

Rule 212.4. Applicability of Rules. Eminent Domain

(a) The name of a valuation expert and his or her statement of valuation required to be served on the opposing party by Section 703(2) of the Eminent Domain Code shall be served within the time provided for the filing of a pre-trial statement by Rule 212.1. A party failing to comply with this rule shall be subject to the sanctions set forth in Rule 212.2(c)

(b) Section 703(2) of the Eminent Domain Code, 26 P.S. § 1-703(2), is suspended only insofar as it provides for the name and report of the valuation expert to be served at least ten days before the commencement of the trial.

Explanatory Comment

Section 1-703(2) of the Eminent Domain Code, 26 P.S. § 1-703(2),¹ requires that, if a valuation expert has not previously testified before the viewers, the party calling the expert must disclose the expert's name and serve a statement of his or her valuation of the property on the opposing party "at least ten days before the commencement of the trial." At the time this requirement was enacted, very few courts required the filing of an expert report prior to trial. The ten-day requirement for exchanging reports now provides less notice of the proposed expert testimony than is provided for in other civil actions.

Pa.R.C.P. 212.1 requires the filing of a pre-trial statement

- (1) by the plaintiff not later than sixty days prior to the earliest trial date,
- (2) by the defendant not later than thirty days prior to the earliest trial date, and
- (3) by an additional defendant not later than fifteen days prior to the earliest trial date.

The pretrial statement pursuant to Rule 212.2(a) is required to contain "a list of the names and addresses of all person who may be called as witnesses by the party filing the

statement” and “a copy of the written report ... containing the opinion and the basis for the opinion of any person who may be called as an expert witness”

New Rule 212.4 has been added to the rules of civil procedure to conform the time for disclosing the name of a valuation expert and serving his or her statement of valuation to that of Rule 212.1. This new rule places eminent domain cases on a footing which corresponds to jury trials generally and fosters the salutary principles underlying the pre-trial rules.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair

ⁱ **§ 1-703. Trial in the court of common pleas on appeal**

At the trial in court on appeal:

(1) ***

(2) If any valuation expert who has not previously testified before the viewers is to testify, the party calling him must disclose his name and serve a statement of his valuation of the property before and after the condemnation and his opinion of the highest and best use of the property before the condemnation and of any part thereof remaining after the condemnation, on the opposing party at least ten days before the commencement of the trial.

(3) ***