



TO:

Rule 28 Distribution

Hon. Mark W Armstrong

Hon. Samuel A Thumma

Lisa M Panahi

## ATTACHMENT<sup>1</sup>

### ARIZONA RULES OF EVIDENCE

#### Rule 807. Residual Exception

**(a) In General.** Under the following ~~circumstances~~ conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not ~~specifically covered by~~ admissible under a hearsay exception in Rule 803 or 804:

- ~~(1) the statement has equivalent circumstantial~~ is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and
- ~~(2) it is offered as evidence of a material fact;~~
- ~~(3) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and~~
- ~~(4) admitting it will best serve the purposes of these rules and the interests of justice.~~

**(b) Notice.** The statement is admissible only if, ~~before the trial or hearing,~~ the proponent gives an adverse party reasonable notice of the intent to offer the statement ~~and its particulars, including the declarant's name and address,~~ including its substance and the declarant's name—so that the party has a fair opportunity to meet it. The notice must be provided in a writing filed with the court before the trial or hearing—or in a filing during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.

#### Comment to 2019 Amendment

Rule 807 was amended to conform to the changes made to Federal Rule of Evidence 807 that took effect on December 1, 2018.

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<sup>1</sup> Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.