Index

A

ADMISSIONS BY

PARTY-OPPONENT (RULE ADMISSIBILITY FOR LIMITED 801, NOT HEARSAY)—Cont'd **PURPOSE** What constitutes an admission, See Limited Admissibility —Cont'd Statements adopted by party-op-ADMISSIONS BY ponent, §§ 801.40 to 801.42 **PARTY-OPPONENT (RULE** Who or what constitutes a party-op-**801, NOT HEARSAY)** ponent, Constitutional restrictions on admis-Agents or employees of party-opsibility of admissions, § 801.56 ponent, statements by, Effect of admission, §§ 801.47, 801.48 Admissions at trial or in deposi-Co-parties, statements by, § 801.50 tion, § 801.55 Generally, § 801.3 Factual admissions in pleadings or Partners, statements by, § 801.49 briefs, § 801.53 Personal statement by opposing Generally, § 801.52 party, § 801.39 Judicial admissions, § 801.54 Persons in privity with party-op-General considerations, ponent, § 801.51 Civil cases, criminal cases, compared, § 801.34 AFFIRMATION OR OATH Death of party, effect, § 801.34 Requirement of, §§ 603.1, 603.2 Mental competency, § 801.38 Methods of proof, § 801.34 ANCIENT DOCUMENTS, Personal knowledge, opinion, legal HEARSAY EXCEPTION conclusions, § 801.38 See Hearsay Exceptions Relationship to other rules, ANIMATIONS § 801.34 See Demonstrative Evidence Judicial admissions, Generally, § 801.54 ANOTHER PERSON COMMITTED Statements during discovery, THE CRIME § 801.54 Evidence to show, § 402.19 Statements in open court, § 801.54 Stipulations, § 801.54 APPEAL What constitutes an admission, Appellate review of evidentiary rul-Admissions required by law, ings, §§ 103.23 to 103.25 § 801.35 Foundations for appeal, see Objec-Conduct as an admission, § 801.35 tions to Evidence, Rulings Generally, § 801.35 APPLICABILITY OF RULES OF Silence as an admission, civil **EVIDENCE** cases, §§ 801.43, 801.44 Silence as an admission, criminal See Evidence Rules. When cases, §§ 801.45, 801.46 **Applicable**

APPOINTED EXPERTS

See Court-Appointed Experts

ARGUMENTATIVE QUESTIONS

See Form of Question, Objection To

ASSUMING FACTS NOT IN EVIDENCE

Generally, §§ 103.22, 611.6

ATTORNEY-CLIENT PRIVILEGE

Attorney-client relationship, requirement of, § 501.12

Communication must concern legal advice, § 501.17

Communications to which privilege applies, generally, § 501.11

Communications with persons aligned with attorney or client, § 501.13

Corporate or business clients, § 501.14

Generally, § 501.11

Governmental clients, § 501.16

Medical malpractice cases, special rules, § 501.15

Prospective clients, § 501.12

Statements to insurance company representatives, § 501.12

Comment on claim of privilege, § 501.30

Confidentiality, requirement of, Client's name, address, and fee arrangements, whether privileged, § 501.18

Eavesdropping, effect, § 501.18

Eavesdropping, effect, § 501.18

Errors or mishaps in transmitting communications, effect, § 501.18

Inadvertent disclosures during discovery, § 501.18

Intentional disclosure, § 501.18

Reasonable expectation of privacy, § 501.18

Services rendered by attorney, whether privileged, § 501.18

Telephone calls from jail or police custody, § 501.18

ATTORNEY-CLIENT PRIVILEGE

—Cont'd

Crime or fraud, privilege inapplicable,

Duty to warn client, § 501.22

Generally, § 501.22

Insurance bad faith cases, § 501.23

Preliminary showing, § 501.22

What constitutes *crime or fraud*, § 501.22

General principles applicable to all privileges, see Privileged Communications

Joint-representation, § 501.19

Language translation, effect, § 501.20

Restrictions and exceptions to privilege,

Crime or fraud, see above

Other, § 501.25

Overlap with other theories, § 501.25

Source and purpose of privilege, § 501.10

Termination of privilege,

Death of client, § 501.29

Other, § 501.29

Third persons, presence, effect, § 501.19

Weapons and other physical evidence, whether privileged, § 501.24

Waiver of privilege,

Disclosure, deliberate or inadvertent, §§ 501.26, 502.2

Extent of waiver, § 501.28

Generally, § 501.26

Joint representation, § 501.26

Method of analysis on waiver issues, § 501.27

Privileged matters at issue, § 501.26

Who may assert privilege (holder of privilege),

At or before trial, § 501.21

Ethical considerations, § 501.19

On appeal, § 501.21

Work product rule distinguished, § 501.31

AUDIO RECORDINGS

See Demonstrative Evidence, Relevance

AUTHENTICATION AND IDENTIFICATION

An overview of general principles, Agreements or other procedures prior to trial, § 900.6

Evidence that is relevant regardless of authenticity, § 900.5

Evidence to which Rules 901 and 902 apply, § 900.3

Introduction, § 900.1

Prima facie showing, contrary evidence disregarded, § 900.2

Relationship between authentication and other rules of evidence, § 900.4

Authentication distinguished from relevance, § 901.3

Documents Admissible Under Rule 904, this index

Expert testimony, when required, § 901.26

General requirement of authentication, § 901.2

Methods of authentication in Rule 901 are only illustrative, § 901.5

Pretrial methods of accomplishing authentication, § 900.6

Procedure, objections, waiver, § 901.5

Self-Authenticating Documents, this index

Specific methods and applications,

Ancient documents or data compilations, § 901.17

Comparison by court or expert witness, § 901.8

Computer-generated documents or data,

Distinctive characteristics and the like, § 901.10

Electronic communications, social media postings, § 901.23

Handwriting, non-expert opinion regarding, § 901.7

Internet, information found on, § 901.26

AUTHENTICATION AND

IDENTIFICATION—Cont'd

Specific methods and applications,
—Cont'd

Medical images, x-rays, § 901.20

Photographs, § 901.21

Police radar and similar devices, § 901.19

Process or system, generally, § 901.18

Process or system, other, § 901.25 Public records or reports, §§ 901.13 to 901.16

Testimony of witness with personal knowledge, § 901.6

Video recordings, motion pictures, § 901.21

Voice identification, telephone conversations, audio recordings, §§ 901.10 to 901.12

Statutory methods of authentication, § 901.27

Testimony by subscribing witness unnecessary, §§ 903.1, 903.2 (alpha B

BEST EVIDENCE RULE (RULES 1001 to 1008)

Definitions and other terminology,
Duplicate, § 1001.4
Images on electronic monitors,
§ 1001.2

Original, § 1001.3

Writings, recordings, photographs, drawings, § 1001.2

Duplicates generally admissible in lieu of original,

Definition of *duplicate*, § 1001.4 General principles, §§ 1003.1, 1003.2

Original of questionable authenticity, § 1003.3

When unfair to admit duplicate, § 1003.4

Functions of judge and jury, §§ 1008.1, 1008.2

General principles,

Admissible evidence still subject to challenge, § 1000.2

BEST EVIDENCE RULE (RULES 1001 to 1008)—Cont'd General principles,—Cont'd Basis for rule, § 1000.1 Best evidence in other contexts, 1000.4 Relationship to other rules of evidence, § 1000.3 Public records, special rules, Criminal convictions, § 1005.4 General principles, §§ 1005.1, 1005.2 Original in owner's possession, § 1005.3 Original required, Distinction between event and record of event, § 1002.2 General rule, § 1002.3 Exceptions to rule, § 1002.3 Waiver, § 1002.3 Other evidence in lieu of original or duplicate, Burden of proof, relationship to, § 1004.12 Collateral matters, § 1004.9 General principles, § 1004.1 Hearsay rule, relationship to. § 1004.11 Original in possession of opponent, §§ 1004.6 to 1004.8 Original lost or destroyed, §§ 1004.2, 1004.4 Original not obtainable through judicial process, § 1004.5 Second-best evidence not required, § 1004.10 Wills, proof of, § 1004.4 Specific applications, Electronic communications, § 1002.5 Condition or appearance, § 1002.7 Corporate existence or corporate acts, § 1002.4 Images on electronic monitors,

BEST EVIDENCE RULE (RULES 1001 to 1008)—Cont'd

Specific applications,—Cont'd Proving creation or non-creation of record, § 1002.9

Transcript as listening aid for jury, § 1002.8

Using video monitor in courtroom, § 1002.5

Summaries, use in court, General principles, § 1006.1

Hearsay rule, relationship to, § 1006.6 Notice requirements, § 1006.4

Oral summaries, § 1006.5 Other rules distinguished, § 1006.2 Requirements for admissibility,

§ 1006.2 Status of summary as evidence,

§ 1006.7 Testimony or written admission of party, effect, §§ 1007.1, 1007.2

BIAS OR PREJUDICE OF **WITNESS**

General rules, § 607.7 Methods of proof, § 607.9 Motive to fabricate, § 607.7 Relationship to other rules of evidence, § 607.10 What is relevant to show bias, § 607.8

BRUTON RULE

See Confrontation, Right To

BURDEN OF PROOF (RULE 301)

Appellate review, § 301.7 Burden of producing evidence, § 301.1

Clear, cogent, and convincing evidence, civil cases, § 301.3

Criminal cases,

Affirmative defenses, § 301.6 Beyond a reasonable doubt, § 301.5

Juvenile court, § 301.4 Preponderance of the evidence, civil cases, § 301.2 Presumptions, this index

Index-4

§ 1002.5

Other, § 1002.10

§ 1002.5

Inscribed objects, § 1002.6

Photographs and video recordings,

BUSINESS RECORDS, HEARSAY EXCEPTION

Absence of business record, § 803.44 Accident reports, § 803.38

An overview, relationship to other rules, §§ 803.33 to 803.35

Computer-generated records, § 803.42

Definition of business record, § 803.36

Laboratory reports, § 803.38 Medical records, §§ 803.36, 803.37, 803.42

Method of proof, § 803.43

Overall reliability as a factor in admissibility, § 803.40

Procedure, identification and authentication, § 803.42

Record must be of an act, condition, or event, § 803.37

Records "going to the heart," § 803.41

Records based on reports from third persons, § 803.39

Records compiled for purposes of litigation, § 803.38

\mathbf{C}

CALLING AND INTERROGATION OF WITNESSES BY COURT (RULE 614)

Comment on the evidence, judge must avoid, § 614.4

General principles and overview, §§ 614.1, 614.2

Nonjury cases, § 614.5

Objections to questions posed by judge, § 614.6

When judge may call witness, **§ 614.3**

When judge may interrogate witness, § 614.4

CHAIN OF CUSTODY

See Demonstrative Evidence, Relevance

CHANCES, DOCTRINE OF

Generally, relationship to Rule 404(b), § 404.15

CHARACTER AS SUBSTANTIVE EVIDENCE (RULES 404, 405)

Definition of *character evidence*, § **404.2**

Purpose and history of Rule 404, § 404.1

Civil cases,

Civil cases with some criminal characteristics, § 404.4

Generally, § 404.3

Criminal or quasi-criminal cases, Character of accused, § 404.5

Character of victim, § 404.6

Generally, § 404.4

Jury instructions regarding character evidence, § 404.8

Methods of proof,

Cross-examination and rebuttal of character witnesses, §§ 405.6, 405.7

Personal opinion, § 402.3

Purpose and overview of Rule 405, § 405.1

Reputation, § 402.2

Specific instances of conduct, civil cases, § 405.5

Specific instances of conduct, criminal cases, § 405.4

Other Crimes, Wrongs, or Acts, this index

Witnesses, character of, § 404.7

CHARACTER OF WITNESS FOR IMPEACHMENT (RULES 608, 609)

Appellate review of rulings under Rule 608, § 608.20

Constitutional considerations under Rule 608, § 608.19

Conviction of Crime for Impeachment, this index

Cross-examination regarding specific instances of conduct,

Acts of another person, § 608.9

Conduct unrelated to present case, § 608.7

Generally, **§ 608.5**

Prior dismissal or acquittal, effect, § 608.10

CHARACTER OF WITNESS FOR IMPEACHMENT (RULES 608, 609)—Cont'd

Cross-examination regarding specific instances of conduct,—Cont'd What subjects may be explored, § 608.6

Whether criminal defendant has right to broader cross-examination, § 608.8

Extrinsic evidence of witness's prior conduct,

Admissibility for other purposes, § 608.11q

Concerns about perjury, § 608.12 Documentary evidence, whether barred by Rule 608, § 608.11 Generally inadmissible, § 608.11 Rule also bars evidence of good

conduct, § 608.11

Using extrinsic evidence without introducing it, § 608.11

When witness is criminal defendant, § 608.11

General principles, § 608.1

Opinion on witness's credibility,

Contradiction of witness distinguished, § 608.14

Experts, cases involving, § 608.16 Evidence casting doubt on credibility of different witness, § 608.15

Generally inadmissible, § 608.13 Illustrative cases, § 608.16

Obvious opinions and implied opinions, § 608.16

Opening the door, § 608.16 Vouching, § 608.13

Rehabilitation of witness's credibility,

Generally, § 608.17

Methods of proof, § 608.18

Illustrative cases, § 608.16

What constitutes an attack on character, § 608.17

Relationship between Rule 608 and other rules, § 608.2

Reputation for truthfulness, Applying the rule, § 608.4

CHARACTER OF WITNESS FOR IMPEACHMENT (RULES 608, 609)—Cont'd

Reputation for truthfulness,—Cont'd General rule, § 608.3

CHILD VICTIMS OR WITNESSES (STATUTORY HEARSAY EXCEPTION)

Appeal, § 807.10

Closed-circuit television and similar devices, § 807.11

Constitutional background, right to confrontation, § 807.3

Corroboration, requirement of, § 807.8

Procedure, notice requirements, § 807.9

Purpose of statute and relationship to other rules, § 807.4

Reliability, requirement of, § 807.7 Requirement that child testify or be declared unavailable, § 807.6

Scope of statute, § 807.5

Statements by abused children, generally, § 807.2

Waiver, § 807.10

CHILDREN

Competency to Testify as Witness, this index

CLERGY MEMBERS, PRIVILEGE

Comment on claim of privilege, § 501.96

Generally, § 501.94

Restrictions and exceptions,
Child abuse, reports of, § 501.95
Generally, § 501.95

COLLATERAL SOURCE RULE

Relationship to Rule 409 (payment of medical expenses), § 409.3

COMPETENCE TO TESTIFY AS WITNESS (RULE 601)

Attorneys, § 601.30

Children

General rules, § 601.4 Guidelines, illustrative cases, § 601.5

COMPETENCE TO TESTIFY AS WITNESS (RULE 601)—Cont'd

Children—Cont'd

Hearsay rule, relationship to, § 601.7

Instructions to jury, § 601.9 Procedure, burden of proof,

§ 601.6

Psychological concerns, § 601.8 Waiver, § 601.6

Conviction of crime, effect, § 601.31

Dead Man Statute, this index

General principles, § 601.1

Competence to stand trial distinguished, § 601.3

Statutes still apply, § 601.1

Time and procedure for determining competence, § 601.2

Judge, see Judge as Witness, this index

Juror, see Juror as Witness, this index Mental capacity,

Alcohol or drugs, use of, § 601.12 Procedure for determining, § 601.13

General rules, § 601.10 Mental or physical disorders, § 601.11

Spouse of party, § 601.29

COMPLETENESS, RULE OF

See Remainder of Related Writings or Recorded Statements

COMPOUND QUESTIONS

See Form of Question, Objection To

COMPROMISE AND OFFERS TO COMPROMISE (RULE 408)

Admissibility for other, more limited, purpose,

Generally, § 408.8

Impeachment and rebuttal, § 408.9

Discovery and Rule 408, § 408.10

General principles, § 408.1

Medical Expenses, Payment Of (Rule 409), this index

Medical malpractice cases, special rules, § 408.11

COMPROMISE AND OFFERS TO COMPROMISE (RULE 408)

—Cont'd

Point at which Rule 408 begins to apply, § 408.5

Proving the same facts with other evidence, § 408.5

Rule 408 applies only in civil cases, § 408.3

Similar provisions in other rules and statutes, § 408.2

What evidence is barred,

Negotiations, § 408.4

Actual settlements, § 408.4

Related statements, § 408.5

Third parties, other proceedings, § 408.6

Obstruction of justice distinguished, § 408.7

COMPUTER-GENERATED ANIMATIONS

See Demonstrative Evidence

CONDITIONAL RELEVANCE

See Preliminary Questions, Conditional Relevance

CONFIDENTIAL COMMUNICATIONS

See Privileged Communications

CONFIDENTIAL GOVERNMENTAL INFORMATION

Executive privilege, § 501.80

Governmental records labeled confidential by law,

Accident reports, § 501.112

Adoption records, § 501.112

Alcohol and drug treatment,

§ 501.99

Domestic violence, records of, § 501.112

Federal statutes and regulations, § 501.113

Generally, §§ 501.83, 501.107

Health certificates, § 501.112

Juvenile court records, § 501.112

Medical discipline, review boards, § 501.112

CONFIDENTIAL GOVERNMENTAL INFORMATION—Cont'd

Governmental records labeled confidential by law,—Cont'd Mental commitment, § 501.112

Other, § 501.112

Public Records Act, effect, § 501.14

Traffic infractions, § 501.112
Unemployment compensation records, § 501.112

Worker's compensation records, § 501.112

Informant's identity, § 501.82 Judge and judge's staff, § 501.81

Other, § 501.85

Public officers, statutory privilege, § 501.80

Public Records Act, effect, § 501.84, 501.114

Tax returns, whether privileged, §§ 501.87 to 501.92

CONFUSING EVIDENCE

See Prejudice, Confusion, or Waste of Time

CONNECTING UP

See Preliminary Questions, Conditional Relevance

CONFRONTATION, RIGHT TO

Admissibility of hearsay, generally, Defendant's own statements, § 1300.9

Evidence brought out by defense, § 1300.9

Introduction and overview, § 1300.8

Right to confrontation applies only to *hearsay*, § 1300.9

Right to confrontation applies only to *testimonial* hearsay, § 1300.10

State's duty to produce declarant for cross-examination, §§ 1300.19, 1300.20

What constitutes *sufficient* cross-examination by defense, § 1300.20

CONFRONTATION, RIGHT TO

-Cont'd

Admissibility of hearsay, generally, —Cont'd

When no out-of-court statement is recounted, § 1300.9

Admissibility of hearsay, specific instances,

Business records, § 1300.16

Excited utterances other than calls to 911, § 1300.13

Expert opinion based on report by person not present at trial, 1300.21

Introduction and overview, § 1300.11

Laboratory reports and similar evidence, § 1300.17

Other, § 1300.18

Public records, § 1300.16

Statements by children, § 1300.15

Statements for medical diagnosis or treatment, § 1300.14

Statements by non-testifying codefendants (*Bruton* rule), § 1300.29

Statements to police or 911 (ongoing emergency), § 1300.12

Comment on assertion of right, § 1300.7

Federal law v. state law, § 1300.2 Harmless error, § 1300.23

Historical trends, retroactivity, § 1300.3

Procedural implications, consideration on appeal, § 1300.5

Relationship to hearsay rule, § 1300.4 Situations other than State's use of hearsay,

Closed-circuit television, one-way screens, and the like, § 1300.30

Impediment to cross-examination or impeachment, §§ 1300.23 to 1300.26

Miscellaneous applications of right to confrontation, § 1300.21

CONFRONTATION, RIGHT TO —Cont'd

Situations other than State's use of hearsay,—Cont'd

Video recordings of testimony, § 1300.20

Waiver, § 1300.27

Witnesses loss or memory or refusal to testify, § 1300.25

Statutes and constitutional provisions, § 1300.1

Waiver, forfeiture by wrongdoing, § 1300.22

When, and to what, does Confrontation Clause apply,

Nature of proceeding, § 1300.6 Nature of evidence, § 1300.16

CONSCIOUSNESS OF GUILT

Evidence to show, § 402.4

CONSPIRACY, STATEMENTS IN FURTHERANCE OF (NOT HEARSAY, RULE 801)

Burden of proof, § 801.63 Constitutional considerations, § 801.65

Existence of conspiracy involving declarant and party, § 801.60

Furthering the objectives of the conspiracy, § 801.61

Generally, §§ 801.58, 801.59

Notice requirements, procedure, § 801.62

Order of proof, § 801.64 Relationship to other rules, § 801.58 Who decides what, § 801.62

CONTINUING OBJECTIONS

See Objections to Evidence, Rulings

CONTRADICTION OF WITNESS

Applying the general rules, § 607.20 Constitutional considerations, § 607.23

Contradicting one's own witness, § 607.21

Contradictory evidence is subject to other rules of evidence, § 607.22 General principles, § 607.17

CONTRADICTION OF WITNESS —Cont'd

Other rules of evidence distinguished, § 607.18

Whether a matter is material or collateral, § 607.19

CONVICTION OF CRIME FOR IMPEACHMENT (RULE 609)

Appeal of conviction sought to be proved, effect, § 609.15

Appellate review of rulings under Rule 609, **§ 609.18**

Constitutional considerations under Rule 609, **§ 609.17**

Crimes of dishonesty or false statement,

Generally, § 609.4

Making the necessary determination, § 609.5

Crimes not involving dishonesty or false statement,

Balancing probative value against prejudice, § 609.7

Civil cases, § 609.7

Explanation on the record, § 609.7

Generally, § 609.6

Illustrative cases, § 609.7

Impeaching nonparty witness, § 609.7

Impeaching prosecution witness, § 609.7

Sanitizing the conviction by using only vague, generic terms, § 609.8

Opening the door in direct examination, 609.9

Definition of *conviction* under Rule 609, § 609.3

Details surrounding conviction, explanation by witness, § 609.12

Dismissal or conviction sought to be proved, effect, § 609.15

General principles, § 609.1

Instructions to jury under Rule 609, **§ 609.16**

Juvenile court adjudications, **§ 609.14**

Methods of proof under Rule 609, **§ 609.11**

CONVICTION OF CRIME FOR IMPEACHMENT (RULE 609) —Cont'd

Pardon, annulment, or rehabilitation, effect, § 609.13

Procedural issues under Rule 609, **§ 609.16**

Relationship between Rule 609 and other rules, § 609.2

Time limits, the ten-year rule, § 609.10

COUNSELORS, MENTAL HEALTH

See Therapists, Mental Health

COURT-APPOINTED EXPERTS

Generally, §§ 706.1, 706.1 Special masters, § 706.3 Comment on the evidence, § 706.4

COURT RECORDS AS EVIDENCE

See Judgments and Court Records as Evidence

CROSS-EXAMINATION

See Mode and Order of Interrogation and Presentation

D

DEAD MAN STATUTE

Comment by counsel prohibited, § 601.1

Date of death or disability, § 601.14 General principles, overview, § 601.14

Purpose of statute, § 601.14

Specific applications, Federal court, § 601.26

Other, § 601.27

Overview, § 601.23

Probate, will contests, § 601.25

Torts, wrongful death, § 601.24

Worker's compensation, § 601.24

Waiver of statute,

By questioning interested party, § 601.28

Discovery, engaging in, § 601.28 Extent of waiver, § 601.28 Failure to object, § 601.18

DEAD MAN STATUTE—Cont'd

Waiver of statute,—Cont'd

Other, § 601.28

Testifying about the transaction, § 601.28

Testimony of nonparty witness, § 601.28

When and to what the statute applies, Adverse parties, § 601.18

Avoiding restrictions imposed by statute, **s 601.16**

Discovery, statute inapplicable, § 601.15

Feelings and impressions, statute inapplicable, § 601.21

Generally, overview, § 601.15

Nonparty witnesses, statute inapplicable, § 601.17

Parties in interest, § 601.17

Statements by decedent, § 601.19

Testimony in favor of estate, § 601.22

Transactions with decedent, § 601.19

Writings, statute inapplicable, § 601.15

DEMEANOR

Demeanor of witness, for impeachment, see Impeachment

Opinion on a person's demeanor, § 701.11

DEMONSTRATIVE EVIDENCE, RELEVANCE

Audio (sound only) recordings, § 402.26

Authentication of, see Authentication and Identification, this index

Computer-generated animations, § 402.28

Definitions, terminology, § 402.22

Demonstrations and experiments during trial, § 402.32

Exhibition of the body, § 402.31 Exhibits,

Documents Admissible Under Rule 904, this index

Exhibits that are valuable, bulky, or hazardous, § 302.39

DEMONSTRATIVE EVIDENCE, RELEVANCE—Cont'd

Exhibits,—Cont'd

Procedure for offering exhibits, § 402.38

Status of, as evidence (substantive evidence or illustrative only), § 402.41

Terminology, general rules, § 402.40

Which exhibits go to jury during deliberations, § 402.42

Experiments or tests before trial, § 402.33

Medical scans, x-rays, and similar evidence, § 402.27

Miscellaneous holdings on relevance,

Civil cases, § 402.46

Criminal cases, § 402.47

Models, replicas, and similar devices, § 402.30

Real evidence (actually played a part in case),

Authentication and identification, § 402.36

Chain of custody, § 402.36

Clothing, § 402.34

Burglary tools and other tools of trade, § 402.34

Documents Admissible Under Rule 904, this index

Drugs and other contraband, § 402.34

Generally, § 402.34

Stolen money or property, § 402.34

Tags, markings, and similar evidence, § 402.37

Weapons, § 402.35

Photographs,

Direct evidence vs. illustrative evidence, § 402.23

Gruesome or otherwise prejudicial photographs, § 402.23

Relevance generally, § 402.23

Use of on cross-examination, § 402.23

Sketches, maps, diagrams, charts, and similar evidence, § 402.29

DEMONSTRATIVE EVIDENCE, RELEVANCE—Cont'd

Video recordings, DVDs, motion pictures, § 402.25

View of scene by jury,

Generally, § 402.42

View is not substantive evidence, § 402.45

DESTRUCTION, CONCEALMENT, OR LOSS OF EVIDENCE

Spoliation, §§ 402.6, 402.7

DIFFERENT PERSON COMMITTED THE CRIME

Evidence to show, § 402.19

DISQUALIFICATION

Disqualification of expert by court, § 702.14

DOCTRINE OF CHANCES

Generally, relationship to Rule 404(b), § 404.15

DOCUMENTS ADMISSIBLE UNDER RULE 904

Documents covered by rule, § 904.2

Effect of rule, § 904.5

Notice requirements, objections, § 904.3

Other pretrial procedures for determining authenticity, § 900.6

Purpose and history of Rule 904, § 904.1

Relevance, objection may still be raised at trial, § 904.5

Sanctions, § 904.4

Summary judgment proceedings, § 904.6

DOMESTIC PARTNERS

Spouses and Domestic Partners, Privileged Communications, this index

DOMESTIC VIOLENCE

Prior acts, admissibility under Rule 404(b), § 404.29

DUE PROCESS

Criminal defendant's right to fair trial, relationship to relevance, § 402.3

DYING DECLARATIONS

See Hearsay Exceptions Only When Declarant Unavailable

\mathbf{E}

EVIDENCE RULES, GENERAL PRINCIPLES AND CHARACTERISTICS (RULES 101 AND 102)

Case law predating adoption of current rules, § 101.8

Changes in evidence law, when effective, § 101.9

Drafters' comments, source and effect, § 101.7

Ethical considerations, evidence obtained improperly, § 101.6

Federal case law, § 101.8

History of current rules, § 101.7

Liberal construction to achieve just result, § 102.1

Other rules of court, relationship to, § 101.6

Preliminary determinations regarding admissibility, rules do not apply, § 104.5

Rules are subject to constitutional requirements,

Criminal defendant's right to due process, § 101.4

Generally, § 101.3

Statutes, relationship to, § 101.5

EVIDENCE RULES, WHEN APPLICABLE (RULE 1101)

Appellate courts, evidence in, § 1101.14

Infraction hearings, § 1101.11 Juvenile court, § 1101.12

Mandatory arbitration, § 1101.13

Preliminary determinations regarding admissibility, rules do not apply, § 104.5

EVIDENCE RULES, WHEN APPLICABLE (RULE 1101)

—Cont'd

Proceedings in which rules apply, § 1101.2

Proceedings in which rules need not be applied,

Generally, § 1101.4

Grand jury proceedings, § 1101.6 Habeas corpus proceedings,

§ 1101.9

Inquiry judge proceedings, § 1101.6

Other, § 1101.10

Preliminary determinations in criminal cases, § 1101.7

Preliminary questions of fact, §§ 104.5, 1101.5

Sentencing and probation hearings, § 1101.8

Waiver of rules, § 1101.2

Stipulations regarding admissibility, effect, § 103.16

Privileges, law regarding, § 1101.3

EXCITED UTTERANCE

See Hearsay Exceptions

EXCLUSION OF WITNESSES FROM COURTROOM

Excluding the general public, 615.4 General principles, overview, §§ 615.1, 615.2

Sanctions for noncompliance, § 615.5 Who may not be excluded, § 615.3

EXECUTIVE PRIVILEGE

Generally, § 501.80

EXHIBITS

Authentication of, see Authentication and Identification

Relevance of, see Demonstrative Evidence, Relevance

What exhibits go to the jury room during deliberations, § 402.42

EXPERIMENTS

Experiments before or during trial, see Demonstrative Evidence, Relevance

EXPERT TESTIMONY (RULE 702)

For more specific aspects of expert testimony, see the index headings immediately following this heading.

Court-appointed experts, §§ 706.1 to 706.5

Cross-examination and impeachment of experts, § 702.54

Discovery rules regarding experts distinguished, § 702.2

Duty to testify, witness fees, § 702.55

Effect of expert testimony,

Generally, § 702.52

Sufficiency of the evidence, § 702.52

Ethical considerations, § 702.55 Form of expert testimony, § 702.51

Pretrial disclosure requirements, § 702.48

Purpose and history of Rule 701, § 702.2

Summary judgment proceedings distinguished, § 702.3

Types of experts (fact experts, consultants, etc.), § 702.4

When expert testimony is required, § 702.50

Witness immunity, § 702.55

EXPERT TESTIMONY -ADMISSIBILITY, GENERAL **RULES**

See also other headings for Expert Testimony, above and below.

Illustrative cases, § 702.16

Must be beyond common understanding (jury needs help from expert), § 702.16

Must be helpful to trier of fact, § 702.15

Must relevant, s 702.15

EXPERT TESTIMONY - BASIS FOR OPINION - FACTUAL BASIS

See also other headings for Expert Testimony, above and below.

General rules.

Applying the rule, illustrative cases, § 702.25

EXPERT TESTIMONY - BASIS FOR OPINION - FACTUAL BASIS—Cont'd

General rules,—Cont'd

Distinction between admissibility and weight of evidence, a 702.26

Expert must avoid conjecture and speculation, § 702.24

Expert must be sufficiently familiar with facts to state helpful opinion, § 702.24

Rule 703, basis must be reasonable,

Adequacy of basis to support opinion, § 703.8

Constitutional considerations under Rule 703, § 703.11

Generally, § 703.2

Opinion based on another opinion, § 703.6

Opinion based on confidential information, § 703.7

Opinion based on hypothetical questions, § 703.4

Opinion based on personal knowledge, § 703.3

Opinion based on reasonable sources of information, § 703.5

Opinion based on testimony by others, § 703.3

Status of basis as evidence, § 703.9 Rule 705, disclosure of basis,

Purpose and history of Rule 705, § 705.1

Three methods for presenting expert testimony, § 705.2

When must underlying data be disclosed, § 705.3

Underlying data not substantive evidence unless otherwise admissible, § 705.5

EXPERT TESTIMONY - BASIS FOR OPINION - THEORY OR **METHODOLOGY (FRYE** RULE)

See also other headings for Expert Testimony, above and below.

Appeal from Frye ruling, § 702.23

EXPERT TESTIMONY - BASIS FOR OPINION - THEORY OR METHODOLOGY (FRYE

RULE)—Cont'd

Civil and criminal cases compared, § 702.21

General acceptance in expert's professional community, § 702.18

Illustrative cases,

Child abuse, § 702.22

Generally, § 702.22

Other, § 702.22

Syndromes caused by stress or trauma, § 702.22

Nature of Frye objection, § 702.19

Other rules distinguished, § 701.19

Overcoming Frye objections, § 702.20

Procedure for resolving Frye issues, § 702.23

Relationship to Rule 703 (reasonable basis for opinion), § 702.18

Waiver of Frye objection, § 702.23

EXPERT TESTIMONY -CROSS-EXAMINATION AND IMPEACHMENT

See also other headings for Expert Testimony, above and below.

Generally, § 705.6

Importance of pretrial preparation, § 705.9

Methods of impeachment, § 705.8 Scope of cross-examination, § 705.7

EXPERT TESTIMONY -QUALIFICATIONS OF EXPERT

See also other headings for Expert Testimony, above and below.

Disqualification of expert by court, § 702.14

General rules regarding qualifications, § 705.2

Precedents of limited value, § 702.7

Procedure, related considerations, § 702.6

EXPERT TESTIMONY QUALIFICATIONS OF EXPERT—Cont'd

Specific instances,

Appraisal of personal property, 702.12

Appraisal of real property, § 702.11

Appraisal of services, § 702.12

Medical issues, § 702.9

Mental health issues, § 702.9

Other licensed witnesses, 702.10

Other, § 702.12

EXPERT TESTIMONY -TESTIMONY ON SPECIFIC SUBJECTS

See also other headings for Expert Testimony, above.

Credibility of another witness, § 702.46

Dangerousness, § 702.30

Eyewitness identification, reliability, § 702.34

Feasibility, § 702.30

Identity of person in photograph or video recording, § 702.35

Law, issues of, § 702.48

Mathematical probabilities, statistics, § 702.44

Medical opinions,

Diminished capacity, insanity, § 702.33

Generally, § 702.31

Generally, 8 702.31

Reasonable medical certainty, § 702.32

Motor vehicle accidents, § 702.29

Other, § 702.47

Physical characteristics, § 702.30

Profile or pattern evidence, § 702.45 Scientific evidence,

Genetic (DNA) analysis, § 702.40

Handwriting analysis, § 702.38

Other, § 702.43

Police radar and similar devices, § 702.41

Polygraph, § 702.42

Tests for intoxication or drug use, § 702.39

EXPERT TESTIMONY TESTIMONY ON SPECIFIC SUBJECTS—Cont'd

Syndromes caused by stress or trauma, § 702.36
Ultimate issues, § 702.48
Value of property, § 702.28
Value of services, § 702.28

F

FACILITATED TESTIMONY

See Personal Knowledge of witness

FAIR TRIAL

Criminal defendant's right to fair trial, relationship to relevance, § 402.3

FIRSTHAND KNOWLEDGE OF WITNESS

See Personal Knowledge of Witness

FORFEITURE BY WRONGDOING

Forfeiture of protection of hearsay rule, § 804.38
Forfeiture of right to confrontation,

FORM OF QUESTION, OBJECTION TO

§ 1300.22

Argumentative question, § 611.19
Harassment of witness, § 611.19
Leading question, § 611.17
Misleading question, § 611.19
Question calls for narrative, § 611.18
Question to complex (compound question), § 611.18
Ouestion too general, § 611.18

FORMER TESTIMONY

See Hearsay Exceptions Only When Declarant Unavailable

FOUNDATION

Lack of foundation, nature of objection, § 611.5

G

H

HABIT AND ROUTINE PRACTICE (RULE 406)

Admissibility distinguished from weight of evidence, § 406.6

HABIT AND ROUTINE PRACTICE (RULE 406)—Cont'd

Admissibility for a specific, limited purpose, § 406.8

General principles, § 406.1

Habit of a person,

Definitions, § 406.2

Illustrative cases, § 406.3

Methods of proof under Rule 406, § 406.6

Proof of mailing, special rules, 406.7 Routine practice of an organization, Definitions, § 406.4 Illustrative cases, § 406.5

HEARSAY (RULES 801 to 806)

For more specific aspects of the hearsay rule, see the index headings immediately following this heading.

Admissibility for nonhearsay purpose, § 802.4

An overview of the hearsay rule, § 801.2

Hearsay Definitions, this index Hearsay Exceptions, this index Hearsay inadmissible unless made admissible by rule or statute, § 802.3

Hearsay within hearsay, §§ 805.1 to 805.3

Organization of Rules 801 to 806, **§ 801.2**

Reasons for the hearsay rule, § 801.2 Waiver or forfeiture of hearsay objection, § 802.5

HEARSAY DEFINITIONS GENERALLY (RULE 801)

See also headings on other aspects of the hearsay rule, above and below.

Borderline situations,

Circumstantial evidence of declarant's state of mind, § 801.16

Implied assertions, § 801.15
Statements to show background or context, § 801.14

HEARSAY DEFINITIONS **GENERALLY (RULE 801)**

—Cont'd

Borderline situations,—Cont'd Testimony carefully worded to avoid direct quotation, § 801.13

Definition of assertion, § 801.3 Definition of declarant,

Animals, § 801.6

Labels on inanimate objects, § 801.6

Machine-generated statements, § 801.6

Organizations, § 801.5

Persons, generally, § 801.6

Definition of hearsay,

Generally, § 801.7

Self-serving statements lacking credibility, § 801.12

Statements at issue and verbal acts, § 801.9

Statements to show knowledge of hearer or reader, § 801.10

To prove the truth of the matter asserted, generally, § 801.8

To prove the truth of the matter asserted, illustrative cases, § 801.8

Translation from foreign language, effect, § 801.6

Definition of statement,

Conduct constituting a statement, § 801.4

Generally, § 801.3

Impeachment of hearsay declarant, §§ 806.1, 806.2

Impeachment, statements offered only for, § 801.11

Out-of-court statement by person now present in court, § 801.5

HEARSAY DEFINITIONS, STATEMENTS DEFINED AS **NOT HEARSAY**

See also headings on other aspects of the hearsay rule, above and below.

Prior Statements by Witness as Substantive Evidence

HEARSAY DEFINITIONS, STATEMENTS DEFINED AS NOT HEARSAY—Cont'd

Admissions by Party-Opponent, this index

Conspiracy, Statements in Furtherance, this index

HEARSAY EXCEPTIONS **AVAILABLE IN ALL CASES** (RULE 803)

See also headings on other aspects of the hearsay rule, above and

An overview of Rule 803, § 803.1

Ancient documents, § 803.61

Business Records, this index

Child Victims or Witnesses (Statutory Hearsay Exception), this index

Documents affecting interests in property,

Record of a document, § 803.58 Statements within a document, § 803.59

Excited utterances,

Appellate review, § 803.8

Applying the rule, § 803.6

Generally, § 803.5

Illustrative cases, § 803.6

Report of sexual assault or abuse, § 803.7

Federal catch-all hearsay exception not adopted, § 803.2

Judgments and Court Records as Evidence, this index

Learned treatises, §§ 803.66 to 803.68

Market reports, other commercial publications, § 803.63

Polls and surveys, § 803.64

Present sense impressions, §§ 803.3, 803.4

Public Records, this index

Recorded recollection.

Foundation requirements,

§§ 803.27 to 803.29

Generally, relationship to other rules, § 803.26

Joint authorship, § 803.30

HEARSAY EXCEPTIONS AVAILABLE IN ALL CASES (RULE 803)—Cont'd Recorded recollection,—Cont'd Procedure, method of proof, § 803.31 Religious and family history,

Family records, § 803.56

Marriage, baptismal, and similar certificates, § 803.55

Records of religious organizations, § 803.54

Reputation,

Generally, § 803.70

Reputation as to character, § 803.73

Reputation concerning boundaries or general history, § 803.72

Reputation concerning personal or family history, § 803.71

Statement for medical diagnosis or treatment,

Forensic examinations, § 803.22

Generally, § 803.19

Special problems involving children, § 803.24

Statements concerning fault or causation, § 803.23

Statements to and by physicians, § 803.20

Statements to persons other than physicians, § 803.21

State of mind,

An overview, § 803.10

Circumstantial evidence of declarant's state of mind, § 803.16

Circumstantial evidence of third person's state of mind, § 803.17

Statements describing memory, belief, or past facts, § 803.15

Statements describing pain, sensation, or bodily condition, § 803.13

Statements describing then-existing emotions or feelings, § 803.11

HEARSAY EXCEPTIONS AVAILABLE IN ALL CASES (RULE 803)—Cont'd

State of mind,—Cont'd
Statements of intent or plan,
§ 803.12

Statements regarding declarant's will, § 803.14

Statements to show knowledge of hearer or reader, § 803.15

Statutory hearsay exceptions recognized, § 802.3

HEARSAY EXCEPTIONS ONLY WHEN DECLARANT UNAVAILABLE (RULE 804)

See also headings on other aspects of the hearsay rule, above and below.

Dying declarations,

Belief that death was imminent, § 804.24

Generally, § 804.23

Jury instructions, § 804.27

Personal knowledge and opinion, **§ 804.26**

Procedure, methods of proof, § 804.27

Scope of admissible statements, § 804.25

Former testimony,

Generally, **§§ 804.14, 804.15**Identity of parties not required, **§ 804.17**

Methods of proof, § 804.21

Motive and opportunity to develop former testimony, §§ 804.18, 804.19

Nature of former proceedings, § 804.16

Objections to statements within former testimony, § 804.20

Requirement and definition of unavailable declarant, §§ 804.2 to 804.12

Statements against interest,

Admissions by party-opponent distinguished, § 804.30

Declarant must have known statement was against interest, § 804.31

HEARSAY EXCEPTIONS ONLY WHEN DECLARANT UNAVAILABLE (RULE 804) —Cont'd

Statements against interest,—Cont'd Generally, § 804.29

Motives of declarant, § 804.32

Statements against pecuniary or proprietary interest, § 804.33

Statements against penal interest, § 804.33 to 804.35

Statements partly disserving and partly self-serving, § 804.36

Statements of personal or family history, § 804.40

Statutory hearsay exceptions recognized, § 802.3

HEARSAY WITHIN HEARSAY (RULE 805)

See also headings on other aspects of the hearsay rule, above.

Admissibility generally, § 805.2 Application of Rule 403, § 805.5

HYPNOSIS

See Personal Knowledge of witness

I

IDENTIFICATION, STATEMENT

See Prior Statements of Witness as Substantive Evidence

IDENTIFICATION AND AUTHENTICATION

See Authentication and Identification

IMPEACHMENT

General principles,

Constitutional issues surrounding cross-examination and impeachment, § 607.5

Impeaching one's own witness, §§ 607.2, 607.3

Jury instructions concerning impeachment, § 607.4

Overview, § 607.1

The art of cross-examination and impeachment, § 607.6

IMPEACHMENT—Cont'd

Expert witnesses, cross-examination and impeachment, §§ 705.6 to 705.9

Hearsay declarant, impeachment of, §§ 806.1, 806.2

Methods of impeachment

Alcohol or drugs, witness's use of § 607.12

Bias or Prejudice of Witness, this index

Contradiction of Witness, this index

Demeanor of witness, § 607.17 Eyewitness identification, reliability, § 607.13

Religious beliefs or opinions, § 610.2

Mental capacity of witness, **§ 607.11**

Name, address, occupation, race, cultural influences, § 607.14

Prior convictions, see Conviction of Crime for Impeachment, this index

Prior Inconsistent Statements for Impeachment, this index

Prior misconduct, see Character and Conduct of Witness for Impeachment, this index

Sensory limitations (sight or hearing), § 607.11

Rehabilitation of witness, prior consistent statements and other methods, § 613.18

INCOME TAX

Tax returns, whether privileged, §§ 501.87 to 501.92

INCONSISTENT STATEMENTS

For impeachment, see Prior Inconsistent Statements for Impeachment

INFORMANTS

Identity of, privilege, § 501.82

INSTRUCTIONS TO JURY

Curative instructions, § 103.8

INSTRUCTIONS TO JURY

-Cont'd

Limiting instructions, §§ 105.1 to 105.3

INSURANCE, EVIDENCE OF

Admissibility on issues other than negligence,

Agency or employment, § 411.3 Bias or prejudice, § 411.3

Damages, § 411.3

Ownership, § 411.3

General principles, § 411.1

Inadmissible to show negligence, § 411.2

Inadvertent reference to insurance, § 411.2

Voir dire of prospective jurors, § 411.5

Waiver of objection, § 411.4

INTERPRETERS

Appointment of interpreter, § 604.2 Attorney-client privilege, effect, § 501.20

General principles, § 604.1

Hearsay issues, § 801.6

Privilege issues, § 604.4

Qualifications, oath, compensation, § 604.3

J

JOURNALISTS

Privilege, § 501.105

JUDGE AS WITNESS

General principles, § 605.1

Judge may not gather evidence, § 605.2

Judge may not summarize evidence, § 605.2

Judge may not testify, § 605.2

Judge who "knows" something to be true or untrue, § 605.2

Objections, procedure, § 605.5

Other persons in quasi-judicial positions, § 605.4

Testimony in a different proceeding § 605.3

JUDGE QUESTIONING WITNESS

See Calling and Interrogation of Witnesses by Court

JUDGMENTS AND COURT RECORDS AS EVIDENCE

Authentication, certified copies, § 901.15

Court records as business records, § 803.36

Court records as public records, § 803.49

Judgments,

As evidence, generally, § 803.75 Judgments as to boundaries, § 803.79

Judgments as to personal, family, or general history, § 803.79

Previous convictions, §§ 803.76 to § 803.78

Res judicata, collateral estoppel, § 803.80

JUDICIAL NOTICE OF ADJUDICATIVE FACTS (RULE 201)

(RULE 201) liudicative facts

Adjudicative facts defined, § 201.2 Background, history of Rule 201, § 201.1

Effect of judicial notice, jury instructions, § 201.8

Facts that are subject to judicial notice,

Facts that can be readily verified, § 201.5

Judicial notice of court records, testimony, § 201.9

Matters of common knowledge, § 201.4

Judge and jury, roles under Rule 401, **§ 201.15**

Judicial notice on appeal, § 201.17 Judicial notice of law, generally,

§ 201.10

Federal law, § 201.1

Law of a foreign country, § 201.14

Law of another state, § 201.134

State and local law, § 201.11

Personal knowledge of judge distinguished, § 201.3

JUDICIAL NOTICE OF ADJUDICATIVE FACTS

(RULE 201)—Cont'd

Procedure for taking judicial notice, § 201.7

When judicial notice is mandatory, § 201.6

JUDICIAL NOTICE OF LEGISLATIVE FACTS

General rules, § 201.16 Illustrative cases, § 201.16 Judicial notice on appeal, § 201.17 Procedure, § 201.15

JUROR AS WITNESS

Juror may not testify in same case, §§ 606.1 to 606.3

JURY

Instructions to Jury, this index Keeping prejudicial matters from jury, general duty, §§ 103.22, 104.10

Questions posed by jurors to witnesses, § 611.20

Review of transcript by jury, § 611.20

K

L

LANGUAGE INTERPRETERS

See Interpreters

LEADING QUESTIONS

See Form of Question, Objection To

LEARNE3D TREATISES

See Hearsay Exceptions

LIABILITY INSURANCE, EVIDENCE OF

See Insurance, Evidence Of

LIMITED ADMISSIBILITY (RULE 105)

General rule, § 105.1 Limiting instructions, generally, § 105.01

LIMITED ADMISSIBILITY (RULE

105)—Cont'd

Limiting instructions, sufficiency, § 105.3

\mathbf{M}

MAILING, PROOF OF

Proof of mailing, special rules, § 406.7

MAKING RECORD FOR APPEAL

See Objections to Evidence, Rulings

MASTERS, SPECIAL

See Court-Appointed Experts

MATERIALITY

See Relevance, Definitions

MEDICAL DIAGNOSIS OR TREATMENT, STATEMENTS FOR

See Hearsay Exceptions

MEDICAL EXPENSES, PAYMENT OF (RULE 409)

Admissibility to prove damages, § 409.3

Collateral source rule, § 409.3 General principles, §§ 409.1, 409.2

Medical malpractice cases, special rules, § 409.4

Setoffs, § 409.3

MEDICAL MALPRACTICE CASES

Special rules regarding settlement offers, § 408.11

Special rules regarding offers to pay medical expenses, § 409.4

MEDICAL RECORDS

Generally privileged, § 501.54

Hearsay exception for business records,

Uniform Health Care Information Act, §§ 501.69 to 501.74

Federal HIPAA rules, §§ 501.69 to § 501.74

MENTAL CAPACITY

Competency to Testify as Witness, this index

MENTAL HEALTH THERAPISTS Privileges, § 501.98

MISLEADING EVIDENCE

See Prejudice, Confusion, or Waste of Time

MISSING WITNESS RULE

Generally, § 402.8

Claim of privilege, effect, § 402.10 Procedure, comment by counsel, jury instructions, § 402.9

MODE AND ORDER OF INTERROGATION AND PRESENTATION (RULE 611)

Calling and Interrogation of Witnesses by Court, this index

Confrontation, right to, § 611.12 Constitutional considerations under

Rule 611, § 611.3

Cross-examination,

Collateral matters, § 611.11

Explanation of earlier responses by witness, § 611.13

Irrelevant matters, § 611.11

Other matters affecting credibility of witness, § 611.10

Right to, § 611.7

Scope of, generally, § 611.8

Within scope of direct examination, § 611.9

Expert witnesses, cross-examination and impeachment, §§ 705.6 to 705.9

Mode and order of presentation,
Assuming facts not in evidence,
§ 611.6

Foundation, lack of, § 611.5 Generally, § 611.4

Objection to form of question, Argumentative question, § 611.19

Harassment of witness, § 611.19

Leading question, § 611.17

Misleading question, § 611.19

Question calls for narrative, **§ 611.18**

Question to complex (compound question), § 611.18

Question too general, § 611.18

MODE AND ORDER OF INTERROGATION AND PRESENTATION (RULE 611) —Cont'd

General principles, overview, §§ 611.1, 611.2

Questions posed by judge to witnesses, §§ 614.1 to 614.6

Questions posed by jurors to witnesses, § 611.20

Rebuttal and surrebuttal (rejoinder), § 611.15

Relationship between Rule 611 and other rules, § 611.3

Repetition, asked and answered, § 611.14

Re-cross examination, § 611.15 Re-direct examination, § 611.15

MODELS, REPLICAS, AND SIMILAR EVIDENCE

See Demonstrative Evidence, Relevance

MOTIONS IN LIMINE

See Objections to Evidence, Rulings

N

NEWS REPORTERS, NEWS MEDIA

Privilege, § 501.105

$\mathbf{0}$

OATH OR AFFIRMATION

Requirement of, §§ 603.1, 603.2

OBJECTIONS TO EVIDENCE, RULINGS (RULE 103)

Assuming facts not in evidence, §§ 103.22, 611.6

Keeping inadmissible evidence from jury, general duty, §§ 103.22, 104.10

Foundation, lack of, nature of objection, § 611.5

Objections must be timely and specific,

Continuing objections, § 103.8 Courtroom protocol, § 103.8

OPENING THE DOOR OBJECTIONS TO EVIDENCE, RULINGS (RULE 103)—Cont'd See Objections to Evidence, Rulings Objections must be timely and **OPINIONS BY LAY WITNESSES** specific,-Cont'd (RULE 701) Curative instructions, § 103.8 General principles, § 701.1 Expert witnesses, § 103.9 Distinguishing between fact and Form of question, objection to, opinion, § 702.2 §§ 611.17 to 611.19 Generally, § 103.7 Opinion allowed if helpful, Motion to strike, § 103.8 General rules, § 701.4 Multiple party cases, § 103.10 Potential objections under Rule 701, § **701.5** Speaking objections, § 103.8 Specificity, § 103.11 Witness may be required to explain opinion, § 701.6 Timeliness, § 13.08 Personal, firsthand knowledge Voir dire of witness, § 103.12 required, § 701.3 Pretrial rulings (motions in limine), Specific applications, Foundations for appeal, § 103.6 Generally, § 103.2 Appearance or condition of a Other pretrial motions person, § 701.13 distinguished, § 103.3 Character or credibility, § 701.20 Procedure, § 103.4 Damages, § 701.17 Ruling on motion, § 103.5 Demeanor, § 701.11 Offer of proof to preserve error, Description or identification of Amount of detail and specificity object or substance, § 701.15 required, § 103.21 Diminished capacity to form Generally, § 103.18 intent, § 701.10 Pretrial determinations, § 103.20 Generally, § 701.7 Procedure, § 103.19 Handwriting, § 701.14 Overview of objections and rulings, Identity of person, § 701.14 § 103.1 Intoxication or drug influence, Review on appeal, § 701.12 Generally, 103.23 Mental capacity, sanity, § 701.9 Harmless error, § 103.24 Opinion on hypothetical situation, Harmless constitutional error, § 701.19 § 103.25 Other, § 701.21 Stipulations regarding admissibility, Relative care or guilt, § 7091.16 § 103.16 Speed, § 701.8 Waiver of objections, State of mind, § 701.11 Evidence to explain, clarify, or Value or ownership of property, contradict, § 103.15 § 701.18 Generally, § 103.13 OTHER CRIMES, WRONGS, OR Opening the door, § 104.14 ACTS (RULE 404(b)) Other considerations, § 103.17 Acquittal on earlier charge, effect, OFFER OF PROOF § 404.35 See Objections to Evidence, Rulings Admissibility for limited purpose, Bias or prejudice of witness, proof **OLD CHIEF RULE** of, § 404.29 Offer to stipulate to fact, Old Chief Character at issue in case, § 404.29

rule, § 403.10

OPINIONS BY LAY WITNESSES (RULE 701)—Cont'd

Admissibility for limited purpose,
—Cont'd

Common scheme or plan, general rules, § 404.20

Common scheme or plan, other sexual offenses, § 404.20

Conduct revealing consciousness of guilt, § 404.29

Damages, proof of, § 404.29

Discrimination, prior instances of, § 404.29

Distinctive modus operandi, § 404.23

Domestic violence, prior instances, § 404.30

Element of claim or defense in civil case, proof of, § 404.28

Element of crime charged, proof of, § 404.28

Generally, § 404.17

Identity, proof of, § 404.22

Inseparable part of crime charged (res gestae), § 404.18

Intent, proof of, § 404.25

Knowledge, proof of, § 404.21

Mental health, proof of, § 404.29

Motive, proof of, § 404.24

Other sexual contacts as common scheme or plan, § 404.20

Other sexual contacts with third persons, § 404.27

Other sexual contacts with victim, § 404.26

Other, § 404.29

Preparation or opportunity, § 404.19

Rebutting claim of accident or mistake, § 404.21

Rebutting other material assertions, § 404.31

Sanity or insanity, proof of, § 404.29

Self-defense, evidence to support claim, § 404.29

Admissions by party-opponent, whether Rule 404(b) applies, § 404.29

OPINIONS BY LAY WITNESSES (RULE 701)—Cont'd

Appellate review of rulings under Rule 404(b), § 404.37

Civil cases, application of Rule 404(b), § 404.14

Definition of crimes, wrongs, or acts, § 404.22

Dismissal of earlier charge, effect, § 404.35

Doctrine of chances, relationship to Rule (404(b), § 404.15

General rule, prior misconduct inadmissible to prove character or propensity, § 404.16

Inadvertent remarks by witness, § 404.12

Jury instructions under Rule 404(b), § 404.36

Opening the door to rebuttal, § 404.31

Overview of Rule 404(b), § 404.9 Policy and purpose of rule, § 404.10 Procedure,

Balancing probative value against prejudice, § 404.32

Burden of proof under Rule 404(b), § 404.33

Evidentiary hearing, § 404.34 Pretrial order, § 404.34

Relationship between Rule 404(b) and other rules, § 404.15

Third persons, conduct by, § 404.14 When admissibility is determined, amended charges, § 404.10

P

PAROL EVIDENCE RULE

Clarifying the meaning of a contract, Berg v. Hudesman and beyond, § 1200.13

Traditional rule, § 1200.12

Integrated written contract, requirement of,

Contracts partly oral and partly in writing, § 1200.11

Determining whether contract is integrated, §§ 1200.8, 1200.9

PAROL EVIDENCE RULE—Cont'd

Integrated written contract, requirement of,—Cont'd

Disclaimers and merger clauses, effect, § 1200.10

Generally, § 1200.7

Introduction and overview, § 1200.1 General principles,

A rule of substantive law, § 1200.2

Administering the rule, roles of judge and jury, § 1200.23

Rule applies only to contracts and promissory notes, § 1200.3

Rule applies only to contractual provisions, not recitals of fact, § 1200.4

Rule applies only to evidence offered to change terms of contract, § 1200.6

Rule applies only to parties to contract, not third parties, § 1200.5

Other situations involving parol evidence rule,

Collateral agreements, § 1200.21 Conditions generally, § 1200.18 Conditions precedent, § 1200.19 Conditions subsequent, § 1200.20 Consideration, proof of, § 1200.16 Lack of contract to fraud, mistake, or illegality, § 1200.17

Subsequent agreements, § 1200.15 Uniform Commercial Code, provisions in, § 1200.22

PAST RECOLLECTION RECORDED

See Hearsay Exceptions

PAYMENT OF ANOTHER PERSON'S MEDICAL EXPENSES

See Medical Expenses, Payment Of

PERSONAL KNOWLEDGE OF WITNESS (RULE 602)

Assisting the witness in recalling events,

Generally, § 602.8

PERSONAL KNOWLEDGE OF WITNESS (RULE 602)—Cont'd

Assisting the witness in recalling events,—Cont'd Hypnosis, facilitated testimony, § 602.9

Procedure, roles of judge and jury, § 602.10

Purpose of rule, § 602.1

Requirement of personal knowledge, Generally, § 602.2

Hearsay rule, relationship to, § 602.3

Specific applications,

State of mind of another, § 602.4

State of mind of witness, § 602.4

Testimony based partly on

personal knowledge, § 602.5

Testimony phrased as "I Think,"
"I believe," or the like,

§ 602.6

Testimony that event did not occur, § 602.7

PHOTOGRAPHS

Authentication and identification, § 901.21

Relevance, see Demonstrative Evidence, Relevance

PHYSICIAN-PATIENT PRIVILEGE

Comment on claim of privilege, § 501.67

Discovery, contacts during, § 501.57 Ex parte contact with physician, § 501.54

Forensic examinations, § 501.56

Medical records and similar medical communications,

Generally, § 501.54

Uniform Health Care Information Act, §§ 501.69 to 501.74

Federal HIPAA rules, §§ 501.69 to § 501.74

Physician-patient relationship required,

Generally, § 501.53

Statements to persons assisting physician, § 501.52

PHYSICIAN-PATIENT PRIVILEGE—Cont'd

Reasonable expectation of privacy, requirement of, § 501.55

Restrictions and exceptions to privilege,

Competing public policies, § 501.60

Generally, § 501.59

Source and purpose of privilege, § 501.52

Termination of privilege, § 501.66 Waiver of privilege,

Ex parte contacts, before or after waiver, § 501.65

Extent of waiver, § 501.64

Generally, § 501.61

Medical condition at issue, § 501.62

Plea of insanity of diminished capacity, § 501.61

Will contests, § 501.63

Worker's compensation cases, § 501.65

Who may assert privilege (holder of privilege), § 501.58

PLEA NEGOTIATIONS

See Pleas, Offers of Pleas, and Related Statements

PLEAS, OFFERS OF PLEAS, AND RELATED STATEMENTS (RULE 410)

General principles, § 410.1

Obstruction of justice distinguished, § 410.7

What is, and is not, excluded as evidence.

Alford pleas, § 410.4

Derivative evidence, § 410.6

Generally, § 410.2

Pleas of nolo contendere, § 410.4

Statements by government agents, § 410.9

Statements made during plea negotiations, § 410.5

Unsettled questions under Rule 410, **§ 410.9**

PLEAS, OFFERS OF PLEAS, AND RELATED STATEMENTS (RULE 410)—Cont'd

Waiver and exceptions to rule, § 410.8

PREJUDICE, CONFUSION, OR WASTE OF TIME (RULE 403)

Balancing process generally, § 403.2 Confusion of the evidence, § 403.4 Documents that speak for themselves, § 403.6

Evidence crucial to valid defense, § 403.9

Evidence lacking credibility or reliability, § 403.8

Keeping prejudicial matters from jury, general duty, § 104.10

Misleading evidence, § 403.4

Offer to stipulate to fact, Old Chief rule, § 403.10

Other considerations under Rule 403, § 403.11

Rule 403 applies to nearly all evidence, § 403.2

Surprise, evidence not disclosed during discovery, § 403.7

Unfair prejudice, § 403.3

Waste of time, § **403.5**

PRELIMINARY DETERMINATIONS, CONDITIONAL RELEVANCE (RULE 104)

Conditional relevance,

Definition of, § 104.6

Distinction between preliminary determinations and conditional relevance, § 104.2

Examples of conditional relevance, § 104.9

Keeping prejudicial matters from the jury, §§ 103.22, 104.10

Role of judge in determining conditional relevance, § 104.7

Rule of jury in determining conditional relevance, § 104.7

Testimony by accused on preliminary matter, § 104.11

PRELIMINARY DETERMINATIONS, CONDITIONAL RELEVANCE (RULE 104)—Cont'd

Conditional relevance,—Cont'd Weight and credibility, issues of, § 104.12

Preliminary determinations,

Burden of proof on preliminary determinations, § 104.4

Definition of, § 104.11

Distinction between preliminary determinations and conditional relevance, § 104.2

Examples of preliminary determinations, § 104.1

Preliminary determinations made by judge, § 104.3

Rules of evidence do not apply to preliminary determinations, § 104.5

PRESENT SENSE IMPRESSIONS

See Hearsay Exceptions

PRESUMPTIONS (RULE 301)

Challenged presumptions in civil cases,

Generally, § 301.13

Miscellaneous presumptions, § 301.6

When presumption affects burden of proof, § 301.15

When presumption only shifts burden of producing evidence, § 301.14

Conflicting presumptions, § 301.17 Constitutional considerations,

Civil cases, § 301.19

Criminal cases, § 301.18

Establishing the basic fact, § 301.11
Example presumptions, § 301.10
General principles, overview, § 301.8
Other concepts distinguished, § 301.9
Unchallenged presumptions, effect, § 301.12

PRIOR CONSISTENT STATEMENTS

See Prior Statements by Witness As Substantive Evidence

PRIOR CRIMES

Character of Witness for Impeachment, this index

Character as Substantive Evidence, this index

Conviction of Crime for Impeachment, this index

Other Crimes, Wrongs, or Acts, this index

PRIOR INCONSISTENT STATEMENTS FOR IMPEACHMENT (RULE 613)

Constitutional considerations under Rule 613, § 613.19

General principles and overview, §§ 613.1 to 613.3

Jury instructions regarding inconsistent statements, § 613.17

Methods of proof, procedure,

Cross-examination, § 613.9

Extrinsic evidence, §§ 613.10 to 613.12

Foundation questions optional, § 613.13

When court may require foundation questions, § 613.14

When extrinsic evidence must be introduced, § 613.15

Rehabilitation of witness, prior consistent statements and other methods, § 613.18

Requirement of inconsistency,

Degree of inconsistency required, § 613.5

Failure to remember, § 613.5

Generally, § 613.4

Material omissions, § 613.6

Prior inconsistent opinions, § 613.7

Situations involving third persons, § 613.8

Witness may explain or deny statement, § 613.16

PRIOR STATEMENTS BY WITNESS AS SUBSTANTIVE EVIDENCE (RULE 801, NOT HEARSAY)

An overview, § 801.1

PRIOR STATEMENTS BY WITNESS AS SUBSTANTIVE EVIDENCE (RULE 801, NOT HEARSAY)—Cont'd

Prior consistent statements,

Generally, § 801.23

Degree of consistency required, § 801.27

Procedure, methods of proof, § 801.28

Relationship to other rules, § 801.24

Statement must predate motive to fabricate, § 801.26

Statement must rebut charge of recent fabrication or improper motive, § 801.25

Prior inconsistent statements,

Generally, § 801.19

Relationship to other rules, § 801.29

What constitutes another proceeding, § 801.21

Oath, requirement of, § 801.21

Degree of inconsistency required, § 801.22

Statements of identification,

Generally, § 801.29

Police sketches, § 801.30

Statements identifying object, not person, § 801.31

Constitutional considerations (impermissibly suggestive), § 801.32

PRIOR MISCONDUCT

Character of Witness for Impeachment, this index

Character as Substantive Evidence, this index

Conviction of Crime for Impeachment, this index

Other Crimes, Wrongs, or Acts (Rule 404(b)), this index

PRIOR RECOLLECTION REFRESHED

See Refreshing Memory of Witness

PRIOR SEXUAL HISTORY

See Sexual History, Admissibility

PRIVILEGED COMMUNICATIONS

An overview of general principles, Cause of action for violation of

privilege, § 501.2

Choice of law, § 501.8

Comment on claim of privilege, § 501.5

Disclosure of privileged information to confidential source, § 501.6

Discovery rules distinguished, § 501.7

Few general rules applicable to all privileges, § 501.4

Introduction, § 501.2

Jury instructions regarding privilege, § 501.5

Privileges are strictly construed, § 501.3

Right to privacy compared, § 501.2 Rules of confidentiality compared, § 501.2

When privileges apply, § 501.2 Attorney-Client Privilege, this index Clergy Members, Privilege, this index

Confidential Governmental Information, this index

News reporters and news media, § 501.105

Other privileges and non-privileges,

Accountants, § 501.109

Church employees, § 501.98

Language interpreters, § 501.04

Mediation, dispute resolution centers, § 501.103

Medical review boards, § 501.100

Nurses, § 501.101

Optometrists, § 501.102

Other, § 501.108

Parent and child, § 501.109

Parole officers, § 501.109

Peer support counselors, § 501.98

Rape crisis centers, sexual assault advocates, § 501.98

Self-evaluation, § 501.109

Teachers, academic freedom, § 501.109

PRIVILEGED

COMMUNICATIONS—Cont'd

Other privileges and non-privileges,
—Cont'd

Therapists, mental health, § 501.98 Trade secrets, § 501.109

Physician-Patient Privilege, this index

Psychologist-Client Privilege, this index

Public officers, see Confidential Governmental Information, this index

Public records, see Confidential Governmental Information, this index

Spouses and Domestic Partners, Privileged Communications, this index

Tax returns, whether privileged, §§ 501.87 to 501.92

Uniform Health Care Information Act, HIPAA, this index

PROBATIVE VALUE

See Relevance, Definitions

PSYCHOLOGIST-CLIENT PRIVILEGE

Child abuse, reports of, § 501.76 Comment on claim of privilege, § 501.78

Forensic evaluations, court-ordered, § 501.77

General principles, § 501.76

Source and purpose of privilege, § 501.76

Therapists other than psychologists, § 501.76

Waiver, § 501.77

PUBLIC OFFICERS

Privilege, see Confidential Governmental Information

PUBLIC RECORDS

Best evidence rule, §§ 1005.1 to 1005.4

Hearsay exception,
Absence of public record, § 803.52

PUBLIC RECORDS—Cont'd

Hearsay exception,—Cont'd
Authentication and identification,
§ 803.51

Generally, § 803.46

Illustrative cases, § 803.49

Relationship to other rules, § 803.47

Requirements for admissibility, § 803.48

Vital statistics, § 803.50

Public Records Act, relationship to statutory privileges, § 501.84

When privileged, see Confidential Governmental Information

Q

R

RAPE SHIELD STATUTE

See Sexual History, Admissibility

REAL EVIDENCE

See Demonstrative Evidence, Relevance

REASONABLE MEDICAL CERTAINTY

Medical experts, § 702.32

REBUTTAL AND SURREBUTTAL, Generally, § 611.16

RECOLLECTION REFRESHED

See Refreshing Memory of Witness

RECORDED RECOLLECTION

See Hearsay Exceptions

RE-DIRECT AND RE-CROSS EXAMINATION

Generally, § 611.15

REFRESHING MEMORY OF WITNESS (RULE 612)

Depositions, whether Rule 612 applies, § 612.7

General principles and overview, §§ 612.1, 612.2

Other means of refreshing memory, Generally, § 612.10

REFRESHING MEMORY OF WITNESS (RULE 612)—Cont'd

Other means of refreshing memory,
—Cont'd

Leading questions, § 612.10

Sanctions for noncompliance with Rule 612, § 612.9

When witness's memory may be refreshed, § 612.3

Writing or other evidence used to refresh memory of witness,

Nature of evidence, § 612.4

Opponent's right to inspect, § 612.5

Opponent's right to introduce as evidence, § 612.6

Work product or privileged material, § 612.8

REGISTERED DOMESTIC PARTNERS

Spouses and Domestic Partners, Privileged Communications, this index

REHABILITATION OF WITNESS

prior consistent statements and other methods, § 613.18

REJOINDER

Generally, § 611.16

RELEVANCE, DEFINITIONS (RULE 401)

Conditional relevance, see Preliminary Questions, Conditional Relevance

Definition of relevant evidence, generally, § 401.3

Definition of relevant evidence, materiality (evidence that is of consequence), § 402.5

Definition of relevant evidence, probative value, § 401.4

Limited precedential value of case law, § 401.7

Other concepts distinguished, § 401.3 Roles of judge and jury on issue of relevance, § 401.3

Statutes continue to govern under Rule 401 and 402, § 402.2

RELEVANCE, DEFINITIONS (RULE 401)—Cont'd

Stipulations and undisputed evidence, § 401.6

RELEVANCE, GENERAL RULES

Conditional relevance (connecting up), see Preliminary Questions, Conditional Relevance

Criminal defendant's right to fair trial, relationship to relevance, § 402.3

Irrelevant evidence is inadmissible, § 402.1

Purpose and history of requirement of relevance, §§ 401.1, 402.1

Statutes continue to govern under Rule 401 and 402, § 402.2

RELEVANCE, SPECIFIC INSTANCES

Apologies, expressions of sympathy, § 402.5

Conduct revealing consciousness of guilt, § 402.4

Different suspect committed crime charged, § 402.9

Damages, evidence of,

Generally, § **402.20**

Tax consequences, § 402.21

Demonstrative Evidence, this index Fraud, obstruction of justice, § 402.7

Missing witness or evidence,

Generally, § 402.8

Privilege, claim of, § 402.10

Procedure, comment by counsel, jury instructions, § 402.9

Similar accidents or injuries, § 402.11

Similar claims or lawsuits, 402.12

Similar contracts or breaches of contract, § 401.12

Similar fraud or misrepresentation, § 402.12

Similar property values, § 402.13

Similar transactions, § 402.12

Spoliation (destruction, loss, or concealment of evidence), § 402.6

RELEVANCE, SPECIFIC INSTANCES—Cont'd

Violation of law or safety standards, As evidence of negligence, generally, § 402.15

As evidence of negligence, method of proof, § 402.17

As evidence of unsafe product, § 402.15

Violation of private, nongovernmental standard, § 402.18

RELIGIOUS BELIEFS OR OPINIONS OF WITNESS

Generally inadmissible, § 610.2

REMAINDER OF RELATED WRITINGS OR RECORDED STATEMENTS (RULE 106)

Admissibility at later time, § 106.5 General rule, § 106.2

Unrecorded oral conversations, § 106.4

Whether admissibility under Rule 106 is subject to other rules of evidence, § 106.3

REMEDIAL MEASURES

See Subsequent Remedial Measures

REPETITIVE QUESTIONING OF WITNESS

Asked and answered, § 611.14

REPUTATION, HEARSAY EXCEPTIONS

See Hearsay Exceptions

RIGHT TO CONFRONTATION

See Confrontation, Right to

ROUTINE PRACTICE

See Habit and Routine Practice

RULE OF COMPLETENESS

See Remainder of Related Writings or Recorded Statements

RULES OF EVIDENCE

General principles and characteristics, see Evidence Rules

RULINGS ON EVIDENCE

See Objections to Evidence, Rulings

S

SELF-AUTHENTICATING DOCUMENTS (RULE 902)

Authenticity still subject to later challenge, § 902.1

Documents Admissible Under Rule 904, this index

Overview, general principles, § 902.1 Specific methods and applications,

Acknowledged documents, § 902.9 Certified copies of public records, § 902.5

Commercial paper and related documents, § 902.10

Documents produced by opposing party, § 902.12

Domestic public documents not under seal, § 902.3

Domestic public documents under seal, § 902.2

Foreign public documents, § 902.4 Newspapers and periodicals, § 902.7

Official publications, § 902.6 Other, § 902.12 Trade inscriptions and the like,

Presumptions created by law, § 902.11

§ 902.8

Testimony by subscribing witness unnecessary, §§ 903.1, 903.2

SEQUESTRATION OF WITNESSES

See Exclusion of Witnesses From Courtroom

SETOFFS

Relationship to Rule 409 (payment of medical expenses), § 409.3

SETTLEMENT AND SETTLEMENT OFFERS

Civil cases, see Compromise and Offers to Compromise

Criminal cases, see Pleas, Offers of Pleas, and Related Statements

SEXUAL HISTORY, ADMISSIBILITY (RAPE SHIELD STATUTE, RULE 412)

Civil cases, § 412.7 Criminal cases,

Cases in which consent is not a defense, § 412.3

Due process and right to confrontation, § 412.5

Procedure, pretrial motion, § 412.4

Statute, scope of, § 412.2

Statute, text of, § 412.1

Weighing competing considerations, § 412.3

What evidence is barred, § 412.3

Protection order proceedings, § 412.6

SIMILAR ACCIDENTS, INJURIES, CONTRACTS, OR TRANSACTIONS

See Relevance, Specific Instances

SIXTH AMENDMENT RIGHT TO CONFRONTATION

See Confrontation, Right to

SOCIAL MEDIA POSTINGS

Authentication of, § 901.23

SPEAK FOR THEMSELVES

Documents that speak for themselves, § 403.6

SPEAKING OBJECTIONS

See Objections to Evidence, Rulings

SPECIAL MASTERS

See Court-Appointed Experts

SPOLIATION

Destruction, loss, or concealment of evidence, §§ 402.6, 402.7

SPOUSES AND DOMESTIC PARTNERS, PRIVILEGED COMMUNICATIONS

Source and purpose of privilege, § 501.33

Comment on claim of privilege, § 501.42

Communications within the privilege,
Disclosure to third persons, effect,
§ 501.37

SPOUSES AND DOMESTIC PARTNERS, PRIVILEGED COMMUNICATIONS—Cont'd

Communications within the privilege,
—Cont'd

During marriage or registered partnership, § 501.36

Generally, § **501.35**

Must be intended as confidential, § 501.37

Competency, rule of, see Spouses and Domestic Partners, Competency to Testify, this index

Jury instructions regarding claim of privilege, § 501.42

Restrictions and exceptions,

Action against spouse or partner, § 501.39

Alcohol or drug treatment, § 501.39

Child custody, § 501.39

Crime against child, § 501.39

Crime against spouse or partner, § 501.39

Mental illness, sexual predator proceedings, § 501.39

Nonsupport or desertion, § 501.39

Sham marriage or partnership, § 501.39

Threats spouse or partner, § 501.39

Witness tampering, § 501.39

Termination of privilege, § 501.41

Waiver of privilege, § 501.40

Who may assert privilege (holder of privilege), § 501.38

SPOUSES AND DOMESTIC PARTNERS, COMPETENCY TO TESTIFY AGAINST THE OTHER

Comment on assertion of rule, § 501.49

Jury instructions regarding rule, § 501.49

Objections and waiver, § 501.47 Privileged communications

distinguished, § 501.44

Relationship to other procedural rules, § 501.50

SPOUSES AND DOMESTIC PARTNERS, COMPETENCY TO TESTIFY AGAINST THE OTHER—Cont'd

Restrictions and exceptions, same as those for privilege, § 501.45

Source and purpose of rule, § 501.43

Termination of rule of incompetency, § 501.48

When, and to what, the rule applies, § 501.45

STATE OF MIND

See Hearsay Exceptions

STATEMENTS AGAINST INTEREST

See Hearsay Exceptions Only When Declarant Unavailable

STIPULATIONS

Offer to stipulate to fact, Old Chief rule, § 403.10
Stipulations regarding admissibility,

SUBSEQUENT REMEDIAL MEASURES (RULE 407)

§ 103.16

Admissibility for another, limited purpose,

Generally, § 407.5

Only if issue is controverted, § 407.6

For impeachment, § 407.7

General principles, § 407.1

Inadmissible to prove negligence or culpable conduct, § 407.2

Measures required by law, § 407.4 Measures taken before accident occurred, § 407.3

SUMMARIES

See detail under Best Evidence Rule. Using summary in court, relationship to best evidence rule, §§ 1006.1 to 1006.7

SURREBUTTAL

Generally, § 611.16

T

TAX CONSEQUENCES

Relevance of in civil case, § 402.21

TAX RETURNS

Whether privileged, §§ 501.87 to 501.92

TELEPHONE CONVERSATIONS

Authentication of, § 901.11

TESTIMONIAL HEARSAY

See Confrontation, Right to

TEXT MESSAGES

Authentication of, § 901.23

THERAPISTS, MENTAL HEALTH

Privileges, § 501.98

TRADE SECRETS

Privilege, § 501.109

TRANSCRIPTS

Review of transcript by jury, § 611.20

Transcript as listening aid for jury, § 1002.8

TRANSLATORS, TRANSLATIONS

See Interpreters

TREATISES

See Hearsay Exceptions

U

ULTIMATE ISSUE, OPINION ON (RULE 704)

Conclusions of law, Generally, § 704.5

Criminal cases, § 704.6

Civil cases, § 704.7

Overcoming the legal-conclusion objection, § 704.9

Pure issues of law, § 704.8

Credibility, opinion on, § 704.10-

General rule, § 704.2

Illustrative cases, § 704.3

Objections under other rules, § 704.4

Purpose and history of Rule 704,

§ 704.1

Summary judgment proceedings, § 704.11

INDEX

UNFAIR PREJUDICE

See Prejudice, Confusion, or Waste of Time (Rule 403)

\mathbf{V}

VIDEO RECORDINGS

Authentication of, see Authentication and Identification

Relevance, see Demonstrative Evidence, Relevance

VIEW OF SCENE BY JURY

Generally, § 402.42

View is not substantive evidence, § 402.45

VOUCHING FOR CREDIBLITY OF WITNESS

Generally, § 608.13

W

WAIVER OF OBJECTIONS

See Objections to Evidence, Rulings

WASTE OF TIME

See Prejudice, Confusion, or Waste of Time (Rule 403)

WITNESSES

Calling or interrogation of witness by judge, §§ 614.1 to 614.6

Competence to Testify as Witness, this index

Contradiction, see Contradiction of Witness, this index

Exclusion of Witnesses From
Courtroom, this index
Impeachment, this index
Judge as Witness, this index
Juror as Witness, this index

WORK PRODUCT RULE

Distinguished from attorney-client privilege, § 501.31

X

Y

Z