

Index

ABSENCE OR PRESENCE

- Parties and counsel, presence at trial, **16:2**
- Presumption of death after seven years absence, **19:8**

ACCIDENT RECONSTRUCTION

- Expert and opinion evidence, **27:18**

ACCIDENTS

- Admissions, actions after as, **33:12**
- Reconstruction, expert and opinion evidence, **27:18**

ACCOMPLICE TESTIMONY

- Competency of witnesses, **25:4**

ACQUITTAL

- Admissibility of evidence, acquittal of co-defendant, **36:3**
- Judgment of, **17:15-17:18, 45:5**

ADDICTION TO DRUGS OR ALCOHOL

- Expert and opinion evidence, **27:34**

ADMISSIBILITY OF EVIDENCE

- Generally, **36:1-34:28**
- Character and reputation, **36:12-36:16**
- Circumstantial evidence, **36:1**
- Co-defendant's acquittal or conviction, **36:3**
- Collateral issues, **36:4**
- Computations, **36:24**
- Confessions, **34:2**
- Corporate existence, **36:25**

ADMISSIBILITY OF EVIDENCE

—Cont'd

- Custom and usage, **36:7**
- Documentary evidence, **31:2**
- Dog tracking evidence, **36:27**
- Expert opinions, generally, **27:2, 27:7, 27:27**
- Habit, **36:8**
- Hearsay evidence, **32:2**
- Income tax returns, **36:23**
- Insurance, **36:22**
- Intoxication, proof of, **36:17**
- Judge ruling on, **6:6**
- Nationality, **36:19**
- Non-expert opinion testimony, **27:28**
- Other crimes, **36:10**
- Parol evidence, **36:26**
- Pattern and practice, **36:11**
- Poverty, **36:20**
- Prejudicial evidence, **36:2**
- Race, **36:19**
- Retaliatory evidence, **36:28**
- Self-serving declaration, **36:21**
- Similar acts or occurrences, generally, **36:3-34:11**
- Truthfulness and veracity, reputation for, **36:16**
- Usual method or practice, **36:9**
- Victim in criminal case, reputation of, **36:14**
- Wealth, **36:20**
- Weight, proof of, **36:18**

ADMISSIONS

- Generally, **33:1-33:15**
- Accident, actions after as an admission, **33:12**
- Agent, admissions by, **33:2**

ADMISSIONS—Cont'd

- Closing arguments, admissions made in, **40:5**
- Compromise offers as an admission, **33:14**
- Confessions distinguished, **34:1**
- Criminal conviction as admission in civil case, **33:6**
- Employer of party, admissions by, **33:2**
- Escape as an admission, **33:10**
- Failure to reply to written statement as an admission, **33:9**
- Flight as an admission, **33:10**
- Judicial admissions, **33:2, 33:4, 33:5**
- Misconduct as an admission, **33:11**
- Partner, admissions by, **33:2**
- Party opponent, admissions by, generally, **33:1**
- Payment of medical expenses or lost income as an admission, **33:13**
- Pleadings, judicial admissions in, **33:5**
- Responses to requests for, **2:6**
- Self-serving statements, **33:15**
- Silence as an admission, **33:7-33:9**

AGENTS

- Admissions by, **33:2**

AGGRAVATING FACTORS

- Verdict, finding of aggravating factors, **43:14**

AIDING AND ABETTING

- Defenses, **15:1**

ALCOHOLIC BEVERAGES

- See index heading INTOXICATION AND INTOXICATING LIQUORS

ALIBI

- Defenses, **15:2**

ALMANACS

- Hearsay, documentary exceptions to hearsay rule, **32:35**

ALTERNATE JURORS

- Generally, **42:23-42:26**
- Selecting, **10:21**

AMENDMENT OF JUDGMENT

- Generally, **44:11, 45:7**

AMENDMENT OF PLEADINGS

- Motions, **17:20**

ANCIENT DOCUMENTS

- Documentary evidence, **31:16**
- Hearsay, documentary exceptions to hearsay rule, **32:24**

ANNUITY TABLES

- Documentary evidence, **31:17**
- Hearsay, documentary exceptions to hearsay rule, **32:27**

ANSWER OR PLEA

- Generally, **1:4**
- Affirmative defenses, **1:9**

APPEAL OR REVIEW

- De novo appeals, **16:10**

APPEARANCE (MODE OF DRESS)

- Defendant, **16:3**

ATTACHMENT WRIT

- Securing attendance of witnesses and production of evidence, **8:4**

ATTESTED DOCUMENTS

- Documentary evidence, **31:6**

ATTORNEY-CLIENT PRIVILEGE

- Generally, **26:5-26:10**

ATTORNEYS

- Generally, **4:1-4:7**

INDEX

ATTORNEYS—Cont'd

- Closing arguments, right to close, **13:1**
- Closing arguments. See index heading CLOSING ARGUMENTS
- Competency of witnesses, testimony by attorney, **25:3**
- Defendants' attorneys, generally, **4:3-4:5**
- Disqualification of attorney, **4:7**
- District attorneys, generally, **4:2**
- Examination of witnesses, improper conduct of counsel during, **21:13**
- Opening statements. See index heading OPENING STATEMENTS
- Plaintiffs' attorneys, generally, **4:1**
- Presence of counsel at trial, **16:2**
- Prosecutorial misconduct, **16:7, 17:12**
- Prosecutors, generally, **4:2**
- Right to counsel. See index heading RIGHT TO COUNSEL
- Withdrawal of attorney, **4:6**

ATTORNEYS' FEES

- Damages, **38:22**

AUTHENTICATED DOCUMENTS

- Generally, **18:6, 31:3, 31:4**

BAILMENT

- Burden of proof, **14:6**

BALLISTICS

- Expert and opinion evidence, **27:16**

BENCH CONFERENCES

- Generally, **6:10**

BEST AND SECONDARY EVIDENCE

- Generally, **31:19-31:23**

BIAS OR PREJUDICE

- Admissibility of prejudicial evidence, **36:2**
- Impeachment of witnesses, **24:8**

BIBLES

- Documentary evidence, **31:15**
- Hearsay, documentary exceptions to hearsay rule, **32:23**

BIRTH CERTIFICATES

- Hearsay, documentary exceptions to hearsay rule, **32:31**

BITE MARKS

- Real and demonstrative evidence, **29:18**

BLOOD TESTS

- Real and demonstrative evidence, **29:12**

BURDEN OF GOING FORWARD

- Generally, **14:1**

BURDEN OF PROOF

- Generally, **14:1-14:12**
- Bailment cases, **14:6**
- Civil cases, generally, **14:2-14:8**
- Criminal cases, generally, **14:9-14:12**
- Damages, liability for punitive damages, **38:11**
- Estates, claims against, **14:5**
- Fraud cases, **14:4**
- Medical causation, **14:7**
- Shifting the burden of proof, **14:12**
- Trusts, constructive and resulting trusts, **14:8**

BUSINESS MATTERS

- Documentary evidence, business records and records of regularly conducted activities, **31:11**
- Expert and opinion evidence, **27:9**

BUSINESS MATTERS—Cont'd

Hearsay, business records and records of regularly conducted activity, **32:28**

CAPITAL CASES

Jury selection, **10:7**

CERTIFIED DOCUMENTS

Proof of facts, **18:6**

CHAIN OF CUSTODY

Real and demonstrative evidence, **29:17**

CHALLENGES FOR CAUSE

Jury selection, **10:9-10:12**

CHANGE OF VENUE

Defenses, **15:20**

CHARACTER AND REPUTATION

Admissibility of evidence, **36:12-36:16**

CHARGE CONFERENCE

Generally, **39:1-39:4**

CHARTS

See index heading **DIAGRAMS AND DISPLAYS**

CHILDREN

Hearsay, child sex abuse victim's statements, **32:15**

Real and demonstrative evidence, child exhibited to jury in paternity cases, **29:20**

Witnesses, qualifying children to testify, **20:9**

CHURCH RECORDS

Documentary evidence, **31:15**

Hearsay, documentary exceptions to hearsay rule, **32:23**

CIRCUMSTANTIAL EVIDENCE

Admissibility, **36:1**

CLOSING ARGUMENTS

Generally, **40:1-40:17**

Admissions made in closing arguments, **40:5**

Charts and diagrams, use of, **40:16**

Conduct of opposing counsel or party, comments on, **40:8**

Correcting improper conduct or argument, **40:14**

Court's control of closing arguments, **40:2**

Damages, arguing, **40:15**

Improper arguments, generally, **40:9-40:14**

Jury instructions, comments on expected instructions, **40:7**

Objections to improper closing arguments, **40:13**

Recording closing arguments, **40:23**

Reply in kind argument, **40:17**

Right to close, **13:1, 40:1, 40:4**

COLLATERAL ISSUES

Admissibility of evidence, **36:4**

COLLATERAL SOURCE RULE

Damages, **38:25**

COMPENSATION

Witnesses, **20:3, 20:4**

COMPETENCY OF COUNSEL

Generally, **5:3**

COMPETENCY OF WITNESSES

Generally, **25:1-25:6**

Accomplice testimony, **25:4**

Attorney, testimony by, **25:3**

Judge, testimony by, **25:3**

Juror, testimony by, **25:3**

Oath or affirmation, witness' refusal to make, **25:6**

Perjury conviction, **25:5**

Qualifying incompetents to testify, **20:9**

INDEX

COMPETENCY OF WITNESSES

—Cont'd

Time for objecting to competence,
25:2

COMPETENCY TO STAND TRIAL

Defenses, 15:3

COMPLAINTS

Generally, 1:2

Misdemeanor complaint indictment, 1:7

COMPROMISE

Admissions, compromise offers as,
33:14

COMPULSION

Defenses, 15:4

COMPUTATIONS

Admissibility of evidence, 36:24

CONDUCT OF TRIAL

Generally, 16:1-16:13

CONFESSIONS

Generally, 34:1-34:7

Admissibility, 34:2

Admission distinguished, 34:1

Constitutional rights, protection of
in obtaining a confession,
34:3

Corroboration, 34:5

Distinction between confession,
admission and exculpatory
statement, 34:1

Entire statement, use of, 34:7

Exculpatory statement
distinguished, 34:1

Third parties, confessions of, 34:6

Voluntariness, 34:4

CONFORMING PLEADINGS TO EVIDENCE

Motions, 17:20

CONFRONTATION RIGHT

Defenses, 15:14

Hearsay rule exceptions, conflict
with, 32:4

CONSEQUENTIAL DAMAGES

Generally, 38:6

CONSOLIDATION

Motion, 3:5

CONSPIRACY

Defenses, 15:5

CONSTITUTIONAL RIGHTS

Confessions, protection of rights
in obtaining, 34:3

CONSTRUCTIVE TRUSTS

Burden of proof, 14:8

CONTEMPT

Generally, 9:1-9:10

Civil contempt, generally, 9:1

Criminal contempt, generally, 9:2,
9:5-9:9

Defenses, 9:9

Direct contempt, generally, 9:3,
9:5

Indirect contempt, generally, 9:4

Jury trial, right to, 9:8

Notice to contemnor, 9:7

Punishment, 9:10

CONTINUANCE OF CONDITION

Presumptions and inferences,
19:12

CONTINUANCE OF PROCEEDING

Renewed motion for, 17:1

CONTRACT BREACH

Damages, 38:20

CONVICTION OF CRIME

Admissibility of evidence, conviction of co-defendant, 36:3

CONVICTION OF CRIME

—Cont'd

Admission in civil case, conviction as, **33:6**

Competency of witnesses, perjury, **25:5**

Impeachment of witnesses, **24:11, 24:12**

CORPORATE EXISTENCE

Admissibility of evidence, **36:25**

CORPUS DELICTI

Defenses, **15:6**

CORROBORATION

Confessions, **34:5**

COUNTERCLAIMS

Generally, **1:2**

COUNTY RECORDS

Documentary evidence, **31:10**

COURT RECORDS

Documentary evidence, **31:9**

CREDIBILITY OF WITNESSES

See index heading IMPEACHMENT OF WITNESSES

CROSS-EXAMINATION

Generally, **22:1-22:9**

Commenting on witness' testimony, **22:9**

Expert and opinion evidence, **27:42**

Form of questions, **22:4**

Manner of conducting cross-examination, **22:5**

Other party's evidence, use on cross-examination, **22:7**

Rape-Shield Law, **22:3**

Recross-examination of witnesses.

See index heading REDIRECT AND RECROSS-EXAMINATION OF WITNESSES

Right to cross-examination, **22:1**

Scope of cross-examination, **22:2**

CROSS-EXAMINATION

—Cont'd

Testing witness' knowledge and accuracy, **22:8**

CT SCANS

Real and demonstrative evidence, **29:11**

CUSTOM AND USAGE

Admissibility of evidence, **36:7**

DAMAGES

Generally, **38:1-38:25**

Attorneys' fees, **38:22**

Burden of proof to establish liability for punitive damages, **38:11**

Closing arguments, arguing damages in, **40:15**

Collateral source rule, **38:25**

Consequential damages, **38:6**

Contract breach, **38:20**

Emotional distress, **38:16**

Foreseeability of damages, **38:5**

General and special damages, **38:4**

Liquidated damages and penalties, **38:24**

Medical expenses, **38:13**

Mental anguish, **38:16**

Mitigation of damages, **38:7**

Nominal damages, **38:2**

Nursing care, **38:14**

Pain and suffering, **38:15**

Personal property, damage to and value of, generally, **38:17**

Pre-judgment interest, **38:21**

Proving damages, generally, **38:1-38:25**

Proximate cause, **38:3**

Punitive damages, **38:8-38:11**

Real property, damage to and value of, generally, **38:18**

Remote damages, **38:6**

Repair of personal property, **38:19**

Speculative damages, **38:6**

INDEX

DAMAGES—Cont'd

- Verdict apportioning, **43:12**
- Warranty breach, **38:20**
- Wrongful death, **38:23**

DEATH

- Expert and opinion evidence, cause of death, **27:21**
- Jury selection, death qualification in capital cases, **10:7**
- Presumptions. See index heading PRESUMPTIONS AND INFERENCES

DEATH CERTIFICATES

- Hearsay, documentary exceptions to hearsay rule, **32:32**

DECLARATIONS AGAINST INTEREST

- Hearsay, testimonial exceptions to, **32:13**

DEFAULT JUDGMENT

- Motion, **3:6, 17:5**

DEFENSES

- Aiding and abetting, **15:1**
- Alibi, **15:2**
- Change of venue, **15:20**
- Competency to stand trial, **15:3**
- Compulsion, **15:4**
- Confrontation, right to, **15:14**
- Conspiracy, **15:5**
- Contempt, **9:9**
- Corpus delicti, **15:6**
- Criminal cases, generally, **15:1-15:20**
- Double jeopardy, **15:7**
- Drugged condition of defendant, **15:11**
- Entrapment, **15:8**
- Identity of accused, **15:10**
- Intoxication, **15:11**
- Justifiable force, **15:16**
- Limitation of actions, **15:17**
- Mens rea, **15:12**

DEFENSES—Cont'd

- Mental disease or defect, **15:15**
- Rape Shield Law, **15:13**
- Sanity, **15:15**
- Self-defense, **15:16**
- Statute of limitations, **15:17**
- Subject matter jurisdiction, **15:18**
- Third party guilty, **15:9**
- Variance between indictment and proof at trial, **15:19**
- Venue, **15:20**

DEFINITIONS

- Hearsay, **32:1**

DELIVERY AND RECEIPT OF LETTERS AND TELEGRAMS

- Presumptions and inferences, **19:15**

DEMEANOR

- Judges, **6:3**

DEMONSTRATIVE EVIDENCE

- See index heading REAL AND DEMONSTRATIVE EVIDENCE

DE NOVO APPEALS

- Generally, **16:10**

DEPOSITIONS

- Generally, **2:8**

DESTRUCTION OF EVIDENCE

- Discovery sanctions, **2:3**

DIAGRAMS AND DISPLAYS

- Closing arguments, use of charts and diagrams, **40:16**
- Real and demonstrative evidence, **29:6**

DISCOVERY

- Generally, **2:1-2:8**
- Admissions, responses to requests for, **2:6**
- Depositions, **2:8**

DISCOVERY—Cont'd

Evidence at trial, use of discovery products as, **2:5-2:8**
Experts and expert reports, non disclosure of, **2:4**
Failure to make discovery, **2:2**
Interrogatories, **2:7**
Sanctions, **2:1-2:4**
Spoliation or destruction of evidence, **2:3**

DISCRIMINATION

Peremptory challenges. See index heading JURY SELECTION, **10:15**

DISMISSAL

Motion, **3:1**
Motions, **17:2, 17:4**

DISQUALIFICATION

See index heading QUALIFICATION OR DISQUALIFICATION

DISTRICT ATTORNEYS

See index heading ATTORNEYS

DISTRICT COURT

Conduct of trial, **16:9, 16:10**

DNA

Real and demonstrative evidence, **29:12**

DOCTRINE OF ELECTION

Generally, **16:6**

DOCUMENTARY EVIDENCE

Generally, **31:1-31:33**
Ancient documents, **31:16**
Annuity tables, **31:17**
Attested documents, **31:6**
Authentication, **18:6, 31:3, 31:4**
Best and secondary evidence, **31:19-31:23**
Bibles, **31:15**
Bulky records, **31:33**

DOCUMENTARY EVIDENCE—Cont'd

Business records and records of regularly conducted activities, **31:11**
Church records, **31:15**
County records, **31:10**
Court orders, decisions and other records, **31:9**
E-mail, **31:14**
Letters, **31:12**
Mortality tables, **31:17**
Municipal records, **31:10**
Private papers and writings, **31:5, 31:18**
Procedure for offering and admitting documentary evidence, **31:2**
Recorded documents, **31:7**
Statutes, **31:8**
Telegrams, **31:13**
Voluminous records, **31:33**

DOG TRACKING EVIDENCE

Admissibility, **36:27**

DOMESTIC VIOLENCE

Hearsay, domestic violence victim's statements, **32:16**

DOUBLE JEOPARDY

Defenses, **15:7**

DRAWINGS

Real and demonstrative evidence, **29:6**

DRUGS AND NARCOTICS

Defenses, drugged condition of defendant, **15:11**
Expert and opinion evidence. See index heading EXPERT AND OPINION EVIDENCE

DYING DECLARATIONS

Hearsay, testimonial exceptions to, **32:7**

INDEX

EAVESDROPPING

- Illegally obtained evidence, **35:3**
- Jury deliberations, **42:22**

ELECTRONIC DATABASES

- Expert and opinion evidence, **27:22**

ELECTRONIC RECORDS AND MEDIA

- Generally, **30:1-30:3**
- Admission of printouts of electronic records, **30:2**
- Displaying electronic records and media in the courtroom, **30:3**
- Documentary evidence, e-mail as, **31:14**
- Foundation for admission of e-mails and other electronic media, **30:1**

E-MAIL

- See index heading ELECTRONIC RECORDS AND MEDIA

EMOTIONAL DISTRESS

- Damages, **38:16**

EMPLOYERS

- Admissions by, **33:2**

ENTRAPMENT

- Defenses, **15:8**

ESCAPE

- Admissions, escape as, **33:10**

ESTATES, CLAIMS AGAINST

- Burden of proof, **14:5**

EVIDENCE

- Authenticated documents, **18:6**
- Burden of proof. See index heading BURDEN OF PROOF
- Certified documents, **18:6**
- Commenting on evidence, judges, **6:7**
- Conforming pleadings to evidence, **17:20**

EVIDENCE—Cont'd

- Demonstrative evidence. See index heading REAL AND DEMONSTRATIVE EVIDENCE
- Discovery products used as evidence, **2:5-2:8**
- Documentary evidence. See index heading DOCUMENTARY EVIDENCE
- Electronic records and media. See index heading ELECTRONIC RECORDS AND MEDIA
- Facts, proof of, generally, **18:1-18:10**
- Hearsay. See index heading HEARSAY
- Illegally obtained evidence. See index heading ILLEGALLY OBTAINED EVIDENCE
- Inferences. See index heading PRESUMPTIONS AND INFERENCES
- Judicial notice, **18:7-18:10**
- Objections. See index heading OBJECTIONS AND EXCEPTIONS
- Order of proof. See index heading ORDER OF PROOF AND PRESENTING EVIDENCE
- Presumptions. See index heading PRESUMPTIONS AND INFERENCES
- Pretrial instructions to jurors, what is and is not evidence, **11:4**
- Pre-trial motions to limit or shape issues and evidence, generally, **3:1-3:7**
- Real evidence. See index heading REAL AND DEMONSTRATIVE EVIDENCE
- Res ipsa loquitur, **18:3**
- Restricting the use of admitted evidence, judges, **6:8**
- Securing production of evidence. See index heading SECURING ATTENDANCE OF WITNESSES

EVIDENCE—Cont'd

AND PRODUCTION OF EVIDENCE

Self-proving documents, **18:6**
 Stipulations, **18:2**
 Variance between indictment and proof at trial, **15:19**
 Witnesses. See index heading WITNESSES

EXAMINATION OF WITNESSES

Generally, **21:1-21:18**
 Adverse party, calling as witness, **21:15**
 Competence of questions, **21:3**
 Cross-examination. See index heading CROSS-EXAMINATION
 Expert and opinion testimony, **27:38-27:41**
 Form and content of questions, **21:4**
 Improper conduct of counsel in examining witnesses, **21:13**
 In-court identification of accused or party, **21:17**
 Inspecting the person of accused, party, or witness, **21:16**
 Leading questions, **21:5**
 Materiality, **21:1**
 Personal knowledge requirement, **21:14**
 Redirect-examination of witnesses. See index heading REDIRECT AND RECROSS-EXAMINATION OF WITNESSES
 Refreshing a witness' memory, recall or recollection, **21:18**
 Relevance of questions, **21:2**
 Self-incrimination, **21:6-21:12**

EXCITED UTTERANCES

Hearsay, testimonial exceptions to, **32:11**

EXCLUSION OF WITNESSES

Generally, **16:13, 20:7**

EXCULPATORY STATEMENTS

Confessions distinguished, **34:1**

EXEMPLARY DAMAGES

Damages, **38:8-38:11**

EXEMPTIONS

Jury duty, **10:3**

EXHIBITS

Disappearance of during trial, **17:10**

EXPERIMENTS AND DEMONSTRATIONS

Real and demonstrative evidence, **29:15**

EXPERT AND OPINION EVIDENCE

Generally, **27:1-27:42**
 Accident reconstruction, **27:18**
 Addiction to drugs or alcohol, **27:34**
 Admissibility of expert opinions, generally, **27:2, 27:7, 27:27**
 Admissibility of non-expert opinion testimony, **27:28**
 Alcohol addiction, **27:34**
 Ballistics, **27:16**
 Business matters, **27:9**
 Compensation of expert witnesses, **20:4**
 Cross-examination, **27:42**
 Death causation, **27:21**
 Discovery, nondisclosure of experts and their reports, **2:4**
 Distinctions
 facts distinguished from opinions, **27:1**
 skilled witnesses distinguished from experts, **27:26**
 Drugs
 addiction, **27:34**
 identification of illegal drugs, **27:37**
 Electronic database issues, **27:22**

INDEX

EXPERT AND OPINION EVIDENCE—Cont'd

Examination of expert witnesses,
27:38-27:41
Fingerprints, 27:15
Firearms identification, 27:16
Forensic Sciences, State Department of, 27:36
Handwriting, 27:13, 27:32
How or why an incident occurred,
27:11
Hypothetical questions, 27:39-
27:41
Identification
firearms, 27:16
illegal drugs, 27:37
tool marks, 27:19
Impeachment of witnesses, expert
testimony as to witness' credibility, 24:6
Indigent defendants' right to funds
for expenses, 5:5
Injury causation, 27:21
Insurance matters, 27:10
Matters or areas of expert
testimony, generally, 27:8-
27:24
Matters or areas of non-expert
opinion testimony, generally,
27:29-27:35
Medical experts, 27:40
Mental state, 27:20, 27:35
Negligence cases, 27:4
Non-expert opinion testimony,
generally, 27:28-27:35
Professional services, value of,
27:23
Property value, 27:12, 27:33
Qualification of experts, 27:25
Questioned documents, 27:14
Sanity, 27:20, 27:35
Speed, 27:17, 27:30
Stopping distance, 27:31
Tool mark identification, 27:19

EXPERT AND OPINION EVIDENCE—Cont'd

Ultimate issue, expert opinion on
generally, 27:3-27:7
inadmissibility, 27:7
negligence cases, 27:4
wills cases, 27:5
Value
professional services, 27:23
property, 27:12, 27:33
Wills cases, 27:5

FAIR AND IMPARTIAL JURY

Right to, 10:1

FINGERPRINTS

Expert and opinion evidence,
27:15
Real and demonstrative evidence,
29:18

FIREARMS

Expert and opinion evidence,
27:16

FLIGHT

Admission, flight as, 33:10

FORENSIC SCIENCES, STATE DEPARTMENT OF

Expert and opinion evidence,
27:36

FORESEEABILITY

Damages, 38:5

FORMER JEOPARDY

Defenses, 15:7

FOUNDATION

Impeachment of witnesses, 24:3,
24:10, 24:12

FRAMING THE ISSUES

Generally, 1:1-1:9

FRAUD OR DECEIT

Burden of proof, 14:4

GAG ORDERS

Generally, **16:4**

GIFTS

Presumptions and inferences,
19:14

**HABEAS CORPUS AD
TESTIFICANDUM**

Securing attendance of witnesses
and production of evidence,
8:2

HABIT

Admissibility of evidence, **36:8**

HANDWRITING

Expert and opinion evidence,
27:13, 27:32

HARASSING WITNESSES

Generally, **20:2**

**HEALTH INSURANCE
PORTABILITY AND
ACCOUNTABILITY ACT**

Physician-patient privilege, **26:13**

HEARSAY

Generally, **32:1-32:35**
Admissibility of hearsay evidence,
32:2
Almanacs, **32:35**
Ancient documents, **32:24**
Annuity tables, **32:27**
Bibles, **32:23**
Birth certificates, **32:31**
Business records and records of
regularly conducted activity,
32:28
Child sex abuse victim's state-
ments, **32:15**
Church records, **32:23**
Confrontation right, conflict with
hearsay rule exceptions, **32:4**
Credibility of hearsay declarant,
32:19

HEARSAY—Cont'd

Declarations against interest,
32:13
Definition, **32:1**
Documentary exceptions to
hearsay rule, generally,
32:22-32:35
Domestic violence victim's state-
ments, **32:16**
Dying declarations, **32:7**
Excited utterances, **32:11**
Hearsay within hearsay, **32:21**
Inapplicability of hearsay rule,
32:3
Intention, statements of, **32:12**
Medical diagnosis or treatment,
32:9
Mortality tables, **32:27**
Official records, generally, **32:29-
32:34**
Pedigree, **32:17**
Present sense impressions, **32:14**
Prior testimony, **32:8**
Res gestae, **32:18**
Spontaneous declarations, **32:10**
Threats, **32:6**
Unavailability of hearsay declar-
ant, **32:20**

HYPNOSIS

Credibility of witness whose recall
or testimony has been
enhanced by, **24:7**

HYPOTHETICAL QUESTIONS

Expert and opinion testimony,
27:39-27:41

**IDENTITY OR
IDENTIFICATION**

Defenses, identity of accused,
15:10
Expert and opinion evidence. See
index heading EXPERT AND
OPINION EVIDENCE

INDEX

ILLEGALLY OBTAINED EVIDENCE

Generally, **35:1-35:8**
Eavesdropping, **35:3**
Informants, arrest based on tip of,
35:8
Searches. See index heading
SEARCHES AND SEIZURES

IMPEACHMENT OF VERDICT Generally, **43:13**

IMPEACHMENT OF WITNESSES

Generally, **24:1-24:12**
Bias of witness, **24:8**
Collateral matters or issues, **24:2**
Conviction of crime, **24:11, 24:12**
Credibility of witnesses, generally,
24:4, 24:5
Expert testimony as to witness'
credibility, **24:6**
Foundation for impeaching a wit-
ness, **24:3, 24:10, 24:12**
Hearsay declarant, credibility of,
32:19
Hypnosis, witness whose recall or
testimony has been enhanced
by, **24:7**
Prior inconsistent statements,
24:9, 24:10
Recross-examination, explaining
impeaching questions and
answers, **23:5**

INCOME TAX RETURNS Admissibility of evidence, **36:23**

INCOMPETENTS Qualifying to testify, **20:9**

IN-COURT IDENTIFICATION Accused or party, **21:17**

INDICTMENT OR INFORMATION Generally, **1:7**

INDIGENT DEFENDANTS Funds for expenses, **5:4-5:6**

INFERENCES See index heading PRESUMPTIONS AND INFERENCES

INFORMANTS Arrest and search based on informant's tip, **35:8**

INITIATION OF LITIGATION Generally, **1:1-1:9**

IN LIMINE MOTION Generally, **3:2** Objections, **37:1**

INNOCENCE Presumptions and inferences, **19:16**

INSPECTION Examination of witnesses, inspect- ing the person of accused, party, or witness, **21:16**

INSTRUCTIONS TO JURY See index heading JURY INSTRU- CTIONS

INSURANCE Admissibility of evidence, **36:22** Disclosure to jury, **17:11** Expert and opinion evidence, **27:10** Jury selection, civil cases, **10:8**

INTENTION Hearsay, testimonial exceptions to, **32:12**

INTERFERENCE WITH WITNESSES Generally, **20:2**

INTERPRETERS Conduct of trial, **16:8** Witnesses, **20:6**

INTERROGATORIES

Generally, **2:7**
Special. See index heading
VERDICT AND SPECIAL INTER-
ROGATORIES

INTIMIDATING WITNESSES

Generally, **20:2**

**INTOXICATION AND
INTOXICATING LIQUORS**

Admissibility of evidence of
intoxication, **36:17**
Defenses, **15:11**
Expert and opinion evidence,
alcohol addiction, **27:34**
Presumption of impairment from
alcohol content in blood,
19:11
Real and demonstrative evidence,
tests for intoxication, **29:13**

INVESTIGATORS

Indigent defendants' right to funds
for expenses, **5:6**

**JOURNALIST-SOURCE
PRIVILEGE**

Generally, **26:21**

JUDGES

Generally, **6:1-6:10**
Admissibility of evidence, ruling
on, **6:6**
Bench conferences, **6:10**
Commenting on evidence, **6:7**
Competency of witnesses,
testimony by judge, **25:3**
Demeanor, **6:3**
Examination of witness by judge,
6:5
Facts, judge as trier of, **6:9**
Preserving order in the courtroom,
6:4
Recusal, **6:1**
Restricting the use of admitted
evidence, **6:8**

JUDGES—Cont'd

Substitution, **6:2**

JUDGMENT

Generally, **44:1-44:12**
Amendment of judgment, **44:11**
Amount of money judgment, **44:6**
Costs, allowance of, **44:8-44:10**
Default judgment, **3:6, 17:5**
Entry of judgment, **44:1-44:4**
Matter of law, judgment as a,
17:15-17:19, 45:5
Pleadings, judgment on the, **3:1**
Post-judgment motions, generally,
45:1-45:7
Pre-judgment interest, **38:21, 44:7**
Pro tanto settlement credit to non-
settling defendant, **44:12**
Sentencing, **44:5**
Summary judgment, **3:1**

**JUDGMENT ON THE
PLEADINGS**

Motion, **3:1**

JUDICIAL ADMISSIONS

Generally, **33:2, 33:4, 33:5**

JUDICIAL NOTICE

Generally, **18:7-18:10**

JURY AND JURY TRIAL

Generally, **42:1-42:26**
Alternate jurors, **42:23-42:26**
Competency of witnesses,
testimony by juror, **25:3**
Conduct of jury, generally, **42:1-
42:26**
Contempt, right to jury trial, **9:8**
Deliberations, generally, **42:14-
42:22**
Eavesdropping on jury delibera-
tions, **42:22**
Inattentive jurors, **42:9**
Instructions. See index heading
JURY INSTRUCTIONS
Jury room, items taken into, **42:13**

INDEX

JURY AND JURY TRIAL

—Cont'd

- News media, reading, listening to or watching, **42:7, 42:16**
- Note taking by jurors, **42:10**
- Oath, **11:1**
- Selection. See index heading JURY SELECTION
- Sequestration of jury, **11:5, 42:1**
- Swearing the jury, **11:1**
- Trial, conduct of jurors during, generally, **42:4-42:11**
- Verdict. See index heading VERDICT AND SPECIAL INTERROGATORIES
- View by jury. See index heading VIEW BY JURY
- Witnesses, jurors posing questions to, **42:11**

JURY INSTRUCTIONS

- Generally, **41:1-41:10**
- Alternate jurors, instruction to jury as to reason for substitution of alternate juror, **42:25**
- Charge conference, **39:1-39:4**
- Closing arguments, comments on expected instructions, **40:7**
- Objections to evidence, request for curative instructions to jury after sustained objection, **37:6**
- Pretrial instructions, **11:2-11:4**
- Slanted or argumentative instructions, **41:9**
- Time for giving instructions, **41:10**
- Time for tendering requested instructions to the court, **41:6**
- Writing requirement, **41:5**

JURY SELECTION

- Generally, **10:1-10:21**
- Alternate jurors, selecting, **10:21**
- Batson challenges. See “Peremptory strikes or challenges” under this index heading

JURY SELECTION—Cont'd

- Challenges for cause, **10:9-10:12**
 - Challenging method of selecting persons for jury pool, motion, **3:7**
 - Challenging the composition of the jury venire or array, **10:2**
 - Death qualification in capital cases, **10:7**
 - Discriminatory use of peremptory challenges, generally, **10:15**
 - Exemptions from jury duty, **10:3**
 - Fair and impartial jury, right to, **10:1**
 - Information about prospective jurors, **10:4**
 - Insurance in civil cases, **10:8**
 - Peremptory strikes or challenges generally, **10:13**
 - Batson challenges to the discriminatory use of peremptory challenges, generally, **10:16-10:18**
 - discriminatory use of peremptory challenges, **10:15**
 - number, **10:14**
 - rebutting stated reasons for contested challenges, **10:19**
 - remedy upon finding a Batson violation, **10:20**
 - Rebutting stated reasons for contested challenges, **10:19**
 - Rehabilitation of juror, **10:9**
 - Remedy upon finding a Batson violation, **10:20**
 - Voir dire
 - generally, **10:5-10:9**
 - death qualification in capital cases, **10:7**
 - insurance in civil cases, **10:8**
 - rehabilitation of juror, **10:9**
 - specific topics or subjects, **10:6**
- ### JUSTIFIABLE FORCE
- Defenses, **15:16**

TRIAL HANDBOOK FOR ALABAMA LAWYERS 3D

LABORATORY TESTS

Real and demonstrative evidence,
29:16

LEADING QUESTIONS

Examination of witnesses, 21:5

LEARNED TREATISES

Hearsay, documentary exceptions
to hearsay rule, 32:25

LETTERS

Documentary evidence, 31:12

LIMITATION OF ACTIONS

Defenses, 15:17

LIQUIDATED DAMAGES

Generally, 38:24

LOST INCOME

Admissions, payment of as an
admission, 33:13

MAPS

Real and demonstrative evidence,
29:6

MARRIAGE

Presumptions of validity of, 19:6

MATERIALITY

Examination of witnesses, 21:1

**MATTER OF LAW, JUDGMENT
AS A (J.M.L.)**

Motions, 17:15-17:19, 45:5

MEDICAL CAUSATION

Burden of proof, 14:7

**MEDICAL DIAGNOSIS OR
TREATMENT**

Hearsay, testimonial exceptions to
hearsay rule, 32:9

MEDICAL EXPENSES

Admissions, payment of medical
expenses as an admission,
33:13
Damages, 38:13

MEDICAL EXPERTS

Expert and opinion evidence,
27:40

MENS REA

Defenses, 15:12

MENTAL ANGUISH

Damages, 38:16

MENTAL DISEASE OR DEFECT

Defenses, 15:15

MENTAL STATE

Expert and opinion evidence,
27:20, 27:35

MISTRIAL

Motions, 17:7-17:9, 17:14

MITIGATION OF DAMAGES

Generally, 38:7

MODELS AND CASTS

Real and demonstrative evidence,
29:5

MORTALITY TABLES

Documentary evidence, 31:17

MOTION PICTURES

Real and demonstrative evidence,
29:9

MOTIONS

Generally, 1:3, 1:8
Acquittal, judgment of, 17:16-
17:18, 45:5
Amendment of pleadings, 17:20
Conforming pleadings to evi-
dence, 17:20
Consolidation, 3:5
Continuance, renewed motion for,
17:1
Default judgment, 3:6, 17:5
Dismissal, 3:1, 17:2, 17:4
Exhibits, disappearance of during
trial, 17:10
In limine motion, 3:2

INDEX

MOTIONS—Cont'd

- Insurance, disclosure to jury, **17:11**
- Judgment on the pleadings, **3:1**
- Jury pool, challenging method of selecting persons for, **3:7**
- Matter of law, judgment as a (J.M.L.), **45:5**
- Mistrial, **17:7-17:9, 17:14**
- New trial, **45:6**
- Nolle prosequi, **17:3**
- Post-judgment motions, generally, **45:1-45:7**
- Pre-trial motions to limit or shape issues and evidence, generally, **3:1-3:7**
- Prosecutorial misconduct, **17:12**
- Sever, motion to, **3:4**
- Subject matter jurisdiction, **17:6**
- Summary judgment, **3:1**
- Suppression motion, **3:3**
- Trial motions, generally, **17:1-17:20**
- Verdict, inability of jury to reach, **17:13**

MRIs

- Real and demonstrative evidence, **29:11**

MUNICIPAL COURT

- Conduct of trial, **16:9, 16:10**

MUNICIPAL RECORDS

- Documentary evidence, **31:10**

NATIONALITY

- Admissibility of evidence, **36:19**

NATIONAL SECURITY INFORMATION

- Privileged communications, **26:23**

NEGLIGENCE

- Expert and opinion evidence, **27:4**

NEWS MEDIA

- Jurors reading, listening to, or watching news media, **42:7, 42:16**

NEW TRIAL

- Motions, **45:6**

NOLLE PROSEQUI

- Motions, **17:3**

NOMINAL DAMAGES

- Generally, **38:2**

NOTICE OR KNOWLEDGE

- Contempt, notice to contemnor, **9:7**
- Cross-examination, testing a witness' knowledge, **22:8**
- Examination of witnesses, personal knowledge requirement, **21:14**
- Judicial notice, **18:7-18:10**

NURSING CARE

- Damages, **38:14**

OATH OR AFFIRMATION

- Competency of witnesses, witness' refusal to make oath or affirmation, **25:6**
- Jurors, **11:1**
- Witnesses, **20:8, 25:6**

OBJECTIONS AND EXCEPTIONS

- Generally, **37:1-37:7**
- Charge conference, **39:3, 39:4**
- Closing arguments, **40:13**
- Evidence, generally, **37:1-37:7**
- Grounds, necessity of stating specific grounds, **37:4**
- Instructions to jury, curative, **37:6**
- Motion in limine, denial of, **37:1**
- Offer of proof as to excluded evidence, **37:7**
- Right to object, **37:2**
- Ruling on objection, **37:5**

**OBJECTIONS AND
EXCEPTIONS—Cont'd**

Verdict and special interrogatories, objections to form of, **43:2**

OPENING STATEMENTS

Generally, **12:1-12:3**

Content of opening statement, **12:2**

Demonstrative aids, use of, **12:3**

Right to make opening statement, **12:1, 13:1**

ORDER IN THE COURTROOM

Judge preserving, **6:4**

**ORDER OF PROOF AND
PRESENTING EVIDENCE**

Calling witnesses out of order, **13:3**

Civil cases, generally, **7:1**

Criminal cases, generally, **7:2**

Delay, right to introduce testimony or evidence at later time, **13:5**

Rebuttal, **13:6**

Recalling witnesses, **13:4**

Surrebuttal, **13:7**

ORDERS

Documentary evidence, court orders as, **31:9**

Pre-trial orders, **1:5**

OTHER CRIMES

Admissibility of evidence, **36:10**

PAIN AND SUFFERING

Damages, **38:15**

PAROL EVIDENCE

Admissibility, **36:26**

PARTIES

Presence of parties at trial, **16:2**

PARTNERS

Admissions by, **33:2**

**PAST RECOLLECTION
RECORDED**

Hearsay, documentary exceptions to hearsay rule, **32:26**

PATERNITY

Presumptions and inferences, **19:7**

Real and demonstrative evidence, child exhibited to jury in paternity cases, **29:20**

PATTERN AND PRACTICE

Admissibility of evidence, **36:11**

PEDIGREE

Hearsay, testimonial exceptions to hearsay rule, **32:17**

**PEREMPTORY STRIKES OR
CHALLENGES**

See index heading JURY SELECTION

PERJURY

Competency of witnesses, **25:5**

PERSONAL INJURY

Expert and opinion evidence, causation, **27:21**

Real and demonstrative evidence, displaying injuries, **29:19**

PHOTOGRAPHS

Real and demonstrative evidence, **29:10**

**PHYSICIAN-PATIENT
PRIVILEGE**

Generally, **26:11-26:16**

PLEADINGS

Amendment of pleadings, **17:20**

Answer. See index heading ANSWER OR PLEA

Complaints. See index heading COMPLAINTS

Conforming pleadings to evidence, **17:20**

Judicial admissions in, **33:5**

INDEX

PLEAS

See index heading ANSWER OR PLEA

POLICE REPORTS

Hearsay, documentary exceptions to hearsay rule, **32:30**

POLLING THE JURY

Generally, **43:11**

POSSESSION OF STOLEN GOODS

Presumption arising from possession, **19:17**

POVERTY

Admissibility of evidence, **36:20**

PRE-JUDGMENT INTEREST

Damages, **38:21**

PREJUDICE

See index heading BIAS OR PREJUDICE

PRESENT SENSE

IMPRESSIONS

Hearsay, testimonial exceptions to hearsay rule, **32:14**

PRESUMPTIONS AND INFERENCES

Generally, **19:1-19:18**

Alcohol content in blood, presumption of impairment from, **19:11**

Conduct, presumptions arising from, **19:10**

Continuance of condition, **19:12**

Death

seven years absence, **19:8**

suicide, **19:18**

Delivery and receipt of letters and telegrams, **19:15**

Gifts, **19:14**

Individuals, **19:9**

Inferences, generally, **19:4**

PRESUMPTIONS AND INFERENCES—Cont'd

Innocence, **19:16**

Irrebuttable presumptions, generally, **19:2**

Marriage, validity of, **19:6**

Paternity, **19:7**

Rebuttable presumptions, generally, **19:3**

Res ipsa loquitur, **19:5**

Services, **19:14**

Stolen goods, possession of, **19:17**

Suicide, **19:18**

Tort cases, **19:13**

PRE-TRIAL ORDERS

Generally, **1:5**

PRE-TRIAL PUBLICITY

Generally, **16:4**

PRIEST-PENITENT PRIVILEGE

Generally, **26:18-26:20**

PRIOR INCONSISTENT STATEMENTS

Impeachment of witnesses, **24:9, 24:10**

PRIOR TESTIMONY

Hearsay, testimonial exceptions to hearsay rule, **32:8**

PRIVATE PAPERS AND WRITINGS

Documentary evidence, **31:5, 31:18**

PRIVILEGED COMMUNICATIONS

Generally, **26:1-26:24, 26:17**

Accountant-client privilege, **26:17**

Attorney-client privilege, **26:5-26:10**

Claiming privilege, **26:5, 26:9**

PRIVILEGED

COMMUNICATIONS

—Cont'd

Health Insurance Portability and Accountability Act, effect on physician-patient privilege, **26:13**

Journalist-source privilege, **26:21**

National security information, **26:23**

Nature and scope of privileged communications, **26:1, 26:3, 26:7, 26:12, 26:15, 26:19**

Physician-patient privilege, **26:11-26:16**

Priest-penitent privilege, **26:18-26:20**

Psychologist or psychiatrist-patient privilege, **26:14-26:16**

Public officers and officials, **26:22**

Spousal communications privilege, **26:2-26:5**

Termination of attorney-client privilege, **26:10**

Therapist-patient privilege, **26:14-26:16**

Waiving privilege, **26:5, 26:9, 26:16, 26:20**

PROFESSIONAL SERVICES

Expert and opinion testimony, value of services, **27:23**

PROPERTY VALUE

Expert and opinion evidence, **27:12, 27:33**

**PROSECUTORIAL
MISCONDUCT**

Motions, **16:7, 17:12**

PROSECUTORS

See index heading ATTORNEYS

PRO SE REPRESENTATION

Right to counsel, **5:1**

PROXIMATE CAUSE

Damages, **38:3**

**PSYCHOLOGIST OR
PSYCHIATRIST-PATIENT
PRIVILEGE**

Generally, **26:14-26:16**

PUBLICITY

Pre-trial publicity and gag orders, **16:4**

**PUBLIC OFFICERS AND
OFFICIALS**

Privileged communications, **26:22**

PUNITIVE DAMAGES

Damages, **38:8-38:11**

**QUALIFICATION OR
DISQUALIFICATION**

Attorneys, disqualification of, **4:7**

Expert witnesses, **27:25**

QUESTIONED DOCUMENTS

Expert and opinion evidence, **27:14**

RACE

Admissibility of evidence, **36:19**

RAPE SHIELD LAW

Cross-examination, **22:3**

Defenses, **15:13**

**REAL AND DEMONSTRATIVE
EVIDENCE**

Generally, **29:1-29:20**

Bite marks, **29:18**

Blood tests, **29:12**

Chain of custody, **29:17**

Child exhibited to jury in paternity cases, **29:20**

Connecting tangible articles to the accused or other party, **29:4**

CT scans, **29:11**

Distinction between real and demonstrative evidence, **29:1**

DNA, **29:12**

INDEX

REAL AND DEMONSTRATIVE EVIDENCE—Cont'd

Drawings, diagrams, and displays, **29:6**
Experiments and demonstrations, **29:15**
Fingerprints, **29:18**
Injuries, displaying, **29:19**
Intoxication, tests for, **29:13**
Laboratory tests, **29:16**
Maps, **29:6**
Motion pictures, **29:9**
MRIs, **29:11**
Paternity cases, child exhibited to jury in, **29:20**
Photographs, **29:10**
Re-creations and re-enactments, **29:7**
Scars, **29:19**
Sound recordings, **29:8**
Speed detection devices, **29:14**
Static models and casts, **29:5**
Tangible articles having some bearing on the event or transactions in question, **29:2**
Tangible articles in the same condition, **29:3**
Tattoos, **29:19**
Thermograms, **29:11**
Videos, **29:9**
X-rays, **29:11**

REBUTTAL

Order of proof, **13:6**

RECALLING WITNESSES

Generally, **13:4**

RECORDED DOCUMENTS

Documentary evidence, **31:7**

RE-CREATIONS AND RE-ENACTMENTS

Real and demonstrative evidence, **29:7**

RECUSAL

Judges, **6:1**

REDIRECT AND

RECROSS-EXAMINATION OF WITNESSES

Generally, **23:1-23:6**
Explaining, clarifying, or correcting testimony, **23:3**
Explaining impeaching questions and answers, **23:5**
Form and content of questions on redirect, **23:2**
Rehabilitating a witness, **23:4**
Right of recross examination, **23:6**
Scope of redirect, **23:1**

REFRESHING A WITNESS' MEMORY, RECALL OR RECOLLECTION

Generally, **21:18**

REHABILITATING A WITNESS

Redirect and recross-examination of witnesses, **23:4**

REHABILITATION OF JUROR

Jury selection, **10:9**

RELEVANCE

Examination of witnesses, **21:2**

REMOTE DAMAGES

Generally, **38:6**

REPAIR

Damages, **38:19**

RES GESTAE

Hearsay, testimonial exceptions to hearsay rule, **32:18**

RES IPSA LOQUITUR

Presumptions and inferences, **19:5**
Proof of facts, **18:3**

RESULTING TRUSTS

Burden of proof, **14:8**

RETALIATORY EVIDENCE

Admissibility, **36:28**

RIGHT TO COUNSEL

Generally, **5:1-5:7**

Competency of counsel, **5:3**

Experts, indigent defendants' right to funds for expenses, **5:5**

Indigent defendants' right to funds for expenses, **5:4-5:6**

Investigators, indigent defendants' right to funds for expenses, **5:6**

Pro se representation, **5:1**

Waiver of counsel, **5:1**

SANCTIONS

Discovery, **2:1-2:4**

SANITY

Defenses, **15:15**

Expert and opinion evidence, **27:20, 27:35**

SCARS

Real and demonstrative evidence, **29:19**

SEALED VERDICTS

Generally, **43:10**

SEARCHES AND SEIZURES

Consent to search, **35:5**

Illegally obtained evidence, generally, **35:1 et seq.**

Informant's tip, search based on, **35:8**

Prohibition against illegal searches and seizures, **35:2**

Warrant, searches and seizures pursuant to generally, **35:6**

scope of warrant, searches and seizures beyond, **35:7**

Warrantless searches and seizures, **35:4, 35:5**

SECURING ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE

Generally, **8:1-8:5**

Attachment, writ of, **8:4**

Habeas corpus ad testificandum, **8:2**

Out-of-state witnesses in criminal trials, **8:5**

Subpoenas, **8:1**

Subpoenas duces tecum, **8:3**

SELF-DEFENSE

Defenses, **15:16**

SELF-INCRIMINATION

Examination of witnesses, **21:6-21:12**

SELF-PROVING DOCUMENTS

Proof of facts, **18:6**

SELF-SERVING STATEMENTS

Admissibility of evidence, **36:21**

Admissions, **33:15**

SENTENCE AND PUNISHMENT

Generally, **44:5**

Capital cases, **43:14**

Contempt, **9:10**

SEQUESTRATION OF JURY

Generally, **11:5, 42:1**

SEQUESTRATION OF WITNESSES

Generally, **16:13, 20:7**

SERVICES

Presumptions and inferences, **19:14**

SEVER

Motion, **3:4**

SEXUAL ABUSE

Hearsay, child sex abuse victim's statements, **32:15**

INDEX

SHIFTING THE BURDEN OF PROOF

Generally, **14:12**

SILENCE

Admission, silence as, **33:7-33:9**

SIMILAR ACTS OR OCCURRENCES

Admissibility of evidence, **36:3-34:11**

SOUND RECORDINGS

Real and demonstrative evidence, **29:8**

SPECIAL DAMAGES

Generally, **38:4**

SPECULATIVE DAMAGES

Generally, **38:6**

SPEED

Expert and opinion evidence, **27:17, 27:30**

Real and demonstrative evidence, speed detection devices, **29:14**

SPOILIATION OF EVIDENCE

Discovery sanctions, **2:3**

SPONTANEOUS DECLARATIONS

Hearsay, testimonial exceptions to hearsay rule, **32:10**

SPOUSAL COMMUNICATIONS PRIVILEGE

Generally, **26:2-26:5**

STATUTE OF LIMITATIONS

Defenses, **15:17**

STATUTES

Documentary evidence, **31:8**

STIPULATIONS

Proof of facts, **18:2**

STOLEN GOODS

Presumption arising from possession of, **19:17**

STOPPING DISTANCE

Expert and opinion evidence, **27:31**

SUBJECT MATTER JURISDICTION

Defenses, **15:18**

Motions, **17:6**

SUBPOENAS

Securing attendance of witnesses and production of evidence, **8:1**

SUBPOENAS DUCES TECUM

Securing attendance of witnesses and production of evidence, **8:3**

SUBSTITUTION OF JUDGES

Generally, **6:2**

SUICIDE

Presumptions and inferences, **19:18**

SUMMARY JUDGMENT

Motion, **3:1**

SUPPRESSION OF EVIDENCE

Motion, **3:3**

SURREBUTTAL

Order of proof, **13:7**

TATTOOS

Real and demonstrative evidence, **29:19**

TELEGRAMS

Documentary evidence, **31:13**

THERAPIST-PATIENT PRIVILEGE

Generally, **26:14-26:16**

THERMOGRAMS

Real and demonstrative evidence,
29:11

THIRD PARTIES

Confessions of, **34:6**
Defenses, third party guilty, **15:9**
Guilt of as defense, **15:9**

THIRD-PARTY COMPLAINTS

Generally, **1:2**

THREATS

Hearsay, testimonial exceptions to
hearsay rule, **32:6**

TOOL MARK

IDENTIFICATION

Expert and opinion evidence,
27:19

TORT CASES

Presumptions and inferences,
19:13

TRUSTS

Burden of proof, constructive and
resulting trusts, **14:8**

**TRUTHFULNESS AND
VERACITY**

Admissibility of reputation for,
36:16

ULTIMATE ISSUES

Expert and opinion evidence. See
index heading EXPERT AND
OPINION EVIDENCE

**USUAL METHOD OR
PRACTICE**

Admissibility of evidence, **36:9**

VACATION OF JUDGMENT

Generally, **45:7**

VALUE OR VALUATION

Expert and opinion evidence. See
index heading EXPERT AND
OPINION EVIDENCE

**VARIANCE BETWEEN
INDICTMENT AND PROOF
AT TRIAL**

Defenses, **15:19**

VENUE

Defenses, **15:20**

**VERDICT AND SPECIAL
INTERROGATORIES**

Generally, **43:1-43:14**
Aggravating factors, finding,
43:14
Amending verdicts, **43:7**
Capital cases, **43:14**
Clerical errors, **43:9**
Contradictory verdicts, **43:8**
Damages, verdict apportioning,
43:12
Discretion of court in propounding
special interrogatories, **43:3**
Errors in the verdict, **43:5-43:9**
Form of, **43:1, 43:2**
General verdicts, **43:4**
Impeachment of verdict, **43:13**
Objections to form of, **43:2**
Polling the jury, **43:11**
Revising verdicts, **43:7**
Rules as to arriving at a verdict,
42:20
Sealed verdicts, **43:10**

VICTIM OF CRIME

Admissibility of evidence of repu-
tation of, **36:14**

VIDEOS

Real and demonstrative evidence,
29:9

VIEW BY JURY

Generally, **28:1-28:5**
Conduct of the view, **28:4**
Nature of the view, **28:5**
Request for view, **28:3**
Right to view premises, **28:1**
Vehicles and other objects, **28:2**

INDEX

VOIR DIRE

See index heading JURY SELECTION

VOLUNTARINESS

Confessions, **34:4**

WAIVER OF COUNSEL

Right to counsel, **5:1**

WAIVER OF PRIVILEGE

Privileged communications, **26:5, 26:9, 26:16, 26:20**

WARRANTS

See index heading SEARCHES AND SEIZURES

WARRANTY BREACH

Damages, **38:20**

WEALTH

Admissibility of evidence, **36:20**

WEATHER RECORDS

Hearsay, documentary exceptions to hearsay rule, **32:33**

WEIGHT

Admissibility of evidence, **36:18**

WILLS

Expert and opinion evidence, **27:5**

WITHDRAWAL OF ATTORNEY

Generally, **4:6**

WITNESSES

Generally, **20:1-20:9**

Attendance. See index heading SECURING ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE

Calling witnesses out of order, **13:3**

Children, qualifying children to testify, **20:9**

Compensation, **20:3, 20:4**

Competency. See index heading COMPETENCY OF WITNESSES

WITNESSES—Cont'd

Cross-examination. See index heading CROSS-EXAMINATION

Defendant's right to testify, **16:12**

Examination. See index heading EXAMINATION OF WITNESSES

Exclusion of witnesses, **16:13, 20:7**

Experts. See index heading EXPERTS

Harassing witnesses, **20:2**

Impeachment. See index heading IMPEACHMENT OF WITNESSES

Incompetents, qualifying to testify, **20:9**

Interference with witnesses, **20:2**

Interpreters, **20:6**

Intimidating witnesses, **20:2**

Judges, examination of witness by judge, **6:5**

Jurors posing questions to witnesses, **42:11**

Number, limiting, **16:5**

Oath, **20:8, 25:6**

Prior statements by state's witnesses, right to receive, **16:11**

Recalling witnesses, **13:4**

Recross-examination of witnesses. See index heading REDIRECT AND RECROSS-EXAMINATION OF WITNESSES

Redirect-examination of witnesses. See index heading REDIRECT AND RECROSS-EXAMINATION OF WITNESSES

Right to interview other parties' witnesses, **20:1**

Sequestration of witnesses, **16:13, 20:7**

Swearing witnesses, **20:8, 25:6**

WRONGFUL DEATH

Damages, **38:23**

X-RAYS

Real and demonstrative evidence, **29:11**