

Order

Michigan Supreme Court
Lansing, Michigan

March 27, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-30

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Amendments of Rules 702
and 804 of the Michigan
Rules of Evidence

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 702 and 804 of the Michigan Rules of Evidence are adopted, effective May 1, 2024.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 702. Testimony by Expert Witnesses

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that:

(a)-(c) [Unchanged.]

(d) the expert's opinion reflects a reliable application of~~has reliably applied~~ the principles and methods to the facts of the case.

Rule 804. Exceptions to the Rule Against Hearsay – When the Declarant is Unavailable as a Witness

(a) [Unchanged.]

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

(1)-(3) [Unchanged.]

(4) Statement Against Interest. A statement that:

- (A) [Unchanged.]
- (B) ~~if the statement tends to expose the declarant to criminal liability and is offered to exculpate the accused, it must be supported by corroborating circumstances that clearly indicate its trustworthiness, if it tends to expose the declarant to criminal liability.~~

(5)-(6) [Unchanged.]

Staff Comment (ADM File No. 2022-30): The amendment of MRE 702 requires the proponent of an expert witness's testimony to demonstrate that it is more likely than not that the factors for admission are satisfied and clarifies that it is the expert's opinion that must reflect a reliable application of principles and methods to the facts of the case. The amendment of MRE 804(b)(4)(B) requires corroborating circumstances of trustworthiness for any statement against interest that exposes a declarant to criminal liability.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 27, 2024

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk