

April 2, 2024

Honorable Mike Johnson
Speaker, United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

I have the honor to submit to the Congress amendments and an addition to the Federal Rules of Evidence that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying the amended and new rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 23, 2023; a blackline version of the rules with committee notes; an excerpt from the September 2023 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and an excerpt from the May 2023 report of the Advisory Committee on Evidence Rules.

Sincerely,

/s/ John G. Roberts, Jr.

April 2, 2024

Honorable Kamala D. Harris
President, United States Senate
Washington, DC 20510

Dear Madam President:

I have the honor to submit to the Congress amendments and an addition to the Federal Rules of Evidence that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying the amended and new rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 23, 2023; a blackline version of the rules with committee notes; an excerpt from the September 2023 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and an excerpt from the May 2023 report of the Advisory Committee on Evidence Rules.

Sincerely,

/s/ John G. Roberts, Jr.

April 2, 2024

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Evidence are amended to include amendments to 613, 801, 804, and 1006, and new Rule 107.

[*See infra* pp. __ __ __.]

2. The foregoing amendments to the Federal Rules of Evidence shall take effect on December 1, 2024, and shall govern in all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. THE CHIEF JUSTICE is authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Evidence in accordance with the provisions of Section 2074 of Title 28, United States Code.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF EVIDENCE**

Rule 107. Illustrative Aids

- (a) **Permitted Uses.** The court may allow a party to present an illustrative aid to help the trier of fact understand the evidence or argument if the aid's utility in assisting comprehension is not substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, or wasting time.
- (b) **Use in Jury Deliberations.** An illustrative aid is not evidence and must not be provided to the jury during deliberations unless:
- (1) all parties consent; or
 - (2) the court, for good cause, orders otherwise.
- (c) **Record.** When practicable, an illustrative aid used at trial must be entered into the record.

- (d) **Summaries of Voluminous Materials Admitted as Evidence.** A summary, chart, or calculation admitted as evidence to prove the content of voluminous admissible evidence is governed by Rule 1006.

Rule 613. Witness's Prior Statement

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- (b) **Extrinsic Evidence of a Prior Inconsistent Statement.** Unless the court orders otherwise, extrinsic evidence of a witness's prior inconsistent statement may not be admitted until after the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).

**Rule 801. Definitions That Apply to This Article;
Exclusions from Hearsay**

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(d) Statements That Are Not Hearsay. A statement that meets the following conditions is not hearsay:

* * * * *

(2) *An Opposing Party's Statement.* The statement is offered against an opposing party and:

- (A)** was made by the party in an individual or representative capacity;
- (B)** is one the party manifested that it adopted or believed to be true;
- (C)** was made by a person whom the party authorized to make a statement on the subject;
- (D)** was made by the party's agent or employee on a matter within the

scope of that relationship and while it existed; or

(E) was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

If a party's claim, defense, or potential liability is directly derived from a declarant or the declarant's principal, a statement that would be admissible against the declarant or the principal under this rule is also admissible against the party.

**Rule 804. Exceptions to the Rule Against Hearsay—
When the Declarant Is Unavailable as a
Witness**

* * * * *

(b) The Exceptions. * * *

(3) *Statement Against Interest.* A statement that:

- (A)** a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and
- (B)** if offered in a criminal case as one that tends to expose the declarant to criminal liability, is supported by

corroborating circumstances that clearly indicate its trustworthiness after considering the totality of circumstances under which it was made and any evidence that supports or undermines it.

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Rule 1006. Summaries to Prove Content

- (a) **Summaries of Voluminous Materials Admissible as Evidence.** The court may admit as evidence a summary, chart, or calculation offered to prove the content of voluminous admissible writings, recordings, or photographs that cannot be conveniently examined in court, whether or not they have been introduced into evidence.
- (b) **Procedures.** The proponent must make the underlying originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.
- (c) **Illustrative Aids Not Covered.** A summary, chart, or calculation that functions only as an illustrative aid is governed by Rule 107.