

HEARSAY EXCEPTION QUIK-CHART

HEARSAY EXCEPTION	NATURE OF STATEMENT	ELEMENTS
STATEMENTS OF MENTAL OR PHYSICAL STATE [EC §1250; EC §1251; EC §1252; FRE 803(3); FRE 803(4)] 1. <i>Statement of Then-Existing State of Mind or Physical Sensation</i> [EC §§1250, 1252; FRE 803(3)]	Declarant's then-existing mental or physical state to prove such state or as evidence explaining acts or conduct – not memory or belief	a) Declarant's state of mind, emotion or physical sensation at the time the statement was made must be at issue; b) Statement must be a direct manifestation of declarant's state of mind, emotion or physical sensation; and c) Indicia of trustworthiness.
	2. <i>Statement of Previously Existing State of Mind or Physical Sensation</i> [EC §§1251, 1252, 240; FRE 803(4)]	a) Declarant unavailable; b) Declarant's state of mind, emotion or physical sensation must be at issue; and c) Indicia of trustworthiness.
ADMISSIONS [EC §§1220-1227; FRE 801] 1. <i>Party Admissions and Confessions</i> [EC §1220; FRE 801(d)(2)(A)]	Opinion, hearsay or anything else from an opposing party in the case	a) Declarant is a party; b) The party made the statement; and c) Statement offered by a party opponent against declarant. <i>Federal Rules: Party admissions are admissible nonhearsay (FRE 801(d)(2)(A)).</i>
	2. <i>Adoptive Admissions</i> [EC §1221; FRE 801(d)(2)(B)]	Adoption of something said by another in his or her presence – words, conduct or silence <i>The party must: a) have knowledge (i.e., heard and understood) of the content of the other person's hearsay statement and b) by words or conduct adopt or express a belief in the truth of the statement.</i> <i>Federal Rules: Adoptive admissions are admissible nonhearsay (FRE 801(d)(2)(B)).</i>
	3. <i>Authorized Admissions</i> [EC §1222; FRE 801(d)(2)(C)(D)]	Statement made by someone authorized to speak for an opposing party in the case concerning the subject matter spoken about Declarant must be authorized by the party to either: a) make the hearsay statement (express or implied) or b) make the statement for the party regarding the subject matter of the statement. <i>Federal Rules: Authorized admissions are admissible nonhearsay (FRE 801(d)(2)(C)(D)).</i>
	4. <i>Admission of Co-Conspirator</i> [EC §1223; FRE 801(d)(2)(E)]	Statement made by someone participating in a conspiracy to commit a crime or civil wrong a) Existence of a conspiracy; b) Declarant participated in the conspiracy when the statement was made; c) Statement made in furtherance of conspiracy; and d) At the time statement made the co-conspirator party was participating in the conspiracy or would do so at a later time. <i>Federal Rules: Admissions by co-conspirators are admissible nonhearsay (FRE 801(d)(2)(E)).</i>

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Sebastian Brünink



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