

# **Important Rules of Evidence for Civil Court**

## **Special Topic Seminar**

**April 11-13, 2018**

### **Rule 611: Mode and order of interrogation and presentation.**

(a) Control by court. - The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

### **Rule 614: Calling and interrogation of witnesses by court.**

(a) Calling by court. - The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court. - The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections. - No objections are necessary with respect to the calling of a witness by the court or to questions propounded to a witness by the court but it shall be deemed that proper objection has been made and overruled. (1983, c. 701, s. 1.)

### **Rule 803(6): Business Record Exception to the Hearsay Rule**

#### **Hearsay exceptions; availability of declarant immaterial.**

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

...(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 (i) kept in the course of a regularly conducted business activity and (ii) 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, or by affidavit or by document under seal under Rule 902 of the Rules of Evidence made by the custodian or witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. Authentication of evidence by affidavit shall be confined to the records of nonparties, and the proponent of that evidence shall give advance notice to all other parties of intent to offer the evidence with authentication by affidavit. 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.

## **Rule 1002: Best Evidence Rule**

### **Requirement of original.**

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute.

## **Parole Evidence Rule**

"The **parol evidence rule** is not a **rule** of evidence but of substantive law.... It prohibits the consideration of evidence as to anything which happened prior to or simultaneously with the making of a contract which would vary the terms of the agreement. Generally, the **parol evidence rule** prohibits the admission of evidence to contradict or add to the terms of a clear and unambiguous contract. Thus, it is assumed the [parties] signed the instrument they intended to sign[,] ...

*Thompson v. First Citizens Bank & Tr. Co.*, 151 N.C.App. 704, 708-09, 567 S.E.2d 184, 188 (2002).

## **Rule 901: Authentication**

### **Requirement of authentication or identification.**

(a) General provision. - The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

## **GS 8-45: Verified Statement of Itemized Account**

In any actions instituted in any court of this State upon an account for goods sold and delivered, for rents, for services rendered, or labor performed, or upon any oral contract for money loaned, a verified itemized statement of such account shall be received in evidence, and shall be deemed prima facie evidence of its correctness.