

### **Rule 801A Prior statements of witnesses and admissions**

- (a) Prior statements of witnesses. A statement is not excluded by the hearsay rule, even though the declarant is available as a witness, if the declarant testifies at the trial or hearing and is examined concerning the statement, with a foundation laid as required by KRE 613, and the statement is:
  - (1) Inconsistent with the declarant's testimony;
  - (2) Consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive; or
  - (3) One of identification of a person made after perceiving the person.
- (b) Admissions of parties. A statement is not excluded by the hearsay rule, even though the declarant is available as a witness, if the statement is offered against a party and is:
  - (1) The party's own statement, in either an individual or a representative capacity;
  - (2) A statement of which the party has manifested an adoption or belief in its truth;
  - (3) A statement by a person authorized by the party to make a statement concerning the subject;
  - (4) A statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship; or
  - (5) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.
- (c) Admission by privity:
  - (1) Wrongful death. A statement by the deceased is not excluded by the hearsay rule when offered as evidence against the plaintiff in an action for wrongful death of the deceased.
  - (2) Predecessors in interest. Even though the declarant is available as a witness, when a right, title, or interest in any property or claim asserted by a party to a civil action requires a determination that a right, title, or interest existed in the declarant, evidence of a statement made by the declarant during the time the party now claims the declarant was the holder of the right, title, or interest is not excluded by the hearsay rule when offered against the party if the evidence would be admissible if offered against the declarant in an action involving that right, title, or interest.
  - (3) Predecessors in litigation. Even though the declarant is available as a witness, when the liability, obligation, or duty of a party to a civil action is based in whole or in part upon the liability, obligation, or duty of the declarant, or when the claim or right asserted by a party to a civil action is barred or diminished by a breach of duty by the declarant, evidence of a statement made by the declarant is not excluded by the hearsay rule when offered against the

party if the evidence would be admissible against the declarant in an action involving that liability, obligation, duty, or breach of duty.

**Effective:** July 1, 1992

**History:** Enacted 1990 Ky. Acts ch. 88, sec. 56; amended 1992 Ky. Acts ch. 324, sec. 20; renumbered (7/1/92) pursuant to 1992 Ky. Acts ch. 324, sec. 34.