

Index

ACCESS TO JUDICIAL RECORDS

Conduct of trial, **2:16**

ACCOMPLICES

Confessions, **29:11**

Instructions to jury, **35:12**

ADDITIONAL JURORS OR TALESMEN

Jury selection, **6:29**

ADJOURNMENTS

Continuances, Adjournments and Stays, this index

ADMISSIBILITY OF EVIDENCE

Expert testimony, **3:25**

Ruling on, **2:20**

ADMISSIONS

Declarations and Admissions, this index

AFFIDAVITS

Evidence, **10:3, 10:4**

Search and seizure, establishment of probable cause, **30:6, 30:33**

AFFIRMATIVE DEFENSES

Burden of proof, generally, **9:11, 9:24**

AGENCY RULES AND REGULATIONS

Judicial notice, **17:7**

AGENTS

Presumptions, knowledge of agents of corporation, **18:20**

AGREEMENTS

Contracts and Agreements, this index

ALIBI

Burden of proof, **9:26**

ALLOCUTION

Sentences, **38:11**

ALTERNATE JURORS

Jury selection, **6:28**

AMBIGUOUS AGREEMENTS

Parol evidence, **24:11**

AMENDMENT OF JUDGMENT

Generally, **38:9**

ANCIENT DOCUMENTS

Documentary evidence, **26:15**

Hearsay evidence, **27:26**

APPEAL AND REVIEW

Impeachment of witnesses, pendency of appeal of conviction, **14:15**

Judgments and orders, **38:14, 38:15**

Sentences, **38:14, 38:15**

APPEARANCES

Attorneys, **1:12**

Criminal trials, generally, **4:9, 4:10**

Special Appearances, this index

APPOINTMENT OF COUNSEL

Attorneys, this index

APPOINTMENT OF EXPERT

Generally, **20:14, 20:23**

APPROVAL

Consent or Approval, this index

ARGUMENTATIVE INSTRUCTIONS

Instructions to jury, **35:14**

ARRAIGNMENT

Generally, **4:9, 4:10**

ARREST

Search and seizure, **30:11, 30:15, 30:23**

ARREST OF JUDGMENT

New trial, **39:7**

ARTICLES OR OBJECTS

Real and demonstrative evidence, **22:4**

ATHEISTS

Competence of witness, **12:12**

ATTESTED DOCUMENTS

Documentary Evidence, this index

ATTORNEYS

Generally, **1:1 to 1:15**

Admission to practice, **1:1**

Appearance by counsel, **1:12**

Appointment of counsel

civil cases, **1:11**

criminal cases, **1:4, 4:10**

Attachment of right to counsel, **1:7**

INDEX

ATTORNEYS—Cont'd

- Attorney-client relationship, **1:2**
- Closing Arguments, this index
- Competence of counsel, **1:5**
- Competence of witness, **12:18**
- Conflicts of interest, **1:6**
- Continuances for absence, death or disability of counsel, **3:12**
- Discipline, **1:15**
- Ineffective assistance of counsel, **1:5**
- Mistrials, improper remarks, **32:4**
- Opening Statements, this index
- Powers of attorneys, **1:14**
- Presumption of shared confidences in law firm, **18:19**
- Privileged Communications, this index
- Professional responsibility, **1:14, 1:15**
- Right to counsel, generally, **1:3 et seq.**
- Rules of Professional Conduct, this index
- Separate counsel, right to, **1:6**
- Special appearance by party, **1:12**
- Standby counsel, **1:10**
- Voluntary appearance by party, **1:12**
- Waiver
 - conflicts of interest, **1:6**
 - right to counsel, **1:8, 1:9**
 - standby counsel, **1:10**
- Withdrawal of counsel, **1:13**
- Witness, attorney disqualified when called as, **11:26**

AUTHENTICATION

- Documentary Evidence, this index
- Real and demonstrative evidence, **22:5, 22:6**

AUTOMOBILES

- Search and seizure, **30:13, 30:14**

BAD FAITH

- Search and seizure, **30:27**

BALLISTIC TESTS

- Expert and opinion evidence, **20:42**

BAPTISMAL AND SIMILAR CERTIFICATES

- Hearsay evidence, **27:22**

BENCH TRIAL

- Directed verdicts, motion to dismiss for want of evidence, **33:2**

BEST EVIDENCE

- Generally, **23:1 to 23:15**
- Admission of party regarding contents of writing, **23:13, 23:14**
- Applicability, **23:8, 23:9**

BEST EVIDENCE—Cont'd

- Burden to raise issue of authenticity of duplicate, **23:7**
- Computer printouts, **23:6**
- Definitions, **23:5**
- Deposition of party regarding contents of writing, **23:13, 23:14**
- Duplicates
 - generally, **23:4 to 23:7**
 - burden to raise issue of authenticity of duplicate, **23:7**
 - computer printouts, **23:6**
 - definitions, **23:5**
- Functions of judge and jury, **23:15**
- Impeachment, use of deposition of party for, **23:14**
- Public records, **23:11**
- Requirement of original, **23:2, 23:3**
- Secondary evidence of contents of writing, admissibility, **23:10**
- Summaries of voluminous writings, recordings or photographs, **23:12**
- Tape recordings, **23:3**
- Testimony of party regarding contents of writing, **23:13, 23:14**
- Voluminous writings, recordings or photographs, summaries, **23:12**

BIAS OR PREJUDICE

- Impeachment of witnesses, **14:3**
- Jury selection, challenge to jury panel, **6:14**
- New trial, **39:3, 39:5**
- Setting aside judgment in criminal case, **39:5**

BOARD OF DIRECTORS

- Presumptions, knowledge of agents of corporation, **18:20**

BODY AND BODY FLUIDS

- Real and demonstrative evidence, **22:7**

BOUNDARIES

- Hearsay evidence, **27:30, 27:33**

BURDEN OF PROOF

- Generally, **9:1 to 9:31**
- As to presumptions, see Presumptions, this index
- Affirmative defenses, generally, **9:11, 9:24**
- Alibi defense, **9:26**
- Arbitrator's conclusions, extreme deference standard of review, **9:32**
- Assignment of initial burdens of proof
 - generally, **18:21 to 18:29**
 - corporate officers, regularity of conduct of, **18:25**
 - foreign law, **18:28**
 - innocence, presumption of, **18:22**
 - judicial proceedings, correctness of, **18:27**
 - marriage, **18:23**
 - official duties, regularity of conduct of, **18:26**
 - regularity of conduct or proceedings, **18:24 et seq.**

INDEX

BURDEN OF PROOF—Cont'd

- Assignment of initial burdens of proof—Cont'd
 - written instruments, **18:29**
- Burden of going forward, **9:1**
- Choice of evils defense, **9:28**
- Circumstantial evidence, **9:30**
- Civil cases, generally, **9:3 et seq.**
- Clear and convincing evidence, **9:15, 9:31**
- Competence of witness, **12:8**
- Confession, voluntariness, **9:21**
- Contributory negligence, **9:10**
- Counterclaims, **9:6**
- Criminal cases, generally, **9:17 et seq.**
- Cross-petitions, **9:7**
- Death penalty factors, **9:19**
- Declaratory judgment, **9:13**
- Defendants, criminal cases, generally, **9:23 et seq.**
- Degree of persuasion, **9:14**
- Drug cases, cooperating witnesses, **9:22**
- Effect of presumption and prima facie case, **9:2**
- Entrapment, **9:25**
- Extreme deference standard of review for arbitrator's conclusions, **9:32**
- Governmental inducement, **9:25**
- Greater weight of evidence, degree of persuasion, **9:14**
- In personam jurisdiction, **9:5**
- Insanity defense, **9:27**
- Justification, **9:28**
- Medical malpractice, **9:8**
- Personal injury, **9:9**
- Prima facie case, effect of, **9:2**
- Property damage, **9:9**
- Prosecution's burden beyond a reasonable doubt, **9:17**
- Reasonable doubt, proof beyond, **9:16, 9:17**
- Sanity presumption, **9:27**
- Self-defense, **9:28**
- Sentencing, facts relating to, **9:29**
- Setoff, **9:6**
- Sex offender conviction standard, **9:31**
- Shifting of burden of proof
 - generally, **18:5 to 18:8**
 - death presumed after unexplained absence, **18:7**
 - legitimacy of child, **18:8**
 - mailing and receipt of letters, **18:6**
- Special appearance abolished, **9:5**
- Statute of limitations, **9:20**
- Summary judgment, **9:12**
- Venue, **9:18**

“BURSTING BUBBLE” RULE

Presumptions, **18:2, 18:3, 18:30**

BUSINESS RECORDS

Hearsay evidence, **26:11, 27:14 to 27:16**

BUSINESS ROUTINE

Relevance of evidence, **19:21**

CAPITAL PROCEEDINGS

Burden of proof, **9:19**

Jury selection, challenge for cause based on scruples against capital punishment,
6:20

Sentences, **38:13**

CATCH-ALL EXCEPTION

Hearsay evidence, **27:34, 27:40**

CAUSE AND EFFECT

Expert and opinion evidence, **20:33**

CERTAINTY

Expert witnesses, **20:8**

CHAIN OF CUSTODY

Real and demonstrative evidence, **22:6**

CHALLENGES FOR CAUSE

Jury Selection, this index

CHARACTER EVIDENCE

See also Reputation, this index

Cross-examination of character witnesses, **13:16**

Hearsay evidence, **27:31**

Impeachment of witnesses, **14:5**

Relevance of evidence, **19:13, 19:14, 19:19**

CHARGING OF OFFENSE

Criminal trials, **4:7**

CHARTS

Opening statements, **7:4**

CHILDREN AND MINORS

Competence of witness, **12:13, 12:14**

Depositions of child victims, criminal cases, **21:26**

Legitimacy of child, presumption, **18:8**

Privileged communications, **15:13, 15:15**

CHOICE OF EVILS DEFENSE

Burden of proof, **9:28**

CIRCUMSTANTIAL EVIDENCE

Relevance of Evidence, this index

INDEX

CIVIL RIGHTS

Discrimination, this index

CLEAR AND CONVINCING EVIDENCE

Burden of proof, **9:15, 9:31**

CLERGY

Privileged communications, **15:17**

CLOSING ARGUMENTS

Generally, **34:1 to 34:9**

Assessing prosecutorial misconduct in closing argument, **34:8**

Content of argument, **34:3**

Improper arguments, generally, **34:4 et seq.**

Matters not in evidence, comments on, **34:5**

Objections, **34:7**

Order of argument, **34:2**

Remedies for improper closing argument, **34:9**

Right to make closing argument, **34:1**

COACHING

Witnesses, **11:24**

COCONSPIRATOR STATEMENTS

Hearsay evidence, **27:7**

CODEFENDANTS

Confessions, **29:11**

COERCION

Confessions, **29:6**

COLLATERAL ISSUES

Relevance of evidence, **19:3**

COLLATERAL MATTER EXCEPTION

Parol evidence, **24:8**

COMMERCIAL PUBLICATIONS

Hearsay evidence, **27:27**

COMMON KNOWLEDGE AND BELIEF

Expert and opinion evidence, **20:39**

Judicial notice, **17:12**

COMMON LAW

Presumptions, **18:2, 18:3, 18:30**

COMMON OBSERVATION

Judicial notice, **17:12**

COMPENSATION

Witnesses, **11:15, 11:16**

Workers' compensation, expert and opinion evidence, **20:26**

COMPETENCE OF ATTORNEYS

Generally, **1:5**

COMPETENCE OF WITNESS

Generally, **12:1 to 12:22**

Atheists, **12:12**

Attorney as witness, **12:18**

Burden to show incompetence, **12:8**

Children, **12:13, 12:14**

Court, determination by, **12:3**

Examination as to competency, **12:8**

Expert witnesses, **3:18, 12:2, 12:21**

Felons, **12:9**

Government witnesses, **12:22**

Inmates, **12:10, 12:11**

Intent, issue of, **12:6**

Jailhouse informers, **12:10**

Judge as witness, **12:17**

Juror as witness, **12:19, 12:20**

Objections, **12:7**

Opinion testimony, **12:2**

Personal knowledge requirement, **12:4**

Precise recall of events, inability regarding, **12:5**

Religious beliefs or opinions, **12:12**

Spousal communications, **12:16**

Unsound mind, person of, **12:15**

Victims, children, **12:14**

COMPETENCE TO STAND TRIAL

Criminal defendants, **2:3**

COMPLETENESS, RULE OF

Depositions, **21:6**

COMPOSITE REPORTS

Documentary evidence, **26:24**

COMPROMISE AND SETTLEMENT

Offers to Compromise, this index

Relevance of evidence, **19:24**

COMPUTER PRINTOUTS

Best evidence, **23:6**

Hearsay evidence, **27:16**

CONCLUSIVE PRESUMPTIONS

Presumptions, this index

CONDITIONAL JUDGMENTS

Generally, **38:3**

INDEX

CONDUCT OF PARTIES

Trial, **2:4**

CONDUCT OF TRIAL

Generally, **2:1 to 2:28** and see more specific topics

CONFESSION OF JUDGMENT

Generally, **38:5**

CONFESSIONS

Generally, **29:1 to 29:11**

Accomplice, confession by, **29:11**

Burden of proof, voluntariness, **9:21**

Challenge by defendant to reliability of confession, **29:8**

Codefendant, confession by, **29:11**

Coercion of confession, **29:6**

Constitutional rights, **29:3 to 29:5**

Hearing to determine voluntariness, **29:7**

Impeachment, use of illegally obtained confession for, **29:10**

Inducements to confess, **29:6**

Miranda warnings, **29:4, 29:5**

Misconduct of police, **29:9**

Proof of confession, **29:2**

Protecting constitutional rights in obtaining confession, **29:3 et seq.**

Public safety exception, Miranda warnings, **29:5**

Voluntariness of confession, **29:6 to 29:8**

CONFLICTS OF INTEREST

Attorneys, **1:6**

CONFRONTATION OF WITNESSES

Generally, **11:8**

Cross-examination, **13:13**

Hearsay evidence, **27:2**

Waiver of right to confront witness, **11:9**

CONJECTURE

Expert and opinion evidence, relevance of testimony, **20:9**

“CONNECTING-UP” OFFERED EVIDENCE

Motion to strike evidence for failure to fulfill condition of fact or “connect-up” evidence, **31:19**

Relevance of evidence, **19:5 et seq.**

CONSCIOUS GUILT

Presumptions, flight or intimidation, **18:37**

CONSENT OR APPROVAL

Judgments, **38:5**

Search and seizure, **30:12**

CONSOLIDATION

Criminal trials, **4:24**

CONSTITUTIONAL LAW

- Confessions, **29:3 et seq.**
- Criminal trials, constitutional rights of accused, generally, **4:1 to 4:6**
- Fifth Amendment, mistrials, **32:14**
- Search and Seizure, this index
- Self-Incrimination, this index
- Speedy Trial, this index

CONTEMPT

- Generally, **5:1 to 5:14**
- Civil contempt, proceedings and punishment, generally, **5:4**
- Comparison of civil and criminal contempt, **5:2**
- Criminal contempt, proceedings and punishment, generally, **5:3**
- Direct and indirect acts of contempt, **5:5 to 5:7**
- Domestic relations cases, **5:13**
- Influence over judge or jurors, attempts at improper, **5:9**
- Jury trial, right to, **5:14**
- Misrepresentation, **5:10**
- Power of court to punish for contempt, **5:1**
- Publication, **5:12**
- Refusal to testify, **5:11**
- Statutory violation as criminal contempt, **5:8**
- Witnesses, refusal to testify, **5:11**

CONTINUANCES, ADJOURNMENTS AND STAYS

- Generally, **3:11 to 3:13**
- Absence of counsel, **3:12**
- Absence of evidence or witness, **3:13**
- Criminal trials, generally, **4:25, 4:26**
- Death of counsel, **3:12**
- Disability of counsel, **3:12**

CONTINUING OBJECTIONS

- Generally, **31:8**

CONTRACTS AND AGREEMENTS

- Depositions, use of, **21:14**
- Parol Evidence, this index
- Pretrial stipulations and agreements, **10:12**

CONTRIBUTORY NEGLIGENCE

- Burden of proof, **9:10**

CONTROLLED SUBSTANCES

- Drugs and Narcotics, this index

CONVICTIONS

- Hearsay evidence, **27:32**

CORPORATIONS

- Parol evidence, corporate records, **24:10**
- Self-incrimination, **16:8**

INDEX

CORRECTION

Judgments, **38:9**

CORRESPONDENCE AND LETTERS

Documentary evidence, **26:12**

COUNSEL

Attorneys, this index

COUNSELOR-CLIENT PRIVILEGE

Generally, **15:11**

COUNTERCLAIMS

Burden of proof, **9:6**

COURTROOM

Conduct in, generally, **2:5**

CRIMINAL TRIALS

Generally, **4:1 to 4:26** and see more specific topics

CROSS-EXAMINATION

Generally, **13:10 to 13:18**

Character witnesses, **13:16**

Confrontation clause and self-incrimination, **13:13**

Defendants in criminal cases, **13:12**

Denial of right to cross-examine, effect of, **13:14**

Government informers, **13:18**

Impeachment of witnesses, **13:15, 14:7**

Interpreters, **13:17**

Recross-examination, **13:21**

Unavailability of witness, **13:14**

CUMULATIVE EVIDENCE

Relevance of evidence, **19:12**

CURATIVE INSTRUCTIONS

Mistrials, **32:10**

Objections to evidence, **31:23**

CUSTOMS AND STANDARDS

Relevance of evidence, **19:22**

DAMAGES

Expert and opinion evidence, **20:34**

DATE

Time and Date, this index

DAUBERT ANALYSIS

Expert and Opinion Evidence, this index

DEADLOCKED JURY

Instructions to jury, **35:15**

DEATH

Hearsay evidence, statement under belief of impending death, **27:37**

Presumptions

suicide, **18:11**

unexplained absence, **18:7**

DEATH SENTENCE

Capital Proceedings, this index

DECLARATIONS AND ADMISSIONS

Generally, **28:1 to 28:12**

Best evidence, admission of party regarding contents of writing, **23:13, 23:14**

Bills of injured person, payment, **28:6**

Civil cases, generally, **28:3 to 28:7**

Compromise offers, **28:5**

Confessions, this index

Criminal cases, generally, **28:8 to 28:12**

Definitions, **28:1**

Escape as admission, **28:11**

Flight as admission, **28:11**

Guilty plea as admission, **28:10**

Hearing on voluntariness of admission, **28:9**

Hearsay evidence, **27:6, 27:7**

Judicial Admissions, this index

Offers of compromise and settlement, **28:5**

Payment of bills of injured person, **28:6**

Plea discussions, **28:12**

Self-serving declarations, **28:2**

Settlement offers, **28:5**

Silence as admission, **28:7**

Withdrawn pleas, **28:12**

DECLARATORY JUDGMENTS

Generally, **38:8**

Burden of proof, **9:13**

DEEDS

Presumptions, undue influence in execution, **18:12**

DEFAULT JUDGMENTS

Generally, **38:6**

Motions, **3:14, 3:15**

DEMAND FOR JURY

Generally, **6:3**

DEMEANOR

Judges, **2:9**

DEMONSTRATIVE EVIDENCE

Real and Demonstrative Evidence, this index

INDEX

DEMURRER

- Abolished, **3:6**
- Time for objection, **31:5**

DEPOSITIONS

- Generally, **10:5, 10:6, 21:1 to 21:26**
- Adverse party, use of depositions in court, **21:3, 21:4**
- Age of witness, hearsay evidence, **21:11**
- Agreement, use of deposition upon, **21:14**
- Best evidence, deposition of party regarding contents of writing, **23:13, 23:14**
- Child victims, criminal cases, **21:26**
- Completeness, rule of, **21:6**
- Contradiction, use of depositions for, **21:2, 21:20, 21:25**
- Criminal cases
 - generally, **21:23 to 20:26**
 - child victims, **21:26**
 - civil rules, use of, **21:24**
 - contradiction or impeachment, use for, **21:25**
- Errors in depositions, objections to admissibility, **21:17 to 21:19**
- Exceptional circumstances, use of deposition of nonparty witness, **21:13**
- Forms of questions or answers, objections to admissibility, **21:19**
- Hearsay evidence
 - generally, **21:8 to 21:12, 27:43**
 - age, illness, infirmity or imprisonment of witness, unavailability, **21:11**
 - location of witness, unavailability, **21:10**
 - medical witness, unavailability of, **21:9**
 - statement of counsel regarding unavailability of witness, **21:12**
 - unavailability of witness, **21:9 et seq.**
- Illness of witness, hearsay evidence, **21:11**
- Impeachment, prior inconsistent testimony at deposition, **14:20**
- Impeachment, use of depositions for, **21:2, 21:20**
- Imprisonment of witness, hearsay evidence, **21:11**
- Infirmity of witness, hearsay evidence, **21:11**
- Irregularities in depositions, objections to admissibility, **21:17 to 21:19**
- Location of witness, hearsay evidence, **21:10**
- Medical witness, hearsay evidence, **21:9**
- Nonparty witness, use of deposition due to exceptional circumstances, **21:13**
- Notice, objections to, **21:17**
- Objections to admissibility
 - generally, **21:16 to 21:19**
 - errors or irregularities in depositions, **21:17 to 21:19**
 - forms of questions or answers, **21:19**
 - notice, objections to, **21:17**
 - relevance of evidence, **21:18**
- Part of deposition, offering of, **21:6**
- Party's own deposition, use in court, **21:4**
- Person authorized by party, depositions by, **21:5**
- Pretrial conference admissions of fact, **21:14**

DEPOSITIONS—Cont'd

Relevance of evidence, objections to admissibility, **21:18**
Substitution of parties, **21:7, 21:15**
Use of depositions in court, **21:1 et seq.**
Weight of deposition testimony, **21:21**

DESTRUCTION OF EVIDENCE

Presumptions, **18:15**

DIAGRAMS

Real and demonstrative evidence, **22:16**

DIRECTED VERDICTS

Generally, **33:1 to 33:7**
Acquittal in criminal case, **33:6**
Bench trial, motion to dismiss for want of evidence, **33:2**
Close of all evidence, **33:4, 33:5**
Close of opponent's evidence, **33:3**
Duty of court to direct verdict, close of all evidence, **33:5**
Waiver of error, introduction of evidence after denial of directed verdict as, **33:7**

DISCIPLINE

Attorneys, **1:15**
Judges, **2:12**

DISCOVERY

Depositions, this index
Dismissal for failure to comply with discovery order, **3:10**
Expert and opinion evidence, **20:25**
Interrogatories, this index
Prosecution's duty to disclose evidence, **4:20**
Requests for admissions, **10:10**
Sanctions, motion for, **3:20**

DISCRETION OF COURT

Venireperson or juror, retention or rejection of, **6:21**
View by jury, **25:4**

DISCRIMINATION

Jury Selection, this index

DISMISSAL

Close of case, dismissal at, **3:8**
Directed verdicts, motion to dismiss for want of evidence, **33:2**
Discovery, dismissal for failure to comply with discovery order, **3:10**
Motion, generally, **3:7 et seq.**
Prosecute, failure to, **3:9**
Voluntary dismissal, **3:3, 3:4**

DISPLAYS

Real and demonstrative evidence, **22:16**

INDEX

DISTANCE

Expert and opinion evidence, **20:46**

DIVORCE

Domestic Relations, this index

DNA TESTING

Expert and opinion evidence, **20:43**

Motions, **3:24**

DOCUMENTARY EVIDENCE

Generally, **26:1 to 26:24**

Ancient Documents, this index

Attested or self-authenticated documents

generally, **26:17 to 26:22**

certified public records, copies of, **26:20**

foreign country self-authentication, **26:19**

private writings admissible without proof, **26:22**

public or official records, **26:18**

real estate, documents affecting, **26:21**

Authentication and identification

generally, **26:8 to 26:16**

ancient documents, **26:15**

business records exception to hearsay rule, **26:11**

court papers and records, **26:10**

e-mail, **26:13**

judicial notice of statutes and laws and court records, **26:9**

letters and correspondence, **26:12**

mortality or life expectancy tables, **26:14**

photographs, motion pictures, videotapes and other recordings, **26:16**

regularly conducted business activity, **26:11**

text messages and telegrams, **26:13**

Best Evidence, this index

Business records exception to hearsay rule, **26:11**

Certified public records, copies of, **26:20**

Civil cases, generally, **26:3**

Composite reports, **26:24**

Correspondence and letters, **26:12**

Court papers and records, **26:10**

Definition, **26:1**

E-mails, **26:13**

Foreign country self-authentication, **26:19**

Identification. Authentication and identification, above

Judicial notice of statutes and laws and court records, **26:9**

Letters and correspondence, **26:12**

Life expectancy tables, **26:14**

Medical reports, **26:5**

Mortality tables, **26:14**

Motion pictures and other recordings, **26:16**

DOCUMENTARY EVIDENCE—Cont'd

- Official records, **26:4, 26:18**
- Photographs and other recordings, **26:16**
- Private writings admissible without proof, **26:22**
- Procedure for offering documents into evidence, **26:6**
- Public Records and Documents, this index
- Real estate, documents affecting, **26:21**
- Regularly conducted business activity, **26:11**
- Self-authenticated documents. Attested or self-authenticated documents, above
- Sound recordings, **26:2**
- Stipulation of authenticity, **26:7**
- Subscribing witness testimony, **26:23**
- Tape recordings, **26:2**
- Telegrams, **26:13**
- Text messages, **26:13**
- Transcripts, **26:2**
- Videotapes and other recordings, **26:16**

DOMESTIC RELATIONS

- Contempt, **5:13**
- Divorce trial, stipulations regarding proceedings, **2:26**
- Marriage, this index

DOUBLE JEOPARDY

- Mistrials, **32:14**

DRAWINGS

- Real and demonstrative evidence, **22:16**

DRUGS AND NARCOTICS

- Burden of proof, cooperating witnesses, **9:22**
- Expert and opinion evidence, influence of drugs, **20:36**
- Search and seizure, drug detection dogs, **30:21**

DUPLICATES

- Best Evidence, this index

DYING DECLARATIONS

- Hearsay evidence, **27:37**

ELECTRONIC RECORDS

- Depositions, **10:6**

E-MAIL

- Documentary evidence, **26:13**

EMERGENCIES

- Search and seizure, **30:10**

EMOTIONAL CONDITION

- Hearsay evidence, **27:11**

INDEX

ENTRAPMENT

Burden of proof, **9:25**

ENTRY OF JUDGMENTS

Generally, **38:2**

ESCAPE

Admissions, **28:11**

EVIDENCE AND WITNESSES

Generally, **10:1 to 10:19, 11:1 to 11:26**

Admissibility of evidence, ruling on, **2:20**

Admissions. Declarations and Admissions, this index

Affidavits, **10:3, 10:4**

Attorney disqualified when called as witness, **11:26**

Best Evidence, this index

Burden of Proof, this index

Character Evidence, this index

Closed-circuit television used to present testimony, **11:10**

Coaching of witnesses, **11:24**

Compelling attendance and testimony by witness, **11:2**

Compensation of witnesses, **11:15, 11:16**

Competence of Witness, this index

Conduct of Trial, this index

Confessions, this index

Confrontation of Witnesses, this index

“Connecting-Up” Offered Evidence, this index

Contempt, refusal to testify, **5:11**

Credibility of witnesses, **11:21**

Criminal cases, generally, **11:4 to 11:8**

Cross-Examination, this index

Declarations and Admissions, this index

Defendant as witness, **11:23**

Demonstrative evidence. Real and Demonstrative Evidence, this index

Depositions, **10:5, 10:6**

Disclosure of evidence by defendant, **4:23**

Disclosure of evidence by prosecution, generally, **4:20, 4:21**

Documentary Evidence, this index

Duty of witness to attend trial and to testify, **11:1**

Electronically recorded depositions, **10:6**

Endorsement of witnesses on information, **11:5**

Examination of Witnesses, this index

Exclusion of evidence. Search and Seizure, this index

Exclusion of witnesses, **11:17, 11:18**

Expert and Opinion Evidence, this index

Facts, proof of, generally, **10:1 to 10:19**

Harassment of witness, **11:13**

Hearsay Evidence, this index

Impeachment of Evidence or Witnesses, this index

EVIDENCE AND WITNESSES—Cont'd

- Inferences drawn from facts, **10:18**
- Influencing of witness, **11:13**
- Information, endorsement of witnesses on, **11:5**
- Interpreters, this index
- Interrogatories, answers as proof, **10:9**
- Interviewing of witness, **11:14**
- Intimidation of witness, **11:13**
- Judges
 - control of conduct and examination of witnesses, **2:18**
 - questioning of witnesses by judge, **2:22, 2:23**
- Judicial admissions, **10:8**
- Judicial Notice, this index
- Juror as witness, **12:19, 12:20, 36:8**
- Jury deliberations, rehearing or reexamining evidence during, **36:11**
- Law of the case doctrine, **10:19**
- Leading Questions, this index
- Material witnesses in felony cases, **11:7**
- Motions to strike. Objections to Evidence, this index
- Number of witnesses, **2:19**
- Objections to Evidence, this index
- Opinion evidence. Expert and Opinion Evidence, this index
- Oral examination, **10:2**
- Order of Proof, this index
- Original documents. Best Evidence, this index
- Out-of-state witnesses, **11:6**
- Parol Evidence, this index
- Pleadings, **10:8**
- Presumptions, this index
- Prisoner as witness, **11:11, 12:10, 12:11**
- Privileged Communications, this index
- Proffered testimony, generally, **10:16**
- Questioning of witnesses by judge, **2:22, 2:23**
- Real and Demonstrative Evidence, this index
- Refusal to testify, **5:11, 13:14**
- Relevance of Evidence, this index
- Reputation, this index
- Requests for admissions as proof, **10:10**
- Restrictions on use of admitted evidence, **2:21**
- Scientific Evidence, this index
- Search and Seizure, this index
- Self-Incrimination, this index
- Separation of witnesses, **11:17, 11:18**
- Sequestration of witnesses, **11:17, 11:18**
- Stipulations, this index
- Strike, motions to. Objections to Evidence, this index
- Subpoenas, **11:2**

INDEX

EVIDENCE AND WITNESSES—Cont'd

- Subpoenas duces tecum, **11:12**
- Summary judgment proceedings, affidavits, **10:4**
- Swearing of witness, **11:19**
- Tampering with witness, **11:13**
- Unavailability of witnesses, **11:25**
- Videotaped depositions, **10:6**
- View by Jury, this index
- Violation of order excluding witness, **11:18**
- Vouching for witnesses, **11:22**
- Witnesses, generally, **11:1 to 11:26**

EX PARTE COMMUNICATIONS

- Judges, **2:11**

EXAMINATION OF WITNESSES

- Generally, **13:1 to 13:21**
- Adverse party, calling as witness, **13:9**
- Control of examination by court, **13:1 to 13:3**
- Cross-Examination, this index
- Direct examination, **13:7 to 13:9**
- Duty of witness to answer question, **13:5, 13:6**
- Hostile witnesses, direct examination, **13:9**
- Impeachment of Evidence or Witnesses, this index
- Judge, interrogation of witness by, **2:22, 2:23, 13:2, 13:3**
- Leading questions, direct examination, **13:8**
- Nonresponsive answers, striking of, **13:6**
- Redirect examination, **13:19, 13:20**
- Refreshing memory of witness, **13:4**

EXCEPTIONAL CIRCUMSTANCES

- Deposition of nonparty witness, use of, **21:13**

EXCITED UTTERANCES

- Hearsay evidence, **27:10**

EXCLUSION OF PUBLIC OR JURY

- Conduct of trial, **2:14**

EXCLUSION OF WITNESSES

- Generally, **11:17, 11:18**

EXHIBITS

- Objections to evidence, **31:12**
- Opening statements, **7:4**

EXIGENT CIRCUMSTANCES

- Search and seizure, **30:10**

EXPERIMENTS

- Tests and Experiments, this index

EXPERT AND OPINION EVIDENCE

Generally, **20:1 to 20:48**
Admissibility of expert testimony, challenging, **3:25**
Appointment of expert, **20:14, 20:23**
Ballistic tests, **20:42**
Bases of expert testimony
 generally, **20:15 to 20:20**
 absence of sound and reasonable basis, remedy, **20:19**
 facts not in evidence, **20:16**
 hearsay, introduction of inadmissible, **20:20**
 hypothetical questions, **20:18**
 personal knowledge of expert, **20:17**
Business conduct, **20:32**
Cause and effect, **20:33**
Certainty of expert, **20:8**
Common knowledge exception, **20:39**
Compensation of experts, **11:16**
Competence of witness, **3:18, 12:2, 12:21**
Conjecture, relevance of testimony, **20:9**
Court-appointed experts, **20:14, 20:23**
Criminologists, **20:44**
Damages, **20:34**
Daubert analysis
 generally, **20:5, 20:6, 20:31**
 relevance of testimony, below
Demonstrative evidence, **20:27:20:28**
Disclosure of facts or data underlying opinion, **20:22**
Discovery, **20:25**
Distance, **20:46**
DNA evidence, **20:43**
Documents, questioned, **20:40**
Drugs, influence of, **20:36**
Experiments and tests, **20:41**
Fingerprints, **20:44**
General acceptance test, scientific evidence, **20:30**
Guess, relevance of testimony, **20:9**
Hair analysis, **20:44**
Handwriting, **20:35**
Hearsay, introduction of inadmissible, **20:20**
Helpfulness of testimony
 generally, **20:11, 20:12**
 law, status of, **20:12**
 lay witness opinion evidence, **20:3**
Hypothetical questions, **20:18**
Illustrative experiments, **20:41**
Indigent defendant, appointment of expert for, **20:14**
Intoxication, **20:36**

INDEX

EXPERT AND OPINION EVIDENCE—Cont'd

- Lay witness opinion evidence
 - generally, **20:1 to 20:3**
 - conclusions from witness, **20:3**
 - helpfulness of opinion, **20:3**
 - rational basis in perception of witness, **20:2**
- Lie detector tests, **20:45**
- Medical experts, **20:37, 20:38**
- Mental condition, medical experts, **20:38**
- Mistrials, failure to respond to interrogatory regarding expert witness, **32:6**
- Models, demonstrative evidence, **20:28**
- Motions
 - admissibility of expert testimony, challenging, **3:25**
 - competency of expert, **3:18**
- Negligence, **20:39**
- Nontechnical subjects, **20:46**
- Opposing party, calling expert retained by, **20:24**
- Personal knowledge of expert, **20:17**
- Polygraph tests, **20:45**
- Professional conduct, **20:32**
- Qualification of expert, **20:5**
- Relevance of testimony
 - generally, **20:6 to 20:10**
 - certainty of expert, **20:8**
 - guess, conjecture or speculation, **20:9**
 - striking expert evidence lacking factual basis, **20:10**
- Replicas, demonstrative evidence, **20:28**
- Scientific evidence
 - generally, **20:29 to 20:31**
 - Daubert analysis, above
 - general acceptance test, **20:30**
- Scientific experiments and tests, **20:41**
- Speculation, relevance of testimony, **20:9**
- Speed, **20:46**
- Steps to determine admissibility of expert testimony, **20:5 et seq.**
- Strike, motion to, **31:21**
- Tests and experiments, **20:41**
- Time, **20:46**
- Ultimate issue, **20:21**
- Valuation experts, **20:47**
- Weapons tests, **20:42**
- Weight to be given to expert testimony, **20:48**
- Workers' compensation court, **20:26**

FAILURE TO PROSECUTE

- Dismissal, **3:9**

FAIR AND IMPARTIAL JURY

Jury selection, **6:2**

FALSE STATEMENT

Impeachment of witnesses, conviction for crime, **14:10**

FAMILY HISTORY

Hearsay Evidence, this index

FAMILY RECORDS

Hearsay evidence, **27:23**

FEDERAL LAW

Judicial notice, **17:8**

Presumptions, **18:31**

FIFTH AMENDMENT

Mistrials, **32:14**

FINGERPRINTS

Expert and opinion evidence, **20:44**

Self-incrimination, **16:3**

FIVE-SIXTHS VERDICTS

Generally, **37:5**

FLIGHT

Admissions, **28:11**

Presumptions, conscious guilt, **18:37**

Relevance of evidence, **19:30**

FOREIGN STATE OR COUNTRY

Documentary evidence, self-authentication, **26:19**

Enforcement of judgments, **38:10**

Judicial notice of foreign law, **17:15**

Law applicable to cases arising outside of Nebraska, **2:28**

Presumptions regarding foreign law, **18:28**

FOURTH AMENDMENT

Search and Seizure, this index

FRAUD

Contempt, **5:10**

FRUITS OF UNREASONABLE SEARCH AND SEIZURE

Search and seizure, **30:26**

GARBAGE

Search and seizure, **30:3**

GENERAL ACCEPTANCE TEST

Scientific evidence, **20:30**

GEOGRAPHIC FACTS

Judicial notice, **17:10**

INDEX

GOOD FAITH

Search and seizure, **30:27**

GOVERNMENT

Informers, cross-examination, **13:18**

Judicial notice, **17:7**

Witnesses, competence of, **12:22**

GOVERNMENTAL INDUCEMENT

Burden of proof, **9:25**

GRAND JURIES

Impeachment of witnesses, prior inconsistent acts or statements, **14:21**

Self-incrimination, **16:14**

GRUESOME PHOTOGRAPHS

Real and demonstrative evidence, **22:11**

GUESS

Expert and opinion evidence, relevance of testimony, **20:9**

GUILTY PLEAS

Admissions, **28:10, 28:12**

Relevance of evidence, **19:26**

Self-incrimination, waiver of privilege, **16:18**

HABIT

Relevance of evidence, **19:20 to 19:22**

HABITUAL CRIMINALS

Pleas and court advisements, **4:19**

HAIR ANALYSIS

Expert and opinion evidence, **20:44**

HANDWRITING

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

HARASSMENT

Jury, **11:13**

Witnesses, **11:13**

HEARINGS

Admission, voluntariness of, **28:9**

Confessions, voluntariness, **29:7**

Objections to evidence, **31:16**

Sentences, **38:11**

HEARSAY EVIDENCE

Generally, **27:1 to 27:43**

Absence of entry in records, **27:17**

Absence of public record or report, **27:20**

Admission or statements by party-opponent, **27:6, 27:7**

Ancient documents, **27:26**

HEARSAY EVIDENCE—Cont'd

- Availability of declarant immaterial, exceptions, **27:9 et seq.**
- Baptismal and similar certificates, **27:22**
- Boundaries, judgment as to, **27:33**
- Boundaries, reputation concerning, **27:30**
- Business records, **26:11, 27:14 to 27:16**
- Catch-all exception, **27:34, 27:40**
- Character, reputation concerning, **27:31**
- Coconspirators, statements of, **27:7**
- Commercial publications, **27:27**
- Computer printouts, business records, **27:16**
- Confrontation of witnesses, **27:2**
- Conviction, judgment of previous, **27:32**
- Credibility of declarant, attacks on or support of, **27:8**
- Death, statement under belief of impending, **27:37**
- Depositions, this index
- Dying declarations, **27:37**
- Emotional condition, declaration of then existing, **27:11**
- Exceptions, **27:1, 27:9 et seq.**
- Excited utterances, **27:10**
- Expert and opinion evidence, **20:20**
- Family history
 - judgment, **27:33**
 - reputation, **27:29**
 - statement, **27:39**
- Family records, **27:23**
- Forfeiture by wrongdoing, **27:41**
- Former testimony, **27:36**
- Hearsay within hearsay, **27:42**
- History
 - family history, above
 - judgment, **27:33**
 - personal history, below
 - reputation, **27:30**
 - statement, **27:39**
- Interest, statement against, **27:38**
- Interrogatories, **27:43**
- Judgment as to personal, family or general history or boundaries, **27:33**
- Judgment of previous conviction, **27:32**
- Learned treatises, **27:28**
- Market reports, **27:27**
- Marriage and similar certificates, **27:22**
- Medical diagnosis, statement made for, **27:12**
- Mental condition, declaration of then existing, **27:11**
- Nonhearsay statements, generally, **27:3 et seq.**
- Penal interest, statement against, **27:38**

INDEX

HEARSAY EVIDENCE—Cont'd

- Personal history
 - judgment, **27:33**
 - reputation, **27:29**
 - statement, **27:39**
- Physical condition, declaration of then existing, **27:11**
- Police reports, business records, **27:15**
- Prior consistent statements, **27:5**
- Prior inconsistent statements, **27:4**
- Property interest
 - records affecting, **27:24**
 - statements in documents affecting, **27:25**
- Public records and reports, **27:18, 27:20**
- Rebuttal of charge of recent fabrication, prior consistent statements, **27:5**
- Recorded recollections, **27:13**
- Records, generally, **27:13 et seq.**
- Regularly conducted activity, records of, **27:14 to 27:16**
- Religious organizations, records of, **27:21**
- Reputation
 - boundaries or general history, **27:30**
 - character, **27:31**
 - personal or family history, **27:29**
- Residual exception, **27:34, 27:40**
- State of mind or intent, **27:11**
- Statement against interest, **27:38**
- Trustworthiness exception, **27:17**
- Unavailability of declarant, exceptions, **27:35 et seq.**
- Vital statistics records, **27:19**

HISTORY

- Hearsay Evidence, this index
- Judicial notice, **17:9**

HOMICIDE

- Real and demonstrative evidence, photographs of victim, **22:12**

HOSTILE WITNESSES

- Direct examination, **13:9**

HOT PURSUIT

- Search and seizure, **30:22**

HUMAN CHARACTERISTICS

- Judicial notice, **17:14**

HUSBAND-WIFE PRIVILEGE

- Privileged Communications, this index

HYPOTHETICAL QUESTIONS

- Expert and opinion evidence, **20:18**

IDENTIFICATION

Documentary Evidence, this index

ILLNESS

Depositions, hearsay evidence, **21:11**

ILLUSTRATIVE EXPERIMENTS

Expert and opinion evidence, **20:41**

IMMIGRATION

Pleas, consequences of, **4:18**

IMMUNITY

Self-incrimination, **16:10**

IMPEACHMENT OF EVIDENCE OR WITNESSES

Generally, **14:1 to 14:30**

Accuracy, testing of, **14:2**

Annulment, effect on prior conviction, **14:13**

Appeal of conviction, pendency of, **14:15**

Best evidence, use of deposition of party for impeachment, **23:14**

Bias, testing of, **14:3**

Character evidence, **14:5**

Communication by witness, testing of ability, **14:4**

Comprehension of witness, testing of ability, **14:4**

Confessions, use of illegally obtained, **29:10**

Cross-examination, **13:15, 14:7**

Deposition, prior inconsistent testimony at, **14:20**

Depositions, use of, **21:2, 21:20**

Disclosure duty regarding impeachment evidence, **4:22, 14:27**

Dishonesty, conviction for crime involving, **14:10**

False statement, conviction for crime involving, **14:10**

Former proceeding or deposition, testimony at, **14:21**

Foundation for prior inconsistent statement, **14:22, 14:23**

Grand jury secrecy, prior inconsistent acts or statements, **14:21**

Juvenile convictions, **14:14**

Knowledge, testing of, **14:2**

Opinion evidence of character, **14:5**

Opportunity to explain or deny prior inconsistent statement, **14:22**

Pardon, effect on prior conviction, **14:13**

Personal interest, testing of, **14:3**

Pretrial silence by testifying defendant, **14:19**

Prior consistent statements, **14:29**

Prior convictions

generally, **14:9 to 14:14**

appeal, pendency of, **14:15**

dishonesty or false statement, crime involving, **14:10**

juvenile convictions, **14:14**

manner of proving prior conviction, **14:11**

pardon or annulment, effect of, **14:13**

INDEX

IMPEACHMENT OF EVIDENCE OR WITNESSES—Cont'd

- Prior convictions—Cont'd
 - time limit for conviction evidence, **14:12**
- Prior inconsistent acts or statements
 - generally, **14:17 to 14:26**
 - discredited testimony of parties and witnesses, **14:25**
 - former proceeding or deposition, testimony at, **14:21**
 - foundation for prior statement, **14:22, 14:23**
 - grand jury secrecy, **14:21**
 - inadmissible statements used for impeachment of criminal defendant, **14:26**
 - limitations on use of prior statements, **14:24**
 - non-party, prior statement of, **14:18**
 - opportunity to explain or deny prior statement, **14:22**
 - pretrial silence by testifying defendant, **14:19**
- Rape, credibility of complainant, **14:8**
- Recent fabrication, allegation of, **14:29**
- Rehabilitation of witness on redirect examination, **14:28**
- Religious beliefs or opinions, **14:16**
- Reputation evidence of character, **14:5**
- Specific instances of conduct, **14:6, 14:7**
- Subsequent remedial measures, **14:30**
- Time limit for conviction evidence, **14:12**

IMPEACHMENT OF VERDICT

- Generally, **37:9**

IMPRISONMENT

- Prisoners and Imprisonment, this index

IN LIMINE MOTIONS

- Generally, **3:21**
- Objections to evidence, renewal at trial, **31:6**

IN PERSONAM JURISDICTION

- Burden of proof, **9:5**

INDIGENT DEFENDANT

- Appointment of expert, **20:14**

INDUSTRY CUSTOMS AND STANDARDS

- Relevance of evidence, **19:22**

INEVITABLE DISCOVERY

- Search and seizure, **30:28**

INFANTS

- Children and Minors, this index

INFLAMMATORY PHOTOGRAPHS

- Real and demonstrative evidence, **22:11**

INFORMANTS

- Competence of witness, jailhouse informers, **12:10**

INFORMANTS—Cont'd

Search and seizure, warrants, **30:8**

INNOCENCE

Presumptions, **18:22**

INSANITY

Sanity or Insanity, this index

INSTRUCTIONS TO JURY

Generally, **35:1 to 35:16**

Accomplices, **35:12**

Argumentative instructions, **35:14**

Authority of court to instruct jury, **35:2**

Criminal cases

generally, **35:4 to 35:6**

lesser included offenses, **35:5**

step instruction, **35:5**

theory of defense instruction, **35:6**

Curative Instructions, this index

Deadlocked jury, **35:15**

Delivery of written instructions by court, **35:9**

Duty of court to instruct jury, **35:2**

Judicial notice, **17:20**

Lesser included offenses, **35:5**

Limiting instructions, **35:12**

Manner of tendering requested instructions, **35:8**

Misleading instructions, **35:14**

Nebraska jury instructions, **35:3**

Objections, **35:16**

Oral explanation of written instructions, **35:11**

Pattern jury instructions, **35:3**

Presumptions, **18:35 to 18:37**

Privileged communications, **15:26, 35:10**

Purpose, **35:1**

Relevance of evidence, admission for limited purpose, **19:10**

Requested instructions, **35:7, 35:8**

Retirement of jury, instructions after, **35:13**

Right not to testify, **35:10**

Slanted instructions, **35:14**

Step instruction, criminal cases, **35:5**

Theory of defense instruction, criminal cases, **35:6**

Time for tendering requested instructions, **35:8**

INSURANCE

Liability insurance, relevance of evidence, **19:27**

INTENT

State of Mind or Intent, this index

INDEX

INTEREST, STATEMENT AGAINST

Hearsay evidence, **27:38**

INTERPRETERS

Cross-examination, **13:17**

Witnesses, generally, **11:20**

INTERROGATORIES

Answers as proof, **10:9**

Depositions, this index

Hearsay evidence, **27:43**

Mistrials, failure to respond to interrogatory regarding expert witness, **32:6**

INTERVIEWS

Witnesses, **11:14**

INTIMIDATION

Jury, **11:13**

Presumptions, conscious guilt, **18:37**

Witnesses, **11:13**

INTOXICATION

Expert and opinion evidence, **20:36**

INVENTORY SEARCH

Automobiles, **30:14**

INVESTIGATORY STOPS

Search and seizure, **30:18**

IRREBUTTABLE PRESUMPTIONS

Presumptions, this index

JAILHOUSE INFORMERS

Competence of witness, **12:10**

JOURNALISTS

Privileged communications, **15:16**

JUDGES

Accountability, **2:12**

Competence of witness, **12:17**

Conduct, generally, **2:8**

Control of conduct and examination of witnesses, **2:18**

Demeanor, **2:9**

Discipline, **2:12**

Disqualification, **2:10**

Duty to preserve order, **2:13**

Ex parte communications, **2:11**

Presence of judge, **2:6**

Questioning of witnesses by judge, **2:22, 2:23, 13:2, 13:3**

Recusal, **2:10**

Removal, **2:12**

JUDGES—Cont'd

Substitution of judges during and after trial, **2:7**

Witnesses, conduct and examination of, **2:18**

JUDGMENT NOTWITHSTANDING VERDICT

Generally, **37:10, 37:11**

JUDGMENTS AND ORDERS

Generally, **38:1 to 38:16**

Amendment of judgment, **38:9**

Appeals, **38:14, 38:15**

Civil cases, **38:1 et seq.**

Conditional judgments, **38:3**

Confession of judgment, **38:5**

Consent to judgment, **38:5**

Correction of judgment, **38:9**

Declaratory Judgments, this index

Default Judgments, this index

Entry of judgment, **38:2**

Foreign judgments, enforcement of, **38:10**

Hearsay evidence, **27:32, 27:33**

Modification of order, **38:9**

Multiple parties, rendition of judgment against on of, **38:4**

Notwithstanding verdict, JNOV, **37:10, 37:11**

Nunc pro tunc order, **38:9**

Partial judgments, **38:3**

Postconviction relief, generally, **38:16**

Prejudice requirement for setting aside judgment in criminal case, **39:5**

Pretrial Conferences and Pretrial Orders, this index

Rendition of judgment, **38:2, 38:4**

Sentences, this index

Setting aside judgments and orders, **38:9, 39:5**

Summary Judgment, this index

JUDICIAL ADMISSIONS

Generally, **28:4, 28:10**

Proof of facts, **10:8**

JUDICIAL NOTICE

Generally, **17:1 to 17:23**

Adjudicative facts, **17:2**

Agency rules and regulations, **17:7**

Applicability, **17:17, 17:22**

Common knowledge and belief, matters of, **17:12**

Common observation, matters of, **17:12**

Court, facts concerning, **17:5**

Court records, **17:6, 26:9**

Criminal cases, **17:3**

Federal law, **17:8**

Foreign law act, **17:15**

INDEX

JUDICIAL NOTICE—Cont'd

- Foreign state, law of, **17:15**
- Geographic facts, **17:10**
- Government, **17:7**
- Historical facts, **17:9**
- Human characteristics, **17:14**
- Instructions to jury, **17:20**
- Laws, **26:9**
- Legislative history, **17:8**
- Medical facts, **17:13**
- Natural phenomena, **17:11**
- Officers, **17:7**
- Opportunity to be heard as to judicial notice, **17:18**
- Places, characteristics of, **17:10**
- Pleading of judicially noticed facts, **17:21**
- Prevailing law, **17:8**
- Public policy, **17:7**
- Reasonable dispute, facts not subject to, generally, **17:4 et seq.**
- Records of court, **17:6**
- Request to take judicial notice, **17:16**
- Requirement for judicial notice, **17:17**
- Rules and regulations, **17:7, 17:23**
- Scientific facts, **17:13**
- Stage of proceeding, **17:19**
- Statutes, **26:9**

JURY AND JURY TRIAL

- Generally, **36:1 to 36:11**
- Communications with jurors, **36:3**
- Competence of juror as witness, **12:19, 12:20**
- Conduct of jury, generally, **36:1 to 36:11**
- Contempt, **5:14**
- Exclusion of jury, conduct of trial, **2:14**
- Grand Juries, this index
- Harassment of jury, **11:13**
- Influencing of jury, **11:13**
- Injury, discharge of juror for, **36:10**
- Instructions to Jury, this index
- Intimidation of jury, **11:13**
- Media coverage, exposure to, **36:4**
- Misconduct by jurors, **36:7, 36:9**
- Mistrials, this index
- Note taking by jurors, **36:6**
- Privileged communications, claim to be made without knowledge of jury, **15:25**
- Reexamining evidence during deliberations, **36:11**
- Rehearing of evidence during deliberations, **36:11**
- Right to jury trial in criminal case, generally, **4:2**
- Rules regarding conduct of jury, **36:1**

JURY AND JURY TRIAL—Cont'd

- Selection of jury. Jury Selection, this index
- Separation of jury during trial and after submission, **36:5**
- Sequestration of jury, **36:5**
- Sickness, discharge of juror for, **36:10**
- Submission of case, conduct after, **36:2**
- Tampering with jury, **11:13**
- Testimony by juror prohibited, **36:7**
- Verdicts, this index
- View by Jury, this index
- Waiver of right to jury, **6:6**

JURY SELECTION

- Generally, **6:1 to 6:30**
- Acquaintance with witness or victim, challenges for cause, **6:18**
- Additional jurors or talesmen, **6:29**
- Advisory jury in equitable action, **6:5**
- Alternate jurors, **6:28**
- Anonymous jury, **6:4**
- Batson challenge, **6:26**
- Challenge to jury selection process, **6:12 to 6:14**
- Challenges, peremptory. Peremptory challenges, below
- Challenges for cause
 - generally, **6:16 to 6:20**
 - acquaintance with witness or victim, **6:18**
 - criminal cases, generally, **6:19, 6:20**
 - death penalty cases, scruples against capital punishment, **6:20**
 - peremptory challenge use after denial of challenge for cause, **6:23**
 - prior knowledge of facts of case, **6:17**
- Death penalty cases, challenge for cause based on scruples against capital punishment, **6:20**
- Demand for jury, **6:3**
- Discharge of juror or jury, **6:30**
- Discretion of court in retention or rejection of venireperson or juror, **6:21**
- Discrimination
 - jury panel, challenge to jury panel based on discrimination, **6:14**
 - peremptory challenges, race-based, **6:26**
- Examination of jurors by judge, **6:11**
- Excusing of excess jurors, **6:11**
- Fair and impartial jury, right to, **6:2**
- Form, juror qualification, **6:10**
- Irregularities in selecting or summoning jury panel, challenge based on, **6:13**
- Jury list, **6:8, 6:14**
- Panel of jurors, selection of, **6:8**
- Passing jury for cause, **6:22**
- Peremptory challenges
 - generally, **6:23 et seq.**
 - Batson challenge, **6:26**

INDEX

JURY SELECTION—Cont'd

- Peremptory challenges—Cont'd
 - challenge for cause, peremptory challenge use after denial of, **6:23**
 - civil cases, generally, **6:23 et seq.**
 - criminal cases, generally, **6:24**
 - prohibited challenges, generally, **6:25**
 - race-based challenges, **6:26**
- Prejudice, challenge to jury panel based on, **6:14**
- Prior knowledge of facts of case, challenges for cause, **6:17**
- Protection of jurors, **6:4**
- Qualifications of jurors, **6:7, 6:10**
- Summoning of jurors, **6:9**
- Voir dire, generally, **6:15**
- Waiver of right to jury, **6:6**

JUSTIFICATION

- Burden of proof, **9:28**

JUVENILE CONVICTIONS

- Impeachment of witnesses, **14:14**

JUVENILE PROCEEDINGS

- Generally, **4:8**

KNOCK AND ANNOUNCE RULE

- Search and seizure, **30:24**

KNOWLEDGE

- Notice and Knowledge, this index

LAW OF THE CASE DOCTRINE

- Evidence and witnesses, **10:19**

LAWYERS

- Attorneys, this index

LEADING QUESTIONS

- Direct examination, **13:8**

LEARNED TREATISES

- Hearsay evidence, **27:28**

LEGISLATIVE HISTORY

- Judicial notice, **17:8**

LEGITIMACY OF CHILD

- Presumptions, **18:8**

LESSER INCLUDED OFFENSES

- Instructions to jury, **35:5**

LETTERS AND CORRESPONDENCE

- Documentary evidence, **26:12**

LIABILITY INSURANCE

Relevance of evidence, **19:27**

LIE DETECTOR TESTS

Expert and opinion evidence, **20:45**

LIFE EXPECTANCY TABLES

Documentary evidence, **26:14**

LIMITATION OF ACTIONS

Burden of proof, **9:20**

LINEUPS

Self-incrimination, **16:4**

LOCATION

Place or Location, this index

MAILING OF LETTERS

Presumptions, **18:6**

MAPS

Real and demonstrative evidence, **22:16**

MARITAL PRIVILEGE

Privileged Communications, this index

MARKET REPORTS

Hearsay evidence, **27:27**

MARRIAGE

Certificates of marriage, hearsay evidence, **27:22**

Divorce trial, stipulations regarding proceedings, **2:26**

Presumptions, **18:23**

MATERIAL WITNESSES

Felony cases, **11:7**

MEDICAL CARE AND TREATMENT

Depositions, hearsay evidence, **21:9**

Diagnosis, hearsay evidence, **27:12**

Documentary evidence, medical reports, **26:5**

Expert witnesses, **20:37, 20:38**

Hearsay evidence, **21:9, 27:12**

Judicial notice of medical facts, **17:13**

Malpractice, burden of proof, **9:8**

Relevance of evidence, payment of medical expenses, **19:25**

MENTAL CONDITION

Hearsay evidence, **27:11**

Medical experts, **20:38**

Sanity or Insanity, this index

MINORS

Children and Minors, this index

INDEX

MIRANDA WARNINGS

Confessions, **29:4, 29:5**

MISLEADING INSTRUCTIONS

Instructions to jury, **35:14**

MISREPRESENTATION

Contempt, **5:10**

MISSING TERMS

Parol evidence, **24:12**

MISTRIALS

Generally, **32:1 to 32:16**

Admonitions, **32:10**

Attorney, improper remarks of, **32:4**

Criminal cases

generally, **32:12 to 32:15**

double jeopardy, **32:14**

Fifth Amendment considerations, **32:14**

prosecutorial misconduct, **32:13**

speedy trial considerations, **32:15**

Cumulative misconduct, **32:9**

Curative instructions, **32:10**

Double jeopardy, criminal cases, **32:14**

Expert witness, failure to respond to interrogatory regarding, **32:6**

Failure to move for mistrial, **32:16**

Fifth Amendment considerations, criminal cases, **32:14**

Grounds, generally, **32:3 to 32:9**

Interrogatory regarding expert witness, failure to respond to, **32:6**

Jury

misconduct of juror, **32:5**

occurrence outside open court involving juror, **32:7**

verdict, inability to reach, **32:8**

Misconduct of juror, **32:5**

Oral motion, **32:2**

Preservation of grounds for mistrial, **32:11**

Prosecutorial misconduct, criminal cases, **32:13**

Speedy trial considerations, criminal cases, **32:15**

Verdict, inability of jury to reach, **32:8**

Waiver of right to move for mistrial, **32:16**

MODELS

Expert and opinion evidence, demonstrative evidence, **20:28**

Real and demonstrative evidence, **22:16**

MODIFICATION OF JUDGMENT

Generally, **38:9**

MORTALITY TABLES

Documentary evidence, **26:14**

MOTION PICTURES AND VIDEOTAPES

- Depositions, **10:6**
- Documentary evidence, **26:16**
- Real and demonstrative evidence, **22:15**

MOTIONS

- Generally, **3:1 to 3:25**
- Adjournments. Continuances, Adjournments and Stays, this index
- Applications and motions, **3:1**
- Consolidation, **4:24**
- Continuances, Adjournments and Stays, this index
- Criminal information, amendment of, **3:23**
- Default judgments in civil cases, **3:14, 3:15**
- Discovery violations, sanctions for, **3:20**
- Dismissal, this index
- Disposition of motions, **3:2**
- DNA testing, **3:24**
- Expert, competency, **3:18**
- Expert and Opinion Evidence, this index
- In Limine Motions, this index
- New Trial, this index
- Quashing of criminal cases, **3:5**
- Search and Seizure, this index
- Setting aside default judgment in civil cases, **3:15**
- Severance, **4:24**
- Stays. Continuances, Adjournments and Stays, this index
- Strike, Motion to, this index
- Summary judgment, **3:16**
- Suppression of evidence, **3:19**
- Venue, change of, **3:17**
- Voluntary dismissal, **3:3, 3:4**

MOTOR VEHICLES

- Search and seizure, **30:13, 30:14**

MURDER

- Real and demonstrative evidence, photographs of victim, **22:12**

NARCOTICS

- Drugs and Narcotics, this index

NATURAL PHENOMENA

- Judicial notice, **17:11**

NEGATIVE EVIDENCE

- Relevance of evidence, **19:11**

NEGLIGENCE

- Expert and opinion evidence, **20:39**
- Presumptions, **18:16**

INDEX

NEW TRIAL

- Generally, **39:1 to 39:9**
- Arrest of judgment, **39:7**
- Competence of juror as witness at hearing for, **12:20**
- Definition, **39:1**
- Grounds, **39:2, 39:4, 39:5, 39:9**
- Prejudice requirement, **39:3, 39:5**
- Preservation of grounds for new trial, **39:9**
- Speedy trial, effect of order for new trial on right to, **39:6**
- Time for motion for new trial, **39:8**

NIGHTTIME SEARCHES

- Search and seizure, warrants, **30:9**

NOLO CONTENDERE PLEAS

- Relevance of evidence, **19:26**

NONJURY TRIAL

- Directed verdicts, motion to dismiss for want of evidence, **33:2**

NONRESPONSIVE ANSWERS

- Striking of answers, **13:6**

NOTE TAKING

- Jurors, **36:6**

NOTICE AND KNOWLEDGE

- Depositions, objections, **21:17**
- Judicial Notice, this index
- Personal Knowledge, this index

NUNC PRO TUNC ORDERS

- Generally, **38:9**

OATHS

- Witness, **11:19**

OBJECTIONS

- Closing arguments, **34:7**
- Depositions, this index
- Evidence. Objections to Evidence, this index
- Instructions to jury, **35:16**
- Opening statements, **7:5**
- Verdict forms, **37:2**

OBJECTIONS TO EVIDENCE

- Generally, **31:1 to 31:23**
- Competence of witness, **12:7**
- Continuing objections, **31:8**
- Curative instructions, **31:23**
- Demurrer, time for objection, **31:5**
- Duty to object, **31:2, 31:3**
- Exhibits, **31:12**

OBJECTIONS TO EVIDENCE—Cont'd

- Expert testimony, motions to strike, **31:21**
- General objections, **31:11**
- Hearings on objections, **31:16**
- Judge's characterization of proffered evidence, **31:15**
- In limine motion renewed at trial, **31:6**
- Making of objections and motions to strike, **31:1**
- Motions to strike evidence
 - generally, **31:17 to 31:22**
 - expert testimony, **31:21**
 - failure to fulfill condition of fact or "connect-up" evidence, **31:19**
 - time for motion, **31:22**
 - unresponsive or unreasonable testimony, **31:20**
- Nature of objection, **31:9 to 31:11**
- Offers of proof, **31:13 to 31:15**
- Parol evidence, **24:5**
- Question and answer form of proffered evidence, **31:15**
- Right to object, **31:2, 31:3**
- Specific grounds for objection, statement of, **31:10**
- Suppression motion renewed at trial, **31:7**
- Time for motion to strike evidence, **31:22**
- Time for objection
 - generally, **31:4 to 31:7**
 - demurrer, **31:5**
 - in limine motion renewed at trial, **31:6**
 - suppression motion renewed at trial, **31:7**
- Time for offer of proof, **31:14**
- Unresponsive or unreasonable testimony, motions to strike, **31:20**
- Waiver of right to object, **31:3**

OBJECTS OR ARTICLES

- Real and demonstrative evidence, **22:4, 22:13**

OFFERS OF PROOF

- Objections to evidence, **31:13 to 31:15**

OFFERS TO COMPROMISE

- Admissions, **28:5**
- Relevance of evidence, **19:24**

OFFICERS

- Judicial notice, **17:7**
- Presumptions, knowledge of officers of corporation, **18:20**

OFFICIAL INFORMATION PRIVILEGE

- Generally, **15:20**

OFFICIAL RECORDS

- Documentary evidence, **26:4, 26:18**

INDEX

OPEN FIELDS

Search and seizure, **30:3**

OPENING STATEMENTS

Generally, **7:1 to 7:6**

Charts, use of, **7:4**

Content, **7:2, 7:3**

Effect of improper opening statement, **7:6**

Exhibits, use of, **7:4**

Improper opening statements, **7:5, 7:6**

Nature, **7:1**

Objections to improper opening statements, **7:5**

Relief from improper opening statement, **7:6**

“OPENING THE DOOR”

Relevance of evidence, **19:6**

OPINION EVIDENCE

Expert and Opinion Evidence, this index

ORDER OF PROOF

Generally, **8:1 to 8:7**

Admission of evidence after party has rested, **8:5**

Civil trials, generally, **8:2**

Conditional admission of evidence, **8:7**

Criminal trials, generally, **8:1**

Departure from order of proof, **8:3**

Exclusion of evidence at particular stage of trial, **8:6**

Irregularity in order of proof, **8:3**

Rebuttal evidence, **8:4**

ORDERS

Judgments and Orders, this index

OUT-OF-STATE WITNESSES

Generally, **11:6**

PARDON

Impeachment of witnesses, effect on prior conviction, **14:13**

PARENT AND CHILD

Children and Minors, this index

PAROL EVIDENCE

Generally, **24:1 to 24:12**

Ambiguous written agreements, construction of, **24:11**

Collateral matter exception, **24:8**

Construction of ambiguous written agreements, **24:11**

Corporate records, **24:10**

Determination whether agreement is integrated, complete and final, **24:6**

Exceptions, generally, **24:7 to 24:12**

Integrated and final writings, **24:2, 24:3, 24:6**

PAROL EVIDENCE—Cont'd

- Missing terms, supplying of, **24:12**
- Motion to strike, **24:5**
- Objection to admission of evidence, **24:5**
- Persons affected by rule, **24:4**
- Public body or court, acts of, **24:3**
- Public records and documents, **24:3**
- Reformation, **24:11**
- Scope of rule, **24:2, 24:3**
- Subsequent parol agreement or modification, **24:9**

PARTICULARITY REQUIREMENT

- Search and seizure, warrants, **30:7**

PATTERN JURY INSTRUCTIONS

- Generally, **35:3**

PAYMENT

- Relevance of evidence, medical and similar expenses, **19:25**

PENAL INTEREST, STATEMENT AGAINST

- Hearsay evidence, **27:38**

PEREMPTORY CHALLENGES

- Jury Selection, this index

PERMISSION

- Consent or Approval, this index

PERSONAL HISTORY

- Hearsay Evidence, this index

PERSONAL INJURY

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

PERSONAL KNOWLEDGE

- Competence of witness, **12:4**
- Expert witnesses, **20:17**

PHOTOGRAPHS

- Best evidence, summaries of voluminous writings, recordings or photographs, **23:12**
- Conduct of trial, photographic coverage, **2:15**
- Documentary evidence, **26:16**
- Motion Pictures and Videotapes, this index
- Real and Demonstrative Evidence, this index
- Self-incrimination, **16:3, 16:4**
- X-ray photographs, **22:14**

PHYSICAL CONDITION

- Hearsay evidence, **27:11**

PHYSICIAN-PATIENT PRIVILEGE

- Generally, **15:10, 15:11**

INDEX

PLACE OR LOCATION

Judicial notice, **17:10**

Real and demonstrative evidence, photographs, **22:13**

PLAIN VIEW

Search and seizure, **30:3**

PLEADINGS

Judicially noticed facts, **17:21**

Proof of facts, **10:8**

PLEAS AND PLEA AGREEMENTS

Generally, **4:13 to 4:16**

Agreements, generally, **4:16**

Court's advisements to accused, generally, **4:17 to 4:19**

Guilty Pleas, this index

Habitual criminal advisement, **4:19**

Immigration consequences of plea, **4:18**

Nolo contendere pleas, relevance of evidence, **19:26**

Statute of limitations, **4:14**

Sufficiency of charge, pleas challenging, **4:15**

Withdrawal of Pleas, this index

POISONOUS TREE, FRUITS OF

Search and seizure, **30:26**

POLICE REPORTS

Hearsay evidence, **27:15**

POLITICAL VOTE PRIVILEGE

Generally, **15:18**

POLLING OF JURORS

Verdicts, **37:8**

POLYGRAPH TESTS

Expert and opinion evidence, **20:45**

PREJUDICE

Bias or Prejudice, this index

PRELIMINARY HEARING

Criminal trials, **4:11**

PRESENCE OF JUDGE

Generally, **2:6**

PRESENCE OF PARTIES AND COUNSEL

Conduct of trial, generally, **2:2**

Defendant, criminal trials, **4:6**

PRESUMPTIONS

Generally, **18:1 to 18:38**

As to burden of proof, generally, see Burden of Proof, this index

PRESUMPTIONS—Cont'd

- Agents of corporation, knowledge of, **18:20**
- Analytic framework, **18:4**
- Assignment of initial burdens of proof
 - generally, **18:21 to 18:29**
 - corporate officers, regularity of conduct of, **18:25**
 - foreign law, **18:28**
 - innocence, presumption of, **18:22**
 - judicial proceedings, correctness of, **18:27**
 - marriage, **18:23**
 - official duties, regularity of conduct of, **18:26**
 - regularity of conduct or proceedings, **18:24 et seq.**
 - written instruments, **18:29**
- Board of directors of corporation, knowledge of, **18:20**
- “Bursting bubble” rule, **18:2, 18:3, 18:30**
- Common law, **18:2, 18:3, 18:30**
- Conclusive presumptions. Irrebuttable or conclusive presumptions, below
- Conscious guilt, flight or intimidation as, **18:37**
- Continuance of condition or fact, **18:10**
- Corporate officers, regularity of conduct of, **18:25**
- Criminal defendant, presumptions against
 - generally, **18:32 to 18:35**
 - defense, presumptions that do not negative, **18:34**
 - defense, presumptions that negatives, **18:33**
 - element of crime, presumed fact as, **18:33**
 - element of crime, presumed fact not, **18:34**
 - instructions to jury, **18:35**
- Death, this index
- Deed, undue influence in execution of, **18:12**
- Definition, **18:1**
- Destruction of evidence, **18:15**
- Exclusionary rules of evidence, **18:17 to 18:20**
- Federal “bursting bubble” rule, **18:2, 18:3, 18:30**
- Federal law, **18:31**
- Flight as conscious guilt, **18:37**
- Foreign law, **18:28**
- Inferences or permissive presumptions that may be drawn from evidence
 - generally, **18:13 to 18:16**
 - destruction or spoliation of evidence, **18:15**
 - negligence, **18:16**
 - production of evidence, failure regarding, **18:15**
 - res ipsa loquitur, **18:16**
 - witnesses, failure of party to call or examine, **18:14**
- Innocence, presumption of, **18:22**
- Instructions to jury, **18:35 to 18:37**
- Intimidation as conscious guilt, **18:37**

INDEX

PRESUMPTIONS—Cont'd

- Irrebuttable or conclusive presumptions
 - generally, **18:17 to 18:20**
 - board of directors, officers or agents of corporation, knowledge of, **18:20**
 - exclusionary rules of evidence, **18:17 to 18:20**
 - law firm, shared confidences in, **18:19**
 - voluntary and willful acts, consequences of, **18:18**
- Judicial proceedings, correctness of, **18:27**
- Knowledge of law, **18:30**
- Law firm, shared confidences in, **18:19**
- Legitimacy of child, **18:8**
- Mailing and receipt of letters, **18:6**
- Marriage, **18:23**
- Negligence, **18:16**
- Officers of corporation, knowledge of, **18:20**
- Official duties, regularity of conduct of, **18:26**
- Permissive presumptions. Inferences or permissive presumptions that may be drawn from evidence, below
- Production of evidence, failure regarding, **18:15**
- Receipt and mailing of letters, **18:6**
- Regularity of conduct or proceedings, **18:24 et seq.**
- Res ipsa loquitur, **18:16**
- Sanity, **9:27**
- Shifting of burden of production of evidence
 - generally, **18:9 to 18:12**
 - continuance of condition or fact, **18:10**
 - suicide, cause of death not, **18:11**
 - will or deed, undue influence in execution of, **18:12**
- Shifting of burden of proof
 - generally, **18:5 to 18:8**
 - death presumed after unexplained absence, **18:7**
 - legitimacy of child, **18:8**
 - mailing and receipt of letters, **18:6**
- Situations where presumptions do not apply, **18:38**
- Spoliation of evidence, **18:15**
- Suicide, cause of death not, **18:11**
- Voluntary and willful acts, consequences of, **18:18**
- Will, undue influence in execution of, **18:12**
- Willful and voluntary acts, consequences of, **18:18**
- Witnesses, failure of party to call or examine, **18:14**
- Written instruments, **18:29**

PRETRIAL CONFERENCES AND PRETRIAL ORDERS

- Generally, **2:24**
- Depositions, admissions of fact, **21:14**
- Stipulations, **10:13**

PREVAILING LAW

- Judicial notice, **17:8**

PRIMA FACIE CASE

Burden of proof, **9:2**

PRISONERS AND IMPRISONMENT

Competence of inmate as witness, **12:10, 12:11**

Depositions, hearsay evidence, **21:11**

Jailhouse informers, competence of witness, **12:10**

Witnesses, **11:11, 12:10, 12:11**

PRIVILEGED COMMUNICATIONS

Generally, **15:1 to 15:26**

Attorney-client privilege

generally, **15:4 to 15:9**

assertion of privilege, **15:7**

communications to which privilege does not apply, **15:9**

confidential intention of communication, **15:6**

existence of attorney-client relationship, **15:5**

motion and protective order, **15:7**

waiver and termination of privilege, **15:8**

Children, **15:12, 15:15**

Clergy, communications to, **15:17**

Compulsory disclosure, **15:23**

Confidential communications, **15:6, 15:12 to 15:14**

Counselor-client privilege, **15:11**

Disclosure

compulsory disclosure, **15:23**

opportunity to claim privilege, disclosure without, **15:23**

waiver of privilege by voluntary disclosure, **15:22**

Federal court, **15:3**

Husband-wife privilege

generally, **15:12 to 15:14**

adverse spousal testimony, **15:12 to 15:14**

circumstances in which privilege may not be claimed, **15:14**

competency to testify, **12:16**

confidential communications, **15:12 to 15:14**

criminal cases, generally, **15:13**

spouse or child, crimes against, **15:13**

violent crimes, **15:13**

Identity of informer privilege, **15:21**

Instructions to jury, **15:26, 35:10**

Journalists, communications to, **15:16**

Jury, claim of privilege to be made without knowledge of, **15:25**

Motion, attorney-client privilege, **15:7**

Official information privilege, **15:20**

Opportunity to claim privilege, disclosure without, **15:23**

Parent-child privilege, **15:15**

Physician-patient privilege, **15:10, 15:11**

Political vote privilege, **15:18**

INDEX

PRIVILEGED COMMUNICATIONS—Cont'd

- Protective order, attorney-client privilege, **15:7**
- Psychotherapist-patient privilege, **15:11**
- Spiritual advisors, communications to, **15:17**
- State secrets privilege, **15:20**
- Trade secrets privilege, **15:19**
- Violent crimes, husband-wife privilege, **15:13**
- Waiver and termination of privilege, **15:8, 15:22**

PROBABLE CAUSE

- Search and seizure, warrants, **30:4, 30:6**

PROBABLE CAUSE HEARING

- Criminal trials, **4:11**

PROBATION

- Competency of probationer as witness, **12:11**
- Self-incrimination, probation revocation hearing, **16:7**

PROFESSIONAL RESPONSIBILITY

- Attorneys, **1:14, 1:15**

PROFESSIONAL ROUTINE

- Relevance of evidence, **19:21**

PSYCHIATRIC EXAMINATION

- Self-incrimination, **16:6**

PSYCHOTHERAPIST-PATIENT PRIVILEGE

- Generally, **15:11**

PUBLIC POLICY

- Judicial notice, **17:7**

PUBLIC RECORDS AND DOCUMENTS

- Generally, **26:18**
- Best evidence, **23:11**
- Hearsay evidence, **27:18, 27:20**
- Parol evidence, **24:3**

PUBLIC SAFETY EXCEPTION

- Confessions, Miranda warnings, **29:5**

PUBLIC TRIALS

- Generally, **2:14**

PUBLICATION

- Contempt, **5:12**

PUBLICITY

- Conduct of trial, **2:17**

QUALIFICATION OR DISQUALIFICATION

- Expert witnesses, **20:5**
- Judges, **2:10**

QUALIFICATION OR DISQUALIFICATION—Cont'd

Jurors, **6:7, 6:10**

QUASHING OF CRIMINAL CASES

Motion, **3:5**

RAPE

Impeachment of witnesses, credibility of complainant, **14:8**

REAL AND DEMONSTRATIVE EVIDENCE

Generally, **22:1 to 22:17**

Admissibility, **22:2, 22:3**

Articles or objects, **22:4**

Authentication, **22:5, 22:6**

Body, exhibition of, **22:7**

Body fluid samples, **22:7**

Chain of custody of physical evidence, **22:6**

Definition, **22:1**

Demonstrations, **22:17**

Diagrams, **22:16**

Displays, **22:16**

Drawings, **22:16**

Experiments, **22:17**

Expert and opinion evidence, **20:27:20:28**

Gruesome photographs, **22:11**

Homicide prosecution, photographs of victim, **22:12**

Inflammatory photographs, **22:11**

Maps, **22:16**

Models, **22:16**

Motion pictures, **22:15**

Objects or articles, **22:4, 22:13**

Person, exhibition of, **22:7**

Places, photographs of, **22:13**

Shooting prosecution, photographs of victim, **22:12**

Tests, **22:17**

Use of real and demonstrative evidence, **22:1**

Videotapes, **22:15**

Visual recordings

generally, **22:8 to 22:15**

gruesome or inflammatory photographs, **22:11**

homicide or shooting prosecution, photographs of victim, **22:12**

illustration of testimony, **22:9**

motion pictures and videotapes, **22:15**

persons, photographs of, **22:10**

photograph, defined, **22:8**

places or objects, photographs of, **22:13**

X-ray photographs, **22:14**

Written summaries of oral trial testimony, **22:3**

X-ray photographs, **22:14**

INDEX

REAL ESTATE

Documentary evidence, **26:21**

REBUTTAL EVIDENCE

Order of proof, **8:4**

RECEIPT OF LETTERS

Presumptions, **18:6**

RECORDS

Access to judicial records, **2:16**

Hearsay evidence, recorded recollections, **27:13**

Public Records and Documents, this index

RECROSS-EXAMINATION

Generally, **13:21**

RECUSAL

Judges, **2:10**

REDIRECT EXAMINATION

Generally, **13:19, 13:20**

REFORMATION

Parol evidence, **24:11**

REFRESHING MEMORY

Witnesses, **13:4**

REGULARLY CONDUCTED BUSINESS ACTIVITY

Documentary evidence, **26:11**

Hearsay evidence, **27:14 to 27:16**

REHABILITATION

Impeachment of witnesses, redirect examination, **14:28**

RELEVANCE OF EVIDENCE

Generally, **19:1 to 19:32**

Acquittal, evidence of, **19:17**

Admissibility of relevant evidence, **19:2, 19:3**

Business routine, **19:21**

Character or trait of character, **19:13, 19:14, 19:19**

Circumstantial evidence

generally, **19:28 to 19:31**

burden of proof, **9:30**

civil actions, **19:29**

criminal cases, **19:30**

flight, **19:30**

“state of mind” knowledge or intent, **19:31**

Collateral issues, **19:3**

Compromise, **19:24**

“Connecting-up” offered evidence, **19:5 et seq.**

Criminal victim or defendant, character or trait of character, **19:14**

RELEVANCE OF EVIDENCE—Cont’d

Cumulative evidence, **19:12**
 Depositions, objections to admissibility, **21:18**
 Exceptions to relevance requirement
 generally, **19:5 to 19:12**
 “connecting-up” offered evidence, **19:5 et seq.**
 cumulative evidence, **19:12**
 limited purpose, admission for, **19:10**
 negative evidence, **19:11**
 “opening the door,” **19:6**
 probative value, defined, **19:8**
 unfair prejudice, **19:7 to 19:9**
 Exclusion of relevant evidence, **19:4**
 Expert and Opinion Evidence, this index
 Flight, **19:30**
 Guilty pleas, **19:26**
 Habit, **19:20 to 19:22**
 Industry customs and standards, **19:22**
 Instructions to jury, admission for limited purpose, **19:10**
 Intent, proof by other crimes evidence, **19:16**
 Liability insurance, presence or absence of, **19:27**
 Limited purpose, admission for, **19:10**
 Medical and similar expenses, payment of, **19:25**
 Negative evidence, **19:11**
 Nolo contendere pleas, **19:26**
 Offered pleas, **19:26**
 Offers to compromise, **19:24**
 “Opening the door,” **19:6**
 Opinion, character evidence, **19:19**
 Other crimes of defendant, **19:16, 19:18**
 Payment of medical and similar expenses, **19:25**
 Prior bad acts, **19:15 to 19:17, 19:32**
 Probative value, defined, **19:8**
 Professional routine, **19:21**
 Reputation, character evidence, **19:19**
 Requirement of relevance and competence, **19:1**
 Routine practice, **19:20 to 19:22**
 Sexual misconduct, prior acts, **19:32**
 Similar occurrences, transactions or conditions, **19:15 to 19:17**
 “State of mind” knowledge or intent, **19:31**
 Subsequent remedial measures, **19:23**
 Uncharged conduct, **19:15 to 19:17**
 Unfair prejudice, **19:7 to 19:9**
 Victim of crime, character or trait of character, **19:14**
 Withdrawn pleas, **19:26**

RELIGIOUS ADVISORS

Privileged communications, **15:17**

INDEX

RELIGIOUS BELIEFS OR OPINIONS

- Competence of witness, **12:12**
- Impeachment of witnesses, **14:16**

RELIGIOUS ORGANIZATIONS

- Hearsay evidence, **27:21**

REMOVAL

- Judges, **2:12**

RENDITION

- Judgments, **38:2, 38:4**

REPEAT OFFENDERS

- Pleas and court advisements, **4:19**

REPLICAS

- Expert and opinion evidence, demonstrative evidence, **20:28**

REPUTATION

- See also Character Evidence, this index
- Hearsay Evidence, this index
- Impeachment of witnesses, **14:5**
- Relevance of evidence, character evidence, **19:19**

REQUESTS FOR ADMISSIONS

- Evidence, **10:10**

RES IPSA LOQUITUR

- Presumptions, **18:16**

RESIDUAL EXCEPTION

- Hearsay evidence, **27:34, 27:40**

REVIEW

- Appeal and Review, this index

ROUTINE PRACTICE

- Relevance of evidence, **19:20 to 19:22**

RULES AND REGULATIONS

- Conduct of trial, rules of practice, **2:1**
- Judicial notice, **17:7, 17:23**
- Professional conduct. Rules of Professional Conduct, this index

RULES OF PROFESSIONAL CONDUCT

- Attorneys, generally, **1:15**

SANITY OR INSANITY

- Burden of proof, **9:27**
- Competence of Witnesses, this index
- Competency of criminal defendant to stand trial, **2:3**

SCIENTIFIC EVIDENCE

- Expert and Opinion Evidence, this index

SCIENTIFIC EVIDENCE—Cont'd

Judicial notice, **17:13**

SEARCH AND SEIZURE

Generally, **30:1 to 30:34**

Affidavit establishing probable cause, **30:6, 30:33**

Arrest defined, **30:15**

Arrest without warrant, **30:23**

Automobile searches, warrants, **30:13, 30:14**

Breaking into dwelling by police, **30:24**

Definitions, **30:2, 30:15**

Description of place searched or thing seized, warrants, **30:7**

Drug detection dogs, **30:21**

Emergency or exigent circumstances, **30:10**

Exclusionary rule

generally, **30:25 to 30:29**

foreign police, search by and statements to, **30:29**

fruits of unreasonable search and seizure, **30:26**

good faith exception, **30:27**

inevitable discovery exception, **30:28**

Foreign police, search by and statements to, **30:29**

Fourth Amendment protection, **30:1**

Fruits of unreasonable search and seizure, **30:26**

Garbage, **30:3**

Good faith exception, exclusionary rule, **30:27**

Hot pursuit, **30:22**

Inevitable discovery exception, exclusionary rule, **30:28**

Informant's tip, warrants, **30:8**

Interception of oral or wire communications, **30:30**

Inventory search of automobile, **30:14**

Investigatory stops, **30:18**

Knock and announce rule and exceptions, **30:24**

Motion to suppress illegally seized evidence

generally, **30:31 to 30:34**

affidavit, intentionally false statement in, **30:33**

standing to invoke right against unlawful search and seizure, **30:34**

warrant, invalid, **30:32**

Neutral and detached magistrate, warrants, **30:5**

Nighttime searches, warrants, **30:9**

Open fields, **30:3**

Oral or wire communications, interception of, **30:30**

Particularity requirement, warrants, **30:7**

Plain view, **30:3**

Probable cause, warrants, **30:4, 30:6**

Property, seizure of, **30:17**

Reasonable suspicion supporting seizure or detention, **30:16**

Standing to invoke right against unlawful search and seizure, **30:34**

Stop and frisk, **30:19**

INDEX

SEARCH AND SEIZURE—Cont'd

Terry stop, **30:19**

Traffic stops, **30:20**

Warrants

generally, **30:4 to 30:14**

affidavit establishing probable cause, **30:6**

arrest, search incident to, **30:11**

automobile searches, **30:13, 30:14**

consent to search, **30:12**

description of place searched or thing seized, **30:7**

emergency or exigent circumstances, **30:10**

exceptions to warrant requirement, **30:10 to 30:14**

informant's tip, **30:8**

inventory search of automobile, **30:14**

motion to suppress illegally seized evidence, **30:32**

neutral and detached magistrate, **30:5**

nighttime searches, **30:9**

particularity requirement, **30:7**

probable cause, **30:4, 30:6**

Wire or oral communications, interception of, **30:30**

SECURITY MEASURES

Conduct of trial, **2:5**

SELECTION OF JURY

Jury Selection, this index

SELF-AUTHENTICATED DOCUMENTS

Documentary Evidence, this index

SELF-DEFENSE

Burden of proof, **9:28**

SELF-INCRIMINATION

Generally, **16:1 to 16:18**

Adverse inferences from invoking privilege, **16:16**

Calling of witness expected to invoke privilege, **16:12**

Compulsory production of evidence

generally, **16:2 to 16:6**

courtroom identification, **16:5**

fingerprints and photographs, **16:3**

lineups, showups and photographic identification, **16:4**

person, exhibition of, **16:4**

pretrial identification, **16:4**

psychiatric examination, **16:6**

writing and speaking, **16:3**

Corporations not authorized to assert privilege, **16:8**

Court advice to witness regarding privilege, **16:13**

Court ruling on existence of privilege, **16:15**

Courtroom identification, **16:5**

SELF-INCRIMINATION—Cont'd

- Cross-examination, **13:13**
- Fingerprints, **16:3**
- Grand jury witnesses, **16:14**
- Guilty plea as waiver of privilege, **16:18**
- Immunity, grant of, **16:10**
- Invocation of privilege, **16:9**
- Lineups, **16:4**
- Person, exhibition of, **16:4**
- Photographic identification, **16:4**
- Photographs, **16:3**
- Pretrial identification, **16:4**
- Probation revocation hearings, **16:7**
- Prosecution witness who invokes privilege, **16:11**
- Psychiatric examination, **16:6**
- Scope of privilege, **16:1**
- Showups, **16:4**
- Speaking and writing, **16:3**
- Waiver of privilege, **16:17, 16:18**
- Writing and speaking, **16:3**

SELF-SERVING DECLARATIONS

- Generally, **28:2**

SENTENCES

- Generally, **38:11 to 38:16**
- Allocution, **38:11**
- Appeals, **38:14, 38:15**
- Burden of proof, facts relating to sentencing, **9:29**
- Capital Proceedings, this index
- Death penalty cases, **38:13**
- Hearings, **38:11**
- Postconviction relief, generally, **38:16**

SEPARATION OR SEQUESTRATION

- Jury, **36:5**
- Witnesses, **11:17, 11:18**

SETOFF

- Burden of proof, **9:6**

SETTING ASIDE OR VACATING

- Judgments and orders, **38:9, 39:5**
- Verdicts, **37:10, 39:8**

SETTLEMENT

- Compromise ad Settlement, this index

SEVERANCE MOTIONS

- Criminal trials, **4:24**

INDEX

SEX OFFENDER CONVICTION STANDARD

Burden of proof, **9:31**

SEXUAL MISCONDUCT

Relevance of evidence, prior sexual misconduct, **19:32**

SHOWUPS

Self-incrimination, **16:4**

SICKNESS

Discharge of juror, **36:10**

SILENCE

Admissions, **28:7**

SIXTH AMENDMENT

Speedy Trial, this index

SOUND RECORDINGS

Best evidence, **23:3**

Documentary evidence, **26:2**

SPEAKING AND WRITING

Self-incrimination, **16:3**

SPECIAL APPEARANCES

Abolished, **3:6, 9:5**

Attorneys, generally, **1:12**

SPECIAL VERDICTS

Generally, **37:4**

SPECULATION

Expert and opinion evidence, relevance of testimony, **20:9**

SPEED

Expert and opinion evidence, **20:46**

SPEEDY TRIAL

Generally, **4:3**

Calculation, **4:4, 4:5**

Excluded periods for speedy trial calculation, **4:5**

Mistrials, **32:15**

New trial, effect of order for new trial on right to speedy trial, **39:6**

SPIRITUAL ADVISORS

Privileged communications, **15:17**

SPOILIATION OF EVIDENCE

Presumptions, **18:15**

SPOUSAL COMMUNICATIONS

Competence of witness, **12:16**

Husband-wife privilege. Privileged Communications, this index

STANDBY COUNSEL

Generally, **1:10**

STATE OF MIND OR INTENT

Attorney-client privilege, confidential intention of communication, **15:6**

Competence of witness, **12:6**

Hearsay evidence, **27:11**

Relevance of evidence, **19:16, 19:31**

Sanity or Insanity, this index

STATE SECRETS PRIVILEGE

Generally, **15:20**

STATEMENT AGAINST INTEREST

Hearsay evidence, **27:38**

STATUTE OF LIMITATIONS

Burden of proof, **9:20**

Pleas challenging sufficiency of charge, **4:15**

STAYS

Continuances, Adjournments and Stays, this index

STIPULATIONS

Generally, **10:11 to 10:17**

Construction of and weight given to stipulations, **10:15**

Control of proceedings, **2:25 to 2:27**

Documentary evidence, authenticity, **26:7**

Enforcement of and relief from stipulations, **10:17**

Pretrial conference, stipulations at, **10:13**

Pretrial stipulations and agreements, **10:12**

STOP AND FRISK

Search and seizure, **30:19**

STRIKE, MOTION TO

Generally, **3:22**

Objections to Evidence, this index

Parol evidence, **24:5**

SUBPOENAS

Evidence and witnesses, **11:2**

SUBPOENAS DUCES TECUM

Evidence and witnesses, **11:12**

SUBSEQUENT OFFENDERS

Pleas and court advisements, **4:19**

SUBSEQUENT REMEDIAL MEASURES

Impeachment of witnesses, **14:30**

Relevance of evidence, **19:23**

INDEX

SUBSTITUTION

- Judges, **2:7**
- Parties, depositions, **21:7, 21:15**

SUICIDE

- Presumptions, **18:11**

SUMMARIES

- Best evidence, summaries of voluminous writings, recordings or photographs, **23:12**

SUMMARY JUDGMENT

- Generally, **3:16, 38:7**
- Affidavits, **10:4**
- Burden of proof, **9:12**

SWEARING

- Witness, **11:19**

TAMPERING

- Jury, **11:13**
- Witnesses, **11:13**

TAPE RECORDINGS

- Sound Recordings, this index

TELEGRAMS

- Documentary evidence, **26:13**

TELEVISION

- Closed-circuit television used to present testimony, **11:10**
- Coverage of trial, **2:15**

TESTS AND EXPERIMENTS

- Expert and opinion evidence, **20:41**
- Real and demonstrative evidence, **22:17**

TEXT MESSAGES

- Documentary evidence, **26:13**

THEORY OF DEFENSE

- Instructions to jury, **35:6**

TIME AND DATE

- Dismissal at close of case, **3:8**
- Expert and opinion evidence, **20:46**
- Instructions to jury, tender of requested, **35:8**
- New trial, motion for, **39:8**
- Objections to Evidence, this index
- Statute of limitations, burden of proof, **9:20**
- Verdicts, this index

TRADE SECRETS PRIVILEGE

- Generally, **15:19**

TRAFFIC STOPS

Search and seizure, **30:20**

TRANSCRIPTS

Documentary evidence, **26:2**

ULTIMATE ISSUE

Expert and opinion evidence, **20:21**

VACATING

Setting Aside or Vacating, this index

VALUATION

Expert and opinion evidence, **20:47**

VENUE

Burden of proof, **9:18**

Motion for change of venue, **3:17**

VERDICTS

Generally, **37:1 to 37:11**

Civil verdicts, **37:3 to 37:6**

Criminal verdicts, **37:7**

Defective verdicts, **37:6**

Definition, **37:1**

Directed Verdicts, this index

Five-sixths verdicts, **37:5**

General verdicts, **37:4**

Impeachment of verdict, **37:9**

Judgment notwithstanding verdict, **37:10, 37:11**

Mistrials, inability of jury to reach verdict, **32:8**

Objections to forms, **37:2**

Polling of jurors, **37:8**

Setting aside verdict, **37:10, 39:8**

Special verdicts, **37:4**

Time

judgment notwithstanding verdict, filing motion for, **37:11**

set aside verdict, filing motion to, **39:8**

VICTIMS OF CRIMES

Competence of child victim as witness, **12:14**

Relevance of evidence, character or trait of character, **19:14**

VIDEOTAPES

Motion Pictures and Videotapes, this index

VIEW BY JURY

Generally, **25:1 to 25:7**

Civil cases, **25:2**

Conduct of view, **25:5**

Criminal cases, **25:3**

Definition, **25:1**

INDEX

VIEW BY JURY—Cont'd

- Discretion of court, **25:4**
- Evidentiary value, **25:6**
- Unauthorized view by juror, **25:7**

VIOLENT CRIMES

- Husband-wife privilege, **15:13**

VISUAL RECORDINGS

- Motion Pictures and Videotapes, this index
- Photographs, this index

VITAL STATISTICS

- Hearsay evidence, **27:19**

VOIR DIRE

- Jury selection, generally, **6:15**

VOLUMINOUS WRITINGS, RECORDINGS OR PHOTOGRAPHS

- Best evidence, summaries, **23:12**

VOLUNTARINESS OF CONFESSIONS

- Generally, **29:6 to 29:8**

VOLUNTARY DISMISSAL

- Motions, **3:3, 3:4**

VOUCHING

- Witnesses, **11:22**

WAIVER

- Attorneys, this index
- Confrontation of witnesses, **11:9**
- Directed verdicts, introduction of evidence after denial as waiver of error, **33:7**
- Jury, right to, **6:6**
- Mistrials, right to move for, **32:16**
- Objections to evidence, **31:3**
- Privileged communications, **15:8, 15:22**
- Self-incrimination, **16:17, 16:18**
- Speedy trial, right to, **4:3**
- Statutory rights, criminal trials, generally, **4:12**

WARRANTS

- Search and Seizure, this index

WEAPONS TESTS

- Expert and opinion evidence, **20:42**

WILLS

- Presumptions, undue influence in execution, **18:12**

WIRETAPPING

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

WITHDRAWAL OF ATTORNEY

Generally, **1:13**

WITHDRAWAL OF PLEAS

Admissions, **28:12**

Relevance of evidence, **19:26**

WITNESSES

Evidence and Witnesses, this index

WORKERS' COMPENSATION

Expert and opinion evidence, **20:26**

WRITINGS

Handwriting, expert and opinion evidence, **20:35**

Self-incrimination, **16:3**

Voluminous writings, best evidence, summaries, **23:12**

X-RAY PHOTOGRAPHS

Real and demonstrative evidence, **22:14**