PUEBLO OF LAGUNA

COURT OF APPEALS

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IN RE ADOPTION OF

PUEBLO OF LAGUNA

RULES OF EVIDENCE

OPINION AND ORDER

This matter comes before the Pueblo of Laguna Court of Appeals under Pueblo of Laguna Code §5-2-3(C), pursuant to a request by the Acting Chief Judge of the Pueblo Court for approval of the Rules of Evidence. As explained below, this Court hereby adopts the proposed rules and orders their promulgation and publication.

In Title V, Chapter 2 of the Pueblo of Laguna Code, the Pueblo Council delegated to the Pueblo Courts the authority and the responsibility for the adoption and promulgation of rules governing the operation of the Pueblo Courts. See POLC § 5-2-1. In particular, the "Chief Judge of the Pueblo Court shall have the authority to propose Pueblo Court procedural rules." *Id.* § 5-2-3(A). Thereafter, the Chief Judge shall provide a notice and comment period, *see id.* § 5-2-3(B), after which the proposed rules and responses to any comments thereon are submitted to this Court for approval. *See id.* § 5-2-3(C)(1)-(2). In considering the proposed rule, this Court "may consult with the Chief Judge of the Pueblo Court, any lawyer authorized to practice in the Pueblo Court, or any other person that may have useful input as to the propriety of the rule proposal." *Id.* § 5-2-3(C)(3). Upon completing this consideration, this Court must either: (i) adopt the proposed rule as submitted; (ii) adopt the proposed rule as modified; or (iii) reject the proposed rule. *Id.* §§ 5-2-3(C)(3)(b)(i)-(iii).

Pursuant to the above code provision Acting Presiding Judge (a/k/a Acting Chief Judge) Bruce C. Fox submitted to the Court of appeals a packet which included the text of the proposed rule, all comments received during the specified comment period, and the Judge's report substantively responding to the comments. After review of the submission and after considering the statement of Judge Fox, the Court of Appeals finds that the submitted documents are complete, and there was proper notice and a comment period as required.

Therefore, whether to adopt the Rules of Evidence is properly before the Court of Appeals for consideration. Upon review of the submitted materials including the proposed Rules of Evidence and the statement of Judge Fox it is the opinion of the Court of Appeals that the

proposed Rules of Evidence would provide for the fair administration of justice in the Pueblo of Laguna Courts.

It is therefore ORDERED that the proposed Rules of Evidence, which are attached to this Opinion and Order, are adopted as submitted.

It is further ORDERED that these adopted Pueblo of Laguna Rules of Evidence shall apply to all proceedings before the Pueblo of Laguna Court unless otherwise specified by the Pueblo of Laguna Code.

It is further ORDERED that the Pueblo Court shall publish the Pueblo of Laguna Rules of Evidence in such a manner as to provide notice of their application in Pueblo of Laguna Court proceedings to all Pueblo of Laguna members and to attorneys and advocates licensed to practice before the Pueblo of Laguna Courts.

Date: 12/02/13

Pueblo of Laguna Court of Appeals

Pueblo of Laguna
Rules of Evidence

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PUEBLO OF LAGUNA
RULES OF EVIDENCE

SCOPE AND CITATION

Rule 1. Scope

A. Scope. These rules apply to proceedings in the Laguna Pueblo Courts. The specific proceedings to which the rules apply, along with exceptions, are set out in Rule 78.

B. Construction/Interpretation. These rules shall be construed and interpreted according to Laguna Pueblo law, custom and tradition. The Court may take judicial notice of state and federal regulations however such state and federal regulations shall not be binding upon the Pueblo of Laguna.

C. Collateral Procedures. Any evidentiary matter not addressed by these rules shall be handled in accordance with Pueblo ordinances, customs, and general principles of fairness and justice as prescribed and interpreted by the Court.

Rule 2. Citation and Form of Action

These rules may be cited as the Pueblo of Laguna Rules of Evidence, or "PLrE."

Definitions. In these rules:

(1) "civil case" means a civil action or proceeding;

(2) "criminal case" includes a criminal proceeding;

(3) "children's court case" refers to any proceeding designated by the Pueblo Code as being within the jurisdiction of the Laguna Pueblo Children's Court;

(4) "public office" includes a governmental entity with regulatory, investigatory or enforcement authority;

(5) "record" includes a memorandum, report, or data compilation;

(6) a "rule prescribed by the Pueblo Court" means a rule adopted by the Pueblo Court of Appeals; and

(7) a reference to any kind of written material or any other medium includes electronically stored information.

Rule 3. Purpose

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, with the purpose of ascertaining the truth and securing a just determination.

Rule 4. Rulings on Evidence

A. Preserving a Claim of Error. A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

(1) if the ruling admits evidence, a party on the record:

(a) timely objects or moves to strike; and

(b) states the specific ground, unless it was apparent from the context; or

(2) if the ruling excludes evidence, a party informs the Court of its substance by an offer of proof, unless the substance was apparent from the context.

B. Not Needing to Renew an Objection or Offer of Proof. Once the Court rules definitively on the record, either before or at trial or hearing, a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

C. Court's Statement About the Ruling; Directing an Offer of Proof. The Court may make any statement about the character or form of the evidence, the objection made, and the ruling. The Court may direct that an offer of proof be made in question-and-answer form.

D. Preventing the Jury from Hearing Inadmissible Evidence. To the extent practicable, the Court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.

E. Taking Notice of Plain Error. The Court may take notice of a plain error affecting a substantial right, even if the claim of error was not properly preserved.

Rule 5. Preliminary Questions

A. In General**.** The Court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the Court is not bound by evidence rules, except those on privilege.

B. Relevance That Depends on a Fact. When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.

C. Conducting a Hearing So That the Jury Cannot Hear It**.** The Court must conduct any hearing on a preliminary question so that the jury cannot hear it if:

(1) the hearing involves the admissibility of a confession;

(2) a defendant in a criminal case is a witness and makes a request; or

(3) justice so requires.

D. Cross-Examining a Defendant in a Criminal Case. By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case.

E. Evidence Relevant to Weight and Credibility. This rule does not limit a party's right to introduce evidence to the jury that is relevant to the weight or credibility of other evidence.

Rule 6. Limiting Evidence That is Not Admissible Against Other Parties or for Other Purposes

If the court admits evidence that is admissible against a party or for a purpose, but not against another party or for another purpose, the Court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 7. Remainder of or Related Writings or Recorded Statements

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part or any other writing or recorded statement that in fairness ought to be considered at the same time.

JUDICIAL NOTICE

Rule 8. Judicial Notice of Adjudicative Facts

A. Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

B. Kinds of Facts That May Be Judicially Noticed. The Court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the Court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

C. Taking Notice. The Court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the Court is supplied with the necessary information.

D. Timing. The Court may take judicial notice at any stage of the proceeding.

E. Opportunity to Be Heard**.** On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the Court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

F. Instructing the Jury**.** In a civil case, the Court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the Court must instruct the jury that it may or may not accept the noticed fact as conclusive.

PRESUMPTIONS IN CIVIL CASES

Rule 9. Presumptions in Civil Cases Generally

In a civil case, unless a Pueblo of Laguna Ordinance or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. This rule does not shift the burden of persuasion, which remains on the party who had it originally.

RELEVANCE AND ITS LIMITS

Rule 10. Test for Relevant Evidence

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

Rule 11. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless any of the following provides otherwise: Laguna Pueblo custom or tradition, the Laguna Pueblo Constitution, a Laguna Pueblo Ordinance, or these rules..

Irrelevant evidence is not admissible.

Rule 12. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 13. Character Evidence; Crimes or Other Acts

A. Character Evidence.

(1) *Prohibited Uses*. Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a Defendant or Victim in a Criminal Case*. The following exceptions apply in a criminal case:

(a) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

(b) subject to the limitations in Rule 22, a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) offer evidence to rebut it; and

(ii) offer evidence of the defendant's same trait; and

(c) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a Witness***.** Evidence of a witness's character may be admitted under Rules 44. Who may impeach a witness , 45. A Witness's Character for Truthfulness or Untruthfulness , and 46. Impeachment by Evidence of a Criminal Conviction.

B. Crimes, Wrongs, or Other Acts.

(1) *Prohibited Uses*. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses; Notice in a Criminal Case*. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. On request by a defendant in a criminal case, the prosecutor must:

(a) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial; and

(b) do so before trial or during trial if the court, for good cause, excuses lack of pretrial notice.

Rule 14. Methods of Proving Character

A. By Reputation or Opinion**.** When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

B. By Specific Instances of Conduct. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

Rule 15. Habit; Routine Practice

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

Rule 16. Subsequent Remedial Measures

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove: negligence; culpable conduct; a defect in a product or its design; or a need for a warning or instruction.

The court may admit this evidence for another purpose, such as impeachment or, if disputed, proving ownership, control, or the feasibility of precautionary measures.

Rule 17. Compromise Offers and Negotiations

A. Prohibited Uses. Evidence of the following is not admissible, on behalf of any party, either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) furnishing, promising, or offering, or accepting, promising to accept, or offering to accept, a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.[read the commentary]

B. Exceptions**.** The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 18. Offers to Pay Medical and Similar Expenses

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

Rule 19. Pleas, Plea Discussions, and Related Statements

A. Prohibited Uses**.** In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) a guilty plea that was later withdrawn;

(2) a no contest plea;

(3) a statement made during a proceeding on either of those; or

(4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

B. Exceptions. The court may admit a statement described in Rule 19 A. (3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Rule 20. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

Rule 21. Sex-Offense Cases: The Victim's Sexual Behavior or Predisposition

A. Prohibited Uses. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

(1) evidence offered to prove that a victim engaged in other sexual behavior; or

(2) evidence offered to prove a victim's sexual predisposition.

B. Exceptions.

(1) *Criminal Cases*. The court may admit the following evidence in a criminal case:

(a) evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(b) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and

(c) evidence whose exclusion would violate the defendant's rights.

(2) *Civil Cases*. In a civil case, the Court may admit evidence offered to prove a victim's sexual behavior or sexual predisposition if its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. The Court may admit evidence of a victim's reputation only if the victim has placed it in controversy.

C. Procedure to Determine Admissibility.

(1) *Motion*. If a party intends to offer evidence under Rule 22 B., the party must:

(a) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(b) do so at least 21 days before trial or hearing unless the Court, for good cause, sets a different time;

(c) serve the motion on all parties; andat the same time, notify the victim or, when appropriate, the victim's guardian or representative.

(2) *Hearing*. Before admitting evidence under this rule, the Court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the Court orders otherwise, the motion, related materials, and the record of the hearing must be and remain sealed.

D. Definition of "Victim." In this rule, "victim" includes an alleged victim.

Rule 22. Similar Crimes in Sexual Assault or Sexual Abuse Cases

A. Permitted Uses**.** In a criminal case in which a defendant is accused of a sexual assault or sexual abuse, the court may admit evidence that the defendant committed any other sexual assault or sexual abuse. The evidence may be considered on any matter to which it is relevant.

B. Disclosure to the Defendant**.** If the prosecutor intends to offer this evidence, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least 21 days before trial or at a later time that the Court allows for good cause.

C. Effect on Other Rules. This rule does not limit the admission or consideration of evidence under any other rule.

D. Definition of "Sexual Assault." In this rule and Rule 24, "sexual assault" means a crime under Pueblo law, federal law or state law or other jurisdiction involving:

(1) any conduct prohibited by the Pueblo of Laguna Code Title 15 Chapter 7 or 18 U.S.C. chapter 109A;

(2) contact, without consent, between any part of the defendant's body or an object and another person's genitals or anus;

(3) contact, without consent, between the defendant's genitals or anus and any part of another person's body;

(4) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in subparagraphs (1)–(4).

E. Definition of "Sexual Abuse." In this rule and Rule 24, "sexual abuse" means a crime involving prohibited conduct described in the Pueblo of Laguna Code Chapter 7 §15-7-4 and §15-7-5 , or an attempt or conspiracy to engage in such prohibited conduct.

Rule 23. Similar Crimes in Child Molestation Cases

A. Permitted Uses**.** In a criminal case in which a defendant is accused of child molestation, the court may admit evidence that the defendant committed any other child molestation. The evidence may be considered on any matter to which it is relevant.

B. Disclosure to the Defendant. If the prosecutor intends to offer this evidence, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least 14 days before trial or at a later time that the court allows for good cause.

C. Effect on Other Rules. This rule does not limit the admission or consideration of evidence under any other rule.

D. Definition of "Child" and "Child Molestation." In this rule and Rule 24:

(1) "child" means a person below the age of 14; and

(2) "child molestation" means a crime under under Pueblo of Laguna law, federal law, or under state law (as "state" is defined in 18 U.S.C. § 513), or involving:

(A) any conduct prohibited by 18 U.S.C. chapter 109A and committed with a child;

(B) any conduct prohibited by 18 U.S.C. chapter 110;

(C) any conduct prohibited by P.O.L.C Sections 15-7-3 or 15-7-4 and committed with a child;

(D) contact between any part of the defendant's body, or an object, and a child's genitals or anus;

(E) contact between the defendant's genitals or anus and any part of a child's body;

(F) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on a child; or

(G) an attempt or conspiracy to engage in conduct described in subparagraphs (A)–(E).

Rule 24. Similar Acts in Civil Cases Involving Sexual Assault, Sexual Abuse or Child Molestation

A. Permitted Uses. In a civil case involving a claim for relief based on a party's alleged sexual assault or child molestation, the court may admit evidence that the party committed any other sexual assault or child molestation. The evidence may be considered as provided in Rules 23 and 24.

B. Disclosure to the Opponent. If a party intends to offer this evidence, the party must disclose it to the party against whom it will be offered, including witnesses' statements or a summary of the expected testimony. The party must do so at least 14 days before trial or at a later time that the court allows for good cause.

C. Effect on Other Rules. This rule does not limit the admission or consideration of evidence under any other rule.

PRIVILEGES

Rule 25. Privileges Recognized Only as Provided

Except as otherwise required by law, and except as provided in these rules or in other rules adopted by the Laguna Pueblo Court of Appeals, or under Pueblo custom and tradition, no person has a privilege to:

(a) refuse to be a witness; or

(b) refuse to disclose any matter; or

(c) refuse to produce any object or writing; or

(d) prevent another from being a witness or disclosing any matter or producing any object or writing.

Rule 26. Required Reports Privileged by Ordinance or Statute

A person, corporation, association or other organization or entity, either public or private, making a return or report required by law to be made has a privilege to refuse to disclose and to prevent any other person from disclosing the return or report, if the law requiring it to be made so provides. A public officer or agency to whom a return or report is required by law to be made has a privilege to refuse to disclose the return or report if the law requiring it to be made so provides. No privilege exists under this rule in actions involving perjury, false statements, fraud in the return or report or other failure to comply with the law in question.

Rule 27. Lawyer-Client Privilege

A. Definitions. As used in this rule:

(1) a "client" is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer or a representative of a lawyer with a view to obtaining professional legal services;

(2) a "lawyer" is a person authorized, or reasonably believed by the client to be authorized, to practice law in any jurisdiction;

(3) a "representative of the lawyer" is one employed to assist the lawyer in the rendition of professional legal services;

(4) a communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. The act of contacting or retaining a lawyer for the purpose of seeking professional legal services is a "confidential" communication if not intended to be disclosed to third persons.

B. General Rule of Privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client,

(1) between the client and the client's lawyer or his or her lawyer's representative, or

(2) between the client's lawyer and the lawyer's representative, or

(3) by the client or client's lawyer to a lawyer representing another in a matter of common interest, or

(4) between representatives of the client or between the client and a representative of the client, or

(5) between lawyers representing the client.

C. Who May Claim the Privilege. The privilege may be claimed by the client, the client's guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence. The person who was the lawyer at the time of the communication may claim the privilege but only on behalf of the client. The authority to claim the privilege is presumed in the absence of evidence to the contrary.

D. Exceptions. There is no privilege under this rule:

(1) *Furtherance of Crime or Fraud.* If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud; or

(2) *Claimants Through Same Deceased Client.* As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by transactions made during the deceased client's life; or

(3) *Breach of Duty by Lawyer or Client.* As to a communication relevant to an issue of breach of duty by the lawyer to the lawyer's client or by the client to the client's lawyer; or

(4) *Document Attested by Lawyer.* As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness; or

(5) *Joint Clients.* As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between any of the clients.

Rule 28. Physician-Patient and Psychotherapist-Patient Privilege

A. Definitions.

(1) A “patient” is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A “physician” is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so.

(3) A “psychotherapist” is

(a) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so, while engaged in the diagnosis or treatment of a mental or emotional condition, including drug addiction; or

(b) a person licensed or certified as a psychologist under the laws of any state or nation, while similarly engaged.

(4) A communication is “confidential” if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

B. General Rule of Privilege. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purposes of diagnosis or treatment of the patient's physical, mental or emotional condition, including drug addiction, among the patient, the patient's physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

C. Who May Claim the Privilege. The privilege may be claimed by the patient, by the patient's guardian or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist may claim the privilege but only on behalf of the patient. The authority to claim the privilege is presumed in the absence of evidence to the contrary.

D. Exceptions.

(1) *Proceedings for Hospitalization.* There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

(2) *Examination by Order of Court.* If the Court orders an examination of the physical, mental or emotional condition of the patient, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the Court orders otherwise.

(3) *Condition an Element of Claim or Defense.* There is no privilege under this rule as to communications relevant to an issue of the physical, mental or emotional condition of the patient in any proceeding in which the patient relies upon the condition as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of the party's claim or defense.

(4) *Required Report.* There is no privilege under this rule for communications relevant to any information that the physician, psychotherapist or patient is required by statute to report to a public employee or state agency.

Rule 29. Communications to Clergy

A. Definitions. As used in this rule:

(1) a "member of the clergy" is a minister, priest, rabbi or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting that person; and

(2) for purposes of this Rule, a communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

B. General Rule of Privilege. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a member of the clergy.

C. Who May Claim the Privilege. The privilege may be claimed by the person or by the person's guardian, conservator or, upon death, personal representative. The member of the clergy may claim the privilege on behalf of the person. The authority to claim the privilege is presumed in the absence of evidence to the contrary.

Rule 30. Political Vote

Every person has a privilege to refuse to disclose the tenor of the person's vote at a political election conducted by secret ballot unless the vote was cast illegally.

Rule 31. Trade Secrets

A person has a privilege, which may be claimed by the person or the person's agent or employee, to refuse to disclose and to prevent others from disclosing a trade secret owned by the person, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice. When disclosure is directed, the court shall take such protective measure as the interests of the holder of the privilege and of the parties and the furtherance of justice may require.

Rule 32. Counselors and Victim Advocate

A. Definitions. As used in this rule:

(1) "counselor" means a person employed as a counselor who provides drug and alcohol counseling, mental health counseling, family counseling, or school counseling;

(2) "crime victim advocate" means a person employed by Laguna Pueblo to provide victim advocate services through the Laguna Pueblo Prosecutor;

(3) "victim advocate" means a person who is in the practice of providing victim advocacy services; and

(4) a communication is "confidential" if made privately and not intended for further disclosure except to other persons in furtherance of the purpose of the communication.

B. General Rule of Privilege. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a counselor, crime victim advocate, or to a victim advocate.

C. Who May Claim the Privilege. The privilege may be claimed by the person or by the person's guardian, conservator or, upon death, personal representative. A counselor, crime victim advocate, or a victim advocate may claim the privilege on behalf of the person. The authority to claim the privilege is presumed in the absence of evidence to the contrary.

D. Exceptions. There is no privilege under this rule if the services were sought or obtained in order to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

Rule 33. Identity of Informer

A. Rule of Privilege. The Pueblo of Laguna has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation of a possible violation of law to a law enforcement officer.

B. Who May Claim. The privilege may be claimed by an appropriate representative of the Pueblo of Laguna.

C. Exceptions.

(1) *Voluntary Disclosure; Informer a Witness.* No privilege exists under this rule if the identity of the informant or the informant's interest in the subject matter of the informant's communication has been disclosed to those who would have cause to resent the communication by a holder of the privilege or by the informant's own action, or if the informant appears as a witness for the Prosecution.

(2) *Testimony on Merits.* If it appears from the evidence in the case or from other showing by a party that an informant will be able to give testimony that is relevant and helpful to the defense of an accused, or is necessary to a fair determination of the issue of guilt or innocence in a criminal case or of a material issue on the merits in a civil case to which the Pueblo of Laguna is a party, and the Pueblo of Laguna invokes the privilege, the Court shall give the Pueblo of Laguna an opportunity to show in camera facts relevant to determining whether the informant can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the Court may direct that testimony be taken if it finds that the matter cannot be resolved satisfactorily upon affidavit. If the Court finds that there is a reasonable probability that the informant can give the testimony, and the Pueblo of Laguna elects not to disclose the informant's identity, the Court on motion of the defendant in a criminal case shall dismiss the charges to which the testimony would relate, and the Court may do so on its own motion. In civil cases, the Court may make any order that justice requires. Evidence submitted to the Court shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without an order of the Court. All counsel shall be permitted to be present at any stage at which counsel for any party is permitted to be present.

(3) *Legality of Obtaining Evidence.* If information from an informant is relied upon to establish the legality of the means by which evidence was obtained and the Court is not satisfied that the information was received from an informant reasonably believed to be reliable or credible, the Court may require the identity of the informant to be disclosed. The Court may permit the

disclosure to be made in camera or make any other order which justice requires. All counsel concerned with the issue of legality shall be permitted to be present at every stage at which any counsel is permitted to be present. If disclosure of the identity of the informant is made in camera, the record thereof shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed except by order of a Court having jurisdiction.

Rule 34. Waiver of Privilege by Voluntary Disclosure

A person upon whom these rules confer a privilege against disclosure of the confidential matter or communication waives the privilege if the person or person's predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the matter or communication. This rule does not apply if the disclosure is itself a privileged communication.

Rule 35. Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege

Evidence of a statement or other disclosure of privileged matter is not admissible against the holder of the privilege if the disclosure was:

(a) compelled erroneously; or

(b) made without opportunity to claim the privilege.

Rule 36. Comment Upon or Inference from Claim of Privilege; Instruction

A. Comment or Inference Not Permitted. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by the Court or counsel. No inference may be drawn from it.

B. Claiming Privilege Without Knowledge of Jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege without the jury knowing.

C. Jury Instruction. Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn from it.

Rule 37. News Media-Confidential Source or Information Privilege

A. Definitions. Unless a different meaning clearly appears from the context of this rule, as used in this rule:

(1) a communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional news media services or those reasonably necessary for the transmission of the communication;

(2) "in the course of pursuing professional activities" does not include any situation in which a news media person participates in any act involving physical violence, property damage, criminal conduct or violation of law;

(3) "news" means any written, oral or pictorial information gathered, procured, transmitted, compiled, edited or disseminated by, or on behalf of any person engaged or employed by a news media and so procured or obtained while such required relationship is in effect;

(4) "newspaper" means a news service that is printed or distributed electronically and distributed ordinarily and that contains news, articles of opinion, editorials, features, advertising, or other matter regarded as of current interest;

(5) "news agency" means an organization that collects and supplies news to subscribing newspapers, magazines, periodicals and news broadcasters;

(6) "news media" means newspapers, magazines, press associations, news agencies, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public;

(7) "magazine" means a publication containing news which is published and distributed periodically;

(8) "press association" means an association of newspapers or magazines formed to gather and distribute news to its members;

(9) "wire service" means a news agency that sends out syndicated news copy by wire to subscribing newspapers, magazines, periodicals or news broadcasters.

B. General Rule of Privilege. A person engaged or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general

public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated has a privilege to refuse to disclose:

(1) the confidential source from or through whom any information was procured, obtained, supplied, furnished, gathered, transmitted, compiled, edited, disseminated, or delivered in the course of pursuing professional activities; and

(2) any confidential information obtained in the course of pursuing professional activities.

C. The provisions of this rule insofar as it relates to radio stations shall not apply unless the radio station maintains and keeps open for inspection by a person affected by the broadcast, for a period of at least one hundred eighty (180) days from the date of an actual broadcast, an exact recording, transcription, or certified written transcript of the actual broadcast.

D. The provisions of this rule insofar as it relates to television stations shall not apply unless the television station maintains and keeps open for inspection by a person affected by the broadcast, for a period of at least one year from the date of an actual telecast, an exact recording, transcription, kinescope film or certified written transcript of the actual telecast.

E. Exception. There is no privilege under this rule in any action in which the party seeking the evidence shows by a preponderance of evidence, including all reasonable inferences, that:

(1) a reasonable probability exists that a news media person has confidential information or sources that are material and relevant to the action;

(2) the party seeking disclosure has reasonably exhausted alternative means of discovering the confidential information or sources sought to be disclosed;

(3) the confidential information or source is crucial to the case of the party seeking disclosure; and

(4) the need of the party seeking the confidential source or information is of such importance that it clearly outweighs the public interest in protecting the news media's confidential information and sources.

F. Procedure**.** If a person defined in Paragraph B, C and/or D claims the privilege granted, and the Court is asked to determine whether the exception applies, the following steps shall be followed:

1. A hearing shall be held in open Court, to consider all information, evidence or argument deemed relevant by the Court. If possible, the determination of whether the exception applies, shall be made, without requiring disclosure of the confidential source or information sought to be protected by the privilege.

2. If it is not possible for the Court to make a determination of whether the exception applies, without the Court knowing the confidential source or information sought to be protected, the Court may issue an order requiring disclosure to the Court alone, in camera.

3. Following the in camera hearing the Court shall enter written findings of fact and conclusions of law, without disclosing any of the matters for which the privilege is asserted, and a written order directing that disclosure either shall or shall not be made to the party seeking disclosure.

4. Evidence submitted to the Court in camera, and any record of the in camera proceedings, shall be sealed and preserved to be made available to the Pueblo Court of Appeals, in the event of an appeal, and the contents shall not otherwise be revealed without the consent of the person asserting the privilege.

5. All counsel and parties shall be permitted to be present at every stage of the proceedings under this rule, except at the in camera hearing, at which no counsel or party, except the person asserting the privilege, and counsel for that person, shall be permitted to be present.

6. Any order requiring an in camera disclosure or ordering or denying disclosure may be appealed by any party or by the person asserting the privilege, if not a party, in the procedural manner provided by the Rules of Appellate Procedure.

WITNESSES

Rule 38. Competency to Testify in General

Every person is competent to be a witness unless these rules provide otherwise.

Rule 39. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 56.

Rule 40. Oath or Affirmation to Testify Truthfully

Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience.

Rule 41. Interpreter

An interpreter must be qualified and must give an oath or affirmation to make a true translation.

Rule 42. Judge's Competency as a Witness

The judge presiding in the matter may not testify as a witness at the trial. A party need not object to preserve the issue.

Rule 43. Juror's Competency as a Witness

A. At the Trial. A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

B. During an Inquiry into the Validity of a Verdict or Indictment.

(1) *Prohibited Testimony or Other Evidence.* During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions*. A juror may testify about whether:

(A) extraneous prejudicial information was improperly brought to the jury's attention;

(B) an outside influence was improperly brought to bear on any juror; or

(C) a mistake was made in entering the verdict on the verdict form.

Rule 44. Who May Impeach a Witness

Any party, including the party that called the witness, may attack the witness's credibility.

Rule 45. A Witness' Character for Truthfulness or Untruthfulness

A. Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. Evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

B. Specific Instances of Conduct. Except for a criminal conviction under Rule 46, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

(1) the witness; or

(2) another witness whose character the witness being cross-examined has testified about.

C. By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rule 46. Impeachment by Evidence of a Criminal Conviction

A. In General. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:

(a) must be admitted, subject to Rule 12, in a civil case or in a criminal case in which the witness is not a defendant; and

(b) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and

(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving, or the witness's admitting, a dishonest act or false statement.

B. Limit on Using the Evidence After 10 Years. This subdivision applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

(1) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and

(2) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

C. Effect of a Pardon, Annulment, or Certificate of Rehabilitation. Evidence of a conviction is not admissible if:

(1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the

person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

D. Juvenile Adjudications. Evidence of a witness' juvenile adjudication of delinquency is not admissible in adult proceedings.

E. Pendency of an Appeal. A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 47. Religious Beliefs or Opinions

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

Rule 48. Mode and Order of Examining Witnesses and Presenting Evidence

A. Control by the Court; Purposes. The Court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

(1) make those procedures effective for determining the truth;

(2) avoid wasting time; and

(3) protect witnesses from harassment or undue embarrassment.

B. Scope of Cross-Examination. Cross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness's credibility. The court may allow inquiry into additional matters as if on direct examination.

C. Leading Questions. Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. A leading question is a question that suggests to witness how it is to be answered or puts words into the mouth of the witness. Ordinarily, the Court should allow leading questions:

(1) on cross-examination; and

(2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Rule 49. Writing Used to Refresh a Witness' Memory

A. Scope. This rule gives an adverse party certain options when a witness uses a writing to refresh memory:

(1) while testifying; or

(2) before testifying, if the court decides that justice requires the party to have those options.

B. Adverse Party's Options; Deleting Unrelated Matter. An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness's testimony. If the producing party claims that the writing includes unrelated matter, the Court must examine the writing in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

C. Failure to Produce or Deliver the Writing. If a writing is not produced or is not delivered as ordered, the Court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the Court must strike the witness's testimony or, if justice requires it, declare a mistrial.

Rule 50. Witness' Prior Statement

A. Showing or Disclosing the Statement During Examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. The party must, on request, show it or disclose its contents to an adverse party's attorney.

B. Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if 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, or if justice requires it. This subdivision B. does not apply to an opposing party's statement under Rule 61 D. 2.

Rule 51. Court's Calling or Examining a Witness

A. Calling. The Court may call a witness on its own or at a party's request. Each party is entitled to cross-examine the witness.

B. Examining. The Court may examine a witness regardless of who calls the witness.

C. Objections. A party may object to the Court's calling or examining a witness either at that time or at the next opportunity when the jury is not present.

Rule 52. Excluding Witnesses

At a party's request, the Court must order witnesses excluded so that they cannot hear other witnesses' testimony or the Court may do so on its own. This rule does not authorize excluding:

(a) a party who is a human being;

(b) an officer or employee of a party that may be a public or private organization, after being designated as the party's representative by its attorney;

(c) a person whose presence a party shows to be essential to presenting the party's claim or defense; or

(d) a person authorized by statute to be present.

OPINIONS AND EXPERT TESTIMONY

Rule 53. Opinion Testimony by Lay Witnesses

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

(a) rationally based on the witness's perception;

(b) helpful to understand the witness's testimony or to determine a fact in issue; and

(c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 54.

Rule 54. Testimony by Expert Witnesses

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(b) the testimony is based on sufficient facts or data;

(c) the testimony is the product of reliable principles and methods; and

(d) the expert has reliably applied the principles and methods to the facts of the case.

Rule 55. Bases of an Expert's Opinion Testimony

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, the facts or data need not be admissible for the opinion to be admitted. If the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 56. Opinion on an Ultimate Issue

A. In General, Not Automatically Objectionable. An opinion is not objectionable just because it embraces an ultimate issue.

B. Exception. In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 57. Disclosing the Facts or Data Underlying an Expert's Opinion

Unless the Court orders otherwise, an expert may state an opinion and give the reasons for it without first testifying to the underlying facts or data. The expert may be required to disclose those facts or data on cross-examination.

Rule 58. Court-Appointed Expert Witnesses

A. Appointment Process. On a party's motion or on its own, the Court may order the parties to show cause why expert witnesses should not be appointed and may ask the parties to submit nominations. The Court may appoint any expert that the parties agree on and any of its own choosing. The Court may only appoint someone who consents to act.

B. Expert's Role. The Court must inform the expert of the expert's duties. The Court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:

(1) must advise the parties of any findings the expert makes;

(2) may be deposed by any party;

(3) may be called to testify by the Court or any party; and

(4) may be cross-examined by any party, including the party that called the expert.

C. Compensation. The expert is entitled to a reasonable compensation, as set by the Court. The compensation is payable as follows:

(1) in a criminal case or in a civil case involving just compensation, from any funds that are provided by law; and

(2) in any other civil case, by the parties in the proportion and at the time that the Court directs and the compensation is then charged like other costs.

D. Disclosing the Appointment to the Jury. The Court may authorize disclosure to the jury that the Court appointed the expert.

E. Parties' Choice of Their Own Experts. This rule does not limit a party in calling its own experts.

HEARSAY

Rule 59. Definitions That Apply to Rules 60 to 65; Exclusions from Hearsay

The following definitions apply to Rules 60-65:

A. Statement. "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

B. Declarant. "Declarant" means the person who made the statement.

C. Hearsay. "Hearsay" means a statement that:

(1) the declarant does not make while testifying at the current trial or hearing; and
(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

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:

(a) is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(b) is consistent with the declarant's testimony and is offered 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

(c) identifies a person as someone the declarant perceived earlier.

(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 59 D. (2)(c) the existence or scope of the relationship under 59 D.(2)(d).; or the existence of the conspiracy or participation in it under 59 D.(2) (c).

Rule 60. The Rule Against Hearsay

Hearsay is not admissible unless any of the following provides otherwise:

(a) a Pueblo of Laguna ordinance or established custom or tradition;

(b) these rules; or

(c) other rules prescribed by the Laguna Pueblo Court or Court of Appeals.

Rule 61. 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:

(1) Present Sense Impression. A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) Excited Utterance. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) Then-Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health). This does not include a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) Statement Made for Medical Diagnosis or Treatment. A statement that:

(a) is made for and is reasonably pertinent to medical diagnosis or treatment; and

(b) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(5) Recorded Recollection. A record that:

(a) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
(b) was made or adopted by the witness when the matter was fresh in the witness's memory; and
(c) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

(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 67(11) or Rule 67(12) or with a statute permitting certification; and

(E) neither the source of information nor 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) neither the possible source of the information nor 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) neither the source of information nor other circumstances indicate a lack of trustworthiness.

(9) Public Records of Vital Statistics. A record of a birth, death, or marriage, if reported to a public office in accordance with a legal duty.

(10) Absence of a Public Record. Testimony or a certification under Rule 67 that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:

(a) the record or statement does not exist; or

(b) a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

(11) Records of Religious Organizations Concerning Personal or Family History. A statement of birth, legitimacy, ancestry, marriage, divorce, death, relationship by blood or marriage, or similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Certificates of Marriage, Baptism, and Similar Ceremonies. A statement of fact contained in a certificate:

(a) made by a person who is authorized by a religious organization or by law to perform the act certified;

(b) attesting that the person performed a marriage or similar ceremony or administered a sacrament; and

(c) purporting to have been issued at the time of the act or within a reasonable time after it.

(13) Family Records. A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on a ring, inscription on a portrait, or engraving on an urn or burial marker.

(14) Records of Documents That Affect an Interest in Property. The record of a document that purports to establish or affect an interest in property if the record is admitted to prove the content of the original recorded document, along with its signing and its delivery by each person who purports to have signed it.

(15) Statements in Documents That Affect an Interest in Property. A statement contained in a document that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

(16) Statements in Ancient Documents. A statement in a document that is at least 20 years old and whose authenticity is established.

(17) Market Reports and Similar Commercial Publications. Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

(18) Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:

(a) the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and

(b) the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

(19) Reputation Concerning Personal or Family History. A reputation among a person's family by blood, adoption, or marriage or among a person's associates or in the community concerning the person's birth, adoption, legitimacy, ancestry, marriage, divorce, death, relationship by blood, adoption, or marriage, or similar facts of personal or family history.

(20) Reputation Concerning Boundaries or General History. A reputation in a community, arising before the controversy, concerning boundaries of land in the

community or customs that affect the land, or concerning general historical events important to that community, state, or nation.

(21) Reputation Concerning Character. A reputation among a person's associates or in the community concerning the person's character.
(22) Judgment of a Previous Conviction. Evidence of a final judgment of conviction if:
(a) the judgment was entered after a trial or guilty plea, but not a no contest plea;
(b) the evidence is admitted to prove any fact essential to the judgment; and
(c) when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.
The pendency of an appeal may be shown but does not affect admissibility.
(23) Judgments Involving Personal, Family, or General History, or a Boundary. A judgment that is admitted to prove a matter of personal, family, or general history, or boundaries, if the matter:
(a) was essential to the judgment; and
(b) could be proved by evidence of reputation.

Rule 62. Hearsay Exceptions; Declarant Unavailable.

A. Criteria for Being Unavailable. A declarant is considered to be unavailable as a witness if the declarant:
(1) is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;
(2) refuses to testify about the subject matter despite a court order to do so;
(3) testifies to not remembering the subject matter;
(4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or
(5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:
(a) the declarant's attendance, in the case of a hearsay exception under Rule 62 B (1) or (5); or
(b) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 62 B. (2), (3), or (4).
But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

B. The Exceptions. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) *Former Testimony*. Testimony that:
(A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and
(B) is now offered against a party who had or, in a civil case, whose predecessor in interest had an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

(2) *Statement Under the Belief of Imminent Death*. In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(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) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) *Statement of Personal or Family History*. A statement about:

(A) the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

(B) another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) *Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability*. A statement offered against a party that wrongfully caused or acquiesced in wrongfully causing the declarant's unavailability as a witness, and did so intending that result.

Rule 63. Hearsay within Hearsay

Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Rule 64. Attacking and Supporting the Declarant's Credibility

When a hearsay statement or a statement described in Rule 59D. (2)(c), (d), or (e) has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

Rule 65. Residual Exception

A. In General. Under the following circumstances, a hearsay statement is not excluded by the rule against hearsay even if the statement is not specifically covered by a hearsay exception in Rule 62 or Rule 63:

(1) the statement has equivalent circumstantial guarantees of trustworthiness;

(2) it is offered as evidence of a material fact;
(3) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and
(4) admitting it will best serve the purposes of these rules and the interests of justice.

(b) Notice. The statement is admissible only if, before the trial or hearing, the proponent gives an adverse party reasonable notice of the intent to offer the statement and its particulars, including the declarant's name and address, so that the party has a fair opportunity to meet it.

AUTHENTICATION AND IDENTIFICATION

Rule 66. Authenticating or Identifying Evidence

A. In General. To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

B. Examples. The following are examples only, not a complete list, of evidence that satisfies the requirement:

(1) Testimony of a Witness with Knowledge. Testimony that an item is what it is claimed to be.

(2) Nonexpert Opinion About Handwriting. A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) Comparison by an Expert Witness or the Trier of Fact. A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) Distinctive Characteristics and the Like. The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) Opinion About a Voice. An opinion identifying a person's voice, whether heard firsthand or through mechanical or electronic transmission or recording, based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) Evidence About a Telephone Conversation. For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) a particular person, if circumstances, including self-identification, show that the person answering was the one called; or
(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) Evidence About Public Records. Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or
(B) a purported public record or statement is from the office where items of this kind are kept.

(8) Evidence About Ancient Documents or Data Compilations. For a document or data compilation, evidence that it:

(A) is in a condition that creates no suspicion about its authenticity;
(B) was in a place where, if authentic, it would likely be; and
(C) is at least 20 years old when offered.

(9) Evidence About a Process or System. Evidence describing a process or system and showing that it produces an accurate result.

(10) Methods Provided by Ordinance or Rule. Any method of authentication or identification allowed by a Pueblo of Laguna Ordinance or Rule approved by the Pueblo Court of Appeals.

Rule 67. Evidence that is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) Domestic Public Documents That Are Sealed and Signed. A document that bears:

(A) a seal purporting to be that of the Pueblo of Laguna; a Native sovereign nation; the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and
(B) a signature purporting to be an execution or attestation.

(2) Domestic Public Documents That Are Not Sealed but Are Signed and Certified. A document that bears no seal if:

(A) it bears the signature of an officer or employee of an entity named in Rule 67 (1)(A); and
(B) another public officer who has a seal and official duties within that same entity certifies under seal or its equivalent that the signer has the official capacity and that the signature is genuine.

(3) Foreign Public Documents. A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul

general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the Court may, for good cause, either:

(A) order that it be treated as presumptively authentic without final certification; or
(B) allow it to be evidenced by an attested summary with or without final certification.

(4) Certified Copies of Public Records. A copy of an official record or a copy of a document that was recorded or filed in a public office as authorized by law if the copy is certified as correct by:

(A) the custodian or another person authorized to make the certification; or
(B) a certificate that complies with Rule 67 (1), (2), or (3), a Pueblo of Laguna Ordinance, or a rule prescribed by the Pueblo of Laguna Court of Appeals.

(5) Official Publications. A book, pamphlet, or other publication purporting to be issued by a public authority.

(6) Newspapers and Periodicals. Printed material purporting to be a newspaper or periodical.

(7) Trade Inscriptions and the Like. An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) Acknowledged Documents. A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.

(9) Commercial Paper and Related Documents. Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) Presumptions Under Pueblo of Laguna law. A signature, document, or anything else that a Pueblo of Laguna law declares to be presumptively or prima facie genuine or authentic.

(11) Certified Domestic Records of a Regularly Conducted Activity. The original or a copy of a domestic record that meets the requirements of Rule 61(6)(A)-(C), as shown by a certification of the custodian or another qualified person that complies with a Pueblo of Laguna law or a rule prescribed by the Pueblo Court. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record and must make the record and certification available for inspection so that the party has a fair opportunity to challenge them.

(12) Certified Foreign Records of a Regularly Conducted Activity. In a civil case, the original or a copy of a foreign record that meets the requirements of Rule 67 (11), modified as follows: the certification, rather than complying with a Pueblo of Laguna law or Pueblo Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of Rule 67 (11).

Rule 68. Subscribing Witness' Testimony

A subscribing witness' testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity.

CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 69. Definitions That Apply to This Article

In this article:

(a) A "writing" consists of letters, words, numbers, or their equivalent set down in any form.

(b) A "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.

(c) A "photograph" means a photographic image or its equivalent stored in any form.

(d) An "original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout, or other output readable by sight,if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it.

(e) A "duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.

Rule 70. Requirement of the Original

An original writing, recording, or photograph is required in order to prove its content unless these rules or Pueblo of Laguna law provides otherwise.

Rule 71. Admissibility of Duplicates

A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.

Rule 72. Admissibility of Other Evidence of Content.

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

(a) all the originals are lost or destroyed, and not by the proponent acting in bad faith;

(b) an original cannot be obtained by any available judicial process;

(c) the party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or

(d) the writing, recording, or photograph is not closely related to a controlling issue.

Rule 73. Copies of Public Records to Prove Content

The proponent may use a copy to prove the content of an official record or of a document that was recorded or filed in a public office as authorized by law if these conditions are met: the record or document is otherwise admissible; and the copy is certified as correct in accordance with Rule 67 (4) or is testified to be correct by a witness who has compared it with the original. If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.

Rule 74. Summaries to Prove Content

The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. The court may order the proponent to produce them in Court.

Rule 75. Testimony or Statement of a Party to Prove Content

The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.

Rule 76. Functions of the Court and Jury

Ordinarily, the Court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under Rule 70 or 71. But in a jury trial, the jury determines in accordance with Rule 5. B. any issue about whether:

(a) an asserted writing, recording, or photograph ever existed;

(b) another one produced at the trial or hearing is the original; or

(c) other evidence of content accurately reflects the content.

MISCELLANEOUS RULES

Rule 77. Applicability of the Rules

(a) These rules apply to proceedings before all Laguna Pueblo Courts and the Laguna Pueblo Court of Appeals

except those contempt proceedings in which the Court may act summarily.

(b) These rules apply to other proceedings provided by Pueblo of Laguna law.

(c) Rules on Privilege. The rules on privilege apply to all stages of a case or proceeding.

(d) Exceptions. These rules, except for those on privilege, do not apply to the following:

(1) the Court's determination, under Rule 5. A., on a preliminary question of fact governing admissibility;

(2) miscellaneous proceedings such as: extradition or rendition; issuing an arrest warrant, criminal summons, or search warrant; an arraignment in a criminal case; sentencing; granting or revoking probation or supervised release; and considering whether to release on bail or otherwise.

(e) Other Statutes and Rules. A Pueblo of Laguna law or a rule prescribed by the Laguna Pueblo Court of Appeals may provide for admitting or excluding evidence independently from these rules.

Rule 78. Amendments

The Court may amend these rules in accordance with the rulemaking process in the Pueblo Code.

Pueblo of Laguna
Rules of Evidence

Comparative Federal and State Rules

The foregoing Rules are derived from the following Federal Rules of Evidence and New Mexico Rules of Evidence as follows:

SCOPE AND CITATION
Rule 1. Scope (see Federal Rule of Evidence 101)
Rule 2. Citation and Form of Action (see Federal Rule of Evidence 101)
Rule 3. Purpose (see Federal Rule of Evidence 102)
Rule 4 . Rulings on Evidence (see Federal Rule of Evidence 103)
Rule 5. Preliminary Questions (see Federal Rule of Evidence 104)
Rule 6. Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes (see Federal Rule of Evidence 105)
Rule 7. Remainder of or Related Writings or Recorded Statements (see Federal Rule of Evidence 106)

JUDICIAL NOTICE
Rule 8. Judicial Notice of Adjudicative Facts (see Federal Rule of Evidence 201)

PRESUMPTIONS IN CIVIL CASES
Rule 9. Presumptions in Civil Cases Generally (see Federal Rule of Evidence 301)

RELEVANCE AND ITS LIMITS
Rule 10. Test for Relevant Evidence (see Federal Rule of Evidence 401)
Rule 11. General Admissibility of Relevant Evidence (see Federal Rule of Evidence 402)
Rule 12. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons (see Federal Rule of Evidence 403)
Rule 13. Character Evidence; Crimes or Other Acts (see Federal Rule of Evidence 404)
Rule 14. Methods of Proving Character (see Federal Rule of Evidence 405)
Rule 15. Habit; Routine Practice (see Federal Rule of Evidence 406)
Rule 16. Subsequent Remedial Measures (see Federal Rule of Evidence 407)
Rule 17. Compromise Offers and Negotiations (see Federal Rule of Evidence 408)
Rule 18. Offers to Pay Medical and Similar Expenses (see Federal Rule of Evidence 409)

Rule 19. Pleas, Plea Discussions, and Related Statements (see Federal Rule of Evidence 410)
Rule 20. Liability Insurance (see Federal Rule of Evidence 411)
Rule 21. Sex-Offense Cases: The Victim's Sexual Behavior or Predisposition (see Federal Rule of Evidence 412)
Rule 22. Similar Crimes in Sexual-Assault and Sexual Abuse Cases (see Federal Rule of Evidence 413)
Rule 23. Similar Crimes in Child Molestation Cases (see Federal Rule of Evidence 414)
Rule 24. Similar Acts in Civil Cases Involving Sexual Assault or Child Molestation (see Federal Rule of Evidence 415)

PRIVILEGES
Rule 25. Privileges Recognized Only as Provided (see Federal Rule of Evidence 501 & NM Rule of Evidence 11-501)
Rule 26. Required Reports Privileged by Ordinance or Statute (see NM Rule of Evidence 11-502)
Rule 27. Lawyer-Client Privilege (see Federal Rule of Evidence 502 & NM Rule of Evidence 11-503)
Rule 28. Physician-Patient and Psychotherapist-Patient Privilege (see NM Rule of Evidence 11-504)
Rule 29. Communications to Clergy or Traditional Religious Leaders (see NM Rule of Evidence 11-506)
Rule 30. Political Vote (see NM Rule of Evidence 11-507)
Rule 31. Trade Secrets (see NM Rule of Evidence 11-508)
Rule 33. Identity of Informer (see NM Rule of Evidence 11-510)
Rule 34. Waiver of Privilege by Voluntary Disclosure (see NM Rule of Evidence 11-511)
Rule 35. Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege (see NM Rule of Evidence 11-512)
Rule 36. Comment Upon or Inference From Claim of Privilege; Instruction (see NM Rule of Evidence 11-513)
Rule 37. News Media-Confidential Source or Information Privilege (see NM Rule of Evidence 11-513)

WITNESSES
Rule 38. Competency to Testify in General (see Federal Rule of Evidence 601)
Rule 39. Need for Personal Knowledge (see Federal Rule of Evidence 602)
Rule 40. Oath or Affirmation to Testify Truthfully (see Federal Rule of Evidence 603)
Rule 41. Interpreter (see Federal Rule of Evidence 604)
Rule 42. Judge's Competency as a Witness (see Federal Rule of Evidence 605)
Rule 43. Juror's Competency as a Witness (see Federal Rule of Evidence 606)
Rule 44. Who May Impeach a Witness (see Federal Rule of Evidence 607)
Rule 45. A Witness's Character for Truthfulness or Untruthfulness (see Federal Rule of Evidence 608)
Rule 46. Impeachment by Evidence of a Criminal Conviction (see Federal Rule of Evidence 609)
Rule 47. Religious Beliefs or Opinions (see Federal Rule of Evidence 610)

Rule 48. Mode and Order of Examining Witnesses and Presenting Evidence (see Federal Rule of Evidence 611)
Rule 49. Writing Used to Refresh a Witness's Memory (see Federal Rule of Evidence 612)
Rule 50. Witness's Prior Statement (see Federal Rule of Evidence 613)
Rule 51. Court's Calling or Examining a Witness (see Federal Rule of Evidence 614)
Rule 52. Excluding Witnesses (see Federal Rule of Evidence 615)

OPINIONS AND EXPERT TESTIMONY
Rule 53. Opinion Testimony by Lay Witnesses (see Federal Rule of Evidence 701)
Rule 54. Testimony by Expert Witnesses (see Federal Rule of Evidence 702)
Rule 55. Bases of an Expert's Opinion Testimony (see Federal Rule of Evidence 703)
Rule 56. Opinion on an Ultimate Issue (see Federal Rule of Evidence 704)
Rule 57. Disclosing the Facts or Data Underlying an Expert's Opinion (see Federal Rule of Evidence 705)
Rule 58. Court-Appointed Expert Witnesses (see Federal Rule of Evidence 706)

HEARSAY
Rule 59. Definitions That Apply to This Article; Exclusions from Hearsay (see Federal Rule of Evidence 801)
Rule 60. The Rule Against Hearsay (see Federal Rule of Evidence 802)
Rule 61. Exceptions to the Rule Against Hearsay — Regardless of Whether the Declarant Is Available as a Witness (see Federal Rule of Evidence 803)
Rule 62. Hearsay Exceptions; Declarant Unavailable (see Federal Rule of Evidence 804)
Rule 63. Hearsay Within Hearsay (see Federal Rule of Evidence 805)
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MISCELLANEOUS RULES

Rule 77. Applicability of the Rules (see Federal Rule of Evidence 1101)
Rule 78. Amendments (see Federal Rule of Evidence 1102)