

April 24, 2023

Honorable Kevin McCarthy
Speaker, United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

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

Accompanying the amended rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 19, 2022; a blackline version of the rules with committee notes; an excerpt from the September 2022 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and an excerpt from the May 2022 report of the Advisory Committee on Evidence Rules.

Sincerely,

/s/ John G. Roberts, Jr.

April 24, 2023

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

Dear Madam President:

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

Accompanying the amended rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 19, 2022; a blackline version of the rules with committee notes; an excerpt from the September 2022 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and an excerpt from the May 2022 report of the Advisory Committee on Evidence Rules.

Sincerely,

/s/ John G. Roberts, Jr.

April 24, 2023

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Evidence are amended to include amendments to Rules 106, 615, and 702.

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

2. The foregoing amendments to the Federal Rules of Evidence shall take effect on December 1, 2023, and shall govern in all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

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

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

Rule 106. Remainder of or Related Statements

If a party introduces all or part of a statement, an adverse party may require the introduction, at that time, of any other part—or any other statement—that in fairness ought to be considered at the same time. The adverse party may do so over a hearsay objection.

Rule 615. Excluding Witnesses from the Courtroom; Preventing an Excluded Witness's Access to Trial Testimony

(a) **Excluding Witnesses.** At a party's request, the court must order witnesses excluded from the courtroom so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:

- (1) a party who is a natural person;
- (2) one officer or employee of a party that is not a natural person if that officer or employee has been designated as the party's representative by its attorney;
- (3) any person whose presence a party shows to be essential to presenting the party's claim or defense; or
- (4) a person authorized by statute to be present.

(b) **Additional Orders to Prevent Disclosing and Accessing Testimony.** An order under (a) operates

only to exclude witnesses from the courtroom. But the court may also, by order:

- (1) prohibit disclosure of trial testimony to witnesses who are excluded from the courtroom; and
- (2) prohibit excluded witnesses from accessing trial testimony.

Rule 702. 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 the proponent demonstrates to the court that it is more likely than not that:

- (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's opinion reflects a reliable application of the principles and methods to the facts of the case.