

ADOPTION REPORT

Amendment of Pa.R.J.A. No. 101 and 103, Pa.R.C.P. No. 51 and 129, Pa.R.C.P.M.D.J. No. 201, and Pa. O.C. Rule 1.1

An effort has been undertaken to establish internal guidance to enhance and maintain uniformity among the Court's procedural and evidentiary rules through the adherence to common standards for style, numbering, syntax, nomenclature, and the use of commentary in rulemaking. To facilitate the implementation of this guidance, a proposal was published for response concerning the possible amendment of Pa.R.J.A. No. 103 and Pa.R.C.P. No. 129 to clarify the use of commentary in rulemaking and amendment of Pa.R.J.A. No. 101, Pa.R.C.P. No. 51, Pa.R.C.P.M.D.J. No. 201, and Pa. O.C. Rule 1.1 concerning citation format. See 49 Pa.B. 4809 (August 24, 2019). The Publication Report accompanying the proposal further addressed: 1) the ongoing effort to achieve consistency, including reconciliation of the differing numbering schemes for subparts and the use of subdivisions and paragraphs to describe subparts; 2) removal and reestablishment of Chapters 1900-1950 of the Rules of Civil Procedure; 3) the use of "Comments" to describe commentary and the elimination of "notes"; 4) clarifying that commentary is part of the rule, but not part of the rule text; 5) removing largely historical material from existing commentary; and 6) a phased approach to restyling the rules to conform with internal guidance.

The proposal received seven responses containing helpful suggestions, insightful observations, and possible areas of concern. One respondent suggested reorganization of aspects of the Pennsylvania Rules of Civil Procedure so they are ordered in a more intuitive fashion that relates to the linear progression of litigation. This suggestion will remain under consideration for possible implementation after those rules are conformed to internal guidance. Another respondent suggested a uniform set of rules of construction for the Court's procedural and evidentiary rules. It is anticipated that a proposal on this subject will be forthcoming.

Concerning proposed changes to the titles and citations of certain bodies of rules, several respondents suggested revising the abbreviation for "civil" to distinguish it from the abbreviation for "court." This suggestion is reflected in post-publication revisions to Pa.R.C.P. No. 51 and Pa.R.C.P.M.D.J. 201 to abbreviate "civil" as "civ." Relatedly, a respondent expressed concern that changes to citations might operate to invalidate a previous reference to that authority. A Comment was added to Pa.R.C.P. No. 51, Pa.R.C.P.M.D.J. No. 201, and Pa. O.C. Rule 1.1 to address that concern.

The rules set forth in Chapters 1900-1950 of the Rules of Civil Procedure, will be removed and relocated separate from the Rules of Civil Procedure. In doing so, that body of rules will be named the "Pennsylvania Rules of Family Court Procedure" and provided a corresponding citation format consistent with the other bodies of rules. Relocation of

the rules will provide the opportunity for reorganization and renumbering to reduce or eliminate the use of secondary and tertiary numbering schemes. To minimize the impact that renumbering the statewide rules may have on the numbering of local rules, derivation tables and disposition tables may be permitted, subject to certain conditions, which will be discussed further in future rulemaking.

The value of retaining historical commentary will be evaluated on an ongoing basis. Commentary removed will be identified and set forth in an Adoption Report accompanying a general restyling. Commentary removed through rulemaking unrelated to a general restyling will continue to be identified by textual indicators. Accordingly, the removed commentary will be publically available in either an Adoption Report or the amended form of the rule should a reader wish to review rulemaking history.

The procedural and evidentiary rules will be conformed to the internal guidance in the following manner: The guidance will be applied prospectively to future rulemaking proposed by the Rules Committees. To the extent practicable, rules currently subject to rulemaking will be revised depending upon their stage in the process. Recognizing that some rules are infrequently amended, each body of rules will also be conformed in their entirety through a phased process. The first body of rules to be subjected to the phased conformity will be Chapters 1900-1950 of the Rules of Civil Procedure contemporaneous with its relocation and renumbering. No substantive changes to the operation of the rules are intended as a result of conformance.

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