

Sample Oath

**Sworn:**

**Do you swear that the evidence you shall give to the court in this matter shall be the truth, the whole truth, and nothing but the truth, so help you, God?**

**Affirmed:**

**Do you affirm that the evidence you shall give to the court in this matter shall be the truth, the whole truth, and nothing but the truth, and that this is your solemn affirmation?**

**C****Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

Article 1. General Provisions (Refs &amp; Annos)

**→ → Rule 102. Purpose and construction**

(a) In general.--These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

(b) Subordinate divisions.--For the purpose of these rules only, the subordinate division of any rule which is labeled with a lower case letter shall be a subdivision.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C**

**Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

▣ Article 4. Relevancy and Its Limits

→→ **Rule 401. Definition of "relevant evidence"**

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C**

**Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

▣ Article 4. Relevancy and Its Limits

→ → **Rule 402. Relevant evidence generally admissible; irrelevant evidence inadmissible**

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by the Constitution of North Carolina, by Act of Congress, by Act of the General Assembly or by these rules. Evidence which is not relevant is not admissible.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C****Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

§ Article 6. Witnesses

**→ → Rule 602. Lack of personal knowledge**

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C****Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

⌘ Article 8. Hearsay (Refs &amp; Annos)

**→ → Rule 801. Definitions and exception for admissions of a party-opponent**

The following definitions apply under this Article:

(a) Statement.--A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by him as an assertion.

(b) Declarant.--A "declarant" is a person who makes a statement.

(c) Hearsay.--"Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Exception for Admissions by a Party-Opponent.--A statement is admissible as an exception to the hearsay rule if it is offered against a party and it is (A) his own statement, in either his individual or a representative capacity, or (B) a statement of which he has manifested his adoption or belief in its truth, or (C) a statement by a person authorized by him to make a statement concerning the subject, or (D) a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship or (E) a statement by a coconspirator of such party during the course and in furtherance of the conspiracy.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C**

**Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

Article 8. Hearsay (Refs & Annos)

→ → **Rule 802. Hearsay rule**

Hearsay is not admissible except as provided by statute or by these rules.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

## C

Effective:[See Text Amendments]

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

Article 8. Hearsay (Refs & Annos)

→→ **Rule 803. Hearsay exceptions; availability of declarant immaterial**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) Present Sense Impression.--A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
- (2) Excited Utterance.--A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) Then Existing Mental, Emotional, or Physical Condition.--A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) Statements for Purposes of Medical Diagnosis or Treatment--Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) Recorded Recollection.--A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.
- (6) Records of Regularly Conducted Activity.--A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source



of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

- (7) Absence of Entry in Records Kept in Accordance with the Provisions of Paragraph (6).--Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) Public Records and Reports.--Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law-enforcement personnel, or (C) in civil actions and proceedings and against the State in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (9) Records of Vital Statistics.--Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.
- (10) Absence of Public Record or Entry.--To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.
- (11) Records of Religious Organizations.--Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.
- (12) Marriage, Baptismal, and Similar Certificates.--Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.
- (13) Family Records.--Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

- (14) Records of Documents Affecting an Interest in Property.--The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.
- (15) Statements in Documents Affecting an Interest in Property.--A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.
- (16) Statements in Ancient Documents.--Statements in a document in existence 20 years or more the authenticity of which is established.
- (17) Market Reports, Commercial Publications.--Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.
- (18) Learned Treatises.--To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.
- (19) Reputation Concerning Personal or Family History.--Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.
- (20) Reputation Concerning Boundaries or General History.--Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.
- (21) Reputation as to Character.--Reputation of a person's character among his associates or in the community.
- (22) Reserved.
- (23) Judgment as to Personal, Family or General History, or Boundaries.--Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be prov-

able by evidence of reputation.

(24) Other Exceptions.--A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it gives written notice stating his intention to offer the statement and the particulars of it, including the name and address of the declarant, to the adverse party sufficiently in advance of offering the statement to provide the adverse party with a fair opportunity to prepare to meet the statement.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

## C

Effective:[See Text Amendments]

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

Article 8. Hearsay (Refs & Annos)

→ → Rule 804. Hearsay exceptions; declarant unavailable

(a) Definition of unavailability.--“Unavailability as a witness” includes situations in which the declarant:

- (1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or
- (2) Persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or
- (3) Testifies to a lack of memory of the subject matter of his statement; or
- (4) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
- (5) Is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), his attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions.--The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

- (1) Former Testimony.--Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

- (2) Statement Under Belief of Impending Death.--A statement made by a declarant while believing that his death was imminent, concerning the cause or circumstances of what he believed to be his impending death.
- (3) Statement Against Interest.--A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability is not admissible in a criminal case unless corroborating circumstances clearly indicate the trustworthiness of the statement.
- (4) Statement of Personal or Family History.--(A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
- (5) Other Exceptions.--A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it gives written notice stating his intention to offer the statement and the particulars of it, including the name and address of the declarant, to the adverse party sufficiently in advance of offering the statement to provide the adverse party with a fair opportunity to prepare to meet the statement.

CREDIT(S)

Added by Laws 1983, c. 701, § 1.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

**C****Effective:[See Text Amendments]**

West's North Carolina General Statutes Annotated Currentness

Chapter 8C. Evidence Code

Article 11. Miscellaneous Rules

**→→ Rule 1101. Applicability of rules**

(a) Proceedings generally.--Except as otherwise provided in subdivision (b) or by statute, these rules apply to all actions and proceedings in the courts of this State.

(b) Rules inapplicable.--The rules other than those with respect to privileges do not apply in the following situations:

- (1) Preliminary Questions of Fact.--The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104(a).
- (2) Grand Jury.--Proceedings before grand juries.
- (3) Miscellaneous Proceedings.--Proceedings for extradition or rendition; first appearance before district court judge or probable cause hearing in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise.
- (4) Contempt Proceedings.--Contempt proceedings in which the court is authorized by law to act summarily.

CREDIT(S)

Added by Laws 1983, c. 701, § 1. Amended by Laws 1983(Reg. Sess. 1984), c. 1037, § 14; Laws 1985, c. 509, § 2.

The statutes and Constitution are current through S.L. 2013-235 of the 2013 Regular Session of the General Assembly.

(C) 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT