# 1A.06A LIMITING INSTRUCTION – HEARSAY

You have heard evidence that (name or description of declarant) made a statement that (insert description). [It is for you to decide whether that statement was made. If you decide that it was,] [T]his statement could be used in two ways.

First, the statement could be used to prove that (insert description of what the statement asserted) is true. Second, it could be used to prove (insert description of use--e.g., to show that someone put the defendant on notice of a possible problem).

In this case the law allows you to use the statement only in the second way.

[The reason you cannot use the statement to prove (insert summary of assertion) is that the (name or description of the declarant) was not testifying before you when the statement was made, the parties did not have a chance to examine the speaker about the statement, and the law finds the circumstances in which the statement was made were not adequate for you to assume the accuracy of the statement.]

What this means is that you must weigh the other evidence in the case in order to decide whether (state the point for which the hearsay cannot be used) is true. This statement is not the kind of evidence that can be used in making your decision.

When the statement is used in the second way (report explanation) it does not matter whether it was accurate or not. The important thing is that (insert description--e.g., the defendant was told that a problem existed and had a chance to correct it).

The law may treat other statements made outside of court differently if the circumstances in which the statements were made more strongly support the accuracy of the statements. You may use other evidence of statements made outside this courtroom in both ways unless I tell you otherwise. When you are allowed to accept a statement as true, it is for you to decide whether or not to believe it.

Use Note

This instruction should be given when hearsay evidence is offered for a limited purpose, and there is a danger that the jury might mistakenly use the hearsay for the truth of the matter asserted. Where the truth of a statement is irrelevant, Instruction 1A.06B should be used instead of this one.

The bracketed material in the first paragraph should be used if the fact that a statement was made is disputed.

The bracketed paragraph is optional. It should be used if the trial judge believes that the jury needs to understand why hearsay that seems helpful cannot be used for the truth of the matter asserted. It should be useful when hearsay is offered on an important point in a case.

Comment

In any case in which hearsay is offered for a limited purpose, but the truth of the matter asserted also is in dispute, there is a chance that the jury will use the hearsay for its truth. This instruction is designed to educate the jury on the proper and improper use of hearsay.

Once this instruction is given in full, the first three paragraphs of the instruction can be given when additional hearsay is admitted, and the rest can be deleted, unless the trial judge believes that the original instruction should be repeated for emphasis from time to time as the trial progresses.

It is, of course, the judge's decision whether evidence is hearsay and whether it fits an exception. Alaska R. Evid. 104(a). If it is hearsay and does not come within an exception, then it can only be used for a limited purpose. Alaska R. Evid. 802. If it is not hearsay under Alaska R. Evid. 801(c) and (d), or it fits within an exception under Alaska R. Evid. 803 and 804, the evidence can come in for its truth and no limiting instruction is needed.