

New Jersey Rules of Evidence

Article X. Contents of Writings, Recordings, 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, videos, 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. With respect to electronically created documents, any printout or other output readable by sight, shown to reflect the data accurately, is an "original."

(d) Duplicate. A "duplicate" is a counterpart, other than an original, 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; paragraphs (c) and (d) amended September 15, 2017 to be effective July 1, 2018; paragraph (b) amended September 16, 2019 to be effective July 1, 2020.

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 genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

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 proponent may use a copy to prove the contents of an official record, or of a writing that was recorded or filed in a public office as authorized by law, if these conditions are met:

(a) the record or writing is otherwise admissible;

(b) and the copy is certified as correct in accordance with Rule 902, or is testified to be correct by a witness who has compared it with the original.

If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the contents.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 1006. Summaries

The proponent may use a summary, chart, or calculation presented by a qualified witness to prove the content of voluminous writings or photographs that cannot conveniently be examined in court. The proponent shall make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place or mode. The court may order the proponent to produce them in court.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

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

The proponent may prove the content of a writing or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

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

Ordinarily the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing or photograph under Rule 1004 or 1005. However, in a jury trial, the jury determines, in accordance with Rule 104, any factual issue about whether:

- (a) an asserted writing or photograph ever existed,
- (b) another writing or photograph produced at the trial or hearing is the original, or
- (c) the evidence correctly reflects the content of the original writing or photograph.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.