

Restyled Federal Rule of Evidence 1002
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Rules_Comments
11/11/2009 02:14 PM

09-EV-005

The proposed restyled Rule of Evidence 1002 would provide as follows:

“An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.”

Law students (and lawyers) are often confused by Rule 1002 and mistakenly believe that if you are trying to prove something, which happens to be contained in a document, you must produce the original document even if you are not actually trying to prove that the document has particular contents.

In order to eliminate this confusion, I propose that Rule 1002 be further amended to provide as follows:

“An original writing, recording, or photograph is required in order to prove **that it has certain content** unless these rules or a federal statute provides otherwise.”

Similarly, Rule 1004 should also be changed to provide: “The original is not required, and other evidence that **a writing, recording, or photograph has certain contents** is admissible etc.”

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