
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 115

Session of
1993

INTRODUCED BY KUKOVICH, LEDERER, GORDNER, BELARDI, TIGUE,
NAILOR, KREBS, STURLA, TRELLO, HECKLER, MIHALICH, ROONEY,
VAN HORNE, OLASZ, MASLAND, GERLACH, PESCI, COY, BELFANTI,
TANGRETTI, DALEY, DeWEESE, LAUGHLIN, FAJT, CLARK, PISTELLA,
CAPPABIANCA, STABACK, JOSEPHS, TOMLINSON, STERN, VEON, JAMES
AND ITKIN, JANUARY 27, 1993

SENATOR LEWIS, JUDICIARY, IN SENATE, AS AMENDED, MARCH 23, 1993

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for the
3 competency of witnesses; AND CREATING THE PENNSYLVANIA CODE <—
4 OF EVIDENCE.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5912 of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 5912. [Disqualification by perjury.

10 In a criminal proceeding, a person who has been convicted in
11 a court of this Commonwealth of perjury, which term is hereby
12 declared to include subornation of or solicitation to commit
13 perjury, shall not be a competent witness for any purpose,
14 although his sentence may have been fully complied with, unless
15 the judgment of conviction be judicially set aside or reversed,
16 or unless the proceeding is one to punish or prevent injury or

1 violence attempted, done, or threatened to his person or
2 property; in which cases he shall be competent to testify.]

3 Effect of prior convictions.

4 No person shall be deemed incompetent or otherwise
5 disqualified as a witness in any criminal proceeding by reason
6 of the person's having been convicted of perjury or subornation
7 of or solicitation to commit perjury, but such conviction may be
8 shown for the purpose of affecting the person's credibility.

9 ~~Section 2. The amendment of 42 Pa.C.S. § 5912 shall apply to~~ <—
10 ~~all criminal cases pending on the effective date of this act.~~

11 ~~Section 3. This act shall take effect immediately.~~

12 SECTION 2. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ: <—

13 CHAPTER 62

14 PENNSYLVANIA CODE OF EVIDENCE

15 SUBCHAPTER

16 A. GENERAL PROVISIONS

17 B. JUDICIAL NOTICE

18 C. PRESUMPTIONS

19 D. RELEVANCY AND ITS LIMITS

20 E. PRIVILEGE

21 F. WITNESSES

22 G. OPINIONS AND EXPERT TESTIMONY

23 H. HEARSAY AND ITS EXCEPTIONS

24 I. AUTHENTICATION AND IDENTIFICATION

25 J. CONTENTS OF WRITINGS, RECORDINGS AND PHOTOGRAPHS

26 K. MISCELLANEOUS PROVISIONS

27 SUBCHAPTER A

28 GENERAL PROVISIONS

29 SEC.

30 6201. SHORT TITLE OF CHAPTER (PCE 100).

1 6202. SCOPE OF CHAPTER (PCE 101).
2 6203. PURPOSE AND CONSTRUCTION (PCE 102).
3 6204. RULINGS ON EVIDENCE (PCE 103).
4 6205. PRELIMINARY QUESTIONS (PCE 104).
5 6206. LIMITED ADMISSIBILITY (PCE 105).
6 6207. REMAINDER OF RELATED WRITINGS OR RECORDED STATEMENTS
7 (PCE 106).

8 § 6201. SHORT TITLE OF CHAPTER (PCE 100).

9 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
10 PENNSYLVANIA CODE OF EVIDENCE. EACH SECTION MAY BE REFERRED TO
11 AS (PCE).

12 § 6202. SCOPE OF CHAPTER (PCE 101).

13 (A) COURTS.--THIS CHAPTER SHALL GOVERN PROCEEDINGS IN ALL
14 COMPULSORY ARBITRATION HEARINGS AND IN ALL COURTS OF THIS
15 COMMONWEALTH, EXCEPT AS OTHERWISE PROVIDED BY STATUTE OR RULE OF
16 PROCEDURE.

17 (B) PROCEEDINGS.--THIS CHAPTER SHALL APPLY GENERALLY TO
18 CIVIL AND CRIMINAL PROCEEDINGS.

19 (C) PRIVILEGES.--PRIVILEGES CREATED BY STATUTES AND
20 DECISIONAL LAW SHALL APPLY AT ALL STAGES OF ALL ACTIONS, CASES
21 AND PROCEEDINGS.

22 (D) CHAPTER INAPPLICABLE.--EXCEPT AS OTHERWISE PROVIDED BY
23 STATUTE, RULE OF PROCEDURE OR DECISIONAL LAW, OTHER THAN WITH
24 RESPECT TO PRIVILEGES, THIS CHAPTER DOES NOT APPLY TO THE
25 FOLLOWING:

26 (1) PRELIMINARY QUESTIONS OF FACT.--THE DETERMINATION OF
27 QUESTIONS OF FACT PRELIMINARY TO ADMISSIBILITY OF EVIDENCE
28 WHEN THE ISSUE IS TO BE DETERMINED BY THE COURT UNDER SECTION
29 6205 (RELATING TO PRELIMINARY QUESTIONS (PCE 104)).

30 (2) ADMINISTRATIVE AGENCIES AND TRIBUNALS.--OTHER THAN

1 WITH RESPECT TO PRIVILEGES, THIS CHAPTER DOES NOT APPLY TO
2 ADMINISTRATIVE PROCEEDINGS OR HEARINGS EXCEPT AS OTHERWISE
3 PROVIDED BY STATUTE, RULE OF PROCEDURE OR DECISIONAL LAW OR
4 UNLESS THE AGENCY CONCERNED CHOOSES TO APPLY IT.

5 (3) GRAND JURY.--PROCEEDINGS BEFORE GRAND JURIES.

6 (4) MISCELLANEOUS PROCEEDINGS.--PROCEEDINGS FOR THE
7 ISSUANCE OF ARREST WARRANTS, CRIMINAL SUMMONSES AND SEARCH
8 WARRANTS.

9 § 6203. PURPOSE AND CONSTRUCTION (PCE 102).

10 THIS CHAPTER SHALL BE CONSTRUED TO SECURE FAIRNESS IN
11 ADMINISTRATION, ELIMINATION OF UNJUSTIFIABLE EXPENSE AND DELAY
12 AND PROMOTION OF GROWTH AND DEVELOPMENT OF THE LAW OF EVIDENCE
13 TO THE END THAT THE TRUTH MAY BE ASCERTAINED AND PROCEEDINGS
14 JUSTLY DETERMINED.

15 § 6204. RULINGS ON EVIDENCE (PCE 103).

16 (A) EFFECT OF ERRONEOUS RULING.--ERROR MAY NOT BE PREDICATED
17 UPON A RULING WHICH ADMITS OR EXCLUDES EVIDENCE UNLESS A
18 SUBSTANTIAL RIGHT OF THE PARTY IS AFFECTED AND ONE OF THE
19 FOLLOWING APPLY:

20 (1) OBJECTION.--IN CASE THE RULING IS ONE ADMITTING
21 EVIDENCE, A TIMELY OBJECTION, MOTION IN LIMINE OR MOTION TO
22 STRIKE APPEARS OF RECORD, STATING THE SPECIFIC GROUND OF
23 OBJECTION, IF THE SPECIFIC GROUND WAS NOT APPARENT FROM THE
24 CONTEXT.

25 (2) OFFER OF PROOF.--IN CASE THE RULING IS ONE EXCLUDING
26 EVIDENCE, THE SUBSTANCE OF THE EVIDENCE WAS MADE KNOWN TO THE
27 COURT BY OFFER OR MOTION IN LIMINE OR WAS APPARENT FROM THE
28 CONTEXT WITHIN WHICH QUESTIONS WERE ASKED.

29 (B) RECORD OF OFFER AND RULING.--THE COURT MAY ADD ANY OTHER
30 OR FURTHER STATEMENT WHICH SHOWS THE CHARACTER OF THE EVIDENCE,

1 THE FORM IN WHICH IT WAS OFFERED, THE OBJECTION MADE AND THE
2 RULING THEREON. IT MAY DIRECT THE MAKING OF AN OFFER IN QUESTION
3 AND ANSWER FORM.

4 (C) HEARING OF JURY.--IN JURY CASES, PROCEEDINGS SHALL BE
5 CONDUCTED TO THE EXTENT PRACTICABLE SO AS TO PREVENT
6 INADMISSIBLE EVIDENCE FROM BEING SUGGESTED TO THE JURY BY ANY
7 MEANS, INCLUDING, BUT NOT LIMITED TO, MAKING STATEMENTS OR
8 OFFERS OF PROOF OR ASKING QUESTIONS IN THE HEARING OF THE JURY.

9 (D) PLAIN ERROR.--NOTHING IN THIS CHAPTER PRECLUDES THE
10 TRIAL COURT FROM TAKING NOTICE OF PLAIN ERRORS AFFECTING
11 SUBSTANTIAL RIGHTS ALTHOUGH THEY WERE NOT BROUGHT TO THE
12 ATTENTION OF THE COURT.

13 (E) MOTION IN LIMINE.--A RULING ON A MOTION IN LIMINE THAT
14 EVIDENCE SUBJECT TO THE MOTION IS ADMISSIBLE SHALL BE SUFFICIENT
15 TO PRESERVE THE ISSUE FOR APPEAL WITHOUT ANY FURTHER OBJECTION
16 BY THE LOSING PARTY DURING TRIAL, UNLESS THE COURT SPECIFICALLY
17 NOTIFIES THE PARTIES THAT ITS RULING IS TENTATIVE AND THE MOTION
18 SHOULD BE RENEWED AT TRIAL. DURING TRIAL, THE COURT CAN CHANGE
19 ANY IN LIMINE RULING FOR GOOD CAUSE SHOWN.

20 § 6205. PRELIMINARY QUESTIONS (PCE 104).

21 (A) QUESTIONS OF ADMISSIBILITY GENERALLY.--PRELIMINARY
22 QUESTIONS CONCERNING THE QUALIFICATION OF A PERSON TO BE A
23 WITNESS, THE EXISTENCE OF A PRIVILEGE OR THE ADMISSIBILITY OF
24 EVIDENCE SHALL BE DETERMINED BY THE COURT, SUBJECT TO THE
25 PROVISIONS OF SUBSECTION (B). IN MAKING ITS DETERMINATION, THE
26 COURT IS NOT BOUND BY THIS CHAPTER EXCEPT WITH RESPECT TO
27 PRIVILEGES.

28 (B) RELEVANCY CONDITIONED ON FACT.--WHEN THE RELEVANCY OF
29 EVIDENCE DEPENDS UPON THE FULFILLMENT OF A CONDITION OF FACT,
30 THE COURT SHALL ADMIT IT UPON OR SUBJECT TO THE INTRODUCTION OF

1 EVIDENCE SUFFICIENT TO SUPPORT A FINDING OF THE FULFILLMENT OF
2 THE CONDITION.

3 (C) HEARING OF JURY.--HEARINGS ON THE ADMISSIBILITY OF
4 CONFESSIONS SHALL IN ALL CASES BE CONDUCTED OUT OF THE HEARING
5 OF THE JURY. HEARINGS ON OTHER PRELIMINARY MATTERS SHALL BE
6 CONDUCTED WHEN THE INTERESTS OF JUSTICE REQUIRE OR WHEN AN
7 ACCUSED IS A WITNESS AND SO REQUESTS.

8 (D) TESTIMONY BY ACCUSED.--THE ACCUSED DOES NOT, BY
9 TESTIFYING UPON A PRELIMINARY MATTER, BECOME SUBJECT TO CROSS-
10 EXAMINATION AS TO OTHER ISSUES IN THE CASE.

11 (E) WEIGHT AND CREDIBILITY.--THE PROVISIONS OF THIS SECTION
12 DO NOT LIMIT THE RIGHT OF A PARTY TO INTRODUCE BEFORE THE JURY
13 EVIDENCE RELEVANT TO WEIGHT OR CREDIBILITY.

14 § 6206. LIMITED ADMISSIBILITY (PCE 105).

15 WHEN EVIDENCE WHICH IS ADMISSIBLE TO ONE PARTY OR FOR ONE
16 PURPOSE BUT NOT ADMISSIBLE TO ANOTHER PARTY OR FOR ANOTHER
17 PURPOSE IS ADMITTED, THE COURT, UPON REQUEST, SHALL RESTRICT THE
18 EVIDENCE TO ITS PROPER SCOPE AND INSTRUCT THE JURY ACCORDINGLY.

19 § 6207. REMAINDER OF RELATED WRITINGS OR RECORDED STATEMENTS
20 (PCE 106).

21 WHEN A WRITING OR RECORDED STATEMENT OR PART THEREOF IS
22 INTRODUCED BY A PARTY, AN ADVERSE PARTY MAY REQUIRE THE
23 INTRODUCTION AT THE TIME OF ANY OTHER PART OR ANY OTHER WRITING
24 OR RECORDED STATEMENT WHICH SHALL IN FAIRNESS BE CONSIDERED
25 CONTEMPORANEOUSLY WITH IT.

26 SUBCHAPTER B
27 JUDICIAL NOTICE
28 SEC.

29 6211. JUDICIAL NOTICE OF ADJUDICATIVE FACTS (PCE 201).

30 6212. JUDICIAL NOTICE OF LAW (PCE 202).

1 § 6211. JUDICIAL NOTICE OF ADJUDICATIVE FACTS (PCE 201).

2 (A) SCOPE.--THIS SECTION GOVERNS ONLY JUDICIAL NOTICE OF
3 ADJUDICATIVE FACTS.

4 (B) KINDS OF FACTS.--A JUDICIALLY NOTICED FACT MUST BE ONE
5 NOT SUBJECT TO REASONABLE DISPUTE IN THAT IT IS ONE OF THE
6 FOLLOWING:

7 (1) GENERALLY KNOWN WITHIN THE TERRITORIAL JURISDICTION
8 OF THE TRIAL COURT.

9 (2) CAPABLE OF ACCURATE AND READY DETERMINATION BY
10 RESORT TO SOURCES WHOSE ACCURACY CANNOT REASONABLY BE
11 QUESTIONED.

12 (C) WHEN DISCRETIONARY.--A COURT MAY TAKE JUDICIAL NOTICE,
13 WHETHER REQUESTED OR NOT.

14 (D) WHEN MANDATORY.--A COURT SHALL TAKE JUDICIAL NOTICE IF
15 REQUESTED BY A PARTY AND SUPPLIED WITH THE NECESSARY
16 INFORMATION.

17 (E) OPPORTUNITY TO BE HEARD.--A PARTY IS ENTITLED, UPON
18 TIMELY REQUEST, TO AN OPPORTUNITY TO BE HEARD AS TO THE
19 PROPRIETY OF TAKING JUDICIAL NOTICE AND THE TENOR OF THE MATTER
20 NOTICED. IN THE ABSENCE OF PRIOR NOTIFICATION, THE REQUEST MAY
21 BE MADE AFTER JUDICIAL NOTICE HAS BEEN TAKEN.

22 (F) TIME OF TAKING NOTICE.--JUDICIAL NOTICE MAY BE TAKEN AT
23 ANY STAGE OF THE PROCEEDING.

24 (G) INSTRUCTING JURY.--IN A CIVIL ACTION OR PROCEEDING, THE
25 COURT SHALL INSTRUCT THE JURY TO ACCEPT AS CONCLUSIVE ANY FACT
26 JUDICIALLY NOTICED. IN A CRIMINAL CASE, THE COURT SHALL INSTRUCT
27 THE JURY THAT IT MAY, BUT IS NOT REQUIRED TO, ACCEPT AS
28 CONCLUSIVE ANY FACT JUDICIALLY NOTICED.

29 § 6212. JUDICIAL NOTICE OF LAW (PCE 202).

30 (A) SCOPE.--THIS SECTION GOVERNS ONLY JUDICIAL NOTICE OF

1 LAW.

2 (B) MANDATORY JUDICIAL NOTICE OF LAW.--THE COURT SHALL TAKE
3 JUDICIAL NOTICE OF THE FOLLOWING:

4 (1) THE PUBLIC LAWS OF THIS COMMONWEALTH.

5 (2) ALL DULY ENACTED ORDINANCES OF COUNTIES, CITIES,
6 MUNICIPALITIES OR OTHER SUBDIVISIONS OF THIS COMMONWEALTH.

7 (3) MUNICIPAL CORPORATIONS OF THIS COMMONWEALTH.

8 (4) ALL DULY PUBLISHED RULES AND REGULATIONS OF
9 ADMINISTRATIVE BODIES OF THIS COMMONWEALTH.

10 (5) ALL RULES ADOPTED BY THE SUPREME COURT.

11 (C) OPTIONAL JUDICIAL NOTICE OF LAW.--UPON REASONABLE NOTICE
12 TO ADVERSE PARTIES, A PARTY MAY REQUEST THAT THE COURT TAKE, AND
13 THE COURT MAY TAKE, JUDICIAL NOTICE OF THE FOLLOWING:

14 (1) THE CONSTITUTIONS AND STATUTES OF THE UNITED STATES
15 AND OF EVERY STATE, TERRITORY AND OTHER JURISDICTION OF THE
16 UNITED STATES.

17 (2) ALL DULY ADOPTED FEDERAL AND STATE RULES OF COURT.

18 (3) ALL DULY ENACTED ORDINANCES OF MUNICIPALITIES OR
19 OTHER GOVERNMENT SUBDIVISIONS OF OTHER STATES.

20 (4) THE LAWS OF FOREIGN COUNTRIES, INTERNATIONAL LAW AND
21 MARITIME LAW.

22 (D) DETERMINATION BY COURT.--ALL DETERMINATIONS OF LAW MADE
23 UNDER THIS SECTION SHALL BE MADE BY THE COURT AND NOT BY THE
24 JURY, AND THE COURT MAY CONSIDER ANY RELEVANT MATERIAL OR
25 SOURCE, INCLUDING TESTIMONY, WHETHER OR NOT SUBMITTED BY A PARTY
26 OR ADMISSIBLE UNDER THIS CHAPTER. THE DETERMINATION OF THE COURT
27 IS SUBJECT TO REVIEW ON APPEAL AS A RULING ON A QUESTION OF LAW.

28 SUBCHAPTER C

29 PRESUMPTIONS

30 SEC.

1 6216. APPLICATION (PCE 301).

2 § 6216. APPLICATION (PCE 301).

3 IN APPLYING THE LAW OF PRESUMPTIONS, EXCEPT AS OTHERWISE
4 REQUIRED BY THE CONSTITUTIONS OF THE UNITED STATES AND OF
5 PENNSYLVANIA, THE COURT SHALL BE GOVERNED BY STATUTE, RULE OF
6 PROCEDURE AND DECISIONAL LAW.

7 SUBCHAPTER D

8 RELEVANCY AND ITS LIMITS

9 SEC.

10 6221. DEFINITIONS (PCE 401).

11 6222. ADMISSIBILITY OF EVIDENCE (PCE 402).

12 6223. EXCLUSION OF RELEVANT EVIDENCE ON GROUNDS OF PREJUDICE,
13 CONFUSION OR WASTE OF TIME (PCE 403).

14 6224. CHARACTER EVIDENCE; METHODS OF PROVING CHARACTER (PCE
15 404).

16 6225. OTHER CRIMES, WRONGS OR ACTS (PCE 405).

17 6226. HABIT OR ROUTINE PRACTICE (PCE 406).

18 6227. SUBSEQUENT REMEDIAL MEASURES (PCE 407).

19 6228. COMPROMISE AND OFFERS TO COMPROMISE (PCE 408).

20 6229. PAYMENT OF MEDICAL AND SIMILAR EXPENSES (PCE 409).

21 6230. INADMISSIBILITY OF PLEAS, PLEA DISCUSSIONS AND RELATED
22 STATEMENTS (PCE 410).

23 6231. LIABILITY INSURANCE (PCE 411).

24 6232. SEX OFFENSE CASES (PCE 412).

25 § 6221. DEFINITIONS (PCE 401).

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
27 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "RELEVANT EVIDENCE." EVIDENCE HAVING ANY TENDENCY TO MAKE
30 THE EXISTENCE OF ANY FACT THAT IS OF CONSEQUENCE TO THE

1 DETERMINATION OF THE ACTION MORE PROBABLE OR LESS PROBABLE THAN
2 IT WOULD BE WITHOUT THE EVIDENCE.

3 § 6222. ADMISSIBILITY OF EVIDENCE (PCE 402).

4 ALL RELEVANT EVIDENCE IS ADMISSIBLE, EXCEPT AS OTHERWISE
5 PROVIDED BY THE CONSTITUTIONS OF THE UNITED STATES AND OF
6 PENNSYLVANIA, BY STATUTE, BY THIS CHAPTER OR BY OTHER RULES
7 PRESCRIBED BY THE SUPREME COURT. EVIDENCE WHICH IS NOT RELEVANT
8 IS NOT ADMISSIBLE.

9 § 6223. EXCLUSION OF RELEVANT EVIDENCE ON GROUNDS OF PREJUDICE,
10 CONFUSION OR WASTE OF TIME (PCE 403).

11 ALTHOUGH RELEVANT, EVIDENCE MAY BE EXCLUDED IF ITS PROBATIVE
12 VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR
13 PREJUDICE, CONFUSION OF THE ISSUES OR MISLEADING THE JURY, OR BY
14 CONSIDERATIONS OF UNDUE DELAY, WASTE OF TIME OR NEEDLESS
15 PRESENTATION OF CUMULATIVE EVIDENCE.

16 § 6224. CHARACTER EVIDENCE; METHODS OF PROVING CHARACTER (PCE
17 404).

18 (A) CHARACTER EVIDENCE GENERALLY.--EVIDENCE OF A PERSON'S
19 CHARACTER OR A TRAIT OF CHARACTER IS NOT ADMISSIBLE FOR THE
20 PURPOSE OF PROVING ACTION IN CONFORMITY THEREWITH ON A
21 PARTICULAR OCCASION, EXCEPT FOR THE FOLLOWING:

22 (1) CHARACTER OF ACCUSED IN CRIMINAL CASES.--EVIDENCE IN
23 A CRIMINAL CASE OF A PERTINENT TRAIT OF CHARACTER OFFERED BY
24 AN ACCUSED, OR BY THE PROSECUTION TO REBUT THE SAME.

25 (2) CHARACTER OF VICTIM IN CRIMINAL CASES.--EVIDENCE IN
26 A CRIMINAL CASE OF A PERTINENT TRAIT OF CHARACTER OF THE
27 VICTIM OF THE CRIME OFFERED BY AN ACCUSED, OR BY THE
28 PROSECUTION TO REBUT THE SAME.

29 (3) CIVIL CASES.--EVIDENCE IN A CIVIL CASE OF THE
30 CHARACTER OF A WITNESS IS NOT ADMISSIBLE, EXCEPT AS PROVIDED

1 IN PARAGRAPH (4).

2 (4) EVIDENCE OF THE CHARACTER OF A WITNESS AS PROVIDED
3 IN SECTIONS 6247 (RELATING TO WITNESS IMPEACHMENT (PCE 607)),
4 6248 (RELATING TO CHARACTER AND CONDUCT OF WITNESS (PCE
5 608)), 6249 (RELATING TO EVIDENCE OF CONVICTION OF CRIME (PCE
6 609)) AND 6250 (RELATING TO BIAS, INTEREST, PREJUDICE OR
7 CORRUPT MOTIVE (PCE 609.1)).

8 (B) REPUTATION OR OPINION.--IN ALL CASES IN WHICH EVIDENCE
9 OF CHARACTER OR A TRAIT OF CHARACTER OF A PERSON IS ADMISSIBLE,
10 PROOF MAY BE MADE BY TESTIMONY AS TO REPUTATION OR BY TESTIMONY
11 IN THE FORM OF AN OPINION. ON CROSS-EXAMINATION, INQUIRY IS
12 ALLOWABLE INTO RELEVANT SPECIFIC INSTANCES OF CONDUCT.

13 (C) SPECIFIC INSTANCES OF CONDUCT.--IN CASES IN WHICH
14 CHARACTER OR A TRAIT OF CHARACTER OF A PERSON IS AN ESSENTIAL
15 ELEMENT OF A CHARGE, CLAIM OR DEFENSE, PROOF MAY ALSO BE MADE OF
16 SPECIFIC INSTANCES OF THAT PERSON'S CONDUCT.

17 § 6225. OTHER CRIMES, WRONGS OR ACTS (PCE 405).

18 (A) GENERAL RULE.--EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS
19 IS NOT ADMISSIBLE TO PROVE THE CHARACTER OF A PERSON IN ORDER TO
20 SHOW ACTION IN CONFORMITY THEREWITH. SUCH EVIDENCE MAY, HOWEVER,
21 BE ADMISSIBLE FOR OTHER PURPOSES, SUCH AS PROOF OF MOTIVE,
22 OPPORTUNITY, INTENT, PREPARATION, PLAN, KNOWLEDGE, IDENTITY OR
23 ABSENCE OF MISTAKE OR ACCIDENT. EVIDENCE OF OTHER CRIMES, WRONGS
24 OR ACTS IS NOT ADMISSIBLE, HOWEVER, TO PROVE SOLELY EITHER MODUS
25 OPERANDI OR COMMON PLAN, SCHEME OR DESIGN.

26 (B) NOTICE.--ANY PARTY WHO INTENDS TO INTRODUCE EVIDENCE
27 UNDER THIS SECTION SHALL PROVIDE REASONABLE WRITTEN NOTICE IN
28 ADVANCE OF TRIAL, OR DURING TRIAL IF THE COURT EXCUSES PRETRIAL
29 NOTICE ON GOOD CAUSE SHOWN, OF THE GENERAL NATURE OF ANY SUCH
30 EVIDENCE IT INTENDS TO INTRODUCE AT TRIAL.

1 (C) CRIMINAL CASES.--IN CRIMINAL CASES, EVIDENCE THAT THE
2 ACCUSED COMMITTED SUCH ACTS IS ADMISSIBLE ONLY WHERE THE
3 PROSECUTION DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT
4 THE ACCUSED COMMITTED THE ACT IN QUESTION AND THE COURT
5 DETERMINES THAT THE PROBATIVE VALUE OF THE EVIDENCE
6 SUBSTANTIALLY OUTWEIGHS THE DANGER OF UNFAIR PREJUDICE,
7 CONFUSION OF THE ISSUES OR MISLEADING OF THE JURY AND THAT ITS
8 ADMISSION WOULD NOT UNDULY DELAY THE PROCEEDING, WASTE TIME OR
9 PROVIDE NEEDLESSLY CUMULATIVE EVIDENCE.

10 § 6226. HABIT OR ROUTINE PRACTICE (PCE 406).

11 (A) ADMISSIBILITY.--EVIDENCE OF THE HABIT OF A PERSON OR OF
12 THE ROUTINE PRACTICE OF AN ORGANIZATION, WHETHER CORROBORATED OR
13 NOT AND REGARDLESS OF THE PRESENCE OF EYEWITNESSES, IS RELEVANT
14 TO PROVE THAT THE CONDUCT OF THE PERSON OR ORGANIZATION ON A
15 PARTICULAR OCCASION WAS IN CONFORMITY WITH THE HABIT OR ROUTINE
16 PRACTICE. PRIOR CRIMES, WRONGS OR ACTS OF AN ACCUSED ARE NOT
17 ADMISSIBLE AGAINST THE PERSON TO PROVE HABIT.

18 (B) METHOD OF PROVING.--HABIT OR ROUTINE PRACTICE SHALL BE
19 PROVED BY TESTIMONY IN THE FORM OF AN OPINION OR BY SPECIFIC
20 INSTANCES OF CONDUCT SUFFICIENT IN NUMBER TO WARRANT A FINDING
21 THAT THE HABIT EXISTED OR THAT THE PRACTICE WAS ROUTINE.
22 EVIDENCE OF A PARTY'S HABITUAL ACTS MAY NOT BE OFFERED TO PROVE
23 NEGLIGENCE.

24 § 6227. SUBSEQUENT REMEDIAL MEASURES (PCE 407).

25 WHEN, AFTER AN EVENT, MEASURES ARE TAKEN WHICH, IF TAKEN
26 PREVIOUSLY, WOULD HAVE MADE THE EVENT LESS LIKELY TO OCCUR,
27 EVIDENCE OF THE SUBSEQUENT MEASURES IS NOT ADMISSIBLE TO PROVE
28 NEGLIGENCE OR CULPABLE CONDUCT IN CONNECTION WITH THE EVENT.
29 THIS SECTION DOES NOT REQUIRE THE EXCLUSION OF EVIDENCE OF
30 SUBSEQUENT MEASURES WHEN OFFERED FOR ANOTHER PURPOSE, SUCH AS

1 PROVING OWNERSHIP, CONTROL, DEFECT IN PRODUCT LIABILITY CASES OR
2 FEASIBILITY OF PRECAUTIONARY MEASURES, IF CONTROVERTED, OR
3 IMPEACHMENT.

4 § 6228. COMPROMISE AND OFFERS TO COMPROMISE (PCE 408).

5 EVIDENCE OF FURNISHING OR OFFERING OR PROMISING TO FURNISH,
6 OR ACCEPTING OR OFFERING OR PROMISING TO ACCEPT A VALUABLE
7 CONSIDERATION IN COMPROMISING OR ATTEMPTING TO COMPROMISE A
8 CLAIM WHICH WAS DISPUTED AS TO EITHER VALIDITY OR AMOUNT IS NOT
9 ADMISSIBLE TO PROVE LIABILITY FOR OR INVALIDITY OF THE CLAIM OR
10 ITS AMOUNT. EVIDENCE OF CONDUCT OR STATEMENTS MADE IN COMPROMISE
11 NEGOTIATIONS IS LIKEWISE NOT ADMISSIBLE. THIS SECTION DOES NOT
12 REQUIRE THE EXCLUSION OF ANY EVIDENCE OTHERWISE DISCOVERABLE
13 MERELY BECAUSE IT IS PRESENTED IN THE COURSE OF COMPROMISE
14 NEGOTIATIONS. THIS SECTION ALSO DOES NOT REQUIRE EXCLUSION WHEN
15 THE EVIDENCE IS OFFERED FOR ANOTHER PURPOSE, SUCH AS PROVING
16 BIAS OR PREJUDICE OF A WITNESS, NEGATIVING A CONTENTION OF UNDUE
17 DELAY OR PROVING AN EFFORT TO OBSTRUCT A CRIMINAL INVESTIGATION
18 OR PROSECUTION.

19 § 6229. PAYMENT OF MEDICAL AND SIMILAR EXPENSES (PCE 409).

20 EVIDENCE OF FURNISHING OR OFFERING OR PROMISING TO PAY
21 MEDICAL, HOSPITAL OR SIMILAR EXPENSES OCCASIONED BY AN INJURY IS
22 NOT ADMISSIBLE TO PROVE LIABILITY FOR THE INJURY.

23 § 6230. INADMISSIBILITY OF PLEAS, PLEA DISCUSSIONS AND RELATED
24 STATEMENTS (PCE 410).

25 (A) GENERAL RULE.--EXCEPT AS OTHERWISE PROVIDED IN THIS
26 SECTION, EVIDENCE OF THE FOLLOWING IS NOT, IN ANY CIVIL OR
27 CRIMINAL PROCEEDING, ADMISSIBLE AGAINST THE DEFENDANT WHO MADE
28 THE PLEA OR WAS A PARTICIPANT IN THE PLEAS DISCUSSIONS:

29 (1) A PLEA OF GUILTY WHICH WAS LATER WITHDRAWN.

30 (2) A PLEA OF NOLO CONTENDERE.

1 (3) ANY STATEMENT MADE IN THE COURSE OF ANY PROCEEDINGS
2 UNDER RULES 59 AND 319 OF THE PENNSYLVANIA RULES OF CRIMINAL
3 PROCEDURE.

4 (4) ANY STATEMENT MADE IN THE COURSE OF PLEA DISCUSSIONS
5 WITH AN ATTORNEY FOR THE PROSECUTING AUTHORITY OR WITH A LAW
6 ENFORCEMENT OFFICER AUTHORIZED TO NEGOTIATE ON BEHALF OF THE
7 ATTORNEY OR WHO LED THE DEFENDANT TO SO BELIEVE, WHICH DOES
8 NOT RESULT IN A PLEA OF GUILTY OR WHICH RESULT IN A PLEA OF
9 GUILTY LATER WITHDRAWN.

10 (B) EXCEPTION.--A STATEMENT IS ADMISSIBLE IN ANY PROCEEDING
11 WHEREIN ANOTHER STATEMENT MADE IN THE COURSE OF THE SAME PLEA
12 DISCUSSIONS HAS BEEN INTRODUCED AND THE STATEMENT OUGHT IN
13 FAIRNESS TO BE CONSIDERED CONTEMPORANEOUSLY WITH IT, OR IN A
14 CRIMINAL PROCEEDINGS FOR PERJURY OR FALSE STATEMENT IF THE
15 STATEMENT WAS MADE BY THE DEFENDANT UNDER OATH, ON THE RECORD
16 AND IN THE PRESENCE OF COUNSEL.

17 § 6231. LIABILITY INSURANCE (PCE 411).

18 EVIDENCE THAT A PERSON WAS OR WAS NOT INSURED AGAINST
19 LIABILITY IS NOT ADMISSIBLE UPON THE ISSUE WHETHER THE PERSON
20 ACTED NEGLIGENTLY OR OTHERWISE WRONGFULLY. THIS SECTION DOES NOT
21 REQUIRE THE EXCLUSION OF EVIDENCE OF INSURANCE AGAINST LIABILITY
22 WHEN OFFERED FOR ANOTHER PURPOSE, SUCH AS PROOF OF AGENCY,
23 OWNERSHIP OR CONTROL, OR BIAS OR PREJUDICE OF A WITNESS.

24 § 6232. SEX OFFENSE CASES (PCE 412).

25 (A) GENERAL RULE.--EVIDENCE OF PAST SEXUAL BEHAVIOR OR
26 PREDISPOSITION OF AN ALLEGED VICTIM OF SEXUAL MISCONDUCT IS NOT
27 ADMISSIBLE IN ANY CIVIL OR CRIMINAL PROCEEDING EXCEPT AS
28 PROVIDED IN SUBSECTIONS (B) AND (C).

29 (B) EXCEPTIONS.--THE PAST SEXUAL BEHAVIOR OR PREDISPOSITION
30 OF AN ALLEGED VICTIM OF SEXUAL MISCONDUCT MAY BE ADMITTED ONLY

1 IF IT IS OTHERWISE ADMISSIBLE UNDER THIS CHAPTER AND IS EVIDENCE
2 OF THE FOLLOWING:

3 (1) SPECIFIC INSTANCES OF SEXUAL BEHAVIOR WITH SOMEONE
4 OTHER THAN THE PERSON ACCUSED OF THE SEXUAL MISCONDUCT WHEN
5 OFFERED TO PROVE THAT THE OTHER PERSON WAS THE SOURCE OF
6 SEMEN, OTHER PHYSICAL EVIDENCE OR INJURY.

7 (2) SPECIFIC INSTANCES OF SEXUAL BEHAVIOR WITH THE
8 PERSON ACCUSED OF THE SEXUAL MISCONDUCT, WHEN OFFERED TO
9 PROVE CONSENT BY THE ALLEGED VICTIM.

10 (3) SPECIFIC INSTANCES OF SEXUAL BEHAVIOR, WHEN OFFERED
11 IN A CRIMINAL CASE IN CIRCUMSTANCES WHERE EXCLUSION OF THE
12 EVIDENCE WOULD VIOLATE THE CONSTITUTIONAL RIGHTS OF THE
13 DEFENDANT.

14 (4) SPECIFIC INSTANCES OF SEXUAL BEHAVIOR, OR OTHER
15 EVIDENCE CONCERNING THE SEXUAL BEHAVIOR OR PREDISPOSITION OF
16 THE VICTIM, WHEN EITHER TYPE OF EVIDENCE IS OFFERED IN A
17 CIVIL CASE IN CIRCUMSTANCES WHERE THE EVIDENCE IS ESSENTIAL
18 TO A FAIR AND ACCURATE DETERMINATION OF A CLAIM OR DEFENSE OR
19 WHERE ITS PROBATIVE VALUE SUBSTANTIALLY OUTWEIGHS THE DANGER
20 OF UNFAIR PREJUDICE TO THE PARTIES AND HARM TO THE VICTIM.

21 (C) PROCEDURE TO DETERMINE ADMISSIBILITY.--EVIDENCE MUST NOT
22 BE OFFERED UNDER THIS SECTION UNLESS THE PROPONENT OBTAINS LEAVE
23 OF COURT BY A MOTION FILED UNDER SEAL, SPECIFICALLY DESCRIBING
24 THE EVIDENCE AND STATING THE PURPOSES FOR WHICH IT WILL BE
25 OFFERED. THE MOTION MUST BE SERVED ON THE ALLEGED VICTIM AND THE
26 PARTIES AND MUST BE FILED AT LEAST 15 DAYS BEFORE TRIAL UNLESS
27 THE COURT DIRECTS AN EARLIER FILING OR THE COURT MAY ALLOW THE
28 MOTION TO BE MADE AT A LATER DATE, INCLUDING DURING TRIAL, FOR
29 GOOD CAUSE SHOWN, IF THE COURT DETERMINES EITHER THAT THE
30 EVIDENCE IS NEWLY DISCOVERED AND COULD NOT HAVE BEEN OBTAINED

1 EARLIER THROUGH THE EXERCISE OF DUE DILIGENCE OR THAT THE ISSUE
2 TO WHICH THE EVIDENCE RELATES HAS NEWLY ARISEN IN THE CASE.
3 AFTER GIVING THE PARTIES AND THE ALLEGED VICTIM AN OPPORTUNITY
4 TO BE HEARD IN CHAMBERS, THE COURT MUST DETERMINE WHETHER UNDER
5 WHAT CONDITIONS AND IN WHAT MANNER AND FORM THE EVIDENCE MAY BE
6 ADMITTED. THE MOTION AND THE RECORD OF ANY HEARING IN CHAMBERS
7 MUST, UNLESS OTHERWISE ORDERED, REMAIN UNDER SEAL.

8 (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM "PAST
9 SEXUAL BEHAVIOR" MEANS SEXUAL BEHAVIOR OTHER THAN THE SEXUAL
10 BEHAVIOR WITH RESPECT TO WHICH AN OFFENSE UNDER 18 PA.C.S. CH.
11 31 (RELATING TO SEXUAL OFFENSES) IS ALLEGED.

12 SUBCHAPTER E

13 PRIVILEGE

14 SEC.

15 6236. PRIVILEGE (PCE 501).

16 § 6236. PRIVILEGE (PCE 501).

17 EXCEPT AS OTHERWISE REQUIRED BY THE CONSTITUTIONS OF THE
18 UNITED STATES AND OF PENNSYLVANIA, OR AS PROVIDED BY STATE
19 STATUTE OR DECISIONAL LAW AND EXCEPT AS PROVIDED IN THIS CHAPTER
20 OR IN OTHER RULES ADOPTED BY THE SUPREME COURT, NO PERSON HAS A
21 PRIVILEGE TO DO ANY OF THE FOLLOWING:

22 (1) REFUSE TO BE A WITNESS.

23 (2) REFUSE TO DISCLOSE ANY MATTER.

24 (3) REFUSE TO PRODUCE ANY OBJECT OR WRITING.

25 (4) PREVENT ANOTHER FROM BEING A WITNESS OR DISCLOSING
26 ANY MATTER OR PRODUCING ANY OBJECT OR WRITING.

27 SUBCHAPTER F

28 WITNESSES

29 SEC.

30 6241. COMPETENCY (PCE 601).

1 6242. LACK OF PERSONAL KNOWLEDGE (PCE 602).
2 6243. OATH OR AFFIRMATION (PCE 603).
3 6244. INTERPRETERS (PCE 604).
4 6245. COMPETENCY OF JUDGE AS WITNESS (PCE 605).
5 6246. COMPETENCY OF JUROR AS WITNESS (PCE 606).
6 6247. WITNESS IMPEACHMENT (PCE 607).
7 6248. CHARACTER AND CONDUCT OF WITNESS (PCE 608).
8 6249. EVIDENCE OF CONVICTION OF CRIME (PCE 609).
9 6250. BIAS, INTEREST, PREJUDICE OR CORRUPT MOTIVE (PCE 609.1).
10 6251. RELIGIOUS BELIEFS OR OPINIONS (PCE 610).
11 6252. INTERROGATION AND PRESENTATION (PCE 611).
12 6253. WRITING USED TO REFRESH MEMORY (PCE 612).
13 6254. PRIOR STATEMENTS OF WITNESSES (PCE 613).
14 6255. CALLING AND INTERROGATION OF WITNESSES BY COURT
15 (PCE 614).
16 6256. EXCLUSION OF WITNESSES (PCE 615).
17 § 6241. COMPETENCY (PCE 601).

18 (A) GENERAL RULE.--EVERY PERSON IS COMPETENT TO BE A WITNESS
19 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBCHAPTER.

20 (B) DISQUALIFICATION.--A PERSON IS DISQUALIFIED TO BE A
21 WITNESS IF THE PERSON IS INCAPABLE OF THE FOLLOWING:

22 (1) EXPRESSING HIMSELF SO AS TO BE UNDERSTOOD EITHER
23 DIRECTLY OR THROUGH INTERPRETATION BY ONE WHO CAN UNDERSTAND
24 HIM.

25 (2) UNDERSTANDING THE DUTY OF A WITNESS TO TELL THE
26 TRUTH.

27 § 6242. LACK OF PERSONAL KNOWLEDGE (PCE 602).

28 A WITNESS MAY NOT TESTIFY TO A MATTER UNLESS EVIDENCE IS
29 INTRODUCED SUFFICIENT TO SUPPORT A FINDING THAT THE WITNESS HAS
30 PERSONAL KNOWLEDGE OF THE MATTER. EVIDENCE TO PROVE PERSONAL

1 KNOWLEDGE MAY, BUT NEED NOT, CONSIST OF THE WITNESS' OWN
2 TESTIMONY. AGAINST THE OBJECTION OF A PARTY, PERSONAL KNOWLEDGE
3 MUST BE SHOWN BEFORE THE WITNESS MAY TESTIFY CONCERNING THE
4 MATTER. THIS SECTION IS SUBJECT TO THE PROVISIONS OF SECTION
5 6263 (RELATING TO BASE OF EXPERT TESTIMONY (PCE 703)).

6 § 6243. OATH OR AFFIRMATION (PCE 603).

7 BEFORE TESTIFYING, EVERY WITNESS SHALL BE REQUIRED TO DECLARE
8 THAT THE WITNESS WILL TESTIFY TRUTHFULLY, BY OATH OR AFFIRMATION
9 ADMINISTERED IN A FORM CALCULATED TO AWAKEN THE WITNESS'
10 CONSCIENCE AND IMPRESS THE WITNESS' MIND WITH THE DUTY TO DO SO.

11 § 6244. INTERPRETERS (PCE 604).

12 AN INTERPRETER IS SUBJECT TO THE PROVISIONS OF THIS CHAPTER
13 RELATING TO QUALIFICATION AS AN EXPERT AND THE ADMINISTRATION OF
14 AN OATH OR AFFIRMATION TO MAKE A TRUE TRANSLATION.

15 § 6245. COMPETENCY OF JUDGE AS WITNESS (PCE 605).

16 THE JUDGE PRESIDING AT THE TRIAL MAY NOT TESTIFY IN THAT
17 TRIAL AS A WITNESS. NO OBJECTION NEED BE MADE IN ORDER TO
18 PRESERVE THE POINT.

19 § 6246. COMPETENCY OF JUROR AS WITNESS (PCE 606).

20 (A) AT TRIAL.--A MEMBER OF THE JURY MAY NOT TESTIFY AS A
21 WITNESS BEFORE THAT JURY IN THE TRIAL OF THE CASE IN WHICH THE
22 JUROR IS SITTING. IF THE JUROR IS CALLED TO TESTIFY, THE
23 OPPOSING PARTY SHALL BE AFFORDED AN OPPORTUNITY TO OBJECT OUT OF
24 THE PRESENCE OF THE JURY.

25 (B) INQUIRY INTO VALIDITY OF VERDICT OR INDICTMENT.--UPON AN
26 INQUIRY INTO THE VALIDITY OF A VERDICT OR INDICTMENT, A JUROR
27 MAY NOT TESTIFY AS TO ANY MATTER OR STATEMENT OCCURRING DURING
28 THE COURSE OF THE JURY'S DELIBERATIONS OR TO THE EFFECT OF
29 ANYTHING UPON THAT OR ANY OTHER JUROR'S MIND OR EMOTIONS AS
30 INFLUENCING THE JUROR TO ASSENT TO OR DISSENT FROM THE VERDICT

1 OR INDICTMENT OR CONCERNING THE JUROR'S MENTAL PROCESSES IN
2 CONNECTION THEREWITH, EXCEPT THAT A JUROR MAY TESTIFY ON THE
3 QUESTION WHETHER EXTRANEOUS PREJUDICIAL INFORMATION WAS
4 IMPROPERLY BROUGHT TO THE JURY'S ATTENTION OR WHETHER ANY
5 OUTSIDE INFLUENCE WAS IMPROPERLY BROUGHT TO BEAR UPON ANY JUROR
6 OR WHETHER ANY THREATS OF VIOLENCE OR VIOLENT ACTS WERE BROUGHT
7 TO BEAR ON JURORS. A JUROR'S AFFIDAVIT OR EVIDENCE OF ANY
8 STATEMENT BY THE JUROR CONCERNING A MATTER ABOUT WHICH THE JUROR
9 WOULD BE PRECLUDED FROM TESTIFYING MAY NOT BE RECEIVED FOR THESE
10 PURPOSES.

11 § 6247. WITNESS IMPEACHMENT (PCE 607).

12 THE CREDIBILITY OF A WITNESS MAY BE ATTACKED BY ANY PARTY,
13 INCLUDING THE PARTY CALLING THE WITNESS.

14 § 6248. CHARACTER AND CONDUCT OF WITNESS (PCE 608).

15 (A) OPINION AND REPUTATION EVIDENCE OF CHARACTER.--THE
16 CREDIBILITY OF A WITNESS MAY BE ATTACKED OR SUPPORTED BY
17 EVIDENCE IN THE FORM OF OPINION OR REPUTATION, BUT SUBJECT TO
18 THE FOLLOWING LIMITATIONS:

19 (1) THE EVIDENCE MAY REFER ONLY TO CHARACTER FOR
20 TRUTHFULNESS OR UNTRUTHFULNESS.

21 (2) EVIDENCE OF TRUTHFUL CHARACTER IS ADMISSIBLE ONLY
22 AFTER THE CHARACTER OF THE WITNESS FOR TRUTHFULNESS HAS BEEN
23 ATTACKED BY OPINION OR REPUTATION EVIDENCE OR OTHERWISE.

24 (B) SPECIFIC INSTANCES OF CONDUCT.--SPECIFIC INSTANCES OF
25 THE CONDUCT OF A WITNESS, FOR THE PURPOSE OF ATTACKING OR
26 SUPPORTING THE WITNESS' CREDIBILITY, OTHER THAN CONVICTION OF
27 CRIME AS PROVIDED IN SECTION 6249 (RELATING TO EVIDENCE OF
28 CONVICTION OF CRIME (PCE 609)) AND BIAS, INTEREST OR MOTIVE AS
29 PROVIDED IN SECTION 6250 (RELATING TO BIAS, INTEREST, PREJUDICE
30 OR CORRUPT MOTIVE (PCE 609.1)), MAY NOT BE PROVED BY EXTRINSIC

1 EVIDENCE. THEY MAY, HOWEVER, IN THE DISCRETION OF THE COURT, IF
2 PROBATIVE OF TRUTHFULNESS OR UNTRUTHFULNESS, BE INQUIRED INTO ON
3 CROSS-EXAMINATION OF THE WITNESS CONCERNING THE WITNESS'
4 CHARACTER FOR TRUTHFULNESS OR UNTRUTHFULNESS OR CONCERNING THE
5 CHARACTER FOR TRUTHFULNESS OR UNTRUTHFULNESS OF ANOTHER WITNESS
6 AS TO WHICH CHARACTER THE WITNESS BEING CROSS-EXAMINED HAS
7 TESTIFIED. A WITNESS MAY NOT BE ASKED WHETHER THIRD PARTIES HAVE
8 ACCEPTED AS TRUE OR ACTED UPON ALLEGATIONS OF A SPECIFIC
9 INSTANCE OF THIS TYPE OF CONDUCT.

10 (C) DOCUMENT.--A WITNESS MAY BE SHOWN AND EXAMINED ABOUT A
11 DOCUMENT WHICH WAS MADE, ADOPTED OR APPROVED BY THE WITNESS
12 WHICH EVIDENCES THE WITNESS' SPECIFIC INSTANCE OF CONDUCT.

13 (D) NONWAIVER PROVISION.--THE GIVING OF TESTIMONY, WHETHER
14 BY AN ACCUSED OR BY ANY OTHER WITNESS, DOES NOT OPERATE AS A
15 WAIVER OF THE ACCUSED'S OR THE WITNESS' PRIVILEGE AGAINST SELF-
16 INCRIMINATION WHEN EXAMINED WITH RESPECT TO MATTERS WHICH RELATE
17 ONLY TO CREDIBILITY.

18 § 6249. EVIDENCE OF CONVICTION OF CRIME (PCE 609).

19 (A) GENERAL RULE.--FOR THE PURPOSE OF ATTACKING THE
20 CREDIBILITY OF A WITNESS, EVIDENCE THAT A WITNESS HAS BEEN
21 CONVICTED OF A CRIME SHALL BE ADMITTED IF IT INVOLVED DISHONESTY
22 OR FALSE STATEMENT.

23 (B) TIME LIMIT.--EVIDENCE OF A CONVICTION UNDER THIS SECTION
24 IS NOT ADMISSIBLE IF A PERIOD OF MORE THAN TEN YEARS HAS ELAPSED
25 SINCE THE DATE OF THE CONVICTION OR OF THE RELEASE OF THE
26 WITNESS FROM THE CONFINEMENT IMPOSED FOR THAT CONVICTION,
27 WHICHEVER IS THE LATER DATE, UNLESS THE COURT DETERMINES, IN THE
28 INTERESTS OF JUSTICE, THAT THE PROBATIVE VALUE OF THE CONVICTION
29 SUPPORTED BY SPECIFIC FACTS AND CIRCUMSTANCES SUBSTANTIALLY
30 OUTWEIGHS ITS PREJUDICIAL EFFECT. HOWEVER, EVIDENCE OF A

1 CONVICTION MORE THAN TEN YEARS OLD AS CALCULATED IN THIS SECTION
2 IS NOT ADMISSIBLE UNLESS THE PROPONENT GIVES TO THE ADVERSE
3 PARTY SUFFICIENT ADVANCE WRITTEN NOTICE OF INTENT TO USE THAT
4 EVIDENCE TO PROVIDE THE ADVERSE PARTY WITH A FAIR OPPORTUNITY TO
5 CONTEST THE USE OF THAT EVIDENCE.

6 (C) IN LIMINE RULINGS.--WHEN PRESENTED WITH A PRETRIAL OR IN
7 LIMINE MOTION CONCERNING THE IMPEACHMENT OF THE ACCUSED WITH
8 EVIDENCE OF A CONVICTION UNDER THIS SECTION, THE COURT SHALL
9 RULE AS EARLY AS PRACTICABLE AND NO LATER THAN WHEN THE
10 DEFENDANT IS CALLED AS A WITNESS. IF THE RULING IN LIMINE ADMITS
11 THE IMPEACHMENT EVIDENCE, THE MERITS OF THE EVIDENTIARY ISSUE
12 SHALL BE PRESERVED FOR APPEAL EVEN IF THE WITNESS-DEFENDANT
13 PERSONALLY TESTIFIES TO THE IMPEACHING FACTS ON DIRECT
14 EXAMINATION, OR DOES NOT TESTIFY AT ALL, AS A RESULT OF THE
15 RULING, IF THE DEFENDANT STATED TO THE COURT AN INTENTION TO
16 TESTIFY AT TRIAL AND MADE KNOWN THE SUBSTANCE OF THE PROPOSED
17 TESTIMONY ON THE RECORD BEFORE THE COURT RULED ON THE
18 ADMISSIBILITY OF THE IMPEACHMENT.

19 (D) EFFECT OF PARDON, ANNULMENT OR SUCCESSFUL COMPLETION OF
20 REHABILITATION PROGRAM.--EVIDENCE OF A CONVICTION IS NOT
21 ADMISSIBLE UNDER THIS SECTION IF THE CONVICTION HAS BEEN THE
22 SUBJECT OF ONE OF THE FOLLOWING:

23 (1) A PARDON, ANNULMENT, CERTIFICATE OF REHABILITATION
24 OR OTHER EQUIVALENT PROCEDURE BASED ON A FINDING OF THE
25 SUCCESSFUL COMPLETION OF AN ACCELERATED REHABILITATIVE
26 DISPOSITION OR OTHER REHABILITATION PROGRAM OF THE PERSON
27 CONVICTED AND THAT PERSON HAS NOT BEEN CONVICTED OF A
28 SUBSEQUENT CRIME WHICH WAS PUNISHABLE BY DEATH OR
29 IMPRISONMENT IN EXCESS OF ONE YEAR.

30 (2) A PARDON, ANNULMENT OR OTHER EQUIVALENT PROCEDURE

1 BASED ON A FINDING OF INNOCENCE.

2 (3) WHERE THE CHARGES HAVE BEEN DISMISSED AS A RESULT OF
3 A FINDING OF THE SUCCESSFUL COMPLETION OF AN ACCELERATED
4 REHABILITATIVE DISPOSITION OR OTHER REHABILITATION PROGRAM.

5 (E) CROSS-EXAMINATION OF ACCUSED CONCERNING PRIOR
6 CONVICTIONS.--AN ACCUSED SHALL NOT BE ASKED ON CROSS-EXAMINATION
7 ANY QUESTION TENDING TO SHOW THAT HE HAS BEEN CONVICTED OF A
8 CRIME, UNLESS HE HAS DONE ONE OF THE FOLLOWING:

9 (1) OFFERED EVIDENCE TENDING TO PROVE A TRAIT OF
10 CHARACTER UNDER SECTION 6224(A)(1) (RELATING TO CHARACTER
11 EVIDENCE (PCE 404)).

12 (2) TESTIFIED AT TRIAL AGAINST A CODEFENDANT CHARGED
13 WITH THE SAME OFFENSE.

14 (F) JUVENILE ADJUDICATIONS.--EVIDENCE OF JUVENILE
15 ADJUDICATIONS IS NOT ADMISSIBLE UNDER THIS SECTION.

16 (G) PENDENCY OF APPEAL.--THE PENDENCY OF AN APPEAL THEREFROM
17 DOES NOT RENDER EVIDENCE OF A CONVICTION INADMISSIBLE. EVIDENCE
18 OF THE PENDENCY OF AN APPEAL IS ADMISSIBLE.

19 § 6250. BIAS, INTEREST, PREJUDICE, CORRUPTION OR MOTIVE (PCE
20 609.1).

21 (A) GENERAL RULE.--THE CREDIBILITY OF A WITNESS MAY BE
22 ATTACKED BY EVIDENCE OF BIAS, INTEREST, PREJUDICE, CORRUPTION OR
23 MOTIVE.

24 (B) EXTRINSIC EVIDENCE OF BIAS, INTEREST, PREJUDICE,
25 CORRUPTION OR MOTIVE.--EXTRINSIC EVIDENCE OF A WITNESS' BIAS,
26 INTEREST, PREJUDICE, CORRUPTION OR MOTIVE IS NOT ADMISSIBLE
27 UNLESS, ON CROSS-EXAMINATION, THE MATTER IS BROUGHT TO THE
28 ATTENTION OF THE WITNESS AND THE WITNESS IS AFFORDED AN
29 OPPORTUNITY TO EXPLAIN OR DENY THE MATTER.

30 § 6251. RELIGIOUS BELIEFS OR OPINIONS (PCE 610).

1 EVIDENCE OF THE BELIEFS OR OPINIONS OF A WITNESS ON MATTERS
2 OF RELIGION IS NOT ADMISSIBLE FOR THE PURPOSE OF SHOWING THAT BY
3 REASON OF THEIR NATURE THE WITNESS' CREDIBILITY IS IMPAIRED OR
4 ENHANCED.

5 § 6252. INTERROGATION AND PRESENTATION (PCE 611).

6 (A) CONTROL BY COURT.--THE COURT SHALL EXERCISE REASONABLE
7 CONTROL OVER THE MODE AND ORDER OF INTERROGATING WITNESSES AND
8 PRESENTING EVIDENCE SO AS TO MAKE THE INTERROGATION AND
9 PRESENTATION EFFECTIVE FOR THE ASCERTAINMENT OF THE TRUTH, AVOID
10 NEEDLESS CONSUMPTION OF TIME AND PROTECT WITNESSES FROM
11 HARASSMENT OR UNDUE EMBARRASSMENT.

12 (B) SCOPE OF CROSS-EXAMINATION.--CROSS-EXAMINATION SHOULD BE
13 LIMITED TO THE SUBJECT MATTER OF THE DIRECT EXAMINATION AND
14 MATTERS AFFECTING THE CREDIBILITY OF THE NONPARTY WITNESS. THE
15 COURT MAY, IN THE EXERCISE OF DISCRETION, PERMIT INQUIRY INTO
16 ADDITIONAL MATTERS.

17 (C) LEADING QUESTIONS.--LEADING QUESTIONS SHOULD NOT BE USED
18 ON THE DIRECT EXAMINATION OF A WITNESS EXCEPT AS MAY BE
19 NECESSARY TO DEVELOP THE WITNESS' TESTIMONY. ORDINARILY LEADING
20 QUESTIONS SHOULD BE PERMITTED ON CROSS-EXAMINATION. WHEN A PARTY
21 CALLS A HOSTILE WITNESS, AN ADVERSE PARTY OR A WITNESS WHOSE
22 TESTIMONY IS IDENTIFIED WITH AN ADVERSE PARTY, INTERROGATION MAY
23 BE BY LEADING QUESTIONS.

24 § 6253. WRITING USED TO REFRESH MEMORY (PCE 612).

25 IF A WITNESS USED A WRITING TO REFRESH MEMORY FOR THE PURPOSE
26 OF TESTIFYING EITHER WHILE TESTIFYING OR BEFORE TESTIFYING AND
27 IF THE COURT IN ITS DISCRETION DETERMINES IT IS NECESSARY IN THE
28 INTERESTS OF JUSTICE, AN ADVERSE PARTY IS ENTITLED TO HAVE THE
29 WRITING PRODUCED AT THE HEARING, TO INSPECT IT, TO CROSS-EXAMINE
30 THE WITNESS THEREON AND TO INTRODUCE IN EVIDENCE THOSE PORTIONS

1 WHICH RELATE TO THE TESTIMONY OF THE WITNESS. IF IT IS CLAIMED
2 THAT THE WRITING CONTAINS MATTERS NOT RELATED TO THE SUBJECT
3 MATTER OF THE TESTIMONY, THE COURT SHALL EXAMINE THE WRITING IN
4 CAMERA, EXCISE ANY PORTION NOT SO RELATED AND ORDER DELIVERY OF
5 THE REMAINDER TO THE PARTY ENTITLED THERETO. ANY PORTION
6 WITHHELD OVER OBJECTIONS SHALL BE PRESERVED AND MADE AVAILABLE
7 TO THE APPELLATE COURT IN THE EVENT OF AN APPEAL. IF A WRITING
8 IS NOT PRODUCED OR DELIVERED PURSUANT TO ORDER UNDER THIS
9 SECTION, THE COURT SHALL MAKE ANY ORDER JUSTICE REQUIRES, EXCEPT
10 THAT IN CRIMINAL CASES WHEN THE PROSECUTION ELECTS NOT TO
11 COMPLY, THE ORDER SHALL BE ONE STRIKING THE TESTIMONY OR, IF THE
12 COURT IN ITS DISCRETION DETERMINES THAT THE INTERESTS OF JUSTICE
13 SO REQUIRE, DECLARING A MISTRIAL.

14 § 6254. PRIOR STATEMENTS OF WITNESSES (PCE 613).

15 (A) EXAMINING WITNESS CONCERNING PRIOR STATEMENT.--IN
16 EXAMINING A WITNESS CONCERNING A PRIOR STATEMENT MADE BY THE
17 WITNESS, WHETHER WRITTEN OR NOT, THE STATEMENT NEED NOT BE SHOWN
18 NOR ITS CONTENTS DISCLOSED TO THE WITNESS AT THAT TIME, BUT ON
19 REQUEST THE STATEMENT OR CONTENTS SHALL BE SHOWN OR DISCLOSED TO
20 OPPOSING COUNSEL.

21 (B) EXTRINSIC EVIDENCE OF PRIOR INCONSISTENT STATEMENT OF
22 WITNESS.--EXTRINSIC EVIDENCE OF A PRIOR INCONSISTENT STATEMENT
23 BY A WITNESS IS NOT ADMISSIBLE UNLESS, ON DIRECT OR CROSS-
24 EXAMINATION, THE WITNESS HAS BEEN INFORMED OF:

25 (1) THE CIRCUMSTANCES OF THE STATEMENT; AND

26 (2) ASKED WHETHER HE MADE THE STATEMENT.

27 THIS PROVISION DOES NOT APPLY TO ADMISSIONS OF A PARTY-OPPONENT
28 AS DEFINED IN SECTION 6271 (RELATING TO DEFINITIONS (PCE 801)).

29 (C) EVIDENCE OF PRIOR CONSISTENT STATEMENT OF WITNESS.--
30 EVIDENCE OF A PRIOR CONSISTENT STATEMENT BY A WITNESS IS

1 ADMISSIBLE FOR REHABILITATIVE PURPOSES IF THE WITNESS TESTIFIED
2 AT THE TRIAL OR HEARING AND IS SUBJECT TO CROSS-EXAMINATION
3 CONCERNING THE STATEMENT AND THE STATEMENT IS OFFERED TO REBUT
4 AN EXPRESSED OR IMPLIED CHARGE OF:

5 (1) INTENTIONAL FABRICATION AT THE TIME OF TRIAL AS A
6 RESULT OF BIAS OR OTHER IMPROPER MOTIVE WHICH DID NOT EXIST
7 AT THE TIME THE CONSISTENT STATEMENT WAS MADE; OR

8 (2) INACCURATE MEMORY, AND THE CONSISTENT STATEMENT WAS
9 MADE WHEN THE EVENT WAS RECENT AND THE WITNESS' MEMORY FRESH.

10 (D) STATEMENT AS EXHIBIT.--IF ADMITTED, THE PRIOR STATEMENT
11 MAY BE READ INTO EVIDENCE, BUT MAY NOT BE RECEIVED AS AN EXHIBIT
12 UNLESS OFFERED BY THE ADVERSE PARTY.

13 § 6255. CALLING AND INTERROGATION OF WITNESSES BY COURT (PCE
14 614).

15 (A) CALLING BY COURT.--CONSISTENT WITH ITS FUNCTION AS AN
16 IMPARTIAL ARBITER, THE COURT MAY ON ITS OWN MOTION OR AT THE
17 SUGGESTION OF A PARTY AND WITH NOTICE CALL WITNESSES, AND ALL
18 PARTIES ARE ENTITLED TO CROSS-EXAMINE WITNESSES CALLED.

19 (B) INTERROGATION BY COURT.--THE COURT MAY INTERROGATE
20 WITNESSES, WHETHER CALLED BY ITSELF OR BY A PARTY.

21 (C) OBJECTIONS.--OBJECTIONS TO THE CALLING OF WITNESSES BY
22 THE COURT OR TO INTERROGATION BY THE COURT MAY BE MADE AT THE
23 TIME OR AT THE NEXT AVAILABLE OPPORTUNITY WHEN THE JURY IS NOT
24 PRESENT.

25 § 6256. EXCLUSION OF WITNESSES (PCE 615).

26 AT THE REQUEST OF A PARTY THE COURT MAY ORDER WITNESSES
27 EXCLUDED SO THAT THEY CANNOT HEAR THE TESTIMONY OF OTHER
28 WITNESSES, AND IT MAY MAKE THE ORDER OF ITS OWN MOTION. THIS
29 SECTION DOES NOT AUTHORIZE EXCLUSION OF THE FOLLOWING:

30 (1) A PARTY WHO IS A NATURAL PERSON.

1 (2) AN OFFICER OR EMPLOYEE OF A PARTY WHICH IS NOT A
2 NATURAL PERSON DESIGNATED AS ITS REPRESENTATIVE BY ITS
3 ATTORNEY.

4 (3) A PERSON WHOSE PRESENCE IS SHOWN BY A PARTY TO BE
5 ESSENTIAL TO THE PRESENTATION OF THE PARTY'S CAUSE.

6 SUBCHAPTER G

7 OPINIONS AND EXPERT TESTIMONY

8 SEC.

9 6261. OPINION TESTIMONY BY LAY WITNESSES (PCE 701).

10 6262. TESTIMONY BY EXPERTS (PCE 702).

11 6263. BASIS OF EXPERT TESTIMONY (PCE 703).

12 6264. OPINION ON ULTIMATE ISSUE (PCE 704).

13 6265. DISCLOSURE OF FACTS OR DATA UNDERLYING EXPERT OPINION
14 (PCE 705).

15 6266. COURT-APPOINTED EXPERTS (PCE 706).

16 § 6261. OPINION TESTIMONY BY LAY WITNESSES (PCE 701).

17 IF THE WITNESS IS NOT TESTIFYING AS AN EXPERT, THE WITNESS'
18 TESTIMONY IN THE FORM OF OPINIONS OR INFERENCES IS LIMITED TO
19 THOSE OPINIONS OR INFERENCES WHICH ARE RATIONALLY BASED ON THE
20 PERCEPTION OF THE WITNESS AND HELPFUL TO A CLEAR UNDERSTANDING
21 OF THE WITNESS' TESTIMONY OR THE DETERMINATION OF A FACT IN
22 ISSUE.

23 § 6262. TESTIMONY BY EXPERTS (PCE 702).

24 IF SCIENTIFIC, TECHNICAL OR OTHER SPECIALIZED KNOWLEDGE WILL
25 ASSIST THE TRIER OF FACT TO UNDERSTAND THE EVIDENCE OR TO
26 DETERMINE A FACT IN ISSUE, A WITNESS QUALIFIED AS AN EXPERT BY
27 KNOWLEDGE, SKILL, EXPERIENCE, TRAINING OR EDUCATION MAY TESTIFY
28 THERE TO IN THE FORM OF AN OPINION OR OTHERWISE.

29 § 6263. BASIS OF EXPERT TESTIMONY (PCE 703).

30 (A) GENERAL RULE.--THE FACTS OR DATA IN THE PARTICULAR CASE

1 UPON WHICH AN EXPERT BASES AN OPINION OR INFERENCE MAY BE THOSE
2 PERCEIVED BY OR MADE KNOWN TO THE EXPERT AT OR BEFORE THE
3 HEARING. IF OF A TYPE REASONABLY RELIED UPON BY EXPERTS IN THE
4 PARTICULAR FIELD IN FORMING OPINIONS OR INFERENCES UPON THE
5 SUBJECT, AS DETERMINED BY THE COURT, THE FACTS OR DATA NEED NOT
6 BE ADMISSIBLE IN EVIDENCE.

7 (B) ADMISSIBILITY OF BASIS.--WHERE SUCH EVIDENCE IS
8 OTHERWISE INADMISSIBLE, THE EVIDENCE, IF NOT PRIVILEGED, MAY BE
9 ADMITTED ONLY FOR THE LIMITED PURPOSE OF EVALUATING THE OPINION
10 OR INFERENCE. THE COURT MAY, HOWEVER, DISALLOW TESTIMONY IN THE
11 FORM OF AN OPINION OR INFERENCE IF THE UNDERLYING FACTS OR DATA
12 INDICATE A LACK OF TRUSTWORTHINESS.

13 § 6264. OPINION ON ULTIMATE ISSUE (PCE 704).

14 TESTIMONY IN THE FORM OF AN OPINION OR INFERENCE OTHERWISE
15 ADMISSIBLE IS NOT OBJECTIONABLE BECAUSE IT EMBRACES AN ULTIMATE
16 ISSUE TO BE DECIDED BY THE TRIER OF FACT.

17 § 6265. DISCLOSURE OF FACTS OR DATA UNDERLYING EXPERT OPINION
18 (PCE 705).

19 THE EXPERT MAY TESTIFY IN TERMS OF OPINION OR INFERENCE AND
20 GIVE REASONS THEREFOR WITHOUT PRIOR TESTIMONY OF THE UNDERLYING
21 FACTS OR DATA, UNLESS THE COURT REQUIRES OTHERWISE. THE EXPERT
22 MAY IN ANY EVENT BE REQUIRED TO TESTIFY TO THE UNDERLYING FACTS
23 OR DATA ON CROSS-EXAMINATION. THE COURT MAY, HOWEVER, DISALLOW
24 TESTIMONY OF FACTS OR DATA RELIED UPON BY THE EXPERT IN FORMING
25 OPINIONS OR INFERENCES WHERE OTHERWISE INADMISSIBLE WHEN THE
26 COURT DETERMINES THAT THE PROBATIVE VALUE IS SUBSTANTIALLY
27 OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE, CONFUSION OF THE
28 ISSUES OR MISLEADING THE JURY.

29 § 6266. COURT-APPOINTED EXPERTS (PCE 706).

30 (A) APPOINTMENT.--THE COURT MAY ON ITS OWN MOTION OR ON THE

1 MOTION OF ANY PARTY ENTER AN ORDER TO SHOW CAUSE WHY EXPERT
2 WITNESSES SHOULD NOT BE APPOINTED AND MAY REQUEST THE PARTIES TO
3 SUBMIT NOMINATIONS. THE COURT MAY APPOINT ANY EXPERT WITNESSES
4 AGREED UPON BY THE PARTIES AND MAY APPOINT EXPERT WITNESSES OF
5 ITS OWN SELECTION. AN EXPERT WITNESS SHALL NOT BE APPOINTED BY
6 THE COURT UNLESS THE WITNESS CONSENTS TO ACT. A WITNESS SO
7 APPOINTED SHALL BE INFORMED OF THE WITNESS' DUTIES BY THE COURT
8 IN WRITING, A COPY OF WHICH SHALL BE FILED WITH THE CLERK OR
9 PROTHONOTARY, OR AT A CONFERENCE IN WHICH THE PARTIES SHALL HAVE
10 OPPORTUNITY TO PARTICIPATE. THE WITNESS APPOINTED SHALL ADVISE
11 THE PARTIES OF THE WITNESS' FINDINGS, IF ANY, THE WITNESS'
12 DEPOSITION MAY BE TAKEN BY ANY PARTY AND THE WITNESS MAY BE
13 CALLED TO TESTIFY BY THE COURT OR ANY PARTY. THE WITNESS SHALL
14 BE SUBJECT TO CROSS-EXAMINATION BY EACH PARTY, INCLUDING A PARTY
15 CALLING THE WITNESS.

16 (B) COMPENSATION.--EXPERT WITNESSES SO APPOINTED ARE
17 ENTITLED TO REASONABLE COMPENSATION IN WHATEVER SUM THE COURT
18 MAY ALLOW. THE COMPENSATION THUS FIXED IS PAYABLE FROM FUNDS
19 WHICH MAY BE PROVIDED BY LAW IN CRIMINAL CASES AND CIVIL ACTIONS
20 AND PROCEEDINGS INVOLVING JUST COMPENSATION UNDER THE FIFTH
21 AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES. IN OTHER
22 CIVIL ACTIONS AND PROCEEDINGS THE COMPENSATION SHALL BE PAID BY
23 THE PARTIES IN A PROPORTION AND AT A TIME AS THE COURT DIRECTS
24 AND THEREAFTER CHARGED IN LIKE MANNER AS OTHER COSTS.

25 (C) DISCLOSURE OF APPOINTMENT.--IN THE EXERCISE OF ITS
26 DISCRETION, THE COURT MAY AUTHORIZE DISCLOSURE TO THE JURY OF
27 THE FACT THAT THE COURT APPOINTED THE EXPERT WITNESS.

28 (D) PARTIES' EXPERTS OF OWN SELECTION.--NOTHING IN THIS
29 SECTION LIMITS THE PARTIES IN CALLING EXPERT WITNESSES OF THEIR
30 OWN SELECTION.

SUBCHAPTER H

HEARSAY AND ITS EXCEPTIONS

SEC.

6271. DEFINITIONS (PCE 801).

6272. HEARSAY RULE (PCE 802).

6273. HEARSAY EXCEPTIONS WHERE AVAILABILITY OF DECLARANT
IMMATERIAL (PCE 803).

6274. HEARSAY EXCEPTIONS WHERE DECLARANT UNAVAILABLE (PCE 804).

6275. HEARSAY WITHIN HEARSAY (PCE 805).

6276. ATTACKING AND SUPPORTING CREDIBILITY OF DECLARANT
(PCE 806).

§ 6271. DEFINITIONS (PCE 801).

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION:

"DECLARANT." A PERSON WHO MAKES A STATEMENT.

"HEARSAY." A STATEMENT, OTHER THAN ONE MADE BY THE DECLARANT
WHILE TESTIFYING AT THE TRIAL OR HEARING, OFFERED IN EVIDENCE TO
PROVE THE TRUTH OF THE MATTER ASSERTED. THE TERM DOES NOT
INCLUDE THE FOLLOWING STATEMENTS IF THE DECLARANT TESTIFIES AT
THE TRIAL OR HEARING AND IS SUBJECT TO CROSS-EXAMINATION
CONCERNING THE STATEMENT:

(1) PRIOR INCONSISTENT STATEMENT BY THE WITNESS.--A
STATEMENT IS INCONSISTENT WITH THE DECLARANT'S TESTIMONY AND
OFFERED IN COMPLIANCE WITH SECTION 6254(B) (RELATING TO PRIOR
STATEMENTS OF WITNESSES (PCE 613)), AND THE STATEMENT WAS:

(I) GIVEN UNDER OATH SUBJECT TO THE PENALTY OF
PERJURY AT A TRIAL, HEARING OR OTHER PROCEEDING, OR IN A
DEPOSITION.

(II) REDUCED TO WRITING AND SIGNED OR OTHERWISE
ADOPTED OR APPROVED BY THE DECLARANT.

1 (III) RECORDED IN SUBSTANTIALLY VERBATIM FASHION,
2 CONTEMPORANEOUSLY WITH THE MAKING OF THE STATEMENT.

3 (2) PRIOR CONSISTENT STATEMENT BY THE WITNESS.--A
4 STATEMENT IS CONSISTENT WITH THE DECLARANT'S TESTIMONY, THE
5 STATEMENT IS OFFERED IN COMPLIANCE WITH SECTION 6251(C)
6 (RELATING TO RELIGIOUS BELIEFS OR OPINIONS (PCE 610)), AND
7 THE STATEMENT WAS:

8 (I) GIVEN UNDER OATH SUBJECT TO THE PENALTY OF
9 PERJURY AT A TRIAL, HEARING OR OTHER PROCEEDING, OR IN A
10 DEPOSITION.

11 (II) REDUCED TO WRITING AND SIGNED OR OTHERWISE
12 ADOPTED OR APPROVED BY THE DECLARANT.

13 (III) RECORDED IN SUBSTANTIALLY VERBATIM FASHION,
14 CONTEMPORANEOUSLY WITH THE MAKING OF THE STATEMENT.

15 (3) PRIOR IDENTIFICATION.--THE STATEMENT IS ONE OF
16 IDENTIFICATION OF A PERSON MADE AFTER PERCEIVING THE PERSON.

17 (4) ADMISSIONS.--THE STATEMENT OFFERED AGAINST A PARTY
18 AND IS ONE OF THE FOLLOWING:

19 (I) THE PARTY'S OWN STATEMENT IN EITHER AN
20 INDIVIDUAL OR A REPRESENTATIVE CAPACITY.

21 (II) A STATEMENT OF WHICH THE PARTY HAS MANIFESTED
22 AN ADOPTION OR BELIEF IN ITS TRUTH.

23 (III) A STATEMENT BY A PERSON AUTHORIZED BY THE
24 PARTY TO MAKE A STATEMENT CONCERNING THE SUBJECT.

25 (IV) A STATEMENT BY THE PARTY'S AGENT OR SERVANT
26 CONCERNING A MATTER WITHIN THE SCOPE OF THE AGENCY OR
27 EMPLOYMENT, MADE DURING THE EXISTENCE OF THE
28 RELATIONSHIP, BUT NOT INCLUDING STATEMENTS MADE IN
29 ANTICIPATION OF LITIGATION.

30 (V) A STATEMENT BY A COCONSPIRATOR OF A PARTY DURING

1 THE COURSE AND IN FURTHERANCE OF THE CONSPIRACY WHERE
2 THERE IS OTHER EVIDENCE WHICH ESTABLISHES THE EXISTENCE
3 OF THE CONSPIRACY AND THE TRUSTWORTHINESS OF THE
4 STATEMENT.

5 "STATEMENT." AN ORAL OR WRITTEN ASSERTION OR NONVERBAL
6 CONDUCT OF A PERSON, IF IT IS INTENDED BY THE PERSON AS AN
7 ASSERTION.

8 § 6272. HEARSAY RULE (PCE 802).

9 HEARSAY IS NOT ADMISSIBLE EXCEPT AS PROVIDED BY THIS CHAPTER
10 OR BY OTHER RULES PRESCRIBED BY THE SUPREME COURT OR BY STATUTE.

11 § 6273. HEARSAY EXCEPTIONS WHERE AVAILABILITY OF DECLARANT
12 IMMATERIAL (PCE 803).

13 THE FOLLOWING ARE NOT EXCLUDED BY THE HEARSAY RULE, EVEN
14 THOUGH THE DECLARANT IS AVAILABLE AS A WITNESS:

15 (1) PRESENT SENSE IMPRESSION.--A STATEMENT DESCRIBING OR
16 EXPLAINING AN EVENT OR CONDITION MADE WHILE THE DECLARANT WAS
17 PERCEIVING THE EVENT OR CONDITION OR IMMEDIATELY THEREAFTER.

18 (2) EXCITED UTTERANCE.--A STATEMENT RELATING TO A
19 STARTLING EVENT OR CONDITION MADE WHILE THE DECLARANT WAS
20 UNDER THE STRESS OF EXCITEMENT CAUSED BY THE EVENT OR
21 CONDITION.

22 (3) THEN EXISTING MENTAL, EMOTIONAL OR PHYSICAL
23 CONDITION.--A STATEMENT OF THE DECLARANT'S THEN EXISTING
24 STATE OF MIND, EMOTION, SENSATION OR PHYSICAL CONDITION, SUCH
25 AS INTENT, PLAN, MOTIVE, DESIGN, MENTAL FEELING, PAIN AND
26 BODILY HEALTH, BUT NOT INCLUDING A STATEMENT OF MEMORY OR
27 BELIEF TO PROVE THE FACT REMEMBERED OR BELIEVED UNLESS IT
28 RELATES TO THE EXECUTION, REVOCATION, IDENTIFICATION OR TERMS
29 OF DECLARANT'S WILL.

30 (4) STATEMENTS FOR PURPOSES OF MEDICAL DIAGNOSIS OR

1 TREATMENT.--STATEMENTS MADE FOR PURPOSES OF MEDICAL DIAGNOSIS
2 OR TREATMENT AND DESCRIBING MEDICAL HISTORY, OR PAST OR
3 PRESENT SYMPTOMS, PAIN OR SENSATIONS, OR THE INCEPTION OR
4 GENERAL CHARACTER OF THE CAUSE OR EXTERNAL SOURCE THEREOF
5 INSOFAR AS REASONABLY PERTINENT TO DIAGNOSIS OR TREATMENT.

6 (5) RECORDED RECOLLECTION.--A MEMORANDUM OR RECORD
7 CONCERNING A MATTER ABOUT WHICH A WITNESS ONCE HAD KNOWLEDGE
8 BUT NOW HAS INSUFFICIENT RECOLLECTION TO ENABLE THE WITNESS
9 TO TESTIFY FULLY AND ACCURATELY, SHOWN TO HAVE BEEN MADE OR
10 ADOPTED BY THE WITNESS WHEN THE MATTER WAS FRESH IN THE
11 WITNESS' MEMORY AND TO REFLECT THAT KNOWLEDGE CORRECTLY. IF
12 ADMITTED, THE MEMORANDUM OR RECORD MAY BE READ INTO EVIDENCE,
13 BUT MAY NOT ITSELF BE RECEIVED AS AN EXHIBIT UNLESS OFFERED
14 BY AN ADVERSE PARTY.

15 (6) RECORDS OF REGULARLY CONDUCTED ACTIVITY.--A
16 MEMORANDUM, REPORT, RECORD OR DATA COMPILATION, IN ANY FORM,
17 OF ACTS, EVENTS, CONDITIONS, OPINIONS WHICH DO NOT ASCRIBE
18 FAULT OR DIAGNOSES MADE AT OR NEAR THE TIME BY OR FROM
19 INFORMATION TRANSMITTED BY A PERSON WITH KNOWLEDGE, IF KEPT
20 IN THE COURSE OF A REGULARLY CONDUCTED BUSINESS ACTIVITY, AND
21 IF IT WAS THE REGULAR PRACTICE OF THAT BUSINESS ACTIVITY TO
22 MAKE THE MEMORANDUM, REPORT, RECORD OR DATA COMPILATION, ALL
23 AS SHOWN BY THE TESTIMONY OF THE CUSTODIAN OR OTHER QUALIFIED
24 WITNESS, UNLESS THE SOURCE OF INFORMATION OR THE METHOD OR
25 CIRCUMSTANCES OF PREPARATION INDICATE LACK OF
26 TRUSTWORTHINESS. IF THE PERSON SUPPLYING THE INFORMATION TO
27 THE RECORDER IS NOT ACTING IN THE REGULAR COURSE OF BUSINESS
28 OR PURSUANT TO A BUSINESS DUTY TO REPORT, THE INFORMATION IS
29 ADMISSIBLE ONLY IF IT IS NOT HEARSAY OR IF IT QUALIFIES UNDER
30 ANOTHER HEARSAY EXCEPTION. THE TERM "BUSINESS," AS USED IN

1 THIS PARAGRAPH, INCLUDES BUSINESS, INSTITUTION, ASSOCIATION,
2 PROFESSION, OCCUPATION AND CALLING OF EVERY KIND, WHETHER OR
3 NOT CONDUCTED FOR PROFIT.

4 (7) ABSENCE OF ENTRY IN RECORDS KEPT IN ACCORDANCE WITH
5 THE PROVISIONS OF PARAGRAPH (6).--EVIDENCE THAT A MATTER IS
6 NOT INCLUDED IN THE MEMORANDA, REPORTS, RECORDS OR DATA
7 COMPILATION, IN ANY FORM, KEPT IN ACCORDANCE WITH THE
8 PROVISIONS OF PARAGRAPH (6), TO PROVE THE NONOCCURRENCE OR
9 NONEXISTENCE OF THE MATTER, IF THE MATTER WAS OF A KIND OF
10 WHICH A MEMORANDUM, REPORT, RECORD OR DATA COMPILATION WAS
11 REGULARLY MADE AND PRESERVED, UNLESS THE SOURCES OF
12 INFORMATION OR OTHER CIRCUMSTANCES INDICATE LACK OF
13 TRUSTWORTHINESS.

14 (8) PUBLIC RECORDS AND REPORTS.--RECORDS, REPORTS,
15 STATEMENTS OR DATA COMPILATIONS, IN ANY FORM, OF PUBLIC
16 OFFICES OR AGENCIES, SETTING FORTH THE FOLLOWING:

17 (I) THE ACTIVITIES OF THE OFFICE OR AGENCY; OR

18 (II) MATTERS OBSERVED PURSUANT TO DUTY IMPOSED BY
19 LAW AS TO WHICH MATTERS THERE WAS A DUTY TO REPORT,
20 EXCLUDING, HOWEVER, AGAINST THE DEFENDANT IN CRIMINAL
21 CASES, MATTERS OBSERVED BY POLICE OFFICERS AND OTHER LAW
22 ENFORCEMENT PERSONNEL; OR

23 (III) IN CIVIL ACTIONS AND PROCEEDINGS AND AGAINST
24 THE GOVERNMENT IN CRIMINAL CASES, FACTUAL FINDINGS
25 RESULTING FROM AN INVESTIGATION MADE PURSUANT TO
26 AUTHORITY GRANTED BY LAW, UNLESS THE SOURCES OF
27 INFORMATION OR OTHER CIRCUMSTANCES INDICATE LACK OF
28 TRUSTWORTHINESS.

29 (9) RECORDS OF VITAL STATISTICS.--RECORDS OR DATA
30 COMPILATIONS, IN ANY FORM, OF BIRTHS, FETAL DEATHS, DEATHS OR

1 MARRIAGES, IF THE REPORT THEREOF WAS MADE TO A PUBLIC OFFICE
2 UNDER REQUIREMENTS OF LAW.

3 (10) ABSENCE OF PUBLIC RECORD OR ENTRY.--TO PROVE THE
4 ABSENCE OF A RECORD, REPORT, STATEMENT OR DATA COMPILATION,
5 IN ANY FORM, OR THE NONOCCURRENCE OR NONEXISTENCE OF A MATTER
6 OF WHICH A RECORD, REPORT, STATEMENT OR DATA COMPILATION, IN
7 ANY FORM, WAS REGULARLY MADE AND PRESERVED BY A PUBLIC OFFICE
8 OR AGENCY, EVIDENCE IN THE FORM OF A CERTIFICATION IN
9 ACCORDANCE WITH SECTION 6282 (RELATING TO SELF-AUTHENTICATION
10 (PCE 902)) OR TESTIMONY, THAT DILIGENT SEARCH FAILED TO
11 DISCLOSE THE RECORD, REPORT, STATEMENT OR DATA COMPILATION OR
12 ENTRY.

13 (11) RECORDS OF RELIGIOUS ORGANIZATIONS.--STATEMENTS OF
14 BIRTHS, MARRIAGES, DIVORCES, DEATHS, LEGITIMACY, ANCESTRY,
15 RELATIONSHIP BY BLOOD OR MARRIAGE OR OTHER SIMILAR FACTS OF
16 PERSONAL OR FAMILY HISTORY, CONTAINED IN A REGULARLY KEPT
17 RECORD OF A RELIGIOUS ORGANIZATION.

18 (12) MARRIAGE, BAPTISMAL AND SIMILAR CERTIFICATES.--
19 STATEMENTS OF FACT CONTAINED IN A CERTIFICATE THAT THE MAKER
20 PERFORMED A MARRIAGE OR OTHER CEREMONY OR ADMINISTERED A
21 SACRAMENT, MADE BY A CLERGYMAN, PUBLIC OFFICIAL OR OTHER
22 PERSON AUTHORIZED BY THE RULES OR PRACTICES OF A RELIGIOUS
23 ORGANIZATION OR BY LAW TO PERFORM THE ACT CERTIFIED AND
24 PURPORTING TO HAVE BEEN ISSUED AT THE TIME OF THE ACT OR
25 WITHIN A REASONABLE TIME THEREAFTER.

26 (13) FAMILY RECORDS.--STATEMENTS OF FACT CONCERNING
27 PERSONAL OR FAMILY HISTORY CONTAINED IN FAMILY BIBLES,
28 GENEALOGIES, CHARTS, ENGRAVINGS ON RINGS, INSCRIPTIONS ON
29 FAMILY PORTRAITS, ENGRAVINGS ON URNS, CRYPTS OR TOMBSTONES OR
30 THE LIKE.

1 (14) RECORDS OF DOCUMENTS AFFECTING AN INTEREST IN
2 PROPERTY.--THE RECORD OF A DOCUMENT PURPORTING TO ESTABLISH
3 OR AFFECT AN INTEREST IN PROPERTY, AS PROOF OF THE CONTENT OF
4 THE ORIGINAL RECORDED DOCUMENT AND ITS EXECUTION AND DELIVERY
5 BY EACH PERSON BY WHOM IT PURPORTS TO HAVE BEEN EXECUTED, IF
6 THE RECORD IS A RECORD OF A PUBLIC OFFICE AND AN APPLICABLE
7 STATUTE AUTHORIZES THE RECORDING OF DOCUMENTS OF THAT KIND IN
8 THAT OFFICE.

9 (15) STATEMENTS IN DOCUMENTS AFFECTING AN INTEREST IN
10 PROPERTY.--A STATEMENT CONTAINED IN A DOCUMENT PURPORTING TO
11 ESTABLISH OR AFFECT AN INTEREST IN PROPERTY IF THE MATTER
12 STATED WAS RELEVANT TO THE PURPOSE OF THE DOCUMENT, UNLESS
13 DEALINGS WITH THE PROPERTY SINCE THE DOCUMENT WAS MADE HAVE
14 BEEN INCONSISTENT WITH THE TRUTH OF THE STATEMENT OR THE
15 PURPORT OF THE DOCUMENT.

16 (16) STATEMENTS IN ANCIENT DOCUMENTS.--STATEMENTS IN A
17 DOCUMENT IN EXISTENCE 20 YEARS OR MORE THE AUTHENTICITY OF
18 WHICH IS ESTABLISHED.

19 (17) MARKET REPORTS OR COMMERCIAL PUBLICATIONS.--MARKET
20 QUOTATIONS, TABULATIONS, LISTS, DIRECTORIES OR OTHER
21 PUBLISHED COMPILATIONS, GENERALLY USED AND RELIED UPON BY THE
22 PUBLIC OR BY PERSONS IN PARTICULAR OCCUPATIONS.

23 (18) LEARNED TREATISES.--TO THE EXTENT CALLED TO THE
24 ATTENTION OF AN EXPERT WITNESS UPON CROSS-EXAMINATION OR
25 RELIED UPON BY THE EXPERT WITNESS IN DIRECT EXAMINATION,
26 STATEMENTS CONTAINED IN PUBLISHED TREATISES, PERIODICALS OR
27 PAMPHLETS ON A SUBJECT OF HISTORY, MEDICINE OR OTHER SCIENCE
28 OR ART, ESTABLISHED AS A RELIABLE AUTHORITY BY THE TESTIMONY
29 OR ADMISSION OF THE WITNESS OR BY OTHER EXPERT TESTIMONY OR
30 BY JUDICIAL NOTICE. IF ADMITTED, THE STATEMENTS MAY BE READ

1 INTO EVIDENCE BUT MAY NOT BE RECEIVED AS EXHIBITS.

2 (19) REPUTATION CONCERNING PERSONAL OR FAMILY HISTORY.--
3 REPUTATION AMONG MEMBERS OF A PERSON'S FAMILY BY BLOOD,
4 ADOPTION OR MARRIAGE, OR AMONG A PERSON'S ASSOCIATES, OR IN
5 THE COMMUNITY, CONCERNING A PERSON'S BIRTH, ADOPTION,
6 MARRIAGE, DIVORCE, DEATH, LEGITIMACY, RELATIONSHIP BY BLOOD,
7 ADOPTION OR MARRIAGE, ANCESTRY OR OTHER SIMILAR FACT OF HIS
8 PERSONAL OR FAMILY HISTORY.

9 (20) REPUTATION CONCERNING BOUNDARIES OR GENERAL
10 HISTORY.--REPUTATION IN A COMMUNITY, ARISING BEFORE THE
11 CONTROVERSY, AS TO BOUNDARIES OF OR CUSTOMS AFFECTING LANDS
12 IN THE COMMUNITY AND REPUTATION AS TO EVENTS OF GENERAL
13 HISTORY IMPORTANT TO THE COMMUNITY OR STATE OR NATION IN
14 WHICH LOCATED.

15 (21) REPUTATION AS TO CHARACTER.--REPUTATION OF A
16 PERSON'S CHARACTER AMONG ASSOCIATES OR IN THE COMMUNITY.

17 (22) JUDGMENT OF PREVIOUS CONVICTION.--EVIDENCE OF A
18 FINAL JUDGMENT, ENTERED AFTER A TRIAL OR UPON A PLEA OF
19 GUILTY BUT NOT UPON A PLEA OF NOLO CONTENDERE, ADJUDGING A
20 PERSON GUILTY OF A FELONY OR MISDEMEANOR, TO PROVE ANY FACT
21 ESSENTIAL TO SUSTAIN THE JUDGMENT, BUT NOT INCLUDING, WHEN
22 OFFERED BY THE COMMONWEALTH IN A CRIMINAL PROSECUTION FOR
23 PURPOSES OTHER THAN IMPEACHMENT, JUDGMENTS AGAINST PERSONS
24 OTHER THAN THE ACCUSED. THE PENDENCY OF AN APPEAL MAY BE
25 SHOWN BUT DOES NOT AFFECT ADMISSIBILITY.

26 (23) JUDGMENT AS TO PERSONAL, FAMILY OR GENERAL HISTORY
27 OR BOUNDARIES.--JUDGMENTS AS PROOF OF MATTERS OF PERSONAL
28 FAMILY OR GENERAL HISTORY OR BOUNDARIES, ESSENTIAL TO THE
29 JUDGMENT, IF THE SAME WOULD BE PROVABLE BY EVIDENCE OF
30 REPUTATION.

1 (24) DEPOSITIONS OF EXPERT WITNESSES IN CIVIL CASES.--

2 (I) ORAL DEPOSITIONS.--AN ORAL DEPOSITION OF A
3 MEDICAL WITNESS OTHER THAN A PARTY MAY BE USED AT TRIAL
4 FOR ANY PURPOSE. ON A DE NOVO APPEAL FROM A HEALTH CARE
5 ARBITRATION PANEL, AN ORAL DEPOSITION OF ANY EXPERT
6 WITNESS OFFERED AS EVIDENCE DURING THE ARBITRATION MAY BE
7 USED AT TRIAL FOR ANY PURPOSE.

8 (II) VIDEOTAPED DEPOSITIONS.--A VIDEOTAPED
9 DEPOSITION OF A MEDICAL WITNESS OR ANY WITNESS CALLED AS
10 AN EXPERT OTHER THAN A PARTY MAY BE USED AT TRIAL FOR ANY
11 PURPOSE.

12 (25) OTHER EXCEPTIONS.--A STATEMENT NOT SPECIFICALLY
13 COVERED BY ANY OF THE FOREGOING EXCEPTIONS BUT HAVING
14 EQUIVALENT CIRCUMSTANTIAL GUARANTEES OF TRUSTWORTHINESS, IF
15 THE COURT DETERMINES THAT:

16 (I) THE STATEMENT IS OFFERED AS EVIDENCE OF A
17 MATERIAL FACT;

18 (II) THE STATEMENT IS MORE PROBATIVE ON THE POINT
19 FOR WHICH IT IS OFFERED THAN ANY OTHER EVIDENCE WHICH THE
20 PROPONENT CAN PROCURE THROUGH REASONABLE EFFORTS; AND

21 (III) THE GENERAL PURPOSES OF THIS CHAPTER AND THE
22 INTERESTS OF JUSTICE WILL BEST BE SERVED BY ADMISSION OF
23 THE STATEMENT INTO EVIDENCE.

24 HOWEVER, A STATEMENT MAY NOT BE ADMITTED UNDER THIS EXCEPTION
25 UNLESS THE PROPONENT OF IT MAKES KNOWN TO THE ADVERSE PARTY
26 SUFFICIENTLY IN ADVANCE OF THE TRIAL OR HEARING TO PROVIDE THE
27 ADVERSE PARTY WITH A FAIR OPPORTUNITY TO PREPARE TO MEET IT, THE
28 PROPONENT'S INTENTION TO OFFER THE STATEMENT AND THE PARTICULARS
29 OF IT, INCLUDING THE NAME AND ADDRESS OF THE DECLARANT. A
30 STATEMENT WHICH IS SPECIFICALLY COVERED BY ONE OF THE CATEGORIES

1 IN THIS PARAGRAPH IS NOT ADMISSIBLE UNDER THIS EXCEPTION.

2 § 6274. HEARSAY EXCEPTIONS WHERE DECLARANT UNAVAILABLE (PCE
3 804).

4 (A) GENERAL RULE.--UNAVAILABILITY AS A WITNESS INCLUDES THE
5 FOLLOWING SITUATIONS IN WHICH THE DECLARANT:

6 (1) IS EXEMPTED BY RULING OF THE COURT ON THE GROUND OF
7 PRIVILEGE FROM TESTIFYING CONCERNING THE SUBJECT MATTER OF
8 THE DECLARANT'S STATEMENT.

9 (2) PERSISTS IN REFUSING TO TESTIFY CONCERNING THE
10 SUBJECT MATTER OF THE DECLARANT'S STATEMENT DESPITE AN ORDER
11 OF THE COURT TO DO SO.

12 (3) TESTIFIES TO A LACK OF MEMORY OF THE SUBJECT MATTER
13 OF THE DECLARANT'S STATEMENT.

14 (4) IS UNABLE TO BE PRESENT OR TO TESTIFY AT THE HEARING
15 BECAUSE OF DEATH OR THEN-EXISTING PHYSICAL OR MENTAL ILLNESS
16 OR INFIRMITY.

17 (5) IS ABSENT FROM THE HEARING AND THE PROPONENT OF
18 STATEMENT HAS BEEN UNABLE TO PROCURE THE DECLARANT'S
19 ATTENDANCE (OR IN THE CASE OF A HEARSAY EXCEPTION UNDER
20 SUBSECTION (B)(2), (3) OR (4), THE DECLARANT'S ATTENDANCE OR
21 TESTIMONY) BY PROCESS OR OTHER REASONABLE MEANS.

22 A DECLARANT IS NOT UNAVAILABLE AS A WITNESS IF EXEMPTION,
23 REFUSAL, CLAIM OF LACK OF MEMORY, INABILITY OR ABSENCE IS DUE TO
24 THE PROCUREMENT OR WRONGDOING OF THE PROPONENT OF A STATEMENT
25 FOR THE PURPOSE OF PREVENTING THE WITNESS FROM ATTENDING OR
26 TESTIFYING.

27 (B) HEARSAY EXCEPTIONS.--THE FOLLOWING ARE NOT EXCLUDED BY
28 THE HEARSAY RULE IF THE DECLARANT IS UNAVAILABLE AS A WITNESS:

29 (1) FORMER TESTIMONY.--TESTIMONY GIVEN AS A WITNESS AT
30 ANOTHER HEARING OF THE SAME OR A DIFFERENT PROCEEDING OR IN A

1 DEPOSITION TAKEN IN COMPLIANCE WITH LAW IN THE COURSE OF THE
2 SAME OR ANOTHER PROCEEDING, IF THE PARTY AGAINST WHOM THE
3 TESTIMONY IS NOW OFFERED OR IN A CIVIL ACTION OR PROCEEDING,
4 A PREDECESSOR IN INTEREST, HAD AN OPPORTUNITY AND SIMILAR
5 MOTIVE TO DEVELOP THE TESTIMONY BY DIRECT OR REDIRECT
6 EXAMINATION OR CROSS-EXAMINATION.

7 (2) STATEMENT UNDER BELIEF OF IMPENDING DEATH.--A
8 STATEMENT MADE BY A DECLARANT WHILE BELIEVING THAT THE
9 DECLARANT'S DEATH WAS IMMINENT, CONCERNING THE CAUSE OR
10 CIRCUMSTANCES OF WHAT THE DECLARANT BELIEVED TO BE HIS
11 IMPENDING DEATH.

12 (3) STATEMENT AGAINST INTEREST.--A STATEMENT WHICH WAS
13 AT THE TIME OF ITS MAKING SO FAR CONTRARY TO THE DECLARANT'S
14 PECUNIARY OR PROPRIETARY INTEREST, OR SO FAR TENDED TO
15 SUBJECT THE DECLARANT TO CIVIL OR CRIMINAL LIABILITY, OR TO
16 RENDER INVALID A CLAIM BY THE DECLARANT AGAINST ANOTHER, THAT
17 A REASONABLE PERSON IN THE DECLARANT'S POSITION WOULD NOT
18 HAVE MADE THE STATEMENT UNLESS BELIEVING IT TO BE TRUE. A
19 STATEMENT TENDING TO EXPOSE THE DECLARANT TO CRIMINAL
20 LIABILITY AND OFFERED TO EXCULPATE THE ACCUSED IS NOT
21 ADMISSIBLE UNLESS CORROBORATING CIRCUMSTANCES CLEARLY
22 INDICATE THE TRUSTWORTHINESS OF THE STATEMENT.

23 (4) STATEMENT OF PERSONAL OR FAMILY HISTORY.--

24 (I) A STATEMENT CONCERNING THE DECLARANT'S OWN
25 BIRTH, ADOPTION, MARRIAGE, DIVORCE, LEGITIMACY,
26 RELATIONSHIP BY BLOOD, ADOPTION OR MARRIAGE, ANCESTRY OR
27 OTHER SIMILAR FACT OF PERSONAL OR FAMILY HISTORY, EVEN
28 THOUGH THE DECLARANT HAD NO MEANS OF ACQUIRING PERSONAL
29 KNOWLEDGE OF THE MATTER STATED; OR

30 (II) A STATEMENT CONCERNING THE FOREGOING MATTERS,

1 AND DEATH ALSO, OF ANOTHER PERSON, IF THE DECLARANT WAS
2 RELATED TO THE OTHER BY BLOOD, ADOPTION OR MARRIAGE OR
3 WAS SO INTIMATELY ASSOCIATED WITH THE OTHER'S FAMILY AS
4 TO BE LIKELY TO HAVE ACCURATE INFORMATION CONCERNING THE
5 MATTER DECLARED.

6 (5) OTHER EXCEPTIONS.--A STATEMENT NOT SPECIFICALLY
7 COVERED BY ANY OF THE FOREGOING EXCEPTIONS BUT HAVING
8 EQUIVALENT CIRCUMSTANTIAL GUARANTEES OF TRUSTWORTHINESS, IF
9 THE COURT DETERMINES THE FOLLOWING:

10 (I) THE STATEMENT IS OFFERED AS EVIDENCE OF A
11 MATERIAL FACT.

12 (II) THE STATEMENT IS MORE PROBATIVE ON THE POINT
13 FOR WHICH IT IS OFFERED THAN ANY OTHER EVIDENCE WHICH THE
14 PROPONENT CAN PROCURE THROUGH REASONABLE EFFORTS.

15 (III) THE GENERAL PURPOSES OF THESE RULES AND THE
16 INTERESTS OF JUSTICE WILL BEST BE SERVED BY ADMISSION OF
17 THE STATEMENT INTO EVIDENCE.

18 HOWEVER, A STATEMENT MAY NOT BE ADMITTED UNDER THIS EXCEPTION
19 UNLESS THE PROPONENT OF IT MAKES KNOWN TO THE ADVERSE PARTY
20 SUFFICIENTLY IN ADVANCE OF THE TRIAL OR HEARING TO PROVIDE
21 THE ADVERSE PARTY WITH A FAIR OPPORTUNITY TO PREPARE TO MEET
22 IT, THE PROPONENT'S INTENTION TO OFFER THE STATEMENT AND THE
23 PARTICULARS OF IT, INCLUDING THE NAME AND ADDRESS OF THE
24 DECLARANT. A STATEMENT WHICH IS SPECIFICALLY COVERED BY ONE
25 OF THE CATEGORIES IN THIS PARAGRAPH IS NOT ADMISSIBLE UNDER
26 THIS EXCEPTION.

27 § 6275. HEARSAY WITHIN HEARSAY (PCE 805).

28 HEARSAY INCLUDED WITHIN HEARSAY IS NOT EXCLUDED UNDER SECTION
29 6272 (RELATING TO HEARSAY RULE (PCE 802)), IF EACH PART OF THE
30 COMBINED STATEMENTS CONFORMS WITH AN EXCEPTION TO THE HEARSAY

1 RULE PROVIDED IN THIS CHAPTER.

2 § 6276. ATTACKING AND SUPPORTING CREDIBILITY OF DECLARANT (PCE
3 806).

4 WHEN A HEARSAY STATEMENT OR A STATEMENT DEFINED IN SECTION
5 6271 (RELATING TO DEFINITIONS (PCE 801)) HAS BEEN ADMITTED IN
6 EVIDENCE, THE CREDIBILITY OF THE DECLARANT MAY BE ATTACKED, AND
7 IF ATTACKED MAY BE SUPPORTED, BY ANY EVIDENCE WHICH WOULD BE
8 ADMISSIBLE FOR THOSE PURPOSES IF THE DECLARANT HAD TESTIFIED AS
9 A WITNESS. EVIDENCE OF A STATEMENT OR CONDUCT BY THE DECLARANT
10 AT ANY TIME, INCONSISTENT WITH THE DECLARANT'S HEARSAY
11 STATEMENT, IS NOT SUBJECT TO ANY REQUIREMENT THAT THE DECLARANT
12 MAY HAVE BEEN AFFORDED AN OPPORTUNITY TO DENY OR EXPLAIN. IF THE
13 PARTY AGAINST WHOM A HEARSAY STATEMENT HAS BEEN ADMITTED CALLS
14 THE DECLARANT AS A WITNESS, THE PARTY IS ENTITLED TO EXAMINE THE
15 DECLARANT ON THE STATEMENT AS IF UNDER CROSS-EXAMINATION.

16 SUBCHAPTER I

17 AUTHENTICATION AND IDENTIFICATION

18 SEC.

19 6281. REQUIREMENT OF AUTHENTICATION OR IDENTIFICATION
20 (PCE 901).

21 6282. SELF-AUTHENTICATION (PCE 902).

22 6283. SUBSCRIBING WITNESS' TESTIMONY UNNECESSARY (PCE 903).

23 § 6281. REQUIREMENT OF AUTHENTICATION OR IDENTIFICATION (PCE
24 901).

25 (A) GENERAL RULE.--THE REQUIREMENT OF AUTHENTICATION OR
26 IDENTIFICATION IS A CONDITION PRECEDENT TO ADMISSIBILITY.
27 AUTHENTICATION IS PROVING THAT THE EVIDENCE IS WHAT IT APPEARS
28 TO BE AND IS SATISFIED BY EVIDENCE SUFFICIENT TO SUPPORT A
29 FINDING THAT THE MATTER IN QUESTION IS WHAT ITS PROPONENT CLAIMS
30 OR BY ANY OTHER MEANS PROVIDED BY LAW. NOTHING IN THIS

SUBCHAPTER SHALL BE CONSTRUED TO LIMIT THE MEANS BY WHICH
EVIDENCE MAY BE AUTHENTICATED OR PROVED.

(B) ILLUSTRATIONS.--BY WAY OF ILLUSTRATION ONLY, AND NOT BY
WAY OF LIMITATION, THE FOLLOWING ARE EXAMPLES OF AUTHENTICATION
OR IDENTIFICATION CONFORMING WITH THE REQUIREMENTS OF THIS
SUBCHAPTER:

(1) TESTIMONY OF WITNESS WITH KNOWLEDGE.--TESTIMONY THAT
A MATTER IS WHAT IT IS CLAIMED TO BE.

(2) NONEXPERT OPINION ON HANDWRITING.--NONEXPERT OPINION
AS TO THE GENUINENESS OF HANDWRITING, BASED UPON FAMILIARITY
NOT ACQUIRED FOR PURPOSES OF THE LITIGATION.

(3) COMPARISON BY TRIER OR EXPERT WITNESS.--COMPARISON
BY THE TRIER OF FACT OR BY EXPERT WITNESSES WITH SPECIMENS
WHICH HAVE BEEN AUTHENTICATED.

(4) DISTINCTIVE CHARACTERISTICS AND THE LIKE.--
APPEARANCE, CONTENTS, SUBSTANCE, INTERNAL PATTERNS OR OTHER
DISTINCTIVE CHARACTERISTICS, TAKEN IN CONJUNCTION WITH
CIRCUMSTANCES.

(5) VOICE IDENTIFICATION.--IDENTIFICATION OF A VOICE,
WHETHER HEARD FIRSTHAND OR THROUGH MECHANICAL OR ELECTRONIC
TRANSMISSION OR RECORDING, BY OPINION BASED UPON HEARING THE
VOICE AT ANY TIME UNDER CIRCUMSTANCES CONNECTING IT WITH THE
ALLEGED SPEAKER.

(6) TELEPHONE CONVERSATIONS.--TELEPHONE CONVERSATIONS,
BY EVIDENCE THAT A CALL WAS MADE TO THE NUMBER ASSIGNED AT
THE TIME BY THE TELEPHONE COMPANY TO A PARTICULAR PERSON OR
BUSINESS, IF IN THE CASE OF A PERSON, CIRCUMSTANCES,
INCLUDING SELF-IDENTIFICATION, SHOW THE PERSON ANSWERING TO
BE THE ONE CALLED, OR IN THE CASE OF A BUSINESS, THE CALL WAS
MADE TO A PLACE OF BUSINESS AND THE CONVERSATION RELATED TO

1 BUSINESS REASONABLY TRANSACTED OVER THE TELEPHONE.

2 (7) PUBLIC RECORDS OR REPORTS.--EVIDENCE THAT A WRITING
3 AUTHORIZED BY LAW TO BE RECORDED OR FILED AND IN FACT
4 RECORDED OR FILED IN A PUBLIC OFFICE, OR A PURPORTED PUBLIC
5 RECORD, REPORT, STATEMENT OR DATA COMPILATION, IN ANY FORM,
6 IS FROM THE PUBLIC OFFICE WHERE ITEMS OF THIS NATURE ARE
7 KEPT.

8 (8) ANCIENT DOCUMENTS OR DATA COMPILATION.--EVIDENCE
9 THAT A DOCUMENT OR DATA COMPILATION, IN ANY FORM, IS IN A
10 CONDITION AS TO CREATE NO SUSPICION CONCERNING ITS
11 AUTHENTICITY, WAS IN A PLACE WHERE IT, IF AUTHENTIC, WOULD
12 LIKELY BE, AND HAS BEEN IN EXISTENCE 20 YEARS OR MORE AT THE
13 TIME IT IS OFFERED.

14 (9) PROCESS OR SYSTEM.--EVIDENCE DESCRIBING A PROCESS OR
15 SYSTEM USED TO PRODUCE A RESULT AND SHOWING THAT THE PROCESS
16 OR SYSTEM PRODUCES AN ACCURATE RESULT.

17 (10) METHODS PROVIDED BY STATUTE OR RULE.--ANY METHOD OF
18 AUTHENTICATION OR IDENTIFICATION PROVIDED BY STATUTE, BY
19 DECISIONAL LAW OR BY OTHER RULES PRESCRIBED BY THE SUPREME
20 COURT.

21 § 6282. SELF-AUTHENTICATION (PCE 902).

22 EXTRINSIC EVIDENCE OF AUTHENTICITY AS A CONDITION PRECEDENT
23 TO ADMISSIBILITY IS NOT REQUIRED WITH RESPECT TO THE FOLLOWING:

24 (1) DOMESTIC PUBLIC DOCUMENTS UNDER SEAL.--A DOCUMENT
25 BEARING A SEAL PURPORTING TO BE THAT OF THE UNITED STATES, OR
26 OF ANY STATE, DISTRICT, COMMONWEALTH, TERRITORY, OR INSULAR
27 POSSESSION THEREOF, OR THE PANAMA CANAL ZONE, OR THE TRUST
28 TERRITORY OF THE PACIFIC ISLANDS, OR OF A POLITICAL
29 SUBDIVISION, DEPARTMENT, OFFICER OR AGENCY THEREOF, AND A
30 SIGNATURE PURPORTING TO BE AN ATTESTATION OR EXECUTION.

1 (2) DOMESTIC PUBLIC DOCUMENTS NOT UNDER SEAL.--A
2 DOCUMENT PURPORTING TO BEAR THE SIGNATURE IN THE OFFICIAL
3 CAPACITY OF AN OFFICER OR EMPLOYEE OF ANY ENTITY INCLUDED IN
4 PARAGRAPH (1), HAVING NO SEAL, IF A PUBLIC OFFICER HAVING A
5 SEAL AND HAVING OFFICIAL DUTIES IN THE DISTRICT OR POLITICAL
6 SUBDIVISION OF THE OFFICER OR EMPLOYEE CERTIFIES UNDER SEAL
7 THAT THE SIGNER HAS THE OFFICIAL CAPACITY AND THAT THE
8 SIGNATURE IS GENUINE.

9 (3) FOREIGN PUBLIC DOCUMENTS.--A DOCUMENT PURPORTING TO
10 BE EXECUTED OR ATTESTED IN AN OFFICIAL CAPACITY BY A PERSON
11 AUTHORIZED BY THE LAWS OF A FOREIGN COUNTRY TO MAKE THE
12 EXECUTION OR ATTESTATION, AND ACCOMPANIED BY A FINAL
13 CERTIFICATION AS TO THE GENUINENESS OF THE SIGNATURE AND
14 OFFICIAL POSITION OF THE EXECUTING OR ATTESTING PERSON, OR OF
15 ANY FOREIGN OFFICIAL WHOSE CERTIFICATE OF GENUINENESS OF
16 SIGNATURE AND NATURE AND OFFICIAL POSITION RELATES TO THE
17 EXECUTION OR ATTESTATION OR IS IN A CHAIN OF CERTIFICATES OF
18 GENUINENESS OF SIGNATURE AND OFFICIAL POSITION RELATING TO
19 THE EXECUTION OR ATTESTATION. A FINAL CERTIFICATION MAY BE
20 MADE BY A SECRETARY OF EMBASSY OR LEGATION, CONSUL GENERAL,
21 CONSUL, VICE CONSUL OR CONSULAR AGENT OF THE UNITED STATES,
22 OR A DIPLOMATIC OR CONSULAR OFFICIAL OF THE FOREIGN COUNTRY
23 ASSIGNED OR ACCREDITED TO THE UNITED STATES. IF REASONABLE
24 OPPORTUNITY HAS BEEN GIVEN TO ALL PARTIES TO INVESTIGATE THE
25 AUTHENTICITY AND ACCURACY OF OFFICIAL DOCUMENTS, THE COURT
26 MAY, FOR GOOD CAUSE SHOWN, ORDER THAT THEY BE TREATED AS
27 PRESUMPTIVELY AUTHENTIC WITHOUT FINAL CERTIFICATION OR PERMIT
28 THEM TO BE EVIDENCED BY AN ATTESTED SUMMARY WITH OR WITHOUT
29 FINAL CERTIFICATION.

30 (4) CERTIFIED COPIES OF PUBLIC RECORDS.--A COPY OF AN

1 OFFICIAL RECORD OR REPORT OR ENTRY THEREIN OR OF A DOCUMENT
2 AUTHORIZED BY LAW TO BE RECORDED OR FILED AND ACTUALLY
3 RECORDED OR FILED IN A PUBLIC OFFICE, INCLUDING DATA
4 COMPILATIONS, IN ANY FORM, CERTIFIED AS CORRECT BY THE
5 CUSTODIAN OR OTHER PERSON AUTHORIZED TO MAKE THE
6 CERTIFICATION, BY CERTIFICATE COMPLYING WITH PARAGRAPH (1),
7 (2) OR (3) OR COMPLYING WITH ANY STATUTE OR RULE PRESCRIBED
8 BY THE SUPREME COURT.

9 (5) OFFICIAL PUBLICATIONS.--BOOKS, PAMPHLETS OR
10 PUBLICATIONS PURPORTING TO BE ISSUED BY PUBLIC AUTHORITY.

11 (6) NEWSPAPERS AND PERIODICALS.--PRINTED MATERIALS
12 PURPORTING TO BE NEWSPAPERS OR PERIODICALS.

13 (7) TRADE INSCRIPTIONS AND THE LIKE.--INSCRIPTIONS,
14 SIGNS, TAGS OR LABELS PURPORTING TO HAVE BEEN AFFIXED IN THE
15 COURSE OF BUSINESS AND INDICATING OWNERSHIP, CONTROL OR
16 ORIGIN.

17 (8) ACKNOWLEDGED DOCUMENTS.--DOCUMENTS ACCOMPANIED BY A
18 CERTIFICATE OF ACKNOWLEDGMENT EXECUTED IN THE MANNER PROVIDED
19 BY LAW BY A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED BY LAW
20 TO TAKE ACKNOWLEDGMENTS.

21 (9) COMMERCIAL PAPER AND RELATED DOCUMENTS.--COMMERCIAL
22 PAPER, SIGNATURES THEREON AND DOCUMENTS RELATING THERETO TO
23 THE EXTENT PROVIDED BY GENERAL COMMERCIAL LAW.

24 (10) PRESUMPTIONS UNDER STATUTE.--ANY SIGNATURE,
25 DOCUMENT OR OTHER MATTER DECLARED BY STATUTE TO BE
26 PRESUMPTIVELY OR PRIMA FACIE GENUINE OR AUTHENTIC.

27 § 6283. SUBSCRIBING WITNESS' TESTIMONY UNNECESSARY (PCE 903).

28 THE TESTIMONY OF A SUBSCRIBING WITNESS IS NOT NECESSARY TO
29 AUTHENTICATE A WRITING UNLESS REQUIRED BY THE LAWS OF THE
30 JURISDICTION WHOSE LAWS GOVERN THE VALIDITY OF THE WRITING.

SUBCHAPTER J

CONTENTS OF WRITINGS, RECORDINGS AND
PHOTOGRAPHS

SEC.

6291. DEFINITIONS (PCE 1001).

6292. REQUIREMENT OF ORIGINAL (PCE 1002).

6293. ADMISSIBILITY OF DUPLICATES (PCE 1003).

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6296. SUMMARIES (PCE 1006).

6297. TESTIMONY OR WRITTEN ADMISSION OF PARTY (PCE 1007).

6298. FUNCTIONS OF COURT AND JURY (PCE 1008).

§ 6291. DEFINITIONS (PCE 1001).

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION:

"DUPLICATE." A COUNTERPART PRODUCED BY THE SAME IMPRESSION
AS THE ORIGINAL, OR FROM THE SAME MATRIX, OR BY MEANS OF
PHOTOGRAPHY, INCLUDING ENLARGEMENTS AND MINIATURES OR BY
MECHANICAL OR ELECTRONIC RE-RECORDING, OR BY CHEMICAL
REPRODUCTION, OR BY OTHER EQUIVALENT TECHNIQUE WHICH ACCURATELY
REPRODUCES THE ORIGINAL.

"ORIGINAL." THE WRITING OR RECORDING ITSELF OR ANY
COUNTERPART INTENDED TO HAVE THE SAME EFFECT BY A PERSON
EXECUTING OR ISSUING IT AND INCLUDES THE NEGATIVE OR ANY PRINT
THEREFROM. IF DATA ARE STORED IN A COMPUTER OR SIMILAR DEVICE,
ANY PRINTOUT OR OTHER OUTPUT READABLE BY SIGHT, SHOWN TO REFLECT
THE DATA ACCURATELY, IS AN ORIGINAL.

"PHOTOGRAPHS." INCLUDES STILL PHOTOGRAPHS, X-RAY FILMS,
VIDEO TAPES, RADIOGRAPHS AND MOTION PICTURES.

"WRITINGS" AND "RECORDINGS." CONSIST OF LETTERS, WORDS OR

1 NUMBERS OR THEIR EQUIVALENT, SET DOWN BY HANDWRITING,
2 TYPEWRITING, PRINTING, PHOTOSTATING, PHOTOGRAPHING, MAGNETIC
3 IMPULSE, MECHANICAL OR ELECTRONIC RECORDING OR OTHER FORM OF
4 DATA COMPILATION.

5 § 6292. REQUIREMENT OF ORIGINAL (PCE 1002).

6 TO PROVE THE CONTENT OF A WRITING, RECORDING OR PHOTOGRAPH,
7 THE ORIGINAL WRITING, RECORDING OR PHOTOGRAPH IS REQUIRED,
8 EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER OR BY STATUTE.

9 § 6293. ADMISSIBILITY OF DUPLICATES (PCE 1003).

10 A DUPLICATE IS ADMISSIBLE TO THE SAME EXTENT AS AN ORIGINAL
11 UNLESS A GENUINE QUESTION IS RAISED AS TO THE AUTHENTICITY OF
12 THE ORIGINAL OR IN THE CIRCUMSTANCES IT WOULD BE UNFAIR TO ADMIT
13 THE DUPLICATE IN LIEU OF THE ORIGINAL.

14 § 6294. ADMISSIBILITY OF OTHER EVIDENCE OF CONTENTS (PCE 1004).

15 THE ORIGINAL IS NOT REQUIRED, AND OTHER EVIDENCE OF THE
16 CONTENTS OF A WRITING, RECORDING OR PHOTOGRAPH IS ADMISSIBLE IF:

17 (1) ORIGINALS LOST OR DESTROYED.--ALL ORIGINALS ARE LOST
18 OR HAVE BEEN DESTROYED, UNLESS THE PROPONENT LOST OR
19 DESTROYED THEM IN BAD FAITH.

20 (2) ORIGINAL NOT OBTAINABLE.--NO ORIGINAL CAN BE
21 OBTAINED BY ANY AVAILABLE JUDICIAL PROCESS OR PROCEDURE.

22 (3) ORIGINAL IN POSSESSION OF OPPONENT.--AT A TIME WHEN
23 AN ORIGINAL WAS UNDER THE CONTROL OF THE PARTY AGAINST WHOM
24 OFFERED, THAT PARTY WAS PUT ON NOTICE, BY THE PLEADINGS OR
25 OTHERWISE, THAT THE CONTENTS WOULD BE A SUBJECT OF PROOF AT
26 THE HEARING, AND THAT PARTY DOES NOT PRODUCE THE ORIGINAL AT
27 THE HEARING.

28 (4) COLLATERAL MATTER.--THE WRITING, RECORDING OR
29 PHOTOGRAPH IS NOT CLOSELY RELATED TO A CONTROLLING ISSUE.

30 § 6295. PUBLIC RECORDS (PCE 1005).

1 THE CONTENTS OF AN OFFICIAL RECORD, OR OF A DOCUMENT
2 AUTHORIZED TO BE RECORDED OR FILED AND ACTUALLY RECORDED OR
3 FILED, INCLUDING DATA COMPILATIONS IN ANY FORM, IF OTHERWISE
4 ADMISSIBLE, MAY BE PROVED BY COPY, CERTIFIED AS CORRECT IN
5 ACCORDANCE WITH SECTION 6282 (RELATING TO SELF-AUTHENTICATION
6 (PCE 902)) OR TESTIFIED TO BE CORRECT BY A WITNESS WHO HAS
7 COMPARED IT WITH THE ORIGINAL. IF A COPY WHICH COMPLIES WITH THE
8 FOREGOING CANNOT BE OBTAINED BY THE EXERCISE OF REASONABLE
9 DILIGENCE, THEN OTHER EVIDENCE OF THE CONTENTS MAY BE GIVEN.
10 § 6296. SUMMARIES (PCE 1006).

11 THE CONTENTS OF VOLUMINOUS WRITINGS, RECORDINGS OR
12 PHOTOGRAPHS WHICH CANNOT CONVENIENTLY BE EXAMINED IN COURT MAY
13 AFTER GIVING REASONABLE NOTICE TO THE OTHER PARTY BE PRESENTED
14 IN THE FORM OF A CHART, SUMMARY OR CALCULATION. THE ORIGINALS OR
15 DUPLICATES SHALL BE MADE AVAILABLE FOR EXAMINATION OR COPYING,
16 OR BOTH, BY OTHER PARTIES AT A REASONABLE TIME AND PLACE. THE
17 COURT MAY ORDER THAT THEY BE PRODUCED IN COURT. THE BURDEN SHALL
18 BE ON THE MOVING PARTY TO SHOW THE FAIRNESS AND ACCURACY OF THE
19 SUMMARY.

20 § 6297. TESTIMONY OR WRITTEN ADMISSION OF PARTY (PCE 1007).

21 CONTENTS OF WRITINGS, RECORDINGS OR PHOTOGRAPHS MAY BE PROVED
22 BY THE TESTIMONY OR DEPOSITION OF THE PARTY AGAINST WHOM OFFERED
23 OR BY THAT PARTY'S WRITTEN ADMISSION, WITHOUT ACCOUNTING FOR THE
24 NONPRODUCTION OF THE ORIGINAL.

25 § 6298. FUNCTIONS OF COURT AND JURY (PCE 1008).

26 WHEN THE ADMISSIBILITY OF OTHER EVIDENCE OF CONTENTS OF
27 WRITINGS, RECORDINGS OR PHOTOGRAPHS UNDER THIS CHAPTER DEPENDS
28 UPON THE FULFILLMENT OF A CONDITION OF FACT, THE QUESTION
29 WHETHER THE CONDITION HAS BEEN FULFILLED IS ORDINARILY FOR THE
30 COURT TO DETERMINE IN ACCORDANCE WITH THE PROVISIONS OF SECTION

1 6205 (RELATING TO PRELIMINARY QUESTIONS (PCE 104)). HOWEVER,
2 WHEN AN ISSUE IS RAISED WHETHER THE ASSERTED WRITING EVER
3 EXISTED, OR WHETHER ANOTHER WRITING, RECORDING OR PHOTOGRAPH
4 PRODUCED AT THE TRIAL IS THE ORIGINAL, OR WHETHER OTHER EVIDENCE
5 OF CONTENTS CORRECTLY REFLECTS THE CONTENTS, THE ISSUE IS FOR
6 THE TRIER OF FACT TO DETERMINE AS IN THE CASE OF OTHER ISSUES OF
7 FACT.

8 SUBCHAPTER K

9 MISCELLANEOUS PROVISIONS

10 SEC.

11 6299. JURY INSTRUCTIONS WITH COMMENT ON EVIDENCE PROHIBITED
12 (PCE 1101).

13 6299.1. INCONSISTENT LAWS (PCE 1102).

14 § 6299. JURY INSTRUCTIONS WITH COMMENT ON EVIDENCE PROHIBITED
15 (PCE 1101).

16 THE COURT SHALL INSTRUCT THE JURY REGARDING THE LAW
17 APPLICABLE TO THE FACTS OF THE CASE, BUT SHALL NOT COMMENT UPON
18 THE EVIDENCE. IT SHALL ALSO INFORM THE JURY THAT THEY ARE THE
19 EXCLUSIVE JUDGES OF ALL QUESTIONS OF FACT AND THE CREDIBILITY OF
20 WITNESSES.

21 § 6299.1. INCONSISTENT LAWS (PCE 1102).

22 IF ANY OTHER PROVISION OF LAW OR RULE IS INCONSISTENT WITH
23 THIS CHAPTER, THIS CHAPTER SHALL GOVERN UNLESS THIS CHAPTER OR
24 THE INCONSISTENT PROVISION OF LAW SPECIFICALLY PROVIDES
25 OTHERWISE.

26 SECTION 3. THIS ACT SHALL APPLY AS FOLLOWS:

27 (1) THE AMENDMENT OF 42 PA.C.S. § 5912 SHALL APPLY TO
28 ALL CRIMINAL CASES PENDING ON THE EFFECTIVE DATE OF THIS ACT.

29 (2) THE PROVISIONS OF 42 PA.C.S. CH. 62 SHALL APPLY TO
30 ACTIONS, CASES AND PROCEEDINGS BROUGHT ON OR AFTER JULY 1,

1 1993, PROVIDED THAT CHAPTER 62 ALSO APPLIES TO FURTHER
2 PROCEDURES IN ACTIONS, CASES AND PROCEEDINGS THEN PENDING,
3 EXCEPT TO THE EXTENT THAT APPLICATION OF CHAPTER 62 WOULD NOT
4 BE FEASIBLE OR WOULD WORK INJUSTICE, IN WHICH EVENT FORMER
5 EVIDENTIARY RULES OR PRINCIPLES SHALL APPLY.

6 SECTION 4. (A) THE FOLLOWING ACTS AND PARTS OF ACTS ARE
7 REPEALED:

8 18 PA.C.S. § 3104.

9 42 PA.C.S. §§ 5917 AND 5918.

10 (B) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS
11 THEY ARE INCONSISTENT WITH THIS ACT.

12 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

13 (1) THE AMENDMENT OF 42 PA.C.S. § 5912 SHALL TAKE EFFECT
14 IMMEDIATELY.

15 (2) SECTION 3(1) AND THIS SECTION SHALL TAKE EFFECT
16 IMMEDIATELY.

17 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
18 DAYS.

OFFICIAL COMMENTS

42 PA.C.S. § 6202 (PCE 101): THIS SECTION MAKES THE PENNSYLVANIA EVIDENCE CODE APPLICABLE TO ALL PROCEEDINGS CONDUCTED BY COURTS OF THIS COMMONWEALTH EXCEPT THOSE COURT PROCEEDINGS TO WHICH IT IS MADE INAPPLICABLE BY STATUTE OR CURRENT RULE OF PROCEDURE. THERE IS NO INTENT TO SUPPLANT EXISTING RULES WHICH SUPPLEMENT THE MANNER OF PROOF IN THE PHILADELPHIA MUNICIPAL COURT (SEE PHILA.M.C.R.CIV.P. NO. 121), THE PITTSBURGH MAGISTRATE COURTS (SEE 42 PA.C.S. CH. 11 SUBCH. C), THE PHILADELPHIA TRAFFIC COURT (SEE 42 PA.C.S. CH. 13 SUBCH. C), CIVIL CASES WITHIN THE JURISDICTION OF THE DISTRICT AND COMMUNITY COURTS (SEE PA. R.C.P.D.J. NO. 321 AND NO. 512) AND IN COMPULSORY ARBITRATION HEARINGS (SEE PA.R.C.P. NO. 1305). THERE IS NO INTENT TO IMPOSE A FORMAL EVIDENCE CODE ON OTHER PROCEEDINGS WHERE THE LAW OF EVIDENCE DOES NOT NOW APPLY AS A RESULT OF STATUTE, RULE OF PROCEDURE OR DECISIONAL LAW.

42 PA.C.S. § 6203 (PCE 102): WHERE THE PENNSYLVANIA EVIDENCE CODE DOES NOT PRESCRIBE A SECTION GOVERNING ADMISSIBILITY OF EVIDENCE OR THE CONDUCT OF A TRIAL OR OTHER JUDICIAL PROCEEDING, THE COURT SHALL BE GOVERNED, EXCEPT AS OTHERWISE REQUIRED BY THE CONSTITUTIONS OF THE UNITED STATES OR OF PENNSYLVANIA OR BY STATUTE, BY THE PRINCIPLES OF DECISIONAL LAW AS THEY MAY BE INTERPRETED IN THE LIGHT OF REASON AND EXPERIENCE. WHERE SECTIONS OF THE PENNSYLVANIA EVIDENCE CODE ARE IDENTICAL OR SIMILAR TO THE FEDERAL RULES OF EVIDENCE, FEDERAL DECISIONAL LAW CONSTRUING THESE SECTIONS MAY BE APPLIED AS AN AID IN CONSTRUCTION. THERE ARE NO PROVISIONS YET GOVERNING PRESUMPTIONS OR PRIVILEGES. IN SUCH INSTANCES, THE PENNSYLVANIA EVIDENCE CODE PROVIDES THAT THE COURT SHALL BE GOVERNED BY STATUTE, RULE AND DECISIONAL LAW.