

Table of Contents

CHAPTER 1. ROLE OF ATTORNEY

- § 1:1 Attorney and trial of case
- § 1:2 Right to counsel
- § 1:3 Right to competent counsel
- § 1:4 Need for counsel to be admitted to practice law
- § 1:5 Waiver of right to counsel
- § 1:6 Right to consult with attorney and others
- § 1:7 General conduct of attorney
- § 1:8 Contempt by attorney
- § 1:9 Discipline of attorney for improper conduct
- § 1:10 Withdrawal of counsel
- § 1:11 Action against attorneys
- § 1:12 Fees

CHAPTER 2. CONDUCT OF TRIAL

- § 2:1 Conduct of trial, generally
- § 2:2 Presence of parties and counsel
- § 2:3 Conduct of parties
- § 2:4 Presence of judge
- § 2:5 Substitution of judges
- § 2:6 Recusation of judge
- § 2:7 General conduct of judge
- § 2:8 Demeanor of judge
- § 2:9 Duty to preserve order
- § 2:10 Exclusion of public
- § 2:11 Publicity before and during trial
- § 2:12 Judge's control of examination of witness
- § 2:13 Limiting number of witnesses
- § 2:14 Ruling on admissibility of evidence
- § 2:15 Restricting use of admitted evidence
- § 2:16 Exclusion of improper evidence on court's own motion
- § 2:17 Exclusion pursuant to statute
- § 2:18 Questioning of witnesses by judge
- § 2:19 Court's witnesses
- § 2:20 Court-appointed experts
- § 2:21 Control of proceedings by pretrial order
- § 2:22 Control of proceedings by stipulation
- § 2:23 Law applicable to cases arising outside Louisiana
- § 2:24 Transcribing testimony
- § 2:25 Judge as trier of facts

- § 2:26 Note taking
- § 2:27 Material allowed into the jury room
- § 2:28 Comment on facts by jury judge prohibited

CHAPTER 3. MOTIONS DURING TRIAL, DEFAULT, AND DISMISSAL

- § 3:1 Motions during trial, generally
- § 3:2 Continuances
- § 3:3 Voluntary dismissal
- § 3:4 *Nolle prosequi*
- § 3:5 Involuntary dismissal
- § 3:6 Default judgment

CHAPTER 4. CRIMINAL TRIALS

- § 4:1 Criminal procedure, generally
- § 4:2 Physical control of defendant during trial
- § 4:3 Defenses in criminal cases
- § 4:4 Entrapment as defense
- § 4:5 Insanity as defense
- § 4:6 Mistake as defense
- § 4:7 Intoxication or drugged conditions as defense
- § 4:8 Use of justifiable force
- § 4:9 Improper conduct of prosecution
- § 4:10 Sufficiency of evidence to support conviction
- § 4:11 Double jeopardy

CHAPTER 5. CLASS ACTIONS

- § 5:1 In general
- § 5:2 Certification
- § 5:3 Class representative
- § 5:4 Definability
- § 5:5 Typicality
- § 5:6 Numerosity
- § 5:7 Application
- § 5:8 Commonality
- § 5:9 Adequacy of representation
- § 5:10 Decertification
- § 5:11 Preclusion of certification
- § 5:12 Procedure, generally
- § 5:13 Class Action Fairness Act (CAFA)

CHAPTER 6. CONTEMPT OF COURT

- § 6:1 Power of court to punish for contempt

TABLE OF CONTENTS

- § 6:2 Civil and criminal contempt
- § 6:3 Direct and indirect contempt
- § 6:4 Acts constituting direct criminal contempt
- § 6:5 Procedure in direct criminal contempt
- § 6:6 Punishment for contempt
- § 6:7 Impositions of sanctions
- § 6:8 Review of contempt judgment
- § 6:9 Constructive contempt

CHAPTER 7. SELECTION OF JURY

- § 7:1 Right to fair and impartial jury
- § 7:2 Request for jury trial
- § 7:3 Right to jury trial based on jurisdictional amount
- § 7:4 Waiver of right to jury trial
- § 7:5 Methods of summoning jurors
- § 7:6 Summoning tales-jurors
- § 7:7 Grounds for challenging array
- § 7:8 Discrimination because of sex, race, etc.
- § 7:9 Conduct of voir dire examination
- § 7:10 Hypothetical questions
- § 7:11 Questioning jurors, generally
- § 7:12 Questioning jurors regarding insurance
- § 7:13 Selection of alternate jurors
- § 7:14 Number of peremptory challenges—Civil
- § 7:15 Number of peremptory challenges—Criminal
- § 7:16 Exemptions from jury service
- § 7:17 Grounds for challenge for cause—Statutes
- § 7:18 Grounds for challenge for cause—Cases
- § 7:19 Conditional grounds for challenge
- § 7:20 Facts normally not grounds for challenge
- § 7:21 Passing upon challenges for cause
- § 7:22 Swearing of jury

CHAPTER 8. OPENING STATEMENTS

- § 8:1 Right to make opening statement
- § 8:2 Content of opening statement
- § 8:3 Mistrial
- § 8:4 Objections to comments made in opening statements

CHAPTER 9. ORDER OF PROOF

- § 9:1 Right to open and close
- § 9:2 Order of producing testimony
- § 9:3 Rebuttal testimony
- § 9:4 Surrebuttal

§ 9:5 Right to introduce testimony at later stage

CHAPTER 10. BURDEN OF PROOF

- § 10:1 Burden of proof and burden of going forward
- § 10:2 Prima facie case
- § 10:3 Civil cases, generally
- § 10:4 Claims against estates
- § 10:5 Shifting of burden of proof
- § 10:6 Constructive and resulting trusts cases
- § 10:7 Burden of proving fraud
- § 10:8 Bailment cases
- § 10:9 Criminal cases, generally
- § 10:10 *Corpus delicti*
- § 10:11 Accused's competency
- § 10:12 Alibi
- § 10:13 Identity of accused
- § 10:14 Burden on defendant in criminal cases
- § 10:15 Party having burden of proof in civil cases
- § 10:16 Burden on defendant in civil cases
- § 10:17 Burden of proof in products liability suits
- § 10:18 Burden of proving negative averments
- § 10:19 Burden of proof in workers' compensation cases

CHAPTER 11. PROOF OF FACTS

- § 11:1 Situations where proof excused before trial
- § 11:2 Situations where proof excused during trial
- § 11:3 Methods of proving facts
- § 11:4 Proof of prior accidents
- § 11:5 Payment of medical and similar expenses
- § 11:6 Evidence of settlement
- § 11:7 Workers' compensation benefits
- § 11:8 Use of stipulations to excuse proof of facts
- § 11:9 Construction and enforcement of stipulations
- § 11:10 Proof of facts by circumstantial evidence
- § 11:11 Place of trial
- § 11:12 Proof of blood test results

CHAPTER 12. WITNESSES

- § 12:1 Compelling attendance of witnesses
- § 12:2 *Habeas corpus ad testificandum*
- § 12:3 Witnesses from out-of-state
- § 12:4 *Subpoena duces tecum*
- § 12:5 Influencing or harassing witnesses
- § 12:6 Right to interview witnesses

TABLE OF CONTENTS

- § 12:7 Right to confer with witnesses on stand
- § 12:8 Compensation of witnesses
- § 12:9 Exclusion of witnesses
- § 12:10 Swearing of witnesses
- § 12:11 Use of interpreter
- § 12:12 Giving testimony on television, radio, or motion picture
- § 12:13 Arrest of witness

CHAPTER 13. IMPEACHMENT OF WITNESSES

- § 13:1 Impeachment of witnesses, generally
- § 13:2 Impeachment of collateral issues
- § 13:3 Laying foundation for impeaching witness
- § 13:4 Credibility of witnesses, generally
- § 13:5 Particular matters affecting credibility
- § 13:6 Expert testimony as to credibility of witness
- § 13:7 Impeachment of defendant in a criminal case
- § 13:8 Impeachment of a witness in a civil case by evidence of conviction of crime

CHAPTER 14. COMPETENCY OF WITNESS TO TESTIFY

- § 14:1 Competency of witness, generally
- § 14:2 Time for objecting to competency
- § 14:3 Competency of felon to testify
- § 14:4 Competency of child to testify
- § 14:5 Competency of spouse to testify for or against other spouse
- § 14:6 Competency of judge, juror, or attorney to testify
- § 14:7 Competency of atheist, deaf mute, or incompetent to testify
- § 14:8 Competency of accomplice as witness
- § 14:9 Competency of witnesses omitted from indictment or list of witnesses
- § 14:10 Competency of witnesses omitted from answers to interrogatories
- § 14:11 Competency of private detective or investigator in criminal action

CHAPTER 15. DEAD MAN'S ACT

- § 15:1 Disqualifications under Dead Man's Act, generally
- § 15:2 Persons entitled to protection of Dead Man's Act
- § 15:3 Persons barred from testifying by Dead Man's Act
- § 15:4 Waiver of objections to proof
- § 15:5 Consideration for new promise to pay

- § 15:6 Dead Man's Act inapplicable to tort claims
- § 15:7 Controlling law of forum state
- § 15:8 Weight and sufficiency of evidence
- § 15:9 Statute of limitations

CHAPTER 16. EXAMINATION OF WITNESSES

- § 16:1 Examination of witnesses, generally
- § 16:2 Materiality of questions asked on direct examination
- § 16:3 Relevancy of questions asked on direct examination
- § 16:4 Admissibility of negative evidence
- § 16:5 Relevance of conduct of party shortly before accident
- § 16:6 Competency of questions on direct examination
- § 16:7 Form and content of questions on direct examination
- § 16:8 Improper conduct of counsel in examining witnesses
- § 16:9 Leading questions
- § 16:10 Aiding witness by refreshing his memory
- § 16:11 Use of hypnotically induced testimony
- § 16:12 Questions that impeach one's own witness
- § 16:13 Testimony tending to incriminate witness
- § 16:14 Necessity for court to warn witness of privilege
- § 16:15 Applied to defendant
- § 16:16 Extent of privilege against self-incrimination
- § 16:17 Invoking privilege against self-incrimination
- § 16:18 Inspection of person of accused or witness
- § 16:19 Ruling upon existence of privilege against self-incrimination
- § 16:20 When privilege against self-incrimination lost
- § 16:21 Immunity
- § 16:22 Use of lie detector (polygraph) tests
- § 16:23 Calling adverse party as witness
- § 16:24 Manner of examining adverse party
- § 16:25 Requirements of witness' answer
- § 16:26 Witness' firsthand knowledge
- § 16:27 Testimony concerning telephone conversations
- § 16:28 Right to confront witnesses

CHAPTER 17. CROSS-EXAMINATION

- § 17:1 Right to cross-examine witnesses
- § 17:2 Scope of cross-examination
- § 17:3 Form of questions on cross-examination
- § 17:4 Additional matters proper on cross-examination
- § 17:5 Manner of conducting cross-examination
- § 17:6 Testing witness' knowledge and accuracy
- § 17:7 Use of prosecution's evidence by defense

TABLE OF CONTENTS

- § 17:8 Prior inconsistent statement
- § 17:9 Prior injuries
- § 17:10 Use of testimony before grand jury to impeach witness
- § 17:11 Laying foundation for prior inconsistent statements
- § 17:12 Impeachment by proof of prior conviction
- § 17:13 Manner of proving prior conviction
- § 17:14 Reference to other crimes committed by the defendant
- § 17:15 Right to recall witness for further cross-examination
- § 17:16 Effect of denial of right to cross-examine

CHAPTER 18. REDIRECT AND RECROSS-EXAMINATION

- § 18:1 Scope of redirect examination
- § 18:2 Form and content of questions on redirect examination
- § 18:3 Refreshing witness' memory on redirect examination
- § 18:4 Explaining and correcting testimony on redirect examination
- § 18:5 Rehabilitating witness
- § 18:6 Explaining impeaching answers
- § 18:7 Right of recross-examination

CHAPTER 19. PRIVILEGED COMMUNICATIONS

- § 19:1 Nature of privileged communications
- § 19:2 Spousal communications
- § 19:3 Requirements for confidential communication privilege to exist between husband and wife
- § 19:4 Existence of marital relationship
- § 19:5 Claiming and waiving privilege
- § 19:6 Privileged communications between attorney and client
- § 19:7 Existence of attorney-client relationship
- § 19:8 Confidential nature of communication
- § 19:9 Attorney work product
- § 19:10 Claiming and waiving attorney—Client privilege
- § 19:11 Termination of attorney-client privilege
- § 19:12 Existence of physical/health care provider-patient privilege
- § 19:13 Privileged communications by client to public accountant
- § 19:14 Privileged communications to clergymen
- § 19:15 Privileged communications to public officers
- § 19:16 Miscellaneous

CHAPTER 20. JUDICIAL NOTICE

- § 20:1 Proof excused if fact judicially noticed
- § 20:2 Making record of facts judicially noticed

- § 20:3 Judicial notice of laws
- § 20:4 Judicial notice of facts concerning court
- § 20:5 Judicial notice of facts concerning government, officers, and political subdivisions
- § 20:6 Other facts judicially noticed
- § 20:7 Facts not judicially noticed
- § 20:8 Judicial confession

CHAPTER 21. PRESUMPTIONS

- § 21:1 Nature of presumptions
- § 21:2 Irrebuttable presumptions
- § 21:3 Rebuttable presumptions
- § 21:4 Inferences
- § 21:5 Presumption of innocence
- § 21:6 Res ipsa loquitur
- § 21:7 Presumption of death after 5 years' absence
- § 21:8 Presumption of validity of marriage
- § 21:9 Presumption arising from possession of stolen goods
- § 21:10 Presumption arising from conduct of party
- § 21:11 Destruction of evidence—Spoliation of evidence
- § 21:12 Presumption of delivery of letter
- § 21:13 Presumption of delivery of telegram
- § 21:14 Presumptions about individuals
- § 21:15 Presumption of intoxication from alcoholic content of blood
- § 21:16 Presumption of continuance of condition
- § 21:17 Presumptions about gifts and services
- § 21:18 Presumptions in tort cases
- § 21:19 Other presumptions created by law

CHAPTER 22. REAL AND DEMONSTRATIVE EVIDENCE

- § 22:1 Real and demonstrative evidence distinguished
- § 22:2 Tangible articles having some bearing on transaction in question
- § 22:3 Tangible articles in same condition
- § 22:4 Connecting tangible articles to accused
- § 22:5 Admissibility of photographs
- § 22:6 Admissibility of motion pictures/videotapes
- § 22:7 Admissibility of surveillance films
- § 22:8 Admissibility of X-rays
- § 22:9 Admissibility of sound recordings
- § 22:10 Admissibility of maps, drawings, diagrams, and displays
- § 22:11 Admissibility of static models and casts
- § 22:12 Effect of marks or notations on demonstrative evidence

TABLE OF CONTENTS

- § 22:13 Displaying personal injuries to jury
- § 22:14 Blood tests in paternity cases
- § 22:15 Exhibiting child in paternity cases
- § 22:16 Evidence of post-accident remedial measures
- § 22:17 Evidence of offers of compromise or plea bargaining negotiations
- § 22:18 Evidence of payment of medical and similar expenses
- § 22:19 Evidence of workers' compensation payments
- § 22:20 Evidence of remarriage of surviving spouse
- § 22:21 Evidence of prior or subsequent accidents

CHAPTER 23. THE VIEW

- § 23:1 Right to view premises
- § 23:2 Request for view
- § 23:3 Conduct of view
- § 23:4 Nature of view

CHAPTER 24. DOCUMENTARY EVIDENCE

- § 24:1 General requirements relating to documentary evidence
- § 24:2 Procedure in offering and admitting documents
- § 24:3 When authentication of documentary evidence excused
- § 24:4 Authentication of private writings
- § 24:5 Authentication of attested documents
- § 24:6 Authentication of recorded documents
- § 24:7 Other rules relating to use of private writings
- § 24:8 Authentication of statutes
- § 24:9 Authentication of court decisions
- § 24:10 Authentication of court papers and records
- § 24:11 Authentication of records of parishes and municipalities
- § 24:12 Authentication of records of corporations
- § 24:13 Best evidence rule
- § 24:14 Situations calling for "best evidence"
- § 24:15 Situations in which "best evidence" not required
- § 24:16 Use of secondary evidence
- § 24:17 Where primary evidence in control of opponent
- § 24:18 Secondary evidence of bulky records
- § 24:19 Proof of loss of primary evidence
- § 24:20 Secondary evidence of public records
- § 24:21 Copies as primary or secondary evidence
- § 24:22 Nature of secondary evidence to be used
- § 24:23 Establishing contents of document by oral evidence
- § 24:24 Authentication of letter
- § 24:25 Authentication of telegram
- § 24:26 Authentication of family bibles and church records

- § 24:27 Authentication of annuity and mortality tables
- § 24:28 Authentication of ancient documents

CHAPTER 25. OPINION EVIDENCE

- § 25:1 Requirements that witness testify as to facts
- § 25:2 Facts distinguished from opinions
- § 25:3 Admissibility of opinions, generally
- § 25:4 Calling opponent's expert as your witness
- § 25:5 Opinions concerning ultimate issue
- § 25:6 Opinions on ultimate issue in negligence cases
- § 25:7 Opinions in will cases
- § 25:8 When opinion on ultimate issue admissible
- § 25:9 Other limitations on opinion evidence
- § 25:10 Nonexpert opinion, generally
- § 25:11 Nonexpert opinion—Evidence on sanity
- § 25:12 Opinion as to speed
- § 25:13 Opinion as to stopping distance
- § 25:14 Nonexpert opinion on handwriting
- § 25:15 Nonexpert opinion on value of personal property
- § 25:16 Nonexpert opinion on value of real estate
- § 25:17 Opinion as to intoxication
- § 25:18 Matters as to which expert witness may or must testify
- § 25:19 Qualifications required of expert witness
- § 25:20 Admissibility of expert testimony
- § 25:21 Distinction between expert and skilled witness
- § 25:22 Expert testimony on matters of business
- § 25:23 Expert testimony on how incident occurred
- § 25:24 Expert testimony of value of services
- § 25:25 Expert testimony on value of real estate
- § 25:26 Expert testimony on handwriting
- § 25:27 Expert testimony on questioned documents
- § 25:28 Expert testimony on fingerprints
- § 25:29 Expert testimony on ballistics
- § 25:30 Use of operating models
- § 25:31 Experiments and demonstrations
- § 25:32 Tests for intoxication
- § 25:33 Electronic speed detection devices
- § 25:34 Miscellaneous scientific tests
- § 25:35 Contents of hypothetical question
- § 25:36 Hypothetical question asked of physician or surgeon
- § 25:37 Answer to hypothetical question
- § 25:38 Bases of opinion testimony by experts
- § 25:39 Cross-examination of expert witness
- § 25:40 Expert fees

TABLE OF CONTENTS

- § 25:41 Court-appointed experts
- § 25:42 Weight to be given testimony of treating physician

CHAPTER 26. HEARSAY EVIDENCE

- § 26:1 Admissibility of hearsay evidence
- § 26:2 Definition of hearsay evidence
- § 26:3 Inapplicability of hearsay rule to certain situations
- § 26:4 Exceptions to hearsay rule, generally
- § 26:5 Threats
- § 26:6 Dying declarations
- § 26:7 Testimony at former trial
- § 26:8 Establishing right to use testimony from former trial
- § 26:9 Manner of proving testimony from former trial
- § 26:10 Past recollection recorded
- § 26:11 Co-conspirator statements
- § 26:12 Admission of writing for past recollection
- § 26:13 Business records
- § 26:14 Requirements for admission of business records
- § 26:15 Official records, generally
- § 26:16 Police reports
- § 26:17 Hospital records
- § 26:18 Doctors' reports and scientific records
- § 26:19 Medical bills
- § 26:20 Weather reports
- § 26:21 Birth and death certificates
- § 26:22 Subjective and objective symptoms
- § 26:23 Pedigree
- § 26:24 Mortality and annuity tables
- § 26:25 Church records and family bibles
- § 26:26 Ancient documents
- § 26:27 Res gestae
- § 26:28 Excited utterances
- § 26:29 Present sense impressions
- § 26:30 Examples of admissible spontaneous declarations
- § 26:31 Statements of intention
- § 26:32 Declarations against interest
- § 26:33 Residual exception

CHAPTER 27. OBJECTIONS TO EVIDENCE

- § 27:1 Right to object to improper testimony
- § 27:2 Need for objection to improper evidence
- § 27:3 Timeliness of objection
- § 27:4 Stating grounds for objection
- § 27:5 Ruling on objection

- § 27:6 Motion to exclude inadmissible evidence
- § 27:7 Need for formal exception
- § 27:8 Offer of proof

CHAPTER 28. MISTRIAL

- § 28:1 Nature of mistrial
- § 28:2 Right to have mistrial declared
- § 28:3 Grounds for declaring mistrial
- § 28:4 Effect of disappearance of admitted exhibits during trial
- § 28:5 Disclosure of liability insurance
- § 28:6 Discharge for inability of jury to arrive at verdict
- § 28:7 Insufficient grounds for declaring mistrial
- § 28:8 Comment on facts by judge
- § 28:9 Motion for new trial
- § 28:10 Automatic stay following order of mistrial

CHAPTER 29. DIRECTED VERDICT

- § 29:1 Right of court to direct verdict
- § 29:2 Procedure for moving for directed verdict
- § 29:3 Time for requesting motion for directed verdict
- § 29:4 Grounds for directed verdict

CHAPTER 30. CLOSING ARGUMENTS

- § 30:1 Right to make closing argument
- § 30:2 Court's control of closing arguments
- § 30:3 Right to open and close argument
- § 30:4 General rules governing closing arguments
- § 30:5 Comments on court's instructions
- § 30:6 Arguments about damages
- § 30:7 Comments on conduct of opposition
- § 30:8 Improper remarks of counsel, generally
- § 30:9 Improper remarks in criminal cases
- § 30:10 Improper remarks in civil cases
- § 30:11 Remarks in argument about liability insurance
- § 30:12 Use of blackboards and charts in argument
- § 30:13 Correcting improper conduct of counsel
- § 30:14 Objections to statements made in closing arguments

CHAPTER 31. INSTRUCTIONS

- § 31:1 Purpose of instructions
- § 31:2 General requirements for jury instructions
- § 31:3 Power and duty of court
- § 31:4 Writing out requests for instructions

TABLE OF CONTENTS

§ 31:5	Time for tendering instructions
§ 31:6	Requests covered by instructions given
§ 31:7	Modification of requests
§ 31:8	Objections to instructions
§ 31:9	Number of instructions
§ 31:10	Cautionary instructions
§ 31:11	Instructions on issues
§ 31:12	Peremptory instructions
§ 31:13	Slanted and argumentative instructions
§ 31:14	Other rules applicable to instructions
§ 31:15	Special rules relating to instructions in criminal cases
§ 31:16	Correcting erroneous instructions
§ 31:17	Disposition of instructions

CHAPTER 32. CONDUCT OF JURY

§ 32:1	General conduct of jury and those dealing with it
§ 32:2	Conduct of jurors during trial
§ 32:3	Communications with jurors before and during trial
§ 32:4	Jurors reading newspaper accounts of trial
§ 32:5	Separation of jury during trial
§ 32:6	Items taken by jury to jury room
§ 32:7	Control of jury during deliberations
§ 32:8	Manner of conducting deliberations
§ 32:9	Rules governing arrival at verdict
§ 32:10	Communications with jury during deliberations
§ 32:11	Eavesdropping on deliberations
§ 32:12	Improper conduct of jurors
§ 32:13	Treatment of improper conduct of jurors

CHAPTER 33. THE VERDICT

§ 33:1	General provisions relating to verdicts
§ 33:2	Objections to form of verdict
§ 33:3	Revising or amending verdict
§ 33:4	Power of court to have jury reconsider defective verdict
§ 33:5	Construction of general verdicts
§ 33:6	Special verdicts
§ 33:7	Impeachment of verdict
§ 33:8	Impeachment by matters extrinsic to verdict
§ 33:9	Mistake or clerical error in verdict
§ 33:10	Sealed verdicts
§ 33:11	Polling jurors

CHAPTER 34. THE JUDGMENT

§ 34:1	Entry of judgment
--------	-------------------

- § 34:2 Duty of clerk to enter judgment
- § 34:3 Effect of entry of judgment
- § 34:4 Amount of judgment
- § 34:5 Inclusion of interest in judgment
- § 34:6 Allowance of courts costs
- § 34:7 Arrest of judgment and judgment notwithstanding verdict

Table of Laws and Rules

Table of Cases

Index