

# Index

## **ABSENCE**

- Business record as evidence, Rule 803(c)(6)
- Escape, flight, etc. as admission, Rule 803(b)
- Failure to produce evidence, implications, Rule 101
- Hearing in absence of jury, preliminary questions, Rule 104
- Judicial notice matters, Rule 201
- Missing witness rule, Rules 101, 104
- Official records and writings, Rule 803
- Other crimes to prove absence of accident or mistake, Rule 404
- Public record or entry as evidence, Rule 803(c)(7)
- Witnesses, unavailability, Rules 804 et seq.
- Writing or entry, relation to best evidence rule, Rule 902

## **ACCIDENTS**

- Other crimes to prove absence of accident or mistake, Rule 404
- Prior similar accidents, Rule 404

## **ACCOMPLICES**

- See Co-conspirator's Statements, this index

## **ACCOUNT BOOKS**

- See Business Records, this index

## **ACCUSATIONS**

- See also Convictions of Crime, this index
- Adoptive admissions, Rule 803
- Privileges, Rule 501

## **ACCUSED**

- Admissibility of accused's testimony, facts affecting, Rule 104
- Cannot be called involuntarily, Rule 501
- Conduct, Rule 501
- Confessions, this index
- Demeanor, Rule 501
- Failure to advise, Rule 501
- Fingerprints, accused may be examined physically, Rule 503
- Grand jury, Rule 501
- Instructions to jury, Rule 501
- Juvenile, Rule 501
- Officials, right to claim, Rule 501
- Physical examination, Rule 503
- Presumptions against the accused in criminal cases, Rule 303
- Privileges, Rule 501
- Psychiatric examination, Rules 501, 503

**ACCUSED—Cont'd**

- Right to remain silent, Rule 501
- Search, Rule 503
- Silence, Rule 501
- Spouse of, Rule 501
- Tests, Rules 501, 503
- Voluntary statements, Rules 502, 503

**ACKNOWLEDGED DOCUMENTS**

- Authentication, Rule 901

**ACTS OF CONDUCT**

- Character and Reputation, this index
- Conviction of Crime, this index
- Impeachment, this index
- Other Crimes or Bad Acts, this index

**ACTS OF LEGISLATURE**

- Best evidence rule, exception to, Rule 901
- Judicial Notice, this index
- Presumptions, Rule 301
- Public Records and Reports, this index

**ADJUDICATIVE FACTS**

- Judicial notice, Rule 201

**ADMINISTRATIVE HEARINGS**

- Applicability of law of evidence, generally, Rule 102
- Exclusion of immaterial evidence, Rule 403
- Exclusion of irrelevant evidence, Rules 401, 403
- Irrelevant evidence, admissibility of, Rule 403
- Relaxed rules of evidence, Rule 102
- Repetitious evidence, Rule 403

**ADMISSIBLE EVIDENCE**

- Character and reputation, Rules 404, 405
- Commercial publications, Rule 803
- Credibility, Rules 104, 806
- Discretion of judge to exclude, Rule 403
- Family history, Rules 803, 804
- Film, Rules 401, 801, 1001
- Identification, Rule 101
- Limited admissibility, Rule 105
- Medical malpractice, Rule 101
- Opportunity, Rule 101
- Oral agreement, Rule 101
- Other crimes, Rule 404
- Ownership, Rule 101
- Photographs, Rule 801
- Privileged information, wrongfully compelled, Rule 531
- Product liability, Rule 101

## INDEX

### **ADMISSIBLE EVIDENCE—Cont'd**

- Psychiatrist, Rule 104
- Slander of trade, Rule 401
- Tape recording, Rule 101
- Value of chattel, Rule 401
- Value of close corporation, Rule 401
- Value of realty, Rule 401
- Voter's statement, Rule 804

### **ADMISSIONS AGAINST INTEREST**

- Generally, Rule 803
- Confessions, Rule 803
- Crimes and offenses, discovery, Rule 803
- Evidence rules, Rule 803
- Exception to hearsay rule, Rule 803
- Penal interest, statements against, Rule 803
- Personal knowledge, Rule 803
- Proprietary interest, statements against, Rule 803

### **ADMISSIONS AND DECLARATIONS**

- Generally, Rules 803, 1007
- Adoptive admissions, Rule 803
- Against interest, Rule 803
- Agents, Rule 803
- Attorneys, Rule 803
- Authority to speak, Rule 803
- Authorized admissions, Rule 803
- Co-conspirator's Statements, this index
- Conduct, Rule 803
- Confessions, Rule 803
- Co-party's admissions, Rule 803
- Death of agent-declarant, Rule 803
- Deeds, Rule 803
- Defined, Rule 803
- Employees, Rule 803
- Existence of liability insurance, Rule 411
- Failure to deny accusation, Rule 803
- Letters, Rule 803
- Limiting instruction, adoptive or tacit admission, Rule 803
- Nolo contendere, Rule 803
- Offers of compromise, Rule 408
- Out of court statements, Rule 803
- Party's written admission, Rule 1007
- Pleadings, Rule 803
- Self-serving declarations, Rule 803
- Silence, Rule 803(b)
- Subsequent repairs or remedial measures, Rule 407
- Vicarious admissions, Rule 803

**ADMISSIONS AND DECLARATIONS—Cont'd**

Victim, criminal case, Rule 803

**ADOPTIVE ADMISSIONS**

Generally, Rule 803(b)

Party opponent, admissions of, Rule 803(b)

**ADVERSE INFERENCE**

Non-production of documents or witnesses, Rule 101

**ADVERSE POSSESSION**

Presumptions, Rule 301

**ADVERSE WITNESSES**

Dead Man's Act, this index

Impeachment, this index

**AFFIDAVITS**

Authentication of, Rule 902

**AFFIRMATION**

Requirement of oath or affirmation, Rule 603

**AGE**

Ancient Documents, this index

Birth records, Rule 803(c)(9)

Competence of Witnesses, this index

Discrimination evidence, Rules 401, 403

Prior convictions, age's effect on probative value, Rules 403, 607

**AGENTS AND AGENCY**

Admissions by, Rule 803(b)

Attorney-client Privilege, this index

Competence of Witnesses, this index

Dead Man's Act, this index

Employees, admissions by, Rule 803(b)

Excited utterance exception to hearsay rule, Rule 803(c)(2)

Liability insurance as proof of agency, Rule 411

**ALCOHOL**

See Drug and Alcohol Offenses, this index

**AMENDMENT OF EVIDENCE RULES**

Generally, Rule 1102

**ANCESTRY**

See Family History, this index

**ANCIENT DOCUMENTS**

Authentication, Rule 901

Exception to hearsay rule, Rule 803(c)(16)

**APPEAL**

Cumulative evidence, Rule 403

## INDEX

### **APPEAL—Cont'd**

- De novo review of other crimes evidence, Rule 404
- Error in overruling claim of privilege, effect of, Rule 533
- Expert opinion testimony issues, Rule 702
- Harmless error
  - Lay opinion testimony evidence, Rule 701
  - Other bad acts evidence, Rule 404
- Interrogation of witness by trial judge, Rule 609
- Lay opinion testimony, admissibility, Rule 701
- Plain error review, Rule 103
- Plenary review of Rules, Rule 101
- Standing to challenge prior bad act evidence, Rule 404
- Waiver of privilege against self-incrimination, Rule 503

### **APPLICABILITY OF EVIDENCE RULES**

- Generally, Rules 101, 1101

### **ARBITRATORS**

- Discretion, Rule 101

### **ATHLETICS**

- Alternative measures to discrimination available, consent decree as showing, Rule 407
- Expert opinion testimony, Rule 702

### **ATTESTED DOCUMENTS OR COPIES**

- Subscribing witness testimony, Rule 903

### **ATTORNEY-CLIENT PRIVILEGE**

- Generally, Rule 504
- Agents, presence of, Rule 504
- Comment on exercise of privilege, Rule 504
- Confidentiality required, Rule 504
- Distinguished from work product, Rules 500, 504
- Documents of client, Rule 504
- E-mail communications, Rule 504
- Facsimile cover letters, Rule 504
- Fraud, Rule 504
- Identity of client, Rule 504
- Internet communications, Rule 504
- Litigation need not be pending, Rule 504
- Papers of client, Rule 504
- Professional consultation, Rule 504
- Purpose of privilege, Rule 504
- Rules of evidence, generally, Rule 504
- Suits between attorney and client, Rule 504
- Testimony by client as waiver, Rule 504
- Third person, presence of, Rule 504
- Waiver, Rule 504

**ATTORNEYS**

As witness, generally, Rule 601

**AUDIO TAPES AND TRANSCRIPTS**

Generally, Rule 901

Admissibility, a question for court, Rules 101, 104, 403

Ancient documents, Rule 803

Authentication, Rule 901

Business records, generally, Rule 803

Certificate of lack of public record, Rule 902

Chain of custody, Rule 801

Compilations, Rule 901

Completeness doctrine, Rule 106

Computerized business records, Rules 803, 901

Copies, Rule 1003

Corporate seal, Rule 901

Films, Rules 801, 1001

Hearsay, Rule 803(b)

Hospital records, Rule 901

Insurance policies, Rule 901

Letter, Rule 901

Mortality tables, Rule 901

Photographs, Rule 901

Public Records and Reports, this index

Real or physical evidence, Rule 901

Requests for admissions, Rules 803, 1007

Self-Authentication, this index

X-rays, Rules 801, 901, 1001

**AUTHENTICATION**

Certificate of lack of public record, Rule 902

Chain of custody, Rule 901

Requirement, Rule 901

Self-authentication, Rule 902

Subscribing witness testimony as unnecessary, Rule 903

**AUTOPSY**

Photographs, exclusion due to prejudice, Rule 403

Reports

Expert opinion testimony based on, Rule 702-705

Hearsay exception, records of regularly conducted activity, Rule 803(c)(6)

**BALLOTS**

Privileged or confidential matters, voter's privilege, Rule 513

**BAPTISMAL CERTIFICATES**

Generally, Rule 803(c)(12)

Hearsay within hearsay, Rule 805

## INDEX

### **BELIEF IN IMPENDING DEATH**

Dying declarations, Rule 804

### **BEST EVIDENCE RULE**

Generally, Rules 1001, 1002  
Account books, Rule 1002  
Adequacy of notice to produce, Rule 1004  
Admission of party, testimony or writing, Rule 1007  
Appraisals, Rule 1002  
Conditional sales contract, Rule 1002  
Contracts, Rule 1002  
Conviction, Rule 1005  
Deeds and mortgages, Rule 1005  
Definitions, Rule 1001  
Deposition, Rule 1005  
Destroyed original, Rule 1003  
Divorce decrees, Rule 1003  
Duplicates, Rule 1003  
Functions of judge and jury, Rule 1008  
Hospital records, Rule 1002  
Informer's prior testimony, objection to, Rule 103  
Insurance policy, Rule 1002  
Letters, Rule 1002  
Loss of writing question for court, Rule 1004  
Motor vehicle records, Rule 1005  
Original, requirement of, Rule 1002  
Other evidence of contents, Rule 1004  
Party's testimony or written admission, Rule 1007  
Photocopies, Rule 1003  
Photographs, Rule 1001  
Public records, Rule 1005  
Requirement of original, Rule 1002  
Summaries of voluminous records, Rule 1006  
Written admission of party, Rule 1007  
X-rays, Rules 1001, 1002, 1004

### **BEYOND REASONABLE DOUBT**

Accused in criminal case, Rule 303  
Burden of proof, generally, Rule 101  
Presumptions  
    Generally, Rule 301  
    Accused, against, Rule 303  
Waiver of privilege against self-incrimination, Rule 104

### **BIAS OR PREJUDICE**

Balancing danger of unfair prejudice and relevancy, Rule 403  
Exclusion of relevant evidence for undue danger of prejudice  
    Generally, Rule 403  
    Autopsy photographs, Rule 403

**BIAS OR PREJUDICE—Cont'd**

- Exclusion of relevant evidence for undue danger of prejudice—Cont'd
  - Balancing probative value against prejudicial effect, Rules 403, 404
  - Character as substantive evidence, Rule 803
  - Definition of undue prejudice, Rule 403
  - Gruesome photographs, generally, Rules 403, 801
  - Identification evidence, Rule 403
  - Liability insurance, Rules 403, 411
  - Other crimes or acts of accused, Rules 403, 404
  - Preliminary hearing, Rule 403
  - Restraining orders, admissibility of, Rule 404
  - Writing used to refresh witness' recollection, Rules 612, 803
- Jury bias, Rule 606
- Preliminary questions hearing prerequisite, Rule 104
- Witness bias
  - Generally, Rule 607
  - Complicity in matter, Rule 607
  - Interest in outcome, Rule 607
  - Promise of immunity, Rule 607

**BIBLES**

- Family history, entries in family bible, Rule 803(c)(13)

**BIRTH RECORDS**

- Exception to hearsay rule, Rule 803(c)(9)

**BLOOD TESTS**

- Privilege against self-incrimination, not within, Rule 503

**BOATS AND BOATING OFFENSES**

- Declarations of past events, Rule 803(b)
- Informant's privilege, Rule 516
- Investigatory reports as public record, Rule 803(8)
- Relevancy, Rule 401
- Reports as admissions against interest, Rule 803(b)

**BODILY CONDITIONS, STATEMENTS CONCERNING**

- Appearance, opinion testimony, Rule 702
- Diagnosis or treatment, statements for, Rule 803(c)(4)
- Existing pain or suffering statements, hearsay aspects, Rules 803(c)(1), 803(c)(3)
- Medical history only admissible as basis for expert opinion, Rule 703
- Opinion testimony, Rule 702
- Physical or mental condition, statements by declarant, Rule 803(c)(3)

**BOOKS OF ACCOUNT**

- See Business Records, this index

**BOUNDARIES**

- Judgment as to boundaries, Rule 803(c)(23)
- Reputations concerning boundaries, hearsay rule, Rule 803(c)(20)



## INDEX

### **BREATHALYZER**

- Generally, Rule 101
- Judicial notice of tests, Rule 210
- Limited admissibility, Rule 104
- Right to refuse, Rule 501
- Right to take breath samples, Rule 503

### **BURDEN OF PRODUCTION**

- Generally, Rule 101
- Adverse inferences, failure to produce, Rule 101
- Res ipsa loquitur, Rule 101
- Risk of nonproduction, Rule 101
- Self-incrimination privilege, waiver of, Rule 503

### **BURDEN OF PROOF**

- Generally, Rule 101
- See also Presumptions and Burden of Proof
- Administrative proceedings, Rule 101
- Beyond reasonable doubt, Rule 101
- Choice of laws, Rule 301
- Circumstantial evidence, Rule 101
- Civil cases, Rule 101
- Clear and convincing, Rule 101
- Clear error, Rule 404
- Criminal cases, Rule 101
- Expert opinion testimony, Rule 702
- Incompetency hearing, Rule 101
- Insurance cases, Rule 101
- Labor matters, Rule 101
- Matrimonial matters, Rule 101
- Other crimes or act evidence, Rule 404
- Paternity, Rule 101
- Persuasion, Rule 101
- Preliminary hearings, Rule 104
- Res ipsa loquitur, Rule 101
- Self-incrimination privilege, waiver of, Rule 503
- Worker's compensation matters, Rule 101

### **BUSINESS RECORDS**

- Absence of record following diligent search, Rule 803
- Authentication
  - Generally, Rule 901
  - Computer records, Rule 901
  - Court records, Rule 902
  - Electronically maintained records, Rule 901
- Bank records, Rule 803
- Best evidence rule, applicability, Rule 1002
- Business defined, Rule 801
- Church records, Rules 802, 803(c)(6), 803(c)(11)

**BUSINESS RECORDS—Cont'd**

- Corporate books, Rule 803
- Custodian, Rule 803
- Exception to hearsay rule, Rule 803(c)(6)
- Expert opinion testimony, Rule 702
- Fire bureau, Rule 803
- Foundation, Rule 803
- Hearsay, generally, Rule 803(c)(6)
- Hospital records, Rule 803
- Laboratory tests, Rule 803
- Medical records, Rule 803
- Opinions contained in records, Rule 1004
- Police reports, Rule 803
- Refreshing recollection, Rule 803
- School records, Rule 803
- State agency, Rule 803
- Summaries, hearsay issues, Rules 803(c)(6), 803(c)(17)

**CARBON COPIES**

- Generally, Rule 1001
- Duplicates under best evidence rule, Rule 1003
- Originals under best evidence rule, Rule 1002

**CERTIFICATES**

- Baptism, Rules 803(c)(12), 805
- Births, Rule 803(c)(9)
- Certified Copy, this index
- Death, Rule 803(c)(9)
- Lack of record, Rule 902
- Marriage, Rules 803(c)(9), 803(c)(12)
- Public Records and Reports, this index
- Testing certificates as not testimonial statements, Rule 803(c)(6)
- Vital statistics, Rule 803(c)(9)

**CERTIFIED COPY**

- Attestation of public official, Rules 902, 1005
- Authentication of public records, Rules 902, 1005
- Best evidence rule, satisfaction of, Rule 1002
- Public Records and Reports, this index

**CHAIN OF POSSESSION**

- Adoptive admissions, Rule 803(b)
- Audio tapes and transcripts, Rule 801
- Authentication, Rule 901

**CHARACTER AND REPUTATION**

- Generally, Rules 404, 405, 608
- Admissibility, Rules 404, 405
- As proof of conduct, Rules 404, 405
- Best evidence rule, Rule 1002

## INDEX

### **CHARACTER AND REPUTATION—Cont'd**

- Boundaries or customs affecting land, hearsay rule, Rule 803(c)(20)
- Character, as proof of; hearsay rule, Rule 803(c)(21)
- Character evidence distinguished, Rules 404, 405
- Community, reputation, Rules 608, 701, 803(c)(19)
- Cross-examination of character witness, Rules 607, 608, 613
- Effect of character evidence, Rule 803(c)(21)
- Entrapment defense, Rule 404
- Family history, hearsay rule, Rule 803(c)(19)
- For proof of care, Rule 404
- For proof of skill, Rule 404
- Hearsay, this index
- Impeachment evidence
  - Collateral matters, Rules 607, 1004
  - Conviction of Crime, this index
  - Court's discretion to exclude, Rule 403
  - Cross examination of
    - Character witness, specific acts, Rule 608
    - Impeaching witness, Rule 607-609
    - Rebuttal reputation witness, Rule 608
  - Definition of character, Rule 607
  - Own witness, impeachment by, Rule 607
  - Prior contradictory statements, Rule 613
  - Rape shield statute, Rule 412
  - Reputation for veracity, Rule 607
  - Sexual conduct or reputation, Rule 412
  - Specific acts generally inadmissible as proof, Rules 607, 608
  - Specific instances of conduct
    - Admissible as rebuttal of factual claims, Rule 406
    - Admissible to impeach ability to observe and recall, Rule 602
    - Admissible to show bias, Rule 607
- Inadmissible to prove quality of conduct, Rule 404
- Manner of proof, Rule 405
- Methods of proving character, Rules 405, 613
- No presumption of good character, Rule 803
- Of accused, for specific trait, Rule 404
- Parties, Rules 404, 405
- Pedigree, Rule 804(b)(4)
- Personal history, hearsay rule, Rule 803(c)(19)
- Slander of trade, Rule 404
- Substantive evidence
  - See also Other Crimes or Bad Acts, this index
  - Generally, Rule 405
  - Accused's evidence of his own relevant traits, Rules 404, 405
  - Capacity, Rule 404
  - Character in issue, Rule 405
  - Common scheme or plan, Rule 404

**CHARACTER AND REPUTATION—Cont'd**

- Substantive evidence—Cont'd
  - Entrapment cases, Rule 404
  - Identity, Rule 404
  - Inseparable crimes, Rule 404
  - Intent, Rule 404
  - Knowledge of accused, Rule 405
  - Malice of accused, Rule 404
  - Methods of proof of character
    - Opinion testimony, Rules 405, 613
    - Reputation, Rules 405, 613
  - Self-defense cases, Rule 404
  - Victim's character
    - As proof of accused's state of mind, Rule 404
    - As proof of victim's conduct, Rules 404, 406
- Veracity of witness, Rules 404, 608
- Victim's character
  - As proof of accused's state of mind, Rule 404
  - As proof of victim's conduct, Rules 404, 406
- Witness
  - Cross-examination, Rules 607, 608, 613
  - Reputation evidence, Rules 608, 613
  - Veracity of witness, Rules 404, 608

**CHARTS**

- Admissibility, generally, Rule 101
- Demonstrative evidence, Rule 611
- Experts, testimony by, Rules 702, 703
- Family records, Rule 803(c)(13)
- Hearsay, Rules 802, 803(c)(6), 803(c)(13)
- Hospital patient charts, Rules 506, 507
- Judicial notice, Rule 201
- Opinion testimony of lay witnesses, Rule 701
- Polygraph test results, Rule 503
- Prejudicial aspect of, Rule 403
- Real or physical evidence, Rule 901
- Summaries in form of, Rule 1006
- Trial aids, Rule 101

**CHATTEL**

- Value of chattel, admissible evidence, Rule 401

**CHILDREN**

- Excited utterance, Rule 803(c)(2)
- Sexual offense statements, Rule 803(c)(27)
- Similar acts in civil cases concerning child molestation, Rule 415
- Similar crimes in child molestation cases, Rule 414
- Tender years exception to hearsay, Rules 803(c)(27), 804(b)(8)

## INDEX

### **CHOICE OF LAWS**

- Burden of proof, Rule 101
- Judicial notice, Rule 201
- Presumptions, Rule 302

### **CHURCHES**

- Cleric-penitent privilege, Rule 511
- Privileges
  - Cleric-penitent, Rule 511
  - Religious belief, Rule 512
- Records, hearsay exception, Rules 802, 803(c)(6), 803(c)(11)
- Religious belief or opinion of witness, Rule 610
- Religious belief privilege, Rule 512

### **CHURCH RECORDS**

- Hearsay exception, Rules 802, 803(c)(6), 803(c)(11)

### **CIRCUMSTANTIAL EVIDENCE**

- Burden of proof or persuasion, generally, Rule 101
- Character evidence, Rules 404, 405
- Defined, Rule 101
- Habit evidence, Rule 406
- Presumptions, Rule 403

### **CIVIL CASES**

- Applicability of evidence rules, Rule 101
- Burden of proof, Rule 101

### **CLEAR AND CONVINCING**

- Generally, Rule 101
- Other crimes or bad acts as proving motive, Rule 404

### **CLEAR ERROR OF JUDGMENT**

- When to use standard, Rule 404

### **CLERIC-PENITENT PRIVILEGE**

- Generally, Rule 511
- Prima facie case, Rule 101

### **CLOSE CORPORATION**

- Admissible evidence, value of close corporation, Rule 401

### **CO-CONSPIRATOR'S STATEMENTS**

- Generally, Rule 803
- Absence of accused during declaration, Rule 803
- Acquittal during declaration, Rule 803
- Acts of conspiracy, Rule 803
- Conspiracy, in general, Rule 803
- Course of conspiracy, Rule 803
- Evidence of conspiracy, Rule 803
- Furtherance of conspiracy, Rule 803
- Termination of conspiracy, Rule 803

**COLLATERAL MATTERS**

See also Impeachment, this index  
Best evidence rule, exception to, Rule 1002  
Bias of witness not collateral, Rule 607

**COMMERCIAL PAPER**

Authentication, Rule 902

**COMMERCIAL PUBLICATIONS**

Exception to hearsay rule, Rule 803  
Lists and summaries, hearsay issues, Rule 803(c)(17)  
Mortality tables, Rule 803(c)(17)  
Newspapers, not in exception, Rule 803  
Newspapers, not in hearsay exception, Rule 803(c)(17)  
Regulations, Rule 803(c)(17)  
Safety and standards codes, Rule 803(c)(17)  
Safety codes, Rule 803  
Television programs, Rules 801, 803(c)(17)

**COMMON KNOWLEDGE**

See also Judicial Notice, this index  
Expert testimony on, Rule 702

**COMPETENCE**

Generally, Rule 101  
Preliminary inquiry, Rule 104  
Witnesses. Competency of Witnesses, this index

**COMPETENCY OF WITNESSES**

Generally, Rule 601  
Administrators, executors and interested parties, Rule 601  
Affirmation, Rule 603  
Attorneys as witnesses, Rule 601  
Children as witnesses, Rule 601  
Child witnesses, Rule 601  
Clergyman's privilege, Rule 511  
Conviction no bar, Rule 601  
Excited utterances, Rule 803  
General rule of competency, Rule 601  
Hypnosis, Rule 602  
Insane persons, Rule 601  
Interested persons, Rule 601  
Interpreters, Rule 601  
Intoxicated persons, Rule 601  
Judges as witnesses, Rule 601  
Jurors as witnesses, Rule 601  
Jury's duty to assess, Rules 402, 601  
Perception, Rule 602  
Psychiatric examination of witness, Rule 601  
Public officials as witnesses, Rule 601

## INDEX

### **COMPETENCY OF WITNESSES—Cont'd**

Religious beliefs, Rule 601

### **COMPLETENESS, PRINCIPLE OF**

Generally, Rule 106  
Best evidence rule, Rule 1002  
Compelling production of remainder, Rule 106  
Conversation, Rule 106  
Correspondence, Rule 106  
Depositions, Rule 106  
Former testimony, Rule 106  
Writings, Rules 106, 801, 1001

### **COMPROMISE**

See Offer of Compromise, this index

### **COMPUTER RECORDS**

Generally, Rule 803  
As writings, Rules 801, 1001  
Authentication, Rule 901

### **COMPUTERS**

Authentication of electronic evidence, Rule 901  
Internet communications and e-mail, attorney-client privilege and work product, Rule 504  
New theory proffered by computer expert advanced at trial, Rule 702

### **CONCLUSIVE PRESUMPTIONS**

Generally, Rule 301

### **CONDUCT**

Custom or routine practice of business or group as proof of conduct, Rule 406  
Escape as admission, Rule 803(b)  
Failure to appear as admission, Rule 803  
Failure to produce evidence as having adverse inference, Rules 101, 803  
Habit of individual as proof of conduct, Rule 406  
Hearsay, conduct as, Rules 801, 802  
Offer of compromise as admission, Rule 408  
Other Crimes or Bad Acts, this index  
Silence as admission, Rule 803(b)  
Specific act to prove conduct, Rule 406  
Subsequent remedial measures as admission, Rule 410

### **CONFESSIONS**

Generally, Rules 503, 803  
Admissions, this index  
Hearsay statements, Rule 803(a)  
Miranda warnings, Rule 503  
Polygraph, Rules 503, 611  
Preliminary questions determinations, Rule 104  
Voluntariness, Rule 503

**CONFIDENTIAL COMMUNICATIONS**

See also Privileged Communications, this index  
Eyewitness to crime, Rule 508

**CONFLICTING PRESUMPTIONS**

Generally, Rule 301

**CONFRONTATION CLAUSE**

Co-defendant's statements, Rules 703, 803  
Cross examination, right of, Rule 607  
Expert opinion based on reports of others, Rule 703

**CONFUSION OF ISSUES**

Exclusion of relevant evidence, Rule 403

**CONFUSION OF JURY**

Hearing out of presence to avoid, Rule 104

**CONJECTURE**

Insufficient as proof, Rule 101  
Personal Knowledge, this index  
Reasonable medical certainty, Rule 702-704  
Relevancy of evidence, Rule 401

**CONSENT DECREE**

Admissibility of, Rule 404  
Alternative measures available, to show, Rule 407  
As settlement, Rule 408

**CONSISTENT STATEMENTS**

As rehabilitative evidence after impeachment with prior inconsistent statement,  
Rules 613, 803  
As substantive evidence, Rule 803

**CONSPIRACY**

Other crimes or bad acts to show, Rule 404  
Proffer statements, use of at trial, Rule 101  
Statements by co-conspirators, generally, Rule 803(b)  
Then existing state of mind statements, Rule 803(c)(3)

**CONSTITUTIONAL PROVISIONS**

Confrontation clause, hearsay statements, Rule 801  
Cross-examination, trial, Rule 503

**CONSTRUCTION OF EVIDENCE RULES**

Generally, Rule 102

**CONTEMPORANEOUS STATEMENTS**

Hearsay, Rule 803

**CONTRADICTION**

See Impeachment; Prior Inconsistent Statement, this index



## INDEX

### CONTROL BY COURT

- Cumulative evidence, exclusion of, Rule 403
- Experiments, Rule 101
- Judicial notice, Rule 201
- Leading Questions, this index
- Preliminary questions, Rule 104
- Scope of cross or redirect examination, Rule 607

### CONVERSATIONS, REMAINDER OF

- See Completeness, Principle of, this index

### CONVICTION OF CRIME

- See also Prior Convictions, this index
- Admissibility in related civil actions, Rule 404
- Admissions, this index
- Authentication of court records, Rule 902
- Best evidence rule, Rule 1002
- Character as Impeachment Evidence, this index
- Character as Substantive Evidence, this index
- Civil action on same facts, admissibility in, Rule 803
- Conviction on appeal, Rule 609
- Convictions, not usable
  - Disorderly persons, Rule 803
  - Foreign convictions, Rule 803
  - Indictments, Rule 803
  - Reckless driving, Rule 803
- Impeachment by showing conviction
  - Generally, Rules 607, 609
  - Juvenile adjudication, Rule 803
  - Limiting instruction, Rule 803
  - Misdemeanors, Rule 803
  - Remoteness in time, Rule 607
- Specific crimes
  - Assault, Rule 803
  - Battery, Rule 803
  - Burglary, Rule 803
  - Disbarment, Rules 607, 609
  - Larceny, Rule 803
  - Perjury, Rule 803
- Jury instructions, Rule 803
- Pardon, ., Rule 803
- Polygraph, use of, Rule 607
- Related civil actions, admissibility in, Rule 404
- Relevancy, this index
- Uncounseled prior convictions, Rule 607

### CO-PARTIES

- Admissions of co-party, Rule 803
- Co-conspirator's Statements, this index

**COPIES**

See Carbon Copies; Certified Copies; Photocopies

**CORPORATIONS**

Admissions by

Attorneys, Rule 803

Directors, officers and partners, Rule 803

Employees, Rule 803

Attorney-client privilege, Rule 504

Business records exception to hearsay rule, Rule 803

Custom or routine practice as proof of conduct, Rule 406

Dead Man's Act, this index

**CORROBORATIVE EVIDENCE**

Generally, Rule 101

**COURT RECORDS**

Authentication, Rule 902

Best evidence rule, exception for, Rule 1002

Judicial notice of, Rule 301

**CREDIBILITY**

Character for truthfulness or untruthfulness, Rule 608

Conviction of Crime, this index

Cross examination, generally, Rule 607

Declarant, Rule 821

Impeachment, this index

Limitation on admissibility of evidence affecting credibility, Rules 608, 613

Prior Inconsistent Statements, this index

Relevancy of credibility evidence, Rule 101

Reputation. Character and Reputation, this index

Witness credibility, generally, Rule 607

**CRIMES**

Conviction of Crime, this index

Identity, to show, Rule 404

Impeach, Rules 608, 609

Inadmissible to prove disposition, Rule 404

Intent, to show, Rule 404

Motive, to show, Rule 404

Other Crimes or Bad Acts, this index

Plan, to show, Rule 404

Prior Convictions, this index

**CRIMINAL PRACTICE**

Autopsy reports, Rules 703, 705

New expert theory, advancing at trial, Rules 702, 703, 705

Proffer statements, use of, Rule 101

**CROSS-EXAMINATION, TRIAL**

Generally, Rules 607, 803

## INDEX

### **CROSS-EXAMINATION, TRIAL—Cont'd**

- Alcohol, as to, Rules 611, 703
- As to alcohol, Rules 611, 703
- As to drugs, Rules 607, 803
- Collateral matters, Rules 607, 803
- Compensation by adverse party, Rules 607, 803
- Confrontation, Rule 503
- Control by court, Rules 607, 803
- Controlled substances, as to, Rules 607, 803
- Credibility, generally, Rules 607, 803
- Drugs, as to, Rules 607, 803
- Expert witness, disclosure of facts underlying opinion, Rule 703
- Improbable testimony, Rules 607, 803
- Leading questions, Rules 607, 803
- Narcotics, as to, Rules 607, 803
- Of character witness, Rules 607, 803
- Of impeaching character witness, Rule 607
- Proffer statements, use of, Rule 101
- Scope
  - Effect of exceeding proper scope, Rule 607
  - General subject of direct, Rule 607
  - “Opening the door,” Rule 607
  - Trial court’s discretion, Rule 607
- Use of polygraph, Rule 607

### **CUMULATIVE EVIDENCE**

- Generally, Rules 101, 403
- Court’s discretion to exclude cumulative or repetitive evidence, Rule 403

### **CUSTOM OR ROUTINE PRACTICE**

- See also Habit, this index
- Generally, Rule 406
- Expert testimony, Rule 402

### **DATA COMPILATIONS**

- Business records, Rule 803
- Public Records and Reports, this index
- Vital statistics, Rule 803
- Voluminous records, Rule 1006

### **DEAD MAN’S ACT**

- See also Competence of Witnesses, this index
- Generally, Rule 402
- Adverse party, Rule 402
- Burden of proof, Rule 101
- Exceptions, Rule 402
- Exclusionary Rule, this index
- Presumptions, Rule 301
- Situations inapplicable, Rule 402
- Surviving party to contract, Rule 402

**DEAD MAN’S ACT—Cont’d**

Transactions covered by, Rule 402

**DEATH AND DEATH ACTIONS**

Certificate of death, Rule 803(c)(9)

Dying Declarations, this index

Foundation for statements by deceased declarants, Rule 804(b)(6)

Husband-wife privilege, effect on, Rule 509

Matters involving will, Rule 804

Presumption of death, generally, Rule 301

Records of deaths, hearsay exceptions, Rule 803(c)(9)

Self-serving declarations, Rule 803

Unavailability of witness, Rule 804

**DEATH CERTIFICATE**

Generally, Rule 803(c)(9)

**DECISIONAL LAW**

Judicial notice, Rule 201

**DECLARANT**

Credibility, Rule 806

Defined, hearsay rule, Rule 801

Trustworthy statements by deceased, Rule 804(b)(6)

**DECLARATIONS**

See also Oath, this index

Availability immaterial for

Absence of entry public record, Rule 803

Documents affecting interest in property, Rule 803

Judgments of previous conviction, Rule 803

Marriage certificates, Rule 803

Records of public certification, Rule 803

**DECLARATIONS AGAINST INTEREST**

Generally, Rule 803

Admissions contrasted, Rule 803

Confessions, Rule 803

Exception to hearsay rule, Rule 803

Penal interest, statements against, Rule 803

Personal knowledge, Rule 803

Proprietary interest, statements against, Rule 803

Threats, Rule 803

**DECREES**

See Judgments; Public Records and Reports, this index

**DEEDS**

Recorded deeds, exception to hearsay rule, Rule 803

**DEFINITIONS**

Generally, Rule 101

## INDEX

### **DEFINITIONS—Cont'd**

- Burden of persuasion, Rule 101
- Burden of production, Rule 101
- Burden of proof, Rule 101
- Business, Rule 801
- Calling, Rule 801
- Circumstantial evidence, Rule 101
- Client, Rule 504
- Declarant, Rule 801
- Definitive evidence, Rule 101
- Demonstrative evidence, Rule 101
- Direct evidence, Rule 101
- Evidence, Rule 101
- Excited utterance, Rule 803(c)(2)
- Finding of fact, Rule 104
- Hearsay, Rule 801
- Incrimination, Rule 502
- Judge, Rule 605
- Lawyer, Rule 504
- Materiality, Rule 101
- News media, Rule 508
- Occupation, Rule 801
- Presumption, Rule 301
- Probative value, Rule 101
- Profession, Rule 801
- Public official, Rule 801
- Real evidence, Rule 101
- Relevant evidence, Rule 401
- Self-incrimination, Rule 502
- Self-serving, Rule 502
- Statement, Rule 801
- Unavailable as a witness, Rule 804(a)
- Undue prejudice, Rule 403
- Verbal acts, Rule 101
- Writing, Rules 101, 801, 1001

### **DEMEANOR**

- Generally, Rule 607

### **DEMONSTRATIVE EVIDENCE**

- Generally, Rule 101
- Blood tests, physician-patient privilege, Rule 506
- Demonstrations in courtroom, Rule 101
- Diagrams, this index
- Handwriting, Rules 101, 801, 1001
- Maps, this index
- Photographs and Pictures, this index
- Reenactment, Rule 101

**DEMONSTRATIVE EVIDENCE—Cont'd**

- Replicas, Rule 101
- Summary of voluminous records, Rule 1006
- Tests, Rule 101
- Trial aids, Rule 101
- Trial court's discretion to allow, Rule 102
- Videotapes, Rules 101, 801, 1001
- View of scene, Rules 101, 801, 1001
- X-rays, Rules 101, 801, 1001

**DEPOSITIONS**

- Authentication, Rule 902
- Best evidence rule, Rules 1002, 1005
- Completeness of trial testimony, Rule 106
- Expert witness, compelling testimony, Rule 702
- Former Testimony, this index
- Hearsay, Rules 801, 804
- Impeaching own witness, Rule 608
- Impeachment of deposition testimony by prior inconsistent statement, foundation required, Rule 613
- Impeachment use of deposition as prior inconsistent statement, Rule 613
- Prior inconsistent statements
  - Evidence rules, Rules 613, 804
  - Foundation required when statement to be impeached is contained in, Rules 613, 804
  - Rehabilitation of witness impeached by prior statement contained in deposition, Rules 613, 804
  - Testimony in deposition as prior inconsistent statement, Rules 613, 804
- Rehabilitation of witness impeached by prior statement contained in deposition, Rule 613
- Remainder of, See Completeness, Principle of, this index

**DEPRAVED SEXUAL INSTINCT**

- Generally, prior crimes or acts as proof of, Rule 412
- Not admissible in rape cases, Rule 412

**DESTROYED DOCUMENTS**

- Best evidence rule, Rule 1002
- Other evidence of contents, admissibility of, Rule 1004
- Spoliation of evidence, Rule 101

**DIAGRAMS**

- Expert witness testimony, Rules 611, 702
- Hearsay
  - Learned treatise, in, Rule 803(c)(18)
  - Records of regularly conducted activity, Rules 803(c)(6), 805
  - Within hearsay, Rule 805

## INDEX

### DISABLED PERSONS

- Alternative measures to discrimination available, consent decree as showing, Rule 407
- Expert opinion testimony, Rule 702
- Relevancy of reasonable accommodation evidence, Rule 401
- Settlement in form of prior consent decree, Rule 408

### DISCLOSURE

- Mediator privilege, Rule 519
- News gathering activities, Rule 508
- Official information privilege, Rule 515
- Wrongfully compelled disclosure, admissibility of, Rule 531

### DISCOVERY

- Depositions, this index
- Exclusion of relevant evidence on grounds of unfair surprise, Rule 403
- News gathering sources, Rule 508
- Relevance, Rule 401

### DISCRETION

- Generally, Rule 101
- Agencies as to rule-making, Rule 301
- Character witnesses, Rules 608, 611
- Competency of witness, Rule 601
- Completeness doctrine, Rule 106
- Cross examination, scope of, Rule 611
- Cumulative evidence, Rule 403
- Demonstrations, Rule 403
- Exclusion of relevant evidence, Rule 403
- Experiments, Rule 101
- Expert opinion testimony, Rule 702
- Informant's identity, Rule 516
- Interpreters, Rule 604
- Interrogation of witness by trial judge, Rules 609, 614
- Judicial notice, Rules 201, 202
- Lack of personal knowledge rulings, Rule 602
- Lay opinion testimony, Rule 701
- Preliminary inquiries, Rule 104
- Prior inconsistent statements, Rule 613
- Privilege, Rules 501 et seq.
- Probative value of proffered evidence outweighed by danger of prejudice, Rule 403
- Relevancy, Rules 401 et seq.
- Remoteness as grounds for exclusion of relevant evidence, Rules 403, 607
- Repetitive evidence, Rule 406
- Sexual history of victim in sex offense prosecution, Rule 413
- Similar crimes in sexual assault cases, Rule 415
- Surprise as grounds for exclusion of relevant evidence, Rule 403

**DISCRIMINATION**

Alternative measures available, showing, Rule 407  
Consent decree, reliance on, Rule 408  
Exclusion of relevant evidence, Rule 403  
Relevancy of evidence, Rule 401

**DISORDERLY PERSONS**

Self-incrimination privilege, Rule 503

**DOCTORS**

See Blood Tests; Bodily Conditions, Statements Concerning; Death; Expert  
Testimony; Hospital Records; Physician-Patient Privilege; Psychiatrists;  
Psychologists, this index

**DOCUMENTS**

See Best Evidence Rule; Commercial Paper; Commercial Publications; Public  
Records and Reports; Refreshing Recollection; Writings, this index

**DOOR OPENING**

See Cross-Examination; Scope, this index

**DOUBLE HEARSAY**

Generally, Rule 805

**DRUG AND ALCOHOL OFFENSES**

Cross-examination as to alcohol, Rules 611, 703  
Exclusion of relevant evidence due to undue prejudice, Rule 403  
Expert testimony, Rule 702  
Other crimes or acts evidence, Rule 404  
Physician-patient privilege, blood tests results, Rule 506  
Relevancy of expert testimony, Rule 403  
Self-incrimination privilege, Rule 503  
Test results, hearsay, Rule 803(c)(6)  
Undue prejudice, Rule 403

**DRUNKENNESS**

See Drug and Alcohol Offenses, this index

**DUPLICATES**

See also Best Evidence Rule, this index  
Defined, Rule 1003

**DYING DECLARATIONS**

Generally, Rule 804  
Belief in imminence of death, Rule 804  
Civil cases, Rule 804  
Confrontation clause, Rule 804  
Question for the court, Rule 104  
Unavailability, Of declarant, this index

**ELECTIONS AND VOTING**

Privilege, political vote, Rule 513



## INDEX

### **E-MAIL**

Attorney-client privilege and work product, Rule 504

### **EMOTIONAL STATE**

See State of Mind, this index

### **EMPLOYEES**

See Officers and Employees, this index

### **ENTRAPMENT**

Burden of proof, Rule 101

Character as proof of predisposition, Rule 404

Materiality of predisposition evidence, Rule 405

### **ENTRIES IN REGULAR COURSE OF BUSINESS**

See Business Records, this index

### **ERROR**

See Appeal, this index

### **ESCAPES**

See also Flight, this index

Admission, as, Rule 803(b)

Relevancy, Rule 801

### **EXCITED UTTERANCES**

Generally, Rule 803(c)(2)

Res gestae, Rule 803(c)(2)

Spontaneous exclamations, Rules 803(c)(1), 803(c)(2)

### **EXCLUSIONS**

Compromise, Rules 408, 409

Conduct, Rules 404, 405

Confusing evidence, Rule 403

Cumulative evidence, Rule 403

Custom, Rule 406

Dead Man's Act, Rule 402

Insurance coverage, Rules 403, 411

Lack of perception, Rule 602

Misleading evidence, Rule 403

Of PIP payments, Rule 403

Parol evidence, Rule 403

Prejudice. See Bias or Prejudice, this index

Prior crimes or wrongs, Rule 404

Remote, Rule 403

Search, illegal, Rule 503

Similar events, Rule 404

Skill, Rule 404

Subsequent remedial measures, Rule 407

Unfair surprise, Rule 403

Verdicts, Rule 606

Witnesses, discretion of judge to exclude evidence, Rules 403, 807

**EXCULPATORY EVIDENCE**

Relevancy, Rule 401

**EXECUTIVE PRIVILEGE**

Generally, Rule 515

**EXHAUSTING MEMORY**

See Refreshing Recollection, this index

**EXPERIMENTS**

Admissibility of

Generally, Rule 101

Film of experiment, Rule 401

Expert testimony, Rules 602, 703, 705

Opinion testimony of lay witnesses, Rule 702

Scientific tests, re-enactments, Rule 101

**EXPERT AND OPINION TESTIMONY**

Generally, Rule 702

Absence of studies on causation issue, Rule 702

Aid trier of fact, Rules 702, 703

Bare conclusions, Rule 702

Basis for opinion

Generally, Rule 703

Disclosure of, Rule 705

Exclusion of relevant evidence, Rule 403

Intent of rule, Rule 703

Literature review, Rule 702

Scientific testimony, Rules 702, 703

Subsequent repairs, Rule 707

Test for reliability of expert methodology, Rule 702

Use of staff, Rule 703

Best evidence rule, Rule 1002

Burden of proof or persuasion, Rule 702

Business records, Rule 803

Character traits, generally inadmissible, Rule 404

Conclusions of law, Rule 702

Condition of objects observed, Rule 703

Constructive possession opinion, Rule 403

Court-appointed experts, Rule 706

Credibility, Rule 702

Cross examination

Generally, Rule 705

Hypothetical questions, Rule 705

Daubert factors in assessing reliability, Rule 702

Defects in qualification affects weight, Rule 702

Degree of certainty required, Rule 702

Disclosure of basis for opinion, Rule 705

Disclosure of facts required, Rule 703

## INDEX

### EXPERT AND OPINION TESTIMONY—Cont'd

- Discretion of trial court, Rule 702
- Experience as expert's qualification, Rule 702
- Expert defined, Rule 702
- Facts distinguished from opinion, Rule 702
- Facts or data underlying, Rule 705
- Foreign law, Rule 702
- Gap between data and expert opinion, Rule 702
- Hearsay
  - Facts based on hearsay report, Rule 705
  - Opinion included in hearsay statement, Rule 808
- Helpfulness to trier of fact, Rule 702
- Hypnosis, not necessary, Rule 705
- Hypnosis evidence, Rule 702
- Hypothetical questions, cross examination, Rule 705
- Impeachment by attacking or explaining basis for opinion, Rule 702
- Inclusion in hypothetical question, Rule 705
- Insanity, non-expert opinion, Rule 701
- Intoxication, Rule 701
- Labor, value of, Rule 701
- Laymen, Rule 701
- Legal conclusions, Rule 702
- Liberality of admission of testimony, Rule 702
- Medical condition, Rule 701
- Need for expert, Rule 702
- Net opinion rule, Rules 702, 703
- New expert theory, advancing at trial, Rules 702, 703, 705
- Opinion based upon reports of others, Rule 705
- Opinion on ultimate issue, Rule 704
- Opinion rule, generally, Rule 702
- Own perceptions, Rule 702
- Particular subjects
  - Insanity, non-expert opinion, Rule 701
  - Intoxication, Rule 701
  - Investor information and analysis, Rule 402
  - Labor, value of, Rule 701
  - Medical condition, Rule 701
  - Property
    - Personal value, Rule 701
    - Real value, Rule 701
  - Rate of speed, Rule 701
  - Services, value of, Rule 701
  - Size or height of object observed, Rule 701
  - Skilled witness, Rule 701
  - Speed of vehicle, Rule 701
  - Value of personal property, Rule 701
  - Value of real property, Rule 701

**EXPERT AND OPINION TESTIMONY—Cont'd**

- Peculiar knowledge or experience not common to world, Rule 702
- Personal knowledge of experts, Rule 703
- Personal knowledge required, Rule 701
- Personal observations, sufficiency of, Rule 703
- Physicians, based on patient's statements, Rules 703, 803
- Probabilities and possibilities, Rule 702
- Probability of assistance to trier of fact, Rule 702
- Property
  - Personal value, Rule 701
  - Real value, Rule 701
- Qualifications of expert
  - Generally, Rule 702
  - Burden of proving, Rule 702
  - Experience alone, Rule 702
- Rate of speed, Rule 701
- Reasonable medical certainty, Rule 702
- Rehabilitation of expert by second expert, Rule 702
- Reliability of expert methodology, Rule 702
- Reports and reporting
  - Generally, Rule 702
  - Opinion based upon reports of others, generally, Rules 703, 705
- Scientific matters, Rules 702, 703
- Second expert's rehabilitation of expert, Rule 702
- Services, value of, Rule 701
- Size or height of object observed, Rule 701
- Skilled witness, Rule 701
- Speed of vehicle, Rule 701
- Subject of expertise, Rule 702
- Ultimate issue, opinion on, Rules 702, 704
- Usefulness of opinion, degree of certainty required, Rule 702
- Valuation, Rule 702
  - Personal property, Rule 701
  - Real property, Rule 701
- Weight, Rule 702

**EXPERTS AND CONSULTANTS**

- Court-appointed experts, Rule 706
- Net opinion rule, Rules 702, 703
- Services, value of, Rule 701
- Subject of expertise, Rule 702

**EXTENDED CARE FACILITIES**

- Utilization review privilege, Rule 507

**EYE DOCTORS**

- Utilization review committees, Rule 507

**EYE WITNESS STATEMENTS**

- Hearsay, excited utterance, Rules 803(c)(1), 803(c)(2)

## INDEX

### **FACSIMILE COVER LETTERS**

Attorney-client privilege and work product, Rule 504

### **FACT**

Distinguished from opinion, Rule 702

Judicial notice

Facts commonly known, Rule 201

Facts ordinarily true, Rule 201

Verifiable facts, Rule 201

Preliminary Questions of Fact, this index

### **FAILURE TO OBJECT**

Adoptive admission, Rule 803(b)

### **FAILURE TO PRODUCE EVIDENCE**

Spoliation, Rule 101

### **FAILURE TO PRODUCE WITNESSES**

“Missing witness” rule, Rules 101, 104

### **FAMILY HISTORY**

Best evidence rule, Rule 1002

Entries in family bible, Rule 803(c)(13)

Family tree, Rule 803(c)(13)

Hearsay exceptions

Judgment as to family history, Rule 803(c)(23)

Reputation concerning family history, Rule 803(c)(19)

Statement of history, Rule 804(b)(4)

Pedigree, Rule 804(b)(4)

Religious organizations records, Rule 803(c)(11)

Statements as to another’s family, Rule 804(b)(4)

Statements as to general history, Rule 803(c)(20)

Statements as to own family, Rule 804(b)(4)

Statements as to own family based on another declarant, Rule 803

Statements as to reputation in family, Rule 803(c)(19)

### **FILM**

Admissibility of, Rules 401, 801, 1001

Authentication of, Rule 901

Demonstrative evidence, Rule 101

### **FINANCIAL INTEREST**

Compensation by adverse party, Rule 611

Interest in related litigation, Rule 611

### **FINGERPRINTS**

Accused may be examined physically, Rule 503

Scientific evidence, Rule 101

### **FIRST-HAND KNOWLEDGE**

See Personal Knowledge, this index

**FISH AND GAME**

Self-incrimination privilege, Rule 503

**FLIGHT**

See also Escapes, this index

As proof of accused's knowledge, Rule 803

Hearsay, this index

Relevancy of evidence of, Rule 401

**FOREIGN LAW**

Judicial notice, Rule 201

**FOREIGN PUBLIC DOCUMENTS**

See Public Records and Reports; Self-Authentication, this index

**FORGERY**

Other crimes evidence, Rule 404

**FORMER TESTIMONY**

Generally, Rule 804

Best evidence rule, Rule 1002

Completeness, principle of, Rule 106

Cross examination, opportunity and motive for, Rule 804

Depositions of nonparty, Rule 804

Exception to hearsay rule, Rule 804

Refreshing recollection, Rules 612, 803

Unavailability

Of declarant, this index

Question for the court, Rule 804

**FORM OF OFFER TO PROVE**

Generally, Rule 104

**FRAUD**

Attorney-client privilege, Rule 504

Mail and wire fraud

Hearsay, Rules 801, 803(b)

Lay opinion testimony, Rule 701

Prior bad acts evidence, Rule 404

Privileged communications in furtherance of crime or fraud, Rules 503, 504

Securities Fraud, this index

**FRESH COMPLAINT**

Generally, Rule 803(c)(2)

**GOVERNOR'S PRIVILEGE**

Generally, Rule 515

**GRAND JURORS**

Competence as witnesses, Rule 606

**GRUESOME PHOTOGRAPHS**

Generally, Rule 403

## INDEX

### **GRUESOME PHOTOGRAPHS—Cont'd**

- Autopsy photographs, Rule 403
- Injuries of surviving victim in criminal case, Rule 403
- Preautopsy photographs, Rule 403
- Prejudice, exclusion of relevant evidence for undue, Rules 403, 801

### **GUILTY PLEAS AND RELATED STATEMENTS**

- Inadmissibility of, Rule 410

### **HABIT**

- See also Character; Custom or Routine Practice, this index
- As proof of conduct, generally, Rules 702, 901
- Drunkenness as impeachment, Rules 608, 611
- Opinion evidence, Rules 406, 702
- Specific instances of conduct, Rule 406

### **HANDWRITING**

- Attorney-client privilege, Rule 504
- Authentication of, Rule 901
- Comparison by expert witness, Rules 702, 901
- Demonstrative evidence, Rules 101, 801, 1001
- Exclusion because prejudicial, Rule 403
- Expert testimony, Rules 702-705, 901
- Genuineness of writing used for comparison, question for court, Rule 901
- Impeachment, Rule 607
- Lost or destroyed documents, admissibility of other evidence, Rule 1004
- Marital privilege, Rule 509
- Opinion testimony
  - Expert witness, Rule 702
  - Lay witness, Rules 701, 901
- Other crimes evidence, Rule 404
- Perceive, personal knowledge, Rule 602
- Prior statements of witness, Rule 613
- Real evidence, Rule 101
- Refresh recollection, Rule 612
- Request for production of exemplars, Rule 901
- Self-authentication, Rule 902
- Subscribing witness testimony as unnecessary, Rule 903
- Ultimate issue testimony, Rule 704

### **HEALTH**

- Bodily Condition, Statements Concerning, this index
- Medical Condition or Care, this index
- Opinion testimony, Rule 702

### **HEARINGS**

- Applicability of evidence rules, Rule 101
- Identification testimony, challenge to, Rules 403, 404
- New expert theory proffered at trial, Rules 702, 703, 705
- Preliminary questions, Rules 104, 403

**HEARSAY**

- Generally, Rules 801, 802
- Absence of entry in records of regularly conducted activity, Rule 803(c)(7)
- Administrative hearings, admissibility in, Rules 101, 102
- Admissibility, general rule, Rule 802
- Admissions, this index
- Adoptive admissions, Rule 803
- Affidavits, Rule 804
- Ancient documents, Rule 803(c)(16)
- Assertive conduct, Rule 804
- Availability for cross examination, Rule 804
- Baptismal certificates, Rule 803(c)(12)
- Basis for expert testimony, Rule 703
- Belief of imminent death, statement of, Rule 804(b)(2)
- Best evidence rule, Rule 1002
- Bodily Condition, Statements Concerning, this index
- Boundaries
  - Judgment as to, Rule 803(c)(23)
  - Reputation concerning, Rule 803(c)(20)
- Business records
  - Generally, Rule 803(c)(6)
  - Absence of entry in, Rule 803(c)(7)
- Children
  - Sexual offense, child's statement relating to, Rule 803(c)(27)
  - Tender years exception, Rules 803(c)(27), 804(b)(8)
- Co-Conspirator's Statements, this index
- Commercial publications, Rule 803(c)(17)
- Comparables in eminent domain cases, Rules 703, 803
- Complaint of rape victim, Rule 803
- Conduct as hearsay, Rule 804
- Confrontation Clause, Rule 801
- Contemporaneous statements, Rule 803
- Credibility of declarant, Rule 806
- Deceased declarants, trustworthy statements by, Rule 804(b)(6)
- Declarant defined, Rule 801
- Declarant's credibility, Rule 806
- Declarant's unavailability, exceptions as to
  - Not dependent on unavailability, Rule 803
  - Unavailable declarants, Rule 804
- Declarations against interest
  - Generally, Rules 803(c)(25), 804(b)(3)
  - Confessions, Rule 803
  - Crimes and offenses, discovery, Rule 803
  - Evidence rules, Rule 803
  - Exception to hearsay rule, Rule 803
  - Penal interest, statements against, Rule 803
  - Personal knowledge, Rule 803



## INDEX

### HEARSAY—Cont'd

- Declarations against interest—Cont'd
  - Proprietary interest, statements against, Rule 803
- Definition of hearsay, Rule 801
- Definition of unavailable, Rule 804(a)
- Deposition, Rules 801, 804
- Discretion of judge to exclude evidence, Rule 807
- Documents affecting interest in property
  - Generally, Rule 803
  - See also Public Records and Reports, this index
- Double hearsay, Rule 805
- Dying declarant's belief death imminent, question for court, Rule 104
- Dying declarations, Rule 804
- Exceptions, see individual topics, this index
- Excited utterance, Rule 803(c)(2)
- Expert opinion included in hearsay statement, Rule 808
- Expert testimony based upon report of others, Rule 705
- Failure to object, Rule 802
- Family history
  - Judgment as to, Rule 803(c)(23)
  - Reputation, Rule 803(c)(19)
  - Statement of, Rule 804(b)(4)
- Family records, Rule 803(c)(13)
- Flight, Rule 804
- Former Testimony, this index
- General history, events of
  - Judgment, Rule 803(c)(23)
  - Reputation, Rule 803(c)(20)
- Generally inadmissible, Rule 802
- Hearsay within hearsay, Rule 805
- Imminent death, statement of belief of, Rule 804(b)(2)
- Inconsistent statements, Rule 803(a)
- Intent, see State of Mind, this index
- Interest in property, affecting
  - Records of documents, Rule 803(c)(14)
  - Statements in documents, Rule 803(c)(15)
- Judgments
  - Against persons entitled to indemnity, Rule 803(c)(26)
  - Personal, family, or general history, or boundaries, Rule 803(c)(23)
  - Prior convictions of crimes, of, Rule 803(c)(22)
- Jury instructions concerning limited purpose, Rule 105
- Learned treatises, Rule 803(c)(18)
- Limiting instruction when not offered as proof of statement's truth, Rules 105, 803
- Lost document, admissibility to show diligent search for, Rule 1004
- Market reports, Rule 803(c)(17)
- Marriage certificates, Rule 803(c)(12)

**HEARSAY—Cont'd**

Medical matters

Diagnosis or treatment, statements of, Rule 803(c)(4)

Then existing physical condition, Rule 803(c)(3)

Mental or emotional condition, existing, Rule 803(c)(3)

Mortality tables, Rule 803

Multiple hearsay, Rule 805

Negative results of investigation, Rule 803

Not for truth of matters asserted, Rule 802

Offered to prove statement's truth, Rule 802

Official records, see Public Records and Reports, this index

Operative facts, Rule 802

Opinion of expert included in hearsay statement, Rule 808

Opinion testimony based upon reports of others, Rule 703

Other exceptions, Rules 803(c)(24), 804(b)(5)

Parole board hearings, Rule 102

Party opponent statements, Rules 803(a), 803(b)

Past recollection recorded, Rule 803(c)(5)

Pedigree, Rule 804(b)(4)

Personal history

Judgment as to, Rule 803(c)(23)

Reputation, Rule 803(c)(19)

Statement of, Rule 804(b)(4)

Personal Knowledge, this index

Physical condition, Rule 803(c)(3)

Present sense impression, Rule 803(c)(1)

Prior proceedings, testimony in, Rule 804(b)(1)

Prior statements of witness, Rule 803(a)

Public records, reports, and findings

Generally, Rule 803(c)(8)

Absence of entry, Rule 803(c)(10)

Vital statistics, Rule 803(c)(9)

Rape victim's complaint, Rule 803

Reason for exclusion of hearsay, Rule 807

Recorded recollection, Rule 803(c)(5)

Regularly kept records, see Business Records, this index

Religious organizations, records of, Rule 803(c)(11)

Reputation

As to character, Rule 803(c)(21)

Boundaries or general history, Rule 803(c)(20)

Personal or family history, Rule 803(c)(19)

Res Gestae, this index

Rule of hearsay, Rule 802

Self-serving statements, Rule 802

Shipping instructions, Rule 801

Shopbook rule, see Business Records, this index

Silence as admission, Rule 803(b)

## INDEX

### **HEARSAY—Cont'd**

- Spontaneous exclamations, Rules 803(c)(1), 803(c)(2)
- Statement defined, Rule 801
- State of Mind, this index
- Tender years exception, Rules 803(c)(27), 804(b)(8)
- Verbal acts defined, Rule 101
- Vital statistics records, Rules 803(c)(9), 803(c)(12)
- Voters' statements, Rule 804(b)(7)
- Within hearsay, Rule 805

### **HOSPITAL RECORDS**

- See also Physician-Patient Privilege, this index
- Discovery of records which involve litigant, Rule 506
- Hospital facility committees, Rule 507
- Liability for disclosure, Rule 506
- Utilization review committee privilege, Rule 507

### **HOSPITALS**

- Employee statements as hearsay, Rule 803(b)
- Peer review privilege, Rule 507
- Records. See Hospital Records, this index

### **HOSTILE WITNESSES**

- Credibility and neutralization, Rule 607
- Mode and order of interrogation and presentation, Rule 611

### **HUSBAND-WIFE PRIVILEGE**

- Generally, Rule 509
- Adultery, Rule 509
- Confidential communications, Rule 509
- Discovery, Rule 509
- Divorce, Rule 509
- Hearing out of presence of jury, Rule 509
- Observations, Rule 509
- Policy, Rule 509
- Search, Rule 509
- Waiver, consent sufficient, Rules 509, 530
- Where spouse inflicts injury, Rule 509
- Where spouse injures children, Rule 509

### **HYPNOSIS**

- Expert testimony, Rules 702, 705
- Not necessary, Rule 705
- Refreshing recollection by, generally, Rules 607, 803
- Testimony produced by, Rule 702

### **HYPOTHETICAL QUESTIONS**

- Generally, Rule 705
- Assuming facts not in evidence, Rule 703
- Assumption of another witness' expert opinion, Rule 703
- Conditional relevancy, Rule 104

**HYPOTHETICAL QUESTIONS—Cont'd**

- Cross examination, Rule 705
- Exclusion of relevant evidence due to prejudice, Rule 403
- Facts proven by evidence, Rule 703
- Failure to prove assumed fact, Rule 703
- Inferences permissibly drawn from evidence, Rule 703
- Opinions based upon reports of others, Rule 703
- Personal knowledge, expert testimony based on, Rule 702
- Reports of others, opinions based on, Rule 703
- Ultimate issue, Rule 704

**IDENTIFICATION**

- Authentication, this index
- Burden of proof, Rule 101
- Exclusion of relevant information, Rules 403, 404
- Handwriting, Rules 101, 801, 1001
- Informant's Privilege, this index
- Objection to product of suggestive identification procedures, require of, Rule 403
- Other Crimes or Bad Acts, this index
- Preliminary hearing on identification evidence, Rules 104, 403
- Public Records and Reports, this index
- Reporter's identity concealed, effect on newsperson's privilege, Rule 508
- Telephone calls, Rules 500, 901
- Voice identification, Rule 901

**ILLNESS**

- Bodily Conditions, Statements Concerning, this index
- Medical Condition or Care, this index

**ILLUSTRATIVE DEVICES AND EXHIBITS**

- Charts, diagrams, maps, Rule 101
- Demonstrations and experiments, Rule 101
- Demonstrative Evidence, this index
- Photographs and Pictures, this index
- Summaries of voluminous records, Rule 1006

**IMMATERIALITY**

- See also Materiality, this index
- Collateral Matters, this index
- Materiality, this index
- Number of witnesses immaterial, Rule 101
- Relevancy and its limits, Rule 401
- Relevant evidence generally admissible, Rule 402

**IMPEACHMENT**

- Generally, Rule 607
- Acts of misconduct
  - See also Cross-Examination, this index
  - Generally, Rule 607
  - Ability to observe and recall, as proof of, Rule 601

## INDEX

### **IMPEACHMENT—Cont'd**

- Acts of misconduct—Cont'd
  - Bias, as proof of, Rule 607
  - Character witnesses, cross examination of, Rule 608
- Admissibility outweighed by unfair prejudice, confusion of issues, or misleading the jury, Rule 403
- Adverse witnesses, Rule 607
- Arrest, Rule 609
- Bias
  - Generally, Rule 607
  - Right to impeach own witness for, Rule 607
  - Specific acts admissible to show, Rule 607
- Character, right to impeach own witness for, Rule 607
- Character as Impeachment Evidence, this index
- Collateral matters, Rules 607, 611
- Contradictory evidence, with, Rule 609
- Conviction of Crime, this index
- Cross Examination, this index
- Drug usage, Rule 608
- Expert testimony, Rule 703
- Extrinsic evidence, see Collateral Matters; Prior Inconsistent Statements, this index
- Hearsay declarant, Rule 801
- Hostile witnesses, Rule 607
- Interest and bias, Rule 607
- Interest in related litigation, Rule 611
- Mental condition of witness, Rule 601
- Personal knowledge, Rule 602
- Prior convictions, Rule 609
- Prior inconsistent statements, Rule 613
- Probative value of proffered evidence outweighed, Rule 403
- Prohibition on use of 5th amendment to impeach, Rule 609
- Rehabilitation, Rules 608, 613, 702
- Relationship with party or witness, Rules 607, 608, 611
- Religious belief or opinion
  - Generally, Rule 610
  - Right to impeach own witness for, Rule 610
- Reputation, this index
- Scope of cross examination, right to impeach own witness after adversary exceeds proper scope, Rule 607

### **IMPLIED ASSERTIONS**

- Conduct as hearsay, Rule 803

### **INCLUDED HEARSAY**

- Generally, Rule 805

### **INCOMPETENT**

- See also Competence of Witnesses, this index

**INCOMPETENT—Cont'd**

Generally, Rule 101

**INCONSISTENT PRESUMPTIONS**

Generally, Rule 301

**INCONSISTENT STATEMENTS**

Generally, Rule 613

Hearsay, Rule 801

**INCRIMINATION**

Privilege Against Self-Incrimination, this index

**INDEMNITY**

Judgments against persons entitled to indemnity, Rule 803(c)(26)

**INDICTMENT**

Restriction on judge as witness, Rule 605

**INDISPENSABLE WITNESSES**

Impeaching own witness, Rule 607

**INFERENCES**

Generally, Rule 101

See also Presumptions and Burden of Proof, this index

Failure to produce, adverse inferences from, Rule 101

Hypothetical questions, inferences permissibly drawn from evidence, Rule 703

Non-production of documents or witnesses, Rule 101

Production of documents and things, failure to produce, Rule 101

**INFORMANT'S PRIVILEGE**

Generally, Rule 516

Civil cases, Rule 516

Common law, Rule 516

Exceptions

Material witness, Rule 516

Participant in crime, Rule 516

Provided false information, Rule 516

Helpfulness to defense, Rule 516

Identity of informant, Rules 500, 516

Purpose of privilege, Rule 516

Waiver by prosecution, Rule 516

**INJUNCTIONS**

Consent decree as settlement, Rule 408

Prior bad acts evidence, Rule 404

**INJURIES**

Bodily Condition, Statements Concerning, this index

Medical Condition or Care, this index

**IN LIMINE MOTIONS**

Generally, Rule 104

## **INDEX**

### **INSANITY**

- Competency of witnesses, Rule 601
- Opinion testimony, non-expert, Rule 701
- Witnesses, competency, Rule 601

### **INSEPARABLE CRIMES**

- See Other Crimes or Bad Acts; Res Gestae, this index

### **INSTRUCTIONS TO JURIES**

- Admissions of co-party, civil case, Rule 803
- Adoptive admission, Rule 803
- Conditional relevancy, Rule 104
- Conviction for crime, admitted as impeachment evidence, Rules 104, 607
- Co-party's admissions, civil cases, Rule 803
- Form of request, Rule 104
- Limiting instruction, Rules 105, 404
- Other crimes evidence, Rule 404
- Prosecutorial misconduct matters, Rule 404
- Requests to charge jury
  - Form of request, Rule 104
  - Limiting instruction, Rule 105

### **INSURANCE**

- Burdens of proof, insurance cases, Rule 101
- Liability. See Liability Insurance, this index

### **INSURANCE POLICY**

- Audio tapes and transcripts, Rule 901
- Best evidence rule, Rule 1002
- Liability Insurance, this index

### **INTERNAL REVENUE DOCUMENTS**

- Authentication, Rule 902

### **INTERNET**

- Attorney-client privilege and work product, Rule 504

### **INTERPRETERS**

- Generally, Rule 604
- Confession made through, Rule 803(b)
- Opinion testimony of lay witness, need for, Rule 702

### **INTOXICATION**

- Competency of witnesses, Rule 601

### **INVESTIGATIONS**

- Official information privilege, Rule 515

### **INVESTOR INFORMATION AND ANALYSIS**

- Expert testimony, Rules 402, 703

### **JUDGE**

- Comment by judge, Rule 605

**JUDGE—Cont'd**

- Discretion to exclude admissible evidence, Rule 403
- Functions of, Rule 1008
- Gatekeeper for evidence, Rules 401, 702
- Interrogator of witness, Rules 609, 614
- Recusal, Rule 605
- Testimony by, Rule 605

**JUDGMENTS**

- Against persons entitled to indemnity, Rule 803(c)(26)
- Authentication, Rule 902
- Hearsay, this index
- Juvenile offenses, Rule 803
- Nolo contendere, Rule 803
- Previous convictions of crime, Rule 803
- Self-Authentication, this index

**JUDICIAL ADMISSIONS**

- See also Admissions, this index
- Generally, Rule 803

**JUDICIALLY ADMITTED FACTS**

- Judicial admissions, Rule 803
- Relevancy and materiality of evidence, Rule 401

**JUDICIAL NOTICE**

- Absence of prior notification, citation, or knowledge, Rule 201
- Adjudicative facts, Rule 201
- Administrative rules and regulations, Rule 201
- Common experiences, Rule 201
- Court records, Rule 201
- Discretion of trial court, disputed questions, Rule 201
- Facts commonly known, Rule 201
- Facts ordinarily true, Rule 201
- Foreign law, Rule 201
- General facts vs. specific facts, Rule 201
- Geographical facts, Rule 201
- Historical facts, Rule 201
- Indisputable source, Rule 201
- Judicial facts, Rule 201
- Known generally, commonly accepted, Rule 201
- Law, of, Rule 201
- Legislative facts, Rule 201
- Legislative history, Rule 201
- Local notoriety, Rule 201
- Mandatory, when judicial notice is, Rule 201
- Mortality tables, Rule 201
- Municipal ordinances, Rule 201
- On appeal, Rule 202
- Opportunity to be heard, Rule 201



## INDEX

### **JUDICIAL NOTICE—Cont'd**

- Ordinarily true facts, Rule 201
- Population figures, Rule 201
- Private acts, Rule 201
- Rules and regulations of administrative agencies, Rule 201
- Scientific facts, Rule 201
- Sociological, Rule 201
- Time of taking, Rule 201
- Topography, judicial notice of, Rule 201
- Verifiable facts, Rule 201

### **JUDICIAL RECORDS**

- See Court Records, this index

### **JURY**

- As witness, Rule 606
- Functions of, Rule 1008
- Impartial, Rule 606
- Instructions to Jury, this index
- Investigation by judge, Rule 407
- Jurors as witnesses, Rule 606
- Motions in limine, applicability to jury selection, Rule 104
- Presence. Hearing of Jury, this index
- Responsibility for assessing testimony's value, Rules 402, 601

### **JUVENILE MATTERS**

- Applicability of law of evidence, generally, Rule 101
- Hearsay evidence, Rules 802, 803

### **KNOWLEDGE**

- Expert opinion testimony, Rule 702
- Judicial notice, Rule 201
- Personal Knowledge, this index
- Qualifications of expert
  - Expertise, education, experience, training, Rule 702
  - Hypothetical questions, Rule 705
  - Knowledge based upon reports or hearsay, Rule 704
  - Knowledge of facts of case, generally, Rule 703
  - Personal knowledge of facts of case, Rule 703
- Special knowledge, Rule 601
- State of Mind, this index

### **LACK OF MEMORY**

- See Memory, this index

### **LACK OF PERSONAL KNOWLEDGE**

- See Personal Knowledge, this index

### **LAND**

- Boundaries, reputation concerning, Rule 803(c)(20)
- Opinion testimony, Rule 702

**LAND—Cont'd**

Value, Rule 702

**LAW**

Best evidence rule, Rule 1002

Choice of Laws, this index

Common law, proof of, Rule 201

Judicial notice of, Rule 201

Municipal ordinances, proof of, Rule 201

Official publications as proof, Rule 201

Opinion testimony, questions of, Rule 201

**LAWYER-CLIENT PRIVILEGE**

See Attorney-Client Privilege, this index

**LAWYERS**

See Attorneys, this index

**LAY OPINION**

Generally, Rule 701

Experts, see Expert and Opinion Testimony, this index

Specialized knowledge requirement, Rule 602

Will contests, opinion on testator's mental capacity, Rule 701

**LEADING QUESTIONS**

Generally, Rule 607

Adverse witnesses, Rule 607

Cross examination, Rule 607

**LEARNED TREATISES**

Substantive evidence, Rule 803(c)(18)

**LEGAL RELEVANCY**

See Relevancy, this index

**LEGISLATIVE FACTS**

Judicial notice, Rule 201

**LEGITIMACY**

Presumption of, Rule 301

**LIABILITY INSURANCE**

Generally, Rule 411

Absence of insurance, Rule 411

Admissible on issues other than fault, Rule 411

Court trials, inadmissible on issue of fault, Rule 411

Deliberate intrusion at trial, Rule 411

Exclusion of relevant evidence on prejudice grounds, Rules 403, 411

Inadmissible in issues of fault, Rule 411

Inadvertent mention, Rule 411

**LIFE EXPECTANCY**

Judicial notice, Rule 201

## INDEX

### **LIMITED ADMISSIBILITY**

- Generally, Rule 105
- Applicant's qualifications, Rule 401

### **LIMITING INSTRUCTION**

- Admission is proper, when limiting instruction insufficient, Rule 105
- Failure to call witness, Rules 101, 105
- Failure to give, Rule 105
- Other crime evidence, Rule 404
- Partially admissible statements when undue prejudice exists, Rule 403
- Time for giving, Rule 404

### **LOST OR DESTROYED DOCUMENTS**

- Duplicates, admissibility of, Rule 1003
- Other evidence of contents, admissibility of, Rule 1004
- Spoliation of evidence, Rule 101

### **MAGAZINE**

- Defined, Rule 508

### **MAILING**

- Business custom as proof of mailing, Rule 406
- E-mail communications, attorney-client privilege, Rule 504
- Fraud, this index
- Presumption of receipt, Rule 301

### **MALPRACTICE**

- Burden of proof, Rule 101
- Medical Malpractice, this index

### **MAPS**

- Authentication or identification, Rules 802, 803(c)(16)
- Demonstrative evidence, Rule 101
- Hearsay, Rules 802, 803(c)(16)
- Judicial notice, Rule 201
- Presumptions, Rule 301

### **MARITAL COMMUNICATIONS PRIVILEGE**

- See Husband-Wife Privilege, this index

### **MARKET REPORTS**

- Exceptions to hearsay, Rule 803(c)(17)
- Newspapers and periodicals, authentication, Rule 803

### **MARRIAGE CERTIFICATES**

- Authentication, Rules 803(c)(12), 901
- Hearsay exception, Rules 803(c)(9), 803(c)(12)

### **MARRIAGE COUNSELOR PRIVILEGE**

- Generally, Rule 510
- Nonwaivability, Rule 510
- Personal to couple, Rule 510
- Policy, Rule 510

**MATERIALITY**

See also Immateriality; Relevancy, this index  
Generally, Rule 401  
Expert opinion testimony, Rule 702  
Number of witnesses immaterial, Rule 101  
Other crimes or acts evidence, Rule 404  
Polygraph, failure to submit to, Rule 401  
Stock price, causal link to, Rule 401

**MEDIATION AND CONCILIATION**

Mediator privilege, Rule 519  
Privilege of mediator, Rule 519  
Reports and reporting, Rule 519

**MEDICAL CONDITION OR CARE**

Business records, Rule 803  
Expert opinion testimony, Rule 702  
Learned treatises, Rule 803(c)(18)  
Medical history only admissible as basis for expert opinion, Rule 803  
Payment of medical and similar expenses, Rule 409  
Questions, answers to, Rule 803  
Statements concerning  
    Generally, Rule 803  
    Existing pain or suffering, Rule 803  
    Locality of existing pain, Rule 803

**MEDICAL HISTORY**

See Bodily Condition, Statements Concerning; Business Records, this index

**MEDICAL MALPRACTICE**

Burden of proof, Rule 101  
Deposition testimony proffered at trial, Rules 106, 801  
Expert testimony, Rule 702

**MEDICAL REPORTS**

Business records, Rule 803  
Expert testimony based upon, Rule 702  
Refreshing recollection, Rules 612, 803

**MEMORANDUM**

Past recollection recorded, Rule 803  
Refreshing Recollection, this index

**MEMORY**

Cross examination testing memory, Rule 601  
Hypnosis affecting memory, Rules 602, 702, 803  
Past recollection recorded, Rule 803  
Unavailability of declarant, Rules 801, 804

**MENTAL CAPACITY**

Dead man's statute, exception for testator's capacity, Rule 601  
Impeachment, Rule 607

## INDEX

### **MENTAL CAPACITY—Cont'd**

Opinion testimony, Rules 702, 704

Witnesses

Children, Rule 601

Insane persons, Rule 601

Intoxicated witnesses, Rule 601

### **MENTAL STATE**

See State of Mind, this index

### **MINISTERS**

Cleric-Penitent Privilege, this index

### **MINUTE BOOKS**

Business records, Rule 803

### **MISCONDUCT**

See Conviction of Crime; Other Crimes or Bad Acts, this index

### **MISDEMEANORS**

See also Conviction of Crime, this index

Convictions, admissibility for impeachment, Rule 607

### **MISREPRESENTATION**

Expert's testimony, Rule 402

Materiality of, Rule 401

### **MISTAKE OR ERROR**

Other crimes to prove absence of accident or mistake, Rule 404

### **MODUS OPERANDI**

Other crimes or acts as proof of identity, Rule 404

### **MORTALITY TABLES**

Exception to hearsay rule, Rule 803

Judicial notice, Rule 201

### **MOTION IN LIMINE**

Generally, Rule 104

Other crimes or bad acts evidence, Rule 404

### **MOTION PICTURES**

See Photographs and Pictures; Videotapes, this index

### **MOTIVE**

Generally, Rule 101

Other crimes or acts of accused as proof of, Rule 404

### **MOTOR VEHICLE RECORDS**

Best evidence rule exception, Rule 1005

Hearsay, conflict of laws, Rule 803(c)(8)

Public records, Rule 1005

### **MULTIPLE ADMISSIBILITY**

Generally, Rule 105

**MULTIPLE ADMISSIBILITY—Cont’d**

Co-defendant’s statements, joint trials, Rule 804  
Request for limiting instructions, Rule 105

**MUNICIPAL ORDINANCES**

Authentication, Rules 1003, 1005  
Best evidence rule, exception, Rule 1002  
Judicial notice, Rule 201

**NEGATIVE EVIDENCE**

Generally, Rule 101  
Absence of entries, Rule 803

**NEGLIGENCE**

Similar accidents, acts or occurrences, Rule 406  
Subsequent remedial measures, Rule 407

**NEGOTIABLE INSTRUMENTS**

Authentication, Rule 901

**NEGOTIATIONS FOR SETTLEMENT**

See Offer of Compromise, this index

**NET OPINION RULE**

Generally, Rules 702, 703

**NEUTRALIZING**

Communication to third persons, Rule 508  
Criminal proceeding, Rule 508  
Documenting materials, Rule 508  
Media access, Rule 508  
News, defined, Rule 508  
News agency, defined, Rule 508  
News media, Rule 508  
Newspaper, defined, Rule 508  
News person, as witness, Rule 508  
Press association, defined, Rule 508  
Searches and seizures, Rule 508  
Shield law, Rule 508  
Waiver, Rule 508  
When surprised, Rule 607  
Wire service, Rule 508  
Work product, Rule 508

**NEWSPERSON’S PRIVILEGE**

Generally, Rule 508

**NON-VERBAL CONDUCT**

Conduct as hearsay, Rules 508, 803

**NOTARY PUBLIC**

Self-authentication of acknowledged documents, Rule 902

## **INDEX**

### **NOTES**

- Commercial Paper, this index
- Past recollection recorded, Rule 803
- Refreshing Recollection, this index

### **NOTICE OR KNOWLEDGE**

- See Knowledge, this index

### **OATH**

- Affirmations, Rule 603
- Competency of witnesses, understanding oath as measure of, Rule 603
- Form or, Rule 603
- Necessity of, Rule 603
- Of interpreter, Rule 604
- Of witness, Rule 603

### **OBSERVATION, PERSONAL**

- See Personal Knowledge, this index

### **OBSTRUCTION OF JUSTICE**

- Admitting evidence of offers of compromise, exception, Rule 408

### **OFFENSES**

- See Conviction of Crime; Other Crimes or Bad Acts, this index

### **OFFER OF COMPROMISE**

- Generally, Rule 408
- Other evidence of contents, admissibility of, Rule 1004

### **OFFER OF PROOF**

- Cross examination, Rule 104
- Form of, Rule 104
- Hearing of jury, Rule 104
- Method of making offer, Rule 104
- Rules of evidence, generally, Rule 104

### **OFFERS**

- Guilty plea, Rule 410

### **OFFICERS AND EMPLOYEES**

- Admissions, Rule 803
- Bias, impeachment for, Rule 607
- Dead man's statute, competency as witness, Rule 601

### **OFFICIAL INFORMATION PRIVILEGE**

- Generally, Rule 515

### **OFFICIAL RECORDS**

- See Public Records and Reports, this index

### **OPENING THE DOOR**

- Generally, Rules 401, 608, 611

**OPINIONS**

- Expert, Rule 702
- Factual, Rule 702
- Hypothetical, Rule 705
- Lay, Rule 701
- Proof of character, Rule 702

**OPINION TESTIMONY**

- Expert and Opinion Testimony, this index
- Lay Opinion, this index

**OPPORTUNITY**

- Admissible evidence, Rule 101
- Cross examination, for, Rules 607, 804
- Judicial notice, opportunity to be heard, Rule 201
- Prior convictions, showing, Rule 609
- Privileged communications, disclosure without opportunity to claim, Rule 531

**ORDINANCES**

- Authentication, Rules 1003, 1005
- Judicial notice, Rule 201
- Presumptions, Rule 301
- Privilege issues, Rules 501, 502

**ORIGINAL DOCUMENTS RULE**

- See Best Evidence Rule, this index

**OTHER CRIMES OR BAD ACTS**

- Generally, Rule 404
- Balancing danger of unfair prejudice, Rules 403, 404
- Conspiracy, showing, Rule 404
- De novo review, Rule 404
- Hearsay statements
  - Confession about prior crimes, Rule 803(a)
  - Then existing state of mind statements, Rule 803(c)(3)
- Identity, as proof of, Rule 404
- Indirect evidence of other crimes or acts, Rule 404
- Inseparable crimes, Rule 404
- Intent, proof of accused's when intent at issue, Rule 404
- Knowledge of accused, as proof of, Rule 404
- Limiting instruction proper, Rules 105, 404
- Malice of accused, as proof of, Rule 404
- Modus operandi, Rule 404
- Prejudice, exclusion for unfair danger of, Rules 403, 404
- Standing to challenge prior bad act evidence, Rule 404
- Sufficiency of proof of other crime or act, Rule 404

**OTHER EVIDENCE OF CONTENTS**

- Admissibility of, Rule 1004



## INDEX

### **OTHER PENDING CRIMINAL CHARGES**

Generally inadmissible as impeachment evidence, Rule 404  
Impeachment, this index

### **PAIN AND SUFFERING**

See Bodily Condition, Statements Concerning, this index

### **PAMPHLETS**

Publications, this index

### **PAPERS, NEWSPAPERS AND PERIODICALS**

Authentication, Rule 902

### **PARENTAGE**

See Paternity Proceedings, this index

### **PAROLE BOARD HEARINGS**

Applicability of evidence rules, Rule 102

### **PAROL EVIDENCE**

Generally, Rule 1004  
Authentication, lack of record, Rule 902  
Confession, Rule 803(b)  
Corporate documents, Rule 803(c)(6)  
Declarations against pecuniary interest, Rule 803(c)(25)  
Declarations of testator, Rule 804(b)(6)  
Impeachment by, Rules 607, 609, 613  
Notice to adversary, Rule 804(7)  
Requirement of original, Rule 1002  
Vital statistics records, Rule 803(c)(9)

### **PARTNER**

Admissions by, Rule 803

### **PART OF CONSERVATION OR WRITING**

See Completeness, Principle of, this index

### **PARTY CALLED BY ADVERSARY**

Not bound by testimony, Rule 607

### **PARTY'S OWN WITNESS**

Impeachment of, Rule 607

### **PAST RECOLLECTION RECORDED**

See also Former Testimony, this index  
Exception to hearsay rule, Rule 803  
Refreshing recollection distinguished, Rule 803

### **PATERNITY PROCEEDINGS**

Pedigree exception to hearsay rule, Rule 804(b)(4)  
Presumption of legitimacy, Rule 301

### **PATIENT, STATEMENTS BY**

See Physician-Patient Privilege, this index

**PEDIGREE**

Exception to hearsay rule, Rule 804(b)(4)

**PENDING CRIMINAL CHARGES**

Generally inadmissible as impeachment evidence, Rule 609

Impeachment, this index

**PERCEIVE**

Handwriting, Rule 602

Hearing, Rule 602

Inability to perceive, Rule 602

Intoxication, Rule 602

Sanity, Rule 602

Speed, Rule 701

Value, Rule 701

**PERIODICALS**

Authentication, Rule 902

Publications, this index

**PERMISSIVE PRESUMPTIONS**

See Presumptions and Burden of Proof, this index

**PERSONAL HISTORY**

Best evidence rule, Rule 1002

Hearsay exception, Rules 803(c)(19), 803(c)(23), 804(b)(4)

Pedigree, Rule 804(b)(4)

Reputation concerning personal or family history, Rule 803

**PERSONAL INJURIES**

See also, Bodily Conditions, Statements Concerning; Medical Condition or Care,  
this index

PIP exclusionary rule, Rule 601

**PERSONAL KNOWLEDGE**

Generally, Rule 602

Adoptive admissions, Rule 803

Authentication of exhibit by witness with knowledge of object, Rule 901

Best evidence rule, writing containing facts known to witness, Rule 1002

Business records, Rule 803

Declarations against interest, Rule 803

Determination by court, Rule 104

Dying declarations, Rule 804

Excited utterance, Rule 803(c)(2)

Expert witnesses, Rule 702

Hearsay declarant, Rule 801

Hypnosis, testimony induced by, Rule 702

Lay opinion testimony, Rule 602

Lay options, Rule 701

Other crimes or acts admissible to prove, Rule 404

Preliminary questions, Rule 601

## INDEX

### **PERSONAL KNOWLEDGE—Cont'd**

- Presumption of, Rule 301
- Public records and reports, official records, Rule 803
- Regularly kept records, Rule 803
- Required for opinion testimony, Rule 702

### **PERSONAL PROPERTY**

- Opinion on value, Rules 701, 702

### **PERSONAL REPRESENTATIVE**

- See Dead Man's Act, this index

### **PERSUASION**

- See Presumptions and Burden of Proof, this index

### **PHOTOCOPIES**

- Best evidence rule, Rule 1002
- Carbon Copies, this index

### **PHOTOGRAPHS AND PICTURES**

- Accuracy, question for jury, Rule 403
- Authentication, Rule 901
- Autopsy photographs, Rule 403
- Best evidence rule, Rule 1002
- Confusion of jury as grounds for exclusion, Rule 403
- Contents of photographs, best evidence, Rules 1001 et seq.
- Demonstrative evidence, Rule 101
- Gruesome, Rules 403, 801
- Motion pictures and films as, Rules 101, 801, 1001
- Prejudice, exclusion of relevant evidence for undue danger of, Rules 403, 801
- Relevancy, Rule 401

### **PHYSICAL CONDITION**

- See Bodily Condition, Statements Concerning, this index

### **PHYSICIAN-PATIENT PRIVILEGE**

- Generally, Rule 506
- Confidential communication, defined, Rule 506
- Confidential communication defined, Rule 506
- Crime, communications in furtherance of, Rule 506
- Death certificates, Rule 803
- Discovery of records, Rule 506
- Examination, no privilege against, Rule 506
- Holder of privilege, Rule 506
- Hospital records, Rule 803
- Hypothetical questions, Rule 705
- Jury's presence during claim, Rule 104
- Medical records, Rule 506
- Official reports, Rule 506
- Patient defined, Rule 506
- Physician defined, Rule 506

**PHYSICIAN-PATIENT PRIVILEGE—Cont'd**

Psychologists, Rule 505

Waiver, Rule 530

**PHYSICIANS**

Definition, Rule 506

Expert opinion testimony, Rule 702

Medical Condition or Care, this index

Opinions based on patient's statements, Rule 803

Physician-Patient Privilege, this index

Physician records, Rule 803

**PICTURES**

See Photographs and Pictures, this index

**PLEA BARGAINING OR AGREEMENTS**

Generally, Rule 410

**PLEADINGS**

Admissions of party, Rule 803(b)

Best evidence rule, Rule 1004

Withdrawn pleadings as admissions, Rule 803(b)

**POLICE OFFICERS**

Expert testimony, Rule 702

Eye witness statements as hearsay, Rule 803(c)(1)

Hearsay, reason for investigation, Rule 803(c)(1)

Official information privilege, Rule 515

**POLICE REPORTS**

Best evidence, Rule 1005

Business records, Rule 803(c)(6)

Double hearsay (hearsay within hearsay), Rule 805

Past recollection recorded, Rule 803(c)(5)

Public records exception to hearsay rule, Rule 803(c)(8)

Refreshing recollection, Rules 612, 803(c)(5)

**POLITICAL ACTIVITIES AND PARTIES**

Voter's privilege, Rule 513

Voter's statements, Rule 804(b)(7)

**POLYGRAPH**

Admissibility, generally, Rules 401, 403

Confessions, Rules 503, 611

Cross-examination, use of polygraph, Rule 607

Expert testimony, Rule 702

Fact finder's function, Rule 704

Failure to submit to, Rule 401

Fifth Amendment, Rule 503

Jury's function, Rule 704

Qualified polygraph examiner, Rule 702

Scientific evidence, Rules 101, 602

## INDEX

### **POLYGRAPH—Cont'd**

Self-incrimination privilege, Rules 502, 503

Use of, Rules 503, 607, 611

### **POPULATION**

Judicial notice, Rule 201

### **PRACTICE OR CUSTOM**

See Custom or Routine Practice; Habit, this index

### **PRECAUTIONS**

Subsequent remedial measures, Rule 407

### **PREJUDICE**

See Bias or Prejudice

### **PRELIMINARY QUESTIONS OF FACT**

Generally, Rule 104

Applicability of evidence, rules, Rule 101

Attorney-client privilege, Rule 504

Authentication, this index

Best evidence rule, Rule 1002

Burden of proof at hearings, Rule 104

Co-conspirator's statement, existence of conspiracy, Rule 803

Dying declarant's belief in imminence of death, Rule 803

Offer of compromise, Rule 408

On admissibility, Rule 104

On judicial notice, Rule 201

On motion to suppress, Rule 104

On qualifications, Rule 104

On testimony of witness, Rule 104

Probative value outweighed by danger of prejudice, Rule 403

Self-incrimination privilege, waiver of, Rule 104

Unavailability of hearsay declarant, Rule 801

When hearings are needed, Rule 104

### **PREPONDERANCE OF THE EVIDENCE**

(aaa)Generally, Rule 101

Waiver of self-incrimination privilege, Rule 104

### **PRESENT MEMORY REFRESHED**

See Past Recollection Recorded; Refreshing Recollection, this index

### **PRESENT SENSE IMPRESSION**

Hearsay rule, Rule 803(c)(1)

### **PRESUMPTIONS AND BURDEN OF PROOF**

Generally, Rule 301

Accused in criminal cases, against, Rule 303

Applicability of state law, Federal Rule, Rule 302

Bailment cases, Rule 301

Burden of proof does not shift, Rule 301

**PRESUMPTIONS AND BURDEN OF PROOF—Cont'd**

- “Bursting bubble,” Rule 301
- Choice of laws, Rule 302
- Competency of witnesses, presumption of, Rule 301
- Conclusive, Rule 301
- Conflicting presumptions, Rule 301
- Corporate officers know affiants, presumption of, Rule 301
- Criminal cases, against accused, Rule 303
- Death, presumption of, Rule 301
- Defined, Rule 301
- Definition of presumption, Rule 301
- Delivery, presumption of, Rule 301
- Effect of presumption, Rule 301
- Good character of witness, presumption of, Rule 301
- Instructing the jury, Rule 301
- Legitimacy, presumption of, Rule 301
- Ordinances, Rule 301
- Personal knowledge, presumption of, Rule 301
- Preliminary question hearings, Rule 104
- Quantum of evidence to rebut, Rule 301
- Rebuttable presumptions, judicial notice, Rule 301
- Uncontradicted presumption, Rule 301

**PRETRIAL INTERVENTION**

- Generally, Rule 101
- Applicability of evidence rules, Rule 101

**PRIEST-PENITENT PRIVILEGE**

- See Cleric-Penitent Privilege, this index

**PRIOR ACCIDENTS**

- Relevancy, Rule 401

**PRIOR BAD ACTS**

- See Other Crimes or Bad Acts; Prior Convictions, this index

**PRIOR CONTRADICTORY STATEMENTS**

- See Prior Inconsistent Statements, this index

**PRIOR CONVICTIONS**

- See also Conviction of Crime, this index
- Age of conviction, effect on conviction’s probative value, Rules 403, 607
- Impeachment by evidence of crime, Rules 607, 609, 803(c)(22)
- Prejudicial aspect of, Rule 404
- Witness credibility, impeachment, Rule 607

**PRIOR CRIMES OR MISCONDUCT**

- See Other Crimes or Bad Acts; Prior Convictions, this index

**PRIOR HAPPENINGS AND TRANSACTIONS**

- Relevancy, Rule 401

## INDEX

### PRIOR HEARING

- Former testimony, Rule 804
- Pleadings in, as admissions, Rule 803

### PRIOR INCONSISTENT STATEMENTS

- Generally, Rule 613
- Admission of statement by witness renders extrinsic evidence of statement inadmissible, Rule 613
- Consistent statement, prior, Rule 613
- Definition of inconsistent statement, Rule 613
- Deposition
  - Foundation required when statement to be impeached is contained in, Rules 613, 804
  - Rehabilitation of witness impeached by prior statement contained in deposition, Rules 613, 804
  - Testimony in deposition as prior inconsistent statement, Rules 613, 804
- Explanation of prior statement, Rule 613
- Foundation required when statement to be impeached is contained in deposition, Rules 613, 804
- Given to psychiatrists, hospitals, doctors, Rules 613, 804
- Hearsay declarant, prior statements of, Rule 806
- Impeachment
  - Distinguished from substantive use, Rule 613
  - Examination of impeaching witness, Rule 613
- Limiting instruction, Rule 105
- Nonparty witness, Rule 613
- Own witness, impeachment of, Rules 607, 613
- Party witness, Rule 613
- Prior consistent statement
  - As rehabilitation, Rule 613
  - Party-witness, Rule 613
- Prior inconsistent statement
  - When cannot use as substantive, Rule 613
  - When used as substantive, Rule 613
- Recording, Rule 613
- Rehabilitation of impeached witness
  - Generally, Rule 613
  - Deposition, prior statement contained in, Rules 613, 804
  - Evidence rules, Rule 613
  - Expert testimony, Rule 702
  - Explanation of prior statement, Rule 613
  - Prior consistent statements, Rule 613
- Reputation for truthfulness, Rule 613
- Substantive use, when used as, Rule 613
- Substantive use in absence of limiting instruction, Rule 804
- Testimony as prior inconsistent statement, Rule 613
- Testimony from prior proceedings, Rules 613, 804
- Testimony in deposition as prior inconsistent statement, Rules 613, 804

**PRIOR INCONSISTENT STATEMENTS—Cont'd**

When cannot use as substantive, Rule 613

When used as substantive, Rule 613

**PRIOR TESTIMONY**

Former testimony exception to hearsay rule, Rule 804

**PRIVILEGE AGAINST SELF-INCRIMINATION**

Generally, Rule 502

Blood test not within privilege, Rule 503

Definition of incrimination, self-incrimination, and self-serving, Rule 502

Fish and game, Rule 503

Handwriting, Rule 503

Polygraphs, Rules 502, 503

Waiver of privilege, standard of proof for, Rules 104, 503

When available, Rule 503

**PRIVILEGED COMMUNICATIONS**

Generally, Rule 500

Accused privilege, Rule 501

Apply in all proceedings, Rule 101

Attorney-Client Privilege, this index

Ballot, voter's privilege, Rule 513

Cleric-penitent privilege, Rule 511

Comment on exercise of privilege, Rule 532

Communications in furtherance of crime or fraud, Rules 503, 504

Corporations, Rule 502

Counselors

    Cleric-penitent privilege, Rule 511

    Marriage counselor privilege, Rule 510

    Rape counselor privilege, Rules 412, 517

    Victim counselor privilege, Rule 517

Definition of incrimination, Rule 502

Disclosure without opportunity to claim, Rule 531

Doctor-patient, see Physician-Patient Privilege, this index

Error in overruling claim of privilege, effect of, Rule 533

Executive privilege, Rule 515

Governmental privilege

    Informant's Privilege, this index

    Official information, Rule 515

Grand jury, Rule 501

Holder disclosure, Rule 530

Hospital or extended care facility, utilization review committees of certified,  
    Rule 507

Informant's privilege, Rule 516

Jury instruction, Rule 105

Jury's presence during argument, Rule 104

Lawyer-client, see Attorney-Client Privilege, this index

Legislature, Rule 502



## INDEX

### **PRIVILEGED COMMUNICATIONS—Cont'd**

- Marital privilege, Rule 509
- Marriage counselor privilege, Rule 510
- Mediator privilege, Rule 519
- Newsperson's privilege, Rule 508
- Official information, Rule 515
- Physician-Patient Privilege, this index
- Political vote, Rule 513
- Pretrial proceedings, Rule 502
- Priest-penitent privilege, Rule 511
- Psychologist-patient privilege, Rule 505
- Question for court, Rule 104
- Rape counselor privilege, Rules 412, 517
- Reference to exercise of privileges, Rule 532
- Religious belief, Rule 512
- Reporters, Rule 508
- Secrets of state, Rule 515
- Self-incrimination, see Privilege Against Self-Incrmination, this index
- Social worker privilege, Rule 518
- Spouse of accused, Rules 501, 509
- Trade secrets, Rule 514
- Unavailability of declarant, Rules 801, 804
- Utilization review committees of certified hospital or extended care facility, Rule 507
- Victim counselor privilege, Rule 517
- Voter's privilege of nondisclosure, Rule 513
- Waiver
  - Generally, Rule 530
  - Privilege of accused, Rule 501
    - Contracted to waive, Rule 530
    - When privilege attaches, Rule 502
  - Wrongfully compelled disclosure, admissibility of, Rule 531

### **PRIVITY, REPRESENTATIVE, ADMISSIONS**

- Attorneys, Rule 803
- Co-conspirators, Rule 803
- Directors, Rule 803
- Employees, Rule 803
- Officers, Rule 804
- Partners, Rule 804

### **PROBABILITY**

- Requires probability not possibilities, Rule 101

### **PROBATIVE VALUE**

- Hearsay admitted without objection, Rule 802
- Matter first for district court's sound discretion, Rule 403
- Other crimes evidence, Rule 404
- Relevancy, this index

**PROBATIVE VALUE—Cont'd**

Time, Exclusion of Relevant Evidence for Danger of Undue Consumption of,  
this index

**PROCEEDINGS**

Generally, Rule 101

**PROCESS OR SYSTEM**

Authentication, Rule 901

Other crimes or acts as proof of defendant's scheme or plan, Rule 404

**PRODUCTION OF DOCUMENTS AND THINGS**

Burden of production

Adverse inferences, failure to produce, Rule 101

Risk of nonproduction, Rule 101

Rules of evidence, Rule 101

**PRODUCTS LIABILITY**

Expert opinion testimony, Rule 702

Subsequent remedial measures, evidence of, Rule 407

**PROMISES**

Offer of Compromise, this index

Promise to pay medical or similar expense, Rule 409

**PROPERTY**

See also Real Property, this index

Affidavits concerning interest in, Rule 803

Boundaries

Judgment as to, Rule 803(c)(23)

Reputation evidence, Rule 803(c)(20)

Hearsay

Records of documents affecting interest in, Rule 803

Statements in documents affecting interest in, Rule 803

Opinion on value

Personal property, Rules 701, 702

Real property, Rule 702

**PROSECUTING WITNESS**

See Impeachment; Rape Shield Act, this index

**PROSECUTORS**

Competency as witness, Rule 601

Limiting instruction on prosecutorial misconduct inadequate to cure prejudice,  
Rule 404

**PSYCHIATRISTS**

Accused, Psychiatric examination of witness, Rules 501, 503

Competency of witnesses, psychiatric examination, Rule 601

Expert opinion testimony, Rule 702

Physician-Patient Privilege, this index

Preliminary questions matters, Rule 104

## INDEX

### **PSYCHIATRISTS—Cont'd**

Prior inconsistent statements given to psychiatrists, hospitals, doctors, Rules 613, 804

### **PSYCHOLOGIST-PATIENT PRIVILEGE**

Generally, Rule 505

### **PSYCHOLOGISTS**

Marriage counselors' privilege, Rule 510

Physician-patient privilege, Rule 506

Psychologist-patient privilege, Rule 505

### **PUBLICATIONS**

Commercial publications, Rule 803

Learned treatises, Rule 803(c)(18)

Newspapers and periodicals, self-authentication, Rules 803, 902

Official publications, self-authentication, Rule 902

### **PUBLIC OFFICIAL**

Defined, Rule 801

### **PUBLIC RECORDS AND REPORTS**

Absence of record or entry following diligent search, Rule 803(c)(7)

Access when confidential, Rule 101

Affidavits concerning an interest in property, Rule 803

Authentication, generally, Rule 902

Baptismal certificates, Rules 803(c)(12), 805

Best evidence rule, exception to, Rule 1002

Birth certificates, Rule 803

Certified copy, Rule 902

Death certificates, Rule 803(c)(9)

Documents affecting an interest in property

Records of, Rule 803

Statements in, Rule 803

Exception to hearsay rule, Rule 803

Filed reports by persons authorized, Rule 803

Foreign public documents, Rule 803

Judgments

Generally, Rule 803

Authorized by statute, Rule 803

Official questionnaire, Rule 803

Official questionnaire, Rule 803

Opportunity to meet, Rule 803

Parol evidence, Rule 803

Police reports, Rule 803

Reports and findings, Rule 803

Township records, Rule 803

### **PURPOSE OF EVIDENCE RULES**

Generally, Rule 102

**QUALIFICATIONS OF EXPERT**

Generally, Rule 702

**QUESTIONNAIRES**

Public records and reports, official questionnaire, Rule 803

**RAPE**

See also Rape Shield Act, this index

Complaint by victim, hearsay, Rule 803

Other Crimes or Bad Acts, this index

Prior false allegations, impeachment, Rule 613

Prosecutions for rape and related offenses, Rule 412

**RAPE COUNSELOR PRIVILEGE**

Generally, Rule 517

Confidential communication, Rules 412, 517

Rape crises center, Rule 517

Rules of Evidence, Rules 412, 517

Sexual assault counselor, Rule 517

Victim, Rule 517

**RAPE SHIELD ACT**

Generally, Rule 412

Conduct between victim and defendant, Rule 412

Discretion of court when Act inapplicable, Rule 412

Impeachment evidence, Rule 412

Victim's abortion, Rule 412

**REAL ESTATE**

See Real Property, this index

**REAL EVIDENCE**

Generally, Rule 101

Authentication, Rule 901

Res gestae, Rule 803(c)(1)

Substantially same condition, authentication of real evidence, Rule 901

**REAL PROPERTY**

Affidavits concerning interest in, Rule 803

Boundaries

Judgment as to, Rule 803(c)(23)

Reputation evidence, Rule 803(c)(20)

Hearsay, records of documents affecting interest in, Rule 803

Opinion on value, Rule 702

Value of realty as admissible evidence, Rule 401

**REASONABLE MEDICAL CERTAINTY**

Expert testimony, Rule 702

**REASONABLE RELIANCE BY EXPERT**

Basis for opinion, disclosure of, Rule 702

Cross examination, Rule 702

## INDEX

### **REASONABLE RELIANCE BY EXPERT—Cont'd**

- Expertise of witness, Rule 702
- Expert opinion based upon reports of others, generally, Rule 702
- Hypothetical questions, Rule 705
- Medical reports, Rule 702
- Mental hospital records, Rule 803
- Opinions of others, Rule 703

### **RECALL NOTICE**

- Subsequent remedial measures, Rule 407

### **RECEIPTS**

- Best evidence rule, Rule 1002
- Business records exception to hearsay rule, Rule 803

### **RECOLLECTION**

- See Memory; Past Recollection Recorded; Refreshing Recollection, this index

### **RECORDED INSTRUMENTS**

- Acknowledged document, self-authentication, Rule 902
- Authentication generally, Rule 901
- Best evidence rule, Rule 1002
- Hearsay
  - Public records, generally, Rule 803(c)(8)
  - Records of documents affecting interest in property, hearsay exception, Rule 803(c)(14)
  - Statements in documents affecting interest in property, hearsay exception, Rule 803(c)(15)
- Judgment as to boundaries, Rule 803(c)(23)

### **RECORDED RECOLLECTION**

- See Past Recollection Recorded; Refreshing Recollection, this index

### **RECORDINGS**

- Admissibility, generally, Rules 101, 104, 105, 403
- Audio Tapes and Transcripts, this index
- Authentication, Rule 901
- Best evidence rule, Rule 1002
- Completeness doctrine, Rule 106
- Duplicates, Rule 1003
- Remainder of, admissibility, Rule 106
- Videotapes, this index

### **RECORD OF CONVICTION**

- See Conviction of Crime, this index

### **RECORDS**

- Business Records, this index
- Certified Copy, this index
- Church records, Rules 802, 803(c)(6), 803(c)(11)
- Conviction of Crime, this index
- Court Records, this index

**RECORDS—Cont'd**

- Family History, this index
- Foreign records, authentication, Rule 902
- Hospital records, hearsay exception, Rule 803
- Past Recollection Recorded, this index
- Police records, Rule 803
- Privileged Communications, this index
- Public Records, this index
- Recorded Instruments, this index

**REDIRECT EXAMINATION, TRIAL**

- Scope of, Rule 607

**REFRESHING RECOLLECTION**

- Generally, Rules 612, 803
- Admissibility of writing used, Rule 803
- Business records, Rule 803
- Former testimony, Rule 804
- General rule, Rules 612, 803
- Hypnosis or drugs, by, Rules 607, 702, 803
- Hypnosis to refresh memory, Rules 607, 702, 803
- Past recollection recorded distinguished, Rule 803
- Police reports, Rule 803
- Procedure for refreshing recollection, Rule 803
- Witness must testify from memory, Rules 612, 803

**REGULARITY OF OFFICIAL ACTION**

- As basis for public records exception to hearsay rule, Rule 803

**REGULARLY KEPT RECORDS**

- See Business Records, this index

**REGULATIONS OF ADMINISTRATIVE AGENCIES**

- Authentication, Rule 902
- Judicial notice of, Rule 201

**REHABILITATION**

- Contradiction of impeaching character witness, Rule 608
- Expert testimony, rehabilitation of expert by second expert, Rule 702
- Explanation of prior inconsistent statement, Rule 613
- Hearsay declarant, Rule 801
- Remainder of writing, conversation or deposition containing prior inconsistent statement, Rule 106
- Reputation of witness, Rules 608, 613

**RELATED CRIMES**

- See Other Crimes or Bad Acts, this index

**RELATED EVIDENCE**

- “Completing the story,” see Completeness, Principle of, this index
- Evidence made relevant by opponent’s proof, Rule 101
- Opening the Door, this index

## INDEX

### RELEVANCY

- Generally, Rules 401 et seq.
- Admissibility, general, Rule 402
- Admitted or stipulated facts, Rule 401
- “Background facts,” Rule 406
- Chain of custody, Rule 901
- Character
  - As substantive evidence, Rule 404
  - Of accused, Rule 404
- “Comparables” in condemnation cases, Rules 401, 703
- Conditioned on fact, Rules 104, 106
- Confusion of jury, exclusion of relevant evidence for danger of, generally, Rule 403
- Credibility evidence, Rules 401, 607
- Cumulative evidence, Rule 101
- Custom of business or group, Rule 406
- Definition of relevancy, Rule 401
- Demonstrations and experiments, Rule 101
- Discretion of trial court, Rule 104
- Discrimination evidence, Rule 401
- Evidence made relevant by opponent’s proof, Rule 401
- Exclusion of relevant evidence
  - Based on remoteness, Rule 403
  - Based on unfair surprise, generally, Rule 403
  - For danger of jury confusion, generally, Rule 403
  - For danger of undue consumption of time, generally, Rule 403
  - For danger of undue prejudice, generally, Rules 403, 404
- Flight of accused, Rules 404, 803
- “Gruesome” photographs, generally, Rule 403
- Habit of individual as proof of conduct, Rule 406
- Judicially admitted facts, evidence of, Rule 201
- “Legal relevancy,” Rule 401
- Materiality distinguished, Rule 101
- Medical and similar expenses, payment of, Rule 409
- Offers of compromise, Rule 408
- Other crimes evidence, Rule 404
- Past sexual conduct, Rule 412
- Payment of medical or similar expenses, Rule 409
- Prejudice, exclusion of relevant evidence for undue danger of, generally, Rule 403
- Relevant evidence, defined, Rule 401
- Remoteness, exclusion of relevant evidence for, Rules 403, 404
- Routine practice of business or group, Rule 406
- Scientific evidence, Rule 101
- Subsequent remedial measures, Rule 407
- Surprise as grounds for exclusion of relevant evidence, Rule 403
- Time, exclusion of relevant evidence for danger of undue consumption, generally, Rule 403

**RELIGION AND RELIGIOUS ORGANIZATIONS**

- Cleric-penitent privilege, Rule 511
- Privileges
  - Cleric-penitent, Rule 511
  - Religious belief, Rule 512
- Records, hearsay exception, Rules 802, 803(c)(6), 803(c)(11)
- Religious belief or opinion of witness, Rule 610
- Religious belief privilege, Rule 512
- Witness, religious beliefs of, Rule 610

**REMAINDER OF CONVERSATIONS AND WRITINGS**

- See Completeness, Principle of, this index

**REMEDIAL MEASURES**

- Relevancy of subsequent remedial measures, Rule 407

**REMOTENESS**

- As grounds for exclusion of relevant evidence, generally, Rule 403
- Conviction of crime, impeachment by showing remoteness, Rule 607

**REPAIR**

- Mayor's inability to recall events as to decision to halt homeowner repairs, Rule 609
- Relevancy of subsequent remedial measures, Rule 407
- Use of subsequent repair by expert, Rule 407

**REPETITIOUS EVIDENCE**

- Court's discretion to exclude cumulative or repetitive evidence, Rule 403
- Habit evidence, Rule 406
- Limited admissibility, Rule 105
- Standard of proof, Rule 101

**REPORTERS' PRIVILEGE**

- Generally, Rule 508

**REPORTS AND REPORTING**

- Business records, Rule 803
- Case reports, authentication, Rule 902
- Expert opinion
  - Generally, Rule 702
  - Basis for, Rule 703
- Mediation, Rule 519
- Police reports, Rule 803
- Prohibited mediator reports, Rule 519
- Public Records, this index

**REPRESENTATIVE ADMISSIONS**

- Generally, Rule 803
- Adoptive admissions, Rule 803
- Attorneys, Rule 803
- Co-conspirators, Rule 803
- Directors, Rule 803



## INDEX

### **REPRESENTATIVE ADMISSIONS—Cont'd**

- Employees, Rule 803
- Officers, Rule 803
- Partners, Rule 803
- Tacit admissions, Rule 803

### **REPRESENTATIVES**

- Admissions by, Rule 803

### **REPUTATION**

- See Character and Reputation, this index

### **REQUESTS**

- Admissions, audiotapes and transcripts, Rules 803, 1007
- Best evidence rule, request for production, Rule 1004
- Charge jury, to
  - Form of request, Rule 104
  - Limiting instruction, Rule 105
- Handwriting exemplars, production of, Rule 901
- Multiple admissibility, request for limiting instructions, Rule 105

### **RES GESTAE**

- Excited utterances, Rule 803(c)(2)
- Hearsay, generally, Rules 803(b), 803(c)
- Medical records, Rule 803(c)(6)
- Pecuniary interest, declarations against, Rule 803(c)(25)
- Shopbook rule, see Business Records, this index
- Spontaneous exclamations, Rules 803(c)(1), 803(c)(2)

### **RES IPSA LOQUITUR**

- Burden of proof or production, Rule 101
- Common knowledge doctrine distinguished, Rule 201
- Judicial notice, Rule 201

### **RESTRAINING ORDER**

- Prejudicial aspect of, Rule 404

### **ROUTINE PRACTICE**

- See Custom or Routine Practice; Habit, this index

### **RULE OF COMPLETENESS**

- See Completeness, Principle of, this index

### **RULINGS ON EVIDENCE**

- Generally, Rule 103
- Limited admissibility, Rule 105
- Preliminary questions, Rule 104
- Time for objections, Rule 103

### **SAFETY MEASURES AFTER ACCIDENT**

- Subsequent remedial measures, Rule 407

**SANITY**

- Codefendant's silence, effect of, Rule 501
- Dead Man's Act, exception for testator's sanity, Rule 402
- Impeachment, Rule 607
- Opinion testimony, Rule 705
- Other crimes or acts as proof of, Rule 404
- Psychiatric privilege attaches to sanity claim, Rule 502
- Witnesses, competency of, Rule 601

**SCIENTIFIC EVIDENCE**

- Generally, Rule 101
- Breathalyzer, Rule 101
- Chain of custody, Rule 901
- Chemical analysis, Rule 101
- DNA, Rule 101
- Expert Testimony, this index
- Fingerprints, Rule 101
- Hypnosis, this index
- Polygraph, Rules 101, 602
- Radar, Rule 101
- Re-enactment, Rule 101
- Techniques, Rule 101
- Telephone tracing, Rule 101
- Tests, Rule 101
- Thermography, Rule 101
- Voice print, Rule 101

**SCOPE**

- Of cross examination, Rule 607
- Of recross or redirect examination, Rule 607
- Of the rules, Rule 101

**SEALING DOCKET**

- Admissible as secondary evidence, Rule 1005
- Book kept by county clerk, hearsay issues, Rule 803(c)(10)

**SEALS AND SEALED INSTRUMENTS**

- Authentication, Rules 901, 902
- Best evidence rule exception for public records, Rule 1002
- Hearsay exception for public records, Rule 803(c)(8)
- Self-authentication, Rule 902

**SECONDARY EVIDENCE**

- See Best Evidence Rule, this index

**SECRETS OF TRADE**

- Trade secrets privileged, Rule 514

**SECURITIES FRAUD**

- Exclusion of relevant information due to prejudice, Rule 403
- Expert's testimony, Rules 402, 702, 703

## INDEX

### SELF-AUTHENTICATION

- Generally, Rule 902
- Acknowledged documents, Rule 902
- Affidavits taken in other states, Rule 902
- Certified copies of public records, Rule 902
- Commercial paper, Rule 902
- Consular invoices, Rule 902

### SELF-DEFENSE

- Burden of proof, Rule 105
- Character as proof of victim's conduct, Rule 404
- Character of victim, rebuttal by prosecution, Rule 404
- Character of victim as proof of accused's state of mind, Rule 404
- Jury determination, Rule 101

### SELF-INCRIMINATION

- See Privilege Against Self-Incrimination, this index

### SELF-SERVING

- Business records, Rule 803(c)(6)
- Definition, Rule 502
- Deposition testimony proffered at trial, Rule 106
- Hearsay rule, generally, Rules 802, 803(b)
- Incompetent evidence, declarations as, Rules 106, 401, 406
- Instructions to jury, Rule 105
- Party opponent's statements, state of mind exception to hearsay rule, Rule 803
- Self-incrimination, privilege against, generally, Rule 503
- Statements, relevancy of, Rules 101, 801
- Waiver, Rule 530

### SENSES

- Present sense impression, hearsay exception, Rule 803(c)(1)

### SEQUESTRATION OF WITNESSES

- Generally, Rule 615

### SETTLEMENTS

- Consent decree as settlement, Rule 408
- Offer of compromise, Rule 408
- With co-party or witness, to show bias, Rule 607

### SEVEN YEARS

- Presumption of death, Rule 301

### SEXUAL BEHAVIOR

- Assault, Rules 412, 415
- Children
  - Hearsay, statements about sexual offense, Rule 803(c)(27)
  - Similar acts in civil child molestation cases, Rule 415
  - Similar crimes in child molestation cases, Rule 414
- Conviction of Crime, this index

**SEXUAL BEHAVIOR—Cont'd**

- Depraved sexual instinct
  - Generally, prior crimes or acts as proof of, Rule 412
  - Not admissible in rape cases, Rule 412
- Of victim, Rule 412
- Of witness, sexual history, Rule 412
- Prior crimes or acts, Rule 412
- Rape, this index
- Rape Shield Act, this index
- Similar acts in civil child molestation cases, Rule 415
- Similar crimes
  - Child molestation cases, in, Rule 414
  - Sexual assault cases, in, Rule 413

**SHIPPING INSTRUCTIONS**

- Hearsay, Rule 801

**SILENCE**

- Codefendant's silence, effect of, Rule 501
- Tacit admissions, Rule 803(b)

**SIMILAR ACCIDENTS**

- Conditional relevancy, Rule 104
- Proof of habit or routine practice, similar acts or occurrences as, Rule 406
- Relevancy, generally, Rule 401
- Similar acts or occurrences as proof of habit or routine practice, Rule 406

**SIMILAR ACTS OR OCCURRENCES**

- As proof of habit or routine practice, Rule 406
- Child molestation
  - Similar acts in civil cases, Rule 415
  - Similar crimes, Rule 414
- Sexual assault cases, similar crimes in, Rule 413

**SIMILAR CONDITIONS**

- Demonstrative evidence, demonstrations and experiments, Rule 101
- Similar accidents or occurrences, general relevancy, Rule 404
- Similar acts or occurrences, proof of habit or routine practice, Rule 406

**SIMILAR SALES**

- Comparables in eminent domain cases, relevancy, Rules 401, 703

**SIXTH AMENDMENT**

- See Confrontation Clause, this index

**SLANDER OF TRADE**

- Admissible evidence, Rule 401
- Character in issue, Rule 404

**SLIP AND FALL**

- Hearsay statements, Rule 803(b)

## INDEX

### **SMALL CLAIMS CASES**

Applicability of law of evidence, generally, Rule 101

### **SOCIAL WORKERS**

Privilege, Rule 518

### **SOUND RECORDINGS**

See Recordings, this index

### **SPECULATION**

Degree of certainty for expert opinion, Rule 702

Personal Knowledge, this index

### **SPEED**

Opinion testimony, Rules 701, 702

### **SPOILIATION OF EVIDENCE**

Generally, Rule 101

### **SPONTANEOUS EXCLAMATIONS, DECLARATIONS OR STATEMENTS**

See Excited Utterances, this index

### **SPOUSES**

See Family History; Husband-Wife Privilege; Marriage Certificates; Pedigree, this index

### **STARTLED UTTERANCES**

See Excited Utterances, this index

### **STATEMENT**

Defined for hearsay rule, Rule 801

### **STATEMENT AGAINST INTEREST**

Generally, Rule 803(c)(25)

### **STATEMENT OF BODILY CONDITION**

See Bodily Condition, Statements Concerning, this index

### **STATEMENT UNDER BELIEF OF IMPENDING DEATH**

See Dying Declarations, this index

### **STATE OF MIND**

Character evidence as proof of, in cases of self-defense, Rule 404

Expert opinion testimony, Rule 702

Hearsay, exception

Excited utterance, Rule 803(c)(2)

Spontaneous declaration, Rule 803(c)(1)

Then existing mental or emotional state, Rule 803(c)(3)

Past intention, proof of, Rule 803

Subsequent conduct, proof of, Rule 407

### **STATE SECRETS AND OFFICIAL INFORMATION**

See Informant's Privilege, this index

**STATISTICS**

Judicial notice of population figures, Rule 201  
Voluminous records, Rule 1006

**STATUTE OF FRAUDS**

Generally, Rule 101

**STATUTES**

Best evidence rule, exceptions, Rule 1002  
Frauds, Rule 101  
Judicial notice of, Rule 201

**STIPULATED FACTS**

Relevancy and materiality of evidence of, Rule 401

**STRICT LIABILITY**

Subsequent remedial measures, evidence of, Rule 407

**SUBJECTIVE SYMPTOMS**

Excited utterances, Rule 803(c)(2)  
Statements for medical diagnosis or treatment, Rule 803  
Statements of existing physical condition, Rule 803

**SUBSCRIBING WITNESS TESTIMONY**

Authentication, Rule 903

**SUBSEQUENT REMEDIAL MEASURES**

Generally, Rule 407

**SUBSTANTIALLY SAME CONDITION**

Authentication of real evidence, Rule 901

**SUBSTANTIVE EVIDENCE**

Generally, Rule 101

**SUICIDE**

Presumption against, Rule 301

**SUMMARIES OF VOLUMINOUS RECORDS**

Generally, Rule 1006  
Hearsay, business records summaries, Rules 803(c)(6), 803(c)(17)

**SURPRISE**

Exclusion of relevant evidence, grounds for, Rule 403  
Impeachment of own witness, grounds for, Rule 607  
Preliminary questions as to prior acts, Rule 404

**SURVIVORS**

See also Dead Man's Act, this index  
Competency as witnesses, Rule 601  
Privilege  
Attorney-client, Rule 504  
Husband-wife, Rule 501  
Physician-patient, Rule 506

## INDEX

### **SYMPTOMS, PHYSICAL**

See Bodily Condition, Statements Concerning; Subjective Symptoms, this index

### **SYSTEM OR PROCESS**

Authentication, Rule 901

Other crimes or acts to prove defendant's system or process, Rule 404

### **TABLES**

Market reports, Rule 803

Mortality tables, Rule 803

Population tables, Rule 803

### **TANGIBLE EVIDENCE**

See Authentication; Best Evidence Rule; Demonstrative Evidence, Relevancy, this index

### **TAPE RECORDINGS**

Audio Tapes and Transcripts, this index

Authentication, Rule 901

Hearsay, Rules 801, 803(b)

Recordings, this index

Techniques, scientific evidence, Rule 101

### **TECHNICAL KNOWLEDGE**

Qualifications of expert, Rule 702

### **TELEMARKETING**

Prior injunction not inadmissible prior bad acts evidence, Rule 404

### **TELEPHONE CONVERSATIONS, AUTHENTICATION**

Calls to business establishments, Rule 901

Identification of speakers, Rules 500, 901

### **TELEVISION AND RADIO**

Reporters' privilege, Rule 508

### **TEMPORARY RESTRAINING ORDER**

Limiting instruction, Rule 404

Prejudicial aspect of, Rule 404

### **TENDER YEARS EXCEPTION**

Generally, Rules 803(c)(27), 804(b)(8)

### **TESTIMONIAL KNOWLEDGE**

See Personal Knowledge, this index

### **TESTIMONY, FORMER**

See Former Testimony, this index

### **THREATS**

Against witness, Rule 607

Defendant's threats against victim showing defendant's motive or malice, Rule 404

Victim's threats against defendant, showing victim's state of mind, Rule 803

**TIME**

- Ancient Documents, this index
- Exclusion of relevant evidence for danger of undue consumption of
  - Generally, Rule 403
  - Character as substantive evidence, Rule 404
- Judicial notice, time for taking, Rule 201

**TITLE DOCUMENTS**

- See Boundaries; Recorded Instruments, this index

**TOWNSHIPS**

- Discrimination, accommodation for, Rule 403
- Public records and reports, Rule 803

**TRADE SECRETS**

- Privilege, Rule 514

**TRAINING**

- Qualifications of expert, Rule 702

**TRANSACTIONS WITH DECEDENTS**

- See Dead Man's Acts, this index

**TRANSCRIPTS**

- Depositions, this index
- Former Testimony, this index
- Of audio tapes
  - Admissibility, generally, Rule 401
  - Best evidence rule, Rule 1002

**TRANSLATION**

- See Interpreters, this index

**TREATISES**

- Learned treatises, Rule 803(c)(19)

**TRIAL**

- Court's discretion to vary order of proof, Rule 104
- Trial aids, Rule 101

**TRUTHFULNESS**

- Bias of Witness, this index
- Character and Reputation, this index
- Conviction of Crime, this index
- Cross examination, generally, Rule 607
- Impeachment, this index
- Prior Inconsistent Statements, this index

**ULTIMATE ISSUE, OPINION OF**

- Generally, Rule 704
- Exclusion of relevant evidence due to prejudice, Rule 403
- Expert opinion, Rules 702, 704
- Lay opinion, Rule 701



## INDEX

### UNAVAILABILITY

- Of declarant, for purposes of hearsay exceptions, generally, Rule 804
- Of witness, defined, Rule 804

### UNCHARGED CRIMES

- See Other Crimes or Bad Acts, this index

### UNDISPUTED ISSUES

- Materiality of evidence concerning, Rule 401

### UNDUE DELAY

- Exclusion of relevant evidence for undue consumption of time, Rule 403
- Limiting instruction about other crimes evidence, issuing, Rule 404

### UNFAIR PREJUDICE

- Exclusion of relevant evidence. See Bias or Prejudice, this index

### UNIQUE PATTERN

- Common scheme or plan, other crimes or acts to prove identity, Rule 404

### VALUE AND VALUATION

- Admissible evidence, Rule 401
- Chattel, admissible evidence, Rule 401
- Close corporation, admissible evidence, Rule 401
- Comparables in eminent domain case, Rule 702
- Personal property, opinion testimony, Rule 702
- Price tag, authentication, Rule 901
- Real property
  - Admissible evidence, value of as, Rule 401
  - Opinion testimony, Rule 702

### VERACITY

- See Credibility; Impeachment; Character and Reputation, this index

### VERDICT

- Attorney investigation, Rule 606
- Evidence to test, Rule 606
- Impeachment of by jurors' testimony not allowed, Rule 606
- Judgments, this index
- Scope of inquiry, Rule 606

### VICARIOUS ADMISSIONS

- Generally, Rule 803
- Admissions defined, Rule 803
- Adoptive admissions, Rule 803
- Attorneys, Rule 803
- Co-conspirators, Rule 803

### VICTIMS OF CRIMES

- See also Character as Impeachment Evidence; Other Crimes or Bad Acts; Rape Shield Act, this index
- Privilege, victim-counselor, Rule 517
- View of science, Rule 101

**VIDEOTAPES**

- As writing, Rule 101
- Best evidence rule, Rule 1002
- Demonstrative evidence, Rule 101

**VISUAL AIDS**

- See Demonstrative Evidence, this index

**VITAL STATISTICS**

- Certificates, Rule 803(c)(9)

**VOICE IDENTIFICATION**

- See Authentication, this index

**VOICE PRINTS**

- Expert testimony based on voice spectography, Rule 703
- Prejudice grounds for exclusion of, Rule 403
- Preliminary questions, Rule 104
- Scientific evidence, Rules 101, 105

**VOLUMINOUS RECORDS**

- Summaries, Rule 1006

**VOTES AND VOTING**

- Hearsay, voter's statements, Rule 804(b)(7)
- Privilege, nondisclosure of political vote, Rule 513

**WAIVER**

- Attorney-client privilege, Rules 504, 530
- Competency of witnesses, Rule 601
- Dead Man's Act
  - Failure to object, Rule 402
  - Testimony from prior proceeding, Rule 402
- Newsperson's privilege, Rule 508
- Physician-patient privilege, Rule 506
- Plea agreement waiver clause, Rule 410
- Self-incrimination privilege, Rules 104, 503

**WASTE OF TIME**

- Exclusion of relevant evidence for undue consumption of time, Rule 403
- Materiality of judicially admitted facts, Rule 101

**WIFE**

- See Family History; Husband-Wife Privilege; Marriage Certificates; Pedigree, this index

**WILL CONTESTS**

- Attorney-client privilege, Rule 504
- Dead Man's Act, this index
- Husband-wife privilege in, Rule 509
- Opinion on testator's mental capacity
  - Exception to dead man's act, Rule 601
  - Lay opinion testimony, Rule 701

## INDEX

### **WILL CONTESTS—Cont'd**

Physician-patient privilege, Rule 506

### **WITNESSES**

Absence of contradictory evidence, Rule 607

Adverse witnesses, impeachment, Rule 607

Attorneys, Rule 601

Calling by court, generally, Rule 614

Character

Character and Reputation, this index

Impeachment, this index

Child, competency, Rule 601

Competency a question for court, Rule 104

Competency of Witnesses, this index

Confrontation Clause, this index

Conviction of crime, no bar, Rule 601

Court Appointed Experts, this index

Credibility, this index

Cross Examination, this index

Demeanor, Rule 607

Depositions, this index

Disinterested, Rule 607

Disqualification, Rule 607

Every person qualified, Rule 601

Expert Testimony, this index

Expert Witnesses, this index

First-hand knowledge, see Personal Knowledge, this index

Former Testimony, this index

Hostile witnesses, Rule 607

Impeachment, this index

Insane, competency of, Rule 601

Interpreters, this index

Interrogation and presentation, mode and order of

Generally, Rule 611

Judge calling and interrogating witness, Rules 609, 614

Judge as interrogators of witness, Rules 609, 614

Judge as witness, Rule 605

Juror as witness, Rule 606

Leading Questions, this index

“Missing witness” rule, Rules 101, 104

Non-production, Rule 101

Oath or affirmation, Rule 603

Old rule against impeaching witness, Rule 607

Opinion Testimony, this index

Personal Knowledge, this index

Prior Inconsistent Statements, this index

Prior statements of witness as substantive evidence, Rule 613

Privileges, this index, Rule 613

**WITNESSES—Cont'd**

- Psychiatric examination, Rule 601
- Public official, Rule 601
- Refreshing Recollection, this index
- Rehabilitation, this index
- Sequestration of, Rule 615
- Subscribing witness testimony, Rule 903
- Support own witness, Rule 607
- Testimony contradicted in part, Rule 607
- Unavailability, Rule 804
- Uncontradicted, Rule 807

**WORKER'S COMPENSATION**

- Burdens of proof, Rule 101
- Exclusionary rule, Rule 402
- Judicial notice, Rule 201
- Presumptions, Rule 301

**WORK PRODUCT**

- Attorney-client privilege distinguished, Rules 500, 504
- Facsimile cover letters, Rule 504
- Internet and e-mail communications, Rule 504

**WRITINGS**

- Admissions, this index
- Ancient Documents, this index
- Authentication, this index
- Best Evidence Rule, this index
- Business Records, this index
- Computer records, Rule 101
- Court Records, this index
- Defined, Rule 101
- Dying Declarations, this index defined, Rule 101
- Explanation of, when used as inconsistent statement, Rule 607
- Former Testimony, this index
- Handwriting in dispute, see Authentication, this index
- Hearsay, this index
- Motion pictures, films, videotapes, Rule 101
- Past recollection recorded, Rule 803
- Photographs, Rule 101
- Prior Inconsistent Statements, this index
- Publications, this index
- Public Records and Reports, this index
- Recorded Instruments, this index
- Records, this index
- Refreshing Recollection, this index
- Remainder of, see Completeness, Principle of, this index
- Summaries, Rule 1006
- Written statements, examination by, Rule 613

## INDEX

### **WRITINGS—Cont'd**

X-rays, Rule 801

### **WRONGFUL DEATH**

Dead Man's Act inapplicable, Rule 402

### **XEROX COPIES**

Best evidence rule, Rule 1002

### **X-RAYS**

Admissibility, generally, Rules 101, 801

As scientific evidence, Rule 101

As writing, Rule 801

Authentication, Rule 901

Best evidence rule, Rules 1001, 1002, 1004

Corroborative evidence, Rule 403

Demonstrative evidence, as, Rule 101

Hearsay, Rules 801, 803(c)(6)

Irrelevance, Rule 401

Judicial notice, Rule 201

# Index

## **APPLICABILITY**

scope of rules, **Rule 101**

## **ATTORNEY-CLIENT PRIVILEGE**

waiver limitations, **Rule 502**

## **COURTS**

calling and interrogation of witness, **Rule 614**

functions, **Rule 1008**

## **CREDIBILITY**

hearsay declarant, **Rule 806**

## **DEFINITIONS**

hearsay, **Rule 801**

scope of rules, **Rule 101**

## **EXCEPTIONS**

scope of rules, **Rule 101**

## **FAMILY HISTORY**

statement, hearsay, **Rule 804(b)(4)**

## **FORFEITURE**

Hearsay, forfeiture by wrongdoing, **Rule 804(b)(9)**

Witness unavailable due to defendant, forfeiture by wrongdoing, **Rule 804(b)(9)**

## **GUILTY PLEAS AND RELATED STATEMENTS**

Waiver of inadmissibility of, **Rule 410**

## **HEARSAY**

credibility of declarant, **Rule 806**

definitions, **Rule 801**

exceptions

declarant unavailable, **Rules 804(b)(7), 804**

not dependent on declarant's availability, **Rule 804(a)**

prior statements, witnesses, **Rule 803(a)**

statement, party-opponent federal decisions, **Rule 803(b)**

family history, statement, **Rule 804(b)(4)**

Forfeiture by wrongdoing, **Rule 804(b)(9)**

personal history, statement, **Rule 804(b)(4)**

prior statements of witnesses, exceptions, **Rule 803(a)**

statement, party-opponent federal decisions, **Rule 803(b)**

## **JURIES**

functions, **Rule 1008**

**MENTAL HEALTH**

Provider-patient privilege, **Rule 534**

**PARTY-OPPONENT**

statement, hearsay exceptions, **Rule 803(b)**

**PERSONAL HISTORY**

statement, hearsay, **Rule 804(b)(4)**

**PHYSICIAN-PATIENT PRIVILEGE**

Mental health, services provider-patient privilege, **Rule 534**

**PRESUMPTIONS**

against defendant, criminal proceedings, **Rule 303**

**PRIOR STATEMENTS**

witnesses, **Rule 803(a)**

**PRIVILEGED COMMUNICATIONS**

Mental health services provider-patient, **Rule 543**

**PRIVILEGE OF ACCUSED**

Generally, **Rule 501**

**RAPE SHIELD ACT**

Recent cases, **Rule 412**

**RELEVANCY**

Exclusion of relevant evidence, sanitation of evidence, **Rule 403**

Trial court record of application of balancing test, **Rule 403**

**RULES OF EVIDENCE**

privilege of accused

Generally, **Rule 501**

**TRIAL COURT**

Application of balancing test, exclusion of relevant evidence, **Rule 403**

**WAIVER**

attorney-client privilege, limitations, **Rule 502**

**WITNESSES**

calling and interrogation by court, **Rule 614**

character for truthfulness or untruthfulness, **Rule 608**

impeachment, **Rule 607**

neutralization, **Rule 607**

prior false accusation, **Rule 608**

prior statements, **Rule 803(a)**

support, **Rule 607**