Rule 807. Residual Exception

A statement not specifically covered by Rule 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party, sufficiently in advance of the trial or hearing, to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name, address and present whereabouts of the declarant.

(Aopted effective September 1, 2006.)

Committee Comment - 2006

The new Rule 807 is taken from Fed. R. Evid. 807 and combines Rules 803(24) and 804(b)(5). The rule requires the proponent to disclose, if known, the name, address and present whereabouts of the declarant. In criminal cases, offering hearsay statements against the accused from declarants who do not testify and are not subject to cross-examination, may implicate the constitutional right to confrontation.