

PREFACE

Pennsylvania Law With Respect to Evidentiary Objections

In order to preserve an issue for appellate review in the state court system, a party must make a timely and specific objection at the appropriate state of the proceedings before the trial court. *Commonwealth v. T.B.*, 232 A.3d 915 (Pa. Super. 2020); *Commonwealth v. Pacheco*, 227 A.3d 358 (Pa. Super. 2020); *Interest of L.V.*, 209 A.3d 399 (Pa. Super. 2019) (failure to timely object to a basic and fundamental error will result in waiver of that issue on appeal); *Wright v. Residence Inn by Marriott Inc.*, 207 A.3d 970 (Pa. Super. 2019); *Jones v. Dept. of Corrections*, 39 A.3d 599 (Pa. Cmwlth. 2012). Failure to object will result in a waiver of the issue. See, e.g., *Commonwealth v. Tucker*, 143 A.3d 955 (Pa. Super. 2016) (failure to make a timely and specific objection before the trial court at the appropriate stage of the proceedings will result in waiver of the issues); *Commonwealth v. Shataan*, 39 A.3d 310 (Pa. Super. 2012); *Commonwealth v. Stokes*, 38 A.3d 846 (Pa. Super. 2011); *Schmidt v. Boardman Co.*, 11 A.3d 924 (2011) (this Court has taken a stricter approach to waiver than many other jurisdictions by abolishing the plain error doctrine; the general requirement that one challenging a civil verdict must raise and preserve challenges at all stages best reconciles with our existing rules and approach to trial and appellate practice); *Commonwealth v. Ali*, 10 A.3d 282 (Pa. 2010) (failure to raise a contemporaneous objection

to a prosecutor's comment at trial waives any claim of error arising from that comment); *Commonwealth v. Rivera*, 983 A.2d 1211 (Pa. 2009) (lack of a contemporaneous objection constitutes a waiver of any challenge to the prosecutor's closing remarks); *Commonwealth v. U.S. Mineral Products*, 956 A.2d 967 (Pa. 2008) (same); *Commonwealth v. Montalvo*, 956 A.2d 926 (Pa. 2008) (in order to preserve a claim on appeal, a party must lodge a timely objection at trial); *Commonwealth v. Reaves*, 923 A.2d 1119 (Pa. 2007) (although contemporaneous objections operate to preserve issues for appellate review, they serve an equally important function in obviating appeals by affording the trial court a timely opportunity to correct mistakes and/or to reconsider decisions); *Commonwealth v. Colavita*, 920 A.2d 836 (Pa. Super. 2007) (failure to object to the prosecutor's opening statement prejudiced defendant and constituted ineffective assistance of counsel).

The need for timely objection is also addressed in Pa. R. E. 103, Rulings on Evidence:

(a) Effect of Erroneous Ruling

Error may not be predicated upon a ruling that admits . . . evidence unless

(1) Objection. In case the ruling is one admitting evidence, a timely objection, motion to strike or motion in limine appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context . . .

See also Pa. R.A.P. 302 "[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal"; *Commonwealth v. Williams*, 58 A.3d 796 (Pa. Super. 2012).

It has been written that objections to the admission or exclusion of evidence must be made at the right time, with the right rule and for the right

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reason.¹

The purpose of this book is to assist with the right rule and right reason. But timing is everything and that responsibility falls to the trial lawyer who must also bear in mind former Chief Justice Castille's teaching that "Lawyers are not obliged to be obstreperous or to make objections just to make them." *Commonwealth v. Daniels*, 104 A.3d 267, 296 (Pa. 2014).

¹ Mauet, *Trials*, Chap. 10, p. 520 (Aspen Publishers, Inc. 2005).