

INDEX

ABSENCE

Continuance, absence as grounds, §§ 3:03, 3:04
Entry, absence of. Records and Reports, this index

ACCOMPLICES

Competency to testify, § 21:09
Cross-examination, § 27:03
Fair trial protections for defendant, § 30:12

ADMISSIONS

Generally, §§ 18:01-18:12
Agent or servant, admissions by, §§ 18:06, 18:07
Coconspirators, admissions by, § 18:08
Compromise negotiations, admissions made in connection with, § 18:09
Conduct, admissions by, § 18:10
Instructions relating to admissions, § 18:12
Judicial admissions, § 18:02
Misconduct, admissions by, § 18:10
Offers to plead, admissions made in connection with, § 18:09
Partners, admissions of, §§ 18:06, 18:07
Party opponent, admissions by, § 18:04
Persons with authority to speak, statements by, § 18:06
Proof of facts, § 10:02
Silence, admissions by, § 18:11
Statements against interest distinguished, § 18:03
Testator's declarations, § 18:06
Vicarious admissions, generally, § 18:05
Written admissions, § 18:01

ADVERTISING

Attorneys, advertising by, § 1:04

AGENTS

Admissions by, §§ 18:06, 18:07
Dead man's statutes, transactions with deceased agents, § 22:03
Hearsay evidence, § 16:05

ALIMONY

Contempt of court, § 5:07

AMENDMENT OF PLEADINGS

Continuance, grounds for, § 3:05

ANCIENT DOCUMENTS

Authentication, § 17:07
Hearsay evidence, § 16:23

APPELLATE REVIEW

Criminal conviction, right to appointed counsel, § 1:09
Directed verdict, § 4:10
Evidence, admission of, prejudicial effect, § 2:15
Failure to object, waiver of right to allege error on appeal, § 29:04
Instructions to jury, reversible error, § 35:01
New trial, review of order for, § 33:05
Suppression of evidence, § 30:09

APPOINTED COUNSEL

Court-Appointed Counsel, this index

INDEX

ARREST

Resistance to arrest, relevancy, § 13:09

ATTORNEYS

Admission to practice, need for, § 1:02

Advertising, § 1:04

Appointed counsel. Court-Appointed Counsel, this index

Attorney-client privilege

Generally, § 23:03

Exceptions, § 23:04

Waiver, § 23:05

Certified law students, § 1:02

Closing argument, attacks on attorneys, § 34:08

Competent counsel, right to, § 1:10

Conflicts of interest, representation of criminal defendant, § 1:10

Consultation with attorneys and others, right to, § 1:15

Continuance, absence of counsel, § 3:03

Court-Appointed Counsel, this index

Courtroom manners, § 1:03

Discipline for improper conduct, § 1:05

General conduct, § 1:03

Good moral character, § 1:03

Indigent representation, § 31:06

Ineffective assistance of counsel, § 1:10

Judge's duty to inform of right to counsel, § 1:11

Liens, attorneys'

Retaining liens, § 1:08

Statutory and equitable liens, § 1:07

Nonresident attorneys, § 1:02

Oath, § 1:03

Officer of court, attorney as, § 1:01

Physicians, ex parte conversations with attorneys, § 23:08

Pro hoc vice representation, § 1:02

Right to counsel. Role of and right to, below

Role of and right to

Generally, §§ 1:01-1:17

Admission to practice, need for, § 1:02

Advertising, § 1:04

Consultation with attorneys and others, right to, § 1:15

Discipline for improper conduct, § 1:05

General conduct, § 1:03

Liens, above

Right to counsel

Generally, § 1:09

Competent counsel, right to, § 1:10

Court-appointed counsel, § 1:17

Informing of right, judge's duty, § 1:11

Validity of waiver, judge's duty to inquire, § 1:14

Waiver of right, §§ 1:12-1:14

Witness' right to counsel, § 1:16

Substitution of counsel, § 1:06

Trial of case, attorney and, § 1:01

Substitution of counsel, § 1:06

Trial of case, attorney and, § 1:01

Waiver of right to counsel

Civil cases, § 1:13

Criminal cases, § 1:12

Validity of waiver, judge's duty to inquire, § 1:14

Witness, attorney as

Trial counsel, competency to testify, § 21:08

Withdrawal from case, § 1:03

Witness' right to counsel, § 1:16

INDEX

ATTORNEYS' FEES

Costs, attorneys' fees as, § 37:07

AUTHENTICATION

Documentary Evidence, this index

AUTOMOBILES

Accidents, expert testimony, § 15:07

Inventory search, § 30:13

Moving radar unit results, admissibility, § 19:17

Passenger's standing to challenge legality of stop, § 30:13

BAILMENT CASES

Burden of proof, § 9:10

BAPTISM

Hearsay evidence, baptismal certificates, § 16:19

BEST EVIDENCE RULE

Documentary Evidence, this index

BIAS

Juror, challenging for cause, §§ 6:13, 6:16

Witnesses, this index

BIBLE

Hearsay evidence, § 16:20

BITE MARK IDENTIFICATION

Generally, § 19:06

BLOOD

Presence of, lay testimony, § 15:02

BLOOD TESTS

Criminal cases, § 19:05

Paternity determinations, § 19:04

BOUNDARIES

Hearsay evidence, §§ 16:27, 16:30

BREATH TESTS

Criminal cases, § 19:05

BURDEN OF PROOF

Generally, §§ 9:01-9:14

Bailment cases, § 9:10

Circumstantial evidence, §§ 9:11, 14:03

Constructive trusts, § 9:08

Contempt of court, § 5:10

Criminal Cases, this index

Damages, § 9:06

Estates, claims against, § 9:07

Fraud cases, § 9:09

Going forward, burden of, § 9:01

Lost profits, § 9:06

Middle burden, § 9:05

Ordinary burden, § 9:05

Party with burden, civil cases, § 9:03

Prima facie case, § 9:02

Quantum of evidence, civil cases, § 9:05

Statutory allocation, § 9:04

Trusts, constructive, § 9:08

Wills, contested, § 9:07

BUSINESS RECORDS

Hearsay exception, § 16:13

INDEX

CAMERAS

Courtroom, cameras in, § 2:12

CHAIN OF CUSTODY

Real and demonstrative evidence, § 19:02

CHARACTER

Hearsay evidence, § 16:28

Impeachment of witnesses, §§ 13:12, 25:10

Relevancy, § 13:12

CHARTS

Closing argument, use in, § 34:04

CHILDREN

Legitimacy, presumption of, § 12:10

Support orders, contempt of court, § 5:07

Victims, this index

CIRCUMSTANTIAL EVIDENCE

Generally, §§ 14:01-14:10

Burden of proof, satisfying, §§ 9:11, 14:03

Direct evidence, vs., § 14:02

Documentary evidence

Circumstantial use, § 19:02

Distinguishing characteristics, § 17:05

Habit, § 14:06

Inferences

Generally, § 14:09

Failure to produce evidence, § 14:10

Parol evidence rule, § 14:08

Res ipsa loquitur, § 14:07

Routine practice, § 14:06

Similar acts or occurrences, § 14:05

State of mind, proof of, § 14:04

CLAIM PRECLUSION

Generally, § 37:01

CLERGY

Privileged communications, § 23:09

CLOSING ARGUMENTS

Generally, §§ 34:01-34:11

Attorneys, attacks on, § 34:08

Charts, use of, § 34:04

Court's affirmative duty to object to improper argument, § 34:09

Criminal cases, rules applicable in, § 34:11

Curing improper argument, § 34:10

Damages, arguing, § 34:07

Financial worth, emphasizing, § 34:05

Improper argument

Curing, § 34:10

Objecting to, § 34:09

Matters not in evidence, commenting on, § 34:06

Objecting to improper argument, § 34:09

Parties, attacks on, § 34:08

Prejudice, appeals to, § 34:05

Right to make, § 34:02

Scope, § 34:03

Sympathy, appeals to, § 34:05

Witnesses, attacks on, § 34:08

COCONSPIRATORS

Admissions by, § 18:08

INDEX

COCONSPIRATORS—Continued

Hearsay evidence, § 16:05

COLLATERAL ESTOPPEL

Generally, §§ 4:12, 37:01

COMMERCIAL PUBLICATIONS

Hearsay evidence, § 16:24

COMPETENCE

Criminal defendant, proof of competence, § 9:13

Witnesses, this index

COMPROMISE OFFERS

Admissions made in connection with compromise negotiations, § 18:09

Relevance, § 13:07

CONDUCT

Admissions by, § 18:10

Attorneys, discipline for improper conduct, § 1:05

Judges, general conduct, § 2:07

Jury, conduct of, § 36:01

Opening statements, improper conduct and prejudice, § 7:05

Parties, conduct at trial, § 2:04

Presumptions relating to, § 12:09

Witness impeachment, specific instances of conduct, § 25:11

CONFESSIONS

Generally, §§ 31:01-31:11

Admissibility, generally, § 31:02

Burden, state's

Voluntariness of confession, § 31:07

Waiver of Miranda rights, § 31:05

Clear articulation rule, § 31:05

Corroboration, § 31:11

Custodial confessions, § 31:05

Deceit, use of, § 31:03

Defined, § 31:01

Detention, length of, prior to confession, § 31:10

Effect of confession, § 31:11

Extra-judicial confessions, § 31:01

Fear, § 31:09

Goodchild hearing, § 31:04

Indigent representation, § 31:06

Inducements, § 31:08

Invocation of rights, scrupulously honoring, § 31:05

Leniency, promise of, § 31:08

Miranda rule, § 31:05

Prosecutor, notice of intention to use, § 31:02

Rescue doctrine, exception to Miranda requirements, § 31:05

Threats, § 31:09

Voluntariness

Generally, § 31:03

Burden of proving, § 31:07

Detention, length of, prior to confession, § 31:10

Goodchild hearing, § 31:04

Hearing on voluntariness, § 31:04

Inducements, § 31:08

Threats and fear, § 31:09

Waiver

Counsel, right to, § 31:06

Miranda rights, state's burden, § 31:05

CONFLICTS OF INTEREST

Representation of criminal defendant, § 1:10

INDEX

CONFRONTATION RIGHTS

Former testimony, use of, § 16:32

CONSCIOUSNESS OF GUILT

Relevancy, § 13:09

CONSENT

Search and Seizure, this index

CONSTITUTIONAL LAW

Confrontation Rights, this index

Double jeopardy, § 32:04

Search and Seizure, this index

Self-Incrimination, this index

CONSTRUCTIVE TRUSTS

Burden of proof, § 9:08

CONTEMPT OF COURT

Generally, §§ 5:01-5:15

Acts constituting contempt

Generally, § 5:04

Disobedience of court orders, § 5:07

Miscellaneous conduct, § 5:06

Particular statutory provisions, § 5:05

Appellate review, standard of review, § 5:09

Burden of proof, § 5:10

Civil contempt, § 5:02

Court orders, disobedience of, § 5:07

Criminal contempt, § 5:02

Defending charges, § 5:11

Direct contempt, § 5:03

Disobedience of court orders, § 5:07

Disrespect to or criticism of judge, § 5:08

Fines, § 5:12

Indemnification, § 5:14

Indictment subsequent to finding of contempt, § 5:15

Indirect contempt, § 5:03

Jurisdiction over contempt proceeding, § 5:08

Power of court to punish for contempt, § 5:01

Proceedings

Generally, § 5:08

Burden of proof, § 5:10

Specific contempt procedures, § 5:09

Punishment

Generally, § 5:12

Court's power to punish, § 5:01

Indemnification, § 5:14

Summary punishment, § 5:13

Purging civil contempt, § 5:07

Specific contempt procedures, § 5:09

Standard of appellate review, § 5:09

Statutory provisions, § 5:05

Summary punishment, § 5:13

Support orders, § 5:07

CONTINUANCES

Generally, §§ 3:01-3:07

Absence as grounds for

Party or counsel, absence due to illness, § 3:03

Witness or document, absence of, § 3:04

Amendment of pleadings, § 3:05

Considerations in ruling on motion, § 3:02

Criminal cases, § 3:01

INDEX

CONTINUANCES—Continued

Grounds for, § 3:01
Schedule conflict, § 3:03
Stay of proceedings distinguished, § 3:07
Surprise, § 3:06

CORPUS DELICTI

Criminal Cases, this index

CORROBORATION

Confessions, § 31:11

COSTS

Generally, § 37:04
Attorneys' fees as costs, § 37:07
Disbursements, allowable, § 37:06
DNA surcharge, § 37:04
Double costs, § 37:04
Frivolous claims or defenses, § 37:04
Items of costs and disbursements, generally, § 37:06
Multiple party actions, § 37:08
Procedure for taxation, § 37:05
Sanctions for failure to comply with discovery orders, § 4:15
Settlements and assessment of costs, § 37:09

COURT-APPOINTED COUNSEL

Generally, § 1:17
Standby counsel, § 1:17
Substitution of counsel, § 1:06

COURTROOM

Cameras, § 2:12
Order in court, judge's duty to preserve, § 2:10
Security, § 2:01

CREDIBILITY

Hearsay declarant, attacking and supporting credibility, § 16:39
Impeachment, this index
Witnesses, credibility of, generally, § 25:01

CRIME VICTIMS

Victims, this index

CRIMINAL CASES

Admissions made in connection with offers to plead, § 18:09
Blood tests, § 19:05
Breath tests, § 19:05
Burden of proof
 Generally, § 9:11
 Corpus delicti, below
Closing arguments, § 34:11
Collateral estoppel, § 37:01
Competence of defendant, proof of, § 9:13
Confessions, this index
Confrontation rights and use of former testimony, § 16:32
Continuances, § 3:01
Corpus delicti
 Generally, § 9:12
 Defendant's burdens, § 9:14
 Proof of particular matters, § 9:13
Counsel. Right to counsel, below
Dismissal, grounds for
 Generally, § 4:19
 Ex post facto law, § 4:20
Double jeopardy, §§ 4:19, 32:04

INDEX

CRIMINAL CASES—Continued

Experts

Generally, § 15:16

Court-appointed, § 15:13

Hearsay evidence, § 16:01

Identification of accused, relevance, § 13:17

Illegally obtained evidence. Search and Seizure, this index

Indigent Defendants, this index

Ineffective assistance of counsel, § 1:10

Informants, this index

Instructions to jury, § 35:07

Intent, proof of, § 9:13

Jury trial, waiver of right, § 6:01

Jury unanimity requirements, § 36:02

Lesser included offenses, § 35:07

Line-up, presence of counsel, § 1:09

Mistrial

Generally, § 32:03

Double jeopardy, § 32:04

Mitigating prejudice with admonition to jury, § 32:05

Motive, proof of, § 9:13

Nolle prosequi, § 4:05

Nonprosecution agreement, breach of, proof, § 9:13

Other crimes, wrongs, or acts, § 13:14

Peremptory challenges, number of, § 6:19

Plea

agreements, § 37:10

withdrawing after verdict, § 33:04

Polling jurors

Generally, § 36:02

Waiver of right, § 36:14

Preliminary hearing, finding of probable cause, § 9:13

Presence of parties at trial, § 2:02

Presumptions

Generally, § 12:13

Innocence, § 12:14

Prior convictions, judicial notice of court's own records, § 35:07

Prior or subsequent occurrences, relevancy, § 13:09

Right to counsel

Generally, § 1:09

Ineffective assistance of counsel, § 1:10

Waiver of, §§ 1:09, 1:12

Search and Seizure, this index

Self-Incrimination, this index

Sentencing, § 36:15

Silence, use for impeachment purposes, § 25:02

Venue, proof of, § 9:13

CROSS-EXAMINATION

Expert witnesses, § 15:15

Witnesses, this index

CUSTODY

What constitutes, for Miranda purposes, § 30:02

DAMAGES

Burden of proof, § 9:06

Closing argument, arguing damages, § 34:07

Excessive or inadequate

Grounds for new trial, § 33:02

Remittitur, § 36:10

Lost profits, § 9:06

Prior injury, relevance to proof of damage, § 13:11

INDEX

DAMAGES—Continued

Punitive damages, § 36:10

Remittitur, § 36:10

DEAD MAN'S STATUTES

Disqualification under Act, generally, § 22:01

Incompetence, application to, § 22:06

Persons disqualified, § 22:02

Purpose of rule, § 22:01

Transactions with deceased agents, § 22:03

Waiver of Act, § 22:04

Wrongful death cases, § 22:05

DEATH

Cause of death, expert testimony, § 15:07

Hearsay, dying declarations, § 16:34

Presumptions relating to life and death, § 12:08

Witness, death of, § 16:31

DECEDENTS' ESTATES

Claims against estate, burden of proof, § 9:07

Declarations of testator, admissibility against personal representative, § 18:06

DECLARATORY JUDGMENTS

Binding effect, § 37:01

DEFAULT JUDGMENTS

Generally, § 4:06

Grounds for taking, § 4:08

Interlocutory judgment, § 4:07

Procedure for taking, § 4:07

Reopening, § 4:09

Vacating, § 4:09

DEMONSTRATIONS

Admissibility, § 19:10

DEMONSTRATIVE EVIDENCE

Real and Demonstrative Evidence, this index

DEPOSITIONS

Cross-examination, use of depositions, § 27:08

Video deposition strategy, § 19:14

DIRECT EXAMINATION

Witnesses, this index

DIRECTED VERDICT

Generally, § 33:01

Opening statement, directed verdict based on, § 7:08

Standard of review, § 4:10

DISCOVERY

Dismissal for failure to make, § 4:18

Motions to compel, § 4:15

DISCRIMINATION

Jury selection, discrimination in, § 6:07

DISMISSAL

Civil procedure rules, failure to comply with, § 4:17

Criminal cases, grounds for dismissal, §§ 4:19, 4:20

Discovery, dismissal for failure to make, § 4:18

Failure to prosecute, § 4:17

Failure to state claim, § 4:13

Groundless, vexatious, and harassing litigation, § 4:18

Involuntary dismissal, generally, § 4:10

INDEX

DISMISSAL—Continued

- Jurisdiction, lack of
 - Generally, § 4:11
 - Issue preclusion, § 4:12
- Miscellaneous grounds, § 4:18
- Multiple parties and claims, actions involving, § 4:03
- Nolle prosequi, § 4:05
- Obey court, failure to, § 4:17
- Opening statement, dismissal based on, § 7:08
- Prosecute, failure to, § 4:17
- Reopening dismissed case, § 4:21
- Voluntary dismissal
 - Generally, § 4:02
 - Considerations in ruling on motions, § 4:04
 - Multiple parties and claims, actions involving, § 4:03

DNA TESTS

- Generally, § 19:07
- DNA bank, funding, § 37:04

DOCUMENTARY EVIDENCE

- Generally, §§ 17:01-17:19
- Admissibility
 - Authenticated documents, § 17:11
 - Duplicates, § 17:13
 - Fact summaries, § 17:15
 - Secondary evidence, § 17:17
- Ancient documents, authentication, § 17:07
- Authentication
 - Generally, § 17:02
 - Admissibility of authenticated documents, § 17:11
 - Ancient documents, § 17:07
 - Author's handwriting, comparisons of, § 17:04
 - Avoiding proof of authenticity, § 17:10
 - Circumstantial evidence, distinguishing characteristics, § 17:05
 - Direct authentication, § 17:03
 - Evidence produced by process or system, § 17:08
 - Firsthand knowledge and authentication, § 26:04
 - Methods
 - Generally, §§ 17:03-17:05
 - Author's handwriting, comparisons of, § 17:04
 - Circumstantial evidence, distinguishing characteristics, § 17:05
 - Direct, § 17:03
 - Public records and reports, § 17:06
 - Self-authenticating documents, § 17:09
- Author's handwriting, comparisons of, § 17:04
- Best evidence rule
 - Generally, § 17:12
 - Avoidance of, § 17:16
 - Duplicates, admissibility of, § 17:13
 - Summaries, use of, § 17:14
- Circumstantial evidence, distinguishing characteristics, § 17:05
- Direct authentication, § 17:03
- Duplicates, admissibility of, § 17:13
- Offering documents in evidence, procedure for, § 17:19
- Opening statement, references to documents, § 7:04
- Process or system, evidence produced by, authentication, § 17:08
- Proof of authenticity, avoiding, § 17:10
- Public records and reports, authentication, § 17:06
- Secondary evidence
 - Admissibility, § 17:17
 - Collateral issue, document related to, § 17:18
- Self-authenticating documents, § 17:09

INDEX

DOCUMENTARY EVIDENCE—Continued

Summaries

- Best evidence rule and use of, § 17:14
- Fact summaries, admissibility, § 17:15

DOCUMENTS

- Continuance, absence of document, § 3:04
- Hearsay Evidence, this index

DOUBLE JEOPARDY

- Generally, § 4:19
- Mistrial, § 32:04

DRAWINGS, DIAGRAMS, AND DISPLAYS

- Admissibility, § 19:09

DRIVING WHILE INTOXICATED

- OWI-BAC, this index

DUPLICATES

- Admissibility of, § 17:13

EMINENT DOMAIN

- Comparable sales, relevancy, § 13:10

EVIDENCE

Admissibility

- Real and Demonstrative Evidence, this index
- Restricting use of admitted evidence, § 2:16
- Ruling on, § 2:15

Admissions, this index

Best evidence rule. Documentary Evidence, this index

Burden of Proof, this index

Circumstantial Evidence, this index

Closing argument, commenting on matters not in evidence, § 34:06

Dead Man's Statutes, this index

Documentary Evidence, this index

Exclusion of evidence

- On court's own motion, § 2:17
- Search and Seizure, this index

Hearsay Evidence, this index

Illegally obtained evidence. Search and Seizure, this index

Improper evidence

- Exclusion on court's own motion, § 2:17
- Search and Seizure, this index

Inferences from failure to produce, § 14:10

Instructions to jury, relating to evidence, § 35:06

Judicial Notice, this index

Negative evidence, relevance, § 13:15

New trial, newly discovered evidence, § 33:03

Objections to evidence. Trial, this index

Opinion Evidence and Expert Testimony, this index

Order of Proof, this index

Parol evidence rule, § 14:08

Presumptions, this index

Privileged Communications, this index

Proof of Facts, this index

Real and Demonstrative Evidence, this index

Rebuttal evidence. Order of Proof, this index

Relevancy, this index

Res gestae, § 16:09

Restricting use of admitted evidence, § 2:16

Similar Acts or Occurrences, this index

Suppression of evidence. Search and Seizure, this index

INDEX

EX POST FACTO LAWS

Criminal cases, grounds for dismissal, § 4:20

EXCITED UTTERANCES

Hearsay Evidence, this index, § 1

EXCLUSION

Improper evidence

Exclusion on court's own motion, § 2:17

Search and Seizure, this index

Relevant evidence, exclusion of, § 13:05

Trial, exclusion of public, § 2:11

EXEMPTIONS

Jury service, exemptions from, § 6:05

EXPERIMENTS

Admissibility, § 19:10

EXPERT TESTIMONY

Opinion Evidence and Expert Testimony, this index

FACTS

Opinion Testimony and Expert Testimony, this index

Presumptions relating to knowledge of facts, § 12:07

Proof of Facts, this index

Summaries of fact, admissibility, § 17:15

FAILURE TO STATE CLAIM

Generally, § 4:13

FAMILY RECORDS

Hearsay Evidence, this index

FINDINGS OF FACT

Bench trials, § 2:22

FINES

Contempt of court, § 5:12

FINGERPRINTS

Expert testimony, § 15:07

FLIGHT

Inferring culpability, § 18:10

Investigative stop without warrant, justification for, § 30:02

Relevancy of evidence of flight, § 13:09

FOREIGN LAW

Presumptions relating to, § 12:06

FRAUD CASES

Burden of proof, § 9:09

Intent to defraud

Circumstantial evidence, § 14:04

Inferring, § 12:13

FRIVOLOUS CLAIMS OR DEFENSES

Attorneys' fees, § 37:07

Costs, § 37:04

GEOGRAPHICAL BOUNDARIES

Judicial notice, § 11:04

HABIT

Circumstantial evidence, § 14:06

Relevancy, § 13:13

Index-12

INDEX

HANDWRITING

Lay testimony, § 15:02

HEARSAY EVIDENCE

Generally, §§ 16:01-16:39
Agent or servant, statements of, § 16:05
Ancient documents, statements in, § 16:23
Assertions, § 16:03
Baptismal certificates, § 16:19
Bible, § 16:20
Boundaries or general history, §§ 16:27, 16:30
Business records, § 16:13
Character, § 16:28
Coconspirators' statements, § 16:05
Commercial publications, § 16:24
Credibility of declarant, attacking and supporting, § 16:39
Criminal cases, § 16:01
Death of witness, § 16:31
Declarant, defined, § 16:03
Definitions, § 16:03
Documents
 Ancient documents, § 16:23
 Interest in property, documents affecting, §§ 16:21, 16:22
Dying declarations, § 16:34
Excited utterances
 Generally, § 16:08
 Present sense impression distinguished, § 16:09
Expert testimony, § 15:10
Family history. Personal or family history, below
Family records, § 16:20
Firsthand knowledge and hearsay, § 26:03
Former testimony, § 16:31
General history, §§ 16:27, 16:30
Hearsay within hearsay, § 16:37
Hospital records, § 16:13
Interest, statement against, § 16:35
Interest in property. Property, interest in, below
Judgments
 Personal, family, or general history, or boundaries, § 16:30
 Previous conviction, § 16:29
Learned treatises, § 16:25
Market quotations, § 16:24
Marriage certificates, § 16:19
Medical diagnosis or treatment, statements made for purpose of, § 16:11
Nontestimonial statements, § 16:33
Nonverbal assertions, § 16:03
Other exceptions, § 16:38
Out-of-court statements
 Non-hearsay statements, § 16:05
 Oral statements as exceptions to rule, §§ 16:06-16:08
Personal or family history
 Judgments as to, § 16:30
 Reputation, § 16:26
 Statements as to, § 16:36
Present sense impressions
 Generally, § 16:07
 Excited utterance distinguished, § 16:09
Previous conviction, judgments of, § 16:29
Prior consistent statements, § 16:05
Property, interest in
 Records or documents affecting, § 16:21
 Statements in records or documents affecting interest in property, § 16:22
Public records and reports

INDEX

HEARSAY EVIDENCE—Continued

Public records and reports—Continued

Generally, § 16:15

Absence of public record or entry, § 16:17

Rationale of hearsay exclusion, § 16:02

Recent perception, § 16:33

Recorded recollection, § 16:12

Records and reports

Ancient documents, statements in, § 16:23

Family records, § 16:20

Hospital records, § 16:13

Marriage, baptismal, and similar certificates, § 16:19

Property, interest in, above

Public records and reports, §§ 16:15, 16:17

Regularly conducted activity

Generally, § 16:13

Absence of entry, § 16:14

Religious organizations, records of, § 16:18

Summaries, § 16:13

Vital statistics, § 16:16

Regularly conducted activity. Records and reports, above

Religious organizations, records of, § 16:18

Reputation

Generally, §§ 16:26-16:28

Boundaries or general history, § 16:27

Character, § 16:28

Personal or family history, § 16:26

Res gestae evidence, § 16:09

State of mind, then existing, § 16:10

Statements

Ancient documents, statements in, § 16:23

Defined, § 16:03

Dying declarations, § 16:34

Against interest, § 16:35

Medical diagnosis or treatment, § 16:11

Out-of-court statements, above

Recent perception, § 16:33

Records or documents affecting interest in property, statements in, § 16:22

Summaries, § 16:13

Textbooks, § 16:25

Treatises, learned, § 16:25

Truth of matter asserted, § 16:04

Unavailability, generally, § 16:31

Vital statistics, records of, § 16:16

HONESTY-TESTING DEVICES

Communications made during examination using, privileged, § 23:13

HOSPITAL RECORDS

Hearsay evidence, § 16:13

HOT PURSUIT

Search of suspect, § 30:05

HUSBAND AND WIFE

Privileged communications, § 23:02

HYPNOSIS

Refreshing witness's memory, § 26:09

IDENTIFICATION

Accused, identification of, relevance, § 13:17

Bite mark identification, § 19:06

Lay testimony, § 15:02

INDEX

IDENTIFICATION—Continued

Privileged communications, identity of informers, § 23:17

IMMUNITY

Compelling incriminating testimony, § 24:08

IMPEACHMENT

Verdict, impeaching, § 36:13

Witnesses, this index

IMPLEADER

Rebuttal evidence against impleading defendant, § 8:03

IN LIMINE MOTIONS

Generally, § 4:16

Relevance, § 13:16

INCOMPETENCE

Dead man's statute, applicability, § 22:06

INDEMNIFICATION

Contempt of court, § 5:14

INDICTMENT AND INFORMATION

Contempt of court, Indictment subsequent to finding of contempt, § 5:15

INDIGENT DEFENDANTS

Confessions and indigent representation, § 31:06

Court-appointed counsel, §§ 1:09, 1:17

Proof of indigence, § 9:13

Public defender, representation by, § 1:17

INFERENCES

Adverse inferences. Self-Incrimination, this index

Circumstantial evidence

Generally, § 14:09

Failure to produce evidence, inferences from, § 14:10

Intent, inferring from conduct, § 12:13

Presumptions distinguished, § 12:02

INFORMANTS

Identity of

Privilege, § 23:17

Proof, § 9:13

Search warrant, use of informants, § 30:08

INNOCENCE

Presumption of, § 12:14

INSTRUCTIONS TO JURY

Generally, §§ 35:01-35:07

Admissions, instructions relating to, § 18:12

Criminal cases, rules applicable in, § 35:07

Discretion of trial court, § 35:01

Evidence, relating instructions to, § 35:06

Form and content, § 35:03

Objections, § 35:05

Prejudicial error, § 35:01

Presumptions relating to, § 12:15

Requesting, § 35:04

Special verdicts. Verdict of Jury, this index

Submitting, § 35:04

Timing of instructing jury, § 35:02

View, § 20:04

INSURANCE COMPANIES

Voir dire, questions about, § 6:12

INDEX

INTENT

Criminal cases, proof of intent, § 9:13
Inferring intent from conduct, § 12:13

INTEREST

Prejudgment and postjudgment, § 37:04

INTERPRETERS

Competent interpreter, right to, § 2:01
Privileged communications, interpreters assisting language, speaking or hearing-impaired,
§ 23:14

INTERROGATORIES

Admission of facts in answers, § 10:02

INTOXICATION

Expert and lay testimony, §§ 15:02, 15:07
OWI-BAC, this index

ISSUE PRECLUSION

Generally, §§ 4:12, 37:01

JOURNALISTS

Sources, disclosure of, § 23:12

JUDGES

Competency to testify, § 21:06
Contempt of Court, this index
Counsel, right to, judge's duties
 Informing of right, § 1:11
 Validity of waiver, inquiry re, § 1:14
Judicial Notice, this index
Recusal of judge, § 2:08
Trial, this index
View, this index

JUDGMENT NOTWITHSTANDING VERDICT

Motion for, § 33:01

JUDGMENTS

 Generally, §§ 37:01-37:09
Costs, this index
Declaratory judgment, § 37:01
Default judgments, this index
Finality, § 37:01
Hearsay Evidence, this index
Interlocutory judgment, § 37:02
Plea agreements, § 37:10
Prejudgment interest and double costs, § 37:04
Procedural aspects of taking judgment, § 37:03
Res judicata, § 37:01

JUDICIAL NOTICE

 Generally, §§ 11:01-11:06
Adjudicative facts, § 11:01
Examples
 Facts judicially noticed, § 11:05
 Facts refused judicial notice, § 11:06
Geographical boundaries, § 11:04
Government and political subdivisions, facts about, § 11:04
Hearing, § 11:02
Laws and proceedings, § 11:03
Legislative facts, § 11:01
Prior convictions, judicial notice of court's own records, § 11:03
Procedural aspects, § 11:02
Proof of judicially noticed facts excused at trial, § 10:01

INDEX

JUDICIAL NOTICE—Continued

Refusal of judicial notice, examples, § 11:06
Scientific facts in dispute, § 11:06
Sua sponte taking, § 11:02

JURISDICTION

Contempt proceeding, jurisdiction over, § 5:08
Issue preclusion, § 4:12
Lack of, § 4:11

JURY AND JURORS

Generally, §§ 6:01-6:22
Additional jurors, selection of, § 6:21
Array, challenge to, § 6:06
Cause, challenges for
 Generally, § 6:13
 Grounds, § 6:16
 Motions re strikes for cause, §§ 6:14, 6:15
 Timeliness, § 6:17
Challenges
 Array, challenge to, § 6:06
 Cause, challenges for, above
 Peremptory challenges, below
Competency to testify
 Generally, § 21:07
 Impeaching verdict, § 36:13
Conduct of jury, generally, § 36:01
Discharge of juror, § 6:22
Discrimination in jury selection, § 6:07
Disqualification to serve, burden of proving, § 6:04
Exemptions from jury service, § 6:05
Impartial jury, right to trial by, § 6:01
Instructions to Jury, this index
Motions
 Questionnaire, sample motion, § 6:11
 Strikes for cause, sample motion and memorandum, § 6:15
Objections to jury, timely, § 6:03
Peremptory challenges, number of
 Adverse interests, defendants having, § 6:18
 Civil cases, § 6:18
 Criminal cases, § 6:19
Personal injuries, displaying to jury, § 19:03
Polling jury
 Generally, § 36:14
 Criminal cases, § 36:02
Qualifications of jurors, § 6:04
Questionnaires
 Generally, § 6:10
 Sample motion and jury questionnaire, § 6:11
Right to trial by jury, § 6:01
Selection of
 Generally, §§ 6:01-6:22
 Additional jurors, selection of, § 6:21
 Array, challenges to, § 6:06
 Challenges, above
 Discharge of juror, § 6:22
 Discrimination in jury selection, § 6:07
 Exemptions from jury service, § 6:05
 Method of selecting, § 6:02
 Qualifications of jurors, § 6:04
 Swearing of jury, § 6:20
 Timely objections to jury, § 6:03
 Voir dire, below

INDEX

JURY AND JURORS—Continued

- Summoning, method of, § 6:02
- Swearing of jury, § 6:20
- Systematic exclusion of group, § 6:07
- Verdict of Jury, this index
- View, this index
- Voir dire
 - Conduct of, § 6:08
 - Insurance companies, questions about, § 6:12
 - Questions
 - Generally, § 6:09
 - Insurance companies, questions about, § 6:12
 - Questionnaires, §§ 6:10, 6:11
- Waiver of right to jury trial, § 6:01

LAW STUDENTS

- Certified law students, § 1:02

LEGITIMACY

- Presumption of legitimacy, § 12:10

LEGITIMATE TENDENCY TEST

- Similar crime evidence, § 13:14

LEMON LAW

- Attorneys' fees, § 37:07

LIE DETECTOR TESTS

- Communications made during examination, privileged, § 23:13

LIENS

- Attorneys' liens. Attorneys, this index

LINE-UP

- Admissibility of identification evidence, § 13:17
- Presence of counsel, § 1:09

LODESTAR

- Attorneys' fees, calculation of, § 37:07

LOST PROFITS

- Burden of proof, § 9:06

MAIL

- Presumption of receipt, § 12:12

MAPS

- Admissibility, § 19:09

MARKET QUOTATIONS

- Hearsay evidence, § 16:24

MARRIAGE

- Hearsay evidence, marriage certificates, § 16:19
- Privileged communications, § 23:02
- Validity, presumptions relating to, § 12:10

MATERIALITY

- Relevancy distinguished, § 13:02

MEDIA COORDINATOR

- Generally, § 2:12

MEDICAL DIAGNOSIS OR TREATMENT

- Expert testimony, § 15:07
- Hearsay evidence, statements made for purpose of, § 16:11

INDEX

MEDICAL MALPRACTICE

Res ipsa loquitur, § 14:07

MEDICAL RECORDS

In camera review, § 23:06

Hearsay, hospital records, § 16:13

MENTAL CONDITION

Expert and lay testimony, §§ 15:02, 15:07

Witness, mentally impaired, § 21:02

MIRANDA RULE

Custodial confessions, § 31:05

MISREPRESENTATION

Prior similar misrepresentations, relevance, § 13:10

MISSING PERSONS

Presumption of death, § 12:08

MISTRIAL

Generally, §§ 32:01-32:05

Criminal Cases, this index

Grounds for

Generally, § 32:01

Specific grounds, § 32:03

Mitigating prejudice to avoid mistrial, § 32:05

Result when mistrial is granted, § 32:04

Timing of motion, § 32:02

MOTION PICTURES

Admissibility, § 19:12

MOTIONS

Continuances, this index

Directed verdict, § 33:01

Discovery, motions to compel, § 4:15

Dismissal, this index

Frivolous motions, award of attorneys' fees, § 37:07

Inadmissible evidence, motion to strike, § 29:05

Judgment notwithstanding verdict, § 33:01

Jury and Jurors, this index

In Limine Motions, this index

Mistrial, this index

New Trial, this index

Suppression of evidence. Search and Seizure, this index

Verdict, motions after, §§ 33:01-33:05

MOTIVE

Criminal cases, proof of motive, § 9:13

MOTOR VEHICLES

Automobiles, this index

NEGLIGENCE

Expert testimony, § 15:07

NEGOTIATIONS

Relevance, § 13:07

NEW TRIAL

Grounds for

Generally, § 33:02

Newly discovered evidence, § 33:03

Newly discovered evidence, § 33:03

Review of order for new trial, § 33:05

INDEX

NEWS SOURCES

Disclosure of, § 23:12

NOLLE PROSEQUI

Generally, § 4:05

OATH OR AFFIRMATION

Attorneys' oath, § 1:03

Witnesses, § 21:03

OBJECTIONS

Closing arguments, objecting to Improper argument, § 34:09

Evidence, objections to. Trial, this index

Instructions to jury, § 35:05

Irrelevant evidence, objections to, § 13:04

Juror, objection to, timely, § 6:03

Opening statements, objections and waiver, § 7:07

Witness, objection to competency, § 21:04

OFFER OF PROOF

Generally, § 29:07

OPENING STATEMENTS

Generally, §§ 7:01-7:10

Argument to jury distinguished, § 7:04

Content, § 7:04

Directed verdict based on, § 7:08

Dismissal based on, § 7:08

Improper conduct and prejudice, § 7:05

Objections and waiver, § 7:07

Order of presentation, § 7:03

Prejudice, improper conduct and, § 7:05

Right to make, § 7:02

Sample opening, § 7:10

Scope, § 7:04

Strategy, § 7:09

Visual aids, use of, § 7:06

OPINION EVIDENCE AND EXPERT TESTIMONY

Generally, §§ 15:01-15:15

Automobile accidents, § 15:07

Basis of opinion testimony by experts, § 15:08

Blood, presence of, § 15:02

Bodily appearance or condition, § 15:02

Cause and effect, § 15:07

Collective facts, § 15:02

Competence in field, § 15:09

Court-appointed experts, § 15:13

Criminal trials, § 15:16

Criteria for admission of expert testimony, § 15:04

Cross-examination of expert witnesses, §§ 15:15, 27:10

Death, cause of, § 15:07

Direct examination, documents used by experts, § 26:10

Disclosure of facts underlying expert's opinion, § 15:11

Discretion of trial court, §§ 15:04, 15:05

Distinction between opinion and fact, § 15:01

Drunkenness, §§ 15:02, 15:07

Experience in field, § 15:09

Facts

Disclosure of facts underlying expert's opinion, § 15:11

Distinction between opinion and fact, § 15:01

Undisputed facts, § 15:10

Fingerprints, § 15:07

Firsthand knowledge, § 15:10

INDEX

OPINION EVIDENCE AND EXPERT TESTIMONY—Continued

- Handwriting, lay witnesses, § 15:02
- Hearsay, § 15:10
- Identification, § 15:02
- Lay expert witnesses, § 15:06
- Lay witnesses, opinion testimony by, § 15:02
- Medical records and reports, reliance on, § 15:10
- Mental condition, §§ 15:02, 15:07
- Negligence, § 15:07
- Other experts, basing opinion on, § 15:10
- Pain and suffering, §§ 15:02, 15:07
- Personal examination of victim, § 15:10
- Personal injuries, § 15:07
- Personal property, value of, § 15:02
- Qualification of experts, § 15:05
- Real property, value of, § 15:02
- Reports by experts, reading into evidence, § 15:12
- Sexual assault, § 15:07
- Skilled witness and expert, distinction between, § 15:06
- Speed, § 15:02
- Subject matter, § 15:07
- Testimony by experts
 - Generally, § 15:04
 - Basis of opinion testimony by experts, § 15:08
 - Cross-examination, § 15:15
 - Direct examination, documents used by experts, § 26:10
 - Subject matter, § 15:07
 - Weight and sufficiency, § 15:14
- Textbooks, § 15:10
- Ultimate issue, opinion testimony on, § 15:03
- Undisputed facts, § 15:10
- Weight and sufficiency of expert testimony, § 15:14
- Witness credibility, § 15:07
- Written instrument, construction of, § 15:07

ORDER OF PROOF

- Generally, §§ 8:01-8:05
- Evidence in chief, § 8:02
- Rebuttal evidence
 - Generally, § 8:03
 - Admitting rebuttal evidence in case in chief, § 8:04
- Reopening evidence, § 8:05

ORDERS

- Pretrial orders, § 2:19

OTHER CRIMES, WRONGS, OR ACTS

- Prior convictions. Witnesses, this index
- Relevancy, § 13:14

OWI-BAC

- Blood and breath tests, § 19:05
- Informed consent statute, § 30:03

PAIN AND SUFFERING

- Expert and lay testimony, §§ 15:02, 15:07

PAROL EVIDENCE RULE

- Generally, § 14:08
- Prior convictions, § 25:14

PARTIES

- Closing arguments, attacks on parties, § 34:08
- Continuance, absence of party, § 3:03
- Trial, this index

INDEX

PARTNERSHIPS

Admissions of partners against copartners, §§ 18:06, 18:07

PASSENGERS

Standing to challenge legality of vehicle stop, § 30:13

PATERNITY

Blood tests to determine, § 19:04

Circumstantial evidence, § 14:03

Presumptions, § 12:10

PEREMPTORY CHALLENGES

Jury and Jurors, this index

PERSONAL INJURIES

Displaying to jury, § 19:03

Expert testimony, § 15:07

PERSONAL PROPERTY

Value of, lay testimony, § 15:02

PHOTO ARRAY

Relevancy, § 13:17

PHOTOGRAPHIC EVIDENCE

Admissibility, § 19:11

Laying foundation, § 19:18

Use of, § 19:19

PHYSICAL EXAMINATION

Witness, physical examination of witness and privilege against self-incrimination, § 24:07

PHYSICIAN-PATIENT PRIVILEGE

Generally, § 23:06

Ex parte conversations with attorney, § 23:08

Exceptions, § 23:07

Waiver, § 23:08

PLAIN VIEW DOCTRINE

Illegally obtained evidence, § 30:04

PLEA

Agreements, § 37:10

Withdrawal after verdict, § 33:04

PLEADINGS

Continuance, amendment of pleadings as grounds for, § 3:05

Proof of facts, averments not denied in responsive pleading, § 10:02

POLICE OFFICERS

Self-protective searches, § 30:02

POLITICAL SUBDIVISIONS

Judicial notice, facts about, § 11:04

POLLING JURY

Jury and Jurors, this index

POLYGRAPH EXAMINATIONS

Privileged communications, § 23:13

PRELIMINARY HEARING

Probable cause, finding of, § 9:13

PREPAYMENTS

Relevance, § 13:07

PRESENT SENSE IMPRESSIONS

Hearsay Evidence, this index

INDEX

PRESUMPTIONS

- Generally, §§ 12:01-12:15
- Conclusive presumptions, § 12:04
- Condition, continuation of, § 12:11
- Conduct, relating to, § 12:09
- Conflicting presumptions, § 12:03
- Criminal cases, §§ 12:13, 12:14
- Death, presumption of, § 12:08
- Facts, relating to knowledge of, § 12:07
- Foreign law, relating to, § 12:05
- Inferences distinguished, § 12:02
- Instructions relating to, § 12:15
- Knowledge of law, relating to, § 12:05
- Life and death, relating to, § 12:08
- Marriage, relating to, § 12:10
- Miscellaneous, § 12:12

PRETRIAL CONFERENCE

- Generally, § 2:19

PRETRIAL ORDERS

- Control of proceedings, § 2:19
- Scope of proof required, § 10:02

PRIMA FACIE CASE

- Burden of proof, § 9:02

PRIOR CONVICTIONS

- Admissibility, probative value vs. prejudicial effect, § 25:15
- Other crimes, wrongs, or acts, § 13:14
- Witnesses, this index

PRIOR INCONSISTENT STATEMENTS

- Witnesses, this index

PRIOR INJURY

- Proof of damage, relevance of prior injury, § 13:11

PRIVACY

- Legitimate expectation of privacy, §§ 30:05, 30:14

PRIVILEGE AGAINST SELF-INCRIMINATION

- Self-Incrimination, this index

PRIVILEGED COMMUNICATIONS

- Generally, §§ 23:01-23:18
- Attorney-client privilege. Attorneys, this index
- Clergy, communications with, § 23:09
- Crime victim compensation proceedings, § 23:15
- Husband-wife privilege, § 23:02
- Informer's privilege, § 23:17
- Interpreters assisting language, speaking or hearing-impaired, § 23:14
- Journalists, § 23:12
- Medical records, in camera review, § 23:06
- Physician-Patient Privilege, this index
- Reports and records, § 23:11
- School psychologists and deans, § 23:10
- Trade secrets, § 23:16
- Votes in political election, § 23:11
- Witnesses, concern for safety of, § 23:18

PRO HOC VICE

- Out-of-state attorneys, § 1:02

PROBABLE CAUSE

- Search warrant, probable cause showing as basis for issuance, § 30:07

INDEX

PROBATION

Right to counsel, probation proceedings, § 1:09
Search of probationer's dwelling, § 30:05

PRODUCTS LIABILITY

Similar accidents or injuries, relevance, § 13:11
Subsequent remedial changes, § 13:08
Verdict, form of, § 36:04

PROOF OF FACTS

Generally, §§ 10:01-10:05
Admission of facts in answers to interrogatories, § 10:02
Averments not denied in responsive pleading, § 10:02
Excusing proof before trial, § 10:02
Judicially noticed facts, § 10:01
Pretrial order, limiting scope of proof required, § 10:02
Request for admissions, § 10:02
Simplifying proofs, § 10:05
Stipulations
 Construction and enforcement, § 10:04
 Relief from stipulation, § 10:04
 Use to excuse proof, § 10:03

PROPERTY

Hearsay Evidence, this index

PSYCHOLOGISTS

Privileged communications, school psychologists, § 23:10

PUBLIC DEFENDER

Representation by, § 1:17

PUBLIC RECORDS AND REPORTS

Authentication, § 17:06
Hearsay evidence, §§ 16:15, 16:17

PUBLICITY

Trial, publicity before and during, § 2:12

PUNITIVE DAMAGES

Excessive, § 36:10

QUALIFICATIONS

Experts, § 15:05
Jurors, § 6:04

QUESTIONNAIRES

Jury and Jurors, this index

RADAR

Moving radar unit results, admissibility, § 19:17

RAPE

Complainant's prior sexual conduct, § 13:09
Shield statute, §§ 13:09, 25:12

REAL AND DEMONSTRATIVE EVIDENCE

Generally, §§ 19:01-19:19
Admissibility
 Generally, §§ 19:04-19:17
 Bite mark identification, § 19:06
 Blood tests, below
 Breath tests in criminal cases, § 19:05
 Demonstrations and experiments, § 19:10
 DNA tests, § 19:07
 Maps, drawings, diagrams, and displays, § 19:09
 Motion pictures and video tapes, below

INDEX

REAL AND DEMONSTRATIVE EVIDENCE—Continued

Admissibility—Continued

- Moving radar unit results, § 19:17
- Objects and articles, § 19:08
- Photographs, § 19:11
- Sound recordings, § 19:16
- X-rays, § 19:15
- Authenticity, prima facie showing, § 19:02
- Bite mark identification, § 19:06
- Blood tests
 - Criminal cases, § 19:05
 - Paternity determinations, § 19:04
- Breath tests in criminal cases, § 19:05
- Chain of custody, § 19:02
- Circumstantial use, § 19:02
- Demonstrations, admissibility, § 19:10
- DNA tests, § 19:07
- Drawings, diagrams and displays, admissibility, § 19:09
- Exciting sympathy or arousing improper prejudice, § 19:08
- Experiments, admissibility, § 19:10
- Laying foundation
 - Generally, § 19:02
 - Photographic evidence, § 19:18
- Maps, admissibility, § 19:09
- Motion pictures and video tape
 - Generally, § 19:12
 - Use of video tape, § 19:13
 - Video deposition strategy, § 19:14
- Objects and articles, § 19:08
- Paternity determinations, blood tests, § 19:04
- Personal injuries, displaying to jury, § 19:03
- Photographic evidence
 - Admissibility, § 19:11
 - Laying foundation, § 19:18
 - Use of, § 19:19
- Video tapes. Motion pictures and video tape, above

REAL ESTATE SALES

- Comparable sales, relevancy, § 13:10

REAL PROPERTY

- Value of, lay testimony, § 15:02

REBUTTAL EVIDENCE

- Order of Proof, this index

RECORDED RECOLLECTION

- Hearsay evidence, § 16:12

RECORDS AND REPORTS

- Absence of entry, records of regularly conducted activity
 - Hearsay evidence, § 16:14
 - Negative evidence, § 13:15
 - Public records, § 16:17
- Experts, reports by, reading into evidence, § 15:12
- Hearsay Evidence, this index
- Privileged records and reports
 - Generally, § 23:11
 - Self-incrimination, privilege against, § 24:03

RECUSAL

- Judge, recusal of, § 2:08

REDIRECT EXAMINATION

- Witnesses, this index

INDEX

REFRESHED RECOLLECTION

Witnesses, this index

RELEVANCY

Generally, §§ 13:01-13:17
Accused, identification of, § 13:17
Advance payments, § 13:07
Character, § 13:12
Compromise offers, § 13:07
Confusing or misleading evidence, § 13:05
Consciousness of guilt, § 13:09
Criminal cases, prior or subsequent occurrences, § 13:09
Cumulative witnesses, limitation of number of, § 13:06
Eminent domain, evidence of comparable land sales, § 13:10
Exclusion of relevant evidence, § 13:05
Fact, relevancy conditioned on, § 13:03
Habit, § 13:13
Identification of accused, § 13:17
Irrelevant evidence, objections to, § 13:04
Legitimate tendency test, similar crime evidence, § 13:14
Materiality distinguished, § 13:02
Motions in limine, § 13:16
Negative evidence, § 13:15
Negotiations, § 13:07
Objections to irrelevant evidence, § 13:04
Other crimes, wrongs, or acts, § 13:14
Photo array, § 13:16
Prejudice, unfair, § 13:05
Prepayments, § 13:07
Previous claims and similar suits, § 13:10
Prior injury, relevance to proof of damage, § 13:11
Probative value vs. prejudicial effect, §§ 13:05, 13:14
Rape, complainant's prior sexual conduct, § 13:09
Remoteness, § 13:01
Routine practice, § 13:13
Sales of comparable real estate, § 13:10
Similar acts and occurrences, § 13:10
Subsequent remedial measures and changes, § 13:08

RELIGIOUS ORGANIZATIONS

Records of, hearsay evidence, § 16:18

REMEDIAL MEASURES

Relevance, subsequent remedial measures and changes, § 13:08

REMITTITUR

Excessive damages, § 36:10

REMOTENESS

Relevancy, § 13:01

REPORTS

Records and Reports, this index

REPUTATION

Hearsay Evidence, this index
Impeachment of witnesses, § 25:10

RES GESTAE EVIDENCE

Generally, § 16:09

RES JUDICATA

Generally, § 37:01

RESISTING ARREST

Relevancy, § 13:09

INDEX

RIGHT TO COUNSEL

Attorneys, this index

ROUTINE PRACTICE

Circumstantial evidence, § 14:06

Relevancy, § 13:13

SAFE-PLACE LAW

Subsequent remedial measures, evidence of, § 13:08

SANCTIONS

Discovery order, failure to comply with, §§ 4:15, 4:18

SCHOOLS

Privileged communications, school psychologists and deans, § 23:10

SEARCH AND SEIZURE

Generally, §§ 30:01-30:16

Anonymous tips, corroboration, § 30:02

Anticipatory warrants, § 30:06

Appeals, § 30:09

Attenuation theory, § 30:05

Automobiles, inventory search, § 30:13

Civil cases, § 30:01

Consent

Generally, § 30:03

Proof of, § 9:13

Cordless telephone conversations, § 30:05

Custody for Miranda purposes, what constitutes, § 30:02

Emergency rule exception to warrant requirement, § 30:05

Execution of search warrant, § 30:15

Exigent circumstances, § 30:05

Granting motion to suppress, effect of, § 30:10

Hot pursuit, § 30:05

Illegally obtained evidence

Generally, § 30:01

Standing, § 30:14

Use of, § 30:10

Implied consent, § 30:03

Inevitable discovery rule, § 30:01

Informants, use of, and issuance of search warrant, § 30:08

Instrumentalities of crime, limited search for, § 30:02

Investigative stops, § 30:02

Joint control over premises, § 30:03

Motion to suppress

Generally, § 30:12

Granting motion, effect of, § 30:10

Motor vehicles, inventory search, § 30:13

No knock entry, §§ 30:05, 30:15

No knock search warrants, § 30:06

Physical proximity test, § 30:15

Plain view doctrine, § 30:04

Privacy, legitimate expectation, §§ 30:05, 30:14

Private persons, evidence obtained by, § 30:01

Probable cause showing as basis for issuance of search warrant, § 30:07

Probation search, § 30:05

Procedural aspects, issuance of warrant, § 30:16

Render safe doctrine, § 30:05

Ruse entry in execution of warrant, § 30:15

Scope of inquiry where issuance of warrant is challenged, § 30:11

Search warrants

Generally, § 30:06

Anticipatory warrants, § 30:06

Execution of, § 30:15

INDEX

SEARCH AND SEIZURE—Continued

Search warrants—Continued

- Informants, use of, and issuance, § 30:08
- Probable cause showing as basis for issuance, § 30:07
- Procedural aspects, issuance of warrant, § 30:16
- Scope of inquiry where issuance of warrant is challenged, § 30:11
- Severing defective portion, § 30:06

Seizure, defined, § 30:02

Self-protective searches, § 30:02

Standing, § 30:14

Stop and frisk, § 30:02

Temporary detention, § 30:02

Traffic stops, § 30:01

Unannounced entry, § 30:05

Use of illegally obtained evidence, § 30:10

Voluntariness of consent, § 30:03

Warrants

Search warrants, above

Warrantless searches, § 30:05

Wire communications and cordless telephones, § 30:05

SEARCH WARRANTS

Search and Seizure, this index

SECURITY

Courtroom security, § 2:01

SELF-INCRIMINATION

Generally, §§ 24:01-24:08

Adverse inferences from privilege

Civil, § 24:04

Criminal, § 24:05

Asserting privilege, grounds for, § 24:03

Civil proceedings, § 24:03

Compelling incriminating testimony, § 24:08

Immunity, § 24:08

Incriminating testimony, generally, § 24:02

Invocation of privilege, § 24:03

Personal nature of privilege, § 24:03

Physical examination of witness and privilege, § 24:07

Records of organization, applicability of privilege, § 24:03

Right to testify, § 24:01

Waiver

Privilege, waiver of, § 24:06

Right to testify in criminal proceeding, § 24:01

SENTENCING

Criminal cases, § 36:15

SETTLEMENT

Costs, assessment of, § 37:09

Prejudgment interest and double costs, § 37:04

SEXUAL ASSAULT

Complainant's prior sexual conduct, § 13:09

Expert testimony

Generally, § 15:07

Examination of victim, § 15:10

Propensity to commit (Richard A.P. evidence), § 13:12

Victims, this index

SILENCE

Admissions by silence, § 18:11

INDEX

SIMILAR ACTS OR OCCURRENCES

Circumstantial evidence, § 14:05
Relevancy, § 13:10

SOUND RECORDINGS

Admissibility, § 19:16

SPECIAL VERDICT

Verdict of Jury, this index

SPEED

Lay testimony, § 15:02

SPEEDING

Moving radar unit results, admissibility, § 19:17

SPOUSES

Husband-wife privilege, § 23:02
Privileged communications, § 23:02

STANDBY COUNSEL

Generally, § 1:17

STANDING

Illegally obtained evidence, § 30:14

STATE OF MIND

Hearsay evidence, then-existing state of mind, § 16:10
Proof of, circumstantial evidence, § 14:04

STATEMENTS

Hearsay Evidence, this index
Prior inconsistent statements. Witnesses, this index

STATEMENTS AGAINST INTEREST

Admissions distinguished, § 18:03

STAY OF PROCEEDINGS

Continuance distinguished, § 3:07

STIPULATIONS

Control of proceedings, § 2:20
Proof of Facts, this index

STOP AND FRISK

Illegally obtained evidence, § 30:02

SUBSEQUENT REMEDIAL MEASURES

Relevance, § 13:08

SUBSTITUTION OF COUNSEL

Generally, § 1:06

SUMMARIES

Documentary Evidence, this index
Hearsay evidence, § 16:13

SUMMARY JUDGMENT

Generally, § 4:14

SUPPORT ORDERS

Contempt of court, § 5:07

SUPPRESSION OF EVIDENCE

Search and Seizure, this index

SURPRISE

Continuance, grounds for, § 3:06

INDEX

TELEPHONES

Cordless telephone conversations, privacy protections, § 30:05

TEXTBOOKS

Hearsay evidence, § 16:25

THREATS

Confessions, § 31:09

TRADE SECRETS

Privileged communications, § 23:16

TRAFFIC STOPS

Generally, § 30:01

TREATISES

Hearsay evidence, learned treatises, § 16:25

TRIAL

Generally, §§ 2:01-2:22

Attorneys

Trial of case and, § 1:01

Witness, attorney as, §§ 1:03, 21:08

Closing Argument, this index

Conduct of trial

Evidence, this index

Judges, below

Parties, below

Pretrial orders, § 2:19

Public, exclusion of, § 2:11

Publicity before and during trial, § 2:12

Stipulations, § 2:20

Transcribing testimony, § 2:21

Trier of fact, judge as, § 2:22

Witnesses, this index

Contempt of Court, this index

Continuances, this index

Control of proceedings

Pretrial orders, § 2:19

Stipulations, § 2:20

Courtroom security, § 2:01

Default judgments, this index

Discretion of trial court judge, § 2:01

Dismissal, this index

Evidence, this index

Exclusion of public, § 2:11

Findings of fact, § 2:22

Improper remarks by judge, § 2:07

Inadmissible evidence, motion to strike, § 29:05

Judges

Demeanor, § 2:09

Discretion, § 2:01

General conduct, § 2:07

Improper remarks, § 2:07

Order, duty to preserve, § 2:10

Presence of, § 2:05

Recusal, § 2:08

Substitution of judges during trial, § 2:06

Trier of fact, § 2:22

Witnesses, this index

Judgments, this index

Jury and Jurors, this index

In limine motions, § 4:16

Media coordinator, § 2:12

INDEX

TRIAL—Continued

- Mistrial, this index
- Motions after verdict
 - Generally, §§ 33:01-33:05
 - New Trial, this index
 - Time limits, § 33:01
- Motions during trial
 - Generally, § 4:01
 - Default judgments, this index
 - Discovery, motions to compel, § 4:15
 - Dismissal, this index
 - Inadmissible evidence, motion to strike, § 29:05
 - In limine motions, § 4:16
 - Summary judgment, § 4:14
- New Trial, this index
- Objections to evidence
 - Generally, §§ 29:01-29:07
 - Failure to object, effect of, § 29:04
 - Form, § 29:02
 - Grounds for ruling, § 29:06
 - Inadmissible evidence, motion to strike, § 29:05
 - Offer of proof, § 29:07
 - Ruling on objections, § 29:06
 - Specificity, § 29:02
 - Timing, § 29:03
- Offer of proof, § 29:07
- Opening Statements, this index
- Opinion Evidence and Expert Testimony, this index
- Order, judge's duty to preserve, § 2:10
- Order of Proof, this index
- Parties
 - Conduct of, § 2:04
 - Presence of
 - Civil cases, § 2:03
 - Criminal cases, § 2:02
- Pretrial orders, § 2:19
- Proof of Facts, this index
- Public, exclusion of, § 2:11
- Publicity before and during trial, § 2:12
- Rebuttal evidence. Order of Proof, this index
- Recusal of judge, § 2:08
- Security in courtroom, § 2:01
- Stipulations, control of proceedings, § 2:20
- Substitution of judges during trial, § 2:06
- Summary judgment, § 4:14
- Trier of fact, judge as, § 2:22
- Verdict of Jury, this index
- Witnesses, this index

TRUSTS

- Constructive trusts, burden of proof, § 9:08

UNAVAILABILITY

- Witnesses, this index

VEHICLES

- Automobiles, this index

VENUE

- Criminal cases, proof of venue, § 9:13

VERDICT OF JURY

- Generally, § 36:02
- Criminal sentencing, § 36:15

INDEX

VERDICT OF JURY—Continued

- Defective verdict, correcting, § 36:09
- Directed verdict, § 33:01
- Five-sixths requirement, § 36:11
- Form of
 - Products liability case, § 36:04
 - Special verdict, § 36:03
- Impeaching verdict, § 36:13
- Inclusion of improper questions, § 36:06
- Inconsistent special verdicts, § 36:08
- Judgment NOV, § 33:01
- Omission of proper questions, § 36:05
- Perverse verdict, § 36:10
- Polling jury
 - Generally, § 36:14
 - Criminal Cases, this index
- Products liability case, form of verdict, § 36:04

Questions

- Failure to answer questions on special verdict, § 36:07
- Formulation, § 35:01
- Inclusion of improper questions, § 36:06
- Omission of proper questions, § 36:05

Quotient verdicts, § 36:12

- Setting verdict aside, generally, § 36:09

Special verdict

- Failure to answer questions on special verdict, § 36:07
- Form of, § 36:03
- Inconsistent special verdicts, § 36:08
- Purpose of utilizing, § 35:01
- Questions, above

VEXATIOUS LITIGATION

- Dismissal, § 4:18

VICTIMS

Child victims

- Unavailability to testify at trial, § 16:31
- Videotaped statements and testimony, § 19:13
- Privileged communications, crime victim compensation proceedings, § 23:15

VIDEO TAPES

- Real and Demonstrative Evidence, this index

VIEW

- Generally, §§ 20:01-20:05
- Discretion of trial court, § 20:02
- Expenses, § 20:02
- Judge
 - Presence of, § 20:03
 - View by judge, § 20:05
- Jury instructions, § 20:04
- Presence of judge and parties, § 20:03
- Review, § 20:04
- Right to view, § 20:02

VISUAL AIDS

- Opening statement, use of visual aids, § 7:06

VITAL STATISTICS

- Records of, hearsay evidence, § 16:16

VOIR DIRE

- Jury and Jurors, this index

INDEX

VOLUNTARINESS

Confessions, this index

VOLUNTARY DISMISSAL

Dismissal, this index

VOTES AND VOTING

Disclosure of vote, privilege to refuse, § 23:11

WAIVER

Attorney-client privilege, § 23:05

Confessions, this index

Dead Man's Act, waiver of, § 22:04

Jury trial, § 6:01

Opening statements, objections and waiver, § 7:07

Physician-patient privilege, § 23:08

Right to counsel, §§ 1:12, 1:13

Self-Incrimination, this index

WARRANTS

Search warrants. Search and Seizure, this index

Warrantless searches, § 30:05

WILLS

Contested wills, burden of proof, § 9:07

WIRE COMMUNICATIONS

Search and seizure, § 30:05

WITNESSES

Accomplice, competency to testify, § 21:09

Adverse parties and witnesses identified with them, examining, § 26:07

Attorneys

 Trial counsel, competency to testify, § 21:08

 Withdrawal from case, § 1:03

Authentication, firsthand knowledge and, § 26:04

Bias

 Particular instances, § 25:05

 Proof of bias, § 25:04

Character evidence, § 25:10

Children

 Unavailability of child victim, § 16:31

Collateral issues, impeachment evidence and, § 25:17

Community reputation, § 25:10

Competency

 Generally, §§ 21:01-21:09

 Accomplice, competency to testify, § 21:09

 Firsthand knowledge, § 21:05

 Judge, competency to testify, § 21:06

 Jurors. Jury and Jurors, this index

 Mental impairment, § 21:02

 Oath or affirmation, § 21:03

 Objection to competency, § 21:04

 Qualifying witness, § 21:02

 Status, incompetency to testify by virtue of, § 21:01

 Trial counsel, competency to testify, § 21:08

Continuance, absence of witness, § 3:04

Corruption, proof of, § 25:04

Counsel, right to, § 1:16

Credibility

 Generally, § 25:01

 Expert and lay testimony, § 15:07

 Prior consistent statements, § 16:05

Cross-examination

 Generally, §§ 27:01-27:10

INDEX

WITNESSES—Continued

Cross-examination—Continued

Accomplice, cross-examination of, § 27:03

Adversity requirement, § 27:05

Basis

Adversity, § 27:05

Hostility, § 27:06

Collateral cross-examination, § 27:10

Depositions, use of, § 27:08

Discretion of trial court, § 27:01

Expert witnesses, § 27:10

Form of questions, § 27:02

Hostility as basis for, § 27:06

Multi-party examination, § 27:07

Practical issues, § 27:10

Prior inconsistent statements or testimony, use to impeach witness, § 27:09

Probative value vs. prejudicial effect, § 27:05

Recross-examination, § 28:07

Restrictions, § 27:04

Scope

Generally, § 27:03

Restrictions, § 27:04

Wide-open rule, § 27:03

Cumulative witnesses, limitation of number of, § 13:06

Dead Man's Statutes, this index

Death of witness, § 16:31

Depositions, use in cross-examination, § 27:08

Direct examination

Generally, §§ 26:01-26:11

Adverse parties and witnesses identified with them, § 26:07

Authentication, firsthand knowledge and, § 26:04

Documents used by experts, § 26:10

Form and content of questions, § 26:05

Hearsay, firsthand knowledge and, § 26:03

Leading questions, § 26:06

Personal knowledge, necessity for, § 26:02

Redirect examination, below

Refreshed recollection, below

Documents used by experts, § 26:10

Examination

Judge's control, § 2:13

Questioning by judge, § 2:18

Experts. Opinion Evidence and Expert Testimony, this index

Explaining impeaching answers on redirect, § 28:06

Failure to call witness as impeachment, § 25:18

Falsus in uno, falsus in omnibus, doctrine of, § 25:03

Firsthand knowledge

Authentication, firsthand knowledge and, § 26:04

Competency of witness, § 21:05

Hearsay, firsthand knowledge and, § 26:03

Former testimony, hearsay evidence, § 16:31

Hearsay

Firsthand knowledge and, § 26:03

Hearsay Evidence, this index

Hypnosis, use of, refreshing memory, § 26:09

Impeachment

Generally, § 25:02

Character evidence, § 25:10

Collateral issues, impeachment evidence and, § 25:17

Conduct, specific instances, § 25:11

Cross-examination, use of prior inconsistent statements or testimony to impeach witness, § 27:09

INDEX

WITNESSES—Continued

Impeachment—Continued

- Exclusionary rule, impeachment through inconsistent statements and, § 25:09
- Failure to call witness as impeachment, § 25:18
- Falsus in uno, falsus in omnibus, § 25:03
- Mental impairment, § 25:02
- Prior convictions, below
- Prior inconsistent statements, below
- Proof of bias, interest, and corruption, § 25:04
- Rape shield statute, § 25:12
- Reputation evidence, § 25:10
- Substantive evidence, use of impeaching statements as, § 25:08
- Inconsistent statements. Prior inconsistent statements, below
- Interest, proof of, § 25:04
- Judge, competency to testify, § 21:06
- Juror, competency to testify, § 21:07
- Leading questions, § 26:06
- Limiting number of, § 2:14
- Mental impairment, §§ 21:02, 25:02
- Moral responsibility to speak truth, § 21:01
- Multi-party examination, § 27:07
- Number of, limiting, § 2:14
- Oath or affirmation, § 21:03
- Objection to competency, § 21:04
- Opinion Evidence and Expert Testimony, this index
- Personal knowledge, § 21:05
- Physical examination of witness and privilege against self-incrimination, § 24:07
- Practical issues, cross-examination, § 27:10
- Prior convictions
 - Honesty or veracity, convictions related to, § 25:14
 - Parol evidence, § 25:14
 - Probative value vs. prejudicial effect, § 25:15
 - Procedure for admitting, § 25:15
 - Proof of, generally, § 25:13
 - Scope of prior conviction, § 25:14
- Prior inconsistent statements
 - Generally, § 25:06
 - cross-examination, use to impeach witness, § 27:09
 - Extrinsic evidence, § 25:07
 - Impeachment through inconsistent statements and exclusionary rule, § 25:09
 - Procedure for admitting inconsistent statements, § 25:07
 - Substantive evidence, use of impeaching statements as, § 25:08
- Privileged communications, concern for safety of witness, § 23:18
- Qualifying witness, § 21:02
- Questioning
 - Cross-examination, above
 - Direct examination, above
 - Examination, above
- Rape shield statute, § 25:12
- Recross-examination, § 28:07
- Redirect examination
 - Generally, §§ 28:01-28:06
 - Explaining and correcting testimony, § 28:04
 - Form and content of questions, § 28:02
 - Impeaching answers, explaining, § 28:06
 - Refreshing witness's memory, § 28:03
 - Rehabilitating witness, § 28:05
 - Scope, § 28:01
- Refreshed recollection
 - Generally, § 26:08
 - Hypnosis, use of, § 26:09
 - Unavailability of declarant distinguished, § 26:11

INDEX

WITNESSES—Continued

Rehabilitating witness, § 28:05

Reputation, § 25:10

Transcribing testimony, § 2:21

Trial counsel, competency to testify, § 21:08

Unavailability

 Distinguished from refreshed recollection, § 26:11

 Hearsay evidence, § 16:31

Writing, use to refresh recollection, § 26:08

WORKPLACE

Subsequent remedial measures, evidence of, § 13:08

WRITTEN INSTRUMENT

Construction of, expert testimony, § 15:07

Refreshing memory, use of writing, § 26:08

WRONGFUL DEATH CASES

Dead man's statutes, § 22:05

X-RAYS

Admissibility, § 19:15