

**Committee
on
Rules of
Evidence**

2002 Membership

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Legal Authorization:

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

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History/Background

The Committee on Rules of Evidence was created on September 8, 1998, by the Supreme Court of Pennsylvania as an advisory body to the Court, assisting the Court in fulfilling its constitutional and statutory responsibility to prescribe general rules governing all court proceedings in Pennsylvania's Unified Judicial System. It is the successor to the Ad Hoc Committee on Evidence, which was appointed by the Supreme Court in 1994 and which developed the Pennsylvania Rules of Evidence that were adopted in 1998.

In its advisory capacity, the committee studies and makes recommendations to the Court about matters affecting evidence law in the Commonwealth. The committee 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. In addition, the committee continues to review and respond to the various questions that have been raised by judges, lawyers and court personnel.

Membership and Staff

Committee members are appointed to three-year terms with a two-term limit. Membership in 2002 included one Common Pleas Court judge, eight attorneys in private practice and a law professor, all of whom have extensive backgrounds in trial practice and procedure and come from different geographical areas of Pennsylvania.

Committee staff includes an attorney and an office manager. The committee maintains its office at the AOPC facility in Mechanicsburg.

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.courts.state.pa.us, under Supreme Court Committees. (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.

2002 Activities

The Committee on Rules of Evidence met three times in 2002, twice in Philadelphia and once in Pittsburgh.

Committee members continued in 2002 to participate in various programs and seminars about the rules. These sessions provide the members with excellent opportunities to answer questions and 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.

2002 Committee Action

The committee submitted for publication two recommendations for evidence rule changes in 2002 as follows:

Amendment to Pa.R.E. 407 and Revision of Comment. These proposals were prepared in light of the decision of the Pennsylvania Supreme Court in *Duchess v. Langston Corp.*, 769 A.2d 1131, ruling that evidence of subsequent remedial measures is not admissible in **products liability cases**. (See Report at 33 Pa.B. 197 (January 11, 2003).)

Revision of Comment to Pa.R.E. 703. This revision is being proposed to alert the bench and bar that **Pa.R.E. 703 no longer is identical to F.R.E. 703**. (See Report at 33 Pa.B. 198 (January 11, 2003).)

Looking Ahead to 2003

The committee plans to continue to monitor the Rules of Evidence and the 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.

Contact Person

Anyone wanting additional information about the Committee on Rules of Evidence or who have questions about the rules themselves may contact the committee through its Staff Counsel, Richard L. Kearns, Esq., at (717) 795-2119, or by writing to him at 5035 Ritter Road, Suite 800; Mechanicsburg, PA 17055. AOPC