

Index

ABILITY

- Disability, lay witness opinion, § 32:2
- Economic evidence, expert opinion on reduced or destroyed earning capacity, § 32:22
- Vocational evidence, expert opinion on physical abilities and work history, § 32:23

ABSENCE

- Attorneys
 - civil proceedings, § 3:2
 - continuances, § 11:3
 - criminal trials, § 7:13
- Bench conferences, § 3:15
- Civil cases, presence of parties, § 3:2
- Continuances
 - counsel, absence of, § 11:3
 - documentary evidence, absence of, § 11:6
 - parties, absence of, § 11:4
- Criminal trials
 - counsel, § 7:13
 - defendant
 - generally, § 7:14
 - control of defendant, § 7:18
 - right of defendant to witness statements, § 25:3
 - waiver of presence, § 7:15
- Death, presumption after 7 years' absence, § 22:3
- Documentary evidence
 - continuances due to absence of document, § 11:6
 - hearsay exception, absence of entry or record, § 29:11
- Exclusion from courtroom
 - family of party, exclusion of, § 3:12
 - in camera proceedings, § 3:11
 - minor, exclusion of, § 3:8
 - persons near courtroom, controlling conduct of, § 3:13
 - press, exclusion of, § 3:10
 - public, exclusion of, § 3:9
 - voir dire, exclusion from, § 17:12
- Hearsay evidence
 - absence of entry or records, § 29:11
 - unavailability of declarant, § 29:12
- In camera proceedings, § 3:11

ABSENCE—Cont'd

- Judge, § 3:21
- Jury
 - bench conferences, § 3:15
 - in camera proceedings, § 3:11
- Parties
 - civil proceedings, § 3:2
 - continuance, § 11:4
- Presumption of death after 7 years' absence, § 22:3
- Public record or entry, hearsay exception, § 26:3
- Records, hearsay exception, § 26:3
- Unavailability of declarant, hearsay exceptions, § 29:12
- Waiver, presence of accused, § 7:15
- Witness, continuance, § 11:5

ABUSE OF PROCESS

- Generally, § 1:14

ACCIDENTS

- Evidence of other, § 34:1

ACCURACY

- Cross-examination, accuracy of witness, § 25:7

ACCUSED

- Absence
 - generally, § 7:14
 - control of defendant, § 7:18
 - right of defendant to witness statements, § 25:3
 - waiver of presence, § 7:15
- Burden of going forward, § 20:12
- Character, §§ 26:3, 33:1
- Clothing of defendant, § 7:19
- Codefendants, confessions of, § 37:6
- Competency
 - counsel, right of defendant to competent, § 7:11
 - defenses, § 8:2
- Evidence
 - favorable to defendant, disclosure by prosecution, § 9:9
- Failure to testify, § 41:14
- Final argument, failure to testify, § 41:14
- Identity, § 35:1
- Joinder of defendants, § 7:21

ACKNOWLEDGED DOCUMENTS

Self-authentication, §§ 26:3, 30:4

ACTUAL BIAS

Voir dire, § 17:20

ADDRESSING JURORS BY NAME

Closing argument, § 41:6

ADMINISTRATIVE REGULATIONS

Judicial notice, § 21:6

ADMINISTRATIVE SEARCHES

Search and seizure, pharmacy records,
§ 15:20

ADMISSIBILITY

Bullet lead analysis, § 32:12
Duplicates, § 26:3
Limited purpose, § 26:3
Opinion, expert witness, § 32:12
Pleas, § 26:3
Preliminary questions, § 26:3
Relevant, § 26:3
Writing, § 26:3

ADMISSIONS

Generally, § 26:3
Agent admissions, § 29:6
Civil cases, admissions in settlement negotiations, § 34:6
Confessions
generally, § 37:1 et seq.
codefendants, confessions of, § 37:6
corroboration, § 37:2
custodial, § 37:4
procedure for admission of confessions, § 37:5
voluntariness, § 37:3
Employee admissions, § 29:6
Hearsay
admissions exception, § 29:5
agents and employees, § 29:6
Interest, admissions against interest,
§ 26:3
Judicial, § 21:3
Pleading, § 21:2
Privity, admissions by privity, § 26:3
Substitutes for proof, § 21:2

ADMONITION

Evidence admitted for limited purpose,
§ 26:3
Jurors, admonition upon separation,
§ 42:6

ADVERSE PARTY

Cross examination, adverse party in civil case, § 25:11

ADVERSE PARTY—Cont'd

Witness, § 24:15

ADVICE

Defense, advice of counsel as, § 8:14

ADVOCACY

Clarity, § 4:6
Demonstrative evidence, § 4:6
Final argument, § 41:1
Impeachment, § 27:9
Key words, § 4:7
Personal factors, § 4:2
Repetition, § 4:8

**AGAINST-INTEREST
DECLARATIONS**

Hearsay exception, § 29:12

AGE

Defense, § 8:19

AGENCY

Admissions by agents and employees,
hearsay exception, § 29:6
Attorney's ability to bind client, § 1:10

AGGRAVATING CIRCUMSTANCES

Settlements, § 14:5

ALCOHOL ABUSE COUNSELOR

Privilege, § 26:3

ALCOHOL BREATH TEST

Tests and experiments, § 31:10

ALCOHOLIC BEVERAGES

Defense of intoxication, § 8:3
Lay opinion evidence, § 32:6
Presumption of intoxication while
operating vehicle, § 22:12
Privileged communications, alcohol
abuse counselor, § 26:3

ALFORD PLEA

Inadmissibility, § 26:3

ALIBIS

Defense of alibi, § 8:18

ALLEN CHARGE

Generally, § 40:17
Deadlocked jury, § 40:17

ALTERNATE JURORS

Jury panel, § 16:14
Voir dire, § 17:31

ALTERNATIVE THEORIES

Criminal trials, offenses, § 40:13

ANCIENT DOCUMENTS

Authentication, § 30:2

INDEX

ANCIENT DOCUMENTS—Cont'd

Hearsay exception, §§ 26:3, 29:11

APPEAL

Generally, § 3:17

Double jeopardy, § 10:6

Protecting the record, § 38:1

APPEALS TO FEAR

Final argument, § 41:23

APPEALS TO PREJUDICE

Final argument, § 41:22

APPEALS TO SYMPATHY

Final arguments, § 41:21

APPEARANCE

Attorneys

civil proceedings, § 3:2

continuances, § 11:3

criminal trials, § 7:13

Bench conferences, § 3:15

Civil cases, presence of parties, § 3:2

Continuances

counsel, absence of, § 11:3

documentary evidence, absence of,
§ 11:6

parties, absence of, § 11:4

Criminal trials

counsel, § 7:13

defendant

generally, § 7:14

control of defendant, § 7:18

right of defendant to witness state-
ments, § 25:3

waiver of presence, § 7:15

Death, presumption after 7 years'

absence, § 22:3

Documentary evidence

continuances due to absence of docu-
ment, § 11:6

hearsay exception, absence of entry or
record, § 29:11

Exclusion from courtroom

family of party, exclusion of, § 3:12

in camera proceedings, § 3:11

persons near courtroom, controlling
conduct of, § 3:13

press, exclusion of, § 3:10

public, exclusion of, § 3:9

voir dire, exclusion from, § 17:12

Hearsay evidence

absence of entry or records, § 29:11

unavailability of declarant, § 29:12

In camera proceedings, § 3:11

Judge, § 3:21

APPEARANCE—Cont'd

Jury

bench conferences, § 3:15

in camera proceedings, § 3:11

Parties

civil proceedings, § 3:2

continuance, § 11:4

Presumption of death after 7 years'

absence, § 22:3

Public record or entry, hearsay excep-
tion, § 26:3

Records, hearsay exception, § 26:3

Unavailability of declarant, hearsay
exceptions, § 29:12

Waiver, presence of accused, § 7:15

Witness, continuance, § 11:5

APPOINTMENT

Counsel

generally, § 7:8

special prosecutor, § 9:6

Expert witnesses appointed by court,
§ 32:25

ARGUMENT

Appeals to fear, § 41:23

Attacked upon by opposing counsel,
§ 41:26

Counsel's opinion, § 41:19

Current events, § 41:20

Failure to call witness in a civil case,
§ 41:13

Liability insurance, § 41:12

Matters outside record, § 41:17

Misrepresentation of witnesses'
testimony, § 41:28

Objections, § 41:27

Opening statement, argument prohibited
in, § 18:5

Outcome of previous litigation, § 41:16

Parole or probation, § 41:15

Per diem for pain and suffering, § 41:24

Reading or arguing law, § 41:25

Reasonable doubt, § 7:4

Scope, § 41:5

Social class, § 41:18

ARRAY, CHALLENGES TO

Generally, § 16:9

Constitutional law, § 16:10

ARREST

Felony, § 15:14

Misdemeanor, § 15:14

Search and seizure, § 15:14

ASKING JURORS

Closing argument, asking jurors to put themselves in position of litigant, § 41:11

ASSUMING A FACT

Cross examination, § 25:8
Not in evidence, § 24:10

ATTACKED UPON BY OPPOSING COUNSEL

Argument, § 41:26
Final argument, § 41:26

ATTACKING CREDIBILITY OF DECLARANT

Hearsay, § 29:10

ATTORNEY-CLIENT PRIVILEGE

Generally, §§ 26:3, 28:2, 28:4
Qualified privilege, § 28:5

ATTORNEY GENERAL

Generally, § 9:1

ATTORNEY MALPRACTICE

Limitation of actions, § 1:13

ATTORNEYS

Adverse party, communications with, § 1:6
Advice of counsel as criminal defense, § 8:14
Agent, attorney as, § 1:10
Agreements, counsel's authority to make agreements, § 1:10
Appearance
civil proceedings, § 3:2
continuances, § 11:3
criminal trials, § 7:13
Attack on opposing counsel, § 41:26
Authority to make agreements, § 1:10
Bind client, ability of counsel to, § 1:10
Clarity, attorney's presentation of case, § 4:6
Closing arguments. **Final Arguments** (this index)
Code of Professional Courtesy, § 1:16
Commonwealth, attorney for commonwealth, § 9:2
Communications
adverse party, communications with, § 1:6
court officials, communications with, § 1:7
privileged communications
generally, §§ 26:3, 28:2, 28:4
qualified privilege, § 28:5

ATTORNEYS—Cont'd

Conduct of counsel
generally, §§ 1:2, 1:4
Code of Professional Courtesy, § 1:16
contempt of court, § 1:8
direct examination, § 24:6
discipline for improper conduct, below
prosecutor's duty and conduct, § 1:3
trial conduct, § 1:4
Contact with court officials, § 1:7
Contempt, §§ 1:8, 12:6
Contingent fees, § 14:12
Countersuits, attorney liability for, § 1:14
County, attorney for county, § 9:3
Court officials, communications with, § 1:7
Courtesy, Code of Professional, § 1:16
CR 11, attorney liability for, § 1:15
Defamation, liability for, § 1:12
Direct examination, counsel's conduct, § 24:6
Discipline for improper conduct
generally, § 1:9
contempt of court, § 1:8
Ethics
Attorney Code of Professional Courtesy, § 1:16
attorney's personal opinion, ethical standard, § 1:4
false evidence, § 1:4
prosecutor's duty and conduct, § 1:3
trial, § 1:2
Fees
civil cases, generally, § 44:1
contingent, § 14:12
corporations, shareholder document inspection, § 44:4
Indictment of lead defense counsel during trial, effective assistance of counsel, § 1:4
Key words, attorney's preparation, § 4:7
Liability of attorney
generally, § 1:12 et seq.
countersuits, § 1:14
CR 11, § 1:15
libel and slander, § 1:12
malpractice, § 1:13
Libel and slander, liability, § 1:12
Malpractice, § 1:13
Misrepresentation of witnesses' testimony during final argument, § 41:28
Multiple clients, representation of, § 14:11

INDEX

ATTORNEYS—Cont'd

- Officials of court, communications with, § 1:7
- Opposing counsel, attack on, § 41:26
- Preparation for Trial** (this index)
- Presence or absence
 - civil proceedings, § 3:2
 - continuances, § 11:3
 - criminal trials, § 7:13
- Privileged communications
 - generally, §§ 26:3, 28:4
 - qualified privilege, § 28:5
- Professional Courtesy, Code of, § 1:16
- Prosecution** (this index)
- Release of information, § 1:5
- Right to interview witnesses, § 23:9
- Role of attorney, generally, § 1:1 et seq.
- Seating at trial, § 3:3
- Settlement
 - contingent fees, § 14:12
 - handling client, § 14:4
 - multiple clients, representation of, § 14:11
- Signature on pleadings, § 1:15
- Slander, liability for, § 1:12
- Statement about pending litigation, § 1:5
- Voir dire
 - examination by counsel, § 17:9
 - right to competent counsel, § 17:11
- Witness, attorney as witness, § 1:11

AUDIO RECORDING

- Generally, § 31:5

AUTHENTICATION

- Generally, §§ 26:3, 30:1 et seq.
- Ancient documents, § 30:2
- Computer evidence, § 30:2
- Computers and internet, § 30:3
- Documentary evidence, § 30:1
- Exhibits, § 26:3
- Handwriting, § 30:2
- Internet, § 30:3
- Knowledge, § 30:2
- Person's voice, § 30:2
- Process or system, § 29:11
- Process or systems, § 30:3
- Public records and reports
 - generally, § 30:2
 - self-authentication, § 30:4
- Self-authentication, § 30:4
- Tape recordings, § 30:2
- Telephone conversations, § 30:2
- Voice, § 30:2

AUTHORITATIVE SOURCE

- Cross examination, § 25:16

AUTOMOBILES

- Accidents, opinion evidence, § 32:16
- Directed verdicts, accidents, § 6:9
- Expert witnesses, automobile accident, § 32:16
- Intoxication while operating vehicle, presumption of, § 22:12
- Lay opinion evidence
 - accidents, generally, § 32:9
 - speed of vehicle, § 32:8
- Probable cause, automobile searches, § 15:18
- Sample trial memorandum, § 6:9
- Search and seizure, § 15:18
- Speed, lay witness opinion, § 32:8
- Stops, § 15:18
- Tracks, identification of, § 35:11
- Trial memorandum, accidents, § 6:9

AVOWAL

- Generally, §§ 26:3, 38:9
- Preserving the record, § 38:9

BAD ACTS OTHER THAN ONE ON TRIAL

- Admissibility, § 36:2

BAD FAITH

- Good Faith** (this index)

BAIL HEARINGS

- Rules of evidence, § 26:3

BENCH CONFERENCES

- Generally, § 3:15

BENCH TRIAL

- Generally, § 13:1
- Considerations, § 13:10
- Cost of jury trials, § 13:9
- Directed verdicts, § 39:6
- Verdicts, § 43:9
- Waiver of jury trial, §§ 13:7, 13:8

BEST EVIDENCE RULE

- Generally, §§ 26:3, 30:5
- Duplicate, defined, § 30:5
- Electronic data, § 30:5
- Original, defined, § 30:5
- Photographs, § 30:5
- Summary of voluminous records, § 31:14
- Writings, § 30:5

BIAS

- Admissibility of prejudicial evidence, § 26:3

BIAS—Cont’d

- Continuances, § 11:7
- Final arguments, § 41:22
- Impeachment of witnesses, § 27:2
- Opinion evidence, bias of expert,
§ 32:26
- Outweighing probative value, § 26:3
- Probative value outweighing prejudicial
impact, § 26:3
- Voir dire
 - actual bias, § 17:20
 - challenges for cause, §§ 17:19, 17:20
 - implied bias, § 17:21
 - right to impartial jury, § 17:7

BIG SANDY RULE

- Generally, § 32:13

BILL OF COST

- Generally, § 44:4

BILL OF PARTICULARS

- Generally, §§ 7:23, 9:12

BLACKBOARDS

- Evidence, § 31:11

BODY MOVEMENT

- Advocacy, § 4:2

BOOKS

- Newspapers and periodicals, self-
authentication, §§ 26:3, 30:4

BOUNDARIES

- Hearsay exception, § 29:11

BRIEFS

- Trial brief, § 6:8

BROADCASTS

- Testimony on public broadcasts, § 23:15

BROCHURES

- Settlements (this index)

BRUTON RULE

- Generally, § 37:6

**BUILDING REQUIREMENTS AND
CODES**

- Expert witnesses regarding, § 32:21

BULLET LEAD ANALYSIS

- Admissibility, § 32:12

BURDEN OF GOING FORWARD

- Civil cases, §§ 20:1, 20:2
- Criminal trials
 - generally, § 20:8
 - defendant, burden of, § 20:12
 - shifting burden, § 20:10

BURDEN OF GOING FORWARD

—Cont’d

- Failure to prosecute, civil cases, § 20:3
- Shifting burden of going forward
 - civil proceedings, § 20:4
 - criminal trials, § 20:10

BURDEN OF PROOF

- Generally, § 20:1 et seq.
- Civil cases, generally, §§ 20:1, 20:6,
40:5
- Criminal trials
 - generally, § 20:7 et seq.
 - defendant’s burden of going forward,
§ 20:12
 - equal probability rule, § 20:9
 - going forward, below
 - identity of defendant, § 35:2
 - innocence presumption
 - generally, §§ 7:2, 22:11
 - jury instructions, § 7:3
 - instructions to jury, § 40:11
 - intent or knowledge, proof of, § 20:11
 - presumption of innocence, § 7:2
 - reasonable doubt, § 7:4
 - risk of nonpersuasion, § 20:13
 - shifting burden of going forward,
§ 20:10
- Defendant, burden of
 - civil proceedings, § 20:6
 - criminal trials, § 20:12
- Equal probability rule, § 20:9
- From civil defendants, § 20:6
- Identity of defendant, § 35:2
- Instructions to jury
 - civil proceedings, § 40:5
 - criminal trials, § 40:11
- Order of proof, § 19:1
- Persuasion. Risk of nonpersuasion,
below
- Presumptions** (this index)
- Risk of non-persuasion, § 20:5
- Risk of non-persuasion criminal cases,
§ 20:13
- Risk of nonpersuasion
 - civil proceedings, § 20:5
 - criminal trials, § 20:13
- Standard burden of going forward, civil
proceedings, § 20:2
- The standard, § 20:1

BUSINESS

- Customs, admissibility of, § 34:3
- Economic evidence, § 32:22
- Market reports and commercial publica-
tions, § 29:11

INDEX

BUSINESS—Cont'd

Voir dire, business relationships, § 17:23

BUSINESS RECORDS

Hearsay exception, § 26:3

Self-authentication, §§ 26:3, 30:4

CALLING WITNESSES

Adverse party, calling as witness,
§ 24:15

Court, calling and interrogation of witness by court, §§ 2:6, 26:3

CANINE

Identification of defendant, § 35:12

Identification of drugs, § 35:12

CAPITAL CASES

Judge's recusal regarding feelings about death penalty, § 2:8

Sentencing, death penalty, § 44:11

CERTIFICATION

Juveniles, certification to be tried as an adult, § 8:19

Religious organization certificates,
§ 29:11

CHAIN OF CUSTODY

Generally, §§ 30:1, 31:1

CHALLENGES TO JURY

Array, challenges to
generally, § 16:9
constitutional law, § 16:10

Cause, challenges for
generally, § 17:17 et seq.

actual bias, § 17:20

implied bias, § 17:21

qualifications, failure to meet, § 17:19

Peremptory challenges, §§ 16:11, 17:29

CHARACTER EVIDENCE

Generally, §§ 26:3, 33:1 et seq.

Civil cases, § 33:1

Criminal cases, § 33:1

Cross-examination, §§ 26:3, 33:2

Curative evidence, § 33:4

Defendants, § 33:1

Exception to hearsay rule, § 26:3

Habit, evidence of, § 33:5

Hearsay exception, § 29:11

Impeachment of witnesses, § 33:1

Method of proving, §§ 26:3, 33:2

Opinion, § 26:3

Rape victims, § 33:3

Reputation, §§ 26:3, 33:2

Routine practice, evidence of, § 33:5

Specific incidences of conduct, § 26:3

CHARACTER EVIDENCE—Cont'd

Victim

generally, § 33:1

rape and similar cases, §§ 33:1, 33:3

sexual offenses, §§ 26:3, 33:3

CHARGES

Joinder of, § 7:20

CHARTS

Generally, § 31:7

Final arguments, § 41:7

Graphs and exhibits, opening statements, § 18:8

Opening statements, § 18:8

CHECKLISTS

Generally, § 5:1 et seq.

Closing arguments, § 5:12

Contempt, § 12:5

Evidence law, research of, § 5:4

Exhibits, § 5:10

Files, organization of, § 5:5

Final arguments, § 5:12

General matters checklist, § 5:2

Instructions to jury, § 5:13

Judge, § 5:6

Jury selection

civil jury selection, §§ 17:3, 17:4

race-neutral reasons for peremptory challenge, § 17:30

Law, research of

evidence law, § 5:4

substantive law, § 5:3

Motions, § 5:11

Opening statements, § 5:8

Substantive law, research of, § 5:3

Witnesses, § 5:9

CHILD SEXUAL ABUSE

ACCOMMODATION

SYNDROME

Expert witnesses, § 32:19

CHILDREN AND MINORS

Exclusion from trial, § 3:8

Hearsay, child victim declarant,
testimony not readily available,
exception, § 29:13

Presence during criminal trial, § 7:26

Victims of crime and speedy trial, § 7:29

CHOICE OF EVILS

Defense, § 8:16

CIVIL CASES

Applicability of Rules of Evidence,
§ 26:3

CIVIL CASES—Cont’d

- Argument of failure to call witness, § 41:13
- Burden of proof instructions, § 40:5
- Compromise, § 34:6
- Continuances, § 11:1
- Directed verdict, §§ 39:2, 39:6
- Disposition of motion for directed verdict, § 39:4
- Employment, hostile work environment, § 40:1
- Final judgment, § 44:1
- Instructions to jury, generally, § 40:1
- Issues submitted to jury, § 40:3
- Judgment, § 44:1
- Jury interrogatories, § 40:2
- Jury trial, § 13:2
- Learned intermediary doctrine, § 40:1
- Motion for directed verdict, § 39:3
- Opening statement, § 18:4
- Presence of parties, § 3:2
- Presumptions, §§ 26:3, 40:5
- Reparation benefits, § 39:2
- Separation of jury during deliberation, § 42:5
- Settlement, §§ 26:3, 34:6
- Shareholders, § 39:2
- Special verdicts, § 40:2
- Subrogation, § 40:1
- Sufficiency of evidence, § 39:2
- Taxpayer actions, § 39:2
- Undue prominence in instructions, § 40:4

CIVIL CONTEMPT

- Generally, § 12:2

CIVIL RULE 11 LIABILITY

- Generally, § 1:15

CLAIMS

- Evidence of other claims, § 34:1

CLARITY

- Closing argument, § 4:6
- Direct exam, § 4:6
- Interrogation of witnesses, § 4:5
- Opening statement, § 4:6
- Trial preparation, § 4:6

CLERGY

- Privileged communications, §§ 26:3, 28:7

CLINICAL SOCIAL WORKER

- Privilege, § 26:3

CLOSED CIRCUIT TELEVISION

- Child’s testimony, § 7:18

CLOSED CIRCUIT TELEVISION

—Cont’d

- Witness testimony by, § 23:14

CLOSING ARGUMENT

- Generally, § 41:1 et seq.
- Accused, failure to testify, § 41:14
- Addressing jurors by name, § 41:6
- Appeals to
 - fear, § 41:23
 - prejudice, § 41:22
 - sympathy, § 41:21
- Attack, opposing counsel, § 41:26
- Charts, reference to, § 41:7
- Checklist, § 5:12
- Comment upon failure to call witness in civil cases, § 41:13
- Counsel’s opinion, § 41:19
- Current events, § 41:20
- Defendant, failure to testify, § 41:14
- Delivery, § 41:1
- Demonstrative evidence, § 41:1
- Exhibits and charts, § 41:7
- Failure to call witness or testify
 - civil proceedings, § 41:13
 - criminal defendant, § 41:14
- Fear, appeals to, § 41:23
- Golden Rule, § 41:11
- Instructions to jury, § 41:1
- Insurance, § 41:12
- Jury instructions, § 41:1
- Language, § 41:1
- Law, reading or arguing, § 41:25
- Liability insurance, § 41:12
- Matters outside record, § 41:17
- Objections, § 41:27
- Opinion of counsel, § 41:19
- Opposing counsel, attack on, § 41:26
- Order
 - generally, § 41:3
 - right to open and close, § 19:2
- Outcome of previous - litigation, § 41:16
- Pain and suffering, § 41:24
- Parole or probation, comment, § 41:15
- Per diem arguments
 - generally, § 41:24
 - automobile accidents, § 6:9
- Plea agreement, § 41:10
- Pleadings, § 41:8
- Prejudice or bias, appeals to, § 41:22
- Preparation
 - generally, § 41:1
 - checklist, § 5:12
 - strong closing, tactics, § 4:4

INDEX

CLOSING ARGUMENT—Cont'd

- Prior litigation, outcome of, § 41:16
- Privacy, § 4:4
- Probation, § 41:15
- Reading or arguing law, § 41:25
- Recency, § 4:4
- Repetition, § 4:8
- Right to final argument, §§ 19:2, 41:2
- Scope, § 41:5
- Settlement, § 41:9
- Simplicity, § 41:1
- Social class, § 41:18
- Structure, § 41:1
- Sympathy, appeals to, § 41:21
- Tactics, strong closing, § 4:4
- Technique, § 41:1
- Theme, § 41:1
- Time restrictions, § 41:4
- Trial record, matters outside, § 41:17

CODE OF JUDICIAL CONDUCT

- Generally, § 2:1 et seq.

CODE OF PROFESSIONAL COURTESY

- Generally, § 1:16

CODEFENDANTS

- Generally, § 7:21
- Attorney representation of multiple clients, § 14:11
- Confessions of codefendants, § 37:6
- Final judgments, § 44:3
- Judgment, § 44:3

COLLATERAL ISSUES

- Impeachment, § 27:6
- Impeachment of witnesses, § 27:6

COLLECTION OF JURY PANEL

- Generally, § 16:1

COMMENTARY

- Kentucky Rules of Evidence, §§ 26:2, 26:3

COMMENTS

- Claim of privilege, § 26:3
- Judge, §§ 2:4, 40:7

COMMERCIAL PAPER

- Self-authentication, §§ 26:3, 30:4

COMMERCIAL PUBLICATIONS

- Hearsay exception, § 29:11

COMMON SCHEME

- Other crimes, evidence, § 36:2

COMMONWEALTH ATTORNEY

- Generally, § 9:2

COMMONWEALTH ATTORNEY

—Cont'd

- Grand Jury, § 9:11
- Prosecution** (this index)
- Special ethical responsibilities, § 9:4
- Witness list, § 9:13

COMMUNICATIONS

- Generally, § 4:4
- Attorneys
 - adverse party, communications with, § 1:6
 - court officials, communications with, § 1:7
- Judge and jury, § 42:12
- Jury trials
 - judge, communications with, § 42:12
 - post-verdict communications, § 43:7

COMPENSATION

- Attorneys' fees, contingent, § 14:12
- Expert witnesses appointed by court, § 32:25
- Final judgments, award of costs, § 44:4
- Jury trials
 - cost of jury, generally, § 13:9
 - juror compensation, § 16:8
- Witness fees
 - generally, § 23:11
 - expert witnesses appointed by court, §§ 26:3, 32:25

COMPETENCY

- Attorney
 - competency to testify, § 1:11
 - right of defendant to competent counsel, § 7:11
- Defendant, competency of
 - generally, §§ 7:5, 8:2
 - defense of incompetency, § 8:2
 - standing trial, § 8:2
- Direct examination, § 24:3
- Hearing to determine competency, § 8:2
- Judge, competency as witness, § 26:3
- Juror, competency as witness, § 26:3
- Witnesses
 - generally, §§ 24:3, 26:3
 - judge as witness, § 26:3
 - juror, § 26:3
 - taking stand, requirement of, § 24:17

COMPETENT COUNSEL

- Constitutional right, § 7:11

COMPLETENESS RULE

- Documentary evidence, § 30:7

COMPOUND QUESTIONS

Direct examination, § 24:11

COMPROMISE

Generally, § 14:1 et seq.

Admissibility of statements, § 26:3

Aggravating circumstances, § 14:5

Attorneys

generally, § 14:5

contingent fees, § 14:12

handling client, § 14:4

multiple clients, representation of,
§ 14:11

Brochures

sample brochure, § 14:7

video brochures, § 14:8

Civil cases, § 34:6

Client relations, § 14:4

Closing argument, § 41:9

Contingent fees, § 14:12

Criminal trials, generally, § 14:14

Evaluation, § 14:2

Evidence of negligence, § 34:6

Fees of attorney, contingent, § 14:12

Final arguments, § 41:9

Legal requirements, § 14:1

Multiple clients, attorney representation
of, § 14:11

Negligence, evidence of, § 34:6

Negotiations, § 14:3

Offers to compromise, evidence of
negligence, § 34:6

Releases, §§ 14:6, 14:13

Representation of multiple clients,
§ 14:11

Sample brochure, § 14:7

Structured settlements, § 14:9

Subrogation, § 14:1

Summary jury trial, § 14:10

Video brochures, § 14:8

Video presentation, § 28:5

COMPUTER EVIDENCE

Generally, § 26:3

Authentication, §§ 30:2, 30:3

Juror's social media friends and
misconduct, § 42:14

COMPUTER FILES

Search and seizure, extent of protection,
§ 15:3

COMPUTER GENERATED VISUAL EVIDENCE

Real and demonstrative evidence,
§ 31:16

COMPUTER SYSTEMS

Jury selection, §§ 16:1, 16:3

CONDUCT OF COUNSEL

Direct examination, § 24:6

Prosecution, § 9:1 et seq.

CONDUCT OF JUDGE

Parties, conduct toward parties by judge,
§ 2:5

CONDUCT OF JURY

Generally, §§ 42:1, 42:13

CONDUCT OF PARTIES

Generally, §§ 3:4, 3:5

CONDUCT OF SPECTATORS

Generally, § 3:13

CONDUCT OF TRIAL

Generally, § 3:1 et seq.

Attorneys (this index)

Bench conferences, § 3:15

Errors in conduct of trial

harmless error, § 3:18

plain or palpable error, § 3:19

Exclusion From Courtroom (this
index)

In camera proceedings, § 3:11

Judges (this index)

Libel and Slander (this index)

Minor, exclusion of, § 3:8

Number of witnesses, limiting, § 3:14

Parties (this index)

Persons near courtroom, controlling
conduct of, § 3:13

Presence or Absence (this index)

Presentation of Evidence (this index)

Press, exclusion of, § 3:10

Pretrial orders, § 3:16

Seating of counsel, parties, and wit-
nesses, § 3:3

Separation (this index)

Spectators (this index)

Trial Record (this index)

CONFERENCES

Bench conferences, § 3:15

CONFESSIONS

Generally, § 37:1 et seq.

Codefendants, confessions of, § 37:6

Corroboration, § 37:2

Custodial, § 37:4

Procedure for admission of confessions,
§ 37:5

Voluntariness, § 37:3

INDEX

CONFIDENTIAL

COMMUNICATIONS

Privileged Communications (this index)

CONFIDENTIAL INFORMANT

Generally, § 28:10

Privilege, § 26:3

CONFLICT OF INTEREST

Prosecutor, § 9:6

CONFLICTS OF INTEREST

Right to counsel, criminal trials, § 7:9

CONSECUTIVE SENTENCES

Generally, § 44:10

CONSENT

Defense of crime, § 8:12

Search and seizure, § 15:21

CONSTITUTIONAL CHALLENGE TO JURY

Generally, §§ 16:9, 16:10

CONTAINERS

Search and seizure, § 15:19

CONTEMPT OF COURT

Generally, § 12:1 et seq.

Acts constituting contempt, § 12:5

Attorneys, §§ 1:8, 12:5

Authority to punish for contempt, § 12:1

Checklist, § 12:5

Civil and criminal contempt distinguished, § 12:2

Criminal, § 12:2

Direct contempt

indirect contempt distinguished, § 12:3

proceedings, § 12:4

Indirect contempt, § 12:3

Punishment, § 12:9

Record, § 12:8

Witnesses, § 12:7

CONTINGENT FEES

Settlements, § 14:12

CONTINUANCES

Generally, § 11:1 et seq.

Absence

counsel, absence of, § 11:3

documentary evidence, absence of, § 11:6

parties, absence of, § 11:4

witnesses, absence of, § 11:5

Civil cases, § 11:1

Counsel, absence of, § 11:3

CONTINUANCES—Cont'd

Criminal cases, § 11:1

Documentary evidence, absence of, § 11:6

Excitement, § 11:7

Hearing and order for continuance, § 11:9

Hearings, § 11:9

Orders for continuances, § 11:9

Parties

absence of party, § 11:4

unpreparedness of party, § 11:2

Pending litigation, § 11:8

Prejudice, § 11:7

Presence or absence

counsel, absence of, § 11:3

documentary evidence, absence of, § 11:6

parties, absence of, § 11:4

witnesses, absence of, § 11:5

Related pending litigation, § 11:8

Surprise, § 11:7

Unpreparedness of party, § 11:2

Waivers, § 11:10

Witnesses, absence of, § 11:5

CONTINUING OBJECTION

Generally, § 38:11

CONTRACTS

Parol evidence, § 30:6

CONVICTION

Impeachment limitations, § 27:4

COPIES

Best evidence rule, § 30:5

CORPORATIONS

Attorneys fees, shareholder document inspection, § 44:4

CORPUS DELICTI

Failure of proof, § 8:25

CORROBORATIVE EVIDENCE

Confessions, § 37:2

COSTS AND FEES

Attorneys' fees, contingent, § 14:12

Expert witnesses appointed by court, § 32:25

Final judgments, award of costs, § 44:4

Judgment, § 44:4

Jury trials

cost of jury, generally, § 13:9

juror compensation, § 16:8

Witness fees

generally, § 23:11

COSTS AND FEES—Cont'd

Witness fees—Cont'd
expert witnesses appointed by court,
§ 32:25

COUNSEL

Attorneys (this index)

COUNTERSUITS

Attorney liability for countersuits,
§ 1:14

COUNTY ATTORNEYS

Generally, § 9:3
Special ethical responsibilities, § 9:4

COURT APPOINTED EXPERTS

Generally, §§ 26:3, 32:25

COURT OFFICIALS

Attorney communications with court
officials, § 1:7

COURTESY CODE

Generally, § 1:16

CR 11

Attorney liability for CR 11, § 1:15

CREDIBILITY OF WITNESSES

Character evidence, §§ 26:3, 27:1
Hearsay, § 26:3
Impeachment of Witnesses (this index)
Inconsistent statements, § 27:3
Religious beliefs, § 26:3

CRIME SCENE

Jury view, § 31:12

CRIME VICTIMS' RIGHTS

Criminal trials, § 7:30

CRIMINAL TRIALS

See also Prosecution
Generally, § 7:1 et seq.
Absence
counsel, § 7:13
defendant
generally, § 7:14
control of defendant, § 7:18
right of defendant to witness state-
ments, § 25:3
waiver of presence, § 7:15
Accused
absence
generally, § 7:14
control of defendant, § 7:18
right of defendant to witness state-
ments, § 25:3
waiver of presence, § 7:15
burden of going forward, § 20:12

CRIMINAL TRIALS—Cont'd

Accused—Cont'd
character evidence, § 33:1
clothing of defendant, § 7:19
codefendants, confessions of, § 37:6
evidence favorable to defendant,
disclosure by prosecution, § 9:9
failure to testify, § 41:14
identification of defendant, below
joinder of defendants, § 7:21
Advice of counsel as defense, § 8:14
Age, defense of, § 8:19
Alibis, § 8:18
Allen charge, § 40:17
Alternative theories of offense, § 40:13
Appeals, double jeopardy, § 10:6
Attorneys
advice of counsel as defense, § 8:14
presence of counsel, § 7:13
right of counsel, below
Bill of particulars, §§ 7:23, 9:12
Burden of going forward
generally, § 20:8
defendant, burden of, § 20:12
shifting burden, § 20:10
Burden of proof
generally, § 20:7 et seq.
defendant's burden of going forward,
§ 20:12
equal probability rule, § 20:9
going forward, burden of, below
identity of defendant, § 35:2
Innocence Presumption (this index)
instructions to jury, § 40:11
intent or knowledge, proof of, § 20:11
reasonable doubt, § 7:4
risk of nonpersuasion, § 20:13
shifting burden of going forward,
§ 20:10
Choice of evils, § 8:16
Closed circuit television, child's
testimony, § 7:18
Clothing of defendant, § 7:19
Codefendants, confessions of, § 37:6
Competency
counsel, right of defendant to
competent, § 7:11
defendant, competency of
generally, § 7:5
defense of incompetency, § 8:2
Conduct of defendant
absence of defendant, § 7:18
disruptive conduct, § 7:16
physical control of defendant, gener-
ally, § 7:17

INDEX

CRIMINAL TRIALS—Cont'd

- Conduct of defendant—Cont'd
 - shackles, defendant in, § 7:19
- Confessions** (this index)
- Contempt of Court** (this index)
- Continuances, § 11:1
- Cost of jury, § 13:9
- Crime victims' rights, § 7:30
- Cross-examination
 - defendant, cross-examination of, § 25:12
 - prior wrongs of defendant, cross-examination on, § 25:13
 - right of defendant to witness statements, § 25:3
- Custodial confessions, § 37:4
- Deadlocked jury, § 40:17
- Death penalty, voir dire, § 17:28
- Defendants
 - absence
 - generally, § 7:14
 - control of defendant, § 7:18
 - right of defendant to witness statements, § 25:3
 - waiver of presence, § 7:15
 - burden of going forward, § 20:12
 - character evidence, § 33:1
 - clothing of defendant, § 7:19
 - codefendants, confessions of, § 37:6
 - competency, above
 - conduct of defendant, above
 - evidence favorable to defendant, disclosure by prosecution, § 9:9
 - failure to testify, § 41:14
 - joinder of defendants, § 7:21
 - presence or absence, above
- Defendant's right to testify, § 24:23
- Defenses** (this index)
- Delay, § 7:1
- Demand for jury trial, § 13:8
- Directed verdicts, § 39:7
- Disclosure
 - evidence favorable to defendant, disclosure of, § 9:9
 - informant, disclosure of, § 9:10
- Discovery
 - generally, § 9:14
 - open-file discovery, § 9:16
- Disqualification of prosecutor, § 9:6
- DNA evidence, § 35:13
- Dogs, use for identification of defendant, § 35:12
- Double Jeopardy** (this index)
- Entrapment, § 8:6
- Equal probability rule, § 20:9

CRIMINAL TRIALS—Cont'd

- Evidence of crimes other than charge on trial, § 26:3
- Extreme emotional disturbance or distress, defense, § 8:5
- Failure of defendant to testify, § 41:14
- Failure of proof, § 8:25
- Favorable evidence, disclosure by prosecution, § 9:9
- Fingerprints, § 35:10
- Footprints, § 35:11
- Going forward, burden of
 - generally, § 20:8
 - defendant, burden of, § 20:12
 - shifting burden, § 20:10
- Grand jury, § 9:11
- Identification of defendant
 - generally, § 35:1 et seq.
 - burden of proof, § 35:2
 - DNA evidence, § 35:13
 - dogs, § 35:12
 - fingerprints, § 35:10
 - footprints, § 35:11
 - lineups, § 35:7
 - mug shots, § 35:6
 - photograph as confirmation of prior identification, § 35:5
 - prior crimes and convictions, § 36:2
 - show-up, § 35:8
 - suggestiveness of procedure, § 35:3
 - tracks, § 35:11
 - voice identification, § 35:9
- Identification of informant, § 28:10
- Ignorance of law, defense of, § 8:13
- Ignorance or mistake of law as defense, § 8:13
- Impossibility, defense of, § 8:20
- Imprisonment** (this index)
- Informant, § 9:10
- Innocence presumption
 - generally, §§ 7:2, 22:11
 - jury instructions, § 7:3
- Insanity, intellectual disability, and mental illness, § 8:4
- Instructions to jury
 - generally, § 40:10 et seq.
 - Allen charge, § 40:17
 - burden of proof, § 40:11
 - deadlocked jury, § 40:17
 - defenses, § 40:15
 - innocence presumption, § 7:3
 - lesser included offenses, § 40:14
 - objections to instructions, § 40:16
 - presumptions, § 40:12
 - silence, right of, § 7:7

CRIMINAL TRIALS—Cont'd

Intent (this index)
 Intoxication as defense, § 8:3
Intoxication (this index)
 Joinder
 defendants, joinder of, § 7:21
 offenses, joinder of, § 7:20
 Judgment, § 44:6
 Jurisdiction, double jeopardy, § 10:4
 Jury trials
 generally, § 13:6 et seq.
 checklist, § 17:30
 considerations, § 13:10
 cost of jury, § 13:9
 death penalty, § 17:28
 demand for jury trial, § 13:8
 nullification of jury, defense of, § 8:23
 waiver of jury trial, § 13:8
 Knowledge
 defense of ignorance of law, § 8:13
 proof of intent or knowledge, § 20:11
 Law enforcement, physical force in, § 8:11
 Lesser included offenses, § 40:14
 Lineups, § 35:7
 Mental condition
 Defenses (this index)
 Intoxication (this index)
 Mistake of law, defense of, § 8:13
 Mug shots, § 35:6
 Multiple defendants, confessions of codefendants, § 37:6
 Negotiations, admissibility, § 34:7
 Objections to jury instructions, § 40:16
 Offenses
 Double Jeopardy (this index)
 joinder of offenses, § 7:20
 lesser included offenses, § 40:14
 Sexual Offenses (this index)
 Opening statements, § 18:3
 Parole, § 41:15
 Photographs, § 35:6
 Physical force in law enforcement defense, § 8:11
 Pleadings, § 7:1
 Pleas and plea negotiations, evidence of negligence, § 34:7
 Police officers, physical force in law enforcement, § 8:11
 Presence or absence
 accused, § 7:14
 counsel, § 7:13
 defendant
 generally, § 7:14

CRIMINAL TRIALS—Cont'd

Presence or absence—Cont'd
 defendant—Cont'd
 control of defendant, § 7:18
 right of defendant to witness statements, § 25:3
 waiver of presence, § 7:15
 family of accused, § 7:25
 minor, § 7:26
 Presumptions and inferences
 generally, § 22:10 et seq.
 innocence presumption
 generally, §§ 7:2, 22:11
 jury instructions, § 7:3
 instructions to jury, § 40:12
 intoxication while operating vehicle, § 22:12
 Pretrial motions, § 7:1
 Prevention of suicide or crime, § 8:17
 Prisoners
 generally. **Imprisonment** (this index)
 prison clothes, appearance in, § 7:19
Probation (this index)
 Procedures, generally, § 7:1
 Proof of an inner knowledge, § 20:11
 Property, protection of, § 8:10
Prosecution (this index)
 Prosecutorial misconduct, defense of, § 8:22
 Protection
 another person, protection of, § 8:10
 crime prevention, § 8:17
 law enforcement, physical force in, § 8:11
 property, protection of, § 8:10
 self-defense, § 8:8
 suicide prevention, § 8:17
 Public duty, execution of, § 8:15
 Publicity, § 9:7
 Re-enactment photographs, § 31:2
 Reasonable doubt, § 7:4
 Reliance on, advice of counsel, defense of, § 8:14
 Right of defendant to testify, § 24:23
 Right to counsel
 generally, § 7:8 et seq.
 applicability, § 7:10
 competency of counsel, § 7:11
 conflicts of interest, § 7:9
 pro se or hybrid representation, § 7:8
 waiver of right to counsel, § 7:12
 when defendant is entitled, § 7:10
 Right to remain silent, § 7:6
 Right to trial by jury, § 13:6
 Risk of nonpersuasion, § 20:13

CRIMINAL TRIALS—Cont'd

- Scientific tests, § 9:14
- Search and Seizure** (this index)
- Selective prosecution, § 8:24
- Self-defense, § 8:8
- Self-incrimination privilege, § 28:11
- Sentence** (this index)
- Sentencing questions, § 17:27
- Separate trials, § 7:22
- Separation of jurors during deliberation, § 42:5
- Settlements
 - generally, § 14:14
 - negotiations, admissibility, § 26:3
- Sexual Offenses** (this index)
- Shackles, defendant in, § 7:19
- Shifting the burden of going forward, § 20:10
- Show-up, § 35:8
- Silence, Right of** (this index)
- Speedy trial
 - child victims, § 7:29
 - particular delays, effect of, § 7:28
 - right to, generally, § 7:27
- Subpoenas** (this index)
- Suicide** (this index)
- Tracks, identification of defendant, § 35:11
- Truth-in-sentencing, § 44:7
- Unified Prosecutorial System, § 9:1
- Victim's character
 - generally, § 33:1
 - sex offenses, §§ 26:3, 33:1, 33:3
- Vindictiveness, defense of, § 8:21
- Voice identification, § 35:9
- Voir dire
 - generally, §§ 17:1 et seq., 17:5
 - checklist, § 17:30
 - death penalty, § 17:28
- Waivers
 - counsel, § 7:12
 - defendant's right to testify, § 24:23
 - jury trial, waiver of, § 13:8
 - presence of defendant, waiver of, § 7:15
 - right to counsel, waiver of, § 7:12
- Witnesses
 - defendant, failure to testify, § 41:14
 - lists, §§ 7:24, 9:13
 - statements of witnesses, § 9:15
- Wrongs or acts other than one on trial, § 36:2

CROSS-EXAMINATION

- Generally, § 25:1 et seq.
- Accuracy of witness, § 25:7

CROSS-EXAMINATION—Cont'd

- Admissions, § 26:3
- Adverse party as witness, § 25:11
- Assuming a fact, § 25:8
- Character evidence, § 33:2
- Credibility, § 25:1
- Criminal trials
 - criminal record, § 26:3
 - defendant, cross-examination of, § 25:12
 - prior wrongs of defendant, cross-examination on, § 25:13
 - right of defendant to witness statements, § 25:3
- Defendant, cross-examination of, § 25:12
- Defensive, § 25:1
- Demeanor, § 25:1
- Facts not in evidence, assumption of, § 25:8
- Focus, § 25:1
- Friendly witnesses, § 25:10
- Impeachment of witnesses, § 6:9
- Knowledge of witness, § 25:7
- Leading questions, § 26:3
- Learned treatises, § 25:16
- Memory of witness, § 25:7
- Objectives, § 25:1
- Offensive, § 25:1
- Open door rule, § 25:6
- Preparation
 - generally, § 25:1
 - checklist, § 25:2
 - witness, preparation of, § 25:2
- Principles, § 25:1
- Prior false accusations of witness, § 25:15
- Prior wrongs of defendant, cross-examination on, § 25:13
- Prior wrongs of witness, § 25:14
- Purpose, § 25:4
- Recross-examination, § 25:17
- Repetition, § 4:8
- Reputation evidence, § 33:2
- Requirement that answer be responsive, § 25:9
- Responsive answer, § 25:9
- Right of cross-examination, § 25:4
- Scope, §§ 25:5, 26:3
- Source of information, § 25:7
- Sweetheart cross-examination, § 25:10
- Technic, § 25:1

CURATIVE EVIDENCE

- Character evidence, § 33:4

CURRENT EVENTS

Argument, § 41:20

CURTILAGE

Search, § 15:5

CUSTODIAL CONFESSIONS

Generally, § 37:4

CUSTODY OF EVIDENCE

Generally, § 30:1

CUSTOM

Generally, § 34:2

Business, § 34:3

Records of regularly conducted activities, hearsay exception, § 29:11

DAMAGES

Costs, award of, § 44:4

Pain and suffering, § 32:3

Per diem arguments

generally, § 41:24

automobile accidents, § 6:9

Voir dire, § 17:15

**DATA UNDERLYING EXPERT
OPINION**

Disclosure, § 32:14

DAY IN THE LIFE FILM

Generally, § 31:4

DEADLOCKED JURY

Allen charge, § 40:17

DEATH

Hearsay exception, belief of impending death, § 29:12

Judge, death during trial, § 3:21

Presumption of death after 7 years' absence, § 22:3

Sentence, death penalty, § 44:11

Suicide (this index)

Testamentary capacity, § 32:5

Voir dire, death penalty, § 17:28

DECEIT

Direct examination, duplicitous questions, § 24:11

DECLARANT

Attacking credibility, § 29:10

Hearsay exception

child victim, testimony not readily available, § 29:13

declarant unavailable, § 26:3

DECREEES

Judgments, Orders, and Decrees (this index)

DEFAMATION

Attorneys, liability of, § 1:12

Trial participants, liability of, § 3:20

DEFECTIVE VERDICTS

Generally, § 43:2

DEFENDANT

Burden of proof

civil proceedings, § 20:6

criminal trials, § 20:12

Civil cases burden of proof, § 20:6

Competency, § 8:2

Cross-examination, criminal case, § 25:12

Disruptive, § 7:16

Double jeopardy, § 10:1 et seq.

Joinder of, § 7:21

Prior wrongs, cross-examination on, § 25:13

Prison clothes, § 7:19

Right to remain silent, § 7:6

DEFENSES

Generally, § 8:1 et seq.

Advice of counsel, § 8:14

Age, criminal cases, § 8:19

Alibi, § 8:18

Another, defense of, § 8:9

Burden of proof, § 20:12

Choice of evils, § 8:16

Competency of defendant, § 8:2

Consent, § 8:12

Crime prevention, § 8:17

Defense of another, § 8:9

Directed verdicts, effect of presenting defense, § 39:5

Drug overdose, immunity, § 8:27

Entrapment, § 8:6

Execution of public duty, § 8:15

Extreme emotional disturbance or distress, § 8:5

Failure of proof, § 8:25

Force, law enforcement, § 8:11

Ignorance or mistake of law, § 8:13

Immunity and protection of self, others, and property, generally, § 8:6

Impossibility, § 8:20

Indictment insufficient, § 8:26

Insanity, intellectual disability, and mental illness, § 8:4

Instructions to jury, § 40:15

Intoxication, § 8:3

Jury instructions, § 40:15

Jury nullification, § 8:23

Law, ignorance or mistake of, § 8:13

INDEX

DEFENSES—Cont'd

- Law enforcement, physical force in, § 8:11
- Mental condition
 - competency to stand trial, § 8:2
 - insanity, § 8:4
 - insanity, intellectual disability, and mental illness, § 8:4
 - intoxication, § 8:3
- Mistake
 - law, § 8:13
- Police officers, physical force in law enforcement, § 8:11
- Prevention of suicide or crime, § 8:17
- Property, protection of, § 8:10
- Prosecutorial misconduct conduct, § 8:22
- Protection
 - another person, protection of, § 8:10
 - crime prevention, § 8:17
 - law enforcement, physical force in, § 8:11
 - property, protection of, § 8:10
 - self, others, and property, immunity, § 8:7
 - self-defense, § 8:8
 - suicide prevention, § 8:17
- Public duty, execution of, § 8:15
- Reliance on advice of counsel, § 8:14
- Selective prosecution, § 8:24
- Self-defense, § 8:8
- Suicide prevention, § 8:17
- Vindictiveness, § 8:21

DEFINITION

- Reasonable doubt, § 7:4

DELIBERATIONS OF JURY

- Generally, § 42:7

DELIVERY OF FINAL ARGUMENT

- Generally, § 41:1

DEMAND FOR JURY TRIAL

- Generally, §§ 13:7, 13:8

DEMONSTRATIONS

- Demonstrative and real evidence, § 31:18

DEMONSTRATIVE AND REAL EVIDENCE

- Generally, §§ 4:6, 31:1 et seq.
- Audio recordings, § 31:5
- Authentication, § 30:1
- Bad faith, § 31:4
- Blackboards, § 31:11
- Charts (this index)

DEMONSTRATIVE AND REAL EVIDENCE—Cont'd

- Computer generated visual evidence, § 31:16
- Demonstrations, § 31:18
- Diagrams, § 31:7
- Diary, § 31:15
- Electronic evidence, § 31:17
- Experiments, § 31:9
- Final argument, § 41:1
- Importance of, § 4:6
- Maps, § 31:7
- Models, § 31:8
- Opening statements, §§ 18:1, 18:8
- Person, view of, § 31:13
- Photographs (this index)
- Preparation for trial, § 4:6
- Research experiments, § 31:9
- Scene, view of, § 31:12
- Social media, § 31:17
- Summary of voluminous records, § 31:14
- Tests and experiments, § 31:9
- Ultrasound recordings, § 31:6
- Video recordings, § 31:4
- View (this index)
- Voluminous records, summary of, § 31:14
- X-rays, § 31:3

DEPOSITIONS

- Libel and slander, § 1:12
- Recess for depositions, § 6:9

DESCRIPTION OF PROPERTY

- Search and seizure, § 15:11

DIAGRAMS

- Evidence, § 31:7

DIARY

- Real and demonstrative evidence, § 31:15

DIRECT CONTEMPT

- Indirect contempt distinguished, § 12:3
- Proceedings, § 12:4

DIRECT EXAMINATION

- Generally, § 24:1 et seq.
- Admissibility of complete written statement, § 26:3
- Adverse party as witness, § 24:15
- Asserting Fifth Amendment privileges, § 24:17
- Assuming a fact not in evidence, § 24:10
- Attention getters, § 24:1

DIRECT EXAMINATION—Cont’d

Attorney, conduct of, § 24:6
 Clarity, § 4:6
 Competency
 generally, § 24:3
 continuances, absence of witnesses, § 11:5
 Compound questions, § 24:11
 Conduct of counsel, § 24:6
 Criminal defendant’s right to testify, § 24:23
 Duplicious questions, § 24:11
 Exhibits, introduction of, § 24:7
 Facts not in evidence, assumption of, § 24:10
 Framing questions, § 24:8
 Introducing exhibits, § 24:7
 Judge, examination of witnesses, § 24:19
 Jurors, examination of witnesses, § 24:20
 Knowledge of witness, § 24:4
 Leading questions, §§ 24:9, 26:3
 Learned treatises, § 24:18
 Opening statements, § 24:13
 Personal knowledge of witness, § 24:4
 Preparation
 direct examination, preparation of, § 24:1
 witness, preparation of, § 24:2
 Privileges, § 24:17
 Questions by juror, § 24:20
 Questions by trial judge, § 24:19
 Recalling a witness, § 24:22
 Redirect examination, § 24:21
 Refreshing recollection, § 24:12
 Relevancy of evidence, § 24:5
 Repetition, §§ 4:8, 24:1, 24:14
 Requirement of witness to answer, § 24:16
 Scope, § 24:13
 Taking stand, requirement of, § 24:17
 Technique, § 24:1
 Witness, preparation of, § 24:2

DIRECTED VERDICTS

Generally, §§ 20:2, 39:1 et seq.
 Automobile accidents, § 6:9
 Civil cases, § 39:2
 Criminal cases generally, § 39:7
 Defense, effect of presenting, § 39:5
 Disposition of motion, § 39:4
 Nonjury trials, § 39:6
 Opening statement, § 18:9
 Sufficiency of motion, § 39:3
 The standard, § 20:2

DISABILITY

Judge, disability during trial, § 3:21
 Lay witness opinion, physical condition, § 32:2
 Opinion of lay witness, § 32:2

DISCIPLINE

See also Contempt of Court
 Attorneys
 generally, § 1:9
 contempt of court, § 1:8

DISCLOSURE

Bases underlying expert opinion, § 32:14
 Evidence favorable or unfavorable to defendant, § 9:9
 Expert opinion, disclosure of basis of, § 32:14
 Prosecution, disclosure of evidence favorable to defendant, § 9:9
 Witness statements in criminal cases, § 25:3

DISCOVERY

Generally, § 9:14
 Bill of Particulars, §§ 7:23, 9:12
 Depositions, recess for, § 6:9
 Exhibits, § 9:14
 Open file, § 9:16
 RCR 7.24, § 9:14
 Witness list, § 7:24
 Witness statements, §§ 9:15, 25:3

DISPOSITION OF MOTION

Directed verdict motion, civil cases, § 39:4

DISQUALIFICATION

Judges, § 2:8
 Prosecutors, § 9:6

DISRUPTION

Defendant, § 7:16

DNA EVIDENCE

Identification of defendant, § 35:13

DOCTOR-PATIENT PRIVILEGE

Generally, § 28:4

DOCUMENTARY EVIDENCE

Generally, § 30:1 et seq.
 Absence. Presence or absence, below
Ancient Documents (this index)
Authentication (this index)
Best Evidence Rule (this index)
 Completeness rule, § 30:7
 Computers or internet, authentication, § 30:3

INDEX

DOCUMENTARY EVIDENCE

—Cont'd

- Continuance, § 11:6
- Continuances due to absence of documentary evidence, § 11:6
- Duces Tecum Subpoenas** (this index)
- Family records, § 29:11
- Files, Organization** (this index)
- Hospital records, § 23:6
- Internet, authentication, § 30:3
- Lost or destroyed, admissibility of contents, § 26:3
- Organization for trial, § 6:7
- Parol evidence rule, § 30:6
- Presence or absence
 - continuances due to absence of document, § 11:6
 - hearsay exception, absence of entry or record, § 29:11
- Production of Witnesses and Documents** (this index)
- Property interests, documents affecting, § 29:11
- Public Records and Reports** (this index)
- Religious organization records and certificates, § 29:11
- Self-authentication, § 30:4
- Subpoenas. **Duces Tecum Subpoenas** (this index)
- Summary, §§ 26:3, 31:14
- Vital statistics records, § 29:11

DOGS

- Drug identification, § 35:12
- Identification of defendant, § 35:12

DOUBLE HEARSAY

- Generally, §§ 26:3, 29:9

DOUBLE JEOPARDY

- Generally, § 10:1 et seq.
- Appeals, § 10:6
- Different offense, § 10:3
- Jurisdiction, § 10:4
- Multiple offenses, § 10:5
- Prosecution for multiple offenses, § 10:5
- Same offense, § 10:2
- Second prosecution for different offense, § 10:3
- Second prosecution for same offense, § 10:2
- Second prosecution in different jurisdiction, § 10:4

DRAWINGS

- Jury selection, drawing names from jury wheel, § 16:4

DRIVER'S LICENSES

- Jury panel, § 16:2

DRUG ABUSE COUNSELOR

- Privilege, §§ 26:3, 28:5

DRUG IDENTIFICATION

- Dogs, § 35:12

DRUG OVERDOSE

- Immunity, § 8:27

DUCES TECUM SUBPOENAS

- Generally, § 23:5
- Hospital records, § 23:6

DUI

- Disclosure, conduct of prosecution, § 9:18

DUPLICATES

- Admissibility, § 26:3
- Best evidence, § 30:5
- Definition under KRE, § 26:3

DUPLICITIOUS QUESTIONS

- Direct examination, § 24:11

DYING DECLARATION

- Hearsay exception, § 26:3

DYNAMITE CHARGE

- Generally, § 40:17

EAVESDROPPER RULE

- Generally, § 28:12

ECONOMIC EVIDENCE

- Expert opinion, reduced or destroyed earning capacity, § 32:22

ELECTRONIC COMPUTER SYSTEMS

- Jury selection, §§ 16:1, 16:3

ELECTRONIC DATE

- Best evidence, § 30:5

ELECTRONIC EVIDENCE

- Generally, § 26:3
- Authentication, § 30:2
- Demonstrative and real evidence, § 31:17

EMOTIONAL CONDITION

- Extreme emotional disturbance or distress, defense, § 8:5

EMPLOYMENT

- Admissions by agents and employees, § 29:6
- Hostile work environment, § 40:1

EMPLOYMENT—Cont'd

- Opinion evidence, ability to perform duties, §§ **32:2, 32:22, 32:23**
- Presumption of master-servant relationship, § **22:6**
- Safety duty, § **34:4**

ENTRAPMENT

- Defense of entrapment, § **8:6**

EQUAL PROBABILITY RULE

- Civil cases, § **20:2**
- Criminal cases, § **20:9**

EQUITABLE ACTIONS

- Jury trial, § **13:4**

ERROR

- Avowal, § **38:9**
- Conduct of trial
 - harmless error, § **3:18**
 - plain or palpable error, § **3:19**
- Defective verdicts
 - generally, § **43:2**
 - impeachment of verdict, § **43:8**
- Defense of ignorance or mistake of law, § **8:13**
- Preserving for review, § **38:1**

ETHICAL CONSIDERATIONS

- Generally, § **1:1 et seq.**
- Attorneys
 - Attorney Code of Professional Courtesy, § **1:16**
 - attorney's personal opinion, ethical standard, § **1:4**
 - false evidence, § **1:4**
 - prosecutor's duty and conduct, § **1:3**
 - trial, § **1:2**
- Prosecution
 - evidence favorable to defendant, disclosure of, § **9:9**
 - special ethical responsibilities, § **9:4**
 - trial ethics, generally, § **9:5**

EVALUATION OF CASE FOR SETTLEMENT

- Generally, § **14:2**

EVENTS CURRENT

- Closing arguments, § **41:20**

EVIDENCE

- See also Kentucky Rules of Evidence
- Admissions** (this index)
- Alcohol breath test, § **31:10**
- Assumption of Facts Not in Evidence** (this index)
- Audio recordings, § **31:5**

EVIDENCE—Cont'd

- Authentication** (this index)
- Best Evidence Rule** (this index)
- Blackboards, § **31:11**
- Burden of Proof** (this index)
- Business** (this index)
- Character Evidence** (this index)
- Charts** (this index)
- Checklists
 - exhibits, § **5:10**
 - law of evidence, research checklist, § **5:4**
- Confusion or waste of time, § **26:3**
- Copies, § **30:5**
- Corroborative evidence, confessions, § **37:2**
- Custom. Habit, Custom, or Routine Practice** (this index)
- Demonstrative and Real Evidence** (this index)
- Diagrams, § **31:7**
- Disability, § **32:2**
- Disclosure** (this index)
- DNA evidence, § **35:13**
- Dogs, use for identification of defendant, § **35:12**
- Duplicates, § **30:5**
- Economic evidence, § **32:22**
- Exclusion of evidence. **Search and Seizure** (this index)
- Exhibits** (this index)
- Experiments, § **31:9**
- Expert Witnesses** (this index)
- Failure of proof, § **8:25**
- Failure of prosecution to preserve, § **9:8**
- Favorable to defendant, § **9:9**
- Fingerprints, § **35:10**
- Footprints, identification of defendant, § **35:11**
- Fruit of poisonous tree, § **15:4**
- Going forward, burden of. **Burden of Proof** (this index)
- Habit, Custom, or Routine Practice** (this index)
- Hearsay** (this index)
- Identification** (this index)
- Insanity, § **32:4**
- Intent** (this index)
- Interrogation of Witnesses** (this index)
- Intoxication** (this index)
- Judicial notice, § **21:5**
- Jury room, § **42:10**
- Kentucky Rules of Evidence** (this index)
- Labor market, opinion evidence, § **32:23**

INDEX

EVIDENCE—Cont'd

- Law of evidence, research checklist, § 5:4
- Life expectancy tables, § 21:6
- Lineups, § 35:7
- Maps, § 31:7
- Medical Evidence** (this index)
- Medical expenses, payment, § 26:3
- Mental condition
 - hearsay exception, § 29:11
 - insanity, § 32:4
 - Intent** (this index)
 - Intoxication** (this index)
 - Lay Opinion Evidence** (this index)
 - motive, § 36:2
 - psychotherapist-patient privilege, § 28:6
- Models, § 31:8
- Mortality tables, § 21:6
- Motions to suppress evidence, § 15:7
- Motive, § 36:2
- Motor Vehicles** (this index)
- Mug shots, § 35:6
- Negligence, § 34:1
- Negligence** (this index)
- Objections** (this index)
- Open fields doctrine, § 15:6
- Opinion** (this index)
- Order of Proof** (this index)
- Other accidents, § 34:1
- Other crimes, §§ 26:3, 36:1
- Out-of-state witnesses, § 23:7
- Pain and suffering, § 32:3
- Parol evidence rule, § 30:6
- Payment of medical and similar expenses, § 34:9
- Photographs** (this index)
- Physical condition, § 32:2
- Pleas and plea negotiations, § 34:7
- Polygraph evidence, § 32:24
- Prejudicial impact out weighing probative value, § 26:3
- Presentation of Evidence** (this index)
- Presumptions** (this index)
- Prior Crimes and Convictions** (this index)
- Prior Events and Conditions** (this index)
- Prior Inconsistent Statements** (this index)
- Prior Litigation** (this index)
- Prosecution disclosure of evidence
 - favorable to defendant, § 9:9
- Rebuttal evidence, § 19:4
- Relevancy of Evidence** (this index)

EVIDENCE—Cont'd

- Repetition** (this index)
- Res ipsa loquitur, § 22:7
- Research experiments, § 31:9
- Routine practice. **Habit, Custom, or Routine Practice** (this index)
- Rules of evidence. **Kentucky Rules of Evidence** (this index)
- Safety** (this index)
- Search and Seizure** (this index)
- Self-authentication, § 30:4
- Sentencing, § 44:12
- Settlement and compromise, § 34:6
- Show-up, § 35:8
- Speed of vehicle, lay opinion, § 32:8
- Stipulations, § 21:4
- Subsequent remedial measures, § 34:5
- Substitutes for Proof** (this index)
- Summary of voluminous records, § 31:14
- Suppression of evidence, motions for, § 15:7
- Surrebuttal evidence, § 19:5
- Tests and experiments, § 31:9
- Ultrasound recordings, § 31:6
- Valuation** (this index)
- Victim's Character** (this index)
- View** (this index)
- Vocational evidence, § 32:23
- Voice** (this index)
- Voluminous records, summary of, § 31:14
- X-rays, § 31:3

EVIDENCE RULES

- Kentucky Rules of Evidence** (this index)

EXCITED UTTERANCES

- Generally, §§ 26:3, 29:11

EXCITEMENT

- Continuances, § 11:7

EXCLUSION FROM COURTROOM

- Family of party, exclusion of, § 3:12
- In camera proceedings, § 3:11
- Persons near courtroom, controlling conduct of, § 3:13
- Press, exclusion of, § 3:10
- Public, exclusion of, § 3:9
- Voir dire, exclusion from, § 17:12

EXCLUSION OF WITNESSES

- Generally, § 26:3

EXCLUSIONARY RULE

- Generally, § 15:1

EXCLUSIONARY RULE—Cont'd

- Exceptions, § 15:2
- Extent of protection, § 15:3
- Fruit of the Poisonous Tree, § 15:4
- Motion to suppress, § 15:7

EXCULPATORY EVIDENCE

- Generally, § 9:9

EXECUTION

- Public duty, criminal defense, § 8:15
- Search warrants, § 15:12

EXHIBIT LIST

- Trial notebook, § 6:5

EXHIBITS

- Authentication, § 30:1
- Checklist, § 5:10
- Closing argument, § 41:7
- Direct examination, introduction of exhibits, § 24:7
- Final arguments, reference to exhibits, § 41:7
- Introducing, § 24:7
- Introduction of exhibits, § 24:7
- Jury room, taking evidence into, § 42:10
- Lists of exhibits, § 6:5
- Opening statements, § 18:8
- Organization of for trial, § 6:7
- Retrial checklist, § 5:10
- Slip, exhibit, § 6:6

EXPERIMENTS

- Evidence, § 31:9

EXPERT WITNESSES

- Generally, §§ 26:3, 32:12 et seq.
- Ability to work impaired, § 32:23
- Appointed by a court, § 26:3
- Automobile accident, § 32:16
- Basis of opinion
 - generally, §§ 26:3, 32:13, 32:14
 - disclosure, § 32:14
 - medical expert witnesses, § 32:18
 - scientific evidence, § 32:17
- Building requirements and codes, § 32:21
- Bullet lead analysis, § 32:12
- Child Sexual Abuse Accommodation Syndrome, § 32:19
- Court appointed, §§ 26:3, 32:25
- Data relied upon to form opinion, § 32:13
- Disclosure of basis of expert opinion, § 32:14
- Economic evidence, § 32:22

EXPERT WITNESSES—Cont'd

- Factual basis. Basis of expert opinion, above
- Hypothetical questions, § 32:15
- Impairment of power to earn money, § 32:22
- Inflation, § 32:22
- Lay witness, § 32:1
- Life expectancy tables, § 32:22
- Medical testimony, § 32:18
- Point of impact in auto case, § 32:16
- Polygraph examination, § 32:24
- Power to earn money, § 32:22
- Property value, § 32:20
- Scientific evidence, § 32:17
- Underlining data, § 26:3
- Valuation of property, § 32:20
- Vocational evidence, § 32:23
- Weapons, bullet lead analysis, § 32:12

EYEWITNESSES

- Accused, identification, § 35:1
- Lineup, § 35:7
- Mug shots, § 35:6
- Suggestive identification, § 35:3

FAILURE TO CALL WITNESS IN CIVIL CASE

- Closing argument comment, § 41:13

FAILURE TO COMPLY WITH COURT ORDER

- Contempt, § 12:1

FAIR AND IMPARTIAL LINEUP

- Generally, § 35:7

FAMILY

- Criminal trial, presence of accused's family during trial, § 7:25
- Curative evidence, incest, § 33:4
- Exclusion from courtroom, § 3:12
- Hearsay
 - history, § 29:11
 - records, §§ 26:3, 29:11
 - religious organization records and certificates, § 29:11
 - statements, § 29:12
 - vital statistics records, § 29:11
- Judgment as to personal, family, or general history, § 29:11
- Privilege, marital, § 28:3
- Records, family, § 29:11
- Religious organization records and certificates, § 29:11
- Vital statistics records, § 29:11
- Voir dire, § 17:22

INDEX

FEAR

- Appeal in an argument, § 41:23
- Final arguments, § 41:23

FEES

- Attorneys' fees, contingent, § 14:12
- Expert witnesses appointed by court, § 32:25
- Final judgments, award of costs, § 44:4
- Judgment, § 44:4
- Jury trials
 - cost of jury, generally, § 13:9
 - juror compensation, § 16:8
- Witness fees
 - generally, § 23:11
 - expert witnesses appointed by court, § 32:25

FELONY CONVICTION

- Impeachment, §§ 26:3, 27:4

FIFTH AMENDMENT PRIVILEGE

- Generally, §§ 7:6, 24:17, 28:11
- Civil case, § 41:13
- Direct examination, § 24:17

FILES, ORGANIZATION

- Checklist, § 5:5
- Trial notebook, § 6:7

FINAL ARGUMENT

- Generally, § 41:1 et seq.
- Accused, failure to testify, § 41:14
- Addressing jurors by name, § 41:6
- Appeals to fear, § 41:23
- Appeals to prejudice, § 41:22
- Appeals to sympathy, § 41:21
- Attack by opposing counsel, § 41:26
- Attack on opposing counsel, § 41:26
- Charts, reference to, § 41:7
- Checklist, § 5:12
- Comment upon failure to call witness in civil cases, § 41:13
- Counsel's opinion, § 41:19
- Current events, § 41:20
- Defendant, failure to testify, § 41:14
- Delivery, § 41:1
- Demonstrative evidence, § 41:1
- Exhibits and charts, § 41:7
- Failure to call witness or testify
 - civil proceedings, § 41:13
 - criminal defendant, § 41:14
- Fear, appeals to, § 41:23
- Golden Rule, § 41:11
- Instructions to jury, § 41:1
- Insurance, § 41:12
- Jury instructions, § 41:1

FINAL ARGUMENT—Cont'd

- Language, § 41:1
- Law, reading or arguing, § 41:25
- Liability insurance, § 41:12
- Matters outside record, § 41:17
- Objections, § 41:27
- Opinion of counsel, § 41:19
- Opposing counsel, attack on, § 41:26
- Order
 - generally, § 41:3
 - right to open and close, § 19:2
- Outcome of previous litigation, § 41:16
- Pain and suffering, § 41:24
- Parole or probation, comment, § 41:15
- Per diem arguments
 - generally, § 41:24
 - automobile accidents, § 6:9
- Plea agreement, § 41:10
- Pleadings, § 41:8
- Prejudice or bias, appeals to, § 41:22
- Preparation
 - generally, § 41:1
 - checklist, § 5:12
 - strong closing, tactics, § 4:4
- Prior litigation, outcome of, § 41:16
- Privacy, § 4:4
- Probation, § 41:15
- Reading or arguing law, § 41:25
- Recency, § 4:4
- Repetition, § 4:8
- Right to final argument, §§ 19:2, 41:2
- Scope, § 41:5
- Settlement, § 41:9
- Simplicity, § 41:1
- Social class, § 41:18
- Structure, § 41:1
- Sympathy, appeals to, § 41:21
- Tactics, strong closing, § 4:4
- Technique, § 41:1
- Theme, § 41:1
- Time restrictions, § 41:4
- Trial record, matters outside, § 41:17
- Witnesses. Failure to call witness or testify, above

FINAL CRIMINAL SENTENCING

- Generally, § 44:10

FINAL JUDGMENTS

- Generally, § 44:1 et seq.
- Civil cases, § 44:1
- Cost, § 44:4
- Interest charges, § 44:5
- Multiple claims or parties, § 44:3
- Nunc pro tunc, § 44:2

FINAL SENTENCING

Generally, § 44:10

FINGERPRINT IDENTIFICATION

Generally, § 35:10

FOOTPRINTS AND TRACKS

Identification, § 35:11

FOREIGN NATIONALS

Search and seizure, § 15:1

FORM OF VERDICT

Generally, § 43:1

FORMER TESTIMONY

Hearsay exception, § 26:3

FOURTH AMENDMENT

Generally, § 15:1

Extent of protection, § 15:3

Motion to suppress, § 15:7

Terry stop, § 15:15

FRAMING QUESTIONS

Direct examination, § 24:8

FRIENDLY WITNESS

Cross examination, § 25:10

**FRUIT OF THE POISONOUS TREE
DOCTRINE**

Generally, § 15:4

Search and seizure, § 15:4

FUNCTIONS OF COURT AND JURY

Generally, § 26:3

GOING FORWARD

Civil cases, § 20:2

Criminal trials

generally, § 20:8

defendant, burden of, § 20:12

shifting burden, § 20:10

Shifting burden of going forward

civil proceedings, § 20:4

criminal trials, § 20:10

GOLDEN RULE

Final arguments, § 41:11

GOOD FAITH

Adverse party, communications with,
§ 1:6

Demonstrative and real evidence, § 31:4

Insurance company liability for malprac-
tice, § 1:13

GOOD TIME CREDIT

Sentencing, evidence at, § 44:10

GOVERNMENT DOCUMENTS

Judicial notice, § 21:6

GRAND JURY

Generally, § 9:11

History, § 9:11

Rules of Evidence not applicable, § 26:3

GRAPHS

Opening statements, § 18:8

**HABEAS CORPUS AD
TESTIFICANDUM**

Generally, § 23:8

HABIT

Generally, § 34:2

Business custom, § 34:3

Character evidence, § 33:5

Records of regularly conducted activi-
ties, hearsay exception, § 29:11

HANDWRITING

Generally, §§ 26:3, 30:2, 32:10

Expert witness, § 30:2

Lay witness, §§ 30:2, 32:10

HARMLESS ERROR

Generally, § 3:18

HEARINGS

Continuances, § 11:9

HEARSAY

Generally, §§ 26:3, 29:1 et seq.

Absence

absence of entry or records, § 29:11

unavailability of declarant, § 29:12

Admissions

admissions exception, § 29:5

agents and employees, § 29:6

Against-interest declarations, § 29:12

Agent and employee admissions, § 29:6

Ancient documents, § 29:11

Applicability, § 29:2

Attacking credibility of declarant,
§ 29:10

Boundaries or general history, § 29:11

Child victim declarant, testimony not
readily available, exception,
§ 29:13

Credibility of client, § 26:3

Credibility of witnesses, § 29:10

Death, belief of impending, § 29:12

Declarant

definition, § 26:3

unavailable, § 29:12

Definition, § 26:3

Employee admissions, § 29:6

Exceptions

generally, § 29:8

HEARSAY—Cont'd

Exceptions—Cont'd

- absence of entry in records, §§ 26:3, 29:11
- admission by agents and employees, § 29:6
- admissions
 - admissions exception, § 29:5
 - agents and employees, § 29:6
- against-interest declarations, § 29:12
- ancient documents, §§ 26:3, 29:11
- availability of declarant, §§ 26:3, 29:12
- boundaries or general history, § 29:11
- child victim declarant, testimony not readily available, § 29:13
- death, belief of impending, § 29:12
- declarant unavailable, § 26:3
- dying declaration, § 26:3
- excited utterances, §§ 26:3, 29:11
- existing mental, emotional, or physical condition statements, § 29:11
- family or personal history
 - generally, § 26:3
 - judgment as to personal, family, or general history, § 29:11
 - records, §§ 26:3, 29:11
 - religious organization records and certificates, § 29:11
 - statements, § 29:12
 - vital statistics records, § 29:11
- former testimony, §§ 26:3, 29:12
- hearsay within hearsay, § 29:9
- impending death, belief of, § 29:12
- judgment as to family or property matters, §§ 26:3, 29:11
- judgment of conviction, § 26:3
- learned treatise, §§ 26:3, 29:11
- market reports, §§ 26:3, 29:11
- medical treatment, §§ 26:3, 29:11
- mental, emotional, or physical condition, §§ 26:3, 29:11
- multiple hearsay, § 29:9
- physical condition statements, § 29:11
- present sense impressions, §§ 26:3, 29:11
- prior events and conditions
 - convictions, prior, § 29:11
 - inconsistent statements, prior, § 29:3
 - litigation, prior, former testimony, § 29:12
- property interests, documents affecting, §§ 26:3, 29:11
- public records and reports, §§ 26:3, 29:11

HEARSAY—Cont'd

Exceptions—Cont'd

- recorded recollections, §§ 26:3, 29:11
- regularly conducted activities, §§ 26:3, 29:11
- religious organization records, § 29:11
- reputation
 - boundaries, § 26:3
 - character, §§ 26:3, 29:11
 - personal or family history, § 26:3
- statement against interest, § 26:3
- then-existing mental, emotional or physical condition, § 29:11
- vital statistics, §§ 26:3, 29:11
- Excited utterances, § 29:11
- Exemptions, § 29:2
- Existing mental, emotional, or physical condition statements, § 29:11
- Family or personal history
 - judgment as to personal, family, or general history, § 29:11
 - records, family, § 29:11
 - religious organization records and certificates, § 29:11
 - statements, § 29:12
 - vital statistics records, § 29:11
- Former testimony, § 29:12
- Hearsay within hearsay, §§ 26:3, 29:9
- History
 - family or personal history, above general history, § 29:11
- Impeachment of witnesses, § 29:10
- Impending death, belief of, § 29:12
- Judgment as to personal, family, or general history, § 29:11
- Market reports and commercial publications, § 29:11
- Medical evidence
 - expert witnesses, § 32:18
 - statements for medical treatment, § 29:11
- Mental, emotional, or physical condition statements, § 29:11
- Multiple hearsay, § 29:9
- Necessity for objection, § 29:7
- Objections, § 29:7
- Official records, § 29:11
- Personal history. Family or personal history, above
- Physical condition statements, § 29:11
- Presence or absence
 - absence of entry or records, § 29:11
 - unavailability of declarant, § 29:12
- Present sense impressions, § 29:11

HEARSAY—Cont’d

- Prior consistent statements exception, § 29:4
- Prior events and conditions
 - convictions, prior, § 29:11
 - inconsistent statements, prior, § 29:3
 - litigation, prior, former testimony, § 29:12
- Property interests, documents affecting, § 29:11
- Public records and reports, § 29:11
- Recorded recollections, § 29:11
- Regularly conducted activities, records of, § 29:11
- Religious organization records and certificates, § 29:11
- Reputation, § 29:11
- Specific exceptions, § 29:11
- Statements not considered hearsay, § 29:2
- Unavailability of declarant, § 29:12
- Vital statistics records, § 29:11

HISTORY

- Family or personal history
 - judgment as to personal, family, or general history, § 29:11
 - records, family, § 29:11
 - religious organization records and certificates, § 29:11
 - statements, § 29:12
 - vital statistics records, § 29:11
- General history, § 29:11

HOSPITAL RECORDS

- Subpoena, § 23:6

HUNG JURY

- Instructions, § 40:17

HUSBAND-WIFE PRIVILEGE

- Generally, §§ 26:3, 28:3

HYPOTHETICAL QUESTIONS

- Generally, § 32:15
- Expert witnesses, § 32:15
- Voir dire, § 17:17

IDENTIFICATION

- Burden of proving, § 35:2
- Defendant
 - generally, § 35:1 et seq.
 - burden of proof, § 35:2
 - DNA evidence, § 35:13
 - dogs, § 35:12
 - fingerprints, § 35:10
 - footprints, § 35:11
 - lineups, § 35:7

IDENTIFICATION—Cont’d

- Defendant—Cont’d
 - mug shots, § 35:6
 - photograph arrays or collections, § 35:4
 - photograph as confirmation of prior identification, § 35:5
 - prior crimes and convictions, § 36:2
 - show-up, § 35:8
 - suggestiveness of procedure, § 35:3
 - tracks, § 35:11
 - voice identification, § 35:9
- Fingerprints, § 35:10
- Footprints, § 35:11
- Handwriting
 - generally, §§ 26:3, 30:2, 32:10
 - authentication, § 30:2
 - expert witness, § 30:2
 - lay witness, §§ 30:2, 32:10
- Informant, § 28:10
- Lineup, § 35:7
- Photograph arrays or collections, defendants, § 35:4
- Photograph as confirmation of prior identification, § 35:5
- Prior crimes and convictions, § 36:2
- Scientific evidence, § 35:1 et seq.
- Show up, § 35:8
- Telephone conversations, § 30:2
- Tracking dogs, § 35:12
- Tracks, § 35:11
- Voice
 - generally, §§ 26:3, 30:2, 35:9
 - audio recordings, § 31:5
 - defendants, identification of, § 35:9
 - telephone conversations, § 30:2

IGNORANCE OF LAW

- Defense, § 8:13

IMMUNITY

- Defense witnesses, § 9:17
- Judge, § 2:7

IMPANELING JURY

- Generally, § 16:11
- Voir dire, § 17:8

IMPEACHMENT OF VERDICT

- Generally, § 43:8

IMPEACHMENT OF WITNESSES

- Generally, §§ 26:3, 27:1 et seq.
- Character evidence, § 33:1
- Collateral issues, § 27:6
- Conviction
 - impeachment by evidence of conviction, § 26:3

INDEX

IMPEACHMENT OF WITNESSES

—Cont'd

- Conviction—Cont'd
time limit, § 26:3
- Cross-examination, § 6:9
- Hearsay evidence, § 29:10
- Inconsistent statements, § 27:3
- Insurance, § 27:8
- Interest or prejudice, impeachment by
evidence of bias, § 27:2
- Liability insurance, § 27:8
- Prejudice or bias, § 27:2
- Prior felony conviction, § 27:4
- Prior inconsistent statements, § 27:3
- Rehabilitation, § 27:7
- Reputation, § 27:5
- Tactics, § 27:9
- Technique, § 27:9

IMPLIED BIAS

- Voir dire, § 17:21

IMPOSSIBILITY

- Defense to criminal case, § 8:20

IMPRISONMENT

- Criminal defendant in prison clothing,
§ 7:19
- Habeas corpus ad testificandum, § 23:8

IN CAMERA PROCEEDING

- Generally, § 3:11

IN LIMINE MOTIONS

- Generally, § 26:3
- Objections, § 38:12
- Opening statements, § 18:7

INADEQUATE COUNSEL

- Generally, § 7:11

INCEST

- Curative evidence, § 33:4

INCONSISTENCY

- Prior Inconsistent Statements** (this
index)
- Verdicts, § 43:4

INDICTMENT

- Defense counsel's indictment during
trial, effective assistance of
counsel, § 1:4
- Defense in criminal case, insufficient
indictment, § 8:26
- Joinder of offenses, § 7:20

INDIRECT CONTEMPT

- Generally, § 12:3

INEFFECTIVE ASSISTANCE OF COUNSEL

- Generally, § 7:11

INFERENCES

- Presumptions** (this index)

INFLATION

- Expert witness, § 32:22

INFORMANTS

- Disclosure by prosecution, § 9:10
- Identity, §§ 26:3, 28:10
- Privileged communications, § 28:10
- Prosecution's duty, § 9:10

INJURIES

- Evidence of other injuries, § 34:1
- Jury view, § 31:13
- View of person, § 31:13

INNER KNOWLEDGE

- Proof, § 20:11

INNOCENCE PRESUMPTION

- Generally, §§ 7:2, 22:11
- Jury instructions, § 7:3

INSANITY

- Insanity, intellectual disability, and
mental illness, § 8:4
- Lay opinion evidence, § 32:4
- Lay witness opinion, § 32:4
- Test, § 8:4

INSPECTION

- Witness statements, criminal cases,
§ 25:3

INSTRUCTIONS TO JURY

- Generally, § 40:1 et seq.
- Allen charge, § 40:17
- Burden of proof
 - civil proceedings, § 40:5
 - criminal trials, § 40:11
 - missing evidence instruction, § 40:6
- Checklist, § 5:13
- Civil cases generally, § 40:1
- Criminal trials
 - generally, § 40:10 et seq.
 - Allen charge, § 40:17
 - burden of proof, § 40:11
 - deadlocked jury, § 40:17
 - defenses, § 40:15
 - innocence presumption, § 7:3
 - lesser included offenses, § 40:14
 - objections to instructions, § 40:16
 - presumptions, § 40:12
 - silence, right of, § 7:7

INSTRUCTIONS TO JURY—Cont'd

- Deadlocked jury, § 40:17
- Defenses, § 40:15
- Final arguments, § 41:1
- Form verdict, § 40:8
- Innocence presumption, § 7:3
- Interrogatories by jury, special verdicts, § 40:2
- Issues submitted, § 40:3
- Judge, comments of, § 40:7
- Lesser included offenses, § 40:14
- Missing evidence instruction, § 40:6
- Objections to instructions
 - civil proceedings, § 40:9
 - criminal trials, § 40:16
- Presumptions
 - civil proceedings, § 40:5
 - criminal trials, § 40:12
 - innocence, § 7:3
- Right to remain silent, § 7:7
- Separation of jurors, admonition upon, § 42:6
- Silence, right of, § 7:7
- Special verdicts, § 40:2
- Undue prominence, § 40:4
- Verdict contrary to instructions, § 43:3
- Verdict form, § 40:8

INSURANCE

- Admissibility, §§ 26:3, 34:8
- Closing argument, § 41:12
- Final arguments, § 41:12
- Impeachment, § 27:8
- Negligence, evidence of, § 34:8

INTENT

- Prior crimes and convictions, § 36:2
- Proof of intent or knowledge, § 20:11

INTEREST BEARING JUDGMENT

- Generally, § 44:5

INTEREST CHARGES

- Final judgments, § 44:5

INTEREST IN LITIGATION

- Impeachment, § 27:2

INTEREST IN MATTER

- Hearsay exception, documents affecting property interests, § 29:11
- Impeachment of witnesses, § 27:2

INTEREST ON JUDGMENT

- Generally, § 44:5

INTERFERENCE

- Production of witnesses and documents, § 23:10

INTERNET

- Authentication of documentary evidence, § 30:3
- Juror's social network friends, misconduct regarding, § 42:14

INTERPRETERS

- Generally, §§ 23:13, 26:3

INTERROGATION OF WITNESSES

- Clarity, § 4:5
- Compound questions, § 24:11
- Demonstration v. telling, § 4:6
- Duplicious questions, § 24:11
- Framing questions, generally, § 24:8
- Judge, examination of witnesses, § 24:19
- Jurors, examination of witnesses, § 24:20
- Key words, § 4:7
- Leading questions, § 24:9
- Personal factors, § 4:2
- Repetition
 - generally, § 4:8
 - direct examination, § 24:14
 - opening statements, § 18:1
- Requirement of witness to answer, § 24:16
- Simplicity, § 4:3
- Theme of case, § 4:1

INTERROGATORIES

- Jury interrogatories, special verdicts, § 40:2

INTERWOVEN CRIMINAL ACTS

- Other crimes evidence, § 36:2

INTOXICATION

- Defense of intoxication, § 8:3
- Lay opinion evidence, § 32:6
- Presumption of intoxication while operating vehicle, § 22:12
- Privileged communications, alcohol abuse counselor, § 26:3

INTRODUCING EXHIBITS

- Generally, § 24:7

INVENTORY SEARCH

- Generally, § 15:19

INVESTIGATION OF CASE BEFORE TRIAL

- Generally, § 1:15

INVESTIGATIVE HEARSAY

- Generally, § 29:2

INDEX

INVOLUNTARY INTOXICATION

Generally, § 8:3

JOINDER

Criminal trials

defendants, joinder of, § 7:21

offenses, joinder of, § 7:20

JUDGES

Generally, § 2:1 et seq.

Absence of judge during trial, § 3:21

Admissions, judicial, § 21:3

Appointment of expert witnesses,
§ 32:25

Bench conferences, § 3:15

Calling witnesses, §§ 2:6, 26:3

Checklist, § 5:6

Comments, instructions to jury, § 40:7

Communications with jury, § 42:12

Competency as witness, § 26:3

Conduct of judge

generally, § 2:1 et seq.

calling witnesses, § 2:6

disqualification, § 2:8

immunity, § 2:7

order, duty to preserve, § 2:2

parties, conduct toward, § 2:5

recusal, § 2:8

remarks of judge, § 2:4

witnesses, conduct toward, § 2:5

Death or disability of judge during trial,
§ 3:21

Disqualification, § 2:8

Errors in conduct of trial

harmless error, § 3:18

plain or palpable error, § 3:19

Examination of witnesses, § 24:19

Expert witnesses appointed by court,
§ 32:25

Immunity, § 2:7

In camera proceedings, § 3:11

Instructions to Jury (this index)

Interest in proceedings, § 2:8

Judicial notice, § 21:5

Jury communications with judge,
§ 42:12

Nonjury Trials (this index)

Number of witnesses, limiting, § 3:14

Order, duty to preserve, § 2:2

Parties, conduct toward, § 2:5

Presence or absence of judge during
trial, § 3:21

Recusal, § 2:8

Remarks of judge, § 2:4

Trial by court

Nonjury Trials (this index)

JUDGES—Cont'd

Voir dire, examination by court, § 17:9

Witnesses

generally, § 2:3

appointment of expert witnesses,
§ 32:25

calling witnesses, § 2:6

conduct toward witnesses, § 2:5

examination of witnesses, § 24:19

number of witnesses, limiting, § 3:14

JUDGMENT

Civil cases, § 44:1

Continuances, orders for, § 11:9

Cost, § 44:4

Criminal cases, § 44:6

Directed Verdicts (this index)

Final judgments

generally, § 44:1 et seq.

civil cases, § 44:1

cost, § 44:4

interest charges, § 44:5

multiple claims or parties, § 44:3

nunc pro tunc, § 44:2

Hearsay exception

judgment as to property or family
matters, § 26:3

judgment of conviction, § 26:3

Interest, § 44:5

Multiple claims, § 44:3

Multiple parties, § 44:3

Nunc Pro Tunc, § 44:2

Personal, family, or general history,
judgment as to, § 29:11

Verdicts (this index)

JUDICIAL NOTICE

Generally, §§ 21:5, 26:3

Facts, § 26:3

Life expectancy in mortality table,
§ 21:6

Substitutes for proof, § 21:5

JURISDICTION

Double jeopardy, § 10:4

JURY OF PEERS

Generally, §§ 16:9, 16:10

Alternate jurors on jury panel, § 16:14

Conduct of jury

generally, § 42:1

Deliberations, § 42:7

Questioning witnesses, § 42:17

Deliberations

Rereading testimony, § 42:11

Jury panel

Alternate jurors, § 16:14

JURY OF PEERS—Cont'd

- Jury panel—Cont'd
 - Challenge to array, § 16:9
 - Merging two jury panels, generally, § 16:12
 - Rehabilitation of juror, § 16:13
 - Merging two jury panels, generally, § 16:12
 - Rehabilitation of juror, § 16:13
 - Witnesses, questioning of by jury, § 42:17

JURY PANEL

- Challenge, §§ 16:9, 16:10
- Collections, § 16:1
- Computer selection, § 16:3
- Cross section, §§ 16:9, 16:10
- Driver's licenses, § 16:2
- Master list, § 16:2
- Statistical evidence, §§ 16:9, 16:10
- Strict compliance, § 16:2

JURY SELECTION

- Generally, § 16:1 et seq.
- Challenges to Jury** (this index)
- Checklists
 - generally, § 5:7
 - civil jury selection, §§ 17:3, 17:4
 - race-neutral reasons for peremptory challenge, § 17:30
- Compensation of jurors, § 16:8
- Computer system, § 16:3
- Constitutional challenges to array, § 16:10
- Drawing names from jury wheel, § 16:4
- Duties of jurors, § 16:8
- Excuses, § 16:7
- Exemptions, § 16:7
- Impaneling Jury** (this index)
- Master list, § 16:2
- Names
 - computer system, § 16:3
 - drawing names from jury wheel, § 16:4
 - master list, § 16:2
- Peremptory Challenges** (this index)
- Prejudice or bias. **Voir Dire** (this index)
- Qualifications of jurors
 - generally, § 16:6
 - challenges for cause, failure to meet qualifications, § 17:19
- Race neutral reasons for peremptory challenge, § 17:30
- Summoning jurors, § 16:5
- Voir Dire** (this index)
- Wheel, drawing names from jury, § 16:4

JURY SERVICE

- Exclusion of lawyers, physicians and teachers, § 16:7
- Excuses, § 16:7

JURY TRIAL

- Generally, §§ 13:1, 16:8
- Accounts of trial, reading or hearing, § 42:4
- Addressing jurors by name, § 41:6
- Admonition upon separation of jurors, § 42:6
- Allen charge, § 40:17
- Bench conferences, § 3:15
- Challenges to Jury** (this index)
- Checklists
 - Jury Selection** (this index)
 - preparation for trial, § 5:7
- Civil cases, § 13:2
- Communications
 - judge, communications with, § 42:12
 - post-verdict communications, § 43:7
- Compensation of jurors, § 16:8
- Competency of juror as witness, § 26:3
- Complicated issues, § 13:2
- Computer system for jury selection, § 16:3
- Conduct of jury
 - generally, § 42:1 et seq.
 - accounts of trial, reading or hearing, § 42:4
 - deliberations, § 42:7
 - evidence, taking into jury room, § 42:10
 - hearing accounts of trial, § 42:4
 - illness of juror, § 42:15
 - internet social network, juror's, § 42:14
 - judge, communications with, § 42:12
 - misconduct of jury, § 42:13
 - Note-taking by Jury** (this index)
 - oaths and affirmations, § 42:3
 - objections, § 42:16
 - outside influences, § 42:4
 - reading, below
 - separation of jurors, below
 - witnesses, jurors as, § 42:2
- Constitutional challenges to array, § 16:10
- Cost, § 13:2
- Deadlocked jury, § 40:17
- Defective verdicts. **Verdicts** (this index)
- Defense of jury nullification, § 8:23
- Delay of deliberations, § 42:8
- Deliberations, §§ 42:7, 42:8
- Demand, §§ 13:7-13:9

JURY TRIAL—Cont'd

Directed Verdicts (this index)
Drawing names from jury wheel, § 16:4
Duties of jurors, § 16:8
Equitable actions, § 13:4
Evidence taken into jury room, § 42:10
Excuses from jury service, § 16:7
Exemptions from jury service, § 16:7
Final arguments, addressing jurors by name, § 41:6
Form verdict, § 40:8
Grand jury, § 9:11
Hung jury, instructions, § 40:17
Illness of juror, § 42:15
Impaneling Jury (this index)
Impeaching of verdict by juror, § 43:8
Instructions to Jury (this index)
Internet social network, juror's, § 42:14
Interrogatories by jury, special verdicts, § 40:2
Issues submitted, § 40:3
Judge, communications with, § 42:12
Jury of peers, §§ 16:9, 16:10
Legal actions defined, § 13:3
Master list, § 16:2
Misconduct of juror, § 42:13
Names of jurors
 generally, § 41:6
 computer system, § 16:3
 drawing names from jury wheel, § 16:4
 master list, § 16:2
New forms of action, § 13:5
News reports of trial heard by juror, § 42:4
Notes taken by jurors, §§ 6:9, 42:9
Nullification of jury, defense of, § 8:23
Number of jurors necessary for verdict, § 43:5
Oath of jurors, § 42:3
Objections to conduct of jury, § 42:16
Outside influences, § 42:4
Polling jury, § 43:6
Prejudice or bias. **Voir Dire** (this index)
Presence or absence of jury
 bench conferences, § 3:15
 in camera proceedings, § 3:11
Qualifications of jurors. **Jury Selection** (this index)
Questions of witnesses by juror, § 24:20
Reading
 accounts of trial, reading by jurors, § 42:4
 law, counsel reading in final argument, § 41:25

JURY TRIAL—Cont'd

Reading—Cont'd
 testimony, jurors rereading, § 42:11
Right, § 13:1
Selection of jury. **Jury Selection** (this index)
Separation of jurors
 generally, § 42:5
 admonition upon separation, § 42:6
Special verdicts, § 40:2
Summary jury trials, § 14:10
Summoning jurors, § 16:5
Undue prominence, instructions to jury, § 40:4
Verdicts (this index)
Voir Dire (this index)
Waiver of jury trial, §§ 13:7, 13:8
Wheel, drawing names from jury, § 16:4
Witnesses
 examination by jurors, § 24:20
 jurors as witnesses, § 42:2

JURY VIEW

Crime scene, § 31:12
Injury, § 31:13
Person, view of, § 31:13
Scene, view of, § 31:12

JURY WHEEL

Generally, § 16:4

JUVENILE CODE

Generally, § 8:19

KENTUCKY BAR ASSOCIATION

Code of profession courtesy, § 1:16

KENTUCKY CODE OF PROFESSIONAL RESPONSIBILITY

Generally, § 1:1 et seq.

KENTUCKY RULES OF EVIDENCE

Generally, § 26:1 et seq.
Amendments, § 26:3
Applicability, § 26:3
Civil proceedings, § 26:3
Criminal proceedings, § 26:3
Effective date, § 26:3
Objections, § 26:3
Official commentary, § 26:3
Purpose and construction, § 26:3
Review commission, § 26:3
Scope, § 26:3

KEY WORDS

Preparation for trial, § 4:7

KNOWLEDGE

- Authentication, § 30:2
- Cross-examination, § 25:7
- Defense of ignorance of law, § 8:13
- Direct examination, § 24:4
- Judicial notice, § 21:5
- Other crimes evidence, § 36:2
- Prior crimes and convictions, § 36:4
- Proof of intent or knowledge, § 20:11

LABOR MARKET EVIDENCE

- Opinion, § 32:23

LANGUAGE

- Final arguments, § 41:1
- Interpreters, § 23:13
- Interrogation of witnesses, § 4:7
- Key words
 - preparation for trial, § 4:7
- Opening statements, § 18:1
- Simplicity, language at trial, § 4:3

LAW, QUESTIONS OF

- Final arguments, § 41:25
- Research checklists
 - evidence law, § 5:4
 - substantive law, § 5:3
- Voir dire, § 17:16

LAW ENFORCEMENT

- Defense of physical force in law enforcement, § 8:11

LAWSUITS

- Evidence of other lawsuits, § 34:1

LAY OPINION EVIDENCE

- Generally, § 32:1 et seq.
- Automobile accidents
 - generally, § 32:9
 - speed of vehicle, § 32:8
- Behaviour, § 32:11
- Demeanor, § 32:11
- Disability, § 32:2
- Handwriting, §§ 30:2, 32:10
- Insanity, § 32:4
- Intoxication, § 32:6
- Mental condition
 - intoxication, § 32:6
 - sanity or insanity, § 32:4
 - testamentary capacity, § 32:5
- Pain and suffering, § 32:3
- Physical condition, § 32:2
- Sanity or insanity, § 32:4
- Speed of vehicle, § 32:8
- Testamentary capacity, § 32:5
- Value of property, § 32:7

LEADING QUESTIONS

- Cross examination, § 26:3
- Direct examination, § 24:9
- Medical expert witnesses, § 32:18

LEARNED INTERMEDIARY DOCTRINE

- Civil cases, § 40:1

LEARNED TREATISES

- Cross examination, § 25:16
- Direct examination, § 24:18
- Hearsay exception, §§ 26:3, 29:11

LEGAL ACTIONS

- Jury trial, § 13:3

LEGAL MALPRACTICE

- Generally, § 1:13

LESSER INCLUDED OFFENSES

- Burden of proof, § 20:12
- Instructions to jury, § 40:14
- Jury instructions, § 40:14

LIABILITY INSURANCE

- Generally, § 26:3
- Admissibility, § 34:8
- Argument, § 41:12
- Closing argument, § 41:12
- Final argument, § 41:12
- Impeachment, § 27:8

LIBEL AND SLANDER

- Attorneys, liability of, § 1:12
- Trial participants, liability of, § 3:20
- Witnesses deposition, § 1:12

LIE DETECTOR

- Generally, § 32:24

LIFE EXPECTANCY

- Expert witness, § 32:22
- Judicial notice, § 21:6

LIMINE

- Motion, §§ 26:3, 38:12
- Opening statements, § 18:7

LIMITATION OF ACTIONS

- Malpractice, § 1:13

LIMITED ACCESS

- News media, § 3:10

LIMITED ADMISSIBILITY

- Evidence, § 26:3

LIMITED NUMBER OF WITNESSES

- Generally, § 3:14

INDEX

LINEUPS

Identification of defendant, § 35:7

LISTS

Jury selection, master list, § 16:2

Witness Lists (this index)

LOST DOCUMENTS

Admissibility of contents, § 26:3

MAILING

Presumption of receipt, § 22:4

MALICIOUS PROSECUTION

Generally, § 1:14

MALPRACTICE

Attorney liability, § 1:13

MANDATORY PRESUMPTIONS

Generally, § 22:1

MAPS

Evidence, § 31:7

MARIJUANA

Warrantless searches, § 15:13

MARITAL PRIVILEGE

Generally, §§ 26:3, 28:3

MARKET REPORTS

Hearsay exception, §§ 26:3, 29:11

MARRIAGE

Baptismal and similar certificates,
hearsay exception, § 26:3

Marital privilege, §§ 26:3, 28:3

MASTER LIST

Jurors, § 16:2

MASTER-SERVANT RELATIONSHIP

Presumption, § 22:6

MEDIA

Ethical consideration, news release,
§ 1:5

Exclusion of for trial, § 3:10

Jurors hearing news reports, § 42:4

Limiting right to access to evidence,
§ 3:10

Trial, exclusion from, § 3:10

Voir dire, exclusion from, § 17:12

MEDICAL EVIDENCE

Expenses

payment

generally, § 34:9

admissibility, §§ 26:3, 34:8

presumptions, §§ 22:7, 22:8

Expert witnesses

generally, § 32:18

MEDICAL EVIDENCE—Cont'd

Expert witnesses—Cont'd

bases of an opinion, § 32:18

leading question, § 32:18

Hearsay evidence

exception, § 26:3

expert witnesses, § 32:18

statements for medical treatment,
§ 29:11

Hospital records, subpoenas, § 23:6

Negligence cases, admissible evidence,
§ 32:18

Opinion, § 32:18

Physician-patient privilege, § 28:4

Presumptions, §§ 22:7, 22:8

Psychotherapist-patient privilege, § 28:6

Reasonableness

expenses, §§ 22:7, 22:8

expert witnesses, reasonable certainty,
§ 32:18

MEDICAL EXPENSES

Negligence, payment of medical and
similar expenses, § 34:9

MEMORANDUM

Generally, § 6:8

Automobile accidents, § 6:9

MEMORY

Cross-examination, testing memory of
witness, § 25:7

Hearsay exception, recorded recollec-
tions, § 29:11

Refreshed recollection, §§ 24:12, 26:3

MENTAL CONDITION

Competency (this index)

Defense

competency to stand trial, § 8:2

insanity, intellectual disability, and
mental illness, § 8:4

intoxication, § 8:3

Hearsay exception, §§ 26:3, 29:11

Insanity (this index)

Intent (this index)

Lay opinion evidence

intoxication, § 32:6

sanity or insanity, § 32:4

testamentary capacity, § 32:5

Motive, § 36:2

Motive, evidence of, § 36:2

Plans, § 36:2

Psychotherapist-patient privilege, § 28:6

Witnesses, mental capacity, § 26:3

MERGER

Jury panels, § 16:12

MESSAGE OF CASE

Generally, § 4:2

METHODS OF PROOF

Character evidence, § 33:2

MINISTERS

Privileged communications, § 28:7

MINORS

Children and Minors (this index)

MIRANDA RULE

Generally, § 37:4

MISCONDUCT OF COUNSEL

Direct examination, § 24:6

Prosecution, § 9:1 et seq.

MISCONDUCT OF JUDGE

Parties, conduct toward parties by judge,
§ 2:5

MISCONDUCT OF JURY

Generally, §§ 42:1, 42:13, 42:16

MISCONDUCT OF PARTIES

Generally, §§ 3:4, 3:5

MISCONDUCT OF SPECTATORS

Generally, § 3:13

MISREPRESENTATION

Argument of counsel, misrepresentation
of witnesses' testimony, § 41:28

MISSING DEFENDANT

Generally, § 7:18

MISSING EVIDENCE

Instructions to jury, § 40:6

MISTAKE

Avowal, § 38:9

Conduct of trial

harmless error, § 3:18

plain or palpable error, § 3:19

Defective verdicts

generally, § 43:2

impeachment of verdict, § 43:8

Defense of ignorance or mistake of law,
§ 8:13

Preserving for review, § 38:1

MISTRIAL

Generally, § 38:10

MODELS

Evidence, § 31:8

MORTALITY TABLES

Generally, § 21:6

MOTION IN LIMINE

Generally, §§ 18:7, 26:3, 38:12

MOTION PICTURES

Videotapes and Motion Pictures (this
index)

MOTIONS

Generally, § 5:11

Checklist, § 5:11

Directed Verdicts (this index)

Evidence, motions to suppress, § 15:7

In limine motions, §§ 18:7, 26:3, 38:12

Invited error, § 38:13

Objections, § 38:12

Opening statements, § 18:7

Search and seizure, motion to suppress,
§ 15:7

Suppression of evidence, § 15:7

MOTIVE

Prior crimes and convictions, § 36:2

MOTOR VEHICLES

Directed verdicts, accidents, § 6:9

Expert witnesses, automobile accident,
§ 32:16

Intoxication while operating vehicle,
presumption of, § 22:12

Lay opinion evidence

accidents, generally, § 32:9

speed of vehicle, § 32:8

Probable cause, automobile searches,
§ 15:18

Sample trial memorandum, § 6:9

Search and seizure, § 15:18

Speed, lay witness opinion, § 32:8

Stops, § 15:18

Tracks, identification of, § 35:11

Trial memorandum, accidents, § 6:9

MUG SHOTS

Generally, §§ 31:2, 35:6

Admissibility, § 35:6

Eyewitness, § 35:6

Identification of defendant, § 35:6

MULTIPLE CLAIMS

Final judgments, § 44:3

Judgment, § 44:3

MULTIPLE DEFENDANTS

Generally, § 7:21

Attorney representation of multiple
clients, § 14:11

Confessions of codefendants, § 37:6

Final judgments, § 44:3

Judgment, § 44:3

INDEX

MULTIPLE HEARSAY

Generally, § 29:9

MULTIPLE OFFENSES

Double jeopardy, § 10:5

Prior Crimes and Convictions (this index)

MULTIPLE PARTIES

Generally, § 7:21

Attorney representation of multiple clients, § 14:11

Confessions of codefendants, § 37:6

Final judgments, § 44:3

Judgment, § 44:3

NAMES

Final arguments, addressing jurors by name, § 41:6

Jurors

argument of counsel, § 41:6

computer system, § 16:3

drawing names from jury wheel, § 16:4

master list, § 16:2

NECESSARY NUMBER OF JURORS FOR VERDICT

Generally, § 43:5

NEGLIGENCE

Generally, § 34:1 et seq.

Business custom, § 34:3

Compromise and settlement, § 34:6

Custom and usage, business, § 34:3

Habit, § 34:2

Insurance, liability, § 34:8

Medical evidence

expert witnesses, § 32:18

payment of medical and similar expenses, § 34:9

Offers to compromise, § 34:6

Other accidents, § 34:1

Payment of medical expenses, admissibility, § 34:9

Per se, § 34:4

Pleas and plea negotiations, § 34:7

Prior accidents, § 34:1

Safety rules, § 34:4

Subsequent remedial measures, § 34:5

Weapons, safety rules, § 34:4

NEGOTIATIONS

Admissibility as evidence, § 26:3

Pleas and plea negotiations, evidence of negligence, § 34:7

Settlement negotiations, § 14:3

NEWS MEDIA

Ethical consideration, news release, § 1:5

Exclusion of for trial, § 3:10

Jurors hearing news reports, § 42:4

Limiting right to access to evidence, § 3:10

Trial, exclusion from, § 3:10

Voir dire, exclusion from, § 17:12

NOLO CONTENDERE PLEA

Inadmissibility, § 26:3

NON-RESIDENCE

Subpoena, § 23:7

NONJURY TRIAL

Generally, § 13:1

Considerations, § 13:10

Cost of jury trials, § 13:9

Directed verdicts, § 39:6

Verdicts, § 43:9

Waiver of jury trial, §§ 13:7, 13:8

NOTE-TAKING BY JURY

Generally, § 42:9

Automobile accidents, § 6:9

NOTEBOOK FOR TRIAL

Generally, § 6:1 et seq.

Automobile accidents, § 6:9

During trial, use, § 6:3

Exhibit list, § 6:5

Exhibit slip, § 6:6

Files, organization of, § 6:7

Organization of files, § 6:7

Pretrial use, § 6:2

Use of notebook

before trial, § 6:2

during trial, § 6:3

Witness list, § 6:4

NOTICE

Authentication, § 30:2

Cross-examination, § 25:7

Defense of ignorance of law, § 8:13

Direct examination, § 24:4

Judicial notice, substitutes for proof, § 21:5

Other crimes evidence, §§ 26:3, 36:2, 36:4

Proof of intent or knowledge, § 20:11

Sexual behavior, notice of intention to offer evidence, §§ 26:3, 33:3

NULLIFICATION OF LAW

Generally, § 8:23

**NUMBER OF JURORS NECESSARY
FOR VERDICT**

Generally, § 43:5

NUNC PRO TUNC

Final judgments, § 44:2

NURSE

Expert witness, § 32:12

Hearsay exception, § 29:11

OATHS

Jurors, § 42:3

Witness, §§ 23:12, 26:3

Witnesses, § 23:12

OBJECTION

Generally, §§ 26:3, 38:1 et seq.

Argument, § 41:27

Avowals, § 38:9

Closing arguments, § 41:27

Continuing, § 38:11

Exceptions, formal, § 38:8

Final argument, § 41:27

Hearsay evidence, § 29:7

Improper evidence, necessity for objection, § 38:3

In limine motions, § 38:12

Instructions

civil proceedings, § 40:9

criminal trials, § 40:16

Invited error, § 38:13

Juror conduct, § 42:16

Mistrials, § 38:10

Motions in limine, § 38:12

Necessity of ruling, § 38:7

Need for, § 38:3

Opening statements, § 18:6

Preserving record, § 38:1

Right to, § 38:2

Ruling, necessity of, § 38:7

Sufficiency, § 38:6

Tactics, § 38:4

Time, § 38:5

OFFER OF PROOF

Generally, § 26:3

OFFER TO SETTLE

Evidence of negligence, § 34:6

OFFICIAL COMMENTARY

Kentucky rules of evidence, § 26:3

OFFICIAL RECORDS

Admissibility, § 26:3

Authentication

generally, § 30:2

self-authentication, § 30:4

OFFICIAL RECORDS—Cont'd

Hearsay exception, §§ 26:3, 29:11

Self-authentication, § 26:3

OFFICIALS

Court officials, attorney communications with, § 1:7

Law enforcement, physical force in, § 8:11

Probation officers, privileged communications, § 28:8

OPEN DOOR RULE

Cross examination, § 25:6

OPEN FIELD

Search, § 15:6

OPEN FILE DISCOVERY

Generally, § 9:16

OPENING STATEMENT

Generally, § 18:1 et seq.

Argument prohibited, § 18:5

Automobile collision case, § 18:1

Charts, § 18:8

Checklist, § 5:8

Civil cases generally, § 18:4

Clarity, § 4:6

Complicity, § 18:1

Criminal cases generally, § 18:3

Demonstrative evidence, §§ 18:1, 18:8

Direct examination, § 24:13

Directed verdict, § 18:9

Exhibits, § 18:8

Graphs, § 18:8

Importance, § 18:2

In limine motions, § 18:7

Language, § 18:1

Motion in limine, § 18:7

Objections, § 18:6

Opinion prohibited, § 18:5

Positive statements, § 18:1

Preparation

generally, §§ 4:4, 18:1

checklist, § 5:8

Principles, § 18:1

Privacy, § 4:4

Punitive damages, § 18:1

Purpose of opening statement, § 18:2

Recency, § 4:4

Repetition, §§ 4:8, 18:1

Right to open and close, § 19:2

Simplicity, § 18:1

Tactics, strong opening, § 4:4

Technique, § 18:1

Theme, § 18:1

INDEX

OPENING STATEMENT—Cont'd

- Truth, § 18:1
- Use of charts, graphs and exhibits, § 18:8

OPINION

- Automobile accident, § 32:16
- Counsel, opinion of, final arguments, § 41:19
- Court appointed expert, § 32:25
- Expert
 - basis, § 32:13
 - bias, § 32:24
- Expert Witnesses** (this index)
- Hypothetical questions, § 32:15
- Lay Opinion Evidence** (this index)
- Medical evidence, § 32:18
- Opening statement, opinion prohibited in, § 18:5
- Underlining data, § 26:3

ORDER OF ARGUMENTS

- Closing argument, § 41:3
- Final argument, § 41:3
- Right to open and close, § 19:2

ORDER OF PROOF

- Generally, § 19:1 et seq.
- Basic rule, § 19:1
- Burden of proof, § 19:1
- Plaintiff as first witness, § 6:9
- Rebuttal evidence, § 19:4
- Reopen, right to, § 19:6
- Right to open and close, § 19:2
- Right to re-open, § 19:6
- Surrebuttal evidence, § 19:5
- Witnesses, order of, generally, § 19:3

ORDERS

- Contempt, § 12:1
- Continuance, § 11:9
- Pretrial orders, § 3:16

ORGANIZATION OF CASE

- Generally, § 5:5

ORGANIZATION OF FILES

- Generally, § 6:7

ORIGINAL

- Best evidence, § 30:5
- Definition under KRE, § 26:3
- Requirement, § 26:3

OTHER CRIMINAL ACTS

- Generally, §§ 26:3, 36:1, 36:2
- Identity, § 36:2
- Inextricably intertwined, § 26:3
- Intent, § 36:2

OTHER CRIMINAL ACTS—Cont'd

- Interwoven criminal acts, § 36:2
- Notice, § 36:4
- Plan, § 36:2
- Sexual offenses, § 36:3

OUT-OF-CONTROL DEFENDANT

- Generally, § 7:17

OUT-OF-COURT STATEMENTS

- Hearsay, § 26:3

OUT-OF-STATE WITNESSES

- Subpoena, § 23:7
- Testimony, § 23:7

OUTCOME OF PREVIOUS LITIGATION

- Final argument, § 41:16

OVERDOSE

- Drugs, immunity, § 8:27

PAIN AND SUFFERING

- Lay witness opinion, § 32:3
- Per diem arguments
 - generally, § 41:24
 - automobile accidents, § 6:9

PALPABLE ERROR

- Generally, § 26:3

PAROL EVIDENCE RULE

- Generally, § 30:6

PAROLE

- Final arguments, § 41:15
- Sentencing, § 44:14
- Victim impact statement, § 44:15

PARTIES

- Adverse party as witness, §§ 24:15, 25:11
- Attorney communications with adverse party, § 1:6
- Conduct of parties, § 3:4
- Cross-examination, adverse party, § 25:11
- Family of party, exclusion from courtroom, § 3:12
- Joinder of defendants, § 7:21
- Judge, conduct toward parties, § 2:5
- Liability of, § 3:20
- Preparedness for trial, § 11:2
- Presence at trial, § 3:2
- Seating of, § 3:3
- Unpreparedness for trial, § 11:2
- Witness, adverse party as, § 24:15

PATIENT-DOCTOR PRIVILEGE

- Generally, § 28:4

PAYMENT

- Medical expenses
 - generally, § 34:9
 - admissibility, §§ 26:3, 34:8
- Negligence evidence, payment of medical and similar expenses, § 34:9

PEER REVIEW COMMITTEE

- Generally, § 28:13

PEERS

- Jury of peers, §§ 16:9, 16:10

PENDING LITIGATION

- Continuances, § 11:8

PER DIEM ARGUMENTS

- Generally, § 41:24
- Automobile accidents, § 6:9

PER SE NEGLIGENCE

- Generally, § 34:4

PEREMPTORY CHALLENGES

- Generally, §§ 16:11, 17:29
- Reasons for peremptory challenges, § 17:29
- Voir dire, § 17:29

PERIODIC PAYMENT SETTLEMENT TAX ACT

- Generally, § 14:9

PERJURY

- Generally, § 23:17
- Subornation of perjury, § 23:18

PERMISSIVE PRESUMPTION

- Generally, § 22:1

PERSONAL FACTORS IN ADVOCACY

- Generally, § 4:2

PERSONAL HISTORY

- Judgment as to personal, family, or general history, § 29:11
- Records, family, § 29:11
- Religious organization records and certificates, § 29:11
- Statements, § 29:12
- Vital statistics records, § 29:11

PERSONAL KNOWLEDGE

- Witness, §§ 24:4, 26:3

PERSUASION

- Burden of Proof** (this index)

PHARMACY RECORDS

- Search and seizure, administrative searches, § 15:20

PHOTOGRAPHS

- Generally, § 31:2
- Best evidence rule, § 30:5
- Confirmation of prior identification, § 35:5
- Definition under KRE, § 26:3
- Enlargements, § 31:2
- Identification of defendant, §§ 35:4, 35:6
- Mug shots, § 35:6
- Real and demonstrative evidence, § 31:2
- X-rays, § 31:3

PHYSICAL CONDITION

- Disability
 - judge, disability during trial, § 3:21
 - lay opinion evidence, § 32:2
 - opinion of lay witness, § 32:2
- Hearsay exception, § 29:11
- Lay opinion evidence, § 32:2

PHYSICAL CONTROL OF DEFENDANT

- Generally, § 7:17

PHYSICIAN-PATIENT PRIVILEGE

- Generally, § 28:4

PLAIN ERROR

- Generally, § 3:19

PLAIN VIEW

- Search, §§ 15:12, 15:16

PLAN

- Other crimes evidence, § 36:2

PLEA AGREEMENT

- Settlement, § 41:10

PLEA IN CRIMINAL CASE

- Generally, § 7:1

PLEA NEGOTIATIONS

- Evidence of negligence, § 34:7

PLEA OF GUILTY

- Admissibility, § 34:7

PLEA OF NOLO CONTENDERE

- Admissibility, § 34:7

PLEA UNDER ALFORD

- Admissibility, § 34:7

PLEADINGS

- Admissions in pleadings, § 21:2
- Bill of particulars, §§ 7:23, 9:12
- Closing argument, § 41:8
- Criminal cases, § 7:1
- Final arguments, § 41:8

INDEX

POINT OF IMPACT

Expert opinion, § 32:16

POLICE OFFICERS

Defense of physical force in law enforcement, § 8:11

POLLING JURY

Generally, § 43:6

POLYGRAPH

Comment upon, § 32:24

Expert opinion, § 32:24

POWER OF ADVOCATE

Generally, § 4:2

POWER TO EARN MONEY

Opinion, §§ 32:2, 32:22, 32:23

PREJUDICE

Admissibility of prejudicial evidence, § 26:3

Continuances, § 11:7

Final arguments, § 41:22

Impeachment of witnesses, § 27:2

Outweighing probative value, § 26:3

Voir dire

actual bias, § 17:20

challenges for cause, § 17:19

implied bias, § 17:21

right to impartial jury, § 17:7

PRELIMINARY HEARINGS

Rules of Evidence not applicable, § 26:3

PRELIMINARY QUESTIONS

Admissibility of evidence, § 26:3

PREMISES

Presumption of unreasonably safe premises, § 22:13

Search, § 15:10

PREPARATION FOR TRIAL

Generally, §§ 1:1, 4:1 et seq.

Checklists (this index)

Clarity, § 4:5

Continuances due to unpreparedness of party, § 11:2

Cross-Examination (this index)

Demonstration v. telling, § 4:6

Direct Examination (this index)

Ethical duty, § 1:1

Files, Organization (this index)

Final Arguments (this index)

Key words, § 4:7

Opening Statements (this index)

Personal factors, § 4:2

Repetition (this index)

PREPARATION FOR TRIAL—Cont'd

Simplicity, § 4:3

Theme, § 4:1

Unfair Claims Settlement Practices Act, § 1:1

Unpreparedness of party, continuances, § 11:2

Voir dire, preparation of, § 17:2

Witnesses

checklist, § 5:9

cross-examination, preparation for, § 25:2

direct examination, preparation for, § 24:2

PRESENCE

Accused

generally, § 7:14

family, § 7:25

minor, § 7:26

Attorneys

civil proceedings, § 3:2

continuances, § 11:3

criminal trials, § 7:13

Bench conferences, § 3:15

Civil cases, presence of parties, § 3:2

Continuances

counsel, absence of, § 11:3

documentary evidence, absence of, § 11:6

parties, absence of, § 11:4

Criminal trials

counsel, § 7:13

defendant

generally, § 7:14

control of defendant, § 7:18

right of defendant to witness statements, § 25:3

waiver of presence, § 7:15

Death, presumption after 7 years'

absence, § 22:3

Documentary evidence

continuances due to absence of document, § 11:6

hearsay exception, absence of entry or record, § 29:11

Exclusion from courtroom

family of party, exclusion of, § 3:12

in camera proceedings, § 3:11

persons near courtroom, controlling conduct of, § 3:13

press, exclusion of, § 3:10

public, exclusion of, § 3:9

voir dire, exclusion from, § 17:12

Hearsay evidence

absence of entry or records, § 29:11

PRESENCE—Cont'd

- Hearsay evidence—Cont'd
 - unavailability of declarant, § 29:12
- In camera proceedings, § 3:11
- Judge, § 3:21
- Jury
 - bench conferences, § 3:15
 - in camera proceedings, § 3:11
- Parties
 - civil proceedings, § 3:2
 - continuance, § 11:4
- Presumption of death after 7 years' absence, § 22:3
- Public record or entry, hearsay exception, § 26:3
- Records, hearsay exception, § 26:3
- Unavailability of declarant, hearsay exceptions, § 29:12
- Waiver, presence of accused, § 7:15
- Witness, continuance, § 11:5

PRESENT SENSE IMPRESSION

- Except to hearsay rule, § 26:3
- Hearsay exception, § 29:11

PRESENTATION OF EVIDENCE

- Clarity, § 4:5
- Final Arguments** (this index)
- Key Words** (this index)
- Number of witnesses, limiting, § 3:14
- Opening Statements** (this index)
- Order of Proof** (this index)
- Personal factors, § 4:2
- Repetition** (this index)
- Simplicity** (this index)
- Theme of Case** (this index)

PRESERVING RECORD

- Generally, §§ 26:3, 38:1
- Avowal, § 38:9
- Conduct of trial, generally, § 3:17
- Objections, § 38:1

PRESS

- Ethical consideration, news release, § 1:5
- Exclusion of for trial, § 3:10
- Jurors hearing news reports, § 42:4
- Limiting right to access to evidence, § 3:10
- Trial, exclusion from, § 3:10
- Voir dire, exclusion from, § 17:12

PRESUMPTIONS

- Generally, §§ 22:1 et seq., 26:3
- Absence of 7 years, presumption of death after, § 22:3
- Applicability of foreign law, § 26:3

PRESUMPTIONS—Cont'd

- Assuming a fact
 - cross examination, § 25:8
 - not in evidence, § 24:10
- Constitutional questions in criminal cases, § 22:1
- Criminal trials
 - generally, § 22:10 et seq.
 - innocence presumption
 - generally, §§ 7:2, 22:11
 - jury instructions, § 7:3
 - instructions to jury, § 40:12
 - intoxication while operating vehicle, § 22:12
- Death, presumption after 7 years' absence, § 22:3
- Employment, presumption of master-servant relationship, § 22:5
- Innocence
 - generally, §§ 7:2, 22:10
 - jury instructions, §§ 7:3, 22:10
- Instructions to jury
 - civil cases, § 40:5
 - criminal cases, § 40:12
- Intoxication while operating vehicle, presumption of, § 22:12
- Mailing, presumption of receipt, § 22:4
- Master-servant relationship, §§ 22:5, 22:6
- Medical expenses, presumption of reasonableness, § 22:8
- Medical expenses, reasonable, § 22:7
- Non-defective product, presumption of, § 22:14
- People, §§ 22:8, 22:9
- Premises, unreasonably safe, § 22:13
- Presumed facts, § 22:1
- Procedural effect, §§ 22:2, 26:3
- Properly mailed letter, § 22:3
- Res ipsa loquitur, §§ 22:6, 22:7
- Suicide, §§ 22:4, 22:5

PRETRIAL CHECKLIST

- Generally, § 5:1 et seq.
- Exhibits, § 5:10
- Final argument, § 5:12
- Motions during trial, § 5:11
- Witnesses, § 5:9

PRETRIAL DISCLOSURE

- Witness statements in criminal cases, § 25:3

PRETRIAL MOTIONS

- Criminal cases, § 7:1

INDEX

PRETRIAL ORDERS

Control of proceedings, § 3:16

PRETRIAL RESEARCH

Generally, § 5:3 et seq.

PREVENTION OF SUICIDE OR CRIME

Criminal defense, § 8:17

PREVIOUS LITIGATION OUTCOME

Argument, § 41:16

PRIOR ACCIDENTS

Evidence of negligence, § 34:1

PRIOR CONSISTENT STATEMENTS

Generally, § 26:3

Hearsay, §§ 29:3, 29:4

PRIOR CRIMINAL ACTS

Generally, § 36:1 et seq.

Hearsay evidence, § 29:11

Identification, § 36:2

Impeachment of witnesses, § 27:4

Motive, intent, or plan, evidence of,
§ 36:2

Notice, § 36:4

Other crimes, wrongs, or acts, § 36:2

Sexual offenses, § 36:3

PRIOR FALSE ACCUSATIONS

Cross-examination of witness regarding,
§ 25:15

PRIOR INCONSISTENT STATEMENTS

Generally, §§ 26:3, 27:3

Hearsay, § 29:3

Impeachment of witnesses, § 27:3

PRIOR LITIGATION

Final arguments, § 41:16

Hearsay exception, former testimony,
§ 29:12

Voir dire, § 17:25

PRIOR SEXUAL CONDUCT

Admissibility, § 26:3

PRIOR WRONGS

Cross-examination of witness regarding,
§ 25:14

PRISON CLOTHES

Defendant, § 7:19

PRISONER

Subpoena, § 23:8

PRISONERS

Testimony, § 23:8

PRIVACY

Generally, § 4:4

PRIVILEGE

Generally, §§ 26:3, 28:1 et seq.

Self-incrimination privilege

generally, §§ 7:6, 24:17

civil case, § 41:13

direct examination, § 24:17

witness, § 28:11

Taking stand, requirement of, § 24:17

Waiver of, §§ 26:3, 28:12

PRIVILEGED COMMUNICATIONS

Attorney-client privilege

generally, §§ 26:3, 28:2, 28:4

qualified privilege, § 28:5

Clergyman-communicant privilege,
§ 28:7

Clinical social worker, § 26:3

Counselor-client qualified privilege,
§ 28:5

Direct examination, § 24:17

Informant identity, § 28:10

Marital privilege, § 28:3

Peer review committee, § 28:13

Physician-patient privilege, § 28:4

Probation officers, § 28:8

Probationers, § 28:9

Psychotherapist-patient, §§ 26:3, 28:6

Religious personnel, §§ 26:3, 28:7

Social worker, § 28:6

PRO SE REPRESENTATION

Criminal trials, § 7:8

PROBABILITY

Medical expert witnesses, § 32:18

PROBABLE CAUSE

Automobile searches, § 15:18

PROBATION

Generally, § 44:8

Final arguments, § 41:15

Privileged communications

probation officers, § 28:8

probationer, § 28:9

Probation officer privilege, § 28:8

Revocation, § 44:9

Rules of Evidence, probation hearings,
§ 26:3

Sentencing, § 44:8

PROCESS AND SERVICE OF PROCESS AND PAPERS

Habeas corpus ad testificandum, § 23:8

Jurors, summoning, § 16:5

PROCESS AND SERVICE OF

PROCESS AND PAPERS—Cont'd

Right to interview witnesses, § 23:9

Subpoenas (this index)

PRODUCT LIABILITY

Learned intermediary doctrine, prescription drug manufacturer, § 40:1

Non-defective product, presumption of, § 22:14

Remedial measures, §§ 26:3, 34:5

PRODUCTION OF WITNESSES AND DOCUMENTS

Broadcasts, testimony on public, § 23:15

Closed circuit video or recording, testimony by, § 23:14

Compensation of witnesses. **Costs and Fees** (this index)

Duces Tecum Subpoenas (this index)

Habeas corpus ad testificandum, § 23:8

Hospital records, § 23:6

Interfering with a witness, § 23:10

Interpreters, § 23:13

Liability of witnesses. Witnesses (this index)

Oaths and affirmations, § 23:12

Out-of-state witnesses, § 23:7

Perjury (this index)

Public broadcasts, testimony on, § 23:15

Retaliation against a witness, § 23:10

Right to interview witnesses, § 23:9

Separation of witnesses, § 23:19

Subpoenas (this index)

Tampering with a witness, § 23:10

PROFESSIONAL RESPONSIBILITY

Prosecutor, § 9:5

PROOF

Character evidence, methods of proof, § 33:2

Judicial notice, substitute for proof, § 21:5

PROPERTY

Defense of protection of property, § 8:10

Expert opinion, § 32:20

Hearsay, §§ 26:3, 29:11

Value of according to lay witness, § 32:7

PROSECUTION

Generally, § 9:1 et seq.

Bill of particulars, §§ 7:23, 9:12

Comment about charges, § 1:5

Conduct and duties, § 1:3

County attorney, § 9:3

PROSECUTION—Cont'd

Defense of selective prosecution, § 8:24

Disclosure

evidence disclosure of, § 9:9

informant, disclosure of, § 9:10

Discovery

generally, § 9:14

open-file discovery, § 9:16

Disqualification of prosecutor, § 9:6

Double Jeopardy (this index)

Duties and conduct, § 1:3

Duty to disclose favorable evidence, § 9:4

Ethics

disclosure of evidence, § 9:9

special ethical responsibilities, § 9:4

trial ethics, generally, § 9:5

Evidence, failure to preserve, § 9:8

Failure to preserve evidence, § 9:8

Favorable evidence, prosecution disclosure of, § 9:9

Grand jury, § 9:11

Informant, disclosure of, § 9:10

Open-file discovery, § 9:16

Publicity, § 9:7

Selective prosecution, § 8:24

Special ethical responsibilities, § 9:4

Trial ethics, § 9:5

Trial publicity, § 9:7

Unified Prosecutorial System, § 9:1

Vindictiveness, § 8:21

Witnesses

lists, § 9:13

statements of witnesses, § 9:15

PROSECUTORIAL MISCONDUCT

Defense to criminal case, § 8:22

Misconduct, § 8:22

PROSECUTORS

DUI disclosures, § 9:18

Immunity to defense witnesses, § 9:17

PROTECTING RECORD

Generally, §§ 26:3, 38:1

Avowal, § 38:9

Conduct of trial, generally, § 3:17

Objections, § 38:1

PROTECTIVE SWEEP

Search and seizure, § 15:17

PSYCHOLOGIST-CLIENT PRIVILEGE

Generally, §§ 26:3, 28:4, 28:6

Privileges, § 28:6

INDEX

PUBLIC DEFENDER

Generally, § 7:8

PUBLIC DUTY

Defense of execution of public duty,
§ 8:15

PUBLIC OFFICIALS

Court officials, attorney communications
with, § 1:7

Law enforcement, physical force in,
§ 8:11

Probation officers, privileged com-
munications, § 28:8

PUBLIC RECORDS AND REPORTS

Admissibility, § 26:3

Authentication

generally, § 30:2

self-authentication, § 30:4

Hearsay exception, §§ 26:3, 29:11

Self-authentication, § 26:3

PUBLIC TRIAL

Exclusion at trial, § 3:9

PUBLICATIONS

Hearsay exception, § 29:11

Self-authentication, § 30:4

PUBLICITY

Ethical consideration, news release,
§ 1:5

Exclusion of for trial, § 3:10

Jurors hearing news reports, § 42:4

Limiting right to access to evidence,
§ 3:10

Trial, exclusion from, § 3:10

Voir dire, exclusion from, § 17:12

Witness testimony on public broadcasts,
§ 23:15

PUNISHMENT

Contempt, § 12:9

Contempt of court, § 12:9

Criminal trials, generally, § 44:6 et seq.
Probation (this index)

Rules of Evidence, applicability at
sentencing, § 26:3

Subpoenas, noncompliance, § 23:4

Truth-in-sentencing, § 44:7

Voir dire as to death penalty, § 17:28

QUALIFICATIONS

Expert witness, § 32:12

Jury Selection (this index)

Property value, testimony, § 32:20

QUALIFIED PRIVILEGE

Generally, § 28:5

QUEEN'S CASE RULE

Generally, § 26:3

QUESTIONS BY JUROR

Generally, § 24:20

RACE

Jury selection, race neutral reasons for
peremptory challenge, § 17:30

RAPE

Generally, §§ 26:3, 33:3

Character of victim, § 33:3

DNA evidence of defendant, § 35:13

Other crimes evidence, § 36:3

Prior crimes and convictions, § 36:3

Privileged communications, sexual
assault counselor, §§ 26:3, 28:5

Victim's character, § 33:3

READING

Accounts of trial, reading by jurors,
§ 42:4

Law, counsel reading in final argument,
§ 41:25

Testimony, jurors re-reading, § 42:11

REAL EVIDENCE

Demonstrative and Real Evidence
(this index)

REAL PROPERTY

Boundaries, hearsay exception, § 29:11

Search and Seizure (this index)

Value of property, lay witness opinion,
§ 32:7

REASONABLE DOUBT

Generally, §§ 7:4, 22:10

Jury instructions, § 40:11

REASONABLE MEDICAL PROBABILITY

Generally, § 32:18

REBUTTAL EVIDENCE

Generally, § 19:4

Order of proof, § 19:4

RECALLING WITNESSES

Generally, § 24:22

RECESSES

Depositions, recess for, § 6:9

RECOLLECTION

Generally. **Memory** (this index)

RECOLLECTION RECORDED

Hearsay exception, § 26:3

RECORD

Conduct of trial, generally, § 3:17
Contempt of court, § 12:8
Final arguments, matters outside record,
§ 41:17
Objections, § 38:1
Preserving record
generally, §§ 26:3, 38:1
avowal, § 38:9
conduct of trial, generally, § 3:17
objections, § 38:1

RECORDED RECOLLECTION

Exception to hearsay rule, § 26:3

RECORDS

Duces tecum subpoenas
generally, § 23:5
hospital records, § 23:6
Family, § 29:11
Hearsay exceptions, § 29:11
Hospital records, subpoenas, § 23:6
Pharmacy records, administrative
searches, § 15:20
Property records, hearsay exception,
§ 26:3
Regularly conducted activity, hearsay
exception, §§ 26:3, 29:11
Religious organizations, §§ 26:3, 29:11
Summary of voluminous records,
§ 31:14
Vital statistics, §§ 26:3, 29:11

RECROSS-EXAMINATION

Generally, § 25:17

RECUSAL

Judge, § 2:8
Prosecutor, § 9:6

REDIRECT EXAMINATION

Generally, § 24:21

REFRESHED RECOLLECTION

Generally, §§ 24:12, 26:3
Direct examination, § 24:12

REHABILITATION

Impeachment, § 27:7
Juror, § 16:13

REHABILITATION OF WITNESS

Generally, § 27:7

RELATED PENDING LITIGATION

Continuance, § 11:8

RELEASE FROM LIABILITY

Settlement and compromise, § 14:13

RELEASE OF INFORMATION

Attorneys, release by, § 1:5

RELEVANCY OF EVIDENCE

Generally, §§ 24:5, 26:3
Admissible, § 26:3
Direct examination, § 24:5
Exclusion, § 26:3

RELEVANT EVIDENCE

Direct examination, § 24:5

RELIANCE

Advice of counsel, defense of, § 8:14

RELIGION

Credibility, religious beliefs, § 26:3
Records and certificates of religious
organizations, § 29:11
Religious privilege, §§ 26:3, 28:7

REMARKS

Claim of privilege, § 26:3
Judge, §§ 2:4, 40:7

REMEDIAL MEASURES

Generally, §§ 26:3, 34:5
Product liability exclusion, §§ 26:3,
34:5

REOPENING

Right to reopen, § 19:6

REPAIRS

Evidence, repair bill, § 32:16
Product liability, § 34:5
Subsequent remedial measures, § 34:5

REPARATION

Civil cases, § 39:2

REPETITION

Generally, § 4:8
Direct examination, § 24:14
Opening statements, § 18:1

REPUTATION

Character, §§ 26:3, 33:2
Hearsay, §§ 26:3, 29:11
Impeachment, § 27:5

REPUTATION IN THE COMMUNITY

Generally, § 33:2

RES IPSA LOQUITUR

Generally, §§ 22:6, 22:7

RESEARCH

Tests and experiments, § 31:9

RESIDENCE

Curtilage, search of, § 15:5

INDEX

RESPONSIVE ANSWER

Cross examination, § 25:9

RESTRICTIONS ON TIME

Final argument, § 41:4

RETALIATION

Production of witnesses and documents,
§ 23:10

RETURN OF VERDICT

Generally, § 43:1

REVIEW COMMISSION

Rules of Evidence, § 26:3

REVOCAION

Probation, § 44:9

RIGHT OF DEFENDANT TO TESTIFY

Criminal trials, § 24:23

RIGHT TO COUNSEL

Conflicts of interest, criminal trials,
§ 7:9

Criminal trials, §§ 7:8, 7:12

RIGHT TO REMAIN SILENT

Criminal trials, § 7:6

Jury instructions, § 7:7

RISK OF NON-PERSUASION

Generally, § 20:5

ROADBLOCKS

Search and seizure, § 15:22

ROUTINE PRACTICE

Generally, § 34:2

Business custom, § 34:3

Character evidence, § 33:5

Records of regularly conducted activities, hearsay exception, § 29:11

RULES OF EVIDENCE

Generally, § 26:1 et seq.

Amendments, § 26:3

Applicability, § 26:3

Authentication, § 30:1 et seq.

Civil proceedings, § 26:3

Criminal proceedings, § 26:3

Effective date, § 26:3

Objections, § 26:3

Official commentary, § 26:3

Purpose and construction, § 26:3

Review commission, § 26:3

Scope, § 26:3

RULINGS

Objections, necessity of rulings, § 38:7

SAFETY

Admissibility, safety handbooks, § 34:4

Employer duty, § 34:4

Subsequent remedial measures, § 34:5

SAME OFFENSE

Double jeopardy, § 10:2

SAMPLE TRIAL MEMORANDUM

Generally, § 6:9

SCHOOL COUNSELOR PRIVILEGE

Generally, §§ 26:3, 28:5

SCIENTIFIC EVIDENCE

Expert witnesses, § 32:17

SCIENTIFIC TESTS

Discovery in criminal cases, § 9:14

SCOPE

Cross-examination, §§ 25:5, 26:3

Direct examination, § 24:13

Final argument, § 41:5

SEARCH AND SEIZURE

Generally, § 15:1 et seq.

Administrative searches, § 15:20

Arrests, lawful, § 15:14

Automobile searches, § 15:18

Computer files, extent of protection,
§ 15:3

Consent, § 15:21

Containers, § 15:19

Curtilage, search of, § 15:5

Descriptions of premises and property,
§§ 15:10, 15:11

Exceptions to exclusionary rule, § 15:2

Execution of warrant, § 15:12

Extent of exclusionary rule, § 15:3

Foreign nationals, § 15:1

Fruit of poisonous tree, § 15:4

Motions to suppress, § 15:7

Motor vehicle searches, § 15:18

Open fields doctrine, § 15:6

Pharmacy records, administrative
searches, § 15:20

Plain view, § 15:16

Protective sweep, § 15:17

Roadblock searches, § 15:22

Scope of exclusionary rule, § 15:3

Standing, § 15:8

Stop and frisk, § 15:15

Traffic stops, § 15:23

Warrantless searches

generally, § 15:13

Extent of protection, computer files,
§ 15:3

SEARCH AND SEIZURE—Cont'd

Warrantless searches and seizures,
§ 15:13

SEARCH WARRANTS

Generally, § 15:9 et seq.
Descriptions of premises and property,
§§ 15:10, 15:11
Execution of warrant, § 15:12
Premises, description of, § 15:10
Property, description of, § 15:11
Rules of Evidence not applicable, § 26:3
Warrantless searches and seizures,
§ 15:13

SEATING

Counsel, parties, and witnesses, seating
of, § 3:3

SEIZURE

Search and Seizure (this index)

SELECTIVE PROSECUTION

Defense, § 8:24

SELF-AUTHENTICATION

Generally, §§ 26:3, 30:4
Business records, §§ 26:3, 30:4
Commercial paper, § 30:4
Public document, § 30:4

SELF-DEFENSE

Generally, § 8:8

SELF-INCRIMINATION PRIVILEGE

Generally, §§ 7:6, 24:17
Civil case, § 41:13
Direct examination, § 24:17
Witness' privilege, § 28:11

SENTENCE

Contempt of court, § 12:9
Criminal trials, generally, § 44:6 et seq.
Probation (this index)
Rules of Evidence, applicability at
sentencing, § 26:3
Subpoenas, noncompliance, § 23:4
Truth-in-sentencing, § 44:7
Voir dire as to death penalty, § 17:28

SENTENCING

Consecutive sentences, § 44:10
Correct sentence, motion to, § 44:13
Death sentence, § 44:11
Evidence, § 44:12
Good time credit, evidence as to,
§ 44:10
Parole, § 44:14
Set aside, motion to, § 44:13
Vacate, motion to, § 44:13

SENTENCING—Cont'd

Victim impact evidence, § 44:12

SEPARATE TRIALS

Criminal trials, § 7:22

SEPARATION

Criminal trials, separate, § 7:22
Jury Trials (this index)
Witnesses, separation of, § 23:19

SERVICE OF PROCESS

Habeas corpus ad testificandum, § 23:8
Jurors, summoning, § 16:5
Right to interview witnesses, § 23:9
Subpoena
generally, § 23:1 et seq.
civil action, § 23:2
contempt, § 23:4
criminal proceedings, generally,
§ 23:3
Duces Tecum Subpoenas (this index)
failure to comply, § 23:4
hospital records, § 23:6
noncompliance, § 23:4
out-of-state witnesses, § 23:7
right to interview witnesses, § 23:9

SET ASIDE

Sentence, motion to set aside, § 44:13

SETTLEMENT

Generally, § 14:1 et seq.
Admissibility of statements, § 26:3
Aggravating circumstances, § 14:5
Attorneys
generally, § 14:5
contingent fees, § 14:12
handling client, § 14:4
multiple clients, representation of,
§ 14:11
Brochures
sample brochure, § 14:7
video brochures, § 14:8
Civil cases, § 34:6
Client relations, § 14:4
Closing argument, § 41:9
Contingent fees, § 14:12
Criminal case, § 14:14
Criminal trials, generally, § 14:14
Evaluation, § 14:2
Evidence of negligence, § 34:6
Fees of attorney, contingent, § 14:12
Final arguments, § 41:9
Legal requirements, § 14:1
Multiple clients, attorney representation
of, § 14:11

INDEX

SETTLEMENT—Cont'd

- Negligence, evidence of, § 34:6
- Negotiations, § 14:3
- Offers to compromise, evidence of negligence, § 34:6
- Plea agreement, § 41:10
- Releases, §§ 14:6, 14:13
- Representation of multiple clients, § 14:11
- Sample brochure, § 14:7
- Structured settlements, § 14:9
- Subrogation, § 14:1
- Summary jury trial, § 14:10
- Video brochures, § 14:8
- Video presentation, § 28:5

SEX OFFENSES

- Character of victim, § 33:3
- DNA evidence of defendant, § 35:13
- Other crimes evidence, § 36:3
- Prior crimes and convictions, § 36:3
- Privileged communications, sexual assault counselor, §§ 26:3, 28:5

SEXUAL CONDUCT

- Admissibility, §§ 26:3, 33:3

SHACKLES

- Criminal defendant in shackles, § 7:19

SHAREHOLDERS

- Attorneys fees, document inspection, § 44:4
- Civil cases, § 39:2

SHIFTING BURDEN

- Burden of going forward, §§ 20:4, 20:10

SHOW-UP

- Identification, § 35:8
- Suggestive, § 35:8
- Witnesses, § 35:8

SIDE BAR CONFERENCES

- Generally, § 3:15

SIGNATURE

- Pleadings, § 1:15

SILENCE, RIGHT OF

- Generally, § 7:6
- Instructions to jury, § 7:7

SIMPLICITY

- Final arguments, § 41:1
- Presentation of evidence, § 4:3

SLANDER

- Libel and Slander** (this index)

SMALL CLAIMS

- Rules of Evidence not applicable, § 26:3

SOCIAL CLASS

- Final argument, § 41:18

SOCIAL MEDIA

- Demonstrative and real evidence, § 31:17
- Juror's social network friends, misconduct regarding, § 42:14

SOCIAL RELATIONSHIPS

- Final arguments, § 41:18
- Voir dire, § 17:24

SOCIAL WORKER

- Expert witness, § 32:12
- Privilege, §§ 26:3, 28:6

SPECIAL IMMUNITY

- Generally, § 2:7

SPECIAL VERDICTS

- Civil cases, § 40:2

SPECTATORS

- Coaching of witness by spectators, § 3:6
- Conduct of spectators, § 3:5
- Exclusion From Courtroom** (this index)
- Family of party, exclusion of, § 3:12
- Persons near courtroom, controlling conduct of, § 3:13
- Press, exclusion of, § 3:10
- Public, exclusion of, § 3:9
- Voir dire, exclusion from, § 17:12

SPEED OF VEHICLE

- Lay opinion evidence, § 32:8

SPEEDY TRIAL

- Generally, § 7:27
- Child victims, § 7:29
- Particular delays, effect of, § 7:28

SPOUSAL PRIVILEGE

- Generally, §§ 26:3, 28:3

STANDARD OF PROOF

- Reasonable doubt, § 7:4

STANDING

- Search and seizure question, § 15:8

STATEMENT AGAINST INTEREST

- Hearsay exception, § 26:3

STATUTE OF LIMITATIONS

- Malpractice, § 1:13

STIPULATIONS

- Generally, § 21:4

STOP AND FRISK

Search and seizure, § 15:15

STRUCTURED SETTLEMENTS

Generally, § 14:9

Taxation, § 14:9

SUBORNATION OF PERJURY

Generally, § 23:18

SUBPOENAS

Generally, § 23:1 et seq.

Civil action, § 23:2

Contempt, § 23:4

Criminal proceedings, generally, § 23:3

Duces Tecum Subpoenas (this index)

Failure to comply, § 23:4

Hospital records, § 23:6

Noncompliance, § 23:4

Out-of-state witnesses, § 23:7

Right to interview witnesses, § 23:9

SUBROGATION

Civil cases, § 40:1

Settlement, § 14:1

SUBSCRIBING WITNESS

Testimony, § 26:3

SUBSEQUENT REMEDIAL MEASURES

Generally, §§ 26:3, 34:5

Evidence, § 34:5

SUBSTITUTES FOR PROOF

Generally, § 21:1 et seq.

Admissions (this index)

Judicial notice, § 21:5

Life expectancy and mortality tables, § 21:6

Pleadings, admissions in, § 21:2

Stipulations, § 21:4

SUFFERING

Pain and Suffering (this index)

SUFFICIENCY

Civil cases, sufficiency of evidence, § 39:2

Criminal cases, sufficiency of evidence, § 39:7

Directed verdict motion, § 39:3

Judge's comment, sufficiency of evidence, § 40:7

Objection, § 38:6

SUGGESTIVE

Identification, § 35:3

Lineup, § 35:7

Show-up, § 35:8

SUICIDE

Defense of suicide prevention, § 8:17

Presumption against suicide, §§ 22:4, 22:5

SUMMARIES OF DOCUMENTS

Admissibility, § 26:3

Voluminous records, § 31:14

SUMMARY CONTEMPT

Generally, §§ 12:3, 12:4

Rules of Evidence, § 26:3

SUMMARY JURY TRIAL

Generally, § 14:10

SUMMONS

Service of Process (this index)

SUPPRESSION OF EVIDENCE

Generally, § 15:1

Exceptions, § 15:2

Extent of protection, § 15:3

Fruit of the Poisonous Tree, § 15:4

Motion to suppress, § 15:7

SURPRISE

Continuance, § 11:7

SURREBUTTAL EVIDENCE

Order of proof, § 19:5

SWEETHEART

CROSS-EXAMINATION

Generally, § 25:10

SYMPATHY

Final arguments, § 41:21

SYSTEM OR PROCESS

Authentication, § 29:11

TACTICS

Objection, § 38:4

TAMPERING

Production of witnesses and documents, § 23:10

TAPE RECORDING

Authentication, § 30:2

TAXATION OF COST

Generally, § 44:4

TAXPAYER ACTIONS

Civil cases, § 39:2

TELEPHONE CONVERSATIONS

Generally, § 26:3

Authentication, § 30:2

Identification, § 30:2

INDEX

TERRY STOP

Generally, § 15:15

TESTAMENTARY CAPACITY

Lay opinion evidence, § 32:5

Lay witness opinion, § 32:5

TESTS AND EXPERIMENTS

Alcohol breath test, § 31:10

Evidence, § 31:9

Real and demonstrative evidence, § 31:9

TEXTBOOKS

Cross examination, § 25:16

THEME

Auto accident case, § 4:1

Death collection case, § 4:1

Final argument, § 41:1

Homeowner suit against contractor,
§ 4:1

Opening statements, § 18:1

Preparation, § 4:1

TIME

Continuances (this index)

Final arguments, § 41:4

Nunc pro tunc, § 44:2

Objections, time of, § 38:5

Presumption of death after 7 years'
absence, § 22:3

Pretrial Matters (this index)

TOPE OF VOICE

Advocacy, § 4:2

TRACKING DOGS

Identification, § 35:12

TRACKS

Identification, § 35:11

TRADE JOURNALS

Self-authentication, § 26:3

TRAFFIC STOPS

Search and seizure, § 15:23

TRIAL BY COURT

Generally, § 13:1

Considerations, § 13:10

Cost of jury trials, § 13:9

Directed verdicts, § 39:6

Verdicts, § 43:9

Waiver of jury trial, §§ 13:7, 13:8

TRIAL IN ABSENTIA

Generally, § 7:18

TRIAL NOTEBOOK

Generally, § 6:1 et seq.

TRIAL NOTEBOOK—Cont'd

Automobile accidents, § 6:9

During trial, use, § 6:3

Exhibit list, § 6:5

Exhibit slip, § 6:6

Files, organization of, § 6:7

Organization of files, § 6:7

Pretrial use, § 6:2

Use of notebook

before trial, § 6:2

during trial, § 6:3

Witness list, § 6:4

TRIAL PREPARATION

Checklist, § 5:1 et seq.

Clarity, § 4:6

Simplicity, § 4:3

Theme, § 4:1

TRIAL RECORD

Conduct of trial, generally, § 3:17

Contempt of court, § 12:8

Final arguments, matters outside record,
§ 41:17

Objections, § 38:1

Preserving record

generally, §§ 26:3, 38:1

avowal, § 38:9

conduct of trial, generally, § 3:17

objections, § 38:1

TRUTH

Opening statements, § 18:1

Voir dire, § 17:18

TRUTH-IN-SENTENCING

Generally, § 44:7

ULTRASOUND RECORDINGS

Evidence, § 31:6

UNAVAILABILITY OF DECLARANT

Hearsay exceptions, §§ 26:3, 29:12

UNDERLYING DATA

Expert opinion, § 32:13

UNDUE PROMINENCE

Jury instructions, § 40:4

UNFAIR CLAIMS SETTLEMENT

PRACTICES ACT

Preparation for trial, § 1:1

UNIFIED PROSECUTORIAL SYSTEM

Generally, § 9:1

VACATE OR SET ASIDE

Sentence, motions regarding, § 44:13

VALUATION

- Expert witnesses, § 32:20
- Lay opinion evidence, § 32:7
- Lay witness opinion, § 32:7
- Settlements, § 14:2

VERDICTS

- Generally, § 43:1 et seq.
- Communications after verdict, § 43:7
- Contrary to instructions, § 43:3
- Damages** (this index)
- Deadlocked jury, § 40:17
- Defective verdicts
 - generally, § 43:2
 - impeachment of verdict, § 43:8
- Directed Verdicts** (this index)
- Errors. Defective verdicts, above
- Form of verdict, § 43:1
- Form verdict, § 40:8
- Impeachment of verdict, § 43:8
- Inconsistency, § 43:4
- Instructions to jury, verdict contrary to, § 43:3
- Nonjury trials, § 43:9
- Number of jurors for verdict, § 43:5
- Polling jury, § 43:6
- Special verdicts, § 40:2

VICTIM IMPACT EVIDENCE

- Parole, § 44:15
- Sentencing, § 44:12

VICTIM'S CHARACTER

- Generally, § 33:1
- Evidence, § 33:3
- Sex offenses, §§ 26:3, 33:1, 33:3

VIDEOTAPES AND MOTION

PICTURES

- Admissibility, § 26:3
- Evidence, § 31:4
- Real and demonstrative evidence, § 31:4
- Settlement, § 14:8

VIEW BY JURY

- Crime scene, § 31:12
- Injury, § 31:13
- Person, view of, § 31:13
- Scene, view of, § 31:12

VINDICTIVENESS

- Defense to criminal case, § 8:21

VITAL STATISTICS RECORDS

- Hearsay exception, § 29:11

VOCATIONAL EVIDENCE

- Expert witnesses, physical abilities and work history, § 32:23

VOICE

- Generally, §§ 26:3, 30:2, 35:9
- Audio recordings, § 31:5
- Defendants, identification of, § 35:9
- Telephone conversations, § 30:2

VOIR DIRE

- Generally, § 17:1 et seq.
- Actual bias, challenge for cause, § 17:20
- Alternate jurors, § 17:31
- Business relationships, § 17:23
- Challenges to Jury** (this index)
- Checklists
 - Jury Selection** (this index)
- Closing voir dire to public and press, § 17:12
- Competent counsel, right to, § 17:11
- Counsel, examination by, § 17:9
- Court, examination by, § 17:9
- Criminal Trials** (this index)
- Damages, § 17:15
- Death penalty, § 17:28
- Family relationships, § 17:22
- Hypothetical questions, § 17:17
- Impaneling jury, § 17:8
- Impartial jury, right to, § 17:7
- Implied bias, § 17:21
- Individual voir dire, § 17:10
- Insurance, § 17:14
- Judge, examination by, § 17:9
- Law, principles of, § 17:16
- Litigation, prior similar, § 17:25
- Peremptory Challenges** (this index)
- Prejudice or bias
 - actual bias, § 17:20
 - challenges for cause, § 17:19
 - implied bias, § 17:21
 - right to impartial jury, § 17:7
- Preparation of voir dire, § 17:2
- Press, exclusion of, § 17:12
- Principles of voir dire, § 17:1
- Prior events and conditions
 - connection with case, § 17:25
 - similar litigation, prior, § 17:25
- Public, exclusion of, § 17:12
- Relationships
 - business relationships, § 17:23
 - family relationships, § 17:22
 - social relationships, § 17:24
- Scope of voir dire, § 17:13
- Sentencing questions, § 17:27
- Separate and individual voir dire, § 17:10
- Similar litigation or crime, prior, § 17:26

INDEX

VOIR DIRE—Cont’d

- Social relationships, § 17:24
- Technique, § 17:1
- Truthfulness, duty of jurors, § 17:18

VOLUMINOUS RECORDS

- Summary, §§ 26:3, 31:14

VOLUNTARINESS

- Confessions, § 37:3
- Disclosure of informant, § 9:10
- Intoxication, § 8:3

WAIVERS

- Counsel, waiver of right to, § 7:12
- Defendant’s right to testify, § 24:23
- Jury trial, waiver of, §§ 13:7, 13:8
- Presence of defendant, waiver of, § 7:15
- Privileges, §§ 26:3, 28:12
- Right to counsel in criminal cases, § 7:12

WARRANTLESS SEARCHES

- Generally, § 15:13
- Extent of protection, computer files, § 15:3
- Marijuana growing, § 15:13

WARRANTS

- Search and seizure, generally, § 15:9

WEAPONS

- Admissibility, bullet lead analysis, § 32:12
- Negligence, safety rules, § 34:4

WIFE-HUSBAND PRIVILEGE

- Generally, §§ 26:3, 28:3

WILLS

- Testamentary capacity, § 32:5

WITHERSPOON RULE

- Generally, § 17:28

WITNESS LISTS

- Generally, § 6:4
- Prosecution, § 9:13
- Trial notebook, § 6:4

WITNESSES

- Absence of witnesses, continuances, § 11:5
- Accuracy of witness, testing on cross-examination, § 25:7
- Adverse party as witness, §§ 24:15, 25:11
- Attorneys as witnesses, § 1:11
- Attorney’s misrepresentation of testimony during final argument, § 41:28

WITNESSES—Cont’d

- Character, §§ 26:3, 33:1
- Checklist, § 5:9
- Closed circuit television, child’s testimony, § 7:18
- Closed circuit video or recording, testimony by, § 23:14
- Coaching of witness by spectators, § 3:6
- Compensation, § 23:11
- Competency of judge, § 26:3
- Competency of juror, § 26:3
- Competency of witnesses
 - generally, §§ 24:3, 26:3
 - taking stand, requirement of, § 24:17
- Conduct of judge, § 2:5
- Contempt, § 12:7
- Continuances, absence of witnesses, § 11:5
- Credibility. Impeachment of Witnesses** (this index)
- Cross-Examination** (this index)
- Direct Examination** (this index)
- Economic evidence, § 32:22
- Examination by court, § 26:3
- Exclusion, § 3:7
- Exclusion from hearing testimony, § 26:3
- Expenses, § 23:11
- Expert Witnesses** (this index)
- Immunity, § 9:17
- Impeachment of Witnesses** (this index)
- Interest in subject matter, § 27:2
- Interfering with a witness, § 23:10
- Interpreters, §§ 23:13, 26:3
- Interrogation of Witnesses** (this index)
- Interview, § 23:9
- Judges** (this index)
- Jurors, §§ 26:3, 42:2
- Jury as questioning witnesses, § 42:17
- Lay Opinion Evidence** (this index)
- Liability
 - generally, §§ 3:20, 23:16
 - libel and slander, § 3:20
- Libel and slander; liability for, § 3:20
- Limiting the number, § 3:12
- Lists. **Witness Lists** (this index)
- Memory** (this index)
- Oath, § 23:12
- Out-of-state witnesses, subpoenas, § 23:7
- Perjury** (this index)
- Personal Knowledge** (this index)
- Personal mileage, § 26:3
- Prejudice or bias, § 27:2

WITNESSES—Cont'd

- Preparation for cross examination, § 25:2
- Presence or absence of witnesses continuances, § 11:5
- Process and Service of Process and Papers** (this index)
- Subpoenas** (this index)
 - unavailability of declarant, hearsay exceptions, § 29:12
- Pretrial preparation checklist, § 5:9
- Prior accusations, § 25:15
- Prior convictions, § 27:4
- Prior Inconsistent Statements** (this index)
- Prior wrongs, § 25:14
- Privilege, § 23:16
- Production of Witnesses and Documents** (this index)
- Public broadcasts, testimony on, § 23:15
- Recalling, § 24:22
- Recross-examination, § 25:17
- Redirect examination, § 24:21
- Rehabilitation of witness, § 27:7
- Repetition** (this index)
- Reputation, § 27:5

WITNESSES—Cont'd

- Requirements
 - cross-examination, requirement that answer be responsive, § 25:9
 - direct examination, requirement to answer, § 24:16
 - taking stand, requirement of, § 24:17
- Retaliation, § 23:10
- Right to interview witnesses, § 23:9
- Seating of, § 3:3
- Separation, § 23:19
- Showup procedure, § 35:8
- Source of information, § 25:7
- Spectators, coaching of witness by, § 3:6
- Subornation of perjury, § 23:18
- Subpoenas** (this index)
 - Taking stand, requirement of, § 24:17
- Tampering with a witness, § 23:10
- Trial notebook, § 6:4
- Underlining data, § 26:3
- Witness Lists** (this index)

WRITINGS

- Definition under KRE, § 26:3
- Refreshing memory, § 26:3

X-RAYS

- Evidence, § 31:3