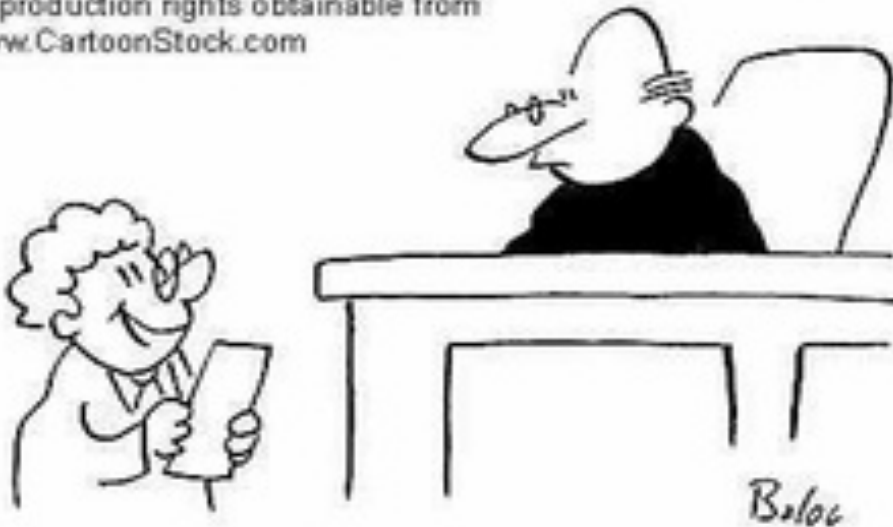


# Hearsay

*Homicide Victims Widow*

*Mary Jones, widow of Frank Jones*

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"I realize that hearsay evidence isn't admissible by the court, Your Honor, but you're going to *love* this!"

By: Andreas & Anahit Torossian

- **Hearsay** is the **legal** term for certain statements offered as evidence during a trial or hearing for the purpose of attempting to prove the truth of the matter asserted in the statements that were not made while testifying at the trial or hearing itself

Hearsay is generally inadmissible due to the fact that it would be unreliable.

Well, Lucy's sister,  
Sarah, told Lucy and  
Lucy told me that...

OBJECTION!  
HEARSAY!



- Exceptions to this general rule are recognized because there is sufficient guarantee of reliability of the out of court statement

# PROSECUTION FACTS

- Manslaughter prosecution – tavern argument which turned into a brawl;
- Plaintiff was stabbed in the chest;
- Defendant claims self-defense;
- Prosecution is now to prove the identity of Plaintiff.
- Prosecution is to prove Plaintiff had no preexisting medical conditions to cause his death.

# PROSECUTION

## Facts, cont.

- To identify victim and prove there were no preexisting medical conditions – prosecutor has plaintiff's widow, Mary Jones, to testify.
- She will testify on direct, cross and redirect examination of the following from the day of her husband's death, May 15, 2015.
  - That she saw plaintiff the morning of his death;
  - That at that time he was in perfect health;
  - The next time she saw him was at the county morgue and he was dead;
  - That she saw a photograph of her husband's naked body in the body pan at the morgue, which was taken prior to the autopsy;
  - That the photo was accurate as she saw him in the morgue that day.

# Hearsay

## Photo of Victim's Body on Morgue Pan

Prosecution conducts a direct-examination of Mary Jones and uses husband's morgue photo to confirm add to her testimony.

- Hearsay Defined:
  - Federal Rule of Evidence 801© defines hearsay as a statement, the declarant does not make while testifying at the current trial or hearing and party offers in evidence to prove the *Truth of the Matter Asserted* in the statement.

# Exceptions to Hearsay and Application to Mary Jones Testimony

- 1. Prior inconsistent statements;
- 2. Prior consistent statements offered to rebut a charge of recent fabrication, improper influence or motive;
- 3. Prior statements of identification of a person made after perceiving the proceeding;
- 4. Admissions by a party opponent;
- 5. Depositions taken in the same proceeding.

Mary Jones can testify that the photo accurately shows her husband as she saw him in the morgue that evening. Her direct, cross and redirect examination will show her testimony.

# Prosecutor's Direct Examination

- Direct examination of Mrs. Jones:
- Ask Mrs. Jones of relationship to Frank Jones;
- Asks Mrs. Jones when they got married?
- presently married and living together?
- When is the last time she saw her husband?
- When was the last time he had a medical examination, i.e. physical check up, blood draw, pains?
- When is the last time she saw her husband naked before his death?
- What was the reason she saw him naked?
- Did Frank Jones have anything in particular that distinguishes his physique? Any scars, birth marks, rashes?
- Prosecution conducts direct exam of Mrs. Jones using the photo of Frank Jones
  - Asks if photo of Frank Jones' body the same as the last time she has seen it, as she knows it
    - Ms. Jones identifies Frank Jones' body as she knows it



# Cross-Examination

- Do you have any medical records of Frank Jones?
- Did Frank Jones have any physical concerns from the last time you personally saw him naked until this photo was taken?
- Does Frank Jones engage in any physical activity that may be straining at work or during the day to day activities?
- Was attending a gym part of his lifestyle?
- What time did you see Frank before his death?
- What time did you see his body at the morgue?
- What time did you see his photograph?

# Re-direct Examination

- What are in the medical records you have of Frank Jones?
- What was the reason for the last records you have?
- What was Frank's employment?
- Does Frank engage in strenuous physical activity at work?
- When was the last time he went to work?