

April 25, 2014

Honorable John A. Boehner  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

I have the honor to submit to the Congress the amendments 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 these rules are excerpts from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

/s/ John G. Roberts, Jr.

April 25, 2014

Honorable Joseph R. Biden, Jr.  
President, United States Senate  
Washington, D.C. 20510

Dear Mr. President:

I have the honor to submit to the Congress the amendments 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 these rules are excerpts from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

/s/ John G. Roberts, Jr.

April 25, 2014

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Evidence be, and they hereby are, amended by including therein amendments to Evidence Rules 801(d)(1)(B) and 803(6)–(8).

[See infra., pp. — — —.]

2. That the foregoing amendments to the Federal Rules of Evidence shall take effect on December 1, 2014, and shall govern in all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That the CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Evidence in accordance with the provisions of Section 2072 of Title 28, United States Code.

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

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

\* \* \* \* \*

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

**(1) *A Declarant-Witness's Prior Statement.*** The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

\* \* \* \* \*

**(B)** is consistent with the declarant's testimony and is offered:

**(i)** to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(ii) to rehabilitate the declarant's  
credibility as a witness when attacked  
on another ground; or

\* \* \* \* \*

**Rule 803. Exceptions to the Rule Against Hearsay —  
Regardless of Whether the Declarant Is  
Available as a Witness**

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

\* \* \* \* \*

- (6) *Records of a Regularly Conducted Activity.* A record of an act, event, condition, opinion, or diagnosis if:
- (A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;
  - (B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

(E) the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

(7) ***Absence of a Record of a Regularly Conducted Activity.*** Evidence that a matter is not included in a record described in paragraph (6) if:

(A) the evidence is admitted to prove that the matter did not occur or exist;

- (B) a record was regularly kept for a matter of that kind; and
  - (C) the opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.
- (8) ***Public Records.*** A record or statement of a public office if:
- (A) it sets out:

    - (i) the office's activities;
    - (ii) a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
    - (iii) in a civil case or against the government in a criminal case, factual

findings from a legally authorized  
investigation; and

**(B)** the opponent does not show that the source  
of information or other circumstances  
indicate a lack of trustworthiness.

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