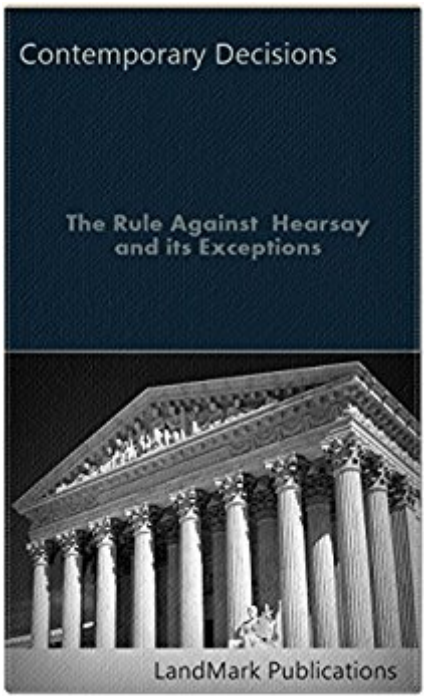
The Rule Against Hearsay And Its Exceptions (Litigator Series)



Synopsis

THIS CASEBOOK contains a selection of 203 U. S. Court of Appeals decisions that analyze, interpret and apply provisions of Federal Rules of Evidence as regards the rule against hearsay and its exceptions. The selection of decisions spans from 2003 to the date of publication.Hearsay is a statement, other than one made by a declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted. Fed. R. Evid. 801(c). Generally, an out-of-court statement admitted to show its effect on the hearer is not hearsay. United States v. Cruz, 805 F.2d 1464, 1478 (11th Cir. 1986). "Such verbal acts are not in the first instance assertive statements and not offered to prove the truth of the matter asserted." Id. Likewise, out-of-court declarations that are "more in the nature of an order or a request" and that, "to a large degree, [are] not even capable of being true or false" are also not hearsay. Id. US v. Rivera, (11th Cir. 2015).As a general rule, a party is prohibited from introducing a statement made by an out-of-court declarant when it is offered at trial to prove the truth of the matter asserted. Fed. R. Evid. 801(c), 802. For the purposes of hearsay, a "statement" is defined as "a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion." Fed. R. Evid. 801(a). The Advisory Committee Note clarifies that the effect of the "statement" definition is to "exclude from the operation of the hearsay rule all evidence of conduct, verbal or nonverbal, not intended as an assertion. The key to the definition [of a statement] is that nothing is an assertion unless intended to be one." Fed. R. Evid. 801 advisory committee's note to Subdivision (a) 1972 Proposed Rules (emphasis added). US v. Torres, (9th Cir. 2015).Although hearsay is admissible under certain conditions, see, e.g., United States v. Waters, 158 F.3d 933, 940-41 (6th Cir. 1998)), the court is not obliged to admit such evidence. And the rationale for excluding hearsay from trial suggests why a court, in its discretion, might exclude hearsay from an administrative hearing, too. For one thing, hearsay is unreliable, almost by definition. The court might not consider evidence that it considers more likely to obscure than to develop facts. For another, common intuition reveals that "the events that we know firsthand (that is, of our own personal knowledge) are fewer than those of which we have secondhand knowledge (that is, we know of them only through hearsay)." 30 Wright & Graham, Fed. Prac. & Proc.: Evid. Â§ 6321 at 7 (1997). From this logical rule follows a legal one: courts exclude most hearsay from trials. So, "[t]he power over the admission and exclusion of hearsay is a substantial weapon in the trial judge's arsenal. . . . [I]f hearsay were freely admissible, the number of potential witnesses in a lawsuit and the amount of testimony each could give would expand dramatically." Ibid. US v. Givens, (6th Cir. 2015).* * *

Book Information

File Size: 6454 KB

Simultaneous Device Usage: Unlimited

Publisher: LandMark Publications (September 14, 2015)

Publication Date: September 14, 2015

Sold by:Â Digital Services LLC

Language: English

ASIN: B015EPMZIU

Text-to-Speech: Enabled

X-Ray: Not Enabled

Word Wise: Enabled

Lending: Not Enabled

Enhanced Typesetting: Not Enabled

Best Sellers Rank: #1,165,322 Paid in Kindle Store (See Top 100 Paid in Kindle Store) #106 inÂ Kindle Store > Kindle eBooks > Law > Criminal Law > Evidence #110 inÂ Kindle Store > Kindle eBooks > Law > Procedures & Litigation > Trial Practice #376 inÂ Books > Law > Rules & Procedures > Trial Practice