### **Table of Contents**

# CHAPTER 1. ROLE OF THE ATTORNEY

§ 1:1	In general
§ 1:2	Attorney-client relationship
§ 1:3	Attorney conduct, generally
§ 1:4	—Disbarment
§ 1:5	—Suspension
§ 1:6	—Public Censure
§ 1:7	—Monetary Penalty
§ 1:8	The role of the attorney in criminal cases—right to counsel
§ 1:9	—When right to counsel attaches
§ 1:10	—Right to consult with attorney
§ 1:11	—Right to competent counsel
§ 1:12	—Right to prepared counsel
§ 1:13	—Right to separate counsel
§ 1:14	—Compensation of appointed counsel
§ 1:15	—Discharge of appointed counsel
§ 1:16	—Waiver of right to counsel
§ 1:17	—Pro se representation
§ 1:18	Appointment of counsel in civil cases
§ 1:19	Appearances—Civil actions
§ 1:20	—Criminal actions
§ 1:21	Assistance of private counsel in prosecution
§ 1:22	Withdrawal of counsel—Civil actions
§ 1:23	—Criminal actions
§ 1:24	Conflict of interest—Civil actions
§ 1:25	—Criminal actions
§ 1:26	Contempt of court
CHA	APTER 2. THE TRIAL SYSTEM AND THE JUDGE

§ 2:1	Massachusetts court system and general trial conduct
§ 2:2	—The rules
§ 2:3	—The courts
§ 2:4	—Exclusion of the public
§ 2:5	—Impoundment of pleadings and papers
§ 2:6	—Media coverage and publicity before and during trials
§ 2:7	—Law applicable to cases arising outside of Massachusett

\$ 2:8 \$ 2:9 \$ 2:10 \$ 2:11 \$ 2:12 \$ 2:13 \$ 2:14 \$ 2:15 \$ 2:16 \$ 2:17 \$ 2:18 \$ 2:19 \$ 2:20 \$ 2:21 \$ 2:22 \$ 2:23 \$ 2:24 \$ 2:25 \$ 2:26 \$ 2:27 \$ 2:28 \$ 2:29 \$ 2:30	—Transcribing testimony by stenographer  —Recording devices  —Transcripts in criminal cases  —Necessity for transcript for purposes of appeal in civil cases Judicial accountability Judicial duty to preserve order General Conduct of the judge  —Demeanor  —Avoiding bias  —Judge and counsel  —Questioning witnesses, defendants  —Commenting on evidence  —Judicial misconduct Presence of the judge Substitution of judge during and after trial Judge's control of examination of witnesses Judicial limitations on the number of witnesses Judicial ruling on admissibility of evidence Court's witnesses Impartial medical experts Control of proceedings by pretrial order in civil cases Pretrial order in criminal cases
§ 2:31	The judge as trier of facts  CHAPTER 2. MOTIONS DURING TRIAL
£ 2·1	CHAPTER 3. MOTIONS DURING TRIAL  In general
§ 3:1 § 3:2	In general Motion to amend
§ 3:3	Motion to continue, civil
§ 3:4	—Engagement of counsel
§ 3:5 § 3:6	—Want of material evidence Motion to continue, criminal
§ 3:7	Motions to dismiss on pleadings, civil
§ 3:8	—Lack of jurisdiction
§ 3:9	—Failure to state a claim
§ 3:10 § 3:11	<ul> <li>Motion for judgment on the pleadings under 12c</li> <li>Motion for a more definite statement</li> </ul>
§ 3:11	Voluntary dismissal
§ 3:13	Involuntary dismissal
§ 3:14	Dismissal of counterclaims, cross-claims and third party actions
§ 3:15 § 3:16	Motion to dismiss, criminal Motion for summary judgment

viii

§ 3:17 § 3:18	Motion for default and removal of default judgment Motion to sever, criminal
	CHAPTER 4. CRIMINAL TRIALS
§ 4:1 § 4:2 § 4:3 § 4:4 § 4:5 § 4:6 § 4:7	In general Criminal proceedings in Massachusetts —Criminal court system, generally —Guilty plea —Competence to stand trial Initial appearance and arraignment Assignment of counsel at arraignment
§ 4:8 § 4:9 § 4:10 § 4:11 § 4:12 § 4:13 § 4:14 § 4:15	Constitutional mandate of presence of defendant and counsel during criminal proceedings  Probable cause hearing  Identification of accused at probable cause hearing  Delinquency proceedings against juveniles  Civil commitment  Nolle prosequi in criminal cases  Conduct of parties and security in the courtroom  Prosecution's failure to disclose exculpatory evidence
	CHAPTER 5. CONTEMPT OF COURT
§ 5:1 § 5:2 § 5:3 § 5:4 § 5:5 § 5:6 § 5:7 § 5:8 § 5:9 § 5:10 § 5:11 § 5:12 § 5:13	Power of court to punish for contempt Civil and criminal contempt Proceedings for civil contempt Direct and indirect contempts Contemptuous acts —Violation of a statute —Attempts to improperly influence judge or jury —Misrepresentation —Refusal to testify —Publication Punishment of direct contempt Punishment of indirect contempt Right of trial by jury in certain cases of contempt
	CHAPTER 6. SELECTION OF THE JURY
§ 6:1 § 6:2 § 6:3	Right to jury trial Right to fair and impartial jury Jury demand and waiver in civil action

§ 6:4	Jury waiver in criminal cases
§ 6:5	Juror qualifications
§ 6:6	Selection of persons for jury service
§ 6:7	Summoning of jurors
§ 6:8	Confidential juror questionnaire
§ 6:9	Summons of jurors must be at random
§ 6:10	Trial juror's handbook
§ 6:11	Deaf jurors permitted
§ 6:12	Challenge to jury pool
§ 6:13	Irregularities in selection and summoning of jury
§ 6:14	Selection of jury—Generally
§ 6:15	Challenge to array for prejudice
§ 6:16	Discrimination in the jury venire because of sex, race, religion
§ 6:17	Grounds for challenge for cause
§ 6:18	Judicial discretion in exclusion of jurors
§ 6:19	Scruples against capital punishment
§ 6:20	Time for making objections to jurors
§ 6:21	Conduct of voir dire examination
§ 6:22	—Capital cases
§ 6:23	—Insanity defense
§ 6:24	—Failure to testify
§ 6:25	—Ability to render impartial verdict
§ 6:26	—Pre-trial publicity
§ 6:27	—Racial prejudice
§ 6:28	—Sexual offenses
§ 6:29	—Other highly emotional issues
§ 6:30	Civil Procedure Rule governing questioning of persons called as
Ü	jurors
§ 6:31	Peremptory challenges—Civil
§ 6:32	—Criminal
§ 6:33	—Race
§ 6:34	—Age
§ 6:35	—Ethnicity
§ 6:36	—Gender
§ 6:37	—Religion
§ 6:38	Alternate Jurors
§ 6:39	Discharge Of Juror
3 0.55	Districting Of Varon
	CHAPTER 7. OPENING STATEMENTS
§ 7:1	Right to make an opening statement
§ 7:2	Content of opening statement
§ 7:3	Effect of opening statement
X	

§ 7:4	Directed verdict on opening statement
8 7.4	Breeted verdict on opening statement
	CHAPTER 8. ORDER OF PROOF
§ 8:1	Order of producing testimony
§ 8:2	Evidence in rebuttal
§ 8:3	Admission of evidence after party has rested
§ 8:4	Exclusion of evidence at particular stage of trial
§ 8:5	Conditional admission of evidence
	CHAPTER 9. BURDEN OF PROOF
§ 9:1	Burden of proof and burden of going forward
§ 9:2	Prima facie case
§ 9:3	Degree of persuasion in civil cases—Fair preponderance of evidence
§ 9:4	—Other standards
§ 9:5	—Clear and convincing evidence
§ 9:6	—Substantial evidence
§ 9:7	—Proof beyond a reasonable doubt
§ 9:8	Allocation of burden of proof in civil cases
§ 9:9	When defendant bears burden of proof
§ 9:10	Allocation of burden of proof in statutory actions
§ 9:11	Degree of persuasion in criminal cases
§ 9:12	Procedure for challenging sufficiency of state's burden of proof in
e 0.12	criminal cases
§ 9:13	Allocation of burden of proof in criminal cases
	CHAPTER 10. PROOF OF FACTS
§ 10:1	Situations where proof is excused before trial
§ 10:2	Control of proceedings by stipulation
§ 10:3	Limitations on use of stipulations to control proceedings
§ 10:4	Use of stipulations to excuse proof of facts
§ 10:5	Stipulation as to all evidence
§ 10:6	Construction and enforcement of stipulations
§ 10:7	Agreed statement of facts
§ 10:8	Discharge of statement of agreed facts
§ 10:9	Methods of proving facts
CHAPTER 11. WITNESSES	
§ 11:1	Compelling attendance of witnesses

§ :	11:2	Witnesses from out-of-state
	11:3	Process for out-of-state witnesses in capital cases
	11:4	Habeas corpus ad testificandum
§ :	11:5	Subpoena duces tecum
§ :	11:6	Influencing or harassing a witness
§ :	11:7	Right to interview Commonwealth's witnesses
§ :	11:8	Right of criminal defendant to confront witnesses
§ :	11:9	Compensation of witnesses—Generally
§ :	11:10	—Special circumstances
§ :	11:11	—Payment of fees
§ :	11:12	—Excess of statutory fees
§ :	11:13	—Compelling expert testimony
	11:14	Exclusion, separation or sequestration of witnesses
	11:15	Swearing the witness
§ :	11:16	Unsworn statement by defendant in capital cases
	СНАВ	PTER 12. THE COMPETENCY OF A WITNESS TO
	CHAI	TESTIFY
§ :	12.1	In general
§ :	12:2	Time for objecting to competency
	12:3	Felon
	12:4	Atheist
	12:5	Child
§ :	12:6	Insane person
§ :	12:7	Spouse—Disqualifications as to private conversations
§ :	12:8	—Presumption of privacy
	12:9	—Presence of third party
§ :	12:10	—Limits of disqualification
	12:11	—Illegitimacy of child born in wedlock
§ :	12:12	Judge and judicial deliberations
§ :	12:13	Attorney
§ :	12:14	Juror
	CI	HAPTER 13. IMPEACHMENT OF WITNESSES
0	10.1	T 1
	13:1	Impeachment of witnesses; Generally
	13:2	Credibility
	13:3	Testing witness's knowledge and accuracy
	13:4	Collateral issues
	13:5	Prior inconsistent acts or statements
	13:6	—Form and content
§	13:7	—Foundation
χij		

	13:8 13:9 13:10 13:11 13:12 13:13 13:14 13:15 13:16 13:17 13:18	—Former proceeding or deposition —Limitations on use Bias or personal interest of witness Reputation for truth and veracity Evidence of conduct Witness's morals, beliefs, race, nationality, etc. Reputation in group of habitual associates Proof of prior conviction and manner of proving conviction Impeaching one's own witness Rehabilitating witness Impeachment of adverse party-witness
		CHAPTER 14. EXAMINATION OF WITNESSES
	14:1	Direct examination—Competency of questions asked
	14:2	—Leading questions
	14:3	—Refreshing witness's memory
	14:4 14:5	<ul><li>Requirements of witness's answer</li><li>Calling an adverse party</li></ul>
	14:6	Improper conduct of counsel in examining witnesses
	14:7	Cross-examination—Scope
	14:8	—Impeachment
	14:9	—Content and form of questions
	14:10	—Denial of right to cross
	14:11	Redirect examination—Scope
	14:12	—Form and content of questions
	14:13	Recross examination
§	14:14	Questioning of witnesses by jurors
		CHAPTER 15. PRIVILEGE
§	15:1	Privilege; generally
	15:2	Spousal privilege
	15:3	Child-parent privilege
	15:4	Privilege against self-incrimination—In general
§	15:5	—Invoking privilege against self-incrimination by witness
§	15:6	—Testimonial privilege of defendant in criminal proceedings
§	15:7	—Testimony of prosecution witness who invokes fifth amendment
§	15:8	—Improper to call prosecution witness when it is known witness
§	15:9	will invoke privilege against self-incrimination  —Necessity for court to warn witnesses of privilege against self-incrimination

§ 15:10	—When privilege against self-incrimination is lost
§ 15:11	Attorney-client privilege—In general
§ 15:12	—Existence of attorney-client relationship
§ 15:13	—Confidential nature of the communication between attorney and client
§ 15:14	—Waiver and termination of attorney-client privilege
§ 15:15	Confidential communications between patient and physician or
Ü	psychotherapist
§ 15:16	Privileged communications to journalists
§ 15:17	Privileged communications to clergyman
§ 15:18	Privileged communications to public officers
§ 15:19	Privileged communications to social workers
§ 15:20	Privileged communications to sexual assault counsellors
§ 15:21	Confidential communications between domestic violence victim and counselor; exceptions
§ 15:22	Communications and work product of mediator confidential
§ 15:23	Public records and reports—Taxes
§ 15:24	Reports required by statute
§ 15:25	Public records
§ 15:26	Criteria for establishing privileged nature of report
3	6 to 100 ft of 1
	CHAPTER 16. JUDICIAL NOTICE
§ 16:1	In general
§ 16:2	Statutes governing judicial notice
§ 16:3	Evidence, pleadings and instructions
§ 16:4	Domestic laws
§ 16:5	Federal and foreign law
§ 16:6	Facts concerning court
§ 16:7	Court records and facts known through other trials
§ 16:8	Government, officers, and public policy
§ 16:9	Historical and geographic facts and characteristics of places
§ 16:10	Natural phenomena
§ 16:11	Matters of common observation
§ 16:12	Nature of properties of common items
§ 16:13	Medical and scientific facts
§ 16:14	Human behavior
· ·	
	CHAPTER 17. PRESUMPTIONS
§ 17:1	Nature of presumptions
§ 17:2	Conclusive presumptions
§ 17:3	
8 17.5	Disappearing presumptions

### Table of Contents

§ 17:4	Continuing presumptions
§ 17:5	Prima facie evidence
§ 17:6	Presumptions and burden of proof
§ 17:7	Inference
§ 17:8	Res ipsa loquitur
§ 17:9	Continuance of condition
§ 17:10	Normality
§ 17:11	Regularity of conduct—Persons
§ 17:12	—Corporate conduct
§ 17:13	—Public officials and proceedings
§ 17:14	Validity of statutory law
§ 17:15	Other courts
§ 17:16	Master's reports
§ 17:17	Presumptions arising from failure to produce witness or evidence
§ 17:18	Foreign law
§ 17:19	Delivery of letters
§ 17:20	Life and death
§ 17:21	Marriage and legitimacy
§ 17:22	Dependency
§ 17:23	Identity of persons from identity of names
§ 17:24	State of mind—Generally
§ 17:25	—Criminal cases
§ 17:26	Presumption of innocence
§ 17:27	Other presumptions in criminal trials
§ 17:28	Written instruments
§ 17:29	Motor vehicle registration
§ 17:30	Intoxication in motor vehicle cases
CHAPT	ER 18. ADMISSIBILITY OF EVIDENCE IN GENERAL
§ 18:1	Requirement of relevance
§ 18:2	Negative evidence
§ 18:3	Circumstantial evidence—Generally
§ 18:4	—Criminal conspiracy
§ 18:5	—Remoteness
§ 18:6	Prejudicial evidence
§ 18:7	Collateral issues
§ 18:8	Exculpatory evidence
§ 18:9	Admissibility of preliminary facts—The humane practice
CHAP	TER 19. REAL AND DEMONSTRATIVE EVIDENCE

§ 19:2	Criteria for admission
§ 19:3	Foundation for demonstrative evidence
§ 19:4	Judicial discretion in admission of tangible articles
§ 19:5	Judicial comment on admitted articles
§ 19:6	Exhibition of person
§ 19:7	Photographs—Generally
§ 19:8	—Of persons
§ 19:9	—Of objects
§ 19:10	—Of premises
§ 19:11	X-ray Photographs
§ 19:12	Motion pictures, video-tapes, tape recordings, etc.
§ 19:13	Maps, drawings, diagrams and displays
§ 19:14	Diaries
§ 19:15	Demonstrations and tests
§ 19:16	Firearms
§ 19:17	Blood and genetic marker testing results
§ 19:18	Statistics
§ 19:19	Handwriting
3 17.17	114114111111111111111111111111111111111
	CHAPTER 20. VIEWS
§ 20:1	In general
§ 20:2	Views granted according to discretion of judge
§ 20:3	Conduct of view
§ 20:4	Presence of defendant at view in criminal trials
§ 20:5	Evidentiary value of views
0	•
	CHAPTER 21. DOCUMENTARY EVIDENCE
§ 21:1	General requirements relating to documentary evidence
§ 21:2	Authentication—Private writings
§ 21:3	—Letters
§ 21:4	—Public records
§ 21:5	—Official records of publications from out-of-state
§ 21:6	—Massachusetts law
§ 21:7	—Federal or foreign law
§ 21:8	—Court papers and records
§ 21:9	—Transcripts from stenographic notes
§ 21:10	—Business records/deposit of business records with clerk
§ 21:11	—Hospital records
§ 21:12	—Documents written by hospitalized patients
§ 21:13	—Learned treatises
§ 21:14	Failure to deny authenticity of document
vvi	

χvi

§ 21:15 § 21:16 § 21:17	Company regulations Reproductions and copies—Public or business records —Newspapers, books and other documents
	CHAPTER 22. BEST EVIDENCE RULE
§ 22:1 § 22:2 § 22:3 § 22:4 § 22:5 § 22:6 § 22:7 § 22:8 § 22:9 § 22:10 § 22:11 § 22:12 § 22:13 § 22:14	In general Situations calling for the best evidence Situations where best evidence is not required Preferential nature of best evidence rule Use of secondary evidence—In general Impracticality of producing primary evidence Proof of loss of primary evidence Duplicate originals Certified photocopies of records Where primary evidence is in control of other party Bulky records Copies as primary or secondary evidence Nature of secondary evidence Establishing content of documents by oral evidence
	CHAPTER 23. PAROL EVIDENCE
§ 23:1 § 23:2 § 23:3 § 23:4 § 23:5 § 23:6 § 23:7 § 23:8 § 23:9	In general Scope of parol evidence rule Objections to admission of parol evidence Determining whether an agreement is integrated, complete and final Collateral writings Modification by subsequent agreement Construing written agreements Supplying missing terms to written agreement Showing invalidity or inapplicability of written instrument
	CHAPTER 24. OPINION EVIDENCE
\$ 24:1 \$ 24:2 \$ 24:3 \$ 24:4 \$ 24:5 \$ 24:6 \$ 24:7	Requirement that witness testify as to facts Facts distinguished from opinions Summary descriptions and collective facts Opinions concerning ultimate issue Opinions on ultimate issue in negligence cases Opinions on legal relations and effects of contracts Other limitations on opinion evidence

§ 24:8	Non-expert opinion—In general
§ 24:9	—Mental capacity
§ 24:10	—Speed
§ 24:11	
§ 24:12	—Value of services
§ 24:13	—Value of personal or real property
§ 24:14	—Intoxication
§ 24:15	Matters as to which expert witness may or must testify
§ 24:16	Formulation of expert testimony
§ 24:17	Qualifications required of expert witnesses
§ 24:18	General practitioner may testify as to specialized issues
§ 24:19	Expert testimony—Matters of business
§ 24:20	—How incident occurred
§ 24:21	—Value of services
§ 24:22	—Value of real estate
§ 24:23	—Handwriting
§ 24:24	—Fingerprints and footprints
§ 24:25	—Ballistics
§ 24:26	—Other experiments, demonstrations and tests
§ 24:27	
§ 24:28	Hypothetical question—Content
§ 24:29	—Answer
§ 24:30	Cross-examination of expert witness
§ 24:31	Expert appointed by court
CHAP	TER 25. HEARSAY EVIDENCE AND EXCEPT
§ 25:1	In general

# ΓΙΟΝS

§ 25:1	In general
§ 25:2	Self-serving statements
§ 25:3	Right to confrontation
§ 25:4	Verbal acts—Inapplicability of hearsay rule
§ 25:5	Verbal act as evidence of agreement or reliance
§ 25:6	Imputing knowledge from another's verbal act
§ 25:7	Verbal act as cause of action
§ 25:8	Identification as verbal act
§ 25:9	Conversations evidencing the nature of a thing or place
§ 25:10	Other non-hearsay situations
§ 25:11	Admissibility of hearsay evidence
§ 25:12	Res gestae
§ 25:13	Spontaneous declarations
§ 25:14	Pain and suffering
§ 25:15	Statements made to physicians
§ 25:16	Dying declarations

xviii

§ 25:17	Declarations of state of mind or intent
§ 25:18	Declarations against interest
§ 25:19	Declarations of deceased persons—Admissibility
§ 25:20	—Declarant's personal knowledge
§ 25:21	—Probate action
§ 25:22	Dead witness rule
§ 25:23	Unavailable witness rule
§ 25:24	Depositions
§ 25:25	Prior inconsistent statement under oath
§ 25:26	Past recollection recorded
§ 25:27	Business records
§ 25:28	Official records, generally
§ 25:29	Birth, death and marriage certificates
§ 25:30	Police records
§ 25:31	Registry of motor vehicles
§ 25:32	Weather records
§ 25:33	Hospital records
§ 25:34	Doctors' reports
§ 25:35	Reports of deceased physicians
§ 25:36	Medical bills
§ 25:37	Learned treatises
§ 25:38	Fact statements published for persons in particular occupation
§ 25:39	Ancient documents
§ 25:40	Pedigree and family history
§ 25:41	General knowledge
§ 25:42	Adoptive admission
§ 25:43	Judgment of previous conviction
§ 25:44	Child abuse victims
	CHAPTER 26. ADMISSIONS
§ 26:1	In general
§ 26:2	Conclusiveness
§ 26:3	Judicial admissions—Generally
§ 26:4	—In pleadings
§ 26:5	—Of representative capacity or status
§ 26:6	Demand
§ 26:7	Effects of plea of guilty to criminal charge
§ 26:8	Admissions from previous trials
§ 26:9	Party's own testimony or evidence as an admission
§ 26:10	Binding effect of opposing party's interrogatory answers
§ 26:11	Inferential admissions during proceedings—Civil actions
§ 26:12	—Criminal trials

§ 26:13	Failure to testify—Civil actions
§ 26:14	—Criminal trials
§ 26:15	Criminal defendant's admission in psychiatric examination
§ 26:16	Misconduct—Of party as an admission, civil actions
§ 26:17	—Of accused as an admission, criminal trials
§ 26:18	Flight or escape as an admission
§ 26:19	Silence, adoptive admission—Of party as an admission, civil ac-
	tions
§ 26:20	—Of accused as an admission, criminal trials
§ 26:21	Failure to reply to written statements
§ 26:22	Offers of compromise
§ 26:23	Payments to plaintiff
§ 26:24	Remedial actions after accident
§ 26:25	Evidence of liability insurance
§ 26:26	Official records containing admissions
§ 26:27	Admission by—Agent or employee of party
§ 26:28	—Corporate officers
§ 26:29	—Partners
§ 26:30	—Co-Conspirators
§ 26:31	—Predecessors in title
§ 26:32	—Deceased persons
§ 26:33	—Other parties
§ 26:34	—Attorney
	CHAPTER 27. CONFESSIONS
§ 27:1	Confessions distinguished from admissions
§ 27:2	Requirements of a confession, generally
§ 27:3	Protection of constitutional rights in obtaining a confession
§ 27:4	Public safety exception to Miranda rule on confessions
§ 27:5	Voluntariness of confession
§ 27:6	Confessions inadmissible because of taint
§ 27:7	Humane practice applied to confessions
§ 27:8	Admissibility of illegally-obtained confession in certain situations
§ 27:9	Corroboration of confessions
§ 27:10	Confessions by others
СНАРТЕ	CR 28. EXCLUSION OR ADMISSION OF ILLEGALLY
	OBTAINED EVIDENCE
§ 28:1	In general
§ 28:2	Exclusion or admission of illegal pre-trial identification
§ 28:3	—Right to counsel
VV	

§ 28:4	—Suggestive pre-trial identification
§ 28:5	— —Line ups
§ 28:6	— Voice identification
§ 28:7	— —Photographic array
§ 28:8	——Show-up
§ 28:9	Exclusion and admissibility of evidence obtained from illegal
Ü	searches and seizures—Prohibition against illegal searches and
	seizures
§ 28:10	—Scope of rule against unreasonable searches and seizures—gen-
	erally
§ 28:11	— Reasonable expectation of privacy
§ 28:12	— — Seizure
§ 28:13	— Stop and frisk
§ 28:14	— — Checkpoint stops
§ 28:15	—Motion to suppress evidence illegally seized
§ 28:16	—Standing necessary to invoke privilege against an unlawful
	search and seizure
§ 28:17	Suppression of evidence under statute
§ 28:18	Warrantless searches in generaL
§ 28:19	—Automobile exception
§ 28:20	—Plain view
§ 28:21	—Ordinary course of search
§ 28:22	—Statute
§ 28:23	—Exigency
§ 28:24	—Voluntary surrender of object
§ 28:25	—Private individual
§ 28:26	—Open fields doctrine
§ 28:27	—Search incident to arrest
§ 28:28	—Consent
§ 28:29	—Knock and announce
§ 28:30	—Incident to forfeiture
§ 28:31	Search of automobile without a warrant
§ 28:32	Search and seizure with warrant
§ 28:33	Establishing probable cause through affidavit in support of application for search warrant
§ 28:34	Informants
§ 28:35	Search by foreign police
§ 28:36	Evidence obtained by interception of oral or wire communications
§ 28:37	—Interception of communications under warrant
§ 28:38	—Interception of communications by consent

# CHAPTER 29. ADMISSIBILITY OF OTHER TYPES OF EVIDENCE

§ 29:1	Past conduct
§ 29.1 § 29:2	Habit
§ 29.2 § 29:3	Similar circumstances
§ 29:4	Previous accidents
§ 29.4 § 29:5	Subsequent observations and experiments
§ 29:6	Scientific and standardized tests
§ 29.0 § 29:7	Polygraph tests
§ 29.7 § 29:8	Polls and surveys
§ 29.8 § 29:9	Hypnotically-aided testimony
§ 29.9 § 29:10	Bite marks
§ 29:10 § 29:11	Sale price of similar property as evidence of value of land
§ 29:11 § 29:12	Acts performed in regular course of business
§ 29.12 § 29:13	Identification of manufacturer
§ 29:13 § 29:14	Custom and practice as evidence of standard of care
§ 29:14 § 29:15	Character and reputation
§ 29:16	—Method of proving reputation
§ 29:10 § 29:17	—Reputation in criminal cases
§ 29:17 § 29:18	—Character of victim of assault or homicide
§ 29:19	—Rape Shield Rule
§ 29:20	—Proof of character in civil cases
§ 29:21	Other crimes
§ 29:22	Violation of statute as evidence of negligence
§ 29:23	Reputation of animals
§ 29:24	Wealth or other means of compensation
§ 29:24	Telephone conversations
§ 29:26	Comparison evidence
§ 29:27	Duplicate evidence
§ 29:28	Plea agreement
§ 29:29	Fresh complaints in sexual assault cases
§ 29:30	Malice—Mental impairment
	CHAPTER 40 OR IECTIONS TO EVIDENCE
	CHAPTER 30. OBJECTIONS TO EVIDENCE
§ 30:1	Improper testimony
§ 30:2	Need for objection
§ 30:3	Timeliness of objection
§ 30:4	Stating the grounds for objection
§ 30:5	Ruling on objection
§ 30:6	Motion to strike unresponsive answer
§ 30:7	No need for formal exception
xxii	

§ 30:8 § 30:9 § 30:10 § 30:11	Necessity for an offer of proof Nature of offer of proof Preliminary findings of fact Dealing with evidence erroneously admitted after objection
	CHAPTER 31. MISTRIAL
§ 31:1 § 31:2 § 31:3 § 31:4	Nature of mistrial Grounds for declaring mistrial Mandatory and discretionary declaration of mistrial Mistrial in criminal cases and double jeopardy
	CHAPTER 32. DIRECTED VERDICT
\$ 32:1 \$ 32:2 \$ 32:3 \$ 32:4 \$ 32:5 \$ 32:6 \$ 32:7 \$ 32:8	Power of court to direct verdict Duty of court to direct verdict Testing propriety of a directed verdict Directing verdict for party with burden of proof Required finding of not guilty in criminal cases Motion for directed verdict Directing verdict after presentation of evidence Motion for judgment notwithstanding verdict
	CHAPTER 33. DAMAGES
§ 33:1 § 33:2 § 33:3 § 33:4 § 33:5 § 33:6 § 33:7 § 33:8 § 33:9 § 33:10 § 33:11 § 33:12 § 33:13	In general Statement of damages Apportionment of damages under comparative negligence Nominal damages Foreseeability of damages Mitigate damages—Duty to mitigate damages Medical treatment in mitigation of damages Mitigation of damages for wrongful discharge Treatment of other payments received by plaintiff Future effects of an injury Aggravation of an injury Exemplary or punitive damages General and special damages
	CHAPTER 34. CLOSING ARGUMENTS
§ 34:1	Right to make closing argument

xxiv	
§ 37:6	Construction of general verdicts
§ 37:4 § 37:5	Revising or amending verdicts  Power of court to have jury reconsider defective verdict
§ 37:3	Testimony as to extraneous influences on jury
§ 37:2	Objections to verdicts
§ 37:1	In general
CHAPTER 37. VERDICT	
γ 50.10	Contact with jurous arter discharge
§ 36:9 § 36:10	Contact with jurors after discharge
§ 36:8	Rules governing arrival at verdict Improper conduct
§ 36:7	Overhearing deliberations of jury
§ 36:6	Control of jury during deliberations
§ 36:5	Items taken by jury to jury room
§ 36:4	Separation of jury during trial
§ 36:3	Jurors reading newspaper accounts of trial
§ 36:2	Communications with jurors
§ 36:1	In general
	CHAPTER 36. CONDUCT OF JURY
3 20.11	
§ 35:10	Correction of erroneous instructions
§ 35.9 § 35:10	Objections to instructions
§ 35:8 § 35:9	Instructions to deadlocked jury
§ 35:7 § 35:8	Slanted, argumentative and misleading instructions
§ 35:6 § 35:7	Instructions on issues
§ 35:5	Curative instructions
§ 35:4	Time and manner for tendering instructions Number of instructions
§ 35:3	Comment on evidence in instructions
§ 35:2	Right to unprejudiced submission to jury
§ 35:1	General requirements for jury instructions
	CHAPTER 35. JURY INSTRUCTIONS
3 2	
§ 34:7	Objections to argument
§ 34:5 § 34:6	Comments on matters not in evidence Closing arguments by prosecutors
\$ 24.5	improper arguments
§ 34:4	Comments on failure to produce witnesses or evidence and other
§ 34:3	Content of closing argument
§ 34:2	Order of argument
0.04.0	Order of argument

§ 37:7	Verdicts and interrogatories
§ 37:8	Special verdicts
§ 37:9	Special questions
§ 37:10	Incomplete answers on verdict slip
§ 37:11	Sealed verdicts
§ 37:12	Polling the jurors
	CHAPTER 38. JUDGMENT
§ 38:1	Entry of judgment
§ 38:2	Effect of entry of judgment
§ 38:3	Ad damnum clauses limited
§ 38:4	Inclusion of interest in judgment
§ 38:5	—Prejudgment interest
§ 38:6	—Postjudgment interest
§ 38:7	Allowance of court costs
§ 38:8	Allocation of counsel fees and expenses in civil cases
§ 38:9	Arrest or stay of judgment
§ 38:10	Amendment of judgment or new trial under rule 59 in civil actions
§ 38:11	New trial under Rule 30 in criminal actions
§ 38:12	Relief from clerical mistakes in civil judgments
§ 38:13	Relief from judgment in civil cases under Rule 60(b)
Table of Laws and Rules	
Table of Ca	ases
Index	