

New Jersey Rules of Evidence

Article X - Contents of Writings and Photographs

N.J.R.E. 1001. Definitions

For purposes of this article the following definitions are applicable:

- (a) *Writings*. --"Writings," which include recordings, are defined in Rule 801(e).

- (b) *Photographs*. --"Photographs" include still photographs, X-ray films, video tapes, motion pictures and similar forms of reproduced likenesses.

- (c) *Original*. --An "original" of a writing is the writing itself or any counterpart intended by the person or persons executing or issuing it to have the same effect. An "original" of a photograph includes the negative or any print therefrom. If data are stored by means of a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original."

- (d) *Duplicate*. --A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and reductions, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent technique which accurately reproduces the original.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1002. Requirement of Original

To prove the content of a writing or photograph, the original writing or photograph is required except as otherwise provided in these rules or by statute.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1003. Admissibility of Duplicates

A duplicate as defined by Rule 1001(d) is admissible to the same extent as an original unless (a) a genuine question is raised as to the authenticity of the original, or (b) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1004. Admissibility of Other Evidence of Contents

The original is not required and other evidence of the contents of a writing or photograph is admissible if:

(a) *Originals lost or destroyed.* --All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or

(b) *Original not obtainable.* --No original can be obtained by any available judicial process or procedure or by other available means; or

(c) *Original in possession of opponent.* --At a time when an original was under the control of the party against whom offered, that party was put on notice by the pleadings or otherwise that the contents would be a subject of proof at the hearing, and that party does not produce the original at the hearing; or

(d) *Collateral matters.* --The writing or photograph is not closely related to a controlling issue and it would not be expedient to require its production.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1005. Public Records

The contents of an official record or of a writing authorized to be recorded or filed and actually recorded or filed, if otherwise admissible, may be proved by a copy, certified as correct in accordance with Rule 902, or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, other evidence of the contents may be admitted.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1006. Summaries

The contents of voluminous writings or photographs which cannot conveniently be examined in court may be presented by a qualified witness in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The judge may order that they be produced in court.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1007. Testimony or Written Admission of Party

The contents of writings or photographs may be proved by the testimony or deposition of the party against whom offered or by that party's written admission, without accounting for the nonproduction of the original.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 1008. Functions of Judge and Jury

Ordinarily the judge shall determine the sufficiency of proof of a condition for the admission of evidence of the contents of a writing or photograph other than the original in accordance with Rule 104. However, when a party raises an issue as to (a) whether the asserted writing or photograph ever existed, or (b) whether another writing or photograph produced at the trial is the original, or (c) whether the evidence correctly reflects the content of the original writing or photograph, the issue shall be determined by the trier of fact as in the case of other issues of fact.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.