D.J. 321 and 512

The Minor Court Rules Committee (“Committee”) is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 321 and 512 relating to hearings and evidence.

While reviewing a separate matter, the Committee discussed a plaintiff’s responsibility to meet the evidentiary burden of proof in all cases. However, the comment to Pa.R.Civ.P.M.D.J. 321 and 512 largely addresses the introduction of business records into evidence. The exception to the general business records rule is intended to permit a party to present documentation related to a claim without having to call a witness, *e.g.*, a mechanic or insurance adjuster. In contrast, Pa.R.E. 803(6) requires testimony from a records custodian or a certification that the record meets the definition of a “business record.” See also 42 Pa.C.S. § 6108(b) (requiring the custodian or other qualified witness to testify as to the record’s identify, mode of preparation, and if it was made in the regular course of business). The Committee

believed that Pa.R.Civ.P.M.D.J. 321 and 512 would benefit from attention to other aspects of the rules of evidence.

First, the Committee is considering proposing rule amendments to make clear that the parties are bound by the Rules of Evidence. Other stylistic amendments appear throughout the rules.

Second, the Committee is considering proposing an amendment to the comments to Pa.R.Civ.P.M.D.J. 321 and 512 to emphasize that the business records exception does not waive the obligation of the parties to comply generally with the Pennsylvania Rules of Evidence. For example, while it is not necessary to produce the mechanic to certify the authenticity of a bill for services, it is necessary to call the mechanic as a witness to testify as to condition of a vehicle's brakes before a car accident.

Finally, the Committee thought it would be beneficial to alert parties, particularly *pro se* parties, that objections must be made by the parties. When the Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Justices of the Peace were first promulgated in 1969, they included an Explanatory Comment from the Committee:

In drafting these rules, the guiding policy was to provide a framework, insofar as the Pennsylvania constitutional system would permit, for a modern, workable small claims procedure, realizing that many justices of the peace would not be lawyers and that members of the public using the system would be largely unrepresented by legal counsel. Thus, an attempt was made throughout these rules to achieve simplicity of phraseology, uncomplicated administration and as much standardization in the handling of civil actions by justice of the peace as is possible.

See Order of October 15, 1969, No. 513, Misc. Docket No. 16. Notwithstanding the salutary goal of establishing procedural rules for small claims courts that are understandable and accessible to lay people, adherence to the rules of evidence is needed to ascertain the truth and secure a just determination. See Pa.R.E. 102, cmt. By proposing these amendments, the Committee intends to inform litigants of their evidentiary responsibilities should they decide on self-representation.

* * * * *

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

[Pa.B. Doc. No. 24-177. Filed for public inspection February 16, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CRAWFORD COUNTY

In the Matter of the Adoption of Local Criminal Rules of Procedure; No. AD 1 of 2022

Order

And Now, February 1, 2024, the Court Orders as follows:

1. Local Rule of Criminal Procedure 117 is hereby amended in regard to magisterial district court coverage, in the form as follows hereto, in which deletions from the rule's title are shown in brackets, and the addition to the rule is shown in bold type and underlined; and

2. This Order shall be processed in accordance with Pa.R.J.A. 103(d), and effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN F. SPATARO,
President Judge

Rule 117. Coverage[: **Issuing Warrants; Preliminary Arraignments and Summary Trials**]; Setting and Accepting Bail[; and **Other Services**].

* * * * *

ON-CALL MAGISTERIAL DISTRICT JUDGE ASSIGNMENTS

* * * * *

The weekly on-call duty shall begin on Friday at 4:30 p.m. and continue until the following Friday at 8:30 a.m., unless the magisterial district court offices are closed that Friday, in which case on-call duty shall continue that Friday until 4:30 p.m. **Should the district court offices be open on a Friday but close earlier than 4:30 p.m., the weekly on-call duty shall begin at the time of closing.**

* * * * *

[Pa.B. Doc. No. 24-178. Filed for public inspection February 16, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CRAWFORD COUNTY

In the Matter of the Modification of Local Rules; No. AD 2022-65

Order

And Now, February 7, 2024, the Court Orders as follows:

1. Local Rule of Judicial Administration 5102 (governing custody of exhibits in court proceedings) is hereby adopted in the form following this Order; and

2. This Order shall be processed in accordance with Pa.R.J.A. 103(c), and effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN F. SPATARO,
President Judge

Rule 5102. Custody of Exhibits. General Provisions.

Except as hereinafter provided, the Clerk of Courts or Prothonotary or their designated representatives who are present at the court proceeding shall be designated as the custodian for all exhibits during and after the court proceeding. If, for any given proceeding, no representative of the Clerk of Courts or Prothonotary is present, then the presiding judicial officer or judge shall take possession of the exhibits and forward them to the appropriate recording office upon filing of the decision, or immediately if no decision is to be filed, together with an index of the exhibits.

The presiding judicial officer or judge may, upon consultation with the parties or their counsel, order that the proponent of any non-documentary exhibit be designated as its custodian during the proceeding and/or after court proceedings have concluded. A proponent who becomes

the custodian of such non-documentary exhibits shall have all the duties and responsibilities provided by Pa.R.J.A. 5102, except as otherwise provided in the order. Unless otherwise ordered, the proponent shall as custodian maintain non-documentary exhibits for a minimum of the following time periods:

i. *Non-criminal matters.* Retain exhibits until the later of 30 days after the conclusion of the case and the expiration of the appeal period, or final disposition of an appeal if one is taken.

ii. *Criminal matters:*

1. Homicides. Retain exhibits 75 years.
2. Summary cases. Retain exhibits 5 years.
3. Other cases. Retain exhibits 20 years.

These retention periods also apply to any exhibits held by a proponent at the time of enactment of this Rule. The proponent may submit a motion to the President Judge or other designated judge to address conversion of, or retention of any previously entered exhibit, so long as the motion is served on the appropriate parties or counsel at their last known address.

[Pa.B. Doc. No. 24-179. Filed for public inspection February 16, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Correction of Administrative Order entered November 20, 2023, adopting 39th Jud.Dis. Rules Jud.Adm. 4001, 4007 and 4008 (incorrectly noted as 4009); Administrative Order re: 2024-386

Order

And Now, this 5th day of February, 2024, the Court issues a correction to its Administrative Order entered of record on November 20, 2023 pursuant to Pennsylvania Rule of Judicial Administration 103(c). The November 20, 2023 Administrative Order contained a typographical error in the caption and the first paragraph, the phrase “39th Jud.Dis.R. Jud.Adm. 4009” is hereby corrected to “39th Jud.Dis.R. Jud.Adm. 4008.”

The Court adopted 39th Jud.Dis. Rules Jud.Adm. 4001, 4007 and 4008 (incorrectly noted as 4009 in the Administrative Order entered November 20, 2023). The numbering and text of 39th Jud.Dis.R. Jud.Adm. 4008 following the Administrative Order was correct as published in the *Pennsylvania Bulletin* on December 2, 2023. As such, 39th Jud.Dis.R. Jud.Adm. 4008 shall remain in full force and effect as published in the *Pennsylvania Bulletin* on December 2, 2023.

Accordingly, Mr. Mark Singer, District Court Administrator for the 39th Judicial District, is ordered and directed to do the following:

1. Email one (1) copy of this Order to the Administrative Office of Pennsylvania Courts (AOPC) at adminrules@pacourts.us.
2. Email one (1) copy of this Order in Microsoft Word format only to the Legislative Bureau at bulletin@palrb.us for publication in The *Pennsylvania Bulletin*.
4. File one (1) copy of this Order with both the Clerk of Courts and the Prothonotary in Franklin County and

Fulton County, and mail one (1) copy to the Franklin County Law Library for public inspection and copying.

5. Publish a copy of this Order on the Franklin County Court website and the Fulton County Court website.

By the Court

SHAWN D. MEYERS,
President Judge

[Pa.B. Doc. No. 24-180. Filed for public inspection February 16, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Administrative Order; No. S262-24

Administrative Order

And Now, this 7th day of February, 2024, it is *Ordered* and *Decreed* that this Court adopts the following Rule of Civil Procedure regarding Board of Viewers:

The Schuylkill County Court Administrator is *Hereby Ordered* to:

1. Distribute one copy of the Rule to the Administrative Office of Pennsylvania Courts via email at adminrules@pa.courts.us.
2. Distribute two paper copies of the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Distribute one copy of the Rule to the Legislative Reference Bureau via email at bulletin@palrb.us in a Microsoft Word format.
4. Publish the local Rule on the Schuylkill County Court’s website.
5. Incorporate the local Rule into the set of local Rules on this Court’s website within 30 days after the publication of the Rule in the *Pennsylvania Bulletin*.
6. File one copy of the local Rule in the Office of the Prothonotary of Schuylkill County.

By the Court

JACQUELINE L. RUSSELL,
President Judge

Rule 301. Boards of Viewers.

(a) *Composition and Appointment of Boards of Viewers Pursuant to 42 Pa.C.S.A. § 2142*

The President Judge shall appoint the members of the Board of Viewers for a term of office of not less than three nor more than six years. The members shall be adult residents of Schuylkill County and at least one-third of the members shall be members of the bar of the Commonwealth. The President Judge shall fill the vacancy in an unexpired term of a board member. All appointments shall be subject to the power of the President Judge to remove members without cause and to appoint successors.

(b) *Petitions for Appointment of a Board of Viewers*

Petitions for appointment of a panel of the Board of Viewers shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) and shall comply with Sch.R.C.P. 206.1(a). In case of a vacancy in the panel appointed in a specific case before the panel takes its

final action, the President Judge shall fill such vacancy by appointing another member of the Board of Viewers to the panel.

(c) *Appeals from Decision of Viewers*

Any party who appeals to the Court from the decision of the Viewers shall comply with 26 Pa.C.S.A. § 517, and shall file a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b).

(d) *Stenographic Notes*

(1) Stenographic notes of a hearing shall be taken and a transcript prepared for the Viewers' use whenever the Viewers decide such is necessary. The cost of taking the stenographic notes and of the original transcript shall be paid by the County. An interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(2) Whenever, in the opinion of the Viewers, it is not necessary to have stenographic notes taken, but an interested party has stenographic notes of a hearing taken, that party shall pay for the taking and/or the transcribing of the stenographic notes if ordered by that party. However, in the event the Viewers elect to have the notes transcribed, the cost of the original transcript shall be paid by the County, and an interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(3) Arrangements for the taking and transcription of stenographic notes shall be made exclusively through the Court Reporters Office of the Schuylkill County Court of Common Pleas.

(e) *Compensation of Viewers*

(1) Compensation of Viewers shall be on a case by case basis in an amount fixed by the Court. The Chairman of the Board of Viewers shall file a petition for compensation of the Viewers directed to the President Judge at the time the Report of the Board of Viewers is filed.

(2) Compensation approved by the President Judge pursuant to a Petition for Compensation shall be paid to the Viewers by the County.

Note: This Rule supersedes prior Rule 301.

Effective Date: This Rule is effective 60 days after publication in the *Pennsylvania Bulletin*.

Rule 301. Boards of Viewers.

(a) *Composition and Appointment of Boards of Viewers Pursuant to 42 Pa.C.S.A. § 2142*

The President Judge shall appoint the members of the Board of Viewers for a term of office of not less than three nor more than six years. The members shall be adult residents of Schuylkill County and at least one-third of the members shall be members of the bar of the Commonwealth. The President Judge shall fill the vacancy in an unexpired term of a board member. All appointments

shall be subject to the power of the President Judge to remove members without cause and to appoint successors.

(b) *Petitions for Appointment of a Board of Viewers*

Petitions for appointment of a panel of the Board of Viewers shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) and shall comply with Sch.R.C.P. **206.1(a). In case of a vacancy in the panel appointed in a specific case before the panel takes its final action, the President Judge shall fill such vacancy by appointing another member of the Board of Viewers to the panel.**

(c) *Appeals from Decision of Viewers*

Any party who appeals to the Court from the decision of the Viewers shall comply with 26 Pa.C.S.A. § 517, and shall file a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b).

(d) *Stenographic Notes*

(1) Stenographic notes of a hearing shall be taken and a transcript prepared for the Viewers' use whenever the Viewers decide such is necessary. The cost of taking the stenographic notes and of the original transcript shall be paid by the County. An interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(2) Whenever, in the opinion of the Viewers, it is not necessary to have stenographic notes taken, but an interested party has stenographic notes of a hearing taken, that party shall pay for the taking and/or the transcribing of the stenographic notes if ordered by that party. However, in the event the Viewers elect to have the notes transcribed, the cost of the original transcript shall be paid by the County, and an interested party may obtain a copy of the transcript upon payment of such sum fixed from time to time by the Court.

(3) Arrangements for the taking and transcription of stenographic notes shall be made exclusively through the Court Reporters Office of the Schuylkill County Court of Common Pleas.

(e) *Compensation of Viewers*

(1) Compensation of Viewers shall be on a case by case basis in an amount fixed by the Court. **The Chairman of the Board of Viewers shall file a petition for compensation of the Viewers directed to the President Judge at the time the Report of the Board of Viewers is filed.**

(2) Compensation approved by the President Judge pursuant to a Petition for Compensation shall be paid to the Viewers **by the County.**

Effective Date: This Rule is effective 60 days after publication in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 24-181. Filed for public inspection February 16, 2024, 9:00 a.m.]