

## Article 10.

### Contents of Writings, Recordings and Photographs.

#### **Rule 1001. Definitions.**

For the purposes of this Article the following definitions are applicable:

- (1) Writings and Recordings. – "Writings" and "recordings" consist of letters, words, sounds, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.
- (2) Photographs. – "Photographs" include still photographs, x-ray films, video tapes, and motion pictures.
- (3) Original. – An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph 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."
- (4) 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 miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original. (1983, c. 701, s. 1.)

#### **Rule 1002. Requirement of original.**

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute. (1983, c. 701, s. 1.)

#### **Rule 1003. Admissibility of duplicates.**

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original. (1983, c. 701, s. 1.)

#### **Rule 1004. Admissibility of other evidence of contents.**

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

- (1) Originals Lost or Destroyed. – All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or
- (2) Original Not Obtainable. – No original can be obtained by any available judicial process or procedure; or
- (3) Original in Possession of Opponent. – At a time when an original was under the control of a party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and he does not produce the original at the hearing; or

- (4) Collateral Matters. – The writing, recording, or photograph is not closely related to a controlling issue. (1983, c. 701, s. 1.)

**Rule 1005. Public records.**

The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by 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, then other evidence of the contents may be given. (1983, c. 701, s. 1.)

**Rule 1006. Summaries.**

The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented 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 court may order that they be produced in court. (1983, c. 701, s. 1.)

**Rule 1007. Testimony or written admission of party.**

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original. (1983, c. 701, s. 1.)

**Rule 1008. Functions of court and jury.**

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact. (1983, c. 701, s. 1.)