

2007 Membership

Professor Sandra D. Jordan, *Chair*
Bridget E. Montgomery, Esq., *Vice Chair*
Syndi L. Guido, Esq.
Michael J. Manzo, Esq.
Deborah D. Olszewski, Esq.
Professor Leonard Packel, Esq., *Official Reporter*
Neil R. Rosen, Esq.
Kelly M. Sekula, Esq.
Honorable Clyde W. Waite
Kathleen D. Wilkinson, Esq.

Staff

Richard L. Kearns, Esq., *Staff Counsel*
Terri L. Metil, *Administrative Assistant*

Legal Authorization

Pa. Constitution, Article V, § 10(c)
42 Pa. C.S., § 1722

About the Committee

The Committee on Rules of Evidence was created by the Supreme Court of Pennsylvania as an advisory body to assist the Court in its constitutional and statutory responsibility to prescribe general rules governing court proceedings in Pennsylvania's Unified Judicial System. The committee studies and makes recommendations to the Court about matters affecting evidence law in the Commonwealth. It monitors the practical application of the new rules as well as developments in evidence law in Pennsylvania and in other jurisdictions as reflected in case law and statutory changes that have occurred since the rules' adoption.

Members are appointed to three-year terms, and each member may serve two consecutive terms.

Committee on Rules of Evidence

5035 Ritter Road,
Suite 700
Mechanicsburg, PA 17055
(717) 795-2100

Publication

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory "Report" describing the committee's proposal. This process gives members of the bench, bar and public an opportunity to comment on the proposal. The reports are published in the Pennsylvania Bulletin, the *Atlantic Reporter 2d* (*Pennsylvania Reporter Series*), in various local bar publications and also on the Unified Judicial System's home page at www.pacourts.us, under Supreme Court Committees tab. (Note: Some proposals are submitted to the Court without publication, pursuant to Pa.R.J.A. 103(a)(3), in the interests of justice, because exigent circumstances exist that warrant prompt action or because the proposed changes are technical or perfunctory in nature.)

The committee considers all publication comments and, when appropriate, will modify a proposal before a final recommendation is submitted to the Court.

When the Court adopts a recommendation, the committee prepares a "Final Report" explaining the recommendation, including any post-publication modifications. These "Final Reports," which are published with the Court's orders, are useful sources of information about the rule changes and the committee's considerations in developing the proposal.

2007 Activities

The committee met three times in 2007.

Members continued in 2007 to participate in various programs and seminars about the rules. These sessions provide the members with excellent opportunities to answer questions and to gather input about the rules.

The committee also continued its work with members of the legislature concerning the

interplay between the Rules of Evidence and existing evidentiary statutes.

2007 Committee Action

Amendment to Pa.R.E. 601 Comment to include two cases interpreting the language of Rule 601. In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003), the Supreme Court addressed the effect on a child's capacity to testify as a result of techniques that taint the child's memory and ability to testify truthfully. In *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 (1998), the Supreme Court held that the issue of a child's competency must be decided outside the presence of the jury. Pending with Court. Approved 11-2-07, effective 12-14-07.

Amendment to Pa.R.E. 104 Comment to delete the word "error" from the *per se* rule language requiring a competency hearing to be held outside of the presence of the jury and replacing the word "tainted" with the word "impaired." Promulgated 5-15-07, effective 6-15-07.

Amendment to Pa.R.E. 606(b) Comment to make it clear that Pennsylvania was not adopting the change in Federal Rules of Evidence 606(b) permitting the Court to hear testimony from a juror regarding a mistake in entering the verdict on the verdict form. Promulgated 9-14-07, effective 10-17-07.

Looking Ahead to 2007

The committee plans to continue to monitor the Rules of Evidence and case law interpreting the rules and evidence law as members of the bench and bar become more familiar with using the rules. It will also continue to work with members of the legislature on the statutory/rule project begun in 1998.

AOPC