

Hearsay

Hearsay Exceptions

Governing Statutes

- Federal Rules of Evidence (FRE)
- Rule 801-807
- California Evidence Code (CEC)
- Code Section 1200-1390

24 Hearsay Exceptions

- Rule 803. Exceptions to the Rule Against Hearsay
- Rule 804. Declarant Unavailable

Rule 804(4)

- Rule 804(4)-Declarant is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity.
- <http://youtu.be/ve4-nLc9Y2w>

Photograph of Police Officers and Plaintiff

This is a civil rights action brought against the city police department by Charles Jackson, who was arrested by the police on January 15 of last year. Jackson alleges that the police arrested him on that date without reason and physically assaulted him, depriving him of his civil rights.

Plaintiff's witness, Mickey Mars, was standing on the southeast corner of Clark and Madison Streets at about noon on January 15 and saw police officers on that corner forcing Jackson to the ground. He was about five feet away from the scene. The weather was clear and sunny. He was on his way to lunch from his office, one block south on Clark Street. One of the officers, he says, held Jackson while another officer poked his nightstick in Jackson's neck. Jackson then shouted: "Help, they're killing me."

1. For the plaintiff, get the photograph in evidence and use it in conjunction with the witness. This is the first time during the trial that the photograph has been mentioned.
2. For the defendant, oppose the offer.

Photograph



Rule 803

- Rule 803(7)- ***Absence of a Record of a Regularly Conducted Activity***. Evidence that a matter is not included in a record described in paragraph (6) if:
 - **(A)** the evidence is admitted to prove that the matter did not occur or exist;
 - **(B)** a record was regularly kept for a matter of that kind; and
 - **(C)** neither the opponent does not show that the possible source of the information nor or other circumstances indicate a lack of trustworthiness.