

## Index

### **ABANDONED**

Pleadings, admissions, § 11:27  
Property, presumptions and inferences, § 3:35

### **ABILITY TO OBSERVE, RECOLLECT AND COMMUNICATE**

Competency of witnesses, §§ 13:1,  
13:4

### **ABSENCE OR LACK**

Adequate foundation, §§ 7:36, 20:4,  
20:5  
Burden of proof. See index heading  
BURDEN OF PROOF  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Objections. See index heading OBJEC-  
TIONS  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

### **ABSOLUTE PRIVILEGE**

See index heading PRIVILEGES

### **ABUSE OF PERSONS**

Children. See index heading ABUSE  
OR NEGLECT OF CHILDREN  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE  
Sexual abuse. See index heading  
SEXUAL ABUSE

### **ABUSE OR NEGLECT OF CHILDREN**

Abused and Neglected Child Report-  
ing Act, §§ 3:2, 3:6, 14:18  
Burden of proof in civil cases, § 5:18  
Clergy/spiritual advisor-com-  
municant privilege, Abused and  
Neglected Child Reporting Act,  
§ 14:18

### **ABUSE OR NEGLECT OF CHILDREN—Cont'd**

Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Presumptions and inferences, Abused  
and Neglected Child Reporting  
Act, §§ 3:2, 3:6  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE  
Sexual abuse. See index heading  
SEXUAL ABUSE

### **ACCELERANT-SNIFFING DOGS**

Expert witnesses, §§ 7:37, 7:83

### **ACCEPTANCE OR REJECTION**

Deeds, presumptions and inferences,  
§ 3:35  
Offers of proof, objections, § 20:19  
Sufficiency and weight of evidence,  
trier of fact may accept or reject  
all or part of criminal  
defendant's testimony, § 21:4

### **ACCIDENTS**

Automobiles. See index heading  
AUTOMOBILES  
Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Documentary evidence, photographs,  
§ 9:16  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Lay witnesses, cause of specific  
injury, § 7:10

**ACCIDENTS—Cont’d**

- Motor vehicles. See index heading  
MOTOR VEHICLES
- Post-accident remedial measures,  
§§ 1:4, 11:34
- Reconstruction, experts and expert  
witnesses, §§ 7:32, 7:37, 7:38,  
8:10
- Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**ACCOMPLICE TESTIMONY**

- Sufficiency to sustain conviction,  
§§ 21:1, 21:4

**ACCOUNTANT**

- See index heading PUBLIC ACCOUN-  
TANT

**ACCOUNT BOOKS**

- Hearsay evidence, business records  
exception, § 10:52

**ACCOUNTS**

- Competency of witnesses, exceptions  
under Dead Man’s Act, § 13:8
- Documentary evidence, definition of  
document, § 9:1

**ACCURACY**

- Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE
- Documentary evidence, sound  
recordings, § 9:17
- Inaccuracy, prior consistent state-  
ments to rebut charge of,  
§§ 10:38, 18:31
- Judicial notice of facts readily verifi-  
able from sources of indisput-  
able accuracy, § 2:1

**ACCUSED’S SILENCE**

- Admissions implied from conduct,  
§ 11:36

**ACKNOWLEDGMENT**

- Admissions, promise, § 11:25
- Documentary evidence, self-  
authentication, §§ 9:5, 9:6, 9:10
- Hearsay evidence, prior inconsistent  
statements exception, § 10:43

**ACKNOWLEDGMENT—Cont’d**

- Presumptions and inferences,  
paternity, §§ 3:5, 3:15

**ACQUIESCENCE**

- Admission of improper evidence,  
§ 20:3

**ACQUITTAL**

- Admissions, § 11:31

**ACT OR ACTS**

- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Judicial notice of facts related to  
human acts, § 2:12
- Lay witnesses, testimony regarding  
whether certain action caused  
specific injury, § 7:10
- Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCE
- Relevance of acts of third party to  
accused’s innocence, § 4:17

**ACTUAL PRIOR CONVICTION**

- Impeachment by, § 18:20

**ACTUARIAL RISK ASSESSMENT**

- Demonstrative evidence, out-of-court  
experiments and tests, § 8:10
- Expert witnesses, §§ 7:27, 7:48,  
7:65, 7:69

**ADDICTION TO DRUGS**

- Impeachment, §§ 18:5, 18:18

**ADDITIONAL EVIDENCE**

- Examination of witnesses, reopening  
case, § 17:6

**ADEQUACY**

- See index heading SUFFICIENCY OR  
INSUFFICIENCY

**ADJUDICATIONS**

- Impeachment by prior conviction,  
juvenile adjudications, § 18:26

**ADMINISTRATIVE MATTERS**

- Exhaustion of administrative reme-  
dies, burden of proof on affirma-  
tive defenses, § 5:12

## INDEX

### ADMINISTRATIVE MATTERS

#### —Cont'd

- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Judicial notice, §§ 2:1, 2:2, 2:7, 2:9,  
2:10
- Presumptions and inferences,  
§§ 3:12, 3:13
- Proceedings. See index heading  
ADMINISTRATIVE PROCEEDINGS
- Regulations. See index heading  
ADMINISTRATIVE REGULATIONS

### ADMINISTRATIVE PROCEEDINGS

- Admissions by attorneys, § 11:5
- Documentary evidence, authentication,  
§ 9:13
- Expert witnesses, lie detector tests,  
§ 7:85
- Hearings
  - exclusionary rule, § 1:6
  - hearsay evidence, §§ 10:5, 10:53
  - officers, §§ 3:12, 3:13, 9:13
- Hearsay evidence, §§ 10:5, 10:52,  
10:53
- Judicial notice, §§ 2:1, 2:2, 2:9, 2:10

### ADMINISTRATIVE REGULATIONS

- Hearsay evidence, §§ 10:5, 10:49
- Judicial notice, § 2:7
- Relevancy of evidence, similar conditions or occurrences, § 4:57

### ADMISSIBILITY OF EVIDENCE

- Admissions, § 11:1-11:39
- Competency of juror witnesses,  
§ 13:15
- Demonstrative evidence, §§ 8:2,  
8:10-8:12, 8:15-8:19
- Documentary evidence, §§ 9:1-9:17,  
9:21
- Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES
- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

### ADMISSIBILITY OF EVIDENCE

#### —Cont'd

- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Impeachment. See index heading  
IMPEACHMENT
- Laying foundation for evidence,  
§ 1:5
- Lay witnesses, § 7:1-7:12
- Limited admissibility of evidence,  
§ 1:4
- Objections. See index heading OBJEC-  
TIONS
- Parol or extrinsic evidence affecting  
writings, § 12:1-12:6
- Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCES
- Refreshing memory of witnesses,  
inadmissibility of hypnotically  
enhanced testimony of anyone  
other than criminal defendant,  
§ 19:3
- Relevant evidence, § 4:1-4:67
- Secondary evidence, §§ 6:3, 6:4
- Self-incrimination, privilege against,  
§ 15:7
- Sufficiency and weight of evidence,  
§ 21:1-21:4

### ADMISSIONS

- Generally, § 11:1-11:39
- Also see index heading CONFESSIONS
- Abandoned pleadings, § 11:27
- Accused's silence, implied from  
conduct admissions, § 11:36
- Acknowledgment of promise,  
§ 11:25
- Acquittal, § 11:31
- Administrative proceedings,  
attorneys, § 11:5
- Admissibility, § 11:1-11:39
- Adverse party. Party opponent, below
- Agents
  - generally, § 11:4
  - silence, implied from conduct  
admissions, § 11:35
  - spouses, § 11:22
- Alterations, implied from conduct  
admissions, § 11:34

**ADMISSIONS—Cont'd**

Alternative pleading, § 11:27  
 Amended pleadings, § 11:27  
 Ancestors, § 11:9  
 Answers, admissions in pleadings, § 11:27  
 Appraisers, agents, § 11:4  
 Assessment records, § 11:25  
 Attorneys, § 11:5  
 Bank records, § 11:25  
 Binding on client, attorneys, § 11:5  
 Carriers, agents, § 11:4  
 Closing arguments, attorneys, § 11:5  
 Coconspirators, § 11:6-11:8  
 Codefendants  
   agents, § 11:4  
   forms of confession, § 11:32  
 Competency  
   declarant, party opponent, § 11:1  
   witnesses, exceptions under Dead Man's Act, § 13:9  
 Competent evidence, party opponent, § 11:1  
 Completeness doctrine, party opponent, § 11:2  
 Compromise offers, implied from conduct admissions, § 11:38  
 Computer printouts, coconspirators, § 11:6  
 Conclusiveness, §§ 11:1, 11:27  
 Conduct, admissions implied from, § 11:33-11:39  
 Consciousness of guilt, implied from conduct admissions, § 11:37  
 Conspirators, § 11:6-11:8  
 Contradiction of ordinary evidentiary admissions, §§ 11:1, 11:27  
 Corporations  
   documents, §§ 11:25, 11:27  
   officers, § 11:10  
   records, § 11:25  
 Criminal cases, §§ 11:1, 11:4, 11:31, 11:32, 11:37-11:39  
 Declarations, party opponent, §§ 11:1, 11:3  
 Depositions, § 11:29  
 Determinations, party opponent, § 11:1  
 Discovery, § 11:27-11:29

**ADMISSIONS—Cont'd**

Dream statements, §§ 11:1, 11:32  
 Employee/employer, agents, § 11:4  
 Existence of conspiracy, conspirators, § 11:7  
 Expert witnesses, agents, § 11:4  
 Explanation of ordinary evidentiary admissions, §§ 11:1, 11:27  
 Fiduciaries, § 11:11  
 Former matters. Prior matters, below  
 Forms of confession, § 11:32  
 Foundation, party opponent, § 11:1  
 Furtherance of conspiracy, statements in, conspirators, § 11:8  
 Guilt  
   consciousness of guilt, implied from conduct admissions, § 11:37  
   party opponent admissions, § 11:1  
 Guilty pleas, §§ 11:1, 11:31  
 Hearsay evidence. See index heading  
   HEARSAY EVIDENCE  
 Impeachment, silence of accused in criminal case, § 11:36  
 Implied from conduct admissions, § 11:33-11:39  
 In-court testimony, judicial admissions, § 11:30  
 Infants, § 11:13  
 Information, persons referred to for, § 11:20  
 Insured persons, § 11:9  
 Interpreters, § 11:14  
 Interrogatories, § 11:29  
 Joint obligors, § 11:15  
 Joint property owners, § 11:16  
 Joint tortfeasors, § 11:15  
 Judicial admissions  
   generally, § 11:27-11:31  
   attorneys, § 11:5  
   party opponent, § 11:1  
 Legal conclusions, requests to admit, § 11:28  
 Letters, §§ 11:25, 11:27  
 Limitations, party opponent, § 11:1  
 Marital privilege, § 14:8  
 Mortgagors, § 11:17  
 Municipalities, agents, § 11:4

## INDEX

### ADMISSIONS—Cont'd

- Narrative of past occurrences, coconspirators, § 11:6
- Negligence, implied from conduct admissions, § 11:34
- Nominal parties, § 11:18
- Offers
  - admissibility of whole statement when only part is offered, party opponent admissions, § 11:2
  - compromise offers, implied from conduct admissions, § 11:38
- Opening statements, attorneys, § 11:5
- Opponent party. Party opponent, below
- Out-of-court statements, parties, §§ 11:1, 11:18
- Owners of property, §§ 11:12, 11:16
- Particular persons, § 11:4-11:23
- Parties, generally, § 11:1-11:39
- Partners and partnerships, §§ 11:19, 11:26
- Party opponent
  - generally, § 11:1-11:3
  - corporate documents, §§ 11:25, 11:27
  - hearsay evidence, §§ 10:32, 11:1
- Physicians, agents, § 11:4
- Pleadings, § 11:27-11:31
- Pleas
  - discussions, §§ 11:38, 11:39
  - guilty pleas, §§ 11:1, 11:31
- Post-accident repairs, implied from conduct admissions, § 11:34
- Predecessors in interest, § 11:9
- Previous matters. Prior matters, below
- Principals, §§ 11:4, 11:21
- Prior matters
  - narrative of past occurrences, coconspirators, § 11:6
  - property owners, § 11:12
  - trial, attorneys, § 11:5
- Privity of interest, §§ 11:9, 11:17
- Products liability cases, implied from conduct admissions, § 11:34
- Property
  - appraisers, agents, § 11:4

### ADMISSIONS—Cont'd

- Property—Cont'd
  - former property owners, § 11:12
  - joint property owners, § 11:16
  - mortgagors, § 11:17
  - owners of property, §§ 11:12, 11:16
  - post-accident repairs, implied from conduct admissions, § 11:34
- Purpose of requests to admit, § 11:28
- Records, § 11:24-11:32
- Relevancy limitations, party opponent, § 11:1
- Reply memo, pleadings, § 11:27
- Requests to admit, § 11:28
- Responses
  - forms of confession, response to investigator, § 11:32
  - interrogatories, § 11:29
  - requests to admit, § 11:28
- Scope of authority, attorneys, § 11:5
- Self-serving declarations, party opponent, § 11:3
- Sentencing hearings, party opponent, § 11:1
- Silence, implied from conduct admissions, §§ 11:35, 11:36
- Spouses, § 11:22
- Stipulations, attorneys, § 11:5
- Subsequent remedial measures, implied from conduct admissions, § 11:34
- Successors in interest, § 11:9
- Superseded pleadings, § 11:27
- Surety, § 11:21
- Tacit admission rule, silence of accused in criminal case, § 11:36
- Time of making statement, agents, § 11:4
- Transferors of property, § 11:23
- Unfitness of parent, party opponent, § 11:1
- Unverified pleadings, § 11:27
- Verified pleadings, § 11:27
- Witnesses
  - competency of witnesses, exceptions under Dead Man's Act, § 13:9

**ADMISSIONS—Cont'd**

- Witnesses—Cont'd
  - depositions, § 11:29
  - expert witnesses, agents, § 11:4
  - in-court testimony, § 11:30
- Writings, § 11:24-11:32
- Written admissions, § 11:24-11:32
- Wrongful death, privity of interest, § 11:9

**ADVERSE MATTERS**

- Inferences, §§ 3:7, 3:24, 3:25, 3:48, 15:2, 15:7
- Party. See index heading ADVERSE PARTY
- Possession. See index heading ADVERSE POSSESSION
- Witnesses. See index heading EXAMINATION OF WITNESSES

**ADVERSE PARTY**

- Admissions. See index heading ADMISSIONS
- Burden of proof, physical or mental examination of adverse party, §§ 5:11, 5:19
- Competency of witnesses, Dead Man's Act, §§ 13:7, 13:9
- Relevancy of evidence, admission of evidence made relevant by adverse party, §§ 4:24, 4:25

**ADVERSE POSSESSION**

- Burden of proof, §§ 5:2, 5:19
- Presumptions and inferences, § 3:35

**ADVERTISEMENTS**

- Hearsay exception, § 10:61

**AFFIDAVITS**

- Competency of witnesses. See index heading COMPETENCY OF WITNESSES
- Direct examination of witnesses, financial affidavits in marital cases, § 17:8
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Financial affidavits, marital cases, §§ 10:30, 17:8
- Hearsay evidence. See index heading HEARSAY EVIDENCE

**AFFIDAVITS—Cont'd**

- Summary judgment. See index heading SUMMARY JUDGMENT

**AFFILIATION WITH GANG**

- Relevancy of evidence, character and reputation, § 4:51

**AFFIRMATIVE DEFENSES**

- Burden of proof, §§ 5:7-5:10, 5:12, 5:17-5:19
- Insanity defense. See index heading INSANITY DEFENSE
- Intoxication, § 5:10
- Self-defense. See index heading SELF-DEFENSE

**AGAINST INTEREST  
DECLARATIONS**

- Admission by party opponent distinguished, § 11:1
- Hearsay exceptions, §§ 10:28, 10:29, 10:41

**AGE**

- Ancient documents, §§ 9:21, 10:59, 10:67
- Child. See index heading CHILDREN OR MINORS
- Competency of witnesses, §§ 13:1, 13:11
- Conviction's age, impeachment by prior conviction, § 18:22
- Hearsay evidence. See index heading HEARSAY EVIDENCE

**AGED PERSONS**

- See index heading ELDERLY PERSONS

**AGENCY AND AGENTS**

- Admissions. See index heading ADMISSIONS
- Burden of proof in civil cases, § 5:13
- Circumstantial evidence, § 1:3
- Hearsay exception, agents' statements, § 10:33
- Presumptions and inferences, commercial matters, § 3:30
- Privileges. See index heading PRIVILEGES

## INDEX

### **AGGRAVATED BATTERY**

Relevancy of evidence, other crimes evidence, § 4:39

### **AGGRAVATED KIDNAPPING**

Hearsay evidence, children's statements in criminal cases exception, § 10:46

### **AGGRESSIVE CHARACTER OF HOMICIDE VICTIM**

Relevancy of evidence, § 4:50

### **AGREEMENTS**

See index heading CONTRACTS OR AGREEMENTS

### **AGRICULTURE**

Expert witnesses, § 7:39

### **AID OR ASSISTANCE**

See index heading ASSISTANCE OR AID

### **AIDS CONFIDENTIALITY ACT**

Generally, §§ 7:69, 14:20

### **AIRCRAFT**

Expert witnesses, accident reconstruction, § 7:37

### **AIR POLLUTION**

Expert witnesses, weight of testimony, § 7:36

### **ALCOHOL**

Blood alcohol. See index heading BLOOD ALCOHOL

Consumption of alcohol, §§ 4:6, 5:17

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Intoxication. See index heading INTOXICATION

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **ALCOHOL AND OTHER DRUG ABUSE AND DEPENDENCY ACT**

Privileges, § 14:15

### **ALIAS OF DEFENDANT**

Relevancy of evidence, criminal cases, § 4:11

### **ALIBI**

Defense, relevancy of evidence, § 4:46

False alibi, sufficiency and weight of evidence, § 21:4

Witnesses

examination of witnesses. See index heading EXAMINATION OF WITNESSES

impeachment, §§ 18:1, 18:11

### **ALIENATION**

Expert witnesses, parental alienation syndrome, §§ 7:27, 7:66

### **ALMANACS**

Hearsay exception, § 10:63

### **ALTERATION OR ALTERATIONS**

Admissions implied from conduct, § 11:34

Demonstrative evidence, burden of proof on chain of custody, § 8:4

Documentary evidence, § 9:15

Hearsay evidence, hospital records, § 10:53

Presumptions and inferences, physical evidence, § 3:23

### **ALTERNATIVE PLEADING**

Admissions, § 11:27

### **AMBIGUITIES**

Hearsay evidence. See index heading HEARSAY EVIDENCE

Parol or extrinsic evidence affecting writings, § 12:1-12:6

### **AMENDED PLEADINGS**

Admissions, § 11:27

### **AMOUNT OF EVIDENCE NEEDED**

Demonstrative evidence, chain of custody, § 8:6

### **ANATOMICALLY CORRECT DOLL**

Child witness use, §§ 8:14, 13:11, 17:7

### **ANCESTORS**

Admissions, § 11:9



**ANCIENT DOCUMENTS**

Generally, §§ 9:21, 10:59, 10:67

**ANIMALS**

Burden of proof in civil cases, § 5:19

Dogs. See index heading EXPERTS  
AND EXPERT WITNESSES

Hog farm, expert witnesses on value  
of property and services, § 7:41

Relevancy of evidence, habits of  
animals, § 4:60

**ANIMATION VIDEOTAPES**

Generally, §§ 8:18, 9:16

**ANONYMOUS LETTER**

Hearsay evidence, § 10:3

**ANSWERS**

Admissions in pleadings, § 11:27

Response or answer. See index head-  
ing RESPONSE OR ANSWER

**ANTENUPTIAL AGREEMENTS**

Marital privilege, §§ 14:7, 14:8

**ANTICIPATION OF LITIGATION**

Expert witnesses, §§ 7:22, 7:23

Hearsay evidence, public records or  
reports exception, § 10:56

**ANTITRUST CASES**

Relevancy of evidence, § 4:3

**APPEAL AND REVIEW**

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Impeachment. See index heading  
IMPEACHMENT

Judicial notice, appellate or review-  
ing court, §§ 2:1, 2:3, 2:4, 2:8,  
2:9, 2:11

Objections. See index heading OBJEC-  
TIONS

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**APPEAL AND REVIEW—Cont'd**

Reversible error. See index heading  
REVERSIBLE ERROR

Standard of review

expert witnesses, admission of  
scientific evidence, § 7:27

hearsay evidence, children's state-  
ments in criminal cases,  
§ 10:46

objections, rulings on evidence as  
grounds for new trial, § 20:21

sufficiency and weight of evidence,  
circumstantial evidence,  
§ 21:2

Sufficiency and weight of evidence.  
See index heading SUFFICIENCY  
AND WEIGHT OF EVIDENCE

**APPEARANCE OF PERSON**

Lay witnesses, § 7:4

**APPLIANCES SURGICALLY  
IMPLANTED**

Expert medical testimony, §§ 7:45,  
7:69

**APPLICATION OR  
APPLICABILITY**

Best evidence rule, § 6:1

Burden of proof, determination, § 5:1

Competency of witnesses, special  
witness doctrine, § 13:12-13:14

Exclusionary rule, § 1:6

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Privileges. See index heading PRIVI-  
LEGES

Relevancy of evidence, statutes,  
§ 4:30

**APPRAISERS AND APPRAISALS**

Admissions by agents, § 11:4

Expert witnesses, § 7:42

Hearsay evidence, public records or  
reports exception, § 10:56

**APPROPRIATE MATTERS**

Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES



## INDEX

### APPROPRIATE MATTERS

#### —Cont'd

Self-incrimination, privilege against, determination of propriety of claim of privilege, § 15:4

### ARBITRATION

Burden of proof, compelling arbitration, § 5:19

Presumptions and inferences, §§ 3:12, 3:13

### ARCHITECTS AND ARCHITECTURE

Expert witnesses, § 7:88

### ARMED ROBBERY

Impeachment by prior conviction, § 18:25

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### ARREST

Burden of proof. See index heading BURDEN OF PROOF

Demonstrative evidence, clothing worn at time of arrest, § 8:2

Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10

Impeachment. See index heading IMPEACHMENT

Lay witnesses, arresting police officer, § 7:1

Post-arrest silence  
cross-examination of witnesses, § 17:13

impeachment, §§ 18:1, 18:3, 18:13  
self-incrimination, privilege against, § 15:7

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Resisting arrest. See index heading RESISTING ARREST

Self-incrimination, privilege against, § 15:7

### ARSON

Photographs, §§ 8:15, 9:16

### ARSON—Cont'd

Sufficiency and weight of evidence, circumstantial evidence, § 21:2

### ARTICLES

Demonstrative evidence, admissibility and inspection, § 8:2

### ASBESTOS

Burden of proof, negligence or strict products liability, § 5:17

Demonstrative evidence, photographs of asbestos victim's lung damage, § 8:17

### ASBESTOSIS

Expert medical testimony, §§ 7:68, 7:69

### ASSAULT AND BATTERY

Battered woman syndrome, expert medical testimony, §§ 7:66, 7:68

Impeachment. See index heading IMPEACHMENT

Medical battery actions, presumptions and inferences, § 3:48

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Sexual assault. See index heading SEXUAL ASSAULT

### ASSERTION

Privilege against self-incrimination, § 15:1-15:7

### ASSESSMENT OR ASSESSMENTS

Actuarial risk assessment. See index heading ACTUARIAL RISK ASSESSMENT

Admissions, assessment records, § 11:25

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

### ASSISTANCE OR AID

Demonstrative evidence, aiding jury, §§ 8:1, 8:16-8:18

Expert testimony admissibility, assist trier of fact, §§ 7:14, 7:16

**ASSISTED LIVING FACILITIES**

Privileges, Medical Studies Act,  
§ 14:13

**ASSUMED NAME USED BY  
DEFENDANT**

Relevancy of evidence in criminal  
cases, § 4:11

**ATOMIC ABSORPTION  
SPECTROPHOTOMETER  
TECHNIQUE**

Demonstrative evidence, out-of-court  
experiments and tests, § 8:10

**ATTEMPTS AND ATTEMPTED  
MATTERS**

Armed robbery, relevancy of other  
crimes evidence, § 4:38

Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCES

**ATTENDANCE OF WITNESSES**

See index heading PRESENTING CASE  
AND ATTENDANCE OF WITNESSES

**ATTITUDE TOWARD CERTAIN  
SEXUAL RELATIONS**

Impeachment, interest, bias or preju-  
dice, § 18:11

**ATTORNEY-CLIENT PRIVILEGE**

Generally, § 14:2-14:5  
Agent of attorney, § 14:2  
Attorney General, § 14:2  
Burden of proof, §§ 5:1, 14:2, 14:4,  
14:5  
Communications, § 14:2-14:5  
Conduct, waiver of privilege, § 14:5  
Confidentiality rule and privilege  
compared, § 14:2  
Consensual relationship, §§ 14:2,  
14:3  
Control group, corporations, §§ 14:2,  
14:5  
Corporations, §§ 14:2, 14:5  
Crime-fraud exception, § 14:4  
Death of client, § 14:5  
Defenses, waiver of privilege, § 14:5  
Disclosure, §§ 14:2, 14:3, 14:5  
Duration of privilege, § 14:5

**ATTORNEY-CLIENT PRIVILEGE**

**—Cont'd**

Employees of corporation, § 14:2  
Exceptions, § 14:2-14:4  
Insanity defense, waiver of privilege,  
§ 14:5  
Necessity for attorney-client relation-  
ship and privileged communica-  
tions, § 14:3  
Nurses, § 14:3  
Purpose of privilege, § 14:2  
Relationship between attorney and  
client, § 14:2-14:5  
Scope of privilege, § 14:2  
Unauthorized disclosure in judicial  
proceedings, § 14:2  
Violations, § 14:3  
Waiver of privilege, § 14:5  
Work product doctrine provides  
broader protection, § 14:2

**ATTORNEY GENERAL**

Attorney-client privilege, § 14:2  
Presumptions and inferences, validity  
and regularity of official acts,  
§ 3:13

**ATTORNEYS**

Admissions, § 11:5  
Attorney-client privilege. See index  
heading ATTORNEY-CLIENT  
PRIVILEGE  
Attorney General. See index heading  
ATTORNEY GENERAL  
Binding of client, attorney's admis-  
sions or stipulations, §§ 11:5,  
17:20  
Burden of proof. See index heading  
BURDEN OF PROOF  
Clients  
attorney-client privilege. See index  
heading ATTORNEY-CLIENT  
PRIVILEGE  
binding of client, attorney's admis-  
sions or stipulations, §§ 11:5,  
17:20  
presumptions and inferences, fidu-  
ciary relationship, § 3:22  
Competency of witnesses, § 13:12

## INDEX

### ATTORNEYS—Cont'd

- Discipline, privileges, §§ 14:5, 14:20, 15:2
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Fees, expert witnesses, §§ 7:41, 7:88
- Impeachment, attorney suspended from practice, § 18:19
- Lay witnesses, defendant posing as attorney, § 7:12
- Legal malpractice, §§ 3:47, 5:19
- Objections, offers of proof, §§ 20:18, 20:19
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Privileges
  - Attorney Registration and Disciplinary Commission, §§ 14:5, 14:20
  - bar associations, § 14:20
  - client-attorney privilege. See index heading ATTORNEY-CLIENT PRIVILEGE
  - defamation, § 14:20
  - discipline of attorney, §§ 14:5, 14:20, 15:2
  - self-incrimination, privilege against, attorney disciplinary proceedings, § 15:2
- Refreshing memory of witnesses, request by opposing counsel to examine and use on cross-examination any documents used by witness, §§ 19:1, 19:2
- Self-incrimination, privilege against, attorney disciplinary proceedings, § 15:2

### AUDITORS

- Expert witnesses, § 7:88

### AUTHENTICATION

- See index heading DOCUMENTARY EVIDENCE

### AUTHORITATIVE SOURCES OR TEXTS

- Expert witnesses, cross-examination, §§ 7:32, 7:33

### AUTOMOBILES

- Accidents
  - expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
  - relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### AUTOPSY FINDINGS

- Hearsay evidence, past recollection recorded exception, § 10:57

### AVAILABILITY OF DECLARANT FOR CROSS-EXAMINATION

- Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15

### AVERAGE JUROR'S KEN

- Expert witnesses, admissibility of testimony, §§ 7:15, 7:16

### AVOIDANCE OF HARASSMENT, PREJUDICE OR CONFUSION

- Cross-examination of witnesses, limitations on scope, § 17:13

### BAILEES

- Presumptions and inferences, negligence, § 3:18

### BALANCING TEST

- Impeachment by prior conviction, §§ 18:20, 18:28
- Relevancy of evidence, other crimes evidence, § 4:26

### BALLISTICS

- Expert witnesses, identification, §§ 7:71, 7:78

### BANKS

- Judicial notice of facts related to business customs and usages, § 2:11

**BANKS—Cont’d**

Records

- admissions, § 11:25
- hearsay evidence, business records exception, § 10:55

**BAR ASSOCIATIONS**

- Privileges, § 14:20

**BASIS OF OPINION OR TESTIMONY**

- See index heading EXPERTS AND EXPERT WITNESSES

**BATSON CHALLENGES**

- Burden of proof, shifting of burden, § 5:2

**BATTERED WOMAN SYNDROME**

- Expert medical testimony, §§ 7:66, 7:68

**BATTERY**

- See index heading ASSAULT AND BATTERY

**BEHAVIOR**

- Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11

**BELIEF OR BELIEFS**

- Hearsay evidence, dying declarations exception, § 10:27
- Impeachment, religious beliefs, § 18:11
- Relevancy of evidence, direct testimony to show state of mind of witness, § 4:65

**BENCH TRIALS**

- Burden of proof, §§ 5:2, 21:4
- Documentary evidence, comparison of handwriting, § 9:20
- Judicial notice, § 2:2
- Objections, rulings on evidence as grounds for new trial, § 20:20
- Presumptions and inferences, §§ 3:10, 3:12
- Relevancy of evidence, other crimes evidence, § 4:26
- Weight of evidence, § 21:4

**BEST AND SECONDARY EVIDENCE**

- Generally, § 6:1-6:6
- Admissibility of secondary evidence, §§ 6:3, 6:4
- Applicability of best evidence rule, § 6:1
- Breath testing machines, §§ 6:2, 6:4, 6:5
- Circumstances under which best evidence rule does not apply, § 6:2
- Copies or duplicates, degrees of secondary evidence, § 6:4
- Degrees of secondary evidence, § 6:4
- Destroyed public records, §§ 6:4, 6:5
- Duplicates or copies, degrees of secondary evidence, § 6:4
- Exclusions from best evidence rule, § 6:2
- Inscribed objects, § 6:5
- Lost public records, §§ 6:4, 6:5
- Multiple writings, summaries of, § 6:6
- Photocopies, § 6:4
- Public records, §§ 6:4, 6:5
- Quality of secondary evidence, § 6:4
- Summaries of multiple writings, § 6:6
- Videotapes, §§ 6:2, 6:4
- Voluminous documents, § 6:6
- Witnesses, § 6:2-6:6

**BEYOND A REASONABLE DOUBT**

- Burden of proof in criminal cases, §§ 5:3, 5:8, 5:10

**BIAS**

- Cross-examination of witnesses, §§ 17:11, 17:13
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Impeachment, § 18:6-18:11

**BILLS FROM HOSPITAL**

- Hearsay evidence, business records exception, §§ 10:53, 10:55

**BINDING OF CLIENT**

- Attorney’s admissions or stipulations, §§ 11:5, 17:20

## INDEX

### BIRTH

- Certificates, hearsay exception for public records, § 10:56
- Wrongful birth actions, demonstrative evidence, § 8:7

### BITE MARKS

- Expert witnesses, identification, § 7:82

### BLOOD

- Alcohol. See index heading BLOOD ALCOHOL
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Samples. See index heading DEMONSTRATIVE EVIDENCE
- Tests. See index heading BLOOD TESTS

### BLOOD ALCOHOL

- Content, presumptions and inferences, § 3:39
- Tests
  - demonstrative evidence, out-of-court tests, § 8:12
  - hearsay exceptions, §§ 10:49, 10:53
  - relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### BLOOD TESTS

- Alcohol. See index heading BLOOD ALCOHOL
- Demonstrative evidence, out-of-court tests, § 8:12
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay exceptions, §§ 10:49, 10:53

### BOLSTERING

- Hearsay evidence, children's statements in criminal cases exception, § 10:46
- Objections, improper bolstering of testimony, § 20:20

### BOOKS

- Documentary evidence. See index heading DOCUMENTARY EVIDENCE

### BOOKS—Cont'd

- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Treatises. See index heading TREATISES

### BOUNDARIES

- Hearsay exceptions, §§ 10:36, 10:37, 10:66

### BREATHALYZER

- Machines, §§ 3:37, 7:75
- Test, demonstrative evidence, § 8:12

### BREATH TESTS

- Best and secondary evidence, §§ 6:2, 6:4, 6:5
- Breathalyzer test, demonstrative evidence, § 8:12
- Demonstrative evidence, § 8:12
- Expert witnesses, portable breath test, § 7:75
- Hearsay evidence, statutory exception, § 10:49
- Limited admissibility of evidence, § 1:4
- Machines
  - best and secondary evidence, §§ 6:2, 6:4, 6:5
  - Breathalyzer, §§ 3:37, 7:75
- Portable breath test, §§ 7:75, 8:12
- Preliminary breath test, §§ 10:49, 18:1
- Relevancy of evidence, criminal cases, § 4:11

### BROAD OR LIBERAL CONSTRUCTION

- Cross-examination of witnesses, scope, § 17:13
- Hearsay exception, statements concerning declarant's physical condition for medical diagnosis or treatment, § 10:45

### BROTHER OF DEFENDANT

- Improper impeachment of, §§ 18:3, 18:11, 18:13

### BRUTON

- See index heading HEARSAY EVIDENCE

**BUILDINGS**

See index heading EXPERTS AND  
EXPERT WITNESSES

**BULLETPROOF VEST**

Demonstrative evidence, § 8:2

**BURDEN OF GOING FORWARD**

Burden of proof, §§ 5:1, 5:2

**BURDEN OF PERSUASION**

Burden of proof, § 5:1

**BURDEN OF PRODUCTION**

Burden of proof, §§ 5:1, 5:2

**BURDEN OF PROOF**

Generally, § 5:1-5:19

Absence. Lack, below

Abuse or neglect of children, civil  
cases, § 5:18

Adverse possession of property,  
§§ 5:2, 5:19

Affirmative defenses, §§ 5:7-5:10,  
5:12, 5:17-5:19

Agency relationship, civil cases,  
§ 5:13

Animals, civil cases, § 5:19

Arrest

illegal arrest, motion to suppress  
confession in criminal case,  
§ 5:5

warrantless arrest, motions to sup-  
press in criminal cases, § 5:4

Asbestos, negligence or strict  
products liability, § 5:17

Attorneys

disclosure from attorney, inap-  
plicability of attorney-client  
privilege, § 5:1

fiduciary relationships, § 5:13

legal malpractice, § 5:19

Batson challenges, shifting of burden,  
§ 5:2

Bench trials, §§ 5:2, 21:4

Beyond a reasonable doubt, criminal  
cases, §§ 5:3, 5:8, 5:10

Burden of going forward, §§ 5:1, 5:2

Burden of persuasion, § 5:1

Burden of production, §§ 5:1, 5:2

**BURDEN OF PROOF—Cont'd**

Chain of custody

demonstrative evidence, § 8:4

shifting of burden, §§ 5:2, 8:4

Child-related matters, civil cases,  
§ 5:18

Circumstantial evidence, criminal  
cases, § 5:3

Civil cases, §§ 5:2, 5:11-5:19

Civil conspiracy, § 5:19

Clear and convincing evidence,  
§§ 5:9, 5:13

Clergy/spiritual advisor-com-  
municant privilege, § 5:1

Collateral estoppel, civil cases,  
§ 5:19

Common law cause of action for  
fraud, § 5:14

Compelling arbitration, civil cases,  
§ 5:19

Competency of witnesses, § 13:2

Condemnation, §§ 5:2, 5:19

Condonation, affirmative defense in  
dissolution of marriage cases,  
§§ 5:12, 5:18

Confessions, motions to suppress in  
criminal cases, §§ 5:2, 5:5

Consent to search, motions to sup-  
press in criminal cases, § 5:4

Constitutional matters, criminal  
cases, §§ 5:3, 5:4

Consumption of alcohol, negligence  
cases, § 5:17

Contempt

criminal contempt, shifting of  
burden, § 5:2

indirect civil contempt, §§ 5:2,  
5:11, 5:18, 5:19

Contracts or agreements, §§ 5:2,  
5:14, 5:19

Counsel. Attorneys, above

Criminal cases, § 5:2-5:10

Criminal contempt, shifting of  
burden, § 5:2

Custody

chain of custody, above

children, civil cases, § 5:18

Declaratory judgment actions,  
§§ 5:16, 5:19

## INDEX

### **BURDEN OF PROOF—Cont'd**

- Deeds, undue influence, § 5:14
- Defamation, § 5:14
- Definition of burden of proof, § 5:1
- Demonstrative evidence, chain of custody, § 8:4
- Destruction of evidence, shifting of burden, § 5:2
- Determining what burden of proof applies, § 5:1
- Direct evidence, criminal cases, § 5:3
- Disclosure
  - attorney-client privilege, § 5:1
  - Freedom of Information Act, § 5:19
  - identity of confidential informant, criminal cases, § 5:3
- Discovery of information protected by qualified privilege, § 5:1
- Discrimination in employment cases, § 5:19
- Disqualification of counsel, civil cases, § 5:13
- Dissolution of marriage cases, §§ 5:12, 5:18
- Employment-related matters, civil cases, § 5:19
- Estoppel, civil cases, §§ 5:16, 5:19
- Exemptions or exclusions
  - insurance cases, § 5:16
  - tax exemptions, § 5:15
- Exhaustion of administrative remedies, affirmative defenses, § 5:12
- Exigent circumstances for warrantless search or arrest, motions to suppress in criminal cases, § 5:4
- Existence
  - fiduciary relationships, civil cases, § 5:13
  - trade practice, civil cases, § 5:19
- Expert witnesses, burden of party offering witness to show his competency to testify as expert, § 7:19
- Family matters, civil cases, § 5:18
- Fiduciary relationships, §§ 5:2, 5:13, 5:14
- Forfeiture Act, §§ 5:2, 5:19

### **BURDEN OF PROOF—Cont'd**

- Fourth Amendment, motions to suppress in criminal cases, § 5:4
- Fraud, §§ 5:2, 5:13, 5:14
- Freedom of Information Act, § 5:19
- Guilty plea withdrawal, criminal cases, § 5:3
- Habitual criminal sentencing, § 5:3
- Hearsay evidence, children's statements in criminal cases exception, § 10:46
- Heightened burden of proof, motions to suppress in criminal cases, § 5:5
- Identification, motions to suppress in criminal cases, § 5:6
- Illegal arrest, motion to suppress confession in criminal case, § 5:5
- Immunity, affirmative defenses in civil cases, § 5:12
- Improper shifting of burden, § 5:2
- Indictment by grand jury, criminal cases, § 5:3
- Indirect civil contempt, §§ 5:2, 5:11, 5:18, 5:19
- Injunctions, civil cases, § 5:19
- Insanity defense, criminal cases, § 5:9
- Instructions to jury, affirmative defenses in criminal cases, § 5:7
- Insurance cases, civil cases, § 5:16
- Intoxication defense, criminal cases, § 5:10
- Invitation defense, criminal cases, § 5:7
- Involuntary intoxication defense, criminal cases, § 5:10
- Joint Tortfeasor Contribution Act, §§ 5:2, 5:19
- Lack
  - proximate cause, negligence cases, §§ 5:12, 5:17
  - standing, civil cases, § 5:12
- Lawyers. Attorneys, above
- Legal malpractice, civil cases, § 5:19
- Mandamus actions, civil cases, § 5:19



**BURDEN OF PROOF—Cont'd**

Mandatory rebuttable presumptions, criminal cases, § 5:3

Medical malpractice, civil cases, § 5:17

Medical Studies Act, privilege under, § 5:1

Mental examination of adverse party, civil cases, §§ 5:11, 5:19

Mental illness, criminal cases, § 5:3

Misconduct  
civil cases, § 5:14  
prosecutorial misconduct, criminal cases, § 5:3

Mistake of fact defense, criminal cases, § 5:7

Mitigation of damages, civil cases, § 5:19

Motions  
civil cases, § 5:11  
criminal cases, § 5:2-5:6

Murder, shifting of burden, § 5:2

Nature, § 5:1

Necessity defense, criminal cases, § 5:7

Negligence cases, §§ 5:2, 5:12, 5:17

Ordinances, civil cases, § 5:19

Parental termination proceedings, civil cases, § 5:18

Payment, affirmative defenses in civil cases, § 5:18

Permanent injunctions, civil cases, § 5:19

Personal injuries, civil cases, §§ 5:17, 5:19

Persuasion, burden of, § 5:1

Physical examination of adverse party, civil cases, §§ 5:11, 5:19

Physician-patient privilege, § 5:1

Plain error, improper shifting of burden, § 5:2

Postconviction relief, criminal cases, § 5:3

Prejudice  
insurance cases, § 5:16  
shifting of burden, § 5:2

Preliminary injunctions, civil cases, § 5:19

**BURDEN OF PROOF—Cont'd**

Preponderance of evidence, §§ 5:3, 5:14, 21:5

Presumptions  
fraud, fiduciary relationships, §§ 5:2, 5:13, 5:14  
rebuttable presumptions, §§ 5:2, 5:3, 5:11

Pretrial identification, motions to suppress in criminal cases, § 5:6

Prima facie case, §§ 5:1, 5:2

Prima facie evidence, shifting of burden, § 5:2

Prior consistent statement of witness, criminal cases, § 5:3

Privileges. See index heading PRIVILEGES

Probation conditions violation, criminal cases, § 5:3

Production, burden of, §§ 5:1, 5:2

Property, §§ 5:2, 5:19

Prosecutorial misconduct, criminal cases, § 5:3

Proximate cause lacking, negligence cases, §§ 5:12, 5:17

Qualified privilege, discovery of information protected by, § 5:1

Quashal of subpoena motion, criminal cases, § 5:3

Reasonable value of attorney's services, § 5:13

Rebuttable presumptions, §§ 5:2, 5:3, 5:11

Recovery proceedings under Sexually Dangerous Persons Act, § 5:19

Reformation of instrument, civil cases, § 5:19

Refunds, tax, § 5:15

Relevancy of evidence, § 4:2

Rent, civil cases, § 5:19

Res ipsa loquitur, negligence cases, § 5:17

Res judicata, civil cases, § 5:19

Resulting trusts, civil cases, §§ 5:13, 5:19

Returns, tax, § 5:15

Reversible error, improper shifting of burden, § 5:2

## INDEX

### **BURDEN OF PROOF—Cont'd**

- Scientific evidence, §§ 5:3, 5:11, 5:19
- Scope, § 5:1
- Search and seizure, motions to suppress in criminal cases, §§ 5:2, 5:4
- Self-defense, criminal cases, § 5:8
- Setting aside deed, undue influence, § 5:14
- Settlements
  - fiduciary relationships, § 5:13
  - Joint Tortfeasor Contribution Act, §§ 5:2, 5:19
- Sexual abuse of children, criminal cases, § 5:3
- Sexually Dangerous Persons Act, civil cases, § 5:19
- Shifting of burden of proof
  - generally, §§ 5:2, 5:11, 5:13, 5:14
  - chain of custody, §§ 5:2, 8:4
- Slander of title, § 5:14
- Speedy trial rule violation, criminal cases, § 5:3
- Standing
  - custody of children, civil cases, § 5:18
  - lack of standing, affirmative defenses in civil cases, § 5:12
- Statute of limitations, §§ 5:2, 5:12, 5:19
- Statutes, §§ 5:1-5:4, 5:12, 5:14, 5:19
- Strict liability cases, § 5:17
- Strict products liability, § 5:17
- Subpoena quashal motion, criminal cases, § 5:3
- Suggestiveness of pretrial identification, motions to suppress in criminal cases, § 5:6
- Summary judgment, shifting of burden, § 5:2
- Support of children, civil cases, § 5:18
- Suppression motions, criminal cases, §§ 5:2, 5:4-5:6
- Tax cases, civil cases, § 5:15
- Terry stop, motions to suppress in criminal cases, § 5:4

### **BURDEN OF PROOF—Cont'd**

- Tort Immunity Act, affirmative defenses in civil cases, § 5:12
- Trade practices, civil cases, § 5:19
- Unconscionability of contract provision, civil cases, § 5:14
- Undue influence, civil cases, § 5:14
- Unemployment compensation cases, § 5:19
- Violations
  - municipal ordinance, civil cases, § 5:19
  - probation conditions, criminal cases, § 5:3
  - speedy trial rule, criminal cases, § 5:3
- Visitation of children, § 5:18
- Voluntariness
  - confessions, motions to suppress in criminal cases, § 5:5
  - waiver of Miranda rights, motions to suppress in criminal cases, § 5:5
- Waiver of Miranda rights, motions to suppress in criminal cases, § 5:5
- Warrantless arrest, motions to suppress in criminal cases, § 5:4
- Warrantless search, motions to suppress in criminal cases, § 5:4
- Weight of evidence, §§ 21:4, 21:5
- Wills, §§ 5:2, 5:19
- Withdrawal of guilty plea, criminal cases, § 5:3
- Workers' compensation cases, § 5:19
- Zoning ordinances, civil cases, § 5:19

### **BURGLARY**

- Relevancy of evidence, other crimes evidence, § 4:37

### **BUSINESS**

- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Judicial notice of facts related to business customs and usages, § 2:11
- Lay witnesses, customs, habits or practices, § 7:8
- Presumptions and inferences, commercial matters, § 3:26-3:30

**BUSINESS—Cont'd**

- Records
  - documentary evidence, authentication required, § 9:15
  - hearsay evidence. See index heading HEARSAY EVIDENCE
  - self-incrimination, privilege against, § 15:1

**BYSTANDERS**

- Hearsay evidence, spontaneous declarations exception, § 10:21

**CAPITAL CASES**

- See index heading DEATH PENALTY CASES

**CARE**

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Health Care Surrogate Act, presumptions and inferences, § 3:48
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Standard of care
  - expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
  - relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**CARRIERS**

- Admissions by agents, § 11:4
- Presumptions and inferences, negligence, § 3:18

**CARS**

- See index heading AUTOMOBILES

**CARTELS, DRUG**

- Demonstrative evidence, charts, § 8:13

**CASTS**

- Demonstrative evidence, § 8:14

**CAUSE AND CAUSATION**

- Death, cause of. See index heading DEATH
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

**CAUSE AND CAUSATION—Cont'd**

- Injury, cause of. See index heading INJURY OR INJURIES
- Probable cause, forfeiture of property, § 1:3
- Proximate cause. See index heading PROXIMATE CAUSE
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Sufficiency and weight of evidence, circumstantial evidence, § 21:2

**CERTAINTY**

- Expert witnesses, degree of certainty regarding opinion, §§ 7:26, 7:52

**CERTIFICATES**

- Documentary evidence, death certificate, § 9:2
- Hearsay evidence, public records and reports exception, § 10:56

**CERTIFICATION OF RECORDS**

- Documentary evidence, copies of records, §§ 9:2-9:7, 9:10, 9:14
- Hearsay evidence, hospital records, § 10:53

**CERTIFIED PUBLIC ACCOUNTANT**

- Expert witnesses, value of personal property and services, § 7:41
- Privilege, § 14:16

**CHAIN OF CUSTODY**

- Burden of proof. See index heading BURDEN OF PROOF
- Demonstrative evidence, §§ 8:3-8:6, 8:15, 8:18
- Examination of witnesses, stipulations, § 17:21
- Hearsay evidence, chemical tests performed on blood, breath or urine of drivers exception, § 10:49
- Sufficiency and weight of evidence, §§ 21:1, 21:2

**CHALLENGES**

- Demonstrative evidence, chain of custody, § 8:3

## INDEX

### CHALLENGES—Cont'd

- Examination of witnesses, stipulations, §§ 17:19, 17:21
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

### CHARACTER AND REPUTATION

- Hearsay evidence, statements concerning declarant's physical condition for medical diagnosis or treatment, §§ 10:39, 10:45
- Impeachment. See index heading IMPEACHMENT
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### CHARGES

- Impeachment. See index heading IMPEACHMENT
- Sufficiency and weight of evidence, variance between charging instrument and evidence, § 21:6

### CHARTS

- Demonstrative evidence, § 8:13
- Hearsay exception, use to explain testimony, § 10:64

### CHEMICAL TESTS

- Demonstrative evidence, out-of-court tests, § 8:12
- Expert witnesses, §§ 7:70, 7:75
- Hearsay exception, blood, breath or urine of drivers, § 10:49
- Self-incrimination, privilege against, refusal to take test, §§ 15:1, 15:7

### CHEMISTS

- Expert witnesses, drugs, § 7:70

### CHILD

- See index heading CHILDREN OR MINORS

### CHILD CUSTODY

- Burden of proof, § 5:18
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Presumptions and inferences, §§ 3:6, 3:16

### CHILD CUSTODY—Cont'd

- Relevancy of evidence, dissolution of marriage cases, § 4:7

### CHILDREN AND FAMILY SERVICES DEPARTMENT

- Generally, §§ 10:15, 18:19

### CHILDREN OR MINORS

- Also see index heading JUVENILES
- Abuse or neglect of children. See index heading ABUSE OR NEGLECT OF CHILDREN
- Admissions by infants, § 11:13
- Age of child
  - competency of witnesses, §§ 13:1, 13:11
  - examination of witnesses, leading questions, § 17:9
  - hearsay evidence. See index heading HEARSAY EVIDENCE
- Burden of proof in civil cases, § 5:18
- Custody of children. See index heading CHILD CUSTODY
- Endangerment of child, presumptions and inferences, § 3:34
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Neglect of children. See index heading ABUSE OR NEGLECT OF CHILDREN
- Parents. See index heading PARENTS
- Paternity. See index heading PATERNITY
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Privileges. See index heading PRIVILEGES
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Sexual abuse. See index heading SEXUAL ABUSE
- Sexual assault. See index heading SEXUAL ASSAULT
- Support of children. See index heading CHILD SUPPORT

**CHILDREN OR MINORS—Cont'd**

Witness, child as. See index heading  
CHILD WITNESSES

**CHILD SUPPORT**

Burden of proof in civil cases, § 5:18  
Guidelines, §§ 3:6, 3:16, 5:18  
Hearsay public records or reports  
exception, support payments,  
§ 10:56  
Presumptions and inferences, §§ 3:6,  
3:16

**CHILD WITNESSES**

Anatomically correct doll, use,  
§§ 8:14, 13:11, 17:7  
Competency of witnesses, §§ 13:1,  
13:11  
Demonstrative evidence, § 8:14  
Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE

**CIGARETTE SMOKING**

Relevancy of evidence, civil cases,  
§ 4:3

**CIRCUMSTANTIAL EVIDENCE**

Generally, §§ 1:1, 1:3  
Burden of proof, criminal cases,  
§ 5:3  
Documentary evidence, authentica-  
tion, § 9:13  
Fraud, §§ 1:3, 21:2  
Mental state/state of mind, §§ 1:3,  
21:2  
Sufficiency and weight of evidence,  
§§ 1:3, 21:2

**CITIES**

See index heading MUNICIPALITIES

**CIVIL CASES**

Burden of proof, §§ 5:2, 5:11-5:19  
Competency of witnesses. See index  
heading COMPETENCY OF WIT-  
NESSES  
Conspiracy. See index heading CIVIL  
CONSPIRACY

**CIVIL CASES—Cont'd**

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Impeachment. See index heading  
IMPEACHMENT  
Objections. See index heading OBJEC-  
TIONS  
Presenting case and attendance of  
witnesses, § 16:1-16:5  
Privileges. See index heading PRIVI-  
LEGES  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**CIVIL CONSPIRACY**

Burden of proof, § 5:19  
Circumstantial evidence, § 1:3  
Expert witnesses, § 7:88  
Relevancy of evidence, § 4:3

**CLAIMS**

Presumptions and inferences, work  
on real property, § 3:36  
Privileges. See index heading PRIVI-  
LEGES  
Relevancy of evidence, loss of  
consortium claim by spouse,  
§ 4:3

**CLEAR AND CONVINCING  
EVIDENCE**

Burden of proof, §§ 5:9, 5:13

**CLEARLY ERRONEOUS  
STANDARD OF REVIEW**

Objections, rulings on evidence as  
grounds for new trial, § 20:21

**CLERGY/SPIRITUAL  
ADVISOR-COMMUNICANT  
PRIVILEGE**

Generally, § 14:18  
Abused and Neglected Child Report-  
ing Act, § 14:18  
Burden of proof, §§ 5:1, 14:18

## INDEX

### CLERGY/SPIRITUAL

#### ADVISOR-COMMUNICANT PRIVILEGE—Cont'd

- Conversations, § 14:18
- Criminal cases, § 14:1
- Remedy for violation, § 14:1
- Statutory privilege, § 14:18
- Violations, § 14:1

### CLIENTS

- Attorneys. See index heading  
ATTORNEYS
- Hearsay evidence in juvenile court  
proceedings, client service  
plans, § 10:52

### CLINICAL PSYCHOLOGISTS

- Expert witnesses, §§ 7:17, 7:65

### CLOSED CIRCUIT TELEVISION

- Examination of child witness, sexual  
abuse of children, § 17:7

### CLOSING ARGUMENTS

- Admissions by attorneys, § 11:5

### CLOSING COURTROOM TO SPECTATORS

- Examination of child witnesses,  
§ 17:7

### CLOTHING

- Demonstrative evidence, § 8:2
- Judicial notice of dress modes, § 2:12

### COCONSPIRATORS

- Admissions, § 11:6-11:8
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE

### CODEFENDANTS

- Admissions. See index heading  
ADMISSIONS
- Hearsay evidence, declarations  
against penal interest exception,  
§ 10:28
- Objections, § 20:4-20:6

### COLLATERAL ESTOPPEL

- Burden of proof, civil cases, § 5:19

### COLLATERAL EVIDENCE

- Relevancy of evidence, cause and  
effect, §§ 4:63, 4:64

### COLLATERAL MATTERS

- Examination of witnesses, rebuttal  
and surrebuttal, § 17:18
- Impeachment methods, §§ 18:1, 18:2

### COLLATERAL SOURCE RULE

- Relevancy of evidence, financial  
condition of parties, § 4:53

### COLLOQUY, PLEA

- Self-incrimination, privilege against,  
§ 15:1

### COMMERCIAL MATTERS

- Documentary evidence, commercial  
papers, § 9:11
- Presumptions and inferences, §§ 3:5,  
3:17, 3:26-3:30
- Relevancy of evidence, customs and  
usages in commercial transac-  
tions, § 4:56
- Uniform Commercial Code, parol or  
extrinsic evidence affecting writ-  
ings, § 12:1

### COMMITMENT OF PERSONS

- Involuntary commitment proceed-  
ings, §§ 4:3, 16:5, 17:11
- Sexually dangerous or violent  
persons, §§ 7:63, 7:65, 10:15,  
10:46

### COMMON DESIGN OR SCHEME

- Relevancy of evidence, exception to  
general rule against admissibil-  
ity of other crimes evidence,  
§ 4:41

### COMMON KNOWLEDGE

- Judicial notice, §§ 2:1, 2:13

### COMMON LAW

- Burden of proof, cause of action for  
fraud, § 5:14
- Hearsay exceptions, testimonial  
hearsay and Confrontation  
Clause, § 10:15
- Judicial notice, §§ 2:4, 2:5
- Presumptions and inferences, § 3:10-  
3:48

### COMMUNICATION OR COMMUNICATIONS

- Competency of witnesses, ability to  
communicate, §§ 13:1, 13:4

**COMMUNICATION OR  
COMMUNICATIONS—Cont'd**

Conversations. See index heading  
CONVERSATIONS  
Documentary evidence, definition of  
document, § 9:1  
Privileges. See index heading PRIVI-  
LEGES

**COMMUNITY**

Expert medical testimony, need for  
familiarity with standards of  
medical care in particular com-  
munity, § 7:46  
Impeachment, reputation evidence,  
§ 18:17

**COMPARISON**

Handwriting compared by trier of  
fact, documentary evidence,  
§ 9:20  
Names, impeachment by prior  
conviction, § 18:21

**COMPEL OR COMPELLING**

Arbitration, burden of proof, § 5:19  
Attendance of witnesses, Uniform  
Act to Secure the Attendance of  
Witnesses from Within or  
Without a State in Criminal  
Proceedings, § 16:3  
Compulsory Process Clause of Sixth  
Amendment, §§ 16:1, 17:2  
Disclosure of privileged information,  
§ 14:1  
Testimony. See index heading SELF-  
INCRIMINATION, PRIVILEGE  
AGAINST

**COMPENSATION**

Unemployment compensation. See  
index heading UNEMPLOYMENT  
COMPENSATION  
Witnesses, presenting case and atten-  
dance of witnesses, § 16:4  
Workers' compensation. See index  
heading WORKERS' COMPENSA-  
TION

**COMPENSATORY DAMAGES**

Relevancy of evidence, financial  
condition of parties, § 4:53

**COMPETENCY**

Admissions. See index heading  
ADMISSIONS  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Witnesses. See index heading  
COMPETENCY OF WITNESSES

**COMPETENCY OF WITNESSES**

Generally, § 13:1-13:15  
Ability to observe, recollect and com-  
municate, §§ 13:1, 13:4  
Accounts, exceptions under Dead  
Man's Act, § 13:8  
Admissibility, jurors, § 13:15  
Admissions, exceptions under Dead  
Man's Act, § 13:9  
Adverse party, Dead Man's Act,  
§§ 13:7, 13:9  
Affidavits  
jurors, § 13:15  
motions for summary judgment  
and involuntary dismissal,  
§ 13:3  
Age of witness, §§ 13:1, 13:11  
Anatomically correct dolls used by  
child witnesses, § 13:11  
Applicability of special witness doc-  
trine, § 13:12-13:14  
Attorneys, § 13:12  
Burden of proof, § 13:2  
Children, §§ 13:1, 13:11  
Civil cases, generally, § 13:1  
Conversations, Dead Man's Act,  
§§ 13:7, 13:9  
Criminal cases, §§ 13:1, 13:4, 13:11-  
13:13, 13:15  
Dead Man's Act, § 13:6-13:10  
Deceased persons, Dead Man's Act,  
§ 13:6-13:10  
Deliberations of jury, § 13:15  
Deposition pertaining to motion for  
summary judgment, § 13:3  
Determinations, §§ 13:1, 13:2, 13:7  
Discretion of court, §§ 13:2, 13:12,  
13:13  
Disqualification as witness, §§ 13:1,  
13:4, 13:7



## INDEX

### COMPETENCY OF WITNESSES

#### —Cont'd

- Documents, exceptions under Dead Man's Act, § 13:8
- Exceptions under Dead Man's Act, § 13:8-13:10
- Experts and expert witnesses
  - affidavits pertaining to motions for summary judgment, § 13:3
  - Dead Man's Act, §§ 13:6, 13:7
  - discretion of court to determine competency of witness to testify as expert, §§ 7:18, 7:19
  - psychiatric opinion, §§ 13:2, 13:4
- Factors that may affect competency, §§ 13:4, 13:5
- Facts
  - affidavits pertaining to motions for summary judgment and involuntary dismissal, § 13:3
  - heirship of decedent, exceptions under Dead Man's Act, § 13:10
- Forfeiture of protection of Dead Man's Act, § 13:9
- Guardians, Dead Man's Act, § 13:6
- Hearings
  - competency hearings, §§ 13:1, 13:2, 13:11
  - postconviction hearings, judges, § 13:13
- Hearsay exception, agents' statements, § 10:33
- Heirship of decedent, exceptions under Dead Man's Act, § 13:10
- Inability to express oneself so as to be understood or to speak, § 13:4
- Influence
  - jurors, § 13:15
  - undue influence, Dead Man's Act, §§ 13:6, 13:7
- Interested persons, §§ 13:1, 13:6, 13:7
- Interpreters, § 13:4
- Intoxication, exceptions under Dead Man's Act, § 13:9
- Involuntary dismissal, affidavits pertaining to motion for, § 13:3

### COMPETENCY OF WITNESSES

#### —Cont'd

- Judges, § 13:13
- Jurors, § 13:15
- Legally disabled persons, Dead Man's Act, § 13:6-13:10
- Mental capacity or condition, factors that may affect competency, § 13:5
- Motions for summary judgment and involuntary dismissal, affidavits, § 13:3
- Objections, sua sponte competency examination of witness by court in presence of jury, §§ 20:2, 20:6
- "Opening the door" by representative, exceptions under Dead Man's Act, § 13:9
- Particular persons, § 13:11-13:15
- Payment, Dead Man's Act, § 13:6
- Personal injury cases, attorneys, § 13:12
- Postconviction hearings, judges, § 13:13
- Prejudice, § 13:2
- Presumptions, §§ 13:1, 13:2, 13:11
- Privilege of invoking Dead Man's Act, §§ 13:6, 13:9
- Psychiatric opinion, §§ 13:2, 13:4
- Psychologists, Dead Man's Act, §§ 13:6, 13:7
- Purposes of Dead Man's Act, § 13:6
- Reporters, § 13:14
- Representatives, Dead Man's Act, § 13:6-13:10
- Special witness doctrine, § 13:12-13:14
- Spouses, Dead Man's Act, § 13:7
- Statutes, §§ 13:1, 13:2, 13:4, 13:6-13:10
- Subpoenas
  - judges, § 13:13
  - special witness doctrine, §§ 13:13, 13:14
- Summary judgment, §§ 13:3, 13:6
- Time for determination of competency, § 13:1

**COMPETENCY OF WITNESSES**  
—Cont’d

Undue influence, Dead Man’s Act,  
§§ 13:6, 13:7  
Verdicts, jurors, § 13:15  
Waiver of privilege to invoke Dead  
Man’s Act, §§ 13:6, 13:9

**COMPETENT EVIDENCE**

Admissions by party opponent,  
§ 11:1

**COMPETITION**

Expert witnesses, ultimate issue,  
§ 7:30

**COMPLAINTS**

Police department, privileges,  
§ 14:20  
Rape victim, spontaneous declara-  
tions hearsay exception,  
§§ 10:22, 10:23

**COMPLETENESS DOCTRINE**

Admissions by party opponent,  
§ 11:2  
Cross-examination of witnesses,  
§ 17:15  
Relevancy of evidence, § 4:25

**COMPLETION OF  
IMPEACHMENT**

Prior inconsistent statements,  
§§ 18:14, 18:15

**COMPLIANCE**

Documentary evidence, compliance  
with subpoena, § 9:13  
Impeachment, substantial compliance  
with confronting witness with  
prior inconsistent statement,  
§ 18:14

**COMPOSITION OF  
CONTROLLED SUBSTANCE**

Circumstantial evidence, § 1:3

**COMPROMISE**

See index heading SETTLEMENT OR  
COMPROMISE

**COMPROLLER**

Documentary evidence, certified cop-  
ies of public records, § 9:2

**COMPULSORY PROCESS  
CLAUSE OF SIXTH  
AMENDMENT**

Generally, §§ 16:1, 17:2

**COMPUTERS**

Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Printouts, §§ 9:15, 10:55, 11:6  
Records, §§ 1:5, 10:55, 10:56  
Stored information or data,  
documentary evidence, §§ 9:1,  
9:15

**CONCEALMENT**

Impeachment. See index heading  
IMPEACHMENT  
Presumptions and inferences, attempt  
by party to conceal evidence,  
§§ 3:23, 3:24

**CONCLUSIONS**

Expert witness disclosure of facts or  
data underlying opinion, conclu-  
sions of nontestifying experts,  
§ 7:24  
Hearsay exception, business records,  
§ 10:52  
Lay witnesses, § 7:1

**CONCLUSIVE OR  
CONCLUSIVENESS**

Admissions, §§ 11:1, 11:27  
Presumptions. See index heading  
PRESUMPTIONS AND INFERENCES

**CONDEMNATION**

See index heading EMINENT DOMAIN

**CONDITIONS**

Demonstrative evidence, in-court  
display, § 8:7  
Mental condition. See index heading  
MENTAL CONDITION  
Presumptions and inferences, contin-  
uance of condition, § 3:37  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**CONDONATION**

Burden of proof, affirmative defense  
in dissolution of marriage cases,  
§§ 5:12, 5:18

## INDEX

### CONDUCT OF PERSONS

- Admissions implied from, § 11:33-11:39
- Course of conduct. See index heading COURSE OF CONDUCT
- Expert medical testimony, disqualifying conduct of witness or party, § 7:63
- Impeachment, conduct of witness, §§ 18:11, 18:17-18:19
- Misconduct. See index heading MISCONDUCT
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Privileges. See index heading PRIVILEGES
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Sufficiency and weight of evidence, circumstantial evidence, § 21:2

### CONFESSIONS

- Also see index heading ADMISSIONS
- Burden of proof, motions to suppress in criminal cases, §§ 5:2, 5:5
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Forms of confession, admissions in pleadings and other judicial admissions, § 11:32
- Hearsay evidence, declarations against penal interest exception, § 10:28
- Limited admissibility of evidence, § 1:4
- Presumptions and inferences, criminal cases, § 3:34
- Relevancy of evidence, §§ 4:11, 4:24
- Sufficiency and weight of evidence, conviction may not be based solely on uncorroborated confession, § 21:1

### CONFIDENTIAL OR CONFIDENTIALITY

- AIDS Confidentiality Act, §§ 7:69, 14:20

### CONFIDENTIAL OR

#### CONFIDENTIALITY—Cont'd

- Burden of proof, disclosure of identity of confidential informant, § 5:3
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Privileges. See index heading PRIVILEGES

### CONFLICTING MATTERS

- Presumptions, §§ 3:4, 3:21
- Testimony, sufficiency and weight of evidence, § 21:4

### CONFRONTATION

- Clause. See index heading SIXTH AMENDMENT
- Impeachment, substantial compliance with confronting witness with prior inconsistent statement, § 18:14

### CONFUSION

- Cross-examination of witnesses, limitations on scope, § 17:13
- Relevancy of evidence, exclusion of otherwise admissible evidence that might confuse issues, § 4:21

### CONGESTION OF COURT

#### DOCKETS

- Judicial notice, § 2:14

### CONJECTURE

- Expert testimony may not be based on, § 7:25

### CONNECTING UP

- Objections, failure to connect up presented evidence with promised evidence, § 20:12

### CONSCIOUSNESS OF GUILT

- Admissions implied from conduct, § 11:37
- Flight by defendant, §§ 3:31, 4:45
- Presumptions and inferences, criminal cases, § 3:31-3:33
- Relevancy of evidence, §§ 4:19, 4:45

## **CONSENT**

- Blood test, hearsay exception, § 10:49
- Privileges. See index heading PRIVILEGES
- Search, burden of proof, § 5:4
- Surgery, expert medical testimony, §§ 7:64, 7:68

## **CONSISTENT STATEMENTS**

- See index heading PRIOR CONSISTENT STATEMENTS

## **CONSORTIUM, LOSS OF**

- Relevancy of evidence, claim by spouse, § 4:3

## **CONSPIRACY**

- Admissions of conspirators, § 11:6-11:8
- Civil conspiracy. See index heading CIVIL CONSPIRACY
- Coconspirators. See index heading COCONSPIRATORS
- Presumptions and inferences, criminal cases, § 3:34
- Relevancy of evidence, § 4:3

## **CONSTITUTIONAL MATTERS**

- Burden of proof, criminal cases, §§ 5:3, 5:4
- Demonstrative evidence, §§ 8:8, 8:11
- Double jeopardy, sufficiency and weight of evidence, § 21:6
- Due process. See index heading DUE PROCESS
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Expert medical testimony, §§ 7:63, 7:65
- Fifth Amendment. See index heading FIFTH AMENDMENT
- First Amendment, presumptions and inferences, § 3:41
- Fourth Amendment. See index heading FOURTH AMENDMENT
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment. See index heading IMPEACHMENT

## **CONSTITUTIONAL MATTERS**

### **—Cont'd**

- Objections. See index heading OBJECTIONS
- Physician-patient privilege, § 14:14
- Presenting case and attendance of witnesses. See index heading PRESENTING CASE AND ATTENDANCE OF WITNESSES
- Presumptions and inferences, §§ 3:2, 3:7, 3:23, 3:24, 3:34, 3:41, 3:48
- Relevancy of evidence, rape shield statute, § 4:52
- Sixth Amendment. See index heading SIXTH AMENDMENT

## **CONSTRUCTION AND INTERPRETATION**

- Broad or liberal construction. See index heading BROAD OR LIBERAL CONSTRUCTION
- Cross-examination of witnesses, scope, § 17:13
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Privileges, § 14:1

## **CONSTRUCTION AND INTERPRETATION OF WRITINGS**

- Parol or extrinsic evidence affecting writings, §§ 12:1, 12:3-12:6

## **CONSTRUCTION OF BUILDING**

- Expert witnesses, weight of testimony, § 7:36

## **CONSTRUCTIVE TRUSTS**

- Hearsay evidence, state of mind of declarant exception, § 10:34

## **CONSULTING ANOTHER PHYSICIAN**

- Physician-patient privilege, § 14:14

## **CONSUMPTION OF ALCOHOL OR DRUGS**

- Generally, §§ 4:6, 5:17

## INDEX

### CONTEMPORANEOUS BUSINESS RECORDS

Documentary evidence, authentication required, § 9:15

### CONTEMPT

Burden of proof. See index heading  
BURDEN OF PROOF

Criminal contempt  
burden of proof, shifting of burden,  
§ 5:2  
indirect criminal contempt,  
§§ 3:11, 15:1

Indirect contempt  
civil contempt, burden of proof,  
§§ 5:2, 5:11, 5:18, 5:19  
criminal contempt, §§ 3:11, 15:1

Presumption of innocence, indirect  
criminal contempt cases, § 3:11

Self-incrimination, privilege against,  
§ 15:1

### CONTINUANCES

Presenting case and attendance of  
witnesses, § 16:1

### CONTINUING OR CONTINUATION

Presumptions and inferences, continuance of fact or condition,  
§ 3:37

Relevancy of evidence, continuing  
narrative, § 4:42

### CONTRACTS OR AGREEMENTS

Burden of proof, §§ 5:2, 5:14, 5:19

Expert witnesses, interpretation of  
contract, § 7:90

Impeachment, interest, bias or prejudice, §§ 18:7, 18:9

Parol or extrinsic evidence affecting  
writings, §§ 12:1, 12:2, 12:6

Plea agreements, waiver of privilege  
against self-incrimination,  
§ 15:6

Presumptions and inferences,  
§§ 3:10, 3:26, 3:28, 3:29

Relevancy of evidence, customs and  
usages, § 4:56

### CONTRADICTION

Admissions, ordinary evidentiary  
admissions, §§ 11:1, 11:27

Hearsay exception for prior consistent  
statements, contradictory  
evidence, § 10:38

### CONTRIBUTION

Joint Tortfeasor Contribution Act,  
burden of proof, §§ 5:2, 5:19

### CONTROL GROUP

Attorney-client privilege, corporations,  
§§ 14:2, 14:5

### CONTROLLED EXPERT WITNESSES

Generally, § 7:13

### CONTROLLED SUBSTANCES

Composition of controlled substance,  
circumstantial evidence, § 1:3

Demonstrative evidence, chain of  
custody, § 8:6

Drugs and narcotics. See index heading  
DRUGS AND NARCOTICS

Intent to deliver controlled substances,  
circumstantial evidence,  
§ 1:3

### CONTROVERTED

Cross-examination answers may not  
be, § 17:18

### CONVERSATIONS

Competency of witnesses, Dead  
Man's Act, §§ 13:7, 13:9

Cross-examination of witnesses,  
completeness doctrine, § 17:15

Demonstrative evidence, § 8:19

Documentary evidence, § 9:17

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Laying foundation for evidence,  
§ 1:5

Privileges. See index heading PRIVILEGES

Relevancy of evidence, admission of  
evidence made relevant by  
adverse party, § 4:25

Sound recordings, §§ 8:19, 9:17

**CONVERSION OF PARTIES**

Hearsay evidence, admissibility,  
§ 10:4

**CONVICTION OF CRIME**

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Postconviction matters. See index  
heading POSTCONVICTION MAT-  
TERS

Prior conviction  
hearsay exception, judgment in  
criminal action as evidence in  
civil action and vice versa,  
§ 10:65

impeachment, §§ 18:7, 18:20-  
18:28

judicial notice, §§ 2:9, 18:21

limited admissibility of evidence,  
§ 1:4

relevancy of evidence, other  
crimes evidence, § 4:30

Sufficiency and weight of evidence.  
See index heading SUFFICIENCY  
AND WEIGHT OF EVIDENCE

**COPIES OR DUPLICATES**

Documentary evidence. See index  
heading DOCUMENTARY EVI-  
DENCE

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Secondary evidence, degrees of,  
§ 6:4

**CORONER**

See index heading MEDICAL  
EXAMINER OR CORONER

**CORPORATIONS**

Admissions. See index heading  
ADMISSIONS

Attorney-client privilege, §§ 14:2,  
14:5

Documentary evidence, certified cop-  
ies of corporate records, § 9:7

Documents, admissions, §§ 11:25,  
11:27

Judicial notice of corporate nature of  
company, § 2:11

Officers, admissions, § 11:10

**CORPORATIONS—Cont'd**

Presumptions and inferences, regular-  
ity of corporate acts, § 3:26

Records  
admissions, § 11:25  
self-incrimination, privilege  
against, § 15:1

**CORRECTIONS DEPARTMENT**

Records, §§ 2:3, 2:10, 10:56

**CORRESPONDENCE**

Letters. See index heading LETTERS  
Presumption of delivery or receipt,  
§ 3:43

**CORROBORATIVE EVIDENCE**

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Relevancy of evidence, other crimes  
evidence, §§ 4:26, 4:47

**COSTS AND EXPENSES**

Expert witnesses, administrative  
expenses, § 7:20

**COUNSEL**

See index heading ATTORNEYS

**COUNSELORS**

See index heading PRIVILEGES

**COURSE OF CONDUCT**

Hearsay evidence, out-of-court state-  
ments offered for purpose other  
than to prove truth of matter  
asserted are not hearsay, § 10:11

Relevancy of evidence, identification  
exception to general rule against  
admissibility of other crimes  
evidence, § 4:43

**COURSE OF DEALING**

Presumptions and inferences, general  
course of business dealings,  
§ 3:27

Relevancy of evidence, customs and  
usages, § 4:56

**COURTS**

Contempt. See index heading  
CONTEMPT

Discretion of court. See index head-  
ing DISCRETION OF COURT

## INDEX

### **COURTS—Cont'd**

- Exclusionary rule, court supervision revocation proceedings, § 1:6
- In-court. See index heading IN-COURT
- Juvenile court. See index heading JUVENILE COURT
- Out-of-court. See index heading OUT-OF-COURT
- Psychiatrist/mental health therapist-patient privilege, court-ordered mental health examination, § 14:15
- Records, documentary evidence, § 9:2
- Sua sponte matters. See index heading SUA SPONTE MATTERS

### **CRAWFORD V. WASHINGTON**

- See index heading HEARSAY EVIDENCE

### **CREDIBILITY OF WITNESSES**

- Cross-examination of witnesses, § 17:13
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Impeachment of witnesses. See index heading IMPEACHMENT
- Relevancy of evidence, criminal cases, § 4:11
- Sufficiency and weight of evidence, § 21:4

### **CRIME-FRAUD EXCEPTION**

- Attorney-client privilege, § 14:4

### **CRIMES AND CRIMINAL CASES OR PROCEEDINGS**

- Admissions in criminal cases, §§ 11:1, 11:4, 11:31, 11:32, 11:37-11:39
- Armed robbery. See index heading ARMED ROBBERY
- Arson. See index heading ARSON
- Assault and battery. See index heading ASSAULT AND BATTERY
- Burden of proof in criminal cases, § 5:2-5:10
- Capital cases. See index heading DEATH PENALTY CASES
- Circumstantial evidence, § 1:3

### **CRIMES AND CRIMINAL CASES OR PROCEEDINGS—Cont'd**

- Competency of witnesses in criminal cases, §§ 13:1, 13:4, 13:11-13:13, 13:15
- Contempt. See index heading CONTEMPT
- Conviction of crime. See index heading CONVICTION OF CRIME
- Death penalty cases. See index heading DEATH PENALTY CASES
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Exclusionary rule in criminal proceedings, § 1:6
- Fitness or unfitness to stand trial. See index heading FITNESS OR UNFITNESS TO STAND TRIAL
- Grand jury. See index heading GRAND JURY
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Homicide. See index heading HOMICIDE
- Impeachment. See index heading IMPEACHMENT
- Judicial notice in criminal proceedings, § 2:2
- Murder. See index heading MURDER
- Objections. See index heading OBJECTIONS
- Other crimes evidence. See index heading OTHER CRIMES EVIDENCE
- Presenting case and attendance of witnesses, § 16:1-16:5
- Presumptions and inferences in criminal cases, §§ 3:2, 3:6, 3:7, 3:11, 3:12, 3:23, 3:24, 3:31-3:34, 3:38-3:41
- Privileges. See index heading PRIVILEGES
- Reckless homicide. See index heading RECKLESS HOMICIDE
- Refreshing memory of witnesses, hypnotically enhanced testimony, § 19:3



**CRIMES AND CRIMINAL CASES  
OR PROCEEDINGS—Cont'd**

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Robbery. See index heading ROBBERY

Scene of crime. See index heading SCENE OF CRIME

Self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST

Sentencing. See index heading SENTENCING

Sex offenses/offenders. See index heading SEX OFFENSES/OFFENDERS

Sufficiency and weight of evidence in criminal cases, § 21:1-21:6

Theft. See index heading THEFT

Victims of crimes. See index heading VICTIMS OF CRIMES

**CRIMINAL IDENTIFICATION  
ACT**

Physician-patient privilege, § 14:14

**CRITICAL SELF-ANALYSIS  
PRIVILEGE**

Generally, §§ 14:13, 14:20

**CROHN'S DISEASE**

Expert medical testimony, § 7:46

**CROSS-EXAMINATION OF  
WITNESSES**

Generally, § 17:11-17:16

Abuse of children, child witnesses, §§ 17:11, 17:14

Adverse witnesses, §§ 17:12, 17:16

Alibi witnesses, §§ 17:13, 18:1

Answers on cross-examination, when they may not be controverted, § 17:18

Appropriate cross-examination of witnesses, § 17:13

Avoidance of harassment, prejudice or confusion, limitations on scope, § 17:13

Bias of witnesses, §§ 17:11, 17:13

Capital sentencing hearings, § 17:11

Child witnesses, §§ 17:11, 17:14

**CROSS-EXAMINATION OF  
WITNESSES—Cont'd**

Civil cases, generally, § 17:11-17:16

Completeness doctrine, § 17:15

Confrontation Clause, §§ 17:11, 17:13

Confusion avoidance, limitations on scope, § 17:13

Constitutional matters, §§ 17:11, 17:13, 18:6

Controverted, when answers on cross-examination may not be, § 17:18

Conversations, completeness doctrine, § 17:15

Credibility of witnesses, § 17:13

Criminal cases, generally, § 17:11-17:16

Curative admissibility doctrine, § 17:15

Depositions, completeness doctrine, § 17:15

Discretion of court, §§ 17:11, 17:13

Divorce proceedings, § 17:13

Documents relied upon by expert witnesses, § 17:13

Due process, capital sentencing hearings, § 17:11

Enlargement of scope of direct examination, § 17:13

Expert witnesses, §§ 7:31-7:35, 7:48, 7:62, 17:11, 17:13, 17:14

False testimony, §§ 17:13, 18:6

Financial interest of witness, §§ 17:11, 17:13, 18:9

Harassment, limitations on scope, § 17:13

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment. See index heading IMPEACHMENT

Improper matters, § 17:11

Involuntary commitment proceedings, § 17:11

Knowledge of witness, § 17:13

Latitude allowed in, §§ 17:11, 17:13

Leading questions, § 17:12

Liberal construction of scope, § 17:13

## INDEX

### **CROSS-EXAMINATION OF WITNESSES—Cont'd**

- Limitations, §§ 17:11, 17:13
- Medical malpractice, §§ 17:11, 17:13, 18:18
- Motives of witnesses, §§ 17:11, 17:13
- Objections, rulings on evidence as grounds for new trial, § 20:20
- Opening the door, §§ 17:10, 17:13-17:15, 18:21
- Party, cross-examination of, § 17:16
- Physicians, medical malpractice, §§ 17:11, 17:13, 18:18
- Post-arrest silence, § 17:13
- Post-Miranda warning silence, § 17:13
- Prejudice avoidance, limitations on scope, § 17:13
- Preliminary hearings, § 17:11
- Prior false allegations, § 17:11
- Prior inconsistent statements, § 17:13
- Quasi-judicial proceedings, § 17:11
- Rape shield statute, § 17:11
- Refreshing memory of witnesses, §§ 19:1, 19:2
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Reopening case, § 17:6
- Repeating direct testimony, scope, § 17:13
- Repetitive interrogation, scope, § 17:13
- Rights, §§ 17:11, 17:13, 18:6
- Scope, §§ 17:13, 18:18
- Self-incrimination, privilege against, §§ 15:6, 17:13
- Sexual abuse of children, § 17:14
- Surveillance location privilege, § 17:13
- Ulterior motives of witnesses, § 17:11
- Vigorous cross-examination of criminal defendant, § 17:11
- Violation of Confrontation Clause, § 17:13
- When answers on cross-examination may not be controverted, § 17:18

### **CROSS-EXAMINATION OF WITNESSES—Cont'd**

- Writings, completeness doctrine, § 17:15

### **CUMULATIVE EVIDENCE**

- Demonstrative evidence, photographs, §§ 8:16, 8:17
- Relevancy of evidence, exclusion of otherwise admissible evidence, § 4:22

### **CURATIVE ADMISSIBILITY DOCTRINE**

- Cross-examination of witnesses, § 17:15

### **CURE**

- Objections. See index heading OBJECTIONS
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **CURRENCY SERIAL NUMBERS LIST**

- Hearsay evidence, past recollection recorded exception, § 10:57

### **CUSTODIAN OF RECORDS**

- Hearsay evidence, business records exception, § 10:52
- Self-incrimination, privilege against, corporate records, § 15:1

### **CUSTODY**

- Burden of proof. See index heading BURDEN OF PROOF
- Chain of custody. See index heading CHAIN OF CUSTODY
- Children. See index heading CHILD CUSTODY
- Documentary evidence, ancient documents, § 9:21
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Records' custodian. See index heading CUSTODIAN OF RECORDS

### **CUSTOMS AND USAGES**

- Expert witnesses, information customarily relied upon, §§ 7:22, 7:50

**CUSTOMS AND USAGES—Cont'd**

Judicial notice of facts related to business customs and usages, § 2:11

Lay witnesses, customs of business, § 7:8

Parol or extrinsic evidence affecting writings, § 12:1

Relevancy of evidence, similar conditions or occurrences, § 4:56

**DAMAGES**

Expert witnesses, §§ 7:40, 7:59

Presumptions and inferences, § 3:47

Punitive damages. See index heading PUNITIVE DAMAGES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Sufficiency and weight of evidence, conflicting testimony, § 21:4

**DAMAGE TO PROPERTY**

Expert witnesses, §§ 7:13, 7:67

**DAMAGING EVIDENCE FROM PARTY'S WITNESS**

Objections, motions to strike, §§ 20:10, 20:11

**DANGEROUS PERSONS**

See index heading SEXUALLY DANGEROUS PERSONS

**DATA OR INFORMATION**

See index heading INFORMATION OR DATA

**DATE**

See index heading TIME OR DATE

**DAUBERT**

Expert witnesses, admission of scientific evidence, § 7:27

**DAVIS V. WASHINGTON**

Testimonial hearsay and Confrontation Clause, §§ 10:15, 10:16

**DAY-IN-THE-LIFE FILMS OF PERSONAL INJURY VICTIMS**

Demonstrative evidence, § 8:18

**DCFS (DEPARTMENT OF CHILDREN AND FAMILY SERVICES)**

Generally, §§ 10:15, 18:19

**DEAD MAN'S ACT**

Competency of witnesses, § 13:6-13:10

**DEALING, COURSE OF**

See index heading COURSE OF DEALING

**DEATH**

Cause of death

demonstrative evidence, photographs, § 8:17

documentary evidence, certified copies of public records, § 9:2

expert witnesses, §§ 7:56, 7:66

presumptions and inferences, criminal cases, § 3:34

Certificate, documentary evidence, § 9:2

Client, attorney-client privilege, § 14:5

Deceased persons. See index heading DECEASED PERSONS

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Homicide. See index heading HOMICIDE

Penalty cases. See index heading DEATH PENALTY CASES

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Suicide. See index heading SUICIDE

Wrongful death. See index heading WRONGFUL DEATH

**DEATH PENALTY CASES**

Cross-examination of witnesses, capital sentencing hearings, § 17:11

## INDEX

### DEATH PENALTY CASES—Cont'd

- Hearings for capital sentencing,  
§§ 10:4, 15:1, 15:7, 17:11
- Hearsay evidence, capital sentencing  
hearings, § 10:4
- Relevancy of evidence, §§ 4:16,  
4:26, 4:51
- Self-incrimination, privilege against,  
capital sentencing hearings,  
§§ 15:1, 15:7

### DECEASED PERSONS

- Competency of witnesses, Dead  
Man's Act, § 13:6-13:10
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE

### DECISIONS

- Also see index heading DETERMINA-  
TIONS
- Documentary evidence, books of  
court decisions, § 9:8
- Hearsay evidence, further Supreme  
Court decisions applying  
Crawford v. Washington,  
§ 10:16
- Judicial notice of administrative deci-  
sions, §§ 2:9, 2:10
- Objections, procedural forfeitures,  
§§ 20:4, 20:5

### DECLARANTS

- See index heading HEARSAY EVI-  
DENCE

### DECLARATIONS

- Admissions by party opponent,  
§§ 11:1, 11:3
- Against interest declarations. See  
index heading AGAINST INTER-  
EST DECLARATIONS
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE

### DECLARATORY JUDGMENT ACTIONS

- Burden of proof, §§ 5:16, 5:19

### DEEDS

- Burden of proof, undue influence,  
§ 5:14
- Documentary evidence, self-  
authentication, §§ 9:6, 9:10

### DEEDS—Cont'd

- Hearsay exception, § 10:37
- Judicial notice, § 2:10
- Parol or extrinsic evidence affecting  
writings, § 12:4
- Presumptions and inferences, posses-  
sion and ownership of property,  
§ 3:35

### DEFAMATION

- Burden of proof, § 5:14
- Presumptions and inferences,  
§§ 3:41, 3:47
- Privileges, §§ 14:1, 14:20
- Relevancy of evidence, § 4:3

### DEFECTS OR IRREGULARITIES

- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Objections, §§ 20:3, 20:4

### DEFENSES

- Affirmative defenses. See index head-  
ing AFFIRMATIVE DEFENSES
- Attorney-client privilege, waiver,  
§ 14:5
- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Mistake of fact defense, burden of  
proof in criminal cases, § 5:7
- Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

### DEFINITIONS

- Burden of proof, § 5:1
- Circumstantial evidence, § 1:3
- Controlled expert witness, § 7:13
- Direct evidence, § 1:2
- Document, § 9:1
- Foundation, § 1:5
- Hearsay, § 10:1
- Independent expert witness, § 7:13
- Inference, § 3:1
- Lay witness, § 7:13
- Leading question, § 17:9
- Mandatory presumption, § 3:2
- Other crimes evidence, § 4:26
- Permissive inference, § 3:7
- Presumption, § 3:1
- Unfair prejudice, § 4:19

**DEGRADING FACTS**

Impeachment, character and conduct of witness, § 18:18

**DEGREE OF CERTAINTY REGARDING OPINION**

Expert witnesses, §§ 7:26, 7:52

**DEGREES OF SECONDARY EVIDENCE**

Generally, § 6:4

**DELAY IN DIAGNOSIS**

Expert medical testimony, § 7:56

**DELIBERATION OR DELIBERATIONS**

Judicial deliberation privilege, § 14:9

Jury deliberations. See index heading JURY AND JURY TRIAL

**DELIBERATIVE PROCESS PRIVILEGE**

Generally, § 14:20

**DELINQUENCY PROCEEDINGS**

See index heading JUVENILE DELINQUENCY PROCEEDINGS

**DELIVERY**

Intent to deliver controlled substances, circumstantial evidence, § 1:3

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

**DEMONSTRATE POSSIBLE BIAS OR FINANCIAL INTEREST**

Expert witnesses, cross-examination, § 7:35

**DEMONSTRATIVE EVIDENCE**

Generally, § 8:1-8:22

Accidents

diagram of accident site, use of, § 8:13

motor vehicle accidents, §§ 8:15, 8:17

reconstruction experts, out-of-court experiments and tests, § 8:10

roads, photographs, § 8:16

scene of accident, §§ 8:17, 8:21

**DEMONSTRATIVE EVIDENCE**

—Cont'd

Accuracy

photographs, § 8:15

sound recordings, § 8:19

videotapes, § 8:18

Actuarial risk assessment instruments, out-of-court experiments and tests, § 8:10

Adequacy. Sufficiency or insufficiency, below

Admissibility, §§ 8:2, 8:10-8:12, 8:15-8:19

Aiding jury, §§ 8:1, 8:16-8:18

Alteration of evidence, burden of proof on chain of custody, § 8:4

Amount of evidence needed, chain of custody, § 8:6

Anatomically correct doll, use by child witness, § 8:14

Animation, videotapes, § 8:18

Appeal and review  
chain of custody, § 8:3

use of exhibits by jury during deliberations, § 8:22

Arson, authentication of photographs, § 8:15

Articles, admissibility and inspection, § 8:2

Asbestos victim's lung damage, photographs, § 8:17

Atomic absorption spectrophotometer technique, out-of-court experiments and tests, § 8:10

Authentication of photographs, videotapes and motion pictures, § 8:15

Automobiles

“peeled” steering column, auto theft case, § 8:2

view of scene of incident or objects at issue by trier of fact, § 8:20

Blood alcohol tests, out-of-court experiments and tests regarding intoxication, § 8:12

Blood samples  
chain of custody, § 8:6

## INDEX

### DEMONSTRATIVE EVIDENCE

#### —Cont'd

- Blood samples—Cont'd
  - out-of-court experiments and tests, § 8:11
- Blood tests, out-of-court experiments and tests regarding intoxication, § 8:12
- Breathalyzer test, out-of-court experiments and tests regarding intoxication, § 8:12
- Bulletproof vest, § 8:2
- Burden of proof, chain of custody, § 8:4
- Casts, § 8:14
- Cause of death, photographs, § 8:17
- Chain of custody, §§ 8:3-8:6, 8:15, 8:18
- Challenges, chain of custody, § 8:3
- Charts, § 8:13
- Chemical tests, out-of-court experiments and tests regarding intoxication, § 8:12
- Child witness, use of anatomically correct doll, § 8:14
- Civil cases, generally, §§ 8:3, 8:6
- Clothing, § 8:2
- Conditions, in-court display, § 8:7
- Constitutional matters, §§ 8:8, 8:11
- Controlled substances, chain of custody, § 8:6
- Conversations, sound recordings, § 8:19
- Criminal cases, generally, §§ 8:2-8:6, 8:8-8:17, 8:20
- Cumulative evidence, photographs, §§ 8:16, 8:17
- Day-in-the-life films of personal injury victims, § 8:18
- Deliberations of jury, §§ 8:21, 8:22
- Diagrams, § 8:13
- Dictionary, use by jurors, § 8:21
- Discretion of court, §§ 8:2, 8:16, 8:20, 8:22
- Displays, in-court, §§ 8:7, 8:8
- DNA
  - chain of custody, §§ 8:4, 8:6
  - out-of-court experiments and tests, § 8:11

### DEMONSTRATIVE EVIDENCE

#### —Cont'd

- DNA—Cont'd
  - postconviction DNA testing, §§ 8:4, 8:6, 8:11
- Driving under the influence, out-of-court experiments and tests, § 8:12
- Drug cartels, charts, § 8:13
- Edited sound recordings, § 8:19
- Eminent domain cases, § 8:20
- Enlargement of photographs, § 8:17
- Exemptions, chain of custody, § 8:5
- Exhibits, use by jury during deliberations, § 8:22
- Experiments
  - in-court experiments, § 8:9
  - out-of-court experiments, § 8:10-8:12
- Experts
  - accident reconstruction experts, out-of-court experiments and tests, § 8:10
  - medical expert may use skeletal model in conjunction with testimony, § 8:14
- Extent of victim's injuries, photographs, § 8:17
- Fairness of videotapes, § 8:18
- Fifth Amendment, in-court display of physical characteristics, § 8:8
- Films. Motion pictures or films, below
- Foundation
  - authentication of photographs, videotapes and motion pictures, § 8:15
  - laying foundation, §§ 8:5, 8:19
  - necessary to introduce demonstrative evidence, § 8:2
- Gangs
  - handshake, §§ 8:2, 8:8
  - symbols, photographs, § 8:17
- Genitals of defendant, photographs, §§ 8:8, 8:16
- Grisly photographs, § 8:16
- Handshake of gang, §§ 8:2, 8:8
- Horizontal gaze nystagmus (HGN)
  - test, out-of-court experiments and tests regarding intoxication, § 8:12

**DEMONSTRATIVE EVIDENCE**

**—Cont’d**

Identification  
     chain of custody, § 8:5  
     in-court experiments and tests, § 8:9  
     out-of-court experiments and tests, § 8:11  
 Inadequacy. Sufficiency or insufficiency, below  
 Incompetent in-court experiments, § 8:9  
 In-court  
     displays, §§ 8:7, 8:8  
     experiments and tests, § 8:9  
 Independent inquiry by trier of fact, § 8:21  
 Injury or injuries  
     day-in-the-life films of personal injury victims, § 8:18  
     in-court display of injuries, § 8:7  
     nature and extent of victim’s injuries, photographs, § 8:17  
 Inspection of articles and objects, § 8:2  
 Insufficiency. Sufficiency or insufficiency, below  
 Intoxication, out-of-court experiments and tests, § 8:12  
 Jury  
     aiding jury, §§ 8:1, 8:16-8:18  
     deliberations of jury, §§ 8:21, 8:22  
     exhibits used by jury during deliberations, § 8:22  
     purpose of demonstrative evidence, § 8:1  
     sound recordings, § 8:19  
     unauthorized visit to scene of accident by juror is presumptively prejudicial, § 8:21  
     view of scene of incident or objects at issue by trier of fact, § 8:20  
 Laying foundation, §§ 8:5, 8:19  
 “Life photograph” of victim, § 8:17  
 Limitations on photographs, § 8:17  
 Limp, in-court display of physical characteristics, § 8:8

**DEMONSTRATIVE EVIDENCE**

**—Cont’d**

Magnification of photographs, § 8:17  
 Maps, § 8:13  
 Medical expert may use skeletal model in conjunction with testimony, § 8:14  
 Medical malpractice, charts, § 8:13  
 Models, § 8:14  
 Motion pictures or films  
     generally, §§ 8:18, 8:19  
     authentication, § 8:15  
     chain of custody, §§ 8:6, 8:15, 8:18  
     day-in-the-life films of personal injury victims, § 8:18  
     videotapes, below  
 Motor vehicles  
     accidents, §§ 8:15, 8:17  
     automobiles, above  
 Mug shots, § 8:16  
 Nature of victim’s injuries, photographs, § 8:17  
 Neutron-activation analysis results, out-of-court experiments and tests, § 8:10  
 No probative value in itself, § 8:1  
 Objects  
     admissibility and inspection, § 8:2  
     view of objects at issue by trier of fact, § 8:20  
 Out-of-court experiments and tests, § 8:10-8:12  
 Pain and suffering, photographs, § 8:17  
 Partially inaudible sound recordings, § 8:19  
 “Peeled” steering column, auto theft case, § 8:2  
 Personal injury victims, day-in-the-life films, § 8:18  
 Photographs  
     generally, §§ 8:16, 8:17  
     authentication, § 8:15  
     genitals of defendant, §§ 8:8, 8:16  
     in-court display of physical characteristics, § 8:8  
     relevancy, § 8:15-8:17



## INDEX

### DEMONSTRATIVE EVIDENCE

#### —Cont'd

- Physical characteristics, in-court display, § 8:8
- Physical evidence
  - criminal cases, § 8:2
  - use of exhibits by jury during deliberations, § 8:22
- Plats, § 8:13
- Portable breath test (PBT), out-of-court experiments and tests regarding intoxication, § 8:12
- Postconviction DNA testing, §§ 8:4, 8:6, 8:11
- Prejudice
  - dictionary use by jurors, prejudicial error, § 8:21
  - exhibits used by jury during deliberations, § 8:22
  - photographs, § 8:16
  - unauthorized visit to scene of accident by juror is presumptively prejudicial, § 8:21
  - undue prejudice, videotapes, § 8:18
- Presumptively prejudicial, juror's unauthorized visit to scene of accident is, § 8:21
- Prima facie case, chain of custody, §§ 8:4, 8:6
- Probative value, §§ 8:1, 8:16
- Products liability cases, view of objects at issue by trier of fact, § 8:20
- Property, view of scene of incident or objects at issue by trier of fact, § 8:20
- Purpose
  - generally, § 8:1
  - establishing chain of custody, § 8:3
- Quality of evidence needed, chain of custody, § 8:6
- Reckless homicide cases, out-of-court experiments and tests regarding intoxication, § 8:12
- Reconstruction experiments, out-of-court, § 8:10

### DEMONSTRATIVE EVIDENCE

#### —Cont'd

- Relevancy of evidence
  - cause and effect, § 4:64
  - photographs, § 8:15-8:17
- Results of out-of-court experiments and tests, §§ 8:10, 8:12
- Review. Appeal and review, above
- Roads, photographs, § 8:16
- Samples
  - generally, § 8:14
  - blood samples, above
  - urine samples, chain of custody, § 8:6
- Scene
  - accident, §§ 8:17, 8:21
  - crime, §§ 8:13, 8:15, 8:17, 8:20
  - view of scene of incident by trier of fact, § 8:20
- Sexual molestation victim, photographs, § 8:16
- Shifting of burden of proof, chain of custody, § 8:4
- “Silent witness” theory, authentication of photographs, videotapes and motion pictures, § 8:15
- Site of accident, use of diagram of, § 8:13
- Situations when not required, chain of custody, § 8:5
- Skeletal model, use by medical expert in conjunction with testimony, § 8:14
- Sound recordings, §§ 8:15, 8:19
- Statutes, out-of-court experiments and tests, §§ 8:11, 8:12
- Stipulations, chain of custody, §§ 8:3, 8:6
- Substitution of evidence, burden of proof on chain of custody, § 8:4
- Sufficiency or insufficiency
  - chain of custody, § 8:6
  - foundation, authentication of photographs, videotapes and motion pictures, § 8:15
- Symbols of gangs, photographs, § 8:17
- Tampering with evidence, chain of custody, §§ 8:4, 8:6

**DEMONSTRATIVE EVIDENCE****—Cont'd**

Tattoos, in-court display of physical characteristics, § 8:8

## Tests

in-court tests, § 8:9

out-of-court tests, § 8:10-8:12

postconviction DNA testing,  
§§ 8:4, 8:6, 8:11

Topography of area near scene of  
accident, photographs, § 8:17

Tracking of defendant's criminal his-  
tory, charts, § 8:13

## Transcripts

testimony, use of exhibits by jury  
during deliberations, § 8:22

written transcripts of sound record-  
ings, § 8:19

## Trier of fact

generally, §§ 8:1, 8:7, 8:20, 8:21

jury, above

Unauthorized visit to scene of  
accident by juror is  
presumptively prejudicial,  
§ 8:21

Undue prejudice, videotapes, § 8:18

Urine samples, chain of custody,  
§ 8:6

## Use

anatomically correct doll, child  
witness, § 8:14

charts, § 8:13

diagram of accident site, § 8:13

dictionary used by jurors, § 8:21

exhibits used by jury during  
deliberations, § 8:22

photographs, § 8:17

purpose of demonstrative evi-  
dence, § 8:1

skeletal model, medical expert,  
§ 8:14

## Victims

clothing, § 8:2

injuries, §§ 8:17, 8:18

photographs, §§ 8:16, 8:17

sexual molestation, photographs,  
§ 8:16

## Videotapes

generally, § 8:18

**DEMONSTRATIVE EVIDENCE****—Cont'd**

Videotapes—Cont'd

authentication, § 8:15

out-of-court experiments and tests,  
§ 8:10

sound recordings, §§ 8:15, 8:19

View of scene of incident or objects  
at issue by trier of fact, § 8:20

Visual aid to jury, purpose, § 8:1

Weapons, § 8:2

Witnesses, §§ 8:1, 8:5, 8:6, 8:10,  
8:14-8:18, 8:22

Written transcripts of sound record-  
ings, § 8:19

Wrongful birth actions, in-court  
display of conditions, § 8:7

**DENIAL OF PRIOR****INCONSISTENT STATEMENT**

Impeachment, § 18:15

**DE NOVO STANDARD OF****REVIEW**

Objections, rulings on evidence as  
grounds for new trial, § 20:21

**DENTISTS AND DENTISTRY**

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Physician-patient privilege, § 14:14

**DEPOSITIONS**

Admissions, § 11:29

Competency of witnesses, deposition  
pertaining to motion for sum-  
mary judgment, § 13:3

Cross-examination of witnesses,  
completeness doctrine, § 17:15

Expert witnesses, §§ 7:22, 7:25

Hearsay evidence, §§ 10:3, 10:16,  
10:32

Impeachment, prior inconsistent  
statements, § 18:12 18:14

Objections, § 20:6

Sufficiency and weight of evidence,  
summary judgment proceedings,  
§ 21:3

Summary judgment, §§ 13:3, 21:3

## INDEX

### **DEPRAVED SEXUAL INSTINCTS DOCTRINE**

Relevancy of evidence, exception to  
general rule against admissibil-  
ity of other crimes evidence,  
§ 4:47

### **DEPRAVITY IN PARENTAL TERMINATION CASES**

Presumptions and inferences, §§ 3:6,  
3:16

### **DESCRIBE PROGRESS OF POLICE INVESTIGATION**

Hearsay evidence, out-of-court state-  
ments offered for purpose other  
than to prove truth of matter  
asserted are not hearsay, § 10:10

### **DESEGREGATION OF SCHOOLS**

Relevancy of evidence, other crimes  
evidence, § 4:31

### **DESIGN**

Relevancy of evidence, common  
design exception to general rule  
against admissibility of other  
crimes evidence, § 4:41

### **DESIGN DEFECTIVE**

Expert witnesses, automobile  
accident reconstruction, § 7:38

### **DESTRUCTION OR DESTROYED**

Documentary evidence. See index  
heading DOCUMENTARY EVI-  
DENCE

Evidence destruction  
burden of proof, shifting of burden,  
§ 5:2  
expert witnesses, drugs, § 7:70  
presumptions and inferences,  
§§ 3:23, 3:24

Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCES

Public records. See index heading  
PUBLIC RECORDS

### **DETERMINATIONS**

Also see index heading DECISIONS  
Admissions by party opponent,  
§ 11:1

### **DETERMINATIONS—Cont'd**

Burden of proof, § 5:1

Competency of witnesses, §§ 13:1,  
13:2, 13:7

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Impeachment. See index heading  
IMPEACHMENT

Parol or extrinsic evidence affecting  
writings, §§ 12:1, 12:2, 12:5

Presenting case and attendance of  
witnesses. See index heading  
PRESENTING CASE AND ATTEN-  
DANCE OF WITNESSES

Privileges. See index heading PRIVI-  
LEGES

Relevancy of evidence, §§ 4:2, 4:19

Sufficiency and weight of evidence,  
§§ 21:4, 21:5

### **DEVELOPMENTAL DISABILITIES**

Mental Health and Developmental  
Disabilities Confidentiality Act,  
privileges, § 14:15

### **DEVICES**

See index heading EXPERTS AND  
EXPERT WITNESSES

### **DIAGNOSIS, MEDICAL**

See index heading MEDICAL MATTERS

### **DIAGRAMS**

Demonstrative evidence, § 8:13  
Hearsay exception, use to explain  
testimony, § 10:64

### **DIARIES**

Hearsay evidence, past recollection  
recorded exception, § 10:57

### **DICTIONARY**

Demonstrative evidence, use by  
jurors, § 8:21

### **DIGITAL SIGNATURES**

Documentary evidence, § 9:1

**DILIGENCE**

Hearsay evidence, former testimony exception, § 10:35

**DIMINISHED CAPACITY**

Expert medical testimony, § 7:65

**DIRECT EVIDENCE**

Generally, §§ 1:1, 1:2

Burden of proof, criminal cases, § 5:3

Documentary evidence, authentication, § 9:13

Sufficiency and weight of evidence, § 21:2

**DIRECT EXAMINATION OF WITNESSES**

See index heading EXAMINATION OF WITNESSES

**DIRECTORIES**

Hearsay exception, § 10:62

**DISAPPEARANCE**

Presumption of death, § 3:45

**DISCHARGE FROM EMPLOYMENT**

Expert witnesses, lie detector tests, § 7:85

Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10

Retaliatory discharge. See index heading RETALIATORY DISCHARGE

**DISCIPLINE AND DISCIPLINARY PROCEEDINGS**

Attorneys, privileges, §§ 14:5, 14:20, 15:2

Physicians. See index heading PHYSICIANS

Self-incrimination, privilege against, § 15:2

**DISCLOSURE**

Burden of proof. See index heading BURDEN OF PROOF

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

**DISCLOSURE—Cont'd**

Hearsay exception, chemical tests performed on blood, breath or urine of drivers, § 10:49

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

Privileges. See index heading PRIVILEGES

Relevancy of evidence, liability insurance, § 4:54

**DISCOVERY**

Admissions, § 11:27-11:29

Burden of proof, § 5:1

Depositions. See index heading DEPOSITIONS

Privileges. See index heading PRIVILEGES

**DISCRETION OF COURT**

Competency of witnesses, §§ 13:2, 13:12, 13:13

Demonstrative evidence, §§ 8:2, 8:16, 8:20, 8:22

Documentary evidence, photographs, § 9:16

Examination of witnesses. See index heading EXAMINATION OF WITNESSES

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence, business records exception, § 10:53

Impeachment. See index heading IMPEACHMENT

Judicial notice, § 2:2

Objections. See index heading OBJECTIONS

Presenting case and attendance of witnesses, §§ 16:1, 16:2, 16:5

Refreshing memory of witnesses, § 19:1

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Self-incrimination, privilege against, §§ 15:1, 15:3

**DISCRIMINATION IN EMPLOYMENT CASES**

Burden of proof, § 5:19

## INDEX

### DISCUSSIONS

Plea discussions, admissions,  
§§ 11:38, 11:39

### DISFAVORED

Privileges, § 14:1

### DISHONESTY CRIMES

Impeachment by prior conviction,  
§§ 18:20, 18:25

### DISMISSAL

Competency of witnesses, affidavits  
pertaining to motions for invol-  
untary dismissal, § 13:3

Expert witnesses and lie detector  
tests, dismissal of civil action  
based upon stipulation, § 7:85

Judicial notice, § 2:1

Motions, §§ 2:1, 13:3

### DISPARAGEMENT OF TITLE

Hearsay exception, § 10:37

### DISPLAY RACKS

Expert witnesses, accident  
reconstruction, § 7:37

### DISPLAYS IN-COURT

Demonstrative evidence, §§ 8:7, 8:8

### DISQUALIFICATION

Counsel, burden of proof in civil  
cases, § 5:13

Party's disqualifying conduct, expert  
medical testimony, § 7:63

Witnesses, §§ 7:63, 13:1, 13:4, 13:7

### DISREGARDING BY JURY

See index heading JURY AND JURY  
TRIAL

### DISSOLUTION OF MARRIAGE CASES

Burden of proof, §§ 5:12, 5:18

Divorce cases. See index heading  
DIVORCE CASES

Parol or extrinsic evidence affecting  
writings, § 12:6

Relevancy of evidence, § 4:7

### DISTRUST

Impeachment, interest, bias or preju-  
dice, § 18:11

### DIVORCE CASES

Cross-examination of witnesses,  
§ 17:13

Hearsay exceptions, §§ 10:30, 10:47

### DNA

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Expert witnesses, identification,  
§ 7:72

### DOCTORS

See index heading PHYSICIANS

### DOCUMENTARY EVIDENCE

Generally, § 9:1-9:21

Accidents, photographs, § 9:16

Accounts, definition of document,  
§ 9:1

Accuracy of sound recordings,  
authentication required, § 9:17

Acknowledged documents, self-  
authentication, §§ 9:5, 9:6, 9:10

Adequacy. Sufficiency, below

Administrative hearing officer,  
authentication, § 9:13

Admissibility, §§ 9:1-9:17, 9:21

Alterations to documents, authentica-  
tion required, § 9:15

Ancient documents, authentication  
required, § 9:21

Animation videotapes, authentication  
required, § 9:16

Arson photographs, authentication  
required, § 9:16

Authentication  
demonstrative evidence, § 8:15  
hearsay evidence, business records  
exception, §§ 9:15, 10:52  
required, § 9:13-9:21  
self-authentication, § 9:2-9:12

Bench trials, comparison of handwrit-  
ing, § 9:20

Best and secondary evidence. See  
index heading BEST AND SEC-  
ONDARY EVIDENCE

Books  
definition of document, § 9:1  
official publications, self-  
authentication, § 9:8

## DOCUMENTARY EVIDENCE

### —Cont'd

Business records, authentication required, § 9:15  
 Cause of death, certified copies of public records, § 9:2  
 Certified copies of records, §§ 9:2-9:7, 9:10, 9:14  
 Circumstantial evidence, authentication, § 9:13  
 Commercial papers, self-authentication, § 9:11  
 Communications, definition of document, § 9:1  
 Comparison of handwriting by trier of fact, authentication required, § 9:20  
 Compliance with subpoena, authentication, § 9:13  
 Comptroller, certified copies of public records, § 9:2  
 Computer-stored information or data, §§ 9:1, 9:15  
 Contemporaneous business records, authentication required, § 9:15  
 Conversations, sound recordings, § 9:17  
 Copies  
   certified copies of records, §§ 9:2-9:7, 9:10, 9:14  
   official publications, self-authentication, § 9:8  
 Corporate records, certified copies, § 9:7  
 Court records, certified copies of public records, § 9:2  
 Custody, ancient documents, § 9:21  
 Death certificate, certified copies of public records, § 9:2  
 Deeds, self-authentication, §§ 9:6, 9:10  
 Definition of document, § 9:1  
 Destroyed items  
   municipal ordinances, certified copies of public records, § 9:4  
   public records, certified copies, § 9:2  
 Digital signatures, § 9:1  
 Direct evidence, authentication, § 9:13

## DOCUMENTARY EVIDENCE

### —Cont'd

Discretion of court, photographs, § 9:16  
 Duplicates. Copies, above  
 Edited sound recordings, authentication required, § 9:17  
 E-mail, authentication required, § 9:15  
 Expert opinion on handwriting, authentication required, § 9:19  
 Facsimile  
   signature of public official, certified copies of public records, § 9:2  
   transmission of documents, authentication required, § 9:15  
 Federal statutes, self-authentication, §§ 9:3, 9:8  
 Films. Motion pictures or films, below  
 Foreign documents, self-authentication, §§ 9:6, 9:10  
 Foundation  
   adequate foundation, §§ 9:1, 9:13, 9:14, 9:16, 9:18  
   administrative hearing officer, authentication, § 9:13  
   authentication, generally, § 9:13  
   e-mail, authentication required, § 9:15  
   laying foundation, below  
   nonexpert opinion on handwriting, authentication required, § 9:18  
   photographs, videotapes and motion pictures, authentication required, § 9:16  
   public records, authentication required, § 9:14  
 Grisly photographs, authentication required, § 9:16  
 Handwriting  
   comparison of handwriting by trier of fact, authentication required, § 9:20  
   expert opinion on handwriting, authentication required, § 9:19

## INDEX

### DOCUMENTARY EVIDENCE

#### —Cont'd

- Handwriting—Cont'd
  - nonexpert opinion on handwriting, authentication required, § 9:18
- Inconsistencies between documentary evidence and trial testimony, § 9:1
- Ingredients label, trade inscriptions, § 9:11
- Journals, self-authentication, § 9:9
- Land. Real property, below
- Laying foundation
  - generally, §§ 1:5, 9:1
  - authentication, generally, § 9:13
  - nonexpert opinion on handwriting, authentication required, § 9:18
  - public records, authentication required, § 9:14
  - sound recordings, authentication required, § 9:16
- Legislative debates, certified copies of public records, § 9:2
- Letters, authentication required, § 9:15
- Lost items
  - municipal ordinances, certified copies of public records, § 9:4
  - public records, certified copies, § 9:2
  - title documents, self-authentication, §§ 9:5, 9:10
- Magazines, self-authentication, § 9:9
- Maps
  - ancient documents, § 9:21
  - authentication, generally, § 9:13
  - nonexpert opinion on handwriting, § 9:18
- Memoranda, definition of document, § 9:1
- Motion pictures or films
  - authentication, generally, §§ 8:15, 9:16
  - definition of document, § 9:1
  - demonstrative evidence, § 8:15
  - videotapes, authentication, §§ 8:15, 9:16

### DOCUMENTARY EVIDENCE

#### —Cont'd

- Motor vehicle accidents, photographs, § 9:16
- Mug shots, authentication required, § 9:16
- Municipal ordinances and records, self-authentication, §§ 9:4, 9:8
- Negotiable instruments, self-authentication, § 9:11
- Newspapers, self-authentication, § 9:9
- Nonexpert opinion on handwriting, authentication required, § 9:18
- Notarized documents, self-authentication, § 9:10
- Official matters
  - documents, certified copies of public records, § 9:2
  - publications, self-authentication, § 9:8
- Open court, comparison of handwriting by trier of fact, § 9:20
- Opinion testimony, handwriting, §§ 9:18, 9:19
- Ordinances, self-authentication, §§ 9:4, 9:8
- Other states' laws, self-authentication, §§ 9:2, 9:3, 9:8
- Pamphlets, official publications, § 9:8
- Papers
  - commercial papers, self-authentication, § 9:11
  - definition of document, § 9:1
  - newspapers, self-authentication, § 9:9
- Partially inaudible sound recordings, authentication required, § 9:17
- Periodicals, self-authentication, § 9:9
- Photographs
  - authentication, §§ 8:15, 9:16
  - definition of document, § 9:1
  - demonstrative evidence, § 8:15
- Plats, authentication, § 9:13
- Power of attorney, self-authentication, §§ 9:6, 9:10
- Prejudice, photographs and videotapes, § 9:16



**DOCUMENTARY EVIDENCE**

**—Cont’d**

- Presence of defendant, comparison of handwriting by trier of fact, § 9:20
- Price tags attached to merchandise, self-authentication, § 9:11
- Prima facie evidence, self-authentication, §§ 9:6, 9:8
- Printed statutes, self-authentication, §§ 9:3, 9:8
- Private writings, authentication required, § 9:15
- Probative value, photographs, § 9:16
- Public Aid Department, public records, §§ 9:2, 9:14
- Publications, self-authentication, §§ 9:8, 9:9
- Public records, §§ 9:2-9:6, 9:10, 9:14
- Real property
  - deeds, self-authentication, §§ 9:6, 9:10
  - title documents, self-authentication, §§ 9:5, 9:10
- Recorded or recordable documents, certified copies of public records, § 9:5
- Recordings
  - definition of document, § 9:1
  - sound recordings, authentication required, §§ 9:16, 9:17
- Records
  - business records, authentication required, § 9:15
  - certified copies of records, §§ 9:2-9:7, 9:10, 9:14
  - corporate records, certified copies, § 9:7
  - definition of document, § 9:1
  - public records, §§ 9:2-9:6, 9:10, 9:14
- Relevancy of photographs, authentication required, § 9:16
- Roads, photographs, § 9:16
- Scene of crime, photographs, § 9:16
- Seal, copies certified under, §§ 9:2, 9:4, 9:6
- Secretary of State, certified copies of public records, § 9:2

**DOCUMENTARY EVIDENCE**

**—Cont’d**

- Self-authentication, § 9:2-9:12
- Sexual molestation victim, photographs, § 9:16
- Signatures
  - digital signatures, § 9:1
  - expert opinion on handwriting, § 9:19
  - facsimile signature of public official, certified copies of public records, § 9:2
  - public officer, certified copies of public records, § 9:6
- “Silent witness” theory, photographs, videotapes and motion pictures, § 9:16
- Sound recordings, authentication required, §§ 9:16, 9:17
- Speculation, expert opinion on handwriting, § 9:19
- State statutes, self-authentication, §§ 9:2, 9:3, 9:8
- Statutes, self-authentication, §§ 9:2-9:5, 9:8, 9:10
- Subpoena compliance, authentication, § 9:13
- Subscribing witness testimony not necessary to authenticate writing, § 9:12
- Sufficiency
  - facsimile signature of public official, certified copies of public records, § 9:2
  - foundation, §§ 9:1, 9:13, 9:14, 9:16, 9:18
- Tangible printouts of computer-stored data, authentication required, § 9:15
- Territories of United States, laws of, self-authentication, §§ 9:2, 9:3, 9:8
- Testimony. Witnesses, below
- Title documents, self-authentication, §§ 9:5, 9:10
- Trade inscriptions, self-authentication, § 9:11
- Treasurer of State, certified copies of public records, § 9:2

## INDEX

### DOCUMENTARY EVIDENCE

#### —Cont'd

- Trier of fact, comparison of handwriting, § 9:20
- Unfair prejudice, videotapes, § 9:16
- Videotapes, authentication, §§ 8:15, 9:16
- Weight of evidence, expert opinion on handwriting, § 9:19
- Wills, self-authentication, §§ 9:2, 9:5, 9:12
- Witnesses
  - inconsistencies between documentary evidence and trial testimony, § 9:1
  - opinion testimony, handwriting, §§ 9:18, 9:19
  - plats, authentication, § 9:13
  - subscribing witness testimony not necessary to authenticate writing, § 9:12
  - videotapes, authentication required, § 9:16
- Writings, authentication, §§ 9:12, 9:13, 9:15

### DOCUMENTS

- Admissions, corporate documents, §§ 11:25, 11:27
- Ancient documents, §§ 9:21, 10:59, 10:67
- Competency of witnesses, exceptions under Dead Man's Act, § 13:8
- Evidence. See index heading DOCUMENTARY EVIDENCE
- Expert witnesses, §§ 7:34, 7:88, 17:13
- Hearsay exceptions, § 10:52-10:68
- Impeachment, laying foundation for prior inconsistent statements, § 18:14
- Judicial notice, §§ 2:3, 2:9
- Privileges. See index heading PRIVILEGES
- Refreshing memory of witnesses, §§ 19:1, 19:2

### DOGS

- See index heading EXPERTS AND EXPERT WITNESSES

### DOLLS

- Anatomically correct doll, child witness use, §§ 8:14, 13:11, 17:7

### DOMESTIC RELATIONS CASES

- Expedited issuance of subpoenas, § 16:2

### DOMESTIC VIOLENCE

- Expert witnesses, § 7:13
- Hearsay evidence, §§ 10:15, 10:47

### DOUBLE HEARSAY

- Generally, § 10:7

### DOUBLE JEOPARDY

- Sufficiency and weight of evidence, variance between pleading and evidence, § 21:6

### DREAM STATEMENTS

- Admissions, §§ 11:1, 11:32

### DRESS MODES

- Judicial notice of facts related to human life, health, habits and acts, § 2:12

### DRIVERS

- Expert witnesses, weight of testimony, § 7:36
- Hearsay evidence, § 10:49

### DRIVING UNDER THE INFLUENCE

- Demonstrative evidence, out-of-court experiments and tests, § 8:12
- Duces tecum subpoenas, § 16:2
- Expert witnesses, blood tests to determine presence of alcohol or drugs within blood, § 7:75
- Hearsay evidence, chemical tests performed on blood, breath or urine of drivers, § 10:49
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### DRUGS AND NARCOTICS

- Demonstrative evidence, charts for drug cartels, § 8:13
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

**DRUGS AND NARCOTICS—Cont'd**

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Impeachment. See index heading  
IMPEACHMENT

Intoxication. See index heading  
INTOXICATION

Lay witnesses. See index heading  
LAY WITNESSES

Prescription drugs. See index heading  
PRESCRIPTION DRUGS

Privileges. See index heading PRIVI-  
LEGES

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

Self-incrimination, privilege against.  
See index heading SELF-INCRIMI-  
NATION, PRIVILEGE AGAINST

**DUCES TECUM SUBPOENAS**

Presenting case and attendance of  
witnesses, § 16:2

**DUE CARE**

Relevancy of evidence, habits of  
persons, § 4:59

**DUE PROCESS**

Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES

Presumptions and inferences, §§ 3:7,  
3:23, 3:24, 3:34

Refreshing memory of witnesses,  
hypnotically enhanced  
testimony, § 19:3

Self-incrimination, privilege against,  
§ 15:7

**DUI**

See index heading DRIVING UNDER  
THE INFLUENCE

**DUPLICATES**

See index heading COPIES OR  
DUPLICATES

**DURATION OF PRIVILEGES**

See index heading PRIVILEGES

**DURING TRIAL**

Motions in limine, objections,  
§ 20:14

Refreshing memory of witnesses,  
§§ 19:1, 19:2

**DUTIES**

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Relevancy of evidence, duty of care,  
§ 4:57

Self-incrimination, privilege against,  
duty of witness to claim privi-  
lege, § 15:3

**DYING DECLARATIONS**

See index heading HEARSAY EVI-  
DENCE

**EASEMENTS**

Parol or extrinsic evidence affecting  
writings, § 12:4

**EAVESDROPPING STATUTE**

Privileges, § 14:20

**ECONOMIC MATTERS**

Expert witnesses, present value of  
future economic losses, §§ 7:20,  
7:30, 7:40

Judicial notice of economic condi-  
tions, § 2:14

**EDITED SOUND RECORDINGS**

Generally, §§ 8:19, 9:17

**EDUCATIONAL ASSESSMENTS**

Expert witnesses, §§ 7:17, 7:68, 7:69

**EFFECT, CAUSE AND**

Relevancy of evidence, §§ 4:63, 4:64

**EFFECT OF NATURAL FORCES**

Judicial notice, § 2:17

**ELDERLY PERSONS**

Expert witnesses, neglect, §§ 7:16,  
7:17

Hearsay evidence, statutory excep-  
tion, § 10:15

**ELECTRONIC DEVICES**

Expert witnesses, §§ 7:22, 7:70

## INDEX

### ELEVATORS

Expert witnesses, accident reconstruction, § 7:37

### E-MAIL

Documentary evidence, authentication required, § 9:15

Laying foundation for evidence, § 1:5

### EMINENT DOMAIN

Burden of proof, §§ 5:2, 5:19

Demonstrative evidence, § 8:20

Expert witnesses, value of real property, § 7:42

Relevancy of evidence, other sales of real property to prove value, § 4:55

### EMPLOYMENT-RELATED MATTERS

Admissions by agents, employee/ employer, § 11:4

Burden of proof, civil cases, § 5:19

Discharge from employment. See index heading DISCHARGE FROM EMPLOYMENT

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment, interest, bias or prejudice, § 18:11

Parol or extrinsic evidence, employment contracts, § 12:1

Privileges. See index heading PRIVILEGES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Unemployment compensation. See index heading UNEMPLOYMENT COMPENSATION

Workers' compensation. See index heading WORKERS' COMPENSATION

### ENDANGERMENT OF CHILD

Presumptions and inferences, criminal cases, § 3:34

### ENFORCEMENT

Law enforcement. See index heading POLICE AND LAW ENFORCEMENT

Stipulations, examination of witnesses, § 17:19

### ENGINEERS

See index heading EXPERTS AND EXPERT WITNESSES

### ENHANCED TESTIMONY

Refreshing memory of witnesses, hypnotically enhanced testimony, § 19:3

### ENLARGEMENT

Photographs, demonstrative evidence, § 8:17

Scope of direct examination, cross-examination of witnesses, § 17:13

### ENTRAPMENT DEFENSE

Relevancy of evidence, §§ 4:11, 4:46

### EPIDEMIOLOGICAL STUDIES

Expert witnesses, §§ 7:27, 7:48

### EQUIPMENT RELIABILITY

Hearsay evidence, chemical tests performed on blood, breath or urine of drivers, § 10:49

### ERRORS OR MISTAKES

Burden of proof in criminal cases, mistake of fact defense, § 5:7

Examination of witnesses. See index heading EXAMINATION OF WITNESSES

Harmless error. See index heading HARMLESS ERROR

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment. See index heading IMPEACHMENT

Objections, §§ 20:1-20:6, 20:17-20:22

Plain error. See index heading PLAIN ERROR

Prejudicial error. See index heading PREJUDICIAL ERROR

**ERRORS OR MISTAKES—Cont'd**

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Reversible error. See index heading REVERSIBLE ERROR

**ESTOPPEL**

Burden of proof in civil cases, §§ 5:16, 5:19

**EXAMINATION**

Medical examiner. See index heading MEDICAL EXAMINER OR CORONER

Physical examination. See index heading PHYSICAL EXAMINATION

Polygraph examination. See index heading LIE DETECTOR TESTS

Refreshing memory of witnesses, request by opposing counsel to examine documents used by witness, §§ 19:1, 19:2

Witnesses. See index heading EXAMINATION OF WITNESSES

**EXAMINATION OF WITNESSES**

Generally, § 17:1-17:21

Abuse of children  
generally, § 17:7  
cross-examination, §§ 17:11, 17:14

sexual abuse of children, below

Additional evidence, reopening case, § 17:6

Admissibility of evidence  
curative admissibility doctrine, cross-examination of witnesses, § 17:15  
stipulations, § 17:21

Adverse witnesses  
cross-examination of witnesses, §§ 17:12, 17:16  
mode and order of interrogation, § 17:1

Age of child, leading questions, § 17:9

Alibi witnesses  
cross-examination, §§ 17:13, 18:1  
redirect examination, § 17:10

**EXAMINATION OF WITNESSES**

**—Cont'd**

Anatomically correct doll used by child witness, § 17:7

Appropriate matters  
cross-examination of witnesses, § 17:13

questioning by judge, § 17:4

Attorneys  
mode and order of interrogation, § 17:1

stipulations, § 17:19-17:21

Binding of client by attorney's stipulations, § 17:20

Chain of custody, stipulations, § 17:21

Challenges, stipulations, §§ 17:19, 17:21

Child witnesses  
generally, § 17:7  
abuse of children, above  
cross-examination of witnesses, §§ 17:11, 17:14

leading questions, § 17:9

Civil cases, generally, § 17:1-17:21

Closed circuit television, sexual abuse of children, § 17:7

Closing courtroom to spectators, child witnesses, § 17:7

Collateral matters, rebuttal and sur-rebuttal, § 17:18

Compulsory Process Clause of Sixth Amendment, limitations on direct examination of criminal defendant, § 17:2

Constitutional matters  
Compulsory Process Clause of Sixth Amendment, limitations on direct examination of criminal defendant, § 17:2  
cross-examination of witnesses, §§ 17:11, 17:13, 18:6

due process, below

Counsel. Attorneys, above

Criminal cases, generally, § 17:1-17:21

Cross-examination. See index heading CROSS-EXAMINATION OF WITNESSES

## INDEX

### EXAMINATION OF WITNESSES

#### —Cont'd

- Definition of leading question, § 17:9
- Direct examination of witnesses
  - generally, § 17:8-17:10
  - impeachment. See index heading
- IMPEACHMENT
  - redirect examination of witnesses, §§ 17:10, 17:14, 17:15, 18:32
  - relevancy of evidence, state of mind of witness, § 4:65
  - relevancy of questions, § 17:2
  - scope, §§ 17:8, 17:13
- Discretion of court
  - child witnesses, § 17:7
  - cross-examination of witnesses, §§ 17:11, 17:13
  - mode and order of interrogation, § 17:1
  - reopening case, § 17:6
  - scope of direct examination, §§ 17:8, 17:13
- Due process
  - cross-examination of witnesses, capital sentencing hearings, § 17:11
  - interference with criminal defendant's right to present witnesses and evidence, § 17:8
- Enforcement of stipulations, § 17:19
- Error
  - redirect examination of witnesses, § 17:10
  - reopening case, § 17:6
- Expert witnesses
  - cross-examination, §§ 7:31-7:35, 7:48, 7:62, 17:11, 17:13, 17:14
  - limiting number of witnesses, § 17:3
  - redirect examination of witnesses, § 17:10
  - stipulations, § 17:21
  - surrebuttal, § 17:17
- Extrinsic evidence, impeachment of witnesses, § 17:18
- Financial matters
  - affidavits in marital cases, direct examination of witnesses, § 17:8

### EXAMINATION OF WITNESSES

#### —Cont'd

- Financial matters—Cont'd
  - interest of witness, cross-examination of witnesses, §§ 17:11, 17:13
- Fitness to stand trial, §§ 17:4, 17:21
- Hostile witnesses, leading questions, § 17:9
- Identification witnesses, suppression hearings, § 17:8
- Impeachment. See index heading
- IMPEACHMENT
- Improper matters
  - cross-examination of witnesses, § 17:11
  - questioning by judge, § 17:4
  - questions, §§ 17:10, 17:11
  - rebuttal, § 17:17
  - redirect questions, § 17:10
- Interference with criminal defendant's right to present witnesses and evidence, direct examination of witnesses, § 17:8
- Interpreter, testimony through, § 17:5
- Judge, questioning by, § 17:4
- Lawyers. Attorneys, above
- Leading questions
  - child witnesses, § 17:7
  - cross-examination of witnesses, § 17:12
  - direct examination of witnesses, § 17:9
  - impeachment, laying foundation for prior inconsistent statements, § 18:14
  - redirect examination of witnesses, § 17:10
- Limitations
  - cross-examination of witnesses, §§ 17:11, 17:13
  - direct examination of criminal defendant, § 17:2
  - extrinsic evidence, impeachment of witnesses, § 17:18
  - number of witnesses, § 17:3
  - redirect examination of witnesses, § 17:10

**EXAMINATION OF WITNESSES****—Cont'd**

Marital cases, financial affidavits in,  
direct examination of witnesses,  
§ 17:8

Medical malpractice  
cross-examination of witnesses,  
§§ 17:11, 17:13, 18:18  
leading questions, direct examina-  
tion of witnesses, § 17:9

Mode of interrogation, § 17:1

Number of witnesses, limiting, § 17:3

Nurse as hostile witness in medical  
malpractice action, leading  
questions, § 17:9

Objections. See index heading OBJEC-  
TIONS

Opening the door  
cross-examination of witnesses,  
§§ 17:10, 17:13-17:15, 18:21  
redirect examination of witnesses,  
§ 17:10

Order of proof, §§ 17:1, 17:17

Physicians, medical malpractice,  
§§ 17:9, 17:11, 17:13, 18:18

Prior matters  
false allegations, cross-examina-  
tion of witnesses, § 17:11  
inconsistent statements, cross-ex-  
amination of witnesses,  
§ 17:13  
relevancy of prior statements,  
impeachment of witnesses,  
§ 17:18

Questions, generally, § 17:1-17:21

Rebuttal, §§ 17:1, 17:17, 17:18

Redirect examination of witnesses,  
§§ 17:10, 17:14, 17:15, 18:32

Relevancy  
evidence. See index heading RELE-  
VANCY OF EVIDENCE  
questions, § 17:2

Reopening case, § 17:6

Restrictions. Limitations, above

Scope  
cross-examination of witnesses,  
§§ 17:13, 18:18  
direct examination of witnesses,  
§§ 17:8, 17:13

**EXAMINATION OF WITNESSES****—Cont'd**

Sexual abuse of children  
generally, § 17:7  
cross-examination, § 17:14  
direct examination, §§ 17:8, 17:9  
leading questions, § 17:9  
redirect examination, § 17:10  
Stipulations, § 17:19-17:21  
Suppression hearings, direct exami-  
nation of witnesses, § 17:8  
Surrebuttal, §§ 17:17, 17:18  
Translator, testimony through, § 17:5

**EXCEPTIONS**

See index heading EXCLUSIONS OR  
EXEMPTIONS

**EXCITED UTTERANCES**

Hearsay evidence, spontaneous dec-  
larations exceptions, §§ 10:18,  
10:20, 10:24, 10:46

**EXCLUSION OF EVIDENCE**

Generally, § 1:6  
Impeachment by prior conviction,  
§ 18:27  
Irrelevant evidence, § 4:1-4:67  
Limited admissibility of evidence,  
§ 1:4  
Objections, §§ 20:17, 20:20  
Relevancy of evidence, other crimes  
evidence, § 4:26  
Rule, exclusionary, §§ 1:6, 4:26

**EXCLUSIONS OR EXEMPTIONS**

Best evidence rule, § 6:2  
Burden of proof. See index heading  
BURDEN OF PROOF  
Competency of witnesses, Dead  
Man's Act, § 13:8-13:10  
Demonstrative evidence, chain of  
custody, § 8:5  
Evidence exclusion. See index head-  
ing EXCLUSION OF EVIDENCE  
Exclusionary rule, § 1:6  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Management of witnesses by trial  
court, exclusion of witnesses  
from courtroom during course of  
trial, § 16:5



## INDEX

### EXCLUSIONS OR EXEMPTIONS

#### —Cont'd

Privileges. See index heading PRIVILEGES

Relevancy of evidence, exceptions to general rule against admissibility of other crimes evidence, §§ 4:26, 4:29, 4:32-4:47

### EXCULPATORY MATTERS

Evidence, presumptions and inferences, §§ 3:23, 3:24

False exculpatory statements, §§ 3:33, 4:45

Information not revealed by witness, impeachment, § 18:6

Statements  
false exculpatory statements, §§ 3:33, 4:45

hearsay evidence, §§ 10:3, 10:28

### EXEMPTIONS

See index heading EXCLUSIONS OR EXEMPTIONS

### EXERCISE OF CONSTITUTIONAL RIGHT BY DEFENDANT

Impeachment methods, § 18:3

### EXHAUSTION OF ADMINISTRATIVE REMEDIES

Burden of proof, affirmative defenses, § 5:12

### EXHIBITS

Demonstrative evidence, use by jury during deliberations, § 8:22

Hearsay evidence, business records exception, § 10:55

### EXIGENT CIRCUMSTANCES FOR WARRANTLESS SEARCH OR ARREST

Burden of proof, motions to suppress in criminal cases, § 5:4

### EXISTENCE

Burden of proof. See index heading BURDEN OF PROOF

Conspiracy, admissions by conspirators, § 11:7

### EX PARTE COMMUNICATIONS

Expert witnesses, disqualifying conduct of witness or party, § 7:63

### EXPEDITED ISSUANCE OF SUBPOENAS

Presenting case and attendance of witnesses, § 16:2

### EXPENSES AND COSTS

Expert witnesses, administrative expenses, § 7:20

### EXPERIENCE

Expert witnesses, §§ 7:17, 7:21

### EXPERIMENTS

See index heading DEMONSTRATIVE EVIDENCE

### EXPERTS AND EXPERT WITNESSES

Generally, § 7:13-7:90

Abuse of children. Children, below  
Accelerant-sniffing dogs, §§ 7:37, 7:83

Accidents

auto accidents, below  
cause of accident, ultimate issue, § 7:30

reconstruction, §§ 7:32, 7:37, 7:38, 8:10

slip and fall cases, § 7:88

Actuarial risk assessment, §§ 7:27, 7:48, 7:65, 7:69

Adequate foundation lacking, weight of expert testimony, § 7:36

Administrative matters  
expenses, basis of expert testimony, § 7:20

proceedings, lie detector tests, § 7:85

Admissibility of testimony, generally, §§ 7:13-7:16, 7:20, 7:26-7:28

Admissions by agents, § 11:4

Affidavits

disclosure of facts or data underlying opinion, § 7:24

summary judgment proceedings, sufficiency and weight of evidence or testimony, § 21:3

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Agriculture, § 7:39  
 AIDS Confidentiality Act, expert medical testimony, § 7:69  
 Aircraft, accident reconstruction, § 7:37  
 Air pollution, weight of expert testimony, § 7:36  
 Alcohol  
     blood tests to determine presence of alcohol within blood, identification, § 7:75  
     intoxication, §§ 7:36, 7:88  
 Analytical framework for dealing with Frye issues, § 7:28  
 Anticipation of litigation, data prepared in, §§ 7:22, 7:23  
 Appeal and review  
     lie detector tests, § 7:85  
     standard of review, Frye test governs admission of scientific evidence, § 7:27  
 Appliances surgically implanted, expert medical testimony, §§ 7:45, 7:69  
 Appraisers, value of real property, § 7:42  
 Architects and architecture, § 7:88  
 Asbestosis, expert medical testimony, §§ 7:68, 7:69  
 Assessment or assessments  
     actuarial risk assessment, §§ 7:27, 7:48, 7:65, 7:69  
     educational assessments, §§ 7:17, 7:68, 7:69  
 Assist trier of fact, admissibility of testimony, §§ 7:14, 7:16  
 Attorney's fees, §§ 7:41, 7:88  
 Auditors, § 7:88  
 Authoritative sources or texts, cross-examination of expert witness, §§ 7:32, 7:33  
 Auto accidents  
     generally, § 7:16  
     expert medical testimony, § 7:67  
     Frye test governs admission of scientific evidence, § 7:27  
     reconstruction, § 7:38

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Average juror's ken, admissibility of testimony, §§ 7:15, 7:16  
 Ballistics, identification, §§ 7:71, 7:78  
 Basis of opinion or testimony  
     generally, § 7:20-7:23  
     analytical framework for dealing with Frye issues, § 7:28  
     challenge basis of opinion, cross-examination of expert witness, § 7:32-7:34  
     cross-examination, § 7:31-7:34  
     expert medical testimony, § 7:48-7:51  
     guess or conjecture, testimony may not be based on, § 7:25  
     hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:12  
 Battered woman syndrome, expert medical testimony, §§ 7:66, 7:68  
 Bias  
     cross-examination, §§ 7:31, 7:35, 7:62  
     impeachment, §§ 18:6, 18:9  
 Bite marks, identification, § 7:82  
 Blood tests  
     basis of opinion or testimony, §§ 7:23, 7:50  
     Frye test governs admission of scientific evidence, § 7:27  
     identification, §§ 7:71, 7:73-7:75  
     "invisible blood" test (LMG test), §§ 7:27, 7:73  
 Breathalyzer machines, identification, § 7:75  
 Buildings  
     construction, weight of expert testimony, § 7:36  
     sick building syndrome, §§ 7:48, 7:56  
     structural defect in building, circumstances in which testimony may be required, § 7:89

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

Burden of party offering witness to  
show his competency to testify  
as expert, § 7:19

#### Care

geriatric care expert, neglect of  
elderly person, §§ 7:16, 7:17  
need for future care, scope of  
expert medical testimony,  
§§ 7:59, 7:60  
ordinary care, negligence, § 7:89  
qualifications, expert medical  
testimony, § 7:46  
standard of care  
hospital, expert medical  
testimony, § 7:45  
institutional negligence, health  
maintenance organizations,  
§§ 7:13, 7:67  
medical malpractice, cross-ex-  
amination, § 7:62  
need for familiarity with stan-  
dards of medical care in  
particular community,  
expert medical testimony,  
§ 7:46

#### Cause and causation

accidents, ultimate issue, § 7:30  
death, §§ 7:56, 7:66  
fires, §§ 7:17, 7:88  
hypothetical questions, § 7:29  
injury. Cause of injury, below

#### Cause of injury

degree of certainty regarding  
opinion, §§ 7:26, 7:52  
expert medical testimony, §§ 7:45,  
7:52, 7:56, 7:68  
guess or conjecture, testimony may  
not be based on, § 7:25  
mechanical subjects, § 7:86  
scope of expert medical testimony,  
§ 7:56  
ultimate issue, § 7:30

Certified public accountant, value of  
personal property and services,  
§ 7:41

#### Challenges

basis of opinion, cross-examina-  
tion, § 7:32-7:34

### EXPERTS AND EXPERT WITNESSES—Cont'd

#### Challenges—Cont'd

weight of expert testimony, § 7:36

Chemical analysis or tests, §§ 7:70,  
7:75

Chemists, drugs, § 7:70

#### Children

abuse of children  
expert medical testimony, § 7:66  
sexual abuse of children,  
§§ 7:13, 7:66, 7:68  
custody of children  
parental alienation syndrome,  
§§ 7:27, 7:66  
ultimate issue, § 7:30  
paternity proceedings, lie detector  
tests, § 7:85  
sexual abuse of children, §§ 7:13,  
7:66, 7:68

Circumstances in which testimony  
may be required, §§ 7:67, 7:89

Civil conspiracy, § 7:88

Clinical psychologists, §§ 7:17, 7:65

Commitment of sexually violent  
offenders, expert medical  
testimony, §§ 7:63, 7:65

#### Competency

mental competency, §§ 7:36, 7:64,  
7:65

witnesses. See index heading  
COMPETENCY OF WITNESSES

Competition, ultimate issue, § 7:30

Conclusions of nontestifying experts,  
disclosure of facts or data  
underlying opinion, § 7:24

Condemnation, value of real prop-  
erty, § 7:42

#### Confessions

false confession, § 7:90  
involuntariness of confession,  
§§ 7:16, 7:68, 7:69, 7:90  
lie detector tests, § 7:85

Conjecture, testimony may not be  
based on, § 7:25

Consent to surgery, expert medical  
testimony, §§ 7:64, 7:68

Constitutional matters, expert medi-  
cal testimony, §§ 7:63, 7:65

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Construction and interpretation  
contracts, § 7:90  
statutes, § 7:90  
Construction of building, weight of  
expert testimony, § 7:36  
Contract interpretation, § 7:90  
Controlled expert witnesses, § 7:13  
Credibility of witnesses  
generally, §§ 7:13, 7:90  
ultimate issue, § 7:30  
weight of expert testimony,  
§§ 7:36, 7:64  
Crohn's Disease, expert medical  
testimony, § 7:46  
Cross-examination, §§ 7:31-7:35,  
7:48, 7:62, 17:11, 17:13, 17:14  
Custody of children. Children, above  
Damages, §§ 7:40, 7:59  
Damage to property, §§ 7:13, 7:67  
Data. Information or data, below  
Daubert does not govern admission  
of scientific evidence, § 7:27  
Death  
cause of death, §§ 7:56, 7:66  
wrongful death, damages, § 7:40  
Defects  
design, automobile accident  
reconstruction, § 7:38  
structural defect in building, cir-  
cumstances in which  
testimony may be required,  
§ 7:89  
Defenses  
insanity defense, §§ 7:31, 7:34,  
7:65  
insurer's defense, lie detector tests,  
§ 7:85  
self-defense, expert medical  
testimony, § 7:69  
Definitions  
controlled expert witness, § 7:13  
independent expert witness, § 7:13  
Degree of certainty regarding  
opinion, §§ 7:26, 7:52  
Delay in diagnosis, scope of expert  
medical testimony, § 7:56

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Demonstrate possible bias or  
financial interest, cross-exami-  
nation of expert witness, § 7:35  
Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Dentists and dentistry  
qualifications, expert medical  
testimony, § 7:45  
value of dental practice, § 7:41  
Depositions, §§ 7:22, 7:25  
Design defective, automobile  
accident reconstruction, § 7:38  
Destruction of evidence, drugs,  
§ 7:70  
Determinations  
blood tests, identification, §§ 7:74,  
7:75  
discretion of court to determine  
competency of witness to  
testify as expert, §§ 7:18,  
7:19  
weight of testimony, §§ 7:36, 7:64  
Devices  
electronic devices, §§ 7:22, 7:70  
mechanical devices, §§ 7:22, 7:70  
safety device, ultimate issue,  
§ 7:30  
Diagnosis, expert medical testimony,  
§§ 7:52, 7:56  
Diminished capacity, expert medical  
testimony, § 7:65  
Discharge from employment, lie  
detector tests, § 7:85  
Discipline of physician, qualifications  
for expert medical testimony,  
§ 7:47  
Disclosure  
basis of opinion, expert medical  
testimony, § 7:48  
cross-examination of expert wit-  
ness, § 7:31  
facts or data underlying opinion,  
§ 7:24  
mechanical subjects, § 7:86  
standard of disclosure, expert  
medical testimony, § 7:64

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Discretion of court
  - generally, § 7:13
  - competency of witness to testify as expert, §§ 7:18, 7:19
  - cross-examination of expert witness, §§ 7:31, 7:32
  - expert medical testimony, § 7:44
- Dismissal of civil action based upon stipulation, lie detector tests, § 7:85
- Display racks, accident reconstruction, § 7:37
- Disqualifying conduct of witness or party, expert medical testimony, § 7:63
- DNA, identification, § 7:72
- Doctors. Physicians, below
- Documentary evidence, handwriting, § 9:19
- Documents, §§ 7:34, 7:88, 17:13
- Dogs
  - accelerant-sniffing dogs, §§ 7:37, 7:83
  - identification, § 7:83
  - sensing by dogs, qualified to testify as expert, § 7:17
  - use of dogs, §§ 7:17, 7:37, 7:83
- Domestic violence, § 7:13
- Driver of vehicle, weight of expert testimony, § 7:36
- Driving under the influence, blood tests to determine presence of alcohol or drugs within blood, § 7:75
- Drugs and narcotics
  - generally, § 7:70
  - blood tests to determine presence of drugs within blood, identification, § 7:75
  - intoxication, §§ 7:36, 7:88
  - prescription drugs, below
  - qualified to testify as expert, § 7:17
  - records, § 7:88
- Duties
  - accident reconstruction, § 7:37
  - ultimate issue, § 7:30

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Educational assessments, §§ 7:17, 7:68, 7:69
- Elderly person, neglect of, §§ 7:16, 7:17
- Electronic devices, §§ 7:22, 7:70
- Elevators, accident reconstruction, § 7:37
- Employment-related matters
  - damages, § 7:40
  - discharge from employment, lie detector tests, § 7:85
  - extent of injury, scope of expert medical testimony, § 7:57
  - occupational medicine, expert medical testimony, §§ 7:48, 7:56
  - physicals, qualifications, § 7:45
  - ultimate issue, employability, § 7:30
- Engineers
  - generally, § 7:87
  - basis of expert testimony, § 7:22
  - mechanical engineers, §§ 7:16, 7:38
  - qualified to testify as expert, § 7:17
  - traffic engineer, automobile accident reconstruction, § 7:38
- Epidemiological studies, §§ 7:27, 7:48
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Ex parte communications, disqualifying conduct of witness or party, § 7:63
- Experience, §§ 7:17, 7:21
- Extent of injuries, §§ 7:30, 7:57
- Eyewitnesses
  - automobile accident reconstruction, eyewitness testimony regarding speed, § 7:38
  - identification, §§ 7:79, 7:90
  - sufficiency and weight of evidence or testimony, § 21:4
- Facts
  - disclosure of facts underlying opinion, § 7:24

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Facts—Cont'd  
     hypothetical questions, § 7:29  
     ultimate fact or issue, §§ 7:1, 7:20,  
     7:30, 7:36, 7:40, 7:60

Failure of product, weight of expert  
 testimony, § 7:36

Fair market value of real property,  
 § 7:42

False confession, § 7:90

Familiarity with standards of medical  
 care in particular community,  
 qualifications for expert medical  
 testimony, § 7:46

Federal Rules of Evidence, §§ 7:22,  
 7:24, 7:50

Fees  
     attorney's fees, §§ 7:41, 7:88  
     compensating witnesses, § 16:4  
     surgeons, expert medical  
     testimony, § 7:69

Fiber drift evidence, circumstances in  
 which testimony may be  
 required, § 7:89

Field tests  
     drugs, § 7:70  
     sobriety tests, § 7:27

Financial  
     data, § 7:88  
     interest, §§ 7:31, 7:35, 7:62,  
     17:11, 18:6, 18:9

Findings of nontestifying experts,  
 disclosure of facts or data  
 underlying opinion, § 7:24

Fingerprints, identification, §§ 7:71,  
 7:76

Fires  
     accelerant-sniffing dogs, §§ 7:37,  
     7:83  
     cause of fire, §§ 7:17, 7:88  
     prevention, ultimate issue, § 7:30

Flare pots, qualified to testify as  
 expert, § 7:17

Forensic vocational experts, § 7:90

Foreseeability, ultimate issue, § 7:30

Foundation  
     hypothetical questions, §§ 7:29,  
     7:61

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Foundation—Cont'd  
     lack of adequate foundation,  
     weight of expert testimony,  
     § 7:36  
     laying foundation, §§ 1:5, 7:20  
     qualifications, §§ 7:17, 7:45, 7:47

Frye  
     analytical framework for dealing  
     with Frye issues, § 7:28  
     basis of opinion or testimony,  
     §§ 7:23, 7:48  
     DNA, identification, § 7:72  
     handwriting, identification, § 7:77  
     hearings, §§ 7:27, 7:28, 7:48,  
     7:65, 7:66, 7:72, 7:77, 7:86  
     mechanical subjects, § 7:86  
     parental alienation syndrome,  
     expert medical testimony,  
     § 7:66  
     sanity or mental condition, expert  
     medical testimony, § 7:65  
     test governs admission of scientific  
     evidence, § 7:27

Future matters  
     damages, §§ 7:40, 7:59  
     need for future care, scope of  
     expert medical testimony,  
     §§ 7:59, 7:60  
     present value of future economic  
     losses, §§ 7:20, 7:30, 7:40  
     problems for injured person, scope  
     of expert medical testimony,  
     §§ 7:59, 7:60

Gang activity, police officers, § 7:88

General acceptance, Frye, §§ 7:27,  
 7:28, 7:48

Geriatric care expert, neglect of  
 elderly person, §§ 7:16, 7:17

Guess, testimony may not be based  
 on, § 7:25

Hair, identification, § 7:80

Handwriting  
     generally, §§ 7:7, 7:27, 7:77  
     documentary evidence, § 9:19

Health maintenance organizations,  
 institutional negligence, §§ 7:13,  
 7:67

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Hearings
  - Frye hearings, §§ 7:27, 7:28, 7:48, 7:65, 7:66, 7:72, 7:77, 7:86
  - sanity or mental condition, expert medical testimony, § 7:65
  - weight of expert medical testimony, § 7:64
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Heart attack, qualifications for expert medical testimony, § 7:45
- Hog farm, value of personal property and services, § 7:41
- Horizontal gaze nystagmus (HGN) test, § 7:27
- Hospital's standard of care, qualifications for expert medical testimony, § 7:45
- Human hair, identification, § 7:80
- Hypothetical questions, §§ 7:20, 7:29, 7:61
- Hysterectomy, expert medical testimony, § 7:67
- Identification
  - generally, § 7:71-7:83
  - eyewitness identification, §§ 7:79, 7:90
- Impeachment. See index heading  
IMPEACHMENT
- Improvements, value of real property, § 7:42
- In-court receipt of information, basis of expert testimony, § 7:23
- Independent expert witnesses, § 7:13
- Influence
  - driving under the influence, blood tests to determine presence of alcohol or drugs within blood, § 7:75
  - drugs, § 7:70
  - undue influence, §§ 7:30, 7:48, 7:65
- Information or data
  - basis of opinion or testimony, §§ 7:20, 7:22, 7:23, 7:49
  - customarily and reasonably relied upon, §§ 7:22, 7:50

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Information or data—Cont'd
  - disclosure of data underlying opinion, § 7:24
  - financial data, § 7:88
  - prepared in anticipation of litigation, §§ 7:22, 7:23
  - timeliness of information relied upon, expert medical testimony, § 7:49
- Injury or injuries
  - accident reconstruction, §§ 7:37, 7:38
  - cause of injury, above
  - extent of injuries, §§ 7:30, 7:57
  - permanency of injuries, expert medical testimony, §§ 7:49, 7:58
  - personal injuries, below
  - prior injury, §§ 7:13, 7:67
  - property damage, §§ 7:13, 7:67
  - scope of expert medical testimony, § 7:55-7:60
- Insanity defense, §§ 7:31, 7:34, 7:65
- Institutional negligence, health maintenance organizations, §§ 7:13, 7:67
- Insurance, §§ 7:84, 7:85
- Interpretation. Construction and interpretation, above
- Intoxication, §§ 7:36, 7:88
- “Invisible blood” test (LMG test), §§ 7:27, 7:73
- Involuntariness of confession, §§ 7:16, 7:68, 7:69, 7:90
- Knowledge
  - basis of expert testimony, § 7:21
  - qualified to testify as expert, § 7:17
  - value of real property, § 7:42
- Lack of adequate foundation, weight of expert testimony, § 7:36
- Language, ultimate issue, § 7:30
- Laws. Statutes, below
- Laying foundation, §§ 1:5, 7:20
- Learned treatises, § 7:22-7:24
- Legal duties, ultimate issue, § 7:30
- Level of blood alcohol, identification, § 7:75



**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Lidar laser technology, §§ 7:27, 7:86  
 Lie detector tests, § 7:85  
 Limitations on cross-examination,  
     expert medical testimony, § 7:62  
 Lip prints, identification, § 7:82  
 Luminol testing for blood, § 7:27  
 Machines  
     Breathalyzer machines, identifica-  
         tion, § 7:75  
     mechanical subjects, § 7:86  
     qualified to testify as expert, § 7:17  
 Mechanical  
     devices, §§ 7:22, 7:70  
     engineers, §§ 7:16, 7:38  
     machines, above  
     subjects, § 7:86  
 Medical expert testimony  
     generally, §§ 7:13, 7:26, 7:30,  
         7:31, 7:43-7:70  
     demonstrative evidence, use of  
         skeletal model in conjunction  
         with testimony, § 8:14  
 Medical malpractice  
     generally, § 7:13  
     basis of opinion or testimony,  
         §§ 7:20, 7:48  
     circumstances in which testimony  
         may be required, expert medi-  
         cal testimony, § 7:67  
     cross-examination, §§ 7:31, 7:32,  
         7:62  
     Frye test governs admission of  
         scientific evidence, § 7:27  
     hypothetical questions, § 7:29  
     lie detector tests, § 7:85  
     weight of testimony, §§ 7:36, 7:64  
 Medical matters  
     examiners, ballistics, § 7:78  
     expert testimony. Medical expert  
         testimony, above  
     malpractice. Medical malpractice,  
         above  
     negligence, ultimate issue, § 7:30  
     records, basis of expert medical  
         testimony, § 7:50  
     reports, basis of expert medical  
         testimony, § 7:50

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Medical matters—Cont'd  
     treatises, §§ 7:23, 7:24  
 Mental competency, §§ 7:36, 7:64,  
     7:65  
 Mental condition, expert medical  
     testimony, § 7:65  
 Mental state or state of mind,  
     §§ 7:69, 7:90  
 Miners, § 7:87  
 Minors. Children, above  
 Mitigating factors in murder case,  
     ultimate issue, § 7:30  
 Motion for Frye hearing, § 7:28  
 Motive, cross-examination of expert  
     witness, §§ 7:31, 7:35  
 Motor vehicles  
     auto accidents, above  
     driver of vehicle, weight of expert  
         testimony, § 7:36  
 Multiple chemical sensitivity (MCS),  
     § 7:27  
 Murder cases  
     cause of injury or death, expert  
         medical testimony, §§ 7:56,  
         7:66  
     extent of injury, scope of expert  
         medical testimony, § 7:57  
     future problems or need for future  
         care, scope of expert medical  
         testimony, § 7:60  
     mental state, expert medical  
         testimony, § 7:69  
     sanity or mental condition, expert  
         medical testimony, § 7:65  
     ultimate issue, § 7:30  
     victims, expert medical testimony,  
         §§ 7:68, 7:69  
 Narcotics. Drugs and narcotics,  
     above  
 Nautical matters, § 7:88  
 Need  
     familiarity with standards of medi-  
         cal care in particular com-  
         munity, qualifications for  
         expert medical testimony,  
         § 7:46  
     future care, scope of expert medi-  
         cal testimony, §§ 7:59, 7:60

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Need—Cont'd
  - specialization in particular field, qualifications for expert medical testimony, § 7:47
- Neglect of elderly person, §§ 7:16, 7:17
- Negligence
  - circumstances in which testimony may be required, § 7:89
  - institutional negligence, health maintenance organizations, §§ 7:13, 7:67
  - medical negligence, ultimate issue, § 7:30
  - qualifications, expert medical testimony, §§ 7:45, 7:47
- Newly discovered evidence, expert medical testimony, § 7:48
- Nurses, §§ 7:23, 7:50
- Objections. See index heading OBJECTIONS
- Observations, basis of expert testimony, § 7:21
- Occupational medicine, expert medical testimony, §§ 7:48, 7:56
- Ordinary care, negligence, § 7:89
- Osteopathy, expert medical testimony, §§ 7:46, 7:69
- Paramedics, expert medical testimony, § 7:45
- Parental alienation syndrome, §§ 7:27, 7:66
- Parks, basis of expert testimony, § 7:20
- Parol or extrinsic evidence affecting writings, § 12:1
- Party, disqualifying conduct of, § 7:63
- Paternity proceedings, lie detector tests, § 7:85
- Pathologists, expert medical testimony, §§ 7:52, 7:56
- PCR-based procedures, DNA, § 7:72
- Penile plethysmograph tests, §§ 7:27, 7:48, 7:65
- Percentages, expert medical testimony, § 7:54

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Permanency of injuries, expert medical testimony, §§ 7:49, 7:58
- Permissive use of expert testimony, § 7:14
- Personal injuries
  - generally, § 7:13
  - accident reconstruction, §§ 7:37, 7:38
  - basis of opinion, expert medical testimony, § 7:48
  - circumstances in which testimony may be required, expert medical testimony, § 7:67
- Personal knowledge, basis of expert testimony, § 7:21
- Personal property, value of property, § 7:41
- Pharmacy malpractice, drugs, § 7:70
- Phrasing, expert medical testimony, § 7:53
- Physical examination, expert medical testimony, §§ 7:45, 7:49, 7:58
- Physical therapy, qualifications for expert medical testimony, §§ 7:46, 7:47
- Physicians
  - basis of expert testimony, §§ 7:20, 7:21, 7:23
  - cross-examination of expert witness, §§ 7:31, 7:32
  - damages, § 7:40
  - degree of certainty expert must express for opinion to be admissible, § 7:26
  - expert medical testimony, generally, § 7:43-7:69
  - hypothetical questions, § 7:29
  - psychiatrists, below
  - surgery, below
  - ultimate issue, § 7:30
- Plastic surgery, qualifications for expert medical testimony, § 7:46
- Poisons, § 7:70
- Police officers
  - drugs, § 7:70
  - gang activity, § 7:88
  - qualified to testify as expert, § 7:17

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Portable breath test (PBT), identifica-  
tion, § 7:75  
Possibilities, §§ 7:35, 7:36, 7:40,  
7:52, 7:59  
Postconviction proceedings, lie  
detector tests, § 7:85  
Prejudice, disclosure of facts or data  
underlying opinion, § 7:24  
Prescription drugs  
generally, § 7:70  
licensing, ultimate issue, § 7:30  
Presence  
alcohol or drugs within blood,  
blood tests, § 7:75  
blood, blood tests, §§ 7:27, 7:74  
Present value of future economic  
losses, §§ 7:20, 7:30, 7:40  
Prevention of fires, ultimate issue,  
§ 7:30  
Prior injury, §§ 7:13, 7:67  
Probabilities, §§ 7:36, 7:52, 7:86  
Problems in future for injured person,  
scope of expert medical  
testimony, §§ 7:59, 7:60  
Product rule, DNA, § 7:72  
Products  
failure of product, weight of expert  
testimony, § 7:36  
products liability cases, §§ 7:16,  
7:90  
qualified to testify as expert, § 7:17  
Proffered testimony, §§ 7:13-7:16,  
7:28  
Property  
damage to property, §§ 7:13, 7:67  
value of property, §§ 7:36, 7:41,  
7:42  
Psychiatrists  
basis of opinion or testimony,  
§§ 7:23, 7:50  
cross-examination, §§ 7:31, 7:32,  
7:62  
sanity or mental condition, expert  
medical testimony, § 7:65  
Psychological tests, § 7:90  
Psychologists  
basis of opinion, expert medical  
testimony, § 7:48

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

Psychologists—Cont'd  
clinical psychologists, §§ 7:17,  
7:65  
Frye test governs admission of  
scientific evidence, § 7:27  
future problems or need for future  
care, scope of expert medical  
testimony, § 7:59  
qualified to testify as expert, § 7:17  
sanity or mental condition, expert  
medical testimony, § 7:65  
Publications, basis of expert  
testimony, § 7:23  
Pure opinion testimony, §§ 7:13,  
7:27  
Purpose of cross-examination of  
expert witness, § 7:31  
Qualifications, §§ 7:17-7:19, 7:28,  
7:44-7:47  
Questions  
hypothetical questions, §§ 7:20,  
7:29, 7:61  
ultimate question of fact, weight of  
expert testimony, § 7:36  
Real property, value of property,  
§ 7:42  
Rebuttal, testifying in, § 7:23  
Reckless homicide  
automobile accident reconstruc-  
tion, § 7:38  
basis of expert testimony, § 7:20  
blood tests to determine presence  
of alcohol or drugs within  
blood, identification, § 7:75  
Recognized textbook, use to chal-  
lenge basis of opinion on cross-  
examination, § 7:33  
Reconstruction of accidents, §§ 7:32,  
7:37, 7:38, 8:10  
Records  
drug records, § 7:88  
medical records, § 7:50  
Recovery proceeding under Sexually  
Dangerous Persons Act, quali-  
fied to testify as expert, § 7:17  
Reference to lie detector tests, § 7:85

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Refreshing memory of witnesses,  
hypnotically enhanced  
testimony, § 19:3
- Rehabilitation, expert medical  
testimony, §§ 7:45, 7:69
- Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE
- Reliability standards, basis of expert  
testimony, § 7:22
- Reliance
  - cross-examination, §§ 7:31, 7:35,  
7:62
  - disclosure of facts or data underly-  
ing opinion, § 7:24
  - Frye test governs admission of  
scientific evidence, § 7:27
  - information customarily and rea-  
sonably relied upon, §§ 7:22,  
7:50
  - timeliness of information relied  
upon, expert medical  
testimony, § 7:49
- Repairs, qualified to testify as expert,  
§ 7:17
- Reports
  - basis of expert testimony, § 7:22
  - cross-examination, §§ 7:31, 7:34,  
7:35, 7:62
  - medical reports, information cus-  
tomarily and reasonably relied  
upon, § 7:50
  - sanity or mental condition, expert  
medical testimony, § 7:65
- Requests, lie detector tests, § 7:85
- Review. Appeal and review, above
- RFLP profiling, DNA, § 7:72
- Roads
  - automobile accident reconstruc-  
tion, § 7:38
  - slip and fall cases, § 7:88
- Safety
  - device, ultimate issue, § 7:30
  - features, § 7:88
  - rules, § 7:88
- Sanity
  - expert medical testimony, §§ 7:45,  
7:48, 7:64, 7:65

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Sanity—Cont'd
  - qualifications, expert medical  
testimony, § 7:45
  - weight of expert testimony,  
§§ 7:36, 7:64
- Scientific
  - evidence. Frye, above
  - treatises, §§ 7:23, 7:24
- Scope of expert medical testimony,  
§ 7:55-7:60
- Self-defense, expert medical  
testimony, § 7:69
- Sensing by dogs, qualified to testify  
as expert, § 7:17
- Sentencing, lie detector tests, § 7:85
- Services, value of, § 7:41
- Sex offenses
  - abuse of children, §§ 7:13, 7:66,  
7:68
  - disqualifying conduct of witness or  
party, expert medical  
testimony, § 7:63
  - Sexually Dangerous Persons Act,  
§§ 7:17, 7:65
  - Sexually Violent Persons Commit-  
ment Act, §§ 7:63, 7:65
  - violent offenders, §§ 7:27, 7:48,  
7:63, 7:65, 7:69
- Shoe prints, identification, § 7:81
- Sick building syndrome, §§ 7:48,  
7:56
- Slip and fall cases, § 7:88
- Social scientists, § 7:88
- Specialization, expert medical  
testimony, §§ 7:47, 7:62
- Specialized formal training, qualified  
to testify as expert, § 7:17
- Speculation
  - automobile accident reconstruc-  
tion, § 7:38
  - cross-examination, §§ 7:31, 7:32,  
7:62
  - damages, § 7:40
  - documentary evidence, expert  
opinion on handwriting,  
§ 9:19
- Speed, eyewitness testimony, § 7:38

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

**Standards**

Breathalyzer machines, identification, § 7:75  
 care, above  
 disclosure, weight of expert medical testimony, § 7:64  
 qualifications, expert medical testimony, § 7:45  
 reliability, basis of expert testimony, § 7:22  
 review, Frye test governs admission of scientific evidence, § 7:27

State of mind or mental state, §§ 7:69, 7:90

**Statutes**

AIDS Confidentiality Act, expert medical testimony, § 7:69  
 blood tests to determine presence of alcohol or drugs within blood, identification, § 7:75  
 disqualifying conduct of witness or party, expert medical testimony, § 7:63  
 duties, accident reconstruction, § 7:37  
 interpretation of statutes, § 7:90  
 qualifications, expert medical testimony, § 7:45-7:47  
 sanity or mental condition, expert medical testimony, § 7:65  
 Sexually Dangerous Persons Act, §§ 7:17, 7:65  
 Sexually Violent Persons Commitment Act, §§ 7:63, 7:65

Stipulations, lie detector tests, § 7:85

Stock, value of personal property, § 7:41

Street value of drugs, § 7:70

Structural defect in building, circumstances in which testimony may be required, § 7:89

**Studies**

basis of opinion or testimony, §§ 7:22, 7:23, 7:48  
 epidemiological studies, §§ 7:27, 7:48

**EXPERTS AND EXPERT  
WITNESSES—Cont'd**

**Studies—Cont'd**

Frye test governs admission of scientific evidence, § 7:27

Subject history of patient, expert medical testimony, § 7:51

Subjects of expert testimony, §§ 7:15, 7:16, 7:37-7:90

Sufficiency and weight of evidence or testimony  
 generally, § 7:36

affidavit of expert, summary judgment proceedings, § 21:3

basis of expert testimony, § 7:20

documentary evidence, handwriting, § 9:19

expert medical testimony, § 7:64

eyewitnesses, § 21:4

trier of fact, weight afforded expert testimony is matter for, § 21:4

**Summary judgment**

affidavit of expert, sufficiency and weight of evidence or testimony, § 21:3

basis of expert testimony, § 7:20

**Surgery**

appliances surgically implanted, expert medical testimony, §§ 7:45, 7:69

consent to surgery, expert medical testimony, §§ 7:64, 7:68

expert medical testimony, generally, § 7:68

plastic surgery, qualifications for expert medical testimony, § 7:46

weight of expert medical testimony, § 7:64

Surveyors, § 7:87

**Syndromes**

battered woman syndrome, expert medical testimony, §§ 7:66, 7:68

expert medical testimony, generally, § 7:66

parental alienation syndrome, §§ 7:27, 7:66

sick building syndrome, §§ 7:48, 7:56

## INDEX

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Textbook, use to challenge basis of opinion on cross-examination, § 7:33
- Timeliness of information relied upon, expert medical testimony, § 7:49
- Traffic engineer, automobile accident reconstruction, § 7:38
- Trains, qualified to testify as expert, § 7:17
- Trier of fact
  - weight afforded expert testimony is matter for, § 21:4
  - whether proffered testimony will assist, §§ 7:14, 7:16
- Typing of blood, blood tests, § 7:73
- Ultimate fact or issue, §§ 7:1, 7:20, 7:30, 7:36, 7:40, 7:60
- Undisputed facts, hypothetical questions, § 7:29
- Undue influence, §§ 7:30, 7:48, 7:65
- Unsubstantiated evidence, basis of expert testimony, § 7:22
- Use
  - dogs, §§ 7:17, 7:37, 7:83
  - other documents to challenge basis of opinion, cross-examination of expert witness, § 7:34
  - percentages, testifying using, § 7:54
  - permissive use of expert testimony, § 7:14
  - phrasing, testifying using particular, § 7:53
  - recognized textbook or other authoritative source to challenge basis of opinion, cross-examination of expert witness, § 7:33
- Value
  - present value of future economic losses, §§ 7:20, 7:30, 7:40
  - property, §§ 7:36, 7:41, 7:42
  - services, § 7:41
  - street value of drugs, § 7:70
- Veterinarians, expert medical testimony, § 7:61

### EXPERTS AND EXPERT WITNESSES—Cont'd

- Violations, AIDS Confidentiality Act, § 7:69
- Violence
  - domestic violence, § 7:13
  - sexually violent offenders, §§ 7:27, 7:48, 7:63, 7:65, 7:69
- Weight of evidence or testimony.
  - Sufficiency and weight of evidence or testimony, above
- Wounds, qualifications for expert medical testimony, § 7:45
- Wrongful death, damages, § 7:40
- X-rays, expert medical testimony, § 7:67

### EXPLANATIONS

- Admissions, ordinary evidentiary admissions, §§ 11:1, 11:27
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment. See index heading IMPEACHMENT

### EXPRESSIONS OF PERSONS

- Lay witnesses, § 7:4

### EXPRESS TRUSTS

- Parol or extrinsic evidence affecting writings, § 12:4

### EXTENT

- Injuries. See index heading INJURY OR INJURIES
- Protection for communications, marital privilege, § 14:7

### EXTRADITION WARRANTS

- Presumptions and inferences, validity and regularity of official acts, § 3:13

### EXTRINSIC EVIDENCE

- See index heading PAROL OR EXTRINSIC EVIDENCE

### EYEWITNESSES

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Relevancy of evidence, habits of persons, § 4:59

**EYEWITNESSES—Cont’d**

Sufficiency and weight of evidence,  
§§ 21:1, 21:4

**FABRICATION**

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Impeachment, prior consistent state-  
ments, § 18:31

Presumptions and inferences, physi-  
cal evidence, § 3:23

**FACSIMILE**

See index heading DOCUMENTARY  
EVIDENCE

**FACT OR FACTS**

Competency of witnesses. See index  
heading COMPETENCY OF WIT-  
NESSES

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Findings of fact. See index heading  
FINDINGS OF FACT

Geographical facts, §§ 2:15, 10:67

Impeachment. See index heading  
IMPEACHMENT

Judicial notice, §§ 2:1, 2:2, 2:11-  
2:16

Presumptions and inferences, §§ 3:1,  
3:7, 3:8, 3:14, 3:37

Questions of fact, parol or extrinsic  
evidence affecting writings,  
§ 12:2

Trier of fact. See index heading TRIER  
OF FACT

Ultimate fact or issue, lay or expert  
witnesses, §§ 7:1, 7:20, 7:30,  
7:36, 7:40, 7:60

**FAILURE OF PRODUCT**

Expert witnesses, weight of  
testimony, § 7:36

**FAILURE OF WITNESS TO  
REVEAL EXCULPATORY  
INFORMATION**

Impeachment, § 18:6

**FAILURE TO CONNECT UP  
PRESENTED EVIDENCE  
WITH PROMISED EVIDENCE**

Objections, motions to strike, § 20:12

**FAILURE TO DISCLOSE  
EVIDENCE**

Presumptions and inferences,  
§§ 3:23, 3:24

**FAILURE TO MAKE TIMELY  
OBJECTION**

Generally, § 20:1-20:6

**FAILURE TO PRESERVE  
EVIDENCE**

Presumptions and inferences, § 3:23

**FAILURE TO PRODUCE  
EVIDENCE OR WITNESS**

Presumptions and inferences,  
§§ 3:24, 3:25

**FAILURE TO USE SEAT BELT**

Relevancy of evidence, § 4:66

**FAIR MARKET VALUE OF REAL  
PROPERTY**

Expert witnesses, § 7:42

**FAIRNESS**

Administrative officials and hearing  
officers, presumptions and infer-  
ences, §§ 3:12, 3:13

Videotapes, demonstrative evidence,  
§ 8:18

**FAIR REPORT PRIVILEGE**

Generally, § 14:20

**FALLS**

See index heading SLIP AND FALL

**FALSE ALIBI**

Sufficiency and weight of evidence,  
§ 21:4

**FALSE ALLEGATIONS**

Prior false allegations, §§ 17:11,  
18:1, 18:19

**FALSE CONFESSION**

Expert witnesses, § 7:90

**FALSE EXCULPATORY  
STATEMENTS**

Generally, §§ 3:33, 4:45



## INDEX

### FALSE NAME USE

Relevancy of evidence, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45

### FALSE TESTIMONY

Cross-examination of witnesses, §§ 17:13, 18:6  
Impeachment, interest, bias or prejudice, §§ 18:6, 18:7  
Objections, rulings on evidence as grounds for new trial, § 20:20  
Sufficiency and weight of evidence, §§ 21:1, 21:4

### FALSIFICATION OF BUSINESS RECORDS

Hearsay evidence, § 10:52

### FAMILIARITY

Police procedures, hearsay evidence, § 10:9  
Standards of medical care in particular community, qualification of medical expert witness, § 7:46

### FAMILY AND RELATIVES

Burden of proof in civil cases, § 5:18  
Children. See index heading CHILDREN OR MINORS  
Department of Children and Family Services, §§ 10:15, 18:19  
Hearsay evidence. See index heading HEARSAY EVIDENCE  
Impeachment. See index heading IMPEACHMENT  
Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES  
Spouses. See index heading SPOUSES

### FAX (FACSIMILE)

See index heading DOCUMENTARY EVIDENCE

### FEARS

Impeachment. See index heading IMPEACHMENT  
Jurors' fears as to gang-related testimony, § 4:51

### FEDERAL LAWS

Documentary evidence, self-authentication, §§ 9:3, 9:8  
Freedom of Information Act. See index heading FREEDOM OF INFORMATION ACT  
Judicial notice, § 2:5  
OSHA standards, relevancy of evidence, § 4:57

### FEDERAL RULES OF EVIDENCE

Expert witnesses, §§ 7:22, 7:24, 7:50  
Hearsay evidence. See index heading HEARSAY EVIDENCE  
Impeachment, prior consistent statements, § 18:31  
Relevancy of evidence, §§ 4:18, 4:26

### FEES

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Witnesses, § 16:4

### FELONIES

Impeachment by prior conviction, §§ 18:21, 18:27

### FIBER DRIFT EVIDENCE

Expert witnesses, § 7:89

### FIDUCIARIES AND FIDUCIARY RELATIONSHIPS

Admissions by fiduciaries, § 11:11  
Burden of proof, §§ 5:2, 5:13, 5:14  
Presumptions and inferences, §§ 3:4, 3:21, 3:22

### FIELD TESTS

See index heading EXPERTS AND EXPERT WITNESSES

### FIFTH AMENDMENT

Demonstrative evidence, in-court display of physical characteristics, § 8:8  
Hearsay evidence, declarations against penal interest exception, § 10:28  
Presumptions and inferences, §§ 3:7, 3:24, 3:48  
Self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST

**FILMS**

See index heading MOTION PICTURES  
OR FILMS

**FINANCIAL INTEREST OF  
WITNESS**

Cross-examination of witnesses,  
§§ 17:11, 17:13, 18:9  
Expert witnesses, §§ 7:31, 7:35,  
7:62, 17:11, 18:6, 18:9  
Impeachment, §§ 18:6, 18:9

**FINANCIAL MATTERS**

Affidavits, marital cases, §§ 10:30,  
17:8  
Conditions, relevancy of evidence,  
§§ 4:3, 4:53-4:55  
Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Interest of witness. See index heading  
FINANCIAL INTEREST OF WIT-  
NESS

**FINDINGS**

Fact findings. See index heading  
FINDINGS OF FACT  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Nontestifying experts, disclosure by  
expert witness of facts or data  
underlying opinion, § 7:24

**FINDINGS OF FACT**

Objections, standards of review,  
§ 20:21  
Sufficiency and weight of evidence,  
bench trials, § 21:4

**FINGERPRINTS**

Expert witnesses, §§ 7:71, 7:76  
Hearsay evidence, § 10:3

**FIRES**

Arson. See index heading ARSON  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Presumptions and inferences, res ipsa  
loquitur, § 3:20

**FIRST AMENDMENT**

Presumptions and inferences, malice  
implied from conduct, § 3:41

**FITNESS OR UNFITNESS TO  
STAND TRIAL**

Examination of witnesses, §§ 17:4,  
17:21  
Hearsay evidence, testimonial  
hearsay and Confrontation  
Clause, § 10:15  
Presumptions and inferences, § 3:40

**FLARE POTS**

Expert witnesses, § 7:17

**FLIGHT BY DEFENDANT**

Consciousness of guilt, §§ 3:31, 4:45

**FOG**

Lay witnesses, weather conditions,  
§ 7:12

**FOIA**

See index heading FREEDOM OF  
INFORMATION ACT

**FORCE**

Lay witnesses, use of force, § 7:12  
Self-incrimination, privilege against,  
no waiver of privilege when  
court forces defendant to testify,  
§ 15:6

**FOREIGN COUNTRIES**

Judicial notice of laws of foreign  
countries, § 2:6  
Uniform Act to Secure the Atten-  
dance of Witnesses from Within  
or Without a State in Criminal  
Proceedings, § 16:3

**FOREIGN DOCUMENTS**

Documentary evidence, self-  
authentication, §§ 9:6, 9:10

**FOREIGN OR SISTER STATES'  
LAWS**

Generally, §§ 2:5, 9:2, 9:3, 9:8

**FORENSIC CHEMISTRY  
REPORTS**

Hearsay evidence, past recollection  
recorded exception, § 10:57

## INDEX

### **FORENSIC VOCATIONAL EXPERTS**

Generally, § 7:90

### **FORESEEABILITY**

Expert witnesses, ultimate issue, § 7:30

### **FORFEITURE**

Burden of proof, Forfeiture Act, §§ 5:2, 5:19

Competency of witnesses, forfeiture of protection of Dead Man's Act, § 13:9

Objections. See index heading OBJECTIONS

Probable cause, circumstantial evidence, § 1:3

Testimonial hearsay and Confrontation Clause, forfeiture of rights, § 10:15-10:17

### **FORGERY**

Relevancy of evidence, intent exception to general rule against admissibility of other crimes evidence, § 4:38

### **FORMAL MATTERS**

Offers of proof, objections, § 20:19

Statements to police, testimonial hearsay and Confrontation Clause, § 10:15

Training, expert witness qualifications, § 7:17

### **FORMS OF CONFESSION**

Generally, § 11:32

### **FORUM NON CONVENIENS**

Judicial notice, §§ 2:3, 2:15

### **FOUNDATION**

Generally, § 1:5

Admissions by party opponent, § 11:1

Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

### **FOUNDATION—Cont'd**

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment. See index heading IMPEACHMENT

Lack of adequate foundation, §§ 7:36, 20:4, 20:5

Laying foundation

Generally, § 1:5

demonstrative evidence, §§ 8:5, 8:19

documentary evidence. See index heading DOCUMENTARY EVIDENCE

expert witnesses, §§ 1:5, 7:20

hearsay evidence, business records exception, §§ 1:5, 10:52

impeachment, prior inconsistent statements, § 18:14

relevancy of evidence, habits of persons, § 4:59

Objections. See index heading OBJECTIONS

Refreshing memory of witnesses, §§ 19:1, 19:2

Sufficiency and weight of evidence, chain of custody, § 21:1

Sufficiency or insufficiency of foundation

documentary evidence, §§ 9:1, 9:13, 9:14, 9:16, 9:18

hearsay evidence, business records exception, § 10:52

lack of adequate foundation, §§ 7:36, 20:4, 20:5

refreshing memory of witnesses, §§ 19:1, 19:2

### **FOUR CORNERS RULE FOR WRITINGS**

Parol or extrinsic evidence, §§ 12:1, 12:2, 12:4

### **FOURTH AMENDMENT**

Burden of proof, motions to suppress in criminal cases, § 5:4

Exclusionary rule, § 1:6

**FRAUD**

- Burden of proof, §§ 5:2, 5:13, 5:14
- Circumstantial evidence, §§ 1:3, 21:2
- Impeachment by prior conviction, tax fraud, § 18:25
- Parol or extrinsic evidence affecting writings, dissolution of marriage cases, § 12:6
- Presumptions and inferences, §§ 3:21, 3:22, 3:34
- Privileges. See index heading PRIVILEGES
- Sufficiency and weight of evidence, circumstantial evidence, § 21:2

**FREEDOM OF INFORMATION ACT**

- Burden of proof, § 5:19
- Presumptions and inferences, §§ 3:6, 3:44

**FRIENDS**

- Statements to friends, testimonial hearsay and Confrontation Clause, § 10:15

**FRYE**

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearings
  - expert witnesses, §§ 7:27, 7:28, 7:48, 7:65, 7:66, 7:72, 7:77, 7:86
  - laying foundation for evidence, § 1:5
  - lay witnesses, § 7:3
- Objections, motions in limine, § 20:13

**FUNDAMENTAL RIGHT OF DEFENDANT**

- Present witnesses in own defense, § 16:1

**FURTHERANCE OF CONSPIRACY**

- Admissions by conspirators, § 11:8

**FUTILITY**

- Objections, § 20:6

**FUTURE MATTERS**

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Impeachment based on interest, bias or prejudice, future prosecution, § 18:7

**GANGS**

- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Expert witness police officer, gang activity, § 7:88
- Hearsay exception for business records, gang roster, § 10:52
- Members or membership
  - impeachment, interest, bias or prejudice, § 18:11
  - relevancy of evidence, §§ 4:24, 4:51
  - self-incrimination, privilege against, statutory use immunity, § 15:5
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**GENERAL ACCEPTANCE**

- Expert witnesses, Frye, §§ 7:27, 7:28, 7:48

**GENERAL COURSE OF BUSINESS DEALINGS**

- Presumptions and inferences, § 3:27

**GENITALS**

- Penile plethysmograph tests, expert witnesses, §§ 7:27, 7:48, 7:65
- Photographs of defendant's genitals, demonstrative evidence, §§ 8:8, 8:16

**GEOGRAPHICAL FACTS**

- Generally, §§ 2:15, 10:67

**GERIATRIC CARE EXPERT**

- Neglect of elderly person, §§ 7:16, 7:17

**GIFTS**

- See index heading PRESUMPTIONS AND INFERENCES

## INDEX

### **GOOD CHARACTER OF VICTIM**

Relevancy of evidence, admission of evidence made relevant by adverse party, § 4:24

### **GOOD FAITH**

Hearsay evidence, former testimony exception, § 10:35  
Presumptions and inferences, therapist, § 3:46

### **GOODS**

Lay witnesses, value of perishable goods, § 7:6  
Relevancy of evidence, customs and usages, § 4:56

### **GOVERNING MATTERS**

Expert witnesses, Frye test governs admission of scientific evidence, § 7:27  
Presumptions and inferences, law governing contracts, § 3:29

### **GOVERNMENTAL MATTERS**

Judicial notice, § 2:7

### **GOVERNOR**

Presumptions and inferences, validity and regularity of official acts, § 3:13

### **GRAND JURY**

Burden of proof, indictment, § 5:3  
Duces tecum subpoenas, § 16:2  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Impeachment by prior conviction, § 18:28

### **GRAVITY**

Judicial notice, § 2:17

### **GRISLY PHOTOGRAPHS**

Generally, §§ 8:16, 9:16

### **GUARANTY CONTRACTS**

Parol or extrinsic evidence affecting writings, § 12:2

### **GUARDIANS AND GUARDIANSHIP**

Competency of witnesses, Dead Man's Act, § 13:6

### **GUARDIANS AND**

#### **GUARDIANSHIP—Cont'd**

Presumptions and inferences, §§ 3:6, 3:16

### **GUESS**

Expert testimony may not be based on, § 7:25

### **GUIDELINES**

Child support, §§ 3:6, 3:16, 5:18

### **GUILT OR GUILTY**

Admissions. See index heading  
ADMISSIONS  
Consciousness of guilt. See index heading  
CONSCIOUSNESS OF  
GUILT  
Knowledge of defendant, presumptions and inferences in criminal cases, § 3:34  
Pleas. See index heading  
GUILTY  
PLEAS  
Verdict dependent upon eyewitness testimony, sufficiency and weight of evidence, §§ 21:1, 21:4

### **GUILTY PLEAS**

Admissions, §§ 11:1, 11:31  
Impeachment by prior conviction, § 18:20  
Self-incrimination, privilege against, §§ 15:1, 15:6  
Withdrawal of guilty plea, §§ 5:3, 15:1

### **GUNSHOT WOUND VICTIM**

Hearsay evidence, spontaneous declarations exception, § 10:18

### **HABITS**

Judicial notice of facts related to human habits, § 2:12  
Lay witnesses, business habits, § 7:8  
Relevancy of evidence, persons or animals, §§ 4:59, 4:60

### **HABITUAL CRIMINAL SENTENCING**

Burden of proof, § 5:3

## **HAIR**

Expert witnesses, identification,  
§ 7:80

## **HAMMON V. INDIANA**

Testimonial hearsay and Confrontation Clause, § 10:16

## **HANDSHAKE OF GANG**

Demonstrative evidence, §§ 8:2, 8:8

## **HANDWRITING**

Comparison of handwriting by trier of fact, § 9:20

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence, spontaneous declarations exception, § 10:18

Lay witnesses, §§ 7:7, 9:18

## **HARASSMENT**

Cross-examination of witnesses, limitations on scope, § 17:13

## **HARMLESS ERROR**

Hearsay evidence, §§ 10:15, 10:17, 10:38

Objections, rulings on evidence as grounds for new trial, §§ 20:20, 20:21

Relevancy of evidence, improperly admitted other crimes evidence, §§ 4:26, 4:28

## **HEALTH**

Expert witnesses, institutional negligence and health maintenance organizations, §§ 7:13, 7:67

Judicial notice of facts related to human health, § 2:12

Mental health. See index heading MENTAL HEALTH

OSHA standards, relevancy of evidence, § 4:57

Presumptions and inferences, Health Care Surrogate Act, § 3:48

## **HEARINGS**

Administrative hearings. See index heading ADMINISTRATIVE PROCEEDINGS

Competency of witnesses. See index heading COMPETENCY OF WITNESSES

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Frye hearings. See index heading FRYE

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment, prior inconsistent statements, § 18:12

Preliminary hearings, §§ 10:35, 17:11

Sentencing. See index heading SENTENCING

Suppression hearings. See index heading SUPPRESSION OF EVIDENCE

## **HEARSAY EVIDENCE**

Generally, § 10:1-10:68

Absence. Lack, below

Abuse of persons

children, below

nursing home abuse investigation, business records exception, § 10:53

Accidents

business records exception, § 10:52

chemical tests performed on blood, breath or urine of drivers, statutory exceptions, § 10:49

reports by motorists, public records or reports exception, § 10:56

spontaneous declarations exception, § 10:22

Account books, business records exception, § 10:52

Acknowledgment, prior inconsistent statements exception, § 10:43

Act or acts

business records exception, § 10:52

examples of actions that constitute hearsay, § 10:3

## INDEX

### HEARSAY EVIDENCE—Cont'd

- Act or acts—Cont'd
  - explain subsequent behavior of person hearing statement, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:11**
  - hospitalized shooting victim, spontaneous declarations exception, **§ 10:18**
  - prior acts, exception, **§ 10:37**
- Adequate foundation, business records exception, **§ 10:52**
- Administrative matters
  - hearings, **§§ 10:5, 10:53**
  - proceedings, **§§ 10:5, 10:52, 10:53**
  - regulations, **§§ 10:5, 10:49**
- Admissibility
  - criminal and civil proceedings in which hearsay is admissible, **§ 10:4**
  - definition of hearsay, **§ 10:1**
  - exceptions to hearsay, below
  - hearsay within hearsay, **§ 10:7**
  - limited admissibility of evidence, **§ 1:4**
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:9-10:13**
  - weight of hearsay admitted without objection, **§§ 10:6, 21:1**
- Admissions
  - generally, **§§ 11:1, 11:6**
  - agents' statements, exception, **§ 10:33**
  - business records distinguished, **§ 10:52**
  - depositions, **§§ 10:3, 10:32**
  - party opponent, **§§ 10:32, 11:1**
- Advertisements, exception, **§ 10:61**
- Affidavits
  - financial affidavits in divorce cases, exception, **§ 10:30**
  - summary judgment, out-of-court statements offered for purpose other than to prove truth of matter asserted are not

### HEARSAY EVIDENCE—Cont'd

- Affidavits—Cont'd
  - hearsay, **§ 10:11**
- Against interest declarations, exceptions, **§§ 10:28, 10:29, 10:41**
- Age
  - children, below
  - personal or family history statements, exception, **§ 10:31**
- Agents' statements, exception, **§ 10:33**
- Aggravated kidnapping, children's statements in criminal cases exception, **§ 10:46**
- Almanacs, exception, **§ 10:63**
- Alteration of hospital records, business records exception, **§ 10:53**
- Ambiguities
  - declarations against penal interest exception, **§ 10:28**
  - spontaneous declarations exception, **§ 10:18**
- Analysis of Crawford v. Washington, testimonial hearsay and Confrontation Clause, **§§ 10:14, 10:15**
- Ancient documents, exception, **§§ 10:59, 10:67**
- Anonymous letter, examples of statements and actions that constitute hearsay, **§ 10:3**
- Anticipation of litigation, public records or reports exception, **§ 10:56**
- Appeal and review
  - administrative proceedings, **§ 10:5**
  - children's statements in criminal cases, statutory exception, **§ 10:46**
  - prior inconsistent statements
    - admissible as substantive evidence in criminal cases, statutory exception, **§ 10:43**
  - substantive admissibility of prior identification, statutory exception, **§ 10:44**
  - testimonial hearsay and Confrontation Clause, **§§ 10:15, 10:17**
  - violations, testimonial hearsay and Confrontation Clause, **§ 10:17**



**HEARSAY EVIDENCE—Cont'd**

Application or applicability  
     Confrontation Clause, testimonial hearsay, § 10:15  
     Crawford v. Washington, testimonial hearsay and Confrontation Clause, § 10:15-10:17  
     past recollection recorded exception, § 10:57  
     retroactive application of amendments to statute, chemical tests performed on blood, breath or urine of drivers, § 10:49  
     Appraisal of property, public records or reports exception, § 10:56  
     Arrest, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10  
     Authentication, business records exception, §§ 9:15, 10:52  
     Autopsy findings, past recollection recorded exception, § 10:57  
     Availability of declarant for cross-examination, testimonial hearsay and Confrontation Clause, § 10:15  
     Bank records, business records exception, § 10:55  
     Basis of expert's opinion, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:12  
     Behavior, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11  
     Belief, dying declarations exception, § 10:27  
     Bills from hospital, business records exception, §§ 10:53, 10:55  
     Birth certificates, public records exception, § 10:56  
     Blood  
         alcohol tests, exceptions, §§ 10:49, 10:53  
         chemical tests performed on blood, statutory exception, § 10:49

**HEARSAY EVIDENCE—Cont'd**

Blood—Cont'd  
     statistical frequency of blood types, exception, § 10:63  
     tests, exceptions, §§ 10:49, 10:53  
     Bolstering, children's statements in criminal cases exception, § 10:46  
     Books  
         account books, business records exception, § 10:52  
         historical works exception, § 10:62  
         log books exception, § 10:60  
         treatises, below  
     Boundaries, exceptions, §§ 10:36, 10:37, 10:66  
     Breath tests, statutory exception, § 10:49  
     Broad construction of exception, statements concerning declarant's physical condition for medical diagnosis or treatment, § 10:45  
     Barton  
         declarations against penal interest exception, § 10:28  
         substantive admissibility of prior identification, statutory exception, § 10:44  
     Burden of proof, children's statements in criminal cases exception, § 10:46  
     Business  
         records. Business records exception, below  
         registers, exception, § 10:62  
     Business records exception  
         generally, § 10:52-10:55  
         authentication, §§ 9:15, 10:52  
         documentary evidence, § 9:15  
         laying foundation, §§ 1:5, 10:52  
     Bystanders, spontaneous declarations exception, § 10:21  
     Capital sentencing hearings, § 10:4  
     Cause of injury, exceptions, §§ 10:39, 10:45  
     Certificates, public records and reports exception, § 10:56

## INDEX

### HEARSAY EVIDENCE—Cont'd

- Certification of hospital records, business records exception, **§ 10:53**
- Chain of custody, chemical tests performed on blood, breath or urine of drivers exception, **§ 10:49**
- Character evidence, statements concerning declarant's physical condition for medical diagnosis or treatment, **§§ 10:39, 10:45**
- Charts used to explain testimony, exception, **§ 10:64**
- Chemical tests performed on blood, breath or urine of drivers, statutory exception, **§ 10:49**
- Children
  - abuse or neglect of children
    - explain subsequent behavior of person hearing statement, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:11**
    - sexual abuse of children, exceptions, **§§ 10:24, 10:46**
    - statements of child in civil and juvenile abuse cases, statutory exception, **§ 10:48**
    - testimonial hearsay and Confrontation Clause, **§§ 10:15, 10:17**
  - age of child
    - spontaneous declarations exception, **§§ 10:18, 10:20, 10:24**
    - statements of child, statutory exceptions, **§§ 10:46, 10:47**
  - custody of children, state of mind of declarant exception, **§ 10:34**
  - interview of child victim by Department of Children and Family Services, testimonial hearsay and Confrontation Clause, **§ 10:15**
  - juveniles, below
  - neglect. Abuse or neglect of children, above in this group

### HEARSAY EVIDENCE—Cont'd

- Children—Cont'd
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§§ 10:11, 10:13**
  - sexual abuse of children, exceptions, **§§ 10:24, 10:46**
  - sexual assault of children
    - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§§ 10:11, 10:13**
    - statutory exceptions, **§§ 10:45, 10:46**
  - testimonial hearsay and Confrontation Clause, **§ 10:17**
  - spontaneous declarations exception, **§§ 10:18, 10:20, 10:24**
  - statements of children
    - criminal cases, **§§ 10:11, 10:13, 10:15, 10:17, 10:46**
    - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§§ 10:11, 10:13**
    - spontaneous declarations exception, **§§ 10:18, 10:20, 10:24**
    - statutory exceptions, **§§ 10:15, 10:46-10:48**
    - testimonial hearsay and Confrontation Clause, **§§ 10:15, 10:17**
    - victims of crimes, **§§ 10:15, 10:17, 10:46**
  - support payments, public records or reports exception, **§ 10:56**
  - victims of crimes
    - interview of child victim by Department of Children and Family Services, testimonial hearsay and Confrontation Clause, **§ 10:15**
    - statements of child, **§§ 10:15, 10:17, 10:46**

**HEARSAY EVIDENCE—Cont'd**

- Children and Family Services
  - Department interview of child victim, testimonial hearsay and Confrontation Clause, § 10:15
- Civil cases
  - admissibility, § 10:4
  - children's statements, statutory exceptions, §§ 10:47, 10:48
  - judgment in criminal action as evidence in civil action and vice versa, exception, § 10:65
  - spontaneous declarations exception, § 10:25
  - testimonial hearsay and Confrontation Clause, § 10:17
- Client service plans, juvenile court proceedings, § 10:52
- Coconspirators
  - admissions, § 11:6
  - testimonial hearsay and Confrontation Clause, §§ 10:15, 10:17
- Codefendants' confessions, declarations against penal interest exception, § 10:28
- Commitment of sexually dangerous or violent persons, §§ 10:15, 10:46
- Common law hearsay exceptions, testimonial hearsay and Confrontation Clause, § 10:15
- Competency
  - declarant. Competency of declarant, below
  - witness, agents' statements, § 10:33
- Competency of declarant
  - generally, § 10:8
  - dying declarant, exception, § 10:27
  - spontaneous declarations exception, § 10:24
- Complaint by rape victim, spontaneous declarations exception, §§ 10:22, 10:23
- Computers
  - printouts, business records exception, § 10:55
  - records, exceptions, §§ 10:55, 10:56

**HEARSAY EVIDENCE—Cont'd**

- Conclusions in business records, exception, § 10:52
- Conduct of persons
  - misconduct and forfeiture of rights, testimonial hearsay and Confrontation Clause, § 10:15-10:17
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, §§ 10:10, 10:11
- Confessions, declarations against penal interest exception, § 10:28
- Confrontation Clause
  - children's statements in criminal cases, statutory exception, § 10:46
  - declarations against penal interest exception, § 10:28
  - definition of hearsay, § 10:1
  - former testimony exception, § 10:35
  - testimonial hearsay and Confrontation Clause, §§ 10:14-10:17, 10:27, 10:46
- Consent to blood test, statutory exception, § 10:49
- Constitutional matters
  - chemical tests performed on blood, breath or urine of drivers, statutory exception, § 10:49
  - Confrontation Clause, above
  - Fifth Amendment, declarations against penal interest exception, § 10:28
  - grand jury testimony exception, § 10:51
- Construction and interpretation
  - statutory exceptions, §§ 10:45, 10:48
  - "testimonial," testimonial hearsay and Confrontation Clause, § 10:15
- Constructive trusts, state of mind of declarant exception, § 10:34
- Contradictory evidence, prior consistent statements exception, § 10:38

## INDEX

### HEARSAY EVIDENCE—Cont'd

#### Conversations

- business records exception,  
§ 10:52
- out-of-court statements offered for  
purpose other than to prove  
truth of matter asserted are  
not hearsay, § 10:10-10:12
- state of mind of declarant excep-  
tion, § 10:34
- testimonial hearsay and Confronta-  
tion Clause, § 10:16

#### Conversion of parties, criminal and civil proceedings in which hearsay is admissible, § 10:4

#### Conviction of crime

- prior conviction as evidence in  
civil action, exception,  
§ 10:65
- prior inconsistent statements  
admissible as substantive evi-  
dence in criminal cases, statu-  
tory exception, § 10:43

#### Copies

- business records exception,  
§ 10:52
- public records or reports exception,  
§ 10:56

#### Coroner. Medical examiner or coro- ner, below

#### Corrections Department voluminous records, public records excep- tion, § 10:56

#### Corroborative evidence

- children's statements in criminal  
cases, statutory exception,  
§ 10:46
- declarations against penal interest  
exception, § 10:28
- spontaneous declarations excep-  
tion, §§ 10:18, 10:23

#### Course of conduct, out-of-court state- ments offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11

#### Crawford v. Washington

- admissions, coconspirators, § 11:6
- testimonial hearsay and Confronta-  
tion Clause, §§ 10:14-10:17,  
10:27, 10:46

### HEARSAY EVIDENCE—Cont'd

#### Criminal cases

- admissibility, § 10:4
- business records exception,  
§§ 10:52, 10:54
- children's statements, §§ 10:11,  
10:13, 10:15, 10:17, 10:46
- definition of hearsay, § 10:1
- examples of statements and actions  
that constitute hearsay, § 10:3
- judgment in criminal action as evi-  
dence in civil action and vice  
versa, exception, § 10:65
- murder cases, exceptions,  
§§ 10:34, 10:46
- out-of-court statements offered for  
purpose other than to prove  
truth of matter asserted are  
not hearsay, §§ 10:11, 10:13
- past recollection recorded excep-  
tion, § 10:57
- physical condition statements for  
medical diagnosis or treat-  
ment, statutory exceptions,  
§ 10:45
- prior inconsistent statements  
admissible as substantive evi-  
dence in criminal cases, statu-  
tory exception, § 10:43
- sentencing, below
- sex offenses, below
- spontaneous declarations excep-  
tion, §§ 10:18, 10:22, 10:23
- state of mind of declarant excep-  
tion, § 10:34
- statutory exceptions, §§ 10:15,  
10:43, 10:45, 10:46
- testimonial hearsay and Confronta-  
tion Clause, §§ 10:14-10:17,  
10:27, 10:46
- victims of crimes, below

#### Cross-examination

- former testimony exception,  
§ 10:35
- hearsay declarant, § 17:11
- opportunity for cross-examination,  
§§ 10:2, 10:35
- prior inconsistent statements  
admissible as substantive evi-  
dence in criminal cases, statu-

**HEARSAY EVIDENCE—Cont'd**

- Cross-examination—Cont'd
  - tory exception, § 10:43
  - reasons for exclusion of hearsay, § 10:2
  - state of mind of declarant exception, § 10:34
  - substantive admissibility of prior identification, statutory exception, § 10:44
  - testimonial hearsay and Confrontation Clause, §§ 10:15, 10:17
- Currency serial numbers list, past recollection recorded exception, § 10:57
- Custodian, business records exception, § 10:52
- Custody
  - chain of custody, chemical tests performed on blood, breath or urine of drivers exception, § 10:49
  - child custody, state of mind of declarant exception, § 10:34
  - exculpatory statements made by criminal defendant while in police custody, § 10:3
- Davis v. Washington, testimonial hearsay and Confrontation Clause, §§ 10:15, 10:16
- Death
  - capital sentencing hearings, § 10:4
  - certificates, public records or reports exception, § 10:56
  - deceased persons, below
- Deceased persons
  - former testimony exception, § 10:35
  - private boundary lines, exception, § 10:36
  - statutory exceptions, testimonial hearsay and Confrontation Clause, § 10:15
- Declarations
  - against interest, exceptions, §§ 10:28, 10:29, 10:41
  - dying declarations, below
  - spontaneous declarations, exceptions, §§ 10:18-10:26, 10:46

**HEARSAY EVIDENCE—Cont'd**

- Declarations—Cont'd
  - written pedigree declarations exception, § 10:68
- Deeds, exception, § 10:37
- Definition of hearsay, § 10:1
- Depositions, §§ 10:3, 10:16, 10:32
- Describe progress of police investigation, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10
- Determinations
  - children's statements in criminal cases, statutory exception, § 10:46
  - prior consistent statements exception, § 10:38
  - spontaneous declarations exception, § 10:18
  - testimonial hearsay and Confrontation Clause, § 10:17
- Diagnosis, medical, §§ 10:15, 10:39, 10:45
- Diagrams used to explain testimony, exceptions, § 10:64
- Diaries, past recollection recorded exception, § 10:57
- Directories, exception, § 10:62
- Discharge from employment, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10
- Discipline of physician, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, §§ 10:9, 10:12, 10:13
- Disclosure, chemical tests performed on blood, breath or urine of drivers, § 10:49
- Discretion of court, business records exception, § 10:53
- Disparagement of title, exception, § 10:37
- Divorce cases, exceptions, §§ 10:30, 10:47
- Doctors. Physicians, below

## INDEX

### HEARSAY EVIDENCE—Cont'd

- Documentary evidence, business records exception to hearsay rule, § 9:15
- Documents, exceptions, § 10:52-10:68
- Domestic violence, §§ 10:15, 10:47
- Double hearsay, § 10:7
- Drivers, chemical tests performed on blood, breath or urine of, § 10:49
- Driving under the influence, chemical tests performed on blood, breath or urine of drivers, § 10:49
- Drugs
  - medication records, business records exception, §§ 10:53, 10:57
  - safe zone testimony, statutory exception, § 10:50
- Duplicates. Copies, above
- Dying declarations exception, § 10:27
  - testimonial hearsay and Confrontation Clause, §§ 10:15, 10:17, 10:27
- Elderly adults, statutory exception, § 10:15
- Employment-related matters
  - discharge from employment, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10
  - spontaneous declarations exception, § 10:22
  - workers' compensation, certification of hospital records, § 10:53
- Equipment reliability, chemical tests performed on blood, breath or urine of drivers, § 10:49
- Errors or mistakes
  - harmless error, §§ 10:15, 10:17, 10:38
  - prejudicial error, administrative proceedings, § 10:5
  - rebut charge of mistake, prior consistent statements exception, § 10:38

### HEARSAY EVIDENCE—Cont'd

- Errors or mistakes—Cont'd
  - reversible error, statutory exception, § 10:44
- Examples of statements and actions that constitute hearsay, § 10:3
- Exceptions to hearsay
  - generally, § 10:18-10:42
  - administrative proceedings, § 10:5
  - admissions, §§ 10:32, 11:1, 11:6
  - business records exception, above
  - coconspirators' admissions, § 11:6
  - common law hearsay exceptions, § 10:15
  - definition of hearsay, § 10:1
  - documents, § 10:52-10:68
  - examples of statements and actions that constitute hearsay, § 10:3
  - hearsay within hearsay, § 10:7
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:9-10:13
  - records, generally, § 10:52-10:68
  - statutory exceptions, §§ 10:5, 10:15, 10:43-10:51, 10:57
- Excited utterances, spontaneous declarations exceptions, §§ 10:18, 10:20, 10:24, 10:46
- Exclusions or exemptions
  - Confrontation Clause applicability, testimonial hearsay, § 10:15
  - Crawford, testimonial hearsay and Confrontation Clause, § 10:17
  - examples of statements and actions that constitute hearsay, § 10:3
  - exceptions to hearsay, above
  - reasons for exclusion of hearsay, § 10:2
- Exculpatory statements, §§ 10:3, 10:28
- Exemptions. Exclusions or exemptions, above
- Exhibits, business records exception, § 10:55
- Experts and expert witnesses
  - generally, §§ 7:22, 7:24
  - explain basis of expert's opinion, out-of-court statements offered for purpose other than

**HEARSAY EVIDENCE—Cont'd**

Experts and expert witnesses  
     —Cont'd  
         to prove truth of matter asserted are not hearsay, **§ 10:12**  
         testimonial hearsay and Confrontation Clause, **§ 10:15**  
 Explanations  
     charts, plats, diagrams, etc. used to explain testimony, exception, **§ 10:64**  
     out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:10-10:12**  
 Fabrication  
     prior consistent statements exception, **§ 10:38**  
     spontaneous declarations exception, **§§ 10:20, 10:24**  
 Falsification of business records, exception, **§ 10:52**  
 Familiarity with police procedures, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:9**  
 Family  
     history, exceptions, **§§ 10:31, 10:68**  
     statements to family, testimonial hearsay and Confrontation Clause, **§ 10:15**  
 Federal Rules of Evidence  
     admissions, coconspirator exception, **§ 11:6**  
     business records exception, **§§ 10:52, 10:53**  
     dying declarations exception, **§ 10:27**  
     past recollection recorded exception, **§ 10:57**  
     personal or family history statements exception, **§ 10:31**  
     physical condition statements for medical diagnosis or treatment, exceptions, **§§ 10:39, 10:45**

**HEARSAY EVIDENCE—Cont'd**

Federal Rules of Evidence—Cont'd  
     public records or reports exception, **§ 10:56**  
     scientific treatises exception, **§ 10:63**  
 Fifth Amendment, declarations against penal interest exception, **§ 10:28**  
 Financial affidavits in divorce cases, exception, **§ 10:30**  
 Findings  
     autopsy findings, past recollection recorded exception, **§ 10:57**  
     children's statements in criminal cases, statutory exception, **§ 10:46**  
 Fingerprints, examples of statements and actions that constitute hearsay, **§ 10:3**  
 Forensic chemistry reports, past recollection recorded exception, **§ 10:57**  
 Forfeiture of rights, testimonial hearsay and Confrontation Clause, **§ 10:15-10:17**  
 Formal statements to police, testimonial hearsay and Confrontation Clause, **§ 10:15**  
 Former matters. Prior matters, below  
 Foundation  
     business records exception, **§§ 10:52, 10:53, 10:55**  
     chemical tests performed on blood, breath or urine of drivers, statutory exception, **§ 10:49**  
     computer printouts, business records exception, **§ 10:55**  
     laying foundation, business records exception, **§§ 1:5, 10:52**  
     prior consistent statements exception, **§ 10:38**  
     prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, **§ 10:43**  
 Framework for analyzing Crawford v. Washington, testimonial hearsay and Confrontation Clause, **§ 10:15**



## INDEX

### HEARSAY EVIDENCE—Cont'd

- Friends, statements to, testimonial hearsay and Confrontation Clause, § 10:15
- Further Supreme Court decisions applying Crawford v. Washington, testimonial hearsay and Confrontation Clause, § 10:16
- Gang roster, business records exception, § 10:52
- Geographical facts, exception, § 10:67
- Grand jury
  - admissibility, § 10:4
  - Confrontation Clause and testimonial hearsay, § 10:15
  - declarations against penal interest exception, § 10:28
  - former testimony exception, § 10:35
  - statutory exceptions, §§ 10:43, 10:51
  - testimony, §§ 10:15, 10:28, 10:35, 10:43, 10:51
- Gunshot wound victim, spontaneous declarations exception, § 10:18
- Hammon v. Indiana, testimonial hearsay and Confrontation Clause, § 10:16
- Handwriting, spontaneous declarations exception, § 10:18
- Harmless error, §§ 10:15, 10:17, 10:38
- Hearings
  - administrative hearings, §§ 10:5, 10:53
  - children's statements, statutory exceptions, § 10:46-10:48
  - preliminary hearing, former testimony exception, § 10:35
  - prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, § 10:43
  - sentencing hearings, § 10:4
  - suppression hearings, §§ 10:4, 10:15, 10:28
- Hearsay within hearsay, § 10:7
- Historical works, exception, § 10:62

### HEARSAY EVIDENCE—Cont'd

- History
  - family history, exceptions, §§ 10:31, 10:68
  - personal history statements, exception, § 10:31
- Homicide victim, state of mind of declarant exception, § 10:34
- Hospitals
  - actions of hospitalized shooting victim, spontaneous declarations exception, § 10:18
  - bills, business records exception, §§ 10:53, 10:55
  - records, exception, § 10:53
  - reports, exceptions, §§ 10:49, 10:57
- Identification
  - examples of statements and actions that constitute hearsay, § 10:3
  - nonidentification, prior consistent statements exception, § 10:38
  - physical condition statements for medical diagnosis or treatment, statutory exception, § 10:45
  - prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, § 10:43
  - substantive admissibility of prior identification, statutory exception, § 10:44
  - testimonial hearsay and Confrontation Clause, §§ 10:15, 10:17
- Identity of issues, former testimony exception, § 10:35
- Illegitimacy and presumption of marriage, exception, § 10:31
- Illness, former testimony exception, § 10:35
- Impeachment
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11
  - past recollection recorded exception, § 10:57
  - prior consistent statements exception, § 10:38

**HEARSAY EVIDENCE—Cont'd**

Impeachment—Cont'd  
prior inconsistent statements,  
§§ 10:43, 18:12, 18:14  
spontaneous declarations excep-  
tion, § 10:18  
In-chambers testimony, children's  
statements in civil and juvenile  
abuse cases, § 10:48  
Incident reports, business records  
exception, §§ 10:52, 10:54  
Incompetency of declarant, spontane-  
ous declarations exception,  
§ 10:24  
Inculpatory statements, declarations  
against penal interest exception,  
§ 10:28  
Inferences. Presumptions and infer-  
ences, below  
Ingredients label, trade inscriptions,  
§ 10:52  
Initial inquiries at crime scene,  
testimonial hearsay and  
Confrontation Clause, § 10:16  
Instructions to jury, exceptions,  
§§ 10:34, 10:43  
Intent, state of mind of declarant  
exception, § 10:34  
Interests  
declarations against interest,  
exceptions, §§ 10:28, 10:29,  
10:41  
public interest matters, exception,  
§ 10:66  
Interpretation. Construction and  
interpretation, above  
Interpreters, examples of statements  
and actions that constitute  
hearsay, § 10:3  
Interrogation by police, testimonial  
hearsay and Confrontation  
Clause, § 10:15  
Interview of child victim by Depart-  
ment of Children and Family  
Services, testimonial hearsay  
and Confrontation Clause,  
§ 10:15  
Intoxication tests and machines, pub-  
lic records or reports exception,  
§ 10:56

**HEARSAY EVIDENCE—Cont'd**

Investigation  
business records exception,  
§ 10:52-10:54  
police investigation, §§ 10:10,  
10:16, 10:17  
Issuance of arrest warrant, out-of-  
court statements offered for  
purpose other than to prove truth  
of matter asserted are not  
hearsay, § 10:10  
Judgment in criminal action as evi-  
dence in civil action and vice  
versa, exception, § 10:65  
Juveniles  
abuse cases, statutory exception,  
§ 10:48  
children, above  
court proceedings, business  
records exception, § 10:52  
delinquency cases, testimonial  
hearsay and Confrontation  
Clause, § 10:15  
Knowledge  
personal knowledge, below  
show knowledge of content of  
statement on part of person  
hearing it, out-of-court state-  
ments offered for purpose  
other than to prove truth of  
matter asserted are not  
hearsay, § 10:13  
Labels on products, business records  
exception, § 10:52  
Laboratory tests, exceptions,  
§§ 10:49, 10:53  
Lack  
business records, exception,  
§ 10:52  
diligent good faith effort to pro-  
duce witness, former  
testimony exception, § 10:35  
motive to distort truth, personal or  
family history statements  
exception, § 10:31  
objection, weight of admitted  
hearsay, § 10:6  
opportunity to cross-examine  
declarant, reasons for exclu-  
sion of hearsay, § 10:2

## INDEX

### HEARSAY EVIDENCE—Cont'd

- Land. Real property, below
- Lapse of time
  - children's statements in criminal cases, statutory exception, **§ 10:46**
  - spontaneous declarations exception, **§§ 10:20, 10:23**
- Laws. Statutes, below
- Laying foundation, business records exception, **§§ 1:5, 10:52**
- Learned treatises, discipline of physician, **§§ 10:9, 10:12, 10:13**
- Length of statement, spontaneous declarations exception, **§ 10:23**
- Letters
  - anonymous letter, examples of statements and actions that constitute hearsay, **§ 10:3**
  - definition of hearsay, **§ 10:1**
  - examples of statements and actions that constitute hearsay, **§ 10:3**
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:13**
- Limitations
  - admissibility of evidence, **§ 1:4**
  - explain police conduct, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§ 10:10**
  - prior consistent statements exception, **§ 10:38**
- Lists
  - currency serial numbers, past recollection recorded exception, **§ 10:57**
  - price lists, exception, **§ 10:61**
- Location
  - boundaries, statements by persons in possession of property, **§ 10:37**
  - town lot, exception, **§ 10:66**
- Log books, exception, **§ 10:60**
- Maps, exceptions, **§§ 10:56, 10:67**
- Market reports or quotations, exception, **§ 10:61**

### HEARSAY EVIDENCE—Cont'd

- Marriage
  - divorce cases, exceptions, **§§ 10:30, 10:47**
  - illegitimacy and presumption of marriage, exception, **§ 10:31**
- Medical examiner or coroner
  - autopsy findings, past recollection recorded exception, **§ 10:57**
  - reports, exception, **§ 10:56**
- Medical matters
  - diagnosis, **§§ 10:15, 10:39, 10:45**
  - examiner. Medical examiner or coroner, above
  - malpractice, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, **§§ 10:11, 10:12**
  - records, business records exception, **§ 10:53**
  - treatises, exception, **§ 10:63**
  - treatment
    - exceptions, **§§ 10:39, 10:45, 10:47**
    - physicians, exceptions, **§§ 10:39, 10:45, 10:47**
    - testimonial hearsay and Confrontation Clause, **§ 10:15**
- Medication records, business records exception, **§§ 10:53, 10:57**
- Mental health institution, public records or reports exception, **§ 10:56**
- Minors. Children, above
- Misconduct, testimonial hearsay and Confrontation Clause, **§ 10:15-10:17**
- Missing videotape testimony, **§ 10:1**
- Mistakes. Errors or mistakes, above
- Moral interest, declarations against exception, **§ 10:41**
- Mortality tables, exception, **§ 10:63**
- Motive
  - business records exception, **§ 10:52**
  - personal or family history statements exception, **§ 10:31**

**HEARSAY EVIDENCE—Cont'd**

## Motive—Cont'd

prior consistent statements exception, § 10:38

state of mind of declarant exception, § 10:34

Multiple hearsay, § 10:7

Murder cases, exceptions, §§ 10:34, 10:46

Neglect of children. Children, above Newspapers

exceptions, §§ 10:59, 10:61

out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:13

911 calls

operators, testimonial hearsay and Confrontation Clause, § 10:16

out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10

spontaneous declarations exception, § 10:21

state of mind of declarant exception, § 10:34

tape or recording of call, §§ 10:10, 10:34

testimonial hearsay and Confrontation Clause, § 10:15-10:17

Nonidentification, prior consistent statements exception, § 10:38

Notice, children's statements in criminal cases exception, § 10:46

Nurses

chemical tests performed on blood, breath or urine of drivers, statutory exception, § 10:49

past recollection recorded exception, § 10:57

statements concerning declarant's physical condition for medical diagnosis or treatment, exceptions, §§ 10:39, 10:45

Nursing home abuse investigation, business records exception, § 10:53

Objections. See index heading OBJECTIONS

**HEARSAY EVIDENCE—Cont'd**

## Opinions of persons

business records exception, § 10:52

public opinion polls, exception, § 10:63

Opportunity for cross-examination, §§ 10:2, 10:35

Order of protection, sworn written statements made in course of obtaining, § 10:15

Other statutory exceptions, § 10:51

Ownership of property by public housing agency, exception, § 10:66

## Parties

admissions, party opponent, §§ 10:32, 11:1

conversion of parties, criminal and civil proceedings in which hearsay is admissible, § 10:4

depositions, §§ 10:3, 10:32

opponent's statements, exception, § 10:32

possession, business records exception, § 10:52

Past recollection recorded exception, § 10:57

Pecuniary interest, declarations against exception, § 10:29

Pedigree exceptions, §§ 10:31, 10:68

Penal interest, declarations against exception, §§ 10:28, 10:29

Personal history statements, exception, § 10:31

## Personal knowledge

prior consistent statements exception, § 10:38

prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, § 10:43

Physical condition, statements by declarant for medical diagnosis or treatment, exceptions, §§ 10:39, 10:45

Physician-patient privilege, chemical tests performed on blood, breath or urine of drivers, § 10:49

## INDEX

### HEARSAY EVIDENCE—Cont'd

#### Physicians

- chemical tests performed on blood, breath or urine of drivers, statutory exception, § 10:49
- children's statements in divorce cases, statutory exception, § 10:47
- discipline of physician, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, §§ 10:9, 10:12, 10:13
- physical condition statements for medical diagnosis or treatment, exceptions, §§ 10:39, 10:45
- spontaneous declarations exception, § 10:18
- treating physicians, exceptions, §§ 10:39, 10:45, 10:47
- written reports, past recollection recorded exception, § 10:57

#### Plats used to explain testimony, exception, § 10:64

#### Police

- business records exception, §§ 10:52, 10:54
- exculpatory statements made by criminal defendant while in police custody, § 10:3
- formal statements to police, testimonial hearsay and Confrontation Clause, § 10:15
- interrogation, testimonial hearsay and Confrontation Clause, § 10:15
- investigation, §§ 10:10, 10:16, 10:17
- out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, §§ 10:9-10:11, 10:13
- reports, exceptions, §§ 10:52, 10:54, 10:56, 10:57
- substantive admissibility of prior identification, statutory exception, § 10:44

### HEARSAY EVIDENCE—Cont'd

#### Possession

- party in possession, business records exception, § 10:52
- statements by persons in possession of property, exception, § 10:37

#### Postconviction issues, testimonial hearsay and Confrontation Clause, § 10:15

#### Prejudice

- error, administrative proceedings, § 10:5
- prior consistent statements exception, § 10:38
- prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, § 10:43

#### Preliminary breath test (PBT), statutory exception, § 10:49

#### Preliminary hearing, former testimony exception, § 10:35

#### Presence of declarant, prior consistent statements exception, § 10:38

#### Present sense impression, spontaneous declarations exception, § 10:26

#### Presumptions and inferences

- explain police conduct or describe progress of police investigation, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10

#### personal or family history statements, exception, § 10:31

#### Pretrial suppression hearings, §§ 10:15, 10:28

#### Previous matters. Prior matters, below

#### Price lists, exception, § 10:61

#### Prior matters

- acts, statements by persons in possession of property exception, § 10:37
- consistent statements, exception, § 10:38

**HEARSAY EVIDENCE—Cont'd**

Prior matters—Cont'd  
     conviction, judgment in criminal  
         action as evidence in civil  
         action and vice versa, § 10:65  
     identification, statutory exception,  
         § 10:44  
     inconsistent statements, §§ 10:15,  
         10:43, 10:44, 10:51, 18:12,  
         18:14  
     statements  
         consistent statements, exception,  
             § 10:38  
         inconsistent statements, statu-  
         tory exceptions, §§ 10:15,  
         10:43, 10:44, 10:51  
         testimonial hearsay and  
         Confrontation Clause,  
         § 10:15  
         testimony, exception, § 10:35  
     Prison incident reports, business  
     records exception, §§ 10:52,  
     10:54  
     Private boundary lines, exception,  
         § 10:36  
     Probation proceedings, §§ 10:4,  
     10:15  
     Probative value, §§ 10:6, 10:53  
     Progress of police investigation  
         description, out-of-court state-  
         ments offered for purpose other  
         than to prove truth of matter  
         asserted are not hearsay, § 10:10  
     Prompt complaint by rape victim,  
     spontaneous declarations excep-  
     tion, §§ 10:22, 10:23  
     Property  
         appraisal, public records or reports  
         exception, § 10:56  
         real property, below  
         statements by persons in posses-  
         sion of property, exception,  
         § 10:37  
         title to property, exceptions,  
         §§ 10:37, 10:67  
     Public assistance, public records or  
     reports exception, § 10:56  
     Public interest matters, exception,  
         § 10:66  
     Public polls exception, § 10:63

**HEARSAY EVIDENCE—Cont'd**

Public records exception, § 10:56  
     Public reports exception, § 10:56  
     Questioning of declarant, spontane-  
         ous declarations exception,  
         § 10:19  
     Radio dispatches of police, out-of-  
         court statements offered for  
         purpose other than to prove truth  
         of matter asserted are not  
         hearsay, § 10:10  
     Rape, spontaneous declarations  
         exception, §§ 10:22, 10:23  
     Rate schedules, exception, § 10:60  
     Reaction, out-of-court statements  
         offered for purpose other than to  
         prove truth of matter asserted  
         are not hearsay, § 10:11  
     Real property  
         boundaries, exceptions, §§ 10:36,  
         10:37, 10:66  
         possession of property, statements  
         by persons in, exception,  
         § 10:37  
         title to property, exceptions,  
         §§ 10:37, 10:67  
         transactions, business records  
         exception, § 10:52  
     Reasons for exclusion of hearsay,  
         § 10:2  
     Rebut charge of mistake or inac-  
         curacy, prior consistent state-  
         ments exception, § 10:38  
     Recorded or recording  
         past recollection recorded excep-  
         tion, § 10:57  
         tape recording, below  
     Records  
         administrative regulations, § 10:5  
         business records exception, above  
         chemical tests performed on blood,  
         breath or urine of drivers,  
         statutory exception, § 10:49  
         computer records, exceptions,  
         §§ 10:55, 10:56  
         exceptions, generally, § 10:52-  
         10:68  
         voluminous records, below  
     Refusal of declarant to testify, statu-  
         tory exception, § 10:15

## INDEX

### HEARSAY EVIDENCE—Cont'd

- Registers, exceptions, §§ 10:60, 10:62
- Rehabilitation of witness, prior consistent statements exception, § 10:38
- Relevancy of evidence
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:9
  - sentencing, §§ 4:15, 4:16
  - state of mind of declarant exception, § 10:34
- Reliability, statutory exceptions, §§ 10:43, 10:46, 10:49
- Religious organizations' records, exception, § 10:58
- Reports
  - administrative regulations, § 10:5
  - business records exception, § 10:52-10:54
  - forensic chemistry reports, past recollection recorded exception, § 10:57
  - hospital reports, exceptions, §§ 10:49, 10:57
  - incident reports, business records exception, §§ 10:52, 10:54
  - market reports, exception, § 10:61
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11-10:13
  - police reports, exceptions, §§ 10:52, 10:54, 10:56, 10:57
  - public reports exception, § 10:56
- Res gestae, exception, § 10:42
- Residual hearsay exception, § 10:40
- Response
  - police response to calls for assistance, testimonial hearsay and Confrontation Clause, § 10:15
  - spontaneous declarations exception, responsive statements, § 10:19
- Restrictions. Limitations, above
- Results of tests, statutory exception, § 10:49

### HEARSAY EVIDENCE—Cont'd

- Retroactivity
  - Crawford, testimonial hearsay and Confrontation Clause, § 10:15
  - statutory amendments, exceptions, § 10:49
- Reversible error, statutory exception, § 10:44
- Review. Appeal and review, above
- Robbery victim, spontaneous declarations exception, § 10:18
- Safe zone testimony, statutory exception, § 10:50
- Scene of crime, testimonial hearsay and Confrontation Clause, § 10:16
- Scientific treatises, exception, § 10:63
- Scope of authority, agents' statements, § 10:33
- Self-defense, state of mind of declarant exception, § 10:34
- Self-incrimination, privilege against, former testimony exception, § 10:35
- Sentencing
  - admissibility, § 10:4
  - relevancy of evidence, §§ 4:15, 4:16
- Sex offenses
  - abuse of children, exceptions, §§ 10:24, 10:46
  - assault of children. Children, above
  - commitment of sexually dangerous or violent persons, §§ 10:15, 10:46
  - rape, spontaneous declarations exception, §§ 10:22, 10:23
- Sexually Dangerous Persons Act, exception, § 10:46
- Shipping orders, exception, § 10:60
- Ship registers, exception, § 10:60
- Show knowledge of content of statement on part of person hearing it, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:13



**HEARSAY EVIDENCE—Cont'd**

- Social interest, declarations against exception, § 10:41
- Soil map, exception, § 10:56
- Spontaneous declarations, exceptions, §§ 10:18-10:26, 10:46
- Standard of review, children's statements in criminal cases, § 10:46
- State
  - cases applying Crawford v. Washington, testimonial hearsay and Confrontation Clause, § 10:17
  - Confrontation Clause applicability, testimonial hearsay, § 10:15
- State of mind
  - declarant, exception, § 10:34
  - out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11
- Statistics
  - frequency of blood types, exception, § 10:63
  - vital statistics, public records and reports exception, § 10:56
- Statutes
  - administrative proceedings, § 10:5
  - business records exception, § 10:53
  - exceptions, §§ 10:5, 10:15, 10:43-10:51, 10:57
- Subsequent behavior of person hearing statement explanation, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11
- Substantive matters
  - admissibility of prior identification, statutory exception, § 10:44
  - prior inconsistent statements admissible as substantive evidence in criminal cases, statutory exception, § 10:43
- Sufficiency and weight of evidence
  - hearsay admitted without objection, §§ 10:6, 21:1
  - prior inconsistent statements admissible as substantive evidence in criminal cases, statu-

**HEARSAY EVIDENCE—Cont'd**

- Sufficiency and weight of evidence
  - Cont'd
  - tory exception, § 10:43
  - spontaneous declarations exception, § 10:18
- Suicide, state of mind of declarant exception, § 10:34
- Summary judgment
  - affidavits, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11
  - business records exception, § 10:53
  - physical condition statements for medical diagnosis or treatment, exceptions, §§ 10:39, 10:45
- Suppression hearings, §§ 10:4, 10:15, 10:28
- Surveyors deceased, private boundary lines exception, § 10:36
- Surveys, exceptions, §§ 10:63, 10:67
- Sworn written statements made in course of obtaining order of protection, testimonial hearsay and Confrontation Clause, § 10:15
- Tape recording
  - conversation, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11
  - 911 calls, §§ 10:10, 10:34
  - videotape, below
- Telephone tap, business records exception, § 10:55
- Testimony. Witnesses, below
- Tests
  - chemical tests performed on blood, breath or urine of drivers, statutory exception, § 10:49
  - explain basis of expert's opinion, out-of-court statements offered for purpose other than to prove truth of matter

## INDEX

### HEARSAY EVIDENCE—Cont'd

#### Tests—Cont'd

asserted are not hearsay,  
§ 10:12

intoxication tests, public records or  
reports exception, § 10:56

laboratory tests, exceptions,  
§§ 10:49, 10:53

#### Third party

confession, declarations against  
penal interest exception,  
§ 10:28

inculpatory statements, declara-  
tions against penal interest  
exception, § 10:28

state of mind of declarant excep-  
tion, § 10:34

#### Time

lapse of time, above

prompt complaint by rape victim,  
spontaneous declarations  
exception, §§ 10:22, 10:23

retroactivity, above

spontaneous declarations excep-  
tion, §§ 10:18, 10:20, 10:23

Title to property, exceptions,  
§§ 10:37, 10:67

Toxicology reports, exception,  
§ 10:56

Trade inscriptions, business records  
exception, § 10:52

#### Treatises

learned treatises, discipline of  
physician, §§ 10:9, 10:12,  
10:13

medical treatises, exception,  
§ 10:63

scientific treatises, exception,  
§ 10:63

Treatment. Medical matters, above

#### Trustworthiness

business records exception,  
§ 10:52

declarations against penal interest  
exception, § 10:28

prior inconsistent statements  
admissible as substantive evi-  
dence in criminal cases, statu-  
tory exception, § 10:43

### HEARSAY EVIDENCE—Cont'd

#### Trustworthiness—Cont'd

statutory exceptions, §§ 10:43,  
10:51

#### Unavailable declarant or witness

children's statements in criminal  
cases, statutory exception,  
§ 10:46

declarations against interest,  
exceptions, §§ 10:28, 10:29

former testimony exception,  
§ 10:35

private boundary lines, exception,  
§ 10:36

spontaneous declarations excep-  
tion, § 10:18

state of mind of declarant excep-  
tion, § 10:34

#### statutory exceptions

testimonial hearsay and  
Confrontation Clause,  
§§ 10:15, 10:44, 10:46,  
10:51

substantive admissibility of prior  
identification, statutory excep-  
tion, § 10:44

Unconsciousness of victim, spontane-  
ous declarations exception,  
§ 10:18

Unfitness of defendant to stand trial,  
testimonial hearsay and  
Confrontation Clause, § 10:15

Unknown declarant, spontaneous  
declarations exception,  
§§ 10:21, 10:25

Update for analyzing Crawford v.  
Washington, testimonial hearsay  
and Confrontation Clause,  
§ 10:15

Urine of drivers, statutory exception  
for chemical tests, § 10:49

#### Victims of crimes

children, above

homicide victim, state of mind of  
declarant exception, § 10:34

murder victim, state of mind of  
declarant exception, § 10:34

physical condition statements for  
medical diagnosis or treat-  
ment, statutory exception,  
§ 10:45

**HEARSAY EVIDENCE—Cont'd**

Victims of crimes—Cont'd  
     spontaneous declarations excep-  
         tion, §§ **10:18, 10:22, 10:23**  
 Videotape  
     missing videotape testimony,  
         § **10:1**  
     statement of child victim of crime,  
         statutory exception, § **10:46**  
 Violations, testimonial hearsay and  
     Confrontation Clause, § **10:15-10:17**  
 Violence  
     commitment of sexually dangerous  
         or violent persons, §§ **10:15, 10:46**  
     domestic violence, §§ **10:15, 10:47**  
 Vital statistics, public records and  
     reports exception, § **10:56**  
 Voluminous records  
     business records exception,  
         § **10:52**  
     Department of Corrections, public  
         records exception, § **10:56**  
 Voluntariness, prior inconsistent  
     statements, § **10:43**  
 Weather reports, exception, § **10:56**  
 Weight of evidence. Sufficiency and  
     weight of evidence, above  
 Witnesses  
     agents' statements, exception,  
         § **10:33**  
     business records exception,  
         § **10:52**  
     charts, plats, diagrams, etc. used to  
         explain testimony, exception,  
         § **10:64**  
     children's statements, statutory  
         exceptions, § **10:46-10:48**  
     Confrontation Clause, above  
     cross-examination, above  
     declarations against penal interest  
         exception, § **10:28**  
     definition of hearsay, § **10:1**  
     examples of statements and actions  
         that constitute hearsay, § **10:3**  
     experts and expert witnesses,  
         above

**HEARSAY EVIDENCE—Cont'd**

Witnesses—Cont'd  
     former testimony exception,  
         § **10:35**  
     grand jury testimony, §§ **10:15, 10:28, 10:35, 10:43, 10:51**  
     missing videotape testimony,  
         § **10:1**  
     out-of-court statements offered for  
         purpose other than to prove  
         truth of matter asserted are  
         not hearsay, § **10:10-10:12**  
     past recollection recorded excep-  
         tion, § **10:57**  
     personal or family history state-  
         ments, exception, § **10:31**  
     physical condition statements for  
         medical diagnosis or treat-  
         ment, exception, § **10:39**  
     prior consistent statements excep-  
         tion, § **10:38**  
     prior inconsistent statements  
         admissible as substantive evi-  
         dence in criminal cases, statu-  
         tory exception, § **10:43**  
     safe zone testimony, statutory  
         exception, § **10:50**  
     spontaneous declarations excep-  
         tion, § **10:18**  
     substantive admissibility of prior  
         identification, statutory excep-  
         tion, § **10:44**  
     testimonial hearsay and Confronta-  
         tion Clause, §§ **10:14-10:17, 10:27, 10:46**  
     unavailable declarant or witness,  
         above  
 Workers' compensation, certification  
     of hospital records, § **10:53**  
 Work records, business records  
     exception, § **10:52**  
 Writings  
     past recollection recorded excep-  
         tion, § **10:57**  
     spontaneous declarations excep-  
         tion, § **10:18**  
 Written  
     deceased person's declarations,  
         personal or family history  
         statements exception, § **10:31**

## INDEX

### **HEARSAY EVIDENCE—Cont'd**

#### **Written—Cont'd**

- pedigree declarations, exception, § 10:68
- prior inconsistent statements  
admissible as substantive evidence in criminal cases, statutory exception, § 10:43
- reports, past recollection recorded exception, § 10:57
- sworn written statements made in course of obtaining order of protection, testimonial hearsay and Confrontation Clause, § 10:15

### **HEARSAY WITHIN HEARSAY**

- Generally, § 10:7

### **HEART ATTACK**

- Expert medical testimony, qualifications, § 7:45

### **HEIGHTENED BURDEN OF PROOF**

- Motions to suppress in criminal cases, § 5:5

### **HEIRSHIP OF DECEDENT**

- Competency of witnesses, exceptions under Dead Man's Act, § 13:10

### **HGN (HORIZONTAL GAZE NYSTAGMUS) TEST**

- Generally, §§ 7:27, 8:12

### **HIDING**

- See index heading CONCEALMENT

### **HISTORY AND HISTORICAL MATTERS**

- Demonstrative evidence, use of charts that track defendant's criminal history, § 8:13
- Expert medical testimony, subject history of patient, § 7:51
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Hearsay exception, historical works, § 10:62
- Judicial notice of historical matters, § 2:13

### **HMOs (HEALTH MAINTENANCE ORGANIZATIONS)**

- Expert witnesses, institutional negligence, §§ 7:13, 7:67

### **HOG FARM**

- Expert witnesses, value of personal property and services, § 7:41

### **HOME INVASION CASES**

- Relevancy of evidence, other crimes evidence, §§ 4:38, 4:39

### **HOME REPAIR FRAUD ACT**

- Presumptions and inferences, § 3:34

### **HOMICIDE**

- Hearsay evidence, state of mind of declarant exception, § 10:34
- Murder. See index heading MURDER
- Physician-patient privilege, homicide exception, § 14:14
- Reckless homicide. See index heading RECKLESS HOMICIDE
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Victims of homicide
  - hearsay evidence, state of mind of declarant exception, § 10:34
  - murder. See index heading MURDER
  - relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **HORIZONTAL GAZE NYSTAGMUS (HGN) TEST**

- Generally, §§ 7:27, 8:12

### **HOSPITALS**

- Expert medical testimony, standard of care, § 7:45
- Hearsay evidence. See index heading HEARSAY EVIDENCE

### **HOSTILE WITNESSES**

- Examination of witnesses, leading questions, § 17:9

### **HOUSING, PUBLIC**

- See index heading PUBLIC HOUSING

**HUMAN HAIR**

Expert witnesses, identification,  
§ 7:80

**HUMAN LIFE, HEALTH, HABITS  
AND ACTS**

Judicial notice of facts related to,  
§ 2:12

**HUSBAND AND WIFE**

See index heading SPOUSES

**HYPNOTICALLY ENHANCED  
TESTIMONY**

Refreshing memory of witnesses,  
§ 19:3

**HYPOTHETICAL QUESTIONS**

Expert witnesses, §§ 7:20, 7:29, 7:61

**HYSTERECTOMY**

Expert medical testimony, § 7:67

**IDENTIFICATION**

Burden of proof, motions to suppress  
in criminal cases, § 5:6

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Examination of witnesses, suppres-  
sion hearings, § 17:8

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Lay witnesses, § 7:2

Nonidentification, prior consistent  
statements, §§ 10:38, 18:31

Physician-patient privilege, Criminal  
Identification Act, § 14:14

Relevancy of evidence, other crimes  
evidence, §§ 4:35, 4:38-4:40,  
4:43, 4:44, 4:46

Self-incrimination, privilege against,  
§ 15:1

Sufficiency and weight of evidence.  
See index heading SUFFICIENCY  
AND WEIGHT OF EVIDENCE

Voice identification. See index head-  
ing VOICE IDENTIFICATION

**IDENTITY OF ISSUES**

Hearsay evidence, former testimony  
exception, § 10:35

**IDENTITY OF PERSONS**

Burden of proof in criminal cases,  
disclosure of identity of  
confidential informant, § 5:3

Presumptions and inferences, identity  
based on similarity of names,  
§ 3:38

Relevancy of evidence, other crimes  
evidence, §§ 4:33, 4:35, 4:37,  
4:38, 4:43

**ILLEGAL MATTERS**

Arrest illegal, burden of proof on  
motion to suppress confession in  
criminal case, § 5:5

Crimes. See index heading CRIMES  
AND CRIMINAL CASES OR  
PROCEEDINGS

Evidence obtained illegally, impeach-  
ment methods, § 18:3

**ILLEGITIMACY**

Hearsay exception, presumption of  
marriage, § 10:31

**ILLNESS**

Burden of proof in criminal cases,  
mental illness, § 5:3

Hearsay evidence, former testimony  
exception, § 10:35

**IMMUNITY**

Burden of proof, affirmative defenses  
in civil cases, § 5:12

Privilege against self-incrimination  
and immunity from prosecution  
relationship, § 15:5

**IMPARTIALITY OF TRIAL  
COURT**

Presumptions and inferences, § 3:12

**IMPEACHMENT**

Generally, § 18:1-18:32

Actual prior conviction, impeach-  
ment by, § 18:20

Addiction to drugs, §§ 18:5, 18:18

## INDEX

### IMPEACHMENT—Cont'd

- Admissibility
  - character and conduct of witness, § 18:18
  - interest, bias or prejudice, §§ 18:6, 18:9
  - methods of impeachment, § 18:1
  - prior conviction, impeachment by, § 18:20-18:28
  - prior inconsistent statements, §§ 18:12, 18:14
  - rehabilitation of impeached witness, § 18:30-18:32
- Admissions, silence of accused in criminal case, § 11:36
- Age of conviction, impeachment by prior conviction, § 18:22
- Agreements, interest, bias or prejudice, §§ 18:7, 18:9
- Alibi witnesses, §§ 18:1, 18:11
- Appeal and review
  - pending appeal, method of proving prior conviction, § 18:23
  - prior conviction, impeachment by, §§ 18:20, 18:23
  - reversible error, §§ 18:20, 18:31
- Armed robbery, impeachment by prior conviction, § 18:25
- Arrest
  - interest, bias or prejudice, § 18:7
  - post-arrest silence, §§ 18:1, 18:3, 18:13
  - previous misconduct, character and conduct of witness, § 18:19
- Assault and battery
  - prior conviction, impeachment by, § 18:25
  - sexual assault, §§ 18:1, 18:19, 18:25
- Attitude toward certain sexual relations, interest, bias or prejudice, § 18:11
- Attorney suspended from practice, previous misconduct, § 18:19
- Balancing test, impeachment by prior conviction, §§ 18:20, 18:28
- Battery. Assault and battery, above
- Bias, § 18:6-18:11

### IMPEACHMENT—Cont'd

- Brother of defendant, improper impeachment of, §§ 18:3, 18:11, 18:13
- Character and reputation
  - generally, § 18:17-18:19
  - interest, bias or prejudice, § 18:7
  - rehabilitation of impeached witness, § 18:29
- Charges
  - pending charges, interest, bias or prejudice, § 18:7
  - previous misconduct, character and conduct of witness, § 18:19
  - similarity with charged crime, method of proving prior conviction, § 18:27
- Children and Family Services
  - Department determination that accusation by victim of child sex offense was unfounded, previous misconduct, § 18:19
- Civil cases, generally, § 18:1-18:32
- Collateral matters, methods of impeachment, §§ 18:1, 18:2
- Community, reputation evidence, § 18:17
- Comparison of names, impeachment by prior conviction, § 18:21
- Completion of impeachment, prior inconsistent statements, §§ 18:14, 18:15
- Concealment
  - own conduct concealed by witness, § 18:11
  - party's concealment of evidence, § 18:6
- Conduct of witness, §§ 18:11, 18:17-18:19
- Consistent statements, prior, § 18:31
- Constitutional matters
  - cross-examination, interest, bias or prejudice, § 18:6
  - exercise of constitutional right by defendant, methods of impeachment, § 18:3
  - method of proving prior conviction, constitutionally tainted conviction, § 18:24

**IMPEACHMENT—Cont'd**

- Conviction, prior, §§ 18:7, 18:20-18:28
- Criminal cases, generally, § 18:1-18:32
- Cross-examination
  - generally, § 17:11
  - character and conduct of witness, §§ 18:18, 18:19
  - interest, bias or prejudice, § 18:6-18:11
  - methods of impeachment, § 18:1-18:3
  - previous misconduct, § 18:19
  - prior consistent statements, rehabilitation of impeached witness, § 18:31
  - prior conviction, impeachment by, § 18:21
  - prior inconsistent statements, § 18:13-18:15
- Degrading facts, character and conduct of witness, § 18:18
- Denial of prior inconsistent statement, § 18:15
- Depositions, prior inconsistent statements, § 18:12 18:14
- Determinations
  - previous misconduct, character and conduct of witness, § 18:19
  - prior conviction, impeachment by, § 18:20
- Direct examination of witnesses
  - prior consistent statements, rehabilitation of impeached witness, § 18:31
  - redirect examination of impeached witness, § 18:32
- Discretion of court
  - collateral matters used to impeach, methods of impeachment, § 18:2
  - previous misconduct, character and conduct of witness, § 18:19
  - prior conviction, impeachment by, §§ 18:20, 18:22, 18:25, 18:26
  - redirect examination of impeached witness, § 18:32

**IMPEACHMENT—Cont'd**

- Dishonesty, crime involving, impeachment by prior conviction, §§ 18:20, 18:25
- Distrust, interest, bias or prejudice, § 18:11
- Documents, laying foundation for prior inconsistent statements, § 18:14
- Drugs
  - addiction to drugs, §§ 18:5, 18:18
  - use of drugs, character and conduct of witness, § 18:18
- Effect of denial of prior inconsistent statement, § 18:15
- Employment, interest, bias or prejudice, § 18:11
- Error or mistake
  - plain error, impeachment by prior conviction, § 18:21
  - prior consistent statement not admissible to rebut charge of mistake, rehabilitation of impeached witness, § 18:31
  - reversible error, §§ 18:20, 18:31
- Examination of witnesses
  - generally, §§ 17:11, 17:18
  - cross-examination, above
  - direct examination of witnesses, above
- Exclusion of evidence, impeachment by prior conviction, § 18:27
- Exculpatory information, failure of witness to reveal, § 18:6
- Exercise of constitutional right by defendant, methods of impeachment, § 18:3
- Expert witnesses
  - generally, §§ 7:31, 7:62
  - character and reputation evidence, § 18:17
  - interest, bias or prejudice, §§ 18:6, 18:9
- Explanations
  - prior conviction, impeachment by, § 18:28
  - prior inconsistent statements, §§ 18:12, 18:30
  - redirect examination of impeached witness, § 18:32



## INDEX

### IMPEACHMENT—Cont'd

- Explanations—Cont'd
  - rehabilitation of impeached witness, §§ 18:30, 18:32
- Extrinsic or parol evidence, §§ 17:18, 18:15, 18:18
- Fabrication, prior consistent statements, § 18:31
- Facts
  - bias, § 18:6
  - degrading facts, character and conduct of witness, § 18:18
  - “mere fact” method of proving prior conviction, § 18:21
- Failure of witness to reveal exculpatory information, § 18:6
- False allegations, prior, §§ 18:1, 18:19
- False testimony, interest, bias or prejudice, §§ 18:6, 18:7
- Family. Relatives, below
- Fears
  - explanation of inconsistent statements, rehabilitation of impeached witness, § 18:30
  - interest, bias or prejudice, § 18:8
- Federal Rules of Evidence, prior consistent statements, § 18:31
- Felonies, impeachment by prior conviction, §§ 18:21, 18:27
- Financial interest of witness, §§ 18:6, 18:9
- Former matters. Prior matters, below
- Foundation
  - laying foundation for prior inconsistent statements, § 18:14
  - prior consistent statements, rehabilitation of impeached witness, § 18:31
- Future prosecution, interest, bias or prejudice, § 18:7
- Gang members, interest, bias or prejudice, § 18:11
- Grand jury, impeachment by prior conviction, § 18:28
- Guilty pleas, impeachment by prior conviction, § 18:20
- Hearings, prior inconsistent statements, § 18:12

### IMPEACHMENT—Cont'd

- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Illegally obtained evidence, methods of impeachment, § 18:3
- Improper impeachment
  - brother of defendant, §§ 18:3, 18:11, 18:13
  - degrading facts, character and conduct of witness, § 18:18
  - prior conviction, impeachment by, § 18:20
- Inaccuracy, prior consistent statement not admissible to rebut charge of, § 18:31
- Incapacity, § 18:5
- Inconsistent statements, prior, §§ 18:4, 18:12-18:16, 18:30, 18:32
- Indictments, previous misconduct, § 18:19
- Indirect inconsistency, prior inconsistent statements, § 18:13
- Inferences
  - interest, bias or prejudice, §§ 18:6, 18:7
  - prior consistent statements, rehabilitation of impeached witness, § 18:31
- Informants, interest, bias or prejudice, § 18:7
- In limine motions, impeachment by prior conviction, § 18:20
- Instructions to jury, §§ 18:12, 18:28
- Interest of witness, § 18:6-18:11
- Intoxication
  - degrading facts, character and conduct of witness, § 18:18
  - incapacity, § 18:5
- Judicial notice, impeachment by prior conviction, § 18:21
- Justification for impeachment by prior conviction, § 18:20
- Juvenile adjudications, impeachment by prior conviction, § 18:26
- Laying foundation, prior inconsistent statements, § 18:14
- Leading questions, laying foundation for prior inconsistent statements, § 18:14

**IMPEACHMENT—Cont'd**

Materially inconsistent, prior inconsistent statements, §§ 18:12, 18:13

Medical malpractice, §§ 18:1, 18:18

“Mere fact” method of proving prior conviction, § 18:21

Methods

impeachment, § 18:1-18:3

proving prior conviction, § 18:21-18:28

Miranda

post-Miranda warning silence, methods of impeachment, § 18:1

violations, §§ 18:3, 18:12

Miscellaneous matters

method of proving prior conviction, § 18:28

sources of interest, bias or prejudice, § 18:11

Misdemeanors, impeachment by prior conviction, §§ 18:20, 18:25

Mistake. Error or mistake, above

Montgomery balancing test, impeachment by prior conviction, § 18:20

Motions in limine, impeachment by prior conviction, § 18:20

Motive

interest, bias or prejudice, §§ 18:6, 18:7

prior consistent statements, rehabilitation of impeached witness, § 18:31

redirect examination of impeached witness, rehabilitation of impeached witness, § 18:32

Names comparison, impeachment by prior conviction, § 18:21

Nature of statement's inconsistency, prior inconsistent statements, § 18:13

Need to complete impeachment, prior inconsistent statements, § 18:15

Nonidentification, prior consistent statements, § 18:31

Objections, impeaching evidence, §§ 20:4, 20:10

**IMPEACHMENT—Cont'd**

Offers of compromise or settlement, interest, bias or prejudice, § 18:9

Omission, impeachment by, §§ 11:36, 18:1

Opening the door, impeachment by prior conviction, § 18:21

Other pending civil action, interest, bias or prejudice, § 18:10

Own witness impeachment, §§ 18:4, 18:12

Parol or extrinsic evidence, §§ 17:18, 18:15, 18:18

Party's concealment or suppression of evidence, interest, bias or prejudice, § 18:6

Pending matters

appeal pending, impeachment by prior conviction, § 18:23

charge pending, interest, bias or prejudice, § 18:7

other pending civil action, interest, bias or prejudice, § 18:10

Personal injury action, prior inconsistent statements, § 18:12

Personal knowledge, prior consistent statements, § 18:31

Physicians, medical malpractice, §§ 18:1, 18:18

Plain error, impeachment by prior conviction, § 18:21

Police officers

character and conduct of witness, § 18:18

interest, bias or prejudice, §§ 18:9, 18:11

Post-arrest silence, §§ 18:1, 18:3, 18:13

Post-Miranda warning silence, methods of impeachment, § 18:1

Pregnancy feared by rape complainant, interest, bias or prejudice, § 18:8

Prejudice

generally, § 18:6-18:11

prior conviction, impeachment by, §§ 18:20, 18:27

Preliminary breath test (PBT), methods of impeachment, § 18:1

Presumptions. Inferences, above

## INDEX

### IMPEACHMENT—Cont'd

#### Prior matters

- consistent statements, rehabilitation of impeached witness, § 18:31
- conviction, §§ 18:7, 18:20-18:28
- false allegations, §§ 18:1, 18:19
- inconsistent statements, §§ 18:4, 18:12-18:16, 18:30, 18:32
- misconduct, character and conduct of witness, § 18:19
- statements
  - collateral matters used to impeach, § 18:2
  - consistent statements, rehabilitation of impeached witness, § 18:31
  - inconsistent statements, §§ 18:4, 18:12-18:16, 18:30, 18:32
  - relevancy of evidence, §§ 18:2, 18:12

#### Probative value, impeachment by prior conviction, § 18:20

#### Promise of leniency, interest, bias or prejudice, § 18:7

#### Purpose of impeaching evidence to destroy credibility of witness, § 18:1

#### Rape

- pregnancy feared by rape
  - complainant, interest, bias or prejudice, § 18:8
- similarity with charged crime, impeachment by prior conviction, § 18:27

#### Rebuttal, prior consistent statements, § 18:31

#### Redirect examination of impeached witness, rehabilitation of impeached witness, § 18:32

#### Rehabilitation of impeached witness, § 18:29-18:32

#### Rehearsed testimony, prior consistent statements, § 18:31

#### Relatives

- improper impeachment of defendant's brother, §§ 18:3, 18:11, 18:13
- threats, interest, bias or prejudice, § 18:8

### IMPEACHMENT—Cont'd

#### Relevancy of evidence

- interest, bias or prejudice, § 18:7
- previous misconduct, character and conduct of witness, § 18:19
- prior inconsistent statements, § 18:12
- prior statements, §§ 18:2, 18:12

#### Religious beliefs or opinions, interest, bias or prejudice, § 18:11

#### Reputation. Character and reputation, above

#### Residence, interest, bias or prejudice, § 18:11

#### Reversible error, §§ 18:20, 18:31

#### Review. Appeal and review, above

#### Robbery, impeachment by prior conviction, § 18:25

#### Scope of cross-examination, character and conduct of witness, § 18:18

#### Self-incrimination, privilege against, § 15:7

#### Settlements, interest, bias or prejudice, § 18:9

#### Sex offenses

- abuse, §§ 18:2, 18:32
- assault, §§ 18:1, 18:19, 18:25
- rape, above

#### Silence

- admissions, silence of accused in criminal case, § 11:36
- post-arrest silence, §§ 18:1, 18:3, 18:13
- post-Miranda warning silence, methods of impeachment, § 18:1

#### Similarity with charged crime, impeachment by prior conviction, § 18:27

#### Specific act impeachment prohibited in Illinois, §§ 18:1, 18:19

#### Statements

- obtained in violation of Miranda, methods of impeachment, § 18:3
- prior matters, above

#### Substantial compliance with confronting witness with prior inconsistent statement, § 18:14

**IMPEACHMENT—Cont'd**

- Sufficiency and weight of evidence, §§ 18:12, 21:1, 21:4
- Suppression of evidence by party, interest, bias or prejudice, § 18:6
- Suspension of attorney from practice, previous misconduct, § 18:19
- Tax fraud, impeachment by prior conviction, § 18:25
- Theft, impeachment by prior conviction, § 18:25
- Threats, interest, bias or prejudice, § 18:8
- Time, reputation evidence, § 18:17
- Traditional method of proving prior conviction, § 18:21
- Trespass, criminal, impeachment by prior conviction, § 18:25
- Unfair prejudice, impeachment by prior conviction, § 18:20
- Use of collateral matters to impeach, § 18:2
- Violations of Miranda, §§ 18:3, 18:12
- Weight and sufficiency of evidence, §§ 18:12, 21:1, 21:4
- Who may impeach, § 18:4
- Witnesses, generally, § 18:1-18:32
- Written prior inconsistent statements, § 18:16

**IMPLIED MATTERS**

- Admissions implied from conduct, § 11:33-11:39
- Malice implied from conduct, presumptions and inferences, § 3:41

**IMPROPER MATTERS**

- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Impeachment. See index heading IMPEACHMENT
- Objections. See index heading OBJECTIONS
- Shifting of burden of proof, § 5:2

**IMPROVEMENTS**

- Value of real property, §§ 4:55, 7:42

**IMPUTED KNOWLEDGE**

- Relevancy of evidence, previous conduct of employees, § 4:58

**INABILITY TO EXPRESS ONESELF SO AS TO BE UNDERSTOOD OR TO SPEAK**

- Competency of witnesses, § 13:4

**INACCURACY**

- Prior consistent statements, rebut charge of inaccuracy, §§ 10:38, 18:31

**INADEQUACY**

- See index heading SUFFICIENCY OR INSUFFICIENCY

**IN-CAMERA INSPECTION OR EXAMINATION**

- See index heading PRIVILEGES

**INCAPACITY**

- Impeachment, § 18:5
- Relevancy of evidence, previous conduct of employees, § 4:58

**IN-CHAMBERS TESTIMONY**

- Hearsay evidence, children's statements in civil and juvenile abuse cases, § 10:48

**INCIDENT OR INCIDENTS**

- Demonstrative evidence, view of scene of incident, § 8:20
- Hearsay exception, incident reports, §§ 10:52, 10:54
- Relevancy of evidence, absence of prior incidents, §§ 4:61, 4:62

**INCOMPETENCE OR INCOMPETENCY**

- Demonstrative evidence, incompetent in-court experiments, § 8:9
- Hearsay exception for spontaneous declarations, incompetency of declarant, § 10:24
- Relevancy of evidence, previous conduct of employees, § 4:58

**INCONSISTENT OR INCONSISTENCIES**

- Documentary evidence and trial testimony, § 9:1

## INDEX

### **INCONSISTENT OR**

#### **INCONSISTENCIES—Cont'd**

- Prior inconsistent statements. See index heading **PRIOR INCONSISTENT STATEMENTS**
- Sufficiency and weight of evidence. See index heading **SUFFICIENCY AND WEIGHT OF EVIDENCE**

### **IN-COURT**

- Demonstrative evidence. See index heading **DEMONSTRATIVE EVIDENCE**
- Receipt of information, expert testimony basis, § 7:23
- Testimony, judicial admissions, § 11:30

### **INCRIMINATION**

- See index heading **SELF-INCRIMINATION, PRIVILEGE AGAINST**

### **INCULPATORY STATEMENTS**

- Hearsay evidence, declarations against penal interest exception, § 10:28

### **INDEPENDENT CONTRACTOR STATUS OF ATTORNEY**

- Presumptions and inferences, § 3:30

### **INDEPENDENT EXPERT WITNESSES**

- Generally, § 7:13

### **INDEPENDENT INQUIRY BY TRIER OF FACT**

- Demonstrative evidence, § 8:21

### **INDICTMENTS**

- Burden of proof, grand jury, § 5:3
- Impeachment, previous misconduct, § 18:19

### **INDIGENT CRIMINAL DEFENDANTS**

- Compensating witnesses, § 16:4

### **INDIRECT MATTERS**

- Contempt. See index heading **CONTEMPT**
- Inconsistency of prior statement, impeachment, § 18:13

### **INDIVIDUAL'S DEATH**

- Presumptions and inferences, § 3:45

### **INDUSTRY MATTERS**

- See index heading **RELEVANCY OF EVIDENCE**

### **INFANTS**

- See index heading **CHILDREN OR MINORS**

### **INFERENCE ON INFERENCE**

- Generally, § 3:8

### **INFERENCES**

- See index heading **PRESUMPTIONS AND INFERENCES**

### **INFLUENCE**

- Competency of witnesses. See index heading **COMPETENCY OF WITNESSES**
- Driving under the influence. See index heading **DRIVING UNDER THE INFLUENCE**
- Expert witnesses. See index heading **EXPERTS AND EXPERT WITNESSES**
- Presumptions and inferences. See index heading **PRESUMPTIONS AND INFERENCES**
- Undue influence. See index heading **UNDUE INFLUENCE**

### **INFORMAL OFFERS OF PROOF**

- Objections, § 20:19

### **INFORMANTS**

- Impeachment, interest, bias or prejudice, § 18:7
- Privilege, law enforcement investigatory privilege, § 14:11

### **INFORMATION OR DATA**

- Admissions, persons referred to for information, § 11:20
- Expert witnesses. See index heading **EXPERTS AND EXPERT WITNESSES**
- Freedom of Information Act. See index heading **FREEDOM OF INFORMATION ACT**
- Presumptions and inferences. See index heading **PRESUMPTIONS AND INFERENCES**

**INFORMATION OR DATA**

—Cont'd

Privileges. See index heading PRIVILEGES

**INGREDIENTS LABEL**

Trade inscriptions, §§ 9:11, 10:52

**INHERENTLY IMPROBABLE TESTIMONY**

Sufficiency and weight of evidence, jury cannot disregard testimony of witness that is not contradicted or inherently improbable and witness has not been impeached, §§ 21:1, 21:4

**INITIAL INQUIRIES AT CRIME SCENE**

Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:16

**INJUNCTIONS**

Burden of proof, civil cases, § 5:19  
Self-incrimination, privilege against, § 15:2

**INJURY OR INJURIES**

Cause of injury  
expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
hearsay exceptions, §§ 10:39, 10:45  
lay witnesses, §§ 7:10, 7:12  
Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE  
Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Extent of injuries  
demonstrative evidence, photographs, § 8:17  
expert witnesses, §§ 7:30, 7:57  
Lay witnesses, cause of injury, §§ 7:10, 7:12  
Personal injuries. See index heading PERSONAL INJURIES  
Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**IN LIMINE**

Impeachment by prior conviction, motions, § 18:20  
Motions in limine  
impeachment by prior conviction, § 18:20  
objections, §§ 20:1, 20:13-20:17, 20:21  
Objections. See index heading OBJECTIONS

**INNOCENCE**

Presumption of, § 3:11  
Relevance of third party's acts to innocence of accused, § 4:17

**IN-PERSON CONVERSATIONS**

Laying foundation for evidence, § 1:5

**INQUIRY OR INQUIRIES**

Demonstrative evidence, independent inquiry by trier of fact, § 8:21  
Hearsay evidence, initial inquiries at crime scene, § 10:16

**INSANITY**

Defense. See index heading INSANITY DEFENSE  
Presumptions and inferences, §§ 3:40, 3:42

**INSANITY DEFENSE**

Attorney-client privilege, waiver, § 14:5  
Burden of proof, criminal cases, § 5:9  
Expert witnesses, §§ 7:31, 7:34, 7:65  
Presumptions and inferences, § 3:40  
Relevancy of evidence, §§ 4:11, 4:29, 4:46  
Self-incrimination, privilege against, § 15:7

**INSCRIBED OBJECTS**

Secondary evidence, § 6:5

**INSCRIPTIONS**

Trade inscriptions, §§ 9:11, 10:52

**INSPECTION OF ARTICLES AND OBJECTS**

Demonstrative evidence, § 8:2

## INDEX

### INSTITUTIONAL NEGLIGENCE

Expert witnesses, health maintenance organizations, §§ 7:13, 7:67

### INSTRUCTIONS

Jury instructions. See index heading INSTRUCTIONS TO JURY

Witnesses, management of witnesses by trial court, § 16:5

### INSTRUCTIONS TO JURY

Burden of proof, affirmative defenses in criminal cases, § 5:7

Hearsay exceptions, §§ 10:34, 10:43

Impeachment, §§ 18:12, 18:28

Limited admissibility of evidence, § 1:4

Objections, error caused by admitting improper evidence may be cured by sustaining objection and instructing jury to disregard, § 20:20

Presumptions and inferences, regularity of judicial proceedings, § 3:12

Relevancy of evidence, other crimes evidence, § 4:28

### INSUFFICIENCY

See index heading SUFFICIENCY OR INSUFFICIENCY

### INSURANCE

Admissions by insured persons, § 11:9

Burden of proof in civil cases, § 5:16

Expert witnesses, §§ 7:84, 7:85

Parol or extrinsic evidence, insurance policies, § 12:5

Privileges. See index heading PRIVILEGES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### INTEGRATED WRITINGS

Parol or extrinsic evidence affecting writings, §§ 12:1, 12:2

### INTENT

Circumstantial evidence, § 1:3

### INTENT—Cont'd

Hearsay evidence, state of mind of declarant exception, § 10:34

Parol or extrinsic evidence, intent of parties to writings, §§ 12:1, 12:3, 12:4, 12:6

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Sufficiency and weight of evidence. See index heading SUFFICIENCY AND WEIGHT OF EVIDENCE

### INTERESTS

Against interest declarations. See index heading AGAINST INTEREST DECLARATIONS

Hearsay evidence. See index heading HEARSAY EVIDENCE

Marital privilege, child-interest exception, §§ 14:6, 14:7

Witnesses. See index heading WITNESSES

### INTERFERENCE

Direct examination of witnesses, criminal defendant's right to present witnesses and evidence, § 17:8

Presenting case and attendance of witnesses, state's interference with defense witnesses, § 16:1

### INTERPRETATION

See index heading CONSTRUCTION AND INTERPRETATION

### INTERPRETERS

Admissions, § 11:14

Competency of witnesses, § 13:4

Hearsay evidence, § 10:3

Privilege, § 14:20

Testimony through, § 17:5

### INTERROGATION

Police interrogation, testimonial hearsay and Confrontation Clause, § 10:15



**INTERROGATION—Cont’d**

Witnesses. See index heading EXAMINATION OF WITNESSES

**INTERROGATORIES**

Admissions, § 11:29

**INTERVIEW OF CHILD VICTIM**

Department of Children and Family Services, testimonial hearsay and Confrontation Clause, § 10:15

**INTIMIDATION OF WITNESSES**

Generally, §§ 4:45, 16:1

**INTOXICATION**

Blood alcohol. See index heading BLOOD ALCOHOL

Blood tests. See index heading BLOOD TESTS

Breath tests. See index heading BREATH TESTS

Chemical tests. See index heading CHEMICAL TESTS

Competency of witnesses, exceptions under Dead Man’s Act, § 13:9

Defense, burden of proof in criminal cases, § 5:10

Demonstrative evidence, out-of-court experiments and tests, § 8:12

Expert witnesses, §§ 7:36, 7:88

Hearsay evidence, public records or reports exception, § 10:56

Horizontal gaze nystagmus (HGN) test, §§ 7:27, 8:12

Impeachment. See index heading IMPEACHMENT

Lay witnesses, § 7:3

Presumptions and inferences, § 3:39

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**INVESTIGATION**

Hearsay evidence. See index heading HEARSAY EVIDENCE

Law enforcement investigatory privilege, § 14:10-14:12

Presentence investigation reports, §§ 4:15, 20:4

**INVESTIGATION—Cont’d**

Presenting case and attendance of witnesses, use of subpoenas and subpoenas duces tecum, § 16:2

**“INVISIBLE BLOOD” TEST (LMG TEST)**

Expert witnesses, §§ 7:27, 7:73

**INVITATION DEFENSE**

Burden of proof in criminal cases, § 5:7

**INVITING ADMISSION OF IMPROPER EVIDENCE**

Failure to make timely objection, § 20:3

**INVOLUNTARY MATTERS**

Commitment proceedings, §§ 4:3, 16:5, 17:11

Confessions, expert witnesses, §§ 7:16, 7:68, 7:69, 7:90

Dismissal, competency of witnesses, § 13:3

Intoxication defense, burden of proof in criminal cases, § 5:10

Voluntary matters. See index heading VOLUNTARY MATTERS

**IRREBUTTABLE PRESUMPTIONS**

Generally, §§ 3:2, 3:5, 3:16, 3:17

**IRREGULARITIES**

See index heading DEFECTS OR IRREGULARITIES

**IRRELEVANT EVIDENCE**

Admission of irrelevant testimony, objections, § 20:20

Inadmissibility, § 4:1-4:67

**ISSUANCE**

Arrest warrant, hearsay evidence, § 10:10

Subpoenas, presenting case and attendance of witnesses, § 16:2

**JOINT OBLIGORS**

Admissions, § 11:15

**JOINT PROPERTY OWNERS**

Admissions, § 11:16

## INDEX

### JOINT TORTFEASORS

- Admissions, § 11:15
- Burden of proof, Joint Tortfeasor Contribution Act, §§ 5:2, 5:19

### JOURNALS

- Documentary evidence, self-authentication, § 9:9

### JUDGES

- Bench trials. See index heading BENCH TRIALS
- Competency of witnesses, § 13:13
- Judicial deliberation privilege, § 14:9
- Presumptions and inferences, validity and regularity of official acts, § 3:13
- Questioning of witnesses by judge, § 17:4

### JUDGMENT OF PERSONS

- Business judgment rule, presumptions and inferences, § 3:26

### JUDGMENTS

- Declaratory judgment actions, burden of proof, §§ 5:16, 5:19
- Hearsay exception, judgment in criminal action as evidence in civil action and vice versa, § 10:65
- Summary judgment. See index heading SUMMARY JUDGMENT

### JUDICIAL ADMISSIONS

- See index heading ADMISSIONS

### JUDICIAL DELIBERATION PRIVILEGE

- Generally, § 14:9

### JUDICIAL NOTICE

- Generally, § 2:1-2:18
- Administrative matters, §§ 2:1, 2:2, 2:7, 2:9, 2:10
- Appellate or reviewing court, §§ 2:1, 2:3, 2:4, 2:8, 2:9, 2:11
- Bench trials, § 2:2
- Business customs and usages, facts related to, § 2:11
- Common knowledge, §§ 2:1, 2:13
- Common law, §§ 2:4, 2:5
- Congestion of court dockets, § 2:14

### JUDICIAL NOTICE—Cont'd

- Corporate nature of company, § 2:11
- Corrections Department records, §§ 2:3, 2:10
- Criminal proceedings, § 2:2
- Deeds, § 2:10
- Discretion of court, § 2:2
- Dismissal motions, § 2:1
- Documents, §§ 2:3, 2:9
- Economic conditions, § 2:14
- Effect of natural forces, § 2:17
- Facts, §§ 2:1, 2:2, 2:11-2:16
- Federal laws, § 2:5
- Foreign countries' laws, § 2:6
- Forum non conveniens, §§ 2:3, 2:15
- Geographical facts, § 2:15
- Governmental matters, § 2:7
- Gravity, § 2:17
- Historical matters, § 2:13
- Human life, health, habits and acts, facts related to, § 2:12
- Impeachment by prior conviction, § 18:21
- Judicial proceedings, § 2:9
- Laws, § 2:2-2:6
- Location of streets, §§ 2:3, 2:15
- Meaning of words and phrases, § 2:18
- Municipal ordinances, § 2:8
- Natural forces, operation and effect of, § 2:17
- Nature of judicial notice, § 2:1
- Objections, decisions finding procedural forfeitures in civil cases, § 20:5
- Operation of natural forces, § 2:17
- Ordinances, §§ 2:3, 2:8
- Other states' laws, § 2:5
- Parental termination proceedings, § 2:9
- Phrases and words, meaning of, § 2:18
- Police reports, § 2:1
- Population, §§ 2:3, 2:14
- Posted speed limits, § 2:7
- Prior administrative decisions, § 2:9
- Prior conviction of crime, §§ 2:9, 18:21

**JUDICIAL NOTICE—Cont'd**

- Prior litigation, § 2:3
- Publications, § 2:3
- Public records, §§ 2:1, 2:3, 2:10
- Purpose, § 2:1
- Readily verifiable facts from sources of indisputable accuracy, § 2:1
- Records, §§ 2:1, 2:3, 2:9, 2:10
- Reports, § 2:10
- Request, §§ 2:1, 2:4
- Reviewing or appellate court, §§ 2:1, 2:3, 2:4, 2:8, 2:9, 2:11
- Rules of courts, § 2:9
- Scientific matters, §§ 2:3, 2:16
- Scope, § 2:1
- Slang terms, § 2:18
- Spreading of infectious diseases, § 2:12
- States' laws, §§ 2:2, 2:4, 2:5
- Statistical facts, § 2:14
- Statutes or laws, § 2:2-2:6
- Streets' location, §§ 2:3, 2:15
- Sua sponte taking of judicial notice, § 2:2
- Trial court, § 2:1-2:18
- Value of property, § 2:14
- Words and phrases, meaning of, § 2:18

**JUDICIAL PROCEEDINGS**

- Judicial notice, § 2:9
- Presumptions and inferences, regularity, § 3:12
- Privileges, §§ 14:2, 14:20

**JURISDICTION**

- Presumptions and inferences, regularity of judicial proceedings, § 3:12

**JURY AND JURY TRIAL**

- Competency of jurors as witnesses, § 13:15
- Deliberations of jury
  - competency of witnesses, § 13:15
  - demonstrative evidence, §§ 8:21, 8:22
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

**JURY AND JURY TRIAL—Cont'd**

- Disregarding by jury
  - objections, error caused by admitting improper evidence may be cured by sustaining objection and instructing jury to disregard, § 20:20
  - sufficiency and weight of evidence, jury cannot disregard testimony of witness that is not contradicted or inherently improbable and witness has not been impeached, §§ 21:1, 21:4
- Expert testimony admissibility, average juror's ken, §§ 7:15, 7:16
- Fears and prejudices of jurors as to gang-related testimony, § 4:51
- Grand jury. See index heading GRAND JURY
- Independent inquiry, demonstrative evidence, § 8:21
- Instructions to jury. See index heading INSTRUCTIONS TO JURY
- Objections. See index heading OBJECTIONS
- Potential jurors, prosecutor's questions regarding prior illegal drug use, § 15:1
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Self-incrimination, privilege against, jurors, § 15:1
- Sufficiency and weight of evidence. See index heading SUFFICIENCY AND WEIGHT OF EVIDENCE
- Verdicts. See index heading VERDICTS

**JUSTIFICATION**

- Defense, relevancy of evidence, § 4:24
- Impeachment by prior conviction, § 18:20

**JUVENILE COURT**

- Hearsay evidence, business records exception, § 10:52

## INDEX

### JUVENILE COURT—Cont'd

Juvenile Court Act, §§ 14:20, 16:2, 21:1

Sufficiency and weight of evidence, §§ 21:1, 21:4

### JUVENILE DELINQUENCY PROCEEDINGS

Exclusion of witnesses from courtroom during course of trial, § 16:5

Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15

Relevancy of evidence, § 4:11-4:17

Self-incrimination, privilege against, § 15:2

### JUVENILES

Also see index heading CHILDREN OR MINORS

Court. See index heading JUVENILE COURT

Delinquency proceedings. See index heading JUVENILE DELINQUENCY PROCEEDINGS

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment by prior juvenile adjudications, § 18:26

### KIDNAPPING

Aggravated kidnapping, hearsay evidence, § 10:46

### KNOWLEDGE

Circumstantial evidence, § 1:3

Cross-examination of witnesses, § 17:13

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Personal knowledge. See index heading PERSONAL KNOWLEDGE

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### KNOWLEDGE—Cont'd

Sufficiency and weight of evidence, circumstantial evidence, § 21:2

### LABELS

Hearsay evidence, business records exception, § 10:52

Ingredients label, trade inscriptions, §§ 9:11, 10:52

### LABORATORIES

Hearsay exceptions, tests, §§ 10:49, 10:53

Objections, reports, § 20:4

### LACK OR ABSENCE

See index heading ABSENCE OR LACK

### LAND

See index heading REAL PROPERTY

### LANGUAGE

Expert witnesses, ultimate issue, § 7:30

### LAPSE OF TIME

Hearsay evidence. See index heading HEARSAY EVIDENCE

Sufficiency and weight of evidence, event and identification of defendant by victim, § 21:4

### LARCENY

See index heading THEFT

### LATITUDE ALLOWED

Cross-examination of witnesses, §§ 17:11, 17:13

### LAW ENFORCEMENT

See index heading POLICE AND LAW ENFORCEMENT

### LAWS

See index heading STATUTES

### LAWYERS

See index heading ATTORNEYS

### LAYING FOUNDATION

See index heading FOUNDATION

### LAY WITNESSES

Generally, § 7:1-7:12

**LAY WITNESSES—Cont'd**

Accident as cause of specific injury, § 7:10  
 Admissibility of testimony, § 7:1-7:12  
 Alcohol intoxication, § 7:3  
 Appearance of person, § 7:4  
 Arresting police officer, § 7:1  
 Attorney, defendant posing as, § 7:12  
 Business customs, habits or practices, § 7:8  
 Cause of injury, §§ 7:10, 7:12  
 Conclusions, § 7:1  
 Customs of business, § 7:8  
 Definition of lay witness, § 7:13  
 Documentary evidence, handwriting, § 9:18  
 Drugs  
     effect of, § 7:9  
     intoxication, § 7:3  
     whether certain property was public housing or public park, § 7:11  
 Expressions of persons, § 7:4  
 Fog, weather conditions, § 7:12  
 Force, use of, § 7:12  
 Frye hearing, § 7:3  
 Habits of business, § 7:8  
 Handwriting, §§ 7:7, 9:18  
 Identification, § 7:2  
 Injury, cause of, §§ 7:10, 7:12  
 Intoxication, § 7:3  
 Mental condition, § 7:4  
 Observations, §§ 7:1, 7:4  
 Perishable goods, value of property, § 7:6  
 Personal knowledge, value of property, § 7:6  
 Personal observation, § 7:1  
 Personal property, value of property, § 7:6  
 Police officers, §§ 7:1-7:3, 7:11  
 Practices of business, § 7:8  
 Property  
     value of property, § 7:6  
     whether certain property was public housing or public park, § 7:11

**LAY WITNESSES—Cont'd**

Public housing, whether certain property was, § 7:11  
 Public park, whether certain property was, § 7:11  
 Real property, value of property, § 7:6  
 Recollection, § 7:1  
 Resisting arrest, § 7:12  
 Safety rules violations, § 7:12  
 Sanity, §§ 7:4, 7:36, 7:64, 7:65  
 Sentencing, § 7:12  
 Sexual abuse of children, § 7:12  
 Specific injury, whether accident or certain action caused, § 7:10  
 Speed, § 7:5  
 Ultimate fact or issue, §§ 7:1, 7:30  
 Use of force, § 7:12  
 Value of property, § 7:6  
 Violations of safety rules, § 7:12  
 Visibility, weather conditions, § 7:12  
 Weather conditions, § 7:12  
 Weight of testimony, §§ 7:2, 7:7  
 Wills, § 7:4

**LEADING QUESTIONS**

See index heading EXAMINATION OF WITNESSES

**LEARNED TREATISES**

Expert witnesses, § 7:22-7:24  
 Hearsay evidence, discipline of physician, §§ 10:9, 10:12, 10:13

**LEASES**

Parol or extrinsic evidence affecting writings, § 12:1

**LEGAL CONCLUSIONS**

Admissions, requests to admit, § 11:28

**LEGAL DUTIES**

Expert witnesses, ultimate issue, § 7:30

**LEGALLY DISABLED PERSONS**

Competency of witnesses, Dead Man's Act, § 13:6-13:10

**LEGAL MALPRACTICE**

Generally, §§ 3:47, 5:19

## INDEX

### LEGISLATURE

- Documentary evidence, certified copies of legislative debates, § 9:2
- Presumptions and inferences, knowledge of law, § 3:10

### LEGITIMACY OF CHILD

- Presumptions and inferences, § 3:15

### LENGTH OF STATEMENT

- Hearsay evidence, spontaneous declarations exception, § 10:23

### LETTERS

- Admissions, §§ 11:25, 11:27
- Documentary evidence, authentication required, § 9:15
- Hearsay evidence. See index heading HEARSAY EVIDENCE

### LEVEL OF BLOOD ALCOHOL

- Expert witnesses, identification, § 7:75

### LIABILITY

- Insurance, relevancy of evidence, § 4:54
- Products liability cases. See index heading PRODUCTS LIABILITY CASES
- Strict liability. See index heading STRICT LIABILITY

### LIBEL OR SLANDER

- See index heading DEFAMATION

### LIBERAL CONSTRUCTION

- See index heading BROAD OR LIBERAL CONSTRUCTION

### LIDAR LASER TECHNOLOGY

- Expert witnesses, §§ 7:27, 7:86

### LIE DETECTOR TESTS

- Expert witnesses, § 7:85
- Limited admissibility of evidence, § 1:4

### LIFE, HUMAN

- Judicial notice of facts related to, § 2:12

### “LIFE PHOTOGRAPH” OF VICTIM

- Demonstrative evidence, § 8:17

### LIMITATIONS OR RESTRICTIONS

- Admissibility of evidence, § 1:4
- Admissions by party opponent, § 11:1
- Demonstrative evidence, photographs, § 8:17
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Expert medical testimony, cross-examination, § 7:62
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Statute of limitations, burden of proof, §§ 5:2, 5:12, 5:19

### LIMP

- Demonstrative evidence, in-court display of physical characteristics, § 8:8

### LIP PRINTS

- Expert witnesses, identification, § 7:82

### LISTS

- See index heading HEARSAY EVIDENCE

### LMG TEST (INVISIBLE BLOOD TEST)

- Expert witnesses, §§ 7:27, 7:73

### LOCATION OR PLACE

- Demonstrative evidence, use of diagram for site of accident, § 8:13
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Judicial notice of location of streets, §§ 2:3, 2:15
- Scene. See index heading SCENE
- Surveillance location privilege, §§ 14:12, 17:13

**LOG BOOKS**

Hearsay exception, § 10:60

**LOSS OR LOSSES**

Expert witnesses, present value of future economic losses, §§ 7:20, 7:30, 7:40

Presumptions and inferences, loss of child's society by parent, §§ 3:16, 3:47

Relevancy of evidence, loss of consortium claim by spouse, § 4:3

**LOST ITEMS**

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

Public records. See index heading PUBLIC RECORDS

**LOTS**

Hearsay exception, location of town lot, § 10:66

**LUMINOL TESTING FOR BLOOD**

Expert witnesses, § 7:27

**LYNCH RULE**

Relevancy of evidence, homicide victim's character, § 4:50

**MACHINES**

Breath tests. See index heading BREATH TESTS

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay exception, intoxication machines, § 10:56

**MAGAZINES**

Documentary evidence, self-authentication, § 9:9

**MAGNIFICATION OF PHOTOGRAPHS**

Demonstrative evidence, § 8:17

**MAIL OR MAILING**

E-mail. See index heading E-MAIL

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

**MALICE IMPLIED FROM CONDUCT**

Presumptions and inferences, § 3:41

**MALICIOUS PROSECUTION**

Presumptions and inferences, § 3:41

**MALPRACTICE**

Legal malpractice, §§ 3:47, 5:19

Medical malpractice. See index heading MEDICAL MALPRACTICE

Pharmacy malpractice, expert witnesses, § 7:70

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

**MANAGEMENT OF WITNESSES BY TRIAL COURT**

Generally, § 16:5

**MANDAMUS ACTIONS**

Burden of proof in civil cases, § 5:19

**MANDATORY PRESUMPTIONS**

See index heading PRESUMPTIONS AND INFERENCES

**MANIFEST ERROR STANDARD OF REVIEW**

Objections, rulings on evidence as grounds for new trial, § 20:21

**MANNER OR METHOD**

See index heading METHOD OR MODE

**MAPS**

Also see index heading PLATS

Demonstrative evidence, § 8:13

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

Hearsay exceptions, §§ 10:56, 10:67

**MARITAL CASES**

Direct examination of witnesses, financial affidavits, § 17:8

Dissolution of marriage cases. See index heading DISSOLUTION OF MARRIAGE CASES

Financial affidavits, §§ 10:30, 17:8

Parol evidence, marital settlement agreements, § 12:6



## INDEX

### MARITAL PRIVILEGE

Generally, § 14:6-14:8

### MARITAL PROPERTY

Presumptions and inferences, §§ 3:4, 3:6, 3:14, 3:16

### MARKET REPORTS OR QUOTATIONS

Hearsay exception, § 10:61

### MARRIAGE

Dissolution of marriage cases. See index heading DISSOLUTION OF MARRIAGE CASES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Marital cases. See index heading MARITAL CASES

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

### MATERIAL

Inconsistency of prior statement, impeachment, §§ 18:12, 18:13

Variance between pleading and evidence, sufficiency and weight of evidence, § 21:6

Witnesses, Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings, § 16:3

### MCS (MULTIPLE CHEMICAL SENSITIVITY)

Expert witnesses, § 7:27

### MEANING OF WORDS AND PHRASES

Judicial notice, § 2:18

### MEASURED BY NUMBER OF WITNESSES

Weight of evidence as, § 21:5

### MECHANICAL MATTERS

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Machines. See index heading MACHINES

### MEDICAL EXAMINER OR CORONER

Expert witnesses, ballistics, § 7:78

Hearsay evidence. See index heading HEARSAY EVIDENCE

### MEDICAL MALPRACTICE

Burden of proof in civil cases, § 5:17

Cross-examination of witnesses, §§ 17:11, 17:13, 18:18

Demonstrative evidence, charts, § 8:13

Examination of witnesses. See index heading EXAMINATION OF WITNESSES

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence, §§ 10:11, 10:12

Impeachment, §§ 18:1, 18:18

Limited admissibility of evidence, § 1:4

Objections, § 20:5

Presumptions and inferences, res ipsa loquitur, § 3:20

Privileges. See index heading PRIVILEGES

Refreshing memory of witnesses, § 19:2

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

Sufficiency and weight of evidence, § 21:4

### MEDICAL MATTERS

Battery, presumptions and inferences, § 3:48

Diagnosis  
expert medical testimony, §§ 7:52, 7:56  
hearsay evidence, §§ 10:15, 10:39, 10:45

Examiner. See index heading MEDICAL EXAMINER OR CORONER

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Malpractice. See index heading MEDICAL MALPRACTICE

**MEDICAL MATTERS—Cont'd**

Records. See index heading **MEDICAL RECORDS**  
 Studies Act, §§ 5:1, 14:13  
 Treatises, §§ 7:23, 7:24, 10:63  
 Treatment  
     hearsay evidence. See index heading **HEARSAY EVIDENCE**  
     physicians. See index heading **PHYSICIANS**  
     psychiatrist/mental health therapist-patient privilege, § 14:15

**MEDICAL RECORDS**

Duces tecum subpoenas, § 16:2  
 Expert medical testimony, § 7:50  
 Hearsay evidence, business records exception, § 10:53  
 Physician-patient privilege, § 14:14  
 Sufficiency and weight of evidence, § 21:4

**MEDICAL STUDIES ACT**

Generally, §§ 5:1, 14:13

**MEDICATION RECORDS**

Hearsay evidence, business records exception, §§ 10:53, 10:57

**MEMBERS OR MEMBERSHIP IN GANGS**

See index heading **GANGS**

**MEMORANDA**

Admissions in pleadings, reply memo, § 11:27  
 Documentary evidence, definition of document, § 9:1

**MEMORY OR RECOLLECTION**

See index heading **RECOLLECTION OR MEMORY**

**MENTAL**

Capacity, competency of witnesses, § 13:5  
 Competency, expert witnesses, §§ 7:36, 7:64, 7:65  
 Condition. See index heading **MENTAL CONDITION**

**MENTAL—Cont'd**

Examination of adverse party, burden of proof in civil cases, §§ 5:11, 5:19  
 Health. See index heading **MENTAL HEALTH**  
 Illness, burden of proof in criminal cases, § 5:3  
 Insanity. See index heading **INSANITY**  
 Sanity. See index heading **SANITY**  
 State of mind. See index heading **MENTAL STATE/STATE OF MIND**

**MENTAL CONDITION**

Competency of witnesses, § 13:5  
 Expert medical testimony, § 7:65  
 Lay witnesses, § 7:4

**MENTAL HEALTH**

Hearsay exception for public records or reports, mental health institution, § 10:56  
 Privilege, mental health therapist-patient, § 14:15

**MENTAL STATE/STATE OF MIND**

Circumstantial evidence, §§ 1:3, 21:2  
 Expert witnesses, §§ 7:69, 7:90  
 Hearsay evidence. See index heading **HEARSAY EVIDENCE**  
 Relevancy of evidence. See index heading **RELEVANCY OF EVIDENCE**  
 Sufficiency and weight of evidence, § 21:2

**“MERE FACT” METHOD OF PROVING PRIOR CONVICTION**

Impeachment, § 18:21

**METHOD OR MODE**

Examination of witnesses, mode of interrogation, § 17:1  
 Impeachment. See index heading **IMPEACHMENT**  
 Judicial notice of dress modes, § 2:12

**MINERS**

Expert witnesses, § 7:87

## INDEX

### MINI-TRIALS

Relevancy of evidence, other crimes evidence, § 4:27

### MINOR INCONSISTENCIES IN TESTIMONY

Sufficiency and weight of evidence, § 21:4

### MINORS

See index heading CHILDREN OR MINORS

### MIRANDA

Impeachment. See index heading IMPEACHMENT

Post-Miranda warning silence cross-examination of witnesses, § 17:13

impeachment methods, § 18:1  
self-incrimination, privilege against, § 15:7

Self-incrimination, privilege against, § 15:7

### MISCONDUCT

Burden of proof. See index heading BURDEN OF PROOF

Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15-10:17

Impeachment, prior misconduct, § 18:19

Presumptions and inferences, §§ 3:21, 3:22

Relevancy of evidence, other crimes evidence, §§ 4:26, 4:31

### MISDEMEANORS

Impeachment by prior conviction, §§ 18:20, 18:25

### MISLEAD

Defendant, variance between pleading and evidence, § 21:6

Jury, relevancy of evidence, § 4:21

### MISSING

Videotape testimony, hearsay evidence, § 10:1

Witness inference, § 3:25

### MISTAKES

See index heading ERRORS OR MISTAKES

### MISTRIAL

Relevancy of evidence, liability insurance, § 4:54

### MITIGATION

Damages, burden of proof in civil cases, § 5:19

Factors in murder case, expert witnesses, § 7:30

### MODELS

Demonstrative evidence, § 8:14

### MODE OR METHOD

See index heading METHOD OR MODE

### MODUS OPERANDI

Relevancy of evidence, other crimes evidence, §§ 4:29, 4:33-4:38, 4:43

### MOLESTATION

Sexual molestation victim, photographs, §§ 8:16, 9:16

### MONTGOMERY BALANCING TEST

Impeachment by prior conviction, § 18:20

### MORAL INTEREST, DECLARATIONS AGAINST

Hearsay exception, § 10:41

### MORTALITY TABLES

Hearsay exception, § 10:63

### MORTGAGES

Admissions by mortgagors, § 11:17

Presumptions and inferences, possession and ownership of property, § 3:35

### MOTION PICTURES OR FILMS

Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

**MOTION PICTURES OR FILMS**  
—Cont'd

Videotapes. See index heading  
VIDEOTAPES

**MOTIONS**

Burden of proof. See index heading  
BURDEN OF PROOF

Competency of witnesses, affidavits,  
§ 13:3

Dismissal motions, §§ 2:1, 13:3

Exclusion of witnesses from  
courtroom during course of trial,  
§ 16:5

Expert witnesses, Frye hearing,  
§ 7:28

In limine motions. See index heading  
IN LIMINE

Objections. See index heading OBJEC-  
TIONS

Own motion of court. See index  
heading SUA SPONTE MATTERS

Suppression of evidence, §§ 5:2, 5:4-  
5:6, 20:6

**MOTIVE**

Cross-examination of witnesses,  
§§ 17:11, 17:13

Expert witnesses, cross-examination,  
§§ 7:31, 7:35

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Impeachment. See index heading  
IMPEACHMENT

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**MOTOR VEHICLES**

Accidents

automobiles. See index heading  
AUTOMOBILES

demonstrative evidence, §§ 8:15,  
8:17

documentary evidence,  
photographs, § 9:16

hearsay exception, accident reports  
by motorists, § 10:56

physician-patient privilege,  
§ 14:14

**MOTOR VEHICLES—Cont'd**

Automobiles. See index heading  
AUTOMOBILES

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Drivers. See index heading DRIVERS

Driving under the influence. See  
index heading DRIVING UNDER  
THE INFLUENCE

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Presumptions and inferences,  
§§ 3:35, 3:39

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

Self-incrimination, privilege against,  
refusal to submit to chemical  
test by motorist, § 15:1

Traffic. See index heading TRAFFIC

**MUG SHOTS**

Generally, §§ 8:16, 9:16

**MULTIPLE CHEMICAL  
SENSITIVITY (MCS)**

Expert witnesses, § 7:27

**MULTIPLE HEARSAY**

Generally, § 10:7

**MULTIPLE WRITINGS**

Summaries, secondary evidence,  
§ 6:6

**MUNICIPALITIES**

Admissions by agents, § 11:4

Documentary evidence, ordinances  
and records, §§ 9:4, 9:8

Judicial notice of municipal ordi-  
nances, § 2:8

**MURDER**

Burden of proof, shifting of burden,  
§ 5:2

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Hearsay exception, §§ 10:34, 10:46

Victims of murder

expert medical testimony, §§ 7:68,  
7:69

## INDEX

### **MURDER—Cont'd**

Victims of murder—Cont'd  
hearsay evidence, state of mind of  
declarant exception, § 10:34

### **MUTUAL MISTAKE**

Parol or extrinsic evidence affecting  
writings, § 12:1

### **NAME OR NAMES**

Comparison of names, impeachment  
by prior conviction, § 18:21  
Presumptions and inferences, identity  
based on similarity of names,  
§ 3:38  
Relevancy of evidence. See index  
heading RELEVANCY OF EVIDENCE

### **NARCOTICS**

See index heading DRUGS AND  
NARCOTICS

### **NARRATIVE OF PAST OCCURRENCES**

Admissions by coconspirators, § 11:6

### **NATURAL FORCES**

Judicial notice of operation and effect  
of, § 2:17

### **NATURE**

Burden of proof, § 5:1  
Inconsistency of prior statement,  
impeachment, § 18:13  
Judicial notice, § 2:1  
Victim's injuries, photographs,  
§ 8:17

### **NAUTICAL MATTERS**

Expert witnesses, § 7:88

### **NECESSITY DEFENSE**

Burden of proof, criminal cases,  
§ 5:7

### **NEED**

Complete impeachment, prior incon-  
sistent statements, § 18:15  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Limiting instruction, relevancy of  
other crimes evidence, § 4:28

### **NEGATIVE OR ADVERSE INFERENCES**

Generally, §§ 3:7, 3:24, 3:25, 3:48,  
15:2, 15:7

### **NEGLECT OF PERSONS**

Children. See index heading ABUSE  
OR NEGLECT OF CHILDREN  
Elderly persons, expert witnesses,  
§§ 7:16, 7:17

### **NEGLIGENCE**

Admissions implied from conduct,  
§ 11:34  
Burden of proof, §§ 5:2, 5:12, 5:17  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Presumptions and inferences, §§ 3:9,  
3:17-3:20, 3:36  
Relevancy of evidence. See index  
heading RELEVANCY OF EVIDENCE  
Res ipsa loquitur. See index heading  
RES IPSA LOQUITUR  
Sufficiency and weight of evidence,  
circumstantial evidence, § 21:2

### **NEGOTIABLE INSTRUMENTS**

Documentary evidence, self-  
authentication, § 9:11

### **NEGOTIATIONS**

Parol or extrinsic evidence, prior  
negotiations, § 12:1

### **NEUTRON-ACTIVATION ANALYSIS RESULTS**

Demonstrative evidence, out-of-court  
experiments and tests, § 8:10

### **NEWLY DISCOVERED EVIDENCE**

Expert medical testimony, § 7:48

### **NEWSPAPERS**

Documentary evidence, self-  
authentication, § 9:9  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Reporter's privilege, § 14:17

**NEW TRIAL**

Objections, rulings on evidence as grounds for new trial, § 20:20-20:22

**911 CALLS**

See index heading HEARSAY EVIDENCE

**NOMINAL PARTIES**

Admissions, § 11:18

**NO MINI-TRIALS**

Relevancy of evidence, other crimes evidence, § 4:27

**NONEXPERT OPINION TESTIMONY**

See index heading LAY WITNESSES

**NONIDENTIFICATION**

Prior consistent statements, §§ 10:38, 18:31

**NONPARTIES**

Physician-patient privilege, § 14:14

**NONRESPONSIVE ANSWERS FROM WITNESSES**

Objections, motions to strike, § 20:11

**NONVERBAL CONDUCT**

Marital privilege, §§ 14:6, 14:7

**NOTARIZED DOCUMENTS**

Documentary evidence, self-authentication, § 9:10

**NOTE**

Suicide note, hearsay exception for state of mind of declarant, § 10:34

**NOTICE**

Hearsay evidence, children's statements in criminal cases exception, § 10:46

Judicial notice. See index heading JUDICIAL NOTICE

Relevancy of evidence, other accidents or injuries, § 4:62

Subpoenas for victims of crimes, § 16:2

**NOTICE—Cont'd**

Sufficiency and weight of evidence, statements contained in notice of appeal, § 21:4

**NUMBER OF WITNESSES**

Generally, §§ 17:3, 21:5

**NURSES**

Examination of witnesses, leading questions, § 17:9

Expert witnesses, §§ 7:23, 7:50

Hearsay evidence. See index heading HEARSAY EVIDENCE

Privileges. See index heading PRIVILEGES

Relevancy of evidence, habits of persons, § 4:59

**NURSING HOME ABUSE INVESTIGATION**

Hearsay evidence, business records exception, § 10:53

**OBJECTIONS**

Generally, § 20:1-20:22

Absence. Lack, below

Abuse of discretion standard of review, rulings on evidence as grounds for new trial, § 20:21

Acceptance of offers of proof, § 20:19

Acquiescing in admission of improper evidence, failure to make timely objection, § 20:3

Adequate foundation lacking, §§ 7:36, 20:4, 20:5

Admissibility of evidence, generally, § 20:1-20:22

Affidavit filed in summary judgment proceeding, motion to strike, §§ 20:1, 20:10

Answers from witnesses that are non-responsive, motions to strike, § 20:11

Appeal and review  
failure to make timely objection, § 20:1-20:6

motions in limine, § 20:16

preservation of issue for appeal, §§ 20:1, 20:2, 20:4, 20:6, 20:16, 20:17

## INDEX

### **OBJECTIONS—Cont’d**

- Appeal and review—Cont’d
  - procedural forfeiture, failure to make timely objection, § 20:1-20:6
  - rulings on evidence as grounds for new trial, § 20:20-20:22
- Attorneys, offers of proof, §§ 20:18, 20:19
- Bench trials, rulings on evidence as grounds for new trial, § 20:20
- Burden of proof, tax objection cases, § 5:15
- Civil cases, generally, § 20:1-20:22
- Clearly erroneous standard of review, rulings on evidence as grounds for new trial, § 20:21
- Codefendant’s objection, failure to make timely objection, § 20:4-20:6
- Confrontation Clause, §§ 20:13, 20:20
- Constitutional matters
  - Confrontation Clause, §§ 20:13, 20:20
  - erroneous admission of evidence, rulings on evidence as grounds for new trial, § 20:20
- Criminal cases, generally, § 20:1-20:22
- Cross-examination improper, rulings on evidence as grounds for new trial, § 20:20
- Cure
  - failure to make timely objection, § 20:3
  - rulings on evidence as grounds for new trial, § 20:20
- Damaging evidence from party’s witness, motions to strike evidence, §§ 20:10, 20:11
- Decisions finding procedural forfeitures, failure to make timely objection, §§ 20:4, 20:5
- Defects or irregularities, failure to make timely objection, §§ 20:3, 20:4
- De novo standard of review, rulings on evidence as grounds for new trial, § 20:21

### **OBJECTIONS—Cont’d**

- Depositions, failure to make timely objection, § 20:6
- Discretion of court
  - motions in limine, §§ 20:13, 20:15
  - offers of proof, § 20:19
  - rulings on evidence as grounds for new trial, §§ 20:20, 20:21
- During trial, motions in limine, § 20:14
- Error, §§ 20:1-20:6, 20:17-20:22
- Examination of witnesses
  - improper cross-examination, rulings on evidence as grounds for new trial, § 20:20
  - sua sponte competency examination of witness by court in presence of jury, failure to make timely objection, §§ 20:2, 20:6
- Exclusion of evidence, §§ 20:17, 20:20
- Expert witnesses
  - generally, § 7:36
  - failure to make timely objection, §§ 20:4, 20:5
  - motions in limine, § 20:16
  - offers of proof, § 20:17
  - rulings on evidence as grounds for new trial, § 20:20
- Failure to connect up presented evidence with promised evidence, motions to strike, § 20:12
- Failure to make timely objection, § 20:1-20:6
- False testimony, rulings on evidence as grounds for new trial, § 20:20
- Findings of fact, standards of review, § 20:21
- Forfeitures
  - claim on appeal, offers of proof, § 20:17
  - objection forfeited
    - motion to strike affidavit filed in summary judgment proceedings, §§ 20:1, 20:10
    - stating reasons for objections, §§ 20:7, 20:8



**OBJECTIONS—Cont’d**

Forfeitures—Cont’d

- procedural forfeiture, failure to make timely objection, § 20:1-20:6
- unspecified grounds are forfeited, stating reasons for objections, § 20:8

Formal offers of proof, § 20:19

Foundation

- failure to make timely objection, §§ 20:4, 20:5
- lack of adequate foundation, §§ 7:36, 20:4, 20:5
- laying foundation for evidence, § 1:5

Frye challenges, motions in limine, § 20:13

Futility of objection, failure to make timely objection, § 20:6

Grounds

- rulings on evidence as grounds for new trial, § 20:20-20:22
- stating reasons for objections, § 20:7-20:9

Harmless error, rulings on evidence as grounds for new trial, §§ 20:20, 20:21

Hearsay evidence

- decisions finding procedural forfeitures in criminal cases, failure to make timely objection, § 20:4
- remedy for erroneous admission of hearsay, rulings on evidence as grounds for new trial, § 20:20
- weight when admitted without objection, §§ 10:6, 21:1

Impeaching evidence, §§ 20:4, 20:10

Improper matters

- admission of improper evidence, §§ 20:3, 20:20
- bolstering of testimony, rulings on evidence as grounds for new trial, § 20:20
- cross-examination, rulings on evidence as grounds for new trial, § 20:20

**OBJECTIONS—Cont’d**

Improper matters—Cont’d

- “testifying” objections, stating reasons for objections, § 20:9

Informal offers of proof, § 20:19

In limine

- motions in limine, §§ 20:1, 20:13-20:17, 20:21
- orders, §§ 20:13, 20:16, 20:20

Inviting admission of improper evidence, failure to make timely objection, § 20:3

Irregularities or defects, failure to make timely objection, §§ 20:3, 20:4

Irrelevant testimony admission, rulings on evidence as grounds for new trial, § 20:20

Judicial notice, decisions finding procedural forfeitures in civil cases, § 20:5

Jury

- error caused by admitting improper evidence may be cured by sustaining objection and instructing jury to disregard, § 20:20
- sua sponte competency examination of witness by court in presence of jury, §§ 20:2, 20:6

Lab reports, decisions finding procedural forfeitures in criminal cases, § 20:4

Lack

- adequate foundation, §§ 7:36, 20:4, 20:5
- hearsay evidence, weight when admitted without objection, §§ 10:6, 21:1
- objection, sufficiency and weight of evidence, § 21:1
- offers of proof, § 20:17

Laying foundation for evidence, § 1:5

Manifest error standard of review, rulings on evidence as grounds for new trial, § 20:21

Medical malpractice, failure to make timely objection, § 20:5

## INDEX

### OBJECTIONS—Cont'd

- Miscellaneous issues, failure to make timely objection, § 20:6
- Motions
  - in limine, §§ 20:1, 20:13-20:17, 20:21
  - posttrial motions, failure to make timely objection, § 20:1
  - pretrial motion to suppress, failure to make timely objection, § 20:6
  - to strike, §§ 20:1, 20:10-20:12
- New trial, rulings on evidence as grounds for, § 20:20-20:22
- Nonresponsive answers from witnesses, motions to strike, § 20:11
- Offers of proof, § 20:16-20:19
- Orders, in limine, §§ 20:13, 20:16, 20:20
- Other crimes evidence, rulings on evidence as grounds for new trial, §§ 20:20, 20:21
- Parol evidence, decisions finding procedural forfeitures in civil cases, § 20:5
- Plain error in criminal cases, rulings on evidence as grounds for new trial, § 20:22
- Policy, stating specific reasons for objections, § 20:7
- Posttrial motions, failure to make timely objection, § 20:1
- Prejudice, rulings on evidence as grounds for new trial, § 20:20
- Presence of jury, sua sponte competency examination of witness by court, §§ 20:2, 20:6
- Preservation of issue for appeal, §§ 20:1, 20:2, 20:4, 20:6, 20:16, 20:17
- Pretrial matters
  - motion to suppress, failure to make timely objection, § 20:6
  - rulings, motions in limine, § 20:13
- Procedural forfeiture, failure to make timely objection, § 20:1-20:6
- Procuring admission of improper evidence, failure to make timely objection, § 20:3

### OBJECTIONS—Cont'd

- Pro se defendants, decisions finding procedural forfeitures in criminal cases, § 20:4
- Purpose of motions in limine, § 20:13
- Reasons for objections, stating, § 20:7-20:9
- Refusal to permit offers of proof, § 20:18
- Remedy for erroneous admission of hearsay, rulings on evidence as grounds for new trial, § 20:20
- Renewal of objection
  - failure to connect up presented evidence with promised evidence, motions to strike, § 20:12
  - motions in limine, § 20:16
- Representations of counsel, informal offers of proof made through, § 20:19
- Reversible error, rulings on evidence as grounds for new trial, § 20:20
- Review. Appeal and review, above
- Right to make offer of proof, § 20:18
- Rulings
  - failure to make timely objection, § 20:6
  - motions in limine, § 20:13
  - new trial grounds, § 20:20-20:22
  - offers of proof, § 20:17
- Sentencing hearings, decisions finding procedural forfeitures in criminal cases, § 20:4
- Specific matters
  - grounds for objections, § 20:8
  - offers of proof, § 20:19
  - reasons for objections, §§ 20:7, 20:8
- Standards of review, rulings on evidence as grounds for new trial, § 20:21
- Stating reasons for objections, § 20:7-20:9
- Strike evidence motions, §§ 20:1, 20:10-20:12
- Sua sponte competency examination of witness by court in presence of jury, failure to make timely objection, §§ 20:2, 20:6

**OBJECTIONS—Cont'd**

- Substantial prejudice, error in admitting evidence, § 20:20
- Sufficiency and weight of evidence, absent objection, otherwise inadmissible evidence to be given its full probative effect, § 21:1
- Summary judgment proceeding, motion to strike affidavit filed in, §§ 20:1, 20:10
- Suppression motion pretrial, failure to make timely objection, § 20:6
- “Testifying” objections are improper, § 20:9
- Time
  - failure to make timely objection, § 20:1-20:6
  - motions in limine, § 20:14
- Unspecified grounds for objection are forfeited, § 20:8
- Videotape foundation, decisions finding procedural forfeitures in criminal cases, § 20:4
- Violation of in limine order, rulings on evidence as grounds for new trial, § 20:20
- Witnesses
  - Confrontation Clause, §§ 20:13, 20:20
  - damaging evidence from party’s witness, motions to strike evidence, §§ 20:10, 20:11
  - examination of witnesses, above expert witnesses, above
  - improper cross-examination, rulings on evidence as grounds for new trial, § 20:20
  - irrelevant testimony admission, rulings on evidence as grounds for new trial, § 20:20
  - sua sponte competency examination of witness by court in presence of jury, failure to make timely objection, §§ 20:2, 20:6
  - writings used by witness, §§ 20:2, 20:10
- Writings used by witness, §§ 20:2, 20:10

**OBJECTIONS—Cont'd**

- Written in limine motions and orders, §§ 20:13, 20:16

**OBJECTS**

- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

**OBSERVATION OR OBSERVATIONS**

- Competency of witnesses, ability to observe, §§ 13:1, 13:4
- Expert testimony basis, § 7:21
- Lay witnesses, §§ 7:1, 7:4

**OCCUPATIONAL MEDICINE**

- Expert medical testimony, §§ 7:48, 7:56

**OCCURRENCES**

- Similar occurrences, relevancy of evidence, § 4:56-4:62

**OFFENSES**

- See index heading CRIMES AND CRIMINAL CASES OR PROCEEDINGS

**OFFERS**

- Admissions. See index heading ADMISSIONS
- Compromise or settlement, impeachment, § 18:9
- Proof, objections, § 20:16-20:19

**OFFICERS**

- Admissions, corporate officers, § 11:10
- Hearing officers, administrative proceedings, §§ 3:12, 3:13, 9:13
- Police officers. See index heading POLICE OFFICERS

**OFFICIAL MATTERS**

- Documentary evidence. See index heading DOCUMENTARY EVIDENCE
- Presumptions and inferences, §§ 3:12, 3:13

**OFFICIALS**

- Presumptions and inferences, fairness of administrative officials, §§ 3:12, 3:13

## INDEX

### OFFICIALS—Cont'd

Privilege for statements made to law enforcement officials for legitimate purposes, § 14:20

### OLD PERSONS

See index heading ELDERLY PERSONS

### OMISSIONS

Impeachment by omission, §§ 11:36, 18:1

Police report, sufficiency and weight of evidence, § 21:4

### OPEN COURT

Documentary evidence, comparison of handwriting by trier of fact, § 9:20

### OPENING STATEMENTS

Admissions by attorneys, § 11:5

### OPENING THE DOOR

Competency of witnesses, exceptions under Dead Man's Act, § 13:9

Examination of witnesses. See index heading EXAMINATION OF WITNESSES

Impeachment by prior conviction, § 18:21

Relevancy of evidence, admission of evidence made relevant by adverse party, § 4:24

### OPERATION OF NATURAL FORCES

Judicial notice, § 2:17

### OPINIONS OF PERSONS

Hearsay evidence. See index heading HEARSAY EVIDENCE

Impeachment, religious opinions, § 18:11

Testimony. See index heading OPINION TESTIMONY

### OPINION TESTIMONY

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Lay witnesses. See index heading LAY WITNESSES

Relevancy of evidence, customs and usages, § 4:56

### OPPONENT PARTY

See index heading ADVERSE PARTY

### OPPORTUNITY FOR CROSS-EXAMINATION

Hearsay evidence, §§ 10:2, 10:35

### ORDER OF PROOF

Examination of witnesses, §§ 17:1, 17:17

### ORDERS

In limine orders, objections, §§ 20:13, 20:16, 20:20

Presenting case and attendance of witnesses, §§ 16:1, 16:2

Protection orders, §§ 10:15, 15:7

### ORDINANCES

Burden of proof in civil cases, § 5:19

Documentary evidence, self-authentication, §§ 9:4, 9:8

Judicial notice, §§ 2:3, 2:8

Presumptions and inferences, §§ 3:13, 3:17

### ORDINARY CARE

Expert witnesses, negligence, § 7:89

### ORIGINAL WRITINGS

See index heading BEST AND SECONDARY EVIDENCE

### OSHA STANDARDS

Relevancy of evidence, employment rules and safety codes, § 4:57

### OSTEOPATHY

Expert medical testimony, §§ 7:46, 7:69

### OTHER ACCIDENTS OR INJURIES

Relevancy of evidence, similar conditions or occurrences, § 4:62

### OTHER CRIMES EVIDENCE

Limited admissibility of evidence, § 1:4

Objections, rulings on evidence as grounds for new trial, §§ 20:20, 20:21

**OTHER CRIMES EVIDENCE**

**—Cont'd**

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**OTHER PENDING CIVIL ACTION**

Impeachment, interest, bias or prejudice, § 18:10

**OTHER SALES OF REAL PROPERTY TO PROVE VALUE**

Relevancy of evidence, financial conditions, § 4:55

**OTHER STATES' LAWS**

Generally, §§ 2:5, 9:2, 9:3, 9:8

**OTHER TRANSACTION EVIDENCE**

Relevancy of evidence, conduct of third parties, § 4:67

**OUT-OF-COURT**

Experiments and tests, demonstrative evidence, § 8:10-8:12

Statements

admissions by parties, §§ 11:1, 11:18

hearsay evidence. See index heading HEARSAY EVIDENCE

**OUT-OF-STATE WITNESSES**

Securing attendance of, § 16:3

**OUTWEIGHING OF PROBATIVE VALUE**

Relevancy of evidence, prejudicial effect, §§ 4:18, 4:19, 4:46

**OWNERS/OWNERSHIP OF PROPERTY**

Admissions by owners of property, §§ 11:12, 11:16

Hearsay exception, public housing agency, § 10:66

Presumptions and inferences, § 3:35

**OWN MOTION OF COURT**

See index heading SUA SPONTE MATTERS

**OWN WITNESS IMPEACHMENT**

Generally, §§ 18:4, 18:12

**PAIN AND SUFFERING**

Demonstrative evidence, photographs, § 8:17

Relevancy of evidence in civil cases, damages, § 4:8

**PAMPHLETS**

Documentary evidence, official publications, § 9:8

**PAPERS**

Documentary evidence. See index heading DOCUMENTARY EVIDENCE

Newspapers. See index heading NEWSPAPERS

**PARAMEDICS**

Expert medical testimony, § 7:45

Physician-patient privilege, § 14:14

**PARENTS**

Alienation syndrome, expert witnesses, §§ 7:27, 7:66

Children. See index heading CHILDREN OR MINORS

Paternity. See index heading PATERNITY

Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES

Termination of parental rights proceedings

burden of proof, § 5:18

expert witness fees, § 16:4

judicial notice, § 2:9

presumptions and inferences, depravity, §§ 3:6, 3:16

relevancy of evidence, §§ 4:10, 4:26

self-incrimination, privilege against, § 15:2

Unfitness of parent, §§ 3:5, 3:16, 11:1

**PARKS**

Expert witnesses, § 7:20

## INDEX

### **PARKS—Cont'd**

Lay witnesses, testimony regarding whether certain property was public park, § 7:11

### **PAROL OR EXTRINSIC EVIDENCE**

Generally, § 12:1-12:6  
Admissibility, § 12:1-12:6  
Affecting writings, § 12:1-12:6  
Agreements or contracts, §§ 12:1, 12:2, 12:6  
Ambiguities in writings, § 12:1-12:6  
Construction and interpretation of writings, §§ 12:1, 12:3-12:6  
Contracts or agreements, §§ 12:1, 12:2, 12:6  
Custom and usage, § 12:1  
Deeds, § 12:4  
Destroyed public records, § 12:1  
Determinations, §§ 12:1, 12:2, 12:5  
Dissolution of marriage cases, § 12:6  
Easements, § 12:4  
Employment contracts, § 12:1  
Examination of witnesses, § 17:18  
Expert witnesses, § 12:1  
Express trusts, § 12:4  
Four corners rule for writings, §§ 12:1, 12:2, 12:4  
Fraud, dissolution of marriage cases, § 12:6  
Guaranty contracts, § 12:2  
Impeachment, §§ 17:18, 18:15, 18:18  
Insurance policies, § 12:5  
Integrated writings, §§ 12:1, 12:2  
Intent of parties to writings, §§ 12:1, 12:3, 12:4, 12:6  
Interpretation of writings, §§ 12:1, 12:3-12:6  
Land trust agreements, § 12:1  
Leases, § 12:1  
Lost public records, § 12:1  
Marital settlement agreements, § 12:6  
Mutual mistake, § 12:1  
Objections, decisions finding procedural forfeitures in civil cases, § 20:5  
Prior understandings and negotiations, § 12:1

### **PAROL OR EXTRINSIC EVIDENCE—Cont'd**

Provisional admission approach, § 12:2  
Public records, § 12:1  
Questions of law and fact, § 12:2  
Releases, § 12:1  
Res judicata, § 12:1  
Reversionary clause in deed, § 12:4  
Silence of testator, wills, § 12:3  
Subornation agreement, § 12:1  
Substitutes for wills, §§ 12:3, 12:4  
Sufficiency and weight of evidence, § 21:1  
Summary judgment, § 12:1  
Trier of fact considering parol evidence, § 12:1  
Trusts, §§ 12:1, 12:4  
Uniform Commercial Code, § 12:1  
Violations of parol evidence rule, §§ 12:1, 21:1  
Wills, §§ 12:3, 12:4  
Writings, § 12:1-12:6

### **PARTIAL MATTERS**

Admissions of party opponent, admissibility of whole statement when only part is offered, § 11:2  
Inaudible sound recordings, §§ 8:19, 9:17

### **PARTIES**

Admissions. See index heading  
ADMISSIONS  
Adverse party. See index heading  
ADVERSE PARTY  
Codefendants. See index heading  
CODEFENDANTS  
Cross-examination of, § 17:16  
Expert witnesses, disqualifying conduct of party, § 7:63  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Impeachment, party's concealment or suppression of evidence, § 18:6  
Pro se defendants. See index heading  
PRO SE DEFENDANTS  
Relevancy of evidence. See index heading  
RELEVANCY OF EVIDENCE

**PARTNERS AND PARTNERSHIPS**

Admissions, §§ 11:19, 11:26

**PAST RECOLLECTION  
RECORDED**

Hearsay exception, § 10:57

**PATERNITY**

Expert witnesses, lie detector tests,  
§ 7:85

Presumptions and inferences, §§ 3:5,  
3:6, 3:14, 3:15

**PATHOLOGISTS**

Expert medical testimony, §§ 7:52,  
7:56

**PATIENTS**

See index heading PRIVILEGES

**PATTERN OF CONDUCT**

Relevancy of evidence, identification  
exception to general rule against  
admissibility of other crimes  
evidence, § 4:43

**PAYMENT**

Burden of proof, affirmative defenses  
in civil cases, § 5:18

Competency of witnesses, Dead  
Man's Act, § 13:6

Presumptions and inferences, com-  
mercial matters, §§ 3:28, 3:29

**PBT**

Portable breath test, §§ 7:75, 8:12  
Preliminary breath test, §§ 10:49,  
18:1

**PCR-BASED PROCEDURES**

Expert witnesses, DNA, § 7:72

**PECUNIARY INTEREST,  
DECLARATIONS AGAINST**

Hearsay exception, § 10:29

**PEDIGREE**

Hearsay exceptions, §§ 10:31, 10:68

**“PEELED” STEERING COLUMN**

Demonstrative evidence, auto theft  
case, § 8:2

**PEER REVIEW PRIVILEGE**

Generally, § 14:13

**PENAL INTEREST,  
DECLARATIONS AGAINST**

Hearsay exception, §§ 10:28, 10:29

**PENALTIES**

Death penalty cases. See index head-  
ing DEATH PENALTY CASES

Forfeiture. See index heading FORFEI-  
TURE

Ignoring subpoenas, § 16:2

**PENDING MATTERS**

See index heading IMPEACHMENT

**PENILE PLETHYSMOGRAPH  
TESTS**

Expert witnesses, §§ 7:27, 7:48, 7:65

**PERCENTAGES**

Expert medical testimony, § 7:54

**PERFORMANCE**

Hearsay exception, chemical tests  
performed on blood, breath or  
urine of drivers, § 10:49

**PERIODICALS**

Documentary evidence, self-  
authentication, § 9:9

**PERISHABLE GOODS**

Lay witnesses, value of property,  
§ 7:6

**PERMANENCY OF INJURIES**

Expert medical testimony, §§ 7:49,  
7:58

**PERMANENT INJUNCTIONS**

Burden of proof, civil cases, § 5:19

**PERMISSION**

See index heading CONSENT

**PERMISSIVE MATTERS**

Expert testimony use, § 7:14

Inferences, § 3:7-3:9

**PER SE LIBEL OR SLANDER**

Presumptions and inferences,  
§§ 3:41, 3:47

**PERSONAL HISTORY  
STATEMENTS**

Hearsay exception, § 10:31



## INDEX

### PERSONAL INJURIES

- Burden of proof, civil cases, §§ 5:17, 5:19
- Competency of witnesses, attorneys, § 13:12
- Demonstrative evidence, day-in-the-life films of personal injury victims, § 8:18
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Impeachment, prior inconsistent statements, § 18:12
- Psychiatrist/mental health therapist-patient privilege, § 14:15
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Sufficiency and weight of evidence, § 21:4

### PERSONAL KNOWLEDGE

- Expert witnesses, § 7:21
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment, prior consistent statements, § 18:31
- Lay witnesses, value of property, § 7:6
- Refreshing memory of witnesses, §§ 19:1, 19:2

### PERSONAL OBSERVATION

- Lay witnesses, § 7:1

### PERSONAL PROPERTY VALUE

- See index heading VALUE OF PROPERTY

### PERSON INTRODUCED AS EVIDENCE

- Relevancy of evidence, criminal cases, § 4:11

### PERSONS' HABITS

- Relevancy of evidence, similar conditions or occurrences, § 4:59

### PERSUASION, BURDEN OF

- Burden of proof, § 5:1

### PHARMACY MALPRACTICE

- Expert witnesses, drugs, § 7:70

### PHOTOCOPIES

- Secondary evidence, § 6:4

### PHOTOGRAPHERS FOR NEWSPAPERS

- Reporter's privilege, § 14:17

### PHOTOGRAPHS

- Arson photographs, §§ 8:15, 9:16
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Documentary evidence. See index heading DOCUMENTARY EVIDENCE
- Grisly photographs, §§ 8:16, 9:16
- Mug shots, §§ 8:16, 9:16
- Roads, §§ 8:16, 9:16
- Sexual molestation victim, §§ 8:16, 9:16

### PHRASES AND WORDS

- See index heading WORDS AND PHRASES

### PHRASING

- Expert medical testimony, § 7:53

### PHYSICAL CHARACTERISTICS

- Demonstrative evidence, in-court display, § 8:8

### PHYSICAL CONDITION

- Hearsay evidence, statements by declarant for medical diagnosis or treatment, exceptions, §§ 10:39, 10:45

### PHYSICAL EVIDENCE

- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Presumptions and inferences, suppression, fabrication, alteration or destruction, § 3:23

### PHYSICAL EXAMINATION

- Burden of proof in civil cases, adverse party, §§ 5:11, 5:19
- Expert medical testimony, §§ 7:45, 7:49, 7:58

**PHYSICAL THERAPY**

Expert medical testimony, qualifications, §§ 7:46, 7:47

**PHYSICIAN**

See index heading PHYSICIANS

**PHYSICIAN-PATIENT**

**PRIVILEGE**

Generally, § 14:14  
 Burden of proof, §§ 5:1, 14:14  
 Children, § 14:14  
 Civil cases, § 14:14  
 Constitutional matters, § 14:14  
 Consulting another physician, § 14:14  
 Criminal cases, § 14:14  
 Criminal Identification Act, § 14:14  
 Dentists, § 14:14  
 Disclosure, § 14:14  
 Documents, § 14:14  
 Drugs, § 14:14  
 Duces tecum subpoenas, § 16:2  
 Exceptions, § 14:14  
 Hearsay evidence, chemical tests performed on blood, breath or urine of drivers, § 10:49  
 Homicide exception, § 14:14  
 In-camera examination of documents, § 14:14  
 Medical malpractice, § 14:14  
 Medical records, § 14:14  
 Motor vehicle accidents, § 14:14  
 Nonparties, § 14:14  
 Nurses, § 14:14  
 Paramedics, § 14:14  
 Psychiatrist-patient privilege, § 14:15  
 Purpose, § 14:14  
 Rehabilitation counselor, § 14:14  
 Statutory privilege, § 14:14  
 Treating physicians, § 14:14  
 Waiver of privilege, § 14:14

**PHYSICIANS**

Admissions by agents, § 11:4  
 Discipline of physician  
     expert medical testimony, qualifications, § 7:47

**PHYSICIANS—Cont'd**

Discipline of physician—Cont'd  
     hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, §§ 10:9, 10:12, 10:13  
 Examination of witnesses, §§ 17:9, 17:11, 17:13, 18:18  
 Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
 Hearsay evidence. See index heading HEARSAY EVIDENCE  
 Impeachment, §§ 18:1, 18:18  
 Medical malpractice. See index heading MEDICAL MALPRACTICE  
 Privilege. See index heading PHYSICIAN-PATIENT PRIVILEGE  
 Psychiatrists. See index heading PSYCHIATRISTS  
 Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE  
 Treating physicians  
     hearsay exceptions, §§ 10:39, 10:45, 10:47  
     physician-patient privilege, § 14:14

**PLACE**

See index heading LOCATION OR PLACE

**PLAIN ERROR**

Burden of proof, improper shifting of burden, § 5:2  
 Impeachment by prior conviction, § 18:21  
 Objections, rulings on evidence as grounds for new trial, § 20:22

**PLANS**

Client service plans, hearsay evidence in juvenile court proceedings, § 10:52

**PLASTIC SURGERY**

Expert medical testimony, qualifications, § 7:46

## INDEX

### PLATS

- Also see index heading MAPS
- Demonstrative evidence, § 8:13
- Documentary evidence, authentication, § 9:13
- Hearsay exception, use to explain testimony, § 10:64

### PLEADINGS

- Admissions, § 11:27-11:31
- Sufficiency and weight of evidence, variances between pleading and evidence, § 21:6

### PLEAS

- Admissions. See index heading ADMISSIONS
- Guilty pleas. See index heading GUILTY PLEAS
- Self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST

### POISONS

- Expert witnesses, § 7:70

### POLICE AND LAW ENFORCEMENT

- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Officers. See index heading POLICE OFFICERS
- Privileges. See index heading PRIVILEGES
- Reports. See index heading POLICE REPORTS

### POLICE OFFICERS

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Impeachment. See index heading IMPEACHMENT
- Lay witnesses, §§ 7:1-7:3, 7:11
- Sufficiency and weight of evidence, §§ 21:4, 21:5

### POLICE REPORTS

- Judicial notice, § 2:1
- Refreshing memory of witnesses, § 19:2
- Relevancy of evidence, §§ 4:11, 4:25

### POLICE REPORTS—Cont'd

- Sufficiency and weight of evidence, omission from police report, § 21:4

### POLICY

- Stating specific reasons for objections, § 20:7

### POLLS

- Hearsay exception, public polls, § 10:63

### POLLUTION

- Expert witnesses, air pollution, § 7:36

### POLYGRAPHS

- See index heading LIE DETECTOR TESTS

### POPULATION

- Judicial notice, §§ 2:3, 2:14

### PORTABLE BREATH TEST

- Generally, §§ 7:75, 8:12

### POSSESSION

- Adverse possession. See index heading ADVERSE POSSESSION
- Circumstantial evidence, § 1:3
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Presumptions and inferences, possession of property, § 3:35
- Relevancy of evidence, possession of drugs, § 4:39

### POSSIBILITIES

- Expert witnesses, §§ 7:35, 7:36, 7:40, 7:52, 7:59

### POST-ACCIDENT REMEDIAL MEASURES

- Generally, §§ 1:4, 11:34

### POST-ARREST SILENCE

- See index heading ARREST

### POSTCONVICTION MATTERS

- DNA testing, demonstrative evidence, §§ 8:4, 8:6, 8:11
- Expert witnesses, lie detector tests in postconviction proceedings, § 7:85

**POSTCONVICTION MATTERS**  
—Cont'd

- Hearings, competency of judge as witness, § 13:13
- Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15
- Presenting case and attendance of witnesses in postconviction proceedings, § 16:2
- Relief, burden of proof in criminal cases, § 5:3

**POSTED SPEED LIMITS**

- Judicial notice, § 2:7

**POSTTRIAL MOTIONS**

- Objections, § 20:1

**POVERTY OF PARTY**

- Relevancy of evidence, civil cases, § 4:3

**POWER OF ATTORNEY**

- Documentary evidence, self-authentication, §§ 9:6, 9:10

**PRACTICES**

- Burden of proof, trade practices, § 5:19
- Lay witnesses, business practices, § 7:8
- Relevancy of evidence, industry safety practices, § 4:57

**PRECHARTING**

- Relevancy of evidence, medical malpractice cases, § 4:4

**PREDECESSORS IN INTEREST**

- Admissions, § 11:9

**PREGNANCY**

- Impeachment, pregnancy feared by rape complainant, § 18:8
- Relevancy of evidence in homicide cases, pregnancy of victim, § 4:12

**PREJUDICE**

- Burden of proof. See index heading BURDEN OF PROOF
- Competency of witnesses, § 13:2

**PREJUDICE—Cont'd**

- Cross-examination of witnesses, limitations on scope, § 17:13
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Documentary evidence, photographs and videotapes, § 9:16
- Error. See index heading PREJUDICIAL ERROR
- Expert witnesses, disclosure of facts or data underlying opinion, § 7:24
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment. See index heading IMPEACHMENT
- Jurors' prejudices as to gang-related testimony, § 4:51
- Objections, rulings on evidence as grounds for new trial, § 20:20
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Relevancy of evidence, §§ 4:11, 4:18, 4:19, 4:26, 4:29, 4:30, 4:46, 4:51, 4:54
- Unfair prejudice. See index heading UNFAIR PREJUDICE

**PREJUDICIAL ERROR**

- Demonstrative evidence, use of dictionary by jurors, § 8:21
- Hearsay evidence, administrative proceedings, § 10:5

**PRELIMINARY MATTERS**

- Breath test, §§ 10:49, 18:1
- Hearings, §§ 10:35, 17:11
- Injunctions, burden of proof in civil cases, § 5:19

**PREPARATION OF DATA IN ANTICIPATION OF LITIGATION**

- Expert witnesses, §§ 7:22, 7:23

**PREPONDERANCE OF EVIDENCE**

- Burden of proof, §§ 5:3, 5:14, 21:5

## INDEX

### **PRESCRIPTION DRUGS**

- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Medication records, hearsay excep-  
tion, §§ 10:53, 10:57

### **PRESENCE**

- Declarant, hearsay exception for prior  
consistent statements, § 10:38
- Defendant, comparison of handwrit-  
ing by trier of fact, § 9:20
- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Jury, sua sponte competency exami-  
nation of witness by court,  
§§ 20:2, 20:6
- Third person, marital privilege,  
§ 14:7

### **PRESENTATION OR PRESENTING**

- Case. See index heading PRESENTING  
CASE AND ATTENDANCE OF WIT-  
NESSES
- Examination of witnesses, interfer-  
ence with criminal defendant's  
right to present witnesses and  
evidence, § 17:8
- Objections, failure to connect up pre-  
sented evidence with promised  
evidence, § 20:12

### **PRESENTENCE INVESTIGATION REPORTS**

- Generally, §§ 4:15, 20:4

### **PRESENTING CASE AND ATTENDANCE OF WITNESSES**

- Generally, § 16:1-16:5
- Civil cases, § 16:1-16:5
- Compel attendance of witnesses,  
Uniform Act to Secure the  
Attendance of Witnesses from  
Within or Without a State in  
Criminal Proceedings, § 16:3
- Compensating witnesses, § 16:4
- Compulsory Process Clause of Sixth  
Amendment, § 16:1
- Constitutional matters  
Fifth Amendment privilege, § 16:1

### **PRESENTING CASE AND ATTENDANCE OF WITNESSES—Cont'd**

- Constitutional matters—Cont'd  
indigent criminal defendants,  
compensating witnesses,  
§ 16:4
- Sixth Amendment, § 16:1
- Continuances, § 16:1
- Criminal cases, § 16:1-16:5
- Determinations  
expert witness fees, § 16:4
- Uniform Act to Secure the Atten-  
dance of Witnesses from  
Within or Without a State in  
Criminal Proceedings, § 16:3
- Discretion of court, §§ 16:1, 16:2,  
16:5
- Domestic relations cases, expedited  
issuance of subpoenas, § 16:2
- Driving under the influence, duces  
tecum subpoenas, § 16:2
- Duces tecum subpoenas, use of,  
§ 16:2
- Exclusion of witnesses from  
courtroom during course of trial,  
management of witnesses by  
trial court, § 16:5
- Expedited issuance of subpoenas,  
§ 16:2
- Expert witness fees, compensating  
witnesses, § 16:4
- Fees, compensating witnesses, § 16:4
- Fifth Amendment privilege, § 16:1
- Foreign countries, Uniform Act to  
Secure the Attendance of Wit-  
nesses from Within or Without a  
State in Criminal Proceedings,  
§ 16:3
- Fundamental right of defendant to  
present witnesses in own  
defense, § 16:1
- Grand jury, duces tecum subpoenas,  
§ 16:2
- Indigent criminal defendants,  
compensating witnesses, § 16:4
- Instructions to witnesses, manage-  
ment of witnesses by trial court,  
§ 16:5

**PRESENTING CASE AND  
ATTENDANCE OF  
WITNESSES—Cont’d**

Interference with defense witnesses  
by state, § 16:1  
Intimidation of witnesses, § 16:1  
Investigation, use of subpoenas and  
subpoenas duces tecum, § 16:2  
Involuntary commitment proceed-  
ings, exclusion of witnesses  
from courtroom during course of  
trial, § 16:5  
Issuance of subpoenas, § 16:2  
Juvenile Court Act, § 16:2  
Juvenile delinquency proceedings,  
exclusion of witnesses from  
courtroom during course of trial,  
§ 16:5  
Management of witnesses by trial  
court, § 16:5  
Material witnesses, Uniform Act to  
Secure the Attendance of Wit-  
nesses from Within or Without a  
State in Criminal Proceedings,  
§ 16:3  
Medical records, duces tecum  
subpoenas, § 16:2  
Motion, exclusion of witnesses from  
courtroom during course of trial,  
§ 16:5  
Notice, subpoenas for victims of  
crimes, § 16:2  
Orders, §§ 16:1, 16:2  
Out-of-state witnesses, securing  
attendance of, § 16:3  
Parental termination proceedings,  
expert witness fees, § 16:4  
Penalties for ignoring subpoenas,  
§ 16:2  
Physician-patient privilege, duces  
tecum subpoenas, § 16:2  
Postconviction proceedings, § 16:2  
Prisoners, § 16:1  
Probation revocation hearings, § 16:1  
Reasonableness, duces tecum  
subpoenas, § 16:2  
Securing attendance of out-of-state  
witnesses, § 16:3  
Sixth Amendment, fundamental right  
of defendant to present wit-  
nesses in own defense, § 16:1

**PRESENTING CASE AND  
ATTENDANCE OF  
WITNESSES—Cont’d**

Statutes, § 16:1-16:4  
Subpoenas, use of, § 16:2  
Suppression hearings, §§ 16:1, 16:3  
Trial court’s management of wit-  
nesses, § 16:5  
Uniform Act to Secure the Atten-  
dance of Witnesses from Within  
or Without a State in Criminal  
Proceedings, § 16:3  
Use of subpoenas and subpoenas  
duces tecum, § 16:2  
Victims of crimes, subpoenas, § 16:2  
Violations, fundamental right of  
defendant to present witnesses  
in own defense, § 16:1  
Warrants for witnesses, § 16:1

**PRESENT SENSE IMPRESSION**

Hearsay evidence, spontaneous dec-  
larations exception, § 10:26

**PRESENT VALUE OF FUTURE  
ECONOMIC LOSSES**

Expert witnesses, §§ 7:20, 7:30, 7:40

**PRESERVATION OF ISSUE FOR  
APPEAL**

Objections, §§ 20:1, 20:2, 20:4, 20:6,  
20:16, 20:17

**PRESUMPTIONS AND  
INFERENCES**

Generally, § 3:1-3:48  
Abandoned property, § 3:35  
Abused and Neglected Child Report-  
ing Act, §§ 3:2, 3:6  
Acceptance of deeds, § 3:35  
Acknowledgment of paternity,  
§§ 3:5, 3:15  
Act or acts  
corporate acts, regularity, § 3:26  
official acts, validity and regularity,  
§ 3:13  
Administrative officials and hearing  
officers, fairness, §§ 3:12, 3:13  
Admissibility  
attempt to conceal, suppress or  
destroy evidence by party,  
§§ 3:23, 3:24

## INDEX

### **PRESUMPTIONS AND**

#### **INFERENCES—Cont'd**

- Admissibility—Cont'd
  - consciousness of guilt, criminal cases, §§ 3:32, 3:33
- Adverse or negative inferences, §§ 3:7, 3:24, 3:25, 3:48, 15:2, 15:7
- Adverse possession, property, § 3:35
- Agency, commercial matters, § 3:30
- Agreements or contracts, §§ 3:10, 3:26, 3:28, 3:29
- Alteration of physical evidence, § 3:23
- Arbitration, §§ 3:12, 3:13
- Attempt(s)
  - conceal, suppress or destroy evidence by party, §§ 3:23, 3:24
  - influence witnesses, consciousness of guilt in criminal cases, § 3:32
- Attorney General, validity and regularity of official acts, § 3:13
- Attorneys
  - agency, commercial matters, § 3:30
  - clients, fiduciary relationship, § 3:22
  - legal malpractice, damages, § 3:47
- Bailees, negligence, § 3:18
- Bench trials, §§ 3:10, 3:12
- Blood alcohol content, intoxication, § 3:39
- Breathalyzer machine's good operative condition, § 3:37
- Burden of proof. See index heading **BURDEN OF PROOF**
- Business, commercial matters, § 3:26-3:30
- Carriers, negligence, § 3:18
- Cause of death, criminal cases, § 3:34
- Children
  - Abused and Neglected Child Reporting Act, §§ 3:2, 3:6
  - custody of children, §§ 3:6, 3:16
  - endangerment, criminal cases, § 3:34
  - gift to child by parent, §§ 3:4, 3:16

### **PRESUMPTIONS AND**

#### **INFERENCES—Cont'd**

- Children—Cont'd
  - legitimacy of child, § 3:15
  - loss of child's society by parent, §§ 3:16, 3:47
  - parents, below
  - paternity, §§ 3:5, 3:6, 3:14, 3:15
  - support guidelines, §§ 3:6, 3:16
- Claims regarding work on real property, § 3:36
- Commercial matters, §§ 3:5, 3:17, 3:26-3:30
- Common law presumptions and inferences, § 3:10-3:48
- Competency of witnesses, §§ 13:1, 13:2, 13:11
- Concealment of evidence, attempt by party, §§ 3:23, 3:24
- Conclusive presumptions. Mandatory presumptions, below
- Condition, continuance of, § 3:37
- Conduct of persons
  - malice implied from conduct, § 3:41
  - misconduct, §§ 3:21, 3:22
- Confessions, criminal cases, § 3:34
- Confidential matters
  - information disclosure, irrebuttable presumptions, § 3:5
  - relationships, undue influence, § 3:22
- Conflicting presumptions, §§ 3:4, 3:21
- Consciousness of guilt, criminal cases, § 3:31-3:33
- Conspiracy, criminal cases, § 3:34
- Constitutional matters, §§ 3:2, 3:7, 3:23, 3:24, 3:34, 3:41, 3:48
- Continuance of fact or condition, § 3:37
- Contracts or agreements, §§ 3:10, 3:26, 3:28, 3:29
- Corporate acts, regularity of, § 3:26
- Correspondence, presumption of delivery or receipt of, § 3:43
- Counsel. Attorneys, above
- Criminal cases, §§ 3:2, 3:6, 3:7, 3:11, 3:12, 3:23, 3:24, 3:31-3:34, 3:38-3:41



**PRESUMPTIONS AND  
INFERENCES—Cont'd**

Custody of children, §§ 3:6, 3:16  
 Damages, § 3:47  
 Death  
     cause of death, criminal cases,  
         § 3:34  
     individual's death, § 3:45  
     wrongful death presumptions,  
         §§ 3:6, 3:16  
 Deeds, possession and ownership of  
     property, § 3:35  
 Defamation, §§ 3:41, 3:47  
 Definitions  
     inference, § 3:1  
     mandatory presumption, § 3:2  
     permissive inference, § 3:7  
     presumption, § 3:1  
 Delivery  
     correspondence, § 3:43  
     deeds, § 3:35  
 Demonstrative evidence, juror's  
     unauthorized visit to scene of  
     accident is presumptively preju-  
     dicial, § 8:21  
 Depravity in parental termination  
     cases, §§ 3:6, 3:16  
 Destruction  
     evidence, §§ 3:23, 3:24  
     wills, § 3:42  
 Disappearance, presumption of death,  
     § 3:45  
 Disclosure  
     failure to disclose evidence,  
         §§ 3:23, 3:24  
     information, §§ 3:5, 3:46  
 Distinctions between presumptions  
     and inferences, § 3:1  
 Due process, §§ 3:7, 3:23, 3:24, 3:34  
 Effect of mandatory presumptions,  
     § 3:3  
 Exculpatory evidence, §§ 3:23, 3:24  
 Extradition warrants, validity and  
     regularity of official acts, § 3:13  
 Fabrication of physical evidence,  
     § 3:23  
 Facts, §§ 3:1, 3:7, 3:8, 3:14, 3:37  
 Failure to disclose evidence, §§ 3:23,  
     3:24

**PRESUMPTIONS AND  
INFERENCES—Cont'd**

Failure to preserve evidence, § 3:23  
 Failure to produce evidence or wit-  
     ness, §§ 3:24, 3:25  
 Fairness of administrative officials  
     and hearing officers, §§ 3:12,  
     3:13  
 Falls, res ipsa loquitur, § 3:20  
 False exculpatory statements,  
     consciousness of guilt, § 3:33  
 Family matters  
     generally, § 3:14-3:16  
     children, above  
     marriage, below  
     parents, below  
     spouses, below  
 Fiduciary relationships, §§ 3:4, 3:21,  
     3:22  
 Fifth Amendment, §§ 3:7, 3:24, 3:48  
 Fires, res ipsa loquitur, § 3:20  
 First Amendment, malice implied  
     from conduct, § 3:41  
 Fitness of criminal defendant to stand  
     trial, § 3:40  
 Flight by defendant, consciousness of  
     guilt, § 3:31  
 Fraud, §§ 3:21, 3:22, 3:34  
 Freedom of Information Act, §§ 3:6,  
     3:44  
 General course of business dealings,  
     § 3:27  
 Gifts  
     parental gift to child, §§ 3:4, 3:16  
     possession and ownership of prop-  
     erty, § 3:35  
 Good faith of therapist, § 3:46  
 Governing law, contracts, § 3:29  
 Governor, validity and regularity of  
     official acts, § 3:13  
 Guardianship, §§ 3:6, 3:16  
 Guilty knowledge of defendant, crim-  
     inal cases, § 3:34  
 Health Care Surrogate Act, § 3:48  
 Hearsay evidence. See index heading  
     HEARSAY EVIDENCE  
 Home Repair Fraud Act, § 3:34  
 Husband and wife. Spouses, below

## INDEX

### **PRESUMPTIONS AND INFERENCES—Cont'd**

Identity based on similarity of names,  
§ 3:38  
Impartiality of trial court, § 3:12  
Impeachment. See index heading  
IMPEACHMENT  
Independent contractor status of  
attorney, § 3:30  
Indirect criminal contempt cases,  
innocence presumption, § 3:11  
Individual's death, § 3:45  
Inference on inference, § 3:8  
Influence  
    attempts to influence witnesses,  
        consciousness of guilt, § 3:32  
    undue influence, §§ 3:22, 3:42  
Information  
    disclosure of information, §§ 3:5,  
        3:46  
    Freedom of Information Act,  
        §§ 3:6, 3:44  
Innocence presumption, § 3:11  
Insanity, §§ 3:40, 3:42  
Instructions to jury, regularity of  
    judicial proceedings, § 3:12  
Intent  
    criminal cases, § 3:34  
    malice implied from conduct,  
        § 3:41  
    possession and ownership of prop-  
        erty, § 3:35  
    wills, § 3:42  
Intoxication, § 3:39  
Irrebuttable presumptions, §§ 3:2,  
    3:5, 3:16, 3:17  
Judges, validity and regularity of  
    official acts, § 3:13  
Judicial proceedings, regularity of,  
    § 3:12  
Jurisdiction, regularity of judicial  
    proceedings, § 3:12  
Jury trials  
    demonstrative evidence, juror's  
        unauthorized visit to scene of  
        accident is presumptively  
        prejudicial, § 8:21  
    regularity of judicial proceedings,  
        § 3:12

### **PRESUMPTIONS AND INFERENCES—Cont'd**

Knowledge  
    guilty knowledge of defendant,  
        criminal cases, § 3:34  
    law, §§ 3:10, 3:12, 3:29, 3:42  
Laws. Statutes, below  
Lawyers. Attorneys, above  
Legal malpractice, damages, § 3:47  
Legislature, knowledge of law,  
    § 3:10  
Legitimacy of child, family matters,  
    § 3:15  
Loss of child's society by parent,  
    §§ 3:16, 3:47  
Mail or mailing  
    delivery or receipt of correspon-  
        dence, § 3:43  
    general course of business deal-  
        ings, § 3:27  
Malice implied from conduct, § 3:41  
Malicious prosecution, § 3:41  
Malpractice  
    legal malpractice, damages, § 3:47  
    medical malpractice, res ipsa  
        loquitur, § 3:20  
Mandatory presumptions  
    generally, §§ 3:2, 3:34  
    burden of proof in criminal cases,  
        § 5:3  
    conflicting presumptions, § 3:4  
    effect of, § 3:3  
    family matters, § 3:16  
    irrebuttable presumptions, § 3:5  
    rebuttable presumptions, § 3:6  
Marital property, §§ 3:4, 3:6, 3:14,  
    3:16  
Marriage  
    fact of marriage, presumption  
        from, § 3:14  
    marital property, §§ 3:4, 3:6, 3:14,  
        3:16  
    paternity, §§ 3:6, 3:14, 3:15  
Medical battery actions, § 3:48  
Medical malpractice, res ipsa  
    loquitur, § 3:20  
Minors. Children, above  
Misconduct, §§ 3:21, 3:22  
Missing witness inference, § 3:25

**PRESUMPTIONS AND  
INFERENCES—Cont'd**

Mortgages, possession and ownership of property, § 3:35

Motor vehicles, §§ 3:35, 3:39

Names, identity based on similarity of, § 3:38

Negative or adverse inferences, §§ 3:7, 3:24, 3:25, 3:48, 15:2, 15:7

Negligence, §§ 3:9, 3:17-3:20, 3:36

Official matters, §§ 3:12, 3:13

Ordinances, §§ 3:13, 3:17

Ownership of property, § 3:35

Parents

- children, above
- depravity in parental termination cases, §§ 3:6, 3:16
- gift to child, §§ 3:4, 3:16
- loss of child's society by parent, §§ 3:16, 3:47
- paternity, §§ 3:5, 3:6, 3:14, 3:15
- unfitness of parent, §§ 3:5, 3:16

Paternity, §§ 3:5, 3:6, 3:14, 3:15

Payment, commercial matters, §§ 3:28, 3:29

Permissive inferences, § 3:7-3:9

Per se libel or slander, §§ 3:41, 3:47

Physical evidence, suppression, fabrication, alteration or destruction, § 3:23

Possession of property, § 3:35

Prejudice

- demonstrative evidence, juror's unauthorized visit to scene of accident is presumptively prejudicial, § 8:21
- regularity of judicial proceedings, § 3:12

Prima facie evidence, §§ 3:5, 3:17, 3:18, 3:34

Property

- generally, §§ 3:35, 3:36
- bailees, negligence, § 3:18
- marital property, §§ 3:4, 3:6, 3:14, 3:16
- real property, §§ 3:35, 3:36
- stolen property, criminal cases, § 3:34

**PRESUMPTIONS AND  
INFERENCES—Cont'd**

Property—Cont'd

- value of property, §§ 3:6, 3:27
- wills, § 3:42

Public officials, validity and regularity of official acts, § 3:13

Public records, Freedom of Information Act, §§ 3:6, 3:44

Punitive damages, § 3:47

Purpose of res ipsa loquitur doctrine, §§ 3:9, 3:19

Real property, §§ 3:35, 3:36

Rebuttable presumptions

- generally, §§ 3:2, 3:3, 3:6, 3:16, 3:18, 3:34, 3:39, 3:42, 3:45, 3:47
- burden of proof, §§ 5:2, 5:3, 5:11

Receipt of correspondence, presumption of, § 3:43

Redemption of property, § 3:35

Regularity

- business transactions and corporate acts, commercial matters, § 3:26
- official matters, §§ 3:12, 3:13

Res ipsa loquitur, §§ 3:9, 3:19, 3:20

Resulting trusts, possession and ownership of property, § 3:35

Retaliatory discharge cases, damages, § 3:47

Sanity, §§ 3:40, 3:42

Sentencing, criminal cases, §§ 3:12, 3:34

Settlements, commercial matters, §§ 3:28, 3:30

Similarity of names, identity based on, § 3:38

Slip and fall, res ipsa loquitur, § 3:20

Society of child, loss of by parent, §§ 3:16, 3:47

Spoliation of evidence, § 3:24

Spouses

- marriage, above
- wills, § 3:42

Statutes

- generally, § 3:10-3:48
- Abused and Neglected Child Reporting Act, §§ 3:2, 3:6

## INDEX

### **PRESUMPTIONS AND INFERENCES—Cont'd**

- Statutes—Cont'd
  - contracts, governing law, § 3:29
  - Freedom of Information Act, §§ 3:6, 3:44
  - Home Repair Fraud Act, § 3:34
  - knowledge of law, §§ 3:10, 3:12, 3:29, 3:42
  - ordinances, §§ 3:13, 3:17
  - validity and regularity of official acts, § 3:13
  - violations, negligence, § 3:17
- Stolen property, criminal cases, § 3:34
- Strict products liability, res ipsa loquitur, § 3:20
- Sufficiency and weight of evidence, §§ 21:2, 21:4
- Suicide, presumption against death by, § 3:45
- Suppression of evidence, §§ 3:23, 3:24
- Taxes, validity and regularity of official acts, § 3:13
- Test results, paternity, § 3:15
- Therapist's good faith, § 3:46
- Threats against witnesses, consciousness of guilt, § 3:32
- Transfer of cases, rebuttable presumptions, § 3:6
- Undue influence, §§ 3:22, 3:42
- Unfitness of parent, §§ 3:5, 3:16
- Validity
  - deeds, § 3:35
  - official acts, § 3:13
  - settlement of lawsuit, § 3:28
- Value of property, §§ 3:6, 3:27
- Violation of statute or ordinance, negligence, § 3:17
- Wife and husband. Spouses, above
- Wills, §§ 3:22, 3:40, 3:42
- Withholding evidence, § 3:24
- Witnesses
  - generally, §§ 3:25, 3:32
  - competency of witnesses, §§ 13:1, 13:2, 13:11
  - impeachment. See index heading IMPEACHMENT

### **PRESUMPTIONS AND INFERENCES—Cont'd**

- Work on real property, claims regarding, § 3:36
- Wrongful death presumptions, §§ 3:6, 3:16

### **PRETRIAL MATTERS**

- Identification, burden of proof on motions to suppress in criminal cases, § 5:6
- Objections. See index heading OBJECTIONS
- Refreshing memory of witnesses, §§ 19:1, 19:2
- Suppression hearings, hearsay evidence, §§ 10:15, 10:28

### **PREVENTION OF FIRES**

- Expert witnesses, ultimate issue, § 7:30

### **PRICE**

- Documentary evidence, price tags attached to merchandise, § 9:11
- Hearsay exception, price lists, § 10:61
- Relevancy of evidence, other sales of real property to prove value, § 4:55

### **PRIMA FACIE CASE OR EVIDENCE**

- Burden of proof, §§ 5:1, 5:2
- Demonstrative evidence, chain of custody, §§ 8:4, 8:6
- Documentary evidence, self-authentication, §§ 9:6, 9:8
- Presumptions and inferences, §§ 3:5, 3:17, 3:18, 3:34

### **PRINCIPALS**

- Admissions, §§ 11:4, 11:21

### **PRINTED STATUTES**

- Documentary evidence, self-authentication, §§ 9:3, 9:8

### **PRINTOUTS FROM COMPUTERS**

- Generally, §§ 9:15, 10:55, 11:6

**PRIOR CONSISTENT  
STATEMENTS**

Burden of proof, criminal cases,  
§ 5:3  
Hearsay exception, § 10:38  
Limited admissibility of evidence,  
§ 1:4  
Nonidentification, §§ 10:38, 18:31  
Rehabilitation of impeached witness,  
§ 18:31

**PRIOR INCONSISTENT  
STATEMENTS**

Cross-examination of witnesses,  
§ 17:13  
Hearsay evidence, §§ 10:15, 10:43,  
10:44, 10:51, 18:12, 18:14  
Limited admissibility of evidence,  
§ 1:4  
Sufficiency and weight of evidence,  
§ 21:4

**PRIOR MATTERS**

Administrative decisions, judicial  
notice, § 2:9  
Admissions. See index heading  
ADMISSIONS  
Consistent statements. See index  
heading PRIOR CONSISTENT  
STATEMENTS  
Conviction of crime. See index head-  
ing CONVICTION OF CRIME  
Examination of witnesses. See index  
heading EXAMINATION OF WIT-  
NESSES  
False accusations of crime, suffi-  
ciency and weight of evidence,  
§ 21:1  
False allegations, §§ 17:11, 18:1,  
18:19  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Impeachment. See index heading  
IMPEACHMENT  
Inconsistent statements. See index  
heading PRIOR INCONSISTENT  
STATEMENTS  
Injury, expert witnesses, §§ 7:13,  
7:67  
Litigation, judicial notice, § 2:3  
Misconduct, impeachment, § 18:19

**PRIOR MATTERS—Cont'd**

Parol or extrinsic evidence affecting  
writings, prior understandings  
and negotiations, § 12:1  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE  
Statements. See index heading PRIOR  
STATEMENTS

**PRIOR STATEMENTS**

Consistent statements. See index  
heading PRIOR CONSISTENT  
STATEMENTS  
Impeachment. See index heading  
IMPEACHMENT  
Inconsistent statements. See index  
heading PRIOR INCONSISTENT  
STATEMENTS

**PRISONERS**

Attendance of witnesses, § 16:1

**PRISON INCIDENT REPORTS**

Hearsay evidence, business records  
exception, §§ 10:52, 10:54

**PRIVATE BOUNDARY LINES**

Hearsay exception, § 10:36

**PRIVATE WRITINGS**

Documentary evidence, authentica-  
tion required, § 9:15

**PRIVILEGES**

Generally, § 14:1-14:20  
Absolute privilege  
Attorney Registration and  
Disciplinary Commission,  
statements made to, § 14:20  
judicial proceeding, statements  
made during course of,  
§ 14:20  
law enforcement officials, state-  
ments made for legitimate  
purposes, § 14:20  
qualified privilege distinguished,  
§ 14:1  
rape crisis counselor's privilege,  
§ 14:19  
witnesses, defamation, §§ 14:1,  
14:20  
Admissions, marital privilege, § 14:8

## INDEX

### PRIVILEGES—Cont'd

#### Agents

- attorney-client privilege, § 14:2
- marital privilege, §§ 14:6, 14:7

#### AIDS Confidentiality Act, § 14:20

#### Alcohol and Other Drug Abuse and Dependency Act, § 14:15

#### Antenuptial agreements, marital privilege, §§ 14:7, 14:8

#### Applicability

- generally, § 14:1-14:20
- self-incrimination, privilege against, § 15:2

#### Assisted living facilities, Medical Studies Act, § 14:13

#### Attorneys. See index heading ATTORNEYS

#### Bar associations, § 14:20

#### Burden of proof

- generally, §§ 5:1, 5:11
- attorney-client privilege, §§ 5:1, 14:2, 14:4, 14:5
- clergy/spiritual advisor-communicant privilege, §§ 5:1, 14:18
- Medical Studies Act, § 14:13
- physician-patient privilege, §§ 5:1, 14:14
- reporter's privilege, § 14:17

#### Certified public accountant's privilege, § 14:16

#### Children

- Abused and Neglected Child Reporting Act, clergy/spiritual advisor-communicant privilege, § 14:18

#### Juvenile Court Act, § 14:20

- marital privilege, child-interest exception, §§ 14:6, 14:7
- mental health therapist-patient privilege, § 14:15
- physician-patient privilege, § 14:14

#### Civil cases

- informant's privilege, § 14:11
- marital privilege, § 14:6
- physician-patient privilege, § 14:14

### PRIVILEGES—Cont'd

#### Civil cases—Cont'd

- self-incrimination, privilege against, §§ 15:2, 15:7

#### Claims of privilege

- generally, § 14:1
- self-incrimination, privilege against, § 15:2-15:4

#### Clergy/spiritual advisor-communicant privilege. See index heading CLERGY/SPIRITUAL ADVISOR-COMMUNICANT PRIVILEGE

#### Communications

- generally, § 14:1-14:20
- self-incrimination, privilege against, § 15:1

#### Compelling disclosure of privileged information, § 14:1

#### Competency of witnesses, privilege of invoking Dead Man's Act, §§ 13:6, 13:9

#### Complaint to police department, § 14:20

#### Conduct of persons

- attorney-client privilege, waiver, § 14:5
- marital privilege, §§ 14:6, 14:7

#### Confidentiality, generally, § 14:1-14:20

#### Consent

- attorney-client privilege, consensual relationship, §§ 14:2, 14:3
- disclosure, mental health therapist-patient privilege, § 14:15

#### Construction, § 14:1

#### Conversations

- clergy/spiritual advisor-communicant privilege, § 14:18
- marital privilege, § 14:8
- self-incrimination, privilege against, § 15:1

#### Counselors

- physician-patient privilege, rehabilitation counselor, § 14:14
- rape crisis and violent crime victims counselor's privileges, § 14:19

**PRIVILEGES—Cont'd**

Court-ordered mental health examination, psychiatrist/mental health therapist-patient privilege, § 14:15

Criminal cases

- clergy/spiritual advisor-communicant privilege, § 14:1
- eavesdropping, § 14:20
- informant's privilege, § 14:11
- law enforcement investigatory privilege, § 14:10-14:12
- marital privilege, § 14:6
- physician-patient privilege, § 14:14
- psychiatrist/mental health therapist-patient privilege, § 14:15
- self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST

Critical self-analysis privilege, §§ 14:13, 14:20

Defamation, §§ 14:1, 14:20

Deliberative process privilege, § 14:20

Determinations

- peer review and self-evaluation privilege, § 14:13
- reporter's privilege, § 14:17
- self-incrimination, privilege against, propriety of claim of privilege, § 15:4
- surveillance location privilege, § 14:12

Disclosure, generally, § 14:1-14:20

Discovery

- certified public accountant's privilege, § 14:16
- information protected by qualified privilege, burden of proof, § 5:1

Disfavored, § 14:1

Documents

- Medical Studies Act, § 14:13
- physician-patient privilege, § 14:14

**PRIVILEGES—Cont'd**

Drugs

- Alcohol and Other Drug Abuse and Dependency Act, § 14:15
- physician-patient privilege, § 14:14

Duration of privilege

- attorney-client privilege, § 14:5
- marital privilege, § 14:8

Eavesdropping statute, § 14:20

Employment-related matters

- attorney-client privilege, employees of corporation, § 14:2
- unemployment Insurance Act, § 14:20

Exclusions or exceptions

- attorney-client privilege, § 14:2-14:4
- child-interest exception, marital privilege, §§ 14:6, 14:7
- law enforcement investigatory privilege, § 14:10
- marital privilege, §§ 14:6, 14:7
- Medical Studies Act, § 14:13
- physician-patient privilege, § 14:14
- psychiatrist/mental health therapist-patient privilege, § 14:15

Extent to which communications are protected, marital privilege, § 14:7

Fair report privilege, § 14:20

Fraud

- AIDS Confidentiality Act, § 14:20
- attorney-client privilege, crime-fraud exception, § 14:4

In-camera inspection or examination

- documents, physician-patient privilege, § 14:14
- materials submitted in support of claim of privilege, § 14:1

Informant's privilege, law enforcement investigatory privilege, § 14:11

Information, generally, § 14:1-14:20

Insurance

- insurer-insured privilege, § 14:20
- self-evaluation privilege, § 14:13



## INDEX

### PRIVILEGES—Cont'd

#### Insurance—Cont'd

Unemployment Insurance Act,  
§ 14:20

Interpreter's privilege, § 14:20

Judges, judicial deliberation privilege, § 14:9

Judicial deliberation privilege, § 14:9

Judicial proceedings, §§ 14:2, 14:20

Juvenile Court Act, § 14:20

#### Law enforcement

generally, § 14:20

investigatory privilege, § 14:10-14:12

officials, statements made for legitimate purposes, § 14:20

surveillance location privilege,  
§§ 14:12, 17:13

Laws. Statutes, below

Marital privilege, § 14:6-14:8

#### Medical malpractice

physician-patient privilege,  
§ 14:14

psychiatrist/mental health  
therapist-patient privilege,  
§ 14:15

Medical Studies Act, peer review and  
self-evaluation privilege,  
§ 14:13

Mental Health and Developmental  
Disabilities Confidentiality Act,  
§ 14:15

Mental health therapist-patient privilege, § 14:15

Minors. Children, above

Miscellaneous privileges, § 14:20

Newspapers, reporter's privilege,  
§ 14:17

Nonverbal conduct, marital privilege,  
§§ 14:6, 14:7

#### Nurses

attorney-client privilege, § 14:3  
physician-patient privilege,  
§ 14:14

Other privileges, § 14:9-14:20

#### Patients

mental health therapist-patient  
privilege, § 14:15

### PRIVILEGES—Cont'd

#### Patients—Cont'd

physician-patient privilege. See  
index heading PHYSICIAN-  
PATIENT PRIVILEGE

Peer review privilege, § 14:13

Personal injuries, psychiatrist/mental  
health therapist-patient privilege,  
§ 14:15

Photographers for newspapers,  
reporter's privilege, § 14:17

Physician-patient privilege. See index  
heading PHYSICIAN-PATIENT  
PRIVILEGE

Police. Law enforcement, above

Presence of third person, marital  
privilege, § 14:7

Psychiatrist-patient privilege, § 14:15

Public accountant's privilege,  
§ 14:16

#### Purpose

attorney-client privilege, § 14:2

informant's privilege, § 14:11

judicial deliberation privilege,  
§ 14:9

law enforcement investigatory  
privilege, § 14:10

Medical Studies Act, § 14:13

physician-patient privilege,  
§ 14:14

reporter's privilege, § 14:17

#### Qualified privilege

absolute privilege distinguished,  
§ 14:1

bar associations, § 14:20

burden of proof, discovery of  
information protected by  
qualified privilege, § 5:1

complaint to police department,  
§ 14:20

fair report privilege, § 14:20

reporter's privilege, § 14:17

surveillance location privilege,  
§ 14:12

Rape crisis counselor's privilege,  
§ 14:19

Reckless homicide cases, eavesdrop-  
ping, § 14:20

**PRIVILEGES—Cont'd**

## Records

bar associations, § 14:20

physician-patient privilege,  
§ 14:14psychiatrist/mental health  
therapist-patient privilege,  
§ 14:15self-incrimination, privilege  
against, § 15:1Relevancy of privileged information,  
reporter's privilege, § 14:17

Reporter's privilege, § 14:17

Routine investigative techniques, law  
enforcement investigatory privi-  
lege, § 14:10

Self-evaluation privilege, § 14:13

Self-incrimination, privilege against.  
See index heading SELF-INCRIMI-  
NATION, PRIVILEGE AGAINSTSpecial witness doctrine, reporter's  
privilege, § 14:17Spiritual advisor-communicant privi-  
lege. See index heading CLERGY/  
SPIRITUAL ADVISOR-COM-  
MUNICANT PRIVILEGESpouses, marital privilege, § 14:6-  
14:8

## Statutes

AIDS Confidentiality Act, § 14:20

Alcohol and Other Drug Abuse  
and Dependency Act, § 14:15certified public accountant's privi-  
lege, § 14:16clergy/spiritual advisor-com-  
municant privilege, § 14:18

eavesdropping statute, § 14:20

interpreter's privilege, § 14:20

law enforcement investigatory  
privilege, § 14:11

marital privilege, § 14:6

Mental Health and Developmental  
Disabilities Confidentiality  
Act, § 14:15peer review and self-evaluation  
privilege, § 14:13physician-patient privilege,  
§ 14:14**PRIVILEGES—Cont'd**

## Statutes—Cont'd

rape crisis and violent crime  
victims counselor's privi-  
leges, § 14:19

reporter's privilege, § 14:17

self-incrimination, privilege  
against. See index heading  
SELF-INCRIMINATION, PRIVI-  
LEGE AGAINSTUnemployment Insurance Act,  
§ 14:20Surveillance location privilege,  
§§ 14:12, 17:13Taped recordings, eavesdropping  
statute, § 14:20

## Tax matters

certified public accountant's privi-  
lege, § 14:16self-incrimination, privilege  
against, §§ 15:2, 15:6Treatment records, psychiatrist/  
mental health therapist-patient  
privilege, § 14:15Unemployment Insurance Act,  
§ 14:20

## Violations

attorney-client privilege, § 14:3

clergy/spiritual advisor-com-  
municant privilege, § 14:1self-incrimination, privilege  
against, §§ 15:1, 15:2, 15:7Violent crime victims counselor's  
privilege, § 14:19Voluntary revelation, marital privi-  
lege waiver, § 14:8

## Waiver of privilege

AIDS Confidentiality Act, § 14:20

attorney-client privilege, § 14:5

competency of witnesses, privilege  
to invoke Dead Man's Act,  
§§ 13:6, 13:9

marital privilege, § 14:8

physician-patient privilege,  
§ 14:14psychiatrist/mental health  
therapist-patient privilege,  
§ 14:15self-incrimination, privilege  
against, §§ 15:1, 15:6

## INDEX

### PRIVILEGES—Cont'd

#### Witnesses

- competency of witnesses, privilege of invoking Dead Man's Act, §§ 13:6, 13:9
- defamation, §§ 14:1, 14:20
- self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST
- special witness doctrine, reporter's privilege, § 14:17

### PRIVITY OF INTEREST

- Admissions, §§ 11:9, 11:17

### PROBABILITIES

- Expert witnesses, §§ 7:36, 7:52, 7:86

### PROBABLE CAUSE

- Forfeiture of property, circumstantial evidence, § 1:3

### PROBATE CASES

- Relevancy of evidence, settlements, §§ 4:1, 4:3

### PROBATION

- Conditions violation, burden of proof in criminal cases, § 5:3
- Hearsay evidence in probation proceedings, §§ 10:4, 10:15
- Revocation proceedings
  - exclusionary rule, § 1:6
  - hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15
  - presenting case and attendance of witnesses, § 16:1
  - self-incrimination, privilege against, § 15:2

### PROBATIVE EFFECT

- Sufficiency and weight of evidence, absent objection, otherwise inadmissible evidence to be given its full probative effect, § 21:1

### PROBATIVE EVIDENCE

- Relevancy of evidence, §§ 4:2, 4:11, 4:18-4:20, 4:26, 4:29, 4:30, 4:39, 4:46, 4:51, 4:67

### PROBATIVE VALUE

- Demonstrative evidence, §§ 8:1, 8:16
- Documentary evidence, photographs, § 9:16
- Hearsay evidence, §§ 10:6, 10:53
- Impeachment by prior conviction, § 18:20
- Relevancy of evidence, §§ 4:2, 4:11, 4:18-4:20, 4:26, 4:29, 4:30, 4:39, 4:46, 4:51, 4:67

### PROBLEMS IN FUTURE FOR INJURED PERSON

- Expert medical testimony, §§ 7:59, 7:60

### PROCEDURAL FORFEITURE

- Failure to make timely objection, § 20:1-20:6

### PROCURING ADMISSION OF IMPROPER EVIDENCE

- Objections, § 20:3

### PRODUCTION

- Burden of production, §§ 5:1, 5:2
- Original writings. See index heading BEST AND SECONDARY EVIDENCE
- Presumptions and inferences, failure to produce evidence or witness, §§ 3:24, 3:25

### PRODUCT RULE

- Expert witnesses, DNA, § 7:72

### PRODUCTS LIABILITY CASES

- Admissions implied from conduct, § 11:34
- Demonstrative evidence, view of objects at issue by trier of fact, § 8:20
- Expert witnesses, §§ 7:16, 7:90
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Strict products liability, §§ 3:20, 5:17

### PROFFERED TESTIMONY

- Expert witnesses, §§ 7:13-7:16, 7:28

### PROGRESS OF POLICE INVESTIGATION DESCRIPTION

- Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter

**PROGRESS OF POLICE  
INVESTIGATION**

**DESCRIPTION—Cont'd**

asserted are not hearsay, § 10:10

**PROMISES**

Admissions, acknowledgment of  
promise, § 11:25

Impeachment based on interest, bias  
or prejudice, promise of  
leniency, § 18:7

Objections, failure to connect up pre-  
sented evidence with promised  
evidence, § 20:12

**PROMPT COMPLAINT BY RAPE  
VICTIM**

Hearsay evidence, spontaneous dec-  
larations exception, §§ 10:22,  
10:23

**PROPENSITY TO COMMIT  
CHARGED CRIME**

Relevancy of evidence, other crimes  
evidence, § 4:30

**PROPERTY**

Admissions. See index heading  
ADMISSIONS

Adverse possession. See index head-  
ing ADVERSE POSSESSION

Appraisers and appraisals. See index  
heading APPRAISERS AND  
APPRAISALS

Burden of proof, §§ 5:2, 5:19

Demonstrative evidence, view of  
scene of incident or objects at  
issue by trier of fact, § 8:20

Eminent domain. See index heading  
EMINENT DOMAIN

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Goods. See index heading GOODS

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Lay witnesses. See index heading  
LAY WITNESSES

Mortgages. See index heading MORT-  
GAGES

Owners/ownership of property. See  
index heading OWNERS/  
OWNERSHIP OF PROPERTY

**PROPERTY—Cont'd**

Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCES

Real property. See index heading  
REAL PROPERTY

Title. See index heading TITLE

Value of property. See index heading  
VALUE OF PROPERTY

**PROSECUTORIAL MISCONDUCT**

Burden of proof, criminal cases,  
§ 5:3

**PRO SE DEFENDANTS**

Objections, decisions finding  
procedural forfeitures in crimi-  
nal cases, § 20:4

Self-incrimination, privilege against,  
relationship between immunity  
from prosecution and privilege,  
§ 15:5

**PROSPECTIVE MATTERS**

See index heading FUTURE MATTERS

**PROTECTION**

Orders of protection, §§ 10:15, 15:7

Privileges. See index heading PRIVI-  
LEGES

**PROVISIONAL ADMISSION  
APPROACH**

Parol or extrinsic evidence affecting  
writings, § 12:2

**PROXIMATE CAUSE**

Burden of proof, negligence cases,  
§§ 5:12, 5:17

Circumstantial evidence, § 1:3

Relevancy of evidence, §§ 4:63, 4:67

**PSYCHIATRIST-PATIENT  
PRIVILEGE**

Generally, § 14:15

**PSYCHIATRISTS**

Competency of witnesses, §§ 13:2,  
13:4

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

Patient-psychiatrist privilege, § 14:15

## INDEX

### PSYCHIATRISTS—Cont'd

Self-incrimination, privilege against,  
§ 15:1

### PSYCHOLOGICAL TESTS

Expert witnesses, § 7:90

### PSYCHOLOGISTS

Competency of witnesses, Dead  
Man's Act, §§ 13:6, 13:7

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES

### PUBLIC ACCOUNTANT

Certified public accountant. See  
index heading CERTIFIED PUBLIC  
ACCOUNTANT

Privilege, § 14:16

### PUBLIC AID DEPARTMENT

Documentary evidence, public  
records, §§ 9:2, 9:14

### PUBLIC ASSISTANCE

Hearsay evidence, public records or  
reports exception, § 10:56

### PUBLICATIONS

Documentary evidence, self-  
authentication, §§ 9:8, 9:9

Expert witnesses, § 7:23

Judicial notice, § 2:3

### PUBLIC HOUSING

Hearsay exception, ownership of  
property by public housing  
agency, § 10:66

Lay witnesses, testimony regarding  
whether certain property was,  
§ 7:11

### PUBLIC INTEREST MATTERS

Hearsay exception, § 10:66

### PUBLIC OFFICIALS

Presumptions and inferences, validity  
and regularity of official acts,  
§ 3:13

### PUBLIC PARK

Lay witnesses, testimony regarding  
whether certain property was,  
§ 7:11

### PUBLIC POLLS

Hearsay exception, § 10:63

### PUBLIC RECORDS

Destroyed public records  
documentary evidence, certified  
copies, § 9:2  
parol or extrinsic evidence affect-  
ing writings, § 12:1  
secondary evidence, §§ 6:4, 6:5  
Documentary evidence, §§ 9:2-9:6,  
9:10, 9:14

Hearsay exception, § 10:56

Judicial notice, §§ 2:1, 2:3, 2:10

Lost public records  
documentary evidence, certified  
copies, § 9:2  
parol or extrinsic evidence, § 12:1  
secondary evidence, §§ 6:4, 6:5  
Parol or extrinsic evidence affecting  
writings, § 12:1

Presumptions and inferences,  
Freedom of Information Act,  
§§ 3:6, 3:44

Secondary evidence, §§ 6:4, 6:5

### PUBLIC REPORTS

Hearsay exception, § 10:56

### PUNISHMENT

See index heading SENTENCING

### PUNITIVE DAMAGES

Presumptions and inferences, § 3:47

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

### PURE OPINION TESTIMONY

Expert witnesses, §§ 7:13, 7:27

### PURPOSE

Dead Man's Act, § 13:6

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Expert witness cross-examination,  
§ 7:31

Impeaching evidence to destroy cred-  
ibility of witness, § 18:1

Judicial notice, § 2:1

**PURPOSE—Cont'd**

- Laying foundation for evidence, § 1:5
- Limited purpose of other crimes evidence, relevancy of evidence, § 4:28
- Motions in limine, objections, § 20:13
- Privileges. See index heading PRIVILEGES
- Requests to admit, admissions, § 11:28
- Res ipsa loquitur doctrine, presumptions and inferences, §§ 3:9, 3:19

**QUALIFICATIONS**

- Expert witnesses, §§ 7:17-7:19, 7:28, 7:44-7:47

**QUALIFIED PRIVILEGE**

- See index heading PRIVILEGES

**QUALITY OF EVIDENCE**

- Needed for chain of custody, demonstrative evidence, § 8:6
- Secondary evidence, § 6:4

**QUASHAL OF SUBPOENA MOTION**

- Burden of proof, criminal cases, § 5:3

**QUASI-JUDICIAL PROCEEDINGS**

- Cross-examination of witnesses, § 17:11

**QUESTIONS AND QUESTIONING**

- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence, spontaneous declarations exception, § 10:19
- Parol or extrinsic evidence affecting writings, questions of law and fact, § 12:2
- Self-incrimination, privilege against, assertion of privilege, §§ 15:1, 15:3

**RADIO DISPATCHES OF POLICE**

- Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:10

**RAPE**

- Crisis counselor's privilege, § 14:19
- Hearsay evidence, spontaneous declarations exception, §§ 10:22, 10:23
- Impeachment. See index heading IMPEACHMENT
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Shield statute, §§ 4:52, 17:11, 21:1
- Victims
  - complaints, spontaneous declarations hearsay exception, §§ 10:22, 10:23
  - crisis counselor's privilege, § 14:19
  - rape shield statute, §§ 4:52, 17:11, 21:1

**RATE SCHEDULES**

- Hearsay exception, § 10:60

**REACTION**

- Hearsay evidence, out-of-court statements offered for purpose other than to prove truth of matter asserted are not hearsay, § 10:11

**READILY VERIFIABLE FACTS FROM SOURCES OF INDISPUTABLE ACCURACY**

- Judicial notice, § 2:1

**REAL EVIDENCE**

- Laying foundation for evidence, § 1:5

**REAL PROPERTY**

- Adverse possession. See index heading ADVERSE POSSESSION
- Deeds. See index heading DEEDS
- Documentary evidence. See index heading DOCUMENTARY EVIDENCE

## INDEX

### **REAL PROPERTY—Cont'd**

- Eminent domain. See index heading  
EMINENT DOMAIN
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Parol or extrinsic evidence affecting  
writings, land trust agreements,  
§ 12:1
- Presumptions and inferences,  
§§ 3:35, 3:36
- Relevancy of evidence, other sales to  
prove value, § 4:55
- Surveyors. See index heading  
SURVEYORS
- Value of property. See index heading  
VALUE OF PROPERTY
- Zoning. See index heading ZONING

### **REASONABLE OR REASONABLENESS**

- Burden of proof, reasonable value of  
attorney's services, § 5:13
- Duces tecum subpoenas, § 16:2
- Expert witnesses, information reason-  
ably relied upon, §§ 7:22, 7:50

### **REASONS**

- Hearsay exclusion, § 10:2
- Objections, stating reasons, § 20:7-  
20:9

### **REASSERTION FOLLOWING WAIVER**

- Self-incrimination, privilege against,  
§ 15:6

### **REBUTTABLE PRESUMPTIONS**

- See index heading PRESUMPTIONS  
AND INFERENCES

### **REBUTTAL**

- Charge of mistake or inaccuracy,  
prior consistent statements,  
§§ 10:38, 18:31
- Examination of witnesses, §§ 17:1,  
17:17, 17:18
- Expert witness testifying in, § 7:23
- Impeachment, prior consistent state-  
ments, § 18:31
- Relevancy of evidence, exception to  
general rule against admissibil-  
ity of other crimes evidence,  
§ 4:46

### **RECEIPT OF CORRESPONDENCE**

- Presumption of, § 3:43

### **RECKLESS HOMICIDE**

- Demonstrative evidence, out-of-court  
experiments and tests regarding  
intoxication, § 8:12
- Eavesdropping, § 14:20
- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Relevancy of evidence, § 4:12

### **RECOGNIZED TEXTBOOK**

- Expert witnesses, use to challenge  
basis of opinion on cross-exami-  
nation, § 7:33

### **RECOLLECTION OR MEMORY**

- Competency of witnesses, ability to  
recollect, §§ 13:1, 13:4
- Hearsay exception, past recollection  
recorded, § 10:57
- Lay witnesses, § 7:1
- Refreshing memory of witnesses. See  
index heading REFRESHING MEM-  
ORY OF WITNESSES

### **RECONSTRUCTION**

- Accidents, experts and expert wit-  
nesses, §§ 7:32, 7:37, 7:38, 8:10
- Experiments, demonstrative evi-  
dence, § 8:10

### **RECORDED OR RECORDING**

- Documentary evidence, certified cop-  
ies of public records, § 9:5
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE

### **RECORDINGS**

- Documentary evidence. See index  
heading DOCUMENTARY EVI-  
DENCE
- Sound recordings. See index heading  
SOUND RECORDINGS
- Tape recordings. See index heading  
TAPE RECORDINGS

### **RECORDS**

- Admissions, § 11:24-11:32
- Bank records. See index heading  
BANKS



**RECORDS—Cont'd**

- Business records. See index heading  
BUSINESS
- Certification of records. See index  
heading CERTIFICATION OF  
RECORDS
- Computer records, §§ 1:5, 10:55,  
10:56
- Corporate records. See index heading  
CORPORATIONS
- Corrections Department, §§ 2:3,  
2:10, 10:56
- Custodian of records. See index  
heading CUSTODIAN OF RECORDS
- Documentary evidence. See index  
heading DOCUMENTARY EVI-  
DENCE
- Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Judicial notice, §§ 2:1, 2:3, 2:9, 2:10
- Medical records. See index heading  
MEDICAL RECORDS
- Privileges. See index heading PRIVI-  
LEGES
- Public records. See index heading  
PUBLIC RECORDS

**RECOVERY PROCEEDINGS**

- Sexually Dangerous Persons Act,  
§§ 5:19, 7:17

**REDEMPTION OF PROPERTY**

- Presumptions and inferences, § 3:35

**REDIRECT EXAMINATION OF  
WITNESSES**

- Generally, §§ 17:10, 17:14, 17:15,  
18:32

**REDUNDANT EVIDENCE**

- Relevancy of evidence, exclusion of  
otherwise admissible evidence,  
§ 4:22

**REFERENCE**

- Admissions, persons referred to for  
information, § 11:20
- Expert witnesses, reference to lie  
detector tests, § 7:85

**REFORMATION OF  
INSTRUMENT**

- Burden of proof, civil cases, § 5:19

**REFRESHING MEMORY OF  
WITNESSES**

- Generally, § 19:1-19:3
- Criminal defendant, hypnotically  
enhanced testimony, § 19:3
- Cross-examination, §§ 19:1, 19:2
- Discretion of court, § 19:1
- Documents, refreshing with, §§ 19:1,  
19:2
- Due process, hypnotically enhanced  
testimony, § 19:3
- During testimony, §§ 19:1, 19:2
- Examination of documents used by  
witness, request by opposing  
counsel, §§ 19:1, 19:2
- Expert witnesses, hypnotically  
enhanced testimony, § 19:3
- Foundation, §§ 19:1, 19:2
- Hypnotically enhanced testimony of  
anyone other than criminal  
defendant is inadmissible,  
§ 19:3
- Inadmissibility of hypnotically  
enhanced testimony of anyone  
other than criminal defendant,  
§ 19:3
- Insufficient foundation, §§ 19:1, 19:2
- Medical malpractice, § 19:2
- Opposing counsel, request to exam-  
ine and use on cross-examina-  
tion any documents used by wit-  
ness, §§ 19:1, 19:2
- Personal knowledge, §§ 19:1, 19:2
- Police reports, § 19:2
- Pretrial refreshing, §§ 19:1, 19:2
- Reports, §§ 19:1, 19:2
- Request by opposing counsel to  
examine and use on cross-exam-  
ination any documents used by  
witness, §§ 19:1, 19:2
- Third party, document prepared by,  
§ 19:2
- Use on cross-examination of any  
documents used by witness,  
request by opposing counsel,  
§§ 19:1, 19:2

## INDEX

### REFRESHING MEMORY OF WITNESSES—Cont'd

Violation of due process, hypnotically enhanced testimony, § 19:3

### REFUNDS

Tax refunds, burden of proof, § 5:15

### REFUSAL

Hearsay exception, refusal of declarant to testify, § 10:15

Objections, refusal to permit offers of proof, § 20:18

Self-incrimination, privilege against, refusal to take drug or chemical test, §§ 15:1, 15:7

### REGISTERS

Hearsay exceptions, §§ 10:60, 10:62

### REGISTRATION

Privileges, Attorney Registration and Disciplinary Commission, §§ 14:5, 14:20

### REGULARITY

See index heading PRESUMPTIONS AND INFERENCES

### REGULATIONS

See index heading ADMINISTRATIVE REGULATIONS

### REHABILITATION

Counselor, physician-patient privilege, § 14:14

Expert medical testimony, §§ 7:45, 7:69

Impeached witness, § 18:29-18:32

Witnesses, §§ 10:38, 18:29-18:32

### REHEARSED TESTIMONY

Impeachment, prior consistent statements, § 18:31

### REJECTION

See index heading ACCEPTANCE OR REJECTION

### RELATIVES

See index heading FAMILY AND RELATIVES

### RELEASES

Parol or extrinsic evidence affecting writings, § 12:1

### RELEVANCY

Evidence. See index heading RELEVANCY OF EVIDENCE

Privileged information, reporter's privilege, § 14:17

Questions, examination of witnesses, § 17:2

### RELEVANCY OF EVIDENCE

Generally, § 4:1-4:67

Absence

accidents

other crimes evidence, §§ 4:40, 4:44, 4:46

prior accidents, similar conditions or occurrences, §§ 4:61, 4:62

due care, habits of persons, § 4:59

mistake, other crimes evidence, §§ 4:29, 4:38, 4:39, 4:44, 4:46

prior accidents or incidents, similar conditions or occurrences, §§ 4:61, 4:62

Abuse of persons

children, below

sexual abuse, §§ 4:39, 4:41, 4:46, 4:52

spouse, other crimes evidence, §§ 4:38, 4:39

Accidents

absence, above

automobiles, below

cause and effect, § 4:64

other accidents, similar conditions or occurrences, § 4:62

other crimes evidence, §§ 4:38-4:40, 4:43, 4:44, 4:46

similar conditions or occurrences, §§ 4:61, 4:62

Acts of third party, relevance to accused's innocence, § 4:17

Administrative regulations, similar conditions or occurrences, § 4:57

## RELEVANCY OF EVIDENCE

### —Cont'd

- Admissibility of relevant evidence, § 4:1-4:67
- Admissions by party opponent, relevancy limitations, § 11:1
- Adverse party, admission of evidence made relevant by, §§ 4:24, 4:25
- Affiliation with gang, character and reputation, § 4:51
- Aggravated battery, other crimes evidence, § 4:39
- Aggressive character of homicide victim, § 4:50
- Alcohol
  - blood alcohol tests, below consumption of alcohol, civil cases, § 4:6
  - driving under the influence, below intoxication, below
- Alias of defendant, criminal cases, § 4:11
- Alibi defense, rebuttal to defendant's evidence exception to general rule against admissibility of other crimes evidence, § 4:46
- Animals' habits, similar conditions or occurrences, § 4:60
- Antitrust cases, § 4:3
- Appeal and review
  - other crimes evidence, §§ 4:26, 4:28
  - reversible error, financial condition of parties, § 4:53
- Applicable statutes, other crimes evidence, § 4:30
- Armed robbery
  - habits of persons, similar conditions or occurrences, § 4:59
  - other crimes evidence, §§ 4:36, 4:38, 4:39, 4:41, 4:43
  - victims
    - character and reputation, § 4:50
    - habits of persons, similar conditions or occurrences, § 4:59
- Arrest
  - other crimes evidence, §§ 4:29, 4:34, 4:36, 4:39, 4:45
  - resisting arrest cases, § 4:11

## RELEVANCY OF EVIDENCE

### —Cont'd

- Assault and battery
  - other accidents or injuries, similar conditions or occurrences, § 4:62
  - other crimes evidence, §§ 4:38, 4:39, 4:44
  - sexual assault
    - other crimes evidence, § 4:44
    - rape shield statute, § 4:52
- Assumed name used by defendant, criminal cases, § 4:11
- Attempted armed robbery, other crimes evidence, § 4:38
- Automobiles
  - accidents
    - civil cases, generally, § 4:9
    - consumption of alcohol or drugs, § 4:6
    - failure to use seat belt, § 4:66
    - driving under the influence, below previous conduct of employees, similar conditions or occurrences, § 4:58
- Balancing test, other crimes evidence, § 4:26
- Battery. Assault and battery, above
- Belief, direct testimony to show state of mind of witness, § 4:65
- Bench trials, other crimes evidence, § 4:26
- Blood alcohol tests
  - cause and effect, § 4:64
  - consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- Breath tests, criminal cases, § 4:11
- Burden of establishing relevancy, § 4:2
- Burglary cases, other crimes evidence, § 4:37
- Care
  - customs and usages, similar conditions or occurrences, § 4:56
  - due care, habits of persons, § 4:59
  - employment rules and safety codes, similar conditions or occurrences, § 4:57

## INDEX

### RELEVANCY OF EVIDENCE

#### —Cont'd

##### Care—Cont'd

- standard of care
  - employment rules and safety codes, similar conditions or occurrences, § 4:57
  - medical malpractice, §§ 4:4, 4:56, 4:64
- standard of care, customs and usages, § 4:56

##### Cause

- and effect, §§ 4:63, 4:64
- proximate cause, §§ 4:63, 4:67

##### Character and reputation

- generally, § 4:48-4:51
- admission of evidence made relevant by adverse party, § 4:24
- good character of victim, admission of evidence made relevant by adverse party, § 4:24
- habits of persons, similar conditions or occurrences, § 4:59
- previous conduct of employees, similar conditions or occurrences, § 4:58
- rape shield statute, § 4:52

##### Children

- abuse or neglect of children
    - generally, § 4:10
    - other crimes evidence, generally, §§ 4:38, 4:39, 4:41, 4:44
    - sexual abuse, other crimes evidence, §§ 4:39, 4:41, 4:46
  - dissolution of marriage cases, § 4:7
  - juvenile delinquency cases, § 4:11-4:17
  - neglect. Abuse or neglect of children, above in this group
  - previous conduct of employees, similar conditions or occurrences, § 4:58
  - rape shield statute, § 4:52
  - sexual abuse of child, other crimes evidence, §§ 4:39, 4:41, 4:46
- Cigarette smoking, civil cases, § 4:3

### RELEVANCY OF EVIDENCE

#### —Cont'd

##### Civil cases

- generally, § 4:3-4:9
- conduct of third parties, § 4:67
- medical malpractice, below
- negligence, below
- other crimes evidence, §§ 4:26, 4:31, 4:39
- products liability cases, below

##### Civil conspiracy cases, § 4:3

##### Collateral evidence, cause and effect, §§ 4:63, 4:64

##### Collateral source rule, financial condition of parties, § 4:53

##### Commercial transactions, customs and usages, § 4:56

##### Common design or scheme exception to general rule against admissibility of other crimes evidence, § 4:41

##### Compensatory damages, financial condition of parties, § 4:53

##### Completeness doctrine, admission of evidence made relevant by adverse party, § 4:25

##### Conditions

- financial conditions, §§ 4:3, 4:53-4:55
- similar conditions, § 4:56-4:62

##### Conduct of persons

- character and reputation, § 4:48
- depraved sexual instincts doctrine, exception to general rule against admissibility of other crimes evidence, § 4:47
- employment rules and safety codes, similar conditions or occurrences, § 4:57
- habits of persons, similar conditions or occurrences, § 4:59
- identification exception to general rule against admissibility of other crimes evidence, § 4:43
- misconduct, other crimes evidence, §§ 4:26, 4:31
- other crimes evidence, generally, § 4:26

## RELEVANCY OF EVIDENCE

### —Cont'd

- Conduct of persons—Cont'd
  - previous conduct of employees, similar conditions or occurrences, § 4:58
  - rape shield statute, § 4:52
  - third parties, § 4:67
- Confessions, §§ 4:11, 4:24
- Consciousness of guilt, §§ 4:19, 4:45
- Conspiracy, § 4:3
- Constitutional matters, rape shield statute, § 4:52
- Consumption of alcohol or drugs, civil cases, § 4:6
- Continuing narrative exception to general rule against admissibility of other crimes evidence, § 4:42
- Contracts, customs and usages, § 4:56
- Conversations, admission of evidence made relevant by adverse party, § 4:25
- Corroborative evidence, other crimes evidence, §§ 4:26, 4:47
- Course of conduct, identification exception to general rule against admissibility of other crimes evidence, § 4:43
- Course of dealing, customs and usages, § 4:56
- Credibility of witnesses, criminal cases, § 4:11
- Criminal cases
  - generally, §§ 4:10-4:17, 4:23
  - armed robbery, above
  - assault and battery, above
  - death penalty cases, §§ 4:16, 4:26, 4:51
  - defenses, below
  - direct testimony to show state of mind of witness, § 4:65
  - homicide, below
  - other crimes evidence, § 4:26-4:47
  - robbery, below
  - sentencing, below
  - sex offenses, below
  - victims of crimes, below

## RELEVANCY OF EVIDENCE

### —Cont'd

- Cross-examination of witnesses
  - generally, § 17:2
  - admission of evidence made relevant by adverse party, § 4:24
  - character and reputation, § 4:49
  - completeness doctrine, § 17:15
  - rape shield statute, § 4:52
- Cumulative evidence, exclusion of otherwise admissible evidence, § 4:22
- Cure
  - doctrine of curative admissibility, admission of evidence made relevant by adverse party, § 4:24
  - improperly admitted other crimes evidence, § 4:28
- Custody of children, dissolution of marriage cases, § 4:7
- Customs and usages, similar conditions or occurrences, § 4:56
- Damages
  - civil cases, generally, § 4:8
  - failure to use seat belt, § 4:66
  - liability insurance, financial conditions, § 4:54
  - parties' financial condition, § 4:53
  - punitive damages, below
- Death
  - penalty cases, §§ 4:16, 4:26, 4:51
  - wrongful death, below
- Defamation, civil cases, § 4:3
- Defenses
  - alibi defense, rebuttal to defendant's evidence exception to general rule against admissibility of other crimes evidence, § 4:46
  - entrapment defense, §§ 4:11, 4:46
  - insanity defense, §§ 4:11, 4:29, 4:46
  - justification defense, admission of evidence made relevant by adverse party, § 4:24
  - self-defense, below
- Definitions
  - other crimes evidence, § 4:26

## INDEX

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Definitions—Cont'd
  - unfair prejudice, § 4:19
- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Depraved sexual instincts doctrine, exception to general rule against admissibility of other crimes evidence, § 4:47
- Determinations, §§ 4:2, 4:19
- Direct testimony to show state of mind of witness, § 4:65
- Disclosure, liability insurance, § 4:54
- Discretion of court
  - criminal cases, generally, § 4:11
  - determination of relevancy, § 4:2
  - direct testimony to show state of mind of witness, § 4:65
  - exclusion of otherwise admissible evidence, §§ 4:18-4:20, 4:22
  - habits of persons, similar conditions or occurrences, § 4:59
  - liability insurance, financial conditions, § 4:54
  - other sales of real property to prove value, financial conditions, § 4:55
- Dissolution of marriage cases, § 4:7
- Doctors. Physicians, below
- Documentary evidence, relevancy of photographs, § 9:16
- Driving under the influence
  - consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
  - criminal cases, generally, § 4:11
- Drugs
  - absence of mistake exception to general rule against admissibility of other crimes evidence, § 4:44
  - consumption of drugs, civil cases, § 4:6
  - continuing narrative exception to general rule against admissibility of other crimes evidence, § 4:42

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Drugs—Cont'd
  - criminal cases, generally, § 4:14
  - identification exception to general rule against admissibility of other crimes evidence, § 4:43
  - intent exception to general rule against admissibility of other crimes evidence, § 4:38
  - intoxication, below
  - knowledge exception to general rule against admissibility of other crimes evidence, § 4:40
  - motive exception to general rule against admissibility of other crimes evidence, § 4:39
- Due care, habits of persons, § 4:59
- Duty of care, employment rules and safety codes, § 4:57
- Effect, cause and, §§ 4:63, 4:64
- Eminent domain cases, other sales of real property to prove value, § 4:55
- Employment-related matters
  - civil cases, generally, § 4:3
  - conduct of third parties, § 4:67
  - criminal cases, § 4:11
  - retaliatory discharge, below
  - similar conditions or occurrences, §§ 4:57, 4:58
- Entrapment defense, §§ 4:11, 4:46
- Errors or mistakes
  - absence of mistake, other crimes evidence, §§ 4:29, 4:38, 4:39, 4:44, 4:46
  - admission of evidence, §§ 4:11, 4:26, 4:28, 4:29
- Examination of witnesses
  - cross-examination of witnesses, above
  - direct testimony to show state of mind of witness, § 4:65
  - prior statements, impeachment of witnesses, § 17:18
- Exceptions to general rule against admissibility of other crimes evidence, §§ 4:26, 4:29, 4:32-4:47

## RELEVANCY OF EVIDENCE

### —Cont'd

- Exclusion of irrelevant evidence,  
§ 4:1-4:67
- Expert witnesses
  - auto accident, civil cases, § 4:9
  - exclusion of otherwise admissible evidence, § 4:19
  - medical malpractice, civil cases,  
§ 4:4
  - similarity of conditions, § 4:61
- Eyewitnesses, habits of persons,  
§ 4:59
- Failure to use seat belt, § 4:66
- False exculpatory statements,
  - consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- False name use, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- Federal Rules of Evidence, §§ 4:18, 4:26
- Fifth Amendment privilege, criminal cases, § 4:11
- Financial conditions, §§ 4:3, 4:53-4:55
- Flight of defendant, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- Forgery, intent exception to general rule against admissibility of other crimes evidence, § 4:38
- Gangs
  - admission of evidence made relevant by adverse party, § 4:24
  - character and reputation, § 4:51
- Good character of victim, admission of evidence made relevant by adverse party, § 4:24
- Goods' sale, customs and usages,  
§ 4:56
- Habits of persons or animals, similar conditions or occurrences,  
§§ 4:59, 4:60
- Harmless error, improperly admitted other crimes evidence, §§ 4:26, 4:28

## RELEVANCY OF EVIDENCE

### —Cont'd

- Hearings, sentencing, §§ 4:15, 4:16, 4:26, 4:51
- Hearsay evidence. See index heading  
HEARSAY EVIDENCE
- Home invasion cases, other crimes evidence, §§ 4:38, 4:39
- Homicide
  - generally, §§ 4:11, 4:12
  - absence of mistake exception to general rule against admissibility of other crimes evidence, § 4:44
  - common design or scheme exception to general rule against admissibility of other crimes evidence, § 4:41
  - gang membership or affiliation, character and reputation,  
§ 4:51
  - habits of persons, similar conditions or occurrences, § 4:59
  - intent exception to general rule against admissibility of other crimes evidence, § 4:38
  - knowledge exception to general rule against admissibility of other crimes evidence, § 4:40
  - modus operandi exception to general rule against admissibility of other crimes evidence,  
§§ 4:34, 4:35
  - motive exception to general rule against admissibility of other crimes evidence, § 4:39
  - other crimes evidence, generally,  
§§ 4:12, 4:26
  - third party's acts, relevance to accused's innocence, § 4:17
  - victims
    - generally, § 4:12
    - character of victim, § 4:50
    - habits of persons, similar conditions or occurrences, § 4:59
- Husband and wife. Spouses, below
- Identification, other crimes evidence,  
§§ 4:35, 4:38-4:40, 4:43, 4:44, 4:46



## INDEX

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Identity of person, other crimes evidence, §§ 4:33, 4:35, 4:37, 4:38, 4:43
- Impeachment. See index heading  
IMPEACHMENT
- Improvements, other sales of real property to prove value, § 4:55
- Imputed knowledge, previous conduct of employees, § 4:58
- Inadmissibility of irrelevant evidence, § 4:1-4:67
- Incapacity, previous conduct of employees, § 4:58
- Incompetence, previous conduct of employees, § 4:58
- Industry matters
  - safety practices, similar conditions or occurrences, § 4:57
  - standards, §§ 4:56, 4:64
- Injuries
  - cause and effect, §§ 4:63, 4:64
  - civil cases, generally, §§ 4:3, 4:4, 4:8, 4:9
  - conduct of third parties, § 4:67
  - other injuries, similar conditions or occurrences, § 4:62
  - personal injuries, below
    - same part of the body cases, § 4:5
    - similar conditions or occurrences, §§ 4:61, 4:62
- Innocence of accused, relevance of third party's acts to, § 4:17
- Insanity defense, §§ 4:11, 4:29, 4:46
- Instructions to jury, other crimes evidence, § 4:28
- Insurance
  - civil cases, generally, § 4:3
  - customs and usages, similar conditions or occurrences, § 4:56
  - liability insurance, financial conditions, § 4:54
  - other crimes evidence, § 4:31
- Intent
  - direct testimony to show state of mind of witness, § 4:65
  - other crimes evidence, §§ 4:29, 4:35, 4:38-4:46

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Intimidation of witnesses, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- Intoxication
  - cause and effect, § 4:64
  - conduct of third parties, § 4:67
  - consumption of alcohol or drugs, civil cases, § 4:6
  - reckless homicide cases, § 4:12
- Involuntary commitment proceedings, § 4:3
- Irrelevant evidence is inadmissible, § 4:1-4:67
- Issues, §§ 4:2-4:17, 4:21
- Jury
  - exclusion of otherwise admissible evidence that might mislead jury, § 4:21
  - instructions to jury, other crimes evidence, § 4:28
- Justification defense, admission of evidence made relevant by adverse party, § 4:24
- Juvenile delinquency cases, § 4:11-4:17
- Knowledge
  - cause and effect, § 4:64
  - homicide victim's character, § 4:50
  - other crimes evidence, §§ 4:35, 4:38-4:40, 4:43, 4:44
  - previous conduct of employees, similar conditions or occurrences, § 4:58
- Lack. Absence, above
- Laws. Statutes, below
- Laying foundation, habits of persons, § 4:59
- Liability insurance, financial conditions, § 4:54
- Limitations
  - generally, §§ 4:1, 4:2
  - admissions by party opponent, relevancy limitations, § 11:1
  - common design or scheme exception to general rule against admissibility of other crimes

## RELEVANCY OF EVIDENCE

### —Cont'd

- Limitations—Cont'd
  - evidence, § 4:41
  - need for limiting instruction, other crimes evidence, § 4:28
  - other crimes evidence, § 4:26-4:28
- Loss of consortium claim by spouse, civil cases, § 4:3
- Lynch rule, homicide victim's character, § 4:50
- Medical malpractice
  - generally, § 4:4
  - cause and effect, § 4:64
  - customs and usages, similar conditions or occurrences, § 4:56
  - other accidents or injuries, similar conditions or occurrences, § 4:62
  - standard of care, §§ 4:4, 4:56, 4:64
  - subsequent remedial measures, §§ 4:4, 4:62
- Membership in gang, §§ 4:24, 4:51
- Mini-trials, other crimes evidence, § 4:27
- Minors. Children, above
- Misconduct, other crimes evidence, §§ 4:26, 4:31
- Mistakes. Errors or mistakes, above
- Mistrial, liability insurance, § 4:54
- Modus operandi, other crimes evidence, §§ 4:29, 4:33-4:38, 4:43
- Motive
  - direct testimony to show state of mind of witness, § 4:65
  - gang membership or affiliation, character and reputation, § 4:51
  - homicide cases, § 4:12
  - other crimes evidence, §§ 4:29, 4:35, 4:38, 4:39, 4:41, 4:44
- Motor vehicles
  - automobiles, above
  - driving under the influence, above
- Name
  - assumed name used by defendant, criminal cases, § 4:11
  - false name use, consciousness of guilt exception to general rule against admissibility of other

## RELEVANCY OF EVIDENCE

### —Cont'd

- Name—Cont'd
  - crimes evidence, § 4:45
- Need for limiting instruction, other crimes evidence, § 4:28
- Neglect of children. Children, above
- Negligence
  - cause and effect, §§ 4:63, 4:64
  - civil cases, generally, § 4:3
  - consumption of alcohol or drugs, § 4:6
  - customs and usages, similar conditions or occurrences, § 4:56
  - damages, civil cases, § 4:8
  - employment rules and safety codes, similar conditions or occurrences, § 4:57
  - failure to use seat belt, § 4:66
  - habits of persons, similar conditions or occurrences, § 4:59
  - other accidents or injuries, similar conditions or occurrences, § 4:62
- No mini-trials, other crimes evidence, § 4:27
- Notice, other accidents or injuries, § 4:62
- Nurses, habits of persons, § 4:59
- Occurrences, similar, § 4:56-4:62
- Opening the door, admission of evidence made relevant by adverse party, § 4:24
- Opinion testimony, customs and usages, § 4:56
- OSHA standards, employment rules and safety codes, § 4:57
- Other accidents or injuries, similar conditions or occurrences, § 4:62
- Other crimes evidence
  - generally, § 4:26-4:47
  - death penalty cases, sentencing, § 4:16
  - otherwise admissible evidence, exclusion of, § 4:19-4:21
  - third party's acts, relevance to accused's innocence, § 4:17

## INDEX

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Other sales of real property to prove value, financial conditions, § 4:55
- Other transaction evidence, conduct of third parties, § 4:67
- Outweighing of probative value of evidence by prejudicial effect, §§ 4:18, 4:19, 4:46
- Pain and suffering damages, civil cases, § 4:8
- Parental termination proceedings, §§ 4:10, 4:26
- Parties
  - adverse party, admission of evidence made relevant by, §§ 4:24, 4:25
  - financial condition of party, §§ 4:3, 4:53
- Pattern of conduct, identification exception to general rule against admissibility of other crimes evidence, § 4:43
- Personal injuries
  - auto accident, civil cases, § 4:9
  - damages, civil cases, § 4:8
  - financial condition of parties, § 4:53
  - same part of the body cases, civil cases, § 4:5
- Person introduced as evidence, criminal cases, § 4:11
- Persons' habits, similar conditions or occurrences, § 4:59
- Physicians
  - character and reputation, § 4:49
  - habits of persons, similar conditions or occurrences, § 4:59
  - medical malpractice, above
- Police reports, §§ 4:11, 4:25
- Possession of drugs, motive exception to general rule against admissibility of other crimes evidence, § 4:39
- Poverty of party, civil cases, § 4:3
- Precharting, medical malpractice cases, § 4:4
- Pregnancy of victim, homicide cases, § 4:12

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Prejudice, §§ 4:11, 4:18, 4:19, 4:26, 4:29, 4:30, 4:46, 4:51, 4:54
- Presentencing report, criminal cases, § 4:15
- Previous matters. Prior or previous matters, below
- Price, other sales of real property to prove value, § 4:55
- Prior or previous matters
  - absence of prior accidents or incidents, similar conditions or occurrences, §§ 4:61, 4:62
  - conduct of employees, similar conditions or occurrences, § 4:58
  - conviction, other crimes evidence, § 4:30
- Probate cases, settlements, §§ 4:1, 4:3
- Probative evidence and probative value of evidence, §§ 4:2, 4:11, 4:18-4:20, 4:26, 4:29, 4:30, 4:39, 4:46, 4:51, 4:67
- Products liability cases
  - generally, § 4:3
  - cause and effect, § 4:64
  - other accidents or injuries, similar conditions or occurrences, § 4:62
- Propensity to commit charged crime, other crimes evidence, § 4:30
- Proximate cause, §§ 4:63, 4:67
- Punitive damages
  - civil cases, generally, § 4:8
  - financial condition of parties, § 4:53
  - other accidents or injuries, similar conditions or occurrences, § 4:62
- Rape
  - generally, § 4:13
  - other crimes evidence, §§ 4:35, 4:44
  - shield statute, § 4:52
- Real property, other sales to prove value, § 4:55

## RELEVANCY OF EVIDENCE

### —Cont'd

- Rebuttal to defendant's evidence  
exception to general rule against  
admissibility of other crimes  
evidence, § 4:46
- Reckless homicide cases, § 4:12
- Redundant evidence, exclusion of  
otherwise admissible evidence,  
§ 4:22
- Remote probative value of evidence,  
exclusion of otherwise admis-  
sible evidence, § 4:20
- Reports
  - police reports, §§ 4:11, 4:25
  - presentencing report, criminal  
cases, § 4:15
- Reputation. Character and reputation,  
above
- Resisting arrest cases, criminal cases,  
§ 4:11
- Retaliatory discharge
  - civil cases, generally, § 4:3
  - other crimes evidence, §§ 4:31,  
4:39
- Reversible error, financial condition  
of parties, § 4:53
- Review. Appeal and review, above
- Robbery
  - armed robbery, above
  - rebuttal to defendant's evidence  
exception to general rule  
against admissibility of other  
crimes evidence, § 4:46
- Rules
  - employment rules, similar condi-  
tions or occurrences, § 4:57
  - Federal Rules of Evidence,  
§§ 4:18, 4:26
- Safety codes, similar conditions or  
occurrences, § 4:57
- Sales
  - goods, customs and usages, § 4:56
  - other sales of real property to  
prove value, financial condi-  
tions, § 4:55
- Same part of the body cases, civil  
cases, § 4:5
- Sanity, criminal cases, § 4:11

## RELEVANCY OF EVIDENCE

### —Cont'd

- School desegregation, other crimes  
evidence, § 4:31
- Seat belt, failure to use, § 4:66
- Self-defense
  - admission of evidence made rele-  
vant by adverse party, § 4:24
  - direct testimony to show state of  
mind of witness, § 4:65
  - homicide victim's character,  
§ 4:50
  - rebuttal to defendant's evidence  
exception to general rule  
against admissibility of other  
crimes evidence, § 4:46
- Sentencing
  - criminal cases, generally, §§ 4:11,  
4:15, 4:16
  - death penalty cases, §§ 4:16, 4:26,  
4:51
  - gang membership or affiliation,  
character and reputation,  
§ 4:51
  - hearings, §§ 4:15, 4:16, 4:26, 4:51
  - other crimes evidence, § 4:26
- Settlements, probate cases, §§ 4:1,  
4:3
- Sex offenses
  - generally, §§ 4:11, 4:13
  - absence of mistake exception to  
general rule against admis-  
sibility of other crimes evi-  
dence, § 4:44
  - abuse, §§ 4:39, 4:41, 4:46, 4:52
  - assault and battery, above
  - continuing narrative exception to  
general rule against admis-  
sibility of other crimes evi-  
dence, § 4:42
  - exception to general rule against  
admissibility of other crimes  
evidence, generally, § 4:47
  - intent exception to general rule  
against admissibility of other  
crimes evidence, § 4:38
  - modus operandi exception to gen-  
eral rule against admissibility  
of other crimes evidence,  
§§ 4:34, 4:35

## INDEX

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Sex offenses—Cont'd
  - other crimes evidence, generally, § 4:30
  - rape, above
  - rebuttal to defendant's evidence
    - exception to general rule against admissibility of other crimes evidence, § 4:46
- Similar conditions or occurrences, § 4:56-4:62
- Speculative evidence, exclusion of otherwise admissible evidence, §§ 4:20, 4:21
- Spouses
  - abuse of spouse, other crimes evidence, §§ 4:38, 4:39
  - dissolution of marriage cases, § 4:7
- Standards
  - care, above
  - cause and effect, § 4:64
  - customs and usages, similar conditions or occurrences, § 4:56
  - employment rules and safety codes, similar conditions or occurrences, § 4:57
  - industry standards, §§ 4:56, 4:64
- State of mind
  - character of homicide victim, § 4:50
  - criminal cases, generally, § 4:11
  - direct testimony to show state of mind of witness, § 4:65
  - exceptions to general rule against admissibility of other crimes evidence, §§ 4:38, 4:39
  - homicide cases, §§ 4:12, 4:50
  - intent, above
  - motive, above
- Statutes
  - customs and usages, similar conditions or occurrences, § 4:56
  - failure to use seat belt, § 4:66
  - OSHA standards, employment rules and safety codes, § 4:57
  - other crimes evidence, § 4:30
  - rape shield statute, § 4:52

### RELEVANCY OF EVIDENCE

#### —Cont'd

- Stipulation by criminal defendant, §§ 4:11, 4:23
- Subsequent remedial measures
  - cause and effect, § 4:64
  - medical malpractice, §§ 4:4, 4:62
- Suicide, consciousness of guilt
  - exception to general rule against admissibility of other crimes evidence, § 4:45
- Teachers, character and reputation, § 4:49
- Testimony. Witnesses, below
- Theory of case, § 4:2
- Third parties
  - conduct of third parties, § 4:67
  - innocence of accused, relevance of third party's acts to, § 4:17
- Threats, other crimes evidence, §§ 4:39, 4:44, 4:45
- Trade usages, similar conditions or occurrences, § 4:56
- Transactions
  - commercial transactions, customs and usages, § 4:56
  - other transaction evidence, conduct of third parties, § 4:67
- Uncertain probative value of evidence, exclusion of otherwise admissible evidence, §§ 4:20, 4:21
- Unfair prejudice, §§ 4:19, 4:20, 4:26, 4:30
- Use
  - assumed name used by defendant, criminal cases, § 4:11
  - customs and usages, similar conditions or occurrences, § 4:56
  - failure to use seat belt, § 4:66
  - false name use, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
- Value of real property, other sales to prove, § 4:55
- Victims of crimes
  - armed robbery, above

**RELEVANCY OF EVIDENCE****—Cont'd**

- Victims of crimes—Cont'd
  - good character of victim, admission of evidence made relevant by adverse party, § 4:24
  - homicide, above
  - impact statements, sentencing, §§ 4:15, 4:16
  - motive exception to general rule against admissibility of other crimes evidence, § 4:39
  - rape shield statute, § 4:52
- Videotapes, exclusion of otherwise admissible evidence, § 4:19
- Violations, employment rules and safety codes, § 4:57
- Violent character of homicide victim, § 4:50
- Wealth of party, civil cases, § 4:3
- Wife and husband. Spouses, above
- Willingness of criminal defendant to stipulate, exclusion of otherwise admissible evidence, § 4:23
- Wills, § 4:3
- Witnesses
  - admission of evidence made relevant by adverse party, §§ 4:24, 4:25
  - auto accident, civil cases, § 4:9
  - cause and effect, § 4:64
  - character and reputation, §§ 4:49, 4:50
  - consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45
  - criminal cases, generally, § 4:11
  - cross-examination of witnesses, above
  - customs and usages, similar conditions or occurrences, § 4:56
  - death penalty cases, sentencing, § 4:16
  - direct testimony to show state of mind of witness, § 4:65
  - examination of witnesses, above
  - expert witnesses, above
  - habits of persons, similar conditions or occurrences, § 4:59

**RELEVANCY OF EVIDENCE****—Cont'd**

- Witnesses—Cont'd
  - homicide cases, §§ 4:12, 4:50
  - knowledge exception to general rule against admissibility of other crimes evidence, § 4:40
  - medical malpractice, § 4:4
  - modus operandi exception to general rule against admissibility of other crimes evidence, § 4:35
  - other crimes evidence, generally, §§ 4:26, 4:29
  - rebuttal to defendant's evidence exception to general rule against admissibility of other crimes evidence, § 4:46
  - same part of the body cases, civil cases, § 4:5
  - sex offense cases, § 4:13
  - similarity of conditions, § 4:61
- Writings, admission of evidence made relevant by adverse party, § 4:25
- Wrongful death
  - damages, civil cases, § 4:8
  - financial condition of parties, § 4:53
- Zoning, other sales of real property to prove value, § 4:55

**RELIABILITY**

- Expert witnesses, standards, § 7:22
- Hearsay evidence, statutory exceptions, §§ 10:43, 10:46, 10:49

**RELIANCE**

- See index heading EXPERTS AND EXPERT WITNESSES

**RELIEF**

- See index heading REMEDIES OR RELIEF

**RELIGION AND RELIGIOUS MATTERS**

- Clergy/spiritual advisor-communicant privilege. See index heading CLERGY/SPIRITUAL ADVISOR-COMMUNICANT PRIVILEGE

## INDEX

### RELIGION AND RELIGIOUS MATTERS—Cont'd

- Hearsay exception, religious organizations' records, § 10:58
- Impeachment, religious beliefs or opinions, § 18:11

### REMEDIES OR RELIEF

- Clergy/spiritual advisor-communicant privilege, remedy for violation, § 14:1
- Damages. See index heading DAMAGES
- Exhaustion of administrative remedies, burden of proof on affirmative defenses, § 5:12
- Injunctions. See index heading INJUNCTIONS
- Objections, remedy for erroneous admission of hearsay, § 20:20
- Postconviction relief, burden of proof in criminal cases, § 5:3

### REMOTE PROBATIVE VALUE OF EVIDENCE

- Relevancy of evidence, exclusion of otherwise admissible evidence, § 4:20

### RENEWAL OF OBJECTION

- See index heading OBJECTIONS

### RENT

- Burden of proof, civil cases, § 5:19

### REOPENING CASE

- Examination of witnesses, § 17:6

### REPAIRS

- Admissions implied from conduct, post-accident repairs, § 11:34
- Expert witnesses, § 7:17
- Home Repair Fraud Act, presumptions and inferences, § 3:34

### REPEATING DIRECT TESTIMONY

- Cross-examination of witnesses, scope, § 17:13

### REPETITIVE INTERROGATION

- Cross-examination of witnesses, scope, § 17:13

### REPLY MEMO

- Admissions in pleadings, § 11:27

### REPORTERS

- Competency of witnesses, § 13:14
- Privilege, § 14:17

### REPORTS

- Abused and Neglected Child Reporting Act, §§ 3:2, 3:6, 14:18
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Judicial notice, § 2:10
- Police reports. See index heading POLICE REPORTS
- Presentence investigation reports, §§ 4:15, 20:4
- Refreshing memory of witnesses, §§ 19:1, 19:2
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### REPRESENTATIONS OF COUNSEL

- Informal offers of proof made through, § 20:19

### REPRESENTATIVES

- Competency of witnesses, Dead Man's Act, § 13:6-13:10

### REPUTATION

- See index heading CHARACTER AND REPUTATION

### REQUESTS

- Admissions, § 11:28
- Expert witnesses, lie detector tests, § 7:85
- Judicial notice, §§ 2:1, 2:4
- Refreshing memory of witnesses, request by opposing counsel to examine and use on cross-examination any documents used by witness, §§ 19:1, 19:2

### RESENTENCING PROCEEDINGS

- Exclusionary rule, § 1:6



**RES GESTAE**

Hearsay exception, § 10:42

**RESIDENCE**

Impeachment, interest, bias or prejudice, § 18:11

**RESIDUAL HEARSAY  
EXCEPTION**

Generally, § 10:40

**RES IPSA LOQUITUR**

Burden of proof, § 5:17  
Presumptions and inferences, §§ 3:9,  
3:19, 3:20

**RESISTING ARREST**

Lay witnesses, § 7:12  
Relevancy of evidence, § 4:11

**RES JUDICATA**

Burden of proof in civil cases, § 5:19  
Parol or extrinsic evidence affecting  
writings, § 12:1

**RESPONSE OR ANSWER**

Admissions. See index heading  
ADMISSIONS  
Cross-examination, when answers  
may not be controverted,  
§ 17:18  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Objections, motions to strike answers  
from witnesses that are nonre-  
sponsive, § 20:11

**RESPONSIBILITIES**

See index heading DUTIES

**RESTRICTIONS**

See index heading LIMITATIONS OR  
RESTRICTIONS

**RESULTING TRUSTS**

Burden of proof in civil cases,  
§§ 5:13, 5:19  
Presumptions and inferences, posses-  
sion and ownership of property,  
§ 3:35

**RESULTS OF EXPERIMENTS OR  
TESTS**

Generally, §§ 3:15, 8:10, 8:12, 10:49

**RETALIATORY DISCHARGE**

Presumptions and inferences, dam-  
ages, § 3:47  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

**RETROACTIVITY**

See index heading HEARSAY EVI-  
DENCE

**RETURNS, TAX**

Burden of proof, § 5:15

**REVERSIBLE ERROR**

Burden of proof, improper shifting of  
burden, § 5:2  
Hearsay evidence, statutory excep-  
tion, § 10:44  
Impeachment, §§ 18:20, 18:31  
Objections, rulings on evidence as  
grounds for new trial, § 20:20  
Relevancy of evidence, financial  
condition of parties, § 4:53

**REVERSIONARY CLAUSE IN  
DEED**

Parol or extrinsic evidence affecting  
writings, § 12:4

**REVIEW**

See index heading APPEAL AND  
REVIEW

**REVOCATION**

Court supervision revocation  
proceedings, exclusionary rule,  
§ 1:6  
Probation revocation proceedings.  
See index heading PROBATION

**RFLP PROFILING**

Expert witnesses, DNA, § 7:72

**RIGHTS**

Cross-examination of witnesses,  
§§ 17:11, 17:13, 18:6  
Impeachment, exercise of  
constitutional right by defen-  
dant, § 18:3  
Miranda rights. See index heading  
MIRANDA  
Offer of proof, objections, § 20:18

## INDEX

### **RIGHTS—Cont'd**

Termination of parental rights proceedings. See index heading PARENTS

### **RISK ASSESSMENT**

See index heading ACTUARIAL RISK ASSESSMENT

### **ROADS**

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Photographs, §§ 8:16, 9:16

### **ROBBERY**

Armed robbery. See index heading ARMED ROBBERY  
Hearsay evidence, spontaneous declarations exception, § 10:18  
Impeachment by prior conviction, § 18:25  
Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **ROUTINE INVESTIGATIVE TECHNIQUES**

Law enforcement investigatory privilege, § 14:10

### **RULES**

Federal Rules of Evidence. See index heading FEDERAL RULES OF EVIDENCE  
Judicial notice of court rules, § 2:9  
Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **RULINGS**

See index heading OBJECTIONS

### **SAFETY**

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Lay witnesses, safety rules violations, § 7:12  
Relevancy of evidence, similar conditions or occurrences, § 4:57

### **SAFE ZONE TESTIMONY**

Hearsay evidence, statutory exception, § 10:50

### **SALES**

See index heading RELEVANCY OF EVIDENCE

### **SAME PART OF THE BODY CASES**

Relevancy of evidence, civil cases, § 4:5

### **SAMPLES**

See index heading DEMONSTRATIVE EVIDENCE

### **SANCTIONS**

See index heading PENALTIES

### **SANITY**

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Insanity. See index heading INSANITY  
Lay witnesses, §§ 7:4, 7:36, 7:64, 7:65  
Presumptions and inferences, §§ 3:40, 3:42  
Relevancy of evidence, criminal cases, § 4:11

### **SCENE**

Crime scene. See index heading SCENE OF CRIME  
Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

### **SCENE OF CRIME**

Demonstrative evidence, §§ 8:13, 8:15, 8:17, 8:20  
Documentary evidence, photographs, § 9:16  
Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:16

### **SCHEDULES**

Hearsay exception, rate schedules, § 10:60

### **SCHEME**

Relevancy of evidence, common scheme exception to general rule against admissibility of other crimes evidence, § 4:41

**SCHOOL DESEGREGATION**

Relevancy of evidence, other crimes evidence, § 4:31

**SCIENTIFIC EVIDENCE**

Burden of proof, §§ 5:3, 5:11, 5:19

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

**SCIENTIFIC MATTERS**

Evidence. See index heading SCIENTIFIC EVIDENCE

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Judicial notice, §§ 2:3, 2:16

Treatises, §§ 7:23, 7:24, 10:63

**SCOPE**

Attorney-client privilege, § 14:2

Authority

admissions by attorneys, § 11:5

hearsay exception, agents' statements, § 10:33

Burden of proof, § 5:1

Examination of witnesses. See index heading EXAMINATION OF WITNESSES

Expert medical testimony, § 7:55-7:60

Judicial notice, § 2:1

**SEAL**

Documentary evidence, copies certified under seal, §§ 9:2, 9:4, 9:6

**SEARCH AND SEIZURE**

Burden of proof, motions to suppress in criminal cases, §§ 5:2, 5:4

**SEAT BELT, FAILURE TO USE**

Relevancy of evidence, § 4:66

**SECONDARY EVIDENCE**

See index heading BEST AND SECONDARY EVIDENCE

**SECRETARY OF STATE**

Documentary evidence, certified copies of public records, § 9:2

**SECURING ATTENDANCE OF OUT-OF-STATE WITNESSES**

Generally, § 16:3

**SELF-AUTHENTICATION**

Documentary evidence, § 9:2-9:12

**SELF-DEFENSE**

Burden of proof, criminal cases, § 5:8

Expert medical testimony, § 7:69

Hearsay evidence, state of mind of declarant exception, § 10:34

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**SELF-EVALUATION PRIVILEGE**

Generally, § 14:13

**SELF-INCRIMINATION, PRIVILEGE AGAINST**

Generally, § 15:1-15:7

Admissibility of evidence, § 15:7

Applicability, § 15:2

Assertion of privilege, § 15:1-15:7

Attorney disciplinary proceedings, § 15:2

Business records, § 15:1

Capital sentencing hearings, §§ 15:1, 15:7

Chemical test, refusal to take, §§ 15:1, 15:7

Civil cases, §§ 15:2, 15:7

Claim of privilege, § 15:2-15:4

Communications, § 15:1

Conversations, § 15:1

Corporate records, § 15:1

Cross-examination, §§ 15:6, 17:13

Custodian of corporate records, § 15:1

Determination of propriety of claim of privilege, § 15:4

Disciplinary proceedings, § 15:2

Discretion of court, §§ 15:1, 15:3

Drugs

tests, §§ 15:1, 15:7

use by jurors, § 15:1

Due process, § 15:7

Duty of witness to claim privilege, § 15:3

Gang members, statutory use immunity, § 15:5

Guilty plea, §§ 15:1, 15:6

## INDEX

### **SELF-INCRIMINATION, PRIVILEGE AGAINST**

#### **—Cont'd**

- Hearsay evidence, former testimony exception, § 10:35
- Identification, § 15:1
- Immunity from prosecution, relationship to privilege, § 15:5
- Impeachment, § 15:7
- Indirect criminal contempt, § 15:1
- Injunctions, § 15:2
- Insanity defense, § 15:7
- Jurors, § 15:1
- Juvenile delinquency proceedings, § 15:2
- Laws. Statutes, below
- Negative inferences, §§ 15:2, 15:7
- Noncriminal proceedings, §§ 15:2, 15:7
- Order of protection hearing, § 15:7
- Parental termination proceedings, § 15:2
- Pleas
  - agreements, waiver of privilege, § 15:6
  - colloquy, § 15:1
  - guilty plea, §§ 15:1, 15:6
- Post-arrest silence, § 15:7
- Post-Miranda warning silence, § 15:7
- Presenting case and attendance of witnesses, § 16:1
- Probation revocation proceedings, § 15:2
- Pro se defendants, relationship between immunity from prosecution and privilege, § 15:5
- Psychiatrists, § 15:1
- Questions, assertion of privilege, §§ 15:1, 15:3
- Reassertion of privilege following waiver of privilege, § 15:6
- Refusal to take drug or chemical test, §§ 15:1, 15:7
- Relationship between immunity from prosecution and privilege, § 15:5
- Relevancy of evidence, criminal cases, § 4:11
- Sentencing, §§ 15:1, 15:7

### **SELF-INCRIMINATION, PRIVILEGE AGAINST**

#### **—Cont'd**

- Sex offenders, § 15:1
- Sexually Dangerous Persons Act, § 15:2
- State, §§ 15:1, 15:3
- Statutes
  - immunity, § 15:5
  - Sexually Dangerous Persons Act, § 15:2
- Subpoenas, § 15:2
- Summary judgment proceedings, § 15:7
- Tax matters, §§ 15:2, 15:6
- Transactional immunity, relationship between immunity from prosecution and privilege, § 15:5
- Use
  - evidence related to privilege, § 15:7
  - immunity, relationship between immunity from prosecution and privilege, § 15:5
- Violations, §§ 15:1, 15:2, 15:7
- Voice exemplars, § 15:1
- Waiver of privilege, §§ 15:1, 15:6
- Withdrawal of guilty plea, § 15:1
- Witnesses, generally, § 15:1-15:7

### **SELF-SERVING MATTERS**

- Declarations, admissions by party opponent, § 11:3
- Testimony, sufficiency and weight of evidence, § 21:4

### **SENSING BY DOGS**

- Expert witnesses, § 7:17

### **SENTENCING**

- Death penalty cases. See index heading DEATH PENALTY CASES
- Expert witnesses, lie detector tests, § 7:85
- Habitual criminal sentencing, burden of proof, § 5:3
- Hearings
  - admissions by party opponent, § 11:1
  - capital sentencing hearings, §§ 10:4, 15:1, 15:7, 17:11

**SENTENCING—Cont'd**

- Hearings—Cont'd
  - objections, decisions finding
    - procedural forfeitures in criminal cases, § 20:4
  - relevancy of evidence, §§ 4:15, 4:16, 4:26, 4:51
  - self-incrimination, privilege against, §§ 15:1, 15:7
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Lay witnesses, § 7:12
- Presentence investigation reports, §§ 4:15, 20:4
- Presumptions and inferences, criminal cases, §§ 3:12, 3:34
- Probation. See index heading PROBATION
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Self-incrimination, privilege against, §§ 15:1, 15:7

**SERVICES**

- Children and Family Services
  - Department, §§ 10:15, 18:19
- Value of services, §§ 5:13, 7:41

**SETTING ASIDE DEED**

- Burden of proof, undue influence, § 5:14

**SETTLEMENT OR COMPROMISE**

- Admissions implied from conduct, compromise offers, § 11:38
- Burden of proof. See index heading BURDEN OF PROOF
- Impeachment, interest, bias or prejudice, § 18:9
- Parol or extrinsic evidence, marital settlement agreements, § 12:6
- Presumptions and inferences, commercial matters, §§ 3:28, 3:30
- Relevancy of evidence, probate cases, §§ 4:1, 4:3

**SEX OFFENSES/OFFENDERS**

- Abuse. See index heading SEXUAL ABUSE
- Assault. See index heading SEXUAL ASSAULT

**SEX OFFENSES/OFFENDERS**

**—Cont'd**

- Commitment of sexually dangerous or violent persons, §§ 7:63, 7:65, 10:15, 10:46
- Dangerous persons. See index heading SEXUALLY DANGEROUS PERSONS
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment. See index heading IMPEACHMENT
- Molestation victim, photographs, §§ 8:16, 9:16
- Rape. See index heading RAPE
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Self-incrimination, privilege against, § 15:1
- Violent persons. See index heading SEXUALLY VIOLENT PERSONS

**SEXUAL ABUSE**

- Children
  - burden of proof in criminal cases, § 5:3
  - examination of witnesses. See index heading EXAMINATION OF WITNESSES
  - expert witnesses, §§ 7:13, 7:66, 7:68
  - lay witnesses, § 7:12
  - rehabilitation of impeached witness, § 18:32
  - relevancy of evidence, other crimes evidence, §§ 4:39, 4:41, 4:46
- Impeachment, §§ 18:2, 18:32

**SEXUAL ASSAULT**

- Children
  - hearsay evidence. See index heading HEARSAY EVIDENCE
  - impeachment, previous misconduct, § 18:19
- Impeachment, §§ 18:1, 18:19, 18:25

## INDEX

### **SEXUALLY DANGEROUS PERSONS**

Commitment, §§ 7:63, 7:65, 10:15, 10:46

Sexually Dangerous Persons Act  
burden of proof in civil cases,  
§ 5:19

expert witnesses, §§ 7:17, 7:65

hearsay exception, § 10:46

recovery proceeding, §§ 5:19, 7:17

self-incrimination, privilege  
against, § 15:2

### **SEXUALLY VIOLENT PERSONS**

Commitment of sexually dangerous  
or violent persons, §§ 7:63,  
7:65, 10:15, 10:46

Expert witnesses, §§ 7:27, 7:48,  
7:63, 7:65, 7:69

Sexually Violent Persons Commit-  
ment Act, §§ 7:63, 7:65

### **SHIFTING OF BURDEN OF PROOF**

See index heading BURDEN OF PROOF

### **SHIPPING ORDERS**

Hearsay exception, § 10:60

### **SHIP REGISTERS**

Hearsay exception, § 10:60

### **SHOE PRINTS**

Expert witnesses, identification,  
§ 7:81

### **SICK BUILDING SYNDROME**

Expert witnesses, §§ 7:48, 7:56

### **SIGNATURES**

See index heading DOCUMENTARY  
EVIDENCE

### **SILENCE**

Admissions implied from conduct,  
§§ 11:35, 11:36

Impeachment. See index heading  
IMPEACHMENT

Parol or extrinsic evidence affecting  
wills silence of testator, § 12:3

Post-arrest silence. See index heading  
ARREST

### **SILENCE—Cont'd**

Post-Miranda warning silence. See  
index heading MIRANDA

Self-incrimination, privilege against.  
See index heading SELF-INCRIMI-  
NATION, PRIVILEGE AGAINST

### **“SILENT WITNESS” THEORY**

Generally, §§ 8:15, 9:16

### **SIMILAR CONDITIONS OR OCCURRENCES**

Relevancy of evidence, § 4:56-4:62

### **SIMILARITY OF NAMES**

Presumptions and inferences, § 3:38

### **SIMILARITY WITH CHARGED CRIME**

Impeachment by prior conviction,  
§ 18:27

### **SINGLE WITNESS IDENTIFICATION**

Sufficiency to sustain conviction,  
§ 21:5

### **SISTER OR FOREIGN STATES' LAWS**

Generally, §§ 2:5, 9:2, 9:3, 9:8

### **SITE OF ACCIDENT**

Demonstrative evidence, use of  
diagram, § 8:13

### **SIXTH AMENDMENT**

Compulsory Process Clause, §§ 16:1,  
17:2

Confrontation Clause

cross-examination of witnesses,  
§§ 17:11, 17:13

hearsay evidence. See index head-  
ing HEARSAY EVIDENCE

objections, §§ 20:13, 20:20

Fundamental right of defendant to  
present witnesses in own  
defense, § 16:1

### **SKELETAL MODEL**

Demonstrative evidence, use by  
medical expert in conjunction  
with testimony, § 8:14

**SLANDER OR LIBEL**

See index heading DEFAMATION

**SLANG TERMS**

Judicial notice, § 2:18

**SLIP AND FALL**

Expert witnesses, § 7:88

Presumptions and inferences, res ipsa loquitur, § 3:20

**SMELLING BY DOGS**

Expert witnesses, §§ 7:37, 7:83

**SOCIAL INTEREST,  
DECLARATIONS AGAINST**

Hearsay exception, § 10:41

**SOCIAL SCIENTISTS**

Expert witnesses, § 7:88

**SOCIETY OF CHILD, LOSS OF BY  
PARENT**

Presumptions and inferences,  
§§ 3:16, 3:47

**SOIL MAP**

Hearsay exception, § 10:56

**SOUND RECORDINGS**

Conversations, §§ 8:19, 9:17

Demonstrative evidence, §§ 8:15,  
8:19

Documentary evidence, authentication required, §§ 9:16, 9:17

Edited sound recordings, §§ 8:19,  
9:17

Partially inaudible sound recordings,  
§§ 8:19, 9:17

**SPECIALIZATION**

Expert medical testimony, §§ 7:47,  
7:62

**SPECIALIZED FORMAL  
TRAINING**

Expert witnesses, § 7:17

**SPECIAL WITNESS DOCTRINE**

Generally, §§ 13:12-13:14, 14:17

**SPECIFIC MATTERS**

Act, impeachment prohibited in Illinois, §§ 18:1, 18:19

Injury, lay witnesses, § 7:10

**SPECIFIC MATTERS—Cont'd**

Objections. See index heading OBJECTIONS

**SPECULATION**

See index heading EXPERTS AND  
EXPERT WITNESSES

**SPECULATIVE EVIDENCE**

Relevancy of evidence, exclusion of  
otherwise admissible evidence,  
§§ 4:20, 4:21

**SPEED**

Expert witnesses, eyewitness  
testimony, § 7:38

Judicial notice of posted speed limits,  
§ 2:7

Lay witnesses, § 7:5

**SPEEDY TRIAL RULE  
VIOLATION**

Burden of proof, criminal cases,  
§ 5:3

**SPIRITUAL**

**ADVISOR-COMMUNICANT  
PRIVILEGE**

See index heading CLERGY/SPIRITUAL  
ADVISOR-COMMUNICANT PRIVILEGE

**SPOILIATION OF EVIDENCE**

Presumptions and inferences, § 3:24

**SPONTANEOUS DECLARATIONS**

Hearsay exceptions, §§ 10:18-10:26,  
10:46

**SPOUSES**

Admissions, § 11:22

Competency of witnesses, Dead  
Man's Act, § 13:7

Marital privilege, § 14:6-14:8

Marital property, presumptions and  
inferences, §§ 3:4, 3:6, 3:14,  
3:16

Marriage. See index heading MAR-  
RIAGE

Presumptions and inferences. See  
index heading PRESUMPTIONS  
AND INFERENCES



## INDEX

### **SPOUSES—Cont'd**

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **SPREADING OF INFECTIOUS DISEASES**

Judicial notice, § 2:12

### **STANDARDS**

Care. See index heading CARE  
Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE  
Review. See index heading APPEAL AND REVIEW

### **STANDING**

See index heading BURDEN OF PROOF

### **STANDING TRIAL**

See index heading FITNESS OR UNFITNESS TO STAND TRIAL

### **STATE**

Attorney General. See index heading ATTORNEY GENERAL  
Documentary evidence, self-authentication of state statutes, §§ 9:2, 9:3, 9:8  
Hearsay evidence. See index heading HEARSAY EVIDENCE  
Judicial notice of states' laws, §§ 2:2, 2:4, 2:5  
Other states' laws, §§ 2:5, 9:2, 9:3, 9:8  
Self-incrimination, privilege against, §§ 15:1, 15:3

### **STATEMENTS**

Admissions. See index heading ADMISSIONS  
Exculpatory statements. See index heading EXCULPATORY MATTERS  
Hearsay evidence. See index heading HEARSAY EVIDENCE  
Impeachment. See index heading IMPEACHMENT  
Out-of-court statements. See index heading OUT-OF-COURT

### **STATEMENTS—Cont'd**

Prior statements. See index heading PRIOR STATEMENTS  
Victim impact statements, relevancy of evidence, §§ 4:15, 4:16

### **STATE OF MIND**

See index heading MENTAL STATE/STATE OF MIND

### **STATING REASONS FOR OBJECTIONS**

Generally, § 20:7-20:9

### **STATISTICS**

Hearsay evidence. See index heading HEARSAY EVIDENCE  
Judicial notice of statistical facts, § 2:14

### **STATUTE OF LIMITATIONS**

Burden of proof, §§ 5:2, 5:12, 5:19

### **STATUTES**

Abused and Neglected Child Reporting Act, §§ 3:2, 3:6, 14:18  
AIDS Confidentiality Act, §§ 7:69, 14:20  
Burden of proof, §§ 5:1-5:4, 5:12, 5:14, 5:19  
Competency of witnesses, §§ 13:1, 13:2, 13:4, 13:6-13:10  
Demonstrative evidence, out-of-court experiments and tests, §§ 8:11, 8:12  
Documentary evidence, self-authentication, §§ 9:2-9:5, 9:8, 9:10  
Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
Federal laws. See index heading FEDERAL LAWS  
Foreign or sister states' laws, §§ 2:5, 9:2, 9:3, 9:8  
Freedom of Information Act. See index heading FREEDOM OF INFORMATION ACT  
Hearsay evidence. See index heading HEARSAY EVIDENCE  
Judicial notice of laws, § 2:2-2:6  
Juvenile Court Act, §§ 14:20, 16:2, 21:1

**STATUTES—Cont'd**

- Medical Studies Act, §§ 5:1, 14:13
- Ordinances. See index heading ORDINANCES
- Presenting case and attendance of witnesses, § 16:1-16:4
- Presumptions and inferences. See index heading PRESUMPTIONS AND INFERENCES
- Privileges. See index heading PRIVILEGES
- Rape shield statute, §§ 4:52, 17:11, 21:1
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE
- Self-incrimination, privilege against. See index heading SELF-INCRIMINATION, PRIVILEGE AGAINST
- Sexually Dangerous Persons Act. See index heading SEXUALLY DANGEROUS PERSONS

**STIPULATIONS**

- Admissions by attorneys, § 11:5
- Demonstrative evidence, chain of custody, §§ 8:3, 8:6
- Examination of witnesses, § 17:19-17:21
- Expert witnesses, lie detector tests, § 7:85
- Relevancy of evidence, §§ 4:11, 4:23

**STOCK**

- Expert witnesses, value of personal property, § 7:41

**STOLEN PROPERTY**

- Presumptions and inferences in criminal cases, § 3:34

**STORED INFORMATION OR DATA IN COMPUTERS**

- Documentary evidence, §§ 9:1, 9:15

**STREET GANGS**

- See index heading GANGS

**STREETS**

- Also see index heading ROADS
- Location of streets, judicial notice, §§ 2:3, 2:15

**STREET VALUE OF DRUGS**

- Expert witnesses, § 7:70

**STRICT LIABILITY**

- Burden of proof, § 5:17
- Products liability, §§ 3:20, 5:17

**STRIKE OR STRIKING**

- Objections, strike evidence motions, §§ 20:1, 20:10-20:12
- Summary judgment affidavit, §§ 20:1, 20:10, 21:3

**STRUCTURAL DEFECT IN BUILDING**

- Expert witnesses, circumstances in which testimony may be required, § 7:89

**STUDIES**

- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Medical Studies Act, §§ 5:1, 14:13

**SUA SPONTE MATTERS**

- Judicial notice, taking of, § 2:2
- Objections, sua sponte competency examination of witness by court in presence of jury, §§ 20:2, 20:6

**SUBJECT HISTORY OF PATIENT**

- Expert medical testimony, § 7:51

**SUBORNATION AGREEMENT**

- Parol or extrinsic evidence affecting writings, § 12:1

**SUBPOENAS**

- Burden of proof in criminal cases, quashal motion, § 5:3
- Competency of witnesses. See index heading COMPETENCY OF WITNESSES
- Documentary evidence, compliance, § 9:13
- Presenting case and attendance of witnesses, § 16:2
- Self-incrimination, privilege against, § 15:2

## INDEX

### SUBSCRIBING WITNESS TESTIMONY

Not necessary to authenticate writing,  
documentary evidence, § 9:12

### SUBSEQUENT MATTERS

Behavior of person hearing statement  
explanation, hearsay evidence,  
§ 10:11

Remedial measures. See index head-  
ing SUBSEQUENT REMEDIAL  
MEASURES

### SUBSEQUENT REMEDIAL MEASURES

Admissions implied from conduct,  
§ 11:34

Limited admissibility of evidence,  
§ 1:4

Post-accident remedial measures,  
§§ 1:4, 11:34

Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE

### SUBSTANTIAL COMPLIANCE

Impeachment, confronting witness  
with prior inconsistent state-  
ment, § 18:14

### SUBSTANTIAL PREJUDICE

Objections, error in admitting evi-  
dence, § 20:20

### SUBSTANTIVE MATTERS

See index heading HEARSAY EVI-  
DENCE

### SUBSTITUTES FOR WILLS

Parol or extrinsic evidence affecting  
writings, §§ 12:3, 12:4

### SUBSTITUTION OF EVIDENCE

Demonstrative evidence, burden of  
proof on chain of custody, § 8:4

### SUCCESSORS IN INTEREST

Admissions, § 11:9

### SUFFERING

See index heading PAIN AND SUFFER-  
ING

### SUFFICIENCY AND INSUFFICIENCY

See index heading SUFFICIENCY OR  
INSUFFICIENCY

### SUFFICIENCY AND WEIGHT OF EVIDENCE

Generally, § 21:1-21:6

Absent objection, otherwise inadmis-  
sible evidence to be given its  
full probative effect, § 21:1

Accomplice testimony may be suf-  
ficient to sustain conviction,  
§§ 21:1, 21:4

Admissibility of evidence, § 21:1-  
21:4

Affidavits, summary judgment  
proceedings, § 21:3

Appeal and review

bench trials, burden of proof and  
weight of evidence, § 21:4

circumstantial evidence, § 21:2

guilty verdict dependent upon eye-  
witness testimony, §§ 21:1,  
21:4

notice of appeal, statements  
contained in, § 21:4

summary judgment proceedings,  
§ 21:3

Arson, circumstantial evidence,  
§ 21:2

Bench trials, burden of proof and  
weight of evidence, § 21:4

Burden of proof and weight of evi-  
dence, §§ 21:4, 21:5

Causation, circumstantial evidence,  
§ 21:2

Chain of custody, §§ 21:1, 21:2

Charging instrument, variance  
between pleading and evidence,  
§ 21:6

Circumstantial evidence, §§ 1:3, 21:2

Conduct of persons, circumstantial  
evidence, § 21:2

Conflicting testimony, § 21:4

Conviction of crime

accomplice testimony may be suf-  
ficient to sustain conviction,  
§§ 21:1, 21:4

circumstantial evidence, § 21:2

**SUFFICIENCY AND WEIGHT OF EVIDENCE—Cont'd**

Conviction of crime—Cont'd  
 single witness testimony is sufficient to sustain conviction, § 21:5  
 uncorroborated confession, § 21:1  
 Credibility of witnesses, § 21:4  
 Criminal cases, § 21:1-21:6  
 Damages, conflicting testimony, § 21:4  
 Depositions, summary judgment proceedings, § 21:3  
 Determinations, §§ 21:4, 21:5  
 Direct evidence, § 21:2  
 Double jeopardy, variance between pleading and evidence, § 21:6  
 Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES  
 Eyewitnesses, §§ 21:1, 21:4  
 False alibi, § 21:4  
 False testimony by witness, §§ 21:1, 21:4  
 Findings of fact, bench trials, § 21:4  
 Foundation, chain of custody, § 21:1  
 Fraud, circumstantial evidence, § 21:2  
 Guilty verdict dependent upon eyewitness testimony, §§ 21:1, 21:4  
 Hearsay evidence. See index heading HEARSAY EVIDENCE  
 Identification  
 eyewitnesses, § 21:1  
 lapse of time between event and identification of defendant by victim, § 21:4  
 single witness identification of accused is sufficient to sustain conviction, § 21:5  
 voice identification, § 21:4  
 Impeachment, §§ 18:12, 21:1, 21:4  
 Inconsistent or inconsistencies  
 minor inconsistencies in witness testimony do not destroy credibility, § 21:4  
 prior inconsistent statements, § 21:4  
 Inferences and presumptions, §§ 21:2, 21:4

**SUFFICIENCY AND WEIGHT OF EVIDENCE—Cont'd**

Intent  
 circumstantial evidence, § 21:2  
 jury makes factual determination, § 21:4  
 Jury  
 assesses witness credibility, weight to be given testimony and inference to be drawn, § 21:4  
 cannot disregard testimony of witness that is not contradicted or inherently improbable and witness has not been impeached, §§ 21:1, 21:4  
 conflicting testimony, medical malpractice, § 21:4  
 Juvenile Court Act, § 21:1  
 Juvenile court proceedings, § 21:4  
 Knowledge, circumstantial evidence, § 21:2  
 Lapse of time between event and identification of defendant by victim, § 21:4  
 Lay witnesses, §§ 7:2, 7:7  
 Material variance between pleading and evidence, § 21:6  
 Measured by number of witnesses, weight of evidence as, § 21:5  
 Medical malpractice, § 21:4  
 Medical records, § 21:4  
 Mental state, circumstantial evidence, § 21:2  
 Minor inconsistencies in witness testimony do not destroy credibility, § 21:4  
 Mislead defendant, variance between pleading and evidence, § 21:6  
 Negligence, circumstantial evidence, § 21:2  
 Notice of appeal, statements contained in, § 21:4  
 Number of witnesses, weight of evidence as measured by, § 21:5  
 Omission from police report, § 21:4  
 Parol evidence rule, § 21:1  
 Personal injury action, § 21:4  
 Pleading and evidence variances, § 21:6

## INDEX

### **SUFFICIENCY AND WEIGHT OF EVIDENCE—Cont'd**

- Police officer's testimony, §§ 21:4, 21:5
- Presumptions and inferences, §§ 21:2, 21:4
- Prior false accusations of crime, § 21:1
- Prior inconsistent statements, § 21:4
- Rape shield statute, § 21:1
- Review. Appeal and review, above
- Single witness identification of accused is sufficient to sustain conviction, weight of evidence as measured by number of witnesses, § 21:5
- Standard of review, circumstantial evidence, § 21:2
- Striking of affidavit, summary judgment proceedings, § 21:3
- Summary judgment proceedings, § 21:3
- Surplusage, variance between pleading and evidence, § 21:6
- Testimony. Witnesses and testimony, below
- Traffic stops, § 21:4
- Trier of fact, § 21:4
- Uncorroborated confession, conviction may not be based solely on, § 21:1
- Variances between pleading and evidence, § 21:6
- Verdict
  - bench trials, burden of proof and weight of evidence, § 21:4
  - guilty verdict dependent upon eyewitness testimony, §§ 21:1, 21:4
- Violation of parole evidence rule, § 21:1
- Voice identification, § 21:4
- Witnesses and testimony
  - accomplice testimony may be sufficient to sustain conviction, §§ 21:1, 21:4
  - conflicting testimony, § 21:4
  - credibility of witnesses, § 21:4

### **SUFFICIENCY AND WEIGHT OF EVIDENCE—Cont'd**

- Witnesses and testimony—Cont'd
  - expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
  - eyewitnesses, §§ 21:1, 21:4
  - false testimony by witness, §§ 21:1, 21:4
  - jury cannot disregard testimony of witness that is not contradicted or inherently improbable and witness has not been impeached, §§ 21:1, 21:4
  - lay witnesses, §§ 7:2, 7:7
  - minor inconsistencies in witness testimony do not destroy credibility, § 21:4
  - number of witnesses, weight of evidence as measured by, § 21:5
  - police officer's testimony, §§ 21:4, 21:5
- Workers' compensation, circumstantial evidence, § 21:2

### **SUFFICIENCY OR INSUFFICIENCY**

- Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE
- Documentary evidence. See index heading DOCUMENTARY EVIDENCE
- Evidence. See index heading SUFFICIENCY AND WEIGHT OF EVIDENCE
- Foundation. See index heading FOUNDATION

### **SUGGESTIVENESS OF PRETRIAL IDENTIFICATION**

- Burden of proof, motions to suppress in criminal cases, § 5:6

### **SUICIDE**

- Hearsay evidence, state of mind of declarant exception, § 10:34
- Presumption against death by, § 3:45

**SUICIDE—Cont'd**

Relevancy of evidence, consciousness of guilt exception to general rule against admissibility of other crimes evidence, § 4:45

**SUMMARIES OF MULTIPLE WRITINGS**

Secondary evidence, § 6:6

**SUMMARY JUDGMENT**

**Affidavits**

competency of witnesses, § 13:3

hearsay evidence, § 10:11

objections, motion to strike, §§ 20:1, 20:10

striking affidavit, §§ 20:1, 20:10, 21:3

sufficiency and weight of evidence, § 21:3

Burden of proof, shifting of burden, § 5:2

Competency of witnesses, §§ 13:3, 13:6

Depositions, §§ 13:3, 21:3

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Hearsay evidence. See index heading HEARSAY EVIDENCE

Objections, motion to strike affidavit filed in proceeding, §§ 20:1, 20:10

Parol or extrinsic evidence affecting writings, § 12:1

Self-incrimination, privilege against, § 15:7

Striking affidavit, §§ 20:1, 20:10, 21:3

Sufficiency and weight of evidence, § 21:3

**SUPERSEDED PLEADINGS**

Admissions, § 11:27

**SUPERVISION**

Court supervision revocation proceedings, exclusionary rule, § 1:6

**SUPPORT OF CHILDREN**

See index heading CHILD SUPPORT

**SUPPRESSION OF EVIDENCE**

Burden of proof in criminal cases, motions, §§ 5:2, 5:4-5:6

**Hearings**

direct examination of witnesses, § 17:8

hearsay evidence, §§ 10:4, 10:15, 10:28

presenting case and attendance of witnesses, §§ 16:1, 16:3

pretrial suppression hearings, hearsay evidence, §§ 10:15, 10:28

Impeachment, interest, bias or prejudice, § 18:6

Motions, §§ 5:2, 5:4-5:6, 20:6

Objections, pretrial suppression motion, § 20:6

Presumptions and inferences, §§ 3:23, 3:24

**SURETY**

Admissions, § 11:21

**SURGERY**

See index heading EXPERTS AND EXPERT WITNESSES

**SURPLUSAGE**

Sufficiency and weight of evidence, variance between pleading and evidence, § 21:6

**SURREBUTTAL**

Examination of witnesses, §§ 17:17, 17:18

**SURVEILLANCE LOCATION PRIVILEGE**

Generally, §§ 14:12, 17:13

**SURVEYORS**

Deceased surveyor, hearsay exception regarding private boundary lines, § 10:36

Expert witnesses, § 7:87

**SURVEYS**

Hearsay exceptions, §§ 10:63, 10:67

**SUSPENSION OF ATTORNEY FROM PRACTICE**

Impeachment, previous misconduct, § 18:19

## INDEX

### SYMBOLS OF GANGS

Demonstrative evidence,  
photographs, § 8:17

### SYNDROMES

See index heading EXPERTS AND  
EXPERT WITNESSES

### TABLES

Hearsay exception, mortality tables,  
§ 10:63

### TACIT ADMISSION RULE

Silence of accused in criminal case,  
§ 11:36

### TAINT

Impeachment by prior conviction,  
constitutionally tainted convictions, § 18:24

### TAMPERING WITH EVIDENCE

Demonstrative evidence, chain of  
custody, §§ 8:4, 8:6

### TANGIBLE PRINTOUTS OF COMPUTER-STORED DATA

Documentary evidence, authentication  
required, § 9:15

### TAPE RECORDINGS

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Privileges, eavesdropping statute,  
§ 14:20

Videotapes. See index heading  
VIDEOTAPES

### TATTOOS

Demonstrative evidence, in-court  
display of physical  
characteristics, § 8:8

### TAX MATTERS

Burden of proof in tax cases, § 5:15

Impeachment by prior conviction, tax  
fraud, § 18:25

Presumptions and inferences, validity  
and regularity of official acts,  
§ 3:13

Privileges. See index heading PRIVI-  
LEGES

### TEACHERS

Relevancy of evidence, character and  
reputation, § 4:49

### TELEPHONE CONVERSATIONS

Laying foundation for evidence,  
§ 1:5

### TELEPHONE TAP

Hearsay evidence, business records  
exception, § 10:55

### TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

See index heading PARENTS

### TERRITORIES OF UNITED STATES

Laws, documentary evidence, §§ 9:2,  
9:3, 9:8

### TERRY STOP

Burden of proof, motions to suppress  
in criminal cases, § 5:4

### “TESTIFYING” OBJECTIONS ARE IMPROPER

Generally, § 20:9

### TESTIMONY

See index heading WITNESSES

### TESTS

Blood tests. See index heading  
BLOOD TESTS

Breath tests. See index heading  
BREATH TESTS

Chemical tests. See index heading  
CHEMICAL TESTS

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

Hearsay evidence. See index heading  
HEARSAY EVIDENCE

Horizontal gaze nystagmus (HGN)  
test, §§ 7:27, 8:12

Lie detector tests. See index heading  
LIE DETECTOR TESTS

Results of tests, §§ 3:15, 8:10, 8:12,  
10:49

### TEXTBOOK

Expert witnesses, use to challenge  
basis of opinion on cross-exami-  
nation, § 7:33



**THEFT**

- Demonstrative evidence, auto theft case, § 8:2
- Impeachment by prior conviction, § 18:25
- Presumptions and inferences, stolen property, § 3:34
- Robbery. See index heading ROBBERY

**THEORY OF CASE**

- Relevancy of evidence, § 4:2

**THERAPISTS**

- Mental health therapist-patient privilege, § 14:15
- Presumptions and inferences, good faith, § 3:46

**THIRD PERSONS OR PARTIES**

- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Marital privilege, presence of third person, § 14:7
- Refreshing memory of witnesses, document prepared by third party, § 19:2
- Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

**THREATS**

- Impeachment, interest, bias or prejudice, § 18:8
- Presumptions and inferences, threats against witnesses, § 3:32
- Relevancy of evidence, other crimes evidence, §§ 4:39, 4:44, 4:45

**TIME OR DATE**

- Admissions by agents, time of making statement, § 11:4
- Competency of witnesses, determination, § 13:1
- Duration of privileges. See index heading PRIVILEGES
- Expert medical testimony, timeliness of information relied upon, § 7:49
- Future matters. See index heading FUTURE MATTERS
- Hearsay evidence. See index heading HEARSAY EVIDENCE

**TIME OR DATE—Cont'd**

- Impeachment, reputation evidence, § 18:17
- Lapse of time. See index heading LAPSE OF TIME
- Objections. See index heading OBJECTIONS
- Statute of limitations, burden of proof, §§ 5:2, 5:12, 5:19
- Subsequent matters. See index heading SUBSEQUENT MATTERS

**TITLE**

- Documents, documentary evidence, §§ 9:5, 9:10
- Hearsay exceptions, §§ 10:37, 10:67
- Slander of title, burden of proof, § 5:14

**TOPOGRAPHY OF AREA NEAR SCENE OF ACCIDENT**

- Demonstrative evidence, photographs, § 8:17

**TORTS**

- Burden of proof, Tort Immunity Act, § 5:12
- Joint tortfeasors. See index heading JOINT TORTFEASORS

**TOXICOLOGY REPORTS**

- Hearsay exception, § 10:56

**TRACKING OF DEFENDANT'S CRIMINAL HISTORY**

- Demonstrative evidence, charts, § 8:13

**TRADE**

- Inscriptions, §§ 9:11, 10:52
- Practices, burden of proof in civil cases, § 5:19
- Usages, relevancy of evidence, § 4:56

**TRADITIONAL METHOD OF PROVING PRIOR CONVICTION**

- Impeachment, § 18:21

**TRAFFIC**

- Engineer, automobile accident reconstruction, § 7:38

## INDEX

### **TRAFFIC—Cont'd**

Stops, sufficiency and weight of evidence, § 21:4

### **TRAINING**

Expert witness qualifications, specialized formal training, § 7:17

### **TRAINS**

Expert witnesses, § 7:17

### **TRANSACTIONAL IMMUNITY**

Self-incrimination, privilege against, relationship between immunity from prosecution and privilege, § 15:5

### **TRANSACTIONS**

Hearsay exception for business records, real property transactions, § 10:52

Presumptions and inferences, regularity of business transactions, § 3:26

Relevancy of evidence. See index heading RELEVANCY OF EVIDENCE

### **TRANSCRIPTS**

See index heading DEMONSTRATIVE EVIDENCE

### **TRANSFER**

Admissions by transferors of property, § 11:23

Presumptions and inferences, transfer of cases, § 3:6

### **TRANSLATOR**

Testimony through, § 17:5

### **TREASURER OF STATE**

Documentary evidence, certified copies of public records, § 9:2

### **TREATISES**

Hearsay evidence. See index heading HEARSAY EVIDENCE

Learned treatises. See index heading LEARNED TREATISES

Medical treatises, §§ 7:23, 7:24, 10:63

Scientific treatises, §§ 7:23, 7:24, 10:63

### **TREATMENT, MEDICAL**

See index heading MEDICAL MATTERS

### **TRESPASS, CRIMINAL**

Impeachment by prior conviction, § 18:25

### **TRIAL**

Admissions by attorneys, prior trial, § 11:5

Bench trials. See index heading BENCH TRIALS

During trial. See index heading DURING TRIAL

Fitness or unfitness to stand trial. See index heading FITNESS OR UNFITNESS TO STAND TRIAL

Judicial notice by trial court, § 2:1-2:18

Jury trial. See index heading JURY AND JURY TRIAL

Management of witnesses by trial court, § 16:5

New trial, objections, § 20:20-20:22

Posttrial motions, objections, § 20:1

Pretrial matters. See index heading PRETRIAL MATTERS

### **TRIER OF FACT**

Bench trials. See index heading BENCH TRIALS

Demonstrative evidence. See index heading DEMONSTRATIVE EVIDENCE

Documentary evidence, comparison of handwriting, § 9:20

Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES

Jury. See index heading JURY AND JURY TRIAL

Parol or extrinsic evidence affecting writings, § 12:1

Sufficiency and weight of evidence, § 21:4

### **TRUSTS**

Constructive trusts, hearsay evidence, § 10:34

Parol or extrinsic evidence affecting writings, §§ 12:1, 12:4

**TRUSTS—Cont'd**

Resulting trusts. See index heading  
RESULTING TRUSTS

**TRUSTWORTHINESS**

See index heading HEARSAY EVIDENCE

**TYPING OF BLOOD**

Expert witnesses, blood tests, § 7:73

**ULTERIOR MOTIVES OF WITNESSES**

Cross-examination of witnesses,  
§ 17:11

**ULTIMATE FACT OR ISSUE**

Lay or expert witnesses, §§ 7:1, 7:20,  
7:30, 7:36, 7:40, 7:60

**UNAUTHORIZED MATTERS**

Disclosure in judicial proceedings,  
attorney-client privilege, § 14:2  
Visit to scene of accident by juror,  
demonstrative evidence, § 8:21

**UNAVAILABLE DECLARANT OR WITNESS**

See index heading HEARSAY EVIDENCE

**UNCERTAIN PROBATIVE VALUE OF EVIDENCE**

Relevancy of evidence, exclusion of  
otherwise admissible evidence,  
§§ 4:20, 4:21

**UNCONSCIONABILITY OF CONTRACT PROVISION**

Burden of proof in civil cases, § 5:14

**UNCONSCIOUSNESS OF VICTIM**

Hearsay evidence, spontaneous declarations exception, § 10:18

**UNCONTRADICTED TESTIMONY**

Sufficiency and weight of evidence,  
jury cannot disregard testimony  
of witness that is not  
contradicted or inherently  
improbable and witness has not  
been impeached, §§ 21:1, 21:4

**UNCORROBORATED CONFESSION**

Conviction may not be based solely  
on, § 21:1

**UNDERSTANDING OR UNDERSTANDINGS**

Competency of witnesses, inability to  
express oneself so as to be  
understood, § 13:4  
Parol or extrinsic evidence, prior  
understandings, § 12:1

**UNDISPUTED FACTS**

Expert witnesses, hypothetical questions, § 7:29

**UNDUE INFLUENCE**

Burden of proof, civil cases, § 5:14  
Competency of witnesses, Dead  
Man's Act, §§ 13:6, 13:7  
Expert witnesses, §§ 7:30, 7:48, 7:65  
Presumptions and inferences,  
§§ 3:22, 3:42

**UNDUE PREJUDICE**

Demonstrative evidence, videotapes,  
§ 8:18

**UNEMPLOYMENT COMPENSATION**

Burden of proof in unemployment  
compensation cases, § 5:19  
Privileges, Unemployment Insurance  
Act, § 14:20

**UNFAIR PREJUDICE**

Documentary evidence, videotapes,  
§ 9:16  
Impeachment by prior conviction,  
§ 18:20  
Relevancy of evidence, §§ 4:19,  
4:20, 4:26, 4:30

**UNFITNESS**

Parental unfitness, §§ 3:5, 3:16, 11:1  
Standing trial. See index heading  
FITNESS OR UNFITNESS TO STAND  
TRIAL

**UNFOUNDED ACCUSATION**

Impeachment, Children and Family  
Services Department determination  
that accusation by victim of

## INDEX

### UNFOUNDED ACCUSATION

#### —Cont'd

child sex offense was  
unfounded, § 18:19

### UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHIN OR WITHOUT A STATE IN CRIMINAL PROCEEDINGS

Generally, § 16:3

### UNIFORM COMMERCIAL CODE

Parol or extrinsic evidence affecting  
writings, § 12:1

### UNKNOWN DECLARANT

Hearsay evidence, spontaneous dec-  
larations exception, §§ 10:21,  
10:25

### UNLAWFUL MATTERS

See index heading ILLEGAL MATTERS

### UNSPECIFIED GROUNDS FOR OBJECTION

Forfeiture, § 20:8

### UNSUBSTANTIATED EVIDENCE

Expert witnesses, § 7:22

### UNVERIFIED PLEADINGS

Admissions, § 11:27

### URINE

Demonstrative evidence, chain of  
custody for urine samples, § 8:6  
Hearsay evidence, statutory excep-  
tion for chemical tests on urine  
of drivers, § 10:49

### USE

Anatomically correct doll, child wit-  
ness, §§ 8:14, 13:11, 17:7  
Customs and usages. See index head-  
ing CUSTOMS AND USAGES  
Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Impeachment, collateral matters,  
§ 18:2  
Lay witnesses, use of force, § 7:12

### USE—Cont'd

Presenting case and attendance of  
witnesses, subpoenas and  
subpoenas duces tecum, § 16:2  
Refreshing memory of witnesses,  
request by opposing counsel to  
use on cross-examination any  
documents used by witness,  
§§ 19:1, 19:2  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE  
Self-incrimination, privilege against.  
See index heading SELF-INCRIMI-  
NATION, PRIVILEGE AGAINST

### USE IMMUNITY

Relationship to privilege against self-  
incrimination, § 15:5

### VALIDITY

See index heading PRESUMPTIONS  
AND INFERENCES

### VALUE AND VALUATION

Expert witnesses. See index heading  
EXPERTS AND EXPERT WITNESSES  
Probative value. See index heading  
PROBATIVE VALUE  
Property value. See index heading  
VALUE OF PROPERTY  
Services, §§ 5:13, 7:41

### VALUE OF PROPERTY

Appraisers and appraisals. See index  
heading APPRAISERS AND  
APPRAISALS  
Expert witnesses, §§ 7:36, 7:41, 7:42  
Judicial notice, § 2:14  
Lay witnesses, § 7:6  
Personal property  
expert witnesses, § 7:41  
laying foundation for evidence,  
§ 1:5  
lay witnesses, § 7:6  
Presumptions and inferences, §§ 3:6,  
3:27  
Real property  
expert witnesses, § 7:42  
improvements, §§ 4:55, 7:42  
lay witnesses, § 7:6

**VALUE OF PROPERTY—Cont'd**

Real property—Cont'd  
relevancy of evidence, other sales  
to prove, § 4:55

**VARIANCES BETWEEN  
PLEADING AND EVIDENCE**  
Sufficiency and weight of evidence,  
§ 21:6

**VEHICLES**

See index heading MOTOR VEHICLES

**VERDICTS**

Competency of jurors as witnesses,  
§ 13:15  
Sufficiency and weight of evidence.  
See index heading SUFFICIENCY  
AND WEIGHT OF EVIDENCE

**VERIFICATION**

Judicial notice of facts readily verifi-  
able from sources of indisput-  
able accuracy, § 2:1  
Pleadings, admissions, § 11:27

**VETERINARIANS**

Expert medical testimony, § 7:61

**VICTIMS**

Crime victims. See index heading  
VICTIMS OF CRIMES  
Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE

**VICTIMS OF CRIMES**

Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Homicide. See index heading HOMICIDE  
Impact statements, relevancy of evi-  
dence, §§ 4:15, 4:16  
Murder. See index heading MURDER  
Rape. See index heading RAPE  
Relevancy of evidence. See index  
heading RELEVANCY OF EVI-  
DENCE  
Sexual molestation victim,  
photographs, §§ 8:16, 9:16

**VICTIMS OF CRIMES—Cont'd**

Subpoenas, § 16:2  
Violent crime victims counselor's  
privilege, § 14:19

**VIDEOTAPES**

Animation videotapes, §§ 8:18, 9:16  
Best and secondary evidence, §§ 6:2,  
6:4  
Demonstrative evidence. See index  
heading DEMONSTRATIVE EVI-  
DENCE  
Documentary evidence, authentica-  
tion, §§ 8:15, 9:16  
Hearsay evidence. See index heading  
HEARSAY EVIDENCE  
Laying foundation for videotape  
recordings, § 1:5  
Objections, decisions finding  
procedural forfeitures in crimi-  
nal cases, § 20:4  
Relevancy of evidence, exclusion of  
otherwise admissible evidence,  
§ 4:19

**VIENNA CONVENTION  
VIOLATIONS**

Exclusionary rule, § 1:6

**VIEW OF SCENE OF INCIDENT  
OR OBJECTS AT ISSUE**

Trier of fact, demonstrative evidence,  
§ 8:20

**VIGOROUS  
CROSS-EXAMINATION OF  
CRIMINAL DEFENDANT**

Generally, § 17:11

**VIOLATIONS**

AIDS Confidentiality Act, expert  
witnesses, § 7:69  
Burden of proof. See index heading  
BURDEN OF PROOF  
Confrontation Clause, cross-examina-  
tion of witnesses, § 17:13  
Due process, hypnotically enhanced  
testimony, § 19:3  
Fundamental right of defendant to  
present witnesses in own  
defense, § 16:1

## INDEX

### **VIOLATIONS—Cont'd**

- Hearsay evidence, testimonial hearsay and Confrontation Clause, § 10:15-10:17
- In limine order, objections, § 20:20
- Lay witnesses, safety rules, § 7:12
- Miranda, impeachment, §§ 18:3, 18:12
- Parol evidence rule, §§ 12:1, 21:1
- Presumptions and inferences, statute or ordinance, § 3:17
- Privileges. See index heading PRIVILEGES
- Relevancy of evidence, employment rules and safety codes, § 4:57
- Speedy trial rule violation, § 5:3
- Vienna Convention violations, exclusionary rule, § 1:6

### **VIOLENCE**

- Domestic violence. See index heading DOMESTIC VIOLENCE
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Privilege, violent crime victims counselor, § 14:19
- Relevancy of evidence, violent character of homicide victim, § 4:50
- Sexually violent persons. See index heading SEXUALLY VIOLENT PERSONS

### **VISIBILITY**

- Lay witnesses, weather conditions, § 7:12

### **VISITATION OF CHILDREN**

- Burden of proof, § 5:18

### **VISUAL AID TO JURY**

- Demonstrative evidence, purpose, § 8:1

### **VITAL STATISTICS**

- Hearsay evidence, public records and reports exception, § 10:56

### **VOICE EXEMPLARS**

- Self-incrimination, privilege against, § 15:1

### **VOICE IDENTIFICATION**

- Laying foundation for evidence, § 1:5
- Self-incrimination, privilege against, voice exemplars, § 15:1
- Sufficiency and weight of evidence, § 21:4

### **VOLUMINOUS**

- Documents, secondary evidence, § 6:6
- Records. See index heading HEARSAY EVIDENCE

### **VOLUNTARY MATTERS**

- Burden of proof. See index heading BURDEN OF PROOF
- Hearsay evidence, prior inconsistent statements, § 10:43
- Involuntary matters. See index heading INVOLUNTARY MATTERS
- Revelation, marital privilege waiver, § 14:8

### **WAIVER**

- Miranda rights, burden of proof, § 5:5
- Privileges. See index heading PRIVILEGES

### **WARNINGS**

- See index heading MIRANDA

### **WARRANTLESS ARREST**

- Burden of proof, motions to suppress in criminal cases, § 5:4

### **WARRANTLESS SEARCH**

- Burden of proof, motions to suppress in criminal cases, § 5:4

### **WARRANTS**

- Attendance of witnesses, § 16:1
- Extradition warrants, presumptions and inferences, § 3:13

### **WEALTH OF PARTY**

- Relevancy of evidence, civil cases, § 4:3

### **WEAPONS**

- Demonstrative evidence, § 8:2

**WEATHER**

- Conditions, lay witnesses, § 7:12
- Reports, hearsay exception, § 10:56

**WEIGHT OF EVIDENCE**

- See index heading SUFFICIENCY AND WEIGHT OF EVIDENCE

**WIFE AND HUSBAND**

- See index heading SPOUSES

**WILLINGNESS OF CRIMINAL DEFENDANT TO STIPULATE**

- Relevancy of evidence, exclusion of otherwise admissible evidence, § 4:23

**WILLS**

- Burden of proof, §§ 5:2, 5:19
- Documentary evidence, self-authentication, §§ 9:2, 9:5, 9:12
- Lay witnesses, § 7:4
- Parol or extrinsic evidence affecting writings, §§ 12:3, 12:4
- Presumptions and inferences, §§ 3:22, 3:40, 3:42
- Relevancy of evidence, § 4:3

**WITHDRAWAL OF GUILTY PLEA**

- Generally, §§ 5:3, 15:1

**WITHHOLDING EVIDENCE**

- Presumptions and inferences, § 3:24

**WITNESSES**

- Admissibility of testimony. See index heading ADMISSIBILITY OF EVIDENCE
- Admissions. See index heading ADMISSIONS
- Alibi witnesses. See index heading ALIBI
- Attendance of witnesses. See index heading PRESENTING CASE AND ATTENDANCE OF WITNESSES
- Best and secondary evidence, § 6:2-6:6
- Child witnesses. See index heading CHILD WITNESSES
- Competency of witnesses. See index heading COMPETENCY OF WITNESSES

**WITNESSES—Cont'd**

- Confrontation Clause. See index heading SIXTH AMENDMENT
- Credibility. See index heading CREDIBILITY OF WITNESSES
- Cross-examination. See index heading CROSS-EXAMINATION OF WITNESSES
- Demonstrative evidence, §§ 8:1, 8:5, 8:6, 8:10, 8:14-8:18, 8:22
- Disqualification of witnesses, §§ 7:63, 13:1, 13:4, 13:7
- Documentary evidence. See index heading DOCUMENTARY EVIDENCE
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Expert witnesses. See index heading EXPERTS AND EXPERT WITNESSES
- Eyewitnesses. See index heading EYEWITNESSES
- False testimony. See index heading FALSE TESTIMONY
- Financial interest of witness. See index heading FINANCIAL INTEREST OF WITNESS
- Hearsay evidence. See index heading HEARSAY EVIDENCE
- Impeachment. See index heading IMPEACHMENT
- Interests
  - competency of witnesses, §§ 13:1, 13:6, 13:7
  - financial interest of witness. See index heading FINANCIAL INTEREST OF WITNESS
  - impeachment, § 18:6-18:11
- Intimidation of witnesses, §§ 4:45, 16:1
- Laying foundation for evidence, § 1:5
- Lay witnesses. See index heading LAY WITNESSES
- Limited admissibility of evidence, § 1:4
- Number of witnesses, §§ 17:3, 21:5
- Objections. See index heading OBJECTIONS



## INDEX

### WITNESSES—Cont'd

- Opinion testimony. See index heading **OPINION TESTIMONY**
- Presumptions and inferences. See index heading **PRESUMPTIONS AND INFERENCES**
- Privileges. See index heading **PRIVILEGES**
- Recollection or memory. See index heading **RECOLLECTION OR MEMORY**
- Refreshing memory of witnesses. See index heading **REFRESHING MEMORY OF WITNESSES**
- Rehabilitation of witnesses, §§ **10:38, 18:29-18:32**
- Relevancy of evidence. See index heading **RELEVANCY OF EVIDENCE**
- Self-incrimination, privilege against. See index heading **SELF-INCRIMINATION, PRIVILEGE AGAINST**
- “Silent witness” theory, §§ **8:15, 9:16**
- Special witness doctrine, §§ **13:12-13:14, 14:17**
- Sufficiency and weight of evidence. See index heading **SUFFICIENCY AND WEIGHT OF EVIDENCE**

### WORDS AND PHRASES

- Definitions. See index heading **DEFINITIONS**
- Judicial notice of meaning of, § **2:18**

### WORKERS' COMPENSATION

- Burden of proof, § **5:19**
- Circumstantial evidence, § **1:3**
- Hearsay exception, certification of hospital records, § **10:53**
- Sufficiency and weight of evidence, circumstantial evidence, § **21:2**

### WORK ON REAL PROPERTY

- Presumptions and inferences, § **3:36**

### WORK PRODUCT DOCTRINE

- Attorney-client privilege, amount of protection, § **14:2**

### WORK RECORDS

- Hearsay evidence, business records exception, § **10:52**

### WOUNDS

- Expert medical testimony, qualifications, § **7:45**
- Hearsay exception, spontaneous declarations of gunshot wound victim, § **10:18**

### WRITINGS

- Admissions, § **11:24-11:32**
- Best and secondary evidence. See index heading **BEST AND SECONDARY EVIDENCE**
- Cross-examination of witnesses, completeness doctrine, § **17:15**
- Documentary evidence, authentication, §§ **9:12, 9:13, 9:15**
- Hearsay evidence. See index heading **HEARSAY EVIDENCE**
- Objections, writings used by witness, §§ **20:2, 20:10**
- Parol or extrinsic evidence affecting writings, § **12:1-12:6**
- Relevancy of evidence, admission of evidence made relevant by adverse party, § **4:25**

### WRITTEN

- Admissions, § **11:24-11:32**
- Hearsay evidence. See index heading **HEARSAY EVIDENCE**
- In limine motions and orders, objections, §§ **20:13, 20:16**
- Prior inconsistent statements, impeachment, § **18:16**
- Transcripts of sound recordings, demonstrative evidence, § **8:19**

### WRONGFUL BIRTH ACTIONS

- Demonstrative evidence, in-court display of conditions, § **8:7**

### WRONGFUL DEATH

- Admissions, privity of interest, § **11:9**
- Expert witnesses, damages, § **7:40**
- Presumptions, §§ **3:6, 3:16**
- Relevancy of evidence. See index heading **RELEVANCY OF EVIDENCE**

### X-RAYS

- Expert medical testimony, § **7:67**

**ZONES**

Hearsay evidence, statutory exception for safe zone testimony,  
§ 10:50

**ZONING**

Burden of proof in civil cases, ordinances, § 5:19

**ZONING—Cont'd**

Relevancy of evidence, other sales of real property to prove value,  
§ 4:55