

# Evidence Law

## Personal Knowledge Rule (FRE 602):

Witnesses may testify only to matters about which they have personal knowledge.

“Laying a foundation”: Testimony must establish the witness’ personal knowledge.

## Opinion Rule (FRE 701):

1. Lay witnesses may testify to opinions which are rationally based on their personal observations and will be helpful to the jury.
2. Examples of Prohibited Opinions:
  - Legal conclusions
  - Opinions on witness credibility
  - Opinions on what another person thinks, feels, or believes

3. Examples of permissible opinions:
  - Physical appearance: identity, intoxication, state of health, age.
  - Mental condition of a family member or close friend.
  - Value of property or services.
  - Speed & distances.
  
4. Expert opinions are admissible whenever their specialized knowledge will assist the jury in understanding the evidence or deciding one of the issues.

## Relevancy Rule (FRE 401-402):

Evidence is relevant if it helps prove a contested issue.

Relevant evidence is admissible unless another rule (e.g., prejudicial effect) excludes it.

## Prejudicial Effect Rule (FRE 403)

Relevant evidence may be excluded if its probative value is outweighed by its prejudicial effect, including danger of:

- Unfair prejudice—arousing jurors' emotions, biases, or prejudices.
- Confusion of the issues—confusing or misleading jury about facts.
- Waste of time.

## Character Evidence (FRE 404-405)

1. Evidence that tends to show a person's good or bad qualities (e.g., criminal record) is not admissible.
2. Exceptions:
  - a. Impeachment (character for untruthfulness)
  - b. Criminal def may place character in issue, and then state may respond.
  - c. Prior bad acts are admissible to show identity ("signature crimes"), motive, intent.

## Hearsay Rule (FRE 801-802)

Definition: Hearsay is

- (a) Statement (written or oral)
- (b) Made outside of trial
- (c) That asserts facts; &
- (d) Now offered at trial to prove the truth of the facts asserted.

Rule: Hearsay isn't admissible unless an exception applies.

# Hearsay Exceptions

1. Party admissions (FRE 801(d)):  
Statements made by the opposing party.
2. Excited Utterances (FRE 803(2)):  
Statement relating to a startling event made by any person under the excitement of the event.



3. State of Mind (FRE 803(3)): Statements expressing a then-existing state of mind of the speaker—e.g., emotions, intentions, motives.
4. Business records (FRE 803(6)-(7)): Records made in the course of business routine, at or near the time of the event, based on personal knowledge of an employee, and then maintained by the business as a permanent record.