

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Kent Christensen, et al. v. Leann Renee Galliway, et al.

Christensen · No. CV-23-08509-PCT-KML · Decided March 17, 2026

SUMMARY

The United States District Court for the District of Arizona granted defendants’ motion in limine to exclude Roberta Christensen’s written declaration from trial. The court held that the declaration did not satisfy Federal Rule of Evidence 807 because it lacked sufficient guarantees of trustworthiness and was not more probative than other evidence obtainable through reasonable efforts, particularly given plaintiffs’ failure to preserve Roberta’s testimony through available depositions.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Krissa M. Lanham
JURISDICTION	United States District Court for the District of Arizona
DECIDED	March 17, 2026
DOCKET	CV-23-08509-PCT-KML
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved in limine to exclude a deceased witness's written declaration from trial under the residual hearsay exception.
STANDARD OF REVIEW	The court evaluated admissibility under Federal Rule of Evidence 807 and determined whether the declaration satisfied the rule's trustworthiness and comparative-probative-value requirements.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- hearsay
- motion in limine
- evidence
- civil procedure
- trusts

PRACTICE AREAS

- Evidence
- Civil procedure
- Trust litigation

QUESTIONS PRESENTED

1. Whether Roberta Christensen's written declaration was admissible under the residual hearsay exception in Federal Rule of Evidence 807.
2. Whether the declaration had sufficient guarantees of trustworthiness and was more probative on the relevant points than other evidence obtainable through reasonable efforts.

HOLDINGS

1. The declaration did not have sufficient guarantees of trustworthiness because Roberta was an interested witness, the declaration was prepared for litigation, it was not subject to meaningful cross-examination, and it contained multiple levels of hearsay.
2. The declaration was not more probative than other evidence obtainable through reasonable efforts, particularly because the plaintiffs had two opportunities to preserve Roberta's testimony in admissible form and failed to use either opportunity.

KEY QUOTATIONS

“The residual hearsay exception will not rescue a party from its own strategic failures.” (at 2)

“Rule 807 is not a mechanism to cure such a strategic failure.” (at 3)

FACTUAL BACKGROUND

Roberta Christensen, a witness and mother of plaintiffs Kent and Kara Christensen, submitted a written declaration in July 2025 in connection with summary judgment and later died in January 2026. Her declaration was prepared for litigation, contained her own narrative as well as multiple layers of alleged hearsay, and concerned whether her children would receive a share of trust assets. The plaintiffs had previously declined to question Roberta at a May 2025 deposition and canceled a court-authorized preservation deposition scheduled for October 2025.

PROCEDURAL HISTORY

Roberta Christensen was deposed during discovery in May 2025, but the plaintiffs did not examine her despite knowing she was ill. After Roberta's condition worsened, the court authorized an expedited preservation deposition, which the plaintiffs scheduled and then canceled. After Roberta died, the plaintiffs sought to introduce her written declaration, and the court granted defendants' motion in limine to exclude it.

DISPOSITION

other

CASES CITED

- United States v. Bonds, 608 F.3d 495, 500–02 (9th Cir. 2010)
- Fong v. Am. Airlines, Inc., 626 F.2d 759, 763 (9th Cir. 1980)

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