

**HEARSAY UPDATE: PRACTICING IN A WIRELESS WORLD**

Prof. Steven Goode  
University of Texas Law School

**Federal Rule 801**

**(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.

**Texas Rule 801**

**(d) 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.

**Federal Rule 801**

**(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.

**Texas Rule 801**

**(d) 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.

**Texas Rule 801**

**(c) Matter Asserted.** “Matter asserted” means:

- (1) any matter a declarant explicitly asserts; and
- (2) any matter implied by a statement, if the probative value of the statement as offered flows from the declarant’s belief about the matter.

**Mosely v. State**, 141 S.W.3d 816 (Tex.App.—Texarkana 2004, pet. ref'd)

“Well, I can’t watch them all the time.” → Declarant believed H sexually assaulted daughter → H sexually assaulted daughter

Federal rule: not offered for truth of matter asserted

Texas rule: offered for truth of matter asserted

**(c) Matter Asserted.** “Matter asserted” means:

- (1) any matter a declarant explicitly asserts; and
- (2) any matter implied by a statement, if the probative value of the statement as offered flows from the declarant’s belief about the matter.

**Federal Rule 801**

- (a) **Statement.** “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

**Texas Rule 801**

- (a) **Statement.** “Statement” means a person’s oral or written verbal expression, or nonverbal conduct that a person intended as a substitute for verbal expression.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Hearsay Update: Practicing in a Wireless World

Also available as part of the eCourse

[2016 Page Keeton Civil Litigation eConference](#)

First appeared as part of the conference materials for the  
40<sup>th</sup> Annual Page Keeton Civil Litigation Conference session  
"Hearsay in a Wireless World"