
Table of Contents

| | |
|----------------------------------|------|
| <i>Preface</i> | ix |
| <i>About the Authors</i> | xiii |
| <i>Summary of Contents</i> | xv |

Chapter One

| | |
|---|-----------|
| General Provisions of the Pennsylvania Rules of Evidence | 1 |
| 1.01. Scope and Citation of Rules | 1 |
| Pennsylvania Rule of Evidence: | |
| Rule 101. Scope; Adoption and Citation..... | 1 |
| Federal Rule of Evidence: | |
| Rule 101. Scope; Definitions | 6 |
| 1.02. Purpose | 7 |
| Pennsylvania Rule of Evidence: | |
| Rule 102. Purpose..... | 7 |
| Federal Rule of Evidence: | |
| Rule 102. Purpose..... | 8 |
| 1.03. Rulings on Evidence | 8 |
| Pennsylvania Rule of Evidence: | |
| Rule 103. Rulings on Evidence | 8 |
| Federal Rule of Evidence: | |
| Rule 103. Rulings on Evidence | 13 |
| 1.04. Preliminary Questions | 16 |
| Pennsylvania Rule of Evidence: | |
| Rule 104. Preliminary Questions | 16 |
| Federal Rule of Evidence: | |
| Rule 104. Preliminary Questions | 19 |

| | | |
|----------------------|---|-----------|
| 1.05. | Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes | 21 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 105. Limiting Evidence That is Not Admissible Against Other Parties or for Other Purposes | 21 |
| | Federal Rule of Evidence: | |
| | Rule 105. Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes | 24 |
| 1.06. | Remainder of or Related Writings or Recorded Statements | 25 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 106. Remainder of or Related Writings or Recorded Statements | 25 |
| | Federal Rule of Evidence: | |
| | Rule 106. Remainder of or Related Writings or Recorded Statements | 27 |
| Chapter Two | | |
| | Judicial Notice..... | 29 |
| 2.01. | Judicial Notice of Facts..... | 29 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 201. Judicial Notice of Adjudicative Facts | 29 |
| | Federal Rule of Evidence: | |
| | Rule 201. Judicial Notice of Adjudicative Facts | 36 |
| Chapter Three | | |
| | Presumptions | 39 |
| | Preface | 40 |
| 3.01. | General Rule on Presumptions | 42 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 301. Presumptions | 42 |
| | Federal Rules of Evidence: | |
| | Rule 301. Presumptions in Civil Cases Generally | 43 |
| | Rule 302. Applying State Law to Presumptions in Civil Cases..... | 43 |
| 3.02. | Presumption of Innocence..... | 44 |
| 3.03. | Presumption of Due Care..... | 45 |
| 3.04. | Presumption That Minor of Certain Age Is Incapable of Negligence or Criminal Conduct..... | 45 |
| 3.05. | Presumption That Mailed Item Was Received | 46 |

3.06. Presumption of Death After Seven Years of Unexplained Absence..... 49

3.07. Presumption Against Suicide..... 50

3.08. Presumption of Paternity..... 50

3.09. Presumption That Property Acquired During Marriage
Is Marital Property 54

3.10. Presumption of Intoxication From Blood Alcohol Content 56

3.11. Presumptions With Respect to Ownership and Operation
of Commercial Vehicle 58

3.12. Presumption That Noncommercial Vehicle Is Operated
With Permission of Owner 59

3.13. Presumption That Activity Is Lawful..... 60

3.14. Presumption That Employee’s Occupational Disease
Arose Out of Employment, for Purposes of
Workers’ Compensation Act..... 62

3.15. Presumption That Injury to Employee That Occurs on
Employer’s Premises Is Work-Related for Purposes
of Workers’ Compensation Act 63

3.16. Presumption That Warning, If Given, Would Have Been Heeded 64

3.17. Presumption That Employment Is At Will 66

3.18. Adverse Presumption Resulting From Spoliation of Evidence..... 70

3.19. Presumption That Status or Relationship Once Proved
to Exist Continues to Exist 73

3.20. Presumption of Undue Influence When Person in Confidential
Relationship With Testator of Weakened Intellect
Receives a Substantial Benefit Under Will..... 75

3.21. Presumption That Lost Will Was Revoked or Destroyed by Testator 77

3.22. Presumption of Shoplifting From Intentional Concealment
of Unpurchased Property of Store 78

3.23. Presumption That Bailee Who Fails to Redeliver Property
Breached Required Standard of Care..... 78

3.24. Presumption That Biological Parent Has Right to Custody of Child..... 80

| | | |
|---------------------|---|------------|
| 3.25. | Presumption That Debt Has Been Paid After 20 Years | 81 |
| 3.26. | Presumption That Property In the Names of Husband and Wife Is Held as Tenants by the Entireties | 82 |
| 3.27. | Presumption That Funds In Joint Account Belong to Survivor | 84 |
| 3.28. | Presumption That Duty to Support Child Ends When Child Reaches 18 Years of Age | 85 |
| 3.29. | Presumption That Perpetrator of Child Abuse Is Parent or Other Person Responsible For Welfare of Child | 86 |
| Chapter Four | | |
| | Relevance | 87 |
| 4.01. | Test for Relevant Evidence | 87 |
| | Pennsylvania Rule of Evidence: Rule 401. Test for Relevant Evidence | 87 |
| | Federal Rule of Evidence: Rule 401. Test for Relevant Evidence | 90 |
| 4.02. | General Admissibility of Relevant Evidence | 90 |
| | Pennsylvania Rule of Evidence: Rule 402. General Admissibility of Relevant Evidence..... | 90 |
| | Federal Rule of Evidence: Rule 402. General Admissibility of Relevant Evidence..... | 96 |
| 4.03. | Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons | 97 |
| | Pennsylvania Rule of Evidence: Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons | 97 |
| | Federal Rule of Evidence: Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons | 102 |
| 4.04. | Character Evidence; Crimes or Other Acts | 104 |
| | Pennsylvania Rule of Evidence: Rule 404. Character Evidence; Crimes or Other Acts | 104 |

| | | |
|--------------|---|------------|
| | Federal Rule of Evidence: | |
| | Rule 404. Character Evidence; Crimes or Other Acts | 121 |
| 4.05. | Methods of Proving Character | 127 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 405. Methods of Proving Character | 127 |
| | Federal Rule of Evidence: | |
| | Rule 405. Methods of Proving Character | 131 |
| 4.06. | Habit and Routine Practice | 132 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 406. Habit; Routine Practice | 132 |
| | Federal Rule of Evidence: | |
| | Rule 406. Habit; Routine Practice | 134 |
| 4.07. | Subsequent Remedial Measures..... | 135 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 407. Subsequent Remedial Measures | 135 |
| | Federal Rule of Evidence: | |
| | Rule 407. Subsequent Remedial Measures | 138 |
| 4.08. | Compromise Offers and Negotiations | 140 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 408. Compromise Offers and Negotiations | 140 |
| | Federal Rule of Evidence: | |
| | Rule 408. Compromise Offers and Negotiations | 143 |
| 4.09. | Offers to Pay Medical and Similar Expenses | 145 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 409. Offers to Pay Medical and Similar Expenses | 145 |
| | Federal Rule of Evidence: | |
| | Rule 409. Offers to Pay Medical and Similar Expenses | 146 |
| 4.10. | Pleas, Plea Discussions, and Related Statements | 146 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 410. Pleas, Plea Discussions, and Related Statements | 146 |
| | Federal Rule of Evidence: | |
| | Rule 410. Pleas, Plea Discussions, and Related Statements | 151 |

| | | |
|-------------------------|---|------------|
| 4.11. | Liability Insurance | 152 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 411. Liability Insurance | 152 |
| | Federal Rule of Evidence: | |
| | Rule 411. Liability Insurance | 153 |
| 4.12. | Rape Shield Law | 154 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 412. Sex Offense Cases: The Victim’s Sexual Behavior or Predisposition (Not Adopted) | 154 |
| | Federal Rule of Evidence: | |
| | Rule 412. Sex-Offense Cases: The Victim’s Sexual Behavior or Predisposition | 158 |
| Chapter Five | | |
| | Testimonial Privileges | 161 |
| | Preface | 162 |
| 5.01. | Rules of Evidence | 164 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 501. Privileges..... | 164 |
| | Federal Rule of Evidence: | |
| | Rule 501. Privilege in General..... | 165 |
| 5.02. | Privilege Against Self-Incrimination | 166 |
| 5.03. | Attorney/Client and Work-Product Privileges | 178 |
| 5.04. | Accountant/Client Privilege | 196 |
| 5.05. | Physician/Patient Privilege | 197 |
| 5.06. | Psychotherapist/Patient Privilege..... | 200 |
| 5.07. | Domestic Violence Counselor or Advocate/Victim Privilege | 207 |
| 5.08. | Sexual Assault Counselor/Victim Privilege..... | 210 |
| 5.09. | School Personnel/Student Privilege | 213 |
| 5.10. | Priest/Penitent Privilege..... | 214 |
| 5.11. | Spousal Privilege to Refuse to Testify Against Spouse | 216 |

| | | |
|-------|---|-----|
| 5.12. | Spousal Privilege to Prevent Disclosure of Confidential Marital Communications | 218 |
| 5.13. | Spousal Privilege for Confidential Communications to Marriage Counselor | 223 |
| 5.14. | News Reporter’s Privilege | 224 |
| 5.15. | Governmental Privilege for State and Military Secrets | 227 |
| 5.16. | Governmental Privilege to Withhold Identity of Informer | 229 |
| 5.17. | Governmental Executive Privilege | 234 |
| 5.18. | Deliberative Process Privilege | 235 |
| 5.19. | Drug and Alcohol Abuse Records | 240 |
| 5.20. | Reports and Records of Disease; HIV Records | 243 |
| 5.21. | Mental Health Records | 246 |
| 5.22. | Medical Peer Review Records | 249 |
| 5.23. | Mediation Communications and Documents | 254 |
| 5.24. | Critical Self-Analysis Privilege | 258 |
| 5.25. | Parent/Child Privilege | 260 |
| 5.26. | Scholar’s Privilege | 260 |
| 5.27. | Trade Secrets | 261 |
| | | |
| | Chapter Six | |
| | Witnesses | 265 |
| 6.01. | Competency | 265 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 601. Competency | 265 |
| | Federal Rule of Evidence: | |
| | Rule 601. Competency to Testify in General..... | 278 |
| 6.02. | Need for Personal Knowledge | 280 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 602. Need for Personal Knowledge | 280 |

| | | |
|--------------|---|------------|
| | Federal Rule of Evidence: Rule 602. Need for Personal Knowledge | 281 |
| 6.03. | Oath or Affirmation to Testify Truthfully | 282 |
| | Pennsylvania Rule of Evidence: Rule 603. Oath or Affirmation to Testify Truthfully | 282 |
| | Federal Rule of Evidence: Rule 603. Oath or Affirmation to Testify Truthfully | 283 |
| 6.04. | Interpreter | 283 |
| | Pennsylvania Rule of Evidence: Rule 604. Interpreter | 283 |
| | Federal Rule of Evidence: Rule 604. Interpreter | 284 |
| 6.05. | Judge’s Competency as a Witness | 285 |
| | Pennsylvania Rule of Evidence: Rule 605. Judge’s Competency as a Witness | 285 |
| | Federal Rule of Evidence: Rule 605. Judge’s Competency as a Witness | 286 |
| 6.06. | Juror’s Competency as a Witness | 287 |
| | Pennsylvania Rule of Evidence: Rule 606. Juror’s Competency as a Witness | 287 |
| | Federal Rule of Evidence: Rule 606. Juror’s Competency as a Witness | 291 |
| 6.07. | Impeachment of Credibility of Witness | 294 |
| | Pennsylvania Rule of Evidence: Rule 607. Who May Impeach a Witness, Evidence to Impeach a Witness | 294 |
| | Federal Rule of Evidence: Rule 607. Who May Impeach a Witness | 305 |
| 6.08. | A Witness’s Character for Truthfulness or Untruthfulness | 306 |
| | Pennsylvania Rule of Evidence: Rule 608. A Witness’s Character for Truthfulness or Untruthfulness | 306 |
| | Federal Rule of Evidence: Rule 608. A Witness’s Character for Truthfulness or Untruthfulness | 312 |

| | | |
|--------------|---|------------|
| 6.09. | Impeachment by Evidence of a Criminal Conviction | 314 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 609. Impeachment by Evidence of a Criminal Conviction..... | 314 |
| | Federal Rule of Evidence: | |
| | Rule 609. Impeachment by Evidence of a Criminal Conviction..... | 321 |
| 6.10. | Religious Beliefs or Opinions..... | 324 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 610. Religious Beliefs or Opinions | 324 |
| | Federal Rule of Evidence: | |
| | Rule 610. Religious Beliefs or Opinions | 325 |
| 6.11. | Mode and Order of Examining Witnesses and Presenting Evidence | 325 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence | 325 |
| | Federal Rule of Evidence: | |
| | Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence | 330 |
| 6.12. | Writing or Other Item Used to Refresh a Witness’s Memory..... | 331 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 612. Writing or Other Item Used to Refresh a Witness’s Memory..... | 331 |
| | Federal Rule of Evidence: | |
| | Rule 612. Writing Used to Refresh a Witness’s Memory..... | 334 |
| 6.13. | Witness’s Prior Inconsistent Statement to Impeach; Witness’s Prior Consistent Statement to Rehabilitate..... | 336 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 613. Witness’s Prior Inconsistent Statement to Impeach; Witness’s Prior Consistent Statement to Rehabilitate | 336 |
| | Federal Rule of Evidence: | |
| | Rule 613. Witness’s Prior Statement..... | 344 |
| 6.14. | Court’s Calling or Examining a Witness..... | 345 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 614. Court’s Calling or Examining a Witness | 345 |
| | Federal Rule of Evidence: | |
| | Rule 614. Court’s Calling or Examining a Witness | 346 |

| | | |
|----------------------|---|------------|
| 6.15. | Sequestering Witnesses | 347 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 615. Sequestering Witnesses | 347 |
| | Federal Rule of Evidence: | |
| | Rule 615. Excluding Witnesses | 350 |
| | | |
| Chapter Seven | | |
| | Opinions and Expert Testimony | 353 |
| | | |
| 7.01. | Opinion Testimony by Lay Witnesses | 353 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 701. Opinion Testimony by Lay Witnesses | 353 |
| | Federal Rule of Evidence: | |
| | Rule 701. Opinion Testimony by Lay Witnesses | 358 |
| | | |
| 7.02. | Testimony by Expert Witnesses..... | 361 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 702. Testimony by Expert Witnesses | 361 |
| | Federal Rule of Evidence: | |
| | Rule 702. Testimony by Expert Witnesses | 382 |
| | | |
| 7.03. | Bases of an Expert’s Opinion Testimony..... | 387 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 703. Bases of an Expert’s Opinion Testimony | 387 |
| | Federal Rule of Evidence: | |
| | Rule 703. Bases of an Expert’s Opinion Testimony | 395 |
| | | |
| 7.04. | Opinion on an Ultimate Issue | 397 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 704. Opinion on an Ultimate Issue | 397 |
| | Federal Rule of Evidence: | |
| | Rule 704. Opinion on an Ultimate Issue | 398 |
| | | |
| 7.05. | Disclosing the Facts or Data Underlying an Expert’s Opinion..... | 399 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion..... | 399 |
| | Federal Rule of Evidence: | |
| | Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion..... | 402 |

| | | |
|--------------|---|------------|
| 7.06. | Court-Appointed Expert Witnesses | 402 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 706. Court-Appointed Expert Witnesses | 402 |
| | Federal Rule of Evidence: | |
| | Rule 706. Court-Appointed Expert Witnesses | 406 |
| | | |
| | Chapter Eight | |
| | Hearsay | 411 |
| 8.00. | The Hearsay Problem | 411 |
| 8.01. | Definitions | 419 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 801. Definitions That Apply to This Article | 419 |
| | Federal Rule of Evidence: | |
| | Rule 801. Definitions That Apply to This Article; Exclusions from Hearsay | 427 |
| 8.02. | The Hearsay Rule..... | 429 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 802. The Rule Against Hearsay | 429 |
| | Federal Rule of Evidence: | |
| | Rule 802. The Rule Against Hearsay | 436 |
| 8.03. | Hearsay Exceptions When Availability of Declarant Is Immaterial | 437 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803. Exceptions to the Rule Against Hearsay— Regardless of Whether the Declarant Is Available as a Witness | 437 |
| | Federal Rule of Evidence: | |
| | Rule 803. Exceptions to the Rule Against Hearsay— Regardless of Whether the Declarant Is Available as a Witness | 438 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803(1). Present Sense Impression | 438 |
| | Federal Rule of Evidence: | |
| | Rule 803(1). Present Sense Impression | 440 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803(2). Excited Utterance | 441 |

| | |
|--|-----|
| Federal Rule of Evidence: Rule 803(2). Excited Utterance..... | 447 |
| Pennsylvania Rule of Evidence: Rule 803(3). Then-Existing Mental, Emotional, or Physical Condition..... | 448 |
| Federal Rule of Evidence: Rule 803(3). Then-Existing Mental, Emotional, or Physical Condition..... | 451 |
| Pennsylvania Rule of Evidence: Rule 803(4). Statement Made for Medical Diagnosis or Treatment..... | 453 |
| Federal Rule of Evidence: Rule 803(4). Statement Made for Medical Diagnosis or Treatment..... | 455 |
| Pennsylvania Rule of Evidence: Rule 803(5). Recorded Recollection (Not Adopted)..... | 455 |
| Pennsylvania Rule of Evidence: Rule 803(6). Records of a Regularly Conducted Activity..... | 456 |
| Federal Rule of Evidence: Rule 803(6). Records of a Regularly Conducted Activity..... | 464 |
| Pennsylvania Rule of Evidence: Rule 803(7). Absence of a Record of a Regularly Conducted Activity (Not Adopted)..... | 465 |
| Federal Rule of Evidence: Rule 803(7). Absence of a Record of a Regularly Conducted Activity..... | 466 |
| Pennsylvania Rule of Evidence: Rule 803(8). Public Records (Not Adopted)..... | 467 |
| Federal Rule of Evidence: Rule 803(8). Public Records..... | 470 |
| Pennsylvania Rule of Evidence: Rule 803(9). Public Records of Vital Statistics (Not Adopted)..... | 472 |
| Federal Rule of Evidence: Rule 803(9). Public Records of Vital Statistics..... | 473 |
| Pennsylvania Rule of Evidence: Rule 803(10). Absence of a Public Record (Not Adopted)..... | 474 |
| Federal Rule of Evidence: Rule 803(10). Absence of a Public Record..... | 475 |
| Pennsylvania Rule of Evidence: Rule 803(11). Records of Religious Organizations Concerning Personal or Family History..... | 476 |

Federal Rule of Evidence:
 Rule 803(11). Records of Religious Organizations Concerning
 Personal or Family History 477

Pennsylvania Rule of Evidence:
 Rule 803(12). Certificates of Marriage, Baptism, and
 Similar Ceremonies..... 477

Federal Rule of Evidence:
 Rule 803(12). Certificates of Marriage, Baptism, and
 Similar Ceremonies..... 478

Pennsylvania Rule of Evidence:
 Rule 803(13). Family Records 478

Federal Rule of Evidence:
 Rule 803(13). Family Records 479

Pennsylvania Rule of Evidence:
 Rule 803(14). Records of Documents That Affect an
 Interest in Property..... 479

Federal Rule of Evidence:
 Rule 803(14). Records of Documents That Affect an
 Interest in Property..... 480

Pennsylvania Rule of Evidence:
 Rule 803(15). Statements in Documents That Affect an
 Interest in Property..... 480

Federal Rule of Evidence:
 Rule 803(15). Statements in Documents That Affect an
 Interest in Property..... 481

Pennsylvania Rule of Evidence:
 Rule 803(16). Statements in Ancient Documents..... 481

Federal Rule of Evidence:
 Rule 803(16). Statements in Ancient Documents..... 482

Pennsylvania Rule of Evidence:
 Rule 803(17). Market Reports and Similar Commercial Publications..... 482

Federal Rule of Evidence:
 Rule 803(17). Market Reports and Similar Commercial Publications..... 483

Pennsylvania Rule of Evidence:
 Rule 803(18). Statements in Learned Treatises, Periodicals,
 or Pamphlets (Not Adopted)..... 484

| | |
|---|-----|
| Federal Rule of Evidence: Rule 803(18). Statements in Learned Treatises, Periodicals, or Pamphlets | 485 |
| Pennsylvania Rule of Evidence: Rule 803(19). Reputation Concerning Personal or Family History | 486 |
| Federal Rule of Evidence: Rule 803(19). Reputation Concerning Personal or Family History | 487 |
| Pennsylvania Rule of Evidence: Rule 803(20). Reputation Concerning Boundaries or General History | 488 |
| Federal Rule of Evidence: Rule 803(20). Reputation Concerning Boundaries or General History | 489 |
| Pennsylvania Rule of Evidence: Rule 803(21). Reputation Concerning Character | 489 |
| Federal Rule of Evidence: Rule 803(21). Reputation Concerning Character | 489 |
| Pennsylvania Rule of Evidence: Rule 803(22). Judgment of a Previous Conviction (Not Adopted) | 490 |
| Federal Rule of Evidence: Rule 803(22). Judgment of a Previous Conviction | 493 |
| Pennsylvania Rule of Evidence: Rule 803(23). Judgments Involving Personal, Family, or General History or a Boundary (Not Adopted) | 494 |
| Federal Rule of Evidence: Rule 803(23). Judgments Involving Personal, Family, or General History, or a Boundary | 495 |
| Pennsylvania Rule of Evidence: Rule 803(24). Other Exceptions (Not Adopted) | 495 |
| Federal Rule of Evidence: Rule 803(24). [Other Exceptions.] [Transferred to Rule 807.] | 496 |
| Pennsylvania Rule of Evidence: Rule 803(25). An Opposing Party's Statement | 496 |
| Federal Rule of Evidence: Rule 801. Definitions That Apply to This Article; Exclusions from Hearsay | 511 |

| | | |
|----------------|---|------------|
| 8.03.1. | Hearsay Exceptions When Testimony of Declarant Is Necessary | 516 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803.1. Exceptions to the Rule Against Hearsay— Testimony of Declarant Necessary | 516 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803.1(1). Prior Inconsistent Statement of Declarant-Witness | 516 |
| | Federal Rule of Evidence: | |
| | Rule 801(d)(1). A Declarant-Witness’s Prior Statement | 521 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803.1(2). Prior Statement of Identification by Declarant-Witness..... | 522 |
| | Federal Rule of Evidence: | |
| | Rule 801(d)(1)(C). Statement of Identification | 524 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 803.1(3). Recorded Recollection..... | 526 |
| | Federal Rule of Evidence: | |
| | Rule 803. Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness | 527 |
| 8.04. | Hearsay Exceptions When Declarant Must Be Unavailable | 528 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804. Exceptions to the Rule Against Hearsay— When the Declarant is Unavailable as a Witness..... | 528 |
| | Federal Rule of Evidence: | |
| | Rule 804. Exceptions to the Rule Against Hearsay— When the Declarant Is Unavailable as a Witness..... | 531 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(1). Former Testimony | 533 |
| | Federal Rule of Evidence: | |
| | Rule 804(b)(1). Former Testimony | 538 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(2). Statement Under Belief of Imminent Death | 540 |
| | Federal Rule of Evidence: | |
| | Rule 804(b)(2). Statement Under the Belief of Imminent Death..... | 543 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(3). Statement Against Interest | 545 |

| | | |
|--------------|---|------------|
| | Federal Rule of Evidence: | |
| | Rule 804(b)(3). Statement Against Interest | 550 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(4). Statement of Personal or Family History | 553 |
| | Federal Rule of Evidence: | |
| | Rule 804(b)(4). Statement of Personal or Family History | 554 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(5). Other Exceptions (Not Adopted)..... | 555 |
| | Federal Rule of Evidence: | |
| | Rule 804(b)(5). [Other Exceptions.] [Transferred to F.R.E. 807.] | 555 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 804(b)(6). Statement Offered Against a Party That Wrongfully Caused the Declarant’s Unavailability..... | 555 |
| | Federal Rule of Evidence: | |
| | Rule 804(b)(6). Statement Offered Against a Party That Wrongfully Caused the Declarant’s Unavailability..... | 557 |
| 8.05. | Hearsay Within Hearsay | 558 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 805. Hearsay Within Hearsay | 558 |
| | Federal Rule of Evidence: | |
| | Rule 805. Hearsay Within Hearsay | 559 |
| 8.06. | Attacking and Supporting the Declarant’s Credibility | 560 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 806. Attacking and Supporting the Declarant’s Credibility | 560 |
| | Federal Rule of Evidence: | |
| | Rule 806. Attacking and Supporting the Declarant’s Credibility | 561 |
| 8.07. | Residual Exception..... | 562 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 807. Residual Exception (Not Adopted) | 562 |
| | Federal Rule of Evidence: | |
| | Rule 807. Residual Exception | 563 |
| 8.08. | Tender Years Exception..... | 564 |

Chapter Nine
Authentication and Identification 573

9.01. Authenticating or Identifying Evidence 573
 Pennsylvania Rule of Evidence:
 Rule 901. Authenticating or Identifying Evidence 573
 Federal Rule of Evidence:
 Rule 901. Authenticating or Identifying Evidence 583

9.02. Evidence That Is Self-Authenticating 585
 Pennsylvania Rule of Evidence:
 Rule 902. Evidence That is Self-Authenticating 585
 Federal Rule of Evidence:
 Rule 902. Evidence That Is Self-Authenticating 588

9.03. Subscribing Witness’s Testimony 590
 Pennsylvania Rule of Evidence:
 Rule 903. Subscribing Witness’s Testimony 590
 Federal Rule of Evidence:
 Rule 903. Subscribing Witness’s Testimony 591

Chapter Ten
Contents of Writings, Recordings, and Photographs; Best Evidence Rule..... 593

10.01. Definitions 593
 Pennsylvania Rule of Evidence:
 Rule 1001. Definitions That Apply to This Article 593
 Federal Rule of Evidence:
 Rule 1001. Definitions That Apply to This Article 594

10.02. Requirement of the Original 595
 Pennsylvania Rule of Evidence:
 Rule 1002. Requirement of the Original 595
 Federal Rule of Evidence:
 Rule 1002. Requirement of the Original 598

10.03. Admissibility of Duplicates..... 598
 Pennsylvania Rule of Evidence:
 Rule 1003. Admissibility of Duplicates..... 598
 Federal Rule of Evidence:
 Rule 1003. Admissibility of Duplicates..... 600

| | | |
|-----------------------|--|------------|
| 10.04. | Admissibility of Other Evidence of Content..... | 600 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 1004. Admissibility of Other Evidence of Content..... | 600 |
| | Federal Rule of Evidence: | |
| | Rule 1004. Admissibility of Other Evidence of Content..... | 602 |
| 10.05. | Copies of Public Records to Prove Content | 602 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 1005. Copies of Public Records to Prove Content..... | 602 |
| | Federal Rule of Evidence: | |
| | Rule 1005. Copies of Public Records to Prove Content..... | 603 |
| 10.06. | Summaries to Prove Content | 604 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 1006. Summaries to Prove Content..... | 604 |
| | Federal Rule of Evidence: | |
| | Rule 1006. Summaries to Prove Content..... | 605 |
| 10.07. | Testimony or Statement of a Party to Prove Content | 606 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 1007. Testimony or Statement of a Party to Prove Content..... | 606 |
| | Federal Rule of Evidence: | |
| | Rule 1007. Testimony or Statement of a Party to Prove Content..... | 607 |
| 10.08. | Functions of the Court and Jury | 607 |
| | Pennsylvania Rule of Evidence: | |
| | Rule 1008. Functions of the Court and Jury..... | 607 |
| | Federal Rule of Evidence: | |
| | Rule 1008. Functions of the Court and Jury..... | 608 |
| Chapter Eleven | | |
| | Miscellaneous Rules of Evidence | 609 |
| 11.01. | Collateral Source Rule | 609 |
| 11.02. | Corpus Delicti Rule..... | 615 |
| 11.03. | Parol Evidence Rule | 621 |
| 11.04. | Res Ipsa Loquitur | 644 |
| 11.05. | Seat Belt Rule..... | 654 |

| | |
|-----------------------------|------------|
| Index of Cases..... | 659 |
| Index of Rules | 775 |
| Subject Index..... | 783 |