

Table of Contents

CHAPTER 1 TEXAS RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 101	Title, Scope, and Applicability of the Rules; Definitions...	4
Rule 102	Purpose	5
Rule 103	Rulings on Evidence.....	5
Rule 104	Preliminary Questions	6
Rule 105	Evidence That Is Not Admissible Against Other Parties or for Other Purposes	7
Rule 106	Remainder of or Related Writings or Recorded Statements	7
Rule 107	Rule of Optional Completeness	8

ARTICLE II. JUDICIAL NOTICE

Rule 201	Judicial Notice of Adjudicative Facts.....	8
Rule 202	Judicial Notice of Other States' Law	8
Rule 203	Determining Foreign Law	9
Rule 204	Judicial Notice of Texas Municipal and County Ordinances, Texas Register Contents, and Published Agency Rules.....	10

ARTICLE III. PRESUMPTIONS

ARTICLE IV. RELEVANCE AND ITS LIMITS

Rule 401	Test for Relevant Evidence	11
Rule 402	General Admissibility of Relevant Evidence.....	11
Rule 403	Excluding Relevant Evidence for Prejudice, Confusion, or Other Reasons	11
Rule 404	Character Evidence; Crimes or Other Acts	11
Rule 405	Methods of Proving Character	12
Rule 406	Habit; Routine Practice	13
Rule 407	Subsequent Remedial Measures; Notification of Defect...	13
Rule 408	Compromise Offers and Negotiations	14
Rule 409	Offers to Pay Medical and Similar Expenses.....	14
Rule 410	Pleas, Plea Discussions, and Related Statements.....	14
Rule 411	Liability Insurance	15
Rule 412	Evidence of Previous Sexual Conduct in Criminal Cases .	15

ARTICLE V. PRIVILEGES

Rule 501	Privileges in General.....	16
Rule 502	Required Reports Privileged by Statute.....	17
Rule 503	Lawyer-Client Privilege.....	17
Rule 504	Spousal Privileges	19

Rule 505	Privilege for Communications to a Clergy Member.....	21
Rule 506	Political Vote Privilege.....	22
Rule 507	Trade Secrets Privilege.....	22
Rule 508	Informer's Identity Privilege.....	22
Rule 509	Physician-Patient Privilege.....	24
Rule 510	Mental Health Information Privilege in Civil Cases.....	28
Rule 511	Waiver by Voluntary Disclosure.....	30
Rule 512	Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege.....	31
Rule 513	Comment On or Inference From a Privilege Claim; Instruction.....	31

ARTICLE VI. WITNESSES

Rule 601	Competency to Testify in General; "Dead Man's Rule"....	32
Rule 602	Need for Personal Knowledge.....	33
Rule 603	Oath or Affirmation to Testify Truthfully.....	33
Rule 604	Interpreter.....	33
Rule 605	Judge's Competency as a Witness.....	34
Rule 606	Juror's Competency as a Witness.....	34
Rule 607	Who May Impeach a Witness.....	34
Rule 608	A Witness's Character for Truthfulness or Untruthfulness.....	34
Rule 609	Impeachment by Evidence of a Criminal Conviction.....	35
Rule 610	Religious Beliefs or Opinions.....	36
Rule 611	Mode and Order of Examining Witnesses and Presenting Evidence.....	36
Rule 612	Writing Used to Refresh a Witness's Memory.....	36
Rule 613	Witness's Prior Statement and Bias or Interest.....	37
Rule 614	Excluding Witnesses.....	38
Rule 615	Producing a Witness's Statement in Criminal Cases.....	39

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701	Opinion Testimony by Lay Witnesses.....	40
Rule 702	Testimony by Expert Witnesses.....	41
Rule 703	Bases of an Expert's Opinion Testimony.....	41
Rule 704	Opinion on an Ultimate Issue.....	41
Rule 705	Disclosing the Underlying Facts or Data and Examining an Expert About Them.....	41
Rule 706	Audit in Civil Cases.....	42

ARTICLE VIII. HEARSAY

Rule 801	Definitions That Apply to This Article; Exclusions from Hearsay.....	42
Rule 802	The Rule Against Hearsay.....	44
Rule 803	Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness.....	44
Rule 804	Exceptions to the Rule Against Hearsay—When the Declarant Is Unavailable as a Witness.....	49

TABLE OF CONTENTS

Rule 805	Hearsay Within Hearsay	51
Rule 806	Attacking and Supporting the Declarant's Credibility	51

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901	Authenticating or Identifying Evidence	51
Rule 902	Evidence That Is Self-Authenticating	52
Rule 903	Subscribing Witness's Testimony	56

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001	Definitions That Apply to This Article	56
Rule 1002	Requirement of the Original	56
Rule 1003	Admissibility of Duplicates	56
Rule 1004	Admissibility of Other Evidence of Contents	57
Rule 1005	Copies of Public Records to Prove Content	57
Rule 1006	Summaries to Prove Content	57
Rule 1007	Testimony or Statement of a Party to Prove Content	57
Rule 1008	Functions of the Court and Jury	57
Rule 1009	Translating a Foreign Language Document	58

CHAPTER 2 SELECTED CONSTITUTIONAL PROVISIONS

CONSTITUTION OF THE UNITED STATES

Amendment IV	Searches and Seizures	60
Amendment V	Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Just Compensation for Property	60
Amendment VI	Jury Trials for Crimes, and Procedural Rights	61

CONSTITUTION OF THE STATE OF TEXAS 1876

ARTICLE I BILL OF RIGHTS

§ 5	Witnesses Not Disqualified by Religious Beliefs; Oaths and Affirmations	61
§ 9	Searches and Seizures	61
§ 10	Rights of Accused in Criminal Prosecutions	61
§ 30	Rights of Crime Victims	62

CHAPTER 3 SELECTED STATUTES

ALCOHOLIC BEVERAGE CODE

TITLE 4 REGULATORY AND PENAL PROVISIONS

§ 104.01	Lewd, Immoral, Indecent Conduct	82
----------	---------------------------------------	----

BUSINESS AND COMMERCE CODE

TITLE 1 UNIFORM COMMERCIAL CODE

§ 1.303	Course of Performance, Course of Dealing, and Usage of Trade.....	83
§ 1.307	Prima Facie Evidence by Third-Party Documents	84
§ 2.723	Proof of Market Price: Time and Place	84
§ 2.724	Admissibility of Market Quotations.....	85
§ 2A.507	Proof of Market Rent	85
§ 3.308	Proof of Signatures and Status as Holder in Due Course ..	86
§ 3.505	Evidence of Dishonor	86

TITLE 2 COMPETITION AND TRADE PRACTICES

§ 15.10	Civil Investigative Demands.....	87
§ 17.5052	Offers of Settlement	89

TITLE 10 USE OF TELECOMMUNICATIONS

§ 322.013	Admissibility in Evidence	89
-----------	---------------------------------	----

CIVIL PRACTICE AND REMEDIES CODE

TITLE 2 TRIAL, JUDGMENT, AND APPEAL

§ 5.001	Rule of Decision.....	90
§ 11.051	Motion for Order Determining Plaintiff a Vexatious Litigant and Requesting Security	90
§ 11.053	Hearing	90
§ 16.065	Acknowledgment of Claim.....	90
§ 18.001	Affidavit Concerning Cost and Necessity of Services.....	90
§ 18.002	Form of Affidavit.....	91
§ 18.061	Communications of Sympathy	95
§ 21.002	Interpreters for Deaf Persons	95
§ 21.003	Qualifications	96
§ 21.005	Oath.....	96
§ 22.021	Definitions.....	96
§ 22.022	Purpose	98
§ 22.023	Privilege	98
§ 22.024	Limited Disclosure Generally	99
§ 22.025	Notice	99
§ 22.026	Publication of Privileged Information	100
§ 22.027	News Media Recordings	100
§ 27.003	Motion to Dismiss	100
§ 27.0075	Effect of Ruling.....	100
§ 30.006	Certain Law Enforcement Agency Records Not Subject to Discovery.....	100
§ 33.013	Amount of Liability.....	101
§ 38.004	Judicial Notice	102

TABLE OF CONTENTS

TITLE 4 LIABILITY IN TORT

§ 71.005	Evidence Relating to Marital Status.....	103
§ 72.053	Failure to Comply With Regulations or Standards	103
§ 72.054	Liability for Employee Negligence in Operating Commercial Motor Vehicle.....	103
§ 72.055	Admissibility of Visual Depictions of Collision	106
§ 73.061	Admissibility of Evidence of Correction, Clarification, or Retraction	107
§ 74.106	Effect of Disclosure	107
§ 74.351	Expert Report	108
§ 74.401	Qualifications of Expert Witness in Suit Against Physician	111
§ 74.402	Qualifications of Expert Witness in Suit Against Health Care Provider	113
§ 74.403	Qualifications of Expert Witness on Causation in Health Care Liability Claim	115
§ 81.008	Admission of Evidence	116
§ 95A.0001	Evidence of Failure to Forbid Handguns	116

TITLE 5 GOVERNMENTAL LIABILITY

§ 101.104	Evidence of Insurance Coverage.....	117
-----------	-------------------------------------	-----

TITLE 6 MISCELLANEOUS PROVISIONS

§ 125.004	Evidence.....	117
§ 125.044	Findings	119
§ 132.001	Unsworn Declaration	120
§ 134A.001	Short Title.....	121
§ 134A.002	Definitions.....	121
§ 134A.006	Preservation of Secrecy	122
§ 144.007	Limitation on Certain Lawsuits	122
§ 148.003	Liability for Causing Exposure to Pandemic Disease	123
§ 150A.001	Definitions.....	125
§ 150A.002	Sermons Privileged From Disclosure to Governmental Unit	125

TITLE 7 ALTERNATE METHODS OF DISPUTE RESOLUTION

§ 154.053	Standards and Duties of Impartial Third Parties	125
§ 154.073	Confidentiality of Certain Records and Communications.....	126
§ 172.206	Confidentiality.....	127

ELECTION CODE

TITLE 1 INTRODUCTORY PROVISIONS

§ 1.019	Required Evidence or Testimony	127
---------	--------------------------------------	-----

TITLE 14 ELECTION CONTESTS

§ 221.009	Compelling Voter to Reveal Vote	128
-----------	---------------------------------------	-----

ESTATES CODE

TITLE 2 ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

§ 54.051	Applicability of Certain Rules Relating to Witnesses and Evidence.....	128
§ 202.151	Evidence in Proceeding to Declare Heirship	128
§ 203.001	Recorded Statement of Facts as Prima Facie Evidence of Heirship	128
§ 204.051	Order for Genetic Testing	129
§ 204.101	Results of Genetic Testing; Admissibility.....	129
§ 204.102	Presumption Regarding Results of Genetic Testing; Rebuttal	130
§ 204.152	Presumption; Rebuttal.....	130

TITLE 3 GUARDIANSHIP AND RELATED PROCEDURES

§ 1101.003	Affidavit Containing Contact Information of Certain Persons.....	130
------------	--	-----

FAMILY CODE

TITLE 1 THE MARRIAGE RELATIONSHIP

§ 6.704	Testimony of Husband or Wife	130
§ 6.705	Testimony by Marriage Counselor	131

TITLE 1-A COLLABORATIVE FAMILY LAW

§ 15.114	Privilege Against Disclosure of Collaborative Family Law Communication	131
§ 15.115	Limits of Privilege	132

TITLE 2 THE CHILD IN RELATION TO THE FAMILY

§ 33.002	Parental Notice	133
§ 33.003	Judicial Approval	136

TITLE 3 JUVENILE JUSTICE CODE

§ 51.095	Admissibility of a Statement of a Child.....	137
§ 51.13	Effect of Adjudication or Disposition.....	140
§ 54.01	Detention Hearing	140
§ 54.012	Remote Conduct of Detention Hearing.....	141
§ 54.02	Waiver of Jurisdiction and Discretionary Transfer to Criminal Court.....	142
§ 54.03	Adjudication Hearing.....	142
§ 54.031	Hearsay Statement of Certain Abuse Victims.....	144

TABLE OF CONTENTS

§ 54.04	Disposition Hearing.....	145
§ 54.05	Hearing to Modify Disposition.....	146
§ 54.11	Release or Transfer Hearing.....	146
§ 55.45	Standards of Care; Notice of Release or Furlough	147
§ 61.055	Conduct of Enforcement Hearing.....	147
§ 61.102	Right to be Informed of Proceeding.....	147
 TITLE 3a TRUANCY COURT PROCEEDINGS		
§ 65.101	Adjudication Hearing; Judgment	148
§ 65.259	Conduct of Enforcement Hearing.....	149
 TITLE 4 PROTECTIVE ORDERS AND FAMILY VIOLENCE		
§ 84.006	Hearsay Statement of Child Victim of Family Violence...	149
§ 93.001	Definitions.....	149
§ 93.002	Confidential Communications	149
§ 93.003	Privileged Communications	149
§ 93.004	Exceptions.....	150
 TITLE 5 THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP		
§ 104.001	Rules of Evidence	150
§ 104.002	Prerecorded Statement of Child	151
§ 104.003	Prerecorded Videotaped Testimony of Child.....	151
§ 104.004	Remote Televised Broadcast of Testimony of Child.....	152
§ 104.005	Substitution for In-Court Testimony of Child.....	152
§ 104.006	Hearsay Statement of Child Abuse Victim	152
§ 104.007	Video Testimony of Certain Professionals	153
§ 107.007	Attorney Work Product and Testimony	153
§ 107.111	Child Custody Evaluator Access to Investigative Records of Department; Offense.....	153
§ 107.112	Communications and Recordkeeping of Child Custody Evaluator	154
§ 107.114	Introduction and Provision of Child Custody Evaluation Report	154
§ 153.0071	Alternate Dispute Resolution Procedures.....	154
§ 153.6083	Communications and Recordkeeping of Parenting Facilitator.....	155
§ 153.701	Definitions	155
§ 153.707	Expedited Hearing	156
§ 159.316	Special Rules of Evidence and Procedure	156
§ 160.204	Presumption of Paternity	157
§ 160.423	Admissibility of Certificate.....	158
§ 160.504	Report of Genetic Testing	158
§ 160.505	Genetic Testing Results; Rebuttal.....	159
§ 160.621	Admissibility of Results of Genetic Testing; Expenses...	159
§ 160.622	Consequences of Declining Genetic Testing	160
§ 261.101	Persons Required to Report; Time to Report.....	160
§ 261.202	Privileged Communication	161

§ 264.167	Attorney–Client Privilege	162
§ 264.408	Use of Information and Records; Confidentiality and Ownership	162
§ 264.511	Use of Information and Records; Confidentiality	162

FINANCE CODE

TITLE 3 FINANCIAL INSTITUTIONS AND BUSINESSES

§ 31.305	Civil Discovery	163
§ 31.306	Investigative Information	163
§ 35.206	Evidence	163
§ 36.214	Subpoena	164
§ 59.009	Compliance Review Committee	164
§ 66.355	Receipt of Items as Evidence in Receivership Proceeding; Certification	165
§ 96.354	Civil Discovery	166
§ 119.102	Production and Admissibility of Items of Savings Bank in Judicial Proceeding	166
§ 154.412	Seizure of Prepaid Funeral Accounts and Records	166
§ 185.204	Confidentiality of Subpoenaed Records	167
§ 185.205	Evidence	168
§ 186.214	Subpoena	168
§ 186.225	Records Admitted	169

TITLE 4 REGULATION OF INTEREST, LOANS, AND FINANCED TRANSACTIONS

§ 371.206	Confidentiality	170
-----------	-----------------------	-----

GOVERNMENT CODE

TITLE 2 JUDICIAL BRANCH

§ 57.001	Definitions	170
§ 57.002	Appointment of Interpreter; Payment of Interpreted Costs	171
§ 81.072	General Disciplinary and Disability Procedures	172
§ 157.001	Definitions	172

TITLE 3 LEGISLATIVE BRANCH

§ 325.0195	Records Protected From Disclosure	173
------------	---	-----

TITLE 4 EXECUTIVE BRANCH

§ 411.14031	Access to Criminal History Record Information: Public Utility Commission of Texas	173
§ 414.008	Privileged Information	173
§ 420.003	Definitions	175
§ 420.031	Evidence Collection Protocol; Kits	176
§ 420.032	Photo Documentation Required for Child Victims in	

TABLE OF CONTENTS

	Certain Counties	177
§ 420.071	Confidential Communications and Records; Privilege ...	178
§ 420.072	Disclosure of Confidential Communication or Record....	178
§ 420.073	Consent for Release of Certain Confidential Information	180
§ 420.074	Disclosure of Privileged Communications or Other Information in Criminal Proceeding.....	180
§ 531.1021	Subpoenas	181
§ 531.851	Mortality Review.....	182
§ 531.854	Use and Publication Restrictions; Confidentiality.....	182
§ 531.996	Communication and Confidentiality	183
TITLE 5 OPEN GOVERNMENT; ETHICS		
§ 552.163	Exception: Confidentiality Of Certain Attorney General Settlement Negotiations.	184
TITLE 6 PUBLIC OFFICERS AND EMPLOYEES		
§ 602.002	Oath Made in Texas	184
TITLE 7 INTERGOVERNMENTAL RELATIONS		
§ 774.002	Duty to Exchange Information	186
TITLE 10 GENERAL GOVERNMENT		
§ 2009.054	Confidentiality of Certain Records and Communications	186
§ 2051.152	Definitions	187
§ 2051.153	Applicability	188
§ 2051.154	Legal Material in Official Electronic Record.....	188
§ 2051.155	Authentication of Official Electronic Record.....	188
§ 2051.156	Effect of Authentication	188
TITLE 12 SECURITIES ACT		
§ 4001.154	Certified Copies of Certain Documents or Instruments as Evidence	189
HEALTH AND SAFETY CODE		
TITLE 2 HEALTH		
§ 34.009	Confidentiality; Privilege	189
§ 34.010	Subpoena and Discovery	191
§ 81.046	Confidentiality	191
§ 86.013	Information on Supplemental Breast Cancer Screening ..	194
§ 98.109	Confidentiality; Privilege	194
§ 98.110	Disclosure Among Certain Agencies	195
§ 98.111	Civil Action	195
§ 108.013	Confidentiality and General Access to Data.....	195

HANDBOOK ON TEXAS EVIDENCE

§ 161.031	Medical Committee Defined.....	196
§ 161.0315	Authority of Governing Body to Form Committee to Evaluate Medical and Health Care Services.....	196
§ 161.032	Records and Proceedings Confidential.....	198
§ 166.054	Reporting Requirements Regarding Ethics or Medical Committee Processes.	199
§ 171.105	Hearing.....	199

TITLE 4 HEALTH FACILITIES

§ 241.151	Definitions	200
§ 241.153	Disclosure Without Written Authorization	200
§ 241.184	Confidentiality; Privilege.....	200
§ 242.017	Admissibility of Certain Evidence in Civil Actions	201
§ 242.049	Quality Improvement	202
§ 242.849	Use of Tape or Recording by Agency or Court	203
§ 260A.010	Privileged Communications	204

TITLE 6 FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

§ 481.160	Disposition of Excess Quantities	204
-----------	--	-----

TITLE 7 MENTAL HEALTH AND INTELLECTUAL DISABILITY

§ 552.102	Summary Report.....	205
§ 555.057	Communication and Confidentiality	206
§ 574.034	Order for Temporary Mental Health Services	206
§ 611.001	Definitions.....	207
§ 611.002	Confidentiality of Information and Prohibition Against Disclosure	207
§ 611.003	Persons Who May Claim Privilege of Confidentiality	208
§ 611.006	Authorized Disclosure of Confidential Information in Judicial or Administrative Proceeding	208
§ 614.017	Exchange of Information	209

TITLE 8 DEATH AND DISPOSITION OF THE BODY

§ 672.009	Use of Information and Records; Confidentiality	211
§ 674.008	Immunity From Subpoena and Discovery	211

TITLE 9 SAFETY

§ 755.046	Affidavit of Orders	212
§ 773.091	Confidential Communications	212
§ 773.092	Exceptions	213
§ 773.095	Records and Proceedings Confidential.....	215
§ 775.114	Insurance.....	216
§ 784.003	Confidentiality.....	216

TITLE 10 HEALTH AND SAFETY OF ANIMALS

§ 821.023	Hearing; Order of Disposition or Return of Animal	217
-----------	---	-----

TABLE OF CONTENTS

TITLE 11 CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

§ 841.061	Trial.....	217
§ 841.1462	Privilege for Personal Information That Identifies Victim	218

TITLE 13 ENVIRONMENTAL, HEALTH, AND SAFETY AUDIT PRIVILEGE ACT

§ 1101.001	Short Title	218
§ 1101.002	Purpose; Circumvention by Rule Prohibited	218
§ 1101.003	Definitions	218
§ 1101.004	Applicability	220
§ 1101.005	Relationship to Other Recognized Privileges	220
§ 1101.051	Audit Report.....	220
§ 1101.052	Period For Completion of Audit	221
§ 1101.053	Continuation of Audit Begun Before Acquisition Closing Date.....	221
§ 1101.101	Scope of Privilege	221
§ 1101.102	Nonprivileged Materials	222
§ 1101.103	Exception: Waiver.....	223
§ 1101.104	Exception: Disclosure Required By Court or Administrative Hearings Official.....	224
§ 1101.105	Review of Privileged Documents By Governmental Authority.....	225

HUMAN RESOURCES CODE

TITLE 2 DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

§ 32.062	Admissibility of Certain Evidence Relating to Nursing Institutions	226
----------	---	-----

TITLE 11 AGING, COMMUNITY-BASED, AND LONG-TERM CARE SERVICES

§ 161.111	Confidentiality and Disclosure of Information	227
-----------	---	-----

TITLE 12 JUVENILE JUSTICE SERVICES AND FACILITIES

§ 221.003	Rules Concerning Mental Health Screening Instrument and Risk and Needs Assessment Instrument; Admissibility of Statements.....	228
§ 243.006	Commitment Records	229
§ 261.056	Communication and Confidentiality	229

INSURANCE CODE

TITLE 4 REGULATION OF SOLVENCY

§ 401.058	Confidentiality of Reports and Related Information	229
-----------	--	-----

TITLE 5 PROTECTION OF CONSUMER INTERESTS

§ 562.251	Acceptance of Assurance.....	230
§ 562.252	Effect of Assurance.....	230
§ 751.207	Confidentiality of Examination Report Information.....	230
§ 751.251	No Waiver	231
§ 751.252	Authority of Commissioner.....	231

TITLE 6 ORGANIZATION OF INSURERS AND RELATED ENTITIES

§ 823.011	Confidentiality of Information	232
§ 830.008	Confidentiality.....	233
§ 830.011	Privilege and Confidentiality Not Waived	235
§ 831.0009	Confidentiality	235
§ 831.0011	Privilege and Confidentiality Not Waived.....	237
§ 964.070	Confidentiality.....	237

TITLE 7 LIFE INSURANCE AND ANNUITIES

§ 1111A.020	Confidentiality	238
§ 1111A.022	Life Settlement Antifraud Initiatives	239

TITLE 8 HEALTH INSURANCE AND OTHER HEALTH COVERAGES

§ 1301.0051	Exclusive Provider Benefit Plans: Quality Improvement and Utilization Management	239
-------------	--	-----

TITLE 10 PROPERTY AND CASUALTY INSURANCE

§ 2054.008	Investigation Files	239
§ 2301.057	Certain Documents Not Part of Form	240

LABOR CODE

TITLE 4 EMPLOYMENT SERVICES AND UNEMPLOYMENT

§ 213.007	Collateral Estoppel Doctrine Inapplicable.....	240
-----------	--	-----

TITLE 5 WORKERS' COMPENSATION

§ 409.005	Report of Injury; Modified Duty Program Notice; Administrative Violation	240
§ 410.304	Consideration of Appeals Panel Decision.....	241
§ 410.306	Evidence.....	241
§ 410.307	Substantial Change of Condition.....	241
§ 411.035	Use of Injury Report	242

LOCAL GOVERNMENT CODE

TITLE 2 ORGANIZATION OF MUNICIPAL GOVERNMENT

§ 52.011	Type A General-Law Municipality	242
§ 53.006	Printed Code as Evidence	243

TABLE OF CONTENTS

TITLE 11 PUBLIC SAFETY

§ 351.258	Meetings and Records; Confidentiality	243
§ 352.018	Effect on Civil Actions	244

NATURAL RESOURCES CODE

TITLE 3 OIL AND GAS

§ 115.043	Certificate as Evidence	244
-----------	-------------------------------	-----

OCCUPATIONS CODE

TITLE 3 HEALTH PROFESSIONS

§ 159.001	Definitions	245
§ 159.002	Confidential Communications	245
§ 159.003	Exceptions to Confidentiality in Court or Administrative Proceedings.....	246
§ 160.002	Report of Medical Peer Review	248
§ 160.003	Report by Certain Practitioners	248
§ 160.004	Report Regarding Certain Impaired Physicians	249
§ 160.005	Report Confidential; Communication Not Privileged.....	250
§ 160.006	Board Confidentiality	250
§ 160.007	Confidentiality Relating to Medical Peer Review Committee	251
§ 160.008	Use of Certain Confidential Information	253
§ 160.009	Compliance With Subpoena.....	253
§ 160.051	Definitions	253
§ 160.052	Report From Insurer or Physician	253
§ 160.053	Contents of Report; Additional Information.....	254
§ 160.054	Report Not Evidence	255
§ 164.002	Board Disposition of Complaints, Contested Cases, and Other Matters	255
§ 164.007	Administrative Hearings; Confidentiality Issues	255
§ 164.0071	Hearings on Certain Complaints.....	255
§ 167.010	Confidentiality.....	256
§ 201.206	Confidentiality of Complaints, Investigation Files, and Other Information	256
§ 201.401	Definition of Patient	257
§ 201.402	Patient Confidentiality	257
§ 201.403	Exceptions to Confidentiality for Administrative Procedure	258
§ 201.404	Exceptions to Confidentiality for Other Circumstances..	259
§ 202.401	Definitions	260
§ 202.402	Scope of Privilege	261
§ 202.403	Claim of Privilege	261
§ 202.404	Exceptions to Privilege and Confidentiality in Certain Proceedings	261
§ 202.405	Other Exceptions to Privilege and Confidentiality Requirements.....	263

§ 202.407	Disclosure of Released Information	264
§ 206.157	Confidentiality of Investigative Information	264
§ 258.101	Definitions	264
§ 258.102	Scope of Privilege	265
§ 258.103	Holder of Privilege	265
§ 258.105	Exception to Privilege for Certain Proceedings	265
§ 258.108	Limit on Disclosure	266
§ 258.109	Request for Dental Record: Timing; Exception	266
§ 258.208	Confidentiality; Privilege	267
§ 258.209	Subpoena and Discovery	267
§ 301.466	Confidentiality	268
§ 303.006	Confidentiality of Peer Review Proceedings	269
§ 303.007	Disclosure of Information	270
§ 351.2045	Confidentiality of Complaints, Adverse Reports, Investigation Files, and Other Information	270
§ 564.003	Disclosure of Certain Information	272
§ 601.273	Access to Complaint Information	272
§ 601.275	Confidentiality of Investigative Information	273
§ 602.1525	Subpoenas; Confidentiality of Information	273
§ 603.2041	Subpoenas; Confidentiality of Information	274
§ 604.176	Permitted Disclosure of Investigative Information	275

TITLE 4 PROFESSIONS RELATED TO ANIMAL HEALTH

§ 801.207	Public Record; Exception	276
§ 801.353	Confidentiality; Waiver	277

TITLE 5 REGULATION OF FINANCIAL AND LEGAL SERVICES

§ 901.161	Privilege for Certain Information	278
-----------	---	-----

TITLE 6 REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING, AND RELATED PRACTICES

§ 1001.212	Confidentiality of Certain Information Related to Application	279
§ 1002.260	Confidentiality of Certain Information	279

TITLE 7 PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

§ 1201.601	Action Against Retailer or Manufacturer: Holder of Debt Instrument	279
------------	---	-----

TITLE 14 REGULATION OF MOTOR VEHICLES AND TRANSPORTATION

§ 2308.458	Hearing	280
------------	---------------	-----

PARKS AND WILDLIFE CODE

TABLE OF CONTENTS

TITLE 2 PARKS AND WILDLIFE DEPARTMENT

§ 12.117	Justice Court to Provide Affidavits Certifying Certain Convictions and Other Information.....	281
----------	---	-----

PENAL CODE

TITLE 1 INTRODUCTORY PROVISIONS

§ 2.05	Presumption	281
--------	-------------------	-----

TITLE 7 OFFENSES AGAINST PROPERTY

§ 31.03	Theft.....	283
---------	------------	-----

TITLE 10 OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

§ 46.12	Maps as Evidence of Location or Area.....	283
---------	---	-----

TITLE 11 ORGANIZED CRIME

§ 71.029	Maps as Evidence of Location or Area	284
----------	--	-----

TAX CODE

TITLE 1 PROPERTY TAX CODE

§ 22.01	Rendition Generally	284
§ 22.07	Inspection of Property	285
§ 42.23	Scope of Review	286

TRANSPORTATION CODE

TITLE 2 GENERAL PROVISIONS RELATING TO CARRIERS

§ 5.003	Liability of Carrier of Household Goods.....	286
---------	--	-----

TITLE 6 ROADWAYS

§ 250.001	Restriction on Fences in Certain Municipalities.....	287
§ 284.0702	Prima Facie Evidence; Defense	287

TITLE 7 VEHICLES AND TRAFFIC

§ 545.414	Riding in Open Beds; Offense	288
§ 550.065	Release of Certain Information Relating to Accidents ...	288
§ 550.066	Admissibility of Certain Accident Report Information ...	291
§ 601.005	Evidence in Civil Suit	291
§ 621.007	Evidence of Violation	291
§ 724.001	Definitions	292
§ 724.061	Admissibility of Refusal of Person to Submit to Taking of Specimen	292
§ 724.062	Admissibility of Refusal of Request for Additional Test..	293

§ 724.063	Admissibility of Alcohol Concentration or Presence of Substance	293
§ 724.064	Admissibility in Criminal Proceeding of Specimen Analysis	293

WATER CODE

TITLE 2 WATER ADMINISTRATION

§ 7.071	Inadmissibility	293
§ 12.052	Dam Safety	293

CODE OF CRIMINAL PROCEDURE

TITLE 1 CODE OF CRIMINAL PROCEDURE

Art. 1.17	Religious Belief	294
Art. 7B.004	Hearsay Statement of Child Victim	294
Art. 11.071	Procedure in Death Penalty Case.....	295
Art. 11.073	Procedure Related to Certain Scientific Evidence.....	295
Art. 11.0731	Procedures Related to Certain Previously Tested Evidence	296
Art. 17.028	Bail Decision	297
Art. 18A.205	Certain Evidence Not Admissible.....	297
Art. 18A.351	Disclosure or Use of Intercepted Communications....	297
Art. 18A.352	Disclosure Under Oath.....	298
Art. 18A.353	Privileged Communications	298
Art. 18A.354	Disclosure or Use of Incidentally Intercepted Communications	298
Art. 18A.355	Notice and Disclosure of Interception Application, Interception Order, and Intercepted Communications	298
Art. 18A.356	Notice of Interception Required.....	299
Art. 18A.357	Communications Received in Evidence	300
Art. 18A.453	Sealing and Custody of Recordings.....	300
Art. 18A.454	Destruction of Recordings	300
Art. 18A.455	Prerequisite For Use or Disclosure of Recording in Certain Proceedings	300
Art. 18B.326	Certain Evidence Not Admissible	301
Art. 27.02	Defendant's Pleadings.....	301
Art. 27.14	Plea of Guilty or Nolo Contendere in Misdemeanor ..	301
Art. 27.18	Plea or Waiver of Rights by Videoconference	303
Art. 28.01	Pre-Trial	304
Art. 29.13	Continuance after Trial is Begun	304
Art. 36.01	Order of Proceeding in Trial.....	304
Art. 36.02	Testimony at Any Time	305
Art. 36.03	Invocation of Rule	305
Art. 36.05	Not to Hear Testimony.....	306
Art. 36.06	Instructed by the Court.....	306
Art. 36.07	Order of Argument	306

TABLE OF CONTENTS

Art. 36.08	Number of Arguments	307
Art. 37.07	Verdict Must be General; Separate Hearing on Proper Punishment	307
Art. 37.071	Procedure in Capital Case.....	309
Art. 37.072	Procedure in Repeat Sex Offender Capital Case.....	310
Art. 38.01	Texas Forensic Science Commission.....	311
Art. 38.05	Judge Shall Not Discuss Evidence.....	314
Art. 38.071	Testimony of Child Who is Victim of Offense.....	315
Art. 38.072	Hearsay Statement of Certain Abuse Victims.....	322
Art. 38.073	Testimony of Inmate Witnesses	324
Art. 38.074	Testimony of Child in Prosecution of Offense	324
Art. 38.075	Corroboration of Certain Testimony Required.....	326
Art. 38.08	Defendant May Testify	326
Art. 38.10	Exceptions to the Spousal Adverse Testimony Privilege.....	326
Art. 38.101	Communications by Drug Abusers.....	326
Art. 38.11	Journalist's Qualified Testimonial Privilege in Criminal Proceedings	327
Art. 38.111	News Media Recordings	332
Art. 38.12	Religious Opinion	333
Art. 38.20	Photograph and Live Lineup Identification Procedures	333
Art. 38.21	Statement	333
Art. 38.22	When Statements May be Used.....	333
Art. 38.23	Evidence Not to be Used.....	338
Art. 38.24	Statements Obtained by Investigative Hypnosis.....	338
Art. 38.27	Evidence of Handwriting	339
Art. 38.30	Interpreter.....	339
Art. 38.31	Interpreters for Deaf Persons	339
Art. 38.32	Presumption of Death.....	341
Art. 38.34	Photographic Evidence in Theft Cases	341
Art. 38.35	Forensic Analysis of Evidence; Admissibility	342
Art. 38.36	Evidence in Prosecutions for Murder.....	343
Art. 38.37	Evidence of Extraneous Offenses or Acts	344
Art. 38.371	Evidence in Prosecutions of Certain Offenses Involving Family Violence.....	346
Art. 38.38	Evidence Relating to Retaining Attorney	346
Art. 38.41	Certificate of Analysis.....	347
Art. 38.42	Chain of Custody Affidavit	348
Art. 38.435	Prohibited Use of Evidence from Forensic Medical Examination Performed on Victim of Sexual Assault	350
Art. 38.44	Admissibility of Electronically Preserved Document .	350
Art. 38.46	Evidence in Prosecutions For Stalking	351
Art. 38.471	Evidence in Prosecution for Exploitation of Child, Elderly Individual, or Disabled Individual	351
Art. 38.48	Evidence in Prosecution for Tampering With Witness or Prospective Witness Involving Family Violence	351

HANDBOOK ON TEXAS EVIDENCE

Art. 38.49	Forfeiture by Wrongdoing	352
Art. 39.01	In Examining Trial	353
Art. 39.026	Depositions of Medicaid or Medicare Recipients or Caregivers	353
Art. 39.12	Predicate to Read	354
Art. 39.14	Discovery	354
Art. 42.09	Commencement of Sentence; Status During Appeal; Pen Packet	358
Art. 42A.111	Dismissal and Discharge	360
Art. 46B.007	Admissibility of Statements and Certain Other Evidence	360
Art. 46B.008	Rules of Evidence	361
Art. 46B.086	Court-Ordered Medications	361
Art. 46C.052	Effect of Failure to Give Notice	362
Art. 56A.155	Discovery of Statement	362
Art. 56A.156	Inspection of Statement by Court; Disclosure of Contents	362
Art. 56A.157	Consideration of Statement by Court	363
Art. 56A.158	Defendant Response to Statement	363

CHAPTER 4 SELECTED RULES OF COURT

TEXAS RULES OF CIVIL PROCEDURE

PART II RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS

Rule 93	Certain Pleas to be Verified	366
Rule 172	Audit	368
Rule 173.5	Communications Privileged	368
Rule 176	Subpoenas	368
Rule 181	Party as Witness	369
Rule 183	Interpreters	369
Rule 192	Permissible Discovery: Forms and Scope; Work Product; Protective Orders; Definitions	369
Rule 193	Written Discovery: Response; Objection; Assertion of Privilege; Supplementation and Amendment; Failure to Timely Respond; Presumption of Authenticity	375
Rule 194	Required Disclosures in Suits Not Governed by the Family Code	381
Rule 194a	Requests for Disclosure in Suits Governed by the Family Code	385
Rule 195	Discovery Regarding Testifying Expert Witnesses in Suits Not Governed by the Family Code	387
Rule 195a	Discovery Regarding Testifying Experts in Suits Governed by the Family Code	390
Rule 196	Requests for Production and Inspection to Parties; Requests and Motions for Entry Upon Property	393

TABLE OF CONTENTS

Rule 197	Interrogatories to Parties	397
Rule 198	Requests for Admissions	398
Rule 199	Depositions Upon Oral Examination	400
Rule 200	Depositions Upon Written Questions	405
Rule 201	Depositions in Foreign Jurisdictions for Use in Texas Proceedings; Depositions in Texas for Use in Foreign Proceedings.....	406
Rule 202	Depositions Before Suit or to Investigate Claims	408
Rule 203	Signing, Certification and Use of Oral and Written Depositions.....	411
Rule 204	Physical and Mental Examinations.....	414
Rule 205	Discovery From Nonparties.....	416
Rule 264	Videotape Trial.....	418
Rule 265	Order of Proceedings on Trial by Jury	418
Rule 266	Open and Close—Admission.....	419
Rule 267	Witnesses Placed Under Rule	419
Rule 269	Argument.....	420
Rule 270	Additional Testimony.....	421
Rule 281	Papers Taken to Jury Room	421
Rule 284	Judge to Caution Jury	421
Rule 327	For Jury Misconduct	422

PART V RULES OF PRACTICE IN JUSTICE COURTS

Rule 500.3	Application of Rules in Justice Court Cases	422
------------	---	-----

TEXAS RULES OF APPELLATE PROCEDURE

SECTION TWO APPEALS FROM TRIAL COURT JUDGMENTS AND ORDERS

Rule 21	New Trials in Criminal Cases.....	423
Rule 33	Preservation of Appellate Complaints.....	424
Rule 44	Reversible Error	426

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Rule 1.05	Confidentiality of Information	427
Rule 3.03	Candor Toward the Tribunal	429

TEXAS RULES OF DISCIPLINARY PROCEDURE

Rule 2.16	Confidentiality	430
Rule 17.08	Privilege.....	431

CODE OF JUDICIAL CONDUCT

Canon 2	Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities	431
---------	--	-----

CHAPTER 5 EVIDENCE RULES WITH AUTHORS' COMMENTARY

ARTICLE I GENERAL PROVISIONS

Rule 101	Title, Scope, and Applicability of the Rules; Definitions .	435
Rule 102	Purpose	438
Rule 103	Rulings on Evidence	439
Rule 104	Preliminary Questions	446
Rule 105	Evidence That Is Not Admissible Against Other Parties or for Other Purposes	449
Rule 106	Remainder of or Related Writings or Recorded Statements	452
Rule 107	Rule of Optional Completeness	454

ARTICLE II JUDICIAL NOTICE

Rule 201	Judicial Notice of Adjudicative Facts	456
Rule 202	Judicial Notice of Other States' Law	461
Rule 203	Determining Foreign Law	464
Rule 204	Judicial Notice of Texas Municipal and County Ordinances, Texas Register Contents, and Published Agency Rules.....	466

ARTICLE III PRESUMPTIONS

Rule 301	[No Rules Adopted at This Time].....	467
----------	--------------------------------------	-----

ARTICLE IV RELEVANCE AND ITS LIMITS

Rule 401	Test for Relevant Evidence.....	468
Rule 402	General Admissibility of Relevant Evidence	475
Rule 403	Excluding Relevant Evidence for Prejudice, Confusion, or Other Reasons	479
Rule 404(a)	Character Evidence	485
Rule 404(b)	Crimes, Wrongs, or Other Acts	492
Rule 405	Methods of Proving Character	506
Rule 406	Habit; Routine Practice.....	510
Rule 407	Subsequent Remedial Measures; Notification of Defect	513
Rule 408	Compromise Offers and Negotiations	517
Rule 409	Offers to Pay Medical and Similar Expenses	522
Rule 410	Pleas, Plea Discussions, and Related Statements	523
Rule 411	Liability Insurance.....	526
Rule 412	Evidence of Previous Sexual Conduct in Criminal Cases	528

ARTICLE V PRIVILEGES

Rule 501	Privileges in General	532
Rule 502	Required Reports Privileged by Statute	536
Rule 503	Lawyer-Client Privilege	537
Rule 504	Spousal Privileges.....	547
Rule 505	Privilege for Communications to a Clergy Member	553
Rule 506	Political Vote Privilege.....	555

TABLE OF CONTENTS

Rule 507	Trade Secrets Privilege	555
Rule 508	Informer's Identity Privilege	557
Rule 509	Physician-Patient Privilege	560
Rule 510	Mental Health Information Privilege in Civil Cases	568
Rule 511	Waiver by Voluntary Disclosure	574
Rule 512	Privileged Matter Disclosed Under Compulsion or Without Opportunity to Claim Privilege	578
Rule 513	Comment On or Inference From a Privilege Claim; Instruction	579

ARTICLE VI WITNESSES

Rule 601	Competency to Testify in General; "Dead Man's Rule"...	581
Rule 602	Need for Personal Knowledge.....	586
Rule 603	Oath or Affirmation to Testify Truthfully.....	588
Rule 604	Interpreter	589
Rule 605	Judge's Competency as a Witness	590
Rule 606	Juror's Competency as a Witness	591
Rule 607	Who May Impeach a Witness	595
Rule 608	A Witness's Character for Truthfulness or Untruthfulness	600
Rule 609	Impeachment by Evidence of a Criminal Conviction.....	605
Rule 610	Religious Beliefs or Opinions	611
Rule 611	Mode and Order of Examining Witnesses and Presenting Evidence	612
Rule 612	Writing Used to Refresh a Witness's Memory.....	620
Rule 613	Witness's Prior Statement and Bias or Interest	623
Rule 614	Excluding Witnesses	630
Rule 615	Producing a Witness's Statement in Criminal Cases.....	633

ARTICLE VII OPINIONS AND EXPERT TESTIMONY

Rule 701	Opinion Testimony by Lay Witnesses	636
Rule 702	Testimony by Expert Witnesses	640
Rule 703	Bases of an Expert's Opinion Testimony.....	650
Rule 704	Opinion on an Ultimate Issue	654
Rule 705	Disclosing the Underlying Facts or Data and Examining an Expert About Them	656
Rule 706	Audit in Civil Cases.....	660

ARTICLE VIII HEARSAY

Rule 801	Definitions That Apply to This Article; Exclusions from Hearsay	661
Rule 801(a)–(d)	Definition of Hearsay	663
Rule 801(e)(1)	A Declarant Witness's Prior Statement	672
Rule 801(e)(2)	An Opposing Party's Statement.....	677
Rule 801(e)(3)	A Deponent's Statement.....	682
Rule 802	The Rule Against Hearsay	684
Rule 803	Exceptions to the Rule Against Hearsay— Regardless of Whether the Declarant Is	

	Available as a Witness	693
Rule 803(1)	Present Sense Impression.....	698
Rule 803(2)	Excited Utterance.....	700
Rule 803(3)	Then-Existing Mental, Emotional, or Physical Condition	704
Rule 803(4)	Statement Made for Medical Diagnosis or Treatment	708
Rule 803(5)	Recorded Recollection	712
Rule 803(6), (7)	Records of a Regularly Conducted Activity	713
Rule 803(8)–(10)	Public Records.....	719
Rule 803(18)	Statements in Learned Treatises, Periodicals, or Pamphlets.....	725
Rule 803(24)	Statement Against Interest	726
Rule 804	Exceptions to the Rule Against Hearsay— When the Declarant Is Unavailable as a Witness	730
Rule 804(a)	Criteria for Being Unavailable	733
Rule 804(b)(1)	Former Testimony	734
Rule 804(b)(2)	Statement Under the Belief of Imminent Death	737
Rule 804(b)(3)	Statement of Personal or Family History	738
Rule 805	Hearsay Within Hearsay.....	739
Rule 806	Attacking and Supporting the Declarant's Credibility.....	740

ARTICLE IX AUTHENTICATION AND IDENTIFICATION

Rule 901	Authenticating or Identifying Evidence	741
Rule 902	Evidence That Is Self-Authenticating.....	748
Rule 903	Subscribing Witness's Testimony	754

ARTICLE X CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001	Definitions That Apply to This Article.....	755
Rule 1002	Requirement of the Original.....	757
Rule 1003	Admissibility of Duplicates	760
Rule 1004	Admissibility of Other Evidence of Contents	761
Rule 1005	Copies of Public Records to Prove Content	764
Rule 1006	Summaries to Prove Content.....	765
Rule 1007	Testimony or Statement of a Party to Prove Content...	767
Rule 1008	Functions of the Court and Jury	768
Rule 1009	Translating a Foreign Language Document	769

CHAPTER 6 COMMON OBJECTIONS AND RESPONSES

OBJECTIONS TO FORM OF QUESTION

OBJ 1	Ambiguous question (Rule 611(a))	775
OBJ 2	Argumentative question (Rule 611(a)).....	776
OBJ 3	Asked and answered (Rules 403, 611(a)).....	776

TABLE OF CONTENTS

OBJ	4	Assumes facts not in evidence (Rule 611(a)).....	776
OBJ	5	Compound question (Rule 611(a)).....	777
OBJ	6	Confusing (Rule 611(a))	777
OBJ	7	Harassing the witness (Rule 611(a)).....	777
OBJ	8	Leading question (direct examination) (Rule 611(c)).....	778
OBJ	9	Leading question (cross-examination) (Rule 611(c)).....	779
OBJ	10	Narrative testimony, calls for (Rule 611(a)).....	779
OBJ	11	Repetitious question (Rules 403, 611(a))	779
OBJ	12	Unintelligible question (Rule 611(a))	780

OBJECTIONS TO ADMISSIBILITY

OBJ	13	Authentication insufficient (Rules 901, 902).....	780
OBJ	14	Best evidence not being offered (Rules 1001, 1002).....	781
OBJ	15	Bolstering (Rules 608, 613)	782
OBJ	16	Chain of custody not established (real evidence) (Rule 901)	783
OBJ	17	Character evidence at penalty phase	784
OBJ	18	Character evidence in form of opinion testimony (Rule 405)	785
OBJ	19	Character evidence inadmissible (Rule 404(a)).....	785
OBJ	20	Character evidence, specific acts inadmissible (Rule 405).	786
OBJ	21	Character witness not qualified to testify in the form of reputation or opinion (Rule 405).....	787
OBJ	22	Compromise of or offer to compromise a civil claim (Rule 408)	788
OBJ	23	Conclusion of law, expert witness (Rules 702, 704)	789
OBJ	24	Conclusion of law, lay witness (Rules 701, 704)	790
OBJ	25	Confrontation clause: face-to-face confrontation.....	791
OBJ	26	Confrontation clause: hearsay	792
OBJ	27	Cross-examination, beyond scope of direct (Rule 611(b)) ..	794
OBJ	28	Cumulative (Rule 403)	794
OBJ	29	Dead Man's Rule renders witness incompetent (Rule 601(b))	795
OBJ	30	Expert lacks sufficient basis for opinion (Rules 702, 703, 705(a), (c)).....	796
OBJ	31	Expert not qualified (Rule 702)	796
OBJ	32	Expert opinion based solely on hearsay not reasonably relied upon (Rule 703)	797
OBJ	33	Expert opinion is speculative, conjectural (Rules 702, 705(c))	798
OBJ	34	Expert opinion not reliable, relevant and helpful (Rule 702)	798
OBJ	35	Habit evidence not admissible (Rule 406).....	800
OBJ	36	Hearsay (Rules 801, 802)	801
OBJ	37	Identification insufficient (Rules 901, 902).....	802
OBJ	38	Impeachment of own witness (Rule 607).....	803
OBJ	39	Impeachment of own witness with prior inconsistent statement (Rules 403, 607).....	804
OBJ	40	Impeachment on collateral matter (Rules 403, 607)	804

OBJ	41	Impeachment, prior conduct inadmissible (Rule 608).....	805
OBJ	42	Impeachment, prior conviction inadmissible (Rule 609)...	806
OBJ	43	Insurance (Rule 411)	807
OBJ	44	Irrelevant (Not probative or immaterial) (Rules 401, 402)	808
OBJ	45	Judge as witness (Rule 605)	808
OBJ	46	Judge, questions by	809
OBJ	47	Juror as witness at trial (Rule 606(a))	809
OBJ	48	Juror as witness to impeach verdict (Rule 606(b))	809
OBJ	49	Lay opinion testimony (Rule 701)	810
OBJ	50	Medical, hospital, or similar expenses, payment of (Rule 409)	811
OBJ	51	Nonresponsive answer (Rule 611)	811
OBJ	52	Notice of intent to offer evidence of other misconduct (Rule 404(b)(2))	812
OBJ	53	Other accidents (Rules 401–403)	813
OBJ	54	Other claims by plaintiff (Rules 401–403)	814
OBJ	55	Other contracts or transactions involving a party (Rules 401–403)	814
OBJ	56	Other crimes or misconduct (Rule 404(b))	815
OBJ	57	Other crimes or misconduct not adequately proved (Rules 104(b), 404(b))	816
OBJ	58	Other crimes or misconduct offered for an undisputed point (Rules 403, 404(b))	817
OBJ	59	Personal knowledge lacking (Rule 602)	817
OBJ	60	Photograph, motion picture, videotape, or sound recording not authenticated (Rule 901)	818
OBJ	61	Photographs inflammatory and unfairly prejudicial (Rule 403)	819
OBJ	62	Pleas and plea bargaining, offered in civil cases (Rule 410)	820
OBJ	63	Pleas and plea bargaining, offered in criminal cases (Rule 410)	820
OBJ	64	Prejudicial value outweighs probative value (Rule 403)...	821
OBJ	65	Previous sexual conduct of sexual assault victim (Rule 412)	822
OBJ	66	Prior consistent statement not admissible to rehabilitate (Rules 613, 801)	823
OBJ	67	Prior inconsistent statement; extrinsic evidence inadmissible (Rule 613)	824
OBJ	68	Prior inconsistent statement; lack of foundation (Rule 613(a))	824
OBJ	69	Privilege, comment on or adverse inference from invocation (Rule 513)	825
OBJ	70	Privileged (Rules 501–513)	825
OBJ	71	Privileged attorney-client communication (Rule 503).....	826
OBJ	72	Privileged because witness is spouse (Rule 504(b))	827
OBJ	73	Privileged clergy-communicant communication (Rule 505)	828

TABLE OF CONTENTS

OBJ	74	Privileged marital communication (Rule 504(a))	828
OBJ	75	Privileged mental health communication (Rule 510)	829
OBJ	76	Privileged physician-patient communication (Rule 509)...	830
OBJ	77	Religious belief or opinion (Rule 610).....	831
OBJ	78	Sale of other property (Rules 401–403).....	831
OBJ	79	Scientific evidence not reliable and relevant (Rule 702)...	832
OBJ	80	Subsequent remedial measure (Rule 407).....	832
OBJ	81	The Rule, witness testifying in violation of (Rule 614)	833
OBJ	82	Truthfulness of another’s testimony (Rules 608, 701, 702)	834
OBJ	83	Victim impact or character evidence (Rules 401–403)	834
OBJ	84	Witness is incompetent (Rule 601).....	835
OBJ	85	Witness is fantasizing, has been manipulated (Rules 607–608, 702)	836

CHAPTER 7 CHECKLISTS AND OTHER PRACTICAL GUIDES

CHECKLISTS AND OTHER PRACTICAL GUIDES

CKL	1	Credibility of Child Victim—Evidence Concerning Fantasizing or Manipulation (Rules 607–608, 702)	839
CKL	2	Dead Man’s Rule (Rule 601(b)).....	843
CKL	3	Expert Testimony— <i>Kelly</i> Test for Admissibility of Scientific Evidence (Rule 702)	843
CKL	4	Expert Testimony— <i>Robinson</i> Test for Admissibility of Scientific Evidence (Rule 702)	844
CKL	5	Expert Testimony—Summary of Reliability Factors.....	845
CKL	6	Foundation for Business Record (Rule 803(6))	846
CKL	7	Foundation for Impeaching Witness With Prior Inconsistent Statement (Rule 613)	846
CKL	8	Foundation for Offering an Exhibit (Rules 401, 402).....	847
CKL	9	Foundation for Public Record or Report (Rule 803(8)).....	847
CKL	10	Foundation for Recorded Recollection (Rule 803(5))	848
CKL	11	Foundation for Summary of Voluminous Writings (Rule 1006).....	848
CKL	12	Impeachment by Convictions—Factors for Balancing Probative Value Against Prejudice (Rule 609)	848
CKL	13	Juror Note-Taking—Procedural Safeguards (Rule 611) ...	849
CKL	14	Methods of Impeachment	849
CKL	15	Mitigation of Punitive Damages—Admissible and Inadmissible Evidence (Rules 401–403)	849
CKL	16	Requirements for Authentication of Business Records by Affidavit (Rule 902(10)).....	850

Table of Laws and Rules

Table of Cases

Index