

Index

ABORTIONS

Minors seeking abortions, attorney's role, **1:49**

ABUSE OF CHILDREN

Attorney's role in abuse proceedings, **1:36**

Child Protection Code, abrogation of privilege for abuse and neglect cases, **23:19**

Hearsay exception, **16:28**

Privileged communications, abrogation of privilege for abuse and neglect cases, **23:19**

ABUSE [SUBSTANCE ABUSE]

Alcohol abuse, **1:42**

Drug abuse, **1:42**

ACCOMPLICES

Competency of accomplices to testify, **21:11**

ADJOURNMENT OR CONTINUANCE

Generally, **3:1 et seq.**

Absence of parties, **3:6**

Absence of witnesses, **3:8**

Agreement, striking the case from the docket by agreement, **3:16**

Amendments to pleadings, **3:11 et seq.**

Attorneys, absence or incapacity, **3:7**

Authority to grant, **3:2**

Claims, adding, **3:13**

Counsel, absence or incapacity, **3:7**

Damages, increasing prayer, **3:14**

Defenses, adding, **3:13**

Incapacity of parties, **3:6**

Incapacity of witnesses, **3:8**

Local prejudice, **3:5**

Motions, considerations in deciding, **3:3**

Preparation, adequacy of time, **3:4**

ADJOURNMENT OR

CONTINUANCE—Cont'd

Pretrial publicity, **3:5**

Stay of proceedings, **3:17**

Striking the case from the docket by agreement, **3:16**

Subpoenaed witnesses, **3:9**

Surprise and other good cause, **3:15**

Unavailability due to health reasons, **3:10**

Witnesses

absence, **3:8**

incapacity, **3:8**

subpoenaed witnesses, **3:9**

ADMINISTRATIVE RULES

Judicial notice, **11:4**

ADMISSIBILITY OF EVIDENCE

Authenticated documents, **17:12**

Co-defendants, admissibility of statements of, **31:19**

Confessions, **31:2 et seq.**

Duplicates, **17:15**

Family court, admissibility of documentary evidence, **17:19**

Mistrial, inadmissible, evidence, **32:5**

Motions to strike inadmissible evidence, **29:5**

Nonscientific expert testimony, admissibility of, **15:11**

Other bad acts admissible as part of res gestae of crime charged, **13:25**

Prior convictions, procedure for admission, **25:17**

Prior inconsistent statements, **25:9**

Ruling, **2:18**

Secondary evidence, **17:18**

Summaries, **17:16**

ADMISSION TO PRACTICE

Law practice, **1:2**

ADMISSIONS

- Generally, **18:1 et seq.**
- Agents, **18:9**
- Coconspirators, **18:6**
- Compromise negotiations and settlement, **18:7**
- Conduct of party-opponent, **18:2**
- Declarations against interest distinguished, **18:1**
- Hearsay exception, **16:26**
- Judicial admissions
 - party-opponent, **18:5**
 - proof of facts, **10:24**
- Liability, **18:10**
- Plea negotiations, admissions made in connection with, **18:8**
- Remorse of party-opponent, lack of, **18:4**
- Requests to admit, **10:14**
- Servants, **18:9**
- Settlements, **18:7**
- Silence of party-opponent, **18:3**

ADOPTIONS

- Attorneys, role, **1:39**

ADR

- See index heading ALTERNATIVE DISPUTE RESOLUTION

ADVERSE PARTIES

- Direct examination, **26:5**

ADVISORY JURY

- Generally, **2:27**

AFFIDAVITS

- Motions, supporting memoranda and affidavits, **4:4**
- Search and seizure, misstatements in affidavit, **30:16**

AGENTS

- Admissions, **18:9**

AGREEMENTS

- Arbitration agreements, avoiding, **39:10**
- Continuance, striking the case from the docket by agreement, **3:16**
- Plea agreements, **2:39**

AGREEMENTS—Cont'd

- Settlement agreements required to be in writing, **2:38**
- Stipulations. See index heading STIPULATIONS

AIDS

- Infected persons, isolation, **1:47**

ALCOHOL ABUSE

- Commitment, attorneys' role, **1:42**

ALTERNATE JURORS

- Selection, **6:22**
- Use of, **6:23**

ALTERNATIVE DISPUTE RESOLUTION

- Generally, **39:1 to 39:16**
- Actions subject to ADR, **39:2**
- Appeal of arbitration orders, **39:14**
- Appointment of a neutral, **39:4**
- Arbitral immunity, **39:15**
- Arbitration, generally, **39:8**
- Avoiding arbitration agreements, **39:10**
- Circuit Court confirmation of arbitration awards, **39:13**
- Conference, **39:5**
- Early neutral evaluation, **39:6**
- Exceptions to mandatory ADR, **39:3**
- Fast Track jury trials, mediation and arbitration exemption, **42:6**
- Federal Arbitration Act, **39:9**
- Immunity, Arbitral immunity, **39:15**
- Matters subject to arbitration agreement, **39:11**
- Mediation, generally, **39:7**
- Sanctions for failing to cooperate in ADR, **39:12**
- Selection of a neutral, **39:4**
- Stay of trial court proceedings pending arbitration, **39:16**

AMENDMENT OF JUDGMENTS

- Generally, **36:5, 36:6**
- Motion after verdict, **37:6**
- Successive motions to amend judgment, **36:6**
- Trial motions to amend findings and judgment, **2:34**

INDEX

AMENDMENT OF PLEADINGS

Continuance, **3:11 et seq.**

ANCIENT DOCUMENTS

Documentary evidence, **17:8**

Hearsay exception, **16:21**

ANIMATION

Real and demonstrative evidence,
19:16

ANTITRUST ACTIONS

Compelling testimony, **24:9**

Self-incrimination, **24:9**

APPEAL AND REVIEW

Alternative dispute resolution, appeal
of arbitration orders, **39:14**

Default and default judgments, appel-
late practice notes, **4:19**

Discovery order, immediate appellate
review, **4:37**

Fast Track jury trials, no right to
appeal and costs, **42:5**

Immediate appeal required, conduct
of trial, **2:32**

New trial, review of order for, **37:10**

Punitive damage awards. See index
heading PUNITIVE DAMAGES

Search and seizure, **30:27**

APPEAL TO PREJUDICE AND SYMPATHY

Closing argument, **33:5**

APPEARANCES

Default, **4:11**

ARBITRATION

See index heading ALTERNATIVE DISPUTE
RESOLUTION

ARGUMENT

Appeals to prejudice and sympathy,
33:5

Attacks upon witnesses, **33:9**

Closing

appeals to prejudice and sympathy,
33:5

attacks upon witnesses, **33:9**

attorney, comments on opposing
counsel, **33:10**

ARGUMENT—Cont'd

Closing—Cont'd

commenting about opposing
counsel, **33:10**

commenting on matters not in evi-
dence, **33:7**

damages, arguing, **33:8**

“golden rule” argument, **33:6**

improper arguments, **33:11, 33:12**

objections to improper arguments,
33:11

opposing counsel, comments on,
33:10

right, **33:1**

scope, **33:2, 33:3**

victim impact evidence, **33:3**

visual aids, use, **33:4**

Damages, arguing, **33:8**

Directed verdict based, **7:8**

Dismissal based, **7:8**

“Golden rule” argument, **33:6**

Mistrial, **32:6**

Objections

closing argument, **33:11**

opening argument, **7:7**

Opening

generally, **7:1 et seq.**

content, **7:4**

directed verdict based, **7:8**

dismissal based, **7:8**

improper conduct, **7:5**

objections, **7:7**

order of presentation, **7:3**

prejudice, **7:5**

right to make, **7:2**

scope, **7:4**

visual aids, use, **7:6**

waiver, **7:7**

Right to

closing argument, **33:1**

opening statement, **7:2**

Scope

closing argument, **33:2**

opening argument, **7:4**

Visual aids

closing argument, **33:4**

opening argument, **7:6**

ARREST

Search incident to lawful arrest or
valid arrest warrant, **30:6, 30:7**

ASSESSMENT OF COSTS

Settlements, **36:15**

ATTORNEYS

Abortions, **1:49**

Abuse and neglect proceedings, **1:36**

Admission to practice of law,
required, **1:2**

Adoptions, **1:39**

AIDS, isolation of infected persons,
1:47

Alcohol abuse, role of attorney in
commitment, **1:42**

Appointment of conservator, peti-
tions, **1:50**

Binding on client, acts of attorney as,
1:56

Capital cases, **1:28**

Champerly, **1:14**

Children

 abortions, **1:49**

 mental health treatment, **1:46**

Civil cases, right to counsel

 generally, **1:25**

 duty of judge to inform, **1:55**

 waiver of right, **1:55**

Comments on opposing counsel in
closing argument, **33:10**

Commitment proceedings

 alcohol abuse, **1:42**

 children in need of mental health
 treatment, commitment, **1:46**

 commitment, **1:44**

 drug abuse, **1:42**

 mentally ill persons, **1:44**

 tuberculosis, persons, **1:48**

 venereal disease, including HIV,
 isolation of persons, **1:47**

Compensation

 collection, **1:20**

 costs, fees, **36:14**

 division of fees between lawyers
 not in same firm, **1:21**

 liens securing, **1:22**

 pro se litigants, **1:19**

ATTORNEYS—Cont'd

Compensation—Cont'd

 right to compensation

 generally, **1:16**

 common fund, **1:18**

Competency to testify

 prosecutor, **21:12**

 trial counsel, **21:10**

Competent counsel, right, **1:53**

Conduct

 generally, **1:4 et seq.**

 binding on client, acts of attorney
 as, **1:56**

 discipline for improper conduct,
 1:15

 mistrial, **4:44, 32:6**

 opening statements, improper
 conduct and prejudice, **7:5**

 Rule 11, SCRCP, **1:7**

 trial, during, **1:6**

Confessions, right to have attorney
present, **31:3**

Confidential communications with
client

 generally, **23:3 et seq.**

 Reporter's Shield Law and First
 Amendment, **23:15**

 restrictions upon operation, **23:4**
 waiver, **23:5**

Confidential nature of work product,
23:17

Contempt cases, right to counsel,
1:52

Continuances, absence or incapacity
of counsel, **3:7**

Criminal cases, right to counsel

 generally, **1:26**

 critical stages, **1:27**

 duty of judge to inform, **1:54**

 hearing to determine fitness to
 stand trial, **1:45**

 nonlawyers appearing in criminal
 cases, **1:3**

 waiver of right, **1:54**

Delinquency proceedings, **1:37**

Disabled persons, role of prosecutors
in commitment, **1:44**

Discipline for improper conduct, **1:15**

Disqualifying counsel, **1:57**

INDEX

ATTORNEYS—Cont'd

- Drug abuse, role of attorney in commitment, **1:42**
- Emergency protective custody, **1:35**
- Eminent domain proceedings, **1:51**
- Family court, right to counsel, **1:32**
- Fees
 - collection, **1:20**
 - costs, fees, **36:14**
 - division of fees between lawyers not in same firm, **1:21**
 - liens securing, **1:22**
 - pro se litigants, **1:19**
 - recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**
 - right to compensation
 - generally, **1:16**
 - common fund, **1:18**
 - recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**
- General conduct, **1:4**
- Hearing to determine fitness to stand trial on criminal charges, **1:45**
- HIV, isolation of infected persons, **1:47**
- Hybrid representation, **1:31**
- Improper conduct, discipline for, **1:15**
- Integrity of legal profession, **1:13**
- Juveniles, interstate compact, **1:40**
- Layman II*, recovery of attorney's fees against state for lack of substantial justification under, **1:17**
- Liability to third party arising out of representation of client, **1:5**
- Marital litigation and historical note, **1:33**
- Mental health treatment, **1:46**
- Mentally ill person, role of attorney in commitment, **1:43**
- Mentally retarded persons, role of prosecutors in commitment, **1:44**
- Minors seeking abortions, **1:49**

ATTORNEYS—Cont'd

- Mistrial, conduct of counsel, **4:44**
- Nonlawyers, appearance in criminal cases, **1:3**
- Obligations to court, **1:9**
- Parental rights, termination, **1:38**
- Perjury by criminal defendant, **1:8**
- Petitions
 - appointment of conservator, **1:50**
 - post-conviction relief, **1:29**
- Practice of law, need for counsel admitted, **1:2**
- Pretrial publicity, **1:10**
- Privileged communications with client
 - generally, **23:3 et seq.**
 - restrictions upon operation, **23:4**
 - waiver, **23:5**
- Prosecutors, **1:12**
- Pro se representation. See index
 - heading PRO SE REPRESENTATION
- Protective custody, **1:34, 1:35**
- Publicity, pretrial, **1:10**
- Right to compensation, generally, **1:16**
- Right to counsel, generally, **1:24 et seq., 1:41**
- Role of attorney, generally, **1:1 et seq.**
- Rule 11, SCRCP, **1:7**
- Sale of law practice, **1:23**
- Self-representation, **1:30**
- Sexually violent predator cases, right to counsel in, **1:58**
- Substantial justification, recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**
- Summation, comments on opposing counsel, **33:10**
- Third party, liability of attorney arising out of representation of client, **1:5**
- Trial conduct, **1:6**
- Trial of case, **1:1**
- Tuberculosis, role of attorney in commitment proceedings, **1:48**
- Venereal disease, isolation of infected persons, **1:47**

ATTORNEYS—Cont'd

- Waiver of right to counsel
 - civil cases, **1:55**
 - criminal cases, **1:54**
- Witness, attorney, **1:11**
- Work product doctrine, **23:17**

**AUTHENTICATION OR
AUTHENTICITY**

- Generally, **17:2**
- Admissibility of documents, **17:12**
- Author's handwriting, comparison,
17:5
- Circumstantial evidence, distinguish-
ing characteristics, **17:6**
- Direct method, **17:4**
- Fingerprint evidence, **17:13**
- Proof of authenticity, avoiding, **17:11**
- Self-authenticating documents, **17:10**

AUTOMOBILES

- Search, **30:11**

AVAILABILITY

- Declarant, **16:30**
- Witness, **3:10**

BAD FAITH

- See index heading GOOD FAITH

BAIL

- Burden of proof, **9:17**

BAILMENTS

- Burden of proof, **9:12**

BENCH TRIAL

- Civil cases, **2:25, 2:33**
- Criminal cases, **2:35**

BEST EVIDENCE

- Generally, **17:14 et seq.**
- Duplicates, **17:15**
- Secondary evidence, **17:18**
- Summaries, **17:16**

BIAS

- Background evidence, admission of,
13:7
- Batson v. Kentucky, discrimination in
jury selection, **6:8**
- Closing argument, appeals to preju-
dice and sympathy, **33:5**

BIAS—Cont'd

- Continuances, local prejudice, **3:5**
- Impeachment of witnesses, **25:7**
- Jury selection, discriminatory, **6:8**
- Mistrial, mitigating prejudice, **32:16**
- Opening statements, **7:5**

BIFURCATION OF TRIAL

- Generally, **2:15**

BOUNDARIES

- Hearsay exception, **16:24**

BURDEN OF PROOF

- Bail decisions, **9:17**
- Bailment cases, **9:12**
- Burden of going forward, **9:1**
- Circumstantial evidence, **14:3**
- Civil cases
 - constructive trust, **9:8**
 - contested wills and claims against
estates, **9:7**
 - damages, **9:6**
 - fraud cases, **9:9 et seq.**
 - party with burden, **9:3**
 - quantum of evidence, **9:5**
- Constructive trusts, **9:8**
- Contempt proceedings, **5:7**
- Contested wills and claims against
estates, **9:7**
- Corpus delicti, **9:14**
- Criminal cases
 - generally, **9:13 et seq.**
 - corpus delicti, **9:14**
 - defendant's burdens, **9:16**
- Damages, **9:6**
- Disclosure
 - duty to disclose, **9:11**
 - nondisclosure, **9:10**
- Estates, claims against, **9:7**
- Fraud cases
 - generally, **9:9 et seq.**
 - duty to disclose, **9:11**
 - nondisclosure, **9:10**
- Partnership funds used by managing
partner, **9:18**
- Party with burden in civil cases, **9:3**
- Prima facie case, **9:2**
- Statutory allocation, **9:4**

INDEX

BUSINESS RECORDS

- Uniform Business Records as Evidence Act, **16:13**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

CAMERAS

- Courtroom, use of cameras, **2:13, 4:40**

CAPACITY

- Confessions, effect of mental capacity, **31:17**
- Continuance
 - counsel, **3:7**
 - parties, **3:6**
 - witnesses, **3:8**

CAPITAL CASES

- Attorneys' role, **1:28**
- Charge to jury, special charge, **34:9**
- Instructions to jury, special charge, **34:9**
- Items of cost and disbursement, **36:13**

CHAIN OF CUSTODY

- Laying foundation, real and demonstrative evidence, **19:3**

CHALLENGES

- Warrants for search and seizure, issuance challenged, **30:24**

CHALLENGES [JURY SELECTION]

- Array, **6:7**
- Challenges for cause, **6:15 et seq.**
- Number of peremptory challenges, **6:19**
- Peremptory challenges, **6:18 to 6:20**
- Timeliness of challenges for cause, **6:17**

CHAMPERTY

- Prohibited, **1:14**

CHANGE OF VENUE

- Dismissal, change of venue due to pretrial publicity, **4:29**

CHARACTER

- Hearsay exception for reputation concerning character, **16:24**
- Relevancy
 - generally, **13:16**
 - accused, character of, **13:17**
 - victim, character, **13:21**
 - witnesses, **13:22**
- Victim's character, relevancy, **13:21**
- Witnesses
 - credibility and impeachment, **25:13**
 - relevancy of character, **13:22**

CHARGE TO JURY

- Generally, **34:1 et seq.**
- Capital cases, special charge in, **34:9**
- Content, **34:3**
- Criminal cases, instructions and rules applicable, **34:7**
- Death penalty cases, special charge in, **34:9**
- Evidence, relating instructions, **34:6**
- Form, **34:3**
- Objections, **34:5**
- Requesting instructions, **34:4**
- Review of rulings on instructions, **34:8**
- Special charge in death penalty cases, **34:9**
- Submitting instructions, **34:4**
- Timing, **34:2**

CHARTS

- Real and demonstrative evidence, **19:7**

CHILD ABUSE

- Attorney's role in abuse proceedings, **1:36**
- Child Protection Code, abrogation of privilege for abuse and neglect cases, **23:19**
- Hearsay exception, **16:28**
- Privileged communications, abrogation of privilege for abuse and neglect cases, **23:19**

CHILDREN

- Abortions, minors seeking, **1:49**

CHILDREN—Cont'd

Abuse

attorney's role in abuse proceedings, **1:36**

Child Protection Code, abrogation of privilege for abuse and neglect cases, **23:19**

hearsay exception, **16:28**

privileged communications, abrogation of privilege for abuse and neglect cases, **23:19**

Attorneys

abortions, **1:49**

mental health treatment, **1:46**

Hearsay, out of court statements by child under twelve years of age, **16:27**

Mental health treatment, commitment of children in need, **1:46**

CIRCUMSTANTIAL EVIDENCE

Generally, **14:1 et seq.**

Authentication, **17:6**

Burden of proof, **14:3**

Direct evidence versus circumstantial evidence, **14:2**

Habit or routine practice, **14:6**

Inferences, **14:9, 14:10**

Jury instruction, **14:11**

Parol evidence rule, **14:8**

Res ipsa loquitur, **14:7**

Similar acts and occurrences, **14:5**

State of mind, **14:4**

CIVIL CONTEMPT

Generally, **5:2**

CIVIL PROCEDURE RULES

Failure to comply with, dismissal, **4:41**

CLAIMS

Dismissal motion, failure to state claim upon which relief can be granted, **4:30**

Estates, cleans against, burden of proof, **9:7**

Same claim pending in another action between same parties, dismissal motion, **4:34**

CLERGY

Penitent privilege, **23:6**

CLOSING ARGUMENT

Generally, **33:1 et seq.**

Appeals to prejudice and sympathy, **33:5**

Attacks upon witnesses, **33:9**

Attorney, comments on opposing counsel, **33:10**

Commenting about opposing counsel, **33:10**

Commenting on matters not in evidence, **33:7**

Damages, arguing, **33:8**

"Golden rule" argument, **33:6**

Improper arguments curing, **33:12**

objections, **33:11**

Objections to improper arguments, **33:11**

Opposing counsel, comments on, **33:10**

Right to closing argument, **33:1**

Scope, **33:2, 33:3**

Victim impact evidence, **33:3**

Visual aids, use, **33:4**

COCONSPIRATORS

Admissions, **18:6**

COLLATERAL SOURCE RULE

Relevancy, **13:15**

COMMERCIAL PUBLICATIONS

Hearsay exception, **16:22**

COMMITMENT PROCEEDINGS

Alcohol abuse, **1:42**

Children in need of mental health treatment, commitment, **1:46**

Commitment, **1:44**

Drug abuse, **1:42**

Mentally ill persons, **1:45**

Tuberculosis, persons, **1:48**

Venereal disease, including HIV, isolation of persons, **1:47**

COMMON FUND

Attorneys' right to compensation, **1:18**

INDEX

COMPARISON OF HANDWRITING

Authentication, **17:5**

COMPELLING ATTENDANCE OF WITNESSES

Civil cases, **10:26**

Criminal cases, generally, **10:27**,
10:28

Foreign state, witness from, **10:28**

Prosecutorial intimidation, **10:29**

COMPELLING TESTIMONY

Antitrust actions, **24:9**

Self-incrimination, **24:8**

COMPENSATION OF ATTORNEYS

Collection, **1:20**

Costs, fees, **36:14**

Division of fees between lawyers not
in same firm, **1:21**

Liens securing, **1:22**

Pro se litigants, **1:19**

Right to compensation
generally, **1:16**

common fund, **1:18**

COMPETENCY OF COUNSEL

Right to competent counsel, **1:53**

COMPETENCY OF WITNESSES

Generally, **21:1 et seq.**

Accomplice, **21:11**

Identification evidence, **21:6**

Interpreters, use of, **21:3**

Judge, **21:8**

Jurors, **21:9**

Objections to competency, **21:4**

Personal knowledge of witness, **21:5**

Prosecutor, competency to testify at
criminal trial, **21:12**

Qualifying witness, **21:2**

Sequestration of witness, **21:7**

Trial counsel, **21:10**

COMPLEX CASE DESIGNATION

Continuance, **3:19**

COMPROMISE

Admissions, **18:7**

Costs, assessment, **36:15**

COMPROMISE—Cont'd

Offers of settlement, proof of facts,
10:24

Proof of facts, **10:24**

Relevancy, **13:8**

Writing requirement, settlement
agreements, **2:38**

CONDUCT OF PERSONS

Misconduct. See index heading

MISCONDUCT

CONDUCT OF TRIAL

Generally, **2:1 et seq.**

Advisory jury, **2:27**

Appeals, need for immediate appeal,
2:32

Bench trial

civil cases, **2:25, 2:33**

criminal cases, **2:35**

Bifurcation of trial, **2:15**

Cameras and other media devices,
use, **2:13, 4:40**

Consolidation of actions, **2:14**

Death

judge, **2:9**

party, **2:6, 4:33**

Directed verdict motions, **2:29**

Evidence, **2:18 et seq.**

Exclusion of public, **2:10**

Guilty plea agreements, **2:39**

Judge

bench trial

civil cases, **2:25, 2:33**

criminal cases, **2:35**

control of examination of wit-
nesses, **2:17**

death or disability of judge, **2:9**

general conduct and demeanor, **2:8**

jury trial ordered by judge, **2:28**

presence, **2:7**

Jury trial ordered by judge, **2:28**

Legal and equitable claims combined,
2:30

Motions

directed verdict motions, **2:29**

findings and judgment, motions to
amend, **2:34**

CONDUCT OF TRIAL—Cont’d

- Motions—Cont’d
 - own motion of court, exclusion of improper evidence, **2:20**
 - severance of actions, **2:14**
- New trial, **2:31**
- Own motion of court, exclusion of improper evidence, **2:20**
- Parties, **2:2 et seq.**
- Plea agreements, **2:39**
- Pretrial hearing and order, control of proceedings, **2:23**
- Publicity, **2:13**
- Realignment of parties, **2:16**
- Seating arrangements at trial, **2:3**
- Settlement agreements required to be in writing, **2:38**
- Severance of actions, **2:14**
- South Carolina law, **2:37**
- Stipulations, control of proceedings, **2:24**
- United States Constitution, rights, **2:36**
- Voir dire examination, **6:10 et seq.**
- Witnesses
 - judge’s control of examination of witnesses, **2:17**
 - questioning of witnesses by judge, **2:21**

CONFESSION OF JUDGMENT

- Generally, **35:16**

CONFESSIONS

- Admissibility, **31:2 et seq.**
- Attorney, right to have attorney present, **31:3**
- Co-defendants, admissibility of statements of, **31:19**
- Corroboration, **31:18**
- Custodial confessions and Miranda rule, **31:6**
- Custody requirement, **31:7**
- Definition, **31:1**
- Effect of confessions, **31:18**
- Fear, **31:15**
- Inducements, **31:14**
- Jackson v Denno hearing, **31:5**
- Mental capacity, **31:17**

CONFESSIONS—Cont’d

- Miranda rule
 - generally, **31:6 et seq.**
 - compliance, **31:12**
 - custodial confessions, **31:6**
 - interrogation requirement, **31:8**
 - statements taken in violation, **31:10**
 - warnings, who must give, **31:11**
- Misrepresentations by police, **31:16**
- Police, misrepresentations by, **31:16**
- “Question-First” tactic, impropriety of, **31:9**
- Threats and fear, **31:15**
- Voluntariness, **31:4**
- Waiver of right to remain silent, **31:13**
- Warnings, who must give, **31:11**

CONFIDENTIAL

COMMUNICATIONS

- Generally, **23:1 et seq.**
- Attorney-client privilege
 - generally, **23:3 et seq.**
 - restrictions upon operation, **23:4**
 - waiver, **23:5**
- Attorney work product doctrine, **23:17**
- Child Protection Code, abrogation of privilege for abuse and neglect cases, **23:19**
- “Common interest” doctrine, **23:18**
- Credit reports, qualified privilege against defamation, **23:13**
- Employers, qualified privilege against defamation, **23:12**
- Husband-wife privilege, **23:2**
- Informants, identity, **23:11**
- Judicial proceedings, absolute privilege for statements, **23:14**
- Mercantile agencies, qualified privilege against defamation, **23:13**
- Nature of, **23:1**
- Physician-patient privilege, **23:7**
- Priest-penitent privilege, **23:6**
- Probation agent, absolute privilege for statements made to, **23:16**
- Reporter’s Shield Law and First Amendment, **23:15**

INDEX

CONFIDENTIAL

COMMUNICATIONS—Cont'd

- Reports, **23:8**
- Trade secrets, **23:10**
- Voting, **23:9**

CONFRONTATION OF WITNESSES

- Constitutional guarantee, **27:2, 27:3**
- Crawford v. Washington, **27:3**

CONSENT

- Fast Track jury trials, consent of parties, **42:3**
- Search and seizure, **30:12**

CONSERVATORS

- Appointment, petitions, **1:50**

CONSOLIDATION OF ACTIONS

- Generally, **2:14**

CONSPIRACY

- Coconspirators, admissions, **18:6**
- Motions, **4:45**

CONSTITUTIONAL LAW

- Search and seizure, **30:2**

CONSTITUTION OF UNITED STATES

- Trial rights, generally, **2:36**

CONSTRUCTION OF STIPULATION

- Generally, **10:20**

CONSTRUCTIVE TRUSTS

- Burden of proof, **9:8**

CONTEMPT OF COURT

- Generally, **5:1 et seq.**
- Acts constituting contempt, **5:4, 5:5**
- Attorneys, right to counsel in contempt cases, **1:52**
- Burden of proof, **5:7**
- Civil contempt, **5:2**
- Criminal contempt, **5:2**
- Direct contempt, **5:3**
- Disobedience of court constituting contempt, **5:6**
- Indemnification as punishment for contempt, **5:9**

CONTEMPT OF COURT—Cont'd

- Indirect contempt, **5:3**
- Power of court to punish for contempt, **5:1**
- Punishment
 - generally, **5:8**
 - indemnification, **5:9**
 - power of court to punish, **5:1**

CONTINUANCE

- Generally, **3:1 et seq.**
- Absence of parties, **3:6**
- Absence of witnesses, **3:8**
- Agreement, striking the case from the docket by agreement, **3:16**
- Amendments to pleadings, **3:11 et seq.**
- Attorneys, absence or incapacity, **3:7**
- Authority to grant, **3:2**
- Claims, adding, **3:13**
- Complex case designation, **3:19**
- Counsel, absence or incapacity, **3:7**
- Damages, increasing prayer, **3:14**
- Defenses, adding, **3:13**
- Incapacity of parties, **3:6**
- Incapacity of witnesses, **3:8**
- Local prejudice, **3:5**
- Motions, considerations in deciding, **3:3**
- Preparation, adequacy of time, **3:4**
- Pretrial publicity, **3:5**
- Recess, motion for, **3:18**
- Stay of proceedings, **3:17**
- Striking the case from the docket by agreement, **3:16**
- Subpoenaed witnesses, **3:9**
- Surprise and other good cause, **3:15**
- Unavailability due to health reasons, **3:10**
- Witnesses
 - absence, **3:8**
 - health, unavailability due, **3:10**
 - incapacity, **3:8**
 - subpoenaed witnesses, **3:9**

CONTINUING CONDITION

- Presumptions, **12:8**

CONVICTION

- Proof of convictions to impeach, **25:15 et seq.**
- Witnesses' prior convictions, procedure for admitting, **25:17**

COPIES

- Admissibility of evidence, **17:18**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

CORPUS DELICTI

- Burden of proof, **9:14**

CORROBORATION EVIDENCE

- Relevancy, **13:6**

COSTS

- Generally, **36:12**
- Attorney's fees as costs, **36:14**
- Death penalty cases, **36:13**
- Fast Track jury trials, no right to appeal and costs, **42:5**
- Judgments. **JUDGMENTS**
- Settlements and assessment of costs, **36:15**
- Taxation of costs, procedure, **36:11**

COUNSEL

- Abortions, **1:49**
- Abuse and neglect proceedings, **1:36**
- Admission to practice of law, required, **1:2**
- Adoptions, **1:39**
- AIDS, isolation of infected persons, **1:47**
- Alcohol abuse, role of attorney in commitment, **1:42**
- Appointment of conservator, petitions, **1:50**
- Binding on client, acts of attorney as, **1:56**
- Capital cases, **1:28**
- Champerty, **1:14**
- Children
 - abortions, **1:49**
 - mental health treatment, **1:46**
- Civil cases, right to counsel
 - generally, **1:25**
 - duty of judge to inform, **1:55**

COUNSEL—Cont'd

- Civil cases, right to counsel—Cont'd
 - waiver of right, **1:55**
- Comments on opposing counsel in closing argument, **33:10**
- Commitment proceedings
 - alcohol abuse, **1:42**
 - children in need of mental health treatment, commitment, **1:46**
 - commitment, **1:44**
 - drug abuse, **1:42**
 - mentally ill persons, **1:44**
 - tuberculosis, persons, **1:48**
 - venereal disease, including HIV, isolation of persons, **1:47**
- Compensation
 - collection, **1:20**
 - costs, fees, **36:14**
 - division of fees between lawyers not in same firm, **1:21**
 - liens securing, **1:22**
 - pro se litigants, **1:19**
 - right to compensation
 - generally, **1:16**
 - common fund, **1:18**
- Competency to testify
 - prosecutor, **21:12**
 - trial counsel, **21:10**
- Competent counsel, right, **1:53**
- Conduct
 - generally, **1:4 et seq.**
 - binding on client, acts of attorney as, **1:56**
 - discipline for improper conduct, **1:15**
 - mistrial, **4:44, 32:6**
 - opening statements, improper conduct and prejudice, **7:5**
 - Rule 11, SCRCP, **1:7**
 - trial, during, **1:6**
- Confessions, right to have attorney present, **31:3**
- Confidential communications with client
 - generally, **23:3 et seq.**
 - Reporter's Shield Law and First Amendment, **23:15**
 - restrictions upon operation, **23:4**

INDEX

COUNSEL—Cont'd

- Confidential communications with client—Cont'd
 - waiver, **23:5**
- Confidential nature of work product, **23:17**
- Contempt cases, right to counsel, **1:52**
- Continuances, absence or incapacity of counsel, **3:7**
- Criminal cases, right to counsel
 - generally, **1:26**
 - critical stages, **1:27**
 - duty of judge to inform, **1:54**
 - hearing to determine fitness to stand trial, **1:45**
 - nonlawyers appearing in criminal cases, **1:3**
 - waiver of right, **1:54**
- Delinquency proceedings, **1:37**
- Disabled persons, role of prosecutors in commitment, **1:44**
- Discipline for improper conduct, **1:15**
- Disqualifying counsel, **1:57**
- Drug abuse, role of attorney in commitment, **1:42**
- Emergency protective custody, **1:35**
- Eminent domain proceedings, **1:51**
- Family court, right to counsel, **1:32**
- Fees
 - collection, **1:20**
 - costs, fees, **36:14**
 - division of fees between lawyers not in same firm, **1:21**
 - liens securing, **1:22**
 - pro se litigants, **1:19**
 - recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**
 - right to compensation
 - generally, **1:16**
 - common fund, **1:18**
 - recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**
- General conduct, **1:4**

COUNSEL—Cont'd

- Hearing to determine fitness to stand trial on criminal charges, **1:45**
- HIV, isolation of infected persons, **1:47**
- Hybrid representation, **1:31**
- Improper conduct, discipline for, **1:15**
- Integrity of legal profession, **1:13**
- Juveniles, interstate compact, **1:40**
- Layman II*, recovery of attorney's fees against state for lack of substantial justification under, **1:17**
- Liability to third party arising out of representation of client, **1:5**
- Marital litigation and historical note, **1:33**
- Mental health treatment, **1:46**
- Mentally ill person, role of attorney in commitment, **1:43**
- Mentally retarded persons, role of prosecutors in commitment, **1:44**
- Minors seeking abortions, **1:49**
- Mistrial, conduct of counsel, **4:44**
- Nonlawyers, appearance in criminal cases, **1:3**
- Obligations to court, **1:9**
- Parental rights, termination, **1:38**
- Perjury by criminal defendant, **1:8**
- Petitions
 - appointment of conservator, **1:50**
 - post-conviction relief, **1:29**
- Practice of law, need for counsel admitted, **1:2**
- Pretrial publicity, **1:10**
- Privileged communications with client
 - generally, **23:3 et seq.**
 - restrictions upon operation, **23:4**
 - waiver, **23:5**
- Prosecutors, **1:12**
- Pro se representation. See index heading PRO SE REPRESENTATION
- Protective custody, **1:34, 1:35**
- Publicity, pretrial, **1:10**
- Right to compensation, generally, **1:16**

COUNSEL—Cont'd

- Right to counsel, generally, **1:24 et seq., 1:41**
- Role of attorney, generally, **1:1 et seq.**
- Rule 11, SCRPC, **1:7**
- Sale of law practice, **1:23**
- Self-representation, **1:30**
- Sexually violent predator cases, right to counsel in, **1:58**
- Substantial justification, recovery of attorney's fees against state for lack of substantial justification under Layman II, **1:17**
- Summation, comments on opposing counsel, **33:10**
- Third party, liability of attorney arising out of representation of client, **1:5**
- Trial conduct, **1:6**
- Trial of case, **1:1**
- Tuberculosis, role of attorney in commitment proceedings, **1:48**
- Venereal disease, isolation of infected persons, **1:47**
- Waiver of right to counsel
 - civil cases, **1:55**
 - criminal cases, **1:54**
- Witness, attorney, **1:11**
- Work product doctrine, **23:17**

COURT

- Alternative dispute resolution, Circuit Court confirmation of arbitration awards, **39:13**
- Attorney's obligations to court, **1:9**
- Bench trial
 - civil cases, **2:25, 2:33**
 - criminal cases, **2:35**
- Exclusion of improper evidence on court's own motion, **2:20**
- Family court
 - admissibility of documentary evidence, **17:19**
 - right to counsel, **1:32**
- Judges
 - bench trial
 - civil cases, **2:25, 2:33**
 - criminal cases, **2:35**

COURT—Cont'd

- Judges—Cont'd
 - competency of judge to testify, **21:8**
 - conduct, **2:8, 32:7**
 - criminal cases, judge as trier of fact, **2:35**
 - demeanor, **2:8**
 - equity actions, judge as trier of facts, **2:25**
 - jury trials, order by judge, **2:28**
 - mistrial, conduct of judge, **32:7**
 - presence, **2:7**
 - questioning by judge, **2:21**
 - right to counsel
 - civil cases, duty of judge to inform, **1:55**
 - criminal cases, duty of judge to inform, **1:54**
 - view, presence of judge, **20:3**
 - witnesses, examination of witnesses, control, **2:17**

COURT-APPOINTED EXPERTS

- Expert testimony, **15:16**

CREDIBILITY OF WITNESSES

- Generally, **25:1 et seq.**
- Background evidence, admission of, **13:7**
- Bias and interest, **25:7**
- Character and reputation evidence, **25:13**
- Collateral issues, **25:19**
- Crimes, evidence of, generally, **13:18**
- Cross-examination, use of prior inconsistent statements or testimony, **27:10**
- Cross-examiner, prior consistent statements made to, **25:10**
- Disclosure, state's duty of, **25:3**
- Exclusionary rule, **25:11**
- Falsus in uno, falsus in omnibus, **25:6**
- Impeachment
 - generally, **25:2 et seq.**
 - bias and interest, **25:7**
 - character and reputation evidence, **25:13**
 - collateral issues, **25:19**

INDEX

CREDIBILITY OF WITNESSES

—Cont'd

Impeachment—Cont'd
crimes, evidence of, generally, **13:18**
cross-examination, use of prior inconsistent statements or testimony, **27:10**
cross-examiner, prior consistent statements made to, **25:10**
disclosure, state's duty of, **25:3**
exclusionary rule, **25:11**
falsus in uno, falsus in omnibus, **25:6**
misconduct, **25:14**
moral turpitude, **13:19**
preservation of evidence, duty, **25:4**
pretrial intervention programs, completion of, **25:16**
prior bad acts and misconduct, **25:14**
prior consistent statements, **25:10**
prior convictions
generally, **25:15 et seq.**
scope of and procedure for admitting, **25:17**
prior inconsistent statements, **25:8 to 25:11, 25:13**
prior testimony, cross-examination, **27:10**
voucher rule, **25:5**
Moral turpitude, **13:19**
Preservation of evidence, duty, **25:4**
Pretrial intervention programs, completion of, **25:16**
Prior bad acts and misconduct, **25:14**
Prior consistent statements, **25:10, 25:12**
Prior convictions
generally, **25:15 et seq.**
scope of and procedure for admitting, **25:17**
Prior inconsistent statements, **25:8 to 25:11, 25:13**
Prior misconduct, **25:14**
Reputation evidence, **25:13**
Rule 609, SCRE, **13:20**
Voucher rule, **25:5**

CREDIT REPORTS

Qualified privilege against defamation, **23:13**

CRIME VICTIMS

Character of victim, **13:21**
Closing argument, victim impact evidence, **33:3**
Victim impact evidence
closing argument, **33:3**
relevancy, **13:28**

CRIMINAL CASES

Adverse inference from privilege against self-incrimination, **24:4**
Attorneys, right to counsel
generally, **1:26**
critical stages, **1:27**
duty of judge to inform, **1:54**
hearing to determine fitness to stand trial, **1:45**
nonlawyers appearing in criminal cases, **1:3**
waiver of right, **1:54**
Burden of proof
generally, **9:13 et seq.**
corpus delicti, **9:14**
defendant's burdens, **9:16**
Compelling attendance of witnesses, **10:27, 10:28**
Courtroom environment, motions relating to, **4:40**
Death penalty
attorneys' role, **1:28**
items of cost and disbursement, **36:13**
Directed verdict, motion, **4:47**
Dismissals, grounds, **4:42 et seq.**
Fitness to stand trial, hearing to determine, **1:45**
Innocence presumptions, **12:11**
Instructions to jury, **34:7**
Involuntary nonsuit motions, **4:47**
Judge as trier of fact, **2:35**
Judicial notice, **11:9**
Nonlawyers appearing in criminal cases, **1:3**
Peremptory challenges, **6:18, 6:20**
Pleas in bar, grounds, **4:42 et seq.**

CRIMINAL CASES—Cont'd

- Presence of parties, **2:2**
- Presumptions
 - generally, **12:10 et seq.**
 - innocence and reasonable doubt, **12:11**
 - lesser included offenses, **12:12**
- Pro se representation, **1:30**
- Reasonable doubt presumptions, **12:11**
- Relevancy, prior or subsequent occurrences, **13:12**
- Sexual conduct, hearsay exception, **16:29**
- Spoilation of evidence. See index heading SPOILATION OF EVIDENCE
- Victim
 - character of victim, **13:21**
 - victim impact evidence
 - closing argument, **33:3**
 - relevancy, **13:28**
- Voluntary dismissal by state, **4:7**

CRIMINAL CONTEMPT

- Generally, **5:2**

CRIMINAL CONVICTION

- Proof of convictions to impeach, **25:15 et seq.**
- Witnesses' prior convictions, procedure for admitting, **25:17**

CROSS-EXAMINATION

- Generally, **27:1 et seq.**
- Adversity as basis, **27:6**
- Confrontation clause, **27:2, 27:3**
- Constitutional right to cross, **27:2, 27:3**
- Crawford v. Washington, **27:3**
- Depositions, use, **27:9**
- Expert witnesses, **15:18**
- Hostility as basis, **27:7**
- Hypnosis, use of posthypnotic testimony, **27:12**
- Impeachment of witnesses, use of testimony to impeach, **27:10**
- Multiparty examination, **27:8**
- Prior inconsistent statements, use, **27:10**
- Questions, form, **27:4**

CROSS-EXAMINATION—Cont'd

- Recross-examination, **28:4**
- Right to cross, **27:2, 27:3**
- Scope, **27:5**

CUSTODY

- Chain of custody, real and demonstrative evidence, **19:3**
- Confessions, **31:6, 31:7**
- Protective custody, **1:34, 1:35**

DAMAGES

- Burden of proof, **9:6**
- Closing argument, **33:8**
- Continuances, increasing prayer for damages, **3:14**
- Default, damages hearing, **4:12**
- Punitive. See index heading PUNITIVE DAMAGES
- Relevancy of prior injury to proof of damage, **13:14**

DEAD MAN'S STATUTE

- Disqualification under statute, **22:1**
- Exceptions to dead man's statute, **22:3**
- Objections, **22:4**
- Persons disqualified, **22:2**
- Waiver, **22:4**
- Wrongful death cases, **22:5**

DEATH

- Conduct of trial. See index heading CONDUCT OF TRIAL
- Dead man's statute. See index heading DEAD MAN'S STATUTE
- Penalty. See index heading DEATH PENALTY
- Presumptions, **12:5**
- Survival of claims, **4:33**

DEATH PENALTY

- Attorneys' role, **1:28**
- Charge to jury, special charge, **34:9**
- Instructions to jury, special charge, **34:9**
- Items of cost and disbursement, **36:13**

DECEDENTS' ESTATES

- Burden of proof, claims against estates, **9:7**

INDEX

DECEIT

See index heading FRAUD OR DECEIT

DECLARATION AGAINST INTEREST

Distinguished from admissions, **18:1**

Hearsay exception, **16:35**

DECLARATORY JUDGMENTS

Generally, **2:26**

DEFAULT JUDGMENTS

Generally, **4:8 et seq., 36:9**

Appearance, **4:11**

Appellate practice notes, **4:19**

Avoiding and reopening default judgments, **4:16 et seq.**

Damages hearing, **4:12**

Discovery sanction, default as, **4:36**

Domestic relations, **4:13**

Entry of default versus default judgment, **4:10**

Inadvertence, ground for reopening, **4:17**

Limitations on relief available, **4:15**

Make, inadvertence, surprise, or excusable neglect, **4:17**

Mistake, inadvertence, surprise, or excusable neglect, **4:17**

Nonresidents, judgments against, **4:14**

Procedure for taking, **4:9**

Reopening default judgments, **4:16 et seq.**

Vacating default judgments, **4:16 et seq.**

Vacating judgment, **4:18**

DEFENSES

Continuances, adding defenses, **3:13**

Disclosure by criminal defendant of witness list or defenses, **6:12**

Motion to strike insufficient defense, **10:10**

DEFINITIONS

Confession, **31:1**

Spoilation of evidence, **41:1**

DELINQUENCY PROCEEDINGS

Attorneys, **1:37**

DEMONSTRATIVE EVIDENCE

Generally, **19:1 et seq.**

Articles, **19:6**

Chain of custody, **19:3**

Charts, **19:7**

Completeness Rule, written or recorded statements, **19:17**

Computer generated video animations, **19:16**

Demonstrations, **19:8**

Depositions on videotapes, **19:11**

Diagrams, **19:7**

Drawings, **19:7**

Experiments, **19:8**

Laying foundation

chain of custody, **19:3**

photographic evidence, **19:12**

relevancy, **19:2**

Maps, **19:7**

Models, **19:7**

Objects, **19:6**

Personal injuries, displaying to jury, **19:4**

Photographs, **19:9 et seq.**

Relevancy, laying foundation, **19:2**

Scientific test results, **19:5**

Sound recordings, **19:15**

Video animations, **19:16**

Videotapes

generally, **19:10**

depositions, **19:11**

X-rays, **19:14**

DEPOSITIONS

Cross-examination, use of depositions, **27:9**

Proof of facts, using deposition evidence as proof at trial, **10:16**

Videotape depositions, **19:11**

DIAGNOSIS

Hearsay exception for statements for purpose, **16:10**

DIAGRAMS

Real and demonstrative evidence, **19:7**

DIRECTED VERDICT

Civil cases, **4:47**

DIRECTED VERDICT—Cont'd

- Conduct of trial, **2:29**
- Criminal cases, **4:47**
- Motions after verdict, **37:2**
- Opening statements, directed verdict based, **7:8**
- Order, review of order regarding directed verdict motion, **37:3**
- Review of order regarding directed verdict motion, **37:3**

DIRECT EVIDENCE

- Circumstantial evidence distinguished, **14:2**

DIRECT EXAMINATION

- Generally, **26:1 et seq.**
- For detailed treatment see index heading EXAMINATION OF WITNESSES

DISABILITY

- Commitment, attorneys' role, **1:44**
- Judge, disability of judge affecting conduct of trial, **2:9**

DISCHARGE OF JURY

- Reassembly after discharge, **35:15**

DISCIPLINARY ACTIONS

- Attorneys, discipline for improper conduct, **1:15**
- Spoilation of evidence, **41:7**

DISCLOSURE

- Burden of proof
 - duty to disclose, **9:11**
 - nondisclosure, **9:10**
- Credibility of witnesses, state's duty of disclosure, **25:3**
- Expert opinion, disclosure of facts underlying, **15:14**
- Privileged communications, **23:1 et seq.**
- Witness list or defenses, disclosure by criminal defendant, **6:12**

DISCOVERY

- Appellate review of pretrial discovery order, **4:37**
- Cross-examination, use of depositions, **27:9**
- Default as a discovery sanction, **4:36**

DISCOVERY—Cont'd

- Depositions
 - cross-examination, use of depositions, **27:9**
 - proof of facts, using deposition evidence as proof at trial, **10:16**
 - videotape depositions, **19:11**
- Enforcement of judgments, post-judgment discovery, **40:4**
- Excusing proof at trial, use of discovery devices, **10:13**
- Immediate appellate review of pre-trial discovery order, **4:38**
- Interrogatories, proof of facts, **10:15**
- Limiting scope of discovery, **4:38**
- Motions to compel discovery and sanctions, **4:35**
- Post-judgment discovery, **40:4**
- Protective orders, **4:38**
- Requests to admit, **10:14**
- Sanctions, **4:35, 4:36, 10:17**
- Videotape depositions, **19:11**

DISCRIMINATION OR PREJUDICE

- Batson v. Kentucky, discrimination in jury selection, **6:8**
- Closing argument, appeals to prejudice and sympathy, **33:5**
- Continuances, local prejudice, **3:5**
- Impeachment of witnesses, **25:7**
- Jury selection, discriminatory, **6:8**
- Mistrial, mitigating prejudice, **32:16**
- Opening statements, **7:5**

DISMISSAL

- Change of venue due to pretrial publicity, **4:29**
- Conspiracy, **4:45**
- Court order, failure to obey, **4:23**
- Criminal cases
 - grounds for dismissal and plea in bar, **4:42 et seq.**
 - involuntary nonsuit motions, **4:47**
 - voluntary dismissal of charges by state, **4:7**
- Criminal charges by state, **4:7**
- Double jeopardy, **4:43, 4:44**

INDEX

DISMISSAL—Cont'd

- Failure to comply with Rules of Civil Procedure, **4:22**
- Failure to obey court order, **4:23**
- Failure to prosecute, **4:21, 4:41**
- Failure to state claim upon which relief can be granted, **4:30**
- Indispensable party, failure to join, **4:31**
- Involuntary dismissal, civil cases, **4:20 et seq.**
- Involuntary nonsuit
 - post verdict motions, **37:4**
 - trial motions in civil and criminal cases, **4:47**
- Long-arm statute, **4:26**
- Multiple parties and claims, voluntary dismissal in actions involving, **4:6**
- Nolle prosequi, **4:7**
- Opening statements, dismissal based, **7:8**
- Personal jurisdiction, lack, **4:25 et seq.**
- Pretrial publicity, change of venue due to, **4:29**
- Procedure rules in civil cases, failure to comply, **4:41**
- Process, insufficient, **4:25 et seq.**
- Prosecute, failure, **4:21, 4:41**
- Publicity, change of venue due to pretrial publicity, **4:29**
- Reopening dismissal, **4:41**
- Rules of procedure in civil cases, failure to comply, **4:41**
- Same claim pending in another action between same parties, **4:34**
- Service of process, sufficiency, **4:25 et seq.**
- Speedy trial, right, **4:46**
- Subject matter jurisdiction, lack, **4:24**
- Venue
 - change of venue due to pretrial publicity, **4:29**
 - improper venue, **4:28**
- Voluntary dismissal
 - generally, **4:5**

DISMISSAL—Cont'd

- Voluntary dismissal—Cont'd
 - multiple parties and claims, voluntary dismissal in actions involving, **4:6**

DISQUALIFICATION

- Dead man's statute, **22:1**
- Experts, **15:7**
- Jurors, **6:5**

DOCUMENTARY EVIDENCE

- Generally, **17:1 et seq.**
- Ancient documents, **16:21, 17:8**
- Authentication
 - generally, **17:2**
 - admissibility of authenticated documents, **17:12**
 - circumstantial evidence, distinguishing characteristics, **17:6**
 - comparison of author's handwriting, **17:5**
 - direct method, **17:4**
 - fingerprint evidence, **17:13**
 - proof, avoiding, **17:11**
 - self-authenticating documents, **17:10**
 - social media evidence, **17:21**
- Best evidence rule
 - generally, **17:14 et seq.**
 - duplicates, **17:15**
 - secondary evidence, **17:18**
 - summaries, **17:16**
- Circumstantial evidence, distinguishing characteristics, **17:6**
- Criminal restitution hearings, use of summaries in, **17:17**
- Duplicates, admissibility, **17:15**
- Family court, admissibility of documents in, **17:19**
- Fingerprint evidence, **17:13**
- Hearsay
 - ancient documents exception, **16:21**
 - documents affecting interest in property exception, **16:20**
- Process, evidence produced, **17:9**
- Proof of facts, **10:22**
- Public records, **17:7**

DOCUMENTARY EVIDENCE

—Cont'd

- Reports, **17:7**
- Rules of Evidence, **17:3**
- Seal, filing documents under seal, **17:20**
- Secondary evidence, admissibility, **17:18**
- Self-authenticating documents, **17:10**
- Social media evidence, authentication, **17:21**
- South Carolina Rules of Evidence, **17:3**
- Summaries, admissibility, **17:16**

DOMESTIC RELATIONS

- Default judgment, **4:13**
- Presumptions, **12:7**

DOUBLE JEOPARDY

- Motions, **4:43, 4:44**

DRAWINGS

- Real and demonstrative evidence, **19:7**

DRUG ABUSE

- Commitment, attorneys' role, **1:42**

DRUNKENNESS

- Commitment for alcohol abuse, attorneys' role, **1:42**

DUPLICATES

- Admissibility of evidence, **17:15**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

DYING DECLARATIONS

- Hearsay exception, **16:34**

ELECTION OF REMEDIES

- Post-verdict motions, **37:11**

ELECTRONICALLY STORED INFORMATION

- Privacy protection for court filings, **42:3, 42:4**
- Spoilation of evidence, application of doctrine in the technology realm, **41:5**

EMERGENCIES

- Protective custody, **1:35**

EMINENT DOMAIN

- Attorney's role, **1:51**

EMOTION

- Excited utterance, hearsay exception, **16:8**

EMPLOYMENT

- Admissions by employees, **18:9**
- Defamation, qualified privilege of employer, **23:12**

ENFORCEMENT OF JUDGMENTS

- Generally, **36:16, 40:1 to 40:9**
- Discovery, post-judgment discovery, **40:4**
- Execution, writ of, **40:2**
- Expiration of judgment, **40:9**
- Hearing on supplementary proceedings, **40:6**
- Receivers, appointment of, **40:5**
- Supplementary proceedings, generally, **40:3**
- Third party debtor of judgment debtor, property in hands of, **40:7**

ENGINEERS

- Opinion or expert evidence, testimony by unlicensed engineers, **15:20**

EQUITY

- Combination of legal and equitable claims, **2:30**
- Judge as trier of fact, **2:25**

ESTATES

- Burden of proof, claims against decedents' estates, **9:7**

ETHICAL CONSIDERATIONS

- Spoilation of evidence, **41:7**

EVIDENCE

- Admissibility
 - authenticated documents, **17:12**
 - co-defendants, admissibility of statements of, **31:19**
 - confessions, **31:2 et seq.**

INDEX

EVIDENCE—Cont'd

Admissibility—Cont'd

- duplicates, **17:15**
- family court, documentary evidence, **17:19**
- mistrial, inadmissible, evidence, **32:5**
- motions to strike inadmissible evidence, **29:5**
- other bad acts admissible as part of res gestae of crime charged, **13:25**
- prior convictions, procedure for admission, **25:17**
- prior inconsistent statements, **25:9**
- ruling, **2:18**
- secondary evidence, **17:18**
- summaries, **17:16**

Admissions

- generally, **18:1 et seq.**
- agents, **18:9**
- coconspirators, **18:6**
- compromise negotiations and settlement, **18:7**
- conduct of party-opponent, **18:2**
- declarations against interest distinguished, **18:1**
- hearsay exception, **16:26**
- judicial admissions
 - party-opponent, **18:5**
 - proof of facts, **10:24**
- plea negotiations, admissions made in connection with, **18:8**
- remorse of party-opponent, lack of, **18:4**
- requests to admit, **10:14**
- servants, **18:9**
- settlements, **18:7**
- silence of party-opponent, **18:3**

Articles, 19:6

Best evidence rule

- generally, **17:14 et seq.**
- duplicates, **17:15**
- secondary evidence, **17:18**
- summaries, **17:16**

Burden of going forward, 9:1

Burden of proof

- bail decisions, **9:17**

EVIDENCE—Cont'd

Burden of proof—Cont'd

- bailment cases, **9:12**
- burden of going forward, **9:1**
- circumstantial evidence, **14:3**
- civil cases
 - constructive trust, **9:8**
 - contested wills and claims against estates, **9:7**
 - damages, **9:6**
 - fraud cases, **9:9 et seq.**
 - party with burden, **9:3**
 - quantum of evidence, **9:5**
- constructive trusts, **9:8**
- contempt proceedings, **5:7**
- contested wills and claims against estates, **9:7**
- corpus delicti, **9:14**
- criminal cases
 - generally, **9:13 et seq.**
 - corpus delicti, **9:14**
 - defendant's burdens, **9:16**
- damages, **9:6**
- disclosure
 - duty to disclose, **9:11**
 - nondisclosure, **9:10**
- estates, claims against, **9:7**
- fraud cases
 - generally, **9:9 et seq.**
 - duty to disclose, **9:11**
 - nondisclosure, **9:10**
- going forward, **9:1**
- partnership funds used by managing partner, **9:18**
- party with burden in civil cases, **9:3**
- prima facie case, **9:2**
- statutory allocation, **9:4**

Character evidence, 25:13

Charts, 19:7

Circumstantial evidence

- generally, **14:1 et seq.**
- authentication, **17:6**
- burden of proof, **14:3**
- direct evidence versus circumstantial evidence, **14:2**
- habit or routine practice, **14:6**
- inferences, **14:9, 14:10**

EVIDENCE—Cont'd

Circumstantial evidence—Cont'd
 jury instruction, **14:11**
 parol evidence rule, **14:8**
 res ipsa loquitur, **14:7**
 similar acts and occurrences, **14:5**
 state of mind, **14:4**
 Civil judgment inadmissible in criminal case, **16:33**
 Closing arguments, commenting on matters not in evidence, **33:7**
 Compromise or settlement, offers, **10:24**
 Demonstrations, **19:8**
 Demonstrative evidence
 generally, **19:1 et seq.**
 articles, **19:6**
 chain of custody, **19:3**
 charts, **19:7**
 demonstrations, **19:8**
 depositions on videotapes, **19:11**
 diagrams, **19:7**
 drawings, **19:7**
 experiments, **19:8**
 laying foundation
 chain of custody, **19:3**
 photographic evidence, **19:12**
 relevancy, **19:2**
 maps, **19:7**
 models, **19:7**
 objects, **19:6**
 personal injuries, displaying to jury, **19:4**
 photographs, **19:9 et seq.**
 relevancy, laying foundation, **19:2**
 scientific test results, **19:5**
 sound recordings, **19:15**
 videotapes
 generally, **19:10**
 depositions, **19:11**
 x-rays, **19:14**
 Denials, **10:3**
 Deposition evidence, using as proof at trial, **10:16**
 Diagrams, **19:7**
 Discovery
 depositions
 cross-examination, use of depositions, **27:9**

EVIDENCE—Cont'd

Discovery—Cont'd
 depositions—Cont'd
 proof of facts, using deposition evidence as proof at trial, **10:16**
 videotape depositions, **19:11**
 excusing proof at trial, use of discovery devices, **10:13**
 interrogatories, proof of facts, **10:15**
 motions to compel discovery and sanctions, **4:35**
 requests to admit, **10:14**
 sanctions
 motions to compel discovery and sanctions, **4:35**
 proof of facts, **10:17**
 Documentary evidence
 generally, **17:1 et seq.**
 ancient documents, **17:8**
 authentication
 generally, **17:2**
 admissibility of authenticated documents, **17:12**
 circumstantial evidence, distinguishing characteristics, **17:6**
 comparison of author's handwriting, **17:5**
 direct method, **17:4**
 fingerprint evidence, **17:13**
 proof, avoiding, **17:11**
 self-authenticating documents, **17:10**
 best evidence rule
 generally, **17:14 et seq.**
 duplicates, **17:15**
 secondary evidence, **17:18**
 summaries, **17:16**
 criminal restitution hearings, use of summaries in, **17:17**
 duplicates, admissibility, **17:15**
 family court, admissibility of documents in, **17:19**
 hearsay
 ancient documents exception, **16:21**

INDEX

EVIDENCE—Cont'd

Documentary evidence—Cont'd

hearsay—Cont'd

- documents affecting interest in property exception, **16:20**
- process, evidence produced, **17:9**
- proof of facts, **10:22**
- public records, **17:7**
- reports, **17:7**
- rules of Evidence, **17:3**
- secondary evidence, admissibility, **17:18**
- self-authenticating documents, **17:10**
- South Carolina Rules of Evidence, **17:3**
- summaries, admissibility, **17:16**

Drawings, **19:7**

Exclusion. See index heading EXCLUSION OF EVIDENCE

Excusing proof of facts at trial

- discovery devices, use, **10:13**
- judicial notice
 - generally, **11:1 et seq.**
 - criminal cases, **11:9**
 - examples, **11:6, 11:7**
 - government and political subdivisions, facts about, **11:5**
 - procedural aspects, **11:2**
 - proceedings and official records, **11:3**
 - South Carolina Rules of Evidence provision, **11:8**
 - statutes, ordinances and administrative rules, **11:4**
 - pleadings, pretrial conferences, and pretrial motions used, **10:2**
 - stipulations, use, **10:18**

Exhibits, disposition of, **36:19**

Experiments, **19:8**

Expert testimony and opinion evidence

- generally, **15:1 et seq.**
- admissibility of expert opinion testimony, **15:8**
- basis of opinion, **15:13**
- common knowledge exception, **15:5**

EVIDENCE—Cont'd

Expert testimony and opinion evidence—Cont'd

- court-appointed experts, **15:16**
- cross-examination of experts, **15:18**
- disclosure of facts underlying expert's opinion, **15:14**
- eyewitness reliability, **15:12**
- lay witnesses, testimony, **15:2**
- nonscientific expert testimony, admissibility of, **15:11**
- nontestifying experts, **15:6**
- qualifications of experts, **15:7**
- reading reports by experts into evidence, **15:15**
- subject matter of expert testimony, **15:9, 15:10**
- ultimate issue, opinion, **15:3**
- weight and sufficiency of expert testimony, **15:17**

Eyewitness reliability, **15:12**

Facts, proof, **10:1 et seq.**

Fingerprint evidence, authentication, **17:13**

Good faith requirement, **10:5**

Hearsay

- generally, **16:1 et seq.**
- absence of public record or entry exception, **16:17**
- admissions exception, **16:26**
- ancient documents exception, **16:21**
- assertions that are not hearsay, **16:3**
- business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- child abuse or neglect exception, **16:28**
- child under twelve years of age, out of court statements by, **16:27**
- civil judgment inadmissible in criminal case, **16:33**

EVIDENCE—Cont’d

Hearsay—Cont’d

credibility of declarant, **16:39**
 criminal sexual conduct cases
 exception, **16:29**
 declarations against interest,
 exception, **16:35**
 documents affecting interest in
 property exception, **16:20**
 dying declaration exception, **16:4**
 exceptions
 absence of public record or entry
 exception, **16:17**
 admissions exception, **16:26**
 ancient documents exception,
 16:21
 business records
 Uniform Business Records as
 Evidence Act, **16:13**
 Uniform Photographic Copies
 of Business and Public
 Records as Evidence
 Act, **16:14**
 child abuse or neglect exception,
 16:28
 criminal sexual conduct cases
 exception, **16:29**
 declarations against interest,
 16:35
 documents affecting interest in
 property exception, **16:20**
 dying declaration exception,
 16:34
 excited utterance exception,
 16:8
 family history
 reputation concerning
 personal or family his-
 tory, **16:24**
 statement of personal or fam-
 ily history, **16:36**
 family records exception, **16:19**
 hearsay within hearsay, **16:38**
 interpretation of statutes, **16:15**
 judgments, **16:25**
 judicial findings of fact in for-
 mer trial, **16:32**
 learned treatises exception,
 16:23

EVIDENCE—Cont’d

Hearsay—Cont’d

exceptions—Cont’d
 market reports and commercial
 publications exception,
 16:22
 medical diagnosis or treatment,
 statements for purpose,
 16:10
 miscellaneous exceptions, **16:37**
 past recollections recorded
 exception, **16:11**
 present sense impression excep-
 tion, **16:7**
 public records
 generally, **16:16**
 absence of public record or
 entry exception, **16:17**
 Uniform Photographic Copies
 of Business and Public
 Records as Evidence
 Act, **16:14**
 records of regularly conducted
 activity exception, **16:12**
 religious organizations’ records
 exception, **16:18**
 reputation concerning personal
 or family history, character,
 boundaries, or general his-
 tory, **16:24**
 res gestae exception, **16:6**
 statement of personal or family
 history, **16:36**
 state of mind exception, **16:9**
 testimony taken at former trial,
 16:31
 unavailability of declarant,
 exceptions requiring, **16:30**
 Uniform Business Records as
 Evidence Act, **16:13**
 Uniform Photographic Copies of
 Business and Public
 Records as Evidence Act,
 16:14
 excited utterance exception, **16:8**
 family history
 reputation concerning personal
 or family history, **16:24**
 statement of personal or family
 history, **16:36**

INDEX

EVIDENCE—Cont'd

Hearsay—Cont'd

family records exception, **16:19**
federal rule as different from prior
South Carolina rule,
nonhearsay, **16:5**

hearsay within hearsay, **16:38**
interpretation of statutes, **16:15**
“investigative information,” state-
ments from investigative
officer, **16:40**

judgments

civil judgment inadmissible in
criminal case, **16:33**
exception, **16:25**

judicial findings of fact in former
trial, **16:32**

learned treatises exception, **16:23**

market reports and commercial
publications exception, **16:22**

medical diagnosis or treatment,
statements for purpose, **16:10**

nonhearsay, prior South Carolina
and federal rule difference,
16:5

past recollections recorded excep-
tion, **16:11**

personal or family history, excep-
tion, **16:24, 16:36**

present sense impression excep-
tion, **16:7**

public records

generally, **16:16**
absence of public record or entry
exception, **16:17**

Uniform Photographic Copies of
Business and Public
Records as Evidence Act,
16:14

records of religious organizations
exception, **16:18**

reputation concerning personal or
family history, character,
boundaries, or general history,
exception, **16:24**

res gestae exception, **16:6**

rules of Evidence, **16:1**

South Carolina Rules of Evidence,
16:1

EVIDENCE—Cont'd

Hearsay—Cont'd

state of mind exception, **16:9**
testimony taken at former trial,
16:31

truth of matters assert, **16:4**

unavailability of declarant, excep-
tions requiring, **16:30**

Uniform Business Records as Evi-
dence Act, **16:13**

Uniform Photographic Copies of
Business and Public Records
as Evidence Act, **16:14**

Interrogatories, **10:15**

Judgments, civil judgment inadmis-
sible in criminal case, **16:33**

Judicial admissions, **10:24, 18:5**

Judicial estoppel, proof of facts,
10:25

Judicial notice

generally, **11:1 et seq.**

criminal cases, **11:9**

examples, **11:6, 11:7**

government and political subdivi-
sions, facts about, **11:5**

procedural aspects, **11:2**

proceedings and official records,
11:3

South Carolina Rules of Evidence
provision, **11:8**

statutes, ordinances and
administrative rules, **11:4**

Jury instructions, relating instructions
to evidence, **34:6**

Maps, **19:7**

Models, **19:7**

Motion to strike inadmissible evi-
dence, **29:5**

Motion to strike insufficient defense,
10:10

Objections to evidence

generally, **29:1 et seq.**

dead man's statute, **22:4**

failure to object, effect, **29:4**

form of objections, **29:2**

limited admissibility of evidence,
29:8

motions to strike inadmissible evi-
dence, **29:5**

EVIDENCE—Cont'd

Objections to evidence—Cont'd
 offers of proof, **29:7**
 rulings on objections, **29:6**
 surprise witness offered at trial, **29:9**
 timing of objections, **29:3**
 Objects, **19:6**
 Offers of compromise or settlement, **10:24**
 Official records, judicial notice of, **11:4**
 Order of proof
 generally, **8:1 et seq.**
 evidence in chief, **8:2**
 rebuttal evidence, **8:3, 8:4**
 reopening evidence, **8:5**
 Other bad acts admissible as part of
 res gestae of crime charged, **13:25**
 Personal injuries, displaying to jury, **19:4**
 Photographs, **19:9 et seq.**
 Pleadings
 excuse of proof at trial, **10:2**
 judgment, **10:9**
 motion to strike insufficient
 defense, **10:10**
 sufficient facts, failure to plead,
 10:8
 Preservation of evidence, duty, **25:4**
 Pretrial conferences, using to excuse
 proof at trial, **10:2**
 Pretrial hearing, **10:6**
 Pretrial motions, **10:2, 10:7**
 Relevancy
 generally, **13:1 et seq.**
 character
 generally, **13:16**
 accused, character of, **13:17**
 victim, **13:21**
 witnesses, **13:22**
 compromise offers, **13:8**
 conditioned on fact, **13:3**
 crime victim impact evidence, rele-
 vancy, **13:28**
 criminal profiling testimony, **13:31**

EVIDENCE—Cont'd

Relevancy—Cont'd
 damage, prior injury to proof,
 13:14
 demonstrative evidence, laying
 foundation, **19:2**
 exclusion of relevant evidence,
 13:5
 habit and routine practice, **13:23**
 impeachment by crimes of moral
 turpitude, **13:19**
 insurance coverage, **13:9**
 materiality distinguished, **13:2**
 moral turpitude, crimes, **13:19**
 motions in limine, **13:27**
 negative evidence, **13:26**
 negotiations, **13:8**
 objections to irrelevant evidence,
 13:4
 other bad acts admissible as part of
 res gestae of crime charged,
 13:25
 other crimes, wrongs or acts, **13:24**
 post-distribution evidence in
 products liability cases, **13:11**
 prepayments, **13:8**
 prior or subsequent occurrences,
 criminal cases, **13:12**
 real evidence, laying foundation,
 19:2
 similar acts and occurrences, **13:13**
 subsequent remedial measures and
 changes, **13:10**
 third persons, evidence someone
 else committed crime, **13:29**
 victim impact evidence, relevancy,
 13:28
 Reputation evidence, **25:13**
 Requests to admit, **10:14**
 Res gestae, **13:25**
 Restricting use of admitted evidence,
 2:19
 Rules of evidence
 documentary evidence, **17:3**
 Fast Track jury trials, **42:14**
 hearsay, **16:1**
 judicial notice, **11:8**
 Scientific test results, **19:5**
 Settlement, offers, **10:24**

INDEX

EVIDENCE—Cont'd

- Signature requirement, **10:4**
- Sound recordings, **19:15**
- Spoilation of evidence
 - generally, **41:1 to 41:8**
 - building a case for spoliation of evidence, **41:6**
 - criminal cases, generally, **41:4**
 - definition, **41:1**
 - disciplinary actions, **41:7**
 - ethical considerations, **41:7**
 - federal view of spoliation: the Fourth Circuit, **41:3**
 - history of doctrine in South Carolina, **41:2**
 - technology, application of spoliation doctrine in the technology realm, **41:5**
 - tort claim against third party, spoliation of evidence as basis for, **41:8**
- Statutes, ordinances and administrative rules, judicial notice of, **11:4**
- Stipulations
 - construction, **10:20**
 - excuse of proof at trial, use, **10:18**
 - nonbinding stipulations, **10:19**
 - scope and effect of stipulations, **10:21**
 - trial procedures, **10:23**
- Summary judgment, **10:11**
- Tactical considerations, **10:12**
- Third persons, evidence someone else committed crime, **13:29**
- Uniform Business Records as Evidence Act, **16:13**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- Witnesses. See index heading WITNESSES
- X-rays, **19:14**

EXAMINATION OF WITNESSES

- Generally, **26:1 et seq.**
- Adverse parties, **26:5**
- Confrontation clause, **27:2, 27:3**

EXAMINATION OF WITNESSES—Cont'd

- Constitutional right to cross to cross-examination, **27:2, 27:3**
- Cross-examination
 - generally, **27:1 et seq.**
 - adversity as basis, **27:6**
 - confrontation clause, **27:2, 27:3**
 - constitutional right to cross, **27:2, 27:3**
 - Crawford v. Washington, **27:3**
 - depositions, use, **27:9**
 - expert witnesses, **15:18**
 - hostility as basis, **27:7**
 - hypnosis, use of posthypnotic testimony, **27:12**
 - impeachment of witnesses, use of testimony to impeach, **27:10**
 - multiparty examination, **27:8**
 - prior inconsistent statements, use, **27:10**
 - questions, form, **27:4**
 - recross-examination, **28:4**
 - right to cross, **27:2, 27:3**
 - scope, **27:5**
- Direct examination, generally, **26:1 et seq.**
- Expert witnesses, **15:18**
- Hypnosis, use of posthypnotic testimony, **27:12**
- Judge's control, **2:17**
- Judge's questioning of witnesses, **2:21**
- Leading questions, **26:4**
- Multiparty examination, **27:8**
- Past recollection recorded
 - distinguished from present recollection refreshed, **26:7**
- Personal knowledge, necessity, **26:2**
- Physical examination of witness, self-incrimination privilege, **24:6**
- Present recollection refreshed, **26:6, 26:7**
- Questions, form and content, **26:3**
- Recross-examination, **28:4**
- Refreshing memory of witness, **26:6, 26:7**

EXCEPTIONS TO HEARSAY RULE

- Absence of public record or entry exception, **16:17**
- Admissions exception, **16:26**
- Ancient documents exception, **16:21**
- Business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- Child abuse or neglect exception, **16:28**
- Criminal sexual conduct cases exception, **16:29**
- Declarations against interest, **16:35**
- Documents affecting interest in property exception, **16:20**
- Dying declaration exception, **16:34**
- Excited utterance exception, **16:8**
- Family history
 - reputation concerning personal or family history, **16:24**
 - statement of personal or family history, **16:36**
- Family records exception, **16:19**
- Hearsay within hearsay, **16:38**
- Interpretation of statutes, **16:15**
- Judgments, **16:25**
- Judicial findings of fact in former trial, **16:32**
- Learned treatises exception, **16:23**
- Market reports and commercial publications exception, **16:22**
- Medical diagnosis or treatment, statements for purpose, **16:10**
- Miscellaneous exceptions, **16:37**
- Past recollections recorded exception, **16:11**
- Present sense impression exception, **16:7**
- Public records
 - generally, **16:16**
 - absence of public record or entry exception, **16:17**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

EXCEPTIONS TO HEARSAY RULE —Cont'd

- Records of regularly conducted activity exception, **16:12**
- Religious organizations' records exception, **16:18**
- Reputation concerning personal or family history, character, boundaries, or general history, **16:24**
- Res gestae exception, **16:6**
- Statement of personal or family history, **16:36**
- State of mind exception, **16:9**
- Testimony taken at former trial, **16:31**
- Unavailability of declarant, exceptions requiring, **16:30**
- Uniform Business Records as Evidence Act, **16:13**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

EXCITED UTTERANCE

- Hearsay exception, **16:8**

EXCLUSION OF EVIDENCE

- Credibility and impeachment of witnesses, **25:11**
- Expert evidence, exclusion of belatedly named experts, **15:19**
- Illegally obtained evidence and exclusionary rule, **30:1 et seq.**
- Own motion of court, **2:20**
- Relevant evidence, exclusion, **13:5**
- Witnesses, impeachment, **25:11**

EXCLUSION OF PUBLIC

- Generally, **2:10 to 2:12**

EXECUTION, WRIT OF

- Enforcement of judgments, **40:2**

EXEMPLARY DAMAGES

- See index heading PUNITIVE DAMAGES

EXEMPTIONS

- Jury service, **6:6**

EXHIBITS

- Disposition of, **36:19**

INDEX

EXPERIMENTS

Real and demonstrative evidence, **19:8**

EXPERT TESTIMONY AND OPINION EVIDENCE

Generally, **15:1 et seq.**

Admissibility of expert opinion testimony, **15:8**

Basis of opinion, **15:13**

Common knowledge exception, **15:5**

Court-appointed experts, **15:16**

Cross-examination of experts, **15:18**

Disclosure of facts underlying expert's opinion, **15:14**

Eyewitness reliability, **15:12**

Lay witnesses, testimony, **15:2**

Nonscientific expert testimony, admissibility of, **15:11**

Nontestifying experts, **15:6**

Qualifications of experts, **15:7**

Reading reports by experts into evidence, **15:15**

Subject matter of expert testimony, **15:9, 15:10**

Ultimate issue, opinion, **15:3**

Weight and sufficiency of expert testimony, **15:17**

EYEWITNESSES

Reliability, **15:12**

FAILURE TO PROSECUTE

Dismissal, **4:21, 4:41**

FALSUS IN UNO, FALSUS IN OMNIBUS

Impeachment of witnesses, **25:6**

FAMILY COURT

Counsel, right, **1:32**

Documentary evidence, **17:19**

FAMILY HISTORY

Hearsay exception, **16:24, 16:36**

FAMILY RECORDS

Hearsay exception, **16:19**

FAST TRACK JURY TRIALS

Generally, **42:1 to 42:17**

Appeal, no right to, **42:5**

FAST TRACK JURY TRIALS

—Cont'd

Arbitration exemption, **42:6**

Consent of parties, **42:3**

Costs, no right to, **42:5**

Evidence rules, **42:14**

Existing offer and demand, **42:11**

History of summary jury trials, **42:1**

Mediation exemption, **42:6**

Nature of the binding Fast Track jury trial, **42:2**

Post-trial motions, **42:17**

Presentation of case, **42:15**

Pretrial submissions, **42:9**

Qualification of the Fast Track Hearing Officer, **42:8**

Record of proceedings, **42:10**

Scheduling, **42:7**

Selection of jury, **42:12**

Stipulations, **42:4**

Time limits, **42:13**

Verdict, **42:16**

FEAR

Confessions, **31:15**

FEDERAL RULES AS TO HEARSAY

Nonhearsay, different from prior South Carolina rule, **16:5**

Records of regularly conducted activity exception, **16:12**

FEES [ATTORNEYS]

Collection, **1:20**

Costs, fees, **36:14**

Division of fees between lawyers not in same firm, **1:21**

Layman II, recovery of attorney's fees against state for lack of substantial justification under, **1:17**

Liens securing, **1:22**

Pro se litigants, **1:19**

Recovery of attorney's fees against state for lack of substantial justification under *Layman II*, **1:17**

Right to compensation generally, **1:16**

FEEES [ATTORNEYS]—Cont’d

Right to compensation—Cont’d
common fund, **1:18**
recovery of attorney’s fees against
state for lack of substantial
justification under *Layman II*,
1:17

FEEES [MOTIONS]

Generally, **4:48**

**FINALITY OF ORDER OF
JUDGMENT**

Generally, **36:7**

FINDINGS OF FACT

Hearsay exception, judicial findings
of fact in former trial, **16:32**
Trial motions to amend findings, **2:34**

FINGERPRINT EVIDENCE

Authentication, **17:13**

FIRST AMENDMENT

News media, Shield Law, **23:15**
Reporter’s Shield Law, **23:15**

FOREIGN LAW

Presumptions, **12:4**

FORM OF JURY INSTRUCTIONS

Generally, **34:3**

**FORM OF MOTION AND
PROCEDURE**

Generally, **4:3**

FORM OF OBJECTIONS

Evidence, objections, **29:2**

FORM OF QUESTIONS

Cross-examination questions, **27:4**
Direct examination questions, **26:3**

FORM OF SPECIAL VERDICT

Generally, **35:4**

FRAUD OR DECEIT

Burden of proof
generally, **9:9 et seq.**
duty to disclose, **9:11**
nondisclosure, **9:10**
Confessions, misrepresentations by
police, **31:16**

FRAUD OR DECEIT—Cont’d

Duty to disclose, burden of proof,
9:11
Nondisclosure, burden of proof, **9:10**

“GOLDEN RULE” ARGUMENT

Generally, **33:6**

GOOD CAUSE

Continuances, **3:15**

GOOD FAITH

Proof of facts, **10:5**
Search and seizure, good faith excep-
tion where warrant found
invalid, **30:8**

GOVERNMENT

Judicial notice of facts about govern-
ment, **11:5**
Presumptions, **12:16**

GRAND JURY

Generally, **6:24**

GUILTY PLEA AGREEMENTS

Generally, **2:39**

HABIT OR ROUTINE PRACTICE

Circumstantial evidence, **14:6**
Relevancy, **13:23**

HANDWRITING

Author’s handwriting, authentication
by comparison, **17:5**

HEALTH

Continuances, unavailability of wit-
nesses due to health, **3:10**

HEARINGS

Criminal charges, fitness to stand
trial, **1:45**
Damages hearing, default, **4:12**
Enforcement of judgments, hearing
on supplementary proceedings,
40:6
Pretrial hearings
control of proceedings, **2:23**
proof of facts, **10:6**

HEARSAY

Generally, **16:1 et seq.**

INDEX

HEARSAY—Cont'd

- Absence of public record or entry exception, **16:17**
- Admissions exception, **16:26**
- Ancient documents exception, **16:21**
- Assertions that are not hearsay, **16:3**
- Business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- Child abuse or neglect exception, **16:28**
- Child under twelve years of age, out of court statements by, **16:27**
- Civil judgment inadmissible in criminal case, **16:33**
- Credibility of declarant, **16:39**
- Criminal sexual conduct cases exception, **16:29**
- Declarations against interest, exception, **16:35**
- Documents affecting interest in property exception, **16:20**
- Dying declaration exception, **16:34**
- Exceptions
 - absence of public record or entry exception, **16:17**
 - admissions exception, **16:26**
 - ancient documents exception, **16:21**
 - business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 - child abuse or neglect exception, **16:28**
 - criminal sexual conduct cases exception, **16:29**
 - declarations against interest, **16:35**
 - documents affecting interest in property exception, **16:20**
 - dying declaration exception, **16:34**
 - excited utterance exception, **16:8**

HEARSAY—Cont'd

- Exceptions—Cont'd
 - family history
 - reputation concerning personal or family history, **16:24**
 - statement of personal or family history, **16:36**
 - family records exception, **16:19**
 - hearsay within hearsay, **16:38**
 - interpretation of statutes, **16:15**
 - judgments, **16:25**
 - judicial findings of fact in former trial, **16:32**
 - learned treatises exception, **16:23**
 - market reports and commercial publications exception, **16:22**
 - medical diagnosis or treatment, statements for purpose, **16:10**
 - miscellaneous exceptions, **16:37**
 - past recollections recorded exception, **16:11**
 - present sense impression exception, **16:7**
 - public records
 - generally, **16:16**
 - absence of public record or entry exception, **16:17**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 - records of regularly conducted activity exception, **16:12**
 - religious organizations' records exception, **16:18**
 - reputation concerning personal or family history, character, boundaries, or general history, **16:24**
 - res gestae exception, **16:6**
 - statement of personal or family history, **16:36**
 - state of mind exception, **16:9**
 - testimony taken at former trial, **16:31**
 - unavailability of declarant, exceptions requiring, **16:30**
 - Uniform Business Records as Evidence Act, **16:13**

HEARSAY—Cont'd

Exceptions—Cont'd

Uniform Photographic Copies of
Business and Public Records
as Evidence Act, **16:14**

Excited utterance exception, **16:8**

Family history

reputation concerning personal or
family history, **16:24**

statement of personal or family
history, **16:36**

Family records exception, **16:19**

Federal rule

nonhearsay, federal rule as differ-
ent from prior South Carolina
rule, **16:5**

records of regularly conducted
activity exception, **16:12**

Hearsay within hearsay, **16:38**

Interpretation of statutes, **16:15**

“Investigative information,” state-
ments from investigative officer,
16:40

Judgments

civil judgment inadmissible in
criminal case, **16:33**

exception, **16:25**

Judicial findings of fact in former
trial, **16:32**

Learned treatises exception, **16:23**

Market reports and commercial
publications exception, **16:22**

Medical diagnosis or treatment, state-
ments for purpose, **16:10**

Nonhearsay, prior South Carolina and
federal rule difference, **16:5**

Past recollections recorded exception,
16:11

Personal or family history, exception,
16:24, 16:36

Present sense impression exception,
16:7

Public records

generally, **16:16**

absence of public record or entry
exception, **16:17**

Uniform Photographic Copies of
Business and Public Records
as Evidence Act, **16:14**

HEARSAY—Cont'd

Records of religious organizations
exception, **16:18**

Reputation concerning personal or
family history, character, bound-
aries, or general history, excep-
tion, **16:24**

Res gestae exception, **16:6**

Rules of Evidence, **16:1**

South Carolina Rules of Evidence,
16:1

State of mind exception, **16:9**

Testimony taken at former trial,
16:31

Truth of matters assert, **16:4**

Unavailability of declarant, excep-
tions requiring, **16:30**

Uniform Business Records as Evi-
dence Act, **16:13**

Uniform Photographic Copies of
Business and Public Records as
Evidence Act, **16:14**

HISTORY

Personal or family history, hearsay
exception, **16:24, 16:36**

Spoilation of evidence, history of
doctrine in South Carolina, **41:2**

Summary jury trials, **42:1**

HIV

Isolation of infected persons, **1:47**

HUSBANDS AND WIVES

Domestic violence statute, **30:5**

Privileged communications, **23:2**

HYPNOSIS

Cross-examination of witnesses, use
of posthypnotic testimony,
27:12

IDENTIFICATION EVIDENCE

Competency of witnesses, **21:6**

**ILLEGALLY OBTAINED
EVIDENCE**

Search and seizure, **30:1 et seq.,
30:25**

IMMUNITY

Alternative dispute resolution,
arbitral immunity, **39:15**

INDEX

IMMUNITY—Cont'd

Self-incrimination, **24:8**

IMPEACHMENT OF VERDICT

Generally, **35:14**

IMPEACHMENT OF WITNESSES

Generally, **25:2 et seq.**

Bias and interest, **25:7**

Character and reputation evidence,
25:13

Collateral issues, **25:19**

Crimes, evidence of, generally, **13:18**

Cross-examination, use of prior
inconsistent statements or
testimony, **27:10**

Disclosure, state's duty of, **25:3**

Exclusionary rule, **25:11**

Falsus in uno, falsus in omnibus,
25:6

Inconsistent statements, **25:8 to**
25:11, 25:13

Misconduct, **25:14**

Moral turpitude, **13:19**

Preservation of evidence, duty, **25:4**

Pretrial intervention programs,
completion of, **25:16**

Prior bad acts and misconduct, **25:14**

Prior consistent statements, **25:10,**
25:12

Prior convictions
generally, **25:15 et seq.**
scope of and procedure for admit-
ting, **25:17**

Prior inconsistent statements, **25:8 to**
25:11, 25:13

Prior misconduct, **25:14**

Prior testimony, cross-examination,
25:8 to 25:11, 25:13

Reputation evidence, **25:13**

Rule 609, SCRE, **13:20**

Voucher rule, **25:5**

INCOMPETENCE

Attorneys, right to competent
counsel, **1:53**

Witnesses

generally, **21:1 et seq.**

accomplice, **21:11**

interpreters, use of, **21:3**

INCOMPETENCE—Cont'd

Witnesses—Cont'd

judge, **21:8**

jurors, **21:9**

objections to competency, **21:4**

personal knowledge of witness,
21:5

prosecutor, competency to testify
at criminal trial, **21:12**

qualifying witness, **21:2**

sequestration of witness, **21:7**

trial counsel, **21:10**

INCONSISTENT STATEMENTS

Impeachment of witnesses, **25:8 to**
25:11, 25:13

Prior inconsistent statements

cross-examination use of state-
ments, **27:10**

impeachment of witnesses, **25:8 to**
25:11

INDEMNIFICATION

Contempt, indemnification as punish-
ment, **5:9**

INDIGENTS

Death penalty cases, **36:13**

INDISPENSABLE PARTIES

Dismissal for failure to join, motion,
4:31

INEVITABLE DISCOVERY DOCTRINE

Search and seizure, **30:30**

INFERENCE

Circumstantial evidence, **14:9, 14:10**

Failure to produce evidence, **14:10**

Presumptions

distinguished, **12:2**

for detailed treatment see index
heading **PRESUMPTIONS**

Self-incrimination privilege, adverse
inferences, **24:3, 24:4**

INFORMANTS

Privileged communications, identity
of informants, **23:11**

Search warrants, use of informants,
30:17

IN LIMINE MOTIONS

Generally, **4:39**
Relevancy, **13:27**

INNOCENCE

Presumptions, **12:11**

INSTRUCTIONS TO JURY

Generally, **34:1 et seq.**
Capital cases, special charge in, **34:9**
Circumstantial evidence, **14:11**
Content, **34:3**
Criminal cases, instructions and rules applicable, **34:7**
Death penalty cases, special charge in, **34:9**
Evidence, relating instructions, **34:6**
Form, **34:3**
Objections, **34:5**
Requesting instructions, **34:4**
Review of rulings on instructions, **34:8**
Special charge in death penalty cases, **34:9**
Submitting instructions, **34:4**
Timing, **34:2**

INSURANCE

Mistrial, references to insurance, **32:4**
Relevancy, **13:9**
Voir dire questions regarding companies, **6:14**

INTEGRITY

Legal profession, **1:13**

INTEREST OF WITNESSES

Impeachment, proof of interest, **25:7**

INTEREST ON MONEY

Judgment interest, **36:17**

INTERLOCUTORY JUDGMENT

Generally, **36:2**

INTERPRETERS

Competency of witnesses, **21:3**

INTERROGATION

Confessions, **31:8**

INTERROGATORIES

Proof of facts, **10:15**

INTOXICATING LIQUORS

Commitment for alcohol abuse, role of attorney, **1:42**

INVESTIGATIVE OFFICER'S STATEMENTS

Hearsay, **16:40**

INVOLUNTARY DISMISSAL

Civil cases, **4:20 et seq.**

INVOLUNTARY NONSUIT

Post verdict motion, **37:4**
Trial motions in civil and criminal cases, **4:47**

JACKSON V DENNO HEARING

Confessions, **31:5**

JOINDER OF PARTIES

Indispensable parties, failure to join, dismissal motion, **4:31**

JOINT TORTFEASORS

Special verdict for, **35:5**

JUDGES

Bench trial
civil cases, **2:25, 2:33**
criminal cases, **2:35**
Competency of judge to testify, **21:8**
Conduct, **32:7**
Conduct of trial. CONDUCT OF TRIAL
Criminal cases, judge as trier of fact, **2:35**
Death or disability of judge, **2:9**
Demeanor, **2:8**
Equity actions, judge as trier of facts, **2:25**
Jury trials, order by judge, **2:28**
Mistrial, conduct of judge, **32:7**
Presence, **2:7**
Questioning by judge, **2:21**
Right to counsel
civil cases, duty of judge to inform, **1:55**
criminal cases, duty of judge to inform, **1:54**
Trial, conduct. CONDUCT OF TRIAL

INDEX

JUDGES—Cont'd

- View, presence of judge, **20:3**
- Witnesses, control of examination of, **2:17**

JUDGMENT NOTWITHSTANDING VERDICT

- Motion, **37:5**

JUDGMENTS

- Generally, **36:1 et seq.**
- Amendment of judgments
 - generally, **36:5, 36:6**
 - motion after verdict, **37:6**
 - successive motions to amend judgment, **36:6**
 - trial motions to amend findings and judgment, **2:34**
- Correction of clerical mistakes, **36:8**
- Costs
 - generally, **36:12**
 - attorney's fees as costs, **36:14**
 - death penalty cases, **36:13**
 - settlements and assessment of costs, **36:15**
 - taxation of costs, procedure, **36:11**
- Death penalty cases, disbursements, **36:13**
- Declaratory judgments, **2:26**
- Default judgments
 - generally, **4:8 et seq., 36:9**
 - appearance, **4:11**
 - appellate practice notes, **4:19**
 - avoiding and reopening default judgments, **4:16 et seq.**
 - damages hearing, **4:12**
 - discovery sanction, default as, **4:36**
 - domestic relations, **4:13**
 - entry of default versus default judgment, **4:10**
 - inadvertence, ground for reopening, **4:17**
 - limitations on relief available, **4:15**
 - make, inadvertence, surprise, or excusable neglect, **4:17**
 - mistake, inadvertence, surprise, or excusable neglect, **4:17**
 - nonresidents, judgments against, **4:14**

JUDGMENTS—Cont'd

- Default judgments—Cont'd
 - procedure for taking, **4:9**
 - reopening default judgments, **4:16 et seq.**
 - vacating default judgments, **4:16 et seq.**
 - vacating judgment, **4:18**
- Disbursements
 - generally, **36:12**
 - death penalty cases, **36:13**
- Duration of judgment, **36:18**
- Enforcement. See index heading
ENFORCEMENT OF JUDGMENTS
- Exhibits, disposition of, **36:19**
- Finality of order of judgment, **36:7**
- Hearsay exception, **16:25**
- Interest, **36:17**
- Interlocutory judgments, **36:2**
- Liens, **36:10**
- Motions, **2:34, 37:6**
- Nonjury actions, **36:3**
- Pleadings, judgment on, proof of facts, **10:9**
- Procedural aspects of taking judgments, **36:4**
- Successive motions to alter or amend judgment, **36:6**
- Summary judgment, **10:11**
- Taxation of costs, procedure, **36:11**

JUDICIAL ADMISSIONS

- Party-opponent, **18:5**
- Proof of facts, **10:24**

JUDICIAL NOTICE

- Generally, **11:1 et seq.**
- Criminal cases, **11:9**
- Examples, **11:6, 11:7**
- Government and political subdivisions, facts about, **11:5**
- Procedural aspects, **11:2**
- Proceedings and official records, **11:3**
- South Carolina Rules of Evidence provision, **11:8**
- Statutes, ordinances and administrative rules, **11:4**

JURISDICTION

- Personal jurisdiction, lack of, dismissal, **4:25 et seq.**
- Subject matter jurisdiction, lack of, dismissal, **4:24**

JURY

- Advisory jury, **2:27**
- Alternate jurors
 - selection, **6:22**
 - use of, **6:23**
- Batson v. Kentucky, discrimination in jury selection, **6:8**
- Challenges, peremptory, **6:18 to 6:20**
- Challenges for cause, **6:15 et seq.**
- Challenges to array, **6:7**
- Civil actions at law, right to jury trial, **2:33**
- Competency of juror to testify, **21:9**
- Conduct, mistrial, **32:10, 32:11**
- Criminal cases, right to jury trial, **2:35**
- Deadlocked jury, **32:15**
- Deliberations. See index heading JURY DELIBERATIONS
- Discrimination in selection, **6:8**
- Exemptions from jury service, **6:6**
- Fast track jury trials. See index heading FAST TRACT JURY TRIALS
- Grand jury, **6:24**
- Impartial jury, right to trial, **6:1**
- Instructions
 - generally, **34:1 et seq.**
 - capital cases, special charge in, **34:9**
 - circumstantial evidence, **14:11**
 - content, **34:3**
 - criminal cases, instructions and rules applicable, **34:7**
 - death penalty cases, special charge in, **34:9**
 - evidence, relating instructions, **34:6**
 - form, **34:3**
 - objections, **34:5**
 - requesting instructions, **34:4**
 - review of rulings on instructions, **34:8**
 - submitting instructions, **34:4**

JURY—Cont'd

- Instructions—Cont'd
 - timing, **34:2**
- Judge-ordered jury trial, **2:28**
- Mistrial, conduct, **32:10, 32:11**
- Number of peremptory challenges, **6:19**
- Objections to jury, timeliness, **6:4**
- Order by judge for jury trial, **2:28**
- Peremptory challenges, **6:18 to 6:20**
- Personal injuries, displaying to jury, **19:4**
- Premature deliberation, **32:11, 35:2**
- Qualifications of jurors, **6:5**
- Questioning witnesses, **2:22**
- Reassembly after discharge, **35:15**
- Right to jury trial, **2:33, 2:35**
- Selection
 - accused's right to challenge potential jurors in criminal cases, **6:3**
 - alternate jurors, **6:22**
 - Batson v. Kentucky, discrimination in jury selection, **6:8**
 - challenges for cause, **6:15 et seq.**
 - challenge to array, **6:7**
 - disclosure by criminal defendant of witness list or defenses, **6:12**
 - discrimination in selection, **6:8**
 - exemptions from service, **6:6**
 - Fast Track jury trials, **42:12**
 - impartial jury, right to trial, **6:1**
 - method, **6:2**
 - number of peremptory challenges, **6:19**
 - openness of voir dire proceedings, **6:11**
 - peremptory challenges, **6:18 to 6:20**
 - qualifications of jurors, **6:5**
 - right of accused to challenge potential jurors in criminal cases, **6:3**
 - striking jurors, valid explanations, **6:9**
 - swearing of jury, **6:21**
 - timeliness of challenges for cause, **6:17**
 - timely objections to jury, **6:4**

INDEX

JURY—Cont'd

- Selection—Cont'd
 - voir dire, **6:10 et seq., 32:9**
- Striking jurors, **6:9**
- Summoning, method, **6:2**
- Swearing, **6:21**
- Timeliness of challenges for cause, **6:17**
- Timely objections to jury, **6:4**
- Verdict. See index heading **VERDICT**
- Voir dire examination
 - conduct, **6:10 et seq.**
 - mistrial, **32:9**
 - questions, **6:13, 6:14**
- Witnesses questioned by jury, **2:22**

JURY DEADLOCK

- Mistrial, **32:15**

JURY DELIBERATION

- Premature deliberation, **32:11, 35:2**
- Testimony, request to rehear during deliberations, **35:8**

JUVENILES

- Interstate compact, **1:40**

KNOCK AND TALK

- Search and seizure, **30:29**

KNOWLEDGE

- Expert testimony and opinion evidence, common knowledge exception, **15:5**
- Law, presumptions as to knowledge, **12:3**
- Personal knowledge
 - direct examination, **26:2**
 - witnesses, **21:5**

LAWYER

- Abortions, **1:49**
- Abuse and neglect proceedings, **1:36**
- Admission to practice of law, required, **1:2**
- Adoptions, **1:39**
- AIDS, isolation of infected persons, **1:47**
- Alcohol abuse, role of attorney in commitment, **1:42**

LAWYER—Cont'd

- Appointment of conservator, petitions, **1:50**
- Binding on client, acts of attorney as, **1:56**
- Capital cases, **1:28**
- Champerty, **1:14**
- Children
 - abortions, **1:49**
 - mental health treatment, **1:46**
- Civil cases, right to counsel
 - generally, **1:25**
 - duty of judge to inform, **1:55**
 - waiver of right, **1:55**
- Comments on opposing counsel in closing argument, **33:10**
- Commitment proceedings
 - alcohol abuse, **1:42**
 - children in need of mental health treatment, commitment, **1:46**
 - commitment, **1:44**
 - drug abuse, **1:42**
 - mentally ill persons, **1:44**
 - tuberculosis, persons, **1:48**
 - venereal disease, including HIV, isolation of persons, **1:47**
- Compensation
 - collection, **1:20**
 - costs, fees, **36:14**
 - division of fees between lawyers not in same firm, **1:21**
 - liens securing, **1:22**
 - pro se litigants, **1:19**
 - right to compensation
 - generally, **1:16**
 - common fund, **1:18**
- Competency to testify
 - prosecutor, **21:12**
 - trial counsel, **21:10**
- Competent counsel, right, **1:53**
- Conduct
 - generally, **1:4 et seq.**
 - binding on client, acts of attorney as, **1:56**
 - discipline for improper conduct, **1:15**
 - mistrial, **4:44, 32:6**

LAWYER—Cont'd

Conduct—Cont'd
 opening statements, improper
 conduct and prejudice, **7:5**
 Rule 11, SCRCP, **1:7**
 trial, during, **1:6**
 Confessions, right to have attorney
 present, **31:3**
 Confidential communications with
 client
 generally, **23:3 et seq.**
 Reporter's Shield Law and First
 Amendment, **23:15**
 restrictions upon operation, **23:4**
 waiver, **23:5**
 Confidential nature of work product,
 23:17
 Contempt cases, right to counsel,
 1:52
 Continuances, absence or incapacity
 of counsel, **3:7**
 Criminal cases, right to counsel
 generally, **1:26**
 critical stages, **1:27**
 duty of judge to inform, **1:54**
 hearing to determine fitness to
 stand trial, **1:45**
 nonlawyers appearing in criminal
 cases, **1:3**
 waiver of right, **1:54**
 Delinquency proceedings, **1:37**
 Disabled persons, role of prosecutors
 in commitment, **1:44**
 Discipline for improper conduct, **1:15**
 Disqualifying counsel, **1:57**
 Drug abuse, role of attorney in com-
 mitment, **1:42**
 Emergency protective custody, **1:35**
 Eminent domain proceedings, **1:51**
 Family court, right to counsel, **1:32**
 Fees
 collection, **1:20**
 costs, fees, **36:14**
 division of fees between lawyers
 not in same firm, **1:21**
 liens securing, **1:22**
 pro se litigants, **1:19**
 recovery of attorney's fees against
 state for lack of substantial

LAWYER—Cont'd

Fees—Cont'd
 justification under *Layman II*,
 1:17
 right to compensation
 generally, **1:16**
 common fund, **1:18**
 recovery of attorney's fees
 against state for lack of
 substantial justification
 under *Layman II*, **1:17**
 General conduct, **1:4**
 Hearing to determine fitness to stand
 trial on criminal charges, **1:45**
 HIV, isolation of infected persons,
 1:47
 Hybrid representation, **1:31**
 Improper conduct, discipline for,
 1:15
 Integrity of legal profession, **1:13**
 Juveniles, interstate compact, **1:40**
Layman II, recovery of attorney's
 fees against state for lack of
 substantial justification under,
 1:17
 Liability to third party arising out of
 representation of client, **1:5**
 Marital litigation and historical note,
 1:33
 Mental health treatment, **1:46**
 Mentally ill person, role of attorney
 in commitment, **1:43**
 Mentally retarded persons, role of
 prosecutors in commitment,
 1:44
 Minors seeking abortions, **1:49**
 Mistrial, conduct of counsel, **4:44**
 Nonlawyers, appearance in criminal
 cases, **1:3**
 Obligations to court, **1:9**
 Parental rights, termination, **1:38**
 Perjury by criminal defendant, **1:8**
 Petitions
 appointment of conservator, **1:50**
 post-conviction relief, **1:29**
 Practice of law, need for counsel
 admitted, **1:2**
 Pretrial publicity, **1:10**

INDEX

LAWYER—Cont'd

- Privileged communications with client
 - generally, **23:3 et seq.**
 - restrictions upon operation, **23:4**
 - waiver, **23:5**
- Prosecutors, **1:12**
- Pro se representation. *See* index
 - heading **PRO SE REPRESENTATION**
- Protective custody, **1:34, 1:35**
- Publicity, pretrial, **1:10**
- Right to compensation, generally, **1:16**
- Right to counsel, generally, **1:24 et seq., 1:41**
- Role of attorney, generally, **1:1 et seq.**
- Rule 11, SCRCP, **1:7**
- Sale of law practice, **1:23**
- Self-representation, **1:30**
- Sexually violent predator cases, right to counsel in, **1:58**
- Substantial justification, recovery of attorney's fees against state for lack of substantial justification under Layman II, **1:17**
- Summation, comments on opposing counsel, **33:10**
- Third party, liability of attorney arising out of representation of client, **1:5**
- Trial conduct, **1:6**
- Trial of case, **1:1**
- Tuberculosis, role of attorney in commitment proceedings, **1:48**
- Venereal disease, isolation of infected persons, **1:47**
- Waiver of right to counsel
 - civil cases, **1:55**
 - criminal cases, **1:54**
- Witness, attorney, **1:11**
- Work product doctrine, **23:17**

LAYING FOUNDATION

- Chain of custody, **19:3**
- Demonstrative evidence
 - chain of custody, **19:3**
 - photographic evidence, **19:12, 19:13**

LAYING FOUNDATION—Cont'd

- Demonstrative evidence—Cont'd
 - relevancy, **19:2**
- Photographic evidence, **19:12**
- Relevancy, **19:2**

LEADING QUESTIONS

- Direct examination, **26:4**

LEARNED TREATISES

- Hearsay exception, **16:23**

LEGAL PROFESSION

- See* index heading **ATTORNEYS**

LEGISLATION

- See* also index heading **STATUTES**
- Presumptions, **12:14**

LESSER INCLUDED OFFENSES

- Presumptions, **12:12**

LICENSES AND PERMITS

- Engineers, testimony by unlicensed engineers, **15:20**

LIENS

- Attorneys' fees, **1:22**
- Judgment liens, **36:10**

LIFE

- Presumptions relating to life and death, **12:5**

LONG-ARM STATUTE

- Dismissal motion, **4:26**

MAPS

- Real and demonstrative evidence, **19:7**

MARRIAGE

- Prosecutors, marital litigation and historical note, **1:33**
- Spouses. **HUSBANDS AND WIVES**

MATERIALITY

- Relevancy distinguished, **13:2**

MEDIA DEVICES

- Courtroom, use of cameras, **2:13, 4:40**

MEDIATION

See index heading ALTERNATIVE DISPUTE
RESOLUTION

**MEDICAL DIAGNOSIS OR
TREATMENT**

Hearsay exception for statements for
purpose, **16:10**

MEMORY

Past recollection recorded, **16:11,**
26:7
Present recollection refreshed
direct examination, **26:6, 26:7**
redirect examination, **28:2**

MENTAL CAPACITY

Confessions, effect, **31:17**

**MENTAL COMMITMENT
PROCEEDINGS**

Attorneys, role, **1:43**

MENTAL HEALTH

Children, role of attorney in commit-
ment, **1:46**

MENTAL RETARDATION

Commitment of retarded persons,
attorney's role, **1:44**

MENTAL STATE

Circumstantial evidence, **14:4**
Hearsay exception, **16:9**

MINORS

Abortions, minors seeking, **1:49**
Abuse
attorney's role in abuse proceed-
ings, **1:36**
Child Protection Code, abrogation
of privilege for abuse and
neglect cases, **23:19**
hearsay exception, **16:28**
privileged communications,
abrogation of privilege for
abuse and neglect cases,
23:19
Mental health treatment, role of
attorney in commitment of chil-
dren, **1:46**

MIRANDA RULE

Generally, **31:6 et seq.**
Compliance, **31:12**
Custodial confessions, **31:6**
Interrogation requirement, **31:8**
Statements taken in violation, **31:10**
Warnings, who must give, **31:11**

MISCONDUCT

Admissions of party-opponent, **18:2**
Attorneys
generally, **1:4**
binding on client, acts of attorney
as, **1:56**
discipline for improper conduct,
1:15
mistrial, **4:44, 32:6**
opening statements, improper
conduct and prejudice, **7:5**
Rule 11, SCRCP, **1:7**
trials, **1:6**
Criminal sexual conduct cases,
hearsay exception, **16:29**
Impeachment of witnesses,
misconduct, **25:14**
Mistrial
attorneys, **4:44, 32:6**
judge, **32:7**
jury conduct, **32:10, 32:11**
party, **32:12**
spectator, **32:14**
Presumptions, **12:6**
Punitive damages, degree of
reprehensibility of defendant's
misconduct, **38:4**

MISREPRESENTATION

See index heading FRAUD OR DECEIT

MISTAKE

Correction of clerical mistakes, judg-
ments, **36:8**
Default judgments, reopening, **4:17**

MISTRIAL

Generally, **32:1 et seq.**
Arguments of counsel, **32:6**
Conduct
counsel, **4:44, 32:6**
judge, **32:7**

INDEX

MISTRIAL—Cont'd

Conduct—Cont'd
jury, **32:10, 32:11**
party, **32:12**
spectator, **32:14**
witness, **32:13**
Deadlocked jury, **32:15**
Grounds, **32:3**
Inadmissible evidence, **32:5**
Insurance, reference, **32:4**
Jury
deadlock, **32:15**
misconduct, **32:10, 32:11**
premature deliberations, **32:11**
voir dire, **32:9**
Mitigating prejudice, **32:16**
Premature deliberations, **32:11**
Pretrial and trial publicity, **32:8**
Publicity, **32:8**
Timing, **32:2**
Witness, **32:13**

MITIGATION OF PREJUDICE

Mistrial, **32:16**

MODELS

Demonstrative evidence, **19:7**

MONOPOLIES

Compelling testimony in antitrust actions, **24:9**
Self-incrimination, **24:9**

MORAL TURPITUDE

Impeachment of witnesses, **13:19**
Relevancy, **13:19**

MOTIONS

Generally, **4:1 et seq.**
After verdict
generally, **37:1 et seq.**
amendment of judgment, **37:6**
directed verdict, **37:2**
involuntary nonsuit, **37:4**
judgment notwithstanding verdict, **37:5**
new trial, **37:7 et seq.**
Amendment of judgment, **37:6**

MOTIONS—Cont'd

Communication, duty to communicate prior to filing a motion, **4:2**
Courtroom environment, **4:40**
Directed verdict
generally, **37:2**
conduct of trial, **2:29**
review of order regarding directed verdict motion, **37:3**
Fees, **4:48**
Form of motion and procedure, **4:3**
In limine motions
generally, **4:39**
relevancy, **13:27**
Judgment notwithstanding verdict, **37:5**
New trial, **37:7 et seq.**
Pretrial motions, **10:2, 10:7**
Recess, **3:18**
Supporting memoranda and affidavits, **4:4**

MOTOR VEHICLES

Search, **30:11**

MULTIPLE PARTIES

Voluntary dismissal in actions involving, **4:6**

NEGATIVE EVIDENCE

Relevancy, **13:26**

NEGLECT PROCEEDINGS

Attorneys, **1:36**
Child Protection Code, abrogation of privilege for abuse and neglect cases, **23:19**
Hearsay exception for child abuse or neglect, **16:28**

NEGOTIATIONS

Admissions, **18:7**
Relevancy, **13:8**

NEWS MEDIA

Shield law, **23:15**

NEW TRIAL

Conduct of trial, **2:31**
Motion, **37:7 et seq.**

NOLLE PROSEQUI

Dismissal, **4:7**

NONHEARSAY

South Carolina (prior rule) and
federal rule difference, **16:5**

NONJURY TRIAL

Civil cases, **2:25, 2:33**

Criminal cases, **2:35**

Judgments, **36:3**

NONRESIDENTS

Default judgments against, **4:14**

NONSUIT

Involuntary nonsuit motions, **4:47,**
37:4

NOTICE

Judicial. JUDICIAL NOTICE

OATH

Jury, swearing, **6:21**

OBJECTIONS

Generally, **29:1 et seq.**

Argument

closing argument, **33:11**

opening argument, **7:7**

Closing arguments, objecting to
improper arguments, **33:11**

Dead man's statute, **22:4**

Failure to object, effect, **29:4**

Form of objections, **29:2**

Jury, timely objections, **6:4**

Jury instructions, **34:5**

Limited admissibility of evidence,
29:8

Motions to strike inadmissible evi-
dence, **29:5**

Offers of proof, **29:7**

Opening statements, **7:7**

Rulings on objections, **29:6**

Surprise witness offered at trial, **29:9**

Timing of objections, **29:3**

Witnesses, competency, **21:4**

OBJECTS

Real and demonstrative evidence,
19:6

OFFER OF COMPROMISE

Admissions, **18:7**

Proof of facts, **10:24**

Relevancy, **13:8**

OFFER OF PROOF

Objections to evidence, **29:7**

OPENING STATEMENTS

Generally, **7:1 et seq.**

Content, **7:4**

Directed verdict based, **7:8**

Dismissal based, **7:8**

Improper conduct, **7:5**

Objections, **7:7**

Order of presentation, **7:3**

Prejudice, **7:5**

Right to make, **7:2**

Scope, **7:4**

Visual aids, use, **7:6**

Waiver, **7:7**

OPINION OR EXPERT EVIDENCE

Generally, **15:1 et seq.**

Admissibility of expert opinion
testimony, **15:8**

Basis of opinion, **15:13**

Belatedly named experts, exclusion
of, **15:19**

Court-appointed experts, **15:16**

Cross-examination of experts, **15:18**

Disclosure of facts underlying
expert's opinion, **15:14**

Engineers, testimony by unlicensed
engineers, **15:20**

Eyewitness reliability, **15:12**

Lay witnesses, testimony, **15:2**

Nonscientific expert testimony,
admissibility of, **15:11**

Nontestifying experts, **15:6**

Qualifications of experts, **15:7**

Reading reports by experts into evi-
dence, **15:15**

Subject matter of expert testimony,
15:9, 15:10

Time, exclusion of belatedly named
experts, **15:19**

Ultimate issue, opinion, **15:3**

Weight and sufficiency of expert
testimony, **15:17**

INDEX

ORDERS

- Appeal of arbitration orders, **39:14**
- Contempt of court, disobedience of court constituting, **5:6**
- Directed verdict, review of order regarding directed verdict motion, **37:3**
- Dismissal, failure to obey, **4:23, 4:41**
- Jury trials, order by judge, **2:28**
- Pretrial order, control of proceedings, **2:23**

OWN MOTION OF COURT

- Exclusion of improper evidence, **2:20**

PARENTAL RIGHTS

- Attorneys, termination of rights, **1:38**

PAROL EVIDENCE RULE

- Circumstantial evidence, **14:8**

PARTIES

- Admissions of party-opponent, **18:2**
- Adverse parties, direct examination, **26:5**
- Burden of proof in civil cases, **9:3**
- Civil trial, presence of parties, **2:4**
- Conduct of parties, **2:5**
- Continuances, absence or incapacity of parties, **3:6**
- Criminal trial, presence of parties, **2:2**
- Death of party, **2:6, 4:33**
- Dismissal motion, failure to join indispensable party, **4:31**
- Indispensable party, failure to join, dismissal motion, **4:31**
- Mistrial, conduct of party, **32:12**
- Multiparty cross-examination, **27:8**
- Multiple parties and claims, voluntary dismissal in actions involving, **4:6**
- Presence of, criminal trial, **2:2**
- Real party in interest, **4:32**
- Same claim pending in another action between same parties, dismissal motion, **4:34**
- View, presence of parties, **20:3**

PARTNERSHIPS

- Burden of proof, partnership funds used by managing partner, **9:18**

PAST RECOLLECTION RECORDED

- Hearsay exception, **16:11**
- Present recollection refreshed, **26:7**

PATRIOT ACT

- Application for trace device or pen register, **30:28**

PENDING ACTION

- Same claim pending in another action between same parties, dismissal motion, **4:34**

PERJURY

- Criminal defendant, **1:8**

PERSONAL INJURIES

- Real and demonstrative evidence, **19:4**

PERSONAL JURISDICTION

- Dismissal for lack, **4:25 et seq.**

PERSONAL KNOWLEDGE

- Direct examination, **26:2**
- Witnesses, competency, **21:5**

PETITIONS

- Appointment of conservator, **1:50**
- Post-conviction relief, **1:29**

PHOTOGRAPHS

- Demonstrative evidence, **19:9 et seq.**

PHYSICAL EXAMINATION

- Self-incrimination, examination of witness and privilege, **24:6**

PHYSICIAN-PATIENT PRIVILEGE

- Generally, **23:7**

PITTING OF WITNESSES

- Generally, **21:5, 27:11**

PLEA AGREEMENTS

- Generally, **2:39**

PLEADINGS

- Amendment of, continuance, **3:11 et seq.**

PLEADINGS—Cont'd

- Failure to plead sufficient facts, **10:8**
- Failure to state claim upon which relief can be granted, dismissal motion, **4:30**
- Judgment, **10:9**
- Proof of facts
 - excusing proof at trial, **10:2**
 - failure to plead sufficient facts, **10:8**
 - judgment on pleadings, **10:9**

PLEA IN BAR

- Grounds for dismissal, **4:42 et seq.**

POLICE

- Confessions, misrepresentations by police, **31:16**

POLITICAL SUBDIVISIONS

- Judicial notice of facts about, **11:5**

POOR PERSONS

- Death penalty cases, **36:13**

POST-CONVICTION RELIEF

- Petitions, **1:29**

POST-TRIAL MOTIONS

- Amendment of judgment, **37:6**
- Directed verdict, **37:2**
- Election of remedies, **37:1 et seq.**
- Fast Track jury trials, **42:17**
- Involuntary nonsuit, **37:4**
- Judgment notwithstanding verdict, **37:5**
- New trial, **37:7 et seq.**

PRACTICE OF LAW

- Admission to practice, **1:2**

PREJUDICE

- Background evidence, admission of, **13:7**
- Closing argument, appeals to prejudice and sympathy, **33:5**
- Continuances, local prejudice, **3:5**
- Impeachment of witnesses, **25:7**
- Jury selection, discriminatory, **6:8**
- Mistrial, mitigating prejudice, **32:16**
- Opening statements, **7:5**

PREPARATION

- Continuances, adequacy of preparation time, **3:4**

PREPAYMENTS

- Relevancy, **13:8**

PRESENT RECOLLECTION

REFRESHED

- Direct examination, **26:6, 26:7**
- Redirect examination, **28:2**

PRESENT SENSE IMPRESSION

- Hearsay exception, **16:7**

PRESUMPTIONS

- Generally, **12:1 et seq.**
- Conclusive presumptions, **12:3**
- Conduct, **12:6**
- Continuation of condition, **12:8**
- Criminal cases
 - generally, **12:10 et seq.**
 - innocence and reasonable doubt, **12:11**
 - lesser included offenses, **12:12**
- Distinguished from inferences, **12:2**
- Domestic cases, **12:7**
- Foreign law, **12:4**
- Government, **12:16**
- Innocence, **12:11**
- Knowledge of law or facts, **12:3**
- Legislation, **12:14**
- Lesser included offense, **12:12**
- Life and death, **12:5**
- Property, **12:15**
- Reasonable doubt, **12:11**

PRETRIAL MATTERS

- Appellate review of pretrial discovery order, **4:38**
- Attorneys, pretrial publicity, **1:10**
- Conferences excuse of proof of facts at trial, **10:2**
- Continuances, pretrial publicity, **3:5**
- Fast Track jury trials, **42:9**
- Hearings, control of proceedings, **2:23**
- Mistrial, pretrial publicity, **32:8**
- Motions, proof of facts, **10:2, 10:7**
- Proof of facts, **10:6**

INDEX

PRETRIAL MATTERS—Cont'd

Publicity
attorneys, role, **1:10**
cameras and other media devices
used in courtroom, **2:13**
closure of pre-trial proceedings,
2:11
continuances, **3:5**
dismissal, change of venue due to
pretrial publicity, **4:29**
mistrial, **32:8**

PRIEST-PENITENT PRIVILEGE

Generally, **23:6**

PRIMA FACIE CASE

Burden of proof, **9:2**

PRIOR BAD ACTS

Witnesses, credibility and impeachment,
25:14

PRIOR CONSISTENT STATEMENTS

Credibility and impeachment of witnesses,
25:10, 25:12

PRIOR INCONSISTENT STATEMENTS

Cross-examination use of statements,
27:10
Impeachment of witnesses, **25:8 to
25:11**

PRIOR TESTIMONY

Hearsay, testimony taken at former
trial, **16:31**
Impeachment of witnesses, cross-
examination, **27:10**

PRIVACY

Court filings, privacy protection for
generally, **43:1 to 43:6**
electronic case files, **43:3, 43:4**
Federal Rules, **43:2 to 43:4**
state rules, **43:5, 43:6**
Electronic case files, **43:3, 43:4**
News media, Shield Law, **23:15**
Search and seizure, **30:23**

PRIVILEGED COMMUNICATIONS

Generally, **23:1 et seq.**

PRIVILEGED

COMMUNICATIONS—Cont'd

Attorney-client privilege
generally, **23:3 et seq.**
restrictions upon operation, **23:4**
waiver, **23:5**
Attorney work product doctrine,
23:17
Child Protection Code, abrogation of
privilege for abuse and neglect
cases, **23:19**
“Common interest” doctrine, **23:18**
Credit reports, qualified privilege
against defamation, **23:13**
Employers, qualified privilege
against defamation, **23:12**
Husband-wife privilege, **23:2**
Informants, identity, **23:11**
Judicial proceedings, absolute privilege
for statements, **23:14**
Mercantile agencies, qualified privilege
against defamation, **23:13**
Nature of, **23:1**
Newspaper shield law, **23:15**
Physician-patient privilege, **23:7**
Priest-penitent privilege, **23:6**
Probation agent, absolute privilege
for statements made to, **23:16**
Reporter’s shield law, **23:15**
Reports, **23:8**
Trade secrets, **23:10**
Voting, **23:9**

PROBABLE CAUSE

Search and Seizure, **30:15**

PROBATION AGENT

Absolute privilege for statements
made to probation agent, **23:16**

PROCEDURAL ASPECTS OF TAKING JUDGMENTS

Generally, **36:4**

PROCEDURE RULES

Failure to comply with procedure
rules in civil cases, dismissal,
4:41

PROCESS

Dismissal for insufficient process or service, **4:25 et seq.**

PROOF

Admissibility

authenticated documents, **17:12**
 confessions, **31:2 et seq.**
 duplicates, **17:15**
 mistrial, inadmissible, evidence, **32:5**
 motions to strike inadmissible evidence, **29:5**
 other bad acts admissible as part of res gestae of crime charged, **13:25**
 prior convictions, procedure for admission, **25:17**
 prior inconsistent statements, **25:9**
 ruling, **2:18**
 secondary evidence, **17:18**
 summaries, **17:16**

Admissions

generally, **18:1 et seq.**
 agents, **18:9**
 coconspirators, **18:6**
 compromise negotiations and settlement, **18:7**
 conduct of party-opponent, **18:2**
 declarations against interest distinguished, **18:1**
 hearsay exception, **16:26**
 judicial admissions
 party-opponent, **18:5**
 proof of facts, **10:24**
 remorse of party-opponent, lack of, **18:4**
 requests to admit, **10:14**
 servants, **18:9**
 settlements, **18:7**
 silence of party-opponent, **18:3**

Articles, **19:6**

Best evidence rule

generally, **17:14 et seq.**
 duplicates, **17:15**
 secondary evidence, **17:18**
 summaries, **17:16**

Burden of going forward, **9:1**

PROOF—Cont'd

Burden of proof

bail decisions, **9:17**
 bailment cases, **9:12**
 burden of going forward, **9:1**
 circumstantial evidence, **14:3**
 civil cases
 constructive trust, **9:8**
 contested wills and claims against estates, **9:7**
 damages, **9:6**
 fraud cases, **9:9 et seq.**
 party with burden, **9:3**
 quantum of evidence, **9:5**
 constructive trusts, **9:8**
 contempt proceedings, **5:7**
 contested wills and claims against estates, **9:7**
 corpus delicti, **9:14**
 criminal cases
 generally, **9:13 et seq.**
 corpus delicti, **9:14**
 defendant's burdens, **9:16**
 damages, **9:6**
 disclosure
 duty to disclose, **9:11**
 nondisclosure, **9:10**
 estates, claims against, **9:7**
 fraud cases
 generally, **9:9 et seq.**
 duty to disclose, **9:11**
 nondisclosure, **9:10**
 going forward, **9:1**
 partnership funds used by managing partner, **9:18**
 party with burden in civil cases, **9:3**
 prima facie case, **9:2**
 statutory allocation, **9:4**

Character evidence, **25:13**

Charts, **19:7**

Circumstantial evidence

generally, **14:1 et seq.**
 authentication, **17:6**
 burden of proof, **14:3**
 direct evidence versus circumstantial evidence, **14:2**
 habit or routine practice, **14:6**

INDEX

PROOF—Cont'd

- Circumstantial evidence—Cont'd
 - inferences, **14:9, 14:10**
 - jury instruction, **14:11**
 - parol evidence rule, **14:8**
 - res ipsa loquitur, **14:7**
 - similar acts and occurrences, **14:5**
 - state of mind, **14:4**
- Closing arguments, commenting on matters not in evidence, **33:7**
- Compromise or settlement, offers, **10:24**
- Demonstrations, **19:8**
- Demonstrative evidence
 - generally, **19:1 et seq.**
 - articles, **19:6**
 - chain of custody, **19:3**
 - charts, **19:7**
 - demonstrations, **19:8**
 - depositions on videotapes, **19:11**
 - diagrams, **19:7**
 - drawings, **19:7**
 - experiments, **19:8**
 - laying foundation
 - chain of custody, **19:3**
 - photographic evidence, **19:12**
 - relevancy, **19:2**
 - maps, **19:7**
 - models, **19:7**
 - objects, **19:6**
 - personal injuries, displaying to jury, **19:4**
 - photographs, **19:9 et seq.**
 - relevancy, laying foundation, **19:2**
 - scientific test results, **19:5**
 - sound recordings, **19:15**
 - videotapes
 - generally, **19:10**
 - depositions, **19:11**
 - x-rays, **19:14**
- Denials, **10:3**
- Deposition evidence, using as proof at trial, **10:16**
- Diagrams, **19:7**
- Discovery
 - deposition evidence, using as proof at trial, **10:16**

PROOF—Cont'd

- Discovery—Cont'd
 - depositions
 - cross-examination, use of depositions, **27:9**
 - videotape depositions, **19:11**
 - excusing proof at trial, use of discovery devices, **10:13**
 - interrogatories, proof of facts, **10:15**
 - motions to compel discovery and sanctions, **4:35**
 - requests to admit, **10:14**
 - sanctions
 - motions to compel discovery and sanctions, **4:35**
 - proof of facts, **10:17**
- Documentary evidence
 - generally, **17:1 et seq.**
 - ancient documents, **17:8**
 - authentication
 - generally, **17:2**
 - admissibility of authenticated documents, **17:12**
 - circumstantial evidence, distinguishing characteristics, **17:6**
 - comparison of author's handwriting, **17:5**
 - direct method, **17:4**
 - fingerprint evidence, **17:13**
 - proof, avoiding, **17:11**
 - self-authenticating documents, **17:10**
 - best evidence rule
 - generally, **17:14 et seq.**
 - duplicates, **17:15**
 - secondary evidence, **17:18**
 - summaries, **17:16**
 - duplicates, admissibility, **17:15**
 - hearsay
 - ancient documents exception, **16:21**
 - documents affecting interest in property exception, **16:20**
 - process, evidence produced, **17:9**
 - proof of facts, **10:22**
 - public records, **17:7**
 - reports, **17:7**

PROOF—Cont’d

Documentary evidence—Cont’d
 rules of Evidence, **17:3**
 seal, filing documents under seal, **17:20**
 secondary evidence, admissibility, **17:18**
 self-authenticating documents, **17:10**
 social media evidence, authentication, **17:21**
 South Carolina Rules of Evidence, **17:3**
 summaries, admissibility, **17:16**
 Drawings, **19:7**
 Exclusion of improper evidence on court’s own motion, **2:20**
 Excusing proof of facts at trial
 discovery devices, use, **10:13**
 judicial notice
 generally, **11:1 et seq.**
 criminal cases, **11:9**
 examples, **11:6, 11:7**
 government and political subdivisions, facts about, **11:5**
 procedural aspects, **11:2**
 proceedings and official records, **11:3**
 South Carolina Rules of Evidence provision, **11:8**
 statutes, ordinances and administrative rules, **11:4**
 pleadings, pretrial conferences, and pretrial motions used, **10:2**
 stipulations, use, **10:18**
 Exhibits, disposition of, **36:19**
 Experiments, **19:8**
 Expert testimony and opinion evidence
 generally, **15:1 et seq.**
 basis of opinion, **15:13**
 court-appointed experts, **15:16**
 cross-examination of experts, **15:18**
 disclosure of facts underlying expert’s opinion, **15:14**
 eyewitness reliability, **15:12**
 lay witnesses, testimony, **15:2**

PROOF—Cont’d

Expert testimony and opinion evidence—Cont’d
 nonscientific expert testimony, admissibility of, **15:11**
 qualifications of experts, **15:7**
 reading reports by experts into evidence, **15:15**
 subject matter of expert testimony, **15:9, 15:10**
 ultimate issue, opinion, **15:3**
 weight and sufficiency of expert testimony, **15:17**
 Eyewitness reliability, **15:12**
 Facts, proof, **10:1 et seq.**
 Fingerprint evidence, authentication, **17:13**
 Good faith requirement, **10:5**
 Hearsay
 generally, **16:1 et seq.**
 absence of public record or entry exception, **16:17**
 admissions exception, **16:26**
 ancient documents exception, **16:21**
 assertions that are not hearsay, **16:3**
 business records
 Uniform Business Records as Evidence Act, **16:13**
 Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 child abuse or neglect exception, **16:28**
 criminal sexual conduct cases exception, **16:29**
 declarations against interest, exception, **16:35**
 documents affecting interest in property exception, **16:20**
 dying declaration exception, **16:4**
 exceptions
 absence of public record or entry exception, **16:17**
 admissions exception, **16:26**
 ancient documents exception, **16:21**

INDEX

PROOF—Cont'd

- Hearsay—Cont'd
 - exceptions—Cont'd
 - business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 - child abuse or neglect exception, **16:28**
 - criminal sexual conduct cases exception, **16:29**
 - declarations against interest, **16:35**
 - documents affecting interest in property exception, **16:20**
 - dying declaration exception, **16:34**
 - excited utterance exception, **16:8**
 - family history
 - reputation concerning personal or family history, **16:24**
 - statement of personal or family history, **16:36**
 - family records exception, **16:19**
 - hearsay within hearsay, **16:38**
 - interpretation of statutes, **16:15**
 - judgments, **16:25**
 - judicial findings of fact in former trial, **16:32**
 - learned treatises exception, **16:23**
 - market reports and commercial publications exception, **16:22**
 - medical diagnosis or treatment, statements for purpose, **16:10**
 - miscellaneous exceptions, **16:37**
 - past recollections recorded exception, **16:11**
 - present sense impression exception, **16:7**
 - public records
 - generally, **16:16**

PROOF—Cont'd

- Hearsay—Cont'd
 - exceptions—Cont'd
 - public records—Cont'd
 - absence of public record or entry exception, **16:17**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 - records of regularly conducted activity exception, **16:12**
 - religious organizations' records exception, **16:18**
 - reputation concerning personal or family history, character, boundaries, or general history, **16:24**
 - res gestae exception, **16:6**
 - statement of personal or family history, **16:36**
 - state of mind exception, **16:9**
 - testimony taken at former trial, **16:31**
 - unavailability of declarant, exceptions requiring, **16:30**
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
 - excited utterance exception, **16:8**
 - family history
 - reputation concerning personal or family history, **16:24**
 - statement of personal or family history, **16:36**
 - family records exception, **16:19**
 - federal rule
 - nonhearsay, federal rule as different from prior South Carolina rule, **16:5**
 - records of regularly conducted activity exception, **16:12**
 - hearsay within hearsay, **16:38**
 - interpretation of statutes, **16:15**
 - judgments, exception, **16:25**

PROOF—Cont'd

Hearsay—Cont'd

judicial findings of fact in former trial, **16:32**

learned treatises exception, **16:23**

market reports and commercial publications exception, **16:22**

medical diagnosis or treatment, statements for purpose, **16:10**

nonhearsay, prior South Carolina and federal rule difference, **16:5**

past recollections recorded exception, **16:11**

personal or family history, exception, **16:24, 16:36**

present sense impression exception, **16:7**

public records

generally, **16:16**

absence of public record or entry exception, **16:17**

Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

records of religious organizations exception, **16:18**

reputation concerning personal or family history, character, boundaries, or general history, exception, **16:24**

res gestae exception, **16:6**

rules of Evidence, **16:1**

South Carolina Rules of Evidence, **16:1**

state of mind exception, **16:9**

testimony taken at former trial, **16:31**

truth of matters assert, **16:4**

unavailability of declarant, exceptions requiring, **16:30**

Uniform Business Records as Evidence Act, **16:13**

Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

Interrogatories, **10:15**

Judicial admissions, **10:24, 18:5**

PROOF—Cont'd

Judicial estoppel, proof of facts, **10:25**

Judicial notice

generally, **11:1 et seq.**

criminal cases, **11:9**

examples, **11:6, 11:7**

government and political subdivisions, facts about, **11:5**

procedural aspects, **11:2**

proceedings and official records, **11:3**

South Carolina Rules of Evidence provision, **11:8**

statutes, ordinances and administrative rules, **11:4**

Jury instructions, relating instructions to evidence, **34:6**

Maps, **19:7**

Models, **19:7**

Motion to strike inadmissible evidence, **29:5**

Motion to strike insufficient defense, **10:10**

Objections to evidence

generally, **29:1 et seq.**

dead man's statute, **22:4**

failure to object, effect, **29:4**

form of objections, **29:2**

limited admissibility of evidence, **29:8**

motions to strike inadmissible evidence, **29:5**

offers of proof, **29:7**

rulings on objections, **29:6**

surprise witness offered at trial, **29:9**

timing of objections, **29:3**

Objects, **19:6**

Offers of compromise or settlement, **10:24**

Official records, judicial notice of, **11:4**

Order of proof

generally, **8:1 et seq.**

evidence in chief, **8:2**

rebuttal evidence, **8:3, 8:4**

reopening evidence, **8:5**

INDEX

PROOF—Cont'd

- Personal injuries, displaying to jury, **19:4**
- Photographs, **19:9 et seq.**
- Pleadings
 - excuse of proof at trial, **10:2**
 - judgment, **10:9**
 - motion to strike insufficient defense, **10:10**
 - sufficient facts, failure to plead, **10:8**
- Pretrial conferences, using to excuse proof at trial, **10:2**
- Pretrial hearing, **10:6**
- Pretrial motions, **10:2, 10:7**
- Relevancy
 - generally, **13:1 et seq.**
 - character
 - generally, **13:16**
 - accused, character of, **13:17**
 - victim, **13:21**
 - witnesses, **13:22**
 - compromise offers, **13:8**
 - conditioned on fact, **13:3**
 - crime victim impact evidence, relevancy, **13:28**
 - criminal cases, prior or subsequent occurrences, **13:12**
 - criminal profiling testimony, **13:31**
 - damage, prior injury to proof, **13:14**
 - demonstrative evidence, laying foundation, **19:2**
 - exclusion of relevant evidence, **13:5**
 - habit and routine practice, **13:23**
 - impeachment by crimes of moral turpitude, **13:19**
 - insurance coverage, **13:9**
 - materiality distinguished, **13:2**
 - moral turpitude, crimes, **13:19**
 - motions in limine, **13:27**
 - negative evidence, **13:26**
 - negotiations, **13:8**
 - objections to irrelevant evidence, **13:4**
 - other bad acts admissible as part of res gestae of crime charged, **13:25**

PROOF—Cont'd

- Relevancy—Cont'd
 - other crimes, wrongs or acts, **13:24**
 - prepayments, **13:8**
 - real evidence, laying foundation, **19:2**
 - similar acts and occurrences, **13:13**
 - subsequent remedial measures and changes, **13:10**
 - third persons, evidence someone else committed crime, **13:29**
 - victim impact evidence, relevancy, **13:28**
- Reputation evidence, **25:13**
- Requests to admit, **10:14**
- Res gestae, **13:25**
- Restricting use of admitted evidence, **2:19**
- Rules of evidence
 - documentary evidence, **17:3**
 - hearsay, **16:1**
 - judicial notice, **11:8**
- Scientific test results, **19:5**
- Settlement, offers, **10:24**
- Signature requirement, **10:4**
- Sound recordings, **19:15**
- Statutes, ordinances and administrative rules, judicial notice of, **11:4**
- Stipulations
 - construction, **10:20**
 - excuse of proof at trial, use, **10:18**
 - nonbinding stipulations, **10:19**
 - scope and effect of stipulations, **10:21**
 - trial procedures, **10:23**
- Summary judgment, **10:11**
- Tactical considerations, **10:12**
- Third persons, evidence someone else committed crime, **13:29**
- Uniform Business Records as Evidence Act, **16:13**
- Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- Witnesses. See index heading WITNESSES
- X-rays, **19:14**

PROPERTY

- Hearsay, documents affecting interest in property exception, **16:20**
- Presumptions, **12:15**

PROSECUTION

- Generally, **1:12**
- Failure to prosecute, dismissal, **4:21, 4:41**
- Mistrial provoked by prosecution, **4:44**
- Right to call witnesses, prosecutorial intimidation, **10:29**

PRO SE REPRESENTATION

- Compensation, **1:19**
- Right of criminal defendant to proceed pro se, **1:30**

PROTECTIVE ORDERS

- Discovery, **4:38**

PUBLICATIONS

- Hearsay exception, commercial publications, **16:22**

PUBLICITY

- Cameras and other media devices used in courtroom, **2:13**
- Dismissal, change of venue due to pretrial publicity, **4:29**
- Mistrial, **32:8**
- Pretrial
 - attorneys, **1:10**
 - cameras and other media devices used in courtroom, **2:13**
 - continuances, **3:5**
 - dismissal, change of venue due to pretrial publicity, **4:29**
 - mistrial, **32:8**
 - venue, change of, **4:29**
- Trial publicity, **2:13, 32:8**
- Venue, change of, **4:29**

PUBLIC RECORDS

- Documentary evidence, **17:7**
- Hearsay exception
 - generally, **16:16**
 - absence of public record or entry exception, **16:17**
- Uniform Photographic Copies of Business and Public Records

PUBLIC RECORDS—Cont'd

- Hearsay exception—Cont'd as Evidence Act, **16:14**

PUBLIC TRIAL

- Exclusion from trial, **2:10**
- Pre-trial proceedings, closure of, **2:11**
- Trial proceedings, closure of, **2:12**

PUNISHMENT

- Contempt. See index heading
CONTEMPT
- Damages. See index heading PUNITIVE DAMAGES

PUNITIVE DAMAGES

- Civil penalties authorized in comparable cases, difference from punitive damages awarded, **38:6**
- Constitutional considerations, **38:3**
- Disparity between actual and potential harm suffered by plaintiff and punitive damages awarded, **38:5**
- Mitchell v. Fortis Ins. Co., **38:3**
- Post-verdict review of punitive damages, **38:2**
- Reprehensibility of defendant's misconduct, degree of, **38:4**
- Review of award
 - generally, **38:1 to 38:8**
 - civil penalties authorized in comparable cases, difference from punitive damages awarded, **38:6**
 - constitutional considerations, **38:3**
 - disparity between actual and potential harm suffered by plaintiff and punitive damages awarded, **38:5**
 - Gamble factors, **38:7**
 - post-verdict review of punitive damages, **38:2**
 - reprehensibility of defendant's misconduct, degree of, **38:4**
- Statutory limits, punitive damage awards, **38:8**

QUALIFICATION

- Counsel, disqualifying, **1:57**
- Dead man's statute, **22:1**

INDEX

QUALIFICATION—Cont'd

- Experts, **15:7**
- Fast Track Hearing Officer, **42:8**
- Jurors, **6:5**

REAL EVIDENCE

- Generally, **19:1 et seq.**
- Articles, **19:6**
- Chain of custody, **19:3**
- Charts, **19:7**
- Completeness Rule, written or recorded statements, **19:17**
- Computer generated video animations, **19:16**
- Demonstrations, **19:8**
- Depositions on videotapes, **19:11**
- Diagrams, **19:7**
- Drawings, **19:7**
- Experiments, **19:8**
- Laying foundation
 - chain of custody, **19:3**
 - photographic evidence, **19:12**
 - relevancy, **19:2**
- Maps, **19:7**
- Models, **19:7**
- Objects, **19:6**
- Personal injuries, displaying to jury, **19:4**
- Photographs, **19:9 et seq.**
- Relevancy, laying foundation, **19:2**
- Scientific test results, **19:5**
- Sound recordings, **19:15**
- Video animations, **19:16**
- Videotapes
 - generally, **19:10**
 - depositions, **19:11**
- X-rays, **19:14**

REAL PARTY IN INTEREST

- Generally, **4:32**

REASONABLE DOUBT

- Presumptions, **12:11**

REASSEMBLY OF JURY

- After discharge, **35:15**

REBUTTAL EVIDENCE

- Order of proof, **8:3, 8:4**

RECEIVERS

- Enforcement of judgments, **40:5**

RECESS

- Motion, **3:18**

RECORDINGS

- Generally, **19:10**
- Computer generated video animations, **19:16**
- Depositions, **19:11**
- Rule of completeness, **19:17**

RECORDS

- Business records
 - Uniform Business Records as Evidence Act, **16:13**
 - Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**
- Fast Track jury trials, record of proceedings, **42:10**
- Hearsay
 - business records, **16:13, 16:14**
 - family records exception, **16:19**
 - public records exception, **16:14 et seq.**
 - regularly conducted activity exception, **16:12**
 - religious organizations, records of, exception, **16:18**
- Judicial notice of official records, **11:3**
- Public records
 - documentary evidence, **17:7**
 - hearsay exception, **16:14 et seq.**

RECROSS EXAMINATION

- Generally, **28:4**

REDIRECT EXAMINATION

- Refreshing memory of witness, **28:2**
- Rehabilitating witness, **28:3**
- Scope, **28:1**

REFRESHING MEMORY

- Direct examination, **26:6, 26:7**
- Past recollection recorded, **16:11, 26:7**
- Present recollection refreshed
 - direct examination, **26:6, 26:7**

REFRESHING MEMORY—Cont'd

Present recollection refreshed
—Cont'd
redirect examination, **28:2**
Redirect examination, **28:2**

REHABILITATION OF WITNESS

Redirect examination, **28:3**

RELEVANCY

Generally, **13:1 et seq.**
Background of witnesses, **13:7**
Character
generally, **13:16**
accused, character of, **13:17**
victim, **13:21**
witnesses, **13:22**
Collateral source rule, **13:15**
Compromise offers, **13:8**
Conditioned on fact, **13:3**
Corroboration evidence, **13:6**
Crime victim impact evidence, relevancy, **13:28**
Criminal profiling testimony, **13:31**
Damage, prior injury to proof, **13:14**
Demonstrative evidence, laying foundation, **19:2**
Exclusion of relevant evidence, **13:5**
Habit and routine practice, **13:23**
Impeachment by crimes of moral turpitude, **13:19**
Insurance coverage, **13:9**
Materiality distinguished, **13:2**
Miscellaneous relevancy rules, **13:30**
Moral turpitude, crimes, **13:19**
Motions in limine, **13:27**
Negative evidence, **13:26**
Negotiations, **13:8**
Objections to irrelevant evidence, **13:4**
Other crimes, wrongs or acts, **13:24**
Post-distribution evidence in products liability cases, **13:11**
Prepayments, **13:8**
Prior or subsequent occurrences in criminal cases, **13:12**
Real evidence, laying foundation, **19:2**

RELEVANCY—Cont'd

Res gestae, other bad acts admissible as part of res gestae of crime charged, **13:25**
Similar acts and occurrences, **13:13**
Someone else committed crime, evidence as to, **13:29**
Subsequent occurrences in criminal cases, **13:12**
Subsequent remedial measures and changes, **13:10**
Third persons, evidence someone else committed crime, **13:29**
Victim impact evidence, relevancy, **13:28**

RELIGIOUS ORGANIZATIONS

Hearsay, records of religious organizations exception, **16:18**

REMORSE

Party-opponent, evidential admissions, **18:4**

REOPENING

Default judgments, **4:16 et seq.**
Dismissal, **4:41**
Evidence, order of proof, **8:5**

REPORTER'S SHIELD LAW

Qualified privilege against disclosure for news media, **23:15**

REPORTS

Documentary evidence, **17:7**
Expert testimony, reading reports by experts into evidence, **15:15**
Market reports and commercial publications exception, **16:22**
Privileged communications, **23:8**

REPUTATION

Hearsay exception for reputation, **16:24**
Witnesses, credibility and impeachment, **25:13**

REQUEST FOR ADMISSION

Proof of facts, **10:14**

RES GESTAE

Hearsay exception, **16:6**

INDEX

RES GESTAE—Cont'd

Other bad acts admissible as part of
res gestae of crime charged,
13:25

RES IPSA LOQUITUR

Circumstantial evidence, **14:7**

RETARDED PERSONS

Commitment of persons, attorneys'
role, **1:44**

REVIEW

See index heading **APPEAL AND REVIEW**

RIGHT TO COUNSEL

Generally, **1:24 et seq.**
Critical stages, **1:27**
Duty of judge to inform, **1:54**
Hearing to determine fitness to stand
trial, **1:45**
Waiver of right, **1:54**

ROUTINE PRACTICE

Circumstantial evidence, **14:6**
Relevancy, **13:23**

RULE 11, SCRCP

Attorneys, **1:7**

RULES OF EVIDENCE

Documentary evidence, **17:3**
Hearsay, **16:1**
Judicial notice, **11:8**

SANCTIONS

Alternative dispute resolution, sanc-
tions for failing to cooperate in
ADR, **39:12**
Discovery, **4:35, 4:36, 10:17**

SCIENTIFIC TESTS

Demonstrative evidence of results,
19:5

SEALS AND SEALED INSTRUMENTS

Documentary evidence, filing docu-
ments under seal, **17:20**

SEARCH AND SEIZURE

Generally, **30:1 et seq.**
Affidavit, misstatements in, **30:16**
Appeals, **30:27**

SEARCH AND SEIZURE—Cont'd

Arrest warrant, search incident to,
30:7
Consent, **30:12**
Constitutional law, **30:2**
Domestic violence statute, **30:5**
Exclusionary rule and illegally
obtained evidence, **30:1 et seq.**
Good faith exception where warrant
found invalid, **30:8**
Hot pursuit, **30:9**
Inevitable Discovery doctrine, **30:30**
Informants, use, **30:17**
Knock and talk procedure, **30:29**
Lawful arrest, search incident, **30:6,**
30:7
Motions to suppress evidence, **30:26**
Motor vehicles, **30:11**
Patriot Act, application for trace
device or pen register, **30:28**
Plain view doctrine, **30:13**
Probable cause, **30:15**
Seizure, generally, **30:3**
Standing, expectation of privacy,
30:23
Stop and frisk, **30:10**
Suppression of evidence, motions,
30:26
Use of illegally obtained evidence,
30:25
Warrantless searches, **30:4, 30:5,**
30:8
Warrants
generally, **30:14 et seq.**
body, warrant for collection of evi-
dence from person's body,
30:22
execution of warrants, **30:21**
facsimile, obtaining warrant by,
30:20
good faith exception where war-
rant found invalid, **30:8**
informants, use, **30:17**
misstatements in affidavit, **30:16**
privacy, expectation, **30:23**
probable cause, **30:15**
procedural aspects relative to issu-
ance of warrants, **30:18**

SEARCH AND SEIZURE—Cont'd

Warrants—Cont'd
scope of inquiry where issuance of
warrant challenged, **30:24**
signature requirement, **30:19**
standing, expectation of privacy,
30:23
valid arrest warrant, search
incident to, **30:7**

SEATING ARRANGEMENTS

Trial, **2:3**

SECURITY

Courtroom environment, motions
relating to, **4:40**

SELECTION OF JURY

See index heading JURY

SELF-AUTHENTICATION

Documents, **17:10**

SELF-INCRIMINATION

Adverse inferences from privilege,
24:3, 24:4
Antitrust actions, **24:9**
Compelling testimony, **24:8**
Grounds for asserting privilege
against, **24:2**
Immunity, **24:8**
Mental examination of witness and
privilege, **24:7**
Physical examination of witness,
24:6
Testimony, **24:1**
Waiver of privilege, **24:5**

SELF-REPRESENTATION

Pro se representation. See index
heading PRO SE REPRESENTATION

SENSES

Present sense impression, hearsay
exception, **16:7**

SEQUESTRATION OF WITNESSES

Competency of witnesses, **21:7**

SERVANTS

Admissions, **18:9**

SERVICE OF PROCESS

Dismissal for insufficient service,
4:25 et seq.

SETOFF

Verdict, defendant's right of setoff,
35:17

SETTLEMENT

Admissions, **18:7**
Costs, assessment, **36:15**
Offers of settlement, proof of facts,
10:24
Proof of facts, **10:24**
Relevancy, **13:8**
Writing requirement, settlement
agreements, **2:38**

SEVERANCE OF ACTIONS

Generally, **2:14**

SEXUAL CONDUCT

Hearsay exception, **16:29**
Right to counsel in sexually violent
predator cases, **1:58**

SIGNATURE

Proof of facts, **10:4**
Search warrant, signature require-
ment, **30:19**

SILENCE

Party-opponent, evidential admis-
sions, **18:3**

**SIMILAR ACTS AND
OCCURRENCES**

Circumstantial evidence, **14:5**

SOCIAL MEDIA

Documentary evidence, authentica-
tion, **17:21**

SOUND RECORDINGS

Real and demonstrative evidence,
19:15

**SOUTH CAROLINA RULES OF
EVIDENCE**

Documentary evidence, **17:3**
Hearsay, **16:1**
Judicial notice, **11:8**

INDEX

SPECIAL CHARGE

Death penalty cases, **34:9**

SPECIAL VERDICT

Form, **35:4**

Inconsistent verdict, **35:10**

Joint tortfeasors, **35:5**

SPEEDY TRIAL

Motions for dismissal, **4:46**

SPOILIATION OF EVIDENCE

Generally, **41:1 to 41:8**

Building a case for spoliation of evidence, **41:6**

Criminal cases, generally, **41:4**

Definition, **41:1**

Disciplinary actions, **41:7**

Ethical considerations, **41:7**

Federal view of spoliation: the Fourth Circuit, **41:3**

History of doctrine in South Carolina, **41:2**

Technology, application of spoliation doctrine in the technology realm, **41:5**

Tort claim against third party, spoliation of evidence as basis for, **41:8**

SPOUSES

See index heading **HUSBAND AND WIFE**

Domestic violence statute, **30:5**

Privileged communications, **23:2**

STANDING

Search and seizure, **30:23**

STATE OF MIND

Circumstantial evidence, **14:4**

Hearsay exception, **16:9**

STATUTES

Burden of proof, statutory allocation, **9:4**

Contempt of court, acts constituting, **5:5**

Dead man's statute
disqualification under statute, **22:1**
exceptions to dead man's statute, **22:3**
objections, **22:4**

STATUTES—Cont'd

Dead man's statute—Cont'd
persons disqualified, **22:2**
waiver, **22:4**

wrongful death cases, **22:5**

Interpretation, hearsay exception, **16:15**

Judicial notice, **11:4**

Long-arm statute, dismissal motion, **4:26**

Presumptions relating to legislation, **12:14**

Privacy protection for court filings, **43:6**

Uniform Business Records As Evidence Act, **16:13**

Uniform Photographic Copies of Business and Public Records as Evidence Act, **16:14**

STAY OF PROCEEDINGS

Arbitration, stay of trial court proceedings pending, **39:16**

Continuances, **3:17**

STIPULATIONS

Construction of stipulations, **10:20**

Control of proceedings, **2:24**

Fast Track jury trials, **42:4**

Nonbinding stipulations, **10:19**

Procedure, stipulations affecting, **10:23**

Proof of facts

construction, **10:20**

excuse of proof at trial, use, **10:18**

nonbinding stipulations, **10:19**

scope and effect of stipulations, **10:21**

trial procedures, **10:23**

Scope and effect, **10:21**

Trial procedures, stipulations affecting, **10:23**

STRIKING OUT

Continuance, striking the case from the docket by agreement, **3:16**

Defense, motion to strike insufficient defense, **10:10**

Inadmissible evidence, motions to strike, **29:5**

STRIKING OUT—Cont'd

Jury selection, striking jurors, **6:9**

SUA SPONTE

Exclusion of improper evidence, **2:20**

**SUBJECT MATTER
JURISDICTION**

Dismissal for lack, **4:24**

SUBPOENAED WITNESSES

Continuances, **3:9**

SUBSTANCE ABUSE

Alcohol abuse, **1:42**

Drug abuse, **1:42**

SUMMARIES

Admissibility, **17:16**

SUMMARY JUDGMENT

Proof of facts, **10:11**

SUMMATION

Appeals to prejudice and sympathy,
33:5

Attacks upon witnesses, **33:9**

Attorney, comments on opposing
counsel, **33:10**

Commenting on matters not in evi-
dence, **33:7**

Damages, arguing, **33:8**

“Golden rule” argument, **33:6**

Improper arguments
curing, **33:12**

objections, **33:11**

Opposing counsel, comments on,
33:10

Right, **33:1**

Scope, **33:2**

Visual aids, use, **33:4**

SUMMONS

Jurors, method of summoning, **6:2**

SUPPRESSION OF EVIDENCE

Motion to suppress evidence, search
and seizure, **30:26**

SURPRISE

Continuances, surprise and other
good cause, **3:15**

Default judgments, reopening, **4:17**

SURVIVAL OF CLAIMS

Death of party, **4:33**

SWEARING

Jury, swearing, **6:21**

TAXATION OF COSTS

Procedure, **36:11**

TESTS

Scientific tests, real and demonstra-
tive evidence of results, **19:5**

THIRD PERSONS

Enforcement of judgments, property
in hands of third party debtor of
judgment debtor, **40:7**

Evidence someone else committed
crime, **13:29**

Spoliation of evidence as basis for
tort claim against third party,
41:8

TIME LIMITS

Enforcement of judgments, expira-
tion of judgment, **40:9**

Expert evidence, exclusion of belat-
edly named experts, **15:19**

Fast Track jury trials, **42:13**

Jury, objections, **6:4**

Jury instructions, timing, **34:2**

Mistrial, **32:2**

Objections
evidence, **29:3**
jury, **6:4**

TRADE SECRETS

Privileged communications, **23:10**

TREATISES

Hearsay, learned treatises exception,
16:23

TRUSTS

Constructive trusts, burden of proof,
9:8

TUBERCULOSIS

Commitment of persons, attorney's
role, **1:48**

ULTIMATE ISSUE

Opinion evidence, **15:3**

INDEX

UNAVAILABILITY

Declarant, **16:30**

Witness, **3:10**

UNIFORM BUSINESS RECORDS AS EVIDENCE ACT

Hearsay, **16:13**

UNIFORM PHOTOGRAPHIC COPIES OF BUSINESS AND PUBLIC RECORDS AS EVIDENCE ACT

Hearsay, **16:14**

VACATING

Default judgments, **4:16 et seq.**

VEHICLES

Search of motor vehicles, **30:11**

VENEREAL DISEASES

Infected persons, isolation, **1:47**

VENUE

Dismissal

motion, improper venue, **4:28**

pretrial publicity, change of venue
due to, **4:29**

VERDICT

Generally, **35:1 et seq.**

Confession of judgment, **35:16**

Directed verdict. See index heading

DIRECTED VERDICT

Fast Track jury trials, **42:16**

Impeaching verdict, **35:14**

Improper questions, inclusion, **35:7**

Joint tortfeasors, special verdict for,
35:5

Judgment notwithstanding verdict,
37:5

Motions after verdict

generally, **37:1 et seq.**

amendment of judgment, **37:6**

directed verdict, **37:2**

election of remedies, **37:11**

involuntary nonsuit, **37:4**

judgment notwithstanding verdict,
37:5

new trial, **37:7 et seq.**

raising of grounds for new trial,
37:8

VERDICT—Cont'd

Omission of proper questions, **35:6**

Perverse verdicts, **35:13**

Premature deliberation of jury, **35:2**

Proper questions, omission, **35:6**

Questions

jury, questions from the jury, **35:9**

omission of proper questions, **35:6**

Reassembly of jury after discharge,
35:15

Reformation of jury's verdict, **35:11**

Setoff, defendant's right of, **35:17**

Setting verdict aside, **35:12 et seq.**

Special verdict

form, **35:4**

inconsistent verdict, **35:10**

joint tortfeasors, **35:5**

Testimony, request to rehear during
deliberations, **35:8**

Unanimous verdict requirement, **35:3**

VICTIM

Character of victim, **13:21**

Victim impact evidence

closing argument, **33:3**

relevancy, **13:28**

VIDEOTAPES

Generally, **19:10**

Depositions, **19:11**

Real evidence, computer generated
video animations, **19:16**

VIEW

Generally, **20:1 et seq.**

Presence of judge and parties at view,
20:3

Right to view, **20:2**

VISUAL AIDS

Closing arguments, **33:4**

Opening statements, **7:6**

VOIR DIRE

Conduct, **6:10 et seq.**

Mistrial, **32:9**

Questions, **6:13, 6:14**

VOLUNTARY CONFESSION

Generally, **31:4**

VOLUNTARY DISMISSAL

- Generally, **4:5**
- Criminal charges, voluntary dismissal by state, **4:7**
- Multiple parties and claims, **4:6**

VOTING

- Privileged communications, **23:9**

VOUCHER RULE

- Credibility of witnesses, impeachment, **25:5**

WAIVER

- Attorney-client privilege, **23:5**
- Dead man's statute, **22:4**
- Opening statements, **7:7**
- Right to counsel
 - civil cases, **1:55**
 - criminal cases, **1:54**
- Self-incrimination, privilege against, **24:5**
- Silent, waiver of right to remain, **31:13**

WANT OF PROSECUTION

- Dismissal, **4:21, 4:41**

WARRANTLESS SEARCHES

- Generally, **30:4, 30:5, 30:8**

WARRANTS FOR SEARCH AND SEIZURE

- Generally, **30:14 et seq.**
- Body, warrant for collection of evidence from person's body, **30:22**
- Execution of warrants, **30:21**
- Facsimile, obtaining warrant by, **30:20**
- Good faith exception where warrant found invalid, **30:8**
- Informants, use, **30:17**
- Misstatements in affidavit, **30:16**
- Privacy, expectation, **30:23**
- Probable cause, **30:15**
- Procedural aspects relative to issuance of warrants, **30:18**
- Scope of inquiry where issuance of warrant challenged, **30:24**
- Signature requirement, **30:19**

WARRANTS FOR SEARCH AND SEIZURE—Cont'd

- Standing, expectation of privacy, **30:23**
- Valid arrest warrant, search incident to, **30:7**

WIFE

- Domestic violence statute, **30:5**
- Privileged communications, **23:2**

WILLS

- Burden of proof, contested wills, **9:7**

WITNESSES

- Appearance of witnesses in courtroom, motions related to courtroom environment, **4:40**
- Attendance. See index heading COMPELLING ATTENDANCE OF WITNESSES
- Attorneys, **1:11**
- Bias and interest, impeachment, **25:7**
- Character
 - evidence, **25:13**
 - relevancy of character, **13:22**
- Closing arguments, attacks upon witnesses, **33:9**
- Co-defendant's guilty plea, **25:18**
- Compelling attendance of. See index heading COMPELLING ATTENDANCE OF WITNESSES
- Competency
 - generally, **21:1 et seq.**
 - identification evidence, **21:6**
 - interpreters, use of, **21:3**
 - objections to competency, **21:4**
 - personal knowledge of witness, **21:5**
 - qualifying witness, **21:2**
 - sequestration of witness, **21:7**
 - testimony
 - accomplice, **21:11**
 - judge, **21:8**
 - Jurors, **21:9**
 - prosecutor, competency to testify at criminal trial, **21:12**
 - trial counsel, **21:10**

INDEX

WITNESSES—Cont'd

- Confrontation of witnesses
 - constitutional guarantee, **27:2, 27:3**
 - Crawford v. Washington, **27:3**
- Continuances
 - absence or incapacity of witnesses, **3:8**
 - health, unavailability due, **3:10**
 - subpoenaed witnesses, **3:9**
- Conviction
 - co-defendant's guilty plea, **25:18**
 - guilty plea of co-defendant, **25:18**
 - prior convictions, procedure for admitting, **25:17**
 - proof of convictions to impeach, **25:15 et seq.**
- Credibility
 - generally, **25:1 et seq.**
 - background evidence, admission of, **13:7**
 - impeachment
 - generally, **25:2 et seq.**
 - bias and interest, **25:7**
 - character and reputation evidence, **25:13**
 - collateral issues, **25:19**
 - crimes, evidence of, generally, **13:18**
 - cross-examination, use of prior inconsistent statements or testimony, **27:10**
 - exclusionary rule, **25:11**
 - falsus in uno, falsus in omnibus, **25:6**
 - misconduct, **25:14**
 - moral turpitude, **13:19**
 - preservation of evidence, duty, **25:4**
 - prior bad acts and misconduct, **25:14**
 - prior consistent statements, **25:10, 25:12**
 - prior convictions
 - generally, **25:15 et seq.**
 - scope of and procedure for admitting, **25:17**
 - prior inconsistent statements, **25:8 to 25:11, 25:13**

WITNESSES—Cont'd

- Credibility—Cont'd
 - impeachment—Cont'd
 - prior misconduct, **25:14**
 - prior testimony, cross-examination, **27:10**
 - reputation evidence, **25:13**
 - Rule 609, SCRE, **13:20**
 - voucher rule, **25:5**
- Criminal profiling testimony, **13:31**
- Cross-examination of witnesses. See index heading CROSS-EXAMINATION
- Depositions. See index heading DEPOSITIONS
- Disclosure by criminal defendant of witness list or defenses, **6:12**
- Examination of witnesses. See index heading EXAMINATION OF WITNESSES
- Experts
 - generally, **15:1 et seq.**
 - basis of opinion, **15:13**
 - court-appointed experts, **15:16**
 - cross-examination of experts, **15:18**
 - disclosure of facts underlying expert's opinion, **15:14**
 - eyewitness reliability, **15:12**
 - lay witnesses, testimony, **15:2**
 - nonscientific expert testimony, admissibility of, **15:11**
 - qualifications of experts, **15:6**
 - reading reports by experts into evidence, **15:15**
 - subject matter of expert testimony, **15:9, 15:10**
 - ultimate issue, opinion, **15:3**
 - weight and sufficiency of expert testimony, **15:17**
- Eyewitness reliability, **15:12**
- Guilty plea of co-defendant, **25:18**
- Hypnosis, use of posthypnotic testimony, **27:12**
- Impeachment
 - generally, **25:2 et seq.**
 - bias and interest, **25:7**
 - character and reputation evidence, **25:13**
 - collateral issues, **25:19**

WITNESSES—Cont'd

Impeachment—Cont'd

crimes, evidence of, generally,
13:18

cross-examination, use of prior
inconsistent statements or
testimony, **27:10**

exclusionary rule, **25:11**

falsus in uno, falsus in omnibus,
25:6

misconduct, **25:14**

moral turpitude, **13:19**

preservation of evidence, duty,
25:4

prior bad acts and misconduct,
25:14

prior consistent statements, **25:10,**
25:12

prior convictions
generally, **25:15 et seq.**
scope of and procedure for
admitting, **25:17**

prior inconsistent statements, **25:8**
to 25:11, 25:13

prior misconduct, **25:14**

prior testimony, cross-examination,
27:10

reputation evidence, **25:13**

Rule 609, SCRE, **13:20**

voucher rule, **25:5**

Incompetence

generally, **21:1 et seq.**

accomplice, **21:11**

interpreters, use of, **21:3**

judge, **21:8**

jurors, **21:9**

objections to competency, **21:4**

personal knowledge of witness,
21:5

prosecutor, competency to testify
at criminal trial, **21:12**

qualifying witness, **21:2**

sequestration of witness, **21:7**

WITNESSES—Cont'd

Incompetence—Cont'd

trial counsel, **21:10**

Inconsistent statements

cross-examination use of state-
ments, **27:10**

impeachment of witnesses, **25:8 to**
25:11

Judge questioning witnesses, **2:21**

Jury questioning witnesses, **2:22**

Lay witnesses, opinion testimony,
15:2

Mental examination of witness and
privilege, **24:7**

Mistrial, **32:13**

Prior consistent statements, cred-
ibility and impeachment of wit-
nesses, **25:10, 25:12**

Prior inconsistent statements
cross-examination use of state-
ments, **27:10**
impeachment of witnesses, **25:8 to**
25:11

Prior testimony

hearsay, testimony taken at former
trial, **16:31**

impeachment of witnesses, cross-
examination, **27:10**

Prosecutorial intimidation, right to
call witnesses, **10:29**

Refreshing witness's memory

direct examination, **26:6**

redirect examination, **28:2**

Rehabilitating witnesses on redirect
examination, **28:3**

Surprise witness offered at trial,
objections, **29:9**

Voucher rule, **25:5**

WRONGFUL DEATH

Dead man's statute, **22:5**

X-RAYS

Real and demonstrative evidence,
19:14