CHAPTER 1. THE ROLE OF THE ATTORNEY

§ 1:1	In general
§ 1:2	Conduct during trial
8 1.2	Trial publicity Extr

- § 1:3 Trial publicity—Extrajudicial statements
- § 1:4 Communication with members of jury
- § 1:5 Contact with witnesses
- § 1:6 Communication with judge
- § 1:7 Attorney as witness
- § 1:8 Termination of representation, notice to client and approval of court
- § 1:9 Compromise and settlement
- § 1:10 Legal malpractice

CHAPTER 2. THE CONDUCT OF THE TRIAL

- § 2:1 Conduct of the trial, generally
- § 2:2 Discretion of court
- § 2:3 The presence of parties and counsel
- § 2:4 Pleadings
- § 2:5 The presence of the judge and jury
- § 2:6 General conduct of the judge
- § 2:7 Remarks of judge, generally
- § 2:8 Judge's conduct toward parties
- § 2:9 Judge's conduct toward witnesses
- $\S~2:10~$ Judge's remarks to or concerning counsel
- § 2:11 Disqualification of judge; Grounds—Motion
- § 2:12 Determination of disqualification motion procedure
- § 2:13 Publicity before and during trial
- § 2:14 Judicial immunity
- § 2:15 Successor judge

CHAPTER 3. ARGUMENTS OF COUNSEL

- § 3:1 Conduct and argument, generally
- § 3:2 Discourtesies and altercations between counsel
- § 3:3 Opening and concluding argument, generally
- § 3:4 Opening and closing arguments in criminal trials
- § 3:5 Remarks of counsel during trial, generally
- § 3:6 Comments by counsel on credibility and character of witnesses

§ 3:7	Comment on duties and responsibility of jury
§ 3:8	Comment on failure to testify or produce evidence
§ 3:9	Argument restricted to issues
§ 3:10	Argument restricted to evidence
§ 3:11	Documents on record and graphic aids
§ 3:12	Law applicable to case
§ 3:13	Impermissible arguments; Inflammatory argument or appeals to the jury
§ 3:14	Use of abusive language
§ 3:15	Objections; Curing errors

CHAPTER 4. TRIAL BY COURT

- § 4:1 Function and duty of court
- § 4:2 Reception of evidence

CHAPTER 5. CONTINUANCES

- § 5:1 Generally § 5:2 Unpreparedness of party—Withdrawal of counsel Absence of necessary records or documents § 5:3 § 5:4 Amendment of pleadings by opposing party § 5:5 Absence of counsel § 5:6 Absence of party Other proceedings pending § 5:7 Prejudicial publicity and hostile public atmosphere § 5:8 § 5:9 Surprise
- § 5:10 Absence of witnesses or evidence
- § 5:11 Abuse of discretion by denial of continuance

CHAPTER 6. CONTEMPT

§ 6:1 Definitions § 6:2 Court's role Direct and constructive contempts § 6:3 § 6:4 Civil and criminal contempts § 6:5 Nature of civil contempt proceedings § 6:6 Nature of criminal contempt proceedings § 6:7 Summary punishment § 6:8 Forms of punishment

CHAPTER 7. DISMISSAL AND DISCONTINUANCE

- § 7:1 Definitions and distinctions; dismissal, nonsuit and discontinuance
 § 7:2 Effect of dismissal
 § 7:3 —Retraxit, non prosequiter, and nolle prosequi
- § 7:4 Motion to dismiss and motion for summary judgment distinguished

§ 7:5	Voluntary dismissal, in general
§ 7:6	Timeliness of notice of voluntary dismissal
§ 7:7	Effect of voluntary dismissal—The "two dismissal rule"
§ 7:8	Involuntary dismissal
§ 7:9	—Criminal matters
§ 7:10	Dismissal of less than all of several defendants

CHAPTER 8. THE SELECTION OF THE JURY

§ 8:1	Grounds for challenging the array
§ 8:2	Exclusion of jurors
§ 8:3	Discrimination because of sex or race
§ 8:4	Number of jurors
§ 8:5	Impaneling the jury
§ 8:6	Examination of the jurors
§ 8:7	Challenges to jurors
§ 8:8	Discharge of juror by the court
§ 8:9	Waiver of right to challenge
§ 8:10	Swearing the jury
§ 8:11	Disqualification and challenge, in general
§ 8:12	Disqualification in particular cases
§ 8:13	Juror impartiality
§ 8:14	Familial relationships
§ 8:15	Previous knowledge of facts or connection with the
	case
§ 8:16	Preconceived opinion
§ 8:17	Hypothetical questions
§ 8:18	Bias against persons involved in case
§ 8:19	Bias against circumstantial evidence
§ 8:20	Bias towards or against capital or other particular punishment
§ 8:21	Previous jury service
§ 8:22	Business relationships
§ 8:23	Social or professional relationships
§ 8:24	Racial prejudices
§ 8:25	Peremptory challenges
§ 8:26	Demand for jury trial—Waiver of right to jury

CHAPTER 9. BURDEN OF PROOF

§ 9:1	Burden of proof and burden of going forward
§ 9:2	Effect of presumption or prima facie case upon burder
	of proof
§ 9:3	Civil cases, generally
§ 9:4	Actions ex contractu
§ 9:5	Burden of proving fraud, unfairness, and undue
	influence

§ 9:6 Illegality § 9:7 Burden as to invalidity of law § 9:8 Criminal cases § 9:9 Burden as to matters raised in defense § 9:10 Miscellaneous actions CHAPTER 10. ORDER OF PROOF Order of proof, generally § 10:1

- Conditional admission of evidence § 10:2
- § 10:3 Rebuttal and surrebuttal testimony
- § 10:4 Reopening case

CHAPTER 11. PROOF OF FACTS

- § 11:1 In general
- § 11:2 Agreed case
- § 11:3 Stipulations generally—Construction, form and requisites
- § 11:4 Subject matter of stipulations
- § 11:5 Use and effect of stipulations
- Enforcement of stipulations § 11:6
- § 11:7 Parties affected
- Conclusiveness § 11:8

CHAPTER 12. WITNESSES

- § 12:1 Compelling attendance of witnesses
- § 12:2 General limitations on power to compel
- § 12:3 Failure to compel
- Prisoners § 12:4
- § 12:5 Witnesses from out-of-state
- § 12:6 Subpoena, generally
- § 12:7 Subpoena duces tecum
- § 12:8 State's duty to call witnesses
- § 12:9 Disclosure of witnesses
- § 12:10 Right to interview witnesses
- Corroboration of witnesses § 12:11
- § 12:12 Compensation of witnesses
- § 12:13 Exclusion of witnesses
- § 12:14 Swearing of witnesses
- § 12:15 Use of deposition
- § 12:16 Use of interpreters
- § 12:17 Liability of witnesses

CHAPTER 13. COMPETENCY OF A WITNESS TO TESTIFY

§ 13:1 Competency, generally—Interest or participation in suit

§ 13:2	Objection to and determination of competency
§ 13:3	Competency of persons convicted of crime
§ 13:4	Competency of a child to testify
§ 13:5	Competency of spouse to testify for or against other spouse
§ 13:6	Competency of judge, juror, or attorney to testify
§ 13:7	Competency of atheists, immoral persons, or mental incompetents to testify
§ 13:8	Competency of accomplices as witnesses
§ 13:9	Competency of witness not made known to accused
§ 13:10	Competency of witnesses with knowledge of other testimony
§ 13:11	Competency of bailiffs or interpreters as witnesses
§ 13:12	Competency of defendant
§ 13:13	Competency of expert

CHAPTER 14. EXAMINATION OF WITNESSES

§ 14:1	Oath
§ 14:2	Interpreters and translators
§ 14:3	Examination by court or jury
§ 14:4	Adverse party or witness
§ 14:5	Questions to witnesses, generally
§ 14:6	Leading questions
§ 14:7	Objections
§ 14:8	Aiding a witness by refreshing memory
§ 14:9	Answers, generally
§ 14:10	Motion to strike
§ 14:11	Re-examination
8 14.12	Recall of witnesses

- § 14:13 Examination of expert witnesses, Frye standard rejected and Daubert adopted; statute revised
- § 14:14 Self-incrimination, generally
- § 14:15 Claim of privilege against self-incrimination
- § 14:16 Waiver of privilege against self-incrimination
- § 14:17 Immunity, generally
- § 14:18 Immunity provided by statute or rule
- § 14:19 Effect of accused offering self as witness
- § 14:20 Right to confront witnesses

CHAPTER 15. CROSS-EXAMINATION

- § 15:1 Right of cross-examination
- § 15:2 Persons subject to cross-examination
- § 15:3 Manner of conducting cross-examination
- § 15:4 Waiver of prior objection—Effect of error
- § 15:5 Scope of cross-examination

§ 15:6 Relevancy Relation to direct examination § 15:7 § 15:8 Fraud Parties to action § 15:9 § 15:10 Criminal cases § 15:11 Accomplices § 15:12 Character witnesses § 15:13 Expert witnesses

CHAPTER 16. CREDIBILITY OF WITNESSES

§ 16:1 Province of court or jury § 16:2 Attacking the credibility of witnesses § 16:3 Tests and determining factors, generally § 16:4 Interest, motive, bias, or prejudice § 16:5 Character, reputation or conviction of crime § 16:6 Manner of testifying—Contradictory statements § 16:7 Testimony false in part § 16:8 Bolstering credibility § 16:9 Corroboration of credibility

CHAPTER 17. THE IMPEACHMENT OF WITNESSES

§ 17:1 In general § 17:2 Grounds § 17:3 Interest, bias and motive Character and reputation § 17:4 § 17:5 Conviction of crime § 17:6 Inconsistent or contradictory statements Impeachment of one's own witness § 17:7 § 17:8 Defendant's statements § 17:9 Religion § 17:10 Inadmissible evidence for impeachment purposes § 17:11 Effect of admission of inadmissible evidence/testimony § 17:12 Impeachment on collateral issues § 17:13 Rehabilitation

CHAPTER 18. ADMISSIBILITY AND RELEVANCY

§ 18:1 Relevance
§ 18:2 Remoteness in point of time
§ 18:3 Subsequent remedial measures
§ 18:4 Dependence on other evidence
§ 18:5 Sufficiency to prove fact

§ 18:6	Admissibility of circumstantial evidence in civil cases
§ 18:7	Circumstantial evidence in criminal cases
§ 18:8	Competency and admissibility in general
§ 18:9	Negative evidence
§ 18:10	Evidence obtained by scientific means, generally
§ 18:11	New scientific test
§ 18:12	Tests to determine truth
§ 18:13	Admissibility of evidence on collateral issues
§ 18:14	Admissibility of evidence of similar acts or facts
§ 18:15	Proof of habits
§ 18:16	Standards and codes
§ 18:17	Suggestive facts—Facts supporting inferences
§ 18:18	Suggestive facts in criminal cases
§ 18:19	Proof of intoxication
§ 18:20	Intention and motive
§ 18:21	Evidence of character and reputation in general
§ 18:22	Evidence of character and reputation in criminal cases
§ 18:23	Negative evidence of good character or reputation
§ 18:24	Place and time to which proof must relate
§ 18:25	Evidence of other crimes
§ 18:26	Evidence of guilty plea
§ 18:27	Identification of the accused
§ 18:28	Other exceptions—Common scheme; Continuing offenses
§ 18:29	Sufficiency of evidence to prove other crimes
§ 18:30	Race, color, wealth and religion
§ 18:31	Evidence of liability insurance
§ 18:32	"Mary Carter" agreement
§ 18:33	Identity and relationship
§ 18:34	Testimony of recognition of voice
§ 18:35	Fingerprints, footprints, tire marks, and tracks
§ 18:36	Physical or mental examination; Blood tests
§ 18:37	Value of property and services
§ 18:38	Highly prejudicial evidence
§ 18:39	Tampering
§ 18:40	Court's role
§ 18:41	Suppression of evidence

CHAPTER 19. WEIGHT AND SUFFICIENCY OF EVIDENCE

- § 19:1 Weight and sufficiency, generally
- § 19:2 Uncontradicted evidence
- § 19:3 Testimony of interested witness
- § 19:4 Negative and positive testimony
- § 19:5 Circumstantial evidence

- § 19:6 Weight and sufficiency in criminal prosecutions
- § 19:7 Weight and sufficiency of evidence of corpus delicti

CHAPTER 20. BEST AND SECONDARY EVIDENCE

- § 20:1 General rule requiring best evidence
- § 20:2 What constitutes best evidence
- § 20:3 Statutory formulation of the rule
- § 20:4 Grounds for introducing, and quality of, secondary evidence
- § 20:5 Copies and originals, generally
- § 20:6 Public records
- § 20:7 Judicial records
- § 20:8 Business records
- § 20:9 Voluminous records

CHAPTER 21. PAROL EVIDENCE

- § 21:1 In general
- § 21:2 Application to separate transactions
- § 21:3 Types of writings affected
- § 21:4 Evidence as to formation or existence of contract
- § 21:5 Incomplete contracts or writings—Intent
- § 21:6 Consideration
- § 21:7 Inducement
- § 21:8 Evidence explaining contract—Ambiguities
- § 21:9 Connecting several writings
- § 21:10 Identity of parties
- § 21:11 Showing time for performance
- § 21:12 Descriptions—Boundaries
- § 21:13 Trade terms, local expressions, figures and abbreviations
- § 21:14 Public records

CHAPTER 22. DEMONSTRATIVE EVIDENCE

- § 22:1 Demonstrative evidence, generally
- § 22:2 Tangible articles in criminal cases
- § 22:3 Introduction of object—Exhibits
- § 22:4 Admissibility of motion pictures, video tapes and digital video recordings
- § 22:5 Admissibility of photographs
- § 22:6 Prejudicial photographs of persons or bodies
- § 22:7 Photographs of premises and objects
- § 22:8 Posed or staged photographs and videos
- § 22:9 Authentication and accuracy of photographs, motion pictures and tapes

§ 24:8 § 24:9

$\Gamma_{ m ABLE}$ of	Contents
§ 22:10	Effect of change in conditions upon admissibility
§ 22:11	Admissibility of sound and speed recordings
§ 22:12	Admissibility of maps, sketches, diagrams, charts and drawings
§ 22:13	Comparison of writings
§ 22:14	Experiments
§ 22:15	Exhibition of person to jury—Skeletons, bones, etc.
§ 22:16	Exhibiting child in paternity cases
CHAP	TER 23. DOCUMENTARY EVIDENCE
§ 23:1	Documentary evidence, generally
§ 23:2	Authentication, generally
§ 23:3	Self authentication
§ 23:4	Authentication of private writings
§ 23:5	Authentication of letters
§ 23:6	Maps, plats, and surveys
§ 23:7	Deeds and mortgages
§ 23:8	Authentication of ancient documents
§ 23:9	Authentication of public records
§ 23:10	Copies—Certificates of state officers
§ 23:11	Data processed records
§ 23:12	Meteorological records
§ 23:13	Medical records and reports
§ 23:14	Records of births, deaths—Probate records
§ 23:15	Judicial records, in general
\$ 23:16	Pleadings
\$ 23:17	Judgments in civil cases
\$ 23:18	Judgments in criminal cases
§ 23:19	Books
§ 23:20	Mortality tables
§ 23:21	Business records
§ 23:22	Time of making entry
§ 23:23	Treatises, periodicals, and texts
§ 23:24	Use of discovery material
CHAP	TER 24. OPINION EVIDENCE
$\S 24:1$	Requirement that the witness testify as to facts
§ 24:2	Facts distinguished from opinions
§ 24:3	Use of qualifying phrases in witness's answer
§ 24:4	Opinions of expert or skilled witnesses generally— Depositions
$\ 24:5$	Qualifications of witness
§ 24:6	Determination of qualifications
$\S 24:7$	Invasion of province of jury
§ 24:8	Opinion of ultimate fact in issue

Factual basis necessary for opinion

§ 24:10	Hypothetical questions
§ 24:11	Subjects of opinion evidence, generally
§ 24:12	Subjects of opinion evidence, medical malpractice
§ 24:13	Cause of accident or occurrence
§ 24:14	Human emotion and appearances
§ 24:15	Authenticity of writing or signature
§ 24:16	Nonexpert opinion on handwriting
§ 24:17	Interpretations of books of account
§ 24:18	Speed of moving object
§ 24:19	Ballistics—Powder burns
§ 24:20	Physical condition—Cause of injury or death
§ 24:21	Possible future effects of injury
§ 24:22	Opinion based upon a party's statements
§ 24:23	Form of opinion
§ 24:24	Nonexpert opinion of physical condition
§ 24:25	Expert opinion as to mental condition and capacity
§ 24:26	Nonexpert opinion as to mental condition and capacity
§ 24:27	Identification
§ 24:28	Fingerprints, tracks, and footprints
§ 24:29	Blood and bloodstains
§ 24:30	Values, costs, and damages, generally
§ 24:31	Damage to property
§ 24:32	Competency and qualification of witness on values
§ 24:33	Value of services—Earning capacity
§ 24:34	Disclosure of experts who will render opinion
	evidence
§ 24:35	Opinion based on scientific evidence
§ 24:36	Exclusion of expert testimony
_	PTER 25. HEARSAY EVIDENCE
§ 25:1	Hearsay evidence, generally
§ 25:2	What constitutes hearsay evidence
§ 25:3	Writings, generally
§ 25:4	Original evidence distinguished
§ 25:5	Interpreted statements
§ 25:6	Dying declarations
§ 25:7	Testimony at former trial or proceeding, generally
§ 25:8	Establishing the right to use testimony from former trial
§ 25:9	Past recollection recorded
§ 25:10	Reputation, rumor and notoriety
§ 25:10	Business records
§ 25:12	Market reports; Commercial publications
§ 25:13	Form of declaration about family relationship
§ 25:14	Public or official records and reports, generally
3 40.IT	i asiic or official records and reports, generally

§ 25:15	Hospital records
§ 25:16	Medical and scientific books and reports; Mortality tables
§ 25:17	Birth and death certificates
§ 25:18	Family history, relationship and pedigree
§ 25:19	Church records
§ 25:20	Ancient documents
§ 25:21	Spontaneous statements and excited utterances
§ 25:22	Time of statement; Spontaneity
§ 25:23	Mental, emotional, or physical condition
$\S 25:24$	Person making statement
§ 25:25	Police and accident reports
§ 25:26	Miscellaneous exceptions
$\S 25:27$	During penalty phase of capital murder trial
§ 25:28	Result of admission of inadmissible hearsay
§ 25:29	Exception applicable to children's statements describing areas of abuse or neglect

CHAPTER 26. STATEMENTS AGAINST INTEREST

§ 26:1	Statements against interest, generally
§ 26:2	Admissions of a party opponent
§ 26:3	Guilty plea
§ 26:4	Form of admissions
§ 26:5	Admissions in pleadings
§ 26:6	Offers to compromise a claim
§ 26:7	Silence of party or accused as an admission
§ 26:8	Failure to reply to written statements as an admission
§ 26:9	Admissions and declarations by corporate officers and agents
§ 26:10	Admissions and declarations of infants
§ 26:11	Deceased persons
§ 26:12	Withdrawal of admission
§ 26:13	Admission by acquiescence
§ 26:14	—Corpus delicti
§ 26:15	Judicial admissions

CHAPTER 27. JUDICIAL NOTICE

§ 27:1	Judicial notice, generally
§ 27:2	Admissibility of evidence affirming or disputing
	matters of common knowledge
§ 27:3	Judicial notice of laws
§ 27:4	Judicial notice of facts concerning the court
§ 27:5	Judicial notice of facts about public records and
	public officers

	TRIAL HANDI
§ 27:6	Foreign law
§ 27:7	Other judicially noticed facts
§ 27:8	Cities, towns, and villages
§ 27:9	Location
§ 27:10	Population
§ 27:11	Historical and economic facts
§ 27:12	Intoxicating liquors
§ 27:13	Scientific and statistical facts
§ 27:14	Language—Abbreviations
§ 27:15	Climate, seasons, and daylight hours
§ 27:16	Human health and habits
§ 27:17	Plant and animal life
§ 27:18	Business customs and practices
§ 27:19	Values
§ 27:20	Transportation, streets and highways
CHAP	TER 28. PRIVILEGED
COMN	IUNICATIONS

§ 28:1	The nature of privileged communications
§ 28:2	Criminal cases
§ 28:3	Communications between husband and wife
§ 28:4	Governmental matters
§ 28:5	Attorney and client
§ 28:6	—Crime fraud exception
§ 28:7	Attorney work product and discovery
§ 28:8	Waiver of attorney and client privilege
§ 28:9	Physician and patient
§ 28:10	—Psychotherapist-patient privilege
§ 28:11	Effect of child abuse on psychotherapist and patient
	privilege
§ 28:12	Clergyman
§ 28:13	Trade secrets
§ 28:14	Accountant and client
§ 28:15	Reporter and source
§ 28:16	Peer review committee member privilege
§ 28:17	Accident report privilege
§ 28:18	Crime reporting privilege
§ 28:19	Hospital records
§ 28:20	Other medical records
§ 28:21	Disqualification due to disclosure

CHAPTER 29. PRESUMPTIONS

§ 29:1	The nature of presumptions and inferences
§ 29:2	Irrebuttable and rebuttable presumptions
§ 29:3	Inferences
§ 29:4	Presumption on presumption; Inference on inference

§ 29:5	Judicial acts and proceedings
§ 29:6	Legislative Acts
§ 29:7	Official powers and duties
§ 29:8	Foreign laws
§ 29:9	Identity of persons from identity of names
§ 29:10	Range of human knowledge
§ 29:11	Presumption of innocence
§ 29:12	Circumstances raising inference of guilt; Flight
§ 29:13	Presumption arising from possession of stolen goods
§ 29:14	Intention that consequences shall result from acts
§ 29:15	Res ipsa loquitur doctrine
§ 29:16	Presumptions of death
§ 29:17	Presumption of validity of marriage
§ 29:18	Presumption of delivery of letter
§ 29:19	Construction and legality of contracts
§ 29:20	Presumptions about individuals
§ 29:21	Presumptions about intoxicating liquors
§ 29:22	Presumption of continuance of a condition
§ 29:23	Presumptions about gifts and joint bank accounts
§ 29:24	Negligence or exercise of care
§ 29:25	Other presumptions created by law
§ 29:26	Rebuttable presumptions
СНАІ	PTER 30. CONFESSIONS
§ 30:1	Confession defined and distinguished from admission
§ 30:2	Requirements for admissibility of confession
§ 30:3	The Miranda doctrine
§ 30:4	Miranda warnings in particular situations
§ 30:5	Waiver of rights under <i>Miranda</i>
§ 30:6	Admissibility of confessions in general
§ 30:7	Confession implicating several persons The voluntarings of a confession or admission
§ 30:8	The voluntariness of a confession or admission Requirements of voluntariness—Inducements
§ 30:9	•
§ 30:10	Voluntariness as question for court or jury
§ 30:11	Presumption and burden of proof of voluntariness Use of force or fear—Threats
§ 30:12 § 30:13	Confession made while under arrest or in custody
§ 30:13 § 30:14	Confessions in the absence of counsel
§ 30:14 § 30:15	Artifice or deception
8 90:19	At timee of deception

CHAPTER 31. ILLEGALLY OBTAINED EVIDENCE

Age, physical or mental condition of confessor

§ 31:1 Illegally obtained evidence, in general

Former plea of guilty

§ 30:16 § 30:17

§ 31:2 Evidence obtained by intercepted communication

- § 31:3 Illegal search and seizure
 § 31:4 Search and seizure in execution of search warrant
 § 31:5 Search and seizure on arrest
 § 31:6 Evidence found in connection with other crimes
 § 31:7 Illegal search, seizure or arrest
 § 31:8 DNA Evidence
- § 31:9 Objections; Motion to suppress or exclude
- § 31:10 Standing to object—Effect of consent

CHAPTER 32. OBJECTIONS TO EVIDENCE; MOTION TO STRIKE

- § 32:1 Necessity of objection
- § 32:2 The timeliness of the objection
- § 32:3 Effect of failure to object
- § 32:4 Express or implied consent
- § 32:5 Sufficiency of objections
- § 32:6 Proffer of excluded evidence
- § 32:7 Waiver of objection
- § 32:8 Motion to strike inadmissible evidence

CHAPTER 33. THE VIEW

- § 33:1 View by jury, in general
- § 33:2 Discretion of court
- § 33:3 Civil cases
- § 33:4 Criminal cases

CHAPTER 34. MISTRIAL; DISCHARGE OF JURY

- § 34:1 Motion for mistrial, generally
- § 34:2 Grounds for declaring a mistrial
- § 34:3 Discharge for inability of jury to arrive at verdict
- § 34:4 Discharge of jury in criminal cases
- § 34:5 Nolle prosegui
- § 34:6 Result of mistrial declaration

CHAPTER 35. DIRECTED VERDICT

- § 35:1 Right of court to direct verdict
- § 35:2 Motion for directed verdict
- § 35:3 Consideration of evidence
- § 35:4 Time of motion
- § 35:5 Motion by both parties
- § 35:6 Admissions and inferences
- § 35:7 Circumstances authorizing direction of verdict
- § 35:8 Circumstances precluding directed verdict
- § 35:9 Direction of verdict in criminal cases

§ 35:10 Renewal of motion

CHAPTER 36. DAMAGES

CHAI	TEIL 30. DAMAGES
§ 36:1	General and special damages
§ 36:2	Actual or compensatory damages
§ 36:3	Exemplary or punitive damages
§ 36:4	Allowance of exemplary or punitive damages
§ 36:5	Consideration of defendant's financial status in
	awarding punitive damages
§ 36:6	Circumstances authorizing recovery
§ 36:7	Persons liable for punitive or exemplary damages
§ 36:8	Procedural aspects of exemplary or punitive damages
§ 36:9	The amount of exemplary or punitive damages—New
	trial or remittur
§ 36:10	Punitive damages prohibited in certain cases
§ 36:11	Nominal damages
§ 36:12	Derivative damages
§ 36:13	Certainty of damages
§ 36:14	Foreseeability of damages: direct, proximate or
	remote consequences
§ 36:15	Duty to prevent or minimize damages—Doctrine of
	avoidable consequences
§ 36:16	Seat belt defense as avoidable consequence
§ 36:17	Liability for aggravation of an injury
§ 36:18	The collateral source rule
§ 36:19	Damages for future effects of an injury
§ 36:20	Damages in personal injury cases
§ 36:21	Damages for loss of earnings
§ 36:22	Parents' recovery of damages for injuries to child
§ 36:23	Recovery of damages for injury to spouse
§ 36:24	Benefit of the bargain rule
§ 36:25	Damage to personal property
§ 36:26	Damage to real property
§ 36:27	Damages to trees and agriculture
§ 36:28	Damages for construction defects
§ 36:29	Damages to rental property
§ 36:30	Damages recoverable under survival statute
§ 36:31	The Wrongful Death Act
§ 36:32	"Survivors" under the Wrongful Death Act
§ 36:33	Admissibility of evidence of remarriage in wrongful
	death actions
§ 36:34	Evidence of marital discord in wrongful death actions
§ 36:35	Expenses incurred—Personal injury
§ 36:36	Expenses incurred in contract actions
§ 36:37	Attorney fees
§ 36:38	Profits
§ 36:39	Anticipated or prospective profits

§ 36:40	Interest
§ 36:41	Mental anguish and suffering
§ 36:42	Damages in breach of contract cases
§ 36:43	Excessive or inadequate damages
§ 36:44	Liquidated damages and penalties
§ 36:45	Instructions on damages
§ 36:46	Set-off
§ 36:47	Caps on damages
§ 36:48	Damages in medical liability claims
СНАР	PTER 37. CRIMINAL TRIALS
§ 37:1	The rights of the accused, generally
§ 37:1	Discovery
§ 37.2 § 37:3	Right of jury trial
§ 37.3 § 37:4	Waiver of right to jury—Withdrawal
§ 37:5	Number of jurors
§ 37:6	Right to counsel, generally
§ 37:7	Ineffective counsel
§ 37:8	Waiver of right to counsel
§ 37:9	Right to self-representation
§ 37:10	Limitation of argument of counsel
§ 37:11	State's argument
§ 37:12	Right to interpreter
§ 37:13	Right to appointed expert
§ 37:14	The right to be present during trial
§ 37:15	Waiver of right to be present
§ 37:16	The accused's appearance in court
§ 37:17	Right to judge's presence at voir dire
§ 37:18	Right to fair trial—Pretrial publicity
§ 37:19	Public trial—Broadcasting court proceedings
§ 37:20	Consolidation of related offenses
§ 37:21	Severance of offenses, generally
§ 37:22	Severance involving timing of crimes
§ 37:23	Severance of defendants
§ 37:24	Motion for severance
§ 37:25	Continuances
§ 37:26	Immunity
§ 37:27	Custody and restraint of accused
CHAP	TER 38. CRIMINAL TRIALS—PLEAS
§ 38:1	Pleas, generally
§ 38:2	Presence of defendant
§ 38:3	Plea agreements—Bargaining, generally
§ 38:4	Duty of prosecuting attorney in plea bargaining
§ 38:5	Duty of defense counsel in plea bargaining
§ 38:6	Ineffective assistance of counsel

§ 38:7	Voluntariness of plea
§ 38:8	Duty of trial court in plea bargaining
§ 38:9	Plea of not guilty
§ 38:10	Plea of guilty
§ 38:11	Withdrawal of guilty plea
§ 38:12	Effect of plea of guilty
§ 38:13	Plea of guilty to lesser included offense or offense divided into degrees
§ 38:14	Plea of nolo contendere
§ 38:15	Pleading to other charges
§ 38:16	Factual basis for plea
§ 38:17	Vacation of plea

CHAPTER 39. CRIMINAL TRIALS— DEFENSES

§ 39:1	Use of force in defense of person
§ 39:2	Stand Your Ground
§ 39:3	Unintentional death of third person
§ 39:4	Use of force in defense of others
§ 39:5	Use of force by aggressor
§ 39:6	Use of force in making arrest—During custody
§ 39:7	Resisting arrest
§ 39:8	Defense of habitation or person therein
§ 39:9	Battered spouse syndrome
§ 39:10	Insanity
§ 39:11	Notice and appointment of experts
§ 39:12	Testimony
§ 39:13	Alibi
§ 39:14	Coercion or duress
§ 39:15	Entrapment
§ 39:16	Guilt of another person
§ 39:17	Voluntary intoxication
§ 39:18	Accident and misfortune
§ 39:19	Selective prosecution
§ 39:20	Infancy
§ 39:21	Lack of intent
§ 39:22	Advice of counsel
§ 39:23	Miscellaneous defenses
§ 39:24	Necessity

CHAPTER 40. CRIMINAL TRIALS—JUDGMENT AND SENTENCE

- § 40:1 Rendition of judgment
- § 40:2 Pronouncement and entry of sentence
- § 40:3 Sentencing hearing

TRIAL HANDBOOK FOR FLORIDA LAWYERS

§ 40:4	Separate sentencing for separate offenses
§ 40:5	Determination of separate offenses
§ 40:6	Exceptions to separate sentencing—Lesser included offenses
§ 40:7	Propriety of single or general sentence for multiple offenses
§ 40:8	Sentences as concurrent or consecutive—Requirement of certainty
§ 40:9	Sentencing guidelines
§ 40:10	Postconviction motions

CHAPTER 41. INSTRUCTIONS

I. IN GENERAL

§ 41:1	Instructions, generally
§ 41:2	Standard jury instructions in civil cases
§ 41:3	Requests in general—Necessity
§ 41:4	— Requisites, time, and settlement
§ 41:5	Disposition of requests
§ 41:6	Phrasing of instructions
§ 41:7	Time and manner of giving instructions
§ 41:8	Sufficiency of instructions
§ 41:9	Applicability to issues of case
§ 41:10	Invading the province of the jury
§ 41:11	Instructions as to damages, generally
§ 41:12	—Allocation of damages
§ 41:13	—Future expenses and earning capacity
§ 41:14	—Reduction to present value
§ 41:15	—Collateral source rule
§ 41:16	—Effect of taxes
§ 41:17	Instructions as to evidence—Presumptions and
	inferences
§ 41:18	——Instructions as to defenses
§ 41:19	Violation of statutory standard as evidence of negligence
§ 41:20	Contributory negligence or concurrent cause
§ 41:21	Res ipsa loquitur
§ 41:22	Evidence admissible for limited purpose
§ 41:23	Instructions as to preponderance of evidence in civil cases
§ 41:24	Instructions as to reasonable doubt in criminal cases
§ 41:25	Witnesses—Credibility
§ 41:26	Objections to instructions
§ 41:27	Correcting erroneous instructions
§ 41:28	Request by jury for reinstruction
-	

II. SPECIAL CONSIDERATIONS FOR CRIMINAL CASES

01	
§ 41:29	In general
§ 41:30	Elements of offense
§ 41:31	Failure of defendant to testify or call witness
§ 41:32	Instructions on defendant's theory
41:33	Lesser included offenses
§ 41:34	Instruction as to punishment
§ 41:35	Instructions as to interpretation and effect of
,	evidence
§ 41:36	—Circumstantial evidence
§ 41:37	Reinstruction of jury
§ 41:38	Instructions to deadlocked juries
§ 41:39	Aggravating or mitigating factors
CHAP	TER 42. CONDUCT OF THE JURY
§ 42:1	Selection of foreperson; duties of court officers
\$ 42:2	Separation of jury in criminal cases
§ 42:3	Misconduct of jurors
§ 42:4	Juror's failure to disclose information upon voir dire
	examination
§ 42:5	Inattention to proceedings
§ 42:6	Reception of evidence out of court
§ 42:7	Independent Research
§ 42:8	Premature discussion of case
§ 42:9	Communications between jurors and judge
§ 42:10	Communications between jurors and clerk, bailiff, prosecutor or third parties
§ 42:11	Deliberations of the jury
§ 42:12	Taking evidence and notes to jury room
§ 42:13	Taking charges, forms of verdict, and instructions to jury room in criminal case
§ 42:14	Repeating testimony
§ 42:15	Further instructions after submission of case
§ 42:16	Inquiries by jury
§ 42:17	Urging agreement
CHAF	PTER 43. VERDICT
§ 43:1	In general
3 43:2	Rendition of verdict in criminal case
§ 43:3	Sealed verdicts
§ 43:4	Polling the jury
§ 43:5	Form and content of verdict
§ 43:6	Objections to form or inconsistency of verdict
§ 43:7	Necessity for writing—Signature of foreperson
3 43.8	Requirements for validity of verdict

TRIAL HANDBOOK FOR FLORIDA LAWYERS

§ 43:9	Two or more plaintiffs or defendants
§ 43:10	Quotient verdicts
§ 43:11	Two or more issues
§ 43:12	Multiple offenses and counts—Inconsistent counts, degree of offense
§ 43:13	Designating parties
§ 43:14	Special verdicts
§ 43:15	Revising or amending verdicts in civil cases
§ 43:16	Correcting verdicts in criminal cases
§ 43:17	Recalling the jury
§ 43:18	Interviewing jurors
§ 43:19	Impeachment of verdict
§ 43:20	New trial

CHAPTER 44. THE JUDGMENT

- § 44:1 Rendition
- § 44:2 Form and contents
- § 44:3 Persons entitled and subject to judgments and decrees
- § 44:4 Records
- § 44:5 Void judgments
- § 44:6 Clarification of judgment
- § 44:7 Default judgments, generally
- § 44:8 Vacation of judgment
- § 44:9 JNOV

Table of Laws and Rules

Table of Cases

Index