

Index

ABSENCE OF PARTIES, COUNSEL, JUDGE, WITNESSES

- Civil cases, parties, § 2:3
- Conduct of trial, presence of judge, § 2:8
- Continuances
 - Illness or conflict, absence of party or counsel, § 3:3
 - Witness or document, § 3:4
- Criminal cases, parties, § 2:2
- Declarant
 - Hearsay exceptions, §§ 16:6, 16:31
 - Refreshed recollection distinguished from declarant unavailable, § 27:12
- Eyewitness identification, presence of counsel, § 25:11
- Hearsay exceptions, §§ 16:6, 16:31
- Records entry, hearsay evidence, §§ 16:15, 16:18
- Verdicts, presence of parties, § 41:9
- View by jury, presence of judge and parties at view, § 21:3

ABSOLUTE LIABILITY

- Instructions to jury, duty of care, no-fault, § 39:7

ACCIDENT

- Criminal intent, jury instructions, § 38:16
- Presumptions and inferences, § 12:10
- Reconstruction, scientific tests and analyses, § 20:2
- Relevancy, prior injury or accidents, § 13:12

ACCOMPLICES

- Admissions and confessions, § 18:8
- Competency to testify, § 22:9
- Guilty plea in criminal cases, relevancy of, § 13:18
- Instructions to jury, § 38:32
- Relevancy of evidence, § 13:18

ACQUITTAL

- Criminal cases, motion for judgment of acquittal, § 33:4

ADDED VALUE

- Relevancy, § 13:28

ADDICTS

- Competency of witnesses, § 22:12
- Instructions to jury, cautionary or limiting instructions, § 38:30

ADDITION OF COUNSEL

- Generally, § 1:6

ADDITUR

Motions after verdict, § 42:5

ADMISSIBILITY OF EVIDENCE

Authenticated documents, § 17:12

Braces, crutches, and other such devices, § 19:14

Closing arguments, evidence received for limited purpose, § 34:11

Confessions, § 18:13

Court's own motion, exclusion of improper evidence, § 2:23

Credibility and impeachment of witnesses

 Inconsistent statements, procedure for admitting, § 28:6

 Prior convictions, procedure for admitting proof, § 28:13

Documentary evidence

 Authenticated documents, § 17:12

 Secondary evidence, § 17:17

Duplicates, § 17:14

Hypnosis, § 20:6

Lie detector tests, § 20:7

Motion to strike inadmissible evidence, § 31:5

Rebuttal evidence, order of proof, §§ 8:3, 8:4

Restrictions on admitted evidence, § 2:22

Ruling, § 2:21

Scientific tests and analyses

 Lie detector tests, § 20:7

 Truth serum, hypnosis inadmissible, § 20:6

Secondary evidence, § 17:17

ADMISSIONS, CONFESSIONS AND STATEMENTS AGAINST INTEREST

Generally, §§ 18:1 to 18:22

Admissibility of confessions, § 18:13

Agents, admissions by agent or servant, § 18:7

Authority to speak, admissions made by persons, § 18:6

Burden of proof, determination of admissibility, § 18:15

Co-conspirators, § 18:8

Completeness, rule, § 18:17

Compromise and offers to plead, § 18:9

Conduct, admission, § 18:10

Copies, written confessions, § 18:20

Corpus delicti, § 18:14

Corroboration of confessions, § 18:14

Counsel, request, § 18:19

Determination of admissibility, § 18:15

Distinguished from statements against interest, § 18:3

Electronically recorded custodial interrogation, § 18:21

Hearings, determination of admissibility, § 18:15

Illegally obtained confession, use to impeach, § 18:19

Impeachment, use of illegally obtained confession to impeach, § 18:19

Inculcation of accused, confessions by others, § 18:16

INDEX

ADMISSIONS, CONFESSIONS AND STATEMENTS AGAINST INTEREST

—Cont'd

- Instructions, §§ 18:12, 38:24
- Interpreters, § 18:22
- Judicial admissions, § 18:2
- Nature of confessions, § 18:13
- Notice, determination of admissibility, § 18:15
- Opening statements, statements by counsel constituting admissions of party, § 7:9
- Opponent, admissions by party opponent, § 18:4
- Plea offers, § 18:9
- Redaction of prejudicial or inadmissible matter from confession or admission, § 18:18
- Request for counsel, § 18:19
- Servant, admissions by agent or servant, § 18:7
- Silence, §§ 18:11, 18:19
- Statements against interest, distinguishing between admissions and, § 18:3
- Translators, § 18:22
- Use or usefulness
 - Entire confession, rule of completeness, § 18:17
 - Illegally obtained confession, to impeach, § 18:19
- Vicarious admissions, § 18:5
- Written confessions, § 18:20

ADVERSE INFERENCES

- Assertion of privilege, § 23:22
- Self-incrimination privilege
 - Civil cases, § 24:4
 - Criminal cases, § 24:5
- Presumptions and inferences, § 12:15

ADVERSE PARTIES

- Cross-examination, § 29:6
- Direct examination, § 27:9

AFFIRMATIVE DEFENSES

- Instructions to jury, civil cases, § 39:19

AGENTS

- Admissions and confessions, § 18:7
- Instructions to jury, civil cases, § 39:6

ALCOHOLIC BEVERAGES

- Addicts
 - Competency of witnesses, § 22:12
 - Instructions to jury, cautionary or limiting instructions, § 38:30
- Dram shop act, instructions to jury, § 39:18
- Instructions to jury, §§ 38:20, 39:18
- Jury conduct and deliberations, § 40:15
- Relevancy of alcohol consumption, § 13:23

ALCOHOLIC BEVERAGES—Cont'd

Scientific tests and analyses, § 20:4

ALIBI

Instructions to jury, § 38:21

ALTERNATE JURORS

Deliberations of jury, § 40:27

ALTERNATIVE PERPETRATOR

Generally, § 13:24

AMENDMENT OF PLEADINGS—CIVIL

Punitive damages, motion to amend complaint to assert, § 4:5

AMENDMENT OF PLEADINGS—CRIMINAL

Motion to amend complaint, § 4:6

ANCIENT DOCUMENTS

Authentication documentary evidence, § 17:8

Hearsay evidence, statements in ancient documents, § 16:24

ANIMALS

Scientific tests and analyses, use of dogs, § 20:14

ANONYMOUS JURY

Selection of jury, § 6:9

ANSWERS

Direct examination, treatment of unresponsive answers, § 27:6

Redirect and re-cross examination, explaining impeaching answers, § 30:6

APPEAL AND REVIEW

Closing arguments

Cumulative errors, § 34:36

Future remedies, § 34:26

Improper argument, review, § 34:36

Invited error, § 34:32

Plain and harmless error, § 34:33

Contempt of court, § 5:17

Instructions to jury, criminal cases, § 38:35

Jury instructions, standard of review, § 38:37

Mid-trial orders, appeal of, § 4:20

Motions after verdict, §§ 42:1 to 42:9

View by jury, instructions to jury, § 21:5

APPORTIONMENT OF DAMAGES

Verdict, § 41:5

ARREST

Pretrial identification after illegal arrest, § 25:9

ARSON

Scientific tests and analyses, § 20:20

INDEX

ASSISTANCE OF COUNSEL

- Generally, §§ 1:1 to 1:16
- Admissions and confessions, request for counsel, § 18:19
- Conduct of trial lawyers, § 1:2
- Consultation, right to consult with counsel and others, § 1:12
- Effective assistance of counsel, § 1:9
- Ex parte communications, § 1:8
- Introduction, § 1:1
- Judge's duty to inform of right to counsel, § 1:13
- Malpractice, § 1:9
- Perjury, prevention of perjured testimony, § 1:11
- Publicity, § 1:4
- Regulation of lawyers, § 1:1
- Rule 11 sanctions against attorneys, § 1:5
- Substitution, addition or disqualification of counsel, § 1:6
- Trial tactics, effective assistance of counsel, § 1:10
- Types of trial lawyer misconduct, § 1:3
- Waiver of right to counsel, §§ 1:14, 1:15
- Witness' right to counsel, § 1:16

ASSUMPTION OF RISK

- Agency and other relationships, § 39:6

ATTEMPTS

- Verdicts, criminal cases, § 41:7

ATTENDANCE

- Absence of Parties, Counsel, Judge, Witnesses, this index

ATTORNEY FEES

- Damages, § 26:22
- Judgments, attorney fees as costs, § 43:7
- Privileged communications and information, attorney's disclosure of client fees, § 23:7

ATTORNEYS

- Generally, §§ 1:2, 1:7, 1:8, 23:3
- Admissions, statements by counsel constituting admissions of party, § 7:9
- Admissions and confessions, request for counsel, § 18:18
- Assistance of Counsel, this index
- Attacks on parties, witnesses, or counsel, § 34:23
- Attorney-client privilege
 - Generally, § 23:3
 - Fees, attorney's disclosure of client fees, § 23:7
 - Identity of client, attorney's disclosure, § 23:8
 - Restrictions on attorney-client privilege, § 23:4
 - Waiver of right to counsel, § 1:14
 - Work product, § 23:5
- Closing Arguments, this index
- Competency of trial counsel to testify, § 22:8

ATTORNEYS—Cont'd

Concessions by counsel, closing arguments, § 34:25

Conduct

Generally, § 1:2

Malpractice, § 1:9

Rule 11 sanctions, § 1:5

Types of misconduct, § 1:3

Conflicts of Interest, this index

Constitutional right

Generally, §§ 1:7, 1:8

Admissions and confessions, request for counsel, § 18:19

Consultation, right to consult with counsel and others, § 1:12

Effective assistance of counsel, § 1:9

Judge's duty to inform of right to counsel, § 1:13

Substitution, addition or disqualification of counsel, § 1:6

Waiver of attorney-client privilege, § 23:6

Witness' right to counsel, § 1:16

Continuances, absence of counsel due to illness or conflict, § 3:3

Ex parte communications, § 1:8

Fees. Attorney Fees, this index

Jury conduct and deliberations, contact with parties or lawyers, § 40:7

Payments to witnesses or counsel, § 34:24

Prejudicial questions by counsel, conduct of trial, § 2:33

Waiver of right to counsel, § 1:15

AUTHENTICATION

Direct examination, firsthand knowledge, § 27:4

Documentary Evidence, this index

AUTOMOBILES

Accident reconstruction, § 20:2

Jury instructions, forfeiture of motorist's right-of-way, § 39:10

Skid marks, § 20:2

Speedometers and radar, § 20:5

BAILMENTS

Burden of proof, § 9:10

BALLISTICS

Scientific tests and analyses, § 20:13

BAPTISMAL CERTIFICATES

Hearsay evidence, § 16:20

BEST EVIDENCE RULE

Generally, § 17:13

Avoidance of best evidence rule, § 17:16

Secondary evidence

Admissibility, § 17:17

Collateral issues, relation, § 17:18

Summaries, § 17:15

INDEX

BEYOND A REASONABLE DOUBT

Burden of proof, § 9:11

BIAS

Closing arguments

Passion, bias, prejudice, sympathy or sarcasm, § 34:18

Racist, sexist, or other discriminatory comments, § 34:20

Self-interest of jurors, §§ 34:16, 36:4

Credibility and impeachment of witnesses

Particular instances, impeachment by evidence of bias, § 28:4

Proof of bias, § 28:3

Jury selection, § 6:7

BITE MARKS

Tests and analyses, § 20:17

BLOOD SPLATTER ANALYSIS

Scientific tests and analyses, § 20:21

BLOOD TESTS

Identification, § 20:3

Intoxication, § 20:4

BODILY FLUIDS

Identification tests, § 20:3

BONES

Exhibition, real and demonstrative evidence, § 19:5

BOUNDARIES

Hearsay evidence, §§ 16:27, 16:32

BRACES

Admissibility of evidence, § 19:14

BREATH TESTS

Intoxication, § 20:4

BURDEN OF PROOF

Generally, §§ 9:1 to 9:14

Admissions and confessions, determination of admissibility, § 18:15

Bailment cases, § 9:10

Beyond a reasonable doubt, § 9:11

Circumstantial evidence, § 14:3

Civil cases, § 9:3

Clear and convincing evidence, § 9:5

Closing arguments, criminal cases, § 36:18

Constructive trusts, § 9:8

Contempt of court proceedings, § 5:10

Contested wills, § 9:7

Corpus delicti, § 9:12

Criminal cases, § 9:11

Damages, § 9:6

BURDEN OF PROOF—Cont'd

- Defendant's burdens, criminal cases, § 9:14
- Dismissal and directed verdict based on opening statements, § 7:8
- Estates, claims against, § 9:7
- Eyewitness identification, § 25:2
- Fair preponderance of evidence, § 9:5
- Fraud, § 9:9
- Going forward, burden, § 9:1
- Instructions to jury
 - Civil cases, § 39:5
 - Criminal cases, §§ 38:6, 38:10
- Opening statements, dismissal and directed verdict based, § 7:8
- Particular matters, proof in criminal cases, § 9:13
- Prima facie case, § 9:2
- Quantum of evidence, civil cases, § 9:5
- Shifting burden of proof, instructions to jury, §§ 38:6, 38:10
- Statutory allocation, § 9:4

BURNS

- Scientific tests and analyses, § 20:20

BUSINESS RECORDS

- Hearsay, §§ 16:13, 16:14

CAUSATION

- Instructions to jury, civil cases, § 39:12
- Instructions to jury, criminal cases, § 38:4

CAUTIONARY INSTRUCTIONS

- Closing arguments, rebuke of counsel by judge, § 34:34
- Jury instructions
 - Generally, § 37:10
 - Criminal cases, §§ 38:7, 38:30
 - Eyewitness identification, § 25:14
 - Informers, drug addicts, perjurers, § 38:30

CERTIFICATES

- Hearsay evidence, marriage, baptismal and similar certificates, § 16:20

CHALLENGES

- Contempt of court, challenges to power, § 5:17
- Jury
 - For cause, §§ 6:12, 6:13, 6:14
 - Civil cases, peremptory challenges, § 6:15
 - Criminal cases, peremptory challenges, § 6:16
 - Panel, § 6:6
 - Timeliness of challenges for cause, § 6:14

CHARACTER

- Credibility and impeachment of witnesses, § 28:8

INDEX

CHARACTER—Cont'd

- Hearsay evidence
 - Boundaries or general history, § 16:28
 - Character, § 16:29
 - Personal history, §§ 16:27, 16:29
- Instructions to jury, criminal cases, § 38:24
- Relevancy, § 13:11

CHECKLISTS

- Direct examination, situations where leading question allowed, § 27:8
- Objections to evidence, § 31:8

CHILDREN

- Competency of young children to testify, § 22:10
- Hearsay, comment to jury concerning incompetency of child witness, § 16:41
- Hearsay evidence, out-of-court statements of children under 10, § 16:40
- Jury instructions, standard of care for children, exceptions, § 39:8
- Paternity cases, real and demonstrative evidence, § 19:6
- Privileged communications by minor to parent, § 23:12
- Televised testimony of children under 12 outside the courtroom or presence of jury, public or defendant, § 2:19

CIRCUMSTANTIAL EVIDENCE

- Generally, §§ 14:1 to 14:9
- Authentication of documentary evidence, distinguishing characteristics, § 17:5
- Burden of proof, satisfying with circumstantial evidence, § 14:3
- Direct evidence compared, § 14:2
- Habit or routine practice, § 14:6
- Inferences, § 14:9
- Parol evidence rule, § 14:8
- Res ipsa loquitur, § 14:7
- Similar acts or occurrences, § 14:5
- State of mind, proof by circumstantial evidence, § 14:4

CIVIL DAMAGE ACT

- Instructions to jury, § 39:18

CLERGY

- Privileged communications and information, § 23:11

CLOSING ARGUMENTS

- Generally, §§ 34:1 to 34:36
- Additional arguments, § 34:3
- Appeal and error
 - Cumulative errors, § 34:36
 - Future remedies, § 34:26
 - Improper argument, review, § 34:36
 - Invited error, § 34:32
 - Plain and harmless error, § 34:33
- Attacks on parties, witnesses, or counsel, § 34:23
- Broader issues than those on trial, § 34:14

CLOSING ARGUMENTS—Cont'd

Calling jurors by name, § 34:17

Civil, generally, §§ 35:1 to 35:7

Damages, § 35:4

Failure of party to testify, call witnesses, and produce evidence, § 35:6

Improper remarks, § 35:1

Insurance, § 35:2

Negotiations, § 35:7

Per diem argument, § 35:5

Production of evidence, failure of party, § 35:6

Settlements or negotiations, § 35

Taxability of injury awards, § 35:3

Concessions by counsel, § 34:25

Counsel's opinions on merits of case, § 34:13

Court's power to control argument, § 34:2

Criminal, generally, §§ 36:1 to 36:23

Burden of proof, criminal cases, § 36:18

Character of defendant, improper references to, § 36:7

Charges, statement that only guilty people are charged, § 36:14

Citizens as prosecutor's "clients," criminal cases, § 36:3

"Clients," reference to state as prosecutor's "client" in criminal cases, § 36:3

Community expects conviction, statement in criminal cases, § 36:4

Credibility, counsel's opinion, § 36:6

Defense theory, § 36:17

Discrimination, self-interest of jurors, § 36:4

Disparagement of 'standard' defenses, § 36:12

Failure of party to testify, call witnesses, and produce evidence, § 36:18

Grand jury testimony, references, § 36:10

Guilty or nolo contendere plea withdrawn, § 36:22

Guilty plea withdrawn, § 36:22

Innocence or guilt

Charges, statement that only guilty people are charged, § 36:14

Counsel's opinion in criminal cases of guilt or credibility, §§ 36:6, 36:15

Insinuations of other evidence of guilt, criminal cases, § 36:9

Not guilty plea, improper reference, § 36:13

Presumption of innocence, improper reference, § 36:11

Prosecution suggestion that defense counsel believes defendant's guilt,
§ 36:15

Withdrawn guilty or non contendere plea, § 36:22

Insanity, effect of verdict, § 36:23

Jurors' self-interest, appeal to, § 36:4

Law and order, § 36:4

Marital and other privileges, § 36:19

Medical treatment, effect of verdict, § 36:23

Nolo contendere plea withdrawn, § 36:22

Notorious cases, references to, § 36:8

Other evidence of guilt, § 36:7

Presumption of innocence, improper reference, § 36:11

INDEX

CLOSING ARGUMENTS—Cont'd

- Criminal, generally, §§ **36:1 to 36:23**—Cont'd
 - Production of evidence, failure of party, § **36:18**
 - Prosecutor, special obligations, § **36:2**
 - Punishment, effect of verdict, § **36:23**
 - Reasons for not calling prosecution witnesses, § **36:20**
 - Representative of the state, reference to prosecutor, § **36:3**
 - Rights of defendants, improper reference to in criminal cases, § **36:11**
 - Silence, failure to testify or produce evidence, § **36:18**
 - Society or community expects conviction, § **36:4**
 - State, reference to state as prosecutor's "client" in criminal cases, § **36:3**
 - "State's" opinion, references to by prosecutor, § **36:5**
 - Theory of case, § **36:17**
 - Uncontradicted, undisputed, or unexplained evidence, § **36:21**
 - Verdict, effect, § **36:23**
 - Victim's circumstances, age, etc., § **36:16**
- Criticism or rebuke of counsel by judge, § **34:34**
- Cumulative errors, § **34:36**
- Curative instructions, request, § **34:33**
- Discrimination
 - Passion, bias, prejudice, sympathy or sarcasm, § **34:18**
 - Racist, sexist, or other discriminatory comments, § **34:20**
 - Self-interest of jurors, § **34:16**
- Exclusion by ruling or argument, § **34:15**
- False or fabricated evidence, claims, § **34:21**
- Former proceedings, results, § **34:26**
- Graphic devices, § **34:31**
- Harmless error, § **34:33**
- Individual jurors, comments directed to, § **34:17**
- Inferences and evidence, § **34:8**
- Influencing witnesses, claims, § **34:21**
- Instructions to jury
 - Objections or requests for curative instructions, § **34:33**
 - Right to know and argue jury instructions, § **34:7**
- Judges
 - Court's power to control argument, § **34:2**
 - Criticism or rebuke of counsel by judge, § **34:34**
- Jurors
 - Calling by name, § **34:17**
 - Comments directed to individual jurors, § **34:17**
 - Self-interest, § **34:16**
- Law and order, § **34:14**
- In limine, rulings on questionable matters, § **34:6**
- Limitations and restrictions
 - Generally, § **34:6**
 - Evidence received for limited purpose, § **34:11**
 - Number of lawyers, limitations, § **34:4**

CLOSING ARGUMENTS—Cont'd

Limitations and restrictions—Cont'd

Time, limitation on, § 34:4

Matters not in evidence, §§ 34:9, 34:12

Merits, counsel's opinions or beliefs, § 34:13

Motive, § 34:28

Name, calling jurors by name, § 34:17

Non-legal writings not in evidence, § 34:9

Notice and knowledge

Common knowledge, § 34:12

Counsel's personal knowledge, § 34:12

Number of lawyers arguing, § 34:4

Objections, § 34:33

Opening the door, § 34:32

Oratory, § 34:8

Order of argument, § 34:3

Passion, § 34:18

Payments to witnesses or counsel, § 34:24

Personal knowledge of counsel, § 34:12

Physical demonstrations, § 34:31

Plain and harmless error, § 34:33

Pleadings, reading or comment, § 34:27

Privileges, comments, § 34:22

Pro se argument, § 34:5

Public, protection of public, § 34:14

Racist comments, § 34:20

Reading or comment on pleadings, § 34:27

Rebuke of counsel by judge, § 34:34

Remedies, future, § 34:26

Reporting final argument, § 34:35

Results of other cases or former proceedings in same case, § 34:26

Retaliation, § 34:32

Right to argue, § 34:1

Right to know and argue jury instructions and law, § 34:7

Sarcasm, § 34:18

Scope, § 34:1

Self-interest of jurors, § 34:16

Sexist comments, § 34:20

Special interrogatories, § 34:29

Standards, applying higher or improper standards to parties, § 34:19

Sympathy, § 34:18

Theories of the parties, § 34:30

Transcript of trial, reading, § 34:10

Verdicts, comments on special interrogatories or verdict, § 34:29

Waiver, § 34:1

Witnesses

Attacks on witnesses, § 34:23

INDEX

CLOSING ARGUMENTS—Cont'd

Witnesses—Cont'd

Influencing witnesses, claims, § 34:21

Not called, § 34:12

Payments to witnesses, § 34:24

COCONSPIRATOR

Admissions and confessions, § 18:8

Aiding and abetting liability, § 38:28

Competency to testify, § 22:9

COERCION

Closing arguments, claims of influencing witnesses, § 34:21

Instructions to jury, coercive, § 37:16

Jury instructions, coercion in criminal sexual conduct cases, § 38:2

COLLATERAL ISSUES

Closing arguments, broader issues than those on trial, § 34:14

Credibility and impeachment of witnesses, impeachment evidence and collateral issues, § 28:14

Secondary evidence when document relates to collateral issue, § 17:18

COLLATERAL SOURCE RULE

Generally, § 26:13

COMMERCIAL PUBLICATIONS

Hearsay evidence, § 16:25

COMPARATIVE NEGLIGENCE OR FAULT

Instructions to jury, § 39:11

Verdicts, § 41:5

COMPETENCY OF WITNESSES

Generally, §§ 22:1 to 22:14

Accomplice, competency to testify, § 22:9

Addict, narcotics, § 22:12

Children, competency of young children to testify, § 22:10

Counsel, competency of trial counsel to testify, § 22:8

Dead Man's Statute abolished, § 22:5

Firsthand knowledge of witness, § 22:4

Hearsay, comment to jury concerning incompetency of child witness, § 16:41

Hypnotic recall testimony, § 22:11

Judge, competency to testify, § 22:6

Juror, competency to testify, § 22:7

Jury instructions, criminal cases, § 38:40

Multiple personality disorder, competency of witness with, § 22:14

Narcotics addict, § 22:12

Objection to competency of witness, § 22:3

Qualifying the witness, § 22:2

COMPETENCY TO STAND TRIAL

Generally, § 22:13

COMPLAINT

- Motion to amend complaint, civil, § 4:5
- Motion to amend complaint, criminal, § 4:6

COMPLETENESS DOCTRINE

- Admissions and confessions, § 18:17
- Credibility and impeachment, § 28:15

COMPROMISE

- Admissions and confessions, compromise and offers to plead, § 18:9
- Closing arguments
 - Civil cases, § 35:7
 - Withdrawn guilty or nolo contendere plea or plea negotiations, § 36:22
- Miller-Shugart release, § 26:25
- Pierringer release, § 13:6
- Privileged communications and information, mediation, § 23:15
- Relevancy, compromise offers, § 13:6

COMPULSORY TESTIMONY

- Privilege against self-incrimination, § 24:10

COMPUTER-GENERATED ANIMATION

- Experiments and demonstrations, § 19:7

CONCEALMENT OF EVIDENCE

- Presumptions and inferences, § 12:13

CONDUCT OF TRIAL

- Exclusion of witnesses, § 2:15
- Interpreters, § 2:30
- Joint trial, § 2:34
- Physical restraint of defendant, § 2:5
- Police officers at counsel table, § 2:7
- Prejudicial questions by counsel, § 2:33
- Prison attire, § 2:6
- Right to present evidence, § 2:32
- Sanctions for spoliation, destruction, or nondisclosure of evidence, § 2:26
- Stipulation, criminal defendants' offer to stipulate, § 2:28
- Telephone, testimony by, § 2:18
- Testimony, criminal defendant's right to testify, § 2:35
- Witnesses
 - Exclusion of witnesses, § 2:15
 - Judge's comment on witness credibility, § 2:12
 - Telephone, testimony by, § 2:18
 - Televised testimony of children under 12 outside the courtroom or presence of jury, public or defendant, § 2:19

CONFESSIONS

- Admissions, Confessions and Statements Against Interest, this index

CONFIDENTIALITY

- Privileged Communications and Information, this index

INDEX

CONFLICTS OF INTEREST

- Attorneys, §§ 1:6, 1:9
- Corporations, attorneys representing, § 23:3
- Right to waive, § 1:14
- Two defendants at one trial, § 1:10

CONFRONTATION CLAUSE

- Generally, §§ 16:1, 16:2

CONSPIRACY

- Accomplices
 - Admissions and confessions, § 18:8
 - Aiding and abetting liability, § 38:28
 - Competency to testify, § 22:9
- Admissions and confessions, co-conspirators, § 18:8
- Aiding and abetting liability, § 38:28
- Out-of-court statements by co-conspirator, § 16:5

CONSTRUCTIVE CONTEMPT

- Generally, § 5:3

CONSTRUCTIVE POSSESSION

- Jury instructions, criminal cases, § 38:5

CONSTRUCTIVE TRUSTS

- Burden of proof, § 9:8

CONTEMPT OF COURT

- Generally, §§ 5:1 to 5:17
- Acts constituting contempt, §§ 5:4 to 5:6
- Burden of proof, § 5:10
- Challenges, contempt of court, § 5:17
- Civil and criminal contempt, § 5:2
- Constructive contempt, § 5:3
- Contempt proceedings, § 5:8
- Defense, contempt charges, § 5:11
- Direct contempt, § 5:3
- Disobedience of court orders as contempt, § 5:7
- Indemnification as punishment for contempt, § 5:15
- Indictment subsequent to finding of contempt, § 5:16
- Indirect contempt, § 5:3
- Jury trial, generally, § 5:9
- Miscellaneous conduct constituting contempt, § 5:6
- Punishment, § 5:12
- Review of contempts, § 5:17
- Specific contempt proceedings, § 5:9
- Statutory provisions, acts constituting contempt, § 5:5
- Summary punishment for contempt, § 5:13
- Timeliness of summary punishment for direct contempt, § 5:14

CONTINUANCES

Generally, §§ 3:1 to 3:7

Absence or presence

Illness or conflict, absence of party or counsel, § 3:3

Witness or document, § 3:4

Amendment of pleadings, § 3:5

Motion for continuance, considerations in ruling, § 3:2

Stay of proceedings, § 3:7

Surprise, § 3:6

CONTROLLED SUBSTANCES

Identification of controlled substances, § 20:19

Protocol, drug recognition protocol, § 20:18

CONVICTION

Admissibility of evidence, duplicates, § 17:14

Credibility of witnesses

Procedure for admitting proof, § 28:12

Proof, §§ 28:10, 28:12

Scope, § 28:11

Hearsay evidence, previous judgments, § 16:30

CORPUS DELICTI

Admissions and confessions, § 18:14

Burden of proof, § 9:12

CORROBORATION

Confessions, § 18:14

Instructions to jury, alibi, § 38:21

Jury instructions, necessity of corroboration in criminal case, § 38:11

COSTS

Generally, § 43:4

Attorney fees, § 43:7

Damages, § 26:22

Disbursements, § 43:4

Items of costs and disbursements, § 43:6

Multiple party actions, § 43:8

Procedure for taxation of costs, § 43:5

COUNSEL

Assistance of counsel, this index

Attorney, this index

CREDIBILITY AND IMPEACHMENT

Completeness doctrine, § 28:15

Curative admissibility, § 28:15

CREDIBILITY OF WITNESSES

Generally, §§ 28:1 to 28:18

Admissibility of evidence

Inconsistent statements, procedure for admitting, § 28:6

INDEX

CREDIBILITY OF WITNESSES—Cont'd

Admissibility of evidence—Cont'd

Prior convictions, procedure for admitting proof, §§ **28:12, 28:13**

Admissions and confessions, use of illegally obtained confession to impeach, § **18:19**

Bias

Particular instances, impeachment by evidence of bias, § **28:4**

Proof of bias, § **28:3**

Character evidence, § **28:8**

Closing arguments

Criminal cases, counsel's opinion, § **36:6**

Criminal cases, improper references to defendant's credibility, § **36:7**

Collateral issues, impeachment evidence, § **28:14**

Commonly used improper credibility questions, § **28:18**

Conduct, specific instances, § **28:9**

Confessions, use of illegally obtained confession to impeach, § **18:19**

Corruption, proof, § **28:3**

Credibility, § **28:1**

Expert witnesses, § **15:13**

Hearsay evidence

Attacking and supporting credibility of declarant, § **16:39**

Prior inconsistent statements, use as non-hearsay substantive evidence, § **28:7**

Impeachment, § **28:2**

Improper credibility questions commonly used, § **28:18**

Improper impeachment, § **28:16**

Inconsistent statements

Cross-examination, § **29:9**

Prior inconsistent statements, § **28:5**

Procedure for admitting inconsistent statements, § **28:6**

Substantive evidence, use of prior inconsistent statements as non-hearsay, § **28:7**

Interest, proof, § **28:3**

Judge's comments, § **2:12**

Opening the door, § **28:15**

Prior convictions

Procedure for admitting proof, §§ **28:12, 28:13**

Proof, § **28:10**

Scope, § **28:11**

Rape shield law, § **28:17**

Reputation evidence, § **28:8**

Vouching, §§ **15:2, 15:8**

CROSS-EXAMINATION

Generally, §§ **29:1 to 29:10**

Adversariness as basis, § **29:6**

Depositions, use in cross-examination, § **29:8**

Expert witnesses, § **15:14**

Form of questions, § **29:3**

CROSS-EXAMINATION—Cont'd

Hostility as basis, § 29:7

Impeachment

Admissibility of evidence

Inconsistent statements, procedure for admitting, § 28:6

Prior convictions, procedure for admitting proof, § 28:13

Admissions and confessions, use of illegally obtained confession to impeach, § 18:19

Bias

Particular instances, impeachment by evidence of bias, § 28:4

Proof of bias, § 28:3

Character evidence, § 28:8

Closing arguments

Criminal cases, counsel's opinion, § 36:6

Merits of case, counsel's opinion, § 34:13

Collateral issues, impeachment evidence, § 28:14

Commonly used improper credibility questions, § 28:18

Conduct, specific instances, § 28:9

Confessions, use of illegally obtained confession to impeach, § 18:19

Corruption, proof, § 28:3

Credibility of witnesses, § 28:1

Expert witnesses, § 15:13

Hearsay evidence

Attacking and supporting credibility of declarant, § 16:39

Prior inconsistent statements, use as non-hearsay substantive evidence, § 28:7

Impeachment of witnesses, § 28:2

Improper credibility questions commonly used, § 28:18

Improper impeachment, § 28:16

Inconsistent statements

Cross-examination, § 29:8

Prior inconsistent statements, § 28:5

Procedure for admitting inconsistent statements, § 28:6

Substantive evidence, use of prior inconsistent statements as non-hearsay, § 28:7

Interest, proof, § 28:3

Prior convictions

Procedure for admitting proof, § 28:13

Proof, § 28:10

Scope, § 28:11

Rape shield law, § 28:17

Reputation evidence, § 28:8

Prior inconsistent statements or testimony to impeach witness, § 29:9

Redirect and Re-cross Examination

Content of questions on redirect examination, § 30:2

Correction of testimony, § 30:4

Explaining impeaching answers, § 30:6

Explaining testimony, § 30:4

INDEX

CROSS-EXAMINATION—Cont'd

Redirect and Re-cross Examination—Cont'd

- Form of questions on redirect examination, § 30:2
- Memory of witness, refreshing, § 30:3
- Purpose of redirect examination, § 30:1
- Recollection of witness, refreshing, § 30:3
- Re-cross examination, § 30:7
- Refreshing witness' memory, § 30:3
- Rehabilitating a witness, § 30:5
- Scope of redirect examination, § 30:1
- Restrictions on scope of cross-examination, § 29:5
- Scope, generally, § 29:4
- Technology, cross-examination by remote video, § 29:10
- Waiver of right to cross-examination, § 29:2

CRUTCHES

- Admissibility of evidence, § 19:14

CUSTOM

- Circumstantial evidence, habit or routine practice, § 14:6
- Relevancy, § 13:14

DAMAGES

- Generally, §§ 26:1 to 26:25
- Additur, motions after verdict, § 42:5
- Apportionment in verdict, § 41:5
- Attorneys' fees, § 26:22
- Burden of proof, § 9:6
- Closing arguments
 - Civil cases, § 35:4
 - Taxability of injury awards, § 35:3
- Collateral source rule, § 26:13
- Contingent damages, § 26:4
- Contract cases, § 26:14
- Discounting to present value, § 26:11
- Disfigurement, § 26:9
- Excessive damages, § 26:12
- Exemplary damages, § 26:6
- Fees, attorneys', § 26:22
- Fraud, real estate misrepresentation cases, § 26:16
- Future damages, jury instructions, § 39:20
- Future medical expenses, § 26:8
- General and special damages, tort cases, § 26:3
- General principles, § 26:1
- Human Rights Act, § 26:21
- Inadequate damages, § 26:12
- Instructions to jury, civil cases, § 39:18
- Insurance claims, determining actual cash value, § 26:17
- Interest, § 26:22

DAMAGES—Cont'd

- Jury instructions, discounting of future damages, § 39:20
- Liquidated damages and penalties, § 26:18
- Medical expenses, past and future, § 26:8
- Mental suffering, § 26:10
- Mitigation of damages, § 26:5
- Nominal damages, § 26:2
- Past medical expenses, § 26:8
- Penalties
 - Liquidated damages, § 26:18
 - Punitive damages, § 26:6
- Present value, discounting to, § 26:11
- Profits, loss of, contracts, § 26:14
- Property damages, § 26:19
- Punitive damage claim, motion to assert, § 4:5
- Punitive damages, § 26:6
- Real estate misrepresentation cases, § 26:16
- Releases, § 26:25
- Remittitur, motions after verdict, § 42:5
- Remote damages, § 26:4
- Security cases, § 26:15
- Settlements, § 26:25
- Special damages, § 26:3
- Speculative damages, § 26:4
- Taxability of tort damage awards, § 26:24
- Uncertain damages, § 26:4
- Wrongful death, § 26:20

“DAY IN THE LIFE” VIDEOTAPES

- Demonstrative evidence, § 19:11

DEAD MAN’S STATUTE

- Competency of witnesses, § 22:5

DEADLOCKED JURY

- Discharge, § 40:26
- Instructions to jury, § 37:16
- Mistrial, § 32:7

DEATH

- Burden of proof, claims against estates, § 9:7
- Damages, wrongful death, § 26:20
- Hearsay evidence, statement under belief of impending death, § 16:34
- Presumptions and inferences, missing persons, § 12:8

DECEDENTS’ ESTATES

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

DECREE

- Judgment or Decree, this index

INDEX

DEFAULT JUDGMENTS

- Generally, § 4:8
- Grounds, § 4:10
- Motions
 - Grounds for taking default judgments, § 4:10
 - Procedure for taking default judgments, § 4:9
 - Reopening default judgments, § 4:11
- Procedure for taking default judgments, § 4:9
- Reopening default judgments, § 4:11

DEFENSES

- Civil cases
 - Assumption of Risk, § 39:19
 - Contributory negligence, § 39:19
 - Emergency rule, § 39:9
- Closing arguments, defense theory, criminal cases, § 36:17
- Closing arguments, disparagement of ‘standard’ defenses, § 36:12
- Criminal cases
 - Accident, § 38:16
 - Alibi, § 38:21
 - Duress, § 38:43
 - Entrapment, § 38:23
 - Mental illness (insanity), § 38:19
 - Reliance on advice of counsel, § 38:18
 - Self-defense, § 38:22
- Instructions to jury, §§ 38:22, 39:19

DEMONSTRATIVE EVIDENCE

- Generally, §§ 19:1 to 19:15
- Articles, § 19:5
- Bones, exhibition, § 19:15
- Braces, crutches, etc., admissibility, § 19:14
- Computer-generated animations, § 19:7
- “Day in the life” videotapes, § 19:11
- Demonstrations, § 19:7
- Diagrams, § 19:6
- Displays, § 19:6
- Distinguished from real evidence, § 19:1
- Drawings, § 19:6
- Experiments, § 19:7
- Foundation, laying, § 19:3
- Maps, § 19:6
- Models, § 19:6
- Motion pictures, § 19:9
- Objects, § 19:5
- Personal injuries, displaying to jury, § 19:4
- Photographs, this index
- Skeleton, exhibition, § 19:15

DEMONSTRATIVE EVIDENCE—Cont'd

- Sound recordings, § 19:13
- Summaries, § 19:6
- Use of real and demonstrative evidence, § 19:2
- Uses of photographic evidence, § 19:10
- Videotapes, this index
- X-rays, § 19:12

DEPOSITIONS

- Cross-examination, use, § 29:8
- Jury deliberations, depositions not taken to jury room, § 40:21

DESTRUCTION OF EVIDENCE

- Spoliation of Evidence, this index

DEVELOPMENT COST APPROACH

- Relevancy, real estate values, § 13:27

DIAGNOSIS

- Hearsay evidence, medical diagnosis or treatment, § 16:11

DIAGRAMS

- Real and demonstrative evidence, § 19:6

DIMINISHED CAPACITY

- Intent, § 15:7
- Mens rea, § 15:7
- Mental health/sanity, § 15:7
- State of mind, § 15:7

DIRECT EXAMINATION

- Generally, §§ 27:1 to 27:12
- Adverse parties, § 27:9
- Authentication, firsthand knowledge, § 27:4
- Checklist, situations where leading question allowed, § 27:8
- Content of questions, § 27:5
- Documents used by experts, § 27:11
- Experts, documents used, § 27:11
- Firsthand knowledge
 - Authentication, § 27:4
 - Hearsay, § 27:3
- Form of questions, § 27:5
- Hearsay, firsthand knowledge, § 27:3
- Personal knowledge, necessity, § 27:2
- Refreshed recollection
 - Distinguishing from declarant unavailable, § 27:12
 - Witness' memory, § 27:10
- Unresponsive answers, treatment, § 27:6

DIRECTED VERDICT

- Judgment as a Matter of Law, this index

INDEX

DISCOVERY

- Compliance with discovery rules, failure of, § 31:9
- Motion to compel, § 4:15
- Objections to evidence, failure to comply with discovery rules, § 31:9

DISCRIMINATION

- Closing arguments
 - Passion, bias, prejudice, sympathy or sarcasm, § 34:18
 - Racist, sexist, or other discriminatory comments, § 34:20
 - Self-interest of jurors, §§ 34:16, 36:4
- Credibility and impeachment of witnesses
 - Evidence of bias, § 28:4
 - Proof of bias, §§ 28:3, 28:4
- Jury selection, § 6:7
- Opening statements, improper conduct and prejudice, § 7:5

DISFIGUREMENT

- Damages, § 26:9

DISJUNCTIVE INSTRUCTIONS

- Criminal cases, § 38:3

DISMISSAL

- Generally, §§ 4:1 to 4:21
- Considerations in ruling on motions for voluntary dismissals, § 4:4
- Criminal cases, § 4:19
- Deadlocked jury, § 40:26
- Default judgments
 - Grounds, § 4:10
 - Motions
 - Generally, § 4:8
 - Grounds for taking default judgments, § 4:10
 - Procedure for taking default judgments, § 4:9
 - Reopening default judgments, § 4:11
- Grounds for dismissal, miscellaneous civil grounds, § 4:18
- Involuntary dismissals, § 4:12
- Motions
 - Default judgments, *supra*
 - Involuntary dismissals, § 4:12
 - Judgment as a matter of law (JAML), this index
 - Multiple parties and claims, voluntary dismissals, § 4:3
 - Nolle prosequi, § 4:7
 - Ruling on motions for voluntary dismissals, § 4:4
 - Voluntary dismissals, § 4:2
- Multiple parties and claims, voluntary dismissals, § 4:3
- Nolle prosequi, § 4:7
- Opening statements, § 7:8
- Reopening a dismissed case, § 4:20
- Voluntary dismissals, § 4:2

DISQUALIFICATION OF COUNSEL

Generally, § 1:6

DISSOCIATIVE IDENTITY DISORDER

Competency of witnesses, § 22:14

DNA ANALYSIS

Scientific tests and analyses, § 20:16

DOCUMENTARY EVIDENCE

Generally, §§ 17:1 to 17:19

Admissibility

Authenticated documents, § 17:12

Secondary evidence, § 17:17

Authentication

Generally, § 17:2

Admissibility of authenticated documents, § 17:12

Ancient documents, § 17:8

Avoidance of best evidence rule, § 17:16

Avoidance of proof, § 17:11

Direct methods of authentication, § 17:3

Distinguishing characteristics, circumstantial evidence, § 17:5

Handwriting comparisons, § 17:4

Process or system-produced evidence, § 17:9

Public records and reports, § 17:7

Self-authenticating documents, § 17:10

Summaries, use, § 17:15

Telephone conversations, voice identification, § 17:6

Voice identification, § 17:6

Avoidance of proof of authenticity, § 17:11

Certificates, marriage, baptismal and similar certificates, § 16:19

Circumstantial evidence, authentication by distinguishing characteristics, § 17:5

Distinguishing characteristics, authentication by circumstantial evidence, § 17:5

Handwriting comparisons, authentication, § 17:4

Procedure for offering documents in evidence, § 17:19

Process or system-produced evidence, authentication, § 17:9

Public records and reports, authentication, § 17:7

Secondary Evidence, this index

Self-authenticating documents, § 17:10

Summaries, use of, best evidence rule, § 17:15

System-produced evidence, authentication, § 17:9

Telephone conversations, voice identification, § 17:6

Voice identification, authentication, § 17:6

DOGS

Scientific tests and analyses, use of dogs, § 20:14

DOMESTIC ABUSE, PAST PATTERN OF DOMESTIC ABUSE

Jury instructions, § 38:38

Relevancy of evidence, § 13:18

INDEX

DOUBLE JEOPARDY

Acquittal, motion for, § 33:4

Mistrial, § 32:7

DRAM SHOP ACT

Instructions to jury, § 39:18

DRUGS AND NARCOTICS

Addicts

Competency of witnesses, § 22:12

Instructions to jury, cautionary or limiting instructions, § 38:22

Competency of witnesses, § 22:12

Instructions to jury, cautionary or limiting instructions, § 38:22

Scientific tests and analyses

Drug identification protocol, § 20:19

Random sample testing for controlled substances, § 20:19

DUE CARE

Presumptions and inferences, § 12:10

DYING DECLARATIONS

Hearsay evidence, § 16:34

EMERGENCY RULE

Jury instructions, negligence, § 39:7:2

EMOTIONAL CONDITION

Hearsay evidence, § 16:10

EVIDENCE

Accomplice's guilty plea in criminal cases, relevancy of, § 13:14:1

Admissibility of Evidence, this index

Alternatives to evidence, §§ 10:1 to 10:4

Burden of proof, this index

Character

Personal history, § 16:27

Reputation, § 16:29

Circumstantial Evidence, this index

Concealment of evidence, § 12:13

Credibility, this index

Demonstrative Evidence, this index

Destruction of evidence, § 12:13

Direct evidence compared to circumstantial evidence, § 14:2

Documentary Evidence, this index

Emergency 911 tapes, § 16:8

Expert Testimony, this index

Failure to produce witness or material evidence, § 12:14

False or fabricated evidence, claims, § 34:21

Hearsay Evidence, this index

Homicide victim's life, relevancy of evidence, § 13:23

Illegally Obtained Evidence, this index

EVIDENCE—Cont'd

- Impeachment evidence. Credibility, this index
- Inferences, this index
- Instructions to jury, spoliation of evidence, § 37:19
- Materiality and relevancy
 - Accomplice's guilty plea in criminal cases, § 13:18
 - Homicide victim's life, personal details in, § 13:23
 - Real estate values, §§ 13:27 to 13:30
- Motive, § 13:1
- Objections to Evidence, this index
- Opinion Evidence, this index
- Parol evidence rule, § 14:8
- Photographs, this index
- Police investigation, § 13:22
- Presumptions, this index
- Prima Facie Case, this index
- Production of Evidence, this index
- Proof of facts
 - Generally, §§ 10:1 to 10:4
 - Burden of Proof, this index
 - Construction of stipulations, § 10:4
 - Enforcement of stipulations, § 10:4
 - Excuse of proof, §§ 10:2, 10:3
 - Stipulations to excuse proof, § 10:3
 - Before trial, situations where proof is excused, § 10:2
- Relevancy, negative evidence, § 13:15
- Reputation
 - Boundaries or general history, § 16:28
 - Character, § 16:29
 - Personal history, § 16:27
- Restrictions on use of admitted evidence, § 2:22
- Right to testify, § 2:35
- Scientific Tests and Analyses, this index
- Secondary Evidence, this index
- Self-incrimination. Privilege Against Self-Incrimination, this index
- Sound Recordings, this index
- Suppression of Evidence, this index
- Threats to witnesses, § 13:8
- Uncontradicted, undisputed, or unexplained evidence, § 36:21
- Videotape, this index
- Weight and sufficiency, § 15:13
- Witnesses, this index

EX PARTE COMMUNICATIONS

- Attorneys, § 1:8

EXCITED UTTERANCES

- Hearsay evidence, §§ 16:8, 16:9

INDEX

EXCLUSION OF EVIDENCE

Trial conduct, § 2:23

EXCUSE OF PROOF

Generally, §§ 10:2, 10:3

EXEMPLARY DAMAGES

Generally, § 26:6

EXHIBITS

Demonstrative Evidence, this index

EXPERIMENTS

Jury conduct and deliberations, § 40:17

Real and demonstrative evidence, § 19:7

EXPERT TESTIMONY

Generally, §§ 15:1 to 15:15

Accident Reconstruction, § 15:8(1)

Alcohol intoxication, § 15:8(8)

Basis of opinion evidence, § 15:10

Battered child syndrome, § 15:8(25)

Battered woman syndrome, § 15:8(20)

Cause and effect, § 15:8(2)

Cause of death, § 15:8(3)

Child sexual abuse, § 15:8(31)

Competency of Witnesses, this index

Construction of written instrument, § 15:8(5)

Contracts, § 15:8(6)

Court-appointed experts, § 15:12

Credibility, § 15:8(19)

Cross-examination of expert witnesses, § 15:14

Dangerous drugs, § 15:8(7)

Death, cause of, § 15:8

Direct examination, documents used by experts, § 27:11

Disclosure of facts underlying expert's opinion, § 15:10

Distinction between expert and skilled witnesses, § 15:7

Domestic abuse and credibility, § 15:8(30)

Drug courier profile, § 15:8(28)

Drug recognition protocol, § 15:8(29)

Drunkenness, § 15:8

Effect of living in high crime on reasonableness of consent, § 15:8(32)

Employability, § 15:8(9)

Ethnic cultural customs and propensities, § 15:8(35)

Expert testimony, § 15:4

Eyewitness identification, expert testimony as to reliability, § 25:15

Fees, § 15:15

Fetal Alcohol Syndrome, § 15:8(26)

Future dangerousness, § 15:8(24)

Future pain and suffering, § 15:8

EXPERT TESTIMONY—Cont'd

Identification of drug paraphernalia, § 15:8(38)
Impact of past abuse, § 15:8(27)
Impeachment of expert witnesses, § 15:14
Indigent defendants, expert witness fees, § 15:15
Intent, § 15:8(22)
Intoxication effect on intent, § 15:8(23)
Knowledge of others, § 15:8(10)
Laws of foreign jurisdictions, § 15:8(11)
Lay witnesses, § 15:2
Male Sexual Victimization Syndrome, § 15:8(21)
Medical care and treatment, § 15:8(12)
Mens Rea, § 15:8(22)
Mental health/sanity, § 15:8(18)
Motor vehicle operation, § 15:8
Negligence, § 15:8(14)
Opinion evidence, § 15:1
Permanence of injury, § 15:8(15)
Personal injuries, § 15:8(16)
Police interrogation techniques, § 15:8(34)
Proper construction and maintenance, § 15:8(4)
Qualification of experts, § 15:6
Rape trauma syndrome, § 15:8(18)
Reporting practice of adolescent sexual assault victims, § 15:8(37)
Reports, reading experts' reports into evidence, § 15:11
Repressed-memory theory, § 15:8(39)
Requirement, expert testimony not required, § 15:5
Skilled witness distinguished from expert, § 15:7
State of mind, § 15:8(22)
Subject matter, § 15:8
Sufficiency of evidence, § 15:13
Susceptibility of coercion during police interrogation, § 15:8(33)
Ultimate issue, § 15:3
Value of services, § 15:8(17)
Vouching, § 15:8
Weight and sufficiency of expert testimony, § 15:12

EYEWITNESS IDENTIFICATION

Generally, §§ 25:1 to 25:15
Burden of proving identity, § 25:2
Counsel, presence at identification, § 25:11
Expert testimony as to reliability, § 25:15
Hearsay, out-of-court identification, § 25:10
Improper out-of-court identification, §§ 25:7, 25:8
In-court identification based on improper out-of-court identification, § 25:7
Independent identification, § 25:8
Instruction to jury, cautionary, § 25:14
Lineups, §§ 25:5, 25:12

INDEX

EYEWITNESS IDENTIFICATION—Cont'd

Out-of-court identification

Hearsay, § 25:10

In-court identification based on improper out-of-court identification, § 25:7

Independent origin identification following improper out-of-court identification, § 25:8

Photographs, use to identify accused, § 25:4

Pretrial identification after illegal arrest, § 25:9

Request for lineup by defendant, § 25:12

Scientific tests and analysis, § 20:3

Show up, § 25:6

Suggestiveness of identification procedure, § 25:3

Telephone conversations, voice identification, § 17:6

Voice, identification, § 25:13

FABRICATED EVIDENCE

Closing arguments, § 34:21

FAILURE TO PROSECUTE

Generally, § 4:17

Motions during trial, dismissal, and default, §§ 4:12, 4:17

FAILURE TO STATE CLAIM

Motions, § 4:14

FAILURE TO TESTIFY

Burden of proof, § 36:18

Closing arguments, §§ 35:6, 36:18

Criminal defendant's right to testify, § 2:35

Instructions to jury, § 38:27

FAMILY OR RELATIVES

Hearsay

Judgments as to family history, § 16:31

Records, § 16:21

Reputation, § 16:27

Statements of family history, § 16:36

Husband and Wife, this index

FIFTH AMENDMENT

Privilege Against Self-Incrimination, this index

FINAL ARGUMENT

Closing Arguments, this index

FINGERPRINTS

Scientific tests and analyses, § 20:9

FOREIGN LAW

Presumptions and inferences, § 12:6

FRAUD

Burden of proof, § 9:9

FRAUD—Cont’d

Damages, real estate misrepresentation cases, § 26:16

Motions after verdict, civil cases, § 42:4

FRYE-MACK HEARING

Scientific tests and analyses, § 20:1

GANG AFFILIATION

Relevancy of evidence, § 13:13

GENERAL VERDICTS

Generally, § 41:1

Interrogatories, § 41:4

“GOLDEN RULE”

Closing arguments, § 34:16

GOVERNMENT DATA PRACTICES ACT

Privileged communications and information, § 23:23

GRAND JURY

Closing arguments, references to grand jury testimony, § 36:10

GRAPHOLOGY

Documentary evidence authentication, handwriting comparisons, § 17:4

Scientific tests and analyses, § 20:12

GUILTY PLEA

Accomplice’s guilty plea in criminal cases, relevancy of, § 13:16

Closing arguments, § 36:22

Offer to plead, § 18:9

HABIT OR CUSTOM

Circumstantial evidence, habit or routine practice, § 14:6

Relevancy, § 13:14

HAIR

Scientific tests and analyses, § 20:11

HANDWRITING

Documentary evidence authentication, comparisons, § 17:4

Scientific tests and analyses, § 20:12

HARMLESS ERROR

Closing arguments, § 34:33

HEARING IMPAIRMENT

Privileged communications and information, interpreters assisting hearing-impaired, § 23:18

HEARSAY EVIDENCE

Generally, §§ 16:1 to 16:42

Absence of record of entry, §§ 16:15, 16:18

Ancient documents, statements, § 16:24

Baptismal certificates, § 16:20

INDEX

HEARSAY EVIDENCE—Cont'd

- Boundaries, reputation concerning, § 16:28
- Business activities, records, §§ 16:13, 16:14, 16:15
- Character reputation, § 16:29
- Child witness, incompetency of, § 16:41
- Children, out-of-court statements of children under 10, § 16:40
- Commercial publications, § 16:25
- Convictions, previous judgments, § 16:30
- Credibility, this index
- Definitions, § 16:3
- Direct examination, firsthand knowledge, § 27:3
- Distinguishing present sense impression from excited utterances, § 16:9
- Emotional condition then existing, § 16:10
- Exceptions to hearsay rule
 - Declarant unavailable, § 16:32
 - Other exceptions, § 16:37
 - Relevancy of declarant availability, § 16:6
 - Statements against interest, § 16:35
- Excited utterances, §§ 16:8, 16:9
- Exclusion, rationale of hearsay exclusion, § 16:2
- Eyewitness identification, out-of-court identification as hearsay, § 25:10
- Family or relatives
 - Judgments as to family history, § 16:31
 - Records, § 16:21
 - Reputation, § 16:27
 - Statements of family history, § 16:36
- Former testimony, § 16:33
- Hearsay within hearsay, § 16:38
- Impeachment of Witnesses, this index
- Impending death, statement under belief, § 16:34
- Incompetency of child witness, § 16:41
- Interest, statements against, § 16:35
- Interest in property
 - Records of documents affecting, § 16:22
 - Statements in documents affecting, § 16:23
- Judgments
 - Boundaries, § 16:31
 - Personal, family, or general history, § 16:31
 - Previous convictions, § 16:30
- Jury, comments to, § 16:41
- Learned treatises, § 16:26
- Market quotations, § 16:25
- Marriage certificates, § 16:20
- Medical diagnosis or treatment, § 16:11
- Mental condition then existing, § 16:10
- Out-of-court statements
 - Children under 10, § 16:40

HEARSAY EVIDENCE—Cont'd

Out-of-court statements—Cont'd

Not deemed hearsay, § 16:5

Personal history

Character reputation, § 16:29

Judgments as to personal history, § 16:31

Reputation, §§ 16:27, 16:29

Statement of personal history, § 16:36

Physical condition then existing, § 16:10

Police tips, § 16:42

Present sense impressions, §§ 16:7, 16:9

Public records and reports, § 16:16

Recollection, recorded, § 16:12

Records

Absence of record or entry, §§ 16:15, 16:18

Baptismal certificates, § 16:20

Business activity, regularly conducted, § 16:13

Certificates, § 16:20

Family records, § 16:21

Interest in property, §§ 16:22, 16:23

Marriage certificates, § 16:20

Public records and reports, § 16:16

Recollection recorded, § 16:12

Regularly conducted business activity, §§ 16:13, 16:14

Religious organizations, § 16:19

Vital statistics, § 16:17

Redaction of records, § 16:14

Relevancy, availability of declarant, § 16:6

Religious organizations, records, § 16:19

Reports, public records and reports, § 16:16

Reputation

Boundaries or general history, § 16:28

Character, § 16:29

Personal history, §§ 16:27, 16:29

Statements

Ancient documents, contained, § 16:24

Children under 10, § 16:40

Death, statements under belief of impending death, § 16:34

Against interest, § 16:35

Interest in property, statements in documents affecting, § 16:23

Medical diagnosis or treatment, § 16:11

Personal or family history, § 16:36

Time or date

Convictions, previous judgments, § 16:30

Credibility, use of prior inconsistent statements as non-hearsay substantive evidence, § 28:7

Former testimony, § 16:33

Present sense impressions, §§ 16:7, 16:9

INDEX

HEARSAY EVIDENCE—Cont'd

Time or date—Cont'd

Records of regularly conducted business activities, §§ 16:13, 16:14

Truth of matter asserted, § 16:4

Vital statistics records, § 16:17

HISTORIC DOCUMENTS

Authentication, documentary evidence, § 17:8

Hearsay evidence, statements in ancient documents, § 16:24

HUSBAND AND WIFE

Closing arguments, marital privilege, § 36:19

Domestic Abuse, Past Pattern of Domestic Abuse, this index

Hearsay evidence, marriage certificates, § 16:20

Presumptions and inferences, marriage, § 12:11

Privileged communications and information, § 23:2

HYPNOSIS

Recall testimony, §§ 20:6, 22:11

Truth serum, § 20:6

IDENTIFICATION

Eyewitness Identification, this index

ILLEGAL ARREST

Pretrial identification after illegal arrest, § 25:9

ILLEGALLY OBTAINED EVIDENCE

Confessions, use to impeach, § 18:19

Objections to evidence, § 31:10

IMMUNITY

Privilege against self-incrimination, § 24:10

IMPEACHMENT OF WITNESSES

Generally, §§ 28:1 to 28:18

Admissibility of evidence

Inconsistent statements, procedure for admitting, § 28:6

Prior convictions, procedure for admitting proof, § 28:13

Admissions, use of illegally obtained confession to impeach, § 18:19

Bias

Particular instances, impeachment by evidence of bias, § 28:4

Proof of bias, § 28:3

Character evidence, § 28:8

Closing arguments

Criminal cases, counsel's opinion, § 36:6

Merits of case, § 34:13

Collateral issues, impeachment evidence, § 28:14

Commonly used improper credibility questions, § 28:18

Conduct, specific instances, § 28:9

Confessions, use of illegally obtained confession to impeach, § 18:19

Corruption, proof, § 28:3

IMPEACHMENT OF WITNESSES—Cont'd

Credibility, § 28:1

Expert witnesses, § 15:14

Hearsay evidence

Attacking and supporting credibility of declarant, § 16:39

Prior inconsistent statements, use as non-hearsay substantive evidence, § 28:7

Improper impeachment, § 28:16

Inconsistent statements

Cross-examination, § 29:9

Prior inconsistent statements, § 28:5

Procedure for admitting inconsistent statements, § 28:6

Substantive evidence, use of prior inconsistent statements as non-hearsay,
§ 28:7

Interest, proof, § 28:3

Prior convictions

Procedure for admitting proof, § 28:13

Proof, § 28:10

Scope, § 28:11

Rape shield law, § 18:15

Reputation evidence, § 28:8

Scope of prior convictions, § 28:11

IN LIMINE

Generally, § 4:16

Closing arguments, rulings, § 34:6

Relevancy, § 13:20

INDIGENT DEFENDANTS

Expert witness fees, § 15:15

INFERENCES

Generally, §§ 12:1 to 12:20

Accidents, § 12:8

Adverse inferences

Assertion of privilege, § 23:22

Self-incrimination privilege

Civil cases, § 24:4

Criminal cases, § 24:5

Presumptions and inferences, § 12:15

Burden of Proof, this index

Circumstantial evidence, §§ 14:7, 14:9

Closing arguments, § 34:8

Concealment of evidence, § 12:13

Conclusive presumptions, § 12:4

Conduct, presumptions relating, § 12:9

Conflicting presumptions, § 12:3

Continuation of a condition, § 12:12

Criminal cases, § 12:17

Death, missing persons, § 12:8

INDEX

INFERENCES—Cont'd

- Destruction of evidence, § 12:13
- Distinguished from presumptions, § 12:2
- Due care presumption, § 12:10
- Failure to produce witness or material evidence, § 12:14
- Foreign law, knowledge, § 12:6
- Innocence or Guilt, this index
- Instructions to jury, adverse inference from spoliation of evidence, § 37:19
- Knowledge of facts, § 12:7
- Knowledge of law, § 12:5
- Marriage, § 12:11
- Missing persons, § 12:8
- Possession of recently stolen property, § 12:19
- Presumptions, this index
- Privileged communications and information, assertion of privilege, § 23:22
- Res Ipsa Loquitur, this index
- Suicide, § 12:8
- Suppression of evidence, § 12:13

INFORMERS

- Identity, privileged communications and information, § 23:21
- Instructions to jury, cautionary or limiting instructions, § 38:30

INSANITY

- Closing arguments, effect of verdict, § 36:23
- Instructions of jury, criminal cases, § 38:19

INSURANCE

- Bad faith failure of insurer to settle, instructions to jury, § 39:23
- Closing arguments, civil cases, § 35:2
- Collateral source rule, § 26:13
- Damages, determining actual cash value, § 26:17
- Instructions to jury, civil cases, §§ 39:18, 39:23
- Mistrial, disclosure of liability insurance, § 32:5
- Voir dire, jury selection, insurance companies, § 6:10

INTEREST ON MONEY

- Damages, § 26:22

INTERLOCUTORY JUDGMENTS

- Generally, § 43:2

INTERPRETATION

- Instructions to jury, § 37:17
- Stipulations, proof of facts, § 10:4
- Verdicts, § 41:14

INTERPRETERS

- Confessions through, § 18:22
- Privileged communications and information, assistants to hearing-impaired, § 23:18

INTERPRETERS—Cont'd

Trial conduct, § 2:30

INTERROGATION

Electronically recorded custodial interrogation, § 18:21

Ex parte communications, right to counsel, § 1:8

INTERROGATORIES

Closing arguments, comments, § 34:29

INTOXICATION

Addicts

Competency of witnesses, § 22:12

Instructions to jury, cautionary or limiting instructions, § 38:20

Dram shop act, instructions to jury, § 39:14

Expert testimony, § 15:8

Instructions to jury, §§ 38:20, 39:14

Jury conduct and deliberations, § 40:15

Lay witnesses, § 15:8

Relevancy of evidence, § 13:21

Scientific tests and analyses, § 20:4

INVITED ERROR

Improper conduct and prejudice, §§ 7:5, 34:32

JOINDER OF PARTIES

Generally, § 2:34

JOINT TRIAL

Generally, § 2:34

Jury instructions, § 38:41

JOURNALISTS

Privileged communications and information, § 23:17

JUDGES

Admissions, judicial, § 18:2

Closing Arguments, this index

Competency to testify, § 22:6

Conduct, §§ 2:10, 2:11

Control of examination of witnesses, § 2:17

Credibility of witnesses, judge's comment on, § 2:12

Demeanor, §§ 2:10, 2:11

Jury Conduct and Deliberations, this index

Jury Instructions, this index

Presence, § 2:8

Preservation of order, duty of judge, § 2:13

Privilege against self-incrimination, court's duty, § 24:9

Questioning of witnesses by judge, § 2:17

Right to counsel, judge's duty, § 1:13

Substitution during trial, § 2:9

Trier of fact, § 2:31

INDEX

JUDGES—Cont'd

- Verdicts, judicial comment, § 41:16
- View by jury, presence of judge, § 21:3

JUDGMENT AS A MATTER OF LAW (JAML)

- Generally, §§ 33:1 to 33:4
- Civil cases
 - Procedure for moving for JAML, § 33:2
 - Right to JAML, determination, § 33:3
- Criminal cases, motion for judgment of acquittal, §§ 33:4, 42:6
- Determination of right, § 33:3
- Motions after verdict, § 42:1
- Nature of JAML, § 33:1
- Opening statements, § 7:8

JUDGMENT OR DECREE

- Generally, §§ 43:1 to 43:10
- Attorneys fees as costs, § 43:7
- Attorneys' fees as costs, § 43:7
- Costs
 - Generally, § 43:4
 - Attorneys fees as costs, § 43:7
 - Disbursements, § 43:4
 - Items of costs and disbursements, § 43:6
 - Multiple party actions, § 43:8
 - Procedure for taxation of costs, § 43:5
- Criminal cases, § 43:10
- Default Judgments, this index
- Directed Verdict, this index
- Disbursements for costs, § 43:6
- Hearsay Evidence, this index
- Interlocutory judgment, § 43:2
- As a matter of law, motions, § 42:1
- Mistrial, result of granting, § 32:7
- Multiple party actions, costs, § 43:8
- Offer of, § 43:9
- Procedural aspects of taking judgment, § 43:3
- Rule 68 offer of judgment or settlement, § 43:9
- Settlement offer, § 43:9

JUDICIAL IMMUNITY

- Generally, § 23:25

JUDICIAL NOTICE

- Generally, §§ 11:1 to 11:7
 - Civil cases, § 39:3
 - Criminal cases, § 38:25
- Examples of facts judicially noticed, § 11:5
- Examples of facts refused judicial notice, § 11:6
- Government, judicial notice of facts about, § 11:4

JUDICIAL NOTICE—Cont'd

- Laws and proceedings, judicial notice, § 11:3
- Political subdivisions, judicial notice of facts about, § 11:4
- Procedural aspects, § 11:2

JURY

- Generally, §§ 6:1 to 6:18
- Alternate jurors, § 6:18
- Anonymous jury, selection, § 6:9
- Challenges
 - Batson challenges, § 6:7
 - For cause, § 6:12
 - Civil cases, peremptory challenges, § 6:15
 - Criminal cases, peremptory challenges, § 6:16
 - Grounds for challenge for cause, § 6:13
 - “Mary Carter” agreements, § 6:15
 - Panel, § 6:6
 - Timeliness of challenges for cause, § 6:14
- Closing Arguments, this index
- Competency of juror to testify, § 22:7
- Conduct of jury. Jury Conduct and Deliberations, this index
- Deadlocked jury. Jury Conduct and Deliberations, this index
- Deliberations. Jury Conduct and Deliberations, this index
- Discrimination, jury selection, § 6:7
- Exemptions from jury service, § 6:5
- Eyewitness identification, cautionary instruction to jury, § 25:14
- Grand jury testimony, reference to in closing arguments, § 36:10
- Grounds for challenge for cause, § 6:13
- Hearsay, comments to jury, § 16:41
- Instructions. Jury Instructions, this index
- Insurance companies, voir dire, § 6:11
- “Mary Carter” agreements, § 6:15
- Media contact, § 40:8
- Mistrial, deadlocked jury, § 32:6
- Objections to jury, § 6:3
- Peremptory challenges
 - Civil, § 6:15
 - Criminal, § 6:16
- Personal injuries, displaying to jury, § 19:4
- Qualifications of jurors, § 6:4
- Questions on voir dire, § 6:10
- Real and demonstrative evidence, displaying personal injuries to jury, § 19:4
- Right to trial by impartial jury, § 6:1
- Selection of jurors, generally, § 6:2
- Summoning jurors, § 6:2
- Swearing the jury, § 6:17
- Televised testimony of children under 12 taken outside presence of jury, § 2:19

INDEX

JURY—Cont'd

Timeliness

Challenges for cause, § 6:14

Objections to jury, § 6:3

Verdicts, this index

View by Jury, this index

Voir dire

Conduct of examination, § 6:8

Insurance companies, § 6:11

Questions, § 6:10

Waiver of, § 2:31

JURY CONDUCT AND DELIBERATIONS

Generally, §§ 40:1 to 40:27

Alternate jurors in deliberations, § 40:27

Authority of court to control jury, § 40:2

Comments by jurors, improper, § 40:10

Communications to jurors, § 40:23

Contact with parties or lawyers, § 40:7

Court's authority to control jury, § 40:2

Custodians and officers, § 40:3

Deadlocked jury

Discharge, § 40:26

Instructions to jury, § 37:16

Mistrial, § 32:6

Depositions not taken to jury room, § 40:21

Experiments, § 40:17

Food and lodging for jurors, § 40:24

Illness of jurors, § 40:16

Improper comments by jurors, § 40:10

Intoxicants, jurors' use, § 40:15

Investigations, § 40:17

Judges

Authority of court to control jury, § 40:2

Extra judicial influence or information, § 40:5

Instructions to jury, coercion, § 37:16

Jury room

Depositions not taken, § 40:21

Items taken, § 40:18

Pleadings to jury room, § 40:20

Written instructions to jury room, § 40:19

Knowledge of jurors, § 40:9

Length of deliberations, § 40:25

Lodging for jurors, § 40:24

Management of jury, § 40:1

Motions after verdict, jury misconduct, § 42:9

Notes, taking and use of by jurors, § 40:11

Officers, § 40:3

JURY CONDUCT AND DELIBERATIONS—Cont'd

- Personal knowledge of jurors, § 40:9
- Pleadings to jury room, § 40:20
- Publicity, exposure, § 40:6
- Questions by jurors to witnesses, § 40:12
- Request for evidence, § 40:22
- Sequestration and separation of jury, § 40:13
- Sleeping jurors, § 40:14
- Use or usefulness
 - Intoxicants, by jurors, § 40:15
 - Notes, taking and use of by jurors, § 40:11
- View by Jury, this index
- Witnesses, questions by jurors to witnesses, § 40:12
- Written instructions to jury room, § 40:19

JURY INSTRUCTIONS

- Generally, §§ 37:1 to 37:19, 38:1 to 38:46, 39:1 to 39:23
- Cautionary instructions
 - Generally, § 37:10
 - Criminal cases, §§ 38:7, 38:30
 - Eyewitness identification, § 25:14
 - Informers, drug addicts, perjurers, § 38:30
- Civil and Criminal
 - Generally, § 37:10
 - Adverse inference from spoliation of evidence, § 37:19
 - Close of trial, § 37:7
 - Coercive instructions, § 37:16
 - Construction of instructions, § 37:17
 - Deadlocked juries, § 37:16
 - Deliberations and jury conduct
 - Coercive instructions, § 37:16
 - Instructions during deliberations, § 37:8
 - Written instructions to jury room, § 40:19
 - Duties and powers of trial judge, § 37:2
 - Elements of claims or offenses, § 37:12
 - End of trial, § 37:7
 - Failure to object, § 37:4
 - Impeachment instructions, § 37:11
 - Inconsistent or contradictory instructions, § 37:18
 - Law of the case, § 37:4
 - Modification or supplement of instructions after arguments, § 37:15
 - Multiple parties, § 37:14
 - Objections to proposed instructions and verdict forms, § 37:3
 - Powers and duties of trial judge, § 37:2
 - Preliminary instructions, § 37:5
 - Presumptions and inferences, generally, § 12:20
 - Prior inconsistent statements, § 37:11
 - Proposed instructions and verdict forms, § 37:3

INDEX

JURY INSTRUCTIONS—Cont'd

Civil and Criminal—Cont'd

Requests for proposed instructions and verdict forms, § 37:3

Statutes, reading, § 37:12

Supplement of instructions after arguments, § 37:15

Theories of the parties, § 37:13

Time or date

Deliberations, instructions during, § 37:8

Instructions at close of trial, § 37:7

Instructions during trial, §§ 37:6, 38:7

Modification or supplement of instructions after arguments, § 37:15

During trial, §§ 37:6, 38:7

Verdict forms, § 37:3

View by jury, § 21:5

Written instructions, §§ 37:9, 40:19

Civil cases

Generally, §§ 39:1 to 39:23

Affirmative defenses, § 39:19

Agency and other relationships, § 39:6

Aggravation of preexisting condition, § 39:22

Bad faith failure of insurer to settle, § 39:23

Burden of proof, § 39:5

Causation, § 39:12

Children, standard of care for, § 39:8

Civil Damage Act, § 39:18

Comments by court on evidence or credibility, § 39:4

Comparative negligence, § 39:11

Contract actions, § 39:17

Damages, § 39:18

Discounting of future damages, § 39:20

Emergency rule, negligence, § 39:9

Expert instructions, medical malpractice, § 39:21

Forfeiture of motorist's right-of-way, § 39:10

Future damages, discounting of, § 39:20

Insurance, § 39:18

Intentional torts and other civil actions, § 39:14

Judge's comment on evidence, § 39:4

Judicial notice, § 39:3

Medical malpractice, expert instructions, § 39:21

Multiple parties, § 39:18

Negligence

Children, standard of care for, § 39:8

Comparative negligence, § 39:11

Emergency rule, § 39:9

Strict liability, duty of care, no-fault, § 39:7

No-fault, § 39:7

Preliminary instructions, § 39:2

JURY INSTRUCTIONS—Cont'd

Civil cases—Cont'd

Property damage, § 39:13

Res ipsa loquitur, § 39:16

Strict liability, § 39:7

Torts, §§ 39:14, 39:15

Warranties, § 39:17

Criminal cases

Generally, §§ 38:1 to 38:46

Accomplices, § 38:32

Aiding and abetting liability, § 38:28

Alcoholic beverages, § 38:20

Alibi, § 38:21

Appeals, § 38:35

Burden of proof, §§ 38:10, 38:17

Causation, § 38:4

Cautionary or limiting instructions, §§ 38:7, 38:22

Separate charges considered separately, § 38:31

Character evidence, § 38:24

Circumstantial evidence, § 38:36

Coercion in sexual conduct cases, § 38:2

Confessions, § 38:33

Conspiracy, § 38:28

Constructive possession, § 38:5

Corporate liability, § 38:44

Corroboration, necessity of, § 38:11

Credibility, court's comment on evidence or credibility, § 38:8

Defendant's failure to testify or produce evidence, § 38:27

Disjunctive instructions, § 38:3

Domestic abuse murder statute, past pattern of domestic abuse, § 38:38

Drug addicts, § 38:30

Duress, § 38:43

Effect of verdict, § 38:35

Entrapment, § 38:23

Essential elements, § 38:12

Eyewitness identification, cautionary instruction, § 25:14

Failure of defendant to testify or produce evidence, § 38:27

Felony murder, § 38:39

Flight, § 38:42

Identification testimony, § 38:29

Incompetency of witness, § 38:40

Informers, § 38:30

Instructions during trial, § 38:7

Intent

Accident, § 38:16

Criminal intent, generally, § 38:13

Premeditation, § 38:14

INDEX

JURY INSTRUCTIONS—Cont'd

Criminal cases—Cont'd

Intent—Cont'd

Strict liability, § 38:15

Intoxication, § 38:20

Joint trials, § 38:41

Judicial notice, § 38:25

Lesser included offenses, § 38:26

Mental illness, § 38:19

Mistake of law, § 38:46

Nullification of verdict, § 38:35

Other crimes and misconduct, § 38:34

Perjurors, § 38:30

Preliminary instructions, § 38:6

Premeditation, intent, § 38:14

Presumption of innocence, § 38:9

Production of evidence, failure of defendant in criminal case, § 38:27

Punishment, § 38:35

Self-defense, § 38:22

Separate charges considered separately, cautionary instruction, § 38:31

Sexual conduct cases, coercion in, § 38:2

Shifting burden of proof, §§ 38:10, 38:17

Standard of review, § 38:37

During trial, § 38:7

Unanimous verdict, § 38:45

Verdict, § 38:35

Intoxication, §§ 38:20, 39:14

JUVENILES

Competency of young children to testify, § 22:10

Hearsay evidence, out-of-court statements of children under 10, § 16:40

Paternity cases, real and demonstrative evidence, § 19:15

Privileged communications and information by minor to parent, § 23:12

LAW OF THE CASE

Instructions to jury, § 37:4

LEADING QUESTIONS

Generally, § 27:7

Checklist, situations where leading question allowed, § 27:8

LEARNED TREATISES

Hearsay evidence, § 16:26

LESSER INCLUDED OFFENSES

Instructions to jury, § 38:26

Verdicts, criminal cases, § 41:7

LIABILITY INSURANCE

Mistrial, disclosure of liability insurance, § 32:5

LIE DETECTOR TESTS

Admissibility, § 20:7

LINEUPS

Eyewitness identification, §§ 25:5, 25:12

LIQUIDATED DAMAGES

Generally, § 26:18

LOSS OF EARNINGS OR PROFITS

Generally, § 26:7

Contract cases, § 26:14

MALPRACTICE

Generally, § 1:9

Jury instructions, expert instructions, medical malpractice, § 39:21

MAPS

Real and demonstrative evidence, § 19:6

MARKET QUOTATIONS

Hearsay evidence, § 16:25

MARRIAGE CERTIFICATES

Hearsay evidence, § 16:20

“MARY CARTER” AGREEMENTS

Generally, § 6:15

MATERIALITY

Distinguished from relevancy, § 13:4

Presumptions and inferences, failure to produce material evidence, § 12:14

MEDIA

Jury conduct and deliberations, contact with media, § 40:8

Privileged communications to journalists, § 23:17

MEDIATION

Negotiation and Settlement, this index

MEDICAL EXPENSES

Damages, § 26:8

MEDICAL STAFF

Peer review privilege, § 23:24

MEDICAL TREATMENT

Closing arguments, effect of verdict, § 36:23

Hearsay evidence, § 16:11

MEMORY

Hearsay, § 16:12

Hypnotic recall testimony, § 22:11

Refreshed recollection

Generally, § 27:10

INDEX

MEMORY—Cont'd

Refreshed recollection—Cont'd

Distinguished from declarant unavailable, § 27:12

Redirect and re-cross examination, § 30:3

MENS REA

Generally, §§ 15:8, 38:15

MENTAL ANGUISH

Generally, § 26:10

MENTAL CONDITION

Circumstantial evidence, proof of state of mind, § 14:4

Closing arguments, effect of verdict, § 36:23

Damages, mental suffering, § 26:10

Expert testimony, § 15:7

Hearsay evidence, § 16:10

Insanity

Closing arguments, effect on verdict, § 36:23

Instructions to jury, criminal cases, § 38:19

Multiple personality disorder, competency of witness with, § 22:14

MID-TRIAL ORDERS

Appeal of, § 4:20

MILLER-SHUGART RELEASE

Generally, § 26:25

MINORS

Children, this index

MISCONDUCT

Credibility and impeachment of witnesses, § 28:9

Judges, general conduct and demeanor, §§ 2:10, 2:11

Jury Conduct and Deliberations, this index

Motions after verdict, Schwartz hearing, misconduct by jury, § 42:9

Opening statements, improper conduct and prejudice, § 7:5

Parties to trial, § 2:4

Presumptions relating to conduct, § 12:9

Trial lawyers

Generally, § 1:2

Malpractice, § 1:9

Rule 11 sanctions against attorneys, § 1:5

Types of trial lawyer misconduct, § 1:3

MISSING PERSONS

Presumptions and inferences, § 12:8

MISTAKE

Jury instructions, mistake of law, § 38:46

Motions after verdict, § 42:4

MISTRIAL

- Generally, §§ 32:1 to 32:7
- Deadlocked jury, § 32:6
- Double jeopardy, § 32:7
- Granting, result, § 32:7
- Grounds, § 32:3
- Liability insurance, disclosure, § 32:5
- Mitigating prejudice to avoid mistrial, § 32:4
- Motion, timing, § 32:2

MITIGATION

- Damages, § 26:5
- Mistrial, mitigating prejudice to avoid mistrial, § 32:4

MODELS

- Real and demonstrative evidence, § 19:6

MOTION PICTURES

- Real and demonstrative evidence, § 19:9

MOTIONS

- Generally, §§ 4:1 to 4:21
- After verdict. Motions After Verdict, this index
- Continuance, considerations in ruling, § 3:2
- Criminal cases
 - Amended complaint, § 4:6
 - Dismissal, § 4:19
 - Judgment of acquittal, § 33:4
- Default Judgments, this index
- Discovery, motion to compel, § 4:15
- Dismissal, this index
- Exclusion of improper evidence on court's own motion, § 2:23
- Failure to prosecute, obey the court, or comply with procedure statutes, § 4:17
- Failure to state a claim upon which relief can be granted, § 4:14
- Judgment as a Matter of Law, this index
- Jurisdiction, costs, § 4:13
- In limine. Motions in Limine, this index, this index
- Mid-trial orders, appeal of, § 4:21
- Mistrial, timing of motion, § 32:2
- Multiple parties and claims, voluntary dismissals, § 4:3
- Nolle prosequi, § 4:7
- Objections to evidence, motion to strike, § 31:5
- Punitive damages, motion to amend complaint to assert, § 4:5
- Reopening a dismissed case, § 4:20
- Verdict. Motions After Verdict, this index

MOTIONS AFTER VERDICT

- Generally, §§ 42:1 to 42:9
- Civil cases
 - Fraud, § 42:4

INDEX

MOTIONS AFTER VERDICT—Cont'd

Civil cases—Cont'd

- Grounds for new trial, § 42:2
- Judgment as a matter of law (JAML), § 42:1
- Mistake, § 42:4
- New trial, § 42:2
- Newly discovered evidence, § 42:4
- Void judgment, § 42:4

Criminal cases

- Grounds for new trial, § 42:7
- Judgment of acquittal, § 42:6
- New trial, § 42:7
- Vacation of judgment, § 42:8
- Misconduct by jury, Schwartz hearing, § 42:9

MOTIONS IN LIMINE

- Generally, § 4:15
- Closing arguments, rulings, § 34:6
- Relevancy, § 13:20

MOTIVE

- Closing arguments, § 34:28

MOTOR VEHICLES

- Automobiles, this index

MULTIPLE PARTIES

- Instructions to jury, §§ 37:14, 39:18
- Judgments, costs, § 43:8
- Motions for voluntary dismissal, § 4:3

MULTIPLE PERSONALITY DISORDER

- Competency of witnesses, § 22:14

NAIG SETTLEMENT

- Generally, § 26:25

NEGATIVE EVIDENCE

- Relevancy, § 13:19

NEGOTIATION AND SETTLEMENT

- Admissions and confessions, compromise and offers to plead, § 18:9
- Closing arguments
 - Civil cases, § 35:7
 - Criminal cases
 - Withdrawn guilty or nolo contendere plea or plea negotiations, § 36:22
- Damages, settlements, § 26:25
- Judgment offer, § 43:9
- Miller-Shugart settlement, § 26:25
- Naig Settlement, § 26:25
- Pierringer release, § 13:6
- Privileged communications and information, mediation, § 23:15

NEGOTIATION AND SETTLEMENT—Cont'd

Relevancy, compromise offers, § 13:6

Schmidt-Clothier settlement, § 26:25

NEUTRON ACTIVATION ANALYSIS

Scientific tests and analyses, § 20:15

NEW TRIAL

Motion and hearing, time for, § 42:3

Motions after verdict

Civil, §§ 42:2 to 42:3

Criminal, § 42:7

NEWLY DISCOVERED EVIDENCE

Motions after verdict, civil cases, § 42:4

NO-FAULT

Instructions to jury, § 39:7

NOLLE PROSEQUI

Generally, § 4:7

NOLO CONTENDRE

Closing arguments, plea withdrawn, § 36:22

NOMINAL DAMAGES

Generally, § 26:2

NONCONFORMING USE

Materiality and relevancy of evidence, real estate values, § 13:28

NOTES

Jury conduct and deliberations, taking and use of notes by jurors, § 40:11

NOTORIOUS CASES

Closing arguments, references to notorious cases, § 36:8

NULLIFICATION OF VERDICT

Criminal cases, § 41:15

Instructions to jury, § 38:35

OBJECTIONS

Civil litigation, evidence obtained during course of, § 31:11

Closing arguments, § 34:33

Competency of witnesses, § 22:3

Discovery rules, failure to comply with, § 31:9

Jury, timely objections, § 6:3

Jury instructions and verdict forms, § 37:3

Opening statements, objection and waiver, § 7:7

OBJECTIONS TO EVIDENCE

Generally, § 31:1

Checklists, common trial objections, § 31:8

Failure to object, effect, § 31:4

INDEX

OBJECTIONS TO EVIDENCE—Cont'd

- Form of objections, § 31:2
- Illegally obtained evidence, § 31:10
- Motion to strike inadmissible evidence, § 31:5
- Offer of proof, § 31:7
- Relevancy, objections to irrelevant evidence, § 13:4
- Ruling on objections, § 31:6
- Suppression hearing, illegally obtained evidence, § 31:10
- Timeliness, § 31:3

OFFER OF PROOF

- Generally, § 31:7

OFFERS

- Admissions and confessions, offers to plead, § 18:9
- Judgment, Rule 68, § 43:9
- Objections to evidence, offer of proof, § 31:7
- Pierringer release, § 13:6
- Relevancy, compromise offers, § 13:6
- Settlement, Rule 68, § 43:9
- Stipulations, criminal defendant's offer to stipulate, § 2:28

OFFICERS

- Jury conduct and deliberations, § 40:4
- Privileged communications and information, public officers, § 23:13

OPENING STATEMENTS

- Generally, §§ 7:1 to 7:9
- Admissions of party, statements by counsel constituting, § 7:9
- Content, § 7:4
- Dismissal and directed verdict, § 7:8
- Improper conduct, § 7:5
- Objection, § 7:7
- Order of presentation, § 7:3
- Prejudice, § 7:5
- Right and advantages of opening statement, § 7:2
- Scope, § 7:4
- Visual aids, § 7:6
- Waiver, § 7:7

OPENING THE DOOR

- Generally, § 28:15

OPINION EVIDENCE

- Generally, §§ 15:1 to 15:15
- Basis of opinion evidence, §§ 15:9, 15:10
- Court-appointed experts, § 15:12
- Cross-examination of expert witnesses, § 15:14
- Direct examination, documents used by experts, § 27:11
- Disclosure of facts underlying expert's opinion, § 15:10
- Distinction between expert and skilled witnesses, § 15:7

OPINION EVIDENCE—Cont'd

- Expert testimony, § 15:4
- Eyewitness identification, expert testimony as to reliability, § 25:15
- Impeachment of expert witnesses, § 15:14
- Lay witnesses, § 15:2
- Qualification of experts, § 15:6
- Reports, reading experts' reports into evidence, § 15:11
- Subject matter, § 15:8
- Ultimate issue, § 15:3
- Weight and sufficiency of expert testimony, § 15:13

ORDER (SEQUENCE)

- Closing arguments, § 34:3
- Opening statements, § 7:3
- Proof. Order of Proof, this index

ORDER OF PROOF

- Generally, §§ 8:1 to 8:5
- Admission of rebuttal evidence in case in chief, § 8:4
- Evidence in chief, § 8:2
- Rebuttal evidence, §§ 8:3, 8:4
- Reopening the evidence, § 8:5

ORDERS OF COURT

- Contempt of court, disobedience of court orders as contempt, § 5:7
- Mid-trial orders, appeal of, § 4:20
- Pretrial orders, control of proceedings, § 2:25

OTHER CRIMES, WRONGS OR ACTS

- Closing arguments in criminal cases, references to notorious cases, § 36:8
- Relevancy, § 13:15
- Spreigl evidence, §§ 13:15, 13:17

PAIN AND SUFFERING

- Generally, § 26:9
- Mental suffering, § 26:10

PARENTS

- Children, this index

PAROL EVIDENCE RULE

- Circumstantial evidence, § 14:8

PARTIAL VERDICTS

- Criminal cases, § 41:8

PARTNERSHIPS

- Privilege against self-incrimination, § 24:3

PATERNITY

- Child displayed as evidence, § 19:16

INDEX

PATTERN

- Domestic abuse, relevancy of past pattern of domestic abuse, § 13:18
- Teeth pattern, tests and analyses, § 20:17

PAYMENT

- Closing arguments, payments to witnesses or counsel, § 34:24
- Relevancy, prepayments, § 13:6

PEER REVIEW

- Privileged communications and information, § 23:24

PER DIEM

- Closing arguments, § 35:5

PEREMPTORY CHALLENGES

- Civil cases, § 6:15
- Criminal cases, § 6:16

PERJURY

- Instructions to jury, cautionary or limiting instructions, § 38:30
- Prevention of perjured testimony, § 1:11

PERMISSION

- Direct examination, situations where leading question allowed, § 27:8

PERPETRATOR ALTERNATIVE

- Generally, § 13:24

PERSONAL HISTORY

- Hearsay
 - Character reputation, § 16:29
 - Judgments as to personal history, § 16:30
 - Reputation, §§ 16:27 to 16:29
 - Statement of personal history, § 16:36

PERVERSE VERDICT

- Generally, § 41:12

PHOTOGRAPHS

- Eyewitness identification, § 25:4
- Motion pictures, § 19:9
- Real and demonstrative evidence, § 19:8
- Uses of photographic evidence, § 19:10

PHYSICAL APPEARANCE

- Prison attire worn by defendant, § 2:6

PHYSICAL EXAMINATION

- Privilege against self-incrimination, § 24:8

PHYSICAL RESTRAINT OF DEFENDANT

- Trial conduct, § 2:5

PHYSICIAN-PATIENT PRIVILEGE

- Generally, § 23:9

PHYSICIAN-PATIENT PRIVILEGE—Cont'd

Exceptions, § 23:10

PHYSICIANS

Peer review privilege, § 23:24

PIERRINGER RELEASE

Generally, § 13:6

Settlements and Releases, § 26:25

PLEAS

Accomplice's guilty plea in criminal cases, relevancy of, § 13:16

Admissions and confessions, compromise and offers to plead, § 18:9

POLICE

Counsel table, police officers at, § 2:7

Emergency 911 tapes, § 16:8

Hearsay, police tips, § 16:42

POLLING OF JURY

Verdicts, § 41:11

POLYGRAPHS

Admissibility, lie detector tests, § 20:7

POSSESSION

Jury instructions, constructive possession, § 38:5

Stolen property, presumptions and inferences, § 12:19

PRELIMINARY INSTRUCTIONS TO JURY

Generally, § 37:5

Civil cases, § 39:2

Criminal cases, § 38:6

PREMEDITATION

Criminal intent, jury instructions, § 38:14

PRESUMPTION OF INNOCENCE

Generally, § 12:18

Closing arguments, criminal cases, § 36:11

Instructions to jury, criminal cases, § 38:9

PRESUMPTIONS

Generally, §§ 12:1 to 12:20

Accidents, § 12:8

Adverse inferences

Assertion of privilege, § 23:22

Self-incrimination privilege

Civil cases, § 24:4

Criminal cases, § 24:5

Presumptions and inferences, § 12:15

Burden of Proof, this index

Circumstantial evidence, §§ 14:7, 14:9

INDEX

PRESUMPTIONS—Cont'd

- Closing arguments, § 34:8
- Concealment of evidence, § 12:13
- Conclusive presumptions, § 12:4
- Conduct, presumptions relating, § 12:9
- Conflicting presumptions, § 12:3
- Continuation of a condition, § 12:12
- Criminal cases, § 12:17
- Death, missing persons, § 12:8
- Destruction of evidence, § 12:13
- Distinguished from inferences, § 12:2
- Due care presumption, § 12:10
- Failure to produce witness or material evidence, § 12:14
- Foreign law, knowledge, § 12:6
- Innocence, generally, § 12:18
- Knowledge of facts, § 12:7
- Knowledge of law, § 12:5
- Marriage, § 12:11
- Missing persons, § 12:8
- Possession of recently stolen property, § 12:19
- Res Ipsa Loquitur, this index
- Suicide, § 12:8
- Suppression of evidence, § 12:13

PRETRIAL MATTERS

- Discovery, this index
- Eyewitness identification, illegal arrest, § 25:9
- Orders, control of proceedings by pretrial order, § 2:25

PRIMA FACIE CASE

- Burden of proof, § 9:2
- Opening statements, dismissal and directed verdict based, § 7:8

PRINCIPAL AND AGENT

- Admissions and confessions, § 18:7
- Instructions to jury, civil cases, § 39:6

PRINTS

- Fingerprints, § 20:9
- Shoeprints, § 20:10
- Voiceprints, § 20:8

PRISON ATTIRE

- Trial conduct, § 2:6

PRIVILEGE AGAINST SELF-INCRIMINATION

- Generally, §§ 24:1 to 24:10
- Acts of a witness, § 24:8
- Adverse consequences for asserting privilege, § 24:6
- Compelling incriminating testimony—immunity, § 24:10
- Corporations, § 24:3

PRIVILEGE AGAINST SELF-INCRIMINATION—Cont'd

- Court's duty to advise of privilege, § 24:9
- Exceptions, § 24:7
- Immunity—compelling incriminating testimony, § 24:10
- Nature of incriminating testimony, § 24:1
- Partnerships and other entities, § 24:3
- Physical examination or acts of witnesses, § 24:8
- Scope of privilege, § 24:2
- Waiver, § 24:7

PRIVILEGED COMMUNICATIONS AND INFORMATION

- Generally, §§ 23:1 to 23:25
- Absolute privilege, § 23:25
- Adverse inference from assertion of privilege, § 23:22
- Attorney-client privilege
 - Generally, § 23:3
 - Fees, attorney's disclosure of client fees, § 23:7
 - Identity of client, attorney's disclosure, § 23:8
 - Restrictions on attorney-client privilege, § 23:4
 - Waiver, § 23:6
 - Work product privilege, lawyers, § 23:5
- Clergy, § 23:11
- Counselors, sexual assault, § 23:14
- Crime victim compensation proceedings, § 23:19
- Government Data Practices Act, § 23:23
- Informers, identity, § 23:21
- Interpreters assisting hearing-impaired, § 23:18
- Journalists, § 23:17
- Judicial immunity, § 23:25
- Marital privilege, § 23:2
- Mediation communications, § 23:15
- Nature of privileged communications, § 23:1
- Parents, communications by minor, § 23:12
- Peer review privilege, § 23:24
- Physician-patient privilege
 - Generally, § 23:9
 - Exceptions, § 23:10
- Public officers, § 23:13
- Rape shield law, credibility and impeachment of witnesses, § 28:15
- Records, § 23:16
- Reports, § 23:16
- Trade secrets, § 23:20
- Waiver
 - Attorney-client privilege, § 23:6
 - Work product privilege, lawyers, § 23:5

PRO SE ARGUMENTS

- Closing arguments, § 34:5

INDEX

PROBABILITIES

Statistical probabilities, scientific tests and analyses, § 20:1

PROPERTY DAMAGE

Generally, § 26:19

Instructions to jury, § 39:13

PROXIMATE CAUSE

Instructions to jury, civil cases, § 39:12

PUBLICATIONS

Hearsay evidence, § 16:25

PUBLICITY

Counsel's role, § 1:4

Jury exposure, § 40:6

Before and during trial, § 2:16

PUNISHMENT

Closing arguments, effect of verdict, § 36:23

Instructions to jury, criminal cases, § 38:35

QUOTATIONS, MARKET AND COMMERCIAL PUBLICATIONS

Hearsay evidence, § 16:25

QUOTIENT VERDICT

Generally, § 41:13

RACE DISCRIMINATION

Closing arguments, § 34:20

RADAR

Scientific tests and analyses, § 20:5

RANDOM SAMPLE TESTING

Controlled substances, § 20:19

RAPE SHIELD LAW

Credibility and impeachment of witnesses, § 28:17

REAL ESTATE

Damages

Real estate misrepresentation cases, § 26:16

REAL EVIDENCE

Demonstrative Evidence, this index

REAL PROPERTY

Hearsay evidence, interest in property, §§ 16:22, 16:23

REALLOCATION

Verdict, § 41:5

REBUTTAL EVIDENCE

Order of proof, §§ 8:3, 8:4

RECOLLECTION

Hearsay, § 16:12

Hypnotic recall testimony, § 22:11

Refreshed recollection

Generally, § 27:10

Distinguished from declarant unavailable, § 27:12

Redirect and re-cross examination, §§ 30:3, 30:7

RECORDINGS (SOUND)

Sound Recordings, this index

RECORDS

Authentication, public records and reports, § 17:7

Hearsay

Absence of record or entry, §§ 16:15, 16:18

Baptismal certificates, § 16:20

Certificates, § 16:20

Family records, § 16:21

Interest in property, §§ 16:22, 16:23

Marriage certificates, § 16:20

Public records and reports, § 16:16

Recollection recorded, § 16:12

Regularly conducted business activity, §§ 16:13, 16:14, 16:15

Religious organizations, § 16:19

Vital statistics, § 16:17

Privileged communications and information, § 23:16

RE-CROSS EXAMINATION

Redirect and Re-Cross Examination, this index

REDACTION

Confession or admission, redaction of prejudicial or inadmissible matter in,
§ 18:18

Hearsay, § 16:14

REDIRECT AND RE-CROSS EXAMINATION

Generally, §§ 30:1 to 30:7

Content of questions on redirect examination, § 30:2

Correction of testimony, § 30:4

Explaining and correcting testimony, § 30:4

Explaining impeaching answers, § 30:6

Form and content of questions on redirect examination, § 30:2

Memory of witness, refreshing, § 30:3

Purpose of redirect examination, § 30:1

Refreshing witness' memory, § 30:3

Rehabilitating a witness, § 30:5

Scope of redirect examination, § 30:1

REFRESHED RECOLLECTION

Generally, § 27:10

Distinguished from declarant unavailable, § 27:12

INDEX

REFRESHED RECOLLECTION—Cont'd

Redirect and re-cross examination, § 30:3

REHABILITATION OF WITNESS

Redirect and re-cross examination, § 30:5

RELATIVES

Family or Relatives, this index

RELEASE

Damages, § 26:20

Miller-Shugart settlement, § 26:25

Naig settlement, § 26:25

Pierringer release, § 13:6

RELEVANCY OF EVIDENCE

Generally, §§ 13:1 to 13:30

Civil and Criminal

Alcohol consumption, § 13:21

Character, § 13:11

Compromise offers, § 13:6

Custom, § 13:14

Development cost approach, real estate values, § 13:27

Habit, § 13:13

Intoxication, § 13:21

Negotiations, § 13:6

Religious affiliation, § 13:12

Routine practice, § 13:14

Civil cases

Accidents, prior, § 13:10

Codes, violation of, § 13:25

Injury, prior, § 13:10

Pierringer release, § 13:6

Prepayments, § 13:6

Prior injury or accidents, § 13:10

Real estate

Generally, §§ 13:26 to 13:30

Added value, § 13:28

Comparable sales, § 13:26

Cost approach, § 13:28

Development cost approach, § 13:27

Market tax rate, § 13:29

Nonconforming use value, § 13:28

Value-in-use, § 13:30

Remedial measures and changes, § 13:7

Similar acts and occurrences, § 13:9

Statutes, violation of, § 13:25

Conditioned on fact, § 13:3

Criminal cases

Accomplice's guilty plea, § 13:16

RELEVANCY OF EVIDENCE—Cont'd

Criminal cases—Cont'd

Another perpetrator, evidence implicating another in crime charged, § 13:24

Domestic abuse, past pattern of, § 13:18

Gang affiliation, § 13:13

Guilty plea of accomplice in criminal case, § 13:16

Homicide victim's life, personal details in, § 13:23

Implicating another perpetrator of crime charged, § 13:24

Investigation, relevance of events that trigger investigation, § 13:22

Other crimes, wrongs, or acts, § 13:15

Other crimes, wrongs or acts, § 13:15

Past pattern of domestic abuse, § 13:18

Prior or subsequent occurrences, § 13:8

Distinguished from materiality, § 13:2

Exclusion of relevant evidence, § 13:5

Materiality distinguished, § 13:4

Motions in limine, § 13:20

Negative evidence, § 13:19

Objections to irrelevant evidence, § 13:4

Real estate. Civil cases, above

RELIGIOUS AFFILIATION

Relevancy of evidence, § 13:12

RELIGIOUS ORGANIZATIONS

Hearsay evidence, records, § 16:19

Privileged communications and information, clergy, § 23:11

REMITTITUR

Motions after verdict, § 42:5

REMOTE VIDEO

Cross-examination, Technology, § 29:10

REOPENING

Dismissed case, § 4:20

Evidence, order of proof, § 8:5

REPORTS

Authentication, public records and reports, § 17:7

Experts, reading experts' reports into evidence, § 15:11

Privileged reports and records, § 23:16

REPUTATION

Credibility and impeachment of witnesses, § 28:8

Hearsay evidence

Boundaries or general history, § 16:28

Character, § 16:29

Personal history, § 16:27

Instructions to jury, criminal cases, § 38:24

Relevancy, § 13:13

INDEX

REQUEST FOR EVIDENCE

Jury deliberations, § 40:22

REQUEST FOR INSTRUCTIONS

Instructions to jury and verdict forms, § 37:3

RES IPSA LOQUITUR

Circumstantial evidence, § 14:8

Instructions to jury, § 39:16

ROUTINE PRACTICE AND HABIT

Circumstantial evidence, habit or routine practice, § 14:6

Relevancy, § 13:14

RULE 11

Sanctions against attorneys, § 1:5

RULE 68

Offer of judgment or settlement, § 43:9

SANCTIONS AGAINST ATTORNEYS

Rule 11, § 1:5

Spoliation, destruction or new disclosure of evidence, § 2:26

SCHWARTZ HEARING

Motions after verdict, misconduct by jury, § 42:9

SCIENTIFIC TESTS AND ANALYSES

Generally, §§ 20:1 to 20:22

Accident reconstruction, § 20:2

Admissibility

 Lie detector tests, § 20:7

 Truth serum, hypnosis inadmissible, § 20:6

Arson, § 20:20

Ballistics, § 20:13

Bite-mark analysis, § 20:17

Blood splatter analysis, § 20:21

Bodily fluids tests for identification, § 20:3

Breath tests for intoxication, § 20:4

Burns, § 20:20

DNA analysis, § 20:16

Dogs, use, § 20:14

Drug recognition protocol, § 20:18

Fingerprints, § 20:9

Frye-Mack hearing, § 20:1

Graphology, § 20:12

Hair tests, § 20:11

Handwriting, § 20:12

Hypnosis, § 20:6

Identification of controlled substances, § 20:19

Intoxication tests, § 20:4

Lie detector tests, § 20:7

SCIENTIFIC TESTS AND ANALYSES—Cont'd

- Neutron activation analysis, § 20:15
- Other tests and analyses, § 20:22
- Polygraph tests, § 20:7
- Radar, § 20:5
- Semen tests for identification, § 20:3
- Shoeprints, § 20:10
- Skid marks, speed of vehicle based, § 20:2
- Speedometers, § 20:5
- Statistical probabilities, § 20:1
- Teeth pattern, § 20:18
- Urine tests for intoxication, § 20:4
- Voiceprints, § 20:8

SEALED VERDICT

- Generally, § 41:9

SEAT BELT “GAG” RULE

- Exclusion of relevant evidence, § 13:5

SECONDARY EVIDENCE

- Admissibility, § 17:17
- Collateral issue, when document relates, § 17:18

SELF-AUTHENTICATION

- Documentary evidence, § 17:10

SELF-DEFENSE

- Effect of living in high crime area, § 15:8 (32)
- Instructions to jury, § 38:22

SELF-INCRIMINATION

- Privilege Against Self-Incrimination, this index

SEQUESTRATION OF JURY

- Generally, § 40:13

SETTLEMENT

- Negotiation and Settlement, this index

SEVERANCE OF OFFENSES

- Generally, § 2:36

SEX DISCRIMINATION

- Closing arguments, § 34:20

SHOEPRINTS

- Scientific tests and analyses, § 20:10

SHOWUP

- Eyewitness identification, § 25:6

SIMILAR ACTS AND OCCURRENCES

- Circumstantial evidence, § 14:5

INDEX

SIMILAR ACTS AND OCCURRENCES—Cont'd

Relevancy, § 13:9

SKELETONS

Exhibition, real and demonstrative evidence, § 19:15

SKID MARKS

Speed of vehicle, scientific tests and analyses, § 20:2

SOUND RECORDINGS

Admissions and confessions, electronically recorded custodial interrogation,
§ 18:21

Emergency 911 tapes, § 16:8

Hearsay evidence, recorded recollection, § 16:12

Real and demonstrative evidence, § 19:13

Voiceprints, scientific tests and analyses, § 20:8

SPECIAL VERDICT

Generally, §§ 41:1, 41:3

SPEEDY TRIAL

Right to in Criminal Proceeding, § 4:19

SPOLIATION OF EVIDENCE

Instructions to jury, adverse inference, § 37:19

Presumptions and inferences, § 12:13

Sanctions, § 2:26

STANDARD OF CARE

Jury instructions, standard of care for children, exceptions, § 39:8

STATE OF MIND

Circumstantial evidence, proof of state of mind, § 14:4

Closing arguments, effect of verdict, § 36:23

Damages, mental suffering, § 26:10

Hearsay evidence, § 16:10

Instructions to jury, criminal cases, §§ 38:13 to 38:16, 38:19

Mental Condition, this index

STATEMENTS AGAINST INTEREST

Admissions and confessions, § 18:3

Hearsay evidence, § 16:35

STATISTICAL PROBABILITIES

Scientific tests and analyses, § 20:1

STAY OF PROCEEDINGS

Continuances, § 3:1

Stay of adjudication, § 4:19

STIPULATIONS

Control of proceedings, § 2:27

Credibility and impeachment of witnesses, offer to stipulate prior to conviction,
§ 28:12

STIPULATIONS—Cont’d

- Criminal defendant’s offer to stipulate, § 2:28
- Exclusion of relevant evidence, § 13:5
- Judgments of previous conviction, § 16:30
- Proof of facts
 - Construction and enforcement of stipulations, § 10:4
 - Use of stipulations to excuse proof, § 10:3

STOLEN PROPERTY

- Possession, presumptions and inferences, § 12:19

SUICIDE

- Presumptions and inferences, § 12:8

SUMMARIES

- Best evidence rule, use of summaries, § 17:15
- Real and demonstrative evidence, § 19:6

SUMMARY PUNISHMENT

- Contempt, § 5:13
- Direct contempt, timeliness of punishment, § 5:14

SUPPRESSION OF EVIDENCE

- Hearing, illegally obtained evidence, § 31:10
- Presumptions, § 12:13

SURPRISE

- Continuances, § 3:6

TECHNOLOGY

- Remote video, Cross-examination, § 29:10

TEETH

- Scientific tests and analyses, teeth pattern, § 20:17

TELEPHONE

- Testimony by telephone, conduct of trial, § 2:18
- Voice identification, § 17:6

TELEVISION

- Children under 12, televised testimony of, § 2:18

TRADE SECRETS

- Privileged communications and information, § 23:20

TRANSCRIPT

- Closing arguments, reading trial transcript, § 34:10
- Conduct of trial, § 2:29

TRANSLATORS

- Confessions through, § 18:22
- Privileged communications, assistants to hearing-impaired, § 23:18

TREATISES

- Hearsay evidence, learned treatises, § 16:26

INDEX

TRUTH SERUM

Hypnosis inadmissible, § 20:6

URINE TESTS

Intoxication, § 20:4

VACATION OF JUDGMENT

Motions after verdict, criminal cases, § 42:6

VALUE AND VALUATION

Actual cash value for insurance claims, determining, § 26:17

Damages

Determining actual cash value, § 26:17

Discounting to present value, § 26:11

Real estate values

Comparable sales, § 13:26

Relevancy of evidence, §§ 13:26 to 13:30

VEHICLES

Automobiles, this index

VENUE

Change of, publicity, § 2:16

VERDICT

Generally, §§ 41:1 to 41:16

Amendment of verdict, § 41:14

Apportionment of damages, § 41:5

Comparative fault, § 41:5

Construction, correction or amendment of verdict, § 41:14

Correction, § 41:14

Criminal cases

Attempts, § 41:7

Jury nullification, § 41:15

Lesser offenses, § 41:7

Motions After Verdict, this index

Partial verdicts, § 41:8

Separate defendants, § 41:8

Special interrogatories, § 41:6

Directed Verdict, this index

Forms, § 37:3

General verdicts, §§ 41:1, 41:4

Judicial comment on verdict, § 41:16

Majority verdicts, § 41:2

Perverse and inconsistent verdicts, § 41:12

Polling the jury, § 41:11

Presence of parties, § 41:9

Quotient verdict, § 41:13

Reallocation, § 41:5

Sealed verdicts, § 41:9

VERDICT—Cont'd

- Signing of verdict, § 41:10
- Special verdicts, §§ 41:1, 41:3
- Unanimous verdicts, §§ 38:45, 41:2
- Variance, § 41:12

VIDEO

- Cross-examination, Technology, Remote video, § 29:10

VIDEOTAPES

- “Day in the life” videotapes, § 19:11
- Real and demonstrative evidence, § 19:9

VIEW BY JURY

- Generally, §§ 21:1 to 21:5
- Conduct and deliberations of jury, § 40:17
- Instructions to jury and appellate review, § 21:5
- Presence of judge and parties at view, § 21:3
- Right to view, § 21:2

VISUAL AIDS

- Demonstrative Evidence, this index
- Opening statements, use, § 7:6

VITAL STATISTICS

- Hearsay evidence, records, § 16:17

VOICE IDENTIFICATION

- Authentication, documentary evidence, § 17:6
- Eyewitness identification, § 25:13
- Scientific tests and analyses, voiceprints, § 20:8

VOID JUDGMENT

- Motions after verdict, § 42:4

VOUCHING TESTIMONY (CREDIBILITY)

- Expert witnesses, § 15:8
- Lay witnesses, § 15:2

WAIVER OF JURY TRIAL

- By judge, § 2:31

WILLS

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

WITNESSES

- Comment on failure to call, §§ 34:12, 35:6, 36:18, 36:20

WORK PRODUCT

- Lawyers, § 23:5

WRONGFUL DEATH

- Damages, § 26:20

INDEX

X-RAYS

Real and demonstrative evidence, § **19:12**