

SUPREME COURT OF PENNSYLVANIA

In re: Order Approving the Amendment of Pa Rules of Evidence 901(a), 902(4), 902(6) & 902(12)

In re Order Approving the Amendment of Pa. Rules of Evidence 901(a), 902(4), 902(6) & 902(12) · Decided
November 4, 2019

SUMMARY

This document is the Final Report of the Pennsylvania Supreme Court's Committee on Rules of Evidence concerning amendments to Pennsylvania Rules of Evidence 901(a), 902(4), 902(6), and 902(12). The amendments address stipulated authentication, electronic certifications of public records, authentication of digital newspapers and periodicals, and correction of an error concerning certified foreign records of regularly conducted activity. The amendments were ordered on November 4, 2019, and became effective January 1, 2020.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	November 4, 2019
DISPOSITION	approved
PROCEDURAL POSTURE	Rulemaking proceeding in which the Supreme Court of Pennsylvania considered the Committee on Rules of Evidence's recommendation to amend Pennsylvania Rules of Evidence 901(a), 902(4), 902(6), and 902(12).
PRECEDENTIAL VALUE	Rulemaking order and explanatory Final Report; not a conventional precedential opinion resolving a litigated dispute.

TOPICS

[authentication](#)[evidence](#)

PRACTICE AREAS

[Evidence](#)[Pennsylvania rulemaking](#)

QUESTIONS PRESENTED

1. Whether Pennsylvania Rule of Evidence 901(a) should expressly permit parties to stipulate to authentication.
2. Whether Pennsylvania Rule of Evidence 902(4)(B) should permit electronic certifications of copies of public records without requiring pen-and-ink signatures or raised seals.
3. Whether Pennsylvania Rule of Evidence 902(6) should extend self-authentication to newspaper and periodical material regardless of whether it exists in print or digital form.
4. Whether Pennsylvania Rule of Evidence 902(12) should be amended to restore language inadvertently removed during the 2013 restyling.

HOLDINGS

1. Rule 901(a) was amended to provide that authentication is unnecessary when stipulated by the parties.
2. Rule 902(4)(B) was amended to facilitate electronic certification of copies of public records; the amendment does not prohibit pen-and-ink signatures or raised seals.
3. Rule 902(6) was amended to remove the word "printed," so newspaper and periodical material may be self-authenticating whether it exists in print or digital form.
4. Rule 902(12) was amended to restore the substance of the 2004 amendment that had been inadvertently removed during the 2013 restyling.

KEY QUOTATIONS

"To that end, Rule 901(a) is amended to include the phrase, "unless stipulated," to signal readers that authentication of evidence can be stipulated by the parties and, therefore, relieve the proponent of introducing authentication evidence." (at 1)

"The amendment of Rule 902(4) is intended to facilitate the use of electronic forms of certification for copies of public records; it is not intended to prohibit the use of pen-and-ink signatures and raised seals." (at 2)

"Regardless of whether the material exists in print or digitally, the proponent still has the burden of establishing that the material purports to be a "newspaper" or "periodical" - the proposal does not intend to alter that requirement." (at 2)

FACTUAL BACKGROUND

The proceeding arose from the Committee's review of authentication requirements in light of stipulated authentication, electronic certification of public records, digital newspapers and periodicals, and an erroneous removal of language from Rule 902(12) during the 2013 restyling. The Committee recommended amendments to facilitate authentication, accommodate electronic records and media, and restore the substance of a prior amendment concerning certified foreign records of regularly conducted activity.

PROCEDURAL HISTORY

The Committee on Rules of Evidence recommended amendments to four Pennsylvania Rules of Evidence. On November 4, 2019, the Supreme Court of Pennsylvania ordered the amendments, which became effective

January 1, 2020. The document is the Committee's explanatory Final Report accompanying the rulemaking order.

DISPOSITION

approved

CASES CITED

- White v. City of Birmingham, Ala., 96 F. Supp. 3d 1260, 1274 (N.D. Ala. 2015), as amended

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