

April 25, 2019

Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515

Dear Madam Speaker:

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

Accompanying this rule 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 24, 2018; a redline version of the rule with committee note; an excerpt from the September 2018 report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and an excerpt from the May 2018 report of the Advisory Committee on Evidence Rules.

Sincerely,

/s/ John G. Roberts

April 25, 2019

Honorable Michael R. Pence
President, United States Senate
Washington, DC 20510

Dear Mr. President:

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Sincerely,

/s/ John G. Roberts

April 25, 2019

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Evidence are amended to include an amendment to Rule 807.

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

2. The foregoing amendment to the Federal Rules of Evidence shall take effect on December 1, 2019, 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 amendment 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 807. Residual Exception

(a) In General. Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804:

- (1)** the statement is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and
- (2)** it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

(b) Notice. The statement is admissible only if the proponent gives an adverse party reasonable notice of

the intent to offer the statement—including its substance and the declarant’s name—so that the party has a fair opportunity to meet it. The notice must be provided in writing before the trial or hearing—or in any form during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.